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# CALIFORNIA'S WATER FUTURE: HIGH DEMAND, LIMITED SUPPLY, CLIMATE CHANGE AND MORE VOLATILE WEATHER; PROPOSED NEW TUNNELS TO SHIP WATER LEAD TO ENDLESS CONTROVERSY

BY PHILIP L. ISENBERG

For more than 50 years, Californians has been arguing about plans to build new canals or tunnels to move water from the Sacramento-San Joaquin Delta (just west of San Francisco) to farmers in the Central Valley, parts of the San Francisco Bay Area, and urban Southern California. An existing water conveyance system, built mostly in the 1960s and 1970s is operating but getting older and it causes serious environmental damage to fish. At the same time, climate change is causing a far more volatile water supply.



To complicate things, California has just gone through a three-year drought, and it appears 2015 will also be dry. We all know that dry water years mean less water is available, but how can we meet legitimate demand with a reduced supply<sup>1</sup>?

Equally important, what to do about legal rights (real or imagined) to use water that in sum total far exceed the average annual supply - and also exceed the supply in very wet water years?

### First, some good news:

1. California Governor Jerry Brown issued his Water Action Plan in 2014<sup>2</sup>. It joins a reliable water supply to an improved and restored Delta ecosystem reflecting state law. Signs are that a finished tunnel plan may be present in 2015<sup>3</sup>.

2. California finally adopted major legislation to regulate the use of underground water giving increased authority to local water districts to regulate underground water use<sup>4</sup>. Are local agricultural and rural water districts politically willing to impose limits on their customers? If not, the state is authorized to step in and dictate a solution - although you can be sure that decades of litigation will try and stop that from happening.

3. Voters in California approved a \$7.1 billion

water bond in 2014<sup>5</sup>. That's not much money in a state where federal, state and local governments spend \$30-\$40 billion annually for water supply, wastewater treatment and flood control - but it is useful in pushing the Governor's Water Action Plan.

### Second, some not-so-good news:

1. The Governor's call for a 20 percent reduction in urban water use has not been met. To be sure, some communities are serious about conservation, but others are not. And there is no way to tell yet if reductions in use are permanent, or just reflect temporary changes<sup>6</sup>.

2. The Bay Delta Conservation Plan (BDCP). The tunnel plan, has been seven years in the making, and a number of major questions remain hopefully to be answered later this year:

- a. Does building a more efficient system with tunnels automatically mean more water is available to move? The obvious answer is 'no', but that answer is unacceptable to some powerful water users.
- b. Will the role of science in operating any new tunnel project and Delta ecosystem improvements be increased? The Governor and federal officials pledged to so in 2012<sup>7</sup>, but the details remain unclear.
- c. Will California deliver on the promise to restore or enhance habitat on over 100,000



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acres of land in the Delta? And equally important, is the money for this a reality, or just a hope?

d. Will federal and state officials finally adopt a coherent governance structure for BDCP, including an expedited dispute resolution process? The jury is out on this, but the slow pace of implementing 2007 - 2008 federal environmental standards for Delta smelt and Salmon - even with court supervision - is not encouraging<sup>8</sup>.

To get past all the roadblocks, multiple policies have to be achieved, not just some. It has been suggested that California does public policy backwards - as explained by The Rolling Stone's famous song by Mick Jagger and Keith Richards said it best: "You can't always get what you want... But if you try sometimes you just might find you get what you need, baby" Time will tell.

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### Notes

- 1) In 1962 prominent water attorney James H. Krieger and Harvey O. Banks - the famous California Water Director for Governor Pat Brown when voters approved the State Water Project - made a very similar point. Although focused on groundwater overuse, the article followed an 18-year dry period in southern California and sounds similar to today's water debate. The problem of water supplies not meeting human demands "...can be met in two ways: increase the supply or limit the demand. Both are necessary.... In limiting the demand for water California has been less imaginative. Americans are less prone to curb their appetites than they are to invent new ways to satisfy them; hence, there have been few attempts to stretch the available water supply. Conservation and reclamation are viewed as a last resort. While this philosophy is responsible in part for the people of California voting a multi-billion dollar project to import water into thirsty areas, it is equally accountable for squandering the local supply." Krieger JH, Banks HO. 1962. Ground water basin management. 50 Cal.L. Rev. 56; <http://scholarship.law.berkeley.edu/>.
- 2) Governor's Water Action Plan [http://resources.ca.gov/docs/california\\_water\\_action\\_plan/Final\\_California\\_Water\\_Action\\_Plan.pdf](http://resources.ca.gov/docs/california_water_action_plan/Final_California_Water_Action_Plan.pdf)
- 3) BDCP (Bay Delta Conservation Plan) summary and environmental documents, <http://baydeltaconservationplan.com/Home.aspx>.
- 4) The Sustainable Groundwater Management Act is found in the following three bill: AB 1739 (Dickinson): [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB1739](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1739) SB 1168 (Pavley): [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140SB1168](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB1168) SB 1319 (Pavley): [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140SB1319](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB1319)
- 5) For election results on Proposition 1, see <http://www.sos.ca.gov/elections/prior-elections/statewide-election-results/general-election-november-4-2014/>. Proposition 1 text, plus arguments pro and con are at <http://vig.cdn.sos.ca.gov/2014/general/en/pdf/proposition-1-title-summary-analysis-v2.pdf>, and <http://vig.cdn.sos.ca.gov/2014/general/en/pdf/proposition-1-arguments-rebuttals.pdf>.
- 6) Be prepared for a mind boggling array of limited information, covering only 'household' use of water. This is a courageous effort, but much more information is needed. California Water Resources Control Board, [http://www.swrcb.ca.gov/waterrights/water\\_issues/programs/drought/conservation\\_reporting\\_info.shtml](http://www.swrcb.ca.gov/waterrights/water_issues/programs/drought/conservation_reporting_info.shtml).
- 7) Statement of Governor Jerry Brown, US Secretary of Interior Ken Salazar, and NOAA Deputy Administrator Eric Schwaab, July 25, 2012, [http://baydeltaconservationplan.com/Libraries/Dynamic\\_Document\\_Library/Joint\\_Announcement\\_Press\\_Release-7-25-12.sflb.aspx](http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Joint_Announcement_Press_Release-7-25-12.sflb.aspx)
- 8) Report to Delta Stewardship Council (April 2014) on status of CAMT, <http://mavensnotebook.com/2014/04/15/the-delta-stewardship-council-hears-an-update-on-the-collaborative-science-and-adaptive-management-program-csmp/>.