

To: Frances Mizuno, Interim Executive Director

From: Dennis Cardoza, Foley & Lardner LLP

Subject: June State Affairs Update

Date: June 26, 2018

AB 2516: An act to amend Section 6429 of the Water Code, relating to dams and reservoirs

- Introduced by Susan Eggman in February, 2018
- This bill would require DWR to post, and update quarterly, on its Internet Web site a report containing all of the following: 1) The name of each reservoir subject to a restriction. 2) The effective date of the reservoir restriction. 3) The reason for the restriction. 4) Actions that would allow the restriction to be removed. 5) If no reservoir restrictions are in effect, the department shall post this fact on its Internet Web site.
- Passed the Assembly. In the Senate it has been referred from the Committee on Natural Resources and Water to the Appropriations Committee, where it was amended and re-referred.

AB 2541: An act to amend Section 116760.50 of the Health and Safety Code, relating to water quality

- Introduced by Rudy Salas in February, 2018
- This bill authorizes SWRCB to provide up to 100% grant funding, in addition to providing principal forgiveness and zero-percent financing on loans, from the Safe Drinking Water State Revolving Fund (DWSRF) to a project for a water system that serves a severely disadvantaged community. 2) Deletes the requirement that a water system must demonstrate that repaying a Safe Drinking Water State Revolving Fund (DWSRF) loan with interest would result in unaffordable water rates.
- Passed the Assembly. In the Senate it has been referred from the Committee on Environment Quality to the Appropriations Committee.

AB 2545: An act to add and repeal Section 1618 of the Fish and Game Code, relating to fish and wildlife

- Introduced by James Gallagher in February, 2018
- This bill requires the Department of Fish and Wildlife (DFW), until January 1, 2023, to adopt general agreements available to entities for lake and streambed alteration agreements (LSAA). Specifically, this bill: 1) Does not require an entity to obtain a general agreement if the entity prefers to obtain an individual LSAA. Specifies that a general agreement will be in lieu of an individual LSAA. 2) Requires the DFW to include guidance on the definition of river and stream in the general agreements. 3) Requires the DFW to establish fees for any general agreement in accordance with existing law on LSAA fees. 4) Does not apply the time periods or arbitration and court process that apply to individual LSAAs.

- Passed the Assembly. In the Senate it was referred to the Committee on Natural Resources and Water.

AB 2782: An act to add Section 21082.4 to the Public Resources Code, relating to environmental quality

- Introduced by Laura Friedman in February, 2018
- This bill would authorize lead agencies, responsible for preparing a mitigated negative declaration for projects with significant effects on the environment, to consider specific economic, legal, social, technological, or other benefits of, and the negative impacts of denying, the project.
- Passed the Assembly. In the Senate it was re-referred from the Committee on Environment quality to the Appropriations Committee.

AB 2975: An act to add Section 5093.71 to the Public Resources Code, relating to wild and scenic rivers

- Introduced by Laura Friedman in February, 2018
- This bill would require the Secretary of the Natural Resources Agency in two circumstances, after holding a public hearing, to determine whether the provision of state protection for the river or segment of the river that has been removed, delisted, or exempted from the federal wild and scenic rivers systems is in the best interest of the state, and, if so, to take specific actions, until December 31, 2025, to add the river or segment of a river to the state wild and scenic rivers system and to classify that river or segment of a river, as prescribed. Essentially this is a safeguard against the Trump administration eliminating federal protection for California's protected wild and scenic rivers.
- Passed Assembly. In the Senate it was referred to Committee on Natural Resources and Water.

SB 919: An act to add Section 144 to the Water Code, relating to water resources

- Introduced by Bill Dodd in January, 2018
- This bill requires the Department of Water Resources to develop a plan to deploy a network of stream gages.
- Passed the Senate. In the Assembly it was referred to the Committee on Water Parks and Wildlife where it was amended.

SB 1301: An act to add Division 13.6 to the Public Resources Code, relating to environmental permitting, and making an appropriation therfor

- Introduced by Jim Beall in February 16, 2018

- Makes a dam safety project or a flood risk reduction project eligible for supplemental consultation, as specified, for the purpose of expediting the permitting of the project.
- Passed the Senate. In the Assembly it was referred to the Committee on Water Parks and Wildlife

SB 1421: An act to amend Sections 832.7 and 832.8 of the Penal code, relating to peace officer records

- Introduced by Anthony Portantino in February, 2018
- Requires the State Water Resources Control Board (State Water Board) to adopt requirements for the testing of microplastics in drinking water. Specifically, this bill: 1) Requires the State Water Board to adopt requirements for the testing and public disclosure of the amount of microplastics in drinking water. 2) Requires the State Water Board to adopt a standard method for testing drinking water for microplastics before adopting the testing and reporting requirements described in (1). 3) Authorizes the State Water Board to implement (1) and (2) through the adoption of a policy handbook.
- Passed the Senate. Referred to the Committee on Environmental Safety and Toxic Materials where it was amended.

AB 313: Vetoed and the water tax trailer bill which followed up ([Sacramento Bee](#))

To: Frances Mizuno, Interim Executive Director
From: Dennis Cardoza, Foley & Lardner LLP
Subject: June Federal Affairs Update
Date: June 26, 2018

FISH Act: HR 3916, An act to amend the Endangered Species Act of 1973 to vest in the Secretary of the Interior functions under that Act with respect to species of fish that spawn in fresh or estuarine waters and migrate to ocean waters, and species of fish that spawn in ocean waters and migrate to fresh waters. The administration is also looking at its own internal reorganization.

- Introduced by Ken Calvert in October 2017
- The legislation would consolidate the management and regulation of the Endangered Species Act within the Fish and Wildlife Service.
- It was marked up in May 2018 by the House Committee on Natural Resources.

WRDA: HR 8, An act to provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, and for other purposes.

- Introduced by Bill Shuster in May 2018
- This legislation passed the House in June 2018

WIFIA: HR 4492 and S 2329, The WIFIA program accelerates investment in our nation's water infrastructure by providing long-term, low-cost supplemental loans for regionally and nationally significant projects.

- This legislation would reauthorize the Water Infrastructure Finance and Innovation Act through 2024.
- The bill would double existing funding for critical water infrastructure projects across the country, giving more communities the opportunity to apply for and receive federal financial assistance through low cost loans.

Drinking Water System Improvement Act: HR 3387, To amend the Safe Drinking Water Act to improve public water systems and enhance compliance with such Act, and for other purposes.

- Introduced by Greg Harper in July 2017
- Reported out of the House Committee on Energy and Commerce in November 2017

Farm Bill: HR 2 and S 3042, One title of the bill administers a wide range of conservation programs.

Collaborative Water and Soil Enhancement Act of 2018: HR 4892, to address topsoil loss and protect drinking water from agricultural runoff. The bill will help farmers adopt soil health and water quality management practices by providing additional flexibility to support the delivery of conservation efforts.

Water Affordability Act of 2018: S 3015, to direct the EPA to establish a pilot program to assist low-income households.

San Luis Unit Drainage Resolution Act: HR 1769, This bill approves, and requires the Department of the Interior to implement, the Agreement between the United States and Westlands Water District August 2015 (Westlands Agreement).

Efforts in support of reauthorization of the WIIN Act – we are working with a number of agencies on this push.

115TH CONGRESS
2D SESSION

S. _____

To authorize the Secretary of the Interior to convey certain land and facilities
of the Central Valley Project.

IN THE SENATE OF THE UNITED STATES

Mrs. FEINSTEIN (for herself and Ms. HARRIS) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To authorize the Secretary of the Interior to convey certain
land and facilities of the Central Valley Project.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Contra Costa Canal
5 Transfer Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ACQUIRED LAND.**—The term “acquired
9 land” means land in Federal ownership and land
10 over which the Federal Government holds an interest

1 for the purpose of the construction and operation of
2 the Contra Costa Canal, including land under the ju-
3 risdiction of—

4 (A) the Bureau of Reclamation;

5 (B) the Western Area Power Administra-
6 tion; and

7 (C) the Department of Defense in the case
8 of the Clayton Canal diversion traversing the
9 Concord Naval Weapons Station.

10 (2) CONTRA COSTA CANAL.—

11 (A) IN GENERAL.—The term “Contra
12 Costa Canal” means the Contra Costa Canal
13 Unit of the Central Valley Project, which exclu-
14 sively serves the Contra Costa Water District in
15 an urban area of Contra Costa County, Cali-
16 fornia.

17 (B) INCLUSIONS.—The term “Contra
18 Costa Canal” includes pipelines, conduits,
19 pumping plants, aqueducts, laterals, water stor-
20 age and regulatory facilities, electric sub-
21 stations, related works and improvements, and
22 all interests in land associated with the Contra
23 Costa Canal Unit of the Central Valley Project
24 in existence on the date of enactment of this
25 Act.

1 (C) EXCLUSION.—The term “Contra Costa
2 Canal” does not include the Rock Slough fish
3 screen facility.

4 (3) CONTRACTS.—The term “contracts” means
5 the existing water service contract between the Dis-
6 trict and the United States, Contract No. 175r-
7 3401A-LTR1 (2005), Contract No. 14-06-200-
8 6072A (1972, as amended), and any other contract
9 or land permit involving the United States, the Dis-
10 trict, and Contra Costa Canal.

11 (4) DISTRICT.—The term “District” means the
12 Contra Costa Water District, a political subdivision
13 of the State of California.

14 (5) ROCK SLOUGH FISH SCREEN FACILITY.—

15 (A) IN GENERAL.—The term “Rock
16 Slough fish screen facility” means the fish
17 screen facility at the Rock Slough intake to the
18 Contra Costa Canal.

19 (B) INCLUSIONS.—The term “Rock Slough
20 fish screen facility” includes the screen struc-
21 ture, rake cleaning system, and accessory struc-
22 tures integral to the screen function of the
23 Rock Slough fish screen facility, as required
24 under the Central Valley Project Improvement
25 Act (Public Law 102-575; 106 Stat. 4706).

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

3 **SEC. 3. CONVEYANCE OF LAND AND FACILITIES.**

4 (a) IN GENERAL.—Not later than 180 days after the
5 date of enactment of this Act, in consideration for the Dis-
6 trict assuming from the United States all liability for the
7 administration, operation, maintenance, and replacement
8 of the Contra Costa Canal, subject to valid existing rights
9 and existing recreation agreements between the Bureau of
10 Reclamation and the East Bay Regional Park District for
11 Contra Loma Regional Park and other local agencies with-
12 in the Contra Costa Canal, the Secretary shall offer to
13 convey and assign to the District—

14 (1) all right, title, and interest of the United
15 States in and to—

16 (A) the Contra Costa Canal; and

17 (B) the acquired land; and

18 (2) all interests reserved and developed as of
19 the date of enactment of this Act for the Contra
20 Costa Canal in the acquired land, including existing
21 recreation agreements between the Bureau of Rec-
22 lamation and the East Bay Regional Park District
23 for Contra Loma Regional Park and other local
24 agencies within the Contra Costa Canal.

25 (b) ROCK SLOUGH FISH SCREEN FACILITY.—

1 (1) IN GENERAL.—On mutual agreement be-
2 tween the Secretary and the District regarding safe
3 and reliable operations of the Rock Slough fish
4 screen facility, the Secretary shall convey and assign
5 to the District all right, title, and interest of the
6 United States in and to the Rock Slough fish screen
7 facility.

8 (2) COOPERATION.—The Secretary is encour-
9 aged to work cooperatively with the District to ac-
10 complish the conveyance and assignment under
11 paragraph (1).

12 (c) PAYMENT OF COSTS.—The District shall pay to
13 the Secretary any administrative and real estate transfer
14 costs incurred by the Secretary in carrying out the convey-
15 ances and assignments under subsections (a) and (b), in-
16 cluding the cost of any boundary survey, title search, ca-
17 dastral survey, appraisal, and other real estate transaction
18 required for the conveyances and assignments.

19 (d) COMPLIANCE WITH ENVIRONMENTAL LAWS.—

20 (1) IN GENERAL.—Before carrying out the con-
21 veyances and assignments under subsections (a) and
22 (b), the Secretary shall comply with all applicable re-
23 quirements under—

24 (A) the National Environmental Policy Act
25 of 1969 (42 U.S.C. 4321 et seq.);

1 (B) the Endangered Species Act of 1973
2 (16 U.S.C. 1531 et seq.); and

3 (C) any other law applicable to the Contra
4 Costa Canal or the acquired land.

5 (2) EFFECT.—Nothing in this Act modifies or
6 alters any obligations under—

7 (A) the National Environmental Policy Act
8 of 1969 (42 U.S.C. 4321 et seq.); or

9 (B) the Endangered Species Act of 1973
10 (16 U.S.C. 1531 et seq.).

11 **SEC. 4. RELATIONSHIP TO EXISTING CENTRAL VALLEY**

12 **PROJECT CONTRACTS.**

13 (a) IN GENERAL.—Nothing in this Act affects—

14 (1) the application of the reclamation laws to
15 water delivered to the District pursuant to any con-
16 tract with the Secretary; or

17 (2) subject to subsection (b), the contracts.

18 (b) AMENDMENTS TO CONTRACTS.—The Secretary
19 and the District may modify the contracts as necessary
20 to comply with this Act.

21 (c) LIABILITY.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), the United States shall not be liable for
24 damages arising out of any act, omission, or occur-

1 rence relating to the Contra Costa Canal or the ac-
2 quired land.

3 (2) EXCEPTION.—The United States shall con-
4 tinue to be liable for damages caused by acts of neg-
5 ligence committed by the United States or by any
6 employee or agent of the United States before the
7 date of the conveyance and assignment under section
8 3(a), consistent with chapter 171 of title 28, United
9 States Code (commonly known as the “Federal Tort
10 Claims Act”).

11 (3) LIMITATION.—Nothing in this Act increases
12 the liability of the United States beyond the liability
13 provided under chapter 171 of title 28, United
14 States Code.

15 **SEC. 5. REPORT.**

16 If the conveyance and assignment authorized by sec-
17 tion 3(a) is not completed by the date that is 1 year after
18 the date of enactment of this Act, the Secretary shall sub-
19 mit to Congress a report that—

20 (1) describes the status of the conveyance and
21 assignment;

22 (2) describes any obstacles to completing the
23 conveyance and assignment; and

24 (3) specifies an anticipated date for completion
25 of the conveyance and assignment.

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Legislation to Grant Contra Costa Water District Ownership of Canal System

Title transfer would advance modernization of the 81-year-old facility

This week, Senator Dianne Feinstein, Senator Kamala Harris and Congressman Mark DeSaulnier introduced legislation to transfer federal ownership of the Contra Costa Canal System to Contra Costa Water District (CCWD), taking an important step toward modernizing the aging water supply aqueduct. CCWD is pleased to strongly support the introduction of this legislation.

The canal system serves as the primary water delivery system for 500,000 people in central and eastern Contra Costa County. It was first constructed in 1937 as part of the U.S. Bureau of Reclamation's Central Valley Project.

The canal system includes the 48-mile Contra Costa Canal, the Shortcut Pipeline, two reservoirs, and other related facilities. Under the companion bills, CCWD receives ownership of assets it has operated since 1972 and has 100% paid off (principal plus interest) since 2010. Ownership of the canal system on the local level means CCWD can more efficiently operate and maintain the system and will reduce federal administrative burdens and associated costs.

In addition, CCWD would be more secure in investing millions of dollars to modernize the aging canal. CCWD is studying options to modernize the main canal that stretches from Rock Slough Intake near Oakley to Concord. "For those investments to be made," said CCWD Board President Lisa Borba, "CCWD is awaiting ownership of the canal system."

Because the canal system is currently owned by the federal government, title transfer requires an act of Congress. This canal system is an ideal unit for title transfer because, its single beneficiary, CCWD, has paid for the facilities and will continue to operate for the benefit of customers currently served.

"The canal system has reliably served the people and businesses of our community for 80 years," President Borba said. "We appreciate the leadership from Senator Feinstein, Senator Harris and Congressman DeSaulnier to help us gain ownership of a system we can modernize to serve our customers for the next century."

The canal system also includes recreational trails, Contra Loma and other facilities that will be maintained for recreation with the transfer. This action has gained support from local recreation managers, including East Bay Regional Park District and the cities of Walnut Creek and Antioch.

To learn more about studies to modernize the Contra Costa Canal System, visit www.ccwater.com/688

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