A SEARCH FOR COMMON GROUND

HAVING BEEN A CALIFORNIA RESIDENT AND HAVING BEEN ASSOCIATED WITH CALIFORNIA'S WONDERS, RESOURCES, PROBLEMS, AND PEOPLE FOR MANY YEARS, I CAN SAY HERE TODAY WITH ALL HONESTY AND SINCERITY THAT THERE IS NO PLACE I'D RATHER BE THAN IN THIS FABULOUS STATE.

YOUR CHAIRMAN, LARRY KIML, IN DISCUSSING MY APPEARANCE HERE TODAY, SUGGESTED THAT I TALK ABOUT TWO THINGS: ONE, THE RELATIONSHIP OF WATER RESOURCE DEVELOPMENT TO OUR ENVIRONMENT; AND THE OTHER, THE 160-ACRE LIMITATION OF RECLAMATION LAW. AT FIRST BLUSH THESE TOPICS DO NOT APPEAR TO BE RELATED, AND EACH BY ITSELF COULD WELL OCCUPY ALL THE TIME AVAILABLE TO ME. NEVERTHELESS I AM GOING TO TALK ABOUT THEM BOTH. AS A MATTER OF FACT, THEY ARE RELATED IN A SENSE BECAUSE BOTH ARE CONTROVERSIAL, BOTH HAVE PROVIDED SUBJECT MATTER FOR CRUSADERS, BOTH HAVE ZEALOUS PROTAGONISTS, AND IN BOTH AREAS OF CONTROVERSY WE NEED TO SEEK ACCEPTABLE COMMON GROUND FOR ACTION.

FIRST, LET US SET THE STAGE FOR AN ENVIRONMENTAL DISCUSSION. BY DEFINITION, ENVIRONMENT IS THE AGGREGATE OF ALL OF THE CONDITIONS AND INFLUENCES AFFECTING THE LIFE AND DEVELOPMENT OF AN ORGANISM OR OF SOCIETY. PEOPLE THEMSELVES ARE A VITAL PART OF THE TOTAL ENVIRONMENT.

WHY HAS THE QUALITY OF OUR ENVIRONMENT BECOME SUCH AN ISSUE OF LATE? WHY HAS WATER RESOURCE DEVELOPMENT BECOME A MAJOR TARGET? PART OF THE ANSWER LIES IN THE FACT THAT THE GAP BETWEEN THE SUPPLY AND DEMAND FOR HIGH QUALITY WATER IS CLOSING. IT DOESN'T TAKE MUCH FORESIGHT TO SEE WHAT COULD HAPPEN UNDER A LAISSEZ-FAIRE POLICY AS WE ADD 100-MILLION MORE PEOPLE TO OUR NUMBERS IN THE NEXT 30 YEARS.
The idealists are raising their voices in support of a philosophy to preserve all things in nature just as nature created them. Wild rivers would remain wild and uncontrolled. Periodic floods and resulting havoc would continue. Stream beds would dry up during low-flow periods. The majority of our surface water runoff would flow to the sea unused. Agricultural lands in arid and semi-arid areas would become parched long before summer’s end and crop production in variety, quality, and quantity would be severely curtailed. Development of the world’s principal, renewable, wealth-creating, life-giving resources—land and water—would be foregone in favor of preservation. In these circumstances the population would, of necessity, become concentrated in areas where the basic necessities of life could best be met.

At the other extreme are the opportunists who would exploit our resources for material gain. Their philosophy all too frequently is marked by greed and the desire to make a fast buck. They would exhaust our mineral resources, denude our forests, and use our waterways for sewers to carry industrial and other wastes. Neither of these extremes is acceptable. Among the idealists are many crusaders and at times we need crusaders to wake us up to realities and the need for an altered course. Frequently they exaggerate, distort, misstate, and mislead. Materialists may, on the other hand, quietly and subtly follow a course of profit regardless of consequence. Both types have had a beneficial effect in causing people objectively to reassess national policies and courses of action.

The realist falls somewhere between these two extremes. He is likely to provide leadership in the final analysis in assessing gains and losses objectively. In so doing he frequently becomes the target of both the
idealists and the materialists. The ingredient that needs to be added to the philosophy of the idealist is that the need to protect, preserve, and enhance the environment is not an end in itself but is essential and justified only to the extent that it is for the benefit of people. If it were not for the people living on this earth, there would be no need for nor justification for public works programs of any type.

People in the aggregate make up society and, as you well know, society is not static. If it were, our job would be much easier. One can plan and build to meet the needs and desires of a static situation with comparative ease; however the elements that make up our environment are dynamic and the most important element, society itself, is most dynamic. Not only did population increase by 100-million people in the 50-year period prior to 1970, but it is forecast to increase another 100-million people during the 30-year period following 1970. This, I am told, recognizes the probable effect of the pill. Thus, it is unrealistic to expect to be able to preserve nature in a static condition while society continues to multiply. People require clean air, clear water, and sanitary living space to meet the basic physical requirements of life. In addition, people demand and deserve the economic, sociological, and cultural amenities of life.

Not only is population expanding, but it is very mobile. It will flow where life is more satisfying and pleasant. Take a look at California. In times of depression and prosperity, in times of war and peace, people move here in greater numbers than almost anywhere else in the United States. Why? Simply because they like the climate and the opportunities, real or imagined, for healthful, happy, rewarding living in the salubrious climate generally prevailing throughout this State.
What would have been the status of this great State if the idealistic preservation philosophy had governed for the past 50 years? I need not spell out the answer to this audience. You are well aware of the benefits that have resulted, for example, from the construction of Shasta Dam, Friant Dam, Tracy Pumping Plant, the Delta Mendota Canal, the Friant-Kern and Madera Canals, and the related facilities which comprise one of the greatest water storage, regulation, and distribution systems in the world. These works have contributed to development of the greatest agricultural economy in America. Those works are also supplying municipal and industrial water in ever-increasing amounts to hundreds of thousands of people. Water quality in the San Joaquin-Sacramento delta channels has been significantly enhanced. Early this year during a one-week period Shasta Dam controlled the highest stream flows at the dam in history and prevented downstream damage estimated by the Corps of Engineers at more than $32 million.

Wildlife has been preserved and enhanced. A recently negotiated contract with the Grasslands Water District will further preserve and enhance wildlife values in that locality. The Tehama-Colusa Canal diverting at Red Bluff will include a simulated natural fish hatchery in its first reach where 40,000 fish can spawn annually. Lest anyone should think these benefits are secondary or incidental, let me tell you that the cost of the fish enhancement facilities in the Tehama-Colusa Canal will exceed $17 million.

Multiple level outlets are designed into dams to control water temperatures for downstream fishery benefits.

Hydropower is a bonus. It does not consume nor pollute water. It merely takes advantage of the opportunity to use falling water to turn huge turbines which turn electrical generators.
Westwide use of water from Reclamation facilities for municipal and industrial purposes has increased from about 54-billion gallons delivered in 1956 to well over 600-billion gallons at present. People served during that period increased from 1 million to 15 million.

Considering recreational use, Reclamation’s 10 most popular sites draw more people annually than do the 10 most popular western National Parks. The total use at Reclamation facilities exceeds 52-million visitor days annually. Folsom Lake alone accounts for over 3-million visitor days.

What I’m trying to emphasize by this random citing of benefits is that the day is long past for single-purpose developments. No project is formulated today by the Bureau of Reclamation or the State of California without giving full consideration to all of the functions that can be served, including ecological and environmental preservation, protection, and enhancement. All this is for the benefit of people, as it should be.

So, to meet the demand of 100-million people for the physical necessities of life and the social, economic, and cultural desirabilities of life, cannot be done by rigid preservation of everything in nature just as nature first created it, nor can demands and desires be met by stopping all manmade modifications and improvements.

To care for an additional 100-million people in this country will require greater quantities of everything needed today. This means more water, more food, more clothing, more shelter, more recreational opportunities, more power, more gadgets, more transportation facilities, a great deal more efficiency, greater protection of the environment, and a great deal more concern for others. This concern will be reflected in a great deal less pollution of our air, water, and lands in general. As intensity of use
INCREASES, WE WILL BECOME LESS ABLE TO TOLERATE THE CARELESS USE AND 
DISPOSAL PRACTICES THAT PREVAIL AMONG IRRIGATORS, MUNICIPALITIES, 
INDUSTRIES, GOVERNMENT INSTALLATIONS, UTILITIES, AND INDIVIDUALS. 

IN SEEKING THE COMMON GROUND ESSENTIAL TO THE PRESERVATION OF LIFE 
IN PERPETUITY, WE NEED TO UNDERSTAND CLEARLY THAT WE ARE NOT GOING TO GIVE 
BENEFICIAL 
UP THE DEVELOPMENT OF WATER RESOURCES FOR MUNICIPAL, INDUSTRIAL, AND 
AGRICULTURAL PURPOSES, NOR THE BUILDING OF POWERPLANTS, NOR OF FLOOD 
CONTROL, NOR OF USING PESTICIDES AND FERTILIZERS, SIMPLY BECAUSE IN THE 
PAST THEY MAY HAVE CONTRIBUTED TO AIR AND WATER POLLUTION. WE CANNOT GO 
BACKWARDS—WE CANNOT RECREATE THE PEACEFUL, COMPARATIVELY UNCOMPLICATED 
REGIME OF THE 19TH CENTURY. THE 100-MILLION PEOPLE WHO WILL BE ADDED TO 
OUR NUMBERS IN THE NEXT 30 YEARS WILL BE FED, CLOTHED, HOUSED, AND OTHERWISE 
cared for. Probably it cannot be done by subsistence farms and cottage 
industries. This means that continued access to natural resources must 
be provided, that the facilities to transform the raw resources into usable 
products must continue to be built and operated, that people in some 
locations will have to put up with some noise, some inconvenience, some 
affront perhaps to their sense of beauty and tranquillity as the price of 
survival in an over-crowded world. Fortunately, our land and water resources 
are renewable. They are not like the mineral resources which are extractable 
and therefore exhaustible. Nor like the timber resources which are renewable 
but only over very long cycles. Water resources are, with some variation, 
renewable annually, and the lands if properly cared for will produce in 
perpetuity.

THE POINT WE NEED TO REALIZE IS THAT PEOPLE WILL NOT HAVE TO PUT UP 
WITH AS MUCH NOISE, OR AS MUCH INCONVENIENCE, OR AS MUCH AFFRONT TO THEIR
sense of beauty and tranquillity in the future, if we will take steps now to curtail drastically or eradicate the conditions, practices, policies, and programs which contribute to those unacceptable conditions and circumstances. Concerning smog in Southern California, the immediate price for reduction in automotive pollution is the cost of smog-suppression devices, which are now required. The longer term price may be fewer automobiles, or perhaps smaller and less powerful automobiles, or substituting a new power mechanism for the internal combustion engine, and coupled with a combination of these alternatives will likely be the cost of a public transportation system which may obviate the need for the second and third family car.

What does this mean for future water development? It means continued research and development of ideas and processes. We are deeply into atmospheric water resources research—all aspects of it—to determine the opportunities for controlled, beneficial augmentation of surface water supplies in appropriate locations. We are studying the possibility of off-shore, undersea pipelines for water conveyance instead of conventional, land-based canals. We are studying desalination methods which hold prospect of a variety of highly beneficial adaptations and uses. We also are studying the ecological and environmental impacts of all proposals and functions.

Future decisions will have to be made as to whether and when to build a dam, an undersea aqueduct, a desalting plant, or to augment precipitation. Decisions should not be on the basis that someone—or a thousand someones—says "all dams are bad" or "all rivers should be allowed to run wild" or that desalting the sea may affect marine life. Hopefully such decisions
WILL BE MADE BY AN INFORMED PUBLIC ON THE BASIS OF RELIABLE PHYSICAL, ECONOMIC, SOCIOLOGICAL, AND ENVIRONMENTAL FACTS. EMOTION-BASED CHARGES AND COUNTERCHARGES MUST BE WEEDED OUT.

WHAT ABOUT THE PROPOSEDPeriphEral Canal? TO HEAR SOME PEOPLE TELL IT, THE Peripheral Canal WOULD RUIN THE Delta. YET HIGHLY KNOWLEDGEABLE AND RESPONSIBLE PEOPLE IN THE State AND Federal AGENCIES WHO UNDERSTAND ITS PROPOSED FUNCTIONS AND THE PROPOSED OPERATION TO PERFORM THOSE FUNCTIONS KNOW THAT THIS IS JUST NOT TRUE. THE TRUTH IS EXACTLY 180 DEGREES AWAY. THE Peripheral Canal HAS BEEN RECOGNIZED IN PUBLIC BY FISH AND WILDLIFE ORGANIZATIONS--PUBLIC AND PRIVATE, STATEWIDE AND NATIONWIDE--AND BY CalifORnIA Senate AND Assembly COMMITTEES AS THE ONLY ACCEPTABLE SOLUTION TO THE Delta'S ENVIRONMENTAL PROBLEMS. EVEN THE PEOPLE WHO SAY THEY ARE OPPOSED TO THE Peripheral Canal HAVE ADMITTED THAT THERE IS NO BETTER WAY--NOR ONE AS GOOD--TO DO WHAT THE Canal HAS BEEN DESIGNED TO DO. what they ARE actually opposed to IS THE DIVERSION OF SURPLUS WATER FROM Northern CalifORnIA to AREAS OF NEED ELSEWHERE IN THE State. HOWEVER, I DON'T WANT TO GET INTO THAT ISSUE AT THIS TIME. WHAT I AM CONCERNED WITH IS THAT THE PUBLIC HAS BEEN LED TO BELIEVE THAT THE Peripheral Canal IS BAD FOR THE ENVIRONMENT OF THE Delta. WE KNOW THE OPPOSITE IS TRUE AND I FEEL WE HAVE THE OBLIGATION--BY WE, I MEAN THE Bureau OF Reclamation, THE Department OF Water Resources, AND EVERYONE IN THIS ROOM AND THIS State WHO IS KNOWLEDGEABLE ON WATER RESOURCE DEVELOPMENT MATTERS--WE HAVE THE OBLIGATION TO BRING THE TRUE FACTS TO THE ATTENTION OF THE PUBLIC SO THAT WHEN A DECISION IS MADE AS TO WHETHER OR NOT THE Canal SHOULD BE BUILT, THAT DECISION WILL BE BASED ON FACTS, NOT EMOTIONS.

HOPEFULLY, REASON WILL PREVAIL, AND ALL FUTURE DECISIONS WILL BE SO
BASED AND WILL CONFORM TO THE NEEDS AND DESIRES OF PEOPLE, FOR THE GENERAL
BENEFIT OF PEOPLE.

THERE IS ANOTHER AREA OF INTEREST TO THIS AUDIENCE, I AM INFORMED.
THAT AREA RELATES TO THE SO-CALLED 160-ACRE LIMIT OF RECLAMATION LAW. HERE,
TOO, WE NEED TO SEARCH FOR COMMON GROUND TO RESOLVE PROBLEMS OF LONGSTANDING.

SO THAT YOU WILL UNDERSTAND WHAT I MEAN WHEN I REFER TO THE 160-ACRE
LIMIT, LET ME QUOTE FROM THE OMNIBUS ADJUSTMENT ACT OF MAY 25, 1926.
INCIDENTALLY, PRIOR TO 1926, THE BUREAU OF RECLAMATION CONTRACTED WITH
INDIVIDUALS FOR WATER SERVICE. SUBSEQUENT TO THAT TIME AND PURSUANT TO THE
1926 ACT, WE HAVE CONTRACTED PRIMARILY WITH ORGANIZATIONS SUCH AS IRRIGATION
DISTRICTS AND WATER DISTRICTS. THE 1926 ACT IN SECTION 46 PROVIDES THAT NO
WATER SHALL BE DELIVERED UPON COMPLETION OF A NEW PROJECT UNIT UNTIL A
CONTRACT SHALL HAVE BEEN MADE WITH AN IRRIGATION DISTRICT ORGANIZED UNDER
STATE LAW PROVIDING FOR REPAYMENT AND OTHER MATTERS.

THE LAW FURTHER STATES, AND I QUOTE, "SUCH CONTRACT OR CONTRACTS WITH
IRRIGATION DISTRICTS HEREINBEFORE REFERRED TO SHALL FURTHER PROVIDE THAT
ALL IRRIGABLE LAND HELD IN PRIVATE OWNERSHIP BY ANY ONE OWNER IN EXCESS OF
160 IRRIGABLE ACRES SHALL BE APPRAISED IN A MANNER TO BE PRESCRIBED BY THE
SECRETARY OF THE INTERIOR AND THE SALES PRICE THEREOF FIXED BY THE SECRETARY
ON THE BASIS OF ITS ACTUAL BONA FIDE VALUE AT THE DATE OF APPRAISAL WITHOUT
REFERENCE TO THE PROPOSED CONSTRUCTION OF THE IRRIGATION WORKS; AND THAT NO
SUCH EXCESS LANDS SO HELD SHALL RECEIVE WATER FROM ANY PROJECT OR DIVISION
IF THE OWNERS THEREOF SHALL REFUSE TO EXECUTE VALID RECORDABLE CONTRACTS
FOR THE SALE OF SUCH LANDS UNDER TERMS AND CONDITIONS SATISFACTORY TO THE
SECRETARY OF THE INTERIOR, AND AT PRICES NOT TO EXCEED THOSE FIXED BY THE
SECRETARY OF THE INTERIOR; ** **"
While the quotation just cited is from the 1926 act, the 160-acre limitation applied to individual contracts from the inception of the Reclamation program in 1902. In administering the law we have permitted delivery of project water to 320 acres in the ownership of husband and wife. For any owner of excess land to obtain project water, he must agree to dispose of his excess land usually within a 10-year period. If he fails to do so, power of attorney passes to the Secretary of the Interior who may dispose of the excess land on behalf of the landowner.

Between the clear-cut categories of federally owned land and land owned privately by individuals or corporations, there has been a gray area of publicly owned land involving ownership by States, State institutions, irrigation districts, counties, airport authorities, and the like. Legal opinions have gone from one extreme to the other in defining whether such lands are private or non-private.

Essentially there has been no change in the general land limitation law since 1902. In the meantime, however, almost everything else relating to irrigated agriculture has changed. Horsepower has been replaced by mechanical power. Farm machinery has become larger, more efficient, and more costly. Farming methods have changed radically. With increased use of fertilizers, crop yields have increased. New crop varieties have been introduced. Farm sizes have enlarged. Agricultural support programs have been introduced and are applicable to farms regardless of size. Flood control for the protection of flood plain lands has expanded and the benefits therefrom apply to all land ownerships in the flood plain regardless of size. Thus almost everything about farming has changed in the past 68 years except the 160-acre law applicable to the Reclamation program alone.
The 160-acre figure evidently was first derived as a carryover from the Homestead Policy.

The Congress has authorized some exceptions to the law. In a few cases the law has been waived completely and in others its application has been modified. In total the Congress has done this about 20 times over the years and has rather consistently provided for modification in the authorization of new projects during the past 10 years.

Recognizing these facts and factors, there has been growing belief that the basis for and the application of the 160-acre law needs to be reviewed and modernized. Specific areas to be considered include the basic 160-acre figure, the so-called Class 1 equivalency concept, the definition of various classes of private and public land, and the policies and procedures under which landowners may make their lands eligible for project water or terms under which landowners agree to dispose of their excess lands.

For example, how much time should be allowed for disposition of land? Should stage disposition be required and, if so, over how long a period? Or should the landowner be permitted to obtain water for his excess lands provided there is no Federal financial subsidy involved? (In other words, if the landowner pays the full cost with interest of providing irrigation water for his lands, should he be permitted to obtain project water for his excess lands?) If the landowner agrees to dispose of his land but fails to do so within the required period, what ground rules should prevail for secretarial disposition under power of attorney? Should the price be based on fair market value without regard to project benefits or should it be sold at auction to the highest bidder? Under what conditions should
TRUST ARRANGEMENTS BE ACCEPTABLE AND WHAT TYPE OF PARTNERSHIP INTEREST SHOULD BE ACCEPTABLE? WHAT PENALITIES SHOULD BE ASSESSED FOR VIOLATIONS?

Now, having outlined the elements of the law itself and some of the complicated problems related to its administration, and assuming we agree that a review and modernization is in order, who should make such a study? Should it be by the Department of the Interior, the Bureau of Reclamation, or should a special factfinding committee be named by the Congress?

Many of these pertinent questions have been discussed off and on for at least 6 years, dating back to the Special Report made by the Department to the Congress in 1964 in response to a request from Senator Anderson in which he asked that the Department make a study and report to the Interior and Insular Affairs Committee. The Secretary was asked to set forth the history of the laws, regulations, and policies of the Federal Government respecting limitations on the delivery of water from Federal projects to lands for irrigation purposes in excess of a specified or limited number of acres in individual or family ownership.

Actually no one has had longer nor closer association with administration of the 160-acre law than staff members of the Bureau of Reclamation. We know the questions that have been raised by those who support the law and by those who condemn it. We know the problems of administration. We know the conditions under which violations are most likely to occur. We know the strengths and weaknesses of established procedures for seeking compliance with the law. Therefore it may be that the first cut at a proposal for modernization of the law should come from the Bureau of Reclamation. Any such effort, however, will be strictly an inhouse effort until it has been presented to, discussed with, and tailored to conform to ideas, policies, and objectives of the Administration.
Assuming that common ground, satisfactory to the Administration, can be found, a legislative proposal would likely be presented to the Congress. At that time all concerned should have an opportunity to study the proposal and submit their thoughts regarding adoption or revision. If common ground cannot be found by the procedure outlined herein, the remaining alternative is for the Congress to name a factfinding group to study the issues and report its findings and recommendations to the Congress.

What does the future hold? As you know, bills have been introduced in this Congress to amend the 160-acre provision of Reclamation Law. I don't believe that congressional action on the basic issue is immediately imminent; however, I predict that the land limitation issue will get a significant amount of attention by the 92nd Congress, and I would expect some legislative action to result.

Ladies and gentlemen, I have mixed soup and nuts in these remarks. In so doing I hope one has not completely counteracted the effect of the other.

In conclusion, may I reiterate that acceptable common ground for action must be found in both cases. As I mentioned earlier, hopefully reason, based on facts, will prevail. It has been said that, "He who will not reason, is a bigot; he who cannot, is a fool; and he who does not, is a slave."

In the reasoning process, I have faith that idealism will get a fair shake, simply because of the nature of man. Albert Schweitzer is reported to have said, "As I have come to understand men, it is clear to me that there is much more good will in them than appears. As the waters of visible streams are small compared with those that flow below the ground, so also
THE VISIBLE IDEALISM OF MEN (IS SMALL) IN COMPARISON WITH THAT WHICH THEY CHERISH WITHIN THEM UNREVEALED OR BARELY SO."

THANK YOU FOR THIS OPPORTUNITY TO MEET WITH YOU.
Occupation -
How long inst. - 24 yrs
Bij Sapt -

Chief Dryg. Land Use

Practice or in application of
acreg. limits -

Privately owned land -
so-called old land vs new land

Have you expense or respect for administering acrg. limit

Yes - 17 contiguous western states

Are you familiar with prect acrg. and adm.

Yes -

Cite recent farm cases

Are there any old individual wetlands that have not been converted to farm lands etc.

Wtld -

Unatella -