



THE SECRETARY OF THE INTERIOR  
WASHINGTON

APR 28 2020

The Honorable Josh Harder  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Harder:

I have reviewed your letters dated April 15, 2020, addressed to me and Governor Newsom regarding California water management.

Rest assured that the Department of the Interior (Department) is continuing coordinated operations between the Central Valley Project (CVP) and State Water Project (SWP) on a minute, hourly, daily, and weekly basis with the State of California (State). Though it may seem strange, given the contentious circumstances in which we have found ourselves, we are nonetheless pleased that the State continues to participate with implementing actions associated with our 2019 biological opinions. You have the Department's full commitment that we will continue these meetings to implement the 2019 biological opinions.

I agree with your long-held view of the need to improve California water supply reliability through enhanced Central Valley Project-State Water Project (CVP-SWP) operations. It is my belief that a commitment to updated science employed in the proposed operational changes and biological opinions will lead to improved water supply reliability to millions of Californians, promote agricultural and industrial prosperity, and protect wildlife and other aquatic resources. That has been the Department's goal. Obviously, the State has chosen to move in a different direction.

In your January 8th letter to Governor Newsom and me, you urged both of us "to fully consider the on-the-ground reality of forcing water managers to potentially operate the Central Valley and State Water Project in conflict with each other." Governor Newsom responded to your call by

- filing a lawsuit on February 20th against the Department for supposed violations related to the 2019 biological opinions;
- proceeding to have the State issue its own incidental take permit (ITP) on March 30th creating separate operating rules for the SWP, a document that is in direct conflict with the Federal permits; and
- filing, by the State through Attorney General Xavier Becerra, a motion for a preliminary injunction and other pleadings on April 21st, regarding the CVP.

Given the extensive collaboration between the Federal and State agencies in the development of the biological opinions, and the fact that these opinions are strongly grounded in the best available science, I believe the State's recent actions and litigation are ill-founded and potentially unlawful.

Earlier this month, the Metropolitan Water District of Southern California Board (Metropolitan) voted to initiate a lawsuit against the State regarding the ITP for long-term operation of the SWP in the Sacramento-San Joaquin Delta. In a recent letter to the California Department of Fish and Wildlife (DFW) and the California Department of Water Resources (DWR), Metropolitan stated that "[t]he permit issued by DFW does not replace or eliminate the SWP obligation to comply with federal ESA and the 2019 Biological Opinions."

I agree with this statement; there can be no "stand alone permit" apart from the Federal process to protect species under the Endangered Species Act. I also agree with Metropolitan that there is no technical or scientific justification for concluding that the State's ITP is better or more protective than the Federal biological opinions simply because it does not seek to increase SWP exports. I believe that the proposal of such limitations on water supply without legal or scientific basis is contrary to our obligation to the people and environment.

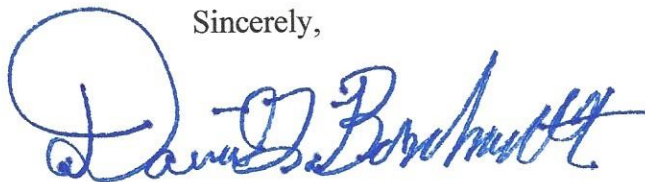
I have always appreciated your thoughtful recognition that prudent and science-based management of California's water, particularly the operations of the CVP and SWP, is critically important for the State's economy, communities, and natural environment.

Using over a decade of new scientific understanding and operational experience, the 2019 biological opinions approved new management actions. These new actions provide for the protection of endangered and threatened fish species and their habitat, as well as better management of cold-water supplies for the survival of winter-run Chinook salmon. The new actions allow for more reliable delivery of water to California farmers, families, and communities, while serving as a model for collaboration between water project operators and fisheries experts in years to come.

As the California-initiated operations and litigation proceeds, I anticipate that the State and the Department will face significant administrative and operational challenges regarding the intertwined operations of these two water projects, some of which have not been seriously contemplated for decades. The result of this, and any litigation related to this matter, will be further uncertainty for the water supplies of over 35 million people, including numerous economically disadvantaged communities, farms, groundwater sustainability and ecosystems dependent on these water sources.

I appreciate your continued communication as we move forward to better ensure water supply reliability for the benefit of the State's working families, local communities, and environment. A similar reply is being sent to the cosigners of your letter.

Sincerely,

A handwritten signature in blue ink, reading "David D. Bontruff". The signature is written in a cursive style with a large, circular initial "D".

Secretary of the Interior