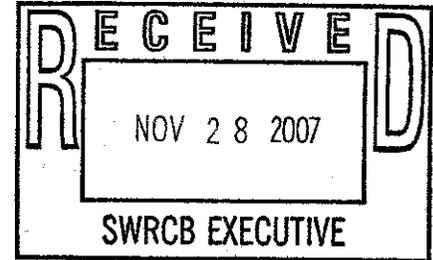


November 27, 2007

Sent via email transmission (commentletters@waterboards.ca.gov)

Tam Doduc, Chair
Water Board Members
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814



Re: Resolution Specifying Actions To Protect Beneficial Uses Of The San Francisco Bay/Sacramento San Joaquin Delta Estuary

Dear Chair Doduc and Board Members Baggett, Wolff, Hoppin, and Spivy-Weber,

On behalf of Clean Water Action and its 20,000 California members, we would like to thank the State Water Board for taking this step to coordinate and integrate your responsibilities and actions in the Delta with those being undertaken by other agencies.

As you are aware, Clean Water Action has been active in the processes to produce TMDLs that would remediate the San Francisco Bay and the Delta watershed and has been conducting outreach to local "on the ground" groups around the issue of exposure reduction in subsistence fishing communities. We have also served on the Delta Fish Mercury Project's Steering Committee and Local Stakeholder Advisory Group, CalFed's Drinking Water Subcommittee, and other initiatives that address water quality and public health related issues. Clearly, we have serious concerns about the health of these key watersheds and we commend you for your intention of coordinating the wide variety of efforts to address the numerous issues that impact the community and environmental health of the region. We do, however, have some concerns about the resolution being proposed for Board adoption, as follows;

- Whereas #3. Please delete the last sentence. If there is a specific written request or action asking the State Board to establish "appropriate balancing of beneficial uses and water supply" that could be cited here. Otherwise, this colloquial reference is out of context.
- Resolved 1; Please delete the phrase "while balancing the need for water quality and water supply reliability". Under the Clean Water Act, the State Board is tasked with protecting and restoring water quality for all beneficial uses. How and in what time frame that is accomplished is of course dependent upon many factors; but the Board should *not* dilute its mandate.
- While several beneficial uses of Delta water are cited, the environmental justice issue of impacts on subsistence fishers is not mentioned, nor the problems posed by the lack of information about the habits of these communities.
- Whereas 19, please consider revising as follows:
Many agencies and groups monitor water quality, water flows, and ecological conditions in the Bay-Delta, but there is no comprehensive contaminants monitoring assessment. IEM, CALFED, and other organizations, including NGOs, local community organizations and including the Water Boards, ...A system is needed for coordinating among monitoring programs and integrating contaminants monitoring into existing onitroing efforts whereby all data is synthesized, and assessed, and made publicly accessible. ~~on a regular basis~~
- Resolved 7. We agree that a comprehensive contaminants monitoring assessment program is needed for the Estuary as a whole, but we stress that this program needs a public facet. The inclusion of including environmental, environmental justice and other community advocates allows the integration of community and scientific expertise, providing both basic sentinel data



CLEAN WATER ACTION

and real world information. Such a collaborative model is also in keeping with the principle of the public trust and we urge the Board to specify such a community oriented process in its resolution.. We recommend adding the following to that resolved clause:

- *This monitoring program will incorporate a public input mechanism to ensure accurate information is collected on subsistence fishing habits, following the model developed by the Fish Mercury Project.*
- The impact of agricultural operations on Delta water quality is minimized throughout the document. Agriculture has, and continues to have, a tremendous impact on the Delta watershed, and those impacts should at minimum be acknowledged.
- Whereas 22: the summary of TMDL related actions in the Bay-Delta is incomplete and does not adequately identify the extent of contamination in these watersheds. We recommend:
 - That the full list of contaminants on the 303d list for the Delta, and the status of their TMDL plans,¹ be cited;
 - That the beneficial use of subsistence fishing be acknowledged, including the fact that fish consumption advisories for different substances may contradict those for others (for example, eating only flesh of a fish may help protect anglers from PCBs, but they will be exposed to high levels of mercury),
 - That the resolution acknowledge the need for a greater understanding of cumulative impacts of the multiple contaminants that degrade Delta water quality.
- In keeping with its Resolution 2005-0600 (Resolved number 10), the State Board should include in this resolution instructions that all Bay-Delta TMDLs for bioaccumulative contaminants require the Regional Boards and dischargers to facilitate the development and implementation of community driven "activities that reduce actual and potential exposure of and mitigate health impacts to those people and communities most likely to be affected... such as subsistence fishers and their families."
- Points 23 and 24, pages 5 and 6, allude to the issue of emerging contaminants, about which we have limited understanding. We recommend an additional point be made about the potential impacts of these substances, which include endocrine disruptors, detergents, and pharmaceutical products. Impacts may include destruction of aquatic life, human health effects, and higher treatment costs to municipalities and ratepayers.
- Resolved 16 commits to the development of sediment quality objectives. Such sediment objectives must be tied to fish tissue targets for bioaccumulative contaminants and consider the impacts on subsistence fishers, as opposed to occasional consumers of Bay-Delta fish, or weak targets such as one meal a week.
- The proposed resolution does not address the issue of wetlands restoration, nor the need to balance these beneficial efforts with potential environmental justice issue in cases where they result in higher methylmercury levels in fish. For additional information, we refer the Board to

¹ For instance, SF Bay is listed for the Asian clam as an exotic species. While the resolution mentions the development of a selenium TMDL, nothing is said about the Asian clam, which actually impacts the level of selenium in the watershed and must be considered in tandem.

CALIFORNIA OFFICE

111 New Montgomery St. Suite 600
San Francisco, CA 94105
415.369.9160 • 415.369.9180 fax

www.CleanWaterAction.org/ca
cwasf@cleanwater.org

NATIONAL OFFICE

4455 Connecticut Ave. NW Suite
A300
Washington, DC 20008
202.895.0420 • 202.895.0438 fax



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research being done by the Delta Fish Mercury Project as well as pilot programs to control methylation in the Guadalupe River watershed by the Santa Clara Valley Water District.

Finally, we would like to make a recommendation on a matter of style. We strongly suggest that resolutions such as this avoid using large numbers of abbreviations. While agency staff, who work with these programs on a daily basis may be familiar with them, members of the public easily lose track of what they stand for in a maze of alphabet soup references, even when they are spelled out the first time they are used. This can be an off-putting experience, is a poor use of the language, and discourages public participation.

Sincerely,

Andria Ventura
Program Manager

Jennifer Clary
Water Policy Analyst

CALIFORNIA OFFICE

111 New Montgomery St. Suite 600
San Francisco, CA 94105
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NATIONAL OFFICE

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A300
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