
From: William Jennings [<mailto:deltakeep@me.com>]

Sent: Tuesday, October 27, 2015 1:44 AM

To: Marcus, Felicia@Waterboards; Spivy-Weber, Frances@Waterboards; Doduc, Tam@Waterboards; Moore, Steven@Waterboards; Dadamo, Dorene@Waterboards

Cc: Howard, Tom@Waterboards; Trgovcich, Caren@Waterboards; Evoy, Barbara@Waterboards; O'Hagan, John@Waterboards; Riddle, Diane@Waterboards; Grober, Les@Waterboards; Satkowski, Rich@Waterboards

Subject: Coalition Response to Water Agency Unimpaired Flow Letter

Dear Chair Marcus, Board Members,

Attached is a letter from a broad coalition of environmental, commercial and recreational fishing, environmental justice and tribal organizations responding to a 23 July 2015 letter from a consortium of water agencies urging the State Water Resources Control Board (SWRCB) to abandon its “unimpaired flow” approach to water management in the Sacramento-San Joaquin Delta during the Water Quality Control Plan process.

The “unimpaired flow” approach was adopted by the SWRCB following an extensive public proceeding and reflects a consensus opinion of fishery agencies, university and independent scientific experts and non-governmental fishery and environmental organizations. It is based on the best available science and is the most equitable and fairest approach to protecting the public trust and other beneficial uses because it asks for a fair-share commitment of flow from all tributary streams.

We respectfully urge the SWRCB to reject the efforts of water contractors to delay and sabotage the present Water Quality Control Plan process and to move expeditiously in implementing flow requirements necessary to protect our waterways and fish. Thank you.

Bill Jennings

Executive Director

California Sportfishing Protection Alliance

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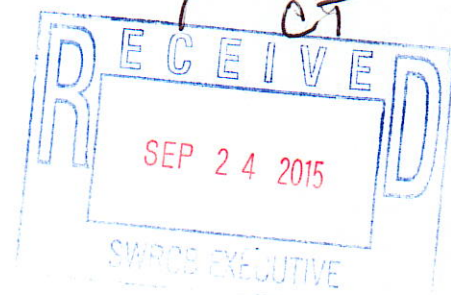
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September 16, 2015

Felicia Marcus, Chair
Members of the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Re: **Water Agency Letter Regarding Unimpaired Flows**

The City of Stockton respectfully requests that the State Water Resources Control Board (SWRCB) reject the 23 July 2015 demand by a consortium of nineteen water agencies to abandon the "unimpaired flow" approach to water management in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, including the Water Quality Control Plan process.

The California Legislature, in the 2009 Delta Reform Act, directed the SWRCB to use the best available scientific information gathered as part of a public process to develop new flow criteria for the Delta ecosystem to protect public trust resources. The Legislature also directed the California Department of Fish and Wildlife (DFW) to identify quantifiable biological objectives and flow criteria for the species of concern in the Delta.

Following an extensive public proceeding, the SWRCB found that present Delta flows are insufficient to support native species, and issued recommended flow criteria necessary to protect public trust resources in 2010. The flow criteria were based upon a percentage of unimpaired flows and reflected a consensus opinion of fishery agencies, university and independent scientific experts and non-governmental fishery and environmental organizations. The Board made clear that the recommended flow criteria were subject to a subsequent balancing of beneficial uses that would occur during the Water Quality Control Plan process that is currently underway.

In a separate yearlong public proceeding, DFW developed a report detailing the recommendations, rationale and justification for biological objectives and flow criteria to protect aquatic and terrestrial species of concern that depend on the Delta. The report recommended that water flow

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into and through the Delta should reflect the frequency, duration, timing and rate of change of flows and that inflows should generally be provided from tributaries to the Delta watershed in proportion to their contribution to unimpaired flow in order to assure connection between Delta flows and upstream tributaries.

The water agencies now claim an unimpaired flow approach is infeasible and that the present drought has revealed the fallacy of attempting to mimic unimpaired flow to protect beneficial uses. They assert that if an unimpaired flow approach had been in place, precious water resources would have been drained from reservoirs before we entered the drought. Nonsense! Drought sequences have occurred in forty-one of the last hundred years. The severity of drought has been exacerbated by water agencies making normal water deliveries in the first years of drought and continuing to deliver excessive quantities of water in subsequent drought years in the hope of future rainfall.

The SWRCB has reduced minimal flow and water quality standards established to protect fisheries thirty-five times during the present drought¹ in order to conserve water for irrigated agriculture. These reductions have brought several pelagic and anadromous fish species to the precipice of extinction. Despite these actions, reservoir and groundwater levels are now at or approaching historic lows, and California is facing a disaster of epic proportions should the drought continue for another year. This has nothing to do with unimpaired flow. It has everything to do with an over-appropriated system and the failure of water agencies to embrace realistic delivery schedules with a margin of safety to protect against inevitable dry years. The water agency demands are little more than an effort to maintain an unsustainable status quo.

The percent-of-unimpaired flow approach is predicated on distributing flows to meet the life-stage requirements of species in a manner that resembles the natural variability of the hydrograph under which native estuarine species evolved and adapted. However, the approach is based on more than unimpaired flow. It incorporates unimpaired flow data, historical impaired flows that supported more desirable ecological conditions, statistical relationships between flow and native species abundance, and ecological functions-based analysis for desirable species and ecosystem attributes. It emphasizes information based on ecological functions, followed by information on statistical relationships between flow and native species abundance. It is, as both the SWRCB and DFW reports conclude, based on the best available science.


Recent modeling demonstrates that a percent-of-unimpaired flow approach is feasible. It is also equitable and the fairest approach to protecting the public trust and other beneficial uses because it asks for a fair-share commitment of flow from all tributary streams. It will reward those who wisely conserve and promote water use efficiency and penalize those who recklessly overspend their water resources.

¹ PPIC Water Policy Center, 2015, *What if California's Drought Continues?* p.13.

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The present water quality and flow standards for the Delta were initially adopted two decades ago. It has been nine years since they were last reviewed and left unchanged. The present Water Quality Control Plan process is years behind schedule. In the interval, pelagic and anadromous fisheries have continued their decline, and a number of species are now perilously close to extinction. The water contractors insist that the SWRCB abandon the approach it has followed for the last five years and start over, ensuring additional years of delay. Given the grave state of the Delta's ecosystem and statutory requirements of the federal Clean Water Act, additional years of delay, simply because water contractors fear that protecting the Delta will cost them water, is unacceptable.

The City of Stockton asks the SWRCB to reject the efforts of the water contractors to delay and sabotage the present Water Quality Control Plan process and to move expeditiously in conducting a formal balancing of the Delta's public trust resources and finalizing Delta flow requirements.



JOHN M. LUEBBERKE
City Attorney
City of Stockton

c: City Council
Kurt Wilson, City Manager
Mel Lytle, Director of Municipal Utilities Department



July 23, 2015

Ms. Felicia Marcus, Chair
 Members of the Board
 State Water Resources Control Board
 P.O. Box 100
 Sacramento, CA 95812-0100

Re: Unimpaired Flows

Dear Chair Marcus and Members of the Board:

The broad coalition of undersigned public water agencies and water companies in every part of California call on the State Water Resources Control Board to abandon its effort to advance an “unimpaired flow” or similar approach to water management in the Sacramento-San Joaquin Delta and San Francisco Bay, including the Water Quality Control Plan process.

Our coalition supports and is implementing progressive and innovative 21st century water management for 39 million people within the stable framework of California’s well-established water rights system. Four consecutive dry years have revealed the fallacy of attempting to mimic “unimpaired flows” to protect beneficial uses in present-day California. In fact, if the “unimpaired flow” approach was in place over the past five years, precious water resources would have already been drained from reservoirs throughout California before we entered these past several dry years. As a result, there would be even less water available in 2015 for the benefit of all beneficial uses, which includes cities and rural communities, fire suppression, cold water to sustain salmon, farms, birds and the Pacific Flyway, and recreational opportunities. Stated another way, an “unimpaired flow” approach would create greater risk for all beneficial uses during dry years. This dynamic would be further exacerbated under the various climate change scenarios evaluated by your administration. We cannot afford to go back in time and rely on defunct measures like an “unimpaired flow” approach for a system that has been highly altered over time. This type of approach will not improve the highly altered system and will only prove to deplete upstream reservoirs that all of California relies on.

We instead urge you and the administration to pursue a different and more practical approach--as called for in your California Water Action Plan--to improve flow regimes that will increase and sustain native fish populations through programs of implementation. This will include both strategic re-managed flows and other non-flow measures such as addressing the predation of native species by invasive species, which appears to be the largest factor that negatively affects salmon in the Central Valley. California needs a progressive approach that will empower 21st century water resources management to support a vibrant economy and environment.

We look forward to discussing new approaches with you in more detail at your earliest convenience.

Sincerely yours,



Jeff Kightlinger
Metropolitan Water District



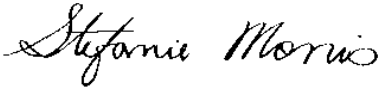
Beau Goldie
Santa Clara Valley Water District



Steve Knell
San Joaquin River Tributaries Authority



David Guy
Northern California Water Association



Stefanie Morris
State Water Contractors



John Woodling
Regional Water Authority



Dan Masnada
Castaic Lake Water Agency



Dan Nelson
San Luis & Delta Mendota Water Authority



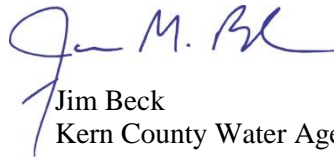
Tom Birmingham
Westlands Water District



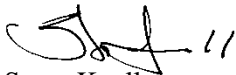
Ray Stokes
Central Coast Water Authority



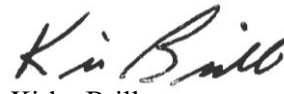
John Sweigard
Merced Irrigation District



Jim Beck
Kern County Water Agency



Steve Knell
Oakdale Irrigation District



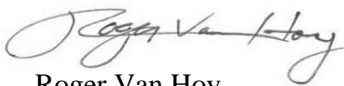
Kirby Brill
Mojave Water Agency



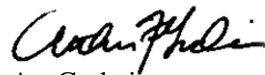
Jill Duerig
Zone 7 Water Agency



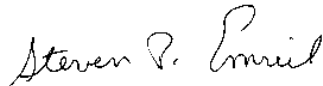
Mike Gilkey
Tulare Lake Basin Water Storage District



Roger Van Hoy
Modesto Irrigation District



Art Godwin
Turlock Irrigation District



Steve Emrick
South San Joaquin Irrigation District

cc: Tom Howard
Michael Lauffer
Michael George
Natural Resources Agency