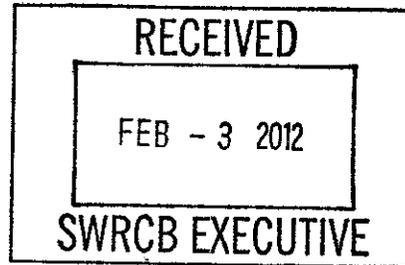




O'Laughlin & Paris LLP



Attorneys at Law

SENT VIA E-MAIL/FIRST-CLASS MAIL

February 2, 2012

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Charles R. Hoppin, Chair  
State Water Resources Control Board  
1001 I Street  
P.O. Box 2815  
Sacramento, CA 95812-2815  
[CHoppin@waterboards.ca.gov](mailto:CHoppin@waterboards.ca.gov)

RE: State Water Resources Control Board's San Joaquin River Flow Objectives  
Draft Technical Report Use of Delta Science Program to Facilitate Peer Review

Dear Chairman Hoppin:

On October 29, 2010, the State Water Resources Control Board ("SWRCB") released its "Draft Technical Report on the Scientific Basis for Alternative San Joaquin River Flows and Southern Delta Salinity Objectives." ("DTR") On the first page of the DTR, the SWRCB stated that it would "conduct an independent peer review" of the DTR, including any revisions made as a result of information received prior to or during the public workshop held in January 2011. (DTR, p. 1). On August 12, 2011, the SWRCB asked Dr. Gerald Bowes of the Cal/EPA Scientific Peer Review Program to identify at least three peer reviewers to review the DTR. Such request was made in accordance with the provisions of Health and Safety Code section 57004 and the SWRCB's guidelines to accomplish a peer review. As a result of this request, a version of the DTR dated October 2011 was submitted to and peer reviewed by five peer reviewers. Their reviews were submitted to the SWRCB in November 2011, and posted on the SWRCB's website on November 21, 2011.

While the SWRCB undoubtedly complied with both the law and its own procedures, the San Joaquin Tributaries Association ("SJTA") notes that the DTR was not, and has not been, submitted to the Bay Delta Science Program for peer review. As I am sure you are aware, the Bay Delta Science Program was established for the specific purpose of developing scientific information and synthesizing the state of scientific knowledge on issues critical for managing the Bay-Delta system, and one of its key objectives is the facilitation and promotion of independent scientific peer review processes. The Delta Science Program's lead scientist, Dr. Clifford N. Dahm, is an internationally recognized expert who works with the CALFED Science Program

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staff, Delta Independent Science Board, and others to promote and coordinate the use of peer reviewed science. Since 2009, the Bay Delta Science Program has formed independent peer review panels to evaluate several of the most important scientific issues affecting the Bay-Delta, including efficacy of OCAP RPA implementation from June 2009 through September 2010, integrated life cycle models for salmonids in the Central Valley, and implementation of adaptive management for fall Delta outflow as called for in the U.S. Fish and Wildlife's 2008 Biological Opinion for Delta smelt.

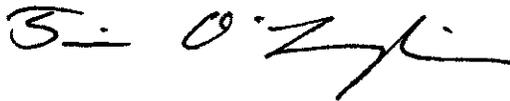
There are numerous efforts to address conditions in the Bay-Delta, including the SWRCB's process to consider amendments to the flow objectives of the San Joaquin River. In light of the overlapping and codependent nature of all such actions being considered, it is imperative not only that the SWRCB act appropriately, but that its actions be considered in context with science of the Bay-Delta developed for and related to other pending actions. To accomplish this, the SJTA believes that the SWRCB must do more than merely comply with the requirements of Health and Safety Code section 57004. The SWRCB must ensure that the scientific bases for its proposed and intended actions have been evaluated and considered pursuant to the high standards of the Bay Delta Science Program.

The SJTA urges the SWRCB to submit the DTR to the Bay Delta Science program for additional peer review. Such a step would, commensurate with the Bay Delta Science Program's vision statement, assure stakeholders, decision-makers and the public that any changes to the San Joaquin River flow objectives "is founded on the highest caliber science."

Please let me know if you have any questions.

Very truly yours,

**O'LAUGHLIN & PARIS**



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TIM O'LAUGHLIN

TO/tb

cc: San Joaquin Tributaries Association