

Melissa Stone

From: Mae Empleo [mae@semlawyers.com]
Sent: Friday, January 22, 2016 5:19 PM
To: Board of Directors; Clerk of the Board
Cc: Osha Meserve; Jim Fiedler; Teresa Alvarado; Garth Hall
Subject: Comments on January 26, 2016 Board Meeting Agenda Item 2.2 - Workshop on State Perspectives on CA WaterFix & EcoRestore
Attachments: Ltr SCVWD re Jan 26 Agenda Item 2.2 on Workshop 1.22.16.pdf

Dear Board Members:

Attached please find the correspondence regarding Item 2.2 of the January 26, 2016 Agenda for the SCVWD Board meeting. Thank you for your attention to this matter. Should you have questions, please do not hesitate to contact our office.

Sincerely,

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January 22, 2016

SENT VIA EMAIL (Board@valleywater.org; clerkoftheboard@valleywater.org)

SCVWD Board of Directors
5750 Almaden Expressway
San Jose, CA 95118

RE: Comments on January 26, 2016 Agenda Item 2.2 – Workshop on State Perspectives on California WaterFix and California EcoRestore

Dear Board Members:

This firm represents several interests within the Sacramento San Joaquin Delta, including Local Agencies of the North Delta¹ and Friends of Stone Lakes National Wildlife Refuge.² I have personally participated in the public process since early 2008 that has led to the current Delta Tunnels/WaterFix and the EcoRestore proposals. Sadly, despite many talented people working to try to formulate a plan that would meet the 2009 Delta Reform Act coequal goals, among other criteria, the so-called solutions before you are deeply flawed.

This letter highlights just a few of the items with which we believe the District should be concerned when considering its support and participation in the CWF Tunnels project. I have also included a few comments on EcoRestore for your consideration.

The CWF Will Harm the Delta Environment

One of the main talking points of the CWF Tunnels proponents is that reverse flows will be lessened by the addition of diversion points in the North Delta. Yet the

¹ LAND member agencies cover approximately 118,000 acres in the norther geographic area of the Delta. Current LAND members include Reclamation Districts 3, 150, 307, 317, 349, 407, 501, 551, 554, 556, 744, 755, 813, 999, 1002, 2111, 2067 and the Brannan-Andrus Levee Maintenance District. Some of these agencies provide both water delivery and drainage services, while others provide only drainage services. These districts also assist in the maintenance of the levees that provide flood protection to homes and farms.

² Stone Lakes National Wildlife Refuge is located adjacent to the proposed CWF Tunnels intakes, and some of the facilities are proposed to be located within the Refuge. (See Exhibit A.)

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Tunnels would create reverse flows anew in the North Delta. In particular, as a result of the project, Georgiana, Sutter and Steamboat Sloughs will experience increases in reverse flows, increasing salinity and hindering fish migration. The project does not restore a more natural flow regime for the Delta. The project simply brings reverse flow problems to the north Delta.

The CWF Tunnels are Not Necessary to Make Santa Clara Valley Water District's Water Supplies More Secure

Maintaining and upgrading the Delta levee system is the best way to protect against possible water supply interruptions. The peer-reviewed Economic Sustainability Plan prepared by the Delta Protection Commission pointed out that a further-improved levee system would not only address the hazards to water exports posed by earthquakes but also would provide improved flood protection, would allow planting on the water side of levees to create shaded riparian habitat, and could be constructed for between \$2-4 billion.

The Tunnels are Not Necessary to Restore Ecosystems in the Delta

The prior preferred alternative, the Bay Delta Conservation Plan ("BDCP"), was intended to both improve water supplies as well as restore habitat as an HCP/NCCP. Because the BDCP project configuration with the habitat component was not found to meet minimum Endangered Species Act (among other) standards, a Tunnels only version of the BDCP was announced in Spring 2015. Reverse flows in the south Delta caused by the existing pumps have not been the major impediment to ecosystem restoration, including carrying out the inexplicably delayed restoration requirements in the 2008/2009 Biological Opinions. Moreover, under the Tunnels project, elimination of reverse flows in the south Delta would only occur when there is pumping in the north Delta. As explained above, if there is pumping from the north, reverse flows will occur there, basically moving the existing problem of reverse flows to the north Delta, and trading smelt impacts for salmon impacts.

Reverse flows are not the limitation on the success of habitat restoration, and no restoration is being planned in the vicinity of the current south Delta reverse flow problem. Limitations on restoration have more to do with the difficulty in recreating pre-reclamation conditions in the Delta (massive earthmoving, fill, excavation, etc.) without creating other adverse impacts (methylmercury, increased water use, seepage on adjacent islands, fish stranding, etc.), all while providing some benefit for fish.

Another complication is the provision of a water supply to serve any new habitat, which consumptively uses almost double of the water demand by Delta crops.³ The RDEIR/S for the CWF Water Tunnels assumes that water use for restoration is the same as agriculture, which is simply wrong, uncited, and not supported by science.

Long term planning for sea level rise is also difficult and fraught with uncertainty. There is quite a broad range of possible sea level rise scenarios, and sea level rise is also not uniform throughout the Delta; as you move away from the ocean and into the interior of the Delta, expected sea level rise increase diminishes, adding another layer of guessing to long-term restoration planning in suitable locations.

In any case, all but about 2,000 acres of the planned in EcoRestore are already required by the 2008/2009 biological opinions and should be carried out in existing publicly owned areas. Delta interests stand ready to work with CVP/SWP water users to help determine the best locations for restoration, and to help ensure that restoration is not only beneficial to the targeted species, but is also compatible with surrounding land uses.

The CWF Creates a New Sacrifice Zone to Meet Outside Water Supply Demands

As a representative of landowners, districts and environmental interests most directly impacted by the construction and operation of the Delta Tunnels, I ask you to think deeply about the impacts of continuing to proceed down the path toward the Delta Tunnels. Construction and operation of these Tunnels will permanently damage the Delta, including Delta waterways, sustainable agriculture and the environment/fish and wildlife. Thousands of acres of farmland would be converted, hundreds of acres of wetlands filled, and roughly half the average flow of the Sacramento River would be removed before it can ever enter the Delta.

Far from helping resolve longstanding water conflicts, the Delta Tunnels ensure that conflicts will continue indefinitely into the future. If built, past experience tells us that the SWP/CVP's new ability to divert crucial Sacramento flows will be wielded irresponsibly and in a way that harms both fish and wildlife and other beneficial users of water in the Delta. We ask the District to re-think making the Delta yet another sacrifice zone where the environment and communities are destroyed to provide water elsewhere. We respect the water supply needs of the District, and view Santa Clara as a neighbor. We do not believe it is acceptable, however, for your District to attempt to meet its water supply needs by impairing Delta water users' local supplies, and depriving the Delta of the freshwater flows that are essential to imperiled fish and the entire ecosystem.

³

See <http://www.water.ca.gov/landwateruse/anlwuest.cfm>.

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As soon as the CWF Delta Tunnels are abandoned once and for all, we will be able to move forward to work on better solutions. We hope you will embrace this opportunity for shared and better solutions.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Osha R. Meserve

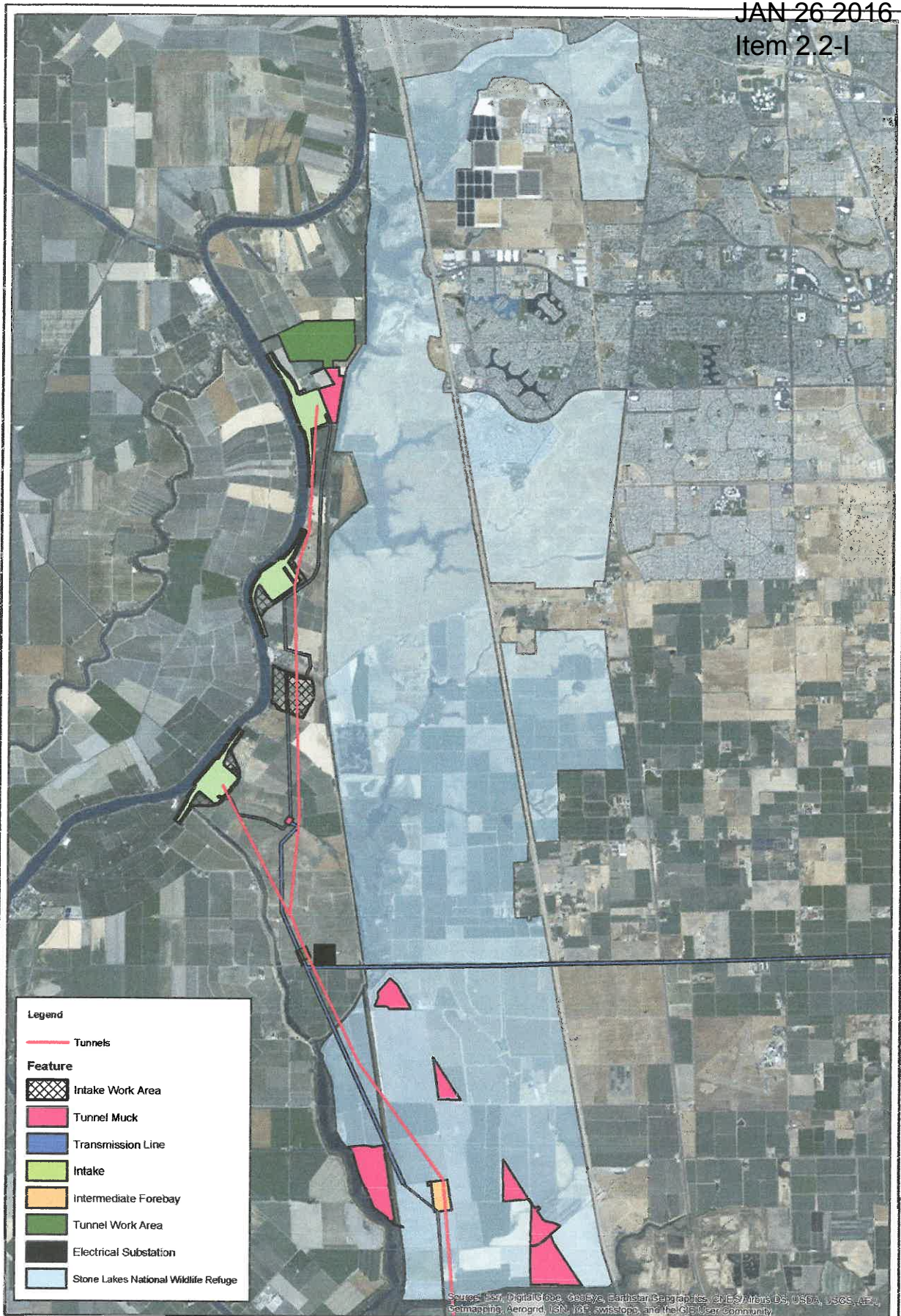
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Attachment: Exhibit A – Tunnels/WaterFix Impacts, Sacramento-San Joaquin Delta

cc (via email):

Interim CEO Jim Fiedler (jfiedler@valleywater.org)
Communications Manager Teresa Alvarado (talvarado@valleywater.org)
Deputy Operating Officer Water Supply Division Garth Hall
(ghall@valleywater.org)

EXHIBIT A



Date: 1/21/2016
BY: KCS