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Senator Feinstein Urges Administration to Respond to New National Academy of Sciences Report on the Delta Biological Opinions; Calls for Greater Flexibility, Robust Adaptive Management and Integration of Federal Actions in the Delta

Washington, DC – In response to a new scientific report that identified some uncertainty in the justifications used to manage federal pumping restrictions in the Sacramento-San Joaquin Delta, U.S. Senator Dianne Feinstein (D-Calif.) today called on the Administration to implement the biological opinions with greater flexibility, and to use real-time monitoring and assessment to determine opportunities for greater water supply benefits.

The study was issued today by the National Research Council of the National Academy of Sciences. Senator Feinstein, who chairs the Senate Appropriations Subcommittee on the Interior, the Environment and Related Agencies, secured \$750,000 in the enacted Fiscal Year 2010 Interior and Environment Appropriations bill to fund the study. This report is the first of two studies on the Delta that will be conducted by the National Academy scientists, with the second expected in 2011.

Following is the statement of Senator Feinstein on the National Academy study:

"I have great respect for the National Academy of Sciences, and I welcome this new analysis of the science governing the biological opinions in California's Sacramento-San Joaquin Delta. This critical ecosystem is one of the most complex estuaries in the country, provides water supply for the nation's largest agricultural breadbasket and drinking water supplies for California's major cities, and is home to a number of endangered and migratory species.

The report issued today by the National Academy provides a useful assessment of the current biological opinions, and provides opportunities for federal agencies to lessen water export restrictions by implementing the opinions with additional flexibility.

The report's authors conclude that the federal actions that restrict water flows to protect endangered and threatened fish species in the Delta are 'scientifically justified,' but the 'scientific support for specific flow targets is less certain. Uncertainty in the effect of the triggers should be reduced, and more-flexible triggers that might require less water should be evaluated.' (Page 5, pre-publication copy)

Specifically, the report concludes that:

The 'adverse effects of all the other stressors on the listed fishes are potentially large.' These other stressors include pesticides, ammonia discharge, predators, and structures on rivers that block access to fish spawning habitat. (p.36)

Rigorous monitoring should be implemented to establish a robust adaptive management system, so that the actions can be fine-tuned based on real-time analysis to provide more water for human use with minimal impacts to species.

The effectiveness of the annual water export restrictions in April and May prescribed by the biological opinion issued by the National Marine Fisheries Service is 'less certain' than maintaining flows in the San Joaquin River and that the existing adaptive management practices are insufficient and should be improved. 'Given the weak influence of exports in all survival relationships ... continued negotiation offers opportunities to reduce water use [for the protection of fish] ... without great risk to salmon.' (p.45)

The report raised questions about the management of the salinity gradient in the Delta required by the biological opinion issued by the Fish and Wildlife Service. The committee concludes that although

the action is conceptually sound, it is 'critical that the adaptive-management requirements included in the [Reasonable and Prudent Alternatives or RPA] be implemented in light of the uncertainty about the biological effectiveness of the action and its possibly high water requirements.' (p.4)

Integration of the two Biological Opinions, which between them contain 78 distinct actions to protect the Delta smelt, salmon, steelhead and green sturgeon, 'is necessary to provide an objective determination of the net effect of all their actions on the listed species and on water users.' (p.6)

The report also questioned the proposed action to establish 8,000 acres of tidal habitat for the Delta smelt and found that 'the scientific justification provided in the biological opinion is weak ... and is inadequate to support the details of the implementation of this action.' (p.41)

Finally, I'd like to note that nothing in this report indicates that there is a need to enforce more rigorous pumping restrictions.

The finding that other stressors and predators -- such as the striped and largemouth bass, the silverside, and some species of catfish -- may have a potentially large impact on endangered species in the Delta is, in my view, extremely important. I look forward to the additional analysis and conclusions by the National Academy scientists to this regard in the second report, which is due out next year.

For me, the key conclusion from this report is the need to integrate the two biological opinions, which would provide better clarity, better management, and stronger scientific justification for all federal actions in the Delta.

I strongly urge the Departments of the Interior and Commerce to take immediate action to implement the biological opinions with additional flexibility wherever possible, particularly with respect to the likely water limitations this April and May, so that we can ensure that any federal actions to restrict water supplies are absolutely necessary."

A pre-publication copy of the report is available online at: <http://www.nationalacademies.org/morenews/20100318.html>

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