

**State of California**

**Before the State Water Resources Control Board**

**Temporary Urgency Change Petition**

**California Department of Water Resources, Permittee**

**United States Bureau of Reclamation, Permittee**

**San Joaquin River**

**Bay Delta Estuary**

**State Water Board Decision 1641**

**Public Hearing of February 17, 2009**

**Policy Statement by the  
California Salmon and Steelhead Association**

**The State Water Resources Control Board has issued notice of a Public Hearing to consider taking an emergency drought-related water rights action on a Petition for Temporary Urgency Change filed by the Department of Water Resources and the United States Bureau of Reclamation regarding temporary relaxation of the February Delta Outflow and the San Joaquin River Flow Objectives in response to current dry conditions.**

**The following is the policy statement of the California Salmon and Steelhead Association:**

- 1. The Environmental Information for the subject petition is deficient considering the existing conditions of the environment and health of the Bay Delta Estuary.**
- 2. The Notice of Exemption (CEQA) of the subject petition is also deficient and circumvents the existing conditions of the environment and health of the Bay Delta Estuary.**
- 3. Key Issue No. 1 – The Delta Outflow Objective should not be temporarily modified because of the existing conditions of the environment and health of the Bay Delta Estuary. Both the California Department of Water Resources and the US Bureau of Reclamation must be required to manage the SWP and the CVP for all water year conditions so that there will be no effects to water quality in the Bay Delta Estuary.**
- 4. Key Issue No. 2 – Same as above.**

- 5. Key Issue No. 3 – Both the California Department of Water Resources and the US Bureau of Reclamation have not shown an urgent need to make the proposed modification. The State Water Board must obtain factual information from both agencies regarding: (a) the amount of water in storage south of the Bay Delta Estuary in surface and underground reservoirs; and the conservation measures adopted by the US Bureau of Reclamation and the California Department of Water Resources for low water years in all service areas.**
- 6. Key Issue No. 4 – Yes the proposed modification has the significant potential to injury water users and the quality of their water that are diverting water out of the Bay Delta Estuary. Secondly the water quality modifications could adversely affect the environment and health of the Bay Delta Estuary.**
- 7. Key No. 5 – Both agencies do not provide any evidence that the proposed modifications to water quality in the Bay Delta Estuary would NOT unreasonably affect the fisheries in the Bay Delta Estuary. Secondly, both agencies should be required by the US Fish and Wildlife Service and the US NOAA Fisheries to comply with the federal Endangered Species Act and consult with these agencies, which includes obtaining “take” permits for the losses to DeFacto endangered Delta Smelt in the Delta Estuary and also Endangered Spring-Run Salmon; and Threatened Steelhead Trout that are lost at the SWP.**
- 8. Key No. 6 – No it would not be in the public interest not to meet water quality standards for the Bay Delta Estuary that may affect the legal users of water in the Delta Estuary and also the environment and health of the Bay Delta Estuary.**
- 9. Key Issue No. 7 – In order for the State Water Board to determine whether there would be potential impacts to DWR’s and the USBR’s ability to meet water quality objectives throughout the rest of 2009 there must be more information as follows: (a) The amount and estimate of water in storage in northern California reservoirs for 2009; (b) The amount and estimate of water in surface and groundwater storage south of the Delta for 2009 – Semitropic Ground Water Storage Project; and (3) Whether both agencies will learn to manage their water supply projects that can meet water quality standards, protect the environment and health of the Bay Delta Estuary and also the needs of their projects.**
- 10. Key Issue No, 8 – Yes, reduce water diversions and deliveries from the Bay Delta Estuary by the State Water Project and the Central Valley Project.**
- 11. Key Issue No. 9 – The evidence must comply with the California Water Code; federal Clean Water Act; federal Endangered Species Act; federal National Environmental Protection Act; California Environmental Quality Act; and all applicable state and federal statutes. State and federal Statutes supercede state regulations.**

**I cannot testify because I cannot travel to Sacramento because I am disabled. Consequently, that is the purpose of this policy statement. I am forwarding this policy statement by electronic mail to: Senior Staff Counsel Erin Mahaney and Staff Engineer Jean McCue.**

**Place this policy statement into the records and make a decision based on the facts.**

**Respectfully Submitted**

**Signed by Bob Baiocchi**

**Bob Baiocchi  
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**Dated: February 15, 2009**