



“The New Voice of Salmon”

Initial Analysis of S. 2533 - Senator Feinstein’s Drought Bill

This memo summarizes GGSA’s initial analysis of S. 2533, the drought bill introduced by Senator Feinstein. On balance, S. 2533 likely would result in significant harm to salmon and the commercial and recreational salmon industry along the West Coast. GGSA opposes this bill.

Salmon Need Stronger, Not Weaker, Protections During the Drought: This is a critical time for Bay-Delta Chinook salmon runs, which, when healthy, support a \$1.4 billion dollar fishery and 23,000 jobs. Sacramento Basin fall run are the backbone of commercial and recreational salmon fishing south of the Columbia River. The fall run is not listed under the ESA, but protections for listed runs benefit the fall run and fishing communities. In addition, fishing is limited to protect listed runs, even though fishing did not cause these declines. Today, Bay-Delta salmon runs are at dangerously low levels.

- The drought and water mismanagement disastrously harmed salmon during 2014 and 2015, including the loss of 95% to 98% of juvenile wild Sacramento River fall and winter run salmon.
- The 2015 salmon season produced poor landings, far below projections. Only 112,400 salmon returned to the Sacramento Valley to spawn in 2015, below the minimum agency target.
- Given the three-year life cycle of salmon, the coming three years may be even more difficult for the salmon industry, as the remnants of more drought-affected year classes return to spawn.
- Fishermen are deeply concerned about a possible repeat of the 2008-2009 closure of the California salmon fishery, which included significant restrictions on the Oregon fishery.
- Federal agencies have stated that fish populations are so low that protections in 2016 must be stronger – not weaker – than during the past two years.
- The closure of the California commercial crab fishery has made the fishing crisis significantly worse, because many commercial fishermen rely on crab and salmon. In the past, healthy crab landings have helped fishermen survive poor salmon seasons.

In short, the coming three years are critical to the long-term health of the West Coast salmon industry.

Provisions that Would Damage Salmon: Major concerns regarding S. 2533 include:

- Weakening current federal protections for salmon under the ESA and other laws, such as:
 - Allowing worse flow conditions in the Delta and increased exports. (301(e)(4))
 - Locking in a 1:1 export to inflow ratio on the lower San Joaquin River for water transfers, which is less protective of salmon than current requirements. (302(b)(6))
 - Mandating that the Delta cross-channel gates be kept open “to the maximum extent practicable”, increasing the loss of juvenile salmon to the Delta pumps. (302(b)(1)(A))
 - Allowing higher levels of pumping during peak winter storm runoff, which is critical to moving juvenile salmon through the Delta to areas where they can survive. (303(c))
 - Mandating averaging requirements that could harm salmon. (302(b)(12))

The above approach to regulating impacts on salmon is not supported by science and would be subject to interpretation by an unknown future administration.

- A new mandate to “maximize water supplies”, which conflicts with existing federal law, the “co-equal goals” under state law, and existing protections for salmon. (301, 302)
- Provisions to facilitate authorization, permitting and funding of new dam projects that could harm salmon. The bill conflicts with state law, which prohibits the expansion of Shasta Dam. A review by the USFWS concluded that raising Shasta Dam would harm salmon. (Title 1, Subtitle B, Sec. 506 and 602)
- A guarantee of water deliveries for junior Sacramento Valley water users. (404)

Additional Concerns:

- Excluding any consideration of impacts to fall run salmon from decision-making regarding the water operations requirements of the bill. (Multiple sections.)
- Requiring federal agencies to “use”, not just consider, recommendations regarding water operations developed by water districts. (301(b)(2)(C) and 305(1))
- Increased litigation risk regarding salmon protections and existing law. (Multiple sections.)
- Reduced environmental review of water transfers, including for impacts to salmon. (302(b)(9)(B)(i))
- New restrictions on environmental review for undefined “emergency” water projects. (304)
- A predator removal program that is not supported by science and that scientists believe could result in unintended environmental harm. (203) GGSA has developed and is working to implement alternative science-based predation management projects.
- Limiting environmental review for predation projects, including the review of potential harm to salmon. (204(c))
- The conversion of Central Valley Project water contracts to permanent contracts, with potential impacts on salmon. (602(c)(1))
- A pilot program to allow California and other states to assume the lead for NEPA review, without limiting eligible projects or eliminating projects that could harm salmon. (139)
- An open ended sunset provision, as there is no definition in state law for the end of a state drought declaration. Some damaging provisions are exempt from the sunset provision. (702)

Positive Provisions in the Bill: The bill includes some provisions that could provide modest benefits:

- Investments in habitat improvements and gravel replenishment. However, those investments appear to be limited to the Sacramento River and to listed species. In addition, unlike the provisions above that would harm salmon, these investments would be subject to the uncertainty of the appropriations process. (201)
- Provisions regarding water recycling and efficiency that could help California in future droughts. Like habitat improvements, many of these provisions would be subject to the uncertainty of the appropriations process (Multiple sections.)