

California Legislature

May 27, 2011

The Honorable Tom McClintock
Chair, Subcommittee on Water and Power
House Natural Resources Committee
1522 Longworth House Office Building
Washington, D.C. 20515

The Honorable Grace Napolitano
Ranking Member
Subcommittee on Water and Power
House Natural Resources Committee
1329 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman McClintock and Ranking Member Napolitano:

RE: OPPOSE H.R. 1837 (Nunes)

We are at a time of tremendous opportunity in California to solve lasting and seemingly intractable issues of water supply reliability and environmental harm. And we have been working on a bi-partisan basis to do so in a responsible and sustainable way. We have made historic progress in recent years towards resolving California's water wars. With so much at stake for California's future, this is the worst possible time for federal legislation that undermines judicial agreements, erodes long-standing water law principles, usurps California's sovereignty, and lays waste to any hope of progress in the Sacramento-San Joaquin Delta. Yet that is exactly what H.R. 1837 would do. There is, in fact, no part of H.R. 1837 that provides balance or constructive solutions. It is almost breathtaking in its total disregard for equity and its willful subjugation of the State of California to the whims of federal action.

H.R. 1837 flouts 150 years of federal jurisprudence. As United States Supreme Court Justice Rehnquist acknowledged in *California v. United States*, "the history of the relationship between the Federal Government and the States...is both long and involved, but through it runs the consistent thread of purposeful and continued deference to state water law by Congress." H.R. 1837 broadly preempts state law.

Under the guise of reforming the Central Valley Project Improvement Act, it sabotages the legal settlement on the San Joaquin River and includes provisions that set aside that part of the Reclamation Act preserving the state's legal ability to control, appropriate, use, or distribute irrigation water. It also totally preempts state law as applied to water operations and endangered species act protections -- not just for the operations of the CVP but also California's own State Water Project.



This sweeping intrusion into the longstanding domain of California law purports to be based on a 1994 Delta "Principles of Agreement" document, which concerned in-Delta water quality standards, not endangered species. Indeed, most of the threatened and endangered fish affected by CVP and SWP water operations were not even listed until after 1994 and the dramatic decline of in-Delta native fish began in late 2004. It was following this period that the State of California and the Federal government began working with key stakeholders on a Bay Delta Conservation Plan (BDCP). The current state administration's focus on transparency and scientific integrity offers renewed hope of a successful outcome for that process. But that would not be possible with the passage of H.R. 1837, which would effectively terminate the cooperation and trust BDCP stakeholders have been working to build.

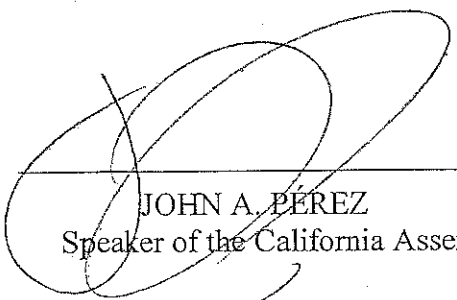
Finally, and very significantly, H.R. 1837 fatally undermines the historic bi-partisan package of water legislation we passed in 2009 to address the State's water crisis. A key provision of that legislation codified co-equal goals in the Delta of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem while respecting the values of the Delta and its communities. Those are the fundamental underpinnings for any durable Delta solution. H.R. 1837 makes a mockery of those principles by prioritizing water deliveries for one region of the state over all other values.

For these reasons and more we urge the Subcommittee to respect the rights of the State of California and to reject H.R. 1837.

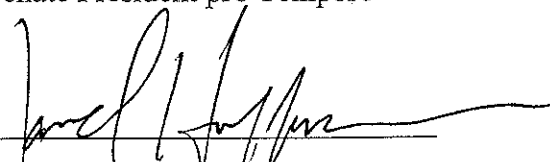
Sincerely,



DARRELL STEINBERG
Senate President pro Tempore



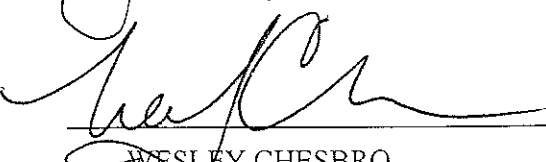
JOHN A. PÉREZ
Speaker of the California Assembly



JARED HUFFMAN
Chair, Assembly Water Parks & Wildlife



FRAN PAVLEY
Chair, Senate Natural Resources and Water



WESLEY CHESBRO
Chair, Assembly Natural Resources