

## PENDING LEGISLATION

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON WATER AND POWER  
OF THE  
COMMITTEE ON  
ENERGY AND NATURAL RESOURCES  
UNITED STATES SENATE  
ONE HUNDRED FOURTEENTH CONGRESS  
SECOND SESSION

**S. 2524**

**S. 2533**

**S. 2616**

**S. 2902**

**S. 2907**

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MAY 17, 2016

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# CONTENTS

## OPENING STATEMENTS

	Page
Lee, Hon. Mike, Subcommittee Chairman and a U.S. Senator from Utah .....	1
Wyden, Hon. Ron, a U.S. Senator from Oregon .....	2

## WITNESSES

Feinstein, Hon. Dianne, a U.S. Senator from California .....	3
McCain, Hon. John, a U.S. Senator from Arizona .....	140
Lopez, Hon. Estevan, Commissioner, Bureau of Reclamation, U.S. Department of the Interior .....	142
Weldon, Leslie, Deputy Chief, National Forest System, U.S. Department of Agriculture .....	159
Quinn, Dr. Timothy, Executive Director, Association of California Water Agencies .....	167
Keppen, Dan, Executive Director, Family Farm Alliance .....	175
Long, Bill, President, Board of Directors, Southeastern Colorado Water Conservancy District .....	188
Buschatzke, Thomas, Director, Arizona Department of Water Resources .....	199
Ziemer, Laura, Senior Counsel and Water Policy Advisor, Trout Unlimited .....	209

## ALPHABETICAL LISTING AND APPENDIX MATERIAL SUBMITTED

Alameda County Water District:	
Letter for the Record .....	105
Alameda County Flood Control and Water Conservation District, Zone 7:	
Letter for the Record .....	107
Alaska Longline Fishermen's Association:	
Letter for the Record .....	265
American Bird Conservancy, et al.:	
Letter for the Record .....	267
American Rivers:	
Letter for the Record .....	271
American Rivers, et al.:	
Letter for the Record .....	274
American Sportfishing Association:	
Letter for the Record .....	276
Association of California Water Agencies:	
Letter for the Record .....	104
Bennet, Hon. Michael:	
Statement for the Record .....	278
Buschatzke, Thomas:	
Opening Statement .....	199
Written Testimony .....	201

# IV

	Page
CalChamber Advocacy:	
Article entitled "CalChamber Backs Renewed Effort on Federal Water Bill" dated February 26, 2016 .....	118
California Citrus Mutual:	
Press Release dated February 10, 2016 .....	116
California Farm Bureau Federation:	
Press Release dated February 10, 2016 .....	115
California Fresh Fruit Association:	
Letter for the Record .....	102
California Natural Resources Agency:	
Press Release dated February 10, 2016 .....	114
California Water Service:	
Letter for the Record .....	98
Central Contra Costa Sanitary District:	
Letter for the Record .....	96
City of Benicia (California):	
Letter for the Record .....	94
City of Indio (California):	
Letter for the Record .....	92
City of Palo Alto (California):	
Letter for the Record .....	90
City of Pismo Beach (California):	
Letter for the Record .....	89
City of Pleasanton (California):	
Letter for the Record .....	88
City of San Buenaventura (Ventura) Water Department:	
Letter for the Record .....	82
City of San Diego (California):	
Letter for the Record .....	86
City of South Gate (California):	
Letter for the Record .....	85
City of Turlock (California):	
Letter for the Record .....	83
Coachella Valley Water District:	
Letter for the Record .....	80
Coastal Trollers Association:	
Letter for the Record .....	281
Colorado River Board of California:	
Letter for the Record .....	283
Colorado Water Conservation Board, Colorado Department of Natural Resources:	
Statement for the Record .....	190
Costa, Hon. Jim:	
Press Release dated February 10, 2016 .....	112
Cucamonga Valley Water District:	
Letter for the Record .....	79
Delta Diablo:	
Letter for the Record .....	78
Desert Water Agency:	
Letter for the Record .....	77
Dublin San Ramon Services District:	
Letter for the Record .....	75
Ducks Unlimited, et al.:	
Letter for the Record dated February 5, 2016 .....	71
Letter for the Record dated May 12, 2016 .....	73



	Page
East Bay Municipal Utility District:	
Letter for the Record .....	70
Eastern Municipal Water District:	
Letter for the Record .....	69
Feinstein, Hon. Dianne:	
Opening Statement .....	3
Chart entitled “5 years of California drought” .....	4
California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act (S. 2533):	
Support for S. 2533—List of Letters, Press Releases and Op-Eds .....	6
Water Supply Increase and Improvement Provisions .....	124
Written Statement .....	129
Garamendi, Hon. John, et al.:	
Letter for the Record .....	9
Garamendi, Hon. John:	
Letter for the Record .....	11
Glenn-Colusa Irrigation District:	
Letter for the Record .....	67
GoldenGate Salmon Association:	
Initial Analysis of S. 2533 .....	286
Goleta Water District:	
Letter for the Record .....	65
Indio Water Authority:	
Letter for the Record .....	64
International Union of Operating Engineers:	
Letter for the Record .....	63
Irvine Ranch Water District:	
Letter for the Record .....	62
Keppen, Dan:	
Opening Statement .....	175
Written Testimony .....	177
Responses to Questions for the Record .....	253
Las Virgenes Municipal Water District:	
Letter for the Record .....	61
Las Virgenes—Triunfo Joint Powers Authority:	
Letter for the Record .....	60
League of California Cities:	
Letter for the Record .....	59
Lee, Hon. Mike:	
Opening Statement .....	1
Long, Bill:	
Opening Statement .....	188
Written Testimony .....	194
Lopez, Hon. Estevan:	
Opening Statement .....	142
Written Testimony .....	144
Responses to Questions for the Record .....	242
Mape’s Ranch and Lyons’ Investments:	
Letter for the Record .....	121
McCain, Hon. John:	
Opening Statement .....	140
Merced County Association of Governments:	
Letter for the Record .....	56
(The) Metropolitan Water District of Southern California:	
Letter for the Record .....	12

# VI

	Page
Monterey County Board of Supervisors:	
Letter for the Record .....	54
Monterey County Water Resources Agency:	
Letter for the Record .....	52
Monterey Peninsula Water Management District:	
Letter for the Record .....	51
Monterey Regional Water Pollution Control Agency:	
Letter for the Record .....	49
North Bay Water Reuse Authority:	
Letter for the Record .....	47
Northern California Water Association:	
Letter for the Record .....	45
Orange County Sanitation District:	
Letter for the Record .....	44
Orange County Water District:	
Letter for the Record .....	43
Pacific Coast Federation of Fishermen's Associations:	
Letter for the Record .....	288
Pacific Fishery Management Council:	
Letter for the Record .....	291
Quinn, Dr. Timothy:	
Opening Statement .....	167
Written Testimony .....	169
Responses to Questions for the Record .....	250
Reclamation District 108 (Grimes, California):	
Letter for the Record .....	41
Redwood City, California:	
Letter for the Record .....	40
Rincon Water:	
Letter for the Record .....	38
San Diego County Water Authority:	
Letter for the Record .....	36
San Joaquin Valley Water Infrastructure Authority:	
Letter for the Record .....	34
San Jose Water Company:	
Letter for the Record .....	32
Santa Clara Valley Water District:	
Letter for the Record dated January 22, 2016 .....	27
Letter for the Record dated April 8, 2016 .....	29
Sonoma County Water Agency:	
Letter for the Record .....	295
Tehama-Colusa Canal Authority:	
Letter for the Record .....	25
Valley Industry and Commerce Association:	
Letter for the Record .....	24
Valley Sanitary District:	
Letter for the Record .....	22
Victor Valley Wastewater Reclamation Authority:	
Letter for the Record dated February 8, 2016 .....	20
Letter for the Record dated February 24, 2016 .....	21
Walnut Valley Water District:	
Letter for the Record .....	19
Water Agencies:	
Press Release dated February 10, 2016 .....	110

## VII

	Page
Water Replenishment District of Southern California:	
Letter for the Record .....	18
Weldon, Leslie:	
Opening Statement .....	159
Written Testimony .....	161
Responses to Questions for the Record .....	247
West Bay Sanitary District:	
Letter for the Record .....	16
West Coast Salmon Fishing Industry and Related Businesses:	
Letter for the Record .....	297
Western Governors' Association:	
Letter for the Record .....	219
Western Growers:	
Press Release for the Record .....	108
Western Municipal Water District's Board of Directors:	
Letter for the Record .....	15
Western Recycled Water Coalition, et al.:	
Letter for the Record .....	100
(The) Wilderness Society:	
Letter for the Record .....	303
Wyden, Hon. Ron:	
Opening Statement .....	2
Yuba County Water Agency:	
Letter for the Record .....	13
Ziemer, Laura:	
Opening Statement .....	209
Written Testimony .....	211
Supplemental Testimony and Responses to Questions for the Record .....	260

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The text for each of the bills which were addressed in this subcommittee hearing can be found on the committee's website at: <https://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=A7AE5EAB-EB16-4CAF-A918-68A1A5D5BEB7>.



## **PENDING LEGISLATION**

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**TUESDAY, MAY 17, 2016**

U.S. SENATE,  
SUBCOMMITTEE ON WATER AND POWER,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 2:13 p.m. in Room SD-366, Dirksen Senate Office Building, Hon. Mike Lee, Chairman of the Subcommittee, presiding.

### **OPENING STATEMENT OF HON. MIKE LEE, U.S. SENATOR FROM UTAH**

Senator LEE. Welcome. It is a pleasure to have you here—form the basis of a drought legislation package aimed at California and at various other Western States.

Although the final details of the legislative package remain in flux, I would like to highlight two concerns that are most important to my home State of Utah. First, any drought bill must be fully paid for. Two, it must contain the protections provided in the Water Rights Protection Act. I will discuss each of these in turn briefly.

A little over a year ago, the U.S. Department of Agriculture designated Sanpete County in central Utah as a primary natural disaster area due to damages and losses caused by the recent drought. Farmers and ranchers in Carbon, Emery, Juab, Millard, Sevier, and Utah Counties also qualify for natural disaster assistance.

I know Utah is not alone in fighting drought. California, New Mexico, Wyoming, Arizona, and Colorado are also dealing with similar problems, but simply because the drought crisis exists and is painful does not mean that it should be used to expand federal obligations, or at least to do so irresponsibly. Any new or expanded government spending authorization should be offset with Bureau of Reclamation prepayment revenue or spending reductions.

We have a saying of the West: Water is for fighting. A hundred years ago, water disputes sometimes ended in bloodshed, now they end in years of litigation.

It is precisely because of these tensions that federal regulators should be prohibited from blackmailing state and private water users into relinquishing their water rights.

In 2014, the Forest Service proposed a new regulation that would require water rights to be transferred to the Federal Government as a condition for obtaining permits needed to operate 121 ski resorts across federal lands. Later, the Forest Service wisely withdrew this regulation.

Included in S. 2902 is language that would protect state-issued water rights by prohibiting the Departments of Interior and Agriculture from requiring a transfer or limitation of water rights as a condition precedent for obtaining a permit to use federal land.

Senator Wyden.

**STATEMENT OF HON. RON WYDEN,  
U.S. SENATOR FROM OREGON**

Senator WYDEN. Thank you very much, Senator Lee.

We are glad to have our witnesses here today.

Suffice it to say, what this is about is we are facing a water emergency in the West. Last year, the American West experienced an unprecedented drought with record-breaking temperatures and low snow pack and rainfall. This drought impacted communities. It impacted agriculture, industry, wildlife, and the environment.

Conditions may be a bit better now with El Nino, but we are still stuck in the proverbial woods because conditions are expected to continue throughout much of the West in coming years. As a result, communities across the country face significant water security shortages and are trying to respond to these dwindling supplies.

Managing our water resources for the future means developing smart and collaborative solutions that help people and the environment. Creative approaches that can end water wars and empower communities on the ground are like those in the Klamath Basin in my home state and the Yakima Basin in Washington.

In Oregon, we have experienced drought disasters for several years now, and we are gearing up for another dry year. Extreme drought conditions impact farming, ranching, fish, wildlife, and wildfire.

Chair Murkowski and the Ranking Member, Senator Cantwell, are working together to look for ways—and I think Senator McCain and Senator Feinstein know about this—to also better fund prevention of fire and make existing dollars stretch further than we have in the past.

With the traditional big recreation season about to begin, I would also like to note that drought significantly limits opportunities for people to get outside, recreate, and enjoy the West and boost our recreation economy. You cannot paddle down a river when there is barely enough water to float a kayak, and you cannot hike through a forest when the dry conditions have sparked a wildfire.

The recreation economy has the potential to be a major economic engine throughout the West. I recently introduced legislation, the RNR bill, which stands for Recreation, Not Red-Tape. Because we have witnesses here today, I will be talking more about that later this week.

The problems in the Klamath Basin are especially on my mind today because they have been made worse by years of dry conditions that decrease supply and increase the tensions, but we were able to get a diverse group of community leaders together to find a sustainable solution and we are in a position now where we can turn a corner and start making real progress.

The work that groups like Trout Unlimited and the Family Farm Alliance have done in the Klamath Basin is commendable. I bring this up simply by way of saying that these collaborative coalitions,

and you see them around the country, they are doing the heavy lifting, but they can and do work. The Klamath Basin, in fact, proves that that is the case.

I have had a number of conversations with my colleague and friend, Senator Feinstein, because she has been doing yeoman's work trying to make sure that the water challenges in California are dealt with. Her bill to address the drought is of special interest to our state for a variety of reasons, but one that I have not really learned about until recently is the potential impact on the health and sustainability of Oregon and Northwest salmon fisheries. I am looking forward to getting more information on those issues in the days ahead so that I can work closely with Senator Feinstein and our colleagues to make sure that Oregon fisheries will be able to benefit from drought management decisions that are made in California, number one, and that we avoid negative impacts on our fisheries.

Let me close with one last point. Having worked with Senator Feinstein and Senator McCain on a lot of these natural resource issues in the past, I think we understand that nobody gets everything they want when you are dealing with tough resources issues. Nobody gets everything they believe they ought to have. The question is, can you get enough in order to strike a balance between the various interests that we all care about?

I look forward very much to working with Senator Feinstein and Senator McCain, because we have traveled those roads before, and we have been able to navigate tough resources issues because we built around those kinds of principles. I look forward to our witnesses and working with both of them.

Senator LEE. Thank you, Senator Wyden.

We have two panels of witnesses today. Our first panel consists of Senator Feinstein from California and Senator McCain from Arizona. We will hear from each of them now.

Senator Feinstein, we will start with you.

**STATEMENT OF HON. DIANNE FEINSTEIN,  
U.S. SENATOR FROM CALIFORNIA**

Senator FEINSTEIN. Thanks very much, Mr. Chairman, Senator Wyden, and Senator Manchin. Thank you very much for this opportunity.

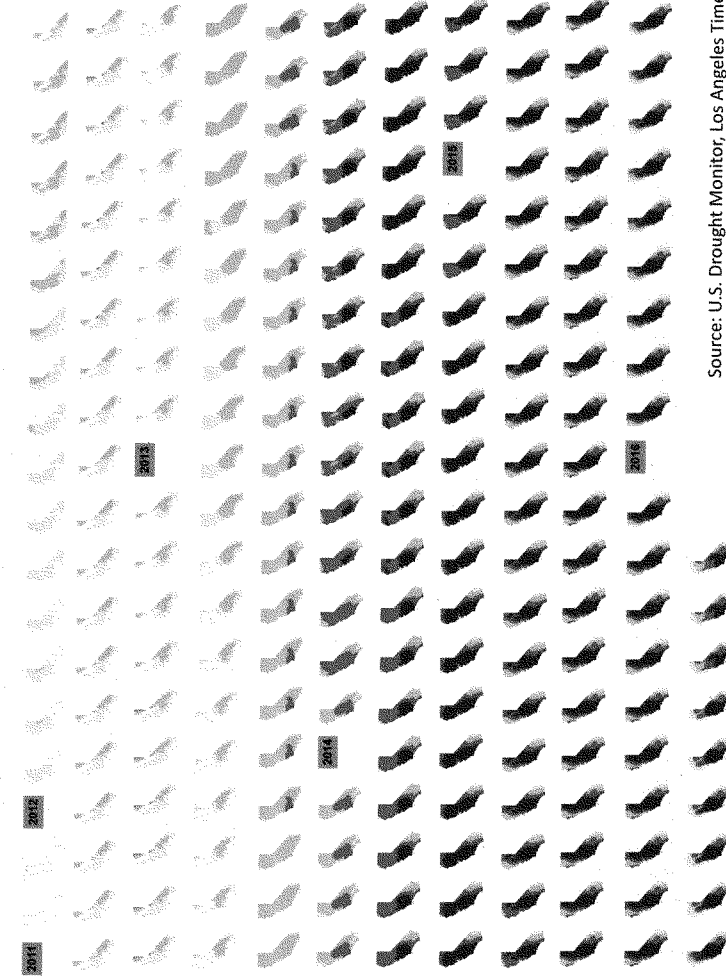
I would like to mention that there is a gentleman sitting behind me who is going to testify on the next panel. He is Tim Quinn. He is the Executive Director of the Association of California Water Agencies. They represent 430 public agencies. They are responsible for 90 percent of the water delivered throughout California. I think he brings an important perspective.

Despite this most recent El Nino, California still faces severe drought conditions now going on five consecutive years. A picture is worth a thousand words.

[The information referred to follows:]

# 5 years of California drought

December 2011 through May 2016



Source: U.S. Drought Monitor, Los Angeles Times



If you look at this chart, and maybe if you tilt it just a little bit this way, you will see how dry California has been every week since the drought began in 2010. It shows the drought's progression from abnormally dry conditions in yellow, to severe drought in orange, and to extreme drought in red, and finally exceptional drought in the dark red color. I think it says it all.

The sustained presence of exceptional drought, the most severe category since 2014, is alarming and illustrates California's emergency situation. This is also highlighted by our inadequate infrastructure.

I think most people do not realize that the two big water conveyance projects, the Central Valley Project and the State Water Project—the State Water Project was built for the cities and the other project was built essentially by farmers for farmers. It was designed when California was 16 million people. Well, we are now 40-plus million people, and the infrastructure has not been significantly expanded.

So this bill is the product of two years of work, 28 drafts, 43 amendments to the last draft. It has been circulated to Republicans, Democrats, environmental groups, water districts, cities, rural communities, fishermen, and farmers.

I would like to add to the record, if I may, Mr. Chairman, letters of 104 agencies and individuals throughout the state supporting the bill you have before you.

[The information referred to follows:]

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***California Long-Term Provisions for Water Supply  
and Short-Term Provisions for Emergency  
Drought Relief Act (S. 2533)***

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**SUPPORT FOR S. 2533**

*Below is a list of letters, press releases and op-eds from agencies, groups and members of Congress that offer support for S. 2533, either the full bill or certain provisions in the bill.*

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**LETTERS OF SUPPORT:**

- Congressman John Garamendi
- Congressman Jim Costa
- Congressman Tony Cárdenas
- Congresswoman Loretta Sanchez
- Congressman Scott H. Peters
- Congressman Juan Vargas
- Congressman Adam B. Schiff
- Congresswoman Karen Bass
- Metropolitan Water District of Southern California
- League of California Cities
- Irvine Ranch Water District
- North Bay Water Reuse Program
- Reclamation District 108
- Glenn-Colusa Irrigation District
- Santa Clara Valley Water District
- Northern California Water Assn.
- Orange County Water District
- Delta Diablo Sanitation District
- Goleta Water District
- Ducks Unlimited, Inc.
- Grassland Water & Resource Conservation Districts
- California Waterfowl Association
- Las Virgenes Municipal Water District
- West Bay Sanitary District
- Central Contra Costa Sanitary District
- Victor Valley Wastewater Reclamation Authority
- Monterey Regional Water Pollution Control Agency
- Monterey Peninsula Water Management District
- Redwood City
- Dublin San Ramon Services District
- California Water Service Company (Cal Water)
- Tehama-Colusa Canal Authority
- San Jose Water Company
- City of Benicia
- City of Palo Alto
- Association of California Water Agencies
- Western Recycled Water Coalition
- California Association of Sanitation Agencies
- National Association of Clean Water Agencies

\*Formal letter of support not yet received

Updated – May 17, 2016

- WaterReuse Association
- City of Pismo Beach
- City of Pleasanton
- Monterey County Water Resources Agency
- City of San Diego
- Valley Sanitary District
- Western Municipal Water District
- City of Turlock
- Rincon del Diablo Municipal Water District
- City of Ventura
- City of Indio
- Indio Water Authority
- Cucamonga Valley Water District
- East Bay Municipal Utility District
- International Union of Operating Engineers
- Yuba County Water Agency
- Eastern Municipal Water District
- Coachella Valley Water District
- Alameda County Flood Control and Water Conservation District
- Orange County Sanitation District
- Water Replenishment District of Southern California
- Alameda County Water District
- California Fresh Fruit Association
- Desert Water Agency
- San Joaquin Valley Water Infrastructure Authority
  - Fresno County
  - Tulare County
  - Madera County
  - Merced County
  - Kings County
  - City of Orange Cove
  - City of Avenal
  - San Joaquin River Exchange Contractors Water Authority
  - Table Mountain Rancheria
  - City of Mendota
- Central Basin Municipal Water District\*
- San Diego County Water Authority
  - Carlsbad Municipal Water District
  - City of Del Mar
  - City of Escondido
  - Fallbrook Public Utility District
  - Helix Water District
  - Lakeside Water District
  - National City
  - City of Oceanside
  - Olivenhain Municipal Water District
  - Otay Water District
  - Padre Dam Municipal Water District
  - Camp Pendleton Marine Corps Base
  - City of Poway
  - Rainbow Municipal Water District
  - Ramona Municipal Water District
  - San Dieguito Water District
  - Santa Fe Irrigation District
  - South Bay Irrigation District
  - Sweetwater Authority
  - Vallecitos Water District
  - Valley Center Municipal Water District
  - Vista Irrigation District
  - Yuima Municipal Water District
- Walnut Valley Water District
- Las Virgenes-Triunfo Joint Powers Authority
  - Triunfo Sanitation District
- Monterey County Board of Supervisors
- City of South Gate
- Valley Industry and Commerce Association
- Merced County Association of Governments
- Mr. William J. Lyons, Jr., former secretary of the California Department of Food and Agriculture

\*Formal letter of support not yet received

Updated – May 17, 2016

**SUPPORTIVE PRESS RELEASES & OP-EDS:**

- Metropolitan Water District of Southern California
- California Natural Resources Agency
- Congressman Jim Costa
- California Chamber of Commerce (CalChamber)
- San Luis and Delta-Mendota Water Authority
- Friant Water Authority
- Friant North Authority
- Westlands Water District
- South Valley Water Association
- Kern County Water Agency
- San Joaquin River Exchange Contractors Water Authority
- Tehama-Colusa Canal Authority
- California Citrus Mutual
- California Farm Bureau Federation
- Western Growers

\*Formal letter of support not yet received

Updated – May 17, 2016

**Congress of the United States**  
**Washington, DC 20515**

May 17, 2016

The Honorable Lisa Murkowski  
 United States Senator  
 304 Dirksen Senate Office Building  
 Washington, DC 20510

The Honorable Maria Cantwell  
 United States Senator  
 304 Dirksen Senate Office Building  
 Washington, DC 20510

Dear Senators Murkowski and Cantwell:

We are writing to you as the Chairman and Ranking Member of the Senate Energy and Natural Resources Committee to express our support for Senator Dianne Feinstein's S.2533, the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act, and to request that you provide assistance to Senator Feinstein in passing this legislation.

Despite improved hydrologic conditions in 2016, many regions in California, including the San Francisco Bay area, the San Joaquin Valley, and southern California, will continue to suffer water supply shortages resulting from four years of prolonged drought and regulations that affect the operations of the State's two major water supply projects. S.2533 provides reasonable solutions to address both the short-term and long-term water supply needs for the State. It does this by investing in water storage, conservation, recycling and desalination, along with innovative water infrastructure financing. These provisions align with Proposition 1, which was passed by California voters in 2014, thus enhancing State law with the coordinated activities of the Federal agencies.

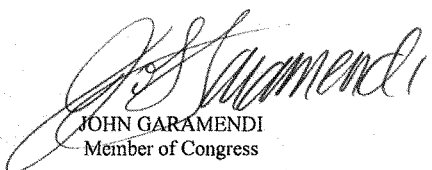
The bill also avoids violating or overriding landmark environmental laws including the Endangered Species Act or the associated biological opinions that govern project operations at certain times of the year, and also upholds and protects state water rights and water law. There is an environmental protection mandate repeated throughout the text, as well as a clear savings clause that explicitly prohibits implementation of the bill a manner that "overrides, modifies, or amends the applicability of the Endangered Species Act . . . or the application of the smelt and salmonid biological opinions."

Moreover, S.2533 makes provision for additional protections for at-risk fish species and provides additional tools to improve the Sacramento San Joaquin Bay-Delta environment. This drought has shown that we must take a holistic look at how we manage the entire ecosystem for improved outcomes for both native species and water supply reliability. This bill looks at a variety of ways to protect imperiled fish species by providing funding to increase gravel rearing and spawning habitat, improve monitoring, reduce the effects of entrainment, reduce the impacts of predation, and improve the agencies' management of cold water.

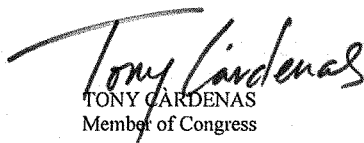
In drafting S.2533 Senator Feinstein sought input from federal agencies charged with implementing federal statutes intended to protect the fish and wildlife resources, the State of California, public water agencies that serve virtually every region of the State, and conservation organizations interested in protecting wetlands, fish and wildlife, and other environmental resources. S.2533 is thoughtful legislation that protects the environment and will also improve the reliability of water supplies for the State in the short-term and build improved drought resiliency in the long term.

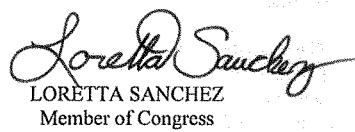
Again, we request that you support Senator Feinstein's efforts to pass this important legislation and make her aware of that support. We stand ready to provide any assistance you need.

Sincerely,

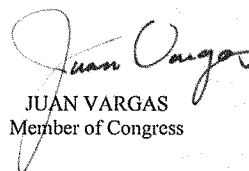
  
JOHN GARAMENDI  
Member of Congress

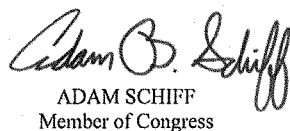
  
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INFRASTRUCTURE COMMITTEE  
RAISING MEMBER  
COAST GUARD AND MARITIME TRANSPORTATION  
SUBCOMMITTEE  
WATER RESOURCES AND ENVIRONMENT  
SUBCOMMITTEE  
AVIATION SUBCOMMITTEE



UNITED STATES CONGRESS

February 9, 2016

2430 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
PHONE: (202) 225-1800  
FAX: (202) 225-5914

DISTRICT OFFICES:

412 G STREET  
DAVIS, CA 95616  
PHONE: (530) 753-5501  
FAX: (530) 753-5614

1261 TRAVIS BOULEVARD, SUITE 130  
FAIRFIELD, CA 94533  
PHONE: (707) 438-1822  
FAX: (707) 438-0523

795 PLUMAS STREET  
YUBA CITY, CA 95991  
PHONE: (530) 329-8865  
FAX: (530) 763-4248

The Honorable Dianne Feinstein  
331 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Feinstein,

I write to convey my support for the California drought and water supply discussion draft that you released on February 1<sup>st</sup>. In its current form, this legislation addresses our immediate water challenges while preparing our state for future droughts. The long term investments in water storage, both surface and aquifer, conservation, recycling and desalination projects, along with innovative water infrastructure financing are the most valuable elements of the bill. These provisions align with the voter-passed Proposition 1, thus enhancing that law with the coordinated activities of the Federal agencies.

The short term operations provisions in the proposed legislation fall within the boundaries of the Endangered Species Act and Biological Opinions. These provisions mirror and confirm the actions that State and Federal agencies have taken over the course of the last four years as the State and Federal agencies acted to address the effects of the drought. A vital component of these provisions is the limited time period in which these operational sections are in effect, thus making these sections emergency actions.

Your bill requires real-time monitoring of listed species, which is critically important as we try to improve the health of various fisheries. You also provide funding for the federal agencies to carry out these actions which will ensure that required monitoring is in fact completed.

I am heartened by your commitment to finding a solution that fits within our nation's landmark environmental laws and encourage you to remain true to that commitment as the legislative process plays itself out. I applaud the serious effort that you have made to work with stakeholders to craft a solution to the drought crisis effecting California and I look forward to continuing that work with you.

Sincerely,

JOHN GARAMENDI  
Member of Congress

PRINTED ON RECYCLED PAPER



THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

Office of the General Manager

February 24, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

**RE: S.2533 - Support**

Dear Senator Feinstein:

On behalf of the Metropolitan Water District of Southern California, I want to thank you for your continued leadership in addressing California's urgent drought conditions with the introduction of S.2533, the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act of 2016. Your legislation will help address critical water management challenges facing our state, its businesses, the agriculture industry, residents and the environment.

On August 18, 2015, Metropolitan adopted legislative priorities for federal drought legislation. S. 2533 represents significant legislative progress on nearly all of those priorities. Consistent with these priorities, the bill authorizes funding and provides regulatory assistance to regions affected by drought for immediate and long term projects to develop, store, treat and deliver water. The bill could also help ensure greater reliability for the State Water Project, Colorado River Aqueduct and local water supplies. These are just a few of the drought policies and priorities Metropolitan supports that would be advanced through passage of this comprehensive bill.

Metropolitan believes reauthorizing and authorizing funding for the Water Desalination Act of 1996 and authorizing additional funding for water recycling projects, as well as officially establishing the EPA WaterSense Program, will help Southern California continue to provide reliable supplies for the region. Metropolitan supports increasing local self-sufficiency among water agencies. S.2533 seeks to prioritize desalination demonstration project funding based on certain reliance criteria. Metropolitan believes S.2533 would be even stronger if it emphasized regional and local water self-sufficiency as the best approach for prioritizing eligibility for project funding, rather than referencing reduced reliance or offsets in demands. We would be pleased to follow-up with your staff on any recommended changes or additional technical amendments that may further strengthen the bill.

Metropolitan greatly appreciates your efforts and the opportunity to work with you and your staff to see S.2533 enacted into law by the 114th Congress. Thank you for your continued leadership.

Sincerely,

Jeffrey Kightlinger  
General Manager

cc: The Honorable Barbara Boxer



Flood Control   Water Supply   Fishery Enhancement   Recreation   Hydro Electric Generation



March 10, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington DC 20215

Dear Senator Feinstein:

I am writing on behalf of the Yuba County Water Agency (YCWA) in support of your excellent work on S. 2533, the "California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act."

California's severe and unprecedented drought has adversely affected nearly every sector of our economy and nearly every natural ecosystem, in one manner or another. As the owner and operator of the Yuba River Development Project, our immediate focus is on the Yuba River watershed. Nonetheless, we strongly support your work to interject balanced, practical, and science-oriented solutions to alleviate the future impacts of drought on California's farmers, ranchers, businesses, citizens and importantly as well, the natural environment. Your legislation includes several very helpful provisions that we believe would have an immediate impact on our economy and environment once the bill is enacted into law.

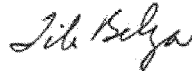
As the legislation states, "...water storage is an indispensable and integral part of any solution to address the long-term water challenges of the State of California," (Title I). Our experience on the Yuba River clearly shows that an appropriate level of surface and groundwater storage provides public safety, water supply, recreation, renewable energy and water supply benefits for social, economic and environmental interests. Your legislation provides invaluable, and new financial tools and authorities for the federal government to support essential projects, like the proposed Sites Reservoir. This specific project would provide water supplies for California's cities, farms and for imperiled fish and wildlife species, including salmon, steelhead and waterfowl. California's water rights system is a foundation to new projects, such as surface storage.

We support the position of the Northern California Water Association and many others in their appreciation to you for specific provisions in the bill regarding water rights. The clear reaffirmation of the area of origin and related water rights laws and policies (Title IV, Section 402) not only support capital investment and job creation in numerous sectors of our economy, but allow water suppliers like Yuba County Water Agency to make significant investments in salmon and steelhead restoration initiatives. Title II of the legislation also includes a series of helpful provisions to benefit fish and wildlife species through new authorities for adaptive management, monitoring and pilot programs. All of these steps are necessary as California's natural ecosystems and the species that rely upon them struggle with the effects of the drought.

**Main Office:** 1220 F Street - Marysville, CA 95901-4740 - 530.741.5000 - Fax: 530.741.6541  
**Colgate Power House:** 12700 Lake Francis Road - P.O. Box 176 - Dobbins, CA 95935-0176 - 530.740.7000 - Fax: 530.740.7101  
[www.ycwa.com](http://www.ycwa.com)

Your commitment to California's economy and environment on this issue is a tribute to your work in the Senate. We would be pleased to work with you and your staff as this legislation advances in Congress.

Sincerely,

A handwritten signature in cursive script, reading "Tib Belza".

Tib Belza  
Chairman

cc: YCWA Board  
NCWA  
ACWA

John V. Rossi  
General Manager

Robert Stockton  
Division 1

Thomas P. Evans  
Division 2

Brenda Dennstedt  
Division 3

Donald D. Galleano  
Division 4

S.R. "Al" Lopez  
Division 5



Securing Your Water Supply

February 23, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Feinstein:

On behalf of Western Municipal Water District's Board of Directors, I am writing in support of S. 2533, the *California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*.

For decades, Western has aggressively pursued creation of new water supplies that would make us less susceptible to drought. However, the length and depth of this natural disaster places heavy burden on a system already struggling to deal with pre-existing water shortages and environmental regulations.

Your bill is a crucial step towards helping us address the stresses on our system. Provisions to update the latest science on the delta smelt and to improve monitoring would help increase operational efficiency of the State Water Project and the Central Valley Project. New funding streams for storage, desalination and recycling, as well as expansion of WaterSMART and creation of RIFIA could create up to 1.4 million acre feet of new water - including local drought-proof supplies which would help improve regional resiliency and reliability.

With El Nino potentially turning into La Nina, time is of the essence. It is important that the Senate move quickly to pass your legislation so that you can begin negotiating any remaining differences with the House of Representatives. We stand ready to assist you in any way to ensure that fast Senate action on S. 2533.

Sincerely,

John V. Rossi



*Serving Our Community Since 1902*

500 Laurel Street, Menlo Park, California 94025-3486 (650) 321-0384 (650)321-4265 FAX

PHIL SCOTT  
District Manager

In reply, please refer to our  
File No.: 1759.1

February 5, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

**SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT**

Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. As one of the water recycling project sponsors identified in your draft legislation cited as the "*California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*", we provide this letter as support for your provisions that will allow projects like ours to be eligible to pursue critical federal funding to construct our project.

We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has shut off the construction funding pathway. Our project will take place within the West Bay Sanitary District (WBSD), which is located in the San Francisco Bay Area of California. WBSD maintains and operates over 200 miles of main line sewer in the City of Menlo Park and portions of the cities of East Palo Alto and Redwood City, the towns of Atherton, Woodside and Portola Valley, and portions of unincorporated San Mateo and Santa Clara Counties. The raw wastewater collected by WBSD is conveyed to Silicon Valley Clean Water (SVCW), located in Redwood City, where the wastewater is treated and discharged or reused.

WBSD is proposing to construct a 0.5 MGD satellite facility at the Sharon Heights Golf & Country Club, which is located within WBSD. The project will include an influent wastewater pumping station and forcemain (PS/FM). The purpose of the project is to offset potable water usage by 152 acre-feet per year (AFY) and allow the golf course to be irrigated by the non-potable effluent. Depending on flow amounts, current and future adjacent institutions, businesses, and or residents will be able to use the recycled water for various irrigation purposes. Your legislation provides a much needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program. This, plus the additional funding for WaterSMART, will allow new water recycling projects to seek needed funding to move their project into construction and develop these drought-tolerant supplies.


SERVING AREAS IN MENLO PARK, ATHERTON, PORTOLA VALLEY, EAST PALO ALTO, REDWOOD CITY, WOODSIDE AND UNINCORPORATED SAN MATEO AND SANTA CLARA COUNTIES

Honorable Dianne Feinstein  
February 5, 2016  
Page 2

As California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.

Sincerely,

**WEST BAY SANITARY DISTRICT**

A handwritten signature in black ink, appearing to read 'Phil Scott', with a long horizontal flourish extending to the right.

Phil Scott  
District Manager

cc: BHK, SXR, TMR, CJN, PYD

W:\Public Data\Adam\RECYCLED WATER



DIRECTORS  
 WILLARD H. MURRAY, JR., PRESIDENT  
 ROB KATHERMAN, VICE PRESIDENT  
 JOHN D. S. ALLEN, SECRETARY  
 ALBERT ROBLES, TREASURER  
 SERGIO CALDERON, DIRECTOR

ROBB WHITAKER, P.E., GENERAL MANAGER

March 16, 2016

Senator Dianne Feinstein  
 331 Hart Senate Office Building  
 Washington, DC 20510

RE: Senate Bill No. 2533- Support

Dear Senator Feinstein:

On behalf of the Water Replenishment District of Southern California (WRD), I am writing to convey our support for S. 2533, the "California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act."

We have followed your efforts for the past few years in crafting a viable drought relief bill and appreciate your commitment and persistence in writing a bill that addresses the needs and concerns of all stakeholders. Senate Bill 2533 is a thoughtful and comprehensive approach to easing the impact of the current drought and, perhaps more importantly, mitigating the impact of future droughts. WRD's service area remains in extreme drought. Despite some rainfall in recent weeks, precipitation is still 40 percent below average. The much-anticipated El Niño weather pattern has not significantly eased the impact of the ongoing drought.

Several years ago, WRD implemented the Water Independence Now (WIN) program, which is a suite of projects aimed at maximizing local water supplies, such as stormwater and recycled water sources for groundwater replenishment, and reducing our dependence on imported water. For example, as the cornerstone of the WIN program, WRD's Groundwater Reliability Improvement Project (GRIP) will offset the use of 21,000 acre-feet per year (AFY) of imported water with local recycled water for groundwater replenishment.

The financial support that S. 2533 would offer to local water agencies such as WRD will aid in the construction of projects, such as GRIP, and the development of infrastructure that will make it possible to capture and recycle more stormwater, desalinate more brackish groundwater, and other related activities, that will better prepare California for the dry years and droughts that are undoubtedly in our future.

In closing, I thank you once again for your efforts to provide short-term relief from the drought and improve our long-term ability to weather future droughts.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robb Whitaker", is written over a horizontal line.

Robb Whitaker, P.E.  
 General Manager

03-18-2016 09:10

From=WALNUT VALLEY WATER DISTRICT

8094445521

T-401 P.002/002 F-104

WALNUT VALLEY WATER DISTRICT 16 MAR 29 AM



## BOARD OF DIRECTORS

Scarlett P. Kwong  
President  
Election Division V

Allen L. Wu  
First Vice President  
Election Division I

Edwin M. Hilden  
Second Vice President  
Election Division II

Theodore L. Ebenkamp  
Assistant Treasurer  
Election Division IV

Theresa Lee  
Director  
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Erik Hiltzman  
Assistant General Manager  
Chief Engineer

Brian Teuber  
Director of Finance  
Treasurer

Sandra Olson  
Director of  
Administrative Services

Gabriela Sanchez  
Executive Secretary

LEGAL COUNSEL  
James D. Clamps

271 South Brea Canyon Road  
Walnut, California 91789-3002 • (909) 695-1268 • (626) 964-6551  
Website: www.wvwd.com • Fax: (909) 444-5521

March 17, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

Sent via facsimile (one page)

Dear Senator Feinstein:

## RE: S.2533 - Support

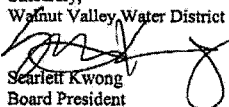
On behalf of the Walnut Valley Water District, we want to thank you for your continued leadership in addressing California's urgent drought conditions with the introduction of S. 2533, the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act of 2016. Your legislation will help address critical water management challenges facing our state, its businesses, the agriculture industry, residents and the environment.

Our District supports S. 2533 for,

- Identifying up to 130 projects that are estimated to produce upwards of 1.1 million acre feet of "new" water;
- Ensuring greater reliability for the State Water Project, Colorado River Aqueduct and local water supplies;
- \$600-million would go to water storage projects throughout California and other western states;
- \$350-million for water recycling efforts and \$100-million to fund twenty-seven water desalination projects specifically in California; and
- Reauthorizing and authorizing funding for the Water Desalination Act of 1996 and authorizing additional funding for water recycling projects.

Again, our District appreciates your efforts and the opportunity to work with you and your staff to see S. 2533 enacted into law by the 114th Congress.

Sincerely,  
Walnut Valley Water District

  
Scarlett Kwong  
Board President

MH/

cc: The Honorable Barbara Boxer

03/18/2016 11:43AM (GMT-04:00)



**Victor Valley Wastewater Reclamation Authority**

*A Joint Powers Authority and Public Agency of the State of California*

20111 Shay Road, Victorville, CA 92394

Telephone: (760) 246-8638

Fax: (760) 246-2898

e-mail: [mail@vwwra.com](mailto:mail@vwwra.com)

February 8, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT

Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. As one of the water recycling project sponsors identified in your draft legislation cited as the "*California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*", we provide this letter as support for your provisions that will allow projects like ours to be eligible to pursue critical federal funding to construct our project.

We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has shut off the construction funding pathway. Your legislation provides a much needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program. This, plus the additional funding for WaterSMART, will allow new water recycling projects to seek needed funding to move their project into construction and develop these drought-tolerant supplies.

As California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.

Sincerely,

Logan Olds  
General Manager





**Victor Valley Wastewater Reclamation Authority**

*A Joint Powers Authority and Public Agency of the State of California*

Administrative Offices

20111 Shay Road, Victorville, CA 92394

Telephone: (760) 246-8638

Fax: (760) 246-2895

e-mail: mail@vwwra.com

February 24, 2016

The Honorable Dianne Feinstein  
331 Hart Senate Office Bldg.  
Washington, D.C. 20510

Dear Senator Feinstein,

On behalf of the Victor Valley Wastewater Reclamation Authority, I am writing in support of the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act

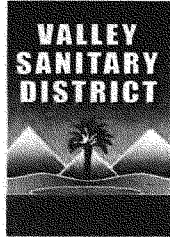
California has been in the midst of a historic drought. Immediate action is needed to assure the storage and reliability of our future water supplies. Your bill would provide \$1.3 billion in funding and support for long term solutions including water storage, water recycling and desalination. Many of the people residing in our service area live in disadvantaged communities. Your bill would help disadvantaged communities who are most at risk of running out of clean water, while protecting threatened and endangered species

VWVRA is actively involved in recycling water. Our plant in Victorville, CA annually recycles more than 14,000 acre feet of treated and disinfected wastewater. The water is used to maintain the habitat surrounding the Mojave River while recharging downstream aquifers. In addition, VWVRA is building two water reclamation facilities that will each provide 1100 acre feet of recycled water per year to the communities of Apple Valley and Hesperia. While we are proud of the steps that we have taken, more can be done, both here and throughout the state of California. Your bill addresses 137 projects that could produce 1.4 million acre feet of new water through recycling or desalination and provides funding for those projects.

VWVRA believes that a multi-pronged approach is needed to solve California's water crisis. Your bill does just that by providing both short term solutions and long term investments to address the drought. VWVRA strongly supports the California Drought Relief Act and urges our Congressional leaders to act quickly on this legislation.

Sincerely,

Logan Olds  
General Manager  
Victor Valley Wastewater Reclamation Authority



Directors:

**Douglas A. York, President**  
**Mike Duran, Vice President**  
**Merritt W. Wiseman, Secretary/Treasurer**  
**Eric Davenport, Director**  
**William R. Teague, Director**  
General Manager:  
**Joseph Glowitz, PE, PMP**

February 23, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT

Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. As one of the water recycling project sponsors identified in your draft legislation cited as the "*California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*", we provide this letter as support for your provisions that will allow projects like ours to be eligible to pursue critical federal funding to construct our project.

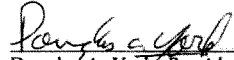
We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has shut off the construction funding pathway. Our project will provide recycled water to customers within the Valley Sanitary District's and Indio Water Authority's service area. Approximately 9,243 AFY of recycled water would be served on an annual basis. The proposed project reduces the dependence on imported water by providing a reliable and local drought tolerant supply. Your legislation provides a much needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program. This, plus the additional funding for WaterSMART, will allow new water recycling projects to seek needed funding to move their project into construction and develop these drought-tolerant supplies.

As California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to

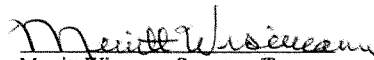
**45-500 VAN BUREN STREET, INDIO CA 92201 (760)238-5400 FAX (760)238-5460**

partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.

Sincerely,

  
Douglas A. York, *President*

  
Mike Duran, *Vice President*

  
Merritt Wiseman, *Secretary/Treasurer*

  
Eric Davenport, *Director*

  
William Teague, *Director*

cc: John Watts, Legislative Director



May 12, 2016

Senator Lisa Murkowski  
Chair of U.S. Senate Committee on Energy and Natural Resources  
709 Hart Senate Building  
Washington, D.C. 20510

**SUBJECT: S.2533 (Feinstein) Emergency Drought Relief- SUPPORT**

Dear Senator Murkowski,

The Valley Industry and Commerce Association (VICA) strongly supports the priorities outlined in Senate Bill 2533 (Feinstein), which includes a series of long- and short-term measures to address the drought that California has faced since 2014 as well as future droughts.

We applaud Senator Feinstein for working with a wide coalition of water and environmental groups, gaining consensus among many stakeholders. California depends on a stable water supply, and for too long businesses and residents have been faced with the uncertainty caused by potential water shortages. As California is a major economic driver of the whole United States, the provisions in this bill are critical to all Americans.

This is an ambitious series of programs which addresses many serious concerns, both in the short- and long-term. Through increased water storage and water recycling, this bill aims for 854,000 acre-feet per year of new water. It also provides for direct aid to the hardest-hit communities, incentives to improve water efficiency, and sensible environmental safeguards. This bill balances the protection of our environment with the needs of all Californians of a secure supply of water.

This bill is vital to California's future, and we urge you to support this bill.

Sincerely,

Kevin Tamaki  
VICA Chairman

Stuart Waldman  
VICA President

CC: *Members of U.S. Senate Committee on Energy and Natural Resources*  
*Senator Dianne Feinstein*

## *Tehama-Colusa Canal Authority*

P.O. BOX 1025 • 5513 HWY 162, WILLOWS, CA 95988 • Phone: (530) 934-2125 • Fax: (530) 934-2355

February 10, 2016

Senator Diane Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

RE: Tehama Colusa Canal Authority Support Letter for the "California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act"


Dear Senator Feinstein:

The Tehama Colusa Canal Authority (TCCA) wishes to thank you for your leadership and efforts in crafting and introducing the "California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act". Your extensive efforts over the past months to shape these balanced policies, that will provide both long term improvements to the California water system, and desperately needed short term operational provisions that will assist in providing increased water deliveries to severely impacted state and federal water contractors during the current drought crisis, is greatly appreciated. We are very supportive of this legislation, and your efforts to move this bill through the Senate quickly. We are hopeful and optimistic that ultimately this effort will result in a product that both Houses of Congress can support in a very timely manner, resulting in the ultimate enactment of meaningful legislation that will serve to mitigate the huge impacts being suffered this year by water users throughout the state. Time is of the essence, as we are losing the opportunity to move and store critical water resources right now.

The TCCA is joint powers authority comprised of seventeen water districts, all of whom hold CVP agricultural water service contracts. Our service area encompasses four counties (Yolo, Colusa, Glenn and Tehama), and 150,000 acres of highly productive farmland along the westside of the Sacramento Valley. The farms served by the TCCA have already suffered through two consecutive years of zero allocations pursuant to their CVP contracts, and are currently facing the prospects of a third consecutive very challenging water year.

Thank you again for all of your effort and time spent to craft legislation to mitigate and address the devastating impacts currently being felt by water users throughout the state. We standby, ready to assist and support your efforts.

Sincerely,

  
Jeffrey P. Sutton  
General Manager



January 22, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Feinstein:

Thank you for the invitation and opportunity to meet with you on January 19, 2016, to share the Santa Clara Valley Water District's (District) views on your pending water legislation. On behalf of the District I sincerely appreciate your leadership on California water issues and particularly want to thank you for all your help with the South San Francisco Bay Shoreline Study.

I was pleased to hear about your coordination with state and federal agencies as you developed your proposed legislative language and want to encourage your continued coordination with the agencies, including the California Department of Water Resources.

Regarding your pending water legislation, we believe that one helpful item to facilitate long-term provisions for water supply would be to modify the tax-exempt bond provisions of the Internal Revenue Code to permit the financing of recycled water facilities from the proceeds of tax-exempt governmental activity bonds. These bonds could be issued directly by a government agency or on behalf of a government agency-approved public/private partnership which may own, operate and/or finance the facilities. I have attached a detailed description of this issue and the suggested language for your consideration.

I understand that because such a provision would fall outside the scope of the Senate Energy Committee, time may not allow for it to be included in this particular legislation. Should an opportunity arise, we would be happy to work with your staff to address these issues. Additionally, we want to express our support for your efforts to address the issue of tax exemption for homeowners who agree to turf removal and other related measures for helping to reduce water demand in the face of drought.

As discussed in the meeting, I would also like to request that the following provisions be added to your current legislation, or if not possible, have the provisions considered for future legislation. The provisions are:

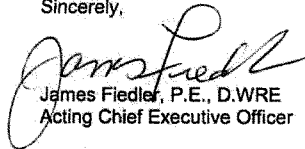
1. That recycled projects eligible for future or current authorizations require that the project be sponsored by a public agency. This would ensure consistency throughout the legislation where this is already included.
2. That recycled water National Environmental Protection Act (NEPA) streamlining language (which closely mirrors the California Environmental Quality Act streamlining language) be included so that agencies which seek to take advantage of federal funding, or are required to follow the NEPA process, can still expedite projects in light of the drought.

The Honorable Dianne Feinstein  
Page 2  
January 22, 2016

3. That the District and other municipalities with favorable bond ratings will be able to obtain a lower interest rate if available on secured loan if the rate is not more than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan of the date of execution of the loan agreement. The current version of your drought bill (S 1837) says not less than the yield on U.S. Treasury securities which doesn't really help.

Thank you *again* for your consideration of these provisions and I look forward to working with you and your staff to help move your legislation forward. If you have any questions, please contact me at (408) 630-2736, or by email at [jfiedler@valleywater.org](mailto:jfiedler@valleywater.org).

Sincerely,



James Fiedler, P.E., D.WRE  
Acting Chief Executive Officer

Attachment

cc: Board of Directors (7)  
The Honorable Dianne Feinstein Local Office

jb:jl  
0122b-l.docx





April 8, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Senate Hart Office Building  
Washington, D.C. 20510

Subject: Notice of Support and Amend—S 2533 (Feinstein) California Emergency Drought Relief Act of 2015

Dear Senator Feinstein:

I am writing to inform you that the Santa Clara Valley Water District (District) Board of Directors took a position of "Support and Amend" on S 2533—California Emergency Drought Relief Act of 2015.

The District greatly appreciates your leadership and dedication to local entities with the provisions in the bill that have the goals of moving and creating water on a long-term basis to help those communities suffering the worst effects of the drought, while remaining completely compliant with environmental laws such as the Endangered Species Act and Clean Water Act as well as all biological opinions.

The District is the primary water agency for Silicon Valley. Our duties include: providing flood protection and environmental stewardship for the county's more than 800 miles of creeks and streams, and ensuring a clean, healthy, and reliable water supply for approximately 2 million residents of Santa Clara County.

The District would like to request that you amend your bill to include the following:

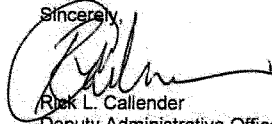
- Require recycled water projects eligible for future or current authorizations be sponsored by a public agency. This is would ensure consistency throughout the legislation where this is already included.
- Include recycled water National Environmental Protection Act (NEPA) streamlining language, which closely mirrors the California Environmental Quality Act streamlining language, so that agencies which seek to take advantage of federal funding, or are required to follow the NEPA process can still expedite projects in light of the drought.
- Change Section 137 (b)(5) to read: "INTEREST RATE – The interest rate on a secured loan under this section shall be not less more than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan of the date of execution of the loan agreement." Changing the "not less than" to "not more than" would allow the District and other municipalities with favorable bond ratings to obtain a lower interest rate if available.

The Honorable Dianne Feinstein  
Page 2  
April 8, 2016

- Include language which will provide for a modification of the tax exempt bond provisions of the Internal Revenue Code to permit (but not require) the financing of recycled water facilities from the proceeds of tax exempt governmental activity bonds issued directly by a government agency or on behalf of a government agency approved public/private partnership which may own, operate and/or finance the facilities. Such modification would also clarify that the tax exempt status of existing and future governmental bonds issued to finance wastewater systems providing the wastewater supply to the facilities would not be adversely affected by such public/private partnership.
- Revise Section 303(c) to specify that Old and Middle River flow rates will be based on the new method of calculation pursuant to section 301(h), and not, as currently written, based on the United States Geological Survey gauges. Old and Middle River flows are influenced by pumping rates, San Joaquin River inflow rates, and tidal flows which cause twice daily flow reversals. Both the Delta Smelt and salmonid biological opinions specify a combined, tidally averaged, net flow rate for the protection of the species. The tidally averaged, net flow is a calculated value that is difficult to predict and cannot be calculated in real-time, and therefore, is difficult to operate to. Section 301(h) provides for implementation of a revised method of calculating the Old and Middle River flow rates for the purposes of complying with the biological opinions.

Your bill is very important to the District and we thank you for introducing it. If there is any way the District may be of assistance in the passage of this bill, or provide information on the requested amendments, please do not hesitate to contact me at (408) 630-2017, or by e-mail at [rcallender@valleywater.org](mailto:rcallender@valleywater.org).

Sincerely,



Rick L. Callender  
Deputy Administrative Officer  
Office of Government Relations

cc: District Office, One Post Street, Suite 2450, San Francisco, CA 94104  
The Honorable Barbara Boxer, United States Senate  
The Honorable Anna Eshoo, U.S. House of Representatives  
The Honorable Zoe Lofgren, U.S. House of Representatives  
The Honorable Mike Honda, U.S. House of Representatives  
The Honorable Sam Farr, U.S. House of Representatives

sw:mf  
0406a-l.docx



## Recycled Water Projects: Public/Private Partnerships

Our region is in a unique position to advance innovations in recycled and purified water. To aid in the expansion and availability of this drought-proof, locally controlled water source, the Santa Clara Valley Water District (District) is pursuing federal legislative efforts that would facilitate financing of recycled water projects through a public/private partnership model.

Specifically, the District is seeking language that would modify tax-exempt bond provisions of the Internal Revenue Code to permit (but not require) the financing of recycled water facilities from the proceeds of tax-exempt governmental activity bonds issued directly by a government agency or on behalf of a government agency-approved public/private partnership which may own, operate and/or finance the facilities.

The modification would also clarify that the tax-exempt status of existing and future governmental bonds issued to finance wastewater systems providing the wastewater supply to the facilities would not be adversely affected by such public/private partnership. Draft language that would accomplish this is below:

Section 141 of the Internal Revenue Code of 1986, as amended, is hereby amended by adding new subsection (f) as follows:

***"(f) Exception for advanced water purification facilities and facilities related thereto. For purposes of this title—***

*(1) private business use, for purposes of paragraph (6) of subsection (b), shall not result, nor a private loan for purposes of subsection (c), from arrangements, including operating agreements, leases, ownership rights, or other usage, including with respect to sales of output for either direct or indirect potable reuse, relating to advanced water purification facilities and other related facilities that satisfy the requirements of paragraph (3),*

*(2) the use of facilities for the collection, storage, treatment, utilization, processing or final disposal of waste water, including primary and secondary treatment facilities, and those facilities related thereto, by a person other than a governmental unit because of the usage of facilities described in paragraph (1) of subsection (f), does not result in private business use within the meaning of paragraph (6) of subsection (b), regardless of the date of issue of bonds financing such facilities, and*

*(3) for purposes of paragraph (1)—*

*(A) advanced water purification facilities—*

*(i) include treatment plants, land, pipelines, injection wells, recharge ponds, reinjection facilities, groundwater recharge facilities, and facilities to manage water and solid waste byproducts from treatment, for the production storage, and distribution of potable water from wastewater, and*

*(ii) must be either owned by, or operated pursuant to the direction of, a state or local governmental unit, and*

*(B) the output from advanced water purification facilities must be either owned by, or available for, the utilization of a state or local governmental unit; and*

*(4) paragraph (1) of subsection (f) shall only apply to bonds issued on or before December 31, 2025."*



**San Jose  
Water  
Company**

110 W. Taylor Street  
San Jose, CA 95110-2131

Writer's Direct Line: (408)-279-7933  
Email: john.tang@sjwater.com

February 8, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT

Dear Senator Feinstein:

San Jose Water Company would like to thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. We are one of the water recycling project sponsors identified in your draft legislation cited as the "*California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*", and we write to support your provisions that will allow projects like ours to be eligible to pursue critical federal funding.

We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. *Our projects* are the SJWC Alignments A, R and D, which will provide a large expansion of our recycled water distribution system to parks, office and housing complexes, golf courses and industrial. All of the 1,000,000 people we serve will benefit directly or indirectly here in the San Jose area, the heart of Silicon Valley.

Your legislation provides a much needed fix by eliminating project authorization obstacles and authorizing additional funds to the program. This, plus the additional funding for WaterSMART, will allow new water recycling projects to seek needed funding to move their project into construction and develop these drought-tolerant supplies.

As California continues to experience water supply issues and strains existing surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy and quality of life.

The Honorable Dianne Feinstein  
February 8, 2016  
Page 2

Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for the future.

Sincerely,

A handwritten signature in black ink, appearing to be 'John Tang', written in a cursive style.

John Tang  
Vice President of Government Relations & Corporate Communications

cc: John Watts, Legislative Director

**SAN JOAQUIN  
VALLEY WATER  
INFRASTRUCTURE  
AUTHORITY**

**Governing Board**

**Fresno County**  
Buddy Mendes, Vice  
President  
Brian Pacheco, Alternate

**Tulare County**  
Steve Worthley, President  
Allen Ishida, Alternate

**Madera County**  
David Rogers, Director  
Rick Farinelli, Alternate

**Merced County**  
Jerry O'Banion, Director  
John Pedrozo, Alternate

**Kings County**  
Doug Verboon, Director  
Craig Pedersen, Alternate

**Cities**  
Mayor Victor Lopez  
City of Orange Cove

Mayor Pro Tem Alvaro  
Preciado  
City of Avenal

**Water Agencies**  
Steve Chedester  
San Joaquin River Exchange  
Contractors Water Authority

**Tribal Member**  
Danny Casas  
Table Mountain Rancheria

**At Large**  
Mayor Robert Silva

**Interim Executive Director**  
Mario Santoyo  
559-779-7595

2800 West Burrell Avenue  
Visalia, CA 93291  
[www.tularecountytv.ca.gov](http://www.tularecountytv.ca.gov)

March 24, 2016

VIA ELECTRONIC MAIL

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Feinstein:

The San Joaquin Valley Water Infrastructure Authority ("Authority") Governing Board has considered your bill, the "California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act," and is pleased to state our Board's unanimous support.

The Authority is grateful for your continued leadership in attempting to find solutions to not only the immediate effects of drought but California's long-term water supply needs. Your willingness to sponsor this Senate legislation is particularly timely in order to advance a Senate bill into conference with the House regarding the drought bill it has passed. Further, we see the resulting legislation as being of great importance to residents, farmers and other property owners, businesses, industries, communities, counties and the environment within the San Joaquin Valley.

Our Authority is a new agency, formed by five San Joaquin Valley counties — Merced, Madera, Fresno, Tulare and Kings — and other agencies. It was organized and became operational over the past few months with an objective of finding means of developing new surface water storage and infrastructure that benefit the entire region. Development of Temperance Flat Dam and Reservoir, a major surface water storage facility proposed on the San Joaquin River in the upper portion of Millerton Lake, about 30 miles northeast of downtown Fresno is a leading focus of our board and member agencies.

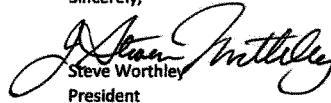
As you know, our counties have borne the brunt of massive reductions in Central Valley Project (CVP) water availability that has occurred over the past decade. These reductions have resulted not only from natural drought but from ever-more-stringent federal regulatory actions and court decisions. The latter mostly involve pumped exports of north state water from the Delta to Central and Southern California.

We agree with your bill's proposed federal assistance and authorizations for improving water supplies and quality within disadvantaged communities as well as programs and activities such as those benefitting water recycling, desalinization, fish species and the Delta. The Authority is most grateful for your proposals regarding storage.

We agree wholeheartedly with your bill summary's statement that "storing water during wet years for use in dry years is vital, given the consensus that droughts will grow more severe." The measure's authorization of \$600 million for water storage projects would be a great benefit to current water storage development efforts being made to take advantage of the state's recently passed water bond, Proposition 1, and its \$2.7 billion in storage funding. We also appreciate the direction given to the U.S. Bureau of Reclamation by the bill to complete feasibility studies that would enable such storage projects as Temperance Flat to compete for Proposition 1 bond funds and direction to the Secretary of the Interior through the Commissioner to partner or enter into agreements with Joint Power Authorities similar to ours to advance the development of these major water supply projects. There is no question that a new Temperance Flat Reservoir would supplement and work well in conjunction with the San Joaquin River's existing but much smaller Millerton Lake behind Friant Dam to provide much-needed water supply flexibility and enhancement. This would benefit our region well as California's urban areas, agriculture, flood control and environmental protection.

Thank you for the leadership that you have demonstrated for so many years in working to resolve, with benefits for all Californians, workable and reasonable solutions for meeting our state's crucial water needs. We would also welcome and appreciate the opportunity to meet with you to discuss your legislation and our JPA efforts.

Sincerely,



Steve Worthley  
President

cc: *Senate Majority Leader Mitch McConnell*  
*House Majority Leader Kevin McCarthy*  
*Congressman Jim Costa*  
*Congressman David Valadao*



## San Diego County Water Authority

4677 Overland Avenue • San Diego, California 92123-1233  
(858) 522-6600 FAX (858) 522-6568 www.sdcwa.org

March 28, 2016

Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

### MEMBER AGENCIES

Carlsbad  
Municipal Water District  
City of Del Mar  
City of Escondido  
City of National City  
City of Oceanside  
City of Poway  
City of San Diego  
Fullbrook  
Public Utility District  
Hawai Water District  
Lakeside Water District  
Olivewood  
Municipal Water District  
Otay Water District  
Padre Dam  
Municipal Water District  
Carmel Peninsular  
Marina Corps Base  
Scripps  
Municipal Water District  
Ramona  
Municipal Water District  
Rosarito del Diablo  
Municipal Water District  
San Diego Water District  
Santa Fe Irrigation District  
South Bay Irrigation District  
Vallecitos Water District  
Valley Center  
Municipal Water District  
Vista Irrigation District  
Yuma  
Municipal Water District

### OTHER REPRESENTATIVE

County of San Diego

### SUBJECT: S. 2533 (Feinstein) – SUPPORT AND SEEK AMENDMENTS

Dear Senator Feinstein:

On behalf of the San Diego County Water Authority (Water Authority), I am pleased to inform you that we support your S. 2533, which would advance near-term provisions to help California communities affected by drought, and propose programs and funding to support long-term water investment projects such as desalination, water recycling, and water storage. In addition, we would respectfully request your consideration of minor and technical amendments to your measure, as identified below, that we believe would improve the scope of parties eligible to compete for funding, that are involved in development of recycled water projects in San Diego County.

The Water Authority is a public agency serving the San Diego region as a wholesale supplier of water from the Colorado River, Northern California, and through locally-developed sources. The Water Authority works through its 24 member agencies to provide a safe, reliable water supply to support the region's \$206 billion economy and the quality of life of 3.2 million residents.

As drought conditions have worsened on a statewide basis in California over the past four years, the Water Authority's strategic investments in local water supply development and water use efficiency has paid dividends for the San Diego region in terms of creating resiliency to the effects of a prolonged and sustained drought. In just recent years, the Water Authority completed the nation's tallest dam raise at San Vicente Dam, advanced potable water reuse by sponsoring successful state legislation, and brought on-line the locally-developed Claude "Bud" Lewis Carlsbad Seawater Desalination Plant, which is the largest seawater desalination plant in the Western Hemisphere. Your S. 2533 would provide important federal resources to continue assisting and supporting the Water Authority's and its member agencies' investments in a diversified portfolio of water resources.

*A public agency providing a safe and reliable water supply to the San Diego region*

PRINTED ON RECYCLED PAPER



Senator Dianne Feinstein  
March 28, 2016  
Page 2

We are very appreciative that your S. 2533 would provide competitive funding eligibility for water recycling projects sponsored by a number of agencies that are specifically identified in the text of S. 2533. To ensure broad eligibility for the Water Authority's member agencies within San Diego County, **we would request your consideration of an amendment to S. 2533 to add the following Water Authority member agencies to the list of those entities eligible for federal funding assistance for water recycling projects:**

- City of National City
- Helix Water District
- Lakeside Water District
- San Dieguito Water District
- South Bay Irrigation District
- Vallecitos Water District
- Vista Irrigation District
- Yuima Municipal Water District

We greatly appreciate your leadership on this important issue this year, and for many years prior, and we look forward to working closely with you and your staff as the measure advances through Congress.

Please don't hesitate to contact me at (916) 492-6074 or Ken Carpi of Carpi and Clay at (202) 822-8300, if you have any questions regarding the Water Authority's position on S. 2533.

Sincerely,



Glenn A. Farrel  
Government Relations Manager

**Board of Directors**

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Diana L. Towne, Vice President  
James B. Murtland, Treasurer  
Dr. Gregory M. Quist, Director  
Erin R. Lump, Director



*A Public Agency Serving the  
Greater Escondido Valley Since 1954*

**General Manager**

Greg Thomas

**Board Secretary**

Wanda Cassidy

**General Counsel**

Redwine and Sherrill

February 23, 2016

The Honorable Dianne Feinstein  
331 Hart Senate Office Building  
Washington, D.C. 20510

Subject: California Long-Term Provisions for Water Supply and Short-Term Provisions for  
Emergency Drought Relief

Dear Senator Feinstein,

Rincon del Diablo Municipal Water District (Rincon Water) is encouraged by Senator Dianne Feinstein's introduction of the *California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief*. Given that California and a good majority of the western United States continues to face unprecedented drought conditions, and this has had debilitating impacts to both our economic and personal way of life, we encourage all members of Congress to approve this much-needed legislation. The water supply shortages caused by five years of extraordinary dry conditions, exacerbated by environmental restrictions imposed on the operations of the federal Central Valley Project and the California State Water Project, lack of adequate surface storage reservoirs, and failed water management policies of the past make passing this legislation a priority action.

Rincon Water supports that the proposed legislation provides a good balance between new projects and sources of water, while protecting the environment and promoting continued conservation efforts. We are excited about the emphasis on desalination and water recycling/reuse, as well as increased use and funding to the very successful Bureau of Reclamation Title XVI and WaterSMART programs. New sources of supply are a must if we are to solve California and other states' chronic water deficits stemming from failed management of an overtaxed system and continued drought conditions.

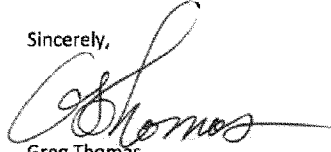
We further applaud the constructive approach of Senator Feinstein in crafting drought-response legislation that seeks to fairly balance the many needs of our diverse state, however, it's positive that the legislation also includes other western states facing the same drought conditions and worsening economic situations, as Rincon Water and other portions of California receives water supplies from the Colorado River basin.

We emphatically encourage all policymakers to genuinely work together to approve this meaningful legislative solution to the chronic water supply shortages that have devastated

The Honorable Dianne Feinstein  
February 23, 2016  
Page 2 of 2

California and other western States. Rincon Water looks forward to working with your office and all our Congressional representatives to make this legislation a success.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Thomas", with a long horizontal flourish extending to the right.

Greg Thomas  
General Manager

PUBLIC WORKS SERVICES DEPARTMENT



1400 BROADWAY STREET  
Redwood City, CA 94063  
PHONE: (650) 780-7464  
FAX: (650) 780-7445  
www.redwoodcity.org

February 9, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT

Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. As one of the water recycling project sponsors identified in your draft legislation cited as the "California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act", we provide this letter as support for your provisions that will allow projects like ours to be eligible to pursue critical federal funding to construct our project.

We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has shut off the construction funding pathway. Our project is intended to bring over 500 acre feet of water per year to central Redwood City including the heart of our downtown area servicing many new buildings with recycled water for toilet flushing and other uses. Your legislation provides a much needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program. This, plus the additional funding for WaterSMART, will allow new water recycling projects to seek needed funding to move their project into construction and develop these drought-tolerant supplies.

As California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ramana".

Ramana Chinnakotla  
Director of Public Works Services



RECLAMATION  
DISTRICT  
**108**

975 Wilson Bend Road  
P. O. Box 50  
Grimes, CA 95950-0050  
(530) 437-2221  
Fax: (530) 437-2248  
www.rd108.org

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Assistant Manager  
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February 3, 2016

The Honorable Dianne Feinstein  
331 Hart Senate Office Building  
United States Senate  
Washington, D.C. 20515

Dear Senator Feinstein:

On behalf of Reclamation District 108 (RD 108), I am pleased to convey our District's support for Senate passage of your drought relief legislation. RD 108 strongly supports the portfolio of opportunities for federal assistance found in your legislation. We look forward to continuing to work with you, Representatives Doug LaMalfa and John Garamendi, Senator Boxer and the balance of the California House Congressional Delegation to secure Senate passage and enactment of final, balanced federal legislation to help address our region and state's water supply-related needs.

Specifically, we strongly support the following proposals in the draft legislation:

- The Reclamation Infrastructure Finance and Innovation Act (RIFIA), which would provide low-cost, long-term federally-backed loans to help advance the construction of Sites Reservoir and other large-scale water infrastructure projects;
- Expanded grant opportunities under WaterSMART (the lesser of \$20 million or 25 percent of total project costs) to support small scale storage, conveyance, groundwater recharge, and other water supply and water management projects;
- Direct support from Reclamation for federal and non-federal water storage projects (the bill provides \$600 million to enable Reclamation to become a partner in the construction of large-scale water storage projects);
- Opening up the Title XVI water reuse program to currently unauthorized water reuse and desalination projects, which will help promote regional water self-sufficiency and reduce pressures on the Delta and the balance of the state's water delivery system; and
- Additional assistance through the National Marine Fisheries Service to help promote the recovery of endangered Sacramento River fish populations, which will have the added benefit of helping to reduce future pressures on available water supplies.

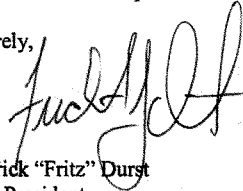
The Honorable Dianne Feinstein  
February 3, 2016  
Page 2 of 2

In combination, and in certain instances coordination, these new tools will, significantly accelerate non-federal investments in much needed water supply infrastructure in our region.

Finally, we strongly support the provisions of your legislation that strengthen the federal commitment to California's system of water rights and priorities. Consistent with Title IV of the draft legislation, which we strongly support, RD 108 thanks you for including a specific reference to "applicable State water law" in the "Savings Clause" found in section 701 (a) (1), not just a general reference to applicable State law. Specific recognition of, and federal deference to, "State water law" has been imbedded in federal law since at least 1902, and we appreciate that you agree it bears repeating here.

Again, we support Senate passage of your proposed legislation. We believe it represents an important step forward in the legislative process that will ultimately authorize valuable tools and protections to help ensure a more secure water future for California and the west.

Sincerely,



Frederick "Fritz" Durst  
Board President

cc: California Congressional Delegation

## DIRECTORS

PHILIP L. ANTHONY  
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**ORANGE COUNTY WATER DISTRICT**  
ORANGE COUNTY'S GROUNDWATER AUTHORITY

## OFFICERS

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Second Vice President  
PHILIP L. ANTHONY  
  
General Manager  
MICHAEL R. MARKUS, P.E., D.WRI

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

RE: 2016 Proposed Drought Legislation--Support

Dear Senator Feinstein:

The Orange County Water District writes regarding our earlier discussions with you and your staff to reaffirm support of your effort to pass a drought relief bill. The priority for an approach that will provide both the short-term and long-term tools to address the impacts associated with the drought is important. The changing hydrological patterns require Californians to implement new strategies to address such impacts. It is our understanding that you will shortly introduce legislation that would provide for robust support of alternative water supply infrastructure needs that are locally developed. As an agency that has led the nation in developing innovative water supply solutions, we endorse this effort and look forward to timely consideration of your legislation by the Senate.

Your prior 2015 legislation, S. 1894, included a broad array of infrastructure assistance tools. Of special note is your commitment to revitalize the U.S. Bureau of Reclamation's Title XVI program and the Desalination Act by creating a promising competitive grants program to support reuse and desalination projects. If such provisions are included in your soon-to-be-introduced 2016 drought bill, we enthusiastically support the measure.

Again, we appreciate your leadership to advance a comprehensive response to the drought emergency. Please do not hesitate to contact Alicia Dunkin, Legislative Affairs Liaison, at [adunkin@ocwd.com](mailto:adunkin@ocwd.com) or (714) 378-8232 if you have any questions or if we may be of assistance to you or your staff.

Sincerely,

Cathy Green  
President

CC: Congressman Dana Rohrabacher  
Congressman Darrell Issa  
Congressman Ed Royce  
Congresswoman Mimi Walters  
Congresswoman Loretta Sanchez  
Congressman Alan Lowenthal  
Congresswoman Linda Sanchez

Box 8300  
Fountain Valley, CA 92728-8300

18700 Ward Street  
Fountain Valley, CA 92708

(714) 378-3200  
(714) 378-3373 fax

[www.ocwd.com](http://www.ocwd.com)

## Orange County Sanitation District

10844 Ellis Avenue, Fountain Valley, CA 92708  
714.962.2411 • www.ocsewers.com

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Villa Park  
County of Orange  
Costa Mesa  
Sanitary District  
Midway City  
Sanitary District  
Irvine Ranch  
Water District  
Yorba Linda  
Water District



March 15, 2016

The Honorable Senator Dianne Feinstein  
U.S. House of Representatives  
Washington, DC 20515

Re: California Long-Term Provisions for Water Supply and Short-Term Provisions for  
Emergency Drought Relief Act (S. 2533)

Dear Senator Feinstein:

The Orange County Sanitation District (OCSD), endorses your effort to provide critical federal assistance to mitigate the ongoing drought conditions and help alleviate the water supply challenges that our region is expected to confront in the coming decades. OCSD has reviewed the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act (S.2533) you introduced on February 10, 2016. OCSD is encouraged by the bill's principles and programs that promise to provide important solutions through federal assistance to help our region successfully meet future water supply reliability.

The bill's provisions to support locally developed water supply solutions are important. OCSD has worked with the Orange County Water District to develop the Groundwater Replenishment System. This project would not have been possible without federal support through the U.S. Bureau of Reclamation. We are pleased that S.2533 would provide for enhanced federal support of such projects as well as creating new and innovative water recycling projects that can help supplement potable water supplies.

As S.2533 progresses through Congress, we look forward to supporting you in finalizing drought relief legislation that will help to create a resilient water supply for our region.

Sincerely,

John Nielsen  
Chairman of the Board of Directors  
Orange County Sanitation District

*To protect public health and the environment by providing  
effective wastewater collection, treatment, and recycling.*





**NCWA**  
Northern California Water Association

*To advance the economic, social and environmental sustainability of Northern California  
by enhancing and preserving the water rights, supplies and water quality.*

February 4, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20515

Dear Senator Feinstein:

We commend you for your efforts to craft comprehensive drought legislation that would support innovative and significant federal assistance solutions to the water needs in California and elsewhere in the west. We look forward to continuing to work with you, Senator Boxer and our California House Congressional Delegation to secure passage and enactment of balanced federal legislation to help address our region and state's water supply-related needs.

Your legislation proposes significant, new federal assistance tools to help local agencies better manage and develop new water supplies critical to a more drought resilient economy. We particularly support and appreciate that your proposal includes:

- ***New funding and financing opportunities to support new surface water storage projects, like the Sites offstream reservoir project, one of five surface water projects authorized for investigation under the CALFED Program, as a non-federal water storage project***—We greatly appreciate your language authorizing the Bureau of Reclamation Infrastructure Finance and Innovation Act (RIFIA), which would provide local agencies with access to low-cost, long-term financing for much needed water infrastructure investments. If a RIFIA loan program were in place today, the program would provide water project sponsors with access to loans with a repayment period of up to 35 years at a rate of approximately 2.9 percent, driving down the cost of water from a project like the Sites Reservoir Project by as much as 23 percent.

We also support the provisions of your legislation that authorize the Bureau of Reclamation to participate in a non-traditional way in non-federal projects like Sites Reservoir. Under your proposal, Reclamation would be authorized to contribute up to 25 percent of total project costs in non-federal projects like Sites. Reclamation would be able to benefit from a project as a project partner, rather than being saddled with all aspects of a project's development and long-term operation and maintenance. In conjunction with RIFIA, this is the kind of new role the Bureau of Reclamation needs to assume to help accelerate investments in needed water infrastructure west-wide.

- ***Provisions to strengthen the federal commitment to California's system of water rights and priorities***—We strongly support Title IV of the draft legislation, which protects and preserves state granted water rights and priorities. Consistent with Title IV, we also thank you for including a specific reference to "applicable State water law" in the "Savings Clause" found in section 701 (a) (1), not just a general reference to applicable State law. The principle of federal deference to "State water law" has been imbedded in Federal law since at least 1902, and we appreciate that you agree it bears repeating here.

- ***The Pacific Flyway and actions to benefit refuges***—The Pacific Flyway is an important and integral part of the Sacramento Valley and we support the provisions in the bill that will protect water rights for ricelands and the actions to benefit the wildlife refuges in section 202.
- ***Additional assistance through the National Marine Fisheries Service to help promote the recovery of endangered Sacramento River salmon and steelhead populations***—We are working closely with federal and state agencies and conservation partners on a Sacramento Valley Salmon Recovery Program. The provisions in the bill will help advance the recovery of these listed salmonid species and it will have the added benefit of helping to reduce future pressures on available water supplies.

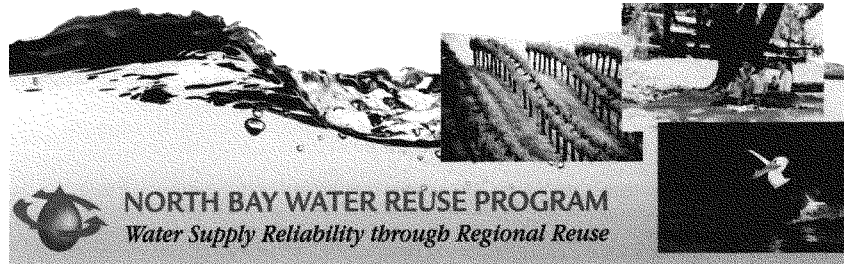
In sum, we strongly support Senate passage of your proposed legislation. We believe it represents an important step forward in the legislative process, one that will lead to enactment of legislation that will help make our region, California and the West more drought resilient.

Sincerely yours,



David J. Guy  
President

cc: California Congressional Delegation



February 3, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20515

Dear Senator Feinstein:

On behalf of the North Bay Water Reuse Authority (Authority), a regional partnership of 10 water management agencies and local governments in Marin, Napa, and Sonoma counties, I am writing to express the Authority's strong support for your drought relief legislation. The Authority thanks you for your efforts to provide meaningful solutions to all California's diverse water users and strongly supports the portfolio of opportunities for federal assistance found in your drought relief legislation.

We applaud your effort to authorize new federally-backed tools to help local agencies advance critically important water supply projects, including water reuse and recycling projects that can build more drought resilient water supply infrastructure across the West. Specifically, the members of the Authority enthusiastically support the provisions of your legislation that seek to: (1) authorize the Reclamation Infrastructure Financing and Innovation Act (RIFIA), a new, innovative, federally-backed, low-interest, long-term loan program through the Bureau of Reclamation; (2) expand the WaterSMART program to allow the Bureau of Reclamation to use this highly successful program to provide a more robust level of competitive cost-shared partnerships for a wide range of water supply and water management projects, including small-scale storage, conveyance, and integrated regional water management and recycling; and (3) reform of the Bureau of Reclamation's Title XVI water recycling and reuse program to allow unauthorized Title XVI projects to compete for construction assistance under the program.

In combination, these new tools will significantly accelerate non-federal investments in much needed water supply infrastructure in California and west-wide.

RIFIA, in a similar manner to grants, offers great savings for non-federal agencies investing in new water infrastructure, and it does so with minimal impact on the federal budget.

**North Bay Water Reuse Authority • c/o Sonoma County Water Agency • 404 Airport Boulevard, Santa Rosa, CA 95403  
707-235-8965 • NBWRA.org**

Las Gallinas Valley Sanitary District • Napa County • Napa Sanitation District • North Marin Water District • City of Petaluma • Marin County  
Novato Sanitary District • Sonoma County Water Agency • Sonoma Valley County Sanitation District • Marin Municipal Water District

If RIFIA were in place today, the interest rate for water infrastructure loans would be approximately 2.75 percent. Based on current municipal bond rates (even for a local government that could secure AA rated municipal bond financing), RIFIA would generate just under 10 percent in annual savings over a 30-year repayment period, and just over 20 percent in annual debt service savings over the longer 35-year repayment period allowed under RIFIA.

RIFIA also offers the opportunity to cost-effectively leverage limited federal funds. The \$200 million in budget authority authorized in your legislation, for example, would support \$2 billion in federally-backed water infrastructure financing and over \$4 billion in new water infrastructure spending, with federal outlays (real federal spending) of approximately \$6 to \$8 million.

Again, we support your proposed legislation and believe it represents an important step forward that will provide significant federal assistance to help meet the future water needs of our region, the State of California and other western states.

Sincerely,



David Rabbitt, Sonoma County Second District Supervisor  
Chair, North Bay Water Reuse Authority

cc: California Congressional Delegation

**North Bay Water Reuse Authority • c/o Sonoma County Water Agency • 404 Airport Boulevard, Santa Rosa, CA 95403  
707-235-8965 • NBWRA.org**

Las Gallinas Valley Sanitary District • Napa County • Napa Sanitation District • North Marin Water District • City of Petaluma • Marin County  
Novato Sanitary District • Sonoma County Water Agency • Sonoma Valley County Sanitation District • Marin Municipal Water District



## Monterey Regional Water Pollution Control Agency

*"Dedicated to meeting the wastewater and reclamation needs  
of our member agencies, while protecting the environment."*

Administration Office:  
5 Harris Court, Bldg. D, Monterey, CA 93940-5756  
(831) 372-3367 or 422-1001, FAX: (831) 372-6178  
Website: [www.mrwPCA.org](http://www.mrwPCA.org)

February 8, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT

Dear Senator Feinstein:

On behalf of the Monterey Regional Water Pollution Control Agency (MRWPCA), I want to thank you for continuing to seek funding solutions for many of the communities across California who are dealing with the effects of the prolonged drought. Identifying federal funding sources such as the Title XVI Water Reclamation and Reuse program will benefit many shovel ready projects throughout California. Streamlining the project authorization hurdle will put federal dollars to work for projects like Pure Water Monterey.

The Monterey Peninsula is actively pursuing alternative water supplies. The Pure Water Monterey Project ([www.purewatermonterey.org](http://www.purewatermonterey.org)) is a model project that is mutually beneficial to allow advanced treated recycled water to be one of the new sources of water that provides a sustainable water supply for the residents on the Monterey Peninsula. The Pure Water Monterey Project will provide 3,500 acre-feet as a replacement water supply once constructed in 2017.

The MRWPCA and our partner in the Pure Water Monterey Project, Monterey Peninsula Water Management District (MPWMD), cordially invite you to visit the Advanced Water Purification Demonstration Facility. This facility demonstrates the technology used to treat a variety of wastewater sources to beyond drinking water standards. This facility is open for tours and many elected officials have taken the tour and have tasted this ultra-pure water. Again, we invite you and your staff to come down to drink The Future of Water.

Joint Powers Authority Member Entities:  
Boronda County Sanitation District, Castroville Community Services District, County of Monterey, Del Rey Oaks, Fort Ord, Marina Coast Water District, Monterey, Moss  
Landing County Sanitation District, Pacific Grove, Salinas, San City, and Seaside.

Honorable Dianne Feinstein  
February 8, 2016  
Page 2 of 2

We want to thank you for drafting a bill that provides the necessary resources to allow local, state and federal agencies to work together to develop sustainable and drought proof water supplies for California.

Sincerely,



Paul A. Sciuto  
General Manager

*[Faint, illegible text, likely a signature or stamp]*



February 3, 2016

The Honorable Dianne Feinstein  
 United States Senate  
 331 Hart Senate Office Building  
 Washington, D.C. 20515

**Subject: Support for the Drought Relief Act**

Dear Senator Feinstein:

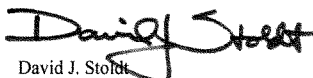
On behalf of the Monterey Peninsula Water Management District, a partner in the Pure Water Monterey advanced water purification project, I am writing to express the District's strong support for your drought relief legislation. The District thanks you for your efforts to provide meaningful solutions to all California's diverse water users and strongly supports the opportunities for federal assistance found in your proposed drought relief legislation.

New federally-backed tools are desperately needed to help local agencies advance critically important water supply projects, including water reuse and recycling projects like Pure Water Monterey, that can create more drought resilient water supply across the West. Specifically, the District enthusiastically supports the provisions of your legislation that seek to: (1) authorize the Reclamation Infrastructure Financing and Innovation Act (RIFIA), a new, innovative, federally-backed, low-interest, long-term loan program through the Bureau of Reclamation; (2) expand the WaterSMART program to allow the Bureau of Reclamation to use this highly successful program to provide a more robust level of competitive cost-shared partnerships for a wide range of water supply and water management projects, including small-scale storage, conveyance, and integrated regional water management and recycling; and (3) reform of the Bureau of Reclamation's Title XVI water recycling and reuse program to allow unauthorized Title XVI projects to compete for construction assistance under the program.

The Pure Water Monterey Project is the first to recycle agricultural irrigation water, storm water, and agricultural processing water in addition to domestic wastewater. We are hopeful that the project can be a flagship project demonstrating the benefits of your proposed bill.

In combination, these new tools will significantly accelerate non-federal investments in much needed water supply infrastructure in California and the West. We support your proposed legislation and believe it represents an important step forward. Thank you for your leadership in developing legislation that will allow local government to partner with federal agencies for funding assistance for sustainable water supplies.

Sincerely yours,

  
 David J. Stoldt  
 General Manager

cc: Congressman Sam Farr  
 Ken Rooney  
 John Watts  
 Monterey Regional Water Pollution Control Agency

# MONTEREY COUNTY

---

## WATER RESOURCES AGENCY

PO BOX 930  
SALINAS, CA 93902  
(831) 755-4860  
FAX (831) 424-7935

DAVID E. CHARDVOYNE  
GENERAL MANAGER



STREET ADDRESS  
893 BLANCO CIRCLE  
SALINAS, CA 93901-4455

February 18, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20515

Dear Senator Feinstein:

Re: Support for the Drought Relief Act

On behalf of the Monterey County Water Resources Agency (Agency), which has been developing critical and innovative water resources projects in the Salinas Valley for over 60 years with the most recent being an Interlake Tunnel and Spillway Modification Project, I am writing to express the Agency's support for your drought relief legislation. The Agency thanks you for your continued efforts to provide significant solutions to all of California's diverse water users and strongly supports the prospects for federal assistance found in your proposed drought relief legislation.

New federally-backed tools are desperately needed to help local agencies advance critically important water supply projects, including projects like the Interlake Tunnel and Spillway Modification Project, which connects two Agency reservoirs through a tunnel that will result in an increase of water storage and a reduction in valley flooding, thus creating a more drought resilient water supply across the West. Specifically, the Agency strongly supports the provisions of your legislation that seek to: [i] authorize the Reclamation Infrastructure Financing and Innovation Act (RIFIA), a new, innovative, federally-backed, low-interest, long-term loan program through the Bureau of Reclamation; [ii] expand the WaterSMART program to allow the Bureau of Reclamation to use this highly successful program to provide an increased level of competitive cost-shared partnerships for a wide range of water supply and water management projects, including small-scale storage, conveyance, and integrated regional water management and recycling; and, [iii] reform of the Bureau of Reclamation's Title XVI water recycling and reuse program to allow unauthorized Title XVI projects to compete for construction assistance under the program.

The Interlake Tunnel and Spillway Modification Project is innovative by improving upon existing infrastructure to increase water storage capability, and at the same time decrease the frequency and magnitude of flooding in the Salinas Valley, a region that supports an agricultural industry that provides over \$8 billion to California's economy and is critical to the world's food supply. We are hopeful that this project can be held up as an example of the benefits of your proposed legislation.

Monterey County Water Resources Agency manages, protects, and enhances the quantity and quality of water and provides specified flood control services for present and future generations of Monterey County



The Honorable Dianne Feinstein  
Page 2 of 2  
February 18, 2016

In combination, the proposed new tools will also significantly accelerate non-federal investments in much needed water supply infrastructure in California and the West. We support your proposed legislation and believe it represents an important step forward.

Thank you for your leadership in developing legislation that will allow local government to partner with federal agencies for funding assistance to develop and maintain sustainable water supplies.

Sincerely,

A handwritten signature in black ink, reading "David F. Chardavoyne". The signature is written in a cursive, flowing style.

cc: Congressman Sam Farr  
Jane Parker, Chair – Monterey County Board of Supervisors  
David Hart, Chair – Monterey County Water Resources Agency Board of Directors

# MONTEREY COUNTY

## BOARD OF SUPERVISORS

FERNANDO ARMENTA, *District 1*  
 JOHN M. PHILLIPS, *District 2*  
 SIMÓN SALINAS, *District 3*  
 JANE PARKER, *Chair, District 4*  
 DAVE POTTER, *Vice Chair, District 5*



March 29, 2016

The Honorable Dianne Feinstein  
 331 Hart Senate Office Building  
 Washington, DC 20510

**Re: S. 2533 – The California Long-Term Provision for Water Supply and Short-Term Provisions for Emergency Drought Relief Act – SUPPORT**

Dear Senator Feinstein:

On behalf of the Monterey County Board of Supervisors, I am writing to express Monterey County's support for S. 2533, the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act. We appreciate your tireless effort to develop and enact legislation that provides funding and support for long-term solutions to drought in California, including water storage, desalination and recycling.

As you know, the topography and geology of Monterey County create a complex, interrelated system of groundwater resources that are heavily dependent on the climate, the health of local watersheds, and water management. Virtually all water used in the county is pumped from groundwater aquifers. These water supplies are dependent on recharge from surface drainages, primarily from the watersheds in the region. Over the years, the Salinas Valley Groundwater Basin has experienced overdraft, a condition which allows seawater intrusion to occur, streams and rivers to go dry, and wells in the affected aquifers to be contaminated and often abandoned. Sufficient water resources exist in the county's reservoirs, aquifers, and watersheds, but the economic problems of storage and distribution prevent these resources from being fully available.

In order to better manage the county's limited water resources, the Board is actively exploring financing mechanisms for the Interlake Tunnel and San Antonio Spillway Modification Project (Project). The Project will connect Nacimiento and San Antonio reservoirs to effectively increase the use of existing storage capacity in the system for drought protection and seawater intrusion abatement, as well providing additional flood control for the surrounding farming communities. Over the years, tens of thousands of acre feet of water were released prematurely, due to imposed regulatory limits, ultimately flowing into the ocean instead of being stored and utilized for future environmental releases for fish flows and other beneficial uses. The Project will provide an innovative solution to the problem, utilizing existing storage infrastructure, by designing and constructing a 12,000 foot tunnel between the Nacimiento and San Antonio reservoirs to transfer water and thereby increase the opportunity to store up to 60,000 acre-feet of additional water per year when available. The water from these two lakes would

then be used downstream for groundwater recharge, sea water intrusion abatement, and the promotion of fish habitats - increasing the total available supply and quality of water benefits for the surrounding communities and ecosystems. The Board views this Project as a candidate for funding under the provisions of S. 2533 that authorize support for non-federal water storage projects.

The Board also supports Pure Water Monterey, a recycled water supply program that includes a series of projects serving the Monterey Peninsula and Salinas Valley. When fully implemented, the program would deliver an additional 10,000 acre-feet per year of high-quality recycled water for use by urban communities, agricultural irrigation and to augment and protect the region's groundwater basin. We appreciate your inclusion of Pure Water Monterey as an eligible water recycling project under S. 2533.

Thank you for your continuing efforts to provide a comprehensive federal response to the drought in California.

Sincerely,



Jane Parker  
Chair, Board of Supervisors

cc: The Honorable Barbara Boxer  
The Honorable Sam Farr  
Monterey County  
- Board of Supervisors  
- Lew C. Bauman, CAO  
- Nicholas E. Chiulos, Assistant CAO  
- Charles J. McKee, County Counsel  
- Clerk of the Board  
Monterey County Water Resources Agency  
- David Chardavoyne, General Manager  
Brent R. Heberlee, Nossaman LLP  
John E. Arriaga, JEA & Associates



PH: 209.723.3153  
 FAX: 209.723.0322  
[www.mcagov.org](http://www.mcagov.org)  
 369 W. 18<sup>th</sup> Street  
 Merced, Ca. 95340

May 13, 2016

The Honorable John Hoeven  
 U.S. Senate  
 338 Russell Senate Office Building  
 Washington, DC 20510

RE: S. 2533 CALIFORNIA LONG-TERM PROVISIONS FOR WATER SUPPLY AND  
 SHORT-TERM PROVISIONS FOR EMERGENCY DROUGHT RELIEF ACT (FEINSTEIN)

Dear Senator Hoeven:

On behalf of the Merced County Association of Governments' One Voice delegation, I strongly encourage your consideration and support for S. 2533, the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act. As a member of the Energy and Natural Resources Committee, we request that you work to markup this important legislation as soon as possible.


The MCAG One Voice delegation is a legislative advocacy effort comprised of local elected officials, business leaders, education partners and staff from Merced County, California who travel to Washington, DC annually to advocate for issues and projects of regional significance. The drought and the need for federal action to provide short and long term provisions to address its devastating impacts continues to be the top priority for the delegation.

The current multi-year drought is impacting our communities in the San Joaquin Valley in numerous ways from reducing domestic water availability to causing the fallowing of farmland and economic losses. As the fifth leading agricultural county in California, many of our west side growers in Merced County rely on the water deliveries from the Central Valley Project. When the deliveries are restricted, they turn to groundwater which is another resource impacted by the drought.

Senator Feinstein's legislation, which proposes federal assistance and authorizations for improving water supplies and quality within disadvantaged communities, has the potential to provide much needed relief to our county. Additionally, the recognition that California lacks the infrastructure needed to store water in wet years for use in dry years is essential. Projects like Temperance Flat would supplement storage behind Millerton Lake and provide much needed water supply flexibility. This enhancement would benefit the San Joaquin Valley as well as urban areas, agriculture, flood control and environmental protection.

Once again, we strongly encourage you to support this legislation not only at the Water and Power Subcommittee hearing on May 17<sup>th</sup> but during markup as well. We look forward to seeing this legislation move out of the Senate and into conference with the legislation passed by the House of Representatives last year.

Sincerely,



Marjie Kim  
Executive Director  
Merced County Association of Governments

On behalf of the 2016 One Voice Delegation:

Supervisor Daron McDaniel, Merced County  
Mayor Pro Tempore Josh Pedrozo, City of Merced  
Council Member Mike Murphy, City of Merced  
Council Member Gurpal Samra, City of Livingston  
Council Member Alex McCabe, City of Livingston  
Mayor Dennis Brazil, City of Gustine  
Council Member Pat Nagy, City of Gustine  
Bill Lyons, Mapes Ranch / Lyons' Investments  
David Melin, President, Merced Boosters Club  
Cori Lucero, University of California, Merced  
Dr. RoseMary Parga Duran, Superintendent, Merced City School District  
Jessica Kazakos, Board Member, Merced City School District  
Adam Cox, Board Member, Merced City School District / CEO, Greater Merced Chamber of Commerce

cc: The Honorable Dianne Feinstein, Member of Congress  
The Honorable Jim Costa, Member of Congress  
The Honorable Lisa Murkowski, Chairman  
The Honorable John Barrasso, Senator  
The Honorable James E Risch, Senator  
The Honorable Mike Lee, Senator  
The Honorable Jeff Flake, Senator  
The Honorable Bill Cassidy, Senator  
The Honorable Cory Gardner, Senator  
The Honorable Steve Daines, Senator  
The Honorable Rob Portman, Senator  
The Honorable Lamar Alexander, Senator  
The Honorable Shelley Moore Capito, Senator  
The Honorable Maria Cantwell, Ranking Member  
The Honorable Ron Wyden, Senator

The Honorable Bernard Sanders, Senator  
The Honorable Debbie Stabenow, Senator  
The Honorable Al Franken, Senator  
The Honorable Joe Manchin III, Senator  
The Honorable Martin Heinrich, Senator  
The Honorable Mazie Hirono, Senator  
The Honorable Angus King, Senator  
The Honorable Elizabeth Warren, Senator



1400 K Street, Suite 400 • Sacramento, California 95814  
 Phone: 916.658.8200 Fax: 916.658.8240  
[www.cacities.org](http://www.cacities.org)

May 6, 2016

Honorable Dianne Feinstein  
 United States Senate  
 331 Hart Senate Office Building  
 Washington, D.C. 20510

**Re: S. 2533 (Feinstein) California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act**  
**NOTICE OF SUPPORT**

Dear Senator Feinstein:

The League of California Cities® (League) is writing to express our support for your S. 2533 (Feinstein) California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act. This thoughtful and balanced emergency drought relief measure will help address some of the critical water management challenges facing many California cities.

As you are keenly aware, California faces a fifth year of extreme drought conditions. Despite projections of a historically powerful El Niño and significant precipitation in early winter, the statewide Sierra snowpack, a critical component of the State's water supply, currently stands at 87% of average. In order to stretch potable water supplies, the State Water Resources Control Board has extended the mandatory water conservation regulation until October, thus requiring all Californians to greatly restrict water use.

The League applauds your effort to provide a broad array of federal assistance to parched California. In particular, your S. 2533 would authorize new federally-backed tools to help local municipalities and water districts pursue critically needed water supply projects, including water reuse and recycling projects that will help provide drought resilient water supplies. Specifically, the League supports the following provisions that seek to: (1) authorize \$200 million for the Reclamation Infrastructure Financing and Innovation Act (RIFIA), which is a new low-interest, long-term loan program; (2) authorize an additional \$150 million to expand the WaterSMART program to allow the Bureau of Reclamation to use this successful cost-sharing program to provide grants for water conservation, water reuse and recycling projects, and other water supply and management programs; and (3) authorize \$10 million for the EPA's WaterSense program to better educate consumers on which household products are most water-efficient.

With the rainy season coming to an end and a long, dry summer looming, S. 2533 would provide meaningful federal assistance to help local communities address the short-term effects of the ongoing drought while also investing in long-term solutions that will make our water supplies more drought resilient. Thank you for your ongoing leadership on this important issue. If you have any questions, please contact the League's DC representative Leslie Pollner at (202) 469-5149 or [leslie.pollner@hklaw.com](mailto:leslie.pollner@hklaw.com).

Sincerely,

A handwritten signature in cursive script that reads "Chris McKenzie".

Chris McKenzie  
 Executive Director

cc: Members, California Congressional Delegation



**Las Virgenes – Triunfo Joint Powers Authority**  
4232 Las Virgenes Road, Calabasas, CA 91302  
818.251.2100



March 7, 2016

15 MAR 30 PM 1:19

SENATOR FEINSTEIN  
WASHINGTON, D.C.

Iain Hart  
Legislative Correspondent  
U.S. Senator Dianne Feinstein  
331 Hart Senate Office Building  
Washington, D.C. 20510

Dear Mr. Hart:

Thank you for your time and interest during our recent meeting to discuss the issues of concern to the Las Virgenes – Triunfo Joint Powers Authority (JPA).

As discussed, Senator Feinstein's bill, S 2533 concerning long and short-term water supply solutions for the western states is a priority for the JPA.

We value Senator Feinstein's concern with water issues and her support for the JPA's efforts to develop the ability to either store excess recycled water or perhaps process surplus recycled water into drinking water. Either option will reduce the region's dependence upon imported potable resources and provide benefits for the sensitive Malibu Creek Watershed.

The JPA is also grateful for the Senator's support of a new tax exemption for water conservation rebates, similar to the existing exemption for energy conservation rebates.

We appreciate your time in becoming familiar with these issues of local importance. We will also monitor water-related legislation and share our thoughts on pertinent bills as they move through the legislative process.

Please consider our open invitation to the Senator and her staff to tour our facilities and view the many environmental benefits they provide.

Sincerely,

David W. Pedersen, P.E.  
General Manager / Administering Agent

cc: Kenneth Rooney

**Glen Peterson**  
Chair, Las Virgenes-Triunfo  
Joint Powers Authority  
President, Las Virgenes Municipal Water District  
Board of Directors

**Michael Paule**  
Vice Chair, Las Virgenes-Triunfo  
Joint Powers Authority  
Chair, Triunfo Sanitation District  
Board of Directors





Dedicated to Providing Quality  
Water & Wastewater Service

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Secretary  
**Charles P. Caspary**  
Director, Division 1

Treasurer  
**Jay Lewitt**  
Director, Division 5

**Leonard E. Polan**  
Director, Division 4

**David W. Pedersen, P.E.**  
General Manager

**Wayne K. Lemieux**  
Counsel

HEADQUARTERS  
4232 Las Virgenes Road  
Calabasas, CA 91302  
(818) 251-2100  
Fax (818) 251-2109

WESTLAKE  
FILTRATION PLANT  
(818) 251-2370  
Fax (818) 251-2379

TAPIA WATER  
RECLAMATION FACILITY  
(818) 251-2300  
Fax (818) 251-2309

RANCHO LAS VIRGENES  
COMPOSTING FACILITY  
(818) 251-2340  
Fax (818) 251-2349

www.LVMWD.com

MEMBER AGENCY OF THE  
METROPOLITAN WATER  
DISTRICT  
OF SOUTHERN CALIFORNIA

February 8, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

#### RE: Drought Relief Act - SUPPORT

Dear Senator Feinstein:

Las Virgenes Municipal Water District (LVMWD) writes to express thanks and support for your efforts to introduce and seek passage of a drought relief act that will provide critical funding for many needed water projects across California. As one of the water recycling project sponsors identified in your draft legislation cited as the "California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act", LVMWD provides this letter as a statement of support for your provisions that will enable projects like ours to pursue critically-needed federal funding for construction.

LVMWD also supports your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has closed the construction funding pathway. Our project seeks to make greater use of recycled water and reduce or eliminate recycled water discharges to the sensitive Malibu Creek Watershed, with the added benefit of reducing the District's reliance upon imported water. Your legislation provides a much-needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program. Combined with additional funding for WaterSMART, the legislation will allow new water recycling projects to seek the funding needed to move a project into construction and develop these drought-tolerant supplies.

As California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water sources like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance in developing sustainable water supplies for California and the nation.

Sincerely,

David W. Pedersen, P.E.  
General Manager


**IRVINE RANCH WATER DISTRICT**

15600 Sand Canyon Avenue • P.O. Box 57000 • Irvine, California 92619-7000 • (949) 453-5300 • [www.inwd.com](http://www.inwd.com)

February 2, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

**RE: California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act**

Dear Senator Feinstein:

The Irvine Ranch Water District (IRWD) would like to thank you for authoring the *California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act* and for continuing to engage in discussions surrounding a federal response to California's drought. We are encouraged by your continued pursuit of federal drought relief for California and would like to thank you for specifically including IRWD as an organization able to sponsor water reuse projects under Title XVI.

As you know California is in the fifth year of a severe drought. Communities throughout the state have reduced their water demands to conserve water and have responded to Governor Brown's call to action. But, as with any severe drought, California's economy has been impacted. In 2014 alone, the total statewide economic cost of the drought was \$2.2 billion as calculated by the University of California, Davis. This impact coupled with the effect of the limitations placed on the Central Valley Project and State Water Project, the lack of adequate surface storage within the state, and the negative impact of past federal water management policies makes passing federal drought legislation of the utmost importance. Without some congressional action, the drought is projected to have an even more debilitating impact on our economy and way of life.

IRWD supports your efforts to revitalize Title XVI by converting it to a competitive grant program. Title XVI has played a significant role in the development of water recycling and reuse projects, and it can help ease drought conditions throughout the West by encouraging expansion of water recycling and reuse. The District thanks you for including a Title XVI program in your drought proposal.

IRWD applauds your efforts to put forward a drought response proposal that would encourage the creation of new water supplies and effort to see meaningful drought relief legislation passed. We encourage both the House of Representatives and the Senate to work together to approve legislation that would create long-term solutions to the current water crisis by supporting projects that conserve, recycle, and better manage water supplies. The District looks forward to continuing to work with your offices on these important issues.

Thank you again for specifically naming the District in your bill. Should you have any questions or need additional information, please feel free to contact me at (949) 453-5590 or our federal advocate, Hal Furman, at (202) 737-0700.

Sincerely,

Paul A. Cook  
General Manager



## International Union of Operating Engineers

AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

March 8, 2016

The Honorable Diane Feinstein  
331 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Feinstein:

International Union of Operating Engineers appreciates your leadership in developing legislation to address the California drought and Western water crisis. The Operating Engineers are pleased to support S. 2533, and we look forward to working with you to enact it into law in this session of congress.

The International Union of Operating Engineers (IUOE) represents nearly 400,000 members in 123 local unions across the U.S. and Canada, including members who operate heavy equipment. In fact, every day thousands of Operating Engineers are building the nation's reservoirs, water pipes, dams, and levees, and other water infrastructure. Investments in our water infrastructure create thousands of good-paying construction jobs for Operating Engineers and other construction craftworkers.

As you said in your remarks when you introduced the bill, "California's major water infrastructure has remained largely unchanged for the past 40 years while California's population has more than doubled." For future prosperity and quality of life in the Golden State and the nation, that situation must change. The American Society of Civil Engineers gives the nation's dams the grade of D and the nation's levees a D-. The country will not be in a position to compete and lead the world with a dilapidated water infrastructure network and restrictive water supply in America's largest and, perhaps, most vital state. We desperately need your legislation to begin to address these major infrastructure deficiencies in California and throughout the Western United States.

Your bill includes essential investments in water storage projects, desalination plants and water recycling projects. In addition to those long-term steps to solve the Western water crisis, the bill would also provide short-term solutions designed to deal with the region's immediate needs. These provisions will help make the water-management system more efficient during droughts, delivering much-needed water to farms, families, and fish. Just as important as the direct federal investment in water infrastructure contained in your legislation, S. 2533 would help modernize and update the complex relationships that exist in the water-supply arena; in the process leveraging state, local, and private dollars to solve the nation's water needs.

The Operating Engineers look forward to working with you and your colleagues to enact S. 2533 this year. Thank you for your leadership.

Sincerely,

James T. Callahan  
General President

JAMES T. CALLAHAN  
GENERAL PRESIDENT

BRIAN E. HICKEY  
GENERAL SECRETARY-TREASURER

GENERAL VICE PRESIDENTS

JERRY KALMAR

RUSSELL E. BURNS

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EDWARD J. CURLY

GENERAL COUNSEL

BRIAN POWERS





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WWW.INDIOWATER.ORG

February 29, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

**SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT**

Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. As one of the water recycling project sponsors identified in your draft legislation cited as the "*California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*", we provide this letter as support for your provisions that will allow projects like ours to be eligible to pursue critical federal funding to construct our project.

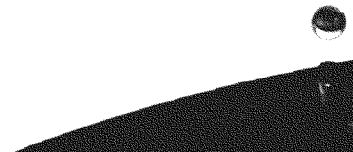
We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has shut off the construction funding pathway. Our project through the East Valley Reclamation Authority and Valley Sanitary District will provide approximately 9,200 AFY of recycled water on an annual basis to customers within Indio Water Authority's service area. The use of this recycled water would reduce the dependence on groundwater pumping and imported Colorado River water by providing a reliable and local drought tolerant supply. Your legislation provides a much needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program. Furthermore, additional funding for WaterSMART will allow new water recycling projects to seek necessary funding to move projects into construction and develop drought-tolerant supplies.

California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies. Therefore, alternative water supplies like those in your drought relief act provide long-term sustainable solutions essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Macy".

Brian Macy, PE  
IWA General Manager





4699 HOLLISTER AVENUE  
GOLETA, CALIFORNIA 93110-1999  
TELEPHONE 805/964-6761  
FAX 805/964-7002

February 5, 2016

DIRECTORS  
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GENERAL MANAGER  
JOHN D. MCINNES

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT

Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act. As we enter the fifth year of a severe drought, your legislation will provide critical funding for water projects across California. As one of the water recycling project sponsors identified in your draft legislation cited as the "*California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*", we provide this letter as support for your provisions that will allow projects like ours to be eligible to pursue critical federal funding.

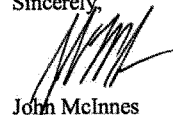
In addition to the funding opportunities included in your bill, we strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has shut off the construction funding pathway. Our project to expand the use of our current recycled water plant would make an additional 1,000 AFY of supply available to the community through the use of enhanced treatment, providing a drought-proof supply of water. Depending on the treatment options identified in our feasibility study that is already underway, this water will be able to be put to the best and highest use, including for certain industrial, commercial, and agricultural uses, to replenish the groundwater basin as part of the District's Aquifer Storage and Recovery program, or even potentially for potable reuse options. Your legislation brings much needed funds, and provides an important fix by eliminating the project authorization obstacle. This, plus the additional funding for WaterSMART, will allow new water recycling projects such as ours to seek needed funding to move their project into construction and develop these drought-tolerant supplies.

As California continues to experience record-breaking drought conditions, communities like ours that depend on local surface and groundwater supplies are increasingly reexamining alternative water supplies like those identified in your drought relief act to provide a long-term sustainable solution. Expanding these projects to meet changing needs and conditions is vital to our

The Honorable Dianne Feinstein  
February 5, 2016  
SUPPORT FOR DROUGHT RELIEF ACT  
Page 2

community, and essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. McInnes', written over a faint, circular official stamp.

John McInnes  
General Manager



**BOARD OF DIRECTORS**  
 Donald R. Bransford, President  
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 Thaddeus L. Bettner, P.E.

February 3, 2016

The Honorable Dianne Feinstein  
 United States Senate  
 331 Hart Senate Office Building  
 Washington, D.C. 20515

Dear Senator Feinstein:

This morning the Glenn-Colusa Irrigation District (GCID) Board of Directors unanimously approved to support your proposed drought relief legislation. We commend you for your efforts to craft comprehensive drought relief legislation. We look forward to continuing to work with you, our own House Members, Representatives Doug LaMalfa and John Garamendi, Senator Boxer and the balance of the California House Congressional Delegation to secure Senate passage and enactment of final, balanced federal legislation to help address our region and state's water supply-related needs.

Your legislation proposes significant, new federal assistance tools to help local agencies better manage and develop new water supplies critical to a more drought resilient economy. We particularly appreciate that your proposal authorizes new funding and financing opportunities to support needed surface water storage projects, like the Sites Project. In a year like 2015, if Sites were in place, it is estimated there would have been an extra 400,000 acre feet of water in storage north of the Delta to meet the water needs of agriculture and our cities, as well help meet the Central Valley Project obligations for environmental water for fish and waterfowl.

Specifically, we greatly appreciate that your draft bill includes language authorizing the Reclamation Infrastructure Finance and Innovation Act (RIFIA), which would provide local agencies with access to low-cost, long-term financing for much need water infrastructure investments. If a RIFIA loan program were in place today, the program would provide water project sponsors with access to loans with a repayment period of up to 35 years at a rate of approximately 2.9 percent. This would drive down the cost of water by approximately \$131 an acre-foot, dropping the cost from \$571 dollars an acre-foot to \$440 an acre-foot, an overall 23 percent reduction in the cost of water from the project.

We also support the provisions of your legislation that authorize the Bureau of Reclamation to participate in a non-traditional way in non-federal projects like Sites. Under your proposal, the Bureau of Reclamation would be authorized to contribute up to 25 percent of total project costs in non-federal projects like Sites. The Bureau of Reclamation would be able to benefit from a project as a project partner, rather than

February 3, 2016  
Senator Diane Feinstein  
Page 2

being saddled with all aspects of a project's development and long-term operation and maintenance. In conjunction with RIFIA, this is the kind of new role the Bureau of Reclamation needs to assume to help accelerate investments in needed water infrastructure west-wide.

Finally, we strongly support your efforts to strengthen the federal commitment to California's system of water rights and priorities. Consistent with Title IV of the draft legislation, which we strongly support, we thank you for including a specific reference to "applicable State water law" in the "Savings Clause," not just a general reference to "applicable State law." Deference to "State water law" has been imbedded in Federal law since at least 1902, and we appreciate that you agree it bears repeating here.

Again, we support Senate passage of your proposed legislation. We believe it represents an important step forward that will provide significant federal assistance to help meet future water needs in California and elsewhere in the west.

Sincerely,

A handwritten signature in black ink, reading "Donald R. Bransford". The signature is written in a cursive, flowing style.

Donald R. Bransford  
President

cc: California Congressional Delegation





March 10, 2016

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**General Manager**  
Paul D. Jones II, P.E.

**Treasurer**  
Joseph J. Kuebler, CPA

**Chairman of the Board,  
The Metropolitan Water  
District of So. Calif.**  
Randy A. Record

**Legal Counsel**  
Lemieux & O'Neill

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, DC 20510

**Subject: S. 2533 (Feinstein) Water Supplies for California and Drought Resiliency**

Dear Senator Feinstein:

Eastern Municipal Water District (EMWD) would like to thank you for your leadership in responding to California's continuing drought. While we welcome a winter that has brought some precipitation to our state, Californians must do more to secure water supplies for our people, our economy, and our environment. The California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act (S. 2533) goes a long way toward addressing the range of immediate and structural challenges in California water supply – we urge the Senate to act on this critical legislation.

EMWD encompasses 542-square miles, providing drinking water, wastewater, and irrigation water to a population of 768,000 in arid western Riverside County, California. We are an industry leader in managing water resources and developing new supply through reclamation and recycling, constituting nearly 40 percent of our water supply.

Your legislation would help ensure greater reliability for the State Water Project, the Colorado River Aqueduct, and local water supplies. Of particular importance to EMWD is the assistance and direction the bill would provide to improve local water supply and infrastructure, thus reducing the demand on imported water. We welcome reforms to the Bureau of Reclamation's Title XVI program that would allow new reclamation projects through a competitive grant program rather than require project-specific authorization by Congress.

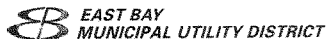
We look forward to working with you as this bill progresses in the Senate and in conference with the House. Thank you for your continued leadership on this issue.

Sincerely,

Paul D. Jones II, P.E.  
General Manager

C: The Honorable Barbara Boxer

**Mailing Address:** Post Office Box 8300 Perris, CA 92572-8300 Telephone: (951) 928-3777 Fax: (951) 928-6177  
**Location:** 2270 Trumble Road Perris, CA 92570 Internet: [www.emwd.org](http://www.emwd.org)



ALEXANDER R. COATE  
GENERAL MANAGER

March 3, 2016

The Honorable Dianne Feinstein  
U.S. Senate  
331 Hart Senate Office Building  
Washington, DC 20510

**Re: S. 2533 (Feinstein)**

Dear Senator Feinstein:

The East Bay Municipal Utility District (EBMUD) appreciates your efforts to address the drought in California with the introduction of S. 2533, the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act, which is intended to provide both short- and long-term solutions to stretch water supplies, as well as funding for both existing and new infrastructure programs to build new clean water infrastructure without undermining environmental protections, preempting state laws, or redirecting impacts from one drought-stricken area to another.

EBMUD is pleased to support the provisions for critical federal funding assistance for water infrastructure projects to address emergency and long-term water supply needs, particularly the inclusion of EBMUD on the lists of water recycling and desalination entities/projects that are eligible to compete for funding. We are also grateful for, and support, the protections from redirected impacts for the American River Division of the Central Valley Project, which includes EBMUD, as these protections are critical to safeguarding EBMUD's water supply and the Freeport Regional Water Project.

We greatly appreciate the approach you have taken with S. 2533 to assist water agencies, such as EBMUD, in mitigating drought impacts and preparing for the future by providing infrastructure assistance tools. As discussions continue on how to address the drought in California, we respectfully request your consideration of amendments that we believe would strengthen this vital measure.

- EBMUD has invested tens of millions of dollars for fishery restoration and hatchery improvements on the Mokelumne River and has seen strong returns in recent years. To ensure impacts to Mokelumne River salmon are considered in the context of the bill, data collection associated with the operation of the Cross Channel Gates should be expanded beyond endangered species to also include Mokelumne River salmon.
- Clarify that the Trap and Barge pilot program may include Mokelumne River salmon.
- To further facilitate water supply reliability projects, language should be included to clarify that water recycling or desalination projects with a feasibility study completed per U.S. Army Corps of Engineers requirements are eligible for funding, subject to addressing any data gaps.

EBMUD is grateful for your continued leadership to help communities meet water challenges both now and in the future. We look forward to continuing to work with you on this important legislation. If you or your staff have any questions or would like additional information, please contact our federal legislative representative, Eric Sapirstein. Mr. Sapirstein can be reached at (202) 466-3755.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Alexander R. Coate', is written over a horizontal line.

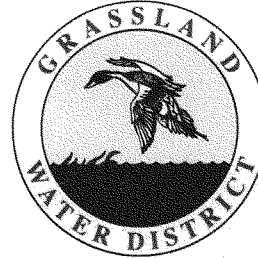
Alexander R. Coate

ARC:MD:JF

375 ELEVENTH STREET, OAKLAND, CA 94607-4240, (510) 287-0101  
BOARD OF DIRECTORS JOHN A. COLEMAN, ANDY KATZ, DOUG LINNEY  
LESA R. MCINTOSH, FRANK MELLON, WILLIAM B. PATTERSON, MARGUERITE YOUNG



February 5, 2016



The Honorable Dianne Feinstein  
Hart Senate Office Building  
SH-331  
Washington, DC 20510

Dear Senator Feinstein,

Ducks Unlimited, the world's leader in wetlands and waterfowl conservation, and the Grassland Water District, home of the largest remaining freshwater marsh habitat on the Pacific Flyway, thanks you for your continued leadership and would like to express our support for the principles included in the California drought bill discussion draft (dated February 2, 2016). It is our understanding that this discussion draft is the product of exhaustive discussions about re-envisioning water operations in the face of California's historic drought, and providing for the necessary infrastructure investments and updates to water reuse, water recycling, water storage, groundwater recharge and water deliveries while ensuring that protections for conservation and the environment remain a fundamental policy priority.

We appreciate your commitment to several important provisions including: a commitment to water rights priorities, a focus on investing and accelerating new infrastructure and storage in the West and California in particular, funding for water reuse and groundwater recharge, and funding to benefit infrastructure investments still necessary on California's wildlife refuges. Additionally, the bill preserves CVPIA refuge water supplies, prevents the shift of oversight for refuge spending to non-refuge contractors, and maintains the CVPIA's core emphasis on mitigation and restoration.


We have some remaining concerns about the implementation of Section 602 (accelerated repayments). We believe language that conforms your discussion draft with language included in the San Luis Unit Drainage Resolution Act introduced in the House (H.R. 4366 - Valadao) is appropriate and in the best interests of the operation of CVP contracts. We look forward to working with you to resolve this issue.


California annually hosts one of the greatest concentrations of migratory waterfowl in North America, serving as the wintering home to millions of waterfowl, shorebirds, and other wetland dependent species. The majority of migratory birds that frequent Alaska, Washington and

Oregon spend their winters in California. These migratory visitors provide millions of hours of enjoyment to hunters and birdwatchers throughout the Pacific Flyway. Migratory waterfowl are an important economic driver across the Pacific Flyway. Sportsmen, including waterfowlers, contribute \$3.5 billion annually to California's economy. The birds of the Pacific Flyway are a shared resource, requiring the stewardship of not only California, but of all Western states as they migrate thousands of miles between their breeding grounds and winter homes.

On behalf of the Grassland Water District, and over one million Ducks Unlimited supporters nationwide, we thank you for your thoughtful leadership in advancing a comprehensive approach to this crisis. We look forward to working with you, Senator Boxer, other Members of the California Congressional delegation as well as leaders from the House and Senate to ensure that conservation priorities and the millions of migratory birds they serve will continue to be reflected in the drought relief package that ultimately reaches the President's desk.

Sincerely,

  
H. Dale Hall  
Chief Executive Officer  
Ducks Unlimited

  
Ric Ortega  
General Manager  
Grassland Water District

  
[Faint signature]  
[Faint text]



May 12, 2016

The Honorable Dianne Feinstein  
331 Hart Senate Office Building  
Washington, DC 20510

**Re: S. 2533, California Long-Term Provisions for Water Supply and  
Short-Term Provisions for Emergency Drought Relief Act —  
Support**

Dear Senator Feinstein:

Our organizations, and the thousands of California landowners and sportsmen we represent, support S. 2533. Thank you for your efforts to work with refuge water contractors and stakeholders who are invested in a healthy future for the migratory birds of the Pacific Flyway and other wildlife.

Water supply development takes a great toll on wetlands, and any new water supply legislation must not further exacerbate this trend. The Central Valley Project Improvement Act was a critical step toward mitigating the environmental damage caused by decades of large-scale water development in California. A sustainable water future requires diligent preservation of that mitigation program, plus new innovations in water supply resilience.

The challenges and anxiety caused by drought should not lead to legislation that overturns established principles of law, policy, and contracts. Several sections of S. 2533 should be strengthened in order to make clear that actions authorized by your bill will not alter existing water contractor priorities in California. In addition, if the provisions of S. 2533 are changed to weaken refuge contractor protections, this will remove our support for the bill.

We continue to rely on your leadership and commitment to maintaining the backbone of wetland protections that keep California's water supplies flowing.

Sincerely,

Ricardo Ortega



General Manager  
Director of Policy &  
Governmental Affairs  
Grassland Water & Resource  
Conservation Districts

Mark Biddlecomb



Director of Operations  
Western Region  
Ducks Unlimited, Inc.

Jeff Volberg



Director of Water Law & Policy  
California Waterfowl Association

cc: California Congressional Delegation



7051 Dublin Boulevard  
Dublin, CA 94568-3018

phone (925) 828-0515  
fax (925) 829-1180  
[www.dsrsd.com](http://www.dsrsd.com)

February 10, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT

Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. Dublin San Ramon Services District is one of the water recycling project sponsors identified in your draft legislation, the *"California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act."* We provide this letter as support for provisions that will allow us to pursue federal funding critical to constructing our project.

We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program and eliminate the hurdle of Congressional authorization for individual projects. Many recycled water projects have obtained feasibility study approval from the Bureau of Reclamation but remained blocked on the pathway to construction funding. Congress does not approve funding for individual transportation projects or critical infrastructure for other utilities.

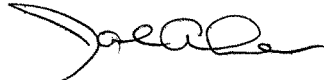
Our Recycled Water Expansion Project will enlarge our recycled water treatment plant to meet increasing demands for recycled water. Without this project we will meet these demands with water from the San Francisco Bay Delta. The project will add approximately 6.5 million gallons per day (mgd) to the plant's current 10 mgd capacity and yield approximately 6,460 acre-feet of additional recycled water for DSRSD's service area. The project also will extend recycled water pipelines to existing schools, parks, streetscapes, and commercial and institutional facilities in established areas of Dublin to permanently reduce potable water demand by approximately 350 acre-feet per year.

Your legislation provides a much needed fix by eliminating the project authorization obstacle and authorizing additional funds for both the Title XVI Water Reclamation and Reuse Program and WaterSMART. These appropriations will allow agencies like ours to seek the funding we need to move our project into construction and augment our drought-tolerant water supplies.

Senator Dianne Feinstein  
February 10, 2016  
SUPPORT FOR DROUGHT RELIEF ACT  
Page 2

California continues to experience drought conditions. Demand for water is increasing the strain on existing surface and groundwater supplies. Alternative water supplies like those in your Drought Relief Act provide a long-term solution essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies to develop sustainable water supplies for California and the nation.

Sincerely,

A handwritten signature in black ink, appearing to read "John Archer", with a stylized flourish extending to the right.

John Archer  
General Manager

cc: John Watts, Legislative Director



James Cioffi, President  
 Joseph K. Stuart, Vice President  
 Kristin Bloomer, Secretary-Treasurer  
 Patricia G. Oyar, Director  
 Craig A. Ewing, Director



Mark S. Krause, General Manager-Chief Engineer  
 Best, Best & Krieger, General Counsel  
 Krieger & Stewart, Consulting Engineers

March 21, 2016

Re: California Long-term Provisions for Water Supply and Short Term Provisions for Emergency Drought Relief Act of 2016

Dear Senator Feinstein:

Desert Water Agency (DWA) supports the *California Long-term Provisions for Water Supply and Short Term Provisions for Emergency Drought Relief Act of 2016*. We applaud the goals of this legislation: tackling emergency drought response and developing a lasting strategy for water supply management.

DWA customers and our neighbors in the Coachella Valley have done much to save water during the drought, despite the fact that our local water supply is healthy and has not been significantly impacted by drought conditions. Decades of management and investments gave our region a buffer against the drought.

DWA has stretched its water supplies through water recycling and conservation programs. DWA began recycling its water in the 1980s and has invested about \$27 million over the life of the system. Today, every public golf course in DWA's service area uses recycled supplies. We appreciate the inclusion of competitive funding of water recycling and desalination projects in the bill. To complement the reuse of our water, we have implemented a turf buy-back program, smart controller program, and a high-efficiency toilet rebate to help create incentives to both reduce outdoor irrigation and indoor water use.

While these efforts have gone a long way to sustaining water supplies in the greater Palm Springs area, DWA, like so many water agencies across the country, is facing an aging water infrastructure. DWA appreciates your efforts to create multiple funding mechanisms to incentivize water system efficiencies and create new storage in California and the West.

Senator, thank you for your efforts to support workable drought and water financing solutions. We encourage you to continue to work with your colleagues in the Senate and find a compromise with current drought legislation in the House.

Thank you again for your advocacy and leadership on behalf of sustaining California's water supplies.

Respectfully,

Mark Krause  
 General Manager



February 4, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT

Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. As one of the water recycling project sponsors identified in your draft legislation cited as the "*California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*", we provide this letter as support for your provisions that will allow projects like ours to be eligible to pursue critical federal funding to construct our project.

We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has shut off the construction funding pathway. Delta Diablo is developing projects that will be capable of providing 5,000 AFY or more of high quality water for many industrial or landscape uses. These projects also have obtained feasibility study and NEPA approval from the Bureau of Reclamation, but have not been eligible for federal construction funding. Thank you for your legislation which will provide a much needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program.

As California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.

Sincerely,

Gary W. Darling  
General Manager

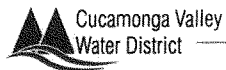
JS/GWD:dcj

cc:

District File CORP.01-CORRES

2500 Pittsburg-Antioch Hwy • Antioch, CA 94509 • p 925.756.1900 • f 925.756.1961 • www.deltadiablo.org

TRANSFORMING WASTEWATER TO RESOURCES



Martin E. Zvirbulis  
Secretary / General Manager/CEO

10440 Ashford Street, Rancho Cucamonga, CA 91730-2799  
P.O. Box 638, Rancho Cucamonga, CA 91729-0638  
(909) 987-2591 Fax (909) 476-8032

March 7, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C., 20510

**RE: Support for S.2533, Drought Relief Act of 2016**

Dear Senator Feinstein:

On behalf of the Cucamonga Valley Water District (CVWD), I want to thank you for your continued leadership in addressing California's urgent drought conditions with the introduction of S.2533, the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act of 2016. Your legislation will help address critical water management challenges facing our state.

CVWD supports that the bill authorizes funding and provides regulatory assistance to regions affected by drought for immediate and long term projects to develop, store, treat, and deliver water. The bill could also help ensure greater reliability for the State Water Project, Colorado River Aqueduct and local water supplies. We are excited about the emphasis on water recycling/reuse as well as increased use and funding to the Bureau of Reclamation Title XVI and WaterSmart programs. New sources of supply are critical if we are to solve California's continued drought conditions.

As California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop a sustainable water supply for California and the nation.

Sincerely,

James V. Curatalo, Jr.  
President

James V. Curatalo, Jr.  
President

Luis Cetina  
Vice President

Oscar Gonzalez  
Director

Randall Reed  
Director

Kathleen J. Tiegs  
Director



Established in 1918 as a public agency

## Coachella Valley Water District

## Directors:

John P. Powell, Jr., President - Div. 3  
 Peter Nelson, Vice President - Div. 4  
 G. Patrick O'Dowd - Div. 1  
 Ed Pack - Div. 2  
 Cástulo R. Estrada - Div. 5

## Officers:

Jim Barrett, General Manager  
 Julia Fernandez, Board Secretary

Best Best &amp; Krieger LLP Attorneys

March 1, 2016

File: 0804.  
 0931.

The Honorable Dianne Feinstein  
 United States Senator for California  
 331 Hart Senate Office Building  
 Washington, D.C. 20510

Dear Senator Feinstein:

Subject: Support for the California Long-Term Provisions for Water Supply  
and Short-Term Provisions for Emergency Drought Relief Act of 2016

The Coachella Valley Water District (CVWD), a California State Water Contractor and entitlement-holder for Colorado River water, supports the *California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act of 2016* (Act). This legislation ambitiously seeks to address the immediate crisis brought on by the on-going drought in California while providing encouraging solutions to future water supply issues.

Unlike some unfortunate areas of California, the Coachella Valley's (Valley) existing water supplies have been sufficient to meet the immediate needs of its residents, businesses and visitors despite the drought. This is because the district's efforts are guided by a complex 35-year, updated blueprint, the *Coachella Valley Water Management Plan*. Long-term, however, is more challenging because CVWD's management of the Valley's groundwater supply for the future has been adversely impacted by the drought due to reductions in the delivery of State Water Project. This impairs CVWD's efforts to alleviate overdraft of the Valley's aquifer, which threatens the district's ability to provide for future demands for water brought about by anticipated growth and development without diminishing existing groundwater supplies.

The Act offers immediate remedies for environmental issues in the ecologically fragile Delta that have contributed to diminished amounts of water being delivered to contractors by the State Water Project. The legislation complements California's current efforts to reach co-equal goals of creating a more reliable state water supply while restoring, enhancing and protecting the Delta.

This legislation provides \$600 million, and Congressional direction, for badly-needed water storage projects. Mandating that feasibility studies for several potential sites be expedited will give momentum to water storage efforts. To provide for future drought, it is imperative that water that flows to the ocean in wet years be captured and stored for use when there are dry years such as now.

[www.cvwd.org](http://www.cvwd.org)

P.O. Box 1058 Coachella, CA 92236  
 Phone (760) 398-2651 Fax (760) 398-3711

The Honorable Dianne Feinstein  
United States Senator for California

-2-


March 1, 2016

CVWD is expanding its recycled water delivery system significantly and is among the agencies listed in the Act that are eligible for a portion of the federal money to fund related projects. Greater use of recycled water by golf courses and other irrigators will contribute to the efforts to alleviate aquifer overdraft in the Coachella Valley.

The Act indicates that 137 projects identified by the bill could produce upwards of 1.4 million acre-feet of "new" water, primarily through recycling and desalination. Such potential warrants CVWD's support.

Please do not hesitate to contact me if I can be of assistance.

Sincerely,



J. M. Barrett  
General Manager

cc: Senator Barbara Boxer  
Representative Raul Ruiz, M.D.

JP Comm&Cons - 2016/Mar CVWD support for Feinstein's drought legislation



February 17, 2016

The Honorable Dianne Feinstein  
U.S. Senate  
Washington, D.C. 20515

Dear Senator Feinstein:

The City of San Buenaventura (Ventura) – Ventura Water Department (Ventura Water) writes to provide our support of your legislation California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act. The effort to pass a comprehensive drought relief bill to provide short-term and long-term solutions is critical to our shared priority to respond to the changing hydrological conditions that California and the West face. Ventura Water deeply appreciates the bill's provisions to support a robust water infrastructure assistance program.

Our region is wholly dependent on local water supplies and the opportunity to develop sustainable water infrastructure is key to our economic and public health. We appreciate your recognition of the importance to develop innovative water supply solutions and support for water recycling infrastructure projects. As has been documented, hundreds of thousands of acre feet of environmentally sustainable water supplies can be developed if your legislation is enacted. To this end, Ventura Water is planning an innovative water reuse project, utilizing advanced treatment technologies relying upon integrated water management to enhance riparian habitat and improve hydrologic water balance.

Again, we deeply appreciate your leadership to resolve long-standing water conflicts by developing a policy approach to address the complex realities of our water supply needs through alternative water supply production such as reuse.

Sincerely,

Erik Nasarenko  
Mayor

City Council

Erik Nasarenko, Mayor  
Neal Andrews, Deputy Mayor  
Cheryl Heitmann, Councilmember  
James L. Monahan, Councilmember  
Carl E. Morehouse, Councilmember  
Mike Tracy, Councilmember  
Christy Weir, Councilmember





GARY SOISETH  
MAYOR

OFFICE OF THE MAYOR  
GSOISETH@TURLOCK.CA.US

156 S. BROADWAY, SUITE 230 | TURLOCK, CALIFORNIA 95380 | PHONE 209-668-5540 | FAX 209-668-5668

February 18, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

Subject: Support for Drought Relief Act

Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. The City of Turlock, as a member of the Western Recycled Water Coalition, is one of the water recycling project sponsors identified in your draft legislation cited as the "*California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*." I am providing this letter as support for your provisions that will allow projects like ours to be eligible to pursue critical federal funding to construct our project.

We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has shut off the construction funding pathway.

The City of Turlock is a partner with the City of Modesto and Del Puerto Water District in the North Valley Regional Recycled Water Program (NVRWP). The NVRWP is a solution to our region's water supply and reliability problems. The program will provide a new source of water for agricultural customers in the drought-impacted Del Puerto Water District (DPWD). The Cities of Turlock and Modesto will take the treated recycled water that they normally discharge into the San Joaquin River and send it to the Del Puerto Water District via the Delta Mendota Canal. The District will, in turn, distribute that water to the agricultural customers in its service area. As much as 30,600 acre feet per year could be available as soon as 2018. The NVRWP will provide a reliable water supply for prime agricultural lands, reduce an unsustainable reliance on groundwater and imported water from the Delta, and maximize the beneficial reuse of recycled water in the local community.

Your legislation provides a much needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program. This, plus the additional funding for WaterSMART, will allow new water recycling projects to seek needed funding to move their project into construction and develop these drought-tolerant supplies.

The Honorable Dianne Feinstein  
United States Senate  
Page 2

Re: Support for Drought Relief Act

Further, the City of Turlock is also a partner with the City of Ceres in the Stanislaus Regional Water Authority. We are working collaboratively with the Turlock Irrigation District in developing a drinking water supply from the Tuolumne River. The proposed drinking water project will expand both Cities' water supply portfolios, increase water supply reliability, improve drinking water quality, and reduce our dependence on groundwater, a diminishing resource. Federal and non-federal water storage projects throughout California are essential for the urban and agricultural needs of the entire state. As California's population has continued to grow over the last four decades, our storage capacity has not kept pace with our population increase due to excessive regulatory red tape that has essentially stopped all on-stream storage projects. The feasibility studies associated with these needed projects have taken years to complete at a time where water storage should be a top priority. As §313(a)(5) of your Senate Bill 1894 correctly indicates, "the slow pace of work on completion of the feasibility studies...is unjustified and of deep concern..." Implementing deadlines for these studies will require those involved to complete the projects in a timelier manner. Completion of projects will lead to greater storage throughout the state, reducing stress on existing reservoirs, and allowing for groundwater recharge.

As California prepares for future droughts that increase in severity, it is crucial to look for additional storage capacity within our existing water infrastructure.

As California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.

Sincerely,



Gary Soiseth  
Mayor  
City of Turlock

cc: John Watts, Legislative Director





## City of South Gate

8650 CALIFORNIA AVENUE • SOUTH GATE, CA 90280 • (323) 563-9543  
WWW.CITYOFSOUTHGATE.ORG FAX (323) 569-2678

16 APR 20 PM 2:32

JORGE MORALES, Mayor  
W.H. (BILL) DE WITT, Vice Mayor  
MARIA BELEN BERNAL, Council Member  
MARIA DAVILA, Council Member  
GIL HURTADO, Council Member

April 12, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C., 20510

**RE: Support of Senate Bill 2533 - California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act**

Dear Senator Feinstein:

The City of South Gate supports Senate Bill 2533, *California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*.

As California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water sources like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy. Without some congressional action, the drought is projected to have an even more debilitating impact on our economy and way of life.

Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance in developing sustainable water supplies for California and the nation. We encourage both the House of Representatives and the Senate to work together to approve legislation that would create long-term solutions to the current water crisis by supporting projects that conserve, recycle, and better manage water supplies.

If you have any questions, please contact Arturo Cervantes, Director of Public Works/City Engineer, at (323) 563-9512.

Sincerely,

Jorge Morales  
Mayor

cc: City Council  
City Clerk  
City Manager  
Director of Public Works/City Engineer



**KEVIN L. FAULCONER**  
**MAYOR**

February 19, 2016

FAX: 202-228-3954

The Honorable Dianne Feinstein  
 United States Senate  
 331 Hart Senate Office Building  
 Washington, DC 20510

Dear Senator Feinstein:

On behalf of the City of San Diego, thank you for your leadership and legislative efforts to address California's historic drought through the (*California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*).

San Diego sits at the end of the California water system, a circumstance that amplifies the costs and challenges faced in providing residents with high-quality, reliable water supplies. These challenges have been used as an opportunity to innovate, find new local sources and develop ways of using water we have more wisely. We are currently addressing the problem on both sides of the equation, reducing demand by emphasizing efficient use through conservation, and increasing supply by creating 'new water' through our groundbreaking potable reuse project, Pure Water San Diego ("Pure Water").

Pure Water will provide a clean, safe and reliable source of drinking water that, by 2035, will generate one-third of San Diego's water supply and reduce treated effluent discharges to the ocean via the Point Loma Wastewater Treatment Plant. This project is a top priority of mine, and various provisions of your proposed bill will help to bring this facility online as quickly and cost-effectively as possible.

I appreciate your recognition of not only the critical need for short-term solutions to address the immediate impacts of the historic drought in western states, but also the need for long-term solutions that focus on water storage and supply. In particular, I strongly support the following provisions included in your proposal:

**Support for Water Recycling and Desalination Projects:** San Diego is identified as one of 105 water recycling and reuse projects with the potential to create significant water supply. The San Diego Formation/Balboa Park Groundwater Desalination Facility is listed as one of 27 desalination projects designated for competitive funding consideration.

Page 2  
The Honorable Dianne Feinstein  
February 19, 2016

**New Water Recycling and Reuse Projects:** There is \$150 million authorized for the Bureau of Reclamation's (BOR) WaterSMART program and increased authorization of \$200 million to BOR's water recycling and reuse program (Title XVI), along with an increased project cap to \$20 million. These programs will provide significant opportunities for San Diego to partner with the federal government to construct the Pure Water potable reuse facility and bring this remarkable new source of water supply online as quickly as possible.

**Creation of Reclamation Infrastructure Finance and Innovation Act:** The authorization of \$200 million in federal loan guarantees and low-cost loans for municipalities and water districts to use for water projects will promote increased development of critical water resources infrastructure, attract new investment capital to infrastructure projects that are capable of generating revenue streams through user fees or other dedicated funding sources, complement existing Federal funding sources, address budgetary constraints on BOR programs and leverage private investment in water resources infrastructure.

The recent El Niño storms will not solve the problems created by the years-long drought. The impact will be felt by our region for decades.

I appreciate your leadership in addressing California's historic drought with this important legislation and look forward to working with you toward its favorable consideration as it proceeds.

Sincerely,



Kevin L. Faulconer  
Mayor

cc: The Honorable Barbara Boxer  
The Honorable Susan Davis  
The Honorable Scott Peters  
The Honorable Juan Vargas  
The Honorable Duncan Hunter  
The Honorable Darrell Issa

KLF: ag

THE CITY OF



February 16, 2016

The Honorable Dianne Feinstein  
 United States Senate  
 331 Hart Senate Office Building  
 Washington, D.C. 20510

SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT

Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. As one of the water recycling project sponsors identified in your draft legislation cited as the "*California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*", we provide this letter as support for your provisions that will allow projects like ours to be eligible to pursue critical federal funding to construct our project.

We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has shut off the construction funding pathway. The City of Pleasanton Recycled Water Project once complete is estimated to save approximately 10-percent of city's annual potable water demand (1,400 acre feet per year), by converting landscapes currently irrigated with precious potable water to recycled water. Your legislation provides a much needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program. This, plus the additional funding for WaterSMART, will allow new water recycling projects to seek needed funding to move their project into construction and develop these drought-tolerant supplies.

As California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.

Sincerely,

Kathleen Yurchak  
 Director of Operations Services

cc: John Watts, Legislative Director,

**OPERATIONS SERVICES DEPARTMENT**

3333 Busch Road  
 (925) 931-5500  
 (925) 931-5595 Fax

**P.O. Box 520, Pleasanton, CA 94566-0802**

Administration  
 Streets  
 Sewer/Storm

Support Services  
 Parks  
 Water



City of Pismo Beach  
 Department of Public Works  
 760 Mattie Road, Pismo Beach, CA 93449  
 p|805.773.4656 f|805.773.4684  
 www.pismo-beach.org

Engineering ~ Pier/Parks ~ Water ~ Wastewater ~ Stormwater ~ Public Facilities ~ Fleet Services

February 5, 2016

The Honorable Dianne Feinstein  
 United States Senate  
 331 Hart Senate Office Building  
 Washington, D.C. 20510

Re: SUPPORT FOR DROUGHT RELIEF ACT

Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. As one of the water recycling project sponsors identified in your draft legislation cited as the "*California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*", we provide this letter as support for your provisions that will allow projects like ours to be eligible to pursue critical federal funding to construct our project.

We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has shut off the construction funding pathway. Our project the Pismo Beach Regional Ground Water Sustainability Project will provide full advanced treatment of our wastewater effluent and direct ground water injection, providing roughly 900 acre-feet of potable water per year. In addition, this project will help protect the Santa Maria Ground Water Basin, an adjudicated basin, from salt water intrusion. Your legislation provides a much needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program. This, plus the additional funding for WaterSMART, will allow new water recycling projects to seek needed funding to move their project into construction and develop these drought-tolerant supplies.

As California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.

Sincerely,

Benjamin A. Fine, PE  
 Director of Public Works/City Engineer

cc: John Watts, Legislative Director

*Pride in Service ~ Integrity in Action*

**City of Palo Alto**  
*Office of the Mayor and City Council*

February 16, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

**Re: *SUPPORT for S.2533, the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act***

Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. As one of the identified sponsors of a water recycling project listed in S.2533, we provide this letter as support for the provisions that will allow projects like ours to be eligible for critical federal funding.

Additionally, we strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has stymied the construction funding pathway. For example, the City of Palo Alto's desired project will provide a drought-resilient alternative supply of about 1,000 AFY of water to the city. To put this in perspective, this would have been enough water to meet about 10% of the city's total annual water needs in 2015.

Our project is a logical extension of an existing recycled water system which has been serving an adjacent community since 2009. Not only could this recycled water project provide a stable source of water in droughts, it could also reduce our reliance on remote water sources which are increasingly straining to meet demand. We are also evaluating the possibility of purifying this recycled water to augment the groundwater supply through indirect potable reuse. If this recycled water were used to recharge local groundwater, it could provide additional capacity to buffer future multi-year droughts.

S.2533 provides a much needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program that could fund this project. This, plus the additional funding for WaterSMART, will allow new water recycling projects to seek needed funding to move their project into construction and develop these drought-tolerant supplies.

P.O. Box 10250  
Palo Alto, CA 94303  
650.329.2477  
650.328.3631 fax

As California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy.

Thank you for your leadership in providing a mechanism allowing local agencies to partner with federal and state agencies for funding assistance that will develop sustainable water supplies for California and the nation.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Burt". The signature is fluid and cursive, with the first name "Patrick" and last name "Burt" clearly distinguishable.

Patrick Burt  
Mayor  
City of Palo Alto

cc: John Watts, Legislative Director,

February 29, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510



SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT

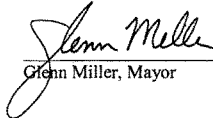
Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. As one of the water recycling project sponsors identified in your draft legislation cited as the "California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act", we provide this letter as support for your provisions that will allow projects like ours to be eligible to pursue critical federal funding to construct our project.

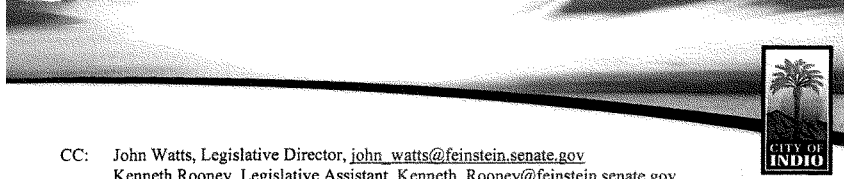
We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has shut off the construction funding pathway. Our project through the East Valley Reclamation Authority and Valley Sanitary District will provide approximately 9,200 AFY of recycled water on an annual basis to City of Indio residents. The use of this recycled water would reduce the dependence on groundwater pumping and imported Colorado River water by providing a reliable and local drought tolerant supply. Your legislation provides a much needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program. Furthermore, additional funding for WaterSMART will allow new water recycling projects to seek needed funding to move projects into construction and develop drought-tolerant supplies.

California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies. Therefore, alternative water supplies like those in your drought relief act provide long-term sustainable solutions essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.

Sincerely,

  
Glenn Miller, Mayor





CC: John Watts, Legislative Director, [john\\_watts@feinstein.senate.gov](mailto:john_watts@feinstein.senate.gov)  
Kenneth Rooney, Legislative Assistant, [Kenneth\\_Rooney@feinstein.senate.gov](mailto:Kenneth_Rooney@feinstein.senate.gov)  
Indio City Council  
Dan Martinez, Indio City Manager



CITY HALL • 250 EAST L STREET • BENICIA, CA 94510 • (707) 746-4200 • FAX (707) 747-8120

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

SUBJECT: THE CITY OF BENICIA'S SUPPORT FOR DROUGHT RELIEF ACT

Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. As one of the water recycling project sponsors identified in your draft legislation cited as the "*California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*", we provide this letter as support for your provisions that will allow projects like Benicia's to be eligible to pursue critical federal funding to construct the project.

We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has shut off the construction funding pathway. The Benicia Water Reuse Project will reduce demand for imported water by approximately 2,000 Acre Feet per Year, resulting in added flows in the Delta and associated fisheries. The project consists of recycling 2 million gallons per day of wastewater treatment plant effluent year round for use in cooling towers at the Valero's Benicia Refinery. This would result in a 20% reduction in water demand.

Your legislation provides a much-needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program. This, plus the additional funding for WaterSMART, will allow new water recycling projects to seek needed funding to move their project into construction and develop these drought-tolerant supplies.

As California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.

ELIZABETH PATTERSON, Mayor  
Members of the City Council

MARK C. HUGHES, Vice Mayor, ALAN M. SCHWARTZMAN, TOM CAMPBELL, CHRISTINA STRAWBRIDGE

BRAD KILGER, City Manager  
KENNETH C. PALLK, City Treasurer  
LISA WOLFE, City Clerk

Support for Drought Relief Act  
February 10, 2016  
Page 2

Sincerely,

A handwritten signature in black ink, appearing to read "Graham Wadsworth", written in a cursive style.

Graham Wadsworth, P.E.  
Director of Public Works / City Engineer

cc: John Watts, Legislative Director,



## Central Contra Costa Sanitary District

Protecting public health and the environment

5019 Imhoff Place, Martinez, CA 94553-4392

February 8, 2016

PHONE: (925) 228-9500  
FAX: (925) 676-7211  
[www.centralcsan.org](http://www.centralcsan.org)

ROGER S. BAILEY  
General Manager

KENTON L. ALAI  
Counsel for the District  
(510) 808-2000

ELAINE R. BOEHME  
Secretary of the District

The Honorable Dianne Feinstein

United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

**SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT**

Dear Senator Feinstein:

Thank you for your continued efforts to introduce and seek passage of a drought relief act that will provide critical funding for many water projects across California. As one of the water recycling project sponsors identified in your draft legislation cited as the "*California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*", we provide this letter as support for your provisions that will allow projects like ours to be eligible to pursue critical federal funding to construct our project.

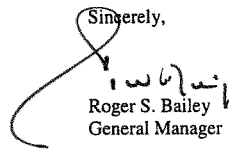
We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has shut off the construction funding pathway. Our project Concord Landscape and Refinery Phase 1, will aide in improving water reliability in our area. The Concord Landscape Project was constructed to provide recycled water for landscape irrigation in a commercial area of Concord. As much as 193 AFY of recycled water could be supplied allowing highly treated potable water to be used elsewhere. The Refinery Phase 1 Project could supply as much as 22,400 AFY for two local refineries. Recycled water offers refineries a drought-proof source of water and allows a significant volume of water supply to be utilized for the needs of people and the environment. Your legislation provides a much needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program. This, plus the additional funding for WaterSMART, will allow new water recycling projects to seek needed funding to move their project into construction and develop these drought-tolerant supplies.

As California continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution that is essential to California's economy. Thank you for your leadership in drafting legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.



Roger S. Bailey, General Manager  
February 8, 2016  
SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT  
Page 2

Sincerely,



Roger S. Bailey  
General Manager

**CALIFORNIA WATER SERVICE**

1720 North First Street  
San Jose, CA 95112-4598 Tel: (408) 367-8200

February 9, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT

Dear Senator Feinstein:

Thank you for your continued efforts to pursue a drought relief act that will provide critical funding for many water projects across the Western United States. We provide this letter as support for your California Drought Relief Bill.

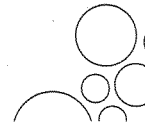
California Water Service (Cal Water) is the largest water utility regulated by the California Public Utilities Commission. Cal Water provides service to approximately 2 million Californians, from Chico in the north to the Palos Verdes Peninsula in the south. Cal Water is the largest subsidiary of California Water Service Group, which is the largest investor-owned water utility in Western United States, with additional subsidiaries in Hawaii, New Mexico, and Washington.

We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program. Many projects have obtained feasibility study approval from the Bureau of Reclamation, but the inability to secure a project authorization has shut off the construction funding pathway.

Hawaii Water Service, a California Water Service Group subsidiary, is currently planning an expansion of its Waikoloa Beach Resort Wastewater Reclamation Facility, which will go to design in 2016 and possible construction in 2017. The Waikoloa Beach Resort Wastewater Reclamation Facility utilizes Membrane Bio-Reactor Filtration to produce high quality recycled water. The project will increase the capacity of our facility from 1.0 to 2.0 million gallons per day, and is estimated to cost \$12,000,000.

Your legislation provides a much needed fix by eliminating the project authorization obstacle and authorizing additional funds to the program. This, plus the additional funding for the WaterSMART program, will allow new water recycling projects to seek needed funding to move their project into construction and develop these drought-tolerant supplies.

Quality. Service. Value.  
[calwater.com](http://calwater.com)



**CALIFORNIA WATER SERVICE**

As the American West continues to experience record-breaking drought conditions, increased demand for water, and strain on existing surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution that is essential to Western States' economies. Thank you for your leadership in drafting legislation that will allow water utilities to partner with federal and state agencies for funding assistance to develop sustainable water supplies for the Western States and the nation.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon Dean".

Shannon Dean

Vice President Corporate Communications and Community Affairs

cc: John Watts, Legislative Director





February 9, 2016

The Honorable Dianne Feinstein  
 United States Senate  
 331 Hart Senate Office Building  
 Washington, D.C. 20510

SUBJECT: SUPPORT FOR DROUGHT RELIEF ACT PROVISIONS

Dear Senator Feinstein:

Thank you for your continued efforts to draft and seek passage of legislation that will provide drought relief for California, and long-term investment in drought resiliency throughout the Western United States. On behalf of the undersigned associations, we extend our support for provisions in your recent draft legislation, cited as the "*California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*" that will provide critical funding opportunities for many water projects.

Thank you also for including a list of agencies in California that are developing recycled water supplies as identified in the nationwide recycled water project survey undertaken by the California Association of Sanitation Agencies, Association of California Water Agencies, National Association of Clean Water Agencies, WateReuse Association, and Western Recycled Water Coalition. As addressed in your draft, these projects plus many others identified in California will be capable of producing well over one-million acre feet of water annually once constructed. We strongly support your efforts to streamline the Title XVI Water Reclamation and Reuse Program and to increase funding authorization so that new water recycling projects can seek needed funding to move their project into construction and develop these drought-tolerant supplies.

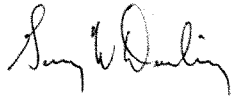
As California continues to experience record-breaking drought conditions, increased demand for water, and strain on surface and groundwater supplies, alternative water supplies like those in your drought relief act provide a long-term sustainable solution. We look forward to working with you on a bill that can be approved by congress, signed by the President and provide much needed drought relief.

Thank you for your leadership in sponsoring legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.



February 4, 2016  
SUPPORT FOR DROUGHT RELIEF ACT PROVISIONS  
Page 2

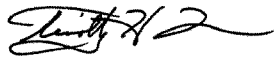
Sincerely,



Gary W. Darling  
Western Recycled Water Coalition



Roberta Larson  
California Association of Sanitation  
Agencies



Timothy Quinn  
Association of California Water Agencies



Adam Krantz  
National Association of Clean Water  
Agencies



Melissa Meeker  
WaterReuse Association



978 West Alluvial, Suite 107, Fresno, California 93711-5700  
 PHONE 559.226.6330 FAX 559.222.8326  
[www.CAFreshFruit.com](http://www.CAFreshFruit.com)

May 16, 2016

The Honorable Diane Feinstein  
 Ranking Member  
 The United States Subcommittee on Energy and Water Development  
 United States Senate  
 331 Hart Senate Office Building  
 Washington, D.C. 20510

Re: Expressing Support for S. 2533  
 Dear Senator Feinstein,

The California Fresh Fruit Association writes to express its support for S. 2533, the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act. Our Association greatly appreciates your efforts to provide new funding assistance and meaningful solutions to western water users and strongly supports the opportunities for federal assistance found in S. 2533.

The new federally-backed tools in this legislation provide desperately needed help to local water managers advancing diverse and critically important water supply projects that can create a more drought resilient water supply across the West.

Action on this important legislation offers a way forward to address California's severe drought conditions and puts into place immediate and long-term policies and programs to lessen future adverse impacts. Committee action and subsequent Senate floor debate and vote on S. 2533 is important to allow Congress to complete work on an all-encompassing drought relief bill. We believe that S. 2533's focus on alternative water supply infrastructure needs broad stakeholder support that can lead to actual progress to addressing California's water supply scarcity.

The California Fresh Fruit Association is a voluntary public policy organization that works on behalf of our members – growers, shippers, marketers and associates – on issues that specifically affect member commodities: fresh grapes, kiwis, pomegranates, cherries, blueberries, peaches, pears, apricots, nectarines, plums, interspecific varieties and apples and persimmons. It is the Association's responsibility to serve as a liaison between regulatory and legislative authorities by acting as the unified voice of our members. As I am sure you are aware, the challenges are countless for growers, shippers and marketers as they strive to remain viable in an ever-changing global market. Increasing regulatory requirements and an unreliable water supply make it difficult to flourish, regardless of the size of the operation or commodity.



CALIFORNIA  
FRESH FRUIT  
ASSOCIATION

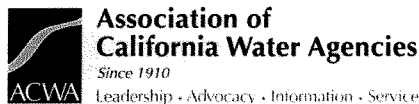
978 West Alluvial, Suite 107, Fresno, California 93711-5700  
PHONE 559.226.6330 FAX 559.222.8326  
www.CAFreshFruit.com

Legislation, such as the one being proposed will ensure long-term water reliability for growers throughout California. Our Association wholeheartedly supports this legislation and hopes that it receives the Senate's full consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry Bedwell".

Barry Bedwell  
President, California Fresh Fruit Association



March 9, 2016

The Honorable Dianne Feinstein  
U.S. Senate  
SH-331  
Washington, DC 20510

**Re: S. 2533, California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act**

Dear Senator Feinstein:

The Association of California Water Agencies (ACWA) appreciates your continuing efforts to address the historic drought that is devastating California and much of the West with the introduction of S. 2533, "The California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act". ACWA is pleased to support passage of S. 2533 to get to a House-Senate conference that can produce bipartisan drought legislation. As you know, ACWA's 430 public water agency members supply over 90 percent of the water delivered in California for residential, agricultural and industrial uses.

ACWA believes there are many good provisions within both Representative Valadao's House passed bill, HR 2898, the "Western Water and American Food Security Act of 2015" and your S. 2533. We urge the Senate to move S. 2533 forward so that the differences between these bills can be reconciled into a bipartisan drought measure. A top priority for ACWA in any final bill is to provide drought resiliency through recognition and protection for local water agency infrastructure investments. As you move forward, ACWA is prepared to assist you and our congressional delegation in reaching agreement on federal drought legislation.

Again, thank you for your leadership in addressing California's historic drought with the introduction of S. 2533.

Sincerely,

Timothy H. Quinn  
Executive Director

cc: Senator Barbara Boxer



<p><b>DIRECTORS</b></p> <p>JAMES G. GUNTHER JUDY C. HUANG MARTIN L. KOLLER PAUL SETHY JOHN H. WEED</p>	<p>43885 SOUTH GRIMMER BOULEVARD • FREMONT, CALIFORNIA 94538 (510) 668-4200 • FAX (510) 770-1793 • <a href="http://www.acwd.org">www.acwd.org</a></p>	<p><b>MANAGEMENT</b></p> <p>ROBERT SHAVER General Manager SHELLEY BURGETT Finance STEVEN D. INN Water Resources STEVE PETERSON Operations and Maintenance ED STEVENSON Engineering and Technology Services</p>
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March 16, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Feinstein:

Subject: *S. 2533 - Support*

I am pleased to inform you of the Alameda County Water District's support for S. 2533: California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act. S. 2533 provides critical funding for a broad array of local, regional, and state water projects to help provide short term and long term solutions for the water crisis that has been gripping California for the past four years.

The current extended drought is threatening the California economy and public health and safety and we thank you for your leadership on behalf of all Californians.

We agree that surface storage, recycled water and water conservation should be funded by your measure. For water recycling projects, S. 2533 specifically includes projects sponsored by 105 agencies that must be reviewed for funding assistance. The Alameda County Water District is currently conducting a joint Water Recycling Feasibility Study with the Union Sanitary District and respectfully requests that both agencies be included on the list of sponsoring agencies whose projects must be reviewed for funding assistance.

Additionally, S. 2533 re-authorizes the Desalination Act. Desalination is a key component of ACWD's water supply options and provides reliable drinking water to our constituents. Also, it is our most reasonably priced water supply source. We commend you for reauthorizing the Desalination Act and for including the Bay Area Regional Desalination Project as one of the projects to be reviewed for funding assistance.

It is essential that the federal government participate in funding new local and regional water supply options to help offset the severe drought related impacts experienced over the past several years. The short term and long term solutions found in your bill are essential to assuring that



The Honorable Dianne Feinstein  
March 16, 2016  
Page 2

California's water community can continue to maintain its high standards of providing high quality water reliably to all Californians.

Thank you for your leadership in sponsoring legislation that will allow local agencies to partner with federal and state agencies for funding assistance to develop sustainable water supplies for California and the nation.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Shaver", written over a horizontal line.

Robert Shaver  
General Manager



ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7  
100 NORTH CANYONS PARKWAY, LIVERMORE, CA 94551-9486 • PHONE (925) 454-5000

16 MAR 14 PM 1:31

March 4, 2016

SENATOR FEINSTEIN  
WASHINGTON, D.C.

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

Subject: *Support for Drought Relief Bill*

Dear Senator Feinstein:

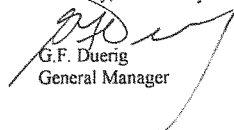
Thank you for your continued efforts to draft and seek passage of legislation that will provide short-term drought relief for California and long-term investment in drought resiliency throughout the Western United States. Zone 7 Water Agency generally supports the "California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act" that will provide critical funding opportunities for many water projects.

The drought is a crisis that is driving many to reconsider water supply opportunities such as recycling. While the bill includes a list of agencies that are already involved in developing recycled water supplies, the list is far from inclusive. For instance, the City of Livermore has been recycling water in the Tri-Valley for decades and is looking at opportunities to expand that use. It is very important that your bill be open to projects sponsored by public agencies not identified in the survey and projects not yet completely developed so that California "can fully realize the potential for water reclamation in the West." Zone 7 strongly supports your efforts to streamline the Title XVI Water Reclamation and Reuse Program and to increase funding authorization so that new water recycling projects can seek needed funding to move their project into construction and develop these drought-tolerant supplies.

As California continues to experience record-breaking drought conditions, increased demand for water and strain on surface and groundwater supplies, alternatives including increased storage, additional recycled water projects and desalination options, as outlined in your Drought Relief Bill, provide long-term sustainable solutions. We look forward to working with you on a bill that can be approved by congress, signed by the President and provide much needed short-term drought relief and long-term investments to improve resiliency of the state's water supplies.

Again, thank you for your leadership in sponsoring legislation that will allow local agencies to seek federal funding assistance to develop sustainable water supplies for California and the nation.

Sincerely,

  
G.F. Duerg  
General Manager

cc: Gary Darling  
Tim Quinn



*Fresh produce from our families to yours*



FOR IMMEDIATE RELEASE

WESTERN GROWERS ENCOURAGES ACTION FOLLOWING INTRODUCTION OF  
SENATE WATER BILL

IRVINE, Calif. (February 16, 2016) -- Statement by Western Growers President and CEO Tom Nassif encouraging congressional action following introduction of the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act by Senator Dianne Feinstein last week:

"We are encouraged by Senator Feinstein's introduction of a revised drought bill, but to have any chance of success, it must have the support of Senator Boxer and the Obama and Brown administrations, as well as the environmental organizations that have pulled those parties away from reasonable compromise water legislation in the past.

We agree with Senator Feinstein that 'we need congressional action, and we need it now.' We have already lost billions of gallons of El Niño water to the ocean, water that could have been safely pumped and stored to help us through the current and future droughts.

We hope that both California senators will push this legislation to mark up in the Senate Energy and Natural Resources Committee. In addition to revising the flawed policies restricting water capture and storage in California, a number of Western senators, under the leadership of Chairwoman Murkowski, have been working on water and drought relief legislation that could benefit all of the western United States by streamlining new storage and taking other steps to give states and water agencies greater flexibility to manage increasingly uncertain supplies.

Senate action on this legislation is urgently needed in order to create an opportunity for compromise legislation to be negotiated with the House of Representatives.

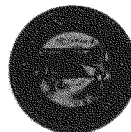
Mother Nature is providing us with the gift of water this year, but we know this drought won't be broken with one good year of precipitation, especially when our policies allow too much of that water to flow out to sea. Federal legislation is urgently needed to provide greater certainty that water capture and storage will be maximized, and to allow for more storage in California and throughout the West."

About Western Growers:



Founded in 1926, Western Growers represents local and regional family farmers growing fresh produce in Arizona, California and Colorado. Our members and their workers provide half the nation's fresh fruits, vegetables and tree nuts, including nearly half of America's fresh organic produce. For generations we have provided variety and healthy choices to consumers. Connect with and learn more about Western Growers on our Twitter and Facebook.

###



SOUTH VALLEY WATER ASSOCIATION



**PRESS RELEASE**  
February 10, 2016

**For Immediate Release**

**Contacts:**

Gayle Holman, Westlands Water District  
(559) 241-6233  
Dan Vink, South Valley Water Association  
(559) 686-4716  
Jeanne Varga, Kern County Water Agency  
(661) 549-4520  
Jason Phillips, Friant Water Authority  
(916) 804-0173  
David Orth, Friant North Authority  
(559) 289-2181  
Steve Chedester, SJR Exchange Contractors  
(209) 827-8616  
Jeff Sutton, Tehama-Colusa Canal Authority  
(530) 934-2125

## **WATER AGENCIES ENCOURAGED BY INTRODUCTION OF SENATE WATER BILL**

In response to today's introduction the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act, several public water agencies from the Central Valley issued the following statement:

*"In the last three years, several bills related to operations of the Central Valley Project and the California State Water Project have been introduced and passed in the House of Representatives and the Senate. Despite the best efforts by some in Congress, none of the legislation has been enacted, and the people of California who rely on the state's two major water projects continue to suffer unnecessarily from chronic water supply shortages.*

*Provisions of the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act introduced by Senator Dianne Feinstein have merit, and its introduction is a positive step in the effort to find reasonable solutions to California's short-term and long-term water issues. The legislation advances efforts to provide common sense Congressional direction on the application of the Endangered Species Act to the operations of*

*the CVP and SWP and a roadmap for development of new water supplies to meet the water supply needs in California and other regions of the west.*

*Passage by the Senate of this legislation will be an important step toward development and enactment of final compromise legislation to address this critical issue, and we support Senator Feinstein's efforts to obtain quick Senate approval.*

*Winter storms are beginning to fill northern reservoirs and produce runoff that must be captured if we are to end California's historic drought for the 25 million people dependent upon pumping in the Delta. Unfortunately, without meaningful legislation enacted into law, the people of California are likely to endure an uncertain winter season of floods, property damage, and storm water flowing out to the ocean, followed by a summer of drought—a scenario both frustrating and unacceptable. The time to act is now."*

###



**FROM THE OFFICE OF CONGRESSMAN**  
**JIM COSTA**

*Representing California's 16th District*  
*Fresno County · Merced County · Madera County*

FOR IMMEDIATE RELEASE  
February 10, 2016

CONTACT: Kristina Solberg  
202-222-8569

**Costa Says Feinstein Water Bill is a Critical Step Forward**

Washington, D.C. - Rep. Jim Costa (CA-16) released the following statement in response to the introduction of Senator Dianne Feinstein's California water bill, the *California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act*:

"Senator Feinstein's introduction of California water legislation is a critical step forward in getting legislation passed and signed into law that will bring relief to San Joaquin Valley communities," said Rep. Costa. "The Senate bill provides significant support for solving our state's long-term water challenges by authorizing funds to increase and diversify the state's water supply, including funding for water storage, desalination, water recycling, reuse and advanced conservation. This funding would complement the ongoing efforts made by the recent passage of the California Water Bond and would give us the money to invest in using all the water tools in our water toolbox."

Costa continued saying, "Last year, Rep. Valadao and I, and the San Joaquin Valley Congressional delegation, introduced H.R. 2898, the *Western Water and American Food Security Act*. It would provide relief to San Joaquin Valley farmers and communities in the short-term by directing state and federal agencies to maximize the amount of water they are pumping from the Delta, unless there is a direct and identifiable environmental impact.

The House has passed a bill that would assist the communities across California with drought recovery. I urge my colleagues in the United States Senate to pass Senator Feinstein's bill so that we can enter negotiations to move a bill to the President's desk for signature. Time is of the essence and every day of delay only results in losses of vital water supplies for Californians in need. The bottom line is that if four years of drought have taught us any lesson, it is that California has a broken water system that cannot sustain our economy in the 21<sup>st</sup> century. It is time to put the politics aside in Washington and Sacramento and fix our water system because our future depends upon it."

The *California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act* would help communities which are most at risk of having a zero water allocation this year by providing \$1.3 billion in funding and support for water storage,

desalination, and recycling efforts, while simultaneously directing state and federal agencies to maximize water supplies during the short term while not violating environmental laws that protect threatened and endangered species.

###



Media contact:  
Nancy Vogel, (916) 653-9402  
[Nancy.Vogel@resources.ca.gov](mailto:Nancy.Vogel@resources.ca.gov)

February 10, 2016

### **Secretary Laird on Revised Drought Relief Bill by U.S. Senator Dianne Feinstein**

SACRAMENTO, Calif. – Natural Resources Secretary John Laird issued the following statement on the introduction today of the *California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act* by U.S. Senator Dianne Feinstein:

"Senator Feinstein has provided real leadership on an issue that's critical to our future in California. Much of Senator Feinstein's legislation would advance the Governor's five-year Water Action Plan and build upon the investments California voters endorsed when they overwhelmingly passed Proposition 1. The Senator's proposed investments in water recycling and desalination plants and construction of additional storage would help build resilience for inevitable extremes, whether drought or flood. Senator Feinstein has been a valuable partner over many years, and we look forward to continuing to work with her and all the stakeholders as the legislation moves forward in the regular legislative process."

###



CALIFORNIA FARM BUREAU FEDERATION

**NEWS**

Contact: (916) 561-5550

FAX (916) 561-5695

2300 River Plaza Drive, Sacramento,

CA 95833

[news@cfbf.com](mailto:news@cfbf.com)

[www.cfbf.com](http://www.cfbf.com)

**RELEASE IMMEDIATE**

Feb. 10, 2016

**Contact: Dave Kranz**

Manager, Communications/News Division

California Farm Bureau Federation

Phone: 916-561-5550

Cell Phone: 916-719-2056

**FARM BUREAU WELCOMES INTRODUCTION OF SENATE WATER BILL**

Introduction of a California water bill in the U.S. Senate by Sen. Dianne Feinstein will help Congress move toward final legislation that addresses the state's chronic water shortages, according to the president of the California Farm Bureau Federation.

"Senator Feinstein has never been shy about tackling the tough issues, and we appreciate her work to create a California water bill for the Senate's consideration," CFBF President Paul Wenger said. "The Senate must pass this bill so it can advance to a conference committee with the drought bill already passed by the House of Representatives.

"Our water system needs to add more flexibility to respond to ever-changing precipitation patterns," Wenger said. "California's water system must be improved to accommodate our people, our environment and our economy.

"We appreciate Senator Feinstein's leadership in introducing the Senate water bill," he said. "It's key to move a bill through the Senate that complements the legislation passed by the House.

"We will analyze the bill carefully and will continue to urge the entire California congressional delegation to work toward common-sense solutions to our state's chronic water crisis," Wenger said.

The California Farm Bureau Federation works to protect family farms and ranches on behalf of more than 53,000 members statewide and as part of a nationwide network of more than 6.2 million Farm Bureau members.

###

**FOR IMMEDIATE RELEASE**  
**February 10, 2016**



**Media Contact:**  
 Alyssa Houtby, Director of Public Affairs  
 alyssa@cacitrusmutual.com  
 559.592.3790

## **CCM Responds to Introduction of Feinstein Water Bill**

Today, Senator Dianne Feinstein introduced a revised drought relief bill that puts California one step closer to comprehensive water policy reform, according to California Citrus Mutual (CCM) President Joel Nelsen.

"The introduction today of the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act by Senator Dianne Feinstein identifies several paths by which California can improve its water infrastructure and create a more reliable water system for all water users," says Nelsen. "Everybody wants something. Most want to help people and the environment as well as sustain the production of food and fiber. But, the stakeholders who are singularly focused have been an impediment to improving California's water crisis."

The bill contains language to create short-term solutions for existing problems and focuses on the vibrant future for California's water policy.

Over two years ago CCM made water a priority following a historical zero surface water allocation for Central Valley Water Project water users, namely growers in the Friant service area. Challenges also persist in Southern California which requires attention at the federal level. "CCM was closely involved with the State Water Bond negotiations and advocated for stronger language and dollars to assist citrus growers in Southern California and Monterey County, for example," continues Nelsen. "It was a natural next step that we seek federal movement toward a balanced water policy."

"Does this bill give us everything we want? Not by a long shot. However, it is a very necessary and positive step toward a policy that both protects the integrity of the Endangered Species Act biological opinions and clarifies where flexibility could exist in the storage and movement of water," says Nelsen.

Nelsen and CCM Board Chairman Kevin Severns are currently in Washington, D.C. to advocate on behalf of California's \$3 billion citrus industry that Congress act now to address California's water crisis.



"A silent disaster is taking place," says Chairman Kevin Severns. "It's clear Senator Feinstein is willing to work with the House to negotiate a water bill that benefits all California water users."

Nelsen and Severns met with Senator Feinstein today along with executives from Wonderful Citrus and Sunkist to discuss the bill. "It is promising, and Senator Feinstein has every interest in getting something done for California water security once and for all," says Nelsen.

CCM in conjunction with other like-minded entities will now work to help move this package through the Senate, hopefully as part of a Western Water Bill, and then seek House supporters. "More good ideas could materialize and we're willing to listen to the Senator, but those that seek to impede achievement under the guise of 'helping' must be held accountable for placing California's future in jeopardy," concludes Nelsen.

*California Citrus Mutual is a non-profit trade association of citrus growers, with approximately 2,200 members representing 70% California's 362,000-acre, \$3 billion citrus industry. The mission of California Citrus Mutual is to inform, educate, and advocate on behalf of citrus growers. The Exeter, California-based organization was founded in 1977.*

###



## CalChamber Backs Renewed Effort on Federal Water Bill

*Plan Improves Ability to Capture/Store Water*



U.S. Senator Dianne Feinstein has introduced an updated proposal to provide long-term and short-term solutions to the state's historic drought. The California Chamber of Commerce **supports** the effort to move drought relief legislation this year and improve the ability to capture and store water in wet times for use in dry ones.

Feinstein's proposal includes provisions to allow more water to be captured and stored during the drought, and to promote both the building of new reservoirs and increasing the capacity of existing ones.

In introducing the bill, Feinstein estimated that if all the projects identified in the bill were completed, nearly 1.4 million acre-feet of "new" water could be made available.

The CalChamber and other business, grower and water groups from the Western states have previously called for action on bipartisan Western water and drought relief legislation.

There is a growing consensus that Western water users need every tool available to survive and recover from the current drought and to prepare for the hard, dry years that the future may hold.

### **WATER STORAGE PROJECTS**

To help store water during wet years for use in dry ones, the bill:

- **Authorizes** \$600 million for water storage projects in California and other Western states. These may include both federal projects (Shasta) and nonfederal projects (Sites, Temperance Flat, Los Vaqueros).
- **Sets deadlines** for the federal Bureau of Reclamation (Bureau) to complete feasibility studies to allow Calfed storage projects to compete for the \$2.7 billion of bond funding that California's Proposition 1 earmarked for water storage. The Calfed Bay-Delta Program is a collaboration of 25 state and federal agencies to improve the state's water supply and the ecological health of the San Francisco Bay/Sacramento-San Joaquin Delta.
- **Updates** U.S. Army Corps of Engineers dam operations to increase water supply while reducing flood risk.

### EMERGENCY OPERATIONS

Emergency provisions to make water delivery more efficient during the drought include the following. The provisions would last as long as the Governor's drought declaration is in effect or for two years, whichever is longer.

- **Improved data** to operate pumps at higher levels when no fish are present and reduce pumping levels when fish are nearby.
- **Allow agencies** to keep the additional water they are able to pump during winter storms.
- **Require agencies** to explain pumping reductions due to the Delta smelt biological opinion. The agencies must explain decisions to reduce pumping to protect the Delta smelt based on improved data rather than relying on intuition.
- **Require agencies** to maximize water supplies consistent with applicable laws and biological opinions. Agencies cannot harm fish in violation of biological opinions, but should try to increase water supplies.
- **Open** Delta cross-channel gates more often so that water from the Sacramento River is used to control salinity instead of water released from the Central Valley Project.

Three provisions aim to make greater use of **water transfers**, a voluntary, market process to move water to where it is truly needed.

- **Extend** by five months the period within which water transfers may take place. By making the transfer window the months of April through November instead of the current July through September, water transfers can be available during the spring planting season.
- **Allowing** 1:1 water transfer ratio, versus the past practice of requiring water users to send more water downstream than can be pumped out. Environmental law and biological opinions still must be followed.

- **Expediting** review of water transfers and construction of temporary barriers.

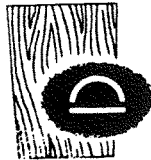
#### OTHER PROVISIONS

Other sections of the bill provide:

- **Desalination.** Reauthorizes the Desalination Act and authorizes \$50 million over five years for desalination research projects, such as improving existing technology, reducing environmental effects of seawater desalination and developing next-generation technologies to reduce the cost of desalination. Also authorizes \$50 million over five years for feasibility and design of sea and brackish water desalination projects.
- **Assistance for drought-stricken communities.** Rural and disadvantaged communities with fewer than 60,000 residents may apply for grants through the Bureau to help stabilize water supplies.
- **Water recycling, conservation, efficiency.** Authorizes \$200 million in increased funds for the Bureau's water recycling and reuse program. Authorizes a U.S. Environmental Protection Agency program to label water-efficient products for consumers, similar to the Energy Star program. Authorizes a Department of the Interior program to establish an open system with data on water quality, climate and weather effects, and erosion. The system would be accessible to the public online.
- **Additional funding.** Authorizes \$200 million for a loan guarantee program to allow water districts and municipalities to leverage loans and loan guarantees for water projects. Also increases funding by \$150 million for the Bureau's WaterSMART program.
- **Endangered/threatened fish and wildlife.** Authorizes \$55 million for short-term, low-cost proposals to protect and assist in recovering endangered or threatened fish populations, including Delta salmon and smelt.

#### WHAT'S NEXT

Senator Feinstein's bill will be taken up soon by the U.S. Senate Energy and Natural Resources Committee, chaired by Senator Lisa Murkowski (R-Alaska).



**Mape's Ranch  
and  
Lyons' Investments**

10555 Maze Road Modesto, CA 95358  
Office: (209) 522-1762 FAX: (209) 522-7871

May 16, 2016

The Honorable Dianne Feinstein  
U.S. Senate  
331 Hart Senate Office Building  
Washington, D.C. 2051

Sent via Electronic Mail

Re: S.2533 California Long-Term Provisions for Water Supply and Short Term Provisions for  
Emergency Drought Relief Act

Dear Senator Feinstein:

Thank you for your leadership in trying to pass and implement S.2533 during this extreme drought! My family has farmed in the Central Valley for almost 100 years and a reliable water supply is critical to California agriculture. As the former Secretary of the California Department of Food and Agriculture serving under Governor Gray Davis, I understand the hardships the farmers, farm workers and the local farm communities are experiencing.

Your legislation which proposes federal assistance and authorizations for improving water supplies and water quality within disadvantaged communities has the potential to provide relief to the Central Valley of California. Additionally, your recognition that California lacks the infrastructure needed to store water in wet years for use in dry years is essential. The enhancement would benefit the San Joaquin Valley as well as urban areas, agriculture, flood control and environmental protection. We need to maximize pumping with daily monitoring which will allow pumps to operate at higher levels while better protecting fish as your legislation states.

Please feel free to share my letter with your Senate colleagues and impress upon them the critical importance of passing S.2533 for California agriculture.

Sincerely,

William (Bill) J. Lyons, Jr.

The House has passed a bill that I do not believe, candidly, can pass the Senate, so our goal has been to craft legislation that could pass the Senate and then, hopefully, will be able to conference with the House.

The short-term provisions for emergency drought relief apply only to California. The long-term provisions apply to all 17 Reclamation States West-wide, and some provisions, such as WaterSMART Reclamation grant programs and RIFIA, to Alaska and Hawaii as well.

I am skipping, to shorten this.

Data from Reclamation so far suggests that we have not seen flows this low in the Colorado River Basin for almost 1,000 years. While the basin states are doing a tremendous job to work together in confronting the drought, we have to reach consensus prior to congressional action, and there appears to be no immediate end in sight.

The state has estimated that 150 percent of average snowpack in March is necessary to end the drought. We ended up with about 80 percent the end of March, so this means the drought is going to continue through next year.

The bill before you does not violate the Endangered Species Act (ESA) or the biological opinions or include any operational mandates for the agencies. The bill, we think, accomplishes the dual roles of maximizing water supplies and protecting the environment.

To accomplish these goals, the bill's short-term provisions include increased operational flexibility to deal with the drought right now, and the long-term provisions invest in infrastructure and environmental restoration throughout the West. For example, for long-term, the provisions reshape how the Federal Government assists states in coping with drought. We provide and identify 110 recycling projects and 25 desal projects that could produce enough water in California to supply over 1 million acre-feet of water for 2.7 million homes. We increase WaterSMART funding by \$150 million for projects to improve a range of water storage and water supply management. We fund the Reclamation Infrastructure Financing and Innovation Act, or RIFIA, at \$200 million. We update Army Corps dam operations to increase water supply while reducing flood risk. We have \$600 million in it for water storage projects to hold water in wet years for use in dry years, and the 17 states plus Alaska and Hawaii are all eligible; \$560 million for recycling and water efficiency to better use the water that we do have; and \$100 million for the desalinization plants.

The bill's short-term provisions do not contain mandates. Rather, they provide that agencies base water operations on science, not intuition or guesswork.

It is also important to note the short-term provisions last two years or the duration of the Governor's drought declaration, whichever is longer. For that brief time, the bill provides for more operational flexibility in the two big conveyance systems I spoke of, and a more precisely managed system for which we also include funding.

For example, the short-term provisions allow for increased pumping during winter storms to capture peak flows, and it eliminates

the automatic so-called payback of water supply so that agencies can keep the water they gain from the winter storms.

Other examples of the short-term are maintaining a one-for-one ratio for water transfers through the spring and early summer to ensure that 100 percent of the water identified for transfer goes to communities that need it most, and the bill extends the time period for transfers by five months stretching supplies during the critical growing season.

With the chair's permission, I would like to enter into the record eight ways in which the water bill provides supplies in the short-term, without going into them precisely.

Senator LEE. Without objection.

[The information referred to follows:]

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***California Long-Term Provisions for Water Supply  
and Short-Term Provisions for Emergency  
Drought Relief Act (S. 2533)***

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**Water Supply Increase and Improvement Provisions**

Below are eight of the ways in which S. 2533 drought bill increases and improves water supply in the short term:

**FOR THE SHORT-TERM:**

**1) The bill allows for increased pumping during winter storms (Section 303, pages 135-139):**

- Goal is to capture peak flows from El Niño or other winter storms.
- Agencies must evaluate increased pumping above -5000 cfs in the Old and Middle Rivers during those storms.
- Agencies must comply with all applicable laws

**2) The bill eliminates automatic “payback” of water supply gains (Section 303, page 139):**

- By eliminating this “payback” requirement, the agencies can keep the water they pump during winter storms.
- Here is how “payback” works:
  - Over a 14-day period, agencies cannot average pumping at more than -5000 cfs in the Old and Middle Rivers.
  - In past years, this meant that if agencies pumped over -5000 cfs for a few days, they then had to reduce pumping below -5000 cfs to meet the average.



- As a result, **agencies had to lower pumping below -5000 cfs even if there was no environmental reason to do so.**
  - **The bill eliminates mandatory “payback”:**
    - Agencies can decide to pump at levels above -5000 cfs.
    - Agencies do not have to reduce pumping later just to meet a 14-day average.
    - Thus, there is no automatic payback requirement.
    - Pumping only needs to be reduced if environmental factors (like the presence of fish and salinity, among others) requires it.
  - **We worked closely with NOAA Fisheries on this language to ensure compliance with the ESA.**
- 3) **The bill incentivizes increased water transfers through the use of a 1:1 transfer ratio (Section 302, page 127):**
- Given this year’s El Niño storms, this provision could provide some relief. Under a “1:1 ratio,” if the river flows at 1,000 cubic feet per second, then water can be transferred at the same rate.
  - Maintaining a 1:1 ratio for transfers through the spring and early summer will ensure that 100 percent of the water identified for a transfer goes to the communities that need it most.
- 4) **This bill extends by five months the time period for transfers (Section 302, page 129):**
- This extension will give willing sellers and willing buyers more time to move water, stretching supplies during the critical growing season.
  - This allows water transfers to be available during the spring planting season.

- **How this provision works:** Transfers will occur between April 1 and November 30 (currently July 1 to September 30), to the extent consistent with the adaptive management part of the biological opinions.
- 5) **Agencies must explain, in writing, reductions in pumping below -5000 cfs – the high end of the Delta Smelt biological opinion (Section 301, page 121-122):**
- Like past drafts, agencies decide how much to pump under the smelt biological opinion.
  - **If they pump below -5000 cfs, agencies must explain why this was necessary** to avoid “additional adverse effects on the listed fish species beyond the range of effects anticipated to occur to the listed fish species for the duration of the applicable biological opinion, using the best scientific and commercial data available.”
  - **This required explanation uses the same language as prior drafts.**
- 6) **The bill directs federal agencies to keep the Delta Cross Channel Gates open for as long as possible (Section 302, page 125-126):**
- Requires the Secretary of the Interior and the Secretary of Commerce to take actions to ensure the Delta Cross Channel Gates remain open to the greatest extent possible, consistent with state and federal law.
  - When the gates are closed, water no longer flows directly from the Sacramento into the interior Delta.
  - The gates’ closures means that the agencies either must reduce pumping or used stored water to “flush” salty water back out through the Delta.
  - **Keeping the gates open for longer** therefore helps control salinity in the interior Delta and avoid releases of CVP and SWP water supplies. This helps both Delta farmers and communities and south-of-Delta communities.
- 7) **Maximize water supply consistent with environmental laws:**

- During the drought, the agencies must maximize water supplies for the Central Valley Project and the State Water Project, consistent with applicable laws and regulations (Section 301, pages 120).
- This requirement works together with the requirement that agencies must explain adverse effects that require a reduction in water supplies (Section 301, pages 121-122).

**8) The bill emphasizes real-time monitoring and requires federal agencies to operate the water system more precisely and efficiently by (Section 301, pages 115-117):**

- Operating pumps at higher levels when no fish are present and reducing pumping levels when fish are nearby.
- Requiring **daily boat monitoring to survey for smelt near the pumps** when turbidity levels are high, so that pumping reductions are made based on the facts.
- Authorizing studies to **identify smelts' location in the Delta on a real-time basis.**
  - Authorizing a Delta Smelt Distribution Study to **identify how many smelt are in different parts of the Delta** in drier and wetter years (Section 301, pages 117-119).

Senator FEINSTEIN. Thank you, Mr. Chairman.

We have worked with relevant federal and state agencies for two years now to make sure this bill can produce real water in a manner consistent with the Endangered Species Act and biological opinions.

To remove any doubt, we included a simple, clear savings clause to make it crystal clear that the bill is consistent with environmental laws and biological opinions. The bill provides \$1.3 billion in authorizations, all of which are offset in two ways.

First, the Bureau of Reclamation would identify, with public input, projects appropriate for deauthorization. This would reduce existing authorizations between \$1 billion and \$1.7 billion. These are all authorizations that have existed for a substantial period of time and have not been utilized.

The second offset increases federal revenues by \$632 million over 10 years by inducing Western water contractors to accelerate their debt payments.

So this is just a very brief summary of this bill, Mr. Chairman and Ranking Member Wyden.

And thank you, Chairman Flake. I am sorry you missed this, but I know you are a quick study, so thank you very much.

I look forward to today's discussion and to working with all of you to get a bill signed into law. Thank you very much.

Senator LEE. Thank you, Senator Feinstein. Your documents will be admitted into the record, without objection.

[The prepared statement of Senator Feinstein follows:]

**Senator Dianne Feinstein**  
**Subcommittee on Water & Power Hearing**  
***California Long-Term Provisions for Water Supply and***  
***Short-Term Provisions for Emergency***  
***Drought Relief Act***  
**May 17, 2016**

Chairman Flake and Ranking Member Wyden, thank you for holding this hearing and for the opportunity to testify.

I'd also like to thank Tim Quinn for being here to testify. Tim worked for the Metropolitan Water District and now is Executive Director of the Association of California Water Agencies, representing 430 public agencies responsible for 90% of the water delivered throughout California. Tim brings an important perspective on California's drought.

And let me be clear: This drought is far from over.

Despite this most recent El Niño, California still faces severe drought conditions, now going on five consecutive years.

A picture is worth a thousand words. This chart shows a map of how dry California has been every week since the drought began in 2010. It shows the drought's progression from abnormally dry conditions in yellow, to severe drought in orange, to extreme drought in red, and finally, exceptional drought in the dark red color.

As you can see, the sustained presence of exceptional drought—the most severe category—since 2014 is alarming, and illustrates California's emergency situation.

This emergency has also highlighted our inadequate water infrastructure. The core water conveyance and storage infrastructure for the state of California - the Central Valley and State Water Projects - was designed when the statewide population was approximately 16

million. Construction of those systems continued in to the 1960's and 1970's, but neither has been significantly expanded. However, the population has more than doubled since that time to over 40 million people.

This bill is the product of nearly two years of work, dozens of drafts, and countless hours of discussions with congressional Republicans and Democrats, environmental groups, water districts, cities, rural communities, fishermen, and farmers.

In addition, we worked closely with the experts from the federal and state agencies, such as the U.S. Fish and Wildlife, NOAA Fisheries, the Council on Environmental Quality, the California Departments of Natural Resources, and Fish and Wildlife, and the California Department of Water Resources.

The House has passed a bill that I do not believe could pass the Senate. Our goal has always been to craft legislation that could pass the Senate.

And I believe through our years of collaboration we have produced a bill that could pass the Senate with both short-term and long-term provisions. The short-term provisions for emergency drought relief apply only to California. The long-term provisions apply to all 17 Reclamation states westwide, and some provisions such as WaterSmart, Reclamation grant programs, and RIFIA, to Alaska and Hawaii as well.

These collaborative efforts are reflected by the 94 organizations and elected officials that have written in support of this bill, representing millions of Californians statewide.

Chairman Flake and Ranking Member Wyden, I have here a packet of all the letters of support that I would like to submit for the record.

One example I will mention is from just last week, when Ducks Unlimited, Grassland Water District, and California Waterfowl wrote a letter in support of this bill



highlighting our collaborative efforts with refuge water contractors focused on the benefits to migratory birds and other wildlife.

Along with the municipal and rural water districts, agricultural interests, and water recycling associations, to name a few, I think this latest letter from environmentalists and those focused on refuges illustrates the range of support for this bill.

## **Effects**

The effects of the drought are devastating. Over the past two years:

- 69 communities have little or no water.
- 35,000 people have lost their jobs.
- \$4.9 billion lost for California's economy.
- One million acres of farmland were fallowed last year alone.

- 1 foot of subsidence per year in parts of the Central Valley, resulting in damage to canals, bridges, and pipelines.
- 95% and 98% salmon mortality the past two years, due to a failure of cold water temperature valves and probes at Shasta.

The impacts of our drought are also widespread. For example, data from Reclamation so far suggests that we haven't seen flows this low in the Colorado River Basin in almost one thousand years. While the Basin States are doing a tremendous job to work together in confronting this historic drought, we must let them reach consensus prior to congressional action.

And there appears to be no immediate end in sight. The state had estimated we need 150% of average snowpack in March to end this drought. We ended up with only around 80%. This means the drought will undoubtedly continue next year.

Therefore, we need to take strong steps to increase operational flexibility and more efficient distribution of water as we work toward a new long-term system which be more resilient to drought. And this bill does both.

### **Drought bill**

The bill before you does not violate the Endangered Species Act or the Biological Opinions, or include any operational mandates for the agencies.

To address water issues for all of California, the bill accomplishes the dual goals of maximizing water supplies and protecting the environment.

To accomplish these goals the bill's short term operational provisions provide increased flexibility to deal with the drought right now, and the long-term provisions invest in infrastructure and environmental restoration throughout the West.

## **Long-Term**

The long-term provisions reshape how the federal government assists states in coping with drought.

The long-term provisions do the following:

- Identifies 110 recycling projects and 27 desalination projects that could produce enough water to supply over 1 million acre feet of water for 2.7 million homes.
- Increases WaterSmart funding by \$150 million for projects to improve a range of water storage and water supply management.
- Funds the Reclamation Infrastructure Financing and Innovation Act, or RIFIA, at \$200 million.
- Updates Army Corps dam operations to increase water supply while reducing flood risk.
- \$600 million for water storage projects to hold water in wet years for use in dry years.
- \$560 million for recycling and water efficiency programs to better use what water we do have.
- \$100 million for desalination projects.

And again, all of the funds in the bill are offset.

### **Short-Term**

The bill's short-term provisions do not contain mandates. Rather, they provide that agencies base water operations on science, not intuition or guesswork.

It is also important to note, the short term provisions last two years, or the duration of the Governor's drought declaration, whichever is longer.

For that brief time, the bill provides for more operational flexibility and a more precisely managed system, which is critical during a drought crisis.

For example, the short term provisions allow for increased pumping during winter storms to capture peak flows and eliminates automatic payback of water supply

gains so that agencies can keep the water they gain from the winter storms.

Other examples in the short term are maintaining a 1:1 ratio for transfers through the spring and early summer to ensure that 100 percent of the water identified for a transfer goes to the communities that need it most. And, the bill extends the time period for transfers by five months, stretching supplies during the critical growing season.

With the Chair's permission, I'd like to enter into the record the eight ways in which this bill provides water supplies in the short-term.

We've worked with relevant federal and state agencies for two years to make sure this bill can produce real water in a manner consistent with the Endangered Species Act and biological opinions.

To remove any doubts, we included a simple, clear savings clause to make it crystal clear that the bill is consistent with environmental laws and biological opinions.

The bill provides \$1.3 billion in authorizations—all of which is offset in two ways. First, the Bureau of Reclamation would identify, with public input, projects appropriate for deauthorization. This would reduce existing authorizations by between \$1 billion and \$1.7 billion.

The second offset increases federal revenues by \$632 million over 10 years by inducing western water contractors to accelerate their debt payments.

That's a very brief summary of this bill, Chairman Flake and Ranking Member Wyden.

I look forward to today's discussion and to working with both of you to get a bill signed into law. Thank you.

Senator LEE. Senator McCain.

**STATEMENT OF HON. JOHN MCCAIN,  
U.S. SENATOR FROM ARIZONA**

Senator MCCAIN. Senator Lee, Senator Flake, Senator Wyden, Senator Manchin, thank you.

You mentioned, Senator Lee, that, in the West, water is for fighting. You left out Mark Twain said, "In the West, water is for fighting; whiskey is for drinking." That was his complete statement, for the record.

Senator LEE. My apologies. That was the Mormon in me just editing that for television.

[Laughter.]

Senator MCCAIN. My predecessor, Barry Goldwater, once said that in Arizona, we have so little water that the trees chase the dogs. I would not want to enter that into the record.

But anyway, I am proud to cosponsor the legislation, the Western Water Supply and Planning Enhancement Act. I thank Senator Flake for his leadership on this piece of legislation. I want to thank our colleagues, Senator Heller, Senator Barrasso, Senator Daines, and Senator Risch.

I am grateful that the Subcommittee will receive testimony from Mr. Tom Buschatzke, the Director of the Arizona Department of Water Resources. Tom is one of Arizona's foremost experts on water policy, and I applaud his leadership and that of our Governor, Doug Ducey.

I believe water and fire are the defining environmental issues of the 21st century. Both issues are connected. Decreased levels of rain runoff and snowmelt have stressed our water supplies and degraded the ecosystems of our fire-prone forests.

My home State of Arizona, like much of the West, is coping with its 16th consecutive year of drought, and the drought is taking its toll. According to the U.S. Geological Service, treasured rivers in my home state, like the Verde River and the free-flowing San Pedro River, could run dry within the next 80 years.

Mr. Chairman, 80 percent of our drought-stressed forests in Arizona have been consumed by wildfire in the last 20 years. You can do the math and figure out what is going to happen to the national forests in the State of Arizona.

This is a critical, crucial, compelling issue, and it is time we sat down together, I would say to Senator Feinstein, and I thank Senator Wyden for his continued efforts at cooperation, to address this issue.

If water levels in Lake Mead drop below the 1,075-foot mark, the Interior Department will trigger cutbacks in Colorado River water for the basin states. Due to Arizona's junior water rights, a shortage would impact water supplies for more than five million people across Phoenix, Tucson, and Yuma.

Today, there is 50 percent likelihood that the first round of cutbacks will occur in 2018. Arizona planned for this eventuality and will withstand these initial shortages because of investments in conservation, reservoir construction, and groundwater banking. But with Lake Mead levels at their lowest since it was filled, there is no question that deeper shortages are looming.



The United States will pay a profound environmental and economic price if greater attention and resources are not devoted to this issue.

The bill we propose is a combination of our top strategies for curtailing the drought at the federal level. Among other things, the legislation proposes more equitable water storage arrangements for states whose proactive conservation keeps water in Lake Mead. We also propose to give the Forest Service expedited authorities for fire-prevention thinning near reservoirs. We need to thin our forests, Mr. Chairman. We need to thin our forests. Anyone who has ever flown over a forest fire, as I have, and watched trees explode because of the fuel that has built up around those forests over many, many years knows that we have to thin our forests.

We have to propose to give the Forest Service expedited authorities for that thinning near reservoirs to guard against toxic ash runoff.

The bill would develop a regional plan to eradicate the non-native salt cedar tree. Each salt cedar tree is estimated to consume about 200 gallons of water a day. I repeat, one salt cedar tree consumes about 200 gallons of water a day. It is all up and down our rivers and the Colorado River, as the Chairman well knows. The Central Arizona Project (CAP) estimates that removing salt cedar, replanting with native vegetation, and that second part of the equation is critical, like cottonwood and willows, could save up to 860,000 acre-feet of water across the lower basin. I repeat, 860,000 acre-feet. I have seen salt cedar removal projects work in places like the Yuma Crossing National Heritage Area, where only 400 acres of salt cedar stretching two stories high were restored as wetlands habitat.

Our bill would augment the work of the Kazakhstan salt cedar beetle. Not many Americans are familiar with the Kazakhstan salt cedar beetle. This wonderful little beetle, the best thing I have ever heard of that might have come from Kazakhstan, is now eating its way down the Colorado River and killing the salt cedar. That is the good news. The bad news is, Mr. Chairman, we are not replacing the dead salt cedar. But God bless the Kazakhstan salt cedar beetle.

Some biologists predict that the beetle will populate most of the Colorado River corridor by 2020. I believe it is prudent to begin planning for the beetles' presence and to move aggressively on these and other innovative water strategies covered under our bill.

Mr. Chairman, I do not want to take up much more time of the Committee. I believe that the United States of America and those of us who are seeing a threat to the lives and lifestyle of our children and our grandchildren should get together and fix this problem. We have not faced a problem that we cannot fix. But right now, this threat in the 14th or 15th year of a drought is a direct threat to our lives and that of our children and our grandchildren. I think we owe it to them to act in a most constructive fashion.

I would like to again ask California to return the water they have stolen from us.

[Laughter.]

Thank you, Mr. Chairman.

Senator LEE. I am sure Senator Feinstein will arrange that very quickly.

Thank you very much, both of you, for being here and for your testimony today.

I would like to now ask those participating in our second panel to come forward. Specifically, Commissioner Lopez, Deputy Chief Weldon, Mr. Quinn, Mr. Keppen, Mr. Long, Mr. Buschatzke, and Ms. Ziemer, if you can come forward to the witness table.

As they are coming forward, I will be introducing them.

We are going to begin this panel by hearing from the Honorable Estevan Lopez, the 22nd Commissioner of the Bureau of Reclamation. After Commissioner Lopez, we will have Leslie Weldon of the USDA Forest Service, who has served as the Deputy Chief for the National Forest System since 2011. We welcome you back to the Committee, Deputy Chief Weldon. Then we will have Tim Quinn, the Executive Director of the Association of California Water Agencies. Following Mr. Quinn, we will have Dan Keppen before the Committee once again. Mr. Keppen is the Executive Director of the Family Farm Alliance and testified at the Committee's last legislative hearing on drought. Then we will have Bill Long, the President of Southeastern Colorado Water Conservancy District. After him, we will have Tom Buschatzke, who was before the Committee last summer to discuss drought. Tom is the Director of the Arizona Department of Water Resources and has been a powerful voice for Arizona's water interests. Thank you for being here, Tom, and for your leadership on water issues in Arizona. Finally, we will have Laura Ziemer, the Senior Counsel and Water Policy Advisor for Trout Unlimited.

Mr. Lopez, we will start with you.

**STATEMENT OF HON. ESTEVAN LOPEZ, COMMISSIONER,  
BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE  
INTERIOR**

Mr. LOPEZ. Chairman Lee, Ranking Member Wyden, and members of the Subcommittee, I am Estevan Lopez, Commissioner of the Bureau of Reclamation. Thank you for the opportunity to appear before the Subcommittee to provide the Department's view on four of the five bills before the Subcommittee today.

I am accompanied by John Bezdek, who many of you know, and who serves as our Counselor to the Deputy Secretary.

My written statements have been submitted for the record, so I will summarize those very briefly in the interest of time.

To begin, S. 2533 by Senator Feinstein is a multi-part bill aimed at mitigating the extreme drought experienced for the past four years in California. As you know, the Department has testified on prior versions of the bill before this Committee, and we are happy that the Senator and her staff have worked very closely with us, particularly with Mr. Bezdek, to address technical issues and refine the bill.

This collaborative process has produced a good result, and we believe that the bill before the Subcommittee today would improve the water supply situation in California while being protective of the environment, endangered species, and the very important salm-

on fishery that migrates through the Sacramento-San Joaquin Delta.

I know that there are some elements of the bill that have created concern for some parties, and we understand those perspectives. We are glad to continue working with Senator Feinstein in the process she has employed to date on any of these issues. But on balance, we are confident and comfortable with the measured approach contained in S. 2533.

Next, S. 2616 by Senator Gardner would modify certain cost-sharing and revenue provisions relating to the Arkansas Valley Conduit in Colorado. This is a project with a long history. The Bureau of Reclamation has been able to maintain a certain level of funding to complete preconstruction work that needs to be done. Reclamation and the Southeastern Colorado Water Conservancy District began discussions last year to develop an approach for funding construction, which is an important step toward meeting the drinking water needs of six Colorado counties where water contains high levels of naturally occurring radium and uranium.

S. 2616 aims to help advance long-awaited construction of the conduit by authorizing miscellaneous revenues to the district to enable repayment of loans from the Colorado Water Conservation Board (CWCB). While the Administration supports the goals of assisting non-federal sponsors with access to non-federal capital for the construction of projects, we want to continue to work with the sponsors and local communities on how we will move forward with construction. Our budget is under great pressure, and we are encouraged by the efforts of Bill Long and the Conservancy District to reach out to the state to make possible a loan to begin funding.

S. 2902 by Senator Flake is another multi-part bill with several provisions, some of which are drought-related and others which are more indirect relationship to drought. As stated in my written testimony, many of the provisions of S. 2902 have been testified on separately by the Department at prior hearings. On balance, the bill contains some elements we support and others we do not, and we are glad to explore that further with the Subcommittee.

Lastly, S. 2907 by Senator Reid would enable continuation of System Conservation Pilot Program underway on the Colorado River that aims to address the prolonged drought on the basis of facilitating greater storage in Lakes Mead and Powell. We support this program in our budget request and appreciate Senator Reid's support as well as that of the stakeholders here today who have committed their own resources to the program as well.

This concludes my statement. I am pleased to answer questions at the appropriate time, and I appreciate the Subcommittee's consideration for my travel commitment later this afternoon.

[The prepared statement of Mr. Lopez follows:]

**Statement of Estevan Lopez**  
**Commissioner, Bureau of Reclamation**  
**U.S. Department of the Interior**  
**before the**  
**Subcommittee on Water and Power**  
**Committee on Energy and Natural Resources**  
**United States Senate**  
**on**  
**S. 2533 (Feinstein) – California Long Term Provisions for Water Supply and Short Term**  
**Provisions for Emergency Drought Relief Act**  
**May 17, 2016**

Chairman Lee, Ranking Member Hirono and members of the Subcommittee, I am Estevan Lopez, Commissioner of the Bureau of Reclamation, in the Department of the Interior (Department). Thank you for the opportunity to appear before the Subcommittee today to provide the Department's views on S. 2533, the California Long Term Provisions for Water Supply and Short Term Provisions for Emergency Drought Relief Act. We understand that the overall goals of S. 2533 are to maximize water supplies, increase our scientific understanding of the ecosystem, and maintain compliance with the Endangered Species Act (ESA) and the current biological opinions governing operation of the state and federal water projects. The Department supports these goals as the appropriate approach for both the near-term and long-term in addressing the impacts of drought in California. Focused attention and efforts from all levels of government, as well as the private sector, will be necessary to increase water supply reliability while maintaining environmental protections that are critical to California. This approach is simply a reality given long-term drought, climate change, and other challenges facing the Bay-Delta region.

The Department appreciates the seriousness of the current water supply situation in California and continues to take actions that address drought in the short-term as well as to build drought resiliency over the long-term. As the Subcommittee knows, the Department and its bureaus have worked with an unprecedented level of cooperation across agency lines and in partnership with the State of California to maximize water supplies and reduce the impact of the current drought while also protecting the environment. We also want to acknowledge Senator Feinstein, who has been a leader in these efforts and a strong supporter of strategies to address the impacts of the drought on families, farms, the economy of the State of California, and the environment. We appreciate Senator Feinstein's efforts in developing S. 2533 and the frequent technical assistance reviews undertaken with the Department and other agencies operating in California as the bill has been in development.

At the operational level, the bill provides operational directives on pumping rates during stormflow events, fish entrainment, reduced predation of listed fish, and real-time monitoring of listed fish species of concern to the projects. These provisions may result in the ability to provide modestly more water for agricultural users and could create ecosystem benefits if implemented, at least in some flow and seasonal weather scenarios. The bill brings visibility to several aspects of the operations of the Central Valley Project, allowing the Department and other agencies to allocate resources and to be better poised to take advantage of opportunities

that improve water management. As one example, provisions of the bill extending the time period to convey voluntary water transfers may provide additional options to drought-stricken water users for obtaining water supplies, while addressing issues related to the timing of the conveyance of that water through the Bay-Delta. The bill allows federal agencies to ensure necessary actions related to the transfers are in process with sufficient time to ensure benefits from the transfers can be maximized. Another example is the authorization to increase pumping during some winter storm events. This authorization allows the agencies to be prepared on very short notice to take advantage of this additional potential water supply, while remaining protective of listed species.

We are aware of much discussion by some stakeholders over whether the provisions of S. 2533 are consistent with the ESA and biological opinions governing operation of the state and federal projects. The provisions of this bill add new statutory language to direct the actions of the Secretaries in the implementation of their responsibilities under the ESA and other applicable law, generating issues around whether these provisions are intended to supersede or otherwise modify existing requirements in the current biological opinions governing the system. We understand that the author of the legislation intends that these provisions be interpreted as consistent with the ESA and implemented in a manner that is consistent with the current biological opinions, even while directing the Secretaries to exercise their existing discretion to adaptively manage these operations based upon the best available science and as conditions warrant. We very much appreciate and concur with this intent, and we believe that we are able to implement these directives in a manner that is consistent with the ESA and the biological opinions.

We are also mindful that new statutory language generates new litigation opportunities, which we hope to minimize. We are therefore open to working with the bill sponsor and the Members of this Committee to address some of the ambiguities in the current text. For instance, the operative language in Title III prohibits actions that would cause additional adverse effects to listed species beyond those analyzed in the biological opinions. Our interagency review has determined that there is a potential drafting anomaly in that the operative language- "the Secretaries shall take no action pursuant to this Act that would cause additional adverse effects on the listed fish species beyond the range of effects anticipated to occur [under] the applicable biological opinion" - is found in sections 301(e) and 303(a), but is not present in section 302. While the operative language modifies the entire Act, in order to minimize any attempt to construe Section 302 as not being subject to this standard, we recommend similar operative language is included in Section 302 so it is clear that all actions under Section 302 are subject to this standard. We would also note that the proposed operable standard contemplates a longer time period (for the duration of the opinions) than may be pertinent to the actions at hand (short-term, real time), suggesting that some modest language changes might be warranted.

We also note the savings clause in section 701 which states that S. 2533 shall not be interpreted or implemented in a manner that "overrides, modifies, or amends" the ESA or the application of the biological opinions. The combination of these provisions leads us to conclude that the directives in this legislation are to be implemented in a manner consistent with the ESA and the current biological opinions for the federal and state projects. We stand ready to work with the bill sponsor and the Committee on modest technical and conforming amendments to the

language where warranted. We would also like to encourage the use of crystal clear legislative history in the form of committee reports and accompanying floor statements to minimize litigation during implementation, and we would be pleased to work with the Member on such supporting material.

Moreover, while S. 2533 codifies the flexibility we have exercised in our drought contingency plans over the past several years, we also wish to be clear that there is little, if any, operational flexibility remaining in the biological opinions beyond that already being exercised. Consequently, as indicated by the 2015 Statement of Administration Position on H.R. 2898 (Valadao), the Department will be concerned with, and likely oppose, any subsequent change in the authorizations contained in S. 2533 that purport to create additional flexibility in the biological opinions by amending those opinions or the ESA itself. It is critical that the decision-making involved in operating Reclamation's Central Valley Project and California's State Water Project be based on the best available science as applied pursuant to existing environmental laws.

In the longer term, S. 2533 authorizes significant new investments in proven water supply and conservation activities that will help make California's water supplies more resilient in the face of drought. Locally-supported projects such as water recycling, water efficiency improvements, desalination, groundwater storage, distributed treatment systems and surface water storage are given thoughtful consideration in S. 2533, with requirements for robust non-federal cost sharing for new projects. It has become clear that the traditional Reclamation business model, where feasibility studies for federal projects must be authorized, undertaken and then provided to Congress before an authorization for construction is received, does not always address the needs of project sponsors at the state and local level. Of the five California storage studies referenced in Section 115 of the bill, one is now complete and was submitted to Congress in July 2015 (Shasta Lake Water Resources Investigation); three are still in development (North of Delta Offstream Storage/Sites Reservoir, Los Vaqueros Reservoir, and Upper San Joaquin/Temperance Flat); and the latter, Upper San Joaquin/Temperance Flat is undergoing final review within the Administration; and the final study, referenced at Section 313(b)(5), San Luis Low Point Improvement Project (SLLPIP), requires further analysis and resolution of identified safety concerns at B.F. Sisk Dam (B.F. Sisk impounds San Luis Reservoir).

We are finding that state and local jurisdictions are developing their own funding for many of these types of projects and would like to have a federal partner but are unable to wait for an authorization for Reclamation to participate in such a project. Consequently, we are of the view that in addition to the traditional Reclamation paradigm for study, authorization, then participation in federal water projects, Congress should revisit a standing authorization that allows some level of investment in state and local projects as is contemplated in S. 2533. If enacted, the Department would implement the bill such that participation would be based on performance-based criteria for overall economic, technical, financial, and environmental feasibility for the proposed project. While it is anticipated that the state and local sponsors would undertake the required planning and pre-authorization studies, the Secretary would be able to provide technical assistance on these studies.

Sections 112, 121, and 131 through 141 of S. 2533 contain many new authorizations with different funding mechanisms. In general, the Department appreciates the bill's recognition that federal water resource investments can effectively leverage additional state, local, and private funds to encourage drought resiliency. The Department appreciates and fully supports the increase in WaterSMART funding authorization to \$500 million. The water and energy efficiency grant program has been tremendously successful in stretching water supplies in the West, and building drought resiliency. The Department advises that it is still assessing and evaluating the information necessary for it to determine whether RIFIA presents an effective and efficient use of taxpayer dollars. The Administration is exploring alternatives for infrastructure financing, including public-private partnerships, through the newly created a Natural Resources Investment Center within the Department of the Interior. We also understand the intent of these activities is to facilitate the best use of federal and non-federal dollars to reduce risk and improve the reliability of the Nation's infrastructure. While we support these goals, the authorizations in these sections do potentially overlap, thus we are appreciative of the clarification in section 121(c) prohibiting an eligible project from receiving grant funding from more than one program.

Section 113, dealing with Reservoir Operation Improvement, would direct the creation of pilot projects to implement revisions to water operations manuals. The Department notes that the directives of Section 113 fall on the U.S. Army Corps of Engineers, and that, pursuant to subparagraph 113(g)(3), the activities referenced would exclude Bureau of Reclamation (Reclamation) facilities. Reclamation agrees that maintaining operational standards that reflect both the current state of science as well as changes in climate and hydrology is an important part of supporting water resource management. In Fiscal Year 2015 Reclamation began a Reservoir Operations Pilot Initiative as part of the WaterSMART program. Historically, uncertainties in weather prediction and assumptions of an unchanging climate have resulted in conservative federal operating criteria for reservoir management. It is expected that in some locations these criteria will have to be updated with consideration for weather forecast technology and shifts in climate conditions. In 2015 Reclamation selected five pilot studies, one within each of Reclamation's regions, to initiate work that is expected to be completed in FY 2018. The Reservoir Operations Pilot Initiative is a high priority action under Reclamation's Climate Change Adaptation Strategy with a goal to increase water management flexibility. These activities are critical to understand where flexibilities may be increased through identifying trends in historic and projected climate, hydrology, sedimentation, and conjunctive groundwater management.

As stated in Deputy Secretary Connor's October 2015 testimony on S. 1894, the Department supports the discretionary approach to authorities found in Section 203 for the benefit of fish and wildlife. Provisions intended to build upon the agencies' current actions to improve data gathering, monitoring, and scientific methodologies can greatly benefit operations with respect to water supply and species protection. In particular, the language authorizing federal participation in a 100-percent locally funded pilot program to protect native anadromous fish in the Stanislaus River, Delta and other tributaries, if based upon well-shaped research strategies and developed through a collaborative scientific and technically disciplined process (akin to our work in the Collaborative Adaptive Management Team), could help create a strengthened predation research program able to provide near- and long-term benefits for the environment and for state and federal water users across California.

Finally, as noted above, we recognize that some stakeholders have expressed concern about the potential for differing interpretations of the language in S. 2533, particularly the emergency operations provisions in Sections 302 and 303. We appreciate that, in the day-to-day operational context of California water and drought, divergent perspectives could expect different outcomes from implementation of this bill. As a consequence, we acknowledge there is increased litigation risk under S. 2533 and that ongoing litigation could hamper the flexibility we are currently utilizing under the biological opinions to maximize water deliveries while maintaining full compliance with applicable environmental laws. We are also concerned that an increase in litigation could also have adverse effects on the development of California Water Fix, as collaboration is an important part of that process.

On balance, however, S. 2533 represents a constructive approach that contrasts with far more proscriptive language in House legislation, which the Department is on record as strongly opposing. While we are of the view that S. 2533 will help California's water supply, we are mindful that concerns voiced by other stakeholders regarding the operational provisions of S. 2533 have resulted in some controversy over the legislation. Thus, while the Department believes that concerns expressed about S. 2533 have been carefully considered, in the interest of providing additional tools to address the impacts of drought, we are prepared to work closely with this Subcommittee to discuss viable approaches to move forward legislation that addresses areas where widespread agreement exists, such as providing support for scientific studies, water conservation, reuse, recycling, and desalination. We believe these provisions are consistent with California's Water Action Plan as set forth by Governor Brown in 2014. As this Subcommittee is aware, water is a finite resource, and the more tools we have to increase our existing supply, the more options we have for meeting the many competing demands for this resource.

The Department appreciates the ongoing efforts of Senator Feinstein and this Subcommittee to work with our bureaus on the bill, and we pledge to continue this partnership moving forward. I would be pleased to answer questions at the appropriate time.



**Statement of Estevan Lopez  
Commissioner, Bureau of Reclamation  
U.S. Department of the Interior  
before the  
Subcommittee on Water and Power  
Committee on Energy and Natural Resources  
U.S. Senate  
on  
S. 2616 (Gardner) – Cost Sharing and Revenue  
Provisions relating to the Arkansas Valley Conduit**

**May 17, 2016**

Chairman Lee and members of the Subcommittee, I am Estevan Lopez, Commissioner of the Bureau of Reclamation, in the Department of the Interior. I appreciate the opportunity to testify on S. 2616. The Administration is still reviewing S. 2616 and does not have a position at this time. The Department supports the goal of assisting non-federal sponsors with accessing non-federal capital for the construction of projects. However, the bill raises some concerns discussed below.

The Arkansas Valley Conduit (AVC) was originally authorized in 1962. However, the beneficiaries' inability to repay construction of the project, along with competing water infrastructure needs across the West have made it difficult to fund large-scale projects like the AVC at the federal or local level. Currently AVC area communities use groundwater to supply most of their drinking water, and that water has been determined to contain high levels of naturally occurring radium and uranium. Twelve water providers have concentrations of these elements in the water supplies that exceed federal Safe Drinking Water Act mandatory standards. As a result, the State has issued enforcement actions requiring these water providers to remove the contaminants or find a better quality water source. In addition, water providers in the lower Arkansas River Basin generally have difficulty meeting non-mandatory secondary drinking water standards for salts, sulfate and iron.

Given these circumstances, it is extremely important for these communities to find an alternative water supply that would meet existing and future municipal and industrial potable water demands for citizens in the six southeastern Colorado counties of the Lower Arkansas River Basin: Pueblo, Crowley, Otero, Bent, Prowers, and Kiowa. AVC would serve approximately 53,000 residents (estimated to increase to 74,000 by the year 2070) with an estimated construction cost of \$400 million (2011 dollars). Feasibility level designs are being prepared with an anticipated completion date of September, 2016.

Replacing contaminated groundwater supplies with local surface water from the Arkansas River is problematic because the river downstream of the City of Pueblo contains high levels of selenium, sulfates, uranium, and salts. The AVC, which is an authorized feature of Reclamation's Fryingpan-Arkansas Project (Fry-Ark Project), would address these problems by providing high quality surface water via a least-cost regional system.

The existing Fry-Ark Project Act, as amended in 2009 by Public Law 111-11, authorizes appropriations for construction of the AVC; allows miscellaneous revenues to be used to construct AVC; and, upon completion, provides for miscellaneous revenues to be credited to the actual costs of AVC. P.L. 111-11 also provides a cost sharing plan of 100% percent federal financing and 35 percent non-federal repayment, over a period of 50 years, starting after project completion. In August 2013 a Final Environmental Impact Statement was completed and the Record of Decision was signed in February 2014. Through FY 2016, approximately \$21 million in federal appropriations has been provided for AVC.

Representatives of the Southeastern Colorado Water Conservancy District (District) and the Department and Bureau of Reclamation (Reclamation) began discussions in the summer of 2015 to develop an approach for funding AVC construction while reducing the need for federal appropriations. With an objective of accomplishing sufficient final engineering and design work to allow award of the first construction contract during fiscal year (FY) 2019, the goal is to obtain funding from multiple sources to permit completion of construction in a timely fashion.

The District and the state of Colorado are contemplating a \$100 million loan to finance part of the construction of this project. S. 2616 authorizes and directs Reclamation to provide, without appropriation, miscellaneous revenues to the District so they can, in turn, use those funds to the extent needed, repay a loan or loans from the Colorado Water Conservation Board (CWCBC). Under current law, those miscellaneous revenues are controlled by Reclamation, and at the Secretary's discretion, can be used to offset various project costs, finance further construction of the Fryingpan-Arkansas Project (potentially including the AVC), or deposited to the Reclamation fund to reduce the Federal deficit.

If S. 2616 were enacted:

- The District would remain obligated to repay 35 percent of the federal appropriations made for the AVC, with such repayment to come from the crediting of miscellaneous revenues to the AVC or from District sources if those miscellaneous revenues are insufficient.
- The miscellaneous revenues not needed to repay a loan or loans to the District from the CWCBC or to meet the District's obligation to repay 35 percent of federal appropriations would be available for Reclamation to credit to the repayment of the remaining 65 percent of the AVC's construction costs paid for with federal appropriations.
- The costs of the Ruedi Dam and Reservoir, Fountain Valley Pipeline, and South Outlet Works at Pueblo Dam and Reservoir, plus interest, will be repaid before miscellaneous revenues could be used to pay for AVC costs during construction.

Under current law, all miscellaneous revenues generated by the Fry-Ark Project are currently devoted to repayment of the investment in the AVC.

S. 2616 directs that miscellaneous revenues be provided to the District. The District envisions that these revenues would be used to repay the monies it would borrow from the CWCBC for about \$100 million in non-federal financing for the construction of the AVC. While we are still undertaking a detailed analysis of the full implications of such a reallocation of federal receipts,

the reallocation of federal revenues to a non-federal entity for the benefit of that non-federal entity should be given careful consideration, including budgetary effects.

This concludes my written statement. I would be pleased to answer questions at the appropriate time.

**Statement of Estevan López, Commissioner  
Bureau of Reclamation  
U.S. Department of the Interior  
Before the  
Energy and Natural Resources Committee  
U.S. Senate  
on  
S. 2902  
S. 2902 (Flake) Western Water Supply and Planning Enhancement Act**

**May 17, 2016**

Chairman Lee, Ranking Member Hirono and Members of the Subcommittee, I am Estevan López, Commissioner of the Bureau of Reclamation. Thank you for the opportunity to provide the views of the Department on S. 2902, the Western Water Supply and Planning Enhancement Act. Several provisions of S. 2902 include distinct and targeted provisions that touch on operational, environmental, planning and budget functions, many of which the Department has previously testified on. For this reason, much of my statement will summarize the Department's previously expressed views on the proposals in those provisions rather than the bill as a whole.

**Title I, Subtitle A – Water Supply Improvements**

Section 101 of S. 2902 contains language of interest to the Bureau of Reclamation (Reclamation) and Army Corps of Engineers. Section 101, dealing with Reservoir Operation Improvement, would direct the creation of pilot projects to implement revisions of water operations manuals. The Department notes that the directives of Section 101 fall on the U.S. Army Corps of Engineers (Corps), and that, pursuant to subparagraph 101(h)(3) the activities referenced would exclude Bureau of Reclamation (Reclamation) facilities except under certain conditions.

Reclamation believes that maintaining operations standards that reflect both the current state of science as well as changes in climate and hydrology to be an important part of supporting water resource management. In Fiscal Year 2015 Reclamation began a Reservoir Operations Pilot Initiative as part of the WaterSMART program. Historically, uncertainties in weather prediction and assumptions of an unchanging climate have resulted in conservative federal operating criteria for reservoir management. It is expected that in some locations these criteria will have to be updated with consideration for weather forecast technology and shifts in climate conditions. In 2015 Reclamation selected five pilot studies, one within each of Reclamation's regions, to initiate work that is expected to be completed in FY 2018 as part of the Administration's Federal Drought Action Plan. The Reservoir Operations Pilot Initiative is a high priority action under Reclamation's Climate Change Adaptation Strategy with a goal to increase water management flexibility in light of changing conditions. These activities are critical to understanding where flexibilities may be increased through identifying trends in historic and projected climate, hydrology, sedimentation, and conjunctive groundwater management.

Section 102 would amend the Colorado River Storage Project Act (Public Law 84-485) to authorize Reclamation to increase the active capacity and, as a result, the amount of water developed by Fontenelle Reservoir in Wyoming. Reclamation appreciates the efforts of Senator Barrasso and his staff to work with Reclamation to address our concerns identified in our June 18, 2015 testimony on similar legislation (S. 1305) before this Committee. With the subsequent amendment to S. 1305, the Department can now support this provision.

Section 103 would require the Department and the U.S. Department of Agriculture to enter into an arrangement with National Academy of Sciences to conduct a study on the impact of salt cedar control efforts in increasing water supply and improving riparian habitat. The Departments of the Interior and Agriculture would then have 180 days to submit a report to Congress that describes a feasible plan to implement a tamarisk control plan, including a description of applicable timelines and costs.

The U.S. Geological Survey conducted an authoritative study on the effectiveness of the removal of salt cedar, which found that the removal of salt cedar from floodplain areas along rivers leads can lead to replacement by other vegetation that consumes roughly equal amounts of water. The study found that removing salt cedar from these areas is unlikely to produce measurable water savings once replacement vegetation becomes established. We look forward to working with the bill sponsor and the Committee to ensure that the previous report's conclusions are considered, and any new reporting requirements add value to our current understanding of salt cedar impacts.

Section 104 would amend Section 206 of the 2015 Appropriations Act and provide additional statutory direction on Colorado River operations. The Department fully recognizes the severity of the ongoing historic drought in the Colorado River basin and the importance of proactive, consensus-based efforts to conserve the limited, and declining, water resources of the Colorado River Basin. Subsection 206(a)(1), as amended, would continue Congressional direction to fund or participate in projects to increase storage of Colorado River water in Lake Mead and upstream reservoirs constructed under the 1956 Colorado River Storage Project Act. The Department supports these continued efforts.

Subsection (a)(2) would add a new provision that would preclude release of Colorado River water from Lake Mead pursuant to a 2014 Memorandum of Understanding and the ongoing efforts pursuant to the Pilot System Conservation program. While the Department recognizes that the provisions of subsection (a)(2) are narrow in scope, the Department does not believe this section is necessary for the successful implementation of these efforts and is duplicative of currently applicable provisions of Departmental policies and agreements already in force. Additionally, the language of this subsection does not appear to currently have consensus support among all seven Colorado River Basin States. We recognize that interstate cooperation is particularly essential in a time of increased risk of shortages on the Colorado River. We are currently investing significant effort to find solutions that will generate consensus support in the Basin, and suggest that subsection (a)(2) may distract from the ongoing efforts to identify

consensus tools and mechanisms to contribute to conservation of water in the Colorado River system with broad stakeholder support.

We believe Subsections (b) through (e) are intended to enhance the Department's efforts to conserve additional water in the Colorado River system in a manner consistent with current efforts. The Department supports the goals of addressing ongoing drought in portions of the western United States and the reservoir elevations in Lakes Powell and Mead. The Department continues to monitor the situation and has taken a number of steps to address these issues. The Administration is still reviewing the full implications that these sections would have and does not have a position on these sections at this time.

#### **Title I, Subtitle B – Protecting Critical Water Supply Watersheds**

Title I, Subtitle B of S. 2902 contains provisions of interest to the Bureau of Land Management (BLM). (We defer to the U.S. Forest Service on provisions of this Subtitle affecting National Forest System lands.) This subtitle seeks to exclude certain vegetation treatments conducted for specific purposes from the environmental analysis and public involvement requirements in the National Environmental Policy Act (NEPA). These treatments may range from hazardous fuels reduction and treatment for invasive species to timber harvest, and the bill sets out specific purposes (e.g., increase water yield) and administrative criteria (e.g., treatment proposed by a Resource Advisory Council) for these treatments. Under the bill, if the BLM's proposed activity is for one of the enumerated purposes, the agency could remove vegetation under an exclusion from NEPA, on up to 5,000 acres. If the proposed activity also meets the administrative criteria of the bill, the BLM would be authorized to remove vegetation, under an exclusion from NEPA, on up to 15,000 acres. The Department opposes this provision because of the scale of these treatments without environmental analysis and public involvement as required in NEPA.

Title I, Subtitle B also would limit public input through the NEPA process by requiring the BLM to analyze only the proposed action and a "no-action" alternative when a BLM proposed vegetation treatment project meets the administrative criteria set out in the bill. This provision would limit the breadth and value of NEPA analysis to decision-makers.

The Department shares the sponsor's goals of efficient and effective procedures. Indeed, one of the priorities under Secretarial Order 3336 on Rangeland Fire Prevention, Management, and Restoration (Jan 5, 2015) is to encourage efforts to expedite processes, streamline procedures and promote innovations that can improve overall rangeland fire prevention, suppression and restoration efficiency and effectiveness. We would be glad to discuss these objectives further with the bill's sponsor.

#### **Title I, Subtitle C – Bureau of Reclamation Transparency Act**

Subtitle C, the Bureau of Reclamation Transparency Act, requires the Secretary of the Interior to submit to Congress a report on the efforts of Reclamation to manage its infrastructure assets. As

stated in our June 18, 2015, testimony on similar legislation (S. 593), Reclamation recognizes the value in obtaining additional information on the status of our infrastructure. The Bureau of Reclamation Transparency Act is consistent with a draft Infrastructure Investment Strategy and process Reclamation has initiated proactively; therefore, the Department supports this provision.

**Title I, Subtitle D – Water Supply Permitting Act**

Subtitle D mirrors language in HR 2898 (Title VII), which with some modifications, largely consists of language from S. 1533 (114th), the Water Supply Permitting Coordination Act. Reclamation expressed concern in our October 8, 2015, testimony on HR 2898 before this Committee that there is already ample basis for review of projects and coordination among federal agencies involved in water supply planning, remain regarding the language in this current bill.

**Title I, Subtitle E – Bureau of Reclamation Project Streamlining Act**

Subtitle E aims to facilitate and streamline Reclamation’s process for creating or expanding surface water storage under Reclamation law. As we testified on Title VIII of HR 2898 before this Committee, this provision would restrict the time available to establish the merits of a surface water storage project and to consider a project’s potential environmental effects. Constraining or circumventing project environmental reviews and permits impedes the opportunity to consider alternatives with potential impacts on communities and the environment which may be less adverse. Such constraints could make favorable recommendations for project construction less likely and increase the potential for delay as a result of litigation, which, I would note, would have the opposite effect of the provisions’ intentions. The Department does not support this provision.

**Title II – Protecting Existing Water Rights**

Title II of S. 2902 resembles S. 982 (Barrasso), for which the Department provided testimony before this Subcommittee in June of 2015. While we are still analyzing the new language in view of the recent introduction of S. 2902, in the Department’s June statement, we continue expressed concern that the Water Rights Protection Act legislation as drafted was overly broad, drafted in ambiguous terms, and would if enacted likely have numerous unintended consequences that would have adverse effects on existing law, tribal water rights, and voluntary agreements. We are working to ascertain the extent to which the Department’s previously stated concerns may or may not apply to Title II of S. 2902.

**Title III – Completing and Maintaining Rural Water Supply Infrastructure**

Title III of S. 2902 incorporates S. 438, the Irrigation Rehabilitation and Renovation for Indian Tribal Governments and Their Economies Act, which creates a steady stream of funding to repair, replace and maintain certain Indian irrigation projects. As stated before the Senate

Committee on Indian Affairs' March 4, 2015, hearing on S. 438, the Department supports the goals of working with tribes to address the maintenance of irrigation projects, and we look forward to working with you to address the best means of doing so given current budget constraints and the ability of irrigation projects to financially sustain themselves in the long run.

Subtitle B incorporates S. 1552, the Clean Water for Rural Communities Act, which would authorize construction of the Dry-Redwater Regional Water Authority System and the Musselshell-Judith Rural Water System in the States of Montana and North Dakota. As stated in our June 18, 2015, testimony before this Committee, the Department cannot support this language at this time, based on constraints on program resources and other rural water project commitments.

#### **Title IV – Offset**

Title IV includes language from Title IX of HR 2898, the Accelerated Revenue, Repayment and Surface Water Storage Enhancement Act on which Reclamation testified before this Committee on October 8, 2015. The bill contains provisions to enable the conversion of any water service contract to a repayment contract, with allowance for pre-payment. While Reclamation's October 2015 testimony identified several programmatic concerns about the bill, it is also noteworthy that current CVP water service contracts already contain language for their eventual conversion to repayment contracts at such time that it is determined that the remaining construction costs of the CVP can be repaid within a specified repayment term and without adversely affecting the operations of the CVP. Additionally, the bill proposes a one-year timeframe to convert existing contracts, which may not be reasonable given the realities of CVP operations and repayment status.

#### **Conclusion**

We stand ready to work with this Committee and bill sponsors to find common ground on legislation that can complement the Administration's efforts to assist communities impacted by drought. This concludes my written statement. I am pleased to answer questions at the appropriate time.



**Statement of Estevan Lopez**  
**Commissioner, Bureau of Reclamation**  
**U.S. Department of the Interior**  
**before the**  
**Subcommittee on Water and Power**  
**Committee on Energy and Natural Resources**  
**U.S. Senate**  
**on**  
**S. 2907 (Reid) – To strike the termination date for pilot projects**  
**to increase Colorado River System water in Lake Mead**

**May 17, 2016**

Chairman Lee and members of the Subcommittee, I am Estevan López, Commissioner at the Bureau of Reclamation (Reclamation). The Department supports the goals of addressing ongoing drought in portions of the western United States and the reservoir elevations in Lakes Powell and Mead. The Department continues to monitor the situation and has taken a number of steps to address these issues. S. 2907 would amend Section 206 of the 2015 Appropriations Act (PL 113-235) to remove the 2018 sunset data and provide \$50 million additional authority for these activities to increase Colorado River system water in Lake Mead and Lake Powell. I would like to take this time to share my thoughts on Reclamation's existing System Conservation Pilot Program.

Since June 2013, Reclamation, the Lower Basin States, and water agencies have been engaged in multi-party discussions to identify voluntary actions to protect critical reservoir elevations in Lakes Powell and Mead should drought conditions continue and worsen. In July 2014, Reclamation signed a Funding Agreement with four municipal entities in the Basin, the Central Arizona Water Conservation District, the Metropolitan Water District of Southern California, the Southern Nevada Water Authority and Denver Water. The Funding Partners agreed to jointly finance an \$11 million System Conservation Pilot Program to fund voluntary conservation projects in the Upper and Lower Basins to retain additional water in Lakes Powell and Mead to help mitigate the impacts of the current drought.

Reclamation solicited pre-proposals for conservation projects from about 50 water users in the Lower Basin. Six of the approximately 20 pre-proposals received were approved for funding. To date, Reclamation has contributed \$3,085,400 to the Pilot Program in the Lower Basin, and the initial phase of the Pilot Program is nearing completion. The projects approved to date will collectively conserve approximately 63,000 acre-feet of water, at an average cost paid to the participant of \$136/acre-foot, and fully utilize the initial \$8.25 million of non-federal funding. Reclamation allocated an additional \$5 million for this Pilot Program in Fiscal Year 2016. Reclamation is meeting with partners this month to finalize non-federal matching funds.

Given the role of the Secretary as water master of the lower Colorado River, Reclamation administers the pilot program in the Lower Basin in cooperation with the funding entities. In contrast, in the Upper Colorado River Basin, given the more limited role of Reclamation, the Upper Colorado River Commission, on behalf of the four states of Colorado, New Mexico, Utah

and Wyoming administers the pilot program. Efforts in the Upper Basin are nearing completion of awards for the second phase of projects in calendar year 2016, with \$1.9 million committed to 24 projects in each of the four Upper Basin States.

Reclamation and its partners have not completed a full evaluation of the pilot program to determine whether it should be continued or whether alternatives may be warranted. We look forward to a continued dialogue with the bill sponsor and this Committee to determine if and when the pilot program should be permanently extended.

The Department and our non-federal partners on the Colorado River recognize the severity of the ongoing historic drought in the basin and the importance of proactive, consensus-based efforts to conserve limited water resources. To that end, we will continue our proactive partnerships with Basin stakeholders and strive to make more efficient and effective use of the waters of the Colorado River whenever and wherever possible.

This concludes my written statement. I would be pleased to answer questions at the appropriate time.

Senator LEE. Thank you, Commissioner.  
Deputy Chief Weldon.

**STATEMENT OF LESLIE WELDON, DEPUTY CHIEF, NATIONAL  
FOREST SYSTEM, U.S. DEPARTMENT OF AGRICULTURE**

Ms. WELDON. Thank you, Chairman Lee, and members of the Subcommittee, for the opportunity to provide the views of the U.S. Department of Agriculture regarding S. 2902, the Western Water Supply and Planning Enhancement Act, and S. 2524, the Bolts Ditch Access and Use Act.

Accept my apology for some of the generalness of my remarks. We would like to have additional time to fully analyze the effects of the bill. That said, we appreciate and share the strong interest in ensuring resilient, sustainable flows of water and restoring health to forested watersheds.

As we have asserted at previous hearings on similar matters, I emphasize that all the efforts of the Forest Service regarding the stewardship of water resources are conducted to help ensure that abundant clean water is available for the public's use and enjoyment. Whether it is to make snow for downhill skiing, provide for world-class fishing experiences, sustain wildlife or domestic animals, or to maintain community and agricultural water supplies, everything is done for the public value.

Watersheds have long been used and recognized as basic building blocks of sound resource management. Beginning in 1897 through the Organic Administration Act, Congress directed the Forest Service to manage the National Forest System lands to secure favorable flows of water conditions for multiple public uses and benefits that sustain economies and maintain communities across the nation today.

Since then, Congress has provided additional legislative direction to the Forest Service regarding our role to sustain water, watersheds, and the management of those resources, direction that is even more critical today as we face ongoing drought, a longer fire season, and other consequences of a changing climate.

We recognize the fundamental role of states in education, adjudication of water rights according to state laws, and assert no intention to exceed statutory authorities granted to us in this or any other aspect of our mission. USDA believes that the existing framework of state and federal statutes adequately provide for the protection of privately-held water rights in balance with public service and natural resources conservation work of the Forest Service and that no additional legislation to ensure this balance is needed.

As an example of our success in working within this framework, we point to our response to concerns from the ski industry, states, and others regarding our initial draft of a watershed clause for ski area special use permits. By working closely and collaboratively with those most concerned, we were able to craft a final water clause for ski area permits that recognizes and protects the value of privately held water rights as assets and also ensures the availability of sufficient water for current and future ski area operations.

Another example is our response to concerns regarding groundwater. After listening to those concerns following the publication of

a proposed directive in 2014, the Forest Service acknowledged the concerns in our approach, stopped all work on that directive, and will not move forward with that original proposal. Rather, we have committed to engaging with states, tribes, and citizens, to understand and collaboratively address their concerns.

Should we choose to move forward with a new directive in the future, it would only be after fully engaging with those interested and affected in an open and transparent manner to ensure that we get it correct.

We also agree with the need to protect critical water supply watersheds. This type of work is fundamental to our conservation and resource stewardship mission, and will become even more important into the future.

Again, while we cannot comment on specifics of S. 2902 as of yet, as a general matter, we appreciate efforts to provide planning tools that incentivize collaboration and improve efficiency as long as they have strong protections to ensure adherence to important and fundamental environmental laws. We ask to continue to work with the Committee on these aspects.

Finally, on S. 2524, we understand this bill seeks to resolve issues associated with the use and maintenance of the Bolts Ditch near the town of Minturn, Colorado. We acknowledge that this bill has the support of Eagle County, the Colorado River District, and local and national wilderness advocacy organizations, and USDA does not oppose 2524.

I appreciate the opportunity to be here today and look forward to answering any questions you may have. Thank you.

[The prepared statement of Ms. Weldon follows:]

**STATEMENT OF  
LESLIE WELDON  
DEPUTY CHIEF, NATIONAL FOREST SYSTEM  
U.S. FOREST SERVICE  
U.S. DEPARTMENT OF AGRICULTURE  
BEFORE THE  
SENATE  
COMMITTEE ON ENERGY AND NATURAL RESOURCES  
SUBCOMMITTEE ON WATER AND POWER  
CONCERNING  
S. 2902: WESTERN WATER SUPPLY AND PLANNING ENHANCEMENT ACT  
AND  
S. 2524: BOLTS DITCH ACCESS AND USE ACT**

**MAY 17, 2016**

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 2902, Western Water Supply and Planning Enhancement Act and S. 2524, Bolts Ditch Access and Use Act. I am Leslie Weldon, Deputy Chief for the National Forest System (NFS), USDA Forest Service.

**S. 2902, Title II – Protecting Existing Water Rights**

Water on National Forest System (NFS) lands is important for many reasons, including fish and wildlife habitat, public recreation, and providing a clean and plentiful supply of water for downstream beneficial uses. Today, water from national forests and grasslands contributes to the economic and ecological vitality of rural and urban communities across the nation, and those lands supply more than 60 million Americans with clean drinking water.<sup>1</sup>

The purposes of the NFS were established by Congress in 1897 and were primarily focused on the protection of water and watersheds and securing a continuous supply of timber. National

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<sup>1</sup> <http://www.fs.fed.us/publications/policy-analysis/water.pdf>.

forests in the arid West typically occupy the very top of critical watersheds, where water is stored in winter snow packs and underground and slowly released through the spring and into the summer. National forests in the East also occupy critical watersheds, preserving water quality for downstream users and moderating floods to protect downstream landowners. Communities, farmers and ranchers, Native American Tribes, and the general public depend on delivery of clean water from the national forests and grasslands. Careful consideration of activities that can have an adverse impact on waters and watersheds on NFS lands is critical to downstream water users and other inhabitants that can be impacted if these watersheds are not protected.

USDA has not had time to fully analyze the effect of this bill. USDA recognizes the fundamental role of States to adjudicate water rights under state law. However, based on an initial review, the bill appears to restrict USDA's ability to protect water resources. USDA maintains its opposition to provisions in any bill that would prohibit the Secretary of Agriculture from regulating uses of NFS lands, or denying authorizations for uses of NFS lands, because these prohibitions have potential to adversely affect water resources on those lands. It is USDA's position that the existing statutory framework protects privately-held water rights in balance with the ability of the Forest Service to protect water resources. An example of the Forest Service work with stakeholders within this framework is the recent publication of final directives for ski areas operating on NFS lands under term special use permits.

For the last 30 years, the Forest Service has required ownership by the United States, either solely or in narrow circumstances jointly with the permit holder, of water rights developed on NFS lands to support operation of ski areas in prior appropriation doctrine states. This policy was motivated by the concern that if water rights used to support ski area operations are severed from a ski area—for example, are sold for other purposes—the Forest Service would lose the ability to offer the area to the public for skiing.

On June 23, 2014, the Forest Service published a notice of a proposed directive in the *Federal Register* to add riparian and prior appropriation doctrine water clauses for ski area permits to the Forest Service's Directive System. The final clauses, published in the *Federal Register* on

December 30, 2015, were the result of extensive public input, including input from the ski industry and a wide range of other water rights holders.

The final directive contains two ski area water clauses, one for eastern States that follow the riparian doctrine for water rights and one for western States that follow the prior appropriation doctrine for water rights. Under a riparian doctrine system, water rights are appurtenant to the land, whereas under a prior appropriation doctrine system, water rights may be severed from the land. Most ski areas on NFS lands are in western states that adhere to the prior appropriation doctrine.

The final directive does not require that ski area water rights be acquired in the name of the United States. Instead, the final directive focuses on assuring sufficiency of water to operate ski areas on NFS lands. This modified approach for ski area permits was determined to be appropriate given the characteristics of ski area water rights and ski areas. Unlike water rights diverted and used on NFS lands by holders of other types of authorizations, ski area water rights may involve long-term capital expenditures. In western States like Colorado and New Mexico, holders of ski area permits may have to purchase senior water rights at considerable expense to meet current requirements for snowmaking to maintain viability. Holders of ski area permits need to show the value of these water rights as business assets, particularly during refinancing or sale of a ski area. The value of these water rights is commensurate with the significant investment in privately owned improvements at ski areas. These investments were recognized by Congress in enactment of the National Forest Ski Area Permit Act, which authorizes permit terms of up to 40 years. 16 U.S.C. 497b(b)(1).

In addition to these financial issues, the land ownership patterns at ski areas—particularly the larger ones—often involve a mix of NFS and private lands inside and outside the ski area permit boundary, which makes it difficult to implement a policy of sole Federal ownership for ski area water rights. Much of the development at ski areas is on private land at the base of the mountains. As a result, water diverted and used on NFS lands in the ski area permit boundary is sometimes used on private land, either inside or outside the permit boundary.

With respect to sufficiency of water for ski area operations, the final directive includes a definition for the phrase, “sufficient quantity of water to operate the ski area,” and clarifies when and how the holder must demonstrate sufficiency of water to operate the permitted ski area and new ski area water facilities; addresses availability of Federally owned ski area water rights during the permit term; and addresses availability of holder-owned ski area water rights during the permit term and upon permit revocation or termination.

At this time, ski industry representatives have indicated support for the final directive, and members of Congress have indicated appreciation for the agency’s efforts to work collaboratively on this solution. It is USDA’s position that additional legislation is not necessary to ensure protection of privately-owned water rights.

USDA has not had adequate time to analyze the effects of the bill on Forest Service groundwater policies. However, since the Forest Service published its proposed groundwater directive for notice and comment on May 6, 2014, the Agency has heard from several States and other parties who are concerned about the intent of and language in the proposal. By the end of the comment period, the Agency had received 260 comments from elected officials, States, Tribes, organizations, and individuals from across the country. The House Natural Resources Committee, as well as several States, asked the Agency not to proceed with the proposed draft and to consult with them before moving forward. The Forest Service has heard these concerns and stopped work on the proposed groundwater directive, and the Agency will not move forward with our original proposal. Rather, we have committed to engaging with States, Tribes, and citizens to fully understand concerns and work collaboratively to address them before any future actions or proposals would result. Should the Forest Service choose to move forward with a new proposed directive in the future, it would only be after engaging with States and making sure that the Agency thoroughly understands their concerns in order to address them. The Forest Service continues to consider improvements to direction to Agency staff on groundwater to maintain its stewardship responsibilities in a consistent, credible, and transparent manner.



**S. 2902, Title I Subtitle B—Protecting Critical Water Supply Watersheds**

USDA has not had adequate time to analyze the effects of this subtitle but upon initial review opposes NEPA provisions that are beyond the scope of Farm Bill and HFRA authorities. As a general matter, the Forest Service welcomes legislation that incentivizes collaboration and expands the toolset we can use to complete critical work on our nation's forests, without overriding environmental laws.

While we support efforts to provide tools to support improved forest management, capacity constraints due to the present approach to budgeting for wildfire continue to hinder further efforts to improve the health and resiliency of the nation's forests. In fiscal year 1995, the Forest Service spent 16 percent of its budget on firefighting. Today the agency spends more than half of its budget in fire management activities and has seen a corresponding decline in non-fire staffing of 39 percent since 1998. Notwithstanding these challenges, through collaboration, the Forest Service has consistently increased both the number of acres treated annually to improve watershed resilience and timber production—increasing timber harvest by 18 percent since 2008.

The frequency and intensity of wildfire, the rising cost of assets needed to deploy against the spread of wildfire, and the way that fire suppression is paid for constrain the agency's capacity to realize additional gains through efficiencies and partnerships alone. The most important action Congress can make now in advancing the pace and scale of forest restoration is to fix the fire funding problem.

The health of the national forests and the communities we serve are our shared priority. The Forest Service is accelerating restoration and management of the national forests through innovative approaches and increased collaboration, though it is clear that more work needs to be done, and we welcome practical legislation that provides for expedient and responsible efficiencies in the execution of that work.

USDA defers to Department of Interior on provisions that most directly affect their agencies.

**S. 2524 Bolts Ditch Access and Use Act**

S. 2524 seeks to resolve issues associated with the use and maintenance of Bolts Ditch near the Town of Minturn, Colorado. The headgate and approximately 450 lineal feet of the ditch are located within the Holy Cross Wilderness on the White River National Forest. The United States opposed two water rights application cases associated with this ditch in 2006 and 2007. Subsequently, the United States and the applicants reached a stipulated agreement and settlement in both cases; where it was agreed that the point of diversion would be removed from the Holy Cross Wilderness unless (1) the point of diversion in the Holy Cross Wilderness is specifically authorized by the President, (2) the Holy Cross Wilderness boundary is altered to exclude the point of diversion from the Wilderness area, or (3) the point of diversion is confirmed by Congress to be specifically included as a part of the authorization of the Homestake Reservoir Project within the Holy Cross Wilderness Area.

S. 2524 would direct the Secretary of Agriculture to issue a special use permit to the Town of Minturn authorizing non-motorized access to use and perform routine maintenance on the Bolts Ditch headgate and 450 lineal feet of Bolts Ditch in accordance with US Forest Service wilderness regulation. This bill does not authorize new construction or reconstruction.

S. 2524 has the support of Eagle County, the Colorado River District, and local and national wilderness advocacy organizations.

The Department does not oppose S. 2524.

This concludes my remarks. I would be happy to answer any questions. Thank you for the opportunity to testify.

Senator FLAKE [presiding]. Thank you.  
Dr. Quinn.

**STATEMENT OF DR. TIMOTHY QUINN, EXECUTIVE DIRECTOR,  
ASSOCIATION OF CALIFORNIA WATER AGENCIES**

Dr. QUINN. Thank you, Senator Flake, members of the Subcommittee.

My name is Tim Quinn. I am the Executive Director of the Association of California Water Agencies (ACWA). I am going to forgo my credentials or those of my association and get right to the main point.

Like Senator Feinstein, ACWA, by its very nature, represents a statewide constituency. I represent 440 member agencies that cover the entire State of California—ag, urban, North, South, et cetera.

I can tell you in one sentence why that diverse coalition so strongly supports S. 2533: because we believe that legislation moves the Federal Government into closer alignment with key California policies both in the near-term as we are dealing with the current drought and in the long-term as we strive to be drought-resilient for future droughts.

I have been actively involved in California water management for 35 years. Over that period, we have evolved a couple simple themes that we believe work. One of those themes we call co-equal goals. What that means in simple terms is both water supply reliability and the environment matter in California water policy, and we try to operate in ways that benefit both of those.

The second major theme is to use comprehensive solutions. If you limit the number of tools that are available to you, you will have to play off the environment against the water supply or vice versa. So we operate under something called the California Water Action Plan, which calls for a very comprehensive set of tools.

To accomplish either of those objectives, coequal goals or comprehensive solutions, we need a partnership with the Federal Government that, quite frankly, we do not think we enjoy today. Too often, federal agencies are approaching us from the Endangered Species Act, looking at single species, single tools. We wind up with major negative impacts on our water supply that we do not think is doing any good for the environment.

Things need to change. We think the Senator's S. 2533 moves in the right direction.

In the near-term, S. 2533 requires the federal agencies to put a higher weight on water supply, as they are going through applying their discretion. They do have a lot of discretion. Currently, we do not think water supply gets nearly enough weight in their considerations. So that provision alone is important to us in California, moving the Federal Government in a direction where they are thinking more in terms of coequal goals than just the most vulnerable species under the Endangered Species Act.

To accomplish those near-term objectives, the Senator's bill uses various tools to get more efficiency out of the system. She mentioned opportunistic pumping. When the winter storms hit, be ready and have a place to put that water. Similarly, the bill calls for real-time operation of the system.

I would be glad to answer any questions. It is much more efficient than the static rules we have now where pumping is determined regardless of actual conditions in the system. Real-time operation is an order of magnitude better way to operate the system.

Lastly, and I will use this as an example of water supply benefits in the near-term, S. 2533 tries to open up the water market in California between sellers in Northern California and buyers in Southern California. Water marketing is an important tool in our state, but most of the suppliers are above our Delta and most of our buyers are below the Delta.

This year, because of what we regard to be artificial restrictions on the ability to move water from willing sellers to willing buyers, I can tell you exactly how much water will be moved from above the Delta to below the Delta in California this year. The answer is zero, not a single drop, because the Endangered Species Act and the need to meet contract demands have closed all the windows that used to be open for moving water in the California market.

I am an economist by training. I understand the power of market forces, and I believe when you combine that with real-time operations and opportunistic pumping of water flows, there are hundreds of thousands acre-feet of water available under the short-term provisions of Senator Feinstein's bill, which tells you why we are so anxious to see it move forward.

In the long-term, the bill makes the Federal Government our partner in California's comprehensive Water Action Plan. In particular, we support provisions that would promote desalinization projects; funding WaterSMART to promote conservation; funding and improvements in Title XVI, a dollar allocation that will significantly promote water use; authorizations for new storage projects; new financing approaches like RIFIA, which is a low-cost buying approach that some of our project proponents think would be enormously valuable. We are also very supportive of some of the streamlining provisions in the Senator's bill and for provisions that would provide assistance to disadvantaged communities.

If you add all of this up, just the desalinization and the recycling provisions of S. 2533 could result in 1.4 million acre-feet of new water in California in combination with, we believe, hundreds of thousands acre-feet for more flexibility in the near-term provisions.

This is a good down payment on California's drought resiliency in the future, so ACWA would urge the Subcommittee to move this bill forward so we can go and deal with the authors of 2898 and come up with a combined approach that we can send to the White House and get signed.

Thank you very much.

[The prepared statement of Dr. Quinn follows:]

Testimony of Dr. Timothy Quinn  
Executive Director  
Association of California Water Agencies  
Before the  
U.S. Senate Committee on Energy and Natural Resources  
Subcommittee on Water and Power  
May 17, 2016

Chairman Lee and Ranking Member Hirono:

On behalf of the Association of California Water Agencies (ACWA), thank you for the opportunity to testify today. ACWA appreciates your leadership, along with the leadership of members of the subcommittee, to address the challenges confronting California and much of the Western United States during the ongoing historic drought. My testimony focuses on S. 2533.

My name is Timothy Quinn. I serve as the Executive Director of the Association of California Water Agencies. ACWA's highly diverse membership includes approximately 430 public agencies that supply over 90 percent of the water delivered in California for industrial, residential, and agricultural uses. Prior to coming to ACWA in July 2007, I was a Deputy General Manager at the Metropolitan Water District of Southern California for 21 years. For the record, this is my fourth drought as a professional water manager in California.

**Drought: A West Wide Problem:** While America has recently been captivated by headlines about the "California Drought," it is important to recognize such dryness also stretches throughout much of the West. Three other Great Basin states—Nevada, Oregon and Utah, have experienced extreme or exceptional drought. Along the Colorado River basin, Lake Mead has seen a record low water level. It is the first time since it was filled in 1936 that its surface has dropped under 1,080 feet. Drought has also painfully impacted the Southern Great Plains and parts of Texas, New Mexico and Oklahoma.

What are the conditions in California today? The good news is that El Nino rains, although less than some hoped for, have restored key Northern California reservoirs to historic averages. However, Southern California has largely missed out, and water storage south of the Delta remains low. Announced deliveries for some Central Valley Project contractors are as high as 100 percent for agencies in Northern California, but as low as 5 percent for major portions of our agricultural economy in the San Joaquin Valley. State Water Project (SWP) allocations of 60 percent are expected for SWP contractors in the Bay Area, San Joaquin Valley, and Southern California. Despite some improvement this year in hydrologic conditions, California continues

to suffer from drought conditions made worse by a broken water delivery system. This is why ACWA supports the drought relief provided by S. 2533.

**Coequal Goals and the Challenge of Dealing with the Federal Government:** If drought relief is one reason to support S. 2533, another no less compelling reason is the potential to redefine the relationship between the federal government and California as partners in water management. In California, the core tenet of state water policy is that we will manage this vital resource for the “coequal” goals of improving both water supply reliability and our environment. This policy was established in historic 2009 legislation, which codified a fundamental change in how we manage water in California. In the past quarter century, California water agencies and water users have invested tens of billions of dollars in conservation and local water supply resources to reduce demands for imported water. We have developed mechanisms to allow a voluntary water market to function. We have developed, and continue to develop, local storage projects to shift water deliveries from dry years when conflict between environmental and water supply uses are greatest to wetter periods when those conflicts are significantly reduced. In short, in California, state and local water managers have reinvented how we manage water to try and accommodate the needs of both our economy and environment.

The accomplishment of the coequal goals in California requires a partnership with the federal agencies that wield considerable power over water management in our state. Frankly, that partnership has not sufficiently developed. Federal regulatory agencies are approaching water management problems the same way today that they did decades ago. Despite recent attempts by the state to broaden water and ecological management tools in a manner that could achieve both environmental and water supply goals, the federal agencies cling to a single species-single tool approach that has a devastating impact on water supplies for our urban and agricultural economy. From ACWA’s perspective, S. 2533 provides a much needed statement from the Congress that both water supply and environmental protection matter.

**Support for S. 2533:** For both of these reasons – drought relief and moving federal policy in a more balanced direction – ACWA strongly supports S. 2533. On March 7, 2016, the ACWA Federal Affairs Committee voted unanimously to support S. 2533, “The California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act”. ACWA encourages you to quickly pass this legislation to enable a Senate –House conference committee to meet and negotiate a bipartisan bill which can be signed by the President. ACWA is urging our delegation to work together to include provisions from S. 2533, H.R. 2898 and other drought legislation to achieve this important result.

ACWA is pleased to recognize Senator Feinstein for her outstanding leadership and dedicated hard work to produce S. 2533. Her legislation provides short-term remedies for the ongoing drought as well as long-term direction to prepare western states for future droughts. Most important, Senator Feinstein’s bill contains provisions that can help California and other

western states move federal agencies to embrace the coequal goals of providing both reliable water supplies and needed ecosystem protections.

**Summary of S. 2533:** S.2533 contains short-term provisions to provide immediate drought relief through use of real-time monitoring, temporary operational measures, and water transfers. The bill does so within the boundaries of existing law and biological opinions – it essentially directs the federal agencies to place more weight on water supply reliability when they apply their considerable discretion in implementing powerful federal laws on the ground. S. 2533 also contains long-term provisions such as assistance for rural and disadvantaged communities, storage projects, desalination, water recycling, including needed changes to the Title XVI Recycling program, Reclamation Infrastructure Financing Improvement Act (RIFIA), WaterSMART authorization, WaterSense authorization, and fish protections (predators, invasive species, refuges). Additional provisions include language to protect water rights and more than \$700 million in authorizations for key projects funded by project deauthorizations.

While ACWA believes most of the provisions within S. 2533 can help Congress move federal agencies to embrace the coequal goals, the following deserve special mention.

An important feature of S. 2533 is its emphasis on better monitoring on a real-time basis to understand the abundance and location of important fish species such as salmon and smelt in the Delta. There have been missed opportunities to safely capture water supplies within the confines of the existing biological opinions that could be regained if the agencies had better information – and a desire to protect water supply when they can while applying their discretion. Good monitoring and good measurement, using sound science, will lead to better management. A number of opportunities to safely capture water were lost earlier this year. With even better monitoring and information, the agencies could make better decisions about storing water.

The bill's section on "Temporary Operational Provisions" contains measures that will help federal agencies increase water supplies. These include: use of improved data to operate the pumps at higher levels when no fish are present; allow agencies to keep the additional water they are able to pump during winter storms; require agencies to explain reductions in pumping under the Delta-Smelt Biological Opinion; require agencies to maximize water supplies consistent with applicable laws and biological opinions; open the Delta Cross-Channel Gates more often to help Delta farmers and South of Delta communities; extend the time period for water transfers by five months; allow a 1:1 transfer ratio so more water transfers can be accomplished.

S. 2533 also contains a section on "Reservoir Operation Improvement." This provision seeks to utilize better science and weather forecasting, such as for atmospheric rivers, to update reservoir operations.

In general, ACWA supports funding and incentives for improved water conservation, water reuse and both seawater and brackish water desalination. S. 2533 contains provisions to address these needs as well as needed improvements to Reclamation's Title XVI program.

**Implementation of the Endangered Species Act:** Implementation of the Endangered Species Act in California illustrates how federal fish agencies are not utilizing the discretion provided for in the ESA as a priority policy direction. The ESA did not cause the drought, but the manner in which the ESA has been implemented by the federal government has made the impacts of the drought much worse. Too often, ESA regulators impose rules and regulations on water users that have enormous costs but negligible benefits for the environment. Especially during droughts, environmental regulators must learn to be as efficient with the water that they use for their purposes as are urban and agricultural water managers. We believe that provisions of S. 2533 move federal policy in this direction.

**UNPRECEDENTED STATE AND LOCAL AGENCY RESPONSE:** ACWA recognizes that addressing West-Wide drought conditions is a major imperative for state and federal governments. To help provide perspective on that endeavor, the following focuses on ongoing activities in California.

**Conservation and Water District Response:** On April 1, 2015 Governor Brown released an unprecedented Drought Executive Order. This action ordered California's urban water suppliers by February 2016 to reduce use of potable water by 25% on average compared to 2013. Between June 2015 and March 2016, 1.3 million acre-feet of water has been conserved. On May 9, 2016, the Governor issued a revised order that provided more discretion to local water managers. The Brown Administration has also made it clear that conservation and water use efficiency must become a way of life in California.

**Education:** State and local agency drought outreach efforts are playing important roles in securing public cooperation in managing California's drought. "Save Our Water", administered by ACWA in partnership with California's Department of Water Resources, is the official statewide consumer water conservation education program.

**State Funding:** On November 4, 2014, California voters passed Proposition 1, a \$7.545 billion Water Bond, with 67 percent of the voters supporting the measure. Components of the Water Bond that will provide short- and long- term funding for drought management include \$810 million for water conservation, stormwater capture and reuse and other programs that increase local and regional water supplies; \$2.7 billion to allocate dollars on a competitive basis to partially fund water storage projects such as the CALFED surface storage projects, local and regional surface storage; groundwater storage and reservoir reoperation; \$725 million for water recycling and salt-removal projects; \$900 million for groundwater sustainability – with most of this funding targeted for groundwater cleanup programs; and \$1.89 billion for habitat and watershed programs. Because of the drought, the Brown Administration is seeking to accelerate distribution of these funds wherever practical to generate new supplies that could reduce impacts if this drought persists for a few more years.



In 2014, 2015, California passed into law Emergency Drought Relief legislation. The 2014 package contained \$687.4 million and the 2015 one \$1.1 billion. Among many other items, each year's package includes funding for safe drinking water and water recycling projects, and funding to support emergency food aid to 29 counties impacted by the drought.

**Storage:** The California Water Commission is charged with allocating \$2.7 billion from the recent Water Bond through a competitive public process to help fund water storage projects. These projects, which will be matched with other local and regional funds, will be critical to improving the operation of the state's water system and achieving the coequal goals of water supply reliability and enhanced ecosystem health. They also will be essential to meeting groundwater sustainability goals and enabling other regional and local water supply strategies. While storage projects funded by Proposition 1 will not help during this drought, they demonstrate California's commitment to better manage droughts in the future.

Several surface water projects that could provide broad benefits in the areas of water supply, water quality and ecosystem restoration have been studied extensively. These projects, known as the "CALFED projects" because they were identified in the CALFED Record of Decision in 2000, would contribute significant operational flexibility toward achieving the coequal goals. In addition to these CALFED projects, ACWA members around the state are preparing to compete for some of the storage funds in Proposition 1 with projects that would increase storage capacity, both above and below ground, in a manner that can improve the operations of California's statewide water system.

**Governor Brown's California Water Action Plan:** This plan embraces an "every tool in the toolbox" approach which ACWA strongly supports. With conservation happening at record rates, the plan also recognizes the need to modernize California's water systems. It includes above and below ground storage and supports planning at local, regional and state levels to innovate and provide safe reliable water supplies in ways that also protect the environment.

**Additional Legislation: Headwaters/Forest Management:** Because nearly all of the state's water supplies originate in California's headwaters, more effectively managing these areas is integral to optimizing the water supplies that nature provides. Adapting to climate change and improving watershed resiliency to reduce the likelihood of catastrophic wildfires and increase water yield and quality will require substantial investments. In addition to drought legislation, Congress should pass legislation to address these needs.

**MOVING FORWARD:** ACWA appreciates this opportunity to testify in support of S. 2533 and encourage its swift passage. The bill can complement needed congressional efforts to move federal agencies towards making balanced decisions to provide reliable water supplies while still protecting the environment.

In battling drought, the importance of enhancing State-Federal partnerships cannot be overemphasized. A key building block for better partnerships includes passage of west wide federal drought legislation that complements states' abilities to move forward with their

comprehensive plans, promote regional self-sufficiency through use of Integrated Water Management Plans and provide incentives and investments for water related projects at local, regional and state levels.

Thank you for the opportunity to submit these comments.

Dr. Timothy Quinn  
Executive Director  
Association of California Water Agencies  
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Office: (916) 441-4545

Senator FLAKE. Thank you.  
Mr. Keppen.

**STATEMENT OF DAN KEPPEL, EXECUTIVE DIRECTOR,  
FAMILY FARM ALLIANCE**

Mr. KEPPEL. Good afternoon, Chairman Flake, Senator Gardner. My name is Dan Keppen. On behalf of the Family Farm Alliance, I thank you for this opportunity to present this testimony on S. 2533, Senator Feinstein's California and West-wide drought bill.

The negative impacts of today's droughts and water shortages have reached staggering levels for our farmers and ranchers, their families, and the irrigated agriculture community. Unfortunately, these impacts are driven in part by current regulations triggered by fixed calendar dates or singular operational thresholds, as Mr. Quinn talked about.

Important species distribution or other relevant environmental factors are often not considered. Such approaches are inflexible, inefficient, and ineffective. They stem in part from the fact that Congress has not explicitly directed agencies to be flexible and innovative, so the agencies default to the actions that are least likely to get them sued. Thus, the status quo persists. California Bay Delta (CBD) operations in 2016 provide an excellent example of this, and I have included some figures with my written testimony that demonstrate this.

Because of El Nino storms this winter, inflow in the Sacramento-San Joaquin Delta was almost three times greater than it was this time this last year, yet the water pumped to supply millions of acres of world-class farmland and more than 20 million Californians living south of the Delta has barely increased as compared to last year because of regulatory restrictions. Again, one of my figures in the written testimony clearly shows that.

S. 2533 provides for more flexible, efficient, multipurpose management of the federal Central Valley Project (CVP) and the Delta. This is also true of the House-passed H.R. 2898, the Western Water and American Food Security Act of 2015, which the full Committee considered during a drought hearing held last October that I participated in.

That hearing also examined Senator Feinstein's earlier drought legislation, S. 1894. I testified at the hearing expressing our support for both bills which, while similar in intent, differed on some important aspects regarding the Delta.

Certain provisions in H.R. 2898, if enacted, would better assist producers in the CBD in dealing with ESA restrictions on water deliveries. The House bill does this through improved management of species, water flows, and habitat in the Delta.

H.R. 2898 also would facilitate future water development projects through its water supply permitting and Reclamation projects streamlining provisions.

S. 2533 also includes California-specific provisions. These are intended to provide additional flexibility and tools to address water conveyance and flows in relation to fish populations on a real-time basis. We back the bill's provisions that seek to address other stressors in the Delta environment, especially non-native fish that prey on ESA-listed species like Delta smelt and Chinook salmon.

S. 2533 also includes specific federal authorities and actions that would aid fish passage in the Delta, increase hatchery production, and improve spawning and rearing habitat of listed species. S. 2533 generally directs the Federal Government to maximize water supplies to federal and state water users by approving projects and operations that provide additional water supplies.

The bill includes temporary operational flexibility provisions that would allow for the diversion and capture of peak winter storm flows in the Delta. It streamlines National Environmental Policy Act (NEPA) permitting on water infrastructure projects and directs agencies to complete certain ongoing feasibility studies for California surface water storage projects. Some of these were originally authorized nearly 20 years ago. Tim and I were involved with this 20 years ago, and they have languished ever since.

In addition to its California Bay Delta focus, S. 2533 contains a number of additional provisions that would apply throughout the West and which we have previously supported. The bill would provide up to \$600 million in budget authority for the Secretary of Interior to request funding for the federal share of new water storage projects in the Western United States. S. 2533 also includes innovative financing provisions for expanded water infrastructure, which we support.

We back provisions in S. 2533 directing the Corps of Engineers to identify and study flood control rule curves at corps-regulated reservoirs where additional water supplies could be stored and used in dry years. However, this provision has been superseded by an improved version included in the Senate-passed S. 2012 energy bill recently, and it should be updated accordingly, in our view.

We support Senator Feinstein's proposed expansion of Water-SMART grants and availability of Reclamation Title XVI water recycling and reuse grants.

To conclude, we are encouraged by this Committee's consideration of both the House-passed H.R. 2898 and S. 2533. We urge you to keep at it. That is because two separate bills are of absolutely no value to a parched West. This has been twice emphasized in letters to this Committee and signed off by over 100 Western agriculture and water organizations in the past eight months.

What is needed is a single bill that can be enacted by Congress and signed into law by the President. We must all work together to ensure that Western water users have every tool available to survive and recover from the current drought in the hard dry years that the future may hold.

Thank you, and I would stand for any questions you may have.  
[The prepared statement of Mr. Keppen follows:]

**Testimony of Dan Keppen  
Executive Director  
Family Farm Alliance**

**Before the Committee on Energy and Natural Resources  
Subcommittee on Water and Power  
United States Senate**

**Legislative Hearing on S. 2533, the “California Long-Term Provisions for Water Supply  
and Short-Term Provisions for Emergency Drought Relief Act”**

**Washington, D.C.  
May 17, 2016**

Good morning Chairman Flake, Senator Wyden and Members of the Subcommittee.

My name is Dan Keppen, and on behalf of the Family Farm Alliance (Alliance), I thank you for this opportunity to present this testimony on S. 2533, the “California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act.” The Alliance is a grassroots organization of family farmers, ranchers, irrigation districts, and allied industries in 16 Western states. The Alliance is focused on one mission: To ensure the availability of reliable, affordable irrigation water supplies to Western farmers and ranchers. We are also committed to the fundamental proposition that Western irrigated agriculture must be preserved and protected for a host of economic, sociological, environmental, and national security reasons – many of which are often overlooked in the context of other national policy decisions.

Western drought and water shortages have become the most important issues for many of our members, particularly in recent years. As this Subcommittee reviews federal legislation dealing with drought, the Alliance believes achieving genuine, lasting solutions to drought and other water shortages also requires a more productive and proactive federal partnership role in Western water matters. This is a role that focuses on research and development of new water supply and use technologies; and the full integration, coordination and maximum sustainable use of water resources in partnership with Western states and local water users. Such a role would require the adoption of federal water resource policies that are driven from the “ground up” – not from the “top down,” and that all federal water resources planning and management efforts acknowledge irrigated agriculture as an asset to our still-growing nation and the global economy.

As we have previously testified before the full Committee, the Alliance reiterates that the negative impacts of today’s droughts and water shortages have reached staggering levels for our farmers and ranchers, their families and the irrigated agricultural economy. While the drought-related problems our members face vary by state or region, topography, climate, soil conditions,

hydrology, and crop, the Alliance believes that many solutions, while varied by location, are also characterized by certain common elements, including creativity, flexibility and balance.

#### **The Western Drought and Water Shortages**

Droughts occur routinely in the West; that is why the Bureau of Reclamation (Reclamation) made such important investments in water supply infrastructure over the past century. However, this infrastructure was never designed to meet the current burgeoning demands of growing communities and environmental needs, while continuing to help farmers, ranchers and rural communities make it through periodic droughts. Unfortunately, future droughts in the West are predicted to be more intense and longer than we have historically experienced in the 20th century.

Droughts come and go in the West. The larger issue, the underlying problem, is the ever-present and worsening shortage of water. Droughts only exacerbate water shortages. They also highlight the need to re-examine how we manage our limited water resources in the West.

The Alliance believes that we need a new approach to Western water management, one that includes a broader view of how water is used, considering population growth, food production and habitat needs, among other considerations. Past water development investments in the West have been a huge success, providing multiple benefits and economic certainty for both rural and urban communities, affording the Nation with a stable, safe and healthy year-round food supply, and allowing people to recreate, raise families and live a high quality life. Those achievements should not be sacrificed so that we can meet growing demand for water with static or shrinking supplies.

When we must deal with chronic drought and water shortages in the West, the Alliance believes that we must also continue to maintain existing rural economies, support agricultural food production and enhance the quality of life and the environment, rather than to abandon those things in order to accommodate future needs arising from population growth or environmental demands.

The simple fact is, in many areas of the West, we have outgrown our aging water supply infrastructure. We have been living off our forefathers' investments in water infrastructure and have not planned well enough (or in some cases at all) to replace or add to those investments to meet the ever increasing demand for water into the future.

However, there are several other causes of water shortages in the West besides hydrologic drought conditions. They include the adversarial application of federal environmental laws - such as the Endangered Species Act (ESA), the Clean Water Act (CWA) and the National Environmental Policy Act (NEPA) - by litigious organizations and some government agencies.

There can be no doubt that these environmental laws have provided significant benefits to our society. But they also have been used as legal weapons to thwart new investments in Western water development, to reallocate existing water supplies away from traditional uses, and to destabilize water supply systems, often in pursuit of unattainable goals such as resurrecting past ecological conditions in a constantly changing environment. Too frequently, the result is minimal (if even measurable) environmental improvement gained at great financial cost and significant water shortages to water users both in the short- and long-terms.

In order to respond to these current and future water shortages, as well as the significant drought conditions many in the West are experiencing today, we believe Congress should provide federal agencies with more flexibility under existing environmental laws and water management regulations to respond to drought conditions. And, where such flexibility currently exists, Congress should demand that agencies use it promptly and with a minimum of bureaucratic process. In general, time is of the essence when making water management decisions during a drought.

In the Alliance' view, western drought legislation should promote innovative solutions to pressing water problems including the research, development and implementation of new technologies in water management. Real-time monitoring and data collection can now be used to fine tune water supply management decision-making, from irrigation deliveries to actual fishery and environmental needs. And, Congress must empower local stakeholders and the states – and its own federal agencies – by recognizing and rewarding collaboratively developed solutions where all sides have come together to work out differences and build future solutions to complex water issues.

Finally, we must invest (and reinvest) in our important western water infrastructure that we continue to rely on in meeting both current and future demands for water. Our existing water infrastructure is aging and in need of rebuilding; new water storage facilities are needed in order to adapt to changing hydrologic conditions and to develop new usable and sustainable water supplies to meet growing demands. Reclamation's WaterSMART program leverages small cost-shared grants with local and state funding for water management improvements and conservation projects, assisting many local water providers in making significant investments in their aging water delivery systems. Coordinating federal conservation programs at the U.S. Department of Agriculture – such as the Environmental Quality Improvement Program and the Agricultural Watershed Enhancement Program -with other water programs at Reclamation could result in much more effective federal investments in on- and off-farm water management improvements.

Streamlining federal regulations and permitting processes, along with federally-backed loans and loan guarantees that provide more affordable financing tools for large new water storage infrastructure investments can help replace the more traditional approach to water infrastructure development through mostly federally-built water projects in the past. The federal government

can continue to be a partner in solving these water problems in the West by using new, innovative and more affordable financing and funding tools at a very low (if any) cost to the federal treasury.

#### **Principles to Consider**

The Congress and the federal government certainly cannot change the hydrology of the West, but there is a role it can play to support family farmers and ranchers. As the Subcommittee continues its efforts to move legislation that would address the current drought and develop policies to improve water management in the long-term, we will continue to gauge the level of our support for that legislation based on conformance with the following principles:

- State water laws, compacts and decrees must be the foundation for dealing with shortages.
- Water use and related beneficial use data must be accurately measured and portrayed.
- Benefits of water use must reflect all economic / societal / environmental impacts.
- Water conservation can help stretch water supplies, but has its limits in certain situations.
- Public sentiment supports water remaining with irrigated agriculture, and developing strategic new water storage as insurance against shortages.
- Technologies for water reuse and recycling are proven effective in stretching existing supplies for urban, environmental and other uses.
- Urban growth expansion should be contingent upon sustainable water supplies; using Western irrigated agriculture as the “reservoir” of water for municipal growth is not sustainable in the long run and can damage rural agricultural communities.
- Planning for water shortage in the West must look to the long-term in meeting the goals of agriculture, energy, cities, and the environment.
- A successful water shortage strategy must include a “portfolio” of water supply enhancements and improvements, such as water reuse, recycling, conservation, water-sensitive land use planning, and water system improvements. New infrastructure and technologies can help stretch water for all uses.
- Unintended consequences associated with reducing productive agricultural land/groundwater recharge/riparian habitat benefits should be avoided and, if unavoidable, minimized and fully mitigated.

These principles for smart, effective management of Western water resources are intended to help decision-makers deal with the harsh realities of current and future water shortages due to drought and over-allocation of water to growing, predominantly environmental and municipal, demands.



S. 2533

In general, the Alliance supports the approach taken by S. 2533 because it provides for more flexible, efficient, multi-purpose management of the federal Central Valley Project (CVP) and the Sacramento-San Joaquin River Delta (Delta), as well as longer term tools for future water development throughout the West.

This is also true of the House-passed H.R. 2898, the “*Western Water and American Food Security Act of 2015*,” which the full Committee considered during an October 8, 2015 hearing that also examined Senator Feinstein’s earlier drought legislation, S. 1894. I testified at that hearing, expressing the Alliance’s support for both bills, which while similar in intent, differed on some important aspects regarding the Delta.

On balance, the Alliance believes that certain provisions in H.R. 2898, if enacted, would better assist producers in the CVP in dealing with ESA restrictions on water deliveries through improved management of species, water flows and habitat in the Delta. H.R. 2898 also would result in an improved regulatory landscape for Western irrigators for future water development projects through its water supply permitting and Reclamation project streamlining provisions.

The Alliance believes that good water management must be relevant, flexible, and adaptive. Many current regulations are triggered by fixed calendar dates and/or singular operational thresholds without consideration of species distribution or other relevant environmental factors. Such approaches are inflexible, inefficient, and ineffective. Federal agencies managing the competing demands for water in the West have in some cases failed to examine or pursue opportunities for more flexible water management that serves both economic and environmental goals. This lack of flexibility and innovation stems in part from the fact that Congress has not explicitly directed agencies to be flexible and innovative, so they default to the actions that are least likely to get them sued and the status quo persists. Delta operations in 2016 provide an excellent example of this.

Because of El Nino storms this winter, inflow into the Delta is almost three times greater than it was this time last year -- an additional 5.8 million acre feet of water passing through the Delta to the ocean. Yet the water pumped to supply more than 20 million Californians living south of the Delta has barely increased as compared to last year because of ESA restrictions. The attached charts illustrate this dramatically and prove that it’s not just the drought that’s drying up agriculture in Central California; the current regulatory regime is also having a devastating impact. In fact, for many farmers along the Westside of the San Joaquin Valley, there is less water available to them today than there was at this time last year.

Our farmers and their communities in the hard-hit San Joaquin Valley are outraged, as are their elected representatives. On March 24<sup>th</sup> Senator Feinstein and Members of the Central Valley Delegation in the House wrote to the President calling for a more realistic approach to Delta and CVP operations. As Senator Feinstein put it in her letter, “This year’s El Nino has highlighted a fundamental problem with our water system: A dogmatic adherence to a rigid set of operating criteria that continues to handcuff out ability to rebuild our reserves.” We could not agree more.

The Alliance and its many members in California are grateful to the California Delegation, and to this Committee, for the enormous amount of time and effort that has been invested in attempting to craft a balanced and workable solution for California. We urge you to keep at it. The farmers and ranchers in California and across the West need your help now more than ever.

The introduction of S. 2533, the inclusion of some drought provisions in House Energy and Water Development appropriations legislation - and this hearing - give us reason to hope that comprehensive Western drought and water policy legislation can be enacted this year.

#### **California Provisions**

S. 2533 includes California specific provisions that would give local water project managers and regulators additional flexibility and tools to address water conveyance and flows in relation to fish populations on a real-time basis consistent with the ESA and other laws, particularly in the Delta. Specifically, the bill would address certain operations of the Central Valley Project (CVP) and the State Water Project (SWP) in relation to the biological opinions (BOs) associated with the threatened Delta smelt and with threatened and endangered salmon species under the ESA. By tying actions to environmental conditions informed by the best available science, as opposed to calendar dates, species protection will become more relevant, efficient, and effective.

We support provisions in S. 2533 that, in consultation with water users and other stakeholders in the Delta, would improve management of the Delta smelt, such as mandating greater data collection on the smelt population through a Delta smelt distribution study. We also support the authorization of greater real-time monitoring of Delta smelt which, along with the best scientific and commercial data, can be used to advise water conveyance management and maximize the use of water for humans, as well as fish species. S. 2533 also directs that water transfers be approved consistent with state and federal laws on a timely basis.

The Alliance backs provisions in S. 2533 that seek to address “other stressors” in the Delta environment, especially non-native fish that prey on the ESA listed species such as Delta smelt and Chinook salmon. The bill also authorizes the Department of Commerce’s participation through the National Oceanic and Atmospheric Administration (NOAA) Fisheries in a locally funded program to reduce predation of salmon by non-native fish on the Stanislaus River.

S. 2533 also includes specific federal authorities and actions that would aid fish passage in the Delta (trap and barge), increase hatchery production, and improve spawning and rearing habitat of listed species, all to boost available water supplies from the Delta. While the Alliance believes these actions could be helpful in achieving more efficient water use for the environment, the bill could be improved by allowing for non-federal partnerships and expedited permitting in facilitating such actions (e.g. construction of habitat improvements that aid in fish spawning and rearing by non-federal irrigation districts). For decades, numerous independent scientists have advised that multi-stressor, comprehensive approaches must be employed to effectively protect and recover listed species and efforts to do so are long overdue. And, any improvements in listed fisheries should equate to increases in flexibility and usable water supplies under the ESA.

S. 2533, in general terms, directs the Secretaries of Commerce and the Interior Department (Secretaries) to maximize water supplies to CVP users and SWP contractors by approving, consistent with applicable laws, projects and operations that provide additional water supplies. The bill provides broad permanent and temporary authorities to the Secretaries to approve any project or operational change to address emergency provisions, although it does also contain limitations on this authority. The bill includes temporary operational flexibility provisions that would allow for the diversion and capture of peak winter storm flows in the Delta, subject to federal and state laws and regulations.

The Alliance is encouraged by this Committee's consideration of both the House-passed H.R.2898 and S. 2533, and we again urge Members of the California Delegation to find common ground on provisions that will aggressively improve water operations in the Delta.

#### **West-Wide Scope**

In addition to its California Delta-focused provisions, S. 2533 contains a number of additional provisions that would apply throughout the West and have been supported previously by the Alliance's membership. S. 2533 would streamline some NEPA permit decisions on water infrastructure projects by allowing for a state to be considered the "lead agency" under the federal law.

As we stated above, the Alliance supports new sustainable water storage projects in order to increase usable supplies of water to help meet current and future demands. S. 2533 would direct Reclamation to complete certain ongoing feasibility studies for new or augmented surface water storage in California that were originally authorized nearly 20 years ago and have languished ever since. The bill would also provide up to \$600 million in budget authority for the Secretary of the Interior to request funding for the federal share of new water storage projects across the West – 50% for federally owned facilities and 25% for non-federally owned projects.

The Alliance supports innovative affordable financing tools that could assist in the planning, design and construction of new water storage and improved water management infrastructure. S. 2533 includes a provision, the Reclamation Infrastructure Finance and Innovation Act (RIFIA) that would provide up to 49% financing for larger (minimum \$20 million) non-federal infrastructure projects through direct Treasury loans and loan guarantees. Such loans would carry longer repayment terms and low T-bill interest rates that are not currently available to water infrastructure proponents. And, the total “cost” to the federal government would be to cover the risk of default on these loans, which for the water supply sector is very low (estimated at 1-2% of loan value). As such, the \$200 million in budget authority in the bill could be used to affordably finance almost \$27 billion in new water supply infrastructure across the West.

S. 2533 Title VI Sec. 602 would authorize accelerated repayment (or prepayment) by non-federal Reclamation project users for certain project construction costs that are currently paid over 40-year or 50-year terms. It would allow for the conversion of water service contracts to repayment contracts and for subsequent accelerated repayment of allocable construction costs for any repayment contract. This provision would also allow contractors to forgo certain requirements (e.g., acreage and full-cost pricing limitations) under Reclamation laws sooner than would otherwise be the case. The funding that is generated by these payments would be placed in the Reclamation Surface Storage Account to fund either the construction of new water storage projects or the expansion of current water storage reservoirs, subject to the 25% / 50% federal share provisions of the bill.

Both federal and non-federal storage projects would be authorized under the bill to receive fully reimbursable funding from the proposed new Reclamation Surface Storage Account (authorized under Title VI Sec. 602). The new storage account that would be established in S. 2533 would be funded out of the proceeds from accelerated repayment by users, of which 50% would be available for new surface water storage.

The Alliance supports the provision in S. 2533 directing the Corps of Engineers to identify and study (at the request of a non-federal water contractor or reservoir owner/operator) flood control rule curves at Corps-regulated reservoirs where additional water supplies could be stored and used in dry years without risking flood damages downstream of the facility. However, this provision has been superseded by an improved version included in the Senate passed S. 2012 energy bill, and should be updated accordingly.

The Alliance supports the bill’s expansion of Water SMART grants to include a larger (up to \$20 million) competitive 50-50 grant for water projects integrated into a regional water plan. Such a grant could be used for larger water conveyance conservation infrastructure, such as small storage reservoirs, that are a part of a larger, broader watershed plan. Also, S. 2533 would expand the availability of Reclamation Title XVI water recycling and reuse grants to reuse projects that have been declared feasible by Reclamation but have not been congressionally

authorized (currently a requirement for funding). This provision would allow for water reuse and recycling projects that have merit but could not be authorized by Congress under current earmark rules to compete for funding alongside authorized projects. Expansion of the Title XVI program could improve water supplies in many metropolitan areas and help to take the pressure off agricultural water supplies targeted under land fallowing ag-to-urban transfers.

### **Conclusion**

As we have testified before this Committee in the past, there are no guarantees that the West will not experience even more intense multiple drought years in the future. In order to avoid disaster and to ensure that all reasonable water demands are met in the future, California and the West must begin to manage water as if every year was a drought year. This will require everyone in the West to adopt a new paradigm, one that promotes wise management of the resource and protects carryover storage for future use in dry periods. This new paradigm will also mean additional investment in technology, conservation and new infrastructure in order to deal with the uncertainties that lay before us.

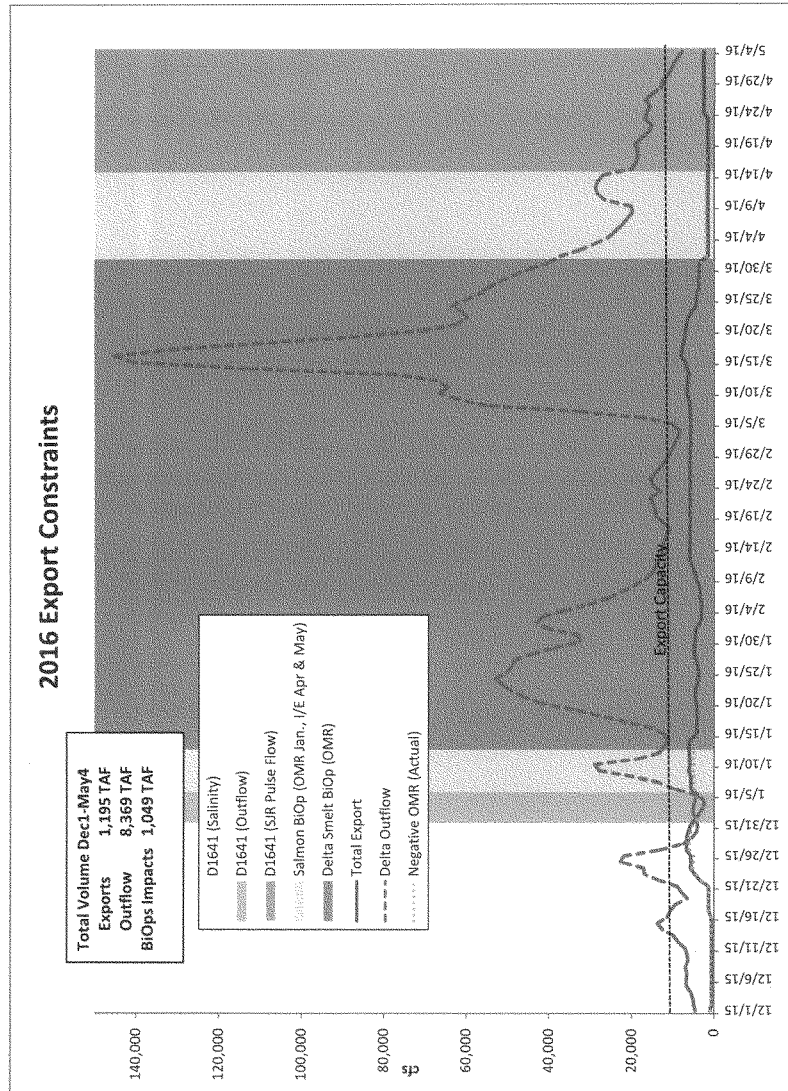
The House has passed H.R. 2898 to address this crisis, and California's Senator Feinstein has now introduced S. 2533. However, two separate bills are of absolutely no value to a parched West. As has been twice emphasized in letters to the Senate Energy and Natural Resources Committee and signed off by over 100 Western agricultural and water organizations in the past eight months, what is needed is a single bill that can be enacted by Congress and signed into law by the President, and time is not on our side.

What happens in the next several years could fundamentally change the face of Western agriculture forever. In California alone last year, 21,000 jobs were lost, equating to a \$2.7 billion hit to economic activity. Consumers ended up paying 15% more for products grown in California. Over 540,000 acres of farmland were fallowed, and \$2 billion in direct farm losses were realized.

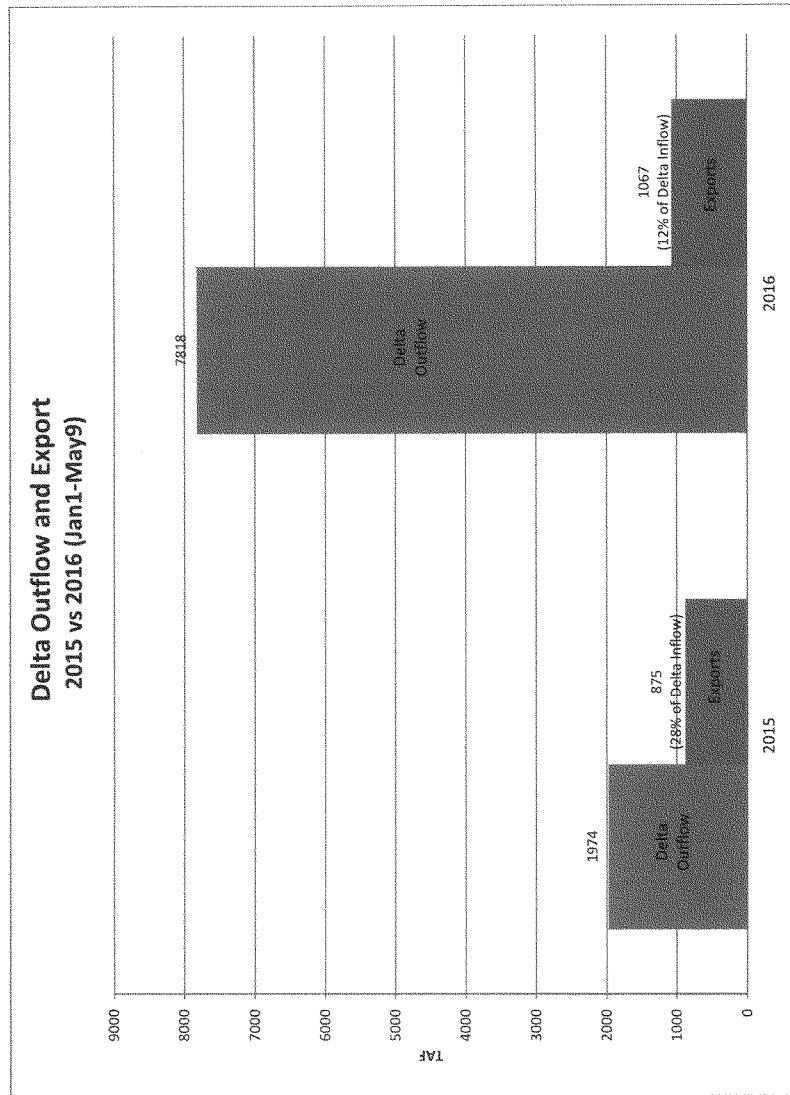
Family farmers have been good stewards of the land for generations, but are now facing catastrophic losses from which they may never recover. Young farmers just starting out are at great risk of being driven off the land. Thousands of men and women working throughout our great and diverse community, from the field, to the store, to the restaurant, are overwhelmed by the uncertainty of what this "mega drought" means for their families.

We must all work together to ensure that Western water users have every tool available to survive and recover from the current drought and the hard, dry years that the future may hold.

Thank you and I would stand for any questions you may have.



T. Boardman, SLDMWA  
5/11/2016



T. Boardman, SLD MWA  
5/10/2016

Senator GARDNER [presiding]. Thank you, Mr. Keppen.

I apologize, again, to the witnesses who are here, as we have three votes that everybody is dashing in and out for. Thank you very much for your time and testimony today.

It is my privilege and honor to hear the next witness, Mr. Bill Long, who I will speak a little bit more about in the questioning period.

Mr. Long from Colorado, welcome.

**STATEMENT OF BILL LONG, PRESIDENT, BOARD OF DIRECTORS, SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT**

Mr. LONG. Thank you, Mr. Chair, Senator Gardner.

My name is Bill Long. I am President of the Board of Directors of the Southeastern Colorado Water Conservancy District. I appreciate this opportunity to appear before you today in support of S. 2616, which was introduced by you, Senator Gardner, and is cosponsored by Senator Bennett. Your favorable and expeditious consideration of the bill will be greatly appreciated by the people of the Lower Arkansas Valley.

The Arkansas Valley Conduit, an authorized feature of the Bureau of Reclamation's Fryingpan-Arkansas Project, will convey treated drinking water from the project's Pueblo reservoir east to 40 communities in the Lower Valley. These small, rural towns currently use groundwater wells to supply some or all of their drinking water.

Twenty-one towns have water supplies containing naturally occurring, cancer-causing radioactive elements at levels which exceed or nearly exceed federally-mandated standards. The Colorado Department of Health and Environment has notified these providers that they must treat the water supplies to remove the contaminants or find a better water quality source.

In addition, the median salt concentration in the current supply is nearly seven times greater than the secondary drinking water standard.

Our communities have a critical need for safe drinking water supplies. In its 2014 Record of Decision, Reclamation concluded that individual community water systems diverting and treating water from the Arkansas River would not provide a reliable, long-term, safe water supply.

Instead, an efficient regional solution, the Arkansas Valley Conduit, was selected. It takes advantage of the City of Pueblo's existing water treatment facilities and will benefit from the economies of scale. This regional project will be less costly than any of the alternatives examined by Reclamation under NEPA.

Because this regional project is without question the most efficient and effective way to deliver quality drinking water to the affected communities, the district has been discussing with Reclamation and the Department of the Interior ways to provide non-federal financing for construction of the conduit.

The concept is that approximately \$100 million would be provided by the district from non-federal sources, thus reducing significantly the appropriated dollars needed for the project.



The Fry-Ark Project generates revenue from local water providers who pay Reclamation for the storage and conveyance of their nonproject water. S. 2616 would expand the ability to use these revenues not only to repay the 35 percent plus interest required in legislation passed in 2009. The bill would allow use of the miscellaneous revenue sooner and to greater savings to the Federal Government during project construction.

S. 2616 would further allow the use of miscellaneous revenues to repay the \$100 million non-federal contribution mentioned earlier. The district anticipates obtaining the non-federal financing through a loan from the Colorado Water Conservation Board, our state water policy agency and a strong supporter of the project. In fact, \$60 million has already been approved by the State of Colorado.

I ask that the Colorado Water Conservation Board written statement in support of S. 2616 be included in the official record, along with the written statement, which I have submitted, and have the CWCB statement with me.

Senator GARDNER. Without objection.

[The information referred to follows:]

**Statement of James Eklund, Director  
Colorado Water Conservation Board  
Colorado Department of Natural Resources**

**Submitted to the  
Subcommittee on Water and Power,  
Committee on Energy and Natural Resources,  
U.S. Senate**

**Regarding S. 2616, 114<sup>th</sup> Congress --  
A Bill Concerning the Arkansas Valley Conduit  
Fryingpan-Arkansas Project, Colorado**

May 17, 2016

Introduction

This statement is submitted by James Eklund, director of the Colorado Water Conservation Board (Board). The Board is the state agency responsible for statewide water planning and policy in Colorado.

S. 2616, introduced by Colorado Senator Gardner and is cosponsored by Colorado Senator Bennet, is a bill concerning the Arkansas Valley Conduit (AVC). The AVC, an authorized feature of the Bureau of Reclamation's Fryingpan-Arkansas Project (Fry-Ark Project), will deliver treated domestic water to rural communities extending from east of Pueblo, Colorado, to the Colorado/Kansas state line. These communities' current water sources do not meet federal safe drinking water standards.

The Board supports the enactment of S. 2616.

Need for the Arkansas Valley Conduit

The AVC is urgently needed. Drinking water supplies for communities located in the lower Arkansas River Valley east of Pueblo are pumped from groundwater which contains naturally occurring, potentially cancer-causing radioactive elements, such as radium and uranium. The concentration of these natural contaminants in 14 towns exceeds the primary drinking water standards mandated by the federal Safe Drinking Water Act. As a result, the Colorado Department of Health and Environment (CDPHE) has issued enforcement actions to these communities requiring them either to treat their current water supplies to remove these contaminants or to find a better quality water source. Seven additional water providers have elevated levels of naturally occurring radioactive elements, but do not currently violate CDPHE standards.

Besides having problems with radioactive contaminants, water providers in the lower valley are generally having difficulty meeting non-mandatory secondary drinking water standards for salts

and sulfate, with average salt concentrations being nearly seven times greater than the secondary drinking water standard. In addition, some AVC water providers are not meeting the secondary drinking water standard for iron.

Conventional water treatment methods do not remove radionuclides, salts, and sulfate. Installing the necessary technology to remove these contaminants in each community's system would be prohibitively expensive. Likewise, simply replacing contaminated groundwater supplies with local surface water from the Arkansas River is problematic because the river downstream of Pueblo also contains high levels of selenium, sulfates, uranium, and salts.

The AVC will solve these problems by using high quality surface water drawn from the existing Pueblo Reservoir, which is a feature of the Fry-Ark Project. Water will then be treated at the existing water treatment facilities at Pueblo, with treated water delivered by pipelines extending through the lower valley, thus realizing regional economies of scale.

#### Board Funding for the Construction of the AVC

The original 1962 authorizing legislation for the Project, and the amendments made in 2009 by section 9115 of P.L. 111-11, anticipated that the entire construction cost of single purpose municipal water supply facilities, including the AVC, would be appropriated by Congress. Per P.L. 111-11, 35 percent of the cost of the AVC is to be repaid in not more than 50 years, with interest, by the Southeastern Colorado Water Conservancy District (District), which is the repayment entity for the Fry-Ark Project.

While there is no statutory requirement for non-federal financing of construction, the state recognizes that there are significant constraints on Reclamation's construction budget. In light of this fact, the Board has approved a \$60 million loan to the District and is willing to consider a larger sum. S. 2616 will assist by providing a dedicated stream of revenues to the District which it can then use for loan repayment to the Board.

Specifically, the bill amends the language enacted by P.L. 111-11 to authorize and direct Reclamation to pay to the District, without appropriation, the miscellaneous revenues that it collects to the extent needed by the District to repay the money that it borrows from the Board. These miscellaneous revenues arise from charges paid by local water users to Reclamation for the use of excess capacity in the Fry-Ark Project for the storage of their non-project water. This revision is necessary because P.L. 111-11 only provides that miscellaneous revenues are available for Reclamation to credit to the repayment of the federal appropriations made for the construction of the AVC.

In short, the loan from the Board to the District will reduce the Congressional appropriations needed for the construction of the AVC dollar-for-dollar. This is a very significant commitment by the state of Colorado to financing the construction of this important water supply project and is consistent with Colorado's Water Plan, our recently-adopted strategic plan for water. S. 2616 makes this non-federal loan structure work by making miscellaneous revenues payable directly to the District to use in repaying principal and interest to the Board.

On a personal note, I spent time growing up in the lower Arkansas River Valley. On behalf of the fine people living there, thank you for your consideration of this important piece of legislation. Passage is vital to their public health and the stability of the Arkansas River Valley.

Mr. LONG. At this time, there is no statutory requirement for non-federal financing of the project; however, the district is mindful of the budgetary constraints Congress faces. S. 2616 is offered by our Senators with the intent of substantially reducing appropriations needed for the conduit. By maximizing in three ways the use of project-generated revenues, the federal outlay needed for construction will be reduced by more than \$150 million. As miscellaneous revenues continue to be generated by the Fry-Ark Project, after repayment of this CWCB loan and the district's 35 percent share of the federal investment, those revenues can continue to repay the remaining 65 percent of the conduit's cost. S. 2616 will clearly achieve the goal of reducing federal outlays through appropriation.

Of greater importance to the people of the Lower Arkansas Valley is having a reliable, safe drinking water supply, not a tainted supply which brings a significant threat to public health, and enforcement costs from regulators.

Thank you again, Mr. Chairman, for the opportunity to testify. I would be happy to respond to any questions you may have.

[The prepared statement of Mr. Long follows:]

**Statement of Bill Long,  
President of the Board of Directors,  
Southeastern Colorado Water Conservancy District**

**Submitted to the  
Subcommittee on Water and Power,  
Committee on Energy and Natural Resources,  
U.S. Senate**

**Regarding S. 2616, 114<sup>th</sup> Congress --  
A Bill Concerning the Arkansas Valley Conduit  
Fryingpan-Arkansas Project, Colorado**

May 17, 2016

Introduction

This statement is submitted by the Southeastern Colorado Water Conservancy District (District). The District is the repayment entity for the Bureau of Reclamation's Fryingpan-Arkansas Project (Fry-Ark Project) in Colorado. The Fry-Ark Project is a multi-purpose water supply project (for irrigation, municipal and industrial (M&I), power, and fish and wildlife purposes) consisting of several features. The Arkansas Valley Conduit (AVC) is an authorized, but yet to be constructed, M&I feature of the project which will deliver treated domestic water to rural communities east of Pueblo, Colorado, whose current sources do not meet federal safe drinking water standards.

Summary of the District's Testimony

The District strongly supports S. 2616. We urge your favorable consideration of the bill and respectfully request that you pass it out of subcommittee expeditiously.

Need for the Arkansas Valley Conduit – Violation of Federal Drinking Water Standards

The AVC was included in the original 1962 authorizing legislation for the Fry-Ark Project. It is a regional surface water supply project which will deliver treated drinking water to nearly 40 small water providers serving farming and ranching communities in the lower Arkansas River Valley from east of Pueblo, Colorado, to the Colorado/Kansas state line. It will replace existing groundwater sources, the quality of which is inadequate.

Lower Arkansas River communities currently use groundwater to supply some or all of their drinking water. More and more towns have found that their groundwater contains naturally occurring cancer-causing radioactive contaminants, such as radium and uranium. Fourteen towns have water supplies containing radioactive elements in concentrations that exceed primary drinking water standards as mandated by the federal Safe Drinking Water Act.

The Colorado Department of Health and Environment (CDPHE) has notified these 14 water providers (via enforcement actions) that they must treat water supplies to remove these contaminants or find a better quality water source. Seven additional water providers have elevated levels of naturally occurring radioactive elements, but do not currently violate CDPHE standards.

In addition, water providers in the lower Arkansas are generally having difficulty meeting non-mandatory secondary drinking water standards for salts and sulfate. The median salts concentration over the past 40 years has been about 3,400 mg/L in lower Arkansas River Basin groundwater, which is nearly 7 times greater than the secondary drinking water standard.

Finally, some AVC water providers also are not meeting the secondary drinking water standard for iron. Meeting this standard requires the addition of iron removal filters to the treatment process. However, this may create a catch-22 situation, as one water provider was notified by CDPHE in 2014 that it has "Industrial Wastewater Unpermitted Discharges" and that a Colorado Discharge Permit may be required for its discharge of backwash water from iron removal filters.

Radionuclides, salts, and sulfate are not removed by conventional water treatment methods. It would be prohibitively expensive for each individual community to undertake the special upgrades in treatment systems which would be required. On the other hand, simply replacing contaminated groundwater supplies with local surface water from the Arkansas River is problematic because the river downstream of Pueblo also contains high levels of selenium, sulfates, uranium, and salts. The AVC is the regional solution to these problems.

#### Status of On-Going Work on the AVC

Reclamation prepared appraisal level plans and completed an EIS which evaluated several alternatives. A record of decision (ROD) was issued in February, 2014. It concluded that individual community systems diverting from the Arkansas River would not secure a reliable long-term water supply for water providers to help meet projected future demands. Thus, a regional system was selected to take advantage of existing water treatment facilities at the City of Pueblo and of economies of scale. The selected regional system will be less costly than any of the alternatives in the draft EIS.

Following the issuance of the ROD, Reclamation initiated the process of preparing feasibility-level engineering designs and cost estimates. A feasibility level engineering report is to be completed by the end of this fiscal year.

#### Section 9115, P.L. 111-11

As originally enacted in 1962, section 1(c) of the Project's authorizing legislation provided that the District would have to repay to Reclamation 100 percent of the cost, with interest, of any single purpose M&I feature of the Fry-Ark Project. Monies for such repayment would have had to come from the District's revenue sources.

Section 9115 of P.L. 111-11, which was enacted in 2009, amended the authorizing legislation to provide that the District would be obligated to pay only 35 percent of the AVC's cost, with interest. Furthermore, P.L. 111-11 provides that monies for repayment could come from two revenue sources:

- 1) Charges paid to Reclamation for the use of excess capacity in Project facilities to store or convey non-project water, which charges are levied pursuant to contracts between Reclamation and the District or other local, non-federal Colorado water users, and
- 2) District revenue sources (i.e., charges for water or other participant charges).

Revenues from the first of these sources, typically referred to by Reclamation as "miscellaneous revenues," are to be credited by Reclamation in its financial records to repay the 35 percent of the AVC's costs, with interest, for which the District is responsible. If these revenues prove to be insufficient to repay the 35 percent within 50 years, as required by section 1(c) of the authorizing legislation, as amended, then the District would have to make up the difference from its own revenue sources. These payments, if needed, would be made pursuant to a repayment contract between Reclamation and the District.

While P.L. 111-11 caps the District's repayment obligation at 35 percent of the AVC's cost, it has always been anticipated that miscellaneous revenues will continue to be collected by Reclamation even after the 35 percent is reached. Such revenues would be available under P.L. 111-11 for Reclamation to credit against the remaining construction costs of the AVC not assigned to the District. Therefore, P.L. 111-11 implicitly anticipates that the entire cost of the AVC will in fact be repaid using miscellaneous revenues arising from payments made by local water users, even though the District's repayment obligation is capped at 35 percent.

#### Financing the Construction of the AVC

The original authorizing legislation for the Project, and the amendments made by P.L. 111-11, anticipated that the entire cost of single purpose M&I facilities, including the AVC, would be paid for with monies appropriated by Congress (i.e., the cost of planning and constructing the AVC would be federally financed, with those costs repaid, with interest, to Reclamation). However, in the recently completed negotiation of a contract between Reclamation and the District for the use of excess capacity in Pueblo Reservoir, it was agreed that under current law miscellaneous revenues are available without having to be appropriated by Congress and would be used by Reclamation to help finance the construction of the AVC as it was occurring.

While at this time there is no statutory requirement for non-federal financing of construction, the District is mindful of the budgetary constraints which Congress faces. Accordingly, the District has been in discussions with Reclamation and the Department of the Interior regarding the possibility of the District providing about \$100 million in non-federal financing toward the construction costs of the AVC. The District anticipates obtaining non-federal financing by borrowing money from the Colorado Water Conservation Board, which is a state agency.

The Board has already approved a \$60 million loan to the District. What now needs to be addressed is the means for repaying such a loan, together with applicable interest charges.



What S. 2616 Does

S. 2616 does five things. Specifically, it:

1. Clarifies and confirms that Reclamation can, and is directed to, use miscellaneous revenues to pay for costs incurred during construction without those revenues having to be appropriated by Congress. This confirms the agreement reached in the recent negotiation of the contract between the District and Reclamation referred to above.
2. Authorizes and directs Reclamation to pay to the District, without appropriation, the miscellaneous revenues which it collects to the extent needed by the District to repay the money which the District will borrow to provide non-federal financing for a portion of the cost of constructing the AVC. This revision is needed since P.L. 111-11 assumed that the cost of the AVC would be financed entirely by federal appropriations with no funds contributed by the District during construction. Thus, P.L. 111-11 does not make miscellaneous revenues available to the District to repay a loan from the Colorado Water Conservation Board.
3. Provides that miscellaneous revenues will still be used to repay, with interest, 35 percent of the federal appropriations for the project.
4. Directs Reclamation to enter into one or more agreements with the District that specify the distribution of miscellaneous revenues, in amount and timing, as among the three foregoing uses of those revenues.
5. Confirms that all miscellaneous revenues will be credited against the costs of the Ruedi Dam and Reservoir, the Fountain Valley Pipeline, and the South Outlet Works at Pueblo Dam and Reservoir, plus interest, until those costs are fully repaid. This ensures that the current effect of P.L. 111-11 on the repayment of these three features of the Fry-Ark Project is still realized, with miscellaneous revenues not available for the AVC until repayment of the cost of those projects is completed.

The amendments which would be made by S. 2616 will substantially reduce the Congressional appropriations needed for the construction of the AVC. The budgetary effects are as follows:

1. As compared to P.L. 111-11, the "on budget" federal outlays for construction will be reduced by: (a) the amount of miscellaneous revenues used during construction, and (b) the amount contributed to Reclamation by the District during construction from the loan the District obtains from the state.
2. The District will remain obligated to repay 35 percent of the federal appropriations for the AVC, with repayment to come from District sources if miscellaneous revenues are insufficient for that purpose.

3. As allowed by P.L. 111-11, miscellaneous revenues will continue to be available to repay the entire cost of the AVC, although those costs will now be partly financed by the District (via the money it will borrow) and partly by congressional appropriations.
4. There will be no change in the timing or amount of miscellaneous revenues used to repay the cost of Ruedi Dam and Reservoir, the Fountain Valley Pipeline, and the South Outlet Works at Pueblo Dam and Reservoir as compared to the current situation.

In summary, S. 2616 will achieve the goal of significantly reducing federal outlays while providing a reliable, safe drinking water supply to the rural communities in the Lower Arkansas River Valley. The alternative – contaminated supplies which pose a significant threat to public health and prohibitive costs for individual system improvements – is unacceptable.

Senator GARDNER. Thank you, Mr. Long.

For the sake of Senators Roberts and Moran, I will clarify something that you said. It is the "Arkansas River," not the "Ar-Kansas River."

So thank you very much, Mr. Long, for your testimony today.

Mr. Buschatzke, Director of the Arizona Department of Water Resources, thank you. Please proceed.

**STATEMENT OF THOMAS BUSCHATZKE, DIRECTOR, ARIZONA  
DEPARTMENT OF WATER RESOURCES**

Mr. BUSCHATZKE. Thank you, Chairman Gardner.

I am Tom Buschatzke, Director of the Arizona Department of Water Resources. Thank you for providing me an opportunity to present testimony on behalf of the State of Arizona regarding S. 2902, the Western Water Supply and Planning Enhancement Act.

The ongoing drought in the Western United States demonstrates the need for congressional action that empowers states to better plan for and manage their existing water resources, to re-operate existing reservoirs to generate more water, to reestablish healthy forests to increase their water yield and protect the quality of water they produce. If enacted, S. 2902 will provide new tools to help achieve those goals.

My statement today will focus on four sections of the bill that reflect a consensus position of a broad group of Arizona water users.

Section 101 directs the reevaluation of flood control operations at U.S. Army Corps of Engineers or U.S. Bureau of Reclamation dams to enhance water storage. In Arizona, an opportunity exists to create temporary storage in flood control space at modified Roosevelt Dam, but past efforts have been stymied by a cumbersome Corps of Engineers process. With a successful process, an average of about 70,000 acre-feet per year, an increase of 10 percent to the water supplies of the Salt River Project in the Phoenix metropolitan area, can be achieved. Section 101 provides clarity and potentially streamlines the process for creating temporary storage at modified Roosevelt Dam.

Section 103 seeks to have the National Academy of Sciences complete a study on the effectiveness of controlling tamarisk to increase water supplies and improve riparian habitats, and for the Bureau of Reclamation to create a feasible plan that builds upon the 2012 Colorado River Basin Supply and Demand Study recommendations to implement tamarisk control. Arizona supports cost-effective methods to control tamarisk to create additional flow in the Colorado River System and to improve riparian habitat.

Section 104 provides authority for the Secretary of the Interior to fund or participate in projects to conserve water for the benefit of the Colorado River System. Provisions of this section build upon collaborative efforts of the Colorado River Basin states and the Department of the Interior to proactively manage the Colorado River to improve its health. The creation of system conservation water is a critical component of efforts to protect Lake Mead flows. From 2014 to the end of 2016, Arizona will have created a total of about 165,000 acre-feet of system conservation water. This is a significant contribution to Lake Mead elevations that benefit all the Basin

states. Absolute certainty that the system water will stay in Lake Mead is a necessity for Arizona to continue its efforts to create these protection volumes because we have the ability to use water solely for the benefit of Arizona through its water banking program, which stores water in aquifers within Arizona for its own future use. Some water users in Arizona prefer the water banking option over the system conservation option. Arizona appreciates that the Secretary of the Interior has chosen not to release any of the system water created to date but supports the provisions in the bill that achieve the outcome of creating absolute certainty that system water will remain as system water. Furthermore, Section 104 provides an incentive for all water users in the Lower Basin to continue to incrementally add to the system conservation measures with the knowledge that the conserved water will provide the benefit that was intended.

Lastly, Sections 111 through 114 of the legislation create a streamlined permitting process for forests and wildland restoration activities in critical water supply watersheds. The woeful health of our forests is well-known and the number of acres burned has grown dramatically over the last three-plus decades. Fire impacts reduce reservoir capacity and yield because of the increased sedimentation and also degrade water quality. There is an immediate need to take action to reduce the risk of catastrophic fire in our watersheds. Expediting permitting is necessary to restore forests to a healthy condition in a timely manner, and this legislation can help achieve that outcome.

In summary, the State of Arizona supports Sections 101, 103, and 111 through 114 of S. 2902. Collectively, these provisions further the efforts of the state to develop, manage, and protect the quantity and quality of its water supplies and improve the health of its forests.

Thank you.

[The prepared statement of Mr. Buschatzke follows:]

**Testimony of Thomas Buschatzke  
Director  
Arizona Department of Water Resources**

**COMMITTEE ON ENERGY AND NATURAL RESOURCES  
SUBCOMMITTEE ON WATER AND POWER  
United States Senate  
May 17, 2016**

**Chairman Lee, Ranking Member Hirono and Members of the Subcommittee:**

**Introduction**

My name is Tom Buschatzke and I am the Director of the Arizona Department of Water Resources. Thank you for providing me an opportunity to present testimony on behalf of the State of Arizona regarding S. 2902, the Western Water Supply and Planning Enhancement Act. The on-going drought in the western United States demonstrates the need for Congressional action that will allow states to: (1) better plan and manage their existing water resources in a manner that creates greater certainty for water users; (2) leverage existing infrastructure to generate more water supplies; (3) manage watersheds to increase their yield; and (4) protect those watersheds from being degraded by catastrophic fire. If enacted S. 2902 will provide new tools to help achieve those four goals.

**Background**

The State of Arizona and its water users have a long history of developing water supplies and the necessary infrastructure to deploy those supplies to maximize their benefit to the citizens and businesses in our State. Sound management of those supplies has been a primary focus for our State; the arid nature of Arizona is a constant reminder of the value of every drop of water available to us. Arizona is fortunate to have a diverse portfolio of water supplies. Our State currently uses about seven million Acre-feet of water per year statewide which comes from the following sources: the Colorado River-40 percent; Groundwater-40 percent; in state rivers-17 percent; and reclaimed water reuse- 3 percent.

Arizona has a long history of collaboration and innovation in managing our water supplies. We have participated in interstate and international agreements to protect our Colorado River water supplies, extending from the Colorado River Compact of 1922 to recent agreements with Mexico through Minute 319. Arizona has created institutions over many decades that provide certainty for our water users. Some of those success stories include the Salt River Project, the Gila Project, the Wellton-Mohawk Irrigation and Drainage District, the Yuma County Water Users' Association, the Yuma Mesa Irrigation District, the North Gila Valley Irrigation and Drainage District, the Yuma Auxiliary Project-Unit B, the Central Arizona Project, the 1980 Groundwater Management Act, the Underground Storage and Recovery Act and the Arizona Water Banking Authority. Arizona and its water users have taken proactive measures and made hard choices over many decades to ensure a high quality of life for our

citizens and a vibrant economy and will continue to do so in the face of the on-going drought in the West.

Despite the actions and choices made by Arizona, uncertainty remains and the vulnerability of our water supplies to drought is a matter of constant attention among water providers, water users and water managers around the state. Flexibility to manage water supplies and adaptation to drought conditions are part of Arizona's history and will continue to be a key management strategy now and in the future.

In keeping with the long-standing practice of Arizonans stepping up to work together to address challenges to water sustainability, the provisions of S. 2902 that I discuss in my testimony reflect a consensus list of Arizona's federal water priorities. They are the result of comprehensive in-state discussions among a broad group of water users. That process proceeded from a meeting on April 1, 2015 between Governor Ducey, Senator McCain and Senator Flake to discuss the direction that the State would take with its federal delegation on water issues.

#### **Challenges Imposed by the On-Going Drought**

Arizona continues to experience drought and 100 percent of the State falls within "Abnormally Dry" to "Severe Drought" conditions. The Salt and Verde River watersheds are in the sixth consecutive year of drought, which has reduced the surface water supplies utilized in the Phoenix metropolitan area by municipal water providers and agriculture. That has resulted in an increase in groundwater pumping to backfill the reduction in those surface water supplies. The Salt and Verde River watersheds are also at increased risk to wildfires, as is the Gila River watershed, the other main source of Arizona's in-state river supplies. Allocations of surface water from the Gila River have also been reduced as a result of the drought. To address drought conditions and the impact on our water supplies and water users, the Governor's Drought Interagency Coordinating Group has recommended that a Drought Declaration be adopted by Governor Ducey. That Declaration will allow aid to flow to farmers and ranchers from the United States Department of Agriculture for loss of production and it also raises public awareness regarding drought conditions affecting the State.

The West-wide drought presents some unique challenges for all Colorado River users and the State of Arizona. The Colorado River watershed is in the 16<sup>th</sup> year of below average runoff due to drought. Arizona stands to lose 320,000 Acre-feet of its 2.8 Million Acre-feet Colorado River allocation when a Tier 1 shortage is triggered by Secretarial order pursuant to the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and The Coordinated Operations for Lake Powell and Lake Mead. Under the Interim Guidelines a projection of the elevation of Lake Mead is made in mid-August for the first day of the next calendar year. If that projection were to show Lake Mead falling below elevation 1,075 feet, a Tier 1 Shortage is then put into place starting on January 1 of that year. Today, Lake Mead is at

elevation 1,075.19<sup>1</sup> feet. The probability of a shortage declaration in the Lower Basin of the Colorado River has been steadily increasing during the past few years. The probability of a shortage in calendar year 2017 is 10 percent and that increases to 56 percent<sup>2</sup> for 2017. It is important to note that a Tier 1 shortage triggers reductions for Arizona, Nevada and the Republic of Mexico but not for California. Arizona shoulders the burden of the shortage among the three states and Mexico, about 84 percent of the total.

Deeper shortages will occur if Lake Mead's elevation continues to decline. Between elevation 1,050 feet and 1,025 feet a Tier 2 shortage results in Arizona suffering a reduction of 400,000 Acre-feet and at elevation 1,025 feet Arizona loses 480,000 Acre-feet, a Tier 3 shortage. The probabilities of Tier 2 and 3 occurring have also been increasing as the drought continues. If Lake Mead's elevation continues to drop and falls below elevation 1,025 feet, the volume of shortage to Arizona is unknown at this time. This uncertainty creates a difficult task for Arizona: how to plan for a shortage that is unquantified but will undoubtedly be greater than 480,000 Acre-feet. As Lake Mead approaches elevation 1,000 feet, the near-term limit for diversions by Las Vegas, or continues to decline to dead pool at elevation 895 feet, draconian shortages are likely to occur. Reductions in water supply are not the only impacts associated with declining levels at Lake Mead. As Lake Mead elevations decline, the hydropower generating capacity is reduced at Hoover Dam. Hydropower generation at Hoover Dam serves electrical customers in California, Arizona, and Nevada with enough energy to serve 1.3 million people each year. Hoover Dam currently generates about 3,700,000 megawatt hours of electricity each year. The following table illustrates the magnitude of reduction at Hoover Dam:

Lake Mead Elevation	Hoover Dam Capacity <sup>3</sup>	Percentage Reduction
<b>1,212 (Jan. 2000 – start of drought)</b>	~ 2,074 MW	
<b>1,076 (July 2015 elevation)</b>	~ 1,551 MW	25%
<b>1,050</b>	~ 1,371 MW	33%
<b>1,000</b>	~ 1,046 MW	50%

<sup>3</sup> USBR information August 2013. USBR reports that projected generation capacity is uncertain below elevation 1050 due to unknown impacts of vibration and cavitation on performance at low reservoir elevations.

If a shortage were declared, Hoover Dam could lose as much as 21% of hydropower production from 2015 production levels – a loss equivalent to the electricity needs of 280,000 people. The following table illustrates those reductions:

Lake Mead Elevation	Hoover Dam Generation	Percent Reduction
<b>Current (2015)</b>	3,700,000 MWH	-
<b>1,075 (1<sup>st</sup> Level Shortage)</b>	3,445,000 MWH	6%
<b>1,050 (2<sup>nd</sup> Level Shortage)</b>	3,193,000 MWH	13%
<b>1,025 (3<sup>rd</sup> Level Shortage)</b>	2,915,000 MWH	21%

<sup>1</sup> Based on USBR Lower Colorado River Region's daily reservoir conditions for May 12, 2016.

<sup>2</sup> Based on USBR Lower Colorado River Region's Colorado River April 2016 24 Month Study and resulting projections of Lake Mead elevations.

<sup>3</sup> USBR information August 2013. USBR reports that projected generation capacity is uncertain below elevation 1050 due to unknown impacts of vibration and cavitation on performance at low reservoir elevations.

Impacts on power generation will also occur as Lake Powell's elevations decline. Glen Canyon Dam hydropower production is eliminated if Lake Powell falls below elevation 3,490 feet, and United States Bureau of Reclamation has indicated that impacts to power production could occur at elevation 3,525 feet.

#### **DISCUSSION OF S. 2902**

##### **SECTION 101**

This Section directs re-evaluation of flood control operations at US Army Corps of Engineers or US Bureau of Reclamation dams to enhance water storage. In Arizona, an opportunity exists at Modified Roosevelt Dam, a facility owned by the Bureau of Reclamation and operated by a local entity, the Salt River Project. The dam was originally completed in 1911. Modifications to the dam were completed in 1996 and 556,000 acre-feet of dedicated flood control space was added along with new water conservation space and safety of dams space (1,223,000 Acre-feet). A Water Control Manual governs the operation of the flood control space behind the dam. Flood control operations are exceedingly safe and conservative. The safety of dams storage space above the flood control space provides protection for the Probable Maximum Flood. There is an opportunity to use the flood control space, moreover, for "temporary storage" when the conservation storage space fills and water remains in the flood control space at the end of the runoff season, typically in April. The water conserved as temporary storage can then be put to beneficial use prior to the next storm season in late fall or early winter. Preliminary modelling by the Salt River Project estimates that an average of about 70,000 Acre-feet per year might be generated under this concept. The model also projects that the yield is highly variable, ranging between zero and 300,000 acre-feet in a year. In fact, water would have been available in 2005, 2008 and 2010 if temporary storage in flood control space has been an option.

The median yield of the Salt River Project system between 1981-2010 is 680,000 Acre-feet and adding an average of 70,000 Acre-feet per year, a 10 percent increase, would be a significant addition to the water supplies delivered by the Salt River Project.

In 2008 Salt River Project representatives and local municipal water providers who receive water from the Salt River Project reached out to the Army Corps of Engineers to discuss this concept. Many hurdles were identified and the effort was set aside for future consideration. Section 101 provides clarity and potentially streamlines the process to creating temporary storage at Modified Roosevelt Dam and the State of Arizona supports the concept.

##### **SECTION 103**

This Section requires the National Academy of Sciences conduct a study on the efficiency of controlling tamarisk to increase water supplies and improve riparian habitats and for the Bureau of Reclamation to create a feasible plan that builds upon the 2012 Colorado River Basin Supply and Demand Study to implement tamarisk control. The Colorado River Basin Water Supply and Demand Study contained the following statement: "Estimates of water savings by removal of tamarisk and replacement by other species range from zero and up to 1.5 are-feet (af) per acre (Nagler et al., 2009). A reasonable estimate



for planning purposes is 0.54 af per acre (Tamarisk Coalition, 2009).” The Basin Study also made clear that additional information is necessary to understand the water savings potential of removing non-native vegetation such as tamarisk from the Colorado River watershed in a cost-effective and environmentally responsible manner.

In the Lower Basin more than 600,000 Acre-feet of water is lost annually due to evaporation, transmission losses and consumption by non-native vegetation.

Cost effective methods to control tamarisk that create additional flow in the Colorado River system can help to alleviate those losses, reduce impacts of the drought, and can add resiliency to the system. That outcome is consistent with the goals of the State of Arizona and I support these provisions.

#### **SECTION 104**

This Section amends Title II of the Energy and Water Development and Related Agencies Appropriations Act, 2015 (division D of Public Law 113-235) by replacing section 206 (43 U. S.C. 620 note; 128 Stat. 2312). It effectively provides authority for the Secretary of the Interior to fund or participate in projects to conserve water for the benefit of the Colorado River system. It also authorizes an appropriation of \$10 million each fiscal year 2017 through 2027.

The provisions of this Section build upon the collaborative efforts of the Colorado River Basin States and the Department of the Interior to proactively manage the Colorado River system to improve its health. A major advancement occurred with the approval of the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and The Coordinated Operations for Lake Powell and Lake Mead. That agreement created flexibility for water users in Arizona, Nevada and California to create “Intentionally Created Surplus” by conserving water in one year, storing it in Lake Mead and recovering it for use in a future year. Carefully crafted conditions were attached to this program. One result of this new flexibility was that critical Lake Mead elevations could be protected through the conservation of this water in the Lake. The Basin States continued to seek ways to protect reservoir levels and the health of the Colorado River system.

In July 2014 a pilot system conservation program was created by the Bureau of Reclamation, the Central Arizona Water Conservation District (aka the Central Arizona Project), the Metropolitan Water District of Southern California, the Southern Nevada Water Authority and Denver Water. This program is funded by those partners. In the Lower Basin the program looked to conserve water to benefit Lake Mead and in the Upper Basin to benefit Lake Powell. Unlike Intentionally Created Surplus, this conserved water was dedicated to the system and is not available for future recovery. It was another step forward in management of the River.

That program was followed in December 2014 by the Memorandum of Understanding (MOU) among the United States of America, through the Department of the Interior, Bureau of Reclamation, the

Central Arizona Water Conservation District, the Metropolitan Water District of Southern California, the Southern Nevada Water Authority, the Arizona Department of Water Resources, the Colorado River Board of California, and the Colorado River Commission of Nevada for Pilot Drought Response Actions. That MOU was a best efforts agreement that collectively targets a volume of 740,000 Acre-feet to be stored in Lake Mead to protect critical elevations in the Lake. Both Intentionally Created Surplus and system conservation water are accounted to the target.

The creation of system conservation water is a critical component of efforts to protect Lake Mead elevations because Arizona, Nevada and California and their water users all benefit from this system water. In 2014 and 2015 Arizona created about 120,000 Acre-feet of system conservation water. By the end of 2016 we project that approximately an additional 45,000 Acre-feet will be created. The total system conservation water that Arizona expects to be created in 2014-2016 is 165,000 Acre-feet. This is a significant contribution to Lake Mead that benefits Nevada and California as well as Arizona. Additionally, system water can have benefits to the Upper Basin by reducing the probability that low lake levels in Lake Mead will lead to increased Lake Powell balancing releases. Intentionally Created Surplus is also a valuable tool in protecting Lake Mead but that water is intended to be released from the Lake unlike system water.

Absolute certainty that this system water will stay in Lake Mead is a necessity for Arizona to continue its efforts to create these protection volumes. Arizona has the ability to use water solely for the benefit of Arizona. Its robust water banking program can store all of this water in aquifers within Arizona for future use in the State. Recovery of that stored water is a key strategy for minimizing the impacts to Arizona when a shortage is declared by the Secretary of the Interior in the Lower Basin and Arizona and Nevada have their Colorado River allocations reduced. The decision to store conserved water in Lake Mead rather than in aquifers in Arizona relies on some assurances that the conserved water ultimately will go to its intended purpose.

While Arizona appreciates that the Secretary of the Interior has chosen not to release any of the system water created to date, the State of Arizona supports the provisions in Sec. 104 inserting language at Sec. 206 (a) (2), Division D, PL 113-235 to achieve the outcome of absolute certainty that system water will remain as system water to the benefit of the Basin States.

Section 104 of S. 2902 provides incentive for all water users in the Lower Basin to continue to incrementally add to system conservation measures with the knowledge that the conserved water will provide the benefit that was intended.

#### **Sections 111-114**

These Sections apply a streamlined permitting process to forest and wildland restoration activities in critical water supply watersheds. The conditions of the national forest system lands, and certain other wildland areas, in the State are presently near a crisis stage, a circumstance that demands the utmost sense of urgency and meaningful and measurable action. The health of our watersheds is one of the biggest environmental challenges for Arizona in the 21st Century. Drought conditions in the West only magnify the challenges. The largest contiguous ponderosa pine forest in North America, an area encompassing approximately four million acres, extends from the Grand Canyon National Park to the Gila National Forest of western New Mexico. This stand, and the other forested and wildland areas in Arizona, supply water to Arizona communities and provide recreational opportunities for our citizens.

The status of vast portions of these forests is distressingly poor due to several factors. The implementation of certain forest management methods, spanning decades, and including well-intentioned yet restrictive administrative and regulatory constraints, have been counterproductive. Among other things, the practices have resulted in over-stocked and even-aged stands of trees. These dense thickets of low value younger trees, combined with ineffective or injurious fire management schemes, have yielded the conditions for catastrophic landscape scale wildfires, endangering people, flora, fauna, and watersheds.

Unhealthy forests and resulting catastrophic wildfires affect the short and long term management, sustainability, and quality of Arizona's water supply. In Arizona and throughout the west, reservoir storage is a critical component of water supply and drought management. Catastrophic wildfires, unlike the low intensity fires seen in healthy forests, cause burn areas that devastate the landscape and produce increased loads of sediment, ash and debris causing reservoirs to fill up faster and reduce the life and storage capacity of reservoirs. In addition, the loss of trees and groundcover can also affect the timing and behavior of runoff, impacting the predictability and management of water supplies. Heavily forested and steep walled watersheds have characteristics that amplify the impact of sedimentation due to wildfire.

In addition, the water quality impact of catastrophic fire and post-fire flooding has both short and long-term impacts, reaching throughout the watershed, and extending far beyond the immediate impact area of the fire and the surrounding communities. The ash and sediment picked up by runoff after a major fire severely impact the taste and purity of drinking water supplies causing an increase in turbidity, and nutrient and organics loads that must be removed during treatment. Runoff events following fires have also resulted in significant changes in the levels of nitrates, sulfates, and chlorides in runoff. Over the longer term, the increased volume of sediment deposited behind reservoirs due to changes in runoff patterns and soil destabilization can impact the taste and odor as dissolved organics increase in the water. In many cases treatment facilities in Arizona have been upgraded by adding carbon filtration to handle the increased levels of organics and sediment at a cost of hundreds of millions of dollars.

In-pre-settlement conditions estimates show that there were less than 50 trees per acre and today those estimates have risen to over 1000 trees per acre. In the Salt and Verde River watersheds the number of acres impacted by fire has steadily increased from 85,000 acres in the 1980s, to 227,000

acres in the 1990s and to almost 2 million acres in the 2000s. According to the Arizona State Forestry and others, approximately 1.8 million acres of timber have burned since 2002.

These data are indicative of the enormity of the need to take immediate action to reduce the risk of fire in our forests and wildlands. Expediting the permit processes that are needed to restore these areas to a healthy condition is critical. I am encouraged by the expansion, enabled by Sections 111-114 of this bill, of categorical exclusion authority along with the “action/no action” evaluation for certain activities. The incorporation of the categorical exclusion provision in the 2014 Farm Bill, though somewhat limited, was a positive earlier step. S. 2902 would significantly increase the scope of this authorization and could result in accelerated forest restoration activities which would assist in the protection of critical watersheds.

In summary, the State of Arizona supports Sections 101, 103, and 111-114 of S. 2902. Collectively those provisions further the efforts of the State to manage their existing water resources in a manner that creates greater certainty for water users, leverages existing infrastructure in our State to generate more water supplies, creates healthy watersheds to increase their water supply yield and protects watersheds from being degraded by catastrophic fire.

Senator FLAKE [presiding]. Thank you.  
Ms. Ziemer.

**STATEMENT OF LAURA ZIEMER, SENIOR COUNSEL AND  
WATER POLICY ADVISOR, TROUT UNLIMITED**

Ms. ZIEMER. Good afternoon, Chairman Flake. Thank you for the invitation to testify today on behalf of Trout Unlimited.

I live and work in Montana and have experienced firsthand the devastation of prolonged drought. That is why I have spent most of the last 20 years finding collaborative solutions to water scarcity. I have pioneered new ways to make water go further with Montana ranches. I created a voluntary drought response plan in the Blackfoot River Basin, built on the idea that if everyone gives a little, no one loses out.

My experience has been one of diverse partners coming together to find innovative solutions to water scarcity at a variety of scales, by rethinking water infrastructure and repairing natural systems.

I have learned a couple things during a decade of walking irrigation ditches that I would like to share today. I would like to tell four stories of collaborative efforts with partners like the Family Farm Alliance and Reclamation that each help chart a path forward. Each of these stories anchor Trout Unlimited support or opposition to the bills before the Subcommittee today.

In Eastern Washington's Yakima River Basin, Trout Unlimited sat down with irrigators, other sportsmen, local, state, and federal agency staff and tribal members to develop a mosaic of the drought resilience approaches from water infrastructure improvements to restoring fish passage to temporary water right transfers. The State of Washington believes strongly enough in the Yakima plan that it has already provided \$161 million toward its implementation. Collaborators of the Yakima plan achieve more for their own interests standing together than they would on their own. Senator Cantwell's white paper on drought and water security is an expression of the Yakima success. It calls for federal support of collaborative watershed-scale solutions based on a portfolio of projects with innovative financing to get projects over the finish line.

My second story is my own work on Montana's Sun River, where we found a way to benefit irrigation water supply while restoring flows to the chronically dewatered Sun River. Two thousand feet of lined canal, 2,300 feet of PVC pipe, and a new bypass canal put more water in the Sun River, more than doubling the wild trout population over the last three years.

In S. 2533, Section 101 reflects my Sun River experience. Section 101 prioritizes WaterSMART projects that provide benefits across the three legs of the drought-resilient stool, creating benefits to fisheries alongside benefits to agricultural and urban water users. The kind of work we accomplish in the Sun River Basin would also benefit from Section 508, which supports an open water data system.

My third story comes out of Wyoming, where a decade of restoration projects with ranchers meant that partnerships were in place when, last year, Reclamation and municipalities announced a system conservation pilot program. This effort to develop water transfer tools addresses long-term drought in the Colorado River Basin.

For the upcoming irrigation season, Trout Unlimited and Wyoming ranchers have worked together to offer more than 10,000 acre-feet of water conservation in the upper Green River, primarily through split season water leases. The Reid-Heller amendment to the energy and water appropriations bill continues this pilot program.

My last story is Trout Unlimited's long-term commitment to the Klamath. It shows that ground-up, collaborative solutions can emerge even in a river basin deeply divided over water conflicts. Years of discussion and listening to real needs produced these three hard-won agreements among diverse stakeholders.

The lesson from the Klamath River relevant to today's hearing is that carefully crafted solutions of mutual benefit produce bipartisan support. The Klamath initiative led by Senators Wyden and Merkley brought investment in irrigation infrastructure and water supplies to support one of the most productive salmon and steelhead fisheries on the Pacific coast. This experience contrasts with S. 2533 in two important ways.

First, Title III legislates some sets of water users as higher priorities than others, which seems likely to fuel more litigation and conflict rather than moving toward lasting solutions based on mutual benefit.

Second, Section 112 grants West-wide authority to construct new storage. Our experience is that new storage should be evaluated and carried out in a multi-stakeholder, basin-wide process, and Section 112 could undermine such collaborative processes.

Finally, Trout Unlimited opposes S. 2902 because it undercuts collaborative watershed-based efforts and key provisions.

I hope my testimony today has been helpful in charting a path forward toward water security in the West. I would be happy to answer any questions. Thank you.

[The prepared statement of Ms. Ziemer follows:]



**Laura Ziemer**  
*Senior Counsel and Water Policy Advisor*

Testimony of Laura Ziemer  
 Senior Counsel and Water Policy Advisor  
 Trout Unlimited  
 Before the Subcommittee on Water and Power – Committee on Energy and Natural Resources  
 United States Senate  
 Legislative Hearing on Several Bills, Including S. 2533, the California Long-Term Provisions for Water  
 Supply and Short-Term Provisions for Emergency Drought Relief Act; and S. 2902, the Western Water  
 Supply and Planning Enhancement Act of 2016  
 May 17, 2016

Good afternoon Members of the Subcommittee.

Thank you for the invitation to testify today on behalf of Trout Unlimited (TU) and its 150,000 members nationwide. I have had the privilege to work for many years with TU's volunteers to restore local streams and engage young people in TU's efforts to conserve, protect and restore our Nation's watersheds. I live and work in Montana, and have experienced first-hand the devastation of prolonged drought in an already-arid land.

Westerners experience water scarcity at a number of different levels. Extended drought creates problems for individual rancher and farm operations struggling to find enough river flows to irrigate crops, and for the fish that find that their habitats have heated up, shrunk, or just plain dried up. Swings and cycles in regional weather patterns create basin-level scarcity that affects not only irrigation districts but also municipalities worried about meeting water demands.

#### **I. Collaborative, Watershed Solutions: The Path Forward**

The seriousness and scale of these problems is why I've dedicated the last 18 years of my professional life to finding collaborative solutions to water scarcity in the West. I've pioneered collaborative approaches to creating new water supplies with Montana ranchers, created working architecture for drought response plans that operate at the basin scale, and assembled diverse coalitions of interests to come together around innovative changes to water management across multiple, large river basins. Although these approaches vary in scale and focus, the one thing they have in common is building the trust to apply creativity to difficult, long-standing problems born of too many demands and too little water in arid lands.

My message is simple: on the ground throughout the West partners are coming together to find innovative solutions to water scarcity challenges at a variety of scales, and as Congress considers legislation, we hope you consider finding ways to replicate and reward locally driven, collaborative, watershed-scale solutions. Here are four of their stories:

##### **A. Yakima River, Washington**

The West is desperately seeking ways to balance its need to find more water for agriculture and people, with its other great need to conserve valuable and imperiled fisheries, and growing recreation demands. A diverse group of stakeholders in the Yakima Basin in central Washington have found a path forward.

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The Yakima Plan is a balanced package of actions that will restore hundreds of thousands of salmon and steelhead to the basin, improve water quality and quantity, and support a healthy agricultural and recreational economy. The plan was agreed upon by a diverse coalition of conservation groups, irrigators, farmers, sportsmen and women, local, state, and federal governments and the Confederated Tribes and Bands of the Yakama Nation. Similarly, these partners recognize that the resources needed to cover the costs of the plan must come from a variety of sources. Significantly, the State of Washington has provided \$161 million to date towards implementation.

Some portions of the Yakima Plan need new Federal authorization. Thanks to the bipartisan efforts of Senator Cantwell, Senator Murkowski, and many Members of this Subcommittee, the Yakima bill, S. 1694, recently passed the full Senate as part of the broader energy bill. In addition, Representative Reichert and Representative Newhouse introduced H.R. 4686, a companion measure in the House. The Yakima Plan has had this success in large part because it is built as a mosaic of approaches to drought resilience: water infrastructure improvements, new water storage, groundwater recharge, instream flow restoration, fish passage, headwater habitat restoration and protection, and flexibility in water management across the basin, from reservoir operations to temporary water right transfers. Collaborators in the Yakima Plan achieve results for their own interests that they would not standing alone.

The effort to create an intact watershed process that led to the Yakima Plan already spurred additional creative solutions to acute challenges in the basin. For example, during last summer's drought, partnerships built through the plan resulted in rapid action to provide flows in streams that would have otherwise run dry, securing important habitat for salmon and steelhead. Important not only to those who live and work in the Yakima basin, the Yakima Plan also provides a transferable model for water scarcity issues across the West; working collaboratively at a watershed level to craft and implement long-term solutions.

#### **B. Sun River, Montana**

In Montana's upper Missouri River basin on the Sun River, TU, the Fort Shaw Irrigation District, and members of the Sun River Watershed Group worked to create multi-sector benefits. They are an example of a public-private partnership at its best. The Bureau of Reclamation's WaterSMART program provided significant irrigation infrastructure funding in 2012 and 2013, matched by state and local dollars, contributions from the Irrigation District, and private contributions from the Coca-Cola Company. The Natural Resources Conservation Service (NRCS) contributed to the success of the project with new on-ranch center pivots that required less water to be delivered, to match the more efficient delivery of water through the irrigation district. The Coca-Cola Company's contributions were essential to securing the flow restoration benefits to the chronically-dewatered Sun River from the irrigation infrastructure upgrades within Fort Shaw Irrigation District. Two-thousand feet of lined canal, 2,310 feet of PVC pipe, and a new bypass canal created the opportunity to keep more water in the Sun River's wild trout fishery. The Sun River's wild trout have responded by more than doubling their population over the last three years.

#### **C. Upper Colorado River's System Conservation Pilot Program (SCPP)**

Over the past eight years in Wyoming, TU has developed partnerships with ranchers and local and state resource agencies to not only improve trout streams, but also benefit agricultural operations and rural communities. We have found that by fixing aging irrigation infrastructure and improving water delivery for agricultural operations we can also improve trout streams that flow across private ranch lands. The quiet success of trust and friendships forged through restoration partnerships is increasing Wyoming's drought resilience, one stream at a time. The investment in private ranch land habitat is vital to reconnecting fragmented migratory corridors and allowing trout to fulfill their migratory patterns that build healthier, more resilient populations. This work is successful because it is pragmatic, voluntary, and non-regulatory. It's designed to benefit both people and fish.



In 2015, the Bureau of Reclamation and four municipal water providers in the Colorado River Basin announced the System Conservation Pilot Program (SCPP) to begin developing tools for responding to long-term drought conditions. The purposes of the SCPP for the Upper Basin included testing voluntary, demand-management measures that could ultimately be used to help maintain water in Lake Powell above the minimum levels needed to meet compliance with Colorado River compacts and to maintain hydropower generation at the reservoir.

In the Upper Basin, TU has worked closely with producers, state agencies and the Upper Colorado River Commission to successfully implement the SCPP. In the first round of the program, TU worked with producers to develop six applications, most focused on split-season leasing. All six proposals were fully funded and the total volume of water conserved was 2,008.14 acre feet.

In the second round, TU worked with Wyoming ranchers to offer more than 10,000 acre-feet of water conservation during the 2016 irrigation season, and developed additional applications in partnership with landowners in Colorado and Utah. In all, 15 SCPP applications that TU helped facilitate were approved in round two.

Trout Unlimited supports the SCPP because it is a voluntary, market-based tool that landowners can use to offset economic and environmental impacts of ongoing water shortages in the Colorado River. Water leased under this program remains tied to the land and keeps operations whole, which has great benefits for both agriculture and coldwater fisheries. For the first time in Wyoming, landowners participated and benefitted from a program that attached a value to the non-diversion of a water right during low flow conditions, and tributaries in the Upper Green realized improved streamflows for coldwater fish. Tributaries that historically suffered from dewatering or low flows maintained conditions suitable for trout throughout the entire summer.

#### **D. Klamath River, Oregon and California**

Trout Unlimited's work and partnership in California's and Oregon's Klamath River Basin provides another prime example of ground-up, collaborative and creative solutions to water management in the West. And for purposes of today's hearing, where we are asking ourselves "what more can Congress do to promote drought resiliency in the West?" the story of the Klamath not only provides a critical example of success; but also a valuable precautionary tale.

Residents and policy-makers struggled for decades to reconcile the water needs of agriculture, tribes, communities, and fish and wildlife in the basin. Years of negotiations produced three hard-won, bipartisan agreements between farmers and ranchers, tribes, a major utility company, the federal government and the States of California and Oregon to better share and manage water in the Klamath Basin. The three landmark agreements would provide water security for all these parties, and collectively provide a comprehensive water solution for the third-most productive fishery for salmon and steelhead on the West Coast.

Congressional action was required to move forward and, although this Committee approved the bill, the legislation did not pass before one of the agreements expired. As a result, the whole package almost fell apart. We feared that everyone would go back to their corners and restart the water wars. But so far, the parties have remained remarkably united and determined to find a common path forward. We have a long way to go, but people are beginning to take steps to move forward again.

A great, recent step came in the form of an accord to amend the Klamath Hydroelectric Settlement Agreement to allow the states of California and Oregon to work with PacifiCorp to remove four dams on the Klamath River using non-federal funds through normal hydropower licensing process, eliminating the

need for Congress to resolve that issue. The parties also recommitted themselves to improving water supply and power reliability for irrigation. Then Senators Wyden and Merkley co-sponsored a successful amendment to the Energy Bill in April 2016, and the Senate voted to help with Klamath irrigation infrastructure and water supplies for wildlife refuges.

#### **E. Lessons Learned**

What TU has learned in over a decade and a half of deeply engaging in watershed efforts is that even the most entrenched, complex water-scarcity conflicts can find solutions when local interests come together to think creatively and collaboratively. None of these success stories came about easily or quickly. It is slow, patient, and difficult work. It requires cultivating the support of state and federal agencies. It requires finding a way to balance the length of the three legs on the drought-resilience stool: improving reliability of irrigation water; securing water for municipalities; and, improving watershed health. Congress can help by supporting basin-wide collaborative groups and working with local stakeholders where new authorizations may be needed; but ultimately the solutions lie elsewhere, with leadership from within a basin from the people working and living there to uncover their mutual benefits that outweigh their points of conflict in order to balance the three legs of the stool. .

It is through this lens of our deeply-held experience with watershed-scale solutions that TU offers the following comments on S. 2533 and S. 2902. We highlight positive concepts and identifying areas of concern for your consideration as the Subcommittee continues its work on this important and complex topic of building drought resiliency in the West.

### **II. Positive Concepts in S. 2533, S. 2902 and Senator Cantwell's White Paper**

#### **A. Senator Cantwell's White Paper: *A National Policy Framework to Address Drought and Water Security in the United States* (March 22, 2016)**

TU's experience in developing an intact watershed process to grapple with water scarcity issues across a range of scales is reflected in the architecture of Senator Cantwell's Drought and Water Security White Paper. In it are the key federal elements to support successful efforts to create durable conservation and water security outcomes: support for collaborative, watershed-scale solutions; bringing financing to these solutions based on streamlined federal funding and public-private partnerships; using and advancing the best science, technology, and tools applied to water management; and recognizing that these watershed-scale, locally-driven solutions require the development of a portfolio of projects addressing watershed and flow restoration, reliability of irrigation water supply, and security of municipal water supply. As these concepts are expressed through legislation, TU looks forward to supporting them with our track-record of how they provide a path forward in even difficult and controversial water-scarcity conflicts.

#### **B. S. 2533, the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act ("S. 2533")**

TU supports WaterSMART as an important part of bringing federal funding to watershed-based solutions to water scarcity, as illustrated by TU's work in the Sun River basin in Montana. TU appreciates Senator Feinstein's leadership in highlighting how WaterSMART can provide key incentives to creating benefits across the three legs of the drought-resilience stool through projects that provide multiple benefits. Section 101 of S. 2533 adds new authority for WaterSMART projects that are water-management improvement projects. Section 101 directs a strong prioritization for funding projects that use integrated water management on a watershed scale (including water re-use or water recycling as an example), while simultaneously creating benefits to fisheries and fresh-water ecosystems and benefits to agricultural and urban water users. This prioritization of WaterSMART water-management projects that create multiple,

simultaneous benefits across the ecological, agricultural, and municipal sectors is an important part of the path forward in solving water scarcity problems.

As the Committee considers new authorities, we encourage you to make sure that they complement existing federal programs thereby ensuring streamlined funding so that each dollar can be stretched as far as possible.

TU also supports section 124 that authorizes the EPA to continue to carry out the voluntary program known as the “WaterSense Program” to identify and promote water-efficient products for consumers, similar to the popular Energy Star program.

Section 508, which requires the Secretary of the Interior to establish and maintain an open water data system, is an important component of successful watershed-based planning efforts. Accessible and accurate information about water use and river and stream flows is essential to improving water management at the basin-scale. Finally, we appreciate Senator Feinstein’s efforts to promote habitat restoration and water recycling embedded as reoccurring themes throughout S. 2533.

**C. S. 2902, the Western Water Supply and Planning Enhancement Act of 2016 (“S. 2902”).**

TU supports the concepts behind section 101 titled “Reservoir Operation Improvement.” It is our understanding that similar language recently passed the Senate as part of S. 2012, the “Energy Policy Modernization Act of 2016” (the Energy bill). Moreover, a comparable provision was included in the Water Resources Development Act of 2016, a bill that was recently reported by the Senate Committee on Environment and Public Works. Section 101 focuses on the fact that many water control manuals, which include the operations rules for reservoirs, are out of date and provides authority for both the Bureau of Reclamation and the Army Corps of Engineers to carry out pilot projects to implement revisions of water operations manuals based on the best available science. We support efforts to direct the agencies to begin the process of updating and revising water operations manuals.

We also support Title I, Subtitle C, titled, “the Reclamation Transparency Act.” A similar provision was included in S. 2012, the Energy bill, that recently passed the Senate. This subtitle requires the Bureau of Reclamation to assess the maintenance needs of its facilities, develop a ranking system to prioritize the rehabilitation needs of facilities that it operates, and work with nonfederal partners that have taken over the operation of other facilities to develop similar systems for those facilities that need rehabilitation.

Much of Reclamation’s infrastructure was constructed more than 50 years ago and maintaining aging infrastructure remains an ongoing challenge for the agency. We appreciate the direction provided in this subtitle to provide more detailed information to Congress and the public on Reclamation’s ongoing activities in this area.

**III. Areas of Concern in S. 2902 and S. 2533**

**A. Title II of S. 2902**

Trout Unlimited opposes Title II of S. 2902, the “Water Rights Protection Act,” which contains similar language included in S. 982. Simply put, the language of this title will jeopardize the ability of federal resource agencies to condition federal permits and apply for state water rights needed to protect valuable fisheries.

A key part of drought resiliency is protecting headwater flows on federal lands. For years, TU has worked with the Forest Service and other stakeholders to protect instream flows on National Forests. Federal land managers have an important role to play in protecting streams—under the authority of the Property Clause of the Constitution, Section 505 of the Federal Land Policy and Management Act,

provisions of the Federal Power Act, and other authorities—and they also have a responsibility to work with their stakeholders and the states to do it right. Provisions of this title would harm the ability of federal land managers to use these authorities to protect the nation’s headwaters on federal lands.

In June 2015, Reclamation testified that S. 982 “threatens the Federal Government’s longstanding authority to manage federal lands and associated water resources, uphold proprietary rights for the benefit of Indian tribes, and ensure the proper management of public lands and resources.” Moreover, Reclamation stated that “[t]he legislation is overly broad, drafted in ambiguous terms, and likely to have numerous unintended consequences that would have adverse effects on existing law, tribal water rights, and voluntary agreements.”

**B. Subtitle D and Subtitle E of Title I - S. 2902**

TU does not support Subtitle D and Subtitle E of Title I because they do not work toward broad-based, collaborative solutions to water scarcity. As described in our experience in the Yakima and Klamath basins, new storage is best planned and carried out in a multi-stakeholder, basin-wide process that considers a variety of alternatives.

Rather than encouraging cooperative stakeholder processes or providing funding to catalyze cooperative solutions, Subtitle D deems the Bureau of Reclamation to be the lead agency for all environmental reviews and permits notwithstanding existing roles of agencies such as the Fish and Wildlife Service in carrying out laws including the Fish and Wildlife Coordination Act. This subtitle also requires specified deadlines to be met for consulting with cooperating agencies, completing environmental reviews, and determining project schedules. Reclamation has testified to the fact that there have been no examples of any Reclamation or USDA-sited surface water storage projects that have been denied construction because of delays associated with project reviews or shortcomings in communication among Reclamation, USDA, or any other state or federal partners.

Subtitle E requires that Reclamation complete project studies in three years at a cost of not more than \$3 million, and imposes financial penalties for agencies that fail to meet specified deadlines. As mentioned above, Reclamation has testified that there are no examples of any Reclamation surface water storage projects that have been denied construction because of delays associated with project review or permitting. Moreover, in October 2015, Deputy Secretary of the Interior Michael Connor testified that “[c]onstraining or circumventing project environmental reviews and permits impedes the opportunity to consider alternatives with potential impacts on communities and the environment which may be less adverse.”

**C. Section 112 of S. 2533.**

Section 112 grants West-wide authority to construct those storage projects whose feasibility studies are completed within the next five years, or by 2021. While section 112 is primarily aimed at new California storage, TU opposes the broad language of section 112 for three reasons. First, TU firmly believes that new storage should be evaluated and carried out in a multi-stakeholder, basin-wide process that considers a variety of alternatives. The broad authority in section 112 could undermine such collaborative processes. Second, TU strongly opposes raising Shasta Dam because it would inundate even more of the McCloud, Sacramento, and Pit Rivers. TU members value these rivers immensely and oppose any additional harm to them. Section 112 would make it easier to raise Shasta Dam. Finally, although the scope of section 112 is currently limited to those storage projects that pass through feasibility studies within the next five years, this time limitation could be extended to expand authorization for new storage to the detriment of collaborative, watershed-driven solutions.

**D. Title III, S. 2533.**

Title III of S. 2533 includes a number of provisions instructing the Secretary to provide the “maximum quantity of water supplies” practicable to Central Valley Project agricultural, municipal, and industrial contractors, water service or repayment contractors. In October 2015, Deputy Secretary of the Interior Michael Connor testified that, “It is already Reclamation’s practice, working closely with other federal and state agencies, as well as stakeholders, to provide maximum contract quantities when hydrology and operational constraints allow.” He went on to state that “there are significant potential legal uncertainties associated with a ‘maximum quantity of water supplies practicable’ standard written into law which could readily generate litigation for the state and federal governments.”

TU is concerned that this title could interfere with Reclamation’s ability to manage the Central Valley Project to meet the needs of other water users and communities that depend on fisheries. Legislatively designating some sets of water users as higher priorities than others seems likely to perpetuate, rather than move past, water wars and to fuel more litigation and conflict. While the debate centers on California, many sport and commercial fishing businesses along the length of the Pacific coast are concerned that actions taken in the Central Valley may adversely impact fisheries in their States. While TU appreciates Senator Feinstein’s attempt to develop legislative answers to hotly-contested issues, we believe solutions for California’s Central Valley will have to come from the people who live and work in the region, working with creativity and collaboration to find solutions at points of conflict.

**IV. Conclusion**

Trout Unlimited is deeply invested in working with partners, regulators, and policymakers to identify and implement constructive and collaborative solutions to mitigate the impacts of drought on fisheries, economies, and communities throughout the West. As such, we recommend that Congress should encourage cooperative stakeholder processes and provide adequate funding for cost-effective programs that catalyze cooperative solutions, such as key Farm Bill conservation programs, and the Bureau of Reclamation’s competitive grant and basin study programs.

TU appreciates the attention given by this Subcommittee to this critical topic and I thank you for the opportunity to testify today. I am pleased to answer any questions you have at this time.

Senator FLAKE. Thank you. Thank you all for your testimony. I am sorry for the confusion here, as one has to go and vote and another comes back. We have one more vote, which I will need to go take in a few minutes. But hopefully, Senator Gardner will come back and we can continue with questions.

I have a letter here from the Western Governors' Association signed by Governor Mead of Wyoming, Governor Bullock of Montana, the association's chair and vice chair, respectively. The Western Governors' Association believes that a comprehensive West-wide response to drought and water security is needed and asks the Committee to develop such legislation.

So I ask unanimous consent that the letter be included in the record, without objection, I guess.

[The information referred to follows:]



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May 13, 2016

Honorable Lisa Murkowski  
Chairman  
Committee on Energy and Natural Resources  
United States Senate  
304 Dirksen Senate Office Building  
Washington, D.C. 20510

Honorable Maria Cantwell  
Ranking Member  
Committee on Energy and Natural Resources  
United States Senate  
304 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

On behalf of the Western Governors' Association (WGA), we commend the U.S. Senate Energy and Natural Resources Committee on scheduling a hearing to discuss pending western drought legislation. Western Governors believe a comprehensive, west-wide response to drought and water security is needed. We ask that this letter be included in the May 17, 2016 hearing record.

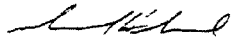
Severe drought conditions have negatively affected large areas of the West. Nineteen western states are experiencing water shortages because of extended drought. The challenge is clearly diverse in implication and region-wide in scope. Challenges such as infrastructure financing, enhancing water supplies, averting economic and environmental harm, and maintaining food security must be met.

Our letter of November 24, 2015 (attached and incorporated by reference) contained recommended solutions consistent with WGA policies.

Honorable Lisa Murkowski  
Honorable Maria Cantwell  
May 13, 2016  
Page 2

We encourage the Committee to develop comprehensive west-wide drought relief legislation. We appreciate your efforts and offer our support for bipartisan solutions that help all western states address drought and its effects.

Sincerely,



Matthew H. Mead  
Governor of Wyoming  
Chairman, WGA



Steve Bullock  
Governor of Montana  
Vice Chair, WGA

cc: Members, Senate Committee on Energy and Natural Resources





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November 24, 2015

Honorable Lisa Murkowski  
Chairman  
Senate Committee on Energy and Natural Resources  
304 Dirksen Senate Office Building  
Washington, D.C. 20510

Honorable Maria Cantwell  
Ranking Member  
Senate Committee on Energy and Natural Resources  
304 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

On behalf of the Western Governors' Association (WGA), we commend the Senate Energy and Natural Resources Committee for its efforts to craft comprehensive, Western drought legislation. The Committee's October 8, 2015 hearing on Western and Alaska Water Legislation highlighted severe drought conditions impacting the West, proposals to address drought impact and the need for a unified response. We write to convey the position of Western Governors on water resources management.

At the Committee's recent hearing, Chairwoman Murkowski requested "out-of-the-box suggestions" to address the drought, seeking creative cost-effective solutions given constrained federal budgets. Ranking Member Cantwell sought, "solutions that take an integrated and basin-scale approach... that take into account all needs within a watershed [and] are locally-driven solutions – collaborative and consensus-based." WGA is a resource for you as you undertake water legislation.

Seventeen Bureau of Reclamation states, Hawaii and Alaska are impacted by water shortages because of extended drought conditions and insufficient infrastructure to assure adequate water supplies. This challenge has both regional and national aspects, including how best to meet the need for efficient infrastructure financing to maintain and enhance adequate water supplies, avert further economic and environmental harm, and maintain food security.

Last year, Nevada Governor Brian Sandoval initiated the "Western Governors' Drought Forum." This was a mechanism for states to share best practices in water resource management and focused on improving drought preparedness and response. The forum identified federal water policy and resource needs.

Honorable Lisa Murkowski  
 Honorable Maria Cantwell  
 November 24, 2015  
 Page 2

Consistent with the attached WGA Policy Resolution 2015-08 (*Water Resource Management in the West*), we are pleased to communicate policy solutions for the Committee to consider. Solutions include:

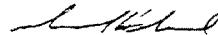
- Providing incentives for innovative water management policies among states (with federal, tribal and local partners) that preserve states' primacy in water management, recognize state law, and align with the financial, environmental and social values of water to Western citizens today and in the future;
- Strengthening federal efforts to maintain adequate collection of drought and water data;
- Coordinating information programs across multiple agencies, enhancing data networks (where appropriate) and facilitating better use of existing information; and
- Promoting greater investment in water infrastructure through tools such as loan guarantees, revolving funds, infrastructure banks, and water trust funds.

Among other things, we propose the creation of a budget neutral federal loan program that will make it possible for Western states, and other concerned public and private entities in western states, to secure financing on reasonable terms to complete important water resources management projects. Such investment should be accompanied by dedicated sources of funding with appropriate financing, cost-sharing, pricing and cost recovery policies.

Additionally, Western Governors encourage Congress to authorize federal agencies to provide resources and technical support to assist states in implementing state plans designed to provide water for municipal, rural, agricultural, industrial, and habitat needs.

We appreciate the Committee's efforts and offer again our support for bipartisan solutions that help states meet drought impacts throughout the West.

Sincerely,



Matthew H. Mead  
 Governor of Wyoming  
 Chairman, WGA



Steve Bullock  
 Governor of Montana  
 Vice Chair, WGA

Attachment

cc: Members, Senate Committee on Energy and Natural Resources



**Western Governors' Association  
Policy Resolution 2015 - 08**

*Water Resource Management in the West*

**A. BACKGROUND**

1. Water is a crucial resource for communities, industries, habitats, farms, and Western states. Clean, reliable water supplies are essential to maintain and improve quality of life. The scarce nature of water in much of the West makes it particularly important to our states.
2. States are the primary authority for allocating, administering, protecting, and developing water resources, and they are primarily responsible for water supply planning within their boundaries. States have the ultimate say in the management of their water resources and are best suited to speak to the unique nature of Western water law and hydrology.
3. Many communities in the West anticipate challenges in meeting future water demands. Supplies are nearly fully allocated in many basins across the West, and increased demand from population growth, economic development, and extreme weather and fire events places added stress on those limited water resources. Sustainability of our natural resources, specifically water, is imperative to the foundations upon which the West was developed. Growth and development can only continue upon our recognition of continued state stewardship of our unique resources and corresponding responsibilities.
4. Strong state, regional and national economies require reliable deliveries of good-quality water, which in turn depend on adequate infrastructure for water and wastewater. Investments in water infrastructure also provide jobs and a foundation for long-term economic growth in communities throughout the West. Repairs to aging infrastructure are costly and often subject to postponement.
5. Western Governors recognize the essential role of partnership with federal agencies in Western water management and hope to continue the tradition of collaboration between the states and federal agencies.
6. Tribal governments and Western states also share common water resource management challenges. The Western Governors Association and Western States Water Council have had a long and productive partnership with tribes, working to resolve water rights claims.

**B. GOVERNORS' POLICY STATEMENT**

1. **State Primacy in Water Management:** As the preeminent authority on water management within their boundaries, states have the right to develop, use, control and distribute the surface water and groundwater located within their boundaries, subject to international treaties and interstate agreements and judicial decrees.

- a. **Federal Recognition of State Authority:** The federal government has long recognized the right to use water as determined under the laws of the various states; Western Governors value their partnerships with federal agencies as they operate under this established legal framework.

While the Western Governors acknowledge the important role of federal laws such as the Clean Water Act, the Endangered Species Act and the Safe Drinking Water Act, nothing in any act of Congress or Executive Branch regulatory action should be construed as affecting or intending to affect states' primacy over the allocation and administration of their water resources.

Reauthorization of the Water Resources Reform & Development Act, proposed federal surplus water rulemakings, and/or storage reallocation studies should recognize and defer to the states' legal right to allocate, develop, use, control, and distribute their waters, including but not limited to state storage and use requirements.

- b. **Managing State Waters for Environmental Purposes:** States and federal agencies should coordinate efforts to avoid, to the extent possible, the listing of water-dependent species under the Endangered Species Act (ESA). When ESA listings cannot be avoided, parties should promote the use of existing state tools, such as state conservation plans and in-stream flow protections, to conserve and recover species.

2. **Infrastructure Needs:** Aging infrastructure for existing water and wastewater facilities and the need for additional water projects cannot be ignored. Infrastructure investments are essential to our nation's continued economic prosperity and environmental protection, and they assist states in meeting federally-mandated standards.

- a. **Federal Support for Infrastructure Investment:** Congress should provide adequate support for the Clean Water Act (CWA) and Safe Drinking Water Act (SDWA) State Revolving Funds. Further, Congress should fully utilize the receipts accruing to the Reclamation Fund for their intended purpose in the continuing conservation, development and wise use of western resources to meet Western water-related

needs, including the construction of Congressionally-authorized Bureau of Reclamation rural water projects and facilities that are part of a Congressionally-authorized Indian water rights settlement.

Congress should reauthorize Water Resources Reform & Development Act (WRRDA) legislation on a regular schedule and appropriate funding so all projects and studies authorized in WRRDA can be completed in a timely manner.

Congress also should consider facilitating greater investment in water infrastructure, utilizing such tools as loan guarantees, revolving funds, infrastructure banks and water trust funds.

Capital budgeting and asset management principles should be used to determine funding priorities based on long-term sustainability and not annual incremental spending choices. It should be accompanied by dedicated sources of funding with appropriate financing, cost-sharing, pricing and cost recovery policies.

- b. **Alternatives to Direct Federal Investment:** Federal and state policymakers should also consider other tools to promote investment in water infrastructure and reduce financing costs, including: public-private partnerships; bond insurance; risk pooling; and credit enhancements.

Congress should remove the state volume caps for private activity bonds used for water and wastewater projects, provide guaranteed tax-exempt status for bonds issued by state or local agencies to finance water infrastructure, provide loan guarantees, and otherwise support and encourage alternatives to direct federal investment of limited general funds.

- c. **Hydropower:** Congress and the Administration should authorize and implement appropriate hydropower projects and programs through efficient permitting processes that enhance renewable electric generation capacity and promote economic development, while ensuring protection of important environmental resources and indigenous people's rights.
- d. **Infrastructure Planning and Permitting:** Infrastructure planning and permitting guidelines, rules and regulations should be coordinated, streamlined and sufficiently flexible to: 1) allow for timely decision-making in the design, financing and construction of needed infrastructure; 2) account for regional differences; 3) balance economic and environmental considerations; and 4) minimize the cost of compliance.

- 3. **Western States Require Innovative and Integrated Water Management.** Western Governors believe effective solutions to water resource challenges require an integrated

approach among states and with federal, tribal and local partners. Federal investments should assist states in implementing state water plans designed to provide water for municipal, rural, agricultural, industrial and habitat needs, and should provide financial and technical support for development of watershed and river basin water management plans when requested by states.

Integrated water management planning should also account for flood control, water quality protection, and regional water supply systems. Water resource planning must occur within a framework that preserves states' authority to manage water through policies which recognize state law and the financial, environmental and social values of the water resource to citizens of the western states today and in the future.

- a. **Water Transfers:** Western Governors recognize the potential benefits of market-based water transfers, meaning voluntary sales or leases of water rights. The Governors support water transfers that avoid or mitigate damages to agricultural economies and communities while preventing injury to other water rights, water quality and the environment.
- b. **Energy Development:** Western Governors recognize that energy development and electricity generation may create new water demands. Western Governors recommend increased coordination across the energy and water management communities, and support ongoing work to assess the interconnection of energy and water through the Regional Transmission Expansion Planning Project for the Western interconnection and similar efforts.
- c. **Conservation and Efficiency:** Because of diminished water resources and declining and inconsistent snowpack, Western Governors encourage adoption of strategies to sustain water resources and extend existing water supplies further through water conservation, water reuse and recycling, desalination and reclamation of brackish waters, and reductions in *per capita* water use. The Governors encourage the use of and research into promising water-saving strategies.
- d. **Local Watershed Planning:** Western Governors encourage federal agencies and Congress to provide resources such as technical support to states and local watershed groups. States may empower these watershed groups to address local water issues associated with water quality, growth and land management to complement state water needs.
- e. **Intergovernmental Collaboration and Conflict Resolution:** Western Governors support the negotiated settlement of interstate water disputes, Indian and Hawaiian water rights claims, and other federal water needs and claims, the settlement of which are in the best interest of Western states.

- f. **State-Federal Coordination:** Western Governors recognize the important role of federal agencies in advancing sound water resource management in the Western states. Governors appreciate the efforts of federal agencies to coordinate water-related activities, particularly through the Western States Water Council, and support the continuation of these key state-federal partnerships.
4. **Western States Need Reliable Water Resource Information:** Basic information on the status, trends and projections of water resource availability is essential to sound water management.
- a. **Basic Water Data:** Western Governors support the U.S. Geological Survey's Cooperative Water Program and National Streamflow Information Program (NSIP), the Natural Resources Conservation Service's Snow Survey and Water Supply Forecasting Program, the National Oceanic and Atmospheric Administration's (NOAA) weather and hydrology-related data collection, monitoring, and drought information programs, and the National Aeronautics and Space Administration's National Land Imaging (Landsat) Program with its thermal infrared sensor. Western Governors support federal efforts to coordinate water data gathering and information programs across multiple agencies.
  - b. **Extreme Weather Events Planning:** Western Governors recognize the significant potential impacts of extreme weather events and variability in water supplies. Western Governors urge Congress and the Administration to work closely with states and other resource managers to improve predictive and adaptive capabilities for extreme weather variability and related impacts. We specifically urge the federal government to place a priority on improving the sub-seasonal and seasonal precipitation forecasting capabilities that could support water management decision-making.
  - c. **Water Data Exchange:** The Western Governors' Association and the Western States Water Council have worked together to create the Water Data Exchange, an online portal that will enable states to share their water data with each other, federal agencies, and the public via a common platform. The Governors encourage the use of state water data in planning for both the public and private sectors.
5. **Drought Preparedness and Response:** As exceptional levels of drought persist across the West, Governors are leading on drought preparedness and response through the Western Governors' Drought Forum. The Drought Forum provides a framework for leaders from states, businesses, non-profits, communities, research organizations and federal agencies to share best practices and identify policy options for drought management. The Governors have identified several areas in need of additional attention from Drought Forum partners, including:

- a. **Data and Analysis:** Basic data on snowpack, streamflow and soil moisture is essential to understanding drought. Though a great deal of information already exists, enhanced drought data collection and real-time analysis at a higher resolution is essential. Governors support state and federal efforts to maintain adequate collection of drought and water data, enhance data networks where appropriate, and facilitate better use of existing information.

The Governors appreciate the collaborative efforts on drought provided through NOAA's National Weather Service River Forecast Centers and Weather Forecast Offices, and the Office of Atmospheric Research's labs and programs, such as the National Integrated Drought Information System (NIDIS).

- b. **Produced, Reused and Brackish Water:** Technology exists to use produced, reused, recycled and brackish water—sources traditionally considered to be marginal or wastewater. Adoption of this technology has been limited by inadequate data, regulatory obstacles, financial barriers, public attitudes and logistical uncertainties. Governors support regulatory streamlining and policy options to encourage use of produced, brackish, and re-used water where appropriate.
- c. **Forest Health and Soil Stewardship:** Better land management practices for forests and farmland may help improve availability and soil moisture retention. Wildfires can cause sediment runoff in water systems, leading to problems for reservoir management and water quality. Governors support policies and practices that encourage healthy and resilient forests and soils in order to make the most of existing water supplies.
- d. **Water Use Efficiency and Conservation:** Public awareness of drought has directed increasing attention to water conservation strategies, both in-home and on-farm. Governors encourage municipal, industrial and agricultural water conservation strategies as drought management strategy.
- e. **Infrastructure and Investment:** Water infrastructure to store and convey water is crucial to drought management, but maintenance and expansion of that infrastructure is often difficult to fund. Governors support efforts to make the most of existing infrastructure, while seeking creative solutions to add more infrastructure with limited resources.
- f. **Working within Institutional Frameworks to Manage Drought:** Legal frameworks and regulatory regimes can sometimes limit the ability of state, local and federal agencies to respond quickly to drought conditions. Governors believe that



innovative, flexible policy solutions, such as streamlined processing of temporary water transfers, should be considered when managing drought.

- g. **Communication and Collaboration:** Communication among state officials, federal agency representatives, water providers, agricultural users and citizens is a crucial component of effective drought response. The Western Governors' Drought Forum will continue to provide a framework for sharing best practices through its online resource library, informational webinars, and strategy-sharing meetings for the duration of this resolution.

**C. GOVERNORS' MANAGEMENT DIRECTIVE**

1. The Governors direct the WGA staff, where appropriate, to work with Congressional committees of jurisdiction and the Executive Branch to achieve the objectives of this resolution including funding, subject to the appropriation process, based on a prioritization of needs.
2. Furthermore, the Governors direct WGA staff to develop, as appropriate and timely, detailed annual work plans to advance the policy positions and goals contained in this resolution. Those work plans shall be presented to, and approved by, Western Governors prior to implementation. WGA staff shall keep the Governors informed, on a regular basis, of their progress in implementing approved annual work plans.

*Western Governors enact new policy resolutions and amend existing resolutions on a bi-annual basis. Please consult [westgov.org/policies](http://westgov.org/policies) for the most current copy of a resolution and a list of all current WGA policy resolutions.*

Senator FLAKE. It is good to be king.

[Laughter.]

Before I move to some questions, I want to convey my thanks to Commissioner Lopez for his leadership with the Bureau of Reclamation, the ongoing work in implementing the system conservation plan, and for developing the Colorado River Drought Contingency Plan. I expressed this thanks to Secretary Jewell when she was in front of this Committee earlier this year, but I wanted to convey my gratitude to you personally. Thank you.

It is great to have Tom Buschatzke here. I appreciate you making the trip. Thank you for your work in putting together priorities for Arizona and for working so hard on water issues there.

S. 2902 and S. 2907 both expand on one of the voluntary programs to conserve water in Lake Mead that you talked about. It seems clear that the Colorado River Water Conservation Program has been successful and ought to be extended in whatever drought legislation emerges from this Committee.

I ask that you please explain the different programs that already exist, and those that are in the works, to create this so-called system water in Lake Mead. Who participates in them? Who funds them? How do they differ?

Mr. BUSCHATZKE. Yes, Senator Flake. There are a couple of programs that I want to highlight.

The first is a Memorandum of Understanding (MOU) that was entered into between the Metropolitan Water District of Southern California, the Central Arizona Project, the Southern Nevada Water Authority, the U.S. Bureau of Reclamation, and the states of Arizona, California, and Nevada. Volumes of water in the amount of 740,000 acre-feet are the goal of the MOU. It is a best-efforts program. Each one of the states through their water users has a piece of that 740,000 acre-feet for them to try to achieve. That 740,000 acre-feet has been shown through modeling to severely reduce the risk of having Lake Mead fall to unhealthy elevations.

Within Arizona, there have been reductions through that program of 165,000 acre-feet of water dedicated to the system, water that is system conservation water by the end of 2016 and another 215,000 acre-feet by the end of 2016 for intentionally created surplus water that is labeled in the name of the creator for later recovery out of the lake. The total cost of those two programs for Arizona through the Central Arizona Project was about \$8 million.

The other program, you mentioned it already, is the Pilot System Conservation Program. That again was funded by Metropolitan, CAP, Southern Nevada Water Authority, Denver Water, and the U.S. Bureau of Reclamation, originally for an \$11 million fund. Recently, the Central Arizona Project put another \$1 million into that fund. That attempts to achieve system conservation savings in the Lower Basin using about two-thirds of that money, and in the Upper Basin using about one-third of that money. In the Lower Basin, we expect to achieve savings of 60,000 acre-feet, and in the Upper Basin, about 10,000 acre-feet.

Many of those programs have had contracts entered into, and those contracts are being implemented, and the savings will occur over some number of years.

Senator FLAKE. Thank you. You mentioned in your testimony that some of the water users would rather water bank rather than leave it behind the dam. What assurances do they need before they feel comfortable leaving it behind the dam?

Mr. BUSCHATZKE. Senator Flake, under the MOU and under the Pilot System Conservation agreements, we do have provisions that are kind of gentlemen's agreements to leave that water in the lake. As I mentioned in my statement, the Secretary of Interior has chosen to do that.

But I think to quell the debate in Arizona about whether to leave that water in the lake or put it in our aquifers under our control, we need more certainty that the water will stay there. We need the provisions of S. 2902 that do that. We need to make sure that those provisions are enforceable, so that we have the comfort we need to make sure that we are getting the benefit of the bargain for that water.

Senator FLAKE. All right, thank you.

Commissioner Lopez, I was encouraged to hear the Bureau of Reclamation committed an additional \$5 million to the Colorado River System Conservation Pilot Project in 2016. Based on the previous year's experience, how much additional Lake Mead protection volume do you anticipate that this year's funding will help to create?

Mr. LOPEZ. Senator, thank you for the question.

You are correct. We have allocated \$5 million for system conservation projects and of that \$3.5 million to the Lower Basin and \$1.5 million to the Upper Basin.

Perhaps the best way to answer your question is to consider what was saved from the last phase, where, as Director Buschatzke just mentioned, combined funding was something on the order of \$11 million. We were able to acquire about 63,000 acre-feet in the Lower Basin using about \$8 million, and in the Upper Basin, we conserved something on the order of about 3,300 acre-feet using the remainder, about \$2.75 million. So that gives you some sense of what we have been able to accomplish so far.

With the \$5 million that we have put up for this year, we hope to get additional non-federal contributions to match that. As Director Buschatzke has mentioned, the CAP has already put up some money, as I think California has as well. But we are hopeful that others will match that as well.

Senator FLAKE. All right, thank you.

Ms. Weldon, the Subcommittee received testimony on S. 982, the Water Rights Protection Act, last June. The language included in S. 2902 reflects a number of changes that were made based on testimony from that hearing.

I understand that your testimony states that, "USDA has not had time to fully analyze the effect of this bill," and that the USDA's concern is with the prohibitions that would regulate uses of National Forest System lands. I believe the modified language incorporated in S. 2902 addresses these concerns and only limits a state water right, leaving land management decisions untouched.

The question is, will you please commit to work with my office and highlight for us particular areas of concern in the legislation

that might prohibit the regulation of Forest Service land use, what concerns you about it?

Ms. WELDON. Thank you, Senator Flake.

We would be very happy to work with you and your staff to look at the changes that have been made. The overall concern would be if there were any provisions in the bill that would somehow reduce the ability for the Secretary and for the Forest Service to ensure that, as land use authorizations are occurring, they are being done in a way that protects water rights, but also ensures availability of water for a diversity of uses. So we would be happy to continue working with you and your staff on the language and the changes with this bill.

Senator FLAKE. Thank you.

Mr. Buschatzke, I have heard from a number of communities up and down the Gila River about the tamarisk problem that you mentioned. Can you talk a little more from what you did in your testimony about the challenges that the state faces from this invasive plant?

Mr. BUSCHATZKE. Yes, Senator Flake.

I think, as we heard from Senator McCain, there is great potential for water savings from salvage of removing tamarisk and replanting with riparian vegetation. I think the basin study, the Colorado River Basin Supply and Demand Study, uses a number of about 0.54 acre-feet per acre doing that salvage. I think additional study needs to be done to solidify that number.

Some of the challenges of removing that tamarisk along with the Gila River are there are at least three species of birds—the Southwestern Willow Flycatcher, the Yellow-Billed Cuckoo, and the Yuma Clapper Rail—that are in danger that live in the tamarisk along the Gila River. Some of that tamarisk is also designated as critical habitat for that and other species, so removing it creates issues under the Endangered Species Act. We have Corps of Engineers 404 permitting issues as well. Then generally, in Arizona, with as much federal land as we have, the feds have an obligation to protect species, but often do not have the funding to really do some of the things that would help those species out. So lastly, we know that the tamarisk chokes our channels and creates additional flooding. It also limits the ability to use the channel to move water around Arizona. Under Arizona law, you can use a riverbed to transport water and keep your name on that water, so to speak.

So we have lots of challenges, but a study that is in S. 2902 might help create some methods moving forward to deal with some of these issues. I think there is some great potential there for Arizona to increase its water supplies through tamarisk control.

Senator FLAKE. All right, thank you. I toured around Safford and Thatcher a while ago, and it is unbelievable how thick tamarisk is in the Gila there. It just makes it completely impassable, so it is a lot of work that needs to be done there.

Mr. Lopez, as Tom Buschatzke said, one of Arizona's planning successes has been the ability to store water, millions of acre-feet, underground. Last month, I toured a facility around Tucson storing Colorado River water. With the threat of storage declaration looming and the ability to recover and transport this stored groundwater that is critical, obviously, to Arizona's water future, I wanted

to thank the Bureau for your ongoing work with CAP and the system use agreement that allows the kind of wheeling to happen.

Can you give an update on the status of finalizing the system use agreement, including tribal consultation?

Mr. LOPEZ. Senator Flake, I am not certain of the exact status of that. I know that there is a lot of work going on with it, including the consultation that you are talking about. Our regional staff is meeting with tribes and with CAP and working on those things, but I can try to find the exact status of it and submit it for the record, if you would like.

Senator FLAKE. That would be helpful.

Mr. LOPEZ. Senator Flake, I am assuming that you are referring to the wheeling agreements, correct?

Senator FLAKE. Yes, I am.

Mr. LOPEZ. Okay.

Senator FLAKE. Thank you.

Mr. Keppen, your testimony makes some comparisons between the various approaches taken in the different Colorado drought bills and their relative effectiveness in getting additional water to farmers.

Can you explain the relative effectiveness of S. 1894 and S. 2533 and H.R. 2898, particularly with regard to the guidance and flexibility that are provided to the agencies in each of these bills?

Mr. KEPPEL. Sure. Again, I think H.R. 2898, the House bill, probably would better assist our producers in the Central Valley Project in dealing with ESA restrictions on water deliveries. But again, the challenge is getting language that deals with the ESA through the Senate. So that is the challenge that I think remains here for us to reach agreement.

Senator FLAKE. Thank you.

Senator Gardner will take over while I vote. Thanks again.

Senator GARDNER [presiding]. I yield to Senator Daines for five minutes for questions.

Senator DAINES. Thank you. Thanks to all of you for appearing before the Committee, particularly Ms. Ziemer. It is always good to have Montanans here in Washington, DC. Welcome.

As we all know, water is a basic need of life. Despite this reality, there are still rural and tribal communities throughout Montana that face significant barriers to accessing clean and reliable sources of water. That is why I am proud to help introduce the Western Water Supply and Planning Enhancement Act that includes my provisions to authorize two critical rural water projects in Montana, the Dry-Redwater and the Musselshell-Judith Basin Projects, which would treat and deliver water to over 30,000 residents of central and eastern Montana and parts of North Dakota.

This bill also includes other important provisions, including the IRRIGATE Act which would help facilitate irrigation projects throughout Indian country and the Water Rights Protection Act which would prevent Federal agencies from requiring businesses or landowners to transfer their water rights in exchange for renewing a permit or lease to utilize public lands.

It is time the Federal Government fulfill its obligations and promises to Montana's rural communities and provide needed fund-

ing to ensure our rural water projects are completed and our water rights are protected.

A question for Ms. Weldon. Ms. Weldon, I understand you spent time in Missoula, Montana, where you served as the Regional Forester for the Forest Service Northern Region, so I am sure you know the issues regarding forest management and water quality in Montana communities.

The Forest Service has classified 134 watersheds in Montana as impaired, which is the most severe condition. We need to restore these watersheds. It is why I strongly support the provision in Senator Flake's legislation that provides new tools to swiftly implement watershed projects developed through a collaborative process. In fact, I urge the Administration to support these new tools.

I am further told by the Forest Service that there are currently five projects in Montana that are designed primarily to restore watersheds. Two of these projects have faced litigation. There are an additional four active lawsuits against projects that would enhance watersheds as a byproduct of the projects' integrated management. All of these projects were developed through a collaborative process.

I would like to highlight one that is literally in my backyard. It is the Bozeman Municipal Watershed Project. I went to Bozeman from kindergarten all the way through college. This project was conceived in 2005, more than a decade ago, by the Forest Service and collaborative stakeholders working together, but it has been tied up in litigation now for years and was enjoined since 2013.

Ms. Weldon, when a project is enjoined, that means work on the ground must stop. Is that right?

Ms. WELDON. That is correct.

Senator DAINES. What impacts can a delay in implementing a project have on the condition of an impaired watershed?

Ms. WELDON. Thank you for your question, Senator Daines.

I was actually able to walk the ground where this project is, the Bozeman Municipal Watershed Project, and understand the conditions that are faced there, the need for us to reduce the risk of losing portions of that watershed to wildfire and subsequent effects downstream for water quality and quantity.

So when a project gets enjoined and must be stopped, what happens is that the good, collaborative agreement around the need and value for this restoration work to be done to protect water is delayed. Each summer, each season, we face the risk of increasing insect and disease infestation, and the continuing decline of condition and, of course, the threat of wildfire. One wildfire in an area where we have made the investment and have a good public support for doing this work can nullify that and increase the impacts to citizens to get clean water and the work that needs to be done to put those landscapes back together to have clean water again in the future. So the delays are a significant problem when we know that the work we would invest in would make a difference.

Senator DAINES. We have had some fires recently that had it not been for maybe a wind change and so forth, we could have come through that watershed. In fact, we are the fastest growing county in Montana, Montana State University has 14,000 students in addition to 35,000 residents of Bozeman.

As I have noted these watershed-impacted lawsuits are made in Montana. They are working against made-in-Montana collaborative projects. I am a champion of collaboration, but I think you recognize it has not been a cure-all. The collaborative process has not been a cure-all to avoiding litigation in Montana, and we need to strengthen them.

Ms. WELDON. Yes, I would say that collaboration does not prevent lawsuits but it changes the playing field.

As our witness from Trout Unlimited said, the value of bringing people together around what is important and around the value of watersheds and forests is making a difference. And we are finding that, even as we have challenges, we have been better able to resolve them, working through collaboratives, than without having them.

Senator DAINES. I am a big supporter of incentivizing collaboratives. We are seeing it is absolutely a step in the right direction. It just has been insufficient at times. It is not the absolute cure-all. We need to continue to work here on stopping some of this litigation that stops good, made-in-Montana collaborative projects.

Thank you very much for your testimony.

Ms. WELDON. Thank you.

Senator GARDNER. Thank you, Senator Daines. Again, thank you to all of you for being here today.

Mr. Long, thank you very much for coming all the way from Colorado to serve on the panel today and for your testimony. Bill has worked with the Southeast Colorado Water Conservancy District for over a decade and serves as the President for the Southeast Colorado Water Conservancy District, a County Commissioner from Bent County, and a business owner in Bent County. I appreciate the work you have done with Fort Lyon to facilitate opportunities for treatment to our veterans and a number of the other policies and issues that you have taken up in southeastern Colorado, and particularly the Arkansas Valley Conduit, which you are going to discuss today and have discussed today.

For the information of the members of the Committee and those here, the Arkansas Valley Conduit, as Mr. Long eloquently stated, is a water project that will allow for the delivery of clean, abundant, affordable water to southeastern Colorado's rural communities. It is the final major component of the Fryingpan-Arkansas Project which was first authorized under John F. Kennedy in the 1960s.

In fiscal year 2016, \$2.5 million was appropriated for the project. In fiscal year 2017, the Senate Energy and Water Development Appropriations legislation contained an additional \$3 million for the project.

You have outlined a number of concerns with the drinking water in Southeast Colorado today. You mentioned water quality concerns, and you discussed the current status of the Arkansas Valley Conduit. Could you talk a little bit about the timeline moving forward, perhaps if this legislation passes and perhaps if it does not?

Mr. LONG. Regardless of this legislation, final feasibility will be complete September of this calendar year, 2016. Should this bill be approved and future funding come online as anticipated, final de-

sign and engineering will be complete in 2018 and construction could begin as early as fiscal year 2019.

Senator GARDNER. Very good. How would the passage of this legislation and continued federal investment in the project impact the timeline?

Mr. LONG. Senator Gardner, without this legislation, the miscellaneous revenues and the ability to partner with the State of Colorado, it will be very difficult for this very low-income area of Colorado to construct the project to meet federally-mandated water quality standards.

Senator GARDNER. Thank you, Mr. Long.

The federal interest in the project, if you could address that and why it is important for Congress and the Bureau of Reclamation to continue to invest in the conduit? I think you laid it out very clearly in your testimony.

Mr. LONG. We believe Congress has recognized the need for communities to meet federally-mandated water quality standards that protect public health, and we agree. The project will ensure that federal standards are met and safe water is provided to our residents.

It also will ensure that our wastewater streams that we are very challenged with right now are met as well, so it really takes care of a couple issues that are extremely challenging to virtually every community in the Lower Arkansas Valley.

Senator GARDNER. Thank you.

Again, I think this is part of the project authorized in the early 1960s under John F. Kennedy, and it is time we move forward on this bill.

I know that we have been working very closely with the Bureau of Reclamation. Deputy Secretary Mike Connor was here February 23rd and answered questions where he committed continued support of the Arkansas Valley Conduit. He also specifically stated that the concept laid out in the legislation that we are talking about today was a very good plan when it comes to the financing of the project.

So my question to Mr. Lopez, when the Bureau of Reclamation issued the record of decision on this project in 2014, did they find that this project was sound and should move forward?

Mr. LOPEZ. Senator, yes. We think this is a worthy project. Obviously, it is taking care of a water quality problem that is affecting a large number of communities, so I think it is an important project that we continue to support.

Senator GARDNER. Thank you very much, sir.

If enacted, do you believe legislation under consideration will assist in getting the Arkansas Valley Conduit constructed as expeditiously as possible?

Mr. LOPEZ. I do. Given the constrained budgets that we are working with, there are not many avenues other than something like the legislation that you have introduced for us to get something built timely.

Senator GARDNER. Thank you, Mr. Lopez.

Mr. Long, thank you for being here today.

It is just absolutely critically important. We are talking about water quality for the thousands of families that live along the Ar-



kansas River. We are talking about economic opportunity for people who live along the river. When we talk about the need for this area and the economy and what drives this economy, clean, abundant water is the building block of revitalizing all of Colorado, but particularly southeastern Colorado, so thank you for your passionate testimony today.

Ms. Weldon, when Congress designated the Holy Cross Wilderness Area in 1980, the Bolts Ditch headgate and approximately 450 feet of the Bolts Ditch were inadvertently included within the boundary. The headgate and ditch have been used by the community of Minturn to fill Bolts Lake, which is outside the wilderness area.

Passing the Bolts Ditch Access and Use Act is important to provide clarity to the town of Minturn, to ensure that they can utilize their existing water rights and can access the ditch and headgate within the wilderness area for the purpose of maintenance and repair.

In your testimony, you state that you do not oppose the legislation, that USDA does not oppose the legislation. Could you elaborate on why the legislation is necessary in this case to allow for Minturn to assert their long-held water rights?

Ms. WELDON. Yes, and we appreciate the language here in the bill that is reaching in to resolve one of the stipulations of the global settlement decree around resolving this issue. This bill will help to get a solution that is really clearly supported by Eagle County, Colorado River District, as well as the river advocacy groups, to allow us to move forward with continuing with this operation under a special use permit and to ensure that we are doing that work in the context of the requirements of the Wilderness Act.

Senator GARDNER. Thank you very much, Ms. Weldon.

Dr. Quinn, I had a question for you, but we are out of time. As an economist, I was hoping you would explain to this Committee how water can flow uphill to money, but we are out of time, so thanks very much for the opportunity.

Senator BARRASSO.

Senator BARRASSO. Well, thank you very much.

I also would like to thank Senator Flake for introducing S. 2902, the Western Water Supply and Planning Enhancement Act of 2016. He has done it with me and my Western colleagues, Senators Daines, Risch, Heller, and McCain. This bill is a collaboration of months of work between our offices, most of whom are members of the Senate Energy and Natural Resources Committee.

At a time when water issues have made the forefront of the headlines in places like California and Flint, Michigan, the water supply needs of the West as a whole can be forgotten by those who did not live where we live. The bill that we introduced addresses the need of an abundant, consistent and clean supply of water for all of our communities. Most of these communities in the West are rural and they are agricultural-based communities, as Pat O'Toole who is here from Wyoming clearly knows.

Working families operate ranches and farms and depend on water for their livestock, to grow crops such as alfalfa and to feed herds of cattle. The water resources in the West have always been scarce and demands on the scarce supplies continue to increase.

We have more people moving to the West to live, to work, and to raise their families. We have more regulations coming from Washington, putting restrictions on where water can go, sometimes in favor of species as opposed to working families.

Weather events such as drought only make our water needs even greater.

The proposals contained in S. 2902, the Western Water Supply and Planning Enhancement Act, seek to provide more water for our communities. The legislation includes bills that I have authored and introduced that will fix aging water infrastructure, such as: irrigation canals that serve our ranching communities; create efficiencies in federal permitting of new water storage through better coordination of federal agencies; compile the maintenance backlog of Bureau of Reclamation agency aging facilities, so Congress can actually begin to address them; and protect existing water rights from federal overreach for water users. There are many other provisions authored by my colleagues in the bill that are going to develop long-term water supplies and enhance the use of existing water supply infrastructure. I think it is important to note that the bill has \$715 million in new authorization that is fully offset with \$721 million in reduced mandatory spending. This is a very needed bill for the West and my home State of Wyoming, and I urge the Committee markup of this legislation occur soon, as quickly as possible.

So I have a couple questions.

One to Dan, if you could talk about how vital it is in terms of increasing water storage and maintaining aging federal irrigation structures for ranchers and farmers in the West and rural communities? And how does an economically strong, productive rural West benefit communities outside of the West?

Mr. KEPPEL. I guess I will answer your last question first. The irrigated agriculture industry in the Western United States, which is comprised of growers and producers and implement dealers and food processors, is a \$172 billion boost to our economy every year—and I mentioned this in testimony earlier today—because of that, in part, Americans spend less of their disposable income on food than anywhere on the planet. It is like 8 percent, compared to other countries that might be 20 percent to 30 percent. As I understand it, I am not an economist, but I understand that consumer spending is a very important part of a healthy economy. So irrigated agriculture and the communities that they support in the West obviously are a big part of that.

What we have seen in recent years, to get to your first question, Senator Barrasso, is we have expanding demand going on in other sectors. We have a growing population. We have different societal priorities placed on environmental needs. And when you look at the reality of how many dam projects that have been built or storage projects that have been built in the last 30 years, it has been almost nil. Metropolitan has done it in California. But if there is any kind of a federal nexus involved, it is very difficult because of the permitting issues.

Unfortunately, what is happening is agricultural water is turning out to be the default reservoir to meet these other growing demands. That is a real concern.

We have to feed the world. We have to continue to have a safe and secure food supply for our own country, and those things could be threatened at some point if we do not start creating storage to meet these other demands. Agriculture is not really the cause for expanding demands right now.

Senator BARRASSO. Commissioner Lopez, could you talk about how important it is that Congress address the maintenance backlog of Bureau of Reclamation reservoirs and the dams and other infrastructure in the West, to ensure that water supplies in the region are there in the decades to come?

Mr. LOPEZ. Senator, thank you for that question.

Reclamation has something like \$100 billion worth of infrastructure that we operate and maintain. Quite a lot of that infrastructure is now over 50 years old, some of it is over 100 years old. So it is imperative that if we want to continue to maintain the benefits that we have gotten from this infrastructure, which have been vast, we have to continue to maintain it.

Beyond that, it is the sort of infrastructure that, if it is not maintained, ultimately, it could create problems and safety hazards for our communities, so that is another reason.

I thank you for your legislation and the Transparency Act that has really helped us focus our efforts on how we categorize infrastructure maintenance needs, and thank you for working with us on getting that. I think we are now on track so we can begin to develop that information.

Senator BARRASSO. Dan, one last question for you.

In your written testimony, it says, "There can be no doubt that these environmental laws have provided significant benefits to our society." You go on to say, "But they also have been used as legal weapons to thwart new investments in Western water development, to reallocate existing water supplies away from traditional uses, and to destabilize water supply systems," and you go on to testify, "often in pursuit of unattainable goals such as resurrecting past ecological conditions in a constantly changing environment." Can you give us an example or two of what you mean and what you have seen?

Mr. KEPPEL. I will give you two.

One briefly is Klamath where I live, Klamath Basin of Southern Oregon and Northern California.

I guess I will elaborate more on the second example, which is really kind of the focus of what some of this legislation is all about, the Central Valley Project in California.

We have seen essentially large amounts of water that were originally designed for irrigation purposes stored in the Central Valley Project facilities now being left to basically go out through the Golden Gate Bridge to benefit a couple of species protected under the Endangered Species Act, the Delta smelt and some salmon.

Unfortunately, when you look at how those numbers are actually reacting, the population reacting to those actions, the numbers are actually declining. Really, the focus in Bay-Delta management has been kind of on these export pumps that divert water out of the Delta to meet Southern California needs and Central Valley irrigation needs. We are not really seeing the results.

That is probably the frustrating thing that we are seeing right now. The focus is on these irrigation diversions. The fish species they are intending to protect are not showing any signs of recovery whatsoever, so there are other stressors out there that we have to deal with. I would say, again, that is a prime example, because a lot of those decisions that are moving the water from agriculture into the ocean system are driven by litigation involving the Endangered Species Act.

Senator BARRASSO. Thank you.

Thank you, Mr. Chairman.

Senator FLAKE. Thank you, Senator Barrasso.

Thank you all for your testimony today. Again, I apologize for the chaotic nature of some of these hearings when we have votes going on. I appreciate your indulgence.

Obviously, drought and water issues are critical to the future of our states. I am hopeful that the Committee will build on the hearing today, as we build a West-wide drought bill that can pass not only this Committee, but the Senate floor as well. So thank you for your testimony. It will be very valuable for us.

For the information of members, questions may be submitted for the record before the close of business on Thursday. The record will remain open for two weeks. We ask the witnesses to respond as promptly as possible to questions that are asked, and your responses will be made part of the record.

Senator FLAKE. With the thanks of the Committee, this hearing stands adjourned.

[Whereupon, at 3:47 p.m., the hearing was adjourned.]

## **APPENDIX MATERIAL SUBMITTED**

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**U.S. Senate Committee on Energy and Natural Resources  
Subcommittee on Water and Power  
May 17, 2016 Hearing: Pending Legislation  
Questions for the Record Submitted to the Honorable Estevan Lopez**

**Questions from Senator Ron Wyden**

**Question 1:** I've been hearing from many concerned Oregon fishermen, environmental groups, and the Oregon fishing industries about the impacts of drought management in California on salmon fisheries in Oregon. That is a great concern to Oregon's coastal economies and livelihoods. I've been told that proposals in the California drought bills, especially the House drought bill, that mandate moving more water could benefit water users at the expense of fish. Pacific salmon are already being impacted by the drought. It is my understanding that moving more water south at certain times of year could have severe consequences for fish and coastal communities, and impact commercial, recreational, and tribal fisheries—including in the Klamath basin, where we are trying to restore fisheries.

Can you explain to me in your opinion what impact the management directives set up in the California bill could have on Oregon fisheries if implemented to their fullest?

**RESPONSE:** The Department has consistently held the view that rather than increasing water supplies, HR 2898 dictates operational decisions, prescribes infeasible outcomes, and creates new conflicts among existing laws that will hinder, rather than help, an effective drought response. Specifically, Section 103(e)(2) creates a new standard that potentially conflicts with the Endangered Species Act jeopardy standard; which could have an adverse impact on Pacific salmon. Conversely, we believe that S. 2533, if enacted, would provide tools necessary to increase water supply both in the near term and in the long term. As a threshold matter, the Department's analysis of S. 2533 is that the Bureau of Reclamation and the fish and wildlife agencies with responsibility in the Sacramento/San Joaquin Bay Delta will be able to implement the bill's directives in a manner that is consistent with the Endangered Species Act (ESA) and the biological opinions. Moreover, the additional scientific and financial resources contemplated by Titles II and III of S. 2533 would enable improved habitat and fishery conditions, as well as greater understanding of fish health and location. Additionally, S. 2533 will provide for streamlined authorization of new water supply projects, increase spending on water reuse projects under Title XVI, and invest in desalination, all of which will develop additional water supplies that will build drought resiliency over the long-term while also generating additional supplies for both fish and farmers. In the near term, S. 2533 will increase water transfers, which will allow for additional sharing of water supplies. While there is no language in S. 2533 specific to Oregon fisheries, for the reasons expressed above, we believe the bill will enhance the current approaches based on the best available science and continue the protective approaches in place today, while also increasing water supplies that will benefit both fisheries and agriculture uses.

**Question 2:** Do you believe there are sufficient safeguards in place to ensure the operations provisions in the bill do not impact Oregon's fishing industry? And if so, what are those safeguards and how can I respond to concerned Oregonians who worry that this bill, especially conferenced with a more directive bill like that in the House would negatively impact their livelihoods?

RESPONSE: We believe S. 2533 contains sufficient safeguards to ensure that operations of the state and federal water projects do not negatively impact Oregon's fishing industry. As stated above, those safeguards consist of the language found in Title II (Sections 201, 202, 203, and 204), and Title III (Section 301, 302(b), 303(a)), and elsewhere, combined with the long-term benefits of additional investments in wildlife refuges and scientific resources used in monitoring fisheries and habitat contemplated by the bill. This is in contrast to H.R. 2898, which we believe could adversely impact Pacific salmon.

**Question 3:** Does Senator Feinstein's bill comply with the Endangered Species Act and the relevant biological opinions?

RESPONSE: Yes, as stated above and in Reclamation's March 17, 2016, testimony, we believe that we can implement S. 2533 consistent with the Endangered Species Act and relevant biological opinions.

**Question 4:** As I noted in my opening, for decades, the Klamath Basin had been characterized by bitter conflict, involving tribes, farmers and ranchers, states and federal governments, and conservation groups over water allocation and water rights. These problems seemed insurmountable, but when I was Chair of this Committee I called on the groups to create a Task Force to work out these issues in the Basin and bring us a collaborative solution that worked. It wasn't going to be easy, and nobody was going to get everything they wanted or thought they deserved, but in the end, all stakeholders got something they needed. It took a lot of time, and difficult conversations, but the groups worked together and developed three landmark agreements that were the basis for the Klamath bill I introduced this and the last Congress. While unfortunately the bill didn't pass before the agreements expired, the unprecedented collaboration established relationships that continue to withstand the challenges these tough water issues present.

These groups are continuing to work together today to find a path forward even as we speak. Two of our witnesses here today, from the Family Farm Alliance and Trout Unlimited, have been integral to helping these communities find common ground and develop a collaborative solution.

Given that collaborative efforts have been successful at finding reasonable solutions in the Klamath Basin and in the Yakima Basin tell me how collaboration has been a part of the CA drought conversations? Do you think there is an opportunity to develop some sort of collaborative agreement to address water and fish needs in California and how do we get there?

RESPONSE: The drought impacts experienced in California for the last four years are primarily a function of below-average precipitation and snowpack, with commensurate impacts on runoff, reservoir storage, water deliveries, and the environment. The efforts underway in the Klamath and Yakima Basins provide a useful example of collaboration among diverse parties to make progress on water supply, fish habitat, and environmental restoration.

This same history of federal-non-federal collaboration is underway in California through a variety of initiatives, some of which are described in Reclamation's annual budget request under

the umbrella of California Bay-Delta Restoration. This funding area includes activities such as the CalWaterFix (formerly Bay Delta Conservation Plan, BDCP); California Eco Restore (habitat restoration components from the BDCP); Interagency Ecological Program; salinity management activities; and the Battle Creek Salmon and Steelhead Restoration Project, one of the largest cold-water anadromous fish restoration efforts in North America. Reclamation, with participation from its non-federal partners, also funds or implements Central Valley Project Improvement Act Restoration Fund activities, the San Joaquin River Restoration Program, Trinity River Restoration Program, and many other collaborative projects.

The Department has taken extraordinary measures in recent years to adapt to dry hydrology and provide as much water as possible amidst severe drought. These measures include developing innovative water transfers and exchanges in concert with water contractors; securing arrangements with the State of California and the State Water Resources Control Board to relax certain flow and water quality requirements, leading to the conservation of hundreds of thousands of acre-feet of water; enhancing real-time monitoring of water conditions to adjust Delta pumping when necessary; and awarding tens of millions of dollars for water conservation projects across the State of California.

All of these initiatives, like the efforts in the Klamath and Yakima Basins, involve robust cooperation among federal and non-federal participants.

**Question 5:** S. 2902 repackages a number of controversial provisions that have appeared in various bills this and previous Congresses, including the water rights protection bill and streamlining provisions.

Looking at these provisions, would you call this bill a comprehensive drought bill? And, if not, what would a comprehensive and collaborative approach to drought look like? Do you think the Klamath and Yakima Basins, provide models for the kind of planning and tools we need to be looking at across the West?

**RESPONSE:** S. 2902 contains some elements aimed at water conservation -- notably, the continuance of Congressional direction to fund or participate in projects to increase storage of Colorado River water in Lake Mead and upstream reservoirs constructed under the 1956 Colorado River Storage Project Act in Section 104. However, the bill contains many more elements that are unrelated to drought and that the Department does not support. The Department does not regard S. 2902 as a comprehensive drought bill. A comprehensive drought bill would include consensus elements that enjoy broad support and are focused on drought impacts, rather than mandating changes to environmental law or reducing timelines for establishing the merits of surface storage projects.

#### **Question from Senator Jeff Flake**

**Question:** With the threat of a shortage declaration looming, the ability to recover and transport stored groundwater is critical to Arizona's water future. Can you provide an update on the status of finalizing the Central Arizona Project System Use agreement, including tribal consultation?



RESPONSE: Reclamation's Lower Colorado Regional Office and Phoenix Area Office continue to work in close collaboration with the Central Arizona Water Conservation District (CAWCD) and our tribal partners on a concept to allow Reclamation to use the additional capacity when available, and, along with drought contingency efforts, this remains one of our highest priorities this year. While we cannot provide an exact date for completion, we are glad to update you as things progress.

The initial Wheeling consultation took place on June 25, 2015. At that time, the Tribes expressed concern that all uses of the canal, including delivery of water in existing/Federal capacity [Article 8.17 of the Contract Between The United States and CAWCD for the Delivery of Water and Repayment of the Costs of the Central Arizona Project (CAP)], were included in the CAWCD Staff Proposal for Wheeling. At that time, Reclamation and CAWCD agreed to reevaluate the process and have since developed a more comprehensive CAP System Use Agreement that attempts to address all uses of the canal, including delivery of project water, wheeling, firming, and exchanges. Reclamation and CAWCD co-hosted a stakeholder workshop focused on the CAP System Use Agreement on February 1, 2016, and Reclamation has been meeting with each of the CAP tribes to outline and get feedback on the Agreement. The most recent meeting with a CAP Tribe (Pascua Yaqui) on May 12, 2016, focused on discussion of the Drought Contingency Plan and the System Use Agreement. With the exception of this meeting – rescheduled at the request of the Tribe -- all of the meetings were scheduled and completed in March and April. We have also agreed to present the issue at the next Water Policy Leaders meeting at the Inter Tribal Council of Arizona, tentatively slated for August. CAWCD and Reclamation agree that additional input will be solicited from stakeholders and that the Agreement will be further refined prior to final approval.

#### **Questions from Senator Joe Manchin III**

**Question 1:** I understand that there are concerns that S. 2533 increases the risk of litigation. Isn't it true that the status quo for water operation decisions made by Bureau of Reclamation and other agencies like Fish and Wildlife, already pose a high risk for litigation? Also, isn't it true that any bill passed by Congress that like S. 2533 increases agency responsibilities or authorities would potentially increase litigation risks?

RESPONSE: It is true that state and federal agencies regularly face litigation over decisions made in California and any other states regarding water operation decisions. The areas of concern for litigation risk in S. 2533 were specifically identified in the Department's written testimony, and include language in Sections 302 and 303. As stated at the hearing, the Department is glad to work with the bill sponsor to clarify expectations about how the bill would be implemented, in the hopes of discouraging divergent interpretations of the bill.

**Question 2:** I've heard from Sen. Feinstein and others that she has worked extensively with the federal government on this bill for the past two years. I applaud her efforts. Can you please

confirm, Commissioner Lopez, that S. 2533 is consistent with both the Endangered Species Act and the biological opinions?

RESPONSE: Yes, as stated in the Department's written testimony, we believe S. 2533 as presently drafted is consistent with the Endangered Species Act and the biological opinions.

**Question 3:** Commissioner Lopez, Deputy Secretary Michael Connor recently testified that S. 2533 increases the flexibility of water operations and would provide more water. He also noted that in the long-term, S.2533 "absolutely, unquestionably, will provide for more water supply reliability." Can you please confirm that S. 2533 will, in fact, provide for greater water supplies?

RESPONSE: Yes, at the operational level, S. 2533 as presently drafted provides operational directives on pumping rates during stormflow events, fish entrainment, reduced predation of listed fish, and real-time monitoring of listed fish species of concern to the projects. These provisions, if implemented, may result in the ability to provide modestly more water for agricultural users and could create ecosystem benefits in the near-term, at least in some flow and seasonal weather scenarios. In the longer term, the bill's investments in proven water conservation activities would also develop or free up significant new water supplies.

**U.S. Senate Committee on Energy and Natural Resources  
Subcommittee on Water and Power  
May 17, 2016 Hearing: Pending Legislation  
Questions for the Record Submitted to Ms. Leslie Weldon**

**Question from Senator Ron Wyden**

**Question:** S. 2902 includes language that seeks to protect water rights and which the Administration opposes. I agree with the concept that we should uphold private property rights and state jurisdiction in water rights. However, this bill includes language that would prevent the U.S. government from doing its job and maintaining the public trust. This language would prevent our national parks and forests from protecting waters needed to maintain our nation's special places—where we take our families to camp and hike. It could impact our Nation's trust responsibility to American Indian tribes to protect their water rights, needed for economic development. And, it could impact our agencies' abilities to enter into agreements to utilize our public lands.

It is my understanding that this language came about in response to an issue regarding a ski area agreement on Forest Service lands that has long been resolved. Furthermore, the Forest Service has been working to develop policy to address these issues do not happen again. Can you please tell us more about what the Forest Service is doing, whether this legislation is needed, and what kind of impacts it could have on public land and water management?

**Answer:** The Forest Service's longstanding policy is that water rights for water diverted from and used on lands managed by the agency, under special use permits, should be obtained under state law in the name of the United States in order to fulfill the agency's congressionally mandated multiple-use objectives, which include range, watershed, timber, fish and wildlife, and outdoor recreation. Water is of critical importance to the agency's ability to meet that mandate, and this policy was motivated by the concern that if water rights were severed from the land, or sold or leased for other purposes, it could drastically affect the congressionally designated purposes for which those lands are managed. For example, if water rights used to support ski area operations are severed from a ski area and are sold for other purposes, the ability to offer the area to the public for skiing would be lost because without water for snowmaking and other uses, ski areas on national forests could not operate.

In 2004, the Forest Service adopted a new water clause for inclusion in ski area permits that provides for joint ownership of certain ski area water rights. However, that clause did not adequately accomplish the agency's intent with regard to co-ownership of ski area water rights and was unclear in other respects. To address these concerns, the agency issued a new ski area water clause in an interim directive in 2011 and a slightly revised ski area water clause in an interim directive in 2012. However, those clauses were invalidated by a court for procedural reasons. On June 23, 2014, the Forest Service

**U.S. Senate Committee on Energy and Natural Resources  
Subcommittee on Water and Power  
May 17, 2016 Hearing: Pending Legislation  
Questions for the Record Submitted to Ms. Leslie Weldon**

published a notice of proposed directive in the *Federal Register* to add riparian and prior appropriation doctrine ski area water clauses to the Directive System. The final clauses, published in the *Federal Register* on December 30, 2015, were the result of extensive public input, including input from the ski industry and a wide range of other water rights holders.

The final directive does not require that ski area water rights be acquired in the name of the United States. Instead, the final directive focuses on assuring sufficiency of water to operate ski areas on National Forest System (NFS) lands. This modified approach for ski area permits was determined to be appropriate given the characteristics of ski area water rights and ski areas. Unlike water rights diverted and used on NFS lands by holders of other types of authorizations, ski area water rights may involve long-term capital expenditures. In western states like Colorado and New Mexico, holders of ski area permits may have to purchase senior water rights at considerable expense to meet current requirements for snowmaking to maintain viability. Holders of ski area permits need to show the value of these water rights as business assets, particularly during refinancing or sale of a ski area. The value of these water rights is commensurate with the significant investment in privately owned improvements at ski areas. These investments were recognized by Congress in enactment of the National Forest Ski Area Permit Act, which authorizes permit terms of up to 40 years. At this time, ski industry representatives have indicated support for the final directive, and members of Congress have indicated appreciation for the agency's efforts to work collaboratively on this solution.

It is USDA's position that additional legislation is not necessary to ensure protection of privately owned water rights. USDA is concerned that this legislation would preclude the Forest Service and DOI agencies from protecting the public interest by ensuring that sufficient water remains available on federal lands to support the congressionally designated purposes for which those lands are managed. For example, in situations where a water right with a point of diversion on NFS lands is owned by the Forest Service permit holder, if the permit holder gave up the permit or the Forest Service revoked the permit for noncompliance with its terms, the associated water rights could be retained by the permit holder, which could create challenges in supplying water for future permit holders. If a permit holder has a water right for the entire flow of a spring on very arid NFS lands and the water is piped to a tank that is part of multiple-use infrastructure on NFS lands, the permit holder could bar all other potential permit holders and the United States from using water in the tank. If a permit holder owns a senior water right on an over-appropriated stream system, a new permit holder would have to file for a new water

**U.S. Senate Committee on Energy and Natural Resources  
Subcommittee on Water and Power  
May 17, 2016 Hearing: Pending Legislation  
Questions for the Record Submitted to Ms. Leslie Weldon**

right, which would be junior to others on the stream system. The new permit holder would not be able to exercise the water right in times of scarcity, if at all.

The Forest Service's water rights policies apply to use and occupancy of NFS lands in support of a Forest Service-administered program that uses water and thus needs water rights. The Forest Service policy does not apply to water that is diverted from NFS lands for uses off of NFS lands, such as irrigation diversions and ditches, pipelines, municipal reservoirs, condominiums, or golf courses, as these uses do not support Forest Service management mandates under the Multiple Use-Sustained Yield Act. The Forest Service policy also does not apply to water that is diverted from NFS lands under a state-allocated water right and used on NFS lands for oil and gas operations or mining activities, as these uses do not support Forest Service management mandates.

**Question from Senator Jeff Flake**

**Question:** As you are aware, the Water Rights Protection Act that was introduced last year differs from similar language introduced in the previous Congress because it addresses groundwater. This inclusion was spurred by the Forest Service's proposed groundwater management directive. In your testimony you highlighted the concerns that prompted the withdrawal of that proposed directive; however, Forest Service policies that treat groundwater in a manner contrary to Arizona state law still remain on the books in Region Three (FSM Supplement No 2500-2001-1, dated September 5, 2001). Does the withdrawal of the proposed directive indicate intent by the Forest Service to modify Region Three policy as well?

**Answer:** The Southwestern Region groundwater directive has been in place for about 15 years. To date, we are not aware of any specific concerns with the content or application of the regional directive or its consistency with Arizona or New Mexico state law. The regional directive focuses on the agency's stewardship and permitting responsibilities and appropriately defers to state water law. The regional directive has been used several times to help address proposed activities on NFS lands in the Southwestern Region and has helped provide consistency and clarity for the parties involved. We would be happy to meet with your staff to obtain a better understanding of your concerns.



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June 7, 2016

Darla Ripchensky, PMP  
Chief Clerk  
U.S. Senate Committee on Energy and Natural Resources  
304 Dirksen Senate Office Building  
Washington, DC 20510

Dear Ms. Ripchensky:

Thank you for forwarding Senator Ron Wyden's "Questions for the Record Submitted to Dr. Timothy Quinn" regarding the May 17, 2016 hearing before the Senate Subcommittee on Water and Power. The Questions are copied below as well as my answers to them.

**Questions:** Given that collaborative efforts have been successful at finding reasonable solutions in the Klamath Basin and in the Yakima Basin tell me how collaboration has been a part of the CA drought conversations? Do you think there is an opportunity to develop some sort of collaborative agreement to address water and fish needs in California and how do we get there?

**Introduction:** My name is Timothy Quinn and I serve as the Executive Director of the Association of California Water Agencies (ACWA). Our highly diverse membership includes approximately 430 public agencies that supply over 90 percent of the water delivered in California for industrial, residential, and agricultural uses.

My response focuses on California's lessons learned from previous collaboration, and why passage of S. 2533, which has the potential to redefine the relationship between the federal government and California as partners in water management, can help make future collaborative efforts in California a success.

**Collaboration in California:** Similar to the Klamath Basin and Yakima collaborations, stakeholders in California have recognized the essential role collaboration can play in helping resolve highly complex water supply issues. For several decades, with varying degrees of success, collaboration amongst stakeholders and state and federal agencies has been a cornerstone of the California water supply and more recently, drought conversation. Collaborative efforts include 1991 Drought Water Bank, the 1994 Bay Delta Accord, the 2000 CALFED Record of Decision, the 2009 Comprehensive Water Legislative Package, passage of the 2014 Water Bond, and Governor Jerry Brown's California Water Action Plan. I have personally been involved in all of these collaborative efforts in California. Similarly, ACWA – an organization with a highly diverse membership seeking common solutions and policies – is by its very nature drawn to collaborative solutions as the best way to address complex policy challenges.



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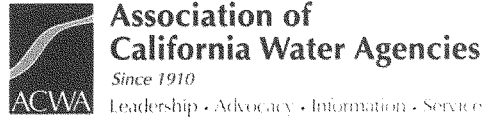
Despite today's headlines that trumpet California Water Wars, collaborative efforts through the past decades have produced important results. For example, the Bay Delta Accord, negotiated between environmental, agricultural, municipal and state and federal agencies, initiated a long-term planning process to improve the Delta and increase the reliability of its water supply. The signing of the Accord in December, 1994 began a 10-year period in which the CALFED Framework, Record of Decision, final Programmatic EIS/EIR and California Bay-Delta Act were adopted; and Congress authorized federal CALFED participation. The Framework document formalized cooperation among state and federal agencies with management and regulatory responsibility in the Bay-Delta. Signatories to the Framework agreed to work together to formulate water quality standards, coordinate operations of the State Water Project and the federal Central Valley Project and work toward long-term solutions to problems in the estuary.

In 2009, passage of historic bipartisan state water legislation codified a fundamental change in how we manage water in California. The new law established the core tenet of state water policy is that we will manage this vital resource for the "coequal" goals of improving both water supply reliability and our ecosystem. In the past quarter century, California water agencies and water users have invested tens of billions of dollars in conservation and local water supply resources to reduce demands for imported water. We have developed mechanisms to allow a voluntary water market to function. We have developed, and continue to develop, local storage projects to make water available for multiple purposes during dry periods. In short, in California, state and local water managers have reinvented how we manage water to try and accommodate the needs of both our economy and environment.

Governor Jerry Brown's "California Water Action Plan" embraces an "every tool in the toolbox" approach. With conservation happening at record rates, the plan also recognizes the need to modernize California's water systems. It includes above and below ground storage and supports planning at local, regional and state levels to innovate and provide safe reliable water supplies in ways that also protect the environment.

**The Problem of Entropy:** One of the biggest challenges to collaboration is holding alliances together long enough to get the job done. This has been a significant problem in California. The federal government was very involved in the collaborations of the 1990s, which laid the foundations for California to move forward with a comprehensive water policy. But, with changes in administration and other factors, over the past decade we have observed less and less federal engagement on collaborative solutions in California and more and more energy being put by federal agencies into harsh regulatory decisions, especially under the Endangered Species Act, that are utterly incompatible with collaborative solutions. The main reason ACWA supports S. 2533 is that we believe it moves the federal government in the direction of returning to collaborative decision-making in California.

Accomplishment of the coequal goals in California absolutely requires a collaborative partnership with the federal agencies that wield considerable power over water management in our state. Despite recent attempts by the state to broaden water and ecological management tools in a manner that could achieve both environmental and water supply goals, the federal agencies



cling to a single species-single tool approach that has a devastating impact on water supplies for our urban and agricultural economy. From ACWA's perspective, successful collaboration with federal agencies cannot occur until those agencies embrace that both water supply and environmental protection matter.

**Passage of S. 2533:** While ACWA strongly recognizes the importance of collaboration, including in Klamath and Yakima, in California, passage of S. 2533 is needed for the success of any future collaborative efforts, particularly in the Sacramento-San Joaquin River Delta. From ACWA's perspective, S. 2533 provides a much needed statement from the Congress that both a reliable water supply and ecosystem protection matter. This is especially true for providing both short-term drought relief and measures to achieve long-term water supply sustainability. ACWA believes that collaboration alone, absent Congressional direction that federal agencies embrace a coequal goals approach, cannot be successful.

**Conclusion:** In battling drought, the importance of enhancing State-Federal partnerships cannot be overemphasized. A key building block for better partnerships includes passage of west wide federal drought legislation that complements states' abilities to move forward with their comprehensive plans, promote regional self-sufficiency through use of Integrated Water Management Plans and provide incentives and investments for water related projects at local, Regional, and state levels.

Again, ACWA is pleased to respond for the record to the above questions from the Senate Water and Power subcommittee hearing held on May 17, 2016.





*Protecting Water for Western Irrigated Agriculture*

P.O. Box 216 Klamath Falls, Oregon 97601  
[dankeppen@charter.net](mailto:dankeppen@charter.net)

June 7, 2016

Darla Ripchensky, PMP  
 Chief Clerk  
 U.S. Senate Committee on Energy and Natural Resources  
 304 Dirksen Senate Office Building  
 Washington, DC 20510

Dear Ms. Ripchensky:

Thank you for forwarding "Questions for the Record Submitted to Mr. Dan Keppen" from Chairman Lisa Murkowski and Senator Ron Wyden regarding the May 17, 2016 hearing before the Senate Subcommittee on Water and Power. The Questions are copied below as well as my answers to them.

**Questions submitted by Chairman Lisa Murkowski**

**Question 1:** Mr. Keppen, in your testimony, you say,

"There can be no doubt that these environmental laws have provided significant benefits to our society. But they also have been used as legal weapons to thwart new investments in Western water development, to reallocate existing water supplies away from traditional uses, and to destabilize water supply systems, often in pursuit of unattainable goals such as resurrecting past ecological conditions in a constantly changing environment."

Can you give us an example or two of what you mean?

**Response:** I can provide two examples. Water use is a critical issue throughout the Western states, especially in areas served by federal water projects like California's Central Valley or the Klamath Project. Federal involvement in water resource management has grown exponentially over the past several decades through legislative enactments such as the ESA and the Clean Water Act. The increased regulatory control exerted by federal agencies through a variety of means has increasingly led to gridlock in the management of water supplies in the West. Worse – it is crippling Western rural communities supported by agriculture and once-reliable irrigation supplies.

Consider first the disaster experienced by agricultural water users of the Klamath Basin in 2001.

The Klamath River watershed covers a nearly 16,000 square-mile region comprising parts of southern Oregon and northern California. The Klamath Irrigation Project, under the oversight of the Bureau of Reclamation (Reclamation), provides water to about 240,000 acres of irrigable crop lands. In 2001, the federal government announced that, for the first time in 95 years, no water would be provided for Klamath Project irrigators from Upper Klamath Lake or the Klamath River. Instead – due to a combination of federal agency decision-making and litigation related to the Endangered Species Act (ESA), that water was wholly reallocated to meet the alleged needs of three fish species protected by the ESA.

Rural farmers and ranchers, as well as the agricultural economy surrounding the crops and livestock produced in Klamath Basin communities owe their very existence to the certainty of the water supply developed over 100 years ago for the purposes of irrigation. Those families and businesses were subjected to unbelievable the stress and anxiety in 2001 and the many troubling years since, as they have experienced a drain on their finances, and the expected toll on their physical and financial health. These farmers and businesses were impacted in almost unimaginable ways when the water supplies were curtailed in 2001. Those impacts continue to linger to this day.

The types of economic, human, and environmental suffering caused by the 2001 Klamath Project Operations Plan were catastrophic, long-standing and well documented. Hundreds of farm and ranch families without income experienced hardship trying to support themselves and their families. Their ability to pay bills and service debt was severely impaired. Contracts from regional and national food processors were cancelled, some never to be renewed. Similar types of impacts were felt by farm employees, and the owners and employees of the agriculture-related businesses. The demand for social services increased. Some people simply moved out. City parks, schoolyards, and cemeteries withered without water. Farm fields became fields of weeds and dust. Unrelenting wind-borne soil erosion occurred, impairing land productivity and causing air pollution.

Irrigated farmland provides tremendous food and habitat for the abundant waterfowl, deer, antelope, frogs and other species in the Basin. That value was also lost. Tragically, two of the nation's premier national wildlife refuges were left without water for wetlands, food production and waterfowl habitat.

The Klamath Basin water crisis adversely impacted the financial position of the farmers of the basin. This was due to loss of income, loss of opportunity to grow crops in 2001(a year of relatively high commodity prices), capital expenditures for wells and other adjustments to irrigation systems, producers being forced to farm further from home, cash contributions to fight the water battle, and fewer buyers of commodities (i.e. some potato sheds shutting down after 2001). Farmers also experienced income tax impacts, inability to establish credit, and were wracked by uncertainty about the future of their farms and their lives.

Similar impacts have been felt on an even greater magnitude by irrigators and rural communities in the San Joaquin Valley of California since 2009, when San Joaquin-Sacramento River Delta (Bay-Delta) water was deemed to be more important to ESA-protected smelt and salmon than to farmers and ranchers on the west side of the Valley. In both the Klamath and San Joaquin Valley instances, tremendous impacts were felt by landowners, water users, their local businesses and communities, other species of fish and wildlife, and the environment, while benefits to the “listed” species of concern were questionable at best, or even unknown. For example, in the Bay-Delta, there is no clear correlation between the reduced pumping from the Delta and populations of protected fish species. The Delta smelt and winter-run and spring-run Chinook salmon, which are listed under the ESA, have shown little improvement in total spawning numbers since federal fisheries agencies have restricted or eliminated agricultural water diversions intended to protect these fish.

Still, federal restrictions on water deliveries under the guise of the ESA have affected thousands of farmers and ranchers in the Central Valley of California. In 2009, those restrictions, based in large part on ESA biological opinions in the California Bay-Delta, were a primary cause for the water cutbacks and rationing afflicting hundreds of communities throughout California and causing the resulting economic devastation in the San Joaquin Valley. A similar decision to focus exclusively on one stressor – a federal irrigation project – was made by federal agencies in the Klamath Basin in 2001, and that decision, and the science used by federal fish agencies to support the decision, was criticized later in a review conducted by the National Academy of Sciences (NAS).

The California and Klamath stories are very similar. The NAS stepped in after Klamath Irrigation Project supplies from Upper Klamath Lake were cut off by federal biological opinions under the ESA in 2001. The Academies’ objective scientific review concluded that there was insufficient evidence to support these biological opinions in restricting agricultural diversions from the Klamath system, which had led to the near-collapse of the local agricultural community. In Klamath, the federal regulators looked at only one of the stressors contributing to the fisheries’ decline and they focused on only one solution – cutting off water supplies to agriculture. Not surprisingly, the listed species apparently are no better off today than they were in 2001, yet the agricultural community struggles with operating capital, input suppliers and contracts for their products due to the lack of a reliable water supply.

Likewise, in California today, the same federal agencies have refused to assess the impacts of the many additional stressors affecting the health of the Delta and its fisheries. And for over fifteen years, they have been restricting or cutting off water deliveries, even though their experience during that time have conclusively demonstrated that these restrictions have done little to prevent the fisheries’ decline in the Delta.

**Question 2:** Mr. Keppen, in your testimony you say,

“Congress must empower local stakeholders and the states – and its own federal agencies – by recognizing and rewarding collaboratively developed solutions where all sides have come together to work out differences and build future solutions to complex water issues.”

Can you be more specific on how we can do that and help you?

**Response:** It is critical to assess what the future role of the Federal government will be as the critical need to balance agricultural production with conservation opportunities in the West. There is tremendous uncertainty as to the effects of federal budget restraints. Right now, government programs and federal laws are also creating winners and losers. For example, federal ethanol policy works for Midwestern corn growers, but hurts the livestock industry which relies on corn for feed. Laws and regulations like those imposed by the ESA are being implemented differently in different parts of the country depending on judicial circuit rulings. Producers in the Eastern United States have not experienced the regulatory hammer approach employed by ESA implementing agencies in the West.

With that said, we do not have to sacrifice production for conservation. Congress can help us work to achieve both objectives by directing agencies to:

- Work across administrative boundaries rather than staying within them;
- Encourage bottom-up participation rather than top down initiatives;
- Increase success, reduce expense and eliminate working at cross-purposes through improved interagency cooperation, which would, for example, complement the role of the Natural Resources Conservation Service (NRCS) in regards to water quality. The Interior Department Partners for Fish and Wildlife Program demonstrates a workable process to reconcile inherent conflicts brought about by multiple demands and;

Above all, we need to empower local watersheds to provide leadership, and problem-solve in a unique, locally-driven manner. Congress can help address this need by directing the federal agencies to prioritize partnerships, support local leaders, and to be accountable for doing so. Also, opportunities are likely to arise for an expanded future role for NGO partners, since government can only afford to do less, at least in the near-term.

**Question 3:** Mr. Keppen, in your testimony you say,

“We believe Congress should provide federal agencies with more flexibility under existing environmental laws and water management regulations to respond to drought conditions. And, where such flexibility currently exists, Congress should demand that agencies use it promptly and with a minimum of bureaucratic process.”

I quite agree with you. Can you give us an example of how we might provide agencies with more flexibility and how might we be more demanding?

**Response:** The California legislature has established the Co-equal Goals of enhancing water supplies and reliability while also enhancing and restoring the ecosystems which rely on the waters of the state. This is a simple and common sense statewide policy that would, in concept, have applicability in all of the 17 Western states. But there is nothing “co-equal” about managing our water resources or even taking action to improve our ecosystems when the federal Endangered Species Act (ESA) is in play. Any federal agency decision which may, now or in the future, have any implication or impact on a listed species must find agreement from those people in government who are charged with implementing the ESA. Currently there is no balancing of interests, no concern for our food supply or food safety, and no consideration of the human impacts of their regulatory decisions under the ESA. Their powers are near boundless and the judicial system gives their decisions great deference.

There is considerable discretion in HOW the ESA is implemented. Given the significant scientific uncertainty with many of these species and the ecosystems in which they reside and the failure of the ESA regulators to look at the host of stressors (other than irrigation withdrawals) affecting them, Congress should compel the agencies to step back and rethink the consequences of their actions, as allowed (but not directed) under the ESA. Even though the ESA does not require the human consequences of their decisions to be considered, it does not prohibit such consideration. Understanding the impacts on people that come with these ESA decisions is simply good public policy. To ignore how people are affected is simply bad public policy.

The Congressional ESA Working Group a few years back recommended a measured approach to assessing and making changes to the ESA. We endorse both the approach and the Working Group’s modest recommendations.

#### **Questions from Senator Ron Wyden**

**Questions:** As I noted in my opening, for decades, the Klamath Basin had been characterized by bitter conflict, involving tribes, farmers and ranchers, states and federal governments, and conservation groups over water allocation and water rights. These problems seemed insurmountable, but when I was Chair of this Committee I called on the groups to create a Task Force to work out these issues in the Basin and bring us a collaborative solution that worked. It wasn’t going to be easy, and nobody was going to get everything they wanted or thought they deserved, but in the end, all stakeholders got something they needed. It took a lot of time, and difficult conversations, but the groups worked together and developed three landmark agreements that were the basis for the Klamath bill I introduced this and the last Congress. While unfortunately the bill didn’t pass before the agreements expired, the unprecedented collaboration established relationships that continue to withstand the challenges these tough water issues present.

These groups are continuing to work together today to find a path forward even as we speak. Two of our witnesses here today, from the Family Farm Alliance and Trout Unlimited, have

been integral to helping these communities find common ground and develop a collaborative solution.

I know the Family Farm Alliance has participated in conversations in the Klamath Basin during the development of the agreements. Given the changes in the Klamath agreements, is that sense of collaboration still there in the Basin? Do you think the collaboration that happened in the Klamath Basin could be a model for water challenges elsewhere in the West, such as California? Do you think the agriculture and conservation communities can come together to find solutions here?

**Response:** I am grateful for your leadership on Klamath Basin issues, Senator Wyden, particularly in the past decade, when the focus up and down the Klamath River has shifted away from confrontation and litigation and towards collaboration and cooperation.

This is a challenging question to answer. My view is that, the sense of collaboration in the Klamath River watershed still exists, but there are a few factors to consider. First, I believe the recent success of the energy policy bill (S. 2012) which passed the Senate – and which contains the Klamath provisions advanced by you and Senator Merkley – demonstrates that the settlement parties still have a strong relationship and have not overlooked Klamath irrigators’ needs, despite the high-level attention being placed on the hydropower settlement, which is now advancing forward in a standalone fashion. Second, several major entities on the Oregon side – the Klamath Tribes, Bureau of Reclamation Klamath Area Office, Klamath Irrigation District and Klamath Water Users Association - are undergoing significant transition with their leadership. Once things become more stabilized, the effort required to make positive steps forward on the settlement should be rekindled in the near future. However, given the current status of these entities crucial to the agreement, collaboration for the time being appears to be in “pause” mode. Many of the leaders from the various groups involved with the settlement appear to be confident that the ball will begin rolling again in the near future.

The Klamath settlement process demonstrated that, while competition seems inevitable when managing a scarce resource, the competitive framing of the issue undermines the potential to see how different and perhaps more innovative uses of water can be potentially compatible or even synergistic.

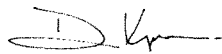
California’s Bay-Delta water management is sorely in need of a comprehensive, integrated water management strategy that provides water supply reliability while improving the Bay-Delta ecosystem. I do believe that the Klamath Settlement Agreements provide an example of how a cooperative agreement can be reached through stakeholder collaboration. These landmark Klamath agreements signed in 2010 by more than 40 parties and expanded in 2014, would resolve previously discussed conflicts over water rights, fisheries, dam-relicensing, and other issues, and end decades of litigation and division. Under these agreements—which, as you point out, failed to secure Congressional authorization—Klamath Basin farmers and ranchers would have received increased water supply security while Klamath River tribes and other parties

would obtain restoration of fisheries, including the future removal of four privately owned and operated dams. Customers in the West served by these privately owned hydroelectric dams would have been protected from the uncertain costs of Federal Energy Regulatory Commission relicensing conditions. From the standpoint of irrigators reliant upon federal water projects in other parts of the West— such as the CVP water users in California—the Klamath settlements could provide a template to follow in order to provide more predictable water supplies for farmers in dry years.

However, I would also observe that, right now, feelings are bitter in California. Many of the agricultural interests we represent in the Central Valley remember that one billion dollars were spent on actions to benefit the environment during the CALFED process of the mid-1990s. I was directly involved in that process, as was my fellow witness at the May 17 hearing, Dr. Timothy Quinn of the Association of California Water Agencies. When the CALFED process reached a point of moving forward with needed storage and conveyance infrastructure to benefit urban and agricultural water users, some in the environmental community balked, and they and their allies were able to successfully prevent moving forward with some of the key infrastructure improvements that are still being talked about today, two decades later. The “let’s all get better together” mantra of the CALFED era is one that (unfortunately) definitely did not pan out on the ground. Similarly, the restrictions on agricultural water use in the Central Valley in recent years is in part driven by Endangered Species Act and Clean Water Act lawsuits funded by environmentalist litigants, which has contributed to a largely negative impression of the environmental community by many Central Valley farmers and ranchers. In my view, these two developments have had a significant and dampening effect on the once-collaborative working relationship that existed between constructive conservation groups, urban water districts, and the agricultural community during the early-to-mid 1990s. At some point, those once positive relationships must be rebuilt before meaningful dialogue that could lead to potential settlement on Bay-Delta matters can occur.

Again, the Family Farm Alliance is pleased to respond for the record to the above questions from the Senate Water and Power subcommittee hearing held on May 17, 2016.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Dan Keppen', with a stylized flourish at the end.

Dan Keppen  
Executive Director



**Laura Ziemer**  
*Senior Counsel and Water Policy Advisor*

Supplemental Written Testimony of Laura Ziemer, Trout Unlimited

Before the Subcommittee on Water and Power—Committee on Energy and Natural Resources  
 United States Senate  
 May 17, 2016 Legislative Hearing

On S. 2533, the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act; S. 2902, the Western Water Supply and Planning Enhancement Act of 2016, and other bills.

**1. Trout Unlimited Comments on S. 2902, Title II, Sections 201-206:  
 “Water Rights Protection Act.”**

Sections 201-206 are drafted to solve a problem that does not exist. Trout Unlimited understands the concerns arising out of the United States Forest Service’s position taken in 2011: that as a condition of a permit to operate a ski area on national forest land, ski areas had to transfer their water rights to the Forest Service so the water rights used for snow-making would be attached to the special use permit. However, because the Forest Service has since withdrawn that position, Trout Unlimited believes the “Water Rights Protection Act” in S. 2902, Title II, Sections 201-206, is not necessary.

Trout Unlimited opposes S. 2902’s Water Rights Protection Act because of the ambiguity it creates in water management. Even though the intent of the Water Rights Protection Act may be to clarify existing law and emphasize the full authority of state water law with regard to federal agencies, the Act ultimately creates ambiguity as to whether it is changing existing law or creating other unintended consequences. Section 206 of the Water Rights Protection Act contains several savings clauses, specifically preserving federal agency exercise of 4(e) conditions under the Federal Power Act, federal reserved water rights (including tribal water rights), the Endangered Species Act, Bureau of Reclamation water contracts, and voluntary state-based water right transfers. There is no mention in Section 206, however, of the federal bypass flow authority pursuant to the Federal Land Policy and Management Act (FLPMA) Section 505.

Trout Unlimited strongly supports an additional savings clause in Section 206 of the proposed Water Rights Protection Act to prevent such unintended consequences of changing settled law. In Colorado, for example, state legislation to protect and clarify state water rights (House Bill 16-1109) signed into law in April 21, 2016, contained a savings clause preserving

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bypass flow authority. Trout Unlimited suggests the following language for an additional savings clause in Section 206:

“Nothing in this title limits or expands any authority under Section 505 of the Federal Land and Policy Management Act to reasonably condition any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement.”

Trout Unlimited would be happy to work with the sponsors of S. 2902 to improve the Water Rights Protection Act in order to avoid the unintended consequence of changing existing, settled law.

**2. Trout Unlimited Comments on S. 2902, Subtitle B, Sections 112 and 113: “Protecting Critical Water Supply Watersheds.”**

Trout Unlimited is sympathetic to the amount of time and effort federal agencies spend doing NEPA (National Environmental Policy Act) review. Trout Unlimited understands the motivation in Subtitle B’s “Protecting Critical Water Supply Watersheds,” to reduce the time spent on NEPA review in public forest management, particularly when insect infestation or reduction of fire risk is at stake.

While it is not applicable to all of the activities and projects contemplated under Subtitle B, for the larger proposed activities, the FAST Act’s permit streamlining provisions from the December 2016 transportation bill should expedite agency project review. Section 113, however, eliminates NEPA review altogether through a new categorical exclusion that is overly-broad. This broad elimination of NEPA review will not serve Subtitle B’s purpose of Protecting Critical Water Supply Watersheds. For example, Trout Unlimited opposes Section 113(a)(2)’s creation of a new, broad categorical exclusion on projects “to increase water yield” because it encompasses too broad a range of activities: “A categorical exclusion is available to the Secretary concerned to develop and carry out a management activity on National Forest System land or public land if the primary purpose of the management activity is . . . to increase water yield.” Similarly, Section 112’s streamlining of NEPA review for select activities is overly broad when it is extended to activities “to increase water yield.”

A “management activity to increase water yield” on public lands could include a wide variety of actions, including not only forest thinning or forest clear-cutting, but also a variety of water impoundments or water diversions. The reach of other activities listed in Sections 112 and 113 are also potentially broad and not limited in size or scope.

The broad reach of the NEPA streamlining and categorical exemptions of Sections 112 and 113 puts headwaters at risk. NEPA review is important for ensuring good decision-making. The nation’s headwaters are too precious to drought resiliency to be excluded from environmental review for such a broad swath of actions that may have irreversible effects.

We are aware that the Committee is working on a County discussion draft bill on a parallel track. We urge the committee to drop Sections 112 and 113 from this bill, and instead, address the issue in that context.

**3. Trout Unlimited Response: Questions for the Record Submitted to Ms. Laura Ziemer by Senator Wyden.**

**Question 1:** I've been hearing from many concerned Oregon fishermen, environmental groups, and the Oregon fishing industries about the impacts of drought management in California on salmon fisheries in Oregon. That is a great concern to Oregon's coastal economies and livelihoods. I've been told that proposals in the California drought bills, especially the House drought bill, that mandate moving more water could benefit water users at the expense of fish. Pacific salmon are already being impacted by the drought. It is my understanding that moving more water south at certain times of year could have severe consequences for fish and coastal communities, and impact commercial, recreational, and tribal fisheries—including in the Klamath basin, where we are trying to restore fisheries.

Can you explain to me in your opinion what impact the management directives set up in the California bill could have on Oregon fisheries if implemented to their fullest?

**Response:** The salmon fishing industry in Oregon and California is interconnected in a number of ways. The salmon and the boats both cross borders, and the stocks are managed together. The Sacramento River fall-run Chinook population is a major driver of the industry in both states. Weakness in that population from habitat decline and drought threaten jobs and fishing communities as far north as Washington. Sacramento spring-run and winter-run fish are threatened and endangered, respectively and further losses to those stocks could lead to fishing restrictions even though those species are not targeted.

The salmon fishing industry and Pacific Fishery Management Council have both expressed deep concern with the Senate drought bill (see letters dated April 11 and May 11). The House drought bill is universally recognized as far worse from the industry's standpoint. The drought is causing great stress to both the commercial fishing industry and recreational fishing-related businesses, as well as to agricultural and municipal interests. Trout Unlimited recognizes the desire legislators have to help and we appreciate Senator Feinstein's deep commitment to the issue. At the same time we think the only durable solutions to future droughts will have to come from locally-derived sources.

**Question 2:** As I noted in my opening, for decades, the Klamath Basin had been characterized by bitter conflict, involving tribes, farmers and ranchers, states and federal governments, and conservation groups over water allocation and water rights. These problems seemed insurmountable, but when I was Chair of this Committee I called on the groups to create a Task Force to work out these issues in the Basin and bring us a collaborative solution that worked. It wasn't going to be easy, and nobody was going to get everything they wanted or thought they deserved, but in the end, all stakeholders got something they needed. It took a lot of time, and difficult conversations, but the groups worked together and developed three landmark agreements that were the basis for the Klamath bill I introduced this and the last Congress. While

unfortunately the bill didn't pass before the agreements expired, the unprecedented collaboration established relationships that continue to withstand the challenges these tough water issues present.

These groups are continuing to work together today to find a path forward even as we speak. Two of our witnesses here today, from the Family Farm Alliance and Trout Unlimited, have been integral to helping these communities find common ground and develop a collaborative solution.

I know Trout Unlimited has participated in conversations in the Klamath Basin during the development of the agreements. Given the changes in the Klamath agreements, is that sense of collaboration still there in the Basin? Do you think the collaboration that happened in the Klamath Basin could be a model for water challenges elsewhere in the West, such as California? Do you think the agriculture and conservation communities can come together to find solutions here?

**Response:** The Klamath Basin is one of Trout Unlimited's highest priorities. We were original parties to both the Klamath Hydroelectric Settlement Agreement (KHSA) and Klamath Basin Restoration Agreement (KBRA), and are parties to the Amended KHSA and the 2016 Klamath Power and Facilities Agreement (KPFA). In addition, we support and have provided technical support for the Klamath Tribes and Landowner Entity to implement the Upper Klamath Basin Comprehensive Agreement (UKBCA).

As you know, this committee supported legislation to implement the KBRA but Congress as a whole did not, and that agreement expired at the end of the year. In a demonstration of how strong the cooperative spirit is in the Klamath Basin, the parties immediately re-grouped and set about the hard work of finding alternative means forward. With only a few exceptions, the vast majority of the people with a direct interest in the management of the river and its natural resources continue to share a common vision of the future.

Trout Unlimited and our partners are very grateful for your and Senator Merkley's leadership in developing the Klamath amendment for the Senate Energy Bill. Enactment of that amendment would represent another major step forward for the basin, particularly for the Klamath Project irrigators and wildlife refuges. It is a credit to the people who live and work in the Klamath Basin that we were able to amend the KHSA to keep it on track, that we developed a framework for other issues through the KPFA, and that we came together to support your Energy Bill amendment. We expect that cooperative spirit to live on. There are a number of tremendous challenges remaining, including the need to adapt the UKBCA to the reality of a post-KBRA basin and to establish successor water sharing and power agreements to fulfil the premise in the KPFA. Although the parties can accomplish many things on our own, we also need continued support and leadership from you and our other champions in Congress.

We do believe that the Klamath agreements can provide a model – and also a cautionary tale – for basin-wide solutions in other regions. Not long ago the region hosted one of the country's most bitter water conflicts. Over a period of many years and countless formal meetings and informal gatherings most combatants came to understand one another and find a great deal of common ground in the process. While the substantive details of Klamath agreements will not be directly transferable to other places – each watershed or region will

face site-specific challenges, needs and priorities – we believe that the cooperative spirit that animates the multi-party collaboration can be replicated with the right commitment of local parties and support of local and federal governments.

The federal role in water management in the West is so pronounced that many locally-driven solutions will also require Congressional support. Congress can help our drought-stricken communities by making resources available to these locally and regionally driven processes; not proscribing or restricting actions through one-size-fits-all legislative approach. It is the existing room for flexibility and creativity that allowed TU and others to develop unique basin-specific collaboratives in the Klamath Basin and the Yakima River Basin with state, federal and local engagement that respond to water shortages through methods and measures supporting agriculture, fisheries, and other basin interests.

Congress can help to support these collaborative solutions by continuing to invest in existing programs designed to support drought resiliency – such as WaterSMART – and by focusing the incentives and funding of these programs toward water-management projects that create multiple, simultaneous benefits across the ecological, agricultural, and municipal sectors. This prioritization language will favor funding projects that show benefits across multiple sectors, so that those projects that generate environmental benefits for aquatic systems, in addition to increasing the availability of usable water supplies for agricultural or municipal uses, will be prioritized for project funding.

We hope that Congress and the federal government can encourage basin-wide discussions, participate in the development of cooperative solutions, and then work with the locals to carry out the work.

Thank you for the opportunity to submit supplemental testimony on behalf of Trout Unlimited.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'L. Ziemer', with a stylized flourish at the end.

Laura Ziemer



# Alaska Longline

## FISHERMEN'S ASSOCIATION

Post Office Box 1229 / Sitka, Alaska 99835 907.747.3400 / FAX 907.747.3462

March 15, 2016

Dear Honorable Members,

On behalf of the Alaska Longline Fishermen's Association (ALFA), I write to express our opposition to Senator Feinstein's S. 2533, the "California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act."

ALFA represents longline fishermen in securing sustainable access to healthy halibut, sablefish and rockfish stocks. Our organization is based in Sitka with members from Alaska, Washington and Oregon. ALFA campaigns for measures to protect the independent, community-based fleet critical to the economic health of Alaska's coastal communities and, ultimately, the resource on which it depends. While we do not have the same water supply concerns that are driving this legislation, ALFA stands in solidarity with the fishing fleet to prevent the extinction of target fish stocks, as well as of our fellow fishermen.

S. 2533 is a danger to our community-based fishing compatriots in California, Oregon and Washington. Sacramento River fall run Chinook salmon contribute significantly to salmon landings in each of those states' commercial fishing communities. Unfortunately, the Sacramento River's ability to support economically viable fisheries continues to decline in the face of drought and water diversions. Salmon populations are reaching critically low levels, with a projected ocean abundance of only about 300,000 fish in 2016. This is down from a projection of 650,000 in 2015, which turned out to be a poor year for salmon fishermen with less than half of that number accounted for when the season ended. Our colleagues to the South fear that 2017 and 2018 will also be very difficult years for the salmon fleet.

We have particular concern for California fishermen, who after a down salmon season in 2015, were forced to deal with a closure of commercial Dungeness crabbing in 2015-16 that continues to the present. California's fleet is now dealing with consecutive blows to their ability to earn a livelihood from the sea. As the fisheries go, so go the fishermen, and any more pressure on the fleet could result in its collapse. However, S. 2533 makes no mention of the fishing communities in desperate need of relief or of the depressed state of fall run populations during the drought. And due to depressed salmon populations, a problem that S.2533 could worsen, we expect to see some California salmon fishermen with Alaska permits fishing in Alaska this year, adding to the number of fishermen concentrated here.

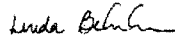
Rather than supporting the West Coast fleet as it navigates the drought, S. 2533 relaxes protections for the runs and rivers that are the very foundation of the commercial salmon fishery. It directs water managers to maximize water exports from the most important crossroads of the

salmonid migratory corridor, which amounts to an endorsement of industrial agribusiness over fishing families. It allows agencies to weaken existing protections for salmon. And it promotes dam building despite concerns that new traditional dams could be harmful to salmon. The bill contains some positive measures related to water efficiency, conservation and recycling. However, those provisions are more than outweighed by provisions that would damage salmon and the fishing community.

Finally, we are deeply concerned that a final bill negotiated between the House and Senate could include provisions from H.R. 2898. We also oppose that bill, which would be even more damaging to salmon.

In short, we are concerned for the future of the fish, and of the fleet. We urge you to oppose S. 2533.

Sincerely,



Alaska Longline Fishermen's Association  
834 Lincoln Street Room 23  
Sitka, AK 99835  
(907) 738-3615 (cell)  
(907) 747-3400 (office)

[www.alfafish.org](http://www.alfafish.org)

**American Bird Conservancy \* American Rivers \* Center for Biological Diversity  
 Defenders of Wildlife \* Earthjustice  
 EPIC – Environmental Protection Information Center \* Klamath Forest Alliance  
 League of Conservation Voters \* Los Padres ForestWatch  
 Natural Resources Defense Council \* San Juan Citizens Alliance  
 Sierra Club \* Southern Environmental Law Center  
 Western Environmental Law Center**

The Honorable Mike Lee  
 Chairman  
 Subcommittee on Water and Power  
 United States Senate  
 Washington, D.C. 20510

Senator Mazie Hirono  
 Ranking Member  
 Subcommittee on Water and Power  
 United States Senate  
 Washington, D.C. 2051

Dear Senators:

We are writing to express our strong opposition to S. 2902, the “Western Water Supply and Planning Enhancement Act of 2016.” Instead of offering practical solutions to the known challenges of the drought and water supply emergencies in the West, the proposed legislation offers a litany of measures that will eviscerate critical environmental protections and undermine the ability of federal agencies to effectively manage public lands and waters. Cobbling together several bills, this bill uses the water crisis in the West as an opportunity to pursue an anti-environmental agenda that would put the health and safety of our lands and water at risk by circumventing thoughtful analysis and decisionmaking.

For example, Subtitle B of Title I, “Protecting Critical Water Supply Watersheds,” would completely eliminate environmental review and stakeholder input under the National Environmental Policy Act (NEPA) for a broad range of national forest and public land projects. Under the guise of a “categorical exclusion,” which the bill defines as “exception” to NEPA, the proposed legislation waives environmental review entirely for certain management activities affecting up to 15,000 acres of public lands. In addition, this Subtitle unnecessarily limits the consideration of management alternatives to just two, which is in direct conflict with the Council on Environmental Quality’s implementing regulations and common sense. Curtailing environmental analysis through categorical exclusions and elimination of NEPA alternatives is a short-sighted and counter-productive approach to address western water supply shortages and other natural resource issues. NEPA provides the appropriate process to engage the public and state and local governments in fact-based analyses of the effects of federal land management activities on water quantity, water quality, fish habitat, and overall watershed health.

Subtitle D of Title I, the “Water Supply Permitting Act,” would further erode environmental review and permitting of surface storage projects by the Bureau of Reclamation. For example, Section 133 would establish the Bureau of Reclamation as the lead agency for all environmental reviews and permits, undermining the roles of Fish

and Wildlife Service and NOAA under the Endangered Species Act, Fish and Wildlife Coordination Act, and Clean Water Act. Sections 134 and 135 require other agencies to defer to the Bureau of Reclamation's administrative record in making factual and scientific findings and establish unrealistic time limits for permitting storage projects.

In Congressional testimony on this Act last year, when it was considered as S. 1533, the Department of Interior (DOI), questioned the necessity of these provisions limiting environmental review, stating that "[o]n the whole, it is unclear what public policy problem would be addressed by the bill" and that they were "not aware of any Reclamation or USDA-sited surface water storage projects that have been denied construction because of delays associated with project review or permitting." As DOI testified, environmental review and public input are not the problem. Rather, "project economics and the pricing and repayment challenges in the potential markets where projects would be built are the primary reasons for some projects being authorized, but not constructed."<sup>1</sup>

Subtitle E of Title I, the "Bureau of Reclamation Project Streamlining Act," includes even more draconian provisions aimed at critically undermining the environmental review and permitting process for Bureau of Reclamation projects. The toxic rollbacks of environmental protections include:

- Establishing unrealistic timelines for completion of feasibility reports, NEPA reviews and other permits, establishing financial penalties for federal agencies that fail to meet these arbitrary deadlines, and requiring Reclamation to publish a notice of rulemaking to establish new categorical exclusions under NEPA;
- Establishing new limitations on public comment under NEPA and narrowing the statute of limitations for challenges to permitting decisions;
- Allowing private parties to be lead agencies for NEPA and other permit reviews, which would allow the project sponsor to decide with the Secretary what mitigation measures are necessary, undermining federal authority to ensure compliance with NEPA and other federal laws; and
- Requiring the Bureau of Reclamation to be the lead agency for all environmental reviews and permits, including permits under the ESA and other laws, and requiring other agencies to use Reclamation's environmental document for their permitting decisions and reviews.

The DOI, in a statement for the record on this legislation when it was considered as H.R. 5412, again challenged this legislation's premise that water supply shortfalls can be remedied by reducing analysis and public input and noted that no Reclamation project "was denied construction because of the requirements of [NEPA] or because it was 'overstudied.'" Far from "accelerating" project delivery, these provisions would have the

<sup>1</sup> Statement of Dionne Thompson, U.S. Department of the Interior, Before the Committee on Energy and Natural Resources, Subcommittee on Water and Power, June 18, 2015.<sup>1</sup> Available online at: [www.energy.senate.gov/public/index.cfm/files/serve?File\\_id=6ac02e59-6350-48fc-8106-7eb6cc67530a](http://www.energy.senate.gov/public/index.cfm/files/serve?File_id=6ac02e59-6350-48fc-8106-7eb6cc67530a)



unintended effect of making project construction less likely and increasing the potential for delay by increasing the possibility of litigation.

Title II, the “Water Rights Protection Act,” is virtually identical to S. 982, which the DOI opposed in testimony to the Senate Energy Committee’s Subcommittee on Water and Power on June 18, 2015. As DOI testified previously, the language in this title:

Threatens the Federal Government's longstanding authority to manage federal lands and associated water resources, uphold proprietary rights for the benefit of Indian tribes, and ensure the proper management of public lands and resources. The legislation is overly broad, drafted in ambiguous terms, and likely to have numerous unintended consequences that would have adverse effects on existing law, tribal water rights, and voluntary agreements.<sup>2</sup>

This title undermines the ability to protect federal reserved water rights, including groundwater, and restricts federal agencies’ ability to apply for state water rights. As such, the title is unnecessary and would significantly undermine the ability of federal agencies to place conditions on the use of public lands and waters under federal jurisdiction.

In total, this legislation is not a serious response to the drought crisis affecting millions of people. Instead of offering solutions that are responsive to known causes of project delays, such as project economics, this bill recycles discredited ideas simply aimed at rolling back decades of environmental laws and regulations. Projects of the size, complexity, and importance of those considered under this bill, demand the careful planning and meaningful community input required under laws such as NEPA. For these reasons, we strongly oppose this legislation.

Sincerely,  
Steve Holmer  
Senior Policy Advisor  
American Bird Conservancy

Jim Bradley  
Vice President, Policy & Government Relations  
American Rivers

Brett Hartl  
Endangered Species Policy Director  
Center for Biological Diversity

Mary Beth Beetham  
Director of Legislative Affairs  
Defenders of Wildlife

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<sup>2</sup> Id.

Rebecca Judd  
Senior Legislative Counsel  
Earthjustice

Natalynne DeLapp  
Executive Director  
Epic – Environmental Protection Information Center

Kimberly Baker  
Executive Director  
Klamath Forest Alliance

Zach Drennen  
Legislative Associate  
League of Conservation Voters

Jeff Kuyper  
Executive Director  
Los Padres ForestWatch

Scott Slesinger  
Legislative Director  
Natural Resources Defense Council

Jimbo Buickerood  
Lands and Forest Protection Program Manager  
San Juan Citizens Alliance

Athan Manuel  
Director of Lands Protection Program  
Sierra Club

Alec Brown  
Legislative Associate  
Southern Environmental Law Center

Susan Jane Brown  
Staff Attorney  
Western Environmental Law Center



May 17, 2016

The Honorable Mike Lee, Chair, Subcommittee on Water and Power  
 The Honorable Maize Hirono, Ranking Member, Subcommittee on Water and Power

Committee on Energy and Natural Resources  
 304 Dirksen Senate Building  
 Washington, DC 20510

RE: Subcommittee on Water and Power – Committee on Energy and Natural Resources  
 United States Senate Legislative Hearing on Several Bills, Including S. 2533, the  
 California Long-Term Provisions for Water Supply and Short-Term Provisions for  
 Emergency Drought Relief Act; and S. 2902, the Western Water Supply and Planning  
 Enhancement Act of 2016

Chairman Lee and Ranking Member Hirono:

On behalf of American Rivers' members and supporters nationwide, we thank you for your leadership in holding this hearing to consider legislation to help individuals and communities in California and other parts of the West cope with the current historic drought conditions from which they are currently suffering. We are writing to express concerns with specific sections of S. 2902, the Western Water Supply and Planning Enhancement Act of 2016 and S. 2533 the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act. Although the legislation as introduced raises some significant environmental concerns, we believe those problems can be remedied, and look forward to working with the Committee in order to revise the legislation so that it can be strongly supported by all stakeholders.

Areas of Concern in S. 2902 and S. 2533

A. Title II of S. 2902

American Rivers strongly opposes Title II of S. 2902, the "Water Rights Protection Act," which contains similar language to S. 982 which was the subject of a hearing in the Subcommittee last year. The overly broad language of this title will jeopardize the ability of federal resource agencies to condition federal permits and apply for state water rights needed to protect valuable fisheries.

Drought resiliency and water supply security in the West is contingent upon protecting

healthy river and stream flows on federal lands. Federal land managers have an important role to play in protecting streams—under the authority of the Property and Treaty Clauses of the United States Constitution, Section 505 of the Federal Land Policy and Management Act, provisions of the Federal Power Act, and other authorities—and they also have a responsibility to work with their stakeholders and the states to do it right. Provisions of this title would harm the ability of federal land managers to use these authorities to protect the river health and water supplies on federal lands.

In June 2015, Reclamation testified that S. 982 “threatens the Federal Government’s longstanding authority to manage federal lands and associated water resources, uphold proprietary rights for the benefit of Indian tribes, and ensure the proper management of public lands and resources.” Moreover, Reclamation stated that “[t]he legislation is overly broad, drafted in ambiguous terms, and likely to have numerous unintended consequences that would have adverse effects on existing law, tribal water rights, and voluntary agreements.” We could not agree more. Title II of S. 2902 ambiguous, broad, and its enactment would not protect the water rights of the United States or of private water users. Instead it would lead to years of costly litigation, enriching water lawyers at the expense of water users and taxpayers.

#### B. Subtitle D and Subtitle E of Title I - S. 2902

Subtitle D would designate the Bureau of Reclamation to be the lead agency for all environmental reviews and permits notwithstanding existing roles of agencies such as the Fish and Wildlife Service in carrying out laws including the Fish and Wildlife Coordination Act. This subtitle also requires unrealistic specified deadlines to be met for consulting with cooperating agencies, completing environmental reviews, and determining project schedules. Reclamation has testified to the fact that there have been no examples of any Reclamation or USDA-sited surface water storage projects that have been denied construction because of delays associated with project reviews or shortcomings in communication among Reclamation, USDA, or any other state or federal partners. The effect of Subtitle D would be to limit the application of existing authorities under the purview of federal and state agencies, leading to potentially poorly sited and operated projects.

Subtitle E requires that Reclamation complete project studies in three years at a cost of not more than \$3 million, and imposes financial penalties for agencies that fail to meet specified deadlines. As mentioned above, Reclamation has testified that there are no examples of any Reclamation surface water storage projects that have been denied construction because of delays associated with project review or permitting.

#### C. Section 112 of S. 2533.

Section 112 would grant West-wide authority to construct those storage projects whose feasibility studies are completed within the next five years, or by 2021. While Section 112 is ostensibly aimed at new California storage, American Rivers opposes the broad

language of Section 112 for the following reasons. The broad authority granted in Section 112 mandates compliance only with applicable environmental laws, when it is clear that other state and federal laws are implicated in proposed surface storage projects. The narrow application of environmental laws could undermine labor law and other legal safeguards. Secondly, Section 112 would allow the Secretary to rely solely on project analyses produced by surface storage project sponsors. This provision would allow the Secretary to ignore National Environmental Policy Act input provided by coordinating agencies, essentially avoiding thorough and independent environmental review. Finally, although the scope of Section 112 is currently limited to those storage projects that pass through feasibility studies within the next five years, this time limitation could be extended to expand authorization for new storage to the detriment of collaborative, watershed-driven solutions.

We appreciate the attention given by this Subcommittee to this critical topic and we look forward to continuing to work with Members of the Committee and the Senate to find common sense solutions to addressing the West-wide drought crisis.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew B. Niemerski', with a stylized flourish at the end.

Matthew B. Niemerski  
Director, Western Water and Public Lands Policy  
American Rivers

**American Rivers \* Defenders of Wildlife \* Earthjustice \*  
Endangered Species Coalition \* League of Conservation Voters \*  
Natural Resources Defense Council \* Sierra Club**

May 9, 2016

**RE: Please Oppose S. 2533 “California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act”**

Dear Senator:

On behalf of our millions of members and activists nationwide, we write to convey our opposition to S. 2533 (“California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act” (Feinstein)). We greatly appreciate Senator Feinstein’s continued efforts to address the historic drought impacting California and other parts of the West. However, this bill would undermine existing Endangered Species Act protections for fish and wildlife in California’s Bay-Delta estuary and the thousands of fishing jobs along the West Coast that depend on these protections. This legislation would also set a damaging precedent for implementation of the Endangered Species Act across the nation.

Our organizations have a long history of working with Senator Feinstein on conservation issues, and we greatly appreciate that Senator Feinstein and her staff have worked to address some of the concerns about this legislation raised by some of our organizations and other stakeholders. Further, we support several of the long-term elements of S. 2533, including provisions that would authorize federal funding for water recycling, conservation, and groundwater storage projects to increase sustainable water supplies across the West.

Thus, it is with reluctance that we oppose S. 2533 as it is currently written. However, the complex provisions of Title 3 of the bill are likely to legislatively override existing Endangered Species Act biological opinions protecting salmon and other endangered species, notwithstanding certain savings clauses in the bill. Several specific provisions in this title would authorize and direct operations of the state and federal water projects that are inconsistent with protections for salmon and other endangered species required under existing biological opinions. These biological opinions have been upheld by the courts and numerous independent scientific peer reviews, and they continue to be informed by new scientific information and annual scientific reviews.

After four years of drought, endangered salmon and other listed fish species in California’s Bay-Delta estuary are on the brink of extinction. Weakening protections for these species could well be the last straw for some of them. In addition, the existing biological opinions also help to protect thousands of salmon fishing jobs along the West Coast that depend on healthy populations of fall-run Chinook salmon from California’s Central Valley. That is why numerous commercial and recreational fishing organizations along the West Coast also oppose S. 2533.

Ultimately, federal legislation that would reinterpret and override the implementation of science-based biological opinions not only threatens California's environment and fisheries but also poses a very damaging precedent for the implementation of the Endangered Species Act across the nation. Rather than weakening protections for endangered species and the thousands of jobs that depend on these protections, Congress should work to increase sustainable water supplies and build drought resilience.

For these reasons, we respectfully urge you oppose S. 2533.

Sincerely,

Earthjustice  
Defenders of Wildlife  
Natural Resources Defense Council  
League of Conservation Voters  
American Rivers  
Sierra Club  
Endangered Species Coalition



March 11, 2016

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, DC 20510-0504

Dear Senator Feinstein,

The American Sportfishing Association (ASA) wishes to first commend you for your diligence in working through several iterations of federal drought legislation and attempting to balance the interests of numerous stakeholders involved in this issue. Undoubtedly you and your staff invested significant effort into crafting the most recent bill (S. 2533) with the aim of improving the way water is managed, delivered, and allocated. ASA has taken great care in reviewing the document and is concerned that S. 2533 – California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act – would cause irreparable damage to the Central Valley salmon fishery and other sportfish, and therefore we regretfully must oppose the bill. We ask that you reconsider the language in the bill to help make certain that these fisheries are protected and the industries that they support remain viable, especially as California emerges from critical drought years.

ASA is the nation's recreational fishing trade association, representing sportfishing equipment manufacturers, retailers, wholesalers, outdoor media and angler advocacy groups. Our members depend on healthy, abundant fisheries, which are the foundation of 36,000 jobs and \$4.6 billion in annual economic impact in California. There are also 1.7 million anglers in the state that, in addition to salmon, fish for species like striped and largemouth bass. Central Valley salmon contribute \$1.4 billion to the California economy and support 23,000 jobs. This fishery also constitutes 60 percent of Oregon's coastal salmon catch and part of Washington's as well.

We have worked in lock step with our California-based partners and members on this issue for many years, particularly the Golden Gate Salmon Association (GGSA). GGSA completed a thorough analysis of S. 2533 that mirrors ASA's position on the bill. The appended document provides a detailed review. We would, however, like to emphasize a few prominent and problematic components of the bill.

Last year we took the position that S. 1894 – California Emergency Drought Relief Act of 2015 – was the extent of the compromise our industry could accept for the sake of salmon fisheries and fishing jobs. We supported many positive provisions in that legislation, but one of our leading concerns was the targeted eradication of non-native sportfish, which carried over into the new bill, S. 2533. The recreational fishing community believes this action will be minimally effective at recovering salmon relative to addressing other stressors that would be more impactful, economical, and successful. Several of the named bass species have coexisted with salmon without problems since shortly after California achieved statehood. Some predation is a natural part of the ecosystem, and in this case the impacts

**AMERICAN SPORTFISHING ASSOCIATION**

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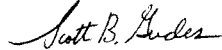
of these interactions on salmon pale in comparison to the larger issues related to lack of water supply. Bass form a robust recreational fishery and, though they have some interactions with salmon, so do many other species, including the native pikeminnow. The eradication program would also set a dangerous precedent by giving federal agencies authority to infringe on state fish and wildlife management jurisdictions.

Another chief concern is that the maximum amount of water would be permitted to be pumped out of the Sacramento-San Joaquin River Delta to other parts of the state, compromising the survival of juvenile salmon at their most critical life stage. Though the fall run of Chinook salmon is not listed as endangered, it benefits from these state and federal environmental protections for the other runs, which could be circumvented according to S. 2533. The Endangered Species Act and biological opinions need to be upheld.

There are many strategies that can be taken to help salmon, and GGSA has laid out a collection of projects for this purpose, but without adequate water flows, temperatures and science based limits on pumping, salmon runs cannot survive, recover, and thrive. In direct correlation to the low survival rate of juvenile salmon in recent years has been the decline in fishing related businesses. Fishermen have sold their boats, marinas are empty, and sales are down, which has broader, negative repercussions on California's coastal economy.

We believe there is room for improving existing protections for salmon without targeting other sportfish in a manner that would not interfere with meeting the needs of other industries and private citizens. Again, we appreciate your efforts in undertaking this hugely important and complex task. Thank you for your consideration.

Sincerely,



Scott Gudes  
Vice President of Government Affairs

Cc: Chairwoman Lisa Murkowski, Ranking Member Maria Cantwell, Senator Boxer

**Senator Michael F. Bennet Statement for the Senate Energy and Natural  
Resources Subcommittee on Water and Power Hearing on Pending  
Legislation**

**May 17, 2016**

Chairman Lee and Ranking Member Hirono, I would like to express my support for two important water resource bills, both of which would improve storage and access to reliable, clean water for rural communities across Colorado. I would also like to pledge my support to find additional solutions to address west-wide drought.

Water is a precious resource in Colorado and throughout the west. The headwaters for 20 western states begin in Colorado. So Coloradans understand the importance of water conservation and storage. And we've worked closely with communities across the state to support solutions to the challenges posed by water shortage and variability in supply. The Lower and Upper Basin states have worked together for decades to develop solutions to conserve and wisely utilize water resources.

Both of the bipartisan bills that I've introduced with Senator Gardner will help Colorado communities better manage our water resources in the face of increased demand and persistent drought conditions.

The first bill, S. 2616, will allow the Southeastern Water Conservation District ("the District") to more easily pay for its portion of the construction of the Arkansas Valley Conduit. The Conduit was first authorized in 1962 to provide cost-effective delivery of clean drinking water to communities across the Arkansas Valley. Last summer, I convened a meeting with District officials and the Deputy Secretary of the Interior Connor to lay out a plan to meet the regional needs for safe drinking water.

The need is immediate. Right now, families in the Arkansas Valley depend on groundwater sources contaminated with pollutants that have the potential to cause cancer. The concentration of these contaminants in 14 towns exceeds the primary drinking water standards mandated by the federal Safe Drinking Water Act. The Colorado Department of Health and Environment has issued enforcement actions to these communities requiring them to clean up the water.

Our bill will give the District the authority and flexibility to use generated revenues to reduce federal outlays by more than \$150 million. This will speed up the project and move it one step closer to the construction phase. While there is no statutory requirement for non-federal financing of construction, the state of Colorado has approved a \$60 million loan to the District. S. 2616 will assist by providing a dedicated stream of revenues to the District, which it can then use for loan repayment to the State. I ask the committee for prompt and favorable consideration of S. 2616.

I also wish to express my support for a second water resource bill, which enables water provisioning for the Town of Minturn. Bolts Ditch is a diversion of Cross Creek south of Minturn that has existed since the 1880s. When the Holy Cross Wilderness was established in 1980, the ditch was not being used and was accidentally omitted from a list of existing water facilities within the Wilderness. In 2006, when the Town began to restore the ditch to fill Bolts Lake and use it as a water storage facility for municipal use, the U.S. Forest Service objected to the construction of a “new” ditch within a Wilderness area. The Town of Minturn and the Forest Service worked together and agreed to render the Town’s water right “conditional.” This agreement is slated to expire in October 2016 unless the ditch can be legislatively authorized.

Since 2010, my office has been working with the Town of Minturn and the Forest Service to facilitate a solution. Our bill would authorize special use of the Bolts Ditch head gate and the segment of the Bolts Ditch within the Holy Cross Wilderness Area. This would allow Minturn to use its existing water right, store water in Bolts Lake and ensure sufficient water for the local communities. However, it doesn’t change anything about the Wilderness area.

Nearly 2.6 million acres of farmland are irrigated across Colorado. Agriculture supports diverse rural communities, contributes \$41 billion to the state economy and employs more than 170,000 people. Water resources also support municipal, recreational and hydropower needs for Colorado’s residents and visitors and provide habitat for fish and other wildlife. As the demand for water in the Colorado River Basin increases, the need for effective water conservation planning has never been greater. Waiting for the next El Niño isn’t going to solve our water demand problems. However, we believe that water policy in the Colorado River Basin must be driven and written by the Basin states working collaboratively. We’re in close contact with water utilities, water managers, farmers, businesses, local elected officials, and environmental groups across Colorado. Our role in

Congress should be to support those efforts and make sure that federal funding, regulations, and agencies are properly aligned to support their ongoing progress.



Created to enhance and protect an economically  
viable Washington salmon troll fishery.

Dear Members,

The Coastal Trollers Association represents many Washington salmon troll fishers as well as supporting businesses. We were created to enhance and protect an economically viable troll fishery. Our members provide a quality product to restaurants, retail stores and farmers' markets as well as dockside wholesale buyers. Our mission is to promote long-term sustainability of troll fisheries resources, to enhance economically viable opportunities for troll fishermen and to fairly represent our members.

In support of those principles, we are opposed to Senate Bill 2533, the "California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act" by Senator Feinstein. As currently written, this bill presents many problems for California's Sacramento River fall run Chinook Salmon. We are concerned that those problems will be exacerbated if this bill makes it to conference committee and is blended with bills similar to Representative Valadao's H.R. 2898.

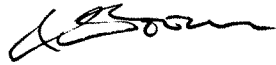
Although we are some distance from California's Sacramento River Valley, fish that begin their life cycle there have constituted as much as 20% of Washington's total chinook landings in seasons past. We fear our brethren fishers in Oregon and California, where Sacramento River Chinook constitute as much as 70% and 90% of total catches, respectively. Those fishing communities depend on the health and volume of the Sacramento River, as well as the San Francisco Bay-Delta Estuary, to support their families and their economies, as well as the unique fishing heritage and culture of rural port towns.

California's drought has had severe impacts salmon runs in the Sacramento River, where we understand mortality of naturally-spawned juveniles has reached crisis levels in recent years. The salmon fishery in California will be restricted this year because so few adult fish returned to their natal streams to spawn. We have great sympathy for our California compatriots who are suffering through a Dungeness crab closure. The financial impacts of that closure will be exacerbated with fewer salmon in the ocean, which is the likely result of provisions in S. 2533.

Moreover, the decline of southern fisheries has lead to a not unexpected migration of fishing vessels to more northerly fishing grounds. We have seen both Oregon and California salmon trollers displaced by their failing fisheries come to shared grounds off the Columbia River, increasing pressure on stocks there. These migrant vessels are also acquiring Washington salmon permits, increasing pressures on our local fish stocks and displacing local fishermen. The foreseeable result of this movement is an accelerated decline of both the salmon fishery, and local fishing communities.

The West Coast salmon fishing industry is in need of stronger protection at this time. Because S. 2533 is bad for salmon, we cannot support it.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Brown'.

Jeremy Brown,  
President.  
Coastal Trollers Association.  
P O Box 2434, Auburn,  
Wa 98071.  
[www.coastaltrollersassociation.com](http://www.coastaltrollersassociation.com)



May 17, 2016

Senator Mike Lee  
Chairman  
Subcommittee on Water and Power  
Energy and Natural Resources Committee  
304 Dirksen Senate Office Building  
Washington, DC 20510

Senator Mazie Hirono  
Ranking Member  
Subcommittee on Water and Power  
Energy and Natural Resources Committee  
304 Dirksen Senate Office Building  
Washington, DC 20510

Re: Testimony for the Record Regarding S. 2902

Dear Senator Lee and Senator Hirono:

The Colorado River Board of California is pleased to submit these comments relating to S. 2902. California has been engaged in collaborative efforts to manage limited Colorado River water supplies for decades and urges Congress to continue its tradition of not moving forward with legislation affecting Colorado River issues without the consensus of the Colorado River Basin States.

Since 2003, water management agencies in California have implemented voluntary conservation programs to decrease California's Colorado River water uses. Over the past 13 years, California's agencies have reduced their diversions from the Colorado River by over 500,000 acre-feet per year through significant investments in water conservation and management programs. These investments include programs to improve agricultural district and on-farm water use efficiency, crop rotation and fallowing, urban water recycling, brackish water desalination, and residential and commercial efficiency measures. California entities have invested billions of dollars toward these ongoing efforts. During this decade of reduced Colorado River water use within California, California has been successfully navigating through a record-breaking internal drought that has decreased the amount of water available from other sources and has resulted in mandatory water use reductions throughout the State.

Over the same decade that California has worked internally to reduce its Colorado River River uses, California's agencies have also worked cooperatively with the Bureau of Reclamation and water users from other States on additional agreements and programs that conserve Colorado River water such as the 2007 Interim Guidelines for the Coordinated Operations for Lake Powell and Lake Mead, construction of Brock Reservoir to manage water

deliveries to the Imperial and Coachella Valleys that would otherwise be lost for use in the United States, a pilot project to operate the Yuma Desalting Plant that generated 30,000 acre-feet of water stored in Lake Mead, the July 2014 Agreement establishing the Pilot System Conservation Program, the December 2014 Memorandum of Understanding for Pilot Drought Response Actions and ongoing efforts pursuant to Minute 319 to fund agricultural and other conservation activities in Mexico. Each of those voluntary efforts helps to conserve water in Lake Mead for the benefit of the Colorado River System and the Basin States.

Where federal authority has been needed to implement certain consensus-based initiatives within the Colorado River Basin, California has supported legislation to meet that need. For example, congressional authorization has been sought for tribal water rights settlements like the Bill Williams River Water Rights Settlement Act (P. L. 113-223), and authorization for federal funding for environmental protection programs such as the Lower Colorado River Multi-Species Conservation Program. (Sections 9401 through 9404 of P.L. 111-11). Section 206 of the 2015 Energy and Water Development and Related Agencies Appropriations Act (division D of P.L. 113-235) authorized Reclamation to fund or participate in projects pursuant to the July 2014 Agreement establishing the Pilot System Conservation Program, but restricted Reclamation's ability to utilize certain existing sources of funding for those projects. No such legislative intervention has been required or sought for other voluntary agreements such as the 2007 Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead, and the December 2014 Memorandum of Understanding for Pilot Drought Response Actions, and such programs have been carefully developed to operate within the existing provisions of the Law of the River, including the Consolidated Decree in *Arizona v. California*, 547 U.S. 150 (2006).

The Basin States have long recognized that working through negotiated consensus is more productive than seeking judicial or legislative intervention to determine river operations. In keeping with that spirit, the Colorado River Board of California does not object to an extension of the original consensus-based authorization for the Pilot System Conservation Program in Section 206 of the 2015 Energy and Water Development and Related Agencies Appropriations Act through 2026 if that is acceptable to the other Basin States. The Colorado River Board of California objects to the inclusion of paragraph (2) in subsection (a) (at lines 8-25 on page 20, and lines 1-3 on page 21) of Section 104 that modifies the original consensus-based authorization. The added provision would legislate certain water accounting provisions that are routinely conducted on an annual basis by the Secretary of the Interior in conjunction with the Lower Basin States pursuant to the *Arizona v. California* decree and a complex series of voluntary agreements and legal priorities.

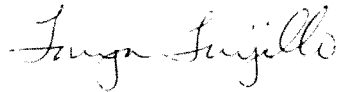
Allowing Section 104 to move forward without the consent of the affected States and water users will detract from the cooperative spirit that has been fundamental to the many successful efforts to manage the water resources of the Colorado River system. The December 2014 Memorandum of Understanding for Pilot Drought Response Actions and the 2014 Pilot System Conservation Program have been effective, collaborative programs within the Colorado River Basin, and it was never the intent of the parties to the agreements establishing those programs that Congress should play a role in developing additional terms for those agreements. On the contrary, the agreements were designed to be consistent with the existing laws, decrees,



and contracts that have helped sustain the Colorado River Basin as a model for innovative, collaborative water management strategies.

The Colorado River Board urges Congress not to adopt Section 104 of S. 2902 in its current form. With respect to Section 103 of S. 2902, the Colorado River Board suggests that any saltcedar removal or revegetation activities proposed pursuant to the report and recommendations referenced in Section 103(a) and (b), should be completed in coordination and consultation with the Lower Colorado River Multi-Species Conservation Program authorized by Sections 9401 through 9404 of P.L. 111-11.

I appreciate the Subcommittee's consideration of these concerns and will be happy to respond to any questions.

A handwritten signature in black ink, reading "Tanya Trujillo". The signature is fluid and cursive, with the first name "Tanya" and last name "Trujillo" clearly distinguishable.

Tanya M. Trujillo  
Executive Director  
Colorado River Board of California



## ***"The New Voice of Salmon"***

### **Initial Analysis of S. 2533 - Senator Feinstein's Drought Bill**

This memo summarizes GGSA's initial analysis of S. 2533, the drought bill introduced by Senator Feinstein. On balance, S. 2533 likely would result in significant harm to salmon and the commercial and recreational salmon industry along the West Coast. GGSA opposes this bill.

**Salmon Need Stronger, Not Weaker, Protections During the Drought:** This is a critical time for Bay-Delta Chinook salmon runs, which, when healthy, support a \$1.4 billion dollar fishery and 23,000 jobs. Sacramento Basin fall run are the backbone of commercial and recreational salmon fishing south of the Columbia River. The fall run is not listed under the ESA, but protections for listed runs benefit the fall run and fishing communities. In addition, fishing is limited to protect listed runs, even though fishing did not cause these declines. Today, Bay-Delta salmon runs are at dangerously low levels.

- The drought and water mismanagement disastrously harmed salmon during 2014 and 2015, including the loss of 95% to 98% of juvenile wild Sacramento River fall and winter run salmon.
- The 2015 salmon season produced poor landings, far below projections. Only 112,400 salmon returned to the Sacramento Valley to spawn in 2015, below the minimum agency target.
- Given the three-year life cycle of salmon, the coming three years may be even more difficult for the salmon industry, as the remnants of more drought-affected year classes return to spawn.
- Fishermen are deeply concerned about a possible repeat of the 2008-2009 closure of the California salmon fishery, which included significant restrictions on the Oregon fishery.
- Federal agencies have stated that fish populations are so low that protections in 2016 must be stronger – not weaker – than during the past two years.
- The closure of the California commercial crab fishery has made the fishing crisis significantly worse, because many commercial fishermen rely on crab and salmon. In the past, healthy crab landings have helped fishermen survive poor salmon seasons.

In short, the coming three years are critical to the long-term health of the West Coast salmon industry.

**Provisions that Would Damage Salmon:** Major concerns regarding S. 2533 include:

- Weakening current federal protections for salmon under the ESA and other laws, such as:
  - Allowing worse flow conditions in the Delta and increased exports. (301(e)(4))
  - Locking in a 1:1 export to inflow ratio on the lower San Joaquin River for water transfers, which is less protective of salmon than current requirements. (302(b)(6))
  - Mandating that the Delta cross-channel gates be kept open "to the maximum extent practicable", increasing the loss of juvenile salmon to the Delta pumps. (302(b)(1)(A))
  - Allowing higher levels of pumping during peak winter storm runoff, which is critical to moving juvenile salmon through the Delta to areas where they can survive. (303(c))
  - Mandating averaging requirements that could harm salmon. (302(b)(12))

The above approach to regulating impacts on salmon is not supported by science and would be subject to interpretation by an unknown future administration.

- A new mandate to “maximize water supplies”, which conflicts with existing federal law, the “co-equal goals” under state law, and existing protections for salmon. (301, 302)
- Provisions to facilitate authorization, permitting and funding of new dam projects that could harm salmon. The bill conflicts with state law, which prohibits the expansion of Shasta Dam. A review by the USFWS concluded that raising Shasta Dam would harm salmon. (Title 1, Subtitle B, Sec. 506 and 602)
- A permanent guarantee of water deliveries for junior Sacramento Valley water users. (404)

Additional Concerns:

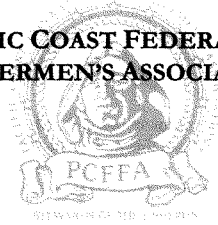
- Excluding any consideration of impacts to fall run salmon from decision-making regarding the water operations requirements of the bill. (Multiple sections.)
- Requiring federal agencies to “use”, not just consider, recommendations regarding water operations developed by water districts. (301(b)(2)(C) and 305(1))
- Increased litigation risk regarding salmon protections and existing law. (Multiple sections.)
- Reduced environmental review of water transfers, including for impacts to salmon. (302(b)(9)(B)(i))
- New restrictions on environmental review for undefined “emergency” water projects. (304)
- A predator removal program that is not supported by science and that scientists believe could result in unintended environmental harm. (203) GGSA has developed and is working to implement alternative science-based predation management projects.
- Limiting environmental review for predation projects, including the review of potential harm to salmon. (204(c))
- The conversion of Central Valley Project water contracts to permanent contracts, with potential impacts on salmon. (602(c)(1))
- A pilot program to allow California and other states to assume the lead for NEPA review, without limiting eligible projects or eliminating projects that could harm salmon. (139)
- An open ended sunset provision, as there is no definition in state law for the end of a state drought declaration. Some damaging provisions are exempt from the sunset provision. (702)

**Positive Provisions in the Bill:** The bill includes some provisions that could provide modest benefits:

- Investments in habitat improvements and gravel replenishment. However, those investments appear to be limited to the Sacramento River and to listed species. In addition, unlike the provisions above that would harm salmon, these investments would be subject to the uncertainty of the appropriations process. (201)
- Provisions regarding water recycling and efficiency that could help California in future droughts. Like habitat improvements, many of these provisions would be subject to the uncertainty of the appropriations process (Multiple sections.)

David Bitts  
*President*  
Larry Collins  
*Vice-President*  
Stephanie Mutz  
*Secretary*  
Chuck Cappotto  
*Treasurer*

**PACIFIC COAST FEDERATION  
of FISHERMEN'S ASSOCIATIONS**



Timothy R. Sloane  
*Executive Director*  
Glen H. Spain  
*Northwest Regional Director*  
Vivian Helliwell  
*Watershed Conservation Director*

**In Memoriam:**  
Nathaniel S. Bingham  
Harold C. Christensen  
W.F. "Zeke" Grader, Jr.

**Please Respond to:**

☐ **California Office**  
P.O. Box 29370  
San Francisco, CA 94129-0370  
Tel: (415) 561-5080  
Fax: (415) 561-5464

[www.pcffa.org](http://www.pcffa.org)

23 February 2016

☐ **Northwest Office**  
P.O. Box 11170  
Eugene, OR 97440-3370  
Tel: (541) 689-2000  
Fax: (541) 689-2500

Dear Honorable Members,

The Pacific Coast Federation of Fishermen's Associations (PCFFA) writes to express our opposition to S. 2533, the "California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act" introduced by Senator Feinstein.

PCFFA is the largest organization of commercial fishermen and women on the West Coast. For forty years, we have been leading the industry in assuring the rights of individual fishermen and fighting for the long-term survival of commercial fishing as a productive livelihood and way of life. PCFFA represents fifteen local fishermen's associations on the West Coast from Santa Barbara to the Canadian border. Our members depend on robust salmon fisheries to sustain their livelihoods, their local economies and communities.

We appreciate Senator Feinstein's persistence in seeking meaningful short- and long-term solutions to California's devastating drought. In our eyes, this latest iteration of drought relief legislation takes some steps forward, but it includes so many provisions that could damage salmon that we must oppose S. 2533. We view this bill as an inappropriate starting point for conference committee negotiations that are likely to further erode fish and water protections that enable California's \$1.4 billion salmon industry to survive.

Foremost among these concerns is a lack of equity in the means by which S. 2533 doles out "relief." Nowhere in the 190-page bill is there a discussion of relief for the salmon fishing industry, despite several provisions that would support industrial irrigation in the San Joaquin Valley. Moreover, language in the bill that governs operations of the Central Valley Project and the State Water Project does not address potential negative impacts on Sacramento River fall run Chinook, the salmon run on which California's, Oregon's, and to a lesser extent Washington's commercial fishing industries are founded. West Coast salmon fishermen are even more in need of relief from the drought than other businesses in California. (Cities have conserved. Agriculture has set records for revenue during the drought. But PPIC has found that the

environment has suffered more than any other sector.) Any drought relief bill must protect the economically-valuable fall run in addition to endangered salmon runs.

The bill directs water managers to “maximize” water supply and exports from the San Francisco Bay-Delta Estuary. We do not believe that this policy is appropriate given the intense strain on available water supplies and the ecosystem. Legislating a policy of increasing water exports would represent a de facto policy to reduce the water available to salmon and the fishing industry. We believe that the Central Valley Project Improvement Act’s “co-equal goals,” including water supply and the doubling of Central Valley salmon runs, are more equitable principles to guide us through this difficult time. The state legislature has incorporated similar “co-equal goals” for managing the Delta in state law. S. 2533 is inconsistent with both of these statutes.

We are also concerned that the bill would allow water managers to exceed certain restrictions in the National Marine Fisheries Service’s 2009 Salmon Biological Opinion (BiOp). For instance, the BiOp sets limit regarding flow in the Delta-Estuary during operation of the Delta export pumps so as to prevent entrainment of juvenile salmon and other species. S. 2533 allows managers to allow pumping in excess of the restrictions prescribed in the BiOp. This circumvention of the BiOp is particularly dangerous to salmon fisheries at a time when juvenile survival has been disastrously low after two years of poor temperature and flow conditions in the rivers. Weakening standards in the Delta could wipe out certain runs entirely, with consequent impacts on fishing communities.

S. 2533 provides for new dam construction projects in California. PCFFA’s members have never encountered a dam that was good for salmon. While responsible storage may need to be a component of drought preparedness, proposed new or expanded reservoirs in California would contribute negligible amounts of additional supply. We support thorough environmental review and feasibility studies for proposed new storage projects, but these projects must be proven to be environmentally credible before they move forward. The bill does not include rigorous and enforceable provisions to ensure that this happens.

We applaud Senator Feinstein’s inclusion of provisions supporting water recycling and conservation that will actually take stress off of our over-allocated natural supplies. We believe long-term drought resiliency requires rigorous comparison of proposed reservoirs against alternative methods of increasing supply or decreasing demand for our increasingly scarce water resource. This bill places the priority on new dams, which are the tool most likely to further harm salmon.

Finally, we oppose language in S. 2533 that alters and undermines existing environmental laws such as NEPA, the ESA and the CVPIA. Adequate and thorough environmental review is critical to protect against rash decisions made in the name of the drought emergency. If we sacrifice that analysis now, there may be fewer species to protect by the time the drought ends. Existing environmental protections are more critical now than ever.

Several other provisions in the bill could have negative impacts on West Coast fisheries. Please see the Fact Sheet by the Golden Gate Salmon Association, enclosed, for additional detail.

#### STEWARDS OF THE FISHERIES

We also point your attention to Congressman Huffman's H.R. 2983, which we believe strikes the right balance between short-term relief to communities affected by the drought, long-term planning to avoid similar impacts in the future, and protections for all of the businesses impacted by water scarcity. H.R. 2983 reflects the principle that because no particular sector of the economy caused the drought, no particular sector should disproportionately bear its consequences.

The West Coast fishing community thanks you for your consideration. We invite you to contact our office with any concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Sloane', with a stylized, flowing script.

Tim Sloane  
Executive Director



## Pacific Fishery Management Council

7700 NE Ambassador Place, Suite 101 Portland, OR 97220-1384  
 Phone 503-820-2280 | Toll free 866-806-7204 | Fax 503-820-2299 | [www.pcouncil.org](http://www.pcouncil.org)  
 Dorothy M. Lowman, Chair | Charles A. Tracy, Acting Executive Director

May 11, 2016

The Honorable Jared Huffman  
 United States House of Representatives  
 1630 Longworth House Office Building  
 Washington, D.C. 20515

The Honorable Mike Thompson  
 United States House of Representatives  
 231 Cannon Office Building  
 Washington, D.C. 20515

Dear Senators Huffman and Thompson:

Thank you for your request for Pacific Fishery Management Council comment on legislation related to the current drought situation in California, and its potential impacts on fisheries and fishing communities. The Council discussed this issue at its April meeting and provides the following analysis of S. 2533, the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act. As you know, we have previously commented to you regarding HR 2983/S 1837: the Drought Recovery and Resilience Act of 2015.<sup>1</sup> Our comments today are in the same spirit.

In general, we are in agreement with the Pacific Coast Federation of Fishermen's Association's analysis of the bill and with the Golden Gate Salmon Association analysis referred to in the PCFFA letter of February 23, 2016.

### General

We appreciate Senator Feinstein's efforts to solve both long- and short-term problems associated with California's drought. S. 2533 contains provisions that could be beneficial to salmon, such as investing in habitat improvements for listed species in the Sacramento River (\$201) and provisions for water recycling and efficiency. However, these limited provisions, which depend on the will of Congress, are outweighed by others that we believe would cause irreparable harm to California salmon and the commercial, recreational, and tribal fishing communities that depend on them.

California salmon stocks that are listed under the Endangered Species Act (ESA), and those not listed, are potentially vulnerable to the harmful impacts of the long California drought. This 190-page bill does not address its potential negative impacts to Sacramento fall-run Chinook salmon,

<sup>1</sup> <http://www.pcouncil.org/wp-content/uploads/2009/12/Huffman-Thompson-Drought-letter-DECEMBER.pdf>

which form the basis of salmon fisheries in California, Oregon, and, to a lesser extent, Washington. When healthy, Sacramento fall Chinook salmon runs support a \$1.4 billion fishery and 23,000 jobs. Although this run is not listed under the ESA, it benefits from protections for endangered winter-run Chinook. In addition, the fall Chinook run is currently at very low levels. The 2015 salmon season produced poor landings, and only 112,400 salmon returned to the Sacramento River to spawn, which is below the target level of 121,000. The bill provides support for industrial irrigation but does not provide support for—or mention—the recreational, commercial, or tribal salmon fishing industry. The bill does not mandate or even authorize stronger water management protections for salmon in response to the devastating drought impacts seen in the past several years.

Given the three- to four-year life cycle of salmon, there is concern among the salmon fishing industry and fishing communities that returns will drop precipitously over the next few years even if drought conditions improve. In 2008 and 2009, the California salmon fishery experienced closures that were disastrous to fishing communities. The closure of the California commercial crab fishery due to the presence of domoic acid has intensified the current fishing crisis, since so many commercial fishermen must rely both on crab and salmon to make a living. Therefore, the next three years are seen as crucial to West Coast fishing communities.

#### **Maximizing Water Supply**

S. 2533 aims to maximize the water supply and exports from the San Francisco Bay-Delta Estuary in order to increase water available for agriculture, but does not consider impacts to fishing communities or the ecosystem. Essentially, “maximizing supply” means reducing the water available to salmon. It would lock in, barring a finding by the Secretaries of Interior and Commerce, a 1:1 export-to-inflow ratio on the lower San Joaquin River for water transfers, which is less protective of salmon than current requirements, which require a more protective export-to-inflow ratio in most water-year types (302(b)(6)). It would mandate that the Delta cross-channel gates be kept open “to the maximum extent practicable,” which would increase the loss of juvenile salmon to the Delta pumps (302(b)(1)(A)). The bill would allow higher levels of pumping during peak winter storm runoff, which is critical to moving juvenile salmon through the Delta to areas where they can survive (303(c)), and would mandate averaging requirements for the export-inflow ratio that could harm salmon (302(b)(12)). The bill also guarantees water deliveries for junior Sacramento Valley water users (§404) and requires Federal agencies to not only consider, but use recommendations for water operations developed by water districts (301(b)(2)(C) and 305(1)).

The Central Valley Project Improvement Act (CVPIA) sets out “co-equal goals” that equally balance the doubling of Central Valley salmon runs with a healthy water supply. The California state legislature has incorporated similar “co-equal goals” for managing the Delta in state law. However, by requiring the “maximizing” of water supplies for Central Valley Project water users, S. 2533 is inconsistent with both of these statutes.



### **NMFS Biological Opinion**

The Council is concerned that S. 2533 would allow water managers to exceed certain restrictions in the National Marine Fisheries Service's (NMFS) 2009 Salmon Biological Opinion (BiOp). For instance, the BiOp sets limit regarding flow in the Delta-Estuary during operation of the Delta export pumps so as to prevent entrainment of juvenile salmon and other species. S. 2533 permits managers to allow pumping in excess of the restrictions prescribed in the BiOp. This circumvention of the BiOp is particularly dangerous to salmon at a time when juvenile survival has been disastrously low after two years of poor temperature and flow conditions in the rivers.

S. 2533 authorizes weaker protections for salmon and other endangered species by allowing water export pumping levels that would violate the existing BiOps, which have been upheld by the courts and independent scientific peer review (Section 303).

### **Weakening of Environmental Laws**

S. 2533 reduces environmental review periods for water transfers, including for impacts to salmon [302(b)(9)(B)(i)]; creates new restrictions on environmental review for undefined "emergency" water projects [§304]; limits environmental review for predation projects, including the review of potential harm to salmon [§204(c)]; and allows, in a pilot process, for California and other states to assume the lead for National Environmental Policy Act review [§139]. As noted above, the bill also undermines the "co-equal goals" set out by the CVPIA. The Council believes that thorough environmental review is critical to protect against poor decisions made under political pressure during the drought.

### **Other Concerns**

The Council is concerned that the bill includes a predator removal program that is not supported by science and that scientists believe could result in unintended environmental harm (Section 203). Some provisions (e.g., §139) are also exempt from the sunset provision (Section 702). Finally, the Council believes this legislation would lead to increased litigation, leading to declines in salmon populations while important decisions are tied up in the courts.

### **Huffman's Bill**

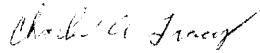
We agree with the Pacific Coast Federation of Fishermen's Associations that your bill H.R. 2983, Rep. Huffman, strikes a balance between short-term relief to communities affected by the drought, long-term planning to avoid similar impacts in the future, and protections for businesses impacted by water scarcity. H.R. 2983 reflects the principle that because no particular sector of the economy caused the drought, no particular sector should disproportionately bear its consequences.

Page | 4

#### Conclusion

Thank you again for requesting Council comments on this bill and other drought legislation. We recognized that this bill is unlikely to become law as written, but could be combined with HR 2898, the Drought Recovery and Resilience Act of 2015, which could have additional negative impacts on salmon stocks and the communities that depend on them (the Council commented on HR 2898 on September 28, 2015<sup>2</sup>). The Council appreciates the opportunity to comment on these important bills. Should you have any additional questions, please feel free to contact us.

Sincerely,



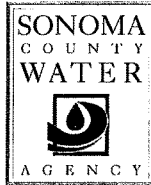
Mr. Charles A. Tracy  
Acting Executive Director

JDG: kma

Cc: Council Members  
Habitat Committee  
Salmon Advisory Subpanel  
Mr. Mike Burner  
Ms. Jennifer Gilden

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<sup>2</sup> <http://www.pcouncil.org/wp-content/uploads/2014/12/Huffman-Thompson-Drought-Letter.pdf>



CF/47-11-2 Forecast Informed Reservoir Operations  
(ID 5513)

May 23, 2016

Senator Mike Lee  
Chairman  
Subcommittee on Water and Power  
Energy and Natural Resources Committee  
304 Dirksen Senate Office Building  
Washington, DC 20510

Senator Mazie Hirono  
Ranking Member  
Subcommittee on Water and Power  
Energy and Natural Resources Committee  
304 Dirksen Senate Office Building  
Washington, DC 20510

Dear Senator Lee and Senator Hirono:

We write today to express, for the record, the views of the Sonoma County Water Agency (SCWA) on Section 113 of S. 2533, the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act, introduced by Senator Feinstein. SCWA strongly supports Sec. 113, entitled "Reservoir Operations Improvement." If enacted, Sec. 113, would help in predicting major weather events, and translate that predictive capacity into on-the-ground responses, including water savings, storm water management, and water availability for users.

Sonoma County Water Agency has been an active participant in a collaborative effort known as the Forecast Informed Reservoir Operations (FIRO) Work Plan. Other participants in FIRO include the Army Corps of Engineers, the Department of the Interior, Scripps Institution of Oceanography, the State of California and NOAA. The goal of FIRO is to improve all aspects of managing reservoir levels by incorporating advances in weather and precipitation data and modeling, especially "atmospheric rivers," which provide about half the yearly rainfall in California in just a few episodes. This provision would advance efforts to apply the latest in weather forecasting and other data to the operation of the reservoir—in short, to update the rule curve.

Senator Mike Lee  
Chairman  
Senator Mazie Hirono  
Ranking Member  
Energy and Natural Resources Committee  
May 23, 2016  
Page 2 of 2

In essence, we need better data that tells us when and where an atmospheric river will hit our reservoir at Lake Mendocino. This includes knowing if no atmospheric rivers are forecasted in a 10-14 day period. Knowing that information will help the U.S. Army Corps of Engineers better manage flood control releases from our reservoirs. We can achieve that change by updating the Corps' reservoir operations manual using the data we collect in this strategy.

Thank you for your consideration of this statement.

Sincerely,

A handwritten signature in black ink, appearing to read 'Grant Davis', is written over a horizontal line.

Grant Davis  
General Manager  
Sonoma County Water Agency

c: Members of the Senate Energy and Natural Resources Committee



April 11, 2016

The Honorable Lisa Murkowski  
United States Senate  
Washington DC 20510

The Honorable Maria Cantwell  
United States Senate  
Washington DC 20510

The Honorable Barbara Boxer  
United States Senate  
Washington DC 20510

Re: **Salmon Industry Opposition to S. 2533**

Dear Senators Murkowski, Cantwell and Boxer:

We are writing, as members of the West Coast salmon fishing industry and related businesses, to express our opposition to S. 2533 (Feinstein). This legislation, in response to the California drought, could result in serious harm to critical salmon runs and to the jobs and economic activity that those salmon runs support along the entire West Coast.

California's salmon fishery supports, when healthy, \$1.4 billion economic activity and 23,000 jobs in California, and half that again in Oregon. Sixty percent of the salmon taken in Oregon's ocean fishery come from California's Central Valley. California salmon supports fishing from Central California to Washington. Salmon fishing jobs go far beyond the dock. We are a wide range of businesses, including commercial fishing, marina operations, charter boats, tackle manufacturing, retail tackle sales, wholesale and retail fish sales, restaurants and more. Our families and communities depend on a healthy environment and a healthy salmon fishery.

As written, S. 2533 would seriously harm salmon runs, in several ways. Specifically the bill would:

- Interfere with the implementation of current legal protections for Bay-Delta salmon and allow water needed by salmon to be taken away.
- Require the Bureau of Reclamation to maximize pumping from the Delta.
- Facilitate the construction of new dam projects that could be harmful to salmon.
- Guarantee specified levels of water delivery to users that currently receive water pursuant to junior water rights.

These concerns are analyzed in greater detail by the Golden Gate Salmon Association. All of these provisions would harm salmon at a time when Bay-Delta salmon runs are highly vulnerable. In addition, we are deeply concerned that a final bill could be even more damaging to salmon, if it is conferenced with H.R. 2898 (Valdado). That bill contains language even more damaging to Bay-Delta salmon runs. We oppose H.R. 2898 as well.

As a result of the drought and poor water management, the population of Bay-Delta salmon has declined steeply in recent years. In 2015, 95 to 98 percent of juvenile wild Sacramento River were killed by high water temperatures before they began their migration downstream. In addition, populations of adult Sacramento River salmon in 2015 were only 40 percent of agency projections, which caused economic hardship for many of us. As more drought-stunted year classes reach adulthood, we anticipate that 2016 and the two following years will also be very difficult for our industry. The closure of the California crab fishery has further increased the stress on our commercial fishing industry.

Simply put, our industry cannot bear additional harm. We urge you to ensure that any drought legislation passed by Congress provides net benefits for the California salmon industry. Fortunately, S. 1837 (Boxer) and H.R. 2983 (Huffman) provide excellent models for legislation that responds to the drought without harming the environment and the salmon fishing industry.

Thank you for considering our views and for your leadership on behalf of the fishing community.

Sincerely,  
*Salmon Industry West Coast Businesses*  
*See attached list of opponents to S.2533*

Cc: Senator Diane Feinstein  
 Senator Daniel Sullivan  
 Senator Patty Murray  
 Senator Jeff Merkley  
 Senator Ron Wyden

## West Coast Salmon Businesses Opposing S.2533 (Feinstein)

April 11, 2016

Page 1

Mr.	Aaron Garner	Distribution Mgr.	Big Rock Sports	Clackamas	OR
Mr.	Abe Cuanang	Regional Editor	Salt Water Sportsman	San Francisco	CA
Capt.	AJ Smith	Owner	Coho Moch Charters	Seaview	WA
Capt.	Allen Chin	Owner	Tigerfish Charters	Emeryville	CA
Mr.	Angelo Cuanang	Author Fisherman	Fishing How To Books	San Francisco	CA
Capt.	Anthony Urie	Owner Operator	Vessel F/V Jessica Mae	Crescent City	CA
Capt.	Barbara Emley	Owner	Vessel F/V Autumn Gale	San Francisco	CA
Capt.	Barry Day	Owner Operator	Vessel F/V High Seas LLC	Half Moon Bay	CA
Mr.	Bart Hall	President	Fred Hall Shows	Long Beach	CA
Capt.	Ben Platt	Owner Operator	Vessel F/V Seastar	Windsor	CA
Capt.	Benji Shake	Owner	Monterey Sportfishing Center	Monterey	CA
Capt.	Benji Shake	Owner	Princess Charters	Monterey	CA
Capt.	Bill Binny	Owner Operator	Vessel F/V Donald B	Half Moon Bay	CA
Capt.	Bill Boling	Owner Operator	Vessel F/V Advance	Eureka	CA
Mr.	Bill Divens	Owner & Guide	Salmon King Lodge	Red Bluff	CA
Mr.	Bill Shedd	President	Aftco Manufacturing	Santa Anna	CA
Capt.	Bob Henry	Owner	Vessel F/V Maureen	Morro Bay	CA
Capt.	Bob Ingles	Owner	Queen of Hearts Charters	Half Moon Bay	CA
Capt.	Bob Sparre	Owner	Bob Sparre's Guide Service	Fair Oaks	CA
Capt.	Brad Staples	Partner	Western Fishing Adventures Ltd.	West Lynn	OR
Mr.	Brad Staplin	President	BSA Tackle Sales	Citrus Heights	CA
Mr.	Brent Hutchings	CEO & Owner	North River Boats	Roseburg	OR
Capt.	Brian Cables	Owner	Sarah Kay Charters	Portland	OR
Capt.	Butch Smith	Owner	Coho King	Ilwaco	WA
Chief	Caleen Sisk	Chief	Winnemem Wintu Tribe	Northern	CA
Capt.	Carol Jones	Owner	Kahuna Sportfishing	Moss Landing	CA
Capt.	Chad Dahlberg	Owner Operator	Vessel F/V Pacific Rival	Half Moon Bay	CA
Capt.	Chris Arcoleo	Owner	Chris Fishing Trips Center	Monterey	CA
Capt.	Chris Arcoleo	Owner	Star of Monterey Charters	Monterey	CA
Capt.	Chris Arcoleo	Owner	Check Mate Charters	Monterey	CA
Capt.	Chris Arcoleo	Owner	Caroline Charters	Monterey	CA
Capt.	Chris Chang	Owner	Ankeny Charters	Half Moon Bay	CA
Capt.	Chris Duba	Owner	Silver Fox Charters	San Francisco	CA
Mr.	Chris Hegnes	Store Manager	Englund Marine	Crescent City	CA
Capt.	Chris Smith	Owner	Captain Hook Charters	Berkeley	CA
Capt.	Chuck Louie	Owner	Chucky's Pride Charters	San Francisco	CA
Capt.	Connor Dooley	Owner Operator	Vessel F/V Breeze III	Half Moon Bay	CA
Capt.	Craig Hanson	Owner	Argo Charters	San Francisco	CA
Mr.	Craig Stone	Owner	Emeryville Sportfishing Center	Emeryville	CA
Capt.	Dale Walters	Owner	Que Sera Sera Charters	Half Moon Bay	CA
Capt.	Dan Durban	Owner Operator	Vessel F/V Golden Girl	San Francisco	CA
Mr.	Dan Parnel	President	Leisure Sales	Auburn	WA
Capt.	Dan Schenk	Owner	Nauti Lady Charters	Ilwaco	WA
Capt.	Dan Snell	Owner Operator	Vessel F/V Barbara Jo	Half Moon Bay	CA
Capt.	Dan Stuckey	Owner Operator	Vessel F/V Seabird	Half Moon Bay	CA
Mr.	Dan Wolford	President	Coastside Fishing Club	Napa	CA
Capt.	Darin Yates	Owner Operator	Vessel F/V Redeemer	Half Moon Bay	CA
Capt.	Dave Bitts	Owner	Vessel F/V Elmarue	Eureka	CA
Capt.	Dave Freedman	Owner Operator	Vessel F/V Sunday	Mendocino	CA
Capt.	David Gudgeall	Owner	West Wind Charters	St Paul	MN
Mr.	David Hurley	Editor	USA Fishing Hot Sheet	Stockton	CA
Mr.	Dean Fleck	Store Manager	Englund Marine	Newport	OR

## West Coast Salmon Businesses Opposing S.2533 (Feinstein)

April 11, 2016

Page 2

Ms.	Deb Hammond	Vice President	Worldwide Distributors	Kent	WA
Capt.	Dennis Baxter	Owner	New Captain Pete Charters	Half Moon Bay	CA
Mr.	Dennis Deaver	Owner	Berkeley Live Bait	Berkeley	CA
Capt.	Don Marshall	President	Small Boat Commercial Fisherman's A.	Half Moon Bay	CA
Capt.	Don Wong	Owner	C-Gulf Charters	Emeryville	CA
Mr.	Douglas Lasko	President	Okuma Fishing Tackle	Ontario	CA
Capt.	Duncan MacLean	Owner Operator	Vessel F/V Major Steppen Stone	El Granada	CA
Capt.	Erik Anfinson	Owner	Bass Tub Charters	San Francisco	CA
Capt.	Erik Masuda	Co-owner	Vessel F/V Sachiko Fish	Half Moon Bay	CA
Capt.	Frank Gee	Owner Operator	Vessel F/V Ocean Gale	Half Moon Bay	CA
Capt.	Frank Inferera	Owner Operator	Vessel F/V Aurora	Santa Cruz	CA
Capt.	Frank Rescino	Owner	Lovely Martha Charters	San Francisco	CA
Capt.	Frank Souza	Owner Operator	Vessel F/V Two's Co	Half Moon Bay	CA
Mr.	G M Woody Wood	Sales Rep	Jeff Robles and Associates	Rancho Cucamonga	CA
Capt.	Garrett Rose	Owner Operator	Vessel F/V Taurus	Morro Bay	CA
Mr.	Gary Dougherty	Owner	Republic Sports Shop	Republic	WA
Mr.	Gary Durbin	Owner	Kokaneemart	Roseville	CA
Mr.	Gary Palmer	Owner	Fly By Night Excursions	Santa Rosa	CA
Mr.	Gary Zurn	Vice President	Big Rock Sporting Goods	Charleston	NC
Capt.	George Castagnola III	Owner	Maria E Charters	Bodega Bay	CA
Capt.	George Castagnola Jr.	Owner	Sandy Ann Charters	Bodega Bay	CA
Mr.	George Harris	President CEO	Northwest Marine Trades Assn.	Seattle	WA
Capt.	Gretchen Vogel	Owner Operator	Vessel F/V Krabmandu	Half Moon Bay	CA
Capt.	Harry Bresnahan	Owner	Harry Bresnahan's Guide Service	Woodland	WA
Capt.	Ivan Hotz	Owner	Jade Rose Charters	Berkeley	CA
Capt.	J D Richey	Owner	Richey Sportfishing	Sacramento	CA
Capt.	Jack Carlson	Owner	Vessel F/V Sea Wolf	Fort Bragg	CA
Capt.	Jacky Douglas	Owner	Wacky Jacky Charters	San Francisco	CA
Capt.	James McCormick	Owner	Becky Ann Charters	San Francisco	CA
Capt.	James Smith	Owner	California Dawn Charters	Berkeley	CA
Capt.	James Townsend	Owner	Osprey Charters	Point Richmond	CA
Capt.	Jason Russey	Owner	Longfin Charters	Berkeley	CA
Capt.	Jay Lopez	Owner	Righthook Charters	Berkeley	CA
Capt.	Jay Yokomizo	Owner	New Huck Finn Charters	Emeryville	CA
Capt.	Jeff Finch	Owner Operator	Vessel F/V Marander	Half Moon Bay	CA
Capt.	Jeff Olsen	Owner	Doll-Finn Charters	Vancouver	WA
Capt.	Jeff Scurp	Owner	Escapade Charters	Astoria	OR
Capt.	Jeff, Lori French	Owner Operators	Vessel F/V Lagosta II	Morro Bay	CA
Mr.	Jim Martin	Conservation Dir.	Berkley Conservation Institute	Mulino	OR
Capt.	Jim Pepper	Owner	Vessel F/V Westerly	Humboldt	CA
Mr.	Jim Pickens	Owner	The Fishermans Friend	Lodi	CA
Capt.	Jim Robertson	Owner	Outer Limits Charters	Sausalito	CA
Capt.	Jim Salter	Owner Operator	Vessel F/V Westerly	Half Moon Bay	CA
Capt.	Jimmy Phillips	Owner Operator	Vessel F/V Kimberly Rose	Half Moon Bay	CA
Capt.	Joe Nungaray	Owner	Vessel F/V Michael Too	Morro Bay	CA
Capt.	Joe Wallace	Owner Operator	Vessel F/V Sea Pearl	Crescent City	CA
Capt.	Joel Kawahara	Owner Operator	Vessel F/V Karolee	Quilcene	WA
Capt.	John Atkinson	Owner	New Rayann Charters	Sausalito	CA
Capt.	John Koeppen	Owner Operator	Vessel F/V Lula	Pillar Point	CA
Mr.	John McManus	Executive Director	Golden Gate Salmon Association	Petaluma	CA
Capt.	Jon Yokomizo	Owner	Sea Wolf Charters	Emeryville	CA
Mr.	Joseph Donatini	President	Johnson Hicks Marine Electronics	Santa Cruz	CA



## West Coast Salmon Businesses Opposing S.2533 (Feinstein)

April 11, 2016

Page 3

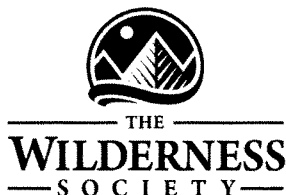
Capt.	Joseph Gallia Sr.	Owner	New Easy Rider	Berkeley	CA
Capt.	Joseph Nazar	Owner	Happy Day Charters	San Francisco	CA
Mr.	Justin Kelly	Fishing Manager	RMI Outdoors	Eureka	CA
Mr.	Kelley Reichner	Buyer	Fisherman's Marine	Portland	OR
Mr.	Ken Elie	President	Outdoor Pro Shop	Cotati	CA
Capt.	Ken Stagnaro	Owner	Stagnaro Charters Center	Santa Cruz	CA
Capt.	Ken Stagnaro	Owner	Velocity Charters	Santa Cruz	CA
Capt.	Ken Stagnaro	Owner	Legacy Charters	Santa Cruz	CA
Capt.	Kenny Clark	Owner Operator	Vessel F/V Genki	Moss Beach	CA
Mr.	Kent Harrington	COO & General Mgr	VF Grace Inc.	Anchorage	AK
Capt.	Kevin Newell	Owner	Total Fisherman Guide Service	Astoria	OR
Mr.	Kurt Englund	President	Englund Marine	Astoria	OR
Capt.	Larry Andre	Owner Operator	Vessel F/V Genesis	Half Moon Bay	CA
Capt.	Larry Collins	President	Crab Boat Owners Association	San Francisco	CA
Capt.	Larry Fortado	Owner Operator	Vessel F/V Sunshine	Half Moon Bay	CA
Mr.	Layne McGowan	Owner	Gunarama Wholesale	Spokane	WA
Ms.	Liz Hamilton	Executive Director	Northwest Sportfishing Industry Asn	Oregon City	OR
Mr.	Lonnie Schmidt	President	Sport Service	Fife	WA
Capt.	Loyal Holmes	Owner	Mar-b111 Charters	Ocean Park	WA
Mr.	Mac Huff	Owner	Eagle Cap Fishing	Joseph	OR
Mr.	Marcus Weiner	President	Fish Alaska Magazine	Eagle River	AK
Capt.	Mark Charlton	Owner	Ruby Sea Charters	Warrenton	OR
Capt.	Mark Charlton	Owner Operator	Vessel F/V Ruby Sea	Warrenton	OR
Capt.	Mark Chow	Owner	Magic Woman Charters	Berkeley	CA
Mr.	Mark Fleck	Store Manager	Englund Marine	Charleston	OR
Mr.	Mark Haynes	Partner	Haynes-Florance and Assoc.	Manteca	CA
Mr.	Michael Coombs	Owner	Outdoor Emporium	Seattle	WA
Capt.	Michael McHenry	Owner Operator	Vessel F/V Merva W	Half Moon Bay	CA
Mr.	Mike Augney	Publisher	USAfishing.Com	Sebastopol	CA
Capt.	Mike Bogue	Owner	Mike Bogue's Guide Service	Redding	CA
Capt.	Mike Cassenlli	Owner	Coho Sally Charters	Ilwaco	WA
Mr.	Mike Chamberlain	Owner	Teds Sport Center	Lynnwood	WA
Mr.	Mike Chamberlain	Sales Rep	Jeff Robles and Associates	Stockton	CA
Mr.	Mike Hammond	President	Hammond Marine Electronics	San Francisco	CA
Capt.	Mike Hudson	Owner Operator	Vessel F/V Cash Flo II	Berkeley	CA
Capt.	Mike McCorkle	Owner Operator	Vessels F/V Pieface F/V Theresa Ann	Santa Barbara	CA
Mr.	Mike McMullen	General Manager	Blackbirds	Medford	OR
Capt.	Mike Narver	Owner	Ankney Street Charters	Portland	OR
Mr.	Mike Nussman	President	American Sportfishing Association	Fairfax	VA
Capt.	Milt Gudgeon	Owner	Westward Charters	Seaview	WA
Capt.	Nick Hurley	Owner	Lady Di Charters	Salem	OR
Capt.	Ollie Olson	Owner	Midnight Dancer Charters	Battle Ground	WA
Capt.	Pat Schenk	Owner	Four Seasons Charters	Ilwaco	WA
Mr.	Pat Schmidt	Sales Rep	Don Coffey Company	Long Beach	CA
Mr.	Paul Foster	Store Manager	Englund Marine	Westport	WA
Mr.	Paul Johnson	President	Monterey Market	San Francisco	CA
Mr.	Paul Kaplin	President	KKMI Maritime Shipyard	Point Richmond	CA
Capt.	Perry Kerson	Owner	Sea Turtle Charters	Sausalito	CA
Capt.	Perry Vanover	Owner	Sea Breeze Charters	Ilwaco	WA
Capt.	Peter Bruno	Owner	Randy's Fishing Trips Center	Monterey	CA
Capt.	Peter Bruno	Owner	Chubasco Charters	Monterey	CA
Capt.	Peter Bruno	Owner	Sir Randy Charters	Monterey	CA

## West Coast Salmon Businesses Opposing S.2533 (Feinstein)

April 11, 2016

Page 4

Mr.	Peter Foley	Owner	Boone Bait Company	Winter Park	FL
Capt.	Phil Havlicek	Owner	Reel Time Charters	Sausalito	CA
Mr.	Phil Morelock	Conservation Dir.	Shimano America	Irvine	CA
Mr.	Phil Pritting	Store Manager	Englund Marine	Eureka	CA
Capt.	Porter McHenry	Owner Operator	Vessel F/V Juliet	Half Moon Bay	CA
Mr.	R.D. Figgins	President	Dick Nite Spoons	Lake Stevens	WA
Mr.	Randy Repass	Founder	West Marine	Watsonville	CA
Capt.	Rein Pirke	Owner Operator	Vessel F/V Sichera	Half Moon Bay	CA
Mr.	Rich Basch	Owner	Ollie Damon's	Portland	OR
Capt.	Rich White	Owner	Shark Bait Charters	Bodega Bay	CA
Mr.	Richard Pool	President	Pro-Troll Fishing Products	Concord	CA
Mr.	Richard Zeilenga	Chief Opr officer	Tackle Warehouse	San Luis Obispo	CA
Capt.	Rick Hamshel	Owner Operator	Vessel F/V Pale Horse	Fresno	CA
Capt.	Rick Powers	Owner	New Sea Angler Charters	Bodega Bay	CA
Capt.	Rick Powers	Owner	Surf Scooter Charters	Bodega Bay	CA
Capt.	Rob Gudgeall	Owner	Katie Marie Charters	Longview	WA
Capt.	Robert Gallia	Owner	El Dorado I Charters	Berkeley	CA
Capt.	Robert Gieskens	Owner Operator	Vessel F/V Morgan	Half Moon Bay	CA
Capt.	Roger Thomas	President	Golden Gate Fisherman's Assoc.	Sausalito	CA
Capt.	Roger Thomas	Owner	Salty Lady Charters	Sausalito	CA
Mr.	Ron Garner	President	Puget Sound Anglers	15 Chapters State Wide	WA
Mr.	Roy Gray	Owner	Roy Gray and Associates	Auburn	CA
Capt.	Russ Ott	Owner Operator	Vessel F/V Shellfish	Vallejo	CA
Mr.	Scott Hill	Owner	Western Boat and Tackle	San Rafael	CA
Capt.	Sean Daugherty	Owner	Sean Daugherty Charters	San Rafael	CA
Capt.	Sean Hodges	Owner	Hog Heaven Charters	Sausalito	CA
Mr.	Shane Soumrela	Store Manager	Englund Marine	Ilwaco	WA
Capt.	Skysten Freet	Owner	Sky's Guide Service	Sandy	OR
Capt.	Steve Fosmark	Owner Operator	Vessel F/V Seealder	Pebble Beach	CA
Capt.	Steve Masuda	Co-owner	Vessel F/V Sachiko	Half Moon Bay	CA
Capt.	Steve Sohlistrom	Owner	Salty Dog Charters	Portland	OR
Capt.	Steve Talmage	Owner	Flash Charters	San Francisco	CA
Capt.	Steven Kessling	Director	Seattle Fishing Charters Ltd.	Edmonds	WA
Mr.	Terry Peterson	Vice President	Daiwa Corporation	Cypress	CA
Capt.	Tim and Sherry Klassen	Owner Operator	Reel Steel Sportfishing	Eureka	CA
Capt.	Tim Harrell	Owner	Sea Quest Charters	Seaview	WA
Mr.	Tim Sloane	Exec Director	Pacific Coast Fed of Fisheries Asn.	San Francisco	CA
Capt.	Todd Magaline	Owner	Blue Runner Charters	Sausalito	CA
Mr.	Tom Hester	President	Poulsen Cascade Tackle LLC.	Clackamas	OR
Capt.	Tom Marrison	Owner	Pacific Dreamer Charters	Portland	OR
Capt.	Tom McCray	Owner Operator	Vessel F/V Tonto II	Moss Landing	CA
Mr.	Tom Posey	Principal	Tom Posey Company	Tigard	OR
Capt.	Tom Prozialeck	Owner	Comanche Charters	Seattle	WA
Capt.	Tom Zizzo	Owner	Wild Wave Charters	San Francisco	CA
Capt.	Trent State	Owner	Biteme Charters	San Rafael	CA
Capt.	Tyler Butler	Owner Operator	Vessel F/V Reelization	Half Moon Bay	CA
Mr.	Vance Staplin	Owner	Vance's Tackle	Citrus Heights	CA
Mr.	Vic Cutter	Vice President	Pacific Bay International	Sequim	WA
Mr.	Victor Becerra	Distribution Mgr.	Big Rock Sports	Fresno	CA
Mr.	Victor Gonella	Founder	Golden Gate Salmon Association	Petaluma	CA
Mr.	Wayne Kotow	Executive Director	CCA California	San Diego	CA
Ms.	Yvette Hudson	Owner	Hudson Fish Co	Berkeley	CA



May 16, 2016

The Honorable Lisa Murkowski, Chairwoman  
U.S. Senate Committee on Energy & Natural Resources  
304 Dirksen Senate Building  
Washington, DC 20510

The Honorable Maria Cantwell, Ranking Member  
U.S. Senate Committee on Energy & Natural Resources  
304 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairwoman Murkowski and Ranking Member Cantwell,

The Wilderness Society, on behalf of our 700,000 members and supporters from across the country, respectfully requests that the following comments be included in the hearing record for May 17<sup>th</sup>, 2016.

Following is a quick summary and analysis of Subtitle B – “Protecting Critical Water Supply Watersheds” of S. 2902, the “Western Water Supply and Planning Enhancement Act,” which was introduced by Senator Flake on May 9. The bill is scheduled for a hearing before the Water and Power Subcommittee of the Senate Energy and Natural Resources Committee on May 17.

#### Summary

Subtitle B consists of two provisions that would curtail the environmental analysis that the National Environmental Policy Act (NEPA) requires the U.S. Forest Service and Bureau of Land Management to undertake for certain federal land management activities. First, under Section 112, when the agencies are preparing an environmental assessment (EA) or environmental impact statement (EIS) for a management project, the bill would prohibit the agencies from considering any action alternatives to its proposed action (Sec. 112(b)). Second, Section 113 would authorize the agencies to bypass any environmental analysis by using a categorical exclusion (CE) for projects up to either 5,000 acres or 15,000 acres in size (Sec. 113(a)).

Section 112’s NEPA streamlining provisions would potentially apply to any logging or other management activity so long as its “primary purpose” was to achieve any one of six

broad management objectives: (1) address an insect or disease infestation, (2) reduce hazardous fuel loads, (3) control noxious weeds, (4) protect a municipal water source, (5) protect critical habitat from catastrophic disturbance, or (6) increase water yield (Sec. 112(a)(1)). The bill also specifies that the management activity must satisfy any one of four criteria: (1) developed through a collaborative process, (2) proposed by a resource advisory committee, (3) covered by a community wildfire protection plan, or (4) located in an area with high wildfire danger (Sec. 112(a)(2)).

Besides exempting EA's and EIS's from the NEPA requirement to consider a range of alternatives to the proposed action, Section 112 would also require that the agencies evaluate the effects of taking no action. Specifically, the EA or EIS would have to evaluate effects on forest health, habitat diversity, wildfire potential, and insect and disease potential (Sec. 112(c)(1)). In addition, the agencies would have to evaluate the "implications of a resulting decline" in those conditions on domestic water costs, wildlife habitat loss, and other economic and social factors (Sec. 112(c)(2)).

Similar to Section 112, Section 113's CE authorization would apply to any logging or other management activity as long as its primary purpose was to achieve any one of five objectives. The list of objectives is identical to the six objectives listed in Section 112(a)(1) except that it omits the insect and disease objective (Sec. 113(a)). So long as the project met any one of the same four criteria listed in Section 112(a)(2) – collaboration, fire risk, etc. – the CE could be used for any project up to 15,000 acres in size (Sec. 113(b)(2)). If none of the four criteria is met, then the CE could still be used for projects up to 5,000 acres in size (Sec. 113(b)(1)).

### Analysis

Subtitle B of S. 2902 raises several environmental concerns that should be addressed during consideration of the legislation, including the following three concerns.

First, the bill's proposed NEPA streamlining and CE's for projects whose primary management objective is "to increase water yield" is highly problematic. The notion that logging can and should be used to increase water yield is not supported by the best available science and clearly poses significant environmental risks. According to Forest Service scientists, "There is relatively little management can do to increase total water yield, but forest management can have major effects on water quality—affecting temperature, nutrient loadings, sediment yields, and toxic contaminants."<sup>1</sup> Exempting such projects from normal environmental analysis would pose unacceptable threats to water quality and other environmental values.

Second, the bill provides no environmental sideboards on the projects for which NEPA analysis would be reduced or eliminated, except to require that the projects must be consistent with the applicable federal land use plan (Sec. 114). In particular, the protection of fire-resilient old-growth forests and large trees required by the Healthy

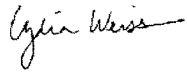
<sup>1</sup> USDA Forest Service. 2000. *Water & the Forest Service*, FS-660, p. ii. [http://www.fs.fed.us/research/publications/wo/wo\\_2000\\_apple\\_d001.pdf](http://www.fs.fed.us/research/publications/wo/wo_2000_apple_d001.pdf).

Forests Restoration Act of 2003 for hazardous fuel reduction projects apparently would not apply to projects conducted under S. 2902. Likewise, the requirements for collaboration contained in the 2012 Farm Bill for CEs up to 3,000 acres would not apply to CE projects up to 5,000 acres authorized by S. 2902.

Third, as a general matter, curtailing environmental analysis through CE's and elimination of NEPA alternatives is a short-sighted and counter-productive approach to address western water supply shortages and other natural resource issues. NEPA provides the appropriate process to engage the public and state and local governments in fact-based analyses of the effects of federal land management activities on water quantity, water quality, fish habitat, and overall watershed health. Rather than debating ways to circumvent the NEPA process, Congress should be encouraging (and providing additional resources for) the federal agencies to address the serious threats of climate change – such as more extreme droughts and floods, reduced snowpack, and higher water temperature – to our public lands and the many ecosystem services that they provide to the West and the rest of the nation.

Thank you for the opportunity to submit our comments for the record.

Sincerely,



Lydia Weiss  
Director of Government Relations for Lands  
The Wilderness Society

