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H.R. 2828 AND H.R. 2641

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON WATER AND POWER

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

Thursday, July 24, 2003

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LEGISLATIVE HEARING ON H.R.2828, THE WATER SUPPLY, RELIABILITY AND ENVIRONMENTAL IMPROVEMENT ACT; AND H.R. 2641, TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO IMPLEMENT THE CALFED BAY-DELTA PROGRAM

Thursday, July 24, 2003
U.S. House of Representatives
Subcommittee on Water and Power
Committee on Resources
Washington, DC

The Subcommittee met, pursuant to notice, at 2:03 p.m., in Room 1324, Longworth House Office Building, Hon. Ken Calvert [Chairman of the Subcommittee] presiding.

Present: Representatives Calvert, Napolitano, Radanovich, Miller, Dooley, Cardoza, Rodriguez, Baca, and Nunes.

Also Present: Representatives Pombo and Tauscher.

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

Mr. CALVERT. The hearing by the Subcommittee on Water and Power will come to order. The Subcommittee is meeting today to hear testimony on H.R. 2828, the Water Supply Reliability and Environmental Improvement Act, and H.R. 2641, the CALFED Bay-Delta Authorization Act.

We are certainly privileged and honored to be joined here today by the Senior Senator from the State of California, Mrs. Dianne Feinstein. And let me say, from a personal point of view, I can't think of anyone who has put more time and effort into the problems that we have in California when it comes to water. And as the Senator well, knows this is not a Republican issue or a Democratic issue. It is a problem that we all share south, north, Central Valley—all over the State of California. And certainly you have put much time and effort into trying to solve these issues, and I look forward to working with you as we, hopefully, can resolve the issue of CALFED and other water issues in the State of California this year.

With that, I know that you need to get back to the Senate, so I am happy to recognize you for any statement you may have. Thank you, Senator.

[The prepared statement of Mr. Calvert follows:]

Statement of The Honorable Ken Calvert, Chairman, Subcommittee on Water and Power, on H.R. 2828 and H.R. 2641

Today's hearing is another step in the pursuit of finding balanced ways to improve our nation's water supplies and reliability. We are privileged to have the full Committee Chairman and Senator Feinstein here with us today.

Over the course of this year, we have focused on water delivery enhancements as well as the development of alternative water sources through water recycling and desalination technologies. Earlier this summer, the Subcommittee held three well-attended hearings in California on different ways to enhance water supplies along with an oversight hearing on the CALFED crosscut budget.

While we have learned much from these hearings, we have also reconfirmed the obvious: The math simply doesn't add up on how our current and future water demands will be met given dwindling supplies.

H.R. 2828 is the first comprehensive step in helping us answer our water problems. It is a product of our comprehensive work to date. I have taken the valuable input presented by my Subcommittee colleagues, witnesses and stakeholders during and after our hearings to craft the "Water Supply, Reliability and Environmental Improvement Act."

This comprehensive bill is an important step in moving the ball forward. I'm proud to have many of my Democratic and Republican colleagues as original cosponsors of the bill and hope to have more support before we proceed to markup in September.

H.R. 2828 is centered around the development of new technologies and programs to bring about needed improvements in how we manage our water resources.

The bill sets up a coordinated, national performance-based competitive financing program to encourage the use of ongoing brackish and seawater desalination and water recycling programs. This Subcommittee has heard repeatedly of the value of these programs and it's a given that we build upon this success for all states. This title is important to areas, like New Mexico, Colorado and Arizona, which have very limited traditional water supplies.

Based upon the purpose and structure of Sen. Feinstein's and our colleague George Miller's legislation, our bill contains a title which:

- Reauthorizes federal participation for four years in the CALFED program;
- Attempts to bring more storage and conveyance to the CALFED picture;
- Proposes a "right to know" provision on how ecosystem restoration funding is being spent;
- Allows for more conveyance only if Delta water users and wildlife are not negatively impacted and;
- Recognizes how existing authorities are being used for CALFED-related projects.

I applaud Senator Feinstein's and Mr. Miller's courageous steps in introducing their CALFED bills. Our legislation is very similar, some of our policies are different, but I'm confident we can work out these differences between ourselves and with others.

Our legislation also recognizes a federal funding role for the Salton Sea, the importance of better coordination of federal permitting activities throughout the west and the development of a rural water supply program.

H.R. 2828 is not perfect, but we cannot let the perfect be the enemy of the good. With the valuable hearings and the introduction of this and other bills, we are well beyond the starting line. While this is the first step in the legislative process, we are certainly closer to finishing this marathon.

I stand ready to work with Chairman Pombo, Senator Feinstein, Ms. Napolitano, Mr. Miller, and other colleagues and stakeholders in the coming weeks before we head to a markup. I look forward to hearing from our distinguished panel of witnesses.

STATEMENT OF DIANNE FEINSTEIN, A UNITED STATES SENATOR FROM THE STATE OF CALIFORNIA

Senator FEINSTEIN. Thank very much, Mr. Chairman.

Mrs. Napolitano, Mr. Nunes and Mr. Miller from our State, I want to, first of all, say to the three of you as California representatives on this Committee, that I really think we need to sit down

and see where we go from here. I am somewhat concerned because our bills are on different wavelengths, as I understand them, and I am concerned that we get a bill.

Senator Boxer has indicated to me that I am speaking for her as well this afternoon, and I am very proud to do that.

I feel that the basic principles of a CALFED bill are two. First, it must be a balanced bill. I think we all know that California has different water needs and different water interests. So we need ecological restoration for environment, we need recycling and desalination, we need water quality and conveyance for our cities, we need storage, both groundwater and surface, for our farms and for others. So a CALFED bill that is going to pass, in my view, must even-handedly provide for all of these interests so Californians can rally around it.

The bill I have introduced explicitly requires balanced implementation. In my house, some Republican senators in the last session were afraid that environmental projects, not needing authorization, would sail smoothly ahead, while storage projects, lacking congressional approval, would languish. To meet this concern, the Senate bill includes a provision requiring the Secretary of Interior to annually certify that the CALFED program is progressing in a balanced manner among all of its components. If it is found to be out of balance, the Secretary must revise the schedule.

Secondly, my bill respects the fact that CALFED has a history, and respects past agreements that Californians have made. I think it is worth remembering that the drought of 1990 and 1991, when Californians were fighting desperately over water, we all thought there had to be a better way than court cases and fights. Secretary Babbitt came out to California, the Bay-Delta accords were negotiated in 1994, essentially a time-out on fighting was called while all parties tried to work together to develop a bill. At one time, as I recall, there were 17 different working groups as part of CALFED. And out of this Bay-Delta accord was negotiated the Record of Decision, culminating into 2000.

Now the Record of Decision is CALFED's roadmap. The Record of Decision set forth commitments to attend to the water interests of all Californians—urbans, farmers, environmentalists. So the commitments in the Record of Decision really should and must be the framework that holds us together through the inevitable water conflict.

Now, I know that not everyone celebrates every detail in the ROD. So what my bill does is adopt the Record of Decision as the framework for CALFED program components. This is compromise language. It has been negotiated at great length. And we need to keep its recognition that the Record of Decision is our roadmap.

And finally, we need to keep a good handle on the Federal funding of the many different agencies involved in CALFED. To do this and, really, to meet the concern, again, of some of the Republicans on the Energy and Water Committee in the Senate, they were concerned that California would take all of the Bureau's allocation. So what we came up with was a cross-cut budget, showing the Federal funding of each of the different agencies. So the Senate bill sets forth a specific list of the projects to be funded and how much each would receive. As you know, it is $880 million authorization over

4 years. The Federal cost share is limited to a third. There is $102 million for planning and feasibility studies for water storage projects and an additional $77 million for conveyance.

Now, I don't believe we can meet all of our future water needs without increased water storage that is environmentally benign, that is off-stream, and that provides flexibility in the system for us to increase water supply, improve water quality, and enhance ecosystem restoration. I have said this from the beginning. I have taken some flak for it—I don't much care. I know from my travels up and down the State and my discussions with virtually every facet of the water community now over the past 10 years, that it can't be any other way. So we need to be able to, in an environmentally sound way take water from the wet years and be able to save that water for the dry years that will inevitably follow.

There's $100 million for ecological restoration. This means improving fish passages, restoring streams, rivers, and habitat, and improving water quality. We authorize $153 million for water conservation and recycling, including $84 million for desal and water recycling projects, leveraging substantial additional water supplies with relatively little Federal investment.

The bill would also improve water quality for drinking through investment and treatment technology, several demonstration projects and water quality improvements in the Bay-Delta, the San Joaquin Valley, and other parts of the State.

And then—and we actually took a page from your book, Congressman Calvert, and we included an expanded grants program for local and regional communities throughout California, including the northern part of the State. So we authorize up to $95 million for local California communities to develop plans and projects.

We also have levee stability with $70 million, strong supporting science with $50 million, $25 million for program management, et cetera. And then there is $75 million for the environmental water account, with purchases available for environmental, water, and other purposes.

So kind of in a nutshell, that is it, boiling down. I am concerned that we not come to loggerheads between the House bill and the Senate bill. I am concerned that we maintain the Record of Decision because this is the only thing around which we have agreement. And the minute we depart from it, we are going to lose people and we are going to have suits. And I think that is just as clear as the nose on my face. So I am really concerned that we do that.

And second, that we move ahead in a balanced manner. If we do that, I think we can show to all of the many conflicting interests here that we are being fair to all parties. And absent that, I am very concerned that we won't get momentum and the ability to move on any particular bill.

I would also like to thank the Chairman of the full Committee for being here, Mr. Pombo from California. And I understand my pal Ellen Tauscher is here as well. So I want to thank them for their continued interest.

And I would like to ask one last thing. It is very hard—I have found it is very hard to get feedback back. And I have a commitment from Senator Domenici to move our bill now. And as I have said to both Mr. Pombo and Mr. Calvert, I would like to, if possible,

see that the Senate bill is as close as we can to a House bill so that we can avoid conference problems and get a bill this session. It is my belief that if we don't get a bill this session, we may not get a bill.

It is also good that Congressman Cardoza—I see Congressman Dooley. He's so little behind that dais, I didn't recognize six-foot-two of you. I am glad you are here as well.

But please, the only way we are going to do this is to bring the parties together. We are not going to do it by moving them apart.

That concludes my testimony.

[The prepared statement of Senator Feinstein follows:]

Statement of The Honorable Dianne Feinstein, a U.S. Senator from the State of California

First, I want to thank Representatives Calvert and Napolitano for giving me the opportunity to testify on CALFED today. And to all my fellow members of the California delegation, I've enjoyed working with you on water issues, and we are going to need to work together even more closely over the next year.

I want to speak plainly to you all—California needs a CALFED bill, and we need it now. If we don't act now, we are not going to have enough water to meet California's needs in a decade or two. It's as simple as that. The last time we increased our water infrastructure was the 1960's. Our population then was 16 million, less than half of the 36 million we have now. And less than one-third of the 50 million we will have soon.

We need to increase our water supply for our economy as well. California is the largest agriculture state in the nation, and we're the sixth largest economy in the world. We need water to run this economy. We all know how difficult it is to pass a CALFED bill. I want to share with you my perspectives on why I think that my bill, S. 1097, is a bill that we could pass.

First, it is a balanced bill. California has many different water needs and interest groups that advocate for them. We need ecological restoration for our environment; we need recycling and desalination, water quality and conveyance for our cities, and we need storage, both groundwater and surface, for our farms. A CALFED bill that is going to pass must evenhandedly provide for all these interests, so Californians can rally around it.

The bill I have introduced explicitly requires balanced implementation. Some Republican Senators were afraid that environmental projects not needing authorization would sail smoothly ahead, while storage projects lacking Congressional approval would languish. To meet this concern, the bill includes a provision requiring the Secretary of the Interior to annually certify that the CALFED program is progressing in a balanced manner among all of its components. If it is found to be out of balance, the Secretary must revise the schedule.

Second, my bill respects that CALFED has a history, and respects the past agreements that Californians have made. It is worth remembering the drought of 1990-1991, when Californians were fighting desperately over scarce water. We figured there had to be a better way. So Secretary Babbitt came out to California, and we negotiated the Bay-Delta Accords in 1994. We essentially called a timeout, while we tried to figure out a plan to work together.

Out of the Bay-Delta Accords we negotiated the Record of Decision, culminating in 2000. The Record of Decision is CALFED's road map. The Record of Decision set forth commitments to attend to the water interests of all Californians, urbans, farmers, and environmentalists. The commitments in the Record of Decision are the framework that holds us together through the inevitable water conflicts. I know that not everyone celebrates every detail in the Record of Decision. So my bill adopts the Record of Decision as a framework for CALFED's program components. This is compromise language, negotiated at great length, and we need to keep its recognition that the Record of Decision is our roadmap.

Finally, we need to keep a good handle on the federal funding of the many different agencies involved in CALFED. My bill meets this concern by requiring the Office of Management and Budget (OMB) to prepare a cross-cut budget showing the federal funding of each of the different agencies. The bill also sets forth a specific list of the projects to be funded and how much each one would receive.

Let me briefly tell you the elements of my bill. It is an $880 million authorization over 4 years. The federal cost-share is limited to one-third. There is $102 million

for planning and feasibility studies for water storage projects—and an additional $77 million for conveyance.

I don't believe we can meet all of our future water needs without increased water storage that is environmentally benign, that is off stream and that provides flexibility in the system for us to increase water supply, improve water quality, and enhance ecosystem restoration. We absolutely need to take water in wet years and store it for the dry years that follow.

- Next, there is $100 million for ecological restoration. This means improving fish passages, restoring streams, rivers and habitats and improving water quality.
- The bill authorizes $153 million for water conservation and recycling, including $84 million for desalination and water recycling projects, leveraging substantial additional water supplies for California with relatively little federal investment.
- The bill would also improve water quality for drinking through investment in treatment technology demonstration projects and water quality improvements in the San Francisco Bay Delta, the San Joaquin Valley, and other parts of the State.
- The bill also includes a grants program for local and regional communities throughout California, including the northern part of the State. The bill authorizes up to $95 million for local California communities to develop plans and projects to improve their water situation.
- The bill also includes $50 million for watershed planning and assistance.
- The bill also includes other important provisions on levee stability, with $70 million, ensuring CALFED has strong supporting science, with $50 million, and $25 million for program management, oversight, and coordination.
- Finally, there is $75 million for the environmental water account, which purchases available water for environmental and other purposes.

I look forward to working with you to all to pass CALFED as quickly as possible. We absolutely need this legislation for California's future.

Mr. CALVERT. Well, that is great timing. But I want thank the Senator for your testimony. And certainly we share a common belief, I think all of us, that we want to kick—as George told me one time, we want to kick this can down the road. And we have been working on this a long, long time, as the Senator well knows, and in many aspects we are a lot—you know, we are very close. So hopefully we can work these things out as we move this process forward. We certainly respect the hard work that you have put into this and, hopefully, we can come to some resolution soon on this.

Senator FEINSTEIN. Thank you. And I would also like to acknowledge Congressman Nunes, whom I don't know very well. But, you know, welcome to a big fight. It has always been that way.

[Laughter.]

Mr. CALVERT. It is always fun. Great. Thank you, Senator.

Senator FEINSTEIN. Thank you.

Mr. CALVERT. No other comments to the Senator? Mr. Pombo?

Mr. POMBO. Mr. Chairman, just very briefly. I would say to Senator Feinstein we all appreciate a great deal the work that you have put into this and, I think more importantly, your openness to working with us. Both the Chairman of the Subcommittee and myself have been over to see you a number of times on this over the past couple of years. We appreciate your openness to working with us. The only way that this is going to move forward is if we work together and try to stay on the same page.

Obviously, Ken and I both want our bill to coincide very closely with what moves through the Senate so that we can get through conference and, hopefully, get it to the President's desk as rapidly as possible.

So I just want to thank you for your willingness to work with us and with the Committee. Your staff has been great to work with,

and I thank them for all the work that they have put into this as well, and hopefully this is something that in the not-too-distant future we can all be happy that we passed it and, as George said, we kicked the can down the road.

Senator FEINSTEIN. Thank you. I really appreciate that, Mr. Chairman. It really means a lot coming from you. And I just want you to know, I am available. You all have my home numbers in California and here and, you know, don't hesitate to use them.

Mr. POMBO. I forget what that is. Can you give it to me?

[Laughter.]

Senator FEINSTEIN. I will get it to you.

Mr. POMBO. But thank you.

Senator FEINSTEIN. You are very welcome.

Mrs. NAPOLITANO. Senator, one last word, and that is thank you so much. Appreciate your coming and being open. As you can see this is all California up here.

Senator FEINSTEIN. Right. Right.

Mrs. NAPOLITANO. So we are very, very key on it. It is just getting our ducks in a row and being able to accept those things that we know we can work together, and work on the others to conclusion that is going to be helpful to all of California, as you have indicated. Thank you, ma'am.

Senator FEINSTEIN. Thank you.

Mr. CALVERT. Thank you, Senator. Mr. Baca?

Mr. BACA. Thank you very much, Mr. Chairman. Senator Feinstein, thank you very much—

Senator FEINSTEIN. Hi, Joe. Good to see you.

Mr. BACA. —for sharing your thoughts and your ideas. As you know, the Inland Empire is where we have the majority of a lot of the growth and we look at water and water problems in that area, and perchlorate in some of the other areas that—along with our Chairman here, Ken Calvert, as well—that impacts our area along the Santa Ana River. So we appreciate your leadership and your vision in this area and we look forward to solutions to problems in funding, especially as it pertains to water. So thank you very much.

Senator FEINSTEIN. Thank you very much. I just want to—let me say on funding, can't get any more appropriations without an authorization. We need $15 million this year; could only get 7 so far. And my hope had been to be able to get some of the feasibility work done that we need to get done to know whether something works or not. So it is a real disadvantage not having an authorization bill.

Mr. CALVERT. Mr. Cardoza.

Mr. CARDOZA. Very briefly, Mr. Chairman. I just want to echo the other statements of the members of this Committee in thanking you, Senator Feinstein, for your hard work over a number of years on this issue. And frankly, we wouldn't have gotten as far as we've gotten in this process without your leadership and we won't get to conclusion without your leadership. So thank you.

Senator FEINSTEIN. Oh, I don't know about that. But we have just got to do it, and I appreciate those comments. Appreciate even more a bill. Thank you.

Mr. CALVERT. Thank you very much, Senator.

Senator FEINSTEIN. Thanks very much—

Mr. CALVERT. OK, have a great day.

Senator FEINSTEIN. —Mr. Chairman. Thank you all.

Mr. CALVERT. Thank you very much.

We are going to have a series of votes here. As I understand it, this may be a couple of hours. We have seven or eight votes, several of which are 15-minute votes, several of which are 5-minute votes. So we are going to ask our panel to please forgive us for awhile, but we are going to recess until immediately after the last vote, and come back. It could be as long as 2 hours. Hopefully less, but it could be as long as 2 hours.

We are recessed.

[Recess.]

Mr. CALVERT. The hearing is reconvened. First, let me again apologize. This is going to be a long day—longer for us than for you, but it may not seem that way yet.

Today we are here for the same purpose. We heard from Senator Feinstein and certainly the hard work that she has done, but we are all here for the same purpose and that is to pass a comprehensive water supply bill. All of us here today—Chairman Pombo, who I think will be back shortly; Senator Feinstein, as you heard from earlier; certainly Grace Napolitano, George Miller, Mrs. Tauscher—all of us. We certainly want to get a bipartisan bill that has the same goal. We may have some differences on how to meet that goal, but that is what this process is all about. That is why we come here to Washington, D.C. and try to work these issues.

But it is an important step today to listen to all the various collective efforts. One thing we can agree on, I think, all of us agree that we need to give more flexibility to the system by adding more water to storage, conveying water when needed but protecting Delta water quality, providing water recycling and desalinization for our Nation; obviously compatibility of ecosystem restoration and the protection of private property rights; and certainly how our taxpayer dollars are spent, and we want to make sure that they are spent wisely.

This bill that I am introducing today certainly will provide communities nationwide access to successful water recycling and desalination efforts. It provides a balance to CALFED. I remember when we all got in this in 1994, we all said we are all going to get better together, and that is what the intent of this legislation is.

It puts storage on a level field with ecosystem restoration. It gives us the right to know how we are protecting our environment through land acquisition and ecosystem restoration activities. And it certainly protects the private property rights for willing sellers of water.

Judging by the bipartisan cosponsors of our bill, which is growing, I think we have done something right and we are looking forward to the month of August, when we are going to, I am sure, hear from many people from many areas of California and throughout the country on this legislation. I am certainly glad we could be here for this legislation, and hopefully we can reach consensus on how we can bring water to our communities as soon as possible.

I am going to keep my statement short since we may be called back in another hour or so. So hopefully we can also keep the proc-

ess of this legislation short, where we can make sure we can get it signed into law in this legislative session.

With that, I am happy to recognize the Ranking Member, Mrs. Napolitano, for her statement.

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

Mrs. NAPOLITANO. Thank you, Mr. Chairman. And thank you for convening this hearing today. And a welcome again to all our special guests and our witnesses. But I certainly wanted to take this opportunity to again thank you for your dedicated focus on the item that to a lot of us is more important than gold, and that is water. I think I can speak for the rest of the Subcommittee members on my side and commend you for your attention to the serious water problems—solving the serious water problems that are facing all of us in California and the rest of the western United States.

And thank you for introducing this much-needed legislation. I totally agree with you on Title I. Some members, some organizations and I still have concerns about the bill, and there are many questions that are going to have to be answered. But your willingness to listen to the views of many interested parties should reassure all of us who are quick to criticize something we don't understand or need more clarification.

I will continue to review your legislation with an open mind and urge my colleagues on the Subcommittee to do the same. I am hereby adding myself to your legislation, if I may be so bold, because I believe that that is what we need to move forward with. I look forward to a closer working relationship with you, and hopefully some of my colleagues on both sides will not begin to use this bill to get back, so to speak, on some areas that we feel we have been slighted or wronged on. It is too important to all of us, and I think we need to put every little peccadillo, if you will, aside. We need to work together. And I am looking forward to that, sir.

Thank you, and look forward to the discussion.

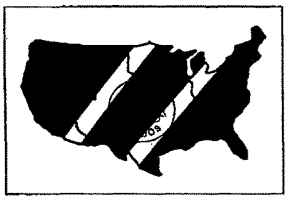
Mr. CALVERT. Thank you. And I certainly thank the gentlelady for her support and look forward to working with her very closely as the days, weeks, and hopefully not too many months ahead of us go by as we work toward the successful conclusion of this bill.

I would also ask unanimous consent that Ms. Tauscher be able to join us here on the dais. Hearing none, welcome.

And with that, I would like to recognize the next panel.

But before we do that, I am going to offer for the record letters from the WateReuse Association, the U.S. Desalinization Coalition, the Texas Migrant Council, Inc., and a CRS Report, "Authorities Related to Water Supply Reliability and Environmental Improvement Act." If there is no objection, these statements will be entered into the record.

[The letters referred to follow:]



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DR. MA. ALMA GONZALEZ PEREZ

CHIEF EXECUTIVE OFFICER
MARY GUEVARA CAPELLO, J.D.

July 24, 2003

Mr. Ken Calvert
Chairman of Subcommittee on Water and Power
U.S. House of Representatives
Committee on Resources
Washington, DC 20515

Ref: Water Supply, Reliability and Environmental Improvement Act H.R.2641

Dear Mr. Calvert,

I am writing this letter in support of the Water Supply, Reliability and Environmental Improvement Act and H.R. 2641.

Texas Migrant Council, Inc. (TMC) is a private, non-profit corporation that serves migrant/seasonal farm workers in the States of Texas, Ohio, Indiana, New Mexico, and Wisconsin. Through our programs: MSHS, CCMS and Workforce we serve over 100,000 clients. Sufficient water is needed in Texas, Ohio, Indiana, New Mexico and Wisconsin to maintain agriculture, which provides our farm workers/seasonal families employment and nutrition; which sustains and improves their quality of life.

Please do not hesitate to contact me should you have future questions at 956-722-5174 ext 1104.

Regards,

Mary G. Capello

Mary G. Capello, J.D.
Chief Executive Officer

Administrative Offices: P.O. BOX 2579 • LAREDO, TEXAS 78044-2579 • (956) 722-5174

July 24, 2003

The Honorable Ken Calvert
Chairman, Water & Power Subcommittee
Committee on Resources
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the United States Desalination Coalition I am writing to thank you for your leadership in introducing H.R. 2828, the Water Supply, Reliability, and Environmental Improvement Act. We particularly appreciate the proposed authorization of a new, competitive grant program that would, in part, help fund the development of desalination projects.

The U.S. Desalination Coalition is made up of water management agencies and utilities from across the Nation who are in various stages of planning and developing both seawater and brackish water desalination projects. Our goal, simply put, is to encourage the Federal government to invest in the development of these facilities now in order to address the water supply crisis that many parts our country currently face. Like water managers throughout the United States, the members of the U.S. Desalination Coalition are struggling to address the long term challenges posed by draught, increasing population, and competing demands for water from business, agriculture, and the environment. We believe that one of the ways of averting future water supply crises and ensuring that clean and reliable water is available to families, farms, and businesses lies in desalinating seawater and brackish surface and groundwater and making that water available for municipal and industrial uses.

The competitive grant program that would be authorized in Title I of your legislation has the potential to help spur the development of a new generation of water supply projects based on desalination. We think it is a wonderful starting place and we look forward to working with you and other Members of Congress to develop a comprehensive program for encouraging desalination that truly meets the needs of our members and the Nation.

Thank you again for your leadership in this important area.

Sincerely,

Hal Furman
Executive Director

1401 K Street NW Suite 450 • Washington DC 20005 • ph: 202.737.0700 • fax: 202.737.0455 • www.USDesal.org

July 23, 2003

The Honorable Ken Calvert
Chairman
Subcommittee on Water and Power
Committee on Resources
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the WateReuse Association, I am delighted to have the opportunity to express our support of your Subcommittee's effort to address the challenges of meeting the nation's water supply demands. We understand that you will shortly introduce legislation to revise the approach in which the federal government provides support to local communities in their efforts to develop alternative water supply projects. We support this initiative because it recognizes a key point that we have made before the Subcommittee on several occasions: that a comprehensive program of assistance must be authorized to supplement the existing Title XVI program.

WateReuse is pleased to support Title I of the draft proposal, the subject of the July 24 Subcommittee hearing, as an appropriate start to addressing the need for a broad based, national alternative water supply assistance program. The funding levels of the proposed program are realistic, given the current budgetary constraints at the federal level. We endorse the requirement to have an accounting of the kinds of programs and levels of funding that currently exist throughout the federal government. However, we do want to work with you and the other Subcommittee members to address a number of issues within the bill, and specifically Title I. Among our concerns is the authority provided to the Secretary of the Interior to reprogram funding from other appropriated accounts to support development of conveyance and storage facilities. This could jeopardize the effective implementation of the competitive grants program; hence, we would request that this authority be narrowed to avoid funding disruptions to a new program. We also would like to work with the Subcommittee on provisions requiring coordination among the various federal agencies that have active water resource development programs, to clarify how such coordination activities could be best implemented.

Again, we appreciate the opportunity to work with the Subcommittee. We look forward to the enactment of legislation that would establish a national program to address the challenges of water supply shortfalls through the development of alternative water sources such as water reuse.

Sincerely,

G. Wade Miller

G. Wade Miller
Executive Director

Cc: Rich Atwater, IEUA
Margie Nellor, LACSD
Mike Gritzuk, City of Phoenix
General Eugene Habiger, SAWS

Recycling Water to Meet the World's Needs
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Sacramento CA Office • 915 L Street, Suite 1000, Sacramento, California 95814 • 916-442-2746 • 916-442-0382 (fax)
www.watereuse.org

[NOTE: The CRS Report entitled "Authorities Related to Water Supply Reliability and Environmental Improvement Act" has been retained in the Committee's official files.

Mr. CALVERT. Ms. Tauscher, do you have a short statement for the record?

Ms. TAUSCHER. You will be the judge of whether it is short or not, Mr. Chairman. I think it is, though.

Mr. CALVERT. OK.

STATEMENT OF THE HON. ELLEN TAUSCHER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. TAUSCHER. I appreciate you having me here today. I want to thank you, Mr. Calvert, and Ranking Member Napolitano, fellow Californians, because I would like to express my appreciation to you for recognizing the critical nature of the water supply crisis facing California and scheduling this important hearing today.

I also want to thank Senator Feinstein for her strong leadership on this issue and her trademark tenacity in finding a workable compromise to move CALFED legislation through the Senate to the President's desk this year. Senator Boxer, who could not be here today, also deserves tremendous thanks for her work on water issues.

Mr. Chairman, thank you for allowing me to sit in on this hearing today and to make a few comments about H.R. 2641, the CALFED authorization legislation that George Miller and I introduced last month. Our bill, the California Bay-Delta Authorization Act, brings the various stakeholders to the table and provides both the method and the means for Californians to heal the Bay-Delta and resolve our ongoing and future water supply shortages.

This bill, which is very similar to the Feinstein-Boxer bill in the Senate, would provide a framework for addressing the many delicate and varied components of the California Bay-Delta program, including water storage, ecosystem restoration, water supply reliability, water quality, conveyance, water use efficiency, water transfers, the environmental water account, levee stability, governance, and sound science. In the end, the final solution must fairly balance the competing needs of our growing population, agricultural interests, and the environment and adhere to the Record of Decision that California stakeholders worked so hard to develop.

My District includes much of the Bay-Delta, so I am very familiar with its tremendous importance. Simply put, restoring the Bay-Delta is imperative for improving water quality locally and essential for the long-term supply solutions across the State. The ROD also identifies an important potential surface storage project in my region, the expansion of the Los Vaqueros Reservoir. Another regionally important water supply reliability project that would be advanced by CALFED is the Freeport project, which is the historic agreement reached by East Bay MUD and the Sacramento Region.

Mr. Chairman, Ranking Member Napolitano, and the members of the Committee, we are facing a crisis in California that will make our State's energy fiasco look like a walk in the park if we fail to act. As you know, this year's energy and water bill contains no funding for CALFED but specifically states funding may be available if the program is reauthorized this year. We cannot afford to wait another year to act.

Mr. Chairman, I applaud your leadership with Ranking Member Napolitano in holding field hearings and developing legislation to begin the process in the House. The time is now for Californians, regardless of party or region, to come together to advance comprehensive authorization legislation that will ensure the Federal Government is an active partner with our State in solving our complex water challenges. I pledge to work with you, Mr. Chairman,

this Committee, and the California delegation to help craft a balanced bill that can move through the House and to the President's desk this year.

I think it is vitally important to remember what Senator Feinstein said: If we find ourselves in a situation where these bills do not comport themselves closely enough that we find ourselves in a conference, we could lose this opportunity. So I hope that our effort will not only include finding a balanced approach but that we will work to find a way to get these bills to look as much alike as possible so that we don't lose in the bigger battle.

I thank you for the opportunity to testify. I yield back the balance of my time, and I hope I was short enough.

[The prepared statement of Mrs. Tauscher follows:]

Statement of The Honorable Ellen O. Tauscher, a Representative in Congress from the State of California

Chairman Calvert and Ranking Member Napolitano, I'd like to express my appreciation to you for recognizing the critical nature of the water supply crisis facing California and scheduling this important hearing today.

I also want to thank Senator Feinstein for her strong leadership on this issue and her trademark tenacity in finding a workable compromise to move CALFED legislation through the Senate to the President's desk this year.

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Mr. Chairman, I applaud your leadership in holding field hearings and developing legislation to begin the process in the House.

The time is now for Californians, regardless of party or region, to come together to advance comprehensive authorizing legislation that will ensure the federal government is an active partner with our state in solving our complex water challenges.

I pledge to work with you, this committee and the California delegation to help craft a balanced bill that can move through the House and to the President's desk this year.

Thank you for the opportunity to testify and I yield back the balance of my time.

Mr. CALVERT. Perfect. I thank the gentlelady.

Mrs. NAPOLITANO. Mr. Chairman, I would like to submit for the record George Miller's statement.

Mr. CALVERT. Without objection, so ordered.

[The prepared statement of Mr. Miller follows:]

Statement of The Honorable George Miller, a Representative in Congress from the State of California

Chairman Calvert, Ranking Member Napolitano—I want to thank you both for including my legislation, H.R. 2641, in your hearing on Cal–Fed reauthorization. I also want to take this opportunity to commend Senator Feinstein for doing the extremely hard work of crafting a Cal-Fed compromise that has a very good chance of passing the Senate.

As many of you know, Congress has failed to re-authorize Cal-Fed legislation for the past two sessions. There has never been other time in our state's history that it is more important to come together to ensure we have some control over the future of our water supply and water quality.

Numerous policies and decisions coming out of the Bush Administration jeopardize not only our water supply but also our water quality.

The future of the state's ability to utilize Colorado River water is uncertain.

The Bureau of Reclamation is the process of renewing Central Valley Project contracts that could dedicate as much as 7 Million AF water for the next 25 - 50 years.

The Bureau has failed to release two studies that evaluate the feasibility of water recycling and desalination projects. One of the study is for Northern California and one of the studies covers Southern California.

In addition, there is continued conflict over the management of the Trinity River.

Outside of the Department of Interior, Department of Defense and the Environmental Protection Agency are looking at policies impacting groundwater contamination problems posed by perchlorate and MTBE.

Meanwhile, shifting demographics and rapid population growth are putting enormous pressure on our agriculture lands which not only serve as an influential economic sector but also as valuable open space.

It is time for Congress to step up to the plate and enact Cal-Fed legislation so that we can move ahead with determining our own water future.

I have introduced legislation, based largely on the bill introduced by Senators Feinstein and Boxer. They worked very hard in crafting legislation which addressed the concerns of their fellow Senators and greatly increased the likelihood that it would pass.

I, along with Rep. Tauscher, have taken the model legislation drafted in the Senate and adopted it to the unique politics we face in the House.

Specifically, we added some provisions which help assure our House Colleagues that water users in California are paying their fair share for water in addition to managing that water appropriately.

I want to stress again that Congress needs to act quickly and pass a Cal-Fed reauthorization bill. It would be foolish to get bogged down in the same intrastate battles that have held up previous legislation.

We need to move forward and I believe that the compatibility of my legislation and that of Senators Feinstein and Boxer make it very easy to quickly pass something through both the House and Senate and put on the President's desk.

Thank you again for your efforts.

Mr. CALVERT. Our first panel with us is General Eugene E. Habiger, United States Air Force, Retired, President and CEO of the San Antonio Water System, Texas—welcome back; Ms. Irela Bague, Member of the Governing Board of the South Florida Water Management District, representing Miami-Dade County, Florida; Mr. Eduardo A. Campirano, the Assistant Manager and COO of the Brownsville Public Utilities Board; and Mr. Robert Neufeld, Member of the Board of Directors, Cucamonga County Water District.

I now recognize General Eugene Habiger to testify for 5 minutes. If you could please try to stay within that because of the timing today—and again, I apologize—so we can have some time for

questions, I would appreciate that, General. With that, you are recognized for 5 minutes.

STATEMENT OF EUGENE E. HABIGER, PRESIDENT AND CEO, SAN ANTONIO WATER SYSTEM, TEXAS

Mr. HABIGER. Thank you, sir. It is good to be back. I would like to put my written statement into summary form and submit it for the record.

Mr. CALVERT. Without objection, so ordered.

Mr. HABIGER. Good afternoon. I am Gene Habiger, president and CEO of San Antonio Water System. And I am here today also representing the WateReuse Association.

Chairman Calvert, members of the Subcommittee, I am honored to appear before you again. As you indicated last March, I was here to discuss the nature and extent of the challenges that both Texas and the Nation are facing to ensure a safe and reliable water supply.

I want to commend this Subcommittee for its willingness to highlight the importance of water-reuse projects. Chairman Calvert, you and Ranking Member Napolitano have been staunch supporters of maintaining strong Federal partnerships with communities striving to develop innovative and alternative water supply projects.

The WateReuse Association supports your proposal to establish a comprehensive, competitive grants program that would begin to address the needs of local communities' water supply shortages. There are a number of areas with the legislation that we would like to clarify as to how the program would be implemented.

Title I of your proposed legislation would establish a nationwide competitive grants program to develop alternative water supply projects. The authorization of $100 million a year falls far short of the demonstrated requirement but, in my view, it is a realistic level, given today's budget environment.

Title I provides for a complete overhaul of the way in which the Federal Government would implement water resources development policy. It would identify the value of a broad-based response to meeting water supply shortages and, most significantly, it includes a coordinated approach by requiring the Secretary of Interior, acting through a newly established resources coordinator, to work with other Federal agencies to identify resources and other agencies that could be used to promote the development of such water supply projects.

Mr. Chairman, the WateReuse Association is pleased that your legislation seeks to develop a comprehensive approach to meet the needs of the entire Nation. Reclaimed or recycled water is an important tool for the Nation's cities as they work to manage the water demands of a growing population. Nowhere is truer than in Texas, where over 100 recycled water systems put recycled water to beneficial use.

For San Antonio, we have a mature recycled water program and our recycled water is an important part of our integrated approach to water resources management that relies on reducing, reusing, and recycling our water before developing new freshwater resources. Our recycled water is of very high quality, almost to

drinking water standards. Only two cities compare to our water quality levels. They are San Jose and San Diego, California. Our 72-mile pipeline system took almost 6 years and $125 million to design and build, but the benefits are obvious. And most importantly, the seed corn for our project was a $200,000 Federal study grant received in 1996.

San Antonio is well recognized for our River Walk. Our city welcomes over eight million visitors a year, generating over $4 billion in economic impact. Our recycled water system is designed to supply over a billion gallons of water a year into the San Antonio River, thus assuring, no matter what the drought conditions, a reliable source of water to sustain that economic impact to our city.

Our recycled water is used at three military bases, numerous local businesses, which include Valero and United States Automobile Association, and we irrigate four of our municipal golf courses. San Antonio is committed to doing everything we can to conserve and reserve our existing resources. Additionally, a decision to invest in this source of supply is especially important for our community as we face limits on our historic water supply due to pumping caps in the Edwards Aquifer.

In summary, the WateReuse Association and its members, including the San Antonio Water System, look forward to supporting you and other members of the Subcommittee to develop meaningful policy to meet the challenges of delivering safe and reliable water supplies.

Thank you for the opportunity to appear here today. I look forward to answering any questions you may have. Thank you, sir.

[The prepared statement of Mr. Habiger follows:]

Statement of General Eugene Habiger, U.S.A.F., (Retired), President and CEO, San Antonio Water System, San Antonio, Texas, on behalf of the WateReuse Association

Good morning. I am Eugene Habiger, President/CEO of the San Antonio Water System (SAWS), and I am here today also representing the Water Reuse Association. Mr. Chairman, Members of the Subcommittee, I am honored to appear before you again. In late March, I appeared before this Subcommittee to discuss the nature and extent of the challenges that both Texas and the nation are facing to ensure safe and reliable water supply. I also want to note that this Subcommittee is to be commended for its willingness to highlight the importance of water reuse projects. Mr. Chairman, you and Ranking Member Napolitano, have been staunch supporters of making certain that a strong federal partnership is maintained with communities that are striving to develop innovative and alternative water supply projects. We appreciate your recent statements in support of increases in the water reuse budget at the U.S. Bureau of Reclamation.

The recent action by the House Committee on Appropriations reaffirmed its support of this partnership as part of the Fiscal Year 2004 budget. I am pleased to have the opportunity to address you and comment on the Chairman's legislation to create a meaningful response to the national water supply shortage that communities are experiencing.

Thank you for inviting me to share with you the importance of water desalination and water reuse projects not only for San Antonio, but also for many communities in Texas and our nation, and the role that the federal government can and must play to ensure these projects are successful.

Title I, H.R. 2828

The WateReuse Association supports your proposal to establish a comprehensive competitive grants program that would begin to address the needs of local communities' water supply shortages. There are a number of areas within the legislation that we would like to work with you and the Subcommittee on to clarify some of our questions about how the program would be implemented. However, we believe

the key point is that, should this important legislation be enacted into law, the nation will for the first time have a proposed policy that would establish the same priority for reuse and other alternative water supply programs as that which currently exists in water pollution control and drinking water quality. If this legislation is enacted, we hope to see similar gains made in the development of alternative water supply projects as witnessed in the advances in water quality through implementation of the Clean Water and Safe Drinking Water Acts. These advances are attributable to the strong federal partnership that was established through grants and loans to support the development of water and wastewater projects at the local level.

Title I of H.R. 2828 would establish a nationwide competitive grants program to develop alternative water supply projects. The authorization of $100 million per year falls far short of the demonstrated need, but it is a realistic level given today's austere budget conditions at the federal level. We are equally supportive of the legislation's provisions to expand the existing commitment for the Title XVI program, thereby providing an important signal to those western communities that are currently confronting some of the most severe water shortages in the history of the West.

Title I provides for a complete overhaul of the way in which the federal government would implement water resources development policy. It would identify the value of a broad-based response to meeting water supply shortages. The ability to tailor a response to the unique circumstances of an area is central to a successful partnership. Some communities will be in a position to rely entirely on water reuse—other areas may find that a combination of reuse and desalination, for example, is a more cost-effective response to supply shortages. Title I offers the flexibility that is needed in local water resources development planning.

In the past, the WateReuse Association has urged Congress to consider the fact that many federal agencies are involved in the development of water supplies and to provide incentives to promote the efficient application of reuse technologies. We are pleased to see that Title I would require just such a coordinated approach by requiring the Secretary of the Interior, acting through a newly established "resources coordinator," to work with other federal agencies to identify these resources in other agencies that could be used to promote the development of such water supply projects. The priority to use limited federal resources in an efficient manner is a sound goal.

However, we are concerned that the goal may be problematic to achieve if only because of competing and long established, yet justified, priorities within each of these federal agencies. Instead, we would recommend that the Subcommittee revise this element of Title I to require each of the federal agencies to report to the Congress on ways in which their programs could be used to complement the alternative water supply activities in other federal agencies. If this revision were to be adopted, it would serve as an important complement to the bill's other provision, the creation of a multi-agency task force. The ability to combine the task force's accounting of existing resources throughout the federal bureaucracy with ways to coordinate the use of these resources would bring tremendous efficiencies to the development of water supply projects.

Mr. Chairman, the WateReuse Association is pleased that your legislation seeks to develop a comprehensive approach to meeting the needs of the entire nation.

What is SAWS and Texas Doing?

SAWS is a municipally owned water utility serving approximately one million people in South Central Texas. We provide drinking water, wastewater and recycled water service to nearly 300,000 connections including three military bases (Lackland AFB, Brooks City Base, Fort Sam Houston), numerous large businesses (USAA, Valero, and soon Toyota), four municipal golf courses, six universities and numerous other significant institutions.

Currently, most of San Antonio's drinking water is pumped from the Edwards Aquifer, a massive underground reservoir. However, due to endangered species issues, our ability to rely solely on this unique resource is no longer practicable. The City of San Antonio/Bexar County community reached a significant milestone on October 19, 2000. On this day the San Antonio City Council via Ordinance # 92753 approved a multi-year funding mechanism (Water Supply Fee) for the construction and development of additional water resources to meet our projected water demands for the next 50 years.

SAWS uses an integrated approach to achieve this task. As we strive to secure our water future, we are as concerned with managing demand, through our nationally recognized water conservation efforts, as we are with developing new supplies. Per capita water demand has reduced by approximately 32% over the last 15

years—we're using less water today than we did 20 years ago even though our population has grown. Desalination and water reuse are important components of our 50-year plan.

Texas Senate Bill 1 (1997) created 16 regional water planning groups charged with developing water management strategies to meet Texas' water needs. The recommendations of each region are now part of the 2002 State Water Plan, Water for Texas.

Desalination was a recommended water management strategy in several regions: The Far West Texas Region and the Coastal Bend Region, desalination of brackish groundwater was used as a strategy to provide approximately 67,000 acre-feet per year (AFY) in additional supplies. The desalination of seawater was recommended by the South Central Texas Region (San Antonio is a member) to provide up to 85,000 AFY. Currently in Texas, municipal desalination capacity is 25,750 AFY (source: 2002 State Water Plan).

On April 29, 2002, Texas Governor Rick Perry directed the Texas Water Development Board (TWDB) to develop a recommendation for a demonstration seawater desalination project as one step toward securing an abundant water supply to meet Texas' future water supply needs.

The TWDB has identified three sites for demonstration projects: Corpus Christi, Free Port, and Brownsville—all major cities along the Texas coast. All three projects envision starting at 25 mgd with the possibility of expanding to 100 mgd. SAWS is exploring opportunities to partner with Corpus Christi. The TWDB identified the possibility of funding for the desalination projects through existing State financial assistance programs and through the issuance and use of private activity bonds. Currently, two options exist for private activity bond proceeds to be used to finance large-scale water projects:

1) TWDB may apply to the Bond Review Board for a portion of the State Cap through the "State Voted Issues" category or,
2) Political subdivisions of the State may apply to the Bond Review Board through the "All Other Issues" category. If TWDB applies for an allocation of the State Cap though, a $50 million maximum is imposed. Political subdivision applications are further restricted to a maximum of $25 million per project.

Neither of these amounts would be sufficient to provide the financing necessary for a large-scale water project.

The Texas Water Development Board (TWDB) also did a survey of possible federal assistance:

- Army Corps of Engineers: The Water Supply Act of 1958 (Public Law 85-500) and the Water Resources Development Act of 1986 (Public Law 99-662) prescribe the Army Corps of Engineers' (Corps) authority related to water-supply initiatives. These acts authorize the Corps to cooperate with State governments and local entities to develop water supplies as part of multiple-purpose projects. Desalination plants typically are not considered multiple-purpose projects; therefore, the Corps does not usually have the authority to participate in planning or construction of desalination projects. The Corps has included a desalination plant in a reconnaissance study it is conducting with the Nueces River Authority as possible environmental remediation. The Corps is currently participating in a desalination project in El Paso, Texas. The Corps' involvement in the El Paso project is unique, however. Because the desalination plant will help meet water-supply needs of Ft. Bliss, the Corps may participate in the project as part of its mission to support the military base.
- Bureau of Reclamation: According to the Bureau's Guidelines for Preparing, Reviewing, & Processing Water Reclamation and Reuse Project Proposals Under Title XVI of the Public Law 102-575, As Amended, a demonstration project is defined as one that is sized appropriately to demonstrate practicality and that also promotes application of innovative technologies, promotes nontraditional application of current technology as yet unproven, or establishes the feasibility of recycling water to local institutions when an unproven technology is employed. Application of a known technology that merely demonstrates feasibility in a different site or geographic region or modification of an already successfully applied technology would not qualify as a demonstration project.
- Environmental Protection Agency: The U.S. Environmental Protection Agency (EPA) has provided funding for desalination projects as authorized under the National Assistance Program for Water Infrastructure and Watersheds. Under the program, EPA may provide technical and financial assistance in the form of grants for the construction, rehabilitation, and improvement of water-supply systems. Typically the allocation of funding under this program is specified in the committee report that accompanies EPA's appropriations.

Brine and Concentrate Removal

The reject brine and concentrate streams from seawater and brackish groundwater desalination plants have to be removed, disposed of and/or beneficially reused. The location of the desalination facility usually limits the brine and concentrate removal and disposal options.

Typical removal options include any combination of the following:

1. Returned to Oceans, Bays and/or Estuaries
2. Deep Well Injection
3. Disposed of Via Landfills
4. Beneficial Reuse

Beneficial reuse of desalination brine and concentrate is rarely an option at the current time; however, there is the need to have ongoing public/private research projects to include new treatment technologies exploring beneficial reuse options. Potential research projects for beneficial uses of the reject stream are as follows:

1. Road or Soil Stabilization
2. Dust Control
3. Softener Regenerate
4. Salt Blocks for livestock and wildlife
5. Cotton Root Rot Control
6. Specific Chemical Recovery (i.e. magnesium for industrial consumption).

There are several environmental concerns associated with brine removal and disposal, which need further study:

Disposal of high salt content brine can be pipelined back to the ocean, but must be far offshore to assure that bays and estuaries are not affected by rise in salt content. Disposal of low salt content brine to surrounding areas has the potential of raising temperatures in bays and estuaries as well as possible increasing salt concentrations over time.

Disposal of brine sludge and filters byproducts (if filtration methodology is used) through land filling is an option, however landfills are generally located at some distance from the desalination plants; therefore, it would be expensive to transport and process brine waste. Most landfills will only process solid waste; therefore, the desalination byproducts would have to be dried before processing.

Disposal of brine byproduct via deep well injection poses potential environmental concerns.

Clearly, the federal government could and should be doing more to encourage and assist state and local governments to undertake desalination projects. Title I of H.R. 2828 is a positive step in this process.

Water Reuse

Reclaimed, or recycled, water is an important tool for the nation's cities as they work to manage the water demands of a growing population. Nowhere is this truer than in Texas—where over 100 recycled water systems put recycled water to beneficial use. The reasons for such an abundance of reclaimed water applications in Texas range from the need to dispose of reclaimed water to meet water quality concerns in receiving streams or from the need to develop "drought proof" supplies for business and industry. San Antonio provides a good example of the critical role of recycled water for meeting water resource needs.

In 2002, SAWS completed the first phase of its system to recycle treated wastewater effluent for irrigation and industrial uses. For San Antonio, recycled water is an important part of our integrated approach to water resource management that relies on reducing, reusing, and recycling our water supplies while developing new freshwater resources.

SAWS currently operates one of the largest water recycling or reuse, programs of its kind in the county. Over the past 6 years facilities have been put into place to deliver up to 35,000 AFY of recycled water annually to potential customers for nonpotable uses, such as industries, cooling towers, military bases, parks, and river maintenance. The program has matured rapidly from concept, design, construction, to operation. When added to the 30-40,000 AFY demand for recycled water by the city's electrical utility, City Public Service, the nearly 75 mgd system provides a cost-effective alternative to the Edwards aquifer. This system not only protects businesses and military bases from drought, but also benefits endangered species habitat by helping to curb the increasing demand on the Edwards aquifer.

Our recycled water is of very high quality—almost to drinking water standards. Two cities comparable to our water quality levels are San Jose and San Diego. To further supplement our water supply, we began using recycled water for cooling lakes required for the city's electrical utility. This system now provides a drought-proof supply for industries, cooling towers, military bases, universities, municipal parks, golf courses and river maintenance.

Our 72-mile pipeline system took about 6 years to design & > $125M to build—but the benefits are obvious.

San Antonio is well recognized for its "River Walk". Our city welcomes over 8 million visitors a year—generating over $4 billion of economic impact. Our Recycled Water System is designed to supply 4,250 acre-feet per year, or over a billion gallons, into the San Antonio River—thus assuring a reliable source of water year round.

Conclusions/Recommendations

San Antonio has determined that we must do everything we can to conserve and reserve our existing resources. Additionally, the decision to invest in this source of supply was especially important for our community as we faced limits on our historic water supply due to pumping from the Edwards Aquifer, home to threatened and endangered species.

For this reason, San Antonio may be uniquely positioned for achieving clear federal purposes as it implements its long-range water resource programs including desalination and recycled water. These purposes include, as a minimum, ecosystem restoration and protection of endangered species.

In addition to the funds expended for the recycled water program, SAWS will invest in excess of $2.6 billion dollars over the next 50 years to diversify its water supply. This will reduce our reliance on the Edwards Aquifer, provide us with a reliable water supply for San Antonio and help maintain the habitat of federally protected species.

Other communities, which are not faced with endangered species issues, are looking into desalination and are using recycled water as a way to ensure that key industries and business interests are provided a secure source of water even during drought.

Especially during these times of economic uncertainty, ensuring reliable water is critically important to protect our local, state and federal economies; and to protect jobs. As new systems are developed and put on line it should be expected that additional regulation would be forthcoming to protect the environment and public health.

Just as local users are helping to achieve federal purposes, the federal government can assist communities further the use of desalination and recycled water by:

1. Providing grants or cost-share funds for desalination demonstration projects, water quality and the treatment needed for use of recycled water in certain applications (e.g. concrete for highway construction, industrial uses such as micro-chip or other specialty manufacturing, etc.);
2. Provide research assistance for studies related to beneficial uses for brine.
3. Provide assistance and training for design, construction and operation of recycled water systems;
4. Create incentives for the reuse of water from wastewater treatment plants rather than discharging it into streams (supports Clean Water Act goals);
5. Require the use of recycled water, for non-potable purposes, at federal installations, federal office buildings, for projects funded with federal funds, and by contractors when such supply is available; and
6. Fund such uses from the federal budget rather than shifting those costs to the local communities.

These are just a few ideas of policies and programs that could be developed to encourage the development of desalination and recycled water facilities throughout the nation.

Such use of our precious natural resources is an important component of managing the needs of a growing population, protecting the environment and keeping our nation's economy vibrant.

Again, Mr. Chairman, it is an honor to participate in this process. The WateReuse Association and its members—including the San Antonio Water System—look forward to supporting you and other members of the Subcommittee to develop a meaningful policy to meet the challenges of delivering safe and reliable water supplies to municipalities, industries, agriculture, and environment. Thank you for the opportunity to appear before you today, I would be pleased to answer any question you may have.

Mr. CALVERT. Thank you for your statement, General. Mr. Rodriguez would like to say a few things.

Mr. RODRIGUEZ. Mr. Speaker—Mr. Chairman, thank you for allowing me to just say a few words. I would just like to take a

moment to recognize General Habiger because of San Antonio—he is in charge of the water system, but in addition he has been president/chief executive officer of San Antonio Water System, the general also has over 35 years of experience in national security and nuclear operations. So I wanted to mention that. And prior to joining San Antonio Water System, the General was with the U.S. Department of Energy, Director of Security and Emergency Operations, as well as his role overseas of all security functions, including safeguards and security policies and cyber security and critical infrastructure protection and foreign visits and assignments and emergency operations functions.

So we are real proud to have him there and he has done some tremendous work there. I just wanted to make sure to thank him for being here and also for taking the time, and also for taking the position, because he is also—one of the beauties of his efforts has been to diversify the water use in San Antonio, not only in terms of underground water, but also reuse as well as surface water. And we have one of the unique projects in the country and I think it is one of the largest what we call storage and retrieval, where we pump in water and then retrieve it when we need it in the hot summers. It is one of the unique projects that is recognized nationally.

And I know that he is also exploring other possibilities of—you know. So I just wanted to make sure that—he is experienced in the military, and I want to thank you for that. Thank you.

Mr. CALVERT. Well, I thank Mr. Rodriguez. I think experience in war and the military and to go into water issues have probably been good training for you.

Mr. HABIGER. It was. Thank you, sir.

Mr. CALVERT. With that, we are happy to recognize Ms. Irela Bague to testify for 5 minutes. Thank you.

STATEMENT OF IRELA BAGUE, MEMBER OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT, REPRESENTING MIAMI-DADE COUNTY, FLORIDA

Ms. BAGUE. Chairman Calvert, members of the Subcommittee, my name is Irela Bague and I am a member of the Governing Board of the South Florida Water Management District from Miami-Dade County. I appreciate the opportunity to testify today on that portion of your legislation that would authorize a new competitive grant program to fund desalination projects, among other things.

In the interest of the Committee's valuable time, I would like to submit—these are just going to be key points I am going to be addressing, and I would like to submit my written testimony.

Mr. CALVERT. Without objection, so ordered.

Ms. BAGUE. Thank you. The mission of the South Florida Water Management District is to manage and protect water resources of Central and Southern Florida by balancing and improving water quality, flood control, natural systems, and water supply. The district covers all or part of the 16 counties, stretching from the headwaters of the Kissimmee River near Orlando all the way to the Florida Keys, and coast to coast from Fort Myers to Fort Pierce. Our region encompasses the major population centers of Miami-

Dade, Broward, and Palm Beach counties, along with the unique Everglades ecosystem.

Over 6.5 million people live within the district's boundaries. And like other water resource managers throughout the U.S., we are struggling to address the long-term challenges posed by drought, increasing population, competing demands from business, agriculture, and the environment. These challenges recently led us to join together with water agencies from other states, including California and Texas, to form the United States Desalination coalition. This group is dedicated to advocating an increased Federal role in advancing desalination, both seawater and brackish water, as a viable long-term tool for meeting our Nation's water supply needs.

Most experts agree large portions of the U.S. will face a water supply crisis of potentially immense proportions as the populations continue to grow and few new resources of water are available. In places like California, Florida, Texas, New Mexico, and Georgia, urban areas are already struggling to meet increasing demands. Water conservation and the emergence of water recycling have helped stretch available supplies, but are still insufficient. In addition, in certain regions of the country, the competition for limited water resources threaten the implementation of environmental restoration programs, such as the Everglades and the California Bay-Delta ecosystems.

It is our belief that the answer in part lies with desalination of seawater and brackish surface and ground water. Consider for a moment some of the benefits of desalination. It provides a renewable supply of new water, regional security through supply redundancy, drought-proof supply, source of high-quality water, and no rights or third-party agreements are necessary.

I respectfully submit that we stand at the threshold of a new era of water supply. Once considered by many to be financially out of reach, the new economics of desalination brought on by the tremendous advances in the areas of membrane technology now make it possible. Over the past decade alone, we have reduced the cost of desalinating one acre-foot, or 326,000 gallons of seawater, from $2,000 to under $900. Throughout the U.S., there are a significant number of seawater and brackish water desalination projects under way in the planning or development stages. The most notable is the recently completed Tampa facility in my own State that will eventually produce 28 million gallons of water for the Tampa Bay region. Other projects being considered in Florida include Fort Myers, Palm Beach, Fort Lauderdale, and Volusia counties.

Whether or not these projects or others like them in California and elsewhere are built in time to address the mounting water-supply crisis is largely dependent on whether the Federal Government can commit to investing in this new infrastructure, as it has previously invested in potable water treatment, irrigation, flood control and wastewater treatment.

That is why the legislation that you have introduced, Mr. Chairman, is so important. We applaud your efforts to establish a new competitive grant program that would in part help fund desalination projects and facilities. The U.S. Desalination Coalition recognizes that this is truly a work in progress, and we look forward to working with you and other Members of Congress to develop a

comprehensive program to accelerate desalination in the United States.

To that end, I would like to add several suggestions that we think should be at the center of any new desalination program.

One, the benefits of desalination are national in scope, and a program designed to provide new Federal investment in these facilities must be made available to all 50 States.

Second, despite the tremendous advances in membrane technology that have reduced costs of desalinating water, energy costs still remain high and they are responsible for approximately 30 percent of the overall cost of desalinated water. The best way to accelerate the development of these projects is to lower the net cost to a point where it is equivalent to other supplies.

We believe that this can be best accomplished by providing energy assistance payments of approximately 62 cents per thousand gallons to entities that successfully develop desalination projects. We would recommend that these payments be limited to the initial 10 years of a project's operation. The U.S. Desalination Coalition has recommended a performance-based, competitive system to provide this form of assistance on a pilot basis to a limited number of projects, and we hope that you will consider this as you move forward.

And last, because brackish water desalination projects typically lack a large urban infrastructure and population base to repay capital construction costs, and concentrate disposal is more complicated and expensive, some form of construction grant assistance should be made available to entities developing brackish water desalination facilities.

Mr. Chairman, we appreciate your leadership in attempting to comprehensively address America's water supply crisis. We and the other members of the United States Desalination Coalition look forward to working with you and other Members of Congress to develop the new Federal initiative to spur the development of the next generation of water supply projects based on desalination.

In closing, I would like to leave you with a quote from President John F. Kennedy some 41 years ago: "If we could produce fresh water from saltwater at a low cost, that would indeed be a service to humanity and would dwarf any other scientific accomplishment." Those are strong words coming from a man who launched our Nation's voyage to the stars, and are words worth pondering as we move further into the 21st century.

Thank you so much for this opportunity to speak before you today, and I will be available to answer your questions.

[The prepared statement of Ms. Bague follows:]

Statement of Irela Bague, Governing Board Member, South Florida Water Management District

Chairman Calvert and Members of the Subcommittee, my name is Irela Bague and I am a member of the Governing Board of the South Florida Water Management District from Miami—Dade County. I very much appreciate having the opportunity to testify today on that portion of your legislation that would authorize a new competitive grant program to fund desalination projects among other things.

The mission of the South Florida Water Management District is to manage and protect the water resources of central and southern Florida by balancing and improving water quality, flood control, natural systems and water supply. The District covers all or part of 16 counties that stretch from the headwaters of the Kissimmee

River near Orlando, all the way to the Florida Keys—and coast to coast from Fort Myers to Fort Pierce. Our region encompasses the major population centers of Miami-Dade, Broward, and Palm Beach Counties, along with the unique Everglades ecosystem. Over 6.5 million people live within the boundaries of our District.

Like other water resource managers throughout the United States, we are struggling to address the long term challenges posed by drought, increasing population, and competing demands from business, agriculture, and the environment. These challenges recently led us to join together with water agencies from other States including California and Texas to form the United States Desalination Coalition, a group dedicated to advocating an increased Federal role in advancing desalination, both seawater and brackish, as a viable long term tool for meeting our Nation's water supply needs.

Most experts, including the Department of the Interior, agree that large portions of the United States are facing a water supply crisis of potentially immense portions as the population continues to grow and few new sources of water are developed. In places like California, Florida, Texas, New Mexico, and Georgia urban areas are struggling to the meet the demands of exploding populations despite the fact that water supplies have remained the same or even decreased over the last ten to fifteen years. Water conservation and the emergence of water recycling as a tool for meeting non-potable demands have stretched available supplies farther and farther. But in many cases the savings resulting from conservation and recycling don't even begin to make up for water supply losses attributable to environmental restoration programs that have forced the dedication of huge amounts of available water to environmentally sensitive areas such as the Everglades or the California Bay—Delta ecosystem.

As outlined in the Interior Department's Water 2025 white paper, policy makers increasingly have to deal with water supply crises resulting from failures of past policy makers to address competing demands of people and the environment for a finite water supply. As a result, there is a growing realization that the country cannot afford these kinds of crises. The social, economic, and environmental consequences of water supply crises are simply too severe.

It is our belief that the answer, in part, to averting future water supply crises and ensuring that clean water is available to families, farms, and businesses lies in desalinating seawater and brackish surface and groundwater and making that water available for municipal and industrial uses. Consider for a moment some of the benefits of seawater desalination:

- Renewable Supply of "New" Water Provided
- Regional Security Through Supply Redundancy
- Drought-Proof Supply
- Source of High Quality Water
- No Water Rights or Third Party Agreements Needed

So, given all of the benefits of desalination what, you may ask, is going on in the United States today? In some respects I would say that we stand at the threshold of a new era of water supply that will be characterized by the development of many new seawater and brackish groundwater desalination projects. This is due to a collision of three factors. The water supply crises I outlined, the recognized benefits of desalination that I just described, and—perhaps most importantly—the "new" economics of desalination brought on by the tremendous advances in the area of membrane technology over the past decade have reduced the cost of desalinating an acre foot of seawater from $2,000 in 1990 to under $900 today. The collision of these three factors is resulting in a rush by water utilities to plan for the development of desalination projects and facilities all across the United States.

Throughout the United States there are a significant number of seawater and brackish water desalination projects in various stages of planning and development. The most notable is the recently completed Tampa facility in my own State that will eventually produce 28 million gallons per day of new water for the Tampa Bay region. Other projects being considered in Florida include Fort Myers, Palm Beach, Fort Lauderdale, and Volusia County.

Whether or not these projects and others like them in California and elsewhere get built in time to address the mounting water supply crises is largely dependent on whether the Federal government makes a commitment to invest in this new infrastructure as it has previously in all manner of other important water related infrastructure including potable water treatment, irrigation, flood control, and wastewater treatment. That is why the legislation that you have introduced, Mr. Chairman, is potentially so important. We applaud your efforts to establish a new, competitive grant program that would in part help fund the development of desalination facilities. The U.S. Desalination Coalition recognizes that this legislation is truly a work in progress and we look forward to working with you and other Members of

Congress to develop a comprehensive program to accelerate desalination in the United States. To that end I would like to enumerate several principles that we think should be at the center of any new desalination program.

First, any program to provide financial assistance to entities developing desalination projects must be national in scope. The benefits of desalination are national in scope and any program designed to provide a new Federal investment in these facilities must be available to all 50 states.

Second, we believe that at the center of any new program to accelerate the development of seawater and brackish water desalination projects there should be a mechanism created to provide energy assistance payments to entities developing these projects over a finite period of time. Despite the tremendous advances in membrane technology that have reduced the costs of desalinating water, energy costs remain high and are responsible for approximately 30% of the overall cost of desalinated water. The best way to accelerate the development of these projects is by lowering the net cost of desalinated water to a point where it is equivalent to other supplies. We believe that this can best be accomplished by providing energy assistance payments of approximately 62 Cents per Thousand Gallons to entities that successfully develop desalination projects. We would recommend that these payments be limited to the initial ten years of a project's operation. The U.S. Desalination Coalition has recommended a performance based, competitive system to provide this form of assistance on a pilot basis to a limited number of projects and we hope that you will consider this approach going forward.

Third, because brackish water desalination projects typically lack a large urban population base with which to repay capital construction costs and the issue of concentrate disposal is more complicated and expensive, some form of construction grant assistance should be available to entities developing brackish water desalination facilities. Likewise, we do not believe that this form of assistance is necessary to encourage the development of seawater desalination facilities. The energy assistance payments previously described should be sufficient to encourage the rapid development of these facilities.

Mr. Chairman, we appreciate your leadership in attempting to comprehensively address America's water supply crisis. We and the other members of the United States Desalination Coalition look forward to working with you and other Members of Congress to develop a new Federal initiative based upon the foregoing principles to address some of these problems and to spur the development of a new generation of water supply projects based on desalination.

In closing I would like to leave you with a quote from President John F. Kennedy some 41 years ago:

"If we could produce fresh water from salt water at a low cost, that would indeed be a service to humanity, and would dwarf any other scientific accomplishment."

Those are strong words coming from the man who launched our Nation's voyage to the stars and they are words worth pondering as we move further into the 21st Century.

Thank you again for inviting me to testify today. I would be happy to answer any questions that you may have.

Mr. CALVERT. Thank the gentlelady.

Next, I will recognize Mr. Eduardo Campirano to testify for 5 minutes, from Brownsville, Texas. You are recognized.

STATEMENT OF EDUARDO A. CAMPIRANO, ASSISTANT GENERAL MANAGER AND COO, BROWNSVILLE PUBLIC UTILITIES BOARD, TEXAS

Mr. CAMPIRANO. Good afternoon, Chairman Calvert and members of the Committee. Thank you for the opportunity to testify before you today. My comments have been submitted to the Committee.

My name is Eduardo Campirano, and I am the assistant general manager and chief operating officer for the Brownsville Public Utilities Board in Brownsville, Texas.

The Brownsville Public Utilities Board is a municipally owned utility company providing electric, water, and wastewater services to the citizens of Brownsville, Texas, and the surrounding area.

Brownsville is located on the southern tip of Texas along the U.S.-Mexico border and is currently one of the fastest growing metropolitan statistical areas in the United States. The Brownsville MSA experienced a 30 percent population growth from 1990 to 2000 with a fairly young population, where the medium age is 29 years of age.

The area has experienced significant growth on both sides of the U.S.-Mexico border, and Brownsville in particular is experiencing unprecedented growth. This growth poses significant challenges to the Brownsville Public Utilities Board. With the increased issuance of building permits and the increased demand placed on the utility systems, there's a tremendous demand for infrastructure improvements and additional water supply.

Brownsville and other communities in the lower Rio Grande Valley have been working together with the State of Texas and the Mexican State of Tamaulipas to solve our need to ensure our long-term water supply. This is the top environmental and quality of life issue for our entire region. The Brownsville Public Utilities Board has developed a water supply plan that projects a demand and supply of water for the City of Brownsville for the period of 2000 to 2050. At the current rate, water demand will deplete supply by the year 2010. However, we have not been idle in planning for our future water needs. The water supply plan incorporates various elements, including water conservation, increased surface water capacity, groundwater treatment and development, water reclamation, and desalination. However, employing these strategies is dependent on implementing legislative and funding initiatives.

Several years ago, the Brownsville Public Utilities Board began planning the construction of the Brownsville Weir and Reservoir Project between the U.S. and Mexico on the Rio Grande River. This concrete gated Weir structure will create a riverine impoundment of water within the banks of the Rio Grande River located approximately four miles southeast of the City of Brownsville. The project can store up to 6,000 acre-feet of water consisting of flood spills and releases from the Falcon Reservoir, excess and unused releases from the Falcon Reservoir, flood flows below the Falcon Reservoir, and Mexican water flow releases with Mexico's permission.

The Brownsville Public Utilities Board is in the final stages of securing the Federal approval under the Section 404 permit of the U.S. Corps of Engineers. The project cost is estimated to be $40 million, and significant funds have been spent to get the project through the State and Federal permitting process. As you well know, gaining the support of interest groups and guiding the project through permitting can be a very challenging task. While it has been frustrating to move the project through the maze of Federal and State reviews, we are near our goal.

I am here today to testify about the importance of the Federal and local support to plan, design, and construct wastewater reclamation and desalination facilities. We know from our involvement in various associations and through professional contacts with others involved that Federal Title XVI programs and desalination funding have helped Western water utilities make the best use of their available water resources. The Brownsville PUB has received some planning assistance from the Bureau of Reclamation

over the past 2 years to plan a wastewater reclamation project. We have also asked Congressman Solomon P. Ortiz to introduce some legislation to authorize the Brownsville PUB to seek Federal funds to match our 75 percent local share. We are currently exploring the potential for using reclaimed wastewater for an industrial project, and this type of funding partnership is an excellent arrangement for both parties.

In addition to wastewater reclamation, the Brownsville Public Utilities Board is very interested in Federal desalination efforts. As I stated in my earlier remarks, we believe desalination is another viable option for meeting our water supply needs. Brownsville has substantial impaired groundwater, and our location provides strategic access to seawater, both of which are essential for our future water supply. We have two projects under way that utilize these water supply strategies.

We are in the process of constructing a regional brackish groundwater desalination facility. This project provides for the deployment of a water supply source that is independent of the Rio Grande River, is not subject to water right purchases. The project does not have the prohibitive environmental, capital, or operating costs of a seawater desalination facility, while at the same time developing a water supply that is drought-tolerant and provides for improved water supply. Phase I of the project will produce 7.5 million gallons of water per day, with Phase II expected to double production of this high-quality water. We believe that Phase II will create the greatest opportunity to secure Federal participation in this project.

In April of this year, the Government of Texas tasked the Texas Water Development Board with developing a recommendation for a large-scale demonstration seawater desalination project. This initiative resolves to add large-scale seawater desalination to a mix of water supply sources to meet the long-term water supply needs of various regions of the State, as well as applying technologies that can be feasibly implemented in Texas. Brownsville is one of three proposed projects. Again, we believe this is a project with great opportunity for Federal participation.

Before I close I would like to commend this Subcommittee for holding the hearing and providing the Brownsville Public Utilities Board an opportunity to present testimony on these issues. I did not present, nor do I have a strong position regarding, the method for Federal funding for reclamation or desalination projects. I know that many projects are earmarked in the appropriations process, and that process typically favors certain projects. The Brownsville PUB believes that it could successfully compete in the competitive grant approach. However, the difficulty with the competitive grant approach is the amount of funding that is made available to a particular program.

Again, thank you for the opportunity to appear before this hearing. I commend you and the Committee members for your efforts and would be happy to answer any quest that you may have. Thank you.

[The prepared statement of Mr. Campirano follows:]

Statement of Eduardo A. Campirano, Assistant General Manager & COO, Brownsville Public Utilities Board, Brownsville, Texas

Good afternoon Chairman Calvert and Members of the Committee. Thank you for the opportunity to testify before you today. My name is Eduardo A. Campirano and I the Assistant General Manager and Chief Operating Officer of the Brownsville Public Utilities Board in Brownsville, Texas.

The Brownsville Public Utilities Board is a municipally owned utility company providing electric, water and wastewater services to the citizens of Brownsville, Texas and the surrounding area. Brownsville is located on the southern tip of Texas along the US/Mexico border, and is currently one of the fastest growing metropolitan statistical areas (MSA) in the United States. The Brownsville MSA experienced a 30 % population growth from 1990—2000 with a fairly young population, where the median age is 29. The area has experienced significant growth on both sides of the US/Mexico border and Brownsville in particular is experiencing unprecedented growth.

This growth poses significant challenges to the Brownsville Public Utilities Board. With the increased issuance of building permits and the increased demand placed on the utility systems, there is a tremendous demand for infrastructure improvements and additional water supply. Brownsville and other communities in the Lower Rio Grande Valley have been working together with the State of Texas and the Mexican State of Tamaulipas to solve our need to ensure our long-term water supply. This is the top environmental and quality of life issue for the entire region.

The Brownsville Public Utilities Board has developed a water supply plan that projects the demand and supply of water for the City of Brownsville for the period of 2000—2050. At the current rate, water demand will deplete supply by the year 2010. However, we have not been idle in planning for our future water needs. The water supply plan incorporates various elements including water conservation, increased surface water capacity, groundwater treatment and development, water reclamation and desalination. However, employing these strategies is dependent on implementation of legislative and funding recommendations.

Several years ago, the Brownsville Public Utilities Board began planning the construction of the Brownsville Weir and Reservoir Project between the U.S. and Mexico on the Rio Grande River. The concrete/gated weir structure will create riverine impoundment of water within the banks of the Rio Grande River located approximately four (4) miles southeast of the City of Brownsville. The project can store up to 6,000 acre feet of water consisting of flood spills and releases from Falcon Reservoir, excess and unused releases from Falcon Reservoir, flood flows below Falcon Reservoir and Mexican water flow with Mexico's permission. The Brownsville Public Utilities Board is in the final stages of securing federal approval under the Section 404 permit of the U.S. Army Corps of Engineers. The project cost is estimated to be $40 million and significant funds have been spent to date to get the project through state and federal permit processes. As you very well know, gaining the support of interest groups and guiding the project through permitting can be a very challenging task. It has been very frustrating to move the project through the maze of federal and state reviews, but we are near our goal.

I am here today to testify about the importance of a federal and local partnership to plan, design and construct wastewater reclamation and desalination facilities. We know from our involvement in various associations and through professional contacts that the federal Title XVI Program and desalination funding have helped western water utilities make the best use of their available water resources. The Brownsville Public Utilities Board has received some planning assistance from the Bureau of Reclamation over the past two (2) years to plan a wastewater reclamation project. We have also asked Congressman Solomon P. Ortiz to introduce some legislation to authorize the Brownsville Public Utilities Board to seek federal funds to match our 75% local share. We are currently exploring the potential for using reclaimed wastewater for an industrial prospect and this type of funding partnership is an excellent arrangement for both parties.

In addition to wastewater reclamation, the Brownsville Public Utilities Board is very interested in federal desalination efforts. As I stated earlier in my remarks, we believe desalination is another viable option for meeting our water supply needs. Brownsville has substantial impaired groundwater and our location provides strategic access to seawater, both of which are essential to our future water supply strategies. We have two (2) projects underway that utilize these water supply strategies.

We are in the process of constructing a regional brackish groundwater desalination facility. This project provides for the deployment of a water supply that is a source of water independent of the Rio Grande River, and is not subject to water

rights purchases. This project does not have the prohibitive environmental, capital and operating costs of a seawater desalination facility while at the same time developing a water supply that is drought tolerant and provides for an improved water supply. Phase I of the project will produce 7.5 million gallons of water per day, with Phase II expected to double production of high quality water. We believe that Phase II will create the greatest opportunity to secure federal participation in this project.

In April of this year, the Governor of Texas tasked the Texas Water Development Board with developing a recommendation for a large-scale demonstration seawater desalination project. This initiative resolves to add large-scale seawater desalination to the mix of water supply sources to meet the long-term water supply needs of various regions of the state, as well as applying technologies that can be feasibly implemented in Texas. Brownsville is one of three proposed projects. Again, we believe this provides a great opportunity for federal participation.

I understand that there is significant interest in Title XVI, desalination research and project construction. I know that over the past ten (10) years, the Federal government has funded wastewater reclamation projects. While it might appear that a substantial amount of federal funds have been invested in reclamation projects, it pales in comparison to the water supply needs being experienced throughout various regions of the United States. As you are aware from your recent hearings, there is a very critical need to develop water supplies in growing areas of the country and in regions experiencing severe drought conditions. The Congress and the Administration should expand the funding for programs such as the Title XVI program and desalination efforts.

Before closing, I would like to commend this Subcommittee for holding this hearing and providing the Brownsville Public Utilities Board an opportunity to present testimony on these issues. I did not present, nor do I have, a strong position regarding the method for federal funding for reclamation or desalination projects. I know that many projects are earmarked in the appropriations process, and that process favors certain projects. The Brownsville Public Utilities Board believes that it could successfully compete in competitive grant approach. However, the difficulty with a competitive grant approach is the amount of funding that is made available to a particular program.

This concludes my testimony. Thank you again for the opportunity to appear at this hearing. I commend you for your efforts and I would be happy to answer any questions you may have.

Mr. CALVERT. I thank the gentleman.

Recognize Mr. Robert Neufeld from our part of the country, Cucamonga County Water District.

STATEMENT OF ROBERT NEUFELD, MEMBER, BOARD OF DIRECTORS, CUCAMONGA COUNTY WATER DISTRICT, CALIFORNIA.

Mr. NEUFELD. Thank you, Mr. Chairman, Ranking Member Napolitano, members of the Subcommittee. My name is Robert Neufeld. I currently serve as the Chairman of the Board of Directors of the Cucamonga County Water District in Rancho Cucamonga, California. I respectfully request that my written comments submitted be admitted for the record.

Mr. CALVERT. Without objection, so ordered.

Mr. NEUFELD. The Cucamonga County Water District is a retail water agency located in the western portion of San Bernardino County within the Santa Ana River watershed, and provides water and wastewater services to more than 150,000 people. Our agency imports about 50 percent of its water supply through the Inland Empire Utilities Agency and the Metropolitan Water District. But 40 percent of our water supply comes from local groundwater and locally developed water sources, including an additional 10 percent that come from local mountain sources.

Our service area overlies the upper portion of one of the largest groundwater basins in Southern California, the Chino Basin. This

is an adjudicated basin under the direction of the Superior Court of the State of California and governed by the Chino Basin Watermaster Board of Directors.

I was very fortunate to represent the Cucamonga County Water District on the Watermaster Board of Directors as chair for two and a half years, and we worked very diligently with members of this Committee and with members of the State large group to come up with monies to do water recycling and water reuse projects in that area. Additionally, I currently serve as a public member of the Water Quality Subcommittee for CALFED that addresses water quality issues in the context of the Bay-Delta program.

Today I will be testifying on water quality challenges resulting from the existence of perchlorate within our greater region.

Throughout the Santa Ana watershed, approximately 30 water wells are currently shut down or out of production due to contamination from perchlorate or other volatile organic compounds. That is out of a total of a little over 300 wells that currently are at risk from perchlorate contamination.

Within the Chino Basin, 39 wells of the 106 in that immediate Chino Basin area, according to the Chino Basin Watermaster, have detectable levels of perchlorate and more than one in three exceed the current State of California action-level standards for perchlorate.

Estimates for remediation experienced by one of our neighboring water districts are in the range of $1-3 million per well, per wellhead treatment, to clean up the perchlorate. Projected across the entire Santa Ana watershed, the cost to maintain existing well production could range from $300 million to almost $1 billion. Such an investment would not produce a single drop of new water. It would merely return to production that which we have already lost.

Perchlorate and VOCs are found in underground plumes traveling from various areas within our Basin through—basically as a result of various department of Defense activities dating back to the beginning of the Second World War.

Our ratepayers at the local water agencies throughout the region are functionally being asked to underwrite the cost of cleanup in 2003 for actions, activities, and programs conceived in the early 1940's. This is wrong. This is unreasonable. This is unacceptable.

These water quality challenges impose restrictions, limitations, and outright reductions of available water to serve the citizens throughout our region. Our agency, the Inland Empire Utilities Agency, the Santa Ana Watershed Project Authority (SAWPA, which is familiar to many of you), the Metropolitan Water District, and many of our neighboring agencies have developed a strategy to address the problems and challenges. First, with regard to water quality, we have identified and are looking to remediate these water quality challenges. Second, with regard to water supplied, we are developing plans, programs, and projects to expand our local water supplies by reclaiming these lost sources.

On Friday, July 11, 2003, my agency, the Cucamonga County Water District, hosted a regional meeting with our California State Senator, Nell Soto, representatives of other local water agencies, and J.P. Woodley, the assistant under secretary of defense for the environment with the Department of Defense, and other Federal

officials to discuss perchlorate in our region and, most importantly, what could be done working together to clean up our contaminated waters. As a result of that meeting, a historic memorandum of understanding was executed between myself, two other water agencies, State Senator Nell Soto, and the Department of Defense, resulting in a memorandum of understanding to work together with DOD to address the perchlorate problems within the State.

The agencies which signed the MOU are prepared to provide land, access to wells, water, staff time, and other resources to make sure that these projects are successful.

If DOD, EPA, and other Federal and State agencies would work with us to clean up the perchlorate, the VOCs, and other impaired waters, then investments in water quality would certainly assist our efforts to expand our water supplies.

These are positive developments. For our part, we pledge our cooperation and assistance and full participation.

I know there are many other things that need to be said, but in deference to the time limits I will cut my remarks short.

There is one thing that I do want to make sure gets included in the record today. In April of 2001, the Bureau of Reclamation completed work on a multi-year feasibility study entitled, "The Southern California Comprehensive Water Recycling and Reuse Study." It concluded that 34 water recycling projects in Southern California could produce an additional 450,000 acre-feet of new water by 2010. The Inland Empire projects slated as part of that program would produce most of that through recycled water. The Department of the Interior has not submitted this report to Congress, as required by Section 1606(b) of Public Law 102-575 and notwithstanding repeated requests by the Resources Committee and this Subcommittee for that information. Our agency has completed a feasibility study and we are working very hard to move forward with this.

Mr. Calvert, we are prepared to support your bill. We are looking forward to reviewing your proposal, evaluate it, and report back to you after Labor Day.

Finally, Mr. Chairman, thank you, Ranking Member Napolitano, and the Subcommittee for your leadership and the opportunity to testify before you today.

[The prepared statement of Mr. Neufeld follows:]

Statement of Robert Neufeld, Member, Board of Directors, Cucamonga County Water District, Rancho Cucamonga, California, on H.R. 2828

Introduction.

Chairman Calvert, Ranking Member Napolitano and Members of the Subcommittee. I am Robert Neufeld. Presently, I serve as Chair, Board of Directors, Cucamonga County Water District based in Rancho Cucamonga, California (San Bernardino County).

Cucamonga County Water District is a retail water agency, located in the western portion of San Bernardino County within the Santa Ana River watershed, and provides water and waste water services to more than 150,000 people. Our agency receives approximately 50% of its water supply from the Inland Empire Utilities Agency, a member agency of the Metropolitan Water District of Southern California (MWD). Approximately 40% of our locally developed water supply comes from ground water and the remaining 10% comes from local mountain sources.

Our service area overlays the upper portion of one of the largest groundwater basins—the Chino Basin—in Southern California. This is an adjudicated basin

under the direction of the Superior Court, State of California and governed by the Chino Basin Watermaster.

I represented Cucamonga County Water District on the Chino Basin Watermaster Board and served as Chair for two and a half years. Additionally, I currently serve as a public member of the Water Quality Subcommittee for CALFED that addresses water quality issues in the context of the Bay-Delta program.

Today, the Subcommittee asked to testify on water quality challenges resulting from the existence of perchlorate within our greater region.

Perchlorate, VOCs and other Water Quality Challenges

Throughout the Santa Ana watershed, approximately 30 water wells are currently shut down or out of production due to contamination from perchlorate or other Volatile Organic Compounds (VOCs). Today, some 300 wells are at risk because of perchlorate.

In the Chino Basin, 39 of the 106 wells, according to the Chino Basin Watermaster, have detectable levels of perchlorate. More than one in three exceed the current State of California "action levels" for perchlorate.

Estimates for remediation, experienced by one of our neighboring water districts, are $1—$3 million per well. Projected across the Santa Ana watershed, the costs to maintain existing well production could range from $300 million to almost $1 billion. Such an investment would not produce a single drop of new water. It would merely protect what's already in production.

Perchlorate and VOCs (such as those found in an underground plume traveling from the Chino Airport) are in our Basin and throughout our region as a result of various Defense Department activities dating back to the beginning of the second World War.

The ratepayers of our water agencies, throughout our region, are functionally being asked to underwrite the cost of cleanup in 2003 for actions, activities and programs conceived in the early 1940s and thereafter. This is wrong. This is unreasonable. This is unacceptable.

These water quality challenges impose restrictions limitations and outright reductions of available water to serve the citizens throughout our region.

Our agency, Inland Empire Utilities Agency, the Santa Ana Watershed Project Authority (SAWAPA), MWD and many of our neighboring districts have developed a strategy to address these problems and challenges. First, with regard to water quality—identify and remediate water quality challenges. Second, with regard water supplied, develop plans, programs and projects to expand our local water supplies.

Perchlorate and DOD: New Opportunity To Address Chronic Water Quality Issue

On Friday, July 11, 2003, Cucamonga County Water District hosted a regional meeting with our California State Senator, Nell Soto, representatives of other local water agencies, and J.P. Woodley, Assistant Under Secretary of Defense, Environment (DOD) and other Federal officials to discuss perchlorate in our region—and most importantly, what could be done, working together, to clean up our contaminated waters. As a result, a Memorandum of Understanding was executed.

We have agreed to work with DOD to find cleanup solutions and, most significantly, DOD has agreed to work with us. Together, we will evaluate new technologies and new "on-the-ground" solutions. This is positive. It is a first step. We are optimistic that this process will enable us—over time—to reclaim lost water production, and arrest the spread of perchlorate in the watershed.

The agencies which signed the MOU are prepared to provide land, access to wells, water supplies, staff time and other resources to this new endeavor.

If DOD, EPA and other Federal and State agencies work with us to cleanup perchlorate, VOCs and other impaired waters, then investments in water quality assist our efforts to expand our water supplies.

These are positive developments. For our part, we pledge our cooperation, assistance and full participation.

Expanding Our Water Supplies: Drought-Proofing the Region

The Santa Ana Watershed is one of the fastest urbanizing watershed in the Nation. As a result, demand for water is increasing in our District, Basin and Watershed. Severe drought visited us in the past 24 months. Imported supplies to California from the Colorado River have been reduced by the Department of the Interior. Perchlorate threatens some 300 wells supplying drinking water to millions of people. And, the list goes on.

We do not expect to receive more water from the State Water Project, and may well get less than we thought we would.

We certainly will not get more water from the Colorado River, and may well get less.

We can, nevertheless, expand our local water supplies.

At the heart of our strategy—develop local supplies to "drought-proof" our water district, the Chino Basin and Santa Ana Watershed.

This can be accomplished through water recycling, groundwater storage in the Chino Basin and in Orange County and construction and operation of desalination plants, conservation and other similar projects.

How would this be accomplished?

Some of the initiatives include:

In April 2001, the Bureau of Reclamation completed work on a multi-year Feasibility Study (Southern California Comprehensive Water Recycling and Reuse Study). It concluded that 34 water recycling projects in Southern California could produce some 450,000af of new water by 2010. The Inland Empire projects are slated to produce the most new recycled water. The Department of the Interior has not submitted this report to Congress as required by Section 1606 (b) of Public Law 102-575 and notwithstanding repeated requests by the Resources Committee—and this Subcommittee.

Our agency has completed a feasibility study for another new water recycling project. We will produce, before the end of the decade, more than 5,000af new recycled supplies. Customers have been identified and support for this initiative is very high.

The Chino Basin Groundwater project, dedicated a few months ago and now under construction, will have the capacity to store 500,000af of water. Orange County Water District, also in our watershed, is constructing a similar project to store an additional 500,000af. Together, these two projects will store 1 million acre feet of water in two groundwater basins.

Local projects are the backbone of our water quality challenges. Local projects are also the means building water supply capacity and drought-proofing our region.

The Calvert Bill

The Calvert bill proposes a new office be established at the Department of the Interior to develop local water recycling, desalination, conjunctive use, groundwater storage and conservation projects throughout the Nation. We support this new initiative because it would commit the Federal government to provide assistance to communities who are trying to bring new water supplies online using innovative technologies.

Mr. Chairman, you have asked that we—and all others—review your new proposal, evaluate it and report back to you after Labor Day. We will do that. We believe that this proposal is an excellent start.

Finally Mr. Chairman, we thank you, Ranking Member Napolitano and all the Subcommittee Members for your leadership.

Mr. CALVERT. Well, I hope before Labor Day you will be able to take a look at that legislation and get that letter in.

Mr. NEUFELD. Absolutely.

Mr. CALVERT. We need your support, Mr. Neufeld. Thank you for your testimony.

One thing in your testimony, Mr. Campirano, you mentioned what would be very helpful to you would be some way of coordinating or to improve a way to move these projects through the various maze of agencies that you all have to work with in order to get approval. This is in the legislation. Do you think that would be helpful to you?

Mr. CAMPIRANO. Yes, sir, it would be very helpful.

Mr. CALVERT. Good. And certainly in the coastal States, obviously desalination is a growing curiosity, and I think beyond a curiosity, to many areas that are putting in desalination facilities beyond just pilot programs. And Ms. Bague, in your testimony you mentioned that the price of desalinated water has gone down from approximately $2,000 an acre-foot now to less than $900 an acre-foot.

Ms. BAGUE. Yes, sir.

Mr. CALVERT. That is certainly one heck of an improvement. What kind of advances do you see in the future as far as desalination and the cost of desalination?

Ms. BAGUE. Well, as far as my State is concerned and the district that I represent, I believe that any desalination projects implemented in my 16-county region would most definitely improve and alleviate the current demands that the Everglades Restoration Program is undergoing. As I mentioned in my testimony, we have competing demands from the urban areas that are continuing to grow and business and agriculture, and they are all competing with the natural system which we are mandated to protect.

Mr. CALVERT. Right. Thank you.

And certainly in—I am going to be back in Texas, by the way. I am going to be there, I believe, in the first part or latter part of September. I think they are trying to set right now, I believe, for a hearing, again, on the Rio Grande, which has its difficulties, and we are trying to address those issues and we are going to try to address that in this legislation, to allow for these projects to move forward. And I know that in San Antonio you have done some great work on reclamation generally, and you and your community are to be congratulated. And you have looked at this legislation and you think it would be helpful?

Mr. HABIGER. Very helpful, sir. While some may criticize another, perhaps, layer of the bureaucracy regarding a central agency, from my observation we have nothing today, and this would be far better than what we have today. And I support it very strongly.

Mr. CALVERT. And, you know, obviously many of us don't like additional government, but in this case we believe that a coordinator would help target resources, and coordinate various Governmental agencies. As you know, we have a number of agencies in this town that are involved in water outside of just Interior, by the way—Department of Defense, EPA, et cetera, et cetera. And so we are hopeful that this will be helpful.

And certainly your suggestions on how to make this work better we accept from all of you.

With that, I recognize Mrs. Napolitano for her questions.

Mr. NAPOLITANO. Thank you, Mr. Chairman. Mr. Neufeld, I had to laugh a little bit when you were making a comment about the report for the Southern California Comprehensive Water Recycling Reuse Study, which this Committee has been asking for a long time, for years. Ten years, maybe? And we still have not received it. We have seen what we think are copies of the draft. But if you have any better luck than us, I wish you all the best.

It is unfortunate that—one of the things that I did ask was whether or not that report was forthcoming, and the answer to me was that they were working on tweaking it and revising it. I said, well, whether they are tweaking it and revising it, the report was done, has been completed, and now there is a new direction that is being taken which we all have no idea where it is at other than—we look at the 2025 Water Plan that does not include things that are totally helpful to many States' ability to be able to handle their water issues, whether it is the shortages, the water cycle—drought water cycle, many things. And unfortunately, I don't know where the agencies are getting their information or who is advising

them, but they certainly are not talking to the communities that are facing these harsh issues.

So, thank you for being here, thank you for responding and coming at such short notice.

Mr. NEUFELD. My pleasure.

Mr. NAPOLITANO. Mr. Campirano, you indicated there were three that the Government of Texas had approved. Assumably one is Brownsville, and the other two are where?

Mr. CAMPIRANO. Corpus Christi area and the Freeport area. All three on the Texas coast.

Mr. NAPOLITANO. OK, I am glad to hear that. There was another one, I believe, in Fort Bliss, that the Government installation was working with the local water folks with no help from the Bureau and others, and I was just wondering if that was one that finally got on the books with them.

Mr. CAMPIRANO. Not to my knowledge.

Mr. NAPOLITANO. Thank you, sir.

To all the witnesses, what type of Federal assistance would be most useful to you as municipal water managers? Would it be the grants, the loans, demonstration projects, or research? What do you think is more vital to what you do to be able to deliver to your constituency?

Mr. NEUFELD. Mrs. Napolitano, I believe that all of the above would certainly be beneficial, but the main thing that would be extremely beneficial is the spirit of cooperation that I believe would come with this particular bill. As I said in my comments, the memorandum of understanding that we signed with Mr. Woodley from the Department of Defense is the first of its kind. And basically it is not an admission of liability on the part of any Governmental agency. It is basically saying we realize that there is a problem, and we have got to put aside the past differences and find ways to resolve these particular problems. The memorandum of understanding basically says that we commit to work together, is all it does, and that we are hoping that through that, through the bill and through the other agencies with some of the monies that they may have through their R&D budgets or whatever, that we will find the way to solve these problems. And we believe that those are readily available.

Mr. NAPOLITANO. Thank you.

Mr. HABIGER. I would submit that while additional funding sources would be helpful, I think the policy that you are putting forward in this legislation is even more important. And let's get back to the coordinating agency. Water—and I am preaching to the choir—is going to be a growing problem and difficulty over time. And to put the infrastructure in place today, when we really need it five, 10 years from now so it will have a growing-in period, I think is the vital part of this legislation.

Ms. BAGUE. And I would agree with my colleagues up here that most definitely we need a combination and a comprehensive plan, but we need your leadership and a policy in place to be able to move forward and take advantage of the new technology which I have mentioned.

Mr. CAMPIRANO. I would obviously concur with the comments of the other panelists. In our case, for example, if we were to deploy

a project today, we have an end user for reclaim projects and, obviously, part of our problem has been the infrastructure development. So, you know, assistance of any form that would help us expedite that could deploy reclamation projects very rapidly. But part of the coordination with the reclamation offices, in our case, also the State agencies, would be something that would facilitate a very serious look at the future deployment of all reclamation projects, certainly in our area.

Mr. NAPOLITANO. Thank you, panel. Thank you, Mr. Chairman.

Mr. CALVERT. Thank the gentlelady. Mr. Nunes?

Mr. NUNES. Thank you, Mr. Chairman.

Ms. Bague, you work with desalination plants down in Florida?

Ms. BAGUE. I don't. I represent the Governor on the South Florida Water Management District Governing Board.

Mr. NUNES. My question is really about desalination, because obviously the whole state of California borders the Pacific Ocean. So I was trying to get a feel from maybe yourself or the rest of the panel, could you give me some examples of some of the more successful desalination programs in the United States, if any of you know that?

Ms. BAGUE. Well, we just completed a facility in Tampa Bay, and I noted that in my testimony. Basically we will be delivering about 28 million gallons per day to that Tampa Bay area.

Mr. NUNES. And what percentage of the water use is that for the Tampa region? Do you know?

Ms. BAGUE. I don't know right offhand. We can get that information to the Committee.

Mr. NUNES. OK. That would be helpful for me.

Ms. BAGUE. Absolutely, and we—like I said, this is a work in progress and there are things that we, the U.S. Desalination Coalition—and I am a member of that—would be able to work with the Subcommittee members in providing additional information and details on other plants and successes in desalination in other areas as well.

Mr. NUNES. OK, thank you.

Mr. Neufeld, you can comment on that question, but do you think that this desalination process is going to be the answer for our water issue and crisis that we face in California? If so, when do you think it would take place?

Mr. NEUFELD. Let me answer the second question first. And I would like to address the first item.

I don't believe it is the answer. It is certainly part of the overall solution. There are far too many areas that we have to deal with to supply water to the various agencies within California. But I can say for a fact that we have had a great deal of success within our watershed area with a brackish water desalination project. That facility is currently up and running. It is producing in excess of 5 million gallons a day of potable water reclaimed from the dairy legacy that we had in the southern part of our groundwater basin. We have plans to expand that to a point where its ultimate, our ultimate build-out there, will have 17.5 million gallons a day of freshwater production from brackish water desalination. We are using micro-filtration. And I think the real key to success there is the combined effort of producing methane gas through digesters from

the dairies, to produce the motive force for driving and powering the desalters there. So we are not impacting the electrical system there.

But those types of approaches, looking at various aspects of it, we will deal with groundwater storage, desalination, imported water supplies, stormwater runoff recapture, recycle-reuse are all part of the answer to the water problem in California.

Mr. NUNES. If your District was to get up to the 17.5 million gallons, what is that as a percentage of your need?

Mr. NEUFELD. It is not a tremendous large percentage of the need. I don't know the exact number. Because it is such a rapidly growing area, I mean, our demands increase every day. But it is also, addressing the issue of what do you do when you have brackish water that is high in nitrates, and you use this particular process to clean that up. So we are helping to clean up the environment at the same time that we are producing potable water.

The particular area that we are looking at is in one of the fastest growing areas in Southern California. It happens to be within the dairy preserve of the Chino Basin area there—I think you are familiar with that. And in the future there, we are going to look at continued growth in that area, so we are going to have to produce additional new water supplies. We realize we are not going to get additional waters from the Colorado River, and obviously there is not an unlimited source of water from the northern part of the State.

Mr. CALVERT. Mr. Neufeld, just for the record on Mr. Nunes's question, how much an acre-foot on brackish water on those Chino desalters is that coming in at?

Mr. NEUFELD. It is about $500 an acre-foot, but it is very heavily subsidized. I mean, that is—we get incentives from the Metropolitan Water District subsidized by the local agencies. The local agencies in our area have made a very, very strong commitment, as you know, Mr. Chairman, to participate in this particular process. So we are not, you know, looking for a handout from the Federal Government, we are looking for assistance.

Mr. NUNES. What would it be without the subsidies?

Mr. NEUFELD. I think it would probably be in that same range. We know that it is down below $1,000 an acre-foot now in that particular area, and we are hoping that, as the technologies improve, those costs will go down very significantly. I was quite encouraged to hear what is going on in Florida.

Mr. CALVERT. Just out of curiosity, the issue Mr. Nunes is talking about is not—just for the record—is not just salts that you are dealing with.

Mr. NEUFELD. That is true.

Mr. CALVERT. And that brings to the additional cost.

Mr. NEUFELD. That is true. That is correct.

Mr. NUNES. Thank you. Thank you, Mr. Chairman.

Mr. CALVERT. Thank you. Mr. Rodriguez.

Mr. RODRIGUEZ. Thank you, Mr. Chairman. Let me also thank you for deciding to come to South Texas and the border there, because I know we had a series of issues with water and international agreements there that we have, and the water that is sold to us from Mexico as well as to Tamaulipas on the other side. I

wanted to thank you for that, and look forward to working with you when you do that. My District goes all the way down. I have in fact Falcon Dam is in my area, and of course, you know, they are having a rough time with the quality of the water and the quantity of the water. And so the border there, things are only going to get worse with time. So we are really—you know, what you are trying to do here is extremely helpful and allows an opportunity for us to begin to look at how we can maximize some of those efforts.

I also just want to thank the general for coming up here and, I guess, apologize for the whole—you know, we have had a series of votes down there. I know you had to wait awhile. But General, I want to thank you, because I know San Antonio is in a way also uniquely blessed. We have one of the best—Edwards Aquifer, one of the largest, I think in the country, yet it just—its size alone also feeds a variety of rivers, from the Guadalupe River to the San Antonio River to the San Marcos River, and a whole bunch of other creeks. So those rivers flow because of the Edwards water. And so when we pump to use that water, those river flows go down and create some difficulties. And the general has been doing a great job in those areas.

I wanted him to touch base on especially an area that is unique, and that is the storage and retrieval, that maybe you might see a way of funding some of those projects because, especially in the hot areas like Texas, where we have water that now it is so difficult to store on the surface that we can store underground as a way of—you know. And I wanted to see if he could comment on some of that.

Mr. HABIGER. Yes, sir, I would be more than happy to. The San Antonio Water System began a project approximately 4 years ago for the storage of water in Carrizo in the southern part of Bexar County, which is about 35 miles south of the center of San Antonio. The idea was to take water out of the Edwards Aquifer during the plentiful periods during the fall and early spring, pump it out of the Edwards south to this area of 3,200 acres that we have, and we have drilled wells, and then pump the Edwards water into this other aquifer near Carrizo, pumping in excess of 22,000 acre-feet into the Carrizo and storing it underground.

Lots of advantages—security issues, you don't have to worry about; you don't have to worry about evaporation; our recovery rate on that water as we pump it out when we need it in the hot summer months is in excess of 99 percent. We have to treat it, because the water will pick up a little bit of iron and some other minerals, and then we will pump it back up to San Antonio in 60-inch pipes, to use it during the summer months.

This project has been recognized in a number of national magazines, engineering magazines, as state-of-the-art. And in size, it is second only to a similar project in Las Vegas.

We are excited about the project. It is on time, it is under cost, and it will be operational beginning in January of 2004—and we didn't move the first piece of dirt until August of last year. So the project is moving very, very rapidly and very well.

Mr. RODRIGUEZ. Thank you, General. And I also, I know we had a similar project that at least was looked at in Brownsville in

terms of storage and retrieval initially some years back. And the reason I was familiar with that, because we did some of the State legislation on that. And I know the Brownsville area is one on the bottom of the totem pole when it comes to the Rio Grande, and everyone gets a little bit of it before it reaches down there, Mr. Chairman, so I know Brownsville and the lower part, Cameron County, has been—I think it has about over 350,000 people or close to that, and then Hidalgo has over half a million people. Those are just on our side, not to mention the other side with Mexico, and they are all drinking the same water. And it has been difficult to provide.

And I know that from a conservation perspective, and maybe just to get San Antonio and—Eduardo—excuse me.

Mr. CAMPIRANO. Campirano.

Mr. RODRIGUEZ. Campirano, pardon. I don't have my glasses. I saw Eduardo, but I didn't see the Campirano. Pardon, Eduardo.

I wanted to mention for them to maybe talk a little bit more about conservation, because I know that in the Valley we still need—the water flows openly in the summer, and those evaporation rates are over 50 percent. So I wanted to see if we could get some comments from both the general and Eduardo Campirano.

Mr. CAMPIRANO. I can address the conservation efforts of the Brownsville Public Utilities Board as it relates to the 50-year water supply plan. We estimate that through conservation over that period of time, we will need approximately 52,000 acre-feet of water in the year 2050 to meet the projected demand. Through our conservation efforts, 12,000 acre-feet of water can be contributed toward meeting that demand. And that will come in the form of, again, replacing outdated infrastructure and going to more efficiency—not only in our operations, but also in working with the City of Brownsville—through the building development and essentially creating more efficiencies in the way individuals use water, a heavy campaign of public education.

We have seen our community respond to the drought situation with doing their part. An example of that would be in 2001, we had a peak of 33 million gallons a day usage for Brownsville in a particular given day. Through a heavy conservation effort and public education, in 2002 our peak was roughly at 23 thousand. So there was a significant reduction of water use. Of course, levying fines and being diligent from an enforcement standpoint is also a deterrent, but from our perspective conservation will be a significant part of meeting our 50-year projection for water supply.

Mr. HABIGER. Just let me say that water conservation is the cheapest form of water available today. And I tell you, folks in San Antonio should be very proud of what they have done. We have reduced per capita consumption by 32 percent in 15 years. It is cheap, it works. You have to go beyond the average residential user, you have to partner with industry. We just partnered with Frito Lay—they make potato chips and chips in San Antonio. They have come up with a scheme that is heavily committed to investment. We partner with them to help share that. We are going to have a significant reduction in their consumption. It works. I can't say enough about it.

Mr. CALVERT. I thank the gentleman. I thank the gentleman for his question.

Mr. RODRIGUEZ. Mr. Chairman, I apologize for going over the time.

Mr. CALVERT. No problem. Thank the gentleman.

Mr. Dooley, do you have any questions for this panel?

Mr. DOOLEY. I don't, Mr. Chairman.

Mr. CALVERT. Mr. Cardoza, any questions for this panel—any additional questions?

Mrs. NAPOLITANO. No additional questions, Mr. Chairman, but I would like to request that the comments from Mr. Cardoza be entered into the record.

Mr. CALVERT. Certainly. Mr. Cardoza's opening statement will be entered into the record.

[The prepared statement of Mr. Cardoza follows:]

Statement of The Honorable Dennis A. Cardoza, a Representative in Congress from the State of California

Thank you, Mr. Chairman and Ranking Member Napolitano.

I sit here cautiously optimistic with the progress we are making on CALFED and I would like to thank Mr. Calvert, once again, for the eye-opening hearings he held in California earlier this month. As you know, this is a very important issue for the central valley and I believe that, now, more than ever, we need to push forward on many of the projects and issues addressed in both of the bills we'll be hearing today.

I greatly respect Senator Feinstein's tireless commitment to this issue and she is to be applauded for her leadership. Her measure greatly advances this process and I look forward to working with her as we move forward. I also appreciate Mr. Miller's bill and his many years of effort to move these issues forward.

And I must say that I am pleased with the emphasis Mr. Calvert's bill places on the need for additional surface storage projects, as well as addressing additional conveyance. While solutions for agriculture are critically important, we must not overlook water quality issues, particularly in the south San Joaquin area of the Delta.

As I have said before, I think it is critically important that we provide new storage opportunities without further delay. For too long, these projects have been thrown to the sidelines for various reasons—some legitimate and some no more than veiled attempts to thwart any storage facility from being built, regardless of is merits.

That being said, I also believe that balance is important and we need to move forward in this debate with an honest dialogue that considers the long term implications if we fail to act.

I wholeheartedly support the bill's focus on accountability for the many agencies linked to CALFED and I am particularly pleased to see many provisions that will be of particular benefit to my district, such as:

- The bureau's water supply and water yield study;
- Funding for interties, drainage and the diversification of water supplies; and
- Evaluation and implementation of the San Luis Reservoir lowpoint project.

I am committed to working toward a solution that helps everybody's interests to be met, because if we don't, we will continue to face years of litigation instead of the workable solutions we were all sent here to develop.

Thank you.

Mr. CALVERT. I want to thank this panel for your patience and coming out to see us. And thank you for your support in advance for this legislation. We need it. Let all your local members know. Thank you.

Our next panel which is coming forward will be taking their chairs. If everybody could take their seats, we will get going here shortly.

Our next panel, with us today is Ms. Gloria Moralez, who is a Businesswoman/Farmer; Mr. Brent Walthall, Kern County Water Agency; Mr. Edward Osann, Consultant with the Natural

Resources Defense Council; Mr. Stuart Somach, Attorney with Somach, Simmons & Dunn—we can't have a water hearing without an attorney involved; and Mr. Greg Zlotnick, Director of the Santa Clara Valley Water District Board of Directors.

Thank you for coming out today. And with that, first we will recognize Ms. Gloria Moralez for your testimony. We heard your testimony up in Northern California, and it is good to see you again.

STATEMENT OF GLORIA MORALEZ, BUSINESSWOMAN/FARMER

Ms. MORALEZ. Good afternoon, Chairman, and Congresswoman Napolitano, and members of the Subcommittee. My name is Gloria Moralez. I appreciate the opportunity to again testify before your Subcommittee as I did a few weeks ago in Tulare, California.

I am a former farmworker and farmer. I am a businesswoman in Fresno, California. I am a member of the State of California Reclamation Board, and I am very familiar with the issue at hand. I know what life is like in the San Joaquin Valley, and water is one of the most critical needs. Our valley is the world's greatest garden, and Fresno County alone produces some 250 different crops. In simple terms, we feed the Nation and the world.

However, things would be quite different if one of our greatest generations of leaders had not had the vision to take the steps to develop the desert of the San Joaquin Valley into an oasis of farmland throughout Central California's Central Valley Project.

Today, ladies and gentlemen, the need has arisen again to be farsighted and visionary. I was a farmer for 20 years. I understand what we need to grow, harvest, and market California's crops. As a businesswoman for three decades, I understand the importance of the agricultural economy to my customers. I have a ground-level knowledge of how agriculture works and what it means to the farmworkers who make our agricultural economy function.

Let me speak a moment about the farmworkers, because frankly these hardworking people are all too often forgotten when water and other farm-related issues are debated. According to the Migrant and Seasonal Farmworker Enumeration Profiles Study for California, as of September 2000, the San Joaquin Valley had some 400,000 migrant and seasonal farmworker jobs. These jobs are filled by people who depend entirely upon agriculture for their livelihood, most of whom are members of California's fastest-growing ethnic group. They are Hispanics. Hispanics are also the fastest-growing group of entrepreneurs, establishing new businesses in California and throughout the Nation. Furthermore, many new businesses, job creation, new housing, and other economic activity depend upon these farmworkers and agriculture in general. However, none of these activities can continue if we do not have enough water to sustain our State's agriculture and support California's population growth.

Beneficiaries of additional water storage go way beyond our agricultural community. They include the many environmental groups who fervently want to enhance the San Joaquin River below Friant Dam by providing a source of water to restore flows and improve water quality. They include those whose lands and communities need improved flood protection. They include those who depend upon groundwater which needs to be recharged due to consistent

overdraft. They also include all of us who need and use electricity by providing a supplemental source of Western and Valley power. They include those who enjoy water-related recreation. They include farmers, farmworkers, farm communities, and all those who consume food and fiber grown on Valley farms. Finally, the beneficiaries of water storage include all of us. As you can see, beneficiaries of water storage include every one of us in this room.

To serve these vital beneficiaries and needs, now is the time to invest in our water infrastructure. I believe all beneficiaries must pay their proportional share, but we need your help in authorizing and appropriating funds to maintain and improve these social, economic, and environmental needs.

I am heartened by the renewed recognition being shown by Congress in California's water needs. I am encouraged by the CALFED Delta Program studies on additional California water storage, including the Upper San Joaquin River and the House's recent approval of $2 million to continue the feasibility study of the Temperance Flat Dam and Reservoir. I applaud the efforts of Chairman Calvert, members of this Subcommittee, the members of our Valley's congressional delegation, and others who recognize the need for additional storage. I urge the Bureau of Reclamation and the Department of Interior to recognize the need and support for storage and incorporate these needs in the new Water 2025 initiative.

Increased water storage is important to all of us. We simply cannot permit our Nation to lose its ability to provide nutrition for itself and many around the world. We need to be growing more, not less, safe and affordable food. We should not be beholden to the world to feed us. Without water, we face this dire situation.

Again, simply speaking, No water-No jobs. I ask that you direct your collective efforts toward authorizing and funding our water storage needs. As I acknowledged in Tulare, it will years to make new storage a reality, but in these past few moments our population has already grown. Now is the time to act.

May we again be far-sighted and visionary. Let us be wise and make additional water storage in our region the No. 1 priority to resolve.

Thank you very much.

[The prepared statement of Ms. Moralez follows:]

Statement of Gloria P. Moralez, Businesswoman/Farmer

Mr. Chairman and Members of the Subcommittee:

As you may remember, my name is Gloria Moralez. I appreciate the opportunity to again testify before your Subcommittee as I did a few weeks ago in Tulare, California.

I am a former farm worker and farmer, and I am a businesswoman in Fresno, California. I am a member of the State of California Reclamation Board and I'm very familiar with the issue at hand. I know what life is like in the San Joaquin Valley and water is one of our most critical needs. Our valley is the world's greatest garden and Fresno County alone produces some 250 crops. In simple terms, we feed the nation and the world.

However, things would be quite different if one of our greatest generations of farsighted pioneers and visionary leaders did not take steps to develop the desert of the San Joaquin Valley into an oasis of farmlands through California's Central Valley Project.

Today, Ladies and Gentlemen, the need has again arisen to be farsighted and visionary.

I was a farmer for 20 years. I understand what we need to grow, harvest and market California's crops. As a businessperson for three decades, 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 who help make our agricultural economy function.

Let me speak a moment about the farm workers because, frankly, these hard working people are all too often forgotten when water and other farm-related issues are debated. According to the Migrant And Seasonal Farmworker Enumeration Profiles Study For California, as of September 2000, the San Joaquin Valley had some 400,000 migrant and seasonal farm worker jobs. These jobs are filled by people who depend entirely upon agriculture for their livelihood—most of whom are members of California's fastest growing ethic population, Hispanic. Furthermore, many new businesses, job creation, new housing, and other economic activity depend upon these farm workers and agriculture in general. However, none of these activities can continue if we do not have enough water to sustain our state's agriculture and support California's population growth.

Beneficiaries of additional water storage go beyond our agricultural community:

- They include the many environmental groups who fervently want to enhance the San Joaquin River below Friant Dam by providing a source of water to restore flows and improve water quality.
- They include those whose lands and communities need improved flood protection.
- They include those who depend upon groundwater which needs to be recharged due to consistent overdraft.
- They include all of us who need and use electricity by providing a supplemental source of Western and valley power.
- They include those who enjoy water-related recreation.
- They include farmers, farm workers, farm communities, and all those who consume food and fiber grown on valley farms.
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As you can see, beneficiaries of water storage include every one of us in this room.

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Again, simply speaking No Water = No Jobs. I ask that you direct your collective efforts toward authorizing and funding our water storage needs. As I acknowledged in Tulare, it will take years to make new storage a reality but in these past few moments our population has already grown. Now is the time to act.

May we again be farsighted and visionary. Let us be wise and make additional water storage in our region the number one priority to resolve. Thank you.

Mr. CALVERT. I thank the gentlelady and I believe Mr. Rodriguez has a comment.

Mr. RODRIGUEZ. Mr. Chairman, once again I apologize for interrupting. I have another meeting to go to, but I wanted to mention that Gloria Moralez comes from a long family of being good activists. And I see that where she went to California, like our other leading lady, Grace, who is also a Texan, Gloria is also a Texan. And I know that she comes from a family of good veterans that in fact had received some medals for bravery. So I want to just acknowledge her and apologize that I am going to have to be leaving.

But also thank her. She did good work in Texas, so I guess she is still doing good work wherever she is at in California.

Mr. CALVERT. Well, your loss is our gain, Mr. Rodriguez.

Ms. MORALEZ. Thank you, Congressman, I really appreciate your words.

Mr. CALVERT. Thank you.

Next, Mr. Brent Walthall. You are recognized for 5 minutes.

STATEMENT OF BRENT WALTHALL, KERN COUNTY WATER AGENCY

Mr. WALTHALL. Thank you very much, Mr. Chairman.

Good afternoon. My name is Brent Walthall and I work for the Kern County Water Agency located in Bakersfield, California. We are a State water contractor, the largest agricultural State contractor on the State Water Project, and the second-largest urban contractor—a little bit misleading, because the largest is, of course, Metropolitan, and we somewhat pale in comparison there.

Thank you for inviting me to testify today. We often don't get the chance to testify from Kern County, and we certainly appreciate that opportunity today.

Mr. CALVERT. You might take that mike and just get a little closer. That would be great.

Mr. WALTHALL. How is that? Is that a little better? There we go.

I would like to present my testimony in two parts today. First, I would like to discuss some policy considerations and then a couple of programmatic considerations that are important to Kern County.

If the real estate industry's axiom is location, location, location, then CALFED's is certainly balance, balance, balance. And there is some deep meaning behind that word. We hear it several times today and all too often in CALFED. But CALFED was born from an era of conflict in which regulatory agencies needed more water from water users and water users were unwilling to give that water up. As a result, that conflict meant nobody was winning.

CALFED has remedied that by providing a pathway where everyone can win. That solution, though, depends on balanced implementation, because any imbalance means that one of those parties' better alternative is to leave CALFED. Being in balance is absolutely critical to the health of CALFED.

There are several measures currently by which balance can be judged—some of them accurately, maybe some not. I would like to mention three of those today. Funding, which I believe probably isn't the best measure of balance but is one people gravitate to simply because we all understand money means projects. Last year, CALFED spent $400 million on ecosystem projects and $157 million on water supply projects. For those who view money as a yardstick, that shows an imbalance.

Also, schedules of projects have shown an imbalance. For example, with the ecosystem projects, money equals projects, and there is very little process involved in implementing those projects. You don't have to do environmental documentation on many environmental projects, and it is much easier to take money and translate it into projects much more quickly.

Conversely, projects that are water supply related typically do require quite a bit of either—at least design work, if not also a lot of environmental documentation and a lot of process there as well. So the schedules for water supply projects tend to slow down, or at least appear to slow down when compared to environmental projects.

An example would be expanding Banks to 8500 cfs. This is part of a conveyance package of projects, and that project has been delayed for at least a year at this point. Other related conveyance projects—for example, resolving the San Luis low point problem or installing screens at Tracy Pumping Plant and some of the North Delta flood control projects—have also been delayed. Almost all of the projects within the conveyance package have been delayed.

Sometimes that is just for technical reasons. For example, the fish screens at Tracy, it is a technical problem that they are trying to fix to both reduce the cost of those screens and improve their efficiency. That is probably a good reason for delay. But nonetheless, when the water supply projects are delayed, the optics are that they are not in balance anymore. So for those who use schedules as a metric, we see people beginning to believe that there is an imbalance there.

One of the more accurate—in my opinion, accurate measures of that balance is how has the resource improved? And to date we have seen very good improvements in some of the fishery resources. Several of the listed species have shown strong recoveries in the last three to 5 years and several of the species that were of concern are also showing recovery. Conversely, however, water supply has not increased over the last 5 years. And this, for some people, shows another sort of imbalance.

Those three kinds of things, most people view one of those as a metric for balance. And to the extent they look at those and see an imbalance, it is concerning to them.

Restoring balance, however, is not at all difficult, and it requires just a couple of things. It requires much greater Federal participation. This can come in two ways. The hearings that this Committee held in the field were extremely helpful, if for no other reason than because they end up in a great deal of publications that are in California and the people who see those publications know that Congress is paying attention. And no one in CALFED speaks with a louder voice than Congress. The simple fact of paying attention is very helpful to the CALFED process.

Finally, the thing that the Federal Government can do that is the most helpful is make the Federal agencies voting members and partners of the California Bay-Delta Authority. The Bay-Delta Authority was set up by State legislation last year, acknowledging at the time that Congress would act on legislation later and then, simply because of Federal primacy, the State would have to come back and massage its own legislation to fit with what the Federal needs were. It was, however, an opportune time to pass State legislation, so they took that advantage. Having the Federal agencies specifically authorized to participate as voting members would be very valuable.

Finally, I have to conclude by referring to one of the programmatic parts of CALFED that is most important to my agency,

and that is the conveyance section of CALFED. Without conveyance, we cannot take advantage of many of the other aspects of CALFED. It is the most immediate improvement to water supply. It can be done within the space of the next year, and provides a significant improvement in both the reliability and the quantity of water that can move south. It also makes it very, very possible and much more beneficial to have storage in the northern part of the State. Without that ability to move northern water in storage reservoirs south to Southern California and San Joaquin Valley, the storage component of CALFED becomes less valuable. So conveyance, in our opinion, is the linchpin to making many aspects of CALFED work.

With that, I will conclude my testimony and be available for questions at your discretion.

[The prepared statement of Mr. Walthall follows:]

Statement of Brent E. Walthall, Manager,
Bay-Delta Resources Division, Kern County Water Agency

INTRODUCTION

My name is Brent E. Walthall. I am the Manager of the Bay-Delta Resources Division of the Kern County Water Agency. 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 Kern County. The State Water Project serves water to over 22 million Californians and to 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. Chief among these is better communication and utilization of the knowledge and agreements developed through CalFED.

The Kern County Water Agency would like to express its gratitude to Chairman Calvert for his leadership and interest in California's water issues. Water is essential to maintaining California's economy and quality of life, and California has benefited from the leadership of Chairman Calvert. That strong leadership is essential to resolving California's water problems in a way that expands our economy and improves our quality of life. The Chairman's active involvement in California's two biggest water issues, CalFED and the Colorado River 4.4 Plan, have helped to move both issues closer to resolution. The Kern County Water Agency is supportive of the direction Chairman Calvert has charted in authorizing CalFED and looks forward to working with the Chairman, Congressman Miller and other members of the Subcommittee and Full Committee in this effort.

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. These water supply projects, when coupled with continued implementation of CalFED's Ecosystem Restoration Plan provide a balanced program that benefits California's water supply and its environment.

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.

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. Direction from congress to implement these improvements will ensure they are accomplished in a manner that maintains CalFED's overall balance.

Joint Point of Diversion Should be Implemented

Another significant improvement in conveyance that can be accomplished quickly is implementation of the joint point of diversion ("JPoD"). Use of the JPoD is currently limited by fishery restrictions that were part of a pre-Environmental Water Account agreement. Now that the EWA 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.

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 prevent 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.

Language was included in H.R. 2641 that would require the state to pass legislation regulating the use of groundwater before any federal money would be available for storage or conveyance projects. The state, through the State Water Resources Control Board recently reviewed this issue and determined that the groundwater regulation was best left to those local agencies to whom the legislature has given that responsibility, and that the involvement of the state should be limited to a case-by-case basis where conflict occurs.

CalFED's ability to implement its programs in a balanced manner would also be affected by a requirement for state groundwater legislation. If the state is not able to pass legislation then no federal money would be available for the storage or conveyance components of CalFED. As a result, balanced implementation would be out of CalFED's control and instead subject to the political winds of the legislature. Those who do not support CalFED could work to defeat state groundwater legislation thereby creating an imbalance that would stop work on all CalFED programs.

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 previously untested 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 regulations.

Failure of Effective Communications to Regulatory Agencies

The usefulness of this improved scientific knowledge is directly related to its dispersal and utilization by the regulatory agencies that govern the Delta, largely through their control of regulation under the federal Endangered Species Act. The assumption that links water use to 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 science 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 attempts to find a scientifically valid theory justifying listing.

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. However, full utilization of these temporary water transfers demands flexibility and prompt action. 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

Water transfer and groundwater banking programs require moving water in wet years when the water is available in the Delta. The challenge is moving the water to into groundwater banking projects south of the Delta. Banks pumping plant is the critical path that would allow more wet-year water to be stored for use in dry years. Cooperative use of Banks, or potential enlargement of the CVP Tracy pumping plant and Delta-Mendota canal are of equal importance for the federal 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 levees and ecosystems of the Delta, water supply and water quality. Many ecosystem improvements have been made 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 expand pumping capacity at the Banks Pumping Plant and implement the South Delta improvements to protect Delta users is a clear test of the viability of CalFED. The linkages between ecosystem improvements delivered thus far, and the scheduled water supply and quality improvements that are CalFED's "next step," must be effectively communicated to regulatory agencies along with the supporting science.

Failure of CalFED to deliver these benefits would severely cripple the process. We cannot fail to recognize 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 supply and its ecosystem. To fail to recognize this fact would be a harbinger of the inability to achieve the long-term decisions on 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 CalFED's balanced framework.

Mr. CALVERT. I thank the gentleman for his testimony.

Next, Mr. Edward Osann, the Natural Resources Defense Council.

STATEMENT OF EDWARD OSANN, CONSULTANT, NATURAL RESOURCES DEFENSE COUNCIL

Mr. OSANN. Thank you, Mr. Chairman and members of the Subcommittee. My name is Ed Osann. I am the president of Potomac Resources. I am a consultant to the Natural Resources Defense Council's Western Water Project, and I am appearing here today on their behalf.

Before diving into the CALFED issues, Mr. Chairman, I just wanted to take a moment to commend you for your work and your interest in Title I, your recognition of the importance of accelerating the deployment of these advanced technologies for desalinization and water reuse. We applaud the establishment of a competitive grant program for this purpose. We are concerned that

some of the features of Title I may ultimately frustrate the goals you are trying to achieve and that we support as well, and we would like to have a chance to offer some comments on Title I in writing for the record of the Subcommittee, with your—

Mr. CALVERT. This record will stay open for 2 weeks, so you can submit any additional comments for the record.

Mr. OSANN. Thank you, Mr. Chairman.

With regard to CALFED, I would like to open by saying that NRDC has been involved in CALFED since its inception, and I would like to say clearly that we strongly support the CALFED approach of funding integrated solutions to California's complex water supply problems. And we support the balanced implementation of the CALFED Record of Decision. Among other things, we have demonstrated this support by helping to negotiate and pass Proposition 50, which is providing well over $1 billion to implement the CALFED program.

Unfortunately, during the past year, a series of actions have demonstrated that the Federal administration lacks a commitment to the implementation of CALFED pursuant to the ROD, the Record of Decision. We have laid out some of these points in an attachment to our testimony, our letter to Senator Feinstein and—I won't repeat them here. But in short, these actions appear to us to include decisions to undermine, ignore, and defund the CALFED program.

Obviously, Mr. Chairman, we have had relatively little time to really do justice to an analysis of your new bill, which was introduced yesterday. We would like to provide you with additional comments on the CALFED title to the bill.

To assist the Subcommittee's deliberations here today, we just identified six principles that we believe would be central to any successful CALFED authorizing bill.

The first is consistence with the Record of Decision. Senator Feinstein stressed this in testimony here today. The ROD is a carefully crafted document, and continuing support for the CALFED program will depend on respecting its structure and its components.

Secondly, beneficiary pay is an important concept that we think underlies the CALFED program.

Third, project-specific authorizations and permits.

Fourth, consistency with State and Federal law.

Fifth, balanced implementation, which we support.

And finally, avoiding ongoing litigation, avoiding wandering into issues, like drainage or supply delivery assurances, will help move a bill.

There are several key concerns with the new bill that I would like to identify here today. In the interest of time, I won't discuss them all, but I will talk about two or three of them, mention them briefly.

The first is what we believe to be an ambiguous authorization contained in this bill. What is CALFED? What does the bill authorize Federal agencies to do? Neither the definitions in the bill nor the statement of authorization nor the authorization of appropriations in the bill clearly directs the Administration to implement the CALFED program as defined in the Record of Decision, or pursuant

to the Record of Decision, or consistent with the requirements of the Record of Decision. Instead, the bill calls for a CALFED program that is consistent with the objective and solution principles of the Record of Decision.

Now, at the end of my testimony, I attached—the last page of my testimony is the page of the ROD that lays out the objectives and the solution principles. This is the ROD, and these are the solution principles and objectives. These are all good words, and we support them, but they are quite general, quite broad, and provide nowhere near the specificity of direction to the Federal agencies to implement the CALFED program. And as Senator Feinstein said, it is the Record of Decision that we have all agreed upon over the last two or 3 years.

Secondly, we are concerned about what appears to be a rollback of the Clean Water Act. The bill would restrict the alternatives that could be considered in Clean Water Act permitting.

Another area of concern is the apparent automatic authorization of construction. The bill contains a provision that would eliminate the requirement for any subsequent congressional authorization for potentially billion-dollar water storage construction projects. We believe such language is inconsistent with the Record of Decision. It is also inconsistent with the longstanding practices of the Bureau of Reclamation, the Corps of Engineers as well. And the disapproval mechanism that is contained in this provision would appear to be of doubtful constitutionality. If CALFED storage projects can be shown to be good investments, we believe they will obtain congressional authorization.

Another point I would like to highlight would be the obstacles to environmental restoration. There are several pages of the bill that contain a number of new provisions, not included in the Record of Decision, that would have the effect of creating new legal requirements, or slowing down or stopping altogether, Federal involvement in CALFED ecosystem restoration—the CALFED Ecosystem Restoration Program. These requirements are not contained in the ROD and are not applied to any other programs. Just to point out that Title III of the bill provides $300 million in three lines of text for environmental restoration of the Salton Sea. And it just appears that there is a very asymmetric treatment of this subject in the bill.

For the record, Mr. Chairman, we will provide additional detailed comments regarding how these points can best be remedied, recommendations to the Subcommittee. However, without amendments to these provisions, NRDC opposes the bill in its present form.

Finally and briefly turning to the other CALFED legislation that was before the Subcommittee today, we would like to commend the sponsors of H.R. 2641 for including several provisions designed to address key concerns regarding CALFED. We have identified what some of those elements are in the testimony—I won't repeat them all, but clarifying the applicability of State and Federal law, the addition of the CALFED provisions requiring the development of a statewide groundwater management program, and the additional detail toward a credible beneficiary-pays financing strategy are all

especially helpful and we would commend each of these provisions to the attention of the Subcommittee.

In conclusion, Mr. Chairman, just to point out that, in our view, the genius of the CALFED program is in recognizing the wisdom and the imperative of solving the interrelated problems of what are resources management in California together. We urge you to ensure that the authorizing legislation and the Federal agencies' implementation of the CALFED program reflect this approach.

Thank you for the opportunity to testify.

[The prepared statement of Mr. Osann follows:]

Statement of Edward R. Osann, Consultant, Natural Resources Defense Council, on H.R. 2828 and H.R. 2641

My name is Edward R. Osann and I am President of Potomac Resources, Inc. I am a consultant to the Natural Resources Defense Council's Western Water Project, and am appearing today on their behalf.

The Natural Resources Defense Council is a national, non-profit organization of scientists, lawyers, and environmental specialists dedicated to protecting public health and the environment. Founded in 1970, NRDC has more than 550,000 members nationwide, served from offices in New York, Washington, Los Angeles, and San Francisco. Thank you for inviting NRDC to testify here today.

Title I—Competitive Grant Program

We commend you, Mr. Chairman, for your recognition of the importance of accelerating the deployment of advanced technologies for desalination and water reuse, as evidenced by Title I of the new bill. While we applaud the establishment of a competitive grant program for this purpose, we are concerned that certain features of this title may prove to be unworkable, and ultimately frustrate the accomplishment of the important objectives that you seek and that we support. We look forward to performing a more thorough review of Title I and would appreciate the opportunity to submit our recommendations for the record to strengthen this important proposal.

Title II—CALFED

NRDC has been involved in CALFED since its inception and has followed closely proposed CALFED legislation. We strongly support the CALFED approach of finding integrated solutions to California's complex water supply problems, and we support the balanced implementation of the CALFED Record of Decision (ROD). NRDC has demonstrated this support by helping to negotiate and pass Proposition 50, which is providing well over a billion dollars to implement the CALFED program.

Unfortunately, during the past year, a series of actions have demonstrated the Bush Administration's lack of commitment to the implementation of CALFED pursuant to the ROD. These actions should be carefully considered in crafting CALFED authorizing legislation. This disturbing pattern is discussed in greater detail in the attached comments regarding S. 1097, the CALFED bill introduced by Senators Feinstein and Boxer. In short, these actions include decisions to undermine, ignore, and defund the CALFED program.

Obviously, Mr. Chairman, we have had little time to do justice to an analysis of the new bill that was introduced yesterday. In the near future, we will provide you with more detailed written comments. Our attached comments on S. 1097 explain our position regarding a number of issues that the House must also address in CALFED legislation. We hope that they will be of use to this Subcommittee.

Principles for Successful CALFED Legislation

To assist the Subcommittee's deliberations on CALFED, we offer six principles that we believe will be central to any successful CALFED authorizing bill. Our comments on S. 1097 include recommendations in each of these areas.

Consistency with the Record of Decision: The ROD is a carefully crafted document, and continuing support for the CALFED program will depend on respecting its structure. Its constraints and its interconnections were developed in close consultation with agencies and stakeholders. The Department of the Interior and other responsible agencies must take great care to ensure that their actions are consistent with the requirements of the ROD. Unfortunately, as previously discussed, at this point, it is clear that Interior does not support the ROD. We therefore urge that specific ROD requirements be included in this legislation. Further, we recommend

that CALFED legislation avoid creating definitions and programs that are not taken from the ROD.

Beneficiary Pays: In the past, massive taxpayer subsidies have encouraged wasteful and environmentally destructive water projects and practices. The CALFED ROD clearly indicates that any new CALFED surface storage facilities will not be funded as they have been in the past. The ROD also calls for new user fees to help finance the program. These requirements are also consistent with the Department of Interior's Water 2025 strategy. This fiscally responsible approach will eliminate the financing mechanisms that have, for some users, disguised the fact that conservation, wastewater reclamation, improved groundwater management and, in some cases, land retirement and transfers, are the fastest and cheapest sources of additional water supply. It will also provide cost-based incentives for water users to conserve.

Project-Specific Authorizations and Permits: The ROD clearly indicates the need for project-specific authorizations and permits for large potential CALFED construction projects. We recommend that these requirements be carefully reflected in authorizing legislation.

Consistency with State and Federal Law: The ROD was carefully written to reflect state and federal legal requirements. Authorizing legislation should also require implementation of the program to be consistent with state and federal law.

Balanced Implementation: Unfortunately, as our detailed comments on S. 1097 indicate, several portions of the CALFED program are falling behind in implementation. Maintaining a successful program means maintaining balanced implementation, consistent with the requirements of the ROD. This does not mean, however, that every project discussed in the ROD will be constructed. Indeed, the ROD indicates that balanced implementation may proceed even if some proposed projects prove to be infeasible.

Avoid Ongoing Litigation: Drainage and water supply delivery "assurances," for example, are the subjects of ongoing litigation. CALFED legislation should be designed to avoid divisive, and unnecessary, provisions in these areas.

Key Concerns with the New Legislation

Upon initial review, we have identified a number of provisions that we believe conflict with these principles and that represent major obstacles to a successful CALFED program. I will discuss some of these concerns briefly. (All page numbers below refer to the draft bill print dated July 21, 2003 (5:27 PM).)

- Ambiguous Authorization. What is CALFED? What does this bill authorize federal agencies to do? Neither the definitions (p. 3) nor the statement of authorization (p. 17) nor the authorization of appropriations (p. 48) clearly directs the Administration to implement the CALFED program as defined in the ROD, pursuant to the ROD, or consistent with the requirements of the ROD. This is a major obstacle that will fail to correct serious problems in the Administration's current approach to CALFED and lead to additional conflicts with the State of California. Without such a requirement, the federal CALFED effort will be cut adrift. Our comments on S. 1097 outline our recommendations for a straightforward approach that reflects the requirements of the Record of Decision. We look forward to an opportunity to support a bipartisan bill that would direct Interior and other agencies to implement CALFED in a manner consistent with the ROD.
- Clean Water Act Rollback. (p. 19) The bill would restrict the alternatives that could be considered in Clean Water Act permitting. This represents a serious and unwarranted rollback of federal environmental law. In light of the lack of a ROD consistency requirement, it also leads to an unfortunate irony. The Department of the Interior could implement nearly any water project in California, due to the lack of a ROD consistency requirement. However, this provision would limit the alternatives to those actions that could be considered. In short, it does not require Interior's proposed projects to be consistent with the ROD, but it does require alternatives to that project to be consistent with the ROD.
- Automatic authorization of construction. (p. 21) The bill contains a provision that would eliminate the requirement for any subsequent Congressional authorization for billion dollar water storage construction projects. Such language is inconsistent with the ROD. It is also inconsistent with the long standing practices of the Bureau of Reclamation, and its disapproval mechanism is of doubtful constitutionality. If CALFED storage projects can be shown to be good investments, they will obtain Congressional authorization.
- Delta Pumps (p. 25). The provision regarding Delta pumping requires this project to be consistent with some, but not all, state laws. It also fails to include

the requirement in the ROD that the project should only move forward if it will not harm fishery protection.

- Obstacles to environmental restoration. (pp. 32-36) The bill contains a number of new provisions, not included in the ROD that would have the effect of creating new legal requirements, slowing down, or stopping altogether, federal involvement in the CALFED ecosystem restoration program. These requirements are not contained in the ROD and are not applied to other programs.
- Reapplication of appropriated funds. (p. 49) The bill would allow Interior to take money appropriated by Congress for one CALFED action and spend that money on storage and conveyance. We believe that such thwarting of Congressional directions is inappropriate. In addition, by favoring only some program elements, it clearly is not designed to lead to a balanced program.
- Compliance with current law. In several locations (pp. 19, 25. 51, and elsewhere), the bill fails to require compliance with existing state and federal law.

Mr. Chairman, as I previously mentioned, we will provide detailed comments regarding how these principles can best be reflected in your bill. However, without amendments to these provisions, NRDC opposes the bill.

H.R. 2641

Turning briefly to the other CALFED legislation before the Subcommittee today, we have had a bit more time to analyze H.R. 2641, the CALFED authorizing legislation introduced by Representatives Miller and Tauscher. We would like to commend the sponsors of this bill for including several provisions designed to address key concerns regarding CALFED and S. 1097. These improvements include:

- Clarifying the applicability of state and federal law;
- The inclusion of key CALFED requirements regarding the South Delta Improvement Project and screened through-Delta diversion investigations;
- The elimination of an unnecessary drainage provision;
- Changes to the refuge water supply provision designed to maintain Interior's focus on legally-mandated refuge supplies;
- The addition of the CALFED provision requiring the development of a statewide groundwater management program; and
- Additional detail toward a credible beneficiary pays financing strategy.

We commend each of these provisions to the attention of the Subcommittee.

Conclusion

In closing, we believe that the cooperative and integrated approach embodied in CALFED is the best strategy to restore the Bay-Delta ecosystem and improve water quality and water supply reliability. The genius of the CALFED program is in recognizing the wisdom, indeed the imperative, of solving these problems together. We urge you to ensure that authorizing legislation, and Interior's implementation of the CALFED program, reflect this approach.

We look forward to continuing to work with members of the Subcommittee. We would be pleased to offer specific language regarding our recommendations.

Thank you for the opportunity to present these views.

Attachments:

1. NRDC Comments on S 1097
2. Objectives and solution principles of the CALFED Bay-Delta Program as stated in the Record of Decision

NATIONAL RESOURCES DEFENSE COUNCIL

JULY 18, 2003

The Honorable Dianne Feinstein
United States Senate
Washington, DC 20510

Re: S 1097, CALFED Authorizing Legislation

Dear Senator Feinstein:

On behalf of the more than 550,000 members of NRDC, I am writing to offer our comments and recommendations for further refinements to your CALFED authorizing legislation, S 1097. As you know, NRDC has been deeply involved in the CALFED program since its inception. We strongly support the CALFED approach of finding integrated solutions to California's water supply problems, and we

support the balanced implementation of the CALFED Record of Decision (ROD). NRDC recently demonstrated this support by helping to negotiate and pass Proposition 50, which is providing billions of dollars to implement the CALFED program.

CALFED authorizing legislation has gone through many permutations in the past few years. NRDC has offered comments throughout this process. As you also know, NRDC supported one version of your CALFED authorizing legislation (see our letter of January 31, 2002). However, S 1097 differs significantly from that bill. We thank you for your continuing commitment to resolving California's water issues and look forward to continuing to work with you.

Unfortunately, during the past year, several actions have demonstrated the Bush Administration's lack of commitment to the CALFED approach and support for the ROD. These actions should be carefully considered in crafting CALFED authorizing legislation. These actions include:

Weakening Environmental Protections and the Environmental Water Account: The Department of Interior has recently issued new rules regarding the allocation of water to the environment under section 3406(b)(2) of the Central Valley Project Improvement Act (CVPIA). The CALFED ROD included the careful resolution of issues regarding the implementation of this section of the CVPIA. This resolution served as a foundation of the CALFED strategy to resolve issues related to Delta water management. This foundational role is explicitly reflected in the ROD, as well as in CALFED's NEPA documents and the Biological Opinions of fisheries agencies. Unfortunately, Interior chose not to defend the ROD and their own CVPIA decision, in a suit brought by the Westlands Water District. Instead, Interior simply capitulated. This decision undermined the ROD and significantly weakened environmental protection. This decision went beyond the issues under consideration in federal court. It also directly undermined the regulatory baseline of the Environmental Water Account (EWA) (ROD, p. 56)—thus jeopardizing a CALFED program designed to provide increased environmental protection and improved water supply reliability. Finally, in making this decision, Interior failed to coordinate meaningfully with the State and all interested stakeholders—two cornerstones of the CALFED process. This decision demonstrates a fundamental lack of support for the ROD.

Ignoring ROD Requirements Regarding Upper San Joaquin River Storage: The CALFED ROD indicates that the Bureau of Reclamation will study potential new surface storage, or its equivalent, on the Upper San Joaquin River for the purpose of restoring the river and improving water quality (ROD, p. 45). Unfortunately, however, the Bureau's recently released "Investigation Report" regarding the Upper San Joaquin River fails to reflect the requirements of the ROD. The Bureau has excluded all non-surface storage alternatives (e.g. groundwater, conservation) from its investigation. The Bureau has also abandoned the project purpose included in the ROD. The Bureau's report describes a project designed to deliver water to the West side of the San Joaquin Valley. Not only does this report ignore San Joaquin River restoration and water quality, the project it describes would exacerbate both of these problems—the very problems that the CALFED ROD intended this project to address. Finally, the Bureau's report fails to discuss how the CALFED beneficiary pays provision would be implemented, were a surface storage facility to be constructed in this area.

CVP Contracts that Undermine CALFED: The Bureau's current negotiations regarding the renewal of CVP contracts ignores the CALFED program. In the Sacramento Valley, the Bureau's draft contracts propose to deliver more water than Sacramento Valley users have used in recent years. In fact, the Bureau's own analysis reveals that the draft contracts propose to commit to deliver more water than these contractors are capable of using beneficially. The Bureau has not studied the impact that this decision could have on the environment, on other water users or on the carefully crafted Delta strategy in the ROD.

Failing to Fund CALFED: The Administration has failed to propose adequate funding for the CALFED program. (Existing authorizations would allow the Administration to propose funding for much of the CALFED program.) In fact, last December, Interior proposed a funding package for a land retirement settlement with Westlands farmers that would have diverted funds from CALFED-related activities. This proposal was opposed by the entire California House delegation.

The state of California has increasingly expressed concern regarding the Bush Administration's lack of support for CALFED. CALFED authorizing legislation will only succeed in supporting a balanced program if it is carefully designed to address the problems discussed above. We look forward to working with you to craft a bill that will address these problems, that we can support and that will strengthen the California economy and environment. With this in mind, we offer the following comments and recommendations. We begin by noting progress made in several areas:

Consistency with the ROD: We thank you for clarifying, in section 3(b), that implementation of the CALFED program is subject to the "constraints of the Record of Decision". However, given the concerns discussed above, additional detail is required. We offer several recommendations below to ensure that Interior's implementation of key provisions reflects the explicit requirements of the ROD.

Meeting Water Quality Standards: We are pleased that section 3(c)(3)(I)(i)(10) reflects the need to develop and implement a plan to meet "all existing water quality standards for which the State and Federal water projects have responsibility." In particular, we believe that the Bureau must prepare a plan to meet State flow and water quality standards for the San Joaquin River and Delta. The State Water Resources Control Board has found that the Bureau is responsible for ongoing violations of these standards. In addition, a state court recently threw out the current plan to meet these standards, which is supported by the Bureau. A new plan is clearly required.

Clean Water Act Permitting: NRDC has consistently recommended that CALFED legislation clarify that any CALFED surface storage projects will require permits under Section 404(a) of the Clean Water Act. S 1097 references this requirement in Section 5(b)(8). However, to ensure that this provision will have the intended effect, we recommend moving it to the feasibility study section (5(d)).

Authorizing Land and Water Acquisitions: We are pleased that your bill explicitly authorizes the purchase of land and water as part of the CALFED ecosystem restoration program (3(c)(3)(G)(viii)). This authorization is important to CALFED's success. However, the bill now includes another hurdle to ecosystem restoration, discussed below.

We also offer the following recommendations for further improvements to S. 1097:

Groundwater Management: The ROD indicates that "CALFED agencies will support legislation that encourages groundwater management at the sub-basin level" (ROD, p. 47). We are not aware of progress toward the enactment of this legislation. This would likely be state legislation. However, Interior could play an important role in its development. We recommend that the discussion of groundwater in section 3(c)(3)(A)(iii) be amended to include specific reference to the development and implementation of a state-wide groundwater management program. H.R. 2641, for example, includes such a provision.

User Fees: The ROD calls for the implementation of user fees to support the CALFED program (ROD, p. 38). We recommend that S 1097 include a specific authorization for Interior to participate in the development of a comprehensive package of user fees designed to support the CALFED program and reflect the benefits received by specific users. Once funds from Proposition 50 are fully allocated, such user fees will be essential to maintaining a healthy CALFED program. This user fee, and the "beneficiary pays" section that follows, are also consistent with Interior's Water 2025 strategy.

Beneficiary Pays: We are pleased that S 1097 discusses the ROD's "beneficiary pays" requirement for the financing of any new surface storage facilities (5(d)). However, this provision currently lacks sufficient detail. Unfortunately, CALFED has failed to provide a definition of this ROD requirement. Unless specific requirements are included in this legislation, some stakeholders and the Bureau may rely on the very financing mechanisms that the CALFED plan seeks to change. We recommend that this section be amended to require a beneficiary pays financing plan including:

- The full recovery of all federal expenses regarding capital, interest, mitigation, operations and maintenance; and
- A "least-cost" test regarding any public benefits, to ensure the proper allocation of any costs to the public.

The EWA and the Regulatory Baseline: The EWA will only function as anticipated if the regulatory baseline described in the ROD is maintained (ROD, p. 55). Unfortunately, as discussed in our introductory comments, this regulatory baseline is no longer intact. We recommend that the authorization of the EWA (3(c)(3)(E)) require that the first priority for any federal funds for the EWA be the restoration and maintenance of this regulatory baseline.

South Delta Improvement Program: As discussed above, the CALFED regulatory baseline for the current operations of Delta diversion facilities is no longer intact. If CALFED agencies cannot successfully implement this strategy at the current level of Delta diversions, it raises serious concerns about the wisdom of further increases in the pumping limits. Indeed, the ROD clearly states that the proposed increase should only take place if it avoids "adverse impacts to fishery protection" (ROD, p. 49) We recommend that section 3(c)(3)(B)(i)(1) be amended to indicate that the proposed increases to 8,500 cfs and 10,300 cfs may only move forward if the level of environmental protection in the regulatory baseline is restored and if the proposed operations do not cause "adverse impacts to fishery protection."

North Delta Actions: To assure that implementation of this project is consistent with the ROD, we recommend that Section 3(c)(3)(B)(ii)(II) be amended to include the following language, "including full consideration of the constraints identified in the Record of Decision regarding Delta Cross Channel operations strategies, water quality impacts, technical viability, and fishery concerns".

The Need for Specific Project Authorizations: Section 3(c)(3)(A) clearly, and appropriately, indicates that this section does not provide authorizations required for the construction of surface storage facilities. However, we are concerned that some may interpret sections 3(b) and 3(c)(3)(F) as providing this authorization. In order to avoid potential confusion in the future, we recommend that these sections be amended to clarify that any construction of surface storage facilities will require additional project-specific congressional authorization. Alternatively, a provision could be inserted requiring that all projects that would receive a total federal investment of more than $20 million must obtain a project-specific authorization.

The Project Purpose for Proposed New Surface Storage Facilities: As discussed above, the Bureau is undertaking studies on the Upper San Joaquin River that are inconsistent with the clear requirements of the ROD. We recommend that, for each proposed facility discussed, section 3(c)(3)(A) be amended to reflect the project purpose in the ROD. In the case of the Upper San Joaquin River, this project purpose is to contribute to the "restoration of and improve water quality for the San Joaquin River and facilitate conjunctive water management and water exchanges that improve the quality of water deliveries to urban communities" (ROD, p. 45).

Drainage Authorization: We continue to recommend that section 3(c)(3)(I)(i) be deleted. This provision addresses an issue that is currently in litigation. We appreciate the intent behind the addition of section 3(c)(3)(I)(i)(3). However, Interior has demonstrated that no further authorization is required in this area. This language should be deleted unless clear constraints are added to assure that, in the future, Interior's drainage program is coordinated with the state and other stakeholders, and integrated into a balanced CALFED program.

Diversification of Refuge Water Supplies: We recommend that section 3(c)(3)(M) be eliminated. The Department of Interior has not prepared a plan for the diversification of refuge water supplies. It is not possible, therefore, to determine how these funds would be spent or if there would be any benefit for wildlife refuges. The first priority regarding refuge water supplies should be the full implementation of the legally required level 2 and level 4 supplies. We are concerned that, as written, this provision could harm refuges by diverting attention from the provision of required refuge supplies and result in the expenditure of tens of millions of taxpayer dollars simply to purchase water for CVP contractors. Such purchases would be inappropriate.

Land Acquisition Determination: We recommend that section 4(f) be stricken. We submit that state and federal agencies will be compelled by budget realities to avoid unnecessary land acquisitions. This vague requirement for a finding regarding the availability of public land for ecosystem restoration purposes would be certain to lead to confusion and litigation.

San Luis Lowpoint: Given how little progress has been made in securing permanent Environmental Water Account assets (ROD, p. 57), we recommend that section 3(c)(3)(B)(iv) be amended to provide that at least half of the new storage created by this project will be dedicated to the Environmental Water Account.

Statement of Balanced Implementation: We recommend that the statement of balance required by Section 5(b) be amended to include reports regarding progress in areas that have fallen far behind in the CALFED program, including: the achievement of the water purchase targets in the Ecosystem Restoration Program (ROD, p. 36); the restoration of the EWA regulatory baseline; implementation of water measurement requirements (ROD, p. 63); BMP certification (ROD, p. 62); implementation of a state-wide groundwater management program; and the implementation of user fees.

Monthly Report Regarding South of Delta Deliveries: Section 4(g) currently requires a monthly report regarding South of Delta water deliveries. We believe that reports at this frequency would serve no useful purpose. In fact, we are concerned that this requirement would erroneously suggest that this provision of the ROD is a higher congressional priority than other program elements. Further, this provision is unnecessary because the annual report required in Section 5 would result in a report regarding the entire CALFED program.

Funding for Water Measurement and BMP Certification: We recommend that an additional $10 million be allocated to water measurement and BMP certification in sections 3(c)(3)(C)(iv) and (v). These programs have been falling far behind in the CALFED program.

The EBMUD Contract: For the past few years, several environmental groups have been talking with EBMUD regarding the project they are in the process of evaluating. We recommend that the reference to the EBMUD contract in section 3(c)(3)(i)(8) be eliminated and that section 5(11) be amended to require a report on progress in developing a broadly supported project under this Bureau contract. Given that EBMUD and Sacramento County are not proposing the construction of a federal project, we believe that it would be most appropriately addressed through the report regarding progress in implementing complementary actions.

A Short "Clean" Authorizing Bill: Finally, as you know, NRDC has consistently recommended that you consider a carefully crafted short CALFED authorizing bill. Experience over the past year has shown that it is extremely difficult to capture the detail and interconnections of the CALFED ROD in a long bill. We believe that a simple bill that is carefully crafted to reflect the constraints of the ROD and to clarify the need for additional project-specific authorizations and permits, could be the most productive path.

Thank you again for your leadership in the CALFED program. We look forward to continuing to work with you.

Sincerely,

Barry Nelson
Senior Policy Analyst

cc: Senator Barbara Boxer
Chairman Pete Domenici
Senator Jeff Bingaman
Congressman Ken Calvert
Congressman George Miller
Congresswoman Ellen Tauscher
Assistant Interior Secretary Bennett Raley
Resources Secretary Mary Nichols
Patrick Wright, CALFED

MISSION STATEMENT

The mission of the CALFED Bay-Delta Program is to develop a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the Bay-Delta system.

OBJECTIVES

CALFED developed the following objectives for a solution:

- Provide good 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.
- Reduce the mismatch between Bay-Delta water supplies and current and projected beneficial uses dependent on the Bay-Delta system.
- Reduce the risk to land use and associated economic activities, water supply, infrastructure and the ecosystem from catastrophic breaching of Delta levees.

SOLUTION PRINCIPLES

In addition, any CALFED solution must satisfy the following solution principles:

- Reduce Conflicts in the System Solutions will reduce major conflicts among beneficial uses of water.
- Be Equitable Solutions will focus on solving problems in all problem areas. Improvements for some problems will not be made without corresponding improvements for other problems.
- Be Affordable Solutions will be implementable and maintainable within the foreseeable resources of the Program and stakeholders.
- Be Durable Solutions will have political and economic staying power and will sustain the resources they were designed to protect and enhance.
- Be Implementable Solutions will have broad public acceptance and legal feasibility, and will be timely and relatively simple to implement compared with other alternatives.
- Have No Significant Redirected Impacts Solutions will not solve problems in the Bay-Delta system by redirecting significant negative impacts, when viewed in their entirety, within the Bay-Delta or to other regions of California.

CALFED Bay-Delta Program
August 28, 2000

Mr. CALVERT. I thank the gentleman.

Next, Mr. Somach for 5 minutes.

STATEMENT OF STUART SOMACH, ATTORNEY, SOMACH, SIMMONS & DUNN

Mr. SOMACH. Mr. Chairman, members of the Subcommittee, my name is Stuart Somach. I am an attorney in Sacramento. And I am here from the perspective of representing individuals and entities, both agricultural as well as urban entities, within the Sacramento Valley.

It is kind of a unique perspective in terms of CALFED because the problems generally that have been identified, that are being addressed in the CALFED program are not caused and have little to do directly with what happens in the Sacramento Valley, yet what is done in the Sacramento Valley can create solutions to the problems that need to be addressed in the Bay-Delta context. But we tend to look at things like this legislation and other legislation from that perspective. It is perhaps a different context, a different perspective.

I also represent other entities. I should mention that because we are aware of conflicts, for example, with other folks on the Klamath project that we represent. I raise that matter only because we know what happens when conflicts go unresolved for a long period of time. And it kind of teaches us—that type of experience teaches us why a situation or a solution like CALFED is a positive thing and one that, if possible, we should embrace and try to advance as an alternative to the kind of crisis situation that exists up there.

I have gone to some length to discuss our views in my written testimony, and I would like to just simply summarize some of the elements of that testimony here rather than repeating all of it.

The first major element that I want to mention here is issues associated with alternatives analysis and generally planning under the CALFED process. You know, CALFED contemplates integrated approaches toward water management and regulatory agencies, particularly the Corps of Engineers and EPA, seem to adhere to an overly rigid application of, for example, the Clean Water Act's Section 404(b)(1) alternatives analysis. And what this application does is it requires one to view each one of the CALFED potential solutions not as part of an integrated solution, but rather as alternatives, one to another. As a consequence, the ability to maximize benefits through full integrated water management is lost in favor of rigid analysis developed to deal with situations that are quite dissimilar from the CALFED situation.

Section 201(c) of 2828 provides necessary direction and ensures that the CALFED quest for fully integrated water management solutions will not be hampered by an overly rigid regulatory mindset. And we think that this particular provision is a very positive addition to the CALFED discussion.

Another area, obviously, that is dealt with in the bill is storage, and additional storage is critical, we believe, to addressing and solving CALFED problems. And to the extent that H.R. 2828

includes provisions advancing water storage, we of course believe that it is a step in a positive and the proper direction.

I might add just quickly that if at all possible, more specific reference to specific storage projects, I believe, would make an even better piece of legislation. In particular, as you know, we support Sites Reservoir and believe that it should be specifically authorized and referenced within any CALFED bill. That reservoir in particular allows one to maximize and optimize the reasonable beneficial use of water by allowing the integration of existing direct diversion rights, existing storage rights in Shasta, available groundwater storage in a manner that will far exceed any arithmetic calculation of the amount of water that is available, and believe that because of those benefits, the Sites Reservoir ought to be specifically referenced within the legislation.

Another critical element we believe that is important is coordination and regulatory streamlining as an element of the CALFED process. One of the fundamental problems that was identified early in the CALFED process was the multiple statutory, regulatory, and agency coverage, or overlap, on critical issues. We believe that the Section 202(a) provision in 2828 goes a long way toward addressing this particular issue and problem. In my testimony, I have suggested some additional language that might assist even further.

Two further points I would like to make. One addresses the question of beneficiary-pays. That is a critical issue. But I fear that if one focuses on strict criteria associated with beneficiary-pays, it will distort the analysis of potential alternatives that exist in the Bay-Delta CALFED process. And very quickly, I think that an identification that would separate out beneficiaries of CALFED projects from those who participate in CALFED projects is a good differentiation to make because there are those that would, and in fact need to participate in CALFED projects that are not necessarily direct beneficiaries who ought to shoulder a great deal of costs associated with projects.

Finally, I want to mention 2641. Many of the provisions in 2641 are similar to the core provisions within 2828. We believe 2828 addresses these issues in a better manner. But I want to highlight one thing. There is a clause within a provision within 2641 dealing with the regulation of groundwater, which we believe is simply bad legislation. It attempts to Federalize groundwater law at the expense of State and local law. If that provision were to find itself into a CALFED bill, we would oppose that provision. And in fact, I would go so far as to say that if that type of provision was actually enacted into law, the Sacramento Valley, clearly, would oppose not just the legislation but also CALFED itself.

I thank you for listening to my comments, and I would be more than happy to answer any questions.

[The prepared statement of Mr. Somach follows:]

Statement of Stuart L. Somach, Attorney, Somach, Simmons & Dunn, on H.R. 2828 and H.R. 2641

Mr. Chairman and members of the Subcommittee, my name is Stuart L. Somach. I am an attorney with the law firm of Somach, Simmons & Dunn, located in Sacramento, California. We represent clients in California, Oregon, Nevada and Arizona on a variety of issues and matters, including those involving water and the environment. I have testified before this committee, and other House and Senate

committees, on numerous issues and legislation, including hearings dealing with the Coordinated Operations Agreement, the Endangered Species Act, the Central Valley Project Improvement Act, and on prior versions of proposed CALFED legislation. I have read and am familiar with both bills under consideration here as well as with the CALFED Record of Decision. I have followed CALFED actions and activities closely since August 28, 2000.

Among my clients are entities and individuals within Northern California. I am, for example, General Counsel for the Glenn-Colusa Irrigation District, the largest irrigation district in Northern California with the most senior water rights on the Sacramento River, and am Special Legal Counsel for the County of Sacramento and the Sacramento County Water Agency, the largest urban area within the central portion of Northern California. With this representation in mind, I first offer some context for my testimony.

From the very beginning of the CALFED process, indeed, before the Record of Decision was issued, Northern California interests have been fairly clear that, in general, we were not responsible, in fact or in law, for the problems that exist in the Bay-Delta. In our view, those problems were created by others. As a consequence, we can only support solutions that solve problems in a manner that does not harm Northern California interests. We cannot support and will oppose solutions that seek to solve problems created by others at the expense of Northern California.

I hasten to add that from the onset, Northern California has nonetheless been willing to work with CALFED to seek solutions that meet the test of no redirected adverse impacts while advancing substantially actions and programs that would improve the Bay-Delta. We are still willing to participate in these programs and, in fact, have initiated actions that, when completed, will substantially advance the CALFED goals.

With the foregoing in mind, I offer the following comments with respect to the draft legislation at issue.

H.R. 2828 (Calvert)—Title 11—California Water Security and Environment Enhancement Act.

1. Balance (Sections 201(b)(3); (c)(4), Section 203(a)).

The concept of "balance" is critical to a successful CALFED. H.R. 2828 (Calvert) deals with this issue by first stating in a clear and unambiguous manner that the CALFED program shall progress in a balanced manner and then provides specific direction on how this balance is to be evaluated and then achieved. Without these types of procedures there is little question in my mind that water supply storage and conveyance projects will lag behind other CALFED programs and projects and, indeed, may never be completed. In particular, the provisions of Section 203(a)(1)(B), dealing with storage, and (H), dealing with permitting, are of critical importance.

2. Administration of Activities (Section 201(c)).

There has been a fairly large disconnect between the whole purpose and need for CALFED and the way regulatory agencies approach their missions.

The CALFED program is multi-dimensional in nature and not only evaluates, on a programmatic level, numerous alternative approaches but, in light of the significant water related problems at issue, in fact incorporates multiple elements which in the normal context might be considered, in themselves, as alternatives, one to the other. In other words, the problems dealt with by CALFED are so significant that looking at one option as if it were in opposition to another is counter-productive to meeting CALFED goals.

While all of the planning and actions associated with CALFED contemplate this integrated approach toward water management, regulatory agencies, particularly the United States Army Corps of Engineers and the Environmental Protection Agency, adhere to an overly rigid application of, for example, the Clean Water Act section 404(b)(1) alternatives analysis. This requires one to view each of the CALFED potential solutions not as an integrated whole, but rather as alternatives, one to the other. As a consequence, the ability to maximize benefits through full integrated water management is lost in favor of rigid analyses developed to deal with situations dissimilar to CALFED.

The law itself does not require this rigid application of regulatory standards. However, it probably requires specific congressional direction and guidance (contemplated in existing law) to make certain that regulatory review occurs in an appropriate fashion. Section 201(c) provides this necessary direction and insures that CALFED's quest for a fully integrated water management solution will not be hampered by an overly rigid regulatory mind-set. This goal might be further advanced through additional language such as the following:

- Alternatives Analysis

Pursuant to the provisions of 33 U.S.C. § 1344(r), information of the effects, if any, of a discharge of dredged or fill material, including consideration of the guidelines developed under 33 U.S.C. § 1344(b)(1), will be included in the environmental impact statement undertaken pursuant to the National Environmental Policy Act ("NEPA") for any CALFED project or program requiring federal authorization and such environmental impact statement will be submitted to Congress prior to the authorization of the project or the appropriation of funds for the construction of the project.

3. Water Storage (Section 201(d)(1)).

New additional water storage will be critical to addressing and solving CALFED problems. To the extent that H.R. 2828 (Calvert) includes provisions advancing water storage, it, of course, advances this critical issue. Nonetheless, H.R. 2828 (Calvert) should be more specific with respect to water storage projects and should mirror the type of language that is utilized to authorize water conveyance projects.

We support a Sites Reservoir and believe that it should be specifically authorized and referenced within any CALFED Bill. Sites Reservoir will provide much needed storage and, consequently, a new water supply for California. However, in this context and specific to the congressional authorizations at issue here, we believe that a great mistake will be made and an opportunity will be lost if the feasibility of a storage project (like Sites) is viewed in a traditional fashion, with the "yield" of the reservoir merely divided up among a pre-identified group of "beneficiaries."

The ability to view Sites in a manner different from the traditional storage reservoir stems, in part, from its location within or adjacent to the Glenn-Colusa Irrigation District ("GCID") and districts within the Tehama-Colusa Canal Authority. Initially, this allows the reservoir to be filled through the conveyance of water into the reservoir pursuant to a wheeling agreement with GCID for use of GCID's Main Canal and/or potentially through a wheeling agreement with the United States Bureau of Reclamation ("USBR") or others for use of the Tehama-Colusa Canal.

In addition, how one operates Sites should take into consideration opportunities presented by the fact that it can be integrated with local interests within the Sacramento Valley so that it is operated and managed in conjunction with local interests—direct diversion water rights, other surface water resources, including storage rights within Shasta Reservoir, and groundwater resources. Proceeding with integrated water management will provide direct and indirect benefits. These direct and indirect benefits include securing independent, reliable and certain supplies of irrigation, municipal and industrial ("M&I") and environmental water of suitable quality for reasonable beneficial uses by local interests within the Sacramento Valley. They will also provide benefits to the environment, including improvements in Delta water quality, the availability of water for the Environmental Water Account ("EWA"), in management flexibility that will be made available in the Sacramento Valley, and a more dependable water supply for water users within the Delta as well as water users south of the Delta.

How this could work is perhaps best described by way of simple example:

GCID has 720,000 acre feet of senior direct diversion water rights and 105,000 acre feet of storage rights in Shasta Reservoir. It does not need any additional water and, of course, needs no water from Sites Reservoir. Nonetheless, in any given year it could assist others in maximizing the benefits that can be derived from Sites Reservoir. (The same is true with respect to some districts within the Tehama-Colusa Canal Authority.) This could occur in a number of ways.

- In year "A," for example, there could be a need for greater cold water flows within the Sacramento River from Shasta. In this situation GCID and/or the Tehama-Colusa Canal Authority could forego taking all or some of its storage rights within Shasta in favor of taking warmer water from Sites Reservoir.
- In year "B," for example, for whatever reason, it might be desirable for a period of time to avoid the diversion of any water from the Sacramento River. Again, for that period, GCID and/or the Tehama-Colusa Canal Authority could forego direct diversion from the Sacramento River in favor of diversion from Sites.
- In year "C," a dry year, for example, it might be desirable, during critical months, to ask GCID and/or the Tehama-Colusa Canal Authority to utilize available groundwater, thereby allowing water within Sites, Shasta and the Sacramento River to be utilized for other purposes.

The ability to operate in a flexible manner to maximize system-wide benefits is not unique to GCID or the Tehama-Colusa Canal Authority; it is a shared ability that could be exercised by other entities within the Sacramento Valley. Sites Reservoir should be specifically authorized within the CALFED Bill.

4. Water Supply and Water Yield Study (Section 201(d)(1)(D)).

This provision or something like it is long overdue. Moreover, its integration with existing authority and work already undertaken as part of the CVPIA should maximize efficiency. We, however, need to move past study and fulfill the CVPIA promise that lost yield would be recovered.

5. Water Transfers (Section 201(d)(4)).

Northern California water entities are willing and able to transfer water for beneficial use within the watershed of origin and elsewhere. In the past few years we have, for example, transferred water for agricultural use within the Westlands Water District and for urban use within the Metropolitan Water District of Southern California. We have also transferred water to the EWA.. This is in addition to local transfers to better match supply with demand within the Sacramento Valley. We have proven the benefits that can be achieved through transfers. Two things are necessary, however, to insure that transfers continue.

First, the various regulatory agencies must act in a manner that facilitates, rather than hampers, transfers. The Section 201(d)(4)(B) provision with respect to permit streamlining is a good start in this direction. More needs to be done.

Second, the underlying rights of those who transfer water must be honored. The transfer or refusal to transfer cannot be challenged through concepts of waste or beneficial use. A provision to this effect would make H.R. 2828 (Calvert) better.

6. Integrated Water Management (Section 201(d)(6)).

Northern California has been at the forefront of integrated water management and supports the provisions of H.R. 2828 (Calvert) which advance this cause. In addition to the integrated water management concepts associated with Sites Reservoir, noted above, Northern California water interests have proceeded with Basin-wide Water Management Plans to maximize efficient use within the Sacramento Valley and have, in conjunction with the USBR, the Department of Water Resources, the United States Fish and Wildlife Service, the California Department of Fish and Game and various export water interests, developed an aggressive integrated water management program under the so-called "Phase 8" process.

Another example of a project that will benefit from these provisions of H.R. 2828 (Calvert) is the Freeport Regional Water Project, a joint project involving the East Bay Municipal Utility District, Sacramento County and the Sacramento County Water Agency. This project has the potential of providing substantial water quality benefits to the Bay Area while insuring local urban supplies within the Sacramento Valley, thus fulfilling multiple CALFED goals.

7. Management—Coordination (Section 202(a)).

A fundamental problem that was identified early in the San Francisco Bay-Delta Estuary process was the multiple statutory, regulatory and agency coverage (overlap) of critical issues. Indeed, the whole concept of CALFED was borne out of the unintended adverse consequences of uncoordinated activities conducted by multiple agencies seeking to address the same problem.

In a critical way CALFED has, in fact, worked to focus attention on a coordinated set of goals and actions. Nonetheless, an important element still must be addressed. While agencies work, in part, within CALFED, at critical times they remove themselves from that process and retreat to their individual regulatory processes. Thus, critical CALFED programs and projects are still required to scale multiple, duplicative, regulatory processes which add costs and time to that which would otherwise be necessary and which consequently challenge the feasibility of any proposed project or program.

The solution, we believe, is not in asking any regulatory body to abrogate its responsibility to another or in the modification of any underlying statutory program. Instead, we propose a "regulatory streamlining" or "regulatory coordination" process in which all project elements or a program are evaluated at one time and, in this context, all regulatory requirements are also made known (along with mitigation measures) at one time. In this manner duplicative and/or inconsistent regulatory mandates can be immediately identified, evaluated and dealt with; and a project or program proponent can understand, at that time, what its total requirements/obligations will be. In this way intelligent decisions on how to proceed or how not to proceed can be made with the knowledge of all relevant facts.

This process is not unique. The Federal Power Act, 16 U.S.C. § 791a et seq., provides for similar procedures associated with the licensing under that Act. Regulatory and other relevant agencies, under the provisions of the Electric Consumers Protection Act ("ECPA") are required to notify the Federal Energy Regulatory Commission ("FERC") and the project proponents of all of the regulatory conditions that must

be included within a license. FERC, in turn, must include in any license issued under the Federal Power Act appropriate conditions based upon what is provided by those other regulatory agencies. See 16 U.S.C. § 805j(1); Mine Reclamation Corporation, et al. v. Federal Energy Regulatory Commission, et al., 30 Fed.3d 1519, 1525 (D.C. Cir. 1994). There is no absolute veto of any regulatory requirement, but merely an "all cards up" understanding of what will need to be done in order to proceed with a project.[1] Not only does this save a great deal of time, but it also allows the project proponents to make an intelligent business decision about whether and how to proceed. *Id.*

In our view, while a step in the right direction and clearly a good idea, Section 202(a) simply does not go far enough. Instead, we would propose language such as the following:

Regulatory Coordination

The Secretary working with the Governor shall develop a regulatory coordination and streamlining program in which all permits, licenses or other approvals associated with the permitting approval of projects under this Act will take place. This regulatory coordination or streamlining program shall insure that all Federal and California agencies' respective regulatory programs will take place at one time and that they will be coordinated in a manner that reduces or eliminates process- or substantive-related duplication and inconsistencies, thereby reducing costs and time that would otherwise be required; Provided, that nothing herein is intended nor should it be construed to affect the substantive regulatory requirements that may be applicable.

As in many situations, the problem faced by project proponents is not the need to comply with appropriate environmental obligations but the problem created by multiple, duplicate or inconsistent regulations. This problem is particularly troublesome in a situation as complex as the one presented by CALFED. The type of language proposed here, while not fully addressing all of the potential problems, will go a long way in remedying the situation that otherwise exists.

8. Beneficiaries Pay (Section 205(b)).

There is, of course, a simple logic in the concept of beneficiaries pay. However, we must also guard against the abuse of the "beneficiary pays" provision of the CALFED Record of Decision being distorted by those who simply choose to utilize this provision as a means to block projects, including, for example, Sites Reservoir. It is not that identified beneficiaries should not shoulder appropriate financial responsibility, but that the rhetoric engendered by those currently repeating this beneficiary-pays mantra do so by constructing so-called rules or "principles" that reflect a very traditional view of project operation. In this traditional view, utilizing reservoir storage as an example, one would merely divide the yield of a reservoir among identified entities and individuals and thereby simply determine who and how much is to be paid by each of these entities and individuals. Proceeding in this manner precludes the ability to view projects in a non-traditional manner, thereby missing the opportunity to maximize its benefits.

Identification of "beneficiaries" will, of course, be more difficult if one varies from the traditional view of project operation and management. Indeed, rather than starting with the identification of beneficiaries, one would start from the perspective of identifying management scenarios that would maximize the operation of the entire Sacramento River system over a period of years. In this manner, system maximization, and not beneficiary identification, will drive future analysis. The results of this analysis will identify beneficiaries rather than having the identification of beneficiaries drive the analysis.

Beneficiaries, all beneficiaries, including the environment, should "pay" for benefits received from all CALFED projects or activities. This requirement should not be limited to storage and conveyance projects as asserted by some and, in this regard, the provisions of Section 205(b) are well stated. In this context, some further legislative directive with respect to this issue, including focusing on the difference between a "beneficiary" of a CALFED project and a "participant" would be helpful.

H.R. 2641—Calfed Bay-Delta Authorization Act

H.R. 2641 contains many of the core provisions found in H.R. 2828 (Calvert). In this context, we have already commented on them above. This Bill has the specificity with respect to certain issues such as the specific reference to Sites Reservoir

[1] 16 U.S.C. § 803j(2) does provide FERC with a process and criteria that it must follow if it determines that recommended conditions will be inconsistent with the purposes and requirements of the Act.

and other storage, as well as specific inclusion and reference to the Freeport Project at Section 3(c)(3)(I). These are positive provisions and should be carried forward in any final CALFED authorization legislation. However, we believe that other provisions of the Bill miss the point. As a consequence, we believe that H.R. 2828 (Calvert) is a far superior vehicle to authorize federal participation in CALFED.

Notwithstanding the foregoing and, in any event, because of Section 3(c)(3)(N), entities within the Sacramento Valley could never support H.R. 2641 and would oppose CALFED itself if H.R. 2641 were passed into law.

As noted at the start, the Sacramento Valley is willing to assist in seeking solutions to problems that have been caused by others within the Bay-Delta. We are, however, unwilling to do so if the solution is at our expense. H.R. 2641 somehow adopts the misguided notion that it is appropriate to hold hostage Bay-Delta solutions until federally mandated groundwater management is forced on the Sacramento Valley. Proceeding in this manner is inappropriate. Moreover, it is not needed.

Section 3(c)(3)(N) is inappropriate because there already exists extensive state and local law to regulate and manage groundwater within California, including within the Sacramento Valley.

Section 3(c)(3)(N) is inappropriate because groundwater management is and should remain a matter of state and local law and should not be federalized.

Section 3(c)(3)(N) is not needed because groundwater within the Sacramento Valley is already being managed and does not suffer from overdraft as may exist elsewhere within the State.

Section 3(c)(3)(N) is not needed because entities within the Sacramento Valley are integrating groundwater in programs such as those discussed above in order to maximize the reasonable beneficial use of water to the benefit of those within the Sacramento Valley, the environment and to areas south of the Delta.

I appreciate the opportunity to testify here today and would be happy to answer any questions you might have now or in the future, or to provide additional information if requested.

Mr. CALVERT. I thank the gentleman.

Next, our good friend from Santa Clara Valley, Mr. Greg Zlotnick.

STATEMENT OF GREG ZLOTNICK, DIRECTOR, SANTA CLARA VALLEY WATER DISTRICT BOARD OF DIRECTORS

Mr. ZLOTNICK. Thank you.

Good afternoon, Mr. Chairman, Ranking Member Napolitano, members of the Subcommittee and staff. My name is Greg Zlotnick. I am an elected member of the Board of Directors of the Santa Clara Valley Water District. It is a pleasure and honor to appear before you today to comment specifically on Title II. I would also like to mention, however, our general support for the inclusion of Titles I and IV as very important for broadening the scope of the legislation and indicating an acknowledgment of water as an important issue nationally and Westwide, of course.

I have submitted more detailed written testimony for the record.

For those not familiar with Santa Clara Valley Water District, we are the primary water resources agency for the more than 1.8 million residents of Santa Clara County. We are the only agency that receives exports from the Delta through both State Water Project and the Federal Central Valley Project. Those exports account for about half of our water supplies in an average year and significantly more in a multiple dry-year scenario. Hence, our strong interest in the Delta and CALFED.

I was asked to comment today on working with regulatory agencies. And our district has what I have come to realize is unfortunately a unique experience working with multiple Federal and

State agencies. The strategies we have used can be applied to the CALFED program and other Western water programs to reduce permitting times and costs without compromising protection for the environment. The various resource agencies often have different perspectives, different sets of authorities and missions, and different views about which resource should be given priority. Addressing these conflicting and/or duplicative demands increases the length and cost of the permitting process and significantly inflates project costs, often without an appreciable impact on environmental protection.

We have spearheaded proactive, collaborative efforts rather than simply succumbing to reactive, adversarial processes. This strategy, with the enthusiastic participation of State and Federal resource agencies, has led to many successes in the last couple of years—notably, a 10-year routine stream maintenance program, which has been touted by Assistant Secretary for Fish and Wildlife Craig Manson; our Fisheries and Aquatic Habitat Collaborative Effort, which balances and integrates drinking water, flood protection, recreation, and fisheries needs; and also our Guadalupe River Flood Control Project that protects the heart of Silicon Valley and which our partner, the Corps of Engineers, points to as a national model for multi-purpose urban flood-control projects.

Your legislation, Mr. Chairman, recognizes the importance of agency coordination and collaboration by proposing the establishment of a centralized regulatory office. We support that concept. However, we think it is important that the project proponent be assured of close consultation as part of the agency coordination process and not left to only knock on the door of the multi-agency meetings. To be figuratively, if not literally, at the table with the agencies as they deliberate is critical.

While we are receptive to the notion of local contributions to supplement agency staff resources, we believe the agencies could free up substantial resources by streamlining the permitting process for routine or similar projects, including more widespread use of general and nationwide-type permits. In addition, permit applicants with a demonstrated ongoing commitment to watershed stewardship should be given an incentive to continue such policies through a less cumbersome process using fewer staff resources.

We support the broad authorization for CALFED implementation that these bills provide. The inclusion of complementary actions is especially important to my district and is necessary overall to ensure balanced implementation. We are particularly happy to see the San Luis Reservoir Low Point Improvement Project specifically called out in all three CALFED bills, as it cannot only improve the reliability and quality of deliveries to our service area and all of the San Felipe Bay unit, but also could quickly create approximately 200,000 acre-feet of additional storage south of the Delta for multiple benefits, including the Environmental Water Account.

Another important benefit of authorizing all elements of the Record of Decision and encouraging the use of current and ongoing authorities to contribute toward coordinated financial, regulatory, and staff implementation of the CALFED program is the powerful message it sends to the Federal agencies which you, as our representatives, fund and oversee. This legislation affirms that imple-

mentation of the CALFED program is a priority for California and the Nation and the Federal agencies should meaningfully incorporate the program into their long-term strategic planning and budgeting processes. In other words, CALFED should be considered mission critical and it is not going away.

Finally, I would like to touch on the issue of water quality. Despite being a foundational element of the CALFED program, funding for the Water Quality Program has been severely lacking, particularly at the Federal level. During the first 3 years of the CALFED program, the Drinking Water Quality Program was funded at only 45 percent of what was envisioned in the Record of Decision, and of that 45 percent, only 1 percent came from Federal agencies. This is simply unacceptable, and more funds are needed. If we cannot look to developing new supplies, particularly in the near term, we must be able to ensure that we can continue to utilize and stretch those supplies we do have even in the face of increasingly stringent drinking water regulations and the threats of what have almost become contaminants du jour.

Mr. Chairman and members of the Subcommittee, thank you again for inviting me to speak today about the authorization of the CALFED Bay-Delta program, which is so critical to the residences and businesses in Silicon Valley, all of California, and the Nation. We greatly appreciate your efforts to pass a funding authorization for this important program and look forward to working with all of you toward that end.

I also commend you once again, Mr. Chairman, for your vigorous leadership, persistence, and close working relationship with Senator Feinstein as she seeks the support of her colleagues as you do from yours.

I would be happy to try to answer any questions you may have about my comments or the issues raised today. Thank you.

[The prepared statement of Mr. Zlotnick follows:]

Statement of Gregory A. Zlotnick, Board Member, Santa Clara Valley Water District, on H.R. 2828 and H.R. 2641

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). On behalf of the Board of Directors of the District, I want to thank you for holding this hearing today on the Chair's bill and H.R. 2641, to authorize the CALFED Bay-Delta Program and improve water supplies in the West.

The CALFED Bay-Delta Program has been called a model for resolving water conflicts in the American West: a collaborative, stakeholder-based solution that emerged from years of litigation and regulatory gridlock. As the program matures, it is fundamentally changing the way state and federal agencies and stakeholders work together. If the program is not authorized, we risk a return to the conflicts and crisis management that for so many years threatened our state's water supplies and economy, and the Bay-Delta ecosystem.

Today, the future of the CALFED Program is at risk because federal agencies lack the financial resources and, in some cases, the authority to carry out key elements of the program. The District would like to thank you, Chairman Calvert, for recognizing the importance of the CALFED Program to California and the other Western states, and for your tireless efforts to secure passage of a funding authorization for the program. We also want to recognize Representative Miller for his efforts to support the program. It is encouraging to see that the three CALFED bills introduced this year take a similar approach to authorizing the program.

The region my agency serves, the Silicon Valley, has a particular interest in the outcome of the CALFED Program. Our region 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 program.

We have been asked to speak today about the two CALFED bills before the Subcommittee, the Chair's bill, and H.R. 2641. My comments will focus on three issues that we believe must be addressed in federal legislation if the CALFED Program is to fulfill its promise: agency coordination and permit streamlining; use of existing agency authorities; and funding for water quality improvements.

My comments on agency coordination and permit streamlining will draw on my agency's unique experience working with multiple federal and state agencies in the water resource and ecosystem restoration project permitting process. We believe that the strategies we have used in Santa Clara County can be applied to the CALFED Program and other Western water programs to reduce permitting times and costs, without compromising protection for the ecosystem. My comments on the other two issues stem from our role as an urban water agency charged with protecting the public health, and are ones that I think others in the urban community would echo.

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 managing and serving as environmental steward for the county's creeks and streams, underground aquifers and district-built reservoirs.

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.

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 working other Bay Area water agencies to evaluate the feasibility of desalinated seawater as a future regional water supply option.

We are very pleased that Title I of the Chair's bill recognizes the growing role of water reuse in meeting water supply needs in our state and throughout the West. We in the West face the dual challenges of meeting the water supply needs of growing populations and restoring threatened and endangered fish and wildlife populations. Faced with these pressures, we cannot afford to allow water that could be recovered to go unused. Funding made available through this bill can help support our efforts to maximize the use of recycled water in the county. As you know Mr. Chairman, we are jointly responsible for a Title XVI water recycling project in the City of San Jose, California and we are aggressively planning other reuse efforts in our county.

The bill will also help my agency and others deal with the very real and serious consequences of groundwater contamination. In Santa Clara County, we have since January been coping with the reality of hundreds of private and public wells contaminated by perchlorate from a site used by the Olin Corporation to manufacture highway flares. We hope to keep the groundwater supplies usable in the near term through a combination of well head treatment, point-of-use treatment and other recognized treatment alternatives, but over the longer term, the groundwater basin cleanup must occur.

We need federal funding to help defray these near- and long-term costs, even as we go through the lengthy process of trying to recover damages from the responsible party. The provisions in Title I of the Chair's bill regarding the cleanup and treatment of contaminated groundwater should be of great help to us. The basin in the southern part of our county that has been contaminated by perchlorate is the primary source of drinking water for many residents, making immediate action imperative. We are very grateful for your efforts, Mr. Chairman, to help us deal with this very serious problem.

Agency Coordination and Permit Streamlining

Having provided you some background on our agency, I will turn my comments to the issue of agency coordination and permit streamlining. In carrying out our

water resource management duties, my agency 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 state and federal agencies to obtain the permits for our 10-year stream maintenance program. Working with multiple agencies can pose unique challenges. One way we've addressed these challenges is by working with state and federal agencies in a collaborative or group forum at the beginning of the project effort, rather than working with them individually at the end.

Often resource 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.

Working in a collaborative forum at the front end of a project or program 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. Too often the sequential review process pits resource agencies against each other. Bringing related resource agencies together to help plan and develop multi-purpose projects leads to a smoother and more efficient permitting process, and also gives life to the projects by building multiple agency support and ownership.

The Chair's bill recognizes the importance of agency coordination and collaboration by proposing the establishment of a centralized regulatory office. We support that concept, but would encourage you to consider a broader approach to the collaborative process. In the collaborative processes we conducted in Santa Clara County, we were a full participant in the multi-agency forum for project formulation, not an outside observer. Only by analyzing problems and developing solutions together were we able to develop projects that truly met the needs of the community, while satisfying all regulatory requirements. In our view, it is critical that the local project sponsor be a partner in the collaborative process and have a seat at the table along with the appropriate regulatory agencies.

We are convinced that 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. 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. We intend to utilize this successful approach for future projects that we are developing as well.

The FAHCE is one example of the benefits of a multi-agency collaborative process. 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 it allowed each of the agencies to have ownership in the project. And that ownership in turn translated into more efficient project permitting and support for a better project.

Collaboration among federal and state agencies and project proponents is a powerful tool, but it also requires time and resources. Making this resource commitment up front, however, will produce payoffs in the form of better projects, fewer conflicts between resource agencies and project proponents, and a more efficient permitting process.

Title IV of the Chair's bill provides for contributions from non-federal agencies to expedite the permitting and environmental review process. While this could be appropriate in some situations, we think that the agencies could free up substantial resources by streamlining the permitting process for routine or similar projects, and projects proposed by agencies with a demonstrated commitment to watershed stewardship.

One way to streamline the permitting process for routine projects is through the development of clear policies and guidelines and standardized training for agency staff that review projects. Consistent application of policies and guidelines at the field office level would make the permitting process more predictable for applicants, and would reduce the impact on applicants of turnover in agency staff. It would also allow the federal agencies to target their resources where they are needed most: at those more complex projects where the use of the collaborative process could provide the greatest benefits.

We would also encourage the use of general permits for similar types of projects. 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. Applying this general permit concept to the CALFED Program could produce substantial savings and streamline the permitting process for many projects and, again, free up federal agency resources for use elsewhere.

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 record of proven environmental stewardship. 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 through the permitting process more quickly. The benefits of this approach would be two-fold: to provide incentives for behavior that furthers the CALFED program, and to allow for the more efficient use of federal agency resources.

Use of Existing Agency Authorities

The second issue I would like to talk about involves the use of existing agency authorities. We are pleased that both the Chair's bill and H.R. 2641 take the general approach of authorizing all the major elements of the CALFED Record of Decision. While we understand that the federal agencies can carry out many elements of the program under existing authorities, the broad authorization that the Chair's bill and H.R. 2641 would provide is important for two reasons.

First, some key elements of the CALFED Program are not covered by existing federal authorities. One of the projects for which the Bureau of Reclamation lacks feasibility investigation authority is the San Luis Reservoir Low Point Improvement Project, a project of critical interest to my agency and other Central Valley Project and State Water Project contractors. Solving the low point problem could make available as much as 200,000 acre-feet of storage in the San Luis Reservoir, which is "wet" water south of the Delta. This project would not only improve the reliability of water supplies for state and federal contractors, it could also be an important tool for the Environmental Water Account. We are very pleased that the Chair's bill and H.R. 2641 would authorize funding for the evaluation and implementation of this important project.

The second reason it is important to authorize all elements of the Record of Decision is the powerful message it sends to the federal agencies: that implementation of the CALFED Program is a priority not only for California, but for the nation, and that the federal agencies must incorporate the program into their long-term strategic planning and budgeting processes in a meaningful manner, consistent with the role envisioned for them in the Record of Decision.

The Chair's bill takes the additional step of directing the agencies to use existing funds and authorities to carry out the CALFED Program before funds are made available under the Act, and provides the Secretary the flexibility to allocate to storage and conveyance projects funds that cannot be used elsewhere in the program.

With respect to the first point, we would encourage the federal agencies to coordinate their existing funding programs under the CALFED program to the extent possible. Doing so will result in a more efficient use of federal resources and is consistent with the approach envisioned in the Record of Decision. The Environmental Protection Agency and the Corp of Engineers, for example, have several funding programs that could be coordinated with the CALFED Program to achieve multiple benefits.

With respect to the second point, we agree it is necessary to provide the Secretary some flexibility in funding allocations, but we also believe that flexibility should not be limited to storage and conveyance projects. From our perspective as an urban drinking water supplier, the Water Quality Program is seriously under funded and could make good use of any funds that could not be used for other programs.

Funding for Water Quality Improvements

This brings me to my third issue, which concerns funding for water quality improvements. One of the CALFED Program's four objectives is to provide good water quality for all beneficial uses, including drinking water uses. And yet funding for the Water Quality Program has often taken a back seat to funding for CALFED's other programs. This is particularly true at the federal level. I offer as an example the fact that during the first three years of the CALFED Program, the Drinking Water Quality Program was funded at only 45 percent of the level envisioned in the Record of Decision, and of that 45 percent, only 1 percent came from the federal agencies. We must reverse this trend to bring the program back into balance.

The Chair's bill takes the important step of authorizing funding for the Drinking Water Program. It would provide additional funding under Title I, and also recognizes the important link between water quality and water supply issues. Water made unsuitable for drinking due to contamination is water lost to the system; water that must be replaced from our increasingly scarce supplies.

Federal participation in the CALFED Drinking Water Program can, however, take many forms beyond providing funding. The following are a few examples:

- The Environmental Protection Agency can help CALFED achieve its objectives by providing assistance to stakeholder partnerships for watershed management and water quality monitoring; participating in the development of a statewide integrated plan to improve water quality and protect public health; and coordinating its existing water quality programs with the CALFED Program to achieve common objectives.
- Actions to protect fish and wildlife can sometimes adversely affect drinking water quality. The Fish and Wildlife Service can support CALFED's objectives by considering drinking water quality impacts in all of its ecosystem restoration activities.
- Water quality and supply are linked in the Bay-Delta system. The Bureau of Reclamation should address the potential for water quality improvements in all of its storage and conveyance project studies.
- The Geological Survey can support the Drinking Water Program by contributing to the improved scientific understanding of water quality in the Bay-Delta.
- The Army Corps of Engineers can support CALFED's drinking water quality objectives by addressing water quality in its flood control and ecosystem studies.
- The Department of Agriculture - Natural Resource Conservation Service can support the Drinking Water Program by coordinating its water quality and resource management programs with the CALFED Program to achieve mutual objects.

Many of these activities could move forward under existing authorities and with available funding, but the federal agencies lack direction and perhaps motivation to make the activities a priority. Highlighting the importance of water quality in the Chair's bill before the Subcommittee, and encouraging the federal agencies to coordinate funding for projects in the Bay-Delta solution area through the CALFED Program, would send to the federal agencies the clear message that drinking water quality is a key component of the CALFED Program, not an afterthought.

Mr. Chairman and members of the Subcommittee, thank you again for inviting me to speak today about the reauthorization of the CALFED Bay-Delta Program, which is so important to the residents and businesses in the Silicon Valley. We greatly appreciate your efforts to pass a funding authorization for this important program and we look forward to working with you toward that end. This concludes my testimony. I would be happy to answer any questions you may have.

Mr. CALVERT. Thank you. I thank the gentleman for his testimony.

Mr. Osann, please, for the record, explain your views briefly on storage options pursued by CALFED.

Mr. OSANN. We believe in the balanced implementation of the CALFED program. Storage investigations are part of what is contemplated under the Record of Decision, and—

Mr. CALVERT. I guess beyond just the investigations.

Mr. OSANN. We support those investigations going forward.

Mr. CALVERT. How about within the Record of Decision, the storage options that are outlined within the Record of Decision. Do you support those storage options?

Mr. OSANN. I would like to suggest that we supply the answer to that for the record, Mr. Chairman. I would rather not extemporize here too greatly and cloud the record with something that we would have to correct.

Mr. CALVERT. We will look forward to your answer to that question. You also brought an issue up regarding, I think you referred to it as "automatic approval." Have you read the Feinstein legislation?

Mr. OSANN. Automatic authorization?

Mr. CALVERT. Automatic authorization. You are opposed to that?

Mr. OSANN. Yes.

Mr. CALVERT. Have you read the Feinstein legislation?

Mr. OSANN. Yes, I have, Mr. Chairman.

Mr. CALVERT. Do you support her legislation?

Mr. OSANN. We have submitted some comments on it and we are continuing to review the Feinstein Bill as well.

Mr. CALVERT. Let me thank you for your statement of Title I of the bill, but are you—you realize that in the Feinstein legislation it states that the Secretary shall report to the Congress within 90 days after the completion of a feasibility study, or the review of a feasibility study, for the purpose of providing design and construction assistance for the construction of desalinization and regional brine lines projects. And in effect, that is an approval process. Would you support that for reclamation and desalinization?

Mr. OSANN. I would like to take a fresh look at it and provide you a comment for the record.

Mr. CALVERT. I guess the question is, if it is good enough for water recycling and desalinization projects, to be consistent in your perspective on this issue, do you support that over issues of storage which are outlined within the Record of Decision?

Mr. OSANN. I take your point, Mr. Chairman, and will be glad to provide you with a written response on that question.

Mr. CALVERT. On the issue of beneficiary-pays concept, as outlined in the Record of Decision for projects that are regional in scope, in benefit of a multiple number of users, is the environment a user of that water also?

Mr. OSANN. We did note the language of the bill that referred to the environment as a potential beneficiary. And certainly, recreational users have been beneficiaries and there have been beneficiary-pay mechanisms for sportsmen through Dingell-Johnson and duck stamps and a variety of mechanisms for many years. So there certainly are mechanisms that are potentially available for beneficiaries for recreation and fish and wildlife.

Mr. CALVERT. So you would agree, then, that environmental interests would be included in the beneficiary-pays as far as—if that is consistent with your perspective?

Mr. OSANN. It certainly is conceivable. The language of the bill is a bit vague and uses some terms that are not defined. We would be glad to take a look at further refinements in that area.

Mr. CALVERT. There has been some discussion about—and I am getting back to storage a second—on the Sites Reservoir. Do you believe that there is some benefit in the Sites Reservoir?

Mr. OSANN. There may be some benefits in Sites, there may be some benefits in a number of surface storage projects that are contemplated. The question is whether the benefits will outweigh the costs.

Mr. CALVERT. Well, you know, I guess I have been here for awhile now. I was here in the beginning when we all came to an agreement back in 19—I believe that was 1993, 1994, when we all—almost, I think, all of us—signed on to the concept of CALFED. And I remember all of us getting together at that time and saying basically we are all going to get better together. And the environmental community, the agricultural community, the urban community all signed on to the concept that we were going to get better together. And part of that was, of course, that we had to fix some of the past sins, especially in the Bay-Delta, but elsewhere, and that at some point, though, the end, the carrot was that there would be water in the end, is the way I understood it. And I tell you this, from almost all of my colleagues—I am sure—I won't say 100 percent, but I would say a great majority of them believed at the end that these storage projects, including Sites and other storage which is outlined—with, by the way, in both my legislation and in Senator Feinstein's legislation—would be acceptable at the end. And I am hopeful that in your comments that you send back to this Committee for the record, that you will remember that. Because it is important that we go back to the people that we represent in California, that the significant amount of money that we are being asked to expend, and have expended, and more in the future, that at the end of this process, that we have water.

With that, Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chair. You just brought up some points and you got me to thinking about what really we need to do. And I made the statement while I was not only touring Northern California but also during the hearings, is that most of the Northern California, they use water basically—not basically, but most of the water goes for farming. Restoration of the ecosystem, the—as far as natural resources are concerned, for the Bay-Delta, for fisheries, for et cetera. And I keep saying Southern California uses for drinking most of the time. Because we have the numbers of people that drink water, the increasing numbers. And so there is a little bit of a difference as far as I'm concerned. Well, we are not going into the debate here, because I can start about the meters.

Mr. Osann, there has been comments about those who say that CALFED has spent a tremendous amount of money on the ecosystem restoration projects. What is your answer to that?

Mr. OSANN. Well, CALFED contemplates, you know, expansive programs across a variety of purposes. And we have had 40 or 50 years of ecosystem degradation. Even under current conditions, we have the San Joaquin River, which is the second-largest river in the State, you know, has reaches that are dry 2 years out of there, or more. And so it is going to be a big job to restore habitat, to restore fish and wildlife—it is going to be a big deal. But it is—we recognize that the fabric of CALFED involves addressing a number of inter-related—that these issues are inter-related and addressing a number of them concurrently, we sort of have to walk and chew gum here. And we are looking for a program to go forward on a balanced basis.

Mrs. NAPOLITANO. Well, again, I hear some of my colleagues' comment that no matter what the project for storage, that the environmentalists will not be in favor of them. And to me, that doesn't seem like the response I am looking for sitting at the table and trying to figure out how do we work together on these.

Mr. OSANN. We have—in the course of pursuing San Joaquin River restoration, as a for-instance, we have been supporting the storage exploration—investigation for the Upper San Joaquin River for purposes, as called for in the ROD, of habitat restoration and improving water quality in the Delta, including for the benefit of those who use Delta water for drinking water. We have conducted—for the last three or 4 years, we have been conducting collaborative studies with the Friant water users on opportunities, including storage opportunities, for—that would provide the mechanism for accomplishing those purposes.

However, the results have been, of these cooperative analyses that we have done with the Friant water users, that the surface water storage options pencil out to be the most expensive options to accomplish these purposes.

Mrs. NAPOLITANO. It is quite a convoluted issue.

Now, going back to the regulatory streamlining, how do you see that need as a priority. Or if we are looking at—I would call it fast-tracking; I know my colleague over here has a different name for it—but the storage projects. How would you see the need for this regulatory streamlining have an effect on CALFED?

Mr. OSANN. Are you referring to the provision that provides for the authorization in this bill of storage projects?

Mrs. NAPOLITANO. Precisely.

Mr. OSANN. We think this is a major departure from the Record of Decision, and frankly, we view this as an impediment to passing the bill. I just observe that there probably hasn't been more interest in reforming the Corps of Engineers program today than there has been over the last 20 years. One of the key issues that keeps coming up in WRDA is inclusion of projects that don't have completed feasibility reports. And the Committees and the Congress and the administration by and large hold the line that projects that are authorized for construction have completed feasibility reports. And it seems to us that the bill, if this provision stays in it, would be headed for some difficult times ahead.

Mrs. NAPOLITANO. Thank you, Mr. Chair.

Mr. CALVERT. Mr. Nunes.

Mr. NUNES. Thank you, Mr. Chairman. I want to first welcome Ms. Moralez, who comes from my area, and I want to thank you again for testifying before our Committee. And thank you for your prior testimony in Tulare.

Also, it is good to see my old friend—Greg, it is good to see you again.

I want to just go back to some of the questions that Ms. Napolitano and Mr. Calvert asked Mr. Osann. Maybe you didn't understand the first part of the question when Mr. Calvert asked you, because you said that you don't agree with the authorization upon completion of feasibility study. That was what you just explained to Ms. Napolitano, correct?

Mr. OSANN. Correct.

Mr. NUNES. And yet you are supporting Mr. Miller's bill that does exactly that.

Mr. OSANN. We have identified several features of the Miller Bill, H.R. 2641, that we support. We have not provided a final set of comments on that bill, either.

Mr. NUNES. But you are supporting the bill.

Mr. OSANN. I am not here today to provide a blanket endorsement to H.R. 2641, no, sir.

Mr. NUNES. Mm-hm. But I find it very disingenuous that it is OK when it comes to support issues that you care about, but when it comes to issues that other folks care about, it is not OK and it is unconstitutional, to use the words that you used. I think that is what you said.

So, you know, I haven't been here, as the other members of the Committee have been here, for 10 years working on CALFED. But at the end of the day, the other four people that are sitting here know that you can't continue to add people to the State of California and not have new yield somewhere, somehow.

You know, there are a lot of us that are in favor of the San Joaquin River being restored. I agree with that, too. But I don't see how you can do that without building new storage on the San Joaquin River. And you talk about how do you explain during the droughts, prior droughts, had the water projects not been in place, what would have happened to rivers like the San Joaquin when you incur an eight- or 9-year drought? Would there have been fish there when water wasn't flowing?

Mr. OSANN. Well, you also have tremendous amount of consumptive use.

Mr. NUNES. I understand that. But without the water project there, the rivers wouldn't run during these long periods of drought.

Mr. OSANN. That has certainly been the case for many of California's rivers, yes.

Mr. NUNES. There are rivers in California that now run practically year-round because of the water storage projects. And I—

Mr. OSANN. It is good for habitat, yes.

Mr. NUNES. And I am one of the opinion that water storage projects can be very beneficial to the environment, and we can do things like restoring water down the San Joaquin River. Yesterday we sat in with the folks looking at the through-Delta options that can improve water quality for the Delta.

So, I am going to be very blunt with you here. We have folks from both sides of the aisle supporting this bill. We have every major city, farm organization, and labor group supporting new water storage facilities. My patience is going to grow very, very thin with groups like the NRDC if they continue to stall this process longer than what I feel it has already been stalled for. And I hope that you will, as Mrs. Napolitano asked, come to the table, let's work on this legislation, and let's move it.

I mean, I think this is a good bill. Mr. Dooley's co-sponsor, Mrs. Napolitano, Mr. Calvert. I think that it has been beneficial for the environment. And I just feel like you are going to put up what I call political roadblocks and not roadblocks that really have substantial data behind them. And much like this—I don't know what I did with your statement here—the problem that you have with automatic authorization of construction. You don't have a problem with it when it comes to the projects that you want, but you do have a problem when it comes to projects that you don't want. And I find that very alarming. And I hope that—I assume you are going to address this in some statement, as Mr. Calvert—you are going to provide some statement to the Committee?

Mr. OSANN. Yes. We have indicated to the Chair that we would.

Mr. NUNES. Well, I look forward to reading that testimony.

Ms. Moralez, since you live in Fresno County—can you comment on what your thought is for storage on the Upper San Joaquin River? I know you did it in your statement, I guess I should ask you, do you think that it would be beneficial for the environment, or do you think it would hurt the environment?

Ms. MORALEZ. I believe it is going to help. I have been there 30 years and I have been very much a part of every aspect of what happens in the area because of my involvement in agriculture and the business community. Also, I am very committed to the environment myself. I want the San Joaquin River to flow again. And I think, realistically speaking, when you look at how do we divide the limited water we have, well, I doubt very seriously that any of us, even if you are 100 percent strictly environmentally minded, that you are going to stop providing water for the people that live in the area or providing water for agriculture so that—to stop the production itself, or to stop the water to continue dealing with the issue of growth that we have.

I think, realistically speaking, we can provide the water for the San Joaquin River, but we are going to be realistic and go and build additional storage. Without storage, I think we are going to go on fighting for the next 50 years and we won't resolve the problem.

Meanwhile, the population growth is happening so fast in the Valley that I truly believe we will have a major economic and social problem.

Mr. NUNES. Thank you. I assume my time has expired. Thank you, Mr. Chairman. Thank you, Ms. Moralez.

Mr. CALVERT. Mr. Dooley.

Mr. DOOLEY. Yes, Thank you, Mr. Chairman. And thank you all for taking the time to come.

I think what I would like focus on a little bit here are some of the opportunities for quicker fixes that can provide additional sup-

plies of water, and one of those, Mr. Walthall, you identified in your testimony in terms of the increase in the pumping capacity, primarily at Banks, and how that is a critical component to improving the plumbing, which will provide additional water supplies. And there currently are, I guess, talks that are taking place now that are making progress. And I guess I would like to understand a little bit in terms of what is happening now and what the Calvert legislation would do to even expand upon that.

Mr. WALTHALL. Certainly. I would be delighted to respond.

The talks you are referring to are discussions between the CVP contractors, the Federal contractors, and the State contractors. And we spent a great deal of time last week with each other, probably more time than most people would have thought was healthy, given our past conflicts. And the resolution that came out of that was an understanding that expanding Banks's capacity, if it is to occur, has to benefit both projects. That is not something that was intuitively understood from the CALFED ROD, but it is a reality of how that project moves forward.

One of the elements of the Chairman's bill that will facilitate that is a much quicker protection for some of the in-Delta water users. Specifically, when you increase pumping, you decrease water levels in the Delta. And the way you compensate for that is by constructing permanent barriers that allow the tides to flow in, raise those water levels, and then prohibit the tide from flowing back out. As a result, the water levels remain higher.

Those permanent barriers are included in the Chairman's bill as something that needs to be accelerated in their construction. In other words, they are currently scheduled for 2008, but the Chairman's bill would request that the Federal agencies accelerate that and work diligently with the State agencies who are leads for that project, and accelerate the permanent installation of those permanent barriers. The goal being that once you have provided those protections for the in-Delta users more quickly, you can use to your greater advantage all 8500 cfs of new capacity.

Mr. DOOLEY. Now, if we did construct those facilities and those barriers, they would have to be constructed in a manner that was consistent with all State and Federal laws that are currently in place?

Mr. WALTHALL. Of course. Yes, sir.

Mr. DOOLEY. Mr. Osann, in your testimony, I think you identified that you were concerned that the legislation wasn't providing that protection of all State and Federal laws. Where is the disagreement here?

Mr. OSANN. I am not sure I can speak with the specificity you are looking for this afternoon.

Mr. DOOLEY. Your statement said the provision regarding Delta pumping requires a project to be consistent with some but not all State laws.

Mr. OSANN. Right.

Mr. DOOLEY. So I just assumed that, you know, you would have some idea in terms of what State laws it wouldn't be subject to.

Mr. OSANN. Those that are not enumerated in the bill. The bill calls out certain laws in particular that pumping has to be con-

sistent with, leaving other laws—perhaps the Fish and Game Code or other aspects of California State law—not covered, by inference.

Mr. DOOLEY. Mr. Walthall, would you respond to that? I mean, I didn't know we could build anything that wasn't subject to every law that was on the book today.

Mr. WALTHALL. And I am not exactly sure, too. I think it is more the storage provisions of the Chairman Calvert's bill that was probably objectionable to NRDC.

Mr. DOOLEY. No, this is Delta Pumps, page 25 specifically, that had that citation in it.

Mr. WALTHALL. —read that, Mr. Osann?

Mr. DOOLEY. It is on page 4 of the testimony, I believe. But whatever—

Mr. WALTHALL. I guess, let me respond in this way. The barriers are part of the overall South Delta Improvement program, which expands the pumping capacity. And that process is currently being handled by the State Department of Water Resources. And they are right now doing their EIR for that, which is under SEQA—State law, SEQA requires. They are doing that in tandem with the Bureau of Reclamation. Reclamation is the lead on the EIS. So both NEPA and SEQA are being complied with for the entire South Delta Improvement program, which includes the barriers and expansion of the pumps.

Mr. DOOLEY. But then I guess, Mr. Osann, as long as it was complying with all these laws, you—I mean, the NRDC— wouldn't have any problem with the increasing of the pumping capacity at Banks?

Mr. OSANN. Let me give you a response to that for the record.

Mr. DOOLEY. All right. Moving on to another issue which is a little bit of a distinct—

Is it all right if I go ahead and ask one other question here on this issue?

Another issue where there is a difference in terms of an approach, between the Calvert proposal and the one that has been offered by Mr. Miller is how we meet refuge water supplies. And I guess I am a little bit—I don't understand why—you know, what the rationale is for the differences. Mr. Calvert's bill basically requires no more than $30 million to be expended to be complying with Level 2 and Level 4 refuge water supplies. Under Mr. Miller's proposal, it says no more than $30 million may be expended to comply with Level 2 and Level 4 refuge water supplies requirements as set forth in CVPIA. But they say no such funds shall be expended first to acquire the quantities of Level 4 water before the money can be spent to acquire the 26,000 acre-feet of Level 2, replacement supplies.

What is the objective here? I am a little bit concerned that if I have my water users and contractors south of the Delta, is there a reason for me to be concerned about what would be the impact on this? Can someone respond? Greg, you are nodding your head.

Mr. ZLOTNICK. Well, I am certainly not an expert, and I would defer to Brent. But my understanding is yes, they would be concerned, that it is essentially a flip-flop of what current priority is in terms of trying to find those supplies.

Mr. WALTHALL. My recollection of the CVPIA is six or 7 years old. But the way I understand that provision to work, it would change the order of which money pays for which level of refuge supplies. And I think the way it is in Congressman Miller's bill, it would mean that more of that money was a reimbursable expense of the CVP, rather than a nonreimbursable expense—in other words, a greater cost on the CVP's contractors.

Mr. DOOLEY. OK. All right, thank you.

Mr. CALVERT. Thank the gentleman.

I just want to point out for the record Section, I believe, 207 on page 51 of the bill is Compliance With State and Federal Law. Nothing in this Act—it starts out—invalidates or preempts State water law or interstate compact governing water, et cetera, et cetera. Just for the record. As the gentleman well knows, especially in our State, nothing gets done without meeting both State and Federal law.

On the Bay-Delta, and I would like to ask the gentlemen, Mr. Zlotnick and Mr. Somach, on the issue of the Sites Reservoir. Mr. Zlotnick first. Do you believe that the Sites Reservoir is important not just for storage reasons but for water quality issues that are important within the Delta?

Mr. ZLOTNICK. If I may answer this way, Mr. Chairman. Because the investigations are going on right now in terms of all the storage, integrated storage investigations, I wouldn't want to conclude on any particular project. However, I will say that storage in general, whether, frankly, it is on the San Joaquin or off Sacramento in the north, whether it is Los Vaqueros, whether it is the low point project, whatever, storage today is now considered a tool for what you described as the need for increased flexibility in the system. And that is how our agency would look at it, to look at multiple benefits that could be provided by essentially providing additional buckets of water that could be filled when the water was available so we could utilize it when the system is depleted.

And in terms of Sites, I will say that one of the important issues with respect to Sites in terms of multiple benefits is it is north of the Delta storage, which would potentially have a positive effect in how it was operated for water quality within the Delta.

We also have the issue that has not been raised today, but which is out there on the horizon, and that is climate change. And in terms of what is happening to the snow pack in our State, both from a temporal aspect and where the snow or rain will fall, there is a potential to have Sites provide some additional flood control benefit in the Sacramento Valley potentially. And that is important. I served as vice chair of the Government's Flood Plain Management Task Force, and that was an important issue. We put into the recommendations of looking at that whole issue.

So that would be important in the Sacramento Valley in particular as well. So if I could just answer it in terms of the flexibility that storage provides, then north of the Delta can help with water quality in the Delta.

Mr. CALVERT. I guess the—as I am getting to, there is environmental benefit to some of these—For instance, on Shasta, the additional 300,000 acre-feet in Shasta is—isn't it true that much of

the benefit goes to cooling down the downstream water in order to help the salmon runs at—

Mr. ZLOTNICK. Well, your initial comment about water quality—but there is no question that environmental benefits are part of the multiple benefits that storage could provide, whether it is cold water flows or it is the timing of flows into the system when fisheries need it.

Mr. CALVERT. Right. Mr. Somach, your comment on—I understand you spent a lot of time on the Sites Reservoir issue.

Mr. SOMACH. We have spent quite a bit of time on the Sites Reservoir issue.

Yes, I—you know, it is kind of funny. There is this notion of north versus south that always kind of comes up, and use of water in the Sacramento Valley for agricultural purposes. The underlying reality of the situation is that every drop of water that isn't consumed by crops in the Sacramento Valley returns to the system. It is one of the benefits, actually, of the way the system operates, is that one can actually go in there and optimize the utilization of water in a manner that ensures not only that the agricultural use in the Valley is sustained, but that every drop of water not consumed by crops up there moves into the system.

Sites Reservoir really allows the folks in the Sacramento Valley to be an active participant in the CALFED process by providing more than could be provided with just top-down control-type of mechanisms that would force people to do things in one way or another. And the reason why it does that is because it allows flexibility and it allows alternatives. And I think what I mentioned before is the fact that one could take existing resources and meld them with Sites Reservoir in such a way as to actually increase the overall benefits of all of the existing resources, whether they be direct diversion water rights, storage water rights in Shasta, or groundwater.

And I think the best example I can use is Glenn-Colusa Irrigation District, which lies adjacent to where Sites Reservoir will be. That district as 825,000 acre-feet of water and water rights that it relies upon from the Sacramento River. If that district cooperates in the context of the Sites Reservoir, it can do many things, including go to Sites Reservoir at various times to alleviate water-quality and other problems in the Sacramento River, where supply it otherwise would have taken from the Sacramento River is allowed to move down through the system.

It can, in addition to that, at any given time utilize Sites Reservoir in conjunction with groundwater that it has available to it, allowing, in certain years, water that otherwise it would take from the Sacramento River, again, to be used for environmental and other uses through the Delta.

Mr. CALVERT. For instance, on the issue of—and I know this is an emotional subject to some—water transfers, but many in the environmental community are supportive of water transfers. If a voluntary seller of water for whatever reason—during times of plenty he wanted to sell some water to whomever—would a Sites Reservoir be helpful in having additional storage in order to store that water for—transfer that water later on?

Mr. SOMACH. Yes, absolutely. In fact, over the last 3 years, we have transferred water south to agricultural users in the Westlands Water District. And in fact, this year we are currently in the middle of transferring water to the Metropolitan Water District of Southern California. One of the problems in particular with the Metropolitan transfer was problems with storing water so that it would be available at appropriate—

Mr. CALVERT. Yes, I was going to ask that question. There was a problem of storage water in the State Water Project and the State reservoir—they didn't have the capacity. Isn't that true?

Mr. SOMACH. It was a capacity issue both in the reservoir as well as a capacity issue given the existing conveyance problems through the Delta. Storage facilities like Sites would allow us, then, to back water up so that it could be available when there was available capacity.

Mr. CALVERT. What I am trying to get—is the system today we are operating at complete capacity? I mean, we are straining the system that we have because we haven't really added to the system in so long? And that is what this legislation attempts to do, is to provide some capacity to the system both in storage, conveyance, and obviously in our first title, to create yield through conservation and other purposes basically across the board.

Any additional questions for this panel?

Mrs. NAPOLITANO. You just brought something else to mind, Mr. Chairman. Thank you for giving me the time. And that is, I have heard a lot of above-ground water storage, conveyance, everything else, but nothing about looking for aquifers of the capacity to expand aquifers. Can anybody answer that?

Mr. SOMACH. Yes, I certainly can, and it really goes hand-in-hand with this discussion of Sites Reservoir. One of the things that we are looking at in the context of Sites Reservoir is how better to integrate with that resource plus other resources we have up there that are available groundwater, so that we can maximize the ability to conjunctively use groundwater that is available in the Sacramento Valley with all these other resources.

We just finished what is called the Phase 8 process, which was a process that involved the Fish and Wildlife Service, the California Fish and Game, the Bureau of Reclamation, Department of Water Resources, south-of-Delta CVP and SWP exporters on one side, and then the Sacramento Valley interests on the other side. And among the things that came out of it was the development of numerous projects, groundwater-related projects being among the foremost of those projects that will, No. 1, provide water for the Sacramento Valley, provide water for the environment in terms of Delta outflow, and also make water available for south of Delta to water uses.

I might add that we are moving forward with a long-term look at what can be done if we expand the kind of program I have just discussed. And again—and I hate to sound like a broken record here, but Sites Reservoir looms very large in that long-term plan, because with it we can do so much more for all three of the elements I have just—

Mrs. NAPOLITANO. I think you missed my point, though. I am talking about aquifer storage—underground, to avoid evaporation because of the climate change we are talking about.

Mr. SOMACH. Yes. And I should have mentioned that among the Phase 8 projects, in fact one that the Glenn-Colusa Irrigation District is, is to utilize the area around Stony Creek in the north as an injection and replenishment area, where we actually take available storage and we put water back into the ground and use it—again, in conjunction with all the other things I have talked about.

Mrs. NAPOLITANO. But has it been evaluated or have several areas been evaluated to be able to identify them at the time when you have excess water that can be stored and later maybe sold to Southern California because you have that water that you do not have need of?

Mr. WALTHALL. If I could add just a little bit. Kern County Water Agency, actually, has been very aggressive in exactly that, actually. The Kern Water Bank, for example, is one of our larger projects, but within the Kern County area, over a million acre-feet of groundwater storage. That storage has very broad benefits. For example, the Metropolitan Water District of Southern California stores a significant amount of water, over 400,00 acre-feet in Kern County groundwater basins. We have provided storage space to the Santa Clara Valley area—

Mrs. NAPOLITANO. Yes, I understand you have projects, but is there anybody looking at adding to—

Mr. WALTHALL. Yes.

Mrs. NAPOLITANO. —finding additional aquifers or identifying those areas that might have contamination because of fertilizers and pesticides, which we found very, very heavily affected our San Gabriel Valley area, that we have had multimillion, about $95 million worth of cleanup, and how that—because it was explained to me that the top layer is contaminated and then the aquifers are below that. Well, how do we—we have the water, ladies and gentlemen. We just need to use it better. We need to be able to clean it, we need to be able to move it around so everybody has a win-win situation instead of fighting over what projects, the costs of the projects, and—you know the old adage, Whiskey is for drinking, water is for fighting.

Questions? Answers? I get very frustrated listening to the different dialog, because the effect—the ecosystem, environmentalists, we need to protect, and the farmers want, and the others have shortages, and there is contaminated that prevents us from actually pulling water to be able to meet the needs of the people, especially in heavily populated areas. We have no other alternative, OK? We will have to go to bottled water. That is quite an issue.

So you understand my frustration.

Mr. WALTHALL. Certainly.

Mrs. NAPOLITANO. Thank you.

Mr. CALVERT. Thank the gentlelady.

Mr. Nunes?

Mr. NUNES. I would just like to maybe have each of the panelists offer a very short, brief answer to the question of if we don't create new yield in the next 15 to 20 years, your specific area that you

folks represent, where will you get the water from? Why don't we just start on the left—my left?

Mr. SOMACH. Well, if we don't create new yield, folks will be coming and attempting to take water away from the folks I represent. And so we see additional yield as absolutely essential in order to maximize and to maintain the kind of stability and reliability that we need to continue to operate in the northern part of the State.

Mr. NUNES. Thank you.

Mr. WALTHALL. In our area, we already invest heavily in water conservation and recycling and all of those kinds of things. They are not sufficient. And in your scenario, where would we get the water? We wouldn't. It would be a deterioration in quality of life.

Ms. MORALEZ. In the San Joaquin Valley, which is part of the area he is talking about, absolutely, there is no real solution. The only solution is going to be additional storage. There is no question about it, no matter how we look at it. What water is available right now, as it is, it is difficult to provide the contracts that are on the records right now. The population explosion is happening. We can't stop that. The business expansion is occurring. The folks from San Francisco and Los Angeles are moving next to our backyard. So realistically speaking, we don't have any other resource. And I am sure we can look everywhere. We do have the snow, we have the meltdown, we have all those beautiful resources, but we have to find a way to store it. And the only way to store it is additional storage.

Mr. NUNES. Thank you.

Mr. OSANN. There are a variety of ways to increase the yield of the system, ranging from water use efficiency and moist water reclamation and reuse to surface water storage and groundwater storage. And the CALFED Record of Decision is the path for exploring and implementing an optimal mix of all of those measures.

Mr. NUNES. Thank you.

Mr. ZLOTNICK. I would answer it this way, Congressman, for my colleagues are here. If we don't get the yield, the luxury of doing what we do for the environment is probably going to be much tougher to sell to the public, first of all. And second of all, for our area, we will have to invest in much more expensive technologies. And Brent, I think, hit it on the head when he said it is a quality of life issue, which is what we as elected officials are charged to try to protect and improve for our constituents. And then ultimately this will get to, for your area that serves not only California but the Nation, we are really talking about agricultural policy as well. You are not going to be able to do desal for crops. And so I think that is part of the mix that we get into here that is sort of left off the table a little bit, but hovers through the issue.

And so in answer directly to your question, we would find a way to pay what we would need to pay to maintain some quality of life, but we have the luxury of that in our community. Not every community does.

Mr. NUNES. Thank you. Thank you to the panel also, for your testimony. Thank you, Mr. Chairman.

Mr. CALVERT. Thank you. And I want to thank this panel. It has been a very interesting hearing today. I know it has been a long

day for all of you. It is going to be a longer day for us, if that makes you feel any better—and tomorrow, too, by the way.

But this is important. As Californians, we understand the difficulties that we operate under in our State, and water is right on top of the list. And we are attempting in this legislation to attempt to not just reclaim water and to conserve water and to convey water, but to store water and to get additional yield for additional needs in our State.

You know, I know everybody is sick of hearing me say this, but you remember that movie "Field of Dreams"—build it and they will come. Well, we have a saying up here, Don't build it and they will come anyway. So that is why we are here, to do something positive and to be for something rather than against everything. And that is what we are going to do with this legislation.

So thank you very much. We are adjourned.

[Whereupon, at 6:25 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

[A statement submitted for the record by Don Marciochi, General Manager, Grassland Water District, follows:]

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 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

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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).

[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.

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.

[A letter submitted for the record by Ben Movahed, President, American Membrane Technology Association, follows:]

American Membrane Technology Association

Improving America's waters through membrane filtration and desalting

President
Ben Movahed
Watek Engineering Corporation

First Vice President
Bob Yamada
San Diego County Water Authority

Second Vice President
Randy Truby
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Past President
Robert W. Oreskovich
Dare County Water

Administrative Director
Janet L. Jeworski

July 24, 2003

The Honorable Ken Calvert
Chairman
Subcommittee on Water and Power
Committee on Resources
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the American Membrane Technology Association, we support your efforts to address the need for desalination technology and projects as part of any water resources legislation. We understand that your proposed legislation would provide significant funding assistance to local communities to demonstrate and construct such technologies and facilities.

One of the most vexing problems facing the use of desalination technologies involves the matter on how to minimize, manage, and dispose of concentrate and other by-products generated as part of the desalination process. The ability to provide federal assistance in this area represents a major step toward the development of a comprehensive approach to address our nation's water supply needs. AMTA understands that this would be an eligible activity under the draft bill's grants program. We support this policy position.

As you and your subcommittee finalize a legislative response to the needs of the nation, AMTA looks forward to providing assistance in this endeavor.

Sincerely,

Ben Movahed
President

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[NOTE: Additional letters of support for H.R. 2828 have been retained in the Committee's official files.]

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