

Further TUCP and False River Barrier Comments

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June 24, 2015

Middle River,
Wing Levee
Road, 2013

**State Water Resources
Control Board**
Sacramento, CA



Tuesday, June 23, 2015

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Good afternoon, Chair Marcus and members of the Board.

I am Tim Stroshane, Policy Analyst with Restore the Delta.

My presentation concerns further TUCP and False River Barrier comments.

I incorporate into my remarks previous protest letters Restore the Delta submitted on February 13, May 5, and June 17.

We plan to submit further protesting objections to the State Water Board by July 6.

Topics

- **Contrary to Law: Delta Reform Act of 2009**
- **Some sections apply to all state agencies.**



Along State Route 4 near
Old River Bridge, 2013.

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My topics today indicate how the TUCP, the Board's orders approving them, and False River barrier violate the Delta Reform Act of 2009.

Some sections of this law apply to all state agencies.

Delta Reform Act of 2009



- **Water Code Sections 85000 et seq.**
- **Foundations of Water Management Policy**
- **Reducing Reliance on Delta Imports**
- **Delta as a Unique Place**

Cornfield, Eight Mile Road, Bishop Tract, June 2015

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The relevant DRA policies include:

Achieving the coequal goals of ecosystem restoration and greater water supply reliability while also protecting the Delta's water quality and its existence as a unique and evolving place.

Reasonable use and public trust doctrines as foundations of state water management policy

Mandate water contractors, and the state and federal governments reduce reliance on Delta imports to meet California's future water needs.

Coequal Goals



Water Code §85054. "Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem.

Foundations



Water Code §85023. The longstanding constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta.

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While flawed grammatically, this policy statement is part of the DRA that applies to all government agencies including DWR, the Bureau as a water right holder, and the State Water Board as regulator of water quality and water rights.

Moreover, its construction connects the reasonable use and public trust doctrine as legal principles relevant to each other, and applicable to the Delta.

Recognition of these relationships has been sorely lacking in state and federal water management, contributing to the Central Valley-wide crisis now at hand.

Foundations



- Reasonable use and public trust doctrines intertwined.
- Is it reasonable to privilege human water demand at the cost of perhaps multiple fish extinctions?
- No assessment of benefits of public trust resources yet performed to balance with human water demand.

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Is it reasonable to privilege human water demand at the cost of perhaps multiple fish extinctions?

No assessment of benefits of public trust resources yet performed to balance with human water demand.

It was largely assumed by the State Water Board that human water demand on these systems trumps ecosystem protection during drought.

This regulatory strategy manages for today, maybe tomorrow, but most definitely not the legacy we leave to future generations.

Reduced Delta Reliance



Water Code §85021. The 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.

Reduced Delta Reliance



Water Code §85021.(cont.) Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.

Reduced Delta Reliance



- No assessment of reasonableness of state and federal water contractor demands pursuant to reduced Delta reliance policy.
- TUCP and False River Barrier contrary to this policy.

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No assessment by any state agency of credible and reasonable water contractor demand for Delta imports has ever been performed.

Demand is typically assumed based on contractual amounts without assessing adjustable factors such as price, technological efficiency measures, and land use considerations.

Demand is thus presumed to be self-evident, and California has failed to implement procedures to systematize reduction of demand for Delta imports.

Moreover, the short-term, desperate measures of the TUCP, Board orders approving them, and installation of the False River barrier plainly violate this policy.

Unique Place & Water Quality



Water Code §85020. The policy of the State of California is to achieve the following objectives that the Legislature declares are inherent in the coequal goals for management of the Delta:

(a) ***Manage the Delta's water and environmental resources and the water resources of the state over the long term.***

(b) ***Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place.***

...

(e) ***Improve water quality*** to protect human health and the environment consistent with achieving water quality objectives in the Delta.

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[SUMMARIZE POLICIES "A", "B" AND "E"]

As Restore the Delta has argued in its protests to the State Water Board this winter and spring, the state and federal projects have been allowed to manage their water systems for short-term goals, not long term viewpoints, as mandated by the DRA of 2009.

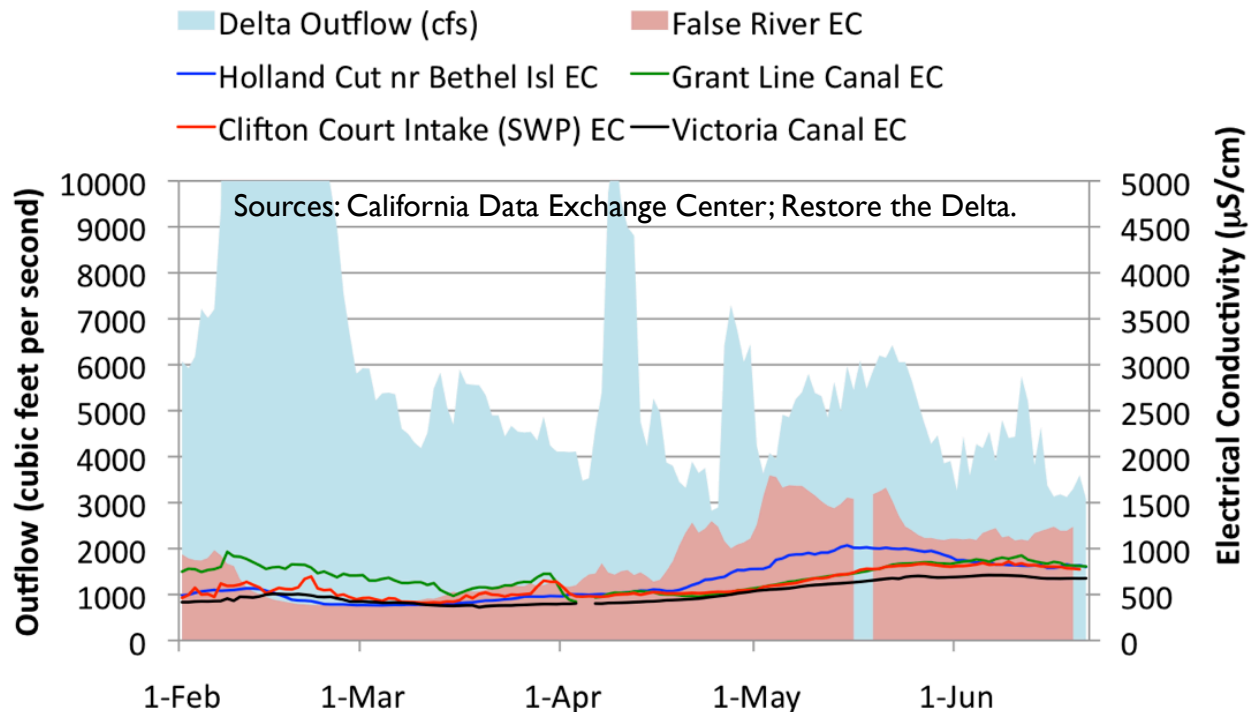
In doing so, it has failed over time to protect and enhance unique cultural, recreational, and agricultural values of the California Delta as an evolving place.

It has also failed to protect water quality, as we shall see in the next couple of slides.

Unique Place & Water Quality



As Delta Outflow Falls and Barrier Installed, Salinity in South Delta Stabilizes to Benefit Exports



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In looking at several salinity stations in the central and south Delta, it is apparent that as Delta outflow has fallen, installation of the False River Barrier has for the time being stabilized salinity in water ways leading directly to Clifton Court Forebay's intake to the State Water Project.

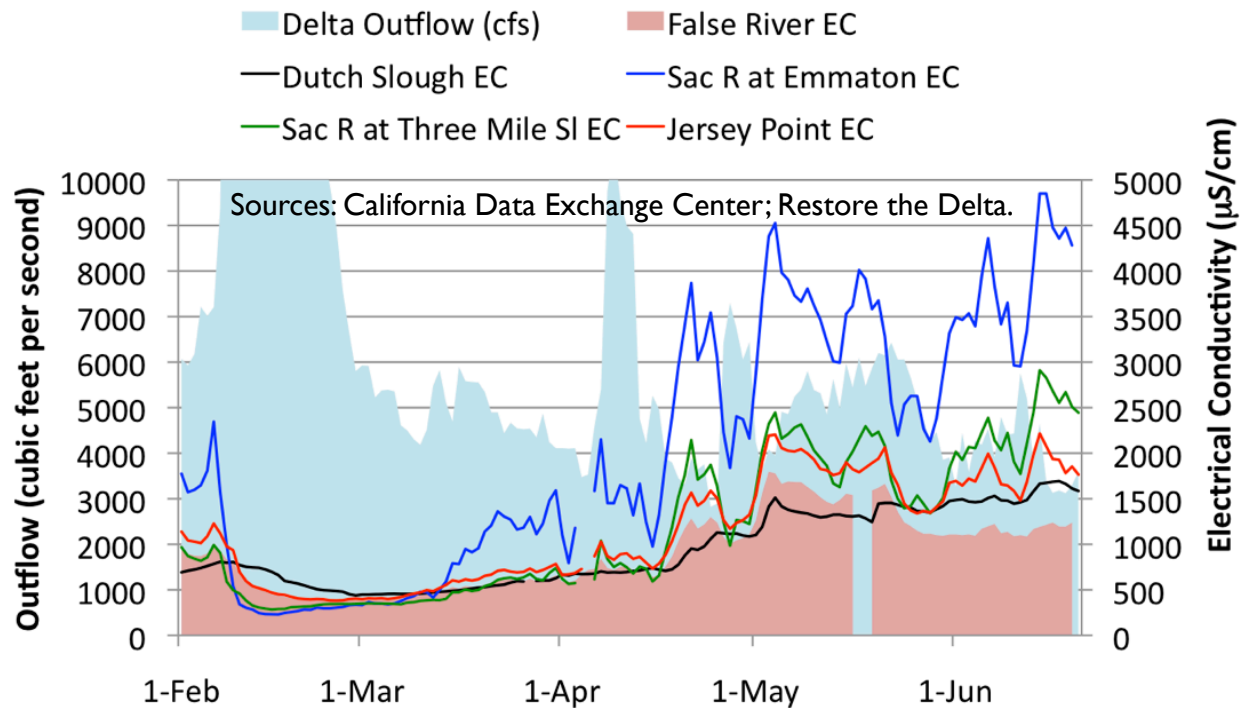
Outflow is the area shown in blue

False River salinity upstream of the barrier is shown in pink.

Unique Place & Water Quality



As Delta Outflow Falls and Barriers Installed, Salinity Rises in Western Delta



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This chart comparing Delta outflow and False River salinity indicates that the Barrier's impact partitions the Delta into areas where water ways have better water quality and some have worse water quality, and the ones with better water quality are those leading to the export pumps.

The state treats the Delta for water quality purposes as a colony, rather than a common pool where all water users should share sacrifice.

Unique Place & Water Quality

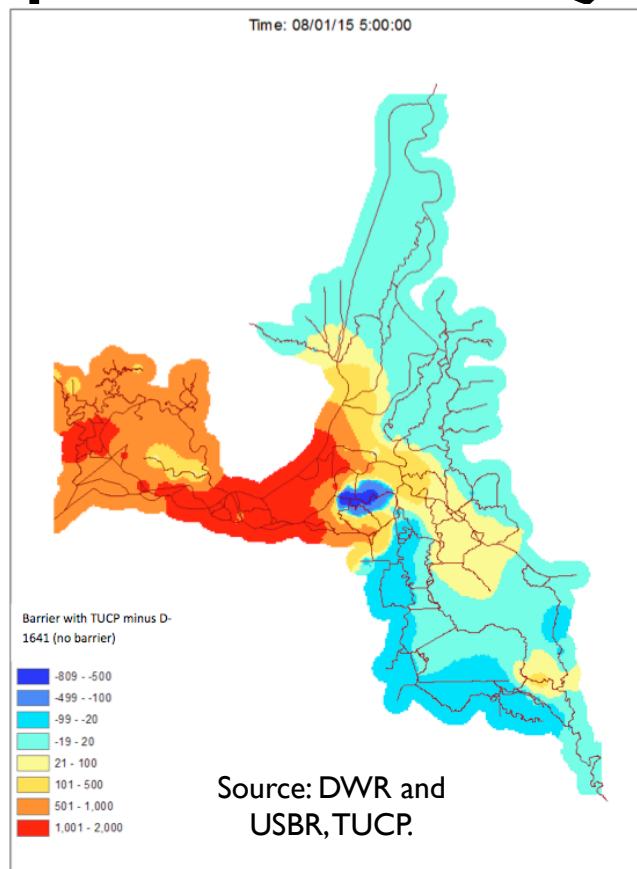


Figure 9: Difference in Salinity - Barrier with TUCP Minus D-1641 (no barrier)

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This water quality map from the temporary urgency change petition summarizes the partitioning of the Delta into regions of poorer and better water quality.

The determining factor is whether the region is along the way to export pumps.

Unique Place & Water Quality



- **Delta is a common pool resource, whether the state likes it or not.**
- **State should partner with Delta residents, not as conquering colonist shredding water quality plans and installing salinity barriers.**

False River Barrier,
June 2015.

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The Delta is a common pool resource whether the state likes it or not.

California will be unable to solve Delta problems until the state drops its colonial attitude and begins implementing the Delta Reform Act of 2009 in good faith.

In the meantime, the state fails to plan for the long term, fails to achieve the coequal goals, fails to protect Delta public trust resources, fails to use and divert water reasonably and not wastefully, and fails to protect Delta water quality and the Delta as a unique and evolving place.

In sum, the Delta Reform Act, when read as a whole, was intended to build a good faith path to peace between the people of the Delta, the rest of the water importers currently relying on the Delta, and the state and federal governments.

It still can be, drought or not.

Delta Reform Act of 2009



Thank You



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