

SOUTH DELTA WATER AGENCY

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August 17, 2012

Via E-Mail commentletters@waterboards.ca.gov

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

Re: Bay-Delta Workshop 1 – Ecosystem Changes and LSZ

Dear Ms. Townsend:

The information I would like to present is already in the SWRCB records, or contained in the data at CDEC. However, I believe none of it has been previously considered in the development of the suggested flow objectives for the protection of the fish and wildlife beneficial use or for the recently recommended changes thereto.

In the development of fishery flow objectives or standards, there are two levels of analysis (for purpose of my presentation). The first deals with how much flow at what times it is needed (in conjunction with other actions) to protect the beneficial use. Once proposed flows are developed, the second analysis looks at the impacts of providing those flows, which may lead to changes therein, or mitigation of those impacts.

My review of previous SWRCB analyses indicates that the modeling of proposed (and eventually adopted flows) does not accurately reflect both actual operations and/or actual hydrology. If that is the case, then the development of new fishery flows will not provide the protections to fish and wildlife beneficial uses as sought or required.

In my investigation of this issue, a number of people noted that modeling of any proposed or adopted fishery flow standards need not exactly match actual operations of responsible parties (generally the projects), as the modeling was only a method of examining

impacts resulting from those changes. This may be true, but it only goes to the second level of analysis referenced above and not the first. The calibration of the analysis to reflect actual operations and hydrology is extremely necessary so that proposed fishery flows actually occur rather than being unavailable. It is clear that if the minimum fishery flows expected in dry and critical years are not available for release, then the standards would not be providing the protection of the beneficial use. Put a different way, it does no good to set a standard for the protection of fish if there is no water to meet the standard. Unfortunately, that appears to be the case.

The SWRCB webpage at http://www.waterrights.ca.gov/Hearings/emergency_drought.html includes the petition and supporting information for the DWR/USBR Urgency Petition filed in early 2009. The Order resulting from that Petition is located at http://www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/2009/0013.pdf. In that Petition, the projects sought emergency relief from their permit conditions to meet Delta outflow, a fishery standard. The projects cited the preceding two years of drought and near record low storage as reason for not being able to meet the winter outflow requirement. The projects argued that meeting the outflow requirement would deplete storage to a point where later in the year cold water flow requirements might be impossible.

Sometime before the Petition, the USBR notified the Exchange Contractors that they would not likely be able to provide them with their dry year allocation from the Delta, meaning that the Exchange Contractors would have a right to take San Joaquin River water instead. The Exchange Contractors are the senior-most contractors of the CVP.

Thus, after two years of severe critical dry conditions, and a third year appearing to be a continuation of such conditions, the State and Federal storage and delivery projects were “bankrupt.” They were unable to provide minimum fishery flows or a supply to their senior-most contractor. Being unable to provide the minimum fishery flows for the protection of fish and wildlife beneficial uses means that the anticipated benefits resulting from the standards were to a great degree illusory.

I therefore caution the Board that in the development of new fishery flow standards, it is extremely necessary to re-evaluate the analytical tools being used, including the models. If proposed fishery flows include minimum amounts during the third (or fourth) dry or critical dry year, recent experience indicates such flows are simply not available, and thus will not provide protection of the beneficial use for which they are adopted.

I will also note that a recent workshop conducted by the California Environmental and Water Modeling Forum, it is now tentatively believed that operational modeling may have been understating the amount of water lost to the system in the Delta. If so, this would mean that the

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modeling of Delta outflow might have been overstating the amount of outflow, and thus the intended benefits of outflow standards may be less than needed or desired.

Very truly yours,



JOHN HERRICK

cc (via e-mail):
Dr. Brock Bernstein
Ms. Danielle Wilson