

Before the
State Water Resources Control Board
July 21, 2008

In the Matter of the Proposed Revocation of Water Right Permit Nos. 16209, 16210, 16211 and 16212 (Applications 18721, 18723, 21636, 21637) of the United States Bureau of Reclamation	Policy Statement of California Department of Fish and Game
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The Mission of the Department is to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public.

Fish and wildlife resources are held in trust for the people of the state of California. Under Fish and Game Code section 711.7, the Department is designated as trustee for the state's fish and wildlife resources. Fish and Game Code section 1802 grants the Department jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species.

The Department seeks to maintain native fish, wildlife, plant species and natural communities for their intrinsic and ecological value and for their benefits to all citizens in the state. This includes habitat protection and maintenance of habitat in sufficient amounts and quality to ensure the survival of all native species and natural communities. The Department is also responsible for oversight and assurance of the diversified uses of fish and wildlife including recreational, commercial, scientific and educational uses.

As trustee agency for the fishery resources in this state, the Department has a material interest in assuring that water flows within streams are maintained at levels which are adequate for long-term protection, maintenance, and proper stewardship of those aquatic resources. Within the North Central Region of the Department, fish and wildlife protection and management is provided for, among others, the counties of El Dorado and Placer. It is in this geographic area that permitted water rights for diversion of flow from the North Fork American River and Knickerbocker Creek are proposed for revocation by the State Water Resources Control Board.

Flow from the North Fork American River and Knickerbocker Creek (a tributary to the North Fork) enters Folsom Lake where it becomes available for later release to Nimbus Reservoir and the Lower American River. The North Fork American River supports populations of native rainbow trout, brown trout and smallmouth bass, as well as hardhead minnow, Sacramento pikeminnow, Sacramento sucker, sculpin and other aquatic species. Wildlife resources including the

foothill yellow-legged frog, western pond turtle, and numerous neotropical bird species that are dependent on North Fork American and Knickerbocker Creek streamside riparian zones as migration corridor and nesting habitat.

The Department must emphasize the sensitive status of foothill yellow-legged frog, western pond turtle, and hardhead minnow populations. These three taxa are identified as *species of special concern* on the Department's list of species at risk due to loss of habitat or other causes. Both the yellow-legged frog and hardhead are managed as *sensitive species* by the U.S. Forest Service as well. Foothill yellow-legged frogs, western pond turtles, and hardhead populations rely on instream flow and wetted stream perimeters sufficient to maintain the water quality conditions and emergent vegetation along stream margins suitable for reproduction, rearing and cover. The Department cautions that any reduction in flow on Knickerbocker Creek or on the North Fork American River has potential to degrade established instream habitat for these sensitive populations and other aquatic species. The Department encourages the State Water Resources Control Board to place great weight on the need to preserve the existing flows in the North Fork American River stream segment above Folsom Lake, for protection of instream habitat as a benefit to these species at risk and other native aquatic life.

Recreational angling opportunities along the North Fork American River draw fishermen to the area for both warm and coldwater game fish. Interest levels for trout and smallmouth bass angling, (supported by fishery health under current flow conditions in the North Fork American River), have influenced the Fish and Game Commission to expand freshwater sport fishing regulations on the North Fork American to allow for a year-round fishing season. The Department supports a water management decision that will maintain North Fork American River flows adequate to protect public trust resources that include the angling opportunities offered by a quality fishery within the drainages of Knickerbocker Creek and the lower stream segment of the North Fork American River.

Downstream of existing impoundments at Folsom and Nimbus Dams the Lower American River ecosystem depends on flow to support fish and wildlife resources and the established riparian corridor along the parkway. Fishes utilizing the Lower American River include resident warm and coldwater species of largemouth bass, smallmouth bass, bluegill, tule perch, Sacramento sucker, hardhead minnow and rainbow trout, along with anadromous fish populations of fall-run chinook salmon, American shad, striped bass, and Central Valley Steelhead (currently listed as threatened under the federal Endangered Species Act).

Seasonal water temperatures, adequately low to protect steelhead holding and rearing habitat, along with timely attraction flows for anadromous species are critical attributes of the Lower American River that must be met primarily through releases from the cold water pool within Folsom Lake. Water surface elevations

in Folsom Lake must be sufficiently high for development of a thermally stratified condition and for maintenance of the "cold water pool" necessary to provide seasonally available cold water for delivery to meet biological needs in the Lower American River. Continued flow from the North Fork American River and Knickerbocker Creek into Folsom Lake is a critical contribution toward meeting the cold water volumes crucial for protection of salmonid and other instream species of the Lower American River.

The American River Parkway and the Lower American River offer regionally important recreation opportunities. The banks of the river are lined with willow thickets, valley oak, Fremont cottonwood, sycamore, white alder, and other riparian vegetation, dependent on a wetted stream perimeter sufficient to maintain hydraulic contact with their root systems. Despite encroachment by residential development, many species of wildlife still thrive along the banks of the Lower American River, seeking cover within the mature riparian corridor. Members of the Sacramento Audubon Society have observed 135 different species of birds along the river, and at least 45 avian species are dependent on the backwaters and riparian habitat created by variable flow releases to the river. Recreational use of the parkway system includes wildlife watching, cycling, jogging, and educational uses at nature areas, as well as access for angling and boating on the river. The diverse aquatic and riparian ecosystems of the Lower American River are responsive and dependent on the flow releases from the available pool impounded at Folsom and Nimbus Dams. Protection and enhancement of riparian and aquatic resources of the Lower American River system are management goals for the Department as well as for other state, local, and federal resource agencies.

The Department takes seriously its responsibility to safeguard the natural resources of the North Fork American River, Knickerbocker Creek, and the Lower American River in trust for the public. The sensitive and listed species, including foothill yellow-legged frog, western pond turtle, and hardhead minnow in the North Fork American River, and steelhead within the Lower American River, remain at risk.

The Department firmly supports the proposed revocation of Permits 16209, 16210, 16211 and 16211 (Applications 18721, 18723, 21636 and 21637). We believe that such action is consistent with the Fish and Game Code and will be in the public's best interest overall.

The Department of Fish and Game thanks hearing officer and State Water Board Vice Chair Gary Wolff, and members of the State Water Resources Control Board for the opportunity to express our interest and policy today.