CALENDAR ITEM
114

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PROPOSED LEGISLATION

INTRODUCTION:

State Lands Commission staff has been reviewing various legislative proposals introduced in the 112th Congress that involve lands under the Commission's jurisdiction. This report describes the proposed Sacramento-San Joaquin Valley Water Reliability Act (House Bill 1837 - Nunes) and proposes a Resolution for the Commission to consider adopting in opposition to this bill.

LEGISLATIVE PROPOSAL:

House Bill 1837 (Nunes): The Sacramento-San Joaquin Valley Water Reliability Act

SUMMARY:

H.R. 1837, the Sacramento-San Joaquin Valley Water Reliability Act (Act) overturns a century old precedent in water law by revoking California's ability to manage and regulate its own water. The Act also repeals the court ordered, legally binding San Joaquin Restoration Settlement Act, and bans further federal participation in the San Joaquin River Settlement. Additionally, the Act eliminates, preempts, and weakens numerous protections for salmon and other native fisheries in California's Bay-Delta estuary. This could lead to the extinction of several salmon runs and other native fish and wildlife, and threaten the livelihood of thousands of fishermen and communities across the state.

Further, the Act is inconsistent with evolving principles of successful management of water resources to achieve a sustainable balance between economic and environmental goals. It ignores the last fifteen years of best available science and disregards entirely the negative effects on species as a result of water deliveries. For example, provisions in the Act deem that all requirements of the Endangered Species Act in the operation of the Central Valley Project would be met through the 1994 Bay Delta Accord, thereby requiring that the state manage its water according to 20-year old science.

OTHER PERTINENT INFORMATION:
in 2009, recognizing the dire problems associated with the existing water system in California, the Legislature passed and the Governor signed an historic package of legislation, requiring that California, as a matter of law, pursue the two co-equal goals of restoring the Delta's ecosystem and achieving water supply reliability for the 25 million Californians and agricultural lands that rely on it. H.R. 1837 is detrimental to California because it disregards and undermines these goals and the years of ensuing collaboration and scientific review between a panoply of stakeholders.

H.R. 1837 is also detrimental to California because it repeals the court ordered, legally binding San Joaquin River Settlement Agreement, thereby overturning decades of hard work on the part of state and federal agencies, farmers, conservation groups, water districts and other stakeholders to resolve the balance between agricultural and environmental needs in California's second largest river.

H.R. 1837 was approved by the House of Representatives on February 29, 2012, by a vote of 246-175, and is currently in the Senate. In addition to preempting California water law, California's sovereign rights under the Public Trust Doctrine, and blocking the court-approved settlement to restore the San Joaquin River, if enacted, this bill would undo the efforts to restore California salmon fisheries, guarantee water supplies to certain Central Valley farmers and redirect more water from the Sacramento-San Joaquin Delta to agriculture, while exempting new water infrastructure projects from state environmental laws.

RECOMMENDED ACTION:
IT IS RECOMMENDED THAT THE COMMISSION:

1. Adopt the Resolution in opposition to H.R. 1837 attached hereto as Exhibit A.

EXHIBIT A

RESOLUTION BY THE CALIFORNIA STATE LANDS COMMISSION OPPOSING H.R. 1837, THE SACRAMENTO-SAN JOAQUIN VALLEY WATER RELIABILITY ACT, THAT WOULD ENDANGER CALIFORNIA'S DELTA RESTORATION AND WATER SUPPLY RELIABILITY GOALS AND ERODE PUBLIC TRUST PROTECTIONS

WHEREAS, the California State Lands Commission (Commission) has exclusive jurisdiction over all ungranted tide and submerged lands owned by the state, and of the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits; and,

WHEREAS, the Commission, pursuant to the Common Law Public Trust Doctrine, serves the people of California by providing stewardship of the lands, waterways, and resources entrusted to its care through economic development, protection, preservation, and restoration; and,

WHEREAS, the San Joaquin River, California's second largest river, and the Sacramento-San Joaquin Delta (Delta), consisting of approximately 738,000 acres, are significant public trust assets and natural resources of statewide, national, and international significance, containing irreplaceable resources; and,

WHEREAS, no ecosystem in California is more imperiled than the Delta, where many native species are on the brink of extinction and people and levees are at risk from levee failure; and,

WHEREAS, after nearly two decades of litigation, the U.S. Departments of the Interior and Commerce, the Natural Resources Defense Council, and the Friant Water Users Authority reached a Settlement in September 2006 to provide sufficient fish habitat in the San Joaquin River below Friant Dam near Fresno, California, and the Settlement received Federal court approval in October 2006; and,

WHEREAS, at the heart of the Settlement is a commitment to provide continuous flows in the San Joaquin River to sustain naturally reproducing Chinook salmon and other fish populations in the 153-mile stretch of the river between Friant Dam and the Merced River; and to reduce or avoid adverse water supply impacts to all of the Friant Division long-term contractors that may result from the Interim flows and restoration flows provided in the Settlement; and,

WHEREAS, it is the legal and constitutional responsibility of the Commission to recognize, preserve, and protect the Delta and San Joaquin River public trust resources for the use and enjoyment of current and future generations; and,

EXHIBIT A

WHEREAS, H.R. 1837 (Nunes), the Sacramento-San Joaquin Valley Water Reliability Act, would undo the carefully crafted settlement between the parties, and would worsen Delta conditions, negatively impact endangered species, imperil the west coast recreational and commercial fishing industries, and significantly hamper efforts to achieve a more reliable water supply; and,

WHEREAS, in 2009, recognizing the dire problems associated with the existing water system in California, the Legislature passed and the Governor signed an historic package of legislation, requiring that California, as a matter of law, pursue the two co-equal goals of restoring the Delta's ecosystem and achieving water supply reliability for the 25 million Californians and agricultural lands that rely on it; and,

WHEREAS, in addition to mandating these co-equal goals, the Delta reform legislation also requires that California improve water use efficiency by 20 percent by 2020, reduce reliance on the Delta by increasing the use of cost-effective projects to increase regional water supplies, including water recycling and efficiency, establishes performance standards and public trust flows critical to achieving a healthy and resilient ecosystem, and establishes a groundwater monitoring program; and,

WHEREAS, the Delta reform legislative package encapsulates wide ranging and divergent goals, and accordingly, California is committed to implementing the Delta reform legislation and its comprehensive solution to Delta restoration and water supply reliability; and,

WHEREAS, the Sacramento-San Joaquin Valley Water Reliability Act would disregard and undermine these goals and the years of ensuing collaboration and scientific review between a panoply of stakeholders; and,

WHEREAS, the Sacramento-San Joaquin Valley Water Reliability Act would repeal the San Joaquin River Settlement Agreement, an integral component of Delta restoration, which would harm river restoration and the trust land in the Delta, constraining the public's right to use these waterways for navigation, fishing, boating, natural habitat protection and other water oriented activities protected by the Common Law Public Trust Doctrine; and,

WHEREAS, the Commission is gravely concerned about the adverse effects the provisions of the Sacramento-San Joaquin Valley Water Reliability Act would have on the San Joaquin River Restoration Project and the Delta's fragile ecosystem and navigable waterways, which are public lands held in trust for the benefit of the people of California; and,

RESOLVED BY THE CALIFORNIA STATE LANDS COMMISSION that it opposes H.R. 1837, the Sacramento-San Joaquin Valley Water Reliability Act, that would overturn years of collaborative and thoughtful state and federal water planning, and imperil California's co-equal goals of restoring the Delta ecosystem and achieving a reliable state water supply; and,

EXHIBIT A

RESOLVED, that the Commission's Executive Officer transmit copies of this resolution to the President and Vice President of the United States, to the Governor of California, to the Majority and Minority Leaders of the United States Senate, to the Speaker and Minority Leader of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.