

CALIFORNIA CATTLEMEN'S ASSOCIATION

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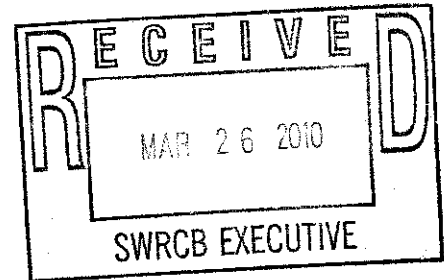
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March 25, 2010

Mr. Charles Hoppin
Chair, State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



Submitted Via Email: commentletters@waterboards.ca.gov

RE: Comment Letter – AB 2121 Policy

Dear Chair Hoppin;

The California Cattlemen's Association (CCA) appreciates the opportunity to comment on the Proposed Policy for Maintaining Instream Flows in Northern California Coastal Streams (Proposed Policy). CCA represents California ranchers and beef producers who are active stewards of California's water and natural resources and own or manage working landscapes that provide wildlife habitat, open space and numerous other environmental benefits.

CCA is strongly opposed to the Proposed Policy in its current form and would strongly urge the State Water Resources Control Board (Water Board) to defer adoption of the policy as scheduled on April 27, 2010. Instead, we suggest the Water Board hold an informational meeting on April 27, 2010 and extend the public comment period in order to work with impacted stakeholders to draft a policy that complies with requirements enacted under AB 2121 but balances all beneficial uses of water.

CCA is concerned by numerous provisions incorporated in the Proposed Policy, but most importantly, that the adoption of instream flows for waters within the project actually reflects on-the-ground realities and the need to provide a reliable supply of water for agricultural and municipal uses, not just habitat. The continued availability of water in accordance with right is essential to maintain the strong presence of farmers and ranchers within the project area.

While AB 2121 requires the Water Board to develop instream flows for waters within the North Coast, the legislature also authorized the Water Board to develop instream flows and guidelines for other regions in California. Instream flow guidelines and policies in the North Coast region will likely set precedent for other regions of California. Therefore, it's vital the Water Board



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work and negotiate with stakeholders to develop instream flow policies and guidelines that respect water rights while protecting fishery resources.

CCA also opposes the application of instream flows to current water rights, existing stock pond registrations or pre-1914 adjudicated water rights. In Section 3.3, the Proposed Policy references that, "This policy applies to applications to appropriate water, small domestic use and livestock stockpond registrations, and water right petitions." CCA strongly urges the Water Board to revise the applicability language to specifically state that the Proposed Policy will only impact new applications to divert water, not those currently on file or awaiting approval.

The State Water Board currently has numerous water rights applications pending that have been on file for a long period of time and have yet to be addressed. In some cases, water users have been diverting water in accordance with the application on file. These water users should not be subjected to the Proposed Policy because in most cases and in no fault to their own, the applications have been on file with the Water Board for long extended periods of time and no action has been taken.

CCA is concerned that applying the Proposed Policy to water rights applications or petitions will further complicate and slow the administrative process. The Water Board should look to enact instream flow policies and guidelines that more effectively and efficiently administer water rights applications and petitions, and CCA firmly believes that the Proposed Policy will not achieve that goal.

CCA is also concerned that the bypass flow criteria outlined in the Proposed Policy are overprotective and do not allow the flexibility to address specific seasons of use and actual impacts on fishery resources. Most significantly, CCA does not believe the overprotective bypass flow policies and criterion currently proposed are based on the best available science that can be applied specifically to the North Coast and subsequently serve as a basis to justify the proposed instream flow policies and guidelines.

In addition, CCA believes that the economic analysis did not accurately measure the cost associated with implementing the Proposed Policy. The Proposed Policy will have both far reaching direct and indirect costs – primarily attributed to a forced reduction in farm or ranch productivity due to restrictions in water use. CCA urges the Water Board to conduct a more comprehensive economic analysis, thoroughly reviewing both direct and indirect costs, in order to more confidently adopt instream flow policies and guidelines that can actually be achieved without jeopardizing food production in the North Coast.

Once again, CCA appreciates the opportunity to comment on the Proposed Policy and encourages the Water Board to postpone any decision on the Proposed Policy on April 27. CCA

further suggests that the Board direct staff to resume discussions with all impacted stakeholders and water users in the North Coast to develop instream flow policies and guidelines that are protective of fishery resources while preserving water rights and other legally and constitutionally recognized beneficial uses. Should you have any questions, please don't hesitate to contact me directly.

Sincerely,

A handwritten signature in cursive script that reads "Justin Oldfield".

Justin Oldfield
Director of Regulatory Affairs