

# Congress of the United States

Washington, DC 20515

September 13, 2024

Mr. Karl Stock  
Regional Director  
U.S. Bureau of Reclamation  
California-Great Basin Region  
2800 Cottage Way  
Sacramento, CA 95825

Ms. Jennifer Quan  
Regional Administrator  
NOAA Fisheries  
West Coast Region  
1201 Northeast Lloyd Boulevard, Suite 1100  
Portland, OR 97232

Mr. Paul Souza  
Regional Director  
U.S. Fish and Wildlife Service  
Pacific Southwest Region  
2800 Cottage Way, Suite W-2606  
Sacramento, CA 95825

Dear Director Stock, Director Souza, and Administrator Quan:

As we continue our combined efforts to build a more sustainable and durable future to resolve California's long-standing water challenges, we write to express concerns that this progress will be threatened by components of the Bureau of Reclamation's (Reclamation) draft Environmental Impact Statement (EIS) for the Long-Term Operations (LTO) of the Central Valley Project (CVP) and State Water Project (SWP). This also includes the associated draft Biological Opinions from the U.S. Fish & Wildlife Service (FWS) and National Marine Fisheries Service (NMFS). We believe that the proposed approach prioritizes species recovery efforts beyond those required by federal law and fails to strike the appropriate balance between operational flexibility for the CVP and SWP and species protection efforts. Ultimately, we are concerned that the proposed operations may undermine the more than \$3 billion in funding brought to California water projects through the Bipartisan Infrastructure Law and Inflation Reduction Act.

The CVP and SWP were authorized and constructed for multiple purposes, including delivering water for consumptive uses, such as irrigation and drinking water. This is noted in the 2009 Delta Reform Act, which established "coequal goals" of securing a reliable water supply for California and protecting, restoring, and enhancing the Sacramento-San Joaquin River Delta ecosystem. Proposals to modify the operations of the CVP and SWP should appropriately balance the multiple purposes for which the water projects were authorized by Congress and be consistent with Congressional intent.

To this end, the 1992 Central Valley Project Improvement Act (CVPIA) specifically created equal priority for irrigation use and fish and wildlife mitigation, protection, and restoration use of CVP water. When CVPIA was enacted, 800,000 acre-feet of agricultural water supply was reallocated for environmental use, with a statutory requirement for Reclamation to develop a

plan to restore the supplies lost by agricultural contractors. Unfortunately, to date, that plan has not been developed nor implemented.

With this history in mind, we are concerned the preferred operations (Alternative 2b) evaluated in the Draft EIS are structured to protect native fish species without providing an adequate balance to the impacts on the delivery capability of either the CVP or SWP. The preferred alternative ignores the equal statutory priority of water use for consumptive purposes and the contractual obligations to optimize deliveries and guard against conditions of shortage. In addition, at least some of these actions are not supported by best available science developed over the last decade and are not anticipated to have observable effects on species survival, yet they result in significant water supply reductions.

Moreover, the proposed operations include actions to balance CVP operations with SWP operations that would assist coordinated operations to benefit the SWP's compliance with the California Endangered Species Act (CESA), yet this state law does not apply to operations of the Central Valley Project. We have concerns that the application of CESA to CVP operations leave the proposal vulnerable to litigation and further operational uncertainty.

In addition, we understand that the proposed operations of the Trinity Division of the CVP are under Endangered Species Act consultation and are likely to be modified. This is particularly troublesome because the Trinity River Division has historically been a significant source of cold water for the protection of salmon in the Sacramento River. We reiterate concerns that segmentation of the Trinity Division may require the agencies to conduct an additional re-consultation and lead to inconsistent requirements across the CVP.

We thank the agencies for their engagement throughout this process, including extending the public comment periods for the FWS draft BiOp and the opportunity for supplemental comments on the NMFS BiOp. As this process continues, we urge the agencies to provide complete draft Biological Opinions for public water agency review and comment, with adequate time for technical, legal, and policy review. Public and system expert input on full and complete documentation is critically important to develop comprehensive policy that is based upon the best available science and is legally durable.

As the agencies finalize the proposed operations and the associated biological opinions, we urge the agencies to address the above-stated concerns in a Final EIS that balances the needs of all stakeholders and equally balances multiple project purposes.

Thank you for your prompt attention to this matter.

Sincerely,



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Jim Costa  
Member of Congress



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John Garamendi  
Member of Congress



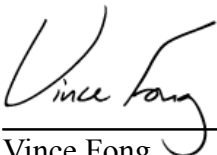
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David G. Valadao  
Member of Congress



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John S. Duarte  
Member of Congress



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Vince Fong  
Member of Congress