

## Memorandum

Date: January 14, 2010

To: Phillip Crader  
Division Water Rights  
State Water Resources Control Board

From:  Carl Wilcox, Chief  
Water Branch  
Department of Fish and Game

Subject: Delta Flow Criteria Informational Proceeding: Comments Related to Pre-  
Proceeding Conference

The Department of Fish and Game (DFG) filed on January 4, 2010 a notice to appear in the Informational Proceeding to Develop Criteria for the Delta Ecosystem Necessary to Protect Public Trust Resources. This memorandum provides for the State Water Resources Control Board's (Water Board's) information a brief description of DFG's efforts to develop flow criteria and quantifiable biological objectives for the Delta and provides DFG's comments related to procedures to use during the Informational Proceeding.

### Department of Fish and Game (DFG) Flow Criteria

DFG is required by Water Code section 85084.5 to develop quantifiable biological objectives and flow criteria for species of concern dependent on the Delta. These objectives are criteria to be submitted to the Water Board by February 2011. In developing the objectives and flow criteria, DFG will use the best available science and consult with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

At present, DFG will use the following principles to guide the development of the Delta biological objectives and flow criteria:

1. Flow criteria and biological objectives will be based on best available data and information contained in existing recovery plans, publications, reports, journal articles, etc. To the extent possible, DFG will use the record develop by the Water Board for its flow criteria development. If new or additional information is developed after the Water Board completes it flow criteria, DFG will consider the new data and information.
2. DFG will participate in the Water Board's informational proceeding on development of its flow criteria. It is DFG's intent to coordinate development of flow criteria and biological objectives with the Water Board's efforts.
3. In developing flow criteria, DFG recommendations will follow guidance in Water Code sections 85084.5 and 85086(c)(1).

4. Species to be covered by the biological objectives and flow criteria may include all federal and State listed species in the Delta (e.g., Delta smelt, longfin smelt, etc.), salmon, other commercial/recreational fish species, and other species or habitats known to be influenced by Delta outflow.
5. Flow recommendations will be based on current environmental conditions in the Delta with an acknowledgment that conditions may be influenced by California's changing climate.

DFG is planning to assist the Water Board in assessments to identify additional flow requirements in the Delta and upstream watershed as described in Water Code section 85087.

### **Scope of the Informational Proceeding**

The scope of the Informational Proceeding should be focused on the environmental factors and public trust resources influenced by Delta outflow. Current environmental conditions in the Delta should be the baseline.

DFG recognizes the significance and importance of Delta inflows from the Sacramento River, San Joaquin River (SJR), and other tributaries and their influence on the Delta outflow. Since water quality planning efforts to develop flow objectives for the SJR are already underway independent of the Flow Criteria Informational Proceeding, DFG suggests that in the interest of not duplicating data and information submittal that the Informational Proceeding and SJR efforts remain separated. For other streams tributary to the Delta, it is not possible in the time available to prepare for the Informational Proceeding comprehensive flow recommendations. Flow criteria for these water bodies should be the subject of future efforts to identify flows that will protect public trust resources.

### **Documents Already Available to Water Board Staff**

The Water Board staff should post on the Water Board website all reports, publications, data, and any other information in its possession relevant to the development of flow criteria. This would avoid the resubmission of data and information already in possession of the Water Board. To be most useful to DFG, this information should be identified and posted no later than Friday, January 29, 2010.

### **Expert Panels**

DFG also suggests that the Water Board convene at least two panels. The first panel should be comprised of the State and federal fisheries agencies. The second panel should focus on alternative methodologies for developing the flow criteria.

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DFG supports the use of subject-specific expert panels to present testimony and summarize exhibits to expedite the proceeding. If the Water Board decides to use this approach, DFG suggests that selection of individual members of panels and the topics for each panel should be delayed until all testimony and exhibits have been submitted (i.e., after February, 16, 2010).

Should you have any questions regarding this memorandum, please call me at (916) 445-1231.