



August 24, 2022

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

RE: Request Urgent Action to Address Potential Fraud and Market Manipulation Practices That Result in Less Water Availability in Western States.

Dear Attorney General Garland,

California's water situation entered a dire new stage recently with some community's wells drying up, other communities facing water shortages, and still others facing upwards of a 1,000% increase to their water bills, and also many farms being forced into selling as investors monopolize land and water access. That is why we are renewing our request to your office, asking the Department of Justice to investigate potential drought profiteering, water rights abuses and water theft, as outlined in our letter dated May 17, 2022. We also have grown concerned and feel that we have reason to believe less water availability in the West could be due to fraud and market manipulation. We believe this manipulation is causing water prices to spike, and may soon cause a spike in food prices. California's water history reminds us that it's not just investors who are to blame for fraud or market manipulation and that we must consider the role that professional consulting firms play in our water outcomes. So in concert with our renewed request, we ask that you also investigate the extent to which market manipulation and fraud are impacting the water market in the West.

Reliable data has become increasingly essential for regional analysis and decision making as a way to address resource management, regulatory compliance, environmental impacts, ecosystem services, urban and economic development, and other issues. It plays a key role in what legislation is passed, how decisions are made and why policies are implemented the way that they are. Accordingly, it is important that this data is accurate and based in the best scientific evidence available.

In California, specifically, reliable data is essential to the implementation of the Sustainable Groundwater Management Act (SGMA). SGMA was adopted in 2014 in response to a multi-year drought as a framework to ensure that groundwater use would be sustainably managed at the local level, with the idea that those closest to the groundwater basins would be the best equipped to manage them. While SGMA allowed for local control, the inherent complexity of this legislation left some GSAs in need of hiring private consulting firms to help them develop their plans, and also to measure regional and local water use. Its framework also seems to have lent itself to only the most powerful entities, those owning the most land, sitting on GSA boards and shaping the policy coming out of these boards. There seems to be a growing concern that the technologies and models that these firms use to collect this data have not been substantially vetted for their accuracy. Such vetting is important because it not only shapes the decision-making of the board, but also the farmers underneath that board that may decide to sell, rather than harvest their land and incur the fees they may otherwise be required to pay. We must ensure that data, and the cost associated with it, is not being used to manipulate small farmers into giving up their livelihoods by pricing them out and making their water use information available to those that would use it against them. There is some concern that information being gathered by consulting firms is being provided to some of the larger property owners in GSAs allowing for land monopolization when smaller farms make the decision to sell, creating a submarket within the existing water market.

Data Reliability is also fundamentally important to water management. Recently, concerns have been raised that California's water operations systems overestimated the forecast for the Sacramento River, San Joaquin River, and Tulare Lake regions, pre-maturely releasing an estimated 700,000 acre feet of water and leaving operators with less stored water than was needed. The impact of such an overestimation likely had dramatic impact on users, increasing the cost they have to pay for water, and as a result, influencing decisions regarding how many plants to harvest and how many fields to leave unsown. Similar concerns have been raised about the implementation of the policies governing the Bay-Delta Plan, and whether those policies have been formulated based on the ends that some would wish to meet rather than through following the facts. Over the last decade, there have been two sets of biological opinions requested and produced to determine the water flow necessary in the Sacramento-San Joaquin Delta to preserve endangered species. The most recent set represented a relatively dramatic shift, but one that was seemingly supported by scientific study. Before those opinions were allowed to go into place, a new look at them was requested because certain groups were concerned that they were not restrictive enough. Also, associated with these opinions, there have been apparent overages in the releases maintained to support the endangered species unsupported by the data itself. Here to, we must ensure data is reliable and the water management decisions that are being made to govern our water supply do not open us up to market manipulation. The amount of water that flows through the Delta and through our watershed to California's abundant farmland has a direct impact on the costs that farmers incur to grow their food and the costs we incur to buy it.

The State of California, announced last week, a plan to double down on efforts to ensure our preparedness for a hotter and drier future, building on drought resilience efforts that the Legislature and the Governor have advanced in the last two years. These efforts include: developing new water through recycling and desalination; capturing and saving more storm water above and below ground; reducing use of water in cities and farms; and improving all water management actions by improving the data that informs them. We acknowledge and appreciate the actions the State administration is taking to address the dire circumstances that we

find ourselves facing, but the actions they proposed largely represent long-term fixes. They will not provide the immediate relief that is necessary today.

We direct our request to you because your office, in reviewing the potential for market manipulation and fraud, can provide more swift relief. We believe the transparency, special powers and alacrity with which your office can act is what is needed now.

Given the importance data reliability is playing in the management of our resources, we think it is important to investigate the various consulting firms that focus on environmental, biological, legal, or engineering consulting work, and to the extent we can, the accuracy of that data they collect. We must understand if this data has the potential to create or expose us to market manipulation at a time when we are certainly vulnerable to it.

For these reasons, we respectfully request your urgent attend to this matter.

If you have any questions, please feel free to reach out to our offices.

Sincerely,



Melissa Hurtado
Senator, 14th District



Dave Cortese
Senator, 15th District



Suzette Valladares
Assemblymember, 38th District



Freddie Rodriguez
Assemblymember, 52nd District