
State Water Resources Control Board

November 23, 2015

Mr. John Laird
Secretary for Resources
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Secretary Laird:

Thank you for your November 13 letter expressing the California Natural Resources Agency's goal of voluntary agreements by December 31, 2016, to help achieve flow-dependent and related narrative water quality objectives in the Sacramento-San Joaquin Delta (Delta) and its tributaries. The efforts and leadership of the Natural Resources Agency can be quite helpful in convening, supporting, and bringing such agreements to closure. I have asked my staff to meet with your staff to discuss how any such settlements could be structured to most effectively assist the State Water Resources Control Board (State Water Board) in achieving its statutory mandates.

As you know, the State Water Board has long-identified updating the Bay-Delta Water Quality Control Plan and its flow-related and associated narrative objectives as the board's highest priority. The Delta ecosystem and its beneficial uses are facing extraordinary challenges. Updated water quality objectives are necessary for the long-term health of the Delta ecosystem and to provide greater certainty for agricultural and municipal water users.

While the historic drought has slowed progress on the board's update efforts by diverting staff from that work, the Governor's California Water Action Plan and the Legislature's commitment of significant new staffing and budgetary resources this fiscal year to the State Water Board's Delta planning activities have recently allowed the board to redouble its efforts to update the Delta objectives. In this regard, your letter's stated intent to conclude any settlements by December 31, 2016, is helpful.

Given the long delays in completing the planned updates to objectives for the Delta and its tributaries, the State Water Board intends to proceed as planned with the development of updated objectives. I do not anticipate the board slowing its planning efforts to accommodate delays in the settlement goal stated in your letter. Presently, staff expects to complete the objective updates next year for the southern Delta salinity standards and the San Joaquin River, with the board considering the objectives for adoption during the fall of 2016. Settlements like those described in your November 13 letter would be an appropriate tool for implementing the objectives as required by Water Code section 13242. That implementation could occur through a combination of subsequent water rights, water quality, or other actions.

With respect to other Delta-related flow and narrative objectives for the Sacramento River and Delta, the State Water Board's anticipates releasing a scientific basis report by the summer of 2016 that is a significant step that will inform the planning effort. Early voluntary agreements could help accelerate the board's additional Delta planning work.

As you know, development of updated and new objectives for the Delta and its tributaries must reflect and implement the mandates of California's Porter-Cologne Water Quality Control Act. While the board's ultimate decisions on the updated objectives will be guided by its statutory and constitutional obligations, voluntary agreements can go a long way to informing and expediting implementation of the objectives and providing durable solutions. Even if the voluntary agreements only partially implement any objectives, they can still be invaluable to implementation of the Water Quality Control Plan, the settling parties, and the ecosystem. I expect the board would be amenable to implementing voluntary agreements, even as it continued its regulatory processes.

I have asked Executive Director Howard to reach out to your staff and schedule a meeting to discuss next steps. While I do not anticipate involvement of the State Water Board staff in negotiations, the board's staff can at least provide information as to how settlements could most effectively fit into the board's on-going work.

Sincerely,



Felicia Marcus
Chair

cc: Nancy McFadden, Executive Secretary, Office of the Governor
Matthew Rodriguez, Secretary, California Environmental Protection Agency
Karen Ross, Secretary, California Department of Food and Agriculture
Charlton H. Bonham, Director, California Department of Fish and Wildlife
Mark Cowin, Director, California Department of Water Resources