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*VIA FACSIMILE AND U.S. MAIL*  
(916) 341-5400

Gita Kapahi  
Chief, Bay Delta/Special Projects Unit  
Division of Water Rights  
State Water Resources Control Board  
P.O. Box 2000  
Sacramento, CA 95812-2000

Re: Comments regarding SWRCB's Triennial Review of the 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary

Dear Mr. Kapahi:

In accordance with your Notice of Public Workshop, which I received late yesterday, I am submitting the following comments on behalf of the Golden Gate Audubon Society, Marin Audubon Society, San Joaquin Audubon Society, Committee to Save the Mokelumne, California Sport Fishing Protection Alliance and California Water Impact Network regarding the State Water Board's review of its 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary ("1995 Plan").

I INTRODUCTION

Although we have not been afforded a sufficient opportunity to respond to your Notice of Public Workshop, we have the following preliminary comments:

1. We take strong exception to the State Water Board's challenge, in its resolution adopting the 1995 Plan and in the Plan itself at pages 10-11, to the authority of the United States Environmental Protection Agency to adopt water quality standards that regulate salinity and indirectly affect the hydrologic regime, including fresh water flows, of the San Francisco Bay Delta. SWRCB Res. No. 95-24 at ¶ 13 ("In the view of the SWRCB, the objectives for flow and operations are not subject to U.S. EPA approval, although the SWRCB recognizes that the U.S. EPA may disagree." Under section 303(c) of the Clean Water Act, the State Water Board must provide a level of protection for designated water uses, including fish and wildlife, equivalent to EPA's Bay-Delta water quality standards.

The EPA's Bay-Delta water quality standards, which were promulgated pursuant to federal court order on January 24, 1995 (40 C.F.R. § 131.37), have never been withdrawn as mistakenly predicted by the 1995 Plan (1995 Plan at page 10). Therefore these adopted federal regulations establish the governing water quality standards for the Bay-Delta. According to the State Water Board, "[t]he U.S. EPA standards generally are more protective of fishlife and more costly in terms of water supply, than the objectives in the 1995 Bay-Delta Plan." (Declaration of Walter G. Pettit, Executive Director, State Water Resources Control Board, dated February 21, 1996, filed in the matter *Golden Gate Audubon Society v. State Water Resources Control Board*, Sacramento County Superior Court Civil No. 366984, copy attached as Exhibit 1 hereto.) Yet