

## POLICY STATEMENT BEFORE THE SWB CWF HEARING 23 MAY 2017

I am a 43-year veteran, seasoned participant, and witness, in State Water Board's (SWB) Water Right Decisions D-1485; D-1630 (Aborted); D-1641, the 1975 Bay-Delta Water Quality Control Plan, The 1982 Coordinated Operating Agreement between DWR and the federal Bureau of Reclamation; the 1982 Defeat of the Peripheral Canal, the 1994 Bay-Delta Accord, the defeat of the Los Banos Grande Reservoir south of the Delta and the Glenn Complex Reservoir north of the Delta; the Monterey Agreement, the 1995 Bay-Delta Water Quality Control Plan, Clean Water Act (303) Listings, The 1992 CVPIA Act, and the Regional Water Quality Control Plans for many of the State's nine hydrological regions, CalFed; the Bay Delta Conservation Plan, all of which were promoted under the auspices that they would improve conditions that heretofore have contributed to the demise of the Delta ecosystem.

I do not have a hidden agenda; I do not own any land or water; my primary interest is to ensure the economic and ecological sustainability of the Delta.

The manner in which the CWF Hearings are very limited in scope, however, they have the potential of causing major problems for a Delta that is on the brink of collapse.

The Petitioners' request for a change in the point of water diversions, on the surface, may not appear to be a major threat to other water users, or the economic and ecological sustainability of the Sacramento-San Joaquin Delta, but when one factors in the tunnels, the ramifications of the proposed California WaterFix, at this point in time are incalculable.

**The** Bay-Delta Ecosystem is said to be the most studied water body on Earth. The deplorable condition of the Bay-Delta is indicative of government's inherent conflicts as water purveyors and as Trustee to protect the other water right users and Public Trust Resources.

In this case, the preponderance of the evidence speaks for itself; and no excuses under the sun are going to make that reality any different. The Hearing Officers and SWB staff is under a great deal of pressure; after all, this is the last remaining Bay-Delta Estuary on the West Coast of the Americans, and its fate rest in their

hands. We the People do not see the necessity for the proposed tunnels, as explained to DWR personnel we can get them the water they are desperately seeking, and we can do it under existing law, with the assurances of a sustainable Bay-Delta ecosystem.

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*The California water supply is in crisis. The Administration is committed to long-term water supply improvements and environmental restoration in California. Reclamation is working in partnership with state and local entities to implement projects across the state. Reclamation will continue efforts with the State to find a long-term, comprehensive solution to achieve the dual goals of a reliable water supply for California and a healthy Bay Delta ecosystem that supports the State's economy. Other activities range from Dam Safety at Folsom Dam to implementation of the San Joaquin River Restoration Program. The FY 2016 budget request includes significant funding for projects and activities across the state. California water is one of Reclamation's highest priorities. **Central Valley Project \$123.0M***

<http://www.usbr.gov/newsroom/presskit/factsheet/detail.cfm?recordid=3001>

**Deplorable State of the Delta:** Billions of dollars of public funds have been expended on a plethora of studies, models, and reports, which, if one measures the extent of the expenditures and rates it according to the deplorable condition of the Delta, we would have to ask ourselves what's the end- game!

To begin, the title of the so-called California WaterFix in the Delta is a misnomer. The Delta is not broken, yet, it has been the victim of a litany of broken government promises and a myriad of failed plans conjured up by DWR and Reclamation over the past five decades, which, for the most part, have failed. DWR has failed to get any major projects off the ground; it has essentially been floundering around on self-serving peripheral issues.

DWR personnel and its consultants acknowledge that the impending collapse of the Delta and the potential threat to SWPs water supply deliveries is the result of DWR's failure to provide the flood and water right "fix" protections, mandated by state government and the voters, back in November 1960. The public needs to understand that this latest fix is not new. The CWF is the latest in an ongoing series of plans initiated more than 50 years ago by the enabling Act; however, those protections never materialized.

The Petitioners request to modify the terms and conditions of their respective State Water Board (SWB) issued licenses and permits, is extremely myopic and difficult to challenge. As it stands now, the Fix is viewed as a moving target, with crucial aspects of the proposed action, wafting in the ethos.

## **PROJECT OPERATORS TRACK-RECORD OF NONCOMPLIANCE**

Historically, DWR and USBR have operated projects in violation of SWB adopted terms and conditions of the licenses and permits issued to them by the SWB. Hundreds of water quality violations spanning months at a time have occurred without reprimand. The SWB held a hearing and opted not to take an enforcement actions against the SWP/CVP operators. The recent assurances espoused by DWR, Director Mark Cowin that the SWP would be totally compliant with future regulations adopted by the SWB. While it is encouraging that Mr. Cowin wants to be compliant, the Department's compliance track-record says otherwise. [PORGANS-1-Director Cowin's Policy Statement presented to the SWB, this past July.]

Government documents substantiate that will prove that the Department of water Resources and, in some cases, the U.S. Bureau of Reclamation have operated their respective water projects in a manner that has exacerbated every drought that California has experienced since the SWP and CVP became operable.

There have been too many unanswered questions by the Petitioners and their consultants, fundamental questions; the specific locations of the proposed tunnel intakes are still uncertain; the Petitioners' conceded that the proposed project is only at 10 percent of the design phase; the preferred Alternative is still up in the

air; the Biological Opinions and the 401 Certification, renegotiation of the ESA approval, as well as many other fundamental issues remain unanswered. It is not reasonable to expect members of the public to participate in a wait-and-see what sticks process.

It has been nearly 100 years since the State Department of Finance granted the Bureau of Reclamation the 1927 and 1938 filings that provided it with the water rights that included provisions for Delta salinity requirements, which to this day is a matter that is still unresolved. In 2006 the SWRCB issued a cease and desist against both the Bureau and DWR for threatening to violate Delta salinity requirements; that matter is still unresolved.

All we have at this point is the promises of the Petitioners in their pending request, is that they will meet whatever standard the Board sets if their petition is approved.