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Farmers Try Political Force to Twist Open California's Taps

Few in agriculture have shaped the debate over water more than the several hundred owners of an arid finger of farmland west of Fresno.

By MICHAEL WINES and JENNIFER MEDINA DEC. 30, 2015

FIVE POINTS, Calif. — The message that Maria L. Gutierrez gave legislators on Capitol Hill was anguished and blunt: California's historic drought had not merely left farmland idle. It had destroyed Latino farm workers' jobs, shuttered Latino businesses and thrown Latino families on the street. Yet Congress had turned a deaf ear to their pleas for more water to revive farming and farm labor.

So Latinos — the nation's fastest-growing ethnic group, she noted pointedly — were sending a warning that politicians could not ignore.

“We created an organization that's called El Agua Es Asunto de Todos — Water Is Everybody's Business — so the Latino voice can be heard,” Ms. Gutierrez, who described herself as an El Agua volunteer, said in October 2013 at the meeting with lawmakers. “Don't devastate our economy. Don't take our jobs away.”

The group has since blanketed California with demands for more water on Spanish-language television, on the Internet, even on yard signs. But for whom it speaks is another matter: El Agua is bankrolled by more than \$1.1 million from the Westlands Water District, the nation's largest agricultural irrigation contractor, a state entity created at the behest of — and largely controlled by — some of California's wealthiest and most politically influential farmers.

For almost five decades, Westlands has brought its farmers a torrent of water from the reservoirs and aqueducts of the federal Central Valley Project, the vast public work that irrigates half of California agriculture. Drought has reduced that

torrent to drops, and El Agua is one part of Westlands' wide-ranging effort to open the spigots again.

California has more than 81,000 farms, and farmers claim four-fifths of all the water its citizens consume. But no one in agriculture has shaped the debate over water more — or swung their elbows wider — than the few hundred owners of an arid, Rhode Island-size finger of farmland west of Fresno.

A water utility on paper, Westlands in practice is a formidable political force, a \$100 million-a-year agency with five lobbying firms under contract in Washington and Sacramento, a staff peppered with former federal and congressional powers, a separate political action committee representing farmers and a government-and-public-relations budget that topped \$950,000 last year. It is a financier and leading force for a band of 29 water districts that spent at least another \$270,000 on lobbying last year. Its nine directors and their relatives gave at least \$430,000 to federal candidates and the Republican Party in the last two election cycles, and the farmers' political action committee gave more than \$315,000 more.

Aggressive, creative and litigious — minutes of a board meeting this year cited 11 continuing or anticipated lawsuits — the district has made enemies of environmentalists, rival politicians and other farmers whose water it has tried to appropriate. But it has also repeatedly made deals and won legislative favors to keep water flowing to itself and to farms across the San Joaquin Valley, California's agricultural heartland.

California's snowpack testing on Wednesday was more encouraging than last year, but officials were far from certain that the drought was ending. And the prolonged drought has laid bare the patchwork way water is parceled out.

Farmers here have become a target not just of city dwellers forced by conservation decrees to shorten showers and let their lawns go brown, but also of other farmers. In the Sacramento-San Joaquin River Delta in Northern California this year, growers grudgingly cut production to free up water for Central Valley farms, driven less by charity than by fear that the state would demand even more water if they did not.

But while California's farmers could conserve more — fewer than half use low-flow irrigation methods — the reality is more complex. Agriculture makes up

just 2.2 percent of California's economy, but this area remains the nation's green grocer, and farming is still the economic lifeblood of the state's arid center. Both locally and nationally, farmers pack a political punch well above their weight.

"The federal government's involvement in water is more influenced by what goes on with Westlands than any other single entity," said Daniel P. Beard, who was the commissioner of the Interior Department's **Bureau of Reclamation** — the agency overseeing Western water — under President Bill Clinton. "They're not wrapped around the axle on politics or ideology; they're pragmatists. What they want is water, a continuation of the flow of money from agricultural programs, and more water."

And for good reason. Since 2005, on average, Westlands farms have annually sopped up one and a half times as much water as all of Los Angeles, most of it — some years, almost all of it — from federal deliveries. The water, largely siphoned from the **Sacramento River Basin** in Northern California, fuels a prodigious harvest, reported to be more than \$1.5 billion last year: almonds for export; tomatoes for paste and sauce; wine grapes; cotton; produce sold under labels like Heinz and Dole.

But as drought's grip tightened, the Sacramento River Basin's reservoirs ebbed and the district's federal Central Valley Project water allotment dwindled to zero for the last two years. Farmers have turned to aquifers, pumping so much groundwater that in some places, desiccated fields have collapsed like fallen soufflés.

In turn, Westlands has redoubled efforts to increase its share of federal water. It wants new and bigger reservoirs to bolster Central Valley Project reserves. It is backing a much-disputed plan by Gov. Jerry Brown to bore two 35-mile tunnels that would shunt Sacramento River water directly to San Joaquin Valley farms.

But most of all, perhaps, it is seeking to persuade Congress to loosen the federal rules that now set aside Sacramento basin water for salmon fisheries and endangered species like the delta smelt. It is a cause that El Agua, the lobby group propped up by the district, has endorsed with enthusiasm. Thwarted this year, the water district will be battling over the same issue when Congress returns next year.

Westlands officials say the allocations have cut deeply into their allotments of Central Valley Project water. And shortages, they say, are an existential threat to both their farms and the nation. The Central Valley hosts 1 percent of American farmland, but more than 15 percent of all irrigated fields — and it grows a quarter of the nation's food.

“We’ve been feeding people with this food for generations,” said Shawn Coburn, 47, whose 1,200-acre farm here in Five Points is scarred with fields that lie fallow for lack of water. “You want to pay more for food? Or you want all your food from China? Fine. Don’t come complaining to me.”

Critics call that a smokescreen. The farmers’ real goal, they say, is to find the cheapest water possible — and Central Valley Project water, taxpayer-subsidized, is far cheaper than water bought on the open market, much less the water sold to homes and industries.

“They have an amazing amount of money to spend, and yet they plead hardship,” said Patricia Schifferle, a Truckee, Calif., environmental consultant who is perhaps Westlands’ most dogged critic. “We’re all paying for this largess that goes to the select few.”

Westlands’ size and its broad influence make it a prime target for detractors like Ms. Schifferle. The district calls the attacks unfair, and says that its clout is overrated. “It’s easy to pick on Westlands, because Westlands is big,” the district’s deputy general manager, Johnny Amaral, said in an interview. But Westlands’ principal water source — the Central Valley Project — has been cut off for two straight years, he noted, despite its best efforts.

“I don’t know anybody who wouldn’t work for their share in the same situation,” he said.

The Battle for Water

Twenty dams big and 500 miles of canals long, the Central Valley Project offered area farmers a boundless supply of Northern California water for decades. But as a second canal system, the State Water Project, began tapping the same northern rivers in the 1970s, problems emerged.

Commercial salmon fisheries collapsed. East of San Francisco, where the Sacramento and San Joaquin Rivers unite in an estuary, striped bass, sturgeon, shad and smelt began precipitous declines.

Congress's solution — a 1992 law reserving at least a minimum amount of water for wildlife — touched off a long-running political backlash by San Joaquin Valley farmers. For 23 years, Westlands has led the mostly losing battle to get that water back: in courts, in Washington and along California roads, where placards condemning a "Congress-created Dust Bowl" blame the government, not drought, for water shortages.

The district comes to the fight well prepared. Mr. Amaral was until this fall the top aide to Representative Devin Nunes of nearby Fresno, a Republican. Mr. Amaral's predecessor, Jason Peltier, oversaw Western water issues in the Interior Department under President George W. Bush.

Westlands' pre-eminent lobbyist, David Bernhardt, was the Bush Interior Department's solicitor before joining a Denver law firm that Westlands retained after President Obama was elected in 2008.

Others have also helped Westlands court federal decision makers. Vin Weber and Denny Rehberg, former Republican representatives from Minnesota and Montana, have been paid more than \$550,000 since 2013 to lobby Congress.

At least \$530,000 more was spent from 2009 to 2013 for lobbying on endangered-species issues by Julie A. MacDonald, formerly Mr. Peltier's assistant at the Interior Department. Ms. MacDonald resigned that post in 2007; an internal inquiry later concluded that she had improperly disclosed information about Endangered Species Act deliberations to critics of the law. Ms. MacDonald, who has denied wrongdoing, was not charged with any legal violation.

The farmers' political action committee and the Westlands board have given generously to the campaigns of friendly federal legislators, contributing at least \$120,000 to Central Valley House members in the 2014 election. But one of the district's most notable contributions was made decades ago, not long after Congress's allotment of water for wildlife set off a backlash from farmers. In 1994, Westlands' thoroughly Republican leaders spurned their party's best hope for the Senate, and instead held a fund-raiser for the first-term Democratic incumbent, Dianne Feinstein.

Ms. Feinstein has a strong environmental record. Yet she has also labored repeatedly to secure water for California agriculture, and especially for Westlands farmers. For the last two years, Ms. Feinstein has led the effort to push federal drought legislation through the Senate. And perhaps never has the tug-of-war between those competing priorities been so visible.

As federal water supplies to California farmlands dried up in 2014, the Republican-dominated House of Representatives — where Kevin McCarthy, from a San Joaquin Valley district adjacent to Westlands farmland, is the majority leader — swiftly passed a bill to undo environmental restrictions on greater transfers of Northern California water to farmers.

Ms. Feinstein told the bill's California backers that suspending environmental protections was both a political and a scientific mistake. Her own legislative effort, crafted in secrecy that year, nevertheless sought to ship more northern water to Southern California farmers and cities while still hewing to the letter — although, critics argue, not always the spirit — of the environmental safeguards.

The most influential farm voice in that process was Westlands, represented by its lobbyist, Mr. Bernhardt, and by its general manager and top executive, Thomas W. Birmingham.

The confidential draft Ms. Feinstein's staff produced that fall offered something for everyone: calls for new and bigger dams, money for water conservation projects and tweaks to existing rules that would send more northern water to southern farms.

That autumn, as Ms. Feinstein's staff raced to strike a compromise with House negotiators, portions of the secret draft were leaked. Northern California politicians and environmentalists erupted in outrage over the bill's attempts to wring more water out of northern rivers, and in November 2014, Ms. Feinstein scotched the effort.

She tried again this year, with a drought bill that restored some environmental protections for endangered species to assuage fellow Democrats and Northern Californians. But that collapsed in an acrimonious confrontation this month with Republicans in the House, who wanted those safeguards relaxed.

Ms. Feinstein has promised to try again in 2016. But with Republicans in control of both houses of Congress, no drought legislation is likely to pass without help from Senator Lisa Murkowski, Republican of Alaska.

Ms. Murkowski, who leads both the Energy and Natural Resources Committee and the Appropriations subcommittee on the environment, visited Fresno in April to see the drought's impact. She also paused to raise \$100,000 in political donations at a lunch with farmers from Westlands and surrounding areas.

George Miller, a former Democratic representative from Northern California, sponsored the 1992 law that mandated a minimum amount of water for the region's fish. He was Westlands' fiercest adversary in Congress before retiring last year.

"You've got to give them an 'A' for effort," he said in an interview. "These boys are committed. They play at the highest level, and they never sleep — ever."

But Westlands farmers are unapologetic. Mr. Coburn, the Five Points farmer, not only says that effort is necessary, but he also plays his part in it as an unofficial ambassador to journalists and policy makers. "Big Ag polls poorly, family farms poll well," he said. "Nobody wants to hate on Shawn the farmer."

Two of Mr. Coburn's main crops — almonds and pistachios — also occupy a third of Westlands' fields, up from a fifth in 2010. The reason is not that Americans would starve without them — many if not most are exported — but that they are extremely profitable compared with other crops.

Since California's drought began in 2012, the district's farmers have added more than 18,000 acres of nut groves that require constant watering, displacing crops like onions and tomatoes that can be fallowed when water is short.

Some farmers, as well as California residents who blame farming for the state's water woes, shake their heads at that. Westlands farmers note that their fields are among the most water efficient anywhere.

"We just have to stay in line until we get someone in the White House who is going to listen to us," Mr. Coburn said. "This is about politics, not rain."

Bargaining With Regulators

Indeed, even as efforts to cajole more water from Congress stalled this autumn, Westlands' managers and their lawyers were sealing a very different bargain with water regulators at the Interior Department.

Westlands' first farmers won Congress's blessing to tap the Central Valley Project, knowing that their fields had a flaw: Beneath them, a layer of clay kept water from draining away. Irrigating the fields would release salts and toxic elements like selenium and boron — which, trapped in the soil, would eventually turn the ground barren.

The 1960 law that extended federal water to Westlands included a solution: a 188-mile canal, built by the government and later to be paid for by Westlands, to carry the irrigation runoff away. But in the early 1980s, local opponents stopped the ditch at mile 85 amid a federal wildlife refuge, where selenium-laden irrigation runoff quickly wiped out birds and fish.

Since then, Westlands and the Bureau of Reclamation have battled over how to handle the toxic runoff. The safest and most cost-effective fix, buying and fallowing fully half of the Westlands fields, was rejected. But the remaining options, which would fallow less land and build desalination plants to purify the runoff, would cost billions — more than Westlands or the Bureau of Reclamation could afford or were willing to pay.

In September, the two sides settled their three-decade dispute. But the agreement has only spawned more contention among supporters and critics of Westlands.

Under the accord, Westlands frees the government of its obligation in the 1960 law to provide drainage, promising to solve the problem on its own. In return, the \$350 million debt Westlands still owes for the infrastructure that delivered federal water would be written off. Its 25-year contract for a share of Northern California river water would be made permanent, and its rate would become among the lowest available.

The negotiations took years. Three months after Mr. Obama took office, Westlands made a tactical switch, paying Tony Coelho, a former representative from California, to advise on the negotiations. Mr. Coelho, one of the most

powerful Democrats in Congress in the 1980s, once represented the district that included Westlands and the wildlife refuge that was devastated by selenium pollution.

He said that the notion of Westlands as a bully, flattening Northern Californians in its thirst for water, was a canard.

“It takes two sides to have a fight,” he said in an interview. “The people in the Bay Area haven’t been pansies. They’re more effective, I would say, than Westlands in preventing Westlands from doing things, and as a result, a lot of people are going out of business because water hasn’t been there.”

That is not a universal view.

“Every study I’ve seen, farmers make more money when there’s drought than when there isn’t,” said Mr. Beard, the Bureau of Reclamation director under President Clinton. “I wouldn’t be at all surprised if they end up on the top of the heap again.”

An Expensive Campaign

The environmental curbs that San Joaquin Valley farmers blame for their water shortages might have been lifted by state and federal legislators years ago, but for one hitch: Californians appear to support them.

In early 2013, Westlands placed a million-dollar bet that it could change that calculus.

That March, a retired Mexican diplomat, Martha Elvia Rosas, held a news conference in Fresno to introduce a new group, El Agua Es Asunto de Todos — an effort, she said, to give Latinos a louder voice in the debate over drought.

Ms. Rosas promised a campaign on Spanish-language radio, television, social media and in newspapers to show Latinos how important water was to their future.

And she played commercials that would soon blanket Spanish-language media: ordinary Latinos in cars and on doorsteps, delivering a simple message: “Sin agua, sin trabajo.” No water, no work.

An account of the announcement stated that El Agua was financed by donations from Ms. Rosas' friends, family and local community leaders. But Westlands records show that the group emerged from a \$915,000 contract between the water district and a Manhattan political campaign firm, the Fenenbock Group. A Los Angeles casting agency takes credit on its website for providing the Latinos in the commercials. The social media campaign and other emblems of support, from El Agua posters and stickers to El Agua hand fans, were produced by a New York creative agency. The San Francisco studio that produced the commercials states that the campaign's aim is to "generate voter action" in the face of Northern Californians' efforts to cut off farm water supplies.

Mr. Amaral, Westlands' deputy general manager, denied that, calling El Agua "purely an educational initiative." As a quasi-governmental agency, he said, Westlands is barred from promoting political initiatives.

Michael Fenenbock, the architect of the campaign, said it had vaulted water from a nonissue among California Latinos to a top concern. Moreover, he said, many Latinos now see environmental regulations as the cause of water shortages, and farmers as sympathetic figures.

"It's been explosive," Mr. Fenenbock said, adding that many Latinos now "very strongly support what we think is the centerpiece of the debate: a reliable water supply that is very much on the side of agriculture."

The Fenenbock Group has spent \$700,000 on ads this year and could spend \$3 million in 2016 as election-year interest in water heats up, said Daphne Weisbart, the firm's chief executive and Mr. Fenenbock's wife. Westlands financed most of the group's operations in 2013, but Ms. Weisbart said that a number of agricultural water districts now pay for the ads.

Westlands' financial records indicate that it has paid nearly \$250,000 since 2014 to a consulting company run by Ms. Rosas, and Westlands continues to pay virtually all of El Agua's \$14,000-a-month operating budget, Ms. Rosas said.

Ms. Rosas insisted that Westlands received nothing in return.

"They do not dictate what we say," Ms. Rosas said. "We have made it clear from the start that we are in charge of this. This is our project, they are not in control."

But Mr. Fenenbock said he was contemplating forming an El Agua political arm. Its contributions would carry weight with politicians, he said, because among many California Latinos, what El Agua says about water is taken as the truth.

“The brand,” he said, “is golden.”

Correction: January 1, 2016

An article on Thursday about lobbying efforts by California farmers to get more irrigation water referred incorrectly in some editions to the location where the Sacramento and San Joaquin Rivers meet. It is east of San Francisco, not west.

Correction: January 8, 2016

A picture caption on Dec. 31 with the continuation an article about lobbying efforts by California farmers to acquire more irrigation water misidentified the type of trees shown in the grove. They are pistachio trees, not cashew trees.

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