



THE DEPUTY SECRETARY OF THE INTERIOR
WASHINGTON

JUL 07 2015

The Honorable Rob Bishop
Chairman, Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Chairman Bishop:

The Department of the Interior (Department) opposes H.R. 2898. It fails to equitably address critical elements of California's complex water challenges and will, if enacted, have the unintended consequence of impeding an effective and timely response to the continuing drought while providing no additional water to hard hit communities.

We acknowledge and appreciate the desire of the authors to provide relief to the working families in the agricultural community who are impacted by this historic drought. The Department shares in this concern, and over the past few years, Federal and State agencies have taken unprecedented actions to collaboratively manage the Central Valley Project (CVP) and the State Water Project (SWP) on a real-time basis. This allows maximized water delivery while also ensuring health and human safety standards are met, salinity controls are achieved, and the minimum conditions necessary for survival of endangered and threatened fish and wildlife are attained. The result has been a significant savings of water, approximately 400,000 acre-feet this year through the end of May, significantly increasing the amount of water available for municipal and agricultural uses compared to that which would have otherwise been available.

In light of our operational experiences, we have reviewed H.R. 2898 and are of the view that this bill will not provide additional meaningful relief to those most affected by the drought. It will, however, negatively impact our ability to protect Delta fish and wildlife in the long-term; particularly those species listed under Federal and State endangered species laws.

Instead of increasing water supplies, H.R. 2898 dictates operational decisions and imposes an additional new legal standard. Instead of saving water, this could actually limit water supplies by creating new and confusing conflicts with existing laws, thereby adding an unnecessary layer of complexity to Federal and State project operations. As a result of this additional standard, we believe H.R. 2898 will slow decision-making, generate significant litigation, and limit the real-time operational flexibility that is so critical to maximizing water delivery. It also contains internal conflicts by stating its consistency with the Endangered Species Act (ESA) while directing specific operations that appear inconsistent with the ESA, thereby resulting in conditions that could be detrimental to listed species.

Much of the bill also contains provisions that have little connection to the on-going drought. The bill includes language constraining the Administration's ability to protect the commercial and tribal fishery on the Trinity and Klamath Rivers, which will have impacts not just in California

but throughout the west coast. Another problematic section of the bill elevates and prioritizes certain water rights holders within the California water rights system, thereby creating different classes of water users, which further limits operational flexibility, and intrudes upon State administration of water rights. The bill also repeals the San Joaquin River Restoration Settlement Act, including a troubling provision that expressly preempts State water law. In addition, the repeal will further complicate operations on the San Joaquin River by increasing the likelihood of further litigation and undermining the improvements that are important to achieve a critical balance between water development and the environment. Such provisions are not related to ameliorating the impacts of drought but instead create conflict among Californians, raise issues in neighboring states, and ultimately detract from our ability to provide meaningful support during this difficult crisis.

In addition to these problematic sections, the Department has concerns with several provisions that affect the use of tax-payer provided funds. The bill seeks to penalize the Bureau of Reclamation for failure to finalize certain reports without recognizing there are external factors contributing to these delays. These financial penalty provisions could potentially limit Reclamation's ability to address resources issues in other western states. There are also several provisions that perpetuate the historical Federal subsidies available for financing water storage projects through the Bureau of Reclamation. These financing terms are no longer appropriate given limited budgets and other available financing mechanisms.

The Department is of the view that the drought must be addressed through a multi-pronged approach that considers impacts in the short-term as well as providing long-term drought resiliency. In addition to the unprecedented use of operational flexibility and real-time management of the CVP and SWP, the Federal and State governments are continuing very aggressive and tightly coordinated efforts to assist those most affected by drought. The U.S. Department of Agriculture has directed millions of dollars in food, conservation, and emergency water assistance to tens of thousands of residents in areas hardest hit by drought. The Bureau of Reclamation has provided cost-share assistance for nine water reuse projects in the State as well as millions of dollars in grants to promote conservation efforts and long-term resiliency to drought. We must also move beyond the traditional water storage construction paradigm with more emphasis on Federal participation in state and locally driven projects, especially in those states like California, that have made substantial funding available for such projects.

Although the Department opposes H.R. 2898, there are a number of provisions in the bill that could provide a framework for further discussions. These include provisions intended to build upon the agencies' current actions to improve data gathering, monitoring, and scientific methodologies in a manner that benefits real-time operations. Continued progress in the areas of conservation, habitat restoration, and infrastructure improvements can also provide the basis for cooperative efforts. These strategies have been enhanced in recent years as a result of funding increases provided by the Administration and Congress. Progress in this area, however, will be seriously undermined by the sequestration levels of funding currently being contemplated by Congress. Cutting budgets while calling for more investments in science, equipment, and infrastructure is not a workable strategy.

As a final matter, it should be noted that without a hearing or meaningful opportunity for the Administration, the State of California, or the public to review and provide detailed comments on the bill, it will be very hard to engage constructively on key concepts that merit further discussion. One of my takeaways from time spent in California, meeting with those most affected by the drought, is the strong desire that exists for the Administration, Congress, and the State to work collaboratively to find meaningful relief from its devastating effects. The Department stands ready to work with the Congress and the State of California to further strengthen our comprehensive response to the continuing drought.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael L. Connor', with a stylized, flowing script.

Michael L. Connor

cc. The Honorable Raúl M. Grijalva
Ranking Member, Committee on Natural Resources