

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

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 CAROLINE SCHURZ ON BEHALF OF THE ENVIRONMENTAL JUSTICE COALITION FOR WATER
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I, CAROLINE SCHURZ, for GENERATION: OUR CLIMATE, do hereby declare:

I. INTRODUCTION

1. The purpose of my prepared direct testimony is to declare that the proposed WaterFix does not meet my generation's needs and expectations of the Public Trust Doctrine.
2. I have reviewed testimony and materials submitted by Petitioners California Department of Water Resources and United States Bureau of Reclamation.
3. I am a junior at Branson High School in Marin County, California. I have testified before local government concerning Public Trust issues and climate change. I am a board member of *Generation: Our Climate* and am a founder and leader of Branson High School's Environmental Action Committee. We are currently working on a campaign to implement green energy actions, create school wide composting, and upgrade our water systems to meet water conservation targets.
4. I have personally examined various fact sheets, reports and analyses of the WaterFix purpose and proposed actions which framed the basis for the following observations, opinions and conclusions.

II. SUMMARY OF TESTIMONY

5. In my testimony, I first summarize my understanding of the proposed WaterFix and it's Public Trust considerations for future generations.
6. I will describe my understanding of how the proposed WaterFix will include long term commitments of resources and infrastructure that would not replenish the water resources or improve the water quality of our state waters, or the over-appropriation of our surface waters and other aspects of Public Trust Asset harm and degradation.
7. It is my opinion, based on the foregoing, that the WaterFix proposal is not in the public interest and fails the tests of Public Trust protections, fiduciary responsibilities and government accountability.

III. The Public Trust and Water

8. The Project is in conflict with the declared policy of the State of California confirmed by the Delta Reform Act that “[t]he long-standing constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta.” (Water Code § 85023.) The Project would instead make maximizing ‘water exports’ the foundation of state water management policy concerning the Delta. The existing water exports via the state and federal water projects provide substantial evidence of Public Trust Resources degradation and harm (water quality non-compliance, species listings, saltwater intrusions into freshwater habitats and farmlands, soils contamination at points of water use, toxic drainage and groundwater pollution to name a few).
9. The Public Trust Doctrine holds that there are certain natural resources that are fundamental to the survival of our species and the ecosystems we depend upon. These are ‘public trust assets’ that are common property for all humans, so fundamental and essential that they must be protected for all people and for future generations. These Trust Assets can not be compromised for private or corporate uses.
10. There are communities in our state that do not have the benefit of clean and dependable water, a failing in the management of our trust asset. I do not see the WaterFix securing clean and dependable water for these communities. Neither do I see the WaterFix restoring and protecting the trust assets that have already been lost or diminished in the Delta and the SF Bay.
11. Every action the state or a local water agency takes that diminishes the accessibility to clean and dependable water is a fiduciary failing.
12. California water infrastructure has already significantly degraded the Public Trust water resources, as evidenced by scores of listed species, excessive and harmful water withdrawals of most of our streams and many lakes, of water quality degradation in most water bodies, and the mining of groundwater. This arguably irresponsible management of the public’s water would only be expanded if the WaterFix is implemented as planned.
13. The balancing of economic interests are a short-term trade-off that does not serve my generation, it does not secure our trust assets. The economic interests are mostly privately held and should be subservient to trust asset fiduciary responsibilities. Additionally, economic interests rarely, if ever, address the next generation.

IV. Degradation of the Public Trust Asset

14. The WaterFix Tunnels Project would take large quantities of freshwater flows that presently contribute to water quality, water supply, fish habitat, Delta agriculture, and public health to export to desert lands. How would this action NOT further diminish and degrade our public trust resources in the Sacramento River and the Bay-Delta?
15. The Project will harm pelagic and anadromous fisheries in the Bay-Delta and its watershed, clean water, wildlife, recreation and other resources held in trust by the State of California on behalf of its people. The proposal doesn't address the timing and quantity of flows needed to ensure ecosystem health into the future, particularly in consideration of river basin hydrological changes associated with climate change. By encouraging and catalyzing the construction of new water delivery conveyance and upstream water storage, the state is committing us and future generations to water basin transfers over ecosystem restoration and resilience.

V. The Public Trust and Environmental Risks

16. Water resources are the trust assets of future generations and must be protected. When there is uncertainty the trustees must act with great caution and should employ the Precautionary Principle. The State Water Board, as our Trustees, must hold themselves to a strict responsibility for the protection of our trust assets, for the benefit (and fundamental need) of our future.
17. The existing diversion structures and their operations have caused serious and potentially permanent damage to our Public Trust Assets, in the Sacramento River and Bay Delta ecosystems. The proposed infrastructure and conveyance capacities will result in even greater unnatural diversions of water to the south. Additionally, the high cost of the infrastructure will put further burden on the system to push even more water south long into the future, to help pay down the huge project debts.
18. The fact that the state has allowed the over-appropriation of almost every river and stream in the state demonstrates a failure to actively protect our Public Trust Asset, Water. A "WaterFix" for California is an empty promise if it does not address a "Fix" for our broken and often "privatized" water rights system. Water, by state water code, is owned by the public (a Trust Asset) yet it is often treated as a private property right. Water users refuse to submit monitoring data that would show actual water uses. Water rights holders arbitrarily sell our public waters as if a private commodity, securing high profits at the public's expense. The WaterFix would encourage more privatization of the public's water.

19. Delta water exports are supposed to be limited to water surpluses, thus the needs of the Delta and the needs of upstream areas of origin have 'first rights.' But the current ecological conditions of these systems demonstrate that both upstream needs and Delta needs are not being met. Ecosystem harm via water manipulations are shown by growing lists of species declines, continual water quality impairments and declining surface and groundwater resources.
20. Won't the reduced runoff caused by climate change draw the salinity zones further eastward, necessitating corresponding increases in Delta outflow to protect Delta and longfin smelt, endangered salmon, and important agricultural land with water rights superior to DWR?
21. There are many uncertainties regarding the construction, operations, financing and 'adaptive management' strategies regarding the WaterFix. The uncertainties are unacceptable risks, given the current conditions of these ecosystems and their precarious health and stability. The State Water Board must exercise the Precautionary Principle when considering this WaterFix, as the risks and failures we have experienced to date are not acceptable and do not serve future generations. Additionally, given the trajectory of global and national GHGe's and the resulting global warming (likely to exceed 3.6F) and sea level rise (6-9ft possible) our ecosystems are moving into unknown conditions and vulnerability.

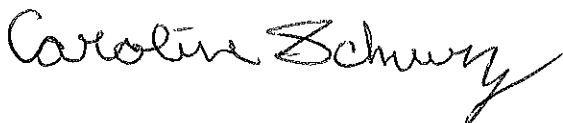
B. Don't Degrade Our Trust Resources

21. "...the best option for smelt, and other native fishes, especially salmon, is a large increase in freshwater flows through [their] habitat." (Peter Moyle and James Hobbs, Water Deeply Op-ed, Sept. 2017).
22. The Public Trust natural resources of the Bay-Delta ecosystem have been severely degraded for decades, from species losses to vast water quality problems to fundamental disruptions of ecosystem processes and resilience. The WaterFix will not improve species populations, but would more likely put several species at further risk. Taking more of the available freshwater flows from the Delta and the Bay will further "spend down" Nature's Capital in the largest estuary on our West Coast, impacting Trust Resources there and out into the Pacific Ocean.

VI. CONCLUSION

23. It is my understanding that my Government's purpose is to serve the public, that no one man or one corporation is to be held or served above anyone else. The burden of protection of the public's interest, and in particular the Public Trust, is on that particular agency responsible for the stewardship of the Trust. I ask the State Water Board to be accountable to us, the beneficiaries (the public) of the Public Trust. I believe the WaterFix as proposed fails to secure the protections our (water) Trust Asset deserves, for my generation and the generations to follow.

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

Signature: 

Printed name: Caroline Schurz

Date: 11/30/17