

STATE WATER RESOURCES
CONTROL BOARD

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DIV. OF WATER RIGHTS
SACRAMENTO

April 19, 2008

State Water Resources Control Board
Division of Water Rights
1001 I Street, 14th Floor,
Sacramento, CA 95814

Subject: Comments and concerns regarding Assembly Bill 2121 instream flow policy

Dear Division of Water Rights,

I submit this letter with comments regarding the Division of Water Right (DWR) draft entitled, "Policy for maintaining instream flows in northern California coastal streams." These comments and suggestions are meant to be constructive and not criticisms directed at the authors of the document. The substantial effort put into drafting this document is obvious and should be commended. I strongly believe that this document is an important step in a multi-agency collaboration to conserve economically and ecologically valuable fisheries and other aquatic natural resources. My sincere interest in participating in this review process stems from a background and formal education in ecology and conservation biology. Although I am an Environmental Scientist working in the DWR, the content of this letter represent my sole personal perspective as a public citizen and not that of DWR. My comments, which are arranged according to the pages of the draft, either relate to potential limitations of the policy to protect stream ecology in the north coast region, or are editorial. Considering the large amount of beneficial peer-review and public comment on the document, I hope that DWR staff will have sufficient time to seriously consider suggestions by reviewers.

1. Page 1, section 1.0 Introduction- DFG 2004 and NMFS 1996 citations are missing in Appendix 3, References.
2. Page 3 and 4, section 2.3.2 Minimum Bypass Flow- I believe that "Point of Diversion", "mean annual unimpaired flow", and "watershed drainage area" (bolded but not defined) should be defined in Appendix 2, Glossary of Terms. Relocate superscript 2 from "watershed drainage area" to POD on page 3.
3. Page 4, section 2.3.2 Minimum Bypass Flow- The minimum flow criteria equations exactly duplicate Appendix 1, so the appendix can be removed. I believe that a brief statement should be included explaining the equations and the basis for coefficient 9.4 and exponent -0.48.
4. Page 5, section 2.3.3 Maximum Cumulative Diversion- Citations and references should be provided for the statements in the third paragraph explaining bankfull flow and the 1.5 year return peak flow because these are important concepts to the policy criteria and should be based on research.
5. Page 6, section 3.1 Fishery Resources Covered by the Policy- The policy's focus is on protecting anadromous salmonids and their respective habitats as dictated by DFG-NOAA Fisheries criteria (i.e., 2002 draft "Guidelines for maintaining instream flows to protect fisheries resources downstream of water diversions in mid-California coastal streams"). Consistent with these criteria, the policy suggests that instream flows sufficient for anadromous salmonids are also adequate for smaller native fishes, however, no support for this idea was provided. It is important to cite supporting information, especially because resident fishes- of which multiple cohorts are simultaneously subject to similar stream flows- have very different life histories than anadromous fishes. Further, IFIM results are not directly transferable to species that were not considered in the analysis (Gordon et al. 2004).
6. Continuing from 1., regarding the lack of description of how instream flows would support species other than anadromous salmonids. It must be emphasized that the Division is charged with protecting **ALL** Public Trust Resources within its jurisdiction and **NOT** solely anadromous salmonid species, the policy may not sufficiently protect other aquatic or semi-aquatic species. Many of these species are state or