

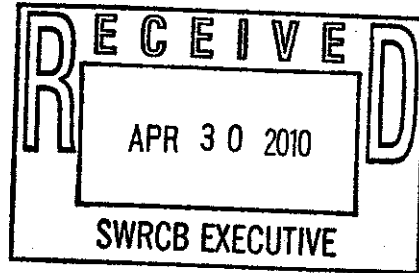


# CALIFORNIA FARM BUREAU FEDERATION

## NATURAL RESOURCES AND ENVIRONMENTAL DIVISION

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April 30, 2010



*Via First-Class Mail & Email*  
[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Charles R. Hoppin, Chair  
And Members of the Board  
**STATE WATER RESOURCES CONTROL BOARD**  
1001 I Street  
Sacramento, CA 95814

**Re: *Proposed Policy for Maintaining Instream Flows in Northern California Streams***

Dear Chairman Hoppin and Members of the Board:

Thank you for the opportunity to comment on the recent changes to the proposed Policy for Maintaining Instream Flows in Northern California Streams ("Policy").

As the State Water Resources Control Board stands on the brink of adopting a policy after countless hours of work by the staff, board members, and stakeholders, the California Farm Bureau Federation, Napa County Farm Bureau, Sonoma County Farm Bureau, and Mendocino County Farm Bureau (collectively "Farm Bureau") offer these comments with the hope of ensuring that the policy ultimately adopted by the Board is both protective of instream flows and workable for the regulated community.

Although Farm Bureau raised several other concerns in our comments at the April 27 hearing, we are complying with the Board's direction to keep our comments brief and related only to the changes shown on the most recently posted draft of the Policy. With the amendments and clarifications expressed in this letter, the Policy, while not perfect, provides a framework from which to move forward.

### **Appendix C.1.3 Alternative Site Specific Approaches (The highlighted language)**

The most important issue for Farm Bureau is the inclusion of the Site Specific Study Approach in Appendix C.1.3. Without it, the Policy is not workable and cannot be supported. The axiom that a policy that works has to both protect instream flows for fish and provide water to farms, though perhaps overused, remains just as true. This is clearly demonstrated by the extraordinary situation we are in: Trout Unlimited – the environmental group most engaged on the issue – is aligned with Farm Bureau, water users, and other environmental organizations in support of an approach intended to accomplish the appropriate balance of uses. It goes without saying that the formation of such a coalition warrants consideration.

Proposed Policy for Maintaining Instream Flows in Northern California Streams

At its core, the issue of whether to include the Site Specific Study Approach developed by Dr. Bill Trush is not about whether the approach is biologically protective; the technical merit of the Site Specific Study Approach has been well explained by Brian Johnson, Dr. Trush, Bob Wagner, and Peter Kiel. The issue for the Board to decide is simply whether to accept an alternative approach which was developed by stakeholders and not by Board staff. For our part, we wish only to say that without inclusion of the Site Specific Study Approach, the Policy will not be workable for our members and cannot be supported by Farm Bureau.

We encourage the Board not to miss the unique opportunity to endorse this collaborative effort and by so doing perhaps turn the page on an era of conflict that has so mired the process of water rights administration.

**Section 3.3.2.1**

Farm Bureau proposes the following language to clarify remaining uncertainty over which change petitions the Policy will apply to. It is our understanding that the Policy will only apply to those petitions where the change itself will impair instream beneficial uses over and above the existing water use. Although some clarifying language was added, we feel the following addition (in *underline italics*) to Section 3.3.2.1 is important:

“The policy requirements for diversion season, minimum bypass flow, and maximum cumulative diversion do not apply to petitions that the Deputy Director determines *the proposed changes* do not have the potential to impair instream beneficial uses.”

**Section 10.3**

While it is not questioned that streamflows should be monitored and reported in an accurate and useful manner, we are concerned that requiring the hourly transmission of data to an internet site poses practical challenges which are not justified by the quality and value of the information that will be obtained. Furthermore, it is anticipated elsewhere in the Policy that regional programs will be developed which will have the capacity to provide the real-time streamflow data sought by the Policy.

Because of the cost and practical difficulty of installing and maintaining gauges capable of providing quality information in real-time, and because the Policy anticipates regional programs that will have such gauges, it provides greater internal consistency and is a more realistic objective for the Policy to rely on these regional programs to provide real-time internet accessible stream gauging when they are developed. In the interim, applicants should be allowed to collect and report streamflow data in the same manner as required for diversion data. This change can be made by deleting the first sentence of the first paragraph of section 10.3.

**Section 10.4**

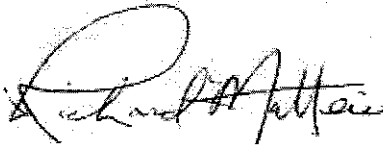
It is agreed by all parties that key to ensuring the Policy is a long term success is providing for the appropriate review of the Policy's effectiveness. To that end, we suggest that the five year timeframe for reviewing the policy be shortened to three years. A more timely review of the Policy will not only provide for the more efficient refinement of the Policy, but will also coincide with the review of the Pre-decisional Review – Trial Program described in Section 3.4.3.

Also, it is our understanding that when the policy is reviewed pursuant to the fourth paragraph of section 10.4, it will include a review of the effectiveness of the Policy in improving the administration of water rights. Please confirm that this is the correct understanding of this section.

**Conclusion**

Thank you for your consideration of these comments and Farm Bureau looks forward to the adoption of a workable Policy.

Very truly yours,




**Richard Matteis, Administrator**  
California Farm Bureau Federation



**Jim Lincoln, President**  
Napa County Farm Bureau



**Bob Muelrath, President**  
Sonoma County Farm Bureau



**Mike Anderson, President**  
Mendocino County Farm Bureau

JLR\mmm

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