

June 23, 2008

The Honorable Lois Wolk, Chair
Assembly Committee on Water, Parks and Wildlife
1020 N Street, Suite 160
Sacramento, CA 95814

RE: SB 994 (Florez, Ashburn, and Steinberg) – Delta Smelt -- OPPOSE

Dear Chairwoman Wolk and Members of the Committee:

On behalf of the undersigned organizations, we are writing to oppose Senate Bill 994 (Florez, Ashburn, and Steinberg). While we share the authors' concerns about the precipitous decline of the Delta Smelt, we do not believe the provisions of SB 994 are an effective response to the ecosystem crisis in the Delta. This bill interferes with state endangered species laws by pre-judging the ability of a hatchery program to meet the standards necessary for issuance of a take authorization and interferes with ongoing Delta planning processes by forcing them to include a hatchery program with take authorization as part of any final plan. Additionally, the bill inappropriately designates state funds (amount not yet known) to establish the hatchery program, given the expected use of the facilities to provide mitigation credits.

The "hatchery as mitigation bank" program espoused by this bill, which requires that the

Department of Fish and Game (DFG) give full take authorization for Delta Smelt to all banking partners, and which provides no long-term funding without banking partners, is in conflict with existing state endangered species laws and puts both DFG and the Delta Smelt in a no-win situation. While we support the use of a fish culture program to maintain a refuge population of Delta Smelt, the apparent intention to develop the capacity to rear large numbers of Delta Smelt for release into an ailing Delta is not, to our knowledge, widely supported as a sound approach to species restoration at this time.

The new provision that requires that all ongoing Delta planning processes to include this program in their plan limits the flexibility of those processes and diverts limited resources from other conservation measures that may benefit species in addition to Delta Smelt.

The current funding structure of the bill is inappropriate for a program intended (under the bill's provisions) to mitigate for impacts by water diverters and others under endangered species laws. Although the funding provisions are not yet fully detailed, the bill does clearly state that "funding necessary for the long-term operation and maintenance of a Delta smelt hatchery and the program shall be from revenues received from banking partners." Our interpretation of that language is that the initial capital costs of design and construction will be borne by the state.

We believe that SB 944 provides little benefit to the threatened delta smelt and hinders efforts to comprehensively address the root problems in the Delta. We respectfully request that you vote "NO" on SB 994 when it comes before your committee on June 24th.

Sincerely,



Mindy McIntyre, Water Program Manager
Planning and Conservation League



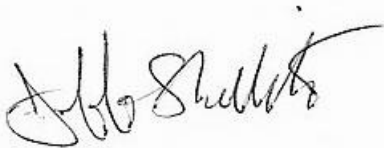
Paul Mason
Sierra Club California



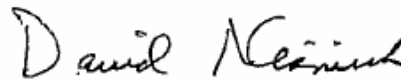
Kim Delfino, California Program Director
Defenders of Wildlife



Steve Evans, Conservation Director
Friends of the River



Jeff Shellito
California Trout



David Nesmith, Facilitator
Environmental Water Caucus

Gary Mulcahy

Trent W. Orr, Staff Attorney

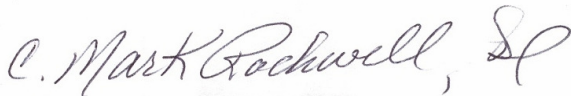
Winnemem Wintu Tribe



Byron Leydecker, Chair
Friends of Trinity River

John Beuttler
California Sportfishing Protection Alliance

Suzanne Michel
Southern California Watershed Alliance



Mark Rockwell
Northern California Council, Federation of Fly
Fishers

Dan Bacher

cc: Senators Florez, Ashburn and Steinberg

Earthjustice

Barbara Vlamis, Executive Director
Butte Environmental Council



Conner Everts
Desal Response Group

Zeke Grader, Executive Director
Pacific Coast Federation of Fishermen's
Associations



Gary Adams, President
California Striped Bass Association