

STATEMENT OF QUALIFICATIONS

PATRICK PORGANS & ASSOCIATES, INC.



ELEMENTAL-BIO-TERRESTRIAL SOLUTIONISTS

SOLUTIONISTS

years of experience; diligence; fact-finding capabilities; a comprehensive and insightful understanding of the regulatory process, and nonpartisan problem-solving techniques. This pamphlet provides a synopsis of the consulting services P&A provides, an overview of the types of projects the it has experienced and procedural protocol used to assist government in fulfilling its mandates, and simultaneously resolving the clients' legitimate concerns and/or objective which includes but are not limited to reconciliation, mitigation and/or compensation.

GOVERNMENT Regulatory Intervention

P&A's comprehensive understanding of regulatory procedures, government mandates and administrative processes, enables us to effectively intervene on the clients' and the public's behalf. In three decades, P&A has had countless interactions and hands-on-experience with federal, state, regional and local government. During this period, P&A developed insight of the role and influence that vested interests exert on the government and uses this knowledge to establish a level-playing field for clients.

P&A utilizes, and if necessary, exhausts the regulatory (administrative-quasi-judicial) and/or legislative processes to obtain results for clients. It does so without getting involved in costly and protracted litigation. Albeit, in the process of exhausting the administrative remedy, P&A's work, research and related efforts have proved to be invaluable in those few cases where litigation was absolutely necessary.

GOVERNMENT ACCOUNTABILITY

P&A has a working relationship with government officials and supports the legitimate functions of regulatory agencies. P&A appreciates the importance for the public and private sectors to cooperate with government when it is appropriate. Conversely, P&A's research has shown that government exercises dual regulatory standards, selective-enforcement or nonenforcement tactics, which, in many cases, are detrimental to law-abiding citizens, businesses and the public. In such cases, P&A takes action to hold government accountable.

P&A's efforts have revealed how government activities and projects contributed to the destruction of private and public property by officials who often attempt to place the blame on the clients - unsuspecting victims. Such bureaucratic tactics,

Patrick Porgans & Associates (P&A) is a solution-result-oriented firm that has and continues to attain a high degree of conflict-resolution successes on a myriad of complex government and private sector projects. The success and positive results P&A obtains for clients are the result of 37

are accompanied by harassment and selective-enforcement tactics that place a significant burden on the victim and others in the private and public sectors, as it put them at a distinctive economic and political disadvantage. Furthermore, selective-enforcement tactics usually conflict with due process guarantees. P&A's has effectively prevented officials from selectively enforcing the law and compelled them to comply with their own rules and regulations. In cases where officials have failed to comply with the law, P&A either had them cited or compelled compliance by a writ of mandate ■

Adaptive Resource Management

P&A has completed a host of fact-finding studies/reports, and effectively used the information to implement cost-effective, socially acceptable and environmentally adaptive solutions to reconcile and/or mitigate problems such as:

- ▣ air and water contamination;
- ▣ water and power development, FERC licensing;
- ▣ water policy, water rights and/or transfer disputes;
- ▣ Tribal issues, sacred sites, treaties, land & water rights;
- ▣ flood control mismanagement and damages;
- ▣ agricultural drainage
- ▣ urban and agricultural land conversion;
- ▣ surface mining operations,
- ▣ fish and wildlife and habitat destruction/restoration;
- ▣ toxic waste spills and disposal/cleanup;
- ▣ timber harvesting and watershed degradation/mitigation;
- ▣ military operations/expansion/needs analysis;
- ▣ abating government red tape and selective enforcement;
- ▣ and deterring government from purchasing and/or condemning private land.

The studies and reports are designed so that the data can be used to resolve and/or mitigate conflicts and to obtain compensation and remediation. The facts contained in P&A's reports are based almost exclusively on information obtained from government sources, records and communications.

Consulting Services:

P&A is a small firm, and intends to remain as such. As a rule, P&A limits its involvement to three major projects at any given time. This policy ensures quality control, focus and a commitment to the highest degree of service possible.

P&A is accustomed to working on highly complex projects, as well as effectively interacting with multibillion dollar entities, in the private and public sectors, whose actions and/or lack of action have posed a significant threat to P&A's client's and/or the public's well being and fiduciary interests. By the grace of God P&A has prevailed in holding those entities accountable for their actions and/or failure to act responsibly.

P&A's Three-Phased Protocols and Procedures:

- ① Conducts a *Feasibility Study* to assess and verify the client's concerns and objectives, enabling P&A to determine if and how we can effectively assist the client(s) and public.
- ② Once the Feasibility Study/Assessment is completed, and it has been determined that P&A can effectively assist the client, we develop a *Plan of Action*, with the assistance of the client and prioritizes the client's concerns and objectives. The Plan includes a time frame and a course of action as to how to achieve the client's objectives.
- ③ In the course of the project and implementation of the *Plan of Action*, P&A maintains an open channel of communication with the client and provides a hands-on how-to approach enabling the client to fully participate in the research effort and regulatory processes. The data P&A obtains are used to substantiate the clients' position, fulfill their objectives, and to implement an acceptable resolution to the clients' concerns and/or conflict via the administrative-quasi-judicial and/or legislative processes. At the client's directive, P&A will also intervene, when necessary, on the clients' behalf.

PROFESSIONAL ASSOCIATES: On an as-needed basis, P&A contracts with other qualified professionals in the fields of hydrology, biology, geology, toxicology, demography, land use planning, economics, sociology, and other related fields.

FEE FOR SERVICES: Fees are determined by project and related variables, and are exclusive of expenses and/or fees for professional services of P&A's associates. Charges for their services, if required, will be based upon their prevailing service fees. However, P&A does not engage the services of others until it receives consent to do so from the client(s).

RESULT-ORIENTED: P&A research techniques and strategy are result-oriented, unbiased and nonpartisan.

RETAINER: A retainer is required before any work is initiated.

TIME-FRAME AND COST: Project dependent.

REFERENCES: Available upon request.

Bibliography of reports enclosed.

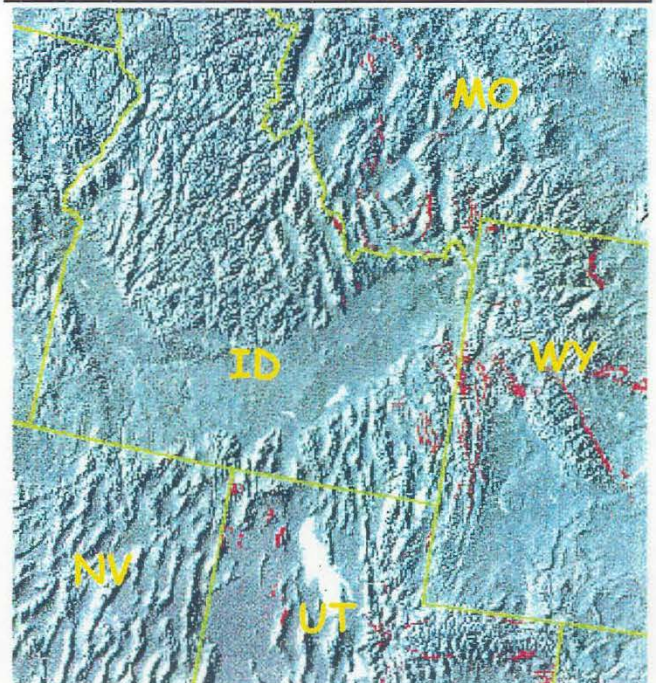
Synopses and Scope of Research/Projects

Phosphate Mining -- Selenium Contamination in Western United States: P&A has been retained to monitor and review the activities of the government's and the Idaho Mining Association's "*Southeast Idaho Phosphate Resource Area Selenium Project*," located in the Western U.S. Phosphate Field. (See Map.) Although phosphate mining on federal lands has been going on for decades, and the hazards associated with selenium have been well documented by the federal government over the last 17 years, there was limited field data pertinent to ecological risk attributed to phosphate mining activities in southeast Idaho and the northwest U.S.

Clients' Concerns: The clients are concerned about the level of risk and/or threat that the phosphate mining/selenium mobilization-contamination-poisoning poses to their livestock, property values, and long-term economic viability. The clients graze sheep and cattle on approximately 16,000 acres of land in southeast Idaho. The clients lease approximately 8000 acres of land from the federal government, under a long-term permit to graze their livestock in the Caribou National Forest (CNF). They lease an additional 8000 acres of private property in proximity to the CNF. The federal government leases approximately 46,000 acres of land to a consortium of mining companies within this region. The mining companies also conduct phosphate mining on their respective properties within the Blackfoot River watershed.

Selenium Poisoning Caused Death of Livestock: The data prove that a significant number of their sheep died, over the years, during or after foraging within and in proximity to the

USGS: Digital Elevation Model of Western U.S. Phosphate Field.

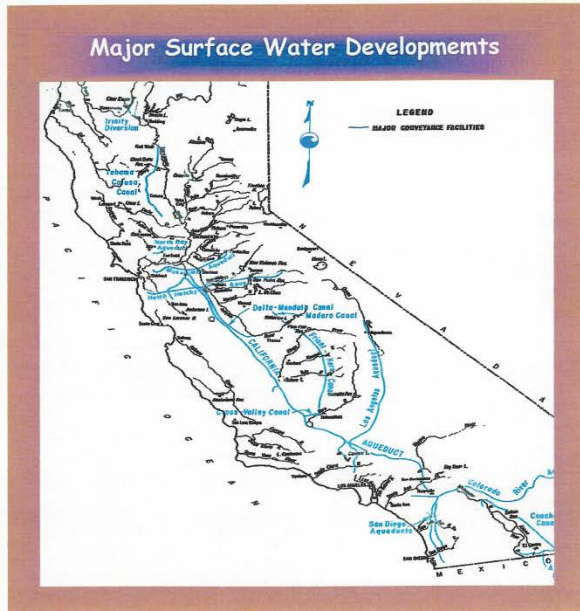


State Water Project Expansion Proposals: P&A conducted an extensive review of the DWR's proposal to build the Glenn Complex, the Los Banos Grandes (LBG) Reservoir and the North and South Delta Programs. P&A actively participated in the regulatory review process on its clients' and public's behalf — raising legitimate concerns regarding the cost, need and impacts of the proposed projects and provided recommendations and alternative measures to mitigate project impacts. The data P&A compiled on LBG and the Delta projects are contained in a seven-volume report; the projects failed ■

Actively Monitoring and Assessing the Financing, Operational and Environmental Impacts Associated with the Federal Central Valley Project (CVP):

During the last three decades the firm has and continues to interact with the federal government to hold it and its contractors accountable for the socioeconomic and environmental impacts attributable to the construction and operation of the CVP. P&A has and continues to provide cost-effective, socially acceptable and environmentally feasible solutions to minimize and/or mitigate the impacts of the project on private property and public trust resources ■

P&A participated in the implementation of *Public Law 102-575*, specifically in *Title 34*, the *Central Valley Project Improvement Act (CVPIA)*, i.e., water transfers, conservation, restoration fund, and fish and wildlife ■



San Francisco Bay Estuary and Sacramento-San Joaquin Delta and Suisun Marsh Water Quality/Quantity Protection: Thirty years of participation in the regulatory process to protect water right users and beneficial uses of water in the Bay/Delta Estuary and Suisun Marsh. Activities included, but not limited to involvement in the State Water Resources Control Board's Bay/Delta evidentiary hearings; active involvement in the U.S. Environmental Protection Agency's adoption of Bay/Delta water quality standards and Regional Boards' Basin Plan Amendments and updates. ■

Government Accountability for Mismanagement of Public Water Project: P&A petitioned the SWRCB to hold hearings on the State and Federal governments' failure to meet the provisions and water quality standards contained within their water rights permits. Subsequently, P&A filed a lawsuit to hold government accountable for the mismanagement of public water projects, as they failed to provide mandated protection for private property owners and public trust resources (fish and wildlife) in the Bay-Delta and Suisun Marsh; i.e., violating water quality standards and illegally exporting \$29 million of water

from the Delta during 1991-1992. P&A's action successfully deterred illegal exports and water right permit violations, and helped to protect vested water rights, private property, and ensure the protection of fish and wildlife resources in the Bay-Delta and Suisun Marsh ■

Flood and Water Rights Protections: P&A has been very successful in getting government to provide flood and water rights protection for clients and the public. P&A successfully assisted a consortium of reclamation districts and farmers in the Sacramento-San Joaquin Delta in obtaining flood protection which, although mandated and financed by the voters and the California Legislature in 1959-1960, were never provided, and the funds were spent on other SWP facilities. P&A developed a *Plan of Action* to provide the mandated and desperately needed flood protection. P&A generated an estimated \$100,000,000 of government funds to provide for levee improvement and revetment work. The funds were not derived from tax revenues ■

P&A also assisted agriculturalists in the western Delta faced with economic disaster because the government had failed to provide them with a quality of water which they were entitled to receive. Government agencies illegally exported water from the Delta which adversely impacted the clients' access to useable water. The government's action impaired their ability to farm and caused irreparable damage to their lands because of salt deposition. P&A successfully obtained compensation for damages directly attributed to the government's action and simultaneously increased the clients' land values. P&A also stopped the illegal water exports. The aforementioned projects were accomplished within less than 18 months and neither involved litigation ■

Assessing Impacts of Government Water Projects on Clients in the Feather River Basin: Gathering data and assisting clients in the Feather River Basin to disclose how government's actions and projects contribute to private property damages and losses of public trust resources. Furthermore, P&A provides private landowners with specific information (based on government data) as to how they are being victimized by government's activities. Simultaneously, P&A develops a *Plan of Action* to rectify these incongruities and a source of funds that to compensate landowners for property damages and improve and protect public trust resources within the basin ■

Conducting Studies to Identify and Reconcile Government's Selective-Enforcement Tactics: Monitoring the activities of government agencies and their respective water projects, on a real-time basis, to ensure that they comply with and enforce the provisions of the Migratory Bird Treaty Act (MBTA) and the Endangered Species Act (ESA) where there are known "takings" of endangered or threatened species. P&A's research has shown that the operation of government water projects has been a major contributing factor to the decline of numerous species of fish and wildlife, making it increasingly difficult for the private sector to comply with laws to protect listed species. Furthermore, government projects and activities have and continue to be conducted in violation of state and federal laws. P&A's research revealed that when federal or state officials violate the MBTA or the ESA, and they are not being held fully accountable for their infractions ■

Agricultural Drainage Assessment and Reformation: Ongoing involvement and commitment to resolve the state's self-imposed agricultural drainage problem and to mitigate and/or eliminate its impact on fish and wildlife resources and private property; especially selenium related impacts attributed to government water projects and/or activities. P&A was involved in the Kesterson Wildlife Refuge debacle hearings before the SWRCB. This debacle was government induced by the U.S. Bureau of Reclamation and Westland Water District ■

In the last three decades, P&A has actively researched, reviewed and worked toward the resolution of drainage problems in the San Joaquin Valley, and recently developed an *Agricultural Drainage Alleviation Plan (ADAP)*. It includes specific cost-effective actions to rectify many of the longstanding problems associated with drainage discharge and drainage pond operations. P&A identified sources of funds that can be used to compensate willing landowners that want to phase out agricultural lands with known drainage problems. P&A works closely with government to compel the "responsible" agencies to comply and/or enforce laws to protect wildlife from the adverse impacts of evaporation pond farming ■

Petitioned Government to Compel It to Limit Toxic Evaporation Pond Drainage Disposal: P&A successfully filed a petition with the SWRCB appealing the Central Valley Regional Water Quality Control Board's (CVRWQCBs) approval of approximately 14 Waste Discharge Requirements (WDR) for evaporation ponds in the Tulare Lake Basin and Kern County area, and the adequacy of the environmental documents. The SWRCB subsequently agreed with portions of P&A's et al concerns and remanded the WDRs back to the CVRWQCB because of a number of gross inadequacies, requiring it to provide additional data and environmental documentation, lacking in its original determination. P&A's provided testimony at the SWRCB's evidentiary hearings that proved evaporation pond farming is not economically sustainable, and the farmers' representatives failed to provide a definite analysis to support their claims that it is sustainable. Many of the issues relative to that petition have since been resolved. Subsequently, P&A compelled the CVRWQCB to take enforcement actions against pond operators for violating their WDR. To P&A's knowledge that was the first time in the history of this State that such an action was taken by the CVRWQCB ■

Grassland Bypass Project (GBP): P&A filed another petition before the SWRCB to rescind WDR's issued for 80,000 acres of land in the San Joaquin Valley (GBP), because the CVRWQCB failed to effectively deal with the short- and long-term compliance requirements set forth in state and federal water quality statutes, including selenium, which are adversely impacting public trust resources. GBP is another attempt to bifurcate water quality compliance requirements ■

Toxic Assessment and Cleanup: In the 1970s, P&A was on the cutting edge of the toxic issues impacting the Western portions of the USA. It also pioneered surface water runoff mitigation and abatement programs; implemented constraints on weather modification projects; initiated massive composting projects, recycling and waste utilization programs, and assisted clients and public in promoting and development of alternative energy sources, promoted and supported sustainable agriculture, and actively monitored the government's mismanagement of the Medfly Eradication Program ■

PORGANS & ASSOCIATES' are committed to protecting the trust resources, the common good and assisting government in fulfilling its trust mandates and responsibilities to protect the public and, when necessary, compel it to do so accordingly ■