

Emailed on March 20, 2008 at 1:50 pm

>>> Michael Warburton <mwarburton@jps.net> 3/20/2008 1:50 PM >>>
Attn. Water Board and Staff;

Yesterday, at the end of a long workshop which gave more attention to the public trust doctrine than I have heard in a long time, my speaker card came up and I made a statement. I was under the impression that the Board was considering launching, under its own motion, a public trust hearing on California's major water projects. I very sincerely tried to convey what a bad idea I thought that was. While I am aware of some of the political forces within which you work, I did not know that two other organizations, for which I have much respect, were going to announce their public trust complaint in the last minutes of that meeting after the departure of Tam Doduc. In my earlier statement, I was not talking about a well-grounded complaint or the Board's responsibility to respond to such complaints when they properly come before the Board. In fact, I usually support such complaints.

I trust that my remarks will not be interpreted in any way as supporting the denial of this claim, because that was not what I was talking about. Only a few days ago, I read responses from the Bureau of Reclamation and Department of Water Resources urging denial of a complaint by Felix Smith concerning the unreasonableness of irrigation of the West Side of San Joaquin Valley and saying that continuation of such deliveries constituted a public nuisance and breach of the public trust doctrine. The lack of candor and convoluted legal argument supporting those recommendations for denial underlined just how political and lacking in credibility a proceeding initiated by the Board would be. Indeed, even at yesterday's workshop, the Board hosted Jason Peltier, under the employ of the Westlands Irrigation District, saying how much the drainage situation had improved without making public disclosure of the possible extent of the conflict of interest involved because he had so recently been representing the public in contract negotiations between the Bureau of Reclamation and the Westlands District itself. Maybe everyone is just supposed to know that is how things are handled, and that is part of the reason I was opposing a hearing on the initiative of the Board.

In any case, I want to be sure to clarify any confusion that might have come from my brief comment yesterday.

Sincerely,
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