



SOMACH SIMMONS & DUNN

A law firm solving complex natural resources, land use
and environmental problems nationwide.

Restoring the Delta: The Water Quality Debate

Roberta L Larson
NACWA Law Seminar
November 18, 2010
Santa Fe, New Mexico

SACRAMENTO, CA • FRESNO, CA
WASHINGTON, DC

CA's Water System

The State Water Project:

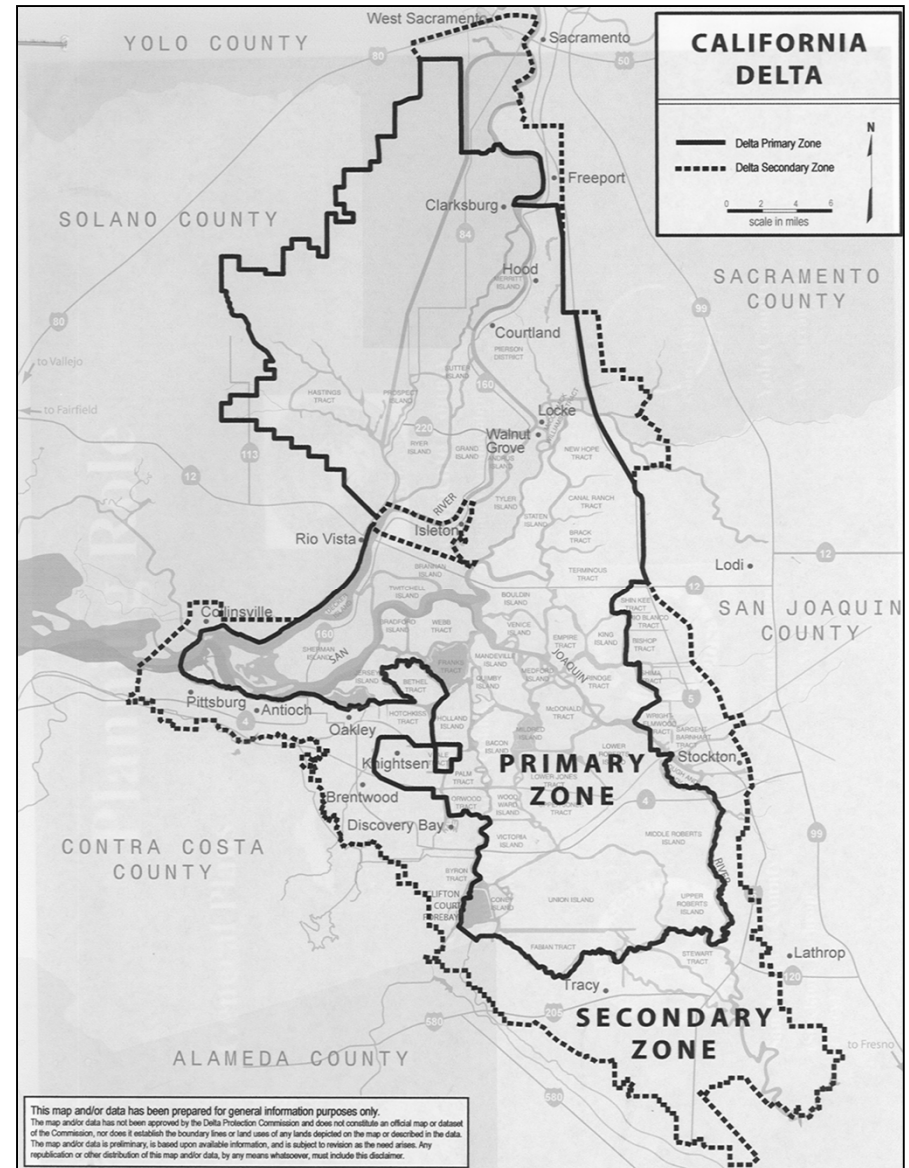
34 storage facilities, reservoirs and lakes; 20 pumping plants; 4 pumping-generating plants; 5 hydroelectric power plants; and about 701 miles of open canals and pipelines. The Project provides water to approximately 25 million Californians and about 750,000 acres of irrigated farmland.

The federal Central Valley Project:

22 reservoirs have a combined storage of 11 million acre-feet, CVP water irrigates more than 3 million acres of farmland and provides drinking water to nearly 2 million consumers

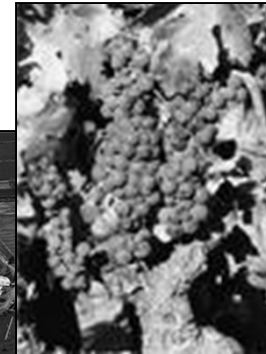


The Sacramento San Joaquin Delta



The Delta

- Confluence of Sacramento and San Joaquin Rivers
- Habitat for many animal and plant species
- Irrigation water for 7 million acres of agricultural land
- Two-thirds of State's MUN and IND water supply
- Key conveyance point for the two water projects that transport water to Central and S. Cal.



The Delta is in Decline



- “The Delta has been the subject of decades of study and political deadlock. As a consequence, ecosystems have eroded, levees have deteriorated, fish populations have collapsed, and our system of delivering water has become ever more precarious.”

--Delta Vision Strategic Plan, October 2008

Water Quality Stressors

- Ammonia
- Salinity
- Pesticides
- Dissolved Oxygen
- Temperature



Ammonia

- Science evolving...No definitive information exists to support ammonia food web effects hypothesis.
- According to state regulators: “current Delta ammonia concentrations are far lower than concentrations that US EPA guidance indicates would be toxic.”
- (1) 2008 study found SRCSD effluent is not acutely toxic to Delta smelt; (2) study in progress evaluating whether levels of ammonium in Delta are adversely affecting phytoplankton, which may affect Delta fish food chain – results expected soon.

Ammonia

- The National Academy of Sciences is reviewing the factors, including ammonia, which may be contributing to the decline of Delta fisheries.
- Expected to be complete in November of 2011.



Proposed SRCSD Permit

- Would establish:
 - Average monthly effluent limitations for ammonia nitrogen at 1.8 mg/L; Daily max of 2.2 mg/L
 - Average monthly effluent limitation for nitrate of 0.26 mg/L
 - Require tertiary treatment based on a 1 in 10,000 risk level to protect recreation use.

The Sanitation District's View

- The State “has proposed a permit that appears... to find its justification in talking points and political messaging of some interests—primarily water export interests — who have sought to disparage the District and obscure rational discussion and sound scientific processes. As a result of this policy choice, the proposed requirements in the Tentative Permit are not supported by a logic that is technically sound.”

--SRCSD Comment Letter



The Water Exporters View



- “Ammonia and other pollutants have significantly altered the Bay-Delta’s food web—contributing to the overall decline of the estuary’s health...the only way to make long-term improvements...is to address all the factors that impact the Bay-Delta ecosystem— including limiting the amounts of ammonia and nitrate that are allowed to flow into the Bay-Delta and its waterways.”
 - Water Agency Comment Letter

What Happens Next?

- Permit slated for consideration at December 8 regional water board hearing
- May not have a quorum; if they do, majority of Board Members will be brand new
- There will be 15 designated parties for the hearing, including clean water associations, NGOs, water exporters, local industries.
- Whatever the decision, the likely next step →

Appeals to SWRCB; Followed by litigation



Thank You

Contact Information:

Roberta L. Larson

Somach Simmons & Dunn

500 Capitol Mall, Suite 1000

Sacramento, CA 95814

14Direct 916.469-3887

Fax 916.446.8199

blarson@somachlaw.com

<http://www.somachlaw.com>