



Westlands Water District



June 8, 2016

The Honorable Sally Jewel
Secretary
U.S. Department of Interior
1849 C Street, NW
Washington, D.C. 20240

The Honorable Penny Pritzker
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, D.C. 20230

Dear Secretaries Jewell and Pritzker,

The undersigned represent the majority of public water agencies that contract with the United States for delivery of Central Valley Project (CVP) water. The CVP is the nation’s largest reclamation project and extends throughout the heart of California, from the Cascade Range in the north to the Tehachapi Mountains in the south. The CVP also serves water to coastal areas of California, including Santa Clara and San Benito Counties. While protecting the Central Valley, which today has a population roughly the size of Colorado, from unpredictable water shortages and floods is a major objective of the CVP, it also improves navigation, provides for recreation, enhances water quality, protects and recharges groundwater, supplies municipal and industrial water, generates electric power, and aims to protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley and Trinity River. The CVP provides these benefits to 7 of the nation’s top 10 agricultural counties, extensive wetland habitat second only to the Florida Everglades for waterfowl and terrestrial species alike, many of them listed, and to millions of Californians from rural, often disadvantaged agricultural communities, to the world famous “Silicon Valley”. In turn, California provides much for the country and the world, from 50 percent of the nation’s fruits, nut, and vegetables, to vital links in the international Pacific Flyway, to cutting edge technology. By providing a reliable and affordable water supply, it has been estimated the CVP has returned more than 100 times the \$3 billion investment by the United States. In short, the CVP is not only a vital part of California’s economic, social, and cultural fabric, its affect is global – it is part of who we are.

For the past 25 years, Reclamation’s ability to meet congressionally authorized project purposes has steadily declined, with especially devastating socio-economic effects along the Westside of the San Joaquin Valley. At the heart of this decline is a series of choices made by federal regulators to implement

actions aimed at complying with the Endangered Species Act and Clean Water Act. The past 9 years in particular have been exceptionally devastating as the constrained operational flexibility of the CVP has been confounded by natural drought, compounding the severity of chronic water supply shortages. In 2014, the first time in the CVP's history, Reclamation was unable to make any CVP water available to over 2 million acres served by agricultural water service contractors, or to fully meet its obligations to deliver substitute water supplies to the San Joaquin River Exchange Contractors and level 2 refuges supplies to managed wetlands in the San Joaquin Valley. This inability was repeated in 2015. If, after 25 years, billions of dollars spent, and millions of acre-feet dedicated to fisheries management there was any demonstrable improvement in the status of targeted species, then one could perhaps rationalize the untold human costs and suffering. Sadly, there has been no improvement in the abundance of targeted species – just the opposite in fact.

Now we are being told by the United States Fish & Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) that even more must be taken from the CVP in the name of protecting the Delta smelt and winter run Chinook salmon. We understand that winter run and Delta smelt populations are at critically low levels because the people we serve have suffered a disproportionate burden of that failure. We also understand that numerous independent scientific advisors have warned us for decades that if we do not implement comprehensive solutions, we are bound to fail. And that is exactly what has happened. Yet, it appears the federal fish agencies are proposing to repeat a “more of the same” strategy. Where does it end? Why is the CVP mitigating for impacts and circumstances that are neither caused by the CVP nor within its control? What are the implications to the future financial viability of the CVP and communities that rely upon it for water? What does this mean to a nation dependent upon California's agricultural production? And what are the implications to our other social priorities, such as worker safety, food safety, pesticide safety, and reducing carbon emissions all at an affordable price? Undoubtedly you will hear about studies and experiments to address other stressors, but you likely will not hear about meaningful, proportionate, comprehensive actions. It is essential that the fishery agencies exercise their considerable discretion in achieving balanced outcomes consistent with the state's legislative mandate to achieve the co-equal goals of improving ecosystem health and providing a more reliable water supply.

Throughout the worst of the drought, CVP contractors have collaborated closely with each other and Reclamation to help develop and implement solutions to problems stemming from the realities of resource and regulatory constraints. Much of what was achieved to protect listed species was the direct result of CVP contractors' contributions. Regrettably however, the same level of openness, collaboration, and transparency has not manifested with the FWS or NMFS. On his first day in office, President Obama signed a Memorandum on Transparency and Open Government, directing the development of an Open Government Directive to instruct executive departments and agencies to take specific actions to advance the principles of transparency, participation, and collaboration. This initiative has only been expanded since. We call upon the FWS and NMFS to fully embrace the letter and spirit of the Administration's vision by inviting public water agencies and others to interact directly in the collection, analysis, and interpretation of data and development and implementation of species management actions. The time for a new, comprehensive approach is now.

With respect to actions being proposed for the summer and fall of 2016, there is much concern regarding the uncertainty of CVP and State Water Project operations, the scientific and legal basis for proposals, the potential yet unanalyzed impacts, the biological efficacy, the costs, and the lack of

alternatives, and absence of public transparency, participation, and collaboration. Given the potentially significant human and environmental impacts, we urge you to prevent any action that would result in deviation from Reclamation's April 1, 2016, water operations plan or redistribution of resources, including financial, until our concerns are resolved. To help guide our efforts, CVP contractors propose the following principals be applied to future development of FWS and NMFS actions:

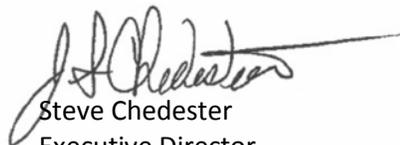
- 1) Integrate public water agencies expertise into the process. Public water agencies have unique capabilities, expertise, and fiduciary duties unrepresented by state and federal agencies;
- 2) Develop and implement comprehensive solutions, in accordance with independent scientific advice, to improve the efficacy, accountability, and success of environmental management actions;
- 3) Refrain from implementing actions that have highly uncertain predicted beneficial outcomes but highly certain predicted adverse impacts – balance is key;
- 4) To the extent an action is beyond the regulatory mandate, ensure that the resources dedicated - human, natural, and financial - do not result in redirected adverse impacts or undermine prior commitments.

We have a long history of constructive, effective, and cooperative efforts among each other, the communities we serve, and with state and federal agencies. We can expand upon this successful track record to bring about better solutions to protect, restore, and enhance the species of mutual concern. As we sit today, Reclamation cannot explain how it will operate this summer, fall, or into next year because of regulatory uncertainty. This is an unacceptable situation for the 25 million Californians dependent upon the operations of the CVP and SWP. The future of the CVP, Central Valley agriculture, and California are dependent upon improved outcomes and we ask for your cooperation in helping us achieve this goal. We look forward to continuing this conversation with you as soon as possible and stand ready to meet at any time.

Sincerely,


Jeffery P. Sutton
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San Luis & Delta-Mendota Water Authority


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David Murillo, Regional Director, U.S. Bureau of Reclamation

John Laird, Secretary, California Natural Resources Agency

Mark Cowin, Director, California Department of Water Resources

Charlton Bonham, Director, California Department of Fish & Wildlife

Congress of the United States
Washington, DC 20515

June 9, 2016

The Honorable Sally Jewell
Secretary
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1849 C Street, NW
Washington, D.C. 20240

The Honorable Penny Pritzker
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, D.C. 20230

Dear Secretaries Jewell and Pritzker:

We are writing to you to express our significant concern with actions being taken, or contemplated to be taken, by the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) that would severely hamper the ability of the Central Valley Project (CVP) and California State Water Project (SWP) to meet the needs of Californians, both North and South and East and West. These actions amount to an overreach outside of the existing legal parameters and will have devastating effects on our State and constituents.

Over the last four years, as California has struggled to cope with unprecedented water supply shortages, Congress has worked diligently to address the regulatory constraints hindering the CVP and SWP. Throughout this timeframe, including in testimony before Congress, your agencies have continually maintained the water supply shortages are primarily the result of naturally occurring drought, not regulation. We have been assured that once the winter rains and snow returned so would California's water supply. Despite storage levels near or above 100% in California's major reservoirs, we understand both FWS and NMFS are now proposing separate, contradictory actions that will significantly reduce the water supply available to Californians.

NMFS Actions

It is our understanding that NMFS is proposing to significantly limit releases from Shasta Reservoir through the summer and into the fall. This proposal is contrary to the concurrence letter issued by NMFS on March 31, 2016, which approved Reclamation's operations plan to release up to 10,500 cubic feet per second (CFS) of water from Shasta Reservoir. The operations plan put forward by Reclamation and approved by NMFS was expected to produce better than 97% temperature related survival for salmonids. However, we now hear that NMFS proposes to further limit Shasta releases to 8,000 CFS. We understand the concern about the winter-run salmon, but NMFS's proposed action is now serving to provide layer upon layer upon layer of protection with little measurable return.

The increased reduction in releases NMFS is seeking will cost the CVP approximately 400,000 acre-feet of water. Water for which crops have already been planted, loans have already been issued, products ordered, and habitat management plans implemented. NMFS' proposal will also likely result in Reclamation reducing water allocations, failing to meet yet again its obligations both North and South, including to the San Joaquin River Exchange Contractors, the Tehama-Colusa Canal Authority, and state, Federal, and private wetlands in the San Joaquin

Valley. This could also result in another call upon water from Millerton Lake to compensate for the any Delta pumping reductions, adversely impacting Friant Unit contractors of the CVP. In a year when Shasta Reservoir went from near empty to almost full, these results would be an absolute travesty and embarrassment for the Federal Agencies. Our constituents deserve better.

FWS Actions

Meanwhile, as NMFS is aiming to reduce San Joaquin-Sacramento River Delta outflow through the summer, FWS is proposing to increase it. As a result of information provided by Reclamation, FWS has requested up to 300,000 acre-feet of water be purchased to further increase Delta outflow this summer for Delta smelt – something not required by the Delta smelt biological opinion. Reclamation believes it may be able to acquire 85,000 acre-feet but 50,000 acre-feet of this water is in Shasta Reservoir, so it may not be available due to the action of NMFS limiting releases. These actions are creating a clear conflict between your agencies that must be resolved.

It is unclear how Reclamation will acquire the water being demanded by FWS given those amounts are simply not in the system and that based on current prices, the cost could approach \$500 million. All the more troubling, we have been advised that absent the acquisition, FWS is threatening to force reinitiation of consultation of the Delta smelt biological opinion so that the water may be taken instead. This is unacceptable.

As you are aware, numerous independent science panels have identified a number of stressors contributing to the decline of Delta smelt. The FWS has acknowledged this reality but thus far has failed to act upon these recommendations. To continue to single out operations of the CVP and SWP as the sole management tool to protect and recover Delta smelt is to continue the failure. Communities across California continue to suffer from the drought and regulatory restrictions in place that prevented us from capturing much needed water this past rainy season from El Nino-related storms. Re-writing the biological opinion, based on what FWS is seeking to do now, we can only assume will result in additional restrictions in the Delta, on pumping, and releases from our states' reservoirs. How can our communities be expected to recover if FWS continually puts up new obstacles to our communities getting the water they desperately need?

Questions Raised by NMFS and FWS Actions

The actions by NMFS, FWS, and Reclamation raise a series of questions on process and statutory authorizations of the agencies. How can NMFS reduce releases from Shasta Reservoir after already signing-off on Reclamation's operations plan, particularly in the absence of supporting science? Under what authority can FWS establish summer outflow requirements for Delta smelt that are not required by relevant the biological opinion, again in the absence of supporting science? What funds will Reclamation use to acquire water demanded by FWS for summer outflows? How does the Interior Department and the Commerce Department plan to resolve clearly contradictory actions being taken or proposed by FWS and NMFS?

These actions also raise questions of a more technical nature. What is NMFS and FWS' explanation and justification for the actions being proposed? What is the scientific basis for

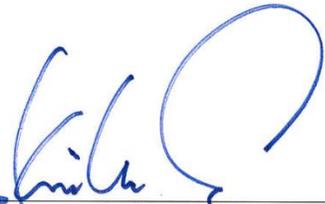
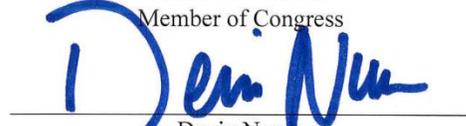
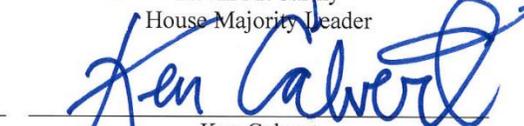
these actions? Are there any alternatives to these actions being considered that would have less of a water supply impact on our constituents? What are the population benefits to listed species and trade-offs that would result if these actions are implemented? What rubric will NMFS and FWS use to determine if these specific actions have been successful or a failure? How will already announced water allocations be impacted, and what will the Federal government do to ensure our communities get the water we desperately need?

Collectively, we have worked hard to improve California's water supply situation and understand well its complexities. We are concerned the actions being considered by NMFS and FWS have not been adequately vetted, will result in disproportionate harms to our constituents, potentially further harm the environment and listed species, and set us years back to an era of litigation and conflict, contrary to the Administration's initiatives toward government transparency, participation and collaboration.

The public has a right to understand the choices being made and the benefits expected so that they may evaluate and determine the sacrifices they will be certainly called upon to make. Accordingly, we request that our questions be answered prior to FWS or NMFS taking any action that deviates from Reclamation's operational plan that was approved on March 31, 2016.

We look forward to your prompt response.

Sincerely,

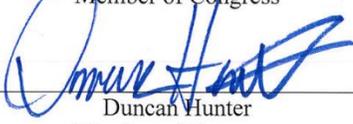
	
David G. Valadao Member of Congress	Kevin McCarthy House Majority Leader
	
Devin Nunes Member of Congress	Ken Calvert Member of Congress
	
Jeff Denham Member of Congress	Tom McClintock Member of Congress
	
Doug LaMalfa Member of Congress	Paul Cook Member of Congress



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