

State of California

Before the State Water Resources Control Board

In the Matter of Public Hearing to Determine Whether to Modify Part A of Order WR 2006-0006 which, in part, adopted a Cease and Desist Order against the Department of Water Resources (DWR) and the United States Bureau of Reclamation (Reclamation).

Policy Statement of the California Salmon and Steelhead Association

The staff of the Board has disenfranchised the California Salmon and Steelhead Association and the public by failing to provide pertinent requested information for this hearing. We reference formal letters to: Jean McCue; Chief Larry Lindsay; Chief Victoria Whitney; Jeanice Tipps; and Art Baggett Jr. from the California Salmon and Steelhead Association.

Longfin Smelt have been listed for protection as “threatened” under the protection of the California Endangered Species Act. According to the records the decline to Longfin Smelt is water quality in the Bay Delta Estuary. The operation of the State Water Project by the Department of Water Resources and the operations of the Central Valley Project by the US Bureau of Reclamation have affected water quality in the Bay Delta Estuary.

The California Endangered Species Act (CESA) (California Fish and Game Code Sections 2050 et seq,) generally parallels the main provisions of the Federal Endangered Species Act and is administered by the California Department of Fish and Game. The California Department of Fish and Game has a duty and responsibility to protect listed species and carry out the CESA.

CESA prohibits the “taking” of listed species. Unlike the federal counterpart, CESA applies the take prohibitions to species petitioned for listing *state candidates.

State lead agencies are required to consult with the Department of Fish and Game to ensure that any action it undertakes is not likely to jeopardize the continued existence of any endangered or threatened species or result in destruction or adverse modification of essential habitat. In this instant case the state agencies are the State Water Resources Control Board and the California Department of Water Resources.

It is clear as church bells ringing at Florence Italy that there must be fisheries experts to testify at this hearing concerning the effects to threatened Longfin Smelt resulting from the effects to water quality in the Bay Delta Estuary resulting from the management of the SWP and the CVP.

We believe the hearing must be suspended to allow fisheries experts to testify on behalf of the people's Longfin Smelt to protect these species from further jeopardy.

We further request the State Water Board to comply with the provisions of the State of California Endangered Species Act in making its decision for this hearing so that Longfin Smelt are not further jeopardized and harmed.

We were denied a copy of the e-mail service list for this hearing by the staff of the Board. Consequently we can only submit this policy statement to the staff people that we are aware of being involved with this hearing. Please forward our policy statement to other parties on the e-mail service list.

A copy of the Board decision in this hearing matter is requested.

Respectfully Submitted

**Bob Baiocchi
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California Salmon and Steelhead Association
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**cc: Chief Victoria Whitney, Division of Water Rights
Ms. Jean McCue, Board staff
Ms. Dana Heinrich, Board staff
Chief Larry Lindsay, Board Hearing Team
Ms. Jeanice Tipps, Division of Water Rights
Interested Parties (numerous – cc and bcc)**

- **Electronic Filing to All Parties**

June 27, 2009