

H.R. 1985 AND H.R. 2404

LEGISLATIVE HEARING

BEFORE THE
SUBCOMMITTEE ON WATER AND POWER
OF THE
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTH CONGRESS

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HEARING ON H.R. 1985, FUNDING FOR IMPLEMENTATION OF A COMPREHENSIVE PROGRAM IN CALIFORNIA TO ACHIEVE INCREASED WATER YIELD AND ENVIRONMENTAL BENEFITS, AS WELL AS IMPROVED WATER SYSTEM RELIABILITY, WATER QUALITY, WATER USE EFFICIENCY, WATERSHED MANAGEMENT, WATER TRANSFERS, AND LEVEE PROTECTIONH.R. 2404, TO AUTHORIZE FEDERAL AGENCY PARTICIPATION FOR THE PURPOSES OF INCREASING DELIVERABLE WATER SUPPLIES, CONSERVING WATER AND ENERGY, RESTORING ECOSYSTEMS, AND ENHANCING ENVIRONMENTAL QUALITY IN THE STATE OF CALIFORNIA

**Thursday, July 26, 2001
House of Representatives,
Subcommittee on Water and Power,
Committee on Resources,
Washington, D.C.**

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

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

Mr. CALVERT. Good afternoon, Madam Secretary. This hearing will come to order. An adequate supply of high quality water is vital to the people of this Nation, especially in the west. We must provide for the environment, enhance ecosystems, while also supplying high-quality drinking water to businesses and millions of residents.

Furthermore, we need to abide by the commitment laid down in the CALFED record of decision to deliver to existing agricultural

users south of the Delta. We can achieve all these goals and carefully balance the use of existing water through conservation, water recycling, and the development of new water yield and supply. That is at the heart of what I believe, and it is embodied in HR 1985, the solution to improve our water security.

H.R. 1985, which I introduced along with more than half of my California colleagues from throughout the State of California, is a broad-based solution which addresses all aspects of putting water security on a more solid foundation in California and the west.

H.R. 1985 authorizes and supports the CALFED record of decision and associated programs, and further addresses our water security needs throughout the west. As you are aware, I chose not to authorize any specific projects in this legislation. I did this to ensure that a fair process can be developed to meet all the competing demands of water users. I also recognize it is time we stop pitting one interest group against another.

I certainly would have liked to specifically authorize the development of new water yield in the State because there are a number of worthy projects that would create new water and efficiently reuse existing water supplies; however, we need to assure that all competing water users rise and fall together, and not to leave anyone behind has been done so frequently in the past with Federal water policy in California.

H.R. 1985 calls on State and Federal agencies working in close consultation with the public and local stakeholders to develop a governance structure that will assure proper balance among competing water interests. Parallels between the power crises and water have been drawn, and for good cause. Over the last decade, the demand for electricity in California grew by 25 percent, while new power protection grew by only 6 percent. The results: Wholesale energy prices that averaged \$30 a megawatt hour last year averaged \$330 in January of 2001, and ultimately adequate electricity was not available, and people went without as blackouts rolled across California.

What will be the reaction if we allow the water situation to escalate to the same proportions? Remember when managing water, we're dealing with a finite supply, electricity can be created but not stored while water can be stored but not created. We do not have the power to make the skies open upon request and produce rain. Today we are looking for ways to make more water available for the ecosystem. We are facing agriculture water supplies that continue to diminish. Business in California are concerned about water security, and at the same time, we must reduce our dependance on the Colorado River by 15 percent in the next 15 years. In those same 15 years, California's population is projected to grow by 30 percent.

The message is clear. Inaction will inevitably lead to a serious water crisis, much worse than the electricity crisis today. This debate cannot afford to have any spectators. Water is essential to every person, every day, in every facet of life. From the dot com companies in Northern California to the farming operations in the Central Valley, to the tens of millions of consumers in Southern California, all Californians need to be proactive supporters of measures that will responsibly manage and improve our water supplies.

I, along with 100 cities, have a big book here of counties, associations, elected officials, including the Association of California Water agencies, Orange County Water District, Ducks Unlimited, Long Beach Water Department, California Women for Agriculture—the list goes on, of concerned folks looking for people to come up with solutions and who all support H.R. 1985.

I certainly appreciate the level of detailed engagement from the Department of Interior, which is the fruit of many meetings I have had with the Secretary and staff.

Madam Secretary, I appreciate your personal engagement on this issue and will carefully evaluate all of your constructive comments. This exchange now gives us the opportunity to move forward with a balanced approach in order to improve the water situation in California, and certainly in the entire west. I believe the only viable solution to water issues in the west will be found in the compromise between H.R. 1985, Senator Feinstein's legislation, certainly the Bush administration's proposals, along with consulting with many others. These three positions define the parameters, what is responsible and more importantly what is possible.

With that, I will now recognize the ranking member, Adam Smith.

[The prepared statement of Mr. Calvert follows:]

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

An adequate supply of high quality water is vital to the people of this Nation. We must provide for the environment and enhance ecosystems, while also providing high quality drinking water to businesses and more than 33 million residence. Furthermore, we need to abide by the commitment, laid down in the CALFED Record of Decision, that water deliveries to existing agricultural users south of the delta be 70% of their contracted amounts in a normal water year. We can achieve all these goals, and carefully balance the use of existing water, through conservation, water recycling, and the development of new water yield and supply. That is at the heart of what I believe, and it is embodied in H.R. 1985, the solution to improve our water security. This bill, introduced by more than half of my California colleagues from throughout the State, is a broad-based solution of working on all aspects of putting water security on more solid foundations in California and the West. The "Western Water Security Enhancement Act", authorizes and supports the CALFED Record of Decision and associated programs, and further addresses our water security needs throughout the west.

As you are all aware I chose not to authorize any specific projects. I did this to ensure that a fair process can be developed to meet all the competing demands of water users. Even though I chose this direction, I wish I could have specifically authorized the development of new water yield in the State. But I also recognize it is time we stop pitting one interest group against another. We need to assure that all competing water users grow together, and not leave anybody behind, as has been done so frequently in the past with Federal water policy in California. The bill calls on State and Federal agencies, working in close consultation with the public and local stakeholders, to develop a governance structure that will assure proper balance among competing water interests.

Parallels between the power crisis and water have been drawn, and for good cause. Over the last decade, the demand for electricity in California grew by 25%, while new power production grew by only 6%. The results—

- wholesale energy prices that averaged \$30 per megawatt hour last year averaged \$330 in January of 2001.
- And, ultimately, adequate electricity was not available and people went without it as blackouts rolled across California.

What will the reaction be if we allow the water situation to escalate to the same proportions?

Today we are looking for ways to make more water available for the ecosystem...

Today we face agricultural water supplies that continue to diminish, and other businesses in California are stating concern about water security—while we have not built any noteworthy water supply projects in 25 years.

Over the next 15 years, while we must reduce our dependence on the Colorado River by 15%, the population in California is projected to grow by 30%!

The message is clear—Inaction means letting the crisis come to full affect. Groups that sit idle on the sidelines because they don't see this process impacting them should measure carefully the long-term risk of failure.

It is imperative that we move forward a balanced approach to improve the water situation in California by authorizing CALFED and increasing supply throughout the state.

Mr. SMITH. Thank you, Mr. Chairman. I will actually yield my time to Mr. Miller. I'm not from California. I'm here to learn.

Mr. MILLER. You can send us your water, though, you know.

Thank you very much. And Madam Secretary, welcome and Director Hannigan, welcome and thank you for taking your time to share your testimony and thoughts on this matter. And Mr. Chairman, thank you for this hearing and for the previous hearings that you have held, and I think it's important, as you have stated, that we give prompt consideration to this legislation and to continuing our efforts under the CALFED process.

I have believed for a long time, and continue to believe, that the CALFED really is our best opportunity, that we were able to bring people together and to provide stakeholders an opportunity, which historically may not have always been provided in California, but out of doing that and during that process, I think we have reached a consensus, a near consensus on what needs to be done. We are arguing a little bit about who goes first and where we go and the rest of that, but I think there is a commitment within the delegation that we hold that process together.

Last week we had our hearing over in the Senate on Senator Feinstein's legislation and Madam Secretary, you testified, and others did and as a result of that hearing, discussions are continuing about how we bring together and reconcile our differences. The Senator stated that was an open process, and Chairman Calvert has made it very clear to members of this Committee that he seeks to work with all of us to try and resolve our differences, because it is very clear no matter how much support we have in California, we have to sell that to our colleagues in the United States Senate and to the U.S. House of Representatives, and this is not an inexpensive piece of legislation, and the competition is rather dramatic, and unless we have a great deal of unity, I think our chances of success are greatly diminished.

And I think that is what hopefully this hearing is about, and the ongoing consultations with Chairman Calvert and the others will be about minimizing those differences.

My outlook on water I think is fairly known to the players in California. So I won't go back through that, but I want to, again, say to Chairman Calvert, I appreciate your talking on this effort. I sat where you sat, and I know that this is a very difficult and controversial job, but it needs to be done for the benefit of our State.

Let me just state a couple of points that I made in the testimony in the Senate, and that is, I continue to be troubled by the so-called South of Delta Water Assurances that I think dramatically alters the position of water rights holders in the State of California, and I do not think that that was the purpose or the outcome of the

ROD, and I do not believe that we necessarily can do that, or we cannot do that in this legislation and alter the status of those historical parties.

And I also mentioned over there and I continue to express that concern here with this legislation on this Committee, also the question of how we go about getting the approval of these projects. I disagreed with the approach that Senator Feinstein sought to take in the sense that I think we have got to make sure that everybody in the State understands that this process—while we may want to expedite it and I don't have a problem with doing that, we have got to make sure that people have a fair and open opportunity to be involved in that process in terms of amendments.

The suggestion that somehow we would take feasibility studies sight unseen and then the question would only be up or down on that, I think doesn't enhance our opportunities for success, it diminishes our opportunities for success.

And I think, again, when you look at all the other projects in this country and the question of whether or not California gets to go in this expedited fashion, it better be a process that treats all of the stake holders in a fair fashion. Those are matters for continued discussion and negotiations, and I hope that we can resolve them, and I again give the caveat that in one case, maybe one of the premier projects in this loss of Carol's Reservoir, we will have to go, as a matter of law, to a local referendum on that matter, and we have got to make sure that all parties to that decision feel like this was a fair or an open process, so they had an opportunity to be heard so that we can get the vote required to proceed with that project.

So thank you very much, Mr. Chairman, and I look forward to the testimony.

Mr. CALVERT. I thank the gentleman. Our first—we are pleased and honored to have the Secretary of the Department of Interior, the Honorable Gale Norton, and Mr. Thomas Hannigan, the director of California Department of Water Resources, who is accompanied by Mr. Patrick Wright, director of the CALFED Bay-Delta program. And with that we are pleased to recognize Secretary Norton for any time you may consume.

**STATEMENT OF HON. GALE NORTON, SECRETARY, U.S.
DEPARTMENT OF THE INTERIOR**

Secretary NORTON. Thank you, Mr. Chairman, members of the Committee. I am pleased to join you today to provide the Department's testimony on H.R. 1985, the Western Water Enhancement Security Act, and H.R. 2404, the California Water Quality & Reliability Act of 2001. Mr. Chairman, I ask permission to submit my full remarks for the record and summarize the Department's position here.

Title I of H.R. 1985 and H.R. 2404 both address implementation of the CALFED Bay-Delta program, a comprehensive balanced and timely water management environmental restoration program in California. The stakes could not be higher because the Bay-Delta is an area of critical environmental importance as well as the hub of the State's water supply system, providing drinking water for more than 22 million Californians, important habitat for over 750 plant and animal species, irrigation water for the most of the \$27

billion agricultural sector, and water essential to the manufacturing and commercial sectors of the State.

Early in my term as Secretary, I visited California and had the opportunity to fly around and see all of the projects that are a part of the existing Central Valley Project and other aspects of CALFED. It's very important, and I take seriously, our responsibility to understand and to play our role within this process. The administration supports CALFED's goals of increasing water yield, protecting the environment, improving water system supply reliability and water quality, and providing watershed management, levee protection, water transfers, storage, and conveyance.

As this Committee can well appreciate, our new administration faced a substantial number of major resource issues of high priority. In the area of water, virtually every western State has issues of concern and controversy demanding our attention. With the recent confirmation of assistant Secretary for Water and Science, Bennett Raley, and John Keys, the new commissioner for the Bureau of Reclamation, we are able to begin dealing substantially with many of these issues.

In addition, we anticipate having Craig Manson join us as Assistant Secretary for Fish, Wildlife, and Parks. He is from California and used to be general counsel for the California Department of Fish and Game, as well as Steve Williams as director of the Fish and Wildlife Service. All of them will play an important role on the Department of Interior's work on CALFED.

In the Columbia River, the Colorado River and in the Central Valley of California, among others, we are beginning our examination of multi-year, multimillion dollar planning and negotiation efforts. On all of the matters before us, one conclusion is uniformly applicable. We will continue to work toward solutions, and we will make decisions that reflect the President's commitment to the balanced and sensible resolution of resource issues across our Nation.

In the case of CALFED, we support the comprehensive and integrated nature of the proposed actions and the commitment to a credible science program to support the decision-making process. The manner in which Federal and State administrators have worked together is a model that we hope to employ throughout the west. Clearly significant progress has been made in the dedication of State and Federal moneys for ecosystem improvements in the Sacramento San Joaquin Delta and the San Francisco Bay.

On the Federal side, Congress has appropriated nearly \$500 million in total for CALFED-related efforts for Central Valley Project Improvement Act and CALFED initiatives. Outstanding issues still need resolution and we are committed to finding those solutions with this Committee, with Congress, with Governor Davis, and with the stakeholders who have been actively involved.

Let me now turn to some of the specific issues. With regard to Title I of H.R. 1985, which would authorize funding through the Secretary of Interior as well as governance and management authorities for the implementation of CALFED, we support the purposes and many provisions of the bill. We also have a number of concerns with the bill as written, and we believe some modifications are needed.

Mr. Chairman, we recognize your efforts to embody the balanced approach that is at the heart of the CALFED process, and we appreciate the opportunity to work with you on that. As detailed in my written testimony, in the case of water delivery assurances, the proposed legislation sets a floor on the water delivery commitment made in the record of decision for south of Delta's Central Valley project agricultural service contractors. No analysis has currently been completed to demonstrate what level would be possible when CALFED is implemented. We look forward to working with you to find ways of providing predictability for water users.

In addition, we would like to work with the Committee on broader allocation of appropriations among affected agencies, on language regarding the successful operation of the environmental water account to reduce conflicts between fisheries and water project operators and other provisions of Title I.

For my testimony of Title II on H.R. 1985, which would authorize small reclamation projects funded through grants and loans, my written testimony provides more details. This Title raises some budget implementation and administrative questions for the Bureau of Reclamation. We generally support efforts to provide assistance to small nonFederal water users in constructing and rehabilitating their irrigation projects and in carrying out restoration activities. This is often preferable to having the Federal Government take on the responsibility for constructing and for fully operating projects. The administration, at this time, withholds our full support for Title II. But we want to work with the Subcommittee and others on this proposal.

With regard to H.R. 2404, like Title I of the other bill, this would authorize the CALFED program for implementation. The bill provides important benefits by striving to increase the reliability of water supplies and providing governance and coordination authority; however, our concerns with this bill include that it focuses only on the Department of the Interior and should better recognize the roles of nonInterior agencies and the importance of the Federal/State partnership. We believe it needs a more comprehensive approach to increasing water supply reliability.

Although regional solutions are important, they alone will not be able to accomplish the larger scale objectives of the record of decision. The language on pumping reductions from the Harvey Bank's Pumping Plant seems to impose overriding Federal policy on a State plant. Reductions at that plant and at Tracy Pumping Plant conflict with CALFED water supply reliability objectives.

Returning to the big picture, the history of the settlement of California and the ensuing development of water resources is full of political and legal battles. Although agreement on water management may not be immediate, the CALFED program is a step in reaching a common vision. CALFED represents a new approach to an old problem. By combining the interests of State and Federal agencies with regulatory power over the Bay-Delta and with those of urban, environmental, and agricultural users, the CALFED program is moving California toward more equitable and efficient water and ecosystem management.

Continued implementation of CALFED offers the opportunity for a long-term solution to the critical problems confronting the Bay-

Delta. Specifically, the Department will continue to operate the Central Valley project in accordance with the provisions of the State's water quality control plan, the Central Valley Project Improvement Act, the Endangered Species Act, and other applicable statutes. The Department is aware of the importance of meeting its environmental commitments and the importance to water users of adequate water supply reliability. For these reasons, the Department will continue to work through the CALFED process to improve the environment and to increase the system's water management flexibility. We believe the Subcommittee is seeking to offer a balanced approach toward implementing the record of decisions commitments and to facilitate the Federal Government's continued participation in the CALFED program. We look forward to working with the Committee and others in Congress to address the administration's concerns. Thank you very much.

[The prepared statement of Secretary Norton follows:]

Statement of Hon. Gale A. Norton, Secretary, U.S. Department of the Interior

I am pleased to appear before this Subcommittee to provide the Department's testimony on H.R. 1985, the Western Water Enhancement Security Act, and H.R. 2404 the California Water Quality and Reliability Act of 2001.

Title I of H.R. 1985 would authorize funding through the Secretary of the Interior, as well as governance and management authorities, for the implementation of a comprehensive, balanced, and timely water management and environmental restoration program in California commonly referred to as the CALFED Bay-Delta Program, as reflected in the Federal Record of Decision (ROD) issued August 28, 2000. The purpose of the program is to increase water yield and environmental benefits, as well as improved water system reliability, water quality, water use efficiency, watershed management, and levee protection, water transfers, storage, and conveyance.

H.R. 2404 also addresses the implementation of CALFED. My comments on this bill follow my comments on Title I of H.R. 1985.

Title II of H.R. 1985 would authorize small reclamation projects funded through grants and loans, including loans guaranteed by the United States government. My comments on title II of H.R. 1985 follow my comments on H.R. 2404. We note that both titles of H.R. 1985 would be quite expensive, as would other CALFED legislation before the Congress.

TITLE I OF H.R. 1985 - CALFED

Mr. Chairman, I would like to express my deep appreciation to the Committee for your obvious commitment to making significant progress with the CALFED program. I also appreciate the consistent concerns demonstrated by this Committee that progress be made and for your efforts in developing the bill being considered today. Your continued willingness to work with the Department and the Administration on this matter is of real and continuing importance to us.

As the Committee can imagine, our new Administration faced a substantial number of major resource issues of high priority upon assuming office. In the area of water, virtually every western state has issues of concern and controversy demanding our attention. With the confirmation of Assistant Secretary for Water and Science Bennett Raley and Commissioner of Reclamation John Keys we are able to begin dealing substantively with many of the issues before us. We await the nomination and confirmation of Craig Manson as Assistant Secretary for Fish and Wildlife and Parks and Steve Williams as Director for the Fish and Wildlife Service to further assist interagency efforts.

On the Columbia River, the Colorado River and in the Central Valley of California, among others, we are beginning our examination of the results of multi-year, multi-million dollar planning and negotiation efforts. We are looking not only at the results of these enormous work efforts but also at the process used, both internal and external, and the information that was relied upon to make decisions. In addition we are examining the data which provided insight on the biological and socioeconomic consequences of these major resource initiatives.

On all of the matters before us, one conclusion is uniformly applicable: we will continue to work toward solutions and we will make decisions that reflect the President's commitment to the balanced and sensible resolution of resource issues across our Nation.

In the case of CALFED, we find that the comprehensive and integrated nature of actions proposed and the commitment to the development of a credible science program in support of the decision making process are all laudable. The manner in which federal and state administrations have worked may be considered a model for solutions to resource management problems.

Likewise, we feel that we can secure similar success in achieving the goals of CALFED in the context of our responsibilities in all western states.

Clearly, significant progress has been made in the dedication of state and federal monies for ecosystem improvements in the watersheds that constitute the Sacramento-San Joaquin Delta and the San Francisco Bay. On the Federal side, Congress has appropriated nearly \$500 million for CALFED related efforts, for Central Valley Project Improvement Act and CALFED initiatives focused on improving the aquatic and terrestrial habitats of the CALFED solution area.

A Record of Decision is in place that captures years of planning on all program elements of ecosystem restoration, levee system integrity and improvement, water supply and reliability improvements, water quality improvement, improved water use and efficiency, improvements to the upper watersheds, water transfers, storage, and conveyance.

Congress needs to authorize the CALFED program so we can proceed with balanced progress on all resource fronts. The Department also recognizes that outstanding issues are still in need of resolution and we are committed to finding those solutions expeditiously and in concert with this Committee, with the Congress, the administration of Governor Davis and the stakeholders who have been so actively and constructively involved.

H.R. 1985 is an important step forward. Clearly, additional authorizing legislation would be required to proceed with the complete program. We support the purposes and many of the provisions of the bill. However, we also have a number of concerns with the bill as written, and we believe some modifications are necessary. We would like to continue working with the Committee to achieve a bill we can fully support and which will implement the CALFED.

The results of the CALFED planning process reflect an attempt to balance competing needs and interests. The CALFED planning process brought together agricultural, urban, environmental and business stakeholders with the state and federal agencies in an effort to build agreements on the approaches to managing California's complex water and natural resource issues. We recognize that solutions to any set of problems as large and interconnected as those facing California will be complex. However, all interests must respect the needs and concerns of others. The CALFED ROD attempts to recognize the core interests of all the parties and build a solution that reduces the conflicts in the existing and long-established system and to balance competing interests for comprehensive progress. In addition, consideration should be given to analysis of impacts of the ROD on tribal trust assets, as discussed in the ROD. With the support of Congress and the State of California, CALFED can lead the way in a collaborative process that includes extensive participation of all stakeholders to provide many long-term solutions to California's water management and infrastructure improvement needs.

The "Fed" side of the CALFED Program demonstrates a cooperative planning and coordination effort among ten Federal agencies, including U.S. Fish and Wildlife Service, the U.S. Bureau of Reclamation, the U.S. Geological Survey, and the Bureau of Land Management, within the Department of the Interior, as well as the U.S. Environmental Protection Agency, National Marine Fisheries Service, U.S. Forest Service, Natural Resources Conservation Service, within the Department of Agriculture, U.S. Army Corps of Engineers, and Western Area Power Administration.

CALFED HISTORY AND BACKGROUND

The CALFED Bay-Delta Program is a response to the water management and ecosystem problems that came so clearly into focus in the drought of 1987 to 1992 experienced within the Bay-Delta system. Furthermore, the historic and ongoing conflicts between water management for supply and fishery protection give rise to the urgency of the CALFED program. The waters of Sacramento and San Joaquin Rivers converge in the Sacramento-San Joaquin Delta, which is the largest estuary in the West Coast, and discharges into the San Francisco Bay and to the Pacific Ocean. The Bay-Delta is a maze of waterways and channels that carry over 40 percent of the State's total runoff to the Bay and provides drinking water for more than

22 million Californians, important habitat for over 750 plant and animal species, irrigation water for most of the \$27 billion agricultural sector, and water essential to the manufacturing and commercial sectors of the State. Over the past decades, California has witnessed declines in water quality, fish, wildlife and associated habitat, and the reliability of water supplies. The goals of CALFED, which the Administration fully support, are to reverse all these trends.

In December 1994, the State and Federal governments signed the Bay-Delta Accord, which signaled a new approach to managing the Delta and finding solutions to longstanding problems in California. In 1995, CALFED was initiated as a cooperative, interagency effort to reduce conflicts in the Bay-Delta, modernize water management and infrastructure, and to make investments aimed at reducing stressors for species and improving the habitat. The CALFED Program has been envisioned as a three-phase process:

- Phase I objectives were to identify and define the problems confronting the Bay-Delta System and develop a mission statement, program objectives, and alternative actions for further study. During Phase I CALFED concluded that each program alternative would include a significant set of program actions which were grouped into elements to address problems associated with the ecosystem and water management infrastructure.
- Phase II objectives were to develop a preferred program alternative, conduct a comprehensive programmatic environmental review process, and develop an implementation plan focusing on the first 7 years (Stage 1 of implementation). Phase II objectives were achieved through issuance of the Final Programmatic Environmental Impact Statement/Environmental Impact Report (IS/EIR) in July 2000 and a Record of Decision signed on August 28, 2000.
- CALFED is currently in Phase III, a long-term process implementing specific actions to achieve the goals of the CALFED program. Phase III objectives are to implement the plan selected in the IS/EIR over the next 25 to 30 years. Stage 1 of implementation, for the first 7 years, is underway. Site-specific, detailed environmental review and feasibility level analysis will occur during Stage 1 prior to implementation of each proposed action.

CALFED PROGRAM ACCOMPLISHMENTS

In the past several years substantial progress has been made on a number of complex water and natural resource issues through the combined efforts of the public and state and federal agencies working together as CALFED. The greatest accomplishment of the CALFED effort so far is bringing all the State and Federal agencies together to produce the CALFED Record of Decision, signed on August 28, 2000, which documents the comprehensive plan for improving California's water supply and water quality, as well as restoring ecological health in the Bay Delta. This Committee has received copies of the most recent annual report of accomplishments which details progress in many CALFED program areas. We particularly would like to bring your attention to the many creative approaches to addressing historic areas of conflict such as the Environmental Water Account.

Also of interest is the CALFED Science Program. We expect this program to provide peer review of the science and information underlying all elements of the CALFED program from adaptive management, to ecosystem improvement projects, to project operations and beyond, we expect CALFED to be supported by a strong and credible science program.

Public workshops have been and are being undertaken by the program on scientific components of public controversies and are clarifying the state of scientific knowledge, thereby reducing the level of controversy. In the near term, these workshops include issues associated with Delta Cross channel operations, effectiveness of the Environmental Water Account for salmon and Delta smelt, salinity effects of levee breaches, and the use of scientific adaptive management. Additional workshops will be undertaken as topics are identified.

CALFED FUNDING

From fiscal year 1998 to fiscal year 2000, Congress appropriated \$190 million for the CALFED Ecosystem Restoration Program and an additional \$30 million for other program elements, including projects to improve water supply reliability. These funds were provided through an account in the Bureau of Reclamation budget, but funding for specific projects or programs has been transferred to participating Federal agencies based on plans developed by CALFED. As noted above, CALFED agencies have used these and other funds to screen water diversions for the benefit of fish and farmers, restore degraded habitat, establish an environmental water program, develop conjunctive use projects and develop a state and fed-

eral water operations plan. No funds were provided for this account in fiscal year 2001, largely because the appropriations committees deferred to the authorizing committees to review the Program and develop any needed legislation.

The ROD outlines a partnership of State, Federal, and private funding, and estimated that a total of \$8.7 billion from state, federal, and private sources would be needed for the Program's implementation. According to Governor Davis, the State is moving forward to finance and implement actions called for in the ROD. In order to support the Federal side of this unique partnership, it is important that appropriate legislation be enacted to authorize Federal Government participation as contemplated by the ROD.

BENEFITS OF H.R. 1985

The Bay Delta is the hub of the State's water supply system and an area of unsurpassed ecological importance. Single-purpose efforts to solve problems in the past have failed to adequately address the comprehensive nature of the Bay-Delta resources and problems and the conflicts between supply and demand. H.R. 1985 would provide authorization for continued Federal participation in the CALFED Bay-Delta Program and to meet Record of Decision commitments. As such, the Administration supports many elements of this bill, recognizing that some modifying language may be needed.

In particular we are supportive of several primary principles outlined in the bill.

Authorization of Federal Funding for CALFED - As discussed above, we support the authorization of federal funds and continued federal participation for CALFED to meet Record of Decision commitments as an important part of the continuing partnership.

Increased Storage and Water Supply Reliability - The authorizing language provides a commitment to the programmatic finding of the need for additional storage. Increased storage may reduce conflicts and increase system flexibility and can be used to benefit all CALFED program areas. Storage will allow water to be captured during periods of excess flow and used to reduce diversions during fish sensitive periods or when water quality in the Delta is poor. In particular, the legislation would provide or affirm Reclamation's authorization to conduct feasibility level studies at Shasta Dam, Los Vaqueros Reservoir, Upper San Joaquin River, Sites Reservoir, San Luis Bypass and In-Delta Storage.

Environmental Water Account - The legislation provides for the continued implementation of the Environmental Water Account (EWA). The EWA will improve the responsible management of water supplies for all purposes. Water generated with an EWA will benefit all areas by increasing the flexibility of the water system. However, we have concerns over some EWA language in the bill, noted below, and we would like to work with the Committee to address this.

Governance and Coordination Authority - The CALFED process today is simply an advisory group to the Federal government as it implements federal statutes. This legislation will make state, local and federal agencies participating in CALFED full and vested partners with the Governance Board having decision making authority. Measures also need to be taken to bring federally recognized tribes with interests in the water into the partnership. The Governance Board as outlined in the legislation will provide for a stronger coordination and oversight role, integrated and coordinated application of federal and state regulations, and greater program accountability. We believe, however, that the provision as drafted may raise Constitutional issues in terms of non-federal authority over federal management functions and budgeting. We believe this potential defect may have a relatively simple solution, and we will work with you and the Justice Department to resolve it. In addition, target dates for establishing governance authority may be unrealistic; we are particularly concerned that funding may be interrupted if governance provisions are not established in the time provided by the bill.

CONCERNS WITH H.R. 1985

Although there are a number of provisions we support in the bill, the Administration has some basic concerns, relative to Title I of the legislation before the Subcommittee today, in addition to the matters noted above, which I would like to describe further. In addition to the major concerns noted below, we would like to work with the Committee to address technical and other changes as it considers this legislation.

The CALFED development process involved many interests and the ROD struck a delicate balance among them, and we urge a careful consideration of elements in the bill that may upset that delicate balance.

Water Deliveries - Legislative language in section 103(a)(3) states that "In accordance with the record of decision, the Secretary shall operate the Central Valley Project in a manner that will in a normal year make available to south-of-Delta Central Valley Project agricultural water service contractors at least 70 percent of their existing contract." However, the ROD states that "It is anticipated that implementation of ...actions (some of which may require further specific environmental review) will result in normal years in an increase to CVP south-of-Delta agricultural water service contractors of 15 percent (or greater) of existing contract totals to 65 to 70 percent." The Department must raise several issues regarding the commitment of specific water supplies in this legislation:

(1) The CALFED ROD uses the phrase "It is anticipated..." because there has not been an analysis completed which demonstrates the delivery capability of the CVP and other projects with implementation of the actions provided pursuant to the ROD. Such analysis, in combination with actual operating experience with implementation of the actions, is necessary to identify achievable water supply benefits.

(2) The commitment of specific water supplies may place the Secretary in a position in which other Acts of Congress such as the CVPIA, Clean Water Act, and ESA may be violated to achieve this commitment. The analysis of delivery capability will assist in exposing potential conflicts and reaching solutions that best meet the competing demands on California water resources.

(3) The legislation increases the water delivery commitment from the ROD's "65 to 70 percent" value to "at least 70 percent." To justify such an increase full analysis and operating experience are necessary. At this time the Department supports operating the CVP in a manner intended to achieve at least 65 percent to 70 percent of their existing contract; however, this may not be possible unless land is retired and future water supplies are developed.

(4) Also, this bill establishes a bad precedent of Congress interfering in a state water system by legislating water deliveries to one set of water users who may hold junior rights in the state water system.

Environmental Water Account (EWA): The establishment and successful operation of EWA will be one of the most significant accomplishments of CALFED in reducing the conflicts between fisheries and water project operators. However, we point out that the definition for the EWA, and other restrictions in the bill to the EWA, to avoid water supply and quality impacts as well as effects on water rights holders, is different and more restrictive than intended as the account was originally set up. We look forward to working with the Committee to assure that the emphasis of the EWA in the bill is consistent with the goals of the ROD, the Multi-Species Conservation Strategy Conservation Agreement, and the Endangered Species Act.

We note that the Ecosystem Restoration Program (ERP) is mentioned in connection with the Environmental Water Account and the water supply provisions, in terms of maximizing water supply benefits and meeting water supply assurances. While we recognize the comprehensive and integrated nature of the CALFED program, this characterization of ERP in the bill is different than the ROD. The Ecosystem Restoration Program is established to focus on improving aquatic and terrestrial habitats and natural processes to support stable populations of valuable plant and animal species. We would like to work with the Committee to clarify these issues.

CALFED Projects - The Bill may not provide sufficient authority to meet the ROD commitments and maintain environmental assurances in a timely fashion. For instance, H.R.1985 limits appropriations for fiscal year 2002 to authorized studies, environmental review, design, and other preconstruction and pre-acquisition activities. Finally, while there are some existing authorities for restoration work, the potential funding limitation placed on the Environmental Restoration Program and the EWA in the bill, for instance, may limit the ability of fisheries agencies to provide assurances to the projects.

Cost Sharing - One of the central components of the ROD is the notion of 'beneficiary pays', whereby users who benefit from investments in the infrastructure should pay for those benefits. H.R. 1985 does not explicitly mention this important principle. The ROD contemplated the Federal Government, the State, and project beneficiaries each sharing roughly one-third of the costs of implementation. H.R. 1985 generally establishes a maximum Federal cost-share of the lesser of \$50 million or 35% for each project or activity, but does not otherwise indicate how the cost-share should be determined. We do not object to the 35%/\$50 million ceiling, however, we believe that the cost-sharing should otherwise be consistent with current law or policies. Depending on the project purpose, under current law local sponsors are required to provide up to 100 percent of a project's cost (e.g., for costs allocated to municipal and industrial water supply projects). We wish to stress the importance

of clarifying and integrating cost-sharing measures into the program. We would also like to clarify that assignment of operation and maintenance costs will be consistent with general policies, which in most instances means that project beneficiaries will be responsible for operation and maintenance expenses.

Project Authorizations and Congressional Oversight - We are also concerned about provisions of the bill that authorize construction of projects before they have completed the normal Administration review of economic and environmental feasibility. Some language also circumvents Congressional oversight of individual projects. Consistent with longstanding policies, we believe that authorization for construction should be provided only after the Administration and Congress have completed a full and favorable review of a project's economic and environmental feasibility. In addition, the Department of Justice has informed me that the provision for committee approval of project proposals may raise constitutional difficulties insofar as it could be construed to empower congressional committees to alter the meaning of lawfully enacted appropriations legislation. We would like to discuss possible thresholds and processes for Congressional approval.

Implementation of the Record of Decision - Section 104(a)(1) of the bill is unclear as to its purpose and meaning, and needs to be clarified. It appears that it could provide an exemption from Clean Water Act (CWA) Section 404. There is an existing statutory mechanism; CWA Section 404(r) which is an established and well-understood mechanism for providing Section 404 exemptions, where appropriate.

The Record of Decision states that the CALFED agencies will fulfill their respective legal responsibilities for environmental analysis, documentation and permitting pursuant to NEPA, and other environmental laws, and will complete the necessary programmatic and project-specific analysis. Section 104(a)(1) would potentially compromise this procedure by restricting the range of alternatives that the agencies could consider in implementation on the ROD.

Funds authorized only to the Secretary - We note that all funds are authorized to be appropriated to the Secretary of the Interior. Since there are a number of federal agencies involved in the effort, such as the EPA, the Army Corps of Engineers, and others mentioned earlier, this may limit the efficiency of their participation; we would like to work with the Committee on language for broader allocation of appropriations among the affected agencies.

Hydro power - Under Reclamation Law, whenever irrigation users are unable to repay the costs associated with the construction of project features, the responsibility for these costs are reassigned to the power users for repayment. A precept of the ROD was to avoid "redirected impacts" stemming from implementation. It is possible that implementation of certain measures under the auspices of CALFED may decrease the total Hydro power generation available, raising costs to power users. This would be a burden added to any reassigned costs and arguably a redirected impact. This potential impact is not addressed by the bill. We would like to see greater clarification of this issue of redirected impacts, keeping in mind that the principle of 'beneficiary pays' still applies. An effort to avoid redirected impacts should generally not result in the Federal government paying for the shortfall.

Competitive Grant Program - We are concerned about the overall funding authorized for this program, which greatly exceeds commitments currently envisioned.

H.R. 2404 (CALIFORNIA WATER QUALITY AND RELIABILITY ACT OF 2001)

H.R. 2404, introduced by Mr. Miller, also seeks to authorize CALFED programs for implementation. We have a few observations about that bill.

BENEFITS OF H.R. 2404

Increased Water Supply Reliability - The bill attempts to support the CALFED commitment for increased water supply reliability.

Governance and Coordination Authority - The authorizing language provides for continued Federal participation in the CALFED Bay-Delta Program while requiring the Secretary, in conjunction with the State of California and other federal agencies, to develop jointly and submit to Congress a proposal for long-term governance empowering a Governance Board with decision-making authority and management oversight as outlined in the CALFED Record of Decision (ROD).

Energy Consumption - H.R. 2404 specifically states that an objective of the Water Supply Program will be to identify seasonal and annual estimations of project energy costs. In light of the energy crisis within the State, specific recognition of the required analysis is important.

Concerns with H.R. 2404 - Below are some of our concerns with the bill.

Focus only on Interior - H.R. 2404 should more inclusively recognize the roles of non-Interior agencies participating in CALFED. The partnership of federal and state agencies is a major strength of CALFED.

CALFED Projects - The bill tries to address some, but not all, site specific water supply infrastructure feasibility studies relative to Stage I of the ROD. The bill's language seems to imply that regional solutions will be the primary method of increasing water supply reliability, and while they will be important elements, they alone will not be able to accomplish the larger scale objectives of the ROD. We would like to work with you on a comprehensive approach.

Cost Sharing - H.R. 2404 is vague on cost-sharing requirements. There is no mention of the principal of 'beneficiary pays', although Sec. 201 (h) does mention a cap of 50% of the Federal share of feasibility and environmental studies. It does not, however, mention how the final cost-sharing arrangement will be determined, up to the 50% ceiling. Specific project authorizations mention Federal ceilings of 25% for particular projects, but it is not clear whether this policy of 25% should be broadly applied to other CALFED projects. We wish to stress the importance of clarifying and integrating cost-sharing measures into the program.

We are pleased to see that the bill states, in accordance with general policy and with respect to specific project authorizations, that the Federal government will not be responsible for funding operation and maintenance costs of completed projects.

Pumping Reductions - The authorizing language establishes as a matter of Federal Policy, the objective of reducing, by the year 2020, the maximum annual quantity of water pumped each year for consumptive uses from the Harvey O. Banks and Tracy Pumping Plants. It must be noted that the Harvey O. Banks Pumping Plant is a State facility, the language essentially provides overriding Federal policy to a State facility. The objective of reducing by 2020 the maximum annual quantity from Banks and Tracy pumping Plants seems to conflict with water supply reliability objectives in the CALFED ROD. Conjunctive use projects which provide supplies for the EWA as well as water users rely on exports at some point in time. The goal is to export water when the environmental impacts are minimized rather than simply reduce annual exports.

Environmental Water Account - H.R. 2404 seems to authorize the Environmental Water Account (EWA) as a long-term program; however, in the CALFED ROD it was outlined as a 4-year pilot study to be used in effect until such time as increased water supply flexibility was secured and such increased supply could be used specifically for the purposes of the EWA.

Water Recycling and Reuse - The bill would provide authority for an extensive list of new projects for which the Department requires further detailed justification. For this reason, we must withhold our support at this time.

Environmental Restoration Program - The authorizing language specifically states, "The Secretary shall carry out the environmental restoration program in a manner that will meet performance objectives for attaining self-sustaining fish and wildlife populations within watersheds of the Sacramento and San Joaquin Rivers within 10 years after the date of the enactment of this Act. This objective may not be attainable within the mandated timeframe."

CONCLUSION - CALFED (TITLE I OF H.R. 1985, AND H.R. 2404)

The history of the settlement of California and the ensuing development of its water resources is replete with political and legal battles. Although agreement on water management may not be immediately achievable, the CALFED Program is a step in reaching a common vision of actions needed for progress. CALFED represents a new approach to an old problem by combining the interests of state and federal agencies with regulatory power over the Bay-Delta together with urban, environmental, and agricultural users, who each have a vested interest in the maintenance and improvement of the Bay-Delta. The CALFED Program has shown water managers, policy makers and the public how to move California toward more equitable and efficient water and ecosystem management. Continued implementation of the CALFED plan offers the opportunity for a long-term solution to the critical problems confronting the Bay-Delta. Specifically, the Department will continue to operate the Central Valley Project in accordance with the provisions of the State's Water Quality Control Plan, Central Valley Project Improvement Act, the Endangered Species Act, and other applicable statutes. The Department is aware of the importance of meeting its environmental commitments, and the importance to the water users of adequate water supply reliability. For these reasons, the Department will continue to work through the CALFED process to improve the environment, and increase the system's water management flexibility.

We believe that the bill attempts to offer a balanced approach toward implementing the ROD commitments and would allow the Federal government sufficient authority to continue to participate in the CALFED program. We look forward to working with the Committee and others in Congress to address the Administration's concerns. Mr. Chairman, I would like to reiterate my appreciation to the Committee and others for continuing to work with the Department to address the significant water and environmental issues facing the West.

TITLE II OF H.R. 1985 - THE SMALL RECLAMATION WATER RESOURCES ACT OF 2001.

Title II of H.R. 1985, comprises the Small Reclamation Water Resources Act of 2001 (SRWRA). While the Administration supports efforts to provide assistance to small non-Federal water users in constructing and rehabilitating their irrigation water projects and in carrying out restoration efforts, H.R. 1985 as introduced raises many budget, implementation, and administration questions for both the Bureau of Reclamation (Reclamation) and the Department of the Interior. The Administration cannot support the bill at this time, but wants to work with this subcommittee and others in Congress on these issues.

BACKGROUND

Public Law 84-984 established the Small Reclamation Projects Act loan and grant program. Authorized in 1956 when the Bureau of Reclamation was actively engaged in the construction of large irrigation projects, the program was designed to supplement Federal Reclamation law by providing grants and interest-free loans to non-Federal organizations to develop small irrigation projects costing less than \$10 million. The Act has been amended several times. In 1986, Public Law 99-546 broadened the purposes beyond irrigation to encourage the development of multi-purpose projects including, water and energy conservation, environmental enhancement and water quality projects. Public Law 99-546 also increased the authorized cost ceiling from \$600 million to \$1.2 billion.

The program has provided about \$807 million in loans and grants to non-Federal organizations for about 134 projects. Non-Federal entities have contributed an additional \$200 million in up-front financing.

CONCERNS WITH TITLE II OF H.R. 1985

Title II of H.R. 1985, (SRWRA), would amend the Small Reclamation Projects Act to authorize \$1.3 billion for three new programs—a revised and expanded grant and loan program within the Bureau of Reclamation, a Small Reclamation Water Resources Management Partnership Program, and a loan guarantee demonstration program.

As indicated by its support of ongoing environmental restoration programs, as well as water reclamation and reuse under Title XVI, this Administration is interested in workable and effective ways to protect water quality and supply and water habitats. However, a number of specific matters in Title II of H.R. 1985 would need to be addressed before this Administration could provide its support of a specific proposal. The following points are raised for discussion purposes, but they do not constitute an exhaustive list of concerns.

SRWRA is very costly and will compete with other Department of the Interior programs for funds, thereby raising questions of fiscal priorities. In addition, existing Federal programs may address project purposes of concern in this bill.

SRWRA would expand Reclamation's work outside of the 17 Western states it traditionally covers. (We note that Hawaii was added to the jurisdiction of the program in 1960, but this bill extends jurisdiction further.) This raises budgetary concerns in undertaking new responsibilities while staffing new offices.

SRWRA would need to be modified to be consistent with the Federal Credit Reform Act and Federal credit policy. Also, there is concern about the Secretary of the Interior setting interest rates on loans, where customary practice has been to have interest rates for direct loan programs set by reference to a benchmark interest rate on marketable Treasury securities with a similar maturity to the direct loans being made.

More generally, the bill's time frames do not mesh with budget procedures. The time frames are too tight and should provide more flexibility.

Under the proposed grant and loan program, an applicant would be required to include in a proposal a plan and estimate of costs comparable to those included in preauthorization reports for Reclamation projects. At a minimum, this section

should require an economic assessment of the project to aid in evaluating the proposal within the one year time period.

There is a problem with the bill in that the new grant and loan program does not specify terms and conditions. The program should specify terms and conditions to accurately reflect Federal credit program standards and principles as promulgated in OMB Circular No. A-129, "Policies for Federal Credit Programs and Non-Tax Receivables."

Title III of the SRWRA would establish a six-year-long loan guarantee demonstration program within the Bureau of Reclamation for projects receiving or eligible to receive loans or grants under either of the two new programs in Title I or Title II of the Act. Title III would put Reclamation in the role of a commercial loan officer for developers of a project, a role Interior's Inspector General criticized in its 1991 audit report. This could also require Reclamation to develop substantial capability to assess the credit-worthiness of water districts, oversee the activities of outside lenders, and take appropriate actions in case of a default.

At the very least, such a new bureaucratic infrastructure within Reclamation would require new and significant funding and resources. This expenditure must be assessed in the context of the Department's priorities and existing statutory and contractual mandates.

The Administration also has a number of technical concerns with Title II of H.R.1985.

CONCLUSION - THE SMALL RECLAMATION WATER RESOURCES ACT OF 2001.

The Administration looks forward to working with the subcommittee on these and other matters raised by the Small Reclamation Water Resources Act of 2001.

Thank you for the opportunity to present the Administration's views on H.R. 1985. I would be pleased to answer any questions you may have.

Mr. CALVERT. I thank the Secretary.

Mr. CALVERT. Mr. Hannigan, director of California Department of Water Resources, you are recognized.

STATEMENT OF THOMAS M. HANNIGAN, DIRECTOR, CALIFORNIA DEPARTMENT OF WATER RESOURCES, ACCOMPANIED BY PATRICK WRIGHT, DIRECTOR, CALFED BAY-DELTA PROGRAM

Mr. HANNIGAN. Mr. Chairman and members, I want to thank you for the opportunity to testify on legislation that would reauthorize the CALFED Bay-Delta program. I want to especially commend the Chair for his leadership and his authorship of one of the bills that we are discussing today. I ask to submit detailed written comments to the Subcommittee, if I may. In addition to that, I have a letter to the Secretary from the Governor that I would like to have submitted to the record as well.

Mr. CALVERT. Without objection.

Mr. HANNIGAN. Thank you. I will quickly summarize the high points of my testimony. Now is the time to secure a stronger commitment for Federal participation in CALFED. Governor Davis and the California legislature have secured over \$1 billion in funding support for CALFED through the State's current budget and our new budget that was just approved this month. CALFED has been and must continue to be a close working partnership between Federal and State agencies. Federal agencies play a critical role in implementing the CALFED plan. I'd like to offer some comments on both your bill, Mr. Chairman, and on Mr. Miller's bill. While different, they both represent an effort to move CALFED forward. With respect to H.R. 1985, we support the overall objective of the bill, its solid framework for reauthorization.

At the same time we have numerous concerns with various aspects of the bill as originally introduced. As you know, we have suggested technical and substantive amendments, many of which you have already agreed to consider. As such, we believe the bill, while still a work in progress, should move forward while we work to ensure that it is fully consistent with the ROD. Some of the areas in which we have concerns, language concerning operation of the environmental water account, development of a government structure and State land acquisition, are a few examples where the bill Federalizes the State's participation in various CALFED programs.

The scope of H.R. 1985 should be limited to Federal agencies and its spending. Of course, we are mindful that CALFED will not succeed without continued aggressive support from the State of California, and we are committed to continuing this effort. H.R. 1985 requires the Secretary of the Interior to deliver 70 percent of the contract amount to CVP contractors in a normal year. This approach is inconsistent with the ROD and could precipitate a direct conflict with the Endangered Species Act and existing water rights.

All parties need to recognize that the commitment embodied in the ROD is clear. We have recommended language that is consistent with the ROD and unambiguously directs Interior and CALFED agencies to implement the tools necessary to carry out these provisions. As I previously mentioned, your legislation provides a solid framework for reauthorization of the program. I am heartened by your willingness to consider many of our suggested changes. In the weeks ahead, we look forward to continuing the dialogue with you and your colleagues in order to reach agreement on legislation that is consistent with the ROD and broadly supported by the stakeholders.

H.R. 2402 extends current spending authority for CALFED through the year 2006 and provides the Secretary of the Interior with broad authority to implement stage one of the Bay-Delta program. The bill emphasizes feasibility studies for surface water storage projects, promotes groundwater storage and management, and expands the Bureau of Reclamations Title XVI Water Recycling Program. While the bill has some advantages, we have several areas of concern. Section 201 creates the California Water Supply Program. One of the stated purposes of this program is to reduce by the year 2020 the maximum annual quantity of water pumped each year for consumptive uses from State and Federal pumps. Such language goes beyond the ROD and appears to be inconsistent with the water supply goals of the ROD. Section 201(e) prohibits Federal funds from being spent on project construction until the Secretary finds that adequate measures are, in effect, to conserve surface and groundwater supplies and to manage and control the pumping of groundwater within the surface area of the project.

What works best in California is cooperative planning and implementation with local entities, and our recent history of development of voluntary groundwater management plans is a more implementable approach which would be foreclosed by the bill's provisions. New regulatory mandates are likely to kill these kinds of programs. Section 203 authorizes several specific water recy-

cling, water reuse, and water desalination demonstration projects. While we strongly support the goals of these projects, I am concerned that none of them have been thoroughly reviewed by the State and Federal agencies. I urge the Committee to provide in H.R. 1985, your bill, Mr. Chairman, funding for these and other projects through a competitive grants process and to ensure that Federal funds are spent only on the highest quality, peer reviewed and cost-effective projects. I thank you for your patience and I appreciate the opportunity to speak.

Mr. CALVERT. I thank the gentleman.

[The prepared statement of Mr. Hannigan follows:]

**Statement of Thomas M. Hannigan, Director, Department of Water
Resources, State of California**

Mr. Chairman and Members, thank you for the opportunity to testify on legislation to reauthorize the CALFED Bay-Delta Program.

I want to begin by commending you, Mr. Chairman, for your leadership on this important issue. Since you assumed the chairmanship of this Subcommittee, you have spent many hours immersing yourself in the wide range of complex issues surrounding CALFED. You began this process with an open mind and a desire to fully understand and appreciate the needs of all stakeholders. I believe that your personal involvement, and the approach you have taken, is a healthy and productive one.

It has been just over a year since Governor Davis and the Secretary of Interior announced the CALFED Plan—the largest and most comprehensive water management plan in the nation. The Plan is a balanced approach to reduce conflicts over our limited supplies, and to address the state's long-term water supply reliability and quality needs. It calls for one of the nation's largest ecosystem restoration programs, and provides specific deadlines for developing over 6 million acre-feet of new water storage projects—the biggest investment in the state's water infrastructure in 40 years.

The Central Valley of California includes over 80 percent of all irrigable land in our State and provides up to 50 percent of the Nation's fruits, nuts, and vegetables. Providing a consistent water supply to California farmers is clearly a matter of national economic importance. In addition, our commercial fisheries required a healthy river and Delta ecosystem. Central Valley salmon provide more than 50 percent of the harvest from the California, Oregon, and Washington coasts. Finally, Silicon Valley—a major engine of the national economy—requires a firm and high quality water supply.

With the release of the "Framework for Action" and Record of Decision (ROD) last summer, CALFED has shifted gears in a big way. Planning has now taken a back seat to of implementing an ambitious, far-reaching set of projects and programs aimed at improving water management and restoring ecological health in the Bay-Delta system.

Given this major transition, I want to emphasize that California alone cannot carry out the CALFED plan. Governor Gray Davis and the California Legislature have secured over \$1 billion in funding support for CALFED through the State's budget last year and our new budget approved this month. CALFED has been—and must continue to be—a close working partnership between Federal and State agencies. Federal agencies play critical roles in implementing the CALFED plan. And federal funding is imperative for continued coordination and to maintain the forward movement towards solving California's water issues.

Towards this end, there are two pieces of legislation now before you—H.R. 1985, the "Western Water Enhancement Security Act", sponsored by the chairman and other members of this Subcommittee, and H.R. 2404, the "California Water Quality and Reliability Act of 2001", offered by Representative Miller. Both bills, while clearly different in scope, nevertheless represent an effort to move CALFED forward as we move into this second year of the seven-year Stage I of CALFED's ROD.

With respect to the Calvert bill, I want to applaud you and your staff, Mr. Chairman, for your hard work in developing this measure. We support the overall objective of H.R. 1985 and believe this legislation provides a solid framework for reauthorization of the Program. At the same time, we have numerous concerns with various aspects of the bill as originally introduced. As you know, we have suggested technical and substantive amendments, many of which you have already agreed to

consider. As such, we believe the bill, while still a work in progress, should move forward while we work to ensure that it is fully consistent with the ROD.

I would like to briefly highlight several areas of concern:

Federalization of State agency actions, programs and projects—There are numerous provisions in H.R. 1985 that appear to constrain State agencies, limit State control over the State Water Project, and abrogate the State sovereign immunity to suit in federal court. Language concerning operation of the Environmental Water Account, development of a governance structure and state land acquisition are a few examples where the bill federalizes the State's participation in various CALFED programs.

Because the ROD describes CALFED as a federal-state collaboration based on voluntary cooperation and consensus, there are major policy and legal implications to federalizing State authority over land and water policy, which traditionally are core elements of State sovereignty. Therefore, the scope of H.R. 1985 should be limited to federal agencies and spending. By saying this, we are mindful that CALFED will not succeed without continued aggressive support from the State of California and we are committed to continuing this support.

Guaranteed delivery to south of Delta CVP contractors—H.R. 1985 requires the Secretary of the Interior to deliver 70% of the contract amount to CVP contractors in a normal year. In contrast, the ROD commits CALFED agencies to take several actions to improve water supply reliability for CVP contractors south of the Delta with the explicit objective of increasing deliveries by 15% (up to 65–70% of contract amounts) in a normal year. The Calvert bill would convert this estimate to a mandate that could precipitate a direct conflict with the Endangered Species Act and existing water rights.

While it may be tempting to mandate this target, we believe that legislating a specific outcome with respect to water delivery will immediately invite more litigation and gridlock. In short, the language contained in H.R. 1985 is inconsistent with the ROD.

Having said that, let me emphasize that the delivery target in the ROD is more than simply a provision addressing a particular group of water users. This issue has come to represent CALFED's commitment to a balanced program that considers the needs of all stakeholders.

All parties need to recognize that the commitment embodied in the ROD is clear. The challenge for CALFED is carrying out that commitment. We have recommended language that is consistent with the ROD and unambiguously directs the Department of the Interior and the CALFED agencies to implement the tools necessary to carry out those provisions. It is our strong hope that the Subcommittee will take steps to resolve this critical issue by revising the assurance section of the Calvert bill in a manner that reflects the language of the ROD.

Mr. Chairman, consistency with the ROD represents the underlying principle for the State of California in terms of federal authorizing legislation. A balanced approach to implementation, where all aspects of the program are interrelated and interdependent, is a cornerstone of the ROD. Ecosystem restoration is dependent upon supply and conservation. Supply is dependent upon water use and efficiency and consistency in regulation. Water quality is dependent upon improved conveyance, levee stability and healthy watersheds. The success of all the elements depends on expanded and more strategically managed storage.

At the same time, we fully realize that other elements that transcend the ROD have been incorporated in pending legislation. Such provisions will be examined on the basis of whether they help achieve implementation of CALFED and whether they are consistent with the spirit and letter of the ROD.

As I previously mentioned, your legislation provides a solid framework for reauthorization of the Program. I am heartened by your willingness to consider many of our suggested changes. In the weeks ahead, we look forward to continuing the dialogue with you and your colleagues in order to reach agreement on legislation that is consistent with the ROD and broadly supported by stakeholders.

Let me now turn briefly to the Miller bill (H.R. 2404). This measure extends the current spending authority for CALFED through 2006 and provides the Secretary of the Interior with broad authority to implement Stage I of the Bay-Delta Program. H.R. 2404 emphasizes feasibility studies for surface water storage projects, promotes groundwater storage and management and expands the Bureau of Reclamation's Title XVI water recycling program.

In general, the Miller bill avoids federalizing State actions and provides maximum flexibility to federal agencies and the State of California in designing an appropriate long-term governance structure. On the other hand, H.R. 2404 raises several issues of concern to the State, including the following:

California Water Supply Program—Section 201 creates the “California Water Supply Program”. The scope of the program includes studies for surface storage projects, research and development of water recycling, water reuse and desalination demonstration projects, and groundwater storage and banking demonstration projects.

One of the stated purposes of this program is to reduce, by the year 2020, the maximum annual quantity of water pumped each year for consumptive uses from State and federal Delta pumps. Such language goes beyond the ROD and appears to be inconsistent with the water supply goals of the ROD.

Restriction on expenditures for construction—Section 201(e) prohibits federal funds from being spent on project construction until the Secretary finds that adequate measures are in effect to conserve surface and groundwater supplies and to manage and control the pumping of groundwater within the service area of the project.

Although the ROD supports groundwater management at the sub-basin level and provides incentives for curtailments on pumping, it does not require State or Federal regulation of groundwater management. The ROD stresses locally and regionally developed groundwater management plans to build broad-based support for the program without imposing new regulatory constraints. The bottom line is that this provision could eliminate federal funding of groundwater projects or water use efficiency projects, thereby preventing helpful projects from being implemented in the short term.

Miscellaneous New Authorizations—Section 203 authorizes several specific water recycling, water reuse, and water desalination demonstration projects. While we strongly support the goals of these projects, I am concerned that none of them have been thoroughly reviewed by the State and Federal agencies. I urge the Committee, as provided in H.R. 1985 (Calvert bill), to provide funding for these and other projects through a competitive grants process to ensure that Federal funds are spent only on the highest quality, peer-reviewed, and cost-effective projects.

Over the next few weeks and months, this Subcommittee will be in a pivotal position to determine the future of the CALFED Program. I look forward to working with you, your colleagues and the stakeholder community in a cooperative and constructive fashion to produce a legislative proposal that does three things: 1) provides consistency with the ROD, 2) propels the CALFED Program forward in a balanced, comprehensive manner, and 3) provides the necessary financial and administrative tools for Federal agencies to play a strong partnership role with the State of California in carrying out the Program.

Thank you, Mr. Chairman. I would be pleased to answer any questions you may have.

Mr. CALVERT. Secretary Norton, again thank you for coming out today. And obviously, we have a little bit of a water crisis, not a little bit, a substantial water crisis already in California and Southern Oregon in Klamath, and some of us are looking at that as the canary in the mine as far as the west is concerned and water. Do you think there is a correlation between what is happening there and what can occur without implementation of H.R. 1985?

Secretary NORTON. Mr. Chairman, I think there are a number of unfortunate correlations that are possible. First of all, I think with the Klamath area, we had some problems in terms of facing a situation without enough time to really do the advance work that needs to be done. I think with these kinds of long-term things, with these kinds of problems, with water problems generally, we need to do a lot of long-term planning. We have to stretch the water and find ways of meeting the environmental needs as well as the agricultural needs. I appreciate the opportunity to work with Congressman Walden a lot on trying to find ways to resolve this problem, but we don't want to end up in these kinds of crises in the future, and I think what this shows is that throughout the west we have the potential of these kinds of problems occurring as we have more and more demand for finite water supplies.

Mr. CALVERT. I recently came back—one of the hearings we had was in Salt Lake City and Grace was there, and a number of Members were there to talk to our friends in the upper basin States and States that are served by the Colorado River, and every one of them, every one of them, said that the biggest need is to get California to work within its 4.4 million acre allocation that we, in their mind, overdraft the Colorado River, and we need to do that based upon our agreement within 15 years. And as you already know, the city of Los Angeles has met court challenges in the Owens Valley and others in Mono Lake.

We have lot some additional water in the Trinity River decision, and so we see water supplies not what we would like them to be, and part of this legislation moves toward trying to get Federal participation in building additional water supplies in California, in all of California through a governance mechanism, which I am going to go into with Mr. Hannigan. But are you supportive of that and do you believe you can work with us to get these projects moving to add to California's water security which, by the way, is the entire western United States water security?

Secretary NORTON. As a former elected official in Colorado, I am certainly familiar with the Colorado River issues and the difficulties we have in trying to meet the needs of all of the western States, and I think whatever we can do within each of those States to try to look at wise use of water, to try to make sure that water resources are allocated in a way that we can serve the needs of the States makes a lot of sense.

Mr. CALVERT. Well, we are certainly going to need your help in doing that, and certainly the administration, in moving this legislation and those types of water projects forward. I don't see anybody who objects to that even on this dais as far as that section of the bill. But certainly, these are necessary in order for us to meet future water security.

Mr. Hannigan, you mentioned how these projects are going to be funded and which projects are going to be funded. We have a process, a governance process, as you read in the bill, that would be approved within a year. We don't exactly state what that process is going to be. We want to work with the State of California, the elected officials, the stakeholders, certainly this Committee, to work out a fair methodology to put together a governance Committee which would, in fact, be able to pick these projects in a fair and equitable way. Are you supportive of that type of process?

Mr. HANNIGAN. We are supportive, Mr. Chairman. I might comment that we came close to having a governance resolved a year ago at the end of the legislative session, and for a variety of small issues, we didn't succeed. Recently in the State Senate, Senator Jim Costa, who has been very active in these issues, has held at least one hearing and intends to hold additional hearings, and the goal is to provide a government solution in California this time next year.

Mr. CALVERT. I met with the Senator and hope to meet with him again soon to talk about that subject.

Mr. HANNIGAN. Good.

Mr. CALVERT. Mr. Miller?

Mr. MILLER. Thank you very much and thank you both for your testimony. I stand corrected on the Harvey Bank's Pumping Station. We won't federalize that, Tom and Madam Secretary.

On the issue of cost sharing, I want to comment, Madam Secretary, that you are upholding the idea of the beneficiary page as does the ROD and this was obviously a matter of great contention through this entire process. Again, it's something that I think is very important and has to be applied because once again, not only at the end of the feasibility study, certainly on the surface storage, at some point we are going to have to figure out how we allocate that, and there are obviously many options.

Whether it is to the benefit of the full project or whether it is to Fish and Wildlife or to specific beneficiaries, at some point, I think those costs have to be allocated, and I think it's an important component if we are going to again go to the—to our colleagues in the Congress and tell them that we need a couple of billion dollars to do this. We are going to show them that, in fact, people are going to be prepared to pay for those benefits.

So I appreciate your position on that. And to both of you, I appreciate your position on the water assurances. Because I think it is—certainly I have crossed this and I think it is an important part of the ROD, the question of whether or not we are going to try to fill the commitments to the agricultural water users as specified in the ROD, and that is the goal in this process, but to lock that in in a statutory fashion, as you point out, can quickly throw us into noncompliance on another part of this puzzle we are trying to work out, which obviously deals with clean water and endangered species, and whether or not we can build a flexibility in the system to meet that on an annual basis not knowing the rainfall and snow pack and demands are going to be from year to year.

I think there are analogous situations with Klamath. I mean, this is a system where the big guys got there first based upon political considerations that were perfectly legitimate at the time. We are now spending billions of dollars trying to reconfigure this project so it can meet the needs of a modern California, and those obviously today are different stakeholders and were present in the days of the creation of these projects, but that is true of the Central Arizona Project, of the Central Utah project, of the Garrison—all of these had to be reconfigured because the first takings were taken based upon political power. We didn't have the Endangered Species Act, we didn't have NEPA, we didn't have an environmental movement in the country in those times, and so you went with political power and you took the river and controlled it.

Now we are in the process of going back and redoing that. And so these components, this flexibility—and we should not repeat the mistakes of the past which is then now to lock in water that we may or may not be able to meet and then end up with some kind of financial burden or litigation or all of these things combined together, when, in fact, what we do know we need is we need to try to meet the multifaceted components of the California economy and its environment, and I think that is the commitment of the ROD.

I think that is the commitment of the parties to the CALFED process, and I think that is hopefully what we can work out, but I think your comments have been very helpful in the sense that

those are big hurdles to the integrity of the ROD and we should not be dipping in here on a statutory basis to pick out winners or losers of people who disagree with the ROD. We have a near consensus on the ROD. We always will have some dissent, but it is what has enabled us to come to the Congress in the name of the State and try to secure the funding for these programs.

So I think that your remarks have been very helpful. And, Tom, if I might just ask you one question on groundwater management, you disagree sort of with what we do, and I appreciate the controversy in the State about this, but at some point, we have got to have a credible groundwater management program.

Mr. HANNIGAN. As you know, we have currently a voluntary groundwater management program and more and more areas of the State are utilizing that effort because they recognize that modern water management strategies depend a lot on groundwater, storage, you know, where basins have been overdrafted need to be corrected, and I don't think we are at a mandatory groundwater management statewide program, but we are moving in that direction.

Good water management, resource management, suggests some fashion of that. The strategy, political will of California has been for ground—if you will, ground up rather than top down, and I don't know when, but the time will come when it is time to make that last step and do it statewide, but it is not in the short run.

Mr. MILLER. Okay.

Mr. HANNIGAN. Well, we all can count and—.

Mr. MILLER. No. And I appreciate that, but again, we are talking about a system that you could argue that the system is completely oversubscribed, or you can argue that system can put into place management systems that may allow us to get some additional yield, and knowing what you have done in groundwater, what you are capable of doing and who is putting it in and who is taking it out is going to become an increasing dynamics of whether or not there really is that flexibility, because obviously the water has got to come from some other place, and you are right. We can all count, but I don't think we ought to give up on the notion that this is going to have to become part of this system if we are going to really squeeze the yield out that we all think is going to be necessary, and you have been working this hard on the regional at the—at the regional basis—.

Mr. HANNIGAN. We have some great examples. I mean Kern Water Bank is one of the best examples. It has some critics, but, in fact, it functions and it functions well, and when the State tried to put that water bank together, they couldn't succeed. When it was turned over to the locals, they put it together and have made it work for a lot of reasons, some of them political, and some of them, maybe the sources of the water had something to do with it.

Mr. MILLER. If I could make one request of the Secretary. Madam Secretary, the Department has Southern California Recycling Study underway, or I think it is complete. But do you know if it is complete, and if it is complete, is there an opportunity to get it to us, because obviously it is part of a discussion around this legislation.

Secretary NORTON. It is currently being reviewed within the Department. I understand we are fairly far along in that process; so we will look at that and track it down and try to expedite that.

Mr. MILLER. Because obviously that is part of this legislative package is a discussion of some of those efforts in the southern part of the State to deal with it. So that would be helpful to us. Thank you very much.

Mr. CALVERT. Thank you.

Mr. Radonovich.

Mr. RADONOVICH. Thank you, Mr. Chairman. I want to speak to the assurance language that is in the bill and have some questions regarding that. My original intention for the assurance language was to prioritize human uses of the California water, those for agriculture and urban over the newly added environmental priorities, at least until we have new water storage available in California so that we can indeed have a balanced approach for our water. But somehow it has turned into a little bit more of that, but I am very supportive of and very concerned about the assurance language, and feel that it is not morally correct to prioritize environment over human needs, ag and urban needs, in a situation like this. So I have some real problems with the priorities that are in the California water policy so far. And I hope to see the assurance language in effect.

Now it was mentioned—Mr. Hannigan, you had mentioned that it is so difficult to do without jeopardizing existing water rights or the Endangered Species Act. So I guess my question will go to the flexibility that you may have, or that the Department of Interior may have, in the implementation of the Endangered Species Act in order to correct what I see is a flaw in this, and at least give ag and urban water use a priority until we can increase water storage.

And before you answer that, I want to cite an incidence that happened here in Washington, which kind of speaks to the uneven application of this law and the subjective nature of the Endangered Species Act. It has come to my attention that on this project on the Wilson Bridge which is the connecting of the Beltway that crosses the Potomac, the bridge is in desperate need of repair, in their biological surveys and assessments of this thing, there is an endangered sturgeon there that they have come to the conclusion that if they would just blow up the clambeds, which are the feeding areas of the sturgeon, that that will make sure that the sturgeon is not there when they are constructing the bridge.

Now, my friend from Oregon would love that kind of assessment of the Endangered Species Act in project development. There is also another project on the Washington Aqueduct. This is where the group that clarifies the drinking water for the city of Washington, the water we drink here. They dumped alum in there, which is a fining agent and then, because over the protests of some members who didn't want the byproduct of that, which is a sludge trucked out of their neighborhoods in dump trucks, they've chosen to dump it into the Potomac River, which is right in the breeding grounds of this endangered sturgeon.

Now, if you can have variation from the Endangered Species Act in a case like this. It seems to me that at least in California, until we have increased water supply, you can certainly make some vari-

ation of the Endangered Species Act to make sure there is an assurance of deliveries for human needs until we get more supply, and I would like to get a response from that.

Secretary NORTON. I am not familiar with those situations. It is our intention to have a uniformed application of the Endangered Species Act across the country, and it is an Act that does not allow very much flexibility as we well know.

Mr. RADONOVICH. And I would love for you to become familiar with both of those projects, because it is in lawsuit and in court right now, and they are very solid cases. The evidence they have for both of these things is very apparent which seems to me that you can choose to apply the Endangered Species Act pretty much where you want to, and if it is good enough for the people on the Potomac and here in Georgetown, I want that flexibility for the people in California and I think if we have examples like that in this country, then I would demand that you take care of the human needs before the environmental needs, and I just think it is morally the right thing to do in California.

Secretary NORTON. What we are trying to do is find ways of achieving flexibility of having long-term planning so that we can meet the needs of both the environment and the human side.

Mr. RADONOVICH. On a long term—

Secretary NORTON. That is definite what we want to try to do, both through CALFED and other—

Mr. RADONOVICH. Let me ask the question this way, because if there is the assurance language in there that basically states no water will be taken from any other water agency in California, that puts the burden on the environmental water supply, do think there is then flexibility in the Endangered Species Act and the laws that implement those in California to make sure that the assurance language is upheld and no water comes from water agencies? And I would like to ask that of both of you, if I may.

Secretary NORTON. I would have to look at this more closely. The Endangered Species Act is one that is always subject to litigation, and it is something where we would need to look very closely at this. It is important that we preserve the endangered species and that we take the action necessary for that. What we would like to do is to see that this process would allow us to have the flexibility to meet all of the needs.

Mr. RADONOVICH. Okay. Mr. Hannigan.

Mr. HANNIGAN. Yes, Mr. Radonovich. I think the ROD represents a more positive solution to this conflict between the ESA and water uses. The environmental water account is structured for that reason. It's a 4-year experiment. It acquires water paid for by both State and Federal funds to replace what would otherwise be regulatory takes.

Mr. RADONOVICH. I am not sure you are answering the question. I want to say the question again, and that is, if the assurance language is included in the bill, do you believe that there is enough flexibility within the administration and Endangered Species Act to make sure that does not come from water agencies, rather it comes from the—

Mr. HANNIGAN. The EWA is how you mitigate the water not coming from the water agencies.

Mr. RADONOVICH. So you are saying yes—.

Mr. HANNIGAN. What would otherwise be a take under a biological opinion, the Environmental Water Account resources or assets pay for that take. It worked this year. It has got 1 year under its belt. We didn't experience any takes on the State project, neither did the Central Valley project. As long as we provided the water and, you know, it is an—.

Mr. RADONOVICH. The answer would be yes, that you could assure if the assurance language is in—.

Mr. HANNIGAN. As long as we provide the assets, as long as the State and Federal Government provides the EWA assets, that is what the ROD is all about.

Mr. RADONOVICH. So the answer to my question then is yes?

Mr. HANNIGAN. Yes.

Mr. CALVERT. We have a vote, one vote on the rule, but we can probably have some time—Mrs. Napolitano, you were the next person in the room. We can ask a round of questions and recess for a few minutes and come right back. You were here first, but I can ask Mr. DeFazio—.

Mr. DEFazio. Thank you, because I think the Californians will hang in longer than I will.

Madam Secretary, I am certain Mr. Walden will follow up on his questions. But you are obviously familiar with the situation in the Klamath and recently we found some additional water that you released or is being released at this moment. So far we have had Representative Walden introduce legislation last year to study additional storage in the area, which I supported. He has introduced legislation in this Congress to study a removal of a dam in the Lower Sprague River which could provide for enhanced habitat for spawning for the sucker fish and water quality in upper Klamath Lake.

Greg just shared with me something that Mike Thompson is proposing as part of the agriculture bill, which would go to some enhanced use of the Conservation Reserve Program for the farmers in that area to provide some relief. We have some emergency relief which has been in the supplemental for the farmers in that area.

We also have the Bureau of Indian Affairs involved because we have substantial claims by the tribes to water rights. We have got the State water rights adjudication issue that is problematic in Oregon. The Bureau of Reclamation is obviously a principal; is your Department or someone else in the administration going to take the lead, try to draw all these strings together and come forward with a proactive approach? Because I don't think there is any one big solution out there, one simple thing we can look at other than making it rain and snow that is going to resolve this issue. Is there discussion of that? Is there discussion of that, some prospect of that forthcoming?

Secretary NORTON. We have been discussing it on a daily basis, and even an hourly basis at times. Within my Department, we have within my immediate office, we are directly involved as well as within the Bureaus. The Department of Agriculture, I have talked with Secretary Veneman. She has top level people who are involved in that, and so we are working through a mediation process right now to put on the table a variety of different options to

work with the locals, to work among the Federal agencies trying to find creative solutions to it. We are also talking with private sector organizations. So we are really trying to look across the board at what can be done creatively in the short term and the long term to deal with the problems in that area.

Secretary NORTON. So we are really trying to look across the board at what can be done creatively in the short term and the long term to deal with the problems in that area.

Mr. DEFAZIO. Private sector in terms of a possibility for some buying of land or buyouts.

Secretary NORTON. Yes.

Mr. DEFAZIO. Well, I guess my observation would be—I think Representatives doing yeoman's work, we want to agree on possibly all the solutions. I just think this is so big and it involves different parts of Federal Government jurisdiction and tribal issues and State issues, that there needs to be almost like a task force formally set up within the administration to come forward perhaps with a comprehensive proposal. And it is probably going to cost money and hopefully we can find that. So anything you can do to enhance that, I appreciate it.

Secretary NORTON. Sue Ellen Wooldridge is my deputy chief of staff. She is from California and she has been working on this project for several months and spending a lot of time there and in negotiation sessions. She is going to be working with each of the individuals, assistant secretaries and bureau heads, that are involved in the Department of Agriculture. I believe it is the deputy secretary who is now becoming personally involved in this. And so at very high levels of our Department, we are working to really try to find some comprehensive approaches for solutions there.

Mr. DEFAZIO. Thank you.

Mr. CALVERT. We will be in for a few minutes. And be patient with us, we will be right back.

[Recess.]

Mr. CALVERT. Meeting will come to order. We expect several members here shortly, but in the meantime I have one or two questions. During Senator Feinstein's hearing last week, she had asked that some of the water users, I think specifically Frye and Westland, sit down with the State and try to work out some accommodation on language. And I think she asked for an abbreviated time frame of 48 hours. I was wondering what was the outcome, if any, of that.

Mr. HANNIGAN. Mr. Chairman, I am going to let Director Wright respond to that, because he was directly involved in that effort.

Mr. WRIGHT. Thank you, I think. Yes, the Senator did ask us to see if we could reach agreement on the so-called West Side Assurances issue. We did have several meetings and discussions with the folks on the West Side, the environmental community, and we were not able to reach a consensus. It is one of these issues where to try and craft language apart from the entirety of the ROD, that suggests the kind of intent, strong commitment, et cetera, that the plan tried to emphasize without making it a legal commitment was very, very difficult. So we were not entirely successful in that.

In the meanwhile, the State side has redoubled its efforts. And I am hearing similar expressions of interest on the Federal side to

begin working even more seriously on this issue administratively. In fact, the Governor sent a letter, I understand, to Secretary Norton, urging her leadership and the Department of Interior's leadership in working with the State to increase the confidence level of the stakeholders and the agencies that the CALFED program and agencies fully intend to meet that ROD commitment, to do everything we can to hopefully reduce the level of anxiety that exists out there over the program's commitment to move forward.

Mr. CALVERT. And that is the point, Madam Secretary, that obviously from testimony today you have heard that one of the sticking points in all of this with many members, and certainly that region, is that very issue. Any assistance that you can give us in resolving that would be very much appreciated. Any comments?

Secretary NORTON. I would be happy to work on that. I understand we are starting with a situation where we had contracted for 100 percent, and for a long time we are supplying very high levels of water, and that things have changed and that we are now trying to meet the needs of some of those agricultural areas.

And so we want to work to see what we can do to provide assurances, but we do not want to make empty promises. We want to make sure whatever we commit to is what we really can deliver.

Mr. CALVERT. One last question to you, Madam Secretary. The whole issue of the drain there in the Westlands, I know that your assistant Sue Ellen has been working on that. I was wondering if that is coming any closer to some successful resolution.

Secretary NORTON. We are still in the process of working through settlement negotiations. Those do seem to be going well and it seems to be hopeful, but we do not have anything resolved at this point.

Mr. CALVERT. As you know, we intend to do a Subcommittee mark on H.R. 1985 when we return from the August recess and full Committee mark in the same week or shortly thereafter. So any resolution to any of these issues would be very helpful.

Mr. HANNIGAN. Mr. Chairman, before you recessed, I was asked by Mr. Radanovich about assurances if there were ESA guarantees—I forget exactly how it was phrased. Would I be supportive of assurances? And I think I have provided some confusion. The assurances I referred to were the assurances that there wouldn't be takes from the projects for biological opinions. I think what you were referring to were assurances of the 65 to 70 percent water deliveries, which could not be linked to that effort.

Mr. RADANOVICH. My question was if the assurance language was in the bill and it became law, could you assure me, then, that any water demand generated from that would not come from any other agencies—any other water agencies?

Mr. HANNIGAN. The assurance language in what respect?

Mr. RADANOVICH. In the assurance language that is in this bill, 1985.

Mr. HANNIGAN. Assurances of the 65 to 70 percent?

Mr. RADANOVICH. Right. If that was in the bill and became law and you were responsible for administering that law, if a shortage came up, could you assure me that it would not come from any other water agency? Because that is the basis of the assurance lan-

guage, is the guarantee of 65 percent to Westlands without taking any water from any other water agency.

Mr. HANNIGAN. If that were the law? I wouldn't have any choice, but it would be very difficult.

Mr. CALVERT. One thing in this issue is the environmental water account. And that has been brought up on occasion. And there seems to be different perceptions on what that means. By many people's perceptions, it means that the environmental water account would be prioritized for endangered species. And other people believe it is for any number of remedies. Could you, maybe both you and the Secretary, define what you believe that the priority for the environmental water account should be?

Secretary NORTON. Well, I generally was very pleased to learn about the idea of the environmental water accounts. And I am speaking more at the conceptual level. Maybe some other people could provide you information on it and the details of it and we can provide that later if you like.

I think the approach is basically to have a thought process go into environmental water releases in the same way that we have a thought process that goes into agricultural and municipal uses of water, which is that you need to think about the timing of your use of water. You need to think what are the priorities. The person who is in charge of administering the environmental water account needs to think about what within the environmental area are the most important needs. And so it provides predictability for everyone else within the system and helps us avoid some of the conflicts that really cause problems within endangered species and so forth.

In terms of whether it is just avoiding jeopardy or whether it is for broader uses, we would like to get ahead of the curve and not have species always endangered so that we have to kick into the gear that we saw in Klamath. We would like to recover species and to actually have the species recover so that we no longer have to be operating within the framework of the Endangered Species Act.

Mr. CALVERT. The only reason I bring that up is because many people that I have talked to that were in the negotiation in the environmental water account believe, and still believe, that the intent of that was—its first and only priority was endangered species; to protect those species and not be used for a variety of remedies which allegedly that account is being used for. And so that would divert water from other purposes that we are discussing here that puts farmers, obviously, in a worse position than they are already in. So it is something that we need to continue to work on as we move this legislation.

Mr. RADANOVICH. If I may add, the way that the assurance language is written in the bill, again would require that to provide that assurance for any water agency in the State that it can't be taken from any other water agency in the State, which puts the burden on how you administer the Endangered Species Act and the CVPIA in order to fulfill that role. The water is going to have to come from the environment to fit that need. And what I want to make sure is to be able to hear from you that you feel that you have enough flexibility administratively to make that happen.

Secretary NORTON. And let me get back to you with some more clarification on that.

Mr. RADANOVICH. If you could, that would be excellent. I would appreciate that from Mr. Hannigan as well.

Mr. HANNIGAN. The assurance language in the bill currently I believe is not consistent with the ROD. And you know, if that were to become law, we would have a real dilemma because the way you frame the question, it is the endangered species that would take the hit, if you will. No other water agency can take the hit—

Mr. RADANOVICH. But there is a lot of administrative flexibility that you have. So my question is, can you make up that difference with the administrative flexibility that you have under that law? I mean, those are the choices you have to make if this assurance—the language becomes law.

Mr. HANNIGAN. I don't know. I don't think so as it is drafted currently.

Mr. CALVERT. Continuing conversation. Mrs. Napolitano?

Mrs. NAPOLITANO. Thank you, Mr. Chair. And it is nice to see my colleague Tom Hannigan working with us on a real important issue. And Mr. Chair, thank you allowing me to attend your three hearings which are very informative and very helpful.

Being from southern California, we found during my legislative years that we ended up being on the lower end of the totem pole when it came to water allocations. And it always frustrated me because it was something that—and it was kind of good because it forced the Californians to go into new methodology such as water recycling and some other areas.

I am thankful for your testimony because it tells me that your administration is very key in helping resolve some of those issues and engaging Californians in water issues. Agencies have spent million of dollars in the past decade in promoting effective recycling, groundwater recovery, and other conservative methods. And I certainly would want to extend an invitation for you to come and visit some of our facilities to see what we have done, and hopefully be able to get some additional input from you and us working together on those areas. I am hoping that the administration is prepared to work with us to continue some of these very important programs, because some of my colleagues in hearings have alluded to the fact that we have invented the wheel, and do not want to have to reinvent it so they can replicate some of those conservation programs in their own States.

So it is really very effective for us, very important, since we have kind of taken the lead in many of those areas. But I certainly would like to extend the invitation on behalf of the California delegation.

And I have long been of the opinion that while my colleagues focus a lot on the technical aspect, the policy aspects, I am more concerned with the municipal areas; how they can get assistance in being able to deal with the issues. That means giving them the assistance, whether technical, financial or otherwise, so they can either expand their water infrastructure for recycled water, to be able to not use as much water, but be able to fill in some of the commercial/industrial increased need, because it just keeps growing.

Somehow we don't focus on assisting the local municipalities to be able to deal with our own issues and help them come up with

solutions so that we were then able to cut the use of water and be able to use more of the recycled. And I think part of that goes to EPA's recent request of sanitation districts. And I don't know, Tom, if you are aware that sanitation districts must now give a fourth treatment to tertiary water before it is released into the ocean or utilized for commercial/industrial and watering purposes. Well, that is billions of dollars' worth of a new plant for that fourth treatment.

And I don't know what quite brought that decision for EPA to demand this unfunded mandate of sanitation districts. And I think it is worth looking into because if that is the case, then we need help for municipalities to be able to do this. This is not just California. This will be nationwide that this unfunded mandate will be applied to.

So if we are looking at the overall picture, we want to be sure that we also deal with the local impact. Part of what I have seen in some of my municipalities, which are old municipalities, is that they have got wells that have been contaminated and there is no way to flush them and put them back into operation. And somehow—Ken was gracious enough to allow us to input into the bill language that will assist in developing assistance for the local municipalities, whatever their local need happens to be. That is of major importance to me.

And I am just wondering if you might have any comment of how you would foresee the assistance coming to the local municipalities, the users—the end users.

Secretary NORTON. First of all, I appreciate the invitation to come and learn some more about it and to see some more of what it is that you are already doing.

One of the aspects of CALFED that makes sense is trying to look at a comprehensive approach and try to look at both the conservation side of things as well as the supply side. And so I applaud the State of California for trying to get all the California interests together to decide what makes sense for all of your interests. So I don't know the specifics on the programs you are talking about, but I generally think we need to look at both conservation and supply in solving these problems for the long term.

Mrs. NAPOLITANO. Because most of the conservation you talk about is major. I am talking about municipalities establishing their own storage areas.

Mr. HANNIGAN. Well, Ms. Napolitano, you are absolutely right when you focus on the local water agencies, cities and their local needs. And the State is trying to respond to that. There were monies in Prop. 13, the \$2 billion water bonds that are put out on competitive bids to local municipalities and water agencies to do exactly what you are interested in. And probably the best example, the most sterling effort regionally is by your Metropolitan Water District of southern California. They are in the forefront, as you well know, on virtually every effort to conserve and to find other means to provide more reliability to their water needs to serve southern California, and they assist as well as the State. They assist local agencies in those efforts.

Mrs. NAPOLITANO. I was looking at the Federal picture, besides the State picture.

Thank you, Mr. Chair. I would like another round.

Mr. CALVERT. Mr. Walden.

Mr. WALDEN. Thank you, Mr. Chair. I wanted to share with the Secretary the headline in the Herald and News. I think one word says it all: "water. Norton Grants Relief for Farmers." I commend you for the decision that you made and your staff made in releasing the 75,000 acre feet of water. As I said, it is the first drop of good news we have had. And it has meant a great deal to the people in the Klamath Basin. And I know how much time you have put in, and your staff, in trying to find solutions to this problem.

Secretary NORTON. Well, we really appreciate being able to work with you and with Senator Smith on this.

Mr. WALDEN. How closely parallel to what is going on with this CALFED proposal to what we need to do in the Klamath Basin? I admit at the outset, I spent more time on Klamath than CALFED.

Secretary NORTON. One of the things that I think is attractive about CALFED is having brought together all of the various interests, the local, State, Federal, agricultural, environmental, to talk about solutions and to put together a package of a balanced approach with various solutions in it. And I think that type of negotiated approach is something that makes a lot of sense.

Mr. WALDEN. And in doing this, do they have some sort of long-range management plan that allows them some flexibility under ESA or under some of these other laws? I know they got like until 2015 to continue their offer to appropriate out of the Colorado River, or at least California does.

Secretary NORTON. The Colorado River is really an agreement among the States and working through the Department of Interior under the Colorado River Compact. So that is entirely separate. That is not an endangered species issue.

The Endangered Species Act, as you know, is one that really is not intended to have a lot of flexibility. It is intended to change—it was intended to change the way in which the government and private interests made decisions that affected endangered species.

And so when something gets to the point of jeopardy for an endangered species, there is not a lot of flexibility. The biological opinions that are written are supposed to evaluate each species and each situation independently to see how much flexibility the biology allows. But once the biology says that there has to be a specific line drawn, then the law itself doesn't provide much flexibility. It is a question of what the biology and the biological opinions lay out.

Mr. WALDEN. I think it will be interesting to see how these lawsuits come out that my colleague Mr. Radanovich mentioned, following the Wilson Bridge and the discharge of toxic waste into America's first, I believe, heritage river, the Potomac. And it has always troubled me that there is somewhat in the order of 3 billion gallons of runoff, sewerage that flows into the Anacostia and Potomac Rivers each year when it rains.

Same thing happens in Portland, 2 billion gallons of sewerage and overflow. And yet they seem to have a decade or more to deal with those issues. And yet my folks here in the Klamath Basin, it is overnight, no water in order to comply with ESA. I realize new

biological opinions and so forth, but there seems to be a disparity in the amount of time some areas are given to work on some of these problems because it might cost them a lot, which is the case in the Portland metropolitan area. It would be expensive to fix it, and yet we allow the discharge of that sewerage when it rains and overflows their system. We allow it in the Potomac and the Anacostia. And yet there are endangered species in both rivers.

And I am not putting this at your doorstep, but it is a frustration that people in the Klamath Basin feel very strongly, as you know, and something that I think we need to pursue very aggressively in this Congress and in our agencies to make sure there is one standard. And I don't believe you are going to see a change in ESA until the urban areas are affected like the rural areas have been sacrificed. Thank you.

Mr. CALVERT. Mr. Otter.

Mr. OTTER. Thank you very much, Mr. Chairman. I would like to continue. Along with that, I do have a question that I think I will eventually arrive at here. Coming from the West—I am from Idaho—so coming from the West, especially the Basin West, it does seem as though the Environmental Protection Agency and the Army Corps of Engineers and all other manner of Federal agency has declared martial law on the environment, and as a result can suspend all manner of private property protection and constitutional limitations to the government, because there are lots of horror stories—and I am not going to bother you with them, other than to note one very important thing.

And I, under the Government Reform Committee, which I also serve on, and a couple of Subcommittees there—I too ran into the same information that my colleagues mentioned earlier about government polluting themselves, the Army Corps of Engineers pumping those sumps out so that they could build the bridge abutments, and when they were caught and eventually told not to, they had to go to court and EPA took them to court.

The thing that really should amaze us all, and nobody seemed to be as alarmed as much as I, was nobody went to jail. Nobody was fined. And, in fact, to the best of the knowledge that I have received yet, nobody lost their job.

However, I have got a big, big envelope full of stories where some corporation, some farmer, some developer, violated one of the laws with probably much less impact than the Army Corps of Engineers is doing to the Potomac. Nobody went to jail, except the farmer went to jail and the CEO went to jail or was fined substantially. In fact, the reason why I am so sensitive to this is I myself have been fined by the Environmental Protection Agency and I never got to go to court. So when I say martial law, the EPA decided who broke the law, what the penalty was, and whether or not I was guilty. King George, III never had it so good.

So now, having said all of that—now that I vented, Mr. Hannigan, I noticed a year ago, you got the Record of Decision on CALFED. You have gone forward with it. And between not only your comments and the Record of Decision, but also some comments that Mr. Miller made, it seems to me that everything is referred to as 30 years. We have got a long-term plan, and this is the first 7 years—this Record of Decision only was the first. And

in Mr. Miller's comments, there was some mention made about user pay, which I am a big advocate of.

Is the funding for the bonding for CALFED for the entire project a supply security? Is that under a 30-year payment schedule? If you have to bond it—if the users or beneficiaries—will that be 30-year bonding; because I notice the project is for 30 years.

Mr. HANNIGAN. If there is a project under CALFED where beneficiaries exist and you work out an agreement where beneficiaries pay, the bonding structure can be a 30-year, could be longer than 30 years. It is what the market at that point will—.

Mr. OTTER. Is that what you would suggest? Would it be 15 years maybe, 20 years?

Mr. HANNIGAN. I think it depends on the financial structure and on the wherewithal of the users who are willing to pay for the benefits. There may be beneficiaries who find another way to finance it. There is nothing that locks in bonds.

Mr. OTTER. But it is fair to say, then, in your deliberations on the potential package that you may have to put together, a great deal of concern is put on the beneficiaries and those that are going to have to pay.

Mr. HANNIGAN. Only where there are projects where there are benefits, water-supplied benefits. Projects that are ecosystem restoration are not envisioned to be user-pay projects, for example.

Mr. OTTER. But in user pay projects, that would be the philosophy?

Mr. HANNIGAN. That is the goal.

Mr. OTTER. That brings me to a question to you, Madam Secretary. And I appreciate very much the job you have done—your 6 months on the job. And I have seen more of you in Idaho than I wanted to see of your predecessor, but I very much appreciate that.

The reason I bring this up is that we have a project in Idaho, and it is called the Arrow Rock Dam. And the Bureau of Reclamation has said it is going to take about 15 million bucks to replace these valves in the bottom of the dam. And they started the process about 3 years ago. They started collecting the money from the beneficiaries, from the irrigators, from the farmers, about 3 years ago. And they are a little less than halfway there.

So far, out of the 15 million they think is going to be required, they are at \$6.9 million, because they were put on a short leash, if you will. Fortunately, my colleague and Senator from Idaho, Larry Craig, the senior Senator from Idaho, got a stipulation on a bill to allow—and I can't even think what bill it is now—but anyway, to allow for a 15-year-pay because the farmers are, like farmers everywhere out West, in pretty dire straits. If they have water to have crops, the crops aren't bringing very much money. So anyway, he has put that on the bill.

And I guess what I am asking is I hope I can get the commitment from your Agency to work with us to—well, the energy and water appropriations is where it is. And we still pay—the farmers still pay, but they have got 15 years to pay instead of that considerably shortened period of time. We are still willing to pay our way, but we just need more time to do it.

And I am hoping and I guess that is what my question is to you, can I count on your folks to help us support this effort and give us a little more time—because those valves are going to last for a long time. And if you ever need to repossess them, you are sure welcome to them.

Secretary NORTON. I don't think we are quite ready to do any repossessing. We are aware of that situation. We know that there is language in the Senate appropriations bill, and not in the House, so we need to look at it in the conference Committee. We would be very happy to work with you. There are some technical problems and some issues that we need to work through. We would be happy to do that with you. And I know that John Keys, our new head of the Bureau of Reclamation, is very familiar with that issue.

Mr. OTTER. Thank you, Mr. Chairman.

Mr. CALVERT. Thank you. I want to thank this panel for your patience and diligence through all this. And I appreciate the panel coming back, and please come back again. We would love to have you.

I would like to start introducing the second panel. So start moving toward the table when you are able.

Second panel, we are joined by Mr. Ronald Gastelum, the CEO of Metropolitan Water District; Ms. Cynthia L. Koehler, the Legal Director for Save The Bay; Mr. David Guy, the Executive Director of the Northern California Water Association; Mr. William G. Luddy, Director of Labor Management, Education and Development Fund of the United Brotherhood of Carpenters; Dr. David L. Sunding, Director of Sustainable Resource Development at the University of California, Berkeley; Mr. Peter Carlson, Partner, Will & Carlson, Incorporated; Mr. Clifford W. Schulz, Special Water Counsel for the Kern County Water Agency. All take your seats.

Before we begin testimony, let me explain our little light system here. We would like to limit the testimony to 5 minutes—this is a large panel—before we can get into questions. The yellow light will come up when you have 1 minute remaining in your testimony, and then please wrap up your testimony. And with that, Mr. Gastelum, you are recognized for 5 minutes.

STATEMENT OF RONALD R. GASTELUM, CEO, METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Mr. GASTELUM. Good afternoon. Thank you, Mr. Chairman, and members of the Committee. I am pleased to be here on behalf of the Metropolitan Water District of Southern California. I am the Chief Executive Officer. I have submitted written testimony for the record and, with the Chairman's permission, I would like to submit that here.

Mr. CALVERT. Without objection, so ordered.

Mr. GASTELUM. I will make some brief comments. I would like to make it clear that we are here in support of H.R. 1985 and particularly the water quality improvements it will bring for 22 million Californians. Metropolitan Water District is a public agency, formed in 1928. We are a regional wholesaler of drinking water to 26 member public agencies. We are primarily funded by local property taxes and water sales. We serve urban southern California from the Mexican border on up to Ventura. About a third of the

water consumed in our service area is local groundwater and recycling, about a third from the Colorado River through a contract with the Bureau of Reclamation, and about a third from the State water project through a contract with the Department of Water Resources.

But we are more than an importer. We store water. We treat water. We finance major conservation and recycling projects with our member public agencies. We have spent or are spending—and it is over the next 10 years—about \$8 billion in storage projects, conveyance projects, conservation projects, recycling projects. We have what we call our integrated resources plan, a diverse portfolio of investments in conservation recycling, imported water, desalination, groundwater conjunctive use. As a consequence, we are using a comparable amount of imported water today as we did in the 1970's; yet we have added 5 million people over that time. We are doing this through conservation, recycling and conjunctive use.

Our basic strategy is to import water up to our full entitlement when it is available in surplus years and be prepared to back off in dry years. That means backing off on the Colorado River supply and/or backing off on the State water supply. In order to do that, we have to have the conservation programs in place, the conveyance systems in place, the storage in place. These are the investments that I alluded to with the \$8 billion. But that is our basic strategy. We think that is a sound public policy for urban southern California.

We also believe that that policy is very complimentary of CALFED and of the Record of Decision. We think that the CALFED and Record of Decision consensus process is the model for the future. We can look at models throughout the early 1900's. In particular, we can see successes throughout the West.

But today, as we enter this new century, we need a different model. We are up against limitations, such as the Endangered Species Act we talked about today. We have the specter of global warming and the impact on our weather patterns, that we need to be prepared for these challenges. And so with these consensus processes and the kind of investments you are talking about with us in CALFED, we believe that we will be well prepared for that future.

H.R. 1985 best supports the intent of the Record of Decision and the consensus process that made it possible.

I would also argue, for the benefit of members from outside of California, that there are distinct benefits to other States by CALFED. Certainly, as a user of Colorado River water from the Colorado River, and dependent upon Colorado River water, we are able to reduce that dependence and moderate our dependence in proportion to our ability to rely upon the State water project. And as we cut back on our dependence over the next 15 years, it is absolutely essential that we have CALFED projects in place to help us make that transition.

I would close by pointing to an article that I read in USA Today a couple of weeks ago. The headline was "water Works." I fully expected to read about the Klamath situation, but instead I read about Georgia. Georgia is going through tremendous population increases. You have got upstream and downstream water users who

are arguing. And the tag on this is that they recognize that the way they are going to get through that problem is to do exactly what we are doing here in California: building consensus, going through the scientific analysis, and arriving at a plan that will provide regional benefits.

So, Mr. Chairman, again, we are very much in support of H.R. 1985 and appreciate the opportunity to be here today.

Mr. CALVERT. Thank you.

[The prepared statement of Mr. Gastelum follows:]

**Statement of Ronald Gastelum, Chief Executive Officer, Metropolitan
Water District Of Southern California**

Chairman Calvert and Members of the Subcommittee, thank you for this opportunity to testify regarding the authorization legislation for the California CALFED Bay-Delta Program. My name is Ronald Gastelum. I serve as the Chief Executive Officer of the Metropolitan Water District of Southern California. Metropolitan provides supplemental water to the 17 million Southern Californians who rely on reliable, high quality water supplies for their quality of life and the health of the \$750 billion regional economy.

From Metropolitan's perspective, the legislation before you today is the most important federal legislation affecting the management of the western states environment and economy in a generation. It implements a program that assures comprehensive achievement of regional health, economic and environmental program objectives. It helps preserve the largest estuary on the west coasts of North and South America, the central stopover location for migrating waterfowl on the Pacific Flyway and the home to 80 percent of the nation's salmon fisheries. This legislation also ensures necessary infrastructure to maintain high quality and reliable water supplies for our residents, farms, and high-tech industries. These industries are the key to the future of the west coast as America's gateway to the Pacific Rim.

Today, we are at a crossroad in the legislative process. This subcommittee must decide which path CALFED authorizing legislation will follow. After careful consideration of the two bills before you—H.R.1985, the Western Water Enhancement Security Act introduced by Chairman Calvert, and H.R.2404, the California Water Quality and Reliability Act of 2001 introduced by Congressman George Miller—Metropolitan urges the Subcommittee to approve H.R.1985 and advance it through the legislative process. We do not support the advancement of H.R.2404.

This conclusion is based on a comparative assessment of how these proposed bills address three key types of provisions: first, governance and the process required for further authorization and appropriation; second, water quality provisions; and third, water supply reliability provisions.

GOVERNANCE AND THE AUTHORIZATION PROCESS

The CALFED Bay-Delta Program represents a fundamental and desirable change in the direction of water resource management in California. We believe it provides an example for the resolution of conflicts in similar, complex management challenges of natural resources throughout the nation. For the first time, the CALFED Program establishes a comprehensive, statewide approach to improve, on an equal priority basis, ecosystem restoration and water quality and water supply. The program creates a historically unprecedented ecosystem restoration effort. It relies heavily on coordinated actions by local jurisdictions throughout California to invest in local resource development, including aggressive water conservation and reclamation efforts and locally driven storage projects. And, the CALFED Program necessarily includes major investments in surface and groundwater storage and conveyance systems to improve the flexibility of the water management system to meet environmental and economic needs.

Central to the success of this complex undertaking is the maintenance of linkages among program elements that assure all affected interests "get better together." When state and federal political leaders introduced the CALFED Program, they stressed that all stakeholder interest groups must be prepared to accept the package as a whole. To be successful, the Program could not advance the interest of one group at the expense of others. All stakeholders found elements in the package they would not have included unilaterally, but if the package could be moved forward as a whole the interests of all would be advanced. In this sense, the CALFED Program represents a consensus package in its outcomes, but it was decidedly not the outcome of consensus negotiations among the stakeholders. Instead, the program re-

quired political leaders of both parties who were willing to make tough choices, develop a fair package, and challenge the stakeholders to come along. Mr. Chairman, we believe you are providing and must continue to provide that kind of leadership in the Congress.

The fundamental test of governance and the authorization process for CALFED-related actions must be the preservation of these linkages and the ability to assure the success of the entire CALFED package. “Cherry-Picking”—the propensity of some stakeholders and their political champions to promote the elements of the package they like and erect barriers to the elements they don’t like—must be avoided at all costs. Only H.R.1985 meets this fundamental test.

All three CALFED bills (including S.976 introduced by Senator Feinstein) contain provisions requiring the establishment of a permanent CALFED governance body. However, governance plays a key, positive role in the authorization and appropriations process created by H.R.1985. In H.R.1985, the state government in California must create a broad-based Governance Board, which in turn must be approved by the Congress before funds can be appropriated for fiscal year 2004. The Governance Board has the responsibility to shape linked packages in California to meet the goals of the CALFED Program and these packages (or “reports”) provide the basic funding vehicle in H.R.1985. Projects seeking funding must be included by the Governance Board in these comprehensive packages. Most of the funding in H.R.1985 goes through a competitive grant process administered by the Governance Board to help assure that all projects are cost-effective and coordinated with the Program as a whole. To preserve the integrity of the package, when the Governance Board reports return for final authorization, the Authorizing Committees may strike, but cannot add projects to the reports.

This type of approach is essential for the success of the CALFED Program and is lacking in H.R.2404. Some environmental interests have attacked S.976 because it “preauthorizes” selected surface storage projects. We believe these concerns are valid—it makes little sense in this legislation to fund projects independent of their relation to the package as a whole and irrespective of whether feasibility and environmental studies and financial arrangements are in place. However, H.R.2404 is fundamentally a preauthorization bill. It selects for special preauthorization all environmental restoration projects “as generally outlined in the Record of Decision” and a long list of selected local projects at a total federal cost of nearly \$700 million. Many of these projects have merit and would receive funding under the more careful, competitive process of H.R.1985.

However, the selective nature of the preauthorization process in H.R.2404 will inevitably promote the success of certain projects at the expense of others. The vast majority of projects not favored in the preauthorization list must go through the full Congressional authorizing and appropriations process on a “stand alone basis¹.” Thus, under the preauthorization approach of H.R.2404, some projects are certain to be approved for funding, while others face a daunting future.

Preauthorization—whether to promote storage or environmental restoration and water reclamation—is contrary to the spirit of the CALFED Program and will undermine its success. Only H.R.1985 avoids preauthorization. H.R.1985 provides the Governance Board with the ability to maintain essential linkages in the CALFED Program and it requires all projects to complete feasibility and environmental studies, and cost sharing and financial arrangements before authorizing funds for construction. On the basis of governance alone, H.R.1985 is the “key linkage” to ensuring a collaborative effort among urban, agricultural and environmental interest groups and should be the legislative vehicle that moves forward to authorize the CALFED Program.

WATER QUALITY

Assuring actions to substantially improve water quality is the highest priority of Metropolitan related to CALFED authorization legislation. As a recent Natural Heritage Institute report stated, the intake of the State Water Project (SWP) is located at the sump of the Central Valley and the gateway to the Pacific Ocean. The result: agricultural drainage and seawater intrusion has resulted in source water with the highest potential for creating carcinogenic disinfection-by-products in the country. Yet, 22 million Californians—17 million of them in our service area—rely on the SWP and its Delta intake for drinking water supplies. To protect public health and

¹ Section 104 of H.R.2404 provides authorization of \$100 million “for activities required to be conducted by federal agencies under the Record of Decision that are not expressly authorized by this Act”. These funds could presumably be used for non-preauthorized activities, but would provide only a tiny fraction of the funds needed to fully implement the CALFED package.

assure that California's urban water agencies can meet future drinking water standards at a reasonable cost, source water quality in the Bay-Delta system must be improved.

Metropolitan also relies on the Colorado River—the saltiest surface supply used by any urban agency in the state. Despite the inherent high salinity of the Colorado River, Metropolitan is fully committed to maintaining a full Colorado River Aqueduct, while we assure that California lives within its 4.4 million acre-feet allotment of Colorado River water. To do this, Southern California water managers must continue to aggressively implement, among other actions, water reclamation and groundwater conjunctive use projects. Both of these initiatives require low-salinity water. Neither can be successful without lowering the salinity of water received through the SWP. From the perspective of Southern California, reducing the salinity of supplies from the Bay-Delta watershed must be a high CALFED priority.

Fortunately, CALFED represents another breakthrough because of its commitment to water quality improvements as an equal priority to improvements in the ecosystem and water supply reliability. The CALFED Program includes a statewide, integrated approach to improve water quality. Existing and new surface storage reservoirs and through-Delta conveyance improvements are to be operated, in part, to maintain and improve water quality. Substantial investments in source protection are intended to keep contaminants out of water supplies before they are introduced. The program contains commitments to help pay for new, advanced water treatment technologies in urban areas. It promotes innovative water exchange partnerships between urban and agricultural areas intended to improve agricultural water supply reliability, help restore fisheries, and significantly improve source water quality for the urban partners. Metropolitan is actively pursuing several of these partnerships and they hold the promise, in combination with other actions, of meeting our water quality requirements in the CALFED Program.

Recent proposed amendments to H.R.1985 would significantly strengthen the bill's ability to assure improved water quality for all Californians. Both H.R.1985 and S.976 expressly authorize so-called "complementary actions"—that is, actions that are included in the CALFED Program and the Record of Decision, but were not covered by the programmatic environmental documentation. This is important for urban water quality, because many of the complementary programs are primarily intended to improve water quality, including the Bay-Area Blending Program, the San Luis Bypass Project, and exchanges to improve water quality for Southern California.

Ironically, while H.R.2404 includes the term water quality in its title, the bill itself contains very few provisions that would accomplish water quality improvements. H.R.2404 does not authorize complementary actions intended to improve water quality, threatening their success. Moreover, since no water quality improvement projects are on the list of favored preauthorized projects, many of the innovative approaches to improve water quality included in the Record of Decision will face an uphill battle in obtaining adequate funds for their implementation.

Once again, on the basis of water quality provisions, Metropolitan urges the subcommittee to approve H.R.1985.

WATER SUPPLY RELIABILITY

While Metropolitan's primary interest is water quality, we are obviously keenly interested in provisions to assure the reliability of adequate supplies for the future health of the state's economy. Southern California is unsurpassed in its vigorous and far-reaching programs to better manage local supplies. We have invested more than \$8 billion in aggressive water conservation and reclamation programs and surface and groundwater storage projects. These local and regional storage projects are central to the CALFED strategy of making water available for storage south-of-the-Delta when natural runoff is plentiful to enable water managers to use less and provide higher flows for the environment during critically dry years. Together, these local and regional actions have allowed us to significantly reduce requirements for imported water from both the SWP and the Colorado River during dry years. But, these investments must be accompanied by a commitment to assure the reliability of those supply amounts upon which we will continue to rely.

Metropolitan strongly supports those provisions of H.R.1985 that respect the supply assurances central to the CALFED linkages. H.R.1985 protects supply reliability for the SWP, reinforces key regulatory assurances related to the Endangered Species Act, and assures increased access to the system during wet years to replenish south-of-the-Delta surface and groundwater storage. Such provisions take a big step toward assuring that California and the national economy will not face a water crisis that would likely dwarf the current energy crisis.

In contrast, H.R.2404 contains provisions that assault the water supply reliability of the majority of the California economy. H.R.2404 raises additional barriers to the implementation of storage projects and improvements in conveyance. It would establish federal policy to reduce rather than increase available supplies for the Southern California urban economy and the San Joaquin Valley agricultural economy. Further, H.R.2404 would require the Secretary to manage (i.e. reduce) exports from the Delta "to minimize the entrainment of and harm to" fish as determined solely by the Fish and Wildlife Service, National Marine Fisheries Service, and the California Department of Fish and Game. Taken to its logical conclusion, such a provision would require severe reductions in supply and abandons the CALFED commitment to sound science. The water supply provisions of H.R.2404 almost seem mean-spirited. It fosters north-south conflict and would destroy the interregional partnerships being fostered by CALFED to promote a statewide comprehensive water management program.

CONCLUSION

Mr. Chairman, Members of the Subcommittee, I can hardly overstate the importance of the task before you for California's environment and its economy, as well as the nation. To achieve the ambitious objectives of this much-needed program, we urge you to be bold and bipartisan. Mr. Chairman, you are to be heartily commended for the bipartisan and far-sighted manner in which you have progressed this legislation thus far. Metropolitan strongly supports moving H.R.1985 forward to set the stage for the passage of legislation of historic importance to California and the nation.

Mr. CALVERT. Next, Ms. Cynthia Koehler, the Legal Director for Save The Bay. You are recognized for 5 minutes.

STATEMENT OF CYNTHIA L. KOEHLER, LEGAL DIRECTOR, SAVE THE BAY

Ms. KOEHLER. Thank you, Mr. Chairman. Mr. Chairman and members of the Committee, thank you for convening today's hearing and for inviting me to testify on H.R. 2402 and 1985. Thanks in particular to you, Chairman Calvert, and to Congressman Miller for your leadership in introducing these bills to support the Bay-Delta Program. We look forward to working with the Congress, the State, and our colleagues in the stakeholder communities as these bills move forward.

Save The Bay is a nonprofit membership organization dedicated to the restoration and protection of the San Francisco Bay, Delta Estuary and its watershed from the Sierra tributaries out to the Farallones. Save The Bay has worked for over four decades to protect this extraordinary national resource and its native species and habitats.

Save The Bay is committed to the CALFED premise of solving California's water supply and ecosystem problems in an integrated fashion. We strongly support the objective of providing more reliable supplies for our farms and cities. And we believe it is critical as well to ensure that the ecosystem restoration program developed in CALFED is effective and able to achieve its objective of self-sustaining fisheries and wildlife populations.

A review of the Bay-Delta bills pending before this Committee raises several issues:

First, we recommend greater emphasis in the legislation on the ecosystem restoration element of the Record of Decision. We have recently completed a study entitled, "putting It Back Together: Making Ecosystem Restoration Work." we have in that study looked at various large-scale ecosystem restoration projects around

the Nation, projects that this Committee is very familiar with—the Chesapeake, the Everglades, the Great Lakes, and the Columbia River. And we have found that these efforts have significant lessons for the Bay-Delta Program. In particular, it is clear that authorizing legislation needs to be focused not only on funding and process, but on achieving results on the ground.

The National Academy of Sciences has recently concluded a study of wetlands mitigation, and similarly found that efforts to achieve mitigation of wetlands restoration has failed to meet their goals, for a variety of reasons. Specifically, what we can learn from these experiences is that legislation can make an enormous difference as we move forward in CALFED. We can take from these experiences the positive things that have come out of these programs and apply them to Bay-Delta Program in several ways.

Specifically, we recommend that the legislation should be expanded to include at least the following elements. These are summarized in my written testimony and I will only go over them very briefly:

A requirement that the restoration objectives be met within a time certain.

Dedicated-base funding.

Assurances for the environmental water identified in the Record of Decision.

Water supply benefits linked to achievement of restoration objectives.

And, an independent science program to ground all aspects of the program.

H.R. 2404 and H.R. 1985 each contain several of these elements. And they are beginning. To ensure that we are achieving the biological bang for our investment, additional focus on these programs is necessary.

Second, we recommend expanding legislation to specifically authorize the Water Use Efficiency Program discussed in the CALFED Record of Decision. The ROD calls for a 500-million commitment to this program over the first 4 years through a competitive loan program not unlike that included in 1985. Expansion of this legislation to include this program would provide the most immediate and valuable water supply reliability benefits to many communities, particularly economically disadvantaged communities.

Finally, I will touch briefly on several of the issues that have been raised in this Committee previously. We do support provisions in H.R. 2404 giving effect to the ROD's principle that beneficiaries should pay for major facilities from which they receive direct benefits.

Second, with regard to the guaranteed south of the Delta that have been discussed today, we are concerned about elevating what is described as an anticipation in the Record of Decision to a legally enforceable entitlement. It is not clear, as has been pointed out, exactly where this water will come from. And there has been pressure to reopen the Department of Interior's decision on implementing CVPIA Section 3406(b)(2), the 800,000-acre-foot dedication of the environment. This water is a key part of the baseline for the Bay-Delta Program and should remain available to the environment.

And finally, with regard to the streamline process for 1985, the Record of Decision provides that the decisions to construct major storage projects are predicated on compliance with environmental review and other permit requirements. We feel that this is an appropriate condition and should be honored in the legislation.

That concludes my summary of my written testimony. I have provided copies to the Committee, Mr. Chairman. And if appropriate, I would like that to be submitted for the record.

Mr. CALVERT. Without objection, so ordered.

Ms. KOEHLER. Mr. Chairman, this concludes my remarks, and thank you for the opportunity to provide these comments before you today. And I would be happy to answer any of your questions.

Mr. CALVERT. Thank you.

[The prepared statement of Ms. Koehler follows:]

Statement of Cynthia Koehler, Legal Director, Save San Francisco Bay Association

Mr. Chairman and Members, thank you for convening today's hearing and for inviting me to testify on H.R. 1985, the Western Water Enhancement Security Act, and H.R. 2402, the California Water Quality and Reliability Act. Thanks in particular to Congressman Calvert and Congressman Miller for their leadership in introducing bills to support the Bay-Delta Program. We look forward to working with the Congress, the State and our colleagues in the stakeholder community as these bills move forward.

Save The Bay is a non-profit membership organization dedicated to the restoration and protection of the San Francisco Bay, Delta Estuary and its watershed from Sierra tributaries to the Farallones. Save The Bay has worked for over four decades to protect this extraordinary national resource and its native species and habitats.

THE BAY-DELTA PROGRAM IN CONTEXT

For the last six years, Save The Bay and our colleagues in the environmental community and fishing industries have been very active in the CALFED Bay-Delta Program. We made this investment of time and resources primarily because we are convinced that California must address its ecological, water supply and water quality problems in an integrated manner.

The CALFED Program has had a crucial advantage over prior problem solving efforts in that it began by asking the correct questions: How do we make water supply more reliable for farmers and cities while at the same time restoring our key fish, wildlife and habitats? What integrated solutions will break the cycle of crisis management by putting our fisheries on a self-sustaining basis? What options will provide long-term supply reliability to agriculture and cities without debilitating conflicts with ecological health? Save The Bay remains convinced that fully integrated solutions that put our water management system on a compatible basis with long-term maintenance of the ecological health of the Bay and Estuary is not only feasible, but essential.

As you know, the Bay-Delta Program grew in part out of the December 1994 "Bay-Delta Accord" which represented a short-term agreement on water quality standards and some restoration funding in order to allow a larger and more long-term program to be developed that would provide long-term stability for all sectors.

The Record of Decision issued last August that capped the CALFED process was a compromise. While Save The Bay, like many others in the environmental community, had significant reservations about the Record of Decision, we supported it because we believe strongly that it is time to move forward and that the ROD represented the best opportunity to do so. However, the Record of Decision is not a wholly self-executing document. While much of the Bay-Delta Program can, and is being implemented by the federal and state agencies without legislative action, many of the ROD provisions require Congressional direction and authorization. For this reason, we support the efforts of this Committee, and Senator Feinstein, in moving forward with Bay-Delta legislation. However, it is essential that such legislation be consistent with the overall promise of the Bay-Delta Program to ensure that water supply reliability is compatible with the co-equal goal of restoring the ecological health of the San Francisco Bay and Delta Estuary.

ECOSYSTEM RESTORATION AROUND THE NATION

Appropriately, much of the discussion around the pending bills, H.R. 1985 and H.R. 2404, has focused on the water supply reliability aspect of the Bay-Delta Program. However, Save The Bay and others in the environmental community are concerned that far less attention has been devoted to the objective of restoring the ecological health of the San Francisco Bay and Delta Estuary. There appears to be a widely held view that the ecological side of the equation can be fully addressed by generally authorizing the Ecosystem Restoration Program (ERP). However, experience indicates that this is unlikely to be the case.

While the Bay-Delta Program is among the most ambitious, there have been a number of other efforts to address very large scale watershed level ecological problems. Save The Bay has recently concluded a review entitled, *Putting It Back Together: Making Ecosystem Restoration Work*, which examines several well known restoration efforts including the Chesapeake Bay, the Columbia River, the Great Lakes, the Everglades and others. Our goal was to determine whether these older efforts had relevant lessons for the CALFED process.

Strikingly, the objectives for these other efforts are very similar to CALFED's—not to return to a pre-development state of nature, but to the contrary, to attain a modest level of sustainability for valuable fish and wildlife and habitats in order to avoid debilitating conflicts.

What we found, in brief, is that many people are working diligently to solve these problems and while there have been notable successes, many of these programs are having difficulty attaining their basic restoration objectives. This is due to various factors discussed in our review, but the primary issue appears to be that most of the legislation establishing these programs was not specifically oriented toward achieving on-the-ground results—they tend to emphasize instead spending and process. Without question, authorization of the restoration program is crucial; but the key seems to be long-term and reliable funding in combination with other legislative direction. In general, merely authorizing the restoration component of a program without greater legislative direction is unlikely to produce the desired restoration results on the ground, particularly with regard to long-term sustainability of species at risk.

Based on these case studies, Save The Bay has developed a list of the critical elements that should be included in Bay-Delta legislation in order to ensure that the ERP objectives are in fact achieved. This proposal has been endorsed by a number of environmental groups including Environmental Defense and the Sierra Club. Key elements include:

- Requirement that the restoration objectives be met within a certain time;
- Dedicated base funding for the ecosystem restoration program;
- Assurances regarding water needed to achieve the restoration objectives;
- Water supply benefits linked to achievement of restoration objectives;
- Independent science and economics to ground all aspects of the program.

We have provided copies of *Putting It Back Together* to the Subcommittee staff and have had an opportunity to talk with them about some of these issues. We are hopeful that as the bills move forward, they will more fully incorporate the elements necessary to ensure that the restoration element of the Bay-Delta Program has the full legislative support necessary to ensure that the restoration objectives so widely shared are actually realized on the ground.

WATER USE EFFICIENCY

Another central aspect of the Bay-Delta Program that requires additional legislative support is the water use efficiency program. The ROD proposes a \$500 million competitive grants program for water use efficiency measures. If implemented, such a program could have almost immediate benefits for farmers and cities and provide much needed relief on supplies. While there is some controversy over many other water supply reliability tools, there appears to be a strong consensus that such a program would provide the fastest, and the most cost-effective, water supply benefits for a large number of people.

Such a program is particularly important in its ability to also provide significant benefits to lower income communities by providing the resources needed to retrofit homes and small businesses with water efficient technologies, not only lowering demand, but lowering costs as well.

Save The Bay strongly supports the inclusion of a water use efficiency grants program in the Bay-Delta Program authorizing legislation.

OTHER CONCERNS

Save The Bay and thirty other environmental and fishing organizations have previously forwarded a list of our concerns with regard to the current version of H.R. 1985 to Members of this Committee. These issues include:

- Pre-approval process for major new water development facilities.
- Absence of a requirement that beneficiaries pay for facilities.
- New water delivery guarantees to certain water districts.

This last issue is of particular concern in light of recent developments indicating that these water deliveries are likely to come at the expense of water that is supposed to be set aside under the Central Valley Improvement Act (CVPIA) for the restoration of fish, wildlife and habitat that is to serve as the basis for the Bay-Delta restoration effort.

This underscores that it is critical for Bay-Delta legislation to ensure that the restoration program is able to meet its objectives and, in particular, that there are appropriate guarantees of water for the environment. Water diversions in the past have had unintended but devastating impacts on California's ecosystem and fisheries. The 1955 Act authorizing the Trinity Dam, for example, expressly directed the Department of the Interior to "[A]dopt appropriate measures to insure the preservation and propagation of fish and wildlife..." P.L. 86-386. Indeed, proponents maintained at the time that the "Trinity Project does not contemplate the diversion of one bucketful of water which is necessary in this watershed." Trinity Journal (Feb. 23, 1952). Despite these assurances, substantial water needed to maintain the ecosystem was in fact diverted out of the watershed and the Trinity River's historic fisheries were decimated as a result; salmon and steelhead populations have been reduced by 70-90% over the last thirty-five years.

The best way to avoid such situations, and the inevitable conflict, is to ensure the success of the restoration program and to put water management on a sustainable path for agriculture and cities compatible with ecological health. This is the great promise of the CALFED Bay-Delta Program and we believe it is one that can still be met.

Mr. Chairman, this concludes my remarks. Thank you again for the opportunity to provide these comments. I would be happy to answer any questions that the Committee may have.

Mr. CALVERT. Mr. David Guy, Executive Director of the Northern California Water Association.

**STATEMENT OF DAVID GUY, EXECUTIVE DIRECTOR,
NORTHERN CALIFORNIA WATER ASSOCIATION**

Mr. GUY. Thank you, Chairman Calvert, members of the Subcommittee. My name is David Guy. I am the Executive Director for the Northern California Water Association. Like others, I have submitted written testimony and I would like to make that part of the record before this Subcommittee.

Mr. CALVERT. Without objection, so ordered.

Mr. GUY. The Northern California Water Association represents nearly 70 water suppliers in the Sacramento Valley, which, of course, is the upper or northern part of the Great Central Valley in California. The Sacramento River and the Feather River run through the heart of the Sacramento Valley and, of course, are the cornerstones for both the State and Federal projects.

The water suppliers in the Sacramento Valley rely largely upon senior water rights and also value very much the watershed and other area-of-origin protections that have been put in law over the years to assure that they will have reliable water supplies.

With that said, even this year after nearly 6 consecutive wet years in California, there have been some folks in the Sacramento Valley that have faced water curtailments and they are only receiving 60 percent of their supplies.

We strongly support H.R. 1985, Chairman Calvert, and want to work with you to advance that as quickly as possible. The primary reason for that is we believe that H.R. 1985 really gives rise to a lot of the things that we are trying to do in the Sacramento Valley. Most notably, what we have been doing is developing an integrated water resources program, much like what Mr. Gastelum suggested for the southern California area. In this integrated water management program, the goal is quite simply to meet the needs within the area, watershed and county-of-origin needs in the Sacramento Valley. And we believe that if we can do that, we can then help meet the needs of the environment and help meet the needs of the water users in the rest of the State.

We can assist in that process, and I believe that H.R. 1985 does a good job of trying to do that. It wasn't many years ago, of course, that we were having North versus South battles. And we were saying we weren't going to work together. I think you see a very different tenor, and we appreciate your leadership in trying to bring us together in that manner. I think the bill really advances that type of an effort.

More specifically, as far as the things that we believe H.R. 1985 does to further the integrated program that we have talked about, the Statewide water supply issues and environmental needs that we talked about, we really need to support and empower the regional solutions. And again, we have offered one regional solution.

I think you will see there are a lot of regional solutions that you have been offered up and have been well developed throughout the State. I think we have typically seen in the past that when you try to put a one-size-fits-all prescription over the State of California, it has usually led to failure; and we believe your efforts are starting to empower our regional solutions, and we believe that is how we are going to see water supply security in the State of California.

The second important part that we believe is the need to provide for infrastructure needs, of course, throughout California. And that is something that we have been negligent, in my view, in the State in advancing, particularly with respect to water. Every area, of course, has their infrastructure needs that they need, and these regional solutions will help to determine the infrastructure needs in each part of the State.

In the Sacramento Valley, we have some infrastructure needs, whether it be groundwater management or more visible things such as Sites Reservoir. In our view, Sites Reservoir is a very critical part of this integrated water management program. And Sites will be a new type of a water project where the Federal and State agencies will work with local partners up in the Sacramento Valley to manage the water in this integrated fashion and to make the system much more flexible for all of the needs that we have talked about. We believe that Sites Reservoir is a critical piece and needs to be part of the mix. It was called out in the Record of Decision, and we would like to see it fully advanced and studied and evaluated over the next several years.

And then finally, there is the need to streamline the regulatory process. And, of course, that is really what CALFED is all about, was to try to bring disparate agencies of all different kinds, Federal and State, and to bring them together in a way where you can get

some things done and that you can focus on a venue where you can actually make some progress. And we believe that the CALFED process makes some strides in that direction and we believe the bill also moves in that direction.

With that said, again, I think there are some real benefits to H.R. 1985. And it is very important in my view for the Sacramento Valley and the water supply and environmental needs in the Sacramento Valley. But more importantly, it really looks at the State-wide benefits and brings people in the State together, I believe, in a way that has not happened in the past.

We very much look forward to working with you, Chairman Calvert, and with Senator Feinstein and her efforts to make this bill and her companion bill a success. Thank you.

[The prepared statement of Mr. Guy follows:]

Statement of David J. Guy, Executive Director, Northern California Water Association

Mr. Chairman and members of the Subcommittee, my name is David Guy. I am the Executive Director of the Northern California Water Association (NCWA). NCWA supports H.R. 1985 and strongly believes that this legislation will help provide water and environmental security for Northern California and the rest of the state.

NCWA is a geographically diverse organization, extending from California's Coast Range to the Sierra Nevada foothills, and nearly 180 miles from Redding to Sacramento. Our members rely on the waters of the Sacramento, Feather, Yuba and American Rivers, smaller tributaries and groundwater to irrigate nearly 850,000 acres that produce every type of food and fiber grown in the region. Many of our members also provide water supplies to state and federal wildlife refuges, and much of this land serves as important seasonal wetlands for migrating waterfowl, shorebirds and other wildlife.

We welcome the opportunity to provide the Northern California perspective on water security and to present both the opportunities and challenges we now face. The Subcommittee's interest in California water security is appropriate and very timely given the importance of a successful resolution to the environmental and water supply problems in the Sacramento San Joaquin River Delta and San Francisco Bay (Bay-Delta). The Bay-Delta is a tremendous economic and environmental resource to California and the nation, and there is much at stake in how we implement the numerous ecosystem restoration and water management actions.

For many years, the Sacramento Valley (the northern part of the Great Central Valley) has been targeted as the primary source of water to meet California's burgeoning demands. Water users and landowners in the Sacramento Valley have also faced restrictions under the Endangered Species Act (ESA), the Central Valley Project Improvement Act (CVPIA) and other environmental restrictions. These actions have posed many challenges for Northern California water users and their ability to provide secure water supplies for the farms, cities and wildlife refuges in Northern California. Rather than focus on these challenges (which we have done and could do in painstaking detail), we believe it is more constructive to focus on the exciting solutions that are currently being advanced by and from within the Sacramento Valley. These projects or programs, which will be greatly assisted by H.R. 1985, will go a long way to provide water security not only for Northern California, but for other regions in California as well.

I would like to emphasize our keen interest in developing and then implementing water management solutions to meet both environmental and human needs in the Sacramento Valley and throughout California. Before the Klamath farmers were denied water this year because of species concerns, one of our members, the Glenn-Colusa Irrigation District (GCID), faced a similar situation in the early 1990's when it was ordered to cease diversions through a faulty fish screen. We now have an opportunity to avoid and prevent future water crises through this legislation. We therefore strongly support Chairman Calvert's and Senator Feinstein's efforts to craft legislation to implement a feasible and sustainable CALFED Program. In contrast, H.R. 2404 does not have the necessary balance and comprehensive scope necessary to achieve the objectives set forth in the CALFED process and the Record of Decision (ROD).

AN INTEGRATED WATER MANAGEMENT PROGRAM FOR THE SACRAMENTO VALLEY WILL IMPROVE WATER SUPPLY, QUALITY AND RELIABILITY

Northern California water users have committed to help improve water supply reliability, water quality and environmental benefits. The Sacramento Valley's initiative and effort to help protect salmon and other aquatic species is unprecedented and is now recognized as one of the most exciting and progressive voluntary salmon restoration efforts in the United States. Today, more than a dozen NCWA members, representing over 500,000 acres of irrigable land, have either completed or are in various stages of developing screens to prevent fish entrainment at their diversions. Many NCWA members have also initiated far-reaching efforts to refurbish fish ladders, construct siphons, remove dams, create habitat conservation plans and implement other habitat improvement projects to enhance the environment, while at the same time improving water supply reliability.

Additionally, NCWA and the Northern California water users have embarked on an integrated water management program that has broad support from water suppliers and local governments throughout the Sacramento Valley. This integrated program includes these fish passage improvements (fish screens and siphons), groundwater management, evaluation of the Sites off-stream reservoir, flood protection, water use efficiency programs, potential expanded storage in Lake Shasta, intra-regional water transfers and exchanges, and watershed management. (See attached map.)

During the past year this integrated program led to an unprecedented water rights settlement among water users throughout California. This settlement, now known as the *Sacramento Valley Water Management Agreement*, and the ensuing integrated water management program, avoided the extremely contentious Phase 8 Bay-Delta water rights proceedings before the State Water Resources Control Board. The parties to the agreement include NCWA, the Bureau of Reclamation (BOR), the Department of Water Resources (DWR), the federal contractors in the San Luis and Delta-Mendota Water Authority, the State Water Contractors, and the Contra Costa Water District. This proceeding would have pitted these parties from throughout the state against each other. This integrated program will now serve as the heart of a regional strategy for the Sacramento Valley.

The *Sacramento Valley Water Management Agreement* and integrated water management program focus on meeting 100% of the water supply demands within the Sacramento Valley during all year types, both now and into the future. Northern California water users believe that, once the full demands within the Sacramento Valley are met, this integrated program will help make water supplies available for use in and beyond the Bay-Delta to meet water quality standards, and provide for export water users in the San Joaquin Valley, Southern California, the Central Coast, and as assets for the Environmental Water Account (EWA) and other environmental programs.

The parties to the agreement will, during the next five months, prepare a joint work plan for short-term Sacramento Valley water management projects to implement the agreement that will describe this integrated program in more detail. Work plans on longer-term projects will follow.

SIGNIFICANT EFFORTS ARE NOW NECESSARY TO IMPROVE WATER SECURITY FOR THE SACRAMENTO VALLEY AND CALIFORNIA.

To improve water security for the Sacramento Valley, leadership is now critical to empower regional solutions, provide for infrastructure throughout California and streamline and reform the regulatory process to accomplish these goals. These efforts are essential and are addressed in H.R. 1985. Simply put, this forms the basis for our support of H.R. 1985.

- Empower a Regional Solution For the Sacramento Valley

California history has shown that solutions to water problems in the state have typically been successful at the local and regional level. Very few solutions fit every part of our extremely diverse state. Put differently, there have been few instances when a top-down, one-size-fits all, bureaucratic policy or law has helped the state or has been implemented. Instead, California water users are now poised to advance a series of regional solutions and local partnerships that will serve California's needs for many years to come. The integrated program described above is an exciting example of a regional solution for the Sacramento Valley, but it can only be implemented with state and federal leadership empowering local interests to take the actions necessary for these programs to succeed. Any bureaucratic efforts to impose

top-down solutions, like past efforts, are doomed to failure and have the potential to destroy the tremendous progress that has been made on these regional solutions.

Like the Sacramento Valley integrated program described above, every regional strategy will include the appropriate mix of infrastructure needs, storage, conveyance, water transfers and exchanges, fish passage improvements, water conservation and efficiency, groundwater management, flood protection, watershed management and environmental improvements. To fully empower these regional solutions requires state and federal funding and the regulatory streamlining necessary to implement these programs.

- Provide for Infrastructure Needs in California

The California Business Roundtable has estimated that California must invest \$90 billion on infrastructure over the next ten years in order to meet the demands of a state growing by nearly 600,000 people a year. Perhaps the most critical infrastructure elements include the ability to store, convey and better manage our water resources on behalf of cities, farms, and fish and wildlife.

To provide for these water infrastructure needs will require an aggressive funding program to facilitate and fully empower regional solutions. There is an important role for both Congress and the state legislature to ensure that appropriate funding is allocated in a manner that achieves noticeable results. It is also important that the regional and local entities are accountable for using these funds to implement the regional solutions in an effective and cost-efficient manner.

H.R. 1985 recognizes the need for study and assessment of the off stream Sites Reservoir in Northern California by August 2004 as described in the CALFED ROD. This, of course, is a positive and essential element of H.R. 1985. It is generally recognized that the fundamental water supply and environmental problems that currently face California cannot be properly addressed without the addition of surface water storage. In this context, Sites Reservoir was identified in the CALFED ROD as a critical element which should be pursued, along with local partners within Northern California, and that final decisions with respect to its feasibility and authorization should be made not later than 2004.

Sites Reservoir, when constructed, will not only add generally to the overall state water supply but, operated in an integrated fashion, will allow Northern California, the CVP and State Water Project to better maximize the ability to fully utilize the full water resource made available to them. In this context, Northern California water users, the BOR, the DWR and other state and federal agencies executed, as provided for in the ROD, a Memorandum of Understanding to proceed with analysis and environmental review of the Sites Reservoir in order to allow for decisions on final authorization by 2004.

- Streamline and Reform the Regulatory Process

With nearly 18 federal and state agencies under the respective executive branches that dictate California water policy, it is critical to coordinate and ultimately streamline the plethora of agencies with jurisdiction over water resources in California.

The framework to create CALFED in June 1994 called for cooperation and collaboration between the federal and state agencies that oversee water in California. It is essential that these agencies continue to work together in this manner. Over the past 7 years, CALFED has evolved from a concept to streamline agency efforts to a massive bureaucratic program. For CALFED to be successful as it transitions from a planning program to an implementation agency, it must move from a top-down bureaucratic organization to an organization that facilitates and fosters a series of regional strategies with local control and governance. Most notably, it must streamline the regulatory process to assure that these programs will be implemented. Specific examples include the facilitation of intra-regional water transfers and exchanges and expedited permitting by the U.S. Army Corps of Engineers and Environmental Protection Agency.

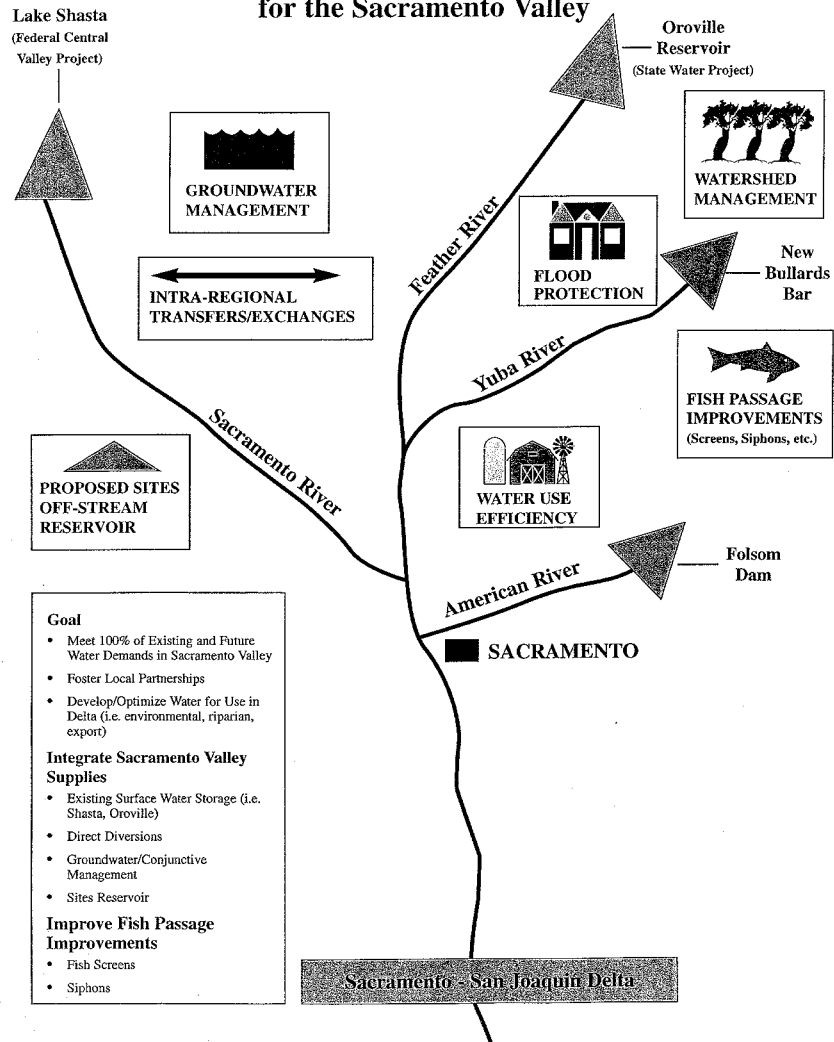
Significantly, this means that CALFED and its member agencies will serve in a more limited, albeit more effective, role to advance water and environmental policy in the state. It also means that CALFED will serve a critical role to coordinate regional strategies to ensure that they fit together in a manner that provides state-wide benefits, and also provide a broad-based governance strategy and oversight capability to ensure appropriate and efficient implementation of all CALFED program elements.

Much work was done by CALFED during the last seven years in terms of intensive environmental and engineering evaluation and in preparation of the ROD. That

progress should not be lost. As a consequence, H.R. 1985 should clarify that the project alternative screening process provided for in the ROD will be adhered to and that one CALFED program element will not be treated as an alternative to another CALFED program element. Again, among other things, this will allow the full integration of all water supply alternatives, maximizing the full utilization of the water resources available within the Sacramento Valley.

[An attachment to Mr. Guy's statement follows:]

An Integrated Water Management & Water Development Program for the Sacramento Valley



Mr. CALVERT. Mr. Luddy.

STATEMENT OF WILLIAM G. LUDDY, DIRECTOR, LABOR MANAGEMENT, EDUCATION AND DEVELOPMENT FUND, UNITED BROTHERHOOD OF CARPENTERS

Mr. LUDDY. Thank you, Mr. Chairman and members. My name is Bill Luddy, and I am the Director of the Labor Management Education and Development Fund for the United Brotherhood of Carpenters and Joiners of America. I am also the Executive Director of Carpenters/Contractors Cooperation Committee, which is a joint labor management Committee in southern California. I serve on the board of the California Council for Economic and Environmental Balance, a civic business and labor coalition working on strategies for water and other resource issues. And I serve as vice chair of the Metropolitan Water District of southern California where I represent the city of Los Angeles on the metropolitan board.

First I would like to express appreciation for the leadership and good work that Chairman Calvert has done on this Committee. We are grateful for the Congressman's long-term commitment to the details of water issues. I also want to express my appreciation for the work of Representative Miller.

From my vantage point, I have concluded that most working people in California have begun to regain confidence in the State's economy when the electricity crisis shook their faith in the system. We do not want to see that experience repeated with water. I would hate to see a situation where conflicts similar to what we have seen in the Klamath River Basin spread across the western United States. And we do not want to see working people in southern California lose jobs because those of us in positions of leadership were unable to foster consensus on water issues.

To avoid that, we need to foster self-sufficiency backed up by an environmentally sensitive plan that thinks in terms of decades, not years. Without that, millions of southern California workers will be thrust into a situation of long-term uncertainty about their economic future.

As you can imagine, my background has given me ample experience with negotiating balanced solutions to contentious issues. And in any negotiation, you are trying to get that handshake across the table. You can't have a situation where one party gets a written guarantee for what it wants while the other party is told to hope and wait for the best. Both parties are at the table, negotiating in good faith for their legitimate interests, and both parties need their assurances clearly spelled out.

In reviewing the bills before us today, it has been our conclusion that the legislation Representative Calvert has proposed appears to be the most comprehensive and encourages more projects to be built both in California and the rest of the western region, projects which we believe will lead to more jobs and greater long-term economic stability for our State and our region.

That is why we support the guarantees of a reliable and safe water supply for future generations. Some would say this is a choice between the environment and the economy. There is much more consensus here than people realize. Metropolitan Water Dis-

strict and the working men and women are interested in water quality, which is also one of the key issues of the environmental community. When working parents are struggling to put food on the table, they should be able to walk to the faucet and get a clean drink of water without worrying how to pay for it.

When we protect the source waters of the Delta, it also reduces treatment costs, improves health, and allows working people to get far more usable water out of the same supply. When we clean up southern California's underground water supplies, it reduces dependence on northern California. When we invest in desalinization research, it allows us to tackle direct salinity problems that drive up costs for southern California employers, money that could otherwise go toward improved wages and working conditions.

Over the long run, this research points the way to affordable ocean water desalinization. CALFED needs to recognize the importance of water transfers that can provide high-quality Sierra water that will reduce Metropolitan's dependence on the Bay-Delta.

Southern California believes in water conservation and reuse. In partnership with Metropolitan, the city of Los Angeles has invested nearly a quarter billion dollars in conservation programs over the past decade. One key program, replacing water waste in toilets, has already locked in enough lifetime savings to supply more than 3-1/2 million families for a year.

In 1980, the population in our 6-county service area—since 1980 the population has grown from less than 12 million to 16-1/2 million people, an increase of more than 35 percent, yet our water deliveries have remained unchanged. We have made huge investments in water storage. During the 1990's, we doubled our own water storage capacity, including constructing a major Austrian reservoir that has also produced a major nature preserve. Those local investments did more than bring good-paying jobs to southern California. They are a major reason why we have been spared some of the cutbacks affecting other parts of the West.

CALFED needs the same balanced approach. We can argue about the virtues of specific projects, but there is water to meet California's needs provided we can store sufficient water south of the Delta during wet years so that we are able to better make it through the dry years. Southern California needs a commitment that water storage projects will be expanded and not abandoned sometime down the road. I remind you that the failure to solve the Bay-Delta problem will affect everyday Americans throughout the Southwest, because we have the same situation and the same source of supplies. We do not want to face this crisis, and we now have an opportunity to deal with this through this legislation.

Mr. Chairman, thank you.

Mr. CALVERT. Thank you for your testimony.

[The prepared statement of Mr. Luddy follows:]

Statement of William G. Luddy, Director of the Labor Management Education and Development Fund of the United Brotherhood of Carpenters and Joiners of America and Executive Director of the Carpenters/contractors Cooperation Committee

Mr. Chairman and committee members:

Thank you for having me here today. My name is Bill Luddy. I am director of the Labor Management Education and Development Fund of the United Brother-

hood of Carpenters and Joiners of America, and also the executive director of the Carpenters/Contractors Cooperation Committee, a joint labor-management committee in Southern California. I also serve on the board for the California Council for Environmental and Economic Balance, a civic/business/labor coalition that develops strategies for water and other issues.

I am also vice chair for the Metropolitan Water District of Southern California, a water wholesaler that serves nearly 17 million people. I represent the city of Los Angeles on the Metropolitan Board of Directors.

First, I would like to express appreciation for the leadership and good work that Representative Calvert has done as chair of this committee. We are grateful for the congressman's long-term commitment to the details of water issues, and I also appreciate the leadership that Representative Miller provides.

From my vantage point, I've concluded that most working people in California had begun to regain confidence in the state's economy when the electricity crisis badly shook their faith in the system.

I do not want to see that experience repeated with water.

I would hate to see a situation where conflicts similar to what we see in Klamath River basin spread across the western United States. I don't want to see working people in Southern California lose their jobs because those of us in positions of leadership were unable to foster consensus on water issues.

To avoid that, we need to foster self-sufficiency, backed up by an environmentally sensitive plan that thinks in terms of decades, not years.

Without that, millions of Southern California workers will be thrust into a situation of long-term uncertainty about their economic future.

As you can imagine, my background has given me ample experience with negotiating balanced solutions to contentious issues.

And in any negotiation, if you are trying to get that handshake across the table, you can't have a situation where one party gets written guarantees for what it wants, while the other party is basically told to wait and hope for the best.

Both parties are at the table negotiating in good faith for their legitimate interests, and both parties need their assurances clearly spelled out.

In reviewing both of the bills before us today, it has been our conclusion that the legislation that Mr. Calvert has proposed appears to be more comprehensive and encourages more projects to be built, both in California and the rest of the western region.

Projects, which we believe, will lead to more jobs and greater long-term economic stability for our state and our region. That's why we support guarantees of a reliable and safe water supply for future generations.

Some would frame this as a choice between the environment and the economy.

There is much more consensus here than people realize.

Metropolitan Water District and working men and women are interested in water quality, which is also one of the key issues of the environmental community.

When working parents are struggling to put food on the table, they should be able to walk to the faucet and get a clean drink of water without worrying about how to pay for it.

When we protect the source waters of the delta, it also reduces treatment costs, improves health and allows them to get far more useable water out of the same supply.

When we clean up Southern California underground water supplies, it reduces dependence on Northern California. When we invest in desalination research, it allows us to tackle vexing salinity problems that drive up costs for Southern California employers—money that could otherwise go toward improved wages and working conditions. Over the long run, this research points the way toward affordable ocean water desalination.

CALFED needs to recognize the importance of water transfers that can provide high-quality Sierra water that reduce Metropolitan's dependence on the Bay Delta.

Southern California believes in water conservation and reuse. In partnership with Metropolitan, the city of Los Angeles has invested nearly a quarter-billion dollars in conservation programs over the past decade. One key program—replacing water-wasting toilets—has already locked in enough lifetime savings to supply more than 3.5 million families for a year.

Since 1980, the population in our six-county service area has grown from less than 12 million to 16.6 million people—an increase of more than 35 percent. Yet our water deliveries have remained unchanged.

We've also made huge investments in water storage. During the 1990s, we doubled our own storage capacity—including a major off-stream reservoir that also produced a major nature preserve. Those local investments did more than bring good-

paying jobs to Southern California. They're also a major reason why we've been spared some of the cutbacks that prevail in other parts of the west.

CALFED needs the same, balanced approach.

We can argue about the virtues of specific projects. But there is plenty of water to meet California's needs, provided we can store sufficient water south of the delta during wet years so that we are better able to make it through the dry years.

Southern California needs a commitment that some water storage projects will be expanded, and not simply ambushed down the road.

To those who might take a secret pleasure in California's travails, I would remind them that the failure to solve the Bay-Delta problems will affect everyday Americans throughout the southwest, because it will reduce California's ability to reduce its dependence on the Colorado River over the next 15 years.

Californians don't want another crisis. It is a state of varied regions and interests, but they're interdependent, in the same way that California and the rest of the nation are interdependent. We all need to move forward together.

Mr. CALVERT. Mr. Sunding.

**STATEMENT OF DAVID L. SUNDING, DIRECTOR, SUSTAINABLE
RESOURCE DEVELOPMENT, UNIVERSITY OF CALIFORNIA AT
BERKELEY**

Mr. SUNDING. Mr. Chairman, and members of the Subcommittee, I would like to thank you for the opportunity to speak with you today about the economics of California water supply reliability and related water management issues. My name is David Sunding, and I am an economist at the University of California at Berkeley where I am the Director of the University Center for Sustainable Resource Development.

For the past 10 years, I have studied the economics of water management in California and have worked extensively with farmers in water districts, particularly those in the western San Joaquin Valley.

As a threshold comment, I would like to make it clear that I am not here today as an advocate for any particular group. In fact, I have enjoyed solid working relationships with many of the major interests involved in the CALFED process—agricultural, urban, and environmental water interests—and my strong hope is that these relationships continue. My aim today is, rather, to provide some information on the economics of water supply reliability in California. And in particular, I would like to offer my perspective on two aspects of H.R. 1985, the cost effectiveness of investments in additional surface water storage in the State and the issue of the economics of agricultural water supply assurances.

There is very broad agreement within the CALFED process, and this agreement is expressed quite well in the Record of Decision, that new projects should be feasible. One element of feasibility which is also expressed in the ROD is economic feasibility, which I would define as simply the principle that the benefits of the project, the environmental and economic benefits, should exceed the costs to taxpayers and to users. Surface storage has been suggested as a way to meet current and future water needs, and H.R. 1985 would preauthorize a number of these projects.

As an economist, I feel like I need to tell you at this point in time, it is uncertain in my opinion, which additional surface storage facilities in California would pass the cost-benefit test.

To begin, I would like to refer you to the CALFED program's economic evaluation of water management alternatives published in

October 1989. I would like to commend the CALFED staff. From my vantage point, this is a landmark document in water resource economics. The CALFED team conducted a reconnaissance-level study looking at a number of different supply alternatives, and to see the detailed list, you can look at the report.

The authors concluded that the least expensive means of increasing water supply in California are efficiency improvements, recycling, canal lining, groundwater desalinization, and local conjunctive use projects.

Next, the report concluded that land fallowing—which is essentially equivalent to transfers or related to transfers—and surface storage projects laid in the next range in terms of cost feasibility. The authors of the CALFED report concluded that the supply curve for water is flat in this range, meaning that given current information, it is difficult to argue for the economic cost-effectiveness of one alternative versus another.

I think there is substantial uncertainty about whether or not future economic analysis of these projects is going to conclude that they are cost effective, even beginning with this position of essential indifference.

There are several elements that bear on the cost, the unit cost of water from resurface storage projects. These elements include cost allocation, yield, construction costs, O&M costs. I think there is substantial uncertainty at this point in time exactly how we are going to come to more definitive answers about each of these elements. And, in particular, the CALFED process has not tackled the cost allocation question in a serious way, although I know this intends to.

Mr. SUNDING. With regard to the costs and benefits of agricultural water supply assurances, I would like to make just a couple of brief points; and I have more detailed testimony that I have submitted to the Committee in writing.

The first point is that the size of the subsidiary incorporated in the assurances language is quite large. If we look on a per farmer basis in Westland's water district, providing 70 percent of water supply to this area results in a subsidy of roughly a million dollars per farmer; and if water costs are \$400 in the Delta, which is entirely reasonable given the current ranges of costs, then the subsidiary increases to \$2 million per farmer. So this is a very large subsidiary.

Second, given the information provided in the CALFED economics report, there is little evidence that farmers are willing to pay for what it would cost to provide the water to them.

I will end my oral remarks there. I have these written comments that I would like to have submitted into the record.

Mr. CALVERT. I thank the gentleman.

[The prepared statement of Mr. Sunding follows:]

Statement of Dr. David L. Sunding, Director, Center for Sustainable Resource Development, University of California at Berkeley

Mr. Chairman and members of the subcommittee, thank you for the opportunity to speak with you today regarding California water supply reliability and related water management issues. My name is David Sunding and I am a natural resource economist and Director of the UC Berkeley Center for Sustainable Resource Development. For the past 10 years, I have studied the economics of water management

in California, and have worked extensively with farmers and water districts in the western San Joaquin Valley. I have received funding from the CALFED Bay-Delta Program to study the economic impact of changes in agricultural water supply reliability, and have worked with the CALFED economics team regarding their analysis of water management alternatives. I am also the President-elect of the International Water Resource Economics Consortium, a group of over 100 economists and water policy analysts from research universities in arid countries, especially the United States, Australia, Israel and Spain.

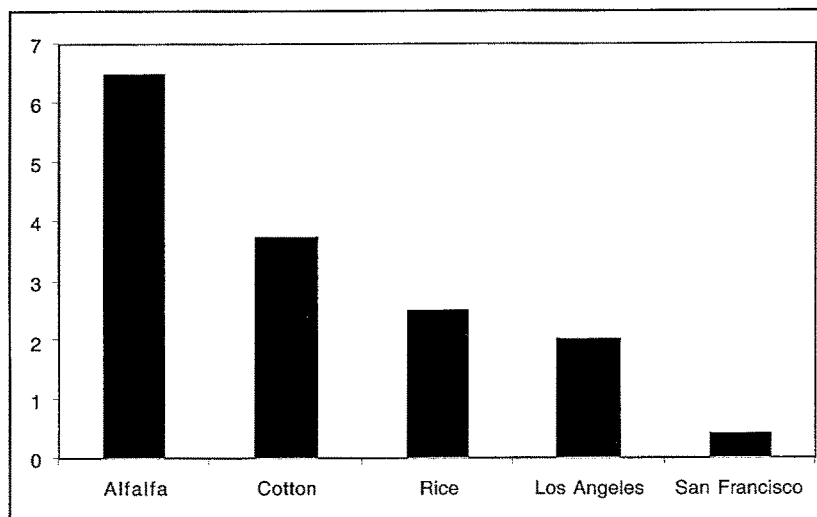
I would like to make it clear that I am not here today as an advocate for any particular group. In fact, I have enjoyed solid working relationships with agricultural, urban and environmental water interests in California, and my hope is that these relationships will continue. My aim today is to provide some insights on the economics of California water supply reliability. In particular, I would like to offer my perspective on the cost-effectiveness of investments in additional surface water storage in California. Then, I would like to speak to the issue of the costs and benefits of water supply assurances for San Joaquin Valley agriculture.

Background

The San Francisco Bay/Delta estuary is the largest estuary on the Pacific Coast. It is the home to over 750 species, and drains over 40% of the state's land area. In a pre-development condition, roughly 30 million acre-feet (MAF) passes through the Bay/Delta and out to the ocean. Presently, two large public projects, the Central Valley Project (CVP) and the State Water Project (SWP) divert water from the Central Valley to serve farms and cities. In addition, a large number of private and local projects draw on the Bay/Delta.

In an average year, roughly 60% of the water draining from the Central Valley is diverted, 7 MAF by the CVP, 2.5 MAF by the SWP and 8 MAF by private and local projects. Not surprisingly, the diversion of over half of all available water from the Bay/Delta system has led to serious environmental consequences, including the decline of the state's salmon fishery among other effects.

Agriculture is by a wide measure the largest user of water in California, accounting for 80% of all applied water use. The figure below gives an idea of the scale of agricultural water use relative to urban use. The quantity of water used to irrigate three of the most widely planted crops in California dwarfs the amount of water used by large cities such as San Francisco and Los Angeles. California farmers irrigate a variety of crops, and the state is a world leader in a number of agricultural markets.



While urban demand is a small share of total water consumption at present, it is expected to grow significantly. The state is expected to grow from 35 to 50 million people by the year 2015. Ensuring that these future residents, and businesses, have adequate water is one of the main reasons we are here today.

The Cost-Effectiveness of Surface Storage is Unknown

Surface storage has been suggested as a way to meet current and future water needs, and H.R. 1985 would pre-authorize a number of these projects. At this point in time, it is uncertain which additional surface storage facilities in California would pass a cost-benefit test, if any. The CALFED Program's Economic Analysis of Water Management Alternatives published in October 1999 was unable to show that surface storage is cost-effective. This reconnaissance-level report assesses a wide array of supply alternatives, including

- Urban water use efficiency improvements
- Agricultural water use efficiency improvements
- Urban recycling
- Land fallowing
- Conjunctive use
- Surface storage
- Other (primarily South Delta improvements and local projects)

The authors conclude that the least expensive means of increasing water supply in California are efficiency improvements, recycling, canal lining, groundwater desalination and local conjunctive use projects. A total of 866 TAF of new supply is available in this range at a cost of less than \$800 per acre-foot to urban end users.

Next, the report concludes that almost 2 MAF of new water supply is available in the cost range of \$800 to \$1,200 per acre-foot. Alternatives in this range include land fallowing and surface storage. The authors of the CALFED report conclude that the supply curve is "flat" in this range, meaning that, given current information, it is difficult to argue for the cost-effectiveness of one alternative versus another. In particular, the CALFED analysis concludes that the cost of surface storage is similar to the cost of land fallowing, and that neither alternative should be ruled out at this stage. Based on this conclusion alone, it seems unwise to put surface storage projects in a superior position with regard to Congressional authorization.

Uncertainties surrounding the cost-effectiveness of surface storage are compounded by a lack of basic information. The per-unit cost of water from dams and other facilities is determined by a combination of construction costs, operating costs, yields, and cost allocation. Each of these elements is highly uncertain at present, making it difficult to pin down the exact cost of water from new surface storage facilities. Construction costs are notoriously difficult to estimate *ex ante*, and are frequently higher than original assessments. Yields depend on the whole suite of projects finally constructed in the state and are also difficult to estimate at present. Surface storage facilities often serve multiple purposes, and the allocation of construction and operating costs has a strong influence on unit costs. To date, CALFED has not tackled the cost allocation question in a serious way.

The CALFED Economic Analysis of Water Management Alternatives is a significant document in water resource economics as it represents one of the first large-scale and official attempts to incorporate basic supply-demand analysis into water resource planning. It is based on a clear-headed notion of cost-effectiveness. Essentially, a particular supply alternative is said to be cost-effective if it passes a two-pronged test:

- it must produce water at the least cost
- users must be willing to pay for it

These concepts are straightforward, but it is striking how infrequently they are invoked in water resource planning.

While the CALFED economic analysis is important and based on sound basic principles, it is not perfect. There are reasons to suspect that further economic analysis will demonstrate that surface storage is less cost-effective than the authors concluded. In particular, the case for some of the surface storage facilities identified in H.R. 1985 as candidates for pre-authorization may be much weaker than CALFED's preliminary economic analysis points out.

The CALFED economic analysis concludes that water use efficiency improvements are among the least expensive sources of new supply available in California. However, the analysis is predicated on a strong (if common) assumption, namely that conservation only produces new supply in areas with unusable groundwater and near the coast. The reason is that if deep percolation is unusable, then increasing efficiency reduces waste. If applied water percolates to the groundwater table, however, the assumption is that efficiency improvements have no value because they simply reduce the stock of usable groundwater by the same amount as the conserved surface water.

The assumption that conservation only has benefit in areas with usable groundwater is increasingly controversial in the water sciences, particularly with regard to agriculture. Many agronomists and economists now believe that conservation measures such as the adoption of drip irrigation can increase crop output per acre

in many settings. If true, then agricultural water conservation allows farmers to earn the same level of profit while consuming less water in the long-run. Further research on this issue (which is underway at UC Davis, the USDA and elsewhere) may result in much more water supply being produced by conservation than CALFED's analysis has indicated.

Another issue that warrants further investigation is the cost of land fallowing. CALFED's economists have measured the cost of this alternative by first measuring the price that would compensate farmers for their lost profits resulting from fallowing. Then, a "market incentive payment," or load factor of 100 percent is added to obtain the final cost. This load factor effectively doubles the cost of land fallowing and is not supported by economic theory. A more complete analysis of fallowing would determine the market price of water in various planning scenarios and use this measure to compare the cost of fallowing to the cost of surface storage. This market-based analysis would almost certainly result in fallowing and subsequent water transfers being a larger part of the cost-effective mix of policies than is indicated in the CALFED analysis.

Costs and Benefits of Agricultural Water Supply Assurances

The assurances proposal contained in H.R. 1985 would bestow a large, direct subsidy on a group of farmers in the western San Joaquin Valley, south of the Bay/Delta estuary—the so-called "agricultural water service contractors"—especially if these users obtain the water at current CVP rates. To calculate the rough magnitude of the subsidy, suppose that under current rules in a normal year, agricultural service contractors would receive 55% of their 2 MAF maximum allocation from the CVP, or 1.1 MAF (2 MAF maximum * 0.55 = 1.1 MAF). A 70% allocation amounts to 1.4 MAF, or an additional 300 TAF of water.

Suppose that the cost of this water to the government is \$200 per acre-foot and that it is resold to farmers at current rates of roughly \$60 per acre-foot. Then this policy amounts to a subsidy of \$42 million per year (\$140 * 300 TAF = \$42 million). In reality, the subsidy may be larger since the cost of the water may well exceed \$200. If the additional water costs the government \$400 per acre-foot (which is well within the range of unit water costs from Sites Reservoir), then the subsidy reaches \$84 million annually.

To gain another perspective on the magnitude of this subsidy, consider the case of Westlands Water District, which is part of the San Luis Unit. Providing a 70% allocation in a normal year amounts to an annual subsidy of over \$24 million for this district alone if the cost of water is only \$200 per acre-foot (Westlands' maximum allocation is 1.15 MAF annually). Westlands is comprised of close to 350 separate corporate entities (the number of water user accounts is much higher). Thus, the present value of the subsidy to Westlands alone is nearly \$1 million per farmer. If the additional water to Westlands costs the federal government \$400 per acre-foot, then the subsidy increases to \$2 million per farmer.

It is also likely that the cost of new supply to San Joaquin Valley agriculture is well above the willingness of these farmers to pay for it. The authors of the CALFED economic study came to the same conclusion:

There is little willingness-to-pay (less than \$200 per acre-foot) for new agricultural water supply. In the Unconstrained scenario there are few water supply measures available at that cost. No (or minimal) new supplies were identified for the Sacramento River and San Joaquin River regions.

Source: CALFED Bay-Delta Program, *Economic Evaluation of Water Management Alternatives: Screening Analysis and Scenario Development*, October 1999, at 1-4.

One of the goals of the CALFED program is to bring California's water system into economic balance. This balance is achieved when users are willing to pay the cost of the water they consume. This principle is simply the "beneficiary pays" concept restated. Economists have argued that it helps ensure that users are given the correct incentives about how much to consume, and that the burden of reconciling competing demands for water is not shifted to other groups. Providing agricultural water supply assurances without requiring farmers to pay the true marginal cost of water (i.e., without reforming retail water rates) would violate this principle.

Let me make it clear that I am not advocating that farmers in Westlands and other districts in the region should not seek additional water supplies. To the contrary, I have worked in the region for a number of years to help establish water markets that would facilitate the process of transferring water into agricultural areas where there is unmet demand. But it is important that farmers be given the correct price incentives about the value of water in other, competing uses. Subsidies fail this test, while water trading passes it, as does retail pricing by water districts that sets marginal rates at the cost of additional supply.

The assurances proposal outlined in H.R. 1985 has indirect economic implications for other water users in California. Assuring water supplies to farmers may well increase the cost of water to other users. Providing additional water to a subset of farmers decreases the amount available to other consumers and to the environment, and forces these users to resort to more expensive supply measures. This indirect impact is in addition to the cost to the government (and ultimately taxpayers) of providing a direct subsidy to agriculture.

With regard to the benefits of water supply assurances to agriculture, it is helpful to consider how farmers cope with fluctuations in water supply. Briefly, farmers, including those in the western San Joaquin Valley, can deal with reductions in water supply reliability by

- Purchasing water from willing sellers
- Investing in conservation technology
- Collecting and using weather and soil quality information
- Changing their crop mix
- Fallowing
- Substituting groundwater
- Purchasing land in areas with more reliable water supplies

Farmers in the western San Joaquin Valley have proven to be remarkably adept at responding to changes in water supply availability and have demonstrated that entrepreneurship and capital can substitute for disruptions in water supply.

Significantly, farmers in Westlands and other districts have access to local and statewide water markets that have proven so useful in the past. Indeed, Westlands has purchased over 1.6 MAF of water since 1990 for use by its members, and has streamlined water transfers within its boundaries to promote efficient use. Its internal water market has been written about extensively, and serves as a model that is emulated in other dry areas of the world. Strengthening all of these California water markets will enhance the ability of the CVP agricultural service contractors to deal with future fluctuations in water deliveries.

I appreciate the opportunity to speak with you today, and I hope that I can be of further assistance as you craft legislation to address water supply reliability issues in California.

Mr. CARLSON. Mr. Carlson.

**STATEMENT OF PETER CARLSON, PARTNER, WILL &
CARLSON, INC.**

Mr. CARLSON. Mr. Chairman, members of the Subcommittee, my name is Peter Carlson; and I am appearing today on behalf of the National Urban Agriculture Council, the Western Coalition of Arid States, Oregon Water Resources Congress, and the Eastern Municipal Water District of Southern California.

At the outset, let me state our strong support for Title II of H.R. 1985, the Small Reclamation Water Resources Project Act of 2001. The proposed amendments represent a 7-year effort to restructure the program and provide western water users with new options for addressing their needs.

The Act was last amended in 1986. The changes proposed by your amendments build on what we the water users have learned since that time and will make this an even better program from an environmental, business, and socioeconomic standpoint.

According to the Western Water Policy Review Commission Report from 1998, "Once the outpost of a young nation, today's West is home to nearly one-third of the American population. The region has experienced rapid population growth in recent years. Western states grew by about 32 percent in the past 25 years. By the year 2025, the West will add another 28 million residents."

This westward growth is why your legislation is so vitally important. From our perspective, Title II would bring a number of important changes to the existing program. There is presently not in

place a program such as you are proposing to help western water users address the various needs, whether they be water supply, system rehabilitation, water conservation, water quality, environmental, or social purposes. There is currently a program gap between the larger reclamation project that is typically before your Subcommittee and the smaller programs that Reclamation offers such as technical assistance. H.R. 1985 will close that gap.

The amendments contained in H.R. 1985 address these issues in the following manner:

No longer requiring irrigation as a project purpose in the program will allow for the development of projects in the urban-rural crossover setting that are more economically and environmentally sound.

Providing additional definition of the activities which can be undertaken through the program will help address aging infrastructure problems as well as developing new opportunities to make better use of existing supplies.

The streamlining of the proposal process and the establishment of a definite time frame will give water users greater program confidence and certainty where project sponsors will no longer have to wait for an answer on whether there is a Federal interest.

The establishment of a partnership program under Title II of the SRPA amendments and the activities that can be carried out under the program will facilitate problem solving in a manner that gets the work done sooner before more problems develop.

Reduction of the repayment period for Title I projects from 40 years to 25 years will also bring the program in line with current business practices in the private sector.

Some have questioned whether the Bureau's budget will be able to accommodate this program. Given the construction schedules associated with the program and the decision-making process that is built into the legislation, we see this as a 40 to 60 million dollar a year program. We believe the Bureau of Reclamation can accommodate such a level in their budget.

We appreciate your decision to increase the cost ceiling in the program to \$1.3 billion. At the end of the last congressional session we conducted an electronic survey to assess the interest in the programs that would be developed under your legislation. Historically, 14 of the 17 Western States had used this program. We received responses to our survey from water users in 12 of the 17 States, indicating a strong interest in using both Title I and Title II of your proposed amendments. Since that time I have also received responses to an idea of setting aside up to 20 percent of the proposed ceiling in the program for Indian tribes and economically disadvantaged communities, an amendment that we would support.

The loan guarantee section of your amendments opens the door for a new, innovative approach to assist in funding projects, given the past decline in the Bureau's budget. I would like to provide for the record a table of the Bureau's budget for the past 10 years that illustrates this point.

In addition, I would like to submit a report that I did earlier this year that makes the case for increasing the Bureau's overall budget for these and other programs.

Mr. CALVERT. Without objection.

[The information referred to follows:]

July 12, 2000

Bureau of Reclamation History of Funding

Appropriation	Enacted President's										
	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Title 16 Water Reclamation/Reuse	0	0	165	10,450	18,615	25,440	38,153	49,741	39,114	33,360	22,000
Other Water & Related Resources	899,378	830,352	751,140	723,582	704,945	684,519	650,544	650,188	596,891	578,502	631,210
Subtotal: W&RR	899,378	830,352	751,305	734,032	723,560	709,959	688,679	699,929	636,005	611,862	653,210
CA Bay-Delta Ecosystem Restoration	0	0	0	0	0	0	0	85,000	75,000	60,000	60,000
TOTAL	899,378	830,352	751,305	734,032	723,560	709,959	688,679	784,929	711,005	671,862	713,210



NATIONAL URBAN AGRICULTURE COUNCIL

ROGER WATERS
PRESIDENT

PETER CARLSON
VICE-PRESIDENT / OPERATIONS

JIM BREZACK
VICE-PRESIDENT / PLANNING

February 20, 2001

WITHERING IN THE DESERT:

THE NEED TO INCREASE THE BUREAU OF RECLAMATION'S BUDGET

Western water interests have been concerned for several years about the downward trend of the Water and Related Resources Budget of the U.S. Bureau of Reclamation, Department of the Interior. The Bureau's Budget has decreased more than 36% in ten years going from \$899,378,000 in FY91 to \$573,612,000 in FY2000. During the five year period covered by the tables attached to this report it was reduced by \$106 million.

In order to address the backlog in the Bureau of Reclamation that is discussed later in this report, we suggest a \$1 billion a year budget be provided for the Water and Related Resources account in their budget so that important needs in the West are adequately addressed.

During that time frame of FY91-FY2000, Congress has passed new project and program authorizing legislation for the Bureau such as the Reclamation Projects Authorization and Adjustment Act of 1992 and projects in the Omnibus Consolidated and Emergency Supplemental Appropriations for FY2001. Free standing authorization bills in the 106th Congress totaled \$2 billion, giving the Bureau of Reclamation a \$5 billion backlog of authorizations to be incorporated into their Budget. This backlog includes the Title 16 Water Reclamation and Reuse Program and the California Bay-Delta Ecosystem Restoration Program.

In 1997 the Bureau published its five year Strategic Plan pursuant to the Government Performance and Results Act (GRPA) of 1993. Western water organizations participated in discussions and development of the plan and on the subsequent Annual Plans for the Bureau. The Strategic Plan had three primary objectives coupled with eighteen strategies and five-year goals for each of the strategies. Their mission, in its simplest terms, is broken down as follows:

- A. Manage, develop, and protect associated water related resources;
- B. Protect the Environment in the West;
- C. Improve business practices and increase employee productivity.

We do not believe the Bureau should unilaterally redefine its mission. First, its original mission isn't finished. Second, defining the mission of a Federal agency is the prerogative of Congress, not the agency itself.

NATIONAL URBAN AGRICULTURE COUNCIL

In June of 1998 Congress was presented with a report from the Western Water Policy Review Advisory Commission: "Water in the West: Challenge for the Next Century". Western water interests concerns with the decline of the Bureau's Budget are matched by their concern of how to address the growth-related issues in the West. As the report notes:

"For the past 15 years, the West has been experiencing the most dramatic demographic changes for any region or period in the country's history. Should present trends continue, by 2020 population in the West may increase by more than 30 percent."

With that growth is a little recognized fact: The Bureau of Reclamation is about to celebrate its 100th birthday. The Bureau of Reclamation is responsible for the largest portion of water storage in Federal reservoirs in the West - an ever increasing aging infrastructure. Reclamation has sole responsibility for the operation of reservoirs with a total capacity of more than 119 MAF and shares responsibility for the operation of reservoirs with an additional 16 MAF. There are about 133 water projects in the western United States constructed by Reclamation. As a result, the Bureau of Reclamation's operation and maintenance budget, just like that of the U.S. Army Corps of Engineers is increasing at a substantial rate. Just as the backlog of projects needs to be accommodated, there is a need to recognize the operations and maintenance budget with future Budget increases.

Attached is a table for FY's 1996-2000 budgets for each of the major agencies in the Department of the Interior. All of these agencies are funded by the Interior Appropriations Bill. The Bureau of Reclamation is funded by the Energy and Water Appropriations Bill, which also funds the U.S. Army Corps of Engineers and the Department of Energy. However, when viewed by the Administration and the Department of the Interior, the Bureau of Reclamation is included in the Department's framework for decisions on increases or reductions to the overall Department's Budget even though it is funded by a different appropriations account.

There is great concern among Western water interests about the downward trend of the Bureau's Budget. There is a general consensus that a minimum of \$1 billion a year is needed to address ongoing programs and the growing backlog of the Bureau. This is necessary for the West to address its growth related issues. Given the information presented in the attached tables, every agency except the Bureau of Reclamation and the Minerals Management Service received a Budget increase, ranging from \$30 million to \$500 million during these five fiscal years. The Bureau of Reclamation has suffered a \$106 million decrease. We feel a change needs to occur, especially since there was a combined increase of \$1.3 billion for these agencies during the FY96-2000 time frame. This time frame incidentally coincides with the 5-year Balanced Budget Agreement where a vast majority of other agencies programs were being reduced. In addition, Congress has provided money through Conservation and Reinvestment Act (CARA)-type programs in the FY2001 budget that, just for the Interior related budget non-Reclamation program, amounted to \$678 million. This funding is only expected to increase in the future once the actual authorizing legislation passes Congress.

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There is also a growing recognition that in the 107th Congress, there is a strong likelihood of an additional \$3 to \$7 billion dollars of authorizations being proposed for the State of California. These include new authorizations for CAL-FED, a comprehensive water management program for the Santa Ana Watershed, the Salton Sea, and a water reuse/recycling program for various parts of California. There are also growing program needs in the Pacific Northwest with respect to addressing salmon related issues.

A careful note needs to be made about the \$3 billion backlog for the Bureau that existed prior to the action in the 106th Congress. A small portion of that backlog may be reduced as a result of the legislation that passed in the 106th Congress. For example, the old cost-ceiling for the Animas LaPlata (ALP) is in the \$3 billion backlog. The legislation that passed the 106th Congress for ALP reduced the cost of the project substantially. There are further examples of features of projects in that backlog that will likely never get built, but Congress has taken no action to suggest that they should be modified or deleted.

In addition, a report last year by the firm of Will & Carlson, Inc. - "The Greening of the Bureau of Reclamation: From Bird Seed to Pistachio Farms to Life on the Edge" reviewed the Bureau of Reclamation's budget from FY91-99 regarding loans, grants and cooperative agreements for less than \$2 million. That report indicated during that period, approximately \$750 million had been provided for a variety of activities. The vast majority of these activities were legitimately related to specific project or program authorizations of the Bureau of Reclamation, as well as activities directly related to other Federal requirements and activities, such as the Endangered Species Act and Indian Water Rights Settlements. Without making a value judgment call, there was funding provided for maybe as much as 20% of this total that might be questionable. Regardless, the information is now available so that Congress, if they so choose, can decide on whether such activities should continue in the future. It is important to recognize the dollar amount that is necessary for the environmental challenge for water development to occur to meet the future water needs in the West.

In conclusion, with the growth related issues in the West, the backlog of projects, the downturn in the Bureau's Budget, the overall increase in almost all of the other Interior Agencies, and with the country now in a budget surplus period, it is time to increase the Bureau's Budget to a level that meets this challenge. It is time to turn the corner on the funding for the Bureau and put it on a course so the West is not left withering in the desert.

Prepared By: Peter Carlson
Vice President for Strategic Planning
The National Urban Agriculture Council

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106th Congress

Bureau of Reclamation Bills/Provisions That Became Law

Reclamation-Wide

Reclamation Reform Act Refunds, Public Law 106-377
Dam Safety amendments, Public Law 106-377
Hawaii Reclamation and Reuse Study, Public Law 106-566

Great Plains Region

Perkins County Rural Water Supply Project, Public Law 106-136
Rocky Boys Indian Water Rights Settlement, Public Law 106-163
Lewis and Clark Rural Water Supply, Public Law 106-246
Middle Loup Title Transfer, Public Law 106-366
Northern Colorado Title Transfer, Public Law 106-376
Glendo Contract Extension, Public Law 106-377
Canyon Ferry Technical Corrections, Public Law 106-377
Loveland Warren Act amendment, Public Law 106-377
Fort Peck Rural Water Supply, Public Law 106-382
Park County land conveyance, Public Law 106-494
Palmetto Bend Title Transfer, Public Law 106-512
City of Dickinson, North Dakota Bascule Gates Settlement Act, Public Law 106-566
Dakota Water Resources Act, Public Law 106-554
Lower Rio Grande, Public Law 106-576

Upper Colorado Region

Central Utah Project Completion Act, Public Law 106-140
Carlsbad Title Transfer, Public Law 106-220
Jicarilla Apache Feasibility Study, Public Law 106-243
Weber Basin Warren Act Amendment, Public Law 106-368
Upper Colorado Fish Recovery, Public Law 106-392
Colorado River salinity, Public Law 106-459
Mancos (Warren Act Amendment), Public Law 106-549
Colorado Ute Settlement Act Amendments, Public Law 106-554

Lower Colorado Region

Griffith Title Transfer, Public Law 106-249
Ak-Chin Indian Water Rights Settlement, Public Law 106-285
Hoover Dam Miscellaneous Sales, Public Law 106-461
Yuma Port Authority Transfer Act, Public Law 106-566

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Wellton Mohawk Title Transfer, Public Law 106-221

Pacific Northwest Region

Deschutes, Public Law 106-270

Minidoka Authorization Ceiling Increase, Public Law 106-371

Chandler study, Public Law 106-372

Nampa and Meridian Title Transfer, Public Law 106-466

Cascade Reservoir Land Exchange, Public Law 106-493

Bend Feed Canal, Public Law 106-496

Salmon Creek Studies, Public Law 106-499

Fish Screen, Public Law 106-502

Mid-Pacific Region

Sly Park Title Transfer, Public Law 106-377

Solano Project Warren Act amendment, Public Law 106-467

Sugar Pine Title Transfer, Public Law 106-566

Clear Creek Title Transfer, California, Public Law 106-566

Colusa Basin, California, signed 12/23/00, signed 12/23/00, Public Law 106-566

City of Roseville, CA, signed 12/23/00, Public Law 106-554

Truckee Water Reuse Project, Public Law 106-554

Sacramento River study, Public Law 106-554

Klamath studies, Public Law 106-498

BY AGENCY FOR FISCAL YEAR 96-2000

AGENCY	FISCAL YEAR	PRES. REQUEST	FINAL	PERCENT OF OVERALL INTERIOR BUDGET
BLM	1996	1,156,682,000	1,050,491,000	17%
	1997	1,095,809,000	1,090,675,000	17%
	1998	1,121,539,000	1,135,917,000	17%
	1999	1,233,659,000	1,190,695,000	17%
	2000	1,268,700,000	1,236,150,000	16%
MMS	1996	201,240,000	189,434,000	3%
	1997	189,434,000	163,395,000	2%
	1998	164,040,000	143,639,000	2%
	1999	128,520,000	124,020,000	1%
	2000	116,200,000	116,800,000	1%
OSM	1996	292,773,000	269,857,000	4%
	1997	274,157,000	271,757,000	4%
	1998	271,057,000	273,061,000	4%
	1999	276,956,000	278,769,000	4%
	2000	305,824,000	292,374,000	3%
USGS	1996	586,369	730,503,000	12%
	1997	746,380	738,913,000	11%
	1998	745,388	759,160,000	11%
	1999	806,883	797,896,000	11%
	2000	838,485	823,833,000	11%
NPS	1996	1,490,122,000	1,319,337,000	21%
	1997	1,612,337,000	1,414,258,000	22%
	1998	1,598,900,000	1,646,926,000	24%
	1999	1,753,102,000	1,748,224,000	25%
	2000	2,058,943,000	1,810,363,000	24%
BIA	1996	1,897,941,000	1,546,412,000	25%
	1997	1,776,490,000	1,605,674,000	25%
	1998	1,731,779,000	1,701,991,000	25%
	1999	1,844,136,000	1,746,428,000	25%
	2000	1,902,054,000	1,872,592,000	25%
USFWS	1996	702,817,000	603,864,000	10%
	1997	659,073,000	652,605,000	10%
	1998	687,923,000	745,387,000	11%
	1999	818,228,000	802,192,000	11%
	2000	950,001,000	878,121,000	11%
TOTAL DEPARTMENT OF THE INTERIOR	1996	6,855,935,000	5,998,205,000	
	1997	6,598,587,000	6,177,297,000	
	1998	6,568,851,000	6,647,276,000	
	1999	7,122,163,000	6,954,276,000	
	2000	7,768,930,000	7,350,520,000	

BY AGENCY FOR FISCAL YEAR 96-2000

AGENCY	FISCAL YEAR	PRES. REQUEST	FINAL	PERCENT OF OVERALL INTERIOR BUDGET
BUREAU OF RECLAMATION WATER AND RELATED RESOURCES** - TITLE 16 AND CALFED	1996	678,302,000	679,503,000	11%
	1997	700,495,000	647,784,000	10%
	1998	666,372,000	649,127,000	9%
	1999	665,924,000	604,742,000	8%
	2000	652,838,000	573,612,000	7%
U.S. ARMY CORPS OF ENGINEERS DISCRETIONARY & MANDATORY	1996	3,623,403,000	3,395,272,000	
	1997	3,436,850,000	3,777,374,000	
	1998	3,830,336,000	4,351,315,000	
	1999	3,373,041,000	4,375,027,000	
	2000	3,217,871,000	4,292,517,000	
** These figures do include recissions and supplemental appropriations.				

BY FISCAL YEAR FOR ALL AGENCIES

AGENCY	FISCAL YEAR	PRES. REQUEST	FINAL	PERCENT OF OVERALL
BLM	1996	1,156,682,000	1,050,491,000	17%
MMS	1996	201,240,000	189,434,000	3%
OSM	1996	292,773,000	269,857,000	4%
USGS	1996	586,369,000	730,503,000	12%
NPS	1996	1,490,122,000	1,319,337,000	21%
BIA	1996	1,897,941,000	1,546,412,000	25%
USFWS	1996	702,817,000	603,864,000	10%
BUREC	1996	678,302,000	679,503,000	11%
USCOE	1996	3,623,403,000	3,395,272,000	
BLM	1997	1,095,809,000	1,090,675,000	17%
MMS	1997	189,434,000	163,395,000	2%
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BUREC	1997	700,495,000	647,784,000	10%
USCOE	1997	3,436,850,000	3,777,374,000	
BLM	1998	1,121,539,000	1,135,917,000	17%
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USGS	1998	745,388,000	759,160,000	11%
NPS	1998	1,598,900,000	1,646,926,000	24%
BIA	1998	1,731,779,000	1,701,991,000	25%
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BUREC	1998	666,372,000	649,127,000	9%
USCOE	1998	3,830,336,000	4,351,315,000	
BLM	1999	1,233,659,000	1,190,695,000	17%
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BUREC	2000	652,838,000	573,612,000	7%
USCOE	2000	3,217,871,000	4,292,517,000	

Mr. CARLSON. The continuation of the Bureau's Small Reclamation Loan Program with the changes made by your bill is the most important and appropriate course to take at this time. There is strong interest out there and a belief that the small loan program is the best vehicle to accomplish the work. Investing in the West through your proposed amendments to the program will be the best step forward in the 21st century for helping the rural, urban, Indian population, and the water and environmental resources of the West.

Thank you for the opportunity to appear here today. I will be pleased to answer any questions.

Mr. CALVERT. Thank the gentleman.

[The prepared statement of Mr. Carlson follows:]

Statement of Peter Carlson, President, Will & Carlson, Inc. on behalf of The National Urban Agriculture Council, The Western Coalition of Arid States, The Oregon Water Resources Congress, The Eastern Municipal Water District (California)

Mr. Chairman, Members of the Subcommittee, my name is Peter Carlson, I am President of the firm Will & Carlson, Inc., a Washington, D.C. governmental relations firm specializing in natural resource issues. I am appearing today as Vice President of the Board of the National Urban Agriculture Council (NUAC), and also as the Washington, D.C. representative for the Western Coalition of Arid States (WESTCAS), the Oregon Water Resources Congress (OWRC) and the Eastern Municipal Water District in Southern California (EMWD).

My comments today are directed at Title II of H.R. 1985, the Western Water Enhancement Security Act of 2001, and the amendments proposed to the Bureau of Reclamation's Small Reclamation Loan Program. At the outset, let me state our strong support for Title II of H.R. 1985, the Small Reclamation Water Resources Project Act of 2001. The proposed amendments represent a seven year effort to restructure the program and provide western water users with new options for addressing their needs.

The Small Reclamation Program Act was last amended in 1986, and the amendments were appropriate for that time. The changes proposed by your amendments build on what we, the water users, have learned since that time and will make this an even better program from an environmental, business and socio-economic standpoint.

According to the Western Water Policy Review Commission report from 1998 "Once the outpost of a young nation, today's West is home to nearly one-third of the American population. The region has experienced rapid population growth in recent years: western states grew by about 32 percent in the past 25 years, compared with a 19-percent rate in the rest of the nation. By the year 2025, the West will add another 28 million residents."

A more recent report from the University of Colorado's Center of the American West, of 11 Western states (California, New Mexico, Wyoming, Washington, Idaho, Utah, Arizona, Oregon, Colorado, Montana, Nevada), indicated that the 2000 census counted 61.4 million people in the Western states - a 21 percent increase from 1990. By 2050, 109 million people will live in the Western States, the study estimates.

This Westward growth is why your legislation, is so vitally important. From our perspective, Title II of H.R. 1985 would bring a number of important changes to the existing program that would help address these needs. This decision, amending the Small Reclamation Loan Program, is an important step in investing in the West and putting in place a program that can serve as the foundation for a giant leap forward. There is presently not in place a program such as your proposing, to help western water users address the various needs associated with growth, whether they be water supply, water conservation, water quality, environmental or social purposes. There is currently a program gap between the larger Reclamation project that is typically before your Subcommittee and the smaller programs that Reclamation offers such as technical assistance. The Small Reclamation Water Resources Project Act of 2001 will close that gap.

The amendments contained in H.R. 1985 address these issues in the following manner:

1. No longer requiring irrigation as a project purpose in the program will allow for the development of projects in the urban-rural crossover setting that are

more economically and environmentally sound. This is precisely the area of greatest need for support in development of small projects.

2. Providing additional definition of the activities which can be undertaken through the program, especially in the area of rehabilitation and betterment and in the area of water quality improvements. This will help address aging infrastructure problems as well as developing new opportunities to make better use of existing supplies, without the need to create new water supply structures.
3. The streamlining of the proposal process, and the establishment of a definite schedule for proposal processing will give water users greater program confidence and certainty. Proposals will no longer languish in the bowels of the bureaucracy only to then have to wait years for an answer on whether there is a Federal interest in the proposed work.
4. The establishing of a partnership program under Title II of the SRPA amendments, and the activities that can be carried out under the program. This will facilitate problem solving in a manner that gets the work done sooner before more problems develop and through the work being carried out by the project sponsor within 18 months and a shortened repayment period.
5. The reduction of the repayment period for Title I projects from 40 years to 25 years will also bring the program in line with current business practices in the private sector.
6. Connecting the proposed work to organizations that have legal authority and responsibility for such work on their projects, and making sure that work is consistent with applicable State water law will keep the program from being abused by interests that might have other agenda's.

As part of the discussions with the organizations I represent, which helped in the development of the ideas embodied in your legislation, some have questioned whether the Bureau's Budget would be able to accommodate this program. Western water user organizations have been working successfully on the Energy and Water Appropriations bill through our "Invest In the West" campaign to increase the allocation for the Bureau of Reclamation's Water and Related Resources program. Given the construction schedules associated with the program and the decision-making process that is built into the legislation, we see this as a \$40 to \$60 million a year program. We believe the Bureau of Reclamation should be able to accommodate such a level, given the changes to the program proposed by your amendments.

We appreciate your decision to increase the cost-ceiling in the program from \$359 million to \$1.3 billion in order to accommodate the interest out in the West for the program. At the end of the last Congressional session we conducted an electronic survey, based on your legislation in the last Congress (H.R. 5120), to assess the interest in the programs that would be developed under your legislation. Historically 14 of the 17 Western states had used this program. We received responses to our survey from water users in 12 of the 17 states indicating a strong interest in using both Title I and Title II of your proposed amendments. Since that time I have also received responses to an idea of setting aside 20% of the proposed ceiling for Indian Tribes and economically disadvantaged communities, an amendment that we would support to your proposed amendments.

Another 1998 recommendation of the Western Water Policy Review Commission in was "Given the declining federal budgets, innovative sources of funding and investment, including public and private partnerships, must be found for the management and restoration of western rivers." Part of the reason for including a section in this bill on guaranteed loans is to explore the initiation of a new loan guarantee section under the Act. The Federal Government has approximately forty guaranteed loan programs listed in the Federal Budget.

The Loan Guarantee section of these amendments is to open the door for a new, innovative approach to assist in funding projects given the continuing decline in the Bureau's Budget. I have attached a table of the Bureau's Budget for the past ten years as recently provided by the former Commissioner during testimony in the House of Representatives that illustrates this concern. In addition, I would like to submit a report that I did earlier this year comparing the Bureau's Budget with other agencies at the Department of the Interior from fiscal year 96-FY2000 that makes a better case for the need to increase the Bureau's Budget.

I understand that for Budget scoring purposes for a Loan Guarantee, the ratio would be on a 10-1 basis. What this means is for the \$100 million provided in title three of your bill, the Federal government will produced \$1 billion worth of constructed project benefits. It is nice for everyone to talk about what to do with Budget Surpluses, but I don't believe the Reclamation program will benefit from them any time soon unless we continue to be successful with the "Invest In the West" campaign. There is a need for the Bureau of Reclamation's long term budget to be

addressed, and increased, given the work that needs funded in their program. The Bureau could, however, explore and make use of this new effort that could benefit the water users in the West in a more timely manner than waiting on such surpluses to appear in their program.

I would like to address the issue of whether the Bureau of Reclamation should or shouldn't be in the loan business. Why is it that almost every Federal agency has a loan program, to assist in carrying out their activities, yet the Bureau of Reclamation claims "the current loan process (at Reclamation) suffers from a lack of trained credit officers to monitor loans as well as assist in determining economic feasibility, repayment terms, maturity dates, and interest rates....Reclamation would continue to be in the business of developing repayment contracts and engaging in loan collection activities, two tasks for which the private sector is better suited than the Federal Government." The former Administration made great claims about Reinventing Government. Why can't Reclamation learn from the best of what other Federal agencies do with their loan programs and in turn benefit the public from a reinvention in their loan program?

Some would like Reclamation would just like to be in the grant business. We don't believe that would be a good idea. From fiscal year 91 to fiscal year 99 Reclamation provided approximately 4,600 grants worth about \$750 million. Unless you tie the grants down like H.R. 1985 would do through the amendments to the program and also make the other changes embodied by your amendments I believe that a grant only program would be a recipe for waste and abuse. If they have such experience with grants, which I have been told are more burdensome to administer, and have so few loans, it would seem like they can figure out how to make a loan program work better from an administrative standpoint.

CONCLUSION

The continuation of the Bureau of Reclamation's Small Reclamation Loan Program, with the changes made by your bill is the most important and appropriate course to take at this time. Based on the details in the Western Water Policy Review Commission report, our survey and meetings and conversations with water users in the West, there is a strong interest out there for a program that can help address the needs of the West, and a belief that the Small Reclamation Loan Program is the best vehicle to accomplish the work. Investing in the West through your proposed amendments to the program will be the best step forward into the 21st Century for helping the rural, urban, Indian population and the water and environmental resources of the West.

Mr. CALVERT. Mr. Schulz, Special Water Counsel, Kern County Water Agency.

STATEMENT OF CLIFFORD W. SCHULZ, SPECIAL WATER COUNSEL, KERN COUNTY WATER AGENCY

Mr. SCHULZ. Thank you, Mr. Chairman.

I am Cliff Schulz. For more than 30 years I have acted as counsel to the Kern County Water Agency on matters involving the State Water Project and the Sacramento-San Joaquin Delta. In that capacity for the past 7 years I have worked with a large coalition of urban and agricultural water agencies throughout California, commonly known as the AgUrban Group, to develop and support common goals for the CALFED Bay-Delta program.

I have provided written testimony which I would like to submit for the record, and then I will summarize my testimony.

Mr. CALVERT. Without objection.

Mr. SCHULZ. From the point of view of the agricultural and urban water users, the most important aspect of the legislation that is pending before the Committee is that it implement the fundamental policy that underlies the entire CALFED program. That philosophy is balanced implementation in all CALFED program elements.

California water policy has been stalemated for decades. While the population increased, the deadlock resulted in virtually no new infrastructure, a condition to that which preceded our electricity crises. CALFED overcame this stalemate by essentially telling all stakeholders that if they wanted to accomplish what was important to them, they had to allow others to accomplish their goals and meet their needs.

This is a very important concept to the legislation that is pending, and I just want to read a short quote from the framework agreement. That was a document signed by then Secretary Babbitt and Governor Davis that really broke the logjam on what CALFED was going to look like. They stated:

“all aspects of the CALFED program are interrelated and interdependent. Ecosystem restoration is dependent upon supply and conservation. Supply is dependent upon water use and efficiency and consistency in regulation. Water quality is dependent upon improved conveyance, levee stability and healthy watersheds. The success of all of the elements is dependent upon expanded and more strategically managed storage.”

It went on to say, expenditure of those funds for CALFED must be based on accountability and measurable progress being made on all elements of the program.

The AgUrban Group urges that the Federal legislation adhere to this fundamental policy which is often referred to as “balanced progress in all CALFED program areas.” thus, for example, we strongly support implementation of the CALFED Ecosystem Restoration Program not only because we know it is needed but also because there can be no CALFED progress in water supply and water quality without progress on ecosystem improvements. Conversely, we only support legislation authorizing the ecosystem actions if there is legislative language authorizing water supply and water quality programs on an equal footing. This is the fundamental precept of CALFED.

There is broad support within the AgUrban Group for H.R. 1985 because the bill adheres to the CALFED principle of balanced progress in all program areas. The bill, consistent with the ROD, also authorizes appropriations for the full, long-term CALFED program, thereby opening the way for funding needed to move forward with water supply, water quality and ecosystem projects simultaneously.

For the reasons that there is support for H.R. 1985, there is not broad support within the AgUrban Group for H.R. 2404. The legislation does not contain the kind of language that provides assurances to us that there will be balanced progress in all CALFED program areas.

We also support the competitive grants program as it provides funds for regional water supply and water quality improvements; and we believe that a competitive grants program, rather than earmarking or immediately identifying projects, provides the flexibility needed to select and fund the most cost and operationally effective water infrastructure projects.

I would now like to turn to what many consider to be the most important pending issue with respect to the CALFED legislation, namely authorization and funding procedures. Unfortunately, the

term “preauthorized” has been coined to characterize the issue, even though the term does not capture the real substance of the debate.

CALFED is a program to address serious water problems. Within the program is a series of projects. We are asking for an authorization of the program which then makes—the question is, what type of congressional oversight do you need in order to implement the individual projects that are parts of the program? We all seem to agree that studies should be carried out just in a fairly normal process, but we seem to part company when it comes to how funds should be authorized for construction.

We understand that there are possibly technical or parliamentary issues with the way the bill is now written, and we are willing to work to overcome any of those kinds of issues. But for us there are two keys to success. First, we need an expedited process. None of us want, for the next 20 years or more, to find ourselves participating in annual authorization exercises. Second, whatever expedited process is approved for environmental projects should be applied to water supply and water quality projects. Uneven treatment of the various CALFED elements would be unacceptable to us as it would make balanced progress almost impossible.

In summary, it is our highest priority to help develop a Federal legislative package to authorize balanced implementation. This approach is the only way to avoid a water supply disaster equal to that now being felt in the energy field. We pledge to work with this Committee and its staff to bring about final passage and a presidential signature on fair and workable CALFED legislation.

Thank you.

Mr. CALVERT. I thank the gentleman.

[The prepared statement of Mr. Schulz follows:]

Statement of Clifford W. Schulz, Special Water Counsel, Kern County Water Agency

Mr. Chairman, members of the subcommittee, my name is Clifford Schulz. For more than 30 years I have acted as special counsel to the Kern County Water Agency on matters related to the State Water Project. Much of my work has focused on issues surrounding the health of water project operations in the Sacramento–San Joaquin River Delta. In that capacity, for the past seven years, I have worked with a large coalition of urban and agricultural water agencies throughout California (the AgUrban Group) to develop and support common goals for the joint Federal–State CALFED Bay–Delta Program.

CALFED was launched in 1995 to address competing needs for water. An exhaustive nearly six-year planning process culminated in the release last year of a comprehensive, 30-year plan to restore the health of the San Francisco Bay–Delta ecosystem and improve the reliability and quality of California’s water supplies.

The plan was initially announced on June 9, 2000, in a joint “Framework for Action” issued by then Secretary of Interior Bruce Babbitt and California Governor Gray Davis. It was finalized in the September 2000 Record of Decision (ROD). Both documents identify numerous projects—from ecosystem restoration, to surface and groundwater storage, to water quality improvements. The ROD is the product of extensive input from stakeholders and the public; it is scientifically sound, and reflects a commitment to move ahead simultaneously on environmental, water supply and water quality objectives.

California voters have approved two bond issues and the California legislature has appropriated general fund monies that provide over two billion dollars for the CALFED effort and to meet California’s long-term water challenge. It is now vital that federal legislation and appropriations follow these investments or the unprecedented collaborative effort that led to the CALFED Program ROD may come to naught. I, therefore, appreciate this opportunity to provide input on the pending legislation related to the CALFED Program, HR 1985 and HR 2404.

More important to the legislation pending before this committee than the list of projects spelled out in the Framework and the ROD is the fundamental philosophy that underlies the CALFED Program and stakeholder support. California water policy has been stalemated for decades. While the population has risen, a deadlock among water project proponents and the environmental community has resulted in virtually no new infrastructure being built in decades—a condition similar to that which preceded the electric energy crisis. CALFED first encountered and then overcame this stalemate by essentially telling all stakeholders that if they wanted to accomplish what was important to them they had to allow others to accomplish their goals and meet their needs.

The Framework agreement best stated this concept as follows:

All aspects of the CALFED Program are interrelated and interdependent. Ecosystem restoration is dependent upon supply and conservation. Supply is dependent upon water use and efficiency and consistency in regulation. Water quality is dependent upon improved conveyance, levee stability and healthy watersheds. The success of all of the elements is dependent upon expanded and more strategically managed storage.

California taxpayers, stakeholders and the federal government will be called on to invest billions of dollars over the next decade on CALFED programs. Expenditure of those funds must be based upon accountability and *measurable progress being made on all elements of the program.*

(Framework for Action, p. 2–3; italics added.)

The ROD echoes this concept in several places, one being:

The CALFED Program takes a broad approach to addressing the four problem areas of water quality, ecosystem quality, water supply reliability and levee system integrity, recognizing that many of the problems and solutions in the Bay-Delta system are interrelated. Problems in any one program-area cannot be solved effectively without addressing problems in all four areas at once. This greatly increases the scope of efforts but will ultimately result in progress toward a lasting solution.

Thus, the single most important difference between the CALFED Bay-Delta Program and past efforts to solve the problems of the Bay-Delta is the comprehensive nature of CALFED's interrelated resource management strategies. A comprehensive CALFED solution will also be supported by governance mechanisms that overcome problem-specific or resource-specific limitations of previous, more narrowly focused, approaches.

(ROD, p. 10)

The AgUrban Group urges that federal legislation adhere to this fundamental principle, which is often referred to as “balanced progress in all CALFED Program areas.” Thus, we strongly support implementation of the CALFED ecosystem restoration program, not only because we know it is badly needed, but also because there can be no CALFED progress on water supply and quality without progress on ecosystem improvements. Conversely, we only support legislation authorizing the ecosystem actions if there is legislative language authorizing water supply and water quality programs on an equal footing. That is the fundamental precept of CALFED, and it is with an eye to that precept that we have reviewed the pending bills and offer our comments today.

There is broad support within the AgUrban Group for HR 1985. A major reason for our support is the bill's adherence to the CALFED principle of balanced progress in all program areas. Both sections 101(b)(2) and 103(a)(1) mandate that a balanced and timely program to implement all aspects of the CALFED program be developed. HR 1985, consistent with the ROD, also authorizes appropriations for the full, long-term CALFED Program, thereby opening the way for the funding needed to move forward with water supply, water quality and ecosystem projects simultaneously. The bill would allow projects to proceed, following feasibility and environmental studies, with Congressional oversight.

For the same reasons there is support for HR 1985, there is not broad support within the AgUrban Group for HR 2404. This legislation would fundamentally change the CALFED program by authorizing only select elements of the ROD. The bill seems to be premised on the assumption that the state's water needs can be met exclusively with conservation and water recycling programs, even though, after over five years of study, the unanimous consensus of all the CALFED agencies was to the contrary. HR 2404 relegates any new water storage projects to permanent “study” status, and would effectively set aside five years of public planning and input.

We also support HR 1985's competitive grants program to provide funds for regional water supply and quality improvement projects. A competitive grants program provides the flexibility needed to select and fund the most cost and operation-

ally effective water infrastructure projects. For a state as diverse and changing as California, attempting, in advance, to legislatively predict what infrastructure projects should be funded over the next 10 or so years is sure to miss some of the best.

HR 1985 includes water supply assurances for all water users, particularly those most impacted by recent regulatory actions. The AgUrban Group is working with the author and others to craft legislative language that best accomplishes this goal consistent with CALFED's principles, including the principle of not redirecting impacts.

In contrast, HR 2404 establishes federal policy that will have the effect of further reducing water supplies to this area and to the service area of the State Water Project. Section 201(b)(5) establishes, as a matter of federal policy:

the objective of reducing, by the year 2020, the maximum annual quantity of water pumped each year for consumptive uses from the Harvey O. Banks and Tracy Pumping Plants.

This provision, in addition to undoing the CALFED goal of improving water supply reliability for federal contractors, takes the highly unusual step of instructing a federal official to proceed in a manner that would adversely impact a California owned and operated intra-state water facility that is regulated under State law. It also instructs the official to take actions that could very well impact the flow of funds that are the ways and means of repaying State issued general obligation bonds. This is the antithesis of Federal/State cooperation envisioned by CALFED.

HR 2404 also departs from the ROD in the way it proposes to regulate water facilities operations in the Delta. Section 304 instructs the Secretary to manage the timing and quantities of water exports from the Delta to minimize harm to fish in accordance with determinations by representatives of the United States Fish and Wildlife Service, the National Marine Fisheries Service, and the California Department of Fish and Game. California law and existing federal law, as interpreted by the United States Supreme Court, require that water projects be operated as prescribed by California's State Water Resources Control Board—not as prescribed by three fisheries agencies that have no duty to balance competing needs for water within the State. We strongly object to this federal substitute for established State laws which regulate water rights in the public interest.

I would now like to turn to what many consider the most important pending issue with respect to CALFED authorization and funding. Unfortunately, the term "preauthorized" has been coined to characterize this issue, even though the term does not capture the real substance of the debate. In reality, the term preauthorization never seems to be applied to a project one favors. But if one opposes a CALFED project and wants to have a second bite at opposing its implementation, then one loudly cries that the pending legislation should not "preauthorize" that project.

CALFED and the CALFED ROD call for implementation of an integrated "program" to address California's serious water problems. This overall program is then subdivided into sub-Programs, such as watershed improvements, ecosystem restoration, and water quality improvements. Within each sub-Program area, there are a myriad of "projects" that are designed to meet the sub-Program and overall CALFED Program objectives. What the federal legislation should authorize is funding of the overall CALFED Program. Authorizing funding for all aspects of the Program, in a balanced manner, should be a focal point of this legislation. While HR 1985 contains language to this end, AgUrban has recommended additional language for section 104(a) that would ensure that all CALFED programs are authorized for appropriations.

The issues surrounding the authorization/appropriations process is, therefore, best articulated by asking: Once the CALFED Program is authorized, what is the best means for assuring appropriate oversight before program elements or projects are commenced? For the AgUrban Group, the correct answer to this question must ensure that all CALFED sub-Programs have to surmount equal hurdles. Otherwise, balanced implementation, as that concept is articulated in the ROD and Framework Agreement, will not be possible.

All stakeholder groups seem to agree that funds for studies, environmental impact analyses, other preconstruction activities, and CALFED administrative costs should be handled through the standard appropriation process. Each year the CALFED governance board would provide a report to Congress outlining the projects within each sub-Program area for which funding is being requested. That report would describe how implementation and use of the requested funds would maintain required balance among all program areas. This initial report is a critical aspect of the process, as the CALFED governance body must maintain initial responsibility for assembling a balanced program.

HR 1985, in section 105(c)(2), allows the appropriations committees to strike projects from the report as part of its appropriation process. AgUrban understands why this right to strike has been included, however AgUrban has recommended amendments to the bill that would ensure that the balance struck through the CALFED governance process is not impacted.

The “preauthorization” debate seems to focus on what process should be followed before funds can be appropriated for construction of CALFED projects. We support the approach contained in HR 1985, which we call a check-back. Before construction money can be appropriated, a detailed report on the particular construction project, whether it be an environmental project or a water supply or water quality project, must sit before the original authorizing committees for consideration. In the absence of objection from the authorizing committees, the appropriations committees may place those construction projects into the normal appropriation process.

We understand that there may be parliamentary issues with respect to this process, and we look forward to working with committee staff to resolve them. Our key to success in resolving these parliamentary issues is twofold. First, an expedited process for approving construction projects must be developed. None of us want, for the next 20 or more years, to find ourselves participating in an annual project authorization exercise. Second, whatever expedited process is approved for environmental projects should also be applied to water supply and water quality projects. Some stakeholders have suggested that all CALFED water supply projects should have to come back for full congressional authorization, while other CALFED projects do not have to obtain authorization. Such uneven treatment of the various CALFED elements would be unacceptable, as meeting the balanced progress requirement would be rendered impossible and the entire CALFED Program would be jeopardized.

In summary, AgUrban’s highest priority is to help develop a federal legislative package that will fully authorize balanced implementation of the overall CALFED program, and will ensure that the promises made to all stakeholder groups in the Framework and the ROD are met. This approach is the only way to avoid a water supply disaster equal to that now being felt in the energy field. We pledge to work with this committee and its staff to bring about final passage and a presidential signature on fair and workable CALFED legislation.

Mr. CALVERT. I appreciate the word “balanced.” I have been working through this for some time with many of the members on this Committee and talked to many of you on the panel, and we have had a number of hearings throughout the state of California, outside of California, and certainly today, and I have heard about preauthorization on numerous occasions, but obviously any project needs to go through the State and Federal process as well as vetted by all the interested stakeholders. So I think that word is probably being overused as far as a process.

If anything, I wish I could preauthorize things, but in today’s environment that is not possible.

Mr. Sunding, you kind of got my attention on something when you got into cost benefit and the rest of it, because I have been working on that and other issues in the past when I used to Chair other Committees. But one thing that I have always found is that there is the other side of that, too, when you get into cost benefit. Farmers today are obviously impacted by Federal actions, whether it is the Clean Water Act, whether it is the Endangered Species Act or other Federal law which they must comply with; and there is a cost to that, regulatory cost. And also there is another cost. There is a human cost.

When we mention following land as a secondary course of action, there is—it is not just making that statement. As I found out in going through rural communities actually throughout the United States, water transfer is an easy thing to say, but when you go to the communities and you look at those people in the eye, the people

that own the dry cleaners or the guy who has got the corner gas station or the community themselves, it is not that simple. So I think the Federal Government does have an obligation to participate in these water projects.

And the beneficiary does pay, but to some degree the Federal Government has an obligation since we have also put costs upon farmers and everyday Californians through Federal actions here.

So my question really is to Mr. Gastelum because, obviously, a big part of this legislation is also to build water projects, water reclamation—and I have heard no objections to that—groundwater management, conjunctive use, all of these things. There may be some argument about, ironically, whether or not the Federal Government should participate by some people on this panel. What is your answer to that?

Mr. GASTELUM. Mr. Chairman, the Federal Government clearly is participating now, has for many, many years, is a part of, if I may say, the problem as well as part of the solution. So we look forward to the partnership that has been forged here with the ROD and would be carried forward with your legislation.

Obviously, the Federal Government is not going to shoulder the full burden. A fair portion of it would be all that anybody is asking. And beyond maybe some of the traditional things that you have done, there is tremendous opportunity in conservation recycling programs, as we have talked about today.

Mr. CALVERT. And, by the way, we are talking about a third of the project being paid for by the Federal Government and two-thirds being paid for by State and local interests, which leverages the authorization within that bill significantly for water projects. The more I got involved in this, the more I realized that the issue at hand for some of these projects, which may not today make financial sense—I am an old business guy and I understand that real well, but if we don't pursue some of these projects and we go through a process of governance to find out what is the most cost-effective way of reclaiming water or getting additional water supplies on line that we won't have the luxury of making a better decision later on because we will be in a crisis mode, which we may be in already.

But I make that point because, when I hear the issue of cost benefit, I think of other things other than just the cost of—and the benefit that may be in that community as far as what can happen to those people there in the Central Valley and what can happen in Imperial County and the rest.

With that, Ms. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chair.

It is interesting to hear the commonality from all the panelists in regard to the issue of water which has become really a topic of conversation in my own communities.

Mr. Gastelum, I was reading—caught me reading part of your remarks, but I was also interested in a reference you made, I believe, to water quality experts out of the Delta, and can you kind of explain the importance of Southern California water providers to improve the quality of water coming out of the Delta pumping plant—actually, the Harvey Banks. I heard Mr. Miller make reference to that, and that kind of peaked my curiosity.

Mr. GASTELUM. Yes. I would be pleased to respond.

The issue is really most directly focused on salinity. We have a high degree of salinity, as you know from your work on the Colorado River, Congresswoman, from our Colorado River supply. We are able to reduce the impact on Southern California water users by blending water from the Delta which has lower natural salinity in most years. There are years, dry years, and other conditions where the salinity actually rises in the Delta as well because of infiltration from the ocean water as a result of conditions in the Delta.

The other situation that we face is, because the Delta is a confluence of rivers, of various water practices, wastewater treatment, effluent, you have any number of contaminants that we can find in our source water, and ultimately they end up in Southern California or in communities in Santa Clara and other urban communities.

So how do we best deal with that water quality issue? We think it is by some projects. In fact, there are projects that are in the works now that produce better water quality at the source. So our focus, then, is making sure that our water quality projects are well coordinated with the water supply projects, the ecosystem projects and, as I think Ms. Koehler said, we get the best value for the dollar. Certainly one of the major tenants of CALFED is to integrate those water quality benefits into those decisions.

Mrs. NAPOLITANO. Thank you.

Which brings me to the other question, salinity that you touched upon, which is a great big issue out of the Colorado River, but maybe you might be able to touch upon the relationship between CALFED and California's ability to limit its use of the Colorado River water, in other words, staying within the 4.4 between now and the year 2015.

I can tell you I still have bruises from that meeting, Chairman Calvert, in Salt Lake City. California—the other six States ganged up on us and—saying we are going to be watching you to reduce your water, which goes into finding ways of being more productive in how we recycled water and how we are able then to deal with the EPA mandate, how we are able to help municipalities continue to advocate conservation methodology. All of those things have a part of in it.

Again, I want to know if you have any comments on the relationship between the CALFED and the Colorado River.

Mr. GASTELUM. The basic fact is that California has an entitlement of 4.4 million acre feet. Metropolitan and the urban water users on the urban plain, the 17 million consumers, really only have an entitlement to 550,000 acre feet of that 4.4. We have traditionally only taken about 1.2 million acre feet because our aqueduct allows us to take that, and because there have been surpluses on the river we have been able in most years to be able to take 1.2 million acre feet.

The upper basin and lower basin, the other States, have served notice, as did the Secretary of the Interior, that it is time that we talk about Southern California going on a diet. So now over the next 15 years our job is to be able to live within that 550,000 acre foot entitlement when surpluses are not available. That means we

have to forge the water transfer agreements, face the very difficult third-party impacts that the Chairman was alluding to.

We announced an agreement that we are going forward with an agreement with the Palos Verdes Irrigation District. They have the best rights on the river, and our plan there is a fallowing program. We have had previous experience with that irrigation district, a successful one. We think that by including some of the previous models that we have used and adding payments for potential third-party impacts in that agreement we will be able to create a model that should work elsewhere. So it will take upwards of 15 years to be able to compensate for that loss.

We are clearly not focusing on the State Water Project to make up that loss. We have got to be able to do it in a coordinated fashion on the Colorado River and the State Water Project, but if we are not able to get CALFED to at least take care of our existing demands and some projected future, we would have a double whammy, reduction in the Colorado River, reduction in the State Water Project and in no way can we make that up with conservation and recycling alone. We are going to need both programs.

Mrs. NAPOLITANO. Mr. Chairman, with your indulgence, I know I have overextended my time, but given the fact that we may be facing another drought year, I think it is incumbent upon us to make sure that we do seriously work on passing the CALFED this year. Otherwise, we are going to be in deep trouble. Not only will we be facing water shortages in the western arid States but also have to look forward to cutting our rations, so to speak.

Thank you.

Mr. CALVERT. I thank the gentlelady.

By the way, I want to emphasize I support water transfer. It is just that we need to add additional supply and the other projects we outline in H.R. 1985 which we agree upon that it is all so necessary in order to meet future demand.

And with that, Ms. Solis, you are recognized.

Ms. SOLIS. I apologize for stepping out, also.

I guess my concern also is that, while we are trying to meet the demands in Southern California with a growing population, we understand the need for storage and building up that storage and looking at different sources for regenerating, things of that nature. But while we realize that there is a need to construct these facilities, I am also very mindful of how we use these tax-paying dollars and how efficiently they can be used, and I would like to hear from anyone what kinds of ideas you might have about giving incentives for those projects that do well in terms of meeting our goal, efficient clean water and the production and concentration and storage of that water. That is one.

And the other is this whole issue of trying to keep an equilibrium here in terms of our ecosystems, environmentally sound programs and realizing that we do have natural habitat that we also want to protect, in my case, in Southern California, I know as well as up north. But I would like to hear you talk a little bit about that.

Communities that I represent and I know Grace—we are very concerned about access for smaller minority, low-income communities and having the ability to have programs that will provide in-

centives for recycling and things of that nature. So I would like to hear a little bit about that. Anyone?

Ms. KOEHLER. I can maybe start the discussion, Congresswoman.

As I mentioned in my testimony, I think the best opportunity to respond to the concern you have raised is for the legislation that is now pending to be expanded specifically to authorize the water use efficiency program. It is generally authorized in the bill now, and I understand from talking to staff that there wasn't the intent to leave it out either in H.R. 2402 or 1985. But that program I think if given greater prominence, if it is specifically called out the way some of the other CALFED elements are in the bill, has the greatest potential to provide the largest benefits to lower income communities in the shortest time frame because that goes to efficiency technologies and conservation technologies, and there is a range of views about the extent to which such technologies will address the problem.

Acknowledging that range of view, there is, I would say, a fairly strong consensus that those technologies do have considerable merit and should move forward.

The ROD has very strong language supporting moving forward with those kinds of programs immediately; and, as I mentioned, it calls for \$500 million on the Federal side with matching funds on the State and local side in the first 4 years. So I think that is sort of the shortest, quickest answer to your response. That is the most immediate thing that I can see can be done to—in response to the concern that you have raised for the kinds of communities that you and Congresswoman Napolitano represent.

Mr. GASTELUM. If I may add, Congresswoman, I am familiar with your district; and I know that water quality is one of the major concerns in your district. And by assuring that water quality is one of the purposes that people can apply for projects and assuring that it is a competitive process, that anybody with a good project has an equal shot, I think goes a long way toward addressing the concerns that you may have in your district.

Ms. SOLIS. There is concern about testing models that actually work. On the one hand, you certainly want to encourage new development and innovation. On the other, you want to make sure you are funding projects that are actually going to meet or have some kind of experience. That is the part I think that I am a little troubled about. Because, on the one hand, we want to see new projects and, on the other hand, are they foolproof or will they be foolproof and how do we go about making sure there is accountability? And if they do work, how do we give them incentives to go on and hopefully expand those projects that really do the job? I don't know how we get around that, I guess.

Mr. CALVERT. Well, if you are asking me that question, vote for H.R. 1985.

Mr. SCHULZ. May I respond briefly to that question?

Mr. CALVERT. The gentleman is recognized.

Mr. SCHULZ. One of the features of CALFED that I think will help answer your question is the governance structure that is proposed to be set up and also the science program. Because I have never viewed the science program as only being limited to the science of ecosystem. I consider it to be also dealing with the

science of water supply, conservation and all elements of the CALFED program.

So we think that the structure that is set up having a joint State-Federal governance process backed by a strong science program will give us the ability to answer those “what if” questions and “will they work” types of questions. And we would not expect the CALFED governance structure to bring a project forward for appropriations for construction until there was some real strong backing in that regard.

Mr. CALVERT. I was going to add to that that the governance process—in putting together a governance process with the participation of the governor, the State legislature, certainly the members of this panel, the stakeholders I don’t think would allow really for projects that don’t qualify and are well peer-reviewed and that are worth pursuing. So I believe that this legislation will move us in the right direction.

Ms. Koehler, many of the environmental programs that we pursue today are extremely expensive, and some members are concerned about costs, especially indirect costs, and sometimes they believe that they disproportionately fall on agriculture. How can funding for some of the conservation programs be distributed more fairly among the beneficiaries, including the environmental community?

Ms. KOEHLER. Mr. Chairman, let me make sure I understand your question. Are you asking how funding for the restoration program can be distributed or are you asking me about—

Mr. CALVERT. That is correct.

Ms. KOEHLER. My understanding is that at this point CALFED’s proposal for financing the restoration program is that it will come largely out of public funds. Other than the \$35 million user fee that is proposed on the State side, it is not my understanding that there is a financing mechanism that is being discussed to place that burden on the water users.

Mr. CALVERT. Farmers believe that they lose water. Water is being dedicated for environmental purposes so that is a cost, so that is a cost that is being put upon them. So I guess the question would be, do you believe that that is a fair cost or do you believe that—what other methodology can be used to more fairly distribute those costs?

Ms. KOEHLER. Let me try to answer that in two ways.

First, the water that is being contemplated for the environment in CALFED is—CALFED has been very sensitive to that issue, and I think appropriately so. There has been, obviously, a lot of anxiety and concern about perceived or actual reallocations of water. Therefore, the water that is being proposed to go to the environment—and it is a relatively small amount, 100,000 acre feet by the end of the 7 years—my understanding of that proposal is that that would come only—that is a program that would come only from willing sellers and transfers that fully respected existing water rights. So there is expected to be no impact to agricultural water users as a result of that program.

Looking—the second way I will respond to your question is that, looking at prior, preCALFED efforts, I think there has been concern with regard particularly to the 800,000 foot dedication under

CDPIA and that there has been controversy around that. As far as how to allocate the burdens of that, I think CALFED has taken a major step with the environmental water account.

I know there is some confusion about that. My understanding is the way the Environmental Water Account is supposed to work is that it is basically a publicly funded account of water to cap the water impacts to water users and farmers in particular of complying with preexisting regulatory requirements, particularly, as you mentioned earlier, under the Endangered Species Act. So I think that is an innovative approach in CALFED to take some of the financial burden of complying with the Endangered Species Act in particular and shifting that to the public; and we have at Save the Bay and throughout the environmental community supported that innovation.

Mr. CALVERT. I would say that if the farming community believed that they could cap the cost at 100,000 acre feet of water, I suspect they would take that deal right now, but I suspect that that may not be the deal.

Mr. Luddy, obviously in your capacity you work with a significant group in our State that are very concerned about the economy, obviously. I can't think of an industry that probably suffers the most when we go into a recession as far as a construction issue, something I used to be in in my previous life. We read in the paper, for instance, about Federal judges now implementing or causing larger developments to cease and desist unless they can prove water supplies.

If this crisis continues or gets worse, how would that affect your industry?

Mr. LUDDY. Frankly, I think it would be difficult to overestimate the impact on the industry. If we continue to go through—if you were to take what is happening in the Klamath Bay and to take what has been happening in energy deregulation and the electrical crisis in Southern California and play that out into a water issue, which I think in many ways is far more serious, the impact would be devastating. Projects would stop in their tracks. Investment in the region would stop. People will not come and invest in Southern California if they perceive it as someplace where they will not have reliable water.

Mr. CALVERT. What are the costs of something like that? Obviously, we were talking about human costs earlier. When you have a significant event like that happening to people and families within in that industry that you represent, does that cost the government a significant amount of money?

Mr. LUDDY. It costs in payroll taxes. It costs in that people would be on public relief at some point if it extended long enough. Our members, they have their health and welfare benefits paid based on hours contributed to health trust funds; and after a certain period of time, their benefits run out. They have to look elsewhere for those things. So all of those impacts would hit on the State, local, and it would have Federal impact.

Mr. CALVERT. Ms. Napolitano.

Mrs. NAPOLITANO. Thank you.

Mr. Luddy, wouldn't it also affect businesses because their purchasing power would be diminished?

Mr. LUDDY. Absolutely. The Congressman mentioned the dry cleaner in the small town. Our workers earn a good wage. They have a good benefit, health care. They take that money and spend it in town. The multiplier effect on construction dollars is substantial. I believe it is 1.8—is the factor. If they are not working, they are not going to the dry cleaner, not going to the restaurant. They are not going to the ball game, taking their family out on the weekend. The ripple impact on construction slowdowns is very significant, small community or large.

Mrs. NAPOLITANO. One of the events that I had great pleasure in attending was the opening of the Diamond Valley Lake with Congressman Calvert and other Members who invited me; and it was great to hear that not only did that project get built under the time frame it was scheduled for, at least that was my understanding, but also that there were very few change orders and that it was labor that brought it across that way, that the partnership was just outstanding. And I have to say I was very pleased to hear that because we have long said that if you want to save money in the end, you have to go to the experts, and that would be our labor brothers and sisters that have been trained to do the job well.

That is just a commentary, but I tell you that I find the ability for us to understand how we are impacted when we have a major crisis and everybody suffers, it isn't just business. It is the working class, the families, the seniors. It is just a reverberating effect. So I am very concerned that we do plan together, and I am glad to see that labor is involved in this issue, because to me that signifies that we are working together for one end and that is to get this issue resolved.

I look forward to working with our Northern California folks as well as the Central Valley folks and the folks below us down in the San Diego area, because I think all of us are in the same boat. If our coalition remains unified, we will be able to get this through; and I am hoping we get the support from you and the assistance of the other Members of Congress, the calls to signify how important this project really is for all of California, not just for Central or Northern or Southern but to all of California.

Thank you, Mr. Chair.

Mr. CALVERT. Ms. Solis.

Ms. SOLIS. Actually just a comment, not really a question, regarding the growth in Southern California population and the need for more water.

We definitely have to keep that balance with making sure that as we do build, especially in our area where we are heavily populated and looking for opportunities to provide homes for some of these laborers and folks that work in the construction industry, also is that we keep in mind how are we going to keep those communities going if we don't have water that is available? And I understand that we still have a lot of discussion to go on this bill and others in terms of how water is transported and how we do a better job of making sure that when we provide for developments wherever they are, but most importantly in areas like Riverside, San Bernardino, and parts of my district, that we really plan ahead and work in partnership so developers as well as the construction industry and the communities that are going to be there—and I am

thinking about the problems we are facing right now with some of our local schools, the fact that we create development projects but we are not providing enough infrastructure dollars as well to meet that demand, and we are seeing it happen over and over again.

I just want to raise that as just a word of caution, that we have to also keep that balance in mind. We have so many priorities, you know, on our plate; and I just wish we could work together to better understand what problems the folks in the north, farmers face, and the folks down south where the population is who also demand clean water and are consumers and are paying, hopefully, for some good water to be in place for their families and future generations.

That is my comment.

Mr. CALVERT. Thank you.

Ms. Napolitano.

Mrs. NAPOLITANO. Just something that I almost skipped over, and that was salinity. That has been a major issue for my water agencies. How do we become more aware of how government lands, that normal runoff, does contribute to salinity, especially the Colorado River and, of course, the Delta, but how do we address it? Ken has made a great effort and has allowed us to bring that heavily into the picture, but I think it bears a lot more discussion, if you will, to see how much of that cost should be borne by the Federal agencies whose lands are actually providing that salinity in the area and get them to contribute or participate in having that salinity cleaned up. Because I know my water agencies pay millions of dollars to clean the salt out of the water before it is delivered to the clients, and that is a big concern because that money could be used to expand other projects that will be helpful to the communities.

So we must not lose sight of that, specifically on how it impacts the water agencies' abilities ability to perform. And then, of course, there is Mexico.

Thank you.

Mr. CALVERT. Thank you.

Mr. Schulz, I wanted to get a follow-up question to Ms. Koehler's comments. How much water has been reallocated from water use to the environment, from your perspective?

Mr. SCHULZ. Our estimate is in excess of 2 million acre feet. You sort of have to go through an historical addition and subtraction, and some things overlap. So it is hard to come up with an exact number, but certainly there was 800,000 acre feet under the CDPIA. There has been several hundred thousand acre feet from the Trinity. Over the years, the water quality control plant standards have become more stringent and required more outflow which has reduced yield; and the process we went through to get into CALFED whereby there was negotiations and the December 15, 1994, accord resulted in the CDP and SWP providing approximately a million acre feet to maintain the fishery in some state of health while the CALFED process was being developed. As I said, some of those overlapped like CDPIA and quality control plant standards.

You have got to be careful that you don't double count, but we are convinced that we have lost in excess of 2 million acre feet dur-

ing the time when the State was growing by about 10 million people.

Mr. CALVERT. I just wanted to get that on the record.

Does that include some of the other court decisions, for instance, that the Department of Water and Power has been involved in?

Mr. SCHULZ. No. That does not—the impacts of, say, the Mono Lake decision, the determinations on pumping in Inyo or the Colorado River. This is just what has happened in the Bay-Delta that we are dealing with in the CALFED program.

Mr. CALVERT. Thank you. I am going to wrap this up because we are getting toward the end of the day here and we have to go back to the floor. I want to thank this panel.

Obviously, we have a significant problem in California and throughout the West. As I said in my opening testimony, that electricity certainly is something that we read about and live with every day, but water is something we certainly can't live without, and we have a problem. We face diminishing supplies in the Colorado River if we meet our obligations under the 4.4 plan that has been negotiated, and I don't think we have a lot of choices there to meet that obligations.

My friends in the upper basin States will make sure we meet that obligation. As Ms. Napolitano was in Salt Lake City and heard loud and clear, that is their demand.

We have diminishing water for various reasons. So it is important that we work together, all of us, to pass legislation that will move CALFED forward and to build water projects in the State of California that will allow the State of California to continue to prosper and to continue to be the golden State that we all live in and love and want to continue to have as a place that people want to be at and be associated with.

So, again, I want to thank you for your testimony in answering our questions; and this hearing is adjourned.

[Whereupon, at 5:05 p.m., the Subcommittee was adjourned.]

