



San Francisco Bay Chapter

Serving Alameda, Contra Costa, Marin and San Francisco counties

April 27, 2016

Contra Costa Water District Board of Directors
General Manager Jerry Brown
1331 Concord Avenue
Concord, CA 94524

RE: CCWD's agreement with CA DWR and the Brown Act

Dear Members of the Board and General Manager Brown:

On March 24, 2016, in a meeting not previously announced, the Contra Costa Water District's Board of Directors entered into an agreement with the CA Department of Water Resources (DWR) to get upstream water from the State to offset the impact of DWR's proposed twin tunnels project in the Delta in exchange for dropping CCWD's protest against the project's water rights petition. The first the public learned of the agreement was in a CCWD News Release dated March 29, 2019—five days after the agreement had been signed—announcing the agreement with the State as an accomplished fact.

CCWD operates under the State's Ralph M Brown act, which requires that local agencies conduct their business in open meetings "...to facilitate public participation in local government decisions and to curb misuse of the democratic process by secret legislation..." Contrary to Brown Act sections 54957.2 and 54957.7, there was no release of a public agenda nor announcement of the closed session. Nor did the Board, contrary to Sections 54954.1, report approval and substance of the agreement in open session at the public meeting during which the closed session was held. The News Release just said that the Board of Directors would review details of the agreement at the April 6th Board meeting at District HQ.

On April 2, 2016, East Bay Times reporter Denis Cuff wrote an article entitled, "CCWD's Delta Deal raises eyebrows among environmentalists." On April 6th members of the public attended to learn about the agreement but were not allowed to have input into the decision since action had already been taken. Details of the agreement were at last revealed to the public. On April 8th, the East Bay Times wrote an editorial entitled, "Secret twin tunnels sold out the Delta."

Sierra Club concurs with the article and editorial that your decision to enter the agreement was extremely disappointing and a significant departure from past policy. The Board's action runs



contrary to the interests of your constituents as well as the Delta environment. By obtaining more higher-quality water from upstream, less water is left in the already threatened Delta. This at a time when Delta indicator species have declined significantly in numbers and now face extinction. For decades, Contra Costans have fought to protect the Delta and were leaders – along with CCWD – in successful efforts to defeat the Peripheral Canal. Contra Costa voters voted 96% to oppose it, as did a majority of State voters.

Now the Peripheral Canal is back, renamed the CA WaterFix. CCWD's deal with DWR will provide ammunition for proponents of the tunnels. And, more importantly, if the project isn't built, the District wouldn't have the increased salinity problem. Since CCWD signed the agreement in order to get higher quality water to offset increased salinity from the project, wouldn't it make more sense to continue to oppose the project and not be stampeded into an unnecessary agreement?

We believe CCWD's decision-making violated specific provisions and the spirit of the Brown Act, and that the board should hold a public hearing on the agreement as soon as possible to reconsider its position. The Sierra Club recommends that you revoke the settlement agreement and reinstate CCWD's protest.

Sincerely,



Sonia Diermayer



Henrik Albert

Co-chairs, Water Committee

Cc: State Water Resources Control Board
State Dept. of Water Resources
East Bay Times Editor
Denis Cuff, reporter, East Bay Times