

**California Sportfishing
Protection Alliance**

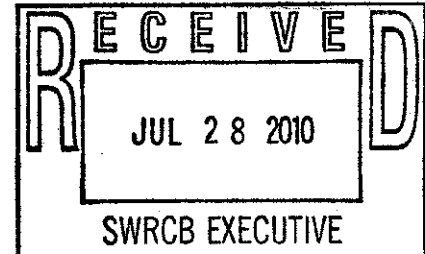
"An Advocate for Fisheries, Habitat and Water Quality"

July 28, 2010

Charles Hoppin, Chair,
c/o Jeanine Townsend
Clerk of the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Emailed to: commentletters@waterboards.ca.gov

Subject: Comment Letter - Draft Delta Flow Criteria Report



Dear Chairman Hoppin and Members of the Board:

C-WIN and CSPA thank the State Water Board for releasing a draft of its mandated report last week on Delta Flow Criteria based on the informational proceeding the Board convened in March. Given the tight schedule, we believe that the Board's staff did a superb job of assimilating, analyzing and synthesizing the available scientific information. Board staff's determinations in the body of this draft report concerning flow needs of Delta aquatic species are based on the best available science. Those determinations are consistent with what environmental groups, resource agencies, and the scientific community have told the Board for the last 35 years.

However, Appendix B is a surprise and a deep disappointment to our organizations. The appendix is described as a "rough estimate of the theoretical impact of the flow criteria on water supplies in the Central Valley and Delta." It was intended to "estimate water supply impacts of meeting the criteria" and to "determine to what extent the criteria conflict with the needs to preserve cold water in tributaries." Appendix B's presence in the draft Delta Flow Criteria report defies Water Code Section 85086, which solely mandates preparation of the flow criteria contained in the report. "In carrying out this section," says the law, "the board shall review existing water quality objectives and use the best available scientific information." Appendix B's last minute addition reflects the fact that it was not subjected to the same rigorous analysis as Board staff exercised over the biological and hydrological information that was submitted as part of the proceeding.

Appendix B relies on "the latest version of CALSIM" but unlike all other information and analysis provided in the draft report, *none of the impact analysis provided may be reasonably considered to be the "best available scientific information" because none of its assumptions and results were vetted and discussed* as part of the informational proceeding the Board convened. This is because impact analysis was beyond the scope of the proceeding noticed in December 2010. CALSIM has also been the subject of numerous written peer reviews since 2003, and while "the latest version of CALSIM" may represent improvements over those versions considered in earlier reviews, none of the improvements are disclosed or evaluated in Appendix B.

Of the assumptions disclosed for the impact analysis in the modeling effort, Appendix B's analysis assumes "full entitlements for CVP and SWP contractors." This is not a reasonable assumption. "Full entitlements" is an ambiguous term; it could be interpreted as full contractual entitlements regardless of water year type, or according to water year type. This ambiguity is neither identified nor clarified in Appendix B. Moreover, "full entitlements" has been the default mode of operation for most of the last decade by the State Water Project and the Central Valley

Project since "no net loss to exports" was the key water supply management objective of the CalFED record of decision in 2000. Under "full entitlements" aquatic food webs and ecosystems in the Delta have suffered extensive damage in the long-noted "pelagic organism decline" and the closed and highly-curtailed commercial salmon fishing seasons of 2008, 2009, and now 2010. Application of "full entitlements" to Delta exports and water project operations is the reason for the Water Code mandate that required the Board to prepare this report in the first place.

Assembly Member and Committee Chair Jared Huffman reminded the Board during his remarks on January 7, 2010, that the Board's charge was to "weigh in on *public trust flow needs* of the Delta ecosystem....This is about looking at the broad ecosystem health needs of the estuary, and bringing fish and wildlife back to good condition." He also stated that, "it's important to remember that this proceeding is not about water rights or operations....There may be future proceedings where the Board grapples with the interplay between public trust flow needs and water rights, or operational issues, but that is not within the legislative charge you have been given here."

Appendix B fails to qualify as representing the "best available scientific information" the Water Code required the Board to employ in this report. We respectfully urge deleting it from the final report adopted by the State Water Board before the report is forwarded to the Legislature, the Bay Delta Conservation Plan process, and the Delta Stewardship Council.

Sincerely,



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Attachments

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Tom Howard, Executive Officer, State Water Resources Control Board
Honorable Jared Huffman, Chair, Assembly Water, Parks, and Wildlife Committee