



CENTRAL DELTA WATER AGENCY

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March 17, 2017

Via email to commentletters@waterboards.ca.gov

State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814-0100

Re: 2016 Bay-Delta Water Quality Control Plan Proposed Degradation of South Delta Water Quality and SED

Dear Chair and Members:

The Central Delta Water Agency joins in the comments of both the County of San Joaquin and the South Delta Water Agency and supplements with the following comments.

THE OBLIGATIONS OF THE SWP AND CVP TO MITIGATE THEIR ADVERSE IMPACTS AND MEET THEIR AFFIRMATIVE OBLIGATIONS FOR SALINITY CONTROL AND FOR FISH AND WILDLIFE SHOULD BE DETERMINED AND PLANS TO MEET SUCH OBLIGATIONS SHOULD BE IN PLACE PRIOR TO SHIFTING SUCH BURDENS ON THOSE WITHIN THE WATERSHEDS OF ORIGIN.

The basic obligations of the CVP and SWP are reflected in the language of Water Code 11460 and explained in the attached Central Valley Project Documents attached hereto.

“The Bureau will not divert from any watershed any water which is needed to satisfy the existing or potential needs within that watershed. For example, no water will be diverted which will be needed for the full development of all of the irrigable lands within the watershed, nor would there be water needed for municipal and industrial purposes or future maintenance of fish and wildlife resources.”

In the Argument in Favor of California Water Resources Development Bond Act passed in 1960, in effect spawning the SWP (attached) the obligations are confirmed.

“The program will not be a burden on the taxpayer; no new state taxes are involved; the bonds are repaid from project revenues, through the sale of water and power. In other words, it will pay for itself.”

“No area will be deprived of water to meet the needs of another. Nor will any area be asked to pay for water delivered to another.”

“Under this Act the water rights of northern California will remain securely protected.”

“A much needed drainage system and water supply will be provided in the San Joaquin Valley”

Also attached is page 906 from Goodman v. Riverside 140 Cal. App. 3d 900 (1983) where then Governor Edmond G. “Pat” Brown confirmed “The law provides that the contracts have to provide for the repayment of the cost of the entire Project. That’s the real answer to it.”

Under the CVPIA (PL 102-575) the CVP is required to restore the natural production of anadromous fish in Central Valley rivers to not less than twice the average levels attained during the period of 1967-1991 and that a separate program is provided for the San Joaquin River between Friant Dam and the Mendota Pool. See attached excerpt.

Pursuant to Water Code 11912 (1961) the SWP contractors are to bear the costs for the preservation of fish and wildlife. The 1961 levels for fish have not been preserved.

Both the SWP and CVP are obligated to provide salinity control for the Delta and prohibited from exporting from the Delta if the Delta does not have an adequate supply. See attached excerpt from page 12 of the 1960 Bulletin 76 report to the legislature which provides: “In 1959 the State Legislature directed that water shall not be diverted from the Delta for use elsewhere unless adequate supplies for the Delta are first provided.” The referenced legislation is Water Code 12200 et seq. which has been determined by the Appellant Court in United States v. State Water Resources Bd. (1986) 182 Cal. App. 3d 82 at page 139 (page 139 is attached) to provide:

“ The act prohibits project exports from the Delta of water necessary to provide water to which Delta users are “entitled” and water which is needed for salinity control and an adequate supply for Delta users. (Sections 12202, 12203, 12204).”

Under the San Luis Act of 1960, PL 86-488, Construction of the San Luis Unit was not to be commenced until the Secretary of Interior received satisfactory assurance from the State of California that it would make provision for a master drainage outlet and disposal channel for the San Joaquin Valley. See excerpt attached hereto.

Both the CVP and SWP were founded on the obligation to develop sufficient supplies so that all obligations to the Delta and other areas of origin would be met and that surplus supplies would serve the needs of export areas. The plan for the SWP was to develop and import 5,000,000 acre-feet of water seasonally to the Delta from north coastal streams. See attached page 13 from the 1960 Bulletin 76.

THE SWP AND CVP HAVE FAILED TO MEET THEIR OBLIGATIONS FOR SALINITY CONTROL AND FOR FISH AND WILDLIFE

Friant Dam was built and water of the San Joaquin River diverted south to such an extent that portions of the river were dewatered and anadromous fisheries decimated. The reduced natural flow in the San Joaquin River and CVP construction of and delivery of water from the San Luis Unit without a master drainage outlet has greatly contributed to the salt loading in the San Joaquin River and the salinity control burden in the Delta.

The continued export of water from the Delta of water which is not truly to the needs in the areas of origin has caused great damage to the fisheries. In the SWRCB Decision 1485 (1978) (excerpts attached) the SWRCB determined: “To provide full mitigation of project impacts on all fishery species now would require the virtual shutting down of the project export pumps.”

The project exports were not shut down and exports allowed to increase. See attachments. Although reservoirs on the tributaries have an obligation to bypass water for fish they should not be burdened with the obligations that are rightfully the obligations of the SWP and CVP.

THE FAIR DETERMINATION OF TRIBUTARY FLOW RESPONSIBILITY FOR FISH CANNOT BE DONE WITHOUT INCLUSION OF THE UPPER SAN JOAQUIN RIVER AND THE KINGS RIVER.

THE STANISLAUS RIVER HAS BEEN DISPROPORTIONATELY BURDENED FOR FISH FLOWS AND FEDERAL LAW REQUIRES THAT THIS BE ADDRESSED.

Public Law 108-361 sets forth this requirement. See attached excerpt.

FURTHER DEGRADATION OF THE SAN JOAQUIN RIVER BY RELAXING SALINITY STANDARDS IN THE SOUTH DELTA IS UNJUSTIFIED AND A VIOLATION OF STATE AND FEDERAL POLICY.

It is common knowledge that leaching fractions for agricultural irrigation are dependent upon soil conditions and the demands of economically viable agricultural practices.

We hereby request that the salinity standards not be reduced and that the proposed additional flow allocation to tributaries be deferred until the responsibilities of the SWP and CVP are first determined. Further depletion of over drafted groundwater basins will reduce accretions and also increase losses from the rivers to the detriment of fish. A better approach is to foster projects to add to supply which can serve both fish and consumptive needs and replenish groundwater.



Dante John Nomellini

DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Sacramento, Calif., November 16, 1949.

HON. CLAIR ENGLE,
Red Bluff, Calif.

MY DEAR MR. ENGLE: In response to your request to Mr. Carr, we have assembled excerpts from various statements by Bureau and Department officials relating to the subject of diversion of water from the Sacramento Valley to the San Joaquin Valley through the operation of the Central Valley project.

A factual review of available water supplies over a period of more than 40 years of record and the estimates of future water requirements made by State and Federal agencies makes it clear that there is no reason for concern about the problem at this time.

For your convenience, I have summarized policy statements that have been made by Bureau of Reclamation and Department of the Interior officials. These excerpts are in the following paragraphs:

On February 20, 1942, in announcing the capacity for the Delta-Mendota Canal, Commissioner John C. Page said, as a part of his Washington, D. C., press release:

"The capacity of 4,600 cubic feet per second was approved, with the understanding that the quantity in excess of basic requirements mainly for replacement at Mendota Pool, will not be used to serve new lands in the San Joaquin Valley if the water is necessary for development in the Sacramento Valley below Shasta Dam and in the counties of origin of such waters."

On July 18, 1944, Regional Director Charles E. Carey wrote a letter to Mr. Harry Barnes, chairman of a committee of the Irrigation Districts Association of California. In that letter, speaking on the Bureau's recognition and respect for State laws, he said:

"They [Bureau officials] are proud of the historic fact that the reclamation program includes as one of its basic tenets that the irrigation development in the West by the Federal Government under the Federal reclamation laws is carried forward in conformity with State water laws."

On February 17, 1945, a more direct answer was made to the question of diversion of water in a letter by Acting Regional Director R. C. Calland, of the Bureau, to the Joint Committee on Rivers and Flood Control of the California State Legislature. The committee had asked the question, "What is your policy in connection with the amount

of water that can be diverted from one watershed to another in proposed diversions?" In stating the Bureau's policy, Mr. Calland quoted section 11460 of the State water code, which is sometimes referred to as the county of origin act, and then he said:

"As viewed by the Bureau, it is the intent of this statute that no water shall be diverted from any watershed which is or will be needed for beneficial uses within that watershed. The Bureau of Reclamation, in its studies for water resources development in the Central Valley, consistently has given full recognition to the policy expressed in this statute by the legislature and the people. The Bureau has attempted to estimate in these studies, and will continue to do so in future studies, what the present and future needs of each watershed will be. The Bureau will not divert from any watershed any water which is needed to satisfy the existing or potential needs within that watershed. For example, no water will be diverted which will be needed for the full development of all of the irrigable lands within the watershed, nor would there be water needed for municipal and industrial purposes or future maintenance of fish and wildlife resources."

On February 12, 1948, Acting Commissioner Wesley R. Nelson sent a letter to Representative Clarence F. Lea, in which he said:

"You asked whether section 10505 of the California Water Code, also sometimes referred to as the county of origin law, would be applicable to the Department of the Interior, Bureau of Reclamation. The answer to this question is: No, except insofar as the Bureau of Reclamation has taken or may take assignments of applications which have been filed for the appropriation of water under the California Statutes of 1927, chapter 286, in which assignments reservations have been made in favor of the county of origin.

The policy of the Department of the Interior, Bureau of Reclamation, is evidenced in its proposed report on a Comprehensive Plan for Water Resources Development—Central Valley Basin, Calif., wherein the Department of the Interior takes the position that "In addition to respecting all existing water rights, the Bureau has complied with California's 'county of origin' legislation, which requires that water shall be reserved for the presently unirrigated lands of the areas in which the water originates, to the end that only surplus water will be exported elsewhere."

On March 1, 1948, Regional Director Richard L. Boke wrote to Mr. A. L. Burkholder, secretary of the Live Oak Subordinate Grange No. 494, Live Oak, Calif., on the same subject, and said:

"I can agree fully with the statement in your letter that it would be grossly unjust to 'take water from the watersheds of one region to supply another region until all present and all possible future needs of the first region have been fully determined and completely and adequately provided for.' That is established Bureau of Reclamation policy and, I believe, it is consistent with the water laws of the State of California under which we must operate."

On May 17, 1948, Assistant Secretary of the Interior William E. Warne wrote a letter to Representative Lea on the same subject, in which he said:

"The excess water made available by Shasta Reservoir would go first to such Sacramento Valley lands as now have no rights to water."

Assistant Secretary Warne goes on to say, in the same letter:

"As you know, the Sacramento Valley water rights are protected by: (1) Reclamation law which recognizes State water law and rights thereunder; (2) the State's counties of origin act, which is recognized by the Bureau in principle; and (3) the fact that Bureau filings on water are subject to State approval. I can assure you that the Bureau will determine the amounts of water required in the Sacramento Valley drainage basin to the best of its ability so that only surplus waters would be exported to the San Joaquin. We are proceeding toward a determination and settlement of Sacramento Valley waters which will fully protect the rights of present users; we are determining the water needs of the Sacramento Valley; and it will be the Bureau's policy to export from that valley only such waters as are in excess of its needs."

On October 12, 1948, Secretary of the Interior Krug substantiated former statements of policy in a speech given at Oroville, Calif. Secretary Krug said, with respect to diversion of water:

"Let me state, clearly and finally, the Interior Department is fully and completely committed to the policy that no water which is needed in the Sacramento Valley will be sent out of it."

He added:

"There is no intent on the part of the Bureau of Reclamation ever to divert from the Sacramento Valley a single acre-foot of water which might be used in the valley now or later."

We believe the foregoing is a summary of the main policy statements by Government officials on the subject of importation of Sacramento Valley water to the San Joaquin Valley. Please inform me if you wish additional information.

Sincerely yours,

RICHARD L. BOKE,
Regional Director.

EXHIBIT No. 12

STATEMENT BY DONALD M. SMITH, SECRETARY, SACRAMENTO VALLEY IRRIGATION COMMITTEE, BEFORE THE JOINT HEARINGS OF SUBCOMMITTEE ON IRRIGATION AND RECLAMATION, HOUSE OF REPRESENTATIVES, AND THE JOINT INTERIM COMMITTEE ON WATER PROBLEMS, CALIFORNIA LEGISLATURE, OCTOBER 30, 1951, SACRAMENTO, CALIF.

Members of Congress, members of the State legislature, the Sacramento Valley Irrigation Committee is a four-county organization of

§ 11460. Prior right to watershed water

In the construction and operation by the department of any project under the provisions of this part a watershed or area wherein water originates, or an area immediately adjacent thereto which can conveniently be supplied with water therefrom, shall not be deprived by the department directly or indirectly of the prior right to all of the water reasonably required to adequately supply the beneficial needs of the watershed, area, or any of the inhabitants or property owners therein.

(Added by Stats.1943, c. 370, p. 1896. Amended by Stats.1957, c. 1932, p. 3410, § 296.)

Title THE CALIFORNIA WATER RESOURCES DEVELOPMENT BOND ACT
Year/Election 1960 general
Proposition type bond (leg)
Popular vote Yes: 3,008,328 (51.5%); No: 2,834,384 (48.5%)
Pass/Fail Pass
Summary

This act provides for a bond issue of one billion, seven hundred fifty million dollars (\$1,750,000,000) to be used by the Department of Water Resources for the development of the water resources of the State.

For **Argument in Favor of California Water Resources Development Bond Act**

Your vote on this measure will decide whether California will continue to prosper.

This Act, if approved, will launch the statewide water development program which will meet present and future demands of all areas of California. The program will not be a burden on the taxpayer; no new state taxes are involved; the bonds are repaid from project revenues, through the sale of water and power. In other words, it will pay for itself. The bonds will be used over a period of many years and will involve an approximate annual expenditure averaging only \$75 million, as compared, for example with \$600 million a year we spend on highways.

Existing facilities for furnishing water for California's needs will soon be exhausted because of our rapid population growth and industrial and agricultural expansion. We now face a further critical loss in the Colorado River supply. Without the projects made possible by this Act, we face a major water crisis. We can stand no more delay.

If we fail to act now to provide new sources of water, land development in the great San Joaquin Valley will slow to a halt by 1965 and the return of cultivated areas to wasteland will begin. In southern California, the existing sources of water which have nourished its tremendous expansion will reach capacity by 1970 and further development must wholly cease. In northern California desperately needed flood control and water supplies for many local areas will be denied.

This Act will assure construction funds for new water development facilities to meet California's requirements now and in the future. No area will be deprived of water to meet the needs of another. Nor will any area be asked to pay for water delivered to another.

To meet questions which concerned, southern California, the bonds will finance completion of all facilities needed, as described in the Act. Contracts for delivery of water may not be altered by the Legislature. The tap will be open, and no amount of political maneuvering can shut it off.

Under this Act the water rights of northern California will remain securely protected. In addition, sufficient money is provided for construction of local projects to meet the pressing needs for flood control, recreation and water deliveries in the north.

A much needed drainage system and water supply will be provided in the San Joaquin Valley.

Construction here authorized will provide thousands of jobs. And the program will nourish tremendous industrial and farm and urban expansion which will develop an ever-growing source of employment and economic prosperity for Californians.

Our Legislature has appropriated millions of dollars for work in preparation, and construction is now underway. It would be tragic if this impressive start toward solution of our water problems were now abandoned.

If we fail to act now to insure completion of this constructive program, serious existing water shortages will only get worse. The success of our State is at stake. Vote "Yes" for water for people, for progress, for prosperity!

In addition to the Senate Committee Report, the contracting principles, and the MWD contract, there were political press releases,³ an analysis by the League of Women Voters,⁴ and reports by outside consultants⁵ which all indicated that contract payments would pay for the cost of the entire Project, and that local property taxes, in addition to user charges, were available if revenues from water sales were not enough to pay such cost.

³Alan Cranston, then State Controller, noted in a press release: "As additional security for the bonds, and to prevent a drain on the General Fund in case of deficiency, the local contracting agencies will have ad valorem taxing power over and above the cost of water which the user will pay. [¶] Local agencies will therefore be able to meet their commitments to the State even if revenues from local sales of water are not sufficient for this purpose. [¶] Through this procedure, the beneficiaries of the Water Plan become the financial keystone and support rather than the General Fund and the general taxpayer."

Governor Pat Brown's press comments at the time are also informative:

"Governor, what is your answer to people who say, 'I don't want to pay for somebody else's water.' Like San Franciscans. 'I have already paid for one water project. Why should I be compelled to buy another?'"

"GOVERNOR BROWN: Well, they won't. The plan itself is completely self-supporting. The law provides that the *contracts* have to provide for the repayment of the cost of the *entire* Project. That's the real answer to it." (Italics added.)

"The League of Women Voters' analysis observed: "The state will contract with public agencies having the assessment power so they can meet the required payment to the state by the use of taxes as well as water rates if they so desire. In this way no area will be subsidizing water for another region."

⁵As the report of Chas. T. Main, Inc., consultant to the Department of Water Resources, said: "Rates for water and power and for other reimbursable items [i.e., charges to the local agencies] will be established so as to return to the State *all costs* of project operation, maintenance and replacement, all principal and interest on (1) bonds, (2) expenditures from the California Water Fund, and (3) other monies used in the construction of the project works. Since the water delivery contracts are proposed to extend as long as the bond repayment period, we consider that in order to fulfill the above requirement revenues must be developed during this period sufficient to return *all such costs*." (Final Report, "General Evaluation of the Proposed Program for Financing and Constructing the State Water Resources Development System of the State of California Department of Water Resources," (Oct. 1960) p. 2.)

Dillon Reed & Co., Inc., a second outside consultant on the "financial aspects of the State's water program," reported in October before the statewide vote: "The Program contemplates that the contractors for the water to be delivered by the Program will be municipal corporations, water districts and similar public agencies with local taxing power, and that, as suggested by the Department, at least part or all of the aqueduct charge may be recovered by these contractors through the levy of taxes or assessments on real estate within their respective jurisdictions." (Report of Financial Consultants to State of California Water Resources, "Financial Aspects of Program for State Water Resources Development System." (Oct. 26, 1960) p. 24.)

An outside consulting firm engaged to review the financial feasibility of the State Water Project examined each service area's capacity to pay and concluded that virtually all contracting areas would have to rely in part upon taxes to pay the full costs of the Project. In some areas, the consultant even projected the amount of local taxes which would be required. For example, the report estimated a need in 1990 for tax rates of 15 cents per \$100 of assessed valuation in Ventura County, 21 cents in the Antelope-Mojave Valley, 33 cents in the Coachella Valley and Palm Springs area, and 18 cents within the Metropolitan Water District, including as a factor in its computations the cost of local facilities. (Append. to Final Report, "General Evaluation of the Proposed Program for Financing and Constructing the State Water Resources Development System of the State of California, Department of Water Resources," (Oct. 1960) pp. 81-91.)

TITLE 34

(of Public Law 102-575)

SEC. 3401. SHORT TITLE.

This title may be cited as the "Central Valley Project Improvement Act."

SEC. 3402. PURPOSES.

The purposes of this title shall be:

- (a) to protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley and Trinity River basins of California;
- (b) to address impacts of the Central Valley Project on fish, wildlife and associated habitats;
- (c) to improve the operational flexibility of the Central Valley Project;
- (d) to increase water-related benefits provided by the Central Valley Project to the State of California through expanded use of voluntary water transfers and improved water conservation;
- (e) to contribute to the State of California's interim and long-term efforts to protect the San Francisco Bay/Sacramento-San Joaquin Delta Estuary;
- (f) to achieve a reasonable balance among competing demands for use of Central Valley Project water, including the requirements of fish and wildlife, agricultural, municipal and industrial and power contractors.

SEC. 3403. DEFINITIONS.

As used in this title:

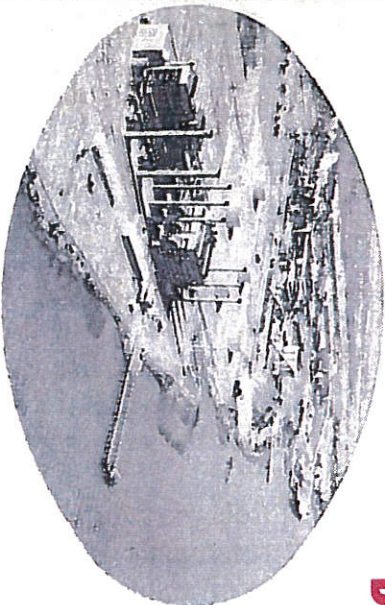
- (a) the term "anadromous fish" means those stocks of salmon (including steelhead), striped bass, sturgeon, and American shad that ascend the Sacramento and San Joaquin rivers and their tributaries and the Sacramento-San Joaquin Delta to reproduce after maturing in San Francisco Bay or the Pacific Ocean;

* Text of Bill downloaded from Westlaw Congressional Record Database 10-5-92 and formatted by the Department of Water Resources, October 23, 1992

- (4) by adding at the end the following: "(e) Nothing in this title shall affect the State's authority to condition water rights permits for the Central Valley Project."
- (b) **FISH AND WILDLIFE RESTORATION ACTIVITIES** - The Secretary, immediately upon the enactment of this title, shall operate the Central Valley Project to meet all obligations under state and federal law, including but not limited to the federal Endangered Species Act, 16 U.S.C. s 1531, et seq., and all decisions of the California State Water Resources Control Board establishing conditions on applicable licenses and permits for the project. The Secretary, in consultation with other State and Federal agencies, Indian tribes, and affected interests, is further authorized and directed to:
- (1) develop within three years of enactment and implement a program which makes all reasonable efforts to ensure that, by the year 2002, natural production of anadromous fish in Central Valley rivers and streams will be sustainable, on a long-term basis, at levels not less than twice the average levels attained during the period of 1967-1991; Provided, That this goal shall not apply to the San Joaquin River between Friant Dam and the Mendota Pool, for which a separate program is authorized under subsection 3406(c) of this title; Provided further, That the programs and activities authorized by this section shall, when fully implemented, be deemed to meet the mitigation, protection, restoration, and enhancement purposes established by subsection 3406(a) of this title; And provided further, That in the course of developing and implementing this program the Secretary shall make all reasonable efforts consistent with the requirements of this section to address other identified adverse environmental impacts of the Central Valley Project not specifically enumerated in this section.
- (A) This program shall give first priority to measures which protect and restore natural channel and riparian habitat values through habitat restoration actions, modifications to Central Valley Project operations, and implementation of the supporting measures mandated by this subsection; shall be reviewed and updated every five years; and shall describe how the Secretary intends to operate the Central Valley Project to meet the fish, wildlife, and habitat restoration goals and requirements set forth in this title and other project purposes.
- (B) As needed to achieve the goals of this program, the Secretary is authorized and directed to modify Central Valley Project operations to provide flows of suitable quality, quantity, and

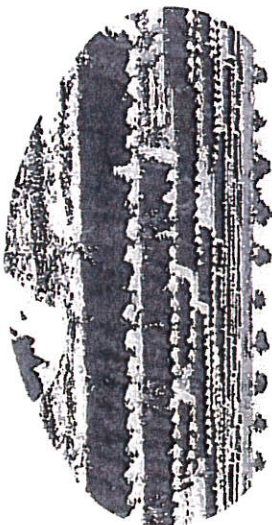
--Sec. 3406(a) - Sec. 3406(b)--

Preliminary Edition



Bulletin No. 76

DELTA WATER FACILITIES



EDMUND G. BROWN
Governor
State of California

December, 1960

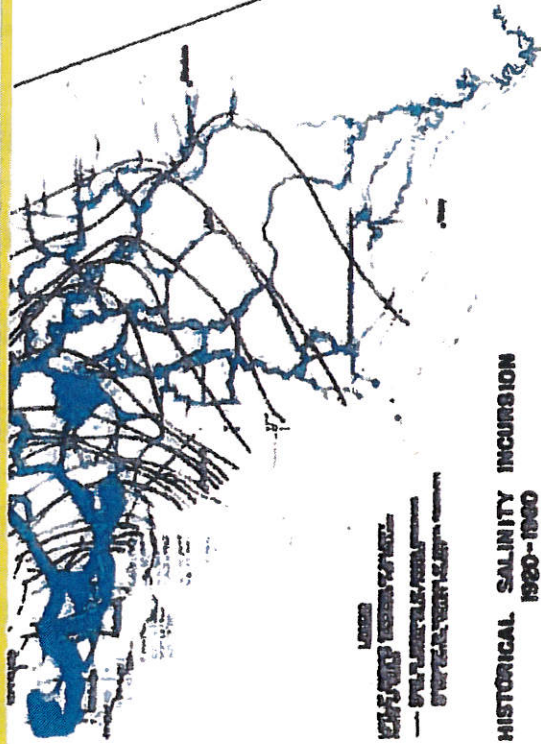
HARVEY O. BANKS
Director
Department of Water Resources

Delta Problems — salinity incursion and water supplies

In 1959 the State Legislature directed that water shall not be diverted from the Delta for use elsewhere unless adequate supplies for the Delta are first provided.

Salinity incursion into the Delta results from the flooding and ebbing of ocean tides through the San Francisco Bay and Delta system during periods when the fresh water outflow from the Delta is insufficient to repel the saline water. The natural fresh water outflow from the Central Valley was historically inadequate to repel salinity during summer months of some years. The first known record of salinity encroachment into the Delta was reported by Comdr. Ringgold, U. S. Navy, in August 1841, whose party found the water at the site of the present city of Antioch very brackish and unfit for drinking. Since that time, and particularly after the turn of the century, with expanding upstream water use salinity incursion has become an increasingly greater problem in Delta water supplies. The maximum recorded extent of salinity incursion happened in 1931, when ocean salts reached Stockton. Since 1944 extensive incursion has been reported much of the time by fresh water releases from Central Valley Project storage in Shasta and Folsom Reservoirs. Without such releases, saline water would have spread through about 90 percent of the Delta channels in 1955 and 1959. Although upstream uses might not have reached present levels in the absence of the Central Valley Project, salinity problems would still have been very serious during most years.

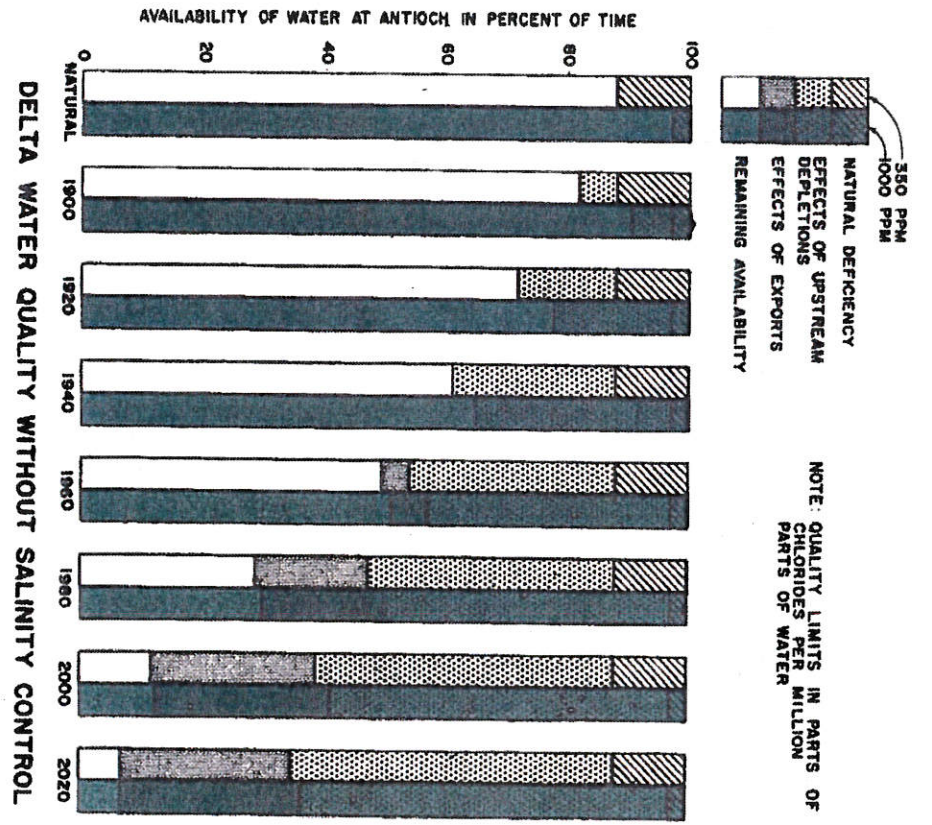
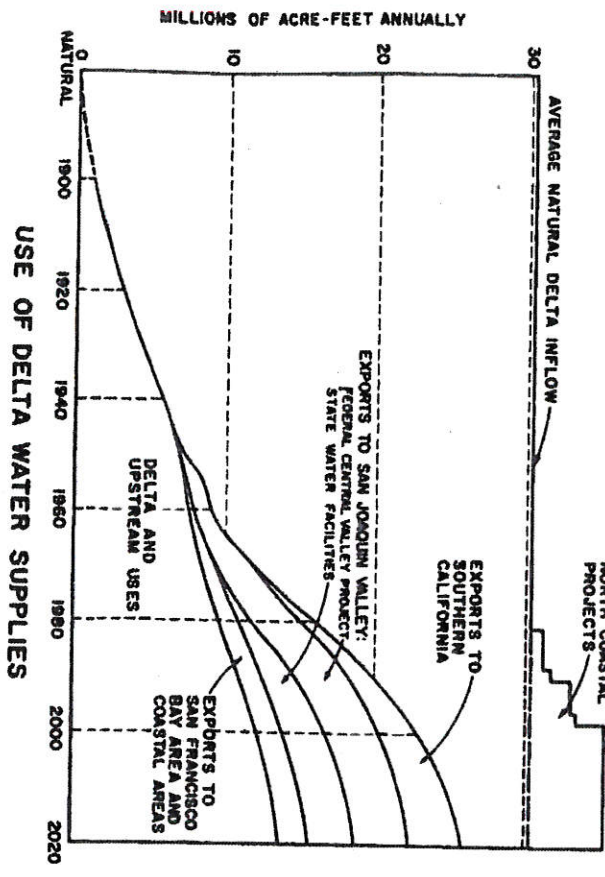
Further increase in water use in areas tributary to the Delta will worsen the salinity incursion problem and complicate the already complex water rights situation. To maintain and expand the economy of the Delta, it will be necessary to provide an adequate supply of good quality water and protect the lands from the effects of salinity incursion. In 1959 the State Legislature directed that water shall not be diverted from the Delta for use elsewhere unless adequate supplies for the Delta are first provided.



HISTORICAL SALINITY INCURSION
1960-1960

The natural availability of good quality water in the Delta is directly related to the amount of surplus water which flows to the ocean. The graph to the right indicates the historic and projected availability of water in the San Joaquin River at Antioch containing less than 350 and 1,000 parts chlorides per million parts water, under long-term average runoff and *without* specific releases for salinity control. It may be noted that even under natural conditions, before any significant upstream water developments, there was a deficiency of water supplies within the specified quality limits. It is anticipated that, without salinity control releases, upstream depletions by the year 2020 will have reduced the availability of water containing less than 1,000 ppm chlorides by about 60 percent, and that exports will have caused an additional 30 percent reduction.

**5 million acre ft per year
Not Developed**



The magnitude of the past and anticipated future uses of water in areas tributary to the Delta, except the Tulare Lake Basin, is indicated in the diagram to the left. It may be noted that, while the present upstream use accounts for reduction of natural inflow to the Delta by almost 25 percent, upstream development during the next 60 years will deplete the inflow by an additional 20 percent. By that date about 22 percent of the natural water supply reaching the Delta will be exported to areas of deficiency by local, state, and federal projects. In addition, economical development of water supplies will necessitate importation of about 5,000,000 acre-feet of water seasonally to the Delta from north coastal streams for transfer to areas of deficiency.

Public Law 86-488

June 3, 1960
[S. 44]

AN ACT

To authorize the Secretary of the Interior to construct the San Luis unit of the Central Valley project, California, to enter into an agreement with the State of California with respect to the construction and operation of such unit, and for other purposes.

Central Valley
Project, Calif.
San Luis unit.
Construction.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for the principal purpose of furnishing water for the irrigation of approximately five hundred thousand acres of land in Merced, Fresno, and Kings Counties, California, hereinafter referred to as the Federal San Luis unit service area, and as incidents thereto of furnishing water for municipal and domestic use and providing recreation and fish and wildlife benefits, the Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to construct, operate, and maintain the San Luis unit as an integral part of the Central Valley project. The principal engineering features of said unit shall be a dam and reservoir at or near the San Luis site, a forebay and afterbay, the San Luis Canal, the Pleasant Valley Canal, and necessary pumping plants, distribution systems, drains, channels, levees, flood works, and related facilities, but no facilities shall be constructed for electric transmission or distribution service which the Secretary determines, on the basis of an offer of a firm fifty-year contract from a local public or private agency, can through such contract be obtained at less cost to the Federal Government than by construction and operation of Government facilities. The works (hereinafter referred to as joint-use facilities) for joint use with the State of California (hereinafter referred to as the State) shall be the dam and reservoir at or near the San Luis site, forebay and afterbay, pumping plants, and the San Luis Canal. The joint-use facilities consisting of the dam and reservoir shall be constructed, and other joint-use facilities may be constructed, so as to permit future expansion; or the joint-use facilities shall be constructed initially to the capacities necessary to serve both the Federal San Luis unit service area and the State's service area, as hereinafter provided. In constructing, operating, and maintaining the San Luis unit, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto). Construction of the San Luis unit shall not be commenced until the Secretary has (1) secured, or has satisfactory assurance of his ability to secure, all rights to the use of water which are necessary to carry out the purposes of the unit and the terms and conditions of this Act, and (2) received satisfactory assurance from the State of California that it will make provision for a master drainage outlet and disposal channel for the San Joaquin Valley, as generally outlined in the California water plan, Bulletin Numbered 3, of the California Department of Water Resources, which will adequately serve, by connection therewith, the drainage system for the San Luis unit or has made provision for constructing the San Luis interceptor drain to the delta designed to meet the drainage requirements of the San Luis unit as generally outlined in the report of the Department of the Interior, entitled "San Luis Unit, Central Valley Project," dated December 17, 1956.

(b) No water provided by the Federal San Luis unit shall be delivered in the Federal San Luis service area to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity as estimated by the Secretary of Agriculture for the marketing year in which the bulk

43 USC 371 and
note.
Preliminary
measures.

Conditions.

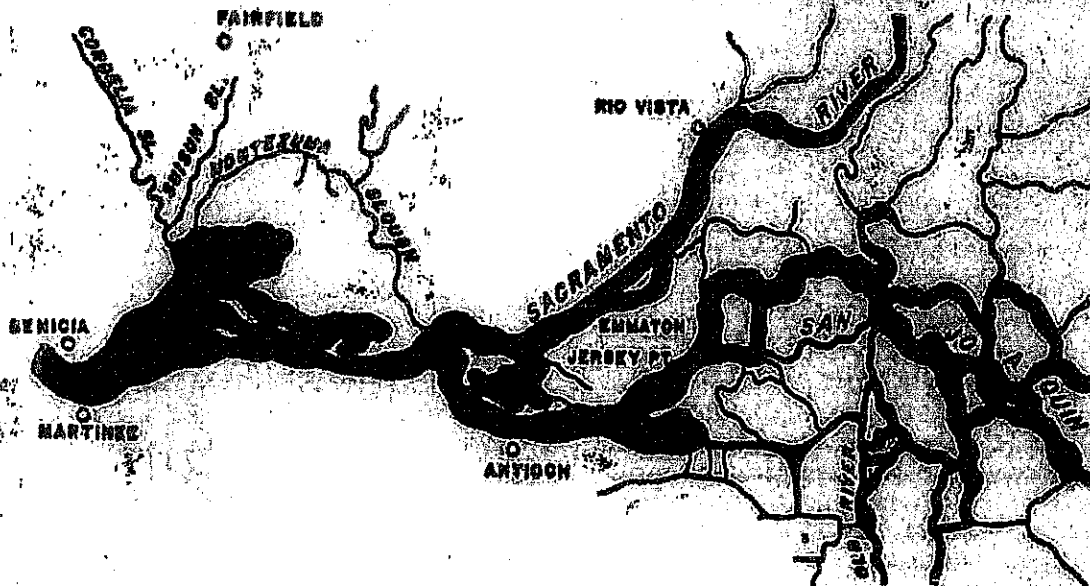
63 Stat. 1051.
7 USC 1421 note.

water right decision 1485

In the Matter of Permit 12720 (Application 5625) and Other Permits of United States Bureau of Reclamation for the Federal Central Valley Project and of California Department of Water Resources for the State Water Project.

DECISION IN FURTHERANCE OF JURISDICTION RESERVED
IN DECISIONS D 893, D 890, D 1020, D 1280, D 1275, D 1291,
D 1368, D 1355, and PERMIT ORDER 124

Sacramento-San Joaquin Delta and Suisun Marsh



August 1978

STATE WATER RESOURCES CONTROL BOARD

executed. The criteria in the draft agreement were recommended by Fish and Game and endorsed by the Department, and were extensively analyzed by the Board staff. Based on our most current assessment, the fishery standards provide significantly higher protection than existing basin plans. The Striped Bass Index is a measure of young bass survival through their first summer. The Striped Bass Index would be 71 under without project conditions (i.e., theoretical conditions which would exist today in the Delta and Marsh in the absence of the CVP and SWP), 63 under the existing basin plans, and about 79²/₁ under this decision.

While the standards in this decision approach without project levels of protection for striped bass, there are many other species, such as white catfish, shad and salmon, which would not be protected to this level. To provide full mitigation of project impacts on all fishery species now would require the virtual shutting down of the project export pumps. The level of protection provided under this decision is nonetheless a reasonable level of protection until final determinations are made concerning a cross-Delta transfer facility or other means to mitigate project impacts.

3/ There is some indication that factors other than those considered in the Board's analysis of without project levels may also affect striped bass survival. The effects of these factors are such that the without project levels would be greater than 71. However, the magnitude of this impact is unknown and cannot be quantified at this time.

D 1485
1978

NO SHUT DOWN
INSTEAD
INCREASED EXPORT

D 1485
1978

051837

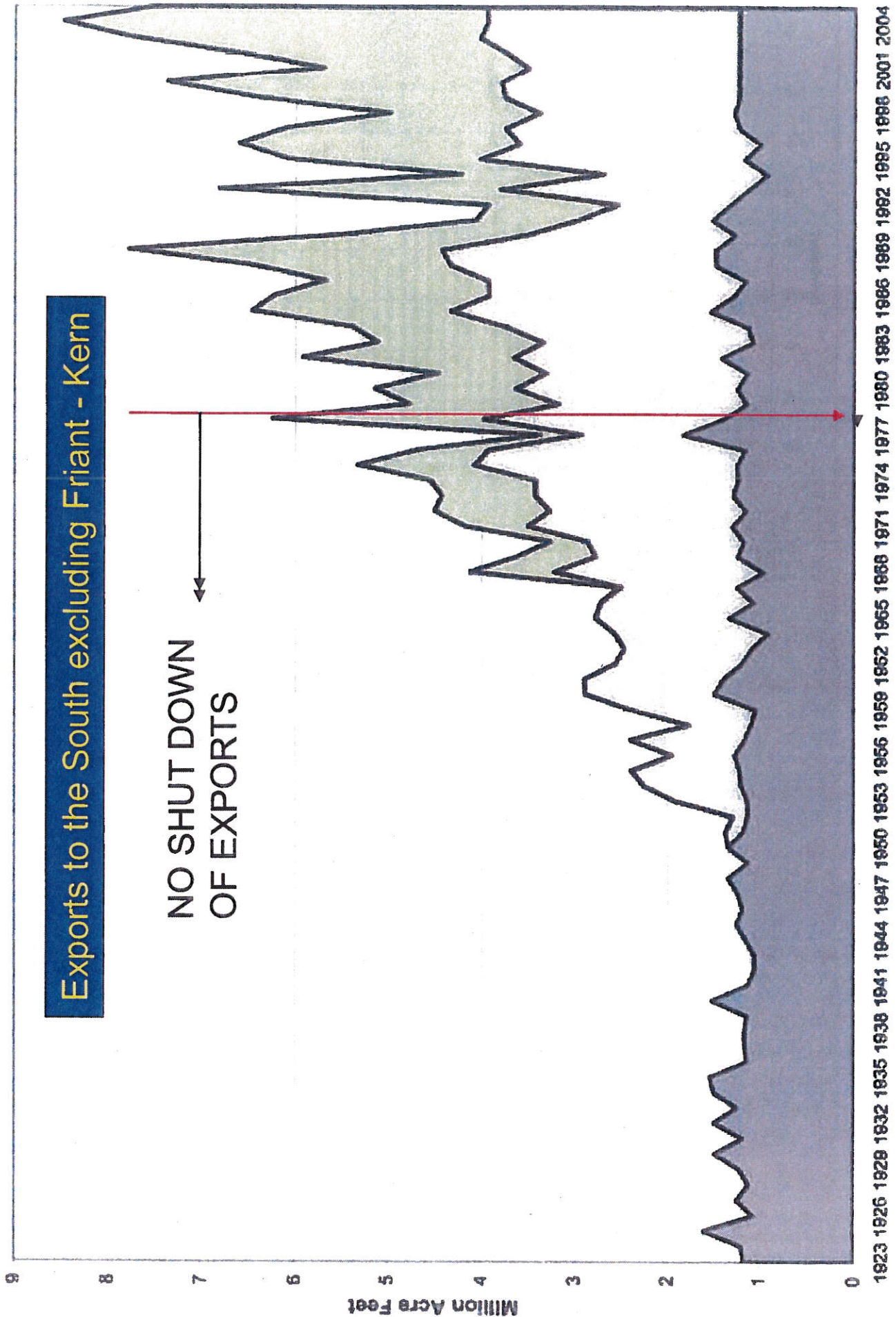
Suisun Marsh. Full protection of Suisun Marsh now could be accomplished only by requiring up to 2 million acre-feet of freshwater outflow in dry and critical years in addition to that required to meet other standards. This requirement would result in a one-third reduction in combined firm exportable yield of State and federal projects. In theory, the existing Basin 5B Plan purports to provide full protection to the Marsh. However, during the 1976-77 drought when the basin plan was in effect, the Marsh received little if any protection because the system almost ran out of water and emergency regulations had to be imposed. This decision balances the limitations of available water supplies against the mitigation responsibility of the projects. This balance is based on the constitutional mandate "...that the water resources of the State be put to beneficial use to the fullest extent of which they are capable..." and that unreasonable use and unreasonable diversion be prevented (Article 10, Section 2, California Constitution).

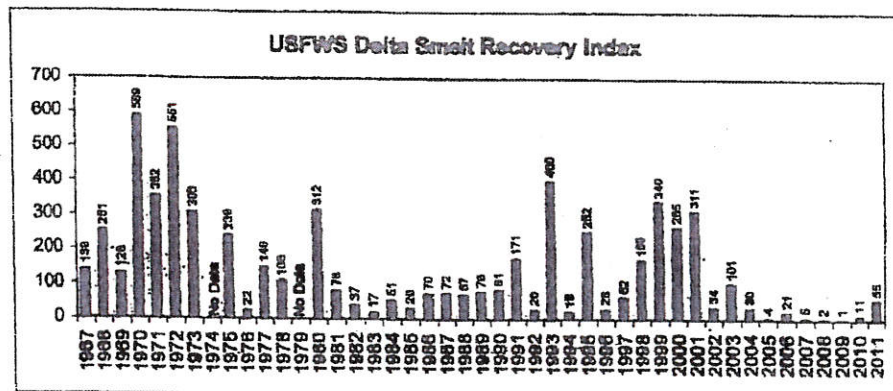
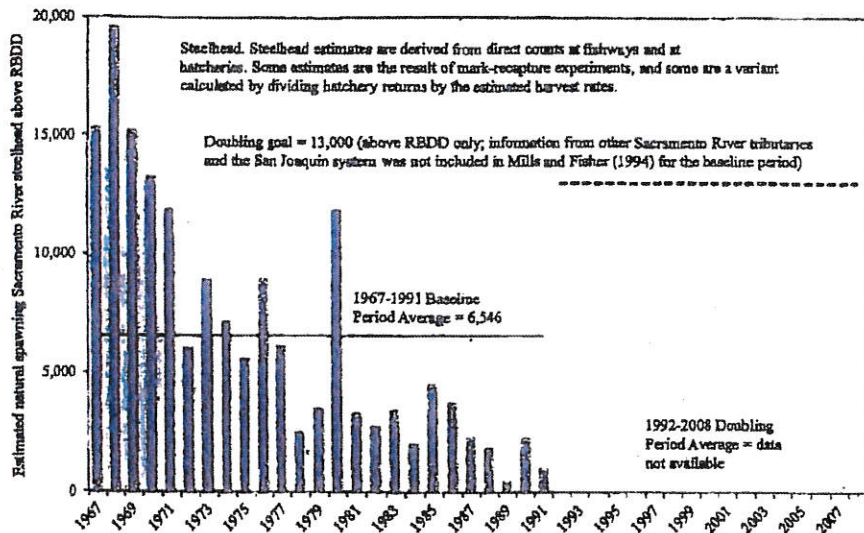
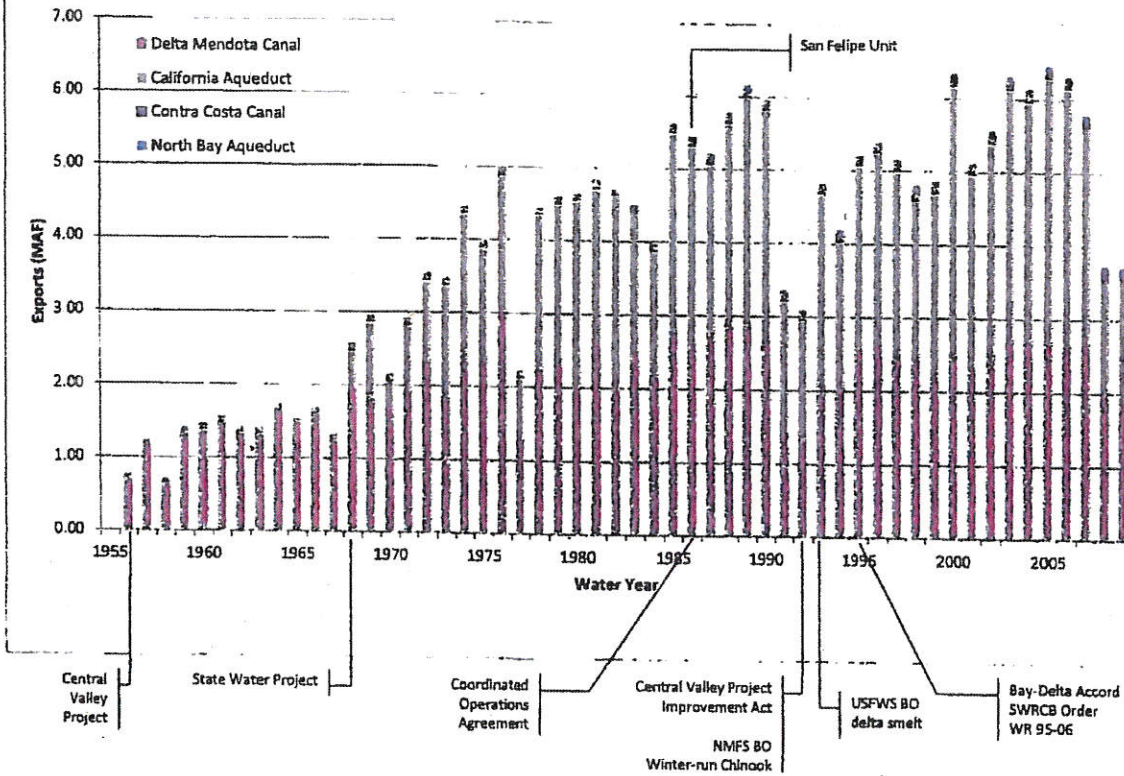
NOT PROVIDED

The Bureau, the Department, Fish and Game, and U. S. Fish and Wildlife Service are working together to develop alternative water supplies for the Marsh. Such alternative supplies appear to represent a feasible and reasonable method for protection of the Marsh and mitigation of the adverse impacts of the projects. Under this decision the Department and Bureau are required, in cooperation with other agencies, to develop a plan for Suisun Marsh by July 1, 1979. The Suisun Marsh plan should ensure that the

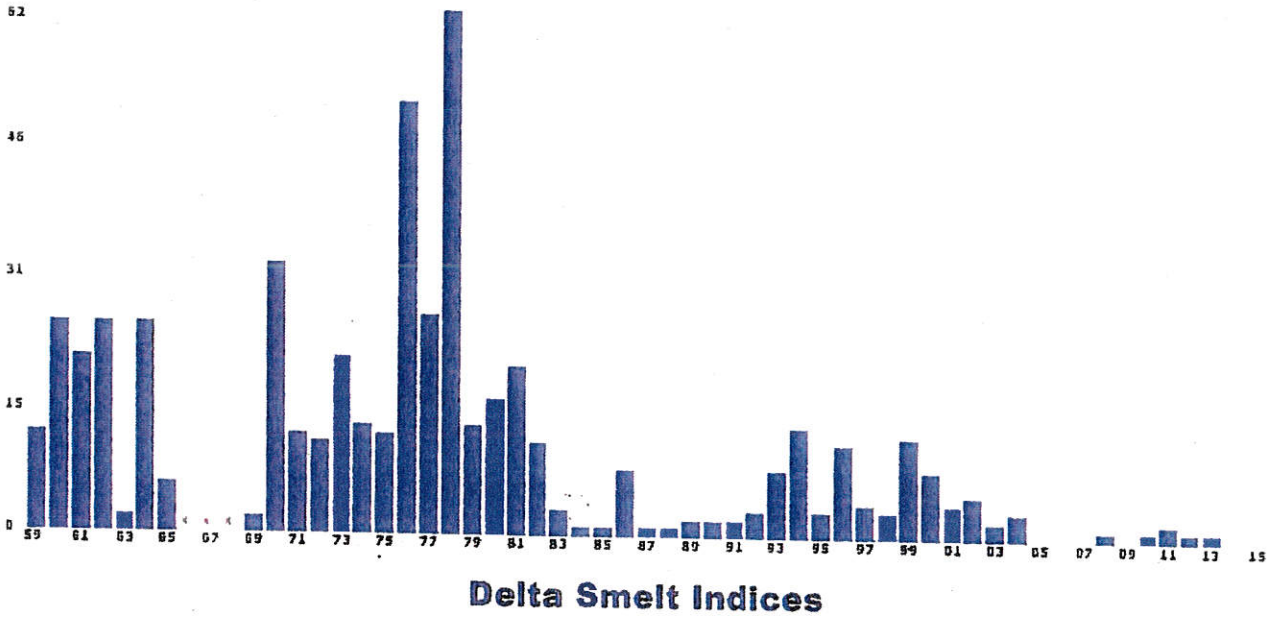
■ In-Delta Diversions □ Tracy Exports □ Banks Exports

Figure 6

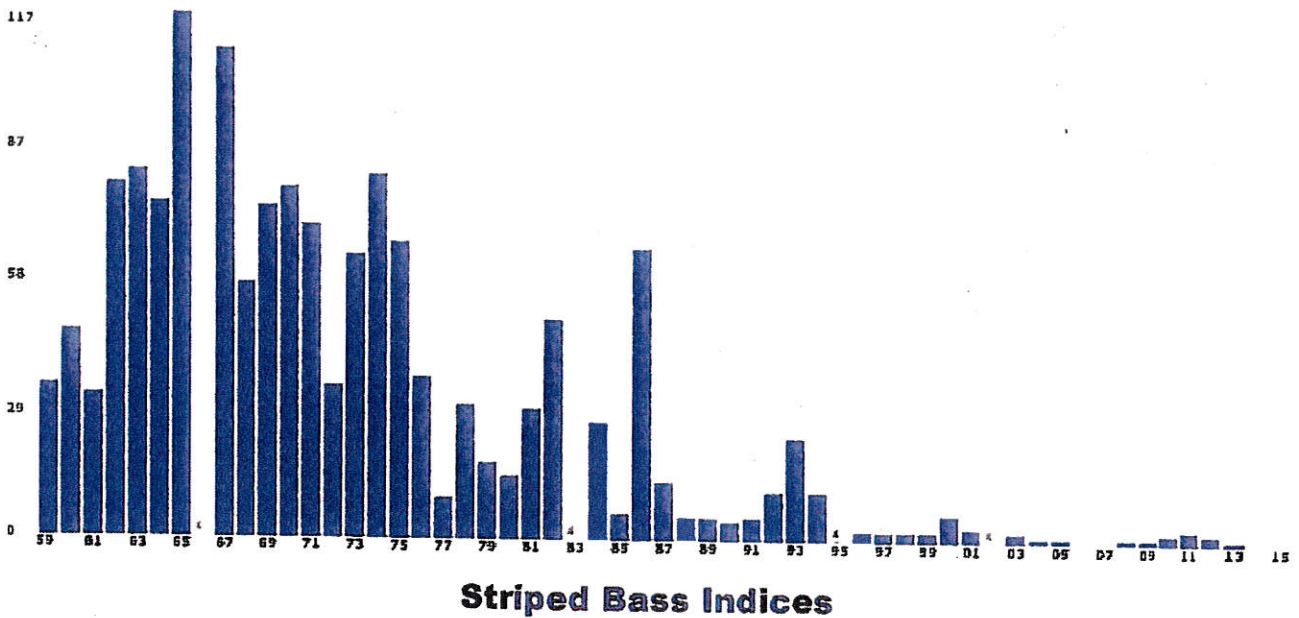




Delta Smelt Indices



Striped Bass Indices



Public Law 108-361
108th Congress

An Act

To authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

Oct. 25, 2004
[H.R. 2828]

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.

TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT

- Sec. 101. Short title.
- Sec. 102. Definitions.
- Sec. 103. Bay Delta program.
- Sec. 104. Management.
- Sec. 105. Reporting requirements.
- Sec. 106. Crosscut budget.
- Sec. 107. Federal share of costs.
- Sec. 108. Compliance with State and Federal law.
- Sec. 109. Authorization of appropriation.

TITLE II—MISCELLANEOUS

- Sec. 201. Salton Sea study program.
- Sec. 202. Alder Creek water storage and conservation project feasibility study and report.
- Sec. 203. Folsom Reservoir temperature control device authorization.

TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT

Water Supply, Reliability, and Environmental Improvement Act, California.

Calfed Bay-Delta Authorization Act.

SEC. 101. SHORT TITLE.

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

SEC. 102. DEFINITIONS.

In this title:

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

(iii) evaluation of lower Mokelumne River floodway improvements.

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

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

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

(D) PROGRAM TO MEET STANDARDS.—

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

Deadline.

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

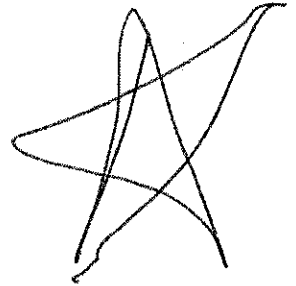
(iii) RECIRCULATION PROGRAM.—The Secretary shall incorporate into the program a recirculation program to provide flow, reduce salinity concentrations in the San Joaquin River, and reduce the reliance on the New Melones Reservoir for meeting water quality and fishery flow objectives through the use of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

(iv) BEST MANAGEMENT PRACTICES PLAN.—

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

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

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



the River, including the timing of discharges to optimize their assimilation.

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

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

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

(3) WATER USE EFFICIENCY.—

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

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

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

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

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

(F) RECLAMATION AND RECYCLING PROJECTS.—

(i) PROJECTS.—This subparagraph applies to—

(I) projects identified in the Southern California Comprehensive Water Reclamation and Reuse Study, dated April 2001 and authorized by

Applicability.