

# Committee on Resources

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## Witness Testimony

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Statement of Brent HasteY  
Member, Yuba County Board of Supervisors  
Chairman, Yuba County Water Agency  
Flood Victim

Mr. Chairman, Thank you for allowing me this time to come before you today.

Yuba County is in Northern California and is bounded by the Feather and Bear Rivers and bisected by the Yuba River. Historically the area has been subject to massive flood flows about every 10 years. Since the 1860s there has been a continuous effort to provide and improve flood protection for the area. The early efforts were to build levees and provide flood channel capacity to safely pass flood flows. Later efforts included flood storage reservoirs and the current efforts are primarily to maintain and restore existing levees and floodways.

Although the levee and floodway systems are man made tools to protect the resources of the area, over zealous governmental regulators have lost sight of their intended purpose and have dictated that their primary purpose be wildlife habitat. This often has delayed, increased the cost, restricted and in some cases stopped needed maintenance activities.

The Yuba River since the early 1860s has been impacted by upstream hydraulic mining debris. Although the California Debris Commission was created by Congress to deal with the problem and major efforts were made, the continued downstream movement of this mining debris reduces the lower river channel capacity. Until about 10 years ago local aggregate companies each summer harvested sand and gravel from the accumulated river bars. Regulatory agencies either prohibited, or made the process so cumbersome that this practice has stopped and the channel capacity continuously degrades. It now takes three federal and one state permit to harvest accumulated material from within the floodway. What was previously done at no cost to the federal government will probably now require the expenditure of \$3 to \$5 million for the government to carry out its obligations under the Federal California Debris Commission Act just to correct the loss of channel capacity from the January 97 flood.

The routine levee maintenance in California is generally carried out by locally funded Levee or Reclamation Districts with limited staff and resources. A number of the districts only have part time staff and do not even have an office. Obtaining permits and complying with environmental regulations becomes a major and sometimes overwhelming task for these local districts, taking scarce resources that would otherwise have gone to provide essential maintenance to levees and floodways.

Since 1988 there has been a major effort to restore the existing levee system to the level of protection the levees were constructed to provide. This work is not new construction or betterment, but simply major maintenance to existing levees. The environmental assessment for this work identified 43 clumps of elderberry bushes, made up of 1538 stems, that would be disturbed by the levee restoration work. The elderberry bush is habitat for the endangered Valley Longhorn Elderberry Beetle. The required mitigation before any of the identified maintenance work could be undertaken was to create a 76 acre, \$1.9 million

mitigation site. The January 97 floods caused damage to the mitigation site, requiring \$0.4 million to repair. This brings to date \$2.3million for mitigation of 43 clumps of elderberries, or \$55,800 per clump, or \$1495 per elderberry stem.

The assessment also included 7 acres of emergent marsh. This was due to the fact that when high water is against the levees some of it seeps through the levee. In fish and wildlife's estimation this seepage creates wetlands that need to be mitigated. Taking this logic to its fullest, one must assume that the 27 square miles of Yuba County that went underwater will now need to be mitigated. Water seeping through the levee at high water is a failure of the flood control system and should not need to be mitigated.

As a result of the 1997 flood the U.S. Army Corps of Engineers has identified several additional levee sections needing major maintenance and have indicated that this work on existing levees will require the development of an additional 69 acres of mitigation. If the previous cost of \$25,000 per acre holds, this will be an additional \$1.725 million or a mitigation cost in excess of \$4 million to maintain about 29 miles of existing levees. The mitigation cost to maintain 29 miles of existing man made flood control levees will be approximately \$138,000 per mile.

We frequently hear from the resource and regulatory agencies that the ESA does not need reformed, that its problems can be corrected administratively. We have not found this to be true. As an example, the January 1997 California floods resulted in three levee breaks in Yuba County and one in adjacent Sutter County. Secretary of Interior Babbitt suspended the requirements of ESA so the levee breaks could be expediently restored to prevent further flooding. The resource agencies agreed that the water flowing through the levees could be stopped with minimal consultation, however, before full repair of the levee break was made the full consultation process would have to take place. The resource agencies said that mitigation for the substantial habitat loss was not necessary for the levee break, but the impacts from repairing the levee break had to be fully mitigated. Due to concern over this issue, at the 5 March 97 Energy and Water Appropriation hearing Congressman Fazio asked Secretary of Interior Babbitt the following:

FAZIO - We still have mitigation requirements, I am told, even if we wave the short-term requirement for ESA in a flood fighting environment; is that correct? Or are there no further mitigation requirements that might cause an agency to be somewhat reticent?

BABBITT - I think we are now clear that if it is about the emergency repair of existing levees to get through this flood season, the answer is to go out and repair them, period.

FAZIO - And don't worry about having someone come and post a notice on your door next spring that, by the way, you have got to mitigate what you did last winter when you were fighting floods?

BABBITT - No, they don't even have to call us. All they do is go out and repair the levee.

In spite of these assurances from the Secretary of Interior, as part of repairing the three levee breaks in Yuba County and one levee break in Sutter County, it is being required that an additional eight acres of mitigation site, at an estimated cost of \$200,000, be provided for closing the levee breaks!

Although the Administration continues to give assurances that the ESA works and any problems can be corrected administratively, the end results show otherwise. The policies of the multitude of governmental agencies implementing the ESA are diverse and independent of each other. Without amendments to the

ESA, we see little hope for it ever being reasonably implemented. As an example it does not seem justified to require mitigation at a 5 to 1 ratio for maintaining an existing man made levee that protects not only human life and private and public property, but extensive amounts of wildlife habitat; nor does it seem justified to be required to mitigate for fully closing the hole in a broken levee that cost the lives of three people, the displacement of 40,000 people, the loss of many hundreds of homes and several hundred million dollars of damage to public and farm facilities. We urge your passage of this bill.

Thank you for you time today to speak with you. I will be available for questions at your convenience.

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