Last fall’s passage of landmark California legislation to “fix” the Sacramento-San Joaquin Delta and reform California water law was big news. But key, recent events demonstrate that the devil is truly in the details, and that while legislation certainly matters, it is the manner and means of executive branch implementation that ultimately spell success or failure for most environmental laws.

California Governor Arnold Schwarzenegger and state legislative leaders recently announced their appointments to the Delta Stewardship Council, the new seven-member agency charged with overseeing Delta governance under the new legislation. Key appointees to the Council include Phil Isenberg, a Berkeley Law alum who’s previously served as Mayor of Sacramento, a Delta-area legislator and Chair of the Delta Vision Task Force; respected environmental lawyer Richard Roos-Collins; and former state Senator Pat Johnson, author of California’s 1992 Delta Protection Act.

The newly-constituted Delta Stewardship Council meets for the first time on April 1st. Perhaps unsurprisingly, it is already the subject of controversy, even before it convenes: some question whether it will be able to devise an effective and comprehensive plan to address the Delta’s myriad concerns by the 2012 deadline specified in last year’s legislation. And criticism of the Schwarzenegger Administration recently emerged when it was learned that its preliminary efforts to staff the Council included designation of an engineer to lead those staff efforts–a troubling precedent for those who believe a scientist or environmental specialist should instead be the Council’s top staffer.

Meanwhile, the California Water Resources Control Board is undertaking two, separate “early actions” mandated under the Delta legislation. First, this week it is holding hearings designed to produce “flow criteria” for the Delta. (“Flow criteria” means the amount of fresh water needed to flow into, through and out of the Delta to restore the estuary to environmental health.) California legislators have ordered the Board to adopt those criteria by August 2010. And the Board has been directed to appoint a newly-created “Watermaster” for the Delta, in consultation with the Delta Stewardship Council. That’s another key appointment under the 2009 legislation.

How vigorously California’s new Council, the Water Board and other state agencies charged with implementing last year’s legislation approach and accomplish those responsibilities will ultimately spell the success or failure of last year’s legislative package. More importantly, those agency efforts will determine whether the Delta

ecosystem begins to recover or, instead, the estuary’s steady and alarming environmental decline continues apace.

[Note: for those seeking more information on the background, key provisions of and prospects for the 2009 Delta legislation, Ecology Law Currents (the online publication of Berkeley Law’s venerable Ecology Law Quarterly) has just published an article on those topics written by this author. The article can be found here.