



California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

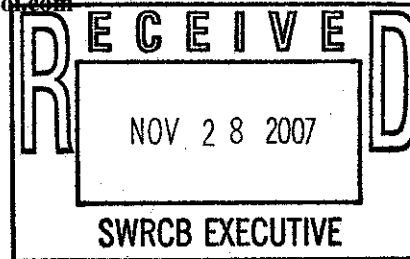
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28 November 2007

Tam Doduc, Chair
State Water Resources Control Board
P.O. Box 100
TDoduc@waterboards.ca.gov
Sacramento, CA 95812-0100

VIA: Electronic Submission
Hardcopy if Requested



RE: WATER BOARDS' ACTIONS TO PROTECT BENEFICIAL USES OF THE
SAN FRANCISCO BAY/SACRAMENTO-SAN JOAQUIN DELTA ESTUARY

Dear Chairwoman Doduc,

The California Sportfishing Protection Alliance (CSPA) supports the draft resolution of actions the State Water Resources Control (SWRCB) proposes to take to protect the beneficial uses of the San Francisco Bay/Sacramento-San Joaquin Delta estuary (Bay/Delta) and strongly urges adoption.

The resolution is essentially a restatement of the SWRCB's affirmative public trust responsibilities and statutory and regulatory obligations. CSPA has repeatedly urged the SWRCB to undertake almost all of the resolution's identified actions in numerous hearings/workshops and, had the Board previously embraced and implemented them, the estuary might not now be knocking on heaven's gate.

The specific details of implementation will determine whether this resolution represents a serious commitment to protect the estuary or is simply an empty public relations gesture. CSPA notes that:

- a. The Bureau continues to negotiate contracts for paper water and rejects protective flows for the American River, even as the Freeport diversion facility nears completion.
- b. The combination of the Delta Accords, the promises made by CalFed, the contract amendments (Monterey Agreement) have essentially doubled exports of water from the estuary culminating in last year's 3.7 million acre-feet of diversion by the of State Water Project. It is clear that the estuary cannot ecologically sustain this level of water diversion and the present diversion scheme represents a waste and unreasonable use of water and unreasonable method of diversion.
- c. Violations of Delta salinity standards continue without penalty.
- d. Permits issued by the Central Valley Regional Water Quality Control Board routinely ignore the most fundamental regulatory requirements and allow increased loading of impairing pollutants to impaired waters. CSPA

has more than thirty appeals pending before the SWRCB that have not been acted upon.¹

- e. TMDL implementation plans approved by the SWRCB fail to incorporate the "essential elements" of the state's Nonpoint Source Policy. Since there are no timelines, milestones or identified consequences for noncompliance; TMDLs have become a rabbit hole for the status quo.
- f. The SWRCB has essentially become a conscientious objector in efforts to control waste discharges from irrigated lands and a sidelines spectator to ongoing litigation.

The SWRCB and the courts have a joint responsibility for the protection of public trust resources. SWRCB staff has clearly recommended prompt initiation of a public trust proceeding to: (1) consider the protection of public trust resources and the balancing of the competing demands for water in and from the Bay/Delta. And (2) evaluate the reasonableness of the State Water Project and Central Valley Project's method of diversion from the Delta. We agree with staff on the necessity of a prompt public trust proceeding.

CSPA understands that the hydraulic brotherhood strenuously opposes such a proceeding. However, the estuary is in serious crisis and time is critical. Should the SWRCB acquiesce and fail to schedule a public trust hearing, CSPA and other environmental and fishing organizations will have little alternative other than turning to the courts for the protection of the estuary's public trust resources.

Thank you for considering these comments. If you have questions or require clarification, please don't hesitate to contact us.

Sincerely,



Bill Jennings, Executive Director
California Sportfishing Protection Alliance

¹ Indeed, two days following consideration of this resolution, the Regional Board proposes to authorize the City of Stockton to dramatically increase the mass loading of impairing pollutants to one of the most sensitive and degraded areas of the estuary and to allow an olive processor to discharge 9,568 mg/l and 59,800 lbs/day of salt into a direct tributary to the Delta.