

I have not been satisfied with America's trade policy over the past 30 years. I believe in free trade, but I believe that with free trade we must have fair trade. The U.S. market is the most open in the world, but our policy has failed to insist that foreign markets be equally open to American products. We sorely need a new and just approach to trade.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CASEY). Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Thank you, Mr. President. I understand that we are on the Kirk nomination; however, I ask unanimous consent to speak on the lands bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COBURN AMENDMENTS

Mrs. FEINSTEIN. Mr. President, the Senate will have before it a series of amendments to the lands bill made by Senator COBURN. I rise to oppose specifically two of these amendments, amendment No. 683 and amendment No. 675, and I do so on behalf of myself and my friend and colleague from California, Senator BOXER.

These amendments would essentially throw out a legal settlement agreement concerning the restoration of the San Joaquin River. The settlement agreement ends 18 years of costly litigation. It is the product of 4 years of negotiation by the Bush administration, the State of California, dozens of water agencies, the Friant water users—it affects Friant, and Friant is a Division of the Central Valley Project and 15,000 farmers draw their water from this Division; it is big, it is important, it is critical—and by environmental and fishing groups.

This was a suit brought by the Natural Resources Defense Council against the Federal Government saying that what was happening at Friant Dam was not sufficient in the release of water to protect the salmon.

I wish to have printed in the RECORD at the end of my remarks a letter by the Governor of the State of California, Arnold Schwarzenegger, supporting the settlement agreement, and a letter

from the U.S. Department of Justice supporting the settlement agreement. I also commend to my colleagues a Congressional Research Service Memorandum entitled "Institutional and Economic Context of the San Joaquin River Restoration Settlement," spelling out the institutional and economic context of this settlement agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. FEINSTEIN. Thank you very much.

So we have broad and strong support for the settlement agreement. Now, the question is, Why do we have it? The reason we have it is because it is my understanding that the Government has lost the case, and the result is that with or without the settlement, a Federal court will require restoration of the San Joaquin River. According to all of the parties, the court could—and we believe would—order a huge release of water from Friant Dam, negatively impacting the 15,000 farms in the Friant Division of the Central Valley Project.

In contrast, the settlement agreement allows orderly restoration of the river, with minimized impacts to irrigated agricultural and municipal water users. It provides negotiated flood control and other protections for private landowners. It represents a sensible and hard-fought consensus solution. I know, because these parties came to me and asked me if I would sit down with all of the parties and try to put together this settlement agreement, and we did, in fact, do this. It is virtually supported by all of these elements.

Also, the settlement would be far less costly to the taxpayers than returning to court and having the end result of having a Federal judge manage the river. That is what the alternative is. Here is why: The settlement provides almost \$400 million in non-Federal funds, so what would have had to have been funded by the Federal taxpayers will be lowered. Effectively, the costs are lowered to Federal taxpayers. The affected water districts have agreed to help fund the settlement with approximately \$200 million. The State of California will provide another \$200 million. If the Coburn amendment is successful and this is dropped from the bill, the Federal Government will have to pay an additional \$400 million and face the fact that the judge could well order a huge release of water, not staggered to any particular time, in no orderly manner, which could have tremendous adverse impacts on the farming community.

The settlement also minimizes economic costs to the region by providing water supply certainty for users, but without the settlement water users in Friant could face more severe water losses and potentially millions of dollars of lost income and lost jobs. As I say, this is 15,000 separate farming entities, so that is unacceptable.

Critics have argued that this provision is wasteful spending and that it would cost millions of dollars for every fish restored. But the facts prove them wrong. To get the number the critics use, they assume that only 500 fish will ever be restored; that is, salmon, instead of the 30,000 salmon that will eventually return to the river each year as a self-sustaining fishery. They ignore all the other benefits of the settlement.

According to the Congressional Research Service analysis I have referenced, it is "misleading" to disregard the "full array of likely project costs and benefits," including "the values that Californians and U.S. citizens place on improvements in environmental quality and restored runs of salmon."

The bottom line: The settlement offers the best possible solution to a longstanding water fight in my State. I do not believe there is anything wasteful about it. Remember, this suit has gone on for 18 years. I have talked with every one of the parties. They have all come together asking for a settlement agreement, including the Federal Government, the State of California, and actually the environmental group that sued, the NRDC, because they believe that if left to the judge, the action might be very adverse in terms of large amounts of water, rather than being staggered and done in a more sensible way, would be detrimental to the Friant farmers as well as, quite possibly, to the fish.

The other problematic amendment offered by Senator COBURN is amendment No. 675 which would remove the Government's eminent domain authority for the public lands omnibus bill, including the San Joaquin River settlement title of the lands bill.

Now, to be candid, none of us like the use of eminent domain. In the 9 years I was mayor, I refused to use eminent domain in San Francisco and, in fact, never did. But Senator COBURN's amendment ignores the basic reality that the use of eminent domain is sometimes necessary to carry out western water projects that are vital for an entire region because the water comes from one place, the State is vast, and it has to be moved to other places, and the public benefit of moving that water is enormous in the seventh largest economy on Earth.

These water projects need to have the use of eminent domain as a last resort for building water projects and flood channels on a willing seller-willing buyer basis. Otherwise, the Government clearly is not going to be able to build water conduits, water projects, and flood control elements where they are most needed. That may be different in small States, but in huge States such as California, where the water comes primarily either from the very north of the State, the Sierra Nevada mountain range, or the Colorado River—where we are being weaned off of the Colorado River, and have an

agreement to dramatically cut our take of water from the Colorado River—we have to have the conveyances to move the water around the State.

Private landowners also receive the benefit of upgraded flood protections and bypasses around key diversion points, so that fish are not diverted along with irrigation supplies. This is a very sensitive, very problematic area. It has taken a lot of work to know how to do this. The Federal Government could not build these flood and bypass measures to benefit third party landowners without the ability to acquire land through eminent domain. That is just a fact.

There is a great need for water projects in my State. If we don't move, I believe California will end up a desert State. We are faced with high wildfire potential, with warming climates, and reduced water. We are in the third year of a drought.

Mr. President, you might be interested in knowing that for the big Central Valley of California, which makes California the No. 1 agricultural producer in America, most of that valley's water allocation from the Central Valley Project for this year is zero, which means fallowing, which means cutting out trees and crops. So we are in a very sensitive situation.

I urge the Senate to vote no on these Coburn amendments. I think it is very easy to come in and second-guess a situation and not know anything about 18 years of litigation and the fact that the Government is going to lose the case and having to try to work out a settlement, which gets the best for all of the parties concerned. I believe we have done it, and it has taken hours and hours of negotiation.

This has been approved by this body once. To remove the bill and the eminent domain authority from the lands bill would be tragic. Again, the Federal Government would have to pick up the costs the State of California is willing to pay under this settlement—\$200 million—and the cost these water contractors are willing to provide—\$200 million—and do the whole job itself, which is going to cost an additional \$400 million.

These amendments are in no way, shape, or form, cost effective, and they will hamstring California's effort to solve what is an egregious problem, and that is an increasingly drying State, which is in drought almost on a perpetual basis and is trying to solve its problems.

On behalf of Senator BOXER and I, I urge a "no" vote on both of these amendments.

Mr. President, I ask unanimous consent that my time not count against the time allocated for the Kirk nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. I thank the Chair.

EXHIBIT 1

STATE CAPITOL,
Sacramento, CA, May 5, 2008.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: As Congress again considers legislation needed to implement the Settlement Agreement reached to restore the San Joaquin River, I write to reiterate my support of your leadership in this matter and to urge Congress to act now to take advantage of this historic opportunity. Restoring the San Joaquin River will provide vital benefits to the environment, to the people of the San Joaquin Valley, and to all Californians. I remain confident that this settlement can be implemented to provide these important benefits while minimizing impacts to the Friant water users and preserving the regional economy.

The state of California has already committed substantial funding to support the settlement effort. In November 2006, California voters approved Proposition 84, the Water Quality, Safety and Supply, Flood Control, Natural Resource Protection Bond, which earmarks \$100 million to support San Joaquin River restoration. Other bond funds are available to provide flood management improvements and to support regional water supply reliability projects. Moreover, I have directed my Administration to pursue all available opportunities to contribute to the dual restoration and water management goals of the Settlement Agreement.

Thank you again for your leadership to secure the passage of the necessary legislation to advance the restoration of the San Joaquin River. Please know that my Administration remains committed to this important effort and we look forward to continuing our work with the federal government on this significant restoration program.

Sincerely,

ARNOLD SCHWARZENEGGER,
Governor.

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, November 7, 2007.

Hon. NICK J. RAHALL II,
Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Department of Justice (DOJ) strongly supports H.R. 4074, the San Joaquin River Restoration Settlement Act (originally introduced by Congressman Radanovich as H.R. 24). This bill provides necessary authorization and funding to carry out the terms of the San Joaquin River Settlement. The purpose of the settlement is to fully restore the San Joaquin River and to mitigate the impact of water losses on water districts in the Friant Division of the Central Valley Project who have long-term contractual rights and obligations with the Bureau of Reclamation. This settlement not only resolves litigation over the operation of the Bureau of Reclamation's Friant Dam east of Fresno, California, it provides a framework for the restoration of the San Joaquin River and its fishery in a way that protects the sustainability of farming in the Friant Division.

On October 23, 2006, the United States District Court for the Eastern District of California approved this settlement, ending eighteen years of litigation, Natural Resources Defense Council, et al. v. Kirk Rodgers, et al. The Administration previously announced its support for legislation implementing this settlement in testimony before your Committee on March 1, 2007, by Jason Peltier, Principal Deputy Assistant Secretary for Water and Science for the U.S. De-

partment of the Interior. The State of California has pledged its support for the Settlement in the amount of \$200 million.

Enactment of H.R. 4074 is essential to the implementation of this historic, court-approved settlement. Without this legislation, the Secretary of the Interior lacks sufficient authority to implement the actions in the settlement. Implementation of the San Joaquin River Settlement will avoid the high cost and uncertainty that will result from a return to litigation if the settlement is not implemented.

Thank you for the consideration of our views. Please do not hesitate to contact this office if we can be of further assistance in this matter. The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

BRIAN A. BENCZKOWSKI,
Principal Deputy Assistant,
Attorney General.

Mrs. FEINSTEIN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time during the quorum call be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BARRASSO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARRASSO. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. BARRASSO. Mr. President, today I wish to talk about this administration's proposed budget. I believe the President's proposed budget fails the American people. It fails small businesses, and it fails our economic future.

To me, this budget spends too much on bailouts and on wasteful Government programs. It raises the cost of energy, and it costs American jobs.

The spending in this budget is so massive that independent estimates say they are going to need another quarter million people—250,000 more Federal Washington bureaucratic workers—just to spend all the money.

Middle-class families and small businesses all across this country are taking notice. These are the people who are making the financial sacrifices every day to pay for these huge Government expenses. Yet Washington continues to spend trillions in taxpayers' dollars on bailouts and big Government programs.

This budget spends too much, it taxes too much, and it borrows too much.

This budget contains the largest tax increase in the history of our country. We need to help American industry promote growth and create jobs. I will tell you that raising taxes makes matters worse, especially in an economic downturn.