

James A. Beck, General Manager
Kern County Water Agency
3200 Rio Mirada Drive
Bakersfield, CA 93308

Tom Birmingham, General Manager
Westlands Water District
P.O. Box 6056
Fresno, CA 93703

Jeff Kightlinger, General Manager Metropolitan
Water District
P.O. Box 54153
Los Angeles, CA 90054-0153

Williams Phillimore, President
Coalition for a Sustainable Delta
915 L Street, #C-438
Sacramento, CA 95814

June 1, 2010

Warren Muir
Executive Director, Division of Earth and Life Sciences
National Research Council
500 5th Street, NW
Washington, D.C. 20001

Dear Mr. Muir:

We are writing regarding the resignations of Dr. Patricia Glibert and Dr. Michael McGuire from the National Research Council's (NRC) Committee on Sustainable Water and Environmental Management in the California Bay-Delta (Committee). In a letter to Secretaries Salazar and Locke dated May 25, 2010, Stephen Parker provided the following explanation for the forced resignation of Dr. Glibert from the Committee:

Dr. Glibert was a valued member of the committee and the NRC appreciates her service. However, it is simply not appropriate that she be in a position of evaluating her own work, which reaches both scientific and policy conclusions that are central to the committee's charge, beyond what we had previously understood to be within the scope of her research.

Dr. McGuire resigned from the Committee in protest over the forced resignation of Dr. Glibert, stating that Dr. Glibert's dismissal undermines the balance and scientific credibility of the Committee. We are very concerned about these events, which raise serious questions regarding the integrity of the Committee and its work.

Evidently, the NRC expelled Dr. Glibert from the Committee because a research study that she authored, which is going to be published in a peer-reviewed scientific journal, expresses conclusions regarding how discharges of ammonium from publically owned wastewater treatment plants may contribute to the decline of the species and degradation of its habitats in the Sacramento-San Joaquin Delta. The study is one of multiple empirical analyses that inform our understanding of the status and trend of the delta smelt population. Dr. Glibert disclosed the facts that she was engaged actively in this work and that a portion of the funding for the work was provided by public water agencies that rely on water exported by the Central Valley Project and State Water Project at the outset of the Committee's work. A determination was made that this did not disqualify her from participating in the Committee. Presumably the NRC carefully considered the *Policy on Composition and Balance*

and *Conflicts of Interest for Committees Used in the Development of Reports* in arriving at this determination.

The fact that she published her research in a peer-reviewed scientific journal does not appear to be a legitimate basis for the NRC to now force her resignation. As the *Policy on Composition and Balance and Conflicts of Interest for Committees Used in the Development of Reports*, states, “[i]t is not uncommon for individuals serving on committees of the institution being used in the development of reports for sponsors to find that their own published and professional work, in common with others in the field, is part of the technical basis and literature for the committee.” Other Committee members, including Dr. Thomas Dunne, Dr. Denise Reed, and Dr. Samuel Luoma, have published research that is part of the relevant literature used in deliberations by the Committee.

Dr. Dunne and Dr. Reed were co-authors of a study regarding the effectiveness of efforts to restore rivers tributary to the Delta through the use of gravel to fill disused gravel pits in order to improve spawning success of salmon populations. G. Mathias Kondolf et al., *Projecting Cumulative Benefits of Multiple River Restoration Projects: An Example from the Sacramento-San Joaquin River System in California*, 42 *Environmental Management* 933-945 (2008). And Dr. Luoma co-authored a study regarding mercury contaminated sediment in the Delta. Robin M. Bouse et al., *Mercury-Contaminated Hydraulic Mining Debris in San Francisco Bay*, 8 *San Francisco Estuary & Watershed Science* 1-28 (2010). He also co-authored a study, cited in the National Marine Fisheries Service’s biological opinion for continued operations of the Central Valley Project and State Water Project, regarding selenium contamination in the Delta food web. R.G. Linville et al., *Increased selenium threat as a result of invasion of the exotic bivalve *Potamocorbula amurensis* into the San Francisco Bay-Delta*, 57 *Aquatic Toxicology* 51-64 (2002).

Publication of research cannot, by itself, constitute a conflict of interest as that term is defined in the *Policy on Composition and Balance and Conflicts of Interest for Committees Used in the Development of Reports*. Instead, it can only provide a basis for expulsion from a committee where it establishes substantial bias, for example, where the person in question is “totally committed to a point of view.” Here, we are not aware that the NRC has been presented with any information that would lead to the determination that, due the publication of a single article, Dr. Glibert is incapable of considering points of view other than her own.

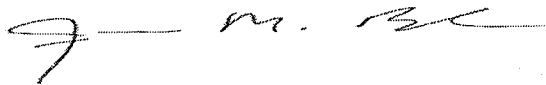
The *Policy on Composition and Balance and Conflicts of Interest for Committees Used in the Development of Reports* makes clear that “[p]otential sources of bias are not necessarily disqualifying for purposes of committee service.” Presumably, the rationale for this pragmatic guidance is that there is great value to be gained from appointing committee members who are actively engaged in areas of scientific inquiry under review. So, for example, to complete its 2003 report on *Ocean Noise and Marine Mammals*, the NRC appointed a committee that included experts actively engaged in research and publication on the topic, including Darlene Ketten and Douglas Wartzok, whose work is cited extensively in the report. Likewise, to complete its 2008 report on *Ecological Impacts of Climate Change*, the NRC appointed a committee that included experts actively engaged in research and publication on the topic, including Camille Parmesan, Terry Root, and Stephen Schneider, whose work is cited a number of times in the report. In an especially pertinent example, Edward Peters wrote the chapter on pallid sturgeon in the NRC’s 2005 report on *Endangered and Threatened Species of the Platte River*, citing not only his own published work, but presenting his own unpublished data related to the “habitat components required” for the survival of the fish.

By itself, Dr. Glibert's forced resignation is extraordinary. We understand that the NRC rarely expels committee members following their appointment, and that in the past this unusual step has most often taken place due to the existence of a financial conflict of interest. We further understand – based on the statement by Mr. Parker in his letter of May 25 that “there should be no implication that Dr. Glibert was influenced in her research by the interests of her sponsors” – that the NRC is not alleging the existence of such a conflict here. That said, the forced resignation of Dr. Glibert is even more extraordinary, indeed unprecedented, because of Dr. McGuire's response. Dr. McGuire is not simply a fellow member of the Committee; he is both a member of the National Academy of Engineering and a member of the Water, Science, and Technology Board, which has oversight responsibility for the Committee. In fact, until the time of his resignation Dr. McGuire served as the Board liaison to the Committee.

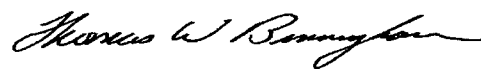
In his letter Dr. McGuire makes numerous statements, which if true, are very troubling. Chief among these is his statement that “several Committee members have made it clear that they have a fixed point of view that exports from and flows in the Delta are the controlling factors for the decline of fish species like the Delta Smelt.” This is precisely the type of substantial bias that is identified in the *Policy on Composition and Balance and Conflicts of Interest for Committees Used in the Development of Reports* as a basis for expulsion. We do not contend that the NRC must accept Dr. McGuire's allegations as the truth, but we do believe that – in light of his position as a National Academy member, a Board member, and a former Committee member – Dr. McGuire's allegations provide the basis for an independent, fact-finding inquiry. At a minimum, it appears that the NRC has engaged in conduct that has resulted in disparate treatment of individual Committee members. This is contrary to the concept of an objective, independent scientific review.

The forced resignation of Dr. Glibert and the voluntary resignation of Dr. McGuire have raised questions about the integrity of the NRC and the credibility of the Committee. At this juncture, the Committee cannot proceed with its work absent an independent, fact-finding inquiry. We urge you to complete such an inquiry before replacing Dr. Glibert and Dr. McGuire in order that the outcome may inform the process of identifying appropriate replacements.

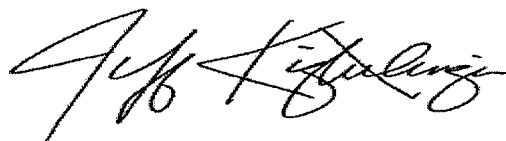
Very truly yours,



James A. Beck
General Manager, Kern County Water Agency



Tom Birmingham
General Manager, Westlands Water District



Jeff Kightlinger
General Manager, Metropolitan Water District



Williams Phillimore
President, Coalition for a Sustainable Delta

cc: Senator Dianne Feinstein
Representative Dennis Cardoza
Representative Jim Costa
The Honorable Ken Salazar
The Honorable Gary Locke
Robert J. Cicerone, President of the National Academies
Steven D. Parker, Director of the Water, Science, and Technology Board