

Constitutional and Statutory Protections Designed to Support Consensus on Future California Water Development

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Legislature and Bond Act

- Legislature acting on bond measure without substantive protections is a mistake.
 - Two Reasons:
 - Policy protections for State's water resources must precede or accompany any request for popular vote.
 - The existing text of SB X2-3 contains selective but incomplete policy.

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California in the 1920s

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- California Supreme Court ruling in *Herminghaus v. Southern California Edison Co.* (1926) 200 Cal. 81
 - Venerated riparian rights over all appropriative uses.
 - Reaction produced constitutional amendment adopted in 1928, which forms our bedrock mandate for reasonable and beneficial use. (Art. X, § 2)

California now at a new crossroad paralleling 1928

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- Excesses have placed our ecosystems and water reliability at great risk.
- We are witnessing “the end of California water”: Delta, Colorado, Eastern Sierra.
- Climate change imposes a transcendental constraint.
- Certain measures should be considered for public debate as part of bond act.

Measures to be considered:

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- #1

- Adoption into the Constitution of the public trust doctrine.

Measures to be considered:

- #2

- Adoption into the Constitution of the watershed of origin doctrine.

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- #3

- Establishment into the Constitution of the State Water Resources Control Board as a constitutional agency on par with the Public Utilities Commission.

Measures to be considered:

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- #4

- Confirmation by statute or resolution that SWP contract articles 18(1) and 18(b) be reinstated to conform distributions to environmental realities.

Measures to be considered:

- #5

- To ensure judicial review of water resource determinations, any party claiming an interest can intervene in litigation, but not force its dismissal.

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Owens River, 93 years on (1913-2006)

