

COLIN A. BAILEY (SBN 239559)

THE ENVIRONMENTAL JUSTICE COALITION FOR WATER, A NONPROFIT PUBLIC
BENEFIT CORPORATION

Physical address: 909 12th Street, Suite 200, Sacramento, California 95814

Mailing address: P.O. Box 188911, Sacramento, CA 95818-8911

Telephone: (916) 432-EJCW(3529)

Email: colin@ejcw.org

Attorney for Protestant The Environmental Justice Coalition for Water

BEFORE THE

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

<p>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</p>	<p>PREPARED DIRECT TESTIMONY OF LUCIA (“LUCI”) PACZKOWSKI ON BEHALF OF THE ENVIRONMENTAL JUSTICE COALITION FOR WATER</p>
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TESTIMONY OF LUCIA (“LUCI”) PACZKOWSKI

I, Lucia L Paczkowski, a cofounder of a youth grassroots climate organization named Generation: Our Climate, do hereby declare:

I. Introduction

1. The purpose of my prepared testimony is to reinforce the policy and legal priority of the Public Trust Doctrine and to address the failings of the California Water Board in its dealings with corporate agribusinesses; and how these issues relate to the Delta Twin Tunnels (WaterFix).

2. I have reviewed testimony and materials submitted by Petitioners California Department of Water Resources and United States Bureau of Reclamation.

3. In the past three years, my fellow peers and I have cultivated a strong interest in recent political events relating to human rights, including climate change. From this interest, we founded the youth led organization, Generation: Our Climate, in order to bring the youth perspective to important climate and related issues that will affect the future of our generation.

4. I have examined various materials, reports and analyses regarding the State Water Board and corporate agriculture, which has framed the basis of the following

observations, opinions, and conclusions.

II. Summary of Testimony

1. In my testimony, I will summarize my understanding of how corporate agribusinesses, using the wine and almond industries as examples, contribute to the depletion of California's water supply. I will describe how industry and the state react to water shortages, and how this fuels a Twin Tunnels push, and what this means to the Public Trust.

2. I will describe my understanding of how corporate agriculture is profiting from the overuse of the California Water Supply, and how this corruption is violating the Public Trust Doctrine. This misuse of California water is symbolic of the continuous theme of environmental disregard in government bodies and I fear this may overlap with the construction of the Delta Twin Tunnels.

3. It is my opinion, based on the foregoing, that the construction of the Delta Twin Tunnels in relation to the corporate agriculture industry may not be serving the public interest and would fail to protect the citizen rights accounted for in the Public Trust Doctrine.

III. Corporate Agriculture Profiteering

A. Wine Industry

In the business of agriculture, wine grapes are not typically viewed as a water guzzler because they require lower volumes of irrigation water per acre than most other crops grown in California. But wine grapes are one of the most widely planted crops and are cultivated not just in the Central Valley, but now throughout the state, including the mountainous coastal regions. Since most vineyards in California rely on well water, aquifers have suffered enormous drawdowns. Low aquifers, land subsidence and water contamination have reached a critical stage. Also, since vineyards are in abundance in California, vineyards consume 100 to 200 gallons of water per vine per season, with each vine yielding enough grapes for two bottles of wine. In Napa County, water supply battles involving the wine industry have been more common in the last two decades. Even in less prominent vineyard areas, such as Amador County and Lake County, areas are seeing increasing numbers of water supply battles between grape growers and residents. The state regulatory system is skewed, tilting strongly in favor of vineyard developers and the wine industry, a distinct but powerful player in the state's agribusiness lobby, which has averted most regulations on its activities, including those that impact the California water supply. This corruption reflects the failure of California's regulatory system as they fail to account for cumulative impacts tied to the production of wine grapes. An example of the California Water Board's negligence when addressing potential threats to the water supply due to wine production is the case of E&J Gallo. The

wine company was founded in 1993 and has since become a multi million dollar winery producing 4.7 million cases of high end wine annually. In order to have a steady water supply to fuel the vineyards, Gallo constructed an 8.2 acre surface area pit reservoir to capture headwater flows from the Dry Creek. The reservoir has the capacity of 250 acre feet and a depth of 45 feet. Records show that the state Water Board suspended the reservoir permitting process, but the company didn't bother to obtain a permit, and instead, built the reservoir without permission. The California State Water Board did not bother to take action in stopping construction. This offense doesn't solely involve the wine industry and the California Water Board, but the Public Trust Doctrine as well. Our government failed to enforce the right of water stated in the Public Trust and instead served the overwhelming corruption of the wine industry. The Water Board should have stepped in, but they failed to respond and protect our basic rights. They enabled the wine industry to profit off California's water supply, and refuse to see that this behavior is a contributor to our lack of water resource in the state, and not just caused, and I quote Governor Jerry Brown, by "long showers and leaky faucets." But how does this connect to the Delta Tunnels? The Westland Water District, despite receiving the majority of the water from the Bay Delta, demands an increase in water. This water would and is being used to fuel agribusinesses water-intensive crops, such as wine grapes, in order for the crops to be exported overseas for profit. But the corruption of Westland Water District ultimately begins with the taxpayer subsidized water, intended for farming, being sold for private profit. This corporate profiteering is in violation with the Public Trust Doctrine and absolutely does not serve the rights of the people, depleting our water supply for

financial gain.

B. Almond Industry

One of the most discussed uses of California's water is for the production of almonds.

The value of the California almond market reached \$4.8 billion in 2012 and continues to grow. Corporate agriculture benefits from the major export in almonds around the world and the investments created with certain almond producers, such as Tiaa-Cref and Paramore Farms.. Over 1.88 billion pounds of almonds are produced in California annually. Unfortunately, growing the almonds require about a gallon of water per almond, draining California's water resources. This production benefits corporate agribusinesses and disadvantages the citizens of California in need of water. Out of the states total developed water, 80 percent is diverted to agriculture and 9 percent of that feeds directly to the almond industry. That 9 percent of water is enough to supply the yearly household needs of the greater Los Angeles, San Diego, and the San Francisco Bay Area — about two thirds of California's population. Meanwhile, California landowners have little to no limit on the amount of water that they can pump from the ground.

The State Water Resources Control Board states “To get a right to groundwater, you simply must extract the water and use it for a beneficial purpose.” With California's droughts, this statement is especially disturbing because no government body is fully

accounting for the groundwater depletions that occurred and that continue to occur. No one can speak confidently about exactly how much water is left in the region's aquifers. This unregulated corruption of resources is especially prominent in the Sacramento-San Joaquin River Delta, for over 90 percent of its marshes and water has been drained in order to feed the agriculture industry, but especially almonds. There is simply not enough water to be distributed to agriculture so in order to conserve, the federally run Central Valley Project and California State Water Project cut farmers off entirely from surface water for several months of the year. During this time, farmers turn to groundwater, which, according to a UC-Davis study conducted in 2014, replaces as much as 75 percent of the surface water that went missing during the drought. These past years, the Almond Board of California has found new ways to ween almond production off of intense groundwater use by proposing drip irrigation, but because of the amped-up production in almonds, that production has more than offset efficiency gains. Production has increased and overthrows the effects of drip irrigation. A direct effect of the increase in groundwater use is the depletion of water takes form in the small farming community outside of the San Joaquin Valley, Alpaugh. In the early 20th century, Alpaugh was once an island in the middle of Tulare Lake, until it was drained to feed irrigation projects. Alpaugh was forced to rely on wells to provide the town with water, but because of the undocumented depletion in groundwater due to the almond industry, the wells became inoperable. The towns turned to a new well which ran 100 feet deeper than the old one and that tapped into a different portion of the aquifer that had higher levels of naturally occurring arsenic. The well was barely compliant with the EPA's arsenic limit, 10 parts

per a billion, and the water from the deeper well had 30 parts per billion. The residents now rely on bottled water, spending over \$400,000 as a town annually, just to obtain access to a basic human right. On top of that, Governor Jerry Brown has imposed severe water use restrictions on the Alpaugh residents, as a part of a statewide effort to combat the drought. This partnership between the California Water Board and corporate agriculture giants proves to be detrimental to the people the water board serve. The town of Alpaugh and the consistent failure of the almond industry to conserve water, serves as an example of the unreliability of the California Water Board when taking action to protect the citizens Public Trust. This pattern of disrespect would be repeated if the Delta Tunnels were to be constructed, further taking from our precious water supply to feed farmers, while their water is actually being sold for private profit. The 91 page report from California's state auditor, Elaine Howle, also stated the state Department of Water Resources "has not completed either an economic or financial analysis to demonstrate the financial viability" of the project, which the Brown administration calls the California WaterFix.

Also, the Brown administration has not put in place a proper system of governance for the project, and has failed to keep important documents, the audit found. The audit further concluded that the state Department of Water Resources "did not follow state law" when it replaced a key program manager on the project with a company that it hired without a competitive bidding process and which was run by somebody without an engineering degree. This scrappy plan to construct the Deltas would only affect our decreasing water supply even more, since corporate agriculture has become involved, and

will only annihilate our right to the Public Trust Doctrine.

IV. Conclusion

The proposal for the Delta Twin Tunnels simply does not satisfy the needs of the Public Trust Doctrine. Corporate agriculture profiteering and the relationship between agriculture industries and the California Water Board paints a picture of disregard for natural resources and valuing one self and profits above the needs of California's citizens. The Water Board attributes the public with the blame for the decreasing water supply, when in reality, the Water Board and corporate Goliath's are the biggest contributors to the decreasing resources. The Delta Twin Tunnel proposal will not meet the fiduciary requirements of protection and public interest when attributing California's water resources.

V. Statement of Qualifications

Miss Lucia Paczkowski is a Sophomore in high school, currently attending San Domenico's Upper School in Marin County. At the moment, her central political endeavor has been co-founding, creating, and testifying with Generation: Our Climate, a youth led grassroots organization focused on adding youth representation and input to the climate agenda. Generation: Our Climate has influenced the outcomes of local climate issues around the Bay Area, including those presented at the Marin County Board of Supervisors and the Bay Area Quality Management Board. In the last year, Miss

Paczkowski's political interests have soared, leading her to participate in the Representation Project's annual leadership conference in San Francisco, organize local protests and letter writing campaigns addressing country wide political injustices, and to travel to Tijuana, Mexico to build homes for those that don't have one due to the poor economic and political unrest. Miss Paczkowski is currently serving her first term as Sophomore Class Vice President. In addition to her political interests, Miss Paczkowski is a member of the chamber orchestra conservatory, The Virtuoso Program, and is a performer with the American Conservatory Theater's Youth Cabaret Ensemble.

VI. Work Cited

Boxall, Betina. "Amid California's Drought, a Bruising Battle for Cheap Water – LA Times." *Los Angeles Times*, Los Angeles Times, 21 Oct. 2014,

Los Angeles Times, Los Angeles Times, 21 Oct. 2014,

www.latimes.com/local/california/la-me-westlands-20141021-story.html#page=1.

Chronicle, San Francisco. "The End of the Delta Tunnels Plan? We Should Hope So." *San Francisco Chronicle*, San Francisco Chronicle, 22 Apr. 2015,

San Francisco Chronicle, San Francisco Chronicle, 22 Apr. 2015,

www.sfchronicle.com/opinion/editorials/article/The-end-of-the-delta-tunnels-plan-We-should-hope-6214990.php.

Parrish, Will. "Turning Water into Wine." *East Bay Express*, East Bay Express, 20 Nov. 2017,

www.eastbayexpress.com/oakland/turning-water-into-wine/Content?oid=4301724.

Philpott, Tom. "Invasion of the Hedge Fund Almonds." *Mother Jones*, Mother Jones, 24 June 2017,

www.motherjones.com/environment/2015/01/california-drought-almonds-water-use/.

Takacs, David. "The Public Trust Doctrine, Environmental Human Rights, and the Future of Private Property." *New York University Environmental Law Journal* 711, vol. 16, 2008,

www.ielrc.org/content/a0804.pdf.

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

Signed: *Lucia Paczkowski*

Printed name: *Lucia Paczkowski*

Date: *11/29/19*