

Congress of the United States

Washington, DC 20515

September 6, 2019

The Honorable Gavin Newsom
Governor, State Capitol, Suite 1173
Sacramento, CA 95814

Dear Governor Newsom,

We applaud Senate President pro Tempore Atkins for protecting California's environment against President Trump's rollbacks of overarching federal regulations through SB 1. However, we urge you to insist on two amendments to the bill, to preserve the viability of potential voluntary agreements over proposed outflow requirements for the San Joaquin and Sacramento Rivers.

We oppose Section 3(c) of the bill as drafted, as it would prevent the State from incorporating the latest science and other information in permitting decisions. This provision would freeze in place the state and federal water project incidental take permits and biological opinions that were developed over 10 years ago, regardless of whether more recent science or other related policies such as outflow requirements suggest modifications to the permits (proposed new section 2076.7(c) of the Fish and Game Code). Without additional flexibility, this provision would severely restrict voluntary agreements whereby water users would support additional flows and habitat improvements for salmon and other imperiled fish in return for some level of water supply reliability.

We also oppose Section 2 of the bill that would require the Bureau of Reclamation to comply with the California Endangered Species Act. Given significant legal uncertainty over whether the State can modify the application of federal law, this provision would generate years of litigation and uncertainty over which environmental standards apply to the federal Central Valley Project. In the midst of such fundamental uncertainty, it will be impossible to develop any voluntary settlements of Sacramento and San Joaquin River outflow standards.

We believe that SB 1, with amendments to address these two concerns, would achieve the goal of protecting California's environment without jeopardizing voluntary settlements of outflow standards. We thank you for your continued leadership on environmental issues, and we appreciate your consideration of our request.

Sincerely,



Dianne Feinstein
United States Senator



Jim Costa
Member of Congress



John Garamendi
Member of Congress



Josh Harder
Member of Congress



TJ Cox
Member of Congress

cc: Senate President pro Tempore Toni Atkins