

'77 Comm. to Review Cal. Wtr. Law

Gaps in info., & integration of info. w. policy.

I. Dim. rets to water. (Water^{prod} productivity (net v.a.))

A. For given crop

B. For given land, changing crops

II. Obstacles to full ec. input of aquifers

III. Effect of hi energy costs

IV. ~~Response~~ ^{Effects} to antic. from Δ price of water

V. Water productivity, comparative, farms of different sizes.

VI. Is waste offset by return flow usage?

VII. Nuded micro transfers

VIII. How to raise standards of beneficial use.
"local custom", obsolescing criterion

IX. How to charge ec. price for storage, conveyance, & o.c. of raw water.

X. Optl. firmness of supply, & sharing scarcity.

XI Substr. among inputs in water prodn: & delivery:
Raw wt.

Storage

Energy (input & output)

Channel drop & x-sections.

Mgmt. labor

Irrigator labor

Channel lining
Canal maintenance...

XII. ~~the~~ Aquifer mgmt -- Turnover of water.

VIII Substr. of other res. for wtr., as ^{cost of} wtr. consn.

Land - by spreading thinner

K - by lining canals; by steel pipe pressure

Labor - by using & monitoring; cleaning canals; etc.

XIV. Productivity of wtr. used various ways.

Depth of wells

AP of wtr.

Etc. -- Kansas study.

Δ L.V.

Δ output from Δ wtr.

Response to drought.

Spending on consn.

FRIENDS OF THE EARTH

CALIFORNIA LEGISLATIVE OFFICE

717 K STREET, #208, SACRAMENTO, CALIFORNIA 95814

(916) 446-3109

5 May 1978

Prof. Mason Gaffney
Graduate School of Administration
University of California
Riverside, California 92521

Dear Prof. Gaffney:

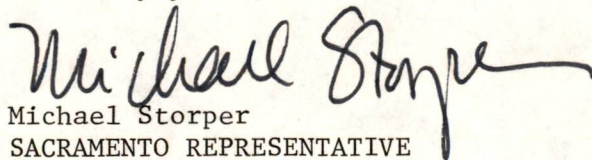
Dick Walker at U.C. Berkeley mentioned to me that he had discussed Senator Garamendi's bill, SB 2116, relative to agricultural water conservation. As we are the primary sponsors of the bill, we are attempting to gather expert testimony on the need for the legislation. Dick said that you might be willing to prepare a short statement which could be presented at the hearing on May 16.

The bill sets up a task force to identify technical information which we possess, and to identify significant gaps in the research which is available. Of greater significance is the task force duty to place technical, environmental, and other information on agricultural water use within the context of state policy objectives in agriculture. The goal of the task force activities is to determine the state's "agricultural water conservation potential," which is defined in the legislation (page 4, Sec. 504(c); policy objectives on page 5, Section 505).

If you feel the bill has merit, a statement as to the need for an evaluation of the potential for agricultural water conservation, as a policy option in the state's agricultural economy, would be most helpful in our efforts to obtain committee approval. We are faced with a very difficult Senate committee, and our opposition claims both that the technical information is complete, and that it has been integrated with economic and policy information. We disagree.

Thanking you in advance for your kind consideration, I am

Sincerely yours,


Michael Storper
SACRAMENTO REPRESENTATIVE

Enclosure

P.S. Should you have questions, please call me, or Pat Johnston in Senator Garamendi's office at (916) 445-2407.

STATE CAPITOL, ROOM 4057
SACRAMENTO, CA 95814
(916) 445-2407

31 E. CHANNEL, ROOM 408
STOCKTON, CA 95202
(209) 948-7930

POST OFFICE BOX 90
MOKELUMNE HILL, CA 95245

Senate California Legislature



JOHN GARAMENDI
SENATOR

ALPINE, AMADOR, CALAVERAS, EL DORADO, MONO, SACRAMENTO,
SAN JOAQUIN, STANISLAUS AND TUOLUMNE COUNTIES

SENATE COMMITTEES:
AGRICULTURE AND WATER
RESOURCES
HEALTH AND WELFARE,
VICE CHAIRMAN
NATURAL RESOURCES
AND WILDLIFE
PUBLIC UTILITIES, TRANSIT
AND ENERGY
SELECT COMMITTEE ON CHILDREN
AND YOUTH
SELECT COMMITTEE ON MARITIME
INDUSTRY

CHAIRMAN:
SUBCOMMITTEE ON CALIFORNIA'S
FOOD AND AGRICULTURAL
ECONOMY
SUBCOMMITTEE ON SOCIAL
SERVICES AND WELFARE

May 2, 1978

Professor Mason Gaffney
Graduate School of Administration
University of California
Riverside, California 92521

RE: SB 2116

Dear Professor Gaffney:

I have introduced Senate Bill No. 2116, which would create the California Agricultural Water Conservation Task Force. This task force would be required to complete an extensive investigation of alternative methods of supplying water to California agriculture, and report the results of its analysis to the Legislature, and make recommendations for further long-term research on all aspects of water resource development and agricultural water supplies.

Composed of state officials, representatives of the public, members of the Legislature, and specialists, the task force would bring together the various types of information required to make decisions on crucial policy issues related to agricultural water supplies which we now face in California. Thus, the task force and its staff would gather the information from experts investigating the various aspects of this complex problem--technical, environmental, economic, and political--and devise a framework for understanding the broad impacts of various alternative programs for supplying water to California agriculture. Furthermore, this integrated analysis would be performed with specific policy goals in mind.

I believe that only with such an integrated approach can we begin to make real progress toward informed decision-making on water resource issues. I introduced this legislation in order to remedy two deficiencies which I have perceived: First, gaps in specific types of information needed for decision-making on technical, environmental, and economic aspects of water resource programs; and second, the lack of a broad policy context within which to view

May 2, 1978

Page 2

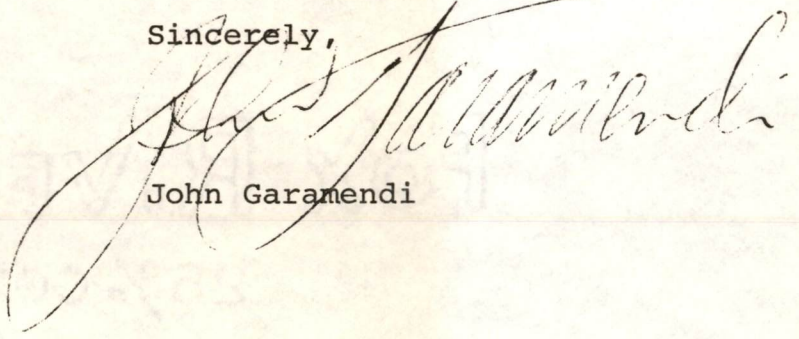
the various sources of specialized information. SB 2116 would appropriate funds for consultation and staff in order to prepare the task force report for the Legislature.

Currently, the opposition to this legislation claims that neither of the deficiencies which I perceive in this area exist, and that, consequently, the appropriations contained in this legislation would be wasteful. I am, therefore, writing you to consult you, as an expert in one or more areas which are affected by this legislation, as to your opinion on the need for such legislation and the value of the approach we have designed.

I would appreciate your comments on the quality and extent of information which exists in your area of expertise which is affected by this bill and your frank opinion on the overall approach. As the bill will be heard on May 16, your comments would be most helpful to me in determining the merit of our approach if they arrived by May 12.

Thank you in advance for your kind consideration.

Sincerely,



John Garamendi

JG:irl

Thoughts

1. It is a good thing that most wh. & ts never trade.
Makes it easier to repossess them.

I was wrong to say, re Kwh, that owners create a climate of opinion hostile to traders. Trading strengthens property.

I propose a yearly charge on wh. & ts., rising yearly. This will appear small to those who use wh. hard; & large only to wastens.

The wastens can make it look small again by abandoning surplus. Let them scale down rights.

2 or 1 cent tariff?

~~On firm wh.~~

Let them pay for what they withdraw each year, F.O.B. a master pricing point on ^{each stream} price rises & falls w. supply & demand.

F.O.B. takes care of 3d party effects. If they divert below prg. pt., get credit for seepage; if above, get charged for reducing seepage.

Gradually, most claimants on one stream be brought into one I.D., integrate dist. system.

- 1 -

I use Comm. to take a bold & basic ^{review of elements} ~~look~~, not get lost in peripheral details, bound aids.
There is plenty wr. if we economize.

① A. Certainty in rts.

①. They ain't rts, but permits.

Few suffer from uncertainty. There will always be uncertainty, but you can't prescribe vs. govt. & gov. own. This is proper.

①. User doesn't require certainty of rts.; but of wr.

Thus, I have no rt. to coffee; but I can buy it, even in time of acute shortage.

Vert. intr. reduces aggrg. certainty, by unpooling risk.
I have no certainty my house won't burn down - but I'll be paid.

①. User has quiet title to land. As to inputs, he only needs a mkt., to buy them at a fair mkt. price.
E.g. most lumber mills buy fed. timber at comp. auction.

A govt. watermaster on ea. stream wd. have a few perplexes to solve. We say govt. can't do anything right, ~~but~~ or sophisticated, & point to selected bad e.g.s.
But govt. put a man on the moon; & govt. operates our super sophisticated weaponry. It all depends on where you put your top input. Talent.

2. ✓ There is great certainty in ~~a~~ a permit when you can file ahead for future expansion & be exempt from diligence. This gives ~~the~~ minic. the same power that was taken from ripus., to reserve for unspecified future plans.

Certainty for some, of this kind, is uncertainty for others. Or worse, the certainty of getting nothing. Certainty is not the only value.

1. Wtr. permits are not property. The wtr. is property, & belongs to the state. ✓ Wtr. permits are taxable, but that
"Mr. Chinn, I note the absence of order."
doesn't make them titles. They are rather analogous to possessory interests.

There shd. be hi certainty during the term of a permit or contract. But term permits are now contemplated, and term can be short.

If I own land near a source; & I have access to a diversion pt; ~~can~~ then all I need is the right to buy

Pricing wr. wd. not mean more govt., net, but less.
Now, those who can't get local wr. bec. it is tied up
them to Soc. & Wn. for subsidy.

We now are getting some wr. banking at wholesale level.
Is some inside orgns. (but not enough). But ~~is some~~
we need more among orgns. on ea. stream.

If rt. of use is bad, causing overuse, is it good to
exempt from diligence? No, exemption wastes wr. too.
Waste is the common theme: Non-use, and subseq. use.

Return flows aren't always a favor:

Salton Sea

Alkali

Tulare L. Basin

Boron. Effluent charge shd. be coupled w. wr. toll.

Consumptive use may be greater than withdrawal, in this case.

Below Modesto, less need than above.

Seepage is not good enough excuse for waste. May recharge
wrong aquifer, wrong place & time.

Shd State adm. be more comprehensive?

In one way, yes. Wtr. is prop. of the state.

Any prop. requires mgmt., active mgmt.

~~More examples~~

Most govt. prop. sell to individs. better.

Water, ~~the~~ requires intr. & coordn. Each stream is a mwp, you wdn't want to sell to one. (nor wd. you get competit. bidding)

Is argued often that wtr. rts. shd. be prop. bus. grandpappy used a gun. ~~For~~ Won't hold up, re law & order.

Storage. User shd. have rt. to buy in one yr. for future delivery.
But pay for storage - or do it himself. If latter, he shd pay for
use of site.

Rapid A wth. use in ~~the~~ Tulare Basin area, dynamic
phenom.

2.

C. Criteria for ~~reg~~ regulating approp.
Willingness to pay.

State is just like a utility selling wtr. It sets price; and "price structure", e.g. peak pricing. There are a hundred details, ~~the~~ & options. The important beginning is the principle — ~~if~~ users must pay for water.

Preferen — they become unnec. Have long been odious, & obsolete, anyway.

D. Priority system.

1st in time leads to grabbing — & artificial shortages.

And premature, subec. projects. (subsidized, to boot)

~~E-~~
~~B-~~
-7-

F. Co, Ref. & stat. adjudication

Wd. lend more support to firming permits.

Ea. stream shd. have a watermaster

Mediation of instns.

Appr. rts on artif. canals.

Is wtr. put to best use at least cost? Shd it be?

Storage

Flood control

Power drops

Shd. a price be charged?

Shd. variability be divided up some other way?

Shd. rts. be clarified?

1. Perspectives & new issues — what was left out? 15 min. ea.
2. A. Certainty & ex. rts. (A, F, G₂, G₃)
B. Pref., priorities, & pub. int. (C, D, G₁, H)
C. Duration & Cessation (B & E)

Water Law Rev. Comm., July 14, 1977

1. Perspectives & new issues — what was left out.

a. Role of intermediate Trusts.. Relation of cust. to instn.

- Districts (Trustee relationship; exempt from diligence; role in internal xfr)
- MWC (Sale of shares)
- Wholesaling agencies

as agencies & avenues of xfr.

Or do customers get firm rts., can't withdraw service.

Utility Law & Wtr. Law, relations, as cause

b ~~Blending~~ Expansion of appr. principles into ripn. & canal rts law.

c. Line between percolating wtr & under bed of stream.

d. Δ energy & K cost has changed tradeoff betw. physical solns & instl. solutions, Ad need for latter.

e. What is goal? Put wtr. to best use at least cost, or net of cost. Keep eye on the big ball, keep perspective on relative importance of things.

f. Division of risk among approps.

fr - sr

Prostate

Peak-load pricing

(Remember demand changes too, not just supply.)

g. Quality of return flows

Quality is lower not just by salinity, but also:

Dispersion

Loss of elevation (is loss of options)

Timing

Location -- e.g. in a swamp

Constraint shd. be gauged to loss in value of wtr.

h. Are there rts. in return flows? (If none, no barrier to rfr.)

Are there rts. in seepage? (T.I.D. is pd. for its canal seepage, so I guess that is not a rt.)

Are there rts. to be spared seepage, such as ruined alkali lands ca. Rainier City?

i. Rts. to store wtr. for flood control.

j. Rt. to use falling wtr.

Means right to:

a) Avoid storing in winter, drop instead.

b) Keep wtr. stored to raise head.

Δ value of energy means we shd. give higher value here, allocate more here.

k. Rt. to approp. wtr. to recharge.

Shd. recognize as beneficial use. Do we?

l. Shd. state price wtr. at source?

- To grease wbt.

- To assert ownership.

m. A Torrens system?

July 14, 1977, Sacto.

Bowles, Assn. of Cal. Wtr. Agencies, lawyer.

Converting permits to licenses. - now based on highest use in last 3 yrs. Causes artificial high use.

When go from permit to license, go into a straight jacket.

Dunn, Wm. G., consulting eng.

Napa, dimensions for frost protection.

Unit shd. be enough for the worst frost of record.

Now, you have to wait for a frost to occur, to show use.

Flannigan, ^{dumb} Atty. for Kings R. Wtr. Ass.

Voluntary assoc., rather than under state control.

Kwh. is matter of scheduling, not wtr rts. (?)

Jorgensen, Duane. L.A. DWP

2d D.V. ag.

Permit, 1940

License, 1975, after Hdy. 2d ag.

~~He~~ He presents this to around staff paper.

D. Jorgensen. cont.

at 1905, L.A. posted Owens R. & bought 70,000 a.
downstream rip. & approp.

1933 Moss appls. Then permit. Then

1974 License.

1963. decision to build 2d ag.

Hogan, Longman, pension group, small rancher.

Nevada I.D. says if you didn't buy last year, you
can't buy this.

Don Mac Rae. PG & E

Lundy

Tre lease

4202 State Cap.

1. A. Certainty in existing wtr. rts.

State admin. more or less complete This open door
pre-'14 app. rts.

Prescriptive rts clarified?

Permit req. for other rts?

F. ~~Co.~~ ^{stat.} Co. of. & adjudications
State initiate?

G. ^{admin. & enf.} 2 Wtr. master service area

3. Law of Trespass sufficient?

2. Prefr. priorities & public int.

C. Criteria, right app. (Rt. of use, ^{diversion} & capacity
Preferences.

Stat. standards for permit

D. Priority system (1st in time) be used
Premature use; preemptive fittings

G. 1 Applica. procedures

H. Allow according to plan? Provided it is flexible,
& not primarily preemptive.

3. Duration & cessation

B. License, term

✓ E. Benef. use be modified
Non use be considered benef. use?

July 14, 1977

Hypocrisy & misrepresentation
Kings R., Lakeide Ditch

Bull. 190, Dept. Wtr. Res., gives hi injur. eff. to
Tulane Lake Basin.

No unapprop. wtr. Peace on the river. Dec. 1290,
State Wtr. Res. Control Bd., re Kings R.

Ag. can't pay the price others do, needs subsidy. -- yet
his vs. planned ec.

John Skinner, for
Don Landmark, Env. Service R., Fish & Game.

Water is public resource, shd. be treated so.

Dept is now limited to a protest procedure.

Now, wd. like to be able to file for fish & game.

Larry Moss, Pl. & Cons. League.

Summit Comm for wtr rts.

Fed-state relations.

Hap Dunning

1. Mutual prescription as basis for allocating groundwater, established in 1944 case. (Raymond?)

But undercut by '75 case (San F.?)

Lib

1. Mas. Meyers, Hist. & Fut. Anal. of The Appr. System
Arlington: Nat. Wtr. Comm., '71.
2. ——— & Posner, Richard A. Mkt. Transfer of Wtr.
Rts. Arlington: NWC, '71.
3. Schelhorse, Larry D. The Mkt. Structure of the SC
Wtr. Indus. La Jolla, Copley Publ. Corp.
4. Trelease & Allan Lee, in Land and Water Law Rev.
1: 1-76