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Managing to Extinction

Water Regulators Violate Their Own Rules for Protecting Salmon and the Environment

by Max Gomberg

The Transformation of California's Aquatic Ecosystems

Over a century ago, California's water existed within a natural system characterized by a dynamic, biologically rich web of rivers, lakes, wetlands, and estuaries. Today, that system is largely a human construct: a vast complex of dams, reservoirs, aqueducts, and canals used to constrain, transport, and allocate water to corporate farms and cities. Vast quantities of highly subsidized water are used to irrigate corporate farms in the Sacramento and San Joaquin Valleys.

This transformation has had profound impacts. The vast salmon runs that once teemed up the Sacramento and San Joaquin Rivers have dwindled to a catastrophic degree. Prior to the dams going up, millions of wild adult salmon spawned in California's streams, sustaining vibrant ecosystems, commercial and recreational fishing, and tribal subsistence and cultural practices. California was unique in supporting four distinct runs of Chinook salmon: the winter-run, the spring-run, the fall-run, and the late fall-run. Of these, the fall-run is the only population that is not on the literal brink of extinction – and even these fish require robust hatchery programs for their tenuous survival. Indeed, so few salmon returned in 2023 the state's salmon fishing season was closed.[1] A 2017 University of California at Davis study determined that almost 50 percent of California's salmonid (salmon and trout) species will be extinct in the next four decades if present trends continue.[2]

Moreover, the diversion of California's water destroyed more than the salmon. The general health of the San Francisco Bay/Delta Estuary – the

[1] See: https://www.npr.org/2023/04/07/1168595658/california-salmon-fishing-shut-down-low-stock, accessed July 5, 2023.

[2] See: https://www.ucdavis.edu/news/nearly-half-californias-native-salmon-steelhead-and-trout-track-be-extinct-50-years, accessed July 5, 2023.

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largest estuary in the western continental United States – has also been ravaged. Reduced flows have shifted the estuary into a saltwater system, imperiling city water supplies and family farms in the Delta and sending a broad suite of native fish and wildlife species into steep decline.

State and Federal Water Infrastructure and Management

Two government projects move California's water from north to south: the State Water Project (SWP) and the federal Central Valley Project (CVP). Both operate massive pumps in the Sacramento River/San Joaquin River Delta, where water from these two great river systems, and the Trinity River on the North coast, is captured. The volume of water they collectively move is stunning – an average of around 7.9 million-acre feet of water is transported per year.[3] That's more than the quantity used by the state's 40 million residents and non-agricultural businesses.[4] Of that amount, 70% flows to industrial agriculture and only 30% is allocated to cities. For the CVP, 90% of the water goes to corporate farms. Many of these farms grow nuts for export and other water-intensive crops that are not essential to food security. Not only do they use massive amounts of river water, they also pump tremendous volumes of groundwater, leading to community taps running dry and infrastructure damage due to land subsidence.

While maintaining this status quo will lead to extinction of the salmon and other environmental and public health impacts, these iconic fish are not irretrievably lost. However, state and federal officials must adjust the policies governing the CVP and SWP. There is still enough water – and enough *cold* water – in the Sacramento watershed to support large salmon runs, especially if ancillary restoration programs are implemented.

Violating the Rules

The first thing needed by salmon – and steelhead, another endangered

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[3] The long-term average deliveries for the CVP are around 5.6 million acre-feet per year, and the long-term average for the SWP is approximately 2.3 million acre-feet per year. See: https://www.usbr.gov/mp/mpr-news/docs/factsheets/cvp.pdf, accessed July 5, 2023, and https://cawaterlibrary.net/document/the-draft-state-water-project-delivery-capability-report-2021/, accessed July 5, 2023.

[4] Average annual urban water use is around 7.2 million acre-feet and declining. See: https://www.ppic.org/publication/water-use-in-californias-communities/, accessed July 5, 2023.

anadromous fish – is cold, clean water. They require it to survive as eggs in the gravel, as emergent fry, as growing smolts, and as adults returning to their natal rivers to spawn. They also need adequate volumes of water, particularly as smolts migrating downriver. With insufficient flows, the young fish are often unable to negotiate passage through the Sacramento/San Joaquin Delta and are either destroyed by the gigantic CVP and SWP pumps near Tracy or are devoured by predatory non-native fish that thrive under the altered conditions created by the projects.

Both state and federal law stipulate the release of water specifically for the purpose of maintaining the fish in good condition; the operations of the SWP and the CVP are – officially, at least – predicated on these rules.

But the agencies that control these projects – the Department of Water Resources and the Water Resources Control Board for the State of California and the U.S. Bureau of Reclamation for the federal government – have gone to great lengths to ensure fish-sustaining flows are *not* released. At every opportunity and operational juncture, project managers and the administrations that support them have short-changed the fish to provide maximum deliveries to the corporate farms of the San Joaquin Valley.

One of the most egregious examples was a 2023 attempt by Governor Gavin Newsom to waive rules requiring fish-sustaining flows down the Sacramento River to ensure there would be ample water for agricultural deliveries later in the year. The fact that this order followed one of the wettest winters in state history outraged urban water agency managers, environmentalists, and fishery advocates; there was, after all, plenty of water for all stakeholders, assuming corporate agriculture wasn't allowed to seize the lion's share. The outcry was so fierce that Newsom withdrew his order.

But that didn't stop inquiries into the Governor's deeper motive. As noted by Doug Obegi, a water law attorney with the Natural Resources Defense Council, Newsom's action was tantamount to "...a breakdown of law and order in the Delta. The executive order seems to signal the governor's intention to put his thumbs on the scale in favor of extinction in the Delta."[5]

[5] See: https://www.nrdc.org/bio/doug-obegi/get-out-jail-free-card-stealing-deltas-water, accessed July 5, 2023.

Newsom's order followed years of drought-induced flow cutbacks authorized by the State Water Resources Control Board. These waivers of protective flows – known as Temporary Urgency Change Petitions (TUCPS) – ultimately favor water diversions to corporate agriculture, and they have put California's salmon in an existential crisis. The salmon are now, as Doug Obegi implied, on the brink of extinction. The fact that Newsom attempted to continue restricting fishery flows during a year when water is abundant signals that the elimination of the salmon isn't a mere *result* of policy. It's apparently the *goal* of state policy.

The Motive – Follow the Money

When the salmon are gone the laws that protect them will no longer be applicable, and water deliveries to corporate agriculture can proceed unimpeded. California's water barons have poured significant sums into Newsom's campaigns, and they also exert tremendous influence on local politics to prevent any laws or rules that would limit their profits. Moreover, corporate agriculture is very profitable. While its financing mechanisms are often shrouded in mystery, journalistic investigations have uncovered that major investors from private equity to pension funds have realized large returns on their investments.[6] Like many industries that have captured their regulators, California's agricultural industry uses its political clout to keep the water – and the money – flowing. What's more, the industry is continuing to push for its fever dream: a tunnel that would allow for even more water to be sucked out of the estuary.

A Zombie Water Project

While Newsom was forced to withdraw his executive order curtailing fishery flows, he apparently wasn't chastened by the resistance to his move. He subsequently attempted to gut the California Environmental Quality Act (CEQA), the landmark 1970 legislation that made the state a global exemplar of effective environmental protection. His goal: to advance large infrastructure plans, including the Delta Conveyance Project (DCP), a scheme to shuttle water around the Delta via a large tunnel. The move was a clear demonstration of the Governor's disdain for environmental laws

[6] For example, see: https://www.bloomberg.com/graphics/2023-wall-street-speeds-california-groundwater-depletion/, accessed July 5, 2023.

that interfere with donor (i.e., corporate agriculture) profits. Due to fierce opposition from environmental advocates and legislators representing the Delta region, the DCP was removed from the CEQA deal. However, Newsom is still looking for ways to build the project.

Make no mistake: there is nothing "green" about the DCP. It is, in fact, a retread of the Peripheral Canal, a mid-20th Century plan to build a massive ditch around the Delta to expedite water deliveries to the South State. Despite full-throated support from San Joaquin Valley growers, voters rejected the scheme in a 1982 ballot initiative. The Peripheral Canal would have devastated the Delta. Freshwater outflows would have dwindled, Delta salinity would have increased, and more fish would have been macerated by the giant pumps of the SWP and CVP. The project likely would have finished off Central Valley salmon. Any notion that the DCP would somehow "improve" Delta health therefore is laughable; it would result in the same impacts as the Peripheral Canal.

Accountability and Change

The Central Valley's salmon once supported thousands of jobs and provided millions of people with some of the most nutritious food on the planet. They are an archetypal fish for California, as representative of the state's natural history and identity as the California grizzly. Sadly, they are following the California grizzly down the path to extinction. But it doesn't have to end that way. The runs can be revived – but it will require active management and support and will include the restoration of degraded or inaccessible spawning grounds, "conservation" hatcheries for the propagation of threatened and endangered runs – and most importantly, ample flows of cold, clear water.

For too long, state and federal regulators have maintained they are powerless to stop the decline of our salmon runs. This is both deeply cynical and utterly wrong. Contrary to their claims, they hold virtually *all* the power to save the fish. And that power exists as cold water impounded in the reservoirs they control. They must be held to account. We cannot allow them to "manage" our salmon to extinction.

Max Gomberg is an independent consultant working with California-based and national advocates on water affordability and climate equity. In July 2022, he resigned from his position

as conservation and climate change manager at the State Water Resources Control Board (Water Board) due to a lack of urgency and political will to confront climate change. In his resignation letter, he wrote: "Witnessing the agency's ability to tackle big challenges nearly eviscerated by this Administration has been gut wrenching. The way some of you have simply rolled over and accepted this has also been difficult to watch."

During his tenure at the Water Board, Mr. Gomberg led development of water conservation, access, affordability, and climate change policies across California. Under his leadership, the Water Board developed a statewide plan for low-income water rate assistance, acquired $1 billion for water debt relief, adopted a comprehensive climate change mitigation and adaptation policy, and implemented regulations to reduce urban water use. Mr. Gomberg has over 15 years of water policy experience and holds a BA from the University of Chicago and a Masters in Public Policy from UCLA.

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