

The Conversation: Brown's tunnel tactics spur Delta rage

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As is now apparent, Gov. Jerry Brown is determined to build a pair of enormous water tunnels under the Delta to benefit Southern California and San Joaquin Valley agribusinesses. He plans to build the tunnels in the face of opposition from every Delta county that will be affected. He plans to do it without a vote of California residents or water users with a stake in the outcome.

It's hard to name a comparable power play carried out by one part of the state against the objections of another. When Gov. Brown's father, Pat Brown, built the State Water Project in the 1960s, there was strong opposition in Northern California, but support in some quarters. Oroville Dam promised flood control and water supply benefits for parts of the Sacramento Valley and the Delta. That was a selling point that helped Pat Brown narrowly win voter approval in 1960 for the Burns-Porter Act, which authorized the sale of \$1.75 billion in bonds to start construction of Lake Oroville, the California Aqueduct and other parts of the State Water Project.

With Jerry Brown's twin tunnels, it is a different picture. The benefits flow largely to wealthy water exporters to the south; the direct impacts are all in the Delta. With few willing sellers, the state is expected to seize Delta land by eminent domain to build three gigantic intake structures, a 1,000-acre reservoir, 610 acres of construction "borrow" pits and 717 acres of site to store "tunnel muck" from the tunnel burrowing. An estimated 140,000 acres, much of it working farmland, will be converted to wildlife habitat over 50 years.

As for a public vote on the project, there will be none, barring a voter initiative. Brown and his team believe the Burns-Porter Act authorized the project, so, in their view, no further voter approval is necessary.

So what do the Delta's elected leaders think of this power play? Most are furious. They claim the Brown team has ignored their concerns and has attempted to buy off opposition to the Bay Delta Conservation Plan by offering up goodies for individual counties.

Over the last year or more, Jerry Meral, the governor's deputy natural resources secretary, has been meeting with various Delta elected leaders, including county supervisors. I talked with seven of them earlier this month in a meeting with The Bee's editorial board. Nearly all said they'd had discussions with Meral in which he had discussed possible deal sweeteners.

Don Nottoli, who represents Sacramento County's portion of the Delta, said that Meral approached him about better flood protection for the towns of Hood and Courtland, where the state plans to build two of three intakes for the tunnels.

"He said, 'Maybe we could relocate some of the population and put everyone behind a levee.' I said, 'Do you know the community of Hood? Do you know Courtland? People have their lives and homes and businesses there. It is not just a simple exercise of well, we can take a few houses and put them over there.'"

Solano County Supervisor Skip Thomson said Meral has approached his county with possible partial help for the North Bay Aqueduct Alternative Intake. That's a \$500 million project to give Solano a cleaner source of water, direct from the Sacramento River near West Sacramento.

"Some on my board say that project is a primary goal, and that is why we need to play ball with BDCP," said Thomson. "I am certainly not of that opinion, but that is one thing he has put out there."

Larry Ruhstaller, a San Joaquin County supervisor, said BDCP officials have discussed helping with a flood control project called "Paradise Cut," which would shunt floodwaters away from Manteca, Lathrop and Stockton and also create new wildlife habitat.

"Jerry Meral tries to get you to negotiate against yourself," said Ruhstaller. "He says, 'What are your three big things?' We say, 'Excuse me, we have 25 top things; we haven't even finished the list.' "

Of all the counties in the Delta, Yolo has been most open to negotiating on ways to minimize BDCP's impacts on its agricultural economy. Supervisor Jim Provenza said the county is not supporting the tunnel project. But it has been working with the state and water contractors on another aspect of BDCP – adding more water to the Yolo Bypass to help rear juvenile salmon and other fish.

Despite those discussions, Provenza says the county doesn't endorse how BDCP officials are imposing projects on Delta counties and then attempting to negotiate side deals to quell opposition.

"If (outside) projects are justified, they should be funded independently," said Provenza. "It is like someone coming to your house and saying, 'I have a check for \$10,000 for you. But at the same time, our friends are going to go into your house; they are going to do some damage. We are not sure how much it is or how much it will cost you. But will you take this \$10,000 and let us do it?'

"Not a very good deal," he added.

Meral says he's open to ideas

Meral, a Ph.D. zoologist who was part of Jerry Brown's failed 1982 effort to win voter approval for the peripheral canal, acknowledged he has been in regular discussions with Delta supervisors on their concerns and needs. But he disputes he ever told a supervisor that support for BDCP would be a condition for receiving state help for flood control and other projects.

According to Meral, it would be "politically naive" for him to ever demand BDCP support from elected officials in the Delta.

"How could I do that? I might as well ask them to resign," he said. "If you supported BDCP in San Joaquin County, you wouldn't have to wait for the next election. You would be recalled."

Meral, however, said he has been trying to engage Delta counties on spending in a 2014 state water bond. The current version of the bond includes unspecified funds for Delta projects. Meral said the administration is open to hearing what kind of projects Delta counties might specify for the ballot. "Our thinking is we don't want counties to oppose the bond," he said.

Asked about the basic inequity of BDCP – with exporters getting many of the benefits and the Delta getting few or none – Meral acknowledged that was a problem. "What do we have to offer them? Mitigation? That isn't very satisfying," he said.

But Meral said the north state still has the opportunity to balance the equation as discussions go forward on the bond and BDCP.

"It would be good for Northern California to say, 'Here is our package of projects. Here is what we need.' There is such a diversity of interests it is hard for them to come together and do that, but it would be good if they did. The administration would like to know what they want."

U.S. Rep. John Garamendi, a Walnut Grove Democrat who was part of the coalition fighting the 1982 peripheral canal, said he sees Meral returning to his previous ways at the Planning and Conservation League. During the 1990s, Meral would put together ballot measures designed to appeal to – and receive funding from – a broad range of constituencies.

"Jerry Meral spent 30 years of his careers putting together Christmas trees for the ballot," said Garamendi. "He is trying to do it again."

I think Garamendi is right. Meral is falling back on an old playbook that worked for him in a previous era, but is unlikely to achieve a balanced solution in 21st-century California. Clearly, the Delta is broken and the state needs to modernize its water system. But it's arrogant to think a governor could impose a massive infrastructure project on one region of the state, and then attempt to balance the inequity after the fact.

Many in the Delta see it as a divide-and-conquer tactic. "They want to buy us off, one against the other," said Karen Mitchoff, a supervisor from Contra Costa County.

Nottoli said he hasn't completely given up on a negotiated solution. He said there is broader recognition now that fisheries are crashing in the Delta and the water system must be modified to deal with impacts of climate change.

But if BDCP continues on its current course, he said, supervisors will have little choice but to engage in a legal battle.

"If that is the only way we can defend ourselves, we need to consider that," he said. A few minutes later he added: "We will be in for the fight of our lives."