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Budgets, Billionaires, Bonds, Big Profits and the Brown Family – Part One

By Patrick Porgans and Lloyd G. Carter

Editor's note: This is a two-part series. Part One focuses on how the wealthy and landed have used the public bond process in California to further their own interests, while promoting and profiting from the state's "budget crisis." Part Two, which will run August 8, focuses on the family legacy of Gov. Edmund G. "Pat" Brown, who first mastered the art of selling water bonds half a century ago, to finance the construction of the State Water Project, which was sold as a project that would pay for itself. It never has.

California's 90 billionaires (according to Forbes Magazine [1]) and 662,735 millionaires [2] got rich in a lot of different ways. But, there are those billionaires that thirst for more.

A few of California's land rich billionaires – whose wealth, ultimately, depends on water - have had a significant role in using the "system" (tax-base revenue, credit rating, and natural resources) to promote and support issuances of tens of billions of dollars of General Obligation (GO) bonds to fund vested interest public works projects, particularly water and water-related grant programs which considerably enhance the value of their land. And the grant money, often used to build local water district infrastructure and help fund developers, is free. At the same time, they are having the public pay to increase their water supply, and are selling this water back to the public at astronomically high prices.

A government grant-funded study, conducted at the Donald Bren School of Environmental Science and Management, [3] University of California, Santa Barbara, indicates that from 1987 through 2008, an estimated \$3.9 billion in water water-transfer sales/profits were made. The profiteers included some of the state's richest billionaires. As the saying goes, in California water runs uphill and toward money.

These GO bonds fund a myriad of state programs and finance massive public works projects that directly aid the landed gentry. These include billionaires like Orange County real estate king Donald Bren, who reportedly owns 110,000 acres, and has a

“Master Plan [4]” to develop significant portions of land (<http://www.goodplanning.org/Master-Plan/default.aspx> [5]).

Bren is a close friend of former Gov. Pete Wilson, who was an employee of Bren's before and after serving as governor. There is also Beverly Hills resident Stewart Resnick (now the biggest “farmer” in California with 200,000 acres in Kern and Kings counties) and there are the heirs of cotton king J.G. Boswell [6]. The Boswell family owns 200,000 acres of farmland in the Tulare Basin and want to build a city [7] of 30,000 on land they own in the Tulare County foothills. They profit directly when California's voters fund multi-billion bond projects to export Northern California water south to industrial farm fields in the western San Joaquin Valley or to the never-ending desert subdivisions in the Southland.

Tejon Ranch [8], now owned by Cattellus [9] (another billionaire outfit which morphed from the railroads), owns 270,000 acres straddling the “Grapevine” Interstate 5 route over the Tehachapis. It is the largest block of private land in California. The combined acreage for just these four companies (Bren, Resnick, Boswell, Catellus) exceeds 780,000 acres. And all four of these Big Money players already are engaged in filling their unquenchable thirst for a more “reliable” source of water from the north. And, of course, next year, voters will be asked to fund yet another \$11 billion water bond measure (which will take \$22 billion to pay off) to move yet more water south.

You can count on Team Billionaire - which includes the billionaires, major landholders, chambers of commerce, local water districts (most of which are members of the Association of California Water Agencies), banks, investment firms, and all manner of Southern California real estate and development interests - to spend huge amounts of money to convince voters to approve water-related GO bond measures.

According to the state's Department of Finance's (DOF) website, there are currently a total of \$150 billion in GO bonds [10] which have been approved by the voters in the past few decades, of which a total of \$79.6 billion has been issued and is being repaid from the General Fund.

To put the \$79.6 billion debt in perspective, in Governor Jerry Brown's recently approved 2011-2012 state budget totaled \$129 billion [11], Approximately \$86 billion

came from General Fund revenues, the remaining amount come from special funds and other bonds. The principle and interest payments on the outstanding G.O. bond debt is in excess of \$136 billion; [12] includes fixed and variable rate estimates on bonds.

Of the \$79.6 billion of GO bond debt (principle), an estimated \$19.4 billion was authorized primarily for water programs, including buying water for fish; mitigation, wildlife conservation easements, studies, drought relief, local irrigation, flood protection, and municipal water district infrastructure projects. Add at least another \$13 billion in interest to pay off the \$19.4 billion in water bonds and you have a total water-related public debt of at least \$32.4 billion; comparatively speaking, it represents about 40 percent of the cost to run the state General Fund programs.

It is estimated that it takes close to \$1 billion annually from the state's deficit-ridden General Fund to service just the GO water- and water-related bonds that have been issued. This amount represents about 15 percent of the annual repayment obligation of all existing GO bond debt; the figure is expected to go higher.

State Treasurer Bill Lockyer says payment of the interest and principal on all GO bonds is a crushing \$10 billion a year –amounting to nearly a tenth of the state's General Fund – and is expected to keep rising each year. This addiction to bonds is a principle reason for the draconian state budget cuts in education, police and fire services, and programs for the elderly and disabled that occurred in recent years. Indeed, to meet those bond obligations, California has cut \$115.7 billion from the state budget in the last three fiscal years.

During the governorship of Arnold Schwarzenegger, the state's bond debt doubled as the "no more taxes" crowd simply turned to bonds to get the public to foot the bill for water projects, programs and other infrastructure financing to sustain and expand their publicly subsidized business ventures, most for agribusiness and new Southern California subdivisions on the desert.

What the billionaires know, of course, is that GO bonds are still being used to pay off the \$1.75 billion State Water Project (SWP) which former Governor Edmund G. "Pat" Brown sold to the public back in 1960 as a project that would "pay for itself." It has never come close to paying for itself and it could take an additional \$63 billion, according to the California Department of Water Resources, to make real the water

which Brown, Sr. promised a half century ago. In fact, SWP contractors, many of who supported the original GO bond debt, have vehemently refused to take responsibility for bearing the burden of the \$32.4 billion in water-related bond debt; as SWP beneficiaries, by law, they are required to pay certain costs. Instead, they have passed it on to the unsuspecting public with the help of their campaign-supported elected officials.

In addition, water bonds promoted under the fear tactic of “safe, clean, reliable” water have been issued for water projects that directly benefit SWP urban and agribusiness contractors. Such bonds are much easier to sell to unwitting voters than raising taxes first to pay for things society needs, which is always a tough sell for politicians. A bond, it turns out, is a tax but a hidden one. The water-guzzling land billionaires are hoping they can float one more bond by the voters next year.

Budgets, Billionaires, Bonds, Big Profits and the Brown Family – Part Two

The Browns and 50-Years of GO Bond Debts

By Patrick Porgans and Lloyd G. Carter

Editor’s Note: In Part One of this two-part series, Porgans and Carter showed how land-rich but water-short Southern California billionaires are pushing an \$11 billion bond measure on the 2012 ballot to enhance their holdings. Part Two examines the legacy of Gov. Edmund G. “Pat” Brown and his two children, current Gov. Edmund G. “Jerry” Brown and Kathleen Brown, and their connection to public bonds, budget deficits, the Bay-Delta Estuary conflict, and the November 2012 water bond measure.

You can count on Team Billionaire, which includes the actual billionaires, chambers of commerce, local water districts, banks, and all manner of Southern California real estate and development interests, to spend huge amounts of campaign contribution money to convince voters to approve an \$11 billion water-related General Obligation (GO) bond measure on next year’s statewide ballot.

Based on the Team’s track record it has been very successful. In 2006, under then Gov. Arnold Schwarzenegger, himself a first string team member, voters were persuaded to approve more than \$40 billion in GO bonds, which will cost \$80 billion to repay. According to the state’s Department of Finance director, for every dollar borrowed with GO bonds two dollars must be paid back for interest and principal.

Over time, that \$80 billion will be repaid from the state’s deficit-ridden General Fund, and could trigger even more cuts of General Fund programs in future state budgets. However, Team Billionaire players are not telling that to voters as they stump for next year’s water bond.

This consortium of “team players” reincarnated an ingenious financing scheme that was first pushed back in 1960 by Gov. Pat Brown, and Ralph Brody, a former Brown aide and later general manager of the Westlands Water District. Back in November 1960, Pat Brown narrowly succeeded in getting voters to approve a \$1.75 billion General Obligation (GO) bond to fund the State Water Project (SWP). The project, including reservoirs and a massive canal, was designed to move huge amounts of Northern California water south to the industrial farms of the southern San Joaquin Valley and the ever-growing subdivisions of Southern California.

Brown Sr., along with large landowners in the arid regions of the state, lending institutions such as Bank America, Wells Fargo, and others, successfully sold the SWP to voters under the false premise that it would pay-for-itself; it never has. It hasn't even come close.

According to government records, about 30 percent of the \$1.75 billion State Water Project bond authorized in 1960 remains unpaid. The money to repay that debt and other GO bond debt is derived directly out of the state's so-called deficit-ridden General Fund, a portion coming from SWP contractors. According to the state Department of Water Resources (DWR), capital costs for the State Water Project already exceeds \$9 billion; and estimates to complete the project have been as high as \$63 billion.

In October 1960, a report by consultant Charles T. Main, declared it was feasible to engineer the massive water works project, but gave qualified answers to the question of financial feasibility. It pointed out the probability that construction costs would escalate, questioned the future ability of agricultural water users to repay their share of the costs, and declared that the state must be prepared to assume the risk that it might not be completely reimbursed during the bond repayment period. Specifically, it stated that the Burns-Porter Act (enabling legislation) fell slightly short of providing construction funds on the basis of 1960 costs, according to a state Senate Committee report, issued during the SWP's 1960s economic and financial crises.

Pat Brown, in a 1979 interview with a University of California-Berkeley Bancroft Library oral historian, said “We were questioning could we pass a bond act of \$1.75 billion? We didn't know exactly the cost of the project. We hadn't priced it out to any exactitude. As a matter of fact, we thought it would cost more than the \$1.75 billion, probably in the neighborhood of \$2.5 billion.”

During that interview Brown also confirmed the fact that what his financial and engineering consultants (Charles T. Main and Dillon Reed) told him back in 1960: the SWP would face financial and structural shortcomings, and the state should be prepared to cover future costs; cost directly attributable to the fact that it had been knowingly underfinanced from the start.

Former Gov. Ronald Reagan confirmed this in a San Francisco Chronicle interview, stating, “The project was underfinanced from the very start. It is not my intention to dwell on this, but people were allowed to believe that the original bond issue would cover the program [SWP] cost. This was never true.”

The records indicate that the SWP has and continues to go from one financial crisis to the next; however, that has not impeded the contractors' ability to profit from the water and power they receive from the SWP. In the process, government officials and SWP contractors have shifted a significant portion of the "reimbursable costs" of the project - which the contractors are required to pay – to the unsuspecting public in the form of GO bond debt. Indeed, a 2007 study by the Public Policy Institute of California found that "some two-thirds of respondents admitted they knew very little or nothing about how the state pays for bond measures."

Department of Water Resources records indicate that SWP agricultural contractors include billionaire families including the J.G. Boswell heirs; Orange County land baron Donald Bren; Stewart and Linda Resnick, who own 200,000 acres of farmland in Kings and Kern counties; and the Catellus Corporation, which holds the largest private bloc of land in California in the Tehachapi Mountains. In addition, southern San Joaquin Valley irrigation districts, and other major landowners, over the decades have been the recipients of more than one hundred million acre-feet of water at cut rate prices (until recently), and have harvested billions of dollars of profits from the agricultural products made possible by the SWP.

Up until the mid-1980s, the SWP economic, financial and so-called water related shortages and related crises were dealt with in the low-key "government has it under control mode." A more accurate assessment of the SWP's financial condition surfaced in the late 1980s and again in the mid-1990s, when Porgans & Associates produced a series of in-depth, fact-finding reports entitled "The State of The State Water Project."

The facts contained in that series of reports were used in legislative hearing and within the regulatory processes to provide decision-makers with unbiased findings, prefaced on government data, reports and other official documents. Irrefutable facts revealed that the SWP was not paying for itself as promised. Instead, the unsuspecting public has been picking up the tab to provide SWP contractors with a more reliable source of supply. In some cases, the SWP contractors buy water cheap from the public and sell it back to the public at fat profits.

Here is an indisputable fact. Between the years 2000 and 2010, \$19.4 billion of outstanding water- and water-related bond debt was incurred, which amounts to about 25 percent of the state's existing total authorized bond debt of \$79.6 billion. Again, repaying bonds generally doubles the amount of money the bonds generated.

Ironically, Governor Edmund G. "Jerry" Brown, Jr., in his second go-around as governor, has once again inherited the financial shortcomings associated with the misleading promises made 50 years ago by his father. During Jerry Brown's first administration as governor (from 1975 to 1983), he supported efforts to complete the already faltering SWP by supporting a 1982 ballot (Senate Bill 200, also known as Proposition 9), a measure to build a "Peripheral Canal" through the Sacramento-San Joaquin Delta region.

In the aftermath of voter rejection of the 1982 Peripheral Canal measure, Jerry Brown was quoted in the Sacramento Bee as saying it didn't matter what the voters decided, that the peripheral canal would be built some day. In that same issue of the

Sacramento Bee, it was reported that then Assemblyman Tom Bates, and his aide, Lenny Goldberg, used Porgans' reports to require DWR and the SWP to repay an estimated \$500 million in debt, with a significant portion going back into the General Fund.

However, the real financial weaknesses of the State Water Project, as predicted by Porgans & Associates, came during the 1987-1992 drought. The Department of Water Resources conceded the SWP was short of cash and began issuing "commercial paper" for the first time in the project's history, just to buy water so that its agricultural contractors would remain solvent, and the state's credit rating would not go down the tubes. This tactic raised questions about the legality of DWR issuing commercial paper, which is a type of loan.

Now, there are indications that Jerry Brown is once again following in his father's financing footsteps. Brown Jr. recently appointed Jerry Meral to be deputy secretary of the California Natural Resources Agency in charge of the Bay Delta Conservation Planning Program.

Meral served as deputy director of the Department of Water Resources during Brown's first administration in the early 1980s. Prior to that, Meral worked for the Environmental Defense Fund (EDF), at which time he was anti-canal. After taking his position with DWR, Meral became an advocate for the failed 1982 Peripheral Canal ballot measure. Critics now say Meral is again Brown's point man for implementing the so-called preferred Delta "fix", which could include a massive canal/tunnel to funnel Northern California around the beleaguered Bay-Delta Estuary and ship more water south.

Many of Gov. Schwarzenegger's pro-canal appointees to the Delta Stewardship Council and other water agency positions have not been replaced by Brown. And Brown has the same Director of Finance, Ana Matosantos, who served under Schwarzenegger. The move to reduce the budget and make room to issue more GO bonds also indicates that Brown and his supporters are paving the way to move more water south, duplicating his father's efforts of half a century ago.

Jerry Brown's sister, Kathleen Brown, who served as state treasurer and ran for governor against Pete Wilson in 1994, has also played a key role in the California water bond phenomena.

Kathleen Brown went to work for the financial institution Goldman Sachs in 2001 and became the head of its West Coast municipal bond operation.

According to the state Department of Finance (DOF), \$79.6 billion of general obligation (GO) bonds which have been issued by the state, were managed, marketed and syndicated by financial institutions such as Goldman Sachs, Wells Fargo, Bank of America, and others.

Public records show that about 17 percent of the General Obligation bonds which have been issued by the state were underwritten or managed through Goldman Sachs, generating hefty profits.

According to a recent report by Bloomberg, Kathleen Brown, has moved to a newly-created similar post in Goldman Sachs' Chicago office now that her brother is governor again.

"Kathleen is taking on this new role because it broadens her client focus," Goldman Sachs spokesman Michael DuVally said. "Had she continued to work with California municipalities, it might have created the perception of a conflict of interest."

Ms. Brown previously held positions at Bank of America and the mega-law firm of O'Melveny & Myers.

It has been more than 50 years since the SWP was authorized and there is no end in sight to the conflicts and costs to the taxpayers and the devastating impact that the project has had on public trust resources. The Bay-Delta Estuary is the hub of major government projects export vast amount of water to contractors in central and southern California. Government has repeatedly promised and failed to provide the protection provided by law to protect the delta. In fact, it is government's inherent conflict as a water purveyor and regulator that is and remains at the heart and crux of California's unrelenting water and financial crises.

The beginning of the end for the Bay-Delta Estuary came about in 1994, when DWR and its contractors, along with local water agencies and the "major" environmental groups - such as the Environmental Defense Fund, the Natural Resources Defense Counsel and the Bay Institute – agreed to what is known as the Bay-Delta Accord. This agreement provided for increased Delta exports. The Accord language, shepherded by Gov. Pete Wilson and billionaires Donald Bren and J.G. Boswell, prohibited listing of additional aquatic species as threatened or endangered, species which were being killed by government water exports.

Recently, government officials released yet another very expensive draft plan, espousing how they are going to protect the Bay-Delta Estuary. As long as water export proponents continue to hold key positions in water agencies, billion dollar plans for giant canals and tunnels to move rivers of water south will remain the state's plan and the Delta will continue its death spiral.

The massive water bond debt, in part, caused State officials to make \$115.7 billion in budget cuts from 2008 through 2011, paring programs for the poor, disabled and raising tuition for college students. At the same time, California officials issued \$33.8 billion in General Obligation (GO) bonds, according to public documents obtained from the state Treasurer's Office. Payback for that ill-advised borrowing binge will cost taxpayers over \$67 billion.

Gov. Jerry Brown's latest bare bones budget cuts appear to be good news for bond syndicators and investors. A bond rating company, Standard & Poor's, gave an approving nod to the budget cuts, according to a San Francisco publication.

Recent op-ed articles in the state's major newspapers by promoters of the 2012 water bond measure, currently estimated at about \$11 billion, do not say that it will actually cost \$22 billion to pay off the bond. Nor do they say that even more cuts in education, public safety and social programs for the disabled (now financed from the

state's General Fund) will occur so that big growers in the western San Joaquin Valley can keep irrigating and billionaire real estate barons can continue to grow subdivisions in the Southern California deserts with Northern California water. Taxpayers will remain in bondage to bonds for decades.

Patrick Porgans and Lloyd G. Carter have both been writing about California water issues for 40 years. Porgans' email address is pp@planetarysolutionaries.org. Carter's email is lcarter0i@comcast.net