

Congress of the United States
Washington, DC 20515

January 16, 2014

The Honorable Sally Jewell
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

The Honorable Penny Pritzker
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, D.C. 20230

The Honorable Jo-Ellen Darcy
Assistant Secretary
U.S. Department of the Army (Civil Works)
108 Army Pentagon
Washington, DC 20310-0108

The Honorable Michael Connor
Commissioner
U.S. Bureau of Reclamation
1849 C Street, NW
Washington, DC 20240-0001

Dear Secretary Jewell, Secretary Pritzker, Assistant Secretary Darcy and Commissioner Connor,

As you are aware, calendar year 2013 was the driest year on record for the State of California. Three years of extremely dry conditions have significantly depleted the carryover storage in all of the state's reservoirs, including those that are operated for the benefit of the Central Valley Project and the State Water Project. Water storage levels have fallen to historically low levels, below levels in 1977. To compound the situation, on Friday, January 3, 2014, the California Department of Water Resources (DWR) performed a snowpack survey that confirmed the severity of the water crisis that is gripping our state, showing that the snowpack is approximately 20 percent of statewide average for this time of year and only seven percent of statewide average peak snowpack. This means that as dire as the picture is given current storage levels, 2014 is shaping up to be the worst water year on record unless snowpack and runoff forecasts improve dramatically.

We have ahead of us an incredible challenge that will require the highest levels of engagement and flexibility on the part of water and regulatory agencies in order to avoid devastating socioeconomic and environmental impacts to many regions of the state, particularly to the agricultural heart of California, the Central Valley.

The commitment of your agencies to assisting the State of California in achieving a long-term solution to its water challenges is to be commended, and I thank you for that commitment. Notwithstanding objections expressed by my colleagues from northern California, which can and should be addressed, achieving the co-equal goals of water supply reliability and ecosystem restoration advanced in the Bay Delta Conservation Plan is a significant step towards resolving the decades long challenges that have been facing California. However, the immediate water crisis gripping California demands an equal commitment to immediate and measurable actions to avoid catastrophic human and economic consequences.

This water year will require unprecedented levels of planning, coordination and flexibility among state and federal agencies, water managers and other stakeholders in order to ensure that no region of

California bears a disproportionate burden. As you know, the Governor has convened a drought task force to develop strategies and to prioritize actions that state agencies can take to address the ongoing hydrologic and regulatory drought impacting my constituents and other areas within California. Your agencies should ensure that they are doing all they can to coordinate and expand on opportunities identified by the state agencies that involve federal authorities, in addition to the ongoing work by your agencies to identify areas of flexibility within their own authorities. The ongoing dry conditions call for immediate, measurable actions from federal agencies to complement the work being done at the state level to address the water supply challenges that face California.

There are numerous actions that can, and must be taken within the existing authorities provided to federal agencies and all opportunities to extend the maximum amount of regulatory flexibility will need to be pursued to address the challenges facing California this year.

The following are other examples of actions that should be immediately explored and supported by your agencies and their associated time of action:

1. Regulatory relief should be immediately facilitated through flexibility within the State Water Resources Control Board's existing Bay Delta Water Quality Control Plan (WQCP), pursuant to the following items:
 - i. March Outflow: Table 3, FN 11 – *“If the best available estimate of the Eight River Index for February is less than 500 TAF, the standard may be further relaxed in March upon the request of the DWR and the United States Bureau of Reclamation (Reclamation), subject to the approval of the Executive Director of the State Water Board.”*
 - ii. April-May Exports: Table 3, FN 19 - *“Variations to this maximum export rate may be authorized if agreed to by the United States Fish and Wildlife Service (FWS), the National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries) and the California Department of Fish and Game (DFG). ... Any variations will be effective immediately upon notice to the Executive Director of the State Water Board. If the Executive Director does not object to the variations within 10 days, the variations will remain in effect.”*
 - iii. Export/Inflow Ratio: Table 3, FN 21 - *“The percent Delta inflow diverted values can be varied either up or down. Variations are authorized subject to the process described in footnote 19.”*
 - iv. Cross Channel Gate (May21-June 15): Table 3, FN 24 – *“For May 21-June 15 period, close the Delta Cross Channel gates for a total of 14 days. ... The process for approval of variations shall be similar to that described in footnote 19.”*

The U.S. Army Corps of Engineers should explore the following options:

1. Flood control reservoir space – *All opportunities for scheduling releases for the benefit of increasing available water supplies and storage, should be explored so long as the proposed action does not pose an immediate and unreasonable risk to human safety.*

2. Wilkins Slough navigation requirement - *All opportunities for scheduling releases for the benefit of increasing available water supplies and storage, while ensuring appropriate protection for existing water users, should be explored.*

The NOAA Fisheries should explore the following options:

1. Old and Middle River Index (January - June) – *When the Biological Opinions (BiOps) control the Old and Middle River flows, the proportion of water exported should be maximized, while ensuring protection for endangered fish species is maintained. Pilot projects and programs such as those proposed in Reclamation’s 2014 Central Valley Project Water plan should be initiated to provide better scientific data for future operational decisions. For this water year, maximum pumping allowed under the Biological Opinions should be maintained unless endangered species harm is scientifically verified.*
2. Import/Export Ratio (April – June) - *When the BiOps control the Delta Import/Export ratio, the proportion of water exported should be maximized, while ensuring protection for endangered fish species is maintained. For this water year, maximum pumping allowed under the BiOps should be maintained unless species harm is scientifically verified.*
3. Upper Sacramento River water temperature controls (Summer) - *All opportunities for scheduling releases for the benefit of increasing available water supplies and storage should be explored.*
4. Upper Sacramento River flow requirements for salmon spawning and rearing (Summer and Fall) - *All opportunities for scheduling releases for the benefit of increasing available water supplies and storage should be explored.*

The U.S. Fish and Wildlife Service should explore the following options:

1. Central Valley Project Improvement Act flows on tributary rivers - *All opportunities for scheduling releases and flows for the benefit of increasing available water supplies and storage should be explored.*
2. Old and Middle River Index (January - June) – *When the BiOps control the Old and Middle River flows, the proportion of water exported should be maximized, while ensuring protection for endangered fish species is maintained. Pilot projects and programs such as those proposed in Reclamation’s 2014 Central Valley Project Water plan should be initiated to provide better scientific data for future operational decisions. For this year and in the interim period, maximum pumping allowed under the BiOps should be maintained unless endangered species harm is scientifically verified.*
3. Fall X2 Criteria (September - December) - *When the BiOps control the Fall X2 criteria, the proportion of water exported should be maximized, while ensuring protection for endangered fish species is maintained. For this year and in the interim period, maximum pumping allowed under the BiOps should be maintained unless endangered species harm is scientifically verified.*

The Federal Energy Regulatory Commission should coordinate with reservoir operators to:

1. Relax instantaneous flow requirements to daily or bi-daily averages for flow compliance; especially at compliance locations located more than 5 miles from the point of release.
2. Relax minimum flow requirements
3. Relax minimum reservoir pool requirements

These are only examples of various actions that can and must be explored given the increasing and drastic challenges that are facing California in this critically dry water year.

Time is of the essence given the unprecedented situation facing California. Delays in making decisions will make all the difference, and could destroy the few opportunities we still have to salvage what is left of the water we have available.

I urge you to take immediate and decisive action to direct your agencies to provide the maximum flexibility in implementing regulations and authorities dealing with California water supply and look forward to continuing to work with you, your agencies, and our state partners to address the water challenges facing California.

Sincerely,



Jim Costa
MEMBER OF CONGRESS



Tony Cardenas
MEMBER OF CONGRESS