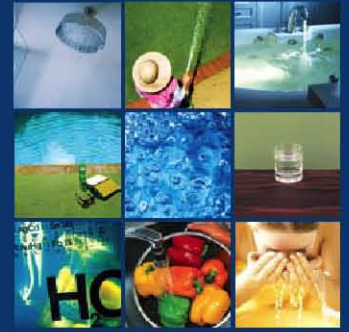


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The Weekly Wrap



November 30, 2012

No. 2012-47

TO: CWA Member Companies
FROM: Jack Hawks, Executive Director
SUBJECT: Highlights for the Weeks Ending November 30, 2012

Delta Stewardship Council Releases Final Draft of Delta Plan— The Delta Stewardship Council (DSC) posted its Final Draft Delta Plan for public review and comment on Nov. 30th, as well as the draft Environmental Impact Report and draft recommendations from the Council, which are based on the policies contained in the draft Plan. In a news release announcing the documents, the DSC said the Plan and its regulations will:

- **Create a single blueprint for state and local agency action** to provide a more reliable water supply and restore the Delta ecosystem;
- **Create new rules for significant state and local agency actions** occurring wholly or partly within the Delta, with the Council as an appellate body to enforce those rules in a fair and timely manner;
- **Create a unified science initiative and improved accountability** to achieve the Delta's supply and ecosystem co-equal goals; and
- **Create an effective interagency coordination body to implement the Delta Plan.**

"After two years of arduous study and challenging compromise, a comprehensive management plan for the Delta is now within reach," said Delta Stewardship Council Chair Phil Isenberg. "We will soon be able to focus on implementing the principles and recommendations that will help achieve the State's coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem while protecting the unique values of the Delta as an evolving place."

In November 2011, the DSC released a Draft Programmatic Environmental Impact Report (2011 DPEIR), which reviewed the possible environmental

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consequences of the Fifth Staff Draft of the Delta Plan. The written comments the Council received on the 2011 DPEIR, as well as the draft Plan, resulted in several changes to the draft Plan. For instance:

- The Final Draft contains expanded discussions of the background and the need for proposed policies and recommendations.
- Two new policies and 19 recommendations, derived from recommendations of the Delta Protection Commission, were added that provide increased emphasis on protecting farmland and other land uses in the Delta and enhance the Delta's economy, including tourism and recreation.
- Many of the policies and recommendations in the Fifth Staff Draft have been revised and reorganized, including modifying several policies to make them recommendations. Burdensome rules have been minimized and opportunities have been strengthened for agencies and stakeholders to work together.
- Performance measures to track progress in implementation of the Plan were added. Issues have been identified for future evaluation and coordination.

Although its environmental consequences would not differ substantially from those of the Fifth Staff Draft, an additional DPEIR volume analyzing the Final Draft Delta Plan is being circulated for public review and comment to fulfill the DSC's commitment to transparency and stakeholder involvement. The Recirculated DPEIR (Volume 3) can be viewed at this web address:

<http://deltacouncil.ca.gov/recirculated-draft-programmatic-eir>.

The Recirculated DPEIR (Volume 3) has a 45-day public comment period extending through Jan. 14, 2013. The Council requests that comments be limited to the Recirculated DPEIR (Volume 3). The Council will respond to those comments, and previously-submitted comments on the 2011 DPEIR, in a 2013 Final PEIR.

Concurrently, the DSC is commencing the state rulemaking process to turn the suite of 14 draft policies in the Delta Plan into legally enforceable state regulations. The draft Rulemaking Package can be viewed at this web address: <http://deltacouncil.ca.gov/regulations-and-rulemaking-process>.

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A separate 45-day public review and written comment period on the draft regulations will similarly extend through Jan. 14, 2013. A specific rulemaking hearing will also be held by the DSC after the written comment period closes.

The Council will consider public comments received through both the California Environmental Quality Act (CEQA) and rulemaking process before certifying the Final PEIR and adopting both the Delta Plan and its associated regulations. It is currently anticipated that the Delta Plan and regulations will be adopted by the Council in Spring 2013, and that the regulations will take effect in Summer 2013. The Final Draft of the Delta Plan can be viewed at this web address: <http://deltacouncil.ca.gov/delta-plan/current-draft-of-delta-plan>.

CWA Files Reply Comments in Recycled Water Policy Rulemaking—CWA filed its Reply Comments Nov. 30th on the draft Recycled Water Policy Guidelines and criteria documents prepared by the California PUC's Division of Water and Audits DWA in the recycled water rulemaking proceeding (R.10-11-014). Although CWA agreed with the other parties on the efficacy of a guidance document and the Tier 3 Advice Letter review for expediting recycled water development, CWA took the Division of Ratepayer Advocates (DRA) and the Consumer Federation of California (CFC) to task for erroneous positions and faulty logic taken by these parties. CWA also concurred with the concern expressed by the other commenting party, California Water Service Co., regarding the potential for inefficiencies arising out of DRA's counterproductive position on "comprehensive" minimum criteria requirements.

At the outset, CWA reminded all parties and Commission staff that a threshold principle in this proceeding is that the policy guidelines are simply guiding principles that should be used to help determine and confirm the merits of a particular recycled water project. They should not be considered as all-encompassing requirements whereby every application or advice letter must address each policy question set forth in the guidelines. Accordingly, CWA reiterated its position that the Commission adopt a single streamlined proposal template instead of separate Minimum Criteria and Tier 3 Advice Letter Template documents because of the potential of the latter to slow recycled water project development rather than expanding recycled water use.

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With respect to the Proposal Template, CWA explained why:

- DRA's support for minimum criteria requirements for recycled water projects proposed as part of a GRC was unnecessary (because DRA failed to provide any justification or point to any deficiencies in the existing Rate Case Plan that would warrant different requirements for recycled water projects than for other capital projects ... clearly, imposing dissimilar requirements would make preparing GRC applications more burdensome and would undercut efforts both to expedite the processing of GRC applications and to encourage investment in recycled water infrastructure).
- DRA's recommendation that projects need to be measured in relation to demand and supply-side water conservation efforts is misguided (because recycled water provides supply reliability benefits that low-flow toilet and leak-loss detection programs cannot ... and because a project to develop a drought-proof water supply may be implemented to serve different purposes and create different potential benefits than demand-side management efforts).
- DRA's and CFC's efforts to modify the minimum criteria by adding requirements would result in duplicative and vague criteria that would only serve to delay proposal submission and hamper project review.
- DRA's proposed changes to the section on "Project Cost-Benefit Analysis" are not workable (because DRA does not differentiate adequately between an analysis determining "cost effectiveness" and an analysis of the "cost-benefit" (the proposal template must draw a clear distinction in terminology – between a cost-effectiveness analysis that evaluates the economic investment by the water utility and a cost-benefit analysis that considers non-monetized and non-economic costs and benefits).
- CFC's characterization of recycled water project costs as borne directly by customers of the water utility is erroneous (because of its misguided belief that the customer is making a direct investment in the utility and is bearing its costs ... in fact, the customer is paying for monthly water utility service while the water utility is responsible for managing its contractual relationships in the operation of a recycled water project and by doing so, bears the costs of any such project).

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With respect to the Guidelines, CWA:

- Disagreed with DRA's statement that "costs and benefits external to ratepayers do not factor into the Commission's consideration" of a recycled water project proposal (because such a position would unduly constrain the Commission in weighing non-monetized and noneconomic costs and benefits in a cost-benefit analysis).
- Disagreed with DRA's overly narrow position that in those situations "where only one customer benefits from a project, the principle of cost-causation requires that customer to pay for the project" (because cost-causation is global in that the demands of all customers produce the need to develop reliable, supplemental supplies and the associated costs).

CPUC Approves Three Water Company Decisions at Open Meeting—At its Nov. 29th Open Meeting, the California PUC:

- Approved **D.12-11-031**, which:
 1. Denied a request by California American Water (CAW) to clarify an earlier decision (D.12-07-008) that CAW had the authority to track post-2010 pre-construction costs related to the now defunct Regional Desalination Project (RDP). The Commission noted that an earlier decision (D.03-09-022) already provides that authority;
 2. Granted CAW's request clarifying that legal costs incurred after Jan. 17, 2012 concerning RDP-related mediation and litigation should be tracked and recorded in an existing memorandum account, but denied the company's request that cost recovery for these expenses be part of the annual applications for recovery of pre-construction costs (instead, cost recovery must be sought in a separate application); and
 3. Denied CAW's request to clarify that costs incurred on or before Jan. 17, 2012 for CAW-only facilities are recoverable (because established practice is to base such costs on the date incurred, not the date paid).

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- Approved **D.12-11-034**, which grants Golden State Water the authority to issue and sell additional long-term and short-term debt, and equity securities not exceeding the aggregate amount of \$225,000,000.
- Approved **Resolution W-4937**, which authorizes Park Water to (1) collect a surcharge of \$0.025 per hundred cubic feet over a period of twelve months for residential and non-residential metered water service; and (2) collect a surcharge of \$0.014 per hundred cubic feet over a period of twelve months for reclaimed water service. The total estimated cost is \$152,846.
- The Commission also held until the Dec. 20th Open Meeting the applications of Park Water and Apple Valley Ranchos Water to permit payment of water bills by credit or debit card.

PPIC Issues 2012 Update on California's Water Market—At a Nov. 29th luncheon meeting in Sacramento, the Public Policy Institute of California release a new report, *California's Water Market, By the Numbers: Update 2012*. The report provides an overview of the policy context for water marketing and the related practice of groundwater banking and summarizes recent trends in both areas. It speaks to the benefits of water markets enabling temporary, long-term, or permanent transfers of water use rights in exchange for compensation. Among them are added flexibility to the state's water supply by helping to address temporary drought conditions and the need to accommodate longer-term changes in the pattern of demand.

The report does the same thing for groundwater banking, or the deliberate storage of surface water in aquifers during relatively wet years, for use in dry years. PPIC says both tools are part of "a modern water management portfolio that will enable California to manage its water resources sustainably, benefitting both the economy and the environment." PPIC also says that with the physical, financial, and environmental limits on expanding overall water supplies in California, plus the likelihood of supply reductions caused by a warming climate, both tools are likely to become increasingly important.

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The report also provides an update of the 2002 PPIC report *California's Water Market, By the Numbers*, with an expanded analysis of statewide water market trends from 1982-2011 and new information on groundwater banking in Kern County and Southern California. It states that water marketing now accounts for roughly 5 percent of all water used annually by California's businesses and residents. Specifically, about 2 million acre-feet of water trades are committed annually, with around 1.4 million acre-feet in actual flows exchanging hands.

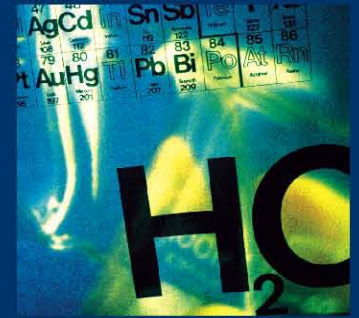
PPIC notes that the market has shifted from primarily short-term (single-year) contracts to one that is dominated by longer-term and permanent trades – mainly because the agricultural community has gotten increasingly comfortable with the concept. Farmers are the primary source of water trades, and the destinations now include other farmers, cities, and the environment. Market growth has slowed since the early 2000s, reflecting a variety of infrastructure and institutional constraints, including new pumping restrictions in the Delta and more complicated approval procedures.

With respect to the water banks in Kern County and Southern California, which had built up reserves of nearly 3.4 million acre-feet by 2006, both sources made nearly 1.9 million acre-feet available to their depositors during the 2007-09 drought. In Kern County, where basin management is still voluntary, these withdrawals have sparked controversies because they occurred during a time when overall groundwater levels were falling.

The report offers a number of recommendations for strengthening these markets and fostering responsible development, including:

- Address infrastructure weaknesses in the Delta, which have already limited the market's ability to furnish dry-year water supplies, and which have begun to limit the availability of wet-year water supplies to replenish groundwater banks.
- Clarify and simplify the institutional review process for transfers, while continuing to prevent harm to the environment and adverse effects for other legal users of the state's waters.

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- Strengthen local groundwater management to support both marketing and groundwater banking. Outside pressure—with a credible threat that the state would step in if local agencies fail to do so—might be the best way to proceed, ideally accompanied by positive financial incentives to improve basin management.
- Develop models for mitigating the economic effects of large-scale land fallowing deals. Economic shifts make it likely that some cropland will be permanently retired in the future, and alleviating the community-related effects of fallowing would help ease economic transitions.
- California should continue to pursue—and find the funds to support—environmental water purchases, which can help reduce the conflicts associated with reallocating water to the environment while improving the efficiency of environmental water management.
- Because routinizing marketing and banking transactions will require some risk-taking, high-level state and federal officials should be involved. One option might be to develop a coordinating committee from relevant agencies, with the authority to facilitate discussions and transactions.

You can access the report at: <http://www.ppic.org/main/publication.asp?i=1041>.

New Pacific Institute Desal Report Identifies Risks, Challenges—A new report from the Pacific Institute, *Key Issues for Desalination in California: Cost and Financing*, concludes that economics – including both the cost of the water produced and the ability to complete the complex financial arrangements needed to commercialize a project – are among the key factors that will determine the ultimate success and extent of seawater desalination in California. The new report assesses desalination costs, financing, and the risks associated with developing desalination projects.

Among other things, the Pacific Institute analysis finds that the cost to produce water from a desalination plant is subject to significant variability, with recent estimates for the 17 plants proposed in the state ranging from \$1,900 to more than \$3,000 per acre-foot.

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In the Nov. 27th news release announcing the report, Heather Cooley, co-director of the Pacific Institute Water Program and lead author of the report, said, "Seawater desalination remains among the most expensive water-supply options available, although the public and decision-makers must exercise caution when comparing costs among different projects. She explained that the variation in estimates resulted from differing approaches to calculating development costs, financing costs, plant costs and related infrastructure costs.

Desalination projects in California that are being developed solely by public water agencies, the report notes, will likely use municipal revenue bonds or other conventional financing methods, with possible additional support through various government grant and loan programs. Some public agencies are exploring public-private partnerships (PPPs), which will be financed through some combination of debt, especially tax exempt private-activity bonds, and private equity. The report notes that PPPs allow some costs and risks to be shifted to the private sector.

The report identifies one other risk that is specific to large water-supply projects –demand risk, which is the risk that water demand will be insufficient to justify continued operation of the plant due to the availability of less expensive alternative supplies and conservation and efficiency improvements. In Australia, the report states, four of the six desalination plants that have been developed since 2006 are being placed in stand-by mode. Likewise, the Tampa Bay Desalination Plant in Florida operates well below full capacity because demand is lower than expected and less expensive water-supply options are available.

The report spends a lot of time on public-private partnerships, with particular emphasis on the allocation of risk between the project partners. Unfortunately, it dwells on a public agency sponsor contracting with a private sponsor, committing to minimum purchases of water from the desalination plant, and then having to buy more water than needed if actual demand drops. It then laments the fact that the public agency now has a significant disincentive to pursue more cost-effective water supply and water conservation and efficiency programs. The main point of this discussion is that demand risk has effectively been shifted from the private sector to the public sector.

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The Pacific Institute's previous analysis of the advantages and disadvantages of seawater desalination was titled *Desalination, With a Grain of Salt*. This new report is Part 2, and it is designed to provide communities and decision makers with information on developing desalination plants and to create a more rational and sustainable policy around seawater desalination along the California coast and elsewhere. Other issues that will be addressed include the marine impacts of seawater desalination and the energy requirements and greenhouse gas implications. *Key Issues for Seawater Desalination in California: Cost and Financing* can be accessed at http://www.pacinst.org/reports/desalination_2013/financing.htm.

Upcoming Industry Meetings/Conferences/Events:

- December 4-7, 2012 – Association of California Water Agencies Fall Conference (Manchester Grand Hyatt; One Market Place San Diego, California 92101); J. Hawks will attend.
- December 7, 2012 – CWA Public Information Committee Conference Call Meeting (1:30p – 3:00p; 1.888.398.2342; 6868916#).
- December 10, 2012 – CA Dept. of Public Health Infrastructure Funding Stakeholder Committee Meeting (10:00a – 4:00p; 1616 Capitol Mall, Sacramento).
- December 11, 2012 – CWA Executive Committee Meeting (10:00a – 2:00p; Golden State Water Company; 2143 Convention Center Way, Suite 110, Ontario, CA 91764); J. Hawks will attend.
- December 12, 2012 – CUWCC Plenary Meeting (9:30a – 3:00p; Metropolitan Water District of Southern California; 700 North Alameda St., Los Angeles, CA 90012); J. Hawks will attend.

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- December 13, 2012 – California Dept. of Water Resources – California Water Plan Update 2013 Advisory Committee Meeting (9:00a – 4:30p; Cal EPA, 1001 I St., Sacramento, CA 95814); J. Hawks will attend.
- December 20, 2012 – California PUC Open Meeting (9:00a–12:00p; 505 Van Ness Ave., San Francisco 94102)
- January 10, 2013 – California PUC Open Meeting (9:00a–12:00p; 505 Van Ness Ave., San Francisco 94102)
- January 11, 2013 – CWA Directors and Executive Committee Meeting (9:30a – 2:30p; Park Water Company - 9750 Washburn Road; Downey, CA 90241-7002); J. Hawks will attend.
- January 24, 2013 – California PUC Open Meeting (9:00a–12:00p; 505 Van Ness Ave., San Francisco 94102)

—CWA—