



by email and hand delivery

March 19, 2009

Charles Hoppin, Chair
c/o Anne Short
State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000
Bay-Delta@waterboards.ca.gov

RE: Southern Delta Salinity and San Joaquin River Flow NOP

Dear Mr. Hoppin,

This letter is submitted as the comments of the Bay Institute regarding the Notice of Preparation for environmental documentation for the update and implementation of those components of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary addressing Southern Delta salinity and San Joaquin River flows. We plan to submit detailed comments regarding potential amendments or revisions to the southern Delta salinity and San Joaquin River flow objectives at the appropriate time. These comments are focused on a few key concerns regarding the environmental review of updating and implementing the salinity and flow objectives.

First, San Joaquin River flow objectives need to be considered in conjunction with Delta export criteria. Environmental impacts to fish and wildlife, estuarine habitat, and other beneficial uses as a result of amending and revising the flow objectives are strongly affected by the level of export pumping at the state and federal water project facilities in the south Delta. The important relationships between San Joaquin inflow, Delta exports, and fish populations need to inform the Board's review of the San Joaquin River flow objectives.

Second, San Joaquin River flow objectives need to be considered in conjunction with the

South Delta Salinity/San Joaquin River Flows NOP

March 19, 2009

Page 2

Plan's narrative objective for salmon protection. San Joaquin River inflows are a critical component in creating habitat conditions in the Delta and lower San Joaquin River sufficient to help achieve the salmon doubling objective. There is more than enough information to use numeric criteria for San Joaquin inflow to achieve and complement the narrative objective.

Third, in amending water rights to implement the flow objectives, the Board should not exclude any major water rights holders or water users from potentially being required to help meet these objectives. The environmental review should evaluate requiring all water users throughout the San Joaquin basin, including those along the mainstem San Joaquin River upstream of the confluence with the Merced River, to equitably contribute to meeting the objectives.

Finally, in amending water rights to implement the flow objectives, the effect of changing release patterns from upstream storage facilities on instream biological resources in each sub-basin should be evaluated, in order to ensure that compliance with downstream requirements occurs in a manner that avoids adverse impacts to those instream resources. The relationship of changes in upstream operations to contributing to meeting the Plan's narrative objective for salmon protection should also be evaluated.

Thank you for the opportunity to comments on the NOP. Please contact me at 415-878-2929 x 25 or bobker@bay.org if you have any questions regarding this letter.

Sincerely,

Gary Bobker
Program Director