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Testimony  
Before the Subcommittee on Water and Power  
Committee on Natural Resources  
United States House of Representatives

“Creating Jobs by Overcoming Man-Made Drought: Time for Congress to Listen and Act”  
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## Testimony

Mr. Chairman and Members of the Subcommittee

It is an honor and privilege to appear before the Water and Power Subcommittee. I appreciate the opportunity to recommend actions concerning the subject of the Hearing, “Creating Jobs by Overcoming Man-Made Drought: Time for Congress to Listen and act.”

I, Kole Upton, am a farmer in Merced and Madera Counties living on the same farm started by my father after he returned for World War II. With my brother and sons, I grow wheat, corn, oats, cotton, almonds, and pistachios. The water essential to growing these crops comes from four sources: Friant Dam, Buchanan Dam, Merced Irrigation District, and groundwater. None of these sources by itself can provide enough water to sustain our area for the long term.

I am appearing as the Chairman of the Madera-Chowchilla Water and Power Authority (MCPWA). This organization is a joint powers authority made up of the Madera Irrigation District (MID) and the Chowchilla Water District (CWD). It is responsible for the operation of the Madera Canal (which transports water from Friant Dam to MID and CWD) and MCPWA’s four power plants.

The subject of this Hearing is jobs. It is important not only that we create jobs but that we protect the ones we have. It is counterproductive for one part of the government to act to create jobs in the San Joaquin Valley while another part advocates programs, projects, and policies that threaten existing jobs. Thus, I want to focus on several areas in which Congress can “Listen and Act” to create jobs but also “Listen and Act” to amend or eliminate government actions that threaten existing jobs.

The subject topic areas are listed first, and then followed by a more detailed explanation of each one.

1. Congressional action to require judges and government agencies to hold environmental water releases to the same standards as required of the urban and agricultural users.

2. Authorize and fund the building of Temperance Flat Dam.

3. Amend the San Joaquin River Settlement Act to restore the River while ensuring job protection and creation.

4. US Army Corps of Engineers (USACE) Issues

5. High Speed Rail’s Adverse Impact to Farmers, Water Facilities, and Jobs.

## Environmental Water Releases

No one disputes the need for all living species to have water. Nor, is there much dispute about the fact that decades ago water diversions did not adequately address the environmental needs of society. But, the pendulum has swung too far in the other direction. Now, there are many examples of environmental diversions that have not resulted in any improvement to the situation for which the water was taken from other users that were beneficially using the water.

There is no better example than the Delta. Millions of acre-feet have been diverted from their historical beneficial use to ostensibly save the Delta and several endangered and/or threatened species. Yet, the Delta is in worse shape than ever.

It is time that water used for environmental purposes be held to the same standard required of other users. If environmental water that is diverted is not accomplishing the task for which it was taken, it should be declared a “waste and unreasonable use” of water. That water could then be returned to other water users who could use the water in a manner to benefit society. This equates directly to job restoration and creation! How many thousands of jobs have been lost in the Valley due to environmental diversions that have accomplished nothing?

The California Constitution and commons sense forbid the wasteful uses of water. Congress should require current environmental releases to be regularly reviewed for efficacy. Congress should also set forth requirements that prohibit actions by agencies or judges from ordering environmental water releases until such actions are deemed to be prudent, feasible, scientifically justified, and have a reasonable chance for success.

## Authorize and Fund Temperance Flat Dam

There is nothing immoral or unethical about a society investing in its own future. A dam at Temperance Flat would be such an investment, one which would have filled with up to 750,000 acre-feet of water four times in the last seven years. That is more than enough water to supply the entire one million plus acres in the Friant service for one year. That would have been an immense benefit to the overdrafted underground aquifers in the San Joaquin Valley.

In the past, such leaders as President Kennedy and Governor Pat Brown led the way with dams and other water infrastructure projects that turned this area from a desert to a garden. For decades now, however, society and its leaders have abandoned major improvements to our water infrastructure. Much of this attitude comes from the desire by society to be environmentally sensitive and ensure the survival of as many species as possible. Although some espousing this continued course of action are well intentioned, it is time for elected officials to bring some balance back to the situation. Our future depends on it.

The economy in the San Joaquin Valley is agriculturally based because we are blessed with some of the most fertile soil in the world. The one essential requirement for production and the associated JOBS is water. Without water, this land becomes a paradise for tumbleweed and jack rabbits.

It is obvious to anyone living in the San Joaquin Valley that a dam at Temperance Flat would provide multiple benefits to society. Flood control, surface storage, and construction jobs are just a few of the obvious benefits. The flood control and increased surface storage components would dovetail perfectly with the increased need to utilize groundwater banking to mitigate the overdraft of the underground aquifers. Groundwater banking by itself is limited because it cannot absorb the current high flood flows that must be released due to the small capacity of Friant Dam. Temperance Flat Dam would solve that problem.

Unfortunately, the existing regulatory environment at both the state and federal levels makes development of even simple water banking projects unnecessarily time consuming and expensive. For instance, it has taken seven years and millions of dollars to get the permits for Madera Irrigation District's water banking project.

Congress needs to act and authorize and fund Temperance Flat Dam.

#### Amend the San Joaquin River Settlement Act

The San Joaquin River Settlement was made in faith by the farmers in the Friant service area. There were two co-equals goals: 1. An attempt to revive the 60 year old dead salmon fishery on the main stem of the River, and 2. The Water Management Goal, to mitigate the water losses to the Friant service area. The Bureau of Reclamation is responsible for the implementation of both goals.

The Bureau's task to mitigate our water losses has been made much more difficult by the increasing number of lawsuits involving the Delta. Ironically, some of these lawsuits have been initiated by some of the same environmental groups who pledged to help mitigate the farm water losses as part of the Settlement.

Regarding the return of salmon, if global warming is as claimed by some environmental groups, then the return of a cold species like salmon to the San Joaquin River which is already on the periphery of salmon viability is highly problematic. Indeed, even studies by the federal government suggest that is a futile exercise.

No one argues with the concept of a restored River, but at what cost? Without the mitigation of farm water losses, many jobs will be lost and the overdraft of the underground aquifers will increase. We will find ourselves in the same predicament as the West Side with only the idling of hundreds of thousands of acres as the means to balance our needs with the water available.

We need Congress to declare that the extension of the current fishery below Friant Dam to Sack Dam fulfills society's obligation to restore the River. Such an action would allow all the farm water losses to be mitigated, restore the River, and protect and create JOBS.

### The US Army Corps of Engineers (USACE) Issues

Throughout the West and especially in California, there are thousands of miles of earthen canals, mostly unlined, that have safely and efficiently delivering water to farms for over a century with few major problems. These facilities were built to convey irrigation water, not to be flood control levees or provide any other flood control function other than to occasionally distribute requested flood waters. Recently, USACE has initiated an effort to create regulations that such canals be built or rebuilt to flood control levee standards.

In addition, the USACE is trying to assert Clean Water Act (CWA) jurisdictional controls over constructed conveyances such as canals. This will impede operations, and drive up the costs of maintenance and repairs without any demonstrable public benefit. This USACE effort is far outside the scope of CWA, lacks legal foundation, and needs to be brought to a halt.

Although it may be well intentioned, the last thing we need is another government agency (e.g., EPA) expanding its power and jurisdiction over our water operations without any benefit to society.

### High Speed Rail and its Adverse Impact to Jobs

Although the concept of High Speed Rail (HSR) may be admirable, the current HSR project through the San Joaquin Valley as planned will be devastating to agriculture. Despite the intent of the language in the law and the bond authorizing HSR in California to use existing transportation corridors and minimize impacts to farmland, the current route options through the Valley do the opposite.

In my area alone, the HSR routes adversely impacts thousands of acres of farm land. For individual farmers, it takes out deep wells, canal pumps, pipelines, the other water infrastructure facilities of individual farmers. For public agencies such as water districts, it takes out entire canals, water facilities for inter-district transfers, and sophisticated and expensive monitoring systems installed for the purpose of ensuring that the water is used efficiently.

The agriculture industry in the Valley has a multiplier effect providing jobs all the way up the food chain from farm to market. It has taken decades to develop the economic infrastructure that supports the agriculture industry. High Speed Rail should integrate its infrastructure with the Valley's existing situation, and drop the approach that HSR is so important that it must supersede all other activities in the Valley.

Congress should aggressively review the HSR project in California. A poorly planned and over budget project that adversely affects our #1 industry will cost the Valley jobs. High Speed Rail should be done right or not at all.

For inclusion with my testimony, I am offering a study just released titled, "Will the High-Speed Train Benefit California's Middle Class?"

Thank you for the opportunity to offer oral and written testimony.

Kole Upton