



*To advance the economic, social and environmental sustainability of Northern California  
by enhancing and preserving the water rights, supplies and water quality.*

April 8, 2013

Felicia Marcus, Chair  
Members of the Board  
State Water Resources Control Board  
1001 I Street  
Sacramento, California 95814

Re: Informational Item: Current Status of Phase 2 of the Comprehensive Update of the Bay-Delta  
Water Quality Control Plan

Dear Chair Marcus and Members of the Board:

The Northern California Water Association (NCWA) and the Sacramento Valley Water Users have actively participated in the Comprehensive Update of the Bay-Delta Water Quality Control Plan (WQCP) Phase 2 process over the past year and we have provided testimony and technical information to help the State Water Resources Control Board (the "SWRCB") update the WQCP. We have the following comments for your consideration:

1. The SWRCB's 2012 technical workshops significantly advanced the development of viable Bay-Delta solutions by enabling many parties to present complicated scientific information in detail and by encouraging questions of the witnesses from the SWRCB and discussion between the witnesses and the SWRCB. In these ways, the 2012 workshops provided the SWRCB with important information upon which the Phase 2 process must be based. Even though the parties do not all agree on the significance and relative importance of the information presented to the SWRCB, the parties generally agree that it is important for the SWRCB to base any decision on the best available scientific information.
2. The information provided to the SWRCB during the 2012 workshops, as reflected in the ICF report, demonstrates that there are major scientific disagreements among the various parties. For instance, in discussing flows, the ICF report states (at page 6) that the stakeholders disagree about: "the priority attached to flow compared to other factors (e.g., habitat degradation, foodweb changes)" and about "whether increases in flow alone, with accompanying attention to other habitat requirements, would achieve goals to

increase fish populations and their resilience. We believe that it is crucial for all of California that these questions be addressed through a systematic and thorough scientific investigation in order to guide future ecosystem management and restoration. To accomplish this goal, we recommend that the SWRCB, working with the Delta Science Program, convene the type of expert panels recommended by the Invited Expert Panel, the California Water and Environmental Modeling Forum and Mr. Walter Bourez during the November 2012 workshop. Those collaborative expert panels should then be charged with refining the ICF report and designing scientific analyses to test the competing hypotheses. Only by this type of systematic effort can we move beyond "combat science" and determine how best to reasonably protect all beneficial uses that are included in the WQCP and to achieve the Delta Reform Act's coequal goals of water supply reliability and ecosystem restoration.

3. We also believe that, to make progress on the Bay-Delta's issues as rapidly as possible, the SWRCB also must do more than authorize the above-referenced scientific investigation. We believe that the SWRCB should ask stakeholders to propose, not later than June 1, 2013, "on the ground" projects that a variety of interests probably could support and that stakeholders are willing to begin to implement as soon as possible. The SWRCB should require that proposed projects be ready to implement by June 2014. We believe that the SWRCB should assemble these fast-track projects into an update to the 2006 Bay-Delta WQCP's program of implementation. The SWRCB then should use its authority under Water Code section 13247 to facilitate the permitting and approval of these projects by other state agencies. The SWRCB also should engage with relevant federal agencies to develop memoranda of understanding to expedite those agencies' consideration and permitting of the fast-track projects. In this way, the SWRCB and participating stakeholders can begin to take real actions that will have real benefits for public trust resources while scientific experts are developing longer-term actions.
4. We believe that the SWRCB should describe, in the update of the Bay Delta WQCP, the responsibilities of the SWRCB's sister state agencies in helping to implement that plan. We believe that Water Code section 13247 gives the SWRCB authority, through the WQCP process, to direct other state agencies to take certain actions needed to implement the Bay-Delta WQCP, absent contrary statutory direction. We believe that the updated WQCP should make clear that the SWRCB will require other state agencies to act in a manner consistent with the WQCP, again absent contrary statutory direction, by means of agreements, memoranda of understanding or other devices.
5. Lastly, we believe that it is important that the SWRCB and other state and federal agencies coordinate and integrate the Phase 2 process with the Bay-Delta Conservation Plan (BDCP) process. At present, there are a multitude of opportunities for confusion and conflict between these processes. We suggest that, given the huge investment of time and public resources, the SWRCB incorporate the analyses that have been prepared as part of the BDCP in the Phase 2 effort, and provide clear direction to the public regarding exactly how the SWRCB intends to sequence its Phase 2 effort in relation to the BDCP process.

We look forward to working with you and your staff should the SWRCB choose to pursue this path. We plan to attend the April 9 meeting and will be prepared to discuss this proposal.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David J. Guy". The signature is fluid and cursive, with a large initial "D" and "G".

David J. Guy  
President