



1231 Eleventh St.
P.O. Box 4060
Modesto, CA 95352
(209) 526-7373

Public Comment
2016 Bay-Delta Plan Amendment & SED
Deadline: 3/17/17 12:00 noon

VIA U.S. MAIL AND EMAIL

February 15, 2017

Ms. Felicia Marcus, Chair
State Water Resources Control Board
1001 I Street, 24th floor
Sacramento, CA 95814



Re: Draft Revised Substitute Environmental Document in Support of Potential Changes to the Water Quality Control Plan for the Bay-Delta: San Joaquin River Flows and Southern Delta Water Quality (Revised SED)

Dear Chair Marcus and Board Members:

The Revised SED has, in essence, two main proposals under consideration. The Lower San Joaquin River Flow Objective is the proposal that the Revised SED has put forth purportedly to benefit fish and wildlife. The SalSim model provides the *only* population level, quantitative estimate of the effects of the Revised SED on any fish species. Despite claims by the State Water Resources Control Board (SWRCB) and its staff that the SalSim model was not used in the analysis of the potential fish benefits, the Revised SED relies heavily on the SalSim model as “evidence” of the benefits of the proposed project. For example, on page 4-4 of the Revised SED it is stated that “The results of the temperature, floodplain, and SalSim evaluations indicate that as the percentage of unimpaired flow increases during the February-June time period, habitat conditions important to native fish can improve dramatically, and *the number of adult salmon produced by the three eastside tributaries would be expected to increase substantially* compared to baseline conditions during the time period of 1994-2010.” (Italics added.) Additionally, the Revised SED states on page 4-25 that “*the State Water Board used SalSim* to compare effects of unimpaired and baseline flows on fall-run Chinook salmon by evaluating potential changes in annual salmon production.” (Italics added.)

The California Department of Fish and Wildlife (CDFW) is the sponsor and creator, and correspondingly an expert user, of this model. On January 3, 2017, the CDFW provided comments at the Public Hearing in Sacramento about the Revised SED and the role of SalSim in the Revised SED’s analysis.

To briefly summarize, Mr. Dean Marston (CDFW) stated that the CDFW had discovered “errors” in the SalSim model since the SWRCB used it for the Revised SED analysis. Mr. Marston then stated that those errors have been corrected; the model has been recalibrated; and that the CDFW will submit the analysis and recalibrated model as part of its written comments, slated for submission in March 2017. (See, e.g., Slide 11 of 18 of the CDFW’s January 3, 2017 presentation).

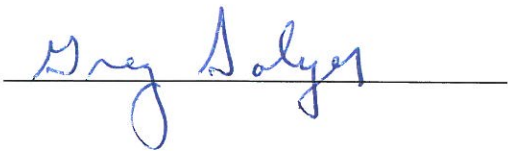
Modesto Irrigation District (MID) has submitted a Public Records Act request to the CDFW to request immediate access to the recalibrated model and to any and all of the corresponding analyses that detail the errors, the fixes and a description of the impacts on the Revised SED's analyses and conclusions from use of this faulty model.

The Revised SED should not contain information which the SWRCB knows to be inaccurate, incomplete or false. Furthermore, according to the CDFW, the SWRCB will receive, and is likely to consider, the CDFW's submittal of a "corrected" SalSim model. The public must have an adequate opportunity to review and comment on the CDFW's "corrected" SalSim model and file timely comments related to the use of the "corrected" model in the analysis of potential benefits to salmon that may be expected following implementation of the Revised SED flow alternatives. It is evident that it was public comment on the original SalSim model which contributed to the CDFW's actions to search and discover specific errors in the model. To think that these errors can be so quickly "corrected" in a complex model only raises further suspicions in the eyes of the public.

In the interim, MID requests that the SWRCB modify the current deadline for written comment to the Revised SED until 60 days after CDFW makes the recalibrated model available to the public.

Thank you for your attention in this matter. We look forward to your response.

Very truly yours,

A handwritten signature in blue ink that reads "Greg Salyer". The signature is written in a cursive style and is positioned above a solid horizontal line.

Greg Salyer

General Manager

cc: Ronda Lucas, General Counsel

encl: CDFW Public Records Act Request_1 of 2 (February 13, 2017)

CDFW Public Records Act Request_2 of 2 (February 14, 2017)

February 13, 2017

Public Records Act Coordinator
Office of the General Counsel
Department of Fish and Wildlife
1416 Ninth Street, 12th Floor, Suite 1341
Sacramento, CA 95814

Re: Public Records Act Request

Dear Coordinator:

This communication is a follow up to the oral and slide presentation that Mr. Dean Marston provided to the State Water Resources Control Board (SWRCB) at the SWRCB's January 3, 2017, Public Hearing regarding the environmental document justifying the proposed amendments to the Bay Delta Water Quality Control Plan (Revised SED). The first of the Plan's two stated proposals is a flow proposal that benefits fish and wildlife. California Department of Fish and Wildlife (CDFW) have collaborated with the SWRCB to craft this proposal (Flow Objective).

As part of the collaboration, the Revised SED's drafters utilized CDFW's analytical tool, the SalSim model, and CDFW's expertise on the model in order to help assess the potential benefits to fish populations under a range of alternatives flow scenarios. As CDFW is the sponsor, creator and/or a primary operator of the SalSim model, on behalf of CDFW, Mr. Marston provided information explaining and clarifying the Revised SED's interpretations of the SalSim data and the role that the SalSim data should or should not play in the environmental analysis of the Revised SED.

As part of CDFW's presentation, Mr. Marston stated that CDFW had become aware of significant errors to the version of the SalSim model that the SWRCB used to analyze the Revised SED. Mr. Marston then stated that CDFW had corrected the errors identified in the SalSim model by SWRCB staff, recalibrated it and now intends to submit the corrected model to the SWRCB in CDFW's written comments, which are slated for submission in March 2017.

CDFW also provided additional information to the SWRCB at the January 3 Public Hearing regarding a number of other topics raised within the Revised SED public process, including oral comments made by interested parties on the Revised SED at public hearings held in November and December, 2016.

MID respectfully requests that you provide the following information pursuant to the California Public Records Act, Cal. Government Code §6250 et seq. and other applicable law, and that such responses conform to the letter and spirit of Cal. Government Code §6252(e).

1. The underlying data (empirical or other data sources), information, or studies relied upon in whole or in part by CDFW related in any way to egg viability and juvenile mortality as depicted in the SalSim model, and a description of the changes CDFW made to the model related in any way to the model's estimation of egg viability and juvenile mortality, to include all documentation of the changes.

2. Any and all data, studies, reports, information, calculations and/or analyses of any kind relied upon by CDFW to justify the statement presented by CDFW to the SWRCB on the slide labeled “Model Tool – Take Home” that read “Adult salmon production estimates in the SED are likely substantially lower than they should be”.
3. A copy of all data, studies, reports, analyses, calculations and information used or relied upon in the development of the two slides entitled “Is Flow Important”, including but not limited to: (1) a list and description of all non-flow actions and/or projects on the Stanislaus River and Tuolumne River, including any design, construction, cost, and monitoring data, (2) all calculations supporting the average “Wet Years” and “Dry Years” Tuolumne River and Stanislaus River production numbers, (3) the estimation of the “natural salmon in adult escapement” numbers, including a description of the methods and data used to distinguish “natural salmon” from hatchery origin salmon, (4) CDFW’s estimates of the quantity of hatchery origin adult escapements on both the Stanislaus and Tuolumne rivers, (5) a description of any changes in release practices of Merced River or Mokelumne River hatcheries and the numbers of fish released and their release location in each year from 1995 to 2015, (6) the specific analyses conducted by CDFW to identify that portion of the “natural salmon in adult escapement” attributable to flow improvements and that portion attributable to non-flow actions, and (7) identification of what years were excluded from CDFW’s calculations due to the “ocean crash.”
4. The data and the analysis substantiating Mr. Marston’s statement at the January 3, 2017 Public Hearing that there is a “late fall-run Chinook population” in the Lower San Joaquin River, to include information about the size of the population, the timing of its adult migration, and the percentage of the late fall-run Chinook population that is of hatchery origin.
5. Please provide all correspondence which occurred between September 1, 2016 through February 6, 2017 to document the transfer of data and related discussions between the SWRCB staff and CDFW staff in any way related to the SalSim model and/or SalSim model runs.

We look forward to your prompt, written response. Thank you in advance for your consideration in this matter.

Respectfully,



Anna Brathwaite
Staff Attorney
Modesto Irrigation District

cc: State Water Resources Control Board



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February 14, 2017

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The Revised SED's drafters utilized CDFW's SalSim model to assess the potential benefits to fish populations under a range of alternative flow scenarios.

As part of Mr. Marston's presentation on January 3, 2017, he stated that CDFW had become aware of significant errors to the version of the SalSim model that the SWRCB used when developing the Revised SED. Mr. Marston also stated that CDFW had recently corrected the errors identified in the SalSim model, recalibrated it and now intends to submit the corrected model to the SWRCB in CDFW's written comments, which are slated for submission in March 2017.

MID respectfully requests that you provide the following information pursuant to the California Public Records Act, Cal. Government Code §6250 et seq. and other applicable law, and that such responses conform to the letter and spirit of Cal. Government Code §6252(e).

1. A usable copy of the corrected and recalibrated SalSim model Mr. Marston referenced on January 3, 2017, to include written description of all changes made to the model since the issuance of the Revised SED and all material supporting, documenting, and/or in any way a part of the recalibration effort, such as, but not limited to, all model runs performed as part of the recalibration and correction of the model.

We look forward to your prompt, written response. Thank you in advance for your consideration in this matter.

Respectfully,

A handwritten signature in blue ink, appearing to read "A. Brathwaite", with a stylized, cursive script.

Anna Brathwaite
Staff Attorney
Modesto Irrigation District

cc: State Water Resources Control Board