



## *Pacific Advocates*

July 27, 2018

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

Via email @ [LSJR-SD-Comments@waterboards.ca.gov](mailto:LSJR-SD-Comments@waterboards.ca.gov)

Re: Comment Letter – Revisions to Proposed Bay-Delta Plan Amendments.

Dear Ms. Townsend,

Thank you for the opportunity to comment on the proposed requirements for unimpaired instream flows into the Lower San Joaquin River and San Francisco Bay Delta Estuary, fed by rivers such as the Stanislaus, Tuolumne and Merced along with many perennial and ephemeral streams throughout the watershed. Excessive diversions and exports have been shown to impact public trust values, downstream uses, and the economic livelihood of communities that rely upon these flows to sustain community wealth, ecological values and jobs.

The State Water Resource Control Board's proposal to increase requirements for instream flows to 40% of the unimpaired flows into the Lower San Joaquin River over the current standard of 30% would be an improvement, however, SWRCB's own studies show that public trust values and fisheries need 60% of unimpaired flows to survive. Such flows are needed to sustain downstream public trust values and the health of the San Francisco Bay Delta estuary.<sup>1</sup>

At least 60% of unimpaired flows are essential to achieve water quality standards, protection of the Delta ecosystem and to protect public trust resources along with the economic engines in these communities that have been harmed by excessive water exports. Federal law<sup>2</sup> and state law<sup>3</sup>

---

<sup>1</sup> See the 2010 SWRCB Adopted Resolution: State Water Resources Control Board California Environmental Protection Agency "Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem", August 3, 2010, STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2010-0039: Prepared Pursuant to the Sacramento-San Joaquin Delta Reform Act of 2009. "In accordance with the Delta Reform Act, the State Water Board approves the report determining new flow criteria for the Delta ecosystem that are necessary to protect public trust resources."

<sup>2</sup> See PL 99-546, Federal Clean Water Act and Endangered Species Act and the Central Valley Project Improvement Act (Public Law 102-575). Further limiting federal CVP project exports Public Law 86-488, restricts exports to irrigating only 500,000 acres of land in three counties to be served by the CVP for the entire San Luis unit which includes Westlands, Panoche and San Luis Water Districts. Also see obligations in

require the SWRCB to act to protect these values and uses and to restrict exports or diversions of the Central Valley Project (CVP) and State Water Project (SWP) along with other upstream diversions that harm these uses and public trust values. The 60% unimpaired flow requirement would protect fish and endangered species habitat of different types and locations, along with providing and sustaining suitable water quality, improved food supply and fewer invasive species. Protection of these public values support the communities from where the instream flows of these rivers are taken or diverted. Protection of these downstream resources also supports support a myriad of real estate values, agriculture, tourism, and recreation enterprises.

As the SWRCB found in adopting the resolution supporting the 60% unimpaired flows of fresh water sufficient to sustain downstream uses, these flows are essential to creating and sustaining habitat: *"The performance of native and desirable fish populations in the Delta requires much more than fresh water flows. Fish need enough water of appropriate quality over the temporal and spatial extent of habitats to which they adapted their life history strategies..... We do know that current policies have been disastrous for desirable fish. It took over a century to change the Delta's ecosystem to a less desirable state; it will take many decades to put it back together again with a different physical, biological, economic, and institutional environment."*<sup>4</sup>

Thank you for the opportunity to comment.



15652 Alder Creek Road  
Truckee CA 96161

---

the 1988 Agreement & Stipulation, D-1422 standard for total dissolved oxygen and total dissolved (TDS) levels at Vernalis, and Bay-Delta water quality flow standards (WQCP) contained in D-1641, as well as, CVPIA Section 3406 (b) (2) enhanced fishery flow operations agreement along with the National Marine Fisheries Service 2009 Biological Opinion minimum flows specified in Appendix 2-E of the NMFS BO Opinion.

<sup>3</sup> National Audubon Society v. Superior Court (1983) 33 Cal.3d 419, 446. Public trust values include navigation, commerce, fisheries, recreation, scenic, and ecological values. And see the SWP & CVP November 24, 1986 Coordinated Operations Agreement. And Water Code § 85086. Also the biological opinions for the SWP and CVP Operations Criteria and Plan were developed to prevent jeopardy to specific fish species listed pursuant to the federal Endangered Species Act; in contrast, the SWRCB flow criteria adopted pursuant to Resolution 2010-0039 are intended to halt population decline and increase populations of certain species in order to protect public trust values.

<sup>4</sup> SWRCB Resolution 2010-0039 **Op.cit.** pg 13

---

**From:** Patricia Schifferle <pacificadvocates@hotmail.com>  
**Sent:** Friday, July 27, 2018 9:29 AM  
**To:** LSJR-SD-Comments@waterboards.ca.gov; WQCP1Comments  
**Cc:** dwr@waterboards.ca.gov  
**Subject:** Comment Letter - Revisions to Proposed Bay-Delta Plan Amendments.  
**Attachments:** Pacific Advocates Flow Cmts SWRCB 7-27-18.pdf

Dear Ms Jeanine Townsend, Clerk to the Board

Please find attached comments regarding revisions to the Proposed Bay-Delta Plan Amendments due by noon today.

Please confirm receipt.

Regards,

Patricia Schifferle

*Patricia Schifferle*  
Director  
530 550 0219 v



*Pacific Advocates*