



● **Board of Directors**  
***Water Planning and Stewardship Committee***

6/13/2017 Board Meeting

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**8-7**

**Subject**

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Adopt CEQA determination and express support for the Association of California Water Agencies Policy Statement on Bay-Delta Flow Requirements.

**Executive Summary**

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In March 2017, the Association of California Water Agencies (ACWA) issued a Policy Statement on Bay-Delta Flow Requirements as part of its comments on the State Water Resources Control Board (SWRCB) Bay-Delta Water Quality Control Plan (WQCP) update process. ACWA's Policy Statement is consistent with input provided by Metropolitan to the WQCP process through the State Water Contractors (SWC). The comments provided by Metropolitan through the SWC and the policies expressed in ACWA's statement are consistent with Metropolitan's Delta Action Plan, adopted as policy by the Board in June 2007. Approving this board action would express Metropolitan's support for ACWA's Policy Statement and demonstrate statewide commonality of views among public water agencies.

**Details**

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State Water Resources Control Board Bay-Delta Water Quality Control Plan Update Process

Metropolitan staff continues to participate in several aspects of the SWRCB Bay-Delta WQCP update process in collaboration with the SWC. The Phase 1 update of the WQCP addresses requirements for salinity in the southern Delta and San Joaquin River flows. Phase 2 of the WQCP update addresses other comprehensive changes, such as requirements for Delta outflows, Sacramento River flows and interior Delta operations.

Phase 1 State Water Contractor Comments

In March 2013, Metropolitan worked with the SWC to provide comments on draft amendments to the WQCP. Comments provided by the SWC were extensive, and detailed numerous technical and legal flaws. Key comments focused on the use of unimpaired flow as a metric for developing flow actions, and requirements for the State Water Project and Central Valley Project to install temporary barriers in the south Delta.

In March of this year, Metropolitan again worked with the SWC to submit comments on the revised draft amendments to the WQCP. The March 2017 comment letter expresses concern that previous comments provided by the SWC in 2013 have not been addressed, and reiterates concerns with the use of unimpaired flow as a compliance metric, and the requirement for installation of temporary barriers in the south Delta.

Association of California Water Agencies Comment Letter and Policy Statement

In March of this year, ACWA also provided a comment letter on the Phase 1 WQCP update process. ACWA's comment letter centers on several key points. First, the WQCP must provide reasonable protection for all beneficial uses of water, and must factor in economic considerations. Second, the WQCP must be consistent with established state policy for coequal goals and sustainable groundwater management. And finally, that the WQCP amendments must be based on the best available science and achieved through a collaborative negotiated process.

As an attachment to their comment letter, ACWA also provided a Policy Statement on Bay-Delta Flow Requirements ([Attachment 1](#)). ACWA's Policy Statement urges the SWRCB to set aside the unimpaired flow approach and to heed the Governor's call for negotiated agreements. ACWA's Policy Statement, "A Better Path to the Future," outlines an approach that involves collaboration between the parties toward voluntary agreements consistent with the Governor's request, implementation of comprehensive solutions that integrate management actions, the use of best available science, a shift toward more functional flows that address specific fishery and habitat needs, consideration of economic factors in providing protection of all beneficial uses, heeding the state's policy of coequal goals, and urging effective leadership from the SWRCB members.

#### Metropolitan Support of ACWA Policy Statement on Bay-Delta Flow Requirements

ACWA's Policy Statement on Bay-Delta Flow Requirements represents a strong declaration in support of a collaborative, comprehensive, science-based approach to updating the WQCP. The Policy Statement echoes key comments provided by Metropolitan and the SWC throughout the WQCP update process. Approving this board action would not only express Metropolitan's support for ACWA's Policy Statement, but would also demonstrate strong statewide commonality of views among public water agencies.

### **Policy**

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By Minute Item 47135, dated June 12, 2007, the Board adopted a proposed framework for Metropolitan's Delta Action Plan.

By Minute Item 46637, dated April 11, 2006, the Board adopted policy principles regarding long-term actions for the Sacramento-San Joaquin River Delta.

### **California Environmental Quality Act (CEQA)**

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#### **CEQA determination for Option #1:**

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not defined as a project under CEQA pursuant to Section 15378(b)(2) of the State CEQA Guidelines.

#### **CEQA determination for Option #2:**

None required

### **Board Options**

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#### **Option #1**

Adopt the CEQA determination that the proposed action is not defined as a project, and

Express support for the Association of California Water Agencies Policy Statement on Bay-Delta Flow Requirements

**Fiscal Impact:** None

**Business Analysis:** This option provides an opportunity to express support for ACWA's policy statement and to demonstrate statewide commonality of views among water agencies to the SWRCB. The outcome of the SWRCB WQCP update could greatly impact deliveries from the State Water Project system as well as the long-term reliability described in Metropolitan's 2015 Integrated Water Resources Plan Update.

#### **Option #2**

Take no action.

**Fiscal Impact:** None

**Business Analysis:** This option would forgo an opportunity to express support for ACWA's policy statement and to demonstrate commonality of views among water agencies to the SWRCB in the WQCP update process.





# ACWA POLICY STATEMENT ON BAY-DELTA FLOW REQUIREMENTS

## COLLABORATIVE APPROACH IS KEY TO CALIFORNIA'S FUTURE

California is facing a defining moment in water policy. A staff proposal under consideration by the State Water Resources Control Board presents a decision point about the future we want for California and its communities, farms, businesses and ecosystems. The State Water Board's staff proposal to base new water quality objectives on a "percentage of unimpaired flow" would have impacts that ripple far beyond water for fish.

The proposal could lead to widespread fallowing of agricultural land, undercut the state's groundwater sustainability goals, cripple implementation of the Brown Administration's California Water Action Plan, negatively affect water reliability for much of the state's population and impact access to surface water for some disadvantaged communities that do not have safe drinking water. These effects are not in the public's interest.

Local water managers overwhelmingly believe the proposal's singular focus on "unimpaired flow" is the wrong choice for the state's future. California's urban and agricultural water managers are united in their vision for a future that includes a healthy economy as well as healthy ecosystems and fish populations. That vision is best achieved through comprehensive, collaborative approaches that include "functional" flows as well as non-flow solutions that contribute real benefits to ecosystem recovery.

On behalf of its more than 430 member public agencies serving urban and agricultural customers throughout the state, the Association of California Water Agencies (ACWA) adopts the following policy statement regarding the State Water Board's proposed approach to updating the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta.

## LOCAL SUCCESS STORIES

Collaborative efforts have been successful on many rivers in the Bay-Delta watershed.

**Lower Yuba River:** A voluntary, collaborative settlement among Yuba County Water Agency, California Department of Fish and Wildlife, National Marine Fisheries Service, PG&E and conservation groups resolved 20 years of controversy and resulted in a continuing program to improve 24 miles of salmon and steelhead habitat while protecting water rights and the needs of local communities. State Water Board members have specifically recognized the value of the agreement, which was formally implemented in 2008.

**Lower American River:** A broad representation of water suppliers, environmental groups, local governments and others negotiated an historic agreement that led to a flow management standard that was successfully incorporated into a 2009 biological opinion issued by the National Marine Fisheries Service.

**Feather River:** Six years of negotiations among water users, fisheries agencies and environmental groups yielded a comprehensive agreement that includes a habitat improvement program with specific flow and temperature requirements to accommodate spawning salmon and steelhead. The State Water Board adopted the agreement, with some modification, in 2010 as a water quality certification under the federal Clean Water Act.

## CHOOSING OUR VISION FOR CALIFORNIA'S WATER FUTURE

Since 2009, state law has required water resources to be managed in a way that achieves the coequal goals of improving water supply reliability for California and protecting, restoring and enhancing the Delta ecosystem. ACWA and its public water agency members believe that policy requires a commitment from state agencies and stakeholders to advance both water supply and environmental goals together. ACWA and its members further believe that effective implementation of the coequal goals requires transparent, collaborative processes and comprehensive solutions.

In 2014, the Brown Administration released its California Water Action Plan outlining priority actions addressing water-use efficiency, groundwater sustainability, ecological restoration, Delta conveyance solutions, water storage, safe drinking water and more. Embedded in the plan is the Brown Administration's commitment that planned actions "will move California toward more sustainable water management *by providing a more reliable water supply for our farms and communities*, restoring important wildlife habitat and species, and helping the state's water systems and environment become more resilient."

ACWA believes the policy of coequal goals and the commitment embedded in the California Water Action Plan have the potential to put California on a path that includes a vibrant agricultural and urban economy and a healthy ecosystem.

ACWA and its members believe the unimpaired flow approach proposed by State Water Board staff undercuts and threatens that potential and cannot lead us to the future we want for California. Simply put, any strategy that would result in vast amounts of agricultural land going out of production and ultimately reduce water supply reliability for the majority of Californians is irreconcilable with a policy of coequal goals and blatantly inconsistent with the water policy objectives of the Brown Administration.

ACWA strongly supports the collaborative approach called for by Governor Jerry Brown to move these important decisions out of adversarial processes and into negotiated, comprehensive agreements. The following principles can assure success in that endeavor.

## A BETTER PATH TO THE FUTURE

The State Water Board is responsible for updating the Bay-Delta Plan in a manner that establishes water quality objectives that ensure the reasonable protection of all beneficial uses of water (including domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources) while considering past, present and probable future beneficial uses, environmental characteristics, water quality conditions and economic considerations, among other things. (See California Water Code Section 13241.) It also has a responsibility to update the plan in a way that is consistent with the coequal goals and respects and implements the commitments made in the California Water Action Plan.

ACWA and its members urge the State Water Board to set aside the unimpaired flow approach and heed Governor Brown's call for negotiated agreements. ACWA believes that a successful flows policy must be consistent with the following principles:

- **Collaboration:** The governor has called for work on a comprehensive agreement on environmental flows in both the San Joaquin and Sacramento River basins. He has asked that State Water Board members and staff prioritize analysis and implementation of voluntary agreements. Further, the Brown Administration committed in the California Water Action Plan that the State Water Board and the California Natural Resources Agency will work with stakeholders to encourage negotiated implementation of protective Delta standards. ACWA strongly supports the collaborative approach called for by the governor because it is the least contentious, most effective way to achieve the coequal goals. Negotiated agreements have been demonstrably successful at achieving outcomes and widespread support for appropriate environmental flows; forced

regulations have not yielded the same track record. The State Water Board should wholly embrace this approach and allow enough time for it to work.

- **Comprehensive Solutions:** A successful collaborative approach will require comprehensive solutions for both water supply and ecosystem management. Water users will need to continue and build on their commitment to integrated resources management in order to maintain reliability without undue impacts on the ecosystem. Similarly, ecosystem managers will need to focus on the entire life cycle of affected species and multiple variables, such as predation, food, and habitat availability to develop integrated management portfolios that accomplish ecosystem goals without undue impacts on water supply. Utilizing the single variable proposed in the "percentage of unimpaired flow" approach will not achieve the desired ecological outcomes and is, by far, the most destructive policy approach from the perspective of protecting and improving water supply. ACWA firmly believes the ecological outcomes can be achieved with even better results through a comprehensive approach that considers multiple solutions and benefits.
- **Science:** The State Water Board needs to incorporate the best available science to inform its work and assist with the development of voluntary settlement agreements. The unimpaired flow approach, in which flow objectives are not tied to any specific ecological outcome, fails to incorporate the best available science. As noted above, the updated plan needs to focus on the entire life cycle of affected species and multiple variables, such as predation, food, and habitat availability, and incorporate relevant current scientific information. Science alone cannot identify the best policy choice, but it can inform us about the policy tradeoffs we confront and help structure integrated solutions that provide ecosystem benefits with far less impact on water supply, the California economy and the public interest.



## FUNCTIONAL FLOWS: A BETTER APPROACH

**Sacramento Valley:** Sacramento Valley water users and conservation partners are working together to advance a new generation of innovative projects to promote salmon recovery.

Over the past two and a half years, 12 projects have been completed through the Sacramento Valley Salmon Recovery Program to address fish passage, improve the timing of flows and increase habitat for salmon and other species. Priority projects have included removal of structural barriers to fish passage, modifying riffles, eliminating predator habitat, restoring floodplains and creating side channel spawning and rearing areas.

In addition, program partners are exploring creative ways to reconnect water with the land in floodplains and agricultural areas to enhance habitat and food production and create rearing habitat in rice fields.

While each of these collaborative projects provides independent value, implementation of the entire comprehensive suite is generating unique benefits that can significantly improve ecological outcomes for salmon in the Sacramento Valley.

**Merced River:** Merced Irrigation District has spent millions of dollars and decades undertaking intense and in-depth scientific research on the Merced River. This research has included analysis of flows, temperatures, biological resources and habitat. MID is poised to put this research into action through its Merced S.A.F.E. Plan (Salmon, Agriculture, Flows, and Environment) to provide certainty for both the environment and local water supply in Eastern Merced County.

The plan would provide increased flows using science to dictate the amounts and timing, restore critical sections of habitat for spawning and rearing juvenile salmon, protect local drinking water quality, upgrade an existing salmon hatchery with state-of-the-art facilities and reduce predation.

Based on in-depth science and technologically advanced computer modeling, MID seeks to take immediate action and dramatically benefit salmon on the Merced River.

- **Functional Flows:** Science shows that functional flows have very promising benefits for fish as well agricultural and urban water users. Timed and tailored for specific purposes, functional flows can benefit species in ways that unimpaired flow requirements cannot. Examples abound of collaborative, innovative projects currently underway by local water agencies and stakeholders that include functional flows and non-flow solutions that reconnect land and water to restore habitat and address the full life cycle of species needs. These efforts contribute real benefits to ecosystem recovery while maintaining water supply reliability.
- **Economic Considerations:** The State Water Board has a statutory obligation to consider economic impacts when establishing water quality objectives that reasonably protect all beneficial uses of water. Having a robust economic analysis is critical. The board also has a policy obligation under the coequal goals to ensure its actions related to a revised Bay-Delta Plan increase water supply reliability and thereby allow for a healthy, growing agricultural and urban economy in California.
- **Consistency with State Policy:** ACWA urges the State Water Board to heed the governor's direction and recognize that achieving the coequal goals will lead to a more reliable water supply and healthy ecosystem. Pursuing the coequal goals should be a guiding principle for the board's decisions related to adopting a revised Bay-Delta Plan. The State Water Board also should ensure that its decisions on the Bay-Delta Plan enable, rather than obstruct, the implementation of the California Water Action Plan.
- **Leadership:** The best policy choice will come through the give and take of the negotiating process and the enlightened leadership of the State Water Board members. Ultimately, the board must establish water quality objectives that ensure the reasonable protection of all beneficial uses of water as it implements negotiated solutions. The State Water Board should actively engage in this work and lead in a manner that is grounded in an awareness of how its actions can affect the implementation of the California Water Action Plan and the achievement of the coequal goals.

ACWA and its members have taken a strong policy position in support of comprehensive solutions such as those outlined in the California Water Action Plan. We stand ready to work with the Brown Administration to pursue the collaborative and comprehensive approaches needed to ensure a future for California that includes a vibrant agricultural and urban economy and a healthy ecosystem.