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POLITICS AND WATER: THE REFERENDUM ON SB 200

By Eugene C. Lee

"California is on the operating table. The patient is dehydrated; circulation to its lower extremities is seriously impaired. The treatment team has elected to perform a delicate bit of vascular surgery, a daring, imaginative, expensive procedure. A new vessel is to be implanted, a synthetic conduit that will bypass the tangle of natural vessels around the patient's heart and carry the vital fluid from the blood-rich head and upper torso directly to the thirsty lap. A bold maneuver. The consent to surgery is signed. The patient is prepped, and draped, and "out." The scalpel is raised, but a dissenting member of the treatment team breaks the cool, technological silence of the operating room.

"Can we be sure? Do we really know enough to go through with it?"

In June, voters will decide California's fate. Before them will be the decision to implement or rescind the "consent" to surgery: Proposition 9."

So suggested Timothy Pfaff in a recent article. His dramatic medical analogy stimulates the imagination. One of my colleagues suggests that California is suffering a bad case of hydrochondria! Indeed, we could devote the rest of these remarks to discussing additional diagnoses and possible cures to overcome California's water ills. Even if the operation is successful, a southern specialist cries out, there may not be enough fluids to go round. Nonsense, replies a northern nutritionist, if only the patient was to adopt a sensible diet, there would be no problem. All of the consultants agree that the patient has been in and out of the hospital many times, that the issue is not life or death but achieving physical fitness--a healthy body at a cost the patient can afford.

The patient is the people of California. They will make the decision on both the diagnosis and treatment. For the second time since 1960, they will vote on a major issue of water policy. How did this happen? Why is this complicated and costly public works project--the Peripheral Canal--on the ballot? What's going on?

The immediate ancestor of SB 200 was SB 346 in 1977. The failure of that bill nearly five years ago instructs us as to the issues and actors in the water politics drama in which we now find ourselves.

Governor Jerry Brown characterized the bill, which he favored, as a "fragile compromise." Senator Peter Behr of Marin called the coalition favoring the bill--composed of conservation, labor, farm and northern and southern water interests, "the largest congeries of former enemies in the history of the world." Whatever the case, the very amendments necessary for Assembly passage resulted in a fall-off in Senate support. One Senator stated, "There are so many conditions that must be met before the Canal can be built that we'll never get it." The bill failed. "We are running out of both water and time," the Los Angeles Times editorialized five years ago. "...California must either build or accept the inevitability of grave social and economic dislocation." (9/9/77)

In 1978, the whole issue was deferred until after the November elections. "...Nothing is being done to push the measure," the Times lamented, suggesting that Republicans would not be likely to present the governor with a major achievement in an election year. The basic differences holding up the peripheral canal are over "how to apportion the water and how to assess the costs," the Times stated, but then added, in what in retrospect seems a remarkable and un-Times-like statement, these "are not political questions." (3/30/78) Nothing, of course, could be farther from the truth. The apportionment and cost of water are at the very heart of politics, as subsequent events have clearly demonstrated.

A year and a half later, with legislation still stalemated, the Times stressed the concept of linkage: "...the best policy for California is one that encourages conservation, that promotes the use of reclaimed water for agriculture...The Assembly bill (442) would link the canal with the beginnings of controls on the use of groundwater...(This) is the right approach." (12/27/79)

But linkage was not to be. Forces opposing groundwater control were adamant in their opposition to an increase in state planning and regulation. Important policy shifts took place in the legislative negotiations. Federal participation was no longer made a condition of the project, whereas earlier proposals had assumed equal federal and state financing. Appropriation requirements were eliminated, thus avoiding the need for a two-thirds legislative vote.

Finally, the measure--now known as SB 200--passed the Senate. By now a new strategy had emerged, a constitutional amendment as a companion to SB 200, which would place procedural barriers in the way of any future legislative attempt to reduce Delta or fish or wildlife protection. With 11 votes necessary on the Assembly Ways and Means Committee, the bill passed with only two votes to spare, the proposed constitutional amendment by only one.

The issue was now before the governor. He was also supporting a companion bill which called for long-range water planning for use of groundwater and a requirement of water conservation studies before new water could be exported from the north. The Times once again editorialized, "only when the Nejedly bill has been approved can the Legislature claim that it has done the whole job--the adoption of a broad statement of overall water policy within which the State Water Project can be completed and future development plans be evaluated." (7/10/80) "The major question remaining in the water issue fight," said a Times writer, "is whether Brown will sign SB 200 if the Nejedly bill is defeated." (7/4/80) Importantly, however, the Times stopped short of suggesting that Brown should demand passage of the water planning and conservation measures as the price for the Peripheral Canal.

He did not. The bill was signed as is. The governor had approved this further development of the State Water Project but with two major missing ingredients: the absence of a plan for water conservation and management; the absence of an agreement with the federal government as to whether and how the Central Valley Project would be administered in a manner compatible with state policy. The Times editorialized that the water issue would not truly be resolved "...until Congress agrees to share the priorities that California has set for distributing its water--guaranteeing that the Delta will not be sacrificed to meet water needs on farms and in cities to the south." (7/22/80)

But before the Governor had even signed the bill, forces opposing the Canal petitioned to put the measure on the ballot.

Now the scene shifted to the November 1980 ballot and Proposition 8--the legislature's attempt to ease the fears of northern California by placing into the state Constitution procedural protections for the

North Coast Rivers and the guarantees of Delta water quality and fishery protection specified in SB 200. The restrictions would be subject to change only by a vote of the people or--in the case of the rivers--a two-thirds vote of the legislature. Conservationists were torn. If they supported the proposition, it would strengthen the case for the Canal, which many of them opposed even with the constitutional safeguards. On the other hand, failure to pass the proposition would mean that the guarantees of water quality and wild rivers protection could be subject to change by a legislative majority.

Proposition 8 passed. But the threat of the referendum continued. Now the political question was, "Would the Governor call for a special election on the referendum, perhaps one to coincide with the Los Angeles city election of April 1981, increasing the southern vote disproportionately?" Six months later, the Governor still had not made up his mind: "I am giving this Peripheral Canal business a good deal of thought, weighing the pros and cons of an early election," he said. (3/22/81) In answer to an inquiry as to whether he might call a special election in November 1981, the Governor responded, "I have some other issues that are of even greater concern to me than this particular canal." (Ex 4/12/81) And indeed he did.

And here we are, five years after the original bill was introduced in 1977, confronted with one of the most divisive issues in California political history. More than any other issue in recent memory, the Peripheral Canal has polarized California's regions.

What's the whole thing about? Can we make any sense of the contrasting and contradictory views that will be thrown at us in the coming weeks? It will be very difficult. As two experienced political reporters have suggested in a recent article: "The whole thing has become such a scramble that you virtually need to know a code to understand the politicians when they talk." David Kennedy of the Metropolitan Water District, one of the key canal supporters, seems to agree: "These great water fights are waged with numbers. They have theirs and we have ours. There isn't a single one that can't be attacked--or defended." (2/12/81)

The impoundment, distribution, storage, sale, allocation, and consumption of water in California, and the economic, social and ecological

effects of all of the above, comprise a field of study so vast that in order to master it one should have a law degree and doctorates in most of the physical and social sciences, followed by several years spent in deepest isolated contemplation." (NRDC Newsletter; 11/12/77)

What is the Canal?

- A 43 mile long, 400 foot wide, 30 foot deep canal, cost about \$1.3 billion.
- About the size of the Panama Canal, which is some 50 miles long.
- Runs along the east side of the Delta, hooking up with the California Aqueduct, which goes all the way to the Tehachapis.
- Would replace a cross-channel transfer which goes through the Delta rather than around it.
- It will not go into operation for at least 10 years.
- It would add 700,000 acre feet per year to the state's future water supply, which is equal to about 2 percent of the state's developed water supply. An acre-foot is equal to the average household use of a large family. It is also the amount needed to simultaneously flush 60,000 toilets.

Proposition 9 also includes plans for more than \$4 billion of additional dams, reservoirs, and related facilities.

Let me briefly highlight four issues that, to me, are at the center of the conflict. These are not the only questions, to be sure, but they are ones around which a great deal of the controversy is raging. They are questions to which the voters must seek answers as they weigh their decision on SB 200.

The first question is the availability and cost of energy. The movement of water in California involves immense amounts of energy. Currently, to move an acre foot of water--the annual usage of a large household--from Oroville to southern California is estimated to cost about \$200. By the year 2000, one projection is that the State Water System will require 10 billion kilowatt hours, equal to the energy needs of some 2 million homes. No one really knows what the costs of this power will be. The actual figures will depend on the costs of oil and

coal, as well as the extent to which the State Water Project can generate its own power. The energy chief of the state Department of Water Resources says, "What our costs will be in the year 2000 is anybody's guess."

(Chron: 2/10/80) One informed estimate is that new contracts, which will be written in 1983, will increase energy costs to the state tenfold. What this will do to the cost of water and therefore to its demand--especially for agriculture--is simply not known.

Whatever the case, we cannot think about California water issues without considering the fact that transporting water down the state and over the Tehachapis, not to mention pumping from ever deeper wells on California's farms, involves millions of dollars.

A second set of issues revolves around a series of related questions:

- (1) How much additional water is actually needed? (2) On what basis will its price be determined? (3) Who will pay for it?

This is not the place (nor am I the appropriate expert) to resolve the wide-ranging dispute as to the actual water needs of the state in the year 2000. For example, published southern California estimates range from an annual deficit of 500,000 acre feet in the year 2000 to a surplus--assuming certain conservation measures--of 270,000 acre feet, even with the reduction in Colorado water. As the economists are quick to remind us, there is no such thing as an absolute "need" for water, independent of its cost. The proper question is what will be the demand for water at a given price. This is particularly the case with respect to agriculture, which uses 85 percent of California's developed water supply. At what price level, including the rapidly increasing cost of pumping, will the farmer decide to shift to a less water-intensive crop? What capital investment and operating costs would be involved in such a shift?

Let me try to put this agricultural use in some sort of perspective. Urban use in California = 5 million acre feet per year. In a recent year, alfalfa required 6 million acre feet, cotton 4 million. Rice required 2.5 million, while sugar beets on almost the same acreage used only 1½ million. In short, our agricultural requirements for water are not written in the stars but are based on countless individual and corporate decisions as to which crop to grow, and these decisions are heavily impacted by the estimated cost of that water.

The major water contractors are illustrative of the problem: the Metropolitan Water District of Southern California--the water wholesaler for some 12 million people; and the Kern County Water Agency--the wholesaler for state water for one of the richest agricultural areas in the nation. Together, they are slated to receive 75 percent of state project water. Indeed, Kern County's annual one million acre foot entitlement to state water is equal to 20 percent of the annual urban use of the entire state.

If demand is related to price, it remains the case that price is an extraordinarily complex, controversial, and explosive issue. To oversimplify, the capital costs of the State Water Project are paid in proportion to the contracted entitlements of the water districts, regardless of the amount actually used. Contracted entitlements have been determined on the basis of the "firm" or "dry year" yield. "Surplus water," that is water released when a contractor does not claim the full entitlement and extra water in a wet year, is sold for only the costs of its delivery--with no capital payback. There is a great difference in price. Contract water sells for around \$23 per acre foot, surplus water for only \$3.50. It thus behooves the farmer to try and expand the surplus to the maximum extent, thus reducing his costs.

This is just what has been done. To make a long story short, southern Californians have not used their entitlement water, and the surplus water has been sold to the Kern County Water Agency and by it to the landowners. To date, valley farmers have received nearly two-thirds of the state water, but southern Californians have paid more than two-thirds of the cost.

As is well known, the San Joaquin landowners include some of the nation's largest corporations--Chevron, Tenneco, Getty Oil,--typical farmers all--the Tejon Ranch. These and others like them have seen their property values increase from some \$50 per acre to \$2,000 an acre, since the arrival of project water in 1968. The availability of cheap surplus water is a principle reason for the enormous increases in land prices.

According to the Times, whether or not there continues to be a surplus, "...farming interests probably will continue to enjoy other benefits at the expense of Southern California consumers." (6/9/80) While the

MWD has been trying for years to get the payment schedule changed to correct this inequity, the negotiations have not been successful because of resistance from the San Joaquin Valley interests.

These differential water rates have a clear and obvious relationship to the Peripheral Canal issue. Many northern Californians and--one also suspects--an increasing number of southerners, question the need for State Water Project expansion in the face of pricing and distribution policies that supply cheap water to large Kern County corporate landowners, while Los Angeles homeowners pay much higher rates. The issue is not, Canal critics suggest, "fish in the Delta vs. people in southern California." It is "fish--and northern California crops--vs. Kern County cotton, grapes, almonds, and pistachios." Indeed, the water controversy in California is principally a battle over--not the urban needs of Los Angeles and San Diego--but the future of irrigated agriculture in the San Joaquin Valley. The stakes are enormous.

This is also a battle between large agribusinesses and small farmers. Much of Kern County development has been inspired by favorable tax treatment--in the form of shelters for investment by non-farmers in orchards and vineyards, persons more interested in the writeoff than in profits, putting them in a highly competitive position with traditional farmers in other parts of the state. And the increasingly high cost of water--even the subsidized surplus water--requires that land be put into high-value crops with large development costs, beyond the capital resources of most small-scale farmers, who are also disadvantaged in trying to obtain financing from lending institutions.

A third issue concerns relationships with the federal government. California has two immense and complicated water systems, one national and one state, operating side by side. Both are also intertwined with equally complex regional and local distribution systems. Both also draw water directly from the Delta--and this is at the heart of the Peripheral Canal controversy.

For the two water systems are not equally bound by the same legal requirements. Under the terms of SB 200 the state must maintain Delta water quality, and preserve fish and wildlife, regardless of how much water the federal government takes from the Delta to meet its contractual obligations with San Joaquin Valley agribusiness. Currently, the federal Central Valley Project controls about three times as much of the water

flowing into the Delta as the State Water Project. If federal customers increase their demands for water that is now used to maintain water quality, the interests of state water users, both rural and urban, will be jeopardized. Moreover, the federal government has given no assurance of being bound by state water quality requirements. In a recent statement, the Department of Interior indicated that it "must have control of the CVP water supply so as to be able to allocate a firm water supply to the CVP water users and thereby guarantee repayment of the project as mandated by Congress. The Bureau of Reclamation has never agreed to support legislation which would make CVP operations subservient to the state..." (POST 102)

This requirement that Delta water quality be guaranteed by the state, now given constitutional protection, has prompted the strong opposition of two giant Valley agribusinesses--Boswell and Salyer. They argue that state project customers, rather than the maintenance of Delta water quality, should have first priority for state-stored water. Consequently, they oppose the Canal along with conservationists who favor Delta protection--calling to mind the old saying "politics makes strange bedfellows."

Whatever the political implications, continued failure of the state and the federal government to agree on coordinated management for these two closely interrelated water systems leaves a critical gap in California water policy.

The fourth and final issue is the Delta itself. It is also the issue most directly related to the Peripheral Canal. The principle problem is very simple--trust. Those concerned with the Delta and San Francisco Bay--farmers, conservationists and sportsmen--are unwilling to accept a legal guarantee of water quality, even one embedded in the state constitution, in return for giving up a physical source of protection. A leading Delta water lawyer put it this way: "The only way we can protect the quality of Delta water is by sharing a common water pool with the exporters (from the Valley and Southern California), both of us, pumping from the Delta." (WSJ: 2/12/81) In short, if the water goes through the Delta--and not around it--the exporters have a stake in the Delta's "physical" water quality. This stake will be eliminated if the Peripheral Canal is built.

Ten years ago, the Episcopal bishop of California, the Right Reverend C. Kilmer Myers, put the issue in stark political terms: "Since the Peripheral Canal will, in a large sense, control the quality of water and wildlife in the Delta and San Francisco, who will control the 'spigot' that turns it on and off?...The real issue is not nearly so much the engineering sufficiency or wisdom of the Peripheral Canal, but the political question of who operates it under what policy and for whose benefit."

(3/8/71) Delta and Bay Area interests fear they cannot stand up politically against the economic strength of the Valley and southern California.

In this regard, it is important for us to understand that while the constitution has now been amended to make it more difficult for the legislature to change water quality standards, these standards are set by administrative agencies. For example, the protection of fish and wildlife is totally dependent on an agreement to be reached between the directors of fish and game and water resources on the protection of "historical levels" in the Delta and the bay. No one knows what "historical levels" really means. Furthermore, the state water resources control board is the body which will set the water quality standards which must be maintained. One can imagine the political pressures which will be placed upon these persons as they make these decisions.

These and other issues confront the voters. What are their perceptions as they consider the campaign arguments for and against the Canal and SB 200?

Here are some findings from a Field Poll conducted in October 1981:

- Most Californians believe there is not a serious water shortage in the state, although seven in ten residents believe the state will face a shortage in the next ten years.
- Over 90 percent believe that a water shortage would pose a serious problem to agriculture.
- Californians greatly underestimate agricultural water use. The average voter thinks farmers take only 40 percent of the state's water, whereas agriculture actually uses more than twice that figure, over 80 percent.
- There is strong support for the argument that the Peripheral Canal is needed to help meet future southern California needs, this view being

shared by a majority of both northerners and southerners expressing a view.

- However, there is an almost equally strong belief that the Canal should be delayed while we explore and implement other possibilities of conserving and reducing present water demands. Significantly, this view is also supported by a majority who expressed opinions in both north and south.

- Finally, as an even more recent March poll indicates, the state is sharply divided on the Canal itself, with 71 percent of the northerners opposed and 68 percent of the southerners in favor. The statewide result is a small plurality in support of the Canal (46-39), with some 15 percent still undecided.

What is the political environment in which these voters operate and make decisions? An analysis of interest group positions conducted in 1980 suggests some answers. Almost every organization involved in water politics expresses general support for better water reclamation and reuse and of pursuing conservation alternatives. The consensus immediately collapses, however, with respect to changes in present practices of the allocation, pricing, and regulation of water use. In the 1980 survey, most such proposals were opposed by an impressive list of interest groups, including the California Farm Bureau, the California Chamber of Commerce, and--significantly--the Metropolitan Water District of Southern California. In contrast, state and federal agencies, environmental organizations, and the League of Women Voters were united in support of change.

The groups remain much the same with respect to the politics of increasing California's water supply through the development of additional water projects. However, the roles of many are reversed. In 1980, it was the Farm Bureau and state Chamber of Commerce which favored and the environmental groups which tended to oppose these programs.

These generalizations are abstractions for analysis, not projections of reality. What is real in politics is negotiation, compromise, a balancing of the positions of private interests and governmental organizations and public attitudes until a majority position can be obtained. This majority should no longer be acceptable. Decisions that will bind future generations to a course of action they might not have chosen themselves

should--if at all possible--involve something more than "politics as usual." Water policy is this sort of decision. Here, above all, the political system should attempt to produce judgments and reach decisions which go beyond the narrow self-interest of individuals, economic groups, bureaucrats and elected officials--that is, attempt a consensus.

Certainly, with regard to water policy, the choice need not be conservation or development, cost-effective allocation systems or increased supply, environmental protection or a prosperous agriculture and urban society.

All can be obtained, but consensus may be even more difficult to achieve in the environment of the 1980s. There exists as yet no political scenario to promote this alternative future, nor no leadership presently in sight.

In short, neither Senate Bill 200 nor the referendum on it provide the final answer. To return to our medical analogy, even if the operation takes place and the Peripheral Canal bypass is implanted, there must be further treatment and additional surgery before we can pronounce the patient out of danger and on the road to well-being. Indeed, as even many supporters of the Canal agree, the value of the operation will be greatly diminished unless other steps are taken. The medicine which Californians must take includes:

- Coordination of federal and state policies and projects.
- Groundwater management to reduce current overdrafts.
- Rational water pricing policies for urban and agricultural use that promote the conservation of both.
- Removal of drainage water from the irrigated lands of the San Joaquin Valley before farmland reverts to desert.

These issues dramatize the difficulties that confront California's people and their political leaders. These difficulties can be overcome if we employ good judgment (and goodwill) in designing strategies to guide the conservation, development, and prudent use of that precious resource, water. The next generation of Californians--our children--deserves no less.