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CALIFORNIA WATER SUPPLY

OVERSIGHT FIELD HEARINGS

BEFORE THE

SUBCOMMITTEE ON WATER AND POWER

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

Saturday, June 28, 2003, in Tulare, California
Saturday, June 28, 2003, in Elk Grove, California
Tuesday, July 1, 2003, in El Cajon, California

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OVERSIGHT FIELD HEARING ON CALIFORNIA WATER SUPPLY

Saturday, June 28, 2003
U.S. House of Representatives
Subcommittee on Water and Power
Committee on Resources
Tulare, California

The Subcommittee met, pursuant to call, at 9:02 a.m., at the Heritage Complex, 4500 South Laspina, Tulare, California, Hon. Ken Calvert [Chairman of the Subcommittee] presiding.

Present: Representatives Calvert, Radanovich, Nunes, Napolitano, and Cardoza.

Also Present: Representative Pombo (Ex Officio.)

Mr. NUNES. I want to thank you and Congressman Pombo for arranging this hearing. I want to thank the other members of the Committee for coming out here to the San Joaquin Valley. And I especially want to thank all of you in the audience for taking the time to come to this official hearing of the U.S. Congress.

It is very important that we show the folks back in Washington, D.C., that people are serious about water here, and I think that this is evident, Mr. Chairman, by the well-attended audience that we have here this morning—especially on a Saturday morning—which is always difficult.

With that, it is time to have the Boy Scouts, which is the Troop Number 251, under the direction of Troop Leader Joseph Nelson with us today, to post the colors.

Please, rise as the scouts present our flag.

[Off the record.]

Ms. CONWAY. Thank you, very much. David has agreed to let me speak first. He said, "Age before beauty." Actually, that is not what he said.

On behalf of the county, I am very pleased to welcome you here. We appreciate Congressman Nunes in inviting the delegation here. To the Chairman and to the members, on behalf of the 400,000 members of Tulare County, welcome, and we appreciate your interest and your time.

My board is here in full support; Chairman Maples, Supervisor Worthly, Supervisor Sanders, and myself. I know there are representatives from our neighboring counties. I saw Madera. I saw Kings. All of us welcome this hearing. The Chairman would probably say, as he is prone to do, "As far back as he can remember,

and he says that is forever, something like this has never happened," so we are very appreciative of the opportunity.

"Whiskey is for drinking. Water is for fighting for," so are the words of Mark Twain. I don't know if he had the Central Valley in mind when he said those words, but we appreciate this opportunity to share our thoughts with the Congressional Delegation and welcome them and their efforts to help us.

Thank you, very much.

Mr. MACEDO. Connie and I spend so much time around each other, my wife is starting to wonder.

I would like to welcome Congress here to the city of Tulare. We are very proud to be hosting this. We are very happy to see all of you from the neighboring communities in our town to—for such an important issue.

I am going to keep it even briefer than Connie did, but I did want to make this statement: One of the things that is so important is that the farmer gets his water. I keep hearing, "The urban versus the agriculture." But if the farmer gets his water, he can continue to provide an affordable product to the consumer here in the United States. And as we know, we still eat cheaper in the United States than any other country in the world, so we commend this over to folks here today, and we wish you the best, and we thank you for coming.

Mr. NUNES. Thank you. I also would like now to recognize some additional dignitaries and elected officials that we have in the crowd. Please, hold your applause.

From the Tulare County Board of Supervisors, Supervisor Steve Worthly, Supervisor Connie Conway, Supervisor Jim Maples, Supervisor Bill Sanders. From Madera County, we have Supervisor Frank Bigelow, who I believe is here. I think that Vern Moss is here, who I saw earlier; Supervisor Vern Moss. We also have a councilman from the city of Fresno that I'm very delighted to see here, Mr. Duncan, Jerry Duncan. The mayor of Orange Cove, Mayor Lopez. Thank you, Mayor. The Mayor of Tulare, David Macedo. We also have from Congressman Cal Dooley's office, that is Shara Wolfe, if she would please stand also.

Thank you, and if we could please give them a warm round of applause.

I also want to thank the witnesses for taking time out of their schedule to come and testify before the Committee. I want to thank all of you for being here also this morning.

Mr. Chairman, I ask for unanimous consent to submit the following for the record: The prehearing rally transcript, which I have available here. I want to also submit all the storyboards and video from the Friant Water Users Authority.

I have a statement here by California State Senator Jeff Denham; a statement by the Westlands Water District; a statement by Basila Farms; and a statement by Sun-Maid Growers.

Mr. CALVERT. Without objection, so ordered.

[The statement of Senator Denham follows:]

06-27-2003 12:34pm From-SENATOR DENHAM 916 445 0773 T-920 P.002/002 F-254

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RULES COMMITTEE APPOINTMENTS:
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NATIONAL CONFERENCE OF STATE LEGISLATURES
COUNCIL OF STATE GOVERNMENTS - WEST

June 27, 2003

The Honorable Devin Nunes
Congressman, District 21
113 North Church Street, Suite 208
Visalia, CA 93291

Re: Water Storage in California

Dear Congressman Nunes:

I would like to extend my full support of your efforts at the Federal Level to expand California's water supply. As the Central Valley continues to grow, me must work to ensure that water storage projects receive our full attention.

As the State Senator for a district that includes a large agricultural population and one of the fastest growing areas in the State, I will do what I can to help secure water resources for years to come. One of my top priorities over the next few years is to see the construction of new reservoirs and other storage facilities in California. Whether they are built at Temperance Flat or another site is no matter, *we need water storage now.* Californians cannot wait another 5, 10, or 20 years before another dam is built. I am aware of the roadblocks that we face and I look forward to working with my colleagues in Washington, D.C., and Sacramento, to come up with solutions to our impending water shortage.

Again, I offer you my full support of your efforts to increase water storage in California. If I can be of any assistance please do not hesitate to contact my office at (916) 445-1392. I look forward to hearing from you.

Sincerely,

JEFF DENHAM
Senator, 12th District

REPRESENTING MADERA, MERCED, MONTEREY, SAN BENITO AND STANISLAUS COUNTIES

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Mr. NUNES. Mr. Chairman, I yield back.

STATEMENT OF THE HON. KEN CALVERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CALVERT. I thank you, gentlemen. I thank you, Congressman. Certainly you are very proud of your community, and your community should be very proud of Congressman Nunes. He is doing a great job in Washington, and thank you for helping organize this hearing today. So far, it is going great.

We are also privileged and honored to have the Chairman of Full Committee of Resources with us today, Richard Pombo. I will ask Chairman Pombo for any opening statement he might have.

[The prepared statement of Mr. Calvert follows:]

Statement of The Honorable Ken Calvert, Chairman, Subcommittee on Water and Power

Nearly, everyone agrees with the need for more water supplies, but too little has been done to meet the growing demands for this increasingly scarce resource. More than 30 years has passed since California has made any major investment to improve its storage and conveyance systems. To illustrate this point, thousands of acre feet of water were spilt recently from Friant Dam because of a lack of adequate storage capacity on the Upper San Joaquin. It's no wonder that many here today are concerned about having their short and long-term water needs met.

Complicating this matter is a reduction of Colorado River deliveries to California. As most of you know, the state will have to reduce its dependency on the Colorado River from past levels by 18%. Complying with this requirement will not be easy, especially in light of demands placed on the water supply by an ever growing population and the reallocation of several hundred thousand acre feet of contracted water supplies for environmental needs over the past 10 years in this region.

To hear firsthand from experts on the ground, the Water and Power Subcommittee is conducting a series of field hearings throughout the state over the next few days. We have started this process, here, in Central California where the need for a focus on water storage and water conveyance is most acute. My distinguished colleague, Mr. Nunes, has taken the first step in alleviating this problem through legislation, signed by the President, that requires a feasibility study on new surface water storage at Temperance Flat.

Today's important and historic hearing will help us do even more. Hearing from today's experts will be yet another step in finding solutions. Today we will hear about ways to build surface water storage and enhance water banking efforts, how water supplies can be maximized by expanding water transfer agreements, and the efforts underway to improve moving water through the Delta while protecting in–Delta farming and fishery interests.

I plan to use today's hearing as another step towards developing legislation to accomplish the goals we all share: more surface storage, better conveyance with water quality protections, private property rights protections, balanced CALFED implementation, and fiscally sound ecosystem restoration principles. I look forward to working with my colleagues as this Subcommittee marches forward on this important legislation.

I welcome the Chairman of the Resources Committee, my other distinguished colleagues and the special guests we have invited here today, and I very much look forward to hearing how we can better work together to manage and share this valuable water resource.

STATEMENT OF THE HON. RICHARD W. POMBO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. POMBO. Well, thank you. I would like to start off by thanking Congressman Calvert for holding these hearings on this important issue that is facing California.

As I think most of you know, water is vital to a healthy and productive California. Without a sufficient water supply, all of

California from ag to urban, from environmental to industrial, will suffer.

When farmland lays idle due to lack of water, the farmer, the farmworker, and the industries that supply the inputs to the farmer are negatively impacted. When cities are not able to provide water to industries or the population, jobs are lost and economies are depressed.

California has not kept up with the growing demand for water. We have added very little surface storage over the past 20 years; yet our needs have increased.

With the ever-growing demand for water by urban and environmental needs, we need to find new water and storage options; trying to solve our water shortage needs by transferring water from agriculture to urban or environmental needs is not a solution. These transfers do not address the root of the problem, which is a lack of water.

CALFED was put together to try and address many of these issues; yet after years of analyzing and spending hundreds of millions of dollars, one has to question, "Where is the water? Have we all gotten better together?" as the early CALFED mantra stated.

With over $249 million just in Federal money, not to mention state money, being spent over the past 4 years on ecosystem restoration, and only $27 million having been spent on just to—spent on just studying the storage needs, one wonders, "Are we moving forward and getting better together?".

In the Delta, the heart of the water system for the state of California, many problems still exist. Water quality is an important issue for many who rely on the Delta for their water; yet, it has not really improved significantly since CALFED has been established. And one question is if it will.

Levee stability is critical not only to those who live in the Delta, but to the whole water supply system. Yet, it still takes money in studies and mitigation in some cases than to do the actual levee work necessary to ensure a safe and stable levee system. Was not CALFED supposed to streamline this process?

In order for CALFED to be successful, it must address many of these outstanding issues. We must have more storage, better water quality, oversight on how many millions of dollars are being spent in coordination between the agencies to ensure a rapid permitting process for the necessary projects.

I, again, want to thank Congressman Calvert and Congressman Nunes for all their work in putting together this hearing. Mr. Calvert in all the work he has done over the past several years on water issues of impacting California. I know this is an extremely important issue to all of us, and having the opportunity to be here and hear from the people in Congressman Nunes' district is beneficial for all of us, so thank you.

Mr. CALVERT. Thank you, Mr. Chairman.

Mr. CALVERT. Nearly everyone agrees with the need for more water supply, but too little has been done to meet the growing demand for the increasingly scarce resource.

More than 30 years has passed since California has made any major investment to improve its storage and conveyance systems. To illustrate this point, thousands of acre feet of water were spilt

recently from Friant Dam because of a lack of adequate storage capacity on the Upper San Joaquin. It is no wonder that many here today are concerned about having their short- and long-term water needs met.

Complicating this matter is a reduction of the Colorado River deliveries to California. As most of you know, the state will have to reduce its dependency on the Colorado River from past levels by 18 percent; that is about 800,000 acre feet of water.

Complying with this requirement will not be easy, especially in light of demands placed on the water supply by an ever-growing population and the relocation of several hundred thousand acre feet of contracted water supplies for environmental needs over the next 10 years in this region.

To hear firsthand from experts on the ground, the Water and Power Subcommittee is conducting a number of field hearings throughout the state over the next few days. We started the process here in Central California where a need for a focus on water storage and water conveyance is most acute.

My distinguished colleague, Mr. Nunes, has taken the first step in this problem through legislation signed by the President that requires a feasibility study on new surface storage at Temperance Flat.

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I plan to use today's hearing as another step toward developing legislation to accomplish those goals we all share; more surface storage, better conveyance, and water quality protections, private property rights protections, balanced CALFED implementation, and fiscally sound ecosystem restoration principles.

I look forward to working with my colleagues as this Subcommittee marches forward on this important legislation.

We have other colleagues, of course, with us today throughout the state of California. And with that, I am going to turn it over to Mrs. Napolitano, the Ranking Democratic Member for her opening statement, from right there in Los Angeles, California.

STATEMENT OF THE HON. GRACE NAPOLITANO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mrs. NAPOLITANO. Thank you very much, Mr. Chairman, and I agree with Chairman Pombo that you are to be commended for continuing dialog on California's most precious resource, and—besides its people, its water.

We appreciate thoroughly your attendance, because it is only through you—I am an old lady—through you that we can understand the issues more thoroughly and be able to grasp the types of legislation and the impact that it is going to have, not only on the farmers here in this northern part of California—understand I am from L.A., so you gather the difference.

We must work together, north/south, for the benefit of the whole state. There is no other way. And I might add that—and very frankly, it may step on a few toes—many of my colleagues in Washington for the other states do not want to see California be able to get the assistance it needs to be able to put through the programs that are going to help.

It is a matter of money, and the dissemination thereof, and I am telling you from my vantage point—I am not speaking for anybody else except for me—we must work together to be able to bring those programs together to get them passed, so that we can fund those projects that are going to help everybody maintain the life—promote California product, promote California economy, and promote California's great standing in this world.

Mr. Chairman, we were here almost 2 years ago talking hopefully to try to get CALFED passed. It didn't happen. Let's hope that we can get more information that is going to bring all the partners together so that we have an equitable solution to getting CALFED passed.

The feedback that we receive is not only necessary, it is critical. It is us understanding the local problems and local issues, and the impact on California's economy; not only in the north, but also in the south that is going to help us to be able to work together.

I am here to listen and to learn, and I look forward to hearing the testimony. Thank you very much, Mr. Chairman.

Mr. CALVERT. Mr. Radanovich.

STATEMENT OF THE HON. GEORGE RADANOVICH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. RADANOVICH. Thank you very much, Mr. Chairman. I want to thank Chairman Calvert and also Chairman Pombo, for holding this hearing today. I especially want to recognize—thank the witnesses, but also recognize one in particular, Kole Upton, who is Chairman of the Friant Water Users Authority, who is just about the only constituent I have left in the—since redistricting, is that I used to represent part of Tulare County as well.

But, currently—and I think these statistics are worth putting into the record—currently, according to California Department of Water Resources, California's 78 million acre feet of developed water is allocated in the following fashion: 46 percent of the water is used by the environment, 43 percent is used on farms, and 11 percent is used in homes and businesses.

Water supplies for human uses, both ag and urban, have declined 14 percent since 1990. My concern with this trend is that our state's population is expected to grow approximately 46 million by the year 2020. Without major water supply enhancements, our families will not have adequate drinking water in the near future.

Furthermore, our state's $27 billion agriculture economy, a large portion of which is based here in the Central Valley, cannot continue to thrive without increased water yield through the construction of water infrastructure.

Congress is working to ensure that such construction occurs as soon as possible. As many of you know, I have joined my colleague and friend, Devin Nunes, to push for the creation of water storage

in the upper San Joaquin River above Friant. We are seeking to secure $4 million in the Fiscal Year 2004 Federal appropriations to continue the upper San Joaquin Storage Feasibility Studies, which will lead to more available water in the Valley for agricultural, environmental, and urban uses.

In addition, I have worked with my Valley colleagues this past few years to obtain about $1 million in Environmental—EPA funds—for environmental restoration efforts along the San Joaquin River.

Phase 1 of the restoration effort is currently underway, and I am especially pleased that the Resource Management Coalition and the San Joaquin River Task Force—some of whose membership is here today—have been driving—have been the driving strength in my congressional district to make the endeavor a reality.

The Task Force demonstrates a commitment of local residents and local elected officials who are taking action toward restoring the San Joaquin River in a meaningful way.

For my part, I will soon be introducing legislation commissioning a National Academy of Sciences study to determine the best measures that can be taken to restore the San Joaquin River. The Academy will be required to report their findings to Congress, and I hope to work with my constituents and colleagues here today to move this legislation through the Congress.

Though this hearing is not focused on this issue, I want to speak briefly about the CVPIA, or the Central Valley Project Improvement Act. It has been 11 years since this Act came into law, and our region has invested a great deal of resources to make this law work. Conservation, land retirement, crop changes have all been implemented by the agriculture community in order to achieve the objectives of the CVPIA.

Water supply reliability, though, has suffered, and the region's agriculture water needs have gone largely unmet; even in normal and wet water years.

To the detriment of both the environment and agriculture in the Valley, the CVPIA has significantly raised water prices. Tier pricing under the CVPIA, for example, has made it extremely expensive to operate conjunctive use systems. Growers pay enormous prices for the water to be stored, extracted, and delivered, and this creates a clear disincentive for ground water storage.

A more flexible approach to tiered pricing would encourage contractors to conserve and reuse products. Such flexibility is necessary for CVPIA to be successful. I hope to hear suggestions today as to how the Act could be better administered.

In addition, and even though we are not holding this hearing on this issue, I think it is important to mention something about CALFED.

In 1994, CALFED was a program created to develop long-term solutions for all—as Chairman Pombo mentioned—for all water users creating a balanced process to provide for agriculture and environment and human uses.

The motto back then as my Chairman mentioned, "We all get better together." Unfortunately, this motto has not driven the CALFED process, and the people of California are the ones suffering.

The vast majority of the $280 million of Federal funds spent so far on CALFED has been spent on environmental projects. Some of these environmental projects have merit; in fact, most of them do.

However, the environment cannot continue to benefit both to the exclusion of agriculture and urban water needs, and I fear that if the CALFED program continues to place the environment ahead of human needs, our state will find itself in the midst of a water crisis of catastrophic proportions.

Although I have been critical of CALFED, I am committed to working to renew the program's human purpose as outlined in its own mission statement "to advance water management practices for all users." Simply put, this means that more water yield in the state, which means construction of more water facilities.

Again, I want to thank Chairmen Pombo and Calvert for holding this important hearing, and I look forward to hearing the testimony of the witnesses.

Thank you very much.

Mr. CALVERT. I thank the gentleman.

Mr. CALVERT. Mr. Cardoza, also a resident of the Central Valley.

STATEMENT OF THE HON. DENNIS CARDOZA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CARDOZA. Thank you, Mr. Chairman. I am going to be very brief today. I want to thank you for coming to our great Valley. Thanks to Mrs. Napolitano for coming up here as well.

We have a great working relationship of the Valley Delegation. Mr. Dooley, Mr. Pombo, and Mr. Radanovich, and I all work together very well on this issue, and I thank them for welcoming me into their club this year.

I want to just say two things very quickly: First of all, that—for those of you who didn't hear, he said I was Portuguese, so I qualified. Well, I had the prerequisite.

I just want to say a couple of things, and I will say it very simply. We need water storage. We needed it yesterday. I am here to listen to see how we are going to get it, and how we are going to move forward. And, personally, I am not for any more new initiatives that don't include new water.

We have to have new storage. We have to have new supply or the Valley is not going to be able to compete economically. That just is not an acceptable alternative.

So with that, I am ready to listen, Mr. Chairman. Thanks for coming to our part of the world.

Mr. CALVERT. I think we are evenly matched here. We have three Portuguese and the rest of us.

With us today on the panel is Mr. Tom Glover, the Deputy Director of the California Department of Water Resources; Mr. Kole Upton, the Chairman of the Friant Water Users Authority. Ms. Gloria Moralez, businesswoman/farmer from Fresno; Mr. Daniel G. Nelson, the Executive Director to the San Luis & Delta-Mendota Water Authority; Mr. Marc E. Christopher, Policy Advocate for Friends of the River; Mr. Thomas Clark, General Manager of the Kern County Water Agency; and Mr. Keith Watkins, the second vice president of the Tulare Farm Bureau.

I forgot Mr. Nunes. I just—I didn't forget, but he has an opening statement. Before we recognize our witnesses, Mr. Nunes, you have an opening statement?

STATEMENT OF THE HON. DEVIN NUNES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. NUNES. Well, thank you, Mr. Chairman. I don't know if it is good or bad for Mr. Cardoza and myself, but when you are the freshmen out, they oftentimes just forget about you. You sit on the end of the table, and by the time everyone has talked, there is very little left to say, so with that—I just want to—I do want to introduce, because I did forget, Mrs. Jenny Barker who is with Assemblyman Bill Maze's office. And I also want to introduce the mayor of Chowchilla, Mr. Harris, if they would please stand. I think they're here. There they are in the back. Thank you for coming.

Mr. Radanovich stole all my thunder, which normally happens back in Washington also, but I just want to say that, to be very clear, that the only solution for the San Joaquin Valley, southern San Joaquin Valley, is another reservoir behind Friant. That is the only solution. You will hear lots of other solutions out there, but the whole Valley needs to rally behind this project, because it is one that is both feasible and viable for the people of this Valley, and will create new water, which is what the prior speakers talked about.

So with that, Mr. Chairman, I look forward to the testimony of the panel, and I yield back.

Mr. CALVERT. I thank the gentleman.

Mr. CALVERT. We will start with Mr. Tom Glover, the Deputy Director of the California Department of Water Resources. Mr. Glover, we are operating under the 5-minute rule. I believe there is a timer here. We will have plenty of time for questions, please—we will attempt to do that. I know sometimes you may need a little bit of extra time, but we will try to keep to it.

STATEMENT OF TOM GLOVER, DEPUTY DIRECTOR, CALIFORNIA DEPARTMENT OF WATER RESOURCES

Mr. GLOVER. Good morning, Mr. Chairman and members of the Subcommittee. My name is Tom Glover. I am Deputy Director for the State Water Project, Department of Water Resources.

You have your—you have my testimony before you, and in my testimony, I talk about where we are with expanding our pumping capacity through the Delta, and also some information on the CALFED budget.

What I would like to focus on this morning is where we are with the 8,500 in banks and our attempt to increase our pumping capacity through the Delta.

As you recall, the CALFED ROD calls for 8,500 moving from 6,680 cfs to 8,500 cfs pumping plant and eventually moving to 10,300 cfs.

Where we are with that, we are moving ahead with the 8,500 cfs, and we are—also will be installing permanent barriers within the Delta for water quality and water level issues.

Over the last couple of years, we have been meeting with our counterparts in the Federal Government, both reclamation and the Regulatory Fish and Wildlife working toward a solution.

A series of meetings—we were not able to really narrow down a single preferred plan, so this year we are moving ahead; and we are moving our environmental documents ahead in kind of a wide range of operational alternatives all the way from the most friendly to the environment up to maximizing water deliveries.

What we expect to do this year is we expect to by the year end of calendar year arrive at a preferred option. And by, let's see, late—that is in October of this year. By September of 2004, we are looking to secure our permits for the additional pumping capacity. And by the end of calendar year 2004, we expect to be implementing the additional pumping capacity. In 2008, we will complete construction of the permanent barriers using the temporary barriers in the meantime.

Another question that you had asked is our counterparts, the Federal Government, and our interaction with them to complete this project.

Obviously, one of our most important counterparts is the Bureau of Reclamation. They operate the Central Valley Project. We operate the State Water Project. We are jointly responsible for water quality issues in the Delta.

It is important that as we move ahead with increased pumping capacity, that we coordinate with our Central Valley Project most effectively utilize the additional capacity.

Additionally, the regulatory folks that we deal with are U.S. Fish and Wildlife Service, and NOAA Fisheries. They will be submitting biological opinions on our selected projects.

And, finally, United States Army Corps of Engineers, they will be submitting a Section 404 permit, and also a Section 10 permit for the Rivers and Harbors Act.

Obviously, for us to say that we will complete this project by the end of next year, we are going to have to work closely with our counterparts in the Federal Government to make this happen.

Mr. CALVERT. Thank you.

[The prepared statement of Mr. Glover follows:]

Statement of Tom Glover, Deputy Director,
State of California Department of Water Resources

Introduction

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to be here today. My name is Tom Glover, and I serve as Deputy Director of the California Department of Water Resources. I am pleased to present the State of California's perspectives on the CALFED Bay–Delta Program and water supply issues impacting the Central Valley and the entire state.

The Subcommittee has asked me to touch upon two topics. One relates to the efforts of the Department of Water Resources to increase the State Water Project's Delta export limit to 8,500 cubic feet per second and, ultimately, to 10,300 cfs, and to any Federal agency coordination or cooperation necessary to implement the increase. The second topic is the impact the State's budget shortfall is having upon funding the CALFED Program.

The Department of Water Resources is a member of CALFED and is a State lead agency for the CALFED Program elements covering storage, conveyance, levees, water use efficiency, water transfers, and watershed management. In January of this year, the California Bay–Delta Authority was established to implement the CALFED Bay–Delta Program. DWR is responsible for implementing many of the individual projects within the CALFED Program and is integrally involved in devel-

oping the budgets for these efforts. Information contained in this testimony regarding funding for the CALFED Program overall has been developed by the Authority in close coordination with individual State and Federal agencies. For ease of presentation, I am covering both topics.

Efforts to Increase SWP Delta exports to 8,500 cfs

The Record of Decision for the Programmatic EIR/S for the CALFED Bay–Delta Program calls for an increase in the maximum allowable pumping limit at the SWP export facilities from the current level of 6,680 cfs to 8,500 cfs. The ROD also specifies a subsequent increase of the pumping limit to 10,300 cfs in association with new fish screens at Clifton Court Forebay and the construction and operation of permanent operable barriers in the south Delta.

At the time the ROD was prepared, the cost of new fish screens at Clifton Court Forebay was largely unknown. Since that time, the projected cost of the envisioned fish screen facility has been refined and is estimated between $1.0 - $1.2 billion dollars. This large cost and the uncertainty among fish biologists of the value of screening for all endangered fish prompted a reassessment of the plan contained in the ROD for south Delta improvements.

Considering these factors, the CALFED Program agencies decided in 2002 to reduce the scope of the South Delta Improvements Program to address increasing the SWP export capability to only the 8,500 cfs level and constructing permanent operable barriers in the south Delta. Increasing the SWP export limit to 10,300 cfs will follow once the method of screening is defined. The exact method of screening Clifton Court Forebay will require additional study, which is expected to include a test facility at the Central Valley Project's Delta pumping plant. In addition to increasing the SWP export limit to 8,500 cfs and installing permanent operable barriers, the SDIP includes channel dredging and relocating some existing agricultural diversions in selected areas in the south Delta channels.

Figure 1 illustrates the study area in the south Delta and the actions proposed under SDIP.

Per the ROD, increasing the SWP export capacity to 8,500 cfs requires the development of a "project-specific operations plan that addresses the potential impacts of increased pumping" and that the plan "will be developed through an open CALFED process".

With this requirement in mind, DWR convened a series of meetings with Federal and State representatives and various stakeholders between January 2002 and October 2002 to solicit input on the potential components of the operations plan for 8,500 cfs and to identify areas of agreement.

Several alternative sets of rules for operating the SWP to the 8,500 cfs limit were developed through this process. No single plan emerged as the obvious preferred operation. Because of significant outstanding issues associated with the operations plan, DWR and the Bureau of Reclamation have decided to issue a draft EIR/S for SDIP that encompasses a "range" of operation alternatives. It is anticipated that a specific 8,500 cfs operation plan will be identified by the end of 2003 and will consider other programs and activities related to Delta operations which require decisions this year. The related activities are the extension of the Environmental Water Account, the intertie connecting the California Aqueduct and the Delta–Mendota Canal, long-term contract renewals for the Central Valley project, and sharing the water made available under the settlement regarding the Sacramento River water users' responsibility for meeting Delta water quality standards.

The schedule contained in the ROD has the 8,500 cfs operation beginning by mid–2003. Due to delays in identifying a preferred alternative for the operational rules governing the use of 8,500 cfs, this schedule has been delayed about one year. The current schedule for implementing the SDIP is as follows:

- Release SDIP Draft EIR/S for Public Review: Late October 2003
- Issue SDIP Final EIR/S: Early June 2004
- Secure Permits for 8500 cfs and barriers: September 2004
- Implement 8500 cfs operation: October 2004
- Complete construction of permanent barriers: December 2008

State bond funds for $56 million are specifically earmarked for permanent barrier construction. The total estimated cost for barrier construction is $68 million. We anticipate the remaining $12 million would be paid by SWP and CVP contractors with possible cost sharing from the Federal Government.

Federal Agency Coordination/Cooperation

Development, approval, and implementation of the SDIP requires coordination with and the cooperation of the Bureau of Reclamation, the U.S. Fish and Wildlife Service, NOAA Fisheries, and the U.S. Army Corps of Engineers.

The Bureau, as the operating agency of the Central Valley Project, and DWR, as the SWP operating agency, coordinate very closely in the operation of the two projects. The projects are jointly operated to meet Delta water quality standards and the sharing of this responsibility is governed by rules contained in the Coordinated Operation Agreement (1986). When capacity is available at the SWP export facilities, water can be pumped for the CVP. Approval for this operation (commonly referred to as a joint point of diversion) is dependent upon maintaining sufficient water levels in the local south Delta channels for the agricultural diverters. Sufficient water levels are maintained by the temporary agricultural barriers currently being installed by DWR and, in the future, by the permanent barriers proposed in the SDIP. In addition, the Bureau is directed by the Central Valley Improvement Act to install the fish-protection barrier currently being installed by DWR, and proposed in the SDIP, and to mitigate the impacts of that barrier upon the local agricultural divertors downstream. For these reasons, the Bureau is the Federal lead agency for assuring the SDIP meets requirements under the National Environmental Policy Act. In addition, the Bureau is working closely with DWR to explore ways increasing the SWP export limit to 8,500 cfs can help recover some of the CVP water supply dedicated for fish and wildlife purposes under CVPIA.

The U.S. Fish and Wildlife Service, NOAA Fisheries, and the U.S. Army Corps of Engineers are Federal permitting agencies for the SDIP. The resource agencies will be analyzing the impacts of the project upon fish and wildlife. DWR is working with these agencies to identify mitigation actions required under the Federal Endangered Species Act and other actions consistent with the CALFED Multi–Species Conservation Strategy for incorporation into the actions contained in the SDIP.

The Corps of Engineers will be conducting an independent review of SDIP under Section 404 of the Clean Water Act and under Section 10 of the River and Harbors Act.

Coordination between all agencies is an important factor for implementing the SDIP. However, inter-agency cooperation is essential in selecting the final operation rules for the 8,500 cfs limit, identifying the components of the selected project, and assuring operating to the 8,500 cfs limit begins in Fall, 2004. These components include the operation rules governing the increased export, the associated improvement in SWP water supply and the Environmental Water Account, commitments to funding for maintenance activities and local diversion improvements, and additional ecosystem actions to contribute to recovery of endangered species and improve conditions for non-listed species. For the SDIP schedule to be met, the selected project should be decided early next year and Federal permits received by September, 2004.

A related activity that requires close cooperation between State and Federal agencies is preparation of an updated Operations Criteria and Plan, or OCAP. This document will serve as a baseline description of the facilities and operating environment of the Central Valley Project and the State Water Project. We are committed to working closely with Reclamation to ensure that, together, we can produce an OCAP that properly describes our operations and can serve as a solid foundation for Endangered Species Act consultations and CVP long-term contract renewals.

Impact of State's Budget Shortfall on CALFED Funding

The California Bay Delta Program is in the third year of program implementation. At the time the Record of Decision was signed in 2000, the financial status of the State and Federal Governments was much more positive. The ROD estimated that for the first 7 years (Stage 1) an estimated $8.6 billion (State, Federal and Local/Water User funding) would be needed to support all activities.

Funding available to meet program objectives has been provided from all sources over the first 3 years of the program. As shown in the attached bar chart (Figure 2), funding has primarily been provided by State and local/water user sources. For the State contribution, even with the significant reduction in General Funds, the California Bay Delta Program has received substantial funding (approximately $450 million each year), primarily from bond funds (Propositions 204, and 13). Local funding has been provided primarily as part of the local cost share required for Title XVI recycling projects (ranging from $60 to $200 million per year). Water user funding has averaged approximately $50 million each year, which includes State Water Project funds and CVP Restoration Funds. Federal funding has been primarily provided from the Bureau of Reclamation and has averaged approximately $50 million per year also.

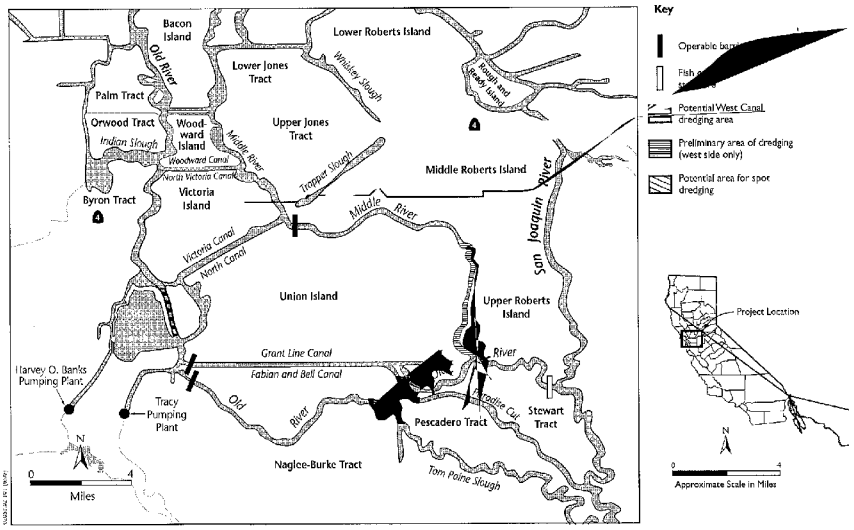
When the ROD was signed, it was anticipated that funding would come equally from Federal, State, and local user sources. To date, 60 percent of the funding has come from the State, 32 percent from users and local funding, and 8 percent from the Federal Government.

Also attached are bar charts displaying funding by program element (Figure 3) and by CALFED objective (Figure 4). These bar charts describe how the funding to date (Years 1–3) has compared to the funding projected in the ROD. The program elements that have been impacted the most due to lack of funding are Water Use Efficiency, Delta Levees, Drinking Water Quality and Science. While funding gaps have occurred through Year 3, most program elements will be receiving significant additional funding in Years 4, 5 and 6 from State Proposition 50 bond funds. The primary program element still affected by funding delays is the Drinking Water Quality Program, because Federal funding has not been made available and because funding was not specifically targeted for CALFED DWQ in Proposition 50.

Future funding for the California Bay Delta Program in Year 4 is displayed in the attached table (Table 1) based on the Governor's May Revise (fiscal year 03–04) and the President's proposed budget (fiscal year 04). The primary funding available in Year 4 is from Proposition 50. These funds are expected to support the Program for 2–3 years. After Year 5 additional funding will be needed from Federal, State and other sources.

Conclusion

Mr. Chairman, this concludes my testimony. Thank you for inviting me to share the State's perspectives on these important issues. I look forward to answering any questions you may have.



Jones & Stokes

Figure 1
South Delta Improvements Program

Figure 2
California Bay-Delta Program Funding
State, Federal & Local/Water User
Years 1-3

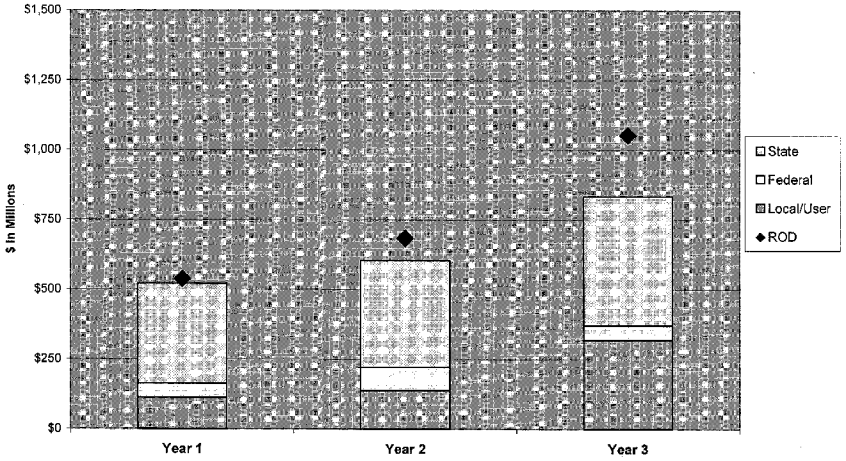


Figure 3. Cumulative California Bay-Delta Program Funding Years 1-3

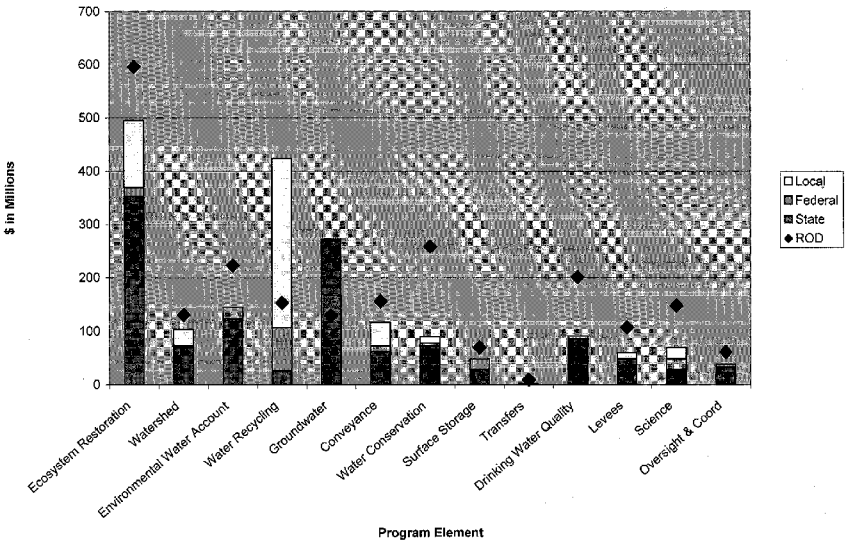
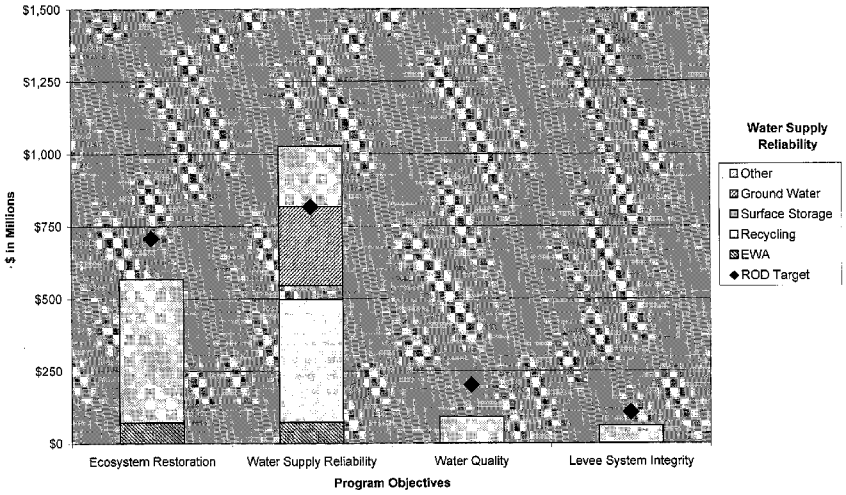


Figure 4
Cumulative Funding for California Bay-Delta Program Objectives
Years 1-3



California Bay Delta Program
Proposed Year 4 Funding
($ in millions)
May 27,2003

Program Element	Total Year 4	FY 2003-04 State Funding [1]						FY 2004 Federal Funding [2]					Water User/Local Funding [3]			
		GF	Prop 204	Prop 13	Prop 50 [4]	Other State [5]	State Subtotal	Bay-Delta [6]	USBR W&RR	USACE	Other Federal	Federal Subtotal	SWP	CVPIA RF	Local (est.)	User/ Local Subtotal
Ecosystem Restoration	$175.4	$1.2	$50.1	$10.0	$67.9		$129.2		$1.1	$0.2	$1.6	$2.9	$7.3	$14.1	$20.0	$41.3
Environmental Water Account	$44.0	$0.1			$35.8		$35.9	$8.0			$0.2	$8.2				
Water Use Efficiency	$115.9	$3.0		$28.2	$61.5	$1.9	$94.6		$13.2			$13.2			$11.0	$11.0
Water Conservation	$92.7	$3.0		$0.3	$35.3	$1.0	$40.6		$2.2			$2.2			$11.0	$11.0
Water Recycling	$59.1			$18.9	$26.2		$45.1		$11.0			$11.0				
Water Transfers	$0.6	$0.6					$0.6									
Watershed	$39.0	$0.4			$29.6		$30.0									
Drinking Water Quality	$3.1	$0.8		$2.0	$0.3		$3.1									
Levees	$25.3	$0.5			$21.3		$21.8			$1.1		$1.1	$0.4		$3.0	$3.4
Storage	$37.6	$0.5		$10.6	$20.0		$31.1	$5.5	$1.0			$6.5				
Surface	$28.5				$20.0		$20.0	$5.5	$1.0			$6.5				
Groundwater and Other	$11.2	$0.5		$10.6			$11.1									
Conveyance	$31.8	$2.2		$9.7	$0.8		$12.5						$19.3			$19.3
Science	$36.4	$0.1		$2.0	$19.3	$1.2	$22.5		$4.0		$1.7	$5.7	$6.2	$0.7	$0.2	$7.1
CALFED Science	$21.8	$0.1		$2.0	$18.7		$20.8				$1.0	$1.0				
IEP	$13.6				$0.6	$1.2	$1.7		$4.0		$0.7	$4.7	$6.2	$0.7	$0.2	$7.1
Water Supply Reliability	$76.2				$76.2		$76.2									
Oversight & Coordination	$10.8	$8.9					$8.9	$1.5		$0.1	$0.2	$1.8				
Total	**$587.9**	**$18.2**	**$50.1**	**$62.6**	**$332.4**	**$3.1**	**$466.3**	**$16.0**	**$19.3**	**$1.4**	**$3.6**	**$39.3**	**$33.2**	**$14.8**	**$34.2**	**$82.2**

[1] Year 4 proposed State budget includes funding for the California Bay-Delta Authority, Department of Water Resources, Department of Fish and Game, State Water Resources Control Board, Department of Forestry and Fire Protection, Department of Conservation and the San Francisco Bay Conservation and Development Commission.

[2] Federal funding sources include California Bay Delta Act funds (Bay Delta Act), U.S. Bureau of Reclamation Water and Related Resources (USBR W&RR), U.S. Army Corps of Engineers appropriations (USACE). Other Federal Funding includes the U.S. Fish & Wildlife Service, U.S. Geological Survey, and the National Marine Fisheries Service.

[3] Water User/Local funding includes State Water Project Funds and CVPIA Restoration Funds that are collected from state water contractors and Central Valley Project water users, but are budgeted and appropriated through the federal and state governments. Local funds are based on Year 3 estimates for local cost sharing and will be updated as information becomes available.

[4] An additional $235 million (not shown in this table) is available in FY 03-04 for statewide programs in Drinking Water Quality, Desalination and Integrated Regional Water Management. A portion of this funding is expected to support CALFED objectives.

[5] Includes DWR funds ($1.9m) that contribute to the Water Conservation Program, and Interagency Ecological Program (IEP) funding ($1.2m) from various departments that contributes to the Science Program.

[6] Federal Bay-Delta funds include $5.5 million for the storage program element: Shasta Enlargement ($2.25m), San Joaquin River Basin ($1.0m), Los Vaqueros ($1.75m) and Sites Reservoir ($0.5m).

Table 1
Testimony of Tom Glover
House Committee
on Resources
June 28, 2003

Mr. CALVERT. Mr. Kole Upton, Chairman of the Friant Water Users Authority.

STATEMENT OF KOLE UPTON, CHAIRMAN, FRIANT WATER USERS AUTHORITY

Mr. UPTON. Can you hear me? Can you hear me now? OK. My name is Kole Upton. I am a farmer. I live in Chowchilla in the

Friant Service area. I am a family farmer. I live on my farm. My sons live on my farm, and my dad started the farm years ago.

There are 15,000 family farmers in the Friant Service Area. It consists of about a million acres, and it stretches from Merced County to the north, and Kern County to the south. Within the same service area, there is about 1 million people that also live in the Friant Service area that indirectly or directly depend on Friant Service Water to exist.

Friant Dam was built to replenish the underground aquifer that was depleted during the '20's and '30's. It was presented as a government opportunity for people to come here and farm 160 acres or better, and change the desert back into a garden. It is a government program that has been remarkably successful, but it is in jeopardy now because of lack of additional water storage.

The key to Friant is its location. It is central in California, and, therefore, it is critical to solve the Californian's water needs. Whatever you do here is going to have an effect on the north and the south.

We in Friant are trying to reach out and start working with people on either side of us in order to try and augment solutions. I don't think we can expect you folks in Congress to do anything for us with your colleagues in Congress if we can't get along together here in California.

So one thing that we do and we are working with Metropolitan Water District of Los Angeles currently toward a water quality exchange. The water out of Friant is pure, and it comes in—in fact, it is so pure it cannot go in the ground in some places in Friant, and it needs some impurities. Well, Metropolitan has graciously agreed to provide the impurities.

They receive some water from the Delta, and we can do a quality exchange, which will improve our reliability and also give us a powerful ally in water situation.

We are also working with the people to the north; Merced, Modesto, Turlock, all the way and including the city and county of San Francisco, the VAMP Program, Vernalis Adaptive Management Program. This sweetens the Delta and does ecological enhancement in the river up in that area.

To the west of us, we have finally made peace with the Westlands Water District. We are now working together with those folks, so that everybody in the Valley is working together.

We have also reached out to nonwater folks, such diverse folks as the United Farm Workers, for instance, which farmers usually don't have a lot in common with, but one thing that we have found and they have found is that without water, we don't have farms, and their folks don't have jobs.

I, last, commend the Board of Supervisors of Madera and Fresno counties. They unanimously put together the San Joaquin River Task Force, and invited many water interests to join, including us, exchange contractors, and other stakeholders. They are also gracious enough to invite the National Resources Defense Council, a national environmental organization, that has a lot of interest in this area, because of their lawsuits. Unfortunately, they refused to participate and refused to work with the local interests.

Lastly, I would like to point out the building of Temperance Flat and how we should look at that, in my opinion. You are going to hear a lot of testimony that it is going to cost you $400 and $500 an acre foot to get that water out of Temperance Flat. That is the wrong way to look at that. I look at it the same as you look at a four- or five-year-old child, we spent $200,000, $300,000 educating that child in order to be a doctor, or God forbid, a lawyer, or something like that.

We can very easily economically go across to another country and buy that Ph.D., and have them come here. But we are, as a society, like an educated population. That tells us what kind of people we were.

It is the same with Temperance Flat Dam. We need to invest in our own infrastructure, invest in our own people, and invest in our own food supply for future generations. We do not want to depend on a foreign country for food supply. And the solution to that in the Central Valley is Temperance Flat.

Lastly, you folks came here to have some question answered, I guess your question is: "What do we need to help us in the future in the Central Valley?" Congressman Nunes said it, "It is Temperance Flat. When do we need it? We need it now.".

Thank you.

[The prepared statement of Mr. Upton follows:]

Statement of Kole M. Upton, Chairman, Friant Water Users Authority

Mr. Chairman and Members of the Subcommittee:

I very much appreciate being given the opportunity to testify before the Subcommittee to provide information about the state of our water supply reliability in the Friant Division (Friant) of the Federal Central Valley Project ("CVP"). I would like to focus on a critical Federal role in helping develop much-needed additional water storage facilities on the upper San Joaquin River in Central California, particularly in the area known as Temperance Flat. I am testifying today as the Chairman of the Friant Water Users Authority and as a family farmer in the Friant Division service area.

It is truly an honor and privilege to be invited to offer testimony to the Subcommittee. I am grateful for the Subcommittee's recognition that the concept and need for additional water storage in California is alive and very real, rather than being a dead issue as so many in the environmental movement would like to characterize the necessity for new dams and reservoirs. My testimony today will focus on the San Joaquin River, Friant's CVP water source, and its critical need for additional water storage for environmental enhancement, flood control and existing beneficial uses. However, it is important to note that the San Joaquin River's needs are, in many ways, merely a reflection on the vital necessity of meeting needs for future water storage created by rapidly growing population and environmental pressures elsewhere in California.

As you know, Friant water from the CVP and San Joaquin River is the vital fuel that powers much of the multi-billion dollar economy and creates tens of thousands of jobs in parts of Merced, Madera, Fresno, Tulare and Kern counties. Friant Dam was built to supplement the underground aquifer that exists under the Friant service area. This aquifer had become depleted during the 1920's and 1930's. Thus, many farms and communities were literally drying up. Friant Dam achieved its purpose by initiating a process called conjunctive use, utilizing a combination of surface water and groundwater to provide an adequate, stable and affordable water supply. The surface water was used when available and the underground was saved for dry years and droughts. It is a process that until recently has worked remarkably well.

Mr. Chairman, the issues and problems we are talking about here today are not about water. They are about people—the people of the San Joaquin Valley; the people most affected by any decisions made that impact water supplies. Friant water serves 15,000 farmers and 1,000,000 acres. Through the percolation of its surface water to the underground aquifer, it also helps maintain the water supply for

approximately one million people living in or near the Friant service area. Thus, anything that affects Friant deliveries will affect surrounding communities, their residents, their livelihoods and their way of life.

One valley generation after another has made a living through hard work and sacrifice. The written testimony I am pleased to offer to your Subcommittee will examine this marvelous valley of ours, a land that has been created by determined people thanks to farsighted efforts to provide dependable supplies of water. I will also address our region's critical water needs, particularly in the development of additional supplies through new surface storage.

Introduction

I am Kole M. Upton, Chairman of the Friant Water Users Authority. My ranch in southern Merced County receives CVP water through the Chowchilla Water District, of which I am a Director. The Friant Water Users Authority is a joint powers authority formed under state law comprised of 24 member agencies that all receive water from the Friant Division of the CVP.

The Friant service area is comprised of approximately one million acres of the world's richest farmland. It ranges from the southern part of Merced County, all the way to the base of the Tehachapi Mountains in Kern County. The majority of the service area is in Madera, Fresno, Tulare and Kern counties. This area annually produces about $4 billion in gross agricultural production with a tremendous variety of crops. The majority of the area is dedicated to permanent plantings of grapes, nuts, tree fruit and citrus. Friant also has a significant amount of row and field crops, as well as leading the nation in dairy production. This area is truly unique in its quality of agriculture and in its ability to produce all of this on small family farms that average approximately 100 acres in size. The area is also renowned for its highly efficient use of irrigation water, having been a "hot bed" for the development of drip and low volume irrigation technology. Friant boasts of some of the highest irrigation efficiencies found anywhere in the world.

The Friant Division consists of Friant Dam and Millerton Lake on the San Joaquin River northeast of Fresno, the 152-mile Friant–Kern Canal that runs south all the way to Bakersfield and the 36-mile Madera Canal that runs north to the Chowchilla River. Friant annually delivers approximately 1.5 million acre-feet of water. This water supply is principally used as a supplemental water supply, providing only 1.5 acre-feet per acre on average. However, there are some parts of the service area that rely totally on the Friant Division water as their sole source of supply. The area is blessed with good quality groundwater aquifers. Groundwater is the firm source of supply for the majority of the service area.

The Friant Division is unique among Reclamation projects in the West in that it employs a two-class system of water deliveries. Class 1 water is the first water (some 800,000 acre-feet) to develop behind Friant Dam and is typically delivered to those parts of the service area that have limited or no access to groundwater supplies. Class 2 water develops only after it becomes apparent to the U.S. Bureau of Reclamation that all Class 1 demands can be met. Class 2 water is delivered to those parts of the service area that can rely on groundwater. Class 2 water is typically used to replenish the groundwater through "in-lieu" recharge—providing growers with surface water in-lieu of using their wells, and through direct recharge—percolating water in recharge basins, natural waterways and unlined canals into the underground aquifers. The Friant Division has been in service for more than 50 years and has been successful in arresting a serious condition of groundwater overdraft that existed prior to the project. However, a condition of critical groundwater overdraft still exists in parts of the Friant service area and in neighboring areas in the southern San Joaquin Valley.

Congress authorized the CVP in the late 1930s, taking the project over from the State of California when the Great Depression made it impossible for the state to sell general obligation bonds that had been authorized by voters to build the Project's initial stages, including principal Friant features, between 1938–57..

The majority of the water rights to the San Joaquin River allowing for the diversion of water at Friant Dam are based on purchase and exchange agreements with the individuals and entities that held rights on the San Joaquin River at the time the Friant Division was developed. The single largest of these agreements requires the annual delivery of 840,000 acre-feet of water to the western San Joaquin Valley near Mendota (commonly referred to as the Exchange Contract). As a result, the Friant is dependent upon other CVP features, including Shasta Dam, the Tracy Pumping Plant and the Delta–Mendota Canal, to facilitate this required exchange. If for some reason the U.S. Bureau of Reclamation is unable to meet the demands of the Exchange Contract out of Delta export supplies, the Exchange Contract

provides for the release of water from Friant Dam to meet Exchange Contractor demands. Such a release has never had to be made.

All of these arrangements and developments occurred because of recognition that hard work by the earliest valley generations could not overcome, on its own, a lack of available water supply. Most of Friant's one million acres had been developed to permanent crops but heavy pumping in the 1920s and 1930s overdrafted groundwater in many areas to the point of exhaustion and severe land subsidence.

So the Federal Government made a deal with the people along the valley's East Side: In exchange for a water supply system, thousands of farmers and their communities agreed to invest in farms, homes, equipment, cities, towns and infrastructure to put the water to work. Congress gave its full blessing, later endorsed through Supreme Court decisions. The government provided opportunity. Valley folks seized it and made the most of it. Very few Federal programs have been so successful.

Now this program stands in jeopardy because certain elements of the environmental community believe Congress made a mistake when it authorized the Friant Division. Those radical elements believe the purposes for which Friant was created should now be subordinated to the goal of re-establishing a salmon fishery that disappeared more than half a century ago. Perhaps Congress would make a different decision today if it were faced with a decision to construct the Friant Division; however, the reality is that your predecessors made a decision, and we are where we are.

California's Growing Water Supply Crisis and the San Joaquin River

As officials of the Friant Water Users Authority have pointed out in previous testimony before this Subcommittee and other Congressional Committees, California is beginning to confront the reality of a chronic water shortage within the state and, in particular, the San Joaquin Valley as a region.

Within the San Joaquin Valley and throughout California, population growth continues to drive the need for developing additional water supplies. Very few new water projects have been completed over the past 25 years. The state has had to live off of the "extra" capacity of the systems our forefathers designed and built decades ago. Now, most of that extra capacity is gone. Only limited ability now exists to supply Californians during a drought of just a few years.

At the same time, needs associated with the development of the environmental movement have had enormous impacts. Passage and implementation of the Central Valley Project Improvement Act (CVPIA) and other regulatory actions to protect and enhance the environment have resulted in less and less water being available for human uses, including agricultural production. The San Joaquin Valley certainly has suffered. Water supplies such as those in the Westlands Water District and elsewhere along the West Side that were historically dependable are now unreliable. The valley's well-documented groundwater overdraft has been significantly worsened as a result of lessening availability of surface water supplies.

The reliability of Friant Division water supplies remains at risk as a result of litigation brought in 1988 by a number of environmental and fishing organizations. Remaining aspects of that litigation seek to return sufficient flow to the San Joaquin River for the restoration of a salmon fishery below Friant Dam. Estimates, many made by highly respected scientists, of the need for additional water to restore this fishery range in the many hundreds of thousands of acre-feet per year. If Friant water users were ordered by the courts to release existing supplies for this purpose, it obviously would have a major impact on the availability of water to Friant Division water users unless additional water supplies were developed to meet this need. Unfortunately, a stay to this litigation developed by the parties in 1999 has ended because the NRDC's environmental coalition has opted to return the case to the courts.

In so doing, the NRDC coalition has again vividly demonstrated the true colors of too many of those who so avidly wave the environmentalist banner to the detriment of the lives and well being of others. Far from being constructive members of society in search of workable solutions, too many of these individuals and organizations are radical elements that seek political and social power, and work with great skill and dedication to disrupt the broader ways of life to which the overwhelming majority of our nation's hard-working population subscribes. Inflexible and unreasonable positions taken by many in the environmental community on virtually all water-related issues seem to have become the standard by which everything else, including the realities of irrigated agriculture in the water-short San Joaquin Valley, are judged. The time has come to demand constructive, rather than obstructive, engagement by these radical environmental forces with their private agendas that are so detrimental to the well being of the American economy and broader

society. The threat of their tiresome lawsuits should be no guarantee, as it is now, that these environmental organizations must be included in whatever the water-issue loop happens to be.

Today, the pendulum has shifted so far toward environmental advocacy that those of us continuing to honor the deal made with the government 60 years ago and merely attempting to defend our families, our livelihoods and our way of life find ourselves heaped with scorn. Generally, the environmental advocates who are the most self-righteous, indignant and demanding tend to live the farthest away from the communities the more severe of their often-extreme policies would decimate and the lives they would leave shattered.

There simply must be better solutions to our water issues than the sort of legal power plays Friant water users have had to battle for 15 years. There has to be balance, fairness and compromise. Reality must be recognized. So must the fact that people's lives are at stake.

Friant worked cooperatively with NRDC for four years in studying ways to enhance and improve the San Joaquin River. I am pleased that our four-year settlement process with NRDC and its environmental coalition made progress. We learned much about what can and cannot reasonably be done to enhance the San Joaquin River. This attempt at litigation settlement was especially fruitful in the early years and resulted in obtaining much valuable data and techniques about the effective use of water in restoration activities. An example is the tremendous increase in knowledge gained about the use of the same water for both agricultural and environmental purposes. It is a shame that NRDC opted to return to the courts rather that finish the job we all started four years ago.

NRDC's solution and objective seems to be to have a salmon run on the river. Our analysis of the joint studies is that such a run is not reasonable, prudent or feasible. Until NRDC unilaterally stopped the appropriate studies, the data was showing the folly of spending the public's money in order to try to restore a salmon run in a reach of river that has largely been without riparian resources for such an extended period.

One such study was the study of temperatures of the water in Millerton Lake behind Friant Dam. The type of fishery appropriate for a river system is largely temperature dependent. Cold water will permit a salmon fishery to survive. Warmer water provides optimal conditions for other types of fish and they are usually mutually exclusive. The studies showed that Millerton Lake's water temperatures are so warm that releases from Friant Dam, no matter the quantity, would not allow salmon to survive in the San Joaquin River above the Merced River. Furthermore, San Joaquin River water from Friant would, upon reaching the Merced River confluence, would be so warm that it would damage the existing salmon run on the Merced River. Since these results did not fit in to NRDC's preordained desired outcome, the study was stopped. It is irresponsible to spend the public's money on something that we know will not work, and would even harm an existing ecosystem.

That said, let me assure the Subcommittee that Friant Water Users are committed to the San Joaquin River's environmental improvement and enhancement while preserving our way of life. We are continuing to work with other stakeholders who feel the same. We welcome any environmental group that wants to join constructively in this effort. Friant has consistently found ways to work with former adversaries in search of solutions that benefit all interests, and will continue to do that with respect to the San Joaquin River.

Effects of the Central Valley Project Improvement Act

The Central Valley Project Improvement Act (CVPIA), which Congress enacted in 1992, has obviously had tremendous effects upon all aspects of the CVP. The CVPIA has contributed to problems related, in general, with the CVP's water supply and, in particular, to the conjunctive use program upon which the Friant system was largely planned, devised and implemented a half century and more ago.

Prior to CVPIA's enactment, during wet years districts were able to bring in surface water at low cost during the winter months to encourage farmers to pre-irrigate row crops, fill up the lower profile of the root zones of crops such as alfalfa and orchards, and run water down creeks and other natural and artificial recharge systems. All of these activities had the effect of replenishing the underground aquifer and reducing the use of surface water during the hot months. Water costs have escalated ten fold since 1988 for Friant Users, with between a third to one half of the increase attributable to CVPIA charges. The impact has been to render groundwater recharge activities economically infeasible.

Even though the CVPIA is not the focus of this hearing, let me say that 11 years after the law's passage, the time has come for a thorough Congressional review of this law.

The Need For Additional Surface Water Storage

What is most needed to environmentally improve the San Joaquin River and sustain the valley's way of life are new sources of water. We know how to stretch existing supplies and we have discovered ways to beneficially reuse water. What we really need is more storage, behind a dam such as Temperance Flat in the upper end of Millerton Lake.

Aside from the well-documented fact that the entire south valley region is water short, the reasons why additional storage is a necessity are fairly simple. The San Joaquin River must have a source of "new" water for any meaningful environmental and fishery enhancement to occur. Although opportunities for water reuse and groundwater banking may exist, they are obviously insufficient to capture and store the huge quantities of surplus flows generated during the flood events of hydrologic above average years.

Millerton Lake's record makes clear that Friant Dam, with a reservoir storage of 520,500 acre-feet, is incapable of offering reserve storage. Millerton's water management shortfalls, both for the San Joaquin River and Friant water users, were dramatically illustrated during a pair of recent events, one of which occurred just this month:

- In 1997, a heavy autumn and early winter snowpack suddenly melted under the pounding of more than 20 inches of rain that fell in 24 hours as high as elevations of 12,000 feet in the San Joaquin River watershed. The result was a calculated natural flow that briefly reached a catastrophic level of 120,000 cubic feet per second and filled Millerton Lake to more than 10,000 acre-feet above capacity. Record releases of nearly 60,000 c.f.s. had to be made to the San Joaquin River, causing extensive damage to homes and farmlands along the river. Approaches to two bridges were washed away. The Bureau of Reclamation followed the immediate crisis with huge flood releases but, ironically, that winter's storm activity suddenly and completely vanished. Despite this massive flood release year, Friant's contractual water supplies ended up at only about 55% of contract amounts.
- In June 2003, a combination of circumstances—a cool and wet spring, already high reservoir storage, lack of early season irrigation demand and a mid- to late–May series of heat waves—caused Millerton Lake to fill and spill over Friant Dam into the San Joaquin River for several days. The situation compelled the Bureau of Reclamation to make "Section 215" (surplus) water available, even for non-long term Friant contractors. The spill wasn't all that much, adding up to about 8,300 acre-feet. However, this event occurred during a "short" water supply year that is only about 85% of average. Incredibly, because of the heavy movement of water to help evacuate Millerton Lake storage during the spill, it is possible that the overall Friant water supply declaration could end up being slightly decreased this year by the U.S. Bureau of Reclamation.

In each of these cases, the lack of storage capacity in Millerton Lake was the culprit. If we could generate meaningful added supply on a regular basis, I assure you that Friant's expert water managers will figure out ways to do wonders for the environment and everyone else.

Congress clearly recognized the environmental tradeoffs it was making when it authorized the construction of the Friant Division of the CVP back in 1939. We expect Congress and the Federal Government to have a major role in the restoration of the river and return of a fishery. That will require additional water storage.

A new dam is desperately needed for this area. Temperance Flat is the right place for this dam. This dam would be an investment in the future of America. Do not be fooled by the creative accounting methods of those opposing any new storage structures. They will claim that any new surface storage would result in water costs of $400 to $500 per acre-foot and that no farmer could afford such a cost. Thus, they reason, no dam should be built.

That is the wrong way to look at this situation. When a society invests in its own people, its own infrastructure and its future food supply, it is making an investment that will pay great dividends in the future. Why do we spend hundreds of thousands of dollars educating a child from age 5 until he or she achieves a Ph.D? Why not just save the expense and go hire someone with a Ph.D from another country and save a great deal of expense? The reason, of course, is that an educated society is a better society. It is an investment in the future and well worth it. Exactly the same reasoning holds true with the proposed dam and reservoir at Temperance Flat. Farmers with the help of the Federal Government have provided a low cost and reliable food supply for this country. That is something that this society should not discard. Relying on a potential enemy for a food supply is foolhardy. New water storage is an investment in agricultural self-reliance as well as environmental enhancement and meeting future needs created by inevitable population growth.

New water supply infrastructure, including the new storage contemplated in the CalFed Bay–Delta Program Record of Decision, must be supported and the regulatory hurdles leading to construction minimized. This does not mean abandoning existing law and regulation and running the risk of making environmental or economic mistakes. However, a plan of water supply development and water quality improvements that takes too long to come to fruition will only create new mistrust of the process and new reasons for individual interests to think and act only for themselves. Being able to move effectively and efficiently in making the necessary determinations to effect water system improvements is essential.

Conclusion

Mr. Chairman, valley people love their land and communities. Our people favor and will support realistic and reasonable river enhancement but valley people need the tools so they, their homes, their livelihoods and their way of life can be saved along with the San Joaquin River. More water storage is that solution, for the river's future and our own.

Thank you once again, Mr. Chairman and members of the Subcommittee, for the opportunity to testify and be part of such an important process. I assure you that the Friant Water Users Authority and its member agencies stand eager and willing to work with you to make these goals a reality.

Mr. CALVERT. Ms. Gloria Moralez.

STATEMENT OF GLORIA MORALEZ, BUSINESSWOMAN/ FARMER, FRESNO, CALIFORNIA

Ms. MORALEZ. Thank you very much, Mr. Chairman.

Good morning, Mr. Chairman, members of the Subcommittee. My name is Gloria Moralez, and I am also a member of the State Reclamation Board of Directors, so I am familiar with the issue here at hand.

I would like to thank you for the opportunity to testify before you, being that this is one of the most important and most critical issues that we have here in the Valley. As you may know, California is the world's leader in agricultural production in the Central Valley, and the primary reason for that is because many years ago, the State of California and Federal Government succeeded in developing the Central Valley Project.

As a farmer, I understand the importance of all the peripheral services needed to grow, harvest, and market the Valley's crops. As a businessperson, I understand the importance of the agricultural economy to my customers.

I have ground-level knowledge of how agriculture works and what it means for the farmworkers that make our agriculture economy function. According to the Migrant and Seasonal Farmworker Enumeration Profiles Study as of September 2000, we have approximately 400,000 migrant and seasonal farmworker jobs in the San Joaquin Valley that depend on agriculture for their livelihood. The constant population growth through new immigrants with limited job skills and the demand for these jobs will continue to grow as a world population grows.

Hispanics are not only the farmworkers who depend on agriculture for farm labor jobs. We are, in fact, also the fastest growing racial group as well as the fastest growing ethnic group in establishing new businesses; however, none of these efforts can continue if we do not have enough water to sustain the needs of agriculture, job creation, new businesses, new housing, et cetera.

I speak for every citizen that resides in the San Joaquin Valley with a clear understanding of our need for additional water storage

to continue to enjoy a high quality of life that good jobs can provide. Everyone who lives in this Valley is tied in one way or another to agriculture, and we need your help in appropriating funding for water storage projects to maintain and improve the Valley's economic and environmental needs.

Unfortunately, the current water storage in place such as Friant Dam, which holds only over half a million acre feet, is simply inadequate to provide for the level of water supply reliability needed to meet the ever-growing urban and rural population, and the ever-increasing demands of the environment.

Historically, the Friant water contracts hardly ever get 100 percent of their annual water supplies, even in wet years. We need to improve the water storage capability to meet the future needs of our Valley.

As a member of the reclamation board, we have done some preliminary investigation to see how could we work with Friant Dam to enhance and have more water capacity; however, nothing that we have looked at looks feasible. Water storage in a more grand manner is necessary. Also the cost-benefit ratio that we will get by having more flood control and the safety for our citizens is of upmost importance.

Increased water storage in this region will without a doubt take advantage of the volatility of nature's water delivery by capturing and containing its periods of abundant delivery to better satisfy the demands of beneficial use in the context of today's world.

Possible benefits of increased storage are: Providing a reliable agricultural and domestic water supply; allowing deliveries to increase aquifer recharge; increasing electrical power producing potential; providing greater flood control ability; improving regional water quality; promoting river enhancements; and increasing recreational opportunities.

In closing, I urge you that you please take our message to Congress and put all of your collective efforts into providing the necessary funding to adequately resolve this very urgent matter.

Our participation here today is an event that will take years to resolve; however, in the past 5 minutes that I have spoken to you, our population has already grown. Let's be wise and place water storage in our region your No. 1 priority to resolve.

Thank you very much.

Mr. Chairman, I was requested by your office to please give a synopsis of this information into the record—

Mr. CALVERT. Yes, Ms. Moralez. I will recognize you in one moment.

One thing I want to point out is that this is an official congressional hearing today, and any acknowledgments, either positive or negative, we would appreciate that not be done. We appreciate your cooperation in that matter. Thank you very much.

With that, Ms. Moralez, you are recognized.

Ms. MORALEZ. Thank you very much. (Further comments by Ms. Moralez in Spanish.).

[The prepared statement of Ms. Moralez follows:]

Statement of Gloria P. Moralez, Businesswoman/Farmer, Fresno, California

Mr. Chairman and Members of the Subcommittee:

I would first like to thank you for the opportunity to testify before the Subcommittee on an issue that is critically important to the San Joaquin Valley and the people that work and live here. As former farm worker, farmer and businesswoman I would like to explain to you why additional water storage projects are needed.

As you may know California is the world's leader in agricultural production and the Central Valley is the primary reason for that success. However, this was only possible through the wisdom of legislators much like you who had great a vision. Through proper planning and hard work long ago, the State of California and Federal Government succeeded in developing the Central Valley Project. The Central Valley Project through its Friant Division generates literally hundreds of different crops delivered around the globe, resulting in hundreds of thousands of jobs and billions of dollars to the regional economy.

As a farmer, I understand the importance of all the peripheral services needed to grow, harvest and market the Valley's crops. As a business person I understand the importance of the agricultural economy to my customers.

I have ground level knowledge of how agriculture works and what it means to the farm workers that made our agricultural economy function. According to the MIGRANT AND SEASONAL FARMWORKER ENUMERATION PROFILES STUDY FOR CALIFORNIA as of September 20, 2000 we have approximately 400,000 migrant and seasonal farm work jobs in the San Joaquin Valley that depend on agriculture for their livelihood. The constant population growth through new immigrants with limited job skills will continue to grow and the demand for these jobs will continue to grow as the world's population grows and agriculture continues to refine its technology to be more effective and productive. Hispanics are not only the farm workers who depend on agriculture for farm labor jobs: we are in fact also the fastest growing racial group as well as the fastest growing ethnic group in establishing our own businesses. However, none of these efforts can continue if we do not have enough water to sustain the needs of agriculture, job creation, new businesses, new housing, etc. I speak for every citizen that resides in the San Joaquin Valley with a clear understanding of our need for additional water storage to continue to enjoy a high quality of life that good jobs can provide. Everyone who lives in this valley is tied in one way or another to agriculture and we need your help in appropriating funding for water storage projects to maintain and improve the valley's economic and environmental needs.

Unfortunately, the current water storage in place such as Friant Dam which only holds just over half a million acre feet is simply inadequate to provide for the level of water supply reliability needed to meet the ever growing urban and rural population, and the ever increasing demands of the environment. Historically, the Friant water contracts hardly ever get 100% of their annual water supplies, even in wet years. We need to improve the water storage capability to meet the future needs of our valley.

Increased water storage in the region, will without doubt, take advantage of the volatility of nature's water delivery by capturing and containing its periods of abundant delivery to better satisfy the demands of beneficial use in the context of today's world.

Potential benefits of increased storage are real, many" and varied. They include:

- Providing a reliable agricultural and domestic water supply
- Allowing deliveries to increase aquifer recharge
- Increasing electrical power producing potential
- Providing greater flood control ability
- Improving regional water quality
- Promoting river enhancements
- Increasing recreational opportunities

In closing I urge you that you please take our message to Congress and put all your collective efforts into providing the necessary funding to adequately resolve this very urgent matter. Our participation here today is an event that will take years to resolve, however in the past five minutes that I have spoken to you our population has already grown, let's be wise and place water storage in our region your number one priority to resolve. Thank you

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Mr. CALVERT. With that, Mr. Daniel G. Nelson, Executive Director, San Luis and Delta-Mendota Water Authority.

STATEMENT OF DANIEL G. NELSON, EXECUTIVE DIRECTOR, SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

Mr. NELSON. Good morning, Mr. Chairman, members of the Committee. Welcome to the San Joaquin Valley. My name is Daniel Nelson. I am the Executive Director of the San Luis and Delta-Mendota Water Authority.

And I would, first of all, like to commend the Chairman for his ongoing efforts in moving forward with the development of a balance in CALFED legislation; it is only through a balanced legislative effort that CALFED can be successful.

And last but not least, I would like to commend Congressman Nunes for his leadership in advancing storage. Storage projects such as Temperance Flat are going to be necessary components of any long-term California program.

And although additional storage is a critical component of any long-term California program, there are a couple of other components, and I have been asked to focus on those components of California water supply.

I am going to use this graphic to assist in going through conveyance issues. First of all, as you can see in the northern part of the state, we have storage of Shasta, Whiskeytown, Trinity, Folsom and Oroville. In the southern part of the state is where the majority of the use is for both agriculture and the population. The dilemma that we have is the bottleneck here in the middle and the heart of the system, which is the Delta.

The real challenge in managing California water resources is how it is that we manage and operate the Delta and move water from Northern California to the southern area while meeting the needs in the Delta?

The points I want to emphasize regarding conveyance are, No. 1, conveyance is a very, very important component of how it is we manage water resources in the state. Two-thirds of the state's population rely on this dynamic and a major portion of agriculture economy as well.

The second point is inherent to this system is protecting the agricultural uses and the water quality within the Delta, and also being able to enhance the fishery—the fishery uses and also protecting Northern California uses as well. Those protections are inherent to whatever plan that we use with conveying water through the Delta.

To take the mystery away from this, there really are just two components that factor into how it is that—how much water we can move through this system. No. 1 is the pumping plants' capacity—and currently the Tracy pumping plant is at 4,300 to 4,600 cfs, depending on the time of the year. And the Banks pumping plant is at 6680 cfs. CALFED in stage 1 anticipates that we can increase our permits up to 8,500 csf, and through an intertie increase the 4,300 to reliable 4,600 on the Tracy pumping plant side.

The second component is the regulations and restrictions, essentially the rules that govern how it is that we operate these pumping plants and govern the windows of opportunities we have for using and moving this water through the Delta.

There are three Federal statutes that simply govern this. One is the Endangered Species Act. The second is the Central Valley Project Improvement Act, and the third is the Clean Water Act. And these are the standard and regulation and how it is that govern how it is that we move water through the Delta.

In summary, on conveyance, there are short-term needs that we need to accomplish immediately to accommodate this conveyance system. No. 1 is the permits at Banks need to be increased to 8,500 cfs immediately. This was the quid pro quo and the CALFED plan, and we have had delays of well over a year. We need to move on and increase the permits to 8,500 cfs.

The second is we need to intertie that is called the CALFED ROD between the Delta-Mendota Canal and the State Aqueduct. This allows us to increase on the Federal side from 4,300 to 4,600 on a consistent basis.

Another project that is called for on the ROD is to address low point issues at San Luis Reservoir. In effect, once we are successful in doing this, we have 200,000 acre feet of additional storage, usable storage out at San Luis, if we can be successful in dealing with low point issues. It also implicates conveyance opportunities, because with that additional storage, we can move additional water in the springtime, when those pumps are usually off, because we don't have any storage opportunities to place that.

Last but not least, we need to review the regulations that restrain the pumping in the Delta. We need to make sure that we are meeting the water quality and the environmental fishery objectives, but we need to make sure that we are doing this efficiently, and that we are using the best science available.

I would now like to speak very briefly, obviously with these dynamics this takes an extraordinary amount of cooperation between the Federal project and the state project.

Currently, that relationship is established by the Coordinated Operations Agreement that was developed in 1986. We—a lot has changed since 1986. And the projects have done as good a job as they possibly can in trying to use that as a tool, but be able to deal with the new circumstances that we find ourselves faced with. And there is tension between the two projects.

But what I would like to emphasize is: I—I am very optimistic that there are opportunities for the two projects to coordinate, and, in some cases, integrate their operations, so that both projects benefit. We are committed to working with the state contractors in the state to accomplish that.

Finally, on a fairly specific issue that is very important to our region—the Central Valley Project Improvement Act dedicated 250,000 to 400,000 acre feet to wildlife refuges. As part of that, they directed the secretary of interior to go out and to diversify those supplies to minimize impact.

We have implemented a lot of the components of CVPIA that restore the environment, but we haven't implemented those components that would minimize the impacts to water users, and we need to. The CALFED ROD establishes that we do this. And so, we need to move forward with the diversification of Level 4 supplies, which is a pretty good chunk or percentage of our water supply south of the Delta.

Thank you very much.

[The prepared statement of Mr. Nelson follows:]

Statement of Daniel G. Nelson, Executive Director, San Luis & Delta–Mendota Water Authority

Mr. Chairman, members of the Subcommittee: Good morning and welcome to the San Joaquin Valley. I am Daniel Nelson, Executive Director of the San Luis & Delta–Mendota Water Authority (the Authority), and I appreciate the opportunity to appear before you today.

At the outset Mr. Chairman, I commend you and the Subcommittee for holding this hearing in the San Joaquin Valley, where policies of the Federal Government have negatively impacted farmers, farmworkers and rural communities over the last decade.

I also extend the Authority's ongoing appreciation for your efforts to address California's water problems in a balanced and realistic manner. Your commitment to introduce legislation that will ensure that Calfed moves forward to address water supply, environmental restoration and enhancement, and water quality issues on an equal basis is fundamental to the ultimate success of Calfed.

Finally, I commend Representative Nunes for his leadership in seeking authorization to pursue additional water storage in the upper San Joaquin River basin. This is a vital first step in building the necessary foundation for new programs and policies to solve water problems in the San Joaquin Valley and throughout the state. New water storage is essential, and the Authority supports the feasibility evaluation of upper San Joaquin River storage projects proposed by Congressman Nunes.

Key Points of Testimony

Today, I will address the opportunities that Calfed could provide this region, in terms of conveyance and coordination between the Federal and state water projects and refuges. At the outset, I will summarize my testimony.

- Conveyance of water through the Sacramento / San Joaquin River Delta to south of the Delta is a key component to the Calfed Program. Two thirds of the state's population and a significant portion of the state's agriculture rely on conveyance through the Delta.
- A conveyance plan must include protections for in–Delta water users, water quality, environmental/fishery uses, and northern California uses.
- The two key factors controlling conveyance opportunities are the pumping plant capacities and regulations governing the operations of the facilities.
- Short-term capacity issues can be addressed by implementing portions of the Calfed Record of Decision that:
  (1) increases the State Water Project (SWP) Banks Pumping Plant permits to 8,500 cfs;
  (2) constructs the Intertie between the Central Valley Project (CVP) Delta–Mendota Canal (DMC) and the State Aqueduct; and
  (3) finalizes and implements the San Luis Reservoir Low Point Project.
- Regulations at the pumping plants significantly restrict conveyance opportunities. These regulations need to be reviewed to assure that environmental/fishery objectives are being efficiently met. Moreover, the Calfed Science Program must ensure that good science is being developed and used in the review process.
- Cooperation and coordination between the Federal and state water projects is essential to implementing a balanced successful Calfed Program. There are many opportunities for further coordination of operations, including sharing of facilities that would benefit both projects, to benefit all water users in a balanced manner, and to avoid major conflicts between the projects. The Authority is committed to working with state and Federal agencies as well as SWP contractors to accomplish this.
- CVPIA provides for the diversification of sources of water delivered as Level 2 refuge supplies. The Calfed ROD identifies improving the diversification of sources of supply as a means of improving CVP south-of–Delta supplies for CVP contractors. Appropriate resources should be dedicated to implement.

THE SAN LUIS & DELTA–MENDOTA WATER AUTHORITY

The Authority is a joint powers agency organized under California Law. Its 32 member agencies are water and irrigation districts that contract with the Bureau of Reclamation for the receipt of water from the Central Valley Project (CVP). These member agencies provide water for irrigation to approximately 1,200,000 acres of land within the western San Joaquin Valley, San Benito County, and Santa Clara County, water for wildlife habitat including over 125,000 acres of critical waterfowl

habitat within the Pacific Flyway, and water for municipal and industrial (M&I) use throughout the same area. The area served by the Authority's member agencies is among the most productive farming regions in the nation. Farmers in this region produce over 60 different commercial fiber and food crops sold for the fresh, dry, canned or frozen food markets; domestic and export. With an adequate water supply they could produce crops worth more than $2 billion dollars. One of the Authority's member agencies, Santa Clara Valley Water District, is responsible for providing water to 1.8 million people and to the vital high-tech computer industry known as "SiliconValley". This multi-billion dollar industry is critical to the economic health of California and the nation.

Agriculture, M&I and waterfowl habitat in our region depend significantly on conveyance of water through the Sacramento / San Joaquin River Delta, primarily at the CVP Tracy Pumping Plant. A bottleneck in this conveyance system results in water shortages to south-of–Delta users, even when water is plentiful and available for export. A major challenge for improving the management of California's water resources is addressing this bottleneck. This bottleneck has been illustrated in the form of an hourglass and is attached to this testimony, (Attachment 1).

There are opportunities to improve in how we move water through the Delta to meet the needs of those south of the Delta while protecting fish, water quality and users in northern California and in the delta. The Authority stands committed to work with this Committee, other water users, state and Federal agencies and Calfed to accomplish this delicate balance.

In addition, efforts are underway to better coordinate the operations of the CVP and the SWP. It is anticipated that through better cooperation and coordination between the two projects that significant water supply, water quality and environmental benefits will be realized.

CONVEYANCE ISSUES / OPPORTUNITIES

Background

Californians are the beneficiaries of a miraculous plumbing system, which has provided the state the opportunity to develop prosperity and a life style envied by the world. California's plumbing system is comprised of two major categories of facilities, storage and conveyance. The storage facilities include a series of dams to store water in the winter and spring, when water is plentiful for subsequent use during dry periods. The conveyance facilities include pumping plants and canals to transport the water to far reaches of the state. The heart of this plumbing system is the Sacramento / San Joaquin River Delta (Delta), where two major river systems converge. In the Delta, the CVP and SWP operate major pumping plants to divert water for conveyance through the Delta–Mendota Canal (DMC), the Edmond G. Brown Aqueduct (Aqueduct), and the South Bay Aqueduct.

Multiple factors affect water supply that can be made available through this system. They include weather, storage, upstream flows, in–Delta regulations, and conveyance capacity. Much attention has been given to the need to enhance the state's water storage opportunities, and rightfully so. Increased demands for a growing population, water dedicated to the environment and the maintenance of a thriving agricultural industry necessitate that we expand storage availability. This is especially important to address the hydrologic volatility we have in the state by storing water during wet years for use in dryer years. Just as important as storage however is the ability to be able to convey this water to where it is needed. Indeed, because of increased regulations in the Delta, conveyance through the Delta has become the factor that most limits water supplies for a majority of Californians. This is especially so in below normal, above normal and wet year-types, when storage is generally sufficient, but limitations in conveyance cause shortages to south-of–Delta users.

Conveyance Considerations

The conveyance plan needs to take into consideration the competing needs of the delta. In–Delta uses and in–Delta water quality, fishery and northern California uses need to be taken into consideration and protected as part of a successful conveyance plan.

Export Components of Conveyance (Refer to Attachment 1)

The two major factors that limit the export of water from the delta are:

(1) Capacity at the pumping plants; and
(2) Standards / Regulations governing the use of the pumping plants.

Pumping Capacities at the SWP and CVP Pumping Plants

The Harvey O Banks Pumping Plant (Banks) and the Tracy Pumping Plant have a capacity of 10,300 cfs and 4,600 cfs, respectively. Under current permits, Banks is restricted to 6,680 cfs, with the expectation that through Stage 1 of Calfed, the permit will increase to 8,500 cfs and longer term to 10,300 cfs. The CVP Tracy Pumping Plant permit is 4,600 cfs, but is restricted to 4,300 cfs during certain times of the year when capacity on the upper DMC is limited. (See Intertie below).

	SWP Banks	CVP Tracy
Current	6,680 cfs	4,300-4,600 cfs
Cal-Fed Stage 1	8,500 cfs	4,300-4,600 cfs
Long-term	10,300 cfs	4,600 cfs

Banks Pumping Plant Increased Permits to 8,500 cfs / 10,300 cfs

A key feature of the Calfed Program is the increase of approved capacity of Banks Pumping Plant to 8,500 cfs. Increased pumping at Banks was part of the quid pro quo for other elements of the Calfed Program, including environmental and water quality improvements. As noted above, the Calfed ROD anticipated that increased pumping at Banks would occur in the short term, but delays of over a year have raised questions as to the sincerity of Calfed to move forward in a balanced manner.

Intertie

As a result of subsidence a few miles downstream from the CVP Tracy Pumping Plant, the capacity on the DMC has been reduced to around 4,300 cfs. An "intertie" from the DMC to the Aqueduct was identified by the Calfed ROD as the remedy for this issue. This intertie would allow water to be shuttled between the DMC and Aqueduct and would provide numerous operational benefits including restoration of pumping to historic levels (4,600 cfs) at the CVP Tracy Pumping Plant. This component of the Calfed Stage 1 Program should be funded and implemented immediately.

San Luis Reservoir Low Point Improvement Project

The Calfed ROD identified the need to address water quality and reliability problems associated with low water elevations in San Luis Reservoir. Santa Clara Valley Water District (SCVWD) received a $14 million Proposition 13 grant as the lead agency to study alternatives to resolving the low point problem. The goal of the Low Point Improvement Project is to increase the operational flexibility of storage in San Luis Reservoir and to ensure a high-quality, reliable water supply for the CVP San Felipe Division contractors. The increase in reservoir operational flexibility will benefit all CVP and SWP contractors. Specifically, the project has three primary objectives:

(1) To increase the operational flexibility of the San Luis Reservoir by increasing the effective storage up to 200,000 acre-feet. This increase in effective storage will allow utilization of available delta conveyance in the spring of most years;
(2) To ensure that San Felipe Division contractors are able to utilize their annual CVP contract allocation to meet their water supply and water quality commitments; and
(3) To provide opportunities for project-related environmental enhancements and other improvements where feasible.

In summary this project was a component of the Calfed package and enhances storage, conveyance and water quality. Support should be given to SCVWD to complete the study, environmental review process, design and implementation of the preferred alternative.

Standards and Regulations Governing the Use of the Pumping Plants

There are several layers of regulations that govern the operations of the Delta CVP/SWP Delta pumping plants. The environmental/fishery and water quality protections are provided generally through three Federal statutes.

(1) Endangered Species Act;
    (a) Winter Run Salmon
    (b) Delta Smelt
(2) CVPIA
    (a) Dedication of 800,000 acre feet (af) of CVP yield for environmental purposes; and
(3) Clean Water Act
    (a) 1995 State Water Resources Control Board (SWRCB) Water Quality Control Plan for the Bay–Delta.

As a result of these regulations and standards the opportunities to move water through the delta have decreased significantly. It is primarily for this reason that south-of–Delta CVP M&I and ag service contractors have chronic shortages. Indeed, shortages are imposed on south-of-delta ag service contractors in wet years, when water north of the Delta is abundant.

The Federal and state regulatory statutes provide broad discretion that allows the regulations to be implemented in a balanced and efficient manner. This discretion should include taking into consideration water supply objectives as well as meeting their environmental/fishery and water quality mandates.

Regulations, Good Science and the Calfed Science Program

In the last few years, the Calfed Science program has engaged in the effort to develop better science. We have great hopes for the success of the Program in this regard.

Better science could be the basis for a new generation of environmental requirements, ones that are more flexible, ones based more on real time conditions, and ones allowing tradeoffs that are good for both fish and water supply. It is not hard to conceive of requirements that, while providing more fish, also increase water supplies by an amount comparable to the construction of new reservoirs, simply by freeing up the conveyance capacity we already have.

Of course, the trick is not just to develop better science, but to incorporate that science into better environmental requirements. It is not evident that this connection has yet been well established. Therefore, we look forward to an enhanced role for the Calfed Science Program in this area, namely, helping to ensure that better science results in better requirements.

The new generation of environmental requirements should be framed by the same principles that apply to agricultural and urban supplies. All over the state, agricultural and urban water users are making great strides to improve their water use efficiency. They have considered new alternatives for matching supplies and needs. The results are impressive, and promise to be more so in the future. Now, it is time to apply the same principles of efficiency and broad alternatives to the use of environmental water.

You do that by paying more attention to the science. What really works? What uses of water produce higher benefits and what uses do not? Where are we uncertain and where are we sure? Can we take a broader view of the problem? Are there alternatives that we haven't considered? What are they and can we substitute them for things that don't work well or cost too much?

These are the questions we want the Calfed Science Program to address. In other words, we want the Calfed Science Program to supply the information that will allow transition to a new generation of requirements. We also want the Calfed Science Program to figure out how to ensure the timely use of this information.

COORDINATION AND COOPERATION BETWEEN THE CVP / SWP

Coordinated Operations Agreement

In 1986 Congress approved an agreement between the United States of America and the State of California for the Coordinated Operation of the Central Valley Project and the State Water Project (COA). This agreement established in part the relationship between the operations of the two projects and provided under what circumstances the two projects could pump and how the two projects would share responsibility for meeting the then existing water, quality and fishery standards.

Since 1986 much has changed. Fishery protection under the Endangered Species Act, the Central Valley Project Improvement Act, and water quality standards have significantly affected how the two projects operate. Conforming Project operations to these new conditions has been an ongoing challenge. To the credit of the state and Federal project administrators, they have been fairly successful at working through circumstances as they develop, but the COA is outdated. The COA no longer provides clear guidelines to govern the relationship of the two projects or how burdens of operational constraints imposed to protect water quality and fishery resources will be shared.

Joint Point of Diversion:

An important component of conveyance in the Calfed ROD is the Joint Point of Diversion (Joint Point). Joint Point provides opportunities for CVP to utilize SWP Banks capacity, under certain conditions, for the wheeling of CVP water. At the time of the development of the ROD CVP contractors were advised that Joint Point opportunities would average around 184,000 af/year. Given the capacity at CVP Tracy Pumping Plant and the restrictions placed on pumping, this was an important component of the ROD for CVP contractors.

As a result of many different factors including increased demand by SWP contractors south of the delta and the potential need by southern California SWP contractors for transfers of northern California water to replace lost Colorado River water, Joint Point status is uncertain at best, and nonexistent in some years. Certainly not the 184,000 af anticipated in the ROD.

The dilemma is that the Calfed ROD created conflicting expectations for both SWP contractors and CVP contractors.

Dual Delta Conveyance

One alternative for improving the conveyance of water from north of the Delta to south of the Delta that was rejected by the Calfed ROD is dual Delta conveyance, which would include an isolated diversion facility on the Sacramento River to convey water around the Delta. The ROD rejected this alternative as infeasible due to social and technical considerations based, in part, on the expectation that other alternatives "ha[d] a high likelihood of success in a shorter time period." Calfed ROD at 27. The failure of these other alternatives to provide the expected improvement in conveyance has lead some south-of-the-delta water users to question whether the feasibility of the dual Delta conveyance alternative should be reexamined.

Coordination and Cooperation Opportunities:

Despite these conflicting expectations, there are opportunities for mutual benefits to both projects when taking a comprehensive approach at coordinating operations. Some have pointed to CVP storage and SWP conveyance as an opportunity for sharing those benefits both projects. This sharing could be the basis of a compromise. Better coordination of demands has also been identified as an area of project operations that could improve supplies for all south-of–Delta users.

CVP/SWP Coordination and Cooperation Summary:

Better coordination and cooperation between the projects is needed and is achievable, and improved coordination and cooperation is essential to implementing a balanced Calfed program. The Authority and its members are committed to working with the appropriate Federal and state agencies as well as the SWP contractors to accomplish this objective.

REFUGE SUPPLY DIVERSIFICATION

The CVPIA fundamentally changed the way the CVP operates and the allocation of CVP water. Among other things, CVPIA rededicated well over 1 million af of CVP water from historical uses to environmental purposes each year. CVP water was rededicated primarily through three provisions:

(1) Section 3406 b(2), dedication of 800,000 af of CVP yield for environmental/fishery purposes;
(2) Restoration of the Trinity River; and
(3) Dedication of over 400,000 af of CVP water for wildlife refuges.

The CVPIA also provided direction and authority for mitigation / minimizing impacts to water users as a result of the legislation. Examples of mitigation measures include:

(1) CVPIA, Section 3408j. A provision that calls for the Secretary of Interior to develop a plan to increase the yield of the CVP by the amount dedicated to fish and wildlife purposes; and
(2) CVPIA, Section 3406 d(1). A provision that calls for the replacement of water dedicated for Level 2 refuge supplies. Specifically the provision states: In implementing this paragraph, the Secretary shall endeavor to diversify sources of supply in order to minimize possible adverse effects upon Central Valley Project Contractors.
(3) CVPIA, Section 3406 d(5) further provides that: The Secretary is authorized and directed to construct or to acquire from non–Federal entities such water conveyance facilities, conveyance capacity, and wells as are necessary to implement the requirements of this subsection.

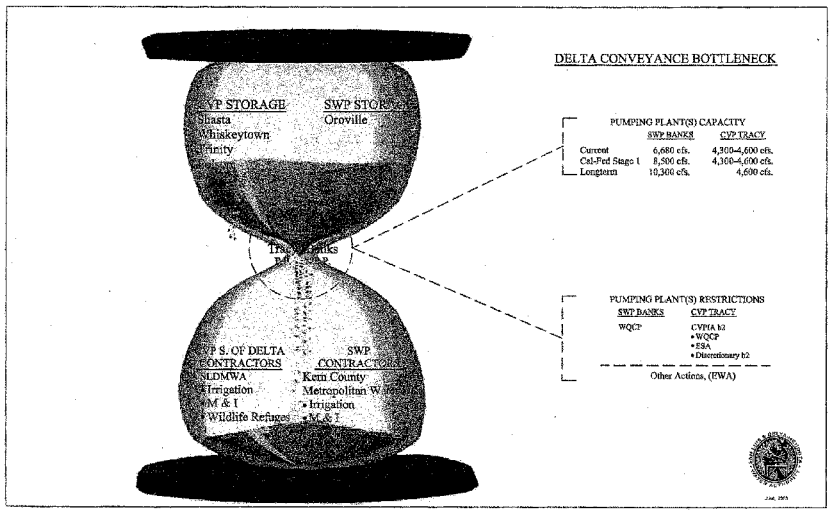
Alternative supplies for refuges are directed and authorized in the CVPIA and the ROD commits Calfed Agencies to working on a plan for alternative refuge supplies and conveyance. This is an important component of Calfed for CVP contractors and should be implemented immediately.

CONCLUSION

- Conveyance of water from north of the Sacramento / San Joaquin River Delta to south of the Delta is a key component to the Calfed Program. Two thirds of the state's population and a significant portion of the state's agriculture rely on this conveyance through the delta.

- A conveyance plan must include protections for in-delta water users, water quality, environmental/fishery uses, and northern California uses.
- The two key factors controlling conveyance opportunities are the pumping plant capacities and regulations governing the operations of the facilities.
- Short-term capacity issues can be addressed by:
  (1) increasing the SWP Banks Pumping Plant permits to 8,500 cfs;
  (2) constructing the Intertie between the CVP DMC and the State Aqueduct; and
  (3) finalizing and implementing a plan to address the San Luis Reservoir Low Point issues.
- Regulations at the pumping plants significantly restrict conveyance opportunities. Through the Calfed Science Program, these regulations need to be reviewed to assure that we are efficiently meeting our environmental/fishery objectives and that good science is being developed and used in the review process.
- Cooperation and coordination between the Federal and state water projects is essential to implementing a balanced successful Calfed Program. We are optimistic that there are opportunities through comprehensive coordination of operations and sharing of facilities that would benefit both projects, assure that all water users are benefiting in a balanced manner, and avoid major conflicts between the projects.
- CVPIA provides for the diversification of water dedicated to for Level 2 refuge supplies. This is noted in the Calfed ROD and is an important component for CVP south of delta contractors. Appropriate resources should be dedicated to implement.

Thank you again, for the Committee's ongoing efforts to address these issues and for the opportunity to submit this testimony.



Mr. CALVERT. I would point out to the audience that this is an official congressional hearing. Any acknowledgments either positive or negative are not allowed. We appreciate your cooperation.

With that, Mr. Marc Christopher, Friends of the River.

STATEMENT OF MARC E. CHRISTOPHER, POLICY ADVOCATE, FRIENDS OF THE RIVER

Mr. CHRISTOPHER. Thank you very much, Mr. Chairman. My name is Marc Christopher, and I represent Friends of the River. Friends of the River, for those of you who don't know, it is a state-

wide river conservation organization committed to maintaining and restoring California's free flowing rivers.

I appreciate the opportunity to talk here today about an issue that affects every living thing, humans and everything in California, and that is clean, reliable water.

Certainly, in the upcoming years, the CALFED program will force both state and Federal decisionmakers to make value judgments about water that will affect the health of our citizens, the economy, and the environment.

I submit that the success of the CALFED program could not be judged by short-term successes, but must be viewed as a commitment to long-term sustainability. Sustainability not gauged in months and years, but measured in decades and generations.

I have been asked here today to present the environmentalist's perspective on CALFED, and I realize that probably it is not going to be very popular, but it is a voice that needs to be heard, and it is a voice shared by a lot of other Californians.

To create sustainable solutions, one must accurately understand the current environmental problems we face. For modern California, is largely a history of dam building. These dams and water diversions have produced a robust agricultural economy and a vibrant manufacturing arena where, because of arid conditions, none could have existed before. These are good things.

But for this success, our environment and the thousands of Californians that rely on it for their livelihood and their recreation have paid a heavy toll. Sixty percent of our native fishes are listed as endangered, threatened or on the decline, and 40 to 60 percent of the historical flows through the Delta are diverted. Water quality in the San Joaquin Delta is well below Federal and state standards and is among the poorest in the nation. Undammed rivers in California are so few that the U.S. Fish and Wildlife Service considers them to be an endangered ecosystem. The problems we face are real and substantial.

Recognizing the importance of the Delta in a society that uses water in competing ways that nature provides us, only a finite amount of water, the CALFED program has invested a tremendous amount of time, money, and energy to provide a framework for solutions.

The Record of Decision is a comprehensive plan that, if implemented as a whole, will work to improve the health of the Bay-Delta estuary. Now, I certainly do not feel comfortable with everything that is in the document; however, it gives a framework from which to work and resolve the conflicts that have been inhibiting us in the past.

Billions have been spent in the last century on water development in California. And I would add that in comparison, CALFED's Program investment in restoration is relatively modest. It will take time to realize a quantifiable return on this investment.

Presently, we are just starting to see some minor improvements in fish populations and water quality. We are encouraged by that. But the "Program balance," so often referred to when discussing CALFED, cannot be quantified in terms of dollars spent but through sustainable success.

The CALFED Record of Decision cannot be a document of trade-offs. We must resist the "If you get this, we are entitled to that" mentality, because if we forgo real, sustainable improvements, the CALFED Program becomes a zero-sum game, and we have done our state and nation a grand disservice.

Specifically, I have asked by the Subcommittee Chair to address the South Delta Improvement Plan, which centers around the issue of increasing pump capacity at Banks Pumping Plant by as much as 60 percent.

The South Delta Improvement Plan was envisioned to provide water for fish habitat, conveyance, and restoring water quality. And if used properly, the plan could greatly benefit the environment while providing increased water supply reliability; however, if increased pumping capacity is used to divert excess water from the Delta and increases the amount of water exported south while requiring, at the same time, the public to pay for mitigation measures, the plan could undo environmental and water quality progress we have already made.

For a number of reasons, we are somewhat skeptical of the plan. The CALFED Record of Decision sets forth no operating criteria and no definite studies that demonstrate that its operation can or will reduce the impact on sensitive fish species. The skepticism is further fueled by water baseline assurances envisioned by the ROD that are being undercut. And we have failed to investigate other ways of meeting the goals of the South Delta Improvement Plan without actually increasing pumping capacity.

Beyond the CALFED Program, we must challenge the mind-set that has led us to this predicament. Every action we take will have consequences down the road. But there is reason for us to be optimistic on all sides.

We are encouraged by the Bush administration's shift to focusing on constructing large dams and water diversions. Just last month, Interior Secretary Gale Norton in her Water 2025, "Vision for Resolving Water Conflict in the West" called for Federal funding to be focused on technology for increasing "conservation and desalination." Recognizing their huge economic and environmental price tag, nowhere did the 2025 Plan call for the construction of more dams.

We are also encouraged by the tremendous success many urban areas in the area of water conservation has worked. Their efforts at becoming more waterwise have led to some amazing results. For instance, the Metropolitan Water District of Southern California, serving nearly 18 million people put forth its blueprint for water supply reliability over the next 20 years. It is calling for 50 percent of its water supply needs to be met through conservation, recycling, ground water storage, and local resources.

This is an amazing thing. In the realm of desalination, programs that have been proposed, or in the works, or currently operating are estimated to produce 600,000 to 800,000 acre feet of water in Los Angeles, a city that in the last 10 years has grown by 1 million people, they use no more water.

On the agriculture front, the practice that has proven successful in Australia, a study at the University California, Davis, is known as "regulated deficit irrigation" where water reduction at specific

stages in crop development increases the quality in the product in profit for the farmer, and if utilized it could be 1.5 million acre feet of water in California in a year. Then in perspective, the city of Los Angeles uses about 800,000 acre feet of water.

In conclusion, we face many important decisions. We are blessed to have a beautiful and vibrant economy and environment. It tells a story about who we are as a society. It is part of our national heritage as Americans. Let's embrace that. Let's embrace long-term sustainability. Tough decisions will have to be made, but the best solutions are those which help America and California create long-term sustainability.

[The prepared statement of Mr. Christopher follows:]

Statement of Marc E. Christopher, Policy Advocate, Friends of the River

Mr. Chairman and Members of the Committee,

Thank you for the invitation to submit comments on the important matter of protecting the water quality and ensuing a high quality of life for all Californians. My name is Marc Christopher and I am a policy advocate for Friends of the River, a statewide river conservation organization. Friends of the River has 5,000 members dedicated to the protection and restoration of California's free flowing rivers, streams and watersheds.

In the upcoming years, the CALFED Program will force both state and Federal decision makers to make value judgments about water that will affect the health of our citizens, economy and environment. I submit that the success of the CALFED Program cannot be judged in the short-term successes, but must be viewed as a commitment to long-term sustainability. Sustainability is not gauged in months and years, but is measured in decades and generations.

To create sustainable solutions, one must accurately understand the current problems that have arisen from a society that relies on water is varied, and sometimes competing ways. The history of modern California is largely a history of dam building. These dams and massive water diversions have produced a robust agricultural economy and a vibrant manufacturing arena where, because of arid conditions, none could have existed. But, for this success, our environment and the thousands of Californians that rely on it for their livelihood and recreation, have paid a heavy toll. Sixty percent of our native fishes are listed as endangered, threatened or on the decline, and 40–60% of historical flows through the Delta are diverted. Water quality in the San Joaquin Delta, well-below Federal and state standards, is among the poorest in the nation. Undammed rives in California are so few that the U.S. Fish and Wildlife Service considers them to be an endangered ecosystem. The problems we face are not only real, but substantial.

Recognizing that the Delta supplies water to two-thirds of all Californians, drives the agricultural economy and supports one of the most unique and diverse estuaries in the world—the CALFED Program has invested a tremendous amount of time, money and energy to provide a framework for solutions. The Record of Decision is a comprehensive plan that, if implemented as a whole, will work to improve the health of the Bay–Delta estuary. When sustainable improvements are recognized, certain traditional methods of increasing water supply will be explored, subject to environmental sustainability.

Billions have been spent on water development in California. In comparison the CALFED Program's investment in restoration has been relatively modest, and it will take time to realize a quantifiable return on that investment. Presently, we are just starting to see some minor improvements in fish populations and water quality and there is already a cry for large expensive, government subsidized water projects that would likely negate any environmental improvements and cost taxpayers billions of hard-earned dollars. "Program balance," so often referred to when discussing the CALFED Program, cannot be quantified in terms of dollars spent—but through sustainable successes. The CALFED ROD cannot be viewed as a document of trade-offs. We must resist the "if you get this we are entitled to that" mentality. For if we forgo real, sustainable improvements, the CALFED Program becomes a zero-sum game and we have done our state and nation a grand disservice.

Specifically, I have been asked by the Sub–Committee Chair to address the South Delta Improvement Program, which centers around the issue of increasing the pumping capacity at Banks Pumping Plant by as much as 60% of its current al-

lowed capacity and dredging significant portions of the river delta. I have also been asked to comment on the status of the San Joaquin River restoration efforts.

The South Delta Improvement Program was envisioned to provide water for fish habitat and restore water quality, not to provide for "surplus" water. If used properly, the Plan could greatly benefit the environment while providing increased water quality. However, if increased pumping capacity is used to divert more water from the Delta and increases the amount of water exported south while requiring the public to pay for environmental mitigation measures—the Plan could undue the environmental and water quality progress we have made.

For a number of reasons, we remain skeptical that the original articulated goals of the South Delta Improvement Plan will be realized. The CALFED ROD sets forth no operating criteria and no definitive studies demonstrate that its operation can or will reduce the impact on sensitive fish species. The skepticism is further fueled by the fact that the water quality baseline assurances envisioned by the ROD are being undercut. And, we have failed to investigate other ways of meeting the goals of the South Delta Improvement Program without actually increasing pumping capacity.

With regard to the San Joaquin River restoration settlement, at your hearing in Elk Grove a settlement negotiations representative will be available to answer some of the more direct questions you posed. However, many of the issues being debated are straightforward. Prior to the construction of the Friant Dam, the San Joaquin River supported the southern most run of Chinook salmon. Because the Dam does not release water for the environment, certain parts of the river dry up, or are completely overrun with pollution runoff. And, like the salmon, many of the fishermen that relied on the river for their livelihood disappeared or greatly suffered. After 15 years of court battles and negotiations, Friant water users have rejected the Federal mediators final compromise settlement. This is unfortunate as comprehensive studies conducted by Friant and the environmental coalition over the past four years demonstrate that a living river can be restored while preserving a strong and healthy agricultural economy. If the settlement negotiations accomplished anything, they demonstrated that there are dozens of water management measures that can be employed to benefit both farmers and the environment. We hope negotiations can resume, but unless there is some willingness by Friant to compromise it would be unrealistic to expect a settlement that can produce lasting benefit for what is left of the San Joaquin River.

Beyond the CALFED Program and the San Joaquin River Restoration, we must challenge the mindset that has led us into this water predicament. Every dam we build, is a dam that will at some point in the future be filled with sediment and outlive its usefulness. Every drop more of water we continue to take from the Delta takes us a step closer to the collapse of a vibrant estuary, and the loss of a way of life for millions of Californians. Instead we must focus our resources on sustainable solutions. We need to clean up our groundwater and set up a system whereby it can be utilized efficiently (California remains one of the last states that has failed to comprehensively regulate groundwater). We continue to see great strides being made in conservation and wastewater recycling.

We are encouraged by the Bush Administration's apparent shift away from focusing on constructing expensive dams and diversions. Just last month Interior Secretary Gale Norton in her Water 2025: Vision for Resolving Water Conflict in the West called for Federal funding to be focused on technology for increasing "conservation and desalination." Recognizing their huge economic and environmental price tag, nowhere did the 2025 Plan call for the construction of more dams.

We are also encouraged by the tremendous success of many urban areas in the area of water conservation and reclamation. Their efforts at becoming more water wise have lead to some amazing results. For instance, in March, the Metropolitan Water District of Southern California, serving nearly 18 million people, put forth its blueprint for water supply reliability over the next 20 years. MWD plans to meet over 50% of its supply needs through water conservation, recycling, groundwater storage, and local resources.

We are slowly recognizing that one can no longer credibly pit environmental responsibility as an enemy of economic sustainability: that is if we want to measure economic success by quality of life and quality of jobs. Short-term economic gain at the expense of the environment means borrowing against the future. In California, cheap mining practices provided an easy way to extract precious minerals and produced large numbers of jobs and profits. A century later fish, birds and even humans continue to experience serious health problems due to mercury contamination and society continues to spend millions of dollars on trying to eliminate the problem. In the past half-century societies and nations that have failed to invest in conservation of water have paid dearly. Extensive studies document how the constant extrac-

tion of 40–60% of historic outflows from European and Asian rivers estuaries, not unlike the what is happening here in California, have forever destroyed the most vibrant and plentiful estuaries in the world, including the Caspian, Aral and Black Seas. And with the loss of these resources are the loss of jobs, food and a way of life. (See Rozengurt, M.A. 2002 "The Agonizing San Francisco Bay Ecosystem," Hydrology Days. Ed. Jorge A. Ramirez, Fort Collins Co. pp. 245–257).

In conclusion, we face many important decisions. When it comes to the most basic needs of society, will we elect to sustain one man's quality of life by degrading another man's quality of life, will we sacrifice the quality of life of the man who uses the fishing line to feed his family to protect the man who relies on the plow, or will we choose to find sustainable solutions that will help the most Americans for the longest possible period?

In order to create long-term sustainability, tough decisions will need to be made, some will be asked to sacrifice, so that society may benefit. The best solutions are those which help America create long-term sustainability.

Mr. CALVERT. Mr. Thomas Clark, General Manager of Kern County Water Agency.

STATEMENT OF THOMAS CLARK, GENERAL MANAGER, KERN COUNTY WATER AGENCY

Mr. CLARK. Thank you, Mr. Chairman. Both Mr. Chairman, the big Chairman, and the slightly smaller Chairman.

I really appreciate the opportunity to address you. I am the general manager of the Kern County Water Agency, the great county just to the south. I bring a welcome from our Congressman Bill Thomas, who has also been supportive in this process. I am also the president of State Water Contractors, statewide organization of 27 state water contractors, including Metropolitan Water District, so on behalf of Metropolitan, we welcome you. Welcome to the Central Valley.

I am going to try to be brief, and touch on just a few important issues. I brought with me a very high-tech chart here to my left and to your right. To balance out Dan's chart to the right, the hourglass approach is—what I have tried to do is show you what I call "The Window Approach.".

One thing—first thing I would really like to say—I will jump around a little bit here—first of all, Temperance—Congressman Nunes, Kern County is in support of Temperance. It is something we would like to see move ahead. Through our Congressman Thomas, we support the legislation, and we would like to see things happen.

Also, with respect to Congressman Pombo, I think one of the things that—while we are talking about these pumping plants or that type of thing, one thing we need to make sure that we do is protect the Delta.

There has been a partnership between the projects on the Delta from the beginning. And this program that we keep talking on Banks Pumping Plant to improve pumping at Banks is kind of a partnership with the south Delta entrance. Alex Hildebrand who today is about 140 years old and has been working on this issue for many, many years—South Delta is equally important to the south Delta entrance, because with the temporary barriers and what we hope will be accelerated permanent barriers, it allows pumping in the south Delta to continue. It protects water levels and water quality.

So while we talk about increasing pumping at Banks, we are also talking about protections to the south Delta. It is a very important piece. But if you look at this pumping window, I think the important thing to remember is that between Tracy and Banks—Tracy and Banks, if this pumping window was completely wide open without limitation, we can meet all the needs, all the existing needs, all the future needs for water supplies from the Delta. But after Tracy was constructed, then the Banks Pumping Plant—there are also pumping windows that close.

And the first and foremost at the top of the chart is Number D1641. That is the State Water Resources Control Board. They have the responsibility to balance between exports from the Delta, in Delta uses to protect agriculture in the Delta, and water quality for fish and long life, so forth and so on. That is a balance that we all live with and we must respect.

However, notwithstanding those protections, through the CALFED and the early phases of CALFED, some of the powers that be felt that, "Well, that is really not good enough. We have got to provide increased protections." So when you see these pumping windows close, to provide that level of protections, we have got to provide increased protection.

So when you see these pumping windows close for E purposes and then CVPIA, which you hear from Dan, these are additional reductions of pumping that have been imposed over and above.

Now, those were imposed, we believe, without sound science. Now part and parcel of CALFED is to develop that science and test the system.

The past person that I dealt with on the other side of the table, Mr. Mike Spear, who is now my leader on the state water project, my new director—which I am sure he will advocate strongly for our program for increased exports. These impositions of limitations on pumping, he acknowledged and others in the fishery role will acknowledge that they are to be tested and adjusted over time, based upon science.

The early science today—there was a science symposium at CALFED that shows the linkage between pumping and mortality in fish is weak. It is not strong science. And one of the things that I think that you can help us with, is a decisionmaking process imposed CALFED, which takes the science and translates it into operational changes. So if the science doesn't support reductions of pumping, then translate that into an operational change so that we can then increase these windows.

Because really what we are talking about right now in going to 8,500 at Banks is opening these pumping windows so water supplies can be managed south of the Delta. Now, the management of supplies south of the Delta is not just important to Kern County. It is not just important to Dan Nelson's group on the west side. It is also important on the east side.

Today there is water that is exchanged through Kern County that moves up into the east side of the Valley. We are looking at improvements on our facilities in the South Valley, so we can move water into the eastern part of the Valley, and improve everybody's life down here.

I think what I would like to leave you with is balance. I think this whole idea of CALFED was founded on balance. The early actions in CALFED have been environmental programs, and we have funded tens of millions of dollars in environmental programs. I take issue with our friends in the environmental community. We are now having people like the Sierra Club that are opposing water supply solutions; i.e., the Banks Pumping.

This is all part of a package. So it isn't that the environmental improvements can be made on the front end, and now that it is time to make water supply water quality improvements that there be opposition. It is a packaged program.

So, thank you, Mr. Chairman, both you and Chairman Pombo. Thank you for letting us be here today.

Mr. CALVERT. Thank you.

[The prepared statement of Mr. Clark follows:]

Statement of Thomas N. Clark, General Manager, Kern County Water Agency

INTRODUCTION

My name is Thomas N. Clark. I am the General Manager of the Kern County Water Agency, President of the State Water Contractors, Inc. (an organization of 27 public agencies which contract for water from the California State Water Project), and a member of the Bay Delta Advisory Committee. Other aspects of my experience and background are set forth in attached Exhibit A which is incorporated by reference.

The Kern County Water Agency is the largest agricultural water agency, and the second largest municipal water supplier on the State Water Project. The Agency provides irrigation water to districts serving almost one million acres of the most productive farmland in the world, and provides municipal water to districts serving about 300,000 residents of western Kern County. The districts and agencies comprising the State Water Contractors serve over 22 million Californians and well over a million acres of farmland.

We strive to look for "win-win" solutions to our water problems—solutions that benefit all stakeholders. CalFed held out that promise at its inception. It has had some successes, but it needs improvement to enable it to fulfill its promise. Enhancements in the communication and utilization of the knowledge and agreements developed through CalFed are necessary for continued success.

In our view, the ability to use up to 8500 cubic feet per second ("cfs") of existing capacity at the State Water Project's ("SWP") Banks pumping plant ("Banks") in the immediate future, with corresponding protections and improvements for South Delta water users, is a crucial test of CalFed's ability to fulfill its promise and its ability to survive. As the Chairman has said, we must "face the reality of moving water south" as a necessary element of CalFed. That reality has been compared to an hourglass with an excess of water above the chokepoint and an excess of demand below it. With appropriate protections for water users in the south Delta, that chokepoint can be loosened to make rapid improvement in our water supply situation and to provide benefits for all stakeholders. The Chairman has identified the critical elements: improving conveyance, streamlining environmental regulations, and enhancing below-ground and above-ground storage. This will improve yield and, coupled with recycling, desalination, and streamlined water transfers, enhance California's overall water supply picture. Through it all, it is important to protect the property rights of water users and to encourage mutually beneficial solutions that engage all responsible stakeholders.

IMPROVEMENTS IN CONVEYANCE

The clearest case for improvements in conveyance is at the SWP Banks pumping plant in the south Delta. Improvements in storage have limited usefulness for two thirds of California's population and millions of acres of productive farmland unless that water can be moved through Banks. A key feature of the "soft path" alternative that was selected by CalFed is enhancement of the approved capacity at Banks. That capacity is currently artificially limited to 6,680 cfs by permit limitations administered by the Army Corps of Engineers under Section 10 of the Rivers and Harbors Act. The CalFed through–Delta conveyance alternative we are attempting to

implement was intended to be a package including ecosystem improvements and conveyance improvements along with other elements, including storage, with approval of 8,500 cfs pumping at Banks this month. That significant improvement in California's water supply can be achieved quickly with minor improvements to protect South Delta water users and Contra Costa Water District. Over 320 ecosystem projects have been implemented as part of the CalFed package as mitigation. Implementation of 8500 cfs at Banks also benefits water users north of the Delta by improving the ability to move water in wet years and providing funding that can help stabilize the agricultural economy north of the Delta.

Delays of Banks Pumping Plant Enhancements

The delays in the implementation of 8500 cfs pumping capacity at Banks are indicative of a broader problem in CalFed: the regulatory agencies which comprise it are not utilizing the scientific and policy benefits that were the hallmark of CalFed. After thousands of hours of negotiation and public hearings, the CalFed agencies embarked upon the current alternative for improvements of the system: a balance of ecosystem, water supply, and water quality improvements involving minimal construction and no isolated conveyance around the Delta. Yet the CalFed agencies have fallen one year behind in approving a simple change in permitting while they re-examine issues that have already received exhaustive study.

Prioritize Banks Enhancements and Improvements for South Delta Water Users

To achieve balance, CalFed must prioritize the enhancements at Banks until 8500 cfs at Banks has been approved and progress toward restoring a balanced implementation is made. Physical improvements to protect the south Delta water users including dredging of channels, extension of South Delta user intake pumps and permanent operable barriers to prevent any harm to South Delta users should also proceed at a quicker pace. The improvements to protect other Delta water users should also proceed immediately including relocation of Contra Costa intakes, operational improvements, and progress on expanding Los Vaqueros Reservoir. Implementation of 8500 cfs at Banks will also maximize the utility of new storage space north of the Delta and facilitate funding of new storage as mutually beneficial uses are explored.

Joint Point of Diversion Should Implemented

Another significant improvement in conveyance, which can be done relatively rapidly, is implementation of the joint point of diversion ("Joint Point of Diversion" or "JPOD"). Use of the JPOD is currently limited by fishery restrictions that were part of a pre–Environmental Water Account agreement. Now that the ERWA is in place and functioning, those restrictions should be lifted to allow greater water supply benefit from the JPOD. The JPOD holds promise of improved cooperation between the State Water Project and Central Valley Project ("CVP") as the proper implementation of mutual use of SWP conveyance capacity and CVP storage capacity is explored. The SWP has been a project where conveyance capacity utility has been hampered by inadequate storage north of the Delta. Similarly, CVP north of Delta storage utility has been hampered by inadequate conveyance capacity to south of Delta users. While capacity at Banks excess to the needs of SWP contractors can be made available, real potential exists for mutually agreed programs to trade CVP use of capacity at Banks for SWP use of CVP storage. Congressional authorizations to allow the CVP to enter into mutually agreeable programs to explore synergies between the two projects would be helpful.

IMPROVEMENTS IN SURFACE AND UNDERGROUND STORAGE

There has been significant emphasis in prior hearings on surface storage. Development of additional surface storage is clearly needed and it should be developed without harming existing users. The development of surface storage takes significant time, however. Currently pre-feasibility and feasibility studies are proceeding and their progress should be closely monitored and encouraged. Time is of the essence as California seeks to avoid catastrophic effects when the next drought occurs. We cannot afford to wait while this work progresses, however; we must pursue development of additional underground storage in suitable aquifers so that precious water lost in wet years is minimized.

Our Agency has been a leader in the development of underground storage utilizing existing vacant space in aquifers. This space, created by overdraft in prior decades, constitutes a valuable resource that is available to local agencies for storage of flows in wet years. That stored water can later be extracted, with appropriate protections for overlying users, for use during critically dry years. While it is a tremendous asset, it does have constraints that must be recognized. First, overlying users must be protected by appropriate protections tailored to the local site to pre-

vent inadvertent exacerbation of overdraft and localized problems during the extraction phase. In Kern, these protections were only achieved through long, hard, negotiations between potential bankers and overlying users. Local control of the process also facilitates continuous monitoring to respond quickly to any problems that develop. Second, the nature of the underground storage or "water banking" makes extraction capacity critical. The ability to appropriately coordinate extraction with surface water supplies can greatly enhance flexibility and reduce extraction cost. Improvements mean not only the development of new pumping capacity, but also the enhancement of conveyance to facilitate exchanges with surface water supplies.

REGULATORY STREAMLINING

Improvement of Science

CalFed has significantly improved the scientific processes for developing knowledge about the Sacramento–San Joaquin Delta. Through CalFed knowledge of the effects of actions taken in and outside the Delta has been improved. The facilitation of peer review of questionable theories has proven especially beneficial. Yet, the improving science has not been readily accepted by some regulatory agencies and very little of the new science has been used to modify and improve existing regulatory restrictions

Failure of Effective Communications to Regulatory Agencies

The usefulness of this improved scientific knowledge is directly related to its dispersion and utilization by the regulatory agencies that govern the Delta, largely through their control of regulation under the Federal Endangered Species Act. The quasi-religious myth linking water usage to hypothesized declines of Delta species continues to persist in some regulatory circles. The reality is that the decline and recovery of species in the Delta is governed by many other factors. Ecosystem improvements have had significant successes in the recovery of species populations. Species in the Delta undergo natural variation in population size dependent upon a host of natural conditions. As the science of the Delta improves our understanding of these complex systems, regulatory agencies tend to be slow to accept the new scientific understanding and slower to apply it to their regulations.

Case in Point: Persistent Attempts to List Splittail

A case in point is the continuing attempt by the U.S. Fish and Wildlife Service to list the Sacramento Splittail under the Federal Endangered Species Act. Most scientists, including those at the California Department of Fish and Game, do not believe the Splittail should be listed. In fact, the United States District Court for the Eastern District of California found that the previous listing of the species was arbitrary and capricious and ordered the Fish and Wildlife Service to reconsider. That reconsideration has been ongoing for years while Fish and Wildlife Service staff scrambles to find a scientifically valid theory justifying listing—no such theory exists in my opinion and the opinion of many others including the California Department of Fish and Game.

TRANSFERS AND WATER BANKING

Water Transfers as Tools for Efficient Water Management

Our Agency has found temporary water transfers to be useful tools in the efficient management of water. Transfers help avoid significant pumping costs by reducing power usage and demand for pumping capacity. They can move water to areas in temporary need of water for return to the transferring area when it needs water. They can help match storage capacity with conveyance capacity. The combination of these uses can create tremendous flexibility in water management when they are not restrained by unnecessary red tape. Full utilization of these temporary water transfers demands flexibility and prompt action, however. Facilitation of the environmental reviews and approvals of such actions can yield tremendous gains.

Long term and permanent transfers pose more significant issues. In particular, the impacts on local economies of water transfers, which may be essential for jobs and economic stability in the transferring communities, must be carefully considered and appropriate mitigation provided where impacts are found. In the long run however, rural communities must not be sacrificed for the benefit of others. Long term success in CalFed is only assured by enhancing the water supply for all.

Water Transfers Do Not Increase Overall Water Supply Automatically

Water transfers can do many things, but they do not increase storage capacity by themselves. They do not increase conveyance capacity by themselves. They can facilitate mutually beneficial agreements between areas of the State to provide for increased storage and conveyance that will improve our water supply. For example,

we have a number of programs with the Metropolitan Water District of Southern California ("Met") in which Met water is transferred to Kern for storage in wet years for return to Met in dry years. These programs have involved utilizing the economic vitality of Southern California to fund improvements in our storage and conveyance capacity as part of the consideration offered by Met. Thus Met increases its dry year supply by transferring water to Kern in wet years and financing storage and conveyance improvements in Kern which provide benefits to all involved.

Increased Capacity at Banks as Critical

These programs, however, require moving water in wet years. The water is primarily available in the Delta. The challenge is moving the water to storage and use south of the Delta. Banks pumping plant is key to that on the SWP. Cooperative use of Banks, or potential enlargement of the CVP Tracy pumping plant and Delta–Mendota canal are the key to the CVP.

CONCLUSION

At its outset CalFed held out the promise of mutually beneficial improvements in the Sacramento–San Joaquin Delta system as a mechanism for improving the ecosystems of the Delta, water supply and water quality. Many ecosystem improvements have resulted in the Delta and our scientific understanding of the Delta has improved, but these improvements have not been effectively communicated within the Federal and state regulatory agencies delaying scheduled enhancements and improvements to water supply and Delta water quality. The ability of CalFed to effectively deliver on simple permitting of 8500 cfs capacity at Banks pumping plant and the South Delta improvements to protect Delta users for the eventual increase to 10,300 cfs is a clear test of the viability of CalFed and its ability to deliver on the mutually beneficial plan promised. The linkages between ecosystem improvements delivered thus far and the scheduled water supply and quality improvements must be effectively communicated to regulatory agencies along with the supporting science.

Failure of CalFed to deliver these benefits would deliver a death blow to the process. Failure to recognize the linkages and deliver permitting in timely fashion would disregard the fact that improvements at Banks Pumping Plant (with appropriate Delta protections), and mutually beneficial agreements for the coordination of capacity and storage, hold the most immediate promise for improvement in California's water crisis. It would also be a harbinger of the inability to achieve the longer term creation of needed storage capacity. CalFed must improve its ability to communicate its policy and science successes to the regulatory agencies that participate in it. Absent that improvement, stakeholders will be forced to pursue their objectives outside its framework.

Mr. CALVERT. Next is Mr. Keith Watkins, the Second Vice President of the Tulare County Farm Bureau.

STATEMENT OF KEITH WATKINS, 2ND VICE PRESIDENT, TULARE FARM BUREAU

Mr. WATKINS. Thank you, Chairman. Good morning. My name is Keith Watkins. I am a local farmer and farm manager for Bee Sweet Citrus. I served as second vice president of the Tulare County Farm Bureau, and I am on the California Farm Bureau Federations Water Advisory Committee, and I am Chairman of the Tulare County's Water Committee.

I am glad you are here in Tulare to meet and talk with local farmers and officials today. I would like to commend the Resources Subcommittee on Water and Power for conducting a field hearing in the heart of California's agriculture.

Tulare County is one of the top two counties in the Nation for ag receipts. The 2002 Ag Commission's Report valued Tulare County commodities at $3.2 billion.

The top five commodities contain: Milk, oranges, grapes, cattle, calves, and peaches. This area is truly unique in its quality of agriculture and its ability to produce all of this on small family farms,

that average about 100 acres in size. But none of this could be achieved without sufficient—without adequate water supply.

As you can tell from today's weather, this area is a desert. And the ability to deliver water has made it bloom. The area is also renowned for its highly efficient use of irrigation water, having been a leader in the development of drip and low volume irrigation technology.

The Members of Congress have a choice to make about where we grow the food we need to feed America. When we decide to import our food from other countries, we run several risks. We cannot ensure safety. We do not know what laws are in place to protect the environment. We do not know what labor codes are followed to protect field laborers and children.

Our Congress could decide what is important is to produce food in California for the farmers following the most stringent environmental and labor laws in the world. Congress can decide what is important for America is to continue to enjoy a very safe, reliable, and high-quality food supply.

California cannot produce the food needed to feed our nation without water, and America cannot continue to enjoy a safe, bountiful food supply without California. Congress needs to plan for its future. Because of a prior lack of leadership and planning, no new supplies have been developed in California. The water needed to accommodate our state's expanding population has come from agriculture.

Another question Congress must answer is whether we conserve production agriculture for the environmental benefits it provides or make decisions that leave farmers no choice but to sell their land for urban development. Not only does urban development use more water than the agriculture land that came before it, but also the state loses ground water recharge capacity, valuable soils, the vegetation required to manage air quality and global warming.

In large part one of the reasons why no new water supplies have been developed is because our Federal and state agencies have gotten so large that they are no longer able to resolve our water problems. These agencies are hopelessly bogged down in process. Past experience seems to suggest that new water supply and plants cannot be developed at the state and Federal level, because agents are afraid of being sued by environmental activists; and because of this fear, the agencies are lost in the endless process of negotiations with every special interest group in the state.

The water plans that result from these endless planning processes are ineffective because the original plans were distorted so significantly that even if the plan were to be followed, the project would produce no new yield.

With this reason, we believe water projects should be negotiated and developed at the local level. Because not all have a surface water unit, many growers must pump ground water, a condition of critical ground water to overdraft still exists in parts of the San Joaquin Valley.

We can't continue to overdraft our ground water supplies. We must have a conjunctive use program that allows ground water recharge in wet years for use in the dry. We need assurances for areas of origin and protections of water rights and priorities.

CALFED is violating its own solution principle by creating redirected impacts, solving one problem and creating another one somewhere else. Land retirement reduces water demand while devastating local communities and the area's economy. CALFED needs to partner with the local interests in the development of its projects and programs. CALFED is supposed to benefit everyone.

Good science is the key. Sound, neutral science must be at the heart of all the decisions that drive the CALFED process and programs.

While the water users have supported appropriations for the CALFED program, the Farm Bureau has been largely disappointed that a balanced program of actions has not emerged. CALFED needs to do a better job of prioritizing expenditure decisions where the greatest benefit can be derived.

The original purpose of the CALFED long-term planning process was to improve water supply and water quality while reducing environmental conflicts in the Delta. Farm Bureau now feels that we must try and find our water supply and water quality improvements elsewhere, as significant changes in the Delta pumping are not on the horizon.

We believe several new storage sites arose for that reason, including Temperance Flat, and will go a long way in solving both agriculture and the state's future water needs.

New supply must be developed to support our state's growing demands. The San Joaquin Valley has the fastest-growing population in California. The environmental enhancements and river restoration projects alone require more and more water from already short supplies. The need for more water is real. Water is more expensive now than ever before. We believe the beneficiaries should pay for developing this new supply, and the beneficiaries are the growing urban and environmental needs.

In closing, I would like to thank you for the invitation to appear today, and thank you for coming to Tulare County.

Mr. CALVERT. Thank you.

[The prepared statement of Mr. Watkins follows:]

Statement of Keith Watkins, Tulare County Farm Bureau, California Farm Bureau Federation

Good morning, my name is Keith Watkins, I am a local farmer and farm manager for Bee Sweet Citrus Packing. I serve as a vice president of the Tulare Farm Bureau and I am on the California Farm Bureau Federation's Water Advisory Committee and serve as the Chairman of the Tulare County Farm Bureau's Water Committee.

I am glad you are here in Tulare to meet and talk with local farmers and local officials and to learn firsthand our concerns. I'd like to commend the Resources Subcommittee on Water and Power who are here today conducting a field hearing in the heart of California's agriculture.

Tulare County is one of the top two counties in the nation for agricultural receipts. The 2002 Tulare County Agricultural Commissioner's Crop Report valued Tulare County commodities at $3.2 billion dollars. Tulare County's top five commodities include: Milk, Oranges, Grapes, Cattle and Calves and Peaches. This area is truly unique in its quality of agriculture and in its ability to produce all of this on small family farms that average approximately 100 acres in size. The area is also renowned for its highly efficient use of irrigation water, having been a leader in the development of drip and low volume irrigation technology. We have some of the highest irrigation efficiencies found anywhere in the world

As we see it, the members of Congress have a choice to make about where we grow the food we need to feed America.

While we get our food from other countries, we run several risks; we cannot ensure its safety; we do not know what environmental laws are in place to protect the environment; we do not know what labor codes are followed to protect field laborers, including laws that protect children.

Or, Congress can decide that continuing to produce food in California, where the farmers follow the most stringent environmental and labor laws in the world, is important. Congress can decide that it is important for America to continue to enjoy a very safe, reliable and high quality food supply.

California cannot continue to produce the food needed to feed our nation without water, and America cannot continue to enjoy a safe bountiful food supply without California. However, if Congress decides that California's agriculture is important, then Congress needs to plan for its future. Because of a prior lack of leadership and planning, no new water supplies have been developed in California so the water needed to accommodate our state's expanding population has come from agriculture.

A second question Congress must answer is whether we conserve production agriculture for the environmental benefits it provides or make decisions that leave farmers no choice but to sell their land for urban development. When farmers no longer have water because they are out bid by the government and urban water districts in the water market, farmers are forced to sell their land and the highest bidder is usually urban developers. Not only does the urban development that replaces agriculture often use more water than the agricultural land that came before, but the state loses groundwater recharge capacity, valuable soils, and the vegetation required to manage air quality and global warming.

In large part one of the reasons why no new water supplies have been developed is because our Federal and state agencies have gotten so large that they are no longer able to resolve our water problems. These agencies are hopelessly bogged down in process. Past experience seems to suggest that new water supply plans cannot be developed at the state or national level because the agencies are afraid of being sued by environmental activists; and because of this fear, the agencies get lost in an endless process of negotiating with every special interest group in the state. The water plans that result from these endless planning processes are ineffective because the original plans are distorted so significantly that even if the plan were followed, the project would produce no new yield. For this reason, we believe that water projects should be negotiated and developed at the local level.

CALFED was envisioned by the agricultural water community to resolve some long-standing problems, such as groundwater overdraft and insufficient infrastructure. Because not all lands have a surface water entitlement, many growers have to pump groundwater. A condition of critical groundwater overdraft still exists in parts of the Southern San Joaquin Valley. We did not think that CALFED would end up being a threat to the continued use of our current supplies. We needed assurances for areas of origin and protection of water rights and priorities.

CALFED is violating its own solution principle by creating redirected impacts, solving one problem and creating another somewhere else. CALFED needs to partner with local interests in the development of its projects and programs. However, instead of being a process of collaboration and consensus, the implementation of CALFED projects and programs have not fully lived up to this promise. CALFED was suppose to benefit everyone.

Good science is the key. Sound, neutral science must be at the heart of all of the decisions that drive the CALFED process and programs.

While the water users have supported appropriations for the CALFED program, Farm Bureau has been largely disappointed that a balanced program of action has not emerged. CALFED needs to do a better job of prioritizing expenditure decisions where the greatest benefit can be derived. The benefits of ecosystem investment need to be better tracked and displayed.

The original purpose of the CALFED long-term planning process was to improve water supply and water quality while reducing environmental conflicts in the Delta. Farm Bureau now feels that we must try and find our water supply and water quality improvements elsewhere, as significant changes in the Delta pumping are not on the horizon. New supply has been mentioned as a necessary component to addressing the problems of the Delta. However, it has to be done in combination with additional infrastructure improvements.

New supply must be developed to support our state's growing demands. The San Joaquin Valley is the fastest growing area in California. The environmental enhancement projects and river restoration projects alone require more and more water from an already short supply. The need for more water is real. And water is more expensive now than ever before. We believe the beneficiaries should pay for developing this new supply, and the beneficiaries are the growing urban and environmental users.

Thank you for the invitation to appear today and thank you for coming to Tulare County.

Mr. CALVERT. The first question I'm going to ask is a very easy question, and I would think—and I am not going to coach you on what the answer should be—so I ask the entire panel: Should Congress and the public be aware of Federal expenditures on CALFED-related issues? Is there anybody that objects to that? Let's put it that way. Everybody agrees it is unanimous, for the record?

WITNESS PANEL. Yes.

Mr. CALVERT. All right. May the record reflect the panel says, "Yes.".

The next question is: Is it feasible to consider that before any money be expended to accomplish CALFED-related projects, that a 30- to 45-day period for congressional review be conducted? Yes?

WITNESS PANEL. Yes.

Mr. CALVERT. OK. The record is—now, here is the left question: Why is it then that the projects involving large-scale construction be reviewed by congress, but other projects, i.e., Ecosystem Restoration, Water Shed Protection, do not follow the same requirements for congressional review?

Let's start with Mr. Watkins.

Mr. WATKINS. I agree they should. Everything should be looked at when there is money being expended.

Mr. CALVERT. Mr. Clark?

Mr. CLARK. I agree. And I think all too often this process is, frankly, used as a way of hanging projects that some people oppose, and the regulatory process—very clearly all of them should be required to have review.

Mr. CALVERT. Mr. Glover?

Mr. GLOVER. I concur.

Mr. CALVERT. Mr. Christopher?

Mr. CHRISTOPHER. I would have no opposition if the money comes from the Federal Government, then they have every right to review and look at it.

Mr. NELSON. All expenditures should have to qualify.

Ms. MORALEZ. I concur, and, furthermore, I have been there on the Hill when some of those expenditures are put in in a way where nobody realizes that—last minute many funds are expended, and I believe that that part, in particular, has to be reviewed very clearly.

Mr. CALVERT. Mr. Upton?

Mr. UPTON. I think Mr. Clark hit it a while ago where he said, "The environmental things seem to take precedence." They seem to get a pass on all of their projects, whereas, ours seem to not. I think we should have to all play by the same rules.

Mr. CALVERT. Next question: If the Record of Decision is not authorized in a CALFED bill, how would that impact the ongoing operations that are being done under existing authorities with the intent of improving the operations of the CVP and the State Water Project? Do you understand that question?

I will say it one more time: If the Record of Decision is not authorized—we know we have a Record of Decision—but say it is not authorized in a CALFED legislation bill, how would that impact

these ongoing activities that are being done under existing authority, with the intent of improving the operations of both the CVP and SWP? Anybody want to start off with that?

Mr. Clark?

Mr. CLARK. Mr. Chairman, if I think I understand the question correctly, it is really kind of a technical one. In terms of whether or not in the current round of legislation whether the CALFED—

Mr. CALVERT. Speak into the mike.

Mr. CLARK. I'm sorry—whether the CALFED ROD is authorized, I am not sure quite frankly whether it is or is not going to have a material effect. In fact, I think the intent of Congress is very important that Congress is, in fact, supportive of this process, and that you authorize Federal agencies to participate. I think that aspect is particularly important.

But the CALFED ROD, as I understand it, is the Record of Decision that was the outcome of several years of negotiations between state and Federal agencies, and state and Federal agencies acknowledge that the CALFED ROD should not be static, in one place; in other words, it should change over time.

So maybe—I don't think any of us up here are lawyers, but—thank God for that—I am not sure that the formal authorization of the ROD, what impact that would have.

Mr. GLOVER. Actually, that is a very good question. There is a lot of uncertainty involved in what authorities the Federal agencies do have and—on implementing a lot of the other individual components that are now packaged into CALFED.

I would like to comment that one authority that the Federal agencies do have and should be using is the discretion that is allowed them in implementing the Federal regulations. There is a tremendous amount of discretion of how it is that you implement the Central Valley Project Improvement Act, as an example. And at least a lot of the policies that have been put in place over the last decade, from our perspective, have been fairly imbalanced.

We think that working within the existing statute you can accomplish a lot of the environmental and fishery goals that we have established for ourselves, but you can do it in a much more efficient manner. And as Tom pointed out, that would expand the windows of opportunity we have for moving water and accomplish those objectives as well.

So the authorities can use discretion on implementing regulations that are in place regardless, and should be used, regardless if we do move forward with CALFED.

Mr. CALVERT. Mr. Christopher?

Mr. CHRISTOPHER. Yes. It is important to remember that this is CALFED, and it was created as a joint alliance between Federal and state government. Their participation and your participation in this would give a great deal of confidence to those who have invested a lot, currently in the process, and who are, frankly, a little bit nervous about the fact that a tremendous amount of money is missing from what had been planned, so that would be my response.

Mr. CALVERT. With that, Mrs. Napolitano, is recognized for 5 minutes.

Mrs. NAPOLITANO. Thank you, Mr. Chairman.

Mr. Christopher, I am just following up on your statement of "money missing," and I am just wondering if you could just elaborate just a moment on that?

Mr. CHRISTOPHER. I wouldn't be able to put out specific dollar amounts, but it is substantial. I think in the President's budget it called for $10 or $15 million be allocated for the CALFED program. I think originally when this was signed back in 2000, I think we were talking about a hundred or hundreds of millions of dollars to be invested in that, so—

Mrs. NAPOLITANO. Are you talking about Water 2025?

Mr. CHRISTOPHER. No, I am talking about the CALFED.

Mrs. NAPOLITANO. CALFED?

Mr. CHRISTOPHER. What they projected the Federal participation would be, or, I guess, CALFED's year 2003.

Mrs. NAPOLITANO. Thank you.

Mr. Upton, thank you for yesterday.

I had an opportunity to get a firsthand look at your area and Madera, and was impressed. You also showed me the proposals for the Temperance area.

Will you tell us how we should finance this project, and, second, do you believe that users or beneficiaries should be paying for the program?

Mr. UPTON. Yeah, I believe beneficiaries pay. As I said in my statement, I think this is an investment in the future. There is no way that farmers can afford to pay $500 in the cost of the dam. I look at this in the future by the United States, for supply that is guaranteed. So yes, there would definitely be some public funding.

You have to remember that the Friant farmers are already paying about 40 percent of their cost of water now goes in for some kind of environmental fund. What the government uses it for, sometimes, is a mystery to us, but we are already paying a lot, and have paid a lot since 1992.

Mrs. NAPOLITANO. Thank you, Mr. Upton.

There are other areas that I'd like to touch upon, but I must make a brief statement coming from Southern California, and having toured—been up here several times and looking at the community—farming community, as well as the great part it plays in California's economy. I'm very impressed.

I can also tell you that when it comes to getting support in certain areas, it doesn't always equate; simply because, facts on facts, 80 percent of the water is used by farmers, by ag, and the rest of Southern California sometimes has to go through very stringent conservation times with that water that we have left. And we also have a problem with Colorado River, which does not impact you, but we need it in Southern California. That is a third of our water.

We also must be able to explain to our constituency just in L.A. County alone is 11 million people, the county that I live in. We have no ag. We have many contaminated aquifers whereupon we get our drinking water that also need assistance, and that is one of the things that we are trying to do.

We have many areas where we do underground water storage so that we can have some reliable water supply. Those are issues that

we look at in conjunction with the needs of Northern California and the ag industry.

I am very happy to continue to learn, and to be able to understand how that relates to what we need in our areas of the rest of Southern California, not even including San Diego, who is having all kinds of water problems.

So I thank you much, and I will just turn it back to the Committee.

Mr. UPTON. I want to respond very quickly. I wanted to thank you for visiting Friant, and say that we meet with Metropolitan almost on a weekly basis in order to try to address your needs in a cooperative way.

Mr. CALVERT. Thank you.

Mr. Pombo?

Mr. POMBO. Thank you, Mr. Chairman. Yes. It strikes me in listening to the testimony from this panel, how far we have come in a relatively short period of time in terms of a recognition of what the competing issues are.

Not very many years ago, many of the people on this panel had a very adversarial approach when it came to environmental restoration and the need to protect water quality and the dealing with the Delta, and, you know, we had those fights going on.

In listening to the testimony by most of the people that are on this panel, there is a very broad recognition that as we move forward, we have to look at, "How do we increase water supplies? How do we increase the ability to convey water from one area of the state to another at the same time that we are doing a better job of protecting the environment? And that is something that just didn't exist 20 years ago.

And, you know, in listening to this panel talk about that, I think shows that we have come a long way in being able to do that. I think most of you recognize that that is our future. We have to—that we have to make that part of any new water systems that are put in place, and how we can do that.

One thing that I do want to ask the panel is the proposal that has come up in recent years about developing some kind of a so-called one stop shopping, where you have all of the state and Federal agencies that put their cards on the table from the very beginning, they say, "If you want to do this, you come in, all cards on the table and everything is out there," and they tell you what you have to do in order to move forward with that particular project.

The idea of doing this has, I think, gained some steam in recent months and given everybody the ability to know what objections there are or what hurdles there are that you have to jump over in order to move forward with a project or in the management of your current projects.

I would like the panel to comment on that idea, and I would like to start with Mr. Glover. The ability to have everybody, you know, so-called located in one place, one-stop shopping. "This is what you have to do." Instead of having the ability of one agency to play off of another agency to stop things from moving.

Mr. GLOVER. As a project manager, you deal with a number of regulatory agencies, and to even make it more complicating, you have some Federal and some state. They have different standards.

So in a number of instances, you are almost sandwiched between the two of them trying to figure out what you really need to do. They have a sit-down agreement initially. If you have NMFS and NOAA, and U.S. Army Corps of Engineers, and Regional Water Quality Board from the state, and Fish and Game to kind of give you guidelines and regulations. It would streamline the process and also reduce the cost of moving the projects.

Mr. POMBO. So you would support the idea of doing that? I know it would make your life easier.

Mr. GLOVER. As a project manager, it would simplify things quite a bit. It would also reduce the.

Mr. POMBO. Would anybody else like to comment?

Mr. Clark?

Mr. CLARK. Thank you. Actually, I think all of us would support what you are saying. I think one of the things we have run into is that while it is good plan—but once you get into—in fact, one of the things that CALFED was founded on was to get all the regulatory agencies together in one room, and that everything was going to be done in the light of day; in other words, there were going to be joint decisions that were going to be made, and that these would have public review.

One of the things that has happened to CALFED is that all of the Federal and state regulatory agencies, while they participate in the process, they reserve their right under law to perform as they are required; for example, the Endangered Species Act.

So all these agencies when they sit down, various agencies have trumped in the process. So that while on the one hand, you may have a one-stop shop, but whether or not they are willing to acquiesce the decisionmaking process is the function of their legal authority.

So I would think, Mr. Chairman, to the extent that you can get a legislative process, and I don't know, environmental, if you can get people that not only authorize them to participate in this type of process, but to have some kind of an outcome so that people just don't fall back to their regulatory powers and back into the individual pieces of time decision.

It is a problem that you put your finger on. It is very serious and, in fact, right now, this Banks Pumping Plant, it is the Corps of Engineers that—Banks Pumping Plant today is a paper limitation. We do not have to go build anything. Today, if the paper limitation—the water, by the way, being lost by Metropolitan, on the issue of the Colorado River issue and the storage, was not a storage issue. It is a pumping issue.

If we could have pumped that water, and we have—the pumps are in place. They are there today. If we could have been allowed to lift this limitation, regulatory limitation on the pumps, the water could have been pumped and saved, and it wasn't.

Mr. POMBO. Mrs. Moralez?

Ms. MORALEZ. To add onto that, being with the Reclamation Board of Directors, I see a lot of the conflict that occurs from one agency interpreting the law a certain way or the regulations, and then there is conflict with either state or Federal perspectives.

I think another very important issue that maybe people don't like to bring to the table is because we have civil servants doing

those jobs, some of them may have their own ideas or their personal biases with bias toward the environment or other biases, and they tend to interpret those regulations in a way that is more comfortable for their way of thinking, and then—I don't know how you deal with that.

That is a very important issue that is creating some of the problems that we have to deal with regulations.

The other part that I see is that a lot of those executives, top management or middle management, have a lot of power. And when you look at the composition of the people making those decisions and recommendations, there are certain relationships that are developed, and you have problems coming out of those relationships.

I don't know how best to put it, but there is conflict that makes our life even worse; trying to get some of our projects going forward and working with the limited money that we have.

The outreach also that has occurred has been, in my opinion, not very good. When we don't have the general public understanding what is going on and how our Federal funding is being spent, it is very difficult to get the support for us to get the public to understand that this money is not just water for the farmers or water for the environmentalists, this is something that affects every single human being in the state.

Unless we do better outreach and public information to teach the public, it is going to be difficult for us to really get the support that we need to get the funding necessary to make these efforts go forward.

Mr. UPTON. I like the idea of a one-stop shop. I think one additional thing, of what I would like to see—and I don't know if you can do it legislatively—is to have a higher bar to be—before a lawsuit could be filed to stop a project. Right now it seems like anybody with $25 to become an environmental organization, and get a Volkswagen bus can come in and stop the project. It increases the cost, and I think we need to address.

Mr. POMBO. Just in conclusion, I know my time has expired, Mr. Chairman, but I can tell you that the Federal agencies right now, as frustrating as it is for a lot of you and for us, a lot of the decisions that they are making, are based on trying to avoid a lawsuit. And it really has nothing to do with the best way to run the project, or what is best for the environment, or what delivers the water the best, or anything else. It is how do we do this and avoid being sued?

Everything that they are doing now is tied up in court over one thing or another, and that is destroying their ability to move forward, because everything is being done to try to avoid a lawsuit. That has gotten extremely frustrating for the bureaucracy that is in charge of doing this stuff, and for us, who have oversight over the agencies. The things that we all agree on that should be done, aren't being because lawsuits and because it is eating up their entire budgets, which is a real problem, but thank you.

Mr. CALVERT. Don't worry, Richard. I am not going to cutoff the Chairman.

Mr. CARDOZA. Thank you, Mr. Chairman. I would like to direct this to Dan Nelson.

Dan, could you please describe your thoughts regarding the status of plans to diversify refuge water supplies?

Mr. NELSON. Yes. And a brief background, as you know, the Central Valley Project Improvement Act, passed in 1992, fundamentally changed how it is we operate and maintain the Central Valley Project. I mean that in a very literal sense of the word.

We operate entirely different than we did in 1992 and have experienced shortages since that time in trying to implement CVPIA.

But along with the rededication of water for fish and wildlife purposes, there are provisions in CVPIA that call for the mitigation and the minimizing of the impacts to CVPIA contractors.

Although over the last 10 years we have done a really comprehensive job in implementing the environmental improvements of CVPIA, we have not implemented the mitigation or the minimizing impacts provisions of CVPIA. And the best example is the refuge supply. Over 250,000 acre feet south of the Delta has been rededicated from historical uses, specifically agriculture, to wildlife refuges south of the Delta.

That is a big, big chunk of water and certainly a good percentage of water that is available to agriculture south of the Delta.

Along with provision of dedicating this water is a direction to the Secretary of Interior to diversify those supplies to minimize impacts. And there has never been an effort or resources to diversify those supplies.

So what we are suggesting is that the Secretary of Interior initiate and—by the way, CALFED also acknowledges that there hasn't been a planned development and there needs to be a planned development and talks to the Secretary of Interior and the state of California to work through a plan with the rest of the CALFED agencies that would diversify these spots.

A lot of it is centered in conveyance. The Delta is one way of doing it; another is development of ground water resources south of the Delta, and there are opportunities to do that. But the point is: We need to be serious about—about diversifying those supplies and dedicating appropriate resources.

Mr. CARDOZA. Thank you, Dan. You talk about a lot of conveyance. I am happy that you have discussed that today, because that is really something that we need to deal with. It is not just building the storage, which I advocate also, but getting it where it needs to be. I also want to mention an issue with me about credibility. Mr. Upton said in his opening remarks that water users are getting along more appropriately today, and I appreciate that and applaud that. Your cooperation with Westlands.

Mr. Clark mentioned the issue of credibility, and the fact that you have to maintain Delta soundness and the South Delta issues are important, and you made those commitments. And I applaud that because that is part of my district as well, and that is important to me.

My question to all of you is: I am very concerned as we go on here about people who make commitments, and then don't keep them once they get their part done. Certainly, if we are going to have this process move forward, we need to have a situation where honorable people can do honorable business and keep commit-

ments. If you get your part of the deal and then take your toys and go home, that isn't going to make this process work.

So if anyone has any comments with regard to that, I would be happy to—

Mr. NELSON. Well, I would like to address that issue. That is something that we struggle with in our region. Back in 1993, we were one of the first agricultural groups that started working with other ag areas and urban areas and environmental communities on trying to figure out how it is that we were going to move forward with managing California resources.

This was just post drought, and ESA issue and CVPIA, and so we were trying to make sense out of all this. Through all of that, we came up with Delta Accord. As you recall, as part of implementing the accord, we established standards on the Delta. And I recall on the podium on signing day—then Secretary Babbitt saying, "A deal is a deal." And these are the regulations and standards that we are going to move forward with.

Now, that was a short-term program. Now, we are going to work on this CALFED, which is a long-term program. We have less water today in our region available to us than we did back in 1994 when we signed the Delta Accord.

So, frankly, that is one of the things that we have really been struggling with. We bought off on the notion that everybody gets better together, and that we will move forward in a balanced way. We haven't experienced that, but we are still at the table, and we are still striving for that balance.

Mr. CALVERT. Thank you.

Mr. Radanovich?

Mr. RADANOVICH. Thank you, Mr. Chairman.

Mr. Christopher, welcome to the Committee. I have got a couple of questions. First of all, let me ask this: Is Friends of the River a party with NRDC in the lawsuit of San Joaquin River lawsuit to restore the river?

Mr. CHRISTOPHER. We are.

Mr. RADANOVICH. So you are familiar enough to probably answer some questions?

Mr. CHRISTOPHER. Very basic. I am not a party to the settlement negotiations, actually, but I believe later on this afternoon, there will be a person available at your hearing in Elk Grove who is party to that. I can answer some very basic—

Mr. RADANOVICH. Do you have a plan to rewater the river? I think there was some discussion or some plans that were being put forward that had the idea of rewatering the river at no net loss to urban or ag water uses. Is that still your concept or idea?

Mr. CHRISTOPHER. Yes. We would like to think so. I personally haven't been involved with it, but over the last 4 years, there have been seemingly very productive talks about different ways and ideas that we could get water back into the San Joaquin River, which is in some areas virtually dry; that would be beneficial for both, not only to regional farmers here, but downstream in the San Joaquin and better for the river itself.

Mr. RADANOVICH. Do you have a handle as to how much water it is going to take to rewater the river?

Mr. CHRISTOPHER. I wouldn't have that statistic.

Mr. RADANOVICH. Friends of the River doesn't have that information?

Mr. CHRISTOPHER. I can provide that. I would be able to provide that, yes.

Mr. RADANOVICH. That would be terrific.

Does Friends of the River have a specific plan in mind now that you could also provide me information on as to your opinion of, No. 1, what it would take, and how you would do it?

Mr. CHRISTOPHER. Oh, we would appreciate—

Mr. RADANOVICH. If you can't speak to that now, but you will get me the information?

Mr. CHRISTOPHER. Would appreciate that.

Mr. RADANOVICH. Let me ask you a question of the—earlier in my statement, and you can agree or disagree with the numbers, but if it is true that 46 percent of the state's water is used for environment, and 43 percent is used on farms, and 11 percent is used in homes and businesses, and we are trying to make the state whole in water, do you support increased water storage if California has a means of making up for any future shortages that we may have?

Mr. CHRISTOPHER. First of all, you are referring to Bulletin 160, which was produced in 1998, currently, right now, the top members of the legislature in California, the—

Mr. RADANOVICH. Actually, I am not. I am just speaking of Friends of the River, though. Is it the Friends of River's position to support increased water storage as means of bringing the state whole?

Mr. CHRISTOPHER. We would if they were along with the CALFED Record of Decision, and if they were environmentally benign, if beneficiaries paid as called for in the Record of Decision, and that we stay true to the Record of Decision. We would certainly support—we have supported the California Record of Decision and—

Mr. RADANOVICH. Yes, but would you increase—would you support increased water storage that would be either on- or off-stream above ground water as a means of meeting some of these needs?

Mr. CHRISTOPHER. If those concerns were met, that were set forth in the Record of Decision, of course we would.

Mr. RADANOVICH. You had made a statement earlier about, which is contrary to the view that I am coming from, about how we should not say, "Listen. You are not going to get this unless I get this," when we are putting the stakeholders together, and try to move things forward. It has been kind of a bone of contention with me that in the stakeholder process that was agreed upon in 1995, "We all get better together," That the vast majority of the money spent so far has been for environmental restoration.

The reason why I bring that up is: There is a concern that if one particular party gets out too far against the other that they begin to work against the interest of the other stakeholders if they were satisfied, and that has been my concern all along.

In the ROD is mentioned some storage projects, including Los Vaqueros, which was agreed upon by all people that signed this CALFED agreement back in December 1994.

Are you aware or is Friends of the River party to any lawsuits that are being contemplated on Los Vaqueros Reservoir right now?

Mr. CHRISTOPHER. No, we are not.

Mr. RADANOVICH. Is there any anticipation of filing a lawsuit?

Mr. CHRISTOPHER. Not on behalf of Friends of the River, no.

Mr. RADANOVICH. Kole, can you give me an opinion of why the NRDC has decided to go back to court instead of continuing to work on the cooperative basis with Friant to develop a plan that we would rewater the river that would not take away water from agriculture?

Mr. UPTON. I can give an opinion. I think the water business is the people's business. And there are only three people that started this process with NRDC and carried it all the way through without any leaves or absences, and they are all on the Friant side.

What happened was we started out with neutral goals to try to protect this $4 billion economy that we have in Friant. We have no water. No loss; that was the agreement.

On the other side from NRDC, what they were seeking was a naturally producing salmon fishery. That was their goal. There was a lot of work on river restoration, on using the same molecule of water for both ag and environmental restoration. We didn't have a lot of successes. It worked really good for a couple of years.

The studies we did on restoration and on the water supply, begin to reveal in the last year, that it was going to take anywhere from 300,000 to 1 billion acre feet of water to do the salmon fishery. And it was going to take about a billion dollars to redo the ponding beds and that kind of thing. But we could see from our perspective there was no way we can do that without sufficient storage and without affecting Friant.

Every storage proposal we came up with was vetoed; even including putting gates on Mammoth Pools to give us 20,000 acres was denied. At that point, then we tried a different strategy. Why not have a warm water fishery. You have salmon. That is what the studies showed. You can use additional money you saved to enhance a salmon fishery somewhere else. That way the salmon fishermen would be happy to get more fish. They would have a fishery right on the San Joaquin. That would meet the law and make people happy.

At that point, 5 days before the study was—NRDC issued a press release and went back to court. You would have to ask them exactly why, and I told Mr. Lang, minority resource person, we were willing to meet anywhere at any time in front of you or anybody else and discuss this issue, because we are heavily involved in the task force in the environmental enhancement of the river.

If you want my personal opinion, I think NRDC thinks all they have to do is convince one judge to give them what they want, and it is a lot easier than trying to convince all the state growers in the Valley.

Mr. RADANOVICH. In your opinion, can the San Joaquin River be rewatered without increased water supply or without taking water away from agriculture or urban uses?

Mr. UPTON. Not as a salmon fishery, no way.

Mr. RADANOVICH. Thank you.

Mr. Glover, thank you for being here. I need to ask you a quick question. Your agency has been working on a 100-year event flood plain proposal for Fresno, Madera, and Merced Counties, or in that region; can you tell me whether it is DWR's position to set the flood plain there at 71,000 cubic feet per second?

Mr. GLOVER. I can't answer that question, but I would be happy to get back to you on that issue with that answer.

Mr. RADANOVICH. If you would, I would like the answer to that question. I also understand, in fact, I know of a fact that there is a model produced by Citizens of Madera County, and local water districts developed that demonstrates the flood plain can be set at 21,000 cubic feet per second, not the 71,000.

Given the disparity between those numbers, would you—would DWR be willing to sit down with some of these constituents that have this plan, and be willing to discuss this issue with him?

Mr. GLOVER. I am sure I can answer that question as yes. I am sure we would be willing to discuss that issue.

Mr. RADANOVICH. Mr. Upton, I had another question for you too. Would you be proposing and promoting the idea of increased water storage in Temperance Flat if CVPIA had made the mandate that a lot of the state's water resources shifted it from ag uses to environmental uses?

Mr. UPTON. I think we probably would be doing that anyway. I have heard about Temperance Flat for a number of years, and the fact that Friant Dam was built in the wrong place, and it should have been built at Temperance Flat because there is so much more capacity.

Mr. RADANOVICH. But the fact is if not the increased environmental demand being brought on by CVPIA, whether good or not, parts of it are good, precluded the need for more water storage in your district, don't you think?

Mr. UPTON. Well, I have got to tell you, I have got to compliment Congressman Nunes, because I think so many of us in this water business have been brainwashed from listening to some of the environmentalists: "No new dams. No trying to storage." We are trying to think of all these other ways to do this, but I can remember my dad, he started in the water business, saying that we needed Temperance Flat for the future. I think it should have been built years ago.

I think, your point, yes, with all the environmental requirements and things that probably maybe wouldn't have come to the floor right now, it should have been done years ago.

Mr. RADANOVICH. I guess what I want to make sure was brought up was the idea of when it is mentioned that, "Gosh, Friant, if you want increased water storage, go pay for it." But I think the point needs to be made it probably wouldn't be pursuing something like Temperance Flat, had it not been that CVPIA pledged water for environmental uses over and above an increased demand for California's water supply for that, which, in my view, justifies state and Federal money being spent on Temperance Flat, and that the users of Friant should not be charged with the full cost of that proposal, because it is the state and Federal interest and the citizens of California that are deemed a higher priority in this water being

used for environmental purposes and put the effort to get more water storage or put that to the front.

I just want to make that case to justify the fact that it is in the public's interest to have increased water supply in California, and they should be participating in something like Temperance Flat.

Mr. UPTON. I agree with you.

Mr. RADANOVICH. Sorry to put you on the spot like that. I think that is all for my questions. Thank you.

Mr. CALVERT. Thank you, Mr. Radanovich.

Mr. Nunes?

Mr. NUNES. Mr. Upton, in your testimony you talked about the Central Valley Project Improvement Act in regards to the restoration fund money. Could you expand on that a little bit? How much have Friant Water Users paid into the restoration fund and the other CVP users over the last decade?

Mr. UPTON. I think it has been over $100 million, if my figures are correct, and don't know; Dan Nelson is here.

Dan, do you have that?

Mr. NELSON. There is over $100 million.

Mr. NUNES. $100 million total between all water users?

Mr. NELSON. We can get the exact numbers to you, but I think it—we would be happy to forward those numbers to you, but my impression is that it comes out to about $35 million a year, and we have been paying into that for about 10 years now.

Mr. NUNES. So would it be accurate to say possibly a little more?

Mr. NELSON. Very possible.

Mr. NUNES. I have asked, I think, twice, and this will be the third time, Mr. Chairman, for the Secretary of the Interior to provide me and the Committee a detailed report of where this restoration fund money has went to.

Can any of you tell me where the restoration fund money is, because I can't seem to get anyone from the Department of Interior to be able to tell me, or did it disappear?

Mr. UPTON. We have asked the same question. We know for a fact that in mid or late '90's some of it went into the general fund.

Mr. NUNES. Does anyone else—Mr. Christopher?

Mr. CHRISTOPHER. I can talk to a number of things, and I am—of where some of the money has gone. We are looking at restoring salmon fisheries, hopefully trying to get some of the endangered species off the list in the areas of Clear Creek and Battle Creek.

Obviously, just like everybody else, people who rely on fishing environment for recreation in their income as well, we have run into problems with bureaucracy. Some of that stuff has been stalled up there. There has been wetlands rehabilitation here and outside the Bay Area.

So those are some of the types of things that are being done with ecosystem restoration money. I wouldn't say that it has gone up in the thin air, but that would be my response to that.

Mr. NUNES. Mr. Nelson?

Mr. NELSON. One of the things that I think you need to be aware of and certainly something that would be appropriate for you to look at some fixes for the future and how the restoration fund was set up is: Generally, the restoration fund—the payments by the water users go directly into the Federal general fund. And a lot of

times we may put—let's use hypothetically $35 million annually—into the restoration fund, but it gets lost in the Federal appropriations process, and so we don't necessarily get the benefits of the appropriations back to that $35 million.

We ought to consider a local revolving fund to make sure that money—if the water user is going to put that kind of money forward for restoration, then they ought to be getting the benefit of it. And it ought to stay here in California and be used for what it was intended for.

Mr. NUNES. I agree, but, I think, at the very minimum, Mr. Chairman, we should have, as was called for in the Central Valley Project Improvement Act, a report yearly as to where the money was spent, because we have yet to see an official report from the Secretary of the Interior since the signing of CVPIA.

Mr. Christopher, you had another comment?

Mr. CHRISTOPHER. I was going to say that we have seen some increase of targeted fish species, such as salmon and steelhead coming back into the system, so I mean there are some positive signs here. It is not like it is all doomsday from that perspective. These are small, incremental improvements, so we are seeing something.

Mr. NUNES. Mr. Christopher, if Temperance Flat was built, was authorized by the U.S. Congress, would the idea that we would use part of the water to restore the river, i.e., river restoration, would it be OK to use these restoration fund moneys to finance part of the building of that project?

Mr. CHRISTOPHER. I would have to look at any type of proposal, but if there was something that could be done in the process of doing Temperance Flat, which could restore to some degree, free-flowing river, that would be something that would be looked at, and that would be something that would be very attractive to people downstream of the river in places like—

Mr. NUNES. That deals with the beneficiary pays theory?

Mr. CHRISTOPHER. If it was something that could be done, then I would say that would be something to look at. But, you know, with beneficiary pays, everybody agrees with the concept until they are identified as a beneficiary. So it would be something that would have to be looked at, and something that I personally—I don't think Friends of the River would put off the table.

Mr. NUNES. Mr. Clark?

Mr. CLARK. I just—I really had to add my two cents on this issue. I think you are touching on a very important issue on beneficiary pays. It has come up a number of times in the context providing new water supply that the beneficiaries must pay. Nobody says anything whenever it is—we are talking about water being taken.

When CVPIA was enacted and that 800,000 acre feet of the yield of the Central Valley Project was dedicated to environmental purposes, it was dedicated without compensation.

When the State Water Resources Control Board enacted the—

Mr. NUNES. So you are saying the beneficiary didn't pay in that instance?

Mr. CLARK. I think the beneficiaries pay is a two-way street. When water gets taken, there should be compensation. And, in fact, Kern County is involved in a very important court case on ESA to

where the courts have found that taking one's water supply, water rights, is a compensable action under the ESA, and we are in the court of claims right now.

And I think that is a very, very important issue, because we are getting—with all due respect to Mr. Christopher, when he said, "Sure. We support surface storage if the beneficiary pays," well, the point is: That agriculture and the urban water users throughout this state have lost about 2 million acre feet in the last 10 years to new environmental protections and environmental programs. All of those came without compensation.

Now, when it is time to make the water up, people are talking about beneficiary pay. And I am saying that this is an important issue that I would like to see you folks get involved in it, but I think it is a way of saying in code, "We oppose new surface storage, because we know agriculture can't afford to pay.".

Thank you, very much.

Mr. NUNES. Mr. Christopher, time is quickly expiring here, but I do have one more question.

Are you familiar with the Kings River at all, and Senator Boxer's proposal to put the Rogers Crossing area into the Wild and Scenic Rivers Act?

Mr. CHRISTOPHER. Familiar with it, yes; vaguely familiar.

Mr. NUNES. I assume you are in support of that?

Mr. CHRISTOPHER. Yes, Friends of the River has been working on that bill with Senator Boxer.

Mr. NUNES. I would like to hear, and I know that we don't have any representatives from the Kings River here, but I do want to comment to this Committee, that I feel that is a bad idea to do that. And I also want to say that we should—at the same time we are studying these other rivers, putting water projects there, we should also be studying Rogers Crossing to possibly build a water storage project on that river also at the same time.

Mr. Christopher, you want to comment, and then Mr. Upton?

Mr. CHRISTOPHER. With regard to the beneficiaries paying, you know, California has historically supported a very vibrant fishing economy; billions of dollars have come into California by people who make their living fishing and white-water recreation. $75 billion has been spent on white-water recreation. We extracted that water and decimated fisheries 50 years ago; there was not compensation for those groups that relied on that a great deal.

So you have to look at it in a historical context too, and weigh the different measures when looking at it.

Mr. NUNES. Thank you.

Mr. Upton?

Mr. UPTON. I would like to address your original question on CVPIA funding. One thing that we did is we had a joint study through the Bureau of Reclamation within RDC on temperature in the Friant Dam. The reason we did that is because the type of fishery that you have is dependent upon the temperature.

What we were finding that the temperature in Friant Dam is so hot that the salmon would not be able to survive in the San Joaquin, even if it was linked up. Furthermore, even when it got to Merced where there is an existing salmon fishery, that water was so hot it was going to kill the existing ecosystem.

So even though we put the money in, and I think the study has very valid results for what kind of fishery we are going to have, we didn't have control over it, so it is a dead issue.

Mr. NUNES. Well, one of the things that I find is also interesting on this topic of water storage and how it relates to fish is that without water storage the drought that we suffered through the '80's and into the '90's, if there was no water projects there, I can't imagine that there would have even been any fish left after the eight or 9 years of drought that we went through.

Just for the record, I think that Mr. Pombo, you have talked about this in the past, but they are not mutually exclusive. Water projects and fish are not mutually exclusive. I think that there are strong benefits by building some of these water projects.

And I want to thank the panelists today and the Committee for coming up here—coming out to the San Joaquin Valley to listen to the panel. I would like to thank you in the audience for showing up this morning. Thank you, Mr. Chairman. I yield back.

Mr. CALVERT. I have a couple of questions. Mr. Pombo has a couple questions, and I think we have another round here.

As you are probably aware of what is going on with the Colorado River with the quantification settlement agreement given to the upper and lower basin states, which we were unable to meet, and the Department of Interior has cut us back on the Colorado River to our protected right, that had an affect throughout the state of California; an immediate effect.

One, Metropolitan, went up into Northern California and acquired water to offset its loss in the Colorado River, and acquired that water, as you probably have been reading in the paper of the conflict with the state on where to store the water in the interim, but that water has been acquired.

I am going to ask a question that I think we need to have for the record. If you have water rights, and you own them, do you believe you have the right to sell that water.

Start with Mr. Watkins?

Mr. WATKINS. I think as a water right holder, you would have the right to move that water as long as it wasn't detrimental to the area of the origin and wasn't detrimental to the neighboring areas.

Mr. CALVERT. Mr. Clark?

Mr. CLARK. I agree with the comment that was just made. I think there are things that we need to do to streamline the ability to make transfers of water statewide. Quite frankly, along with the environmental restrictions, really—the availability for sellers to other buyers.

Mr. CALVERT. Mr. Nelson?

Mr. NELSON. Our area relies heavily on water transfers every year to make up for some of the shortages, so we certainly think that transfer is a major or should be a major component of how it is that we mandate water resources. There are, however, very real conditions and very real circumstances that we need to be aware of.

What comes to mind at the top of the list, of course, is what we refer to as "third-party impact"; especially in rural communities that rely on this water to be used locally for their rural economies.

Ms. MORALEZ. I think that is an issue that is so crucial to the local economies, and I believe at this point that we may have some counties that are looking into it from the perspective of them trying to put a stop to water being transferred. However, they own the water rights, and that is their privilege.

I think with time, we are going to be able to come up with a plan where they can—the water rights individuals may be able to exercise those rights, but within conditions that protect the local environment and the local economy.

Mr. UPTON. It is a third-party impact issue, and a lot of counties have established water committees and ordinances to look at that very thing, but I don't think you have an absolute right to do that and affect everybody else. It has got to be under certain issues.

Mr. CALVERT. The reason I bring that up is obviously, water transfers are going to be brought up as an issue. As a matter of fact, the NRDC has been a proponent of water transfers in the past. I find this—as you know, we are in a situation in Southern California—it certainly affects Northern California also—where the Imperial Irrigation District is attempting to work out an agreement with the city of San Diego.

This is probably the mother of all water transfers. We are talking about a significant amount of water. Of the 4.4 million acre feet that is in the Colorado River, the Imperial Irrigation District has protected rights to 3.3 million acre feet of water.

Now, we went through a lot of work to do this. And we cannot seem to get the support all of a sudden of the same organizations that say they are in favor of this.

I want to ask Mr. Christopher: One, you mentioned in your testimony in the aspect of water transfers, it seems that if we could get to the point where we could work out the technicalities with them: Do you have the right to transfer water; and, two, do you have an ongoing right to how that water is utilized and what are the third-party impacts?

I understand all of these other issues. In the past, I have headed papers and so forth on water market transfers, and conceptually these things have worked. But it is interesting that the environmental community now is shifting.

Can you explain to us why in some of these water transfers now that—I am trying to find one that they are now in favor of. Can you explain?

Mr. CHRISTOPHER. Water transfers in general?

Mr. CALVERT. Yes.

Mr. CHRISTOPHER. Anytime you can take water from one area and transfer it to another place that is in need, and it can be done in a way, like you said, all the other technicalities are dealt with, it presents an opportunity for more water not having to invest a tremendous amount of more money in surface storage. It gives us an opportunity to do that, so I think that is why you see some of the—

Mr. CALVERT. This is an important aspect, because, obviously, many people in the environmental community are opposed to surface storage, opposed to off-stream—by the aspects of storage, but they always went back to water transfers and the concept of late is now that will—maybe now that some of these transfers are

happening, all of a sudden we see opposition. The first we hear from them is the growth inducement impact of the water transfer, which we had never heard before until, obviously, that these were going to take place. Any comment?

Mr. CHRISTOPHER. I think the shift in the quantity of the amount of water that we are going to continue to convey, is it going to be a way of life whereby that is what we are going to rely on, that people are going to simply take water that they have rights to, and then sell that water down south is a matter of public policy. I think a lot of people are concerned about doing it on the large scale, because water is the basic need of every person and everything. This idea of taking it for a cheap price, and then selling it for a large price is disconcerting to some people.

Mr. CALVERT. If the environmental water community bought the water and put it into the environment, would that be a proper water transfer? Would that be at that point OK?

Mr. CHRISTOPHER. Well—

Mr. CALVERT. —if someone was—if a body was willing to buy that for environmental purposes?

Mr. CHRISTOPHER. You know, it comes down to the fundamental choice: Do we buy water—

Mr. CALVERT. I am just asking the question.

Mr. CHRISTOPHER. Do we buy water to supply our fish in our rivers and people that rely on them and use them? It is a fundamental choice. It is a value judgment we have to make. Are we going to go that route or not?

Mr. CALVERT. So that water shouldn't be paid for? Is that the answer to the question?

Mr. CHRISTOPHER. I am just saying, it is a value judgment that we have to make.

Mr. POMBO. I would like to, I guess, go back to you, if I could. In the response to an earlier question on surface storage, you said that you would not be opposed to surface storage if it was one of the criteria—if it was "environmentally benign.".

Can you expand on that a little bit? That sounds like a very high bar to set.

Mr. CHRISTOPHER. Well, I mean there are studies that could be shown—let's say for example, Los Vaqueros Reservoir was funded and operated in a certain way, that it could actually benefit the environment in fisheries that we have invested so much money to try to restore.

The problem with anything like this is that none of these have yet proven to be feasible. They're still in the beginning stages. Nobody has stepped forward to say, "We want this water. This is how much we are willing to pay for it." Environmental reviews have yet to be done, so we were at the very beginning stage of some of these things. If it comes out and we see that the amount of water that Los Vaqueros contains and the way that it is operated can benefit the environment and those who make their livelihood on fishing, I don't think that we would come out in opposition.

Mr. POMBO. So—and I am trying to understand this, because there is—I think we have to quit pretending that there is anything that we can do that is environmentally benign, because anything that man does impacts the environment. If we went in and took

down all the dams that have been built in California in last 75 or 100 years, that would have a huge impact on the environment, and not necessarily good. In terms of fish and the fisheries in California.

As Mr. Nunes said when you talk to some of the old-timers that have been around here for a long time, they will tell you about walking across these rivers during drought time when there was no water in these rivers, and now there is water running all the time.

I go back on my own family, and I was raised in the Delta. My father was raised in the Delta, and they talked about when there were droughts, and there was no water in the Delta. The rivers that ran by my house were dropped during drought time. Now there is water all the time in there.

So there are different impacts. Anything that we do is going to have an impact on the environment. When you talk about being "environmentally benign," I think that—that is impossible to say that anything that we do is going to be "environmentally benign." What a lot of these guys are talking about is trying to build new surface storage, new water projects, and have as little impact on the environment as they possibly can in building those, and I think that is—I think that is a huge difference from what you are talking about.

That is where I think that we need to bridge that gap in terms of people like you and others in the environmental community. I think people need to understand. You guys can all go out and talk, and you sound the same, and you sound like you are saying—in agreement in what you are saying, but you are not. There is a huge difference in what it is you are talking about. I think that is important.

You talked about being environmentally benign. Building or expanding Los Vaqueros is going to have an impact on growth. It is going to have an impact on the ability of those communities to provide water for their cities in that area. That is going to have an impact on the environment.

When you put "rewater the San Joaquin" that has one impact on Friant, and it has a different impact on my district. Good or bad, it has an impact. You know, all of these projects that we are going through and that we are talking about, there are dozens of them that are on the—in the planning stages that people are talking about. What is the impact on the environment if every one of those could there be a positive that comes out of it? How do we move forward in providing more water. Not just in my district—it is funny because to hear Grace talk about Northern California, I think this is Southern California.

When you talk about the impact on—in my area, my farmers talk about this as being when we ship water south, and the impact that has on us. So California is obviously very complex when it comes to water, but at some point if you guys want to be honest participants in this process, there has to be something you are in favor of, and there has to be some kind of water project that is going to provide new net yield both for our cities and for agriculture that you are in favor of.

Mr. CHRISTOPHER. And, like I said before, when I say "environmentally benign," I am certainly realizing that every project will

have impact in some way or form on the environment. There is an opportunity to use some of these in a beneficial way, and hopefully can benefit and satisfy some of the people up here too. We certainly hope that too. But I will just—I would like to add that we have more tools in our water supply toolbox than we did 50 years ago or 10 years ago.

It is amazing to think of some of the advances that we are making in agriculture which could produce 150,000—1.5 million acre feet south in the next decade or two decades can produce 800,000 acre feet.

Not looking at it from the environmental perspective, but looking at it from the economic perspective, that could be beneficial to focus on those types of things in addition to water storage.

Mr. POMBO. I do think that we have to concentrate on those things. Places like San Francisco should be doing that, and places along the coast should be doing more of that. I look at what agriculture has done in the last 20 years, the advances they have made in the use of water.

Unfortunately, it seems like they get absolutely no credit for that whatsoever. We still get into the debate, "Well, agriculture uses all of this water, and we should be transferring that to our cities." And they get no credit for the amount of water that they have saved through conservation. Everybody keeps talking about conservation; we are going to make it up through conservation. Well, agriculture has done its part, and they have continued to improve. They continued to use less and less water all the time, but that—that has an impact when they use less water. That has an impact on the environment in those areas when they are using less water. That, what we have seen in the Valley, and we have seen along the coast down south that when farmers use less water, it impacts the endangered species in those areas too. The endangered species didn't live here when this was a desert. A lot of the endangered species that exist in the Central Valley today are a result of agriculture being here.

So when you take away the water from the farmers, that has an impact on the environment. So everything that we are doing has an impact. I just think that—at some point in order to be an honest broker in this process, the environmental community has to come forward and say, "We want to build this, and we think that is a legitimate way of producing more new net yield into the system, so that we can avoid some of these problems in the future.".

Thank you, Mr. Chairman.

Mrs. NAPOLITANO. I feel very sorry for Mr. Christian. You guys ganged up on him.

Being from Southern California—and yes, thank you for the remark "This is Southern California" or part of it; in that, we all must share the frustrations making CALFED—I am hearing the frustration from the panel of how Central Valley farmers are not benefiting as much from CALFED or little, for that matter.

We don't belittle the Central Valley's plight. We have Superfund contamination in our areas that we use for drinking water. You use it for farming water, so you may understand. I invite the panel to join us in Southern California, so we can give you a tour of what we are faced with in Southern California.

You may understand, we are here to listen to your plight. You need to listen to ours also, so that we can all work together.

And while I tend to agree in many areas that we need to protect a lot of our species that we—thank you very much for the last tour. I was here about 3 weeks, a month ago. I was able to see some of the environmental areas and how—I toured the big Delta in a boat, got to a see a lot what really happens, so I understand a little bit more than I did maybe last year.

I understand the need to protect it, but we were not even talking about how to protect the levee, so you do not have the intrusion of the salt water. There are many things that still have not been coming into the conversation about the cost and who is going to pay for it. Certainly the Federal Government has a great responsibility, and while we don't want everybody, especially farmers to continue shouldering the cost, we need to be able to be sure that the state and feds work with the; everybody, again, coming to the table and coming to those solutions.

If we in Southern California and, as Mr. Glover—the State Department—California Department of Water Resources, if we were to build recycling and desal—desalination plants, it would reduce our need for water from the Delta perhaps by 500,000 acre feet per year. If we were able to do that, would it still be necessary to build dams or aboveground storage?

Mr. GLOVER. So the question is: In addition to the ground water facilities in Southern California, would we need to look at some storage facilities we are looking at part of the CALFED ROD?

Mrs. NAPOLITANO. Generally, yes.

Mr. GLOVER. Well, looking at population projections over the next few years, I think that there is going to be a need for additional water, so I commend Southern California, particularly Metropolitan Water District, for their effort on recycling and ground water programs—so I think that is part of the package.

I don't think we have looked at surface storage as the answer to all that ails us. We think it is a complete package with the reuse that is happening in Southern California and more efficient use of the water. So, in the long term, no. I don't see it really overcoming our need for additional surface storage.

Mrs. NAPOLITANO. Thank you. I tend to agree with you. Understand, a lot of folks don't realize that Southern California has gone to very high degree of recycled water usage, not only for commercial and industrial water uses, but green space, golf courses, and other areas.

Certainly, something that I haven't heard in the conversation here is being able to reutilize the water? And there are no new resources of water. We are still using water that we have been using eons ago. It is just recycled by mother earth; rainfall or whether it is in aquifers. The important part in our area is that our aquifers are unusable because of reports—you are lucky you don't have reports in your area. Those are provided—thank you very much—by our Federal Government's defense industry—the providers for that industry. Those are cancer-causing, and unfortunately, we have those besides the use of fertilizers and other farm necessities back in the early 1900's, and we are now paying for that.

Again, it is our drinking water; not our farming water, or not our industrial or commercial water. So you understand our plight is very different than yours. We need your understanding along that line.

The other question I was going to pose possibly to Mr. Nelson is regarding the refuge water supply. Who should pay for the refuge—diversion of the refuge of water? Should it be a CALFED responsibility?

Mr. NELSON. I would like to tell you that it should be a CALFED responsibility, but in actuality, CVPIA is fairly clear on who should pay that. It is a reimbursable expenditure, the replacement of these supplies by Central Valley Water Users.

Mrs. NAPOLITANO. Any additional comments?

Thank you, Mr. Chairman.

Mr. NUNES. Mr. Nelson, in your testimony you talk about the loss of going through the Delta and out to the ocean. How much water on an annual basis do we lose that goes out to the ocean?

Mr. NELSON. I don't think that I can answer that. I would be happy to get that information, but off the top my head, I don't know that there is any—I don't know.

Mr. NUNES. Several million acre feet?

Mr. NELSON. I think so, yes.

Mr. NUNES. And you talk—could you explain a little bit more about the—those pumping plants that you talked about there, and if those pumps were able to operate 24 hours a day 7 days a week, how much more water we would have conveyed from the north to the south?

Mr. NELSON. I certainly can answer that question on the CVP side. It would be in the range of 850,000 to 900,000 acre feet per year.

On the state side, Tom?

Mr. CLARK. I think the simple way to answer that question is just to use real time this year. If we were able to wave a magic wand, which Congress could do, courts could wave a magic wand, "We don't have this limitation at Banks anymore—paper limitation, so you accomplish your need.".

Right now, this year, if you look at CVP contract south of the Delta, their allocation is 70 percent, so they have about 30 percent of their supply was stranded north of the Delta. That 30 percent represents about 600,000 acre feet. That 600,000 north of the Delta that can't be pumped to the south. On the state project, we have a 90 percent allocation, so 10 percent of our water was stranded this year and that would be another 400,000 acre feet—

Mr. CALVERT. If we can just interrupt for just 1 second, our court reporter is going to change her paper here. She is out of paper.

[Off the record.]

Mr. CLARK. But if you look at this year, so you have got about 600,000 stranded—the reservoirs are full and spilling in the north, so there is 600,000 acre feet of CVP water that was—

Mr. CALVERT. About 1 million acre feet—

Mr. CLARK. About 1 million acre feet just this year that had we been able to pump even at just with the 8,500 Banks—getting 800—

Mr. CALVERT. With the conveyance systems that we have now?

Mr. CLARK. And, by the way, I want you to know that this water could be pumped this year without having environmental impacts.

Mr. CALVERT. I have to add to that, because I think that is very important that 1 million acre feet of water could have been conveyed without any noticeable environmental impact at all.

Mr. CLARK. Right.

Mr. CALVERT. We have lost that forever. I want to make that point. That is very important.

Mr. NELSON. I may add to that not only did we lose what we could have delivered this year, we would have been able to pump additional water that would have allowed us to go into next year with a buffer, of which California's water system no longer has a buffer that we can carry over from one wet year to the next.

We used to have a system that could accommodate a couple of years of drought. We no longer have that. So in addition to losing 1 million acre feet in real deliveries this year, we also lose delivery potential in future drought years.

Mr. NUNES. Mr. Clark, I thank you for pointing out the magic wand. I know these guys are keeping this magic wand from me. I am still trying to find it, but I am still working on that.

Mr. Chairman, I hope that you will give me this magic wand when we get back.

I want to go back a little bit to the Kings River, and I know that we don't have any representatives here, but I would like to get some general comments from Mr. Watkins and Ms. Moralez on whether or not—and folks that know about the Kings River—whether or not you are supportive of Rogers Crossing; if you agree that we should be looking at possibly building Rogers Crossing at Kings River also.

Mr. Watkins?

Mr. WATKINS. I believe that with our population growth in the Valley here, and the state as a whole, we are going to need new storage projects built; Temperance Flat, Rogers Crossing; wherever they make sense, that is what we should be doing.

Mr. NUNES. Thank you.

Mrs. Moralez?

Ms. MORALEZ. We—well, I concur, with him, and further than that, I don't want to comment. I just don't want to comment on this at this point.

Mr. NUNES. OK. Thank you.

Mr. Upton, do you want to comment?

Mr. UPTON. Some of our members are also Kings River, so I would defer to Gary with Fresno ID, because I certainly wouldn't want to answer a Kings River question without his advice.

Mr. NUNES. Well, I didn't want to hold a hearing without talking about another good possibility and a place for storage, so with that, I know my time has expired.

Mr. Chairman, thank you.

Mr. CALVERT. Mr. Cardoza, any final remarks?

Mr. CARDOZA. Mr. Chairman, I will be brief. I want to get back to the issue of credibility that I was talking about before, and we sort of got cutoff.

I want to say that I feel like I am an environmentalist. I lived on the river in Sacramento on a boat. That was my home when I

was in the legislature. I am very committed to that, but I believe that the environmental community is not being genuine when they agree to a process, they agreed to the ROD, and then when they get their restoration, they get their money in the water bonds—we have had two or three water bonds where they have substantial line share—yet there may be historic inequalities before, but I think the ledger is pretty flat now, or it has probably gone the other way. Now all of a sudden we are having new problems.

We have to have it be "benign." I just think that there are real issues, and I think they are doing a disservice both to themselves and the state and the people they want to serve. If we can do restoration—additional restoration, but we are not willing to do that if it continues to be one-sided, and if prior commitments aren't kept. I have real concerns about that.

I am not trying to jump on Mr. Christopher. He just happens to be the person from the environmental community who is here today. I think taken in context that there is a fair share of criticism that needs to be leveled about this issue, and we need to start talking very strongly about making sure that people keep their commitments.

What I am going to ask the panel to do now is, Mr. Clark, you wanted to say something before about that issue, and so I will give you that opportunity. I would like to go quickly down the line and have each member of the panel tell us what three storage projects they would all support.

Mr. WATKINS. I believe Farm Bureau would support Temperance Flat, Los Vaqueros, and, again, I haven't looked at Rogers Crossing, but it would be one.

Mr. CLARK. I would like to add Sykes to that. It is in Northern California on the west side of the, Valley, and not just for agriculture. It has opportunities because of the strategic location to provide Delta protection as well.

I appreciate the opportunity to comment on the credibility issue. First of all, I want to tell you that within the environmental community there are people that stand by commitments, and people that we deal with regularly in terms of putting packages together, but I think it is important for those that step outside of the envelope of these deals and whether that is an environmental group or an ag group, that there has to be consequences. That is what CALFED was founded on, on was a package. And there are opportunities, quite frankly, that if there is a failure to balance within CALFED, there can be consequences.

There is about $1 billion of environmental programs that are being funded through CALFED as we speak. And I will tell you, I for one, if the Sierra Club pursues this issue, and I would like Mr. Christopher to answer the question: Is the Sierra Club proposing to litigate Banks funding? If they are, I am going to be an advocate for withholding funding for all environmental programs until we balance the process.

Thank you very much.

Mr. GLOVER. I am going to dance around your question just a little bit.

I think we knew that the CALFED process was front-loaded with ecosystem restoration projects, and I think that the next couple of

years is very critical for the CALFED process. We are looking for conveyance improvements, and we are also looking at selecting a storage facility. So I think that this is an important process for CALFED, and I think one of the key components is for the Federal Government to be at the table and bring their checkbook.

Mr. CHRISTOPHER. I think beyond water supply and ecosystem restoration, quality and Delta levee integrity, we, in Friends of the River, signed on to the CALFED Record of Decision, and we fully expect to uphold the Record of Decision as it is written. If we back out, understandably we lose credibility; however, that we want to see the Record of Decision implemented as it was written as a whole. It was front-loaded with ecosystem restoration, because we all sat down at the table, and the public decided that the state of our Bay-Delta estuary is—people are losing millions and millions of dollars each year that rely on it for their livelihood.

So when we sit down at the table, we need to think about long-term sustainability, and the like. So if projects go forth in the Record of Decision, and they have been outlined in a way that mimics the Record of Decision, I can't see us standing up—and we are not certainly going to be, "Oh, build the reservoir. We are very happy about it" and hold a big press conference, but we will support our commitments.

Mr. NELSON. Obviously, our region is going to be focused on conveyance issues, but beyond that, the three storage projects that appear to be the most promising as benefits for CVP and other water users in the state are the enlargement of Shasta, Sykes Reservoir, and storage on the San Joaquin River, such as Temperance Flat.

Ms. MORALEZ. Yes. I am very supportive of Temperance and Sykes and Temperance.

Mr. UPTON. The three storage areas I would like to see are Temperance Flat and, second, is bringing back the Friant Water Bank, which is 1 million acres of prime service area. Then, we can make some minor amendments to the CVPIA, and go back to utilizing the excess and floodwaters use that as a bank, which was so effective in the past. And third, I would like to see the case put on the Mammoth Pool. It is a real simple project; it can give us 20,000 acre foot of storage.

Mr. CALVERT. Thank you. I want to thank our witness. Thank the audience for your hospitality. I thank the community. I want to thank the Heritage Complex and International Agricultural Center for hosting this hearing. I want to thank the Friant Water Users for providing the informational graphics and displays. Fugazzi's for providing lunch. This is very important to the Congressional delegation. And the Bothoffs for providing breakfast.

So, again, thank you for your hospitality. This is an important hearing. We are going off to Sacramento here shortly to listen to some issues regarding the Bay Delta and San Diego next week. Thank you, again. This hearing is adjourned.

[Whereupon, at 11:45 a.m., the hearing was adjourned.]

The following information was submitted for the record:

- Basila, Jon, Basila Farms, Madera, California, Letter submitted for the record

- Birmingham, Thomas W., General Manager/General Counsel, Westlands Water District, Fresno, California, Letter submitted for the record
- Chedester, Steve, Executive Director, San Joaquin River Exchange Contractors Water Authority, Letter submitted for the record
- Cunha, Manuel, Jr., President, NISEI Farmers League, Letter submitted for the record
- Fox, Dennis, Bakersfield, California, Letter submitted for the record
- Houk, Randy, Manager, Columbia Canal Co., Statement submitted for the record
- Huffman, Jared, Project Manager, San Joaquin River Restoration Project, Natural Resources Defense Council, Letter submitted for the record. NOTE: Attachments have been retained in the Committee's official files.
- Kriebel, Barry F., President, Sun-Maid Growers of California, Letter submitted for the record

Basila Farms
7338 Road 25
Madera, CA 93637
Office (559) 674-0986 Fax: (559) 673-7149

The Honorable George Radanovich
438 Cannon House Office Building
Washington D.C., 20515

Dear Congressman George Radanovich,

Please submit this into the record of the "California Water Supply Field Hearings" in Tulare California on June 28, 2003.

Now is the time for all of those concerned to make the hard decision to move ahead and build additional surface water storage on the Upper San Joaquin River.

I speak to those of you who live and work in the San Joaquin Valley.

We are dependent on water from the San Joaquin Valley for the economic well being of this valley, our home and hopefully the home of our children.

That economic engine has been driven by agriculture. With agriculture in the doldrums, many think we do not need this water or as much water, and we can sell or transfer this water for other uses outside this area. This is a very dangerous assumption. Agriculture will regain its strength and as it has many times in the past persevere through this economic cycle. In addition, as more people choose the Central Valley to live, industry and jobs not related to agriculture will provide new opportunities here.

For those of you who live and work in this valley, whether in Ag or not, water is the irreplaceable resource, that without, we can not prosper. If for any reason, we agree to transfer water away from this valley it means our future ability to a livelihood has been decreased.

We do not need to review all of the reason why the San Joaquin Valley is in short supply of water, if you are here, you already know them. We are in an over draft condition up and down the valley and if it was not for the reservoirs on the San Joaquin, Kings, and a few smaller rivers we would already be economically distressed due to water shortages.

The utilization of water from the San Joaquin River is for all practical purposes at 100% for the economic use of maintaining the jobs and livelihood of real people who live in the San Joaquin Valley.

To try and use this water for another purpose would require that someone from the San Joaquin Valley would lose the use of that water.

The only way to provide water for an alternative use is to create more water. Whether it is for an environmental use or an economic use, we must to create more water.

Based upon the preliminary studies done by the Bureau of Reclamation, a new dam in the Temperance Flats area will maximize the amount of new water and can be combined with the conjunctive uses of flood control, recreation and the generation of electrical power, to contribute funding to pay for a new water storage facility. It is in an area of little environmental impact or potential long-term environmental damage. The potential for a partial restoration of the river would out weigh any local impact on the environment.

Applaud those holding public office and those serving in government, who have the foresight to support the creation of more water storage. Those of you who have doubts, understand that no one solution is perfect. The benefit of additional water storage at Temperance Flats far outweighs any other impacts.

Respectfully Submitted,

Jon Basila /SN
Jon Basila

Westlands Water District
3130 N. Fresno Street, P.O. Box 6056, Fresno, California 93703-6056, (559) 224-1523, FAX (559) 241-6277

June 27, 2003

The Honorable Devin Nunes
United States Representative
1017 Longworth HOB
Washington, DC 20515

Dear Mr. Nunes:

I am writing to express Westlands Water District's appreciation for your efforts to protect the viability of agriculture in the San Joaquin Valley.

Farming in the San Joaquin Valley is dependent on an adequate, affordable, and reliable water supply. Westlands has supported the CALFED Program because of its promise to improve water supply reliability; however, the potential of the Program to improve water supply reliability has not been realized. In large part this is because of disproportionate efforts to advance the goals of the Program. While tens of millions of dollars have been spent on environmental restoration projects, only limited sums have been allocated to pursuing the storage and conveyance facilities required to improve this region's water supply.

I am confident that this point will be well made at the June 28, 2003, hearing scheduled by the House Subcommittee on Water and Power to consider testimony on the CALFED Program. I am also confident that the Subcommittee will hear about the immediate need for improved conveyance facilities and new storage projects, particularly new storage on the upper San Joaquin River.

A fact often overlooked is that inadequate water supplies affect not only the farmers who put the water to beneficial use, but all of the people of this region. Over the course of the last eleven years, during which Westlands experienced chronic water shortages, it learned that when farmers fallow land because they have inadequate water the entire community suffers. The value of new water storage and conveyance projects will extend well beyond farmers who will directly benefit. The projects will benefit every socioeconomic segment of the region.

The CALFED Program has the potential to solve California's greatest water problem, but to succeed the Program must be implemented in a balanced manner that links progress on water supply improvements with progress on environmental restoration. Creating this linkage is critically important because if the Program continues to be implemented in a way that gives priority to any one of its many purposes, the Program will lose support and ultimately fail.

Unfortunately, because of prior commitments, neither Dan Errotabere, the President of Westlands, nor I will be able to attend the June 28 hearing. Westlands is, however, very interested in the issues that will be considered at the hearing and requests that this letter be included in the record of the hearing.

Again, thank you for your efforts on behalf of all of the people of the San Joaquin Valley.

Very truly yours,

Thomas W. Birmingham

Thomas W. Birmingham
General Manager/General Counsel

cc: Daniel Errotabere

Consisting of 240,000 acres on the Westside of the San Joaquin Valley

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Darrell Vincent
President

Randy Houk
General Manager

P.O. Box 2115
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June 28, 2003

Mr. Chairman, members of the Subcommittee: Good Morning and welcome to the San Joaquin Valley. I am Steve Chedester, Executive Director of the San Joaquin River Exchange Contractors Water Authority (Exchange Contractors) and I appreciate the opportunity to address this very important issue – Increased Water Supply.

The San Joaquin River Exchange Contractors Water Authority is a Joint Powers agency organized under California Law and consists of four member agencies (Central California Irrigation District, Columbia Canal Company, Firebaugh Canal Water District and San Luis Canal Company) consisting of 240,000 acres of agricultural land primarily on the Westside of the San Joaquin Valley and contiguous to the San Joaquin River. The Exchange Contractors members are holders of substantial senior water rights on the San Joaquin River dating back to the 1870's, and through the execution of the historic Exchange Contract and Purchase Contract, played a major role in the development of the Friant System and the Central Valley Project.

As you are aware, the CALFED ROD contains provisions for investigative studies for new storage facilities on the upper San Joaquin River basin. I want to commend Congressman Nunes for his bold leadership in seeking authorization to continue with additional water storage on the upper San Joaquin River Basin.

New surface water storage on the San Joaquin River system will provide water supply reliability, improve water quality, enhance the rivers' existing ecosystem, provide flood protection and facilitate existing and new conjunctive use opportunities for not only the SJR system, but the state. There is no question that additional surface storage is necessary in the San Joaquin River system and is essential in implementing a balanced CALFED Program.

In order to be successful, CALFED must support innovative stakeholder initiated projects that provide multiple benefits. For example, a project that diversifies refuge deliveries, increases water supply South-of the Delta, and provides water quality enhancement should be strongly encouraged. New Upper San Joaquin River Storage will enhance such a project and could relieve the region of many water quality issues that plague the Federal, State and Local governments for decades.

In conclusion, the CALFED Program must provide balanced solutions to the states water supply, water quality, flood protection and river enhancement needs -- **new storage on the San Joaquin River is the one <u>true</u> way to accomplish this task.**

Thank you for your support.

Sincerely,

Steve Chedester
Executive Director,
San Joaquin River Exchange Contractors Water Authority

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June 27, 2003

Congressman Devin Nunes
U.S. House of Representative
Longworth Bldg # 1017
Washington DC, 20510

Dear Congressman Nunes:

We appreciate the effort you and the other valley legislators have make by taking the time to receive comments from the agriculture community as well as others. I would like to express my concerns on the inability to provide sufficient water supplies and a means of economic conveyance of water. California and the federal government has failed over the past 40 plus years in building dams and/or major storage facilities to keep up with the growing population boom in California.

I believe your efforts along with other legislators to raise the level of Pine Flat dam capacity and also increase the storage capacity above Millerton lake is going to be important to not only agriculture but also the community in the valley.

The ESA must be reformed to allow for the increasing of dams and water shed projects to aid in the supply that is needed in this valley to support our communities and industries.

Ground water banking must be carefully considered and evaluated before done. The impact to local growers and business can cause economic hardships if the water banks are not properly implemented and monitored with guidelines on how the water is to be transported.

I thank you for allowing the Nisei Farmers League to commit in writing on the water needs for our valley. Again, thank you Congressman Nunes and others for protecting our valuable resources in the valley.

Sincerely,

Manuel Cunha, Jr.
President

1775 N. FINE, FRESNO, CA 93727 PHONE: (559) 251-8468 FAX: (559) 251-8430

June 28 2003

Honorable Devin Nunes, Congressman 21st District
264 Clovis Avenue, Suite 206
Clovis , CA 93612

Subject: Necessity for Two Storage Facilities on the San Joaquin River

Honorable Congressman Nunes:

Rather than look at the increase for storage based on current conditions, if future demand is looked at not only for ag use, but also for municipal and industrial use and environmental requirements, it becomes evident that two tandem facilities are required. Raising of Friant Dam should interface with siting of a dam immediately upstream.

There is a brouhaha over the existence of a global warming factor. This worse case scenario should be accepted, as it foresees less natural storage in a snowpack thus a requirement for artificial storage in reservoirs. Precipitation would fall on a watershed with a vegetation change, according to the UC extension. If this vegetation changes from catastrophic fire, soil particles will lose water holding ability. Thus precipitation would increasingly fall not as snow, but as rain which would sheet off and increase reservoir sedimentation. The general result would be winter floods with summer droughts.

Friant Dam raise would be a retrofit requiring a modicum of environmental review and land purchases.

Equity needs to be achieved. The Calfed Record of Decision (ROD) calls for storage for restoration purposes downstream and to the Delta. As a practical matter, any proposed dam, will not be approved with a minimum of litigation unless there is assurance that its storage will not be appropriated for non restoration uses. This is best achieved and visualized by having separate dams. It would be nice if both facilities had equal capacities, but it is not of extreme necessity.

Sedimentation is a factor. For restoration purposes, flushing flows will be required. It would be unfair to take water from current users to accomplish this without another dam for replenishment. Also the dams should have flushing abilities so that sediments can be purged over time to keep the capacity at original volume.

Electrical generation would be less impaired during purging with two dams, and, of course, would have doubled capacity during normal use.

Two current events should also be considered

Burrowing Owl listing can be used as a weapon to fend off dam and canal siting or recharge siting. I t may, however, reduce need as listing proponents see farming as "persecuting " owls and so in eliminating farming,proponents may eliminate need.

The Cross Valley Canal intertie is also a two edged sword. Since Calfed Rod proposes Sierra water as a M& I use and Aqueduct water for ag, this may get urban support. It may also get total urban transfer.

Thus two dams would be best for reasons of ecology, equity and flexibility.

Sincerely,

Dennis Fox

Dennis Fox
918 Blossom St
Bakersfield, CA 93306

(661) 366 4093

cc KCWA
Chowchilla Redbank RCD
BOR
DWR Bulletin 160
Cal Trout

June 27, 2003

Good morning.

Mr. Chairman and Members of the Committee, thank you for the opportunity to address the panel. My name is Randy Houk. I'm a 3rd generation landowner on the San Joaquin River in western Madera County, with our 5th generation now on the farm. I am also Manager of Columbia Canal Company, one of four districts in the San Joaquin River Exchange Contractors.

I was asked in May of 2002, to participate in the Upper San Joaquin River Basin Storage Investigation being conducted by the Bureau of Reclamation, and the California Department of Water Resources, pursuant to the CALFED Record of Decision (ROD) of August 2000.

As recommended in the ROD, additional storage in the upper San Joaquin River Watershed, would "contribute to the enhancement of the river ecosystem, improve the water quality for the San Joaquin River, and facilitate conjunctive water management, and water exchanges that would improve the quality of water deliveries to urban communities, and other beneficial uses."

In 1938 when Congress authorized Friant's Construction, and set in motion the economy of the Central Valley, those legislators would be pleased to see the urban and rural population growth, and the quality of life that we all enjoy here now. Unfortunately, those same legislators responsible for the fertile oasis that we now have, couldn't have possibly foreseen the problems we are faced with 65 years later on the San Joaquin River. CALFED has provided a plan to begin to address current problems and future needs on the Upper San Joaquin River Basin.

The primary problems we are dealing with are;

1 Water Supply Reliability
2 The San Joaquin River Ecosystem
3 The San Joaquin River Water Quality
4 Flood Control

Addressing these will also provide opportunities for;

5 Hydro Power Generation
6 Increased Delta Inflow
7 Recreation

"Can we solve the problems facing the San Joaquin River?", Yes. But it must begin with the key component, New Surface Storage on the Upper San Joaquin River Watershed. The construction of this facility will provide the only realistic basis for solving the aforementioned primary problems.

The Upper San Joaquin River Storage Basin committee have been presented with proposed solutions to single problems, such as conjunctive management, ground water banking, off stream storage, re-circulation, and water conservation, by representatives of Water Agencies, Counties, State and Federal Agencies, Water Districts, Environmental Interest Groups and others. These are all measures that will be utilized, but without increasing the storage on the Upper San Joaquin River, these tools alone will not solve the primary problems.

There is no question that our valley needs new surface water storage on the San Joaquin River. We appreciate Congressman Nunes' work in securing funding for the Temperance Flat Feasibility Study. The opportunity is now. We cannot afford to wait. We must have your continuing support on this effort .

Thank you,

Randy Houk

Randy Houk,
Manager, Columbia Canal Co.

Member of:
San Joaquin River Exchange Contractor Water Authority
San Joaquin River Task Force
San Joaquin Resource Management Coalition
San Luis Delta Mendota Water Authority
Madera County Water Oversight Committee

NATURAL RESOURCES DEFENSE COUNCIL

July 24, 2003

United States House of Representatives
Committee on Resources
Subcommittee on Water and Power
Washington, DC 20515

Attention: The Honorable Ken Calvert, Chairman

RE: Subcommittee Hearing on California Water Issues June 28, 2003

Dear Mr. Chairman:

On behalf of the Natural Resources Defense Council (NRDC) and its 550,000 members, thank you for the opportunity to submit these written comments regarding the recent Subcommittee field hearing in Tulare, California on June 28, 2003.

NRDC leads a coalition of 15 environmental and fishing organizations that have been working since 1988 to restore flows and environmental values to California's second-largest river, the San Joaquin. The NRDC Coalition's work to save the San Joaquin River is about more than just the return of flows to a river that was dried-up by Friant Dam, it's about fairness to the multitude of downstream stakeholders, improved water quality for millions of Californians who rely on the Delta, and balance for a part of the valley where the interests of irrigated agriculture have too often been placed above basic human needs for clean air, clean water, and protection of our natural resources. We believe a healthy river and a thriving agricultural economy can and should co-exist and can also complement each other in fostering healthy communities.

For more than a decade, the NRDC Coalition pursued this vision in court, winning at every stage against those who argued that the San Joaquin River should remain dry and degraded. In 1999, however, we chose to put our successful legal claims on hold in order to partner with the Friant Water Users Authority (FWUA) to develop a consensus restoration plan that would restore flows and salmon populations without adverse impacts to Friant farmers. Sadly, FWUA terminated this four-year restoration partnership in April by rejecting a final settlement recommendation from a federal mediator, sending the case back to court.

We are nonetheless proud of the joint studies and experimental projects we conducted with FWUA. Among other things, we co-sponsored an exhaustive San Joaquin River Restoration Study which, earlier this year, resulted in a draft Restoration Strategies

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Report detailing how the river could be brought back to life. The draft report shows that San Joaquin River restoration is not only feasible but also well-grounded in science.

We are familiar with the recent testimony of FWUA Chairman Kole Upton before your subcommittee, which reads like a declaration of war against the conservation and fishing community. Unfortunately, the first casualty of Mr. Upton's war is the truth.

His statement that FWUA/NRDC studies were starting to show the "folly" of trying to restore salmon is totally inaccurate. To the contrary, the team of independent restoration scientists conducting the Restoration Study presented FWUA and the NRDC Coalition with a draft report that found no fatal flaws to restoration and identified three alternative restoration strategies, each of which would restore and sustain naturally reproducing salmon populations.

Mr. Upton's suggestion that NRDC somehow "stopped" a water temperature study necessary for understanding salmon restoration is likewise inaccurate. The truth is, water temperature has been one of the most intensely studied aspects of the parties' three-year, multi-million dollar restoration study. The independent restoration scientists hired by FWUA and the NRDC Coalition have concluded time and again, based on years worth of data, that water temperature flowing out of Millerton Lake is consistently cold enough to support salmon. FWUA apparently didn't like these conclusions because they also indicated that a new dam is not necessary in order to restore salmon. FWUA therefore proposed to have its own employees conduct a new round of data collection (the so-called "study" to which Mr. Upton refers) in an attempt to second-guess the findings of the restoration study. NRDC did not "stop" FWUA from collecting this data; we simply opposed wasting public restoration funds on something that independent scientists had already studied and resolved.

Equally striking is Mr. Upton's total failure to mention the landmark FWUA/NRDC Water Supply Study completed by URS Corporation in October of 2002. That study identified five different "bundles" of water supply alternatives that would meet Friant water needs while enabling restoration flows of between 350,000 and 450,000 acre feet (a preliminary estimate of restoration water requirements provided by technical advisors to FWUA and the NRDC Coalition). The full range of water supply options was analyzed, including four different surface storage projects. The "bundle" with the most surface storage was by far the most expensive – more than twice the cost of the least expensive "bundle," which, instead of new surface storage, emphasized re-operation of existing facilities, acquisitions from willing sellers, conservation, and re-circulation. Moreover, the Temperance Flat dam proposal, which Mr. Upton now asks the taxpayers to fund, was eliminated from the FWUA/NRDC study based on its astronomical costs, limited yield, and sobering implementation problems.

Although FWUA representatives may now prefer to ignore the results of the FWUA/NRDC Water Supply Study, it is directly relevant to the work of this Subcommittee. Significantly, the best performing "bundle" in the study closely tracks

the Bush Administration's recently released Water 2025 blueprint for federal water policy. In her public comments since the release of that blueprint, Interior Secretary Gale Norton has made it clear that these cost-effective water management solutions are preferable to new surface storage reservoirs. (See, e.g., "Norton's Surprising Stance," Sacramento Bee, July 7, 2003.) The full text of the FWUA/NRDC Water Supply Study can be found on the California Department of Water Resources San Joaquin River Management Program website, at: www.dpla.water.ca.gov/sjd/sjrmp.

Finally, we attach as part of this testimony the following items, which should assist the subcommittee in evaluating the various issues regarding San Joaquin River restoration and the recent proposal to have the U.S. taxpayers build a billion-dollar new dam at Temperance Flat:

- A recent article in the *Stockton Record* detailing the economic and environmental devastation that has befallen farmers and other downstream stakeholders as a result of Friant Dam's de-watering of the San Joaquin River ("Friant Dam Issue Returns to Court," April 19, 2003)
- Testimony of Barry Nelson, NRDC Senior Policy Analyst, regarding CALFED surface storage issues before the Assembly Water, Parks and Wildlife Committee (October 18, 2002)
- NRDC Comments on Bureau of Reclamation's Upper San Joaquin Basin Storage Investigation (March 14, 2003)

Thank you for this opportunity to submit testimony on these important matters.

Sincerely,

Jared Huffman
Project Manager, San Joaquin River Restoration Project

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June 26, 2003

Congressman Devin Nunes
U.S. House of Representatives
1017 Longworth House Office Building
Washington, DC 20515

VIA FAX

Re: Congressional Hearing on Valley Water

Dear Congressman Nunes:

Congratulations on moving forward on our critical water supply issues and the holding of the Congressional Field Hearing on this matter in Tulare this Saturday.

While we are unable to attend Saturday's hearing, we wholeheartedly support your efforts to expand the San Joaquin Valley's inadequate water supplies.

In order for the San Joaquin Valley to continue to be the world's preeminent agricultural region in an area of rapidly growing population and increasing environmental demand, this study and your efforts are essential in helping solve water problems in both the San Joaquin Valley and statewide.

We look forward to your continued efforts on this important matter.

Sincerely,

Barry F. Kriebel
President

BFK/mas

OVERSIGHT FIELD HEARING ON CALIFORNIA WATER SUPPLY

Saturday, June 28, 2003
U.S. House of Representatives
Subcommittee on Water and Power
Committee on Resources
Elk Grove, California

The Subcommittee met, pursuant to call, at 2 p.m., in Elk Grove City Hall, 8400 Laguna Palms Way, Elk Grove, California, Hon. Ken Calvert [Chairman of the Subcommittee] presiding.

Mr. CALVERT. The oversight field hearing by the Subcommittee on water and power will come to order. If everyone will take their seats at the witness table, that is good.

Before we begin, I would ask unanimous consent that Representative Wally Herger have permission to sit on the dais and participate in the hearing.

Without objection, so ordered.

We welcome you. We welcome the gentleman.

Mr. HERGER. Thank you, Mr. Chairman.

Mr. CALVERT. You are welcome.

Although he needs no introduction at this hearing, we are privileged also to be joined by the Chairman of the full Committee on Resources, Richard Pombo. And I will defer to the Chairman for his opening statement.

STATEMENT OF THE HON. RICHARD POMBO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. POMBO. Well, thank you, Mr. Chairman. I would like to thank Congressman Calvert for holding these hearings on what is an extremely important issue facing California.

As many of you know, water is vital to a healthy and productive California. Without a sufficient water supply, all of California, from agriculture to urban, from environmental to industrial, will suffer.

When farmland lies idle due to lack of water, the farmer, the farm worker, and the industries that supply the inputs to the farmer are negatively impacted. When cities are not able to provide water to industries or to the population, jobs are lost and economies are depressed.

California has not kept up with the growing demand for water. We have added very little surface storage over the past 20 years,

yet our needs have increased dramatically. With the ever-growing demand for water by urban and environmental means, we need to find new water and storage options.

Trying to solve our water shortage needs by transferring water from agriculture to urban and environmental needs is not a solution. These transfers do not address the root of the problem, which is a lack of water. CALFED was put together to try and address many of these issues; yet after years of analyzing and spending hundreds of millions of dollars, one has to question, where is the water?

Have we all gotten better together, as the early CALFED mantra stated? With over $249 million just in Federal money, not to mention State money, being spent over the past 4 years on ecosystem restoration, and only 27 million having been spent on the needs to study storage, one wonders, are we moving forward and getting better together?

In the Delta, the heart of the water system for the State of California, many problems still exist. Water quality is an important issue for many who rely on the Delta for their water. Yet it has not really improved significantly since CALFED was established, and one questions if it ever will.

Levee stability is critical not only to those who live in the Delta, but to the whole water supply system. Yet it still takes more money in studies, and mitigation in some cases, than to do the actual levee work necessary to do ensure a safe and stable levee system. Was not CALFED supposed to streamline that process?

In order for CALFED to be successful, it must address many of these outstanding issues. We must have more storage, better water quality, oversight on how the millions of dollars are being spent, and coordination between the agencies to ensure a rapid permitting process for necessary projects.

I again want to thank Congressman Calvert, and I look forward to working with him and the other members of the Committee on what is an extremely important issue.

Mr. CALVERT. I thank the gentleman.

STATEMENT OF THE HON. KEN CALVERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CALVERT. Nearly everyone agrees with the need for more water supplies, but too little has been done to meet the growing demands for this increasingly scarce resource.

More than 30 years have passed since California made major investments to improve its storage and conveyance systems. To vividly illustrate this point, the Department of Interior recently testified that Federal agencies have spent over 249 million in the last 4 years on ecosystem restoration, while only a mere 27 million has been spent on feasibility studies for surface storage. No one denies the need for ecosystem restoration, but we can clearly see the lack of balance, especially when we have a water supply train wreck upon us.

Complicating this matter is a reduction of the Colorado River delivery in California. As most of you all know, the State will have to reduce its dependency on the Colorado from past levels by 18 percent. That is approximately, when the river is full, about

800,000 acre-feet of water. Complying with this requirement will not be easy, especially in light of demands placed on the water supply by the reallocation of several hundred thousand acre-feet of contracted water supplies for the environmental needs over the past 10 years and a State water project conveyance system that does not have the ability to meet those demands.

In an attempt to hear firsthand from those on the ground, the Water and Power Subcommittee is conducting a series of field hearings throughout the State over the next few days. We started this process this morning in Tulare, and we are here in northern California where the need for better storage conveyance is most acute. I note this location is particularly close to the Delta, which serves as the linchpin for water transfers that are based on market-based water transactions between private interests.

Today, we will hear from the Federal witnesses on how our taxpayer dollars are being spent on CALFED-related objectives and whether there is a balance. We will also hear from experts on ways to improve water supply, how water supplies can be maximized by expanding water transfer agreements, and what efforts are under way to improve the movement of water through the Delta while protecting in-delta farming and fishery interests.

I plan to use today's hearing as another step toward developing legislation while trying to accomplish the goals we all have: more storage, better conveyance, with water quality protection, private property rights protections, a balanced CALFED, and fiscally sound ecosystem restoration principles. I look forward to working with my colleagues as the Subcommittee marches forward on this important legislation.

I certainly again welcome the Chairman of the Resources Committee, my own distinguished colleagues, and other special guests we have invited here today. I very much look forward to what we can do together to work out, to manage and share this extremely valuable resource.

With that, I am happy to recognize Mrs. Napolitano, the Ranking Democratic Member, for her opening statement.

[The prepared statement of Mr. Calvert follows:]

Statement of The Honorable Ken Calvert, Chairman, Subcommittee on Water and Power

Everyone agrees with the need for more water supplies, but too little has been done to meet the growing demands for this increasingly scarce resource. More than 30 years has passed since California has made any major investment to improve it's storage and conveyance systems. To vividly illustrate this point, the Department of the Interior recently testified that Federal agencies have spent over $250 million in the last four years on ecosystem restoration while only a mere $27 million has been spent on feasibility studies for surface storage. No one denies the need for ecosystem restoration, but we can clearly see the lack of balance, especially when we have a water supply train wreck upon us.

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in northern California, where the need for better storage and conveyance is most acute. I note that this location is particularly close to the Delta, which serves as the lynchpin for water transfers that are based on market-based water transactions between private interests.

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I welcome the Chairman of the Resources Committee, my other distinguished colleagues and the special guests we have invited here today, and I very much look forward to hearing how we can better work together to manage and share this valuable water resource.

STATEMENT OF THE HON. GRACE F. NAPOLITANO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mrs. NAPOLITANO. Thank you, Mr. Chairman.

I agree with my colleague, the Chairman of the full Committee, in that we thank you for holding the hearings throughout the State of California so that we can have a better understanding of the California water challenges; and I appreciate the attendance of all the witnesses that we have had in the morning hearing and certainly here so that we can share information and be more informed and educated about what we need to do together.

We did hold a Subcommittee hearing in the valley almost 2 years ago where we thought certainly we would have the CALFED bill passed at that time. But, unfortunately, it wasn't to be. So we are hoping the feedback we are receiving from hearings—which is not only necessary, it is critical—for us to better understand the local problems, will determine what kind of support we will be able to give a particular bill that deals with the issues of California that helps all of California.

I am here today to listen and to learn. This is our best opportunity to understand the critical water issues affecting our communities. They are all our communities. We must stay focused on solutions, and by working together I am sure we can be productive and be able to reach conclusions that will help not only California economy, California ag, and California citizens.

Thank you, Mr. Chair.

Mr. CALVERT. I thank the gentlelady.

Mr. Herger, do you have an opening statement?

STATEMENT OF THE HON. WALLY HERGER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HERGER. I do. Thank you.

Chairman Pombo, Chairman Calvert, members of the Committee. Thank you for having the field hearing and thank you for allowing me the opportunity to participate.

There may be no issue more important than the management of our precious water resources. With water deficits projected by the Department of Water Resources to reach approximately 2.4 million acre-feet in an average water year and 6.2 million acre-feet in drought years by the year 2020, we clearly face a tremendous challenge.

Mr. Chairman, CALFED originally promised a solution to that challenge that would allow everyone to, quote, "get well together." unfortunately, that promise has not been fulfilled. Instead of a program for north and south, rural and urban, agriculture and industry to embrace and move forward, the existing plan would allow some areas to get well on the backs of others. That will only lead to continued gridlock.

CALFED has turned into a massive ecosystem restoration plan that proposes to address the State's dramatic water deficits situation, not by building additional infrastructure, but by acquiring land and water rights and taking agricultural lands out of production, causing significant impacts to the communities I represent. With a government body dominated by the State and Federal agencies, there is little, if any, local control or oversight. That sets a terrible and very worrisome precedent for the future management of our natural resources.

I do not disagree that the State needs to share its water resources. To the contrary, we have to share, because this resource is far too limited and needs are far too great and growing. But the needs of the area of origin must be assured before excess water is permitted to flow elsewhere.

When the problem is too many people and not enough supplies, the solution is to build water storage facilities that meet those needs. Only when there is enough water in the system will everyone truly get well together.

CALFED has failed to make the hard decisions necessary to meet that challenge. Despite the investment of hundreds of millions of taxpayer dollars, it has only studied and restudied a limited number of storage options while our water needs have continued to grow. On-system reservoirs have been taken completely off the table, yet those facilities pose enormous potential for significant and cost-effective new water supplies, as well as other benefits like flood control and hydroelectricity.

Our situation is so desperate and the possible impact to the economy and the public safety of another sustained drought is so serious that we simply cannot afford to take any option off the table because it is politically unpalatable. We should be vigorously pursuing every technically feasible opportunity.

Congress should focus on helping California develop through a locally led process the water infrastructure that would meet the needs of our growing population. That will require a commitment to updating the Federal environmental laws and regulations that have gone so far off course as to prevent us from providing for human needs.

Thank you, again, Mr. Chairman.

Thank you to the witnesses. And I look forward to hearing your testimony.

Mr. CALVERT. I thank the gentleman.

Mr. Cardoza.

STATEMENT OF THE HON. DENNIS A. CARDOZA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CARDOZA. Thank you, Mr. Chairman. I wish to thank you and Mr. Pombo again for holding these hearings in the valley. I think it is critically important that we continue to shed light on the issues of the day and try to work through some of these challenges.

As I said in the hearing in Tulare earlier this morning, I think it is critically important that we provide new storage opportunities that we are able to harness water in wet times and make sure we have that for a very thirsty valley in southern California in dry times. And I am totally committed to new water sources.

In fact, I am opposed to two new initiatives that will not consider moving the ball down the field, I think, that we may have had in the past times when, in fact, we exploited the environment for water production. But I think now we are getting to a point where we really need to focus and make sure that there is balance in the system, that we have new storage that couples itself with some environmental work that we have done. That is all very good, but we can't get too one-sided in this process. I believe we need to make sure that there are conveyance opportunities to move the water where it needs to be when it needs to be there.

And I am also very concerned that we have credibility in the process and that we don't have a situation where one side gets what it wants and then takes its ball and goes home, and that we don't ever move to the other part of the CALFED-ROD agreement. I believe that the farmers and the user community must have their day where we can actually resolve some of the problems, especially for the midpart of the valley, for the Delta, for the south part of the valley, for the west side; and everybody's interests need to be met, because if we don't, then we will get back and this will just be something that is litigated rather than legislated into compromise.

And I think the hearing this morning was very positive, and I look forward to more progress this afternoon.

Mr. CALVERT. Thank you.

Next, we recognize Senator "Rico" Oller to testify.

Senator, please come on up. We certainly appreciate your coming out to testify in front of this Committee today.

STATEMENT OF THOMAS "RICO" OLLER, STATE SENATOR, FIRST DISTRICT, CALIFORNIA LEGISLATURE

Mr. OLLER. Thank you Mr. Chairman—Mr. Chairman, members.

Mr. CALVERT. We are trying to operate under a 5-minute rule, so we appreciate your coming out, testifying, and you are recognized.

Mr. OLLER. Four score and 7 years—no.

Mr. CALVERT. That is 3 minutes. You are doing good.

Mr. OLLER. California's water problems are not principally the result of inadequate water supplies; rather, they are the consequence of poor management and the allocation of that water supply.

The CALFED program has historically concentrated on habitat preservation and restoration while ignoring new storage options. A budget analysis submitted by the White House Office of Management and Budget indicates that the Federal Government has spent 27 million for water storage compared to 249 million in ecosystem restoration in California over Fiscal Years 2001-2003.

It appears to me that CALFED has essentially ignored the water storage issue. At the same time, it has been hostile toward farming and the other economic interests that depend on reliable sources of water.

Very unfairly, CALFED has gone out of its way to ensure that environmental activists are included in their decisionmaking processes, but often fails to even notify other competing parties. Consequently, very little storage yield has been generated in the last decade despite our growing population. Endless environmental lawsuits over storage are partly to blame, but bias toward environmental restoration efforts carried out by some Federal agency is as clear as Sierra snowmelt. In light of this apparent agenda, changes need to be made in the current scheme to bring some balance to CALFED.

My primary concern is that there is currently insufficient accountability as to how taxpayers' dollars are being spent. Taxpayers deserve to know whether their money is being spent efficiently and fairly. We desperately need some accountability. For example, the Federal purchase of endstream flows and private land requires public and congressional scrutiny to justify each such purchase. New storage projects must clear very high hurdles before construction can begin. In fact, when it comes to Federal storage projects, both prefeasibility and feasibility studies must be done before Congress can authorize actual construction.

By contrast, Category 3 grants are regularly distributed to applicants without any strings attached. The billions of dollars distributed under the guise of conservation and restoration projects are most often received by environmental activist organizations that are not even obligated to report how they have spent the public's money.

Environmental restoration projects must bear more scrutiny in the interest of justice and taxpayer protection. We must ensure that these dollars are not wasted and that they are targeted toward projects that pass the common-sense test of cost-benefit analysis. For this reason, I ask the Subcommittee members to include provisions in the California water bill to require Federal regulators to submit detailed work plans to Congress on major environmental restoration initiatives over $50,000. Such plans should detail what the goals of the project are and how they will be achieved. They should, further, establish a timeframe for completion and a legitimate budget. California's water users and American taxpayers deserve no less.

What is more important, Congress must shift the focus of the CALFED program toward new water storage. Through blind luck or divine providence, California has not suffered a major multi-year drought for many years. During this period of relative abundance, the State's population has grown rapidly, particularly in the driest parts of southern California. But we know from historical records

that there will be dry spells ahead. We may not be able to predict when the next major drought will occur, but we know that it will inevitably exhaust our State's water resources. Aside from the suffering this will cause in our cities, we need to consider the potential impact on agriculture, which remains California's largest industry. To avoid such an economic disaster in the next drought, we need to start building dams and reservoirs now.

Thank you for allowing me to testify before your Subcommittee, and I thank you for all you are doing for the people of California. Thank you.

[The prepared statement of Mr. Oller follows:]

Statement of The Honorable Rico Oller, State Senator, First District, State of California

California's water problems are not principally the result of inadequate water supplies. Rather, they are the consequence of poor management in the allocation of that water supply. The CALFED program has historically concentrated on habitat preservation and restoration, while ignoring new storage options. A recent budget analysis submitted in the White House's Office of Management and Budget indicates that the Federal Government has spent $27 million for water storage compared to $249 million in ecosystem restoration in California over Fiscal Years 2001–2003.

It appears to me that CALFED has essentially ignored the water storage issue. At the same time, it has been hostile toward farming and the other economic interests that depend on reliable sources of water. Very unfairly, CALFED has gone out if its way to ensure that environmental activists are included in their decision-making processes, but often fail to even notify other competing parties. Consequently, very little storage yield has been generated in the last decade in California (despite our growing population). Endless environmental lawsuits over storage are partly to blame. But the bias toward environmental restoration efforts carried out by some Federal agencies is as clear as Sierra snow melt. In light of this apparent agenda, changes need to be made in the current scheme to bring some balance to CALFED.

My primary concern is that there is currently insufficient accountability as to how taxpayers' dollars are being spent. Taxpayers deserve to know whether their money is being spent efficiently and fairly. We desperately need some accountability. For example, the Federal purchase of in-stream flows and private land requires public and Congressional scrutiny to justify each such purchase. New storage projects must clear very high hurdles before construction can begin. In fact, when it comes to Federal storage projects, both pre-feasibility and feasibility studies must be done before Congress can authorize actual construction. By contrast, Category 3 grants are regularly distributed to applicants without any strings attached. The billions of dollars distributed under the guise of conservation and restoration projects are most often received by environmental activist organizations that are not even obligated to report how they have spent the public's money.

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Thank you for allowing me to testify before your Subcommittee and thank you for all you are doing for the people of California.

Mr. CALVERT. Thank you. You did that with a minute to spare.

Mr. OLLER. I did all right?

The only other thing that I would like to say is how much I appreciate the tenor and tone of the conversation in your opening remarks. That is refreshing, and it gives us cause for hope. Thank you.

Mr. CALVERT. Well, if you would like to stay there. Does any of the panel have any questions? Do you have any questions?

Mrs. NAPOLITANO. No questions. Except Rico and I served in the State assembly a few years back. And I am glad to see that you are very involved—

Mr. OLLER. Just across the aisle.

Mrs. NAPOLITANO. Just across the aisle where we could pass little notes.

But, Rico, it is refreshing also to hear that the State house is looking very seriously at the issue of water, which has not been taken seriously by the State itself.

Mr. OLLER. We have been very lucky in that. Despite the fact that our water supply now is already insufficient, we have already experienced that because we haven't had a tough drought year, let alone several in a row.

Mrs. NAPOLITANO. Well, I would hope in the future that both sides of the house and both chambers can sit and talk about how important water is to the whole State and can act as one, because if we don't, other States are waiting for us to falter so they can take some of those funds away from California. That is how important it is and how critical it is for us to work together.

Mr. OLLER. Thank you very much.

Mrs. NAPOLITANO. Thank you.

Mr. OLLER. Thank you all very much for allowing me to be here.

Mr. CALVERT. Thank the gentleman.

OK. We are merging a couple of panels together, and we are going to introduce everybody.

I would like to recognize Ms. Patricia Martel, the General Manager at the San Francisco Public Utilities Commission; Mr. Jeffrey Sutton, the Family Water Alliance; Mr. Greg Zlotnick, the Director of the Santa Clara Valley Water District Board of Directors; Mr. Richard Forster, the Regional Council of Rural Counties—my new Lasik surgery works—Mr. Dennis Majors, Metropolitan Water District; John Herrick, South Delta Water Agency; Gary Bobker, the Bay Institute; and Nicole Van Vleck, Northern California Water Association.

We thank you all for being here. We are operating under the 5-minute rule, and it is an extremely important rule today because some of us have to catch airplanes a little later. So we would appreciate you staying within the 5 minutes so we have time for questions and answers.

Mr. CALVERT. So first I would like to recognize Patricia Martel for 5 minutes. Thank you.

STATEMENT OF PATRICIA MARTEL, GENERAL MANAGER, SAN FRANCISCO PUBLIC UTILITIES COMMISSION

Ms. MARTEL. Thank you very much, Mr. Chairman. I am, as you said, the General Manager of the San Francisco Public Utilities Commission. On behalf of the city and county of San Francisco, and the 2.4 million Bay Area customers served by the Hetch Hetchy water delivery system, I would like to thank you and all the members of the Committee for field hearings in California which are examining the very critical issues that face California's water agencies.

The San Francisco PUC is a department of the city and county of San Francisco. Our utility provides water to customers in four counties including San Francisco, as well as San Mateo County, Santa Clara County, and Alameda County. We also provide wastewater and municipal power services to the city and county of San Francisco. We deliver 260 million gallons of water a day to 2.4 million customers.

The SFPUC is currently providing the very initial stages of a major rebuild of the Hetch Hetchy water delivery system. Portions of our water delivery system were built in the late 1800's and early 1900's. Seismic risks, which result from the fact that a majority of our facilities lie above or adjacent to three major earthquake faults in the Bay Area, require 77 separate projects to rebuild major facilities, including a major storage facility to the Calaveras Dam, which has been reduced to one-third of its capacity as a result of leakage problems.

This is a 13-year program. The price tag is $3.6 billion. The capital improvement program of the SFPUC has been fully funded both by a $1.6 billion bond measure, authorized by voters in San Francisco last year, as well as $2 billion which will be contributed by our 29 wholesale customers. However, in order to take on this tremendous challenge of building 77 projects in 13 years, the San Francisco Public Utilities Commission is under tremendous pressure to stay on schedule as well as to stay within budget.

We have tremendous challenges with respect to State and local oversight. At the present time, we are required to report to five different State agencies and numerous local government oversight bodies to ensure that we make progress in implementing the improvements to the system, particularly because of the seismic risks and the threats to the reliability of our system.

One area in which we anticipate delays in the potential implementation of this program successfully over 13 years will occur in the permitting stage. The city of San Francisco is absolutely committed to full and complete compliance with all applicable environmental laws and regulations. At the same time, we have some concerns about delays that could result in the permitting process. Permitting agencies at the Federal level, as well as at the State level, are often strapped for the financial resources required for timely permit processing. We have met with the U.S. Corps of Engineers both in Washington and in Sacramento, as well as U.S. Fish and Wildlife. In those discussions, we have identified perhaps the means by which we can partner with those agencies not to in any way affect the review process, but to ensure that all of the

resources required for timely review will be made available to those agencies.

We have heard from the agencies that the need for early and meaningful involvement in our projects is essential. However, they have expressed a concern about the lack of resources they have available to provide for meaningful consultations at early stages in the environmental process.

In an effort to ensure a timely permitting process without in any way compromising the objectivity of that process, the PUC is seeking authorization to fund dedicated positions at various Federal regulatory agencies for timely permit processing.

Representative Nancy Pelosi has been briefed on the proposal of the PUC to fund these supplemental resources in the Federal agencies in light of the huge challenges we face in building those 77 projects over 13 years. We are pleased that she has submitted legislative text to the Committee on transportation and infrastructure and has asked for its inclusion in this year's legislation. It is anticipated that if we are successful in our efforts at the Federal level, we will eventually incorporate the same kind of resources in the State agencies.

The authorization has the potential to facilitate timely implementation of the capital program, ensuring that water supplies will be reliably maintained and delivered to our Bay Area residences and businesses. It could well become a model for enhancing the permitting process on other large-scale public-interest projects. Thank you very much.

Mr. CALVERT. I thank the gentlelady.

[The prepared statement of Ms. Martel follows:]

Statement of Patricia Martel, General Manager, San Francisco Public Utilities Commission

Good afternoon Mr. Chairman, I am Patricia Martel, General Manger of the San Francisco Public Utilities Commission. On behalf of the City of San Francisco and the 2.4 million customers in our water delivery system, I would like to thank you and the members of the Committee for holding field hearings in California to discuss the regional issues facing California's water agencies. Like other parts of the state, Northern California finds itself confronting the challenges of aging infrastructure, water reliability, and water quality.

The Hetch Hetchy system, which provides the principal water supply for the City of San Francisco and 28 wholesale customers in the Bay Area, was constructed in the early part of the last century. As remarkable as this system is and reliable as it has been, it has begun to exhibit the signs of age. Among other things, it does not conform to modern day seismic standards. Two studies conducted in recent years—the Facilities Reliability Study and the Water Supply Master Plan—concluded that a rehabilitation of the system was needed to ensure continued reliable service.

In November 2002, San Francisco voters approved a bond measure to finance the largest renovation of a water delivery system in San Francisco history. The $3.6 billion Capital Improvement Program (CIP) contains 77 projects that will repair, replace and seismically upgrade the water system's aging pipelines and tunnels, reservoirs and dams. In addition, the projects will prepare the system for meeting water demand during prolonged droughts and changing water quality regulations, and create additional opportunities for environmental stewardship. Projects are prioritized based on condition, seismic risk and operational deficiencies.

As steward of the Hetch Hetchy Project for almost 100 years, the City knows well that it is essential to preserve and protect the regional environment that is host to the project. Indeed, the City contributes significant amounts of money and water to preserve and enhance environmental values in its watershed and create or restore fish habitat on the Tuolumne River, the San Joaquin River, Alameda Creek and elsewhere. Further, in the wake of the adoption of the CIP, the City publicly

declined to support legislation introduced into the California State Assembly which would have truncated the application of state environmental laws to the CIP. Clearly, the City supports the environmental process as a primary responsibility.

The San Francisco Public Utilities Commission plans to develop Habitat Conservation Plans for its two Bay Area watersheds in concert with state and Federal environmental agencies. These plans will be designed to protect rare and valuable habitat such as serpentine grasslands, old growth coniferous forests, fresh and saltwater marshes and riparian woods, and to identify appropriate mitigation for potential environmental impacts of major construction, such as habitat restoration or enhancement.

This $3.6 billion CIP is an ambitious undertaking, but the City is committed to working closely with Federal, state, regional and local partners to meet project timelines and keep project costs on track. The program is designed to maintain water service to all 2.4 million customers during the entire 13 year construction period. Given the size, nature and duration of the program, it is critical that construction schedules be met. Any significant delay in any one of the interrelated projects can have profound impacts in other areas. Since the upgrades and repairs are being undertaken on a functioning system, delays can further threaten the reliability of the system.

The area of greatest concern with respect to project schedule relates to environmental permitting. The San Francisco Public Utilities Commission is absolutely committed to full and complete compliance with all applicable environmental laws and regulations. However, permitting agencies are often strapped for staff or financial resources to conduct field studies, review project alternatives and their impacts, or process permit applications on shortened timelines. Multiple agencies will be involved in a consultative role, thus putting a premium on the timely sharing of information and findings. Resource constraints in any one agency can significantly postpone the work product of numerous other agencies, resulting in overall permit processing delays.

In an effort to ensure a timely permitting process without, in any way compromising the objectivity of that process, the San Francisco Public Utilities Commission is proposing the establishment of a centralized office to house the staff who would process the permits on behalf of the various Federal agencies. This centralized office for a joint permitting task force would be established under the auspices of the U.S. Army Corps of Engineers, the agency responsible for overall agency coordination. The concept builds on the success of Section 214 of the Water Resources Development Act (WRDA) of 2000, whose provisions allow a public entity to reimburse the Corps for the costs associated with permitting. The provision is limited to public entities because it is assumed that they are motivated solely by the public interest. It further requires the Secretary to ensure that acceptance of the funds will not impact impartial decision-making with respect to the permits.

This provision of WRDA has been successfully employed by the Corps on projects in both its Seattle and Los Angeles offices. Section 214 of WRDA expires at the end of this fiscal year. The San Francisco Public Utilities Commission is seeking to broaden the model established under WRDA. Under the San Francisco approach, the ability of public entities to reimburse the Corp of Engineers would be expanded to include the U.S. Fish and Wildlife Service and the National Marine Fisheries Services. Both of these agencies have prominent consultative roles with the Corps in the permitting process.

Further, the San Francisco model would authorize the Corps to make office space available to representatives of these Federal agencies. By physically co-locating the personnel involved in permitting, the joint permitting task force would facilitate interagency communications and consultations. If this joint permitting task force lives up to its potential, it could well become a model for permitting on other large, public interest projects.

In crafting this proposal the San Francisco Public Utilities Commission has worked closely with the regional offices of the Federal agencies potentially involved. We have also worked closely with Congresswoman Pelosi, and we are pleased that she has submitted legislative text to the Committee on Transportation and Infrastructure and asked for its inclusion in this year's WRDA legislation.

We are encouraged by the positive feedback we have received from the Federal agencies when we discussed this concept with them. From their viewpoint, delays occur when Federal agencies are consulted late in the planning process, and asked to approve a permit after the project description and preferred alternative have already been selected. The agencies prefer to have early and meaningful involvement before the project has already been defined, which the joint permitting taskforce model promotes. San Francisco Public Utilities Commission welcomes early agency involvement in its projects, and is willing to be a productive partner by contributing

the resources necessary to support the agencies' efficient coordination and processing of permits.

As the San Francisco Public Utilities Commission moves forward with the restoration and modernization of the Hetch Hetchy system, this joint permitting task force has the potential to significantly facilitate implementation of the CIP, ensuring that water supplies will be maintained to Bay Area residents and businesses. More importantly, this provision can establish a model for other large capital projects in California.

On behalf of the San Francisco Public Utilities Commission, thank you for the opportunity to discuss this proposal. We look forward to working with your office on this matter.

Mr. CALVERT. Next, Jeffrey Sutton, Family Water Alliance.

STATEMENT OF JEFFREY SUTTON, FAMILY WATER ALLIANCE

Mr. SUTTON. Chairman Calvert, members of the Subcommittee, I appreciate the opportunity to speak here today on behalf of Family Water Alliance. I am going to echo a lot of the sentiments already heard from the Committee itself, so I will try and sum up as best I can.

CALFED poses both challenges and opportunities. The challenge of weighing, balancing, and attempting to resolve conflicts over competing demands for our natural resource is a hurdle not easily overcome. The opportunities presented by CALFED are the ability to overcome these challenges. Working to find solutions to the CALFED program goals is vital to the health and welfare of the entire State of California.

As we have seen in the Sacramento Valley, the CALFED program has made great strides in terms of pursuing ecosystem restoration. On the other hand, many of the complaints from the agricultural sector and rural communities in regard to the CALFED program is how it has proceeded in an unbalanced fashion. The program is focused primarily on ecosystem restoration and environmental goals, ignoring the adverse effects associated with the conversion of agricultural land to habitat, forcing rural communities to carry the environmental burden.

Most troubling is the fact that CALFED has completely failed to adequately address the need for increased water storage. As we heard before, California is growing at the rate of 600,000 people per year. With it, the demand for consumptive uses grows. The environmental demand for water is also increasing greatly. Meanwhile, we are being curtailed from our use of surplus Colorado River water.

Conservation, recycling, desalination, and some voluntary water transfers will serve to satiate some of this increased demand; however, it is clear that we must increase surface storage to address the increased demands for water supply. If we don't begin to address this immediately, we will find ourselves in yet another crisis, much like the energy crisis, leading to further bad decisions to the detriment of the State.

Turning to the issue of the land acquisitions, it is something Family Water Alliance has been extremely involved in through the process the Sacramento River Conservation Area. While these acquisitions may provide some benefit to the environment, it solely places the burdens associated therewith on the rural communities. The burdens include the following:

When privately owned agricultural land is acquired by the State and/or Federal Government, it is taken off the county tax rolls, reducing the tax base of the county where the acquired land is located. In lieu, taxes are seldom paid in full, and this dynamic causes incredible strain on rural communities. One example is, there is over $600,000 for in-lieu taxes owed to Glenn County. Due to financial constraints, they are being forced to lay off 36 teachers right now. That is just one example.

Further, taking agricultural land out of production is the equivalent of closing our factories in rural communities. The negative economic impacts are felt by agribusinesses, businesses unaffiliated with agriculture due to the fact that revenues are not multiplied throughout the local economy, the number of jobs are reduced, all of this placing further strain, including the resources available to county government.

As agricultural land is converted to habitat under the theory of a "willing seller," it intentionally attracts a variety of species in areas that have been historically used for agriculture. In numerous cases, this causes great damage and loss of compensation to farmers as a result of crop predation. These individual landowners, who have been the unfortunate and unwilling recipients of third-party impacts associated with land acquisitions, oftentimes then become the so-called "willing sellers" as a result of the pressures and profit losses associated with neighboring habitat.

Along the same lines, the stated goal of many of the land acquisition programs is the promulgation of endangered species. Again, the unwilling and unfortunate neighboring landowners are exposed to regulations, sanctions, and prosecution pursuant to the ESA. These adverse consequences create more so-called "willing sellers."

Moreover, much of the land acquisition and ecosystem restoration in the Sacramento Valley is occurring within the flood control system. Filling the area between the levees of the Sacramento River and bypasses with riparian habitat serves to reduce the flood capacity of a system that is already being strained, compromising our safety and the protection our ag land was put in place for.

Family Water Alliance has participated extensively with the SRCAF, which promotes the creation of a corridor of riparian habitat to find workable solutions to the problems discussed above in an effort to protect agriculture, the economic foundation of our rural community. However, we have found the agencies not too complying.

I see I am running out of time. Let me sum up real quickly.

One of the specific solution principles articulated in the CALFED Record of Decision is the requirement that any CALFED solution must have no significant, redirected, negative impacts. To date, CALFED is in breach of that self-directed mandate. Family Water Alliance respectfully requests that the CALFED refocus its efforts to proceed in a balanced fashion, working specifically to address the problem of redirected impacts on rural agricultural communities associated with land acquisitions and to address the need for increased water storage. Thank you.

Mr. CALVERT. Thank you.

[The prepared statement of Mr. Sutton follows:]

Statement of Jeffrey P. Sutton, Executive Director, Family Water Alliance

Question Presented:

Every region in the State recognizes that CALFED poses challenges and opportunities. As part of your testimony, please explain some of the opportunities that CALFED provides, and discuss the advantages and disadvantages of Federal land acquisition and easements.

Response:

On behalf of myself and Family Water Alliance, I want to begin by expressing my appreciation to this Committee for inviting us to share our thoughts in regard to the CALFED Program. Family Water Alliance (FWA) is a nonprofit corporation whose mission is education and public outreach, providing a strong grassroots voice for the protection of private property rights and the continued economic viability of agricultural in the Central Valley.

Family Water Alliance simultaneously promotes responsible environmentalism based on sound science and common sense, as illustrated by our Sacramento River Small Diversion Fish Screen Program. This program is largely funded by grants from state and Federal agencies, including CALFED, that have formed a cooperative partnership with FWA and the individual landowners to prevent the mortality of juvenile fish species. This program serves to protect our fishery resources and permits farmers to continue to irrigate crops without the fear of being in violation of the Endangered Species Act (ESA). Family Water Alliance is extremely proud of the success this program has had to date. NOAA Fisheries, a partner and supporter of this Program wrote the following: "Dollar for dollar, FWA has perhaps been the most cost-effective recipient of CALFED funds to date." FWA's Fish Screen Program is a great example of a win-win, balanced solution that the CALFED Program has facilitated.

As stated in the Question Presented, CALFED does pose both challenges and opportunities. The challenge of weighing, balancing, and attempting to resolve conflicts over competing demands for our natural resources is a hurdle not easily overcome. The opportunities presented by CALFED are the ability to overcome these challenges. Working to find solutions to the CALFED Program goals are vital to the health and welfare of the entire State of California.

On the other hand, many of the complaints from the agricultural sector in regard to the CALFED Program is how it has proceeded in an unbalanced fashion. The CALFED Program has focused primarily on ecosystem restoration, ignoring the adverse effects associated with the conversion of agricultural land to habitat, forcing rural communities to carry the environmental burden, which I will discuss in more detail later.

Most troubling is the fact that CALFED has completely failed to adequately address the need for increased water storage. Instead, the current trend has apparently shifted to focusing on the creation of a water market, taking more agricultural land out of production via fallowing programs to free up water for urban consumption. This may be the short-term solution to satisfy immediate demands for water, however it should not be viewed as the long-term solution. The sale of water from the agricultural sector carries with it many negative economic impacts, again causing further stress to the already depleted revenues of rural counties, negatively affecting businesses, employment, and various county social programs.

California is growing at the rate of 600,000 people per year, the demand for water for consumptive uses and the environment will continue to increase. Conservation, recycling, desalination, and some voluntary water transfers will serve to satiate some of this increased demand. However, it is clear that we must increase the amount of storage capacity in California to boost water supply and to create the flexibility needed to address these competing demands.

The time for prolonged discussion is over, the time for fighting over projects is over, the time for study upon study is over. We need the leadership of this country and this state to immediately realize the incredible need for increased water storage capacity in California, some hard decisions need to be made, and construction of the selected projects needs to be initiated. If we don't address this immediately, we will find ourselves in yet another crisis much like the energy crisis, leading to further bad decisions, to the detriment of all. CALFED has the opportunity to address the need for increased water storage, it states this very goal as one of its aims. However, to date, we have seen little progress made to find long-term remedies to this problem.

Turning to the issue of Federal land acquisitions and easement programs. Family Water Alliance is very concerned about the impacts associated with the acquisition

of agricultural land for the purpose of converting it to habitat. While these acquisitions may provide some benefit to the environment, it solely places the burden associated therewith on rural communities. Some say that these acquisitions are the will of the people as evidenced by the recent passing of Proposition 50 in California, which allocates substantial funds for state acquisitions. However, it should be noted that Proposition 50 was opposed by an overwhelming majority in the Sacramento Valley where much of the land acquisition is taking place.

The negative impacts associated with land acquisitions are as follows:

1. When privately owned agricultural land is acquired by the state and/or Federal Government, it is taken off the tax rolls, reducing the tax base of the county where the acquired land is located. In lieu taxes are supposed to be paid to address this shortfall in county revenues, however, these payments from the state and Federal Government are not mandatory, and are often underpaid or not funded at all. This dynamic can cause incredible strain on a rural county where agriculture is the primary industry. For example, Glenn County is currently owed over 600,000 for in lieu tax payments that have not been forthcoming, yet due to budget constraints the County has been forced to lay off over 30 teachers, illustrating the strain land acquisitions have on rural counties ability to perform required services.
2. Further, taking agricultural land out of production is the equivalent of closing our factories in rural counties. The negative economic impacts are felt by agribusinesses, businesses unaffiliated with agricultural due to the fact that revenues are not multiplied throughout the local economy, the number of jobs are reduced, placing further strain and depleting the resources available to county government.
3. As agricultural land is converted to habitat under the theory of a "willing seller", it intentionally attracts a variety of species into areas that have historically been used for agriculture. In numerous cases, this has caused great damage and loss of anticipated compensation to individual landowners as a result of crop predation. These individual landowners, who have been the unfortunate and unwilling recipients of the third party impacts associated with land acquisitions, oftentimes then become the so-called "willing sellers as a result of the pressures and profit losses associated with neighboring habitat.
4. Along the same lines, the stated goal of many of the land acquisition programs is the promulgation of endangered species. Again, the unwilling and unfortunate neighboring landowners are then exposed to regulation, sanctions, and prosecution pursuant to the Endangered Species Act. To address these issues, landowners are often required to forego certain ordinary cultural farming practices, they can be submitted to obtrusive scrutiny by agencies, potential loss of productive farmland, and increased operating costs. These adverse consequences serve to create more so-called "willing sellers, causing further third party impacts to the local economy and county government.
5. Moreover, much of the land acquisition and ecosystem restoration in the Sacramento Valley is occurring within the Flood Control System. Filling the area between the levees of the Sacramento River and the bypasses with riparian habitat serves to reduce the flood capacity of a system that is already being strained. Projects are currently assessed on a case by case basis, but the cumulative impacts on the flood carrying capacity of these projects is being ignored, compromising the safety of the communities along the River, and neglecting to protect the productive agricultural land which the flood system was erected to protect.

Family Water Alliance has participated extensively with the Sacramento River Conservation Area Forum, which promotes the creation of a corridor of riparian habitat along the Sacramento River, to find workable solutions to the problems discussed above in an effort to protect agriculture, the economic foundation of our rural counties. We have proposed safeguards such as barriers and buffer zones to minimize and/or negate the problems stemming from neighboring habitat. We have advocated for an expedited grievance procedure to address these problems, and a mitigation fund to reimburse those that have been negatively impacted. We have studied and promoted the concept of crediting the SRCAF with mitigation credits to alleviate the pressure of the ESA on landowners who wish to continue to farm their land. We have pushed for a study of the cumulative impacts of ecosystem restoration within our flood control system, to assure we are not compromising the safety of the residents of the Sacramento Valley. We have advocated that all grants for land acquisitions have certain funds set aside to mitigate for the negative consequences which result from the creation of habitat and to guarantee the full payment of in lieu taxes by the agencies. Family Water Alliance has seen first hand the negative

impacts associated with land acquisition programs, and have participated in an effort to find ways to address these concerns in a proactive manner, to no avail.

One of the specific "Solution Principles articulated in the CALFED Record of Decision (at Page 9) is the requirement that any CALFED solution must "have no significant redirected negative impacts. To date, CALFED is in breach of that self-directed mandate. Family Water Alliance respectfully requests that CALFED refocus its efforts to proceed in a balanced fashion, working specifically to address the problem of redirected impacts on rural agricultural communities associated with land acquisitions and the need for increased water storage. Thank You.

Mr. CALVERT. Next, Greg Zlotnick.

Good to see you again, Greg. You are recognized for 5 minutes.

STATEMENT OF GREGORY A. ZLOTNICK, DIRECTOR, SANTA CLARA VALLEY WATER DISTRICT BOARD OF DIRECTORS

Mr. ZLOTNICK. Thank you.

Good afternoon, Chairman Calvert, members of the Subcommittee, Chairman Pombo, and staff. My name is Greg Zlotnick. I am an elected member of the Board of Santa Clara Valley Water District. Thank you for holding this hearing, and thank you for the invitation to appear before you today. I have submitted written testimony that provides significantly more detail than just the few highlights that I will mention during my limited remarks.

By way of background, the Santa Clara Valley Water District is the primary water resource agency for the 1.8 million residents of Santa Clara County, home of the Silicon Valley. What was once called the "Valley of Heart's Delight" also still produces some $300 million in annual agricultural output on more than 250,000 acres of crop and rangeland.

We are a unique agency in many ways, but pertinent to today's hearing is the fact that we are the only agency in California that is both a State water project and Central Valley project contractor. As you can imagine, that puts us squarely in the middle of delta issues, and is why we believe a successful CALFED program is critical to our region. We often sit at the fulcrum of policy concerns involving either or both projects. We are also the only major urban water agency in California that has responsibility for local watershed and flood management.

I have been asked to focus on our experiences with multi-agency permitting issues. Regulatory agencies have different missions, which can lead to inconsistent direction to an applicant or outright conflict among the agencies over priorities. We have addressed this issue on large projects by taking the initiative to seek to work with State and Federal agencies in collaborative or group forums rather than individually, and together we develop clear, comprehensive requirements rather than piecemeal and/or redundant ones.

For example, we worked with seven agencies to obtain the necessary permits for our unique and valuable 10-year routine stream maintenance program, which has been touted by Craig Manson, the Assistant Secretary of Interior for the Fish and Wildlife and Parks as a national model. Consequently, our staff has already begun in-channel routine maintenance work this season, fully 2 months prior to historic start dates. Since we do not have a secured annual permit with all the delay and costs of the regulatory groups

associated with it, we are achieving more for our constituents and paying less for unproductive paperwork.

Another example of a successful collaborative approach is our fisheries and aquatic habitat collaborative effort, or FAHCE. FAHCE was a proactive response to litigation implicating our water rights. We developed a transparent, technically rigorous, science-based assessment of what the true opportunities were and how much flow from our reservations was truly necessary. Participants, which included the agencies, the plaintiffs, and other local stakeholders, create a high degree of trust and partnership, resulting in unanimous support for the final agreement initialed last month.

The lesson to be learned from the FAHCE and other experiences include:

First, agree to jointly identify the problems. Often the presumption of a shared-problem definition proves false. So, take the time to get on the same page at the outset.

Second, agree to use a science-based approach to making decisions. Participants must be willing to consider all the scientific data available and have the patience to fill data gaps, if possible, before imposing best-guess prescriptions.

Finally, identify and evaluate solutions together.

Another strategy is incentivizing good environmental practices by streamlining the regulatory process for applications with a track record of proven environmental stewardship. Too often the perception is, agencies seem to assume the worst of project proponents, and regulatory demands reflect the one-size-fits-all command and control bias. We firmly believe the regulatory process works best when local agencies are given maximum flexibility in developing and implementing needs to meet desired and required ends.

Another important issue we all face is working to protect groundwater as a key water resource. In January of this year, we learned of significant perchlorate contamination in the southern part of our county, impacting hundreds of private groundwater wells, partly in Chairman Pombo's district. A 7-1/2-mile plume of perchlorate has been identified.

To date, the district has spent in the neighborhood of $1 million for bottled water and well testing and staff time, and we have committed to spend another quarter of a million dollars to enable the city of Morgan Hill to install treatment technology to the public water supply well. We are looking to the State and Federal Governments to ensure that the parties responsible for this contamination pay for the damage they have caused and reimburse us sooner rather than later.

The same should be true for any case of contamination, and I would like to thank you Chairman Pombo for the support that you provide as we serve to serve our mutual constituents.

With respect to CALFED, generally we are pleased, Mr. Chairman, that you are again working on a western water measure that includes funding for the CALFED program so the Federal Government will be the partner we need.

An important component of such legislation, which will help us to better ensure we can serve those who recently lost their wells to perchlorate as well as improve the viability for our entire county,

is the San Luis Reservoir Low Point Improvement Project. This is a project that will not only benefit us from the San Felipe end of the CVP, but has the potential to create approximately 200,000 acre-feet of south-of-delta surface storage. As in the past, we look forward to working with you as your partner in that critical legislative effort.

Ultimately, in an effort to improve relationships with regulators as local agency board leaders, there must be a sustained policy-level desire to change the dynamic and shift this confrontation and mistrust to true partnerships with the State and Federal agencies. I am proud that my board colleagues and I have provided that direction in our district. Working collaboratively and not as antagonists saves money and improves the environment. Our efforts in Santa Clara County illustrate that when we keep our eye on the ball, we can actually be very successful as a team comprised of the regulators and the regulated.

Thank you again for the opportunity to appear today and for your collective interest and leadership on these issues. I would be happy to respond to questions at the appropriate time.

Mr. CALVERT. Thank you.

[The prepared statement of Mr. Zlotnick follows:]

Statement of Gregory A. Zlotnick, Board Member, Santa Clara Valley Water District

Good afternoon, Chairman Calvert, members of the Subcommittee and staff. My name is Greg Zlotnick and I am a member of the Board of Directors of the Santa Clara Valley Water District (District). I want to thank you for holding this hearing today on the CALFED Bay–Delta Program and ways to improve water supplies in California.

The region my agency serves, the Silicon Valley, relies on the Bay–Delta for about half of its water supplies. In very dry years, Bay–Delta supplies can account for up to 90 percent of the water used in Santa Clara County. Given this, you can understand why the quality and reliability of these supplies is so important to the residents and businesses in our region, and why we have such a huge stake in the success of the CALFED Program.

I was asked to speak today about the experiences my agency has had working with multiple Federal agencies with regard to permitting of water resource and environmental restoration projects and how those experiences can be applied to other local projects and the broader CALFED Program. Before I start, I want to state up front that some of our most successful projects have resulted from the involvement of multiple Federal and state agencies. As a result of our efforts we have found that, over time, success breeds confidence, positive relationships and support of local agency programs. But working with multiple agencies can also create significant challenges.

Today I'm going to talk about three strategies that can be used to address those challenges: multi-agency collaboration; flexibility; and a regulatory framework that includes incentives and rewards as well as consequences. These strategies can be applied at the local level and at the broader CALFED Program level to decrease permitting times and project costs without sacrificing, and perhaps even improving, protection for the environment.

For those of you not familiar with the Santa Clara Valley Water District, we are the primary water resources agency for the more than 1.8 million residents of Santa Clara County, California. Our duties include providing wholesale water supplies to 13 local retail water agencies; protecting county residents and businesses from the devastating effects of floods; and serving as environmental steward for the county's creeks and streams, underground aquifers and district-built reservoirs.

We are unique in the San Francisco Bay Area in that about half the water used in our service area comes from local sources, primarily from our local reservoirs and groundwater basins. The Santa Clara Valley has the only sizable remaining drinking water basin in the Bay Area. Recycled and conserved water makes up a small but increasing portion of our total water supply and is a critical component of our

plan to meet future demands. We're also looking at desalinated seawater as a potential future water supply.

Santa Clara County receives its imported water through the Delta from the State Water Project and the Federal Central Valley Project. We receive our State Water Project supplies through the South Bay Aqueduct and our Central Valley Project supplies from the San Luis Reservoir. Some county residents also receive imported water from San Francisco's Hetch Hetchy system. Although we do not participate in the management of the Hetch Hetchy system, the system does provide some or all of the drinking water for 15 to 20 percent of our population, and we include that supply in our planning efforts.

In carrying out our water resource management duties, we often must work with multiple Federal and state regulatory agencies with overlapping authority over the same resources. This is especially true for our flood protection and stream maintenance projects. For example, we worked with seven agencies to obtain the necessary permits for our unique and valuable 10-year routine stream maintenance program: the Corps of Engineers, Fish and Wildlife Service and National Marine Fisheries Service and, on the state side, the Department of Fish and Game, California Environmental Protection Agency, and both the San Francisco Bay and Central Coast Regional Water Quality Control Boards. We also work with multiple state and Federal agencies on issues related to operation of the State Water Project and Central Valley Project.

I mentioned before that working with multiple agencies can pose unique challenges. Often agencies have different perspectives about the best way to protect natural resources, different sets of authorities and missions, and different views about which resource should be given priority. Addressing these conflicting demands can increase the length and cost of the permitting process and significantly increase project costs, often without any appreciable increase in the level of environmental protection.

One way we've addressed this issue is by working with state and Federal agencies in a collaborative or group forum, rather than individually. This provides the agencies an opportunity to hear and understand the issues and concerns of the other resource agencies and helps reduce the opportunity for conflicting or duplicative permit requirements. I should note that the District is a full participant in this multi-agency forum, not an outside observer. The multi-agency forum is similar in concept to the Operations Group formed after the signing of the Bay–Delta Accord to allow stakeholders and Federal and state agency staff to discuss Delta operations.

We think the multi-agency collaborative approach helps us achieve better results for the environment, at a lower cost. One example of a successful collaborative approach in our county is our Fisheries and Aquatic Habitat Collaborative Effort (FAHCE). FAHCE emerged from a 1996 challenge to the District's water rights in the County's three largest watersheds that drain to San Francisco Bay. When faced with a legal complaint from environmental organizations that our water supply operations did not leave enough water to meet the needs of local fisheries, we could have dug in our heels. Instead we proactively responded by joining with the state and Federal resource agencies, local environmental groups and the complainant's representatives to develop a plan that balanced and integrated all the beneficial uses of the local watersheds.

Participants in the FAHCE process, which included the District, Fish and Wildlife Service, National Marine Fisheries Service, California Department of Fish and Game, San Francisco Bay Regional Water Quality Control Board, City of San Jose, the Natural Heritage Institute (representing the complainant) and other non-governmental stakeholders, agreed to use a science-based approach to resolve the complaint. Existing data was evaluated and a study plan was developed to fill gaps in information necessary to construct robust and enduring solutions. All told we spent more than three years developing and analyzing scientific data, and another two years identifying and evaluating potential solutions.

By jointly developing the body of technical data and openly evaluating and developing alternatives, participants created a high degree of trust and partnership. The agreement reached in the end balances and integrates drinking water, flood protection, recreation and fisheries—all beneficial uses of the local water resources. We credit the use of a jointly-developed science-based approach with the unanimous support the final agreement achieved.

Another key feature of the FAHCE is a commitment to adaptive management, that is, a commitment to adjust and fine tune the plan as we go along. By setting up a process to monitor and adjust over time, all parties are more comfortable accepting conclusions. This approach will also help us target resources at those actions that appear most likely to provide the biggest near-term environmental benefits and long-term ecological health for the lowest cost in dollars and water resources.

The FAHCE is one example of the benefits of a multi-agency collaborative process. By working with the regulatory agencies and other stakeholders in a collaborative manner, we were able to develop a plan that better secures our water rights, protects endangered species, and provides other important benefits to our region and the larger Bay–Delta system.

We employed a similar collaborative process for our Guadalupe River flood control project, a multi-million dollar project that protects the heart of Silicon Valley, San Jose, and a project that our partner, the Corps of Engineers, points to as a national model for multi-purpose flood control projects. Bringing in the resource agencies when an impasse was reached to help identify resources needs, then redesign the project, was a new approach, but this allowed each of the agencies to have ownership in the project.

The CALFED Program is itself embarking on a process to allow stakeholders and agencies to discuss issues and jointly explore solutions to issues with crosscutting implications. We would encourage the agencies and stakeholders involved in that process to employ the lessons we learned from our FAHCE process.

First, agree to jointly identify the problems. One of the first things we discovered when we sat down at the table during the FAHCE process was that we didn't define the problem the same way. Defining the problem jointly required that all parties be willing to look at the full range of scientific data available and fill in data gaps where needed. Only then were we ready to agree on the scope and causes of the problem and begin developing and evaluating solutions.

Second, agree to use a science-based approach to making decisions. Participants must be willing to consider all the scientific data available, including data that has been developed since the adoption of the Bay–Delta Accord and establishment of the "environmental baseline" in the CALFED Record of Decision. Only by doing so can we target our limited resources where they will provide the greatest benefit.

Finally, commit to identify and evaluate solutions together. Remember that collaboration is not the same thing as negotiation. Collaboration requires working together to identify the best solution that meets all parties' interests. By working together collaboratively, a solution can be developed that protects and restores the environment while also meeting the needs of Californians for safe and reliable water supplies at a reasonable cost.

Multi-agency collaboration is a powerful tool, but it can also be time-consuming and expensive, and it is not appropriate for every project. The permitting process for more routine projects can be facilitated through the development of clear policies and guidelines, and standardized training, for agency staff reviewing projects. The current process allows agency staff wide latitude to demand changes to projects or even to stop them. It sometimes seems that these demands or regulatory actions are based more on opinion than scientific evidence. Changes in agency staff can also lead to new demands for changes and result in delays to project schedules and cost increases. The consistent application of policies and guidelines could help take the surprise out of the permitting process. We would also encourage the use of general permits for similar types of projects, such as the Corps of Engineers Nationwide Permit 31. General permits, if used as intended by Congress, could produce substantial savings for the CALFED Program.

The Corps of Engineers has had in place for a number of years the concept and practice of a general permit, which takes several forms: regional, statewide and nationwide. The idea behind these permits is to cover either those activities that are similar in nature and cause only minimal individual and cumulative environmental impacts, or those that are developed to reduce duplication with another governmental regulatory agency and the impacts are minimal. There is no reason why these general permits should not apply to CALFED. Another key recommendation for streamlining the regulatory process is to name a point person from each agency, with a high level of authority in the regulatory process, to serve as a collaborative representative to keep projects moving.

By proposing the development of clear policies and procedures, I do not mean to suggest that my agency supports the use of prescriptive regulations. On the contrary, we believe that the regulatory process works best when local agencies are given maximum flexibility in developing and implementing the means to meet the desired ends. We prefer regulations and guidance that are descriptive in the ends to be achieved, not prescriptive in the means to be employed. While Silicon Valley has suffered in the economic downturn, it remains a cradle of innovation and creativity, so provide us the ability to apply that creativity in our valley and, similarly, throughout the nation.

The FAHCE process I discussed earlier is one example of a process in which flexibility by the regulatory agencies led to a better solution. Our Municipal Stormwater Management Program is another example. In the early 1990's, before the

Environmental Protection Agency's stormwater regulations were released, my agency led a proactive and collaborative effort to organize a regional stormwater management program. As an early program, we were given greater flexibility to develop tools and solutions suited for our region. The partnerships we formed with Federal, state and local agencies and the private sector might not have been possible under a rigid, one-size-fits-all regulatory mandate. The degree of flexibility and local control we were granted by the regulatory agencies was a key factor in the success of our program and why it was selected by the United States Environmental Protection Agency as the national first place program for an outstanding municipal stormwater management program.

Let me provide another example of a situation that could be addressed through the more flexible application of regulatory requirements. We frequently find when dealing with multiple agencies that each agency imposes different monitoring requirements for its own purposes. What results is a fragmented approach to monitoring, when what is really needed is a more comprehensive watershed-based approach. By allowing local agencies the flexibility to apply resources where they will produce the most benefit, for example as part of a comprehensive monitoring program or to monitor constituents that represent a significant overall threat to the watershed, regulatory agencies can increase the level of environmental benefit for a given investment.

It is really not surprising that giving local agencies greater flexibility in determining how to meet the desired ends can result in better outcomes. After all, agencies like ours have invested substantial resources in understanding how our local watersheds function. Federal agency staff, on the other hand, review projects in many watersheds and thus cannot develop the same knowledge of local conditions as local agency staff. Allowing local agencies the time needed to develop appropriate solutions for their watersheds pays dividends for the environment in the form of better projects, and ultimately furthers the Federal agencies' ability to achieve their missions.

This brings me to the third strategy that we would like to see both Federal and state agencies apply more frequently and that is recognizing and thus incentivizing good environmental practices by streamlining the regulatory process for applicants with a track record of proven environmental stewardship. Federal and state agencies should "reward" agencies like ours and others that have demonstrated an ongoing commitment to sound watershed management and environmental protection, not punish us by trying to raise the mitigation bar on projects that are environmentally benign or even intended to enhance the environment.

One way to provide incentives for agencies that demonstrate a commitment to good watershed management is by providing those agencies greater flexibility in determining how to best meet the described regulatory ends. Another is to start the project review process from the assumption that these agencies' permit applications are complete and the projects appropriately defined. It simply does not make sense to spend the same amount of time and resources reviewing the projects of those agencies that have already demonstrated their commitment to watershed protection as it does to review the projects of agencies that have not made this commitment. Perhaps an approach to recognize and honor this commitment would be a pre-qualification list developed by the resource agencies. If a local agency has a history of positive achievement and a recognized commitment to stewardship, it should be able to move though the permitting process more quickly.

Water conservation is another example of an area where agencies should be rewarded for good behavior, not punished with a one-size-fits-all regulatory solution. Residents and businesses in the most populous Bay Area counties are using less water today than in 1986, even though our population has increased by almost 17 percent. In our service area, the typical resident used 20 percent less water in 2000 than in 1986. Accomplishments in Southern California are similarly impressive.

Water conservation programs in the Bay Area include rebates for ultra-low flow toilets, indoor and outdoor residential and commercial water use efficiency surveys, rebates for efficient clothes washing machines and dishwashers, public outreach and education programs and many other proactive programs. By 2020, District supported water conservation programs are expected to save 50,000 acre-feet a year—enough water to meet the needs of 100,000 households.

Despite this record of success, some participants in the CALFED process remain convinced of the need for more prescriptive water conservation requirements. Surely this is not the area where Federal or state agencies should concentrate their regulatory efforts. Far more can be accomplished in this area through the provision of grants and other incentives than through the use of a regulatory stick. Agencies that are actively trying to do the right thing, in this case conserve water, should be encouraged through the provisions of grants to help leverage local funds.

It was in part through the availability of such financial incentives that our agency and other agencies and stakeholder groups in our region were able to develop a draft Watershed Action Plan and individual stream stewardship plans under the Santa Clara Basin Watershed Management Initiative. The participation of state and Federal agency staff in the process has also served as a form of incentive, as their participation ensures that the measures we identify under the Initiative are consistent with the interests of the state and Federal agencies and can move through the permitting process more quickly.

Of course we recognize that carrots alone are not always enough. There must be real consequences for behavior that results in harm to our environment and water resources. This is particularly true in the case of groundwater contamination. Groundwater contamination is an issue of serious and growing concern for our county and the entire country, especially with rapidly improving detection technology and the increasing use of chemicals in our society.

In January of this year we learned of a significant perchlorate contamination issue in the southern part of our county, located partly in Chairman Pombo's District. To date, a seven-and-a-half mile plume of perchlorate has been identified originating from a site that was used by the Olin Corporation to manufacture highway flares. The area involved is served solely by public and private wells, and the infrastructure is not readily available to provide centralized treatment or alternative water supplies. My agency, upon learning of this problem, immediately arranged for free well testing and the delivery of bottled water to concerned residents. Today we are still providing bottled water to residents of the affected area.

The District has so far spent in the neighborhood of a million dollars for bottled water, well testing, and staff time, and we've committed to spend another quarter million dollars to enable Morgan Hill to install treatment on their Tenant Avenue well. We are looking to the state and Federal Governments to ensure that the parties responsible for groundwater contamination face real consequences and pay for the damage they've caused, while we cope with the realities of hundreds of homeowners with contaminated wells.

We are hoping to address the perchlorate issue, with Federal assistance, in the near term through a combination of well head treatment, point-of-use treatment and other recognized treatment alternatives, although more work is needed to determine whether that is feasible. We are working to keep the groundwater basin usable through treatment, but over the longer term, the groundwater basin cleanup must occur.

One alternative at the present point is to build facilities to deliver imported water to the affected area. Whether the final alternative is a groundwater treatment system or additional water from the Central Valley Project, the San Luis Reservoir remains a vital component of our water supply system. This further underscores our need to address the San Luis Reservoir low point problem, and other issues that threaten the quality and reliability of our existing Bay–Delta supplies.

Unfortunately our situation is not unique. Throughout California our groundwater supplies are at risk from perchlorate, MTBE and other contaminants. Imagine the added stress the loss of these supplies could place on the Bay–Delta and Colorado River systems.

That's why we were pleased to hear, Mr. Chairman, that you are considering introducing a western water measure that includes funding for the CALFED Program, including above ground storage and conveyance improvements such as the San Luis Reservoir Low Point Improvement Project, and a competitive grant program to help local agencies deal with problems such as groundwater contamination and serve the growing water needs of California and the West. As you are well aware, in California and in other states with interconnected water supply systems, few water supply issues are purely local problems. The efforts that local agencies make to protect and improve local supplies are an integral part of the larger solution to problems affecting the Bay–Delta system and other river systems throughout the West.

There is no question that local Board leadership is required to foster true partnerships with the state and Federal agencies and I am proud that my Board colleagues join me in providing that policy guidance at our agency. To move toward a proactive posture, and to put forth the initial offer of trust that must be reciprocated by the agencies, is a risk that is a bit more than a small leap. When presented with such an overture, the agencies must take advantage of it to further their mission and success, and not rebuff it.

Working collaboratively and not as antagonists saves money and improves the environment and that's what should be the goal. Indeed the resource agencies as organs of government need to remember they work for the same people as my agency, and that is a perspective that is often lost or seemingly absent. Our efforts in Santa Clara County illustrate that when we all remember that and keep our eye on the

ball, so to speak, we can be very successful as a team comprised of the regulators and the regulated.

Mr. Chairman and members of the Subcommittee, thank you again for inviting me to speak today about some of the challenges that exist when dealing with multiple regulatory agencies. We believe, based on the successes we've had in our county, that incorporating multi-agency collaboration, greater flexibility, and incentives, rewards and consequences into the regulatory process can truly improve the permitting process at the local level and in the broader CALFED Program.

This concludes my testimony. I would be happy to answer any questions you may have.

Mr. CALVERT. Richard Forster, Regional Council of Rural Counties.

STATEMENT OF RICHARD FORSTER, CHAIR, WATER COMMITTEE, REGIONAL COUNCIL OF RURAL COUNTIES

Mr. FORSTER. Thank you, Mr. Chairman, and members of the Subcommittee. My name is Richard Forster; I serve as the County Supervisor in Amador County and as Chair of the Water Committee for the Regional Council of Rural Counties, better known as RCRC. Thank you for the opportunity to provide testimony on behalf of RCRC to the Subcommittee.

RCRC is an organization of 29 rural California counties. We have 145 county elected supervisors in our membership. Our member county areas include the San Joaquin, Sacramento, and Trinity watersheds, as well as Imperial County. Collectively, our counties are also the source areas for the San Francisco-Bay Delta's water. Over 80 percent of the water for the Delta comes from our membership area.

RCRC member counties comprise just over 40 percent of the State's land mass and hold significant groundwater resources over which the counties exercise regulatory authority. Our local governments are required by State law to develop comprehensive general plans to sustain our environment and economies while providing for additional growth. Implicit in this charge is the need for adequate, high-quality, reliable, affordable water supplies.

California's regions are highly diverse not only from the standpoint of rainfall and soils, but also in terms of water management options. The State of California has recognized this by dividing the State into 10 separate hydrologic regions which are utilized in the State Water Plan, as well as in the State Regional Water Quality Control Boards. Each of these regions has its own unique challenges and opportunities in terms of achieving new water supplies and improved water quality.

There are regional approaches we know will work to achieve water supply and reliability gains within our membership area. These concepts have been discussed and examined as part of the State Water Plan update. One of the precepts of the new California Water Plan is to move the State toward regional self-sufficiency. These approaches include repairs to leaking infrastructure and conveyance systems, improvements to water treatment and wastewater treatment plants, reoperation of our existing reservoirs, increasing the capacity of existing reservoirs, and many more. What we most lack is funding to carry out these projects.

Any serious effort to solve the water challenge before us is predicated on adequate funding and effective decisionmaking. Any

decisionmaking structure for water supply and/or water management program should reflect the diversity of the State's hydrologic regions and maximize the knowledge and leadership skills within those regions. The decisionmaking structure should be comprised of a comprehensive membership which includes local elected officials from the affected areas, who are answerable to an electorate and who are responsible by State law for managing the land resources which give rise to the water supply.

Along those lines, our member counties would like to see greater attention given to existing land use plans when restoration programs are developed in conjunction with water supply and management programs. For well over 100 years, California statutes have recognized counties' authority over land use planning decisions. We are charged with developing comprehensive general land use and resource plans, zoning ordinances and a process to approve orderly growth while protecting the environment and providing for a viable, vibrant economy. Therefore, from a county planning perspective, it is important for restoration programs involving land acquisition to recognize the existing land use template and respect a county's statutory authority over land use decisions with limited State or Federal involvement. In addition, the fiscal impact to county coffers when those lands are no longer in private ownership should be underwritten by the acquiring entity, and appropriate funding should be made available to operate and manage these lands.

Moving on to the question of water rights, California has a diverse and, some would say, complex set of water laws. These laws are predicated on a priority system based on the time of filing for those rights. Source areas have been provided assurance that their long-term needs for water supply will be met through "area of origin" protection, also viewed by the State to be of senior priority. In contrast, both the State's California Water Project and the Federal Central Valley Project are junior water rights holders.

We do not believe it would be prudent or effective to institute a program that overturns the fundamental assurances that exist in California's water laws. To the extent any program elevates one set of water users—for example, junior rights holders over senior—that water program would destabilize and perhaps overturn the State's water law priorities. Therefore, Federal involvement and setting priorities for California water should be consistent with State water law. Providing assurances for supply to junior rights holders is a slippery slope we urge you not to start down. Let California water law decide the priorities of use in this State.

An additional threat to the stability afforded by California's existing water rights structure is the lack of assurance given to upstream diverters with respect to the implementation of the ESA under the current CALFED operating environment. Our counties are concerned that the Sacramento and San Joaquin watershed users should be required to provide any additional water needed to meet fisheries and/or water quality objectives.

And checking my time, I am over, so I will conclude by:

Mr. Chairman and members, while we recognize that a coordinated multi-goal approach to managing the State's water can be beneficial, there is a need for some modifications to make it work

for Californians. We look forward to working with you and the California delegation on this endeavor, and I appreciate the opportunity to testify.

Mr. CALVERT. Thank you.

[The prepared statement of Mr. Forster follows:]

Statement of The Honorable Richard Forster, Chair, Water Committee, Regional Council of Rural Counties

Mr. Chairman and Members of the Subcommittee:

My name is Richard Forster. I serve as a County Supervisor in Amador County and as Chair of the Water Committee for the Regional Council of Rural Counties (RCRC). Thank you for the opportunity to provide testimony on behalf of RCRC to the Subcommittee regarding the challenge of increasing California's water supply, reliability, availability and quality.

RCRC is an organization of twenty nine rural California Counties. We have one hundred and forty-five elected County Supervisors in our membership. Our member county areas include the San Joaquin, Sacramento and Trinity watersheds as well as Imperial County. Collectively, our counties are also the "source" areas for the San Francisco Bay–Delta's water. Over eighty percent of the water for the Delta comes from our membership area. RCRC member counties comprise just over 40% of the State's land mass and hold significant ground water resources, over which the Counties exercise regulatory authority. Our local governments are required by State law to develop comprehensive General Plans to sustain our environment and economies while providing for additional growth. Implicit in this charge is the need for adequate, high quality, reliable, affordable water supplies.

California's regions are highly diverse not only from the stand point of rainfall and soils, but also in terms of water management options. The State of California has recognized this by dividing the State into 10 separate hydrologic regions which are utilized in the State Water Plan as well as in its Regional Water Quality Control Boards. Each of those regions has its own unique challenges and opportunities in terms of achieving new water supplies and improved water quality.

There are regional approaches we know will work to achieve water supply and reliability gains within our membership area. These concepts have been discussed and examined as part of the State Water Plan update. One of the precepts of the new California Water Plan is to move the State towards regional self-sufficiency. These approaches include: repairs to leaking infrastructure and conveyance systems; improvements to water treatment and waste water treatment plants; reoperation of our existing reservoirs; increasing the capacity of existing reservoirs; upper to lower watershed restoration projects; improved, locally controlled, groundwater monitoring and management; and new storage projects. What we most lack is funding to carry out these projects. Any serious effort to solve the water challenges before us is predicated on adequate funding and effective decision making.

Any decision-making structure for a water supply and/or water management program should reflect the diversity of the State's hydrologic regions and maximize the knowledge and leadership skills within the regions. The decision making structure should be comprised of a comprehensive membership which includes local elected officials from the affected areas who are answerable to an electorate and who are responsible, by state law, for managing the land resources which give rise to this water supply.

Along those lines, our member counties would like to see greater attention given to existing land use plans when restoration programs are developed in conjunction with water supply and management programs. For well over 100 years, California statutes have recognized counties' authority over land use planning decisions. We are charged with developing comprehensive General Land Use and Resource Plans, zoning ordinances and a process to approve orderly growth, while protecting the environment and providing for a viable, vibrant economy. Therefore, from a county planning perspective, it is important for restoration programs involving land acquisition to recognize the existing land use template and respect a county's statutory authority over land use decisions with limited state or Federal involvement. In addition, the fiscal impact to county coffers when these lands are no longer in private ownership should be underwritten by the acquiring entity and appropriate funding should be made available to operate and manage these lands.

Moving on to the question of water rights—California has a diverse and some would say complex set of water laws. These laws are predicated on a priority system based on the time of filing for those rights (i.e. early diverters of surface waters typically have superior standing over later diverters and/or contractors). In addition,

"source areas" have been provided assurance that their long term needs for a water supply will be met through "area of origin" protection—also viewed by the State to be of senior priority. In contrast, both the state's California Water Project (CWP) and the Federal Central Valley Project (CVP) are junior rights holders.

We do not believe it would be prudent or effective to institute a program that overturns the fundamental assurances that exist in California's water laws. To the extent any program elevates one set of users needs—for example, junior rights holders such as the State CWP or Federal CVP above more senior rights holders—that water Program would destabilize and perhaps over turn the State's water law priorities. Therefore, Federal involvement in setting priorities for California water should be consistent with state water law. Providing assurances for supply to junior rights holders is a slippery slope we urge you not to start down. Let California water law decide the priorities of use in this State.

An additional threat to the stability afforded by California's existing water rights structure is the lack of assurance given to upstream diverters with respect to the implementation of the ESA, under the current CALFED operating environment. Our counties are concerned that the Sacramento and San Joaquin watershed users would be required to provide any additional water needed to meet fisheries and/or water quality objectives.

A related concern is associated with the "commoditization" of water through water transfers. A water transfer program that is dominated by one "buyer", that gives consideration or priority to one use over another or that results in long-term, substantial shifts in the culture of a community is problematic for rural counties. We agree that short term water transfers can play a crucial role in California's water supply management program and we are willing to participate in a fair solution-oriented process. However, over-reliance on transfers poses challenges to local governments as they struggle with the long term social and economic implications of such activities.

Mr. Chairman and members, while we recognize that a coordinated, multi-goal approach to managing the state's water can be beneficial, there's a need for some modifications to "make it work" for all Californians. We look forward to working with you and the California delegation on this endeavor.

Thank you for this opportunity to testify. I will be very happy to answer any questions.

Mr. CALVERT. John Herrick of the Delta Water Agency.

STATEMENT OF JOHN HERRICK, GENERAL COUNSEL AND MANAGER, SOUTH DELTA WATER AGENCY

Mr. HERRICK. Thank you, Chairman Calvert and Chairman Pombo, Committee members, and Representative Herger.

My name is John Herrick. I am general counsel for the South Delta Water Agency, which sounds more important than I am. But our agency is uniquely situated to be involved in the problems that CALFED is attempting to address. We are the end spot for the two river systems in the valley in California, and also the position where the export pumps are located, so we feel the effects of everything that goes on.

CALFED was based on two premises, among others, which include to fix the Delta and for everybody to get better together. Getting better together is anathema to my clients, as we are what we call "innocent third parties" to the operations of the State and Federal projects. My constituents are harmed every year due to those projects' operations. We think that the approach of the State and Federal Governments should be, first, to mitigate the harm they are causing to people not involved in the projects and then seek ways to help California's water quality and quantity.

There is a program that is proposed that didn't have anything to do with CALFED, but it is now under CALFED's umbrella, which institutes barriers in the south Delta which goes a long way to improve the water quality and quantities to my clients. However, that

program is now in a project whose description is "Increase exports as the State pumps up to 8500 CSF a day." you will note that the project description is not "to improve or mitigate the existing harm." so we will have to see how that pans out.

It is a very real threat that we embark upon, increasing that which causes the harm before we have cured the harm. And as an example, one of the diverters in my area whose land is 5 feet below water level—below sea level, excuse me—and operates a siphon called me up last week and said his siphon won't work. Now, think about that. Someone's whose land is below sea level is unable to divert from the Delta. Those problems should be solved before we embark upon any other action which may increase that harm.

Fixing the Delta also should include repairing the San Joaquin River. The southern part of the Delta certainly bears the impacts of the poor quality of water and lack of flow coming down the San Joaquin River. Those are a result of the Federal project operations. We think that the Federal Government should take a hand in that and, in conjunction with the State legislature, embark upon a program to improve, restore, whatever you want to call it, but to better the San Joaquin. That helps innumerable parties, including Delta interests, and it also helps fix the Delta.

Each year of below-normal conditions, they release upwards of 100,000 acre-feet of pure water in the Stanislaus to dilute the waters of the San Joaquin. Now, my clients rely upon that, so we like that; but that is 100,000 acre-feet of water we release to reduce the concentrations of high salt. That is not right.

The second issue I would like to touch on deals with how CALFED runs into conflict with California law, and was touched upon by the representative from the Regional Council of Rural Counties. Whenever you protect one group of users, and that is the exporters—and exporters need water, we don't deny that—but whenever you protect them with a principle of no net loss, that is going to run into conflict with the existing California water right priority system, of which they are the junior members, generally. And the example of that is the environmental water account. The State and Federal Governments go purchase water in northern California to make up for lost exports.

As the representative also said earlier, we have laws in California which protect those upstream users to the surface supply of water. They are supposed to get a larger percentage of that water supply as they grow. But CALFED's policy now is to purchase that surface water and encourage them to move to groundwater, the exact opposite of the statutes. Now, that may work in the short term, it may not, but it can't be a long-term policy if the State's laws say in the future, the north will use more of the stored water, the surface water, not less.

And that brings us to the final issue I would like to touch upon, which everybody has mentioned and which is absolutely correct. We need more water. We don't necessarily need more storage, we need more yield. There has to be a greater pie to divide up. Nobody should be preferred under the program. It is the water of the State, it is not anybody's individual water. The State and Federal Government should ensure or try to ensure the pie is large enough for all beneficial users, because when it isn't, that is when we have the

conflicts; that is when southern California needs to have additional exports, notwithstanding what those exports do to people. If we have enough water, then we don't have those conflicts.

Now, that is a monumental task, but it is one that can be moved toward, I will say. And we agree that each area should move toward self-sufficiency. It doesn't mean they will be self-sufficient in a year or 2 or 10 years, but they need to move toward that. And that is where California's and the Federal Government's assistance should flow to help them do that.

Thank you very much. And I will pass the mike on to Mr. Majors.

Mr. CALVERT. Thank you.

[The prepared statement of Mr. Herrick follows:]

Statement of John Herrick, General Counsel and Manager, South Delta Water Agency

My name is John Herrick. I am general counsel and manager of the South Delta Water Agency. Our agency was created by the California Legislature to protect the quantity and quality of water in the South Delta for all beneficial uses. Our area is in a unique position in that it receives not only the discharges from all upstream users, but it is the location where the State and Federal projects draw water from the Delta for export to water deficient areas.

I understand this hearing is to examine the CALFED Program and ways to increase and improve water supply, reliability, availability, and quality. With regards to CALFED, that combination of agencies has its origins in negotiations between export contractors (those who rely on the State and Federal Projects for water), governmental agencies, and some environmental interests. All interests were not invited to the original discussions and negotiations. In 1994, environmental needs, especially those of the Endangered Species Act, increased, and there was a corresponding decrease in exports. It is exports which significantly impact fishery populations, and therefore exports were being decreased to address fisheries. To address this tension, those parties agreed to certain actions to provide for fisheries and also to maintain exports.

As you might imagine, when one group's water supply is protected (the export contractors), other groups' supplies are at risk. CALFED was born out of this concept. Hence, water supply, reliability, and quality as set forth in the CALFED Record of Decision, or ROD, translate into supply, reliability, and quality for exports. This is a false priority and threatens existing California water rights.

California water law has a priority system with riparian and pre–1914 users at the top and other permitted and licensed users according to their original date of filing an application for a permit. The export projects of the State and Federal Governments are generally the lowest priority. In spite of this, the State and Federal Governments (including the regulatory agencies) agreed to a "no net loss of exports" principle even if ESA, water quality or third-party impacts suggested less exports.

California law also sets up area of origin and Delta priorities under Water Code Sections 11460 et seq. and 12200 et seq. These statutes protect the upstream areas allowing them to recover and use water previously developed by the projects for export. To put it another way, the future development of upstream areas is supposed to be protected by their ability to get back water previously exported. To the contrary though, CALFED promotes the sale of upstream water supplies (both surface and ground water) for export. This will necessarily result in the continued reliance on this water by the exporters. When the next drought occurs, or when the upstream areas eventually seek to expand and grow and thus need the water, the conflict between the north and south will be of epic proportions.

The answer of course is greater supply for all uses; something CALFED simply does not do. CALFED mandates increased exports over time, but only seeks to "study" new storage projects. Note the use of the word "storage." The CALFED parties purposely use this word rather than "new supply" or "yield." Yield is additional supply; storage rarely is. Of all the storage projects to be studied by CALFED, the amount of new yield is insignificant compared to California's existing and future needs. Notwithstanding the eloquent language in the CALFED ROD, it is simply redividing the same old pie; only this time, there is an open preference given to export interests by the State and Federal agencies.

CALFED is supposed to "fix the Delta." The South Delta Water Agency is a good example of what is actually occurring. The CVP decreased the flow in the San Joaquin River by an average annual amount of 345,000 acre-feet per year from April through September; with no provision for downstream Delta users who depended upon that supply. The Federal project also delivers water to the west side of the San Joaquin Valley without having built a Valley drain. The result? Up to one million tons of salt is delivered to the Valley with up to 400,000 tons draining back into the San Joaquin River in concentrations well above the downstream salinity standard.

The State and Federal export pumps also lower the water levels in the South Delta to the point where local diversions are impaired or prevented. Some channels run dry and circulation is radically altered allowing the high salt concentrations from upstream to further concentrate.

In addition, the Bureau through CALFED decided to reallocate New Melones water for fishery purposes. New Melones is on the Stanislaus River, a tributary of the San Joaquin. Under its permits, the Bureau must release water from New Melones to maintain water quality on the San Joaquin River in recognition of its culpability for polluting the San Joaquin. The CALFED process, however, reallocated New Melones water for fisheries such that there is now less water to meet the salinity standard, a pre-existing permit condition of the Bureau.

Fixing the Delta would seem to suggest these issues be squarely addressed. Unfortunately, CALFED does not because it is geared to improving exports.

To avoid the issue of first addressing current impacts, CALFED was founded in the idea of everyone "getting better together." Besides not being implemented in practice, such a concept ignores basic fairness, water rights, and tort law. The South Delta has been adversely impacted by the export projects for over thirty years. Instead of seeking to mitigate the existing harm to innocent third parties, CALFED promises to "improve" water levels and quality in the South Delta while at the same time embarking upon increased exports.

It should be the policy of both the State and Federal Governments to first mitigate the damage they cause before they propose to cause more damage or figure out how to mitigate an additional amount. The parties who say that such an approach is divisive are the ones who want to better their positions before the South Delta problems are solved.

At this time, there is an ongoing temporary barrier program and a proposed permanent barrier program to address many of the concerns and issues related to the South Delta. That program will hopefully be successful, and we continue to work with the California Department of Water Resources to secure adequate protections for the area. If asked, I can more fully explain the barrier program; how it works, its shortcomings, and how CALFED affects it.

What is needed to assist all beneficial users of water in California is legislative action to force CALFED or its constituent agencies to take actions in addition to the ROD and to limit some things the agencies currently do. I suggest the following:

1. There should be both a State and Federal statute directing the restoration of the San Joaquin River. The USBR has seriously impacted the quality and quantity of water in that River to the detriment of many interests. Without such legislative directive, the regulatory agencies will continue on their never-ending process which to date has accomplished very little.

2. The adverse impacts of the export projects should be mitigated before any additional exports are approved or implemented. Mitigation of existing impacts should not be combined with a project to increase exports, as history shows us that the increase in exports occurs and the mitigation may not.

3. Standards in the South Delta should be implemented which would require decreased exports when water levels fall below certain heights in designated places. Reliance on mitigation can prove ill-founded, but mandatory standards protecting water levels could be enforced.

4. Transfers of water should not be part of any long-term program to increase supplies to other portions of the State. Transfers should be limited only to emergencies and those instances where the seller decreases its consumptive use (or decreases the amount of water previously lost to beneficial uses). There can be no worse policy for the State of California than to have distant areas rely upon transfers of water when the total supply remains static.

5. New supplies should be developed to address the current and projected water shortages in California. Each area of the State should move towards self-sufficiency so that the growth and economic prosperity of any region is not dependent upon a supply of water which may be needed in other parts of the State. Both State and Federal funds should be allocated for local projects to develop such new supplies.

6. Groundwater should not be mined to support growth in any portion of the State. California's groundwater is steadily declining and is the reservoir upon which we rely in times of drought. Use of groundwater especially under conjunctive use programs should certainly be encouraged. However, encouraging the sale of surface supplies and forcing sellers to turn to groundwater reserves is at best a short sided policy.

7. Area of origin laws and the Delta Protection Act statutes should be fully enforced and the involved State and Federal agencies should actively work to implement them not oppose compliance with these statutes until brought into Court.

California's water problems are only just beginning. If we don't protect innocent third parties and fisheries from the effects of our complex system which redistributes the water of the State of California, we can never begin to solve the problem of future needs. Those future needs loom on the horizon. If we don't begin now to develop more supply, future generations will be limited by our shortsightedness.

Mr. CALVERT. Next, we are going to recognize Dennis Majors from the Metropolitan Water District. And he asked for some more time to go through the plumbing of the Delta, and we are happy to grant that. Mr. Majors is also known as the gentleman who built the Diamond Valley Reservoir, the last reservoir to be built in the State of California of any size. So the gentleman is recognized.

STATEMENT OF DENNIS G. MAJORS, ENGINEERING PROGRAM MANAGER, METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Mr. MAJORS. Thank you, Mr. Chairman, and members of the Committee. I am an Engineering Program Manager with Metropolitan Water District, and for 2 years I also was the Delta Implementation Manager for CALFED.

I have the sense you are not hearing me.

Mr. CALVERT. Maybe move that mike up closer to you.

Mr. MAJORS. OK.

I gained quite a bit of knowledge regarding the Delta system and how water is moved from north to south through that system. The Through Delta Plan is CALFED's preferred alternative from the Record of Decision and Final EIR/EIS, and it was issued in August of 2000.

I want you to know that the Metropolitan Water District strongly supports and is dedicated to the success of the Through Delta Plan. We will take all appropriate actions to assure its implementation. However, I should say that, equally important, we are committed to the avoidance of adverse impacts to Delta farming or other interests, including effects to Delta water supply and water quality. I will focus my remarks today substantially on that issue.

I don't know if you have the written testimony, but under Tab 1 of my written testimony I showed a number of Through Delta Improvements which convey water from the Sacramento River to the Delta and southerly export facilities.

North Delta facilities include, for example, flow improvements of the Delta Cross Channel, flood control enlargements to the north Delta channels. Throughout the Delta, it includes levee improvements, maintenance dredging, and ecosystem restoration.

The south Delta facilities include dredging of the channels, construction of permanent operable barriers to protect farming interests, water supply and water quality, and it also includes cost-effective fisheries measures.

Dredging and permanent operable barriers in the south Delta are CALFED's first implementation package. I want to say that they are highly cost-effective, they can be accomplished in the near term, and are funded now for construction. So we need to move ahead.

They include also a careful plan to protect Delta interests from the effects of implementation. In the north Delta, studies will conclude how best to operate Delta Cross Channel and other conveyance features to enhance water quality in the Delta while protecting fish and, potentially, Mr. Chairman, keeping the Delta Cross Channel open longer periods of time to improve our water quality in the Delta.

Flood control improvements downstream, which also help water quality, are planned; and in my testimony I show a tab that shows various concepts of levee improvements that substantially improve the integrity of the entire Delta system. These are also funded through Prop 50 and through the State subventions program, so there is a funding source.

Plans for achieving 8,500 cubic feet per second capacity in the south Delta are accompanied by additional dredging of Old River near the Delta, levee improvements, and also the installation of these operable barriers. The barriers, along with selective deepening of diversions and even additional portable pumping when water supply is very lean, particularly on the San Joaquin, are part of that kind of a concept, so that there will not be adverse effects to Delta farming interests either from a water quality or water supply perspective.

Also, we show that those barriers have the potential—not the potential; what they actually do is that they accept water at high tide, so that these high levels of water can be maintained for water supply for the farmers while export pumping is going on. So there are protections there as well.

Within the testimony, it also shows that barriers, by regulating them in the proper way, making small releases, can also improve water quality in the Delta region; and that is something that is critically important to all of us. Funds for this work are also in place in the form of bond issues.

While permanent barriers can capture more water at high tide than the temporary barriers, I should point out that since 1991, for over 12 years, there has been a system of temporary barriers in the south Delta so that water can be trapped at high tide; later on, when pumping takes place or at low tide, south Delta farmers have their water supply needs met.

South Delta pumping at 8,500 cubic feet per second is planned to begin under the more limited capabilities of the temporary barriers while fully protecting south Delta agricultural diversion capability. This means these operations will not occur as frequently as when we have the permanent barriers.

And what I would like to emphasize is, it is very important and I would say urgent to get these barriers, these permanent barriers in place as soon as possible. As we read the current schedules, the EIR for the south Delta is certified in next year and the permanent operable barriers are not in place until 2008, and we consider that unacceptable. We think we can move quicker than that.

So, in conclusion, Mr. Chairman, moving water through the Delta to export facilities comes with an commitment to protect Delta interests with a vital stake in water supply quality and levee system integrity. This is a commitment, as I say, that is integral with any plan to increase exports.

And I would be happy to answer any questions, Mr. Chairman.

Mr. CALVERT. Thank you.

[The prepared statement of Mr. Majors follows:]

Statement of Dennis G. Majors, Engineering Program Manager, Metropolitan Water District of Southern California

Thank you Chairman Calvert. I am currently an Engineering Program Manager with the Metropolitan Water District of Southern California, with responsibilities for guiding implementation of the CALFED Program. For two years, from 2000 to 2002, I was also CALFED's Delta Implementation Manager, where I gained detailed knowledge of the concept and operations involved in moving water south, across the Delta's system of channels and rivers, to the Federal and state water export facilities. The attached Disclosure Statement provides other supporting information on my qualifications relevant to this testimony.

Summary and Conclusions

Under CALFED, the concept of conveying water across the Delta to export facilities is called the Through Delta Plan. This is CALFED's preferred alternative, contained in the CALFED Bay Delta Program's Record of Decision and Final EIR/EIS, issued in August 2000. The avoidance of adverse effects to Delta farming or other interests is inherent in this Plan.

The conveyance of water through the Delta to export facilities in the south comes with a commitment to protect Delta interests with a vital stake in its water supply and water quality to maintain the integrity of their operations. CALFED will implement the Through Delta Plan through planned flood control improvements in the north Delta, ongoing levee and dredging programs throughout the Delta, dredging in the south Delta, and the use of permanent operable barriers in the south Delta to protect the region's water quality and water supply. Appropriate habitat improvements will be undertaken to maintain the integrity of the Delta system as a whole and a balanced approach to CALFED implementation.

Metropolitan Water District strongly supports and is dedicated to the success of the Through Delta Plan and will take all appropriate actions to ensure its implementation. This Plan includes improvements in the north and south Delta, which are summarized in the numbered items below and illustrated on Tab 1. Items 4 through 9 of this list constitute the first major implementation package under the CALFED program, and will substantially improve water supply reliability for Southern California and other water users south of the Delta. These measures are highly cost effective, can be accomplished in the near term, and include a careful plan to protect all Delta interests during their implementation and operation.

1. flow improvements at and near Delta Cross Channel,
2. flood control enlargements to north Delta channels,
3. cost effective measures to improve fish salvage in the south Delta,
4. ongoing levee improvements throughout the Delta,
5. dredging of channels in the south Delta,
6. maintenance dredging in various parts of the Delta to maintain channel capacity,
7. the construction of permanent operable barriers in the south Delta to maintain water quality and water supply to farming interests,
8. complementary ecosystem restoration measures, and
9. increased pumping capacity at south Delta export facilities to 8500 cubic feet per second.

I will review these improvements and show how they allow the conveyance of water toward export facilities, while protecting Delta interests integrally linked to its water supply, water quality and the integrity of the system as a whole.

North Delta Improvements

In the north Delta, the Plan consists of several actions to address flood control, ecosystem, water quality, fisheries, and water supply reliability concerns. These include:

1. dredging and setback levees on the north and south forks of the Mokelumne River,

2. flood control and habitat restoration on McCormack–Williamson Tract,
3. restoring habitat along Georgiana Slough,
4. modifying Delta Cross Channel operations, and
5. the feasibility of constructing an additional diversion to the Delta from the Sacramento River.

At Tab 1, you will see these listed as Flood Control Improvements and Flow Improvements. I will highlight those facilities that most particularly improve flow capacity, channel integrity and water quality in the Delta.

Delta Cross Channel and the Through Delta Facility

Near the Delta Cross Channel in the north Delta, studies will show how to operate the Cross Channel, along with other conveyance features in that area, to enhance water quality in the Delta while protecting fish—most particularly the downstream migration of salmon smolts and the upstream migration of salmon adults. We think CALFED can meet these goals in a complimentary manner in order to keep the Cross Channel open more of the year. The Cross Channel is now generally closed in the spring, open in the summer and fall, and partially open at other times of the year.

We will determine how flow splits east from the Sacramento River into the Cross Channel and Georgiana Slough, or west from the Sacramento River into Sutter and Steamboat Sloughs, will let us best maintain higher water quality in the Delta and keep fish away from areas where they could more easily be diverted from the Sacramento River. Tab 1 shows the locations of these river and channel systems in the north Delta.

We expect these answers late next year, with facility improvements to follow.

Flood Control

CALFED is planning flood control measures in the north Delta, which will result in a final planning document next year. The measures will substantially improve the flood carrying capacity of north Delta channels, such as the north and south forks of the Mokelumne River that lead into the Delta. This is done through combinations of dredging, levee raising, and levee set backs to gain the needed flood capacity. As an example, Tab 2 highlights the concept of a set back levee, which has the added benefit of encouraging habitat growth (graphic 1). It also shows how dredged materials removed from the channel can be placed on the backside of the levees to strengthen their integrity (graphic 2). These actions complement the movement of water through the Delta and improve water quality, and substantially improve the integrity of channel and levee systems to the benefit of farming and other interests.

Levees Improvements

The Department of Water Resources has an active program to maintain and improve levees throughout the Delta on a continuous basis. This program is supported by state legislation that also requires net habitat enhancement with the improvement of any levee site. Levee improvements are thereby combined with unique habitat restoration opportunities. Levee integrity is enhanced, for example, by dredging material from the adjacent channel and placing dredged materials behind the levees for stability. Intermediate benches can also be provided on the waterside of the levees for greater stability. Habitat growth is encouraged in benched areas for restoration purposes and wave energy dissipation. Tab 2 further highlights the levee integrity improvements and habitat enhancement opportunities afforded by the levees program. Funding for such work is provided through the state subventions program on an annual basis, and through state bond issues, such as the recently passed Proposition 50. An active levees program is clearly complementary to the Through Delta Plan, proving added integrity to the conveyance of waters to export facilities, while guarding against catastrophic levee failures, causing severe damage to adjacent properties, and salinity intrusion and water quality degradation in the central Delta and at export facilities.

South Delta Improvements

Plans for achieving a capacity of 8,500 cubic feet per second at Banks Pumping Plant in the south Delta would be accompanied by additional dredging on Old River, the installation of permanent operable barriers across Middle and Old Rivers and Grant Line Canal, the placement of a fish barrier at the head of Old River, as well as ongoing levee improvements. In addition, where found that barriers may not adequately protect farming interests from supply inadequacies, a program to selectively deepen diversions and provide portable pumps would be employed, upstream and downstream of the barriers. The barriers and selective diversion deepening and portable pump systems give the assurance that, as pumping takes place at export

facilities, there will not be adverse effects to water levels and or water quality of Delta farming interests. Channel integrity is better maintained, and fish are diverted further away from pumping operations. Funds are now in place through state bond issues to make these improvements.

Dredging

Dredging the Old River north of the export pumps is necessary to avoid sediment movement and channel scouring during peak diversions. Here, levee stability is enhanced by only removing material in the center of the channel and by maintaining flatter side slopes on the channel. Dredge materials would be placed on the backside of levees to reinforce their integrity, in a manner typical of dredging operations and levee improvements that are taking place throughout the Delta. Tab 2, again demonstrates this concept. As noted above, state bond funds are in place to perform this work.

Erosion along the banks of channels in the Delta is also a real concern to interests in these areas. Dredging, by adding to the area of the channel, means that the same amount of water now doesn't have to move as fast, resulting in less erosion.

Barrier Operations for Delta Water Supply

Permanent operable barriers are designed to pass water under their gates and upstream at high tide so waters can be trapped and held at these high levels for agricultural diversions while export pumping is taking place in the south Delta. Tab 3 shows how water is trapped at high tide (graphic 1) and then held at high enough levels to allow farmers to divert to their fields (graphic 2). Barriers will be placed on Middle River and Old River and at the Grant Line Canal. The gates on these barriers give great flexibility to change operations in rapid response to farmers' needs. The barriers are also designed to let water pass freely past them during the periods of natural or regulated high flow or when water levels are high enough without the need for flow control. They also have the effect of helping keep fish away from the pumps during periods of export pumping.

More recently, there have water level problems, due to siltation, upstream of the temporary barriers. In such circumstances, it has been recognized that additional dredging would be required to deepen the channels and maintain water availability to agricultural diverters.

Operations at 8,500 cubic feet per second capacity are planned to begin initially under more limited capabilities of the temporary barriers, while fully protecting south Delta agricultural diversion capability. These limitations mean the use of the 8,500 cubic feet per second capacity may occur less frequently than when permanent barriers are fully operational. The planning documents for this work will be completed next year, allowing construction of the permanent barriers to proceed. We clearly recognize the urgency of completing the design and construction of these barriers, so they are fully operational at the earliest possible date.

Barrier Operations for Delta Water Quality

It is essential to maintain adequate water quality throughout the Delta when export operations are taking place. Current operations of the Central Valley Project and State Water Project facilities provide regulated releases of waters to ensure that salinity is pushed substantially seaward from the Delta, thereby improving water quality. Mandatory salinity requirements are in place at various river and channel locations to ensure that acceptable salinity levels are maintained. Exports are made strictly within these regulatory requirements, which are complementary with the need to deliver high quality water to downstream users.

We also recognize that water quality both upstream and downstream of the permanent operable barriers may degrade with lack of water movement. Here, the barriers themselves provide a useful tool, since small water releases can be made from time to time to maintain circulation and, therefore, adequate water quality. Tab 4 illustrates how circulation can be impeded at these barriers, if their gates are fully closed (graphic 1) and how a slight opening of the gates can help circulate water (graphic 2). In addition, the barriers have the potential to push fresh water to the main stem of the San Joaquin River and enhance quality.

Deepening of Agricultural Diversions

We also know that in some of the areas of the Delta, both upstream and downstream of these barriers, certain agricultural diversions may not be low enough to reach the water levels even with the operable barriers in place. Selective deepening of these diversions will be done, in addition to the installation of operable barriers, so that water will be available under any circumstance. We are concerned about this because we know, for example, that being cut off from water for a period of days (or even hours in some cases) can cause substantial monetary damage to crops and

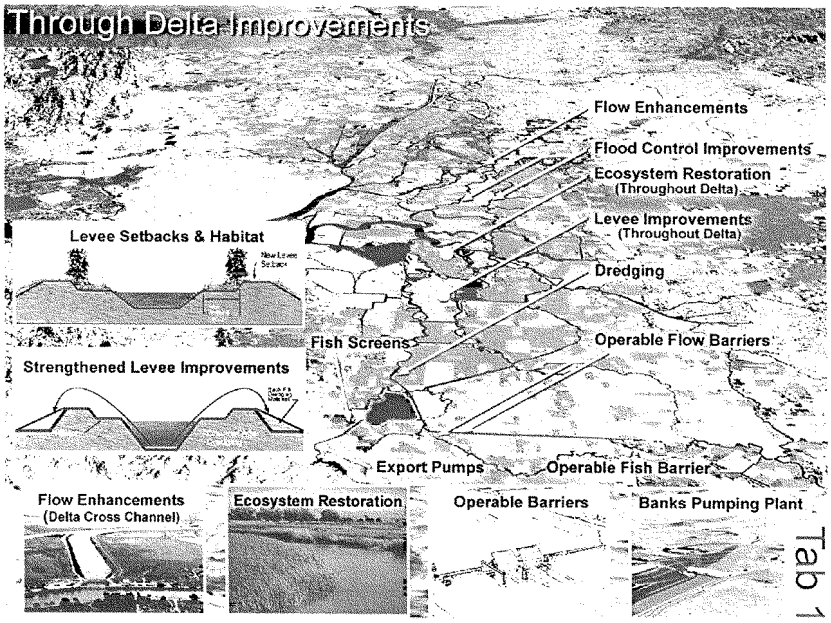
farming operations. The state Department of Water Resources (DWR) has deepened several diversions over the last three or four years and more recently installed portable pumps where waters levels have dropped below agricultural diversion levels, primarily downstream of temporary barriers at Union Island. This diversion deepening and portable pump program provides added assurance to reliable agricultural supplies, and is expected to continue now and with the installation of permanent operable barriers, upstream and downstream of the barrier locations.

Maintenance Dredging

Another condition that may occur with the installation of barriers is siltation buildup behind them over a period of time. It is recognized that such conditions can impair the permanent function of the barriers and the ability to maintain agricultural diversion capability on a continuous basis. It will be necessary to periodically evaluate this situation and remove sediment in channel reaches upstream of the barriers, keeping them operational and free from sediment, as necessary.

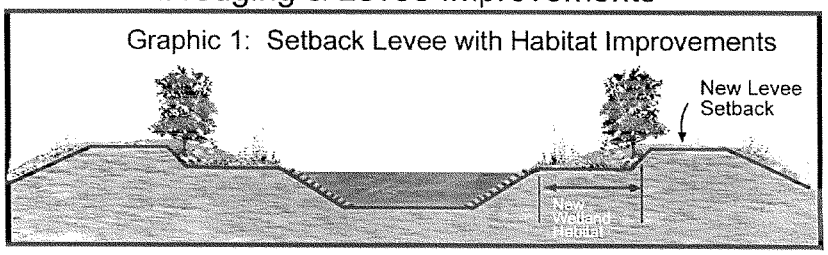
Temporary Barriers

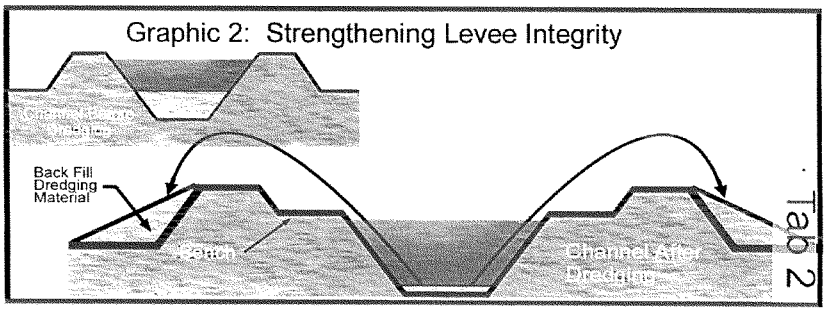
It is also important to note that DWR has installed a system of temporary barriers since 1991 to provide protection to Delta farmers. While the permanent operable barriers give more flexibility to assure water supply and quality to farming interests, the temporary barriers have nevertheless been very useful in maintaining supplies, particularly in the summer and fall when export deliveries from the Delta could affect farmers the greatest. The locations of these barriers are shown on Tab 5.



Tab 1

Dredging & Levee Improvements

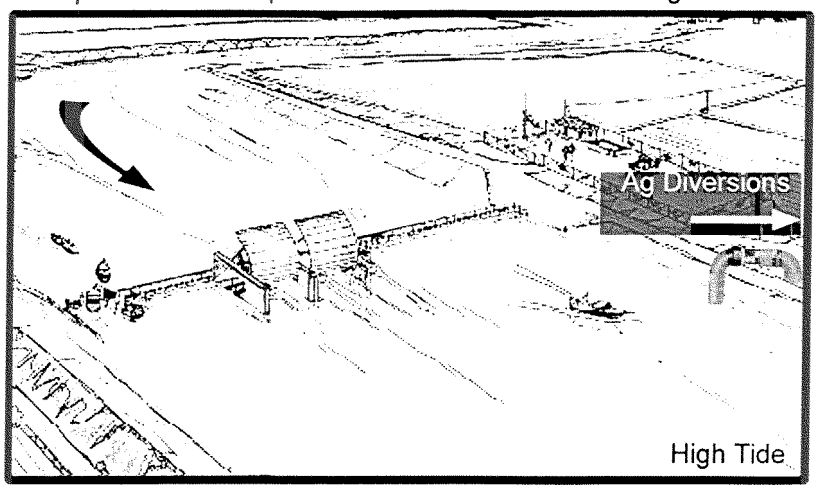




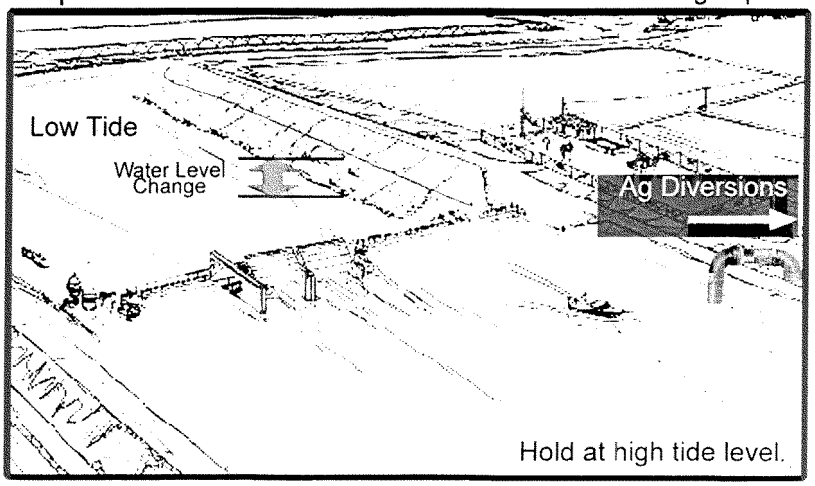
Tab 2

Permanent Operable Barrier Concept Tab 3

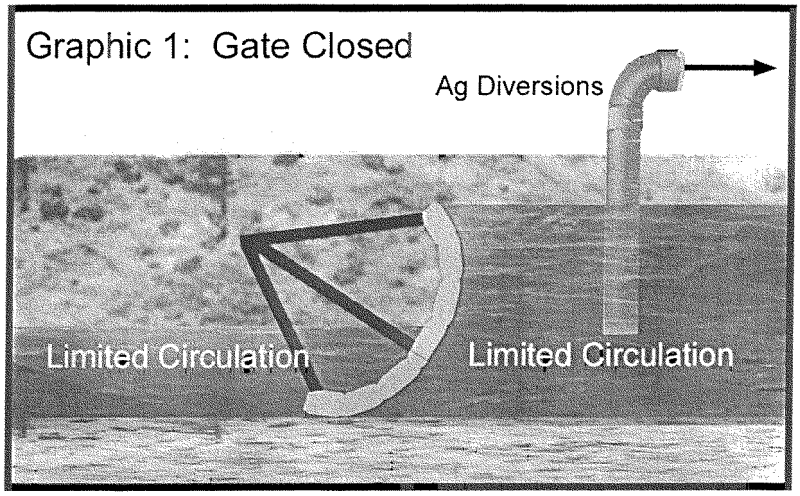
Graphic 1: Gate Open-Fill water behind barrier at high tide.

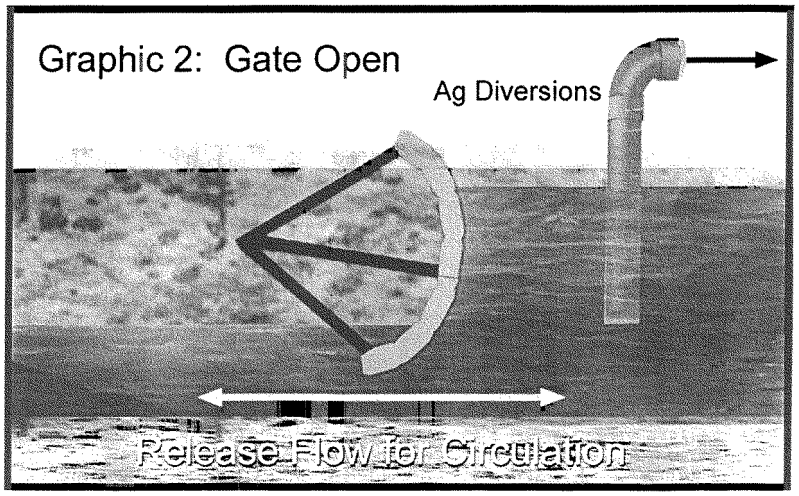


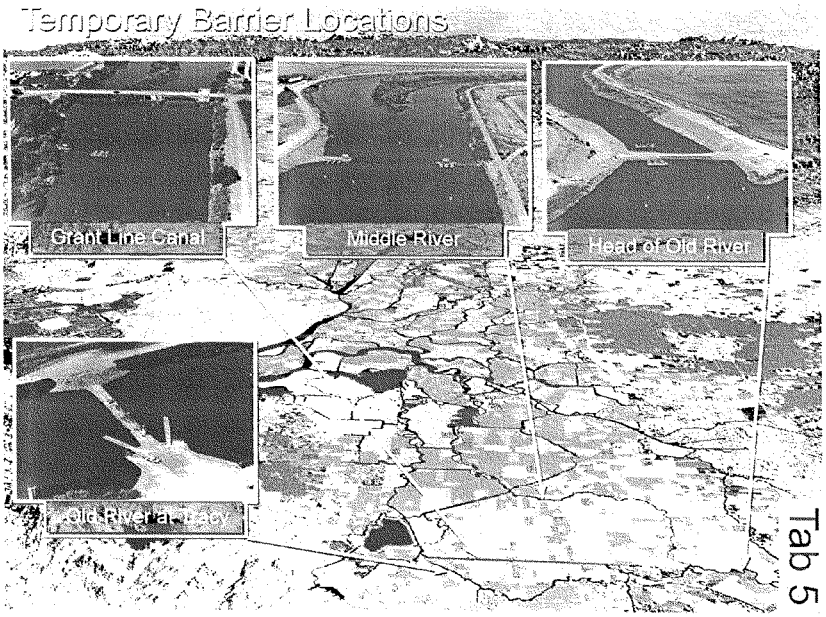
Graphic 2: Gate Closed-Hold water at low tide or during exports.



Agricultural Water Quality at Barriers Tab 4






Temporary Barrier Locations
Grant Line Canal
Middle River
Head of Old River
Old River at Tracy

Tab 5

MWD
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Executive Office

July 8, 2003

The Honorable Ken Calvert
Chairman, Subcommittee on Water and Power
Committee on Resources
44th District of Columbia
United States House of Representatives
2201 Rayburn Building
Washington, DC 20515

Dear Representative Calvert:

Metropolitan Support for Upper San Joaquin River Surface Storage Investigations

At the June 28 hearing of the House Subcommittee on Water and Power in Elk Grove California, Congressman Cardoza asked me a question regarding Metropolitan's support of surface storage investigations in the upper San Joaquin River. I wanted to expand on my response.

Metropolitan strongly agrees with the clear conclusion reached by CALFED that California must have a balanced strategy to meet the state's long term goals and needs and that the strategy must include additional surface storage capacity in both the State Water Project and Central Valley Project operating systems. In this regard, The Metropolitan Water District of Southern California has been and will remain supportive of storage investigations on the upper San Joaquin River and its tributaries. We intend to be active participants in the evaluation of additional storage throughout the CALFED solution area, and in the upper San Joaquin River watershed in particular. We believe that the entire state has a compelling interest in upper San Joaquin River storage; that it can provide opportunities for supply reliability to agricultural interests, provide fishery enhancements in the San Joaquin River and its tributaries, and water exchanges providing high quality drinking water to our customers.

I appreciated the opportunity to testify before the Subcommittee and trust this letter helps convey Metropolitan's position on this important matter.

Very truly yours,

Dennis G. Majors
Engineering Program Manager

MWD
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Executive Office

August 20, 2003

The Honorable Ken Calvert
Chairman, Subcommittee on Water and Power
Committee on Resources
United States House of Representatives
2201 Rayburn Building
Washington, DC 20515

Dear Representative Calvert:

Metropolitan Support for Upper San Joaquin River Surface Storage Investigations

In your letter of August 6, 2003, you asked if Metropolitan would support the continued funding of feasibility studies for the Upper San Joaquin River Storage Investigation called for under the CALFED Record of Decision (ROD). You also asked what position Metropolitan would take on feasible storage projects on the Upper San Joaquin River.

Metropolitan strongly supports funding for the continuation and completion of feasibility studies for storage on the Upper San Joaquin River and its tributaries. Consistent with the ROD's conclusions, we believe California needs a balanced strategy to meet its long-term water management needs, including additional surface storage in both the State Water Project and Central Valley Project operating systems. We intend to be active participants in the evaluation of additional storage on the Upper San Joaquin River. Such storage can potentially meet combined water management needs related to agricultural supply, fish enhancement, and water exchanges to provide high quality drinking water to our customers.

If Upper San Joaquin Storage Investigations indicate new storage is feasible based on comprehensive CEQA/ NEPA documentation, we would strongly support such storage projects, providing vital water quality, fish, and agricultural water management needs to much of the state.

I appreciated the opportunity to testify before the Subcommittee and trust this letter helps convey Metropolitan's position on this important matter.

Very truly yours,

Dennis G. Majors
Engineering Program Manager

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Mr. CALVERT. Gary Bobker, the Bay Institute.

STATEMENT OF GARY BOBKER, PROGRAM DIRECTOR, THE BAY INSTITUTE

Mr. BOBKER. Thank you, Mr. Chairman. Thank you, Mr. Chairman, members of the question. My name is Gary Bobker; I am the Program Director of the Bay Institute.

There are three or four major points I would like to make. The first one echoes some comments that John Herrick made; and that is that in all the talk of the missing infrastructure of California's water supply system, the biggest missing infrastructure is rarely

mentioned, and that is a conveyance system formerly called the San Joaquin River. In fact, it was the loss of the San Joaquin River 50 years ago, which flowed to the Delta, that has in a sense created or exacerbated most of the problems we are experiencing in Delta water management today.

The fact is that for my friends in Central and South Delta Water Agency, my friends in Contra Costa Water District, the degradation of their water quality, the exceedences of water quality objectives in many years has been an ongoing problem that is caused in large part by the loss of the San Joaquin River flows.

At the same time that there is a water quality problem, there is an equity in water supply problem, which a number of you have raised concerns about. At the same time that the bureau is scrambling to provide water for New Melones to meet downstream objectives, water is available upstream and in fact it was spilling from Friant Dam. That water does not make it to the Delta, and right now it is not required to.

The fact is that because the main stem San Joaquin is not part of the system anymore, the folks in the Central Valley Project, folks in the State Water Project, folks in the Delta and folks upstream who have to meet Delta commitments are all pretty dramatically affected by that. And the fact—the environmental impacts, of course, have been exacerbated by the loss of a major part of the Delta's fishery and aquatic ecosystem. And that has put more pressure on the Sacramento River salmon and more pressure on those folks whose operations impact the Sacramento River salmon.

That is not equitable and that needs to change. And hopefully soon we will welcome the San Joaquin River back to the water supply system, to its rightful place as a conveyance system rather than as a drain.

The second point that I want to make—and I get to be the dog in the manger; we drew straws in the environmental community, and I get to be it today—is that surface storage is such a panacea that people point out to us, that is going to solve all our problems.

You know, there are obvious issues that the environmental groups are always going to raise regarding the environmental footprint. We have heard the stories. I am not going to get into that now; I think everybody is familiar with those issues.

I am going to get to the economic argument, which is basically that when you look at most surface storage facilities, the yield is very low and the costs are very high. They don't compete with most of the other alternatives available. If you look at combinations of different, other—all the other tools that are available to us, most of the time financially they are much more cost-effective.

At the same time, when there—there are a lot of folks who are saying, you know, if we just had surface storage. We explained to them how we would solve all the problems, but when it comes time to identify who the beneficiaries are who are going to pay in part for surface storage facilities, all of a sudden the line is empty. CALFED is having a problem identifying some of the beneficiaries for some of the proposed projects.

So, oddly enough, I have to give credit to the Bush administration for, I think, recognizing that, you know, the money is not there

in the Federal and State budgets to pay for these extremely expensive facilities. And if people want them, they are going to have to pay for them, and right now nobody wants to.

But there are other alternatives that can help meet California's water needs. And I think the water 2025 initiative that we are seeing from the Administration is, to the Administration's credit, a good sign. Obviously, there are a lot of things we don't agree with the Administration about, but again I have to give them credit for saying, you know, there are finite resources.

Water is a finite resource. Money is a finite resource. And water supply planners need to recognize that.

The fact is that CALFED appropriately recognized that investments in conservation and wastewater reclamation could be brought on-line quickly, brought in line quickly, and at costs of $150 to $450 an acre-foot, are quite competitive; but now we need to get the funding to be able to make that happen. If you really want to ameliorate some of the problems we are having, then we need to provide the seed money to get that going, and there will be significant local cost shares for conservation and wastewater reclamation investments.

Desalination is something that over time the cost has come down. It is now probably equivalent to new surface storage and it is going to go down. NAD is paying $250 an acre-foot subsidy to encourage some districts to pursue desalination because they know it is a reliable supply.

Groundwater: I mean, one of the funny things we can talk about new surface storage, which doesn't work unless you do it conjunctively with your management of groundwater, this State manages groundwater terribly. We need to both improve groundwater management planning and we need to reoperate our current facilities to use the ground better. Recent studies have shown that you probably get up to 1 million acre-feet just from reoperating existing reservoirs conjunctively with groundwater banking.

And finally there are transfers. And I will just note, interestingly enough, that the market has interesting impacts on agricultural users. Urbanization, rather than the environment, is a big cause of conversion of land use, conversion of agricultural land use to urban areas. The acquisition of water from agricultural areas is to urban or out-of-basin users. The environment is a drop in the bucket compared to those other things, and you shouldn't scapegoat environmental uses of water and land because of that, I think.

The CALFED: CALFED made very difficult decisions. It is difficult to solve everybody's problem completely. And it is important to look at how all the different pieces come together. And I think if you start to pick at that—I have a lot of problems with CALFED; there are things I don't like about it. But I think if you start to pick at it, you will unravel the benefits that it does. So I think that is important to consider also.

Thank you, Mr. Chairman.

Mr. CALVERT. Thank you.

[The prepared statement of Mr. Bobker follows:]

Statement of Gary Bobker, Program Director, The Bay Institute

Mr. Chairman and members of the Committee, thank you for inviting me to participate in today's hearing to examine the CALFED program and ways to improve water supply, reliability, availability and quality.

My name is Gary Bobker. I am the program director at the Bay Institute, a nonprofit research, education and advocacy organization founded in 1981 to protect and restore the ecosystems of San Francisco Bay and its watershed. The Bay Institute has been deeply involved in the major California water policy initiatives of the last two decades, including passage and implementation of the Central Valley Project Improvement Act of 1992; negotiation of the Bay–Delta Accord and the San Joaquin River Agreement; drafting Proposition 204 and other water-related bond measures; the intensive analytical and advisory process leading up to the CALFED Record of Decision; and the ongoing efforts to restore the San Joaquin River below Friant Dam, including the recent 4 year settlement negotiations process with the Friant Water Users Authority (during which I co-chaired the team overseeing the development of water supply options to support the restoration effort). I currently serve on the Federal California Bay–Delta Public Advisory Committee. In addition, the Bay Institute's Bay Restoration Program Manager, Marc Holmes, was recently appointed as a public member to the new Bay–Delta Authority established by the state legislature.

I would like to focus my remarks today on three very different issues regarding potential new sources of water supply.

First, let me point out that the most exciting prospective new addition to California's water supply system is also, paradoxically, one of its oldest: the San Joaquin River.

Restoring flows to the San Joaquin River below Friant Dam has enormous potential to help solve some of the most challenging and contentious water management problems in the Delta and the larger world of California's water supply system. Interestingly, it is little appreciated how much the loss of San Joaquin River flows has contributed to creating those very problems.

Construction of the Friant project in the 1940s dewatered entire reaches of the San Joaquin River below the dam, broke the hydrologic connection between the river and the Delta, extirpated the spring-run chinook salmon run and devastated other salmon and steelhead populations, riparian habitat and other ecological values. The consequences were not simply limited to environmental destruction, however. The effects on Delta water supply and water quality were equally dramatic. (It is important to note that the diversion of the river not only hurts the Delta, it also violates state law. The state's top legal officials, including former Attorney General Dan Lungren, have repeatedly pointed out that all dams in California must release water for the downstream environment and the claimed exemption for Friant Dam—because it is Federally owned—is inappropriate and contrary to law).

Loss of the river's flows means that water quality has been severely degraded for downstream users. Urban and agricultural diverters in the Delta have suffered for decades from a measurable decrease in quality at their intakes, and water quality objectives to protect drinking water and irrigation uses have been violated in a number of years. In addition, long standing upstream salt loading and in–Delta dissolved oxygen problems have been exacerbated by the insufficient quantity and low quality of the water that does make it to the lower reaches of the San Joaquin River.

Loss of the river's flows means that some water users must pick up the slack for those who do not release water to the Delta. Because Friant Dam does not release water to maintain Delta water quality and environmental protection, water users along the San Joaquin's tributaries and in the Sacramento Valley must allocate additional supplies to meet downstream requirements, both in direct release requirements and in carriage water dedications. This inequitable state of affairs was recently illustrated by the juxtaposition of two seemingly contradictory events. While the Bureau of Reclamation was petitioning the State Water Resources Control Board to relax flow objectives for the lower San Joaquin River in June because it did not have sufficient supplies in New Melones Reservoir, water was spilling over the face of Friant Dam—water that did not reach, and is not currently required to reach, the Delta. Furthermore, water project operations in the Delta must often be modified to avoid causing water intake problems for in–Delta diverters because Delta exports are high and San Joaquin River flows are low.

Loss of the river's fishery resources and habitat means that operation of the state and Federal water projects is constrained even more than is called for to mitigate for their adverse biological impacts. The combination of high exports and low river flows creates a hydraulic barrier to the outmigration of juvenile salmonids and an

attractive nuisance for resident Delta fish species. The South Delta project operators are rightly expected to curtail pumping during periods of high risk to fish populations, but releases to the San Joaquin River are not similarly increased to share the burden of maintaining the Delta environment. Furthermore, the loss of genetic diversity and lack of access to upstream habitat areas drastically limits the ability of Federal and state resource managers to reverse the decline and promote the recovery of endangered resident and anadromous fish species, and puts greater pressure on the remaining Sacramento River stocks, all of which are experiencing long-term declines and are adversely affected by water supply operations in the Delta. It also means that commercial and recreational chinook salmon harvest is totally dependent on one source, Sacramento River fall-run production.

Reforging the connection between this major river system and the critical Delta region is properly seen therefore as a solution not only to upstream environmental problems but as a key component in providing Delta conditions that ameliorate existing water quality problems, allow greater flexibility for water project operations and reduce endangered species impacts. Furthermore, my experience in working with the Friant water users and other parties in developing water supply strategies to support restoration of the river has convinced me that a number of cost-effective alternatives exist for reconnecting the San Joaquin River and the Delta (which I will touch upon later).

The second point I would like to make is that new dams are not the answer to improving California's water supply reliability.

Since I've been discussing the San Joaquin River, let's take new surface storage on the San Joaquin system as an example. Initial cost estimates for constructing a new facility at Temperance Flat are about $1 billion, and initial average annual yield estimates run up to about 140,000 acre-feet depending on assumptions on operational constraints. Temperance Flat water would cost $800 or more an acre-foot, making it substantially more expensive than other water supply options.

Specifically, Temperance Flat would cost two or three times the amount necessary to fund, and only generate one-half or one-third of the potential yield of, alternative water management approaches that rely on more efficient use of existing surface storage facilities, development of new groundwater storage capacity, and purchases in the water market.

I won't attempt to address here the very serious environmental footprint and off-site impacts of building and operating new facilities like Temperance Flat. I will confine myself to asking a few critical questions: Who is prepared to pay for Temperance Flat, or for the other surface storage reservoirs being evaluated by CALFED and the Bureau of Reclamation? And why should the Delta environment or consumptive water users wait for risky projects decades in the making when so many cheaper and faster options exist?

The salient fact experienced as the agencies evaluate the feasibility of new surface storage is that none of the interests who unceasingly promote the construction of new dams are willing to be identified as beneficiaries who should in any serious way contribute to the costs of these facilities.

But anyone who follows the state of the Federal budget—not to mention California's budget problems—has to conclude that the days of Federal or state subsidies for expensive new infrastructure are past. This is especially true when the local cost-share is insufficient or non-existent.

As Assistant Secretary Bennett Raley recently told the Rocky Mountain News, "There is no money for building new dams. The areas where there are pressures for more water are going to be the ones that pay for the infrastructure."

Finally, I would like to discuss ways to improve water supply reliability that are more environmentally sound and economically efficient.

When normally adversarial interests such as the Bush administration and environmental organizations agree, it's worth sitting up and taking notice. That's what is happening in terms of developing a long-term, proactive vision for managing scarce water resources in the semi-arid western states.

In launching the Administration's Water 2025 initiative earlier this month in Denver, Secretary of the Interior Gale Norton's message was that conservation, not dams, is the key to future water management. Water 2025 emphasizes the central role of conservation, efficiency, markets and improved technology in meeting changing water demands.

I wholeheartedly agree with the Secretary's list, and I would add to it a fundamental new principle for California: local self-reliance. The competition between local and out-of-basin uses of water, the fragility of the Bay–Delta/Central Valley watershed environment, the uncertain effects of climate change on the state's already highly variable hydrology, and the need to secure a greater share of local funding sources for new water supply initiatives, all encourage a shift toward less-

ening each region's dependence on imported water supplies and maximizing the more efficient use and reuse of existing supplies and of existing storage capacity. That in fact is the trend being followed by the managers of some of the state's largest water districts, who have been investing heavily in implementing urban conservation best management practices, wastewater reclamation and most recently desalination.

The CALFED Record of Decision set a target of investing $1.5 to 2 billion in state and Federal funds (with an equivalent cost-share from local sources) for water use efficiency and wastewater reclamation in the first seven years of Stage 1. The ROD notes that "the Stage 1 investments reflect the fact that many of the water use efficiency measures can be brought on line in a relatively short time frame" (p. 64) and estimates the annual cost of implementing urban water conservation measures at $150 to $450 per acre-feet. Securing adequate Federal and state funding to implement this ROD commitment represents the quickest and cheapest way to create significant new water supply in California, and one that will be fully matched by local interests.

Desalination is the next water supply frontier. Although there remain important environmental and energy issues to be addressed, desalination has improved dramatically in recent years. The Metropolitan Water District of Southern California offers a $250 per acre-feet subsidy to districts implementing desalination pilot projects. The subsidy is cost-effective because the price of desalinated water, once prohibitively expensive when the technology was new and untested, is now roughly equivalent to the cost to Southern California of imported water, but represents a more reliable source. Technology improvements and competition for supply will soon make desalination cheaper and far more attractive than imported water. MWD is considering raising its target for new supply from desalination projects to 150,000 acre-feet (or equal to the estimated yield of most proposed surface storage reservoirs).

There are also millions of acre-feet of unused storage capacity in the least expensive, least impactful, "pre-fabricated" reservoirs ever used—namely, the vast groundwater basins of the Central Valley. The CALFED Record of Decision set a target of facilitating and funding groundwater and conjunctive use projects with a total of 500,000 to 1 million acre-feet of additional storage capacity by 2007. Implementing these projects will allow for the increased operational flexibility and local self-reliance that water managers need in the current environment.

And it doesn't take new surface storage facilities to fully exploit these groundwater opportunities. Recent studies by the Natural Heritage Institute for the Bureau of Reclamation indicate that re-operating the nine largest existing Central Valley reservoirs to recharge groundwater basins could create an average annual additional yield of one million acre-feet. That is enough water for as many as 10 million residential customers. (More information on these studies is available online at www.conjunctiveuse.org).

To be most effective, these water management tools must not be used in a piecemeal fashion but implemented according to a coordinated and comprehensive planning effort. For instance, a two year study by the URS Corporation for the Friant Water Users Authority and a coalition of environmental and fishing groups headed by the Natural Resources Defense Council found that about 400,000 acre-feet of new supply could be created on the east side of the San Joaquin Valley by a combination of reservoir reoperation, long and short term water purchases, efficiency improvements, downstream recapture of releases, and groundwater banking. The cost of implementing this approach is significantly less than relying on new surface storage. (The full study can be downloaded at www.dpla.water.ca.gov/sjd/sjrmp).

Pursuing a combination of conservation, desalination, groundwater banking, and a regulated water market would allow California to obtain a more reliable water supply and greater actual yield than all of the surface storage projects proposed for evaluation by CALFED or the Bureau of Reclamation, at a fraction of the cost. Continued Federal funding and support for conservation, desalination, and groundwater banking programs provides the impetus for innovative and cost-effective new projects that attract significant local funding and can help increase the resilience and flexibility of the state's water supply system because they can be implemented in the near future.

Again, thank you for the opportunity to make these comments.

Mr. CALVERT. Nicole Van Vleck of the Northern California Water Association, you are recognized.

STATEMENT OF NICOLE VAN VLECK, NORTHERN CALIFORNIA WATER ASSOCIATION

Ms. VAN VLECK. Thank you, Mr. Chairman and Subcommittee members. I am a rice farmer, and I am a managing partner and owner in Montna Farms in Sutter County, California. I represent today the Northern California Water Association as a Director on their board, and we appreciate the opportunity to testify today on the positive efforts that are now under way to implement the Sacramento Valley Water Management Program.

The program is a grass-roots, collaborative effort to increase water supplies and provide environmental needs in the Sacramento Valley. Most notably, this regional program is built upon local partnerships in the Sacramento Valley that has really led to unprecedented collaboration with historically warring parties here throughout California, including southern California, the San Joaquin Valley, the central coast, and certain parts of the Bay Area.

The ability to transfer water is critical to this program's capacity to meet the unmet demands in the Sacramento Valley and to help improve our water supply and our quality—water quality here throughout the State. Essential to any water transfer is the recognition of the fundamental property rights for those who hold water rights. The importance of water rights to local communities is also extremely dependent upon these area-of-origin water resources, and also the belief that the actual water right holder should determine the disposition of the water right to be transferred.

NCWA represents 70 water suppliers, such as districts and user water companies and individual landowners that rely on the waters of the Sacramento, Yuba, and Feather Rivers and its smaller tributaries and the groundwater to irrigate nearly 890,000 acres of farmland in California's Sacramento Valley. Many of our members also provide water supplies to State and Federal wildlife refuges. Much of this land serves important seasonal wetlands for migrating waterfowl, shorebirds, and other wildlife. We also represent Sacramento Valley counties and the business leadership within the region.

To fully appreciate the significance of the program and set the stage for future implementation, we will provide a bit of background on Phase 8 Bay-Delta proceedings followed by a brief description of the program and its importance as a regional strategy and collaborative effort here in northern California.

The State Water Resources Control Board for the past decade engaged in proceedings to determine the responsibility to meet water quality standards within the Sacramento-San Joaquin Delta. The State board completed Phases 1 through 7 of this proceeding and then focused on Phase 8 involving the Sacramento River and its tributaries. And in the proceeding, DWR and the Bureau and the operators of State and Federal export projects claimed that certain water right holders in the Sacramento Valley must either cease their diversions or release water from storage to help the water quality standards within the Delta.

The Sacramento Valley water users, which NCWA represents, strongly believe that their water use has not contributed in any way to the water quality programs in the Bay-Delta, and as senior

water right holders and water users within the watershed and counties of origin, they are not in any way responsible for meeting these standards. However, in light of these divergent positions, proceeding with Phase 8 would have involved highly adversarial administrative hearings and litigation that could have lasted for more than a decade, and, most importantly, these would distract and likely prevent any progress toward really meeting the water supply needs in California, including the CALFED process.

With this in mind, the State board, upon the request of the Sacramento Valley water users, DWR, and the Bureau, and export water users, agreed in April of 2001 to defer the Phase 8 proceedings and, instead, allow the parties an opportunity to develop a cooperative approach to increase water supplies for environmental needs within the Sacramento Valley.

More than 40 water suppliers in the Sacramento Valley have executed the Short-Term Agreement, and as a result, the Phase 8 process was automatically dismissed in January of this year.

Northern California water districts and companies have proposed more than 50 projects that will be part of both short- and long-term work plans, and have been developed by a team of leading hydrologists and engineers to complete this process. The parties are currently preparing a program of environmental review and will jointly seek public funds to implement many of these projects.

The program includes work plans which will comprise an integrative water management package to do the following in northern California:

- Protect Northern California water rights and supplies,
- Facilitate groundwater planning and protections,
- Provide unmet demands within the Sacramento Valley for local needs,
- Provide water use sufficiency measures,
- Develop local water management projects for local use and water quality control plan relief, and
- Finally, propose a sites reservoir as an integral part of a long-term program.

The integrated water management program described includes fish passage improvement, groundwater management, water transfers and exchanges, and flood protection, and is an exciting example of a regional solution for the Sacramento Valley that can only be implemented with State and Federal leadership empowering local interests to take the actions necessary for this program to succeed.

Thank you.

Mr. CALVERT. Thank you.

[The prepared statement of Ms. Van Vleck follows:]

Statement of Nicole Van Vleck, Board Member, Northern California Water Association

The Northern California Water Association (NCWA) appreciates the opportunity to testify today on the positive efforts that are now underway to implement the Sacramento Valley Water Management Program (Program). The Program is a grassroots, collaborative effort to increase water supplies and provide for environmental needs in the Sacramento Valley. Most notably, this regional program for the Sacramento Valley, which is built upon local partnerships in the Sacramento Valley, has also led to unprecedented collaboration with historically warring parties

throughout California, including Southern California, the San Joaquin Valley, the Central Coast and certain parts of the Bay area.

The ability to transfer water is critical to the Program's capacity to meet unmet demands in the Sacramento Valley and to help improve water supplies throughout the state. Essential to any water transfer is the recognition of the fundamental property right of those with water rights, the importance of water rights to local communities dependent upon area of origin water resources, and the belief that the actual water right holder—the owner of the water right—should determine the disposition of the water to be transferred.

NCWA represents seventy water suppliers and individual landowners that rely upon the waters of the Sacramento, Feather and Yuba rivers, smaller tributaries, and groundwater to irrigate nearly 890,000 acres of farmland in California's Sacramento Valley. Many of our members also provide water supplies to state and Federal wildlife refuges, and much of this land serves as important seasonal wetlands for migrating waterfowl, shorebirds and other wildlife. We also represent Sacramento Valley Counties and the business leadership in the region.

To fully appreciate the significance of the Program and to set the stage for future implementation, we will first provide background on the Phase 8 Bay–Delta proceedings followed by a description of the Program and its importance as a regional strategy for Northern California.

BACKGROUND

A. The Phase 8 Bay–Delta Proceedings

The State Water Resources Control Board (SWRCB) for the past decade has been engaged in proceedings to determine the responsibility to meet water quality standards in the Sacramento–San Joaquin Delta (Delta). The SWRCB completed phases 1 through 7 of this proceeding (Decision 1641) and it then focused on Phase 8 involving the Sacramento River and its tributaries. In this proceeding, the Department of Water Resources (DWR) and the Bureau of Reclamation (Bureau), as operators of the state and Federal export projects, claimed that certain water right holders in the Sacramento Valley must cease diversions or release water from storage to help meet water quality standards in the Delta. The Sacramento Valley water users NCWA represents strongly believe that their water use has not contributed to any water quality problems in the Bay–Delta and, as senior water right holders and water users within the watershed and counties of origin, they are not in any way responsible for meeting these standards.

In light of these divergent positions, proceeding with Phase 8 would have involved highly adversarial administrative hearings and litigation that could last for more than a decade. Importantly, these proceedings would distract and likely prevent any progress toward meeting the water supply needs in California, including the CALFED process. With this in mind, the SWRCB, upon the request of Sacramento Valley water users, DWR, the Bureau and export water users, agreed in April 2001 to defer the Phase 8 proceedings and instead to allow the parties an opportunity to develop a cooperative approach to increase water supplies and provide for environmental needs in the Sacramento Valley and throughout California.

B. The Short–Term Settlement Agreement

Building upon the earlier "Stay Agreement," which led the SWRCB to defer the Phase 8 proceedings, the parties in December 2002 executed the "Short–Term Implementation Agreement" for the Program. More than forty water suppliers in the Sacramento Valley have executed the Short–Term Settlement Agreement (Agreement) (see attached list) and it has been executed by the Bureau; DWR; the United States Fish and Wildlife Service; the California Department of Fish and Game; the State Water Contractors representing agricultural and municipal water users in Southern California, the Central Coast and the San Joaquin Valley; and Contra–Costa Water District. As a result of the Agreement, the Phase 8 process was automatically dismissed by SWRCB order on January 31 and the parties are now beginning to implement the Program.

THE SACRAMENTO VALLEY WATER MANAGEMENT PROGRAM

Northern California water districts and companies have proposed more than fifty projects that will be part of both short and long-term workplans that are being developed by a team of leading hydrologists and engineers. Unlike many past efforts, local water users have proposed these workplan projects and they will be managed and controlled by the local interests rather than DWR or the Bureau. Additionally, the parties are currently preparing a program environmental review and they will jointly seek public funds to help implement many of these projects.

The Program will include workplans that together will comprise an integrated water management package that will do the following for Northern California.

• Protects Northern California Water Rights and Supplies

The Phase 8 proceedings were automatically dismissed by SWRCB order on January 31. As a result, DWR and the Bureau remain obligated under SWRCB order to meet the Delta water quality standards. This means that Northern California water users can fully exercise their water rights, which benefits and protects every water user in Northern California upstream of the Bay–Delta. This also allows Northern California water users to immediately begin the management efforts that will be described below.

• Facilitates Groundwater Planning and Protections

The foundation for the workplans is a commitment to conduct local groundwater studies and monitoring throughout the Sacramento Valley to protect Northern California's groundwater resources. This includes groundwater-planning projects proposed by local agencies seeking funding from state and Federal agencies. Additionally, the Agreement and the workplans contain a strong commitment to groundwater monitoring and protections in every Program area.

• Provides for Unmet Demands in the Sacramento Valley

The Agreement recognizes that demands in the Sacramento Valley may vary and that certain demands will need to be provided for within the watershed and county of origin. Preliminary focus will be on the Tehama–Colusa Canal on the western side of the Sacramento Valley, where certain initial water contract qualities were slighted in the 1970's. In addition, these contractors have received as little as 25% of their already short supplies in 1991 and 1992 and only 60% of supplies in 2001. There are also assurances that Feather River supplies can be fully utilized in the Sutter Bypass/Butte Slough region on the east side of the Valley. The long-term workplan will explore other means by which additional unmet demands will be met.

• Provides for Water Use Efficiency Measures

Local water suppliers have identified a number of water use efficiency measures that will be implemented to provide environmental benefits and operations and maintenance benefits for local water suppliers to more fully and efficiently use water throughout the Sacramento Valley.

• Develops Local Water Management Projects for Local Use and for Water Quality Control Plan Relief

Locally developed and managed water projects located throughout the Sacramento Valley will be implemented to provide water quality control plan relief for DWR and the Bureau in below normal, dry and critically dry years. These projects will also help assure that local water needs are met and, if so, water can be made available for export needs. This will include the conjunctive management of surface and groundwater and the re-operation of existing storage facilities.

• Sites Reservoir as an Integral Part of the Long–Term Program

Sites reservoir will be an integral part of the long-term program to meet local needs in the Sacramento Valley, to help meet water quality objectives in the Delta, and to provide water for export or environmental purposes. DWR, the Bureau and local partners in the Sacramento Valley are currently conducting the environmental review and feasibility studies for north of delta offstream storage.

A REGIONAL STRATEGY FOR THE SACRAMENTO VALLEY

The Sacramento Valley Water Management Program provides the foundation for a regional strategy to ensure that local water needs are fully met in the Sacramento Valley while helping to improve water supplies throughout the state. California history has shown that solutions to water problems in the state have been most successful at the local and regional level. The integrated water management program described above, which includes fish passage improvements, groundwater management, water conservation and efficiency, water transfers and exchanges, flood protection, watershed management and environmental improvements, is an exciting example of a regional solution for the Sacramento Valley, but it can only be implemented with state and Federal leadership empowering local interests to take the actions necessary for these programs to succeed.

To fully empower these regional solutions also requires state and Federal funding and the regulatory streamlining necessary to implement these programs. CALFED in its 2001 Annual Report recognized the importance of this Program as a regional solution:

"Regional strategies are also beginning to emerge. From the Sacramento Valley Water Management Program to water quality exchange programs in the Bay area and Southern California, local groups are developing collaborative, multi-purpose projects to meet their most pressing water needs."

We look forward to working with Congress in the efforts that will be necessary to empower regional solutions like this integrated water management program and to help provide the funding that will be necessary to successfully implement this program.

Mr. CALVERT. We thank all the witnesses for their testimony, and now we will get into some questions.

I asked this same question to the prior group we were with this morning in Tulare, and so I will give you the opportunity to answer the same question. The first one is easy:

Should Congress and the public be aware of the Federal expenditures on CALFED-related issues? Does anybody oppose that concept? I didn't think so. So it is unanimous, right, for the record? Everybody says yes.

If yes, is it feasible to consider that, before any money be expended to accomplish CALFED-related projects, that a 30- or 45-day period for Congressional review be conducted? Does that sound like a reasonable idea? Any objection to that?

Mr. BOBKER. Mr. Chairman, no objection, just a clarification. What level of project review are we talking about? I mean, there are literally hundreds of measures that are being implemented through all different kinds of processes. So I just—from an administrative or managerial standpoint, what do you have in mind?

Mr. CALVERT. All these projects would be submitted to Congress for review, and we would have a period of time to either accept them or reject those plans. So it would just give, since we are funding them, we would like to have the opportunity to take a look at those projects.

And so, last, I guess—and this is the most important question. Why is it then that projects involving large-scale construction be reviewed by Congress, but other projects, i.e., ecosystem restoration, watershed protection, do not follow the same requirements for Congressional review? Is there any comment on that? And, do you believe that they should? Greg.

Mr. ZLOTNICK. I would just comment, I want to follow up a little bit on Gary's question. You are talking about new projects or ongoing projects as well?

Mr. CALVERT. Well, ongoing projects usually are staged, and we would still have the opportunity to review how those dollars are expended.

Mr. ZLOTNICK. Sure. And I guess my initial reaction is that Congress, of course, has an oversight responsibility, and I don't think there is anything that would say that that shouldn't take place at whatever level. And the only concern would be that if you had investment in projects ongoing, for example, the San Luis Low-Point project, for us, is one that is a phased project. And, you know, obviously, we would assume that it would stand on its merits, but—

Mr. CALVERT. And, quite frankly, the primary reason for such an issue is that projects that happen that we fund that we hear about later, that happen and we do not have the opportunity to review. So this is something that is important not just to myself, but I know to the Chairman feels the same way and most of us do, that we ought to have an opportunity to take a look at these projects.

And if we are going to fund them, and we believe in a representative Democracy, we should have that opportunity.

Mr. ZLOTNICK. I guess I would just react, I had a conversation with Chairman Pombo in his office last fall, I believe it was. And the whole notion of accountability is something that is very important to all of us. We have heard about the transparency issues, that understanding of how these things tie together and balance. And I think that is something that I and my agency would be very supportive of.

Mr. CALVERT. And we have gone through a prospect budget analysis, we are finally getting some better numbers; we need to understand what we spend and what we are doing. And, Gary, any last comments?

Mr. BOBKER. Well, obviously, I agree with Greg. You know, Congress has the responsibility, has the ability and responsibility to provide a level of accountability that it thinks is appropriate. I think, from a managerial perspective and just from a good public-policy perspective, the difference between a billion-dollar project and a billion-dollar program is a different one. I think that you want to receive information on the billion-dollar project and the billion-dollar program. But the billion-dollar program may be made up of hundreds or thousands of small investments. And do you want to really look at each of those investments or rather provide the guidance and oversight to the program? And I think that is the difference between—

Mr. CALVERT. The answer to your question is yes. And we argue during the appropriation process over small, small projects. Trust me, we get into arguments over $50,000. So we are not immune to that, and we certainly are capable of doing that.

Mr. Herrick, Mr. Majors, I want to hear this correctly; I want to make sure. This is a very important point here. As I understand it, the permanent barriers, you both believe, are extremely important in order to maintain water quality within the Delta. Is that a correct statement?

Mr. HERRICK. Absolutely, Mr. Chairman. It is how we get there which is the question. This year, we had a problem of water levels above, upstream of the temporary barriers. There shouldn't have been a problem upstream. And the modeling which DWR does did not predict it and still does not predict it. So we are very concerned that the program that we developed for 20 years that we think is the mitigation and the protection for us, there may be something wrong. And so that is why we caution, fix first, then increase.

Mr. CALVERT. Well, we have the supposed fixer here. Mr. Majors, any comment on the difference between the temporary barriers and the permanent barriers?

Mr. MAJORS. Well, the difference between the temporary and the permanent barriers are the permanent barriers have the ability to store a lot more high-tide water. OK? They give you a lot more flexibility in that regard. John mentioned the recent problems upstream is calling into question the use of the permanent barriers. There is really three things that you have in place to make those barriers operate. One is the barriers themselves, where you trap water at high tide and make water available to the farmers. But the other is extra little contingencies that I would call them, like

upstream dredging to create more depth, for example, and deepening of diversions, and even portable pumps, for example, in a real critical period.

So I have got a feeling what is going to happen, as we go through this over the next few years of development, is you will have a suite of, perhaps you would call it, additional contingencies on top of the barriers for selected situations. And I think that is how you are going to see it play out.

So I think there are answers. Clearly, there are answers here, but we have to be aggressive in applying them all.

Mr. CALVERT. My time has expired. I will have some other questions with regard to that.

Mr. Pombo.

Mr. POMBO. Thank you, Mr. Chairman.

Mr. Majors, just while we are on you; just so I understand, though, your answer, you support the fix before the increase in pumping? I mean, that, one has to follow the other. Am I accurate in that?

Mr. MAJORS. Well, I am just going to say, as currently planned in the program, once you have a certified EIR/EIS for 8,500 csf of diversion out of the South Delta, that will start operating. However, it will start operating under the very limited conditions of temporary barriers. So it is not going to be a full operation that you would experience when you have the permanent operable barriers. It gives you more flexibility. So—and then I go on to say, when I look at the gap between the time that the certified EIR is done, 2004, and then the implementation of the permanent barrier, 2008, it really brings the question before us, can't we do it quicker? So—

Mr. POMBO. I think you understand my concern or hesitation. You have a very interesting presentation that you have put together, very informative. And when you look at all of this that you have put together, this is all in my district. So, obviously, I have a very high rate of interest in this.

Mr. Bobker, I read your testimony, your full testimony with interest in trying to figure out what your position was on a lot of these different issues. You talk extensively about the San Joaquin, which is also in my district, and one of the things you talk about in your testimony is waste water reclamation, desalinization, conservation, you know, a number of other things. And in your testimony you state that the ROD supported this, that there should be funding behind this. You lean heavily on that in your statement here. In regards to the San Joaquin, how does that replace the need for water management upstream on the San Joaquin in terms of developing new water sources there so that we can restore the San Joaquin?

Mr. BOBKER. Well, there was a study that was performed for the Environmental Coalition and National Resources Defense Council, Banks, and others for Friant water users which looked at potential sources of water supply to improve water supply conditions in the upstream areas and offset the releases to release from Friant Dam to San Joaquin, which found that many of those tools would help to mitigate impacts of restoring the river and help meet local needs.

For example, desalination. I mean, is that just an urban issue? Well, the fact is that there is brackish and salty waste water from oil refineries and others which, you know, is now recognized as a source of supply, and I think it is an is underutilized one.

Mr. POMBO. But if we are talking about $800-an-acre-foot water, that is not a practical supply for agriculture.

Mr. BOBKER. I don't think it is a practical supply. I don't think that the costs right now are representative of where the costs are going to be. I think desal costs, in general, are going to continue to go down.

Mr. POMBO. I would agree with you on that. I do think that, as technology develops, that that will continue to go down.

Mr. BOBKER. I think there are also—

Mr. POMBO. When you talk about the answers that you come up with in your testimony, there is very little, if any, of that that can happen up the San Joaquin that would allow more water to come down. I think, when you are talking about the Delta as a whole, these help and there is no question that these help. And we have had those discussions in different urban areas in northern and southern California, that it does make a difference to begin to do some of these things. But when you are specifically talking about the San Joaquin, I don't see a close tie-in to these things and being able to release more water through the San Joaquin.

Mr. BOBKER. In the specific case of the San Joaquin above the confluence of the Merced, there is—I mean, we—a lot of things are controversial Valley-wide in southern California. In the specific case of the San Joaquin in Friant, I think there are some other factors in play. There are flood flows that can be captured in a variety of different ways. They can be banked in the groundwater. There is underutilized groundwater capacity there. In fact, there is an overdraft. One of the things that we looked at is the ability to recapture it after its release potentially in the Delta. So when you add that, when you add through the groundwater banking, recapture, recirculation, and the market together, I think that you could actually meet, potentially, all of the needs upstream in restoring the San Joaquin River. Then, again, I commit people to look at the study.

Mr. POMBO. I would have to look at that and try to figure out, how do you get there without doing more than that?

Finally, you support the ROD, the CALFED process, all of that. You have been very involved with that over the years. But let me ask you this, as part of that CALFED process and the ROD, it also talked about increased storage, and, do you support that?

Mr. BOBKER. I support the processes established by the ROD to evaluate new surface storage.

Mr. POMBO. No. I mean building new surface storage, not just evaluating. I mean, actually new surface storage and new net yield.

Mr. BOBKER. OK. Do I support specific projects which are in Delta storage, Los Vacaros, and Shasta Expansion? I am not sure that I am convinced any of them is worth constructing, that any of them pencils out economically; and there are environmental concerns. I am not sure they will survive the environmental documentation process, or in the case of Los Vacaros, survive the voters choice. But I am willing to live by the ROD process as laid out to

evaluate and make decisions about moving forward with them. I think that in the case of the other two surface storage projects, there were major concerns that CALFED identified, which is why they did not decide to move forward with them but rather to simply continue the evaluations. And, again, I am willing to fight those fights within the CALFED process. I think it is, you know, about as fair a process as you are going to get.

Mr. POMBO. Well, I know my time is expired, Mr. Chairman, but I think you can understand the concerns that many of us have that not everybody is getting better together. And that as long as we are doing projects that you like, it is a great process; and if you are doing projects that somebody else likes, that we will fight that out.

Mr. BOBKER. But that is true of everything. It is not just true of—I think everybody focuses on what they don't like. But the fact is, that every stakeholder can point to some part of CALFED and say, you know, oh, I don't like that. That is getting ahead. Where is mine? I mean, I can do that, too. I can run through a number of things that have to do with the environmental water count versus real ecosystem restoration and where the money is going. I think we could look at land acquisition issues and say that CALFED has actually worked with the property owner and land user community to try and make sure that they are doing restoration on public lands first and also doing wildlife-friendly agriculture as a priority. There are a lot of ways that we fight these things out within the process.

Mr. CALVERT. I thank the gentleman. Any other questions? Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chairman.

Mr. Bobker, I was reading your testimony, and I have got to tell you I agree with you in the areas where you are talking about maximizing the more efficient use and reuse of the existing water supplies.

We don't have any new water supplies. And, unfortunately, the problems that this area, Central Valley, has are quite different than the LA area in terms of water delivery, quality of water, contamination. And then I just heard that you have got reports that we are dealing with in our area, with PCVs that go along, just like everybody else in the southern California area.

One of the things that I am concerned about is information that will help all of us work together. And some of the information you have, I would certainly like to sit down and talk to you later. But I am just wondering, what about some of the areas of the Banks Pumping Plant? How do you feel that is going to affect the Bay Area? What is the effect it is going to have? If their increase in water transfers to the southern California area, how is that going to affect the Bay-Delta Area and also the farming community?

Mr. BOBKER. Sure, 8,500—to use the specific example of the use of the currently nonpermitted export capacity, 8,500 in and of itself, I think, is not good or bad. It is how you use it. And the fact is, that under the right conditions, having the excess capacity, I think, could be beneficial. I think we could use it to increase the flexibility of the system to protect, to cut exports when we have a fishery problem and to pump additional water when we have conditions of low risk. So as a tool, potentially, you know, there are some

good things about it. The real concern is about the yield and the guarantees.

And some of the issues that John raised earlier in expressing his concerns about the environmental water count is that there seems to be a presupposition that, no matter what, there is not going to be any impact on the Central Valley Project and the State Water Project. And I am not against the State Water Project giving the Central Valley Project more water, per se. What I have a real problem with is the idea that we are going to use this excess capacity; and if there is any problem, then the public has to pay, to take care of the problem through the environmental water count.

I think that there is a fundamental inequity there. And I think it calls for a new approach. It calls for a different approach to how we use excess capacity, where no one has guaranteed that water, but we actually use it in the best interests of all the different beneficial uses. And, unfortunately, while—you know, it is really funny. I hear a lot of folks that, some who I work with well, some who I am very adversarial with, you know, complain about the regulatory demand and control approach. But, you know, when it comes to 8,500, they want that yield, they want it guaranteed, no flexibility at all there. Well, I recommend the same flexibility for the new tools, the new water supply tools. I don't think anybody should be guaranteed that water. It is the public's water. Let us use it in a way that benefits fish, cities, and farms. And right now, I am not sure we are going there. I think we are going down the old path of, you know, I have got mine, and if you want to get your benefit, you pay for it.

Mrs. NAPOLITANO. Well, one other question, and I will follow up on that, is that you stated in your testimony that the Bureau of Reclamation indicated that reoperating the nine largest existing Central Valley reservoirs to recharge groundwater could create an average of an annual yield of one million acre-feet. Is that being looked at as part of the solution to the water issue, the reuse? We call it recycling in southern California, you can call it water reuse or reuse or whatever. It is the same concept, it is one other tool to be able to get to where we all need to go.

Mr. BOBKER. Well, I think that the Bureau has paid for these studies that you are referring to, and CALFED has actually invested, you know, quite a bit of money. Well, it is not CALFED, it is the Department of Water Resources through Prop 13 in the planning and construction of new groundwater storage. Some pretty exciting studies. The problem I see is that we invest money in some of these things but we don't coordinate it. You know, in order to have a really efficient system, we need to make sure that we are coordinating our groundwater banking activities, our surface storage activities, our Delta conveyance activities. And right now, I am not sure that we have all the tools to do that.

Mrs. NAPOLITANO. Well, what I am hearing, sir, is that we reuse water that is water not going into the river for the river flow or for use by ag or others, so that we are taking water away from the reuse itself by melding it within the river even after it has been treated. Yet, we are saying, put more water, portable water in the river. And it just doesn't quite make sense why we are not utilizing that methodology.

Mr. BOBKER. I am not sure I follow you.

Mrs. NAPOLITANO. Well, in utilizing recycled water, you are not dumping that water, you are putting it back to use, whether it is industrial or commercial use or green lawn or even ag use. It is not going back into the river. Ours goes into the ocean. We have no rivers practically in our area.

Mr. BOBKER. Right.

Mrs. NAPOLITANO. So that the argument is, then the river is not getting that water to sustain it?

Mr. BOBKER. Well, I think that is more of an issue, I think, for the Central Valley. I am not familiar with the impacts of recycling and waste water reclamation on streams in southern California. My sense is that it is not the issue that it is elsewhere. But I am really not familiar with the southern California implications.

Mrs. NAPOLITANO. Well, I am looking at this area being a little more concerned about all water recycling, all water use, all water conservation, and all water storage including the low ground, rather than above ground, for issues of evaporation, et cetera.

Thank you, Mr. Chairman.

Mr. CALVERT. Thank you.

Mr. Herger.

Mr. HERGER. Thank you. Thank you, Mr. Chairman.

I would like to follow up if I could, Mr. Bobker, on some questioning that Mr. Pombo had, and really seek your support, if I could, your cooperation working with this.

CALFED, which I know you are an important part of, the premise of it to begin with was that we would all get well together. And I am very blessed to represent one of the richest agricultural districts in the world with some two-thirds of the water in the State of California either originating or flowing through our 2nd Congressional District down the upper Sacramento Valley. The good news is that we have plenty of water. The bad news is that it all comes in the wintertime. The good news, again, is that we have this incredibly good growing season where it doesn't rain in the summertime. And, fortunately, those who came before us had the foresight to put reservoirs in that can store it in the wintertime, or at least some of it, so that we could use it, utilize it during these desert condition times in the summertime. The bad news, again, is that the last reservoir, major reservoir, we put in was more than about 30 years ago. And during that period of time our population of our State has almost tripled.

And I guess my question is, we have been talking about storage. And I know the CALFED talks about Sites, which is offstream. I understand that it has a number of positive environmental pluses in that it would help the fish in a number of ways and help protection during critical migration periods allowing water for it, also additional water quality in the Delta which would be helpful to the environment.

My question is, would you be able to help us with this and the raising of Shasta, but first of all with the Delta or with the Sites? Could we somehow work together and not maybe have a society that has put men on the moon and brought them back again, again some 30 years ago? I would think that we could work together and not be suing each other so much so where we wouldn't make it

completely infeasible to build these reservoirs. Is there some way you could work with us, rather than against us on this?

Mr. BOBKER. Well, with all due respect, Mr. Herger, I have been and many of my colleagues have been working together with our colleagues in the hydrolyte brotherhood and sisterhood. I mean, that is what CALFED is all about. I mean, I spent much more time than I care to remember, you know, working through the CALFED process and trying to come to collaborative and consensus solutions to problems. It doesn't mean we are going to agree on everything. We continue to have major environmental and economic concerns about things like Sites Reservoir. I will point out, though, that I think there are some other—I think there are other approaches that need to be utilized. I think that groundwater management in the Sacramento Valley could be dramatically improved. And while I have concerns about the long-term management, the long-term planning process of the Phase-A process, the Sacramento Valley Water Management Agreement, I think that the short term has been very positive. And, you know, I really give credit to those folks who are looking at all kinds of innovative new projects. And I think that is the way to go, and I think we need to see how successful those are.

I note also that, you know, one assumption that is dangerous to make is that population growth means an equivalent amount of water supply development. One unit of water does not equal one person. We have seen that in southern California. We saw that in Los Angeles, where the population went up and up and up, but water use remained stable. The fact is that as we become better water managers, we use our existing supplies more efficiently. And that is, I think, incumbent both just as good public policy, but also as California's Constitution requires, I think that is something we really have to prove. And we haven't gone the full nine yards on using our water efficiently. That is my personal belief.

I will also note that in the Sacramento Valley, that, you know, the major users, the Sacramento contractors, the CVB, you know, in most years don't use their full entitlement. And in fact, you know, so I am not sure that the crisis is there that people think there is. But we have been, as I say, the bottom line is that we are working to define the places where we can meet on things like how do we manage groundwater, how do we reoperate the system so that we meet all our needs? And we will continue to do that.

Mr. HERGER. Now, I happen to agree with you; I think there is much we can do and much we are doing. And I do want to commend you in the areas you are working with us to conserve. There is much we can do to be more efficient. But would you agree that when a State almost triples and will almost double again in the next 20 years, that there comes a point when we have basically conserved all we can conserve; that we, basically, become efficient as we can become, and there comes a time when we need more reservoirs to store more water? Would you agree with that? And is there some way that you could, rather than fighting against us on Sites Reservoir, that you could work with us on that, as well as the conservation part, which I believe there is a limit? And many feel we are approaching that limit right now?

Mr. BOBKER. Is there a time when you run up against the, you know, sort of the maximum of conservation? Well, probably. I just don't think we are anywhere near there. I mean, I really think we are—

Mr. HERGER. How close do you think we are? Let us say it takes 15, 20 years when you start a project to finish it. Do you think within the next 10, 15 years we will be there if we started building it now? Or, what do you think? Thirty, 50? What is the radical environmental community's slide on when that time is?

Mr. BOBKER. Well, I can't speak for the radical environmental community.

Mr. HERGER. Well, I will take your answer.

Mr. BOBKER. I will speak for the sellout environmental community.

Mr. HERGER. When is it? I mean, 50, 100 years? Is there any period of time there? Does the State grow by triple, five times, a hundred times? Is there any time there where you think that you would support a Sites, which they say is going to help the environment?

Mr. BOBKER. Well, again, you know, I disagree with the fundamental analysis of the benefits that Sites will provide.

Mr. HERGER. No matter how much the State grows in population?

Mr. BOBKER. Well, a bad choice is a bad choice.

Mr. HERGER. What is your good choice of getting more water once we run out? Is there a good choice?

Mr. BOBKER. Well, I do not think that we have run out of water. I think that there are many options for us to use it more wisely. But the final point I want to make is that—and again, I hear all this, food for your thought, which is just that things like Sites only work very well—I mean, if every year was January 1997, where we had this huge flood, yeah, you could take water out of the system. Who cares. Right? But that is not the way the system works. Most of the time, we don't have that kind of surplus. And the only way that facilities like Sites make sense is if you start taking water in time periods when it actually has an effect on the environment and on downstream water users. So ultimately, those facilities don't work very well, and we think we really need to look at the other tools and maximize those.

Mr. HERGER. So basically, you never see a time when you would see a new reservoir, more storage, no matter how big the State got, regardless?

Mr. BOBKER. I will not categorically state that I would never support a new surface storage reservoir. I will not say that.

Mr. HERGER. But you can't see any time in the future, no matter how far it is, that you could estimate that that might be?

Mr. BOBKER. I currently would support the use of the Tulare Lake Bed as a surface storage reservoir.

Mr. HERGER. Thank you, Mr. Chairman.

Mr. CALVERT. Thank the gentleman.

Ms. Martel—Dennis, excuse me. I am sorry.

Mr. CARDOZA. Thank you, Mr. Chairman.

I have been gearing up here for quite a while. I will explode if I don't talk very quick here.

I want to start by asking a question to the representative from the Metropolitan Water District, Mr. Majors. I understand that one of your representatives, Mr. Quinn, recently met with representatives from the San Joaquin River Exchange contractors and from the Friant Water Users Authority. At the meeting, he indicated that MWD was prepared to support further developments of storage projects on the upper San Joaquin. Can you give us your take on that, on the record, please, sir?

Mr. MAJORS. My understanding of the meeting was that there were issues raised regarding could any beneficial supplies that are developed in that region be helpful to a Metropolitan Water District. And I think we have an open mind on that in terms of how it could benefit us from, say, a water quality exchange, you have heard of that kind of concept, where we are trading Sierra water for the State Water Project water. And those things are being considered. I think we are in a curious mode at this point and have an interest.

Mr. CARDOZA. OK. Thank you.

I have to—based on this morning's hearing that we were at and this hearing where we heard Mr. Bobker's testimony, I think we shouldn't purse words, sir. I think that what we are seeing is a very concerning trend to me that the environmental community has gotten its projects or is going to get its projects front-loaded, and there is a plan to oppose any kind of additional storage, any kind of additional projects that are going to put more water in the process. And you support conservation, you support—well, I support that, too. I think we need all these things, but I have to tell you that I think that what is happening here is very disingenuous. I think that there was an agreement that, you know, we were going to move together, and now there is, I sense it, there is a backing away. And I have been pushing the water user community when I was in the legislature in a sense to get at the table, come to an agreement, work with the environmental community, and I have got to tell you that they were frustrated a lot of the time. And now, just today, it has become much more sharply into focus of why. Because every time there is an agreement, it seems like there is a backing away. And there is a serious credibility issue. I heard it this morning, that is why I raised it at that hearing, and I mentioned it in my opening remarks, and I have got to tell you that I am very concerned about the process based upon the kind of testimony I heard from the environmental community both in Tulare and from you, sir, today.

Mr. BOBKER. Mr. Cardoza, I would like to make two points in responding to you. The first is that, actually, CALFED is often described as getting better together. That is not quite right.

CALFED was established for restoring the ecosystem and protecting beneficial uses, and to address problems that needed to be addressed. The fact that ecosystem restoration projects are moving forward is because we have a highly degraded ecosystem that is in big trouble, and the fact that it was in big trouble was interfering with the operations of water projects and having other effects that people were not very happy about, and they wanted to have a proactive response. So there is a some good reason for why environmental protection efforts moved forward.

The second thing I want to say, and I want to make this very clear, is that I don't know what the source of your information is, but if anyone is telling you that the environmental community made a deal that, in return for environmental projects moving forward that they would support a water management solution that included new surface storage, then you are receiving falsehoods because that is not true. I and other representatives of the environmental community from the very beginning—

Mr. CARDOZA. But, sir.

Mr. BOBKER. —of the process—

Mr. Cardoza. Wait. It is my time. I have not heard anything that has come forward in the hearings today where anyone is coming forward and saying, well, we will support this. You won't go on record as saying you will support anything. There is a sincere lack of positive commitment that is coming from the environmental community that I have heard to anything that is progressive to deal with the population problems Mr. Herger is talking about—there is real growth coming—and I have got to tell you that I am somewhat distressed by that.

Mr. BOBKER. We disagree on the nature of the proper responses to deal with the competing demands for water. We don't think that the one-size-fits-all tool that everybody is harping on is the right one. We think that there are more cost-effective ways to do it, and we think that there are ways that have less environmental impact, and we think the analysis bears it out. I will also point out that everybody has things they don't like. There are Representatives here today who would say they don't like the environmental water count, they don't like the ecosystem restoration programs and land acquisitions. They don't like—there are all things that we have problems with.

Mr. CARDOZA. Well, there certainly are different issues that we need to deal with. South Delta has sincere issues that we need to deal with. There are a number of issues. There are issues that we need to deal with. But to say that you can't tell us anything you are for, you want it all on your terms, is the way I am reading the testimony today. And it makes others who want to do the right thing not be willing to negotiate and make a deal, because, frankly, you have to be able to make a deal. And if you are not ever willing to keep a deal—and that is what I have heard today. I have heard that we have sort of gone down paths, but it has always got to be on our terms. And I think there has got to be a more balanced approach. And I am just not hearing the balanced approach. I am an environmentalist, sir. I mean, I really am. I used to live on—

Mr. BOBKER. And I am a water user.

Mr. CARDOZA. Absolutely. And there has to be a balanced approach between those two issues, and I am not hearing it. And it is frustrating to me, because I don't think that we are ever going to get to the solutions that this State needs as long as that attitude persists.

Mr. CALVERT. Thank the gentleman.

I want to get right back to you, Ms. Martel.

Mr. Bobker, I assume you are opposed to the Feinstein legislation?

Mr. BOBKER. I think the Feinstein legislation could be improved. I understand that—

Mr. CALVERT. Sir, for the record, are you for it or against it, as it stands today?

Mr. BOBKER. As it stands today, we would not support it. No.

Mr. CALVERT. And you don't support it because it has Sites Reservoir on it, the Shasta Expansion, and other water storage capability within the bill?

Mr. BOBKER. No. We think that the issues about the funding for facilities needs to be addressed.

Mr. CALVERT. You don't believe that Federal money ought to go into water storage capability?

Mr. BOBKER. Well, I think that unlike other water, the many other water management tools that we do support, this one seems to attract a very low match.

Mr. CALVERT. For the record, your institute falls against the Feinstein legislation.

Ms. Martel, during the process of—and I assume this is a very large undertaking, Hetch Hetchy, and I think it is a noble goal that you have to improve water quality and delivery to the people of the San Francisco area. Are you through all your environmental documentation at this point?

Mr. MARTEL. No, Mr. Chairman. Actually, we are in the preliminary stages, and that is the reason why, as I discussed earlier, that we are seeking a collaborative approach to all the regulatory reviews and environmental process at this stage in time to pave the way so that we can meet, complete our program.

Mr. CALVERT. Well, I understand that the road that you are traveling down, you expect—now, you have people that are opposed to your improving this system and to make sure that it is ready for the future population of the San Francisco area and the people who live there presently?

Ms. MARTEL. Well, frankly, Mr. Chairman, some of the same issues related to the environmental community that we have just been listening about are going to confront us as we move forward with our program.

Mr. CALVERT. That is a surprise. Now, when you had your bond issue, what was the vote of the bond issue to pay to improve Hetch Hetchy? How much did the people vote to approve that bond issue? What is it $1.6 billion?

Mr. MARTEL. Yes, Mr. Chairman.

Mr. CALVERT. What was the percentage of that?

Mr. MARTEL. About 53 percent of San Francisco's voters approved that.

Mr. CALVERT. So a majority of the people who live in the San Francisco area support this project?

Mr. MARTEL. Yes, indeed, they do, Mr. Chairman. And 29 of our wholesale agencies, serving about 1.4 million people, are contributing $2 billion.

Mr. CALVERT. A considerable amount of money.

Mr. Zlotnick, in your area, you have a little reservoir there and you want to make it bigger. Isn't that correct?

Mr. ZLOTNICK. Are you talking about San Luis?

Mr. CALVERT. I am thinking of nearby, the Los Vacaros.

Mr. ZLOTNICK. In Contra Costa.

Mr. CALVERT. What is that, at 500,000 acre-feet, presently?

Mr. ZLOTNICK. I believe so. It is not my district, so.

Mr. CALVERT. Is 100? They want to go to a 1.5 million, I think.

Mr. ZLOTNICK. And then the board of directors just recently decided to put that—

Mr. CALVERT. Put it on the ballot. What did it pass by the first time?

Mr. ZLOTNICK. Anyone back there know?

Mr. CALVERT. I guess you could ask Mr. Pombo; it is in his district now.

Mr. ZLOTNICK. I think it was—I don't think it was as close as 53 percent.

Mr. CALVERT. I think it was over 60 percent.

Mr. ZLOTNICK. At that time, I think it was. Now, the big issue there is the benefits where it would go.

Mr. CALVERT. And every one of us at this table are elected officials. Every one of us. We stand election, we understand, I think, the political consequences of the decisions we make. And I was here, as Mr. Pombo was here, as Mr. Herger was here, when the original CALFED deal was approved. And all of us, I believe, or at least Richard and I, know. And I don't know about Wally at the time; he can testify to that. But we stood behind the CALFED process because we believed there was a deal—that there was a deal, that we wanted to get through this process together to develop additional water. So I just want to make sure that we put that on the record; that we are here, I think everyone on this panel is, that we believe there is a water problem in this State, and we are trying to figure out a way to take care of it in a reasonable way and not to be unreasonable about it.

With that, is there any other questions for this panel? Because I know that we have to move on here to the next panel so we can all get on our airplanes.

Mrs. NAPOLITANO. One question for Mr. Forster, please.

Mr. Forster, how does the Regional Council for Rural Counties feel about increasing the pumping of the Banks, the pumping plant?

Mr. FORSTER. I think we could support that if some other solutions were brought into the process. As you know, the CALFED, the scope in CALFED doesn't include many of the 29 counties within RCRC. Namely, if you look at the Trinity Basin, the Klamath Basin, Mono Lake, Imperial, all of those areas are not included within the scope of CALFED. So we don't believe CALFED goes far enough, we don't think it provides a solution for the whole State of California.

Mrs. NAPOLITANO. Fair enough. Thank you.

Mr. CALVERT. Any other questions?

Mrs. NAPOLITANO. One more statement. And that is, the last is, southern California goes on very, very crucial water conservation when we have drought; and yet, I lived in Sacramento for 6 years, never paid water. I wish that were the case in southern California, because let me tell you, it is not only expensive, but it is very, very critical for us. It is our drinking water. It is water that we have to rely on. And with the many, many contaminated sites that we

have found, both aquifers and above ground, we are in a fix, too. So keep that in mind when you are talking about water.

Thank you.

Mr. POMBO. Ms. Napolitano, if you would just yield for a second. I understand what you are saying in terms of Sacramento. But that is not typical for northern California. In the city where I was a city councilman, we have very severe water restrictions every time there is a drought, and it is very similar if not more restrictive than what you go through in southern California.

Mr. CALVERT. OK. We thank this panel, and we appreciate your coming out and during this, especially you, Mr. Bobker, being the designated hitter today. Hittee.

We are going to ask our third panel to come up and take their seats. I am going to ask, in the interest of time, while you are taking your seats, we are going to go ahead and have the Bureau of Reclamation give their testimony, and then we are going to get right into questions. We are going to, obviously, allow the other folks here to submit their statements for the record. And, by the way, we will be able to accept additional information in the next 10 days. If some of you would like to submit any additional information, you certainly may. But we will get right into questions because we are under a time crunch here. And with that, everybody got their seats, got their name tags in front of them.

Our witnesses today are Mr. Kirk Rodgers the Regional Director of Mid-Pacific Region, U.S. Bureau of Reclamation. Ms. Karen Schwinn, the Associate Director of the Water Division, Region 9, Environmental Protection Agency. Mr. Mark Charlton, the Deputy District Engineer for the Project Management Planning, U.S. Corps of Engineers. Mr. Michael E. Aceituno, Area Supervisor, Sacramento Area Office. And Chris Nota, Regional Foresters, representing the Pacific Southwest Region, U.S. Forest Service. You know, Chris, you seem so alone over there. If we have an extra mike, or you can share a mike, you can move your seat over there. We don't want you to be all by yourself, especially on the left side of the room.

STATEMENTS OF KIRK C. RODGERS, REGIONAL DIRECTOR, U.S. BUREAU OF RECLAMATION, MID-PACIFIC REGION; KAREN SCHWINN, ASSOCIATE DIRECTOR, WATER DIVISION, U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 9; MARK C. CHARLTON, DEPUTY DISTRICT ENGINEER FOR PROGRAMS AND PROJECT MANAGEMENT, SACRAMENTO DISTRICT; MICHAEL ACEITUNO, SACRAMENTO AREA OFFICE SUPERVISOR, OFFICE OF PROTECTED RESOURCES, NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE; AND CHRISTINE NOTA, REGIONAL FORESTER'S REPRESENTATIVE IN SACRAMENTO, U.S. DEPARTMENT OF AGRICULTURE.

Mr. CALVERT. OK. Mr. Rodgers, you are recognized for 5 minutes.

STATEMENT OF KIRK C. RODGERS, REGIONAL DIRECTOR, U.S. BUREAU OF RECLAMATION, MID-PACIFIC REGION

Mr. RODGERS. Thank you, Mr. Chairman and members of the Subcommittee. As has been mentioned, my name is Kirk Rodgers, and I am the Regional Director for Reclamations, Mid-Pacific Region.

I appreciate the opportunity to appear before you today to discuss the CALFED Bay-Delta Program. Today, my testimony will focus on the Federal authorities employed by Interior to implement the CALFED Program and related activities. I will also address for your consideration the need for further authorizations and the importance of pursuing an overarching CALFED legislation.

I would like to introduce my counterparts who are here today to answer questions from their specific agencies. With me is Steve Thompson from the U.S. Fish and Wildlife Services. And he is also joined by Wayne White. And then also my Assistant Regional Director, Susan Ramos, who are off to my right here.

Before I discuss the subject of authorities, I would like to reiterate Interior's support of the CALFED Program and the concepts imbedded in the ROD. It has been 3 years since the issuance of the ROD, which was in August of 2000. And we have made significant progress in achieving the goals and objectives of the CALFED Program. However, with the creation of the new California Bay-Delta authority, there is a heightened need for program authorization for two things. One is to clarify the Federal role in the governance structure associated with the Bay-Delta Authority. And, two, it would be to fully implement the programs with the breadth and scope outlined in the ROD.

The State legislation mandates that the authority sunset on January 1st, 2006, unless there is Federal authorization. We believe broad CALFED Program authorization will be the most effective approach in clarifying our future participation in the program.

Let me first focus on the authorities Federal agencies are using. Each of you should have received a comprehensive matrix in your packets today. There is data developed by our agencies in there. I would like to apologize that we weren't able to fully complete the table that you sent us in our invitation to testify today, but we are working diligently on that, and we will complete that soon. But we believe the table you have will be a very useful tool toward that end.

The matrix shows that many of the program elements are covered under our existing authorities. The first element on the matrix is the storage program. Reclamation is the Federal lead on the four storage investigations. We believe we have sufficient authority to complete these investigations, and at the last hearing on CALFED you expressed interest in the storage program schedules, and I have those with me today and they should be part of your packets. Assuming that adequate funding and construction authorization is provided, we anticipate construction to be initiated in 2007.

The next program is conveyance. It also shows that we essentially have authority. Together with the State, we are currently working on the South Delta Improvements Program and the DMC, California Aqueduct Intertie. I would like to note that the Federal

participation in the Bank's Expansion to 10,300 would require feasibility authority as would San Luis Low Point.

Reclamation and Fish and Wildlife Service are pursuing water use efficiency projects under CVPIA Authority and Reclamation needs implementation authority to advance water recycling, reuse projects beyond the study level, and additional authority is required to provide grants and cooperative agreements for agriculture and urban conservation projects.

Moving on to water transfers and EWA. No new legislation is needed for transfers, but long-term EWA authorization is needed. And this is one of major areas on which authorization is required.

I am concerned about time. I would just go on to say that in order to implement EWA over the long term, it would be best to have the program authorized as a division in the ROD to provide the necessary flexibility.

The next program listed in the matrix is Ecosystem Restoration Program. Fish and Wildlife Services engaged in numerous aspects of the program, and together with reclamation has established several restoration programs using CVPIA authorization. These programs are integrated with CALFED's Ecosystem Restoration Program, and include things such as the Anadromous Fish Restoration Programs, Spawning Gravel, and Riparian Habitat Restoration, Fish Screening, and others. There are restoration grants that Fish and Wildlife Service has available to it that they have authorities for.

So, for the most part we believe we have many authorities that we presently that—in place and are usable to us. So in summary, I would share with you that your desire to see legislation introduced that would provide Federal agencies with the necessary program authorization to advance CALFED's. Remember, we need it for our role in the Bay-Delta, and would just encourage that we proceed with it on that basis. Thank you again for the opportunity to testify and answer questions at the appropriate time.

[The prepared statement of Mr. Rodgers follows:]

Statement of Kirk C. Rodgers, Regional Director, Bureau of Reclamation, Mid–Pacific Region, U.S. Department of the Interior

Introduction

Chairman Calvert and members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss the CALFED Bay–Delta Program. Last month the Subcommittee was briefed on the CALFED Program Budget Crosscut. Today my testimony will focus on the existing Federal authorities and discretion employed to implement the CALFED Program and related activities. I will also address for your consideration the need for further authorization and the importance of pursuing an overarching CALFED program authorization.

Brief CALFED Background and Support

Before I discuss the subject of authorities, I would like to reiterate the Department's support of the CALFED Program and the concepts embedded in the CALFED Bay–Delta Program Record of Decision (ROD). We particularly support the principle of balanced progress across all elements of the Program. There are four equally important objectives—water supply reliability, levee system integrity, water quality, and ecosystem restoration—that are being implemented through eleven program elements, that need to move forward concurrently to ensure overall Program success. It is important that our Federal role and participation enable us to respond to these program objectives in a balanced manner.

It has been almost three years since the issuance of the CALFED Program ROD in August 2000. During this period significant progress has been made in achieving the goals and objectives of the CALFED Program through the collaborative efforts

of State and Federal resources. However, our ability to move forward on a broad basis is limited until the Program is fully authorized. Furthermore, with the creation of the new State agency, the California Bay–Delta Authority (Authority), there is a heightened need for Program authorization to clarify the Federal role and participation in the implementation of CALFED Program activities. The Authority was established by State legislation to provide a permanent governance structure for the collaborative State and Federal implementation efforts. The State legislation stipulates that the Authority will sunset on January 1, 2006, unless Federal legislation has been enacted authorizing the participation of the Federal agencies in the Authority.

We believe that the most effective approach to clarify our participation in CALFED governance and emphasize the importance of a balanced approach to CALFED implementation is through Federal legislation that provides overarching program authorization. To that end, we share your desire to see legislation introduced that would provide Federal agencies with the necessary program authorization to advance CALFED plan implementation efforts in conjunction with State and local interests.

Federal Authorities for CALFED Program and Related Activities

Attached is a matrix entitled "Federal Authorities for ROD and Related Activities." This matrix displays by CALFED program element: (1) existing authorities; (2) our discretion in interpreting and applying such authorities to meet CALFED objectives; (3) the method of implementation, i.e., contracts, grants, loans, cooperative agreements, direct performance by agencies; and (4) example projects being pursued under the CALFED program. The matrix also identifies areas where additional Federal authority is needed to complete specific activities. The eleven program elements include: storage, conveyance, water use efficiency, water transfers, environmental water account, ecosystem restoration, watersheds, drinking water quality, levee stability, science, and program oversight.

With respect to the Department of the Interior, the Bureau of Reclamation has three primary authorities currently being utilized to undertake CALFED related activities. The three authorities include the comprehensive Central Valley Project Improvement Act (Title 34 of P.L. 102–575), the Reclamation Act of 1902, and the Central Valley Project (CVP) Operation and Maintenance responsibilities. The various sections of CVPIA provide authorities to pursue a majority of the program elements of CALFED including storage, conveyance, water transfers, water use efficiency, and agricultural drainage-related activities. The Reclamation Act of 1902 provides general planning (pre-feasibility level) authority. Pursuant to that authority, we are using our discretion to perform CALFED storage and conveyance activities. Our CVP Operation and Maintenance responsibilities permit us to pursue CALFED activities that directly involve CVP changes in facilities and operation requirements.

Authorities used by the Fish and Wildlife Service are numerous key existing legislation includes he Endangered Species Act of 1973 (16 U.S.C. 1361 et seq., as amended) which provides authority for informal project consultation and establishment of the Cooperative Endangered Species Conservation Fund; the Fish and Wildlife Coordination Act (16 USC 661–667e), which allows administrative contributions and participation in water operations; the Central Valley Project Improvement Act (Title 34 of P.L. 102–575), which provides a mechanism for funding of aquatic and terrestrial restoration efforts; and the Land and Water Conservation Fund (16 USC 4601–4601–11), which authorizes land acquisition for threatened and endangered species, among other purposes.

The Geological Survey is operating under existing program authorities to implement the science program including providing the CALFED lead scientist, improving communication of scientific knowledge, and facilitating the use of best available science.

The matrix is a comprehensive effort by the Federal agencies (ClubFED) actively engaged in the implementation of the CALFED Program ROD. The ClubFED agencies include, with the Department of the Interior, the U.S. Fish and Wildlife Service, the U.S. Bureau of Reclamation, the U.S. Geological Survey, and the U.S. Bureau of Land Management, as well as the U.S. Environmental Protection Agency, the National Oceanic and Atmospheric Administration Fisheries Service, the U.S. Forest Service, the Natural Resources Conservation Service, the U.S. Army Corps of Engineers, and the Western Area Power Administration. Representatives from several of the member agencies are here today and will provide testimony on the details of their respective authorities.

A review of the matrix indicates that minimal Federal authorization is required to implement the CALFED Program. There appear to be three principal areas for which the cognizant Agencies need Federal legislation:

(1) authorization to implement a long-term Environmental Water Account in a fashion that supports the vision and flexibility envisioned in the ROD;
(2) authorization to study and construct Delta levees as identified in the CALFED ROD; and
(3) authorization to establish the Federal role in the CALFED governance structure.

In addition, there are project-specific gaps in agency authorities that need to be addressed in order to fully participate and complete the actions articulated in the CALFED Program. These would be addressed in the normal project development and review process. However, we believe that a broad overarching CALFED authorization would effectively fill these authorization gaps and also underscore the importance of balanced implementation efforts; and more clearly define the Federal role in the CALFED Program governance structure.

Conclusion

Clearly, significant progress has been made under current authorities and appropriated funds to achieve many of the goals and objectives outlined in the CALFED ROD. Specifically, through Federal, State, and public collaborative implementing efforts, progress has been made in improving water supply reliability and the ecological health of the Bay–Delta Estuary, a region of critical importance to California. The Federal authorities that provide our participation to address these efforts have been utilized as reflected in the attached authorization matrix and program element listing. In addition, we are in the process of preparing the expanded authorities table as requested by the Subcommittee. To that end, we share your desire to seek legislation that would provide Federal agencies with necessary Program authorization to implement the CALFED ROD.

This concludes my testimony. Mr. Chairman, I would like to reiterate my appreciation to the Committee and others for continuing to work with the Administration to address the significant water issues facing California. I would be pleased to answer any questions.

Attachment: "CALFED Bay–Delta Program Federal Authorities for ROD and Related Activities"

CALFED Bay-Delta Program
Federal Authorities for ROD & Related Activities
June 27, 2003

Program Element	Program Lead Agency/ Project Agency	Existing Federal Authorization regarding CALFED ROD activities	Needed Federal Authorization	Comments (1) Program/Project Description or Function Authority or Explanation of Discretion, (2) Example Projects and (3) Implementation Method - loans contracts and/or grants/cooperative agreements
Storage	**USBR**			
Shasta Enlargement	USBR	P.L. 96-375 § 2		(1) Feasibility authorized (2) Feasibility investigation underway (3) Implementing through direct Federal contracts
Los Vaqueros Enlargement	USBR	§215, Title II, Division D of P.L. 108-7		(1) Feasibility authorized (2) Feasibility investigation underway (3) Implementing through Federal contracts and cooperative agreements w/ CCWD
Sites Reservoir	USBR	§215, Title II, Division D of P.L. 108-7		(1) Feasibility authorized (2) Feasibility investigation underway (3) Implementing through direct Federal contracts
Upper San Joaquin Storage	USBR	§215, Title II, Division D of P.L. 108-7		(1) Feasibility authorized (2) Feasibility investigation underway (3) Implementing through direct Federal contracts
In-Delta Storage	USBR	Reclamation Act of 1902 - tech assistance	Feasibility Investigation Authority	(1) Require feasibility investigation authority to progress beyond technical assistance activities. (2) Performing appraisal level studies through existing authority (3) Feasibility investigation would be through direct Federal contract
Groundwater Management & Storage	USBR	Reclamation Act of 1902 - tech assistance	Block Grant Authority	(1) Require block grant authority to pass-through funding to a state competitive grant program. (3) Implementing through block grant program.
Comprehensive Water Management Planning	USBR	PL 102-575 § 3408(j)		(1) Authorized to perform general planning investigations. (2) e.g., Integrated Resource Planning (IRP) Investigations (3) Implementing through direct Federal contracts
Farmington Groundwater Recharge Seasonal Habitat Program	USACE	WRDA 1992, § 219, as amended by WRDA 1999, § 595 Environmental Infrastructure		(1) Project directed by Congress
In-Delta Storage and Reservoir Storage	USACE	Senate Resolution, 1 June 1948, within the Delta, (Sacramento-San Joaquin Delta, Special Study) and FC Act 1962, HR 8 May 1964, outside the Delta, (Sacramento-San Joaquin Comprehensive Study)		(1) Feasibility authorized. Feasibility Studies for individual projects submitted to Congress for Authorization. Non-Federal sponsor(s) required.
Conveyance	**USBR**			
South Delta Actions				

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8,500 CFS Capacity at HO Banks	USBR	P.L. 102-575 § 3408(j), P.L. 99-546, Reclamation Project Act of 1939, NEPA		(1) Authorized to plan and implement. (3) Implementing through direct Federal contracts/labor
Temporary Barriers	none			(1) No Federal agency project implementation role for this effort.
Permanent Barriers	USBR	Reclamation Act of 1902 - tech assistance, PL. 102-575 § 3406(b)(5)		(1) Authorized to plan, design and construct 3 of the four barriers: Middle River, Old River and Head of Old River. (3) Implementing planning/design through direct Federal contracts/labor and will cost share with State for construction.
10,300 CFS Capacity at HO Banks	USBR	P.L. 102-575 § 3408(j), P.L. 99-546, NEPA	Feasibility Investigation Authority	(1) Require feasibility investigation authority to progress beyond technical assistance activities. (2) Performing appraisal level studies through existing authority. (3) Feasibility investigation would be through direct Federal contract.
Tracy Fish Screen	USBR	P.L. 102-575 § 3406(b)(4)		(1) Authority exists to conduct feasibility studies and design and construct facility. (2) N/A (3) Implementing through direct Federal contracts.
Protection of Navigation and Local Diversion During Temporary Barriers	USACE	River and Harbors Act of 1946.		Ports of Stockton and Sacramento will monitor and keep USACE apprised of impacts and benefit to ensure navigation interests are not impacted.
Lower SJR Floodway Improvements	USACE	FC Act 1962, HR 8 May 1964		(1) Feasibility authorized, Potential Environmental Restoration Feasibility Study. Non-Federal sponsor required
Fish Screen/Intake at Clifton Court	USBR	Reclamation Act of 1902 - tech assistance	Feasibility,Investigation Authority	(1) Require feasibility investigation authority to progress beyond technical assistance activities. (3) Feasibility investigation would be through direct Federal contract.
North Delta Actions				
Delta Cross Channel Operations	USBR	P.L. 102-575 §§ 3406 (b)(14), (b)(21), § 3406(g)		(1) Authorized for general planning, studies and cooperations currently in progress. (2) Studies through direct Federal contracts/labor, interagency agreements and grants.
Sacramento-San Joaquin Delta, North Delta Improvement Study	USACE	Senate Resolution, 1 June 1948		(1) Feasibility authorized. Currently amending existing FCSA for FC and Environmental Restoration Feasibility Study (Sacramento-San Joaquin Delta, Special Study) with Reclamation Board and DWR.
Lower Mokelumne R. Floodway Improvements (San Joaquin River Basin, Cosumnes and Mokelumne Rivers)	USACE	FC Act 1962, HR 8 May 1964		(1) Feasibility authorized. Potential Environmental Restoration Feasibility Study. Non-Federal sponsor required.
Through Delta Facility Evaluation	USBR	Reclamation Act of 1902 - tech assistance		(1) Authorized to undertake general planning investigations
Interties				

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Program Element	Program Lead Agency/ Project Agency	Existing Federal Authorization regarding CALFED ROD activities	Needed Federal Authorization	Comments (1) Program/Project Description or Function Authority or Explanation of Discretion, (2) Example Projects and (3) Implementation Method - loans contracts and/or grants/cooperative agreements
DMC/CA Aqueduct Intertie at West of the City of Tracy	USBR	Reclamation Act of 1902, Emergency Relief Appropriations Act of 1935, First Deficiency Appropriations Act of 1936, and Reclamation Act of 1937, Rivers and Harbors Act of 1940		(1) Feasibility, design and construction authorized as part of the CVP. 3) Implementing through direct Federal contracts/labor.
CVP/SWP Intertie at Forebay	USBR	Reclamation Act of 1902, Emergency Relief Appropriations Act of 1935, First Deficiency Appropriations Act of 1936, and Reclamation Act of 1937, Rivers and Harbors Act of 1940		(1) Feasibility, design and construction authorized as part of the CVP. (3) Implementing through direct Federal contracts/labor
San Luis Reservoir Low Point Project	USBR	Reclamation Act of 1902 - tech assistance	Feasibility Investigation Authority	(1) Require feasibility investigation authority to progress beyond technical assistance activities. (2) Performing appraisal level studies through existing authority. (3) Feasibility investigation would be through direct Federal contract.
Water Use Efficiency	**USBR**			
Water Conservation Projects	USBR	P.L. 102-575 § 3405(e); § 3408(a), RRA	Authorization as indicated under Comments, item (1).	(1) Require authorization to enter into grants for Ag and Urban Water Conservation Projects for educational purposes and projects that go beyond demonstration and pilot level efforts. Also, require authorization to enter into grants for Ag and Urban Water Conservation Projects for any purposes with non-CVP contractors. (2) Implementing through grants.
	NRCS	Title II of the Farm Security and Rural Investment Act of 2002 § 2301 Environmental Quality Incentives Program (EQIP)		(1) Authorized to enter into competitive grants and provide technical assistance. (2) e.g., Central Fresno project, Lower Colorado River Desert Region project, Grasslake Drainage project. (3) Competitive grants for on-farm conservation activities.
	USEPA	Clean Water Act 104(b)		(1) Research, investigation, demonstrations, training. (3) Limited to grants for pollution projects that are demonstration projects.
Technical Assistance (including Science, Monitoring, Oversight & Coordination)	USBR	P.L. 102-575 § 3405(e); § 3408(a), RRA	Authorization to Provide Technical Assistance to Non-CVP Contractors	(1) Currently authorized to enter into contracts for direct benefit of Reclamation mission. Require authorization to provide technical assistance to other entities including Non-CVP Contractors. (3) Implementing through direct Federal contracts/labor.
Water Recycling & Desalination Projects	USBR	P.L. 102-575, Title XVI	Authorization by Project	(1) Authorization has typically been provided by project for feasibility and construction. (2) e.g., San Jose Area Water Reclamation & Reuse Program, San Gabriel Basin Project, San Diego Area Reclamation, N San Diego Recycling Project, Calleguas Municipal Water District Recycling Project, Orange County Regional Water Reclamation Project, Long Beach Area Recycling Project (3) Implement through Cooperative agreements.
	USEPA	Clean Water Act 603		(1) State Revolving Loan Program (2) Publicly Owned Treatment Works (POTW) construction; estuary protection plan; and non-point source projects (3) Funds must go to state to make loans

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Program Element	Program Lead Agency/ Project Agency	Existing Federal Authorization regarding CALFED ROD activities	Needed Federal Authorization	Comments (1) Program/Project Description or Function Authority or Explanation of Discretion, (2) Example Projects and (3) Implementation Method - loans contracts and/or grants/cooperative agreements
Water Measurement/Transfer Incentive Actions	USBR	P.L. 102-575 § 3405(a); § 3408(a); RRA		(1) Authorized as these activities relate to ways to improve our water conservation criteria under 3405(a). (3) Implement through direct Federal contracts/labor.
Certification & Implementation of BMPs for Urban Water Conservation	USBR	P.L. 102-575 § 3405(a); § 3408(a); RRA		(1) Authorized as certification efforts are tasked to Reclamation evaluation and approval process for Urban CVP Contractors. (3) Implement through direct Federal contracts/labor
CVPIA: financial and technical assistance for managed wetlands	USFWS	P.L. 102-575 § 3406(d)	Require authority to provide grants through CALFED	(1) Require authority to provide grants through CALFED (2) e.g., Water efficiency/conservation planning documents for refuges (accounting for water usage). (3) Implementation is through Federal labor/coordination
Water Transfers	**USBR**			
Increase the availability of existing facilities for water transfers	USBR	Warren Act		(1) Implementing program efforts through existing authorities (3) Implementing through direct Federal contracts/labor
Lower transaction costs through permit streamlining	USBR	P.L. 103-575 § 3405(a)		(1) Implementing program efforts through existing authorities. (3) Implementing through direct Federal contracts/labor.
Maintain a water transfer information clearinghouse	USBR	P.L. 102-575 § 3405(a)		(1) Clearinghouse has been established and is operating. (2) e.g., On-Tap Website (3) Implementing through direct Federal contracts/labor.
Environmental Water Account	USBR, USFWS, NOAA			
Water/Power/Wheeling and Operations	USBR	Reclamation Act of 1937, P.L. 102-575 § 3406(b)(3), ESA, P.L. 81-136		(1) Beyond action that tie to Federal benefits, programmatic authority is needed to implement the program with the flexibility and vision of the CALFED ROD. (3) Implementing through Direct Federal contracts/labor.
	USFWS	Endangered Species Act of 1973, 16 U.S.C 1361 et seq., as amended, Fish and Wildlife Coordination Act		(1) Programmatic authority is needed to implement the program with the flexibility and vision of the CALFED ROD. (2) Reduced state water project exports in winter and spring to protect listed salmon and delta smelt. (3) Implementation through direct labor – coordination with state and federal agencies.
	NOAA	Endangered Species Act of 1973, 16 U.S.C 1361 et seq., as amended; Magnuson-Stevens Fishery Conservation and Management Act ; Fish and Wildlife Coordination Act		(1) Programmatic authority is needed to implement the program with the flexibility and vision of the CALFED ROD. (2) Agency participation in the water operations management team during 2001, 2002, and 2003. (3) Implementing through base funding and annual appropriations.
Ecosystem Restoration	USFWS, NOAA			

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Fish Screen/Passage	USBR	PL. 102-575 §§ 3406(b)(10), (21)		(1) Authorized to implement fish passage/screening actions within scope of CVPIA. (2) e.g., Natomas Mutual Water Co., Sutter Mutual Water Co., and RD 108 Fish Screen Projects (3) Implementing through Federal grants and cooperative agreements.
	USBLM	FLPMA 43 USC 1701 et seq. Endangered Species Act of 1973,as amended (16 USC 1531 et seq.), PL 107-13		Primarily for the management of Public Lands. Involvement would be restricted to areas with Public Lands.
	NOAA	Endangered Species Act of 1973, 16 U.S.C 1361 et seq., as amended; Federal Power Act		(1) Fish screens, Fish passage design and engineering (2) Glenn-Colusa Irrigation District, Banta-Carbona Irrigation District, CVP/SWP Pumps (3) Implementing through annual appropriations.
Anadromous Fish Screen Program	USFWS	PL. 102-575 §§ 3406(b)(21)		(1) Requires authorization to implement actions beyond scope of CVPIA mitigation and enhancement. (2) e.g., Natomas Mutual Water Co., Sutter Mutual Water Co., and RD 108 Fish Screen Projects. (3) CVPIA Implementation through Grants/Cooperative Agreements.
Land/Water Acquisitions				
	USBR	PL. 102-575 §§ 3406(b)(2), 3406(d)(2)		Authorized to implement environmental water acquisitions within scope of CVPIA
	USBLM	FLPMA 43 USC 1701 et seq. Land and Water Conservation Fund Act of 1965, as amended(16 USC 460 et seq.), wild and Scenic rivers Act of 1968, as amended (16 USC 1271 et seq), Federal Land Exchange Facilitation Act of 1988 (43 USC 1716)		Primarily for the management of Public Lands. Involvement would be mostly restricted to areas with Public Lands.
CVPIA, Water Acquisition	USFWS	PL. 102-575 § 3406(b)(2)		Self-explanatory
Land Acquisitions	USFWS	Migratory Bird Conservation Act, The Fish and Wildlife Act of 1956 (16 U.S.C. 742a-742j)		(2) e.g. Lyons Land Management and Faith Ranch Easements (San Joaquin River NWR) Kelly Property Easement (Grasslands Wildlife Management Area (East)
	USFWS	The Endangered Species Act of 1973, as amended (PL 93-205), The Migratory Bird Hunting and Conservation Stamp Act (16 U.S.C. 718-718j, 48 Stat. 452), The Refuge Recreation Act of 1962 (87-714), The Emergency Wetlands Resources Act of 1986 (PL. 99-645), and Land and Water Conservation Fund (16 USC 460l - 460l-11)		(3) Implementation through Grants/Cooperative Agreements

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Integrate State/Federal Ag Programs for Agricultural Sustainability	NRCS	Title II of the Farm Security and Rural Investment Act of 2002 § 2301 Environmental Quality Incentives Program (EQIP)		(1) Authorized to enter into competitive grants and provide technical assistance. (2) e.g., Alameda County Agricultural Enhancement project, Colusa Basin Drain project, Integrated Orchard Management in Butte and Glenn Counties. (3) Competitive grants for on-farm conservation activities.
	USBLM	FLPMA 43 USC 1701 et seq, Endangered Species Act of 1973,as amended (16 USC 1531 et seq.), Soil and Water Resources Conservation Act of 1977(16 USC 2001), Public Rangelands Improvement Act of 1978 (43 USC 1901-1908, The Migratory Bird Act of 1929, as amended (16 USC 715) and treaties pertaining thereto, National Fish and Wildlife Foundation Establishment Act, as amended, (16 USC 3701)		Primarily for the management of Public Lands. Involvement would be restricted to areas with Public Lands.
Local Habitat Restoration	NRCS	Title II of the Farm Security and Rural Investment Act of 2002 §2301 Wetlands Reserve Program		(1)(2)(3) Authorized to enter into competitive grants and provide technical assistance for permanent easements, 30 year easements, and 10 year restoration agreements.
	USBLM	FLPMA 43 USC 1701 et seq, Endangered Species Act of 1973,as amended (16 USC 1531 et seq.), Soil and Water Resources Conservation Act of 1977(16 USC 2001), Public Rangelands Improvement Act of 1978 (43 USC 1901-1908, The Migratory Bird Act of 1929, as amended (16 USC 715) and treaties pertaining thereto, National Fish and Wildlife Foundation Establishment Act, as amended, (16 USC 3701)		Primarily for the management of Public Lands. Involvement would be restricted to areas with Public Lands.
Integrated Flood Mgmt, Eco Restoration and Levee Protection	USACE	FC Act 1962, HR 8 May 1964, outside Delta, and Senate Resolution, 1 June 1948, within the Delta		Feasibility Studies for individual projects that would be submitted to Congress for Authorization. Non-Federal sponsor(s) required
Sacramento-San Joaquin Comprehensive Study	USACE	FC Act 1962, HR 8 May 1964		Feasibility Studies for individual projects that would be submitted to Congress for Authorization. Currently one study is Hamilton City, CA.
EPA authorities can support various elements of ERP, including restoration, invasive species, AG for wildlife, and water quality improvement.	USEPA	Clean Water Act 319h		(1) Non-point source program implementation (2) Implementation of best management practices: TMDL implementation (3) Funds must go to state, which then passes a portion on to other entities.
	USEPA	Clean Water Act 205j		(1) Water quality management planning (3) Funds must go to state, which then passes a portion on to other entities. Limited to planning.
	USEPA	Clean Water Act 104b3		(1) Research, investigations, demonstrations, training (3) Limited to grants for pollution projects that are demonstration projects.
	USEPA	Clean Water Act 601		(1) State Revolving Loan program (2) POTW construction, estuary protection plans, non-point source control projects (3) Funds must go to state to make loans.

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Program Element	Program Lead Agency/ Project Agency	Existing Federal Authorization regarding CALFED ROD activities	Needed Federal Authorization	Comments (1) Program/Project Description or Function Authority or Explanation of Discretion, (2) Example Projects and (3) Implementation Method - loans contracts and/or grants/cooperative agreements
National Estuary Program	USEPA	Clean Water Act 320		(1) National Estuary Program (2) development of San Francisco Estuary Comprehensive Conservation and Management Plan (3) Grants limited to technical work necessary for development of estuary conservation and management plans.
ERP Administration	USFWS	Fish and Wildlife Coordination Act, 16 U.S.C. 661-667e	Require authority to provide grants through CALFED	(1) Program Administrative costs: personnel support to manage ERP Program, travel, and training
Program Oversight and Coordination	NOAA	Endangered Species Act of 1973, 16 U.S.C 1361 et seq., as amended, Magnuson-Stevens Fishery Conservation and Management Act, Fish and Wildlife Coordination Act	Programmatic authority is needed to implement the program within the scope of the CALFED ROD and the new California Bay-Delta Authority.	(1) Program/Project review and recommendation (2) Numerous Sacramento River Basin and San Joaquin Basin restoration projects (3) implementing through base funding and annual appropriations
Watershed	**Multiple Agencies**			
Local Capacity to Assess and Manage Watersheds	USBLM	FLPMA (43 USC 1701 et seq); P.L. 101-512, November 5, 1990, Fast Plan Government, P.L. 106-291, P.L. 101-512, November 5, 1990		Primarily for the management of Public Lands. Involvement would be restricted to areas with Public Lands. Does allow for coordination with others in a watershed with Public Lands. Many Technical Publications in coordination with NRCS and USFS, National Riparian Team available for consultation and community building.
	USEPA	Clean Water Act 319h		(1) Non-point source program implementation (2) Implementation of Best Management Practices: TMDL implementation (3) Funds must go to state, which then passes a portion on to other entities.
	USEPA	Clean Water Act 205j		(1) Water quality management planning (3) Funds must go to state, which then passes a portion on to other entities. Funds are limited to planning
	USEPA	Clean Water Act 104b3		(1) Research, investigations, demonstrations, training (3) Limited to grants for pollution projects that are demonstration projects.
Technical Assistance	USBLM	FLPMA 43 USC 1701 et seq		Primarily for the management of Public Lands. Involvement would be restricted to areas with Public Lands. Does allow for coordination with others in a watershed with Public Lands. Many Technical Publications in coordination with NRCS and USFS, National Riparian Team available for consultation.
	USEPA	Clean Water Act 319h		(1) Non-point source program implementation (2) Implementation of Best Management Practices: TMDL implementation (3) Funds must go to state, which then passes a portion on to other entities.
	USEPA	Clean Water Act 205j		(1) Water quality management planning (3) Funds must go to state, which then passes a portion on to other entities. Funds are limited to planning

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Program Element	Program Lead Agency/ Project Agency	Existing Federal Authorization regarding CALFED ROD activities	Needed Federal Authorization	Comments (1) Program/Project Description or Function Authority or Explanation of Discretion, (2) Example Projects and (3) Implementation Method - loans contracts and/or grants/cooperative agreements
				planning.
	USEPA	Clean Water Act 104b2		(1) Research, investigations, Demonstrations, Training (3) Limited to grants for pollution projects that are demonstration projects.
	USEPA	Safe Drinking Water Act 1444		(1) Special Study and demonstration project grants (3) Limited to grants for study/demonstration projects related to sage drinking water
	USEPA	Clean Water Act		(1) State Revolving Loan Program (2) POTW construction, estuary protection plans, non-point source control projects (3) Funds must go to state to make loans.
	USEPA	Safe Drinking Water Act 1452		(1) State Revolving Loan Program (2) Drinking Water Infrastructure Improvements (3) Funds must go to state to make loans.
SJ Drainage Program	USBR	P.L. 86-488	Authority to participate in drainage activities outside of San Luis Unit.	(1) Enforcing Court ordered activity consistent with the San Luis Act. Authority needed to participate in drainage activities outside of San Luis Unit (3) Implementing through direct Federal contracts/labor.
Land Retirement	USBR	P.L. 102-575 § 3408(h)		(1) Authorized and implementing land retirement program. (3) Implementing through direct Federal contracts/labor.
San Joaquin Basin Action Plan	USBR	P.L. 102-575 § 3406(d)(5)		(1) Authorized and implementing Action Plan in accordance with Interagency MOU and CVPIA. (3) Implementing through direct Federal contracts/labor and cooperative agreements
SJR Reclamation	USBR	Reclamation Act of 1902 - tech assistance	Feasibility investigation Authority	(1) Authorized to perform general planning investigations. (3) Implementing through direct Federal contracts/labor.
Levee Stability	USACE			
Delta Levees Base level of Protection (to P.L. 84-99 Level of Protection)	USACE	Senate Resolution, 3 June 1948, within the Delta, Sacramento-San Joaquin Delta, Special Study	Authorization for Construction	Assumption for construction authorization: Complete Environmental Documentation and commence with Delta levee construction based on ROD commitments of approx. 520 miles of levees constructed to a level of protection of P.L. 84-99. For Feasibility Studies
Delta Levees Special Improvements Projects program 18 Western Delta Island beyond P.L. 84-99 protection due to significance of importance	USACE	Senate Resolution, 3 June 1948, within the Delta, Sacramento-San Joaquin Delta, Special Study	Authorization for Construction	Assumption for construction authorization: Prioritizing the 8 Western Islands based on significance and commerce with islands construction above a level of protection of PL84-99 Approx. 82 miles of levee construction. For Feasibility Studies

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Program Element	Program Lead Agency/ Project Agency	Existing Federal Authorization regarding CALFED ROD activities	Needed Federal Authorization	Comments (1) Program/Project Description or Function Authority or Explanation of Discretion, (2) Example Projects and (3) Implementation Method - loans contracts and/or grants/cooperative agreements
Facilitate use of best available science to make decisions	USGS	42 USC 4331 et seq., 42 USC 7701 et seq, P.L. 101-614; 43 USC 31 et seq, 43 USC 50; P.L. 101-606		CALFED ROD -- CALFED Lead Scientist -- CALFED Implementation MOU
Evaluate program performance	USGS	42 USC 4331 et seq, 42 USC 7701 et seq, P.L. 101-614; 43 USC 31 et seq, 43 USC 50; P.L. 101-606		CALFED ROD -- CALFED Lead Scientist -- CALFED Implementation MOU
Improve communication of scientific knowledge	USGS	42 USC 4331 et seq, 42 USC 7701 et seq, P.L. 101-614; 43 USC 31 et seq, 43 USC 50; P.L. 101-606		CALFED ROD -- CALFED Lead Scientist -- CALFED Implementation MOU
Coordinate existing monitoring and science programs	USGS	42 USC 4331 et seq, 42 USC 7701 et seq, P.L. 101-614; 43 USC 31 et seq, 43 USC 50; P.L. 101-606		CALFED ROD -- CALFED Lead Scientist -- CALFED Implementation MOU. CA State Water Resources Control Board Water Rights Decision 1485 -- Interagency Ecological Program (CALFED Category A) -- formal MOU among participating agencies
	USBR	P.L. 102-575 §§3406(b)(2) and (16) (IEP, CAMP)		(1) CA State Water Resources Control Board Water Rights Decision 1485 -- Interagency Ecological Program (CALFED Category A) -- formal MOU among participating agencies. Also, Monitoring Program under CVPIA. (3) Implementing through direct Federal contracts/labor and cooperative agreements.
	USFWS	Fish and Wildlife Coordination Act, 16 U.S.C. 661-667e)		CA State Water Resources Control Board Water Rights Decision 1485 -- Interagency Ecological Program (CALFED Category A) -- formal MOU among participating agencies.
	USACE	See comments.		CA State Water Resources Control Board Water Rights Decision 1485 -- Interagency Ecological Program (CALFED Category A) -- formal MOU among participating agencies. Require authority to implement effort beyond project specific agency related mission, including participating in CA Bay-Delta Science Program.
	NOAA	Endangered Species Act of 1973, 16 U.S.C 1361 et seq., as amended, Magnuson-Stevens Fishery Conservation and Management Act ; Fish and Wildlife Coordination Act		(1) CA State Water Resources Control Board Water Rights Decision 1485 -- Interagency Ecological Program (CALFED Category A) -- formal MOU among participating agencies. Also, Monitoring Program under CVPIA. (3) Implementing through base funding and annual appropriations.
	USEPA	Clean Water Act 104b3		(1) Research, investigations, demonstrations, training (3) Limited to grants for pollution projects that are demonstration projects
Science Administration	USFWS	Fish and Wildlife Coordination Act, 16 U.S.C. 661-667e) and P.L. 102-575 Sec 3406(b)(2) and (16)		(3) Implementation directly through Federal labor
	NOAA	Endangered Species Act of 1973, 16 U.S.C 1361 et seq., as amended, Fish and Wildlife Coordination Act		(1) CA State Water Resources Control Board Water Rights Decision 1485 -- Interagency Ecological Program (CALFED Category A) -- formal MOU among participating agencies. Also, Monitoring Program under CVPIA. (3) Implementing through base funding and annual appropriations.
Program Management, Oversight & Coordination (Governance)	USBR			

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[The prepared statement of Ms. Schwinn follows:]

Statement of Karen Schwinn, Associate Director, Water Division, U.S. Environmental Protection Agency, Region 9

Good afternoon. My name is Karen Schwinn. I am an Associate Director in the Water Division at the United States Environmental Protection Agency's Region 9 office in San Francisco. I am pleased to be here at the Committee's Elk Grove field hearing to discuss issues related to EPA's statutory authorities available to assist in the implementation of the CALFED Bay Delta Program.

EPA has been an active participant in the CALFED planning process since its inception in 1995 and was a signatory to the CALFED Record of Decision in August 2000 (ROD). Since the adoption of the ROD, EPA has continued to support the CALFED Program through our participation in the implementation effort, especially in the drinking water quality and watershed program elements, where we are one of the Federal lead agencies.

The Federal Authorities Matrix that has been provided to the Committee by the Department of the Interior is a summary of the primary funding authorities that EPA currently has to support CALFED implementation. These authorities are contained in the Clean Water Act and Safe Drinking Water Act. I will briefly discuss

EPA's two largest funding programs currently available to support CALFED implementation. I will then mention several smaller programs that EPA administers directly.

As the Subcommittee knows, EPA is responsible for setting national standards for a variety of environmental programs. One of the key roles of EPA's regional offices is to work with our State and tribal partners as they develop their environmental programs consistent with these national standards and then to delegate responsibility for issuing permits and monitoring and enforcing compliance to them. The State of California has requested and received formal program authorization under both the Clean Water Act and the Safe Drinking Water Act. This means the State is responsible for permitting and enforcement under these statutes. EPA's role is mainly oversight and technical assistance. Consistent with this principle of state delegation, most of EPA's program funding is directed to the States.

The substantial majority of EPA funds available for CALFED implementation are the State Revolving Fund (or SRF) programs under the Clean Water Act and Safe Drinking Water Act. With Fiscal Year 2002 funds, for example, EPA provided approximately $95 million directly to the State of California Water Resources Control Board for the Clean Water SRF Program and will award approximately $80 million to the State Department of Health Services for the Drinking Water SRF Program. Most funds provided to the States under these SRF Programs must be made available to project proponents as loans, not as grants or contracts.

Under the Clean Water SRF Program, EPA provides a grant to the State who, in turn, makes loans to communities, individuals and other entities for activities to improve water quality. As money is paid back into the SRF, new loans are made to other recipients. The program was initially used to build and improve wastewater treatment facilities. Although this is still the largest area of expenditure, loans are also increasingly used for estuary improvement projects, non-point source projects, stormwater run-off controls, water recycling and water conservation. The State has established a priority-setting system, consistent with the provisions of the Clean Water Act. On an annual basis, the State solicits projects and ranks proposals according to their priority system. Their resulting proposed expenditure plan is available for public review and comment. Several projects funded through the Clean Water SRF Program have been noted in the CALFED Cross-cut Budget as supporting CALFED goals and objectives, including water recycling projects and wetlands restoration projects.

The Drinking Water SRF Program was established in 1996 in the amendments to the Safe Drinking Water Act. Like the Clean Water SRF, EPA provides a grant to the state to capitalize revolving loan funds. The State then provides loans to drinking water systems for infrastructure improvements needed to ensure safe drinking water. States may also use a portion of these funds for activities to prevent drinking water contamination, such as enhanced water system management and source water protection. As with the Clean Water SRF Program, the State has established a priority-setting system consistent with the Safe Drinking Water Act and has a public process to solicit and rank projects.

Although there is EPA oversight of the SRF programs, these funds are, by Congressional design, subject to the direction and priorities developed by the States, within the limitations of the statutes. In addition, again because of the deference to the states that is built into these SRF programs, reports back to EPA from the states about how the SRF funds have been allocated are somewhat summary in nature. For this reason, we rely on the state agencies to prepare the project-specific accounting of its SRF allocations for the CALFED cross-cut budget process.

Aside from our grants to the states, there is a relatively limited amount of money that EPA directly controls. In recent years, this has included funding for the National Estuary Program, wetlands protection program, and various Special Appropriations grants included in the Agency's annual appropriations legislation. In these cases, EPA relies exclusively on grants, not contracts. These grants are done under one of several authorities in the Clean Water Act or Safe Drinking Water Act. As indicated on the Federal Authorities Matrix, EPA typically relies on either Clean Water Act Section 104(b)(3) or Safe Drinking Water Act Section 1444 as that grant-making authority. These sections allow EPA to fund studies and demonstration projects that have some nexus to water pollution. To the extent that the CALFED Program intends to fund water quality activities beyond studies and demonstration projects, such as for operating water treatment or recycling plants, the CALFED agencies need to rely on the authorities of the State (using their EPA grant funding as appropriate) or other Federal agencies.

That concludes my prepared remarks, Mr. Chairman. I would be happy to answer any questions that the Committee may have.

[The prepared statement of Mr. Charlton follows:]

Statement of Mark C. Charlton, Deputy District Engineer for Programs and Project Management, Sacramento District, U.S. Army Corps of Engineers

Introduction

Chairman Calvert and members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss authorities and discretion provided to Federal agencies in meeting the goals and objectives of the California CALFED Program. My testimony will focus on the authorities and programs of the U.S. Army Corps of Engineers as well as the capabilities of the Corps of Engineers to support the CALFED program.

The Corps of Engineers supports the concepts in the CALFED Bay–Delta Program Record of Decision (ROD) setting forth the activities to be undertaken under CALFED. In particular, we support the principle of balanced progress across all elements of the Program. Without balanced, integrated progress, conflict and stalemate results and all stakeholders and resources suffer. By implementing a broad range of complementary programs CALFED can maximize the prospects that the interests of all agencies and stakeholders are recognized and addressed.

The high priority missions of the Corps of Engineers, as established by the Administration, are flood damage reduction, navigation, and environmental restoration. The Corps of Engineers is a project-funded agency. Corps districts are funded by project, with only minimal programmatic funding for limited coordination activities. Corps Civil Works projects are cost shared with a local non–Federal sponsor. Corps projects are authorized according to a 2-step process. Initially, a study is authorized and funded. A decision document, such as a feasibility study, is completed and submitted to Congress. Congress authorizes construction based on findings and recommendations in the feasibility report. Funds are only appropriated annually for these studies and projects. Congress also authorized a number of programs for small projects where the Corps does not need to use the 2-step authorization process. This is called the Continuing Authorities Program (CAP).

The Corps of Engineers has no broad discretionary authorities or programs available to support CALFED. The Corps supports the CALFED goals and objectives through the initiation and development of individual studies and projects aligned with the agency's high priority missions. As presented to the Committee at the May 15, 2003, hearing on the CALFED Bay–Delta Program Budget Crosscut, there are Category A and B projects. The Corps has three Category A projects that are directly coordinated with CALFED and over 40 Category B projects that have related and overlapping CALFED program objectives. The three Category A projects are: the Delta Study, a flood damage reduction study that may only have limited ability to meet CALFED levee stability goal; a feasibility study of the Cosumnes and Mokelumne Rivers to address ecosystem restoration; and, an ecosystem restoration construction project in the Delta on Prospect Island. The Prospect Island project is ready for construction but is delayed because of last minute cost-sharing problems.

The Corps has over 20 Continuing Authorities Program (CAP) projects in the CALFED Category B ecosystem restoration program. The Corps currently has an ongoing study for Napa Valley Watershed Management that is aligned with the CALFED Watershed Management program element. The Corps Farmington Groundwater Recharge project is under construction in the Stockton area. The mission's authority for this project was specifically authorized by Congress for groundwater recharge and is aligned with the storage element of CALFED's Category B program. The Corps has many projects in the CALFED geographic solution area that can be characterized as integrated regional water management activities. These projects include: Guadalupe River, Los Angeles County Drainage Area, Napa River Flood Control, Wildcat and San Pablo Creeks, Santa Ana Mainstem Project, Sacramento and San Joaquin River Basin Comprehensive Study, Coyote and Berryessa Creeks, Fairfield/Cordelia Marsh. Finally, Section 509(b) of the Water Resources Development Act of 2000 (WRDA 2000) provides stand alone authority of the Corps to use funds provided by others to carry out ecosystem restoration projects and activities associated with CALFED.

The Department of the Interior has provided a matrix of the "Federal Authorities for ROD and Related Activities"—the Federal partnership deems as the existing and potential authorization required for the implementation of CALFED Record of Decision signed in August 2000. As displayed in the table matrix the U.S. Army Corps of Engineers has project authorizations in the program elements of storage, ecosystem restoration, and Integrated Regional Water Management Plans, but may need additional authority to co-manage several components of the levee system integrity program.

The Corps of Engineers' capabilities are enhanced by its partnering with hundreds of scientific and architect-engineers firms. The Corps relationship with private industry is integral to its success delivering its mission activities to the country that stretch far beyond its mission goals. The Corps has a record of success in bringing complex and controversial projects to successful completion by partnering with and integrating diverse groups of stakeholders. Most notably are the Guadalupe River project in San Jose and the Napa Flood Control project, both award winning projects which are in construction.

Thank you for the opportunity to testify before this Committee. I believe we have an opportunity, working together, to solve the significant water issues facing California. Mr. Chairman and Members of the Committee, this concludes my statement, and I would be pleased to address any questions that you or the Committee may have.

[The prepared statement of Mr. Aceituno follows:]

Statement of Michael Aceituno, Sacramento Area Office Supervisor, Office of Protected Resources, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

Good afternoon, Mr. Chairman and members of the Committee. I am Mike Aceituno, Sacramento Area Office Supervisor for Protected Resources, National Marine Fisheries Service (NOAA Fisheries), Department of Commerce. I am here representing Bill Hogarth, Assistant Administrator for Fisheries at the National Oceanic and Atmospheric Administration. I want to thank you for the opportunity to be here today to address the discretion and authorities granted to NOAA Fisheries to undertake activities related to the California Bay–Delta Program (CALFED).

NOAA Fisheries is committed to the concepts of CALFED and believes that they are consistent with our overall mission: "To conserve our Nation's living marine resources—including anadromous fish." Central to our mission is the maintenance of the health of the ecosystems upon which anadromous species rely within California. CALFED's approach recognizes that, in order to reverse the decline in ecosystem health which has been observed over the past several decades within the San Francisco Bay/Sacramento and San Joaquin Delta watershed, an integrated approach aimed at ecosystem restoration, improved water supply reliability and water quality, and improved levee system integrity is necessary. What we've learned is that management objectives associated with these programs are often interrelated and interdependent and that in the long-term a balanced, comprehensive approach is necessary. NOAA Fisheries recognizes the importance of such an approach and, as I mentioned, is committed to the concept. To this end we have been an active participant in the CALFED process since its beginning in May 1995, and anticipate continued involvement within the framework of the newly formed California Bay–Delta Authority.

I have been asked to address the Subcommittee today regarding NOAA Fisheries' existing authorities and discretion allowing us to perform activities within the CALFED Program under the following categories: water storage, water conveyance, water use efficiency, water transfers, ecosystem restoration, watersheds, water quality, levee stability, science, and water supply reliability. In addition, I have been asked to address the adequacy of these authorities and the need for new authorities to complete activities that NOAA Fisheries is responsible for within the CALFED program.

Existing Authorities related to CALFED

NOAA Fisheries' continued involvement and participation in the CALFED Program are authorized in several statutes: 1) the Endangered Species Act; 2) the Magnuson–Stevens Fishery Conservation and Management Act; 3) the Anadromous Fish Conservation Act; 4) the Federal Power Act; and, 5) the Fish and Wildlife Coordination Act.

The Endangered Species Act (16 U.S.C. 1531–1543; Pub L. 93–205, as amended) authorizes NOAA Fisheries, along with the U.S. Fish and Wildlife Service, to conduct certain activities to provide for the conservation of species which are in danger of extinction throughout all or a significant portion of their range or likely to become so in the foreseeable future. NOAA Fisheries hasis ESA responsibilitye for marine species and Pacific salmon and steelhead. Within the CALFED focus area these include the endangered Sacramento River winter-run Chinook salmon, the threatened

Central Valley spring-run Chinook salmon, and the threatened Central Valley steelhead.

Section 4(f) of the ESA requires the development and implementation of a recovery plans for a listed species if it will promote the conservation of the species., Section 7 requires consultations with Federal action agencies to engage in consultation with NOAA Fisheries for actions that may affect a listed specieson an ongoing basis, to ensure that their actions are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify designated critical habitat for the species.avoid or minimize the impacts of their activities on listed species, and Section 10 authorizes reviews of non–Federal activities which may affect listed species. Both Section 7 and Section 10 provide NOAA Fisheries to allow for the issuance of incidental take of listed species in certain circumstancespermits. NOAA Fisheries is actively working with the CALFED program in the development and implementation of its Multiple Species Conservation Strategy (MSCS) through early coordination and has recently established the Central Valley Technical Recovery Team to develop a Section 4(f) recovery plan for listed salmon and steelhead within the CALFED focus area.

The 1996 amendments to the Magnuson–Stevens Fishery Conservation and Management Act (MSA) (16 U.S.C. 1801 et seq) set forth new mandates for NOAA Fisheries and Federal action agencies to protect important marine and anadromous fish habitat. Federal action agencies which fund, permit, or carry out activities that may adversely impact Essential Fish Habitat (EFH) are required to consult with NOAA Fisheries regarding potential adverse effects of their actions on EFH. Essential Fish Habitat is defined in the MSA as "...those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity...".

NOAA Fisheries regulations further define "waters" to include aquatic areas and their associated physical, chemical, and biological properties; "substrate" to include sediment, hard bottom, structures underlying the waters, and associated biological communities; "necessary" to mean the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem; and "spawning, breeding, feeding, or growth to maturity" to cover a species' full life cycle.

Within the CALFED focus area, the Pacific Fisheries Management Council has delineated EFH for west coast groundfish, coastal pelagic species, and Pacific coast salmon. Pacific salmon occur throughout the CALFED focus area while groundfish and pelagic species occur only within San Francisco Bay and the western extremes of the Sacramento–San Joaquin Delta.

The Anadromous Fish Conservation Act (16 U.S.C. 757a–757g; P.L. 89–304, as amended) authorizes the Secretary of Commerce, along with the Secretary of the Interior, to enter into cooperative agreements with States and other non–Federal interests, to protect anadromous fishery resources. Pursuant to the agreements authorized under this Act, the Secretary may, among other activities, conduct investigations, engineering and biological surveys, and research and study and make recommendations regarding the development and management of streams and other bodies of water consistent with the intent of the Act.

The Federal Power Act (FPA) (16 U.S.C. 791a–828c; Act of June 10, 1920, as amended) provides authority to NOAA Fisheries to recommend conditions to protect, mitigate damages to, and enhance anadromous fish, including related spawning grounds and habitat for those hydropower projects licensed by the Federal Energy Regulatory Commission (FERC). Section 18 of the FPA provides authority for NOAA Fisheries to issue mandatory fishway prescriptions when we determine it necessary to "maintain all life stages of such fish." The fishway prescription requires the licensee to construct and maintain a fishway, which can include project operations necessary for the fishway to function.

Additionally, FERC must ensure that the proposed hydropower project preserves other aspects of environmental quality, and be best adapted to a comprehensive plan for developing the waterway; for providing adequate protection, mitigation, and enhancement of fish and wildlife, and for other public uses. FERC hydropower projects are licensed for 30–50 years, and it is during the relicensing process (or during the original licensing process, in the case of a new project) that NOAA Fisheries exercises our authority, although there are provisions to re-open a license. The FPA presents NOAA Fisheries with a superb tool for restoring access to habitat and for benefitting our trust resources. The science and engineering of fishways and hydropower operations has improved immensely since the time that many of these hydro projects were licensed.

The Fish and Wildlife Coordination Act (16 U.S.C. 661–666c; Act of March 10, 1934, as amended) requires that wildlife, including fish, receive equal consideration and be coordinated with other aspects of water resource development. This is accomplished by requiring consultation with NOAA Fisheries, and the U.S. Fish and Wild-

life Service, whenever any body of water is proposed to be modified in any way and a Federal permit or license is required. This consultation determines the possible harm to fish and wildlife resources, and the measures that are needed to both prevent the damage to and loss of these resources, and to develop and improve the resources, in connection with water resource development. NOAA Fisheries submits comments and recommendations to Federal licensing and permitting agencies and to Federal agencies conducting construction projects on the potential harm to living marine resources caused by the proposed water development project, and submits recommendations to prevent harm.

Summary of NOAA Fisheries CALFED Involvement

NOAA Fisheries has been an active participant in the CALFED Bay–Delta Program since it began in May of 1995 to address the complex issues that surround the San Francisco Bay/Sacramento–San Joaquin Delta estuary and watershed. We were actively involved in the planning phase and helped develop the CALFED Programmatic Record of Decision (ROD), signed on August 28, 2000. Since then, we have continued our involvement through the implementation phase.

Within our existing authorities, NOAA Fisheries' role has been to provide overall program oversight and coordination in cooperation with all CALFED agencies, State and Federal. More specifically, we have been actively engaged, through our Southwest Region, in the development and implementation of the Ecosystem Restoration Program, and the Environmental Water Account. Our Southwest Regional Office and Southwest Science Center have also provided support to the CALFED Science Program. NOAA Fisheries has sat on the CALFED Policy Group, the CALFED State–Federal Management Group and a variety of subcommittees addressing such issues as ecosystem restoration, water supply and water operations, and science.

Adequacy of current authorities and discretion

NOAA Fisheries believes that existing authorities are adequate to provide for our continued involvement in the CALFED Bay–Delta Program and to implement the program within the scope of the August 2000 CALFED ROD. However, in order to fully participate as a member of the newly formed California Bay–Delta Authority, programmatic authorization may be necessary. While we believe that our current authorities are adequate to implement NOAA Fisheries' portion of the CALFED program, any changes to the scope of the CALFED program would require examination to determine the adequacy of existing authorities in implementing the proposed changes.

Mr. Chairman, that concludes my prepared testimony. Again, thank you for this opportunity to appear before you today. I would be pleased to answer any questions you or members of the Committee may have.

[Attachments to Mr. Aceituno's statement follow:]

Existing Authorities for Implementation of CALFED Bay-Delta Program ROD Activities
National Marine Fisheries Service
June 28, 2003

Authorities For Which Agency Authority May or May Not Be Needed	Statutory Authority or Source of Discretion (U.S. Code and Public Law Citations; if any)	Example Projects Conducted Under Authorities
Managing and Restoring Ecosystems and Plant and Wildlife Populations		
Restore aquatic and terrestrial habitats.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq; Fish and Wildlife Coordination Act (16 U.S.C. 661-666c)	1) Upper Sacramento River Restoration Projects; 2) Battle Creek Habitat Restoration; 3) Tuolumne River Habitat Restoration
Restore fisheries (e.g., maximum catch limits, fish screens, and breeding and stocking programs).	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; P.L. 89-304) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq)	1)Various projects - biological and engineering assistance fish screen and fish passage design and engineering; 2) Glen-Colusa Irrigation District fish screen; 4) Livingston Stone winter run hatchery/captive broodstock program
Control invasive species.		
Restore populations of endangered species.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended	1) August 1997 Proposed Recovery Plan for Sacramento River winter run chinook; 2) establishment of TRT to develop recovery goals for all listed salmon/steelhead populations in central valley; 3) various section 7/10 consultations under ESA
Improve water quality (e.g., mitigate salinity and dissolved oxygen).		

Authorities For Which Agency Authority May or May Not Be Needed	Statutory Authority or Source of Discretion (U.S. Code and Public Law Citations; if any)	Example Projects Conducted Under Authorities
Allocate and secure water supplies for fish and wildlife populations.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; P.L. 89-304) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq); Federal Power Act (16 U.S.C. 791a-828c)	1) EWA account - participate in water operations management; 2) CVP OCAP biological opinion implementation.
Restore natural flow regimes in waterways and floodplains.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; P.L. 89-304) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq); Federal Power Act (16 U.S.C. 791a-828c)	
Acquire land for habitat conservation.		
Manage sediment transport.		
Survey and monitor plant and wildlife populations.	Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; P.L. 89-304) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq)	1) Inter-agency Ecological Program participation
Mitigate subsidence.		
Improve agricultural and other soils.		

Authorities For Which Agency Authority May or May Not Be Needed	Statutory Authority or Source of Discretion (U.S. Code and Public Law Citations; if any)	Example Projects Conducted Under Authorities
Monitoring and Evaluation of Projects.		
Establish indicators to evaluate the progress of restoration.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq); Federal Power Act (16 U.S.C. 791a-828c)	1) 1997 Proposed winter run chinook recovery plan; 2) de-listing criteria development for spring run chinook and steelhead.
Monitor progress of restoration and water supply projects.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; P.L. 89-304) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq); Federal Power Act (16 U.S.C. 791a-828c); Fish and Wildlife Coordination Act (16 U.S.C. 661-666c)	1) Implementation monitoring of biological opinions issued under section 7; 2) Battle Creek restoration and Upper Sacramento River restoration (e.g. Deer and Mill Creeks).
Conduct adaptive management.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; P.L. 89-304) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq); Federal Power Act (16 U.S.C. 791a-828c); Fish and Wildlife Coordination Act (16 U.S.C. 661-666c)	
Administer scientific studies and programs.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; P.L. 89-304); Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq)	1) IEP participation; 2) scientific analysis in support of recovery planning; 3) modeling impact of striped bass on winter run chinook; 4) viability analysis for winter run chinook.

Authorities For Which Agency Authority May or May Not Be Needed	Statutory Authority or Source of Discretion (U.S. Code and Public Law Citations; if any)	Example Projects Conducted Under Authorities
Evaluate restoration projects for their ability to accomplish their goals and using best available science.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; P.L. 89-304) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq); Federal Power Act (16 U.S.C. 791a-828c)	1) CALFED restoration project proposal reviews; 2) consultations under ESA sec 7 or 10
Promote environmental education.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; P.L. 89-304) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq); Federal Power Act (16 U.S.C. 791a-828c)	1) Sponsor American River Salmon Festival; 2) Participant in the Coleman National Fish Hatchery annual salmon festival and the Feather River Salmon Festival
Coordinate multi-agency restoration initiatives.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; P.L. 89-304) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq); Federal Power Act (16 U.S.C. 791a-828c)	1) Battle Creek Restoration Program; 2) Implementing agency for CALFED Ecosystem Restoration Program;
Conservation and Alternative Water Supplies.		
Plan water conservation projects.		
Implement best management practices.		
Promote water conservation technologies.		
Plan and implement reuse and recycling projects.		

Authorities For Which Agency Authority May or May Not Be Needed	Statutory Authority or Source of Discretion (U.S. Code and Public Law Citations; if any)	Example Projects Conducted Under Authorities
Plan and implement reclamation and desalination projects.		
Provide technical assistance for urban and agricultural conservation.		
Plan strategies for drought response.		
Flood Control and Water Management		
Conduct feasibility, planning, and design of levees and other flood control measures.		
Construction and modification of levees and other flood control measures.		
Work on levee reinforcement and stability.		
Construct levees for water supply and water quality.		
Provide technical assistance to local communities.		
Plan for risk management.		
Plan and create strategies for emergency management.		
Integrate planning for restoration, flood control, and levee protection.		
Plan and implement the transport, reuse, and disposal of dredged material.		

Authorities For Which Agency Authority May or May Not Be Needed	Statutory Authority or Source of Discretion (U.S. Code and Public Law Citations; if any)	Example Projects Conducted Under Authorities
Water Quality		
Protect drinking water quality.		
Protect groundwater quality.		
Protect surface water quality.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; P.L. 89-304) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq); Federal Power Act (16 U.S.C. 791a-828c)	1) various consultations under ESA sec 7 & MSA
Protect source water for domestic and agricultural uses.		
Mitigate non-point source pollution.		
Mitigate point source pollution.		
Protect water quality for aquatic ecosystems.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; P.L. 89-304) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq); Federal Power Act (16 U.S.C. 791a-828c); Fish and Wildlife Coordination Act (16 U.S.C. 661-666c)	1) CVP/SWP OCAP consultations; 2) various ESA & MSA consultations
Create water quality infrastructure.		
Update water treatment technologies.		
Integrate land and water quality management.		

Authorities For Which Agency Authority May or May Not Be Needed	Statutory Authority or Source of Discretion (U.S. Code and Public Law Citations; if any)	Example Projects Conducted Under Authorities
Control run-off to protect quality of conveyed water.		
Monitor water quality.		
Create criteria for assessing water quality.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; P.L. 89-304) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq); Federal Power Act (16 U.S.C. 791a-828c); Fish and Wildlife Coordination Act (16 U.S.C. 661-666c)	
Conduct water quality exchanges.		
Implement best management practices.		

Authorities For Which Agency Authority May or May Not Be Needed	Statutory Authority or Source of Discretion (U.S. Code and Public Law Citations; if any)	Example Projects Conducted Under Authorities
Purchase, Transfer, and Management of Water Supplies.		
Physically transfer (wheel) water supplies between users and sectors.		
Purchase and/or secure water supplies for environmental, agricultural, or urban uses.		
Permit annual water allocation.		
Provide reliable water supplies for urban, environmental, and agricultural users.		
Create flexibility in contracts for guaranteeing water supplies and timing of delivery to users.		
Undertake watershed management activities.		
Provide technical assistance for watershed planning and management activities to private entities, local governments, or others.	Endangered Species Act of 1973, 16 U.S.C 1531-1543; P.L. 93-205, as amended; Anadromous Fish Conservation Act (16 U.S.C. 757a-757g; P.L. 89-304) Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq); Federal Power Act (16 U.S.C. 791a-828c); Fish and Wildlife Coordination Act (16 U.S.C. 661-666c)	1) Battle Creek Restoration Program

Authorities For Which Agency Authority May or May Not Be Needed	Statutory Authority or Source of Discretion (U.S. Code and Public Law Citations; if any)	Example Projects Conducted Under Authorities
Water Storage and Conveyance		
Undertake investigations and other pre-feasibility studies for water storage (e.g., dams, off-stream reservoirs, and groundwater storage).		
Undertake investigations and other pre-feasibility studies for canals, laterals, or other conveyance facilities (e.g., interties).		
Undertake investigations and other pre-feasibility studies for conjunctive use projects.		
Physically store water supplies.		
Grants		
Provide grants for large-scale ecosystem restoration and habitat restoration.		
Provide grants for land and water acquisitions.		
Provide grants for groundwater management and storage.		
Provide grants for water conservation projects, including full-scale projects.		
Provide grants for managed wetlands.		
Provide grant authority for program oversight and coordination.		

[The prepared statement of Ms. Nota follows:]

Statement of Christine Nota, Regional Forester's Representative in Sacramento,, U.S. Department of Agriculture

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to be here today. I am Christine Nota, Representative to the Pacific Southwest Regional Forester for the Forest Service in California. I appreciate the opportunity to appear before you to briefly discuss the USDA Forest Service role in the CALFED Bay–Delta Program.

Forest Service Participation

The Forest Service's involvement in the CALFED Bay–Delta Program dates back to 1997 during the planning process. The Forest Service was a signatory to the CALFED Record of Decision in August 2000. The Forest Service played an active role in developing the Watershed Program, which expanded the original scope of the CALFED program to include the "watershed" lands that contribute flow to the Bay–Delta ecosystem. The Watershed Program goals closely mirror the Forest Service mission of "caring for the land and serving people."

CALFED Program

The mandate of CALFED is to develop and implement a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the Bay–Delta System.

Specifically, two of the direct functions of CALFED are as follows:

- Provide improved water quality for all beneficial uses;
- Improve and increase aquatic and terrestrial habitats and improve ecological functions in the Bay–Delta to support sustainable populations of diverse and valuable plant and animal species.

These functions relate directly to Forest Service programs and activities to protect the public's natural resources, restore ecological health, and improve water management.

The Forest Service Link to CALFED Bay Delta Program Goals

While the Forest Service does not have direct management responsibilities for lands in the Bay–Delta area, the Agency manages more than fifty percent of the lands that feed water into the Bay–Delta system. Just over eighty percent of the water that finds its way to the Bay–Delta runs off National Forest System lands. That means the health of those forests and the upper watersheds is a critical factor in meeting CALFED Bay–Delta Program goals. The Forest Service does not have any direct authority for implementation of specific CALFED Bay- Delta program elements. For that reason our agency is not shown on the Federal Authorities Matrix. However, the management of the National Forests contributes directly to the attainment of the goals of several of the elements in the CALFED Bay–Delta program. Various National Forests also surround many critical water storage reservoirs, including Lake Shasta, the largest reservoir for the Central Valley project.

In managing National Forest System lands, the Forest Service's primary focus is the protection, maintenance and restoration of these lands. Day to day work on every National Forest in California is directly related to forest and watershed health and contributes to the attainment of CALFED's goals and objectives.

Complementary Forest Service Community Programs

The Forest Service has many programs that complement the efforts of CALFED. The Agency's State and Private Forestry program provides funding and technical assistance to the State and local communities for land stewardship and watershed protection activities. In addition, funding is provided to the State and local communities through the National Fire Plan and other sources for work that helps protect watersheds and communities from intense and damaging wildfires, including the support of local community Fire Safe Councils. The Forest Service also provides direct support for fifteen Resource Advisory Councils (RACs) across California through the Secure Rural Schools and Community Self Determination Act of 2000 (P.L. 106–393). The Act requires that one-half of the work the RACs fund address watershed restoration or road improvement needs. In many cases, the local RACS are exceeding the fifty percent requirement. These activities encourage and foster active participation and interaction between local communities and the local Forest to improve stewardship of local watersheds.

In conclusion, the Forest Service believes that the cooperative CALFED Bay–Delta Program and its goals are critical in meeting California's water needs for the future. We will continue to support it through our work on the land and our participation in the CALFED Bay–Delta Program.

This concludes my statement. I would be pleased to answer any questions that Members of the Subcommittee may have.

Mr. CALVERT. We thank you for your testimony. And you mentioned something about starting construction in 2007. When you say that, construction on what?

Mr. RODGERS. On the schedules that we have, and I believe in the packet we provided, there was Shasta, Sites, Friant, and all of those programs that we have feasibility authorization to study, we can conclude that by 2005 with proper authorization—excuse me, with proper funding, we have the authority to proceed. If once we provide to you the documents that you are going to need to make those determinations about whether we should proceed with construction or not, we estimate that will take about 2 years. We could start as early as 2007 on any improved projects.

Mr. CALVERT. So you believe that, based upon your existing authorization, that you move forward as long as we provide the funding that is necessary to do this. And by the way, I am going to ask the question: Is CALFED necessary in order to provide the funding to move forward to build these projects?

Mr. RODGERS. Is CALFED legislation?

Mr. CALVERT. Is CALFED legislation necessary to give you the necessary authorization, or can that money be given to you other ways?

Mr. RODGERS. We believe we presently have the authorization for those specified projects that are in this document which is in your packet. Now, I will just quickly read that. For Shasta, Expansion North of Delta Offstream Storage, read that as Sites; In-Delta Storage. Las Vacaros expansion, and Upper San Joaquin River Storage, which is the Friant or similar.

Mr. CALVERT. Is there a number, an approximate number that you can give us of money that you need to have appropriated in the next number of years to make sure this stays on schedule?

Mr. RODGERS. I do have that information. I will have to dig for it. It is in my packet. I don't have it off the top of my head.

Mr. CALVERT. And you are assuming that the 2007 is if the environmental documentation goes without a lot of hiccoughs?

Mr. RODGERS. I realize that is a large assumption, and that is correct.

Mr. CALVERT. Any other comments, obviously, from the panel about the statement that Mr. Rodgers just made about being able to move this process forward? And we have been working on this for a number of years, obviously, so it is nothing that—and I guess we could start with Ms. Schwinn with the EPA. Have you been following this process that has been moving along?

Ms. SCHWINN. I have been, I would say, I have been following it in a general sense. I have seen the schedules that Mr. Rodgers has prepared. I am not intimately familiar with any of the projects to comment on them. We will get more involved with you in the project once we have a permanent application before the Corps of Engineers.

Mr. CALVERT. Would the Corps confirm that this process is moving along and that you are working with Reclamations?

Mr. CHARLTON. Yes. Mr. Rodgers' assumptions, as he stated, are extremely optimistic, but we are aware of them. We do work with him.

Mr. CALVERT. From my point of view, it is not all that optimistic. We would like to have it sooner than later. But we certainly would encourage everyone at the table to work together to make sure that these time lines are adhered to.

With that, Mr. Pombo.

Mr. POMBO. Thank you, Mr. Chairman. In the previous panel, you heard testimony talking about a one-stop-shop idea. And I would like to have some comment from the panel about that idea. And, in particular, they were talking about San Francisco PUC, but just in general, I would like to have comments from the panel about us proceeding with legislation that would authorize that. I guess we could start with Army Corps.

Mr. CHARLTON. Your reference was to the concept of collaboration of partnering with the San Francisco PUC. Yes, we have talked with them. We are very supportive of what they are doing and the process. The process of partnering and collaboration has been very productive for the Corps of Engineers and many of our partners in particular; Greg Zlotnick who has testified before you with the Sacramento Valley Water District. We have been very successful with the Tuolomne River Project where we had just not our cost-sharing partners, but other stakeholders to include environmental groups sitting at the table. The Project had been sued at one point. The National Heritage Institute later actually withdrew their lawsuit as we progressed, and that project is under construction today in downtown San Jose.

In particular, the San Francisco PUC mentioned their desire to support the Corps of Engineers through additional resources and funding and our ability to dedicate individual resources people to review their permit applications. We do support that. As you know, Congress senses in a sense the funding for our regulatory funding very difficult for us to adjust the resources to the workload, and we are always very shorthanded. There are many advantages to that. The individual, when you can commit a resource like that, becomes very familiar with the projects, the processes, the people, the circumstance of the communities, and the environment. So we have been very, very supportive of their initiative for partnering and collaboration in that sense.

Mr. POMBO. Before I make all of you say the same thing, is there anybody that disagrees with his answer, and is there anybody that would have difficulty with proceeding with this idea?

Let me ask you about the CALFED process in general. As the Chairman said, I was supportive of this from the beginning. I thought it was necessary for us to have a CALFED process, but have always been somewhat apprehensive about the idea of, a deal is a deal, and we put together a ROD and move forward with that. Can any of you give me an idea as to what your opinion is on the ROD? I mean, is this a package that is supposed to move forward? Or is this a broad outline that you can pick out the projects you like and support those and oppose the others? Go ahead.

Mr. ACEITUNO. I believe that—by the way, for the record, my name is Mike Aceituno with the National Marine Fisheries Service. But I believe that when the ROD was signed, at least my agency felt that the ROD represented a full package and that it would be implemented in a certain progression. And eco-restoration was part of it, obviously a part that we were very interested in. But there are other elements of the CALFED Program that are also identified in that original package. And we expected it to proceed on a time line that was identified at that time, although we knew it was an

aggressive time line. And I think—I kind of forgot what I was going to say the rest. But that is—

Mr. POMBO. But you saw it as a package and with time lines, and we were going to move forward on different parts of it.

Mr. ACEITUNO. Yes.

Mr. POMBO. Would anybody else like to comment on that? Because obviously there is some confusion both at the hearing we had this morning and this hearing that we had this afternoon about what exactly that ROD was representing.

Mr. RODGERS. Perhaps I could comment. I agree with Mr. Aceituno that it was conceived as a package. Although I would add that there is recognition that it was—many of the things that were addressed in there were at the programmatic stage or level that would require further review and evaluation. And that, as those evaluations and reviews and feasibility studies developed into either good projects that needed to go forward because they were supportable, they should; and if those same reviews demonstrated that there were some question or concern, that those projects may need to be rethought or substituted with something that was more workable. I think there was that degree of flexibility and understanding in there. But in general—

Mr. POMBO. In that, though, you are not just talking about water storage projects, you are talking about all of the projects?

Mr. RODGERS. That is correct.

Mr. POMBO. So, you know, when you are talking about ecosystem restoration or, you know, some of the other things that were proposed as part of the ROD, some of those just may not make sense once you get into studying them. And we may not go forward.

Mr. RODGERS. That is my understanding, Mr. Chairman.

Mr. POMBO. That is kind of the way I saw it as it was put together. And, you know, I find it interesting in some of the testimony we have, that it talks about the CALFED Record of Decision set a target of investing $1.5 to $2 for water use, efficiency, waste water reclamation, as if this was a—you know, we had to do that, but on some of the other parts of the ROD, they were mere suggestions and we don't necessarily have to move forward. And a lot of my constituents had some real serious reservations about CALFED to begin with, because they were afraid that we would end up in this situation that we find ourselves in today, that some of the stuff we would fund and some of the stuff we wouldn't.

I would like to add, Mr. Chairman, I know my time has expired. But I have found it interesting today to listen to all of those who testified in front of your Committee that talked about how we all sat down at the table and came up with CALFED, and how all of the stakeholders were at the table. Well, to the best of my knowledge, none of us were there and Congress was not part of that process. And you had a lot of people that were sitting down at the table coming to an agreement, and Congress was not part of it. And we have been, in many ways, shut out of that process. Every time I have asked about how money is being spent, I have gotten a lot of blank stares. And that has been a concern of mine from the very beginning.

I will say, in conclusion, with this panel, I think you guys are doing the best job you possibly can in terms of trying to implement

this in a very, very difficult budget situation, and a very difficult situation in terms of all of the lawsuits that have been piled on top of you. And I realize how difficult that is in getting your job done. But I will commend you on the effort that you have put forth over the last several years to try to move this whole project forward. Thank you for that.

Mr. CALVERT. Mr. Herger.

Mr. HERGER. Thank you, Mr. Chairman.

And I want to echo the comments of Mr. Pombo in appreciation of what you are attempting and doing.

Mr. Calvert, Mr. Chairman, I would like to mention that I did support CALFED when it came through. I had great concerns, but I supported it. I felt it was something we needed to try to do. My concerns were that even though, as again was talked about as you undoubtedly recall when we were originally bringing out CALFED, was this idea of getting well together. By the way, that is something we don't ever hear, I hear very rarely any more, this getting well together. And my concerns were that the environmental community ultimately would sabotage us, would sue us, would do everything they could to stop our project, which is regrettably exactly what has happened.

But Mr. Rodgers, expressing this concern with the CALFED Program is that, in my opinion, is not being implemented in—or, it is being implemented in an unbalanced manner despite the rhetoric which would suggest the opposite. As you are aware, California Department of Water Resources has predicted that California would face water deficits of approximately 2.4 million acre-feet in an average water year and 6.2 million acre-feet in drought years by the year 2020. And as you know, the Department of the Interior recently released an assessment of western water supply titled Water 2025, in which the Department states, quote: Five realities of western water. And just to paraphrase those five realities: One, western States are experiencing explosive population growth; No. 2, water shortages are historically frequent in western States; No. 3, water shortages result in conflict; No. 4, current facilities are aging; and No. 5—let me emphasize this—crisis management is not effective in dealing with water problems. And I emphasize the last point, because we can see how true this statement is if we look north to the Klamath Basin. This region of the State is immersed in crisis, resulting in detrimental impacts of the area's economies and its citizens, and this is a part of the district I represent on the Oregon border. Indeed, I believe it is a crisis in the Klamath Basin which inspired Interior to develop Water 2025.

To further quote the report: Interior predicts that the potential for conflict in the Central Valley, the area served by the Bay-Delta, is, quote, highly likely.

I personally believe that we avoid the next crisis by bringing balance to CALFED and expanding our State's water supply and PERC water yield. My question to you is, how important do you think it is that California build new water storage facilities to meet our future demand and avoid the crisis predicted by U.S. Interior?

Mr. RODGERS. I believe that new facilities are an essential part of the overall piece that we have to consider.

Mr. HERGER. In April of this year, we experienced an unusually wet month. Were we able to store all the water that we were blessed with in April using our current facilities storage?

Mr. RODGERS. We were not.

Mr. HERGER. Would a Shasta raise and Sites Reservoir enhance our abilities to capture water for use later in the year during the height of summer and irrigation season?

Mr. RODGERS. We could have used more storage in Shasta this year.

Mr. HERGER. And I want to thank you, Mr. Rodgers. And Mr. Chairman, I would like to reiterate my concern that CALFED, as it is currently being implemented, is not proceeding in a balanced manner. Unless CALFED accelerates its schedule with respect to surface water storage, it will defy what it originally professed as its motto, quote: We will all get well together, and violate one of the solution principles of not redirecting impacts into other regions of the State.

Thank you again, Mr. Chairman.

Mr. CALVERT. Thank you, Mr. Herger.

In closing, I want to thank this panel. I have a couple of points that I want to make. I still remain an optimist that we can redraft CALFED and clarify some of the intent that we have. Certainly, I think that we share really by all the panelists about where we need to go in the State of California. And I think we share by most of the leaders in Sacramento also that we have a water problem in the State of California that, as Mr. Herger pointed out, is evidenced in Klamath. We are having problems, as you all know, down south with Imperial Irrigation District and Colorado River, and that problem has a ways yet to work it out. And we certainly, I have heard no one that doesn't support conservation, groundwater storage, all of the other issues that we are dealing with and we must deal with, desalinization, reclamation. And we are attempting to do all of that. And certainly CALFED legislation we intended will touch on most all of those subjects. But surface storage is part of the solution, along with all those other concepts, and we need your help and your agency's help to move this forward. Because it was the intent, and I can say that with all clarity, that it was the intent that we would move together and that we would all get well together, as Mr. Pombo and Mr. Herger pointed out. And that is necessary if this legislation is going to be successful and the Federal funds are going to continue to come into this process or additional Federal funds that are necessary to complete this.

So, with that, are there any other comments as we close this hearing? Hearing none, we are adjourned.

Thank you.

[Whereupon, at 4:25 p.m., the Subcommittee was adjourned.]

CALIFORNIA WATER SUPPLY

Tuesday, July 1, 2003
U.S. House of Representatives
Subcommittee on Water and Power
Committee on Resources
El Cajon, California

The Subcommittee met, pursuant to call, at 11 a.m., at the El Cajon City Council Chambers, 200 E. Main Street, El Cajon, California, Hon. Ken Calvert [Chairman of the Subcommittee] presiding.

Present: Representatives Calvert and Napolitano.

Also Present: Representatives Hunter, Bono, and Davis.

STATEMENT OF THE HON. KEN CALVERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CALVERT. The oversight field hearing by the Subcommittee on Water and Power will come to order. The Subcommittee is meeting today to hear testimony on California water supply and issues. Before we begin, I ask that Representatives Duncan Hunter, Mary Bono, and Susan Davis have permission to sit on the dais and participate in the hearing.

Hearing no objection, so ordered.

As all of us are painfully aware, California is faced with a dwindling water supply while demands grow every day. Southern California's problems are very acute because imported Colorado River water has been reduced almost 20 percent while questions remain about our domestic water supply.

This hearing is part of a comprehensive effort to find answers to these growing problems. The Subcommittee heard from leading water experts in Central and Northern California on Saturday to discuss their needs and potential solutions. Today, we'll look at ways to diversify and improve our region's water supply with the hope of finding some answers and gaining better understanding on others. By focusing on these tough issues, we can help meet our water needs through the environment and foster a better business climate.

First and foremost, everyone here in California must work together to find a resolution on the most pressing issue of the day: Quantifying our uses of the Colorado River water.

Parties have been arguing for years on how the state can reduce its overdependency on the Colorado River water. While Congress should not mediate inter-California water-use negotiations, it can

help if and when a California agreement happens. And we can hope it only comes very soon. In working with the Interior Department to reinstate Colorado River Surplus Guidelines, this will pay tremendous dividends in transitioning our state out of its over-dependency.

Unfortunately, California agency negotiations on this issue and the related issue of the Salton Sea have yet to bear any fruit. But I hope we can have a frank and meaningful dialog on this issue today.

While the Interior Department's Part 417 determination on the Imperial Irrigation District's water use and the recent competing proposals before the four water agencies will continue to alter the negotiation landscape, one thing remains clear: Agreement must be found and found soon. Once this 800-pound gorilla is off Southern California's back, only then can our region begin to have certainty in meeting our water needs.

Another key part in solving the certainty equation and adding more flexibility to our region is the delivery of water through the Sacramento-San Joaquin Delta. This Subcommittee heard testimony on Saturday about how we can improve water deliveries to our region through the State Water Project without harming the Delta's fisheries and farms.

Southern Californians who wish to enter into water transfer agreements with farming interests in the north should have assurances that there will be adequate storage and conveyance mechanisms to cover those market and property right based transactions through a new and improved Delta delivery system.

While we have imported water tools, we must also continue our local efforts to drought-proof the region through technologies such as water recycling and desalination. Southern Californians have thought outside the box in devising water recycling, desalination, and groundwater banking programs. I've worked consistently with my colleague, Grace Napolitano, for these projects in Washington and will continue to recognize their value in the water-use portfolio in the west.

As I alluded to earlier, Congress doesn't have all the answers, but we can certainly try to help when and where we can. In that light, the Subcommittee will soon use what it has learned in this and the other hearings to craft legislation to assist California and other western states in developing balanced water supply portfolios.

I look forward to working with my colleagues here today in moving this bill forward. I welcome the special guests we've invited here today and very much look forward to hearing your thoughts about how we can better work together to manage and share this valuable resource.

[The prepared statement of Mr. Calvert follows:]

Statement of The Honorable Ken Calvert, a Representative in Congress from the State of California

As we are all painfully aware, California is faced with dwindling water supplies while demands grow every day. Southern California's problems are very acute because imported Colorado River water has been reduced almost 20% while questions remain about our domestic water quality.

This hearing is part of a comprehensive effort designed to help find answers to these growing problems. The Subcommittee heard from leading water experts in central and northern California on Saturday to discuss their needs and potential solutions. Today, we will look at ways to diversify and improve our region's water supply with the hope of finding some answers and gaining better understandings on others. By focusing on these tough issues, we can help meet our water needs, improve the environment and foster a better business climate.

First and foremost, everyone here in California must work together to help find a resolution on the most pressing issue of the day: Quantifying our uses of Colorado River water. Parties have been arguing for years over how the state can reduce its overdependency on Colorado River water. While Congress should not mediate inner-California water-use negotiations, it can help if and when a California agreement happens—and we hope it comes soon—in working with the Interior Department to reinstate Colorado River surplus guidelines. This will pay tremendous dividends in transitioning our state out of its overdependency.

Unfortunately, California agency negotiations on this issue and the related issue of the Salton Sea have yet to bear any fruit, but I hope we can have a frank and meaningful dialogue on this issue today. While the Interior Department's Part 417 determination on the Imperial Irrigation District's water use and the recent, competing proposals between the four water agencies will continue to alter the negotiation landscape, one thing remains clear: agreement must be found AND FOUND SOON. Once this 800 pound gorilla is off southern California's back, only then can our region begin to have certainty in meeting our water needs.

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While we have our imported water tools, we must also continue our local efforts to "drought-proof" the region through technologies such as water recycling and desalination.. Southern Californians have thought outside the box in devising water recycling, desalination and groundwater banking programs. I have fought consistently with my colleague Grace Napolitano for these projects in Washington and will continue to recognize their value in the water-use portfolio of the west.

As I alluded to earlier, Congress doesn't and shouldn't have all the answers. But, we can certainly try to help when and where we can. In that light, the Subcommittee will soon use what it has learned in this and the other hearings to craft legislation that assists California and other western states in developing balanced water supply portfolios.

I look forward to working with my colleagues here today in moving this bill forward. I welcome the special guests we have invited here today, and I very much look forward to hearing your thoughts on how we can better work together to manage and share this valuable water resource.

Mr. CALVERT. With that, I would like to recognize Mrs. Napolitano, the Ranking Democrat, for any opening statement she may have.

STATEMENT OF THE HON. GRACE NAPOLITANO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mrs. NAPOLITANO. Thank you, Mr. Chairman. It's great being in San Diego, given the weather we're going to be having in Los Angeles. But I certainly want to convey to everybody my appreciation for the Chairman's vision in having hearings given the last term, the last Congress, where we had people—we had hearings up and down the state, and even in Utah, where we get a better picture of California's water plight versus other states.

And what affects California affects the rest of the nation, specifically in the western states. And it's an issue that goes back to the old adage that whiskey's for drinking, water's for fighting. I believe we can do without the fighting.

I believe we can work together to try to bring about solutions to the contaminated aquifers that we have, to the perchlorate that are showing up in installations that the government had in our areas, and the fact that we're going to have to meet the 4.4 plan before too long.

If we do not work with the Federal Government, if we don't work with the Administration—and I'm hoping that all of you will understand that the Bureau of Reclamation—and I know the gentleman here won't be able to speak to it, but I can—they're not making recycling a priority anymore. And I think that is asinine. That's wrong. Because that's what's going to help California meet the 4.4, at least one of the tools we will have.

And for them to cut the budget from 30-some-odd million to 10, or a little over 10, is actually saying, California, you're going to do without. You're going to have to come up with your own funding to be able to do the recycling projects. And, to me, we need to work every single method that we have to help California reach the 4.4 and continue California's economy, because this all works together. It's all hand in hand.

I know we've had hearings that we've heard things that sometimes are a little hard to take, especially from those of us in the LA area where we have 11 million people, in trying to get potable water to those individuals.

My colleagues in Northern California are fighting for water at farms. That's 80 percent going to farming, the other 20 for residential and commercial and industrial. And yet we are not getting a fair share, to my estimation. That's my personal opinion.

So we need to work together so we have an adequate potable water supply, all of us. We're here to learn. I'm here to ensure that we all understand the plight of the other areas in Northern California and toward the Bay-Delta a couple months ago.

And I've been to the hearings in Northern California. I understand the plight. And I'm very, very receptive to ideas that are going to help not only Northern California, Central California and Southern California come up with a solution so that we can all meet the 4.4. Because, otherwise, there is no forgiveness in that plan.

And we also need to protect the ecosystem, the Bay-Delta, and all the other areas, because, otherwise, we will not have a reliable water supply. The "how we do it" is where we are coming from. And I agree with Mr. Calvert that we need to work together, and we need to ensure that we don't have any more delays. Because this Government is not going to forgive California. Believe me, they will not forgive California. So we need to come to the table with a solution that we all have a win-win situation, whether it's short term, with an eye for the long-term solution.

So I'm looking forward to hearing from the witnesses. And hopefully, as the Chairman indicated, we should be able to come up with a piece of legislation that we can all embrace and work toward

equitably, fairly, and for the benefit of the rest of—all of California, not just any one part of it. Thank you, Mr. Chairman.

Mr. CALVERT. Thank you, gentlelady. And we're pleased to be in my friend and colleague's district of El Cajon.

Also, my Chairman, Chairman of the Armed Services Committee, Mr. Hunter, would you have an opening statement?

STATEMENT OF THE HONORABLE DUNCAN HUNTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HUNTER. Well, thank you, Mr. Chairman. Thank you for coming to our great district. And thanks to Mrs. Napolitano and my colleague, Susan Davis. Last time we were here, we were having an R&D hearing. And, Mary Bono, my great colleague from the desert area, thank you so much for being with us.

And I've got a prepared statement, Mr. Chairman, that I'd like to submit for the record, if I could, and I'll just summarize it.

Mr. CALVERT. No objections? Statement, please.

Mr. HUNTER. Grace, you said we need to have some good ideas on how to solve the water crises in California. And two great communities came together with a great idea a couple of years ago, and those were the communities of Imperial Valley.

And the IID, the Imperial Irrigation District, for all practical purposes, is the Imperial Valley, because all the folks in that valley vote for their board members. And, of course, water is everything to the valley, most productive, arguably, along with Coachella. My colleague represents the most productive land in the world acre for acre. And those folks and the folks in San Diego County came up with a great idea for solving water problems.

And the idea was that it's difficult for a farmer who's getting 140 bucks a ton for alfalfa hay to pay for the highest technology in water conservation when they're getting that kind of money from agriculture.

And yet because water is increasingly precious, upwards of 5- and $600 per acre foot on the margin for urban users, it makes sense for folks, if they have an opportunity, to share in some of the fruits of conservation. It makes sense for folks in urban areas to pay to the farming communities the moneys that would be used to save some of that water in doing things like putting in things like water pump vac systems and more lining of canals. And so for the city folks to pay the folks in Imperial County, and if that works as a model in other areas, the dollars that it cost to do that increased technology water conservation, and in turn be allowed to share in the fruits of some of that conservation.

And that was the essence of this agreement that was made between the community of San Diego and the great folks of Imperial Valley. And that deal marched on, Mr. Chairman, and became really the linchpin in our being able to live within our means as a state; that means live within the 4.4 program with the other basin states, the Colorado River, now inclined to take more and more of their fair share.

And as a condition for making that agreement, we were allowed in California to have a glide slope; that is, we didn't have to come immediately under the 4.4, we would have a 15-year glide slope

and be able to ramp down gradually, and there would be a minimum of discomfort for Californians in coming under our rightful allotment of water.

That moved along until the Metropolitan Water District, which has always been the big gun in water usage and water control in the state, stepped in and decided it didn't like the deal.

And, Mr. Chairman, I remember the days when we put together the initial umbrella agreement of the QSA and Metropolitan dragging its feet all the way. We finally got them to sign up to the basic concepts of the deal, and then we had another problem. And that problem was, as we were moving along toward the water conservation plan that had to accompany this deal—because if you have less waste water coming off the field because you have a water pump vac system, for example, the flow into the Salton Sea is reduced and the Salton Sea shoreline goes down and, then you have an environmental problem.

In the waiting days of year before last, it was announced to us by the Fish and Wildlife on the Federal side and Fish and Game on the state side that they couldn't quite make this thing work. The last linchpin of that was that they figured they couldn't train pelicans to feed out of ponds.

We've gotten up to a mitigation lake that was some 5,000 acres in size. We were going to have a hatchery that did nothing but feed pelicans. And it was announced to us they didn't think we could feed these pelicans on time, and, therefore, we couldn't guarantee we would have a conservation deal put in place that would handle endangered species.

So the community of Imperial County and the community of San Diego County are faced with a massive exposure. And that is, if they went ahead with this deal, at some point in the future you could have literally billions of dollars in environmental exposure accruing to the party that was asked to make the transfer; that is, the good people of Imperial Valley. That's not fair.

It's also not good business. Nobody sells a gas station if they think they're going to take on—or buy a gas station if you think you're going to take on a billion-dollar environmental exposure from where the sun now stands.

And nobody makes a water deal if you think you're going to take on a billion-dollar exposure, potentially a billion-dollar exposure. So that problem had to be handled, and I know the state weighed in to try to solve that problem.

We now are on the verge of putting this QSA together with some safeguards that have been engineered between the State and IID and Coachella. And hopefully we can get this QSA passed this summer.

But the Department of Interior weighed in, Mr. Chairman, in what I think is a way that accrued to the detriment of all people in California who have issues with water and will have issues with water in the future. And that is that they weighed in to punish the one party which had said yes to their request for agreement on a water deal, and that was the Imperial Valley. And they went in under kind of a botched 417 agreement or 417 rule and denied Imperial County its allotment of water for this last year.

And Imperial County fought back. They had to fight back. They had to protest in court. The lifeblood of their valley was being taken away by the Federal Government. And they won in court.

With that, the Department of Interior asked the judge in their pleadings if they could come back and try again to take Imperial County's water. And they are moving forward on what is known as a 417 right now, which is a scrub of the water use of Imperial County.

Mr. Chairman, I think that goes exactly the wrong way for trying to put a deal together. You don't turn to—when you have a number of parties to a deal, you don't turn to the party which said yes to the deal and punish them.

And you don't similarly incentivise one of the parties who said no, which is the Metropolitan Water District, to continue to say no. Because if they say no, and the Federal Government goes after Imperial Valley's water and gets some of it, it will go, then, to, guess who, the Metropolitan Water District.

So, Mr. Chairman, we're in a position where we need to come off this 417 procedure. The Federal Government needs to approve Imperial Valley's request for water this year. We need to roll up our sleeves and finish the QSA this summer.

And I'll just say to my friend, Ms. Napolitano, my great friend who represents a great many folks in the urban area, it is in the interest of your folks to have new conservation measures put in place throughout the state in farming areas where the water that is saved and paid for by moneys that come from urban areas, some of that water can be shared in by your consumers. That's an efficient, effective use of water. So less water goes up in evaporation, less water sinks in the desert sands, and more water goes to beneficial uses, whether it's agriculture or the grand people of Imperial County or Coachella or folks that live in cities.

And so last, Mr. Chairman, let me just say, I don't represent Imperial Valley anymore. I represented them for many years. Now, they deserve better than this. These folks went into Imperial County, 115-, 120-degree heat, no air conditioning, and built the most productive area in the world acre for acre with respect to agriculture. They have been threatened with lawsuits for years if they didn't do more to conserve water.

Then they were told in the middle of this process they would be sued by the environmental interests if they did conserve water, thereby having less waste water go to the Salton Sea. So they're put before the box of being sued if they don't conserve water and sued if they do conserve water. It's not a fair position for them to be in.

The fair thing to do is for the Federal Government to move ahead and encourage this QSA. And the fair thing to do for the Metropolitan Water District, while it may hurt their corporate ego, is to work with the team, get this QSA passed, and let's move on to a bright future for this state.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Hunter follows:]

Statement of The Honorable Duncan Hunter, a Representative in Congress from the State of California

Mr. Chairman and members of this Subcommittee, thank you for holding this hearing on California's Colorado River use—priority of mine has been the proactive resolution of present and potential water conflicts over California's use of the Colorado River and I truly appreciate your attention to this matter.

Looming over us for years has been the growing impatience of our Western neighbors toward California for our overuse of Colorado River water. As a result, they developed a plan to allow our state 15 years to ramp down to our 4.4 million acre foot annual allotment if we were to approve the complex Quantification Settlement Agreement (QSA) by the December 31, 2002 deadline. The deadline was to create a sense of urgency with the Imperial Irrigation District, the San Diego County Water Authority, the Coachella Valley Water District and the Metropolitan Water District to agree to a plan that implements on-farm conservation measures while transferring water from agriculture to urban areas in order to meet growing municipal needs.

Because the Imperial to San Diego water transfer—a key component of the QSA—might have impacted the Salton Sea's several endangered species, Federal and state environmental laws proved to be obstructive. Because Imperial did not want to put themselves at risk of billion dollar lawsuits for implementing water saving measures that impact the Sea, they elected, understandably, to seek protection as a condition of any water sale. San Diego understood this and continued working as a team with Imperial toward the shared goal of finalizing a long term water transfer from Imperial under mutually agreeable terms.

In the waning days of 2002, following long and contentious negotiations between stakeholders, an amended QSA was developed that would provide the needed protections for Imperial and funding to mitigate impacts to the Salton Sea. However, the Department of Interior, shocking many, sent a letter to the water agencies informing them that should the agencies fail to approve the QSA by December 31st, Interior would reduce Imperial's water order and increase Metropolitan and Coachella's by—coincidentally—the same amount. Later, confidential emails between Interior and Metropolitan personnel were later discovered that detail the cooperation between the two entities to reallocate the water. The result is not hard for anyone to fathom—Interior provided the impetus for the failure of the QSA by offering to Metropolitan and Coachella free water that they would otherwise have to pay for under a successful QSA. Hence, the QSA failed when it was not signed by the deadline.

In the new year, Interior took steps to immediately reduce California's draw from the Colorado River to 4.4 million acre feet. Although the water reduction would logically come from Metropolitan's or Coachella's allotment given that Imperial's are the most senior water rights among them, Interior did as it promised and redistributed the water to the other two agencies. Thankfully, a U.S. District Judge saw the recklessness of Interior's action and reversed the reallocation, essentially instructing the agency to go back and go by the book.

The consequence of Interior's behavior has resulted in one of the largest assaults on property rights the West has seen. Interior has been instructed to complete a never before used Part 417 Process to determine the efficiency of the Imperial's water use, which no doubt will result in a reduction in the community's water rights because of the pre-disposition Interior has against Imperial's irrigation practices.

One of the greatest priorities the Bush administration has in the West has been the preservation of the rights of property owners and the protection of states' prerogatives. Interior's actions set a precedent that we should all fear. They are opening the proverbial pandora's box when they step into a state issue and unilaterally reallocate water amongst California water agencies without regard to long held property rights. The long term consequences of this radical action will be fully realized when a future administration, with powerful designs on rural water, will not feel restrained because the precedent will have already been established.

The Department of Interior should abandon this potentially disastrous course of action and work toward a solution by encouraging the water agencies to stay the course and come to an agreement on a final QSA. The excuse that Interior is under "court order" to complete the 417 Process is unfounded. I have asked Interior to delay the process and concentrate on bringing parties together to complete the QSA, and I would encourage Interior to make that case to the presiding judge—he just might agree.

We do not need threats and heavy handed tactics—we need solutions to Western water problems and we need water security in California. This historic water transfer will provide water supply diversity to San Diego and a badly needed economic

boost for the Imperial Valley. Further, it is the cornerstone of California's plan to live within its means—a plan in which all participating water agencies, as well as all Colorado River users, share an interest. I encourage the Department of Interior, as well as the four water agencies to work with us toward this goal.

Mr. CALVERT. I thank the gentleman.

My friend and colleague, Ms. Susan Davis, is unfortunately suffering from laryngitis.

Mrs. Napolitano has graciously offered to act as her translator or speaker of the day.

Mrs. NAPOLITANO. It's my good pleasure. Susan and I served also in the State House, Mr. Chairman, so I'm very, very familiar with Susan. She's pleased to be here, will join with the colleagues and the community for a fair and comprehensive as well as an adequate and timely resolution to the issue. And I'm sure she's willing to listen and make her comments in writing.

Mr. CALVERT. You're already a star by having the shortest opening statement.

Now, my friend, Mary Bono, who represents—we represent Riverside County together, and a great friend, for her opening statement.

Mrs. BONO. Thank you, Mr. Chairman.

First, Grace, you usually are busy speaking Spanish to me and for me and translating, so—

Mrs. NAPOLITANO. Buenos dais.

Mrs. BONO. Buenos daas.

I want to thank you, Mr. Chairman, for having this hearing, and it's certainly always a pleasure to be with you and Duncan, almost the entire Salton Sea task force here together, so it's nice to be with you.

I would just like to say that your remarks, Mr. Chairman, were very right, and I have some written remarks, also, I'd like to submit for the record.

Mr. CALVERT. Without objection, so ordered.

[The prepared statement of Mrs. Bono follows:]

Statement of The Honorable Mary Bono, a Representative in Congress from the State of California

Thank you, Mr. Chairman, for allowing me take part in this hearing. I value your leadership and dedication to resolving the complex matters surrounding CalFed, the QSA and other water issues around the State of California and the nation.

California, and Southern California in particular, has come to a crossroads. We are now forced to deal with a wide array of issues, including ag to urban water transfers, increased demand for water in our neighboring states, the environment and the broad question of how we manage the limited resource at our disposal. I have always held the belief that these issues are interlinked and therefore, we must deal with them as a whole.

However, over the past year, negotiations on resolving the QSA have proceeded in stops and starts, often on a piecemeal basis. The inability to come to an agreement on how best to balance these interests is unacceptable. But, we must continue moving forward. It is my hope we can soon find a path towards an agreement by all the participants coming to the table in good faith and with a will to arrive at a compromise.

As public officials, we must keep in mind that this impasse not only affects the region and our neighboring states, but also has a tremendous negative impact on the average citizen.

Farmers in the Coachella Valley are worried about having enough water to put crops into our grocery stores as local officials question if there will be enough water to sustain development activities that create jobs and bolster our local economy.

And while the Coachella Valley Water District is doing its best to walk this tightrope, it needs closure and a fair deal to meet these demands.

There is also a great deal of concern in the local community about whether or not our air quality will be protected if we see the size of the Salton Sea shrink due to water transfers. Please understand that I realize urban areas need water and that in order to accommodate other priorities, the Sea itself must change form and adapt to current circumstances. We can grapple with this fact. However, in order to contend with this problem, we again need a degree of certainty as well as responsible public policy that does not leave our area like another Owen's Valley.

I look forward to being part of this continued dialogue.

Thank you, Mr. Chairman and I yield back.

Mrs. BONO. But then to expand upon what I think Duncan said, firstly, we have worked tirelessly on this. And it really is a great opportunity here. I think those of us who care deeply about the Salton Sea, and not only the Salton Sea but the areas surrounding the Salton Sea, recognize that the Salton Sea has sort of become the keystone in this larger water policy. And whether that's good or it's bad, I guess it depends on which side of the equation you're standing on. But we really do have an opportunity here to move forward.

All of the players with the Salton Sea have recognized that it's OK, and it actually is beyond OK, it's necessary to change the scope of the Salton Sea. Nobody has decided it needs to stay exactly what it is today, but I believe they're willing to reduce the size of the sea through one plan or another. If we can just now get the feds and the state to recognize this really is an opportunity to move forward with transferring water and creating, perhaps, water out of what was previously just all within the sea of it. Now we can actually transfer this water on to further use.

It really is a great time, and I'm happy to have the Bureau of Rec here, who is really the biggest partner we have in this whole thing. So I welcome you and I look forward to your remarks and all of your great ideas on getting this done. So if I can just encourage you to see this as a golden opportunity to move forward.

But I've always said, it's very shortsighted to single out water policy at the expense of air quality. And if you look at Owens Valley—Ken, you a long time ago gave me the Cadillac Desert when I was first elected, and I thought I was going to have the Gabor sisters living in the Palm Springs area or something silly. I didn't know it was about water policy. But all you have to do is look back 100 years to Owens Valley to see what we did and the horrible consequences. And, if we can, in fact, this time, instead, be proactive here and address these issues before they come up.

And those of you who have heard me speak before have heard me talk about the stench from the Salton Sea. And forgive my word "stench," but there's no other word to call it. And it's awful. And it's a health hazard. And it's also invasive. If we don't address that as we address changing the scope of the sea, then we're going to be in for larger problems. And as Duncan talked about, re-educating the pelicans to feed off of the ponds, that's not really the sole environmental issue. It is not as much about the birds and the fish as it is, in my view, air quality.

So, with that, Mr. Chairman, again, I'll submit my written statement for the record, and I welcome the witnesses. Thank you for being here, and I look forward to your testimony.

Thank you, Mr. Chairman.

Mr. CALVERT. I thank the gentlelady.

We have a number of witnesses today, so we've changed things a little bit. We're putting everybody together. That way it gives us an opportunity, the panel, to ask questions of everyone. We have quite an audience here today. I was joking with my friends here that the meter is running.

We have quite a few folks out there working for various agencies, so a lot of interests.

So, with that, we're going to start with Bill Rinne. He's the Deputy Commissioner with the Bureau of Reclamation. Mr. Bob Johnson could not join us today.

Bill, we're going to be under the 5-minute rule because of the number of witnesses we have, and it leaves us more time for questions. So any—this is for all the witnesses, any additional comments, we'll be happy to enter them into the record.

With that, Bill Rinne.

STATEMENT OF WILLIAM E. RINNE, DEPUTY COMMISSIONER, U.S. BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Mr. RINNE. Thank you, Mr. Chairman.

Before I begin, I'd like to impress that my written testimony be submitted into the record.

Mr. CALVERT. Without objection, all testimony will be entered into the record.

Mr. RINNE. Mr. Chairman and Honorable Members of the Congress, my name's Bill Rinne, and I'm Deputy Commissioner with the Bureau of Reclamation at the Department of Interior.

It's a pleasure to be here today representing the Department to offer testimony with respect to the Secretary's role as watermaster on the lower Colorado River and to comment briefly on the recent meetings on the Era of Limits of the Colorado River.

First, with regard to authority and limitation of the Secretary in the management of the lower Colorado River, the legal framework applicable to the management of the lower Colorado River is unique in the United States. The role of the Secretary in matters relating to the Colorado River management is authorized and constrained by numerous legal authorities collectively known as the "Law of the River." Within that Law of the River, two particular parts, the 1963 Supreme Court case, Arizona v. California, and the 1928 Boulder Canyon Project Act, are key to identifying the constraints and limitations on the Secretary of the Interior as well as her role in managing the river.

The primary structure that controls the operation of the Colorado River is Hoover Dam, and Hoover Dam is authorized with the 1928 Boulder Canyon Project Act. And, also, within that act, are a lot of the activities that are associated with the Secretary's role in the lower Colorado.

For more than 60 years, water supplies in the Colorado River basin have been made possible for Reclamation to meet all water needs within the lower basin states of Arizona, California, Nevada. The water storage, the dams and reservoirs are among the most reliable, if not the most reliable, of anyplace in the United States.

We're able to store up to a 4-year supply if the conditions warrant, which is very unusual anywhere else in the United States.

Nevertheless, the current drought in the basin demonstrates that water is a finite resource in the Colorado River. For instance, today I was looking at our records, and Lake Mead is about 61 percent full, behind Hoover Dam, and that is the lowest it's been in over 30 years, the last 30 years. So we're really standing at a low point.

The studies that we've been doing indicate that the river should supply enough water to meet the lower basin's annual consumptive use apportionment of 7.5 million acre-feet for many years to come. However, the studies also show there will be fewer years where surplus will be available as it has been in the past few years.

The Colorado River's flow, as most of you know, is generally derived and for the most part from snowmelt from the mountains in Wyoming and Utah and Colorado. This year this has been very erratic. Since we've been keeping records since 1906, it's from a low of about 5 million acre-feet a year up to a high of 4 million acre-feet runoff.

This year, to put it in perspective, our April through July runoff, that is, the snowmelt runoff portion of it, is estimated to be about 54 percent. And that's probably a pretty good figure because we're getting close to the last part of the month and most the runoff has occurred off the mountains. And our projection for the water year of 2003 is at 57 percent of those averages. Now, that's an improvement, a definite improvement over last year, which was extremely dry in water yield.

The Law of the River specifies who can use the water, for what purpose, and how much. Until 2003, as I mentioned, water's been available for Arizona, California, and Nevada. All that's changed now with the development and use in Nevada, Arizona and continued use in California. And so at the current time, there's no unused water, available basic water, on the Colorado River.

The Secretary's Interim Surplus Guidelines that were put in place in 2001, they want to point out that they would not guarantee the surplus of water to be available, even at this time, depending on what the levels of Lake Mead are. And then the Surplus Guidelines have been suspended at this time. But at the same time, even given that, it would not be an unlimited supply of surplus water.

What are some of the future strategies, and what do we need to do with regard to "Era of Limits"? With the ongoing drought earlier this year, Bob Johnson, our regional director of the lower Colorado region and his people put on seven educational workshops in the three lower basin states. The intent of these workshops was to talk about a yield and the storage and the drought conditions to kind of help the public and people, the water users, to understand the issues that face all of us, not just the Reclamation as a water manager.

Out of those discussions and ongoing discussions with the seven basin states, we have—we've talked about, what can we do to improve just our management of the Colorado River? And the areas that we're focusing on: We have been doing more to improve our management on the lower Colorado River, our accounting, make sure we really are paying attention to the amounts of water that

are being used. Things like the banking, interstate banking regulations, which were put in place in 2000—Am I there?

Mr. CALVERT. You need to wrap it up.

Mr. RINNE. OK. I'll wrap it up.

The final analysis, we'll just have to all work better than ever before, whether we're user or whether we're manager, to provide the necessary water in the southern Nevada, Southern California, and Arizona area.

That concludes my testimony. I'd be pleased to answer any questions.

[The prepared statement of Mr. Rinne follows:]

Statement of William E. Rinne, Deputy Commissioner, Bureau of Reclamation, U.S. Department of the Interior

My name is William Rinne. I am a Deputy Commissioner with the U.S. Bureau of Reclamation at the Department of the Interior.

Mr. Chairman. It is a pleasure to be here today representing the Department of the Interior to offer testimony with respect to the water management role of the Secretary of the Interior in the Lower Basin of the Colorado River and the recent public meetings the Bureau of Reclamation has held regarding "the Era of Limits on the Colorado River."

Management of the lower Colorado River

The legal framework applicable to the management of the Lower Basin of the Colorado River is unique within the United States. The role of the Secretary in matters relating to Colorado River management is authorized and constrained by numerous legal,, collectively known as the "Law of the River." The Law of the River is principally defined by the 1922 Colorado River Compact, the Boulder Canyon Project Act of 1928, the water delivery contracts entered into under Section 5 of that Act, the Federal reserved rights of Indian tribes, the Mexican Treaty of 1944 and the Minutes which apply its terms, the Colorado River Storage Project Act of 1956, the Colorado River Basin Project Act of 1968, the Colorado River Basin Salinity Act of 1974, and other Federal statutes.

Within the "Law of the River," the clearest and most important articulation of the Secretary's role as "watermaster" of the lower Colorado River is found in the 1963 opinion of the U.S. Supreme Court in the case of Arizona v. California:

> "All this vast, interlocking machinery—a dozen major works delivering water according to congressionally fixed priorities for home, agricultural, and industrial uses to people spread over thousands of square miles—could function efficiently only under unitary management, able to formulate and supervise a coordinated plan that could take account of the diverse, often conflicting interests of the people and communities of the Lower Basin States. Recognizing this, Congress put the Secretary of the Interior in charge of these works and entrusted h[er] with sufficient power, principally the § 5 contract power, to direct, manage, and coordinate their operation."

The Secretary's actions, as delegated to the U.S. Bureau of Reclamation (Reclamation), are specifically directed and limited by the permanent injunction entered by the Court in the 1964 Decree, as supplemented, in that case. The Supreme Court's Decree enjoins "the United States, its officers, attorneys, agents and employees" from operating the regulatory structures controlled by the United States except in strict accordance with the provisions of the Decree. The primary structure that controls operations on the lower Colorado is Hoover Dam, a magnificent engineering achievement that remains one of the Southwest's critical structures for water and power. Hoover Dam was constructed under the authority of the Boulder Canyon Project Act—the statute that authorizes many of the activities within the Secretary's watermaster function.

The Era Of Limits

For more than six decades, water supplies in the Colorado Basin have made it possible for Reclamation to meet all water needs within the Lower Basin states of Arizona, California and Nevada. The water storage reservoirs and hydroelectric production facilities constructed in the Colorado River system make it one of the most reliable and robust water management systems in the United States. Nevertheless, the water of the Colorado River system is a finite resource that must be managed carefully to maximize its utility while sustaining its long-term resource values.

While reservoir storage within the Colorado Basin protects against the variability of the annual runoff that reaches the Basin, the current drought in the basin demonstrates that existing facilities and practices do not assure continuity in meeting water demands in the Basin. For instance, today Lake Mead stands lower than it has since the summer man first set foot on the moon in 1969.

In light of how increased demands and the current drought reinforce chronic water supply problems, Reclamation initiated a series of educational workshops to explain basic information about the Colorado's yield, storage, and usage to the citizens who rely on the river. Seven educational workshops have been held this year in all three Lower Basin States.

As part of its ongoing management of regulatory structures in the Colorado Basin, Reclamation conducts numerous studies to make the most educated projections we possibly can about future water supplies from the Colorado River. These studies incorporate data such as the River's hydrologic history, current water supply information, projected population growth, projected water demand and other factors that are used to conduct hydrologic simulations of future water conditions.

Studies conducted to date indicate the river should supply enough water to meet the lower basin's basic annual consumptive use apportionment of 7.5 million acre-feet (maf) for many years to come. But they also tell us there will be far fewer years when surplus water will be available as compared with the recent past.

In June 1990, Reclamation, recognizing the finite nature of the Colorado River resource and the growing demand for Colorado River water in the southwest United States, observed that "we begin to enter an era envisioned by those far-sighted planners who made the hard choices when the compacts and laws governing the river were written...a new era...an era of limits."

Let me review a few basic principles: The Colorado River's annual flow is comprised mostly of snowmelt that flows from the high mountains of Colorado, Wyoming and Utah. This annual flow can vary greatly. Since record-keeping began in 1906, the annual river flows have ranged from a low of five million acre-feet to a high of more than 24 maf.

The water storage system that exists on the Colorado River today was built to "even out" these annual periods of highs and lows, ensuring a year-round supply of water for use by the seven Basin States and Mexico.

The Law of the River specifies who can use Colorado River water, how much they can use, and under what conditions. As recently noted by U.S. District Court Judge James Robertson: "[A] Supreme Court injunction, an international treaty, Federal statutes, and contracts between the government and water users account for every acre foot of lower Colorado River water." Within this system, the Secretary of the Interior is authorized to operate and manage the Colorado River in consultation with the Colorado River Basin States.

The 1922 Colorado River Compact apportioned water between the upper and lower basins of the Colorado River. Within the Lower Basin, the Boulder Canyon Project Act of 1928 allocated 7.5 million acre feet among the Lower Basin states of Arizona (2.8 maf), California (4.4 maf) and Nevada (0.3 maf). This statute also required all Colorado River water users in the Lower Basin to have valid contracts with the Secretary for that water.

Until 2003, water has been available to Arizona, Nevada and California beyond their basic annual entitlements because:

- The water storage system that has been built on the Colorado River ensures a stable, long-term water supply. While droughts impact the river's water supply, the storage system has carried the river through several periods of drought.
- Winter snowfall in the headwaters of the Colorado River system in past years has been sufficient to refill the system's reservoirs as recently as 2000.
- Colorado, Wyoming, Utah and New Mexico were not using all of their Colorado River water supply.
- Colorado, Wyoming, Utah and New Mexico also did not need to rely so extensively upon water stored in Lake Powell to protect against demands upon the Upper Basin's other reservoirs to deliver Colorado River water to Mexico under the US-Mexican Water Treaty.
- Until the mid-1990's, neither Arizona nor Nevada fully used its basic apportionment of Colorado River water, making unused water available for use by California.

Today the Lower Basin states of Arizona, Nevada and California are each using their full basic Colorado River apportionments. As a result, there is no "unused" water in the Lower Basin. While demand for water has increased, the current drought has reduced supply. Thus, the Bureau must more carefully consider optimal management of the limited supplies of the Colorado River.

In the recent past, Lower Basin use has exceeded 8.5 maf (one maf over basic apportionment). We project that in future years the Colorado River may not supply enough water to meet increasing demands in the three lower basin states. In most years, these states will receive only their basic annual entitlement of 7.5 maf. There will be future years when extra water is available, but those years will be the exception, not the norm. The Secretary's Interim Surplus Guidelines, adopted in 2001, do not guarantee that surplus water will be available if surface levels in Lake Mead are too low.

River Management in the "Era of Limits"

Through its recent workshops and as part of its ongoing consultations with the representatives of the Basin States, Reclamation has been considering appropriate strategies for the future management of the Colorado.

How the River is managed impacts all Colorado River water users, particularly in the lower basin. Everyone with a right to Colorado River water must carefully consider how they manage and use that water. State and Federal law requires that it be used reasonably and beneficially. In cases of limited water in storage, as in 2003, misuse by even one user may have a direct and immediate impact on the availability of water for others.

Improvements in River management made by Reclamation include:

- enhanced measurement systems will allow for more accurate accounting of Colorado River water use as Reclamation prepares its Decree Accounting reports each year—and will also give water users more accurate information on which to manage their supplies;
- newly developed interstate water banking regulations provide a means for water users in different states to help each other, which should result in significant water savings each year and help stretch the available water supply to meet the Southwest's growing water demand.

In addition, Reclamation's water management activities, undertaken in concert with the lower basin states, will continue to include:

- limiting diversions to authorized uses of Colorado River water;
- enhanced attention to unauthorized uses of Colorado River water;
- adherence to water orders and entitlements;
- public education efforts on the need to manage and conserve the precious and limited water supplies of the Colorado.

Careful Colorado River Management Benefits Everyone

Information gathered in studies the Bureau conducted show that it is important for all Colorado River water users and managers to examine how we use water. We need to manage use se we do not excessively deplete reservoirs to the detriment of future needs, detrimentally affect the River's water quality, or diminish the economic well-being of the many communities that depend on the river for water supply.

Reclamation is committed to do its part to help ensure that the waters of the Colorado River are managed and used wisely to achieve the greatest benefit possible for the many who depend on these waters.

We will have to work together better than ever before in this new era. Whether you are a water manager, a water provider, the grower who waters a crop, or one who draws water out of a tap, we all have an important role to play in how the Colorado River will be managed and used in the future. Together, we can manage the River and our reliance upon it to meet our mutual needs.

This concludes my testimony. I would be pleased to answer any questions you may have.

Mr. CALVERT. Thank you very much.

And with us today is Mary Nichols, Secretary of Resources Agency.

Thank you for coming down from Sacramento, Mary, and you're recognized for 5 minutes.

STATEMENT OF MARY NICHOLS, SECRETARY, CALIFORNIA RESOURCES AGENCY

Ms. NICHOLS. Thank you, Mr. Chairman.

You also have my written testimony, and I won't attempt to summarize it. I just want to make three quick points and look forward to your questions and to the discussion.

The California water policy and program for the last four and a half years, since I've been Secretary for the Resources Agency under Governor Davis, has had three principal elements to it.

The first, which you, Mr. Chairman, have been a leader in, is the CalFed program where the Governor helped forge the final record of decision and has been committed to implementing the program, and we're seeking Federal authorization and hopeful that we'll finally be able to achieve that.

Second is the QSA, completion of the Colorado River quantification agreement, and the pieces of that agreement which include the water transfer, the historic water transfer, from agricultural Imperial County to the San Diego area.

And the third has been to provide money from the taxpayers of the State of California through some historic bond acts, which have been passed since we were able to complete the agreements for CalFed. And those agreements in turn have led us to an ability to go to the voters now three times and to raise billions of dollars to invest in California's own water infrastructure.

And these three items are, as I think you suggested in the letter that you sent, closely related to each other. We believe that it is still possible to complete the QSA this year. We are working hard to try to bring the parties together and to keep them together to make that happen. The state has committed substantial amounts of money to help deal with some of the impacts that have been caused as a result of environmental issues that were raised during the completion of the QSA.

We believe very strongly that the QSA should reflect the potential for restoration of the Salton Sea because we agree very strongly with the members who've said that the sea can't be ignored and that there is a way that we can link a creative alternative for maintaining the sea and its valley use to completion of the water transfer and the QSA. And we're committed to working with you to help bring that to reality.

We do see the QSA in context of the historic CalFed agreement and process in part because the failure to have a QSA has already resulted, as you all know, in action by the Department of Interior to reduce California's ability to have access to surplus water on the Colorado River.

We were disappointed in the way in which that decision was made. We feel that the Department has erroneously interpreted its obligations to defer to California law on matters of how water is used within the State of California and how we judge beneficial use. But we recognize that failure to complete the QSA on time was a triggering point and that the action that was taken in suspending the Guidelines was one that was really unavoidable.

However, the impact of this is immediately shown by actions of the Metropolitan Water District in pursuing other options which included in increased purchases of water for Northern California.

And while we recognize that, again, the long-term future and the medium-term future of California lies in increasing numbers and volumes of transfers, voluntary transfers between agricultural and

urban users, the connection there between the Southern California situation and the problems of the north couldn't be more clear.

We were very lucky this year that we have been blessed with rain and snow in the north, and so we weren't dealing with a shortage that had to be allocated. But the interconnection between our state is—between all of us in the state is very apparent.

And so I'm here mainly to pledge to you that we will continue to work to try to get the QSA done. We'll find whatever tools we can and look forward to working with you and answering your questions.

[The prepared statement of Ms. Nichols follows:]

Statement of Mary Nichols, Secretary, Resources Agency, State of California

Mr. Chairman and Members of the Subcommittee, thank you for inviting California to participate in today's field hearing. I am pleased to be here this morning on behalf of Governor Davis.

As the Subcommittee requested, my testimony today will explain the role that the State has played in recent negotiations among the local agency users of Colorado River water, focusing on how California expects to cope with the new era of limits on the river. From the State's perspective there is, of course, a close connection between the reliability of Southern California's water supplies from the Colorado River and the region's needs with respect to the CALFED Bay-Delta program. That is, deficiencies in Colorado River water supplies will have to be made up from other sources, the Delta being one of those sources.

Background

As members of this Subcommittee are aware, the four involved local water agencies—Metropolitan Water District of Southern California, San Diego County Water Authority, Coachella Valley Water District, and Imperial Irrigation District—were unable to reach agreement on the Quantification Settlement Agreement package at the end of last year. This lack of agreement resulted in Federal suspension of the Interim Surplus Guidelines that were in effect in 2002 and had provided MWD, the most junior water user of the four, with a full Colorado River Aqueduct last year. When former California Department of Water Resources Director Tom Hannigan testified before you last year in La Quinta, he described how the Guidelines were intended to provide a soft landing for the local agencies while they carried out actions to reduce their use of river water. The Guidelines increase the likelihood that MWD's Southern California service area would continue to experience a full Colorado River Aqueduct through 2016 via Federal declaration of surplus conditions.

By suspending the Guidelines, the Department of the Interior reduced the local agencies' 2003 water orders to bring California down to its basic interstate apportionment of 4.4 million acre-feet this year. Unfortunately, this action has spawned a new round of litigation, as well as putting listed species at the Salton Sea at increased risk of harm. DOI's action ignored the long-standing principle of Federal deference to state water management, and California's public trust doctrine. Now the State is faced with attempting to remove obstacles to QSA execution in the face of competition from the ongoing litigation and from the DOI administrative proceedings resulting from the litigation. Despite California's repeated requests for a meeting, it appears DOI is too engaged with its work on the litigation to intensively discuss the Federal aspects of conditions that must be met before the QSA execution. As you may be aware, forty-one members of the State Legislature recently signed a letter to Secretary Norton requesting that DOI support efforts by the State and by the local agencies to finalize the QSA.

California's abrupt reduction to 4.4 maf this year is already creating impacts. Farmers in the Coachella Valley are paying an additional $15 million for water to make up the 2003 cutback, resulting in a doubling of their base water rate for the next five years. As MWD testified in the litigation over this year's water orders, the reduced Colorado River water supply "will manifest itself as real hardships to Metropolitan and its service area. There are no other alternatives available to prevent or further minimize these hardships". Impacts are also being felt by other Lower Basin states, especially Nevada. Las Vegas, a community highly dependent on the Colorado River, has also lost its access to surplus water provided by the Guidelines in the absence of a QSA. Lack of a QSA, and its related uncertainties, are jeopard-

izing the cooperative spirit with which the Basin States have been working to address Colorado River water management.

State Role in Recent Negotiations

Governor Davis, concerned over the loss of surplus water to California in 2003, called the local agencies together in Sacramento this past January, to ascertain their interest and willingness to continue negotiating the proposed QSA. There was concurrence that the attempt should be made. The Governor has accordingly devoted substantial Administration resources to facilitating agreement among the agencies. A milestone was reached in March when, after many long hours of effort on everyone's part, the agencies' negotiators adopted a proposed QSA package to recommend to their boards of directors. The proposed package—which included drafts of the numerous agreements linked to the QSA as well as the QSA itself—was presented to DOI and to the Basin States for their review. This step represented a major accomplishment in the QSA process, given the long-standing differences among the agencies. In fact, one Federal representative characterized it as Hell having finally frozen over.

With adoption of the proposed agreement package, attention then turned to addressing the conditions precedent for QSA execution. The conditions include: State legislation allowing the "take" of California fully protected species and providing funding to support QSA implementation, including the provision of a $150 million State loan guarantee; IID grower sign-ups for the conserved water to be transferred to SDCWA; settlement and dismissal of IID v. U.S. concurrent with the QSA's effective date, and; resolution of DOI issues—including payback of past overruns (2001 and 2002) and a policy for managing future inadvertent overruns—that would allow reinstatement of the Guidelines' surplus water concurrent with the QSA's effective date. I am pleased to report that the relevant bills have been moving through the Legislature, the loan guarantee has been arranged, and IID and SDCWA have waived the grower sign-ups provision in favor of IID itself standing in as the guarantor. As I alluded to earlier, we have been unable to address with DOI the important issues associated with Federal approval of the QSA, and litigation regarding this year's water orders remains in process.

The most recent activities associated with fulfilling the conditions precedent have stemmed from MWD's new objections to the use of State funding to support QSA implementation, and from desires by a variety of stakeholders to more closely tie the QSA and IID-SDCWA water transfer to Salton Sea restoration. We are working through these issues now. The Davis Administration strongly supports preserving environmental benefits provided by the Salton Sea. Proposition 50 provided $50 million of State bond funding for the sea, and the Governor in his May Revise of the budget earmarked $10 million of that amount for a feasibility study of new and potentially promising concepts of restoration.

Living with Reduced Colorado River Water Supplies

Unfortunately, California is already living with reduced supplies in 2003, although not in the manner in which we would have hoped. As then-Director Hannigan testified to you last year, the desired outcome was that the local agencies would have executed the QSA in time to avoid suspension of the Guidelines. The Guidelines' surplus water is one element in California's draft Colorado River Water Use Plan, which describes actions to be taken in the near-term to reduce California's use of river water, and identifies other actions that need further evaluation before they can be implemented. Actions identified for near-term implementation by the local agencies include lining the remaining unlined sections of the U.S. Bureau of Reclamation's All-American and Coachella Canals (with State-provided funding), the proposed IID-SDCWA transfer, and development of groundwater conjunctive use and storage projects. The draft Plan also describes actions that may be taken by individual water retailers or water users, especially within urbanized Southern California, to reduce their dependence on imported water supplies. These actions, including water conservation, water recycling, and groundwater management projects, are eligible for State financial assistance from voter-approved bond measures.

As an aside, I would like to point out that California has made substantial financial assistance available to the local agencies to assist in Plan implementation. Subcommittee members may recall the $235 million in State general funds authorized for lining parts of the All American and Coachella Canals and for MWD's groundwater storage projects. Additional financial assistance provided by recent State bond measures is available to help agencies in Southern California improve reliability of their local supplies and reduce their reliance on Colorado River water. Statewide, the 1996 Proposition 204 made available $85 million for water recycling, ground-

water recharge, and water conservation loans and grants. Proposition 13 in 2000 provided $395 million for water recycling, groundwater recharge and storage, and water conservation loans and grants, as well as $235 million for Santa Ana River watershed grants (including groundwater reclamation/water conservation/water recycling). Last year's Proposition 50 provides $461 million specifically to Southern California, for drinking water projects to help agencies reduce Colorado River use and for integrated regional water management projects. Proposition 50 also provides $825 million for CALFED implementation—funding that will help firm up the reliability of State Water Project supplies to Southern California.

Many of the measures in California's draft Colorado River Water Use Plan, however, are not likely to be implemented in the absence of a QSA, at least not without prolonged litigation. For example, proposed agricultural to urban water transfers such as the MWD-Palo Verde Irrigation District transfer could not be implemented without further detailing of the agencies' rights and priority use of Colorado River water. The now-in-force Seven Party Agreement of 1931 makes only a partial division of California's interstate apportionment of Colorado River water and does not fully quantify the 3.85 MAF of water contained in its first, second, and third priorities and allocated to the agricultural agencies.

MWD, the most junior of the involved California agencies involved in the QSA negotiations, asserts that it can continue to deliver reliable water to its service area absent a QSA. However, State legislation enacted last year that linked city and county land use decision-making to water supply availability raises the bar with respect to demonstration of long-term assured supplies. Wetter conditions in Northern California this year allowed for nearly full SWP deliveries to Southern California, helping lessen some short-term impacts. A year-to-year reliance on full SWP supplies or water transfers from Northern California, however, is not a key to long-term reliability for Southern California.

Conclusions

We remain convinced that a QSA that takes into account Salton Sea restoration options is California's best course for living in an era of limits on the Colorado River. We are very close, and we are optimistic that the local agencies will be able to work through the remaining issues standing between QSA implementation and us. I want to assure you, Mr. Chairman, that the Davis administration is committed to helping the local agencies ensure that benefits provided by the Interim Surplus Guidelines can be returned to California.

Thank you for the opportunity to appear before you today. I look forward to answering any questions you may have.

Mr. CALVERT. Thank you.

With us with the upper basin state, representing the upper basin, is Mr. Larry Anderson, Director of the Utah Division of Water Resources.

STATEMENT OF D. LARRY ANDERSON, UTAH COMMISSIONER, UPPER COLORADO RIVER COMMISSION AND DIRECTOR, UTAH DIVISION OF WATER RESOURCES

Mr. ANDERSON. Thank you, Mr. Chairman, ladies and gentlemen. It's an honor for me to be here today.

The Colorado River is an important economic recreational and environmental resource for the citizens of the upper basin. A significant portion of the basin's economy revolves around and is supported by the use of the Colorado River and its tributaries for power generation, recreation, irrigation, as well as municipal and industrial water for many of our growing communities.

With the goal of protecting the upper basin states' current and future uses of the Colorado River, Utah joined with the other six basin states in responding to the request by the Secretary of the Interior to develop a plan by which the short-term needs of the lower division states, specifically California, could be met during a transition period while California developed and implemented a plan to reduce its normal uses of Colorado River water to 4.4 mil-

lion acre feet, which is the amount allowed under the Law of the River.

After several years of discussions and negotiations among the seven basin states, a consensus plan was developed. The plan resulted in the development of the Colorado River Interim Surplus Guidelines, as adopted in the Secretary of Interior's record of decision, dated January of 2001.

The Surplus Guidelines allowed the Secretary to provide water to meet municipal and industrial uses in the lower basin, again, particularly in California, during the interim period of 2001 to 2016. The Colorado River reservoirs were projected to be relatively full because the upper basin states demands are currently less than allocated to them by the Law of the River.

The Interim Surplus Guidelines allowed California 15 years to implement conservation programs to reduce its annual demand of Colorado River water from its current use of 5.2 million acre-feet to its apportionment of 4.4 million acre-feet, a reduction of 800 acre-feet annually.

During this 15-year timeframe, the other basin states agreed to give California an increased assurance the surpluses will be declared that municipal and industrial water demands will be met during the transition period. It has been referred to as a soft landing for the California's Colorado River water agencies.

Of great interest and concern to the basin states are the problems California's Colorado River water agencies have had in reaching an agreement on the QSA, which is a necessary step the California water users must take to meet the requirements of the Interim Surplus Guidelines. We fully expected California to have this plan in place and finalized by December 31st of 2002, with all necessary agreements, compliance documents and a QSA. The deadline for finalizing the agreement was not met. We were disappointed that California agencies would let this happen.

The QSA will make it possible for California to reduce its use of Colorado River water, as well as make it possible to convert or transfer agricultural water to M&I uses for Southern California. While we are very concerned over the bickering between the water users, we still anticipate and expect the agencies to solve these problems and complete the QSA.

Permanent quantification of California's agricultural use of Colorado River water was a basic premise for the other basin states to support the Guidelines. The QSA will protect all other Colorado River Basin water users from additional demands from California and is the principal protection sought by the other basin states.

In conclusion, the State of Utah continues to support the Interim Surplus Guidelines and the finalization of a permanent QSA by California. All due diligence needs to be exercised by California's Colorado River agencies to implement the QSA. A successful agreement will reduce major causes of contention in the basin.

But as long as California's Colorado River agencies fail to complete an acceptable QSA, we expect the Secretary of Interior to continue the suspension of the Interim Surplus Guidelines and limit California's use of Colorado River water to 4.4 million acre-feet annually.

Thank you very much.

[The prepared statement of Mr. Anderson follows:]

Statement of D. Larry Anderson, Utah Commissioner, Upper Colorado River Commission, and Director, Utah Division of Water Resources

IMPLEMENTATION OF THE INTERIM SURPLUS GUIDELINES

The Colorado River falls more than 12,000 feet as it flows from the Rocky Mountains to its outlet in the Gulf of California. The river has a huge drainage basin that covers over 244,000 square miles. The seven Colorado River Basin States (Arizona, California, Colorado, Nevada, New Mexico, Utah, Wyoming) comprise about one-twelfth of the area of the continental United States. Despite the size of the watershed, the Colorado River ranks only sixth among the nation's rivers in volume of flow, with an average annual undepleted flow in excess of 17.5 million acre-feet (MAF) (15 MAF at Lee Ferry, the compact division point). Demands on the Colorado River are not limited to needs within the basin. In fact, more water is exported from the basin than from any other river in the country. The river provides municipal and industrial water for more than 24 million people living in the major metropolitan areas of Los Angeles, Phoenix, Las Vegas, Salt Lake City, Denver, Albuquerque, and hundreds of other smaller communities in the seven states. It also provides irrigation water to about 2.0 million acres of land. The river has over 60 MAF of storage capacity and 4,000 megawatts of hydroelectric generating capacity. The river is often described as the most regulated river in the world. Considering its importance to the basin states, Native American Indian Tribes and Mexico, the agreements that have been reached to divide the river's water must be considered of the utmost importance.

Most of the flow of the Colorado River originates high in the mountains of the Upper Basin States of Colorado, New Mexico, Utah and Wyoming. The Colorado River is an important economic, recreational, and environmental resource for the citizens of the Upper Basin States. A significant portion of the economy of the Upper Basin States revolves around and is supported by the use of the Colorado River and its tributaries for power generation, irrigation, and tourism as well as a water supply for growing populations. Thus we are intimately involved and vitally concerned with the management of the Colorado River.

The Law Of The River

Because of the critical role of water in the arid west, the Colorado River has been the subject of extensive negotiations and litigation. This has resulted in the development of a complex set of Federal laws, compacts, court decisions, treaties, state laws and other agreements collectively known as "The Law of the River". The principal documents forming "The Law of the River" include:

- The Colorado River Compact of 1922;
- The Boulder Canyon Project Act of 1928;
- The Mexican Treaty of 1944;
- The Upper Colorado River Basin Compact of 1948;
- The Colorado River Storage Project Act of 1956;
- The U.S. Supreme Court's Arizona v. California decision and decree of 1964;
- The Colorado River Basin Project Act of 1968;
- Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs of 1970;
- Minute 242 of the International Boundary and Water Commission of 1973;
- The Colorado River Basin Salinity Control Act of 1974;
- The Grand Canyon Protection Act of 1992;
- Colorado River Interim Surplus Guidelines of 2001

In addition to these documents, several other Federal and state laws impact the use of the river. Some of these are: California's Self Limitation Act, Federal Endangered Species Act, National Environmental Policy Act, Clean Water Act, and the Wild and Scenic Rivers Act. Currently a key document is the yet to be completed California Colorado River Quantification Settlement Agreement which revises and quantifies the water use priorities in California of its Colorado River water allocation.

Interim Surplus Guidelines

One of the most important issues in the Colorado River Basin today is the increased municipal and industrial water demands in the Lower Division States of Arizona, California, and Nevada versus their available water supply as allocated by "The Law of the River". Unless and until the Lower Division States take the necessary steps to live within their basic entitlement of 7.5 MAF per year, there will continue to be contention in the basin. With the goal in mind of reducing basin wide

contention and enhancing the Upper Basin States' ability to develop and use more of their Colorado River water without impacting the Lower Division States, Utah joined with the other Six Basin States in responding to a call from the Secretary of the Interior to develop a plan by which the short term needs of the Lower Division States, specifically California, could be met during a transition period while California develops and implements a plan to limit its use of Colorado River water to the amount allowed under "The Law of the River". After months of intense discussions and negotiations among the Seven Basin States, a consensus plan was developed. This consensus plan resulted in the development of the Colorado River Interim Surplus Guidelines (Guidelines) as adopted in the Secretary of the Interior's Record of Decision (ROD) dated January of 2001.

The Surplus Guidelines allow the Secretary to provide water to meet municipal and industrial (M&I) uses in the Lower Basin, particularly in California, during an interim period 2001- 2016 (while Upper Basin States water demands are at less than full development). Water users in California have been using approximately 5.2 MAF annually over the past 20 years, 800,000 acre-feet more each year than their basic apportionment as determined in Arizona v. California. The Guidelines allow California 15 years to implement conservation programs to reduce its demand for Colorado River water from 5.2 MAF to its compact allocation of 4.4 MAF. During this 15-year time frame, the other Basin States have agreed to give California a greater assurance that annual surpluses will be declared and M&I water demands will be met from reservoir storage during this transition period.

These Guidelines are structured in such a way as to also provide protection to the other Six Basin States against the potential impacts of dry hydrology during the next 15 years. This protection will reduce the allowable California M&I water demands that can be met by surpluses as the reservoirs are lowered because of drought. The Upper Basin States have continued to support the consensus reached by the Seven Basin States. We strongly urge and expect the Federal Government and the Secretary of the Interior to continue to follow through on the commitments of all parties including enforcement of the provisions of the Interim Surplus Guidelines if California does not meet the benchmarks set forth in the Guidelines and the ROD. It is critically important that California make the anticipated progress in reducing its annual Colorado River water use over the fifteen- year interim period. We, the Upper Basin States, strongly believe that appropriate enforcement is critical to protecting our rights to the water allocated to our states under "The Law of the River". It was only on this basis that the other six states agreed to the provisions that were incorporated into the now promulgated Interim Surplus Guidelines.

California Water Use Plan for the Colorado River and the Quantification Settlement Agreement

Of great interest and concern to all the Colorado River Basin States is the success of California in developing a way to live within its 4.4 MAF allocation, which is inextricably linked to the Interim Surplus Guidelines ROD. This includes the necessary steps California water users must take to meet the requirements of the Guidelines ROD. The Upper Basin States have supported, and tried to facilitate through the Guidelines, California's development of a way to get down to 4.4 million acre-feet of annual use. We fully expected California to have this plan in place and finalized by December 31, 2002, with all necessary agreements and compliance documents executed. When the December 2002 deadline for the finalization of California's agreements, including the Quantification Settlement Agreement (QSA) was not met, we wholeheartedly encouraged and supported the Secretary of the Interior in her suspension of surplus deliveries under the provisions of the Interim Surplus Guidelines. Her decision was in keeping with the Interim Surplus Guidelines ROD.

The QSA is the overarching agreement that will make it possible for California to reduce its use of Colorado River water. While we are concerned over the bickering between the California Colorado River water agencies, we still anticipate and expect these agencies to solve their problems and complete the QSA, as the viability of the Guidelines hangs in the balance. Permanent quantification of California's agricultural use of Colorado River water was one of the basic premises of the other Six Basin States for negotiating and supporting the Guidelines. This quantification will protect all other Colorado River Basin water users from additional demands from California and is the principle protection sought by the Basin States. The Upper Basin States have and still encourage Congress and Federal agencies to provide support for and facilitate these agreements wherever appropriate, and if necessary, expedite any required Federal review processes.

The inter-related issues of Colorado River water use in California and the Salton Sea protection and restoration efforts have complicated this matter. While the

Salton Sea has become an important wildlife habitat, it also should be recognized the Salton Sea is a manmade habitat dependent upon agricultural inefficiency and resultant return flow. Any water dedicated for use in the Salton Sea will have to come from existing water uses in the area, which may conflict with the transfer of agricultural water to municipal use. Given the relationship between the Salton Sea and the QSA, the impacts of these efforts need to be carefully evaluated and separated.

Conclusion

In conclusion, I state the strong support of the State of Utah for the Interim Surplus Guidelines and the finalization of a permanent QSA by California. Our support has been demonstrated in the close working relationship of all seven of the Colorado River Basin States in the development of the Guidelines and our continued efforts in the arena of the Seven Basin States' discussions concerning the Colorado River, the QSA and the issues surrounding the Salton Sea. California's plans for the Colorado River and the QSA are inextricably linked to the Guidelines. All due diligence needs to be exercised by California's Colorado River water agencies, Congress, Federal agencies, and the other Six Basin States to achieve the worthy goal of implementing this plan and consummating the Quantification Settlement Agreement. As long as California's Colorado River water agencies fail to complete an acceptable QSA, we expect the Secretary of Interior to continue the suspension of the Interim Surplus Guidelines and limit California's water use to 4.4 MAF per year.

Mr. CALVERT. Thank you, gentleman.

And with us from the lower basin states is Herb Guenther, the Director of Arizona Department of Water Resources.

STATEMENT OF HERB GUENTHER, DIRECTOR, ARIZONA DEPARTMENT OF WATER RESOURCES

Mr. GUENTHER. Thank you, Mr. Chairman, members, ladies and gentlemen in the audience.

I am also pleased to be here to testify before the Committee. The issue has been defined many times over. I'm sure you're more than familiar with it. My testimony addresses both the water bank and the ISG as it relates to the importance to the basin states.

Suffice it to say, we are extremely interested in putting these cats back in a bag somewhere and bringing this issue to closure. I think it is perhaps the most important water issue that we will deal with in this young 2001 first decade.

This is an opportunity that will be gone if we do not cease it within the next several months. And the reason I say that is because the world will become much more complicated as we approach the 2004 era as the Presidential political scene becomes more intense.

I believe that the QSA that is currently proposed is very near acceptance by all parties. If we can just put the final touches to it, if we are successful in getting the financing for the issues that need that financing, I believe we can bring this to closure before Thanksgiving.

I am very optimistic that not only can the basin states, the six remaining basin states outside of California, resolve our outstanding issues—and they're minor, but they will require some work. And they deal with primarily foul ramps, conversion from fouling to actual solid conservation measures, and the like. I think those are all virtual issues and very easy once we sit down and talk about them.

At the same time I met with Assistant Secretary Raley last week before he went into the Grand Canyon, and he has also agreed to

participate so that members of this department can come to closure on their remaining outstanding issues which deal with the Secretarial Implementation Agreement. Again, we're very confident those issues are virtual.

So we look forward to working feverishly at this time to try to solve the remaining outstanding issues both in the basin states and with the Secretary, and then we will be prepared to move forward at such time as all the conditions present are met, including the funding.

It is a complex matter as you're well aware. The QSA is necessary to activate the ISG. The QSA is also necessary to get the Secretarial Implementation Agreement to activate the Interim Surplus Guidelines. After the Interim Surplus Guidelines are activated, then the Metropolitan Water District in Arizona will have to enter into an Interim Surplus Guidelines agreement which will allow Arizona to forgo their rights to 46 percent of surplus flows, make those available to Arizona—or California and Nevada. And, in exchange, we have a shortage sharing agreement for up to one million acre-feet with the Metropolitan Water District.

We look forward to a QSA that activates the SIA, which then will activate the ISG and will lead to the ISGA. We should be momentarily—we should enjoy momentary tranquility on the system.

I know the Salton Sea, as Congresswoman Bono has said, is the keystone to our difficulties which we've been having with this potential QSA. I would actually say it's been the controlling interest in this establishment of the QSA. It is a very complex and challenging issue both politically and biologically.

And I believe eventually and ultimately it will come down to a benefit/cost analysis as to what actually can be done to salvage all or part of the Salton Sea.

So from the lower basin states' standpoint, we stand ready to assist the agencies in California. We stand ready to work with the other basin states. We stand ready to work with the Secretary of the Interior to resolve any remaining outstanding issues and bring this issue to a successful conclusion.

Mr. Chairman, I thank you for the opportunity to comment.

[The prepared statement of Mr. Guenther follows:]

Statement of Herb Guenther, Director,
Arizona Department of Water Resources

As the Director of the Department of Water Resources, I represent the State of Arizona regarding Colorado River issues. Arizona holds a contract with the Secretary of the Interior for 2.8 million acre-feet of water from the Colorado River. The Colorado River provides the largest dependable water supply for our long-term growth and development. Our largest water project is the Central Arizona Project, which imports over 1.5 million acre-feet of Colorado River water to central Arizona. The water is used to supply municipal customers, Indian Tribes and irrigated agriculture. Many of our cities are, or will be, completely dependant on the Colorado River to meet their dependable water supply needs. However, the Central Arizona Project has the lowest priority water right in the lower Colorado River Basin. That means that Arizona is very concerned about future shortages. We cannot tolerate long-term over use by other states that will deplete the water supplies stored in Lake Mead.

We also understand that the probability of shortages will increase dramatically in future years as the upper basin states develop their water uses. To avoid catastrophic shortages to our cities in the future, Arizona has begun to recharge, or bank, Colorado River to save water for the dry years ahead.

Arizona has very deep aquifers and conditions favorable for recharge. When water is available, we extend the opportunity Nevada and California to recharge water for later recovery to meet those states' needs. So far, Arizona has banked approximately 80,000 acre-feet for the Southern California Metropolitan Water District and over 100,000 acre-feet for Nevada.

Water banking is expanding in Arizona as we study the means to bank water to help resolve Indian water rights settlements. We are now engaged in planning for the potential use of the water bank for more than municipal water shortages.

Water banking is an essential water management strategy for Arizona and our neighboring states. Even so, the amount of water and storage sites is limited, causing Arizona to carefully evaluate the priorities of use.

Several years ago, Arizona entered into discussions with the U.S. Bureau of Reclamation, water agencies in Southern California and the states of Nevada, Colorado, New Mexico, Utah and Wyoming about reducing California's water uses from nearly 5.4 million acre-feet of use to 4.4 million acre-feet of use that is the normal apportionment of water for California. Due to the water rights priority system in California known as the Seven-Party Agreement, the Metropolitan Water District (MWD) would have had to reduce its Colorado River use by more than half to meet the overall reductions in water use for the State of California. Metropolitan believed that their customers and member water agencies would be severely impacted by such reductions. Metropolitan asked for a time of transition, a "soft landing", to quantify water rights and make arrangements for water transfers from the higher priority agricultural water districts to MWD. To implement a transition plan, the Secretary of the Interior had to determine that surplus water was available to "overdeliver" water to MWD.

Arizona and the other basin states agreed to make interim surplus water available to Southern California if the California water agencies committed to a defined, enforceable program to reduce their dependence on Colorado River water over their basic entitlement, in a way that avoids undue risk of shortage and other impacts to the other Basin States. One of the keys to such a program is the quantification of the agricultural priorities in Southern California, which is necessary to serve as a baseline from which any transfers from agricultural priorities to the Metropolitan Water District and San Diego could take place. Another key is the degree of certainty that the plan will be implemented, so the States can be assured California will be prepared to live within its apportionment at the end of the interim period. Based on California's willingness to quantify its water rights and implement a reduction program, the Secretary adopted Interim Surplus Guidelines (ISG). To make the ISG work as intended, Arizona had to agree to waive its rights to some surplus deliveries of water that would have been available to us under the "law of the river". Arizona did so to help California accomplish its "soft landing". However, surplus deliveries and Arizona's waiver of surplus water rights were contingent upon adoption of the California Quantification Settlement Agreement (QSA). The Southern California water agencies did not execute an acceptable QSA by the end of 2002, causing the suspension of water deliveries pursuant to the ISG, and expiration of Arizona's waiver to surplus water.

As a result of the suspension of surplus under the ISG, MWD and Southern Nevada may suffer a shortage of water supplies this year. In response to this shortage, MWD and Nevada have requested withdrawals of water from the Arizona Water Bank. If the ISG surpluses are not reinstated, we will expect that MWD and Nevada will request to use the Arizona Water Bank during the Interim Period to offset the loss of surplus water. The ability to bank water is limited, and Arizona has to preserve capacity and water for its citizens, including Indian tribes before it can expand the banking for other states.

It is essential for California to execute the QSA to bring stability to water management in the lower Colorado River basin.

The Governors' representatives of the six basin states, have reviewed the most recent set of draft agreements constituting the QSA between California's Colorado River water contractors, which the California agencies presented to us in March of 2003. The Southern California water agencies have requested our comments concerning the current draft QSA. We continue to support the ISG as the mutually agreed upon means of providing California the "soft landing" it requested in order to implement the California Plan. Our support for the ISG is contingent on the development and implementation of a QSA and its required appurtenant agreements among the California agencies. If the QSA is executed, Arizona stands ready to sign an agreement to waive its rights to surplus for the Interim Period.

We encourage the State of California to continue its efforts with the four southern California agencies to negotiate and settle the quantification and transfer agreements. We also encourage the California legislature to authorize funds and enact

enabling legislation necessary for the implementation of the QSA and the California Plan.

It is very important for the proper administration of the Colorado River Basin that long-term agreements be adopted, leading to permanent solutions for sharing of the limited water supplies within California. We also believe that strong commitments by the southern California agencies to the California Plan will minimize the need for the Secretary of the Interior to exercise secretarial authorities under the Law of the River.

The six states do, however, have concerns with some provisions in the current draft QSA, as proposed in March 2003. For these reasons, the basin states have created a small group to work directly with the California agencies to resolve issues we have with the current draft agreements. We hope the Secretary will join us as we attempt to resolve all outstanding issues. Arizona is certain that the remaining issues can be solved to the satisfaction of all concerned. We are committed to continuing the mutual working relationship we have with the state of California, its water agencies and the Department of the Interior. The history of that relationship has been the successful resolution of many difficult issues we have faced on the Colorado River.

Mr. CALVERT. Thank you. Thank you, Herb. And I think the Middle East peace negotiations are complex.

Next with us is Lloyd Allen, the President and Board of Directors of the Imperial Irrigation District.

You'll be recognized for 5 minutes.

STATEMENT OF LLOYD ALLEN, PRESIDENT, BOARD OF DIRECTORS, IMPERIAL IRRIGATION DISTRICT

Mr. ALLEN. Chairman Calvert, Congressman Hunter, members of the Subcommittee, my name's Lloyd Allen. I'm a farmer in Imperial Valley. I appreciate the opportunity to talk to you all about the status of the Quantification Settlement Agreement.

Thank you, Daisy.

As you know, this is of critical importance to the people of Imperial Valley. And I didn't know whether I was going to grow any wheat this year or not when I got that first turkey, but I did, and I have a damn good crop. Thank you. We greatly appreciate your efforts to focus the attention on the QSA.

I'd like to take this opportunity to thank Chairman Calvert, Congressman Hunter, and members of the Committee who work real, real hard to bring peace on the river through the implementation of the QSA.

I prepared a written statement. It's over there somewhere. You can have it, and I'll leave it with you. However, I'd like to take this opportunity to say a few words and comments on the importance of this hearing and the need for decisive action and leadership from the Subcommittee.

Preliminarily, it is important for you and the Subcommittee to understand that the IID is fully committed to the QSA. We have, in fact, approved the QSA in its present form. We know that other basin states and the Department of Interior may have suggestions, maybe some changes. And we don't have it as a take it or leave it. We're willing to work it, regarding QSA deal terms. And we're, therefore, prepared for face-to-face meetings with the State's Interior and California parties on this issue.

However, it's important for you to appreciate that we have thus far been able to get Interior to negotiate the negotiating team. The Interior favors placing its efforts in the direction of the 417. Pro-

ceedings have explained to us that it cannot ever take both tasks in one time. That sounds not too very good to me, because I was in (inaudible) and California at the same time. Interior has also obviously chosen sides in this inter-California dispute, favoring urban Southern California interests over interests of agriculture.

Be that as it may, the time has come to put our efforts in settlement negotiations regardless of the slant of the playing field. If we are to succeed with implementation of the QSA, the Interior's attitude must change. The Interior must bring its outstanding QSA issues to the negotiating table so that the interested parties may address those issues and bring the QSA to completion.

It is also critical that cooler heads prevail in the context of the 417. I think you can appreciate that this is just the beginning of what is likely to be a far-reaching imperfect confrontational litigation. IID urges all parties, including the U.S. Government, not to go in that direction. Your leadership is needed to facilitate the filing of a motion jointly from the IID and the Federal Government to stay proceedings with the Federal court in San Diego. We remain convinced that the court will welcome such a motion and will support the parties in working on a settlement as opposed to promoting administrative and judicial litigation.

Finally, Mr. Chairman, your leadership and influence in this Subcommittee are needed in order to convince our neighbors at MWD to support the QSA. MWD has followed a very confusing path in recent months, and such action has contributed to a lack of confidence in the QSA in some circles. While this is indeed unfortunate, the majority of interested parties continue to recognize the QSA is in the best interest of the State of California and the six basin states in the California water agencies including MWD.

In my written testimony, I explain three recommendations I feel critical to ensure success of the QSA: We need face-to-face negotiations among the water agencies, Interior, and other states, including California, to begin immediately. A motion to stay proceedings must be filed by the United States and IID in the Federal court in San Diego. This Subcommittee should hold periodic oversight hearings during the next several months in order to ensure implementation of the QSA.

Mr. Chairman, I've lived and farmed in the Imperial Valley for many years, and I've witnessed two other situations of difficulty and challenges that have confronted our community. Whether it be past market conditions, hostility of the Federal Government, and 100 years of the history of our community has successfully faced these challenges, and we are prepared to do so, the same, in this situation.

My long years of experience have demonstrated to me that when it's possible, settlement is preferred when trying to protect against confrontational litigation. A settlement that is beneficial to all interested parties is within reach. We simply need to join forces to make progress and set aside our differences. Bring in our mitigation lawyers, and allow common sense and public good to prevail. I sincerely hope that with your assistance we will succeed.

I have with me today John Carter, IID's chief leading counsel, and together we're prepared to answer any questions you may

have. Thank you for the opportunity, and we look forward to working for you.

And it's pretty damn hot at our home, and it's nice to be here in San Diego.

[The prepared statement of Mr. Allen follows:]

Statement of Lloyd Allen, President, Board of Directors, Imperial Irrigation District

Chairman Calvert, Congressman Hunter, and members of the Subcommittee, my name is Lloyd Allen and I am President of the Imperial Irrigation District (IID) Board of Directors. I appreciate the opportunity to speak to you today about the status of the Quantification Settlement Agreement (QSA). As you know, this is a matter of critical importance to the people of the Imperial Valley, and therefore we greatly appreciate your efforts to focus attention on the QSA. Let me also take this opportunity to thank Chairman Calvert, Congressman Hunter, and others who have worked tirelessly in their efforts to bring peace to the river through the implementation of the QSA.

To appropriately outline the history of the development of the QSA, and to follow the often times tortuous route that has brought us to where we are today, would take many pages of testimony. In the interest of time and brevity, I will not take that approach but will instead attempt to focus on a few central points that I think are critical to understanding the present circumstances. I will also provide several recommendations that I believe will ensure success.

Although we have been at what seems to be the "eleventh hour" for the QSA several times in the past, I truly believe that we are now facing the critical point where the QSA must be implemented, with broad-based support, or the protracted and far-reaching litigation that has commenced will pass the point of no return. While IID is fully prepared to protect its senior water rights in the courts, the halls of Congress, and elsewhere, we believe that the wiser course is settlement through implementation of the QSA. This is a time for leadership, diplomacy, dedication to the public interest, and good old common sense.

This is also a time of general confusion and misinformation because the QSA is so complicated and several interested parties are pursuing courses of action that are difficult to understand. With that background in mind, I would like to briefly outline several points that I believe are important to understanding the present circumstances.

First, I believe that there continues to be mistrust directed toward IID, and some parties even suggest that IID cannot be trusted to "do the deal." As to this point let me be emphatically clear: the IID Board of Directors has already approved the QSA and as President of the Board I have signed the relevant documents, including the long-term transfer agreement with San Diego. In other words, IID supports the QSA, IID has approved the QSA, and IID stands ready to address with any interested parties continuing concerns about the terms of the QSA.

Some parties have recently suggested that IID's position is one of "take it or leave it" in regard to the QSA documents that have been approved and executed. That is not a correct statement. While IID would prefer to have the QSA documents remain largely as presently structured, so as to avoid further public hearings in the Imperial Valley and then another vote of the Board, we have never in any way suggested that this is a take it or leave it deal.

We appreciate that other basin states and the Department of the Interior (Interior) may suggest modifications to some of the terms in the documents. IID is fully prepared to engage those discussions and to take appropriate action in the event of a substantive change in the deal terms. I make note, however, of the obvious—the more onerous the changes in the direction of IID the more we face potential political difficulties within our community. But that is the same with other parties as well and we are therefore nevertheless prepared to proceed as long as all interested parties appreciate the political risks.

Second, some parties have suggested that IID should dismiss its suit against the United States government so as to show good faith in the direction of completing the QSA. Again, let me be perfectly clear: IID is prepared to dismiss its suit against the Federal Government as soon as the Part 417 proceeding is dismissed and the QSA has been executed. Let me emphasize—IID is not interested in protracted and confrontational litigation. But IID will not abandon its legal defenses while it is under attack and it is not reasonable to ask or expect us to do that.

Let me also state that IID has been and remains fully prepared to negotiate with Interior, the basin states, and other interested parties at the same time that IID

defends itself in the ongoing 417 proceeding. Such action puts an enormous strain on the limited IID budget, but we recognize that time is of the essence and there is no other alternative. We respectfully suggest that all other parties, including the powerful United States government with huge resources, must be compelled to follow the same approach.

Third, this Subcommittee, other Members of Congress, and the White House should all be focused on facilitating face-to-face negotiations over remaining deal terms for the QSA. Since the first of the year IID has had only one meeting with Interior and the Department of Justice, which was not on the substance of the QSA. Mr. Chairman, since time is of the essence it is not helpful for me to mince words or beat around the bush—IID and the QSA parties have been stiff-armed by Interior in this process. We have been the victims of a concerted effort by Interior to ignore the QSA in favor of the 417 proceeding. If noting else comes out of this hearing, it will be a success if you and others in Congress help us to achieve face-to-face negotiations with Interior and others so as to complete the QSA.

Fourth, it is indeed unfortunate that for reasons that are largely unknown Interior has decided to choose sides in this struggle between the southern California water agencies. California has not sought to avoid the 4.4 million acre-feet (maf) limitation. The internal dispute is over how to divide the 4.4 MAF apportionment. Interior has chosen to side with the junior right holders whose demands for water has increased with urban sprawl and population growth.

In contrast, it is interesting to note that while the Babbitt Administration took actions that were contrary to the interests of IID, their representatives also maintained a measure of risk for the other agencies. As a result, the negotiation playing filed remained largely level. The Norton Administration, however, has decided to support the southern California urban interests against IID, and therefore the incentives to remain at the settlement table have been disrupted. MWD now questions the viability of the QSA especially when Interior seems to be suggesting that it will aid MWD in trying to take water from IID with no regard for compensation, environmental compliance, and other important factors. Again, this is where your Subcommittee and the other members of Congress can provide direction and leadership—the Secretary is supposed to be a neutral water master, not a spear-carrier for MWD.

Fifth, it is difficult for all of us, including the other basin states, to fully understand the positions advanced by MWD in recent weeks and months. For example, I suggest you put yourself in the position of another basin state who was told a few years ago that MWD desperately needed the Interim Surplus Guidelines (ISG) water over the fifteen year 4.4 California water-diet transition period, only to be told recently by MWD that the ISG water is really of very little importance. Similarly, others of us are trying to make sense out of MWD's current passion for protecting the fiscal well being of the State of California.

In the end IID suggests that this Subcommittee and other interested parties should be more focused on the State of California. The 4.4 MAF is California's apportionment to the river, and therefore the state has strongly stepped forward in recent months to protect the overall interests of its citizens. The state has repeatedly emphasized the statewide importance of the QSA, the importance of peace among the agencies, and the importance of the reinstatement of the ISG special surplus water. As I emphasized above, this is a situation where leadership will be critical and it is IID's view that the combined leadership of this Subcommittee, other members of Congress, and the State of California will cause the QSA to be implemented in the end, with the cooperation of MWD.

Sixth, let me emphasize the relevance of the Federal and state environmental laws in this whole process. Over the past four or five years IID and the other QSA parries have struggled endlessly with the Endangered Species Act (ESA), NEPA, the Clean Air Act, and other laws in our efforts to bring the QSA to completion. We all know by now that if water use within IID is cut back there will be a corresponding impact in the amount of water going to the Salton Sea. This impact, we are told by state and Federal wildlife agencies, requires consultation and mitigation under the ESA because of the effect on listed species, and will require compliance with other laws in regard to air quality and other matters.

Curiously, however, Interior is now on a path to cutback IID's water use by probably several hundred thousand acre feet per year (via the 417 proceeding), but Interior has done nothing in the direction of environmental compliance to support that action. Now, this course of action might be attributable to Federal agency arrogance and a notion that Interior simply does not need to pay attention to the environmental laws, or Interior has cobbled together a legal argument as to why under these circumstances it need not comply with these important Federal laws. Whichever is the case, IID suggests that this Subcommittee should investigate this issue

carefully and thoroughly. Maybe it goes without saying, but many interested parties are likely to disagree with Interior on either point of justification, and therefore we can rest assured that this action, too, will lead to protracted and confrontational litigation. That is not, we suggest, the sensible and productive path to follow.

Finally, I would like to mention the unfortunate tension that we are experiencing at this eleventh hour within the basin states. While most of the states have expressed support, and even exceedingly strong support in some cases, for the need to place emphasis on the completion of the QSA while slowing down or stopping the 417 proceeding, our neighbors in Colorado have expressed somewhat contrary views. I think it is exceedingly important to recognize the unique position of the State of Colorado at this point in time: Colorado provides on average about 70% of the water in the Colorado River; nevertheless, Colorado has a smaller apportionment than the State of California; Colorado has been impacted significantly by the recent drought while those of us below the giant reservoirs have had the blessing of carry-over storage; and Colorado is in the process of exploring the ways and means to fully utilize its Colorado River apportionment.

The reasons that impact on a basin state's positions in any given situation can be complex and sometimes parochial. Nevertheless, in recent years we have seen a new paradigm of cooperation among the basin states, and an effort to coordinate to the degree possible for the common good. In this situation we urge this Subcommittee to reach out to the State of Colorado in an effort to fully understand its concerns and to address those concerns to the degree possible. IID firmly believes that the QSA is in the best interest of the QSA parties, the State of California, and the other six other basin states including Colorado. It would be exceedingly helpful to have Colorado lend its support to the successful completion of this process.

On the basis of these points of understanding let me provide the following recommendations to ensure successful completion of the QSA:

1. That this Subcommittee facilitates a series of face-to-face negotiation meetings to be attended by the QSA parties, representatives of the basin states, and Interior and the Department of Justice. Interior and all other parties should be requested to put forth all of the QSA issues that they believe must be addressed so as to move the agreements to execution.

2. That the United States and IID jointly file a motion to stay proceedings with the Federal court in San Diego. The purpose of the motion would be to have the court recognize and understand the seriousness of the QSA settlement effort, and have the court approve Interior's temporary stay of the 417 proceeding in an effort to finish work on the QSA implementation.

3. That this Subcommittee schedules a series of oversight hearings to be conducted over the next several months so as to monitor progress on the completion of the QSA. All of the interested parties should be compelled to attend and report on their progress in implementing the QSA.

Mr. Chairman, it may be a somewhat tired phrase but it is true—water is the lifeblood of my community. Along with the other IID Board members I am dutybound to protect IID's senior vested water rights, and I can assure you that IID will do everything within its power to defend its interests—up to the highest court of the land. But I can also tell you that I have been around a long time and I have seen the results of courtroom battles and other forms of confrontation. When it is possible, I prefer settlement over litigation—and that is the current position of the IID Board.

IID stands ready to assist in any way possible to ensure that the QSA is implemented as soon as possible. I appreciate the tensions that exist between IID and Interior, and between IID and MWD and Coachella. But we are prepared to work cooperatively and in good faith with our QSA partners and the Federal Government to make the QSA a reality. With your assistance, and with the assistance of your Subcommittee and other members of Congress, I am confident we can reach that goal.

Mr. CALVERT. It's only 100 degrees out here, Lloyd.

Mr. ALLEN. Well, it's about this many more than that over there.

Mr. CALVERT. Next, Mr. Steven Robbins, General Manager and Chief Engineer of the Coachella Valley Water District.

STATEMENT OF STEVEN B. ROBBINS, GENERAL MANAGER-CHIEF ENGINEER, COACHELLA VALLEY WATER DISTRICT

Mr. ROBBINS. Thank you, Chairman Calvert, Members of Congress.

Mr. CALVERT. And congratulations to you on your promotion.

Mr. ROBBINS. Thank you.

The Coachella Valley Water District believes that the QSA is the single most important component of the California 4.4 plan in California's effort to reduce its Colorado River water dependency. Coachella Valley Water District is totally committed to the QSA and will continue to work toward its implementation.

This year, as we know, for the first time California was held to 4.4 million acre-feet. Under the current priority system, the CVWD has the lowest priority of the agricultural water districts. This year when water orders were approved, Coachella had an approved water order. Due to all the legal wrangling that went on in April, our water order was reduced. We lost a third of our water, approximately 110,000 acre-feet of our water.

Because that happened a third of the way through the year, to spread that loss out over the remainder of the year meant we only had half of our normal water for the rest of the year. That is a severe impact on the Coachella Valley Water District. Many of our farmers turned to groundwater, and the groundwater basin is already severely overdrafted. And even when turning to groundwater, it's not enough pumping capacity in our aquifer to make up for that water that we had lost.

As a result of that, we had to turn to one of the other water districts, to Palo Verde Irrigation District, to—we implemented a fouling program with them to protect our half-billion dollar ag economy. We spent 12 million dollars to get through the rest of this year and doubled our water rates to deal with what is going on right now.

With the QSA, none of this would have happened. We would have water, and things would be good. Without a QSA, irregardless what happens with the 417 process, we face uncertainties every year and challenges of, perhaps, extreme amounts of money to cover our water needs.

Throughout this process, the primary obstacle to getting the QSA done has been the Salton Sea. The environmental issues surrounding that have just killed the whole process. As most of you know, the Salton Sea is 25 percent saltier than the ocean, and it's getting saltier every year. Without intervention, with or without transfers, the Salton Sea will not survive as we know it.

Recently some have tried to hold the transfers and QSA hostage to Salton Sea restorations. We don't believe that that's the way to do it. If you go back and look at the Salton Sea Reclamation Act, the Salton Sea Reclamation Act specifically recognized that restoration should accommodate transfers. And we believe that that's what should happen and that the transfers should be able to move forward.

Excuse me. It's imperative that state officials and Federal officials act quickly to resolve the issues of the Salton Sea. From an environmental standpoint, the Salton Sea right now is on the edge. It will die quickly with or without the transfers without interven-

tion. Delaying the QSA does not help the Salton Sea. Under the current QSA, we have committed to no impact on the Salton Sea for the next 15 years. Believe me, if something doesn't happen with the Salton Sea in the next 15 years, again, there will be no Salton Sea as we know it today.

Coachella Valley Water District is dedicated to a Salton Sea solution, but this can't be tied to the transfers. Both issues must be resolved, and they must be resolved quickly. In conclusion, Coachella Valley Water District is dedicated to the QSA, dedicated to the Salton Sea restoration. But if we don't get a Salton Sea solution, it's the growers and the people of Coachella Valley who are going to suffer most out of this whole deal because we are caught in the middle. Thank you.

[The prepared statement of Mr. Robbins follows:]

Statement of Steven B. Robbins, General Manager-Chief Engineer, Coachella Valley Water District

The Quantification Settlement Agreement is the single most important component of California's effort to reduce its Colorado River water dependency. The Coachella Valley Water District remains totally committed to the Quantification Settlement Agreement as it has been throughout the multi-year process. We will continue to work toward its implementation.

Under the current priority system, the Coachella Valley Water District has the lowest priority for agricultural water from the Colorado River. Unfortunately, this year we lost nearly a third (108,000 acre feet) of our Colorado River supply when a Federal judge ruled that the Bureau of Reclamation had committed a procedural error in its process for allocating water to Imperial Irrigation District. Because, this loss came late in the year its affect was more like a 50 percent cut for the remainder of the year. In an effort to keep their permanent crops alive, water users have had to activate wells to mine the already overdrafted groundwater basin. Additional overdraft increases concerns of surface subsidence, water quality impacts and permanent loss of storage capacity. Even this additional groundwater pumping could not fill our water needs.

To obtain the additional water that was needed to protect the Valley's $529 million agricultural economy, we were forced to spend an additional $12 million to initiate a fallowing project in the Palo Verde Valley. This gave us access to additional water to help us get through the summer months but also resulted in our water rates doubling.

If the QSA had been in place we would have had a fixed entitlement and not been blindsided by a mid-year cutback. Without the QSA we face these same uncertainties and potential costs every year. These uncertainties, if not resolved, will have long term impacts on the valley's economy.

The primary obstacle to implementing the QSA has been the Salton Sea. The sea was created between 1905 and 1907 when the entire flow of the Colorado River was accidentally diverted into the Salton Sink. It has been maintained since with irrigation drainage water from Imperial Valley, Mexicali Valley in Mexico and the Coachella Valley.

Because the Salton Sea is located in the second lowest spot in the United States, just slightly higher than Death Valley, it has no natural outlet. The water arriving there evaporates and concentrates. While it still supports a fish population, it is significantly saltier than ocean water and getting saltier each year.

Without intervention by man, the Salton Sea will soon become too salty to support a fishery which will severely impact the bird populations at the Sea. With or without water transfers, immediate action is needed at the Salton Sea if the Sea as we know it is to survive.

The QSA parties fully expected the Federal Government, in accordance with the Salton Sea Reclamation Act, to move forward on a separate track with plans to fund a Salton Sea solution before it became an issue with the QSA. The Act specifically recognized that restoration should accommodate transfers as contemplated under the QSA. Unfortunately this has not happened and some are now trying to hold the QSA hostage to Salton Sea restoration. The current QSA will have no measurable impact on the Sea for 15 years. It is imperative that State and Federal officials work together and quickly to solve the problems of the Salton Sea before it is too

late. Delaying the QSA does not help the Salton Sea. Without immediate intervention by the Federal Government the Salton Sea will die.

The foremost concern amongst the QSA agencies is the threat that they may face extremely large environmental costs as a result of being saddled with the task maintaining the Salton Sea.

Coachella Valley Water District, as part of the Salton Sea Authority, is dedicated to restoring the Salton Sea but this has to be a separate issue from the QSA. The Federal Government must take immediate steps to separate the two issues, get the Salton Sea restoration on track and get the QSA approved.

To reiterate, Coachella Valley Water District has consistently supported the QSA and will continue to do so. Our water users have the most to lose if the process fails.

Mr. CALVERT. Thank you, gentleman.

Next, Mr. Adán Ortega, Vice President of the External Affairs operation for the Metropolitan Water District.

Mr. Ortega. All right, Chairman Calvert. I'd like to respectfully request that my testimony be entered into the record.

Mr. CALVERT. No objections? Your testimony will be entered into the record. All testimony will be entered into the record.

STATEMENT OF ADÁN ORTEGA, JR., VICE PRESIDENT, EXTERNAL AFFAIRS, METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Mr. ORTEGA. Thank you, sir.

I bring greetings from MWD's Chairman, Phillip Pace, who also sends his regrets for not being able to be here.

Metropolitan's position on the QSA is we're not of the premise that our board of directors has a fiduciary responsibility to carefully examine the benefits and risks in various QSA proposals to Southern California ratepayers.

Recently, at the request of the Administration of Governor Davis, Metropolitan has provided an alternative timetable and financial strategy to resolve outstanding QSA issues within the framework we and other parties signed under the Governor's leadership on March 12th, 2003. Essentially, Metropolitan's board supports studying a Salton Sea restoration/water supply plan, as advanced by State Senator Mike Machado. This includes:

One, a 3-year period to undertake a study to determine if the Salton Sea can be reconfigured to a smaller area, desalt agricultural runoff for use on nearby farms, and free up Colorado River supplies for use in urban areas. This would include a substitute supply for Imperial Irrigation District/San Diego County Water Authority transfer for this 3-year period.

Two, provisions to return to the original IID/San Diego County Water Authority transfer if the Salton Sea restoration plan proves infeasible.

And, three, a QSA funding alternative in the event that the IID/San Diego County Water Authority transfer moves forward, that is implemented upon the principles that, (a) beneficiaries should pay for the benefits to be provided by the QSA, and, (b) public bond funds should be used for the purposes that reflect the intent of the voters.

We believe that this is a viable alternative because permitting the use of bond funds on both the water reliability projects as intended by the voters will demonstrate California's commitment to live within its 4.4 million acre-feet apportionment on the Colorado

River and provide consistency with the CalFed record of decision allowing Southern California to stabilize its dependence on the Bay-Delta, all while allowing uncertainties created by the Salton Sea to be thoroughly vented. By contrast, the IID/San Diego County Water transfer starts with 10,000 acre-feet per year and grows by only 10,000 acre-feet per year producing 100,000 acre-feet by 2017; and the drought on the Colorado River has had significant impacts on projections of available surplus which are substantially diminished for the term ending on 2015.

Metropolitan also holds that a subsidized market transfer policy precedent under the current standing QSA proposal cannot be sustained by the State of California in future years and will damage long-term transfers and exchanges critical to the CalFed process and the Colorado River. During the past 4 years, Metropolitan has undertaken transfers and exchanges with many agencies throughout the state and has implemented them while bearing the full cost.

Under the current and alternative proposals presently on the table, Metropolitan pays the full cost for QSA components and more. This includes the full cost of the existing MWD/IID transfer, the full cost of the Palo Verde/MWD transfer, and we are contributing to the costs for the Coachella/IID transfer for the promise of an option to purchase water Coachella chooses to forego.

The critical question is whether San Diego and IID will pay for the benefits that they each will secure through the QSA deal. Metropolitan's position is that sacrificing the trust of the public by redirecting voter-approved bonds will jeopardize future financing for programs that are critical for the state including the CalFed program. The local projects afforded by Proposition 50 and Proposition 13 provide long-term water reliability while creating jobs and community awareness.

Finally, the challenge before us is to recognize a new reality in Southern California's water supply picture. 53 percent of the region's supply reliability hangs on local projects. Completion of the QSA is presently on the table in bringing 2 to 3 percent water supply benefit. Transfers are a major component of long-term storage strategies. In a dry year, up to 26 percent of Southern California's supplies will come from stored waters south of the Delta. This is the reality which the Metropolitan Board is addressing in harnessing resources to meet water needs of its service area.

Originally, Mr. Chairman, we envisioned that our chief negotiator would be preoccupied with matters in Sacramento. So now, with your permission, I'd like to introduce Dennis Underwood, MWD Vice President for Colorado River matters, who will join me in answering questions. Thank you very much.

[The prepared statement of Mr. Ortega follows:]

Statement of Adán Ortega, Jr., Vice President, External Affairs, Metropolitan Water District of Southern California

My name is Adán Ortega and I serve as Vice President for External Affairs at the Metropolitan Water District of Southern California (MWD). Thank you Chairman Calvert and members of the Subcommittee for the opportunity of providing you with introductory testimony regarding Metropolitan's position on the Quantification Settlement Agreement (QSA).

Metropolitan's current position on the QSA is borne out of the premise that our Board of Directors has a fiduciary responsibility to carefully examine the benefits and risks in various QSA proposals to Southern California ratepayers.

Recently, at the request of the Administration of Governor Davis, Metropolitan has provided an alternative timetable and financial strategy to resolve outstanding QSA issues within the framework we and the other parties signed under the Governor's leadership on March 12, 2003. Essentially, Metropolitan's Board supports studying a Salton Sea restoration/water supply plan, as advanced by State Senator Mike Machado, which includes:

1. A three-year period to undertake a study to determine if the Salton Sea can be reconfigured to restore a smaller sea, desalt agricultural runoff for use on nearby farms, and free up Colorado River supplies for use in urban areas. This would include a substitute supply for Imperial Irrigation District/San Diego County Water Authority (IID/SDCWA) transfer for the three-year period.

2. Provisions to return to the original IID/SDCWA transfer if the Salton Sea restoration plan proves infeasible.

3. A QSA funding alternative, in the event the IID/SDCWA transfer moves forward, that is implemented upon the principles that (a) beneficiaries should pay for the benefits to be provided by the QSA and the IID/SDCWA transfer, and (b) public bond funds should be used for the purposes that reflect the intent of the voters.

We believe that this is a viable alternative because permitting the use of bond funds on local water reliability projects as intended by the voters will demonstrate California's commitment to live within its 4.4 million acre-feet (af) apportionment on the Colorado River; and provide consistency with the CALFED Record of Decision allowing Southern California to stabilize its dependence on the Bay-Delta—all while allowing the uncertainties created by the Salton Sea to be thoroughly vetted. By contrast the IID/SDCWA transfer starts with 10,000 af per year and grows by only 10,000 af per year, producing 100,000 af per year by 2017; and the drought on the Colorado River has had significant impacts on projections of available surplus which are substantially diminished for the term ending in 2015.

Metropolitan also holds that a subsidized market transfer policy precedent under the current standing QSA proposal cannot be sustained by the State of California in future years and will damage long-term transfers and exchanges critical to the CALFED process and the Colorado River. During the past four years Metropolitan has undertaken transfers and exchanges with many agencies throughout the state and has implemented them while bearing the full cost.

Under the current and alternative proposals presently on the table, Metropolitan pays the full cost for QSA components and more. This includes the full cost of the existing MWD/IID transfer; the full cost of the Palo Verde/MWD transfer; and we are contributing to the costs of the Coachella/IID transfer for the promise of an option to purchase water Coachella chooses to forego.

The critical question is whether San Diego and IID will pay for the benefits that they each will secure through a QSA deal. Metropolitan's position is that sacrificing the trust of the public by re-directing voter-approved bonds will jeopardize future financing for programs that are critical for the state including the CALFED program. The local projects afforded by Proposition 50 and Proposition 13 provide long-term water reliability while creating jobs and community awareness.

Finally, the challenge before us is to recognize a new reality in Southern California's water supply picture. Fifty-three percent of the region's supply reliability hangs on local projects. Completion of the QSA as presently on the table may bring a 2% to 3% water supply benefit. Transfers are a major component of long-term storage strategies. In a dry year, up to 26% of Southern California's supplies will come from stored water south of the Delta.

This is the reality which the Metropolitan Board is addressing in harnessing resources to meet the water needs of its service area.

Thank you very much.

Mr. CALVERT. Thank you.

Next, Maureen Stapleton with the San Diego County Water Authority.

STATEMENT OF MAUREEN A. STAPLETON, GENERAL MANAGER, SAN DIEGO COUNTY WATER AUTHORITY

Ms. STAPLETON. Good morning, Chairman Calvert, members of the Committee. I appreciate the opportunity to speak to you today.

I also have submitted testimony, but I really want to focus on some critical issues, I think.

We all talk about the importance of the QSA, but I want to get to some specifics about what the QSA really means.

First, the QSA is not merely a transfer between San Diego and IID. It is not just Interim Surplus Guidelines and surplus supplies for Metropolitan. The QSA is actually a comprehensive set of documents that represents eight major water programs that will yield up to 36 million acre-feet of agricultural to urban transfers through the term of the QSA, 36 million acre-feet. We're not talking just about some water. We're talking about millions of acre-feet that could be opened up and available to California.

I think, also, you heard from Resource Secretary Mary Nichols, that in addition to just the water transfer programs, we recently—our discussions have focused on how to incorporate the potential restoration of the Salton Sea into the final QSA documents. And we are working very hard to try to make that work and, as you heard earlier, really incorporate this opportunity.

Second, I want to talk a little bit about the result of not having the QSA this year. You heard from the basin states representatives that we were to have finished this business by December of last year, and we were unable to do so. Chairman Calvert, you said in your opening statements that California's loss as a result of not completing the QSA was about 20 percent of our Colorado River supplies. In actuality, for urban California, it was more than 50 percent of our Colorado River supplies. I think that really talks to a great deal about the significance of the implications of not having the QSA and, as you heard, our need, then, to go to Northern and Central California to replace those supplies.

I have a chart here I'd just like to show you briefly, which is—basically you can see in the chart, the blue is the Colorado River supplies, and the pie chart on the left shows historically what we do. Two-thirds of our supplies of imported water come from the Colorado River, about a third from the state water project. This year we have flipped that. Over two-thirds of our water has had to come from Northern California this year through the ecologically sensitive Bay-Delta. Through the challenges that we're facing through CalFed, this year alone we've had to take over 1.4 million acre-feet out of Northern California to make up the loss we felt in urban Southern California of the lack of the QSA. Thank you.

Third, I want to talk about what the future would look like without the QSA. Mother nature is a very fickle partner to us. And, as you know, unlike the Colorado River that has a lot of storage, about 60 million acre-feet, and has gotten us through these very dry years on the Colorado River, we are not so fortunate on the state water project. Mother nature goes up and down each and every year on the state water supplies. And as you can see from this chart, on the left-hand side was the drought of the late '80's and the early '90's. At that point in 1991, we had a 20 percent allocation of our state water project supplies. You can also see just in the past few years alone on the state water project in 2000, we went to 100 percent, followed by the very next year in allocation of 39 percent of state water project supplies. This is not something

that you want urban Southern California to rely upon for our economy and our 17 million people. Thank you.

I want to show you what a dry year would look like if we are not able to open up the Colorado River again and open up the ag-to-urban transfers. You can see in a dry year at 20 percent, we are missing about one-and-a-half million acre-feet of water with the state water project only delivering 400,000 acre-feet and the Colorado River 600,000. Even if you add the local storage and the various storage programs that we have available, you'll see the pink section is the additional water that we can bring in a one-, possibly 2-year dry circumstance. But you have to have water in normal years in order to store it for dry years. If you're living from hand to mouth each and every year in water supplies, you won't get the water you need to store it for future years. Thank you.

And, finally, I want to talk about where we're at today. I think we're at a fork in the road. There's lots of issues going on. We can argue about state and Federal investments and water projects. As Resources Secretary Mary Nichols said, we've been very fortunate in California that our state has in fact passed three water bonds upon which we've invested in a variety of water supplies. Some of the debate has been around giving up local projects to do the QSA. That's not true. We need them both. We need the QSA to provide the foundation. We need new local projects to give us the water we need for the growth that we can anticipate in California in the next few years.

We have a very clear decision to make. As I said, we're at a fork in the road. I think one fork leads us to uncertain water supplies and the potential for lengthy and costly litigation. I think the other path gives us the QSA, and that will provide us long-term reliability, certainty, and ultimately peace on the river. We in California, with the assistance of our representatives in D.C., need to make a very careful and thoughtful decision about which path we take.

Thank you, Chairman Calvert and the members, for this opportunity and your continued leadership on this issue.

[The prepared statement of Ms. Stapleton follows:]

Statement of Maureen A. Stapleton, General Manager, San Diego County Water Authority

Urban Southern California receives its imported water supplies from two primary sources: the State Water Project, which depends upon the ecologically sensitive Bay-Delta; and the Colorado River. The Colorado River has been the historic backbone of Southern California's water supply reliability, providing annually two-thirds of the water supplies the Metropolitan Water District of Southern California serves to 17 million Californians—half of the state's population. The Colorado River is the foundation for much of the state's $1.4 trillion economy.

Under the Law of the River, the Secretary of the Interior is the Watermaster for the Lower Colorado River. Assistant Secretary Bennett Raley has been overseeing the progress of the Quantification Settlement Agreement (QSA), a comprehensive program that would reduce California's historic over-reliance on the Colorado River. California's basic annual apportionment from the Colorado River is 4.4 million acre-feet. (An acre-foot is 325,851 gallons, or enough water to serve the annual needs of two families of four.) For decades, California has drawn more than 5 million acre-feet a year. In 2002, California drew more than 5.3 million acre-feet of water from the Colorado River.

The QSA is a package of eight core, long-term Colorado River water supply agreements between four California water agencies: Metropolitan Water District of Southern California, Imperial Irrigation District, San Diego County Water Authority and

Coachella Valley Water District. Under the QSA, up to 36 million acre-feet of water would voluntarily shift from agricultural use to urban use, thereby reducing California's over-reliance on the Colorado River.

Under the QSA, the Secretary of the Interior and the other six Colorado River basin states (Nevada, Arizona, New Mexico, Utah, Colorado and Wyoming) agreed to give California a 14-year "soft landing" to implement the water supply programs and gradually reduce its draw on the river to its 4.4 million acre-foot basic annual apportionment. However, the agreement required the four California water agencies to execute the QSA by Dec. 31, 2002; the agencies missed the deadline and, to date, the QSA has not been signed. As a consequence, the Secretary of the Interior cut California back to its 4.4 million acre-foot basic annual apportionment this year. Because of the priority system to Colorado River water, the Metropolitan Water District will absorb all of the cutback. Metropolitan has already lost about 300,000 acre-feet this year and, as every month goes by, Metropolitan loses another 50,000 acre-feet. By the end of 2003, Metropolitan could lose more than 650,000 acre-feet of its Colorado River supplies.

Fortunately, opportunity to almost immediately restore much of the lost Colorado River supplies is close at hand: execution of the QSA. The primary "sticking point" is the use of $200 million of state bond funds to ensure that environmental impacts associated with the QSA program are mitigated and other environmental protections are put into place. Placed into the context of spending for CalFed environmental restoration, this is a small sum. In the context of water supply investment—the amount of water obtained per state dollar spent—this is an incredible bargain for the state, producing far more water than any other conceivable use of the funds. This money would restore more than 500,000 acre-feet per year to Metropolitan, beginning this year. California must soon reverse its recent history of urban water supply loss. The QSA offers a way to maintain a very large regional water supply, at a low cost, and without impacts to other states that share the Colorado River.

It is imperative that all interested parties focus their entire attention on completing the QSA, so that California's water supply reliability can be restored now and for the future. It is simply inexcusable to allow our attention to be diverted from this absolutely vital task. And yet the Department of the Interior has suspended participation in the QSA, stating that its must instead concentrate on Colorado River water rights litigation. Ironically, that litigation, Imperial Irrigation District v. United States, is exactly the controversy that the QSA will prevent.

The litigation was brought by IID after Interior, on December 27, 2002, notified IID that its water order for 2003 would be cut by more than 300,000 acre-feet. In making its decision, Interior for the first time used its yearly process of assessing water orders, under 43 Code of Federal Regulations Part 417, to determine that a river contractor would not reasonably use its requested order. IID, faced with the choice of either accepting the loss of water based on alleged waste or contesting Interior's decision, sued in Federal court on January 10, 2003.

On March 18, 2003, the Court granted IID's motion for a preliminary injunction to restore its water order because of an abuse of the Part 417 process by Interior. The Court then remanded the proceeding to Interior to conduct a renewed Part 417 process. That process is under way and will probably extend into October. After October, if the litigation continues, the Court must tackle the central issues of the case, and it is entirely likely that it will take years to resolve. In the end, the outcome, while it may benefit some water users and their customers, will be disastrous for other users, and may have implications to the six Colorado River basin states.

The QSA will provide benefits to all the involved water agencies, settle legal disputes that have festered for decades, and make court battles such as IID v. U.S. totally unnecessary. The Arizona v. California lawsuit, which began in 1952, is an example of the kind of litigation process that may be expected if the QSA fails. In that litigation, California challenged Arizona's entitlement to the river. The case went to the U.S. Supreme Court, where California lost its challenge in 1964. The Court's opinion did not address all of the issues, and the resumption of conflicts caused the Court to issues supplemental decrees in 1979 and in 1984. The case is still open.

We need to dedicate our time and resources on resolving the QSA. Right now we are facing a fork in the road. One road leads to an uncertain water supply and potential lengthy, costly litigation. The other road will give us the QSA. Governor Davis and his team worked hard to produce a revised QSA statement that was signed by the negotiators of all four California agencies. These agency negotiators pledged to recommend the QSA to their respective Boards of Directors. It is imperative in order for us to achieve success that the Secretary of Interior and her staff dedicate the necessary resources and focus required to reach the successful conclu-

sion of the QSA. It is this path that will provide us long-term water reliability, certainty, and ultimately, peace on the river.

Mr. CALVERT. Thank you.

We're going to start our questions now. And we're going to continue the 5-minute rule on questions, but I'm sure there will be time for more than one round of questions. And I'll start with our own Department of Reclamation, Bureau of Reclamation.

Mr. Rinne, how has Interior supported the negotiations with the state and other water agencies regarding the USA? In other words, have you guys gotten in the middle of this? Have you provided guidance, helped to close this deal? How would you portray your position is?

Mr. RINNE. I would probably do it in two ways.

Prior to the end of last year, 2002, we actively, right up to the end, worked along with all the parties closely to try to bring this to conclusion.

Mr. CALVERT. What are we—obviously, we all know the results at the end of 2002. They weren't good.

What have you done since then?

Mr. RINNE. Since that time, there have been at least—as we went along, we look to California, within California parties, to come to agreement on a QSA, and have kind of stood ready from that point to meet with them after that.

Mr. CALVERT. Oh. What about proactive steps? Is there anything you've done—rather than step back and obviously looked at the warring parties here, is there anything the Bureau's done to step in here and act as a facilitator?

Mr. RINNE. We have not tried to facilitate the—what's been primarily—again, we look at that as primarily a California matter. This, again, goes back, Mr. Chairman, to the idea that we really have been relying on California parties to kind of come together. At this point in time, I guess the best way to say it is, this has really come to a QSA that they've agreed to.

Mr. CALVERT. My suggestion is that you ought to involve yourself in this negotiation as soon as possible.

Next question, without a QSA, what is the certainty that the Interim Surplus flow can be implemented?

Mr. RINNE. Without a QSA to sustain the amount, it would not—it would remain suspended.

Mr. CALVERT. Is that an acceptable situation to the Bureau?

Mr. RINNE. We, along with the others, the other states, and in California itself, Mr. Chairman, have worked tirelessly to get the Interim Surplus Guidelines there to do that, provide a very soft landing. So we would like to see that.

Mr. CALVERT. In the meantime, obviously the Department has been active proactively in another aspect regarding Part 417. And I understand an announcement will be made shortly.

And how will the process work to finalize those actions if and when—maybe you can give us an idea, to all of us up here, what is 417, just for the record, and when do you plan on implementing that or announcing the results of that?

Mr. RINNE. The first thing—I will respond to that, Mr. Chairman. I would like to say that, just to open, I understand, and I

really appreciate the interest and importance of this particular issue, 417. But I do want to say in my remarks here, I want to steer clear of any of the substance of the actual 417 analysis going on.

What the 417 is, to answer your first question, is it's a court-ordered process of Reclamation's going through to review the water order, the 2003 water order, or water needs for Imperial Irrigation District.

As far as when—the second part is when the determination will be made. That's really a matter for the lower Colorado region director. As you're probably aware, the determination—first initial determination is the regional directors. And a lot of the timing of that is going to depend on how long it takes to get through the volume of material. I think that people who are close to this, a tremendous amount of information was submitted during the comment period, 20, 30 boxes of things. And I know the staff are working on it, and other regional directors are working toward this. So as soon as that can be completed and a determination then thereafter made, then the regional director actually will issue an initial determination. So it's really in his court to do that.

Mr. CALVERT. Now, obviously this has gotten the attention of not just people in California, obviously other folks too. Because the concept of beneficial use is certainly something that I'm sure that others are looking at. Because if, in fact, the Secretary as the watermaster for the lower basin can act to redistribute water within a state, in effect, will the Secretary act to do that outside of just this issue, Imperial Irrigation District? Wouldn't, in fact—theoretically, in fact, this occurs, would the Secretary by definition look at other areas for this very same concept?

Mr. RINNE. Mr. Chairman, the short answer is no.

The legal framework on Part 417, as I think you're aware, is unique to the lower basin of the Colorado River and unique to the three lower basin states.

Mr. CALVERT. But it does affect—I would ask the State of Arizona, how does the State of Arizona feel about that?

Mr. GUENTHER. Mr. Chairman, we don't like it. We feel like the Secretary exceeds their authority in this, that this is a state's rights issue, that the water is apportioned among the states and belongs to the people of the state, and it's up to those people to determine what is beneficial to them in each individual circumstance.

Mr. CALVERT. And that's how you interpret the law?

Mr. GUENTHER. Mr. Chairman, I don't try to interpret the law. Sometimes I just have a gut feeling on what's right and what's necessary with regard to Secretarial powers within the lower Colorado River.

Mr. CALVERT. Thank you, gentleman.

Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chair. And it's an interesting question that you're posing there, and I'd like to follow up on that.

Do the agencies in Southern California and particularly the lower Colorado River actually own the water, or is it more correct to say they have rights to use the water? Does the Secretary impose any conditions over the use of the water?

Mr. RINNE. The water—the rights to use are to the lower basin states, California, Arizona, Nevada. They have a right to the use of that water. All the Secretary does as watermaster is actually act to manage to deliver that water. That's the responsibility. But in that delivery, the Secretary must make sure that the water that's delivered is what's necessary for reasonable and beneficial use.

Mrs. NAPOLITANO. Well, that makes sense, except that sometimes we don't get that determination in areas where we need it.

You mentioned about the 417 process. What's the timeframe for that evaluation?

Mr. RINNE. Again, Congresswoman, the way I would answer is, keeping in mind the first step in the 417 process is to the regional director of the lower Colorado region to make a determination, initial determination. What's going on right now is the regional director and his staff are going through all the material that was submitted in during the comment period from interested parties, and there were a variety of them. And the regional director follows, actually, a very stringent procedure that's set out in the court process. There's some 16 factors to look at, technical factors, technical analysis. So he will go through that.

I would just be speculating as to when his determination comes, but the first step is the regional director is to do that. I know they're working real hard, and the volume was tremendous. Literally, when we closed the comment period, there was lots of information there. So I know he's working hard on it.

Mrs. NAPOLITANO. If I would have known that, I probably would have submitted something myself. This is the first I've really heard about a 417 process, which I think you need to be sure that the Administration, that Secretary Raley, Assistant Secretary Raley, informs the Committee so that we are aware of what the processes are being utilized.

Also, one of the things that bothers me—and I've sat for a number of years both at the state level, and I've gone through the water fights with the former Assemblyman, then Senator Cortesi, as well as Assemblyman and now Senator Costa, and essentially, a lot was done. We've had—and I keep saying to people that most the people who pay for that water are Southern Californians.

My concern is and continues to be, is that—and I totally agree. We need to protect the Bay-Delta. We need to protect the ecosystem. We need to protect the fisheries. We also need to protect other areas, especially in urban areas. And somehow we've been given some of the tools. And with the Bureau's recently new water 2025, you do not include in there—and I'm not saying it's your fault or that you have the answers, but that Secretary—Secretary Raley, in Claremont College, Claremont McKenna College, in your former area, I think it was, stated that the program is not intended for California, that California needs to solve its own problems it created.

Unfortunately, that's not going to help the rest of the western states, and I'm concerned whether that is really going to be the thrust of the Department's 2025 thrust. Because if you do, you're hurting the whole economy of the western United States. And the fact that water recycling is not part of any goal of your Reclama-

tion is not necessarily where we need to go to be able to meet the 4.4 and 2025—or 2016, rather.

And so I'm requesting—I'm begging, if you will, reconsideration of those programs that are helping us meet the 4.4. And I'd like your comments on that, sir. I don't want to put you on the spot, but you're on the spot.

Mr. RINNE. My comment would be on the water 2025 as a general matter. I think that my understanding of what we're trying to do here obviously is not to come in west-wide and impose a Federal solution on all the water requirements, but certainly we'd like to come west-wide and come alongside the state and the local users as well as Congress to see if there are things we might do to help where we see crisis and conflict coming.

And I know I'm speaking to the choir here, in effect, but the population growth in the west and the southwest is tremendous. The water supply is stretched; that's why we're sitting here today. I think the vision is more along the lines it's not that the Federal Government's hoping to come up with a—the Secretary's coming up with a big bag of money, but to help out where we can in a solution. And so I see it as a west-wide kind of approach.

On water recycling, what I would say is it's not so much an opposition to it; it's more of a focus, trying to put a focus more toward things like desal, try it again just like we did in water recycling, try to bring out things that will help in reaching water needs. So part of the thrust would be, to the extent we could, in one of the parts that I think you're probably aware, in the water 2025, is the desal type of emphasis, to try to get that cost of desal down to the point that it does become one of those tools that I think—personally think that would probably help a lot in the west.

So it's a tough situation, and I think we continue to work where we can on that. And I will carry back your other questions.

Mrs. NAPOLITANO. Thank you.

And, Mr. Chairman, I beg your indulgence one more second, but isn't there quite a difference between desal and recycling water costs? And we have proven that we can recycle cheaper than being able to get more water.

I could also go in and start talking about cleaning up and desal too. The water's there; we just can't get to it.

Thank you Mr. Chairman.

Mr. CALVERT. Thank you, gentlelady.

Mr. Hunter.

Mr. HUNTER. Thank you, Mr. Chairman.

Mr. Rinne, you described this 417 procedure as court-ordered, did you not?

Mr. RINNE. That's correct.

Mr. HUNTER. Let's go back to the genesis of this 417. The Secretary made a number of statements to the effect that they would very closely scrutinize the water use of parties that didn't cooperate with the QSA over the last several years. After the first of the year, we still didn't have a QSA. Imperial Irrigation District made its request, its annual water request, and the Federal Government turned it down, basically held onto it, said, "We're not going to agree to this request." That was the first 417, even though it

wasn't done, according to the Federal judge, in an appropriate manner. But that was—the initial 417, was it not?

Mr. RINNE. Congressman, the process—and I think you're fairly close on that, but may be just a little different. Every year—

Mr. HUNTER. Yeah, every year you've asked—made your water request.

Mr. RINNE. Every year all the water contractors in the lower basin come into the water orders, and Part 417 has been in effect since '64. It is very true that the 417 process is not the same rigor and technical analysis that we're going through at this time, has not been done before. But the 417 process is a process that determines the request from water contractors and then a response by the regional director and determination, is that water order appropriate for that year.

The particular time—so I come back to the point of your question—is that at the end of the last year, we had already received the Imperial Irrigation District's water order. It's true that we did not accept the amount that they requested and approved a lesser amount.

Mr. HUNTER. Yeah. And did that have any anything to do with the fact a QSA hadn't been agreed to yet? Of course it did, didn't it? Well, I mean, let's be candid.

Mr. RINNE. We—what I would tell you again, and tell it to you in all candidness, is that the approval of water orders and water use, we've taken it very seriously. I personally was doing it for 5 years.

We look every year at—

Mr. HUNTER. Well, listen, I understand that. Are you telling me there was absolutely no connection between the fact that we had just failed to meet the December 31st deadline that the Secretary set for us to make the QSA and the fact that very shortly after that, having failed to do that, you refused the Imperial Irrigation District's water order?

You're saying there's no connection.

Mr. RINNE. No.

Mr. HUNTER. You're under an obligation to tell the truth as you know it. Are you telling me there's no connection whatsoever?

Mr. RINNE. Connection in my mind is it's a close looking, in a very watertight year, Congressman, at the use and the amounts of water being used. So that in the best judgment of the—in the best judgment through the Department, first through our regional director and then, as you know, that particular water order would have been approved by the Assistant Secretary, that that was the proper amount of water to provide.

Mr. HUNTER. In that case, this was, as you just said, a closer scrutiny than you normally show—than you normally undertake for somebody's water request, was it not?

Mr. RINNE. In that particular process, we also look, I think—I would remind you we also looked closely at Coachella, looked at Metropolitan. We issued water orders for all of California understanding that—

Mr. HUNTER. What factor led you to use what you called a deeper (inaudible) than you used in other years? What fact did you see that prompted you to do that with respect to IID?

Mr. RINNE. Water—just think of the water—well, just overall, just think of the water supply, Congressman, and where we were sitting with the amount of water we had, 4 years of drought, those type of things. And as they go on, to clarify, too, is the determination would have not been—would not—I sat down and figured out the factor. And I don't know that you were asking me what I would consider.

Mr. HUNTER. Let's get to the statement you just made that this was a court-ordered requirement. And you're nodding your head again, and that's apparently your understanding.

I've got with me your pleadings, that is, the Interior's pleadings, to the judge when the judge threw it out the first time. You then—and I'm reading, and I quote from your pleadings, "Interior has developed a proposed remedy"—this is after it had been thrown out the first time—"which fully meets the substantive and procedural concerns identified by the court and its ruling. Interior proposes to undertake a new revised use for the Imperial Irrigation District's 2003 water allocation through the 417 process.".

So you asked to be ordered to relook IID's water use, didn't you?

Mr. RINNE. We were, as you know—

Mr. HUNTER. These are your pleadings, and I'd like you to answer the question. Did you not ask and propose that you record another 417?

Mr. RINNE. The court—my understanding, the court found—in the first process, the court found that, in fact, we had not followed a meticulous procedure, 417, which are—what I believe you're reading from is a proposal as to how we would accomplish the 417. And then the court came back with—

Mr. HUNTER. But the court didn't order that you do a new 417 until you asked them to order that you do a new 417; correct?

Mr. RINNE. The way I would answer that is that you do have the pleading, and that—so, as you say, that's—

Mr. HUNTER. And I'll make a copy of this available.

For you to see how the court—how you were ordered to do this.

Mr. Ortega, you've heard from the other water districts to the effect that a QSA is a linchpin to California's water future. It appears all the other parties are ready to go with this. Now, Matt has held this thing up on the basis that you think this is a—breaks your fiduciary duty to the people of this state with respect to the use of their money on water projects.

And so you've made this proposal, and I've read the proposal under which San Diego and Imperial County would pay and be responsible for most of this Reclamation of the Salton Sea. It's six bucks an acre-foot. 70 percent of that would fall on the people of Imperial Valley. You say you don't want to see the people of the State of California make this payment. You think it's better that the Valley make this payment.

Isn't the government of the State of California elected by the people? Isn't that true?

Mr. ORTEGA. Congressman, that's true.

Mr. HUNTER. And I'm assuming that the people of the State of California through their regular processes have determined to come up with this several hundred millions of dollars to meet these environmental obligations.

Who is the Metropolitan Water District to try to set aside, basically, that determination which is representative of the will of the people? If you presume that they elect their representatives and elect their Governor and that that is their intent, why are you holding things up?

Mr. ORTEGA. Congressman, with all due respect, we recognize that there are moneys in Proposition 50 that can address Salton Sea mitigation. There's a general misunderstanding of where the 200 million dollars—or at least 150 million dollars of that amount would go to. It doesn't go to Salton Sea restoration; it goes to what they call in valley impacts, mitigation impacts within the Imperial Valley. That is not a Salton Sea mitigation. And, therefore—

Mr. HUNTER. Well, then, let's revise the question. So you're saying that part of the money goes to mitigation for the Sea, some 50 million. The balance of the money goes to this ag community which is going to lose because the ag community is not going to be doing as much ag operation as has been done in the past, which is the lifeblood of that community. So it goes to make up for some of that.

Now, if the people of the State of California have decided that the water deal is important enough to make these payments to try to keep the Valley whole, and they are elected by the people of the State of California, and Metropolitan Water District is not elected by the people of the State of California, by a very small part of the people of the State of California, who are you, the Metropolitan Water District, to tell the people of the State of California that they can't spend these moneys as they see fit to make what every district except you have described as the absolute linchpin to California's water future?

Why are you holding this up?

Mr. ORTEGA. Congressman, we believe that the subsidies that this transfer entails may hold up agricultural-to-urban transfers throughout the state. The fact of the matter is—

Mr. HUNTER. Let's hold you up right here, Mr. Ortega. Then that would accrue—in your estimate, you think that's going to be bad for the water users of the people of the State of California at one time. You think they're making a bad judgment here. Nonetheless, why can't it be their judgment? They're the people who use the water, both agricultural and urban. They are represented by their state representatives, the assemblymen and senators and their Governor. They, as a government of the State of California, have made this decision that it's worth it to go to this community that depends on water as a lifeblood of its economy and make these arrangements to free up water to help everyone in the state. We've all agreed that the water is a key issue for everyone in the state.

Why are you usurping this decision by the state representatives and the government? If the government of California says they're willing to do it, who are you to stop this thing? You want to take over criminal justice next?

Mr. ORTEGA. Congressman, with all due respect, we don't believe that we're usurping the process.

Mr. HUNTER. Well, you're stopping the deal.

Mr. ORTEGA. We are participating in a process. The legislature has not included their deliberation in allocating these funds toward this purpose. And if the legislature were to conclude that that's a

wise use of the state's funds that have been approved by the voters, Metropolitan would respect that.

But as participants in this process, we believe it's our obligation to our ratepayers to interpret that these bonds were allocated by the voters. They spoke for themselves for a certain purpose, which is local projects, and that does not include covering the cost of a water transfer. And that's what our board has advocated. But it would respect any decision that the legislature would come to.

Mr. HUNTER. Well, if it doesn't—and, Mr. Chairman, I'll be finished just a second.

If it doesn't cover—if—you're saying money is being misused by the state, then a lawsuit would fall that would invalidate that law, would it not, if this is an invalid or illegal use of moneys by the State of California. But it really isn't, is it?

Mr. ORTEGA. We believe it's more simple than that, Congressman. We believe that—

Mr. HUNTER. And illegal, is it not? Are you claiming this is an illegal use of moneys?

Mr. ORTEGA. We believe that we are subject to the judgment of the people. And if we're telling people in a bond campaign that the moneys are going to be used in one way, and then it is used in a different way, next time we go to the voters to collect funds, to collect CalFed or other things, our collective credibility is at stake. And that's what we believe.

Mr. HUNTER. Let me ask one last question, then, final question for you.

If all the other water districts, San Diego, Imperial, Coachella, are for this agreement, Mr. Rinne, it's your position that the Department of Interior supports the agreement, is it not, the QSA?

Mr. RINNE. The Department of Interior certainly—at that point certainly would sit down and talk and try to work through the QSA. The reason I—

Mr. HUNTER. Thank you for the overwhelming vote of confidence.

If it's your understanding that all the other water districts support this, Mr. Ortega, is it your statement that you're going to kill this water deal because of the factors that you've just discussed?

If there's no movement—in other words, if the State will not accommodate you and if the deal refuses to put this burden that the State's picking up on the people of Imperial Valley, refuse to do what you have proposed in your proposal, is it your position you're still going to kill the deal?

Mr. ORTEGA. Congressman—

Mr. HUNTER. Because sometime you've got to make a choice.

Mr. ORTEGA. Of course. We're committed to working with the state administration. The Governor's office requested our response to a financing tactic which took place about 2 weeks ago. We submitted our response. The other parties have submitted their responses. Metropolitan does not really know anything. This is very different than when we found ourselves on December 9th of 2002 when the Imperial Irrigation District did vote no on the previous QSA that the parties had considered.

Nobody has voted no here. The only thing that has happened is that Metropolitan would like to see unresolved issues with the other basin states come to a conclusion. And, also, we would like

to make sure that the financing passes scrutiny for the long-term health of our reliability in Southern California.

Mr. HUNTER. Thank you, Mr. Chairman.

Mr. CALVERT. Ms. Davis?

Mrs. NAPOLITANO. Ms. Davis is through Ms. Napolitano.

Susan is wanting to ask anybody that can answer the question of what is missing in Senator Machado's proposal of principles? Anybody?

Mr. ALLEN. Mr. Chairman, may I refer that question and answer to one of our attorneys, David Osias?

Mr. CALVERT. Ask how many people in the audience are attorneys?

Mr. ALLEN. Why don't you ask how many are farmers.

Mr. CALVERT. For the record, will the gentleman enter his name?

Mr. OSIAS. David Osias, outside counsel for the Imperial Irrigation District.

And the proposal by Senator Machado had a concept rather than a detailed proposal for joining Salton Sea restoration with the transfers. What was missing, to go to the specific question, is how the QSA would be treated while Salton Sea restoration feasibility is studied; that is, the proposal that has hit the public domain of a possible desalination plan and the use of desalinated water for something either in lieu of transfer or use in Imperial Valley.

The feasibility of that from a technical perspective, diking the damming, whether that's even possible across the earthquake faults, isn't known. The environmental review for that isn't know. And the financial feasibility and cost of that isn't known. And so the proposal itself did not identify what should happen in the meantime.

Now, the responses that were addressed here sort of took two paths. One was we'll put the QSA on hold until the answers are known. The other was—from the other three agencies was let the QSA go forward with a substitution concept if those things turn feasible. And the third, which we discussed with Senator Machado, is they're not necessarily mutually exclusive anyway, that you could actually do both and accommodate it.

So what was missing is what would happen while studying would go on and what would happen if the Salton Sea wasn't found to be feasible to be restored in that manner.

Mrs. NAPOLITANO. Anybody else want to respond?

Mr. CALVERT. Any response?

Mr. ORTEGA. Mr. Chairman.

Mr. CALVERT. Mr. Ortega.

Mr. ORTEGA. From the Metropolitan's perspective, we're anxious to work with the other parties in looking at all of the various alternatives in finding a lasting solution to the Salton Sea that would not trump the overall reliability that we must plan upon.

The Interim Surplus Guidelines afford us the opportunity for transfer for surplus water on the Colorado River for a limited time, and, also, we're going to be depending on this transfer from IID and San Diego. And an unfortunate thing that could happen if we get to the end of the period that we're eligible for surplus, you are depending on the San Diego-IID transfer, and then the Salton Sea rises again is a factor because we ignored it.

And this transfer history has been embedded with latent issues that have come back and haunted us, whether it's the issue of third-party impacts of the Salton Sea. You have perchlorate that's an issue that's looming right now. And then you also have the Navajo nation lawsuit as well. So we believe we need to take this time to embrace those uncertainties and vent them through. And we're looking forward to those discussions with the other parties.

Mr. CALVERT. Mrs. Stapleton.

Ms. STAPLETON. Thank you, sir.

I think what is most interesting about the proposal and the work that we're doing now is that we're trying to incorporate the opportunities into the final QSA. This is radically different than where we were just even in December in that we didn't have to paper the deal yet. This deal is completely papered. On March 12th, the four parties, the negotiators, signed that the deal was acceptable and that they would recommend it to their boards upon completion of the conditions precedent. So—

Mr. CALVERT. And that included Metropolitan?

Ms. STAPLETON. That included Metropolitan's negotiators at the table who did sign that they would recommend support to their board upon completion of the conditions precedent. That is correct.

I think with the Salton Sea is we do have an opportunity to, and under the State's leadership and Senator Machado's leadership, we are looking at a mechanism to execute the QSA to allow it to move forward, at the same time analyzing the feasibility of the restoration and providing for the opportunity for substitution or addition of that water as a result of those feasibility studies becoming complete. That is a positive step.

Mr. CALVERT. Ms. Nichols.

Ms. NICHOLS. I just wanted to add one additional thought, if I may, and that is that one of the opportunities that also arises as a result of the Machado proposal, which we also support in concept and want to work through, is that it gets back to the opportunity to invest in valley conservation as part of the overall future. It's an issue that, as the focus has shifted to the Salton Sea, has kind of slipped from the front burner.

But the long-term viability of agriculture in Imperial is still linked to improving the efficiency of water use if that can be done in a cost-effective manner. And that was at the heart of the original San Diego-IID deal. It's kind of moved off to offstage. But I think from an environmental perspective, the issue of improving conservation and maintaining the viability of farming there is something that we at the state level also want to see happen.

And so by allowing for this substitution of water, potentially, or addition of new supplies of water, in the long run, we're really expanding and improving on the way that water is being used in Southern California. We think that's one of the benefits that needs to be looked at as well.

Mr. CALVERT. Thank you.

Ms. Susan Davis, unfortunately, must leave. We thank you for coming here today, and she appreciates the hearing and the witnesses. And I hope you get better.

Next, Mary Bono.

Mrs. BONO. Thank you, Mr. Chairman.

First off, Director Guenther, I believe, I know you're specifically water, but can you tell me that Arizona actually has no adverse impacts from a deteriorating Salton Sea? Are you aware of any? Does the smell ever reach over into Quartzsite?

Mr. GUENTHER. Congresswoman Bono, only on a bad day. We're not sure where the smell is coming from.

Mrs. BONO. Oh, I can tell you where it's coming from.

Mr. GUENTHER. But, I mean, you know, I've studied the Salton Sea as a biologist. In fact, this panel right here is ranked by biologists. Mr. Rinne and myself both studied extensively desert environments, so we're familiar with not only the challenges but the odors associated with the salt marshes and decay and seasonal deterioration of biological compounds.

Mrs. BONO. So only on a bad day. Now, could it be said that if the shoreline recedes because of these transfers that those bad days would happen a lot more often?

Mr. GUENTHER. Congresswoman Bono, I don't really have that capability to predict. I do know that when you have a body of water from which there is no outflow, and you continue to load it with nutrients and salt, that that is the formula for a dead sea.

Mrs. BONO. But you don't know about a receding shoreline; correct?

Mr. GUENTHER. About a receding shoreline?

Mrs. BONO. The question is, is a receding.

Shoreline—if more of these contaminants are exposed when the shoreline recedes, what will happen to the air quality? That's the big question here.

So if I—I know I should move along here. Because I wanted to ask that question. Thank you very much for that. Thank you for saying yes, you smell it in Arizona. That's all I needed to know.

But to move on to—and only on bad days too.

The question is—and it gets to my new friend from Arizona—I think people think when they see me, they think the Salton Sea, that I've—and I've said it before—that I've got this passion for the sea to stay exactly as it is, and I don't. I have a vision for a quality of life for people who live around the Salton Sea. And to keep some sort of sea alive, in my view, is critical because of the endangered species that it supports. So we agree on that, all of us here.

But nobody here, Mr. Chairman, has ever done a study or can tell me with any certainty—even Mr. Robbins from Coachella Valley, and I ask the question to you, sir, what will happen when the shoreline recedes and this is exposed? You of all people might have that answer.

Have you, in fact, studied that question, what will happen when these contaminants or whatever will be suddenly exposed, is airborne, and the people of the Coachella Valley and Imperial Valley then live with that.

Mr. ROBBINS. Currently the Salton Sea authority is looking at that right now because it is a big unanswered question. Comparisons to the Owens Valley have been made. I don't think those are valid comparisons. The soils are very different in Coachella Valley. The temperatures are very different.

Mrs. BONO. Well, Mr. Robbins, you are free to prove that point. Nobody has stood in front of you saying, "Don't prove to us the air

quality won't suffer." You can completely convince everybody that the air quality will be fine to all of you. I pose the question—or put the challenge out, say to us air quality will be fine. And you haven't done it. And the reason you haven't done it is because you're afraid what you'll find out. And the people of the Coachella Valley are saying, enough.

Yes, we know this is the keystone for water policy in California. "Keystone" meaning the center part of the arch which supports the entire arch. That is what we understand, and we are willing—we have changed the notion of the Salton Sea. It could be one-third the size it is now. The environmentalists so far are even OK on this. We've come a long way, and you know that. But nobody is saying air quality.

And I—Mr. Chairman, in the Committee I sit on in Congress is the Congress Committee, and I sit on the Energy and Air Quality Subcommittee, and we realize you can't divorce energy from air quality. I don't know how you think you can divorce air quality from water transfers. And in my view—thank you. I'm glad somebody's happy about it. That's why we're here. Until we all recognize this is a factor, we're going to be here. We're going to be in this room day in and day out having this discussion until we realize the Salton Sea must be saved, some part of it, for the endangered species, and it must be saved—or the air quality must be addressed. We can do that. Heaven forbid—we built the Diamond Valley Lake. What was the price tag on that, Mr. Ortega?

Mr. ORTEGA. 1.8 billion dollars.

Mrs. BONO. 1.8 billion dollars, from a valley. And from nothing, and we built that. We can do this if the players finally realize it has to be done and quit thinking they can do this for free. And I've said we're transferring water, we're also transferring money. Until you study both, we're going to be in this room.

And we've had this, Ms. Stapleton, all of us have had this in the state, we've had this hearing. And until we say let's—I know, what's my question, Mr. Chairman, and I'm lecturing. I'm on my soap box. Ms. Stapleton is anxious to say something. Please do.

Ms. STAPLETON. Congresswoman Bono, I think you make a very good point. It is—air quality is one of the standards that we must achieve in the overall environmental mitigation and enhancement program. Actually, part of that 200 million that we're seeking from the State Funding, a huge chunk of that money is going to air quality. And you're absolutely right here, until we get down to the details of exactly what's going to happen, we do not, in fact, know what is the best opportunity, project, or program to address air quality. But I think you can hear from all four agencies that air quality is a standard we must meet, and it is something that we will achieve through the implementation of the enhancement programs.

I would like to point out one thing, which is, if the 417 process is such that there is a large portion of water taken from Imperial Valley as part of this process, it will exceed the amount of the loss to the Salton Sea then equivalent to the 19th year of implementation of the water transfer.

Mrs. BONO. Well, actually, you gave that to the Bureau.

Ms. STAPLETON. Absolutely. Yes. And that's something that needs to be watched by everyone is that the implications of the 417 process on the Salton Sea could be horrific.

Mrs. BONO. So this leads me to my—and I thank you, Mr. Chairman, you gave me a note. I said, "How long do we have for questions?" And you said, "As long as we need." Big mistake.

One last point, where we're all getting here, I think, is to the Bureau of Rec. We have been waiting and waiting and waiting and trying to engage you all in determining a solution. And you are all very, very reluctant to do that, and you have put it back in our laps. We are not engineers. We don't have engineers on our staffs.

Can you explain the reluctance, the hesitancy of the Bureau to actually come up with a solution?

Mr. RINNE. Congresswoman, I will respond by saying—and I think, hopefully, you're aware of some of this, that there have been ongoing efforts with the Salton Sea inquiry with Reclamation. And even your comments about maybe the scope or the size with what ultimately the sea should look like, we've been working closely with people in the field with Salton Sea authority to see what other kinds of things might be looked at as far as concepts.

And, again, I bring up, and I think one of the things that we probably need to look at is the geotechnical or subsurface nature of the Salton Sea, would it support dikes or some kind of an option that would be smaller. So I don't think—and, I think, going back to the Act, I think the Act asks us to study, you know, and we have been working—I know you've been with us for a long time and you're very much aware of that.

We continue to work closely with the Salton Sea authority on this thing and trying to identify kinds of things we might do. I think that as far as any alternative, final alternative, we don't see that as something that's within the authority of the act. We're not authorized to go out and fix the issue of the Salton Sea at this point, only to study the alternative.

Mrs. BONO. Thank you, Mr. Chairman.

Mr. CALVERT. Thank you, gentlelady.

Ms. Nichols, just for the record, how important is it to the state that the involved parties—that the Interim Surplus Flow Guideline be implemented?

Ms. NICHOLS. Well, I think it's fair to say we wouldn't have invested the kind of time that has been invested by the Governor's office, Secretary of Agriculture, by myself, and a number of members of the Legislature if we didn't believe that getting the Interim Surplus Guidelines back is a critical part of providing for California's water future in the most cost-effective and least disruptive way possible.

We realize that the agreement was one that was reached prior to the current Federal administration, but we also understand that Secretary Norton intends to continue to abide by the Guidelines that were adopted.

We are concerned, because after the failure of the—to meet the deadline by the four water agencies just on Christmas Eve—on New Year's Eve, rather, of this year, that we heard that the bar had been raised, that there might be new actions that would be re-

quired of California, and we've not been able to get any clarification as to what that means.

We don't know, sitting here today, whether if all the parties were to sign the QSA and we were to submit it, that would result in the Interim Surplus Guidelines being reinstated. And we obviously are anxious to get clarification on that point.

But—although, again, recognizing, as others have said, that weather is variable and we don't know on a year-to-year basis exactly how much water might be available to California as a result of the Interim Surplus Guidelines. We feel that it would be beyond foolish. It would be reprehensible for us to walk away from the opportunity to have that 15-year soft landing that was intended by the Guidelines.

Mr. CALVERT. While you're here, I want to ask a couple of questions. Obviously when the Quantification Settlement Agreement was not agreed to as of the end of the year, as you mentioned, certain things started occurring: Metropolitan went north and bought some water from some rice farms up in Northern California; this has affected the entire state. And that has a direct effect on how we get that water from the northern part of the state down to the southern part of the state. And how the pumps are being operated at the banks right now is certainly an issue that we talked about when we were up in Northern California.

And describe to us the process in which you're going to work on to increase the pumping capacity at banks and still maintain water quality.

Ms. NICHOLS. Well, Mr. Chairman, one of the key ingredients of the CalFed program has been to try to increase the amount of pumping on the state water project, and the state and the Federal water projects have been working very diligently on the operation.

As you learned, and it came out, I believe, during your hearings over the weekend, much of the early work by the CalFed has been addressed to water supply reliability and water quality, keeping the ability that the water delivery is stable through, in effect, purchasing water for the environment through the environmental water guidelines.

Mr. CALVERT. That's obviously important. As you well understand, we front-loaded a lot of the environmental litigation in the CalFed process. There is a number of folks, including myself, that are frustrated about the ability to deliver water from the north to the south, especially after the large investments that we've made.

And one of the things was a comment—and I'll move for another question—is that the barriers, the temporary barriers on salt water intrusion into the Delta, apparently is not as successful as we would like them. We'd certainly like to move forward on permanent barriers so we can get the pumping capacity up to 8500 CFS as quickly as possible following your own environmental guidelines.

And we believe that that pumping should take place, and that's extremely important based upon what's happening today, certainly with the Quantification Settlement Agreement. We want to come to an agreement as soon as possible and hope that we can by Thanksgiving, at least as the gentleman from Arizona has stated. But just in case, we better have our insurance policy in our back pocket. That means we'll need to get our pumping capacity back up.

One other question for Mr. Rinne. On the issue of the 417, if in fact the Federal Government involves itself in this allocation of water in California and reallocates water from Imperial County—and obviously we'll hear about this from Mr. Allen—if in fact that happens, what happens to the liability issues on third-party impact if in fact that water is reallocated and less water, in effect, by definition is going into the sea? Does that mean the Federal Government takes on the total liability of the Salton Sea because of that?

Mr. RINNE. Congressman, if I may, if I'm understanding your question, our position would be that—it would be no.

Mr. CALVERT. Why would that be the case? I mean, if you're—it's affected by—because of the Federal Government, by its actions, if in fact there's a reallocation of water, less water for Imperial County, less water going into the city, why wouldn't that change the liability over to the Federal Government?

Mr. RINNE. The view, or our position on that, Congressman, would be that if you think about 417 and approval of water orders, think about California and include IID, Coachella, Metropolitan, once there has been an approval on whatever the amount of water would be, and I'll switch back to the IID, that amount of water, it's not a—not something discretionary that we're going to—we have a choice as to whether to do the 417, you know, to follow the reg. We would have to follow—we would have to carry it through. And we would look to the priority system in California. That's what—as a matter of fact, that's what's happening now just with reduction of Coachella and to Metropolitan.

Mr. CALVERT. That's going to be another case in court, I suspect.

With that, the court reporter needs to change her paper, and I'll let her do that.

[Off the record.]

Mr. CALVERT. Ms. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chair.

I ask the members' consent that the official record of the Subcommittee hearings on Saturday, June 28th and also today's hearing remain open through the close of business until Thursday, July 31st for additional comment.

Mr. CALVERT. Without objections.

Mrs. NAPOLITANO. Thank you, Mr. Chair.

I have a question that's been in the back of my mind for the three major Southern California water agencies about the cost of water.

How much does your agency pay per acre-foot to the Department of Interior? I'd like for each one of them to please answer.

Mr. ALLEN. We don't pay anything for the price of water because of your reclamation. Isn't that correct, Mr. Carter?

Mr. Carter. That's correct.

Mr. ALLEN. Thank you.

Mr. ROBBINS. Same answer for Coachella.

Mr. ORTEGA. Mr. Underwood has just informed me that it's about 25 cents per acre-foot.

Mrs. NAPOLITANO. Stranded costs. Would you explain stranded costs, please, Mr. Ortega.

Mr. ORTEGA. Ms. Congresswoman, stranded cost is when you make an investment that you cannot derive that independently from.

Mrs. NAPOLITANO. The infrastructure.

Mr. ORTEGA. It could be depending on how things go with a given project. That is one of the things, for example, that is part of the QSA package where there's a 150 million dollar loan guarantee out of the state infrastructure bank that's there to help to prevent that there be any stranded costs should this deal end prematurely for any reason.

Mrs. NAPOLITANO. Thank you.

Ms. Stapleton?

Ms. STAPLETON. Yes, ma'am.

Mrs. NAPOLITANO. I'm just curious as to how much the water is going to cost in your area. Do you have any idea?

Ms. STAPLETON. Right. As a member of the Metropolitan Water District, we pay the Metropolitan fees. We do not pay the Bureau directly. And those fees are set by Metropolitan and paid for by all our member agencies. So it's $350 an acre-foot for untreated water.

Mrs. NAPOLITANO. $350. And I'm going into Northern California, and it was like $70 an acre-foot. And, of course, probably my state pays for more than 7600 an acre-foot; is that correct?

Ms. STAPLETON. Right. By the time it gets through the retail systems, our farm retail agencies probably pay between 5- and $750 an acre-foot. That's what their ratepayers pay.

Mrs. NAPOLITANO. And may I ask the same question of Arizona and Utah.

Mr. ALLEN. Mr. Chairman, might I ask Mr. Carter to explain the answer?

Mr. CALVERT. Mr. Carter.

Mr. Carter. Yes.

Mr. CALVERT. And I believe Utah and Arizona will be recognized also, after Mr. Carter.

Mr. Carter. Yes. Thank you, Mr. Chairman.

Just an additional response to the question of the Chairman. The water that IID and Coachella receives is received through a contract because of prior rights to water on the River, and our contract provides that the there is no cost for that delivery. And what the district then does, of course, is charges the users in the Valley, both Coachella and in IID's situation, for the cost of the delivery within the Valley, unlike Metropolitan Water District, who did not have prior rights to Colorado River water.

Mr. CALVERT. Thank you.

Mr. Anderson, on behalf of the other basin states.

Mr. ANDERSON. As far as Utah's municipal water costs, they would vary anywhere from maybe $50 an acre-foot to $250 an acre-foot depending on where the water's coming from. Central Utah project water is, I understand, delivered to the Salt Lake Valley for $250 an acre-foot.

Mr. GUENTHER. In Arizona, we just pay the cost of delivery. That varies, of course, depending on the pumping requirements and electrical power generation requirements. And then any additional treatment, of course, is added to that. So our water used on the river is very inexpensive, and the water used in central Arizona for

the central Arizona project can run up to probably $200 an acre-foot.

Mrs. NAPOLITANO. Thank you, sir.

Ms. NICHOLS. Hi, Mary.

Mrs. NAPOLITANO. Just a question that hasn't even begun to be discussed, and that's the uranium mines have contaminated the Colorado river for the last decade and a half up in Moapa, and the fact that we're not even considering should that become a problem for the southern states that it provides the water to, the fact that the solidity is increasing up in Colorado.

Would you mind kind of going over what we as a state are going to be facing should anything—maybe mother nature decides to go right through that ten and a half million tons of contaminated uranium right 750 feet from the river and deliver that to us. What's going to happen if we lose that ability to access water from Colorado?

Ms. NICHOLS. I appreciate your efforts to bring attention to that issue, and I know that you and others have been trying to get something done about curtailing it and to try to prevent this damage from occurring. But at a fairly low level—and I don't have the details with me. We could get you some information on that. We're aware of the fact that the water could be rendered undeliverable, unusable, and obviously that would be a tragedy not only for the people who depend on the water, but for the whole ecosystem that would be affected. So it's a very grave concern.

Mrs. NAPOLITANO. I'll now pass the questioning to the other gentleman. Thank you, Mr. Chairman.

Mr. CALVERT. Thank you.

Mr. HUNTER.

Mr. HUNTER. Thank you, Mr. Chairman.

Mr. Chairman, one thing that I didn't do when we opened this hearing is just acknowledge your leadership and the great job you're doing not just for your district but for the entire State of California and your very important chairmanship, and to Ms. Napolitano, too, for everything she's done and to Mary Bono for her great work on the Salton Sea. You've got a big load, Mr. Chairman. You've got massive, massive issues here.

And I guess—I think it's clear with this—what this hearing is basically shaping up in terms of a theme or the story of this water deal. You've got a QSA which would, I think, be readily signed by all parties except Metropolitan. And I think it's time for Metropolitan to come to the table, sign this deal, and accept the terms that the elected representatives of California have put in place in terms of the help that they are going to give the participants in the water deal to make it economically feasible to go through with this.

I would just ask the participants—Maureen Stapleton has done a great job with the San Diego County Water Authority. San Diego's ready to go with this deal, the QSA; is that right?

Ms. STAPLETON. Yes, sir.

Mr. HUNTER. Mr. Robbins, I take it Coachella feels this is critical, is that right?

Mr. ROBBINS. That is correct.

Mr. HUNTER. And, Mr. Allen, the Valley, the Imperial Irrigation District, the people of Imperial Valley are ready to go with the agreement; is that right?

Mr. ALLEN. We sure are.

Mr. HUNTER. And so, Mr. Ortega, you are the last party that needs to agree to this. And I've—you've explained why you think it's not in the interest of Metropolitan to sign this thing up. But, you know, we're in a business in which compromise is the order of the day. And I would hope that the Metropolitan Water District would finalize this agreement by being the last party to agree to sign it and do that in an expeditious manner, because California's future depends on it.

And all creatures which are created by the State of California, including big water districts, can be dissolved by the State of California or adversely affected by the State of California. So I would hope that Met would get on board here and make this thing go. Obviously you've received other cards and letters to that effect from folks.

Is there any—do you see—in the next several months, do you see a way we can get through this without Met getting its way in terms of putting this burden on Imperial Valley?

Mr. ORTEGA. Congressman, Mr. Chairman, Metropolitan agreed on March 12th to take before its board the QSA once the conditions precedent that are therein stated are fulfilled, and there's several items that need to happen within that framework before anybody signs. IID, for example, must resolve its issues with the Federal Government. The State of California must pass the appropriate environmental and financing legislation, if its necessary. There is the Arizona payback issue that needs to be resolved amongst the parties, and those issues are outstanding.

We have provided within the sponsorship of the Governor of California a proposal that we hope to engage the other parties with within the coming weeks. Our CEO, our chief negotiator, our general counsel, our chairman, and our negotiating team are very heavily involved, and we are looking forward and are encouraged that we can have a long-term solution that doesn't leave the Salton Sea, for example, with an outstanding issue that we're going to come back and have to visit when my son's in high school in 15 years. So we're hoping for a long-term solution.

Mr. HUNTER. But your proposal, the one that I see summarized here, proposes to have a $6 an acre-foot paid for by the participants in the transfer. And the shorthand on this is that basically the people of Imperial County who experience approximately a 23 percent unemployment rate now would bear the 70 percent of the burden of that particular outlay.

Is the proposal that we've got summarized here, is that the proposal you're talking about bringing forth with great gusto to the State? Are we talking about the same proposal?

Mr. ORTEGA. Congressman, you are correct. There is an issue of who pays. And with the Chairman's permission, we'd like to submit a chart that will illustrate where the contention is.

Mr. ORTEGA. In this chart, there's a small sliver here that pertains to the cost of the transfer. The question is who pays. Under the Metropolitan proposal, IID would pick up a fraction of the cost.

And the benefit that we perceive that they get is that they'll be able to get an overall subsidy through the other parties to sell water in the long term at market rates.

Also, in the proposal that was made by the three parties, that cost would shift to the State. And we're looking forward to dealing with the State and engaging the State and the other parties to come to an accommodation on who pays.

The fear that we have is the precedent. And that precedent is that water transfers in the State of California, given the history that we've been instrumental in creating over the last several years, cannot afford to subsidize water transfers. And once you have this precedent out there, it will become very difficult to sustain this, especially given all the other challenges and other municipal issues out there before us today.

Mr. HUNTER. What you've offered, though, Mr. Ortega, in your proposal is something that should be equally, if not more, repugnant than what you've just described. And that is that farming communities which are asked to give up a portion of their water for the use of other Californians, now for that privilege of giving up the use of their water to other Californians, get to have attached to their responsibility massive environmental liability.

And I don't see how you can hold that out as a model for other farm districts, which might at some point want to come forth and say, we'll tell you what, if you will finance these conservation measures, we'll undertake them and we'll share the benefits with you.

And I think it's clear to all parties that it was never intended that Imperial Valley be liable for the reclamation of the Salton Sea. For practical purposes, that's the effect of your proposal.

I see you disagree with that notion.

Mr. ORTEGA. Congressman, with all due respect, what we believe is that all over California agricultural districts have come forward. The Sacramento rice deal—it took us 3 months to negotiate it. It's taken 7 years to get us here on the IID proposal. IID should not be held liable for the Salton Sea. We do have a proposal that we've set forth that would prevent that liability and that would address long-term issues to assure that forever, hopefully, IID would not have to be liable. So I think we're closer than we think.

Mr. HUNTER. Thank you, Mr. Chairman. Mr Chairman, I just wanted to note, too, that Glenn Baxley is here, who's Ms. Congresswoman Bono's husband, who is a great baseball player in this town, and San Diego needs great baseball. We'd like to sign him up before he leaves.

Mr. BAXLEY. They need more than one.

Mr. HUNTER. Thank you, Glenn.

Mr. Chairman, once again, thank you for holding this hearing. Thanks to all the parties for your participation. We need to make this deal. We need to make it now. We need to get it done before the summer's over. Thank you.

Mr. CALVERT. Ms. Bono, you have any further questions for this panel? We'd like to move to the next panel, our last panel.

Mrs. BONO. Is that a hint, Mr. Chairman?

Mr. CALVERT. What's that?

Mrs. BONO. Is that a subtle hint? No. I recognize we're down to the final hour, and I'm happy to move to the next panel.

Mr. CALVERT. I appreciate that.

Any other questions? Thank you very much.

We thank this panel. We appreciate your coming out and doing this, and stick around. I'm sure we'll have more questions for you later.

Next, I would like to recognize our next panel, Ms. Grace Burgess, the Executive Director of the San Gabriel Water Authority; Ms. Francis Spivy-Weber, the Co-Convenor of the Southern California Water Dialogue; Mr. Stephen Hall, the Executive Director of the Association of California Water Agencies; and Ms. Julie Puentes, Executive Vice President of Public Affairs for the Orange County Business Council.

[Recess.]

Mr. CALVERT. Thank you. And, again, we're back and reconvened at our hearing. And just to reiterate, we're under the 5-minute rule. We thank this panel for being here, and we'll start off with Ms. Grace Burgess, Executive Director of the San Gabriel Water Quality Authority. We thank you very much for attending, and you're recognized.

STATEMENT OF GRACE BURGESS, EXECUTIVE DIRECTOR, SAN GABRIEL BASIN WATER QUALITY AUTHORITY

Ms. BURGESS. Thank you, Mr. Chairman. Good afternoon.

Mr. Chairman, Committee members and staff, my name's Grace Burgess. I'm the executive director of the San Gabriel Basin Water Quality Authority. And let me also express my appreciation to Congresswoman Grace Napolitano for inviting us as an agency to testify this afternoon.

Our agency was created by the State Legislature in 1993 to plan, coordinate and accelerate the San Gabriel Basin groundwater cleanup efforts. Since its inception, the WQA has funded projects that have removed many, many tons of contaminants from the groundwater basin, and we're in the process of constructing four more major groundwater treatment systems, multiple treatment terrains involved, that will supply 28,000 gallons per minute just with those four major projects that are actively in construction or design.

We've benefited from two Federal programs in the San Gabriel Basin. First was the Title 16 through the United States Bureau of Reclamation Program. And, also, more recently, the Restoration Fund, which is also administered through the United States Bureau of Reclamation. These two programs have been the catalyst in the success of our remediation efforts. Both programs have enabled us to continue the collaborative approach of merging cleanup with water supply. It's allowed us to leverage Federal dollars, local funding and responsible parties, the businesses who cause the contamination, to come to the table and work together and address all of these problems at the same time.

Through the leadership of Congressman David Dreier and the members of the San Gabriel Valley Congressional Delegation, Congress created the Restoration Fund in December of 2000. The Restoration Fund will provide 75 million dollars in Federal funding for

groundwater cleanup in the main San Gabriel Basin. And I'd like to add that the basin serves probably about one and a half million residents and citizens alone and is threatening an aquifer just south of us, which is the Greater LA Area Central Basin, which is another 3 million residents.

The Restoration Fund has provided much needed funding for local groundwater cleanup efforts, and we've provided this as an incentive to participate in the cleanup. And when there is no PRP money, responsible parties money, coming forth, the Restoration Fund is a godsend because we've spent millions on our own local use since the early '90's.

The Title 16 program, the other Federal program, has also provided much needed capital funds to build wellhead treatment and stop the flow of contamination. In the northern part of our valley—OK. In the northern part of our valley, which is the base of the San Gabriel mountains, the flow is pretty slow. The migration is about 3 feet, 5 feet per year. But the further south toward the central basin and the Greater LA Area, it flows at 3 feet per day. And so it's a problem that has escalated not only because of the time involved in trying to clean this up, but also the new contaminations that are found because of detection levels and other better science, and perchlorate being the main problem.

In the time period since the Basin Restoration Fund and the Title 16 program were made available to the Water Quality Authority, many projects have been allocated funding. Those projects have already been built, and several others are currently under construction, and completion is expected very soon.

We've just recently closed our third round of Federal funding applications to all of the constituents, water providers, in the valley, and we have 14 brand-new projects that were unexpected, ranging from perchlorate problems to—one for dioxane and NDMA and all kinds of BOC suits. And so we have a lot of problems, and the reliability on our own basin is critical. It is a huge reservoir of water, natural resource that can be used to store water, if only we could clean that up.

Water from our wells, without the contamination problems, it's very, very inexpensive to pump. It's $50 an acre-foot, approximately. But with the current price of the Colorado River water, MWD water, it's something that would be—it has become very, very difficult for us to handle. So we've tried to address our problem, clean up our contamination, and rely on our own water, which is still less than MWD water. And it does help the rest of the state, who doesn't have to—so that we don't have to rely on that water source.

So Federal assistance is key to us not impacting the rest of the state. It's a huge issue, and we appreciate the Federal—the Congress and everybody's assistance and appreciate our time today.

[The prepared statement of Ms. Burgess follows:]

Statement of Grace Burgess, Executive Director,
San Gabriel Basin Water Quality Authority

Good afternoon, Mr. Chairman, Committee members and staff. My name is Grace Burgess and I am the Executive Director of the San Gabriel Basin Water Quality Authority (WQA). Let me express my appreciation to Congresswoman Grace Napolitano for inviting the WQA to testify this morning.

The WQA was created by the California State Legislature in 1993 to plan, coordinate and accelerate the San Gabriel Basin groundwater cleanup efforts. Since its inception the WQA has funded projects that have removed over 10 tons of contaminants from the groundwater basin.

The WQA has benefited from two Federal programs the San Gabriel Basin Restoration Fund and the Title XVI program. These two programs have been a catalyst in the success of our remediation efforts. Both programs have enabled us to continue the collaborative approach of merging cleanup with water supply. It has allowed us to leverage Federal dollars and local funding to bring all parties to the table and work in a manner that addresses multiple issues at the same time.

Through the leadership of Congressman David Dreier and the members of the San Gabriel Valley Congressional Delegation, Congress created the San Gabriel Basin Restoration Fund in December of 2000. The Restoration Fund will provide $75 million in Federal funding for groundwater restoration projects in the Main San Gabriel Basin. The San Gabriel Basin Restoration Fund has provided much needed funding for local groundwater remediation efforts. Congressman Dreier and his colleagues moved to establish the Restoration Fund as a means of expediting the remediation of groundwater.

The San Gabriel Basin Restoration Fund has provided an incentive for the Responsible Parties in the basin to participate in the cleanup and reach funding agreements with affected purveyors. The funding has also allowed the San Gabriel Basin Water Quality Authority, Watermaster and the affected purveyors to fund projects without PRP participation. Without this additional Federal funding the potential for additional well closures would be great and the need for imported water a necessity.

The Title XVI program has provided the San Gabriel Basin with the ability to provide much needed wellhead treatment, stem the flow of contaminants, stabilize water rates and most importantly deliver safe and reliable drinking water to the residents of the San Gabriel Basin.

In the time period since the San Gabriel Basin Restoration Fund and Title XVI program were made available to the San Gabriel Basin Water Quality Authority, ten projects have been allocated funding. Seven projects have been built and another three are currently under construction with completion expected by the end of summer.

Without the funding for the treatment facilities local water producers would have been forced to shut down water wells due to migrating contamination. The closures would have forced local water purveyors to become reliant on Colorado River water at a time that the state's allotment is being cutback. This would have severely impaired our ability to provide water for users in the basin and forced us to rely on imported water.

Water from wells in the San Gabriel Valley, is relatively inexpensive to pump and supply to homes and businesses. The current price for an acre-foot of treated, ready-to-drink Colorado River water in the high-demand summer period is $425. The typical cost to pump, treat and deliver an acre-foot of local San Gabriel Basin groundwater is $50.

It is vital that we restore the basin's aquifer. Once we are able to remediate the contamination it is our belief that the Valley will be able to use the aquifer to meet all of the basin's water needs. Removing harmful contaminants from our communities groundwater supply will allow local water producers to better meet the needs of local residents at affordable rates and makes certain that the basin is able to meet the water supply needs of future generations.

The Federal assistance provide by the San Gabriel Basin Restoration Fund and the Title Xvi program have allowed us to carry out our mission of facilitating groundwater cleanup and providing a clean, reliable drinking water supply for the 1 million residents of the San Gabriel Basin.

Thank you for allowing me to testify on the progress and success of the cleanup of the San Gabriel Basin today.

Mr. CALVERT. Thank you, gentlelady. And we'll say goodbye to Mrs. BONO.

Mrs. BONO. Thank you, Mr. Chairman.

Mr. CALVERT. Next, Ms. Frances Spivy-Weber is recognized for 5 minutes.

STATEMENT OF FRANCES SPIVY-WEBER, MONO LAKE COMMITTEE

Ms. SPIVY-WEBER. Thank you. I am here representing the Mono Lake Committee. I'm also the co-chair of the Southern California—the Southern California Committee for—that is made up of organizations that are public agencies, private agencies, and we call ourselves the Southern California Water Dialogue because we are trying through dialog to find ways to meet the water needs of Southern California, particularly, and in cooperation with Northern California.

The issue that I was asked to focus on today is our methods to ensure a reliable water supply to Southern California regardless of a quick resolution to the Quantification Settlement Agreement.

I want to underscore something that Maureen said in her testimony earlier, and that is that it is not a question of one or the other should there be a Quantification Settlement Agreement or local projects or other projects. We must have both. Even with a Quantification Settlement agreement, the aqueduct will only be 80 percent full. So I will focus on these other issues that are going to be essential if we're going to have the flexibility that we need as a region.

Yes, sir?

Mr. CALVERT. I'm sorry. Go ahead.

Ms. SPIVY-WEBER. Among those—I won't go through all of the ones that are in my testimony, but I will mention those where the Federal Government is extremely important. One has been mentioned by Congresswoman Napolitano, and that is recycled water.

Right now the region, Southern California, uses about 450,000 acre-feet of recycled water per year. Over the next 10 years, we could increase—we could double that amount to 900,000 acre-feet of water, but the Bureau has now decided to act to put in its 2004 budget only 12 million dollars rather than the normal 34 million that has been allocated in the past. We are saying that we—the Federal Government is saying that it does not value the ability of this region to create a 500 million acre-feet over the next 10 years. This is extremely important water.

Another area that I work in very—that I work in a lot is water conservation. The Metropolitan Water District of Southern California has estimated that over the—by 2025, at least 1.1 million acre-feet of water can come from conservation. Again, the Bureau has the opportunity to invest largely in these new conservation measures, many of them affecting landscape water use, also commercial, industrial, and institutional water investments. And I think this is a conservative estimate of what we can achieve over the next 20 to 25 years.

A third area that is extremely important is brackish water desalination brine lines. In Southern California, right now, about 75,000 acre-feet of brackish water is being desalted and used and made a valuable part of our water supply. By 2015, Southern California agencies estimate this amount could increase to 200,000 acre-feet, again, an extremely important area for investment by the Bureau.

We heard from the previous speaker about contaminant treatment. Again, in Southern California, there are tremendous ground-

water basins that need to be cleaned up, and investments in those cleanups will make this area much more self-sufficient, particularly in a drought or in a situation of an earthquake or other global warming, whatever the tragedy might be in the future that we would have to face. If we have these projects, these local projects, this local capacity to be flexible, we will be much better able to weather those storms. And those storms will come. We know that. We know that from the past.

Other areas that are offering promise, certainly we heard about water transfers from Northern California earlier today. Storm water runoff and making better use of storm water runoff is important. In Los Angeles, we get 12 inches of rain a year. That water is being captured in some demonstration projects now in the San Fernando Valley and captured in cisterns, going back to old-fashioned technologies, at schools and institutions, and that water is being used for landscape watering. And, again, this offers an opportunity in many parts of Southern California to make better use of storm water as a water supply.

Watershed management is increasing. Ocean desalination has been mentioned a few times today already. It's estimated that ocean desal at this point could supply 150,000 acre-feet per year. We have a State task force that's looking at what the issues are associated with ocean desal, and my hope is that we will be able to figure out ways to use it.

I don't think ocean desalination is—or any of these measures are the answer. All of them must be pursued, and the Federal Government, I hope, will be a strong partner and player in pursuing these.

And, finally, I would like to wear my Mono Lake Committee hat and emphasize how important it is that the Bay-Delta authority work with the stakeholders to—and this would be the Federal part of the CalFed program as well, to develop a mechanism to ensure that investments in these water supply, water stretching activities actually will in part accrue—the benefits will, in fact, accrue to the environment. For example, the San Diego Watershed Project Authority has set the goal of being able to roll off the Delta for 3 years during a drought.

The question that many of us had is, how will we be sure that this benefit does, in fact, give water to the environment? And my suggestion is that possibly the investments in meeting our drought-year options down in Southern California could become part of the environmental water account. Those investments would count toward the environmental water account. And I thank you for this opportunity.

[The prepared statement of Ms. Spivy-Weber follows:]

Statement of Frances Spivy-Weber, Executive Director for Policy, Mono Lake Committee, Redondo Beach, California

Thank you for this opportunity to meet with the House Subcommittee on Water and Power. I wear several water policy hats in Southern California and statewide. Regionally, I serve as the co-chair of the Southern California Water Dialogue, a multi-stakeholder group that meets monthly to discuss water issues. The Dialogue also serves as a Southern California focal point for the CalFed Bay-Delta Authority, providing information to CalFed about the region and transmitting information about the region to CalFed. CalFed has provided the Dialogue with a consultant staff person for 18 months, who works closely with the volunteer steering committee and other Dialogue participants.

Statewide, I serve on the CalFed Bay-Delta Public Advisory Committee and am co-chair of the Water Use Efficiency Subcommittee. This year, I am the convener of the California Urban Water Conservation Council, and I am a member of the State Advisory Committee to the California Water Plan. My organization, the Mono Lake Committee, supports my work on regional and statewide water policy because Mono Lake, located at the northernmost end of the Los Angeles Aqueduct, is being restored to health in large part because the Committee was successful is having state and Federal funding made available to Los Angeles for conservation and water reclamation projects. These projects are supplying more than enough water to replace the water being left in Mono Basin streams that feed Mono Lake.

The goal of this hearing is to consider methods to ensure a reliable water supply to Southern California regardless of a quick resolution to the Quantification Settlement Agreement, commonly called the QSA. I must add to this goal the need for high quality drinking water in the region.

Current Supplies

Water supplies used in Southern California come from several sources. Those sources include about half from imported water supplies and the other half from local supplies within the coastal plain of Southern California. The imported water sources are from northern California via the State Water Project (SWP); the Colorado River (CRA); and the Los Angeles Aqueduct (LAA). Local supplies are primarily groundwater and southern California mountain streamflow, recycled, and desalinated brackish groundwater. In addition, the region has successfully reduced demand for water over 15% since the mid-1980s through implementation of conservation Best Management Practices.

State Water Project

MWD has imported an average of 1 MAF from the State Water Project during the past decade. However, during a drought, SWP delivery to MWD can be as low as 400,000 AF. The maximum deliveries to Southern California during wet periods are limited to about 1.7 MAF because of pumping limitations in the State Water Project. The proposed South Delta improvements might increase wet year pumping by approximately 200,000 AF.

Colorado River Deliveries

California has a long-term allocation of 4.4 million acre-feet per year from the Colorado River, with 3.85 MAF allocated to Imperial Irrigation District, Coachella Valley Water District, Palo Verde Irrigation District and the Yuma project, and 550,000 to MWD. In past years, the MWD has imported an additional 700,000 AF of surplus water. The Colorado River delivery to MWD with QSA is about 900,000 AF, compared to historic averages of 1.2 MAF, resulting in keeping the Aqueduct at 80% capacity.

Eastern Sierra Nevada

Los Angeles Department of Water and Power imports between 300,000-400,000 acre-feet of water per year, but in future years it is likely to import less than 200,000 acre-feet on average, because of dust control and restoration obligations in the Owens Valley and the Mono Basin

Drought Imports

If drought occurs throughout California and/or the West, southern California could face importing as little as 1.1 million acre-feet of water. To make up the 50% shortfall, the region must turn to conservation measures, transfers, local groundwater and surface water storage withdrawals, and new local supply projects. In addition most of these supplemental measures can be used to improve water quality, storm water management and address groundwater contamination. These measures will be the focus of my presentation.

Groundwater, Recycled Water, Desalinated Brackish Water

The Southern California region produces on average about 1.3 million-acre feet per year of groundwater. During droughts the groundwater production can increase by approximately 500,000 AF. The region uses approximately 450,000 acre-feet per year of recycled water and 75,000 acre-feet of desalinated brackish water. Both recycled water and desalinated groundwater will increase significantly over the next decade. Recycled water is projected to double to about 900,000 AF over the next ten years, and groundwater desalting will more than double to 200,000 AF by 2015.

Demographics of the Region

Southern California includes the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura with a population of approximately

19.6 million people. In 2025, the Southern California Association of Governments and the San Diego Association of Governments predict the region's population will be in the range of 26.4 million people. While there is still significant agriculture in the region, the trend is toward greater urbanization.

Methods to Achieve Water Supply Reliability and Water Quality in the Region

In order for Southern California to achieve water supply reliability and water quality in the region, its water agencies and citizens must enhance the current sources of local water supply, as well possibly add new technologies and approaches.

Groundwater

The Southern California region produces on average about 1.3 million-acre feet per year of groundwater, and during droughts an approximately 500,000 AF can be produced. Groundwater storage and conjunctive use are strong candidates for meeting the region's water supply and water quality needs. A recent study by the Association of Groundwater Agencies found over 22 million acre-feet of unused capacity in Southern California groundwater basins, and while much of this capacity may not be feasible, the following groundwater basins are identified as having the potential of an approximately 1 million acre-feet per year increase in annual operational yield for the region: Ventura County Basins, San Fernando Valley, Main San Gabriel Basin, West and Central Basins, Orange County Basin, Chino Basin, San Diego County Basins, Mojave River Basins, and Coachella Valley Basin.

Recycled Water

The region uses approximately 450,000 acre-feet per year of recycled water. An unpublished Bureau of Reclamation Study estimated the region's additional potential is 451,500 acre-feet per year over the next ten years. Now is the time for the Department of the Interior (and the Bureau of Reclamation) and the Congress to increase its financial support of Title XVI grant funding in Southern California. Currently the Bureau of Reclamation has requested only $12 million in its FY 2004 budget. During the past few years, Congress has appropriated about $34 million each year. This is the most cost effective investment the Bureau could make in new supplies.

Conservation

Through urban conservation Best Management Practices (BMPs) and strong community-based programs, the region has successfully reduced demand by 15% since the mid-1980s. The Metropolitan Water District of Southern California (MWD) currently estimates conservation savings at 653,800 acre-feet per year. MWD's urban target for 2025 is 1.1 million acre-feet, an additional 446,000 acre-feet per year. And, in my opinion this target will be surpassed with new and aggressive programs to reduce landscape water use and to target commercial, industrial and institutional customers to use new devices that save water in cooling towers, x-ray machines, spray-rinse valves in commercial kitchens, water brooms, as well as low-flow toilets and landscape savings. In addition, there is opportunity for improvements in some agricultural sectors.

Water Transfers

In 2003, MWD concluded eleven water transfer agreements with Northern California farmers in the amount of 167,200 acre-feet. Not all the offers for water sales were accepted, indicating possibly greater potential in the future.

Contaminant Treatment

Water quality, rather than supply, is likely to be the limiting factor in meeting Southern California's water needs. Source water protection of imported water and local groundwater basins and drinking water quality treatment projects are essential to achieving the water supply and water quality goals of the region.

Brackish Water Desalination

Salt loading in Southern California is a large problem that is growing. A number of agencies desalt approximately 75,000 AF of brackish water to expand the region's water supply, particularly groundwater. By 2015 southern California water agencies estimate this amount will increase to 200,000 AF and will continue to increase as imported water supplies become less reliable. Investments in additional treatment and brine lines will be critical to increasing usable locally impaired water supplies.

Storm Water Runoff

Projects are underway in Los Angeles, Orange, and San Diego counties and at the Inland Empire Utility Agency to examine the potential water supply benefit from capturing and reusing rainfall. For example, it rains 12 inches a year in Los Ange-

les, and much of this water is shunted off into storm drains. There are demonstration projects in Los Angeles County where schools and institutions have buried cisterns under their landscape and are collecting and filtering storm water for use in future irrigation. There are many, similar opportunities throughout the region.

Watershed Management

There are 40-50 watershed organizations in Southern California. Investments in watershed projects and in building greater capacity of these groups will contribute to better coordination among surface and groundwater suppliers, water quality agencies, development agencies, environmental and business interests. The result should be greater water savings, efficiencies, and improved water quality. The Santa Ana Watershed Project Authority, the largest of the watershed organizations in the region, is committed to being able to role off the State Water Project for three years in a drought if it can implement its watershed plan.

Ocean Desalination

Several water agencies and local jurisdictions are examining the feasibility of ocean desalination. It is estimated that ocean desalination could supply 150,000 acre-feet per year. There is great interest in tapping into ocean water as a source of new water for the region. The State of California has established an ocean desalination task force to look at the feasibility of this approach, and many anticipate this will become a part of the water supply mix for the region in the future. The hurdles for ocean desalination include environmental concerns, growth in previously inaccessible places along the coast, and cost, particularly energy costs.

Environmental Benefits from Local and Regional Water Supply Investments

Wearing my Mono Lake Committee hat, it is also very important that the CalFed Bay Delta Authority work with stakeholders to develop a mechanism to ensure that investments in water supply reliability and water quality described above also have direct benefits to watersheds and aquatic systems in the region and in the Delta. For example, when the Santa Ana Watershed Project Authority (SAWPA) sets a goal of being able to roll off the Delta for three years during a drought, there must be a clear way of tracking this benefit back to more water for the Delta ecosystem. Perhaps SAWPA's capacity to meet drought year supplies could be a part of the Environmental Water Account.

Thank you again for this opportunity to share with you the many ways in which the region is attempting to meet its needs over and above the important efforts to find a resolution to the Quantification Settlement Agreement. I will be pleased to answer any questions now or in the future.

Mr. CALVERT. Thank you, gentlelady.

And with the ACWA, Association of California Water Agencies, old friends, Mr. Stephen Hall.

STATEMENT OF STEPHEN HALL, ASSOCIATION OF CALIFORNIA WATER AGENCIES, ACWA

Mr. HALL. Thank you, Mr. Chairman. I would be remiss if I didn't begin by thanking you on behalf of the California Water Community for your leadership on these issues. Not very many political agents invest the time and energy that you have, and we very much appreciate it. And the Ranking Member, Ms. Napolitano, was not too far behind you, and we appreciate all of your efforts.

Mrs. NAPOLITANO. Thank you.

Mr. HALL. I was asked to respond to the same question as Frances Spivy-Weber. And let me just say in response to the question about whether California can meet its needs with or without a QSA, I begin by saying the QSA is an extremely important component in meeting our water needs. We believe that it can be done, it should be done, and that it will be done.

We represent the four agencies that are parties to this agreement, and we also represent some 450 other water agencies around

the state who are all looking anxiously at this agreement hoping that it gets done. Because what we've learned today and in the past is that all of our water supplies are inextricably linked, and what affects one source of supply affects the other.

That's why we so strongly agree with your statement, Mr. Chairman, that the current impacts on the Colorado River makes it even more important that we resolve the issues in the Bay-Delta and that we firm up the water supplies, the water quality, and the environmental health of the Bay-Delta so that we can continue to meet the state's water needs regardless what happens with the QSA. Though, I have to say, again, my association very strongly supports the work of the agencies in trying to reach an agreement there.

We also agree, Mr. Chairman, with the seven points that you made in your press releases about the important elements embedded in CalFed; that is, surface storage, improved conveyance, streamlining environmental regulations, providing new yield through conventional means as well as desalting and recycling, banking and transfers, protection of property rights including area of origin protections, and groundwater management.

We've been working on CalFed for a long time, not only because it's a blueprint for California to resolve its conflicts and to put policies and plumbing and technology and water transfers in place to meet our needs, but we really do believe that it can be a model for the west.

As you'll look around the west, you see Klamath; you see the silvery minnow issue in New Mexico; you see the Columbia River, the Colorado River. All of these major rivers throughout the west have very similar conflicts to what we're seeing in California and the Bay-Delta. And we think CalFed is the right approach to resolving those.

In fact, if you look at the Department of Interior's recent issuance of its 2025 plan that rolled out, it looks remarkably similar to CalFed. And Interior officials will acknowledge that's not an accident. They looked at CalFed when they put it together because they agree it's a blueprint. That's why we think CalFed has to be a full partnership between the state and Federal Governments and local water agencies.

We think the Federal Government, in particular, has a very real interest in seeing the CalFed program succeed. It's the operator of the largest water project in the state, the central valley project. It has very broad environmental regulatory responsibilities through the Endangered Species Act, the Clean Water Act, the Safe Drinking Water Act, and others. And I think it's clear now that if we can resolve these issues in the Bay-Delta, it can be a precedent for solving them in other river systems through the west.

It was little noticed, but very important, the testimony you received from the Federal agencies in Elk Grove. I read that testimony carefully. It says the right things. It says they have all the authorities that they need, virtually. Unfortunately, they don't often act like they have all the authority they need. They're not very heavily engaged in the CalFed process. The Department of Interior has been substantially more involved than the other Federal agencies that have responsibilities, and I think it's fair to say the

Department of Interior has not always agreed with the Davis administration on how best to proceed, but at least they've been at the table.

That has not been true of the United States Environmental Protection Agency, nor has it been entirely true of the Army Corps of Engineers. They don't engage—they don't even work together collaboratively as Federal agencies to try to figure out who's got what responsibilities and how it's going to be exercised. And that has to change. We will not succeed unless it does. That's why we need authorizing legislation at the Federal level.

And here are a few of the elements that we think must be embedded in the legislation which we hope you will introduce soon and which we expect to support: It needs to direct and authorize the Federal agencies to participate. It needs to provide specific authorities where those are needed beyond what they already have. It needs to provide for a crosscut budget among those agencies so there's proper accounting of expenditures. It needs to address water quality concerns including improved source water quality in dealing with such issues as perchlorate and other contaminants in ground and surface water. It needs to authorize enough Federal funding to get the jobs done.

I know you, Mr. Chairman, and other Members of Congress have been frustrated over the lack of progress of some elements of CalFed, particularly surface storage and conveyance. I can tell you I co-chair the Water Supply Subcommittee, Bay-Delta Public Advisory Committee, and right now we're falling far behind on our schedule for surface storage investigations because there is not enough money either at the state or the Federal level. We need to improve that funding source in order to keep the program in balance.

The legislation needs to make it clear that private property rights in area of origin protection will be in place. And, finally, it needs to authorize participation at the Federal level under governance structure so that we have a lasting partnership between the state, Federal Governments and local agencies that endures beyond present administrations on into the future.

Let me tell you, Mr. Chairman, I think you know this, but I'll repeat it, we've worked closely with you, and we respect very much your leadership on this issue. We pledge our continued support as you move forward with the legislation.

[The prepared statement of Mr. Hall follows:]

Statement of Stephen K. Hall, Executive Director, Association of California Water Agencies

INTRODUCTION:

My name is Steve Hall. I am the Executive Director of the Association of California Water Agencies (ACWA). We represent local water agencies across the state of California and our members are collectively responsible for 90% of the water delivered in California. Our smallest member serves fewer than 50 people and our largest serves over 17 million urban Southern Californians. The purpose of my testimony is to respond to the question posed by the Subcommittee regarding a reliable water supply in California with or without a Quantification Settlement Agreement (QSA) among the California agencies using Colorado River water as well as to provide background on water management in California, to describe the measures being taken by local water agencies and the additional resources that will be needed to meet the state's water needs into the future.

WATER DEVELOPMENT IN CALIFORNIA:

Today California's water systems support over 35 million people in one of the world's largest economies. The state's water infrastructure is a network of projects, large and small, assembled over decades and with scores of different funding sources. ACWA and its member agencies have played a major role in every one of California's major water development efforts and have, in recent years, been among those leading the way toward restoration of aquatic environments throughout the state.

Much of California's water development has been the result of three inescapable facts regarding natural water distribution in the state. The first of these facts is that most of California's population centers and leading industries are located far from where precipitation and resulting runoff occur. Second, that the precipitation occurs almost exclusively during the months of November and April with the other months of the year being virtually dry. Third, the precipitation and runoff patterns from year to year are highly variable with many years below normal or dry and other years above normal or wet.

These three facts have mandated that California develop storage and conveyance systems that capture water when and where it occurs and transport it when and where it is needed. It is a system that has allowed California to grow and to prosper, but in recent years has become increasingly unreliable, both because investment in the infrastructure system has slowed considerably and because of reallocation of water away from homes, farms and businesses back to the environment in response to the Endangered Species Act and other environmental laws.

These two very powerful forces have been directed primarily at those projects that have exported water from one hydrologic basin to another, either in the Bay-Delta, the Owens Valley or from the Colorado River. Local supplies have become increasingly important to the state, as imported supplies have declined in reliability and in absolute yield. Increasingly, local water agencies have developed and extended local supplies through progressive conjunctive use of surface and groundwater, water conservation, water reclamation, desalting and other innovative means. This initiative on the part of local agencies has allowed them to meet most of the state's water needs despite reallocation of water supplies and despite dwindling investment in infrastructure at the state and Federal level. However, without some changes in policy and plumbing, these local initiatives will yield diminishing returns as water demand through conservation and reclamation hardens and as opportunities become fewer and more expensive to pursue.

LOSS OF RELIABILITY AND IMPORTED WATER SUPPLIES:

One of the lessons of the last several decades is that for those areas of the state, including southern California where we are today, that depend upon imported water supplies, those supplies are not a panacea. For Southern California that began when Los Angeles Department of Water and Power lost much of its supply from the Owens Valley through the Mono Lake decision. Following that, imported supplies from the Bay-Delta through the State Water Project became less plentiful and less reliable. By way of example, two of the last four years have been above normal runoff, while two have been dry or below normal. In that four-year period, the State Water Project has never delivered 100% of Southern California's contract supply and it has in one year delivered as little as 39% of the contract supply.

Another threat to water reliability comes from the prospect of losing drinking water supplies due to contaminants like perchlorate. In California, perchlorate has been detected in 75 of the 832 (9%) public water systems that have sampled for it. Contaminated drinking water wells have been found in eastern Sacramento County (up to 260 ppb in raw water) near Aerojet General Corporation's facility, and in Los Angeles County (up to 159 ppb) at an Aerojet facility (Azusa), the Whittaker-Bermite site (Santa Clarita), and the Jet Propulsion Laboratory (Pasadena), among others. Additionally, perchlorate has been detected in monitoring wells in Lincoln, Tracy, San Jose, and Hollister, as well as at Edwards Air Force Base and El Toro Marine Corps Air Station in Southern California. The Las Vegas Wash, which is a large source of perchlorate contamination, empties into Lake Mead. This has caused low but significant levels of perchlorate contamination (5-9 ppb) in the Colorado River, which has in turn found its way into southern California aquifers through a variety of routes.

Finally, the Colorado River supply that California has been using has now been reduced back to California's entitlement of 4.4 million acre feet annually. While intense negotiations and efforts have been underway to allocate that reduced supply, no agreement has been reached and the threat of continued conflict and resulting economic hardship remains. Furthermore, the entire state has a stake in seeing the Colorado River issues settled because the state's water system and economy are in-

extricably bound together. What affects one region of the state, particularly a region as important as Southern California, has ripple affects throughout the state.

LESSONS LEARNED:

While differences of opinion remain about how to best proceed on some of these difficult issues, one conclusion has been reached by political leaders across the political spectrum and water managers throughout the state. That is, the current unreliability and uncertainty on the Colorado River and in the Bay-Delta are unacceptable. An economy and an environment as important as California's cannot be held hostage to indecision and inaction.

The Subcommittee has asked how California can meet its needs regardless of a quick resolution of the quantification settlement agreement. My response is that settlement of the QSA is essential to the long-term stability of California's water supply and the values that rely upon that supply. If the current proposal for a QSA is not acceptable then another one needs to be developed and consensus reached. For the sake of our environment and our economy, for the sake of our relationship with other Colorado River Basin states, for the sake of progress on important water issues around the state, a resolution must be found to the allocation of water among the Colorado River agencies in California. ACWA applauds the hard work and leadership displayed by all of those that have worked so hard up until now to reach an agreement. We acknowledge the difficulty in resolving the many issues surrounding the QSA, particularly with the added complication of Salton Sea preservation. Nevertheless, the state cannot afford the luxury of impasse and we urge the parties to continue working until some agreement can be reached.

California's oscillation between periods of drought and flood make an expansion of our current water storage capacity a necessity. And whether through pumping groundwater, conjunctive use, surface water or even desalination, the water supply has to be impounded in storage to give us a starting point. All of the tools for developing storage are needed if California is to have a reliable water supply, meet the needs of our 35 million residents, plus the 15 million more people projected to move here before 2020.

In Orange County and the Inland Empire, groundwater storage and conjunctive use programs are moving Southern California closer to possessing its own independent regional water supply. These local agencies are today running their groundwater programs from the point of recharge to removing salt at the bottom of the basin. This is extremely significant, since successful groundwater recharge in the Inland Empire and elsewhere could enable that community to use no imported water from the Delta for up to three years during a drought. To "drought proof" any community holds obvious promise for water reliability in southern California, and for all communities dependent on the Bay-Delta.

In addition to these programs, new sources of developing water are essential. Significant advances in membrane and other technologies have dramatically reduced the costs associated with seawater desalination. Seawater desalination treatment cost was approximately $2,000 per acre foot in 1990. In 2003, this cost has drastically decreased, with treatment costs down around $800 per acre foot. On a per acre foot basis, the cost of seawater desalination is now within striking distance of the cost of water imported to the southern California coastal region from northern California and the Colorado River.

Five seawater desalination plants with a combined capacity of 180 million gallons per day of high quality drinking water have been proposed by water agencies in San Diego, Orange, and Los Angeles Counties. These and other plants currently in the planning stage of development could produce over 200 million gallons of water within ten years.

A continued Federal leadership role in funding these programs will ensure their success and the realization of the potential benefits to the Bay-Delta and the rest of the state.

CALFED BAY-DELTA PROGRAM:

In addition to Colorado River, California must resolve the conflicts among the competing needs in the Bay-Delta system. The conflicts among ecosystem needs (principally fisheries), in Delta users and export users must be resolved. The Bay-Delta system is the state's most important watershed both economically and environmentally.

The CALFED Program was established to resolve those conflicts and has developed a plan that will meet that test. Now, that plan must be fully implemented and in a balanced manner. However, for the implementation to continue, the Federal Government must become a full partner in decision-making and financing implementation. That is why ACWA applauds the leadership of this Subcommittee and

particularly its Chairman, Mr. Calvert, in passing legislation last year out of this Subcommittee and the full Resources Committee to authorize CALFED at the Federal level. We thank the Chairman for holding a series of field hearings to gather additional information in preparation for introducing new legislation this year and we pledge ACWA's support and assistance in crafting that legislation and securing its passage. We think it is particularly important that the Subcommittee has called as witnesses, representatives of the participating Federal agencies to determine what, if any, additional authorities those Federal agencies need in order to become full partners in the CALFED program implementation.

This is important because if the CALFED program can be fully implemented we believe many of the problems in the Bay-Delta can be solved and the opportunities for improvements in water supply reliability, water quality and ecosystem restoration are huge in their potential.

Program implementation will also provide a number of new opportunities for progress in innovative, technologically advanced solutions to further utilization of local supplies and stretching imported supplies. The prospects for more intensive conjunctive use of surface and groundwater in Southern California and elsewhere, the opportunities for reclaiming wastewater, desalting sea and brackish water, water transfers and water conservation will all be greatly improved through the Bay-Delta program. One of the cornerstones of the program has become development of regional plans to maximize water management in every area of the state that uses water from the Bay-Delta system.

SUPPORT CALFED AUTHORIZATION LEGISLATION:

Let me repeat and repledge our support for legislation to authorize CALFED at the Federal level. ACWA has worked since the creation of CALFED to authorize the program at the state and Federal levels. The state authorization is in hand, Federal authorization is needed. We have worked and will continue to work with Chairman Calvert and other members of the California delegation to craft and support such legislation. As the Chairman and his colleagues begin the work of writing that legislation, ACWA has several points that it wishes to have considered. First, I have attached to this testimony principles adopted by the ACWA Federal Affairs Committee and Board of Directors, which guides the association in evaluating any CALFED legislation that is developed. We urge the Subcommittee to consider these principles as it writes CALFED legislation. Beyond that, we believe the following elements should be included in any legislation authorizing CALFED.

1. The authorities for all involved Federal agencies need to be clear and unambiguous, not only in authorizing Federal participation, but in directing agencies to work collaboratively with each other and with the State of California in implementing the CALFED program.
2. A crosscut budget should be developed and utilized annually to properly account for expenditures for each agency on the various CALFED programs.
3. Protection of areas-of-origin and Delta water users should be clearly spelled out in the legislation as well as protection for private property owners.
4. Promote a climate conducive to voluntary water transfers and improved conveyance mechanisms for moving water through the Delta.
5. Regulatory coordination and streamlining for approval of all permits, licenses and other requirements for the building and implementation of water projects.

The CALFED Program and all it hopes to accomplish for California will be at risk without Congressional support, with grave consequences for wildlife, agriculture, for our cities and for public safety. Six years of planning and the threat of a future defined by protracted water wars demand your action now.

Much has been written about California's energy crisis, and how stymied efforts to expand the state's water supply portend a crisis of even greater proportions for California water. ACWA agrees wholeheartedly with that analogy, and has worked hard to bring that message to Congress. The House Resources Committee can begin the work to prevent a crisis, or end up responding to it two or three years down the road. We believe a balanced CALFED Program is the solution. We urge you to work on behalf of assuring its passage, and ACWA is committed to assisting in that effort.

Association of California Water Agencies

Principles for Federal Legislation to Authorize CALFED Plan Implementation:

May 2003

Authorization

1. The legislation must assure that commitments made in the framework agreement are kept.
2. The legislation must result in ongoing balance among the ecosystem, water quality and water supply elements of the program.
3. The legislation must provide funding for and otherwise assure a functional Environmental Water Account (EWA) that provides ESA protections such that there will be no additional involuntary, uncompensated taking of water from water users.
4. The legislation should be consistent with the Federal Record of Decision (ROD).
5. The authorizations provided by this legislation should not sunset.

Funding

1. Any local cost share identified in the legislation must be tied directly to and commensurate with benefits received.
2. Any local contributions must be tied directly to ongoing, adequate state and Federal funding.
3. The legislation should, to the maximum extent possible, assure appropriations adequate to meet the milestones identified in the ROD.
4. There should be provision in the legislation for local cost sharing to be made by cash or in-kind contribution.

Governance

1. The legislation must provide for regulatory decisions to be peer reviewed by the Bay-Delta program science panel.
2. Implementation of regulatory decisions must be through the Bay-Delta program and must be consistent with the principles presented in the ROD.
3. The governance structure must include a strong executive or executives who have enough authority to assure cooperative, coordinated actions by the participating state and Federal agencies, and to prevent unilateral actions by those agencies.
4. The legislation must make the Bay-Delta program governing body responsible for ensuring balanced implementation of the program.
5. The legislation must make the Bay-Delta governing body responsible for implementation of the integrated science program.
6. The legislation must not establish an independent ecosystem program governing body.
7. The legislation should not seek to amend CVPIA but must fully integrate implementation of the CVPIA anadromous fish doubling plan into the Bay-Delta program.

Mr. CALVERT. Thank you, gentleman.

Julie Puentes of the Orange County Business Council.

STATEMENT OF JULIE PUENTES, EXECUTIVE VICE PRESIDENT, PUBLIC AFFAIRS, ORANGE COUNTY BUSINESS COUNCIL

Ms. PUENTES. Good afternoon. Thank you very much, Mr. Chairman, for having me here today. And thank you especially for your leadership. I'd like to echo what was just said about your leadership and the energy that you and the other Subcommittee members are devoting to these very important issues today.

Well, as you would expect, representing a business organization, I'm here to kind of plead the case of business and industry for resolution of California's water challenges. And I'd like to tell you just a little bit about our organization, why water is especially critical to the economy such as we have in Orange County. And certainly

some of what I have to say about the Orange County economy applies in other parts of the state as well.

The Orange County Business Council is the leading business organization in Orange County. We're a countywide economic development organization dedicated to economic prosperity across the county. So we address issues that have an impact on our businesses' ability to remain viable in Orange County and in California.

Infrastructure issues are a big part of our public policy agenda. Water's a big part of our infrastructure agenda.

We are, as I mentioned, concerned primarily with economic prosperity and, obviously, we can't maintain economic prosperity without clean and plentiful water supplies. Very simply, no water, no business.

What really concerns us now about the business climate in California and applies, of course, to Orange County is that businesses are already finding reasons not to locate or stay or expand in California. We don't want to see them have one more reason, that is, the lack of available water supplies, for making those decisions. We're facing a time when nearly one-fifth of California businesses are already choosing to expand out of the state rather than within the state. And, again, we don't want to give them one more reason to make that decision.

Orange County's diverse economy includes a range of businesses: High-tech, biotech, pharmaceutical, manufacturing, tourism, and professional services. And we have an economic input of about 135 billion dollars. The county is one of the highest job growth areas in the state and nation, and our job growth is projected at 20 percent over the next 20 years. So you can see we have a stake in making sure that we have the infrastructure required to sustain that economic growth.

18.4 percent of Orange County's jobs are in high-tech industry, and that ranks the County sixth in the U.S. In terms of high-tech jobs. As you well know, communities compete for high-tech industries because high-tech jobs pay higher than the average wage, and the multiplier effects for the local economy easily outpace those of other industries. But high-tech industries often rely upon large amounts of clean water for their operations. A day without water can be economically devastating. Let me talk for just a moment about what that really means.

The immediate impact, of course, is a halt in production for some industries. But the ensuing impact is up to 2 weeks to clean and reset equipment to standard, eliminate bacteria from lines, sanitize, and retest. And when you have companies that are producing at the rate of a million dollars worth of product each day, you can see the impact of a day without water upon a high-tech region, upon the companies, upon the water lines, upon the employees, and upon the region.

All of this is why in conjunction with ACWA, MWD, and others, Orange County businesses are participating in conservation programs and supporting our local water agencies in pursuing innovative solutions such as our Groundwater Replenishment System that you may have heard about and desalination.

Specific to today's hearing, we'd like to encourage your support of the following actions: First, reauthorization of the CalFed pro-

gram and the Federal appropriation that is necessary for program implementation. We do believe that CalFed represents our best hope to insure that the Bay-Delta continues to provide a reliable clean supply of water for all of California. And Federal investments in that project, therefore, must be increased.

The State did pass Prop 13 in March of 2000 that provided nearly 2 billion dollars, but we've not seen any state or Federal money other than that appropriated in the last couple years. And only with new Federal investment in this priority area can the Delta be restored to deliver on its dual purpose of transporting water and maintaining a healthy ecosystem.

As was just mentioned, storage is a very big concern to us. Burgess made you see that the last water bill failed to include any meaningful storage provisions. We're hopeful that legislation underway under review this year may get to that. But we believe that it's very important, and we'd like to see more specifics concerning storage as part of the CalFed process.

Third, Federal guidance in developing a plan for California to live within its allotted 4.4 million acre-feet of water, the Colorado River, I think we've kind of beat that one to death today, so I'll move on.

Lastly, voluntary water transfers, we support them. We do think it's an important—that they're an important component of Southern California's array of tools for enhancing and improving water supplies. But we have not had a chance to read the MWD's most recent proposal on the transfer. Traditionally, our organization supports user fees in concept, but we do not yet have an official position on that plan.

In conclusion, I'd like to thank you, Congressman, once again for holding this hearing, for fostering an atmosphere of cooperation among all of us who are working together to promote clean adequate water supplies for our homes, businesses, and communities. We pledge our continuing support in this effort. Your leadership is essential as we move forward, and we thank you very much for the opportunity to address you today.

[The prepared statement of Ms. Puentes follows:]

Statement of Julie Puentes, Executive Vice President, Public Affairs, Orange County Business Council

Good morning. I'm Julie Puentes, Executive Vice President Public Affairs for the Orange County Business Council.

Thank you, Chairman Calvert, for inviting our organization to address the Subcommittee today. I'd like to express our support for your tireless efforts on California water issues, including the all-important CALFED program and Colorado River issues.

The Orange County Business Council is the leading business organization in Orange County. We are a private-sector alliance of companies that represents hundreds of local enterprises from small shops to giant, multi-national companies. The Business Council provides the forum for businesses to join together—often in conjunction with government and educational institutions—to invest in the growth and prosperity of the fifth largest county in America.

The Business Council's interest in water issues is inextricably related to its primary mission: economic prosperity. Our region cannot maintain economic prosperity without clean and plentiful water supplies: No water means no business. If there is an insufficient or unreliable supply, business will have one more reason not to locate or expand here. At a time when nearly one-fifth of California businesses are already planning to expand and/or relocate out of the state, we cannot give them one more reason. Restoring the state to its proper place in the global economy re-

quires that we ensure a clean and reliable supply of water for our homes and businesses.

Orange County's diverse economy includes high-tech, biotech pharmaceutical, manufacturing, tourism, and professional services with an economic output of about $135 billion. The county is one of the highest job growth areas in the state and nation, with job growth projected at 20 percent over the next 20 years.

18.4 percent of Orange County's jobs are in high technology, ranking the county 6th in the U.S. in terms of high tech jobs. Communities compete for high tech industry because high tech positions pay higher salaries than average, and the multiplier effects for the local and state economy easily outpace those of other industries. But high tech industries often rely upon large amounts of clean water for their operations. A day without water can be economically devastating. The immediate impact is a halt in production. The ensuing impact is up to two weeks to clean and reset equipment to standard, eliminate bacteria from lines, sanitize, and re-test. At the rate of $1 million per day of lost production, you can see the impact of a day without water upon a high-tech region.

That's why, in conjunction with the Metropolitan Water District and its member agencies, Orange County businesses are participating in conservation programs, and we are supporting our water agencies in pursuing innovative solutions such as the Groundwater Replenishment System and desalination. Specific to today's hearing, the Orange County Business Council is supporting the following actions by Congress and the California legislature:

- Re-authorization of the CALFED program and the Federal appropriation necessary for program implementation.

CALFED represents our best hope to insure that the California Bay-Delta continues to provide a reliable, clean water supply for all of California. Therefore, Federal investments in the Delta must be increased. While the State of California passed Proposition 13 in March 2000 providing nearly $2 billion, no new Federal money was allocated in the last session of Congress, and state legislation providing for governance of CALFED failed in the final days of the 1999-2000 session. Only with new Federal investment in this priority area can the Delta be restored to deliver on its dual purpose of transporting water while maintaining a healthy ecosystem.

- Storage.

Any solutions within the CALFED process must include storage and conveyance elements. While the Phase II Record of Decision and EIR do include a call for surface storage, it lacks any specifics. This is a crucial element to any fair, balanced plan.

- Federal guidance in developing a plan to stay within our allotted 4.4 million acre-feet a year of Colorado River water.

We believe local resource programs can help the state cut its dependence on the Colorado River and Northern California water. A competitive, businesslike process for the allocation of public bond funds is necessary to ensure that the funds are used as prudently as possible.

- Voluntary water transfers.

Voluntary water transfers comprise an important component of Southern California's array of water supplies but water must not be dependent on public subsidies. The Business Council has not had a chance to read Metropolitan Water District's most recent proposal on the Colorado River transfer deal but has traditionally supported user fees in concept.

In conclusion, Chairman Calvert, the Orange County Business Council would like to thank you for holding this hearing and for fostering an atmosphere of cooperation among those of us working to promote clean and adequate water supplies for our homes, businesses and communities. Your leadership is essential as we strive to address water supply challenges that as best as possible meet the legitimate needs of the people of this state.

Mr. CALVERT. Thank you for your testimony.

We're also joined at the panel by Jasper Hempel for the—he's Chairman of the Western Growers, and anything—if you have questions regarding the agriculture, he's here to answer those questions.

[The prepared statement of Mr. Camp follows:]

Statement of Edwin Camp, Chairman, Western Growers

Good morning, Mr. Chairman and members of the Subcommittee on Water and Power.

My name is Edwin Camp. I am President of D.M. Camp and Sons, a diversified farming operation in Bakersfield, California. We grow potatoes, table grapes, processing tomatoes and a variety of other crops. Our farming operation cannot survive without an adequate, reliable and quality water supply.

I serve on the Board of Directors of the Arvin-Edison Water Storage District. Our district is innovative in so many ways and we have implemented new water conservation, water banking and water transfer programs. We have to continue to use new technology as it becomes available to be even more water efficient.

I also have the privilege of serving as the Chairman of the Board of Western Growers, a California and Arizona agricultural trade association that represents 3500 growers, packers, shippers and processors of fresh fruits, vegetables and nuts. Every one of our members is dependent on a reliable water supply.

Thank you for coming to California and holding these hearings on the most pressing water and water related issues. I also want to thank you for your past and continuing leadership on California and western water issues. You have been tireless on behalf of California and its water needs and Western Growers and I sincerely appreciate it.

The CALFED program that you have encouraged and your efforts to reauthorize CALFED are exemplary. As I explain later, without the CALFED efforts we would be a lot further away from solving current water problems than we are today.

My goal this morning is to explain to you some of the very critical water issues that our members face and to suggest to you how your Committee can assist the California and Arizona fresh produce industry in developing a comprehensive water solution.

Annually, Western Growers surveys its members to identify important issues and to prioritize legislative and regulatory initiatives our growers and shippers wish to see pursued by the association.

Water has always ranked as the number one issue—until this year when workers compensation costs and reform took the top spot. But, I guess you don't want to hear about that although we would love for anyone to find a solution to this very vexing and very expensive problem.

This year, water supply and water quality were ranked number two by our members. Because these issues are so important to our members and because we are a geographically diverse organization, we created a Water Task Force to examine each water policy or issue that may arise. Our geographical diversity is of great benefit to Western Growers, but it can also create tension on water issues because different regions of California and Arizona may have water policy differences or disagreements with other parts of each state.

The Water Task Force is designed, therefore, to provide a forum to drive water policy discussion and consensus among our various growing regions. We are also unique in that we include water district representatives on our Task Force. This has allowed for greater dialogue and a better understanding of water policy because everyone's views—grower and water district's alike—are heard and generally incorporated into a Western Growers' water policy consensus.

Our task force has identified approximately 30 important to Western Growers local, regional, state and Federal water issues. I have narrowed that list down to10 that are relevant to your Committee hearing today, but for time reasons, I will only speak to the first five.

Western Growers' top 10 water policy issues include:

- Additional water storage and supply;
- Preservation of water and property rights;
- Comprehensive and workable water transfers between willing buyers and sellers while preserving water rights;
- Conveyance system enhancement and modification;
- Reauthorize CALFED;
- Regional implementation of water policy strategies;
- Resolve conflict between environmental, urban and agricultural water uses;
- Conservation techniques and new technical strategies such as desalination;
- Study and review economic and third party impacts of ag land retirement;
- Water quality issues such as irrigation return flow waivers.

Mr. Chairman, I know that you have heard these same policy concerns from the many other farm groups and water interests that have previously testified before your Subcommittee.

However, I believe our concerns about water bear repeating again and again until state legislative and/or congressional action is taken to resolve these critically important matters. In fact, Western Growers strongly urges you and your Committee to aggressively address these issues in future policy debates and incorporate solutions to these problems in future legislation that you may introduce.

Additional water storage and supply: Western Growers is sad and surprised that some people in California just don't get it! If you grow California's population by 50% and environmental and urban water use greatly expands, we simply must have more water! Yet, we have been hamstrung in our efforts to obtain additional water supply and storage due to political and environmental opposition. This attitude defies logic, because we cannot continue to provide for expanded environmental and urban water use without either expanding storage facilities or by taking water from farmers.

It is very shortsighted, not to say illegal, to just take water from farmers. Why does California want to become dependent on food and fiber from other states or countries? Why do we want food from other countries that don't provide the same wages and working conditions or have the same stringent environmental regulations that California farmers are required to adhere to? This will occur if farmers continue to be forced out of business because they cannot obtain a reliable water supply.

Moreover, farms are very important to the environment. Farms provide beautiful and scenic open space and provide habitat to an extremely large number of species, endangered and otherwise. To allow farms to be paved over for lack of water will only hasten California's urbanization that we are all trying to avoid.

In the mid-1990's, Western Growers and other farm groups backed California initiatives that were largely ecosystem and habitat rehabilitation measures. We agreed to support these initiatives on the basis that once the environmental issues were dealt with, water storage and additional water supply would follow. We were misled.

We must complete the storage projects that are on either on the drafting boards or underway. Enlargement of Shasta Lake, building the Sites Reservoir, enlarging Los Vaqueros and providing for additional groundwater and Delta storage are all critical projects that must be completed.

That is why reauthorization of CALFED is so critical. CALFED has allowed for planning and feasibility studies to be conducted on these projects. But, we must get beyond planning and feasibility; we must build the projects and that is what has been lacking to date.

Preservation of water and property rights: Water and property rights are fundamental rights guaranteed by the U.S. Constitution. There are those who will say that the solution to California's water problem is to just take water from farmers. This view is ill founded and illegal.

Recognizing and encouraging this fundamental right will reap enormous dividends in the future, I believe. If farmers and other water rights holders are assured of the vestment of those rights, they are far more likely to agree to structured water transfers, water conservation and water use efficiency.

Western Growers strongly believes that protecting water rights will provide a solid foundation for sound water policy and is the fundamental policy position from which all water policy follows.

Comprehensive and workable water transfers between willing buyers and sellers while preserving water rights: Water transfers for water banking, inter regional water transfers for short term farming needs, water transfers for environmental and water quality enhancement and water transfers to assist some ailing farm sectors have proven to be enormously beneficial and successful.

Western Growers strongly believes that additional short-term water transfers must be encouraged. We believe some water supply problems can be avoided if additional facilities and new conveyance systems are built, water rights are preserved and cooperative government agencies facilitate water sales and transfers between willing sellers and willing buyers.

Conveyance system enhancement and modification: Western Growers doesn't have the answer to this problem, but we know that without enhancing the system, water supply and water transfers cannot be maximized.

The Western Growers Water Task Force encourages continued efforts to increase Banks pumping, maximize the Tracy Pumping Plant capacity and other measures to better move water through the system.

Reauthorize CALFED: Again, I want to thank you, Mr. Chairman for your leadership on this critically important matter. Without CALFED, we would not see the significant progress that has been made on so many water issues.

Surface storage planning and feasibility studies, groundwater projects, water transfers, Bay-Delta Science Consortium water conservation and water quality

projects have all been CALFED driven and Western Growers greatly appreciates these accomplishments.

Western Growers is committed to strongly supporting CALFED reauthorization. Obviously, we are looking forward to your future legislation so we can examine the details.

The Western Growers Water Task Force is concerned about land fallowing as an element of CALFED and the third party and local economic impact such a policy may have. But, until we see the new CALFED reauthorization language, we will reserve our comments.

In closing, Mr. Chairman, let me again give you my thanks for inviting Western Growers to participate in this hearing. We look forward to jointly solving the many water issues we have ahead. I will be happy to answer any questions you may have.

Mr. CALVERT. With that, I'll start some questions for this panel. First, Ms. Burgess, obviously I agree with you. Unfortunately for the rest of California, or Southern California particularly, and which we found in Northern California, the perchlorate issue is everywhere and not just California. So certainly I, I know Grace, we're both very committed toward finding solutions, not just in the San Gabriel Valley but throughout the state, and really in finding—the easiest water we can find is the water in our own backyard. We just have to go clean it up. That's going to take money. And certainly I believe there's a Federal role to play here. And it certainly is leveraging local dollars and state dollars into fixing this problem. So you certainly have my support on that.

And, certainly, from the testimony that Ms. Spivy-Weber, I agree with everything you said. Any amount of water that we can additional yield, we can pick up, either from conservation, reclamation, conjunctive use, groundwater storage, surface storage, I'm for it all, because it's going to take every bit of it to meet the future demand.

Mr. Hall, I have a couple of questions. You mentioned the testimony up in Elk Hill. We have a gentleman, by the way, from the Bay Institute—I don't know if you read his testimony—and it was more interesting than the Q and A that took place.

Mr. HALL. My understanding is you guys gave him a hard time.

Mr. CALVERT. Well, it was easy to do.

I'll explain. He made the statement—and, as you know, I was in Congress originally when we came to an agreement, all of us, Duncan, myself, it was unanimous on both the Democratic and Republican side to come together on the issue of CalFed. And the deal was that we're all going to get well together. What that means is that environmental community was going to win. We had some environmental mitigation that had to take place, and we understood that, that that had to happen. The urban community would get well in this. The agricultural community would get well in this. And especially the folks in the Central Valley that had their allocations cut back, as you well know, that we would get there.

Well, Mr.—our friend made the comment that there was no deal. He said there was never a deal, that the fact that now that they have the environmental mitigation, the amount of money that we front-loaded into the CalFed process, that he led the impression that he is going to fight all the water storage that we have in the record of decision, including Sites reservoir, the expansion of Shasta, the upper San Joaquin, and Las Vaqueros.

So I want to give you the opportunity to comment about that. Because, obviously, I have got—ultimately as a salesman, I've got to

go back and sell my members on the fact that we've got to redo CalFed and make sure that at the end of the process that there's water that we can additionally yield from CalFed, that we fix the environmental problems that admittedly that have been there, but at the end of the day we get water out of this deal.

So what is your comment about those things?

Mr. HALL. With all due respect to my good friend Gary Butler, he's just plain wrong on the facts. That clearly wasn't the deal. It was a deal that was well understood by Governor Wilson, when he started this process, Governor Davis, when he took it over, and Interior Secretary Babbitt as the Secretary of Interior. And they didn't represent it as anything else. It was also, of course, embraced by the entire California delegation including both of our senators. And to suggest otherwise is revisionist, to be polite.

And I'm not surprised particularly that the environmental community—elements of it, I should say, not all, elements of the environmental community have fought some aspects of the CalFed program from the time the planning began. They have been particularly strongly opposed to additional surface storage.

Mr. CALVERT. As you well remember, Mr. Hall, they all signed off on this agreement.

Mr. HALL. Having said that, they signed a framework agreement in June of 2002 which very clearly—excuse me, June of 2000, which very clearly laid out surface storage as part of it. Now, they would say, I suppose, that they agreed to study it, not to support it.

Here's where I am. I've been debating them on this point for a number of years. I had a full head of hair when we started this process. I've stopped debating them. The process is underway. CalFed is going to study projects and make a recommendation. I'm not going to argue with Gary about the merits of those projects and whether we should be studying them. I'm working to fund the studies. And then when CalFed makes a recommendation, I'm going to work to fund their recommendations.

Mr. CALVERT. Carrying this on, our friends in the city of San Francisco, as you well know, are going under a very ambitious project to rebuild hedge edging and the conveyance system in the city of San Francisco, which we certainly support them on. And I believe that system supports approximately 3 million people in the Bay Area.

They've asked to have a streamline of Federal agencies fast-track, if you may, of dealing with EPA and dealing with the Corps of Engineers and other Federal agencies which you mentioned in your testimony.

As a matter of fact, Ms. Pelosi has introduced a bill in the process and has asked for help to streamline it. And I think we ought to do that. But at the same time—and I'd like to work with Ms. Napolitano on other things and our Committee to possibly do the same through the CalFed process. If, in fact, it's good for San Francisco, it's certainly good for the CalFed process, that we can have this government streamlining and bidding through these agencies and getting these permits where we can get these projects underway.

Do you think that's a good idea?

Mr. HALL. I do. San Francisco is another member of ours, and we support them in their efforts. But I cannot think of any projects that have been subject to more scrutiny than those studied by CalFed. So I think there aren't, probably, any better candidates for streamlining a regulatory review than those in the CalFed process.

Mr. CALVERT. And one last comment to Ms. Puentes. Certainly, I can't think of anything really more important to the economy than water, really, water and air. If you don't have those two basic elements, you're dead. And that just doesn't apply to Orange County, obviously. That applies to the entire State of California, and certainly to San Diego. Orange County is blessed with groundwater and blessed with getting a significant amount of its water supply without having to import water, unlike San Diego, which is totally, almost totally dependable on imported water. So it's even more important in this region.

And, with that, I recognize Ms. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chair.

Steve, does CalFed mean to address the beneficiary pays principal, or how would you think that we could insert or resolve it through CalFed?

Mr. HALL. Did you say the beneficiary pays principal?

Mr. CALVERT. Yes.

Mr. HALL. Yes, I think it does need to, and it has essentially said that it will when it issued its record of decision. But in order to identify who should pay, you have to identify who the real beneficiaries are, and that is best done project by project.

So when a project comes to Congress to be authorized, I fully expect—because we're not—through this CalFed legislation, we're not going to authorize Interior projects. Those would have to be authorized separately. And it's those that I think people are really concerned about that the true beneficiaries pay. So when they come back to Congress, my full expectation is that CalFed will bring with its package a recommendation as to how the costs of the project should be allocated, and we support that.

Mrs. NAPOLITANO. OK. And the new question would be, how would the pumping increases at banks impact Southern California's water supply?

Mr. HALL. The pumping increases? Well, I cannot think of any single element of CalFed that would do more as quick—would provide more water more quickly than increasing banks to 8500. Obviously it has to be done while protecting the environment and protecting the water quality. And—

Mrs. NAPOLITANO. Well, given that those would be addressed.

Mr. HALL. Yeah. It's got more bang for the buck than any other element of CalFed.

Mrs. NAPOLITANO. And the second would be?

Mr. HALL. I think in terms of just pure yield, it's groundwater storage. Just coincidentally, they fit together.

Mrs. NAPOLITANO. And the third, going down the list?

Mr. HALL. I think what we would call the soft path approaches, conservation, reclamation, desalting, the combination of those things probably do more. Then everybody talks about surface storage in relationship to yield. It's very much needed, but it's not a yield issue. It's to help the system operate so that we can protect

the environment and pump at higher levels and fill groundwater basins and manage the system more effectively for human uses. It's a system flexibility tool; it's not for yield, per se.

Mrs. NAPOLITANO. It costs more and takes longer to set up, I think.

Mr. HALL. Actually, it's very competitive with most of the other sources. It's more expensive than groundwater banking. But once you get past groundwater banking and improve conveyance of the Delta, all of the items are in the same ballpark in terms of the cost.

Mrs. NAPOLITANO. Then what Delta water quality protections would you support, and what stops the north to south water transfers from happening?

Mr. HALL. What was the first part of your question? I'm sorry.

Mrs. NAPOLITANO. What Delta water quality protections would ACWA support?

Mr. HALL. Well, obviously, those that are currently in law and those that are necessary to protect the in-Delta water users and the environment. And those are fairly well spelled out in the record of decision. They're not precise in terms of a numeric standard, but they are pretty accurate in terms of the beneficial uses that they have to protect, and we support those.

In terms of—I'm sorry, I lost the last part of your question.

Mrs. NAPOLITANO. What stops north to south water transfers from happening?

Mr. HALL. The biggest single obstacle is the lack of effective conveyance across the Delta. If we get to 8500, you will see more water being able to move north to south. Won't necessarily see greater volumes of water moving north to south, but we will be able to do it more efficiently.

Mrs. NAPOLITANO. In visiting the Bay-Delta area and touring some of the areas and flying over the farmland and some of the pumping stations, we kind of get to realize that the role that water plays in our economy is great, and we need to help sustain that, of course. But I'm afraid some of the things that they're not facing right away, they're beginning to find perchlorate, they're beginning to find they exist in some areas, that they're going to end up having the same water quality problems and cleanup that we in Southern California face.

And I'm not sure if any of the—because when I spoke to some of the ranchers and some of the water folks, I'm not sure that that's within their focus yet. And I think maybe we need to do a better job getting information to them as to what pesticides and insecticides are doing to the aquifers.

Because we pump a lot of our water from the aquifers, and right now we do not have the quality of water we should have. And we have wells being closed for the last two decades because of the contaminated aquifers being drawn from and the wells themselves are contaminated.

What would you think of—what's your answer to trying to work together on that?

Mr. HALL. What I would say is, as you know, we work closely with your office and others on the perchlorate issue and other contamination issues, and we very much appreciate your leadership. Because we don't have enough water to go around as it is, we cer-

tainly can't afford to foul our nest in the way that we have done in the past. So we appreciate Chairman Hunter's lead of dealing with the Department of Defense on perchlorate issues, and your work on it as well.

We want to see a standard set. We want to see those who are responsible to clean it up, whoever they are and whatever the contaminant is, so that our public drinking water supplies can be kept safe. And that's whether it's perchlorate, MGDE, or whatever else.

With respect to agriculture, it's interesting you say that because, as my good friend Mr. Hempel knows quite well, the State of California is dealing very aggressively right now with the issue of ag runoff. And ACWA, because we represent both urban and agricultural water districts, we're right in the middle of that, and I'm actually pretty optimistic we're going to be able to come up with a regulatory scheme that meets the needs of the state in terms of protecting beneficial uses, but doing so without putting farmers out of business. I'm more confident today than I've been in some time that we can do that.

Mrs. NAPOLITANO. Thank you. Thank you, Mr. Chair.

Mr. CALVERT. Thank you.

Mr. HUNTER.

Mr. HUNTER. Thank you, Mr. Chairman. And thank you, again. And thank you to Grace for your very thorough hearing on these important issues.

And let me just ask the members of this panel who have testified, it's my understanding that you all support the QSA, making this agreement?

Mr. Hempel. We're neutral on it. Western Growers is neutral because it pits farmer against farmer.

Mr. HUNTER. OK. So Western Growers is neutral?

Mr. Hempel. Yes.

Mr. HUNTER. Ms. Puentes?

Ms. PUENTES. Yes, we are. I mean, I can't say to the specifics of it in terms of the terms of the deal, but conceptually, I guess we are.

Mr. HUNTER. Making an agreement?

Ms. PUENTES. Yes.

Mr. HUNTER. Mr. Hall?

Mr. HALL. We are supportive of having a QSA.

Ms. SPIVY-WEBER. Ditto.

Mr. HUNTER. We're getting broader and broader on this strong commitment here. OK.

Ms. Spivy-Weber?

Ms. SPIVY-WEBER. Yes, we—the Mono Lake Committee certainly thinks that getting a QSA is going to be extremely important, but not enough for Southern California.

Mr. HUNTER. And, Ms. Burgess?

Ms. BURGESS. While we don't have an official position on it, I would encourage anything that would help the water supply issues that California faces.

Mr. HUNTER. Thank you.

Mr. Chairman, I think you and Grace have gone over the very important issues with this panel. Once again, I just want to thank you and Ms. Napolitano for being down here, for making—taking

a lot of time out of your very busy schedules to be—to have this hearing on probably the most critical issue for California today. So thank you, and let's keep working this issue, and let's see if we can't get the holdout to sign up to this deal.

That's a member of your organization, aren't they, Mr. Hall?

Mr. HALL. They are.

Mr. HUNTER. Good. Then maybe you can lean on them.

Thank you, Mr. Chairman, appreciate it.

Mr. CALVERT. I thank you. Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chair. I didn't know if you wanted to add another round, because I have a few things.

Mr. CALVERT. You can go ahead and ask the questions, and I'll finish it up.

Mrs. NAPOLITANO. Thank you. Actually, it's to Ms. Burgess, if you have any idea, if you have funding mechanisms within your agency that are being used to implement new water supply technologies; i.e., water recycling, desal? I know they've come a long way. They've brought desal further down to a more manageable level. It used to be way uneven.

Is there anything in the pending offer that we may—I hear there's—somebody that's come up with a new way to be able to deal with the perchlorate.

Ms. BURGESS. Yeah, we were the first to deal with the perchlorate to treat drinking water in our valley. And since that time, technology has changed and improved, and we have now—although, it's all the same on an exchange, there's two different methods now, and we're now testing both in our valley. And we have found that depending on the concentrations of perchlorate that you're dealing with, one method works more cost-effectively than the other. And we are running both and being viewed as, you know, a template or a pilot area for all of these. And so, yes, the competition is out there, and we welcome it. It's been really terrific.

Mrs. NAPOLITANO. Great. Well, I don't know whether my colleagues have heard this, but many of my other colleagues from other states always look to California for new and innovative methodology. They want us to go ahead and do the stumbling and pave the way, if you will, so that they don't have to reinvent the wheel. I just wish they'd put money behind it.

Ms. Puentes, you testified that certainly in water supply, it's one of the key issues to a better business climate. Would you kind of touch upon what business is doing to help move this along?

Ms. PUENTES. Well, one of the three initiatives of the Business Council is our advocacy program. So one of the things that we're doing is speaking out on behalf of business for programs and strategies that we think will help improve water quality and water supply both locally and in Sacramento and here today, of course. So advocacy is one thing that we are doing.

Also, we're very engaged in research that assesses Orange County's water supply. And then, third, just helping to make our members more aware of just how important water is and what's on the table. We'll be sponsoring a major event in September on that topic with the theme Innovative Solutions kind of headlining that event. So it's primarily in the advocacy area and also in helping to build consensus.

I guess I would just add that we also work very closely with our water agencies locally and with other governmental officials on business climate issues, and this would, of course, be one, so fostering partnerships.

Mrs. NAPOLITANO. Thank you.

One of the things I certainly want to impress upon not only this panel but the other panel is that we need to engage the people we serve, and that's your water constituents, not just the members. And the advocacy starts with the children because they carry that into the home. So you need to work together to be able to get the message of conservation and pollution and other areas that children will call attention to their parents about the misuse of water.

So, Mr. Chair, I thank you. Thank you to the panel, and thank you.

Mr. CALVERT. Thank you.

A little housekeeping here, Mr. Doug Sawyer is in the audience today, and he's Chairman of the San Diego Regional Chamber of Commerce. And he has a statement that we are going to submit for the record.

Any objection?

Mr. CALVERT. Closing today's testimony, I want to thank all the witnesses that were here today and the panels before that gave their testimony in answering our questions. I think that as Maureen Stapleton said earlier, we are at a fork in the road in California. We have experienced some difficulties in our state. But I can't think of anything that can become more of a crisis point that we can't fix readily than water.

We certainly have budget problems. We have transportation problems. We have education problems. We have no lack of problems.

But water is something that we can't fix overnight. It takes time to build infrastructure. It takes time to get approvals. It takes time to deliver the water to wherever the people need it. So as we have these hearings, we try to educate people to the problem and try to educate people that we must come to an agreement, to a consensus. A good buddy of mine who's an attorney told me that consensus is highly overrated. But in this business, this is extremely important, because without that consensus, we will have a modern tragedy here in California that we can't afford to have.

So, with that, I thank you, and I want to thank the staff for all the hard work they did. I thank Congressman Hunter for allowing us to come to his Congressional district. I'd like to thank Ms. Napolitano. And everybody have a great Fourth of July.

[Whereupon, at 2:28 p.m., the Subcommittee was adjourned.]

The following items were submitted for the record:

- Bilson, Steven William, Chairman and CEO, ReWater Systems, Inc., Letter submitted for the record
- Finnegan, Joan C., President, Municipal Water District of Orange County, Letter submitted for the record
- Guardino, Carl, President and CEO, Silicon Valley Manufacturing Group, Statement submitted for the record
- Marciochi, Don, General Manager, Grassland Water District, Statement submitted for the record

• Pack, Anthony J., General Manager, Eastern Municipal Water District, Statement submitted for the record

Dear Congressman Calvert and Committee:

A PARADIGM SHIFT

What MWD, SDCWA, IID, and all other water agencies emphatically agree on is that there is a massive need for more water, with entire communities depending on the outcome, and with billions of dollars at stake. Something else they all agree on is that over half of all water used in Southern California goes to landscape irrigation. What they do not say though, is that all of them promote the same antiquated water paradigm that caused this perpetual water shortage in the first place.

THE OLD PARADIGM
The existing water paradigm is to find a river, appropriate it to urban water agencies who then divert it to their cities, then spray that water all over ornamental landscaping, losing half of it to evaporation, over-spray, and run-off. The other half of the water goes to indoor use, and it exits as wastewater, which must then be treated at great cost and disposed of into the environment. Along the way, the various levels of agencies mark up the water price several magnitudes so that literally hundreds of thousands of water and wastewater bureaucrats make an easy fortune.

THE SOLUTION
The solution is to break away from the antiquated paradigm by switching to privately-owned water recycling systems. The environmental community absolutely loves this kind of system, because these systems do everything they want. The water and wastewater funding agencies should love this kind of system because they are the proven most cost-effective method of new water or water recycling.

These systems reduce residential water demand by a third, while reducing wastewater production by 50%, thus decreasing wastewater chemical discharges into the environment by the same amount, while eliminating irrigation run-off, which carries fertilizers, pesticides, silt, and animal feces into the waterways, which is the well-documented leading cause of California's coastal water pollution. When all the monetary values of water conservation, wastewater reduction, and run-off prevention are combined in one system, it makes a very cost-effective system. After extensive study by California's Department of Water Resources and

Department of Health Services, way back in 1994, California passed regulations for the use of "greywater", i.e., shower, tub, bathroom sink, and laundry water, for landscape irrigation. DWR quantified that "greywater systems" could save about 300,000 acre feet of water per year after 20 years of being installed in new homes. FYI, that is the same volume of water being requested from the IID over the same period. After extensive study of the City of Chula Vista's application for US EPA and State Bond money to buy a quantity of such privately-owned residential water recycling systems, the State Water Resources Control Board approved Chula Vista's loan request based on the systems' cost-effectiveness. This is a loan, not another "grant" that drains public resources. All of the agencies' options require grant monies to implement.

THE TACT
By Congress and all other concerned entities demanding that water agencies follow state laws which require them to not make a profit on their services, the agencies will have to reduce their new service fees when such recycling systems are contractually committed to be used. This fee

reduction won't cost the agencies a thing, and will free up that money for builders to install the systems. Currently, those agencies are refusing to reduce their new service fees and are reaping huge unlawful windfall profits from these systems.
Worse, the MWD and SDCWA even recently joined together, in the only endeavor they have agreed on in this decade, to defeat state legislation, AB1659, which would have required them to stop reaping windfall profits on residences that reuse their water. AB1659 would have required the agencies to reduce their new service connection fees for residences that contractually agree to reuse their water, and the MWD and SDCWA agreed that was worth fighting, so they killed it.

Who are they to say they should not be held accountable to the laws? Who are they to spend ratepayer money on fighting legislative efforts to make them obey the laws? These huge, bloated water agencies are totally out of control and needlessly costing everybody in the nation billions of dollars to support their antiquated monopolies.

CONCLUSION
A significant part of the solution to the perpetual Western water shortage is available, and it comes in the form of privately-owned water recycling systems. Congress needs to require that no more federal money or water be provided to any agency unless that agency agrees to formally recognize that this form of water recycling saves them money and passes that savings on to the person or entity that caused the savings.

Stephen Wm. Bilson
Chairman & CEO
ReWater Systems, Inc.

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July 8, 2003

JUL 21 2003

The Honorable Ken Calvert
U.S. House of Representatives
2201 Rayburn House Office Building
Washington, D.C. 20515

Re: Supplemental comments for Subcommittee on Water and Power oversight field hearing in El Cajon, California on July 1, 2003

Dear Congressman Calvert:

We respectfully request that the following discussion become part of the administrative record of the July 1, 2003 Subcommittee on Water and Power oversight field hearing in El Cajon, California on California water issues. It is our understanding that you allowed the hearing record to remain open until July 21, 2003 to allow for the submittal of additional information.

As the committee is well aware, California is in the process of implementing actions that will provide for it to live within its basic 4.4 million acre-feet per year annual apportionment of Colorado River water in the absence of surplus water. It is especially critical in the over-subscribed Colorado River Basin that water be put to the maximum beneficial use possible. No user or entity has the right to waste water.

Inherent within "The Law of the River" and basic to California's efforts is the premise that the use of Colorado River water by any user is limited only to that water reasonably required for beneficial use so as to meet overall demands on Colorado River water to the extent possible. The Bureau of Reclamation's 43 CFR Part 417 regulations established in 1964 provide for such annual determinations in the Lower Colorado Basin. Reclamation in its 2003 annual determination for Imperial Irrigation District (IID) found that IID is wasting water, similar to the findings of priority studies. Such wasteful practices limit water use by others, make California's efforts to reduce its Colorado River water use more difficult, and therefore water use should be limited to only that reasonably required for beneficial use to avoid adverse impacts to other contract users.

Another area of concern as California prepares to implement its Colorado River water use reduction programs is the issue of funding, especially the role of public funding. The competition for funds to finance more effective use and management of water will only continue to intensify. We need to ensure that the best use is made of all funds available. To this end, the use of the principle that beneficiaries should pay for the benefits received, or provided, is extremely important. Market based transfers can be an effective tool in making more effective use and management of water, preserving the use of public funds where appropriate. However, the use of public funds to subsidize market-based transfers, as is being proposed in the case of Proposition 50 funds being used for the IID/San Diego County Water Authority (SDCWA) Colorado River water transfer, is inappropriate. First, it distorts the market and will hinder the use of market-based transfers elsewhere; second, it diverts critical funding for needed local and regional water supply projects as intended by Proposition 50; and third, it is not sustainable.

Furthermore, the use of public funds to assist or mitigate the purchase of water that is clearly now being wasted (based on recent 417 process findings as well as many past studies of IID's irrigation practices) and therefore belongs to other junior water rights holders is inappropriate. If IID is unable or unwilling to clean up its act, an infusion of cash to subsidize a market-based water sale is the last measure that should be taken. No one should be able to reap a profit from the waste of water. This would reinforce a "waste now, profit later" mentality on the Colorado River that would be a long-term detriment to the public interest. Public funds would be better directed toward cost-based measures to curb the waste so that the water can be used beneficially elsewhere, and storage levels in Lake Mead can be stabilized.

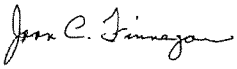
Should a transfer ultimately proceed as part of a negotiated settlement, we believe the mitigation fee/beneficiary pay concept being advanced by the Metropolitan Water of Southern California for the IID/SDCWA transfer is a fair compromise and more appropriate means to pay for the transfer mitigation. It would recognize the benefits that IID derives from a quantification settlement, from completion of a mitigation program, and from the sale of currently wasted water. Other transfers aimed at reducing California's Colorado River use are being fully paid for by the beneficiaries.

We also believe that the initiation of a three-year feasibility study of a Salton Sea/water supply alternative should be undertaken as soon as possible. Such an alternative can produce added resource values and benefits, including lower salinity water supply for Coachella and Imperial Valleys. Desalted agricultural return flows can provide a new water supply and, when complemented with selected on-farm and system improvements, can provide for a full Colorado River Aqueduct supply that will also allow California to live within its basic apportionment of Colorado River water. There would be little or no third-party impacts or need for mitigation.

In summary, we support a Quantification Settlement Agreement that is satisfactory and fair to all parties, financially sound, complementary to local and regional water supply projects, and acceptable to the Department of the Interior and the Basin states. A Salton Sea restoration/water supply alternative, if found feasible, will also bring added resource values to solution. We believe this is the path being pursued by the Metropolitan Water District and we support this approach.

If the committee requires any clarification about this letter or would like additional information, please do not hesitate to contact our associate general manager, Matt Stone, at (714) 593-5004.

Sincerely,



Joan C. Finnegan
President

Cc: Governor Gray Davis
U.S. Senator Dianne Feinstein
U.S. Senator Barbara Boxer
Orange County Congressional Delegation
Senator Mike Machado
Assemblyman Joseph Canciamilla
Orange County State Legislative Delegation
Metropolitan Water District of Southern California
MWD of Orange County Member Agencies

MUNICIPAL WATER DISTRICT OF ORANGE COUNTY

Statement of Carl Guardino, President and CEO, Silicon Valley Manufacturing Group

Mr. Chairman and members of the Subcommittee:

I want to thank you for the opportunity to provide this statement for the record on the importance of clean and reliable water supplies to the Silicon Valley business community. As President and CEO of the Silicon Valley Manufacturing Group, I am speaking for the interests of 180 of Silicon Valley's most respected employers who provide nearly 225,000 local jobs. Our organization was founded in 1977 by David Packard on the premise that local employers should be actively involved in working with government to find innovative solutions to issues like housing, transportation, permit streamlining, education and the environment. The Manufacturing Group is

proud to have been a long-standing supporter of the Bay-Delta CALFED program, whose goal is to provide reliable, high quality water while balancing the needs of agricultural, urban and environmental water requirements.

The importance of clean, reliable and adequate water supplies to the Silicon Valley business community cannot be overstated. The Valley's high tech and pharmaceutical/biotech industries demand a consistent, high quality supply of water to support their manufacturing, research and development needs. Many of our high tech manufacturers have additional treatment processes in place to remove any traces of metals, organic materials and salts from incoming water supplies. Variable water quality can result in costly plant shut downs as treatment processes are recalibrated. Variations in the quality of water supplies from the state and federal projects can have serious financial consequences for companies vulnerable to water quality changes. Actual or potential interruptions of our imported water supplies resulting from the San Luis Reservoir low point problem, or failure of the state and federal pumping and conveyance facilities, could have devastating financial consequences. Uncertainty of supply discourages investment, increases operating costs, and over-reliance on our groundwater aquifer has long-range negative impacts on our local water supplies.

Continued availability of safe and reliable water supplies is also critical to the quality of life in our region. Business leaders recognize that water supply and water quality are important barometers of their own, and their employees, quality of life. Based on my personal knowledge of business leaders' concerns, I can say that if we do not have clean water and a healthy environment, we will not attract employees to our region.

Silicon Valley businesses are doing their part to use water wisely and maximize our local resources. Our region is very fortunate to have one of the only sizable remaining drinking water basins in the San Francisco Bay Area. In fact, we are unique in the Bay Area in that local water supplies account for about half the water used in the County. The Manufacturing Group and its members are actively involved in efforts to protect our local watersheds and groundwater basins from pollution, and to conserve and recycle water. In fact, it is in part through the business community's efforts that Santa Clara County uses less water today than in 1986, even though our population has increased by almost 17 percent. Now we are looking to the federal government to do its share to help address water supply issues in California.

Mr. Chairman, I want to thank you for your efforts to authorize and provide funding for the CALFED Program, which is so important to the economy of the Silicon Valley. Meeting the region's and the state's current and future water needs will require the combined efforts of local communities, the state and federal governments, the business community, and other stakeholders. On behalf of the Silicon Valley Manufacturing Group, I want to thank you for being willing to take on one of the most complex public policy issues facing us today—water—and for giving me an opportunity to speak about the critical importance of this issue to the Silicon Valley business community.

Statement submitted for the record by Don Marciochi, General Manager, Grassland Water District, Los Banos, California

Mr. Chairman and members of the Subcommittee, I am Don Marciochi, General Manager of the Grassland Water District. The District appreciates the opportunity to submit written testimony on the June 28 and July 1, 2003 Field Hearings on California Water Supply and the June 24, 2003 Legislative Hearing on H.R. 2828 and H.R. 2641.

The Grassland Water District contains over 60,000 acres of privately-owned wetlands in western Merced County, California. The District lands in combination with state and federal refuges and other privately-held wetlands comprise the approximately 180,000 acre Grassland Ecological Area designated by the United States Fish and Wildlife Service ("USFWS"). These lands are managed as habitat for migratory waterfowl, shorebirds, and other wildlife. The wetlands of western Merced County are a critical component of the remaining Central Valley wetlands and constitute the most important waterfowl wintering area on the Pacific Flyway. These wetlands are acknowledged by the Merced County General Plan to be highly valuable wildlife and vegetation habitats, and international treaties have recognized the habitat as a resource of international significance. The restoration and enhancement of this critical Central Valley wildlife area is one of the leading success stories of the Central Valley Project Improvement Act (Public Law 102-575) ("CVPIA"). The protection of the public investment in the restoration of the Grassland Ecological

Area and the continued viability of this major component of the local economy are entirely dependent on development of a stable, long-term water supply as required by the CVPIA.

The District strongly supports the Calfed Bay-Delta Program and its objective to develop and implement a plan to improve water management and restore the ecological health of the Bay-Delta ecosystem. Our comments focus on one area of concern and alternative wording that will ensure consistency between H.R. 2828 and the CVPIA.

I. THE CVPIA

The CVPIA was enacted in 1992. Since that time, progress toward restoration of the Central Valley refuge habitats represents one of the most significant environmental success stories in the State of California. This progress toward restoring the health and viability of the refuges is entirely dependent on development of a stable, long-term water supply as required by the CVPIA.

A. LEVEL 2 WATER

The CVPIA sets forth three mandatory duties with respect to refuge water supplies. First, the Secretary of Interior ("Secretary") must deliver specific quantities of "level 2 water" to the refuges. According to Section 3406(d)(1),

> Upon enactment of the CVPIA, the quantity and delivery schedule of water delivered to each of the specified wetland habitat areas shall be in accordance with level 2 of the Dependable Water Supply Needs table as set forth in the Refuge Water Supply Report and two-thirds of the water supply needed for full habitat development for those habitat areas specified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan ("Action Plan").

Level 2 water shall be provided through long-term contractual agreements provided, however, that the Secretary shall be obligated to provide such water whether or not such long-term contractual agreements are in effect. The Secretary has determined that the Grassland Water District is an appropriate party to provide such water supplies to the privately managed wetlands specified in the CVPIA and has entered into a long-term contract with the District for such water supplies.[1]

B. LEVEL 4 WATER

In addition, by 2002, the Secretary must deliver full "level 4 water" to the refuges. According to Section 3406(d)(2), by 2002, the quantity and delivery schedules of water measured at the boundaries of each wetland habitat area shall be in accordance with level 4 of the "Dependable Water Supply Needs" table, as set forth in the Refuge Water Supply Report, and the full water supply needed for full habitat development for those areas specified in the Action Plan. Level 4 water shall be acquired by the Secretary through voluntary measures that include water conservation, conjunctive use, purchase, lease, donations, or similar activities, or a combination of such activities that do not require involuntary reallocations of project yield.

C. PROGRAM FOR THE ACQUISITION OF LEVEL 4 WATER

The Secretary is further authorized and directed to develop and implement a program for the acquisition of a water supply to fulfill the Secretary's obligations to deliver level 4 water, as set forth above.[2] The program should identify how the Secretary intends to utilize, in particular, the following options: improvements in or modifications to the operations of the project; water banking; conservation; transfers; conjunctive use; and temporary and permanent land fallowing, including purchase, lease, and option of water, water rights, and associated agricultural land.

D. DIVERSIFICATION OF LEVEL 2 WATER

In contrast, diversification of level 2 water sources is discretionary under the CVPIA. According to Section 3406(d)(1), the Secretary shall "endeavor" to diversify sources of level 2 water in order to minimize possible adverse effects on Central Valley Project contractors.

II. IMPACT OF H.R. 2828 DIVERSIFICATION PROVISION

California's progress toward restoring the health and viability of the refuges is due almost entirely to the Bureau of Reclamation's delivery of level 2 water supplies each year and to the Bureau's increasing deliveries of level 4 water supplies. While

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[1] Contract Between the United States and Grassland Water District for Water Supply to Lands Within the Grassland Resource Conservation District, Contract No. 01-WC-20-1754, January 19, 2001.

[2] CVPIA Section 3406(b)(3).

the quantities of level 4 water supplies have fallen short of the statutorily mandated quantities, these water supplies have been the lifeblood in revitalizing the health of these critically important wetland habitats. Changes to the current system of identifying, allocating and delivering level 4 water threaten to undo the historic progress that has been achieved.

The language contained in Section 201(d)(13) of H.R. 2828[3] undermines the order of priority for delivery of refuge water supplies as set forth in the CVPIA. Section 201(d)(13) provides that up to $30 million may be authorized for fiscal years 2004 through 2007 to diversify sources of level 2 refuge water supplies and modes of delivery to refuges and to acquire level 4 refuge water supplies.[4]

The CVPIA mandated delivery of full level 4 refuge water supplies by 2002. The Secretary has not yet fully complied with this mandate. By allowing funds to be expended to diversify level 2 water sources before full delivery of level 4 water has been achieved, H.R. 2828 appears to allow the Secretary to use funds interchangeably for diversifying level 2 sources and acquiring level 4 water. This de facto reprioritization threatens the water security of the refuges, is inconsistent with the CVPIA and is inconsistent with the expressed goals of H.R. 2828 to improve the quality and reliability of California's water supplies and to restore the ecological health of the Bay-Delta watershed.

III. ALTERNATIVE WORDING FOR H.R. 2828

California's Central Valley refuges welcome the opportunity for new funds to support water acquisition for the refuge system, but strongly urge the Congress to make clear that new sources of funds made available under the Calfed authorization respect the current law's priority for delivery of full supplies. For example, H.R. 2828 should include a hold harmless with respect to the amount of level 4 water that is supplied currently to the refuges. Including a hold harmless ensures that the $30 million would not divert funds that have been and are being used to meet level 4 refuge water requirements.

A second option is to replicate the priority for delivery of full level 4 water supplies prior to diversification of level 2 water. Section 201(d)(13) of H.R. 2828 could be amended to read as follows:

> (13) REFUGE WATER SUPPLIES - Of the amounts authorized to be appropriated for fiscal years 2004 through 2007 under this Act, no more than $30,000,000 may be expended to comply with the Level 2 and Level 4 refuge water supply requirements set forth in section 3406(d)(1)(2) of the Central Valley Project Improvement Act. Such funds shall be expended first to acquire the quantities of Level 4 water specified in section 3406(d)(2) of the CVPIA and second to acquire 26,000 AF of Level 2 replacement water. Any remaining funds may be expended to diversify sources of Level 2 refuge water supplies.

In sum, the absence of a hold harmless or prioritization pursuant to current law could be damaging to the refuges and the species that inhabit them.

Thank you for the opportunity to provide written testimony to the Subcommittee.

Statement of Anthony J. Pack, General Manager, Eastern Municipal Water District

The Eastern Municipal Water District (EMWD) provides water supply, wastewater treatment and water recycling services to a population of over 510,000 people in a service area covering over 550 square miles of the southwest portion of Riverside County, California. EMWD is located in one of the most rapidly growing areas of the State, and along with other local water agencies, faces the challenge of securing reliable, affordable water supplies to meet the growing needs of its customers.

EMWD is a member agency of the Metropolitan Water District of Southern California (MWD). EMWD currently purchases 80% of its potable water supply from MWD and is therefore, ultimately dependent on continued water deliveries from the Sacramento Bay Delta and the Colorado River. EMWD is investing heavily in local water supply management and development in an effort to limit its dependence upon imported water. Local water supply development efforts include:

1) Water Recycling—EMWD has constructed over 125 miles of large diameter pipeline, 14 pump stations and over two billion gallons of surface reservoir capacity to recycle treated wastewater from its five (5) Regional Water Reclama-

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[3] H.R. 2828 was introduced by Representative Calvert on July 23, 2003.

[4] The language is identical to the diversification language in Section 3(c)(3)(M) of S. 1097, the Calfed Bay-Delata Authorization Act, introduced by Senator Feinstein on May 21, 2003.

tion Facilities. EMWD currently sells over 26,000 acre-feet per year of recycled water, nearly 70% of all treated wastewater. EMWD has also developed conceptual plans to expand its recycled water distribution system and upgrade system-operating characteristics as land use changes shift demand from agricultural to municipal uses.

2) Desalination—EMWD has constructed the first of three (3) planned brackish groundwater desalters. These facilities will treat high-salinity groundwater, producing potable water, while protecting adjacent high-quality groundwater basins and offsetting salinity increases resulting from water recycling. Conceptual plans have also been developed for several regional brine lines for the disposal of high-salinity wastes from municipal and industrial water treatment.
3) Groundwater Recharge and Conjunctive Use—EMWD has developed plans to utilize local groundwater basins to store imported water available during periods of hydrologic surplus (winter, spring) for subsequent recovery during periods of high demand. Additionally, imported water could be stored for emergency use as a means of reducing demands on the Sacramento Bay Delta during periods of drought. Conjunctive use storage of imported water in local basins will be cost-effective, will result in improved reliability, and help reduce environmental impacts on the Bay Delta. The facilities needed for the first phase of EMWD's Groundwater Recharge and Conjunctive Use Program are currently being designed.
4) Groundwater Management—EMWD is developing and implementing comprehensive groundwater management plans (GMP's) in concert with other local water agencies and agricultural property owners. These plans are quantifying groundwater rights, limiting over-production and developing strategies to solve local and regional groundwater problems. These GMP's will help local agencies and farmers to avoid time-consuming and costly adjudication of water rights and will provide the technical data and institutional framework needed to protect and optimize the use of local groundwater.

In addition to on-going work to develop and manage local water resources, EMWD is working cooperatively with other water agencies in Southern California to develop integrated regional water supply plans. The goal of these regional plans is to provide a cooperative framework for sharing the benefits of local resource development and coordinating the use of imported water to ensure the highest level of water supply benefit while minimizing environmental impacts. Examples of significant regional planning efforts include:

1) MWD's Integrated Resources Plan (IRP)—The IRP is MWD's master plan for future water supply. The IRP describes the development over time of a blend of local and imported water resources sufficient to meet the future water supply needs of MWD's member agencies.
2) Southern California Integrated Watershed Program (SCIWP)—Along with the other four (4) members of the Santa Ana Watershed Project Authority (SAWPA), EMWD has participated in developing the SCIWP. This plan describes the programs and facilities needed for regional integration of surface water, regional groundwater, water recycling, groundwater remediation and groundwater banking in the Santa Ana Watershed, which covers over 2,650 square miles and is home to 5.1 million people. The goal of the SCIWP is to optimize the use of the area's local and imported water resources to drought-proof the entire region, allowing SAWPA's member agencies to reduce or eliminate the use of imported water during periods of extreme drought.
3) Southern California Comprehensive Water Reclamation and Reuse Study (SCCWRRS)—EMWD, along with the U.S. Bureau of Reclamation and other agencies in Southern California, actively participated in developing the SCCWRRS. The study evaluated the potential for water recycling in Southern California, and identified customers and facilities needed to triple water recycling over the next 20 years. This level of water recycling would significantly reduce the region's dependence upon imported water.

The successful implementation of EMWD's local water supply projects as well as the regional plans I've discussed, ultimately depends upon two critical factors; the continued delivery of reliable supplies of imported water, and the ability of Southern California water agencies to fund the extensive infrastructure improvements needed to optimize the use of available water resources.

1) Imported Water Supply Reliability—The reliability of Southern California's imported water supply has historically been dictated by hydrologic variability. However, over the last 20 years, political pressures resulting from recognition of increasing urban demands and conflicts over environmental water needs have resulted in additional uncertainty over the availability of imported water. Without reliable estimates of the long-term quantity of imported water avail-

able for use in Southern California, local agencies will be unable to develop accurate water supply plans. Action to resolve this problem is needed in two (2) areas:

- CALFED Bay-Delta Program—Southern California needs to know how much water will be available from the Sacramento Bay-Delta and the State Water Project. This cannot be accomplished until conflicts among ecosystem needs, in-Delta users and export users are resolved. The CALFED Program provides a framework for resolving these conflicts. Implementation of CALFED will require full partnership with the federal agencies central to resolution of the Bay Delta conflicts. It is imperative that CALFED be authorized at the federal level and that the involved federal agencies receive the authority needed to become full partners in the CALFED Program implementation.
- Quantification Settlement Agreement (QSA)—The most divisive issue among Southern California water agencies is the question of Southern California's entitlement to imported water from the Colorado River and how that entitlement should be divided among competing interests. The QSA must be finalized to allow water supply planning and the development of cooperative water transfer agreements to proceed. Appropriate federal agencies need to continue working constructively with the State of California, southern California water agencies and the other Colorado River Basin states to develop the long-term agreements required for successful resolution of the many difficult issues we have faced on the Colorado River.

2) Infrastructure Funding—Implementation of Southern California's Water Supply plans will place a significant financial burden on local agencies. In many cases, the pace of new water supply development will depend upon the ability of local agencies to secure new sources of infrastructure funding. Such funding, will in many cases, be difficult to justify, particularly for new sources of supply such as desalted groundwater and recycled water where there is typically a mismatch between sales revenue and operational/capital amortization costs. The State of California has recognized this problem and has recently passed several bond issues to provide grants and loans as a means of encouraging agencies to implement new water supply projects.

It is important to Southern California that the federal government continues to support and expand existing programs to provide funding for water resource management and development. Continued federal reauthorization for the Water Resources Development Act, the Small Reclamation Water Resources Projects Act and Title 16 Water Conservation Programs will provide Southern California agencies a stimulus to invest in new, innovative water supply programs, and accelerate the completion of needed water supply projects.

EMWD also encourages the Department of the Interior to present the SCCWRRS to Congress as originally intended. The recycled water projects documented in the SCCWRRS represent one of the largest single sources of new water supply available for Southern Californians. However, the scope and magnitude of this program will require a cooperative partnership between the federal government, the State of California, and local participating agencies. The first step in the process will be congressional review of the SCCWRRS.

Southern California's water supply problems are not insurmountable. The ideas and technology to solve our problems are available. If the political process can be managed and stay focused, we are certain that Southern California water supply issues can be resolved to the satisfaction of all concerned.

NOTE: The following information was submitted for the record by The Honorable Duncan Hunter (CA-52). All of the information listed below has been retained in the Committee on Resources' official files and can be viewed upon request.

Letters from individuals regarding the water consumption at the Barona Indian Reservation:

- List of families experiencing water shortages
- Letter from John Peterson, County Groundwater Geologist, County of San Diego to Mr. Robert Bowling, Regarding Groundwater Levels in the Old Barona Road Area

- Letter from Richard Hensle, Chair, Lakeside Community Planning Group to Honorable Dick Murphy, Mayor, City of San Diego, Regarding City of San Diego's negotiations with the Barona
- Letter from Dianne Jacob, Supervisor, Second District, to Frances Gesiakowski, Regarding Groundwater levels in the neighborhood and interest in accessing water from San Vicente Reservoir
- Memo from Councilmember Donna Frye to Councilmember Jim Madaffer, Chair, Natural Resources and Culture Committee, Regarding Barona Water Pipeline Project
- Letter to Robert Bowling, Old Barona Road Association from the County of San Diego, Regarding Old Barona Road
- Letter from Lauren M. Wasserman, Director, Department of Planning and Land Use to Land Owner, Highway 67 and Wildcat Canyon Road Areas, Regarding Mapping Programs, Groundwater Impacted Basins

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