



County of Yolo

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August 31, 2017

Honorable Tani Gorre Cantil-Sakauye, Chief Justice
And Honorable Associate Justices
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102

Re: *San Diego County Water Authority v. Metropolitan Water District of Southern California*
Case No. S243500
Amicus Letter on Behalf of the County of Yolo in Support of Petition for Review

To the Chief Justice and Associate Justices of the Supreme Court of California:

Pursuant to California Rule of Court 8.500(g), the County of Yolo ("County") submits this letter urging the California Supreme Court to grant review of *San Diego County Water Authority v. Metropolitan Water District of Southern California*, Case No. S.243500.

This case presents significant legal and policy issues and—of particular concern to the County—implicates the fragile ecosystem of the Sacramento-San Joaquin Bay Delta. A substantial portion of the County lies within the statutory Delta, including part of the City of West Sacramento and the unincorporated community of Clarksburg. The Delta is vital to the County's economy, communities, farms and wildlife. It provides surface water for municipal and agricultural uses throughout the County, supports diverse recreational uses and facilities (including the 17,000-acre Yolo Bypass Wildlife Area), and sustains a vast overwintering population of migratory waterfowl and numerous other terrestrial and aquatic species, some of which are threatened or endangered. As is well known, however, the natural resources of the Delta have been taxed to the breaking point and it is generally considered an ecosystem in a state of collapse.


Over the course of several decades, the Legislature has engaged in extensive efforts to avert—and more recently, reverse—the collapse of the Delta ecosystem. Its efforts include the Delta Protection Act (1959), a later enactment of the same name Delta Protection Act (1992), Water Code Section 12980 *et seq.* (1973) (relating to levee maintenance), the California Watershed Protection and Restoration Act (2003), and the Delta Reform Act (2009). The Delta Reform Act of 2009 is especially significant to the context of this case, as sets forth the coequal goals of "providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem." (Water Code § 85054.) Fundamental to the coequal goals is the Legislature's pronouncement that "[t]he policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency." (Water Code § 85021, emphasis added.)

Together with the constitutional dictate that water resources shall be put “to beneficial use to the fullest extent of which they are capable” (Cal. Const. art. X, § 2) and the so-called “wheeling statutes” that facilitate transfers between agencies (Water Code § 1810 *et seq.*), the Delta Reform Act and related authorities are central to the legal and policy context of the fee dispute between the San Diego County Water Authority (“SDCWA”) and the Metropolitan Water District (“MWD”). The context of Delta’s ecological crisis and the Legislature’s ongoing ameliorative efforts, however, is missing from the Court of Appeal’s analysis in the underlying decision. This omission is significant, as it thwarts a full understanding of the laws central to the fee dispute and the statewide significance of the issues presented.

On these grounds, the County supports SDCWA’s request for review. MWD has long been a state leader among local water agencies for its dedication to innovative and laudable water conservation efforts. Nonetheless, the County understands that the MWD “transportation-only” rates challenged in this action are require SDCWA to pay nearly twice as much to supply its customers with water conveyed between local agencies within the immediate region as to purchase water conveyed from the failing Delta ecosystem. Such prohibitive pricing will deter others from complying with the legislative mandate to reduce reliance on the Delta through investments in vital local and regional water supply projects, such as SDCWA’s multi-billion-dollar investment in water conservation. Put simply, the decision undercuts the state’s policy of reduced reliance on the Delta because any responsible water agency will acquire the least expensive water available for its customers, even if that water supply is obtained in conflict with objective of “protecting, restoring, and enhancing the Delta ecosystem.”

Thank you for considering the points expressed in this letter.

Respectfully submitted,


Philip J. Pogledich
County Counsel

cc: Please see attached service list

PROOF OF SERVICE

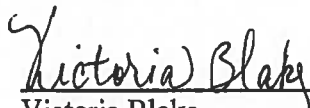
I hereby certify that I am employed in the County of Yolo, State of California; I am over the age of eighteen years, a resident of the State of California, and I am not a party to the within entitled action. My business address is Office of the County Counsel, 625 Court Street, Room 201, Woodland, California 95695. On the date indicated below, I served a true copy of the following document(s) on the attorney(s) and/or parties listed below in the attached **SERVICE LIST**:

AMICUS CURIAE LETTER OF THE COUNTY OF YOLO IN SUPPORT OF PETITION FOR REVIEW

- FAX - by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list
- MAIL - I am readily familiar with the County of Yolo's practice for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, the envelope would be deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.
- OVERNIGHT DELIVERY - by placing a true copy thereof enclosed in a sealed envelope or package designated by the express service carrier in the Office of the Yolo County Counsel's outgoing mailbox for collection and mailing following ordinary business practices by county mail carriers. I am readily familiar with the County of Yolo's practice for collection and processing of correspondence for mailing with overnight delivery carriers. In accordance with that practice, the notice or other paper would be deposited in a box or other facility regularly maintained by the express service carrier, or delivered to an authorized courier or driver authorized by the express service carrier to receive documents, that same day in the ordinary course of business, with delivery fees paid or provided for.
- TRUEFILING - by causing electronic delivery of the document(s) listed above.
- EMAIL - by causing a true and correct scanned image (.PDF file) copy to be transmitted via the electronic mail transfer system in place at County of Yolo originating from the undersigned at 625 Court Street, Room 201, Woodland, California, to the address(es) indicated below.

ATTORNEYS AND/OR PARTIES SERVED: SEE ATTACHED SERVICE LIST

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Woodland, California, August 31, 2017.



Victoria Blake
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4 **Party in Interest and Appellant**

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