



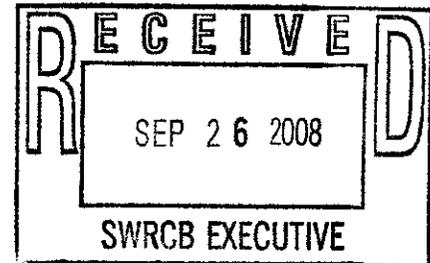
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Via Electronic and U.S. Mail

September 26, 2008

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



Re: Bay Delta Factual Issues – Evidentiary Hearings

The East Bay Municipal Utility District (EBMUD) appreciates the opportunity to submit information concerning the factual issues that the State Water Resources Control Board (SWRCB) should consider in a future evidentiary hearing to receive information on the San Francisco Bay/ Sacramento-San Joaquin Delta Estuary (Bay-Delta) ecosystem.

As an initial matter, EBMUD would like to echo some of the concerns that have been expressed about the nature and timing of the proposed evidentiary hearings. The Request for Written Input states that the purpose of the evidentiary hearings is to receive evidence on certain critical factual issues and render findings of fact, which may include statements that the science is as yet inconclusive. The findings are to be used in basin planning, environmental review, and other processes. They will also be provided to the Bay-Delta Conservation Plan process, the Delta Vision process, and to other related processes.

EBMUD believes that it would assist water rights holders and other entities with authorizations from the SWRCB and Regional Water Quality Control Boards to understand the nature of the findings of fact that are anticipated to be developed from this process and the thresholds for determining that certain facts are conclusive. This is particularly important in light of the other ongoing processes, which are also conducting studies and seeking to develop a further understanding of the Bay-Delta ecosystem.

EBMUD supports the SWRCB efforts to ensure that there is a complete examination of past actions and existing scientific analyses, as well as an appreciation of current Bay-Delta ecosystem related actions, before the SWRCB moves forward with new hearings on Bay-Delta water quality and flow issues. We would like to ensure, however, that new evidentiary hearings, with testimony and cross examination under oath, do not conflict with current efforts that are underway to develop an understanding of water quality issues in the Bay-Delta Estuary and biological impacts of actions on fisheries.

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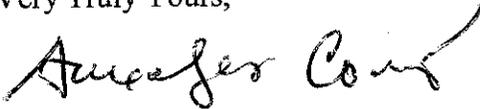
We suggest that the SWRCB could begin gathering the necessary information regarding past actions and existing scientific analyses without planning any immediate evidentiary hearings. Doing so would allow the other ongoing proceedings to progress and the resultant information to be assimilated by the SWRCB and utilized to refine the focus of the evidentiary hearing effort.

We also encourage the SWRCB to provide additional public information regarding the evidentiary hearing process and the finalization of facts so that entities that wish to participate in this process can do so in a way that fully achieves the SWRCB's objectives and allows other important SWRCB actions to proceed as well.

With regard to specific issues for the SWRCB inclusion in a properly noticed hearing we believe that a review of scientific work on oceanic conditions and the effect of such conditions on Delta watershed fisheries should be conducted and this work should be coordinated with fisheries proposals for any fishery inhabiting the Delta watershed.

Thank you for your consideration. Please let me know should you have any questions.

Very Truly Yours,

A handwritten signature in cursive script, appearing to read "Alexander R. Coate".

Alexander R. Coate