
File No.: 17-0340

Agenda Date: 5/23/2017

Item No.: *5.1.

SUPPLEMENTAL BOARD AGENDA MEMORANDUM

SUBJECT:

San Luis & Delta-Mendota Water Authority June 8, 2017 Board Meeting.

REASON FOR SUPPLEMENTAL MEMORANDUM:

This report conveys additional information received after the initial agenda memo was released, consistent with Executive Limitations Policy EL-7-10-5.

RECOMMENDATION:

- A. Receive and discuss information for the upcoming San Luis & Delta-Mendota Water Authority (Authority Board Meeting;
- *B. Continue position of “Oppose” on AB 1427 (Eggman) Water: Underground Storage, unless the bill is amended by the June 8th or a subsequent Authority Board meeting, to protect the availability of water to the District; and
- *C. Adopt a position of “Abstain” on AB 1667 (Friedman) Agricultural Water Management Planning, as the bill is outside of the District’s 2017 legislative priorities.

SUMMARY:

The San Luis & Delta-Mendota Water Authority (Authority) provides a 3-day public notice of its board meetings, in compliance with the Brown Act. As such, the agenda for the June 8, 2017 Authority Board meeting will not be fully known until June 5th. Three District Board Members serve as Authority Board Members or their Alternates, and wish to have early information, whenever possible, to guide their participation in forthcoming Authority Board actions.

Based on discussions with Authority staff in mid-May, District staff anticipates that the following items with potential policy implications may be included on the June 8 Authority Board meeting agenda. If not at that meeting, it is possible that they may be included in a subsequent Authority meeting agenda. Both items, if agendized, will call for the Authority Board to take positions on the versions of the legislation in print at that time. The two items are as follows:

- AB 1427 (Eggman) Water: Underground Storage. On April 25, 2017, the District Board adopted a position of “Oppose” on AB 1427. The Authority has no current position on this bill.
- AB 1667 (Friedman) Agricultural Water Management Planning. The agricultural water

conservation planning bill is outside of the District's 2017 legislative priorities and so District staff have not engaged on that issue. The Association of California Water Agencies (ACWA) has adopted a position of "Oppose." The Authority's current position is "Oppose;" however, there has been considerable recent work between the bill author and agricultural water provider stakeholders aimed at coming to agreement over the language.

- Because these bills may be amended prior to the June 8 Authority Board meeting, it is not possible to recommend a position on potential future bill language. District Board Governance Policy 9.3.1 provides discretion for District Board members serving on external committees or other governing bodies to serve in the best interest of the District unless otherwise required by statute, ordinance, resolution or other legislative action.

BACKGROUND:

While the exact topics and action items to be discussed and decided at the June 8, 2017 Authority Board meeting are not known at this time, the following District Board Governance Policy provides guidance to Board Members representing the District at that meeting:

- Board Governance Policy 9.3.1 states, "Board members serving on external committees or other governing bodies shall serve in the best interest of the District unless otherwise required by statute, ordinance, resolution or other legislative action;" and
- Board Governance Policy 10.4 states in part, "Board members will briefly report on meetings attended at District expense at the next regular Board meeting following the event at which the member is in attendance."

AB 1427 (Eggman) Water: Underground Storage. (A-3/21/2017)

District Position adopted 4/25/2017: Oppose

District analysis from April 25, 2017 Board agenda item 7.2.

AB 1427 would modify the definition of the beneficial use of water to include water stored in the ground for the protection of water quality or for the recovery of groundwater levels. The bill exempts from forfeiture the rights to water that not used beneficially for a period of five years, by declaring that certain water storage underground constitutes beneficial use under the law.

California's water law and policy, Article X, Section 2 of the California Constitution, requires that all uses of the state's water be both reasonable and beneficial. It places a significant limitation on water rights by prohibiting the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water.

Currently, an appropriative water right that is not used beneficially during a five-year period may be considered abandoned and available for use by others. AB 1427 would change this requirement by providing that the period for a reversion of a water right does not apply during the period groundwater is used in the ground or held in storage for later application to

beneficial use.

Importance to the District:

AB 1427 would not provide the District with any greater ability to fully exercise its local appropriative water right licenses. The District's licenses allow diversions to be used for domestic and irrigation purposes. Some of the District's licenses also state water will be recharged into the basins for subsequent recovery for use on overlaying lands. Since existing law already allows the District to store water underground for future beneficial use (Water Code Section 1242) and the District's recharge operations are aimed at making water available for beneficial use, the language in the bill is superfluous.

However, the bill would potentially impact the District's federal and state imported water supplies. Under area of origin laws, County and watershed areas of the source water have priority over the Central Valley Project (CVP) and State Water Project (SWP) for that water, even if the CVP and SWP have a prior appropriate water right. Essentially, area of origin laws provide those located in a County and watershed of the source water with a preferential right for that water over the CVP and SWP to ensure adequate water supplies for the County and watershed.

Under the proposed bill language, if a person in an Area of Origin County decides to obtain a water right to divert for the sole purpose of raising groundwater levels, that right would be superior to existing rights of the CVP and SWP, even if those in the Area of Origin do not have a foreseeable need to recover the stored water for existing beneficial uses. They can claim that raising groundwater levels is a beneficial use, without having to demonstrate why the stored water is needed for municipal, domestic, irrigation, salinity barrier, wildlife preservation or any other recognized beneficial uses. This bill could severely impact the availability water to the District and other CVP and SWP contractors.

Pros

- *None.*

Cons

- *The bill could adversely impact the availability of imported water to the District through the CVP and SWP.*

On April 25, 2017, the Board adopted a position of "Oppose" on AB 1427. The Authority has no current position on this bill. Based on information available at this time, staff recommends maintaining the current position of "Oppose" unless new information is received prior to discussion at the June 8th or a subsequent Authority Board meeting, then District Board Members serving on the Authority's Board may use discretion to take action that would serve the best interest of the District.

AB 1667 (Friedman) Agricultural Water Management Planning. (A-4/18/2017)

District Position: None

Summary: Current law requires an agricultural water supplier to prepare and adopt an agricultural water management plan with specified components on or before December 31, 2012, and to update that plan on December 31, 2015, and on or before December 31 every 5 years thereafter. This bill would revise the components of the plan and additionally require the agricultural water management plan to quantify measures to increase agricultural water use efficiency, describe the agricultural water supplier's water management strategy with specified elements, and include a drought plan describing the actions of the agricultural water supplier for drought preparedness and management of water supplies and allocations during drought conditions.

At the April 25, 2017 Board meeting, the District Board took a "Support if Amended" position on the Governor's budget trailer bill language to implement the program known as Making Water Conservation a California Way of Life. AB 1667 is proposed to implement the agricultural water conservation planning portion of the Governor's water conservation budget trailer bill. AB1667 is outside of the District's 2017 legislative priorities and so District staff have not engaged on that issue. ACWA has adopted a position of "Oppose." The Authority's current position is "Oppose;" however, there has been considerable recent work between the bill author and agricultural water provider stakeholders aimed at coming to agreement over the language.

Based on information available at this time, staff recommends a position of "Abstain" unless new information is received by the June 8th or a subsequent Authority Board meeting, then District Board Members serving on the Authority's Board may use discretion to support the bill if that would serve the best interest of the District.

FINANCIAL IMPACT:

There is no financial impact associated with this item.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

None.

UNCLASSIFIED MANAGER:

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