

GEORGE MILLER

7TH DISTRICT, CALIFORNIA

2205 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0507
(202) 225-2095

www.house.gov/georgemiller

DANIEL WEISS
CHIEF OF STAFF

COMMITTEE ON EDUCATION
AND THE WORKFORCE
SENIOR DEMOCRAT

COMMITTEE ON RESOURCES

DEMOCRATIC POLICY COMMITTEE
CHAIRMAN

Congress of the United States
House of Representatives
Washington, DC 20515-0507

July 27, 2005

BARBARA JOHNSON
DISTRICT DIRECTOR

1333 WILLOW PASS ROAD
SUITE 203
CONCORD, CA 94520
(925) 602-1880

3220 BLUME DRIVE
SUITE 281
RICHMOND, CA 94806
(510) 262-6500

375 G STREET
SUITE #1
VALLEJO, CA 94592
(707) 645-1888

TTY (202) 225-1904

The Hon. Richard Pombo
Chairman
House Committee on Resources
1324 Longworth H.O.B.
Washington DC 20515

The Hon. Nick J. Rahall
Ranking Member
House Committee on Resources
1329 Longworth H.O.B.
Washington DC 20515

Dear Chairman Pombo and Ranking Member Rahall:

I respectfully request that the Committee on Resources convene oversight hearings at the earliest possible date on the species crash in the Sacramento-San Joaquin Bay Delta.

The Bay-Delta ecosystem is experiencing an ecological crisis at levels never previously experienced. According to Federal and State agencies and numerous press accounts, the Delta's fish populations up and down the food chain are in decline, and the most recent data show that the threatened Delta smelt population is at a historic low. While the agencies are beginning to respond to the situation, I have been advised that it will take a considerable time before it is known which of the several possible factors is causing the species decline.

At the same time, serious questions are being raised about how Federal agencies have discharged their responsibilities regarding the operation of the Central Valley Project (CVP). In October 2004, the National Marine Fisheries Service (NMFS) concluded that the Bureau of Reclamation's operating plan for the CVP would not jeopardize California's endangered and threatened salmon and steelhead populations. However, a recent Department of Commerce's Inspector General audit concluded that "the integrity of the [NMFS opinion] process" was severely undermined, raising serious questions about the validity of the original no-jeopardy opinion.

These disturbing developments in California necessitate increased Committee oversight at this time, given the Resources Committee's jurisdiction over the CALFED Bay-Delta Program.

Specifically, an oversight hearing should, at a minimum, address the following questions:

- 1) **What has happened in the Delta?** The Committee should hear an accounting of the ecosystem collapse and, to the extent known, what is causing it. When did it occur? When did the relevant agencies – including NMFS, the U.S. Fish & Wildlife Service, California Department of Fish & Game, CALFED, and others – first learn what was happening?
- 2) **Why were policymakers not told when the problem first arose?** The species crash was first publicly disclosed in newspaper accounts, and the relevant agencies have said that their "current concerns could be articulated" only after three years of data collection. Did the agencies inform state and federal legislators of the possibility of an ecosystem decline while legislation directly affecting the Delta was under consideration?

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3) **Is CALFED capable of responding to the problem?** Congress has appropriated millions of dollars for the CALFED Program, augmenting California's substantial investment. Yet it appears that the only response to this new problem has been further study. What changes have agencies made to their operating procedures? If operating procedures have not been changed, why not? How does this impact CALFED's environmental and ecosystem restoration goals? Is CALFED's management structure sufficient to address these challenges? Does CALFED have realistic performance measures in place within its current budget?

4) **Can the agencies ensure that ongoing federal operations will not jeopardize fish and wildlife resources?** NMFS must explain the serious concerns raised by the Commerce Department's Inspector General regarding the biological opinion for the CVP operating plan, and inform the Committee what changes will be imposed to prevent these kinds of errors. In addition, in light of the questions raised by the NMFS opinion, the Bureau of Reclamation should explain its current plans to implement the CVP operating plan, including federal contract renewals and the South Delta Improvements Program. Finally, the Bureau should describe its efforts to maintain consistency with CALFED goals.

These developments raise serious concerns regarding the direction of the CALFED Bay-Delta Program, which was authorized by this Committee and the Congress just last year. That authorizing legislation established a comprehensive Bay-Delta program, including efforts to address water quality, invasive species, and the impacts of water project operations – the factors cited by agency scientists as the likely causes of the decline of Delta fisheries.

I strongly urge that the oversight hearings recommended be convened at the earliest possible date. The integrity of state and federal actions – including the CALFED program and the operations and programs of the Bureau of Reclamation and the National Marine Fisheries Service – have been called into question, and full and complete explanations need to be publicly presented. We have an obligation to find out what happened, impose accountability, and design appropriate solutions – for the benefit of all those in California who depend on the health of the Delta.

I look forward to working with you and all Committee members on this matter, and I appreciate your attention to my request.

Sincerely,

A handwritten signature in black ink that reads "George Miller". The signature is written in a cursive, slightly slanted style. The first letter "G" is large and loops around the first part of the name.

GEORGE MILLER
Member of Congress

CC: The Hon. George Radanovich, Chairman, Subcommittee on Water & Power
The Hon. Grace Napolitano, Ranking Member, Subcommittee on Water & Power
The Hon. Wayne Gilchrest, Chairman, Subcommittee on Fisheries & Oceans
The Hon. Frank Pallone, Ranking Member, Subcommittee on Fisheries & Oceans
California Congressional Delegation