

**Testimony of Honorable Lois G. Wolk**  
**Chair, Assembly Committee on Water, Parks & Wildlife**  
**Supporting House Resolution 24**

**Before Subcommittee on Water & Power**  
**House Committee on Resources**  
**San Joaquin River Restoration Settlement Act**  
**March 1, 2007**

Good morning, Madame Chairman and members. My name is Lois Wolk and I chair the California Assembly Committee on Water, Parks and Wildlife. I also represent the northern part of the Delta. I am honored by your invitation to appear today before the subcommittee, which is our counterpart in Congress. Both committees strive to balance the protection of our natural resources heritage with conflicting and often contradictory demands.

**I. Support for San Joaquin River Settlement**

I appear before you today as an ardent advocate for settlement of the long-standing dispute on the San Joaquin River. I urge Congress to pass House Resolution 24, which would implement the settlement. While the Friant Division of the Central Valley Project has produced vast abundance of agricultural products, it has produced substantial conflict as well. The most recent litigation – and the one we all are here today to resolve – has lasted 18 years, often sapping the financial resources and political energy of the litigants as well as much of the California water community.

I support the proposed San Joaquin River settlement because it reflects a reasonable balance between water supply reliability and River restoration. This settlement will confer benefits on many Californians, not just the ones who have spent the last two decades in court.

**A. What Has Changed**

Since I appeared here last fall, much has changed. First, Congress – and this subcommittee – has changed substantially. I hope that change will allow speedy passage of HR 24 and the beginning of a state-federal partnership in addressing the challenges we find on the San Joaquin River. While there are many other issues on the San Joaquin River, including

drainage, HR 24 needs to proceed now without trying to resolve all the other thorny challenges on the San Joaquin. This bill may provide a forum for developing a state-federal partnership where we can work together to start addressing the many San Joaquin River issues.

Second, conditions for the State of California have changed, with the passage of Proposition 84, which authorizes up to \$100 million in general obligation bonds to support the settlement of the San Joaquin River conflict. Before that funding becomes available, the Legislature will need to appropriate the funding through the State Budget. The Governor's budget proposes that we spend \$14 million next year in support of the San Joaquin River settlement. I anticipate that the Legislature will have concerns about approving that appropriation, without action by Congress to implement that settlement. In fact, just last week, the Legislative Analyst's Office advised the Legislature that it should not appropriate money for the San Joaquin River restoration until Congress appropriates funding for the restoration. So, effective implementation of the settlement through a state-federal partnership will depend on the Congress' timely action.

Finally, the settlement has changed, with the third-party concerns now resolved by language that is in HR 24. When we were last here, some witnesses objected to *potential* risks of adverse consequences to third parties. Those parties and the settling parties, working with Senator Dianne Feinstein, developed the language that is now in HR 24. We may not all agree that this language is necessary substantively, but we all can agree that resolving those disputes makes an important contribution to achieving – and implementing – a settlement that works and enjoys success. We don't need further litigation over this settlement, as some witnesses threatened at the last hearing.

Taking all these changes into consideration, the time has come for Congress to act. We have resolved a conflict that has sapped the energy of a significant portion of the California water community for decades. That conflict is over, and it is our duty as elected representatives to do all we can to support that settlement.

## **B. Value of Resolving Long-Standing Conflict**

This settlement offers all of us an opportunity to move beyond conflict. Water conflicts – particularly court litigation – simply cost too much. It costs money to pay our advocates – the lawyers and expert witnesses. It costs time and missed opportunities. As we fight, we too often ignore the continuing and changing needs to operate, maintain and rebuild the water infrastructure that may have served us well in another time. But with improved technology and increased value for each drop of water, we need to invest in creating the most efficient water system possible – one that balances the many competing water needs – agricultural, urban and environmental. Moreover, the inherent risks of litigation put the use of our water resources and water supply reliability in jeopardy.

Finally, as we fight, the ecosystem collapses. The public trust resources that we have a duty to protect deteriorate. California cannot afford the costs of conflict. That's why I'm here today to urge you to support H.R. 24, which will let California move beyond this long-standing conflict.

I hope that our two governments – state and federal – can find a way to collaborate on promoting the most effective and balanced use of the San Joaquin’s water – for agriculture, cities and the fishery. Only recently did the Schwarzenegger Administration begin investing time, attention and resources on improving the situation on the San Joaquin. I am proud to be one of the legislators who fought for State funding in this year’s budget to support this settlement. I was also encouraged to see that the draft legislation includes a “savings clause” for existing federal law requiring Central Valley Project compliance with State law. This provision will protect the State’s sovereignty and ensure the State’s proper role in overseeing the San Joaquin River’s water resources.

## **B. Settlement Helps Resolve Multiple San Joaquin River Issues**

I would like to share a broader perspective about how this helps California as a whole.

**Certainty for Water Users.** First, there is the added certainty for water users throughout the San Joaquin River basin. For more than a decade, we have crafted water agreements that would allow for some uncertainty due to this litigation. The Federal Government and water users on San Joaquin tributaries crafted the 1998 San Joaquin River Agreement, often called the VAMP (or the Vernalis Adaptive Management Program), leaving some flexibility for an outcome of this litigation. The State’s Delta water quality standards were imposed on all the Central Valley Project permits, to allow for the possibility that water might some day come down the mainstem from Friant to the Delta. This time of bracing for uncertainty can now end, and we can begin the conversation about how to promote greater water certainty throughout the San Joaquin system.

**Assistance for Fishery Resources.** And, of course, this settlement will help the San Joaquin system’s fishery resources. I understand there may be some who question how much the water released under this agreement will help the spring run and, perhaps, may not help fall run salmon at all. But let us keep in mind our starting point – a dead river – and a basic fact – fish need water for life. Breathing life-giving water back into this river – even if not as much as some suggested would be required – is better for the fishery than dry sand. This water will contribute to the fishery needs in the San Joaquin River and downstream in the Sacramento-San Joaquin Delta.

**Diluted Salinity.** This infusion of water also contributes to diluting the salinity flowing downstream from the westside of the San Joaquin Valley to the Delta. Some of you may remember the Kesterson wildlife debacle when the last drain operated in the 1980’s. While some have suggested that we tie this settlement to resolving the drainage issue, it is more important that we proceed with the settlement now than try to resolve all San Joaquin River issues at one time. This settlement will contribute a new water resource to this chronic salinity problem on the San Joaquin and in the Delta. Even a small contribution will nevertheless be a contribution.

**Flood Protection.** While flood protection was not one of the original purposes, some of the actions required by the settlement will improve flood protection, particularly the expansion of the River’s capacity to 4,500 cfs at various points. Last year, the small town of Firebaugh suffered a huge risk that its levees would fail and deluge the town. This settlement provides a

small indirect flood protection benefit that, in these years after Hurricane Katrina, may be appreciated.

## **II. Benefits for the Sacramento-San Joaquin Delta**

This settlement's benefits reach beyond the confines of the San Joaquin River, particularly to the broader Sacramento-*San Joaquin* River Delta – California's Critical Crossroads for water. I note that the Delta's name includes the San Joaquin River. The Delta is formed by two of California's great rivers – the Sacramento AND the San Joaquin. Admittedly, the settlement was not necessarily intended, nor are there any commitments, for the benefit of the Delta. But, when you begin moving toward a healthier river, the Delta cannot help gaining some sort of benefit, albeit unquantified.

### **A. Delta**

The Delta currently suffers from two inter-related problems – water quality and an ecosystem crisis. The Delta's water quality issues are multi-faceted, involving salinity (both drainage and saltwater intrusion), contaminants (including pesticides, mercury and urban runoff), and water circulation or flow standards. Increasing the availability of San Joaquin River flows will, in any case, contribute to improving water quality in the South Delta, where the San Joaquin River flows into the Delta.

Also, in the last year, the State has been investigating the causes of the substantial decline of pelagic fish (*e.g.* delta smelt) and much of the ecosystem that supports them. We still do not have final answers, but we have seen indications that three categories of causes have contributed to this decline – invasive species, contaminants and water project pumping operations – and we have recognized that there are connections among all three of those categories. Last fall's CALFED Science Conference demonstrated that the water project exports play the central role in affecting the ecosystem – both directly (taking fish into the pumps) and indirectly (changing Delta hydrological flow patterns). Those categories also share a connection to the flow of water into and within the Delta. The cause of the decline is likely related to all of these causes. So, the best news is that introducing additional flows into the Delta may assist California in addressing the root causes of the Delta ecosystem crisis.

### **B. Export Water Supplies**

Because California's export water communities – in the San Joaquin Valley and Southern California – rely on water exported from the Delta, any assistance the Delta receives can help the water supply reliability for export water supplies. They had concerns that they may suffer negative impacts, but H.R. 24 now has addressed that issue to their satisfaction. It may help the two large water projects comply with the interior Delta salinity standards. Or the additional San Joaquin River inflows may improve the export-inflow ratios that regulate export-pumping operations. In either case, export water supply may improve because there is more water flowing into the Delta.

### **III. Next Steps**

The next steps to implement the San Joaquin River settlement involve both of our legislative bodies. First, California needs the Congress to enact H.R. 24 to implement the settlement, including elimination of the CVPIA prohibition on Friant releases for these purposes. Then, I can assist the effort in the California Legislature to enact other supportive legislation and budget appropriations to advance the settlement's implementation. For example, one of my colleagues, Jared Huffman, who chairs the water quality committee and sits on my committee, introduced a short provision to authorize the State to participate in this settlement. There will be additional work needed on this bill, which may respond to how Congress acts. The Federal Government needs to act first, considering its long history of controlling the operation of the main stem of the San Joaquin River. I have supported state legislation to start addressing San Joaquin River issues in this past session, but, before the settlement, it did not enjoy the necessary broad support that today's settlement may provide. With our two legislative bodies working together, I have no doubt that we will succeed in making this settlement a great success!