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**To:** "various" <gaelwolf@waypt.com>  
**Sent:** Thursday, September 24, 2009 9:16 AM  
**Subject:** Emptying Reservoirs in the Middle of a Drought  
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This is illustrative of what can happen when agency science drives policy that harms people, doesn't do much to help fix the problem that it's aimed at, and harms all of us when we go to the grocery store.

Here in Washington, we are dealing with a whole bunch of policy based on a combination of agency science and syntheses that take control of our lives out of our hands, though not to the extent of the tens of thousands of families in California who used to work in one of the world's most productive agricultural regions. Those families are now lining up at food banks where they get food imported from all over the world.

Things are upside down, and the handbasket is accelerating. We are living in interesting times.

Our respective organizations should consider sending letters of support to organizations that are working on behalf of the people caught up in this government-caused catastrophe. It's not the first time this has happened . . . and strong public support for the Klamath Basin's farmers got their water turned back on.

Beyond those letters of support, the boards of our organizations then need to go to their members and inform them of this issue, and ask that each of those members send email, faxes and phone calls to our Senators and Representatives in the Other Washington. The pressure to get the water turned back on has to be brought to bear in every congressional district in the nation. If it isn't, those folks in California will still be caught in a grinding imposed, and unnecessary form of poverty that is an affront to God and our nation's founders.

If our government gets away with this water shut-off, they will be back turning off the water in the Klamath Basin, and then they will be coming to all the other irrigated farmland in the nation, turning off the taps as they go.

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## **Emptying Reservoirs in the Middle of a Drought**

By [Max Schulz](#) from the [September 2009](#) issue

ANYONE DOUBTING THAT OUR nation's environmental and economic policies can get seriously out of whack from time to time need only look to the Sacramento-San Joaquin River Delta. Located in California's Central Valley, between the state's capital city and Stockton, it is where the American, Mokelumne, Cosumnes, and Calaveras Rivers flow into the larger Sacramento

and San Joaquin. It is also where the saddest agricultural saga since the Depression-era Dust Bowl is now playing, as the waters from those rivers flow beneath San Francisco's Golden Gate Bridge and out to sea. As they flow unimpeded to the Pacific, those waters are also washing out to sea the livelihoods of tens of thousands of farm workers and agricultural business owners. It is an economic as well as human tragedy.

This is a story about water, about its lack as well as its abundance. But it is also a story about the price we pay to protect the environment, and whether we are striking the right balance between nature and mankind. In the end, the question is whether people should exercise dominion over nature, or whether nature should lord over man. To most Americans, the answer is obvious: our capacity to make nature subservient to our needs justifies doing so, insomuch as we act as responsible stewards of the environment. But however obvious that might be to most people, the countervailing idea—that nature should take precedence over mankind—is being sown into a series of laws and regulations that are causing undue torment and distress.

The American West was created, it is fair to say, by mankind taming nature and using it for his own purpose. That is how the San Joaquin Valley over time became the most productive agricultural region in the world. Massive and expensive irrigation and public works projects captured the waters in the San Joaquin River Delta to transform a desert into a paradise, providing much of the fruits and vegetables and dairy products Americans consume. Millions more acre-feet of water are diverted each year to the state's coastal population centers from these and other rivers, like the Colorado. By damming and diverting mighty rivers, and reshaping the landscape all throughout the American West, the federal government allowed Los Angeles, San Diego, and San Francisco to bloom into the cities we know today.

That is the irony of California: a state that is Valhalla for environmentalists and the home base for the green movement is an affront to—and perversion of—nature. California is an artificially constructed paradise. The Golden State owes its golden existence largely to mammoth engineering feats representing mankind's ingenuity and triumph over the natural realm. It's not just Hoover Dam, that wonder of the modern world, but dozens of less famous man-made dams and lakes and reservoirs, with names like Glen Canyon and Parker and Havasu and Link River, that help reshape the landscape to provide water and power to California's faraway population centers. The state could not sustain its giant cities or its astoundingly fertile agricultural sector without them. Today's California, that greenest of American states, is itself testimony to man bending nature to his purpose.

NATURE, OR AT LEAST ITS SELF-STYLED advocates, is striking back. Its cudgel is the federal Endangered Species Act and supporting California statutes wielded on behalf of fish such as the tiny delta smelt. In 1993, the delta smelt was listed as threatened under the ESA. And with that designation, litigious environmental groups went to court. Filing lawsuit after lawsuit on behalf of this or that supposedly endangered quarry, they aim to dismantle the infrastructure of California's State Water Project (SWP) and the federal Central Valley Project (CVP). Those two projects' dams, reservoirs, canals, waterways, aqueducts, and pumps deliver the life-giving water supporting the state's agriculture and supplying its major cities.

The greens have had some success. In 2007, U.S. district judge Oliver Wanger ruled that the pumping that annually sent about 6 million acre-feet of water to Kern County and beyond was threatening the delta smelt's existence by disrupting water flows for the fall spawning season. Citing the protections accorded by the Endangered Species Act, he ordered pumping for agricultural uses curtailed by one-third until the U.S. Fish and Wildlife

Service could evaluate the situation. After studying the issue for more than a year, the USFWS determined last December that pumping by the SWP and CVP "was likely to jeopardize the continued existence of the delta smelt and adversely modify its critical habitat." The agency issued plans to keep Judge Wanger's restrictions in place. According to Tulare County supervisor Allen Ishida, "California was forced to let 660,000 acrefeet of its freshwater supplies run out to the ocean. That was enough water to supply the entire Silicon Valley for two years."

Further curbs may come, on behalf of the delta smelt as well as other species. The USFWS and the California Fish and Game Commission are moving forward with threatened and endangered designations for Chinook salmon, steelhead, and the longfin smelt, presaging further water reductions for agriculture.

The result of these irrigation pump shutdowns is that hundreds of thousands of acres of farmland are being forced out of production. Kern County authorities estimated that 145,000 of the 850,000 acres that are typically irrigated were idled or under-irrigated last year. The loss was pegged at \$100 million in the county alone. A study by UC-Davis estimated San Joaquin Valley farm revenue losses to range from \$482 million to \$647 million. Total California agricultural economic losses could hit \$3 billion this year.

But those are just abstract financial numbers. Behind those figures are real people, farmers and business owners and families who are losing livelihoods and are being forced to uproot and flee. The UC-Davis study conservatively suggested 24,000 to 32,000 Central Valley jobs were destroyed by environmental rulings designed to protect endangered wildlife. It further estimated job losses could approach 80,000 or more if restrictions intensified. Communities are withering for a government-imposed lack of water. It is little exaggeration to say that the farmers of the most valuable farming region in the nation are facing extinction.

IS THAT WHAT THE Endangered Species Act was designed to accomplish? In the 36 years since President Nixon signed the ESA into law (its chief congressional sponsors were Rep. John Dingell, D-MI, and the future Abscam crook, Sen. Harrison Williams, D-NJ), an entire federal and state government apparatus has sprung forth to provide protections to creatures like the bald eagle and the grizzly bear. More than 1,300 species of animals, fish, and plants have been designated either "endangered" or "threatened." Certainly, there have been some preservation successes, notably with iconic animals like our national bird or Smoky the Bear's cousins.

But while the bald eagle and the grizzly are the poster children of ESA protection, they are the exception and not the rule. Most species for whose preservation the power of government has been harnessed are ones whose loss few would mourn, or even notice. How many tears, for instance, would be shed if the rock gnome lichen disappeared, not to mention the dwarf wedgemussel or the Comal Springs dryopid beetle? Or the delta smelt? And yet court decisions and other regulatory moves are being made on behalf of these and other creatures in ways that present significant hardship for landowners. Whether depriving Central Valley farmers of contractually entitled water or placing restrictions on landowners' use of their own properties, endangered species regulations end up hamstringing humans for the benefit of certain plants, fish, and animals that few have heard of and even fewer care about.

Sometimes such hamstringing is merely a costly irritant. Case Western Reserve University law professor Jonathan Adler has noted, "Under the ESA, individual Americans have been prevented from building homes, plowing fields, cutting trees, clearing brush, and repairing

fences—all on private land."

In other instances, it can be tragic. According to Adler, "The federal government has even barred private landowners from clearing firebreaks to protect their homes from fire hazards." In 1993, the U.S. Fish and Wildlife Service forbade residents of California's Riverside County from clearing firebreaks around their homes for fear of disturbing the endangered Stephens' kangaroo rat (despite the fact state authorities required them to do so as a fire protection measure). When wildfires whipped through the Southern California community, nearly two dozen homes were destroyed. The case of the Central Valley farmers is a similar—and needless—calamity.

The problem, says Tulare County's Ishida, is not the courts or even activist judges. "The problem is the courts are being forced to base their decisions on laws that have not been amended or changed in decades. The environmentalists have skillfully used such laws as the Central Valley Project Improvement Act and the Endangered Species Act so that judges have no alternative but to order massive releases of water."

Ishida recently told a congressional panel that since the passage of the Central Valley Project Improvement Act in 1992 (roughly the same time that the delta smelt was listed as threatened), the state of California has redirected more than 3 million acre-feet of water that used to serve cities and farms. Now that water supports fisheries and habitats. Often it just goes out to sea, completely unused for any of the many purposes for which a thirsty state is desperate to use it.

As California farmers lose their jobs by the tens of thousands to protect a tiny fish, the sad irony is that the delta smelt may not be faring much better. That's not because of inadequate protections against humans offered by state and federal officials, but rather because those officials seem incapable of saving the delta smelt from nature's predators. The smelt rarely grows much longer than three inches, and it is prey for any number of other creatures that inhabit the rivers of the San Joaquin Valley. As Rep. Tom McClintock (R-CA), noted at a recent congressional hearing, the water diversions have not helped the delta smelt populations. There are quite a few officials who believe that the delta smelt is on Darwin's fast track to extinction, despite the feel-good efforts of human environmentalists. McClintock's congressional colleague, George Radanovich, is even rooting it on, calling the smelt "a worthless little worm that needs to go the way of the dinosaur."

For their part, environmentalists who sue on behalf of the delta smelt consider the tiny fish to be an absolutely critical part of the food chain, feeding on plankton and in turn serving as food for larger fish and birds. If the delta smelt disappears, they warn ominously, the local food chain collapses. Whether that's true or not, what the policies boil down to should be a matter of picking your calamity: should the fish (and others in the food chain) suffer, or should humans?

PERHAPS THE MOST MYSTIFYING ELEMENT of California's farms-versus-fish imbroglio is the unwillingness of the media and the state's political establishment (other than the elected representatives of the region) to confront the issue head-on. Sidestepping the tough questions involved, they refer instead to California's lengthy drought as the cause of much of the state's misfortune.

"California is in its third year of drought, and many farmers in the state's crop-rich Central Valley are looking at dusty fields, or worse, are cutting down their orchards before the trees

die," according to National Public Radio in a report typical of the media coverage. "This year, farmers have been told they are getting only a small fraction of the water they need." The alarm over California's drought spread on both coasts. In Sacramento, Gov. Arnold Schwarzenegger declared a state of emergency, while in Washington Congress held hearings at which Democrats decried "California's Katrina."

Not surprisingly, global warming is being blamed for California's drought. California's drought was regularly invoked on Capitol Hill as Congress debated cap and trade legislation this summer. Energy Secretary Steven Chu gave this storyline a boost in February when he warned that drought will cause California's vineyards and farms to vanish by the end of the 21st century if we fail to combat warming. "We're looking at a scenario where there's no more agriculture in California," he told the *Los Angeles Times*.

The only problem with the idea of drought driving California's misery is that it is largely a fiction. There has been very mild drought in recent years, but not enough to account for the current massive cuts in water to Central Valley farmers. This spring, the state's Department of Water Resources revealed that the mountain snowpack feeding California reservoirs was at 80 percent of normal levels, while precipitation in the northern and southern Sierra was 90 percent of average. This prompted California's chief hydrologist to tell reporters writing about the supposedly epic conditions that while, sure, there had been some drought, it was "not the worst we ever had." By the conventional definitions his office employs, he said, 2007 and 2008 barely qualified as drought years at all.

Drought isn't the reason the Central Valley's farmers aren't getting water. "There's plenty of water," says congressman Devin Nunes, a Republican who represents part of the Central Valley. "But the courts say it can't be touched, so it's flowing out to sea under the Golden Gate Bridge."

The false drought meme has conveniently allowed policy makers as well as the media to sidestep the uncomfortable issues surrounding Endangered Species Act regulation. It permits them to avoid confronting what Nunes refers to as "the fundamental wrongness of choosing fish over people." And it permits them to avoid taking responsibility for the consequences of government policies and regulations that have tremendously adverse impacts on ordinary people's lives. When cornered, blame the weather.

DURING THE 1930s, the Dust Bowl tragedy pitted hapless farmers against the vagaries of weather and climate, as the Great Plains endured a horrific seven-year drought the likes of which no one could recall. California, too, has suffered drought in recent years. No one denies that. Yet however much the drought gets blamed for so many of the state's problems, the disaster unfolding in the Central Valley is almost entirely man-made. Fields lie fallow. Families in some of America's richest cropland face crushing poverty. Businesses go belly-up. The fact that this is spurred by government policies designed to protect endangered species from dying off is an irony tinged with tragedy.

Missing in this sad affair has been any element of common sense. But that may be changing. In response this summer to an appeal of the last year's Fish and Wildlife Service ruling, Judge Wanger signaled a change of course. He hinted that the USFWS's decision supporting the shutting off of pumps to Central Valley farmers (not to mention his initial order to do so) may have erred by not taking into account the impact on the human populations. As the issue winds its way through the courts, it remains to be seen whether Judge Wanger's newfound logic holds up. If so, there may be protection for the endangered farmer after all.

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