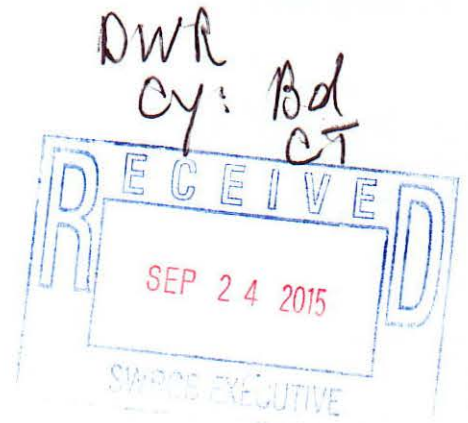




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September 16, 2015

Felicia Marcus, Chair
Members of the Board
State Water Resources Control Board
P.O. Box 100
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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.



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c: City Council
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