CALIFORNIA
Water Boards

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GOVERNOR

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SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

January 25, 2012

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COMPREHENSIVE REVIEW OF THE SAN FRANCISCO BAY/SACRAMENTO – SAN JOAQUIN DELTA ESTUARY

I have received your letter requesting that the State Water Resources Control Board (State Water Board) delay its issuance of a Supplemental Notice of Preparation (NOP) for review of Delta objectives. I am not able to support your request for the reasons described below.

The State Water Board initiated a comprehensive review of the 2006 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) with an NOP in 2009. Since that time, a comprehensive technical report on the first phase of the project, Southern Delta Salinity and San Joaquin River Flow Objectives, was prepared. This report was peer reviewed and will be released in final form, along with environmental documents, in early 2012. The issuance of a Supplemental NOP starts the process of soliciting information to inform the next phase of the State Water Board's comprehensive Bay-Delta Plan update. During this planning process the public will have many opportunities to provide data, analyses, and comment.

There are three reasons I believe the State Water Board needs to issue the Supplemental NOP now. First, restoration of the Delta is an essential goal of the State. Numerous scientific documents have identified flow as a major factor affecting fisheries and other public trust uses of waters in the Delta. The State Water Board is the State agency responsible for establishing water quality and flow objectives for the Bay-Delta to protect these uses. Second, the Delta Stewardship Council's draft Delta Plan includes direction to the State Water Board to adopt and implement flow objectives for the Delta by June of 2014. The Council is charged with pulling together all Delta activities into an integrated, coherent process. While the June 2014 target date will be very difficult to meet, the accelerated timeline is critical because flows are fundamental to Delta decision making. Third, the Delta Reform Act specifies that no construction of Bay-Delta Conservation Plan (BDCP) facilities is allowed until the State Water Board approves any necessary changes in the point of diversion. A change in the point of diversion will require updated Delta flow objectives. Because the State Water Board's flow-setting process can take several years, it must be conducted in parallel, rather than sequentially, to the BDCP process so as to not interfere with BDCP implementation. The review and update of the Delta flow objectives will both support and be informed by these ongoing planning processes and will be structured to accommodate information from BDCP.

The State Water Board is aware of the concerns raised in your letter regarding the significant negative water supply, energy, and fishery effects that could occur if flow objectives are adopted without careful consideration of the competing uses for water. That is why the State Water Board went to great lengths to describe, in the Executive Summary of the report "Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem," the limitations of the report and emphasize that the criteria were for the protection of aquatic resources in the Delta and had no regulatory effect.

Your letter identifies several studies that evaluated the potential impacts of the 2010 Delta Flow Criteria. I recommend that you provide those studies during the public process so that they can be considered as part of the environmental impact analysis and the balancing of flow needs. In addition, any analyses that you performed for Delta outflow that considered a range of flows would be very useful.

The State Water Board's Delta flow-setting process will require the development of environmental documents that evaluate the impacts of any proposed changes, including impacts to water supplies. The State Water Board will be seeking input from the scientific community and the public. Any future modifications to the plan will be in accordance both with the co-equal goals of the Delta Reform Act and with the State Water Board's mission to balance instream flow needs, such as fisheries, aquatic habitat, recreation, and navigation, with the needs of other uses, including water diversion for municipal water supply and agricultural uses.

If you have any comments or questions, please contact me at (916) 341-5615.

Sincerely,

Thomas Howard

Thomas Howard
Executive Director

Attachment

cc: See next page

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