

STATE WATER RESOURCES  
CONTROL BOARD

**Fax Cover Sheet**

MAY -2 AM 8:03

To: Name: Karen Niiya  
Organization: State Water Resources Control Board  
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DIR. OF WATER RIGHTS  
SECRETARY

From: Robert Pennington  
Community Clean Water Institute  
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Re: Draft State Water Resources Control Board Policy for Maintaining  
Instream Flows in Northern California Coastal Streams

Comments: 2 pages not including coversheet

STATE WATER RESOURCES  
CONTROL BOARD

2008 MAY -2 AM 8:03



## Community Clean Water Institute

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State Water Resources Control Board  
Division of Water Rights,  
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Sacramento, CA 95814

Attn: Karen Niiya

Senior Engineer

### Comment: Draft State Water Resources Control Board Policy for Maintaining Instream Flows in Northern California Coastal Streams

The Community Clean Water Institute (CCWI) would like to express our support and concerns in regards to the Policy For Maintaining Instream Flows In Northern California Coastal Streams. CCWI considers the development of an Instream Flows Policy to be potentially paramount in saving our collapsing fisheries. As is clear by the extremely low returns of steelhead and salmon to all north coast rivers and streams this year, all methods available in attempt to promote the return and establishment of our once prolific fishery must be utilized to their full potential.

CCWI's primary concerns are the selection of October as the date when diversion may begin, lack of provision for enforcement and details of the watershed approach to evaluating and governing water extractions.

#### Season of Diversion

The policy states that water diversion may begin in October. October and November are critical months for fisheries migration. Even without diversions flows during the late fall are similar to summer base flow conditions. Stream Flows generally do not respond significantly until 10 to 12 inches of rainfall have been received and the soil becomes saturated. Therefore, the fall is a critical time for flows and all available runoff must allowed to flow into streams in order to provide the necessary water for fish passage.

Further rationale for using a later start date is that water diverted during the wet season is not used immediately but stored until the following spring and summer. The bulk of rainfall and runoff generally occurs in January and February; during these months enough water to fill tanks, reservoirs and other storage systems can easily be impounded. Thus limiting the season of diversion to the time of greatest flow will not impede one's ability to capture and store water for the following year's needs. However, limiting the season of diversion will help to provide our rivers and streams the necessary flow to support fish migration.

We support the recommendations of the Department of Fish and Game and the National Marine Fisheries Service who have advised that the diversion season begin on December 15 and end on March 30. Alternatively, we would be supportive of a date specific to each watershed and year that defines the start date of the diversion season to be when 12 inches of rainfall has been recorded or another

method tied to a measurable physical parameter. An ending date could also be tied to measurable parameter such as rainfall or discharge.

#### Watershed Approach and Monitoring

CCWI supports the idea of using a watershed approach to evaluating and governing water diversions. The watershed approach may provide a platform for policy adaptation and flexibility as well as a way to incorporate all stakeholder opinions.

However CCWI is concerned about the methods of monitoring of diversions, monitoring of stream health indicators and flexibility of the watershed approach.

CCWI is not supportive of a monitoring program dependent on self-monitoring of diversions.

Monitoring of stream health indicators should include collection and compilation of data including, but not limited to, discharge records, rainfall records, population of redds in critical streams, steelhead and salmon smolts reaching the sea, returning fish populations, and the opening of rivermouth bars in smaller streams. Groundwater levels, as obtained from monitoring wells and estimates of groundwater pumping, the types of nearby land usage and soil types—and their erosion potentials—as well as the proportion of undeveloped land within the watershed.

CCWI stresses that the watershed approach must be adaptable and based on achievable and quantifiable goals. There must be sufficient monitoring and analysis to assess if goals are met. If goals are not met then the policy must be adapted to achieve these goals. In this way the approval of a diversion permits must be considered provisional and subject to the achievement of set goals.

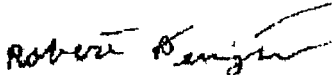
#### Enforcement

It is understood that the states ability to monitor and enforce policy is limited by funding. CCWI believes that funding for the monitoring program can be achieved through increased fines for violations, and potentially increased fees for permits.

Simplifying the permit process by decreasing the number of variances may also be useful in saving enforcement costs. The myriad of variances and appeals through which a judgment may be delayed in cases of suspected abuse delay the payment of fines and increase the cost of enforcement.

CCWI also supports a system of public notification, perhaps through local organizations and councils, when new projects affecting the health of our watersheds are proposed and when judgments are issued. Along with the permit application should be data including general watershed characteristics, hydrology, stream health indicators (as listed previously) and a map and list of all other diversions in the watershed.

Sincerely,



Robert Pennington  
CCWI Project Director

Date: May 2, 2008