



DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>  
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Sacramento, California 95814



*Via Hand Delivery*

March 13, 2007

Ms. Gita Kapahi, Chief  
Bay Delta / Special Projects Unit  
Division of Water Rights – Records Unit  
State Water Resources Control Board  
1001 "I" Street, 2<sup>nd</sup> Floor  
Sacramento, CA 95814

Re: Pelagic Organism Decline Workshop

Dear Ms. Kapahi:

The California Department of Fish and Game (DFG) appreciates this opportunity to provide comments for the Public Workshop regarding the Pelagic Organism Decline (POD). As the agency having jurisdiction by law over fish and wildlife held in trust for the people of California, DFG is deeply troubled by the decline of pelagic fishes and other organisms in the estuary and supports the State Water Resources Control Board (Board) intention to remain informed of the current status of these species and any new findings on the causes of this decline in order to determine whether a future amendment of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (WQCP) may be necessary and appropriate in order to protect fish and wildlife beneficial uses.

Currently, DFG is centrally involved in POD investigations as a member of the Interagency Ecological Program (IEP) Pelagic Organism Decline Project Work Team (POD Work Team).<sup>1</sup> As the state agency implementing the CALFED Bay-Delta Program (CALFED) Ecosystem Restoration Program, and as one of the state agencies implementing the CALFED Environmental Water Account Program, DFG makes real-time management decisions and actions to protect smelt by recommending modifications to water project operations through the

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<sup>1</sup> Besides DFG, the POD Work Team consists of scientists from the CALFED Science Program, California Department of Water Resources (DWR), United States Environmental Protection Agency, United States Geological Survey and United States Bureau of Reclamation (Reclamation).

Water Operations Management Team process. In addition, DFG is in a current planning effort with DWR, the California Resources Agency, United States Fish and Wildlife Service, National Marine Fisheries Service, Reclamation, water agencies, and other stakeholders, to provide a broader and more comprehensive approach to the conservation and management of multiple species, including the delta smelt, through a Delta Natural Community Conservation Plan (the Bay Delta Conservation Plan or "BDCP"). DWR, DFG, water contractors, non-governmental agencies and other parties signed a Planning Agreement for the BDCP process on October 6, 2006. That agreement and other documents and information are available at <http://resources.ca.gov/bdcp/>.

DFG would also like to make the Board aware that on February 16, 2007, the California Fish and Game Commission (Commission) notified DFG of its receipt of an emergency petition to uplist the delta smelt from threatened to endangered status under the California Endangered Species Act. As part of the Commission's process for considering the petition, DFG may be undergoing a delta smelt status review and making recommendations. Meanwhile, the Commission will consider whether to take an emergency action to uplist the delta smelt at its April 12, 2007, Commission meeting in Bodega Bay. An agenda and video of testimony taken at the meeting will be available at the Commission's web site: <http://www.fgc.ca.gov/2007/2007mtgs.html>.

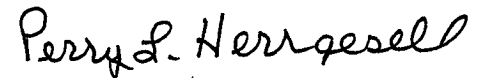
In the Board's February 13, 2007, POD workshop notice, the Board has requested that the IEP POD Work Team and other participants provide detailed, specific, current information regarding the decline of pelagic organisms in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary. To do so in the most efficient manner, Ted Sommer of the DWR, will, on behalf of the POD PWT, be addressing the Board's first three questions regarding progress reports and results of current POD investigations, proposed studies and projected timelines for implementation, and the status of any scientific peer review.

With regard to the Board's fourth and final question asking if the Board should consider interim actions for the pelagic fish based on currently available information, DFG believes that it is premature to recommend any specific interim actions for Board consideration at this time. However, once the ongoing POD analyses are completed and results reviewed by outside experts, and depending on the findings, the Board may need to play a key regulatory role in solving problems in the estuary by considering amending the WQCP. As will be explained at the workshop, we expect a synthesis of POD investigation results late in 2007.

Lastly, DFG also feels that it is important for the Board to consider adjusting the terms and conditions of the water rights permits for the State and Federal water projects when those permits are modified during any future reviews. We suggest those permits should require a greater obligation of the water projects for monitoring and evaluating the POD and other trends and ecological changes potentially related to project operations. POD monitoring in particular should be a required condition of the water rights permits. Absent such a requirement, funding for these types of monitoring needs could imperil other important monitoring in the estuary being carried out by the IEP and others. We stand ready to work with our IEP partners to provide additional details on suggested species' and habitat monitoring requirements for future inclusion in the water project permits.

Thank you for your consideration.

Sincerely,



Dr. Perry L. Herrgesell  
Water Policy Advisor