California Sportfishing Protection Alliance, California Water Impact Network and AquAlliance

Hearing on Certification of the Final Delta Plan PEIR and Adopting the Proposed Final Delta Plan and Proposed Regulation

Before the Delta Stewardship Council

Oral Comments of Bill Jennings

16 May 2013

Chair Isenberg, Council Members,

Bill Jennings, representing the California Sportfishing Protection Alliance, California Water Impact Network and AquAlliance.

During the three decades that I’ve been involved in state water issues, the State Water Board has conducted dozens of extended water rights and water quality proceedings, numerous biological opinions have been issued, and we’ve endured myriad collaborative, adaptive management and restoration efforts.

Yet, California is mired in a water crisis and the biological tapestry of the Delta is hemorrhaging.

The causes are obvious: we’ve over-promised, wasted and inequitably distributed limited water resources. We’ve deprived the estuary of more than half its flow, turned its hydrograph on its head and used its waters as sewers.

This crisis evolved because state and federal agencies failed to enforce and comply with the broad suite of laws enacted to prevent it.

Recognizing these failures, the Legislature created and tasked this Council to develop a comprehensive Delta Plan as a framework to guide agencies, with statutory responsibilities, on achieving the co-equal goals. The Plan was to be based upon the Constitutional Principle of reasonable use and the Public Trust doctrine and be consistent with the Water Code.

Unfortunately, the Council has squandered a marvelous and unique opportunity.

Because the Council failed to identify and analyze the root causes of California’s water crisis – over-appropriation, unreasonable use, failure to balance the public trust – the Plan and EIR are little more than a ratification of an unsustainable status quo. It largely recommends that agencies should continue to do the same things that created the crisis in the first place.
We implored the Council to undertake a series of critical analyses that responsible agencies have refused to conduct. Analyses fundamental to informed decision-making including water availability, benefit/cost, public trust and beneficial use assessments.

Without them, both the Plan and EIR are predicated on an artificial reality – little more than omelets of half-truth and distortion to serve predetermined conclusions.

We urged the Council to disclose, analyze and incorporate the findings of the legislatively mandated flow reports by the Water Board and Department of Fish and Wildlife and the Delta Protection Commission’s Economic Sustainability Plan.

We provided the Council with an itemized list of consumptive water rights and priority dates in the Central Valley – 153.7 MAF of consumptive rights for 30 MAF of average unimpaired flow – that demonstrate that the export projects have no legal right to the water they’ve been taking.

We reminded the Council that it was not exempt from public trust responsibilities and outlined how those responsibilities could be met. Consistency with the public trust is not whatever you decide to do.

We pointed out that the greatest threats to water supply reliability were south-of-Delta seismic events, waste and extended drought – that local self-reliance was the greatest security.

All were ignored in both the Plan and EIR because they jeopardized a status quo dominated by special interests.

And so, we’re left with a Plan and environmental document that are divorced from reality, that fail to comply with the statutory mandates of the Delta Reform Act and CEQA and that will achieve neither water supply reliability or Delta restoration.

Instead of bold vision, we’re presented with a warmed over CalFed lite.

This Council has simply wasted everyone’s time and resources and opened the door to the next generation of California water wars.