



February 24, 2005

Debbie Irvin, Clerk of the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

**Subject: Bay-Delta Water Quality Control Plan  
Triennial Review, Topic #6**

Dear Ms. Irvin:

The purpose of this correspondence is to submit additional information on Topic #6 in response to comments received from National Marine Fisheries Service (NOAA Fisheries) dated January 26, 2005 (NOAA-EXH-16). This submission is a supplement to our earlier comments on this topic, see our correspondence dated January 18, 2005 (DW-EXH-01).

Our comments are in response to NOAA Fisheries recommendations regarding amendments to the Export Limit Objective, Bullet three, as follows:

1. **“NOAA Fisheries does not agree that in-Delta releases are functionally equivalent to Delta inflow.”**

In-Delta storage releases represent a potential source of significant new water for the Delta and should be included in the E/I ratio inflow calculations. Yolo Bypass flows, Stockton Diverting Canal, minor creeks, and even the Sacramento Regional Treatment Plant discharges are defined as Delta inflow. In-Delta storage releases are as reasonably inflow as mainstem river flows and perhaps more so than many of the other inflows defined in the 1995 WQCP. There is no basis for distinguishing in-Delta storage releases from other Delta inflows; in-Delta storage releases were not listed as Delta inflow in the 1995 WQCP only because they were not contemplated during its preparation.

2. **“The diversion and storage of water to in-Delta reservoirs was found to negatively impact flow variables important to juvenile salmon, such as Delta outflow, QWEST, and flows in Middle and Old rivers.”**

We strongly disagree with the assertion that diversions and storage of water to in-Delta reservoirs were found to negatively impact flow variables in the Delta. The Delta Wetlands (DW) Project includes a mitigation package of final operations criteria to ensure that the reservoir operations do not jeopardize listed species (i.e., delta smelt, Sacramento splittail, winterrun Chinook salmon, steelhead trout).<sup>1</sup> These final operations criteria impose strict protections that ensure that diversions and storage of water to in-Delta reservoirs do not create significant impacts to fishery resources. With these criteria and the reasonable and prudent measures of the incidental take statement<sup>2</sup> in place, NOAA Fisheries issued a non-jeopardy biological opinion for the Delta Wetlands Project.

That being said, the issue at hand is the accounting of releases, not the diversions and storage referenced above.

3. **“In addition, the in-Delta release of such water is not comparable to mainstem river inflow as this water would be moving towards the Federal and State pumps, drawing juvenile salmon South rather than towards the San Francisco Bay (West).”**

First, this underlying assumption and premise is incorrect. In-Delta releases may provide a multitude of benefits, including additional exports at the State and Federal pumps. They may also serve to repel seawater intrusion, provide water quality benefits, facilitate transfers, and provide operational flexibility to the State and Federal water projects. Furthermore, other in-Delta projects may also release water into the Delta and should be considered in the Delta inflow accounting (e.g., North Delta flood control options on Staten Island).

Second, the possibility that the 1995 WQCP would be revised during the triennial review process to include releases from an in-Delta storage facility in the Delta inflow accounting was anticipated during our endangered species consultation with NOAA Fisheries:

“For purposes of this biological opinion, discharges from DW project islands are not counted as inflow to the Delta, as defined by the 1995 WQCP. Treatment of DW discharges as Delta inflow will constitute new information and may require further consultation.”<sup>3</sup>

<sup>1</sup> See Appendix 1 of the NMFS biological opinion for the Delta Wetlands Project dated May 7, 1997, pages 54-66.

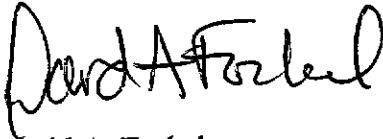
<sup>2</sup> See Incidental Take Statement of the NMFS biological opinion for the Delta Wetlands Project dated May 7, 1997, pages 38-49.

<sup>3</sup> See NMFS biological opinion for the Delta Wetlands Project dated May 7, 1997, pages 5-6.

Debbie Irvin, Clerk of the Board  
Triennial Review, Topic #6  
February 24, 2005  
Page 3 of 3

Delta Wetlands requests that the SWRCB address the generic application of in-Delta storage to export limits and include such releases in the Delta inflow accounting.

Sincerely,



David A. Forkel  
Assistant General Manager  
Delta Wetlands Project

cc: Cathy Crothers (DWR)  
Steve Roberts (DWR)  
Andy Moran (DW)  
Anne Schneider (ESH)