

strongly supported proposals to allow direct broadcast satellite providers to offer a distant digital network signal into local television markets where broadcasters are not transmitting a full-power digital signal. We believe such a measure is essential to provide market-based pressure on local broadcasters to complete the digital transition and return the public's valuable analog spectrum for other uses.

The satellite home viewer reauthorization legislation is the vehicle to address this issue. The Senate Commerce Committee, in its version of the satellite legislation, adopted a "digital white area" provision that will help provide the necessary impetus to speed up the digital transition and serve the needs of millions of television viewers who are disadvantaged by the current situation. In contrast, the House Commerce Committee bill requests a perfunctory report on the matter without any immediate remedy.

As such an important issue for consumers and the economy, we strongly urge that a digital white area provision be added to the House legislation. We appreciate your consideration of our request, and we look forward to continuing to work with the Congressional leadership, the committee chairmen and ranking members to further improve this legislation.

Sincerely,

Grover Norquist, Americans for Tax Reform; The Honorable Andrea Seastrand, The California Space Authority; Tom Schatz, Council for Citizens Against Government Waste; Charles Ergen, EchoStar Communications Corporation; George Landrith, Frontiers of Freedom; Andrew Jay Schwartzman, Media Access Project; Gigi Sohn, Public Knowledge; Richard DalBello, Satellite Broadcasting and Communications Association; Karen Kerrigan, Small Business Survival Committee.

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WHITFIELD). The question is on the motion offered by the gentleman from Texas (Mr. DELAY) that the House suspend the rules and pass the bill, H.R. 4518, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A Bill to extend the statutory license for secondary transmissions by satellite carriers of transmissions by television broadcast stations under title 17, United States Code, and to amend the Communications Act of 1934 with respect to such transmissions, and for other purposes."

A motion to reconsider was laid on the table.

#### WATER SUPPLY, RELIABILITY, AND ENVIRONMENTAL IMPROVEMENT ACT

Mr. POMBO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2828) to authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "Water Supply, Reliability, and Environmental Improvement Act".

(b) *TABLE OF CONTENTS.*—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT

Sec. 101. Short title.

Sec. 102. Definitions.

Sec. 103. Bay Delta program.

Sec. 104. Management.

Sec. 105. Reporting requirements.

Sec. 106. Crosscut budget.

Sec. 107. Federal share of costs.

Sec. 108. Compliance with State and Federal law.

Sec. 109. Authorization of appropriation.

#### TITLE II—MISCELLANEOUS

Sec. 201. Salton Sea study program.

Sec. 202. Alder Creek water storage and conservation project feasibility study and report.

Sec. 203. Folsom Reservoir temperature control device authorization.

#### TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT

##### SEC. 101. SHORT TITLE.

This title may be cited as the "Calfed Bay-Delta Authorization Act".

##### SEC. 102. DEFINITIONS.

In this title:

(1) *CALFED BAY-DELTA PROGRAM.*—The terms "Calfed Bay-Delta Program" and "Program" mean the programs, projects, complementary actions, and activities undertaken through coordinated planning, implementation, and assessment activities of the State agencies and Federal agencies as set forth in the Record of Decision.

(2) *CALIFORNIA BAY-DELTA AUTHORITY.*—The terms "California Bay-Delta Authority" and "Authority" mean the California Bay-Delta Authority, as set forth in the California Bay-Delta Authority Act (Cal. Water Code §79400 et seq.).

(3) *DELTA.*—The term "Delta" has the meaning given the term in the Record of Decision.

(4) *ENVIRONMENTAL WATER ACCOUNT.*—The term "Environmental Water Account" means the Cooperative Management Program established under the Record of Decision.

(5) *FEDERAL AGENCIES.*—The term "Federal agencies" means—

(A) the Department of the Interior, including—

(i) the Bureau of Reclamation;

(ii) the United States Fish and Wildlife Service;

(iii) the Bureau of Land Management; and

(iv) the United States Geological Survey;

(B) the Environmental Protection Agency;

(C) the Army Corps of Engineers;

(D) the Department of Commerce, including the National Marine Fisheries Service (also known as "NOAA Fisheries");

(E) the Department of Agriculture, including—

(i) the Natural Resources Conservation Service; and

(ii) the Forest Service; and

(F) the Western Area Power Administration.

(6) *FIRM YIELD.*—The term "firm yield" means a quantity of water from a project or program that is projected to be available on a reliable basis, given a specified level of risk, during a critically dry period.

(7) *GOVERNOR.*—The term "Governor" means the Governor of the State of California.

(8) *RECORD OF DECISION.*—The term "Record of Decision" means the Calfed Bay-Delta Program Record of Decision, dated August 28, 2000.

(9) *SECRETARY.*—The term "Secretary" means the Secretary of the Interior.

(10) *STATE.*—The term "State" means the State of California.

(11) *STATE AGENCIES.*—The term "State agencies" means—

(A) the Resources Agency of California, including—

(i) the Department of Water Resources;

(ii) the Department of Fish and Game;

(iii) the Reclamation Board;

(iv) the Delta Protection Commission;

(v) the Department of Conservation;

(vi) the San Francisco Bay Conservation and Development Commission;

(vii) the Department of Parks and Recreation; and

(viii) the California Bay-Delta Authority;

(B) the California Environmental Protection Agency, including the State Water Resources Control Board;

(C) the California Department of Food and Agriculture; and

(D) the Department of Health Services.

#### SEC. 103. BAY DELTA PROGRAM.

(a) *IN GENERAL.*—

(1) *RECORD OF DECISION AS GENERAL FRAMEWORK.*—The Record of Decision is approved as a general framework for addressing the Calfed Bay-Delta Program, including its components relating to water storage, ecosystem restoration, water supply reliability (including new firm yield), conveyance, water use efficiency, water quality, water transfers, watersheds, the Environmental Water Account, levee stability, governance, and science.

(2) *REQUIREMENTS.*—

(A) *IN GENERAL.*—The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in subsections (c) through (f) consistent with—

(i) the Record of Decision;

(ii) the requirement that Program activities consisting of protecting drinking water quality, restoring ecological health, improving water supply reliability (including additional storage, conveyance, and new firm yield), and protecting Delta levees will progress in a balanced manner; and

(iii) this title.

(B) *MULTIPLE BENEFITS.*—In selecting activities and projects, the Secretary and the heads of the Federal agencies shall consider whether the activities and projects have multiple benefits.

(b) *AUTHORIZED ACTIVITIES.*—The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in subsections (c) through (f) in furtherance of the Calfed Bay-Delta Program as set forth in the Record of Decision, subject to the cost-share and other provisions of this title, if the activity has been—

(1) subject to environmental review and approval, as required under applicable Federal and State law; and

(2) approved and certified by the relevant Federal agency, following consultation and coordination with the Governor, to be consistent with the Record of Decision.

(c) *AUTHORIZATIONS FOR FEDERAL AGENCIES UNDER APPLICABLE LAW.*—

(1) *SECRETARY OF THE INTERIOR.*—The Secretary of the Interior is authorized to carry out the activities described in paragraphs (1) through (10) of subsection (d), to the extent authorized under the reclamation laws, the Central Valley Project Improvement Act (title XXXIV of Public Law 102-575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

(2) *ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.*—The Administrator of the Environmental Protection Agency is authorized to carry out the activities described in paragraphs (3), (5), (6), (7), (8), and (9) of subsection

(d), to the extent authorized under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), and other applicable law.

(3) SECRETARY OF THE ARMY.—The Secretary of the Army is authorized to carry out the activities described in paragraphs (1), (2), (6), (7), (8), and (9) of subsection (d), to the extent authorized under flood control, water resource development, and other applicable law.

(4) SECRETARY OF COMMERCE.—The Secretary of Commerce is authorized to carry out the activities described in paragraphs (2), (6), (7), and (9) of subsection (d), to the extent authorized under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

(5) SECRETARY OF AGRICULTURE.—The Secretary of Agriculture is authorized to carry out the activities described in paragraphs (3), (5), (6), (7), (8), and (9) of subsection (d), to the extent authorized under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107-171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.

(d) DESCRIPTION OF ACTIVITIES UNDER APPLICABLE LAW.—

(1) WATER STORAGE.—

(A) IN GENERAL.—Activities under this paragraph consist of—

(i) planning and feasibility studies for projects to be pursued with project-specific study for enlargement of—

(I) the Shasta Dam in Shasta County; and  
(II) the Los Vaqueros Reservoir in Contra Costa County;

(ii) planning and feasibility studies for the following projects requiring further consideration—

(I) the Sites Reservoir in Colusa County; and  
(II) the Upper San Joaquin River storage in Fresno and Madera Counties;

(iii) developing and implementing groundwater management and groundwater storage projects; and

(iv) comprehensive water management planning.

(B) STORAGE PROJECT AUTHORIZATION AND BALANCED CALFED IMPLEMENTATION.—

(i) IN GENERAL.—If on completion of the feasibility study for a project described in clause (i) or (ii) of subparagraph (A), the Secretary, in consultation with the Governor, determines that the project should be constructed in whole or in part with Federal funds, the Secretary shall submit the feasibility study to Congress.

(ii) FINDING OF IMBALANCE.—If Congress fails to authorize construction of the project by the end of the next full session following the submission of the feasibility study, the Secretary, in consultation with the Governor, shall prepare a written determination making a finding of imbalance for the Calfed Bay-Delta Program.

(iii) REPORT ON REBALANCING.—

(I) IN GENERAL.—If the Secretary makes a finding of imbalance for the Program under clause (ii), the Secretary, in consultation with the Governor, shall, not later than 180 days after the end of the full session described in clause (ii), prepare and submit to Congress a report on the measures necessary to rebalance the Program.

(II) SCHEDULES AND ALTERNATIVES.—The report shall include preparation of revised schedules and identification of alternatives to rebalance the Program, including resubmission of the project to Congress with or without modification, construction of other projects, and construction of other projects that provide equivalent water supply and other benefits at equal or lesser cost.

(C) WATER SUPPLY AND YIELD STUDY.—

(i) IN GENERAL.—The Secretary, acting through the Bureau of Reclamation and in coordination with the State, shall conduct a study

of available water supplies and existing and future needs for water—

(I) within the units of the Central Valley Project;

(II) within the area served by Central Valley Project agricultural, municipal, and industrial water service contractors; and

(III) within the Calfed Delta solution area.

(ii) RELATIONSHIP TO PRIOR STUDY.—In conducting the study, the Secretary shall incorporate and revise, as necessary, the results of the study required by section 3408(j) of the Central Valley Project Improvement Act of 1992 (Public Law 102-575; 106 Stat. 4730).

(iii) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report describing the results of the study, including—

(I) new firm yield and water supply improvements, if any, for Central Valley Project agricultural water service contractors and municipal and industrial water service contractors, including those identified in Bulletin 160;

(II) all water management actions or projects, including those identified in Bulletin 160, that would—

(aa) improve firm yield or water supply; and  
(bb) if taken or constructed, balance available water supplies and existing demand with due recognition of water right priorities and environmental needs;

(III) the financial costs of the actions and projects described under subclause (II); and

(IV) the beneficiaries of those actions and projects and an assessment of the willingness of the beneficiaries to pay the capital costs and operation and maintenance costs of the actions and projects.

(D) MANAGEMENT.—The Secretary shall conduct activities related to developing groundwater storage projects to the extent authorized under law.

(E) COMPREHENSIVE WATER PLANNING.—The Secretary shall conduct activities related to comprehensive water management planning to the extent authorized under law.

(2) CONVEYANCE.—

(A) SOUTH DELTA ACTIONS.—

(i) IN GENERAL.—In the case of the South Delta, activities under this subparagraph consist of—

(I) the South Delta Improvements Program through actions to—

(aa) increase the State Water Project export limit to 8,500 cfs;

(bb) install permanent, operable barriers in the South Delta, under which Federal agencies shall cooperate with the State to accelerate installation of the permanent, operable barriers in the South Delta, with an intent to complete that installation not later than September 30, 2007;

(cc) evaluate, consistent with the Record of Decision, fish screens and intake facilities at the Tracy Pumping Plant facilities; and

(dd) increase the State Water Project export to the maximum capability of 10,300 cfs;

(II) reduction of agricultural drainage in South Delta channels, and other actions necessary to minimize the impact of drainage on drinking water quality;

(III) evaluation of lower San Joaquin River floodway improvements;

(IV) installation and operation of temporary barriers in the South Delta until fully operable barriers are constructed; and

(V) actions to protect navigation and local diversions not adequately protected by temporary barriers.

(ii) ACTIONS TO INCREASE PUMPING.—Actions to increase pumping shall be accomplished in a manner consistent with the Record of Decision requirement to avoid redirected impacts and adverse impacts to fishery protection and with any applicable Federal or State law that protects—

(I) water diversions and use (including avoidance of increased costs of diversion) by in-Delta

water users (including in-Delta agricultural users that have historically relied on water diverted for use in the Delta);

(II) water quality for municipal, industrial, agricultural, and other uses; and

(III) water supplies for areas of origin.

(B) NORTH DELTA ACTIONS.—In the case of the North Delta, activities under this subparagraph consist of—

(i) evaluation and implementation of improved operational procedures for the Delta Cross Channel to address fishery and water quality concerns;

(ii) evaluation of a screened through-Delta facility on the Sacramento River; and

(iii) evaluation of lower Mokelumne River floodway improvements.

(C) INTERTIES.—Activities under this subparagraph consist of—

(i) evaluation and construction of an intertie between the State Water Project California Aqueduct and the Central Valley Project Delta Mendota Canal, near the City of Tracy, as an operation and maintenance activity, except that the Secretary shall design and construct the intertie in a manner consistent with a possible future expansion of the intertie capacity (as described in subsection (f)(1)(B)); and

(ii) assessment of a connection of the Central Valley Project to the Clifton Court Forebay of the State Water Project, with a corresponding increase in the screened intake of the Forebay.

(D) PROGRAM TO MEET STANDARDS.—

(i) IN GENERAL.—Prior to increasing export limits from the Delta for the purposes of conveying water to south-of-Delta Central Valley Project contractors or increasing deliveries through an intertie, the Secretary shall, not later than 1 year after the date of enactment of this Act, in consultation with the Governor, develop and initiate implementation of a program to meet all existing water quality standards and objectives for which the Central Valley Project has responsibility.

(ii) MEASURES.—In developing and implementing the program, the Secretary shall include, to the maximum extent feasible, the measures described in clauses (iii) through (vii).

(iii) RECIRCULATION PROGRAM.—The Secretary shall incorporate into the program a recirculation program to provide flow, reduce salinity concentrations in the San Joaquin River, and reduce the reliance on the New Melones Reservoir for meeting water quality and fishery flow objectives through the use of excess capacity in export pumping and conveyance facilities.

(iv) BEST MANAGEMENT PRACTICES PLAN.—

(I) IN GENERAL.—The Secretary shall develop and implement, in coordination with the State's programs to improve water quality in the San Joaquin River, a best management practices plan to reduce the water quality impacts of the discharges from wildlife refuges that receive water from the Federal Government and discharge salt or other constituents into the San Joaquin River.

(II) COORDINATION WITH INTERESTED PARTIES.—The plan shall be developed in coordination with interested parties in the San Joaquin Valley and the Delta.

(III) COORDINATION WITH ENTITIES THAT DISCHARGE WATER.—The Secretary shall also coordinate activities under this clause with other entities that discharge water into the San Joaquin River to reduce salinity concentrations discharged into the River, including the timing of discharges to optimize their assimilation.

(v) ACQUISITION OF WATER.—The Secretary shall incorporate into the program the acquisition from willing sellers of water from streams tributary to the San Joaquin River or other sources to provide flow, dilute discharges of salt or other constituents, and to improve water quality in the San Joaquin River below the confluence of the Merced and San Joaquin Rivers, and to reduce the reliance on New Melones Reservoir for meeting water quality and fishery flow objectives.

(vi) **PURPOSE.**—The purpose of the authority and direction provided to the Secretary under this subparagraph is to provide greater flexibility in meeting the existing water quality standards and objectives for which the Central Valley Project has responsibility so as to reduce the demand on water from New Melones Reservoir used for that purpose and to assist the Secretary in meeting any obligations to Central Valley Project contractors from the New Melones Project.

(vii) **UPDATING OF NEW MELONES OPERATING PLAN.**—The Secretary shall update the New Melones operating plan to take into account, among other things, the actions described in this title that are designed to reduce the reliance on New Melones Reservoir for meeting water quality and fishery flow objectives, and to ensure that actions to enhance fisheries in the Stanislaus River are based on the best available science.

(3) **WATER USE EFFICIENCY.**—

(A) **WATER CONSERVATION PROJECTS.**—Activities under this paragraph include water conservation projects that provide water supply reliability, water quality, and ecosystem benefits to the California Bay-Delta system.

(B) **TECHNICAL ASSISTANCE.**—Activities under this paragraph include technical assistance for urban and agricultural water conservation projects.

(C) **WATER RECYCLING AND DESALINATION PROJECTS.**—Activities under this paragraph include water recycling and desalination projects, including groundwater remediation projects and projects identified in the Bay Area Water Plan and the Southern California Comprehensive Water Reclamation and Reuse Study and other projects, giving priority to projects that include regional solutions to benefit regional water supply and reliability needs.

(D) **WATER MEASUREMENT AND TRANSFER ACTIONS.**—Activities under this paragraph include water measurement and transfer actions.

(E) **URBAN WATER CONSERVATION.**—Activities under this paragraph include implementation of best management practices for urban water conservation.

(F) **RECLAMATION AND RECYCLING PROJECTS.**—

(i) **PROJECTS.**—This subparagraph applies to—

(I) projects identified in the Southern California Comprehensive Water Reclamation and Reuse Study, dated April 2001 and authorized by section 1606 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-4); and

(II) projects identified in the San Francisco Bay Area Regional Water Recycling Program described in the San Francisco Bay Area Regional Water Recycling Program Recycled Water Master Plan, dated December 1999 and authorized by section 1611 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-9).

(ii) **DEADLINE.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(I) complete the review of the existing studies of the projects described in clause (i); and

(II) make the feasibility determinations described in clause (iii).

(iii) **FEASIBILITY DETERMINATIONS.**—A project described in clause (i) is presumed to be feasible if the Secretary determines for the project—

(I) in consultation with the affected local sponsoring agency and the State, that the existing planning and environmental studies for the project (together with supporting materials and documentation) have been prepared consistent with Bureau of Reclamation procedures for projects under consideration for financial assistance under the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.); and

(II) that the planning and environmental studies for the project (together with supporting materials and documentation) demonstrate that the project will contribute to the goals of im-

proving water supply reliability in the Calfed solution area or the Colorado River Basin within the State and otherwise meets the requirements of section 1604 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-2).

(iv) **REPORT.**—Not later than 90 days after the date of completion of a feasibility study or the review of a feasibility study under this subparagraph, the Secretary shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report describing the results of the study or review.

(4) **WATER TRANSFERS.**—Activities under this paragraph consist of—

(A) increasing the availability of existing facilities for water transfers;

(B) lowering transaction costs through permit streamlining; and

(C) maintaining a water transfer information clearinghouse.

(5) **INTEGRATED REGIONAL WATER MANAGEMENT PLANS.**—Activities under this paragraph consist of assisting local and regional communities in the State in developing and implementing integrated regional water management plans to carry out projects and programs that improve water supply reliability, water quality, ecosystem restoration, and flood protection, or meet other local and regional needs, in a manner that is consistent with, and makes a significant contribution to, the Calfed Bay-Delta Program.

(6) **ECOSYSTEM RESTORATION.**—

(A) **IN GENERAL.**—Activities under this paragraph consist of—

(i) implementation of large-scale restoration projects in San Francisco Bay and the Delta and its tributaries;

(ii) restoration of habitat in the Delta, San Pablo Bay, and Suisun Bay and Marsh, including tidal wetland and riparian habitat;

(iii) fish screen and fish passage improvement projects, including the Sacramento River Small Diversion Fish Screen Program;

(iv) implementation of an invasive species program, including prevention, control, and eradication;

(v) development and integration of Federal and State agricultural programs that benefit wildlife into the Ecosystem Restoration Program;

(vi) financial and technical support for locally-based collaborative programs to restore habitat while addressing the concerns of local communities;

(vii) water quality improvement projects to manage or reduce concentrations of salinity, selenium, mercury, pesticides, trace metals, dissolved oxygen, turbidity, sediment, and other pollutants;

(viii) land and water acquisitions to improve habitat and fish spawning and survival in the Delta and its tributaries;

(ix) integrated flood management, ecosystem restoration, and levee protection projects;

(x) scientific evaluations and targeted research on Program activities; and

(xi) strategic planning and tracking of Program performance.

(B) **REPORTING REQUIREMENTS.**—The Secretary or the head of the relevant Federal agency (as appropriate under clause (ii)) shall provide to the appropriate authorizing committees of the Senate and the House of Representatives and other appropriate parties in accordance with this subparagraph—

(i) an annual ecosystem program plan report in accordance with subparagraph (C); and

(ii) detailed project reports in accordance with subparagraph (D).

(C) **ANNUAL ECOSYSTEM PROGRAM PLAN.**—

(i) **IN GENERAL.**—Not later than October 1 of each year, with respect to each ecosystem restoration action carried out using Federal funds under this title, the Secretary, in consultation with the Governor, shall submit to the appropriate authorizing committees of the Senate and

the House of Representatives an annual ecosystem program plan report.

(ii) **PURPOSES.**—The purposes of the report are—

(I) to describe the projects and programs to implement this subsection in the following fiscal year; and

(II) to establish priorities for funding the projects and programs for subsequent fiscal years.

(iii) **CONTENTS.**—The report shall describe—

(I) the goals and objectives of the programs and projects;

(II) program accomplishments;

(III) major activities of the programs;

(IV) the Federal agencies involved in each project or program identified in the plan and the cost-share arrangements with cooperating agencies;

(V) the resource data and ecological monitoring data to be collected for the restoration projects and how the data are to be integrated, streamlined, and designed to measure the effectiveness and overall trend of ecosystem health in the Bay-Delta watershed;

(VI) implementation schedules and budgets;

(VII) existing monitoring programs and performance measures;

(VIII) the status and effectiveness of measures to minimize the impacts of the program on agricultural land; and

(IX) a description of expected benefits of the restoration program relative to the cost.

(iv) **SPECIAL RULE FOR LAND ACQUISITION USING FEDERAL FUNDS.**—For each ecosystem restoration project involving land acquisition using Federal funds under this title, the Secretary shall—

(I) identify the specific parcels to be acquired in the annual ecosystem program plan report under this subparagraph; or

(II) not later than 150 days before the project is approved, provide to the appropriate authorizing committees of the Senate and the House of Representatives, the United States Senators from the State, and the United States Representative whose district would be affected, notice of any such proposed land acquisition using Federal funds under this title submitted to the Federal or State agency.

(D) **DETAILED PROJECT REPORTS.**—

(i) **IN GENERAL.**—In the case of each ecosystem restoration program or project funded under this title that is not specifically identified in an annual ecosystem program plan under subparagraph (C), not later than 45 days prior to approval, the Secretary, in coordination with the State, shall submit to the appropriate authorizing committees of the Senate and the House of Representatives recommendations on the proposed program or project.

(ii) **CONTENTS.**—The recommendations shall—

(I) describe the selection of the program or project, including the level of public involvement and independent science review;

(II) describe the goals, objectives, and implementation schedule of the program or project, and the extent to which the program or project addresses regional and programmatic goals and priorities;

(III) describe the monitoring plans and performance measures that will be used for evaluating the performance of the proposed program or project;

(IV) identify any cost-sharing arrangements with cooperating entities;

(V) identify how the proposed program or project will comply with all applicable Federal and State laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(VI) in the case of any program or project involving the acquisition of private land using Federal funds under this title—

(aa) describe the process and timing of notification of interested members of the public and local governments;

(bb) describe the measures taken to minimize impacts on agricultural land pursuant to the Record of Decision; and

(cc) include preliminary management plans for all properties to be acquired with Federal funds, including an overview of existing conditions (including habitat types in the affected project area), the expected ecological benefits, preliminary cost estimates, and implementation schedules.

(7) **WATERSHEDS.**—Activities under this paragraph consist of—

(A) building local capacity to assess and manage watersheds affecting the Delta system;

(B) technical assistance for watershed assessments and management plans; and

(C) developing and implementing locally-based watershed conservation, maintenance, and restoration actions.

(8) **WATER QUALITY.**—Activities under this paragraph consist of—

(A) addressing drainage problems in the San Joaquin Valley to improve downstream water quality (including habitat restoration projects that improve water quality) if—

(i) a plan is in place for monitoring downstream water quality improvements; and

(ii) State and local agencies are consulted on the activities to be funded;

except that no right, benefit, or privilege is created as a result of this subparagraph;

(B) implementation of source control programs in the Delta and its tributaries;

(C) developing recommendations through scientific panels and advisory council processes to meet the Calfed Bay-Delta Program goal of continuous improvement in Delta water quality for all uses;

(D) investing in treatment technology demonstration projects;

(E) controlling runoff into the California aqueduct, the Delta-Mendota Canal, and other similar conveyances;

(F) addressing water quality problems at the North Bay Aqueduct;

(G) supporting and participating in the development of projects to enable San Francisco Bay Area water districts, and water entities in San Joaquin and Sacramento Counties, to work cooperatively to address their water quality and supply reliability issues, including—

(i) connections between aqueducts, water transfers, water conservation measures, institutional arrangements, and infrastructure improvements that encourage regional approaches; and

(ii) investigations and studies of available capacity in a project to deliver water to the East Bay Municipal Utility District under its contract with the Bureau of Reclamation, dated July 20, 2001, in order to determine if such capacity can be utilized to meet the objectives of this subparagraph;

(H) development of water quality exchanges and other programs to make high quality water available for urban and other users;

(I) development and implementation of a plan to meet all Delta water quality standards for which the Federal and State water projects have responsibility;

(J) development of recommendations through science panels and advisory council processes to meet the Calfed Bay-Delta Program goal of continuous improvement in water quality for all uses; and

(K) projects that are consistent with the framework of the water quality component of the Calfed Bay-Delta Program.

(9) **SCIENCE.**—Activities under this paragraph consist of—

(A) supporting establishment and maintenance of an independent science board, technical panels, and standing boards to provide oversight and peer review of the Program;

(B) conducting expert evaluations and scientific assessments of all Program elements;

(C) coordinating existing monitoring and scientific research programs;

(D) developing and implementing adaptive management experiments to test, refine, and improve scientific understandings;

(E) establishing performance measures, and monitoring and evaluating the performance of all Program elements; and

(F) preparing an annual science report.

(10) **DIVERSIFICATION OF WATER SUPPLIES.**—Activities under this paragraph consist of actions to diversify sources of level 2 refuge supplies and modes of delivery to refuges while maintaining the diversity of level 4 supplies pursuant to section 3406(d)(2) of the Central Valley Project Improvement Act (Public Law 102-575; 106 Stat. 4723).

(e) **NEW AND EXPANDED AUTHORIZATIONS FOR FEDERAL AGENCIES.**—

(1) **IN GENERAL.**—The heads of the Federal agencies described in this subsection are authorized to carry out the activities described in subsection (f) during each of fiscal years 2005 through 2010, in coordination with the Governor.

(2) **SECRETARY OF THE INTERIOR.**—The Secretary of the Interior is authorized to carry out the activities described in paragraphs (1), (2), and (4) of subsection (f).

(3) **ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY AND THE SECRETARIES OF AGRICULTURE AND COMMERCE.**—The Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the Secretary of Commerce are authorized to carry out the activities described in subsection (f)(4).

(4) **SECRETARY OF THE ARMY.**—The Secretary of the Army is authorized to carry out the activities described in paragraphs (3) and (4) of subsection (f).

(f) **DESCRIPTION OF ACTIVITIES UNDER NEW AND EXPANDED AUTHORIZATIONS.**—

(1) **CONVEYANCE.**—Of the amounts authorized to be appropriated under section 109, not more than \$184,000,000 may be expended for the following:

(A) **SAN LUIS RESERVOIR.**—Funds may be expended for feasibility studies, evaluation, and implementation of the San Luis Reservoir lowpoint improvement project, except that Federal participation in any construction of an expanded Pacheco Reservoir shall be subject to future congressional authorization.

(B) **INTERTIE.**—Funds may be expended for feasibility studies and evaluation of increased capacity of the intertie between the State Water Project California Aqueduct and the Central Valley Project Delta Mendota Canal.

(C) **FRANKS TRACT.**—Funds may be expended for feasibility studies and actions at Franks Tract to improve water quality in the Delta.

(D) **CLIFTON COURT FOREBAY AND THE TRACY PUMPING PLANT.**—Funds may be expended for feasibility studies and design of fish screen and intake facilities at Clifton Court Forebay and the Tracy Pumping Plant facilities.

(E) **DRINKING WATER INTAKE FACILITIES.**—

(i) **IN GENERAL.**—Funds may be expended for design and construction of the relocation of drinking water intake facilities to in-Delta water users.

(ii) **DRINKING WATER QUALITY.**—The Secretary shall coordinate actions for relocating intake facilities on a time schedule consistent with subsection (d)(2)(A)(i)(I)(bb) or take other actions necessary to offset the degradation of drinking water quality in the Delta due to the South Delta Improvement Program.

(F) **NEW MELONES RESERVOIR.**—

(i) **IN GENERAL.**—In addition to the other authorizations granted to the Secretary by this title, the Secretary shall acquire water from willing sellers and undertake other actions designed to decrease releases from the New Melones Reservoir for meeting water quality standards and flow objectives for which the Central Valley Project has responsibility to assist in meeting allocations to Central Valley Project contractors from the New Melones Reservoir.

(ii) **PURPOSE.**—The authorization under this subparagraph is solely meant to add flexibility for the Secretary to meet any obligations of the

Secretary to the Central Valley Project contractors from the New Melones Project by reducing demand for water dedicated to meeting water quality standards in the San Joaquin River.

(iii) **FUNDING.**—Of the amounts authorized to be appropriated under section 109, not more than \$30,000,000 may be expended to carry out clause (i).

(G) **RECIRCULATION OF EXPORT WATER.**—Funds may be used to conduct feasibility studies, evaluate, and, if feasible, implement the recirculation of export water to reduce salinity and improve dissolved oxygen in the San Joaquin River.

(2) **ENVIRONMENTAL WATER ACCOUNT.**—

(A) **IN GENERAL.**—Of the amounts authorized to be appropriated under section 109, not more than \$90,000,000 may be expended for implementation of the Environmental Water Account.

(B) **NONREIMBURSABLE FEDERAL EXPENDITURE.**—Expenditures under subparagraph (A) shall be considered a nonreimbursable Federal expenditure in recognition of the payments of the contractors of the Central Valley Project to the Restoration Fund created by the Central Valley Project Improvement Act (Title XXXIV of Public Law 102-575; 106 Stat. 4706).

(C) **USE OF RESTORATION FUND.**—

(i) **IN GENERAL.**—Of the amounts appropriated for the Restoration Fund for each fiscal year, an amount not to exceed \$10,000,000 for any fiscal year may be used to implement the Environmental Water Account to the extent those actions are consistent with the fish and wildlife habitat restoration and improvement purposes of the Central Valley Project Improvement Act.

(ii) **ACCOUNTING.**—Any such use of the Restoration Fund shall count toward the 33 percent of funds made available to the Restoration Fund that, pursuant to section 3407(a) of the Central Valley Project Improvement Act, are otherwise authorized to be appropriated to the Secretary to carry out paragraphs (4) through (6), (10) through (18), and (20) through (22) of section 3406(b) of that Act.

(iii) **FEDERAL FUNDING.**—The \$10,000,000 limitation on the use of the Restoration Fund for the Environmental Water Account under clause (i) does not limit the appropriate amount of Federal funding for the Environmental Water Account.

(3) **LEEVE STABILITY.**—

(A) **IN GENERAL.**—For purposes of implementing the Calfed Bay-Delta Program within the Delta (as defined in Cal. Water Code § 12220), the Secretary of the Army is authorized to undertake the construction and implementation of levee stability programs or projects for such purposes as flood control, ecosystem restoration, water supply, water conveyance, and water quality objectives.

(B) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Secretary of the Army shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report that describes the levee stability reconstruction projects and priorities that will be carried out under this title during each of fiscal years 2005 through 2010.

(C) **SMALL FLOOD CONTROL PROJECTS.**—Notwithstanding the project purpose, the authority granted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) shall apply to each project authorized under this paragraph.

(D) **PROJECTS.**—Of the amounts authorized to be appropriated under section 109, not more than \$90,000,000 may be expended to—

(i) reconstruct Delta levees to a base level of protection (also known as the “Public Law 84-99 standard”);

(ii) enhance the stability of levees that have particular importance in the system through the Delta Levee Special Improvement Projects Program;

(iii) develop best management practices to control and reverse land subsidence on Delta islands;

(iv) develop a Delta Levee Emergency Management and Response Plan that will enhance the ability of Federal, State, and local agencies to rapidly respond to levee emergencies;

(v) develop a Delta Risk Management Strategy after assessing the consequences of Delta levee failure from floods, seepage, subsidence, and earthquakes;

(vi) reconstruct Delta levees using, to the maximum extent practicable, dredged materials from the Sacramento River, the San Joaquin River, and the San Francisco Bay in reconstructing Delta levees;

(vii) coordinate Delta levee projects with flood management, ecosystem restoration, and levee protection projects of the lower San Joaquin River and lower Mokelumne River floodway improvements and other projects under the Sacramento-San Joaquin Comprehensive Study; and

(viii) evaluate and, if appropriate, rehabilitate the Suisun Marsh levees.

(4) PROGRAM MANAGEMENT, OVERSIGHT, AND COORDINATION.—

(A) IN GENERAL.—Of the amounts authorized to be appropriated under section 109, not more than \$25,000,000 may be expended by the Secretary or the other heads of Federal agencies, either directly or through grants, contracts, or cooperative agreements with agencies of the State, for—

(i) Program support;

(ii) Program-wide tracking of schedules, finances, and performance;

(iii) multiagency oversight and coordination of Program activities to ensure Program balance and integration;

(iv) development of interagency cross-cut budgets and a comprehensive finance plan to allocate costs in accordance with the beneficiary pays provisions of the Record of Decision;

(v) coordination of public outreach and involvement, including tribal, environmental justice, and public advisory activities in accordance with the Federal Advisory Committee Act (5 U.S.C. App.); and

(vi) development of Annual Reports.

(B) PROGRAM-WIDE ACTIVITIES.—Of the amount referred to in subparagraph (A), not less than 50 percent of the appropriated amount shall be provided to the California Bay-Delta Authority to carry out Program-wide management, oversight, and coordination activities.

#### SEC. 104. MANAGEMENT.

(a) COORDINATION.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall coordinate their activities with the State agencies.

(b) PUBLIC PARTICIPATION.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall cooperate with local and tribal governments and the public through an advisory committee established in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) and other appropriate means, to seek input on Program planning and design, technical assistance, and development of peer review science programs.

(c) SCIENCE.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall seek to ensure, to the maximum extent practicable, that—

(1) all major aspects of implementing the Program are subjected to credible and objective scientific review; and

(2) major decisions are based upon the best available scientific information.

(d) GOVERNANCE.—

(1) IN GENERAL.—In carrying out the Calfed Bay-Delta Program, the Secretary and the Federal agency heads are authorized to participate as nonvoting members of the California Bay-Delta Authority, as established in the California Bay-Delta Authority Act (Cal. Water Code §7940 et seq.), to the extent consistent with Federal law, for the full duration of the period the Authority continues to be authorized by State law.

(2) RELATIONSHIP TO FEDERAL LAW AND AGENCIES.—Nothing in this subsection shall preempt or otherwise affect any Federal law or limit the statutory authority of any Federal agency.

(3) CALIFORNIA BAY-DELTA AUTHORITY.—

(A) ADVISORY COMMITTEE.—The California Bay-Delta Authority shall not be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(B) FINANCIAL INTEREST.—The financial interests of the California Bay-Delta Authority shall not be imputed to any Federal official participating in the Authority.

(C) ETHICS REQUIREMENTS.—A Federal official participating in the California Bay-Delta Authority shall remain subject to Federal financial disclosure and conflict of interest laws and shall not be subject to State financial disclosure and conflict of interest laws.

(e) ENVIRONMENTAL JUSTICE.—The Federal agencies, consistent with Executive Order 12898 (59 Fed. Reg. 7629), should continue to collaborate with State agencies to—

(1) develop a comprehensive environmental justice workplan for the Calfed Bay-Delta Program; and

(2) fulfill the commitment to addressing environmental justice challenges referred to in the Calfed Bay-Delta Program Environmental Justice Workplan, dated December 13, 2000.

(f) LAND ACQUISITION.—Federal funds appropriated by Congress specifically for implementation of the Calfed Bay-Delta Program may be used to acquire fee title to land only where consistent with the Record of Decision.

#### SEC. 105. REPORTING REQUIREMENTS.

(a) REPORT.—

(1) IN GENERAL.—Not later than February 15 of each year, the Secretary, in cooperation with the Governor, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report that—

(A) describes the status of implementation of all components of the Calfed Bay-Delta Program;

(B) sets forth any written determination resulting from the review required under subsection (b) or section 103(d)(1)(B); and

(C) includes any revised schedule prepared under subsection (b) or section 103(d)(1)(B)(iii)(II).

(2) CONTENTS.—The report required under paragraph (1) shall describe—

(A) the progress of the Calfed Bay-Delta Program in meeting the implementation schedule for the Program in a manner consistent with the Record of Decision;

(B) the status of implementation of all components of the Program;

(C) expenditures in the past fiscal year for implementing the Program;

(D) accomplishments during the past fiscal year in achieving the objectives of additional and improved—

(i) water storage;

(ii) water quality, including—

(I) the water quality targets described in section 2.2.9 of the Record of Decision; and

(II) any pending actions that may affect the ability of the Calfed Bay-Delta Program to achieve those targets and requirements;

(iii) water use efficiency;

(iv) ecosystem restoration;

(v) watershed management;

(vi) levee system integrity;

(vii) water transfers;

(viii) water conveyance;

(ix) water supply reliability (including new firm yield), including progress in achieving the water supply targets described in section 2.2.4 of the Record of Decision and any pending actions that may affect the ability of the Calfed Bay-Delta Program to achieve those targets; and

(x) the uses and assets of the environmental water account described in section 2.2.7 of the Record of Decision;

(E) Program goals, current schedules, and relevant financing agreements, including funding levels necessary to achieve completion of the feasibility studies and environmental documentation for the surface storage projects identified in section 103 by not later than September 30, 2008;

(F) progress on—

(i) storage projects;

(ii) conveyance improvements;

(iii) levee improvements;

(iv) water quality projects; and

(v) water use efficiency programs;

(G) completion of key projects and milestones identified in the Ecosystem Restoration Program, including progress on project effectiveness, monitoring, and accomplishments;

(H) development and implementation of local programs for watershed conservation and restoration;

(I) progress in improving water supply reliability and implementing the Environmental Water Account;

(J) achievement of commitments under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and endangered species law of the State;

(K) implementation of a comprehensive science program;

(L) progress toward acquisition of the Federal and State permits (including permits under section 404(a) of the Federal Water Pollution Control Act (33 U.S.C. 1344(a))) for implementation of projects in all identified Program areas;

(M) progress in achieving benefits in all geographic regions covered by the Program;

(N) legislative action on—

(i) water transfer;

(ii) groundwater management;

(iii) water use efficiency; and

(iv) governance;

(O) the status of complementary actions;

(P) the status of mitigation measures; and

(Q) revisions to funding commitments and Program responsibilities.

(b) ANNUAL REVIEW OF PROGRESS AND BALANCE.—

(1) IN GENERAL.—Not later than November 15 of each year, the Secretary, in cooperation with the Governor, shall review progress in implementing the Calfed Bay-Delta Program based on—

(A) consistency with the Record of Decision; and

(B) balance in achieving the goals and objectives of the Calfed Bay-Delta Program.

(2) REVISED SCHEDULE.—If, at the conclusion of each such annual review or if a timely annual review is not undertaken, the Secretary or the Governor determines in writing that either the Program implementation schedule has not been substantially adhered to, or that balanced progress in achieving the goals and objectives of the Program is not occurring, the Secretary and the Governor, in coordination with the Bay-Delta Public Advisory Committee, shall prepare a revised schedule to achieve balanced progress in all Calfed Bay-Delta Program elements consistent with the intent of the Record of Decision.

(c) FEASIBILITY STUDIES.—Any feasibility studies completed as a result of this title shall include identification of project benefits and a cost allocation plan consistent with the beneficiaries pay provisions of the Record of Decision.

#### SEC. 106. CROSSCUT BUDGET.

(a) IN GENERAL.—The President's budget shall include such requests as the President considers necessary and appropriate for the appropriate level of funding for each of the Federal agencies to carry out its responsibilities under the Calfed Bay-Delta Program.

(b) REQUESTS BY FEDERAL AGENCIES.—The funds shall be requested for the Federal agency with authority and programmatic responsibility for the obligation of the funds, in accordance with subsections (b) through (f) of section 103.

(c) REPORT.—Not later than 30 days after submission of the budget of the President to Congress, the Director of the Office of Management

and Budget, in coordination with the Governor, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a financial report certified by the Secretary containing—

(1) an interagency budget crosscut report that—

(A) displays the budget proposed, including any interagency or intra-agency transfer, for each of the Federal agencies to carry out the Calfed Bay-Delta Program for the upcoming fiscal year, separately showing funding requested under both pre-existing authorities and under the new authorities granted by this title; and

(B) identifies all expenditures since 1998 by the Federal and State governments to achieve the objectives of the Calfed Bay-Delta Program;

(2) a detailed accounting of all funds received and obligated by all Federal agencies and State agencies responsible for implementing the Calfed Bay-Delta Program during the previous fiscal year;

(3) a budget for the proposed projects (including a description of the project, authorization level, and project status) to be carried out in the upcoming fiscal year with the Federal portion of funds for activities under subsections (b) through (f) of section 103; and

(4) a listing of all projects to be undertaken in the upcoming fiscal year with the Federal portion of funds for activities under subsections (b) through (f) of section 103.

#### SEC. 107. FEDERAL SHARE OF COSTS.

(a) IN GENERAL.—The Federal share of the cost of implementing the Calfed Bay-Delta Program for fiscal years 2005 through 2010 in the aggregate, as set forth in the Record of Decision, shall not exceed 33.3 percent.

(b) PAYMENT FOR BENEFITS.—The Secretary shall ensure that all beneficiaries, including beneficiaries of environmental restoration and other Calfed program elements, shall pay for the benefit received from all projects or activities carried out under the Calfed Bay-Delta Program.

(c) INTEGRATED RESOURCE PLANNING.—Federal expenditures for the Calfed Bay-Delta Program shall be implemented in a manner that encourages integrated resource planning.

#### SEC. 108. COMPLIANCE WITH STATE AND FEDERAL LAW.

Nothing in this title—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water;

(3) preempts or modifies any State or Federal law or interstate compact governing water quality or disposal;

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource; or

(5) alters or modifies any provision of existing Federal law, except as specifically provided in this title.

#### SEC. 109. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated to the Secretary and the heads of the Federal agencies to pay the Federal share of the cost of carrying out the new and expanded authorities described in subsections (e) and (f) of section 103 \$389,000,000 for the period of fiscal years 2005 through 2010, to remain available until expended.

### TITLE II—MISCELLANEOUS

#### SEC. 201. SALTON SEA STUDY PROGRAM.

Not later than December 31, 2006, the Secretary of the Interior, in coordination with the State of California and the Salton Sea Authority, shall complete a feasibility study on a preferred alternative for Salton Sea restoration.

#### SEC. 202. ALDER CREEK WATER STORAGE AND CONSERVATION PROJECT FEASIBILITY STUDY AND REPORT.

(a) STUDY.—Pursuant to Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chap-

ter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.), the Secretary of the Interior (referred to in this section as the “Secretary”), through the Bureau of Reclamation, and in consultation and cooperation with the El Dorado Irrigation District, is authorized to conduct a study to determine the feasibility of constructing a project on Alder Creek in El Dorado County, California, to store water and provide water supplies during dry and critically dry years for consumptive use, recreation, in-stream flows, irrigation, and power production.

(b) REPORT.—

(1) TRANSMISSION.—On completion of the study authorized by subsection (a), the Secretary shall transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing the results of the study.

(2) CONTENTS OF REPORT.—The report shall contain appropriate cost sharing options for the implementation of the project based on the use and possible allocation of any stored water.

(3) USE OF AVAILABLE MATERIALS.—In developing the report under this section, the Secretary shall use reports and any other relevant information supplied by the El Dorado Irrigation District.

(c) COST SHARE.—

(1) FEDERAL SHARE.—The Federal share of the costs of the feasibility study authorized by this section shall not exceed 50 percent of the total cost of the study.

(2) IN-KIND CONTRIBUTION FOR NON-FEDERAL SHARE.—The Secretary may accept as part of the non-Federal cost share the contribution such in-kind services by the El Dorado Irrigation District as the Secretary determines will contribute to the conduct and completion of the study.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$3,000,000.

#### SEC. 203. FOLSOM RESERVOIR TEMPERATURE CONTROL DEVICE AUTHORIZATION.

Section 1(c) of Public Law 105-295 (112 Stat. 2820) (as amended by section 219(b) of Public Law 108-137 (117 Stat. 1853)) is amended in the second sentence by striking “\$3,500,000” and inserting “\$6,250,000”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

#### GENERAL LEAVE

Mr. POMBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material in the record on H.R. 2828, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Today’s consideration of this historic bill is a giant step forward in resolving California’s water supply problems. This legislation is proof that developing our water supplies is a bipartisan endeavor. Chairman of the Subcommittee on Water and Power, the gentleman from California (Mr. CALVERT), the original author of the bill, Senator FEINSTEIN, the ranking member on the Subcommittee on Water and

Power, the gentlewoman from California (Mrs. NAPOLITANO), and others have worked constructively to reach agreement with our Senate colleagues since the bill passed out of the House.

The original intent of Calfed was to provide balance to a complex water delivery system to ensure everyone gets better together. That is what this bill does. H.R. 2828, as amended, simply and truly ensures that water quality, water supply and reliability, environmental restoration, fisheries protection, recreational values, and others all advance together. We have made significant progress in resolving the tough issues to bring before this chamber a bill that works for all those involved.

This bill makes historic strides in water quality improvements throughout California and brings together the collective efforts of all water users to provide cleaner water for everyone. The importance in moving the program forward with balanced implementation cannot be overemphasized. It is the very essence of the bill as now amended.

Specifically, balanced implementation for the first time under this bill creates storage as the linchpin for implementation of all Calfed elements. Across the board, newer and larger facilities are needed to store the excess flows now running to the ocean for later use by growing populations and the environment. Actions are necessary now to secure water and provide better water supplies for future generations of Californians. This bill ensures that the program will be carried out in balance with new water storage or else the entire program will simply not exist. To reiterate, new water storage is the linchpin of the entire program. Without it, we cannot achieve our goals of a balanced program.

My colleagues in the House and Senate have brought ultimate resolution to this bipartisan effort, and I urge my colleagues to support this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I want to begin by thanking the gentleman from California (Mr. CALVERT) and the gentleman from California (Mr. POMBO) for their assistance, and leadership, in moving this legislation, along with the gentlewoman from California (Mrs. NAPOLITANO) from our side of the aisle. I also want to thank Senator BOXER and Senator FEINSTEIN for helping to get this successfully through the Senate.

I just want to raise a couple of points, and that is that this past summer, when an earlier version of this legislation was on the House floor, I offered a motion, along with the gentlewoman from California (Mrs. TAUSCHER) to correct what I believed was a fatal flaw in that legislation, the so-called preauthorization provision of the House, that would have granted a

blank check to Federal agencies to spend billions of dollars on dams and other projects in California. It was our strong belief that this provision would in fact never pass the Senate; it would become controversial and bog down this matter in the legislative process.

Fortunately, that provision of this legislation was removed at the insistence of members of the Senate. And the discussion that somehow, if we removed it, it would blow up the Calfed program has turned out to be the opposite. The removal of that has allowed Senators from other parts of the country to let us proceed for this long overdue legislation and hold together the coalition that was put together in the House in support of this legislation on both sides of the aisle.

Again, I want to thank all of the tireless efforts that Senator FEINSTEIN put into negotiating this legislation in the Senate. There is no question this was most difficult for the gentleman from California (Mr. CALVERT) in the House. I just asked him whether or not various Members of the House were happy, and he told me happiness was not the test in this legislation, but perhaps relative happiness was the test. And I think maybe, that being the goal, we have put together support for this legislation. And I want to thank him for those negotiations.

The bill we are considering today contains one complicated provision having to do with the balance in the Calfed program. Concerns have been raised that the finding of imbalance in this provision would be disruptive to the Calfed program. This should not be the case. Congress might indeed exercise its prerogative and refuse to authorize a surface storage project if a less expensive or less damaging water supply alternative exists. That action would trigger this rebalancing provision, which includes a specific remedy and report to the Congress that should include those alternative supplies. As in the case of surface storage facilities, these alternative water supplies should be financed by the principle of "beneficiary pays," just like every other aspect of the Calfed program.

Finally, it is important to note that the bill reflects the fact that ecosystem restoration and several other Calfed activities, that have not received new authorization in this bill, are already authorized under Federal law. As the program moves forward, the authorization will include the balanced funding for these program elements as well.

Again, I want to thank all of the members of the Committee on Resources, and I want to thank the gentlewoman from California (Mrs. TAUSCHER) and the gentleman from California (Mr. POMBO), who we share areas covering the great Sacramento San Joaquin Delta in our State, and the gentleman from California (Mr. POMBO) was able to get some people to slow down and give some serious consideration to the problems that have

plagued the users of the delta, both the agricultural interests and our municipal users and the environmental concerns in the delta to make sure that in fact we could come up with the most balanced program possible to meet all of those needs.

Mr. Speaker, I reserve the balance of my time.

Mr. POMBO. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DREIER).

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me this time, and I would like to build on the remarks of my friend from Martinez by saying that I am extraordinarily happy that everyone else is relatively happy over this very important piece of legislation. I am happy because my colleagues, the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. CALVERT) have worked so closely with the gentleman from California (Mr. GEORGE MILLER), the gentlewoman from California (Mrs. TAUSCHER), the gentlewoman from California (Mrs. NAPOLITANO), and others.

Focusing on the Bay-Delta region is something that has been a priority for many, many years, and it is something that will benefit not only Californians, but it will benefit us regionally.

I also want to join in extending congratulations to our California colleague DIANNE FEINSTEIN, and of course our friend Senator PETE DOMENICI, who worked hard and long in fashioning this. The gentleman from California (Mr. CALVERT) has been championing this effort for many, many years.

One other word of thanks has to go out on this, and I know some people will cringe when I say this, Mr. Speaker, but exactly 1 year ago tomorrow, the people of California, by an overwhelming margin, chose to recall the governor and elect Arnold Schwarzenegger as our new governor. That happened exactly 1 year ago. And from that campaign forward, this has been a very high priority for Governor Schwarzenegger.

We have seen in California huge geographic disagreement over the issue of water. And it has taken a long period of time for our State, and there are often so many jokes about what happens to California water and disagreements, almost a civil war on this issue of water between the north and the south, and to be able to focus on this Calfed issue in a bipartisan way and to address the regional concerns is something that is virtually unprecedented.

So I would like to argue that it took the leadership not only of Arnold Schwarzenegger but of this tremendous coalition here in the House of Representatives, and I think it will go a long way towards addressing the very important agriculture needs and the economic needs of our State. And I thank the gentleman from California

(Mr. POMBO) once again for his strong support in this effort.

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Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. NAPOLITANO) who has been very active in this matter for several years.

Mrs. NAPOLITANO. Mr. Speaker, I rise in strong support of H.R. 2828, the bill to reauthorize the CALFED Bay-Delta Program. I certainly associate myself with the comments of my colleagues, with the exception of Chairman DREIER's. I never saw the Governor at our meetings. I wish he had been. It would have helped. I would like to thank my good friend and colleague from California (Mr. CALVERT). His tireless efforts during the past two sessions of Congress to bring all CALFED stakeholders to the table and resolve several complex issues relating to California water management have paid off.

I also would like to thank and recognize the gentleman from California (Mr. POMBO), the gentleman from California (Mr. DREIER), the gentleman from West Virginia (Mr. RAHALL), and the gentleman from California (Mr. GEORGE MILLER) and especially Senators FEINSTEIN, BOXER, and DOMENICI for their excellent assistance while we worked to move this legislation throughout the 108th Congress.

The State of California for the past several years has also been operating under the most restrictive allocation of Colorado River water in history. We have been, rightfully so, told by the Interior Department that we need to reduce our water take from the river by 800,000 acre-feet by the year 2016.

Mr. Speaker, I am very pleased that this final version of H.R. 2828 addresses the current severe drought situation by including strong water-use efficiency language that would enable Southern California to take less water from Colorado River and the fragile bay-delta ecosystem through recycling and restoring our groundwater supply. As a former local and State-elected official, I have learned firsthand how groundwater reclamation activities combined with recycling efforts solved problems at the local level.

Now, as a Member of Congress, I have also learned that these projects commonly referred to, and everybody knows them as title XVI, title XVI projects, provide solutions to some of the most challenging community issues we face today and will confront tomorrow, not only in Southern California but throughout the western States.

Mr. Speaker, the key to solving California's water problems is in building partnerships. I sincerely appreciate the partnership and progress that we have all made on this legislation since its introduction last fall. I look forward to the enactment of H.R. 2828.

Mr. POMBO. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. NUNES).

Mr. NUNES. Mr. Speaker, it is really a privilege to stand up today and thank all of my colleagues who have worked so hard on this bill. This has been one of these bills in Congress that has really been a California Member bipartisan effort that we have worked with both Republicans and Democrats to come forth with a compromise on such tough language dealing with water. The gentleman from California (Mr. CALVERT) and the gentlewoman from California (Mrs. NAPOLITANO) should be thanked for holding hearings throughout the State of California last year leading up to this language.

We have strong commitments on storage. The gentleman from California (Mr. DREIER) mentioned Governor Schwarzenegger's support on storage. This is part of the overall agreement that has been achieved not only through this bill but through other agreements that have been made outside it because of this bill passing today on the floor of the House.

As we move forward, it is important for the folks in the United States and all over California to realize as California grows to 35, 40 million people, we have to have new water storage. This bill lays the groundwork for that. We are going to be working hard with the appropriators to continue to move forward on the storage aspects and the funding for the studies and obviously with our colleagues in the Senate, DIANNE FEINSTEIN, who has done a phenomenal job in moving this language forward.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. I thank the gentleman for yielding me this time.

Mr. Speaker, I am very pleased today to have the opportunity to vote in support of reasonable and responsible CALFED legislation. I want to thank the gentleman from California (Mr. POMBO), the gentleman from California (Mr. CALVERT), the gentlewoman from California (Mrs. NAPOLITANO), and especially the gentleman from California (Mr. GEORGE MILLER) for their leadership and especially the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. CALVERT) for acceding to the Senate language.

As I said when the House first considered this legislation this summer, it is well past time that the State of California and the Federal Government get to work in active partnership to restore the delta's ecosystem and meet our State's growing water needs.

For too many years, Mr. Speaker, because agreement was not reached, California lost tens of millions of dollars which could have been used to begin work on these vitally important projects. In fiscal years 2001, 2002, 2003 and 2004, zero was appropriated for the CALFED projects. We could not allow this to continue. And so I am glad today we are considering the Senate version of this measure, ushered

through by the hard work of our senior Senator, DIANNE FEINSTEIN.

This bill preserves the existing record of decision, strips the divisive preauthorization language, and best balances the vital water interests in our region. Fortunately, today's legislation will make new water projects subject to the critical public review and public participation process which the gentleman from California (Mr. GEORGE MILLER) and I have been fighting for, which will secure the integrity of the CALFED program into the future.

Under an open process and through this renewed Federal-State partnership, we can begin to address issues of water supply restoration, ecosystem restoration, and water-quality enhancement so vital to the future of California. As the sixth largest economy in the world, as home to some of the world's most unique, yet endangered, species and ecosystems, and as a major key to the economic strength of our Nation, it is critical that we endeavor to address our State's aging water infrastructure and diminishing resources. The CALFED program will allow us to do so. I am pleased to join my California colleagues in supporting it. I urge a "yes" vote.

Mr. POMBO. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CALVERT), the author of the legislation.

Mr. CALVERT. I thank the gentleman from California for yielding me this time.

Mr. Speaker, today's consideration of this bill is a giant step forward in resolving California's water supply problems. Our water security is a critically important issue. In California alone in the last 2 decades, the population has grown over 30 percent while the water supply in storage has increased by a mere 2 percent. Over the next 15 years, California must reduce its dependence on the Colorado River by 15 percent while the population in California is projected to grow by yet another 30 percent. California's Department of Water Resources estimates that the gap between water supply and demand in the State will total 2.4 million acre-feet in normal years of rainfall and up to 6.2 million acre-feet in drought years. When you consider that a family of five uses an average of one acre-foot of water per year, it is not that difficult to imagine how destabilizing such shortages would be to California and to other western States.

We have come a long way over the last few years in assuring a reliable water supply for California. Since I have been chairman of the Subcommittee on Water and Power, we have conducted many field hearings in California, legislative hearings here in Washington, markups and too many meetings to count to get to where we are today. Today's bill is a culmination of the work and deliberation by many of us over the years. Since 1995, I have worked to bring certainty and a bal-

anced road map for water use in California and the West. Since this bill passed the House several months ago, I have worked with the gentleman from California (Mr. POMBO), Senator FEINSTEIN, the gentleman from California (Mr. GEORGE MILLER), and, of course, the gentlewoman from California (Mrs. NAPOLITANO) and many others who have worked hard to bring this bill to the floor.

The original intent of CALFED was to provide a balance to a complex water delivery system. H.R. 2828 achieves this goal. Under this bill, the environment, recreation, drinking water, agriculture, and industry all get better together. As our distinguished colleague from California (Mr. POMBO) has stated, this bill makes historic strides in water-quality improvements throughout the entire State of California. Improved water quality helps everybody across the board. We also create new water supplies for Northern and Southern California, and we enhance surface storage to improve our water quality and supply.

Lastly, I want to thank Governor Schwarzenegger's participation recently to assure us that these feasibility reports that are in the record of decision will move forward where we can have a balanced and completed project and that we can meet our future with assurance. I urge my colleagues to support this important legislation.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Again, I want to rise in support of this legislation, but I do want to note some concurrent problems that concern me with respect to this legislation because the goals of this legislation were to strike a balance in the operation of this water system, a balance in the development of facilities and the utilization of this water between the consumption of this water, whether it be in industry or whether it be in the agricultural industry or in our municipalities or for the environment, to make sure that there was balance to those efforts. I think to the extent it was practicable, the gentleman from California (Mr. CALVERT) and others have worked that balance out.

I am concerned that as we get ready to pass this legislation and send it to the President, we now see other activities that are taking place along at the same time, and, that is, we see the emergence now of the operations criteria and plan which is the new document that sets the stage for California's most far-reaching, according to the Sacramento Bee, the most far-reaching plumbing shifts in a decade.

Under the plan, water contractors would increase the pumping from the very same delta that this legislation is designed to help protect and preserve both for its local economies, for its agricultural industries and for its environmental assets, would increase the pumping from the delta by some 27 percent to Southern California.

The suggestion is that that has to be done. Part of it is because there are contracts that have to be met. We know that many of these contracts are up currently for renewal in a number of the water districts south of the delta. The Bureau of Reclamation and the Federal Government has within its authority to modify those contracts. All of the evidence suggests that they are not prepared to do that, that they are going to maximize the water deliveries under those contracts even though those contracts envisioned a water delivery at a time that California had 20 million fewer people than it does today and when the demands on water north of the delta are different today than they were then. They are not going to modify those contracts, and they are going to try, I think, contrary to the law, they are going to try to extend those contracts for another 40 years.

The fact of the matter is that that is contrary to the protection of this Sacramento-San Joaquin Delta, and as outlined in this new operations criteria means less water flowing into San Francisco Bay. After a decades-long struggle to protect San Francisco Bay, you can start to see the reignition of a whole series of battles starting to take place because there is this rush by the State administration and the Federal Government to maximize the amount of water that can be sent south.

The concern is that when we have tried to make sure that all of the evidence was on the table, with both of our Senators and the gentlewoman from California (Ms. PELOSI) and other members of the California delegation, we asked for a continuation of the public hearings on these contract terms, the bureau has ignored our request. When we asked the bureau to extend that public comment period until those important questions were answered, the bureau ignored our request.

What worries me is this ignoring of the public interest, of the public input into this decision now fits into what we now see, that the political operations within NOAA and the scientists who are there to develop the standards for the protections of the salmon runs in the Sacramento-San Joaquin Delta, in the American River, we now see, according again to the Sacramento Bee this last weekend, that there is an overriding of the setting of those standards in terms of the adequate water flows and releases that are necessary to protect those endangered runs of salmon. We see that that is now being done for political reasons.

What worries me the most is this is the same cast of characters that arbitrarily and capriciously in the court case, it was determined, overrode the scientists on the Klamath River and led to one of the largest kill-offs of salmon in the history of the west coast, if not the largest, because they decided that they did not want to live with good science, they decided they would override it.

So all of a sudden as we pass CALFED today, we see that in fact the

Sacramento-San Joaquin Delta, San Francisco Bay, the American River, maybe the runs in the Sacramento River, the fisheries runs there, may be more imperiled than at any time in history.

Why is that happening? Because what we see in spite of the agreements of cooperation, of balancing that we see in the CALFED, we see there starting to be a repetition of the same old habits which is to try and maximize the pumping from the Sacramento-San Joaquin Delta to send it south for the purposes of fulfilling these contracts or other needs.

My concern is that at a time when the chairman really held up this process until such time as the delta water agencies and others could come in and make sure what the impacts were going to be on delta water quality, on delta usage, we now see a parallel process taking place that has all of the earmarks of another devastating blow to delta water quality, to the usages in the delta, to the protection of the environment, and to the protection of the delta economy.

□ 1415

I raise these at this time because, as we celebrate the long effort and the successful effort with the passage in this House of the CALFED legislation, we see that the forces who continue to have a design on the Sacramento-San Joaquin Delta, on the impacts on San Francisco Bay by increasing the diversions from this very complicated and fragile environment, we see that they never rest. And they are back now, apparently with the cooperation of the Schwarzenegger administration in Sacramento, with the cooperation of the Bush administration, in fact, with not only the cooperation of the Bush administration but the Bush administration's political appointees now coming in and overriding the scientists who have done the studies designed to protect the delta and protect its fisheries.

So I guess the bottom line and the end of this story is, there is an awful lot of work that remains to be done. There is an awful lot of concern that we have over the long-term protection of the delta, and I would hope that the gentleman from California (Mr. POMBO) would look at these articles that are in the "Sacramento Bee" because they raise the most serious concerns about our economy and about our environment.

Mr. Speaker, I include for the RECORD the articles that I alluded to.

[From sacbee.com, Oct. 2, 2004]

REWRITE SOFTENS REPORT ON RISKS TO FISH  
(By Stuart Leavenworth)

Officials at a federal fisheries agency ordered their biologists to revise a report on salmon and other endangered fish so that more water can be shipped to Southern California from the Delta, according to interviews and internal agency documents obtained by The Bee.

Biologists with NOAA Fisheries, an arm of the National Oceanic and Atmospheric Administration, concluded in August that a

plan to pump more water through the Sacramento-San Joaquin Delta could jeopardize endangered salmon and other fish.

NOAA administrators in Long Beach, however, overruled the biologists and supervised a rewriting of their analysis. That, in turn, removed the last major obstacle to a plan that could send more water south, affecting how much is reserved in Northern California, including for salmon in the American River.

NOAA officials say the revisions were justified. Agency biologists made some errors and "unsubstantiated conclusions" in their original draft, said James Lecky, an agency administrator in Long Beach who ordered the revisions.

Some agency employees, however, say some of the changes had no basis in science and substantially weaken protections for endangered winter-run salmon, steelhead trout and other fish.

"I haven't seen anything this bad at NOAA since working here," said one agency biologist who asked that his name not be used. "The Sacramento office (of NOAA Fisheries) is totally demoralized."

At issue is a state-federal plan for operating the massive network of reservoirs, aqueducts and pumping plants that move water around California. The U.S. Bureau of Reclamation and state Department of Water Resources are planning major changes for those facilities, partly to free up water that can be shipped through the Delta.

The U.S. Fish and Wildlife Service gave its blessing to the plan in August, but NOAA Fisheries has sought extensions in releasing its own analysis.

Documents obtained by The Bee explain why.

In August, NOAA biologists issued a draft stating that the plan "is likely to jeopardize the continued existence of Sacramento winter-run Chinook salmon and Central Valley Steelhead," as well as spring-run salmon.

The documents outlined several measures the Bureau of Reclamation could adopt to reduce impacts on fish, but the document was never signed.

Instead, Lecky delivered the draft to his counterparts in the Bureau of Reclamation, who offered suggestions on revisions, he said.

Lecky said such document sharing is commonplace as federal agencies undergo what is known as a consultation under the Endangered Species Act. NOAA officials wanted to ensure they had appropriately interpreted the bureau's plans, he said, and receive feedback on their own analysis.

A copy of NOAA's latest draft, however, shows that administrators have altered the report in ways that go beyond mere word changes.

The updated version, 289 pages and dated Sept. 27, no longer concludes that winter-run salmon or other fish could face extinction by the extra water diversions by state and federal facilities.

The report concludes that the new operations would likely reduce the juvenile population of winter-run salmon by 5 percent to 22 percent, but says that agencies can help minimize those losses by monitoring and adapting.

The latest version also softens the wording for how the Bureau of Reclamation can avoid future impacts on fish.

In the original report, NOAA biologists called on the Bureau of Reclamation to reserve 450,000 to 600,000 acre-feet of water in Folsom Lake by September to provide adequate supplies for returning salmon and steelhead.

The latest version changes the wording from "shall maintain" to "shall target" the extra water.

In addition, the latest draft no longer calls for a minimum flow standard for the American River, as the original did. The state

Water Resources Control Board called for an American River flow standard in 1988, but federal officials haven't yet agreed to one.

A former state official who now works for a leading environmental group reviewed the two versions and said he was stunned by the revisions.

"The September draft guts the minimal protections that were in the earlier version," said Jonas Minton, a former deputy secretary for the Department of Water Resources. "The new version includes commitments to talk instead of commitments to protect fish."

Minton, who now works for the Planning and Conservation League, agreed that supervisors often make routine changes to a scientific document. "It's an entirely different thing to change science for political purposes," he said.

In an interview, NOAA's Lecky disputed that political appointees had pressed for changes. Everything has been handled within NOAA's Southwest Regional Office in Long Beach, he said.

Lecky declined to comment further on the revisions, saying The Bee had obtained a "predecisional document" that was subject to further review. Sources say a final version could be released next week.

Formerly known as the National Marine Fisheries Service, NOAA Fisheries enforces the Endangered Species Act for fish that spend part of their lives in the ocean, such as salmon. In recent years, NOAA has become embroiled in several controversies over water allocations and fish.

In 2002, NOAA biologist Michael Kelly warned that the Reclamation Bureau's water plans in Oregon could lead to fish kills downstream on the Klamath River. Later that year, warm water and disease killed about 77,000 returning salmon, according to a report by the California Department of Fish and Game.

Kelly later resigned from NOAA after another disagreement with Lecky.

In recent months, the Bureau of Reclamation has been pushing to sign long-term contracts with irrigation districts and finalize plans for shipping more water through the Delta. Some of California's most powerful groups—including the Chamber of Commerce, Westlands Water District and the Metropolitan Water District of Southern California—are lobbying for extra water.

Environmentalists suspect this pressure prompted some of NOAA's recent actions, although they acknowledge they can't prove it.

Bureau of Reclamation officials say the public will have full opportunity to comment on any changes in water operations. The Bureau and the Department of Water Resources have scheduled an informational meeting in Sacramento on Thursday from 9 a.m. to noon at the Best Western Expo Inn, 1413 Howe Ave.

[From sacbee.com, Sept. 26, 2004]

#### MAJOR SHIFT MAPPED FOR DELTA WATER (By Stuart Leavenworth)

Under pressure from some of California's biggest cities and farm districts, federal and state officials are planning major changes in how water is stored and distributed across the state, including increased pumping of supplies from the Sacramento-San Joaquin Delta.

The proposed changes, outlined in an obscure state-federal document called the Operations Criteria and Plan, sets the stage for California's most far-reaching plumbing shifts in a decade. Under the plan, water contractors would increase pumping from the Delta by 27 percent, sending more to Southern California and the San Joaquin Valley.

Less water would flow to the San Francisco Bay and less would be reserved for endangered salmon during the driest of droughts.

Increased pumping from the Delta originally was envisioned under Cal-Fed, a state-federal water collaboration launched in 1994. But the U.S. Bureau of Reclamation unveiled other proposals only recently, and those are coming under fire from environmentalists, Delta farmers and sportfishing groups.

All sides agree the liquid power struggle will be a major test of Gov. Arnold Schwarzenegger and his water lieutenant, Lester Snow. Schwarzenegger has styled himself as a business-friendly, pro-environmental governor who can solve entrenched disputes. But solutions don't come easy in the Delta, where there are symbolic shadings and big stakes attached to any effort to move water around.

"The key decision-maker will be Governor Schwarzenegger," said Tom Graff, an Oakland-based lawyer for Environmental Defense, a group that has fought past plans to increase water exports from Northern California. "At some point, he and his appointees will have to decide if they uphold the environmental commitments of Cal-Fed."

Created with an eye toward raising all boats in the Delta, Cal-Fed once was touted as a \$8.6 billion "fix" for the estuary. The program has multiple goals of increasing water supplies for farms and cities while restoring fish hurt partly by water diversions. It's still unclear if those goals can be reconciled.

The largest estuary on the West Coast, the Delta has lost roughly half its historic flow into San Francisco Bay because of upstream water diversions. If state and federal officials turn on the pumps at the wrong time, they can suck fish and larvae toward and into the pumps. The diversions also can worsen water quality for Delta farmers and the Contra Costa Water Agency by drawing salt and bromides up the estuary.

In recent years, Cal-Fed has helped water managers coordinate a complex system of raising or lowering pumping rates to meet environmental demands. A special pool of water—the Environmental Water Account—helps compensate water districts hurt by unexpected restrictions on Delta pumping.

Despite those successes, Cal-Fed has few vocal champions. Water users say the program has spent about \$500 million buying potential habitat to help fish and wildlife but has done little to prevent future water shortages. Environmentalists say fish stocks remain a fraction of their past numbers, and note that Delta water standards still are violated.

Frustrated with Cal-Fed's open meetings and often plodding process, California's big water users teamed up with state and federal officials last August, and quietly negotiated their own plan for increasing Delta pumping. It became known as the Napa agreement.

For decades, the state Department of Water Resources and the Bureau of Reclamation have maintained separate reservoirs, separate aqueducts and separate pumping plants in the Delta. Napa promised to change all that. For the first time, state contractors would be able to store their water in the federal government's big reservoirs. Federal contractors, meanwhile, could ship some of their water through the state's Harvey Banks Pumping Plant and its 11 massive electrical pumps, which suck water 244 feet up in elevation and deliver it to the California Aqueduct.

Integrating these water works hasn't been controversial; the plan to increase pumping is. The Napa pact would allow the Banks plant to ramp up its regular pumping rates about 27 percent, from 6,680 to 8,500 cubic feet per second. State officials say the extra water would come from outflow to the Bay.

The state's two largest water agencies—Westlands Water District, with 570,000 acres in irrigation, and the Metropolitan Water District of Southern California, with 18 million customers—stand to be major beneficiaries. Those districts and others may end up gaining several hundred thousand acre-feet of water, said Tim Quinn, a vice president for Metropolitan.

In addition, the increased pumping capacity could lay the groundwork for more sales of water from Northern California rice farmers to Southern California.

To those excluded from the talks, the Napa meeting was less a breakthrough than a backroom deal, and a betrayal of Cal-Fed's principles.

Delta farm districts, environmental groups, sportfishing interests and many midsize urban districts were not at the table. At the urging of U.S. Rep. Richard Pombo, R-Tracy, and state Sen. Mike Machado, D-Linden, the Napa signatories later crafted side agreements with Delta farmers, who fear that extra pumping could foul their water supply. But environmentalists were not included.

"A lot of groups in the conservation sector are getting ready to wash their hands of the Cal-Fed process," said Steve Evans of Friends of the River, a Sacramento-based conservation group. "It is clear that major agencies are acting outside of Cal-Fed. . . ."

Up until the last few years, irrigation districts in the San Joaquin Valley were voicing the same complaints. Farmers lost supplies when President George H.W. Bush signed the 1992 Central Valley Project Improvement Act, which allocated more water for the environment. Many farmers were skeptical that Cal-Fed would come to their aid.

In 2001, however, President George W. Bush took office and agribusiness gained new clout. Interior Secretary Gale Norton appointed Bennett Raley, a lawyer for Colorado ranchers, to manage Western water issues. She also hired Jason Peltier, a lobbyist for Central Valley irrigation districts, to handle Cal-Fed.

Two years ago, farmers won back some of their water when Bush and his appointees declined to appeal a court ruling challenging implementation of the 1992 act. South-of-Delta farmers now are pushing for extra water guarantees, said Thad Betner, deputy general manager of the Westlands Water District, because they fear their existing supplies will be lost as California cities grow.

If federal and state officials implement key parts of the Napa pact, Westlands and other water exporters could see immediate gains. Federal water for San Joaquin Valley wildlife refuges could be moved through the state pumps, freeing up more capacity in federal pumps for irrigation supplies. In exchange, the federal Bureau of Reclamation would assume some of the state's responsibilities for meeting Bay-Delta flow requirements.

Quinn, the Metropolitan vice president, said increased pumping would occur only when it wouldn't hurt fish and water quality. He dismisses claims of a water grab by Southern California, noting that Cal-Fed has long planned to increase the capacity of the pumps.

Graff and other environmentalists, however, say it is clear that Southern California is relying more heavily on the Delta because of the Colorado River drought. Earlier this year, Environmental Defense came across financial documents filed by Metropolitan that show the agency plans to boost Delta diversions to 1.7 million acre-feet by 2008, and has steadily increased diversions the last several years.

"All this whining from urban water agencies about the supposed lack of balance in

Cal-Fed is hogwash," said Evans. Metropolitan, he said, "is receiving nearly double the water they received just a few years ago."

Hoping to make the pumping plan more palatable, Cal-Fed has come up with supplemental proposals to improve water quality in the estuary, a fig leaf for Delta farmers and urban agencies.

Environmentalists say those plans do little for fish, and they are even more troubled by the Operating Plan and Criteria, which shows how the Bureau of Reclamation expects to meet future water demands.

According to that operating plan, the bureau proposes to end decade-old protections for endangered winter-run salmon in the upper reaches of the Sacramento River.

Winter-run salmon lost their historic spawning grounds when the bureau built Shasta Dam in the 1930s. Surviving fish were nearly wiped out during the drought of 1975-77, when the bureau nearly emptied Shasta and warmed up the river.

After winter-run salmon were added to the federal Endangered Species List in 1989, the agency was ordered to carry over 1.9 million acre-feet of water in Shasta every year. Those reserves ensure that salmon have cold water to survive a drought, but they also hamper the bureau in meeting its contract obligations.

This year, with pressure building on the bureau to ship more water through the Delta, the agency is proposing to end the carry-over storage requirement and reduce the stretch of river where it must legally maintain cool water temperatures.

Reclamation officials contend they can protect salmon without these hard-line restrictions. Marian Echeverria, a spokeswoman for the bureau, said the agency now has access to water sources that weren't available back in the early 1990s.

Even with those assurances, some environmentalists and Delta farmers fear Northern California will bear the brunt of the proposed changes. Delta farmers say their irrigation supplies will become more salty as more freshwater is shipping south.

"This process needs a whole lot more daylight," said Tom Zuckerman, a lawyer for the Central Delta Water Agency. He suspects federal officials are rushing the process so they can sign new, long-term contracts with water districts by year's end.

The outcome could hinge on NOAA Fisheries, a federal agency charged with protecting endangered salmon and other ocean-migrating fish. NOAA biologists initially wanted to issue what is known as a "jeopardy opinion" under the Endangered Species Plan. Such a ruling would have blocked the bureau's plan, but NOAA hasn't yet issued a final decision.

Another wild card is Schwarzenegger and his director of water resources, Snow, who worked as regional director of the Bureau of Reclamation in the Clinton administration. Snow says state and federal officials erred by not holding recent public workshops on the operating plan. "It wasn't very artfully handled," he said in an interview last week.

Nonetheless, said Snow, critics are jumping the gun. The Department of Water Resources, he said, is studying how planned Delta diversions would affect fisheries and flows to the Bay. The public will have ample opportunities to comment on any final proposal, which would need to meet both federal and state environmental laws, he said.

Snow said he also is awaiting the opinion from NOAA Fisheries and will examine it closely.

"We will not stand by and allow a lessening of salmon protections that will cause problems for the state," said Snow. "If NOAA Fisheries does something that gives the bureau a free pass, we are going to catch that."

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DOOLEY), who has been involved in these water issues from the day he came to Congress. And I thank him for his help and all of his years of service in these years in the House on these issues of concern to our State.

(Mr. DOOLEY of California asked and was given permission to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Speaker, first off, I want to thank the gentleman from California (Mr. GEORGE MILLER), the gentleman from California (Mr. POMBO), and the gentleman from California (Mr. CALVERT), as well as Senator FEINSTEIN, for really putting together a bipartisan product that is in the interest of all Californians.

All too often in the past, during my tenure at Congress, when we had a California water bill on the floor, a lot of our colleagues would shudder because oftentimes that would end up in almost a civil war among the Californians because California water issues have been difficult to solve. It has been difficult to strike that balance between providing for enhancement of the environment and still meeting the economic needs of our State through our agriculture sector as well as our municipal sector.

That is what is important about this bill, because it is a rare occasion, I hope marking a turning point, where we are solving our problems by coming together, understanding that we can provide greater certainty in the delivery of water to enhance the environment as well as to expand our economy by finding ways in which we can provide for greater conservation, greater storage, and more efficient management of our water supplies.

I think that this, hopefully, is a turning point because all too often in the past we have seen too many of the interests in California water that have retreated to the courts, that have relied on the courts to try to solve some of the difficult choices that we have to make. And I think the leadership that was demonstrated by the parties that I mentioned earlier hopefully is a call to action among all the interests impacted by California water, that they need to come together in a cooperative and a constructive manner to try to build upon this effort to ensure that we are going to have that balanced approach in utilizing the water in the State of California that could enhance our environment and, once again, ensure that we are providing the economic future which is so important to the citizens of our State.

I rise in strong support of the Senate amendments to H.R. 2828, the Calfed Bay-Delta Authorization Act.

Passage today will finally enable this vitally important legislation, long in the making, to be sent to the President for signature.

The Senate-passed version we have now before us merges many of the provisions in the House bill with a handful of changes nego-

tiated after the House passed its version on July 9 of this year. It reflects a careful balance and set of compromises that represent our best chance for this bill becoming law this year.

The successful evolution of this bill is a credit to the leadership of many of my colleagues in the California delegation. I want to give special recognition, however, to Senators FEINSTEIN and BOXER, and Representatives POMBO, CALVERT, NAPOLITANO and CARDOZA for their steadfast stewardship and commitment.

On a bipartisan basis, these and other Members worked long and hard to bring parties together. We consulted a wide range of affected stakeholders, both regional and national. We tried to bring a visionary yet pragmatic approach to the management of California's water resources. During each step of the legislative process, we tried to improve on the bill and strengthen its base of support.

This bill authorizes \$389 million for water projects in the CALFED program over the six-year-period FY 2005 through 2010. It creates new water supplies, improves water quality and reliability, and ensures ecosystem restoration. It evenhandedly provides for California's different water interests, implementing the CALFED program in a balanced manner.

One area of difference between the House and Senate-passed bills focused on the House provision that would have pre-authorized certain water storage projects, subject only to a Congressional disapproval resolution. I appreciate the interest of certain House Members to expedite the very lengthy process now involved in getting water storage projects from design to implementation. Nevertheless, the preauthorization provision of the House bill was met in the Senate with objections on both sides of the aisle and threatens to stand in the way of this bill becoming law this year.

Instead of a pre-authorized provision, the Senate amendments explicitly authorize groundwater storage and feasibility studies for major new off-stream and expanded reservoirs, including the enlargement of Los Vaqueros reservoir, the raise of Shasta Dam, Upper San Joaquin surface storage, and Sites Reservoir. With these four storage projects, California could acquire an additional 3.2 million acre feet of storage.

In addition, the Senate amendments include new procedures and safeguards if Congress fails to approve a storage project by the end of the Congressional session following the submission to Congress of a federal feasibility study. In such a case, the Secretary of Interior must, within 180 days, make a finding of "imbalance" and report to Congress on revised schedules and alternatives to rebalance the CALFED Program.

Although the Senate amendment does not expedite the storage authorization process as directly as the House bill attempted to do, it is an improvement over the status quo. Moreover, an even larger point must not be lost in this discussion.

Any water storage project, whether currently in the pipeline or subject to the new authority in this bill, requires appropriated funds. Due to the fact that Federal authorization for the CALFED program has lapsed, federal appropriations are not currently being approved for CALFED. This fact is disadvantaging water users and water projects throughout California.

The time has come for Congress to reauthorize the CALFED program, and allow

projects—for water quality, water supply, and fisheries protection—to move forward.

I urge my colleagues to vote today in support of the Senate amendments to H.R. 2828.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Just in closing I want to thank all of my colleagues who were able to work in a bipartisan manner to get this done. The gentleman from California (Chairman CALVERT) worked on this bill for a long time, and before him the gentleman from California (Mr. DOOLITTLE) worked on this bill, and there was a lot of work that went into making this happen. And we all know that some of our colleagues were not as cooperative, but I do appreciate those that were able to work with us and get this done.

I urge the passage of the bill.

Mr. CARDOZA. Mr. Speaker, I am pleased to support the passage of H.R. 2828 today.

Califed reauthorization is an issue that Congress has debated for years and years and today—as a result of numerous parties working together—we are making significant strides toward increasing water supply, quality and reliability for California.

This is an enormous accomplishment and I applaud Representatives POMBO, NAPOLITANO and CALVERT and our esteemed Senator from California, Senator FEINSTEIN, for overcoming the numerous hurdles that have prevented this issue from progressing in years past.

This proposal will greatly strengthen California's agricultural economy and address the needs of a fast growing population by creating additional surface storage projects.

This delicate balance, while difficult to achieve, is critical to the success of Califed.

Today, I urge my colleagues to support this measure because it will set California on the path to a sustainable water supply for its citizens, its economy and its environment.

Mr. THOMAS. Mr. Speaker, I rise today in support of H.R. 2828, the Water Supply, Reliability, and Environmental Improvement Act. This legislation, authored by my good friend, Resources Water and Power Subcommittee Chairman KEN CALVERT, is the result of many years of hard work by the California water community to find a way to balance the competing water needs of agriculture, the environment, and a growing population.

My district in the Central Valley of California is a prime example of these changing needs. In 1960, Kern County had a population of about 291,000 people and an agricultural base that produced commodities with a farm gate value of \$247 million. In 2000, those numbers had increased to a population of 661,000 people and farm gate value approaching \$2.5 billion. Much of this growth is due to the construction of the State Water Project in the mid-1960's, but virtually no investment in that all-important infrastructure has been made since that time. Our water infrastructure requires attention and upgrading to continue supporting California's agriculture economy, and H.R. 2828 provides for many of these necessary improvements.

I congratulate all my colleagues from California who have worked tirelessly to overcome regional differences and reconcile competing

priorities to ensure that this vital legislation is enacted.

Mr. POMBO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. QUINN). The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2828.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

#### IMPROVEMENTS TO EMPLOYMENT VERIFICATION SYSTEM UNDER IMMIGRATION AND NATIONALITY ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4306) to amend section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment, as amended.

The Clerk read as follows:

H.R. 4306

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. IMPROVEMENTS TO EMPLOYMENT VERIFICATION SYSTEM.

(a) IN GENERAL.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended—

(1) in paragraph (1)(A), by inserting before “A person or entity has complied” the following: “Such attestation may be manifested by either a hand-written or an electronic signature.”;

(2) in paragraph (2), by adding at the end the following: “Such attestation may be manifested by either a hand-written or an electronic signature.”; and

(3) in paragraph (3), by inserting “a paper, microfiche, microfilm, or electronic version of” after “must retain”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the earlier of—

(1) the date on which final regulations implementing such amendments take effect; or  
(2) 180 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

#### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4306 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4306, which would allow employers to electronically complete and store Eligibility Employment Verification Forms, known as Forms I-9.

Currently, employers must complete one of these forms for each employee to show that they have verified that the employee is eligible to work in the United States. The employer must then retain that form for at least 3 years and make it available for inspection by Immigration and Customs Enforcement, the Justice Department's Civil Rights Division, and the Department of Labor.

This legislation is straightforward and sensible. It would benefit employers in preparing and storing Forms I-9 and benefit the government in enforcing immigration, antidiscrimination, and the labor laws of our Nation.

The current regulation requires employers to retain Forms I-9 “in their original form or on microfilm or microfiche.” This regulation, promulgated in 1988, has failed to keep up with modern technology. For this reason, almost all employers have resorted to keeping Forms I-9 in the original format in which they are completed, that is, on paper.

With employers required to retain a Form I-9 for each employee for years, American businesses are holding an overwhelming number of the forms today. That is a lot of paper and paper which can easily be lost, damaged, or tampered with. This format is insecure, wasteful, and with the advent of electronic data storage, totally unnecessary.

Allowing the electronic completion and storage of Forms I-9 would also aid the men and women charged with enforcing our law, particularly when auditing large employers with multiple outlets spread across the country. In reviewing the Forms I-9 of employers who choose to keep the documents electronically, officers will be able to request one electronic file instead of potentially thousands of paper documents. This legislation would not require employers to electronically complete or store Forms I-9. It would simply permit them to do so if they so choose.

Accordingly, I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the remarks of the distinguished chairman of the Committee on the Judiciary, and as well, I want to acknowledge the chairman of the Immigration, Border Security, and Claims Subcommittee and the gentleman from Michigan (Mr. CONYERS), ranking member on the full committee.

This is an important change on the benefits side of the immigration puzzle. This regulation, 8 CFR 274a2(b)(2) requires United States employers to