

Congress of the United States
Washington, DC 20515

September 4, 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:

We wish to express our concerns regarding the draft Environmental Impact Statement (EIS) for the Long-Term Operation (LTO) of the Central Valley Project (CVP) and State Water Project (SWP), released by the Bureau of Reclamation (Reclamation) on July 26, 2024, and associated U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service's (NMFS) draft Biological Opinions. We believe that the current approach to Endangered Species Act consultation inappropriately prioritizes environmental goals unrelated to Endangered Species Act compliance at the expense of municipal and agricultural water supplies to support California's people and economy.

The CVP and SWP were authorized and constructed for multiple purposes, including delivering water for consumptive uses, such as irrigation and drinking water. Neither state nor federal law makes the delivery of water for consumptive uses subordinate to environmental uses. The 2009 Delta Reform Act established "coequal goals" of securing a reliable water supply for California and protecting, restoring, and enhancing the Sacramento-San Joaquin River Delta ecosystem. However, the current preferred operational proposal advanced by Reclamation and the California Department of Water Resources (DWR) seems to disproportionately favor environmental objectives over water supply objectives.

Furthermore, the 1992 Central Valley Project Improvement Act (CVPIA) was enacted to achieve a reasonable balance among competing demands for CVP water, including agricultural, municipal, industrial, and power contractors, alongside fish and wildlife requirements. CVPIA specifically created equal priority for irrigation use of CVP water and fish and wildlife mitigation, protection, and restoration purposes. CVPIA also gives irrigation priority over fish and wildlife enhancement.

Unfortunately, the current proposed operational approach makes delivering water for consumptive uses, including irrigation, subordinate to the use of water for the protection, restoration, and enhancement of protected fish species in the Delta. We believe the preferred operations (Alternative 2b) evaluated in the Draft EIS LTO on the CVP and SWP are structured to protect native fish species with limited balance to the impacts on the delivery capability of either the CVP or SWP and the associated water supply shortages that will be imposed on the communities reliant on water provided by the Projects. 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.

Moreover, the proposed operations include actions to limit CVP operations that are intended to enable the SWP's compliance with the California Endangered Species Act (CESA). This state law does not apply to operations of the federal CVP. More importantly, at least some of these actions, such as the Fall X2 component of the Summer Fall Habitat Action, are not anticipated to have observable effects on species survival, yet they result in significant water supply reductions.

We also believe that the process used to develop the proposed operations may violate state and federal laws. Federal and state agencies, including Reclamation, FWS, NMFS, the California Department of Water Resources, and the California Department of Fish and Wildlife agreed on proposed "Multi-Agency Consensus" operations prior to completion of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) processes and rendering a final decision. Additionally, it is our understanding that the proposed operations of the Trinity Division of the CVP have been segmented from operations of the CVP, violating the federal Endangered Species Act (ESA) and NEPA. 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 are also concerned that the federal agencies have failed to provide complete draft Biological Opinions for public water agency review and comment, notwithstanding section 4004(a)(4) of the WIIN Act. Exacerbating this problem, it now appears that these agencies are rushing to finalize the LTO for the CVP and SWP and associated Biological Opinions before the end of the year for transparently political reasons. It is disappointing that these federal agencies are not engaging all stakeholders, including those required by law, to develop Biological Opinions based on the best available science and data and that strike the appropriate balance between environmental protection requirements and the honoring of contractual obligations for consumptive water supplies.

Therefore, we urge the Bureau of Reclamation, FWS, and NMFS to reconsider the proposed operations and associated Biological Opinions to ensure that the regulatory framework balances the needs of all stakeholders, including municipal and agricultural water users. It is crucial to adhere to the statutory and contractual obligations to optimize water deliveries and guard against conditions of shortage while protecting the environment.

Thank you for considering our comments.

Sincerely,




David G. Valadao
Member of Congress



John Duarte
Member of Congress



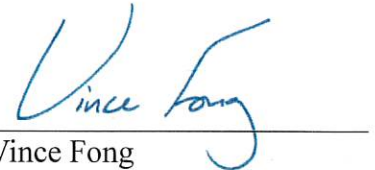
Ken Calvert
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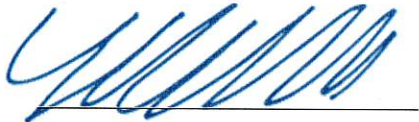
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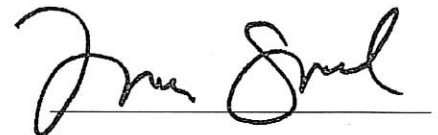
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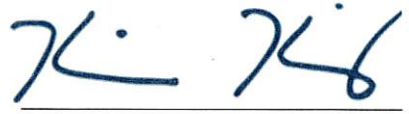
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