

PACIFIC COAST FEDERATION  
of FISHERMEN'S ASSOCIATIONS



**Statement to the House Committee on Natural Resources' Subcommittee on  
Water and Power hearing 'Perspectives on California's Water Supply:  
Challenges and Opportunities', Los Angeles, California  
January 25, 2010**

Good afternoon. I am Larry Collins, vice president of the Pacific Coast Federation of Fishermen's Associations, largest organization of working fishermen and women on the West coast with member associations mostly in California but also in Oregon and Washington.

My wife Barbara and I fish for salmon and crab out of San Francisco on our vessel, the 'Autumn Gale'.

I first got involved with water issues around the time of the CVPIA passage and have been involved ever since. Salmon fishing was 70 percent of my income so, clearly, if the resource wasn't healthy I didn't work.



We appreciate the opportunity to appear before you today to provide the fisherman's perspective on California's water resources, the ways in which these resources are being managed and abused, and the assistance which Congress might provide to assure a more equitable and sustainable distribution of the state's water resources among food producers – both fishermen and irrigators – and the state's urban communities.

**We are out of work, now, as salmon fishermen.**

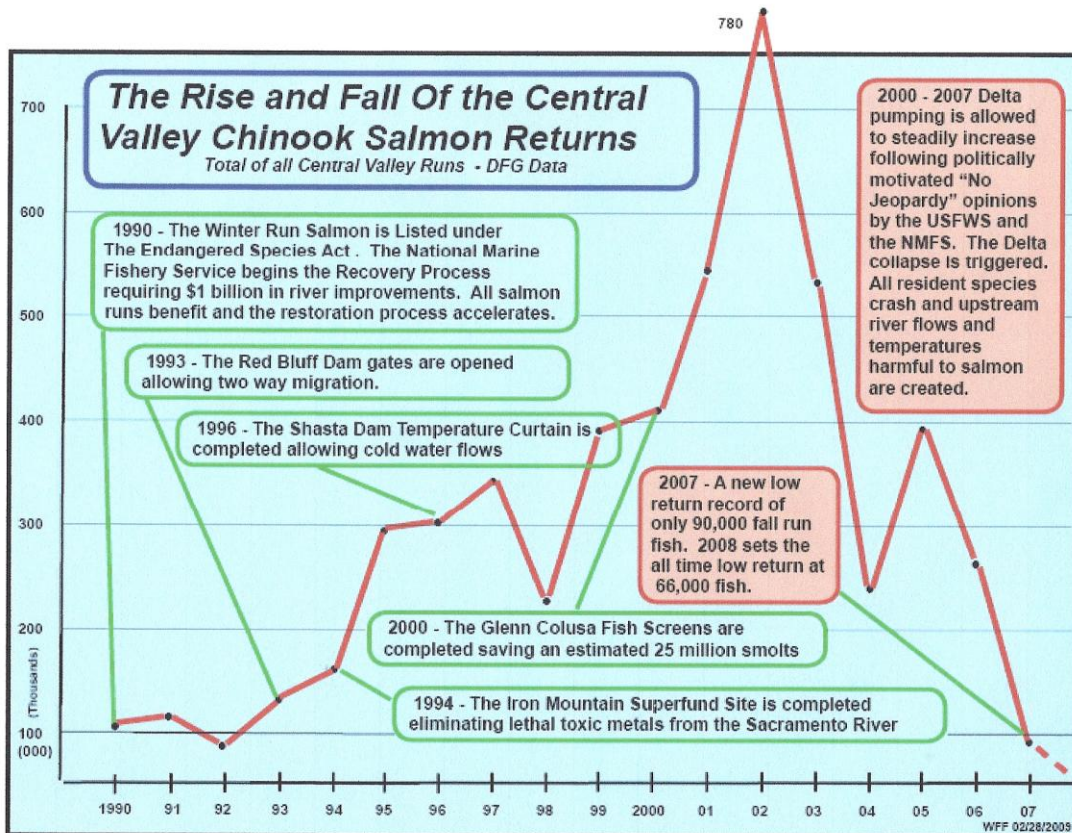
Barbara and I have been successful fishermen for 25 years. During these years we bought our home in San Francisco, raised our two kids, and paid our bills – all from the income earned from of our fishing.

California's salmon fisheries have been shut down, by order of the U.S Secretary of Commerce, under the regulations of the Federal Magnuson-Stevens Fishery Conservation and Management Act, since 2007.

That is, we've been out of work, now, for two years by direct Federal mandate. Prospects for fishing for Central Valley chinook ('king') salmon – the mainstay of our fishery – are dim for 2010.

Following the closure of our fishery in 2008 the National Marine Fisheries Service – the Service's scientists headquartered at their Santa Cruz, California laboratory - prepared an assessment of the reasons for the poor condition of Central Valley salmon stocks. The lead investigator of that NMFS panel, Dr. Steven Lindley told the press "Poor ocean conditions triggered the collapse. **But what primed it is the degradation of the estuary and river habitats and the heavy reliance on hatcheries over the years**<sup>1</sup> (Hatcheries are created, of course, to mitigate for salmon habitat lost to water developments.)

This chart documents the dramatic decline of the Central Valley Chinook salmon.



**We're not talking about just another estuary here.**

We are talking about the San Francisco Bay Estuary, the most important estuary on the Pacific Coast of North or South America

The San Francisco Bay-Delta Estuary ecosystem has been declared, time and again, by the California Legislature – most recently in its November, 2009 'historic Bay-Delta water deal' legislation – to be a

<sup>1</sup> Dr Lindley's statement may be found at [http://articles.sfgate.com/2009-03-19/bay-area/17215271\\_1\\_chinook-salmon-pacific-fishery-management-council-national-marine-fisheries-service](http://articles.sfgate.com/2009-03-19/bay-area/17215271_1_chinook-salmon-pacific-fishery-management-council-national-marine-fisheries-service); his report 'What caused the Sacramento River fall Chinook stock collapse' at <http://swr.nmfs.noaa.gov/media/SalmonDeclineReport.pdf>

resource area of both state and national significance, held in trust for the public by the State government.

Given the nexus among State and Federal water quality, environmental policy and endangered species acts, we assume that such public trust responsibility extends to Congress and the Federal government, as well.

To say that the San Francisco Bay-Delta Estuary is a national treasure does not adequately define its importance. It is a planetary treasure and its health or sickness has grave consequences for all of us. The responsibility for its safekeeping lies primarily in the hands of State government.

So how has the safekeeping of the Estuary by its State and Federal stewards been going lately?

There's been a lot of hand-ringing, of course, because there are supposedly high protection standards in place for the Estuary, but since the Governor declared a drought emergency two years ago many of those Delta protections – including those necessary to address the degradation pointed out by Dr Lindley - have been suspended.

And, of course, there have been those controversial Federal court decisions, back and forth, about how much water can be taken from the Delta before harm is done to its public trust resources.

### How bad has the drought been?

It would be hard to tell from the media the past year or so just how bad – or not – the ‘drought crisis’ has been. What is clear is the subject supported a yearlong media circus.

According to the U.S Bureau of Reclamation precipitation in Northern California – where three-quarters of the state's water comes from - was 94 percent of average in 2009.

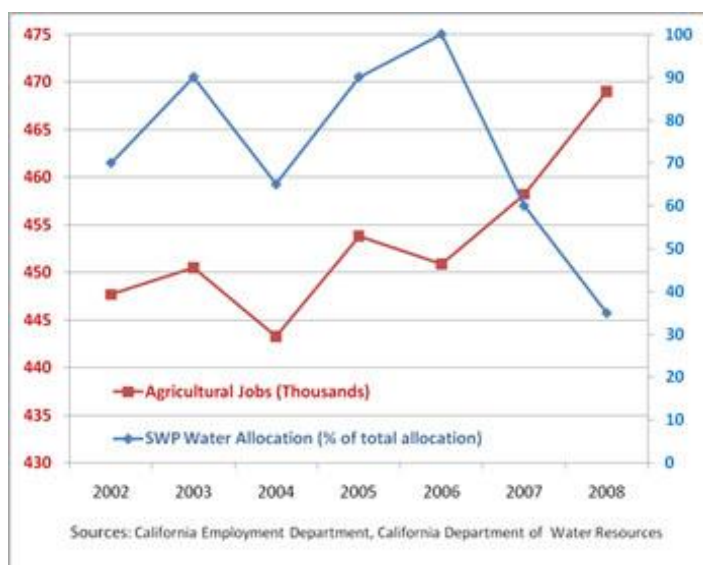


Figure 1. California agriculture sector employment, 2002-2008, and percent of total water allocation delivered to its customers by California's State Water Project.

### And how about unemployment?

The suffering of the farm community of Mendota, California has played on the pages of every major newspaper in the country, on Fox 'News' repeatedly, and most recently in a *60 Minutes* broadcast.

How bad is unemployment in Mendota? Really bad – not only in 2008 and 2009, but in practically every year for which there are records.

Unemployment peaked in Mendota last year at 42 percent. It hit 38 percent seven years ago and got below 20 percent, thanks to the construction boom, for the first time in 2005-2007.

The Berkeley-based Pacific Institute noted last year:

“... the drought has had very little overall impact on agricultural employment, compared to the much larger impacts of the recession. In fact, in the last three years, while State Water Project allocations have decreased statewide, California’s agricultural job sector has grown. Further, according to Professor Jeffrey Michael, director of the Business Forecasting Center at the University of the Pacific in Stockton, rising unemployment in the Central Valley is largely the result of the bad economy, not a lack of water.”<sup>2</sup>

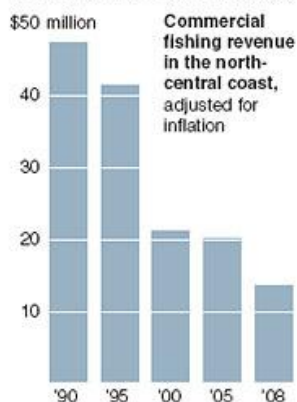
### **How bad is unemployment in California’s salmon fisheries?**

Unemployment in the California salmon fisheries, the result, in major part, as Dr Lindley said, of the degradation of the Estuary and river habitats, is 100 percent – by order of the U.S Secretary of Commerce.

A study conducted by our industry last summer, using 2006 National Marine Fisheries Service survey data, indicates that the shut-down of salmon fishing in California – both commercial and sports fishing – has delivered a \$1.4 billion annual loss, and the loss of 23,000 jobs to our state. The study found that the recovery of California’s salmon fisheries to their good, pre-drought condition would provide California a \$5.6 billion annual economic gain and the creation of 94,000 new jobs.

#### **Falling Revenues**

The San Francisco area has seen a substantial drop in local fishing.



Source: Pacific States Marine Fisheries Commission

THE NEW YORK TIMES

### **In contempt of Congress – the U.S Bureau of Reclamation’s administration of the Central Valley Project Improvement Act’s Anadromous Fish Restoration Program**

<sup>2</sup> See Professor Michael’s report at [http://forecast.pacific.edu/articles/PacificBFC\\_Fish%20or%20Foreclosure.pdf](http://forecast.pacific.edu/articles/PacificBFC_Fish%20or%20Foreclosure.pdf)

Development of the Federal Central Valley Project began in the 1930s, driven at the time by the need to lift the state out of the Great Depression. There were, of course, no water quality or fishery protection laws at the time.

As development of the CVP progressed over the years, its impact on water quality and fishery resources became increasingly hard to ignore. The complete drying up of the San Joaquin River for 75 miles below the CVP's Friant Dam and the loss of 300,000 chinook salmon there was the most visible of the CVP's aquatic insults. But there were many other, less obvious impacts, including the over-diversion of water from the Trinity River and the steady decline of Chinook salmon in the Sacramento River.

In the early 1990s the stars aligned to make some significant changes to the CVP's Depression-era congressional authorization:

1. Key House and Senate committees were in the hands of Members informed and deeply concerned with Central Valley, Trinity River and Bay-Delta Estuary conditions, Representative George Miller and Senator Bill Bradley.
2. The 1983 *National Audubon Society v. Los Angeles* court decision ordering the restoration of Mono Lake's public trust resources had California's southland communities scrambling for replacement water supplies, and
3. A real drought which persisted for six years from 1986 until 1993 had driven a wedge between urban and agricultural water users, who were traditionally aligned in their quest for more and more water from Northern California, over what struck many city-dwellers, rightly or wrongly, as agriculture's water greed and misuse

The Central Valley Project Improvement Act of 1992 – the CVPIA, signed into law by George Herbert Walker Bush – came from that convergence of politics and drought.

The CVPIA dedicated water to the restoration of the Trinity River. Earlier allocations for Trinity River salmon flows, made in the 1950s and '60s, had been manipulated by the U.S Bureau of Reclamation, with considerable help from Trinity diversion-interested Members of Congress, to levels inadequate to maintain the river's salmon resources.

The CVPIA dedicated 800,000 acre-feet of CVP 'yield'<sup>3</sup> with which the Secretary of the Interior was to address explicit environmental improvement actions in the Bay-Delta Estuary and its watershed—not the Secretary's on-going Clean Water and Endangered Species acts responsibilities, mind you, but specific fish and wildlife restoration actions.

The CVPIA responded, in effect, to the California Water Resources Control Board, which had determined through two years of intense inquiry into the flow needs of Bay-Delta Estuary resources, from 1986 through 1988, that 1.6 million acre-feet of additional water through the Delta was needed to maintain Central Valley salmon and other public trust resources in good condition.

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<sup>3</sup> i.e., of the CVP's 13,000,000 acre-foot reservoir capacity and 7,000,000 acre-feet of annual 'safe', or reliable yield

The CVPIA specifically embraced the policy enacted in 1988 by the California Legislature to double Central Valley salmon over the depressed numbers that they reached in the 1960s and 1970s<sup>4</sup> - and put up the Federal government's 'fair share' of the 1.6 million acre-feet of water needed – the CVPIA's 800,000 acre-feet for assuring Central Valley salmon 'safe passage' through the Delta to the Bay and ocean beyond.

In a U.S Office of Management and Budget-prescribed evaluation of the CVPIA's Anadromous Fish Restoration Program - that salmon-doubling effort mandated by Congress - an independent science review panel found in 2008 that the Bureau of Reclamation has 'gamed' the CVPIA salmon water ever since the program began – that not one drop of the 800,000 acre-feet of CVP water allocated by Congress to the rebuilding of Central Valley salmon has ever made it though the Delta to San Francisco Bay.<sup>5</sup>

The OMB independent science review finding that Reclamation is in contempt of Congress deserves some sort of reaction, some response from Congress. We know of none to date.

### **CVP water trading threatens implementation of Delta flow criteria**

Which brings us down to a couple of closely related California water supply challenges that deserve the attention of your Committee:

1. The California Legislature's mandate two months ago to the State Water Resources Control Board to determine the 'flow criteria' necessary to protect the public trust resources of the San Francisco Bay-Delta Estuary.
2. Efforts underway to gut the environmental safeguards that Congress placed in the CVPIA, which, unless stopped, will confound horribly the State's efforts to implement those flow criteria when they are determined this summer.

HR 3750, which resides in your Committee, would increase sales of CVP water from traditional Project users to non-Project users by, among other things, stripping away the environmental safeguards placed by Congress in the CVPIA.

Let me explain.

Prior to the CVPIA, the use of CVP water was strictly confined to the CVP's designated 'place of use', within the boundaries of the CVP's water district customers.

California's southland communities were scrambling in 1992, as we mentioned, for water to replace what they would lose to the National Audubon's 1983 Mono Lake State Supreme Court decision.

Congress said, OK, we'll allow the sale of some CVP water to non-CVP water users, but we're talking about only water that has been used on-farm at the time the CVPIA was enacted. That way,

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<sup>4</sup> See CA Fish & Game Code Section 6900, the "Salmon, Steelhead Trout, and Anadromous Fisheries Program Act"

<sup>5</sup> See [http://www.cvpia-independentreview.com/FisheriesReport12\\_12\\_08.pdf](http://www.cvpia-independentreview.com/FisheriesReport12_12_08.pdf), the bottom of page 41 and the top of page 42 of the report, where the reviewers say they are 'flabbergasted' to learn that Reclamation has gamed the water in direct contradiction of its Congressional mandate

Congress was heading off the sale of the water that it had reserved for Trinity River restoration and Central Valley salmon doubling.

HR 3750 strips away the CVPIA's environmental restraints<sup>6</sup> – the saving clauses for the Trinity River restoration and salmon doubling – and plunges the CVP headlong into California's growing 'arbitrage' water market – that handful of political insiders waxing fat by buying heavily-subsidized public project water and 'flipping' it, at greatly increased prices<sup>7</sup> to non-CVP buyers.

To the extent that HR 3750 waives away the protections for the water that Congress intended be used for doubling Central Valley salmon stocks, it severely threatens the implementation of the State Water Resources Control Board Delta 'flow criteria', they which the Legislature's 2009 'historic Delta water deal' intends be applied to the protection of the Bay-Delta Estuary's public trust resources, including Central Valley salmon.

Once sold, particularly into urban markets, this heavily-subsidized public project water is very, very hard to retrieve.

We recommend, with all our might, that your Committee take a long, hard look at the environmental chaos that would result should you release HR 3750. We recommend you hold it in your Committee.

To be clear, we are not against legislation to help farmers. What we are opposed to is legislation like HR 3750 which threatens to move publicly-subsidized CVP water from the farms into the hands of water traders.

I'll be glad to answer such questions that I can. PCFFA's executive director, Zeke Grader, is also here today and will gladly answer any questions that you may wish to put to him.

Let me quickly add my thanks to the members of Congress for their help in keeping our fleet alive these last two years. When we could not go fishing you provided us badly needed disaster relief. We don't know yet if there will be a season this year but if there isn't, we will need your help again.

Thank you for this opportunity to address your Committee.

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<sup>6</sup> subparagraphs (A) and (I) of section 3405(a)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 – the CVPIA - Public Law 102-575; 106 Stat. 4709

<sup>7</sup> See 'Harvest of Cash; Kern County Agency Buys Public Water Low, Sells High' [http://www.contracostatimes.com/ci\\_10152127](http://www.contracostatimes.com/ci_10152127) and 'Massive Farm Owned by L.A. Man Uses Water Bank Conceived for State Needs' <http://articles.latimes.com/2003/dec/19/local/me-kern19>