State Water Resources Control Board - Submitted March 9, 2010

Informational Proceeding to Develop Flow Criteria for the Delta Ecosystem - Questions

Party submitting questions: **Coalition for a Sustainable Delta**

(*See Clarifying Questions on Written Testimony and Exhibits submitted concurrently in Word document format for details, references, and bibliography of literature cited)

Priority[1]	Question	Witness
1	Can you explain why the use of surrogate species is an appropriate management tool in the Delta?*	The Bay Instititue and NRDC
2	Can you please provide the most complete explanation you are able -- grounded in findings from empirical research to the extent possible -- for your recommendation that certain species serve as surrogates for the broader ecological community in the Delta?*	The Bay Instititue and NRDC
3	Is there an empirical basis for the assertion of the Bay Institute, Natural Resources Defense Council, and Environmental Defense Fund that no management actions other than restoration of adequate flows can fuel restoration of public trust resources?*	The Bay Institute and NRDC; Environmental Defense Fund
4	How can you reconcile this assertion with the statement by the California Department of Water Resources that "[o]ne of the most significant developments in recent years is the deterioration of the flow-abundance relationships" (California Department of Water Resources 2010)?*	The Bay Institute and NRDC; Environmental Defense Fund
5	Is there any empirical basis for the Department of the Interior's presumption that replicating historic flow conditions will benefit native species and their habitats?*	U.S. Department of the Interior
6	What is your response to the criticism of the key studies and analyses that provide the basis for the numeric criterion proposed by the Bay Institute and Natural Resources Defense Council?*	The Bay Institute and Natural Resources Defense Council
7	Is there any published, empirical research that demonstrates that maintaining the position of X2 at less than 80 km (i.e., 71, 74, and 77 km, respectively, as recommended by the Bay Institute and Natural Resources Defense Council) will increase subsequent abundance of native, at-risk species? If so, which species?*	The Bay Institute and Natural Resources Defense Council

1	Do the Department of the Interior, the Nature Conservancy, CSPA, C-WIN, NMFS, or Environmental Defense Fund have any legal authority to support their shared assumption that the flow criteria may be set with the sole aim of "protecting and restoring a healthy Sacramento-San Joaquin Delta ecosystem on a sustainable basis"?*	U.S. Department of the Interior, the Nature Conservancy, California Sport Fishing Protection Alliance (CSPA), California Water Impact Network (C-WIN), National Marine Fisheries Service (NMFS), and Environmental Defense Fund
2	Do the National Marine Fisheries Service, Environmental Defense Fund, or C-WIN have any legal authority to support their assumption that protection of public trust resources means insuring recovery of the (listed) aquatic species that reside in or migrate through the Delta?*	NMFS, Environmental Defense Fund, and C-WIN
3	In light of NMFS' conservation obligation under section 7(a)(1) of the Endangered Species Act, on what basis does NMFS maintain that it has no requirement to conserve (i.e., recover) listed species while the State Board has an affirmative obligation to do so?*	NMFS
4	How can the precautionary approach to establishing flow criteria be reconciled with the State Board's mandate in the California Constitution and the Water Code (including provisions added by SB 1) to balance the protection of public trust resources against the needs of Californians that depend on water diversions?*	NMFS; The Bay Institute and Natural Resources Defense Council; and C-WIN

[1]Please identify the top 10 priority questions concerning each participant's testimony or exhibits, with 1 being the highest and 10 being the lowest p

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