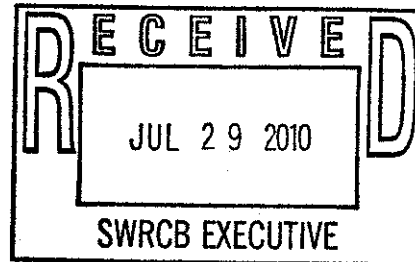




By Electronic Mail: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)  
And U.S. Mail

July 29, 2010

Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100



**Subject: Comments Letter – Draft Delta Flow Criteria Report**

Ms. Townsend:

The Santa Clara Valley Water District (District) appreciates the opportunity to comment on the draft report, *Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem* (Draft Report). Given the very short comment period provided, we have not had an opportunity to prepare detailed technical comments. The District concurs with, and hereby incorporates, the comments submitted by the State and Federal Contractors Water Agency.

The District provides water resources management, flood protection, and watershed stewardship for the 1.8 million residents of Santa Clara County (County) and to the vital high-tech economy known as "Silicon Valley." The County relies on water from the Sacramento and San Joaquin River watersheds, delivered through and around the Delta, for over half its supply. The residents and businesses in the County receive imported water from the State Water Project, the federal Central Valley Project, and the San Francisco Public Utilities Commission Hetch-Hetchy Project. Protecting and restoring the health of the Delta is vital to protecting and restoring the reliability of all these supplies. The District's integrated water management plan includes substantial local investments in water use efficiency, recycled water, and groundwater management but these efforts cannot fully replace our need for reliable imported water.

SB 1 states, "[f]or the purpose of informing planning decisions for the Delta Plan and the Bay Delta Conservation Plan, the [State Water Board] shall, pursuant to its public trust obligations, develop new flow criteria for the Delta ecosystem necessary to protect public trust resources." SB 1 further requires that the State Water Board "use the best available scientific information" and that "[t]he flow criteria for the Delta ecosystem shall include the volume, quality, and timing of water necessary for the Delta ecosystem under different conditions". While the District appreciates the difficulty of this task, especially given the nine month timeframe to do it in, the District does not believe the Draft Report satisfies the intent or the specific requirements of the legislative mandate.



Because the State Water Board process to develop these flow criteria did not consider other public trust resources or public interest concerns, but instead focused on only one of a number of critical stressors, the flow criteria cannot effectively inform efforts to develop a comprehensive plan to protect, restore and enhance the Delta ecosystem. It is widely recognized that the combined effects of pollution, invasive species, habitat destruction, predation, and inappropriate land use have severely degraded the ecosystem. Any flow criteria must be developed as part of a comprehensive effort to address all these stressors together. The State Board report recognizes this (e.g., quote on page 1, page 7), and emphasizes that the untenable flow requirements identified in its report illustrate the importance of addressing the negative effects of other stressors, including future habitat improvements and changes in nutrients and contaminant loading.

The District is disappointed that the flow criteria not only fail to balance ecosystem needs with other types of public trust resources, but also inadequately addresses competing needs within the ecosystem itself. As the modeling in Appendix B demonstrates, even with unsustainable reductions in water supply deliveries both north *and* south of the Delta, the flow criteria result in significant reduction in cold water pool storage in Shasta, thus negatively impacting the viability of salmon.

The Draft Report does not use the best available science. The report does not distinguish between science that has undergone rigorous peer review and assertions that were made during the public input process. Nor does the report qualify the degree of certainty or scientific agreement for many of the assertions that are used to justify the flow criteria. In addition, the Draft Report states,

*Because the notice for the proceeding focused on Delta outflows, and some of the participants did not submit scientific information on inflows and hydrodynamics for the State Water Board's consideration, the record for inflows and hydrodynamics may not be as complete, and the analyses for these flow parameters accordingly may be limited.*  
(Page 11).

However, when inflow and hydrodynamic criteria are described elsewhere in the document there is no acknowledgment of this limitation. In fact, many of these criteria are classified as Category A criteria; supported by more robust scientific information despite the earlier acknowledgement that the record may not be complete.

The Draft Report does not include adequate consideration of the water quality necessary for the Delta ecosystem. Many of the water quality findings are dismissed with the statement, “[m]ore work is needed to determine their impact on the aquatic community.” In many instances, the scientific certainty on the detrimental effect of poor water quality in the Delta is at least as good as the scientific certainty on many of the flow effects. For example, the literature on effects of ammonia and excessive nutrients in the Delta and in estuaries around the world is voluminous. And, there have been several peer reviewed scientific papers on the increase of blue-green algae in the Delta and on the effects of those algae on resident species. The State and Federal Contractors Water Agency provided many of these references in earlier submittals to the State Water Board.

Ms. Jeanine Townsend

Subject: Comment Letter – Draft Delta Flow Criteria Report


July 29, 2010

Page 3 of 3

Where the Draft Report does acknowledge a water quality impact on the aquatic community, it chooses to address the water quality impairment with dilution flow rather than with source reduction. Not only is this approach contrary to the Clean Water Act, it is a wasteful and unreasonable use of waters of the State. For example, the report addresses low dissolved oxygen levels in the San Joaquin River with higher flows to dilute the upstream algal biomass rather than with actions to reduce the upstream algal biomass that is consuming the oxygen.

The District appreciates the State Water Board's acknowledgement of the limitations of this report. We can only hope that all readers of the report will acknowledge those limitations. The Draft Report highlights that flow alone will not restore the Delta ecosystem. No amount of flow will address some of the stressors such as habitat degradation, invasive species, predation, contaminants, and nutrient imbalance. Successful restoration of the Delta ecosystem will depend on a broader, more integrated approach such as that being pursued in the Bay Delta Conservation Plan. The District is committed to the Bay Delta Conservation Plan process and the pursuit of the co-equal goals of ecosystem restoration and water supply reliability.

Sincerely,



Beau Goldie  
Chief Executive Officer