



California Association of Wheat Growers

Newsletter

March 10, 2017

**Thank you for your commitment to
the future of agriculture and our membership.**

California Legislative Update

By Dennis Albiani, Legislative Advocate



Park and Water Bond Move through Committees

This week, bills authorizing Parks, Open Space, Conservation and some water investment bonds passed the water policy committees in each legislative chamber. Both the Senate and Assembly have introduced legislation to put a General Obligation Bond on the June 5, 2018 ballot to fund environmental priorities. The two proposals, **AB 18 (Garcia)** and **SB 5 (De Leon)**, may ultimately be merged, but currently they each contain slightly over \$3 billion. The proposals include funds to create trails and acquire land for several environmental priorities.

Land acquisition could occur for wildlife corridors, habitat for threatened and endangered species, Native American resource protection, and creation and expansion of parks. The bills also include funding for fire reduction and forest health improvement projects. SB 5 was amended this week following the Oroville emergency to include more water quality and water infrastructure funding and includes \$1.5 billion for clean drinking water and drought preparedness and \$500 million for flood protection and repairs.

More specifically in the water and flood protection areas, SB 5 includes:

- \$375 million for projects that improve water quality, or help provide clean, safe and reliable drinking water;
- \$375 million for integrated regional water management planning projects that respond to climate change and contribute to regional water security;
- \$375 million for the public benefit cost share of surface and groundwater storage projects, and conjunctive use and reservoir reoperation projects;
- \$375 million for groundwater quality protection and cleanup projects;

- \$300 million with matching funds from local and regional flood protection agencies for flood protection facilities and levee improvements;
- \$100 million for levee repairs and restoration within the Sacramento-San Joaquin Delta; and
- \$100 million for stormwater, mudslide and other flash-flood related protections.

Water Board Adopts Climate Resolution - "Will Permeate Every Water Decision"

The State Water Resources Control Board approved a resolution this week outlining plans for what it calls a "comprehensive response" to climate change. In the document, the board says given the seriousness of global warming's impacts on California, "our response to climate change must be comprehensive and integrated" into all of the agency's work.

The plan lays out a list of commitments and policies, in many cases specifying dates for the staff to produce reports or collect new data in areas from drinking water regulation to water quality protection, "It commits the entire organization at every level to make climate a component of everything that they do," said Frances Spivy-Weber, the board's vice chair. She said the changes will have concrete effects within the agency and will make climate change a critical consideration in all of its water planning efforts.

"We're not talking about just one action here such as conservation or recycled water," Spivy-Weber said. "We're talking about our data collection. We're talking about the water quality permits that are at the regional level. We're talking about financing. We're talking about admin decisions."

In the new resolution approved Tuesday, the State Water Board instructed its staff to coordinate with California's nine regional water quality boards to collect annual data on how much recycled water is used, and to begin producing estimates of how much stormwater is captured and used statewide.

The agency's water quality division is tasked with developing recommendations by July 2018 on how to reduce the vulnerability of water infrastructure to flooding and sea-level rise. And the board's drinking water division will start including assessments of climate change vulnerability in its surveys of communities' water systems. Other directives focus on providing financial support to protect water systems deemed vulnerable to climate change, restoring and protecting ecosystems and considering ways of reducing the amounts of methane that are released from landfills and dairies. For local water districts, she said, the new directives "will affect them eventually if there is a need to add climate considerations into permits, or if water rights are starting to be in some ways encumbered by changes in climate."

Senators Introduce Bill to Prevent Environmental "Backsliding"

SB 49 (De Leon, Stern) would require California to enforce several environmental laws including the federal Clean Air Act, Clean Water Act, Endangered Species Act (ESA), and their implementing regulations and policies as they were in place on January 1, 2016 or January 1, 2017, whichever version is the most stringent. Additionally, the bill would create a private right of action in state law for citizen enforcement of the Clean Air Act, Clean Water Act and ESA if the citizen suit provisions are removed from these

federal laws. Specific to the Clean Water Act provisions, SB 49 requires the State Water Resources Control Board (SWRCB) to ensure that all waste discharge requirements, permits issued, and water quality control plans adopted after January 1, 2018 be at least as protective of the environment and public health as federal standards in place as of January 1, 2016 or 2017. SB 49 also would add all native species that are listed under the federal ESA to the list of species protected by the California Endangered Species Act.

Governor Rolls Out Dam and Levee Safety Emergency Proposal

California has the "leading dam safety program in the nation" according to a peer review conducted by the Association of State Dam Safety Officials in 2016. Currently, 1,250 dams are subject to the state's jurisdiction with respect to safety and regulated by the Department of Water Resources (DWR's) Division of Safety of Dams and are inspected annually. These dams are currently classified in three categories consistent with federal definitions; 678 high hazard, 271 significant hazard and 289 low hazard. The current inspection process focuses heavily on the dam itself and includes a visual inspection of the appurtenant structures. In light of the February 2017 spillway failure at Oroville, a more extensive evaluation of the adequacy, stability and structural integrity of appurtenant structures is necessary.

The Administration proposes to strengthen the evaluation of dam safety and establish new requirements for preparing and updating Emergency Action Plans and inundation maps, including improved coordination between DWR and CalOES.

The DWR is requesting \$3.0 million Dam Safety Fund in the current fiscal year, and on an ongoing basis, to support 8 new positions to develop a focused Safety Re-Evaluation Program for a detailed review of appurtenant structures, beginning with the evaluation of 108 large spillways considered to pose the greatest downstream risk if they were to fail.

The DWR and the Office of Emergency Services (OES) are requesting a total of \$5.3 million, 14 positions and new legislation to implement a comprehensive approach to dam safety by requiring the development and review of inundation maps and emergency action plans.

Under the Administration's comprehensive proposal, the DWR's Division of Safety of Dams will re-classify jurisdictional dams as extremely high, high, significant or low risk. The DWR will require inundation maps and Emergency Action Plans for all jurisdictional dams allowing a waiver for low hazard dams. The dam owner will send the final Emergency Action Plans and inundation map to DWR, Cal OES and local emergency management agencies.

The proposal will provide DWR additional enforcement power over dam owners who are not complying with the new emergency plan/inundation maps requirements. The proposal will propose revisions to the Water Code to incorporate penalties such as fines and reservoir operation restrictions when dam owners violate DWR's directives and orders.

Federal Policy Update

Perdue Confirmation Hearing Looks Like Late March

There's light at the end of the seven-week confirmation tunnel for former Georgia Gov. Sonny Perdue, President Trump's nominee for secretary of agriculture. Sources in Washington, DC, and Georgia confirm the two-time governor's paperwork has finally been bundled up and sent to the Senate Agriculture Committee, and a late March date for the formal confirmation hearing is expected.



In a related development, the Senate Finance Committee this week announced it set March 14 for U.S. Special Trade Representative (USTR) nominee Robert Lighthizer's confirmation hearing. While Perdue's delay was blamed on paperwork, committee Chair Orrin Hatch (R, UT) said Lighthizer's confirmation was delayed because of "unprecedented delays and unrealistic demands." Lighthizer, who worked at USTR during Bush Administration, may also need a formal Senate waiver from a federal ban on nominees who have lobbied for foreign governments.

Vice President Mike Pence, who met with Senate Agriculture Committee Chair Pat Roberts (R, KS) this week, was surprised at the Perdue paperwork delay, Roberts said. The paperwork completion was confirmed by Perdue's office in Georgia.

While Perdue is generally regarded in Washington, DC, as one of the most popular and least controversial of Trump's nominations, a small cloud hanging over the nomination was generated by a New York Times story alleging Perdue, while governor, benefitted from a capital gains tax break bill he signed, and that his Georgia farm received \$300,000 in federal farm payments before he was governor. The Environmental Working Group (EWG) raised these issues this week, alleging Perdue received \$278,000 in farm payments while running three agriculture-related businesses and serving in the state Senate. None of the issues raised in the article or echoed by the environmental activist group are illegal, said one DC insider.

American Farm Bureau Federation (AFBF) Zippy Duvall, former head of the Georgia Farm Bureau, told the Times, "I don't think you'll find a man any more honorable than Sonny Perdue. He's as ethical as it comes."

Farm Bill Drumbeat Continues; Conaway Says Bill Will Be "On Time"

The Farm Bill headline this week is the public commitment by Senate Agriculture Committee Chair Pat Roberts (R, KS) and panel ranking member Sen. Debbie

Stabenow (D, MI) that the 2018 Farm Bill will be "the full package," meaning the legislation will carry both farm program and federal nutrition/feeding programs, including food stamps.

On the House side, Agriculture Committee Chair Mike Conaway (R, TX) told the Commodity Classic in San Antonio this week he will not back off his message to budget and appropriations members that cuts in the 2018 Farm Bill are unnecessary because "we gave at the office," referencing 2014 cuts to farm bill spending of close to \$100 billion over a decade. He also said President Trump is committed to a strong Farm Bill that's delivered on time.

Roberts and Stabenow appeared at a Washington, DC, meeting of anti-hunger groups this week. Roberts told the groups they need to reach out to Congress, letting lawmakers know what works and what doesn't work in federal food stamp, nutrition and feeding programs. However, he warned there will need to be some changes in programs just to garner the votes to get the package to the president's desk. Stabenow said there's no Farm Bill without a title on the Supplemental Nutrition Assistance Program (SNAP).

WOTUS Recission Part II - "Pause" the States' Federal Case

The second step in rescinding the controversial "waters of the U.S." (WOTUS) rule was taken by the Department of Justice (DOJ) this week when it filed a motion to "pause" Supreme Court action - in this case the briefing schedule - citing President Trump's executive order mandating the rule be pulled back and rewritten or killed.

The suit in front of the high court seeks interpretation of whether federal district court or federal appeals court is the appropriate venue to hear challenges to the WOTUS rule. Industry brought the case to the Supreme Court when the U.S. Circuit Court of Appeals decided it had jurisdiction over the actions. Briefs are currently scheduled to be heard April 13 unless the court grants the DOJ motion.

EPA Needs to Overhaul CAFO Rules: Enviro, Consumer Groups

A long list of environmental and consumer groups this week sent a petition to EPA urging the agency to reinvent how it regulates confined animal feeding operations (CAFOs). The nearly 36 groups which signed the petition say EPA has done little to protect communities from CAFO run-off under the Clean Water Act (CWA).

A key point of concern by the petitioners is that the permitting process lacks teeth. A CAFO, to be permitted, must first be a "point source discharger" and must get a permit after creating a plan to control its waste, mainly manure. The groups contend current

rules don't force water monitoring, ignore "numerous pollutants of concern," leave too much discretion to the states and ignore or exempt chronic discharges because the agency's interpretation of the ag storm water runoff program exemption is too broad.

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