



CENTRAL DELTA WATER AGENCY

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July 26, 1996

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Mr. Lester Snow
CAL/FED Bay-Delta Program
1416 Ninth Street, Suite 1155
Sacramento, California 95814

Re: "Broken Promises"

Dear Les:

Enclosed is a brief outline of issues pertaining to the implementation of the 1995 Water Quality Control Plan to which I have attached copies of the relevant California Water Code sections. Look particularly at Water Code sections 12200, 12201 and 12204 as to the requirement of a "common pool" and the limitation of export water to that which is "surplus". Look also at Water Code section 11460 which establishes the priority for the Delta and other "watersheds of origin".

Also enclosed please find some excerpts of legislative history gathered by the Northern California Water Association. These excerpts reflect the promises made to "Northern California" which are reflected in law. These promises were an essential part of the deal to allow surplus water to move from North to South. We believe that the SWP and CVP and their contractors should live up to their promises.

Hopefully, this information will help you better understand our feelings and positions.

Yours very truly,

DANTE JOHN NOMELLINI
Manager and Co-Counsel

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Enclosure

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G-001064

IMPLEMENTATION OF THE SWRCB 1995 WATER QUALITY CONTROL PLAN

1) The SWP and CVP must bear full responsibility for full mitigation of their impacts including without limitation the impacts from reverse flows, the drainage into the San Joaquin River from the west side of the San Joaquin Valley and damage to spawning areas.

Notes: a) impacts of ship channels are burdens of the State and Federal Government.

b) burden of westside drainage should fall most heavily upon the beneficiaries of the San Luis Unit of the CVP. Unit was not to go forward without a drain.

2) The SWP and CVP must provide adequate salinity control.

Notes: a) WC 12200

b) WC 11207

c) US v. Gerlach Livestock Co., 339 U.S. 725
A. Ivanhoe v. McCracken, 357 U.S. 275

3) The CVPIA burdens are those of the CVP.

4) Preservation of fish and wildlife is responsibility of SWP and CVP with cost to be paid by users. Where possible enhancement must be incorporated with the cost of enhancement attributed to the State General Fund. (WC 11900 et seq.)

5) The SWP and CVP must to the maximum extent possible operate and manage releases from storage into the Delta to maintain an adequate water supply in the Delta sufficient to maintain and expand agriculture, industry, urban and recreational development. (WC 12205)

6) In allocating the burden within the CVP and SWP, the uses within the Delta and other areas and watersheds of origin must be accorded priority over exports. (WC 10505 et seq., 11460 et seq., 12200 et seq.)

7) The remaining burden which would appear to be in the tributaries above the Delta is allocable among the other water uses in accordance with water right priorities. The burden for bypass flows and other fish and wildlife requirements applicable under law to the various impoundments should not be shifted to other water users. Exporters other than the CVP and SWP must yield priority to the users within the Delta and other areas and watersheds of origin (see WC section 1215, et seq.).

8) To the extent that a water user within the Delta and the other areas and watersheds of origin is required to yield water which can be replaced with CVP or SWP water, then the CVP or SWP water should be burdened provided that if the water is not unregulated flow or bypassed natural flow, or return flow from upstream use, or physical solution water, and is truly "stored water", then a requirement of a contract or other mechanism for reasonable payment for the storage benefit may be appropriate. (WC 11460 et seq., 12200 et seq.)

§ 10505. Restrictions on release or assignment

No priority under this part shall be released nor assignment made of any application that will, in the judgment of the board, deprive the county in which the water covered by the application originates of any such water necessary for the development of the county.

(Added by Stats.1943, c. 370, p. 1896. Amended by Stats.1957, c. 1932, p. 3405, § 257; Stats.1959, c. 2101, p. 4872, § 4; Stats.1965, c. 989, p. 2618, § 5.)

§ 10505.5. Territorial restrictions on use

Every application heretofore or hereafter made and filed pursuant to Section 10500, and held by the State Water Resources Control Board, shall be amended to provide, and any permit hereafter issued pursuant to such an application, and any license issued pursuant to such a permit, shall provide, that the application, permit, or license shall not authorize the use of any water outside of the county of origin which is necessary for the development of the county.

(Added by Stats.1969, c. 1359, p. 2747, § 3.)

§ 11207. Primary purposes

Shasta Dam shall be constructed and used primarily for the following purposes:

- (a) Improvement of navigation on the Sacramento River to Red Bluff.
- (b) Increasing flood protection in the Sacramento Valley.
- (c) Salinity control in the Sacramento-San Joaquin Delta.
- (d) Storage and stabilization of the water supply of the Sacramento River for irrigation and domestic use.

(Added by Stats.1943, c. 370, p. 1896.)

Historical and Statutory Notes

Derivation: Stats.1933, c. 1042, p. 2644, § 4; 107, p. 1134, § 5; Stats.1941, c. 701, p. 2215, Stats.1937, c. 920, p. 2534, § 2; Stats.1941, c. § 1.

§ 11208. Secondary purposes

Shasta Dam shall be constructed and used secondarily for the generation of electric power and other beneficial uses.

(Added by Stats.1943, c. 370, p. 1896.)

§ 11128. Limitations

The limitations prescribed in Section 11460 and 11463 shall also apply to any agency of the State or Federal Government which shall undertake the construction or operation of the project, or any unit thereof, including, besides those specifically described, additional units which are consistent with and which may be constructed, maintained, and operated as a part of the project and in furtherance of the single object contemplated by this part. (Added by Stats.1951, c. 1325, p. 3216, § 1.)

§ 11460. Prior right to watershed water

In the construction and operation by the department of any project under the provisions of this part a watershed or area wherein water originates, or an area immediately adjacent thereto which can conveniently be supplied with water therefrom, shall not be deprived by the department directly or indirectly of the prior right to all of the water reasonably required to adequately supply the beneficial needs of the watershed, area, or any of the inhabitants or property owners therein.

(Added by Stats.1943, c. 370, p. 1896. Amended by Stats.1957, c. 1932, p. 3410, § 296.)

§ 11461. Purchase of watershed water rights

In no other way than by purchase or otherwise as provided in this part shall water rights of a watershed, area, or the inhabitants be impaired or curtailed by the department, but the provisions of this article shall be strictly limited to the acts and proceedings of the department, as such, and shall not apply to any persons or state agencies.

(Added by Stats.1943, c. 370, p. 1896. Amended by Stats.1957, c. 1932, p. 3410, § 297.)

§ 11462. Creation of new property rights

The provisions of this article shall not be so construed as to create any new property rights other than against the department as provided in this part or to require the department to furnish to any person without adequate compensation therefor any water made available by the construction of any works by the department.

(Added by Stats.1943, c. 370, p. 1896. Amended by Stats.1957, c. 1932, p. 3410, § 298.)

§ 11463. Exchange of watershed water

In the construction and operation by the department of any project under the provisions of this part, no exchange of the water of any watershed or area for the water of any other watershed or area may be made by the department unless the water requirements of the watershed or area in which the exchange is made are first and at all times met and satisfied to the extent that the requirements would have been met were the exchange not made, and no right to the use of water shall be gained or lost by reason of any such exchange.

(Added by Stats.1943, c. 370, p. 1896. Amended by Stats.1957, c. 1932, p. 3411, § 299.)

§ 11900. Legislation findings; declaration of policy

The Legislature finds and declares it to be necessary for the general public health and welfare that preservation of fish and wildlife be provided for in connection with the construction of state water projects.

The Legislature further finds and declares it to be necessary for the general public health and welfare that facilities for the storage, conservation or regulation of water be constructed in a manner consistent with the full utilization of their potential for the enhancement of fish and wildlife and to meet recreational needs; and further finds and declares that the providing for the enhancement of fish and wildlife and for recreation in connection with water storage, conservation, or regulation facilities benefits all of the people of California and that the project construction costs attributable to such enhancement of fish and wildlife and recreation features should be borne by them.

The Legislature further finds and declares it to be the policy of this State that recreation and the enhancement of fish and wildlife resources are among the purposes of state water projects; that the acquisition of real property for such purposes be planned and initiated concurrently with and as a part of the land acquisition program for other purposes of state water projects; and that facilities for such purposes be ready and available for public use when each state water project having a potential for such uses is completed.

(Added by Stats.1961, c. 867, p. 2274, § 1.)

§ 11905. Provisions of chapter

The provision of this chapter shall apply to the Central Valley Project and every other project constructed by the State itself or by the State in cooperation with the United States, including, but not limited to, the State Water Resources Development System.

(Added by Stats.1961, c. 867, p. 2275, § 1.)

§ 11912. Costs

The department, in fixing and establishing prices, rates, and charges for water and power, shall include as a reimbursable cost of any state water project an amount sufficient to repay all costs incurred by the department, directly or by contract with other agencies, for the preservation of fish and wildlife and determined to be allocable to the costs of the project works constructed for the development of such water and power, or either. Costs incurred for the enhancement of fish and wildlife or for the development of public recreation shall not be included in the prices, rates, and charges for water and power, and shall be nonreimbursable costs.

It shall be the duty of the department to report annually to the Legislature the costs, if any, which the department has allocated to recreation and fish and wildlife enhancement for each facility of any state water project. The department shall also report to the Legislature any revisions which the department makes in such allocations.

The department shall submit each such cost allocation to the Department of * * * Boating and Waterways, the Department of Parks and Recreation, and * * * the Department of Fish and Game. The Department of * * * Boating and Waterways, the Department of Parks and Recreation, and the Department of Fish and Game shall file with the Department of Water Resources their written comments with respect to each such cost allocation, which written comments shall be included in the report required by this section.

The allocations or revised allocations reported to the Legislature shall become effective for the purposes of Section 11915 upon approval by the Legislature.

It shall also be the duty of the department to report to the Legislature on any expenditure of funds for acquiring rights-of-way, easements, and property pursuant to Section 346 for recreation development associated with such facilities. For the purposes of Section 11915, such expenditures shall become approved in the same manner as provided above with respect to cost allocations.

(Amended by Stats.1992, c. 427 (A.B.3355), § 173.)

Part 4.5

SACRAMENTO-SAN JOAQUIN DELTA

| Chapter | Section |
|--|---------|
| 1. General Policy | 12200 |
| 2. The Delta | 12220 |
| 3. Sacramento-San Joaquin Delta Levees | 12225 |

Part 4.5 was added by Stats.1959, c. 1766, p. 4247, § 1.

Cross References

Fish and wildlife and recreation in connection with state water projects, see § 11900 et seq.

Chapter 1

GENERAL POLICY

Section

- 12200. Legislative findings and declaration.
- 12201. Necessity of maintenance of water supply.
- 12202. Salinity control and adequate water supply; substitute water supply; delivery.
- 12203. Diversion of waters from channels of delta.
- 12204. Exportation of water from delta.
- 12205. Storage of water; integration of operation and management of release of water.

Chapter 1 was added by Stats.1959, c. 1766, p. 4247, § 1.

Law Review Commentaries

Delta preservation or delta ripoff. Gregory
K. Wilkinson (1977) 53 Los Angeles Bar J. 152.

Library References

Electric power and development of Northern California. Reports of Assembly Interim Committee on Conservation. Planning, and Public Works, 1955-1957, vol. 13, No. 18. Vol. 2 of Appendix to Journal of the Assembly, Reg.Sess., 1957.

§ 12200. Legislative findings and declaration

The Legislature hereby finds that the water problems of the Sacramento-San Joaquin Delta are unique within the State; the Sacramento and San Joaquin Rivers join at the Sacramento-San Joaquin Delta to discharge their fresh water flows into Suisun, San Pablo and San Francisco Bays and thence into the Pacific Ocean; the merging of fresh water with saline bay waters and drainage waters and the withdrawal of fresh water for beneficial uses creates an acute problem of salinity intrusion into the vast network of channels and sloughs of the Delta; the State Water Resources Development System has as one of its objectives the transfer of waters from water-surplus areas in the Sacramento Valley and the north coastal area to water-deficient areas to the south and west of the Sacramento-San Joaquin Delta via the Delta; water surplus to the needs of the areas in which it originates is gathered in the Delta and thereby provides a common source of fresh water supply for water-deficient areas. It is, therefore, hereby declared that a general law cannot be made applicable to said Delta and that the enactment of this law is necessary for the protection, conservation, development, control and use of the waters in the Delta for the public good.

(Added by Stats.1959, c. 1766, p. 4247, § 1.)

§ 12201. Necessity of maintenance of water supply

The Legislature finds that the maintenance of an adequate water supply in the Delta sufficient to maintain and expand agriculture, industry, urban, and recreational development in the Delta area as set forth in Section 12220, Chapter 2, of this part, and to provide a common source of fresh water for export to areas of water deficiency is necessary to the peace, health, safety and welfare of the people of the State, except that delivery of such water shall be subject to the provisions of Section 10505 and Sections 11460 to 11463, inclusive, of this code.

(Added by Stats.1959, c. 1766, p. 4247, § 1.)

§ 12202. Salinity control and adequate water supply; substitute water supply; delivery

Among the functions to be provided by the State Water Resources Development System, in coordination with the activities of the United States in providing salinity control for the Delta through operation of the Federal Central Valley Project, shall be the provision of salinity control and an adequate water supply for the users of water in the Sacramento-San Joaquin Delta. If it is determined to be in the public interest to provide a substitute water supply to the users in said Delta in lieu of that which would be provided as a result of salinity control no added financial burden shall be placed upon said Delta water users solely by virtue of such substitution. Delivery of said substitute water supply shall be subject to the provisions of Section 10505 and Sections 11460 to 11463, inclusive, of this code.

(Added by Stats.1959, c. 1766, p. 4247, § 1.)

§ 12203. Diversion of waters from channels of delta

It is hereby declared to be the policy of the State that no person, corporation or public or private agency or the State or the United States should divert water from the channels of the Sacramento-San Joaquin Delta to which the users within said Delta are entitled.

(Added by Stats.1959, c. 1766, p. 4249, § 1.)

§ 12204. Exportation of water from delta

In determining the availability of water for export from the Sacramento-San Joaquin Delta no water shall be exported which is necessary to meet the requirements of Sections 12202 and 12203 of this chapter.

(Added by Stats.1959, c. 1766, p. 4249, § 1.)

§ 12205. Storage of water; integration of operation and management of release of water

It is the policy of the State that the operation and management of releases from storage into the Sacramento-San Joaquin Delta of water for use outside the area in which such water originates shall be integrated to the maximum extent possible in order to permit the fulfillment of the objectives of this part.

(Added by Stats.1959, c. 1766, p. 4249, § 1.)

§ 12230. Legislative findings and declaration

The Legislature hereby finds and declares that a serious problem of water quality exists in the San Joaquin River between the junction of the San Joaquin River and the Merced River and the junction of the San Joaquin River with Middle River; that by virtue of the nature and causes of the problem and its effect upon water supplies in the Sacramento-San Joaquin Delta, it is a matter of statewide interest and is the responsibility of the State to determine an equitable and feasible solution to this problem.

(Added by Stats.1961, c. 1454, p. 3300, § 1.)

Library References

Waters and Water Courses ⇐196.
WESTLAW Topic No. 405.
C.J.S. Waters §§ 232, 269.

§ 12231. State policy; diversion of water from San Joaquin River and tributaries

It is hereby declared to be the policy of the State that no person, corporation or public or private agency or the State or the United States should divert water from the San Joaquin River and its tributaries to which the users along the portion of the San Joaquin River described in Section 12230 are entitled.

(Added by Stats.1961, c. 1454, p. 3300, § 1.)

§ 12232. Duty of state agencies not to cause degradation of quality of water

The State Water Resources Control Board, the State Department of Water Resources, the California Water Commission, and any other agency of the state having jurisdiction, shall do nothing, in connection with their responsibilities, to cause further significant degradation of the quality of water in that portion of the San Joaquin River between the points specified in Section 12230.

(Added by Stats.1961, c. 1454, p. 3300, § 1. Amended by Stats.1967, c. 284, p. 1448, § 136.5, operative Dec. 1, 1967.)

Historical and Statutory Notes

Operative date of Stats.1967, c. 284, see Historical and Statutory Notes under § 10500.

§ 12233. Construction of part

Nothing in this part shall be construed as affecting the quality of water diverted into the Sacramento-San Joaquin Delta from the Sacramento River, nor as affecting any vested right to the use of water, regardless of origin, or any water project for which an application to appropriate water was filed with the State Water Resources Control Board prior to June 17, 1961.

(Added by Stats.1961, c. 1454, p. 3300, § 1. Amended by Stats.1967, c. 284, p. 1449, § 136.6, operative Dec. 1, 1967.)

BASES FOR DETERMINING SPECIFIC LEGISLATIVE AUTHORITIES

The San Luis Act of June 3, 1960, Public Law 86-488, 74 Stat. 156, provides authority for the construction of the San Luis Unit of the Central Valley project. It states in section 1 that the Secretary of the Interior:

"... is authorized to construct, operate, and maintain the San Luis unit as an integral part of the Central Valley project. The principal engineering features of said unit shall be a dam and reservoir at or near the San Luis site, a forebay and afterbay, the San Luis Canal, the Pleasant Valley Canal, and necessary pumping plants, distribution systems, drains, channels, levees, floodworks, and related facilities. . . ."

Section 1 of the Act also states that:

"Construction of the San Luis unit shall not be commenced until the Secretary has . . . received satisfactory assurance from the State of California that it will make provision for a master drainage outlet and disposal channel for the San Joaquin Valley, as generally outlined in the California water plan, Bulletin Numbered 3, of the California Department of Water Resources, which will adequately serve, by connection therewith, the drainage system for the San Luis unit, or has made provision for constructing the San Luis interceptor drain to the delta designed to meet the drainage requirements of the San Luis unit as generally outlined in the report of the Department of the Interior, entitled 'San Luis Unit Central Valley Project,' dated December 17, 1956."

Section 8 of the Act states that there is:

"... authorized to be appropriated for construction of the works of the San Luis unit, including joint-use facilities, authorized by this Act, other than distribution systems and drains, the sum of \$290,430,000, plus such additional amount, if any, as may be required by reason of changes in costs of construction of the types involved in the San Luis unit as shown by engineering indexes. . . . There are also authorized to be appropriated, in addition thereto, such amounts as are required (a) for construction of such distribution systems and drains as are not constructed by local interests, but not to exceed in total cost the sum of \$192,650,000. . . ."

Section 8 of the Act also requires that the contract for the construction of distribution systems and drains shall provide "for complete

repayment of the distribution systems and drains within a period of forty years from the date such works are placed in service."

When a law is in some respect unclear, it is necessary to examine its legislative history for guidance as to congressional intent. This includes congressional committee reports, committee hearings, and floor debates in each House of the Congress. Where an administrative report is considered by the Congress in its deliberations on proposed legislation, it may be used to reveal the meaning of the provisions or terms in question.

A "Report On The Feasibility Of Water Supply Development, San Luis Unit, Central Valley Project, California," was prepared by the Regional Director, Sacramento Region, and transmitted to the Commissioner of Reclamation on May 6, 1955. This report provided a description of the basic project plan as conceived by the Bureau and demonstrates its engineering and economic feasibility.

The introduction to the report states as follows:

"1. This report . . . on a proposed San Luis Unit of the Central Valley Project, California, outlines a plan to provide supplemental irrigation water to an area of about 496,000 acres on the west side of the San Joaquin Valley in California plus a small amount of municipal water for nearby communities. Water supply facilities proposed in the report would serve to supplement and improve an existing supply obtained from ground-water sources that are being extensively overdrawn. The project works, additions to the Central Valley Project, involving an estimated Federal cost of \$229,143,000. This report demonstrates that the proposed development has engineering and economic feasibility and that the costs of the Unit, operated as an integral part of the Central Valley Project, can be recovered in accordance with the Federal Reclamation law. Under certain conditions, the report recommends authorization and construction of the Unit."

The Congress was furnished with a report by the Secretary of the Interior on December 17, 1956. This report, including the Feasibility Report and the Secretary's report to the President dated August 1, 1956, was considered in deliberations which led to the enactment of the San Luis Act (H.R. Report No. 399, 86th Cong., 1st Sess. 4 [1959]). Accordingly, characterizations and descriptions contained in the Feasibility Report and the report to the President may

Attachment B

Narrative Criteria for Chinook Salmon on the Sacramento and San Joaquin Rivers

Water quality conditions shall be maintained, together with other measures in the watershed, sufficient to achieve a doubling of production of chinook salmon, consistent with the mandates of State and Federal law.

Implementation Measures - San Joaquin River System

1. Not later than three years following adoption of this Plan, the SWRCB shall assign responsibility for the following flows, together with other measures in the watershed sufficient to meet the narrative criteria, in the San Joaquin River at Vernalis among the water right holders in the watershed. During this three-year period, the Bureau of Reclamation shall provide these flows, in accordance with the biological opinion for Delta smelt. These flows are interim flows and will be reevaluated as to timing and magnitude (up or down) within the next 3 years.

| <u>Feb-June Flows (cfs)*</u> | <u>April-May pulse flows (cfs)*</u> |
|------------------------------|-------------------------------------|
| C 710-1140 | 3110-3540 |
| D 1420-2280 | 4020-4880 |
| BN 1420-2280 | 4620-5480 |
| AN 2130-3420 | 5730-7020 |
| W 2130-3420 | 7330-8620 |

*higher flows provided when the 2 ppt isohaline (x2) is west of Chipps Island.

2. Install a barrier at the head of Old River during the April-May pulse flows.
3. During the 3-year period, decisions by the Federal Energy Regulatory Commission (FERC) or other regulatory orders may increase the contribution from other upstream water users into the Estuary. These additional flows will benefit the Delta resources. These flows will be recognized by ClubFED in its calculation of flows available to the Delta and be considered by the SWRCB in its assignment of responsibility among the water rights holders in the watershed during its water rights proceeding.

The SWRCB will initiate a water rights proceeding to assign responsibility for meeting these flow requirements. Actions of the NMFS and FWS in the FERC proceedings will be in furtherance of their authority and responsibility under the ESA. Such actions shall not be intended to assume the responsibility of the SWRCB to assign responsibility for meeting water quality standards in the Delta.

Sacramento River System - Additional Measures

Close the Delta Cross Channel gates from February-May 20, and during half of the period from May 20-June 15.

§ 1215. Application of article; exporters of water from protected area

This article shall only apply to a water supplier exporting or intending to export water for use outside a protected area pursuant to applications to appropriate surface water filed, or groundwater appropriations initiated, after January 1, 1985, that are not subject to Section 11460.

(Added by Stats.1984, c. 1655, § 2.)

§ 1215.5. "Protected area" defined

(a) For the purposes of this article, "protected area", means all of lands which normally drain to the ocean, to a hydraulic sink, or to another state within any of the following, and only the following, river systems:

- (1) The Sacramento River System.
- (2) The Mokelumne River System.
- (3) The Calaveras River System.
- (4) The San Joaquin River System.
- (5) The Mono Lake System.
- (6) The combined Truckee, Walker, and Carson River Systems.
- (7) The combined river systems which drain to the ocean from and including the Russian River System northward to the California-Oregon border.

(b) The confluences of the Sacramento, Mokelumne, Calaveras, and San Joaquin River Systems are within the delta, as defined in Section 12220, and the delta shall be considered to be within each of these protected areas.

(Added by Stats.1984, c. 1655, § 2.)

Library References

Words and Phrases (Perm.Ed.)

§ 1215.6. "Water user or users" defined

For the purposes of this article, "water user or users" within a protected area means an appropriator or appropriators, a riparian user or users, or a groundwater user or users of water on land owned or controlled by them within a protected area.

(Added by Stats.1984, c. 1655, § 2.)

Library References

Words and Phrases (Perm.Ed.)

§ 1216. Depriving protected area of adequate supplies of water prohibited

A protected area shall not be deprived directly or indirectly of the prior right to all the water reasonably required to adequately supply the beneficial needs of the protected area, or any of the inhabitants or property owners therein, by a water supplier exporting or intending to export water for use outside a protected area pursuant to applications to appropriate surface water filed, or groundwater appropriations initiated, after January 1, 1985, that are not subject to Section 11460.

(Added by Stats.1984, c. 1655, § 2.)

§ 1217. Water users' right to purchase water from exporters; contract meetings and negotiations; actions

(a) In addition to the right to obtain a water right which would have priority over the rights of an exporter, water users in a protected area shall have the right to purchase, for adequate compensation, water made available by the construction of any works by a water supplier exporting or intending to export water for use outside the protected area. Nothing in this section shall be construed to authorize export of water from a protected area to which users within the protected area are otherwise entitled, nor to require users within a protected area to pay for water to which they are otherwise entitled.

(b) At the request of a water user or users within a protected area, a water supplier exporting or intending to export water for use outside the protected area who is subject to Section 1216 shall meet and negotiate in good faith for the purpose of entering into contracts for the purchase of water as provided in subdivision (a).

Additions or changes indicated by underline; deletions by asterisks * * *

(c) Any water user or users in a protected area may bring an action in the superior court to require compliance with the duty to meet and negotiate in good faith pursuant to this section. The court may issue a temporary restraining order, preliminary injunction, or permanent injunction, as appropriate, to secure compliance with this section.

(d) The meetings and negotiations required by this section may occur between the water supplier exporting water for use outside a protected area and any water user or users in a protected area, as determined appropriate by the parties. The meetings and negotiations shall not be subject to the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code or Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code.

(e) Nothing in this section shall be construed as a limitation on the authority of the board to establish water quality standards or to subject water right entitlements to terms and conditions for the protection of reasonable and beneficial uses consistent with the provisions of Section 2 of Article X of the California Constitution.

(Added by Stats.1984, c. 1655, § 2.)

§ 1218. Estimate of amount of water to be purchased

Upon the request of an applicant for a permit to appropriate water for use outside a protected area, a county of origin shall cooperate with the applicant in estimating the amount of water that may be purchased within the county pursuant to subdivision (a) of Section 1217 and that may be developed or used within the county impacting the proposed project, including an estimated time schedule.

The purpose of this section is to assist the applicant in planning the export project and to assist the counties of origin in their water planning.

(Added by Stats.1984, c. 1655, § 2.)

§ 1219. Mediation

A water supplier exporting or intending to export water outside a protected area, or a water user or users within a protected area, may declare that an impasse has been reached between the parties in negotiations over matters within the scope of negotiations specified in Section 1217 and may request the director to appoint a panel of five disinterested persons from whom the parties shall select, by a process of elimination, the mediator. After drawing lots to determine the order, the parties shall each, in turn, eliminate a name from the panel until there is only one person remaining on the panel, who shall be the mediator. The mediator shall meet forthwith with the parties or their representatives, either jointly or separately, and shall take such other steps as the mediator may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement. The services of the mediator, including any per diem fees, and actual and necessary travel and subsistence expenses, shall be provided by the parties. Nothing in this section shall be construed to prevent the parties from mutually agreeing upon their own mediation procedure, and in the event of such agreement, the director shall not appoint a mediator.

(Added by Stats.1984, c. 1655, § 2.)

§ 1219.5. Compensation of exporter for water

The provisions of this article shall not require any water supplier exporting or intending to export water for use outside a protected area to furnish to any water user or users in a protected area claiming rights under this article, without adequate compensation therefor, any water made available for domestic, municipal, industrial, or agricultural uses by the construction of any works by the water exporter.

(Added by Stats.1984, c. 1655, § 2.)

§ 1220. Pumping groundwater from combined Sacramento and Delta-Central Sierra Basins

(a) No groundwater shall be pumped for export from within the combined Sacramento and Delta-Central Sierra Basins, as defined in Department of Water Resources' Bulletin 160-74, unless the pumping is in compliance with a groundwater management plan that is adopted by ordinance pursuant to subdivision (b) by the county board of supervisors, in full consultation with affected water districts, and that is subsequently approved by a vote in the counties or portions of counties that overlie the groundwater basin except that water that has seeped into the underground from any reservoir, afterbay, or other facility of an export project may be returned to the water supply of the export project. For the purposes of this section, the county board of supervisors may designate a county water agency to act on its behalf if the directors of the county water agency are publicly elected and the county water agency encompasses the entire county. The county board of supervisors may revoke that designation by resolution at any time.

(b) Notwithstanding any other provision of law, a county board of supervisors whose county contains part of the combined Sacramento and Delta-Central Sierra Basins may adopt groundwater management plans to implement the purposes of this section.

(c) A county board of supervisors shall not exercise the powers authorized by this section within the boundaries of another local agency supplying water to that area without the prior agreement of the governing body of that other local agency.

(Added by Stats.1984, c. 1655, § 2.)

§ 1221. Groundwater regulation; construction of article

This article shall not be construed to authorize the board to regulate groundwater in any manner.

(Added by Stats.1984, c. 1655, § 2.)

§ 1222. Watersheds; construction of article

Nothing in this article shall be deemed to diminish the rights and protections to watersheds of origin contained in existing law including, but not limited to, Part 4.5 (commencing with Section 12200) of Division 6.

(Added by Stats.1984, c. 1655, § 2.)