

9:00am A

2/25/10



RESOLUTION NO. 2010-33

A RESOLUTION SUPPORTING SENATOR DIANNE FEINSTEIN'S EMERGENCY WATER SUPPLY AMENDMENT TEMPORARILY EASING ENDANGERED SPECIES ACT COMPLIANCE RESTRICTIONS ON WATER EXPORT PUMPING FROM THE SACRAMENTO-SAN JOAQUIN BAY-DELTA ESTUARY

Whereas, a catastrophic economic and social crisis is continuing in portions of the San Joaquin Valley as a result of severe Central Valley Project and State Water Project water supply reductions from the Sacramento-San Joaquin Delta; and

Whereas, the crisis has been created by reductions in water supply export pumping from the Delta; and

Whereas, natural drought conditions have contributed to these curtailments but the most severe and significant supply reductions have been caused as a result of court-ordered mandates under the Endangered Species Act directed at achieving protection for the Delta Smelt, Chinook Salmon, and Steelhead; and

Whereas, more then 400,000 acres of highly fertile and productive San Joaquin Valley cropland were fallowed as a result of water supply productions in 2009 with the result that unemployment rates have soared, human hunger and other suffering has increased, numerous family homes have been lost, and business failures sky rocketed throughout the most affected areas in portions of Fresno, Kings, Madera, Merced and Kern counties; and

Whereas, even more restrictive pumping this year promises to deepen and worsen the crisis, not only within the San Joaquin Valley but in other parts of the state including its major urban areas, despite an increase this year in natural storm activity and precipitation; and

Whereas, Senator Dianne Feinstein has proposed an Emergency Water Supply Amendment for consideration by the Congress of the United States, that would temporarily ease compliance restrictions with the Endangered Species Act without threatening said Endangered Species Act's integrity or intent, in order to make available increased minimal supplies of water pumped and exported from the Delta for contractors and water users in impacted regions.

Now, Therefore, Be it Resolved that the City of Fresno does hereby respectfully request the Congress of the United States to provide such emergency relief to the affected water users of the State of California and support Senator Dianne Feinstein's Emergency Water Supply amendment temporarily easing Endangered Species Act compliance restrictions on water pumping from the Sacramento-San Joaquin Bay-Delta Estuary.

Adopted _____
Approved _____
Effective 02-25-10 _____

2010-33



CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss
CITY OF FRESNO)

I, REBECCA E. KLISCH, CMC, City Clerk of the City of Fresno, California, hereby certify that the foregoing Resolution was adopted by the Council of the City of Fresno, California at a regular meeting held on the 25th day of February, 2010.

AYES: Borgeas, Brand, Dages, Perea, Sterling, Xiong, Westerlund
NOES: None
ABSENT: None
ABSTAIN: None

Mayor Approval: N/A, 2010.
Mayor Approval/No Return: N/A, 2010.
Mayor Veto: N/A, 2010.
Council Override Vote: N/A, 2010.

REBECCA E. KLISCH, CMC
City Clerk

By: Rebecca E. Klisch
~~Deputy~~



Alliance for a 21st Century Water System

"Clean, Affordable, Reliable Water Supply Now"

FACT SHEET

Senator Feinstein's Emergency Water Supply Amendment To Move Water to Where It is Most Needed in California

- Senator Dianne Feinstein has announced her intent to immediately address the movement of water throughout the state through an amendment (the Emergency Water Supply Amendment) to the jobs bill currently under consideration in Congress.
- There are currently federal restrictions on pumping water through the Delta to the federal Central Valley Project and the California State Water Project. These restrictions, intended to provide protections for certain fish in the Delta, have instead devastated communities across California by limiting desperately needed water where it is needed the most. According to the U.S. District Court, this imbalance has had a "catastrophic" impact on the human environment and the communities in California, without any measurable impact on the fish population.
- The Emergency Water Supply amendment, based on the precedent set through Senate action on a similar provision in New Mexico in 2003, would restore some balance by allowing reduced pumping to the Delta at no lower than the level already allowed under the parameters determined under the federal court-issued "Biological Opinion" to protect the Delta smelt. The provision would be in effect for two years. It would not alter the Endangered Species Act.
- Immediate adoption of the amendment is essential because the continued operation of these federal restrictions is preventing California from capturing and storing hundreds of thousands of acre feet of fresh water that are desperately needed by our farms and cities. Without the amendment, the federal rules will continue to restrict California's ability to move the massive amounts of water currently building up in Northern California in order to serve the two-thirds of the state's people who depend upon water pumped through the delta.
- The Emergency Water Supply Amendment restores balance to a process that has had a catastrophic impact on the state's ability to nurture economically healthy communities. Although there are simply not enough water supplies to meet demand, developers are required by law to identify a 20-year reliable water supply as a condition for building, resulting in even greater deficits in already depressed local economies. This has already resulted in a stoppage of some development projects that might not be able to provide evidence of adequate water supply. A lack of reliable water supply could have an impact



throughout Southern California, delaying a rebound in the housing market and eliminating construction jobs.

- Adoption of the amendment will enable farmers in the Central Valley to receive approximately 40% of contracted allotment of water in 2010, compared to the 0% to 10% of currently forecasted allocation. This bill is the difference between life and death for Central Valley communities that depend on reliable water supplies and the operations of many farmers and businesses.
- The amendment would set a lower limit on how much the federal fish agencies can reduce pumping. The Department of Water Resources and the numerous scientific studies that the National Academy of Sciences is currently reviewing indicate that there is no beneficial effect for salmon or smelt when the pumping is reduced below the limit set by Senator Feinstein's proposal.
- Serious questions have been raised by the Department of Water Resources and by public water agencies serving two thirds of the state's population concerning the adequacy of the science underlying the current federal limits on pumping. There is no evidence the fish have benefitted in any way. The National Academy of Sciences, at the request of Congress and the Obama Administration, has convened a special scientific panel to determine whether there was any scientific basis for the federal restrictions on pumping and what alternatives would do less damage to the human environment.

The Emergency Water Supply amendment provides for two-year relief, while honoring the framework and processes for long-term solutions.



Senator Feinstein Emergency Temporary Water Supply Amendment

Draft as of February 18, 2010

The goal of this measure is to provide south-of-Delta farmers with 38-40 percent of their water allocations if, as expected, this year turns out to be a normal precipitation year. It follows the established silvery minnow precedent for adjusting biological opinions to provide more water for human use during a drought emergency, while upholding environmental protections. It does not waive the Endangered Species Act.

How it works:

- Provides for water supplies at the maximum levels within the range established by the Fish and Wildlife (FWS) biological opinion, by keeping the flows in Old and Middle Rivers at 5000 cubic feet per second toward the pumps.
- Replaces the very restrictive "Spring Action" under the National Marine Fisheries Service (NMFS) biological opinion with the familiar and less restrictive Vernalis Adaptive Management Program (VAMP), which restricts pumping for 31 days while providing a pulse flow down the San Joaquin River to benefit salmon.
- Is a temporary emergency measure until March 1, 2012 while longer term solutions can be explored.
- Will increase municipal as well as agricultural water supplies.

Benefits for Fishery and Fishermen:

- Includes a provision to ensure the speedy payment of disaster relief for the salmon fishing industry if the salmon fishery is closed.
- Directs federal agencies to implement the habitat, fish passage, hatchery and refugia projects described in the Interim Federal Action Plan for the Bay Delta (dated December 22, 2009).

Silvery Minnow precedent:

- The silvery minnow provision, unanimously approved by the Senate in 2003, declared that compliance with a biological opinion, with one change, met the requirements of the Endangered Species Act. This provision similarly requires compliance with the two existing Delta biological opinions with one change each.
- The silvery minnow legislation set aside the requirement that the Bureau had to supply additional water for fish from another river system; here, the change is in the degree to which water exports (pumping) must be limited.

If there can be some administrative action to take advantage of the recent bountiful rain and snow and provide reasonable water supplies this year, the legislation may not be necessary.