

Sent via email on January 11, 2008

Attention State Water Board;

In order to support responsible actions to improve the condition of Delta Fisheries, the Board and its staff will be grappling with institutional as well as biological conditions. In the view of the Public Trust Alliance, this effort would be markedly enhanced if there was better understanding of the legal duties and responsibilities of the Board as a public trustee of the resources which are now in such desperate condition in our Delta. A key ingredient of any workplan for solving the current crisis should be a public evaluation of basic Constitutional obligations which may have been inadequately examined up to this point.

The administration of living resources in the State's navigable waters is subject to a complex legal framework with many layers. There has been a tendency toward paralysis as many businesses and agencies have been focused on the protection of local or private rights. However, when the crisis is analyzed from the perspective of fundamental protection of the corpus of the people's trust, priorities and appropriate actions become much more clear. The Board has the advantage of working within an evolving State Water Plan and Delta Vision process which have both recognized the growing significance of protecting public rights and assuring continued public access to trust resources in adequate condition for healthy public use. The Board staff could work with law school water policy centers and some active non-profit groups to produce a modest outline of traditional responsibilities and how these evolve in crisis situations and the some actions that might be taken on the basis of the Board's trust authority to monitor and supervise the situation.

A very modest investment of public resources in this effort could yield extremely valuable results on the ground and in our rivers and wetlands. A public trust seminar convened by the staff and with the participation of law schools and non-profits could be the basis of a possible action plan. Of course we would want to help out where possible, but the initiation of the effort must be by the legal trustee, which would be you in this case.

Thanks for your attention.

Sincerely,

Michael W

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