



# San Francisco Water Power Sewer

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February 23, 2017

TO: Commissioner Anson Moran, President  
Commissioner Ike Kwon, Vice President  
Commissioner Ann Moller Caen  
Commissioner Francesca Vietor  
Commissioner Vince Courtney

THROUGH: Harlan L. Kelly, Jr., General Manager

FROM: Steven R. Ritchie, Assistant General Manager, Water

RE: Bay-Delta Water Quality Control Plan Proposed Amendments

The State Water Resources Control Board's Revised Substitute Environmental Document (SED) in Support of Potential Changes to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary: San Joaquin River Flows and Southern Delta Water Quality dated September 15, 2016 is a significant proposal to protect water quality in the Lower San Joaquin River and Southern Delta. The proposed regulatory action includes a proposal for instream flow requirements extending into the San Joaquin River tributaries, including the Tuolumne River. As a result, the proposal has significant implications for the Tuolumne River and the SFPUC water supply.

Our analysis of the State Water Board's proposal leads us to the conclusions that:

- The State Water Board's 40% unimpaired flow proposal would mean significant reductions in our water supply, and alternatives to make up that supply are enormously expensive and have potential significant impacts that make their permitting and implementability uncertain.
- We have serious doubts about the Tuolumne River ecosystem benefits of the State Water Board's proposal.
- We have better ideas for Tuolumne River ecosystem improvements that have significant technical support.
- Negotiated settlements among water users, NGOs and the State and Federal agencies are a better solution than the State Water Board's regulatory proposal if they can be developed and implemented. They need to be jointly developed for the San Joaquin River, the Sacramento and the Delta.
- The State-sponsored settlement discussions are off to a slow, but promising, start. There is much work to be done in building trust among the parties. However, we do not believe the State Water Board's regulatory proposal provides a framework that is sufficiently flexible or robust to support settlement discussions.

**Edwin M. Lee**  
Mayor

**Anson Moran**  
President

**Ike Kwon**  
Vice President

**Ann Moller Caen**  
Commissioner

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**Harlan L. Kelly, Jr.**  
General Manager



Since the proposal's release in September 2016, SFPUC staff have been working on comments on the SWRCB's proposal and have met with numerous parties including:

- Wholesale Customers and BAWSCA
- San Joaquin River tributary irrigation districts
- Local, State and Federal elected officials representing customers in our service area
- State resource agencies
- The Governor and his staff
- The San Francisco Chronicle editorial board
- Non-Governmental Organizations, representing both business and environmental interests
- Water agencies from other parts of the state

In meetings with those entities, we have stressed that:

- The State Water Board's proposal could have a significant impact on our water supply.
- We have doubts about the State Water Board's approach to using unimpaired flow as an environmental approach, instead focusing on strategically managed or functional flows as being more important, coupled with non-flow measures.
- Negotiated settlements are a superior path to a solution for the Bay Delta system.

Attached is a briefing paper regarding the State Water Board's proposal, its potential impact on the SFPUC and its service area, and our support for negotiated settlements as a superior solution to Bay-Delta problems. The paper has been used to facilitate many of the conversations with the entities described above. The Tuolumne River Trust has identified a number of areas where they disagree with the points made in the briefing paper. The following is a summary of the points of disagreement over the briefing paper. The area of disagreement and quotes from the Tuolumne River Trust's comments are highlighted in **bold**.

**"The SFPUC's brief... is a highly biased document."**

We do not believe it is a biased document. At the same time, we highlighted a number of issues to make sure that all parties understand that this is an extremely significant matter. Our final message is that negotiated settlements are a better solution than a regulatory and/or litigated solution that could take more than a decade with limited progress in the intervening years.

**"We encourage the SFPUC to follow the best-available science and play a leadership role in balancing environmental needs with a reliable water supply."**

At the SFPUC, we pride ourselves in relying on the best available science. We believe we are doing far more than others in balancing environmental needs with a reliable water supply. We do not support the notion that the State Water Board is using the best available science, particularly when it comes to management of the Tuolumne River and producing positive environmental outcomes there.

## Socioeconomics analysis

The SFPUC is currently analyzing the socioeconomic effects of the State Board's proposal. In the absence of the availability of that analysis, the SFPUC has continued to cite the analysis that was included in its March 2013 comments on the initial SED. The analysis included in these comments was originally prepared in 2009 for an Administrative Law Judge proceeding at the Federal Energy Regulatory Commission (FERC) evaluating whether to increase instream flow requirements on the Tuolumne River below the Don Pedro hydroelectric project. The SFPUC had to rely on that analysis in 2013 because of the limited comment period on the initial SED which prohibited a new analysis to be performed. The 2014 study that the Tuolumne River Trust refers to is a draft report, titled "Socioeconomic Impacts of Water Shortages within the Hetch Hetchy Regional Water System Service Area," that was submitted to the Federal Energy Regulatory Commission as part of the relicensing of the Don Pedro hydroelectric project. In April, 2014, the SFPUC received comments from several environmental groups on the draft report. The draft report will be revised and submitted in the Fall of 2017 about the time the Turlock and Modesto Irrigation Districts submit their Amended License Application. We used the 2009 analysis in our briefing paper rather than the 2014 analysis because the 2014 study is being updated it did not make sense to confuse decision makers and the public by citing a draft report that is being revised. The revisions to the draft report will include revised demand projections, revised census data, revised income projections, conservation projections and available non-SFPUC supplies. The SFPUC is currently using the same methodology used in the 2009 and 2014 studies to measure the economic losses of the State Board proposal.

In regard to questions about job and sales losses in the most recent drought, the overall 14% rationing that occurred in the service area was achieved by the residential sectors and therefore, the Commercial and Industrial sectors did not experience mandatory rationing which would impact their operations. We have offered a meeting between our consultant, economist David Sunding and the Tuolumne River Trust and others to help understand what happened during this last drought.

Regardless, the value of raising the socioeconomic issues in the briefing paper is to make sure that the potential consequences are understood.

**Effect of drought on water supplies: "It is unlikely the SFPUC service territory will ever suffer losses... because the SFPUC has so much storage (almost 1.5 million acre-feet) that it buffers the system from extended droughts."**

Our analysis regarding our water supply is far more robust than the analyses suggested by the Tuolumne River Trust and the State Water Board. Our supply is based on having sufficient water in storage to survive extended droughts. That concern about storage led the SFPUC to establishing the Water Bank in Don Pedro Reservoir through the Fourth Agreement in the 1960s.

Our experience in the 1987-92 drought led to two very well-considered policy decisions about how we manage our water supply. First, we renewed our commitment to "Water First", meaning that our system operation is dictated by preservation of water supply, with power generation being a secondary consideration. Second, we established a drought planning scenario assuming

that we would experience another 1987-92 drought followed by a 1976-77 drought. Our Level of Service objective, formally established in 2008, is to have sufficient water to survive the drought planning scenario with no more than 20% rationing at a system-wide demand of 265 MGD. Since 1995, we have planned and implemented our water operations accordingly. That operational philosophy and planning appears even more prudent in light of global climate change.

**East Palo Alto situation: The SFPUC brief suggests that “East Palo Alto’s water shortage is a result of limited water supply, which is not the case.” “East Palo Alto’s shortage is a result of an unfair water allocation, not a result of limited water supply.”**

East Palo Alto’s shortage is due to having insufficient guaranteed supplies to support additional proposed development. There are two possible solutions to East Palo Alto’s shortage. One is for the SFPUC to provide additional supply directly to East Palo Alto. The SFPUC cannot do that if it is unable to fulfill the Supply Assurance of 184 MGD to the Wholesale Customers which would be in question under the State Water Board’s proposal. The second possible solution is a transfer of Individual Supply Guarantee to East Palo Alto. However, if the Supply Assurance is in question, then other Wholesale Customers may be less likely to transfer excess ISG.

**Effects on San Franciscans: The SFPUC brief suggests that “San Francisco might have to reduce its water use by 40%...” “Most of the reduction in water supply, if even necessary, would be borne by the SFPUC’s wholesale customers...”**

Under current agreements this may be true, however the Water Supply Agreement is silent on how allocations are made above 20% shortage levels. In addition, there are a number of Wholesale Customers who have substantially reduced their demands in the last several years, even pre-dating the 2012-16 dry period. The split between Retail and Wholesale customers at all levels of system shortages has been raised for reconsideration.

**Obtaining additional water to make up for water supply impacts: “It is unlikely the SFPUC would need to purchase water from other agencies because it has enough storage to buffer the system against droughts.” Also, if the economic impacts of shortage are as large as claimed, the cost of additional supply would be small by comparison.**

It would be difficult to obtain additional supplies if needed, and at 40% unimpaired flow requirements, they would be needed. The costs of additional supplies would be borne by ratepayers and would have to be justified to them as necessary.

**The “environmental community” has attempted to engage the Tuolumne diverters in a Scientific Evaluation Process.**

The San Joaquin River Tributary Authority, of which the SFPUC is a member, agreed to engaging in a settlement process in 2012. Part of the process included using the Scientific Evaluation Process. The SJTA worked through the SEP on the Stanislaus River with the intent for the process, if successful, to be used on the Merced River and then the Tuolumne River. Representatives of the irrigation districts and the SFPUC initially participated in the SEP but did not find them fruitful and discontinued participation. Ultimately, a consensus

document was not produced that included all the original participants nor has it been implemented.

**Voluntary agreements: “Pursuing a voluntary agreement is fine, as long as it's not just a stall tactic. In fact, settlement negotiations for the Tuolumne have been underway for two-and-a-half years.”**

Pursuing voluntary agreements is not a stall tactic. The existing New Don Pedro settlement discussions have not had a driver. The State Water Board's proposal is a new driver. That is the true value of the State Water Board's proposal. It is compelling parties to come to the negotiating table. We expect to be hurt and expect others to be hurt by any negotiated settlement but we believe it to be the most desirable approach.

**Water supply shortages of up to 50% could occur in droughts: “This statement is absolutely false. According to the Bay Delta Water Quality Control Plan environmental document:**

**‘The 1922-2003 average calculated volume of water potentially available to CCSF under the Raker Act was about 750 TAF/y (thousand acre-feet per year, or 670 mgd)... According to a SFPUC planning document, an average of 244 TAF/y (218 mgd) is diverted from the Tuolumne River...based on data from 1989-2005.’**

The State Water Board's analysis is based on averages as opposed to our rigorous analysis of conditions and our anticipation of a more severe drought than previously experienced. Our complete analysis of our hydrologic history from 1921 to 2011 identifies numerous occasions of shortage if that hydrology was repeated. We cannot assume that each of these dry periods would end quickly. We have successfully operated our system through dry periods for the benefit of our customers so that we do not have to resort to excessive rationing to survive.

**Interpretation of the Fourth Agreement regarding flow obligations on the Tuolumne River: “Obviously, the SFPUC intends to challenge any application of the Fourth Agreement if necessary.”**

The SFPUC will pick and choose its legal confrontations to protect the interests of its ratepayers. But if a State standard is adopted, it may be used on any Federal permit or license issued regarding Tuolumne River matters.