

Stone River Ranch

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Resolution of Necessity 2011-21

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State of California, Resources Building
1416 Ninth Street, First Floor Auditorium
Sacramento, CA 95814

To: The California Water Commission

I respectfully offer the following input to the California Water Commission regarding the matter of Resolution of Necessity 2011-21:

1. *The California Water Commission's meeting notice indicated that it will hear evidence related to four topics. I offer the following input on topic #2: **Whether the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury*** – In public BDCP planning meetings over the last three years, we have been told so far that the project is to be based on “good science”. In the many public meetings that I have attended, I have not seen actual evidence to support that frequently made statement. Those who actually know how the Delta really works (farmers, engineers, and residents in the Delta) have spoken very eloquently at various public meetings over the last three years about significant flaws in the BDCP plans that appear not to have been addressed. While the options being presented over the last three years have changed to a degree (the most significant addition is the tunnel option being proposed), virtually all of the various real options focus on North Delta intakes. I believe that we need to truly have good science and good engineering and some options that actually solve problems posed over the last three years by those who know the Delta best. I offer very briefly and simply an example of a very different solution that seems likely to solve many problems heretofore unaddressed in the options being presented in the BDCP:
 - a. Goals of the “Big Gulp Conveyance Plan” proposed by Dr. Robert Pyke
 - i. Natural flows through the Delta should be restored to the maximum practical extent
 - ii. Much more water should be extracted at periods of high flow and much less, or zero water should be extracted at periods of low flows
 - b. Adherence to these principles, with appropriate pumping and temporary storage facilities, will allow simultaneous recovery of the Delta ecosystem and sustainable exports at existing levels.
 - c. Four physical elements involved are:

- i. Restoration of floodplains on the Sacramento and San Joaquin Rivers and their tributaries in order to provide flood storage and stretch out the flood hydrograph in addition to providing significant flood management benefits;
- ii. New pumping facilities somewhere in the South West Delta to allow flows to pass through the Delta in a natural way before surplus flows are extracted; these facilities might include some temporary storage possibly on Sherman Island;
- iii. One or more tunnels that can move the extracted water to a large temporary storage facility until the existing pumps in Tracy can move it south; this storage facility would likely be located adjacent to and might incorporate the existing Clifton Court Forebay;
- iv. Additional south-of-Delta storage, much of it likely as groundwater but also including new Westside surface storage.

2. **Permanent vs Temporary Easements** - In terms of the Resolution of Necessity itself, **Section B 4** indicates “The Department is pursuing permanent easements for the geotechnical investigations based on the trial court’s determination that the proposed entry was too invasive to allow without the payment of just compensation. We do not want our property needlessly encumbered by a permanent easement when DWR wants access for a temporary period of time.” We have already been informed of a Temporary Easement option and if the Resolution of Necessity is passed would opt for that rather than the Permanent Easement.
3. **Agricultural impact - Parcel Information** section indicates that the proposed drill sites have been located in areas of least impact to agricultural operations and adjacent to interior agricultural roads. While there may have been attempts at this by DWR on their own, there were no discussions with me about how the property was farmed and how to mitigate those impacts. **There may be an inability to farm during the period of the easement due to the impractical nature of the placement of the four drilling sites and if this Resolution of Necessity is approved, that needs to be considered in terms of compensation.**
4. **Hazardous materials - Property Owner section Item 1** of Resolution of Necessity 2011-21 briefly addresses my concern if hazardous materials are found in the boring core samples. It however, gives no context related to the question nor the original answers I got from the land agent when we talked. The Delta has been farmed for well over 150 years. During the majority of that time, many herbicides and pesticides used for farming were employed that are no longer allowed. Many of those herbicides and pesticides do not go away and may be found in the top layers of the soil throughout the Delta. Accordingly, a boring/drilling anywhere in the Delta that has been farmed could have residue from that farming activity of over 50 years ago. When I talked with Tom O’Neil, DWR land agent, about this, he told me two things: 1) that the purpose of the drilling/boring was not to find these sorts of residues from farming activities in the top layers of the soil; 2) that the tests performed on the drilling/boring samples would not be those that would detect those sorts of residues. **I request that those two responses to me by Tom O’Neil be included in the Item 1 answer in the Resolution of Necessity 2011-21.**
5. **No drilling in the toe of the Levee - Property Owner section Item 2** of Resolution of Necessity 2011-21 indicates that “The property owner provided design modifications during the

appraisal phase and DWR accepted the modifications including the elimination of three drill holes.” The explicit purpose of my requesting the elimination or shifting of these drill holes was to eliminate borings/drillings within 30 feet of the toe of the levee due to the possibility of the drilling and/or related activities undermining the levee in a way which could potentially cause a subsequent levee failure and flooding of my home and the entire reclamation district (which is completely surrounded by levees).

Resolutions of Necessity 2011-09, 2011-13, 2011-15, 2011-21, 2011-22, 2011-23, 2011-24 all pertain to properties contained in the same reclamation district RD 744 and completely surrounded by the same levees. While Resolution of Necessity 2011-21 has had the drilling sites removed that were set to be within 30 feet of the toe of the levee, Resolution of Necessity 2011-09 has two proposed drilling sites in the toe of the levee, 2011-13 has two proposed drilling sites in the toe of the levee, and 2011-22 has one proposed drilling site in the toe of the levee. If the levee is undermined by any of these drilling and boring activities proposed in the toe of the levee and a flood ensues, every property in our reclamation district RD 744 will be flooded including mine. **Based on the exact same reasoning used by DWR in removing drilling sites in the toe of the levee from my property covered by Resolution of Necessity 2011-21 I respectfully request that the five other proposed drilling sites within RD 744 that are in the toe of the levee be removed or shifted to at least 30 feet from the toe of the levee so that my property will not be flooded in the event any of the DWR activities at any of the 5 drilling sites undermine the levee. This request directly benefits my property but will also benefit every other property owner in RD 744 who will have less chance of the levees being undermined accidentally.**

6. **DWR Protocol** - During the course of litigation related to the original Temporary Entry Permits DWR indicated that it had a "protocol" that presumably described everything it was going to do. I would like to obtain a copy of the "protocol" related to what DWR is planning on doing on my property under the current project in much more detail than the summary provided in the Resolution of Necessity Project description. In addition to the summary document, I would like to know at least the following: 1) specifically what tests are going to be run and for what purposes; 2) how we make sure that all top soil for 10 feet is restored as it was; 3) how the bentonite grout stops 10 feet short of the surface and the final 10 feet restored with the native top soil; 4) how all damages to our property are handled and restored; 5) how damage to drinking water if any will be handled; 6) what procedures are followed related to hazardous wastes; 7) hours of operation of drilling; etc.
7. **Should the Resolution of Necessity** be approved, there are certain things that I want to make sure happen as follows:
 - a. **Residential well water quality testing** – Our residential drinking water well currently produces very good drinking water. Neighbors have had problems with drinking water quality at differing depths of drilling for their well. Even though the boring holes may be refilled with bentonite, once layers are connected, contamination by lower quality water may occur. Hopefully this will not happen. However, to ensure that we can prove it one way or another, **I respectfully request that I be compensated to have a qualified firm thoroughly test our well water prior**

to any drilling and then to have the same firm using the same tests to test the well water 2 months after final drilling and 12 months after final drilling.

- b. No drilling to be done on our farming road** - The map at the back of the Resolution of Necessity has one of the drilling sites right on our farming road. The road is used for a variety of purposes and **I respectfully request that the drilling site that is targeted for the road be shifted away from the farm road.**

- c. Farm Drainage tile pipes and irrigation pipes** - There are farm drainage tile pipes and irrigation pipes buried throughout the property, approximately 3 – 5 feet from the surface. They serve as part of the farm’s irrigation and drainage system. There are no maps that show their location on the property. To ensure that they aren’t damaged during the drilling/boring process, DWR has agreed to hand auger the upper 5’ of soil. This will help ensure that the drainage tile pipes and irrigation pipes won’t be damaged. **I respectfully request that this earlier commitment be kept.**

- d. Routing of access road easement to neighbor’s drilling sites to be shifted** – The current map of the easements shows an access road easement to the neighbor’s drilling sites that directly interferes with the daily use of the residential portion of our property including going over a sidewalk. **I respectfully request that the map be redone to get the access road to the neighbor’s drilling sites away from our residential buildings and uses.**