

Congress of the United States
Washington, DC 20515

August 8, 2022

The Honorable Deb Haaland
Secretary of the Interior
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Dear Secretary Haaland,

We write to express our concerns regarding the ongoing process at the Department of the Interior (Department) to reinstate consultation on the 2019 Biological Opinions (BiOps) for water deliveries from the Central Valley Project (CVP) and State Water Project (SWP). The process appears to be a highly irregular departure from common practice, provoking many questions. Specifically, we are concerned that outside entities may have exerted undue influence on the decision to begin this reconsultation and on the ensuing process.

In February 2020, the Trump administration released a Record of Decision (ROD) on CVP and SWP operations. Less than two years after the associated BiOps and the ROD were issued and accepted, however, the Department's Bureau of Reclamation (BOR) and the California Department of Water Resources requested reconsultation with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS).

This new consultation challenges the administration's assurance that it will be guided by the best available science. To this day, your Department's website states that the 2020 ROD is "*based on the latest science*"¹ and that "*Reclamation worked closely throughout this process with the U.S. Fish and Wildlife Service, NOAA Fisheries and the California Department of Water Resources.*"² Thus, reconsultation seems geared toward reversing decisions that were based on the latest available science. It also suggests that scientific findings are not welcome if they could result in new water supplies being redirected from environmental causes to California farms, families and communities that are suffering from severe water shortages.

During your Senate nomination hearing you stated:

*"I vow to lead the Interior Department ethically and with honor and integrity. I will listen to and work with members of Congress on both sides of the aisle. I will support interior's public servants and be a careful steward of taxpayer dollars. I will ensure that the Interior Department's decisions are based on science."*³

¹ Department of the Interior, Bureau of Reclamation, Bay-Delta Office, "Record of Decision for Central Valley Project Operations". <https://www.usbr.gov/mp/bdo/rodcvp.html>

² Id.

³ Senate Energy and Natural Resources, Hearing to Consider the Nomination of the Honorable Debra Haaland to be the Secretary of the Interior. <https://www.energy.senate.gov/hearings/2021/2/hearing-to-consider-nomination-of-the-honorable-debra-haaland-to-be-the-secretary-of-the-interior>

We have reached out to the Department multiple times but have not received a substantive explanation of the reasons for beginning reconsultation,⁴ a process expected to cost more than \$15 million of taxpayer money.⁵ Moreover, the Department has failed to show any new science that might serve as a basis for this decision. These circumstances lead us to suspect that external groups and political influence have influenced the decision to begin reconsultation in order to stop new water supplies from reaching millions of California households.

Furthermore, during your tenure as Interior Secretary, numerous complaints have been filed with the Inspector General (IG) concerning potential ethics violations by Department officials. These include the Director of the Bureau of Land Management possibly making false statements to Congress;⁶ the former Deputy Solicitor allegedly participating in a matter that could benefit his former client and his wife's current employer;⁷ and most egregiously, your own top attorney possibly having "violated a federal ethics law by taking part in matters involving her former employer and clients."⁸ Additionally, the federal watchdog group Protect the Public's Trust recently filed a complaint with the IG over potential reporting violations on your own financial disclosure report.⁹

Given the troubling pattern of potential ethics lapses within the Department, and your Department's unresponsiveness to our previous communications, we ask that you respond to the following questions and information requests as comprehensively as possible.

1. On September 30, 2021, the BOR and DWR requested reconsultation with the FWS and the NMFS.¹⁰ Who was involved in the decision to make the request? Were any political appointees or outside groups involved in any discussions leading to the decision to make the request? If so, please provide a comprehensive list.
2. Under your leadership, the Department requested reconsultation under the Endangered Species Act (ESA) due to "anticipated modifications to the Proposed Action that may cause effects to ESA-listed species or designated critical habitat not analyzed in the 2019 FWS and NMFS BiOps."¹¹ Please provide all records of discussion, meetings, emails, or any other forms of comments and communication related to the "anticipated modifications" and the scientific studies that your Department believes warrant modifications of the 2019 BiOps.

⁴ Letter from California Members of Congress, Leader McCarthy, Rep. Valadao, Calvert, Garcia, Issa, Kim, LaMalfa, McClintock, Nunes, Obernolte, and Steele, to Secretary Deb Haaland, Department of the Interior (October 21, 2021).

⁵ Letter from Department of the Interior, Bureau of Reclamation Contract Specialist, Sarah Kibathi to Congressional and Legislative Affairs Group Announcement of Contract Award over \$500,000,000, Reinitiation of Consultation on the Long-Term Operation of the Central Valley Project and State Water Project (July 25, 2022).

⁶ <https://thefederalist.com/2021/10/12/watchdog-group-files-interior-ig-complaint-over-tracy-stone-mannings-apparent-lie-to-congress/>

⁷ <https://dailycaller.com/2021/07/21/daniel-cordalis-ethics-complaint-interior/>

⁸ <https://www.washingtonexaminer.com/policy/energy-environment/senior-biden-official-likely-violated-federal-ethics-law-watchdogs-charge>

⁹ <https://thefederalist.com/2022/07/20/watchdog-files-complaint-after-wealthy-interior-secretary-haaland-reported-zero-assets-on-her-financial-disclosures/>

¹⁰ Department of the Interior, Bureau of Reclamation, Bay-Delta Office, "2021 Consultation on the Coordinated Long-Term Operation of the CVP and SWP". <https://www.usbr.gov/mp/bdo/lto/index.html>

¹¹ Id.

3. Please provide our offices with a copy of the September 30, 2021, request for reconsultation with the FWS and NMFS.
4. Please provide our offices with a copy of the October 1, 2021, agreement to reinstate consultation from the FWS and NMFS.
5. Please provide our offices with all records of discussion, meetings, emails, or any other forms of comments and communication from January 20, 2021, to August 8, 2022 related to the BiOps that were exchanged between the Department and any other parties that relate to the 2021 Consultation on the Coordinated Long-Term Operation of the CVP and SWP.
6. Please provide the solicitors opinion or advisory emails that explain the Departments statutory authority that authorizes reconsultation to “reconcile” the Federal BiOps with California’s Incidental Take Permit for Operations of the SWP.
7. Please provide the specific authority provision under 50 CFR 402.16 that was used to authorize reconsultation.
8. Did the amount or extent of take specified in the 2019 BiOp incidental take statement trigger reinitiation of consultation?
9. Please provide all copies of “new information” that was reviewed following the 2020 ROD and prior to the request to reinstate consultation that may affect listed species or critical habitat in a manner or to an extent not previously considered to warrant reinitiation of consultation. Include all BOR, Solicitor, and Secretary Office communications regarding the matter.
10. Between January 20, 2021, to August 8, 2022, have any new species been listed or has any new critical habitat been designated that may affect how Reclamation would operate the CVP in coordination with the SWP under the 2019 BiOps that requires reinitiation of consultation?

We note that in 2019, House Natural Resources Committee Chairman Raul Grijalva and Congressman Jared Huffman requested similar information from then-Secretary David Bernhardt about draft deliberative documents associated with the 2019 BiOps. Respecting Congress’ oversight role, the Department provided Members with a copy of the draft BiOps and more than 14,500 pages of relevant information including records of discussions, meetings, emails, and other communications.¹²

¹² Letter from Department of the Interior, Office of Congressional and Legislative Affairs, Christopher P. Salotti, to Chairman Raul Grijalva and Ranking Member Tom McClintock (February 5, 2020).

Letter from Department of the Interior, Office of Congressional and Legislative Affairs, Christopher P. Salotti, to Chairman Raul Grijalva and Ranking Member Tom McClintock (November 15, 2019).

Given your statements advocating transparency when you served on the House Natural Resources Committee, we anticipate you will promptly comply with our request and enable Congress to properly exercise its oversight functions.

We look forward to your timely response.

Sincerely,



David G. Valadao
Member of Congress



Connie Conway
Member of Congress



Ken Calvert
Member of Congress



Tom McClintock
Member of Congress



Young Kim
Member of Congress



Michelle Steel
Member of Congress



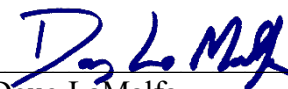
Kevin McCarthy
House Republican Leader



Dan Newhouse
Western Caucus Chairman




Darrell Issa
Member of Congress



Doug LaMalfa
Member of Congress



Jay Obernolte
Member of Congress



Mike Garcia
Member of Congress