Congress of the United States
Washington, DC 20515

June 9, 2016

The Honorable Sally Jewell
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:

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

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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
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Stephen Knight
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Mimi Walters
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Edward R. Royce
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Dana Rohrabacher
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Jim Costa
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