



TUNNEL VISION in the CENTRAL VALLEY

Narrow Regulatory Focus Dries up Western Rural Communities

BY DAN KEPPEM

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Introduction

Western agriculture has become one of the most highly regulated industries in the world. Over the past few decades, the Clean Water Act (CWA), Endangered Species Act (ESA), and a host of other statutes have significantly impacted irrigation water supplies. Water beneficially used for decades by farmers is now being taken to meet the asserted needs of species listed under the ESA without any due process. These federally mandated reallocations have had significant adverse impacts on the West and its ability to meet the challenges of competing demands for water supplies.

The increasingly complex federal regulatory structure, and the increasingly expensive and protracted processes which this structure encourages, makes obtaining and sustaining water supplies increasingly difficult on both agricultural and municipal users alike. For the farmer or rancher, the current water allocation and reallocation schemes often create economic conditions, a sense of disillusionment and resignation, and uncertainty. Nowhere is the uncertainty of water supplies greater than in California's San Joaquin Valley.

Impacts to Rural Communities

Severe water shortages caused by the combination of federal fisheries restrictions and drought on water supplies to the western side of the Valley forced hundreds of thousands of farmland to be fallowed last year. University of California experts estimate that the combined effects of these restrictions on the water supply have cost Central Valley agriculture nearly \$1 billion in lost income and more than 20,000 lost jobs. In 2009, water users that depend on the federal Central Valley Project (CVP) received

only 10% of the water they contracted to receive, the lowest allocation in the history of the project. Without these federal restrictions, the allocation would have been 30%. Earlier this year, the U.S. Department of the Interior announced an increased allocation of water for south-of-Delta CVP agricultural water service contractors in 2010 to a whopping 25% of their contract.

A Call for Sound Science in Agency Decision Making

The Family Farm Alliance—a grassroots organization representing farmers and ranchers in the 17 Western states—in July 2009 filed a lawsuit in federal district court challenging the science and decision-making used by the federal government to justify taking water away from farmers and letting it flow out through the Golden Gate. The Alliance challenged a “biological opinion” issued by the U.S. Fish and Wildlife Service (USFWS), which said a 3-inch fish, called the Delta smelt need that water. This marked the first time since the Alliance was formed over 20 years ago that it has filed a lawsuit, and this

action was not taken lightly. In December 2008, attorneys for the Alliance raised concerns with the adequacy of the scientific data used to develop the opinion to the attention of the government, using the federal agency's own administrative procedures to seek correction of the opinion. The government refused to address the problems that were raised or correct the opinion. The Alliance was forced to file the lawsuit to compel the government to respond.

The Alliance wants the court to order the government to revise the opinion to comply with the fundamental requirements of the ESA and the Information Quality Act (IQA) regarding the quality, objectivity, and integrity of scientific decision-making by federal agencies. Among other reasons, the mandated Independent Peer Review of the smelt biological opinion was not performed properly under the ESA. The Alliance also believes the biological opinion is based on assumptions and speculation, not actual scientific data. For the past 15 years, federal regulators have ordered more and more stringent restrictions on the water supplies pumped through the Delta to serve California's farms and cities. But instead of showing any benefit from these measures, the populations of delta smelt and other fish have continued to decline.

Many Stressors, One Regulatory Focus

There are many reasons for the decline in the fish population that are not related to the water pumping that are being ignored by the government, including urban water pollutants, increases in non-native fish that feed on the smelt, and climate changes. Predation of juvenile salmon by other fish species is especially troublesome. Predators are killing nine-out-of-ten juvenile salmon before ever reaching the Delta. Nearly one million striped bass live in the Delta and the watershed and catch of large-mouth bass has quadrupled since the 1980s. Both are non-native fish that prey on young salmon and smelt. Research last year estimated that striped bass consumed 21% to 42% of endangered winter- and spring-run juvenile salmon,

respectively. Other studies show the water projects—which have been the sole focus of federal fisheries agencies and some environmental activists—took less than 3%.

Bigger Picture Impacts

The water cutbacks that have already occurred are not increasing the populations of salmon and smelt. Further cutbacks will only serve to harm agriculture and other water users. San Joaquin Valley farmers cannot afford any more cutbacks in the water deliveries. The region cannot sustain more fallowed crops and further unemployment for the workers that will result. More cutbacks will also add to unemployment that already has reached Depression-era levels in agricultural towns up and down the Valley.

In the bigger picture, fewer crops coming out of the San Joaquin Valley will increase the need for imported fruits, vegetables, and nuts from other countries. Increased dependence upon imported produce leads to increased vulnerability to food safety problems such as toxins, exotic pests, diseases, not to mention terrorism. That is because other countries produce food ingredients that are being grown and processed under conditions that would violate our public safety standards in the U.S.

Conclusion

Water use is a critical issue throughout California and the other Western states, especially in areas served by federal water projects like the CVP or the Klamath Project. Federal involvement has grown exponentially over the past several decades through legislative enactments such as the ESA and the CWA. The increased 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.

The Alliance IQA litigation and other suits brought on by San Joaquin water

users demonstrate the harm and likely continued decline of Delta smelt are due to ill conceived and misplaced regulation. Meanwhile, desperate agriculture, water, and business communities are working with elected officials to try to formulate a temporary emergency plan to restore pumping so that the economic crisis that occurred last year is not repeated again.

The time has come to stop the unnecessary harm. Now is the time for leadership at all levels—local, state, and federal—to face the challenges and create the opportunities that will define the future of the San Joaquin Valley, the Klamath Basin, and the rest of the rural West. ■

About the Author

Dan Keppen is executive director of the Family Farm Alliance, a non-profit grassroots organization that represents family farmers and ranchers, irrigation districts and allied industries in 17 Western states.

Additional Resources

The California Farm Water Coalition
www.farmwater.org.

Formed in 1989 in the midst of a six-year drought. CFWC was formed to increase public awareness of agriculture's efficient use of water and promote the industry's environmental sensitivity regarding water.

Why California is Running Dry
CBS' 60 Minutes 2009

<http://www.cbsnews.com/stories/2009/12/23/60minutes/main6014897.shtml?tag=co>

Family Farm Alliance

www.familyfarmalliance.org

“Western Water Policy: The Challenges and Opportunities of our Times - Our Legacy for the Next Generation”
Farmer Participation in Temporary Irrigation Forbearance: Portfolio Risk Management