



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## State Water Resources Control Board

February 22, 2012

Mr. Phil Isenberg  
Chair, Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, California 95814

Dear Chair Isenberg:

I understand that some of the comments that the Delta Stewardship Council has received on its draft Delta Plan rely on the State Water Board's 2010 report, Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem, in recommending the creation of a "more-natural flow regime." I am writing to reiterate caveats accompanying the report that limit the report's use in support of any particular numeric flow requirements.

The 2009 Delta Reform Act stated that the report would "inform planning decisions for the Delta Plan," but that it would not be "predecisional." The report, therefore, states that none of the determinations in the report have regulatory or adjudicatory effect. The report's flow criteria cannot be taken as establishing standards, instead, water quality objectives and water rights decisions informed by the report's flow criteria must ensure the reasonable protection of beneficial uses, which will entail balancing of competing beneficial uses of water, including municipal and industrial uses, agricultural uses, and other environmental uses. There are good reasons for both the State Water Board and the Council to recognize by these limitations. For example, the board's report was not required to evaluate how implementing new Delta flow criteria would impact streamflows previously implemented for salmon and steelhead in the Delta's tributaries or water temperatures in those tributaries. A great deal of work has been done to improve conditions for fish and wildlife, especially salmon and steelhead, in some tributaries and it would be counterproductive to undermine that work. These public trust considerations and other legal requirements will be crucial when the State Water Board does consider new regulatory objectives for the Delta streamflows.

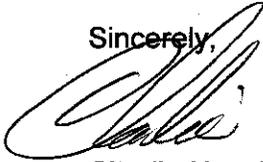
When the board considers regulatory flow objectives, it also evaluates how their implementation could impact California's water supplies, as well as hydroelectric generation and public safety, including flood control. For example, the annual and seasonal variations in California's climate, water supplies, and hydroelectric generation impact storage, New Delta flow objectives could impact the ability to store water and, in turn, impact future hydroelectric generating capacity and water supplies. The Porter-Cologne Water Quality Control Act requires the board to weigh such concerns in determining how to ensure "reasonable protection of beneficial uses," just as the Delta Reform Act requires the Council to adopt a Delta Plan that "furthers the coequal goals."

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

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I appreciate the challenge before the Delta Stewardship Council. I encourage you to recognize the unique context in which the board prepared its Flow Criteria report and more importantly, all of the public trust values and beneficial uses that we will be required to evaluate with respect to any new Delta Flows.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charlie Hoppin', written over the word 'Sincerely,'.

Charlie Hoppin  
Chairman

cc: Jerry Meral, Deputy Secretary  
California Natural Resources Agency

Matthew Rodriguez, Secretary  
California Environmental Protection  
Agency