



These recommendations are submitted on behalf of Environmental Defense Fund, Defenders of Wildlife, The Nature Conservancy and The Bay Institute in coordination with a large number of environmental, fishing and conservation organizations. We intend as well to coordinate our informational submittals and presentations to the Board to the maximum extent possible.

Overall Approach to the Public Trust Flows Proceeding

The focus of the presentations and all of the panels should be the flow needs of the Delta ecosystem from the perspective of ensuring the basic biological health of estuary and related aquatic resources in light of the best available science.

The statute requires the Board's best judgment regarding public trust flows based on the available data, not "perfect" data. The standard for developing the public trust flow criteria is not "certainty," but reasonableness and best scientific judgment. As one prominent fishery biologist recently noted, there is no good mechanistic understanding of why gravity exists or how it works. Nevertheless, we do know that it does work, and the correlations that this unexplained phenomenon produces (e.g., how fast things fall) are the rules that we use every day to build buildings, bridges, airplanes, etc.

Suggestions as to what topics to use to organize expert panels

We recommend grouping experts on the basis of geographic, or regional, public trust flow issues rather than attempt to artificially distinguish between discreet scientific topics. Thus, we propose panels to address:

1. Inflows from the San Joaquin River
2. Inflows from the Sacramento River
3. Delta outflow issues

Grouping presentations based on specific areas of scientific topic, such as fisheries, water quality or invasive species, etc. would substantially limit the

Board's ability to hear about and address the system synergistically, which is what is required fundamentally in order to develop public trust flow criteria.

Proposal to organize into groups to summarize exhibits

We recommend that the Board defer its decision about how to organize groups for purposes of the March proceeding until after it has received the informational submittals on Feb. 16. The Board has made it clear that it prefers organizations to coordinate their submittals rather than provide the Board with repetitious information. Our organizations are working closely together and with other environmental groups. We understand other interests are coordinating as well. Thus, we believe it would be most efficient for the Board to get a sense of the submissions prior to attempting to organize presenters into specific groups.

We anticipate that it will be substantially more productive for the Board to group presenters with others who have shared information, experts and otherwise similar or like presentations. This will allow the Board to make use of overlap between those groups and explore their views in depth without the distraction of conflict among the panel members themselves. For this reason we also recommend against grouping experts by topic with those with whom they disagree. There will be plenty of opportunity for the Board to explore differing views. However, experience demonstrates that decisionmakers will have a greater opportunity to control the questioning and direction of the presentations if they explore divergent views separately. However, as indicated above, we do not believe it is necessary or efficient for the Board to try to group organizations until after it has at least preliminarily surveyed the submissions.