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February 16, 2011

U. S. Representative Jim Costa
1314 Longworth House Office Building
Washington, DC 20515

U. S. Representative Dennis Cardoza
2437 Rayburn Building
Washington, DC 20515

U. S. Representative Jeff Denham
1605 Longworth House Office Building
Washington, DC 20515

U. S. Representative Devin Nunes
1013 Longworth House Office Building
Washington, DC 20515

U. S. Representative Kevin McCarthy
326 Cannon House Office Building
Washington, DC 20515

Senator Dianne Feinstein
331 Hart Senate Office Building
Washington, DC 20510

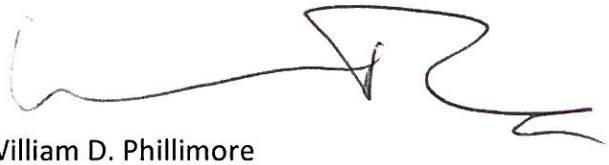
Dear Sirs and Madam:

We appreciate efforts in Congress to address the water supply crisis in the Sacramento-San Joaquin Delta, but we are concerned about language in the current Continuing Resolution that would eliminate funding for implementation of the Reasonable and Prudent Alternatives (RPAs) in the delta smelt and salmon Biological Opinions. The United States District Court for the Eastern District of California has already invalidated the delta smelt Biological Opinion and determined that the accompanying RPA is unlawful. And, we have challenged the salmon Biological Opinion and RPA, which has profound scientific flaws in our view. While we do not believe the RPAs are scientifically justified, cutting off funding for their implementation is likely to have significant negative consequences on operation of the water projects.

First, the language does not exempt project operations from compliance with the Endangered Species Act (ESA), although it bars the federal government from paying to implement the RPAs; as a result, it could leave the federal government, and also the California Department of Water Resources (DWR), open to legal actions for illegal take under the ESA, which could result in further restrictions on water deliveries. Second, the State Water Project (SWP), unlike the federal Central Valley Project (CVP), must also comply with the California Endangered Species Act (CESA); thus, this legislation would provide no relief from the RPAs for those water users that depend on the SWP, including water users in Kern County and Southern California. Additional loss of water supplies to agricultural water users will mean increased fallowing, removal of permanent crops, and job losses at a time when unemployment in the Central Valley is already at record levels.

We would be happy to work with members of Congress to amend the proposed legislation to address these issues, but the current legislation will not solve our serious water supply problems in the Delta, and could exacerbate them.

Sincerely,



William D. Phillimore
Executive Vice President

WDP/ec