

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

April 26, 2010

The Honorable Gary Locke  
Secretary, U.S. Department of Commerce  
1401 Constitution Avenue, North West  
Washington, D.C. 20230

Dear Secretary Locke:

As you know, the Westside of the San Joaquin Valley of California is facing a continuing and severe water shortage despite an abundance of water in the watershed of the Sacramento-San Joaquin Rivers Delta. Especially in these times, every acre-foot of water is needed. We write to request your immediate attention and assistance to prevent unnecessary loss of water.

As this letter is being written, stored water is being released from Shasta Reservoir, because the reservoir is nearly full, and storage capacity is needed for flood protection. There is an abundance of water in the system to meet water quality standards in the Sacramento-San Joaquin Rivers Delta. Yet, this water cannot be rediverted downstream in the Delta due to pumping restrictions imposed under the biological opinion issued by the National Marine Fisheries Service ("NMFS") in June of 2009. As a result, tens of thousands of acre-feet are now flowing unchecked past the pumps and into the ocean. In these circumstances, implementation of the NMFS Biological Opinion must be more flexible.

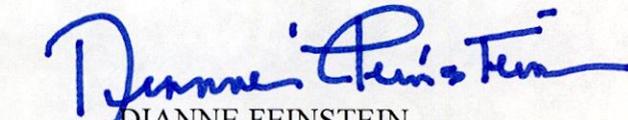
Currently, the outflow of fresh water from the Delta into San Francisco Bay is approximately 60,000 acre-feet per day. Meanwhile, as this water courses through the Delta, pumping by the Central Valley Project and State Water Project pumps is limited to 1,500 cubic feet per second, or 3,000 acre-feet per day. This limitation on pumping is a result of Action IV.2.1 of the biological opinion. But for this limitation, because of the abundant water in the system, right now the CVP pumps could be pumping at a rate of 4,250 cfs, or 8,500 acre-feet per day. Since April 1, when Action IV.2.1 took effect and began controlling operations, it has resulted in the loss of approaching 200,000 acre-feet of water supply for the CVP and SWP combined.

The current pumping restrictions provide uncertain benefits -- at best -- to the species they are intended to protect, and water is being lost. Importantly, to date the incidental take of the protected species at the export pumps is well within the levels anticipated and authorized in the biological opinion. Furthermore, the justification for the limit on exports has been called into question by the recent National Academy of Sciences review. Specifically, regarding Action IV.2.1, its report said "Given the weak influence of exports in all survival relationships (Newman, 2008), continued negotiation offers opportunities to reduce water use in this specific action without great risk to [steelhead]." *A Scientific Assessment of Alternatives for Reducing Water Management Effects on Threatened and Endangered Fishes in California's Bay Delta*, National Research Council (2010), at page 45.

At our urging, the Department of the Interior has already been more flexible in implementing the 2008 Fish & Wildlife Service biological opinion for Delta smelt, which allowed more water to be moved south of the Delta from January through March of this year. Given the current abundance of water in the system now flowing past the pumps to the ocean, the lower than anticipated levels of incidental take at the pumps, and the severe water shortage in California, we ask for similar flexibility from your Department in implementing the NMFS biological opinion so that more water can flow to the Valley now.

We urgently request your prompt attention and response to this request.

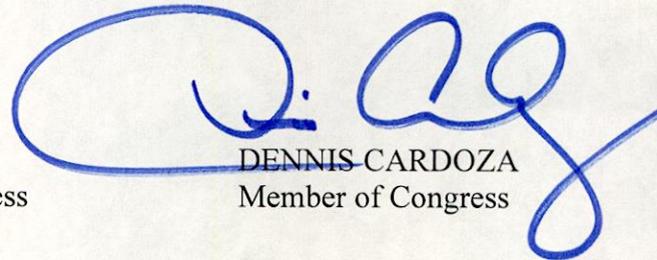
Sincerely,



DIANNE FEINSTEIN  
United States Senator



JIM COSTA  
Member of Congress



DENNIS CARDOZA  
Member of Congress

cc: Ken Salazar, Secretary of the Department of the Interior  
cc: Nancy Sutley, Chair of the Council on Environmental Quality