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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 WATERFIX	PREPARED DIRECT TESTIMONY OF MILO JOHN WETHERALL ON BEHALF OF THE ENVIRONMENTAL JUSTICE COALITION FOR WATER
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I, Milo John Wetherall, the Co-Founder and President of Generation: Our Climate, do hereby declare:

I. INTRODUCTION

1. The purpose of my prepared direct testimony is to convey my deep displeasure with the idea of constructing tunnels to divert water from Northern California to Southern California regions including the Westlands Water District and surrounding water districts.

2. I have reviewed materials focusing on the history of Westlands Water District unfair political maneuvering and their creation of a system in which they have disregarded environmental concerns in favor of immediate needs and created situations of environmental collapse, then attempting to have taxpayers pay for the damage.

II. SUMMARY OF TESTIMONY

5. In my testimony, I first summarize my understanding of the role that the Westlands Water District has played in negotiations regarding the California Water Fix and Eco Restore project and will explain how the implementation of pipes and the history of the Westlands Water District's' irresponsible handling of public resources has resulted in a feeling of well deserved distrust between the residents of California, the State of California and the Westlands Water District officials.

6. I will explain how the Westlands Water District and the Department of Reclamation's reckless behavior in regards to environmental damage is a violation of the Public Trust Doctrine and the implementation of the California Water Fix and Eco Restore project only furthers the recurring course of action that is the violation of the public trust doctrine.

7. It is my opinion that the California Water Fix and Eco Restore project would have no benefits for California residents, and only furthers the theme of reckless action with no legal repercussion for the Westlands Water District.

III. HISTORY OF WESTLANDS WATER DISTRICT AND DEPARTMENT OF RECLAMATIONS RECKLESS ACTIONS

The issue of the California Water Fix and Eco Restore project has many proponents, but one of the most flagrant of these proponents is the Westlands Water District. The Westlands Water District is an organization that has placed the importance of farmers and their own benefit over environmental protection since the 1950s when the issue of irrigation in Southern California, most notably the Westlands Water District, first arose. The issue over Westlands Water District liability for environmental damage most recently arose in their recent complaint filed by Brownstein, Hyatt, Farber, and Schreck, LLC, a law and lobby group who often represent irrigation districts and has immense influence in Congress.

This complaint filed in the U.S. Court of Claims claimed the, “the U.S. Bureau of Reclamation breached its 1963 contract with Westlands,” (Carter) because the Bureau of Reclamation had not built any type of drainage system to direct toxic waste from irrigation in the Westlands Water District to the Sacramento-San Joaquin Delta.

The complaint was filed by a member of the Brownstein, Hyatt, Farber and Schreck who raised fifty million dollars for the Obama Administration. In return, the Obama Administration appointed Ken Salazar to the position of Secretary of the Interior. Ken Salazar had worked closely with the Brownstein, Hyatt, Farber, and Schreck, LLC and his Chief of Staff, Tom Strickland, was a former partner at the firm. This appointment essentially gave the Westlands

Water District lots of influence in water policy at the Federal level. This Interior Secretary and his main officials were not in favor of environmental policy, as Tom Strickland left the Interior Department to be a litigator for British Petroleum in the Gulf Oil Spill lawsuit.

As Secretary of the Interior, Salazar had final say over the Bureau of Reclamation and any lawsuit involved with it. The Westlands Water District, knowing that the chief of the agency they were suing had strong links to them, sued the Bureau for almost a billion dollars in damages because of the lack of a drainage system. At stake is nearly half a billion dollars Westlands still owes to the American taxpayers for a segment of the Central Valley water system that transports water to Westlands Water District. The Westlands Water District was able to settle out of court because of its association with Secretary Salazar, a blatant political move that careens out of the way of environmental justice.

The issue of Westlands Water District environmentally ethical behavior dates back to the 1960s. Congress, in 1960, authorized the construction of the San Luis Unit, the unit of the Central Valley Project that exists within the Westlands Water District, understanding that the State of California would assure the Secretary of the Interior that it will “make a provision for a master drainage outlet and disposal channel for the San Joaquin Valley... or has made a provision for the constructing the San Luis interceptor to the delta” (Carter). A federal judge ruled that the Secretary of the Interior would make a provision for the construction of a drainage system and if they didn’t construct the drainage system, they would be liable for a lawsuit. The Interior Department was sued accordingly. The Westlands Water District and the Bureau of Reclamation negotiated water delivery contracts in 1963 while landholders in the West Plains Water Storage District began the process of merging the two districts into one large, powerful

district. This would transform the region from being a desert with depleted aquifers to an irrigated wonderland of cheap accessible water. In 1965 the California legislature approved the merger and the Westlands Water District as we know it today was born. Congress had not appropriated money to build proper water infrastructure for the new 200,000 acres of land that had recently been enveloped by the Westlands Water District. All parties involved in the negotiations decided that a new drainage system would not be necessary, and that all the appropriated funds should go towards the construction of the water distribution system for the new 200,000 acres of non-irrigable land. This is the source of all of the problems, and is the origins of Westlands Water District's compliance with the destruction of the environment.

A congressional task force was designated to look into the logistical well being of the San Luis Unit. Their completed report told a story of recklessness, disregard for environmental and economic concerns, and complete mismanagement of appropriated taxpayer dollars resulting in a water distribution and drainage system that didn't work, destroyed the environment, and cost taxpayers millions of dollars. The task force in their report stated that the "task force finds that the size of the distribution system within the Westlands Water District has been substantially increased and that completion of the distribution system will totally consume the authorized spending limit for both the distribution and drainage system even though very little of the necessary drainage system has been constructed. In this regard, the Task Force believes that the Bureau [of Reclamation] knew for many years that the amount designated for these purposes would be insufficient to build both the expanded distribution system and the contemplated drainage system but never informed Congress of this fact and never required that the originally contemplated facilities such as the drains, receive priority over the expanded works." (Carter) In

short, Congress was reprimanding the Bureau of Reclamation for spending far too much money constructing an expanded water delivery system without also constructing a drainage system, and not informing Congress of any of it.

The Westlands Water District hoped to paint themselves in their formal complaint as an organization that knew nothing of this. But it is very unlikely that they did not know, and they stood by and watched as more distribution networks were constructed without drains to go with them. In the most recent lawsuit engaging the Westlands Water District and the Bureau of Reclamations, the Bureau projects the costs of the completed drainage system at \$2.7 Billion, a number too high for taxpayers in the region because there is not enough economic surplus in the region. The Westlands Water District still believes it's obligatory payment to the Bureau of Reclamation is to pay fifty cents per 325,851 gallons, footing the rest of the bill to United States taxpayers. This was not the last time Westlands Water District would be involved with a major economic and environmental debacle.

In the 1980s, the Westlands Water District, with approval of the Department of Reclamations, didn't have a drainage system. They decided to construct evaporation ponds at the Kesterson Wildlife Refuge named the Kesterson Ponds. The ponds were the home of a plethora of avifauna and aquatic species. Selenium, the main toxic byproduct of industrial agriculture, seeped into the Kesterson Ponds as the Westlands Water District continued to pump its wastewater into the ponds. As the toxic water filled the ponds, fish began to die at rapid rates. The bird population that used Kesterson Wildlife Refuge as a stopping ground while traveling north began to lay eggs with great deformities if the birds were not already dead. The incident garnered national outrage resulting in the closure and draining of the Kesterson Ponds and the

cut off of water to local farmers who had pumped the toxic water into the Ponds in the first place. It was only then that Westlands Water District realized the mess they had created and organized a deal with the Bureau of Reclamations to continue water flow into the district. Westlands Water District, yet again, has showed outrage when being dealt with the consequences of their misguided, irresponsible, and dangerous actions beginning with the Westlands Water District creation to its denial of economic responsibility for the environmental damage it has caused in recent years.

Now, Westlands Water District has negotiated with the Bureau of Reclamations so that the federal government would “lift limits on the size of farms eligible for subsidized water and relieve Westlands [Water District] of its outstanding repayment obligation.” (Boxall) What does the government gain from all of this? The Bureau of Reclamations is no longer liable for providing drainage to the Westlands Water District.

IV. RELATION BETWEEN WESTLANDS WATER DISTRICT AND CALIFORNIA WATER FIX AND ECO RESTORE PROJECT

Now that I have set the stage of Westlands Water District irresponsible and damaging history, you must be wondering what all of this means for the California Water Fix and Eco Restore project. Westlands Water District, as stated previously, has a history of placing the immediate water needs of the district over long terms needs and not acknowledging the risks associated with doing so. Once dealt with the consequences of their irresponsible and deadly actions, the Westlands Water District response is more often than not to paint themselves as humble organization being held responsible for the misdeeds of the federal government. This is a

complete obstruction of the truth. The Westlands Water District is a government body that has time and time again depleted natural resources, allowed toxins to be exposed to the greater environment, and attempted to avoid responsibility over and over again. Environmental concerns and possible repercussions suggest the construction of the delta twin tunnels is an ecologically dangerous endeavor. It is no surprise that the Westlands Water District is one of its main proponents. In fact, the support for this project by the Westlands Water District suggest to me that this is a truly dangerous endeavor that will result in a multi billion dollar bill to be footed by California taxpayers.

California water policy is meant to be written with the guiding principle of the Public Trust Doctrine. This doctrine dictates that current politicians have an obligation to preserve public trust resources like water, air, and soil for future generations so that they can enjoy the beauty of the natural Earth the way people have for thousands of years. Westlands Water District has a long history of flying in the face of the Public Trust Doctrine. Their backing of the construction of the California Water Fix and Eco Restore project is just another example of this.

V. CONCLUSION

Based on previous statements, I come to the conclusion that the California Water Fix and Eco Restore project is an expensive endeavor that does not help a majority of Californians. The Westlands Water District's support of the project only furthers my discontent on the issue. The California Water Resources Board responsibility is to the people of California and Californians for generations to come under the guiding principles of the Public Trust Doctrine. The proposed project would cause mass environmental decay and only further the theme of irresponsibility

within the Westlands Water District. By granting them this win, we tell the Westlands Water District that there irresponsible behavior is acceptable when it is most definitely not. The California Water Resources Board's priority should be to maintain the homeostasis of the delta and Californians at large under Public Trust Doctrine. Please do not vote in favor of the California Water Fix and Eco Restore project.

VI. STATEMENT OF QUALIFICATIONS

Milo Wetherall is a fifteen year old San Franciscan who attends San Domenico School as a sophomore. Milo Wetherall is a founding member and President of Generation: Our Climate, a youth environmental activism group whose guiding principles are to make political engagement surrounding environmental issues accessible to the youth of this country, and to convey the sentiments of the youth regarding environmental issues to elected officials in order to insure climate friendly policy is created. Mr. Wetherall has testified at the San Rafael City Council, Marin County Board of Supervisors and the Bay Area Air Quality Management District. Along with this, Mr. Wetherall was a speaker at the Drawdown: Marin climate event in which the Marin County Board of Supervisors declared their commitment to legislating environmentally friendly policy. Milo Wetherall, as of Fall 2017, is currently serving his second term as class president. Mr. Wetherall is also a main contributor and researcher on the environmental study and film StreetAir in which students monitored local air quality. The project received an Award of Excellence from the Northern California region of the American Planning Association, and an Award of Merit from the entire California Region of the American Planning Association. Milo Wetherall began his career of testimony and civic engagement in 2010 at the San Francisco City

Council testifying that a new library should be built in his neighborhood. The new library was eventually built.

VII. WORKS CITED

Boxall, Bettina "Amid California's drought, a bruising battle for cheap water – LA Times." *Los Angeles Times*, Los Angeles Times, 21 Oct. 2014, 1:00 AM, www.latimes.com/local/california/la-me-westlands-20141021-story.html#page=1.

Carter, Lloyd G. "How the West(Lands) Was Won, a two-Part series - Part One." *Chronicles of the Hydraulic Brotherhood*, Lloyd G. Carter, 29 Mar. 2012, 5:53 PM, www.lloydgcarter.com/content/120329554_how-westlands-was-won-a-two-part-series-part-one.

"Save the Delta, Stop the Tunnels." *Restore the Delta*, Restore the Delta, www.restorethedelta.org/101-save-the-delta-stop-the-tunnels/.

I declare that the foregoing is true and correct. Thank you for the opportunity to present this testimony.

Signed: 

Printed name: Milo John Wetherall

Date: November 29, 2014