

# NAS report prompts Feinstein call to ease water restrictions

Colin Sullivan, Environment & Energy Publishing, 3-19-10

A National Academy of Sciences report on water diversions in California's Sacramento-San Joaquin Delta prompted a direct response from Sen. Dianne Feinstein today that urged federal scientists to reconsider how they approach cutting off supplies to aid the recovery of endangered fish.

The California Democrat has been arguably more active on the topic over the last year than any other prominent Golden State politician, and today's response was no exception. In an extensive analysis, Feinstein said the NAS report reveals opportunities to "lessen water export restrictions" in the delta.

The report, conducted at a rapid clip at Feinstein's request by the National Research Council, an arm of the NAS, found that federal efforts to protect endangered fish are "scientifically justified" but added that problems in the delta are not entirely caused by farms south of the estuary.

The reaction to that conclusion from environmental groups has been clear: NAS, they say, is standing behind federal scientists at the National Marine Fisheries Service and the Fish and Wildlife Service who drafted a pair of biological opinions, or bi-ops, on delta smelt and Chinook salmon that have led to pumping limits.

But Feinstein apparently sees a more nuanced picture emerging. She emphasized that the report identified a number of environmental stressors on the fish other than water flow -- toxic waste, pesticides and predators -- and argued for more "flexibility" in how the agencies approach cutting off the water.

And like Rep. Dennis Cardoza (D-Calif.), whose district is home to many farmers whose water has been limited, Feinstein sought to highlight the role of predators in the delta that may have affected the health of salmon and smelt.

"The finding that other stressors and predators -- such as the striped and largemouth bass, the silverside and some species of catfish -- may have a potentially large impact on endangered species in the delta is, in my view, extremely important," Feinstein said.

To Trent Orr, a staff attorney at Earthjustice, Feinstein "is trying to make the best out of a report" that may not have gone her way.

"Senator Feinstein might want to tell the junior water rights holders [in the San Joaquin Valley] they should drop their legal challenges to the salmon and smelt restoration plans, now that it has once again been confirmed that they are scientifically valid," Orr said. "The junior water rights holders are trying to seize water already needed and allocated to others, including California's salmon fishery, and this report severely undermines their position."

Barry Nelson, a water expert at the Natural Resources Defense Council, added that he largely agrees with Feinstein's call for better adaptive management of the bi-ops at the agencies because "they're already doing that."

"Really what the NRC did is to highlight that the agencies need to use monitoring and adaptive management to trigger key protections," Nelson said. "We're focused on how the agencies are implementing the bi-ops, and they're being implemented very much in the way the NRC envisions."

Adaptive management refers to a process in place at FWS and NMFS that triggers water flow restrictions when fish are found dead at the pumps. Scientists consult with the agency to put flow restrictions in place when they deem it necessary, a process NRC today said was in need of improvement.

Feinstein cited that point in her analysis. "Rigorous monitoring should be implemented to establish a robust adaptive management system, so that the actions can be fine-tuned based on real-time analysis to provide more water for human use with minimal impacts to species," she said.

California Farm Bureau Federation President Paul Wenger also focused on management of the pumps in his statement on the report.

"We believe the government must do a better job of managing the delta pumps, to make more water available to people while still protecting the fish," Wenger said. "The report acknowledges that the existing water system can be managed better for people and fish."

Nelson said he agrees but argued that the highlight of the report is its comment on the science behind the diversions.

"We're encouraged," Nelson said. "The report really does show a very broad endorsement of the quality of the science that went into these opinions."

The NAS panel is composed of 15 scientists and led by Robert Huggett, a professor at the College of William and Mary. The research team expects to continue studying the delta and issue a second evaluation by November 2011.