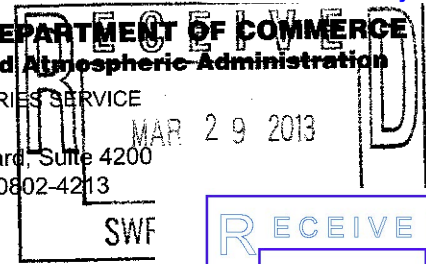




UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213



March 26, 2013



Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95814-0100

Dear Ms. Townsend:

NOAA's National Marine Fisheries Service (NMFS) appreciates the opportunity to comment on the State Water Resources Control Board's (State Water Board) revisions to the Draft Policy for Maintaining Instream Flows in Northern California Coastal Streams (Policy). The Policy will establish principles and guidelines for maintaining instream flows for the protection of fishery resources. As such, the Policy may have implications for endangered Southern California and threatened South Central California Coast steelhead (*Oncorhynchus mykiss*) and designated critical habitat for this species.

The Policy contains guidelines for evaluating whether a proposed water diversion, in combination with existing diversions in a watershed, may affect instream flows needed for the protection of fishery resources. It also prescribes protective measures regarding the season of diversion, minimum bypass flows, and the maximum cumulative diversion. Currently, the Policy applies to coastal streams in Northern California from the Mattole River to San Francisco and coastal streams entering San Pablo Bay.

NMFS has two principal comments regarding the draft Policy. First, while the Policy is currently limited to Northern California as described in California Water Code section 1259.4(a)(1), Water Code section 1259.4(a)(2) allows that "The board may adopt principles and guidelines for maintaining instream flows not described in paragraph (1), as part of state policy for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7, for the purposes of water right administration." NMFS believes the Policy should not be limited in geographic scope and should apply to all California streams in order to adequately protect sensitive fishery resources statewide. Because the Policy was developed for Northern California, it would likely need some modification to address differences in hydrology between regions. Nonetheless, the State Water Board would ensure consistency and simplicity in application of the Policy by expanding its reach to all California streams. As competing demands for surface water increase in California in the future, and particularly in Southern California, a Policy that applies statewide would help maintain instream flows at levels that allow recovery of threatened and endangered steelhead.



In addition, the Policy should ensure that instream flows approximate the natural flow regime in terms of magnitude, pattern, and timing. NMFS recognizes the need to strike a balance between water demands for human activities and instream flows to sustain aquatic life. This balance can be achieved by requiring water diversions and dams to be operated such that instream flows reflect the natural hydrograph. Because California's native fish species evolved under natural flow regimes, a Policy that provides natural flow patterns and magnitudes will give threatened and endangered fish species, including steelhead, the best chance at recovery.

NMFS looks forward to adoption of a final Policy that will maintain instream flows for the protection of fishery resources, including threatened and endangered steelhead. Please contact Kristin Mull at (562) 980-3265 or via email at Kristin.Mull@noaa.gov if you have any questions concerning this letter, or if you would like additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Ruvelas". The signature is fluid and cursive, with the first letter of each name being significantly larger and more stylized.

Penny Ruvelas
Southern California Area Office Supervisor
for Protective Resources Division

cc: Mary Larson, California Department of Fish and Wildlife
David Hines, National Marine Fisheries Service, Santa Rosa Field Office
Administrative File: 151416SWR2013PR00068