



California Regional Water Quality Control Board North Coast Region

Geoffrey M. Hales, Acting Chairman



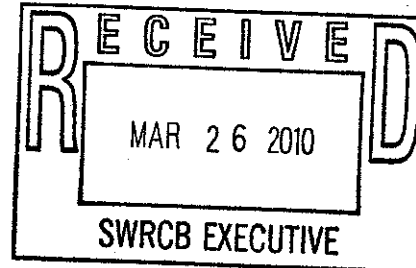
Linda S. Adams
Secretary for
Environmental Protection

www.waterboards.ca.gov/northcoast
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135

Arnold
Schwarzenegger
Governor

March 26, 2010

State Water Resources Control Board
Division of Water Rights
Karen Niiya
1001 I St.
PO Box 2000
Sacramento, CA 95814



Subject: Policy for Maintaining Instream Flows in Northern California Coastal Streams -
KYN:AB2121

Dear Ms. Niiya,

Thank you for the opportunity to comment on the February, 2010 draft of the "Policy for Maintaining Instream Flows in Northern California Coastal Streams" (Draft Policy). The North Coast Regional Water Quality Control Board (Regional Water Board) is charged with protecting water quality in much of the policy area, ensuring compliance with water quality objectives, and the protection of beneficial uses as described in the Water Quality Control Plan for the North Coast Region (Basin Plan). It is on this basis that the Regional Water Board staff offers the following comments.

Regional Water Board staff commends the Division of Water Rights for reconsidering the season of diversion presented in the Draft Policy. The revised start date of December 15 is more protective of water quality and significantly improves the protectiveness of the policy in regard to fall Chinook salmon populations. Thank you for making this important and significant change.

Onstream Dams

Regional Water Board staff requests the policy be modified to condition approval of bypass systems so that the systems do not cause water quality objective exceedences downstream. We recognize the Draft Policy requires the preparation and implementation of plans to mitigate the effects of impoundments on sediment loads, woody debris supply, riparian habitat, and predation by non-native species. These requirements are appropriate and will mitigate many of the negative effects of dams on aquatic resources if properly implemented. However, by themselves the requirements will not prevent other water quality impacts of impoundments such as alteration of temperature, dissolved oxygen, and pH conditions.

One major remaining concern is how onstream reservoirs relate to bypass systems. In the case of a bypass system that routes flow around the reservoir, water quality would change very little

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between the upstream and downstream limits of the affected reach, as long as the water is not impounded for any significant amount of time. Such a system would be expected to protect water quality. However, in the case of a bypass system that simply matches the rate of inflow and outflow, significant changes in water quality may occur between the upstream and downstream extent of the affected reach. For instance, water entering a reservoir may have a temperature that is quite different than the top layer of a reservoir. A 5° temperature increase through the affected reach, a gross exceedence of the water quality objective for temperature, is not hard to imagine. Similarly, water drawn from the bottom of a stratified reservoir may have significantly degraded water quality conditions relative to the water entering the reservoir.

Active bypass systems that address water quality factors such as those described above can be reasonably and feasibly designed. Design features that adequately protect water quality need to be incorporated into the permitting requirements. In addition, we request that permits involving active bypass systems include requirements to monitor and report upstream and downstream temperatures.

Existing Diversions

Given the extent and magnitude of existing diversions, the temperature and sediment impairments of many policy area streams, and the precarious condition of salmonid populations in the Policy area, Regional Water Board staff suggests revisiting existing water right permits to ensure that they are not contributing to violations of the Basin Plan or the Policy. At a minimum, Regional Water Board staff recommends that the Division include in the Policy a monitoring element designed to track compliance with existing water rights, and efficacy of the protections provided in the Policy.

Other Comments

Regional Water Board staff supports the language in section 2.2.2 requiring that fisheries habitat evaluations be conducted by a qualified fisheries biologist. We recommend similar language be added at the end of section 2.2.2 stating hydrologic analyses must be conducted by a qualified hydrologist or civil engineer.

Regional Water Board staff recognizes that the Division's authority to amend permits to ensure compliance with water quality objectives. We respectfully request that the Division work with Regional Water Board staff to address water quality impairments identified in water quality investigations, including the Russian River TMDLs, if needed.

Thank you for acknowledging the Regional Water Board jurisdictional authority in 3.3.2.3 discussing section 1707 water transfers, and in section 4.3 discussing the watershed approach. We also appreciate the Division's stated intent to work cooperatively with the Regional Water Board and others to investigate complaints related to diversions of water. Regional Water Board staff is available to participate in and assist with the implementation of the Policy, including complaint investigations.

Summary

Regional Water Board staff supports the establishment of a policy that addresses the unique habitat needs of salmonids. Regional Water Board staff welcomes a new policy that addresses

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the minimum flows, on-stream dams, and channel maintenance flows, while limiting the use of water during critical low flow months. We remain concerned with the water quality impacts of onstream dams, and the implementation of active bypass systems, in particular, and request the Division explicitly address the issue in the Policy. Also, we encourage the Division to address the water quality impacts of existing water rights permits in a systematic manner. In conclusion, we look forward to collaborating with Division of Water Rights staff to implement this policy as it relates to the protection of water quality. Thank you for consideration of the comments above. If you wish to discuss or clarify these comments, please contact Bryan McFadin of my staff at 707-576-2751 or bmcfadin@waterboards.ca.gov.

Sincerely,

(original signed by)

Catherine Kuhlman
Executive Officer
NCRWQCB