



DELTA DOOZY

October 22, 2020

Discussions about California water supplies have too often become fact-free discourses that fail to advance an informed discussion. The State Water Contractors' "Delta Doozy" series distinguishes the facts from the fiction to promote constructive dialogue.

Today's Doozy comes in response to a September 28 NRDC blog "[DWR Is Suing Everyone for a Blank Check for a Delta Tunnel](#)"

"In early August the California Department of Water Resources (DWR) filed a lawsuit against every Californian to authorize spending an unlimited amount of money—money that would have to be repaid through increased property taxes and/or higher water rates from customers of the State Water Project—for an as yet undefined Delta tunnel project."

Truth be told: There will undoubtedly be litigation to resolve whether the State of California has the authority to build the Delta Conveyance Project. Rather than wait potentially years for opponents to bring this lawsuit at the end of the permitting process, causing delays, the state is saving time - and ratepayer money - by resolving this matter proactively by filing what is known as a validation action. In order for any agency to issue bonds for the financing of a project, they must frequently seek judicial confirmation that they are legally authorized to do so. Validation actions are a commonly used means of obtaining this assurance. Consistent with this, DWR filed a lawsuit with the Sacramento County Superior Court to validate its own authority to issue revenue bonds to raise funds for the planning and, if a project is approved, construction of a Delta Conveyance Project. This action was taken to provide assurances to the financial community for the sale of revenue bonds. Because this action is proactive, there is no direct party for the state to sue to resolve this question and therefore requires that the state give notice to anyone who might be interested in responding, which is why the notice is written so broadly. Unfortunately, the NRDC blog uses exaggerated scare tactics - "*in the middle of a pandemic, an economic recession, and everything else that 2020 is throwing at us,*" - to falsely claim DWR is seeking a blank check, when in fact, NRDC knows that the [contract amendment](#) that was publicly negotiated will ensure only willing participants will pay for and receive the benefits of this project. And they know that public water agencies will be deliberating publicly on their participation in light of each of their own needs and on behalf of their own ratepayers. To imply that every Californian will fund the project, or that a blank check is being sought, is simply dishonest.

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