

Northern California Council of the Federation of Fly Fishers, Inc.



September 26, 2009

California Fish and Game Commission
1416 Ninth Street
P.O. Box 944209
Sacramento, CA 94244-2090

Re: The Department's response (#63) to our proposal

Members-In-Session:

We were disappointed with the Department's recommendation not to accept our proposal regarding regulation changes on four South San Francisco Bay streams that currently allow catch and release angling for steelhead (the proposal is attached at the end of this letter).

Furthermore, we are confused by the information presented in the "Basis for Department Recommendation." Here are the Department's verbatim comments followed by our reaction to each sentence therein:

"There are four streams that allow catch & release and the proposal it to all of the streams to catch and release.¹ The Department does not support completely closing steelhead waters because catch and release angling on adult returning steelhead does not cause significant mortality to these fish.² The problem is designating where fishing maybe [sic] allowed in these watersheds and still protect steelhead on their spawning habitat.³ Alameda Creek regulations are already being changed under an existing triennial proposal, but there is limited information on the other streams.⁴ The Department is presently reviewing statewide steelhead regulations.⁵ The statewide alignment of hatchery trout and steelhead take is the first phase being address as part of this triennial cycle."⁶

1. There appears to be a severe editing problem with this sentence because it doesn't make sense. Our proposal requests the closure of the four South San Francisco Bay streams that presently allow catch and release angling.
2. The Department's reference to catch and release mortality on returning adult steelhead does not correlate with the existing regulations. The current catch and release season is the last Saturday in April through November 15th, a time when adult steelhead are unlikely to be present in these streams. Rather, the likely targets of angling would be juvenile and smolt steelhead. These life cycle stages are well known to be highly vulnerable to angling pressure, especially under the low flow conditions encountered during the open season. In addition, the high temperatures that occur in these streams during the open season are known to greatly increase mortality in salmonids in catch and release fisheries.

3. Doesn't it make sense not to allow angling in any of the watersheds until the Department determines where it may occur and "still protect steelhead on their spawning habitat." These streams provide only marginal steelhead habitat, especially during the open season when low flows, high temperatures and dewatered reaches are common. The current regulations allow fishing in all reaches of these streams.
4. We fully support the Alameda Creek closure as proposed by the Department. However, we feel there is adequate information on the tenuous state of the steelhead populations in the other three streams to also include them in the closure (see Santa Clara Valley HCP below).
5. How long will this review take? What will happen to these populations that are hanging on by a thread in the interim?
6. Why is the alignment of hatchery take considered for these streams where stocking is already prohibited?

There are four additional points that support our proposal and are not addressed in the Department's basis for its recommendation to not accept:

1. **The Santa Clara Valley HCP/NCCP focuses on steelhead recovery.**
This plan is now available in its second draft and includes the Three Creeks HCP, which addresses water-supply operations and facilities in the Coyote Creek, Guadalupe River, and Stevens Creek watersheds. It provides aggressive measures for habitat restoration and barrier removal to aid in steelhead recovery in these streams. Protection of juvenile steelhead from angling pressure in the summer months will greatly expedite this recovery effort.
2. **Genetic analysis shows the *O. mykiss* in these streams to be steelhead of the Central California Coast DPS**
"There was a clear signal of coastal steelhead ancestry in all populations examined, with populations from a particular basin generally most closely related to those from nearby basins. No substantial introgression of hatchery trout into Santa Clara Valley populations was found, although a small number of hatchery fish were captured in the Coyote Creek downstream migrant trap in 1998." These data demonstrate that maximum protection for these populations is both necessary and justified under the ESA and CESA.
3. **Closure to fishing improves enforcement efficiency.**
With a complete closure, anyone observed angling in these streams is breaking the law. Wardens will not have the difficult and time consuming task of proving that suspects illegally kept fish, or used illegal tackle to catch them.
4. **Our proposal provides for reinstating angling in these streams.**
Upon satisfactory recovery of the South San Francisco Bay steelhead populations, we recommend reinstating fishing consistent with the central coast winter steelhead season, including fishing days and flow requirements, as deemed appropriate by the Department of Fish and Game.

Thank you for your consideration of our comments regarding the Department's decision not to accept our proposal. We hope that you will review our comments and our proposal, and agree that stream closure is a simple, cost effective way to protect the steelhead populations of the South San Francisco Bay, and expedite their recovery.

Sincerely,

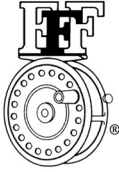
A handwritten signature in black ink, appearing to read "Dougald Scott". The signature is fluid and cursive, with the first name being more prominent.

Dougald Scott, Ph.D.
Steelhead Committee Chair
Northern California Council Federation of Fly Fishers

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ⁱ Garza J C, Pearse D (2008) Population genetics of *Oncorhynchus mykiss* in the Santa Clara Valley Region. Final Report to the Santa Clara Valley Water District (SCVWD). March 2008



Northern California Council of
the Federation of Fly Fishers, Inc.



**Recommendations and Statement of Reasons for Regulatory Action:
South San Francisco Bay Steelhead**

**Submitted by Dougald G. Scott, Ph.D.
Chair, NCCFFF Steelhead Committee**

1. Summary of Proposal

Steelhead populations in the South San Francisco Bay tributaries are highly distressed. In response, the Northern California Council of the Federation of Fly Fishers respectfully requests the following changes in 2010 Sport Angling Regulations.

- A. Alameda Creek and tributaries downstream of Calaveras Reservoir and San Antonio Reservoir – *Closed to all fishing all year.*
- B. Coyote Creek and Upper Penitencia Creek - *Closed to all fishing all year.*
- C. Guadalupe River below Guadalupe Reservoir including Los Gatos Ck. below Vasona Lake, and Alamitos Ck. and Arroyo Calero below Calero Reservoir - *Closed to all fishing all year.*
- D. Stevens Creek downstream of Stevens Reservoir - *Closed to all fishing all year.*

2. Background and Historical Context

The Northern California Council of the Federation of Fly Fishers (NCCFFF) has actively participated with other organizations in salmonid restoration projects throughout the South Bay area. They have included Alameda Creek, Stevens Creek, San Francisquito Creek, Coyote Creek, Guadalupe River, and Upper Penitencia Creek. Our proposals for regulation change are designed to support the conservation work done, and efforts in process to improve the recovery of steelhead populations in these Bay Area rivers and streams.

As part of our due diligence process we have submitted these regulatory proposals to DFG Region 3 Biologist Michele Leicester for review and comment. Ms. Leicester reports that she forwarded the draft proposal to her supervisor for review, and that he shared it with senior management in the region. Her understanding is that the proposed changes are supported within Region 3.

Most of the streams emptying into South San Francisco Bay historically held populations of wild steelhead (*O. mykiss*) (Leidy et al., 2005). Urban development, water diversions and other anthropogenic effects have greatly reduced or extirpated some of these populations, however wild steelhead can still be found in a number of south bay streams. Leidy et al. (2005) list 15 streams in the South San Francisco Bay as currently having a definite steelhead run or population. Steelhead utilizing these streams are part of the Central California Coast DPS, with a listing status of “Threatened” under the Endangered Species Act.

Much effort has been directed at protecting and restoring steelhead in these streams. Millions of dollars have been spent to improve fish habitat as well as provide fish passage, and many millions more are earmarked for future projects. For example, the Three Creeks (Santa Clara Co.) and Alameda Watershed (Alameda and Santa Clara Counties) Habitat

Conservation Plans are nearing completion, and aggressively address the restoration of steelhead populations in these distressed watersheds.

In addition to habitat improvement, recovering steelhead populations require protection from overfishing and illegal fishing practices. DFG regulations currently allow fishing on four of the 15 streams. The fishing seasons for these streams are consistent for resident trout populations (last Saturday in April through November 15) rather than central coast winter steelhead populations (Dec. 1 through Mar. 7 in 2009). Genetic studies have demonstrated that *O. mykiss* from the Santa Clara Valley streams and Alameda Creek are most closely related to steelhead of the Central California Coast DPS and not resident rainbow trout populations established by hatchery stocking (Garza et al., 2008 and Nielsen 2003). These data immediately suggest that current fishing seasons are inappropriate for these waters. Furthermore, watersheds of the central coast that are open to winter steelhead fishing, have restrictions on fishing days (Sat., Sun., Wed., legal holidays and opening and closing days) and on stream flow (Article 4, Section 8.00(c) DFG Regs).

3. Outcome:

Upon satisfactory recovery of the South San Francisco Bay steelhead populations, we recommend reinstating fishing consistent with the central coast winter steelhead season, including fishing days and flow requirements, as deemed appropriate by the Department of Fish and Game.

4. Current Status and DFG Regulations for South San Francisco Bay Streams

	<i>Stream</i>	<i>County</i>	<i>Listed in DFG Regs</i>	<i>NOAA Critical Habitat</i>
1	Alameda Creek	Alameda	Yes	No
2	Codornices Creek	Alameda	Yes	No
3	Lion Creek	Alameda	No	No
4	San Leandro Creek	Alameda	No	No
5	San Lorenzo Creek	Alameda	No	No
6	Sausal Creek	Alameda	Yes	No
7	Pinole Creek	Contra Costa	Yes	No
8	San Pablo Creek	Contra Costa	No	No
9	Wildcat Creek	Contra Costa	Yes	No
10	San Francisquito Creek	San Mateo	Yes	Yes
11	San Mateo Creek	San Mateo	No	No
12	Coyote Creek*	Santa Clara	Yes	Yes
13	Guadalupe River	Santa Clara	Yes	Yes
14	Saratoga Creek	Santa Clara	No	No
15	Stevens Creek	Santa Clara	Yes	Yes

*Upper Penitencia Creek, tributary to Coyote Creek, is also listed as critical habitat.

Table 2. Current DFG Regulations for South San Francisco Bay Streams		
<i>Area or Body of Water</i>	<i>Open Season</i>	<i>Bag Limit</i>
(1.5) Alameda Creek and tributaries (Alameda and Santa Clara cos.).	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(42.3) Codornices Creek (Alameda Co.).	Closed to all fishing all year.	
(50.8) Coyote Creek (Santa Clara Co.) Also see Section 8.00(c).	Last Saturday in April through November 15. Only artificial lures with barbless hooks may be used.	0
(72.5) Guadalupe River below Guadalupe Reservoir (Santa Clara Co.) including Los Gatos Ck. Below Vasona Lake, and Alamitos Ck. and Arroyo Calero below Calero Reservoir.	Last Saturday in April through November 15. Only artificial lures and barbless hooks may be used.	0 trout 0 steelhead 0 salmon*
(135.8) Upper Penitencia Creek (Santa Clara Co.) a tributary to Coyote Ck. Also see Section 8.00(c).	Closed to all fishing all year	
(139.7) Pinole Creek (Contra Costa Co.) and tributaries.	Closed to all fishing all year	
(166) San Francisquito Creek and tributaries (Santa Clara and San Mateo cos.).	Closed to all fishing all year	
(172.7) Sausal Creek (Alameda Co.) and tributaries.	Closed to all fishing all year.	
(187.5) Stevens Creek (Santa Clara Co.) downstream of Stevens Reservoir.	Last Saturday in April through Nov. 15. Only artificial lures with barbless hooks may be used.	0 trout 0 steelhead 0 salmon*
(207) Wildcat Creek and tributaries (Contra Costa Co.).	Closed to all fishing all year.	

*See Article 4. Species Regulations for bag limits for other fish

5. References:

Garza J C, Pearse D (2008) Population genetics of *Oncorhynchus mykiss* in the Santa Clara Valley Region. Final Report to the Santa Clara Valley Water District (SCVWD). March 2008

Leidy RA, Becker GS, Harvey BN (2005) Historical distribution and current status of steelhead/rainbow trout (*Oncorhynchus mykiss*) in streams of the San Francisco Estuary, California. Center for Ecosystem Management and Restoration, Oakland, CA.

Nielsen JL (2003) Population Genetic Structure of Alameda Creek Rainbow/Steelhead Trout – 2002. Draft Report Submitted to Hagar Environmental Science January 3, 2003.

6. In Conclusion:

Your favorable consideration of these proposals would be greatly appreciated. If you have questions please contact me: Dougald Scott; (831) 427-1394; or dougald@comcast.net