

**Hearing in the Matter of California Department of Water Resources
and United States Bureau of Reclamation
Request for Change in Point of Diversion for California Waterfix**

Statement of Qualification
Felix E. Smith

Education

Bachelor of Science, Life and Natural Sciences. Minor: Wildlife Management, Humboldt State University. Arcata, CA. 1956.

Experience

August 1990 to present. Providing consultant services to selected non-profit groups regarding the impacts of water development projects and water use activities on wildlife, fish, water quality and other interests protected by the public trust. Activities have included providing testimony under oath in court, before the State Water Resources Control Board, local governmental entities and the state legislature. Served as guest lecturer / speaker for college level courses on resource management and environmental impacts and analysis. Served on the Board of Directors of Save the American River Association and has been a member of the Environmental Caucus of the Sacramento Area Water Forum since 1996 and is a member of the fishery committee of the Water Forum.

July 1956 to July 1990. In the U.S. Fish and Wildlife Service at several locations. Served in technical, coordinator and supervisor positions. Gained considerable knowledge and experience in estuarine and coastal zone planning and in the management of anadromous fishes.

Served as Environmental Assessment Specialist, in Sacramento, CA. from July 1978 to July 1990. Served as a member on the Service's Water Policy Center. The Center was a multi-discipline team. Activities of the Center included: (1) review and analysis of the legal and institutional constraints to providing stream flows including the decision points in the decision making process, (2) review of the history of the public trust doctrine case law and statutes relative to the protecting stream flows and resources, (3) review and analysis of selected Federal project operations for their impact on fish and wildlife and the aquatic ecosystem, (4) formulated alternative management options for obtaining water for National Wildlife Refuges and State Wildlife Management Areas and (5) review and analysis of water quality problems associated with agricultural wastewater and impacts to fish and wildlife. Assigned to the Kesterson drainwater interagency study team in May 1983 as a liaison person and served on technical review panels. In 1986 was assigned to the position of Resource Contaminant Coordinator for Region 1. Duties and responsibilities included the review and coordination of ongoing contaminant discovery activities including the DDT responsible party review team and report

preparation. A keen focus was maintained on current public trust court proceeding, literature and allied activities.

November 1972 to July 1978. Field Supervisor, Division of Ecological Services, Sacramento, CA from November 1972 to July 1978. Supervised professional fish and wildlife biologists conducting investigations under the authority of the Fish and Wildlife Coordination Act, National Environmental Policy Act, Clean Water Acts and other authorities. Activities included, but not limited to, hydroelectric projects under the Federal Energy Regulatory Commission; navigation, channelization and flood control projects of the Corps of Engineers; reservoir and water conveyance projects of the Bureau of Reclamation; activities conducted under the Section 10 of the River and Harbors Act and Section 404 of the Clean Water Act permit programs, and special inventory investigations regarding the general status of fish and wildlife resources and their habitats.

June 1969 to November 1972. Chief of the Estuarine Studies Branch, Division of River Basin Studies, Region 1, Portland, OR. Coordinated various activities associated with EPA's Estuarine Pollution Control Study and the Fish and Wildlife Service's Estuary Inventory Study for Region 1. Coordinated and conducted estuarine and coastal zone resource inventory investigations. Coordinated the Fish and Wildlife Service's response to projects conducted by other agencies and interests in the Coastal Zone.

July 1956 to May 1969. Held various field positions including wildlife biologist, fish biologist, and fish and wildlife biologist. Conducted investigations and prepared reports on a multitude of coastal and inland water development and use projects in California, Oregon and Washington.

Papers prepared since 1980:

The Public Trust Doctrine, Instream Flows and Resources. 1980 U.S. Fish and Wildlife Service, Sacramento Area Office, Sacramento, CA.

The Clean Water Acts and the Principles of the Public Trust Doctrine. 1981 In California Riparian System, Ecology, Conservation and Productive Management. Edited by Richard E. Warner and Kathleen M. Hendrix, University of California Press

Selenium in the Grasslands Area, San Joaquin Valley, California. March 1985. U.S. Fish and Wildlife Service, Sacramento, CA.

Agricultural Wastewater and the Public Trust. November 1986. U.S. Fish and Wildlife Service, Sacramento, CA.

The Friant Division and Water Marketing - 1988. U.S. Fish and Wildlife Service, Sacramento, California

Historical Perspective: Federal Water Policy in California - From Congressional Intent to Reality. 1990. Presented at the Selenium V Symposium, University of California, Berkeley, CA. March 30 & 31, 1990.

The Public Trust Doctrine as a Resource Management Philosophy. Presented as part of the series "Water in an Arid West: Perspectives on History, Policy, and the Environment, at the Santa Barbara Museum of Natural History May 10, 1990.

Water and Salmon Management in the Central Valley. 1991. In California Salmon and Steelhead: The Struggle to Restore an Imperiled Resource. Edited by Alan Lufkin. University of California Press, Berkeley CA.

A Discussion: California's Give Away of the San Joaquin River and A Step Toward Its Restoration. Prepared for the California Sportfishing Protection Alliance, June, 1991.

The Lower Yuba River, Public Trust Interests and Water Rights. Prepared for California Sportfishing Protection Alliance. Submitted to the State Water Resources Control Board regarding the review of water rights, Lower Yuba River. February 1992.

Integrity, Ethics and the Public Trust. Presented at the conference on protecting Integrity and Ethics in the management of Natural resources, March 27-29, 1992. Georgetown Conference Center, Washington, D.C.

The Lower Mokelumne River, Public Trust Interests and Water Rights. Prepared for California Sportfishing Protection Alliance and the Committee to Save the Mokelumne River. Submitted to the State Water Resources Control Board regarding the Diversion and Use of Water from the Mokelumne River. November 1992

Rice Culture, Stubble Decomposition / Seasonal Wetlands and Water Storage - A Discussion. 1993. Prepared for the California Sportfishing Protection Alliance, Quincy, CA. April 1993.

The Upper American River, Public Trust Interests and Concerns. June 1993. Prepared for the Save the American River Association. Submitted to the State Water Resources Control Board relative to the El Dorado Project of the El Dorado County Water Agency and the El Dorado Irrigation District.

The Lower American River, The Public Trust and In Good Condition: A Discussion. June 1994. Prepared for the California Sportfishing Protection Alliance, Quincy, CA.

The Kesterson Effect: Reasonable use of Water and the Public Trust. San Joaquin Agricultural Law Review, Vol. 6 No. 1, 1996, pgs. 45-67.

Purpose and Intent of Fish and Game Code Section 5937 and In Good Condition. August 1998. Prepared for the California Sportfishing Protection Alliance, Quincy, CA.

Protecting Instream Interests: Water Rights and the Rule of No Compensation. October 1998. Prepared for the California Sportfishing Protection Alliance, Quincy, CA.

Headwaters to the Pacific Ocean and Fair Ecological Share. April 1999. Prepared for the California Sportfishing Protection Alliance, Quincy, CA.

The Salinas River: The Public Trust and the Need for Action. October 1999. Prepared for the California Sportfishing Protection Alliance. Submitted to the State Water Resources Control Board relative to the City of San Luis Obispo water rights request regarding the Salinas River.

A Discussion: Managing the Commonwealth: The Precautionary Principle and The Public Trust Doctrine. February 2008. Submitted to Guardians of the Future.

Public Trust Doctrine, Selenium Contaminated Drainage and Unreasonable Use of Water. May 2008. Submitted to the California's State Water Resources Control Board in support of my waste and unreasonable use of water complaint.

Water Resources, the Public Trust Doctrine and Racanelli. August 2009. Prepared for educational purposes for Save the American River Association and the Sacramento Area Water Forum.

Area of Origin Protection: Our Fisheries and Other Public Trust Interests. May 2010. Prepared for educational purposes for Save the American River Association and the Sacramento Area Water Forum.

The Fish Scientist: Trustee Responsibilities, Credibility and Ethics. Presented to the Cal -Neva Chapter of the American Fish Society's Annual Meeting. Folsom, California. March 31 - April 2, 2011.

Professional Organizations: American Fisheries Society

Awards and Recognitions:

1975 Orange County Foundation for the Preservation of Public Property - Courageous and Vigorous Guardian of the Public Trust.

1978 American Motors Conservation Award. - Professional Conservationist of the Year.

1984 American Fisheries Society - Award of Excellence

- 1984 Western Association for the Evaluation of Ecosystems – John Radovich Award - For outstanding contribution to the wise stewardship of fish and wildlife.
- 1985 National Parks and Conservation Association -Western Regional Winner of the Stephen T. Mather Award, For Outstanding Contributions to the Principles and Practices of Good Stewardship of the Natural and Cultural Resources of the United States
- 1988 Sportsman Council of Central California - Public Service Award
- 1990 Western Section of The Wildlife Society - Conservationist of the Year
- 1990 Certificate of Special Congressional Recognition for Meritorious Achievement signed by Congresswoman Barbara Boxer
- xxxx First Annual Carla Bard Award Advocacy Award. Presented by POWER Public Officials for Water and Environmental Reform
- 2008 Award for Outstanding Service to the American River and Parkway - Save the American River Association
- 2009 Peter H. Behr Award from Friends of the River. For activities to help protect Chinook salmon and steelhead of the American River.
- 2010 National River Hero from River Network. Life long advocate for the protection of fish and wildlife habitat and for responsible use of our water resources.

I was one of the first scientists that discovered the selenium toxic conditions in fish and migratory birds at Kesterson National Wildlife Refuge in 1983. I held the first deformed bird found there. That experience and the numerous dead and deformed found changed my life. How I finished out my 34 + year Fish and Wildlife Service career, can be found in “Death in the Marsh” by Tom Harris - Island Press - 1991.

For more background information about my Conservation Vocation, associated ethics and impact on young biologists, see “Choosing a Conservation Vocation or a Bureaucratic Career - Personal Choices and the Environmental Consequences”, by Richard (Dick) Kroger – Trafford Publishing 2005.

Respectfully submitted

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