



August 17, 2005

Debbie Irvin, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812

Dear Ms. Irvin:

This letter responds to the Board's July 18, 2005 notice of the August 31, 2005 workshop, "Consideration of Potential Amendments or Revisions to the Delta Outflow Objective of the Water Quality Control Plan for the San Francisco Bay / Sacramento-San Joaquin Delta Estuary". The California Urban Water Agencies' (CUWA) comments specifically address the issue of the potential "flex" of the current estuarine habitat (X2) objective (set forth in footnote 14 of Table 3 of the 1995 Plan).

CUWA represents 11 prominent urban water agencies throughout California that have a variety of common concerns, including improvements in water supply reliability, as well as protection and improvement of drinking water supplies. We were a very early supporter of a spring Delta outflow objective for the protection of fish, and were instrumental in developing the "X2" proposal that is the current Delta Outflow Objective in the 1995 Water Quality Control Plan.

CUWA supports potential "flexing" of the X2 objective. As with any standard, we understand that years of operational experience have value, and should lead to consideration of modifications as long as the overall goal is maintained. Of course, any revisions to the X2 objective should be consistent with the estuarine protection goals on which development of the objective was based. CUWA is not offering specific recommendations for the "flex" provisions at this time, but responses to the questions listed in the July 18 notice are provided below.

Equally important to the Board's consideration of "flexing" X2 is a clear and consistent description of the process by which it is proposed that operational decisions might be made. As the Board is aware, the X2 objective also provides incidental but important protection to drinking water quality and public health. In recognition of this incidental protection, it is essential that the Board restrict its consideration of "flexing" the X2 objective to the Port Chicago compliance location only (also referred to as Roe Island) per Footnote 14, consistent with the July 18 notice, and not consider any changes to the compliance requirements for Chipps Island and Collinsville X2.¹

¹ The Delta outflows required to meet the X2 objective at Chipps Island and Collinsville are much lower than for Port Chicago. Any reductions in outflow below the 11,400 and 7,100 cubic feet per second

CUWA's detailed comments responding to Notice questions b, d and e are:

Question "b" (rationale for amending Delta Outflow Objective): CUWA supports the Board's consideration of operational flexibility towards meeting the Delta Outflow Objective, since the fish-X2 relationships upon which it is based are expressed in terms of average X2 location (corresponding to average Delta outflow conditions) for two to five months within the period February – June. Operational experience in the ten years since the Outflow Objective was adopted indicate that there is the potential to achieve the same benefits for identified beneficial uses while avoiding upstream fishery impacts such as were experienced in February 2003 and April 2004. It is prudent for the Board to reconsider such factors as part of the current periodic review process. The implementation of a regulatory standard should not be considered fixed for all time, particularly if there is further scientific and operational information that indicates a more efficient way to achieve the ecosystem goals of the objective.

Question "d" (decision process): We agree strongly that a clear decision pathway is needed for any process for "flexing" the Delta Outflow Objective. The Board has heard testimony that the X2 objective provides incidental but important protection for drinking water quality, in addition to its direct purpose as an estuarine protection measure. Consequently we believe it is essential that potential water quality impacts of flexing the X2 objective be systematically and carefully evaluated as part of the decision-making process, and that the Board be made aware of all such potential impacts before any operational decisions are made. Potential impacts to other beneficial uses such as drinking water quality can be significantly minimized by adoption of "sideboards" limiting the type of flexing actions that can result from the decision process without more formal Board action. For example, it might be prudent to incorporate "sideboards" that would maintain Delta outflow between 15,000 cfs and 20,000 cfs for a specified number of days to protect water quality. Such "sideboards" should be based on additional modeling and analysis by the SWP and CVP in coordination with interested parties, and brought back to the SWRCB for decision.

The August 2000 CALFED Implementation Memorandum of Understanding makes it clear that Delta operational decisions must explicitly consider water supply, water quality, and fishery impacts. We cannot afford a repeat of circumstances such as the December 1999 operational decisions for the Delta Cross Channel, where water quality impacts arose due to lack of institutional attention to water quality. While CUWA does not have a specific recommendation, it is clear to us water quality must be adequately considered in any decision-making process for implementation of the X2 objective.

Question "e" (impacts to beneficial uses listed in 1995 Plan): We support flexible compliance with the Delta Outflow Objective as long as all beneficial uses protected by the current standard remain protected. We believe operational opportunities exist to

requirements for Chipps Island and Collinsville, respectively, would directly degrade drinking water quality in the Delta in the spring and early summer.

provide this protection while at the same time reducing the kinds of upstream fishery impacts experienced during 2003 by salmon on the Lower American River. Such impacts resulted from unintended consequences of implementing the Delta Outflow Objective as adopted in 1995.

Thank you for the opportunity to provide these written comments. CUWA will participate in the August 31, 2005 workshop and may offer additional written comments by the September 9, 2005 deadline.

Respectfully,

A handwritten signature in black ink, appearing to read "Steve Macaulay". The signature is fluid and cursive, with a large initial "S" and "M".

Steve Macaulay
Executive Director