

**Congress of the United States**  
**Washington, DC 20515**

June 16, 2009

The Honorable Peter Orszag, Director  
Office of Management and Budget  
Executive Office of the President  
725 17th Street, NW  
Washington, D.C. 20503

Dear Director Orszag:

This letter is writing to express our concern about a matter related to the Information Quality Act ("IQA") and guidelines established by OMB and the U.S. Bureau of Reclamation ("Reclamation") to implement that statute. As you may be aware, the State of California is experiencing a water supply crisis precipitated by a multi-year drought combined with the imposition of requirements by federal agencies to protect threatened and endangered fish species in the Sacramento-San Joaquin Delta ("Delta"). The Delta is a major water hub for the state; it delivers water to 25 million Californians and millions of acres of farmland. California Governor Arnold Schwarzenegger recently declared a state of emergency in response to the water supply crisis. Drought conditions and regulatory restrictions on water deliveries are causing devastating economic and business losses to the State of California: agricultural revenue losses exceed \$300 million to date and could exceed \$2 billion in the coming season, and it is expected that water delivery reductions will cause more than 80,000 lost jobs, driving unemployment to 40% in some areas within California's Central Valley.

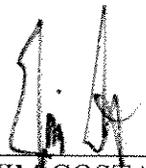
While the drought is a natural phenomenon, regulatory restrictions on water exports are a direct result of government policies, which should be based on sound science and well-documented reasoning. But we are concerned about the manner in which federal agencies may have incorporated scientific information into the decision-making process in this instance. In particular, it has come to our attention that a coalition of agricultural interests (i.e., the Coalition for a Sustainable Delta or "Coalition") filed a complaint with Reclamation regarding repeated citations to an untested hypothesis in Reclamation's Central Valley Project and State Water Project Operations Criteria and Plan Biological Assessment ("Biological Assessment"). Findings in the Biological Assessment are incorporated into the U.S. Fish and Wildlife Service's Biological Opinion, and the Biological Opinion ultimately dictates the operating conditions for the State Water Project and Central Valley Project, the state and federal facilities that pump water from the Delta. The complaint, filed on September 5, 2008, consisted of a Request for Information Correction to Reclamation pursuant to the IQA and associated guidelines. In the complaint, the Coalition requests the deletion of an untested hypothesis by Dr. William A. Bennett ("the Bennett Hypothesis"), which was relied upon for conclusions related to the delta smelt, a federally-listed species of concern in the Delta. According to a Freedom of Information Act response provided to the Coalition by Reclamation, that agency possesses no records supporting, documenting, or even describing the Bennett Hypothesis. In brief, the Coalition

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contends that an influential scientific document written by the agency relied on and utilized an untested hypothesis about which the agency has *no* information. The request was denied by Reclamation in a short letter, and on December 10, 2008, the Coalition appealed the decision and requested expedited consideration. On December 15, 2008, Fish and Wildlife issued their Biological Opinion, which contained references to the Bennett Hypothesis. As of the date of this letter, the Coalition has received no response to their appeal.

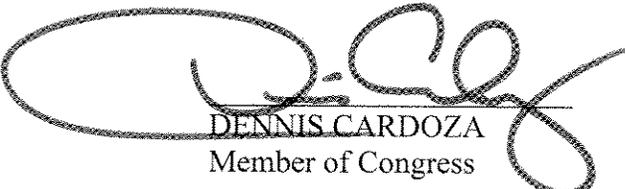
Millions of Californians have been directly impacted by the conclusions contained in Reclamation's Biological Assessment. Clearly, it is critical that information provided in the Biological Assessment represent the "best scientific and commercial data available". We are concerned both about the possibility that Reclamation may have disseminated and relied on information that does not meet applicable information quality standards and the lack of response to the Coalition's appeal. Because OMB is responsible for implementation of the IQA government-wide and in light of the high stakes involved, we respectfully request your attention to this matter. Consistent with your role in implementing the IQA, we would appreciate it if you would take responsibility for overseeing the Bureau's response to the Coalition's appeal and ensure that the response is based on a proper understanding of the IQA and its underlying purposes. Given the sensitivity of this matter, we ask that you or your staff follow up with us to provide an update as soon as possible. Thank you for your attention to this matter.

Sincerely,



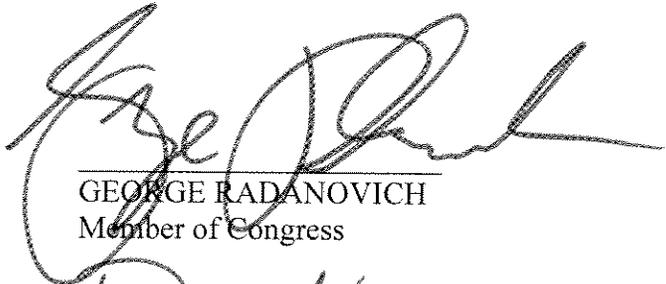
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JIM COSTA  
Member of Congress



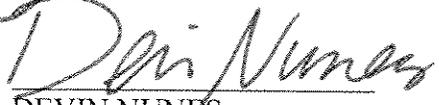
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DENNIS CARDOZA  
Member of Congress



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GEORGE RADANOVICH  
Member of Congress



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DEVIN NUNES  
Member of Congress

Enclosures