



Santa Clara Valley Water District

File No.: 18-0940

Agenda Date: 2/26/2019

Item No.: 7.2.

BOARD AGENDA MEMORANDUM

SUBJECT:

Recommended Positions on Federal Legislation: H.R. 548 (Calvert) - Federally Integrated Species Health (FISH) Act; H.R. 357 (Garamendi) - Sacramento-San Joaquin Delta National Heritage Area Act; S. 40 (Barrasso) - Bureau of Reclamation Transparency Act; and Other Legislation That May Require Urgent Consideration for a Position by the Board.

RECOMMENDATION:

- A. Adopt a position of "Support" on H.R. 548 (Calvert) - Federally Integrated Species Health (FISH) Act;
- B. Adopt a position of "Support" on H.R. 357 (Garamendi) - Sacramento-San Joaquin Delta National Heritage Area Act; and
- C. Adopt a position of "Support and Amend" on S. 40 (Barrasso) - Bureau of Reclamation Transparency Act.

SUMMARY:

A. H.R. 548 (Calvert) - Federally Integrated Species Health (FISH) Act

Recommendation: Support

Priority Recommendation: 2

This bill would amend the Endangered Species Act of 1973 (ESA) to vest within the Department of the Interior the responsibilities under the ESA of managing anadromous and catadromous species of fish - those that spawn in fresh or estuarine waters and migrate to ocean waters, and those that spawn in ocean waters and migrate to fresh or estuarine waters, respectively - rather than within the Department of Commerce, where that authority currently resides. Effectively, this bill would transfer personnel and ESA regulatory authority of these species from the National Marine Fisheries Service (NMFS), part of the Department of Commerce, to the U.S. Fish and Wildlife Service (USFWS), which is in the Department of the Interior. The Department of Commerce would still pay for those personnel, but they would be housed within USFWS.

Status:

The bill was introduced on January 15, 2019, and was referred to the House Committee on Natural Resources. The co-sponsors of the bill are Representatives LaMalfa (R-CA-1), Simpson (R-ID-2), Costa (D-CA-16), McMorris Rodgers (R-WA-5), and McClintock (R-CA-4).

Importance to the District:

Transferring the personnel who execute these duties under the ESA from NMFS to USFWS would help better align and streamline ESA review and enforcement between the two agencies. This would allow District personnel to deal with one agency when trying to resolve ESA issues on projects involving anadromous and diadromous species.

The Board took a position of Support on this legislation when it was introduced during the previous Congress in 2017.

Pros:

- Consolidates ESA review and enforcement under one federal agency.
- Would allow District personnel to deal with one agency when ESA issues arise.
- Could help streamline permit review and processing by consolidating those responsibilities under one agency rather than two.

Cons:

- The transfer of responsibilities from NMFS to USFWS may result in an initial transition period during which USFWS will have to adjust to new functions and duties, which could create a delay in permit review and processing.

B. H.R. 357 (Garamendi) - Sacramento-San Joaquin Delta National Heritage Area Act

Recommendation: Support

Priority Recommendation: 2

This bill would establish the Sacramento-San Joaquin River Delta as a National Heritage Area (NHA) to be managed by the Delta Protection Commission (Commission). The goal of the Commission is to ensure orderly, balanced conservation and development of Delta land resources and improved flood protection.

The bill authorizes \$10 million in federal assistance over 15 years to provide matching grants to implement the locally-developed Heritage Area management plan to promote environmental stewardship, heritage conservation, and economic development projects throughout the Delta. The federal share of the total cost of any activity under this Act is not to exceed 50 percent.

The bill would have no effect on water rights, water contracts, or property rights and creates no new regulatory authority or burden on local government or private citizens.

Status:

The bill was introduced on January 9, 2019, and was referred to the House Committee on Natural Resources. The co-sponsors of the bill are Representatives Doris Matsui (D-CA-6), Mark DeSaulnier (D-CA-11), Jerry McNerney (D-CA-9), and Mike Thompson (D-CA-5).

Importance to the District:

The District has a strong interest in ensuring the health and stability of the Delta. This bill would

designate this vital resource as a National Heritage Area, recognizing the Delta as a place where its natural, cultural, and historic resources form a landscape of national significance. The bill would also authorize new federal funding for local conservation, responsible development, and flood protection in the Delta. The bill will have no effect on water rights or water contracts and creates no new regulatory authority or burden on local government.

The District has supported previous versions of this bill in prior congressional sessions, most recently in May 2017.

Pros:

- NHA designation would authorize a new source of federal funding for local conservation, responsible development, and flood protection in the Delta.
- NHA designation is likely to increase public awareness about the Delta, thus creating new interest in preserving, protecting, and enhancing the area.

Cons:

- None identified at this time.

C. S. 40 (Barrasso) - Bureau of Reclamation Transparency Act**Recommendation: Support****Priority Recommendation: 3**

This bill would require the Bureau of Reclamation (Reclamation) to submit to Congress a report on the agency's efforts to manage its infrastructure assets, which include, but are not limited to, capitalized facilities, structures, and project features. The report must include the following:

- Reclamation's efforts to maintain the structures and facilities it owns and operates, as well as standardize and streamline data reporting and processes across regions for the purpose of maintaining those structures and facilities;
- A detailed assessment of major repair and rehabilitation needs for all Reclamation-owned and operated structures and facilities; and
- A list of major repair and rehabilitation needs of structures and facilities at each Reclamation project, including cost estimates for those repairs.

The bill also stipulates that the Secretary of the Interior would develop, in consult with contracted non-federal entities, asset management reporting requirements for Reclamation-owned facilities that are operated and maintained by those non-federal entities.

Status:

The bill was introduced on January 8, 2019, and was referred to the Senate Committee on Energy and Natural Resources. The co-sponsor of the bill is Senator Brian Schatz (D-HI).

Importance to the District:

The Bureau of Reclamation is a 116-year-old agency, and much of its infrastructure was constructed over 50 years ago and is in dire need of repair or rehabilitation. As a Reclamation

water contractor through the Central Valley Project, the District has a direct interest in the condition of Reclamation's structures and facilities. Given past leaks and supply interruptions in the Santa Clara Conduit, the District has a direct interest in ensuring that the necessary repairs for the conduit are assessed and completed. This bill could help provide a clearer picture of Reclamation's repair and rehabilitation needs, as well as the associated costs, for its projects throughout California.

Proposed Amendment:

In order to better address the District's interests in improving Reclamation's management of its structures and facilities, the District proposes the following amendment:

1. Include language in the bill to direct Reclamation to coordinate with non-federal entities to investigate whether certain Reclamation projects can be more efficiently managed if these projects were incorporated into other existing projects. Factors to use in this evaluation process would include but not be limited to the following:

Investigating if incorporating a Reclamation project into an existing project would:

- promote operational flexibility;
- offer environmental benefits through water quality and habitat improvements; or
- provide more cost savings.

The District took a position of "Support and Amend" on the previous version of this bill from the last Congress.

Pros:

- This bill would provide increased transparency about the repairs needed - and associated costs - for Reclamation structures and facilities on which water resource agencies like the District rely.
- The bill would require Reclamation to work with non-federal entities that operate and maintain Reclamation-owned facilities, such as the District, to assess repair and rehabilitation needs of the facilities, as well as the associated costs.

Cons:

- Given that Reclamation would be reporting on itself, there is potential for the assessment to be more biased than if a third party were to conduct the review. However, underreporting needed repairs and associated costs could mean fewer appropriated funds, so there is an inherent self-interest in thoroughly and accurately reporting on the agency's needs.

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 the potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

None.

UNCLASSIFIED MANAGER:

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