

CITY COUNCIL MEETING

AUGUST 3, 1983

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AREA OF ORIGIN  
LAWS PROTECTING  
WATER RIGHTS

At the request of Mayor Olson, Council was in receipt of a letter from Assemblyman Phillip Isenberg regarding a very critical problem involving water resources facing Northern California. The letter pointed out that the federal government is now trying to change California water rights in an effort to vastly improve its water rights in California at the expense of Northern California. Protective laws called the "Area of Origin Laws" adopted many years ago established that Northern California property owners are first in line for water during a drought and the export projects are last in line. The federal government just filed a major lawsuit in federal court to overturn the State's area of Origin Laws. If the federal government's lawsuit is successful, water rights in Northern California are going to be completely restructured. The determining factor on who gets water during a drought would be based on the date of application for water rights.

Following discussion, on motion of Mayor Olson, Murphy second, the City Clerk was directed to write letters to the President of the United States and various legislators regarding the critical problems involving water resources facing California urging the federal government to withdraw this lawsuit.

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# California Legislature

PHILLIP ISENBERG  
ASSEMBLYMAN  
STATE CAPITOL, SACRAMENTO 95814  
(916) 445-1611

July 13, 1983

Dear Friend:

I am writing you about a very critical problem involving water resources facing Northern California. In my years as an elected official, I have never encountered a more threatening issue.

As you know, when there is no drinking water, there is no community. The federal government is now trying to change California water rights in an effort to vastly improve its water rights in California at the expense of Northern California. Real estate values for developed and undeveloped property in parts of Northern California could fall significantly.

The federal government operates Shasta Dam, Folsom Dam, and several other large dams in Northern California. Most of the water from these dams is released down the rivers to the Delta, where the water is pumped into a canal for delivery into the San Joaquin Valley. The state operates Oroville Dam as part of the State Water Project. Water from this dam is released down the Feather and Sacramento Rivers to the Delta where it is shipped by canal to the San Joaquin Valley and to Southern California. Both of these projects also export water that flows into the Delta from other tributaries of the Sacramento and San Joaquin Rivers.

Northern California has long had a fear that these export projects would deprive Northern California of water. The implications for community development are obvious.

When these water export projects were authorized in 1933 and 1959, Northern California legislators were able to get protective laws passed to assure that these projects would not deprive Northern California communities of water. These protective laws are collectively called the "Area of Origin Laws". Essentially, they establish that Northern California property owners are first in line for water during a drought and the export projects are last in line. For Northern California water users, it is very comforting to know that the "fella with the huge bucket" is farther back in the line.

The federal government just filed a major lawsuit in federal court to overturn the state's Area of Origin Laws.

DISTRICT OFFICE  
1215 15TH ST., STE 102  
SACRAMENTO, 95814  
(916) 324-4678

DISTRICT OFFICE  
4 N. HUTCHINS ST.  
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If the federal government's lawsuit is successful, water rights in Northern California are going to be completely restructured. The determining factor on who gets water during a drought would be based on the date of application for water rights. The federal government with its "huge bucket" would move up toward the front of the line since their applications were filed beginning in the 1930's. Northern California water users would shift toward the end of the line, where the changes to get water aren't very good.

The implications for Northern California are staggering. Many cities, counties, farms, rural and mountainous areas will find that the water that runs in the nearby rivers and streams belongs to the federal government and that the federal government has contracted to deliver that water to some distant region.

Communities that are growing may not be able to get water. Without the possibility of water, property values will fall. Property owners who developed their land after the 1930's may not have the water that they thought they did. They might lose their water, or they might have to buy it back from the federal government.

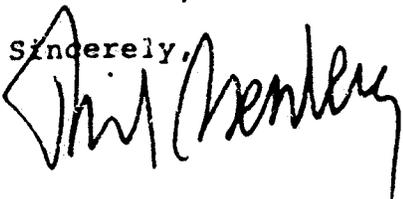
I would like to encourage you to take whatever steps you can to put pressure on the federal government to withdraw this lawsuit. You can do this by writing the President, your Congressman, and our two U.S. Senators. Resolutions against the lawsuit by organizations, cities, and counties will also help.

I have introduced a resolution opposing the lawsuit into the Legislature. The measure is Assembly Joint Resolution 65.

Please be assured that I will do all I can to block this potentially crippling lawsuit. I will also do everything that I can to assure that Northern water can never be taken away.

If there is anything that I can do to assist you in fighting this lawsuit, please let me know.

Sincerely,



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**Assembly Joint Resolution**

**No. 65**

**Introduced by Assemblymen Isenberg, Norman Waters, Klehs, Bates, Agnos, Willie Brown, Campbell, Connelly, Cortese, Filante, Hannigan, Harris, Hauser, Herger, Johnston, McAlister, Moorhead, Sher, and Statham**  
**(Coauthors: Senators Doolittle, Garamendi, Leroy Greene, Johnson, Keene, and Nielsen)**

June 28, 1983

**Assembly Joint Resolution No. 65—Relative to the water rights of areas of origin.**

**LEGISLATIVE COUNSEL'S DIGEST**

**AJR 65, as introduced, Isenberg. Water rights: areas of origin.**

**This measure would request the Department of the Interior to drop its litigation against the State of California which seeks to invalidate state laws for the protection of the water rights of areas of origin.**

**Fiscal committee: no.**

1 WHEREAS, The area of origin statutes were  
2 established by California to protect the future water  
3 needs of the areas where water originates in order to  
4 allow development and use of waters temporarily or  
5 permanently surplus to these areas by distant regions;  
6 and

7 WHEREAS, The area of origin statutes consist of the  
8 1931 County of Origin Law, the 1933 Watershed  
9 Protection Act, and the 1959 Delta Protection Act; and

10 WHEREAS, Protections for the areas of origin have  
11 been included as conditions in all water rights issued by  
12 the state to the federal Central Valley Project; and

1 WHEREAS, The federal government, through the  
2 Department of the Interior, is now suing the state seeking  
3 to repudiate any obligation of the federal government to  
4 comply with the state's County of Origin Law, Watershed  
5 Protection Act, Delta Protection Act, and area of origin  
6 protections included in water right decisions issued by  
7 the state to the federal Central Valley Project; and

8 WHEREAS, The federal government is also suing the  
9 state on the legal premise that the state's protections for  
10 areas of origin are unconstitutional, in that they violate  
11 the requirement in the California Constitution that water  
12 be used reasonably and beneficially; and

13 WHEREAS, A successful federal lawsuit to invalidate  
14 California's protections for areas of origin will have a  
15 devastating effect on the future economies and land  
16 values in the areas of origin; and

17 WHEREAS, The federal lawsuit to invalidate the  
18 state's protections for the areas of origin will eliminate  
19 any support in the areas of origin for the construction of  
20 any new federal water projects which propose to export  
21 water from the areas of origin; and

22 WHEREAS, The federal lawsuit to invalidate the  
23 state's protections for the areas of origin will eliminate  
24 any trust in California between the areas of origin and the  
25 areas of shortage and will therefore greatly impede any  
26 solution to California's long-range water problems; now,  
27 therefore, be it

28 *Resolved by the Assembly and Senate of the State of*  
29 *California, jointly,* That the Legislature of the State of  
30 California respectfully requests the Department of the  
31 Interior to drop its litigation against the State of  
32 California which seeks to invalidate the state's area of  
33 origin laws; and be it further

34 *Resolved,* That the Chief Clerk of the Assembly  
35 transmit copies of this resolution to the President and  
36 Vice President of the United States, to the Secretary of  
37 the Interior, to the Commissioner of Reclamation, to the  
38 Attorney General of the United States, to the Speaker of  
39 the House of Representatives, and to each Senator and  
40 Representative from California in the Congress of the

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1 United States.

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# United States District Court

FOR THE

~~CV-83-~~ 264

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CIVIL ACTION FILE NO. \_\_\_\_\_

UNITED STATES OF AMERICA,

Plaintiff

v.

STATE OF CALIFORNIA, STATE WATER RESOURCES  
CONTROL BOARD, CAROL A. ONORATO, F. K. ALJIBURY,  
WARREN D. NOTEWARE, and KENNETH W. WILLIS, as  
members of the State Water Resources Control  
Board, EL DORADO IRRIGATION DISTRICT and EL  
DORADO COUNTY WATER AGENCY,

Defendant

SUMMONS

To the above named Defendant s:

You are hereby summoned and required to serve upon

STUART L. SOMACH

Attorney, Department of Justice - Land and Natural Resources Div.  
3305 Federal Building, 650 Capitol Mall  
Sacramento, California 95814

plaintiff's attorney, whose address (see above)

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

J. R. GRINDSTAFF

Clerk of Court.

B. WHALEY

Deputy Clerk.

Date:

MAR 21 1983

(Seal of Court)

1 Board.

2 39. The United States is informed and believes that the  
3 Board intends to issue water rights permits to El Dorado for the  
4 proposed SOFAR project which will grant a right to El Dorado which  
5 purports to be senior to the rights of the United States;  
6 and that El Dorado will accept those permits and plan for and  
7 operate the proposed SOFAR project pursuant to that grant.

8 40. This threatened and unlawful action by the Board and El  
9 Dorado unless and until enjoined and restrained by order of this  
10 Court will cause great and irreparable injury to the United  
11 States by diminishing the amount of water and power available to  
12 the Central Valley Project for Congressionally authorized purposes.

13 41. The United States has no adequate remedy at law for the  
14 injuries which are being threatened through issuance of permits  
15 to El Dorado because it is impossible for the United States to  
16 determine the precise amount of damage which it and all people  
17 dependent upon the firm yield of the Central Valley Project will  
18 suffer if these permits are issued; nor is it certain that the  
19 damage which will be suffered by the United States and all people  
20 dependent upon the firm yield of the CVP are reparable given the  
21 total reliance that is placed upon the continued availability of  
22 CVP water.

23 WHEREFORE, the United States prays for judgment as follows:

24 1. ON THE FIRST CAUSE OF ACTION a declaratory judgment that;

25 (a) The conclusions reached by the Board in prior decisions,  
26 and in Decision 1587 on the applicability of the county and  
27 watershed protection statutes to the United States, are void as  
28 being inconsistent with the Congressional authorization of the

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1 Central Valley Project,

2 (b) the application of Water Code sections 10505, 10505.5,  
3 11128, 11460-11463 to the United States Central Valley Project is  
4 inconsistent with the Congressional authorization of said project,

5 (c) the provisions of Water Code sections 10505, 10505.5,  
6 11128, 11460-11463, as interpreted by the Board, violate the  
7 provisions of Article X, section 2 of the California State  
8 Constitution, and

9 (d) the Board's reliance, in prior decisions and Decision  
10 1587 upon the substantive provisions of water code 11128 is  
11 unconstitutional since that section was adopted after the issuance  
12 of permits to the United States.

13 2. ON THE FIRST CAUSE OF ACTION preliminary and permanent  
14 injunctive relief prohibiting the Board, its agents and employees  
15 from issuing Water Rights Orders, Decisions or granting permits  
16 or licenses which apply the provisions of Water Code sections  
17 10505, 10505.5, 11128, 11460-11463 to the United States.

18 3. ON THE SECOND CAUSE OF ACTION for a declaratory judgment that  
19 Board Decision 1587 is null and void to the extent it purports to  
20 grant rights to El Dorado senior to the rights of the United  
21 States.

22 4. ON THE SECOND CAUSE OF ACTION for preliminary and permanent  
23 injunctive relief prohibiting the Board from issuing permits to El  
24 Dorado which grant El Dorado a water right senior to those of the  
25 United States.

26 5. ON THE SECOND CAUSE OF ACTION for preliminary and permanent  
27 injunctive relief prohibiting El Dorado from planning for or  
28 operating the proposed SOPAR project based upon the premise that