

PORGANS & ASSOCIATES

~~Environmental-Bio-Terrestrial Solutions~~

STATE WATER RESOURCES
CONTROL BOARD

2005 OCT 25 PM 2:09

DIV. OF WATER RIGHTS
SACRAMENTO

**Policy Statement
Before State Water Resources Control Board
October 24, 2005**

Members of the Board:

It is with all due respects, nevertheless, without reservation that Porgans & Associates (P&A) states the following: If it was P&A's policy to exploit the public trust resources for the self-serving benefits of the mega-dollar water districts or the corporate welfare government water project recipients, and/or to placate the political dictates of the well-connected, then it would have no reservation about actively partaking in this perfunctory so-called "hearing" process.

If it was P&A's policy to foster the unreasonable use of the public's water resources and condone the pollution and/or degradation of the waters of the state or the destruction of the public fish and wildlife resources, as the expense and to the demise of the citizens, again it would have no reservations about participating.

If it was P&A's intention to amass a fortune from unsuspecting victims of the government water projects, who are at the mercy of their attorneys, some with generation family members deriving a living from the so-called water wars, it would be a different story.

If it was P&A's policy to portray itself as a so-called environmental group to give its donor members the illusion it was remotely concerned about the environment, instead of making unethical backroom deals in order to ensure its cash flow and its status as a Stakeholder, then there would be no issue.

However, they are not the type of policies that P&A could ever subscribe too. To the contrary, during the past 33 years, it has been P&A's policy to use its own resources to protect, defend and enhance the trust resources. In the process, it has, by the grace of GOD, done all that was possible to facilitate its policies and objectives and protect its clients from the Department of Water Resources (DWR, the U.S. Bureau of Reclamation and this Board.

In good-faith P&A has appeared and/or participated in the Bay-Delta hearings from the 1970's up unto the last round of the so-called water rights hearings commencing in the mid 1980s through the year 2000. While your predecessors were holding the latter of those "public hearings" to strengthen the deficiencies in the SWRCB's former Water Right Decision 1485, both the Department and the Bureau committed 289 violations of Water Right Decision 1485 in just two years - Water Year 1991 and 1992, according to the SWRCB's staff Exhibit 19.¹ In the process of knowingly violating Bay-Delta standards, those agencies either illegally stored or exported water from the Delta, designated for the protection of other beneficial uses, in particular, public trust resources. According to your staff the amount of water was approximately 300,000 acre-feet, and had a street/market valued of nearly \$30 million. At the same, the State was policing the CA Aqueduct to make sure no one was stealing water from the SWP.

¹SWRCB, Public Hearing, *Consideration of Compliance with Water Right Requirements for the Sacramento-San Joaquin Delta and Suisun Marsh*, Staff Exhibits to be Offered into Evidence, Nov. 20, 1992.

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Ironically, during the first four years of that drought 1987-1992, the projects delivered more water than in any other prior four years of the history of the projects - Delta exports. It was P&A's unrelenting perseverance of watchdogging the mismanagement of the projects and continuously bringing the matter to the SWRCB, even submitting a formal petition, which the Board denied, notwithstanding it held a hearing. The outcome of that hearing was that the Board allegedly took a vote, and its action was not to take an enforcement action against either DWR or the USBR. At P&A's request several dozen legislators sent a letter to the Board expressing their dissatisfaction with the Board's nonenforcement action.

P&A also documented the fact that during the entire drought escapade, those agencies were taking water from the northern reservoirs and storing it below the delta. P&A also brought that matter to the Board's attention, and warned that the terminal reservoirs in the south were so full that if a warm storm "pineapple express" came through that area DWR would be dumping water during the drought. P&A was there with CNN when DWR dumped about 3 billion gallons of water into the ocean. At the same time, both DWR and USBR petitioned the board to relax the bay-delta standards because they had limited water in the northern reservoirs. P&A also objected to that type of decisions and/or policies.

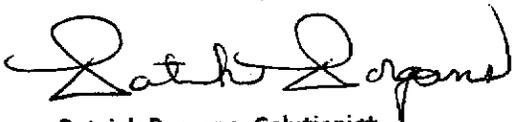
Because of the Board's failure to protect the waters of the State and/or to hold DWR or the Bureau accountable in the past, the last remaining viable Delta, in the southwestern portion of the United States was brought to the brink of an ecological collapse, which it has yet to recover. P&A was forced to file a lawsuit against both DWR and the Bureau for the illegal diversions. The illegal diversions stopped; however, it was primarily the result of the fact that the drought ended. The delta remains on a life-support system, and the only thing that has kept it alive is the fact that we have had wet conditions since the drought ended in 1992.

It wasn't all of the billions of dollars in bonds that were floated at the public's expense to correct the damages created by the water projects, or the "settlement agreements" that came out of the 13-plus years of water right "hearings" wherein the board did not really make a water right decision that has saved the Delta. It has been saved by the grace of God.

This so-called hearing is reminiscent of the Suisun Marsh-Bay/Delta protracted compliance tactics that were employed by the Department and the Bureau under the former Board's Water Right Decision 1485. This process is bogged down in legalize and myopic self-serving agendas, which have nothing to do with the public or its trust resources.

In closing, it would be disingenuous for P&A to actively participate in the so-called hearing. This board's "actions and/or failure to act" to protect the waters of the state are unconscionable. This is not about anyone personally, it's about the public trust resources and this Board's failure to protect the Delta and/or hold the agencies accountable. Based on the Board's track record, it is apparent that its unwritten policy is to make sure nothing gets done to disrupt the policies and/or agendas of the water purveyors and their contractors, neither of whom owned the water.

It would be nothing short of a miracle and/or an act of political suicide for this Board to actually issue and carry out a cease and desists order against DWR the Bureau and the water lords. Although, those than subscribe to scriptures know All things are possible with God. Mathews 19:26. P&A has done all it could to assist the government in fulfilling its trust mandate, and, God willing, will continue to do so.



Patrick Porgans, Solutionist

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Attachments

STATE WATER RESOURCES CONTROL BOARD
 DAY-DEI TA PROGRAM D-1485
 COMPLAINT EXH. 19
 FOR IDENTIFICATION 11-20-92
 IN EVIDENCE

SWRCB EXHIBIT 19

SUMMARY OF RECENT DECISION 1485 VIOLATIONS

11-20-92

WATER YEAR 1992

VIOLATION NUMBER	BENEFICIAL USE AFFECTED	DECISION 1485 STATION	VIOLATION PERIOD	NO. OF DAYS	REASON(S) CITED BY PROJECTS
1	Agriculture	Emmaton	May 27-Aug 15	71	Drought, winter-run salmon
Number of site-violations:				71	
Number of days with one or more violations:				71	

WATER YEAR 1991

VIOLATION NUMBER	BENEFICIAL USE AFFECTED	DECISION 1485 STATION	VIOLATION PERIOD	NO. OF DAYS	REASON(S) CITED BY PROJECTS
1	Wildlife	Beldons Landing	Nov 1 - Nov 30	30	Marsh gate and levee failures
2	Municipal	Rock Slough	Dec 18 - Dec 29	11	Rising tides, drought
3	Wildlife	Chippis Island	Jan 1 - Mar 8	50	Drought, water conservation
4	Wildlife	Baldons Landing	Jan 1 - Feb 28	59	Drought, water conservation
5	Wildlife	Collinsville	Feb 1 - Feb 28	28	Drought, water conservation
6	Wildlife	National Steel	Feb 1 - Feb 28	28	Drought, water conservation
7	Municipal	Rock Slough	Feb 20 - Mar 12	12	Rising tides, high Delta consumptive use, drought
Number of site-violations:				218	
Number of days with one or more violations:				111	

WATER YEAR 1990

VIOLATION NUMBER	BENEFICIAL USE AFFECTED	DECISION 1485 STATION	VIOLATION PERIOD	NO. OF DAYS	REASON(S) CITED BY PROJECTS
1	Agriculture	Emmaton	May 14 - May 20	7	Rising tides, strong winds
Number of site-violations:				7	
Number of days with one or more violations:				7	

WATER YEAR 1989

VIOLATION NUMBER	BENEFICIAL USE AFFECTED	DECISION 1485 STATION	VIOLATION PERIOD	NO. OF DAYS	REASON(S) CITED BY PROJECTS
1	Municipal	Rock Slough	Feb 9 - Feb 13	5	Rising tides, strong winds
2	Agriculture	Emmaton	Jun 7 - Jun 9	3	Rising tides
3	Agriculture	Jersey Point	Jul 17 - Jul 29	13	Rising tides, strong winds, high Delta consumptive use
Number of site-violations:				21	
Number of days with one or more violations:				21	

Note: No violations occurred in water year 1988; one violation (Rock Slough) occurred in water year 1987.

11/20/92

SWRCB EXHIBIT 19

STATE WATER RESOURCES CONTROL BOARD
DAY-DELTA PROGRAM <u>D-1485</u>
<u>COMPLADCE</u> EXH. <u>19</u>
FOR IDENTIFICATION <u>11-20-92</u>
ON EVIDENCE

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