

California Legislature

June 20, 2017

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol Building
Sacramento, CA 95814

Dear Governor Brown:

As the members of the Legislative Delta Caucus, we are deeply troubled with recent steps your Administration has taken to expedite planning and construction of the California WaterFix, a large-scale project that will likely have a devastating environmental impact for California. These actions have left us with serious concerns over shifting management aspects away from the authority of the Department of Water Resources (DWR), and the lack of a complete financing plan.

Throughout the process involved in WaterFix, DWR and water contractors have consistently sought to establish a joint powers authority (JPA) to manage construction of the project. In the recent formation of the Conveyance Project Coordination Agency, DWR has abdicated its responsibility to oversee and manage the project to the very water agencies that have a direct interest in developing the environmentally harmful Delta tunnels. These water contractors have not shown an interest in adhering to all provisions of the Delta Reform Act of 2009.

Additionally, the agreement between DWR and the JPA perpetuate our concern that there is a lack of a complete financing plan, and the ability of JPA members to provide adequate financing, for the project. Although this agreement sets out a design and construction budget, it fails to comply with the Delta Reform Act as it lacks a financing structure for operation and, most important, maintenance. Water Code § 85089 clearly states:

“Construction of a new Delta conveyance facility shall not be initiated until...entities have made arrangements or entered into contracts to pay for...costs of the environmental review, planning, design, construction, and mitigation, including mitigation required pursuant to Division 13 (commencing with Section 21000 of the Public Resources Code), required for the construction, operation, and maintenance of any new Delta water conveyance facility.”

Recent developments have heightened the concern around the ability of the members of the JPA, including the Metropolitan Water District of Southern California (MWD), to meet financial obligations. These developments include ongoing lawsuits related to accounting and rate practices, and immediately needed repairs to and revelations about the Oroville Dam spillways.

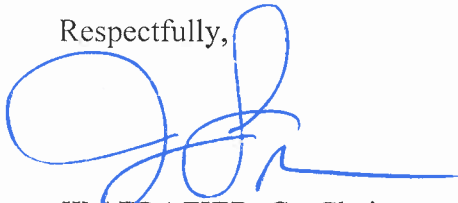
In April 2016, the San Diego County Water Authority (SDCWA) filed its fourth lawsuit against MWD for charging illegal rates to SDCWA. Through these lawsuits, courts have found MWD to be at fault, and potentially overcharged up to \$2.1 billion over the life of the agreements. As MWD is the most reliant agency on water from the State Water Project, while SDCWA has reduced its reliance, the result of these rulings could significantly impact the ability of the JPA to comply with the terms of arrangements to finance both upfront and maintenance costs of the WaterFix.

The collapse of the Oroville Dam spillways earlier this year highlights concern around water contractors' financial obligations, as the repairs are estimated to cost upwards of \$274 million. At an Assembly Joint Oversight Hearing on the Oroville Dam in May 2017, Secretary of Natural Resources John Laird expressed a widely-held understanding that water contractors need to contribute more to reflect their 96% funding commitment for the State Water Project (SWP). Although the contracts between DWR and water agencies include payment formulas to fund operation and maintenance of SWP infrastructure, the incident in Oroville shows there has been greater investment on up-front capital and ongoing operation than on critical maintenance.

Any new conveyance project in the Delta will have wide-ranging economic and environmental impacts, and the approval process must be entirely transparent and involve the public at each step. The project must also meet requirements of the Delta Reform Act to have sound financial agreements, especially with regard to ongoing maintenance and enhancements.

For the aforementioned reasons, we believe it is improper, and ultimately harmful to the public interest, for DWR to turn over management of WaterFix project to the JPA with the outstanding concerns.

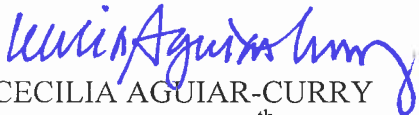
Respectfully,



JIM FRAZIER, Co-Chair
Assemblymember, 11th District



BILL DODD, Co-Chair
Senator, 3rd District



CECILIA AGUIAR-CURRY
Assemblymember, 4th District




CATHLEEN GALGIANI
Senator, 5th District



KEVIN McCARTY
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SUSAN TALAMANTES EGGMAN

Assemblymember, 13th District



TIMOTHY S. GRAYSON

Assemblymember, 14th District



CATHERINE B. BAKER

Assemblymember, 16th District

Cc: The Honorable Kevin De León, President pro Tempore, California State Senate
The Honorable Anthony Rendon, Speaker, California State Assembly
William Croyle, Acting Director, Department of Water Resources
Felicia Marcus, Chair, State Water Resources Control Board
Chuck Bonham, Director, Department of Fish and Wildlife
Randy Fiorini, Chair, Delta Stewardship Council
Skip Thomson, Chair, Delta Protection Commission
Jim Provenza, Chair, Delta Conservancy