

H.L.C. #8
Not Agreed to
by a Roll Call
Vote of 17 yeas
to 20 nays.

AMENDMENT TO H.R. 3208
OFFERED BY MR. RAHALL

Strike section 1 and all that follows through title I
and insert the following:

1 **TITLE I—CALFED BAY-DELTA**
2 **PROGRAM AUTHORIZATION**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Calfed Bay-Delta Au-
5 thorization Act”.

6 **SEC. 102. DEFINITIONS.**

7 For purposes of this title:

8 (1) CALFED BAY-DELTA PROGRAM.—The term
9 “CALFED Bay-Delta Program” means the pro-
10 grams, projects, complementary actions, activities
11 undertaken through coordinated planning, imple-
12 mentation, and assessment activities of the State
13 and Federal agencies in a manner consistent with
14 the Record of Decision.

15 (2) CALFED POLICY GROUP.—The term
16 “CALFED Policy Group” means a committee of
17 CALFED agencies established in the Record of De-
18 cision to oversee the CALFED Bay-Delta Program.

19 (3) FEDERAL AGENCIES.—The term “Federal
20 agencies” means the following:



1 (A) The Department of the Interior (in-
 2 cluding the Bureau of Reclamation, Fish and
 3 Wildlife Service, Bureau of Land Management,
 4 and United States Geological Survey);

5 (B) The Environmental Protection Agency;

6 (C) The Army Corps of Engineers;

7 (D) The Department of Commerce (includ-
 8 ing the National Marine Fisheries Service);

9 (E) The Department of Agriculture (in-
 10 cluding the Natural Resources Conservation
 11 Service and the Forest Service);

12 (F) The Western Area Power Administra-
 13 tion.

14 (4) GOVERNOR.—The term “Governor” means
 15 the Governor of the State of California.

16 (5) IMPLEMENTATION MEMORANDUM.—The
 17 term “Implementation Memorandum” means the
 18 CALFED Bay-Delta Program Implementation
 19 Memorandum of Understanding dated August 28,
 20 2000, executed by the Federal agencies and the
 21 state agencies.

22 (6) RECORD OF DECISION.—The term “Record
 23 of Decision” means the Federal programmatic
 24 Record of Decision dated August 28, 2000, issued



1 by Federal CALFED agencies and supported by the
2 State.

3 (7) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior.

5 (8) STAGE 1.—The term “Stage 1” means the
6 programs and projects planned for the first 7 years
7 of the CALFED Bay-Delta Program, as specified in
8 the Record of Decision.

9 (9) STATE.—The term “State” means the State
10 of California.

11 (10) STATE AGENCIES.—The term “State
12 Agencies” means the following:

13 (A) The Resources Agency of California
14 (including the Department of Water Resources
15 and the Department of Fish and Game);

16 (B) The California Environmental Protec-
17 tion Agency (including the State Water Re-
18 sources Control Board);

19 (C) The California Department of Food
20 and Agriculture.

21 **SEC. 103. BAY-DELTA PROGRAM.**

22 (a) IN GENERAL.—The Record of Decision is ap-
23 proved as a framework for addressing CALFED Program
24 components consisting of water storage, ecosystem res-
25 toration, water supply reliability, conveyance, water use ef-



1 iciency, water quality, water transfers, levee stability, and
2 science. The Secretary, working with the Federal agency
3 heads, as appropriate, shall undertake actions pursuant
4 to the Record of Decision, subject to the provisions of this
5 Act, so that the program objectives consisting of water
6 quality, ecosystem quality, water supply reliability, includ-
7 ing water storage and conveyance and levee system integ-
8 rity will progress in a balanced manner.

9 (b) AUTHORIZED ACTIONS.—The Secretary is au-
10 thorized to take such actions, subject to the provisions of
11 this Act, as may be necessary to implement Stage 1 of
12 the Record of Decision if the activity has been subject to
13 environmental review and approval as required under ap-
14 plicable Federal and state law (including regulations); and
15 has been certified by the Bay Delta Program Policy Group
16 to be consistent with the Record of Decision.

17 (c) SURFACE WATER STORAGE.—Any new project
18 with Federal construction costs of over \$10 million to be
19 constructed as part of the CALFED Bay-Delta Program,
20 shall require specific authorization by an Act of Congress.
21 Authorization Procedures set forth in section 106 shall be
22 applicable to projects in Section 106 (A).



1 **SEC. 104. MANAGEMENT.**

2 (a) **COORDINATION.**—In carrying out the CALFED
3 Bay-Delta Program, the Federal agencies shall coordinate
4 their activities with the state agencies.

5 (b) **PUBLIC PARTICIPATION.**—In carrying out the
6 CALFED Bay-Delta Program, the Federal agencies shall
7 cooperate with local and tribal governments and the public
8 through a federally chartered advisory committee or other
9 appropriate means, to seek input on program elements
10 such as planning, design, technical assistance, and devel-
11 opment of peer review science programs.

12 (c) **SCIENCE.**—In carrying out the CALFED Bay-
13 Delta Program, the Federal agencies shall seek to ensure,
14 to the maximum extent practicable, that:

15 (1) All major aspects of implementing the Pro-
16 gram are subjected to credible and objective sci-
17 entific review; and

18 (2) Major decisions are based upon the best
19 available scientific information.

20 (d) **GOVERNANCE.**—In carrying out the CALFED
21 Bay-Delta Program, the Secretary and the Federal agency
22 heads shall undertake their activities in accordance with
23 the terms of the Implementation Memorandum until such
24 time as the Implementation Memorandum is replaced by
25 approval of a permanent governing structure, whereupon
26 the Secretary and agency heads shall undertake their ac-

1 tivities in accordance with the permanent governing struc-
2 ture. The Secretary and the Federal agency heads shall
3 work with their State counterparts to develop a permanent
4 governing structure and shall seek authorization and ap-
5 proval of the permanent governing structure, as necessary.

6 **SEC. 105. REPORTING REQUIREMENTS AND LIMITATIONS**
7 **ON APPROPRIATIONS.**

8 (a) **REPORT AND CERTIFICATION BY CALFED.—**
9 The Secretary, in cooperation with the Governor, shall
10 submit a report of the CALFED Policy Group by Decem-
11 ber 15 of each year to the appropriate authorizing and
12 appropriating Committees of the Senate and the House
13 of Representatives that describes the status of implemen-
14 tation of all elements of the CALFED Bay-Delta Program
15 and that certifies that the CALFED Bay-Delta Program
16 is progressing in a balanced manner with respect to water
17 supply, ecosystem restoration, and water quality. The Sec-
18 retary's report shall describe—

- 19 (1) the progress of the CALFED Bay-Delta
20 Program in meeting the implementation schedule for
21 the Program in a manner consistent with the Record
22 of Decision;
- 23 (2) the status of implementation of all elements
24 of the CALFED Bay-Delta Program;



1 (3) expenditures in the past fiscal year and year
2 to date for implementing the CALFED Bay-Delta
3 Program; and

4 (4) accomplishments in the past fiscal year and
5 year to date in achieving the goals of improved—

- 6 (A) water storage;
- 7 (B) water quality
- 8 (C) water use efficiency;
- 9 (D) ecosystem restoration;
- 10 (E) watershed management;
- 11 (F) levee system integrity;
- 12 (G) water transfers;
- 13 (H) water conveyances; and
- 14 (I) water supply reliability.

15 The report shall discuss the status of CALFED Bay-Delta
16 Program goals, current schedules, and relevant financing
17 agreements. Each of the above-listed categories of project
18 areas must be considered in determining whether the pro-
19 gram is proceeding in a balanced manner.

20 (b) REVISED SCHEDULE.—If the report provided for
21 in subsection (a) concludes that the CALFED Bay-Delta
22 Program is not progressing in a balanced manner so that
23 no certification of balanced implementation can be made,
24 the CALFED Policy Group shall prepare a revised sched-
25 ule and such other modifications in CALFED, to ensure



1 the CALFED Bay-Delta Program will progress in a bal-
2 anced manner consistent with the intent of the Record of
3 Decision. This revised schedule is subject to approval by
4 the Secretary and the Governor.

5 (c) FINANCIAL SUMMARY.—In addition to the report
6 required pursuant to subsection (a), no later than Feb-
7 ruary 15 of each year the Secretary shall submit to the
8 appropriate authorizing and appropriating committees of
9 the Senate and the House of Representatives a financial
10 report containing a detailed accounting of all funds re-
11 ceived by Federal and state agencies for implementing the
12 Plan in the previous fiscal year budget and a budget for
13 the proposed projects to be carried out in the upcoming
14 fiscal year with the Federal portion of funds authorized
15 under this Act.

16 (d) CROSSCUT BUDGET REPORTS.—Not later than
17 February 15, 2003, and annually thereafter through Feb-
18 ruary 15, 2008, the Director of the Office of Management
19 and Budget shall submit appropriate authorizing and ap-
20 propriating committees of the Senate and the House of
21 Representative an inter-agency budget crosscut report
22 that—

23 (1) displays the proposed Federal spending, for
24 the fiscal year in which the report is submitted and
25 for each subsequent fiscal year through 2007, on im-



1 plementation of the CALFED Bay-Delta Program;
 2 and
 3 (2) identifies all expenditures to date within the
 4 Federal and State governments used to achieve the
 5 objectives of the CALFED Bay-Delta Program.

6 **SEC. 106. SURFACE STORAGE AUTHORIZATIONS AND LIM-**
 7 **TATIONS ON APPROPRIATIONS.**

8 (a) SUBMISSION OF REPORTS.—The Secretary, act-
 9 ing in cooperation with the Governor, shall transmit to
 10 the appropriate authorizing and appropriating committees
 11 of the Senate and the House of Representative the reports
 12 of the CALFED Policy Group regarding the following con-
 13 struction projects:

14 (1) An enlarged Los Vaqueros Reservoir, an en-
 15 larged Shasta Dam, and in-delta storage.

16 (2) Authorization of an enlarged Los Vaqueros
 17 is subject to an affirmative vote of a majority of vot-
 18 ers in the Contra Costa Water district. Authoriza-
 19 tion of an enlarged Shasta Dam is subject to an
 20 analysis of the effects that the enlargement of Shas-
 21 ta Dam may have on the eligibility of the McCloud
 22 River for designation as a component of the national
 23 wild and scenic rivers system under the Wild and
 24 Scenic Rivers Act (16 U.S.C. 1271 et seq.)

25 The reports shall contain—



- 1 (1) a project description;
- 2 (2) feasibility and operational studies completed
- 3 by the Secretary or the Governor, as appropriate;
- 4 (3) environmental impact statements or reports;
- 5 (4) a finding of consistency with the record of
- 6 decision as determined by the CALFED Policy
- 7 Group;
- 8 (5) a finding of the Independent Science Panel
- 9 that the project is consistent with the CALFED pro-
- 10 gram goals;
- 11 (6) cost-benefit analysis;
- 12 (7) a plan for fulfilling mitigation requirements;
- 13 (8) identification of project benefits and bene-
- 14 ficiaries;
- 15 (9) cost allocation plan consistent with the
- 16 Record of Decision's beneficiaries pays provisions;
- 17 (10) financing and repayment plans based upon
- 18 commitments by beneficiaries that they are willing
- 19 and able to pay their allocated share;
- 20 (11) progress in the acquisition of the Federal
- 21 and State permits including permits under section
- 22 404 (a) of the Federal Water Pollution Control Act
- 23 (33 U.S.C 1344) for implementation of projects in
- 24 all identified program areas;



1 (12) a recommendation, based on the results of
2 items (1) through (11) above, on whether to proceed
3 with the project;

4 **SEC. 107. ENVIRONMENTAL JUSTICE.**

5 (A) IN GENERAL.—It is the intent of the Congress
6 that—

7 (1) implementation of the CALFED Program
8 by the Federal agencies and State Agencies should
9 fulfill the commitment to addressing environmental
10 justice challenges referred to in the CALFED Bay
11 Delta Program Environmental Justice Workplan
12 dated December 13, 2000;

13 (2) the Federal agencies and State agencies
14 should continue to collaborate to develop a com-
15 prehensive environmental justice workplan for the
16 CALFED program, including through continuation
17 of the functions of the CALFED-Bay Delta Envi-
18 ronmental Justice Workgroup; and

19 (3) the CALFED Policy Group should collabo-
20 rate with such workgroup to ensure fulfillment of
21 the commitment referred to in section 7(A)(1).

22 **SEC. 108. GRANTS TO FEDERAL AGENCIES.**

23 The Secretary is authorized to make grants to the
24 Federal agencies assuming responsibility for the imple-
25 mentation of components of the CALFED Bay-Delta Pro-



1 gram pursuant to the Record of Decision. Such grants
2 shall be made pursuant to interagency agreements to be
3 entered into between the Secretary and the Federal agen-
4 cies.

5 **SEC. 109. AUTHORIZATION OF APPROPRIATIONS.**

6 There are authorized to be appropriated to the De-
7 partment of the Interior \$2,432,000,000 to pay the Fed-
8 eral share of carrying out Stage 1 of the Record of Deci-
9 sion for fiscal years 2002 through 2007, in accordance
10 with the provisions of this title. The funds shall remain
11 available without fiscal year limitation.

12 **SEC. 110. CONTRACT ASSURANCES FOR PAYMENT OF PRE-**
13 **VAILING WAGES FOR LABORERS AND ME-**
14 **CHANICS.**

15 Any contract under which laborers or mechanics may
16 be employed, for a project or activity funded in whole or
17 in part under this Act (or under an amendment made by
18 this Act), shall contain reasonable assurances that each
19 contractor or subcontractor involved shall pay laborers
20 and mechanics employed by such contractor or subcon-
21 tractor wages equivalent to those applicable under the Act
22 of March 3, 1931 (40 U.S.C. 276a et seq., commonly
23 known as the Davis-Bacon Act).

