

**Baker, Jason@Waterboards**

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**From:** Patrick Porgans <pp@planetarysolutionaries.org>  
**Sent:** Friday, March 2, 2018 11:30 AM  
**To:** CWFhearing; Buckman, Michael@Waterboards; pp@porganssolutions.com  
**Subject:** Patrick Porgans Written Questions  
**Attachments:** SWB CWF Phase 2 Porgans Questions to DWR Panel 2 March 2018.pdf

To: The California Water Fix Co-Chairs and Team Members

Friday, 2 March 2018

Re: The CWF Co-Chair Tam Dudoc offer to Patrick Porgans/Associates (P/A) an opportunity to submit written comments in lieu of Patrick Porgans inability to appear in person at the Thursday, 1 March 2018, Hearing proceeding

Please refer to the attached PDF file. Thank You.

Sincerely,

*Patrick Porgans, Solutionist*

Porgans / Associates

916-543-0780 or 916--833-8734

PATRICK PORGANS / ASSOCIATES  
QUESTIONS TO THE DWR'S PHASE-2 PANEL OF EXPERTS  
CHANGE PETITION AND CWF EFFECTS ON FISH AND WILDLIFE

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To: The California Water Fix Co-Chairs and Team Members

Friday, 2 March 2018

Re: The CWF Co-Chair Tam Dudoc offer to Patrick Porgans/Associates (P/A) an opportunity to submit written comments in lieu of Patrick Porgans inability to appear in person at the Thursday, 1 March 2018, Hearing proceeding

To begin with, Porgans / Associates extend our appreciation to the Co-Chair Dudoc for extending us the opportunity to submit our questions, in writing, on or before 5:00 p.m., 2 March 2018.

Comment: These series of questions are primarily for Dr. Greenwood and Dr. Wilder; however, anyone else that is qualified to answer, please do so. Thank you.

QUESTION 1: What studies, if any, have been done by the DWR or its' panel of experts on Delta smelt near extinction? If so, have those studies been submitted as exhibits and accepted by the CWF Teams; please provide the exhibit number and the date of the Hearing Officers ruling.

QUESTION 2: What studies, if any, have been done by the DWR or its' panel of experts on Delta winter-run Chinook salmon declining populations? If so, have those studies been submitted as exhibits and accepted by the Hearing Officers ruling? If so, please provide the exhibit number and the date of the CWF ruling.

1. QUESTION 3: Were any of the panelist involved in conducting studies as to why the 1992 Central Valley Project Improvement Act (CVPIA) **Section 3406 (b)(1) Anadromous Fish Restoration** for doubling salmonid populations failed? If so, please explain.

A). Were there any studies regarding the failure of the Fish-Doubling Goals submitted as exhibits and accepted into evidence by the Hearing Officers ruling? If so, please provide the exhibit number and the date of the CWF ruling.

QUESTION 4: Was ICF or any other panelist a consultant for either the Bureau of Reclamation or the DWR for the 2016 re-initiation of consultation for the long-term Operations Criteria and Plan (OCAP)?

A). If so, please explain ICF's or the panelist's level of involvement in the operating criteria for the long-term OCAP.

QUESTION 5: Since the 2006 re-initiation of consultation for the OCAP operating criteria have there been specific studies that addressed the operating criteria relating to the decline in pelagic or anadromous fish populations? If so, please explain.

QUESTION 6: Were there any studies conducted by the DWR, ICF, or its panel of expert witnesses regarding the relationship of the operating criteria and the decline of pelagic and anadromous species listed on the federal Endangered Species Act (ESA) or the California Endangered Species Act (CESA)?

A). If so, were any such studies submitted as exhibits and accepted into evidence by a Hearing Officers ruling? If so, please provide the exhibit number and the date of the CWF ruling.

Question 7: Is ICF or any other panelist a consultant for either the Bureau of Reclamation or the DWR for the proposed operating criteria about the California WaterFix? If so, how familiar are you with the proposed operating criteria?

QUESTION 8: How does the proposed operating criteria compare to the 2006 re-initiation of consultation for the OCAP, as it pertains to ensuring the protection of listed species?

QUESTION 9: How do the current operating criteria compare to the proposed operating criteria to ensure the effectiveness of Adaptive Management objectives, bearing in mind the dramatic decline in both pelagic and anadromous species since 2006?

QUESTION 10: Are any member of the panel familiar with a recent article authored by Dr. Peter Moyle that indicates that certain species of salmonids are projected for extinction? <sup>1</sup>

QUESTION 11: What level of hands-on-experience do members of the expert panel have on the operation of either the State Water Project (SWP) or the federal Central Valley Project CVP), i.e., are they senior or junior operators?

QUESTION 12: In regards to the expert witnesses' testimony are they parties in the implementation and compliance of the Biological Opinion (BO), other than DWR personnel? If so, please explain.

A). Are any of the panelist decision makers as it pertains to compliance with the BO or the Incidental Take Permits?

B). Would any of the members of the panel be held responsible should the BO or the ITP be exceeded or violated? If so, please explain.

QUESTION 13: Has the DWR or the Bureau every been cited for violating the ESA "TAKE" limits contained imposed in the BO or the ITP by either the state or federal fisheries agencies? If so, please explain.

A). Is it customary when the Project operators exceed the TAKE limits that the parties re-institute consultation with the fisheries agencies?

Note: Porgans / Associates respectfully remind the Co-Chairs that we have a standing objection to any objections by DWRs attorney James Mizell.

Porgans / Associates thank the Co-Chairs, the CWF Team, and the panelists for their response to the aforementioned questions.

Sincerely,

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<sup>1</sup> Some alarming facts from the report by Dr. Peter Moyle reveal that: • Of California's remaining salmon, steelhead and trout, 81 percent are worse off today than in 2008,

• The number of species likely to be extinct in 50 years increased 180 percent in the last 10 years - *from just 5 in 2008 to 14 today.*

• California will lose more than half (52 percent) of its native anadromous (migratory) salmonids, and over a quarter (27 percent) of its inland salmonids in the next 50 years if present trends continue. <http://www.sacmetronews.com/2017/05/new-report-extinction-likely-for.html>