

Congress of the United States

Washington, DC 20510

September 4, 2009

The Honorable David Hayes
Deputy Secretary of the Interior
Department of the Interior
1849 C Street, N.W.
Washington DC 20240

RE: Review of Science Underlying Biological Opinions

Dear David:

We are writing to thank you for taking the time to meet with us, water agency managers, and farmers at Harris Ranch on August 26, 2009. As you are well aware, water supply shortages resulting from a three-year dry period and implementation of actions to protect at risk species in the Delta have resulted in disastrous impacts on the people who live in and work on the westside of the San Joaquin Valley. We must find sufficient ways to sustain irrigated agriculture in the Valley, maintaining the jobs it creates and the corresponding stimulus to the local and state economies; all this while we pursue the long-term solutions to the water supply and ecosystem crisis. The discussion on the 26th was both constructive and helpful. We appreciate your insights into actions that can be taken in the short term to provide water to this and other impacted areas of California that depend on water exported from the Sacramento River watershed, and your commitment to completing the necessary reviews and implementing such projects as the Two Gates and Intertie projects as quickly as possible.

We were particularly interested in the discussion concerning the biological opinions recently issued by the Fish and Wildlife Service and NOAA Fisheries and your commitment to exercise discretion afforded to the agencies under the Endangered Species Act to minimize unnecessary economic hardship. It was very apparent from the discussion that there are multiple complex scientific issues related to the Delta region and these biological opinions including various stressors yet to be explore or account for such as ammonia discharges, non-point source runoff pollutants, predatory species such as striped bass, non-native aquatic life competing for the available food supply and multiple unscreened diversions. We believe these are significant contributors to the decline of the Delta and the endangered species within it. Many of these stressors are not within the control of

the wildlife agencies or the Bureau of Reclamation and were thus not the focus of the opinions, but it is clear that these additional stressors must be taken into consideration.

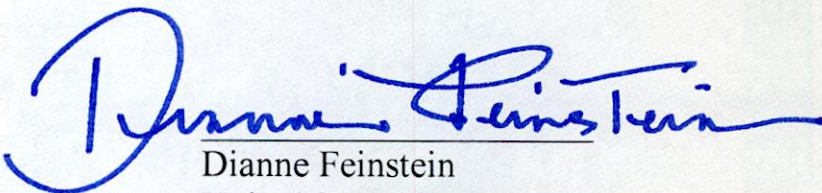
We also appreciate the fact that you have acknowledged the insufficient coordination between the two biological opinions prepared by the Fish and Wildlife Service on the Delta smelt and by the National Marine Fisheries Service on the salmon. Furthermore, as was also noted by many involved in the discussion, having the courts being engaged to make these important determinations is not the best way to balance the water needs of our state. We look forward to your action to remedy the situation. The fact that there are some thirty lawsuits pending indicates a serious problem that can only be resolved by taking action to reconcile the problem areas.

Your commitment therefore to announce with thirty days of the 26th how the Department of the Interior will proceed to obtain an independent review of these scientific issues is critical and greatly appreciated.

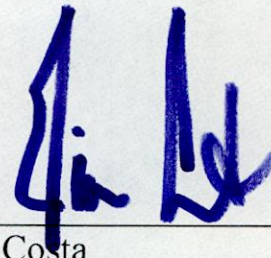
We share your concerns that this process must be public and transparent to avoid any suggestion that politics is influencing the outcome of scientific analyses. It is imperative that the public, as well as those impacted most by the recommended actions, have confidence that the best science is indeed serving as the basis for these biological opinions. It is our hope that the process you announce will further this objective. To accomplish this goal, it is our view that the scientific review process must involve people who are expert in the relevant scientific fields and who are perceived as unbiased. Peer review by true third party experts in anadromomus and pelagic fish and estuarine ecosystems would be an appropriate and wise step for proper vetting.

Again, thank you for meeting with us and participating in such a frank discussion of the issues. If we may be of service to you as you proceed with this important process, please do not hesitate to let us know.

Very truly yours,



Dianne Feinstein
United States Senator



Jim Costa
Member of Congress