

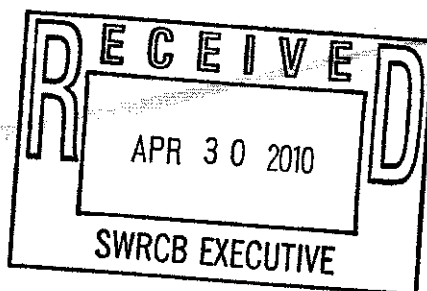


Vision for the Future  
Association of California  
Water Agencies

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April 30, 2010



Mr. Charlie Hoppin, Chair  
Members of the Board  
ATTN: Jeanine Townsend  
State Water Resources Control Board  
California Environmental Protection Agency  
1011 "I" Street  
Sacramento, CA. 95814

Sent via E-mail

**RE: Proposed Policy for Maintaining Instream Flows in Northern California Streams (AB 2121) – April 27, 2010 Edits to the Proposed Policy**

Dear Mr. Hoppin and Board Members:

The Association of California Water Agencies ("ACWA") submits the following comments in response to the State Water Resources Control Board ("SWRCB") staff's April 27, 2010 proposed amendments to the proposed policy for maintaining instream flows in Northern California streams ("policy"). ACWA represents nearly 450 public water agencies throughout the state of California, including numerous members located within the North Coast region. Statewide, these agencies are responsible for 90 percent of the water delivered to cities, farms and businesses.

ACWA is most appreciative of the efforts by your staff to address to the concerns and the recommendations offered by the agricultural water users and representatives from the environmental community. All parties involved should be commended for their efforts. The proposed changes reflect what can be accomplished through productive collaboration between the stakeholders and your staff.

ACWA recognizes that such an undertaking utilized a great deal of your staff's and consultants' resources. Unfortunately, we believe that such an effort may have come at a cost to the municipal water providers and their customers. It was apparent that municipal providers were granted little, if any, opportunity to dialog with your staff. The municipal water providers repeatedly requested the opportunity to meet and work through any issues the Board or your staff had with the providers' concerns and proposed amendments, but no such opportunity was afforded. This was affirmed in response to a question posed by Vice Chair Spivy-Weber during the April 27<sup>th</sup> hearing. ACWA truly

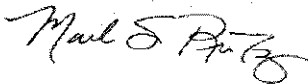
believes that if such an opportunity were to be provided to the municipal water providers many of their concerns could be satisfactorily addressed.

The municipal water service providers' focus continues to be on impacts to existing water uses and rights, which are essential just to serve existing communities. While both the Board and staff have stated that the policy will not impact existing water right holders, a position ACWA strongly endorses, we do not believe that such a position is consistent with the how the policy, as drafted in the April 27<sup>th</sup> red-line proposal, will actually function. The proposed policy is predicated on the assumption that existing water rights and the terms of the permits will remain static over time. The fact is existing municipal water right holders will need to make changes to their permits in a timely and efficient manner as conditions on-the-ground change, past errors are discovered, and the Division of Water Rights changes how they administer water rights. The proposed policy and subsequent amendments will be overly restrictive in application to a variety of petitions for changes, many of which will either have no effect on the environment, or minimal effects. In many cases, the proposed policy will overstate the actual impacts. Adoption of the municipal water providers' recommendations will address these issues, and can be tailored to address any issues/concerns that the Board and your staff may have with regards to protecting water quality and the beneficial uses of water, including public trust resources. We believe that ultimately the municipal water providers' recommendations will allow for a more efficient use of your staff's limited resources.

The Board needs to ensure whatever policy it adopts fully captures the Board's intent that existing water rights will not be impacted. When a water provider needs changes or extensions to their existing permit, the water supply within the scope of the provider's water permit should not be reduced by this policy, as long as the changes are consistent within the previously approved volume, season and rate of diversion.

In closing, we encourage the Board to consider holding in abeyance any final action on the proposed policy on May 4<sup>th</sup>, and direct staff to meet with representatives from the municipal water providers community to discuss their recommendations and whether they can satisfactorily address the Board's concerns.

Sincerely,



Mark S. Rentz  
Director of Regulatory Affairs

Cc: Victoria Whitney, Deputy Director, Division of Water Rights, SWRCB