



FRIENDS OF THE RIVER

1418 20TH STREET - SUITE 100, SACRAMENTO, CA 95811

PHONE: 916/442-3155 □ FAX: 916/442-3396

WWW.FRIENDSOFTHERIVER.ORG

August 24, 2009

The Honorable Jared Huffman
Chair, Assembly Water, Parks, and Wildlife Committee

The Honorable Fran Pavley
Chair, Senate Natural Resources and Water Committee

Re: PAB 1 (Huffman) and PSB 1 (Simitian) – OPPOSE UNLESS AMENDED

Dear Chairman Huffman and Chairwoman Pavley:

Friends of the River is opposed to PAB 1 (Huffman) and PSB 1 (Simitian) unless they are substantially amended. Although we appreciate the effort to comprehensively address California's water problems, there are fatal flaws and omissions in these bills that threaten reasonable resolution of the Delta crisis. These include:

1. **The bills enable construction of the controversial, costly, and environmentally destructive Peripheral Canal.** Although nothing in the legislative package expressly authorizes the canal, the bills do enable Governor Schwarzenegger and his Department of Water Resources (DWR), as well as the Delta Stewardship Council (a majority of whom are appointed by the Governor), to build the canal. Both the Governor and DWR are strong proponents of the canal.
2. **The bills abdicate to the Governor and his Delta Stewardship Council the ultimate decision as to whether alternative conveyance will be built and the type and size of that conveyance.** The Legislature should preserve its crucial "advise and consent" role by reserving unto itself the ultimate decision to authorize alternative conveyance and how it will be funded.
3. **The stated "coequal" goals of improving water supply reliability and restoring the Delta ecosystem compete with each other and likely will not be feasible to achieve in tandem.** The bottom line is that state and federal public trust, water quality, and endangered species protection laws are likely to require more water for the Delta ecosystem. Water supply reliability is achievable only if it is defined as knowing how much water is available for other uses after environmental needs are met first. But if water supply reliability is defined, as it is by many water agencies and elected officials south of the Delta, as increasing or at least maintaining water exports, then these "coequal" goals are in direct conflict.

4. **The package fails to resolve the critical issue of over-subscription of water rights.** According to the State Water Resources Control Board, the state has granted rights to eight times more water than is typically available in any given year. The Delta crisis cannot be resolved without first adjudicating water rights throughout the Central Valley. This must be done before resolving conveyance/export issues.
5. **Lack of consensus over the more controversial aspects of the Delta water package will delay actions that enjoy broad support.** We should move forward with legislation to fund and implement local water conservation, efficiency, recycling/reclamation, and other actions that will encourage regional self-sufficiency and mitigate drought impacts. Everyone agrees that we need to do more to encourage regional self-sufficiency and respond to the drought. It only makes sense to move forward on consensus actions.
6. **The package fails to ensure that the Delta Plan and the Bay-Delta Conservation Plan will consider reducing Delta exports as a reasonable conveyance alternatives.** State and federal laws require that export reduction must be a reasonable alternative considered in all Delta plans. Export reduction will likely be the outcome of any comprehensive adjudication of Central Valley water rights.
7. **Only one representative from the Delta is included in the Delta Stewardship Council.** Any governance entity established to manage the Delta should have multiple representatives from the Delta region similar to other regional entities established to manage and protect resources of statewide importance (Lake Tahoe, Colorado River, Salton Sea).
8. **Critical funding mechanisms to implement the Delta water package are poorly defined and uncertain.** Implementation of the entire Delta water package will cost billions of dollars. Much of this funding should come from those who benefit directly from Delta exports, but the actual mix of funding between beneficiaries and the public is not defined. Given the reality of the state's budget problems, we believe that this package must not rely on a general obligation bonds in any major way because the annual bond debt payments will compete with other critical state public education, health, safety, and environmental protection programs that already suffer from severe budget cuts.
9. **The public should not shoulder the principal financial burden of restoring the Delta.** More than 100 years of dam and canal building and water diversions have brought the Delta ecosystem to its knees. Those who benefit from Delta exports and upstream diversions should be responsible for principal costs of restoring the Delta ecosystem, recovering endangered species, and improving water quality.
10. **There is not enough time in the current legislative session to complete and pass a workable comprehensive package.** The Legislature must avoid rushing to pass the package before the Sept. 11 deadline for adjournment. A deliberative, inclusive, and unrushed process is needed to ensure passage of feasible and effective legislation.

There are many provisions of the overall package that will garner our support, including specific Delta restoration goals in the proposed Delta Plan, the recognition of the Delta as a "special place", establishing instream flows for the Sacramento River and Delta waterways, increasing the State Water Board's capacity to monitor groundwater and enforce water rights, reducing statewide water use and improving regional self-sufficiency, improving the Delta Protection Commission's ability to guide land use in the Delta, and establishing a Delta Conservancy to restore and manage Delta habitat. But

collectively, these positive provisions are insufficient to mitigate the impacts of the Peripheral Canal enabled by the legislative package.

We cannot support PAB 1 and PSB 1 as currently written. We stand ready to work with you and your colleagues to help improve the legislative package, but we believe that achieving political consensus on this complicated issue is impossible in the few short weeks before the scheduled adjournment of the Legislature. Friends of the River is still developing detailed section by section comments on each bill in the package, but we are not likely to be able to complete these detailed comments with the accelerated schedule. We therefore urge you continue legislative deliberations into latter half of the session.

Sincerely,

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Evans", written in a cursive style.

Steven L. Evans
Conservation Director