

6 February 2008

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To: State Water Resources Control Board  
Department of Water Rights

Re: Draft Instream Flow Policy

Questions:

- STATE WATER RESOURCES  
CONTROL BOARD  
2008 FEB - 6 PM 12: 18  
DWR  
STATEWATERRIGHTS  
SACRAMENTO
1. On Page 4 of the policy, the department introduces a formula for minimum bypass flows that is different from the formula from the DRAFT GUIDELINES which applicants were required to follow previously. Why the change. And have the engineers done a real world case study to determine how much the new formula reduces the permissible diversion rates? ... specifically MBF vs QMBF  
*Fitz median*
  2. If this POLICY is approved, and if a permit applicant adheres to the letter and spirit of all of the new regulations, will the DWR dismiss the protests and petitions that have held up the permitting process for nearly fifteen years?
  3. On Page 8 of the POLICY the BOARD uses the language "will consider processing" the application prepared under the DRAFT GUIDELINES. The word "consider" should be stricken from this sentence. The Board must follow the same rules it forced applicants to adhere to at great cost. To do otherwise would be a serious breach of faith. Assurances were given to applicants by staff that the rules would not change in mid-stream, as it were.
  4. Will the approved water availability determinations of one applicant be made available to other applicants in a related or overlapping watershed to reduce some of the now extreme costs of the application process? If each analysis is proprietary the redundancy factor becomes highly irrational.
  5. Why was Troco Unlimited given the opportunity to write this policy, especially considering they were a party to both the protests, and the petitions that has blocked the permit process for the last 15 years? Is this not a conflict? Why were applicants not invited to the table?