



[www.mountaincountieswater.com](http://www.mountaincountieswater.com)

**Board of Directors and Officials**

Barbara Balen, (TUD) – President  
Neil Cochran (FPUD) – Treasurer  
Jim Holmes (County of Placer) – Director  
Mike Lee (PCWA) – Director  
Brian Oneto (County of Amador) – Director  
Michael Ranalli (County of El Dorado/  
EDCWA) – Vice President  
Scott Ratterman (CCWD) – Director

Bill George, past (EID) – Ex Officio  
Norm Krizl, past (GDPUD) – Ex Officio

Dave Breninger, retired (PCWA) – Ambassador

[John Kingsbury – Executive Director](#)

**Executive Members**

- Amador Water Agency (AWA)
- Calaveras County Water District (CCWD)
- Calaveras Public Utility District (CPUD)
- County of Alpine
- County of Amador
- County of Calaveras
- County of El Dorado
- County of Nevada
- County of Placer
- County of Tuolumne
- County of Yuba
- El Dorado County Water Agency (EDCWA)
- El Dorado Irrigation District (EID)
- Foresthill Public Utility District (FPUD)
- Georgetown Divide Public Utility District (GDPUD)
- Grizzly Flats Community Services District (GFCSD)
- Jackson Valley Irrigation District (JVID)
- Nevada Irrigation District (NID)
- Placer County Water Agency (PCWA)
- South Tahoe Public Utility District (STPUD)
- Tuolumne Utilities District (TUD)
- Twain Harte Community Services District (THCSD)
- Utica Water & Power Authority (UWPA)
- Weimar Water Company
- Yuba Water Agency (YWA)

**Affiliate Member**

- City of Folsom
- Rancho Murieta Community Services District

July 26, 2018

**State Water Resources Control Board**

Felicia Marcus, Chair  
Steven Moore, Vice-Chair  
Tam M. Dudoc  
Dorene D’ Adamo  
E. Joaquin Esquivel

*Transmitted via email to Jeanine Townsend, Clerk to the Board  
LSJR-SD-comments@waterboards.ca.gov*

Regarding: “Comment Letter – Revisions to Proposed Bay-Delta Plan Amendments.”

Dear Board Members:

I write on behalf of Mountain Counties Water Resources Association (MCWRA) which represents the headwaters, forests and water supplies so critically important to the counties, cities and water districts/agencies that have long depended upon the water resources of the Sierra Nevada.

We want to inform you of significant concerns related to your staff’s development and public release of the Framework on July 9, 2018.

The Framework includes details about the preferred project alternative (45%-65%) unimpaired inflow objective, outflow objective, coldwater habitat objective, etc.), the need benefits and supposed scientific justification for the preferred project, and the water supply “costs” at different levels of unimpaired flow. These details were provided before your consideration and public release for review and comment of a draft substitute environmental document (Draft SED) that must fully examine the environmental consequences of the project and alternatives in its entirety.

The unimpaired flows would impose unique hardships and significant impacts on foothills and mountain communities. This is not understood by many of those who do not live or work in the foothills and the headwaters of California.

The adoption of this Framework will penalize rural disadvantaged communities in the Mountain Counties, increase fire-prone vegetation, exacerbate tree mortality and the risk of catastrophic fire in the Wildland Urban Interface (WUI), degrade air quality, and increase ground temperature. As presently constituted, this Framework will harm the residents, wildlife, aquatic plants and fish species, endangered species, and the overall health of the Sierra Nevada environment. A wrong decision that results in curtailing rural water usage that is inextricably integrated within the natural environment, is a failure to understand the value of this water being kept in circulation, its role in decreasing the risk of catastrophic fire, and the potential long-term costs to the state for impairing its water sources.

For example:

### **Increased Risk of Catastrophic Wildfires**

The mountain communities face significant annual threats of wildfire. Customers within these fire prone areas rely on stock ponds, vegetation fire buffers, canals, all used to lessen the risk of catastrophic fire in their communities. The establishment of an unimpaired flow approach, will reduce greenspace, negatively impact fire prevention efforts, and put lives at risk from fire if the Board adopts the Framework.

### **Impacts to Hydroelectric Generation and the Energy Grid**

There are more hydroelectric generation facilities in the mountain counties than in any other area of the State. Storage facilities to provide hydro power utilize the water diverted from storage. The unimpaired flow approach would cause harm to hydro power operations as it would prevent the capture and storage of water for the peak summer months when energy demands are the highest.

### **Lack of Groundwater or other Readily Available Alternative Water Supplies**

As you all know, our foothill and mountain communities do not have available groundwater supplies or the ability to import water from out-of-basin or other readily available alternative water supplies. Water districts serve communities in the watersheds and areas-of-origin and rely exclusively on local precipitation and runoff into storage reservoirs because that is the only source of water available to them. This unimpaired flow approach, if applied to these water districts and their communities, would require them to forego some amount of water available for diversion to storage, thus exposing these areas to potentially catastrophic and unnecessary man-made water shortages and further exposing them to droughts (in terms of lower year end carryover storage). Essentially, permanent water rationing.

### **Impacts to Recreational Facilities and Opportunities**

Water districts throughout this Mountain Counties region maintain and operate various campgrounds, day use facilities, parks and reservoirs that allow for a variety of terrestrial and water-based recreational opportunities. These facilities are in a mountain setting at or on the shoreline of their reservoirs. These recreational opportunities serve people from all parts of California and from around the world. An unimpaired flow approach reduces the ability to store water for summer recreation, which would have significant impact on communities that survive on summer tourism, while reducing recreational opportunities for the public.

### **The Human Right to Water**

Crucially, the past several years of drought have had devastating impacts on people in the Mountain Counties area. Wells have gone dry. Gardens that people rely on for sustenance have withered. Wildfires have raged. Streams have disappeared. This is not a matter of preserving green lawns and palm trees – we are talking here about people’s livelihoods and their ability to live a dignified life.

While the State Water Board may have an obligation apart from the California Department of Fish and Wildlife to protect fish from harm, the California Legislature has made it clear that the people of California have a right to reliable water supplies. At the very least, this right must mean that those who live where the water begins – namely, the streams, rivers, and snowpacks of the Mountain Counties – have a viable claim to a reliable water supply. The imposition of minimum instream flows done in the name of protecting fish at the expense of people’s right to reliable water is reckless, and, with Water Code section 106.3, likely unlawful.

**The Mountain Counties ARE the Area of Origin**

As California developed its water resources to carry water from what was then misunderstood to be areas of excess to areas of need, it provided certain protections generally referred to as the “Area of Origin” laws. In the words of the former Delta Watermaster, these laws were developed to “ensure that areas in which water originates shall have an adequate water supply for present and future needs.” While the method of protection afforded by the different laws varies, “the needs of the Area of Origin take priority if and when they arise.” Those needs have arisen, and demand that they be given the appropriate attention in the State Water Board’s actions.

The Mountain Counties does not see water as a commodity to be bought, sold, or traded, but a resource of limited supply that requires the upmost stewardship by our regional managers. All the beneficial uses in this mountain counties region deserve the same level of attention and study your staff has devoted to instream fishery needs. This robust assessment of other beneficial uses can and should be done in the SED.

Ensuring reasonable protection of all beneficial uses requires a holistic analysis to understand the unintended consequences and effects to the Delta watershed. Determining what is reasonable cannot be done in a vacuum. The State Water Board is required by law to establish flow and other objectives that ensure the reasonable protection of beneficial uses.

There has been little or no regard to the impacts to the Sierra Nevada ecosystem, the endangered aquatic plant and animal species, including endemic and migrating species that are already stressed by forest fires and drought above the rim dams. We can not sacrifice the Sierra Nevada, plain and simple.

Echoing the comments of many other water users and scientists throughout the state, more instream flow for the sake of instream flow has not and will not work in the future to stabilize or restore the fishery. We support a critical reassessment of decisions in the last 20 years that resulted in approximately 1.3 million acre-feet of water that has been dedicated to instream flows annually. It may be possible to use that same water in a manner that more directly and concretely benefits the fishery.

Your leadership is requested to retract this staff Framework and reset the path we are on. While instream fishery needs are certainly important and worthy of reasonable protection, so too are all other beneficial uses in the mountain counties region. We encourage the Water Board to adopt a new approach to address all the beneficial uses of water, satisfy the Co-Equal goals, which includes water reliability for all of California, or show findings that this approach will not sacrifice or harm the Mountain Counties region and its water resources.

Sincerely,



John Kingsbury, Executive Director  
Mountain Counties Water Resources Association

c: Andrew Wheeler, Acting Administrator US Environmental Protection Agency  
Ryan Zinke, Secretary, Department of the Interior  
Brenda Burman, Commissioner, US Bureau of Reclamation  
Congressman Doug LaMalfa  
Congressman Tom McClintock  
Senator Tom Berryhill  
Senator Ted Gaines  
Senator Jim Nielsen  
Assembly Member Frank Bigelow  
Assembly Member Brian Dahle  
Assembly Member James Gallagher  
Assembly Member Kevin Kiley  
Board of Directors, Mountain Counties Water Resources Association  
Eileen Sobeck, Executive Director, State Water Resources Control Board  
Michael George, Delta Watermaster