

Felix E. Smith
4720 Talus Way
Carmichael, CA 95608
Tel: (916) 966-2081
febesmith@sbcglobal.net

**BEFORE THE
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

HEARING IN THE MATTER OF
CALIFORNIA DEPARTMENT OF
WATER RESOURCES AND UNITED
STATES BUREAU OF RECLAMATION
REQUEST FOR A CHANGE IN POINT
OF DIVERSION FOR CALIFORNIA
WATER FIX

PART 2 TESTIMONY OF FELIX E.
SMITH

I Felix Smith do hereby declare:

The Public Trust Doctrine can be a powerful source of regulatory authority that can be used in conjunction with other State laws and the State's police powers to more effectively manage the public interests of our air, water, our wildlife resources, associated uses and values of the Bay – Delta watershed. This ancient legal principle, which arose out of our English common law heritage exists in every state.

Under the Public Trust Doctrine, the State is to manage the people's interest to protect public health, the peoples' natural resource assets (their common wealth), associated uses and values as a trustee in a fiduciary sense. All the people and future generations have a roll in this, not just today's quick buck interests.

The Public Trust Doctrine is not new. It has persisted in European, English and American law throughout history. Its roots trace back to Roman times. The Institutes of Justinian in the Sixth Century AD. stated: “by the law of nature these things are common to mankind —the air, running water, the sea and consequently the shores of the sea.” These resources belonging to all the people are therefore held in trust by governments (Sax -1970, Althaus – 1978, Dunning –1983, Stevens-2004, Wood - 2014). The Public Trust Doctrine as a management tool pre-dates this Nation’s and the States’ water rights, waste discharge permits, land use laws, and other regulations. The Public Trust would apply to every water right that impacts trust resources and may, in fact, “define or limit” the very nature of the right to put water to beneficial use (Klass & Huang - 2009)

The Public Trust Doctrine is a tool for exerting long-established public rights that have been over looked or not acted upon. The basis for individuals to protect their specific substantive rights including those contained within the context of the Public Trust Doctrine can be found within the Ninth and Fourteenth Amendments to the U.S. Constitution. The “fundamental rights” and “inalienable rights” such as “life and the pursuit of happiness” are not explained in the U.S. Constitution (Cohen -1970). The California Constitution, Article X, Section 2 requires that its waters be put to beneficial use. California’s Clean Air Act, its Porter-Cologne Water Quality Control Act, its Endangered Species Act, and there others contain trustee language. At the Federal level it is the Clean Air Act, the Clean Water Acts, the National Environmental Policy Act and the Federal Endangered Species Act have similar language and purpose.

Simply put, the Public Trust Doctrine makes government the public guardian of those valuable natural resources we all own (our common wealth) that are not capable of self-regeneration and for which substitutes cannot be made. The State has a high fiduciary duty and responsibility of care for such interests of the people, the same as a trustee has to a beneficiary (Cohen -1970).

The heart of the Public Trust Doctrine is that it imposes obligations as well as limits upon government agencies and their administrators on behalf of all the people and especially future generations. For example, renewable and non-renewable resources, associated uses, ecological values, objects in which the public has a special interest (i.e. public lands, waters, scenic vistas, etc.) are held subject to the duty of government agencies not to impair such resources, uses or values, even if private interests are involved.

In 1853, Californians learned from the Court in *Eddy v. Simpson* (3 Cal. 249), that "It is laid down by our law writers that the right of property in water is usufructuary, and consists not so much of the fluid itself as the advantage of its use." The American Heritage Dictionary defines ~usufruct~ as "the right to utilize and enjoy the profits and advantage of something belonging to another so long as the property is not damaged or altered in any way" (emphasis added). Put in the context of a water right – a user of water must respect the rights and interests of others, including the peoples' fish property, and is not to alter the integrity of that water as a water supply or as an ecosystem. Private rights in water are usufructuary.

From 1855 to 1884 hydraulic mining for gold was going big time in California. For years mining companies blasted away hillsides with powerful streams of water to get at the gold. The mining companies disposed of their waste and other debris in such a way that it ended up covering acres of agricultural land and wrecked several towns. The water was polluted and unfit for domestic uses. Navigation on several rivers, the Feather, Yuba, American, the Sacramento –San Joaquin Delta and San Francisco Bay was impacted. The impacts were a public nuisance of major proportions. Residents believed the local judges were corrupt in the pockets of the gold mining companies. An outsider from New York brought the issue to Federal court. The case was *Woodruff v. North Bloomfield Mining Co.*, (18 F. 753 –1884). In 1884, the Federal Ninth Circuit Court issued a permanent injunction against any further dumping of mining wastes and other debris by the North Bloomfield Mining Company. Later that year the State Court rendered its decision in *People v. Gold Run Ditch and Mining Co.*, (66 Cal. 138 –1884). The mining companies had no right gained by custom to dump their debris into public waters. These decisions stunned the mining industry. In following years, Federal courts, case by case shut down most of the other hydraulic mining in the Sierra, occasionally sending in the military to enforce its will (Brechin-1999).

In 1897, Californians learned from *People v. Truckee Lumber Co.* (116 Cal 397 -1897) that the fish within their waters is a unique property called wild game, the general right and ownership is with the people of the state, and the power to protect and preserve such property is a recognized prerogative of the sovereign. They also

learned that it is a well established principle that every person shall use and enjoy his own property, however absolute and unqualified his title, so his or her use is not injurious to the equal enjoyment of others having an equal right to the enjoyment of their property, nor injurious to the rights of the public. Slabs of waste wood, sawdust, shaving and other debris of Truckee Lumber Company's operations were being dumped in the Truckee River. This debris polluted Truckee River, kill its fish and other aquatic life and destroy a fishery. This pollution destroyed beneficial uses of the Truckee River as habitat for trout and a trout fishery. This pollution was alleged to be in violation of the rights of the people and a public nuisance. Truckee Lumber Company's pollution was deemed to violate the rights of the people and a public nuisance under statute and common law. The State's police powers were used to enjoin Truckee Lumber's actions.

In the 1920s and 1930s there was considerable discussion about exporting Northern California water to the San Joaquin Valley. This concerned many people of Central and Northern California. They wanted their waters and fish resources protected for needs of future generations. The politicians promised that only water "excess" or "surplus" water to the needs of the area would be exported. To meet these concerns several laws were enacted under the general coverage of "Area of Origin laws". California's "Area of Origin" water laws are legislative expressions of the peoples' desire to protect fish resources, uses, and values of Central and Northern California where the waters originate. There was also concern about future agricultural and domestic water needs. These statutes include: The County of Origin

Act – 1931 (Cal. Water Code Section 10500 -10505), The Watershed of Origin Protection Act -1933 (Cal. Water Code Sections 11460-11463) and The Delta Protection Act of 1959, (Cal. Water Code Sections 12200-12205).

The County of Origin Act passed in 1931 (Cal. Water Code Section 10500 - 10505), reserves the water supplies necessary for the development of the counties of origin. These waters are held under State filings. Section 10505 states, “No priority under this part shall be released nor assignment made of any application that will, in the judgment of the board, deprive the county in which the water covered by the application originates of any such water necessary for the development of the county.”

The Watershed of Origin Protection Act (Cal. Water Code Sections 11460-11463) was passed in 1933. Water Code Section 11460 states, “In the construction and operation by the department of any project under the provisions of this part, a watershed or area wherein water originates, or an area immediately adjacent thereto which can conveniently be supplied with water there from, shall not be deprived by the department directly or indirectly of the prior right to all the water reasonably required to adequately supply the beneficial needs of the watershed, area or any of the inhabitants or property owners therein.” Section 11463 states, “In the construction and operation by the department of any project under the provisions of this part, no exchange of the water of any watershed or area for the water of any other watershed or area may be made by the department unless the water requirements of the watershed or area in which the exchange is made, are first and at all times met and satisfied to the extent that the requirement would have

been met were the exchange not made, and no right to the use of water shall be gained or lost by reason of any such exchange.” (Underlining added for emphasis.)

The Delta Protection Act of 1959, (Cal. Water Code Sections 12200-12205) includes the policy statement that that no person, corporation, public or private agency or the State or the United States should divert water from the channels of the Sacramento - San Joaquin Delta to which the users within the Delta have first priority. The owners and users holding Delta water rights also have rights to water of appropriate quality to meet their needs before water can be exported to areas of water deficiency. Thus there is an export limitation to protect resources and beneficial uses of the Delta.

These sections of the Water Code clearly operate as a limit on the amount of water that can be transferred or exported out of the basin of origin. The needs (including the needs of public trust resources), as well as the recreational, domestic, industrial, agricultural and ecosystem needs of upstream areas as well as the Delta.

California Courts moved the Public Trust beyond the traditional purposes of navigation, fishery and commerce. In *Marks v. Whitney* (6 Cal.3d 251 -1970), the *Court* redefined the scope of the public trust of tidal waters and tide lands as more than the traditional purposes of navigation, fishery and commerce. The uses include the preservation of those tide lands in their natural state as open space, as environments that provide places for fish and marine wildlife to feed and rest, that influence the scenery of an area, are public trust concerns. Courts continue to set standards, clarify duties and responsibilities and review processes for State agencies to follow.

Public Trust Doctrine overlies California's water laws. The protection of our waters and associated resources, uses and values is being implemented by the State Board with the *National Audubon Society v. Department of Water and Power, City of Los Angeles* – (1983) as a guide. The State Board's Mono Lake Basin Water Right Decision D-1631 (Sept 28, 1994) is a classic example of public trust protection and resource management in a contemporary society (Hart –1996). Such enlightened thinking should come into play when the State Board reviews past water allocation and associated uses. There is no doubt public trust duties extends to the environmental conditions found in the largest river to the smallest of head water streams (springs), lakes and to our coastal waters. It could also extend to scenic areas, open space and other areas that can be called part of the common wealth. The *Audubon Court* said public trust protection is an obligation – an affirmative duty.

In reviewing several Delta cases, the Court of Appeal in *US v. State Water Resources Control Board* (227 Cal Rpt.161 -1986 also called *Racanelli*) ruled that modification of water right permits and licenses for the Federal Central Valley Project and the State Water Project to meet water quality standards was a proper exercise of the State Board's water right authority to protect beneficial uses. Some major points of *Racanelli*:

- It reminded all parties and all diverters of the "usufructuary" nature of a water allocation, (pgs. 167-168).
- Water rights are limited and uncertain. The water supply available is determined by natural forces (pg. 170).

- The State Board should take a “**global perspective**” and consider all competing upstream diverters and polluters (past, present, and probable future beneficial uses of water) in its water quality and water planning activities (pgs.179 -180).
- The State Board should implement the necessary water quality standards against all factors that affect water quality i.e. against all other diverters and users of water (pgs. 179 -180).
- Fish and wildlife is a beneficial uses of water (pg 201).
- The State Board has the power and the duty to open past water allocations at any time to protect fish, wildlife and other beneficial uses of water (pg. 201).

Racanelli held that all water allocations upstream of the Sacramento – San Joaquin Delta should be reviewed by the State Board as a part of its water quality planning function, and that water quality objectives should be implemented to protect present and future beneficial uses and resources of Delta waters. The State Board has an affirmative duty to provide water quality protection to fish and wildlife of the Bay-Delta ecosystem.

Adolph Moskovitz, an old time water lawyer headed the legal team for Los Angeles Water and Power during the Mono Lake litigation. In 1994, Mr. Moskovitz discussing the Judge Hodge *EDF v. EBMUD* decision before the Sacramento Area Water Forum, stated that any trier of facts is required to balance and try to accommodate all legitimate competing interests in a body of water. He went on to say that the importance of the public trust **can not** be diluted by treating the public trust as merely another beneficial use under Article x, Section 2, as co-equal with irrigation,

power production and municipal water supply. He stated that the Public Trust Doctrine occupies an exalted position in any judicial or administrative determination of water resource allocation.

Our State has over 167 years of evidence that the people are in need of enlightened stewardship of the “common wealth”. Two destroyers of our common wealth and associated public and private values, are ignorance and perceived economics. The driving force almost always was economics (Berry-1995). We have over used our land and abused our water. We are forcing the land to produce beyond its ability to recover or to bleeds toxic drainage. Lands were irrigated that should not have been. The more marginal the land the worse the abuse. The cheaper the cost of water, the greater the abuse to both land and water. The greater the subsidy for a crop, the greater the abuse of the land. The cost is lost topsoil and lost productivity which results in polluted rivers, contaminated fish and wildlife resources; greatly reduced populations of fish and wildlife, along with severe habitat and ecosystem degradation. Lost recreational opportunities and lost scenic values can relegate a community to near impoverished status (Worster –1984).

The demise of the fisheries in many of our rivers and the Delta can be laid to poor or inconsiderate water management. In some cases man made chemicals are combining with a variety of leachate to form a chemical brew that has a broad range of toxicity to aquatic life which can render them unfit for human food or as food for fish and wildlife.

We still suffer from the effects of past land and water abuse. It took about 35 to 40 years and several lawsuits to bring Coho salmon and steelhead numbers back to the Trinity River from the lows of 1960s. Hydraulic mining has been stopped, but after 100 years the evidence still lingers. The selenium contaminated drainage of the mid 1980's that killed or deformed 1,000 upon 1,000 of waterfowl and other migratory birds, and contaminated aquatic habitats is still etched in my mind. It cost about \$55 to \$60 Million in Federal and State taxpayer funds just to clean up Kesterson's toxic habitat, to purchase and develop replacement habitat. No one cleaned up the other habitats in the Grasslands. In 1984 the State Board said to agricultural interests failure to take appropriate measures to minimize excess application, excess incidental losses, or degradation of water quality constitutes unreasonable use of water. Such toxic conditions are a hidden danger of continued or accelerated irrigation of large tracts of land in the south and western San Joaquin Valley. The selenium tainted lands of Westlands, Broadview, Panoche, and Pacheco Water Districts, about 306,000 acres, should not be irrigated.

The *Racanelli Court* recognized that California's available water supply is really uncertain determined by natural forces. Our native fishes evolved with that reality. *Racanelli* also reminded everyone the "usufructuary" nature of a water allocation. Yet in the Central Valley, in some of the driest of places, acres upon acres are devoted to permanent and long term crops which will demand maximum water supply allocations to get maximum production. In the past when water was desired, political pressure was applied. It was our fish resources / aquatic ecosystems that paid a heavy price. Rivers suffered from reduced flows and poor water quality (elevated temperature of aquatic

habitat) severely impacting the life history stages of our iconic Chinook salmon and Steelhead trout. They have taken a direct hit for years with the last 8 to 10 years an example. Closed or shortened commercial seasons, low freshwater survival of young from natural spawners; poor holding, spawning and out migration conditions for young Chinook salmon and poor summering over conditions for steelhead trout.

It is recognized that our rivers are vastly over appropriated. As such the maximum water demand of permanent crops cannot be met without impacting other water right holders, contractors as well as fish resources and aquatic systems. It is difficult to entertain, let alone support maximum irrigated acreage with its water demand when the annual water supply is limited and varies year to year. The water allocation process has got to change. Variable irrigated agriculture is the key. With variable irrigated acreage the annual water supply available can be apportioned to selected crops (diversified farms, limit the amount of water per acre) while assuring a water supply to meet the needs of aquatic systems, trust resources, uses and values.

Summary

Trustee agencies have an affirmative duty to manage public trust assets on behalf of the people by protecting such assets and helping to assure their sustainability for future generations (Sax-1970, Althaus – 1978, *Audubon* -1983, Raffensperger-2006, Wood - 2014).

California's annual water supply (runoff) is extremely variable from year to year and seasonally. Each water right allocation is burdened with usufruct and Public Trust restrictions to protect the greater public interest.

The State Board can apply the public trust doctrine to; (1) virtually all surface water courses; 2) all holders of water right allocations, i.e. pre and post 1914 appropriators, riparian and contract users; 3) review the impacts of the diversion of water on the entire aquatic ecosystem aspects (stream bed, shore land water interface, riparian vegetation, water quality, all aquatic life, etc.); 4) consider the impacts of all diverters, and can apportion the obligation to protect trust uses to all diverters on the water course or courses in question; and 5) can develop imaginative physical solution involving flow and non-flow aspects. It is State Water Board policy to enforce Fish and Game Code Section 5937 to pre-1914 water rights and protect Endangered Species Act listed species (State Board Order WR-95-4).

Under *Racanelli* the State Board should take a “**global perspective**” and consider **all** competing upstream diverters and polluters (past, present, and probable future beneficial uses of water) in its water quality and water planning activities to protect beneficial uses.

In 1984 the State Board said to agricultural interests failure to take appropriate measures to minimize excess application, excess incidental losses, or degradation of water quality constitutes unreasonable use of water. Such toxic conditions are a hidden danger of continued or accelerated irrigation of large tracts of land in the south and western San Joaquin Valley. The San Luis Unit of the CVP (in Fresno, Tulare and Kings counties), as defined by the authorized service area encompasses all of Westlands, Broadview, Panoche, Pacheco and San Luis Water Districts. About 379,000 acres of these lands are drainage impaired, meaning there is a perched water table close to the

surface of the soil that contains high concentrations of toxic salts and trace elements, such as selenium and boron. Irrigation is only going to make this situation worse. In recognition of the 1984 policy from the State Board of what constitutes an unreasonable use of water, the drainage impaired lands should not be irrigated, but retired from production. (FWS- Winkel).

The issuance of a State permit or license, or the failure to take public trust protection actions is not time barred. The nature of the state's property interests in fish and water (both quality and quantity) is such that one may not oust the state's property or trust interests by a statute of limitation. The Court in *People v. Kerber* (152 Cal.731,732-736 – 1908) said “The public is not to lose its rights through the negligence of its agents, nor because it has not chosen to resist an encroachment by one of its own number, whose duty it was, as much as that of every other citizen, to protect the State and its rights” in *Cal Trout v. State Water Resources Control Board* 207 Cal App 3d 585 – 1989)

The key to carrying out the State Board's public trust duties are its powers to regulate and its powers to protect the State's fundamental rights in trust properties, ecological values and public use of state waters. "The powers of the State as trustee are not expressed. They are commensurate with the duties of the trust. The State as trustee has the implied power to do everything necessary to the execution and proper administration of the trust". (*People v. California Fish Company*, 166 Cal. 576, 138 Pacific 79, 87, 88 (1913), *City of Long Beach v. Mansell*, 91 Cal 23, 476 P. 2d 423 at 437 (1970). The “everything necessary” must include the use of police powers to actively demonstrate its will to ensure the continued survival and renewability of river and stream

ecosystems, trust resources, uses and values. The public trust doctrine requires that trust properties, resources, associated uses and values must be protected to the greatest extent possible. The extinction of a species is forever.

With the Public Trust Doctrine overlaying the limitations of the County of Origin Act, the Watershed of Origin Protection Act, and the Delta Protection Act, the protection and restoration of instream flows, associated habitats, and other public trust resources to some level of quality and sustainability should be assured. A reduction in water allocations might occur. Since private rights to the use that water is a ~usufruct~, a use right subject to paramount public rights and interests; there should be no Fifth Amendment taking. This is based on the theory that there can be no superior private ownership rights to water in a stream since the sovereign already owns the water.

The State Board, with the guidance provided by the *Audubon* and *Racanelli* decisions, the restoration and protection thinking of *Cal Trout 2*, the State Board's Mono Lake Basin Water Right Decision D-1631, and the Public Trust Doctrine, should be able protect and restore trust resources, uses and values of rivers and streams from their head waters to and through the Delta-Bay system to some level of viability and sustainability that has not occurred with past restoration and protection efforts.

The following papers that I have prepared over the years form the foundation of my testimony and should be included as exhibits to my testimony.

- *Purpose and Intent of Fish and Game Code Section 5937, The Public Trust and In Good Condition*. June 2014. Originally prepared August 1998 for the California Sportfishing Protection Alliance, Quincy, CA. Revised and updated June 23, 2014 for the Save the American River Association. (CSPA-294)

- *Headwaters to the Pacific Ocean and Fair Ecological Share*. April 1999. Prepared for the California Sportfishing Protection Alliance, Quincy, CA. (CSPA295)
- *Water Resources, the Public Trust Doctrine and Racanelli*. August 2009. Prepared for educational purposes for Save the American River Association and other interests. (CSPA-296)
- *Area of Origin Protection: Our Fisheries and Other Public Trust Interests*. May 2010. Prepared for educational purposes for Save the American River Association and the Sacramento Area Water Forum. (CSPA-297)
- *Water Rights and No Compensation*. November 2016. Prepared as background and educational purposes for Save the American River Association. (CSPA-298)

I have frequently been asked what does the public trust cover and how I came to love it. I prepared a brief explanation that is included as an exhibit titled *My Interest & Love of the Public Trust*. (CSPA-299)

Thank you for letting me express my views.

SELECTED REFERENCES OF READER INTEREST

- Althaus, Helen F., 1978. Public Trust Rights. U. S. Department of the Interior, Office of the Solicitor under contract to the U. S. Fish and Wildlife Service, Portland, Oregon. 421p.
- Berry, Wendell, 1995. Private Property and the Common Wealth. In Another Turn of the Crank- Counter Point Press, Washington, D. C. – 1995. Pg. 46-63
- Brechin, Gray. 1999. Imperial San Francisco: Urban Power, Earthly Ruin. University of California Press, Berkeley and Los Angeles, CA 1999. 402p.
- California State Lands Commission. 1991. Delta-Estuary, California's Inland Coast, A Public Trust Report. May 1991.
- Cohn, Bernard S., 1970. The Constitution, the Public Trust Doctrine, and the Environment. Utah Law Review, Vol. 1970, Number 3, Pg. 388-394.
- Dunning, Harrison C., 1983. The Mono Lake Decision: Protecting a Common Heritage Resource from Death by Diversion. Environmental Law Reporter, 13 ELR 1044
- Hart, John, 1996. Storm Over Mono: The Mono Lake Battle and the California Water Future. University of California Press, Berkeley and Los Angeles, CA. 1996. 211p.

- Moskowitz, Adolph, 1994. Significance of *EDF v. EBMUD* Lawsuit: Binding or Precedent Effect of Judge Hodge's Trial Court Decision. Presentation to the Sacramento Area Water Forum, March 3, 1994
- Myers, Nancy J. and Carolyn Raffensperger. 2006. Precautionary Tools for Reshaping Environmental Policy. Edited by Nancy J. Myers and Carolyn Raffensperger. MIT Press, Cambridge, MA., 339p.
- National Audubon Society v. Department of Water and Power, City of Los Angeles. (Also called Mono Lake.) 33 Cal. 3D 419 (1983), 658 P 2d 709, 189 Cal. Rpt. 346, cert. Denied 464 U.S. 977- 1983
- People v. Gold Run Ditch and Mining Co. 4 Pac Rpt p 1152, (1884) Sax, Joseph L., 1970. The Public Trust Doctrine in Natural Resources Law: Effective Judicial Intervention – Michigan Law Review, Vol. 68. p. 471
- Stevens, Jan S. 2004. Applying the Public Trust Doctrine to River Protection. Presented at –Protecting California's Rivers: Confluence of Science, Policy and Law. In California Water Plan Update - 2005. California Department of Water Resources, pg394-400
- Wood, Mary Christina 2014. Nature's Trust Environmental Law for a New Ecological Age. University of Oregon Law School. Cambridge University Press, New York, New York -10013 -2473
- Woodruff v. North Bloomfield Mining Co. 18 F. 753 (1884)
- Worster, Donald –1984 a. Good Farming and the Public Good. In Meeting the Expectations of the Land. Essays in Sustainable Agriculture and Stewardship. Edited by Wes Jackson, Wendell Berry and Bruce Coleman. North Point Press, San Francisco –1984. Pg. 31 –41.

Papers prepared regarding the Public Trust Doctrine relative to Central Valley lands, waters and associated resources

- The Kesterson Effect: Reasonable Use of Water and the Public Trust. San Joaquin Agricultural Law Review, Vol. 6 No. 1, 1996, pgs. 45-67.
- Purpose and Intent of Fish and Game Code Section 5937, The Public Trust and In Good Condition. June 2014. Originally prepared August 1998 for the California Sportfishing Protection Alliance, Quincy, CA. Revised and updated June 23, 2014 for the Save the American River Association
- Headwaters to the Pacific Ocean and Fair Ecological Share. April 1999. Prepared for the California Sportfishing Protection Alliance, Quincy, CA.
- A Discussion: Managing the Commonwealth: The Precautionary Principle and The Public Trust Doctrine. February 2008. Submitted to Guardians of the Future.
- Public Trust Doctrine, Selenium Contaminated Drainage and Unreasonable Use of Water. May 2008. Submitted to the California's State Water Resources Control Board in support of waste and unreasonable use of water complaint.

- Water Resources, the Public Trust Doctrine and Racanelli. August 2009. Prepared for educational purposes for Save the American River Association and other interests.
- Area of Origin Protection: Our Fisheries and Other Public Trust Interests. May 2010. Prepared for educational purposes for Save the American River Association and the Sacramento Area Water Forum.
- Water Rights and No Compensation. November 2016. Prepared as background and educational purposes for Save the American River Association.

Executed on this 29th day of November 2017 in Sacramento, California.



Felix E. Smith