

Quarterly Update of Activities of the Delta Watermaster

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Overview

- Implementation of SB 88: Diversion Measurement
- Oversight of Woods Irrigation Company Settlement
- On-going Analysis of Information Order Responses
- Statements of Diversion and Use: Delinquent Filers
- Final Decision of Superior Court in *Tanaka* Case
- Outcome of Enforcement Actions: BBID/WSID
- Inauguration of a New Delta Accord Process
- Water Quality Control Plan Update



Implementation of SB 88

- Trailer bill signed in June, 2015 as part of drought emergency response to improve data in aid of response
- Implementing regulations widely vetted prior to Water Board adoption in early 2016, effective beginning in 2017
- Measurement Devices, Measurement Methods or Alternative Compliance Plans to achieve accuracy targets
- Current outreach on implementation strategies through Delta Water Agencies and technical representatives
- Compliance challenges are being addressed; not all can be resolved, except with experimentation and experience



Woods IC Settlement

- Water Board approved Settlement in February, 2016
- WIC has installed measurement devices on both diversions and drainage pumps
- Consolidated more than 50 Statements into three
- Operating plan has been submitted and reviewed; response to review comments is currently pending
- Settlement appears to be leading to improved water stewardship at an affordable cost
- We view WIC as an important illustration of how to meet SB 88 requirement in a Delta setting



Analysis of IO Responses

- Order required submission of evidence supporting water right claims as of early March, 2015
- Not an attempt for quasi-adjudication, but may lead to further inquiry
- Data from responses were incorporated into water availability analyses and curtailment orders
- Support for claims are being evaluated, cataloged and cross-referenced with other data
- After QA/QC, summary information will be published and subjected to external review



Annual Statements Due July 1

- Transition from triennial to annual filing
- 2800 Statements in the Delta
- 680 delinquent as of Tuesday, but follow-up should lead to near full compliance
- Early returns suggest improved reporting, reduced duplication, and voluntary consolidation
- Statements will be cross-checked against other data sources
- Efforts to improve data reporting are underway



Tanaka Final Decision

- MID sued Tanaka alleging unlawful diversion based on inadequate basis for water right claims
- Final decision found the water right claims inadequate
 - ✓ No maintenance of riparian right upon transfer
 - ✓ No evidence sufficient to support a pre-1914 claim
 - ✓ No other basis of support for diversion
- Result: Productive ag land, under irrigated cultivation for more than a century, has no current basis to divert water
- Judgment has not yet been entered
- Surface water diversion to the property has been suspended
- The decision is likely to be appealed, even though fact-specific
- We are considering the implications for similar claims in the Delta



Outcome of Delta Enforcement

- On June 7, the Water Board dismissed enforcement actions against BBID and WSID
- Prosecution Team failed to carry its burden of proving violation of drought curtailment orders
- Although the enforcement actions have been dismissed, certain issues are being litigated in consolidated cases:
 - ✓ Whether the Water Board has jurisdiction to curtail pre-1914 rights
 - ✓ Whether watershed-wide analysis can support a charge of trespass by unlawful diversion
- Division of Water Rights and Delta Watermaster are reviewing procedures in light of dismissal and lessons learned
 - ✓ Separation of functions were dissolved on Monday (7/26)
 - ✓ Anticipate internal discussion followed by publication of a retrospective



Kick-off of New Delta Accord

- Open process to solicit stakeholder input on Delta issues
- Search for modest areas of consensus among the contentions
- Focus on technical issues susceptible to factual resolution
 - ✓ Estimating Net Delta Outflow
 - ✓ Determining interaction between surface and sub-surface water
 - ✓ Other areas of inquiry and possible resolution are in development
- Work expected to proceed through work groups
- Process will inform evolving management strategies for future shortage conditions
- Separate, independent process, but related to Board's intent to improve water availability analyses



Water Quality Control Plan

Phase I: San Joaquin River Flows and Southern Delta Salinity

- Revised Draft Substitute Environment Document and proposed changes to the Bay-Delta Plan released for public comment (60-days) by mid-August
- Public Hearings will follow
- Water Board expects to consider SED and public input and adopt Phase I changes to Bay-Delta Plan in early 2017

Phase II: Sacramento River and Eastside Stream Inflows, Outflows and Project Operations

- Working Draft of a Scientific Basis Report should be released for public comment by late summer
- Public Workshop will follow
- Report will be subject to Independent Peer Review (Health & Safety Code §11353) and possible simultaneous review through ISB
- The Draft SED and proposed changes to Bay-Delta Plan should be released for public comment in Summer, 2017
- Board considers adoption of Phase II changes to Bay-Delta Plan in 2018

