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18<sup>TH</sup> CONGRESSIONAL DISTRICT, CALIFORNIA**

**COMMENTS  
NATIONAL ACADEMIES OF SCIENCE NATIONAL RESEARCH COUNCIL  
COMMITTEE ON SUSTAINABLE WATER AND ENVIRONMENTAL  
MANAGEMENT IN THE CALIFORNIA BAY-DELTA  
JANUARY 26, 2010**

Mr. Chair and Committee Members,

I would like to start by thanking the National Academies of Science's National Research Council for undertaking a review of the scientific basis of actions that have been and could be taken to achieve both an environmentally sustainable Bay-Delta and a reliable water supply. I appreciate your commitment to this scientific review because the current program of regulatory restrictions, which does not rely upon a comprehensive scientific review, has produced catastrophic impacts to water supply and is not helping to restore the Delta.

I have long advocated for an independent and rigorous scientific review of the two biological opinions, the science that underlies the biological opinions, how science can be best used to manage water supplies, and what science can tell us about the full range of factors that have contributed to the decline of fisheries in the Delta. I believe that an independent, fresh look at the available science will provide the information necessary to better protect California's salmon, Delta smelt, and water supply.

This issue is of critical importance to those that I serve, including farmers with a near zero water supply, farmworkers, and farm dependent communities, which are seeing food lines and over 40% unemployment. My constituents tell me that what makes their sacrifice so hard to accept is that the restrictions are not having the desired effect, and I agree. Beginning with the Central Valley Project Improvement Act in 1992, continuing through the Delta Accord in 1994 and the many court and regulatory decisions since, including the most recent Biological Opinions, federal water project pumping has been significantly restricted, yet the delta smelt population has continued to decline and is now at record low levels.

I cannot explain nor justify to my constituents why their water supplies have been cut to near zero allocations and that despite their sacrifices, the protected species are continuing to decline in large numbers. I cannot explain to my constituents why the agency scientists have a single focus on pumping as the culprit in the decline, while the species continue to decline despite additional pumping restrictions. I cannot explain to my constituents why the Department of the Interior dropped this year's schedule for the Two Gates Fish Protection Program, stating that the science on turbidity was unclear, while the restrictions on pumping are based on the same assumptions about turbidity. I cannot explain why agency scientists are not considering and taking action with regard to other environmental stressors in the

Delta, despite the fact that studies show that other stressors have substantial roles in the fish declines.

Factors other than water exports, which appear to be playing a role in the decline of the species -- non-native species, urban run-off and waste water discharges, unpermitted and unscreened diversions in the Delta, lack of an abundant food supply, to name a few -- have not been considered because the current approach to Delta water management simply does not take into account these other ecosystem stressors. This is not a failure of the science, but rather a failure to even consider the science.

All of this calls into question exactly what scientific information is being used, as well as the credibility of the decisions being made. As a Member of Congress and a former member of the California State Legislature, I know that unless we have credible science upon which to base decisions, management actions and recovery plans, and have assurances that the available science is being used appropriately, it will be impossible to obtain the resources that are needed to restore the Delta.

The impacts of these Biological Opinions are far too significant to be based on anything but the best science data and analyses. We need an independent, unbiased, expert review of the scientific bases of the Biological Opinions. We also need fresh thinking in order to address the challenges in the Delta and recover the species. This is in the best interests of the fisheries and in the best interests of those who rely upon the Delta for water supplies.

I appreciate the Committee's commitment to this review. It is my understanding that some are urging the Committee to limit the scope of its study, to do as little as possible. I encourage the Committee to resist these requests, as to do so would waste an opportunity for all of us to benefit from your scrutiny and expertise. I also understand that the Committee asked several questions at Monday's session that challenged many of the scientific assumptions behind the biological opinions. I would urge you to continue in that spirit, as it was the intent of those of us in the Congress that called for this study to have the National Academies of Sciences review the science behind the biological opinions. It is my hope that a thorough and rigorous scientific review and a fresh look at some of the challenges we are facing will give us the answers we need, with the credibility necessary to move forward with comprehensive solutions that can serve as a foundation for responsible Delta planning into the future.

Thank you for the opportunity to present my comments.