

Congress of the United States

April 15, 2020

The Honorable Gavin Newsom
Governor of California
State Capitol, Suite 1173
Sacramento, CA 95814

Dear Governor Newsom,

California is facing a real risk of a fundamental breakdown of our water delivery system. We urge you to take what likely is the last remaining opportunity over the next few weeks to help preserve the longstanding tradition of successfully coordinating the operation of the State Water Project and federal Central Valley Project. We believe the most plausible path forward is through continued negotiation and the voluntary agreement process.

We understand that an agreement between the necessary parties was close but has not yet been reached. Early implementation of such a voluntary agreement when fully negotiated could provide a framework to allow the State to settle its lawsuit with the federal government and resolve the differences between the federal biological opinions and the State's incidental take permit for the long-term operation of the State Water Project. Early implementation will also help to restore threatened and endangered fish populations. We fear if an agreement is not reached, all parties will enter prolonged litigation which will set us back for years to come.

We know you agree that continued coordinated operation of the state and federal water projects is necessary to ensure a reliable water supply for diverse uses throughout California, including urban, agricultural and environmental uses. Together, these two projects provide water for an estimated 30 million Californians, nearly 4 million acres of the most productive agricultural land in the world, and many ecosystems—including managed wetlands—on which fish, waterfowl, and other wildlife rely. Historically, these projects have operated in a coordinated manner, with each project meeting its individual purpose while operating within a framework that enables both projects to jointly meet water supply and environmental obligations.

The longstanding coordinated operation of the two projects is threatened by the conflict between the federal biological opinions and the State's recently issued incidental take permit. This conflict, if allowed to continue, will not only reduce water deliveries just as drought may be returning to California, but also block the successful negotiation of voluntary agreements to meet Delta water quality requirements, which we support. To this end, you and your team have made substantial efforts, yet we have heard significant frustration that the lawsuit and the incidental take permit have complicated finding a needed solution.

Fortunately, we believe early implementation of voluntary agreements would provide an important foundation to avoid further conflict. To date, state and federal agencies simply do not agree on the level of Delta outflow required to adequately protect smelt, salmon, and other listed species. However, these issues do not need to be resolved through litigation if a framework for

voluntary agreements can be reached with the necessary parties, and early implementation provides interim protections for listed fish species acceptable to the state.

The State's incidental take permit already includes a provision allowing its modification to allow reliance on voluntary agreements, if approved by the State Water Resources Control Board. We urge you to refine this provision to also allow reliance on early implementation of voluntary agreements when fully negotiated, prior to approval by the State Water Board, to meet Delta outflow needs as well as to continue necessary coordinated operations of the two projects. We are confident that public water districts and users will commit to work with your administration on such an approach. Securing additional outflow and implementing adaptive management will not only achieve environmental benefits in the near term, it will also provide a foundation to bring all interested parties back to the table so that a long-term comprehensive agreement on Delta water quality protections can be achieved with reduced litigation.

California water policy is at a critical juncture. Without forceful leadership by state and federal political leaders, our state will slip back into the "old binaries" referenced in your original State of the State address. We look to your leadership to help resolve these critical issues and ensure coordinated water supply for all Californians. We stand ready to help achieve that outcome in any way we can. Thank you for considering our views.

Sincerely,



Dianne Feinstein
United States Senator



Jim Costa
Member of Congress



John Garamendi
Member of Congress



Josh Harder
Member of Congress



TJ Cox
Member of Congress

CC: The Honorable Xavier Becerra, Attorney General
The Honorable Wade Crowfoot, Secretary for Natural Resources
The Honorable Jared Blumenfeld, Secretary for Environmental Protection