

From: barbhnign@aol.com
Sent: Tuesday, September 30, 2008 1:47 PM
To: Context, DeltaVision@CALFED
Subject: Delta Vision Draft #4 comments
September 25, 2008
To: The Delta Vision Blue Ribbon Task Force and Committee
Re: Fourth Draft, Delta Vision, Vols. 1 & 2

Dear Task Force and Committee Members,

Thank you for the opportunity to comment on this draft. A hard copy of this e-mail will be mailed later today.

Butte-Sutter Basin Area Groundwater Users Corporation (BSBAGU) is a non-profit corporation established in 1991 to represent and work for the benefit of its membership; groundwater users dependent on aquifers underlying Butte, Glenn, Colusa, Tehama and Sutter Counties. We represent approximately 20,000 acres of irrigated agriculture and approximately 100 families who are totally dependent on groundwater for agricultural, domestic and commercial purposes. Commercial agriculture supports a significant portion of the local economy. For example, over the last 10 years, fruit and nut orchards, mostly on groundwater, averaged more than half of the annual agricultural income in Butte County.

The value of land in the Western States is greatly dependent on the quantity and reliability of its water supply. Since Spanish Colonial times in California, governments as well as private entities have both created and destroyed land values by moving water from place to place. The Delta Vision attempt to strengthen a "Doctrine of Public Trust" is an obvious attempt to shift water from private hands to a new public entity.

School children are taught that the balance of powers between the three branches of the Federal Government is the essence of the Constitution. In the Bill of Rights, the framers sought to slice power as thinly as they could imagine; including the rights of the people, the press, the churches, the states and –most importantly for this discussion—the right of citizens to hold property free from fear of seizure. The Founders understood that if denied property rights, a citizen was effectively unable to exercise most other rights.

In 1782, when 92% of US citizens were farmers most economic activity was closely related to the land. Homes, fields, forests and mines constituted the bulk of the economy. Only 8% of the population was comprised of knowledge workers such as lawyers, physicians, or clergymen. Because these percentages are now more than reversed, the political sensitivity of taking land has diminished as wealth is now being accumulated in financial articles and intellectual properties.

However, Article V in the US Constitution requires the government to provide just compensation when it finds the use of private property essential to its purposes resulting in the doctrine of "eminent domain" and associated statutes. Separating water rights from

property so reduces the value of land as to constitute an unlawful taking. Cloaking this action with the language of “public trust” provides the victims small solace and no compensation.

It is disappointing, but not surprising to find the State planning to transfer wealth from farmers in the Sacramento Valley to San Joaquin corporate farms and developers in Southern California. Perhaps the water truly may be more valuable in another place, put to a different use. If so, then the transfer should be the result of a legal condemnation that recognizes that not only the property owner is affected; transfers of water will also affect the tax base of rural counties and disrupt the income of individuals and businesses that are dependent on agriculture.

If State sponsored movement of water is truly in the public interest, the metered sale of urban water should produce an income stream more than sufficient to provide just compensation. The financial devastation of the north of Delta farm families and the impact on their communities without such compensation is an injustice repugnant to any citizen.

There is a third “co-equal goal” that should have been included from Day #1 “Protect your source” or “don’t kill the goose that lays golden eggs.” Several of the strategies in Vol. #2, are appropriate in areas that import water, but are ill-advised in a source region.

Disrupting the natural system can be actually harmful to the source region. Who would wish to be memorialized in California water history as the agency that disconnected Butte Creek from its aquifer and stranded the largest run of wild, naturally spawned Spring Run Chinook in the state?

Combined with climate change and loss of the snow pack, harmful strategies may make it possible, within a generation, to turn the Sacramento Valley into another San Joaquin. But unlike Owens Valley, where a little-known, out-of-sight ecosystem was trashed, when the Sacramento Hydrologic Region crashes, California crashes with us.

Before continuing the Delta Vision process any farther, we ask that you (1) add someone to the committee who understands where water comes from and how it flows to the Delta and, is not involved in water sales, and (2) establish the essential third leg for the two legged stool you have built which is to maintain the healthy, interconnected, natural system that has been delivering water to the Delta for a thousand, thousand years.

Our specific comments are enclosed (as an attachment to this e-mail Please contact us if you have any questions.

Sincerely,
/s/

Robert Hennigan, Chair
Butte Sutter Basin Area Groundwater Users

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Encl:

Vol #1

Page 6, line 21. "a public body representing statewide perspective.

Comment: There was no statewide perspective evident in the make up of the Blue Ribbon task force or in any of the documents to date. Draft 3, in the first paragraph refers to the Delta as the source of California's water. The Delta is actually the source of only a few thousand acre feet. This persistent lack of understanding of how water naturally accumulates in a watershed and is delivered to a delta has led to innumerable instances of planning that actually harms that natural process. In combination with climate change and loss of the snow pack, the commission's limited concept can lead to ecosystem degradation and may even succeed in making the future Sacramento River as disconnected from the Delta as the San Joaquin has become. The region upstream of the Delta is also a unique, natural region that is the actual source for 86% of California's water, but this is not apparent from this "vision".

Page 7, line 32-33. "effective use of California's water rights laws, which includes reasonable use and public trust principles."

Comment: The public trust must include the sustainability of the source regions of California water supply. While there are many, many examples of exploiting the source region, there are NO statements in the documents that suggest that the requirement to protect the sources ever entered the thinking of anyone in the Delta Vision process.

Page 11, line 14. "Water Crises around the world"

Comment: None of the scenarios listed reflect the effects of groundwater overdraft although much of the world is dependent on wells. The limited economic life of the Ogallala aquifer has been well documented, overdraft in most of California's groundwater basins has led to subsidence and loss of storage space, salt water intrusion, and production of inferior water that is expensive to treat. One basin on the Oregon-Washington border was discovered to have been pumped out at an annual rate of 10,000 years of recharge per year. It may be possible that the Lower Tuscan Aquifer is that one aquifer in a million that can be unthinkingly pumped out forever, but those are very long odds on which to rely for California's future water supply.

Page 13, line 2. "intergenerational in scope"

Comment: This would imply that there is a long term vision; we do not see anything beyond today's economic needs for people in, or south, of the Delta. Any 'intergenerational' scope of the environmental concerns would acknowledge the water flow in the delta before the dams were built.

Page 30-31 Goals

Comment: There must be an additional Goal 8: "Protect the watershed function of collection, retention and purification of the Sacramento Hydrologic Region. This necessarily involves protecting the functions of the healthy connected aquifers that support the streams and rivers in that watershed."

The spot where the Sacramento River becomes a losing stream might be thought of as the place where a 'net water producing' region becomes a 'net consumer' of water. Indeed, the area of net production is becoming smaller every year. The point where the Sacramento River has become a permanently losing stream has moved from south to north of the Sutter Buttes; from Grimes to Princeton in only a few years.

While the idea of sustainability has been captured on page 11 of Vol. # 2 with the emphasis on "Sustainability not Extraction" of the water supply, it has only been applied to the Delta, not to the actual source of the water. This seems to us to be very short sighted.

Vol #2

Strategy 2.1 "*appropriate ways to enhance the agricultural economy [of the Delta]*" should not include transferring water from upstream agriculture to Delta agriculture under the guise of recognition of a "*unique natural cultural and historic character*". The source region economy has already been impacted by the unfulfilled promises made by the state during construction of Oroville Dam. This has been well documented by Butte County during the FERC re-licensing.

Strategy 3.1 "Restore extensive interconnected habitats, especially critical land-water interfaces within the Delta and Delta watershed".

Comment: It is ironic that while the connectedness of Delta and watershed habitats is recognized, the same vital connection between land and water in the Sacramento Valley is being targeted for separation by aggressive pumping of groundwater.

Another of the land-water interfaces that should be recognized is that the forest management practices in the watershed that create defensible spaces in regards to fire protection are very similar to forest management practices that would develop water retention capacity in the land itself.

Strategy 4.2 h & j. encouraging "groundwater banking, extraction and delivery facilities for . . . surface water supplies" and requiring "CWR and SWRCB to further improve water transfer procedures"

Comment: two strategies that are designed to make it easier (simpler) to break the natural connection between the deep aquifers and the streams and rivers they support with a base flow.

Strategy 5.1 d. "Desired flexibility in the management of upstream surface diversions will require greater ability to shift from surface diversion and delivery systems to groundwater extraction and delivery systems. . . . Such actions are equally beneficial to all ***surface water diverters*** (emphasis added) from the Delta watershed as well as public Delta ecosystem goals."

Comment: What about the groundwater dependent water users? In Butte County—85% of the population and more than 50% of the agricultural income is totally dependent on groundwater with no opportunity for surface water supplies. This strategy is intended to preclude "unacceptable economic hardships", but is applying that concern only to the regions that grow avocados or uses water to wash salts out of the soil.

Strategy 7.1. Creation of a more effective governance structure.

Comment: Any such governance structure must include people with the perspective of the source region and mandate to not "mess up" the natural system on which almost all of California is so dependent.