



## WESTERN STATES WATER COUNCIL

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Web Page: [www.westgov.org/hswc](http://www.westgov.org/hswc)

August 1, 2011

The Honorable Tom McClintock, Chairman  
Subcommittee on Water and Power  
House Committee on Natural Resources  
1522 Longworth House Office Building  
Washington, DC 20515

The Honorable Grace Napolitano, Ranking Member  
Subcommittee on Water and Power  
House Committee on Natural Resources  
H2-186 Longworth House Office Building  
Washington, DC 20515

Dear Chairman and Ranking Minority Member,

On behalf of the Western States Water Council and our eighteen member states, I am writing to express our strong opposition to H.R. 1837 as an unwarranted intrusion on the rights of the states to allocate and administer rights to the use of state water resources. Moreover, it is inconsistent with evolving principles of successful management of our water resources to achieve a sustainable balance between important economic and environmental goals.

Specifically, Section 202 of H.R. 1837 would set aside Section 8 of the Reclamation Act of 1902 and effectively preempt California state law setting requirements for protection of the San Joaquin River. Section 108(b) would preempt state law as applied to water project operations affecting endangered species, including both the federal Central Valley Project and the State owned and operated State Water Project. The preemptive effect of Sections 108(b) and 202 would apply notwithstanding the absence of any conflict between state and federal law.

The Council opposes any weakening of the deference to state water law as now expressed in Section 8 as inconsistent with the policy of cooperative federalism that has guided Reclamation Law for over a century. This is a threat to water right and water right administration in all the Western States.

The water planning, development, management and protection challenges in the Sacramento-San Joaquin Bay-Delta System are serious, but not unique to California, as similar economic and environmental needs must be balanced across the West and the Nation. Any effective solution to California's water and environmental needs must be addressed at the state and local level, in collaboration with federal agencies under existing federal authorities.

Clean, reliable water supplies are essential for communities throughout the West and the Nation to maintain and improve their citizens' quality of life. Sufficient supplies of good quality water are essential for strong state and national economies, and require achieving a balance protection of water supply sources and the environment.

The States are responsible for allocating and administering rights to the use of water for myriad uses; and are in the best position to identify, evaluate and prioritize their own needs. States and their political subdivisions also share primary responsibility for planning and managing our Nation's surface and ground water resources, both quantity and quality.

Successful environmental protection policy and implementation is best accomplished through balanced, open and inclusive approaches at the ground level, where interested stakeholders work together to formulate critical issue statements and develop locally-based solutions to those issues. Collaborative approaches more often result in greater satisfaction with outcomes and broader support, and increase the chances of involved parties staying committed over time to implementing agreed upon solutions. Both the State of California and the Department of Interior have testified before this subcommittee in opposition to H.R. 1837 and specifically those sections preempting state law.

In conclusion, the Council cannot support H.R. 1837. It is an ill-advised attempt to circumvent ongoing efforts to define and implement sustainable solutions to myriad complex challenges that must be addressed in the context of balancing current and future economic and environmental needs and demands – recognizing the importance of intergovernmental partnerships – and respecting our diverse roles and responsibilities through maintaining the historic deference to state water law embodied in Section 8 of the Reclamation Act. Legislation preempting or discharging requirements for compliance with state law is not consistent with principles of federalism and a balanced approach to resolving conflicts.

We welcome the subcommittee's attention to these very serious and often intractable problems and hope to be able to continue to work together on effective and lasting solutions.

Sincerely,

A handwritten signature in black ink, reading "Weir Labatt, III". The signature is written in a cursive, flowing style with a prominent "W" and "L".

Weir Labatt, III  
Chairman