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Transmitted by email

9/8/11

Peter Brostrom
UWMP Program Manager
California Department of Water Resources

Re: EBMUD's 2010 UWMP does not conform to state law and regulations.

Dear Mr. Brostrom:

My name is Tom Infusino and I am writing on behalf of the Foothill Conservancy, California Sportfishing Protection Alliance (CSAP), and Friends of the River (FOR). They encourage you not to certify East Bay MUD's (EBMUD) 2010 Urban Water Management Plan as in conformity with the Urban Water Management Planning Act and its guidelines. They encourage you to inform EBMUD that their UWMP must be revised to comply with the UWMP Act prior to any approval or distribution of loan or grant funds from DWR.

We begin below by providing the factual and procedural background associated with EBMUD's 2010 UWMP. Next we identify the groups who have taken issue with the inadequacies of EBMUD's 2010 UWMP, and the interests their members have at stake. We continue by explaining the requirements of the Urban Water Management Planning Act. Section V below lists the inadequacies in EBMUD's 2010 UWMP. In Section VI we explain that EBMUD has water supply options other than Pardee Expansion that can better meet the goals of state water planning. In Section VIII we identify compelling reasons for DWR to ask EBMUD to correct errors in its 2010 UWMP. **We conclude by sincerely requesting that DWR contact us by September 16, 2011, to discuss these matters.**

I. Factual and Procedural Background

On April 11, 2011 the Superior Court issued a decision indicating that EBMUD's 2040 Water Supply Management Plan Program EIR was not in compliance the California Environmental Quality Act (CEQA). On May 25, 2011, EBMUD was ordered by the Superior Court of the State of California to set aside its 2040 Water Supply Management Program EIR, and all related approvals pending completion of an adequate EIR for the 2040 WSMP. (Attachment 1, Writ, Order, and Decision) This included setting aside the

approval of a change from 25% drought rationing down to 15% drought rationing, which created the “need” for additional water storage. The Program EIR was defective for failing to evaluate impacts of the expansion of Pardee Reservoir on river recreation, public safety, and a Native American willow gathering site, and for failing to consider a broad range of alternatives to the dam expansion project. Despite the court order, on June 14, 2011, EBMUD re-approved its reduction down to 15% drought rationing with no CEQA review. (Attachment 2, Amended Policy 9.03.)

EBMUD issued a Draft UWMP (DUWMP) on May 6, 2011. It was circulated for public comment through May 31, 2011. The Foothill Conservancy, the California Sportfishing Protection Alliance, and Friends of the River commented extensively on the plan. (See EBMUD 2010 UWMP, Appendix C.) The final plan was issued with some minor modifications and a response to public comments. The Final 2010 UWMP was approved by the EBMUD Board on June 28, 2011. The 2010 UWMP was sent to DWR for review and approval.

The future water supply projects relied upon in the 2010 Urban Water Management Plan include expanding the size of Pardee and Lower Bear reservoirs by building a new dam (Pardee) and raising the heights of the existing dam (Lower Bear) in Amador and Calaveras counties. Rather than a model of interregional cooperation, the Pardee Expansion is the subject of great opposition in the foothills. This opposition is due in part to the fact that the project would inundate free flowing reaches of the Mokelumne River recommended to Congress for Wild and Scenic Designation by the Bureau of Land Management, and currently used for recreation by locals and tourists alike. (Attachment 8: Pardee & Duck Creek Opposition) Also, the 2010 UWMP relies on additional water supplies from the Interregional Conjunctive Use Plan + (IRCUP+). In addition to the Bear and Pardee expansions, IRCUP+ includes the construction of a reservoir at Duck Creek, which requires the condemnation of an existing California Department of Fish and Game wildlife conservation easement. No provision of EBMUD’s plans considers diverting its Mokelumne River water farther downstream or in the Delta, which would allow the water to serve important fish and wildlife needs prior to diversion. (Attachment 8, Pardee & Duck Creek Opposition.)

While EBMUD has traditionally been considered a leader in the field of water conservation, it has fallen behind in the field of water reclamation/recycling. The current level of recycling is only about 5% and it proposes only modest gains to 10.6% by 2040, while the remaining nearly 170 mgd of secondarily treated effluent is flushed into the San Francisco Bay. The “up” side of these figures is that there remains “low hanging fruit” (i.e. cost effective productivity) in the field of water reclamation that is ready for harvest. Since the water recycling analysis requirements of the UWMPA get even more demanding for the plans due in 2015, it is urgent to bring EBMUD into compliance with the current standards as soon as possible. (Water Code, sec. 10632(b).)

II. EBMUD ignored many of the comments on the 2010 DUWMP sent in by the Foothill Conservancy, the California Sportfishing Protection Alliance, and Friends of the River.

The Foothill Conservancy is a 501-C-3 nonprofit organization with members who live and work in the Mokelumne River watershed. For two decades, the Foothill Conservancy has worked to restore, protect, and sustain the natural and human environment in and around Amador and Calaveras counties. The Foothill Conservancy's vision for this area includes protected scenic quality, conserved forest lands, restored natural diversity of native plants and animals, free-flowing rivers, coordinated land use planning, and balanced economic development that is ecologically and socially sustainable. The Foothill Conservancy submitted public comments on EBMUD's 2010 DUWMP. Nevertheless, many of their concerns were ignored by EBMUD, which approved the 2010 UWMP in a fashion contrary to the law.

Friends of the River (FOR) is a statewide river conservation organization founded in 1973, incorporated under the non-profit laws of the State of California, with its principal place of business in Sacramento, California. With more than 5,000 members, Friends of the River's mission is to preserve, protect and restore California's rivers, streams, watersheds, aquatic ecosystems, and associated fish and wildlife and their habitat. Friends of the River has been involved in the conservation and protection of the Mokelumne River for more than 20 years. Friends of the River encouraged the Forest Service and Bureau of Land Management to recommend Wild & Scenic River protection for the river. Friends of the River helped negotiate a settlement agreement that established improved flows in the Mokelumne River for fish, wildlife, and recreation in the federal license for the Mokelumne Hydropower Project. Friends of the River was involved in the successful effort to open up the Middle Bar segment of the Mokelumne River to public access and recreation. Friends of the River submitted public comments on EBMUD's 2010 DUWMP. Nevertheless, many of their concerns were ignored by EBMUD, which approved the 2010 UWMP in a fashion contrary to the law.

The California Sportfishing Protection Alliance (CSPA) is a non-profit public benefit conservation and research organization corporation established in 1983 for the purpose of conserving, restoring, and enhancing the state's water quality, wildlife and fishery resources and their aquatic ecosystems and associated riparian habitats. To further these goals, CSPA actively seeks federal and state agency implementation of environmental regulations and statutes and routinely participates in administrative, legislative and judicial proceedings. Where necessary, CSPA directly initiates enforcement actions on behalf of itself and its members. CSPA has approximately 2,000 members who live, recreate and work in and around waters of the State of California, including waterways throughout the Sierra Nevada, Central Valley and the Sacramento-San Joaquin River Delta Estuary. CSPA has been involved in Mokelumne River proceedings for more than twenty years, including the submittal of a comment letter on EBMUD's 2010 DUWMP. Nevertheless, many of their concerns were ignored by EBMUD, which approved the 2010 UWMP in a fashion contrary to the law.

III. Implementation of the substandard EBMUD 2010 UWMP will harm the parties.

The aforementioned conservation groups have members, whose interests will be adversely affected by implementation of EBMUD's substandard 2010 UWMP. Members of these groups are engaged in the study, protection, enhancement, conservation and preservation of the natural and human environment in and around Amador and Calaveras Counties and in the Delta. Their members live and recreate in the Sierra Nevada foothills, including the area around Pardee Reservoir and Lower Bear Reservoir and the Mokelumne River. Their members rely on the Mokelumne River and its watershed as a place of residence, business, recreation and spiritual renewal. Their members wish to ensure the future environmental quality of the foothill regions, and to pass it on to newcomers and future generations. Their members are beneficially interested in the recreational, environmental, spiritual and aesthetic resources that will be adversely affected by implementation of EBMUD's flawed 2010 UWMP. As citizens of the State of California, their members also have a beneficial interest that agencies like EBMUD conduct careful and responsible planning in accordance with the UWMPA.

IV. Requirements and purposes of the UWMP Act.

A. To prepare to deliver the water supply needed for all beneficial uses in the 21st century, the key purposes of Urban Water Management Planning Act (UWMPA) parallel those of the regional water plans and the State Water Plan.

When read together, the State Water Planning Act, the Integrated Regional Water Management Planning Act of 2002, and the Urban Water Management Planning Act, agree that:

- 1) water is a valuable resource (Water Code secs. 10531(a), 10610.2(a)(1));
- 2) key water supply issues include quantity, quality, and reliability (Water Code secs. 10531(a), 10610.2(a));
- 3) water must be managed to ensure its availability for all beneficial uses including environmental needs (Water Code secs. 10005, 10531, 10610.2(a)(6));
- 4) this management must be guided by plans at the State, regional, and local levels (Water Code, secs. 10005(a), 10531, 10610.2(a)(6)),
- 5) these plans must be developed with public participation and information disclosure. (Water Code, secs. 10004.6, 10005.1, 10005.2, 10011, 10541, and 10642), and
- 6) the application of current and developing water treatment and conservation technologies will play a much larger role in California's water future. (Water Code, sec. 10013; see also Section 1(d), Stats. 2001, c. 320 (S.B. 620) "The health, safety, and well-being of the people of California will best be served by employing current and developing water treatment and conservation technologies;" Section 1(f), Stats. 2002, c. 261 (S.B. 1518) "The Legislature has established goals for water recycling in the state, namely to reclaim and reuse one million acre-feet annually by 2010.")

Among these plans, the UWMP is unique in that it is an action forcing plan. The findings section of the Urban Water Management Planning Act emphasizes the active pursuit of efficient use of water.

“The Legislature finds and declares that it is the policy of the state as follows:

(a) The management of urban water demands and efficient use of water shall be actively pursued to protect both the people of the state and their water resources.

(b) The management of urban water demands and efficient use of urban water supplies shall be a guiding criterion in public decisions.

(c) Urban water suppliers shall be required to develop water management plans to actively pursue the efficient use of available supplies. (Water Code, Section 10610.4.)

Thus, these UWMPs are not simply discussions of feasible local water management strategies like in the State Water Plan, nor are they ridiculously long and financially infeasible “Christmas lists” of regional water supply projects like IRWMPs. These Urban Water Management Plans are the ground level plans that will result in the **actual** local agency activity that will result in the **actual** efficient (or inefficient) use of water in California. If these UWMPs are lacking, all the other well meaning state and regional water planning efforts will be for naught.

B) The UWMPA lists specific topics a plan must include.

An Urban Water Management Plan must describe the service area of the supplier, including the current and projected population in five-year increments to 20 years or as far as the data is available. (Water Code, sec. 10631 (a).) It must identify and quantify to the extent practicable the existing and planned sources of water over the same five-year increments. (Water Code, sec. 10631 (b).) It must describe the reliability of the water supply to the extent practicable, and plans to replace unreliable sources with alternative sources or demand management measures. (Water Code, sec. 10631 (c).) It must describe opportunities for long-term or short-term water exchanges. (Water Code, sec. 10631 (d).) It must quantify past and current water use from available records and project water use by use sector in five-year increments. (Water Code, sec. 10631 (e).) It must describe the demand management measures being implemented, the methods used to evaluate their effectiveness, and provide available estimates of the water conservation savings. It must also provide the implementation schedule for those demand management measures proposed for implementation. (Water Code, sec. 10631 (f).) If a demand management measure is not being implemented, the plan must compare its incremental costs to those of expanded or additional water supplies, prepare a cost benefit analysis accounting for economic and non-economic factors including social and environmental factors, and describe the funding sources for any water supply projects that would provide water at a higher unit cost. (Water Code, sec. 10631 (g).) The plan

must provide a detailed description of expected future water supply projects that may be implemented, the water supply expected from each project, and the timeline for the implementation of each project. (Water Code, sec. 10631 (h).) The plan must include an urban water shortage contingency analysis. (Water Code sec. 10632.) To the extent practicable, the plan must include information relating to the quality of existing sources of water. (Water Code, sec. 10634.) The plan shall include an assessment of the reliability of water services. ((Water Code, sec. 10635.)

C) UWMPA defines objective standards that the plans must meet.

Every urban water supplier shall prepare a plan to actively pursue the efficient use of available water supplies. (Water Code, secs. 10610.4, 10620(a).) This efficient use of water is defined as “management measures that will result in the most effective use of water so as to prevent its waste or unreasonable use or unreasonable method of use.” (Water Code, sec. 10613.)

To determine which management measures will achieve the “most effective use of water” an Urban Water Management Plan “shall describe and evaluate sources of supply, reasonable and practical efficient uses, reclamation and demand management activities.” (Water Code, sec. 10615.) Thus, the water supplier must evaluate reasonable options before deciding what to include in the final plan.

The final plan “shall describe the water management tools and options used by that entity that will maximize resources and minimize the need to import water from other regions.” (Water Code, sec. 10620; see also sec. 10013.) The importance of this provision was highlighted by the un-codified section of the 2001 amendments that emphasized the need for regions to meet their own water needs “without diminishing the resources of other regions.” (Section 1 of Stats of 2001, c. 320 (S.B. 620).)

An UWMP must be implemented in accord with the time schedule set forth in the plan. (Water Code sec. 10643; *Friends of the Santa Clara River v. Castaic Lake Water Agency* (2004) 128 Cal.App.4th 1, 14.) .

In summary, an UWMP must timely result in “the most effective use of water.” by evaluating sources of supply, reclamation, and demand management; and selecting those that will maximize resources and minimize the need to import water from other regions.

D) The UWMPA is written to be legally and administratively enforced to minimize the need for water imports and to target limited state funding to worthy water suppliers.

Legal action can be filed to set aside a plan that does not meet the aforementioned standards. (Water Code, sec. 10650.) A UWMP will be set aside by the court if the

urban water supplier abused its discretion by “failing to proceed in a manner required by law, or if the action by the water supplier is not supported by substantial evidence.” (Water Code, sec. 10651.)

Failure to submit a plan that conforms to the UWMPA makes an urban water supplier ineligible to receive some state funding. (Water Code, secs. 10656, 10631.5.) DWR staff is responsible for reviewing a supplier’s demand management measures and determining a supplier’s funding eligibility. (Water Code, sec. 10631.5(d).)

Thus, the UWMPA’s requirements are designed to ensure that limited state funding goes only to those urban water suppliers with plans that employ sound water management to provide water needed for all beneficial uses.

V. EBMUD’s 2010 UWMP does not conform to state laws and guidelines.

A) Substantial evidence in the record does not support EBMUD reducing its drought year rationing from 25% to 15%.

An UWMP must describe the reliability of the water supply to the extent practicable, and plans to replace unreliable sources with alternative sources or demand management measures. (Water Code, sec. 10631 (c).) The plan must also include an urban water shortage contingency analysis. (Water Code sec. 10632.) To determine which management measures will achieve the “most effective use of water” an Urban Water Management Plan “shall describe and evaluate sources of supply, reasonable and practical efficient uses, reclamation and demand management activities.” (Water Code, sec. 10615.) The final plan “shall describe the water management tools and options used by that entity that will maximize resources and minimize the need to import water from other regions.” (Water Code, sec. 10620; see also sec. 10013.)

On page 2-1, the Plan states:

“In the long-term, during drought periods, the Mokelumne River cannot meet EBMUD’s projected customer demands, even with an ‘up to 15%’ rationing imposed under EBMUD’s Board Policy 9.03 (see Appendix F) and use of existing dry-year supplemental supplies.”

On page 2-19, the Plan states:

“Because EBMUD’s extensive conservation savings have limited the ability to ration in dry years without extensive costs to customers, EBMUD has set the rationing goal to up to 15% during multi-year droughts.”

On pages 3-2 to 3-4, and 3-10, the Plan refers to EBMUD’s 2010 change from the 25 percent dry-year rationing limit to the 15 percent dry-year rationing limit.

As noted in our comments on the DUWMP, the reduction from 25 percent dry-year rationing to 15 percent dry-year rationing was made by the EBMUD Board in the 2040 WSMP. EBMUD has been directed by the California Superior Court to set aside certification of the 2040 WSMP Program EIR, and “and all related project approvals.” (Attachment 1, Writ, Order, Decision, Judge Timothy M. Frawley, Peremptory Writ of Mandate, *Foothill Conservancy et al. v. EBMUD*, 5/25/11, p. 1.) Thus, pending completion of the 2040 WSMP PEIR, EBMUD’s 2010 UWMP and the analyses therein must not presume a reduction to a 15 percent rationing level during droughts. The presumption of the 15 percent rationing level would effectively reinstate the 2040 WSMP prior to completion of the PEIR, in violation of CEQA and the court’s writ.

We do not believe that DWR should accept the representation from EBMUD that drought rationing at 25% rather than 15% will result in “extensive costs to customers” without some data in the record to support that. (2010 UWMP, Appendix 3, p. C-13.) This is particularly true given that the water sources EBMUD intends to provide instead will cost about \$700 per acre foot to produce, provided that EBMUD finds a buyer for the water in non-drought years. Otherwise, the marginal cost of the drought year water is 8-10 times that. (Attachment 3, Project Costs & Drought Frequency.)

Given the need for more efficiency and self-reliance in water use established in state law, we do not believe that DWR should casually accept the notion that EBMUD will be reducing its drought period rationing in the future. Finally, we do not think that DWR should accept a rationing rate that has been adopted in violation of a court order.

Given that the UWMP process is supposed to evaluate options before selecting components, we encourage DWR to have EBMUD produce a 2010 UWMP that at the very least also looks at water planning options should EBMUD go back to its 25% drought rationing policy.

B) By providing a one-sided description of Pardee Reservoir’s impacts, EBMUD has not proceeded according to the law.

An UWMP must identify and quantify to the extent practicable the existing and planned sources of water over five-year increments. (Water Code, sec. 10631 (b).) This is an important part of the UWMP, which at a minimum must be a public disclosure document. (Water Code, sec. 10642.) As a public disclosure document, an UWMP can be set aside in the event that critical information is missing from the document. (*Friends of the Santa Clara River v. Castaic Lake Water Agency* (2004) 128 Cal.App.4th 1, 13-15.). Like all other aspects of an UWMP, the urban supplier’s publication of the description of the water sources must be supported by substantial evidence. (Water Code, sec. 10651.) Future water sources should meet the objective of the un-codified section of the 2001 amendments that emphasizes the need for regions to meet their own water needs “without diminishing the resources of other regions.” (Section 1 of Stats of 2001, c. 320 (S.B. 620).)

In describing Pardee Reservoir, on page 2-1: The plan states:

“Pardee Reservoir also is operated to provide recreational facilities to the public and to protect and enhance the fishery resources and ecosystem of the lower Mokelumne River.”

As noted in our comments on the DUWMP, while this is a true statement, it is far from the whole truth. The whole truth is that the operation of Pardee Reservoir has severely limited public access to the Mokelumne River for traditional public trust uses. (Attachment 4, Recreation, Fishing & Commerce Limits.) The existence of Pardee Reservoir (and the later-constructed Camanche Reservoir downstream) prevents the migration of salmon and steelhead to their native spawning beds upstream. EBMUD has made no effort to institute a capture and transport system to restore the spawning runs above the dams. In order to skew the perception of Pardee Reservoir as being benign or beneficial to the region in which it lies, EBMUD has left out these critical details.

In our comments on the DUWMP we asked EBMUD to include our additional observations regarding Pardee Reservoir to provide a balanced view of the water source. EBMUD responded, “The requested information is not required to be included in an urban water management plan and is not relevant to an assessment of EBMUD’s water supply and demand.” As noted above, the information is relevant to determine if EBMUD is conforming to state policy to meet its water needs “without diminishing the resources of other regions.” Apparently EBMUD believes that it is acceptable to present DWR with half truths in its UWMP.

We do not believe that DWR must accept EBMUD’s 2010 UWMP containing and supported by misleading half truths. By submitting such a document, we do not believe that EBMUD has proceeded in accord with the law.

C) EBMUD’s 2010 UWMP is not consistent with the UWMPA because the plan perpetuates and exacerbates harm to the region of origin, while ignoring the mandate to use treatment technology to reduce such harm.

To the extent practicable, an UWMP plan must include information relating to the quality of existing sources of water. (Water Code, sec. 10634.) As noted above, the UWMPA recognizes that water must be managed to ensure its availability for all beneficial uses including environmental needs (Water Code, secs. 10610.2(a)(6).) It also finds that, “The health, safety, and well-being of the people of California will best be served by employing current and developing water treatment and conservation technologies.” (Section 1(d), Stats. 2001, c. 320 (S.B. 620).)

On page 2-8, the Plan states:

“EBMUD consistently provides the highest quality water possible. EBMUD’s primary water supply from the Mokelumne River requires only limited treatment

to meet or surpass health standards, because it comes from a remote, mostly undeveloped watershed and is transported within two days to the EBMUD's service area in large steel pipes.”

As we noted in our comments, the problem with this antiquated method of protecting water quality is that it precludes water from flowing farther downstream to restore fisheries and riparian ecosystems. When Pardee Reservoir began operations in the late 1920s, water purification technologies were rudimentary by modern standards, and urban water diversions from the Mokelumne River were smaller. At that time, it probably made sense to grab the purest water as high in the Sierra as feasible and deliver it to Bay Area customers. However, today the water diversion demands on the Mokelumne River are much greater, and water suppliers have a host of modern technologies available to purify water diverted much farther downstream. Urban Water Management Planning is supposed to result in the use of improvements in technology and water management practices to help meet the need for water for environmental uses. (Water Code, sec. 10608, subd. (f).) Nevertheless, in the 2010 UWMP, EBMUD does not look at taking its additional Mokelumne River water farther downstream from Pardee Reservoir.

EBMUD did not proceed in accordance with the law, because it refused to look at downstream diversions options to improve beneficial uses upstream on the Mokelumne River. DWR need not approve an UWMP for an agency that so blatantly refuses merely to consider the potential to implement the basic objectives of the UWMPA.

D) EBMUD did not proceed in accord with the law, nor did it base its statements on substantial evidence, when it provided a different growth assessment in the UWMP than it provided to the State Water Resources Control Board in a petition for an extension of time to put water to a beneficial use.

An Urban Water Management Plan must describe the service area of the supplier, including the current and projected population in five-year increments to 20 years or as far as the data is available. (Water Code, sec. 10631 (a).)

On pages 4-2 to 4-3, the Plan states that the demand figures are from the 2040 Demand Study using the land-based method, and that these figures still reflect a reasonable expectation for growth over the long-term to 2040.

However, there is a great risk in basing expensive future infrastructure plans on one set of demand projections. As a result, prudent planners generally look at a range of possible future demand, and then make contingency plans accordingly. This is especially prudent when EBMUD's demand estimates have *increased* greatly, but actual demand has not.

In the past EBMUD has used the projected growth model rather than the land use based model. EBMUD shifted to the land use model in 2002, and then modified that land use model again for the 2040 plan. The 1992 data analysis based on projected growth estimated EBMUD gross demand in 2020 at 277 million gallons per day. (Attachment 5,

Demand Figures, *Foothill Conservancy et al. v. EBMUD*, 66 Administrative Record (AR) 25685.) Using a land use method, the 2005 Urban Water Management Plan estimated EBMUD's gross demand in 2030 to be 281 mgd. (Attachment 5: Demand Figures, *Foothill Conservancy et al. v. EBMUD*, 106 AR 40299 – 40301.) That is not a major difference. However, just five years later, the Land Use Model was altered and all of a sudden the 2030 demand shot up from 281 mgd to 304 mgd, with the 2040 gross demand estimated at 312 mgd. (Attachment 5, Demand Figures, *Foothill Conservancy et al. v. EBMUD*, 10 AR 4312) Thus, by choosing to tweak the model, EBMUD created a 23 mgd increase in gross demand in 2030. By way of comparison, that 23 mgd is more water than any single component of the 2040 WSMP other than Conservation (39 mgd) and Pardee Expansion (51.2 mgd.) (Attachment 6, Project Yields & Timelines, *Foothill Conservancy et al. v. EBMUD*, 4 AR 771.)

We agree that community-centered growth and infill development are likely to play an important role in future growth in the EBMUD service area. The biggest problem with these new demand figures is that they are based upon the questionable assumption that population and economic growth in the service area will *accelerate* to fill the increased available development capacity of the local-government-generated land use planning maps for the region. (Of course, another possibility is that the same rate of growth will take place and merely use up less land in the process.) The “if you map it they will come faster” theory has obvious limitations, not the least of which is the ability of such dense infill development opportunities to attract investors to build the units and consumers to purchase the units in the numbers estimated by EBMUD. Unfortunately, the huge caveat on page 3-15 of the 2040 Demand Study is rarely fully appreciated when its results are considered: “Although the total demands still reflect development per the general plans, *the timing of development and therefore demands may be slower than that projected in this study.*” (Emphasis added.) However, the demand inflation did not stop there.

The 2040 WSMP EIR shows that the reduction in dry-year rationing from 25% down to 15% created the need for an additional 20 mgd of water. (Attachment 5, Demand Figures, *Foothill Conservancy et al. v. EBMUD*, 4 AR 774) Thus, by choosing a modified demand methodology (plus 23 mgd), and a new rationing policy (plus 20 mgd), EBMUD increased its 2040 gross water demand by 43 mgd. By way of comparison, according to the 2040 WSMP DEIR, that 43 mgd is more water than is produced by any single 2040 WSMP component other than Pardee Expansion (51.2 mgd.). (Attachment 6, Projected Yields & Timelines, *Foothill Conservancy et al. v. EBMUD*, 4 AR 771.)

Although we asked EBMUD to look at multiple dry-year demand given the prior demand model and the 25 percent dry-year rationing in their UWMP, they refused. Given the information above, and the true extent of the impacts of Pardee Expansion, we had hoped that the EBMUD Board would chose to stick with the 25 percent dry-year rationing, and/or choose to stick with the 2002 demand model. These two things, in combination with the desalination component (up to 20 mgd yield), would avoid any need for Pardee Expansion. (Attachment 5, Demand Figures, *Foothill Conservancy et al. v. EBMUD*, 4 AR 771.)

As noted in the 2010 UWMP, EBMUD currently has a petition before the State Water Resources control Board for an extension of time for putting to beneficial use the water it stores in Camanche Reservoir on the Mokelumne River. (See 2010 UWMP, p. 2-7.) We find it very disturbing that the application on file still states that EBMUD needs an extension until 2040 to put the water stored in Camanche Reservoir because, “the District cannot project with certainty what its service population will be or what water use will be forty years from now.” That application also still claims that EBMUD has a 25% drought rationing policy that limits its need for Camanche water. Those statements were presented to the State Water Resources Control Board under penalty of perjury. (Attachment 5, Demand Figures, SWRCB Petition.)

It seems illogical for the Department of Water Resources to accept an UWMP based upon only one set of growth numbers from EBMUD, when EBMUD has already stated to the State Water Resources Control Board that it cannot predict with certainty growth and water demand to 2040. We cannot understand how DWR could validate an UWMP that fails to disclose both the 2005 and the 2010 growth projections to the public. We do not believe that DWR must accept an UWMP based upon such duplicitous reporting.

E) EBMUD did not proceed in accord with the law, since the discussion of the Bayside Groundwater Facility does not disclose whether or not the groundwater basin is in overdraft.

An UWMP is supposed to, “Identify and quantify, to the extent practicable, the existing and planned sources of water available to the supplier” in five-year increments. If one of the supplies is groundwater, the UWMP must provide a copy of any applicable groundwater management plan, a description of the basin, information as to whether the basin is overdrafted, efforts being undertaken to eliminate long-term overdraft, and the amount of groundwater expected to be pumped. (Water code, sec. 10631, subd. (b).)

On pages 2-15 to 2-17 of the 2010 UWMP, the description of the Bayside Groundwater Facility identifies the expected water yield and explains that there is no groundwater management plan as yet. However, the UWMP does not disclose whether or not the basin is in overdraft and, if so, the efforts being taken to eliminate long-term overdraft. These are relevant questions for a water supply being stored underground for use in draught situations. We do not believe that DWR must accept an UWMP that does not provide the required answers to these questions.

F) EBMUD did not proceed in accord with the law, because the 2010 UWMP does not provide a source-specific analysis of water supply reliability and source-specific substitutes.

An Urban Water Management Plan is required to:

“Describe the reliability of the water supply and

vulnerability to seasonal or climatic shortage, to the extent practicable, and provide data for each of the following:

- (A) An average water year.
- (B) A single dry water year.
- (C) Multiple dry water years.

For any water source that may not be available at a consistent level of use, given specific legal, environmental, water quality, or climatic factors, describe plans to supplement or replace that source with alternative sources or water demand management measures, to the extent practicable.” (Water code, sec. 10631, subd. (c), emphasis added.)

In Table 4-3, EBMUD provides only the aggregate data regarding total water supply reliability. It does not explain the nature of the unreliability for each source as required by the water code. There is no way to verify the accuracy of this sort of “black box” calculation. EBMUD needs to show its work.

We do not believe that DWR must approve an UWMP that expects the public to take on faith the veracity of aggregate numbers in the absence of the underlying data.

G) EBMUD did not proceed in accord with the law, because EBMUD’s 2010 UWMP fails to disclose the yields and the implementation timelines for future water supply projects.

Finally, an Urban Water Management Plan must:

“Include a description of all water supply projects and water supply programs that may be undertaken by the urban water supplier to meet the total projected water use as established pursuant to subdivision (a) of Section 10635. The urban water supplier shall include a detailed description of expected future projects and programs, other than the demand management programs identified pursuant to paragraph (1) of subdivision (f), that the urban water supplier may implement to increase the amount of the water supply available to the urban water supplier in average, single-dry, and multiple-dry water years. The description shall identify specific projects and include a description of **the increase in water supply that is expected** to be available from each project. The description shall include an estimate with regard to **the implementation timeline** for each project or program.” (Water code, sec. 10631, subd. (h).)

Instead of disclosing the water yields and implementation timelines for future water supply projects, EBMUD instead claims, “Beyond 2030 and outside the current required 20-year planning horizon of the UWMP, EBMUD’s supplemental supply needs will be

met by implementing long-term conceptual supplemental supply sources, whose project capacities can only be quantified in subsequent UWMPs through refined project developments.” (EBMUD 2010 UWMP, p. 4-11.) We find this comment disingenuous. In its 2009 Technical Memoranda, its Program EIR, and its 2040 WSMP, EBMUD repeatedly disclosed the expected yields and the timelines for the supplementary supply water supply projects. (Attachment 6, Yields and Timelines.) While these projects and their timelines may evolve over time, it seems wrong to withhold the current estimates from the State and the public.

The failure to provide this information is perhaps the most glaring inadequacy in the 2010 UWMP. In recent amendments to the UWMPA, the Legislature declared that, “As part of its **long-range** planning activities, every urban water supplier should make every effort to ensure the appropriate level of reliability in its water service sufficient to meet the needs of its various categories of customers during normal, dry, and multiple dry water years.” The Legislature acknowledged that, “The quality of source supplies can have a significant impact on water management strategies and supply reliability.” The intent of UWMPA is “to provide assistance to water agencies in carrying out their **long-term** resource planning responsibilities to ensure adequate water supplies to meet existing and future demands for water.” (Water Code, sec. 10610.2, subds. (a)(4), (a) (9), and (b), emphasis added.) Yet it is just this type of long-term water supply information that EBMUD seeks to hide from the State and the public.

We do not believe that DWR must accept an UWMP that does not meet the public disclosure obligations of the UWMPA.

H) EBMUD has not proceeded in accord with the law by approving an UWMP not based on enhancing water self-sufficiency, and EBMUD does not have substantial evidence to support refusing to consider higher levels of recycling.

The amendments to the UWMP Act over the last decade reflect two key beliefs of the California State Legislature. The first is that, “[T]he people of California will best be served by meeting municipal, agricultural, and environmental water needs of each hydrologic region to the maximum extent practicable without diminishing the resources of other regions that are necessary to meet the present and future needs of those regions.” The second is that, “The health, safety, and well-being of the people of the State of California will best be served by employing current and developing water treatment and conservation technologies.” (Stats of 2001, c. 320 (S.B. 672).) The latter belief resulted in the Legislature setting a target for water recycling: 1 million acre-feet per year by 2010. (Section 1(f), Stats. 2002, c. 261 (S.B. 1518).)

On Table 5-5, the Plan indicates that recycled water use will increase from 9.3 mgd to 19.9 mgd from 2010 to 2040. However, the 19.9 mgd figure is still only 10.6 percent of the total 188.6 mgd of wastewater to be collected and treated in 2040. Why is the recycling percentage so low?

In rural Calaveras County, where the low average income of the customers and the geographic challenges are much greater than in the East Bay, the water district currently recycles over 85 percent of the wastewater it collects, and expects to continue to do so through 2040. (Attachment 7, Recycling Information, Calaveras County Water District, 2010 *Draft Urban Water Management Plan*, Chapter 5.) If Calaveras County can do this to keep water in the Mokelumne River for fish, wildlife and recreation; why can't EBMUD?

If EBMUD were to recycle 85 percent of the wastewater it expects to collect in 2040, that would result in a water supply enhancement of over 160 mgd, or *three times the yield of the Pardee Expansion*. Put another way, EBMUD would only have to recycling 27.2 percent of the effluent it expects to collect in 2040 to equal the yield of the Pardee Expansion. This 51.2 mgd of recycled water could be used to supply residential outdoor demand (about 54 mgd in 2040) and irrigation demand (7 mgd in 2040). (Attachment 7, Recycling Information)

Nevertheless, EBMUD refused to set more ambitious targets for water recycling in its UWMP. EBMUD first claims that, "Building recycled water projects and extensive distribution systems in an urban environment is difficult and more costly than compared to a rural environment." (EBMUD 2010 UWMP, p. C-16.) EBMUD references no evidence referenced to support this statement.

EBMUD next claims that, "In some cases where wastewater supply is available, there isn't sufficient demand close to the supply source to develop a project that utilizes all of the supply." EBMUD references no evidence to demonstrate that it is cheaper to distribute raw water from the Mokelumne River in the Sierra than it is to distribute recycled water that is already in the district.

EBMUD next claims that, "Almost all of EBMUD's recycled water customers are existing urban users where each customer site has to be retrofitted to use recycled water, an added complexity and expense." This statement is full of problems. In 2030, recycled water customers will also be from new construction, not just "existing urban users." As EBMUD notes in its plan, installing the delivery system up front reduces the costs. (EBMUD 2010 UWMP, p. 5-13.) Yes, as EBMUD notes, recycling does have costs, but what are those costs relative to other options? Would recycling cost more than a new dam on the Mokelumne? (Attachment 3, Project Costs & Drought Frequency.) In an UWMP, an agency must do more than merely claim recycling is too expensive, it needs to have substantial evidence in the record to support that claim. While the UWMP does provide some cost figures for some future recycling projects, it does not reference the source of these figures, and whether they reflect the total cost of wastewater treatment, or merely the additional cost of the tertiary treatment needed for water recycling. Furthermore, EBMUD claims that its reason for constructing drought year supplies is to relieve the future economic burdens of drought in its district. (Attachment 2, Amended Policy 9.03, Staff Report) Wouldn't investing hundreds of millions of ratepayer dollars

in its district on recycling project, rather than on a dam in the Sierra Nevada foothills, go a long way to relieving the economic burdens of its district?

Finally, the question of the cost effectiveness of water recycling cannot be merely a function of out of pocket costs to the district and its ratepayers. Using local sources like water recycling, rather than destroying resources outside the district by building a dam, creates more benefits. The recycling effort not only produces water supply, it also preserves river recreation and the environment. These environmental justice benefits justify additional water supply and distribution costs. If DWR wants implement the Water Code, Section 10620 to “maximize resources and minimize the need to import water from other regions,” it cannot let unsupported and myopic cost claims of local water districts trump the directives of the State Legislature.

We do not believe that DWR must accept an UWMP from EBMUD that relies on unsupported assertions to blatantly refuse to consider the potential to implement the basic objectives of the UWMPA.

VI. Key goals of the State Water Plan, the IRWMP process, and the UWMA are better served by water supply alternatives other than Pardee Expansion.

A. Encourage EBMUD to Drop Pardee Expansion from the 2010 UWMP because it is neither needed nor desirable.

An important focus of an UWMP is the comparison of future supply and future demand. (Water Code, sec. 10631, subs. (a - h).) During the 2040 WSMP hearings, members of the EBMUD Board correctly assessed that Pardee Expansion was an unnecessary water supply source, that its construction and operation would be unnecessarily harmful to people and the environment, and that its inclusion in EBMUD plans would lead to litigation and strained relations with foothill interests. These Board members were right on all three counts. If EBMUD simply uses its 2002 growth projections and its 25 percent rationing policy, there is no need to include Pardee Expansion in future water plans. (See Section V(D) above.) EBMUD’s inclusion of Pardee Expansion in the 2040 WSMP did lead to strained relations and litigation. (Attachment 8, Pardee & Duck Creek Opposition.) As noted by the court in *Foothill Conservancy, et al. v. EBMUD*, the Pardee Expansion has the potential to significantly impact public safety, Miwok cultural practices, and river recreation. (Attachment 1, Writ, Order, and Decision.) Please encourage EBMUD to improve its UWMP by including its 2005 growth projections and removing Pardee Expansion from the plan.

B) Encourage EBMUD to drop Pardee Expansion from the 2010 UWMP because it does not provide the water supply security their constituents want.

One of the important topics discussed in an UWMP is water supply reliability. (Water Code, secs. 10631, subd. (c) and 10635.) A key purpose of IRWMPs is to get water agencies to work cooperatively to integrate programs. (Water Code, sec. 10531.) During the 2040 WSMP process, EBMUD hand picked a Community Liaison Committee to review future policies and water supply options. The water supply portfolio concept that got the most support from the CLC was the proposal to develop a new water storage facility closer to EBMUD's customers, not on the other side of the geologically unstable Central Valley. Pardee Expansion does not provide this key element of water supply security to EBMUD customers (a need, incidentally, recognized by EBMUD since the 1950s). Please encourage EBMUD to drop Pardee Expansion from the 2010 UWMP. By cooperating with a willing Contra Costa Water District in Los Vaqueros Expansion EBMUD can give its customers the security to know that a major component of their water storage is close at hand. (Attachment 9, CLC Survey, LVE Letter & Article.)

C) Encourage EBMUD to Drop Pardee Expansion because it is not consistent with the intent of the UWMP Act to employ modern technology and to promote regional self-sufficiency in water management.

The amendments to the UWMPPA over the last decade reflect two key beliefs of the California State Legislature. The first is that, “[T]he people of California will best be served by meeting municipal, agricultural and environmental water needs of each hydrologic region to the maximum extent practicable without diminishing the resources of other regions that are necessary to meet the present and future needs of those regions.” The second is that, “The health, safety, and well-being of the people of the State of California will best be served by employing current and developing water treatment and conservation technologies.” (Stats of 2001, c. 320 (S.B. 672).) “Improvements in technology and management practices offer the potential for increasing water efficiency in California over time, providing an essential water management tool to meet the need for water for urban, agricultural, and environmental uses.” (Water Code, sec. 10608.) “The Legislature has established goals for water recycling in the state, namely to reclaim and reuse one million acre-feet annually by 2010.” (Section 1(f), Stats. 2002, c. 261 (S.B. 1518).) As a result, the number 2 implementation provision in the State Water Plan is to, “Use water more efficiently with significantly greater water conservation, recycling, and reuse to help meet future water demands and adapt to climate change.” (Attachment 10, State Water Plan Update 2009, Highlights, p. 12D.)

Given the State's focus on regional self-sufficiency, the use of new technologies and management practices, and the desire to avoid harm to other regions, it seems inconceivable that EBMUD's response in the 2010 UWMP is to rebuild its 20th century dam and to further harm the foothill region. Right in EBMUD's own backyard, Contra Costa Water District is expanding a state-of-the-art low-impact water storage facility, with room to grow to accommodate EBMUD's needs. (Attachments 9: CLC Survey, LVE Letter & Article.) If EBMUD truly believes that it needs a new storage facility, Los Vaqueros Expansion is the modern local alternative that EBMUD should pursue. Likewise, EBMUD has ample wastewater to recycle to meet future water needs.

The main reason EBMUD is having so much trouble in preparing a UWMP that conforms to state law is that the cornerstone of their long-term planning, Pardee Expansion, is out of step with modern water management. Please encourage EBMUD to remove Pardee Expansion from its 2010 UWMP, and to rely on other water supply and storage options.

VII. There are serious consequences if EBMUD does not correct its UWMP.

A) Proper implementation of the UWMPA is necessary so that EBMUD can make a successful transition into water management in the 21st century.

The 2010 UWMP is a plan charting the future of EBMUD. As such, the objectives of the plan should be in concert with the obligations of an urban water district in California in the 21st century. One of EBMUD's difficulties in complying with the UWMPA is that EBMUD continues to cling to obsolete interpretations of its outdated objectives. (Attachment 11, EBMUD Planning Objectives.)

For example, the day is gone when a water district could identify as its objective "Minimize costs to district customers." A 21st century water agency does not have the luxury of dumping its capital improvement costs at the feet of the state and federal governments and expecting them to pick up the tab. Instead, a 21st century municipal utility has an obligation to invest more of its ratepayers' money into expensive local water supplies and treatment technology to reduce the district's dependence on external supplies.

In addition, EBMUD's old objectives must be approached in new ways.

For example, in the early 20th century, "Ensure the high quality of the District's water supply" meant going into the pristine Sierra Nevada Mountains and diverting the purest water possible for your customers. In the 21st century, it means using advanced water treatment technology to purify water that was diverted at the last possible moment in order to provide for the health of the ecosystem.

For another example, in the 21st century, to "Minimize drought impact to District customers" does not necessarily mean finding ways to reduce drought rationing levels at any cost. Today, it means disclosing the cost of such a convenience, and giving people the choice to bear the rationing burden or to pay the exorbitant cost of an additional water supply only needed ten years out of a century.

In the past, "Maximize positive impact to local economy" meant fetch the water need by labor and industry to lubricate our local economic engine. Today, it means invest our capital improvement dollars in local infrastructure to make local jobs needed by local people to stimulate local economic recovery. Converting water-wasting home

landscaping to California natives and xeriscaping can create many jobs, as can the Los Vaqueros Expansion and construction of new wastewater treatment facilities.

In the 20th century, “Preserve and protect the environment for future generations” meant build any water project we want and mitigate the impacts. Today it means that you need to avoid damaging projects, and contribute to the recovery ecosystems crashing under the weight of cumulative impacts.

In the 20th Century, “Promote recreational opportunities” meant replacing a free-flowing river with a dam, a reservoir, a parking lot, and a boat dock. Today, it means letting people enjoy recreating on their free-flowing river, and finding another place to store water or get alternative supplies.

These are not meaningless semantic alterations in the objectives. These objectives are the criteria the EBMUD Board will use to evaluate the suitability of future supply projects. The longer that EBMUD seeks to perpetuate outdated notions of its mission as a utility district, the harder it will be for EBMUD to achieve its goals in the new age of California water management. On the other hand, if EBMUD embraces its new responsibilities and its new opportunities, it will compete much better for the water and the fiscal resources it needs to achieve its goals. **We encourage DWR to make it clearer to EBMUD right now, that its prospects for future State funding for ill-conceived dam projects will remain low because its plans are not in accord with state law and policy.**

B) California will suffer if we do not give critical Urban Water Management Plans the attention they deserve.

While there are long-term statewide plans for water flows, for water infrastructure, and for riparian and estuarine habitat restoration, ultimately it takes local initiative, local financing, and local collaboration to implement these plans. By contrast, ill-conceived local water projects can impair California’s ability manage water in the 21st century for the full spectrum of beneficial uses. The Urban Water Management Planning process is designed to make water agencies plan for their futures, to disclose these future water plans to the state and to the public, and to show that their future actions will conform to the laws, regulations, and policies of the state of California. The process should be one that gets all water interests pulling together for a balanced water future.

We thank you and your staff at DWR for your efforts in implementing the Urban Water Management Planning Act to date. However, we are greatly disappointed that so many water agencies have historically failed to do UWMPs, and many other agencies have failed to do them well. We apologize for not participating more actively in these planning processes in prior years.

We now realize that this planning process is critical. It is critical to lead California into a future when our precious water resources are managed for all beneficial uses. It is critical to stimulate local investment in water conservation, in water purification technologies,

and in more efficient water distribution systems. It is critical to get urban water planners to look first at conservation and reclamation rather than always looking first to Sierra Nevada rivers and the Delta for another allocation of water. It is critical to guide limited state funds only to those water districts that are actually fully implementing state water law and policy to the best of their ability. As it stands now, every dollar that EBMUD receives from the State, regardless of the nature of the funded project, frees up another dollar in the EBMUD budget to study, design, permit, and construct the outdated and destructive Pardee Expansion. Because we now realize the critical nature of UWMPs, we can no longer sit on the sidelines and ignore abuses of this water planning process.

C) Delay in correcting EBMUD is too costly.

Here in the Sierra Nevada and its foothills, our environment is the basis of our economy. Every year that there is the threat of a new dam on the Mokelumne River, is another year that would-be investors in our recreation and tourism economy are chilled from making their investments.

What troubles us greatly about the current situation is that EBMUD continues to analogize process for Pardee Expansion to the process that has led to the Freeport Project. (Attachment 11, EBMUD Planning Objectives.) EBMUD's version of the history is that, after 30 years of fighting over diversion of the water from the American River at the Folsom South Canal, the parties finally found an acceptable solution. Our version is that after decades of expensive litigation and years of negotiation, EBMUD was finally forced to take water out of the Sacramento River as environmental groups had originally proposed and not the American River as EBMUD had initially proposed. If only somebody at the State Water Resources Control Board or DWR had gotten EBMUD to see the light in the 1970s, then perhaps the decades of delay and costly litigation could have been avoided.

But this is not the 1970s. In the first decade of the new millennium, a decade marked more by legislative gridlock than progress, the California State Legislature did recognize the importance of water management reform, and did pass the legislation the people need. (For a partial list of bills see EBMUD 2010 UWMP, p. 1-2, Table 1.) Those legislators and their constituents are depending on the State's executive branch to implement those reforms. **If the lofty goals for 21st century water management in the State Water Plan are going to be achieved, then the State agencies that hold the purse strings and hand out the water rights cannot remain policy neutral.** If the State continues to give water agencies the same old plan approvals, the same old grant approvals, and the same old water rights approvals, nothing will change, and the people of California will pay the price of failure. **Leadership from DWR and the Resources Agency is needed to successfully usher California into the new era of water management.**

D) DWR must direct EBMUD to correct its UWMP.

We understand that DWR is understaffed for the task of UWMP review. We understand that even after 20 years of implementation, water suppliers have done a poor job of completing and implementing urban water management plans. In your department's report to the Legislature in 2006, the Department indicated that, of the 460 water suppliers required to file an UWMP in 2005, 166 didn't even manage to file a plan. Of the 139 plans reviewed by DWR, only 39 plans (28 percent) were complete. Over half the plans reviewed lacked a water shortage contingency plan, a recycled water plan, or a plan to implement 10 of the 14 proposed demand management measures. (Attachment 12, DWR Summary of the Status of 2005 Urban Water Management Plans, pp. A-12 and B-1.) Considering that the completion and implementation of these plans is critical to California's future water supply for people, for the environment, and for economic growth; these dismal compliance numbers are appalling.

We understand that DWR staff can do little more than check to see if an UWMP has the requisite components. We do not expect DWR to be able to give every UWMP the level of scrutiny necessary to determine if every proposition set forth is supported by substantial evidence in the record. However, **when DWR receives a detailed investigation outlining the significant flaws in an UWMP, we do expect DWR to request that the urban water supplier correct their deficient plan, and we do expect DWR to withhold any grant and loan funding pending those corrections.**

Our purpose is to get EBMUD to comply with the UWMPA. It is not our goal to embarrass DWR. However, should we be forced by your inaction to litigate this matter against EBMUD, when we prevail, we cannot protect DWR from the political and public embarrassment of having approved EBMUD's seriously flawed plan, after being thoroughly versed on those flaws in advance. **We strongly encourage DWR to formerly recognize the legal flaws in the EBMUD 2010 UWMP and to direct EBMUD to correct these flaws.**

VIII. Please call us to talk about this.

As promised, we have provided you with the factual and procedural background associated with EBMUD's 2010 UWMP. We have explained the requirements of the Urban Water Management Planning Act. We have identified the inadequacies in EBMUD's 2010 UWMP. But we did not stop by merely pointing out the problems; we went on to point you to the solutions. We explained that EBMUD has water supply options other than Pardee Expansion that can better meet the goals of state water planning. We identified compelling reasons for DWR to ask EBMUD to correct errors in its 2010 UWMP.


We conclude by sincerely requesting that DWR contact us by September 16, 2011, to discuss these matters. We hope that, with the assistance of your fine staff we could convince EBMUD of the importance of UWMPA compliance.

If there are any other administrative reviews, appeal procedures, or conflict resolution processes administered by DWR to which we can or must avail ourselves, please let us know.

In the event that you approve EBMUD's 2010 UWMP, we respectfully request notice of any opportunity to review and/or to comment on any loan or grant requests from EBMUD. The good people of California cannot stand idly by and let EBMUD squander our precious state revenues on ill-conceived water projects from poorly prepared water plans.

We hope that you are successful in your efforts to convince water suppliers other than EBMUD to plan with more open minds, with more factual analysis, and with more commitment to bettering the water future for all concerned.

Sincerely,



Thomas P. Infusino,

for the Foothill Conservancy, California Sportfishing Protection Alliance, and Friends of the River

cc: Mr. John Laird, Secretary, Resources Agency
Mr. John Beuttler, California Sportfishing Protection Alliance
Mr. Chuck Bonham, Governor's Appointee for DFG Director
Ms. Kate Gaffney, State Water Resources Control Board
Mr. Alexander Coate, East Bay Municipal Utility District
Mr. John Coleman, President, East Bay Municipal Utility District
Mr. Richard Sykes, East Bay Municipal Utility District
Mr. Jim Eicher, Bureau of Land Management
Mr. Terry Davis, Sierra Club Mother Lode Chapter
Ms. Sonia Diermayer, Sierra Club Bay Chapter
Mr. Stuart M. Flashman
Mr. Mike Jackson, California Sportfishing Protection Alliance
Mr. Bill Jennings, California Sportfishing Protection Alliance
Mr. Curtis Knight, CalTrout
Mr. David Moller, PG&E
Mr. Matt Morrison, Sierra Club Bay Chapter
Mr. David Nesmith, Environmental Water Caucus
Ms. Beth Paulson, US Forest Service
Mr. Chris Shutes, California Sportfishing Protection Alliance
Mr. Dave Steindorf, American Whitewater
Mr. Ron Stork, Friends of the River
Mr. Steve Evans, Friends of the River

Supervisor Steve Wilensky, Calaveras County
Ms. Ann Hayden, Environmental Defense Fund
Mr. Spreck Rosekrans, Environmental Defense Fund

Attachments

Attachment 1, Writ, Order, and Decision

Attachment 2, Amended Policy 9.03

Attachment 3, Project Costs & Drought Frequency

Attachment 4, Recreation, Fishing & Commerce Limits

Attachment 5, Demand Figures

Attachment 6, Project Yields & Timelines

Attachment 7, Recycling Information

Attachment 8, Pardee & Duck Creek Opposition.

Attachment 9, CLC Survey, LVE Letter & Article

Attachment 10, State Water Plan Update 2009

Attachment 11, EBMUD Planning Objectives

Attachment 12, DWR Summary of the Status of 2005 Urban Water Management Plans