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Edmund G. Brown Jr.
Governor

MEMORANDUM

TO: Mr. Mark C. Stopher
Acting Regional Manager
Department of Fish and Game
601 Locust Street
Redding, CA 96001

FROM: Original signed by Thomas Howard
Executive Director

DATE: May 10, 2011

SUBJECT: STATE WATER RESOURCES CONTROL BOARD, REGIONAL WATER QUALITY CONTROL BOARD, AND PEER REVIEW COMMENTS ON THE DEPARTMENT OF FISH AND GAME'S DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT ON SUCTION DREDGING

Thank you for the opportunity to comment on the Department of Fish and Game's (DFG's) draft Supplemental Environmental Impact Report (SEIR) on suction dredging. This memorandum contains our comments and also attaches comments from Regional Water Quality Control Board staff and, as discussed below, from scientific peer reviewers. As you know, the State Water Resources Control Board (State Water Board) is the statewide agency charged with water quality protection. As such, we have been concerned for many years about the water quality impacts of suction dredging. In 2007, we held a public hearing to receive comments on this subject. We also provided initial comments to DFG as it began the scoping process for the present rulemaking effort. In a contract executed in June of 2009, the State Water Board provided \$500,000 and made staff available to DFG in order to ensure that the SEIR fully addressed the water quality impacts from suction dredging. This contract required submittal for scientific peer review of the water quality portions of the SEIR. These comments are attached to this memorandum for your consideration.

We would like to commend DFG on the SEIR's discussion of the water quality impacts from suction dredging. The analysis presented is sound, thorough, and reflective of the best science available on his topic. Specifically, we concur with DFG's initial determination that suction dredging has the potential to contribute to: (1) watershed

mercury loading to downstream reaches within the same water body and to downstream water bodies, (2) methylmercury formation in the downstream reaches/water bodies, and (3) bioaccumulation in aquatic organisms in these downstream reaches/water bodies. We also concur that the associated increase in health risks to wildlife (including fish) or humans consuming these organisms is considered a potential significant and unavoidable impact. Finally, we concur with the finding that under the proposed program, mercury discharges would make a cumulatively considerable contribution to existing cumulative impacts related to watershed mercury loading, methylmercury formation in downstream areas and bioaccumulation in aquatic organisms.

Given these unavoidable impacts, we consider the No Program Alternative to be the alternative that is best supported by scientific information regarding water quality impacts related to remobilizing mercury. The No Program Alternative, a continuation of the current suction dredging moratorium, would provide the best water quality protection at no cost to the State. The other alternatives, including DFG's Proposed Program, would result in mercury discharges that would likely require issuance of National Pollutant Discharge Elimination System (NPDES) permits. If DFG's proposed program is implemented, the Water Board would likely need both to embark on a costly program to develop a permit to address mercury discharges from suction dredges, and to use scarce resources to ensure compliance with permit conditions through inspections and enforcement. The fiscal costs are unjustifiable considering the minimal economic benefit suction dredging provides, as documented in Appendix H of the SEIR.

Our specific comments are attached. As mentioned above, we have also attached comments from Regional Water Quality Control Board staff and from the scientific peer reviewers. Thank you again for the opportunity to comment. If you have any questions, please feel free to contact either me at (916) 341-5615 or Rick Humphreys at (916) 341-5493.

Attachments (see list next page)

Attachments

- Attachment A – Specific State Water Board Comments
- Attachment B – North Coast Regional Water Quality Control Board Comments
- Attachment C – Los Angeles Regional Water Quality Control Board Comments
- Attachment D – Central Valley Regional Water Quality Control Board Comments
- Attachment E – Lahontan Regional Water Quality Control Board Comments
- Attachment F – Santa Ana Regional Water Quality Control Board Comments
- Attachment G – Peer Reviews – Dr. A. Russell Flegal’s review
- Attachment H – Peer Reviews – Dr. Celia Chen’s review
- Attachment I – Peer Review – Dr. Joanna Curran’s review
- Attachment J – Peer Review – Dr. David Evers’ review