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Testimony  
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Committee on Natural Resources  
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*The Federal Response to the California Drought Emergency*  
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Madam Chairwoman and members of the Subcommittee, my name is Thomas Birmingham, and I am General Manager/General Counsel of the Westlands Water District. I appreciate the opportunity to testify today on *"The Federal Response to the California Drought Emergency."*

At the outset, I would like to express our appreciation for your decision to conduct this oversight hearing. Family farmers on the westside of the San Joaquin Valley who receive irrigation water from the federal Central Valley Project are facing unprecedented challenges due to rationing of the water available for the irrigation of their crops during the peak of the irrigation season. The consequences of this water shortage emergency extend well beyond the farm. Residents of the communities on the westside of the Valley are suffering extraordinary impacts as well because of the shortage of water to irrigate the crops that otherwise would produce jobs and fuel an economy that has already been suffering, in part, from chronic water supply shortages.

1. Westlands Water District

Westlands Water District ("Westlands" or "District") is a public agency of the State of California, which serves irrigation water to portions of the westside of the San Joaquin Valley in Fresno and Kings counties. Westlands is comprised of more than 605,000 acres, and the demand for irrigation water is 1.4 million acre-feet per year. Historically, that demand has been satisfied through the use of groundwater, water made available to the District from the Central Valley Project under contracts with the United States for the delivery of more than 1.19 million acre-feet, and annual transfers of water from other agencies.

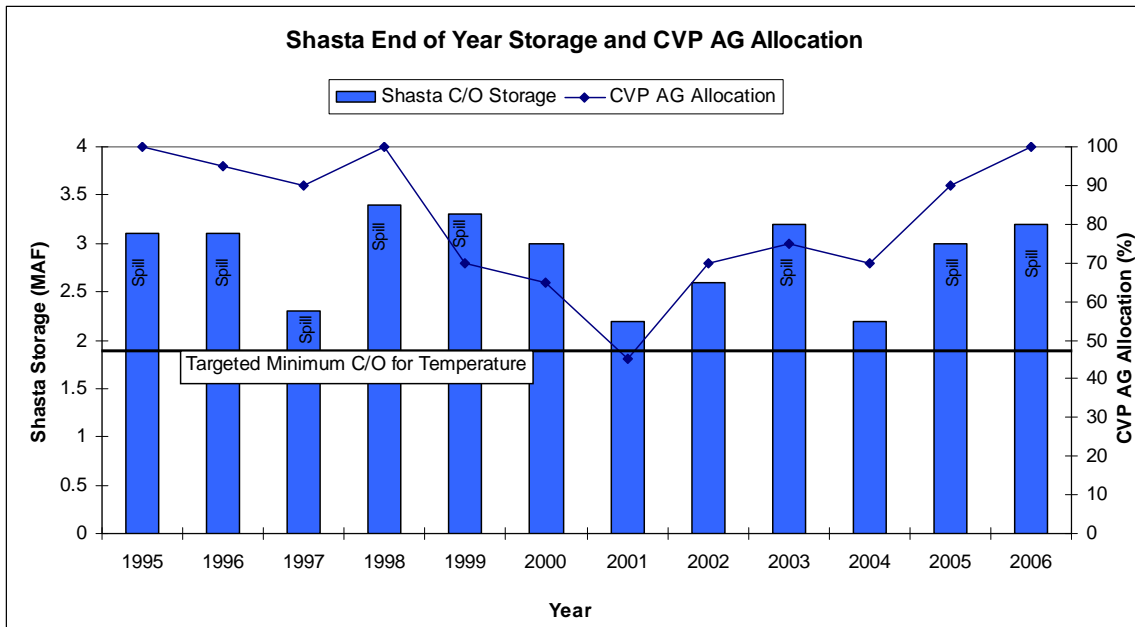
Westlands is one of the most fertile, productive and diversified farming regions in the nation. Rich soils, a good climate, and innovative farm management have helped make the area served by Westlands one of the most productive farming areas in the San Joaquin Valley and the nation. The more than 600 family farmers in Westlands produce over 60 different high-value, commercial crops that are sold both domestically and internationally in the fresh, canned, frozen and dry food markets. The annual value of these crops is \$1 billion, which represents 20% of the farm economy of Fresno County, the county with the largest agricultural economy in the nation. However, like every other region of the arid west, the ability of Westlands farmers to produce these crops and generate the associated economic activity depends on the availability of an adequate, reliable source of water.

2. Water Supply Shortages

On May 26, 2008, for the first time in its history, Westlands acted to ration the quantity of water that it would make available to farmers during the peak of the irrigation season. Based on the quantity of Project water in the federal share of San Luis Reservoir and forecasted pumping at the W.C. "Bill" Jones Pumping Plant in June, July, and August, the District projected that the Bureau of Reclamation would only be capable of delivering to Westlands approximately seventy percent of the water that would otherwise be delivered from the Project during these months. For this reason, Westlands notified its

water users that only .47 acre-feet per irrigable acre would be available for use during June, July, and August. Westlands' projections were confirmed by Reclamation on June 10, 2008, when Reclamation notified the District that it was implementing a 2008 Water Supply Reduction and Critical Month Allotment program. Reclamation requested that Westlands and other south-of-Delta irrigation contractors submit updated water delivery schedules for approval. Thereafter, Reclamation approved delivery schedules that amounted to approximately seventy percent of the demand that otherwise would exist.

It would be wrong to conclude that the current circumstance is solely a result of the recently declared drought. The limitations on Project operations that created this circumstance fall into two categories: (1) restrictions on Project operations imposed under the Central Valley Project Improvement Act, (Pub. Law 102-575), and the federal Endangered Species Act; and, (2) record dry conditions in March, April, and May of 2008. Since 1992, restrictions have been imposed on operations of the Jones Pumping Plant under the ESA to protect listed species and to implement the fish, wildlife, and habitat restoration measures of the CVPIA. As depicted in the following graph, these restrictions have resulted in reduced contract allocations to south-of-Delta irrigation contractors even in years when Reclamation spilled water from Project storage to meet flood criteria.



In 2008, additional restrictions on the operations of the Project and State Water Project imposed by the United States District Court for the ostensible protection of Delta smelt and dry conditions in March, April, and May combined to create a circumstance that made it impossible for Reclamation to meet demands for irrigation water notwithstanding a reduced allocation to south-of-Delta irrigation contractors. In May 2007, the District Court found that the 2005 Long-term Central Valley Operations Criteria and Plan Biological Opinion was unlawful. Thereafter, at the request of the environmental plaintiffs, the District Court imposed additional restrictions on the Projects' operations

pending completions of a new biological opinion by the United States Fish and Wildlife Service. As a consequence of these additional, court imposed restrictions, the two Projects lost into the ocean more than 650,000 acre-feet of water that otherwise would have been pumped from the Delta and placed in storage in San Luis Reservoir. The majority of this water was lost in January and February 2008, months in which precipitation and runoff were above average.

In February 2008, based on then-existing hydrologic conditions and a very conservative 90% exceedance forecast, which assumed dry conditions for the remainder of the year and the additional restrictions on Project operations imposed by the District Court, Reclamation announced a 45% allocation to south-of-Delta irrigation contractors. Based on this reduced allocation, farmers made decisions about which of their lands would be planted and which crops would be grown on those lands. Water districts and individual farmers also made decisions about purchasing water on the transfer market. Westlands estimates that because of the reduced allocation, approximately 200,000 acres in the District were fallowed.

Then it got dry. Precipitation, snow accumulation, and runoff in the watersheds that provide water for south-of-Delta irrigation contractors for the months of March, April, and May were the lowest on record. The hydrologic conditions were much drier than the conditions forecasted in Reclamation's 90% exceedance forecast. Runoff and reservoir releases that Reclamation had earlier forecast as being available for pumping in the spring and early summer months to supply irrigation contractors simply were not there. As a result, Reclamation reduced the allocation to south-of-Delta irrigation contractors to 40%, and it had to impose rationing for June, July, and August.

### 3. Impacts of Rationing

The immediate impacts of rationing were felt by the family farmers served by Westlands and other south-of-Delta irrigation contractors. Because of the initial 45% contract allocation, farmers had already fallowed large acreages; however, when rationing was imposed many farmers were compelled to abandon crops that had been planted. Decisions to abandon crops were made to keep alive other crops. Many farmers decided to abandon annual crops, such as tomatoes, cotton, and corn, in order to have sufficient water to irrigate permanent orchards and vineyards. Other farmers decided to abandon a portion of their annual crops, in order to have sufficient water to irrigate the balance of their annual crops. In extreme situations, farmers abandoned permanent crops, in order to have sufficient water to irrigate their remaining permanent crops.

The farmers who were compelled to abandon crops because of our inability to supply them with sufficient water to irrigate those crops have lost the tens-of-millions of dollars that they invested in land preparation, cultivation, and irrigation. As an example, one Westlands farmer, Larry Enos, immediately lost \$640,000 he had expended to plant and cultivate a cotton crop that he was forced to abandon in order to have sufficient water to irrigate his tomatoes. Unfortunately, Mr. Enos' situation is not isolated. Westlands estimates that the total value of crops abandoned in the District will exceed \$70 million.

In addition to farmers, farm workers, their families, and the communities on the westside of the Valley have experienced economic and social disruptions resulting from these reductions in water deliveries. Based on surveys of Westlands farmers, the District estimates that there has been a 23% reduction in the number of full-time farm workers employed by Westlands farmers. Harris Farms, one of the District's largest employers, has reported that as a result of reduced water supplies in 2008, it laid off one-third of its full-time employees, and it will lay off additional farm workers this fall due to the uncertainty with next year's allocation. Westlands farmers report that because of water rationing, they will reduce the number of part time farmer workers they employ by more than one-half, 52%.

The negative social and economic impacts extend to westside communities. Small businesses that serve farmers directly have been severely affected. Truck dealers and tire sales businesses in the City of Firebaugh and the City of Mendota report that their sales are off by as much as 50%. They acknowledge that part of the decline in sales is a result of other economic factors, including the high price of fuel. But they attribute a significant portion of the decline to inadequate water supplies for irrigation of the surrounding farmlands because the farmers they serve generally are not affected by factors such as the cost of fuel when deciding what they need to buy for their farming operations.

Crime in westside communities has also increased dramatically. In the City of Mendota, from September 2007 to April 2008, the last month for which there is information available, the number of property crimes nearly doubled, and the number of adult arrests increased by more than 100%. I am unaware of any scientific analysis that ties these increasing crime rates directly to reduced water supplies for the region. However, city officials, including the Mayor of the City of Mendota attribute these increases to high unemployment, which in Mendota was 27.01% in May. Unemployment in communities like Mendota is unquestionably related to water supply shortages.

#### 4. Efforts to Ameliorate Impacts of Rationing

The situation in which our communities find themselves is not a result of what Reclamation has done; rather, they find themselves in this situation in spite of Reclamation's efforts to supply water for irrigation. Project operators have made every attempt to increase the quantity of water that can be supplied in June, July, and August. However, because of the record dry conditions, they simply do not have water to meet demands during the peak irrigation season. The cooperation of other agencies, particularly the California Department of Water Resources and the State Water Project Contractors, to avoid the negative impacts of water rationing has been extraordinary. DWR and the State Contractors have agreed to an emergency groundwater pump-in program, under which good quality groundwater is pumped into the San Luis Canal for use within Westlands' service area. This groundwater adds to the quantity of water available during June, July, and August. DWR and the State Contractors have refined their schedule of demands to enable Reclamation to draw on State Water Project storage

in San Luis Reservoir to increase the water available for delivery in June, July, and August. This water will be repaid to the State Water Project after the end of the irrigation season. Finally, the Metropolitan Water District of Southern California has agreed to rely on other sources of water to meet its demand through the end of August. Under this program, up to 30,000 acre-feet of water will be available to Central Valley Project contractors during the irrigation season. Westlands is very thankful for the efforts of these other agencies.

##### 5. Response of the Federal Government

The emergency declared by Governor Arnold Schwarzenegger on June 4, 2008, is the result of record dry conditions in March, April, and May. However, the water supply crisis facing California is the product of inaction over the course of decades. We have failed to develop water supply and conveyance infrastructure and to address the deterioration of the Bay-Delta ecosystem. Indeed, if there had been in place facilities to better manage and convey the abundant water supplies that existed in 2006 or the above-average precipitation and run-off that existed in January and February of 2008, the current emergency could have been avoided. Therefore, the federal response to existing emergency and California's water supply crisis needs addressed in both the short-term and the long-term.

In the short-term, agencies of the federal government, including Reclamation and the Department of Agriculture, need to identify ways in which they can provide assistance to farmers and local communities to stave off the economic disaster that otherwise will result from the water shortage emergency. An immediate action that Reclamation could take to assist farmers is the announcement of guidelines that would enable south-of-Delta irrigation contractors to reschedule into the 2009-10 contract year all of the water that they do not use or are unable to use in the 2008-09 contract year because of the Reclamation's rationing program. This would enable farmers to better plan their cropping patterns for the period immediately after this irrigation season.

Financial assistance needs to be available to mitigate the effects of drought, especially in situations such as the one we are facing on the westside, where the water shortages imposed by drought have been compounded by judicial and statutory restrictions on supply. The Department of Agriculture administers a number of programs, including crop insurance programs and the Environmental Quality Incentives Program, that could be used to provide financial assistance to farmers that have been affected by the drought. The Department of Agriculture also administers rural and community development programs, including the Community Facilities Grant Program, that could be used to assist the people in rural communities on the westside of the Valley as they confront the social and economic consequences of the drought emergency. According to the Department of Agriculture, the Community Facilities Grant Program is typically used to construct, enlarge, or improve community facilities for health care, public safety, and community and public services. Visiting communities on the westside of the Valley would make it evident that the water shortage emergency has created a desperate need for projects of these types.

In the long-term, if we are to avoid future emergencies, the federal government must act to facilitate the development of water supply and conveyance infrastructure. Some actions are within the exclusive control of the federal government. For instance, ongoing studies related to raising Shasta Dam indicates that increasing the height of the Dam and the storage capacity of the reservoir it creates would be a cost-effective means of providing additional supply to meet the needs of the state for irrigation, municipal, industrial, and environmental uses of water. These studies should be completed as quickly as possible and authorization to raise Shasta Dam should be sought.

A key to restoring south-of-Delta water supplies is improving the means of conveying water from where it is stored north of the Delta to areas south of the Delta where demand for that water exists. The construction of an isolated conveyance facility to be operated in conjunction with existing pumping facilities in the Delta would provide both water supply, water quality, and fish conservation benefits, and it should be noted that south-of-Delta water agencies that presently receive water conveyed through the Delta have expressed a willingness to pay for the construction of such a facility. A number of federal agencies, including Reclamation, the Fish and Wildlife Service, and the Army Corp of Engineers, will play an important role in planning and permitting this facility, and these agencies should be encouraged to act quickly to facilitate this project.

Finally, the avoidance of future emergencies will depend on improving the Delta ecosystem. Again, numerous federal agencies will play an important role in this effort. To date, efforts to protect and enhance populations of at risk species in the Delta have focused almost entirely on controlling operations of the Central Valley Project and the State Water Project. These efforts have failed because they have not addressed the numerous other factors that limit the abundance of the at-risk species. These other factors include the loss of habitat, in-Delta diversions of water, the discharge of pollutants directly into the Delta or into streams tributary to the Delta, predation by invasive species, including striped bass and large-mouth bass, and the disruption of the native species' food sources. Reclamation, the Fish and Wildlife Service, and NOAA Fisheries are presently developing a Bay-Delta Conservation Program that is intended to address many of these other limiting factors. The success of the BDCP process will depend on these agencies having adequate funding to participate fully in the process. Congress should provide adequate appropriations for their activities.

### Conclusion

More funding for better science, greater flexibility to enable communities to respond to shortages, improved conveyance, and restoration of the Bay-Delta ecosystem – these are the key steps we need to take to avoid a repetition of the worst effects of the current water crisis. Again, I want to express Westlands' appreciation for your decision to conduct this hearing. I would welcome any questions from members of the Subcommittee.