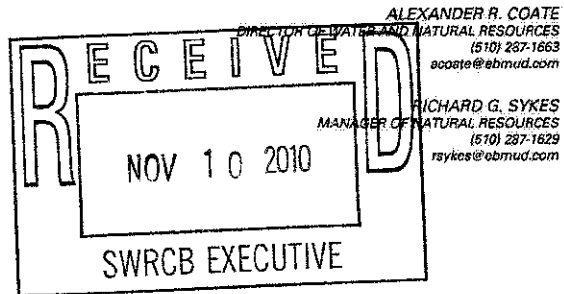


November 10, 2010

State Water Resources Control Board
Attn: Jeanine Townsend, Clerk to the Board
1001 I Street, 24th Floor
Sacramento, CA 95814



via Email: commentletters@waterboards.ca.gov

The East Bay Municipal Utility District (District) appreciates the opportunity to comment on the State Water Resources Control Board (SWRCB)'s draft *Prioritized Schedule and Estimate of Costs to Complete Instream Flow Studies* (Draft SWRCB List), which the SWRCB is required to develop as part of the Sacramento-San Joaquin Delta Reform Act of 2009 and submit to the Legislature by December 31, 2010. The SWRCB in its notice expressed specific interest in obtaining information on existing studies and data for streams that are on the list. The District is responding to that request.

It is important to note that instream flow standards currently exist for the lower Mokelumne River. As explained below, these instream flows were jointly developed by the California Department of Fish & Game (DFG), the United States Fish & Wildlife Service (USFWS) and the District. The District is required to release these instream flows from Camanche Dam to the lower Mokelumne River pursuant to the Federal Energy Regulatory Commission (FERC)'s November 27, 1998 Order amending the District's FERC license. The SWRCB incorporated these same instream flow requirements into the District's Mokelumne River water rights in 2000 through the SWRCB's Decision 1641.

The flow standards for the Mokelumne River are monitored and adaptively managed through a joint partnership between EBMUD, DFG, and USFWS (the Partnership). The National Marine Fisheries Service also participates in an advisory role to the Partnership. Beginning in the early 1990's, EBMUD, DFG, and USFWS engaged in a multi-year, comprehensive examination of the Mokelumne River fishery ecosystem. These efforts included extensive monitoring of fishery populations and exploration of potential flow and habitat measures to benefit Mokelumne River fisheries. The culmination of these combined efforts was a 1998 Joint Settlement Agreement (JSA) between EBMUD, DFG and USFWS, which set forth a comprehensive package of flow and non-flow measures for the Mokelumne River. These measures are to protect and enhance the anadromous fishery resources of the lower Mokelumne River.

Two years ago in 2008, the Partnership engaged in a 10-year comprehensive review of the JSA. The resultant document signed by EBMUD, DFG, and USFWS, summarized the findings of the Partnership Steering Committee with respect to the progress and accomplishments resulting from the first ten years of the JSA and recommended strategies and measures for continued implementation, including continued implementation of the current flow requirements specified in the JSA.

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The District agrees with the SWRCB's statement on pages 1-2 of the Draft SWRCB List that an instream flow study rooted in sound science requires substantial time and resources to complete. Any final flow criteria for the Mokelumne River fully should reflect the Partnership efforts and scientific database. To this end, in the future when the SWRCB begins to plan for additional flow studies on the Mokelumne, the District requests that the Partnership be included in the process to ensure that any new studies successfully build upon the existing data and science for the Mokelumne River. If you have any questions regarding these comments, please contact me at (510) 287-1663 or acoate@ebmud.com.

Sincerely,



Alexander R. Coate

Director of Water and Natural Resources Department

cc: Kent Smith, California Department of Fish and Game
Kathy Wood, US Fish and Wildlife Service