

Clifton Court, L.P.  
3619 Land Park Drive  
Sacramento, CA 95818

August 9, 2018

Hearing Chair Tam Doduc  
Hearing Chair Felicia Marcus  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812—0100

Dear Hearing Officers and Board,

Re: Motion to Quash and Protective Order Dated August 7, 2018

In its August 7, 2018 “Renewal” of Motion to Quash and Protective Order, DWR falsely claims that they settled any and all damages to Ms. Womack’s property (CCLP) resulting “from seepage of water from” Clifton Court Forebay. DWR cites to the December 15, 1970 Judgment with the landowners, Elmer & Clair Danielson – my grandparents.

The Judgment paid only for the 1967 taking of land by DWR and for seepage incidental to the construction and operation of the Forebay based on the design and scope of the project as represented to my grandparents/CCLP at the time. When the land was taken, the Clifton Court Forebay (CCF) was represented as taking 5,000 cfs in the winter time to help prevent flooding. All engineering calculations for drainage, tiling, and pumps at the farm that were put in 1968 were based on the 1967 information provided by DWR.

Nothing in the Judgment of December 1970 tells of the substantial project expansion that has occurred since that time including year-round pumping and increasing the number of pumps and the amount of pumping at Clifton Court Forebay. In 1975, DWR applied for the installation and operation of four additional pumps at the pumping plant. Imagine my father’s shock in 1980 upon receiving PUBLIC NOTICE 5820A (CCLP 54 - attached) “Application for a Department of the Army permit to add four additional pumping units to the existing Delta pumping plant.” The notice claimed, “A permit issued by the Department of the Army does not give any property rights either in real estate or material or any exclusive privileges and does not authorize any injury of private property...” So the question is, given that DWR no longer plans to acquire our land, do the Department of Army’s promises matter?

The increase in pumping at Clifton Court Forebay to over 10,000 cfs (and well over 17,000 cfs during flood times) causes major seepage damage, levee scouring, and pump failures on our farm. These were not impacts reasonably foreseen to result from the operation of the original project and not compensated for by the Judgment as DWR falsely claims.

In addition, DWR has negligently maintained and operated the Forebay over the years. Nothing in the Judgment authorized DWR to negligently repair and maintain the Forebay and other related facilities. And yet over the years, DWR has failed to take adequate measure to ensure the structural integrity of the Forebay dam bordering CCLP's property. DWR has failed to adequately remove vegetation, failed to address erosion and internal structural failure, and has failed to properly repair gopher/squirrel holes – all very reminiscent of what happened with the spillway at Lake Oroville. DWR's only seepage pump on the south side of CCF is a surface pump that does not take care of under-seepage. This seepage continues to damage CCLP crops.

It is CCLP's belief that DWR has failed to remedy these negligent and dangerous conditions because DWR had anticipated taking CCLP's property for its expansion of the Forebay. DWR has now decided after 20 years to not take CCLP's property for this purpose, but the adverse impacts to CCLP's property remain and DWR has not put forth any proposal to fix these problems – effectively “taking” CCLP's property via destruction rather than eminent domain. CCLP has NOT been compensated by DWR for these impacts – nor has DWR made any proposal to the SWRCB in this proceeding to mitigate these impacts. And so, when DWR claims that CCLP has been somehow compensated for damages, such a claim is about as far from the truth as possible.

It is also important to keep in mind that one of the purposes of the California WaterFix was to stop the killing of smelt to a level near extinction at the CCF and to bring the CCF embankments up to 200-year flood standards. The CWF also planned to install slurry cutoff walls to fix seepage problems at CCF. Now DWR would like to build the Byron Tract Forebay with embankments that meet 200-year flood standards and slurry cutoff walls that surround all sides of the BTF to control seepage damage. But DWR doesn't want to fix the 50-year old CCF.

Already the Conceptual Engineering Reports for the CWF, DWR 1304, 5-6, 5.1.6.3 tells of Dual Operation with WaterFix BTO “Under the dual source operation scenario, control gates will control flow out of BTF, CCF and the Old River to meet target deliveries at both Banks and Jones PP's....the control scheme will require flow meters WSE transmitters, and a sophisticated SCADA system.” controls.” What are going to be the impacts to CCLP? DWR claims there will either be no impacts (even though there is no modeling that CCLP is aware of regarding these specific operations) or else that CCLP was already compensated for such impacts under the original Judgment – which never anticipated the scope of the CWF or the BTF

When you spend 17+ billion on the CWF, you should end up with a safe CCF dam that no longer seeps or kills smelt. The Board should require DWR to purchase CCLP's property at Fair Market Value as a condition of permit approval.

Sincerely,

Suzanne Womack

**STATEMENT OF SERVICE**

**CALIFORNIA WATERFIX PETITION HEARING  
Department of Water Resources and U.S. Bureau of Reclamation (Petitioners)**

I hereby certify that I have this day submitted to the State Water Resources Control Board and caused a true and correct copy of the following document(s):

**Response to Motion to Quash and Protective Order dated August 7, 2018**

to be served **by Electronic Mail** (email) upon the parties listed in Table 1 of the **Current Service List** for the California WaterFix Petition Hearing, dated August 7, 2018, posted by the State Water Resources Control Board at

[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/california\\_waterfix/service\\_list.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml):

*Note: In the event that any emails to any parties on the Current Service List are undeliverable, you must attempt to effectuate service using another method of service, if necessary, and submit another statement of service that describes any changes to the date and method of service for those parties.*

**For Petitioners Only:**

I caused a true and correct **hard copy** of the document(s) to be served by the following method of service to Suzanne Womack & Sheldon Moore, Clifton Court, L.P., 3619 Land Park Drive, Sacramento, CA 95818:

**Method of Service:** N/A

I certify that the foregoing is true and correct and that this document was executed on 8-9-2018

Date

Signature: 

Name: Suzanne Womack

Title: General Partner

Party/Affiliation: Clifton Court, L.P.

Address: 3619 Land Park Drive  
Sacramento, CA 95818



REPLY TO  
ATTENTION OF  
SPKCO-O

DEPARTMENT OF THE ARMY  
SACRAMENTO DISTRICT, CORPS OF ENGINEERS  
650 CAPITOL MALL  
SACRAMENTO, CALIFORNIA 95814

*To Geo*

54

7 July 1980

**PUBLIC NOTICE NO. 5820A**

**TO WHOM IT MAY CONCERN:**

**Subject:** Application for a Department of the Army permit to add four additional pumping units to the existing Delta pumping plant.

**Applicant:** State of California, Department of Water Resources, P.O. Box 388, Sacramento, California 95802.

**Location:** The Delta pumping plant is located at the end of an intake channel, southwest of the **Clifton Court Forebay** at the southwest edge of the Sacramento-San Joaquin Delta on the Contra Costa-Alameda county line, approximately 12 miles northwest of Tracy, California. The project is described and shown on the drawings attached to this notice.

**Purpose:** The purpose of the Delta pumping plant, intake channel, and Clifton Court Forebay is to divert water from the Sacramento-San Joaquin Delta into the California Aqueduct, where it is conveyed to the San Joaquin Valley, South San Francisco Bay area, and southern California. The proposed additional units would alleviate scheduling problems for maintenance of the existing units, would minimize the peak power requirements of the State Water Project (SWP) in energy costs, and would convey future water supplies from upriver water transfer and storage facilities.

**Additional Information:** The existing pumping plant consists of seven pumps with a capacity of 6,300 cubic feet per second. These pumps lift water 244 feet from the intake channel into the California Aqueduct. The four proposed units would be capable of pumping 1,067 cubic feet of water per second each and each would be driven by a 34,500-horsepower electric motor. These pumps would be paired to discharge through existing manifolds into two existing 15-foot diameter discharge lines.

**PENDING PERMIT NO. 5820:** The Department of Water Resources, on October 21, 1975, applied for a Department of the Army permit for operation of the Delta Pumping Plant, Intake Channel, and Clifton Court Forebay, and for the installation and operation of four additional pumps at the pumping plant. The application was filed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and by order of the United States District Court (**Sierra Club v. Morton**). By making application, the Department of Water Resources in no way waives its right to withdraw the application if it prevails in overturning the order of the court referred to above.

To facilitate compliance with the District Court's order, the Corps has treated the application as if it were two applications; first, for approval of the existing facilities; second, for the installation and operation for four additional pumps. A public notice and draft EIS for the first application was published on December 21, 1978, and a final EIS is presently being prepared.

The latest published version of the National Register of Historic Places and its monthly supplements have been reviewed and there are no places either listed or recommended as eligible which would be affected. No further cultural resources review is warranted because the permit area has been created in modern times. The proposed activity would not affect any threatened or endangered species or their critical habitat. The District Engineer has made this determination based on information provided by the applicant and on the Corps' preliminary evaluation.

A permit issued by the Department of the Army does not give any property rights either in real estate or material or any exclusive privileges and does not authorize any injury of private property or invasion of private rights, or any infringement of Federal, State or local laws or regulations, nor does it obviate the necessity of obtaining State or local assent to the work authorized.