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July 26, 2016

CWFhearing@waterboards.ca.gov via email and delivery at hearing

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

RE: Policy statement by Snug Harbor Resorts, LLC located on a peninsula off Ryer Island, on Steamboat Slough, and a potentially impacted business of the North Delta region.

Dear Hearing Chair Doduc and Hearing Officer Marcus:

Thank you for this opportunity to provide a general policy statement regarding the proposed "WaterFix" project, which represents a substantial change of use of Sacramento River flows in the Sacramento San Joaquin Delta. As you know, for over 100 years the California State Water Resources Control Board (Water Board) and its predecessors have been tasked with allocating water supplies, both available supplies and unavailable. The issues you face as persons on the 2016 Water Board are the same as those before you have faced. And each time, those before you have fallen under pressure to grant conditioned rights to surplus water that does not exist, which has resulted in unrealistic expectations of water deliveries that cannot be met without taking fresh water away from someone else or some other area of the State. Are you going to perpetuate the problem or help bring about permanent fair solution? Based on the documentation provided so far by WaterFix proponents, the water quality and water quantity problem shifts location and actually exacerbate the problems. Do you even have the option or capability to say "no"?

Specifically, you are being asked to allow water contractors to divert water from the Sacramento River in the North Delta region, which would result in taking that water flow from the riparian water rights holders downstream of the proposed intakes along the Sacramento River and its tributaries. The Sacramento River is estimated to have 23,282 million cubic meters (Mm³) mean annual natural runoff¹, but Water Board has allowed 35,336 Mm³ claims of water right diversions off the Sacramento River and its tributaries, not including claims for hydropower generation. (152% conditional over-

¹ 100 Years of California's water rights system: patterns, trends and uncertainty by Theodore E Grantham and Joshua H Viers <http://iopscience.iop.org/article/10.1088/1748-9326/9/8/084012/pdf>

allocation of Sacramento River flows north of the Delta) Granting the request to divert more Sacramento River away from the normal flows through the Delta literally takes the fresh water away from riparian water rights holders², and hands it to water contractors for purely economic reasons, without just compensation. The main issue is how *much* water is diverted, not just *how* that water is taken, either by tunnels or surface conveyance. If permission is granted to build new intakes and tunnels, or divert more Sacramento River water using surface conveyance, there would be substantial negative impacts to all individuals and landowners located downstream in the Delta that are unacknowledged in the documentation presented to date by WaterFix proponents. I wish to emphasize that what matters is how *much* water is diverted, not just *how* it is diverted. Contrary to publicity documents, WaterFix is not simply a request to change a point of diversion. It's function would be to redefine water rights priorities which could result by application in the elimination of effective riparian water rights in California.

Also at issue is riparian water *quality*. Diversion of too much quantity of fresh water affects quality of water left in the Delta, and over time, also quality of the Delta and Bay area drinking water aquifers. You are being asked to grant petitioners right to divert higher freshwater quality without regard to the degradation of drinking water quality in the Delta downstream of the proposed diversion locations. For that matter, Water Board has already been allowing too much diversion from the Sacramento River watershed because degradation of Delta and Bay Area drinking water aquifer can be shown to have a marked decline starting around 2005, as the CALFED projects were being implemented. There have been many different efforts related to Sacramento River flow diversions, including CALFED, BDCP efforts, which used many different computer models for estimating in-Delta flows and available outflows. Only two of those computer models are of focus in the current WaterFix documentation, even though there are other models, such as the ones used for the 2015 USBR³ hearing on transfer of water rights, which appear to use more current or measurable data.

What can be shown since implementation of CALFED projects⁴ is a striking decline in the Delta drinking water aquifer, a striking decline in aquatic native fish species, and lack of any evidence showing the proposed alternate intake techniques and restoration experiments even function as represented. Assumptions of flows into and out of the Delta to the bay have been estimated, challenged, revised and I do not think anyone would say there has been an accurate accounting of Sacramento River inflows and diversions into and within the Delta over the last fifteen years. It is frankly quite premature to consider granting any new points of diversion from the Sacramento River when the diversions already granted have done so much water quality and environmental damage in the Delta region. It only makes common sense to decline to allow any new diversion points, any new conveyance alternatives whatsoever, until there is an accurate, measurable and provable baseline of actual Delta inflows and outflows necessary to protect riparian water quantity and water quality rights, and to protect the native aquatic fish species in all natural waterways of the Delta, at a minimum.

Finally, if you can't measure it and you can't count it, you should not promise to give it away either. There can be no doubt, based on the testimony you will see and hear, that measuring of flows in and out of the Delta is a major issue and unresolved problem. The Delta is being drained of its fresh water, and the results to the ecosystem, navigation, recreation and drinking water quality is already seen. As noted in a 2008 SWRCB presentation, "Inappropriate inconsistency can result in inequitable treatment, no common understanding of key water quality and water rights goals, and difficulty in

² Map of Water Rights associated within the Legal Delta:

http://www.swrcb.ca.gov/water_issues/programs/delta_watermaster/delta_map/

³ Long-Term Water Transfers. 05/01/2015: http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=18361

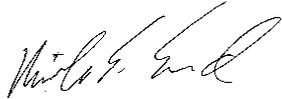
⁴ <http://ecoatlas.org/regions/ecoregion/bay-delta>

achieving a meaningful evaluation of outcomes”⁵. A review of documentation generated between 2008 and 2016 will show you inappropriate inconsistency has increased, not resolved. Inconsistency of data used is one of the primary issues that must be resolved before decisions are made.

The maps with links attached at the end of this letter are provided to give the reader easy access to the referenced materials without having to go onto the internet. However, I cannot represent that the data or online resources are correct or display accurate data, and the information is provided as a reference example only.

Please do not give in to the pressure to grant revised points of diversion or additional diversion from the Sacramento River without first being sure you are provided with accurate current data, and without first being sure the short and long impacts to residents, recreation, agriculture and businesses and landowners are known and fully mitigated.

Respectfully submitted,



Nicole S. Suard, Esq. Managing Member, Snug Harbor Resorts, LLC

Attachments: reference maps and data

⁵Slide 26 of 33 http://www.swrcb.ca.gov/water_issues/hot_topics/strategic_plan/docs/2008_2012/020608.pdf

Board Chair
Felicia Marcus



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DELTA WATERMASTER

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- eWRIMS Database
- Statement of Diversion and Use Program
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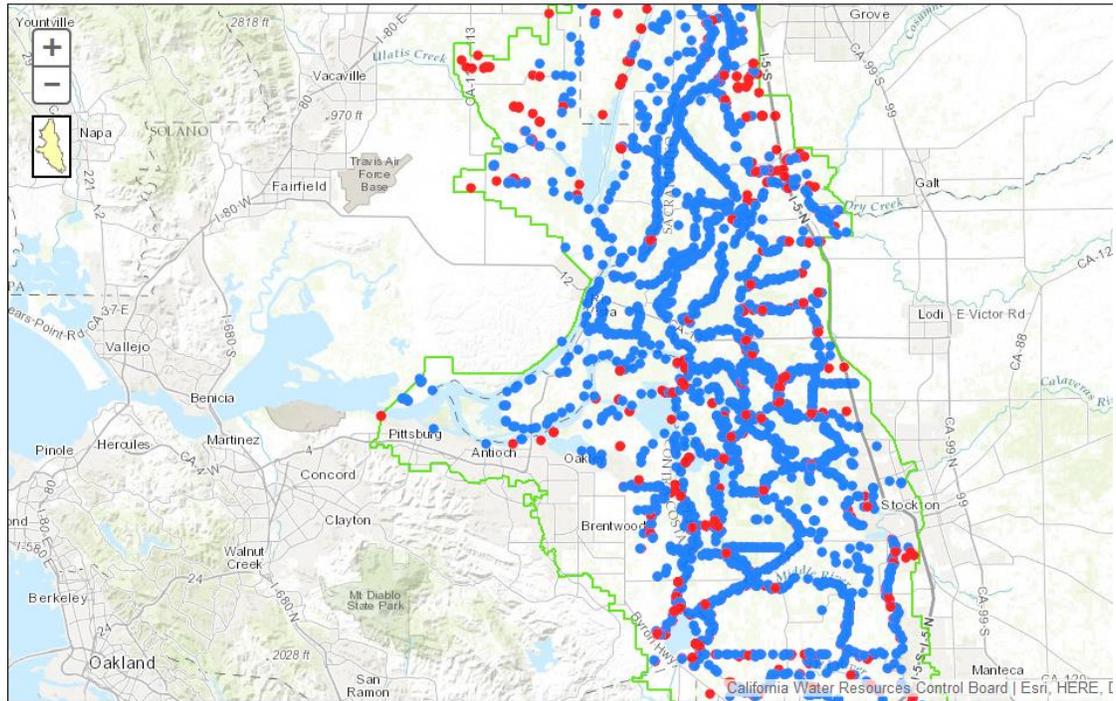


WATER RIGHTS ASSOCIATED WITHIN THE LEGAL DELTA

www.swrcb.ca.gov/water_issues/programs/delta_watermaster/delta_map/

This interactive map displays **Appropriate** water rights (Permits and/or Licenses) and Statements of Water Diversion and Use water rights for islands/areas in the Legal Delta. Find water right information by clicking on a location dot on the map. Completed Island Summaries of Water Rights can be found on the Select a Delta Island or Area box on the right.

Show Names Change Basemap... Select a Delta Island or Area...



(Updated 12/17/14)

26 / 33 http://www.swrcb.ca.gov/water_issues/hot_topics/strategic_plan/docs/2008_2012/020608_presentation.pdf



Inappropriate inconsistency can result in inequitable treatment, no common understanding of key water quality and water rights goals, and difficulty in achieving a meaningful evaluation of outcomes.

Sustainable Restoration Technologies for Bay-Delta Tidal Marsh and Riparian Habitat

Basic Information Files & Links Project Map

Status	Unknown
Project Type	Non-mitigation
Project Area	594.0 acres

Project Identification

ID	Type
ERP-02-P12	CALFED - Project ID
7207185 (Steamboat Slough)	CALFED - Site ID
7207184 (Brannan-Andrus Island)	CALFED - Site ID
7207183 (Georgiana Slough)	CALFED - Site ID
7207186 (Sutter Slough)	CALFED - Site ID
7207190 (Miner Slough)	CALFED - Site ID
7207189 (Joice Island)	CALFED - Site ID

Sites

Name
Brannan-Andrus Island
Georgiana Slough
Joice Island
McCormack Ranch
Miner Slough
Steamboat Slough
Sutter Slough

Events

Date	Type
2005-04-01	Project start date

Habitat Projects

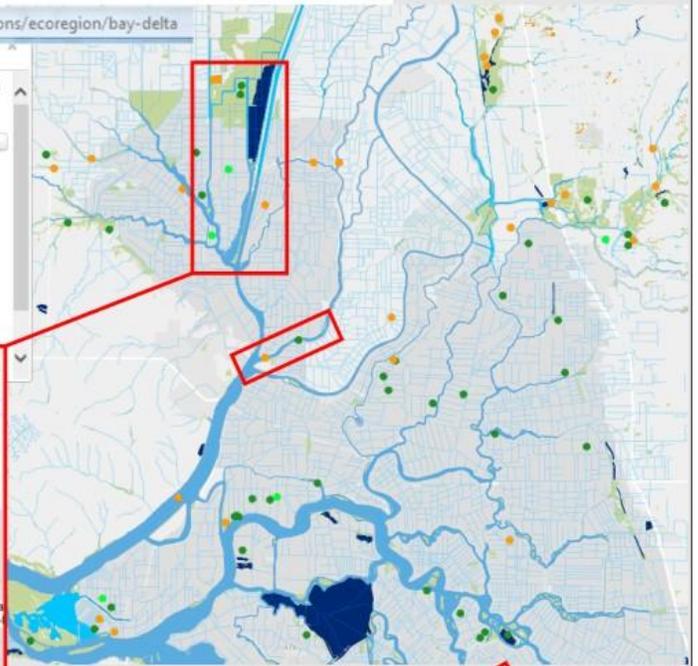
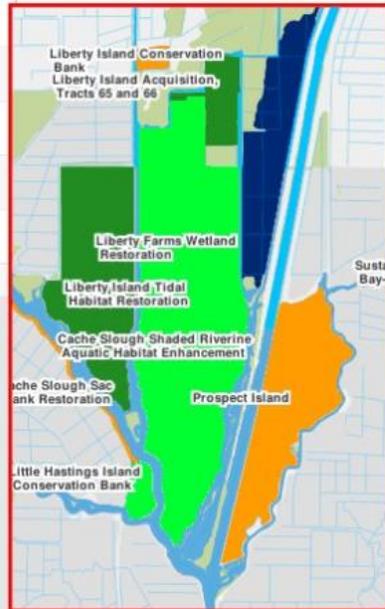
Transparency

Info on this data

Site Status

- Completed
- In Construction or Implementation
- In Planning
- Proposed

Approximate Boundary



2003 project start date

Table 2. Water allocation volumes for California’s major rivers. See figure S4 for river locations.

River	Drainage area (km ²)	Annual natural runoff (Mm ³) ^a	Water rights allocation ^b (Mm ³)	Percent runoff allocated	Percent allocated to public ^c
Smith River	1864	3659	8	0.2% (0.2%)	82%
Klamath River	31 402	18 213	5833 ^d	32% (100%) ^d	99%
Trinity River	7692	6006	5635	94% (250%)	100%
Eel River	9536	8330	42	1% (2.6%)	31%
Russian River	3846	2194	1141	52% (113%)	89%
Salinas River	11 082	431	1032	239% (343%)	99%
Sacramento River	67 830	23 282*	35 336*	152% (655%)	92%
Pit River	14 220	3454	217	6% (500%)	62%
Cottonwood Creek	2444	702	11	2% (2%)	57%
Stony Creek	2012	494	268	54% (484%)	98%
Feather River	15 350	9027	16 934	188% (633%)	98%
Yuba River	3483	2966	3613	122% (431%)	97%
Cache Creek	2971	714	1149	161% (213%)	98%
Putah Creek	1694	471	3171	673% (886%)	98%
San Joaquin River	45 877	7949 *	68 473 *	861% (1585%)	97%
Mokelumne River	5157	1646	2335	142% (436%)	96%
Consumnes River	2460	576	304	53% (53%)	88%
Stanislaus River	3100	1342	5246	391% (1787%)	99%
Tuolumne River	4851	2022	3273	162% (438%)	99%
Merced River	3288	1170	1285	110% (583%)	99%
Kings River	5046	1799	1412	78% (520%)	0%
Kern River	6322	801	5057	631% (1185%)	100%
Owens River	9004	539	19	4% (224%)	34%
Salton Sea	15 219	227	1601	705% (710%)	96%
Santa Ynez	2322	249	831	334% (334%)	99%
Santa Clara River	4165	264	417	158% (196%)	99%
Santa Ana River	6370	306	559	183% (183%)	85%

^a Mean annual runoff at outlet, predicted from statistical model (1951–2010 average).

^b Water right allocations percentages, excluding water rights for hydropower. Allocations levels including hydropower shown in parentheses.

^c Proportion of cumulative water right allocation (excluding hydropower), that are held by public entities including federal, state, and municipal agencies.

^d Klamath River water rights calculations do not account for water allocations in upper river basin located in the State of Oregon.

Water transfers and "new water rights"

Table 2 - Table A Amounts in Each Scenario (acre-feet)

SWP CONTRACTOR	1994 Baseline	2003 Baseline	2020 Baseline	2003 No Project A	2020 No Project A	2003 No Project B	2020 No Project B	2003 Proposed Project	2020 Proposed Project
County of Butte	1,200	3,500	27,500	3,500	27,500	1,594	12,388	3,500	27,500
Plumas County FC&WCD	1,200	1,690	2,700	1,690	2,700	770	1,216	1,690	2,700
City of Yuba City	9,600	9,600	9,600	9,600	9,600	4,372	4,325	9,600	9,600
Napa County FC&WCD	9,135	17,450	24,900	21,475	28,925	7,947	11,217	21,475	28,925
Solano County WA	28,080	41,000	42,000	46,756	47,756	18,672	18,920	46,756	47,756
Alameda Co. FC&WCD, Zone 7	40,000	46,000	46,000	80,619	80,619	20,950	20,722	80,619	80,619
Alameda County WD	42,000	42,000	42,000	42,000	42,000	19,128	18,920	42,000	42,000
Santa Clara Valley WD	100,000	100,000	100,000	100,000	100,000	45,543	45,048	100,000	100,000
Oak Flat WD	5,700	5,700	5,700	5,700	5,700	2,596	2,568	5,700	5,700
County of Kings	4,000	4,000	4,000	9,000	9,000	1,822	1,802	9,000	9,000
Dudley Ridge WD	57,700	57,700	57,700	61,673	61,673	26,273	25,933	57,343	57,343
Empire West Side ID	3,000	3,000	3,000	3,000	3,000	1,366	1,351	3,000	3,000
Kern County Water Agency (M&I)	134,600	134,600	134,600	134,600	134,600	61,300	60,635	134,600	134,600
Kern County Water Agency (Agric.)	1,018,800	1,018,800	1,018,800	945,800	929,800	463,987	458,953	864,130	848,130
Tulare Lake Basin WSD	118,500	118,500	118,500	96,227	96,227	53,568	53,382	96,227	96,227
San Luis Obispo Co. FC&WCD	25,000	25,000	25,000	25,000	25,000	11,386	11,262	25,000	25,000
Santa Barbara Co. FC&WCD	45,486	45,486	45,486	45,486	45,486	20,715	20,491	45,486	45,486
Antelope Valley-East Kern WA	138,400	138,400	138,400	141,400	141,400	63,031	62,347	141,400	141,400
Castaic Lake WA (31A)	12,700	12,700	12,700	12,700	12,700	5,784	5,721	12,700	12,700
Castaic Lake WA	41,500	41,500	41,500	41,500	41,500	18,900	18,695	82,500	82,500
Coachella Valley WD	23,100	23,100	111,200	33,000	133,100	10,520	50,094	33,000	133,100
Crestline-Lake Arrowhead WA	5,800	5,800	5,800	5,800	5,800	2,641	2,613	5,800	5,800
Desert WA	38,100	38,100	50,000	38,100	54,000	17,352	22,524	38,100	54,000
Littlerock Creek ID	2,300	2,300	2,300	2,300	2,300	1,047	1,036	2,300	2,300
Mojave WA	50,800	50,800	50,800	75,800	75,800	23,136	22,885	75,800	75,800
Metropolitan WDSC	2,011,500	2,011,500	1,911,500	2,011,500	1,911,500	916,088	861,080	2,011,500	1,911,500
Palmdale WD	17,300	17,300	17,300	21,300	21,300	7,879	7,793	21,300	21,300
San Bernardino Valley MWD	102,600	102,600	102,600	102,600	102,600	46,727	46,220	102,600	102,600
San Gabriel Valley MWD	28,800	28,800	28,800	28,800	28,800	13,116	12,974	28,800	28,800
San Geronio Pass WA	17,300	5,000	17,300	5,000	17,300	2,277	7,793	5,000	17,300
Ventura County FCD	20,000	20,000	20,000	20,000	20,000	9,109	9,010	20,000	20,000
Total Agriculture	1,220,400	1,220,400	1,220,400	1,134,100	1,118,100	555,801	549,771	1,048,100	1,032,100
Total M&I	2,933,801	2,951,526	2,997,286	3,037,826	3,099,586	1,344,199	1,350,229	3,078,826	3,140,586
Total	4,154,201	4,171,926	4,217,686	4,171,926	4,217,686	1,900,000	1,900,000	4,126,926	4,172,686