

The defeat of the Peripheral Canal proposal on the June ballot far from ended the California water war. Where does the state go from here? One opinion is expressed in the following article by Antonio Rossmann, a San Francisco lawyer whose clients include Inyo County, which is attempting to preserve its groundwater supply, and the Tejon Ranch Company, which is attempting to secure new supplies for development purposes.

By ANTONIO ROSSMANN

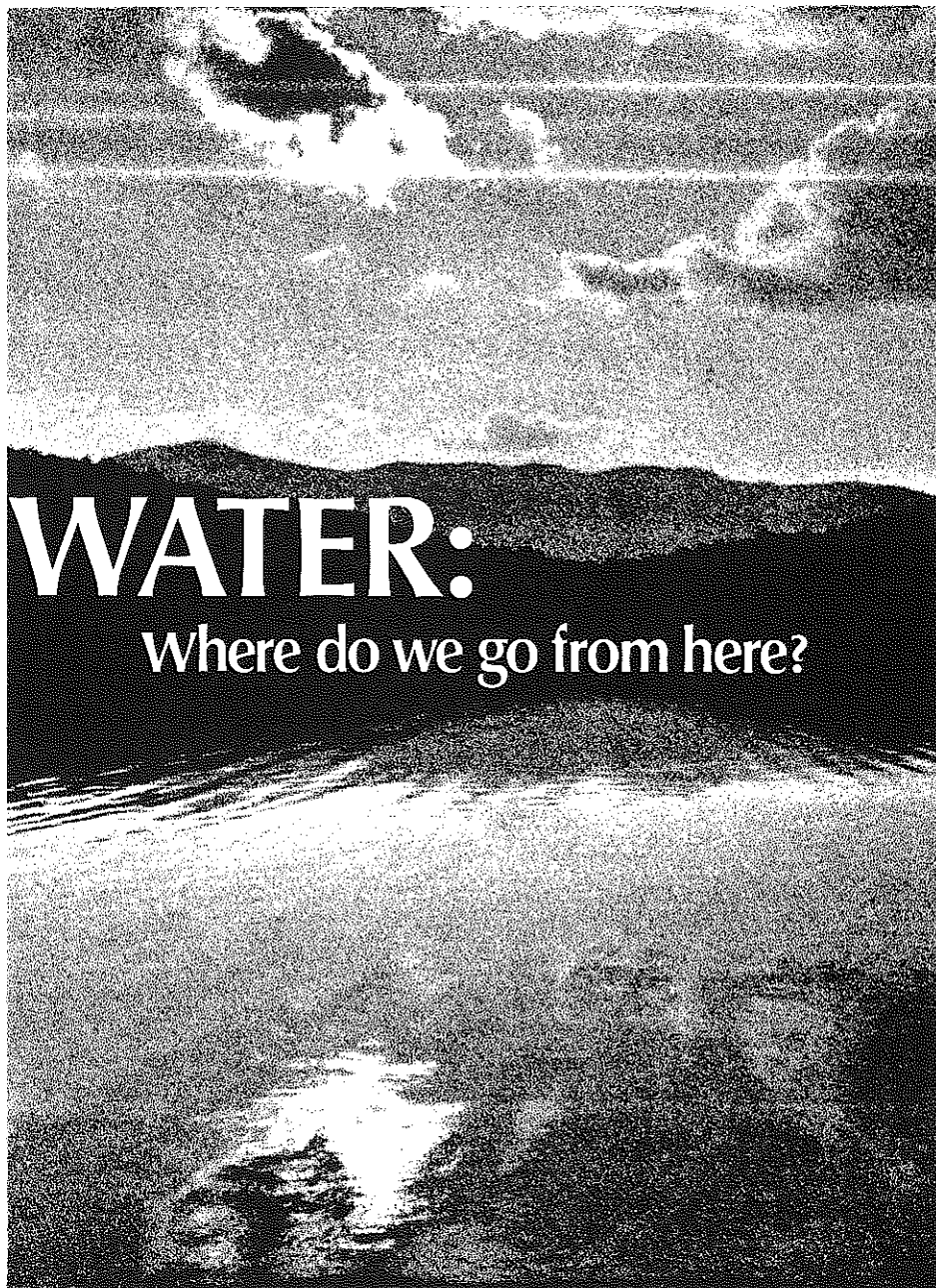
California voters made history by their forceful rejection of Proposition 9, the Peripheral Canal referendum. For the first time in this century, the California electorate has rejected a major water development project.

The pollsters inform us that the largest factor in most voters' minds was cost. If this premise is correct, then this election marks a turning point in our political history. Californians, even Southern Californians, have recognized that "growth" does cost something and have made a conscious decision not to sponsor growth at the tremendous cost of a promised new water supply.

The voters have not, however, resolved fundamental issues of California water policy or of the state's resource and economic development. Surely by the time a new governor and Legislature are seated in Sacramento next year, the forces of both development and preservation will contest anew the question of California water. This conflict will re-emerge because of two undeniable facts: We remain capable of extracting our remaining resources more efficiently, thereby providing a choice as to how and when to make new water available; and in the near future, if not now, legitimate needs for this water can be identified in California's relatively dry urban and agricultural precincts.

As an individual, I am not the best qualified to advise what form of additional plumbing, if any, we should add to our existing water establishment. As an attorney who chaired the State Bar debates on the Peripheral Canal, however, I can fairly recommend that the state must resolve several institutional issues before it can securely sponsor another major water project.

The unanswered questions outlined here led to my own painful decision — not reached until the last two weeks of the campaign — to vote against the canal. The agony of that decision flowed from deliberately



foregoing the clear advantages of Proposition 9: a potential physical improvement in the stability and environmental quality of the Sacramento Delta and San Francisco Bay; a significantly increased legal protection for the North Coast wild rivers, and for the delta's and bay's water quality; the savings (through more efficiently channeled water through the delta) of water that must now be released to combat salt water intrusion; the availability of this new supply to alleviate serious water problems in other parts of the state; and a mandate to complete the state's water plan with certainty of commitments and results.

Even Proposition 9's great advantages, however, and the good faith of the

state officials who proposed it, could not stand up against its deficiencies. Let water developers and conservationists, therefore, unite in addressing the following issues before asking the voters again to underwrite a significant reallocation of California's water resources.

OPINION

• **Data and experience.** Although the Peripheral Canal appeared capable of actually improving the flow of water in the delta without having to build additional dams or extracting new resources, many respected hydrologists questioned whether the state knew enough of the delta's fluid mechanics and ecology to predict ac-

curately the canal's impact. Therefore, first of all, we need a valid and widely accepted data base from which to make predictions. Similarly, major mitigation measures such as the proposed fish screens in the delta must enjoy more than the conceptual acceptance that they received from some experts, and which they never earned from many rational skeptics in the scientific community.

• **Participation of the federal government in maintaining state water quality standards.** Although the federal compliance issue received slight public attention in the Proposition 9 debate, in actuality it emerges as one of the most troubling questions in contemporary California water operations. Can the federal government ignore state water-quality standards in pumping from the delta for the federal Central Valley Project? At present the federal government disclaims any duty to adhere to state water standards, and the courts have not completely resolved this issue. If the massive federal project can be operated without constraint of state law, then state water supplies alone must be increasingly devoted to maintaining ecological balance in the delta. Before we make it possible for even more water to be extracted from the north or from the delta, we need a surety that the federal government will not take so much water as to render it impossible or extremely costly to maintain state water quality.

• **A more equitable cost policy.** Had the State Water Project been augmented by the supplies of the Peripheral Canal, it would have been paid for largely by Southern California's potential users. The water itself, however, for at least two or three


decades would have been primarily used in Kern County at a dramatically subsidized price. The subsidy would have been paid by Southern Californians as a cost of insuring "entitlement" to their share of the water when their needs eventually materialized — perhaps not until the 21st century.

While there is nothing inherently evil about applying surplus water to Kern agriculture with adequate controls, the election results show that many Southern Californians do not want to pay for water that they are not presently using — and certainly do not want to subsidize the use of that water in another part of the state. The pricing mechanisms of the existing contracts between the state and its water suppliers must therefore be modified to provide that the real cost of water is attributed to its users, both presently and into the next century.

• **Institutional water reform.** Although Proposition 9 included specific protections for the delta and wild rivers, it did not embrace the comprehensive water-law reform recommended in 1978 by the Governor's Commission To Review California Water Rights Law. At present, no state law requires groundwater management in overdrafted basins, and no specific statute enforces a requirement for conservation of existing supplies as a prerequisite to extraction of new resources. Without these missing ingredients, water will continue to be used unwisely and expensively. We simply won't be applying our best tradition of "making the most of what we've got." (The Water Resources Initiative which has qualified for the November ballot includes these measures.)

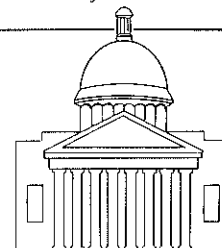
• **Restraint and stewardship.** The greatest hurdle to extraction of future supplies from north to south is that of mistrust. The fact that more than 90 percent of the electorate north of Santa Barbara rejected the canal amply reveals a decisive popular finding that Southern California water practices and policies are not satisfactory. The hard evidence regrettably supports this deeply felt attitude. Los Angeles, in the face of severe censure by state officials and public opinion, continues to exacerbate the distress of the Owens Valley and Mono Lake. Neither the Los Angeles Department of Water and Power (LADWP) nor its Metropolitan Water District (MWD) offered to mitigate this harm if Proposition 9 were enacted to make new supplies available.

Southern California's insensitivity is indicated by the reluctance of its political leaders to recognize that water constitutes a constraint on expansion in their semi-arid region. These officials should plan their communities with an attitude of trusteeship toward the precious resources needed to sustain them.

Resolution of this final issue — stewardship — will obviously require the greatest human efforts of perception, empathy and change of fundamental attitude. But the wisest leaders of Southern California will be those who recognize that Northern Californians can unite in a 90 percent vote to enforce this change of attitude, and that their fellow southerners (altruistically as well as practically) will demand it. These leaders will also be the ones who survive — and who give effect to the reality that our state is a single entity, whose waters must be conserved and shared by us all. 



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