

North San Joaquin Water Conservation District

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March 17, 2017

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814-0100



RE: Comments on Amendment to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and Supporting Draft Revised Substitute Environmental Document

Dear Ms. Townsend,

North San Joaquin Water Conservation District (NSJWCD) is a California Water Conservation District that is comprised of 150,000 acres of productive agricultural lands in the north-eastern portion of San Joaquin County. NSJWCD mission is to provide deliveries of surface water to its constituents in lieu of groundwater pumping, thus promoting the long-term viability of the groundwater source underlying these lands. This letter summarizes NSJWCD's concerns regarding the Lower San Joaquin River (LSJR) Flow Alternative that was selected as the Flow Proposal for the proposed update to the Water Quality Control Plan and the associated Draft Revised Supplemental Environmental Document (SED).

NSJWCD's only surface water right is on the Mokelumne River and is junior to East Bay Municipal Utility District. While the LSJR SED does not directly impact the Mokelumne River, NSJWCD has grave concerns about the methodology and policy used for the SED and its extended use and implications for the Mokelumne River. Also, NSJWCD shares an overdrafted groundwater basin with water agencies to the south of NSJWCD who are directly impacted by the LSJR SEWD (Stockton East Water District and South San Joaquin Water District, for example). Any harm to the ability of these districts to utilize surface water as part of a conjunctive use program will further harm the groundwater basin and make it that much for difficult for NSJWCD and others to achieve groundwater sustainability.

The Proposal Will Force Agricultural Users to Shift to Groundwater to Meet Irrigation Demands

The SED recognizes that there will be significant and unavoidable impacts to groundwater sources in the affected regions as a result of the Flow Proposal. Under current conditions, groundwater users in the Plan and Extended Plan Areas are already seeing significant negative impacts from the rapid-depletion of groundwater sources: wells are being deepened at an alarming rate, groundwater quality is being diminished, and aquifers are losing capacity as a result of subsidence. If the Flow Proposal evaluated in the SED is adopted, then surface water users will see a dramatic reduction in surface water reliability. These water users are already

extremely efficient and there is only a small increment of additional efficiency that can be obtained without fallowing land. Inevitably, to meet demand, groundwater use will increase significantly, particularly in dryer years. Additional stress on groundwater basins will have the social, economic, and environmental impacts. These impacts will be especially difficult for disadvantaged rural communities who often rely on shallow residential groundwater wells, as well as employment in the agricultural industry. The SED has completely failed to identify and analyze these impacts.

The Proposal Will Cause Wide-Spread Land Fallowing and Loss of Property Value in Affected Regions

For many agricultural operations in the affected region, implementation of the Sustainable Groundwater Management Act (SGMA) coupled with adoption of the Flow Proposal will prevent access to reliable water supplies for irrigation during most water year types. Agricultural parcels without a reliable source of water following adoption of the Flow Proposal will see reductions in property values and revenue losses for counties, cities, and special districts that provide essential services to residents in these areas. Loss of water supply reliability will force agricultural operations to cease irrigating portions of their land or to cease farming altogether, exacerbating current land conversion trends towards high-value permanent crops and urban development. These impacts are not speculative. In contrast, proponents of the Flow Proposal admit that the potential environmental gains are speculative and that flows alone will not provide desired results.

The Significant and Unavoidable Impacts are Not Justified by the Anticipated Benefits

Although the SED recognizes that the Flow Proposal would result in numerous significant and unavoidable impacts, the discussion of the benefits that could be anticipated from increased flows are simply too speculative to justify such a wide-ranging policy shift. For example, the SED makes clear that a drastic decrease in surface water supplies will inevitably cause largescale negative impacts for the farms and communities that currently rely on this water. (See Table 18-1). Less-clear is how the benefits identified in the Draft Revised SED will be weighed against these negative impacts to support the findings that must be included in a "Statement of Overriding Considerations" under CEQA Guidelines section 15093. The Draft Revised SED summarizes these benefits as follows:

The results of the temperature, floodplain, and SalSim analysis presented in this chapter indicate that as the percentage of unimpaired flow is increased during the February through June time period, the flow related benefits to salmon and steelhead also increase . . . Although increasing flow and providing a more natural flow regime is expected to provide substantial and necessary benefits to native fishes; flow alone cannot solve the many issues that native fish populations face in the SJR Watershed. To reach the goal of achieving and maintaining viable populations of native fish, many other non-flow actions must be taken.

(Draft Revised SED, pg. 19-88.) In other words, reductions in water availability *will inevitably* result in a wide range of negative impacts, but increases in water availability *will not necessarily* result in clear and definite benefits to fish, even if coupled with non-flow related measures. When comparing such speculative promise of success to the clear and unavoidable negative

impacts that have been identified in the Draft Revised SED, it does not appear that the State Board has the evidence necessary to support the findings required by 14 C.C.R. 15093. We also question how the State Board can satisfy its public trust obligations in light of these conclusions. The public trust requires balancing. It prohibits the Board from dedicating flow to potential and speculative environmental benefits, at the expense of certain widespread human and environmental harm.

The State Water Board Must Address Stakeholder Concerns

Throughout the public outreach process for the State Water Board's proposal to update the Water Quality Control Plan, there have been extensive comments submitted by members of the affected communities expressing deep concerns with the baseline assumptions and technical data utilized by the Board in performing its analysis. Despite this outpouring of public participation, the Draft Revised SED does not address many of the questions and concerns raised by stakeholders, casting doubt on the accuracy and the credibility of its findings. NSJWCD urges the State Water Board to fully participate with local stakeholders to answer outstanding questions and vet potentially inaccurate data with the communities most familiar with the waterways impacted by this proposal. A newly-revised SED should be issued only after Water Board staff have these substantive discussions.

The State Board Should Rely on Experts Actually in the Field

The LSJR flow proposal and SED contradict and largely ignore the experience and empirical evidence collected by the actual stakeholders on the LSJR tributaries who have been working on fisheries issues for decades. We urge the State Board to interview and engage the experts who are actually in the field working on these issues in the river day in and day out before proposing new flow standards. The State Board will learn that fishery populations actually do well within the tributaries, but suffer from predation and other non-flow stressors after leaving the tributaries. We cannot continue to throw precious flow at this problem as we have done since the mid-1990's, and expect improvement. There is general consensus among scientists and stakeholders that non-flow measures are the key to improving fishery conditions and survival.

Thank you for the opportunity to comment.

Sincerely,



Joe Valente
President of the Board of Directors

cc: NSJWCD Board Members

