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6 Attorneys for Petitioner/Plaintiff BYRON-  
7 BETHANY IRRIGATION DISTRICT

8  
9 BEFORE THE  
10 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

11 ENFORCEMENT ACTION ENF01949  
12 DRAFT CEASE AND DESIST ORDER  
REGARDING UNAUTHORIZED  
13 DIVERSIONS OR THREATENED  
UNAUTHORIZED DIVERSIONS OF WATER  
14 FROM OLD RIVER IN SAN JOAQUIN  
COUNTY

SWRCB Enforcement Action  
ENF01951 and ENF01949

15 In the Matter of ENFORCEMENT ACTION  
16 ENF01951 – ADMINISTRATIVE CIVIL  
LIABILITY COMPLAINT REGARDING  
17 UNAUTHORIZED DIVERSION OF WATER  
FROM THE INTAKE CHANNEL TO THE  
18 BANKS PUMPING PLANT (FORMERLY  
ITALIAN SLOUGH) IN CONTRA COSTA  
19 COUNTY

DECLARATION OF MICHAEL  
VERGARA IN SUPPORT OF  
BYRON-BETHANY IRRIGATION  
DISTRICT'S OPPOSITION TO THE  
DEPARTMENT OF WATER  
RESOURCES' MOTION FOR  
PROTECTIVE ORDER; RE: PAUL  
HUTTON

20 I, Michael Vergara, declare:

21 1. I am an attorney at law licensed to practice before the courts of the State of  
22 California, and a shareholder with Somach Simmons & Dunn. I am the attorney with  
23 primary responsibility for this matter in my firm, and am familiar with all pleadings, filings,  
24 and correspondence related to it. The following matters are within my personal  
25 knowledge and, if called as a witness, I can competently testify thereto.

26 2. A true and correct copy of the State Water Resources Control Board's  
27 (SWRCB) Pre-Hearing Conference Order, dated August 19, 2015, is attached as  
28 Exhibit A.

DECLARATION OF MICHAEL VERGARA IN SUPPORT OF BYRON-BETHANY IRRIGATION  
DISTRICT'S OPPOSITION TO THE DEPARTMENT OF WATER RESOURCES' MOTION FOR  
PROTECTIVE ORDER; RE: PAUL HUTTON



# **EXHIBIT A**

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## State Water Resources Control Board

### **NOTICE OF PUBLIC HEARING and PRE-HEARING CONFERENCE**

The State Water Resources Control Board will hold a Public Hearing to determine whether to impose Administrative Civil Liability against

**Byron-Bethany Irrigation District**

**Intake Channel to the Banks Pumping Plant (formerly Italian Slough)  
Contra Costa County**

The **Pre-Hearing Conference**  
will commence on  
**Friday, September 25, 2015**  
at **9:00 a.m.**

in the Sierra Hearing Room  
Joe Serna Jr.-CalEPA Building  
1001 I Street, Second Floor  
Sacramento, CA

The **Public Hearing** will commence on  
**Wednesday, October 28, 2015 and continue, if necessary,**  
**on October 29 and 30, 2015**  
at **9:00 a.m.**

in the Coastal Hearing Room  
Joe Serna Jr.-CalEPA Building  
1001 I Street, Second Floor  
Sacramento, CA

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#### **PURPOSE OF HEARING**

The purpose of this hearing is for the State Water Resources Control Board (State Water Board or Board) to receive evidence relevant to determining whether to impose administrative civil liability against the Bryon-Bethany Irrigation District (BBID) for alleged unauthorized diversion of water and, if so, whether in the amount of \$1,553,250 or some other amount.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR



## **BACKGROUND**

Water Code section section 1052, subdivision (a), which provides that the diversion or use of water subject to Division 2 of the Water Code other than as authorized in Division 2 is a trespass. The State Water Board may administratively impose civil liability in an amount not to exceed \$500 for each day that a trespass occurs. (Wat. Code, § 1052, subd. (b).) Fines can go up to \$10,000 for each day a trespass occurs in certain critically dry years. (See Wat.Code § 1845, subd. (b)(1)(A).)

Water Code section 1052, subdivision (c), provides that any person or entity committing a trespass during a period for which the Governor has issued a proclamation of a state of drought emergency may be liable in an amount not to exceed the sum of one thousand dollars (\$1,000) for each day the trespass occurs plus two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in excess of that diverter's rights. A trespass is the unauthorized diversion or use of water, as defined in Water Code section 1052, subdivision (a).

Water Code section 1052, subdivision (d)(2), provides that civil liability may be imposed administratively by the State Water Board pursuant to Water Code section 1055.

On July 20, 2015, the Assistant Deputy Director of the Division of Water Rights (Assistant Deputy Director) issued an [administrative civil liability complaint \(complaint\)](#) alleging that BBID committed a trespass through the unauthorized diversion of water in violation of Water Code section 1052, subdivision (a). The complaint proposes that liability be imposed upon BBID in the amount of **\$1,553,250**.

By letter dated August 6, 2015, BBID [requested a hearing](#) on the complaint.

This notice, the complaint, and other material related to this hearing can be found on the Division's website at:

[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/hearings/byron\\_bethany/index.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/byron_bethany/index.shtml)

## **KEY ISSUES**

In determining the amount of civil liability, the Board must take into consideration all relevant circumstances (Wat. Code, § 1055.3) The hearing will address the following key issues:

- 1) Whether the State Water Board should impose administrative civil liability upon BBID for trespass and, if so, in what amount and on what basis;
  - a. What is the extent of harm caused by BBID's alleged unauthorized diversions?
  - b. What is the nature and persistence of the alleged violation?
  - c. What is the length of time over which the alleged violation occurred?
  - d. What corrective actions, if any, have been taken by BBID?
- 2) What other relevant circumstances should be considered by the State Water Board in determining the amount of any civil liability?

## **HEARING OFFICER AND HEARING TEAM**

State Water Board Member Tam Doduc will preside as the hearing officer for this proceeding. A hearing team will assist the hearing officer by providing legal and technical advice. The hearing team members will be: Nicole Kuenzi, Staff Counsel; Jane Farwell-Jensen, Environmental Scientist; and Ernest Mona, Water Resource Engineer. The hearing team and their supervisors will assist the hearing officer and other members of the State Water Board throughout this proceeding.

## **SEPARATION OF FUNCTIONS**

A staff prosecution team will be a party to this hearing. State Water Board prosecution team members will include: Andrew Tauriainen, Attorney III, Office of Enforcement and Kathy Mrowka, Manager, Enforcement Section.

The prosecution team is separated from the hearing team and is prohibited from having *ex parte* communications with any members of the State Water Board and any members of the hearing team regarding substantive issues and controversial procedural issues within the scope of this proceeding. This separation of functions also applies to the supervisors of each team. (Gov. Code, §§ 11430.10-11430.80.)

## **HEARING PARTICIPATION**

IF YOU WANT TO TAKE PART IN THIS HEARING, you should carefully read the enclosure entitled "Information Concerning Appearance at Water Right Hearings." As stated in that enclosure, anyone wishing to present evidence at the hearing must submit a **Notice of Intent to Appear**, which must be **received** by the State Water Board no later than the deadline listed below. **If BBID fails to submit a Notice of Intent to Appear by the deadline specified in this notice, the State Water Board will deem the request for a hearing regarding the imposition of administrative civil liability to be withdrawn, and the Board may impose administrative civil liability in the amount of \$1,553,250 without further notice. Similarly, if BBID withdraws its request, administrative civil liability may be imposed without further notice.**

Within one week after the deadline to submit Notices of Intent to Appear, the State Water Board will mail out a list of those who desire to participate in the hearing and a copy of all Notices of Intent to Appear that the Board timely received. The list is provided in order to facilitate exchange of written testimony, exhibits, and witness qualifications in advance of the hearing. Only parties and other participants who are authorized by the hearing officer will be allowed to present evidence. Copies of witnesses' proposed **testimony, exhibits, lists of exhibits, qualifications, and statement of service** must be **received** by the State Water Board and served on each of the parties who have indicated their intent to appear, no later than the deadline listed below.

**12:00 noon, Wednesday, September 2, 2015**

Deadline for receipt of Notice of Intent to Appear.

**12:00 noon, Monday, October 12, 2015**

Deadline for receipt and service of witnesses' proposed testimony, exhibits, lists of exhibits, qualifications, and statement of service.

## **PRE-HEARING CONFERENCE**

The hearing officer will conduct a pre-hearing conference to discuss the scope of the hearing and any other procedural issues on **Friday, September 25, 2015 at 9:00 a.m.** The goal of the pre-hearing conference is to ensure that the hearing proceeds in an orderly and expeditious manner. The pre-hearing conference will not be used to hear arguments on, or determine the merits of, any hearing issues, other than procedural matters, unless the parties agree to resolve a hearing issue by stipulation. Following the pre-hearing conference, the hearing officer may, at her discretion, modify the hearing procedures or issues set forth in this notice in whole or in part. All parties to the hearing must attend the pre-hearing conference. Failure to attend the pre-hearing conference may result in exclusion from participation in the hearing.

## **SUBMITTALS TO THE STATE WATER BOARD**

All documents, including Notices of Intent to Appear, written testimony, and other exhibits submitted to the State Water Board should be addressed as follows:

Division of Water Rights  
State Water Resources Control Board  
Attention: Jane Farwell-Jensen

By Mail: P.O. Box 2000, Sacramento, CA 95812-2000  
By Hand Delivery: Joe Serna Jr.-CalEPA Building  
1001 I Street, 2<sup>nd</sup> Floor, Sacramento, CA 95814  
By Fax: (916) 341-5400  
By Email: [wrrhearing@waterboards.ca.gov](mailto:wrrhearing@waterboards.ca.gov)  
With Subject of "**BBID ACL Hearing**"

**ALL HAND DELIVERED SUBMITTALS** should be Date and Time stamped by the Division of Water Rights' Records Unit on the second (2<sup>nd</sup>) floor of the Joe Serna Jr.-CalEPA Building at the above address prior to or at the submittal deadline. Persons delivering submittals must first check in with lobby security personnel on the first floor. Hand delivered submittals that do not have a timely Date and Time stamp by the Division of Water Rights' Records Unit will be considered late and may not be accepted by the hearing officer.

## **SETTLEMENTS**

Please read the discussion of "Settlements" in the enclosure entitled "Information Concerning Appearance at Water Right Hearings." In this water rights enforcement hearing, the prosecution team is prosecuting BBID for an alleged violation. The prosecution team and BBID may, at their discretion, engage in private settlement discussions and may include any other persons in those discussions. Due to the separation of functions discussed above, **the hearing team cannot participate** in settlement discussions. Should the parties reach settlement, they must notify the hearing team as soon as possible.

**IF YOU HAVE ANY QUESTIONS**


During the pendency of this proceeding, there shall be no *ex parte* communications regarding substantive or controversial procedural matters within the scope of the proceeding between State Water Board members or hearing team members and any of the other participants, including members of the prosecution team. (Gov. Code, §§ 11430.10-11430.80.) Questions regarding non-controversial procedural matters should be directed to Staff Counsel Nicole Kuenzi at (916) 322-4142 or by email to [Nicole.Kuenzi@waterboards.ca.gov](mailto:Nicole.Kuenzi@waterboards.ca.gov); or to Jane Farwell-Jensen at (916) 341-5349 or by email to [Jane.Farwell-Jensen@waterboards.ca.gov](mailto:Jane.Farwell-Jensen@waterboards.ca.gov). (Gov. Code, § 11430.20, subd. (b).)

**PARKING, ACCESSIBILITY AND SECURITY**

The Joe Serna Jr.-CalEPA Building (CalEPA Building) is accessible to people with disabilities. Individuals who require special accommodations at the CalEPA Building are requested to contact Tanya Cole, Equal Employment Opportunity Office, at (916) 341-5880.

Due to enhanced security precautions at the CalEPA Building, all visitors are required to register with security staff prior to attending any meeting. To sign in and receive a visitor's badge, visitors must go to the Visitor and Environmental Services Center, located just inside and to the left of the building's public entrance. Depending on their destination and the building's security level, visitors may be asked to show valid picture identification. Valid picture identification can take the form of a current driver's license, military identification card, or state or federal identification card. Depending on the size and number of meetings scheduled on any given day, the security check-in could take up to fifteen minutes. Please allow adequate time to sign in before being directed to the hearing.

\_\_\_\_\_  
August 19, 2015  
Date

  
\_\_\_\_\_  
Jeanine Townsend  
Clerk to the Board

Enclosures

## **INFORMATION CONCERNING APPEARANCE AT WATER RIGHT HEARINGS**

The following procedural requirements will apply and will be strictly enforced:

- 1. HEARING PROCEDURES GENERALLY:** The hearing will be conducted in accordance with the procedures for hearings set forth at California Code of Regulations, title 23, sections 648-648.8, 649.6 and 760, as they currently exist or may be amended. A copy of the current regulations and the underlying statutes governing adjudicative proceedings before the State Water Board is available upon request or may be viewed at the State Water Board's web site: [http://www.waterboards.ca.gov/laws\\_regulations](http://www.waterboards.ca.gov/laws_regulations)

Unless otherwise determined by the hearing officers, each party may make an opening statement, call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues even if that matter was not covered in the direct examination, impeach any witness, rebut adverse evidence, and subpoena, call and examine an adverse party or witness as if under cross-examination. At the discretion of the hearing officers, parties may also be afforded the opportunity to present closing statements or submit briefs. The State Water Board encourages parties with common interests to work together to make the hearing process more efficient. The hearing officers reserve the right to issue further rulings clarifying or limiting the rights of any party where authorized under applicable statutes and regulations.

Parties must file any requests for exceptions to procedural requirements in writing with the State Water Board and must serve such requests on the other parties. To provide time for parties to respond, the hearing officers will rule on procedural requests filed in writing no sooner than fifteen days after receiving the request, unless an earlier ruling is necessary to avoid disrupting the hearing.

- 2. SETTLEMENTS:** In water right enforcement hearings, a State Water Board staff member or team prosecutes an alleged violation. In such enforcement cases, the prosecution and a party who is the subject of the proposed enforcement action may at their discretion engage in private settlement discussions, or may include any other persons in those discussions. Although other persons may be authorized to participate in the hearing as parties, such a designation does not constitute a ruling that those persons must be allowed to engage in any settlement discussions between the prosecution and the party against whom the agency action is directed. The consent of other parties is not required before the State Water Board, or the Executive Director under State Water Board [Resolution No. 2012-0061](#), can approve a proposed settlement agreement between the prosecution and a party subject to a proposed enforcement action. However, all parties will be given the opportunity to comment on any settlement submitted to the State Water Board or the Executive Director for approval.

In non-enforcement hearings involving an unresolved protest between a protestant and a water right applicant or petitioner, those persons will be designated as parties in the hearing. (Cal. Code Regs., tit. 23, § 648.1, subd. (b).) Other persons who file a Notice of Intent to Appear in the hearing, may also be designated as parties. In such cases, the parties whose dispute originates the action may at their discretion meet privately to engage in settlement discussions, or may include other persons. If the original parties resolve the dispute, the hearing officers will determine whether or not to continue the hearing, after allowing all remaining parties the opportunity to comment on any proposed settlement. The Executive Director or the State Water Board may approve a settlement in the absence of a hearing, notwithstanding the lack of consent of parties besides the protestant and the applicant or petitioner.

3. **PARTIES:** The current parties to the hearing are **Byron-Bethany Irrigation District; and the prosecution team for the State Water Board**. Additional parties may be designated in accordance with the procedures for this hearing. Except as may be decided by specific rulings of the hearing officers, any person or entity who timely files a Notice of Intent to Appear indicating the desire to participate beyond presenting a policy statement shall be designated as a party. The hearing officers may impose limitations on a party's participation. (Gov. Code, § 11440.50, subd. (c).) Persons or entities who do not file a timely Notice of Intent to Appear may be designated as parties at the discretion of the hearing officers, for good cause shown, and subject to appropriate conditions as determined by the hearing officers. Except as specifically provided in this notice or by ruling of the hearing officers, only parties will be allowed to present evidence.
4. **INTERESTED PERSONS:** Pursuant to California Code of Regulations, title 23, section 648.1, subdivision (d), the State Water Board will provide an opportunity for presentation of non-evidentiary policy statements or comments by interested persons who are not designated as parties. A person or entity that appears and presents only a policy statement is not a party and will not be allowed to make objections, offer evidence, conduct cross-examination, make legal argument or otherwise participate in the evidentiary hearing. Interested persons will not be added to the service list and will not receive copies of written testimony or exhibits from the parties, but may access hearing documents at the website listed in the hearing notice.

Policy statements are subject to the following provisions in addition to the requirements outlined in regulation. (Cal. Code Regs., tit. 23, § 648.1, subd. (d).)

- a. Policy statements are not subject to the pre-hearing requirements for testimony or exhibits, except that interested persons are requested to file a Notice of Intent to Appear, indicating clearly an intent to make a policy statement only.
  - b. The State Water Board requests that policy statements be provided in writing before they are presented. Please see section 7, for details regarding electronic submittal of policy statements.
5. **NOTICE OF INTENT TO APPEAR:** Persons and entities who seek to participate as parties in this hearing must file either an electronic copy or a paper copy of a Notice of Intent to Appear, which must be **received** by the State Water Board no later than **the deadline prescribed in the Hearing Notice**. Failure to submit a Notice of Intent to Appear in a timely manner may be interpreted by the State Water Board as intent not to appear. **If BBID fails to submit a Notice of Intent to Appear by the deadline specified in this notice, the State Water Board will deem the request for a hearing regarding the administrative civil liability complaint to be withdrawn, and administrative civil liability may be imposed without further notice. Similarly, if BBID withdraws its request, administrative civil liability may be imposed without further notice.**

Any faxed or emailed Notices of Intent to Appear must be followed by a mailed or delivered hard copy with an original signature.

Interested persons who will not be participating as parties, but instead presenting only non-evidentiary policy statements should also file a Notice of Intent to Appear.

The Notice of Intent to Appear must state the name and address of the participant. Except for interested persons who will not be participating as parties, the Notice of Intent to Appear must also include: (1) the name of each witness who will testify on the party's behalf;

(2) a brief description of each witness' proposed testimony; and (3) an estimate of the time (not to exceed the total time limit for oral testimony described in section 9, below) that the witness will need to present a brief oral summary of his or her prior-submitted written testimony. (See section 6, below.) Parties who do not intend to present a case-in-chief but wish to cross-examine witnesses or present rebuttal should so indicate on the Notice of Intent to Appear.<sup>1</sup> Parties who decide not to present a case-in-chief after having submitted a Notice of Intent to Appear should notify the State Water Board and the other parties as soon as possible.

Parties who are not willing to accept electronic service of hearing documents should check the appropriate box on the Notice of Intent to Appear. (See section 7, below.)

The State Water Board will mail a service list of parties to each person who has submitted a Notice of Intent to Appear. The service list will indicate if any party is unwilling to accept electronic service. If there is any change in the hearing schedule, only those parties on the service list, and interested persons that have filed a Notice of Intent to Appear expressing their intent to present a policy statement only, will be informed of the change.

- 6. WRITTEN TESTIMONY AND OTHER EXHIBITS:** Exhibits include written testimony, statements of qualifications of expert witnesses, and other documents to be used as evidence. Each party proposing to present testimony on factual or other evidentiary matters at the hearing shall submit such testimony in writing.<sup>2</sup> Written testimony shall be designated as an exhibit, and must be submitted with the other exhibits. Oral testimony that goes beyond the scope of the written testimony may be excluded. A party who proposes to offer expert testimony must submit an exhibit containing a statement of the expert witness's qualifications.

Each party shall submit to the State Water Board **three (3) paper copies** and **one electronic copy** of each of its exhibits. With its exhibits, each party must submit a completed Exhibit Identification Index. Each party shall also serve a copy of each exhibit and the exhibit index on every party on the service list. A statement of service with manner of service indicated shall be filed with each party's exhibits.

The exhibits and indexes for this hearing, and a statement of service, must be **received by the State Water Board and served on the other parties no later than the deadline prescribed in the Hearing Notice**. The State Water Board may interpret failure to timely submit such documents as a waiver of party status.

All hearing documents that are timely received will be posted on the hearings program webpage identified in the hearing notice.

The following requirements apply to exhibits:

- a. Exhibits based on technical studies or models shall be accompanied by sufficient information to clearly identify and explain the logic, assumptions, development, and operation of the studies or models.

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<sup>1</sup> A party is not required to present evidence as part of a case-in-chief. Parties not presenting evidence as part of a case-in-chief will be allowed to participate through opening statements, cross-examination, and rebuttal, and may also present closing statements or briefs, if the hearing officers allow these in the hearing.

<sup>2</sup> The hearing officers may make an exception to this rule if the witness is adverse to the party presenting the testimony and is willing to testify only in response to a subpoena or alternative arrangement.



- b. The hearing officers have discretion to receive into evidence by reference relevant, otherwise admissible, public records of the State Water Board and documents or other evidence that have been prepared and published by a public agency, provided that the original or a copy was in the possession of the State Water Board before the notice of the hearing is issued. (Cal. Code Regs., tit. 23, § 648.3.) A party offering an exhibit by reference shall advise the other parties and the State Water Board of the titles of the documents, the particular portions, including page and paragraph numbers, on which the party relies, the nature of the contents, the purpose for which the exhibit will be used when offered in evidence, and the specific file folder or other exact location in the State Water Board's files where the document may be found.
- c. A party seeking to enter in evidence as an exhibit a voluminous document or database may so advise the other parties prior to the filing date for exhibits, and may ask them to respond if they wish to have a copy of the exhibit. If a party waives the opportunity to obtain a copy of the exhibit, the party sponsoring the exhibit will not be required to provide a copy to the waiving party. Additionally, with the permission of the hearing officers, such exhibits may be submitted to the State Water Board solely in electronic form, using a file format readable by Microsoft Office 2003 software.
- d. Exhibits that rely on unpublished technical documents will be excluded unless the unpublished technical documents are admitted as exhibits.
- e. Parties submitting large format exhibits such as maps, charts, and other graphics shall provide the original for the hearing record in a form that can be folded to 8 ½ x 11 inches. Alternatively, parties may supply, for the hearing record, a reduced copy of a large format original if it is readable.

**7. ELECTRONIC SUBMISSIONS:** To expedite the exchange of information, reduce paper use, and lower the cost of participating in the hearing, participants are encouraged to submit hearing documents to the State Water Board in electronic form and parties are encouraged to agree to electronic service.

Any documents submitted or served electronically must be in Adobe Portable Document Format (PDF), except for Exhibit Identification Indexes, which may be in a format supported by Microsoft Excel or Word. Electronic submittals to the State Water Board of documents less than 11 megabytes in total size (incoming mail server attachment limitation) may be sent via electronic mail to: [wrhearing@waterboards.ca.gov](mailto:wrhearing@waterboards.ca.gov) with a subject of "**BBID ACL Hearing**". Electronic submittals to the State Water Board of documents greater than 11 megabytes in total size should be submitted on a compact disc (CD). Each electronically submitted exhibit must be saved as a separate PDF file, with the name in lower case lettering.

- 8. PRE-HEARING CONFERENCE:** At the hearing officers' discretion, a pre-hearing conference may be conducted before the proceeding to discuss the scope of the hearing, the status of any protests, and any other appropriate procedural issues.
- 9. ORDER OF PROCEEDING:** Hearing officers will follow the Order of Proceedings specified in California Code of Regulations, title 23, section 648.5. Participants should take note of the following additional information regarding the major hearing events. The time limits specified below may be changed by the hearing officers, for good cause.



- a. **Policy Statements Within the Evidentiary Hearing:** Policy statements will be heard at the start of the hearing, before the presentation of cases-in-chief. Oral summaries of the policy statements will be limited to **five (5) minutes** or such other time as established by the hearing officers.
- b. **Presentation of Cases-In-Chief:** Each party who so indicates on a Notice of Intent to Appear may present a case-in-chief addressing the key issues identified in the hearing notice. The case-in-chief will consist of any opening statement, oral testimony, introduction of exhibits, and cross-examination of the party's witnesses. The hearing officers may allow redirect examination and recross examination. The hearing officers will decide whether to accept the party's exhibits into evidence upon a motion of the party after completion of the case-in-chief.
  - i. **Opening Statements:** At the beginning of a case-in-chief, the party or the party's attorney may make an opening statement briefly and concisely stating the objectives of the case-in-chief, the major points that the proposed evidence is intended to establish, and the relationship between the major points and the key issues. Oral opening statements will be limited to **(20) minutes** per party. A party may submit a written opening statement before the hearing or during the hearing, prior to their case-in-chief. Any policy-oriented statements by a party should be included in the opening statement.
  - ii. **Oral Testimony:** All witnesses presenting testimony shall appear at the hearing. Before testifying, witnesses shall swear or affirm that the written and oral testimony they will present is true and correct. Written testimony shall not be read into the record. Written testimony affirmed by the witness is direct testimony. Witnesses will be allowed up to **(20) minutes** to summarize or emphasize their written testimony on direct examination. Each party will be allowed up to **one (1) hour total** to present all of its direct testimony.<sup>3</sup>
  - iii. **Cross-Examination:** Cross-examination of a witness will be permitted on the party's written submittals, the witness' oral testimony, and other relevant matters not covered in the direct testimony. (Gov. Code, § 11513, subd. (b).) If a party presents multiple witnesses, the hearing officers will decide whether the party's witnesses will be cross-examined as a panel. Cross-examiners initially will be limited to **one (1) hour** per witness or panel of witnesses. The hearing officers have discretion to allow additional time for cross-examination if there is good cause demonstrated in an offer of proof. Ordinarily, only a party or the party's representative will be permitted to examine a witness, but the hearing officers may allow a party to designate a person technically qualified in the subject being considered to examine a witness.
  - iv. **Redirect and Recross Examination:** Redirect examination may be allowed at the discretion of the hearing officers. Any redirect examination and recross examination permitted will be limited to the scope of the cross-examination and the redirect examination, respectively. The hearing officers may establish time limits for any permitted redirect and recross examination.

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<sup>3</sup> The hearing officers may, for good cause, approve a party's request for additional time to present direct testimony during the party's case-in-chief. The hearing officers may allow additional time for the oral direct testimony of the witness if the witness is adverse to the party presenting the testimony and the hearing officers are satisfied that the party could not produce written direct testimony for the witness.

v. **Questions by State Water Board and Staff:** State Water Board members and staff may ask questions at any time and may cross-examine any witness.

c. **Rebuttal:** After all parties have presented their cases-in-chief and their witnesses have been cross-examined, the hearing officers will allow parties to present rebuttal evidence. Rebuttal evidence is new evidence used to rebut evidence presented by another party.

Rebuttal testimony and exhibits need not be submitted prior to the hearing, although the hearing officers may require submittal of rebuttal testimony and exhibits before they are presented in order to improve hearing efficiency. Rebuttal evidence is limited to evidence that is responsive to evidence presented in connection with another party's case-in-chief, and it does not include evidence that should have been presented during the case-in-chief of the party submitting rebuttal evidence. It also does not include repetitive evidence. Cross-examination of rebuttal evidence will be limited to the scope of the rebuttal evidence.

d. **Closing Statements and Legal Arguments:** At the close of the hearing or at other times, if appropriate, the hearing officers may allow oral closing statements or legal arguments or set a schedule for filing legal briefs or written closing statements. If the hearing officers authorize the parties to file briefs, three copies of each brief shall be submitted to the State Water Board, and one copy shall be served on each of the other participants on the service list. A party shall not attach a document of an evidentiary nature to a brief unless the document is already in the evidentiary hearing record or is the subject of an offer into evidence made at the hearing.

**10. EX PARTE CONTACTS:** During the pendency of this proceeding, commencing no later than the issuance of the Notice of Hearing, there shall be no *ex parte* communications with State Water Board members or State Water Board hearing team staff and supervisors, regarding substantive or controversial procedural issues within the scope of the proceeding. (Gov. Code, §§ 11430.10-11430.80.) **Any communications regarding potentially substantive or controversial procedural matters, including but not limited to evidence, briefs, and motions, must demonstrate that all parties were served and the manner of service.** Parties may accomplish this by submitting a proof of service or by other verification, such as correct addresses in an electronic-mail carbon copy list, or a list of the parties copied and addresses in the carbon copy portion of a letter. Communications regarding non-controversial procedural matters are permissible and should be directed to staff on the hearing team, not State Water Board members. (Gov. Code, § 11430.20, subd. (b).) A document regarding *ex parte* communications entitled "Ex Parte Questions and Answers" is available upon request or from our website at:  
[http://www.waterboards.ca.gov/laws\\_regulations/docs/exparte.pdf](http://www.waterboards.ca.gov/laws_regulations/docs/exparte.pdf).

**11. RULES OF EVIDENCE:** Evidence will be admitted in accordance with Government Code section 11513. Hearsay evidence may be used to supplement or explain other evidence, but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action.

**NOTICE OF INTENT TO APPEAR**

\_\_\_\_\_ plans to participate in the water right hearing regarding  
(name of party or participant)

Administrative Civil Liability  
against  
Byron-Bethany Irrigation District

**scheduled to commence  
Wednesday, October 28, 2015 and continue, if necessary,  
on October 29 and 30, 2015  
at 9:00 a.m.**

**1) Check only one (1) of the following:**

- I/we intend to present a policy statement only.
- I/we intend to participate by cross-examination or rebuttal only.
- I/we plan to call the following witnesses to testify at the hearing. (Fill in the Following Table)

NAME	SUBJECT OF PROPOSED TESTIMONY	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)

(If more space is required, please add additional pages or use reverse side.)

**2) Fill in the following information of the Participant, Party, Attorney, or Other Representative:**

Name (Print): \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Phone Number: ( ) \_\_\_\_\_ . Fax Number: ( ) \_\_\_\_\_

E-mail: \_\_\_\_\_

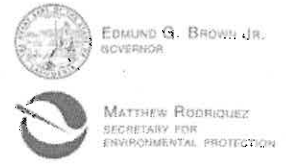
Optional:

- I/we decline electronic service of hearing-related materials.

Signature: \_\_\_\_\_ Dated: \_\_\_\_\_



# **EXHIBIT B**



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## State Water Resources Control Board

February 18, 2016

VIA ELECTRONIC MAIL

TO: ENCLOSED REVISED SERVICE LIST OF PARTICIPANTS

### SECOND PRE-HEARING CONFERENCE RELATED TO BYRON BETHANY IRRIGATION DISTRICT ADMINISTRATIVE CIVIL LIABILITY COMPLAINT AND THE WEST SIDE IRRIGATION DISTRICT DRAFT CEASE AND DESIST ORDER HEARINGS

This letter addresses the procedural issues that were raised during the State Water Resources Control Board's (State Water Board) February 8, 2016 second pre-hearing conference and several additional procedural issues.

#### ORDER AND TIMING OF PROCEEDING

We will conduct the hearings in the following order:

**Policy Statements:** Before the commencement of Phase 1 of the consolidated hearings, we will hear from any speakers who did not submit a Notice of Intent to Appear but wish to make a non-evidentiary policy statement. (See Hearing Notice Attachment, Sec. 9a, Policy Statements.) We will limit policy statements to 5 minutes, or less as is appropriate based on the number of persons wishing to make a policy statement.

**Opening Statements:** We will allow one written opening statement to be submitted by each party in each proceeding. Each written opening statement shall not exceed 10 pages in length, double-spaced, in 12 point font (preferably Arial). Alternately, parties may file a joint opening statement of up to 20 pages in length. Written rebuttal of written opening statements will not be accepted. The opportunity to respond in writing to opening statements is in a party's closing brief.

After presentation of any policy statements and before we proceed to summaries of direct testimony in Phase 1, we will allow all of the parties to either proceeding to make a single oral opening statement. We will not allow time for additional opening statements prior to Phase 2 of either hearing.

Oral opening statements made by parties presenting a case-in-chief should briefly summarize the parties' objectives in the case, the major points they intend to establish, and the relationship between the major points and the Key Issues. Oral opening statements may include policy-oriented statements and should briefly summarize the party's interest and extent of participation.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

We will hear oral opening statements in the following order according to the stated time limits. Parties may choose to combine their allowed time with that of other parties. However, parties will need to inform us of these changes, by Noon, March 14, 2016:

1. Division of Water Rights Prosecution Team (Prosecution Team) (20 minutes)
2. Byron Bethany Irrigation District (BBID) (20 minutes)
3. The West Side Irrigation District (WSID) (20 minutes)
4. Mr. Morat (5 minutes)
5. South Delta Water Agency (SDWA) (5 minutes)
6. Central Delta Water Agency (CDWA) (5 minutes)
7. City and County of San Francisco (CCSF) (5 minutes)
8. San Joaquin Tributaries Authority (SJTA) (5 minutes)
9. California Department of Water Resources (DWR) (5 minutes)
10. State Water Contractors (5 minutes)
11. Patterson Irrigation District (5 minutes)
12. Banta-Carbona Irrigation District (5 minutes)
13. Westlands Water District (5 minutes)

**Cases-in-Chief – Phase 1 (Water Availability):** We will allow the parties to present their oral summaries of direct testimony in the following order, according to the stated time limits. We may, upon an offer of proof as to the substance, purpose, and relevancy of the expected testimony, approve a party's request for additional time to present direct testimony during the party's case-in-chief:

Order of Presentation for Direct Testimony:

1. Prosecution Team (1.5 hours)
2. BBID (1.5 hours)
3. WSID (1.5 hours)
4. SDWA (30 minutes)

Order of Cross-Examination:

Cross-examination is not limited to the scope of direct testimony. Cross-examination must, however, be limited to the factual issues in dispute. The parties may choose to combine their allowed time for cross-examination with that of other parties. However, parties will need to inform us of these changes, by Noon, March 14, 2016.

In Phase 1, cross-examination will be conducted in the following order, according to the stated time limits per witness, or in the case of multiple witnesses, per panel of witnesses:

1. Prosecution Team (1 hour)
2. BBID (1 hour)
3. WSID (1 hour)
4. SDWA (10 minutes)
5. CDWA (10 minutes)
6. CCSF (10 minutes)
7. SJTA (10 minutes)
8. DWR (10 minutes)
9. State Water Contractors (10 minutes)
10. Patterson Irrigation District (10 minutes)
11. Banta-Carbona Irrigation District (10 minutes)
12. Westlands Water District (10 minutes)

During the second pre-hearing conference, some of the parties expressed concern that the time allowed for cross-examination is too limited, and that cross-examination of witnesses by panel will lead to confusion. At this time, we intend to proceed within the time limits provided here and allow cross-examination by panel of witnesses if a party has presented its direct testimony in that manner rather than by individual witness. However, the cross-examiners may direct their questions to particular witnesses on the panel.

We note that the parties have already had the opportunity to depose the Prosecution Team's witnesses, so cross-examination during the hearing will not be the parties' first and only opportunity to elicit testimony from these individuals. The parties also have the option of coordinating and combining their allotted time. We conclude that the time limits are appropriate to avoid repetitive testimony and promote efficiency of the hearing procedure. We will consider requests for additional time during the hearing, and will allow additional time if further cross-examination appears likely to produce relevant and material evidence.

Redirect Testimony and Recross-Examination: At our discretion during the hearing, we may allow redirect examination upon an offer of proof as to the substance, purpose, and relevancy of the expected testimony. Recross-examination, if any, shall be limited to the scope of the redirect testimony. We are likely to establish time limits for any redirect and recross-examination.

If allowed, redirect testimony and recross-examination will be conducted in the same order established for direct testimony and cross-examination.

Exhibits offered into Evidence: After completion of direct testimony, cross-examination, and if allowed, redirect testimony and recross-examination, the party presenting its case-in-chief may offer its exhibits into evidence.

Presentation of Rebuttal: After completion of direct testimony and cross-examination, and any allowed redirect testimony and recross-examination, the parties may present rebuttal evidence.

Rebuttal evidence is limited to evidence that is responsive to evidence presented in connection with another party's case-in-chief, and does not include evidence that should have been presented during the case-in-chief of the party submitting rebuttal evidence. Rebuttal evidence may not be repetitive of evidence already submitted. Cross-examination of rebuttal evidence shall be limited to the scope of the rebuttal evidence.

We will allow parties to present a summary of submitted written rebuttal testimony. Parties may also offer rebuttal testimony that is in response to new evidence and could not have been previously submitted in writing. The parties may choose to combine their allowed time for rebuttal with that of other parties. However, parties will need to inform us of these changes, by Noon, March 14, 2016.

Rebuttal testimony will be presented in the following order, according to the stated time limits. The Prosecution Team, BBID, and WSID will each be allowed 30 minutes. All other parties will be limited to 10 minutes per party for rebuttal.

1. Prosecution Team (30 minutes)
2. BBID (30 minutes)
3. WSID (30 minutes)
4. SDWA (10 minutes)



5. CDWA (10 minutes)
6. CCSF (10 minutes)
7. SJTA (10 minutes)
8. DWR (10 minutes)
9. State Water Contractors (10 minutes)
10. Patterson Irrigation District (10 minutes)
11. Banta-Carbona Irrigation District (10 minutes)
12. Westlands Water District (10 minutes)

We may allow additional time for rebuttal upon an offer of proof as to the substance, purpose, and relevancy of the expected testimony.

Cross-examination of rebuttal evidence will follow the same order as presentation of rebuttal, and will be limited to the scope of the rebuttal evidence. Time limits for cross-examination of rebuttal testimony will be specified at a later time.

After completion of presentation of rebuttal evidence and rebuttal cross-examination by all the parties, each party may offer any rebuttal exhibits into evidence.

**Cases-in-Chief – Phase 2 (BBID ACL Complaint):**

We will allow the parties to present their cases-in-chief and conduct cross-examination in the following order, according to the stated time limits. We may, upon an offer of proof as to the substance, purpose, and relevancy of the expected testimony, approve a party's request for additional time to present direct testimony during the party's case-in-chief:

Order of Presentation for Direct Testimony:

1. Prosecution Team (1 hour)
2. BBID (1 hour)
3. SDWA (20 minutes)
4. Richard Morat (10 minutes)

Order of Cross-Examination:

1. Prosecution Team (1 hour)
2. BBID (1 hour)
3. WSID (10 minutes)
4. SDWA (10 minutes)
5. CDWA (10 minutes)
6. CCSF (10 minutes)
7. SJTA (10 minutes)
8. DWR (10 minutes)
9. State Water Contractors (10 minutes)
10. Patterson Irrigation District (10 minutes)
11. Banta-Carbona Irrigation District (10 minutes)

The parties may choose to combine their allowed time for cross-examination with that of other parties. However, parties will need to inform us of these changes, by Noon, March 14, 2016.

We may allow additional time for cross-examination, if we determine that the examination is likely to produce relevant and material testimony.

Redirect Testimony and Recross-Examination: At our discretion during the hearing, we may allow redirect examination upon an offer of proof as to the substance, purpose, and relevancy of the expected testimony. Recross-examination, if any, shall be limited to the scope of the redirect testimony. We are likely to establish time limits for any redirect and recross-examination.

If allowed, redirect testimony and recross-examination will be conducted in the same order established for direct testimony and cross-examination.

Exhibits offered into Evidence: After completion of direct testimony, cross-examination, and if allowed, redirect testimony and recross-examination, the party presenting its case-in-chief may offer its exhibits into evidence.

Presentation of Rebuttal: After completion of direct testimony and cross-examination, and any allowed redirect testimony and recross-examination, the parties may present rebuttal evidence.

Rebuttal evidence is limited to evidence that is responsive to evidence presented in connection with another party's case-in-chief, and does not include evidence that should have been presented during the case-in-chief of the party submitting rebuttal evidence. Rebuttal evidence may not be repetitive of evidence already submitted. Cross-examination of rebuttal evidence shall be limited to the scope of the rebuttal evidence.

We will allow parties to present a summary of submitted written rebuttal testimony. Parties may also offer rebuttal testimony that is in response to new evidence and could not have been previously submitted in writing. The parties may choose to combine their allowed time for rebuttal with that of other parties. However, parties will need to inform us of these changes, by Noon, March 14, 2016.

The order of presentation of rebuttal evidence will be the same as the order for cross-examination. The Prosecution Team and BBID will each be allowed 30 minutes. All other parties will be limited to 10 minutes per party for rebuttal.

We may allow additional time for rebuttal upon an offer of proof as to the substance, purpose, and relevancy of the expected testimony.

Cross-examination of rebuttal evidence will follow the same order as presentation of rebuttal, and will be limited to the scope of the rebuttal evidence. Time limits for cross-examination of rebuttal testimony will be specified at a later time.

After completion of presentation of rebuttal evidence and rebuttal cross-examination by all the parties, each party may offer any rebuttal exhibits into evidence.

#### Cases-in-Chief – Phase 2 (WSID Draft CDO):

We will allow the parties to present their cases-in-chief and conduct cross-examination in the following order, according to the stated time limits. We may, upon an offer of proof as to the substance, purpose, and relevancy of the expected testimony, approve a party's request for additional time to present direct testimony during the party's case-in-chief:

Order of Presentation for Direct Testimony:

1. Prosecution Team (1 hour)
2. WSID (1 hour)
3. SDWA (20 minutes)

Order of Cross-Examination:

1. Prosecution Team (1 hour)
2. WSID (1 hour)
3. BBID (10 minutes)
4. SDWA (10 minutes)
5. CDWA (10 minutes)
6. CCSF (10 minutes)
7. SJTA (10 minutes)
8. DWR (10 minutes)
9. State Water Contractors (10 minutes)
10. Westlands Water District (10 minutes)

The parties may choose to combine their allowed time for cross-examination with that of other parties. However, parties will need to inform us of these changes, by Noon, March 14, 2016.

We may allow additional time for cross-examination if we determine that the examination is likely to produce relevant and material testimony.

Redirect Testimony and Recross-Examination: At our discretion during the hearing, we may allow redirect examination upon an offer of proof as to the substance, purpose, and relevancy of the expected testimony. Recross-examination, if any, shall be limited to the scope of the redirect testimony. We are likely to establish time limits for any redirect and recross-examination.

If allowed, redirect testimony and recross-examination will be conducted in the same order established for direct testimony and cross-examination.

Exhibits offered into Evidence: After completion of direct testimony, cross-examination, and if allowed, redirect testimony and recross-examination, the party presenting its case-in-chief may offer its exhibits into evidence.

Presentation of Rebuttal: After completion of direct testimony and cross-examination, and any allowed redirect testimony and recross-examination, the parties may present rebuttal evidence.

Rebuttal evidence is limited to evidence that is responsive to evidence presented in connection with another party's case-in-chief, and does not include evidence that should have been presented during the case-in-chief of the party submitting rebuttal evidence. Rebuttal evidence may not be repetitive of evidence already submitted. Cross-examination of rebuttal evidence shall be limited to the scope of the rebuttal evidence.

We will allow parties to present a summary of submitted written rebuttal testimony. Parties may also offer rebuttal testimony that is in response to new evidence and could not have been previously submitted in writing. The parties may choose to combine their allowed time for rebuttal with that of other parties. However, parties will need to inform us of these changes, by Noon, March 14, 2016.

WSID Revised Notice of Intent to Appear

On January 19, 2016, WSID submitted an amended Notice of Intent to Appear that added Ms. Karna Harrigfeld and Mr. Greg Young as witnesses. The Prosecution Team objected to these revisions to WSID's witness list. In our ruling of February 1, 2016, we allowed the revision to include Mr. Young, who had previously been identified by BBID as a witness in the BBID ACL Complaint hearing. We sustained the Prosecution Team's objection with respect to Ms. Harrigfeld, and excluded her testimony from the record.

On February 3, 2016, WSID again revised their witness list to include Mr. Jack Alvarez. We find that the same reasoning applicable to our exclusion of the testimony of Ms. Harrigfeld is applicable to Mr. Alvarez. In our prior ruling, we permitted WSID to submit the testimony of an alternate witness solely for the purpose of authenticating the referenced exhibits. Because the Prosecution Team is willing to stipulate to exhibits WSID 0001 through 0026, and absent the objection of any other party, testimony for this purpose is now unnecessary. Therefore, we will not include any of Mr. Alvarez's testimony in the record at this time.

Ex Parte Communications

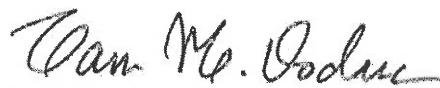
We would like to take this opportunity to remind the parties that ex parte communications concerning substantive or controversial procedural issues relevant to this hearing are prohibited. Please be sure to copy the service list on any correspondence to us, the other Board Members, or the hearing team.

Thank you for your continued cooperation. Questions regarding non-controversial procedural matters should be directed to Staff Counsel Nicole Kuenzi at (916) 322-4142 or by email to [Nicole.Kuenzi@waterboards.ca.gov](mailto:Nicole.Kuenzi@waterboards.ca.gov); or Ernie Mona at (916) 341-5359 or by email to [Ernie.Mona@waterboards.ca.gov](mailto:Ernie.Mona@waterboards.ca.gov) or to Jane Farwell-Jensen at (916) 341-5349 or by email to [Jane.Farwell-Jensen@waterboards.ca.gov](mailto:Jane.Farwell-Jensen@waterboards.ca.gov) (Gov. Code, § 11430.20, subd. (b).)

Sincerely,



Frances Spivy-Weber, Vice-Chair  
WSID Hearing Officer



Tam M. Doduc, Board Member  
BBID Hearing Officer

Enclosures: Revised Service Lists

**SERVICE LIST OF PARTICIPANTS  
THE WEST SIDE IRRIGATION DISTRICT  
CEASE AND DESIST ORDER HEARING  
(October 8, 2015, Revised 12/18/15)**

Parties THE FOLLOWING <u>MUST BE SERVED</u> WITH WRITTEN TESTIMONY, EXHIBITS AND OTHER DOCUMENTS. (All have AGREED TO ACCEPT electronic service, pursuant to the rules specified in the hearing notice.)	
<p><b>DIVISION OF WATER RIGHTS</b> Prosecution Team Andrew Tauriainen, Attorney III SWRCB Office of Enforcement 1001 I Street, 16th Floor Sacramento, CA 95814 <a href="mailto:Andrew.Tauriainen@waterboards.ca.gov">Andrew.Tauriainen@waterboards.ca.gov</a></p>	<p><b>THE WEST SIDE IRRIGATION DISTRICT</b> Jeanne M. Zolezzi Karna Harrigfeld Janelle Krattiger Herum\Crabtree\Suntag 5757 Pacific Ave., Suite 222 Stockton, CA 95207 <a href="mailto:jzolezzi@herumcrabtree.com">jzolezzi@herumcrabtree.com</a> <a href="mailto:kharrigfeld@herumcrabtree.com">kharrigfeld@herumcrabtree.com</a> <a href="mailto:jkrattiger@herumcrabtree.com">jkrattiger@herumcrabtree.com</a></p>
<p><b>STATE WATER CONTRACTORS</b> Stephanie Morris 1121 L Street, Suite 1050 Sacramento, CA 95814 <a href="mailto:smorris@swc.org">smorris@swc.org</a></p>	<p><b>WESTLANDS WATER DISTRICT</b> Daniel O'Hanlon Rebecca Akroyd Kronick Moskowitz Tiedemann &amp; Girard 400 Capitol Mall, 27th Floor Sacramento, CA 95814 <a href="mailto:dohanlon@kmtg.com">dohanlon@kmtg.com</a> <a href="mailto:rakroyd@kmtg.com">rakroyd@kmtg.com</a></p> <p>Philip Williams of Westlands Water District <a href="mailto:pwilliams@westlandswater.org">pwilliams@westlandswater.org</a></p>
<p><b>SOUTH DELTA WATER AGENCY</b> John Herrick, Esq. Dean Ruiz 4255 Pacific Ave., Suite 2 Stockton, CA 95207 <a href="mailto:jherrlaw@aol.com">jherrlaw@aol.com</a> <a href="mailto:dean@hprlaw.net">dean@hprlaw.net</a></p>	<p><b>CENTRAL DELTA WATER AGENCY</b> Jennifer Spaletta Spaletta Law PC PO Box 2660 Lodi, CA 95241 <a href="mailto:jennifer@spalettalaw.com">jennifer@spalettalaw.com</a></p> <p>Dante Nomellini and Dante Nomellini, Jr. Nomellini, Grilli &amp; McDaniel <a href="mailto:ngmplcs@pacbell.net">ngmplcs@pacbell.net</a> <a href="mailto:dantejr@pacbell.net">dantejr@pacbell.net</a></p>
<p><b>CITY AND COUNTY OF SAN FRANCISCO</b> Jonathan Knapp Office of the City Attorney 1390 Market Street, Suite 418 San Francisco, CA 94102 <a href="mailto:jonathan.knapp@sfgov.org">jonathan.knapp@sfgov.org</a></p>	<p><b>SAN JOAQUIN TRIBUTARIES AUTHORITY</b> Valerie Kincaid O'Laughlin &amp; Paris LLP 2617 K Street, Suite 100 Sacramento, CA 95814 <a href="mailto:vkinaid@olaughlinparis.com">vkinaid@olaughlinparis.com</a> <a href="mailto:towater@olaughlinparis.com">towater@olaughlinparis.com</a></p> <p>(revised 12/18/15)</p>

<p>CALIFORNIA DEPARTMENT OF WATER RESOURCES Robin McGinnis, Attorney PO Box 942836 Sacramento, CA 94236-0001 <a href="mailto:robin.mcgininis@water.ca.gov">robin.mcgininis@water.ca.gov</a></p>	<p>BYRON BETHANY IRRIGATION DISTRICT Daniel Kelly Somach Simmons &amp; Dunn 500 Capitol Mall, Suite 1000, Sacramento, CA 95814 <a href="mailto:dkelly@somachlaw.com">dkelly@somachlaw.com</a></p>
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**SERVICE LIST OF PARTICIPANTS  
BYRON-BETHANY IRRIGATION DISTRICT  
ADMINISTRATIVE CIVIL LIABILITY HEARING**

(09/02/15; Revised: 09/10/15; Revised 10/06/15; Revised 10/22/15, 12/18/15)

PARTIES	
<p>THE FOLLOWING <u>MUST BE SERVED</u> WITH WRITTEN TESTIMONY, EXHIBITS AND OTHER DOCUMENTS. (All have AGREED TO ACCEPT electronic service, pursuant to the rules specified in the hearing notice.)</p>	
<p>Division of Water Rights Prosecution Team Andrew Tauriainen, Attorney III SWRCB Office of Enforcement 1001 I Street, 16th Floor Sacramento, CA 95814 <a href="mailto:andrew.tauriainen@waterboards.ca.gov">andrew.tauriainen@waterboards.ca.gov</a></p>	<p>Byron Bethany Irrigation District Daniel Kelly Somach Simmons &amp; Dunn 500 Capitol Mall, Suite 1000, Sacramento, CA 95814 <a href="mailto:dkelly@somachlaw.com">dkelly@somachlaw.com</a></p>
<p>Patterson Irrigation District Banta-Carbona Irrigation District The West Side Irrigation District Jeanne M. Zolezzi Herum\Crabtree\Suntag 5757 Pacific Ave., Suite 222 Stockton, CA 95207 <a href="mailto:jzolezzi@herumcrabtree.com">jzolezzi@herumcrabtree.com</a></p>	<p>City and County of San Francisco Jonathan Knapp Office of the City Attorney 1390 Market Street, Suite 418 San Francisco, CA 94102 <a href="mailto:jonathan.knapp@sfgov.org">jonathan.knapp@sfgov.org</a></p> <p>Robert E. Donlan Ellison, Schneider &amp; Harris L.L.P. 2600 Capitol Avenue, Suite 400 Sacramento, CA 95816 (916) 447-2166 <a href="mailto:red@eslawfirm.com">red@eslawfirm.com</a></p>
<p>Central Delta Water Agency Jennifer Spaletta Spaletta Law PC PO Box 2660 Lodi, CA 95241 <a href="mailto:jennifer@spalettalaw.com">jennifer@spalettalaw.com</a></p>	<p>California Department of Water Resources Robin McGinnis, Attorney PO Box 942836 Sacramento, CA 94236-0001 <a href="mailto:robin.mcgininis@water.ca.gov">robin.mcgininis@water.ca.gov</a></p>

<p>Dante Nomellini and Dante Nomellini, Jr. Nomellini, Grilli &amp; McDaniel <a href="mailto:ngmpics@pacbell.net">ngmpics@pacbell.net</a> <a href="mailto:dantejr@pacbell.net">dantejr@pacbell.net</a></p>	
<p>Richard Morat 2821 Berkshire Way Sacramento, CA 95864 <a href="mailto:rjmorat@gmail.com">rjmorat@gmail.com</a></p>	<p>San Joaquin Tributaries Authority Valerie Kincaid O'Laughlin &amp; Paris LLP 2617 K Street, Suite 100 Sacramento, CA 95814 <a href="mailto:vkincaid@olaughlinparis.com">vkincaid@olaughlinparis.com</a> <a href="mailto:towater@olaughlinparis.com">towater@olaughlinparis.com</a> <a href="mailto:lwood@olaughlinparis.com">lwood@olaughlinparis.com</a></p> <p>(revised 12/18/15)</p>
<p>South Delta Water Agency John Herrick, Esq. 4255 Pacific Ave., Suite 2 Stockton, CA 95207 <a href="mailto:iherrlaw@aol.com">iherrlaw@aol.com</a></p> <p>Dean Ruiz, Esq. Harris, Perisho &amp; Ruiz, Attorneys at Law 3439 Brookside Road, Suite 210 Stockton, CA 95219 <a href="mailto:dean@hprlaw.net">dean@hprlaw.net</a></p>	<p>State Water Contractors Stefani Morris, Attorney 1121 L Street, Suite 1050 Sacramento, CA 95814 <a href="mailto:smorris@swc.org">smorris@swc.org</a></p>

# **EXHIBIT C**



**NOTICE OF INTENT TO APPEAR**

State Water Contractors plans to participate in the water right hearing regarding  
(name of party or participant)

Administrative Civil Liability  
against  
Byron-Bethany Irrigation District

scheduled to commence  
**Wednesday, October 28, 2015 and continue, if necessary,  
on October 29 and 30, 2015  
at 9:00 a.m.**

**1) Check only one (1) of the following:**

- I/we intend to present a policy statement only.  
 I/we intend to participate by cross-examination or rebuttal only.  
 I/we plan to call the following witnesses to testify at the hearing. (Fill in the Following Table)

NAME	SUBJECT OF PROPOSED TESTIMONY	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)

(If more space is required, please add additional pages or use reverse side.)

**2) Fill in the following information of the Participant, Party, Attorney, or Other Representative:**

Name (Print): Stefanie Morris

Mailing Address: 1121 L Street, Suite 1050  
Sacramento, California 95814

Phone Number: (916) 447-7357 Fax Number: (916) 447-2734

E-mail: smorris@swc.org

Optional:

- I/we decline electronic service of hearing-related materials.

Signature: *Stefanie Morris* Dated: 8/27/2015

# **EXHIBIT D**

1 Thomas M. Berliner (SBN 83256)  
2 Jolie-Anne S. Ansley (SBN 221526)  
3 **DUANE MORRIS LLP**  
4 Spear Tower  
5 One Market Plaza, Suite 2200  
6 San Francisco, CA 94105-1127  
7 Telephone: +1 415 957 3000  
8 Fax: +1 415 957 3001  
9 E-mail: tmberliner@duanemorris.com  
10 jsansley@duanemorris.com

11 Stefanie D. Morris (SBN 239787)  
12 State Water Contractors  
13 1121 L. St., Suite 1050  
14 Sacramento, CA 95814-3974  
15 Telephone: +1 916 447 7357  
16 Fax: +1 916 447 2734  
17 E-mail: smorris@swc.org  
18 Attorneys for State Water Contractors

19  
20 **BEFORE THE**  
21 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

22 ENFORCEMENT ACTION ENF01949 -  
23 DRAFT CEASE AND DESIST ORDER  
24 REGARDING UNAUTHORIZED OR  
25 THREATENED UNAUTHORIZED  
26 DIVERSIONS OF WATER FROM OLD RIVER IN  
27 SAN JOAQUIN

**REBUTTAL TESTIMONY OF PAUL  
HUTTON**

28 In the Matter of ENFORCEMENT ACTION  
ENF01951 -ADMINISTRATIVE CIVIL  
LIABILITY COMPLAINT REGARDING  
UNAUTHORIZED DIVERSION OF WATER  
FROM THE INTAKE CHANNEL TO THE  
BANKS PUMPING PLANT (FORMERLY  
ITALIAN SLOUGH) IN CONTRA COSTA  
COUNTY

# **EXHIBIT E**

1 SOMACH SIMMONS & DUNN  
A Professional Corporation  
2 DANIEL KELLY, ESQ. (SBN 215051)  
MICHAEL E. VERGARA, ESQ. (SBN 137689)  
3 THERESA C. BARFIELD (SBN 185568)  
500 Capitol Mall, Suite 1000  
4 Sacramento, California 95814-2403  
Telephone: (916) 446-7979  
5 Facsimile: (916) 446-8199

6 Attorneys for Petitioner/Plaintiff BYRON-  
BETHANY IRRIGATION DISTRICT

8 BEFORE THE  
9 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

11 ENFORCEMENT ACTION ENF01949  
DRAFT CEASE AND DESIST ORDER  
12 REGARDING UNAUTHORIZED  
DIVERSIONS OR THREATENED  
13 UNAUTHORIZED DIVERSIONS OF WATER  
FROM OLD RIVER IN SAN JOAQUIN  
14 COUNTY

SWRCB Enforcement Action  
ENF01951 and ENF01949

NOTICE OF DEPOSITION OF PAUL  
HUTTON AND REQUEST FOR  
PRODUCTION OF DOCUMENTS  
(Wat. Code, § 1100)

15 In the Matter of ENFORCEMENT ACTION  
ENF01951 – ADMINISTRATIVE CIVIL  
16 LIABILITY COMPLAINT REGARDING  
UNAUTHORIZED DIVERSION OF WATER  
17 FROM THE INTAKE CHANNEL TO THE  
BANKS PUMPING PLANT (FORMERLY  
18 ITALIAN SLOUGH) IN CONTRA COSTA  
COUNTY

19  
20 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

21 PLEASE TAKE NOTICE THAT, under to Water Code section 1100 and Code of  
22 Civil Procedure section 2025.210 et seq., YOU ARE HEREBY NOTIFIED that attorneys  
23 for Byron Bethany Irrigation District (BBID) will take the deposition of **Paul Hutton on**  
24 **March 7, 2016 at 9:30 a.m.** Said deposition will take place at the offices of **Somach**  
25 **Simmons & Dunn, 500 Capitol Mall, Suite 1000, Sacramento, California 95814.**

26 The deposition of Paul Hutton is in regards to the following:

27 1. Any and all facts, opinions, and/or documents referring or relating to the  
28 Deponent's testimony filed in the subject proceedings.

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YOU ARE FURTHER NOTIFIED THAT:

The Deponent, Paul Hutton is required to produce at said deposition the documents, records or other materials as set forth in Attachment A to this deposition notice.

Dated: February 24, 2016

SOMACH SIMMONS & DUNN  
A Professional Corporation

By:   
Daniel Kelly  
Attorneys for Petitioner/Plaintiff BYRON-  
BETHANY IRRIGATION DISTRICT

## ATTACHMENT A

### DOCUMENTS TO BE PRODUCED

1. All WRITINGS, as that term is defined in California Evidence Code section 250, in the possession or control of the State Water Contractors (SWC) and/or Metropolitan Water District of Southern California (MWD) concerning or relating to the State Water Resources Control Board's determination of water availability in the Sacramento and San Joaquin River Watersheds and the Delta for 2015.
2. All WRITINGS, as that term is defined in California Evidence Code section 250, in the possession or control of the SWC and/or MWD, concerning or relating to the Deponent's testimony filed in the subject proceedings.
3. All WRITINGS, as that term is defined in California Evidence Code section 250, in the possession or control of the California Department of Water Resources, concerning or relating to the diversion(s) (current and/or historical) of water by Byron-Bethany Irrigation District (BBID).
4. All WRITINGS, as that term is defined in California Evidence Code section 250, in the possession or control of the SWC and/or MWD, relied upon by the Deponent in preparing any and all testimony filed in the subject proceedings.
5. All WRITINGS, as that term is defined in California Evidence Code section 250, in the possession or control of the SWC and/or MWD, concerning or relating to the June 5, 2015 Draft Technical Memorandum from CH2M Hill to Terry Erlewine, attached to your testimony.
6. All WRITINGS, as that term is defined in California Evidence Code section 250, in the possession or control of the SWC and/or MWD, concerning or relating to CH2M Hill's work on the June 5, 2015 Draft Technical Memorandum.
7. All WRITINGS, as that term is defined in California Evidence Code section 250, in the possession or control of the SWC and/or MWD, between May 1, 2015 and the date of your deposition, concerning or relating to CH2M Hill's work for BBID in any capacity.

If any document is withheld under a claim of privilege or other protection, please provide a privilege log containing the following information with respect to such documents: (a) an identification of the document with reasonable specificity and particularity, including its nature (memorandum, letter, etc.), title, and date; (b) the parties, individuals, and entities that the communication is between or references; (c) the exact nature of the privilege asserted; and (d) all of the facts upon which your claim of privilege is based or which supports said claim of privilege.

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**PROOF OF SERVICE**

I am employed in the County of Sacramento; my business address is 500 Capitol Mall, Suite 1000, Sacramento, California; I am over the age of 18 years and not a party to the foregoing action.

On February 24, 2016, I served the following document(s):

**NOTICE OF DEPOSITION OF PAUL HUTTON  
AND REQUEST FOR PRODUCTION OF DOCUMENTS**

X (via electronic mail) by causing to be delivered a true copy thereof to the person(s) and at the email addresses set forth below:

**SEE ATTACHED SERVICE LIST**

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 24, 2016 at Sacramento, California.

  
\_\_\_\_\_  
Yolanda De La Cruz



**SERVICE LIST OF PARTICIPANTS  
BYRON-BETHANY IRRIGATION DISTRICT  
ADMINISTRATIVE CIVIL LIABILITY HEARING**  
(Revised 9/2/15; Revised: 9/11/15)

SOMACH SIMMONS & DUNN  
A Professional Corporation

<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>Division of Water Rights Prosecution Team Andrew Tauriainen, Attorney III SWRCB Office of Enforcement 1001 I Street, 16th Floor Sacramento, CA 95814 <a href="mailto:andrew.tauriainen@waterboards.ca.gov">andrew.tauriainen@waterboards.ca.gov</a></p>	<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>Byron-Bethany Irrigation District Daniel Kelly Somach Simmons &amp; Dunn 500 Capitol Mall, Suite 1000 Sacramento, CA 95814 <a href="mailto:dkelly@somachlaw.com">dkelly@somachlaw.com</a></p>
<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>Patterson Irrigation District Banta-Carbona Irrigation District The West Side Irrigation District Jeanne M. Zolezzi Herum\Crabtree\Suntag 5757 Pacific Avenue, Suite 222 Stockton, CA 95207 <a href="mailto:jzolezzi@herumcrabtree.com">jzolezzi@herumcrabtree.com</a></p>	<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>City and County of San Francisco Jonathan Knapp Office of the City Attorney 1390 Market Street, Suite 418 San Francisco, CA 94102 <a href="mailto:jonathan.knapp@sfgov.org">jonathan.knapp@sfgov.org</a></p>
<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>Central Delta Water Agency Jennifer Spaletta Law PC P.O. Box 2660 Lodi, CA 95241 <a href="mailto:jennifer@spalettalaw.com">jennifer@spalettalaw.com</a></p> <p>Dante John Nomellini Daniel A. McDaniel Dante John Nomellini, Jr. NOMELLINI, GRILLI &amp; MCDANIEL 235 East Weber Avenue Stockton, CA 95202 <a href="mailto:ngrpics@pacbell.net">ngrpics@pacbell.net</a> <a href="mailto:dantejr@pacbell.net">dantejr@pacbell.net</a></p>	<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>California Department of Water Resources Robin McGinnis, Attorney P.O. Box 942836 Sacramento, CA 94236-0001 <a href="mailto:robin.mcginnis@water.ca.gov">robin.mcginnis@water.ca.gov</a></p>
<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>Richard Morat 2821 Berkshire Way Sacramento, CA 95864 <a href="mailto:rmorat@gmail.com">rmorat@gmail.com</a></p>	<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>San Joaquin Tributaries Authority Tim O'Laughlin Valerie C. Kincaid O'Laughlin &amp; Paris LLP 2617 K Street, Suite 100 Sacramento, CA 95816 <a href="mailto:towater@olaughlinparis.com">towater@olaughlinparis.com</a> <a href="mailto:vkincaid@olaughlinparis.com">vkincaid@olaughlinparis.com</a></p>

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<u>VIA ELECTRONIC MAIL</u>	<u>VIA ELECTRONIC MAIL</u>
South Delta Water Agency John Herrick Law Offices of John Herrick 4255 Pacific Avenue, Suite 2 Stockton, CA 95207 Email: <a href="mailto:Jherrlaw@aol.com">Jherrlaw@aol.com</a>	State Water Contractors Stefani Morris 1121 L Street, Suite 1050 Sacramento, CA 95814 <a href="mailto:snorris@swc.org">snorris@swc.org</a>

**SERVICE LIST  
WEST SIDE IRRIGATION DISTRICT  
CEASE AND DESIST ORDER HEARING**

<p>3 Division of Water Rights Prosecution Team 4 Andrew Tauriainen, Attorney III SWRCB Office of Enforcement 5 1001 I Street, 16th Floor Sacramento, CA 95814 6 <a href="mailto:andrew.tauriainen@waterboards.ca.gov">andrew.tauriainen@waterboards.ca.gov</a></p>	<p>The West Side Irrigation District Jeanne M. Zolezzi Karna Harringfeld Janelle Krattiger Herum\Crabtree\Suntag 5757 Pacific Avenue, Suite 222 Stockton, CA 95207 <a href="mailto:jzolezzi@herumcrabtree.com">jzolezzi@herumcrabtree.com</a> <a href="mailto:kharringfeld@herumcrabtree.com">kharringfeld@herumcrabtree.com</a> <a href="mailto:jkrattiger@herumcrabtree.com">jkrattiger@herumcrabtree.com</a></p>
<p>8 State Water Contractors Stefani Morris 9 1121 L Street, Suite 1050 Sacramento, CA 95814 10 <a href="mailto:smorris@swc.org">smorris@swc.org</a></p>	<p>Westlands Water District Daniel O'Hanlon Rebecca Akroyd Kronick Moskovitz Tiedemann &amp; Girad 400 Capitol Mall, 27<sup>th</sup> Floor Sacramento, CA 95814 <a href="mailto:dohanlon@kmtg.com">dohanlon@kmtg.com</a> <a href="mailto:rakroyd@kmtg.com">rakroyd@kmtg.com</a></p> <p>Phillip Williams of Westlands Water District <a href="mailto:pwilliams@westlandswater.org">pwilliams@westlandswater.org</a></p>
<p>14 South Delta Water Agency John Herrick 15 Law Offices of John Herrick 4255 Pacific Avenue, Suite 2 16 Stockton, CA 95207 Email: <a href="mailto:jherriaw@aol.com">jherriaw@aol.com</a></p>	<p>Central Delta Water Agency Jennifer Spaletta Law PC P.O. Box 2660 Lodi, CA 95241 <a href="mailto:jennifer@spalettalaw.com">jennifer@spalettalaw.com</a></p> <p>Dante Nomellini and Dante Nomellini, Jr. NOMELLINI, GRILLI &amp; MCDANIEL <a href="mailto:ngrnpics@pacbell.net">ngrnpics@pacbell.net</a> <a href="mailto:dantejr@pacbell.net">dantejr@pacbell.net</a></p>
<p>20 City and County of San Francisco Jonathan Knapp 21 Office of the City Attorney 1390 Market Street, Suite 418 22 San Francisco, CA 94102 <a href="mailto:jonathan.knapp@sfgov.org">jonathan.knapp@sfgov.org</a></p>	<p>San Joaquin Tributaries Authority Valerie C. Kincaid O'Laughlin &amp; Paris LLP 2617 K Street, Suite 100 Sacramento, CA 95816 <a href="mailto:vkincaid@olaughlinparis.com">vkincaid@olaughlinparis.com</a></p>
<p>23 Byron-Bethany Irrigaton District Daniel Kelly 24 Somach Simmons &amp; Dunn 500 Capitol Mall, Suite 1000 25 Sacramento, CA 95814 <a href="mailto:dkelly@somachlaw.com">dkelly@somachlaw.com</a></p>	<p>California Department of Water Resources Robin McGinnis, Attorney P.O. Box 942836 Sacramento, CA 94236-0001 <a href="mailto:robin.mcginnis@water.ca.gov">robin.mcginnis@water.ca.gov</a></p>

1 I, Paul Hutton, declare:

2 1. I submit this written rebuttal testimony on behalf of the State Water Contractors  
3 (“SWC”) in the following proceedings: 1) Westside Irrigation District Enforcement Matter No.  
4 01949(ENF1949); and 2) Byron-Bethany Irrigation District Enforcement Matter No. 01951  
5 (ENF1951).

6 2. If called as a witness, I can and would testify to the following facts, analyses, findings  
7 and conclusions stated herein, and to the information contained in Exhibits SWC0002, SWC0003,  
8 SWC0004, SWC0005, SWC0006, and WSID0008, pp.198, 200, 202, 205-207, which is incorporated  
9 by reference as part of my written testimony.

10 **BACKGROUND AND QUALIFICATIONS**

11 3. I am currently the Principal Engineer for the Bay-Delta Initiatives at Metropolitan  
12 Water District of Southern California (“MWD”). In that position, which I have held since 2002, I  
13 work collaboratively with interagency and interdisciplinary teams to provide policy-level decision  
14 support for MWD’s ongoing water management, regulatory and legal activities in the areas of  
15 Sacramento-San Joaquin Delta (“Delta”) hydrodynamics and water quality as well as Central Valley  
16 Project (“CVP”) and State Water Project (“SWP”) operations.

17 4. Prior to joining MWD I held several positions at the Department of Water Resources  
18 (“DWR”) from 1990 to 2002. My last position with DWR was the supervising engineer and  
19 program manager of the Delta Modeling Section with a staff of seventeen engineers responsible for  
20 developing and applying various water quality, hydrodynamic and biological models. In addition, I  
21 was the program manager responsible for developing actions and studies for implementing  
22 CALFED’s Drinking Water Improvement Strategy and managing DWR’s Statewide Planning  
23 Program, which involved developing and implementing policies related to the California Water Plan  
24 Update (Bulletin 160-98). My previous experience is summarized in my C.V. at exhibit SWC0002.

25 5. I am a registered civil engineer in California and my license number is C040795.

26 6. I have a B.S. in Civil Engineering and graduated with highest honors from the  
27 University of Illinois, Urbana in May 1983.

28

1           7.     I obtained a M.S. in Environmental Engineering from University of Illinois, Urbana  
2 in January of 1985.

3           8.     I obtained a Ph.D. in Civil and Environmental Engineering from the University of  
4 California, Davis in December 1994.

5           9.     I have been working on Delta issues for 25 years. I have published several papers on  
6 hydrodynamics and water quality in the Delta. For a complete list of my publications please see  
7 exhibit SWC0002.

8           10.    In 1994, I received the American Society of Civil Engineers Water Resources  
9 Planning and Management Division Outstanding Journal Paper Award.

10          11.    In 2006, I received the Hugo B. Fischer Award from the California Water and  
11 Environmental Modeling Forum in recognition of model development and application in support of  
12 the San Joaquin River Salinity Management Plan.

13          12.    My job duties include working with the SWC and directing work on behalf of MWD  
14 or in coordination with SWC. As part of my job duties I assisted in the development of an analysis  
15 of without project salinity conditions in the Delta (2012-2015). I completed a comparative analysis  
16 of Delta outflow and salinity in 1931 (historical scenario) and 2015 (without project scenario). I  
17 was also directed to review the technical report by Susan Paulsen (BBID384), the testimony of  
18 Susan Paulsen ( BBID388), the testimony of Thomas Burke (WSID0123), and the following  
19 Department of Public Works Documents: Bulletin 27 (SWC0004) and Bulletin 23 (1931)  
20 (WSID0008, pp. 198, 200, 202, 205-207).

21        **SUMMARY OF WORK COMPLETED**

22          13.    I assisted in directing a CH2M Hill analysis of salinity conditions; the technical report  
23 is attached as exhibit SWC0005. The purpose of this study was to analyze salinity conditions in the  
24 south Delta channels under a “without project” scenario based on historical hydrology spanning the  
25 period January 1, 2012 to August 31, 2015. The without project scenario modifies the historical  
26 hydrology by removing (1) upstream impairments associated with CVP and SWP reservoirs, (2)  
27 Delta diversions at the Banks and Jones Pumping Plants, and (3) the Delta Cross Channel facility.  
28 The multi-year timeframe allows understanding of Delta salinity conditions under a sequence of

1 differing hydrologic conditions. A complete description of the methods and data used in the analysis  
2 are described in the CH2M Hill technical appendix attached as exhibit SWC0005.

3 14. I completed a scenario analysis of irrigation season Delta outflow and salinity  
4 comparing 1931 (historical) and 2015 (without project). The attached figure (SWC0003) compares  
5 monthly average outflow and salinity (as measured by X2 position) for the two scenarios. The  
6 source of the 1931 outflow data is DAYFLOW. The source of the 1931 salinity data is Hutton et al.  
7 (2015) "Nine Decades of Salinity Observations in the San Francisco Bay and Delta: Modeling and  
8 Trend Evaluation." *J. Water Resour. Plng. Mgmt.*, DOI: 10.1061/(ASCE)WR.1943-5452.0000617  
9 (available at: <http://ascelibrary.org/doi/abs/10.1061/%28ASCE%29WR.1943-5452.0000617>). The  
10 source of the 2015 scenario outflow and salinity data is described in exhibit SWC0005.

11 15. In the figure "Comparison of Delta Outflow and Salinity," exhibit SWC0003, month  
12 is shown on the horizontal axis, Delta outflow (in units of cubic feet per second) is shown on the  
13 left-side vertical axis, and X2 position (in units of kilometers) is shown on the right-side vertical  
14 axis. In the same figure, the blue and black bars represent April through August Delta outflow in the  
15 2015 and 1931 scenarios, respectively. In the same figure, the blue and black lines represent April  
16 through August X2 in the 2015 and 1931 scenarios, respectively. X2 is used as an indicator of  
17 salinity intrusion into the Delta.

18 16. As part of my work on this matter, I was directed to review the technical report of  
19 Susan Paulsen (BBID384), the testimony of Susan Paulsen (BBID388), the testimony of Thomas  
20 Burke (WSID0123), and portions of Bulletin 27 (SWC0004) and Bulletin 23 (1931) (WSID0008).  
21 Bulletin 27 (SWC0004) is a true and correct copy that was obtained from DWR by the SWC.  
22 Bulletin 27 is also available on the internet at  
23 [http://www.water.ca.gov/waterdatalibrary/docs/historic/Bulletins/Bulletin\\_27/Bulletin\\_27\\_1931.pdf](http://www.water.ca.gov/waterdatalibrary/docs/historic/Bulletins/Bulletin_27/Bulletin_27_1931.pdf)  
24 [f](#).

### 25 **SUMMARY OF FINDINGS**

26 17. The CH2M Hill analysis, as described in exhibit SWC0005, concluded that salinity  
27 would typically be much higher in the Delta absent the CVP and SWP relative to historical  
28 conditions. The analysis further concluded that, absent the CVP and SWP, salinity (measured as

1 specific conductance) would be above 1.0 mS/cm during the irrigation season of many dry and  
2 critically dry years.

3 18. As part of my job duties, I monitor SWP and CVP compliance with the State Water  
4 Resources Control Board's ("Water Board") Bay-Delta Water Quality Control Plan ("WQCP")  
5 standards. In 2015, DWR and the Bureau of Reclamation ("Reclamation") continued to satisfy  
6 WQCP regulatory obligations, including those modified by the Water Board's orders regarding the  
7 DWR and Reclamation temporary urgency change petition ("TUCP"). The Water Board's 2015  
8 TUCP orders relaxed certain WQCP standards and limited SWP and CVP project pumping during  
9 the irrigation season to health and safety levels. Throughout the irrigation season, the SWP and CVP  
10 continued to make releases from upstream reservoirs to satisfy WQCP standards. DWR also  
11 installed a salinity barrier at West False River from June to September 2015 for the purpose of  
12 blocking salinity intrusion into the Delta from the ocean.

13 19. Unauthorized diversions of SWP stored water released for the purpose of satisfying  
14 WQCP and other regulatory obligations and/or for diversion by the SWP impact the SWC member  
15 agencies as the contractual beneficiaries of the SWP. These unauthorized diversions cause the SWP  
16 to make additional stored water releases or to reduce exports to satisfy WQCP and other regulatory  
17 requirements, thereby decreasing the stored water supplies of the SWP available to SWC member  
18 agencies. In 2014, DWR and Reclamation sent a joint letter stating "Where water quality standards  
19 are controlling Water Project Operations, any diversion of stored water by these diverters results in  
20 additional releases of stored water or reductions in Project deliveries..." This letter is exhibit  
21 SWC0007. This occurred in 2014 as indicated in exhibit SWC0007 and also occurred in 2015.

22 20. My comparison of the 2015 and 1931 scenarios as illustrated in exhibit SWC0003  
23 indicate that historical outflow during the irrigation season (April through August) of 1931 is  
24 consistently higher than without project outflow during the irrigation season of 2015. Outflow in  
25 1931 ranged from approximately -3,000 cfs to 7,500 cfs, whereas without project outflow in 2015  
26 ranged from approximately -3,900 cfs to 6,400 cfs.

27 21. As also shown in exhibit SWC0003, historical salinity during the irrigation season  
28 (April through August) of 1931 is consistently lower than without project salinity during the

1 irrigation season of 2015. Salinity in 1931 (as measured by X2 position) ranged from approximately  
2 76 km to 122 km, whereas without project X2 position in 2015 ranged from approximately 83 km to  
3 137 km.

4 22. Although there are similarities between 1931 and 2015 with respect to annual  
5 unimpaired runoff conditions and water year type, the Delta conditions of 1931 poorly represent  
6 those associated with 2015 absent the CVP and SWP. Due to less upstream development (water use)  
7 in 1931, irrigation season outflow was significantly higher and salinity was significantly lower  
8 relative to the 2015 without project scenario.

9 23. The 1931 baseline assumption in Susan Paulsen's modeling (BBID384) is  
10 inappropriate. The technical report by Susan Paulsen (BBID384) selected the pre-project year 1931  
11 as a surrogate for 2015 without project conditions. Her assumption is inappropriate because, as  
12 exhibit SWC0003 illustrates, 1931 experienced higher outflows and lower salinity than would have  
13 occurred in 2015 absent the CVP and SWP. The primary reason for the differences between 1931  
14 and 2015 (without project) is because upstream development was lower in 1931 than in 2015.

15 24. Susan Paulsen's analysis (BBID384) is also inappropriate because she fails to remove  
16 SWP and CVP operations and facilities from the modeling of 2015 salinity and flow patterns. To the  
17 extent that Susan Paulsen is using her 2015 modeling results to define the quantity and source of  
18 water available to WSID and BBID in that year, her baseline is flawed because WSID and BBID do  
19 not have a right to stored water supplies based on their senior water rights.

20 25. Susan Paulsen's analysis (BBID384) also fails to acknowledge that the combined  
21 effect of all diversions in the Delta is to change flow patterns and to draw Sacramento River water  
22 into the south Delta.

23 26. Westside Irrigation District (WSID) references Bulletin 23 (1931) (WSID0008),  
24 Table 39, as evidence of the District's diversions in 1931. To the extent diversions occurred in 1931  
25 by WSID and others, the same report analyzes the damage that 1931 diversions of high salinity  
26 water caused to crops and the soil. The report at p. 198 explains that:

27 Since the beginning of salinity observations in the Sacramento-San  
28 Joaquin Delta it has been recognized that in years of deficient Spring



1 and Summer stream flow to the Delta, the resulting extensive  
2 encroachment of salinity from San Francisco Bay has caused damaged  
3 in the Delta. In 1930, 1924, and 1926, but particularly in 1924, the  
4 magnitude of the encroachment was such as to leave no doubt that  
5 damage must have been sustained...In the Spring of 1931 it was plainly  
6 evident that the stream flow to the Delta would probably be as low if  
7 not lower than it was in 1924 and that a salinity encroachment as great  
8 if not greater than in that year could be expected.

9 27. Bulletin 23 (WSID0008) quantified the economic impacts resulting from the salinity  
10 intrusion into the Delta in 1931. The report at p. 200 describes the reasons for the damage and  
11 resulting economic losses, as follows:

12 Under tangible losses is classed [as] the actual loss in production of  
13 crops in 1931 due to (1) the curtailment of irrigation when the salinity  
14 of the irrigation water became too high, (2) the actual application of  
15 irrigation water of too high salinity, and (3) the abandonment of a crop,  
16 or plans for it, because of high salinity.

17 28. Bulletin 23 (WSID0008) quantified the economic impacts at p. 202, Table 92, stating  
18 that the resulting economic losses caused by salinity encroachment into the Delta during the  
19 irrigation season of 1931 totaled \$1,263,716.

20 29. Bulletin 23 (WSID0008) at pp. 205-207 also describes a range of intangible injury to  
21 crops caused by salinity encroachment into the Delta during the irrigation season in 1931, injury that  
22 included agricultural soils, levees, and native vegetation.

23 30. Bulletin 27 (SWC0004) also describes the salinity conditions that existed in the Delta  
24 in 1931 and other dry and critically dry years. Bulletin 27 explains that:

25 Beginning in 1917, there has been an almost unbroken succession of  
26 subnormal years of precipitation and stream flow which, in combination  
27 with increased irrigation and storage diversions from the upper  
28 Sacramento and San Joaquin River system, has resulted in a degree and  
extent of saline invasion greater than has occurred ever before as far as  
known. These abnormal saline invasions not only have curtailed  
irrigation diversions and affected crop production and land values in the  
delta also have reduced considerably the diversions of fresh-water  
supplies from the lower river and upper bay.... (SWC0004, p. 15.)

And:

1 The greater degree and extent of saline invasion in certain years since  
2 1917 have resulted in curtailment of irrigation diversions for a portion  
3 of the delta and upland area. (SWC0004, p. 20.)

4 And:

5 During several years in the period 1920 to 1929, the inflow into the delta  
6 during the summer months has been insufficient to take care of the  
7 consumptive requirements. (SWC0004, p.32.)

8 And:

9 On the other hand, in years when the stream flow into the delta during  
10 the summer months was insufficient to meet the consumptive demands  
11 in the delta, invasions of saline water of considerable extent and degree  
12 have occurred. This was especially true in the dry years of 1924, 1920  
13 and 1926, when stream flow was insufficient to meet consumptive  
14 demands for a considerable period of time. (SWC0004, p. 36.)

## 15 CONCLUSION

16 31. Contrary to the conclusion of Susan Paulsen, the 1931 historical scenario poorly  
17 represents the 2015 without project scenario. In 1931, salinity conditions would have been more  
18 favorable than 2015 (without project), with higher outflow and lower salinity resulting from lesser  
19 upstream water development.


20 32. While agricultural diverters in the Delta may have diverted water in 1931, they also  
21 experienced crop damage, curtailed diversions and abandoned crops in the field, while also  
22 experiencing more intangible salinity damage to agricultural soils (and subsequent crops), levees and  
23 native vegetation. The cost of the salinity damage experienced by farmers in the Delta in 1931 was  
24 estimated to be \$1,263,716.

25 33. Absent the SWP and CVP, salinity in the south Delta would typically exceed 1.0  
26 mS/cm specific conductance during the irrigation season of dry and critically dry years, which is  
27 higher than the current irrigation season WQCP agricultural salinity standard of 0.7 mS/cm. This  
28 suggests that water quality would be too poor to support agricultural use during summer and fall of  
dry and critically dry years if the SWP and CVP did not exist.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 22<sup>nd</sup> day of February, 2016, in Sacramento, California.

  
\_\_\_\_\_  
PAUL HUTTON, Ph.D., P.E.

**Paul H. Hutton, Ph.D., P.E.**  
**Principal Engineer, Bay-Delta Initiatives**  
**Metropolitan Water District of Southern California**  
**1121 L Street, Suite 900 Sacramento, CA 95814**  
**Tel: 916-650-2620 Fax: 916-650-2625**  
**Email: phutton@mwdh2o.com**

### Professional Experience

- o Metropolitan Water District Southern Cal., Sacramento, Jun. 2002 - present.
- o Calif. Dept. of Water Resources, Sacramento, Aug. 1990 - Jun. 2002.
- o Pacific Gas and Electric, Sacramento, Oct. 1989 - Aug. 1990.
- o Los Angeles County Sanitation Districts, Feb. 1986 – Jul. 1989.
- o MWH (formerly JMM Engineers), Pasadena, Oct. 1984 - Feb. 1986.

### Education

- o Ph.D., Civil and Environ. Engineering, University of California, Davis (Dec. 1994)
- o M.S., Environ. Engineering, W.E. Deuchler Fellow, University of Illinois, Urbana (Jan. 1985)
- o B.S., Civil Engineering, Highest Honors, University of Illinois, Urbana (May 1983)

### Honors and Professional Affiliations

- o Convener, California Water & Environmental Modeling Forum, 2009-10.
- o Vice Convener, California Water & Environmental Modeling Forum, 2007-08.
- o California Water & Environmental Modeling Forum, Hugo B. Fischer Award, 2006.
- o MWDSC, Innovation/ Creativity Award, 2006.
- o MWDSC, Leadership Award, 2006.
- o Calif. Dept. of Water Resources, Meritorious Service Award, 1999.
- o CALFED, Draft PEIS/ EIR Superior Accomplishment Team Award, 1999.
- o Calif. Dept. of Water Resources, DSM2 Development Team Unit Citation, 1998.
- o ASCE Water Resources Plng. and Mgmt. Div. Outstanding Journal Paper Award, 1994.
- o Calif. Dept. of Water Resources, Outstanding Professional Accomplishment Award, 1994.
- o Calif. Professional Engineer Registration #C040795.

### Refereed Publications

- o Hutton, P.H., Rath, J.S., Chen, L., Unga, M.J., and Roy, S.B. (2015). "Nine Decades of Salinity Observations in the San Francisco Bay and Delta: Modeling and Trend Evaluation." *J. Water Resour. Plng. Mgmt.*, American Society of Civil Engineers, DOI: 10.1061/ (ASCE)WR.1943-5452.0000617.
- o Fox P., Hutton, P.H., Howes, D.J., Draper, A.J., and Sears, L. (2015). "Reconstructing the Natural Hydrology of the San Francisco Bay-Delta Watershed." *Hydrology and Earth System Sciences* 19:4257–4274.
- o Howes, D.J., Fox, P., Hutton, P.H. (2015). "Evapotranspiration from Natural Vegetation in the

Central Valley of California: Monthly Grass Reference-Based Vegetation Coefficients and the Dual Crop Coefficient Approach., *J Hydrd. Eng.*, American Society of Civil Engineers, DOI: 10.1061/ (A SCE)HE.1943-5584.0001162.

o Hutton, P.H. and Chung, F.I. (1994). "Bromine Distribution Factors in THM Formation." *J Water Resour. Plng. Mgmt.*, American Society of Civil Engineers, 120(1), 1-16.

o Hutton, P.H. and Chung, F.I. (1994). "Correlating Trihalomethane Data." *J Environ. Eng.*, American Society of Civil Engineers, 120(1), 219-241.

o Hutton, P.H. and Chung, F.I. (1992). "Simulating THM Formation Potential in Sacramento Delta: Part I." *J Water Resour. Plng. Mgmt.*, American Society of Civil Engineers, 118(5), 513-529.

o Hutton, P.H. and Chung, F.I. (1992). "Simulating THM Formation Potential in Sacramento Delta: Part II." *J Water Resour. Plng. Mgmt.*, American Society of Civil Engineers, 118(5), 530-542.

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o *CALFED Bay-Delta Program Programmatic EIS/EIR* (1999). June Draft.

o *Calif. Water Plan Update, Bulletin 160-98*. (1998). Calif. Dept. of Water Resources, Sacramento.

o Enright, C., Hutton, P.H. and Chung, F.I. (1996). Transport of Dormant Spray Pesticides in the San Francisco Bay-Delta. *Proceedings 1996 North American Water and Environment Congress*, ASCE, Anaheim, Calif., C.T. Bathala, Ed.

o Enright, C., Mahadevan, N. and Hutton, P.H. (1996). Simulation of Dormant Spray Pesticide and Dissolved Organic Carbon Transport during 1993. *IEP Newsletter*, Interagency Ecological Program for the Sacramento-San Joaquin Estuary, 9(2), 27-31.

o *Estimation of Delta Island Diversions and Return Flows* (1995). Calif. Dept. of Water Resources, Division of Planning, Sacramento, Calif., Feb.

o Hutton, P.H. and Enright, C. (1993). Simulating THM Precursors Transport with DWRDSM. *Proceedings 1993 Hydraulic Div. National Conf.*, ASCE, San Francisco, Calif., H.W. Shen, Ed. 821-826.

o Hutton, P.H. (1994). Bay-Delta THM Formation Potential: Data Collection and Mathematical Modeling. *IEP Newsletter*, Interagency Ecological Program for the Sacramento-San Joaquin Estuary, 7(4), 12.

o Hutton, P.H., Sandhu, N. and Chung, F.I. (1996). Predicting THM Formation with Artificial Neural Networks. *Proceedings 1996 North American Water and Environment Congress*, ASCE, Anaheim, Calif., C.T. Bathala, Ed.

o Hutton, P.H., Mahadevan, N. and Chung, F.I. (1996). Simulating DBP Precursor Transport in Sacramento Delta. *Proceedings 1996 North American Water and Environment Congress*, ASCE, C.T. Bathala, Ed.

o *Representative Delta Island Return Flow Quality for Use in DSM2*. (1995). Calif. Dept. of Water Resources, Division of Planning, Modeling Support Branch, Sacramento, Calif.

o *Trihalomethane Formation Potential in the Sacramento-San Joaquin Delta: Mathematical Model Development*. (1991). Calif. Dept. of Water Resources, Division of Planning, Sacramento, Calif.

#### Conference Presentations

o Application of SANMAN: A San Joaquin River Salinity Management Spreadsheet Model, presented at the CWEMF Annual Meeting, Pacific Grove, Calif., Mar. 2005.

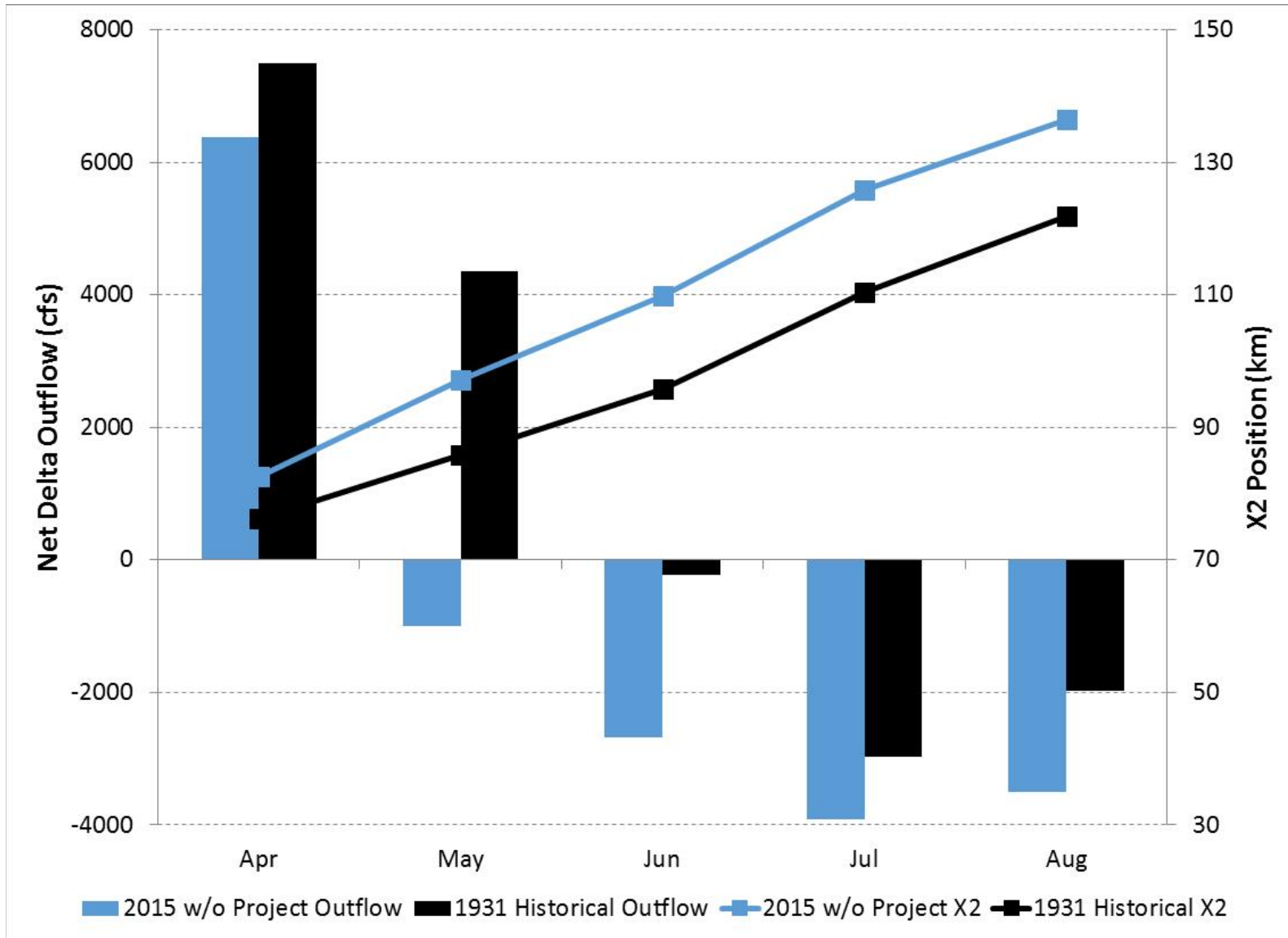
o Delta and Aqueduct Taste and Odor Precursors: Modeling Status, presented at the CWEMF Workshop on Overview of Delta Nutrient Water Quality Problems: Nutrient Load – Water Quality Impact Modeling, Sacramento, Calif., Mar. 2008.

o Delta Island Consumptive Use Model, presented at the Annual Interagency Ecological Program Workshop & Bay-Delta Modeling Forum, Pacific Grove, Calif., Mar. 1995.

o Delta Island Diversions and Returns, presented at the Bay-Delta Modeling Forum Workshop on Delta Modeling for End Users, Sausalito, Calif., Nov. 1995.

- o Delta Salinity Gradient (DSG) Model, presented at the 8<sup>th</sup> Biennial Bay-Delta Science Conference, Sacramento, Calif., Oct. 2014.
- o DWR's Delta Model on DBP Precursors, presented at the American Water Works Association Calif.-Nevada Section Spring Conference, San Jose, Calif., Apr. 1992.
- o Estimating Combined Old and Middle River Flow, presented at the CWEMF Annual Meeting, Pacific Grove, Calif., Feb. 2008.
- o Forecasting Delta Turbidity Conditions, presented at the 7<sup>th</sup> Biennial Bay-Delta Science Conference, Sacramento, Calif., Oct. 2012.
- o Life after Bulletin 160-98: Ongoing DWR Statewide Planning Program Elements, presented at the Bay-Delta Modeling Forum Workshop on Approaches and Problems for Long-Term Regional Water Planning, Sacramento, Calif., Feb. 1999.
- o Metropolitan's Evaluation of the 2003 Colorado River Contingency Transfer, presented at the CWEMF Annual Meeting, Pacific Grove, Calif., Feb. 2003.
- o Metropolitan's Policy Principles on Long-Term Delta Actions, presented at the Bay Planning Coalition's 19<sup>th</sup> Annual Decisionmakers Conference, Oakland, Calif., Mar. 2006.
- o Metropolitan's 2003 Colorado River Contingency Transfer in Retrospect, presented at the CWEMF Annual Meeting, Pacific Grove, Calif., Feb. 2004.
- o Modeling Delta Flow-Turbidity Relationships with Artificial Neural Networks, presented at the CWEMF Annual Meeting, Folsom, Calif., Apr. 2012.
- o Modeling of Delta Standards Using ANN Approach in the Joint CALSIM Model, presented at the Annual Interagency Ecological Program Workshop & Bay-Delta Modeling Forum, Pacific Grove, Calif., Feb. 2001.
- o Natural Delta Outflow Water Balance, presented at the CWEMF Annual Meeting, Folsom, Calif., Feb. 2014.
- o Neural Networks and THM Prediction, presented at the Bay-Delta Modeling Forum Workshop on Drinking Water Quality, Sacramento, Calif., Oct. 1995.
- o New Empirical Bay-Delta Salinity Model, presented at the CWEMF Annual Meeting, Folsom, Calif., Apr. 2013.
- o Nine Decades of Salinity Observations in Suisun Bay & Western Delta, presented at the CWEMF Annual Meeting, Folsom, Calif., Apr. 2013.
- o Overview of Recent Efforts to Characterize Natural Delta Outflow, presented at the CWEMF Annual Meeting, Joint Session with the Interagency Ecological Program, Folsom, Calif., Feb. 2014.
- o San Joaquin River Salinity Management Model, SANMAN, presented at the CWEMF Technical Workshop on San Joaquin River Valley Modeling, Sacramento, Calif., Nov. 2005.
- o SANMAN: Decision Support for the DIP's San Joaquin River Salinity Management Plan, presented at the CWEMF Annual Meeting, Pacific Grove, Calif., Mar. 2005.
- o Simulating DBP Precursor Transport, presented at the Bay-Delta Modeling Forum Workshop on Drinking Water Quality, Sacramento, Calif., Oct. 1995.
- o Validation of DSM2 Volumetric Fingerprints Using Grab Sample Mineral Data, presented at the CWEMF Annual Meeting, Pacific Grove, Calif., Mar. 2006.

Comparison of Delta Outflow and Salinity



# 2012 – 2015 Delta Salinity Conditions under a Without Project Scenario

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DATE: June 5, 2015

## Study Objective

The purpose of this study is to analyze salinity conditions in the south Delta channels under a Without Project scenario using the January 1, 2012 to August 31, 2015 Central Valley rim inflows. 2012 - 2015 historic and projected Sacramento River and San Joaquin River inflows to the Delta were modified to remove the impairments related to the upstream CVP – SWP reservoirs under the Without Project Scenario in addition to zeroing out the Delta exports at the Banks and Jones Pumping Plants and closing the Delta Cross Channel. The 2012 – 2015 study is an extension of a previous study of Without Project conditions for the year 2014. The multi-year timeframe allows understanding Delta salinity conditions under a sequence of differing hydrologic conditions.

## Approach

A DSM2 model capable of simulating 2012-2015 historical Delta hydrodynamics and salinity conditions obtained from the DWR was used for representing the With Project scenario in this task. DWR used 2012 – 2015 Delta inflows, exports and salinity as the boundary conditions for the DSM2 model.

For the 2012-2015 Without Project DSM2 model, adjusted daily Delta inflow data at Vernalis and Freeport provided by the SWC were used as boundary conditions. As shown in Figures 1 and 2, Sacramento and San Joaquin Without Project inflows to the Delta are significantly lower (in some cases negative) in the summer and fall months compared to the historical conditions primarily due to the lack of contributions from project reservoir storage. The Without Project Scenario also assumed zero Delta exports from Banks and Jones Pumping Plants. The Without Project DSM2 model also uses historical electrical conductivity estimates for salinity boundary conditions at Freeport consistent with the historical DSM2 model. However, for the San Joaquin River at Vernalis modified electrical conductivity estimates were used to account for the unimpaired conditions under the Without Project scenario. The modified Vernalis EC estimates for the Without Project scenario were computed based on a methodology provided by the SWC, which is outlined in the Appendix A of this memo. For the Without Project conditions, the Delta Cross Channel gates were assumed to be closed for the entire length of the simulation.

Clifton Court Forebay (CCF) gate operations under the historical and Without Project DSM2 simulations were modified to represent Priority 3 gate operations. Under the Without Project simulation, instead of relocating BBID's existing DICU diversion from inside the CCF and closing the CCF gates, the With Project CCF gate operations were assumed to allow for the BBID diversion to continue. Even though the CCF gates are operational under the Without Project scenario, resulting Clifton Court inflow (Figure 3) confirms that inflow to CCF occurs only during the months with BBID diversion.

Sacramento River at Freeport timeseries input into the Without Project DSM2 model used only the positive flows provided. All negative flows were set to zero. Figure 1 below shows a comparison of the historical record, the Without Project timeseries with negative values from SWC, and the timeseries input into DSM2. In the summer months, the demands upstream of the Delta exceed the supply when there is no storage available to supplement the river flows into the Delta.

For the San Joaquin River at Vernalis, the Without Project DSM2 simulation used a 20 cfs base flow, when the Without Project flows from SWC are negative in order to achieve model stability in the channels near the San Joaquin River boundary in the DSM2 model. This base flow was used to keep water in the few channels downstream of Vernalis and was diverted upstream of the Old River (model node 4). Figure 2 shows a comparison between the historical Vernalis flows, the Without Project flows from SWC, and the Without Project flows used in the DSM2 simulation. In addition, the



diversion component of the Delta Island Consumptive Use (DICU) in the channels near the San Joaquin River boundary (at node 1 and 3) were set to zero when the base flow was the only flow assumed in the model at Vernalis. Without curtailing the DICU diversions at model nodes 1 and 3, the base flow would have to be large enough to meet the DICU demand and keep water in the channel.

Based on the modified electrical conductivity at Vernalis under the Without Project conditions, zero or negative flows have zero electrical conductivity. This assumption of zero EC was continued even though 20 cfs base flow was assumed under the Without Project scenario. However, the artificial base flow of 20 cfs with zero EC could therefore dilute salinity in the San Joaquin River near the Vernalis boundary that would otherwise exist in higher concentrations. A sensitivity analysis using the same model and assuming 2014 historical salinity for the 20 cfs base flows shows that the resulting salinity in the San Joaquin River near the Vernalis boundary is somewhat sensitive, but the differences are minimal beyond model node 4. In addition, while the DICU diversion values are set to zero at nodes 1 and 3, the DICU drain flow is continued in the model, which continues to add salt to the Delta channels.

For conditions projected from May 2, 2015 to August 31, 2015, stage and electrical conductivity at the downstream boundary was assumed at 2014 values for both the With Project and Without Project scenarios. For the With Project conditions, 2014 conditions were assumed for May 2, 2015 to August 31, 2015 for all inflows and outflows with the exception of inflows at Freeport and Vernalis and outflows for SWP and DMC. Projected 2015 with project flows at Vernalis were calculated as the sum of New Melones monthly outflows and San Joaquin River above the Stanislaus River flows after removing any contractor deliveries from the forecasted operations provided by the U.S. Bureau of Reclamation to the SWRCB in support of the 2015 TUC petition ([http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/drought/docs/tucp/2015/inputsheet\\_april90\\_upstream\\_ops.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/tucp/2015/inputsheet_april90_upstream_ops.pdf)). Projected 2015 With Project flows at Freeport were estimated as the balance of Delta monthly inflows and outflows, and assuming SWP and CVP Delta exports to be zero for May through August 2015. The Without Project simulation used the same boundary inflows and diversions as the With Project simulation for May 2, 2015 to August 31, 2015 period with the exception of Sacramento River at Freeport and San Joaquin River at Vernalis inflows, which were assumed to be zero. Figures 1 and 2 show the assumed inflow boundary conditions for 2015 projected conditions.

## Results

Due to a lack of inflow at both Freeport and Vernalis during the summer and fall months under the Without Project scenario, salinity is much higher in the Delta compared to the historical conditions. During these months there is no fresh water to dilute the higher salinity intrusion, and as a result, the tide brings saltier water further into the Delta. In figures 5 to 52, the saltwater-freshwater interface has moved much further inland by the end of June in the Without Project Scenario than the With Project conditions. The Sacramento River inflows tend to be much higher than the San Joaquin River inflows and cause the salt to be in higher concentrations in the south Delta. However, low flows in the Sacramento River allow the salt concentrations to be relatively high in the north Delta as well. By September the flows in the Sacramento River are high enough to push the saltwater interface further to the south. The area around Frank Tract tends to hold higher salinity water late into the year even after the Sacramento and San Joaquin Delta inflows have flushed much of the saltwater back out of the Delta. The contribution of New Melones Reservoir to flows at Vernalis appears to be a major component of the historical flows during the summer and fall months. Contour plots of weekly EC conditions for 2012 - 2015 are provided as electronic attachments to this memorandum.

## Martinez EC Sensitivity Simulations

To consider the potential effect of modified NDOI on the Martinez EC boundary condition, a sensitivity analysis was performed of the modeled salinity under the With Project and Without Project cases by using the Martinez salinity boundary condition estimated using the DWR's G-Model, instead of the historical Martinez EC values. Figure 4 compares the daily-average Martinez EC values for the historical conditions, G-model estimates using With Project NDOI, and G-model estimates using Without Project NDOI. The G-Model salinity values are higher on average than the historical salinity used. DSM2 model for both With Project and Without Project cases were simulated with G-model based EC values specified at Martinez. DSM2 results showed that the higher salinity conditions extended further into the Delta under both the With Project and Without Project cases. Since the Martinez tide and the hydrology used remained unchanged under the sensitivity runs, the resulting

hydrodynamics remained consistent with the original simulations. Therefore, using the G-model based EC values resulted in similar durations of salinity as compared to the simulations using historical Martinez EC.

## Summary

The results in this memorandum show that without the CVP-SWP project reservoir storage, salinity would be much higher in the Delta during dry years than under the historical (With Project) conditions. There appears to be some pockets of higher salinity that persist late into the fall months in the central/south Delta channels over the multiple dry years simulated. However, due to the higher storm flows into the delta in the Without Project scenario, the driest years still have most of the salinity flushed east of Antioch in the spring months. The high salinity in the summer and fall months would further limit the beneficial use of water from the Delta during years like 2012 through 2015 under the Without Project scenario.

## Limitations

Simulation of Delta salinity under With Project conditions and Without Project conditions using DSM2 are subject to limitations of the model and the approach used. DSM2 limitations and uncertainties are well documented in the DWR Annual Reports (<http://baydeltaoffice.water.ca.gov/modeling/deltamodeling/annualreports.cfm>).

Salinity in San Joaquin River upstream of Head of Old River is likely not accurate due to artificial base flows assumed for model stability, and curtailing of the DICU diversions upstream of Head of Old River (at model nodes 1 and 3), under the Without Project scenario. Projections of Delta inflows and exports for May – Aug 2015 are also subject to change.

The salinity contour plots presented in this memorandum were created from point data in the model using kriging. As a result, the zones where the contours are calculated may be influenced by a neighboring channel without direct access to comingled salinity. An example of this is the Sacramento Deep Water Ship Channel and the Sacramento River on September 6, 2014.

FIGURE 1: SACRAMENTO RIVER AT FREEPORT DSM2 MODEL INFLOW FOR 2012 TO 2015

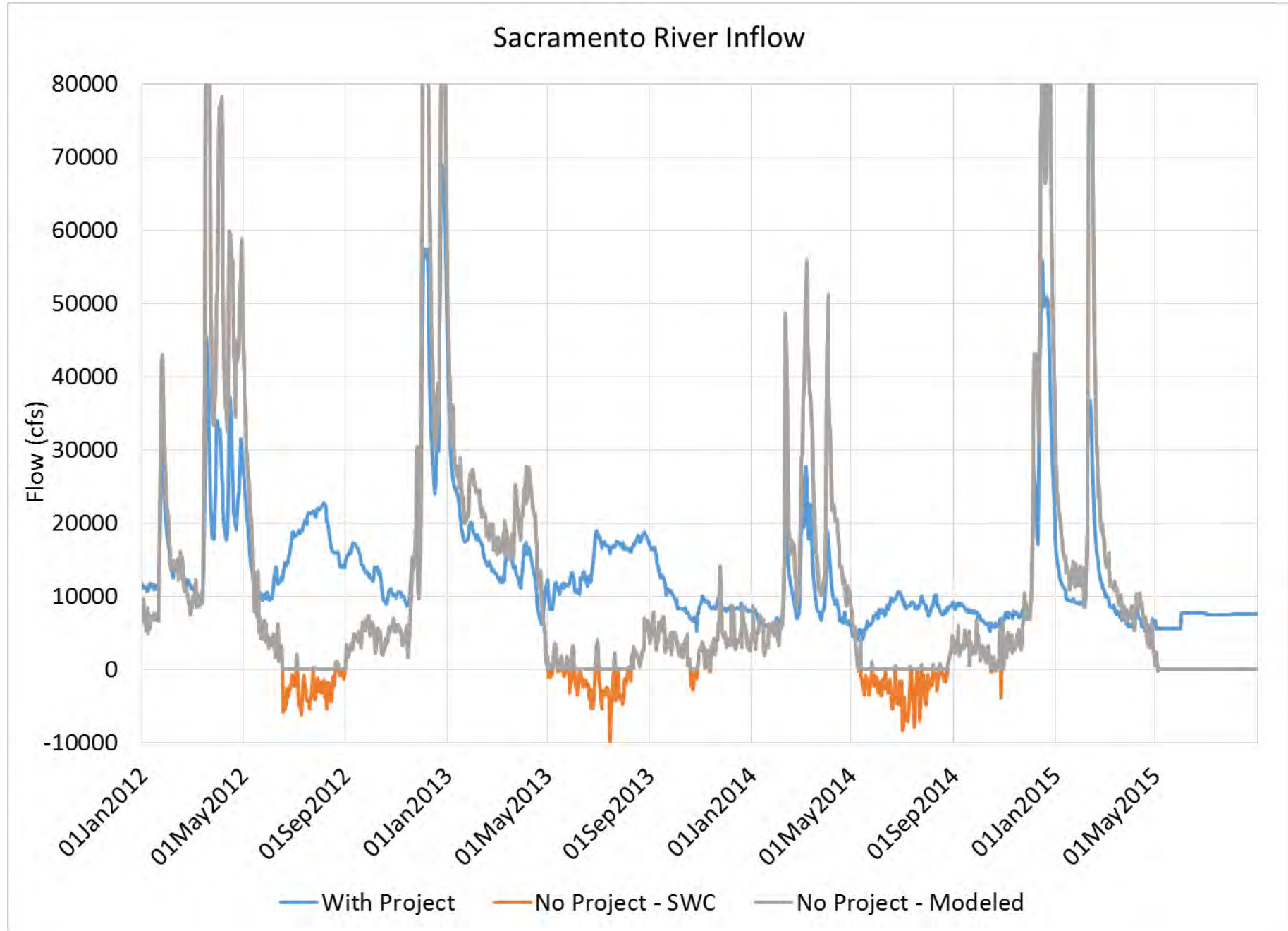


FIGURE 2: SAN JOAQUIN RIVER AT VERNALIS DSM2 MODEL INFLOW FOR 2012 TO 2015

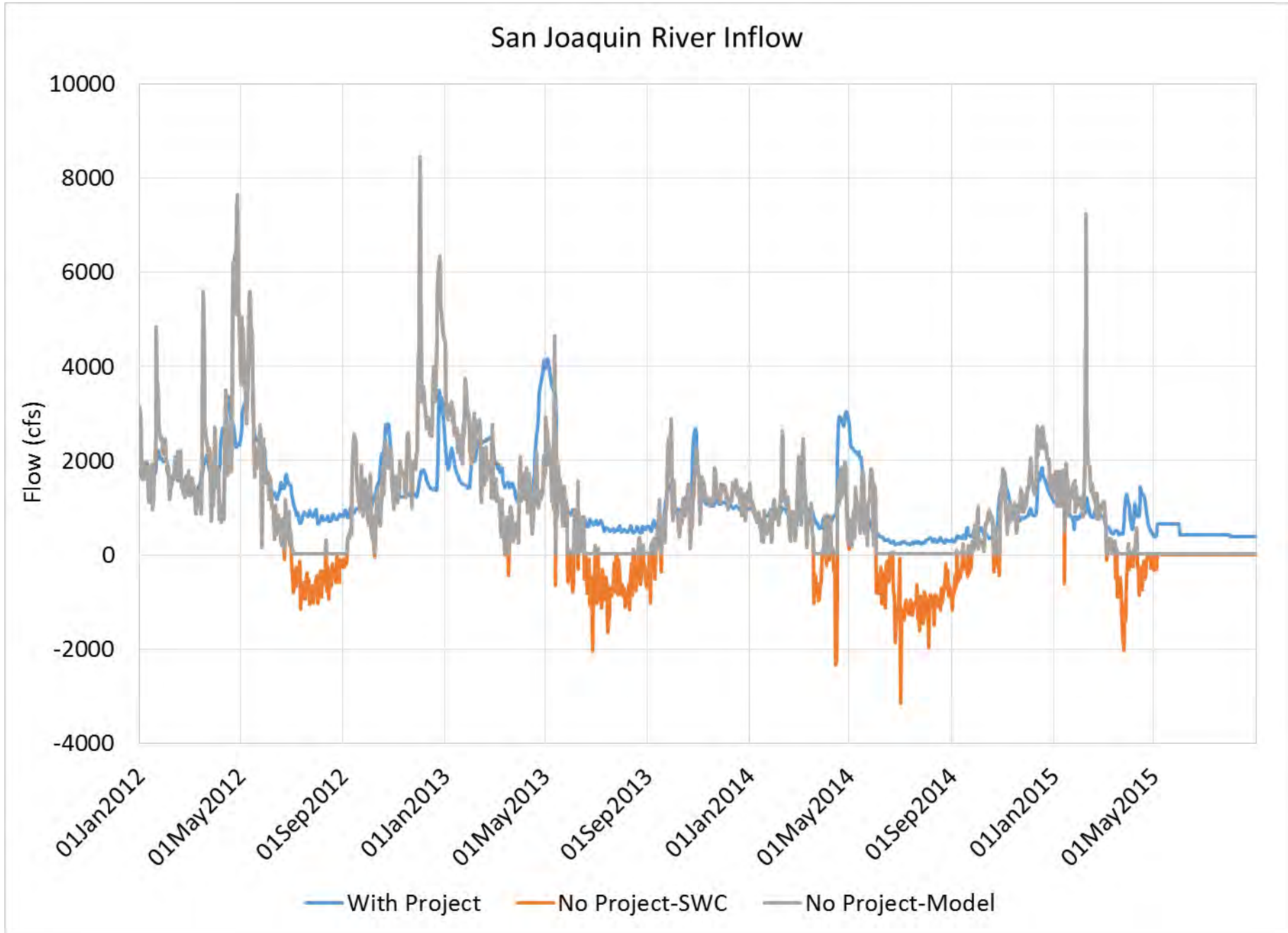


FIGURE 3: ASSUMED BBID DICU DIVERSION, AND DSM2 RESULT OF CLIFTON COURT FOREBAY INFLOW

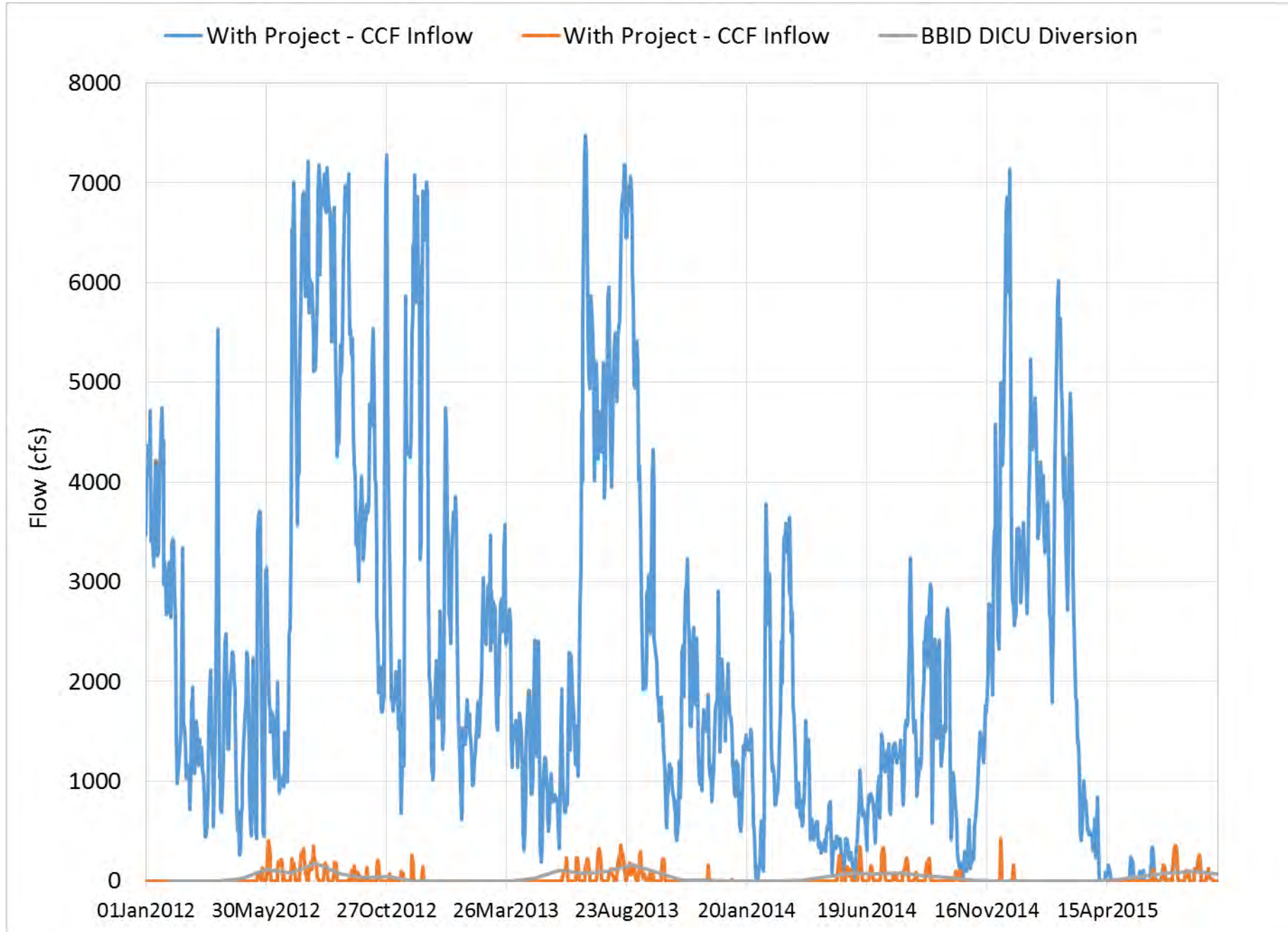
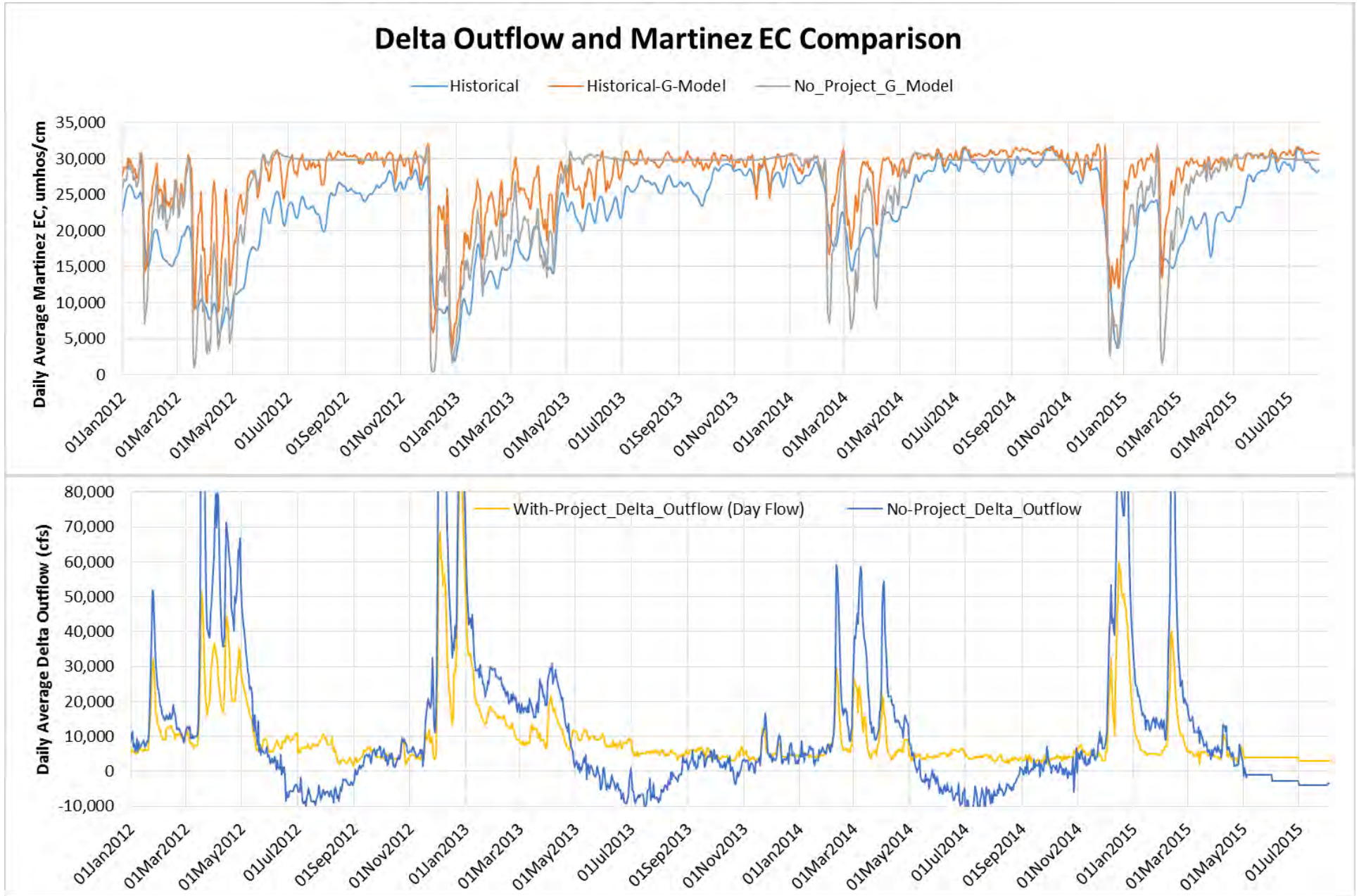


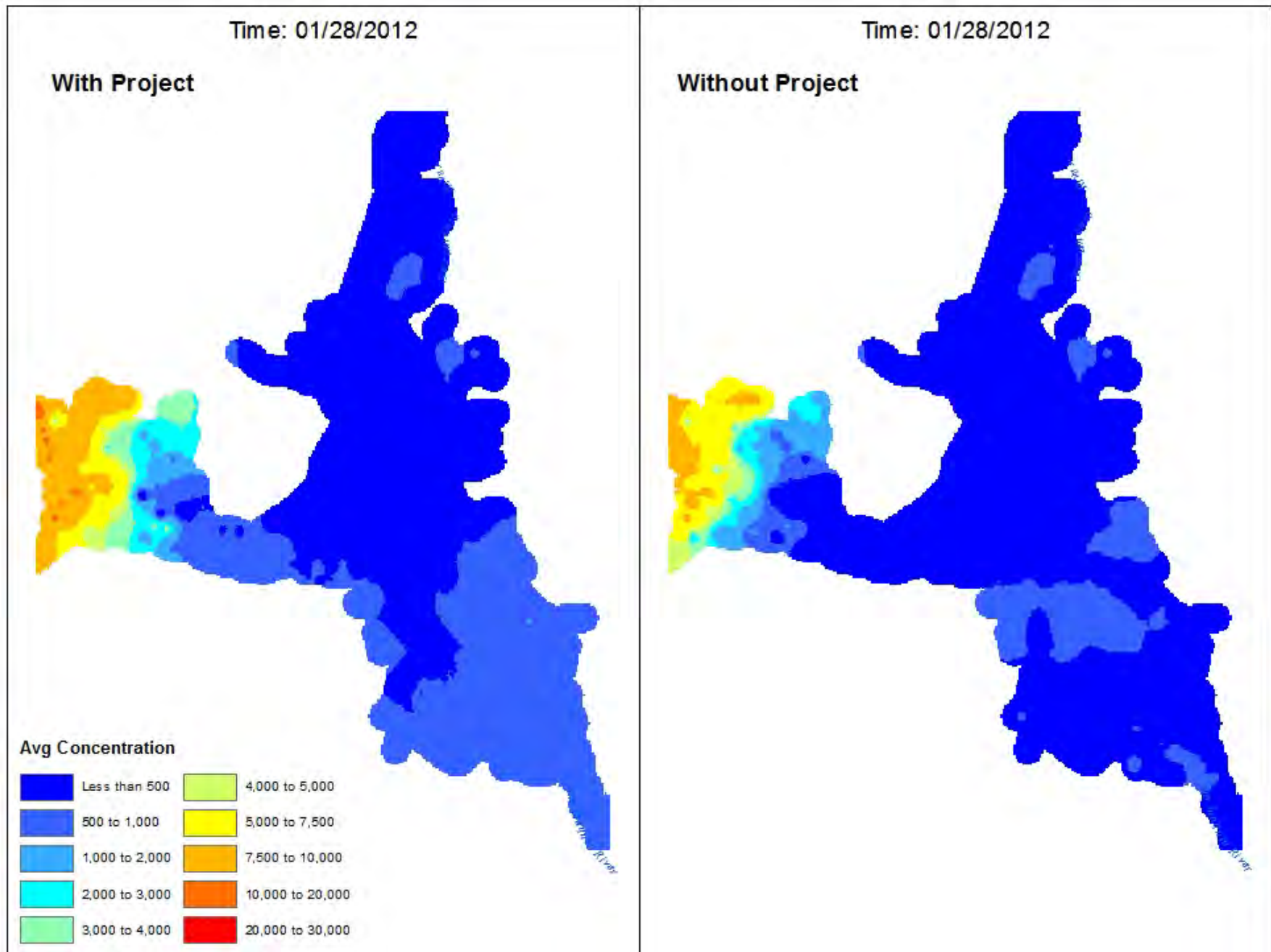


FIGURE 4: DAILY AVERAGED EC AT MARTINEZ FOR 2012 TO 2015

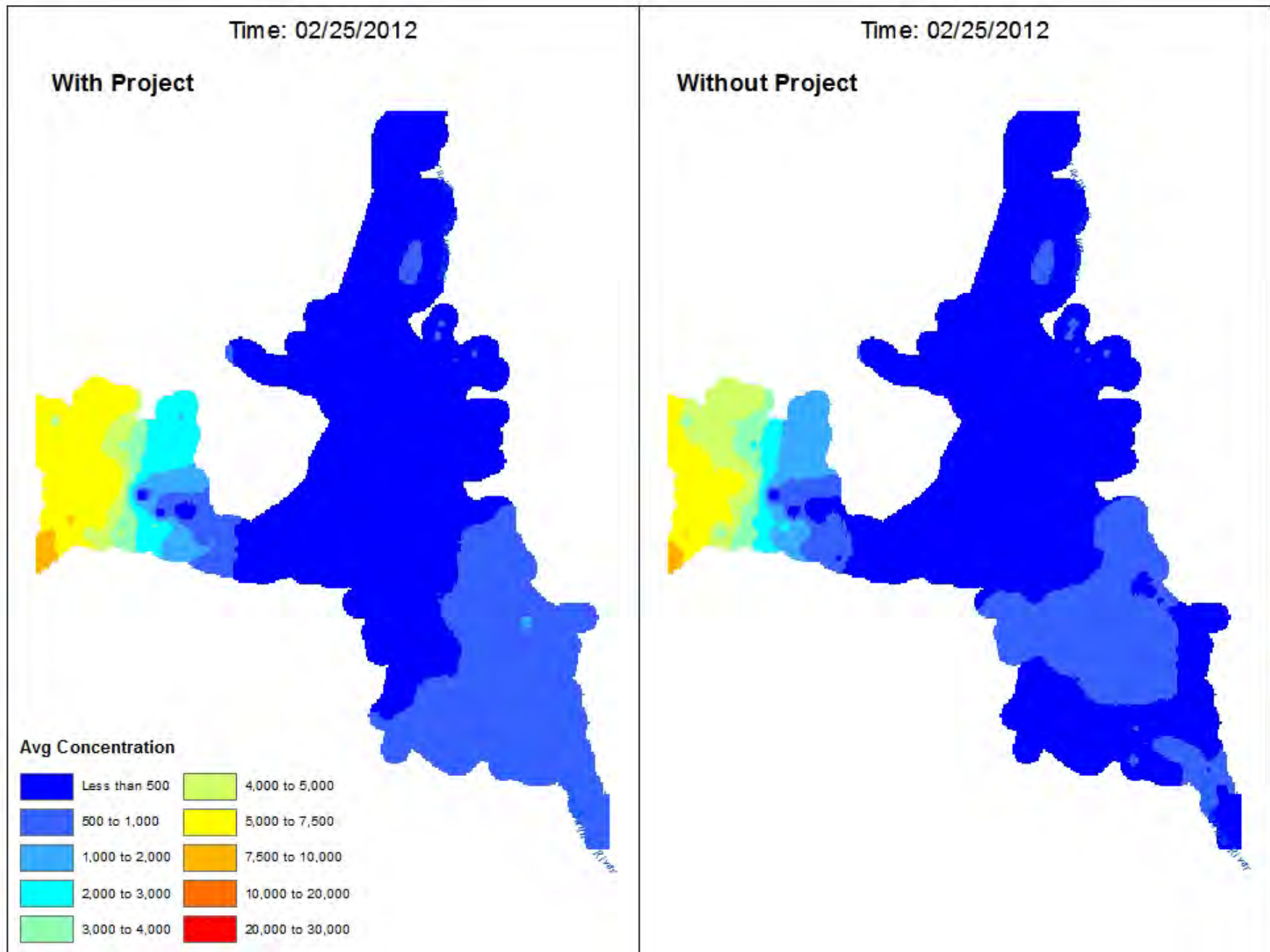


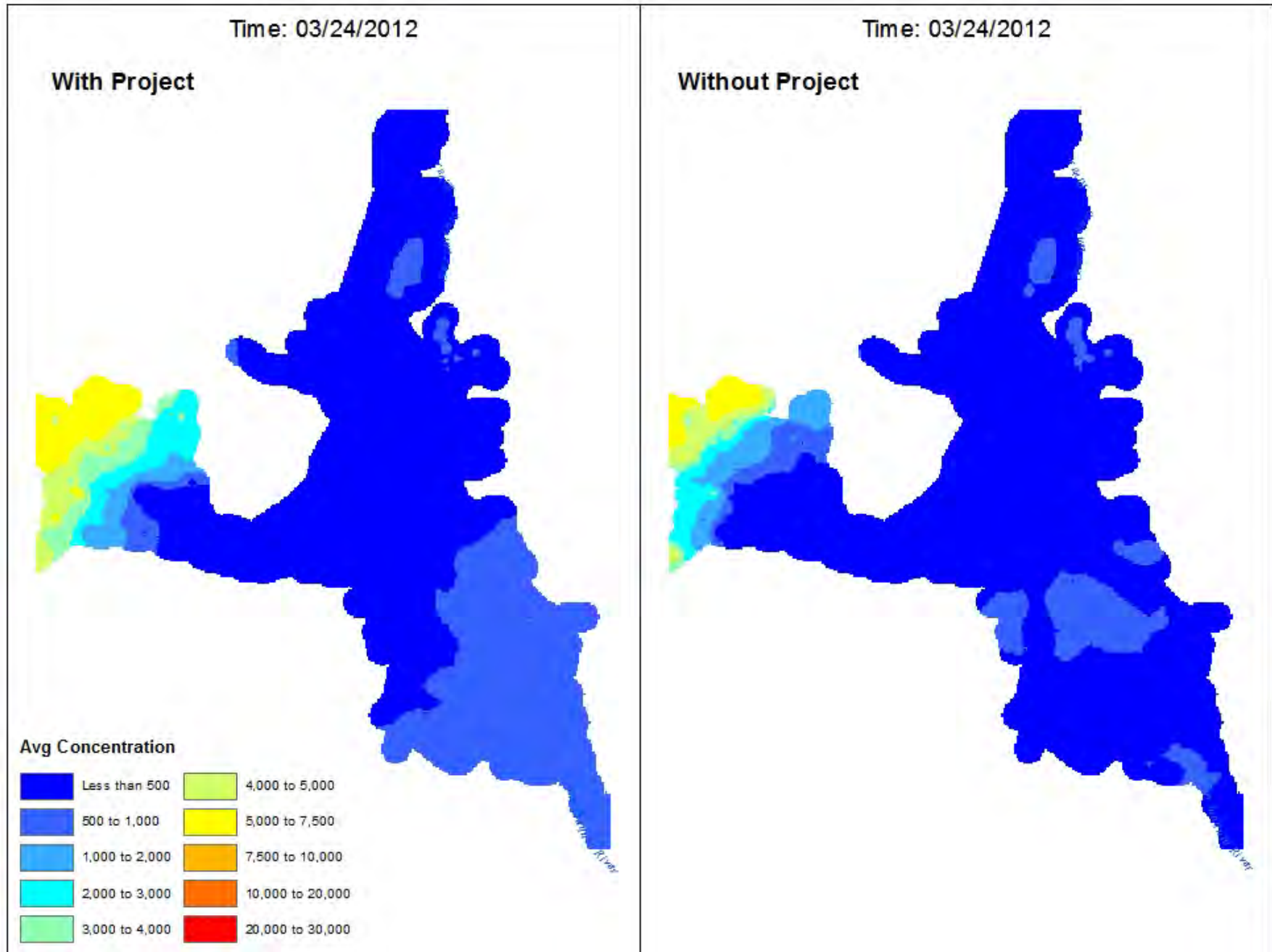
FIGURES 5 TO 52

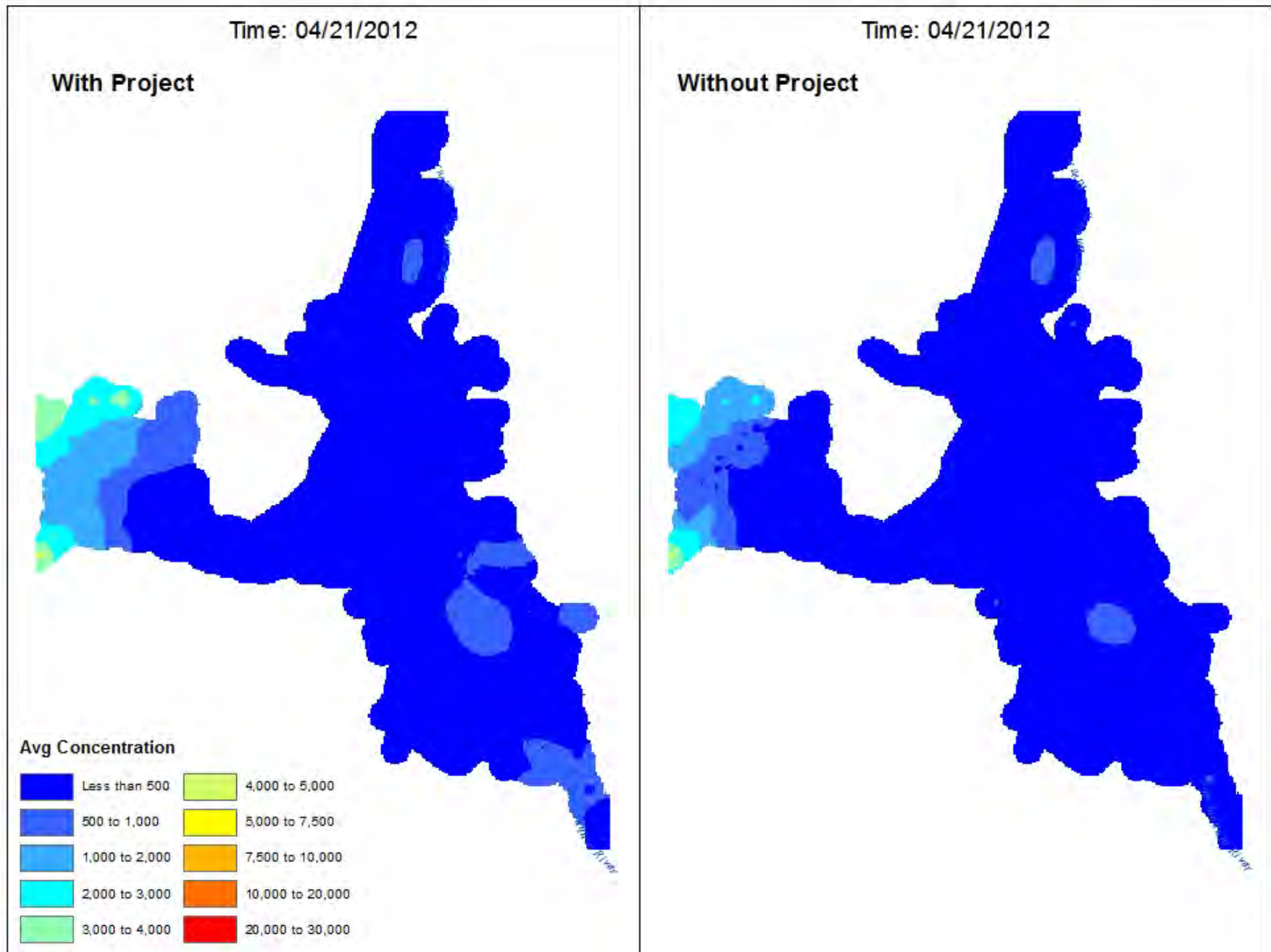
**Contour plots of DSM2 electrical conductivity in the Delta on a 4 week timestep for 2011-2015 for With Project conditions (left) and Without Project conditions (right)**

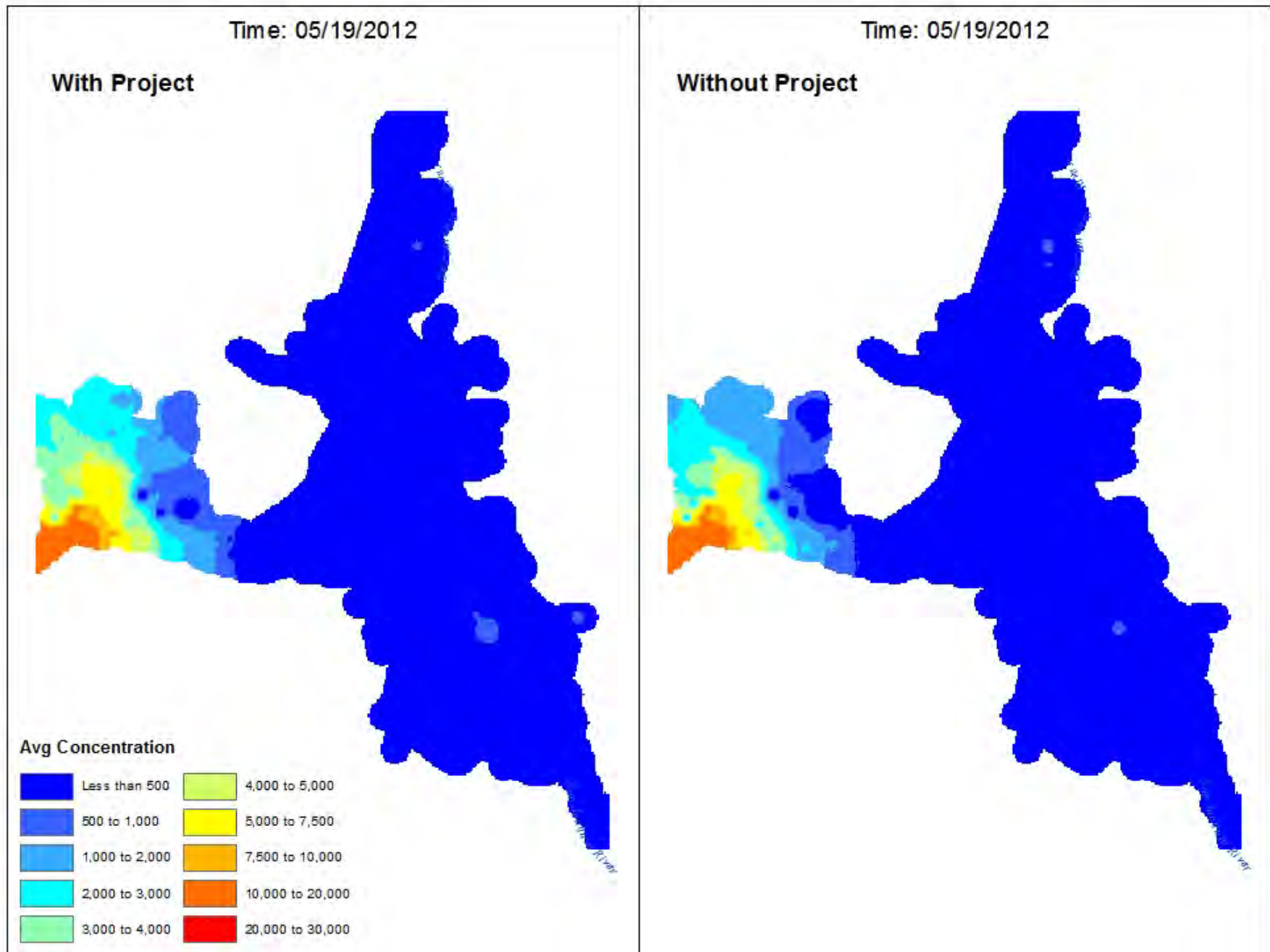




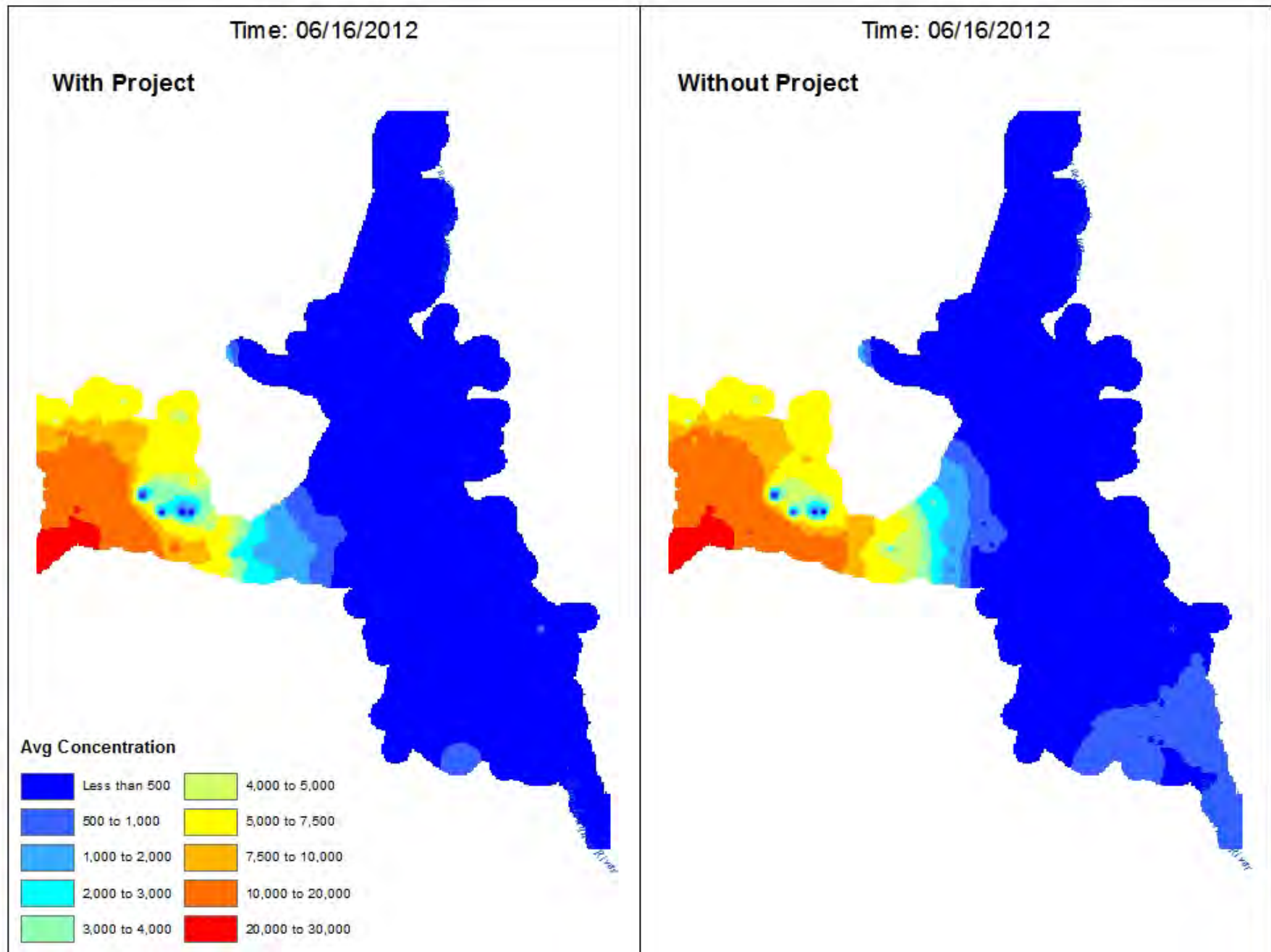


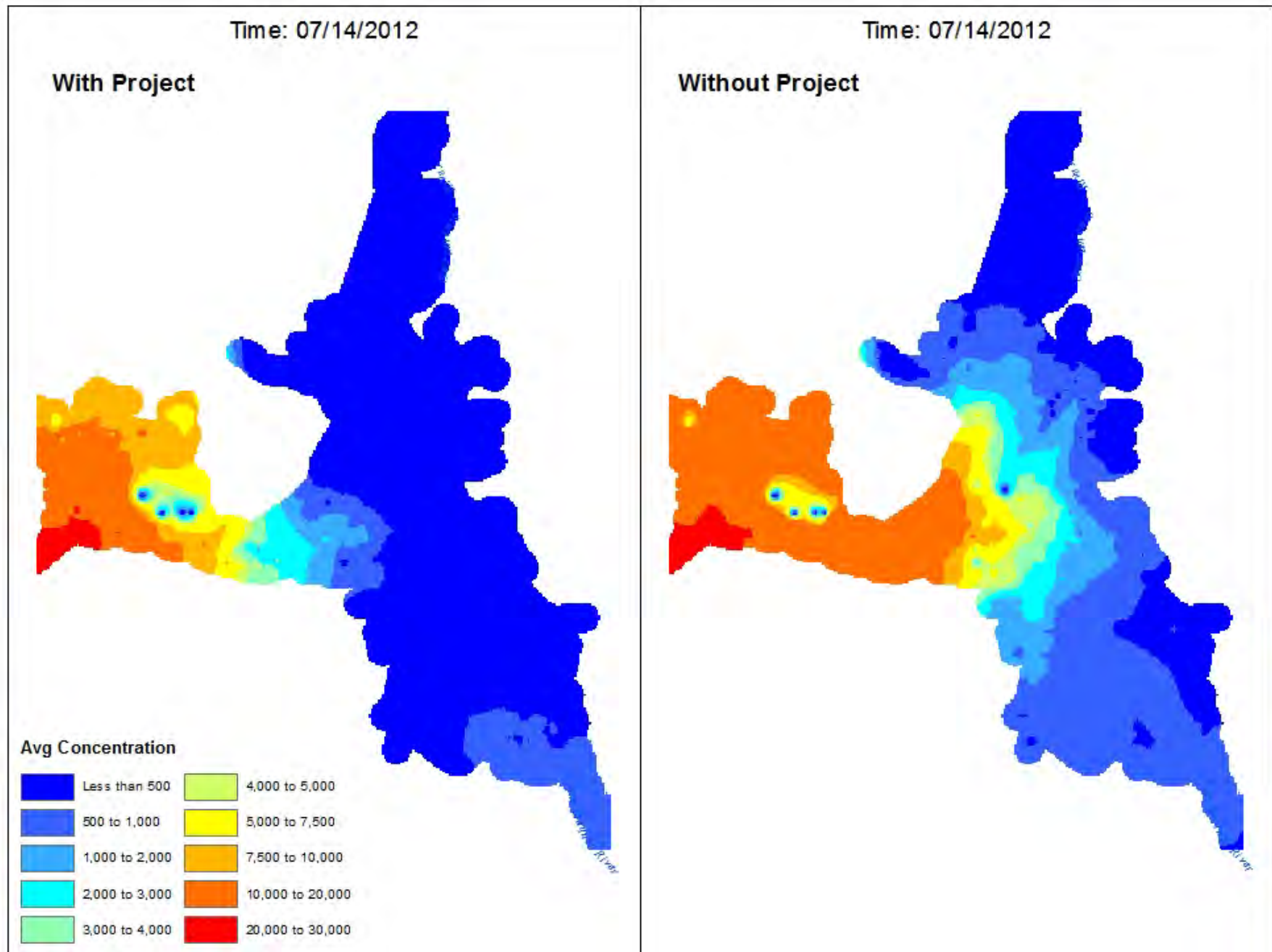


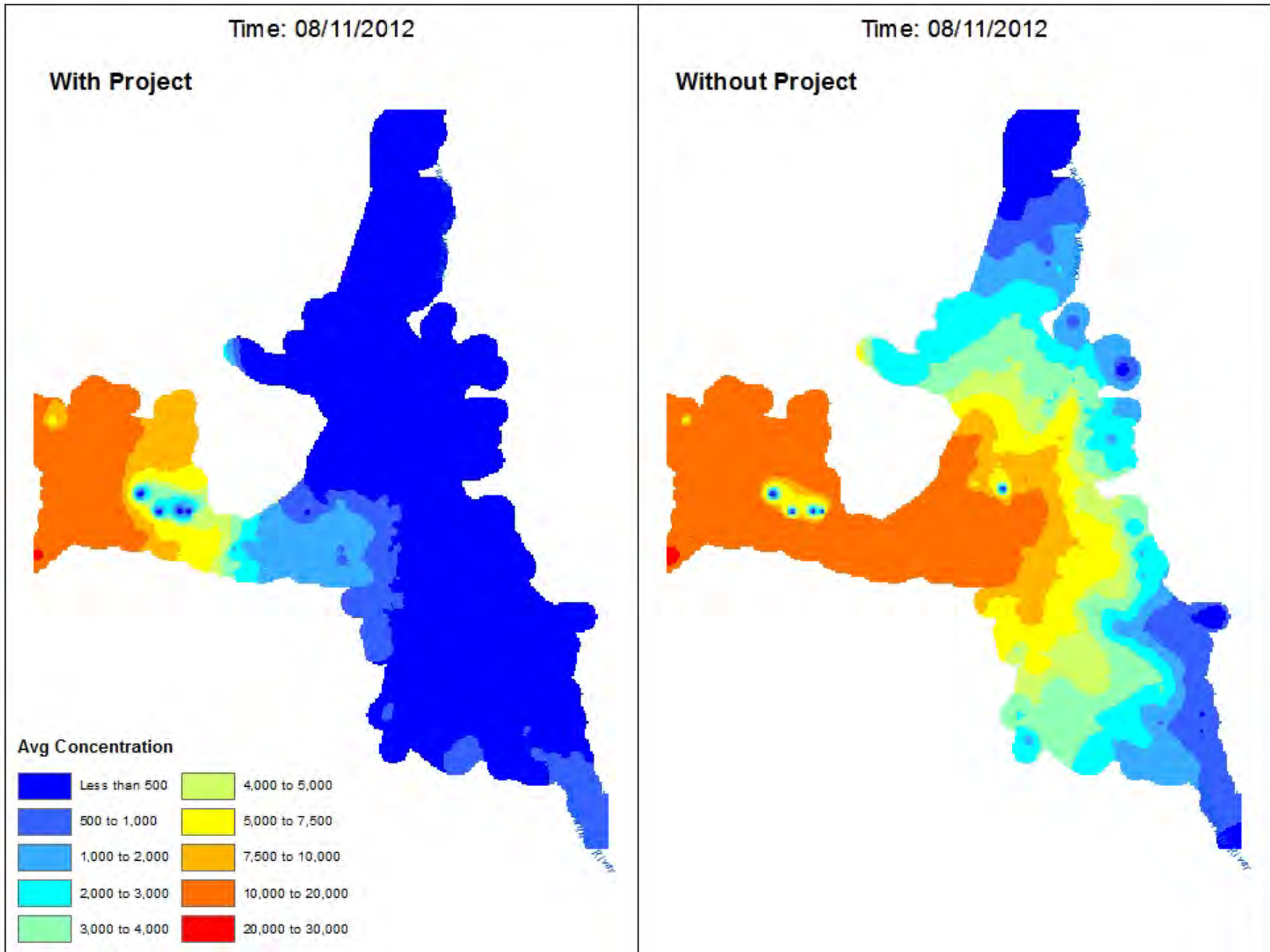


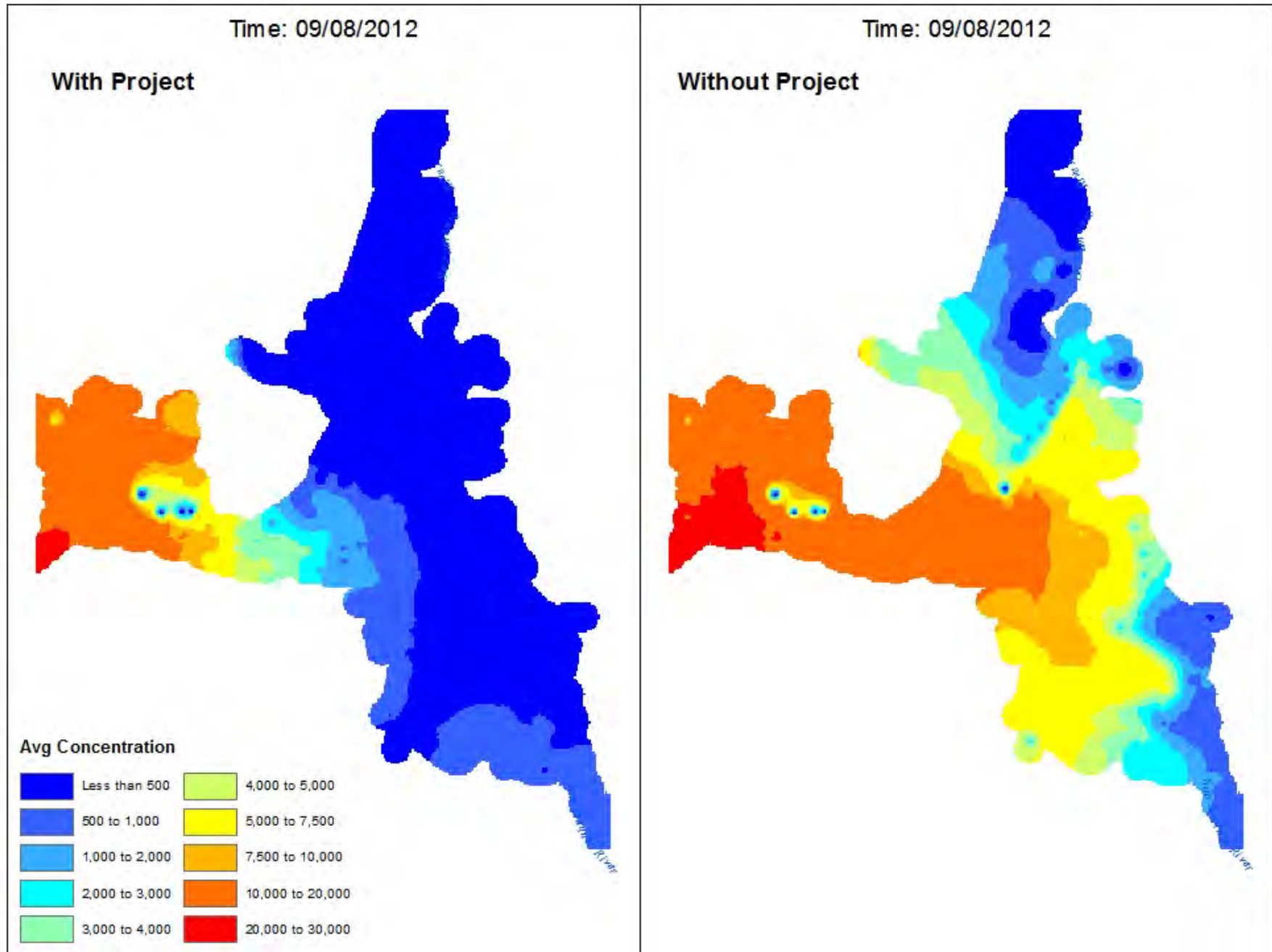




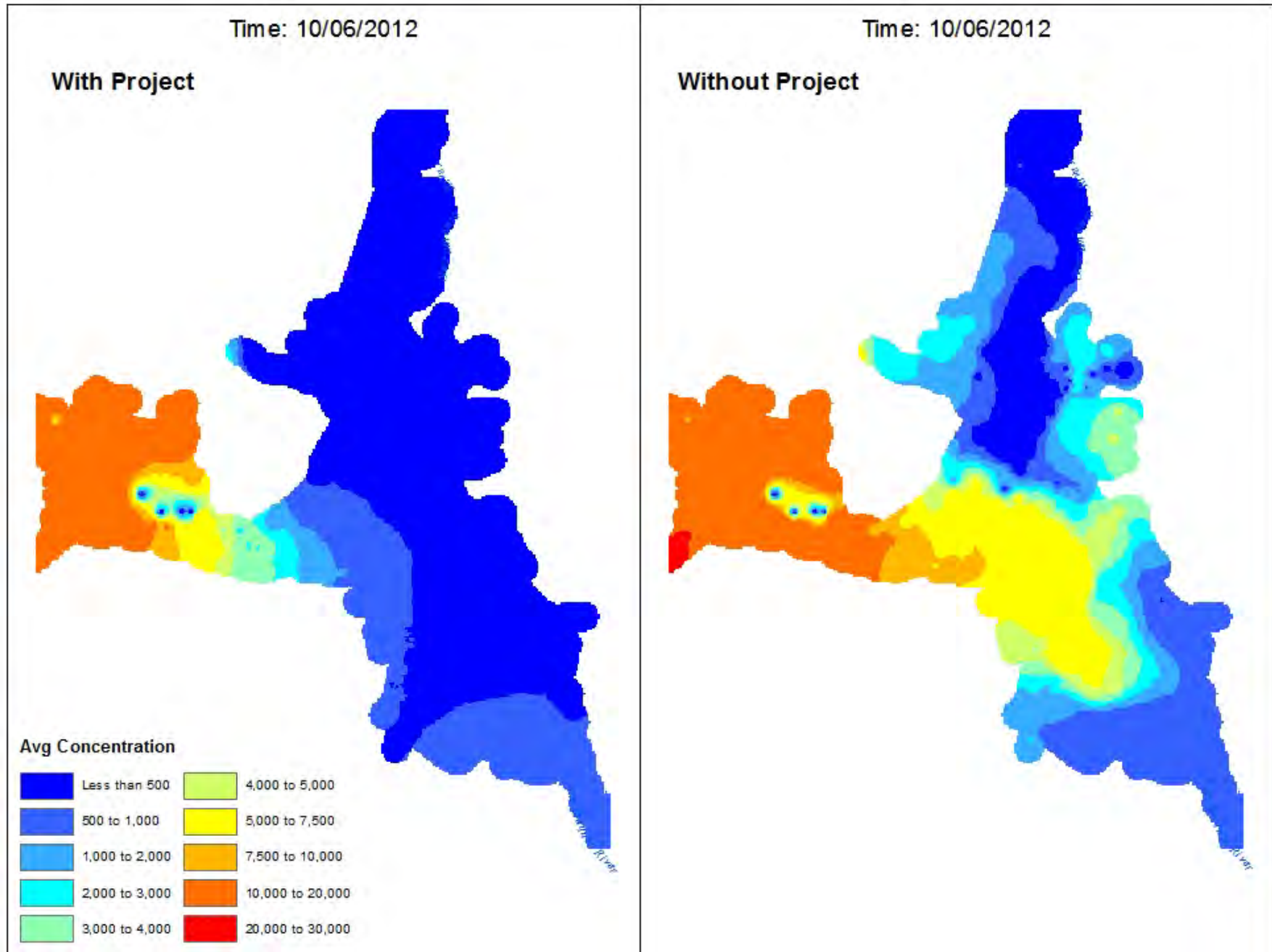


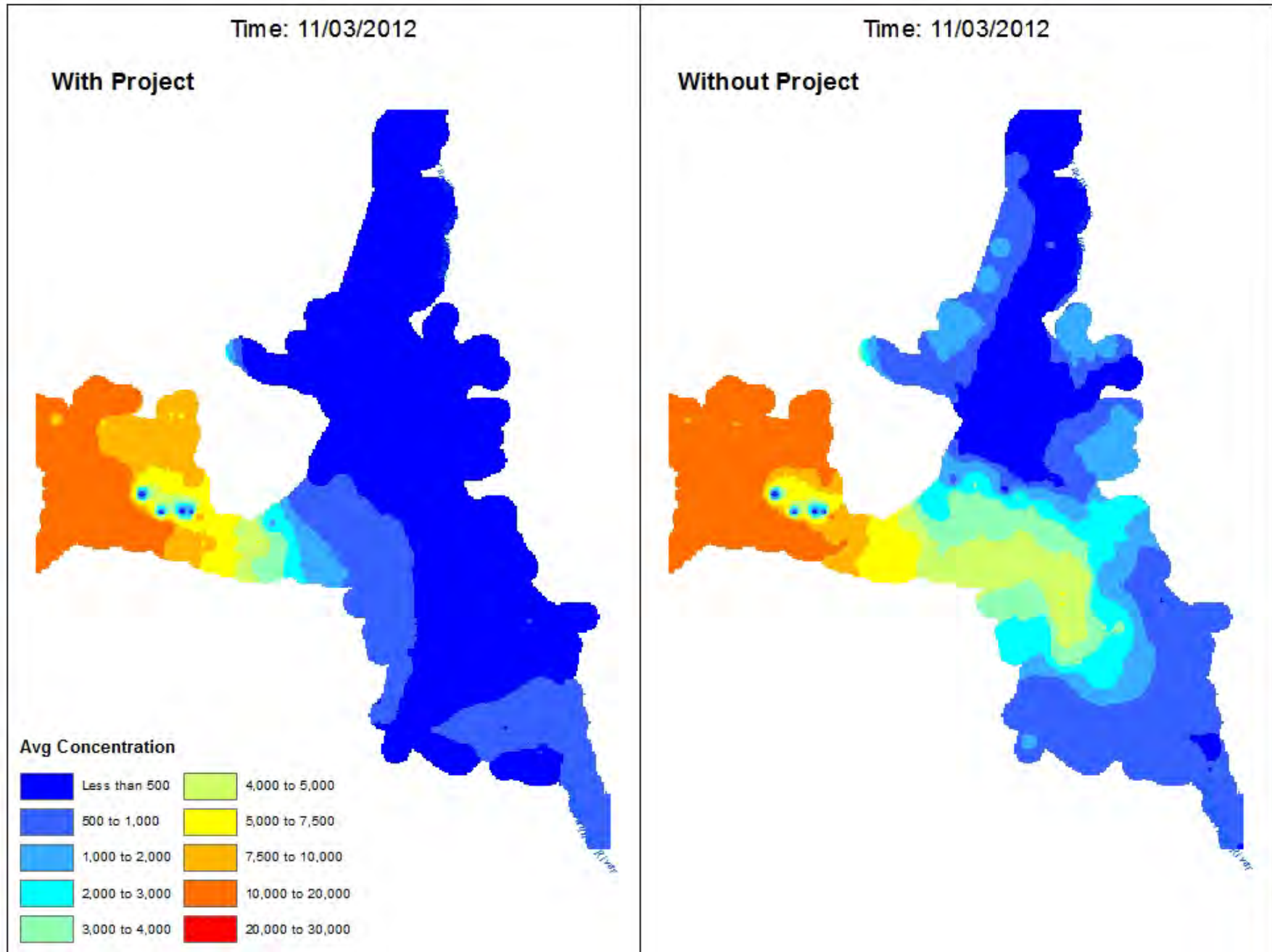


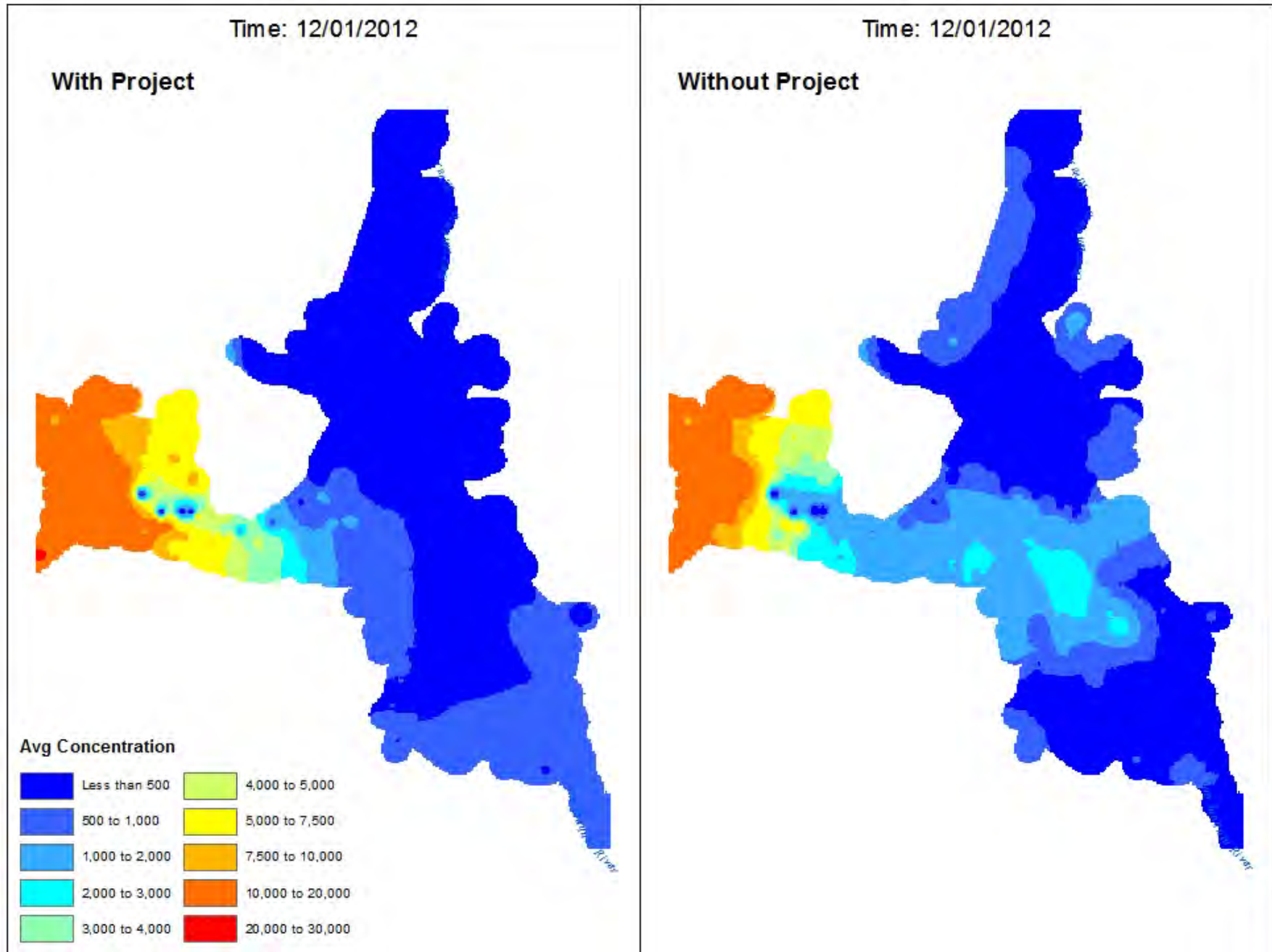


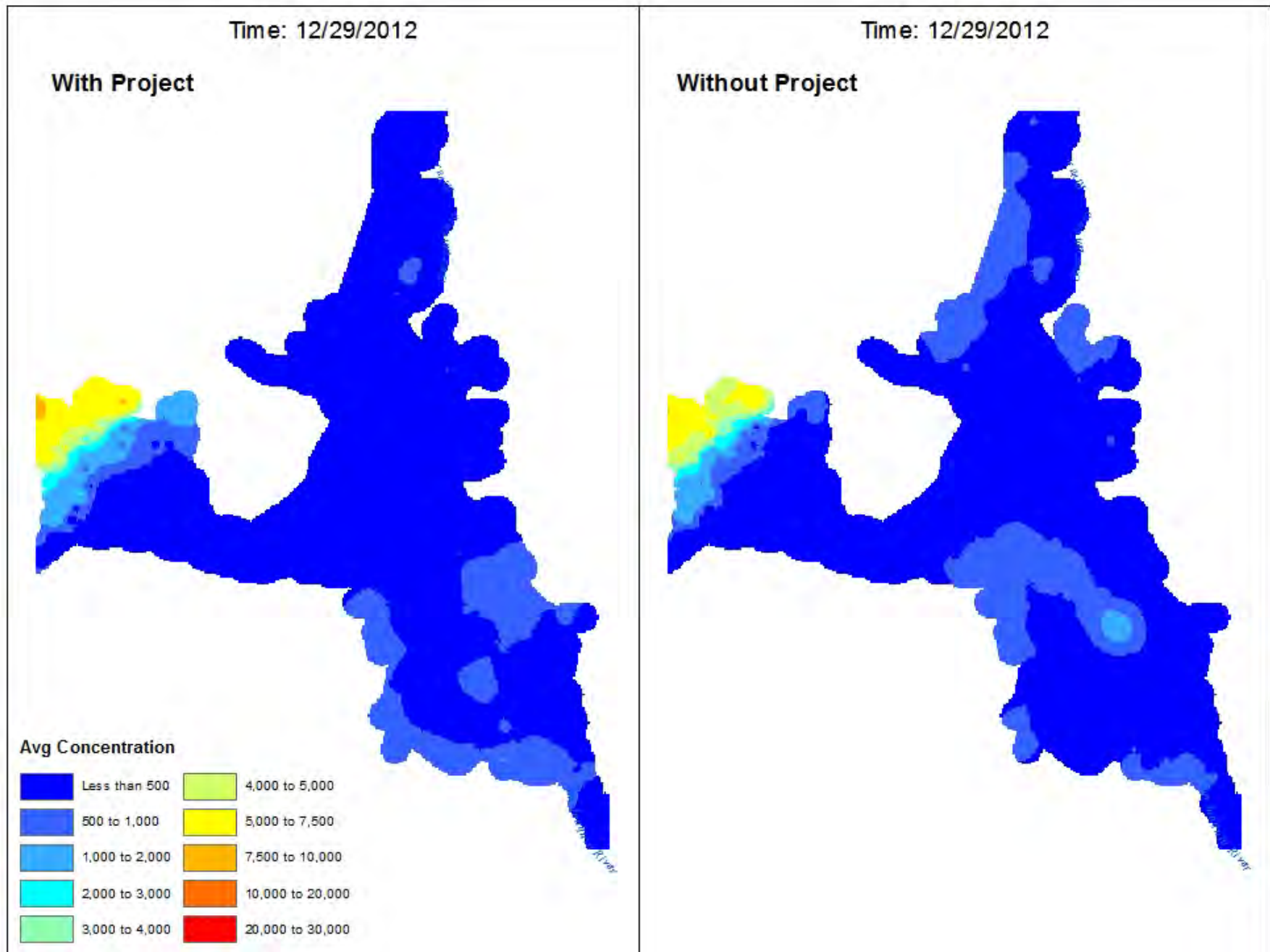




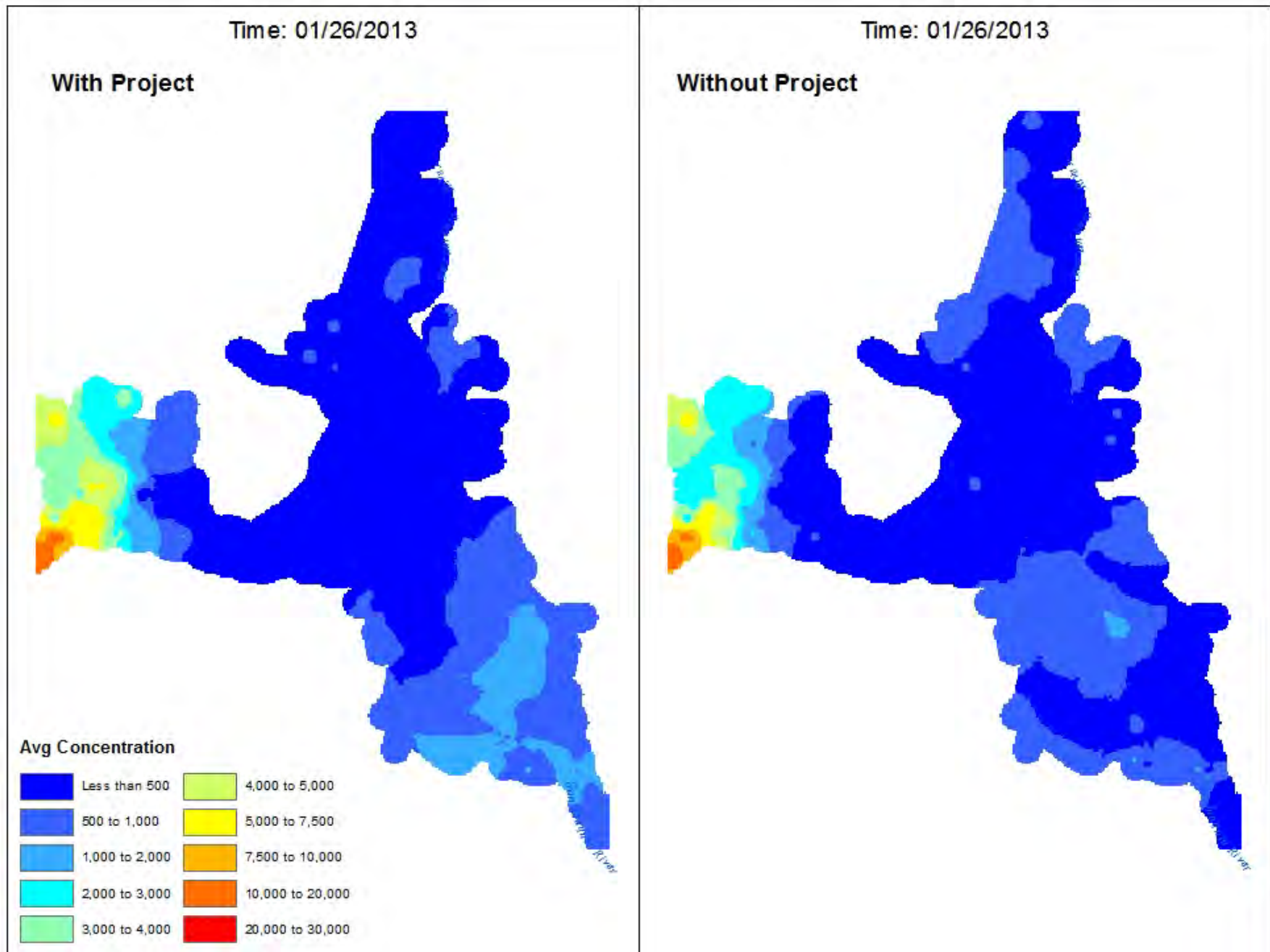


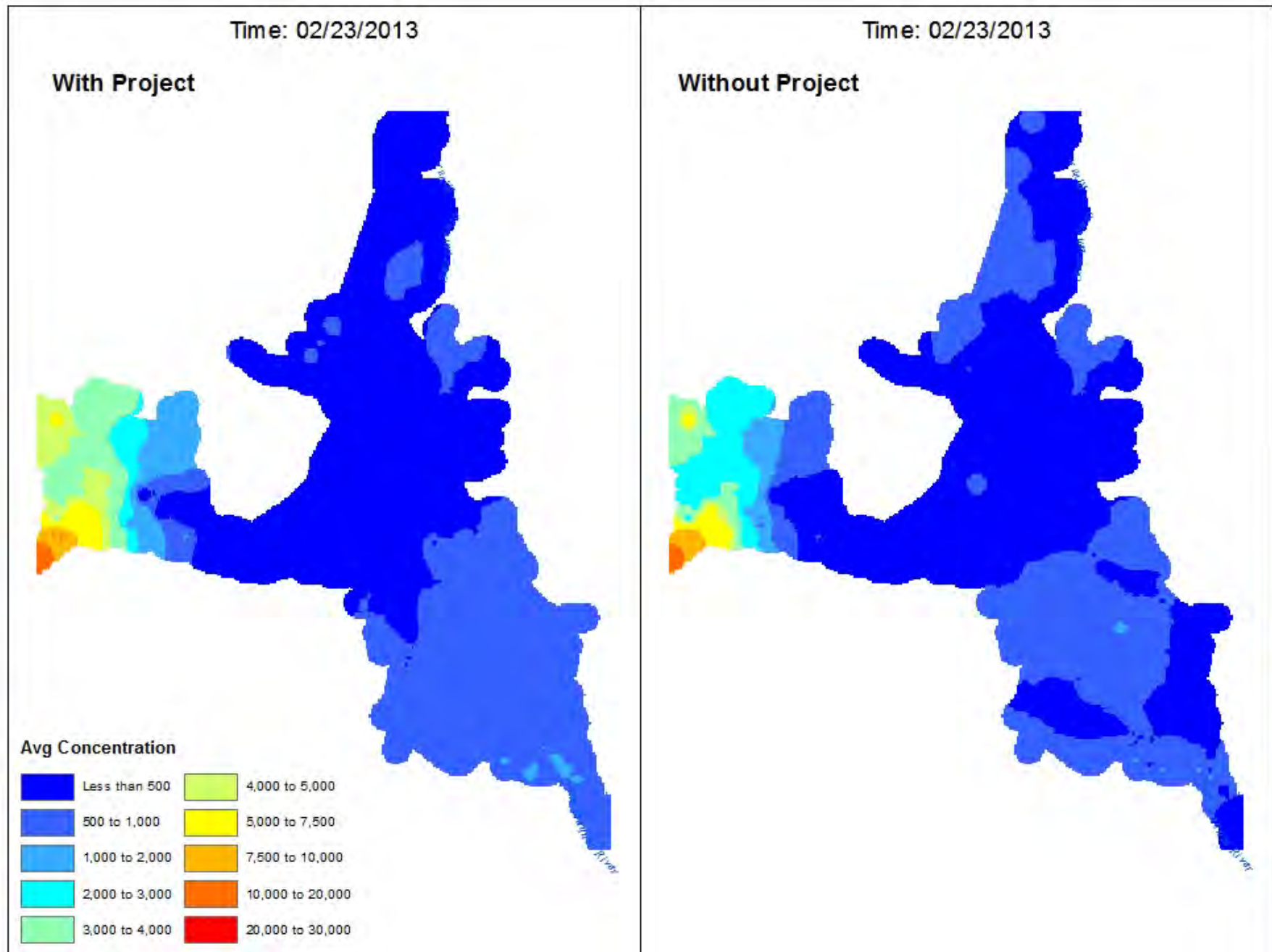


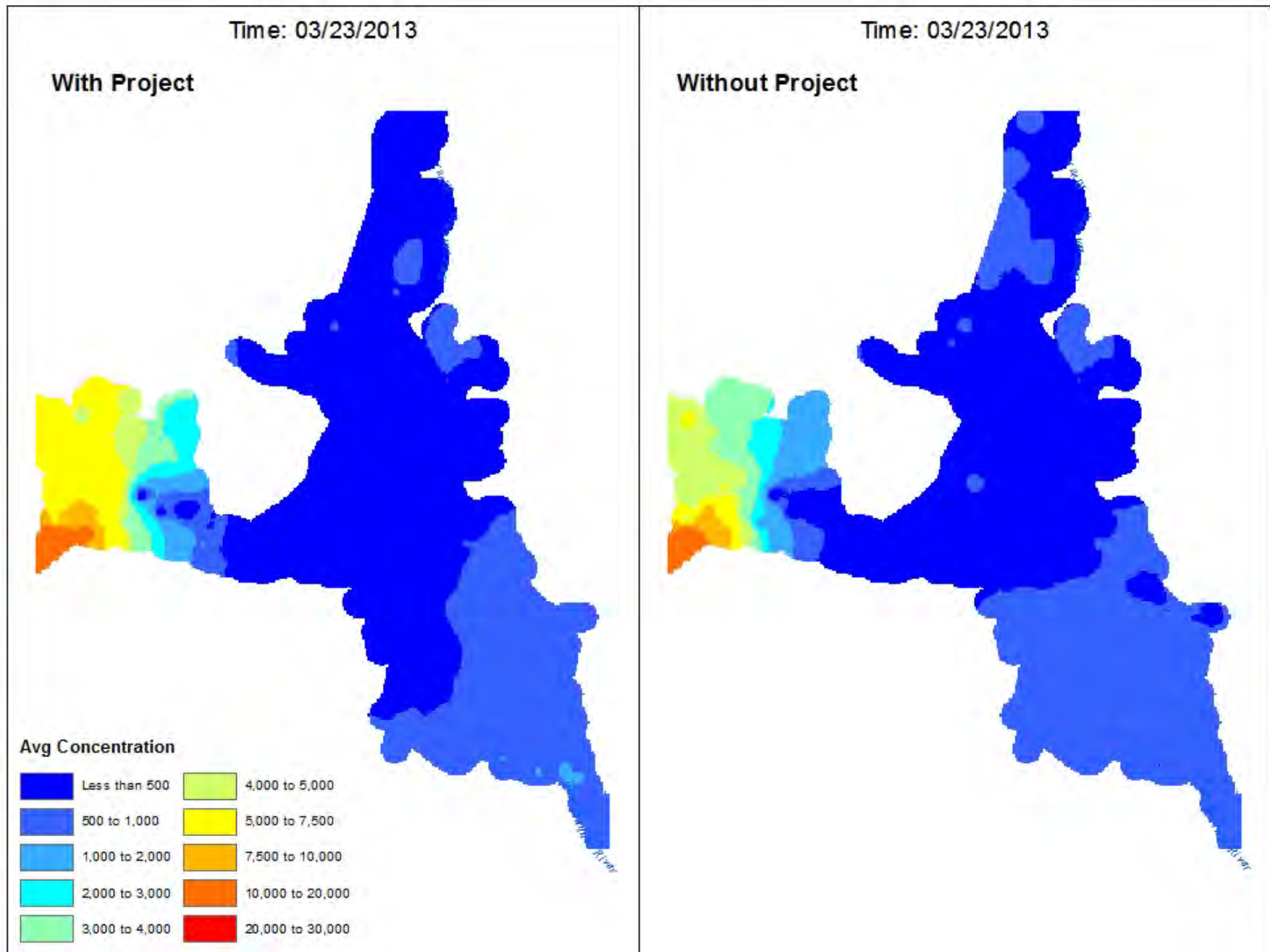


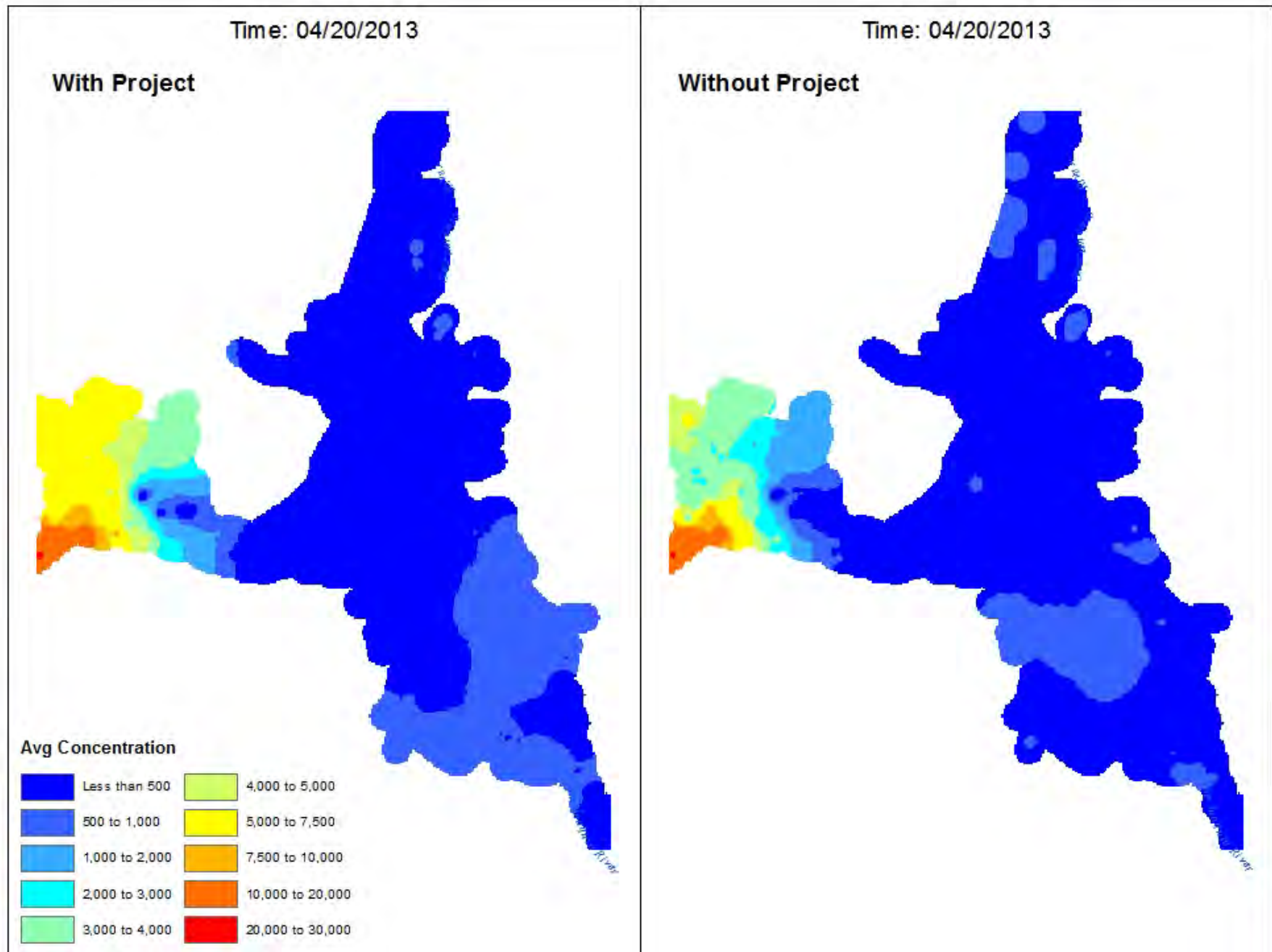




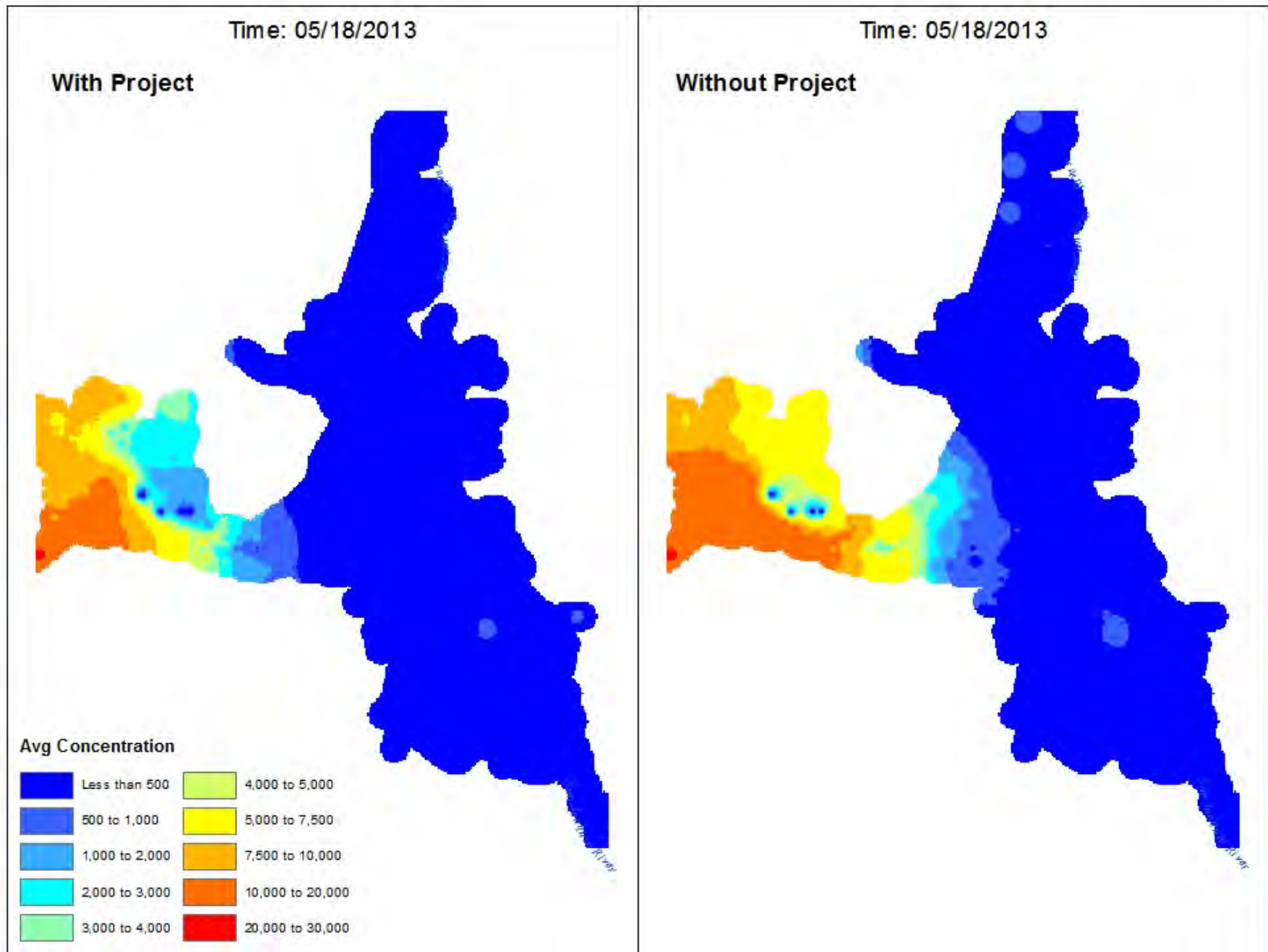


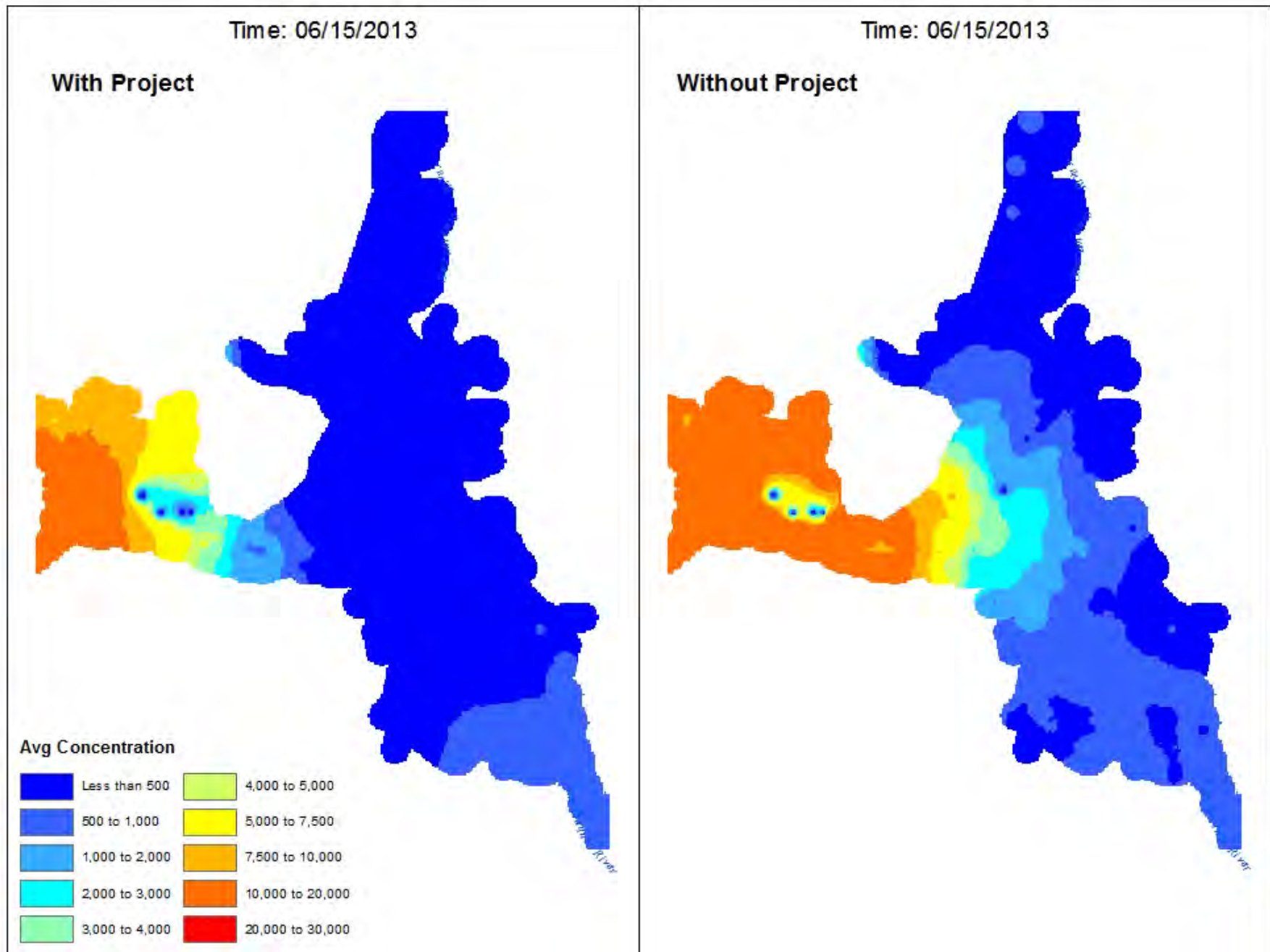


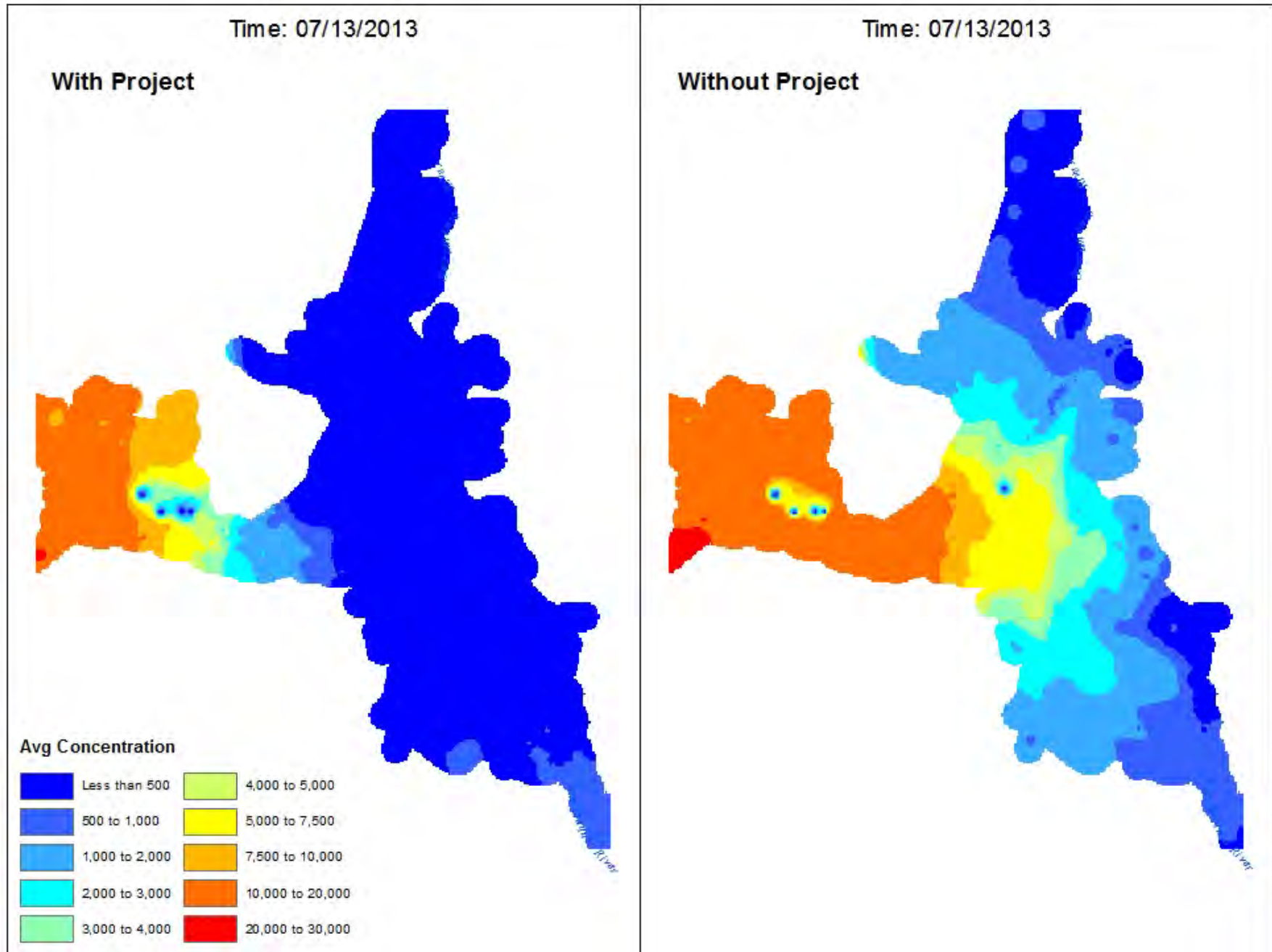


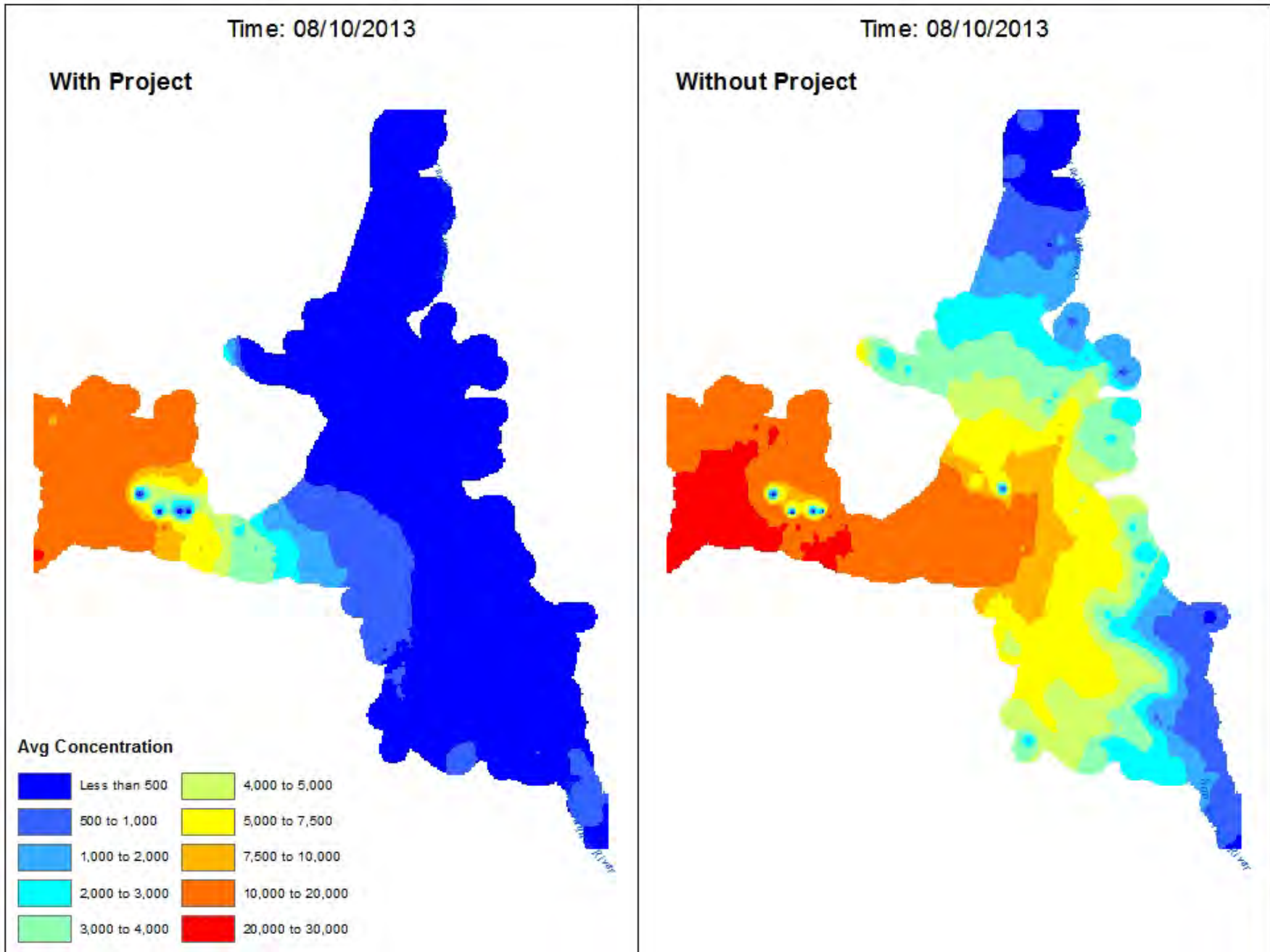




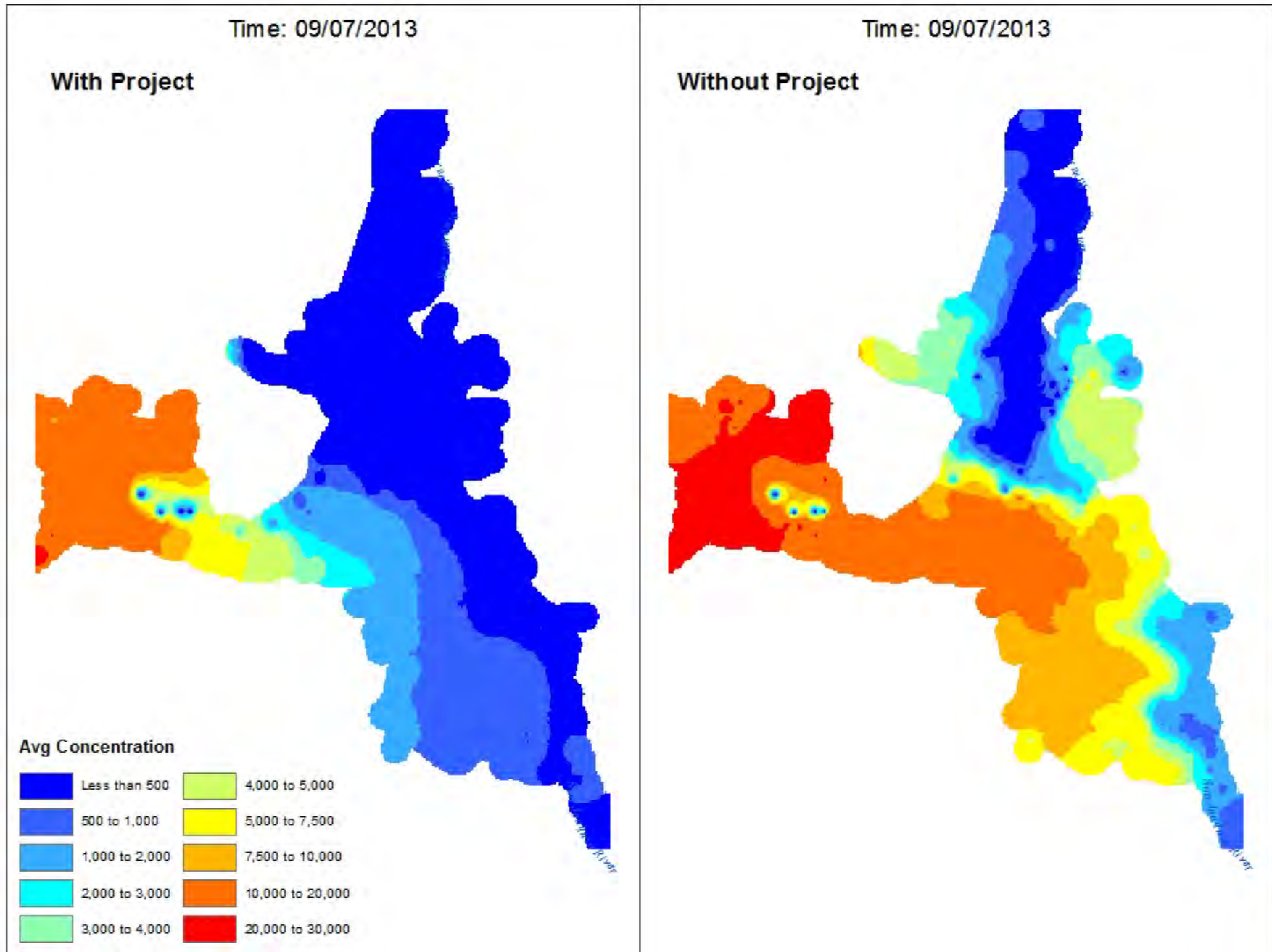


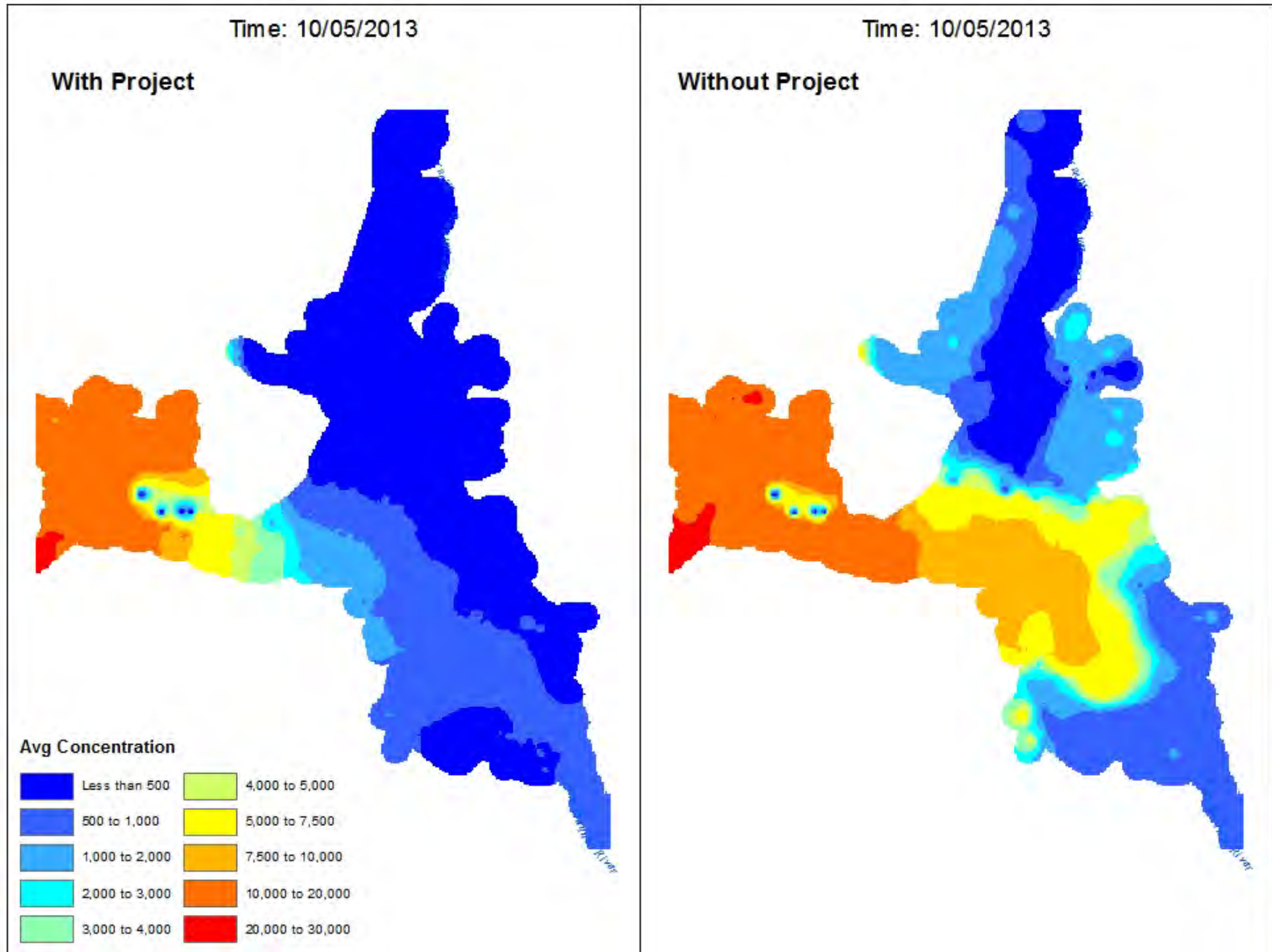


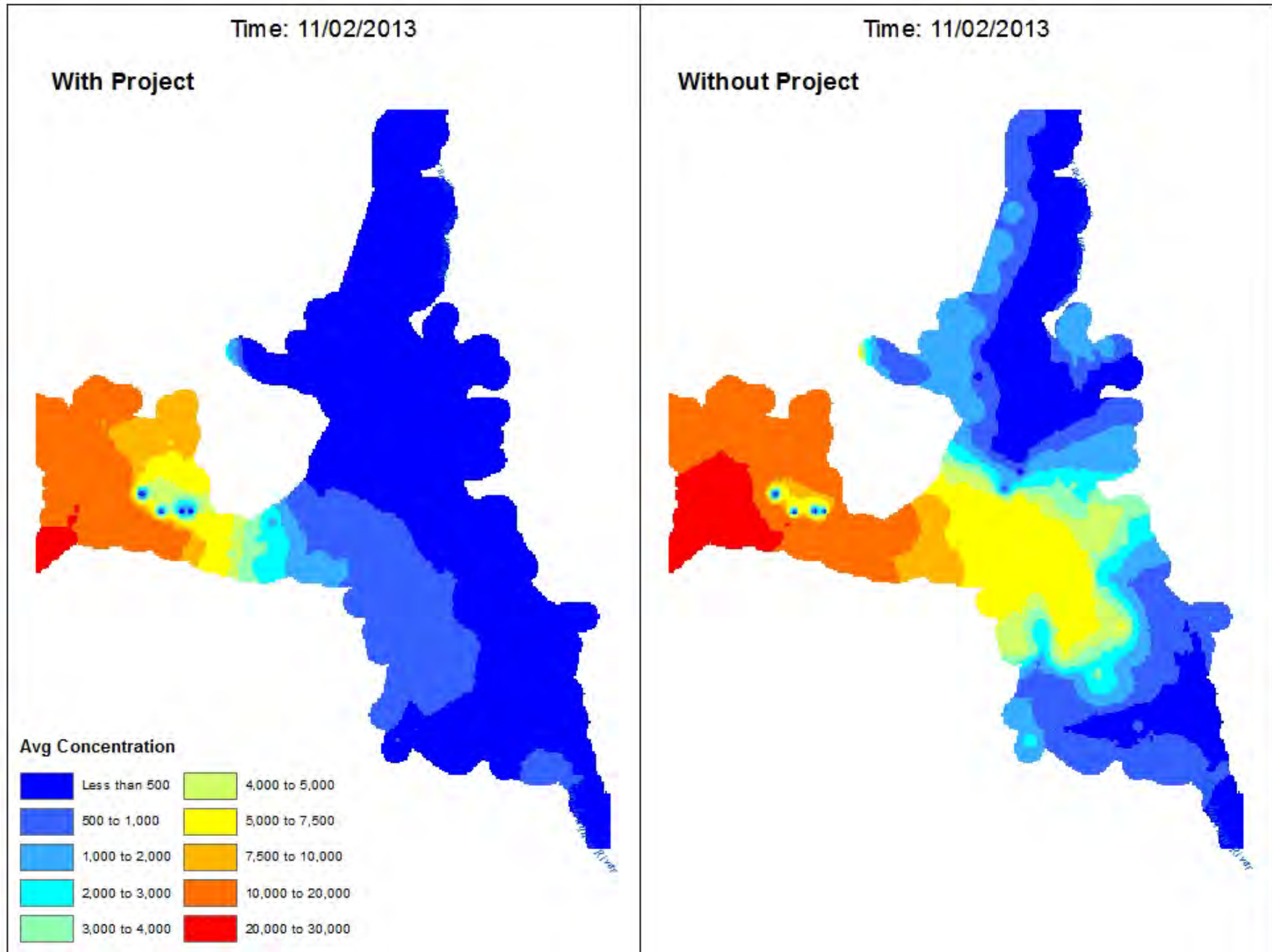


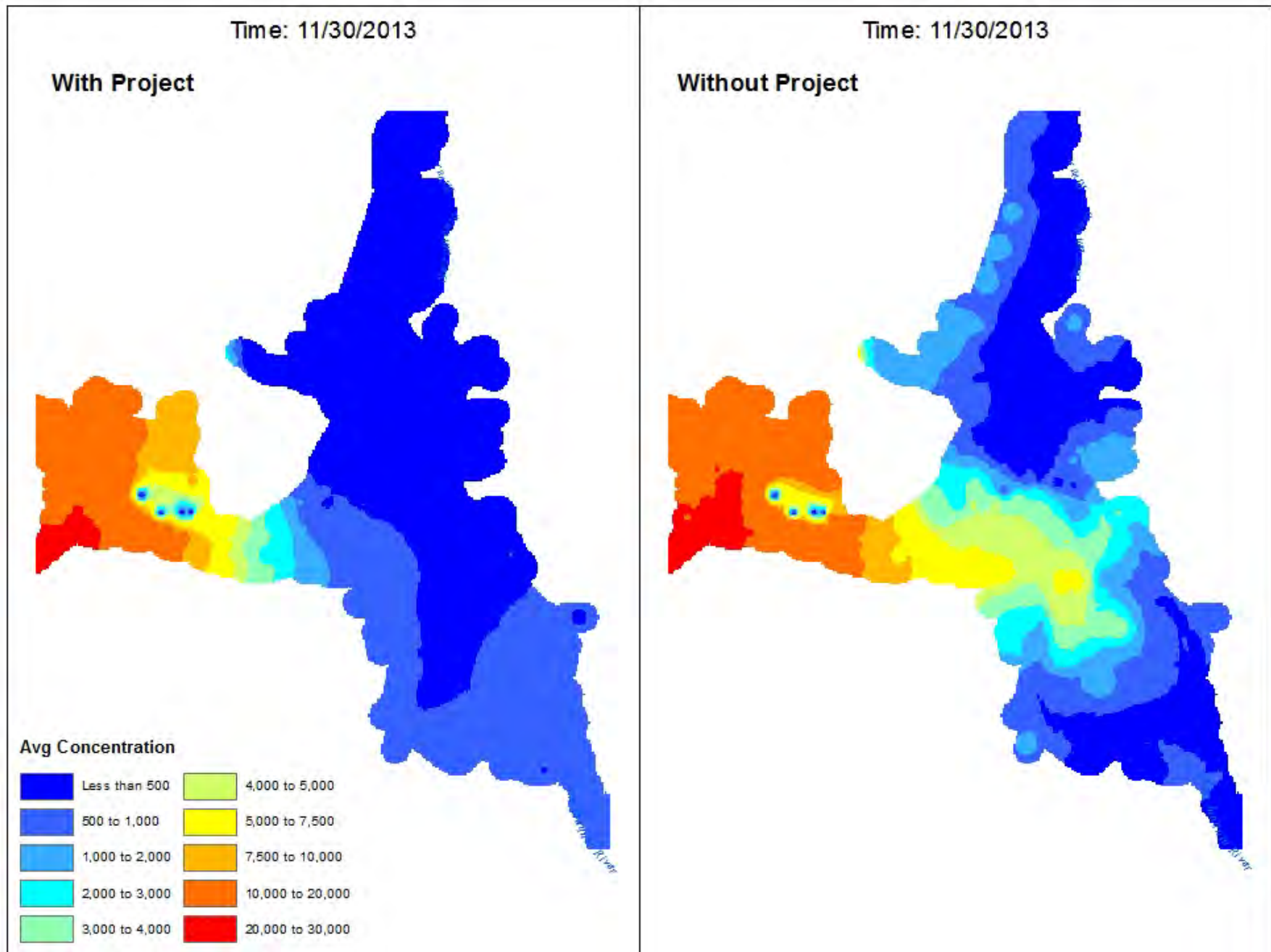




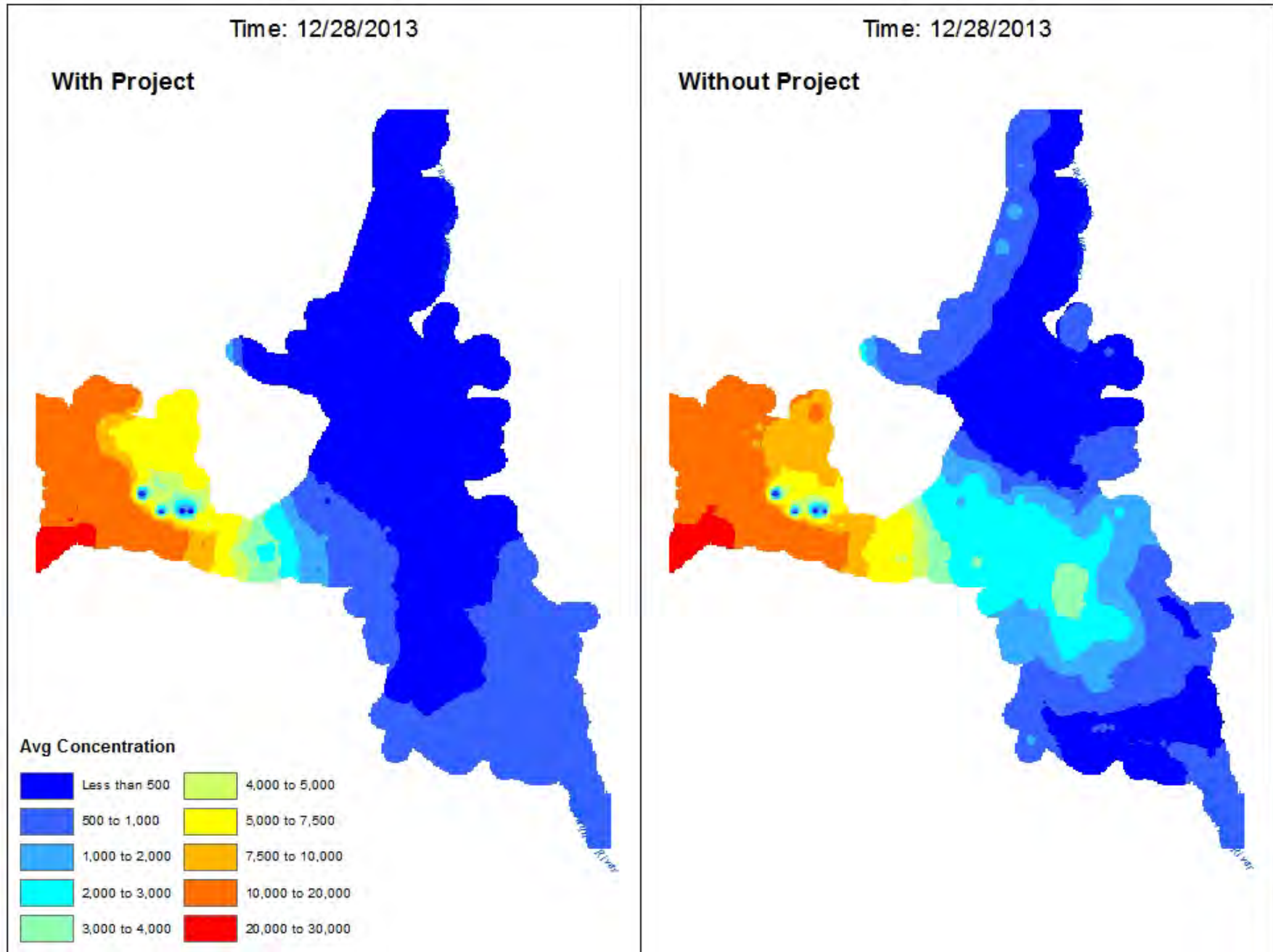


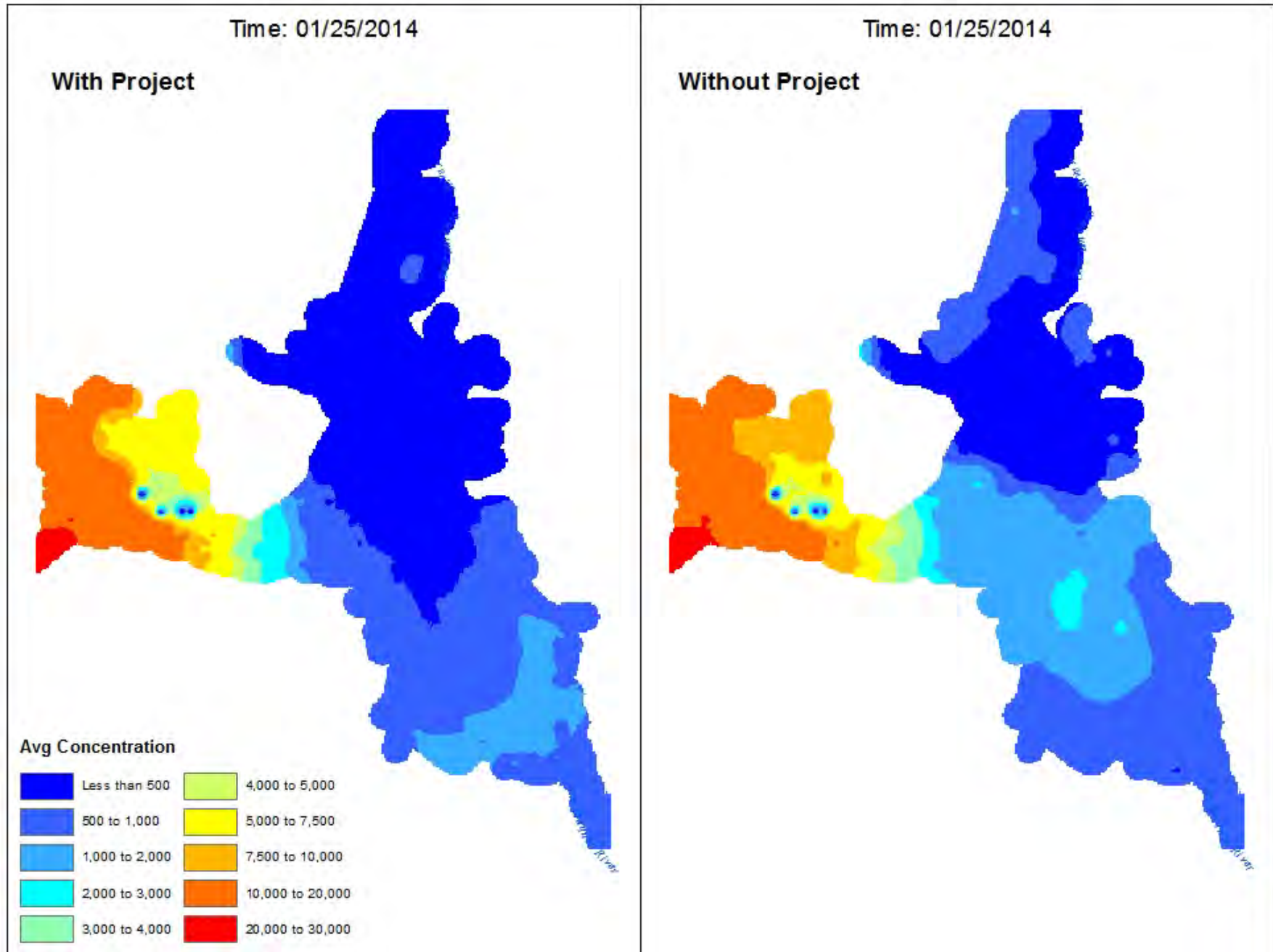


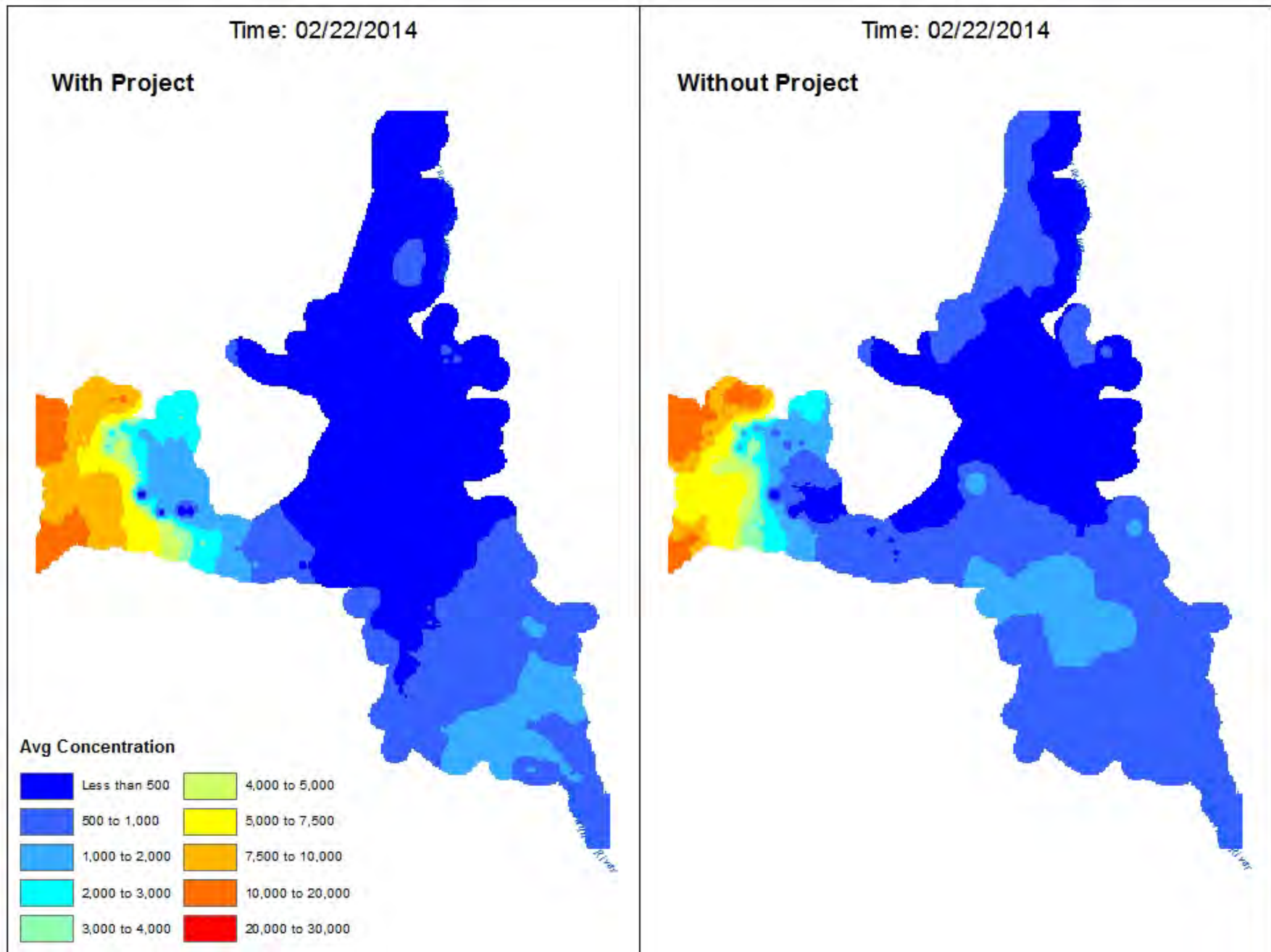


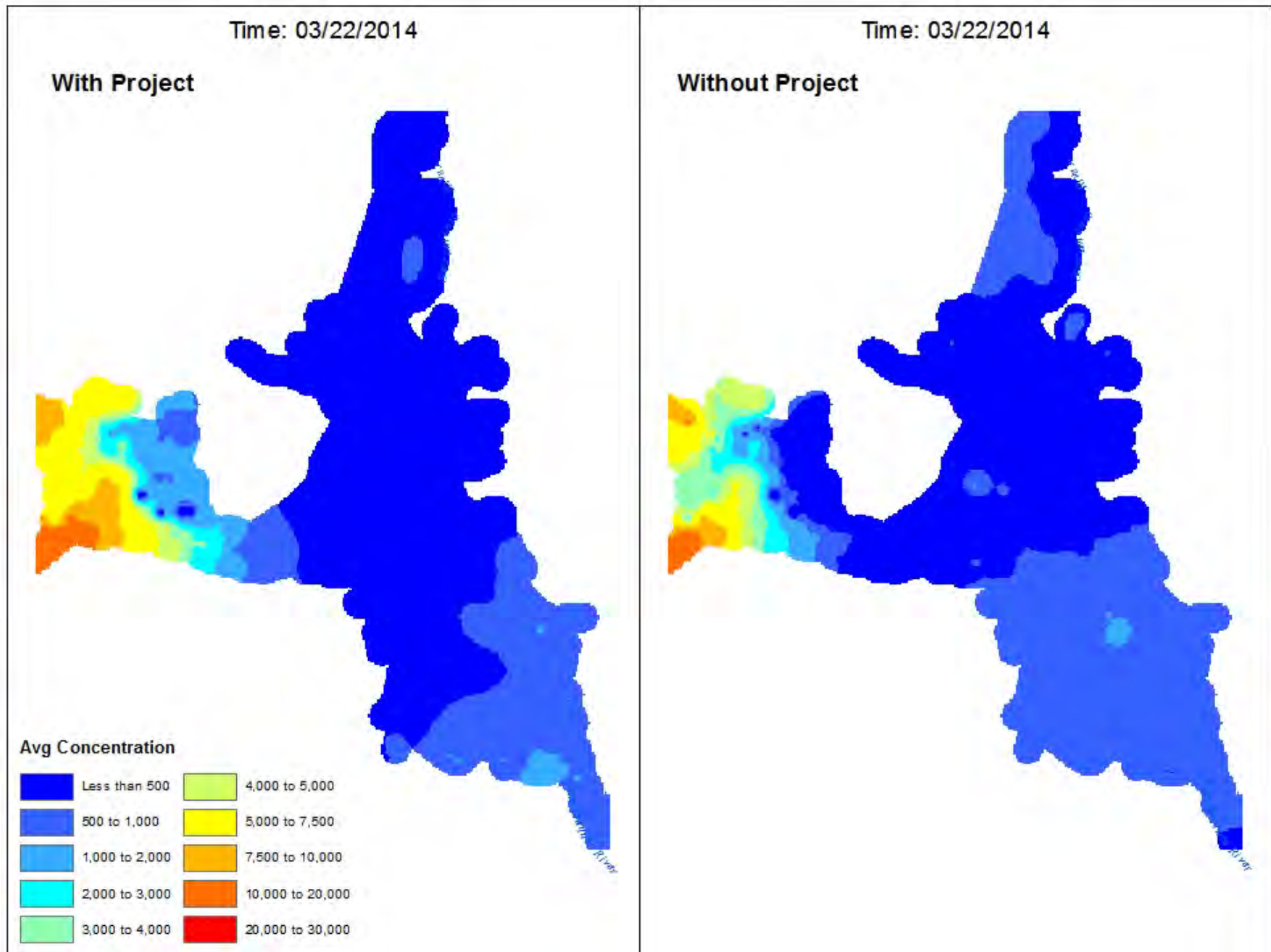




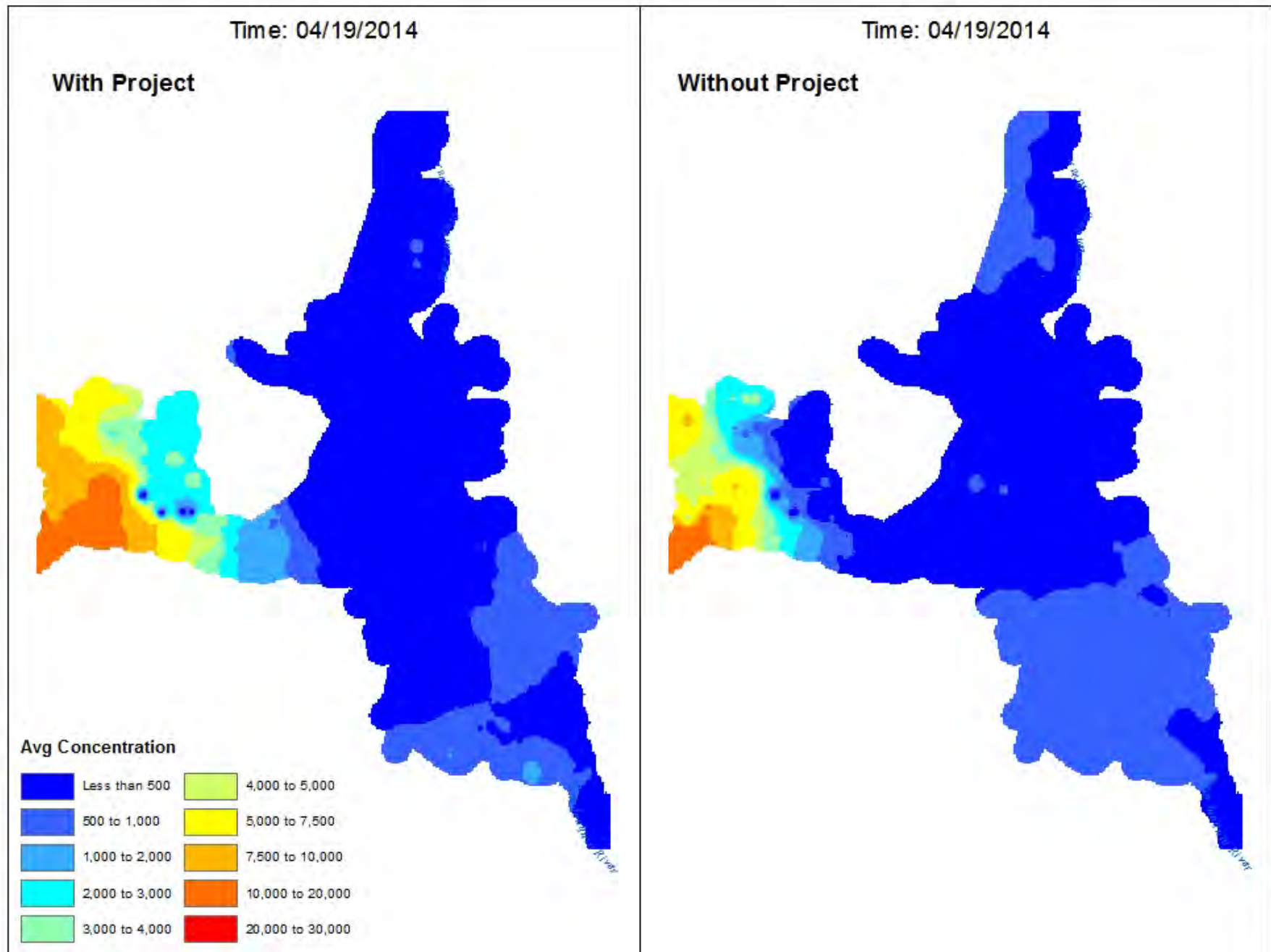


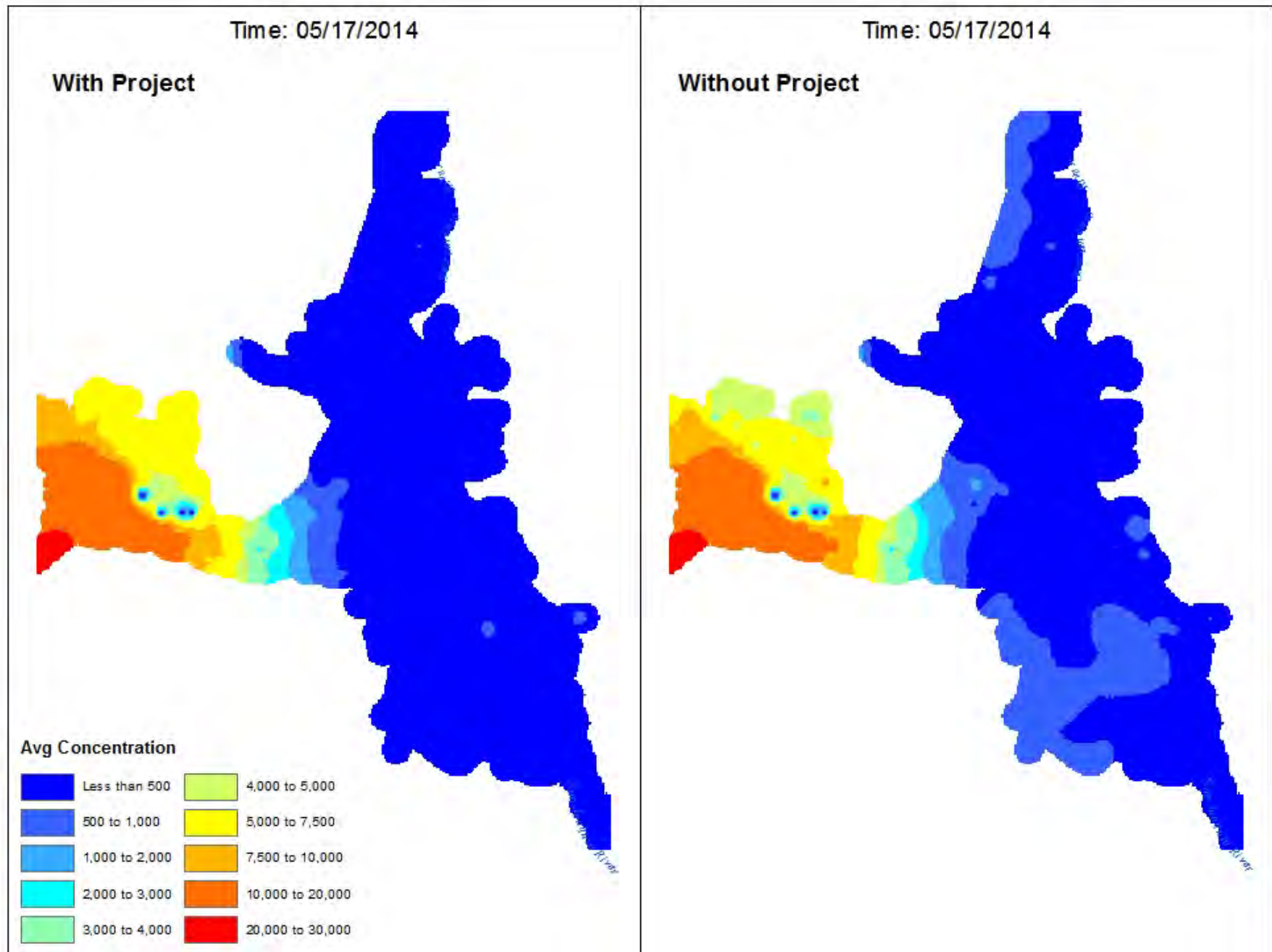


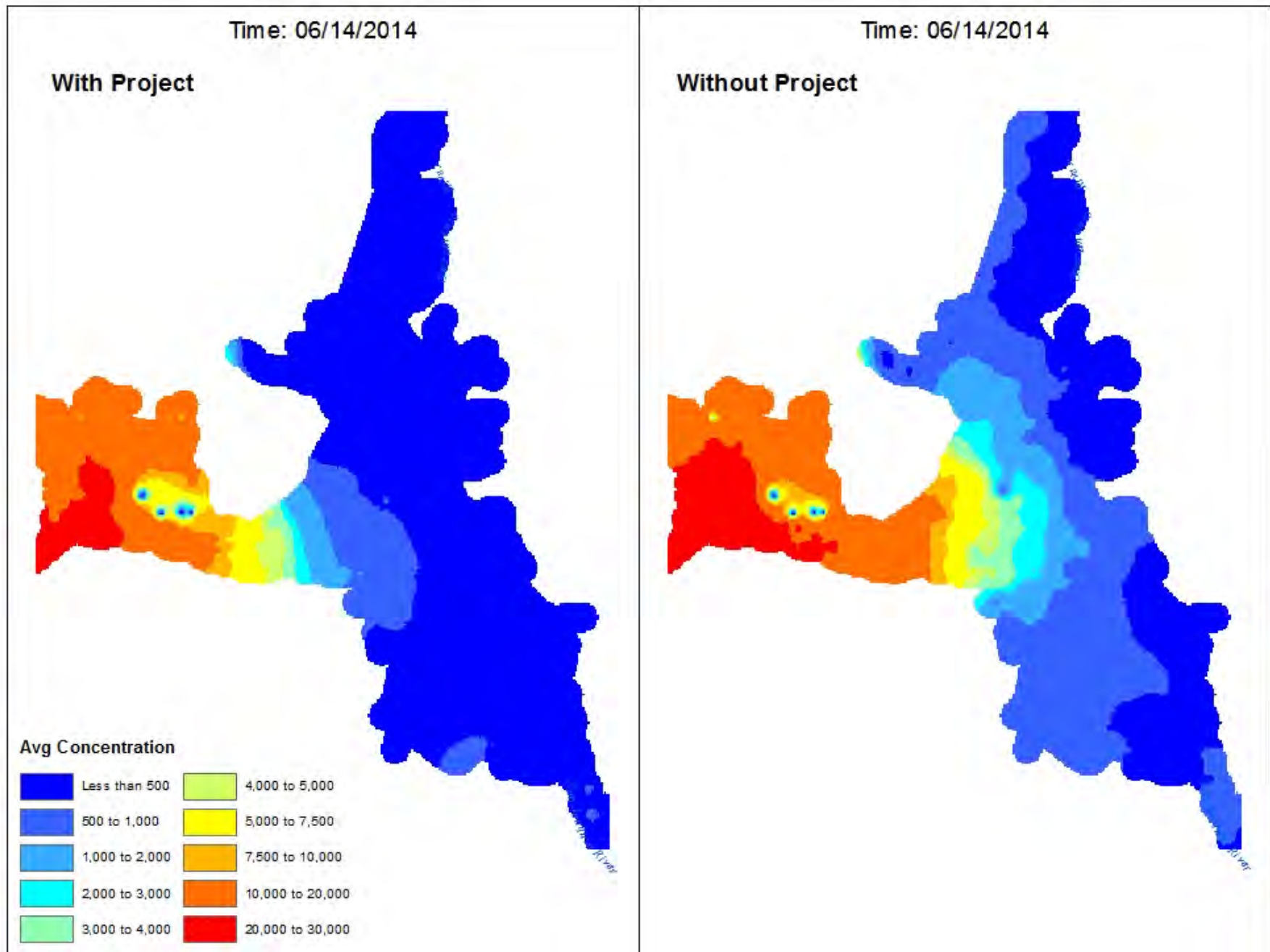


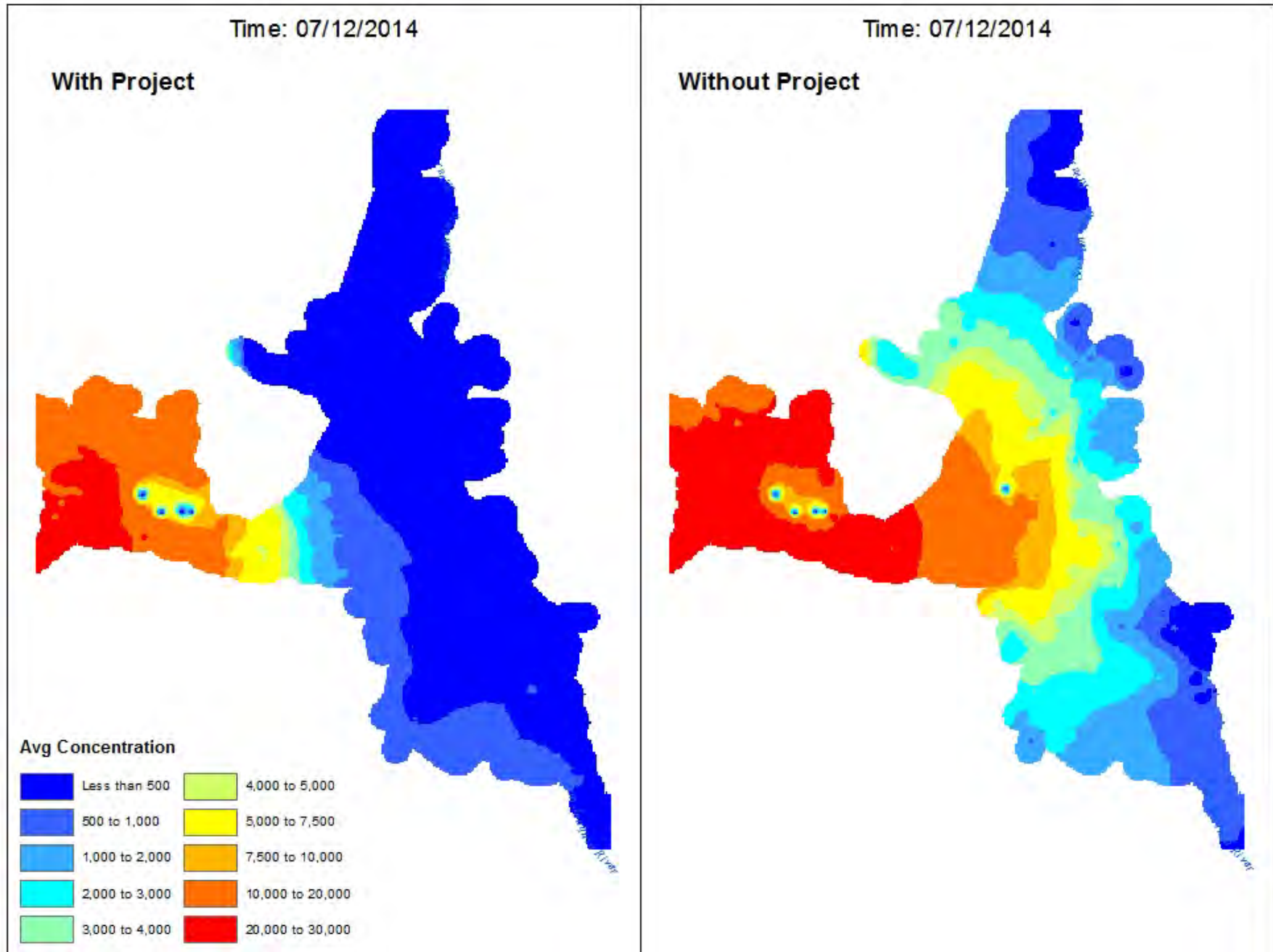




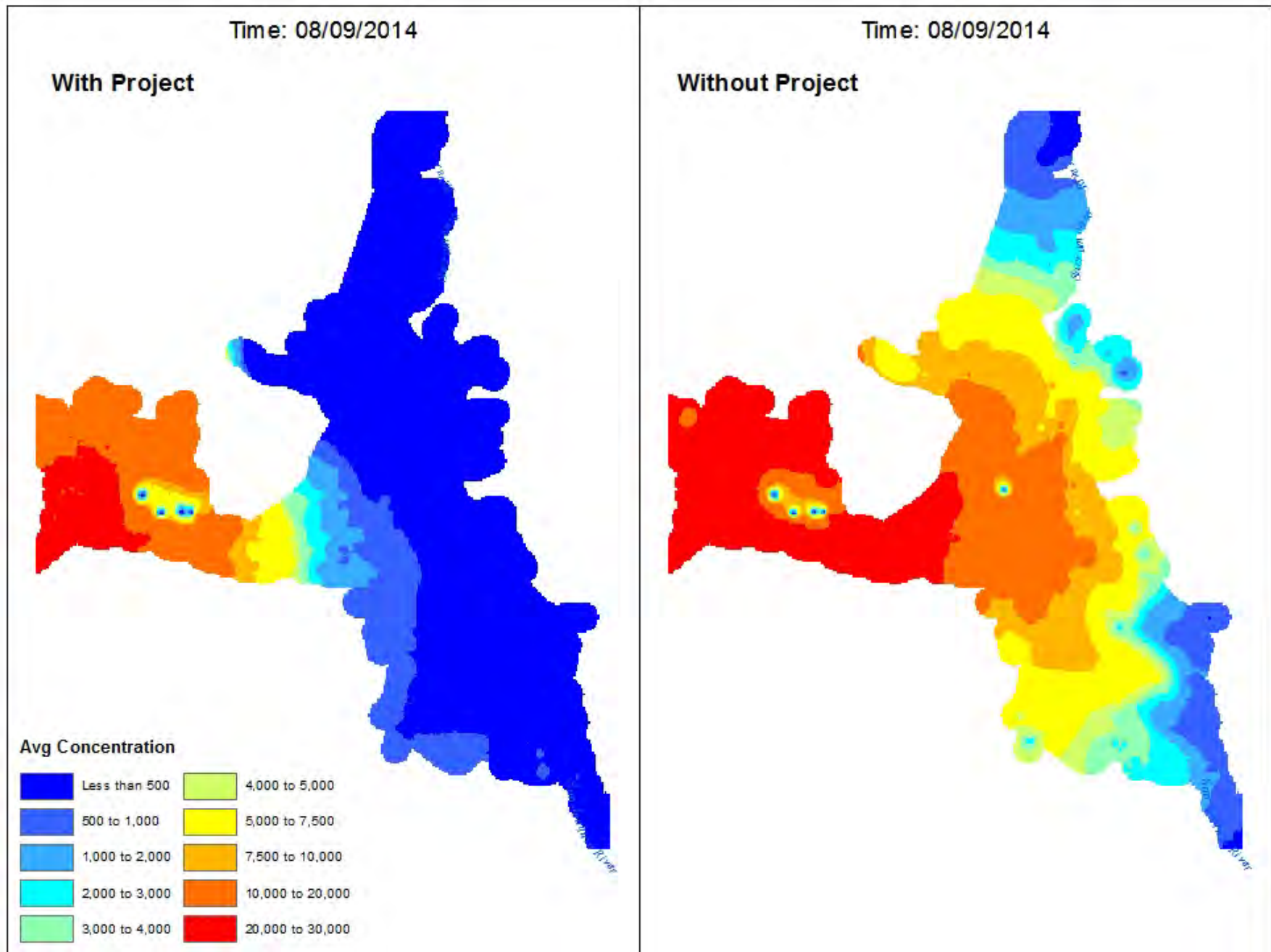


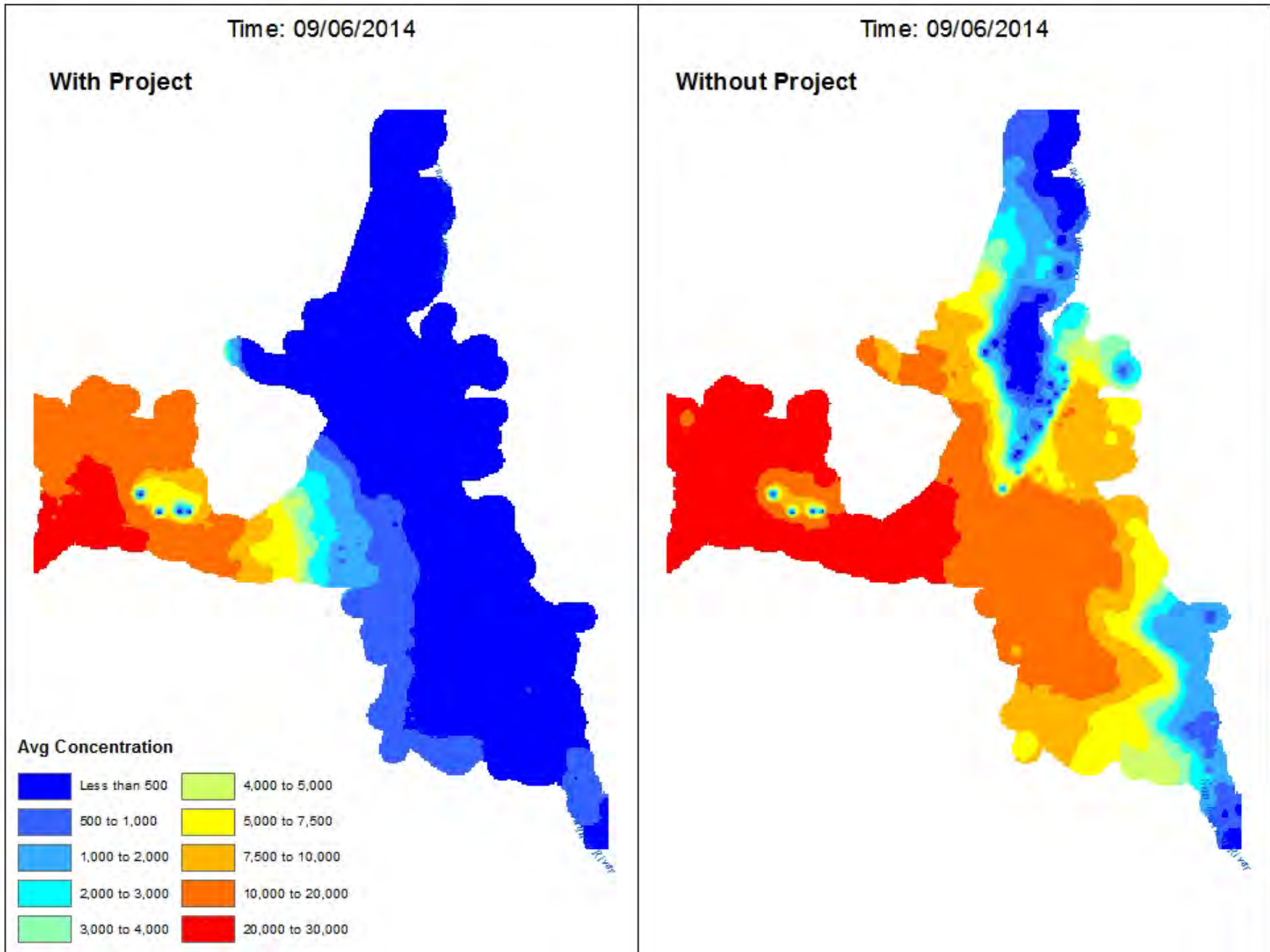


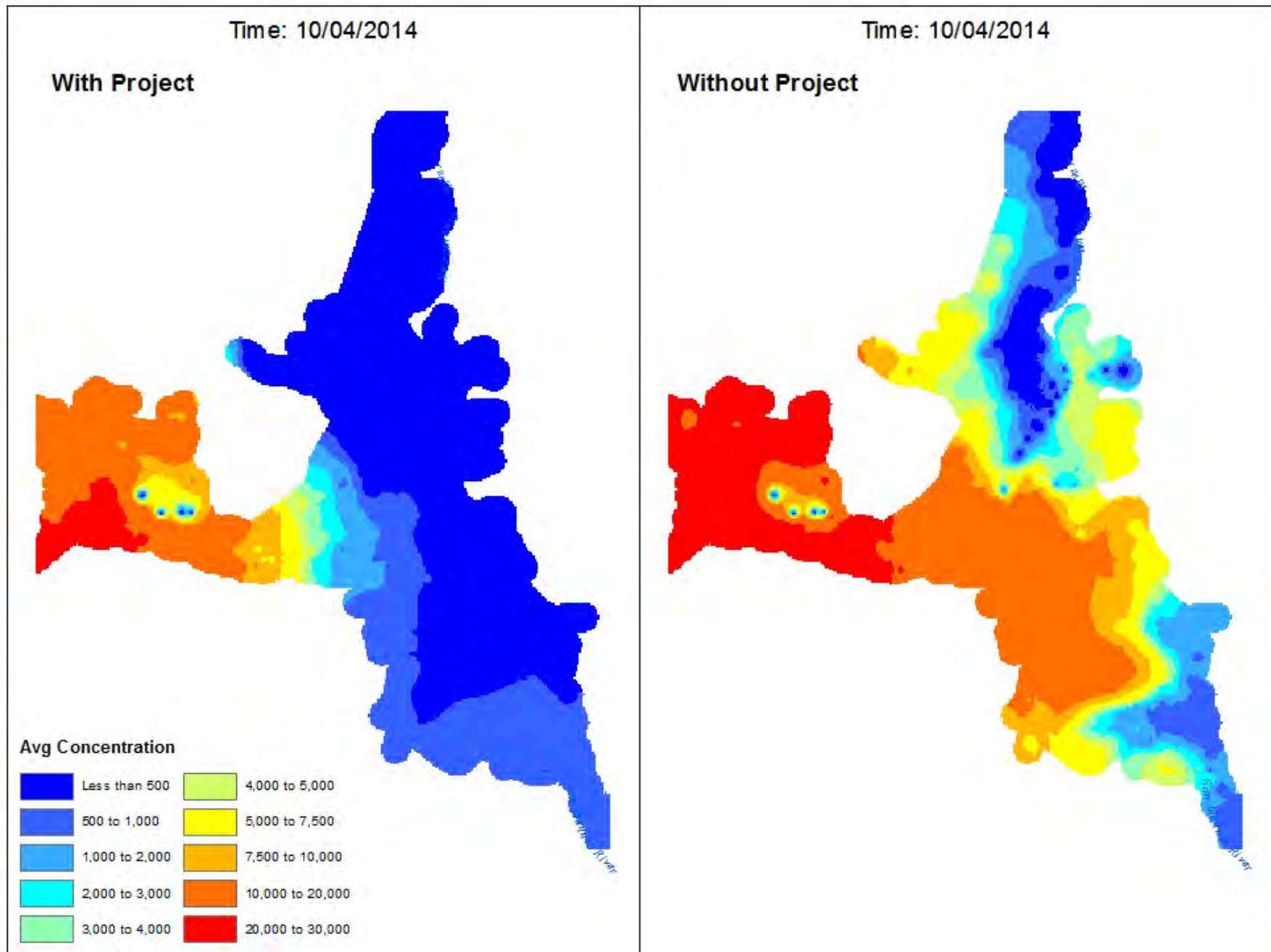


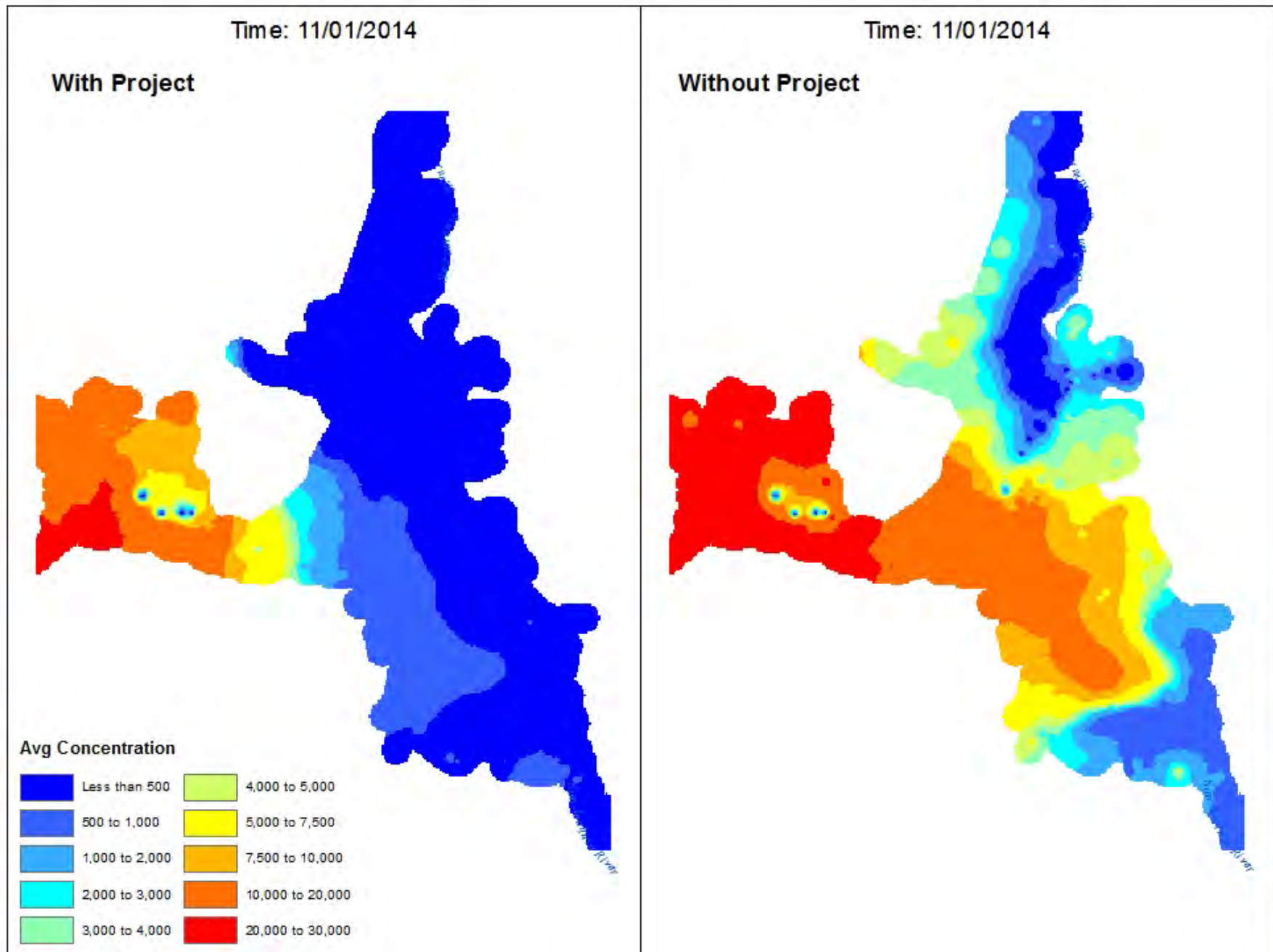




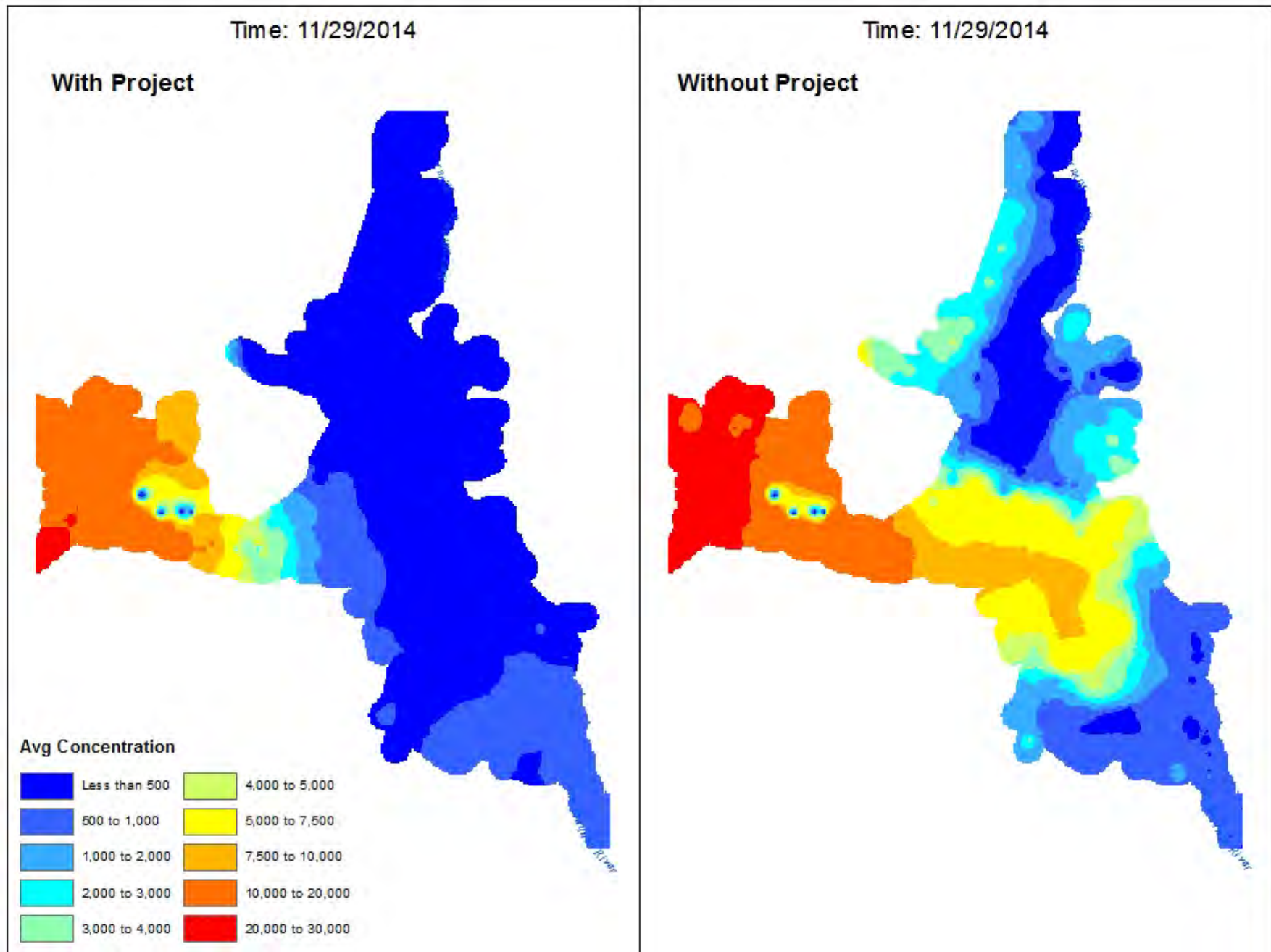


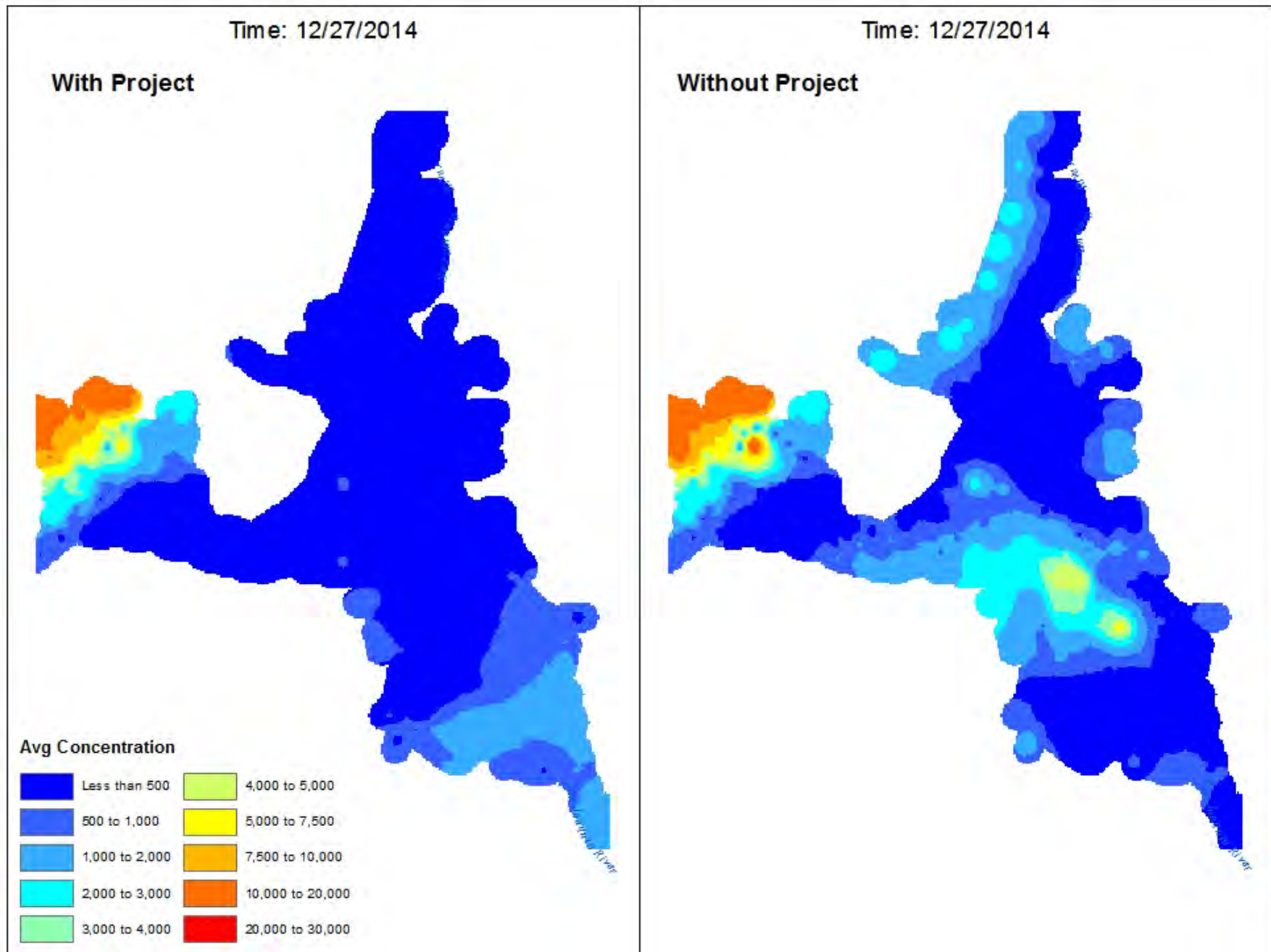


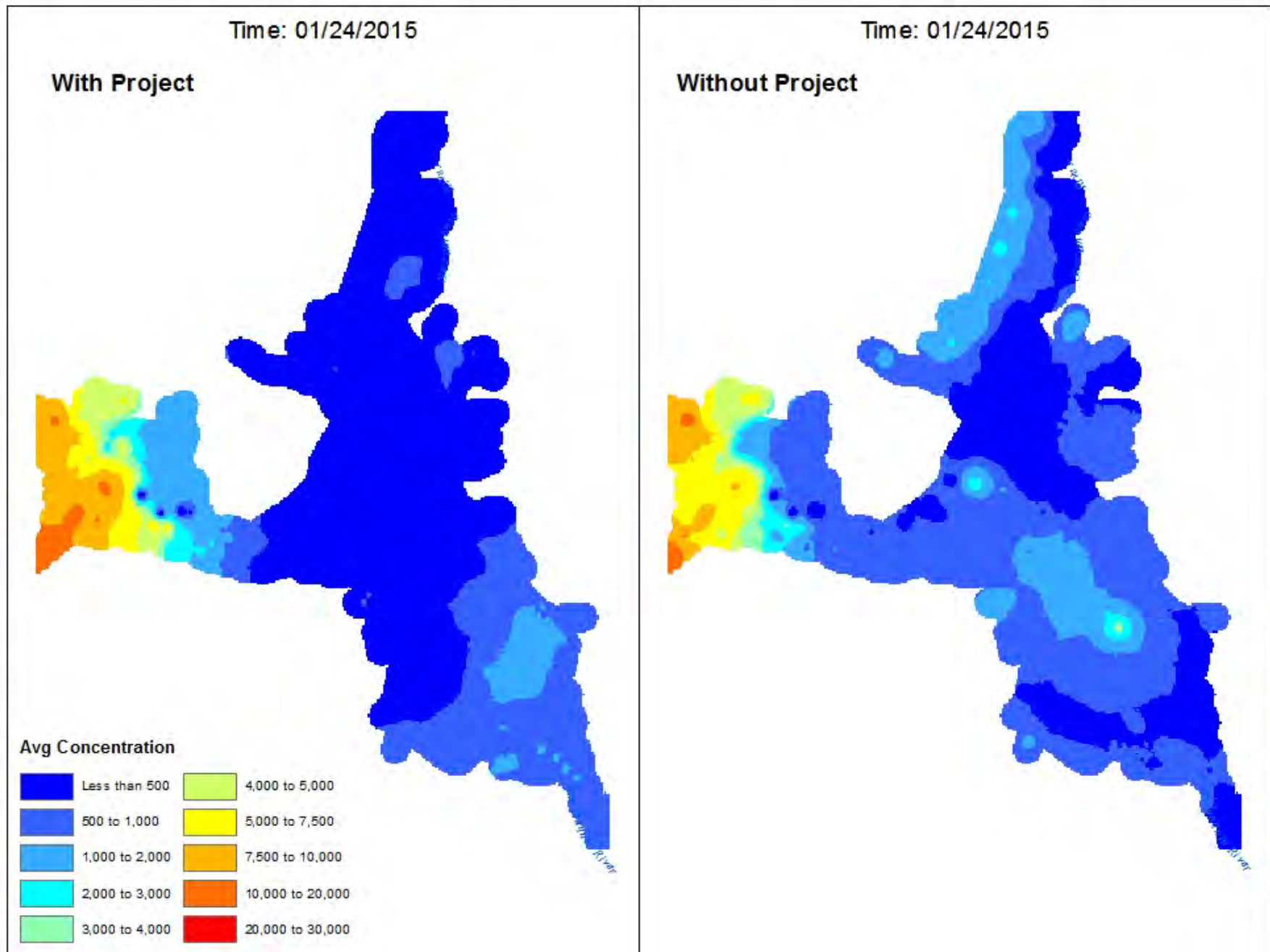




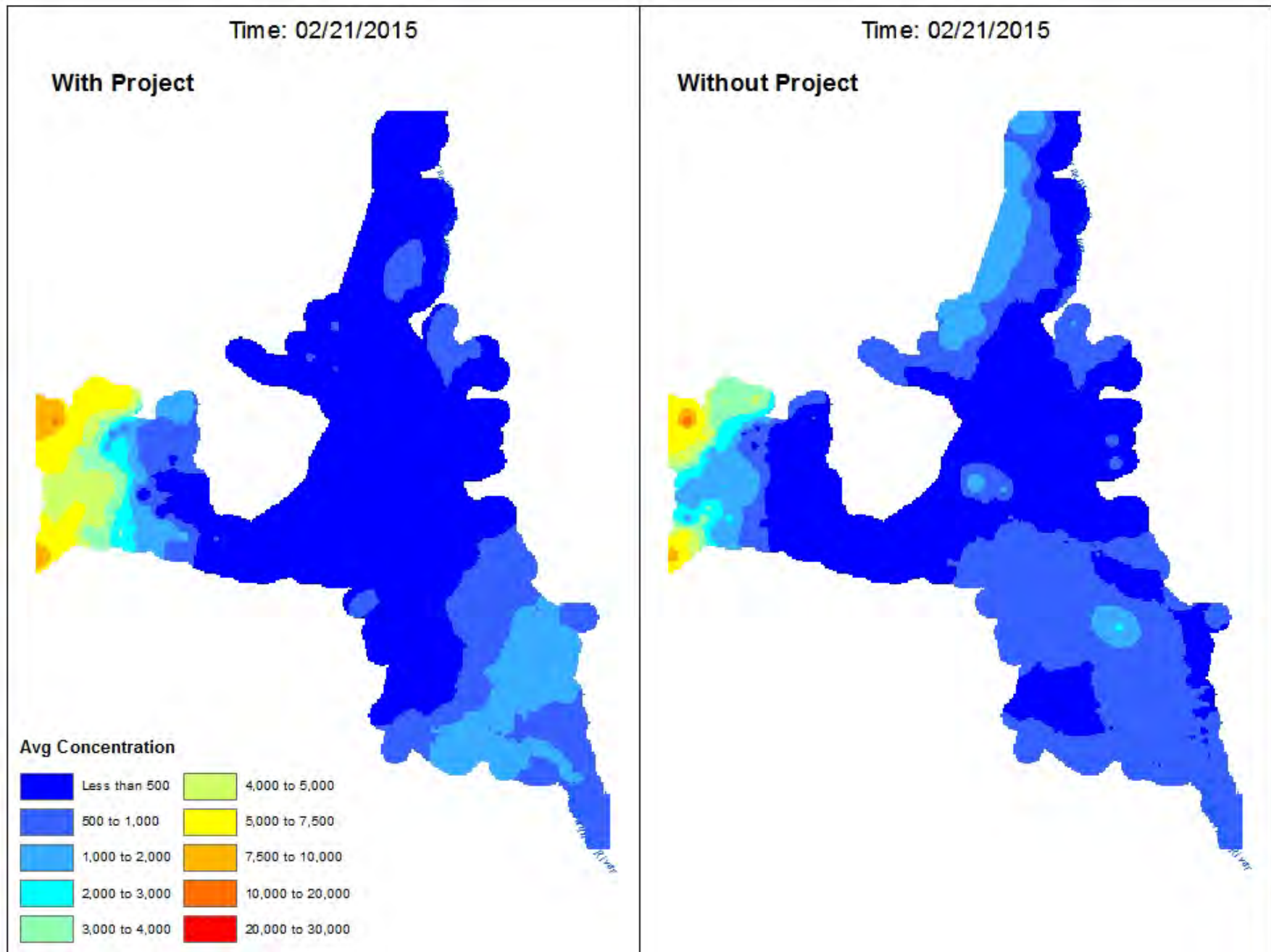


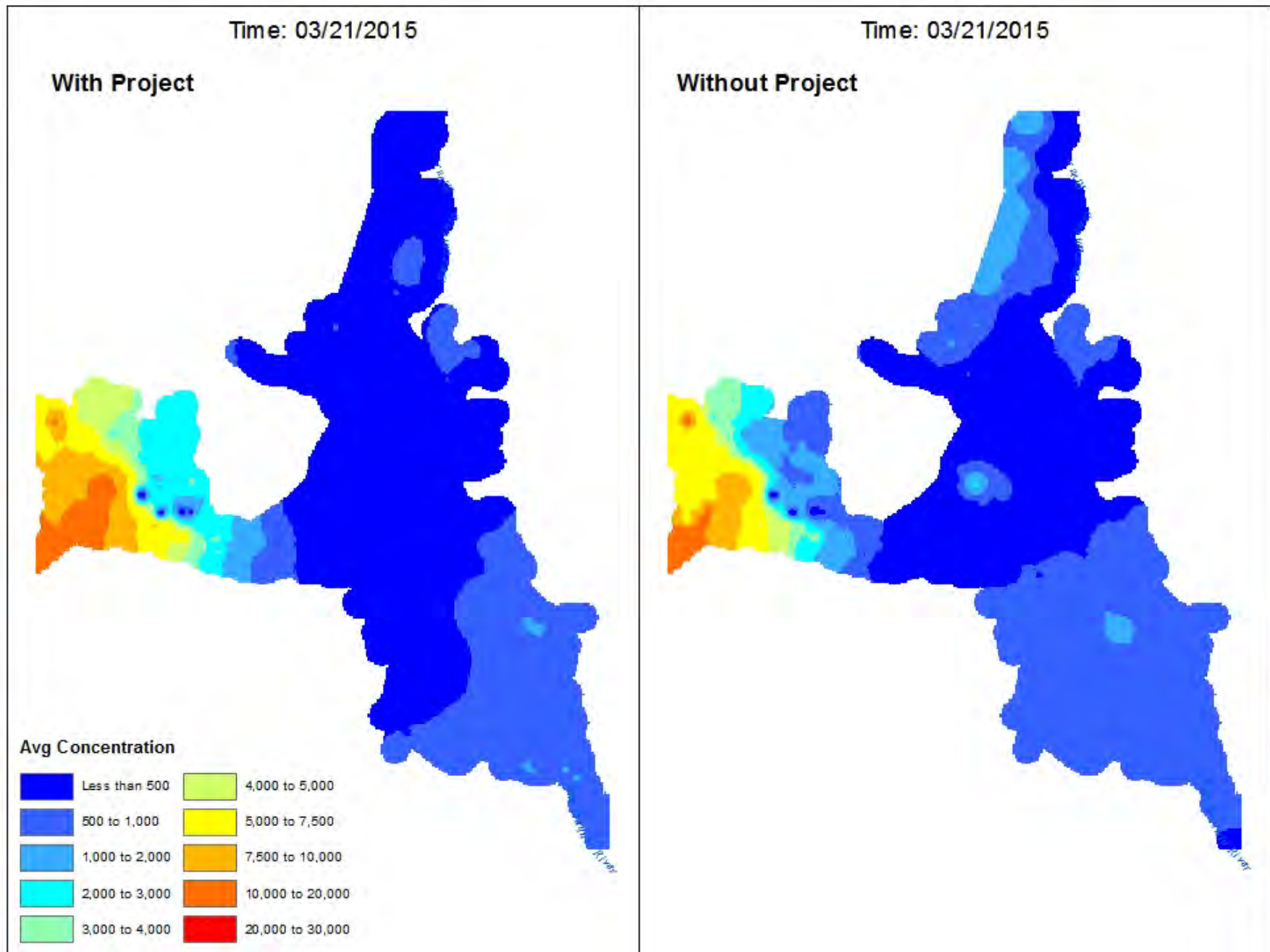


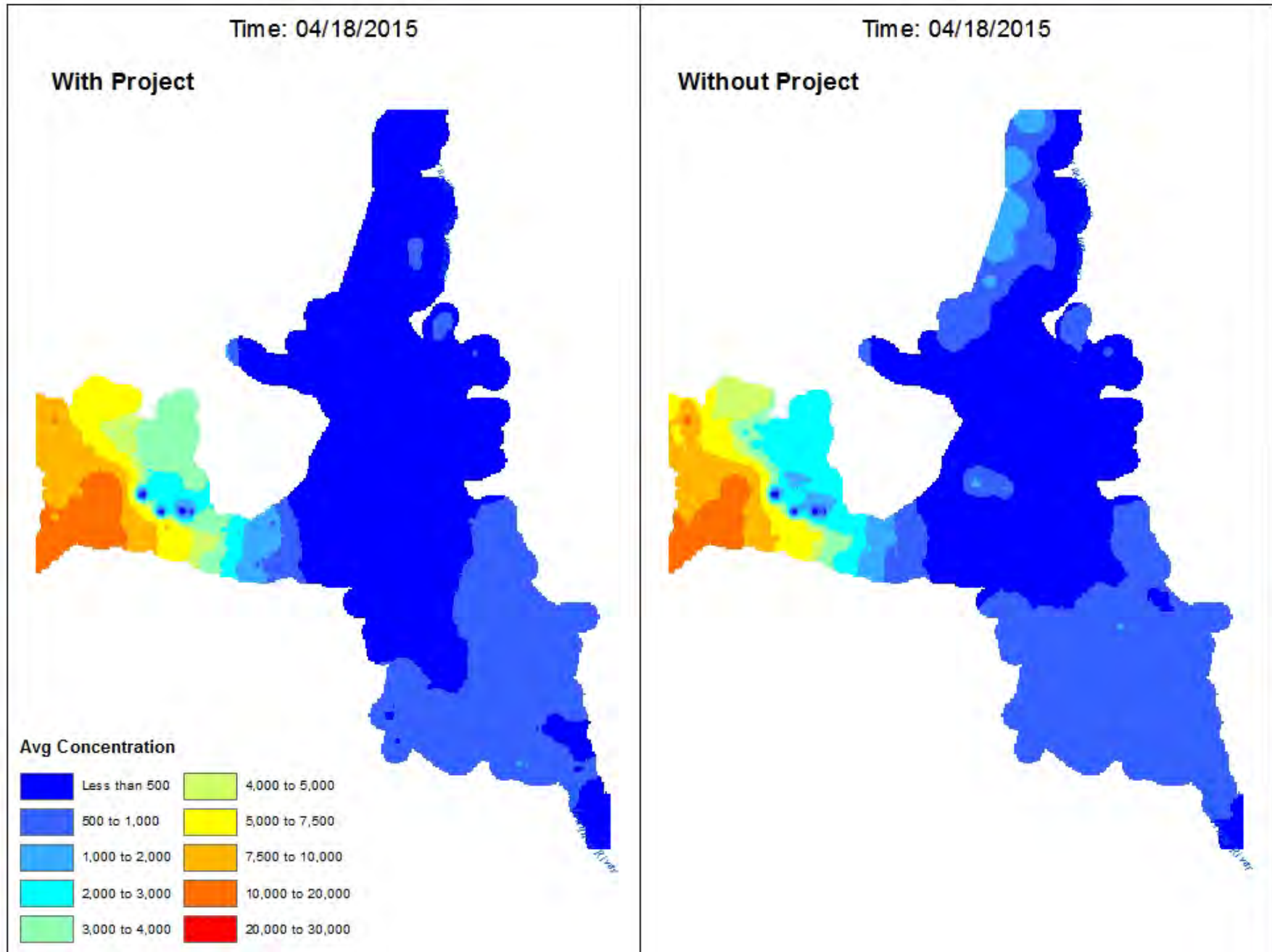


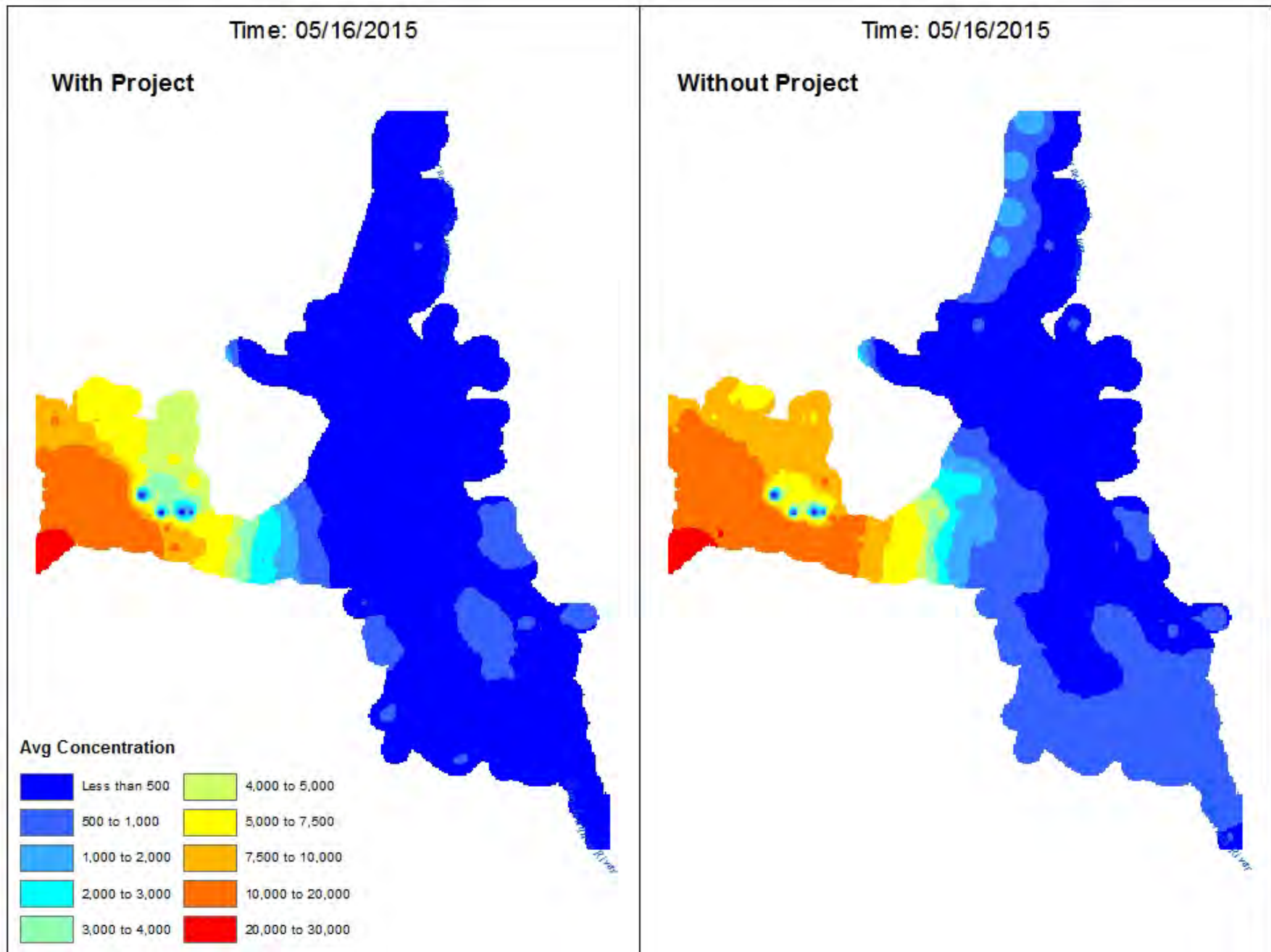




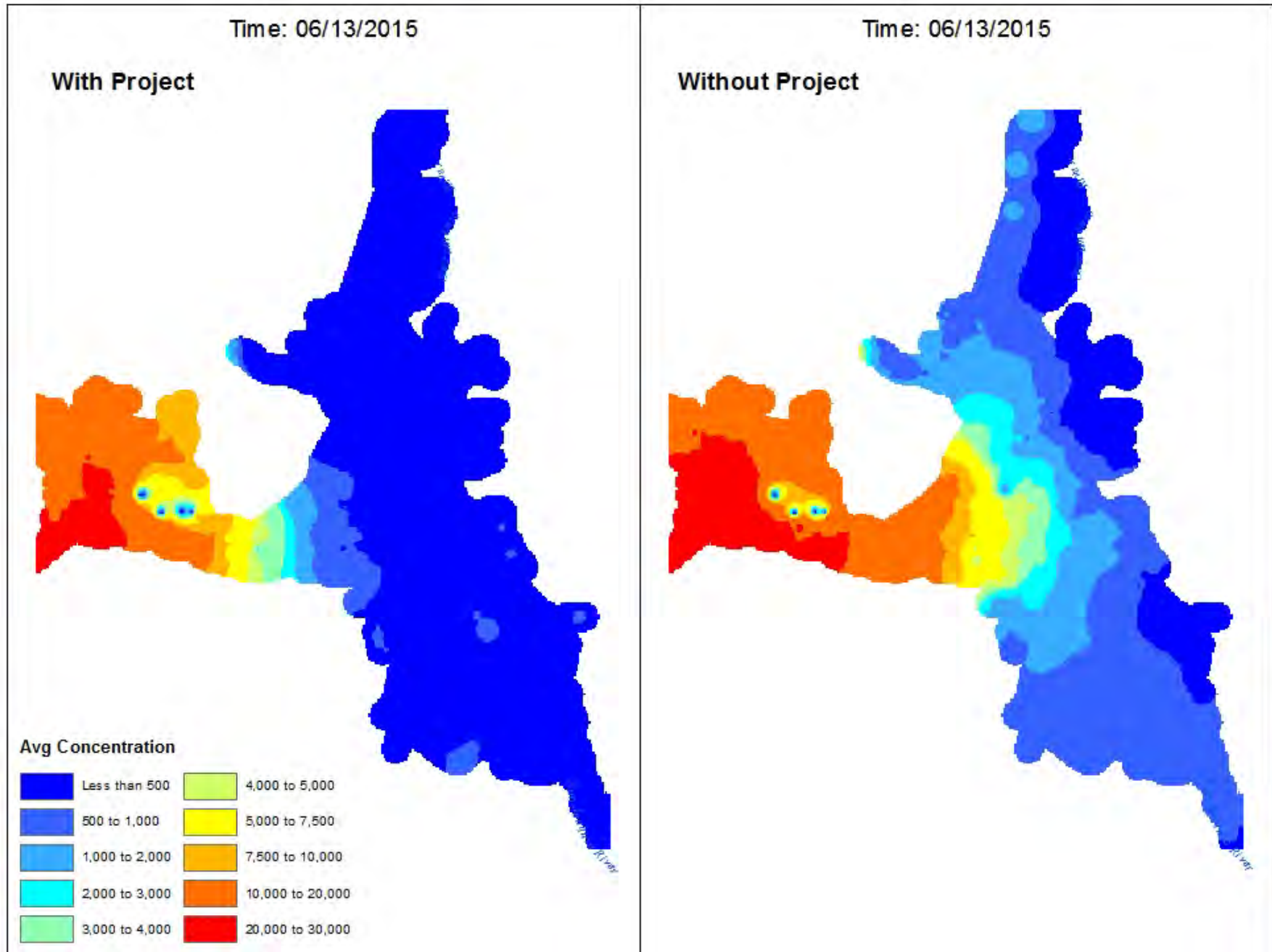


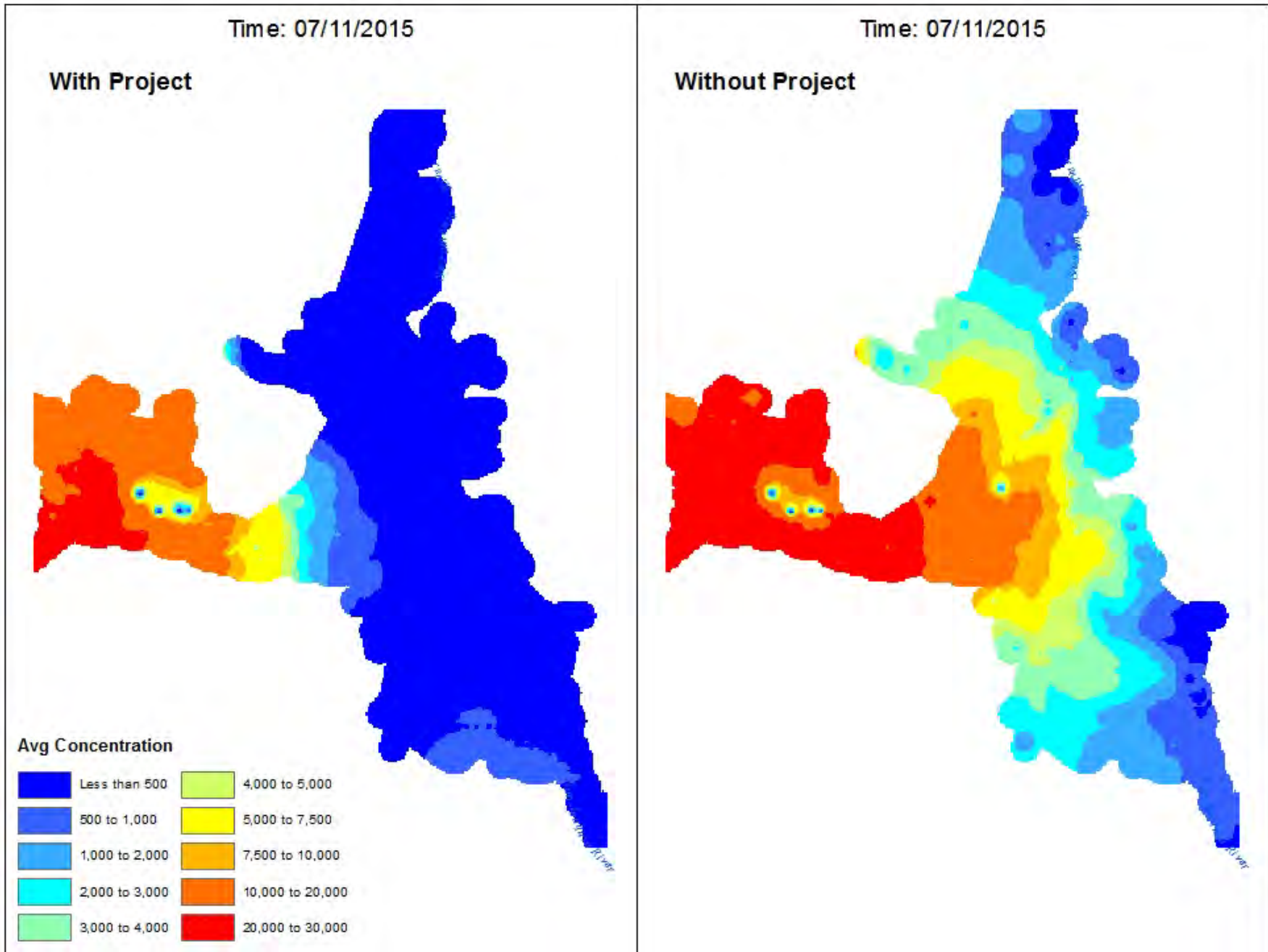




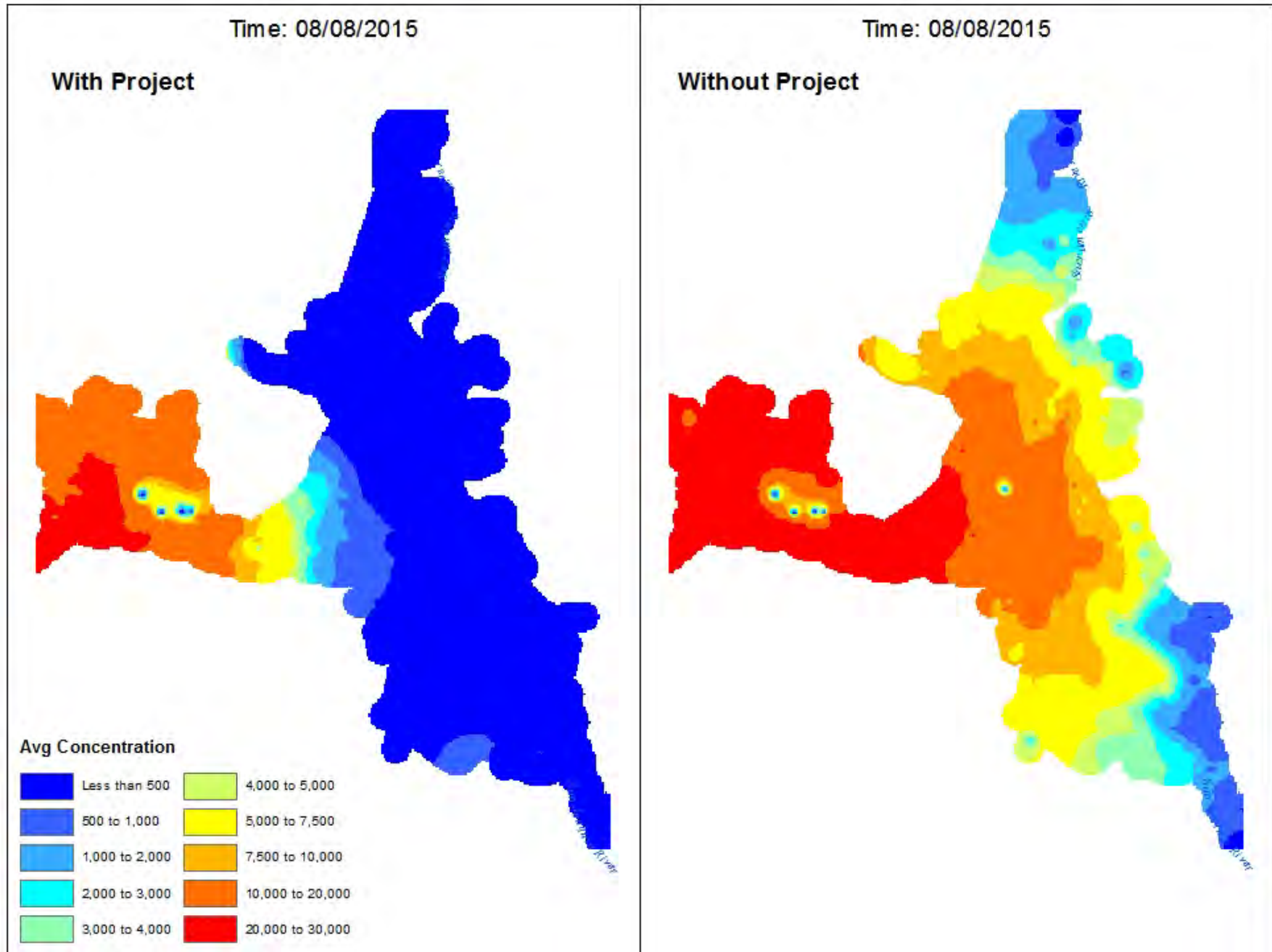


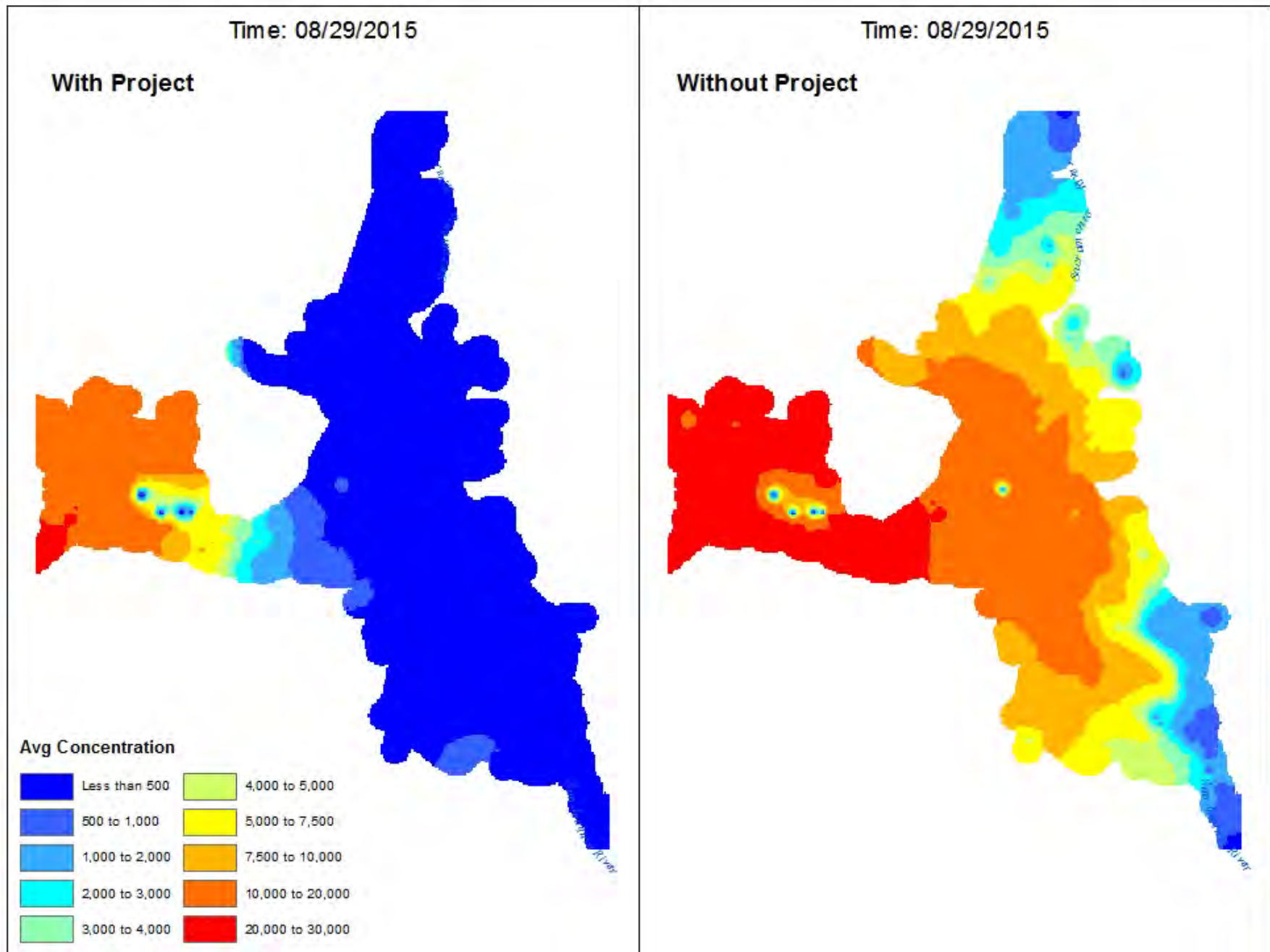












Appendix A: Methodology to Estimate Vernalis Salinity Under Without Project Conditions (from USBR & SDWA 1980) – provided by SWC

Calculate Salt Load Based on Flow (Table VI-7, page 89)

TABLE VI - 7  
CHLORIDE LOAD VS. FLOW COEFFICIENTS AT VERNALIS  
1930 - 1950

MONTH	C1	C2	# OF PAIRS*	R
OCTOBER	.3416451758E+03	.7238303788	7	.993
NOVEMBER	.3393044927E+03	.6880766404	6	.987
DECEMBER	.3639052910E+03	.6787756342	7	.972
JANUARY	.3928349175E+03	.6231583178	10	.965
FEBRUARY	.5368474514E+03	.5675747831	9	.914
MARCH	.4968879101E+03	.6035477710	10	.951
APRIL	.3866605718E+03	.5624873484	9	.942
MAY	.3805863844E+03	.5399998219	9	.920
JUNE	.6355065225E+03	.5175446121	9	.849
JULY	.6038658134E+03	.6219848451	8	.900
AUGUST	.3874538954E+03	.7410226741	8	.991
SEPTEMBER	.3500905302E+03	.7524035817	8	.989

\* # OF PAIRS DOES NOT INCLUDE RESTRICTION POINT (.5,200)

$$y = C1*(X)^{C2}$$

Convert Salt Load to Chloride Concentration (page 110)

$$p/m = \frac{\text{Load}}{\text{Flow} \times 1.36}$$

where,

p/m = parts per million Cl<sup>-</sup>  
Load = chloride load in tons  
Flow = 1,000's of acre-feet

Calculate Specific Conductance EC from Chloride Concentration (page 86)

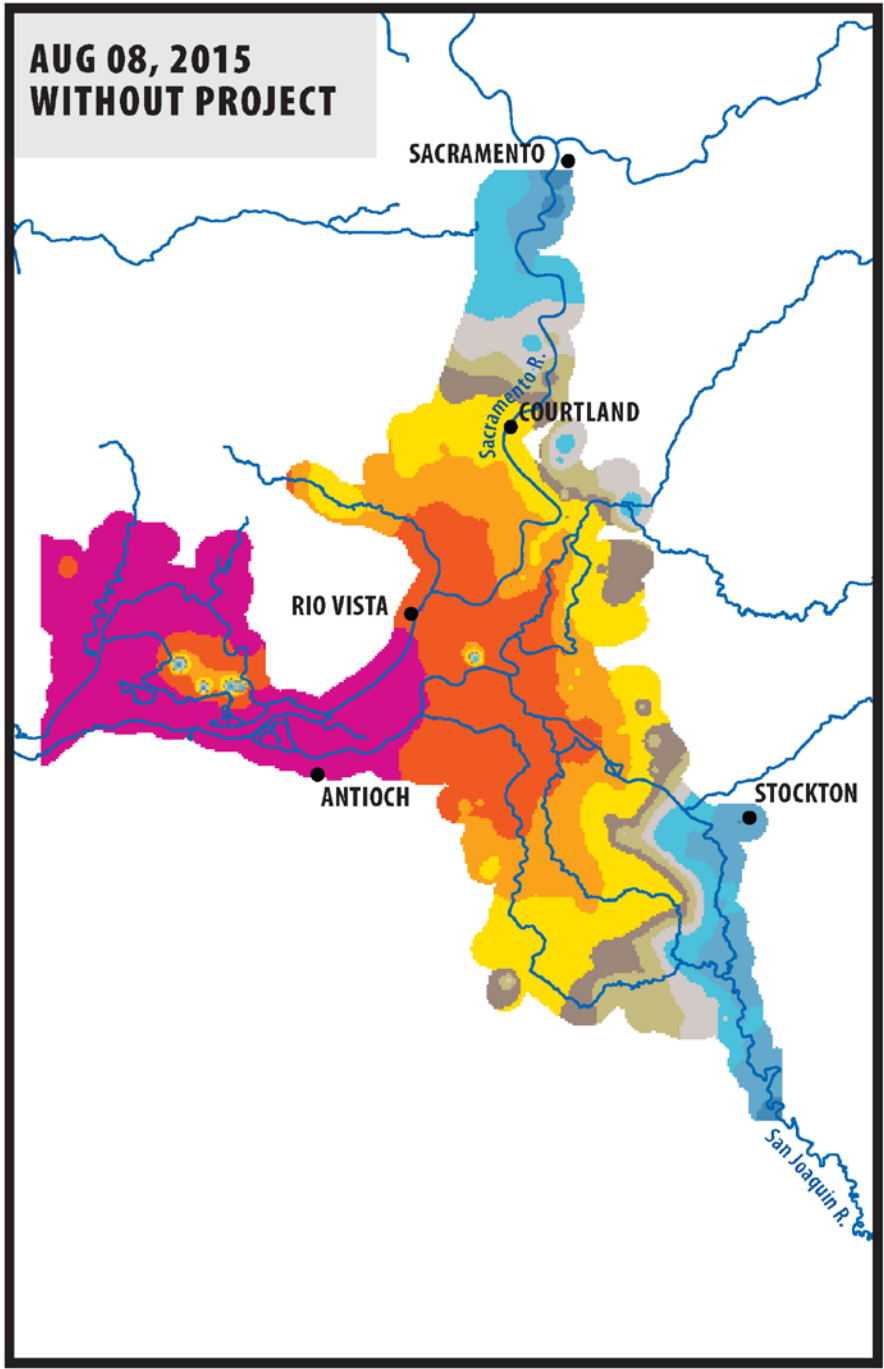
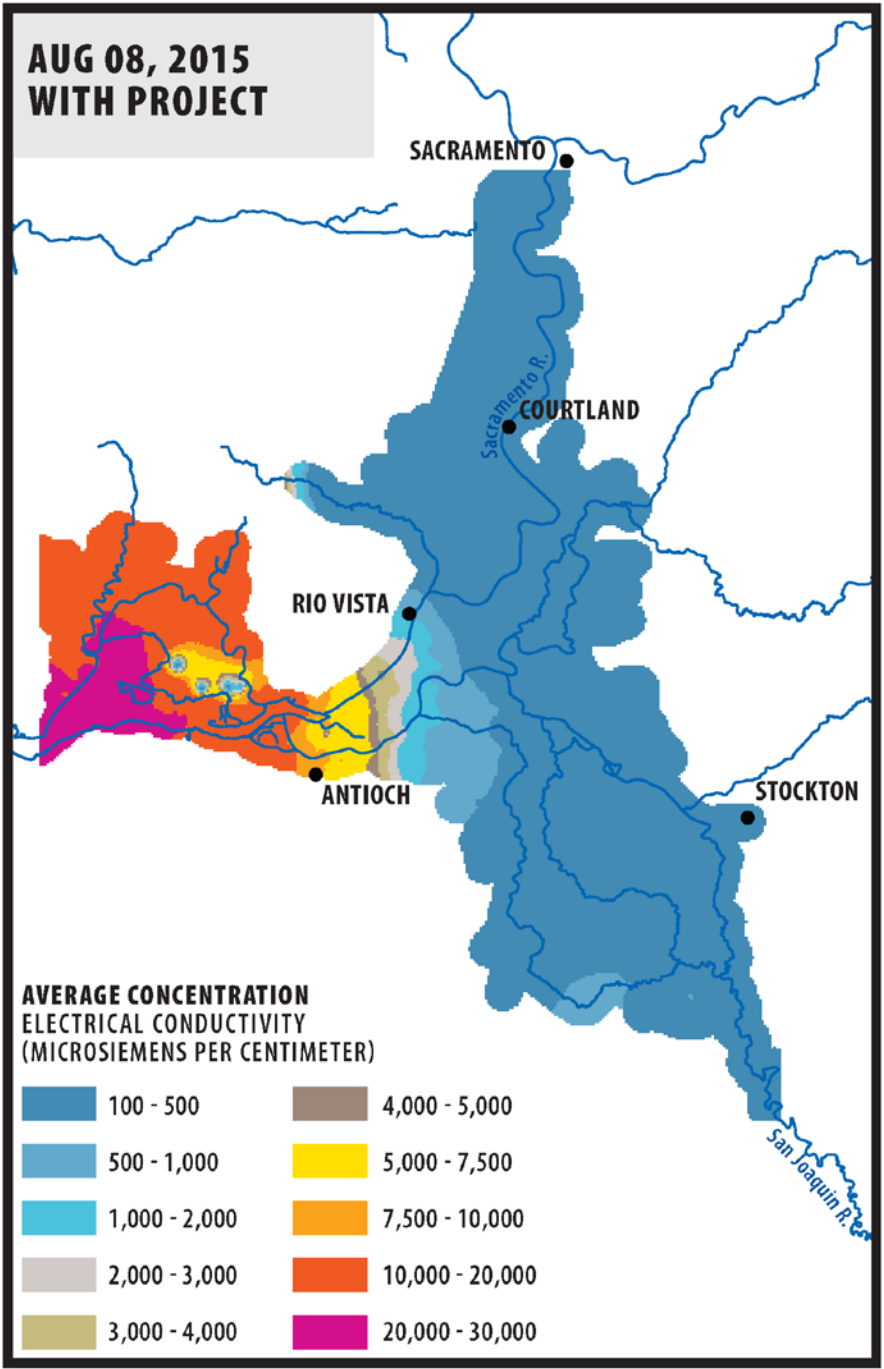
$$\text{Cl}^- = 0.15 \text{ EC} - 5.0 \quad (2a)$$
$$0 < \text{EC} < 500$$

$$\text{Cl}^- = 0.202 \text{ EC} - 31.0 \quad (2b)$$
$$500 < \text{EC} < 2000$$

Rearranging the equations to solve for EC yields:

$$\text{EC} = (\text{Cl}^- + 5.0) / 0.15 \quad 0 < \text{EC} < 500$$

$$\text{EC} = (\text{Cl}^- + 31.0) / 0.202 \quad 500 < \text{EC} < 2000$$







July 23, 2014

*Via E-mail*

Ms. Barbara L. Evoy, Deputy Director  
Division of Water Rights  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814  
[bevoy@waterboards.ca.gov](mailto:bevoy@waterboards.ca.gov)

Dear Ms. Evoy:

The California Department of Water Resources and United States Bureau of Reclamation ("Project Agencies") submit this letter to request the State Water Resources Control Board ("State Water Board") through the Deputy Director use the authority granted to her under the recently adopted Emergency Regulations, Title 23 to the California Code of Regulations, section 879(c), and order south and central Delta diverters claiming riparian and pre-1914 water rights to provide the State Water Board with information that (1) supports the basis of any asserted right or rights, and (2) reflects the quantity of water diverted and expected to be diverted. The Project Agencies acknowledge that, notwithstanding the general information contained herein and the information already in the State Water Board's possession, consideration of our objections to diversions of water beyond a valid water right would be further informed by information obtained from south and central Delta diverters regarding their asserted rights and actual water use. The Water Agencies submit that absent information to the contrary water stored and released by the State Water Project and the Central Valley Project ("Water Projects") and water acquired by the Project Agencies' contractors through transfer and exchange agreements is likely being diverted by south and/or central Delta diverters asserting riparian and pre-1914 water rights.

Diversions by riparian and pre-1914 water rights holder in the south and central Delta contribute to additional loss of stored water due to depletions and further complicate water



management in this extremely dry year. Where water quality standards are controlling Water Project operations, any diversion of stored water by these diverters results in additional releases of stored water or reductions in Project deliveries, and requires a trade-off in the protection of beneficial uses.

It has long been recognized that there is uncertainty as to the basis for and extent of the riparian and pre-1914 water rights being asserted in the south and central Delta. This uncertainty was recognized in the final report of the Governor's Commission to Review California Water Rights Law, which identified riparian rights statewide as one of the three sources of uncertainty in California water law because riparian water rights are unrecorded and generally unquantifiable based on existing information. (*Governor's Commission to Review California Water Rights Law, Final Report (1978)*, pg. 17.) In 2009, the legislature responded to the need for better information regarding riparian and pre-1914 water rights by adding Water Code section 5100 *et seq.*, requiring statements of diversion from each person who diverts water. Unfortunately, irrespective of these efforts by the legislature and State Water Board, the information obtained from many water users does not enable the State Water Board and the Delta Watermaster<sup>1</sup> to effectively administer the water rights system.<sup>2</sup>

When acted upon, the additional information required pursuant to the authority granted under the emergency regulations is critical to informing the State Water Board about the nature and extent of the water rights, use, water classification and priority. Based upon the information provided below indicating potential unlawful diversions of stored water by users claiming riparian or pre-1914 appropriative water rights, the State Water Board may request the south and central Delta water diverters to identify each right claimed, the basis for each right, and the rate and quantity of water being diverted pursuant to each right on a monthly basis.

#### I. Legal Background

California water law states that riparian and appropriative water rights are limited to the natural flow of a river or stream. *Bloss v. Rahilly* (1938) 16 Cal.2d 70, 76; California Water Code sections 1201-2. Additionally, the State Water Board has found that southern Delta riparian right holders have no right, in any year, to natural flow from the Sacramento River. D-1641, pg. 31-33; SWRCB Order WR 89-8, pg. 22-23. These rights of south Delta riparian water users only extend to their correlative share of natural flow in the San Joaquin River. *Id.* Therefore, the

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<sup>1</sup> Water Code section 85230 *et seq.* provides for the appointment of a Delta Watermaster tasked with monitoring and enforcement.

<sup>2</sup> Attached are 20 selected Statement of Diversions. Each contains the same claims to water use, the same year of first use and the same source and a claim that direct measurement using a device is not locally cost effective. The information provided is characteristic of the quality of many statements of diversion.

southern Delta riparian and appropriative rights holders have no right to natural or abandoned flows from the Sacramento River.

Nor are in-Delta riparian and appropriators permitted to divert the Projects stored or purchased water conveyed through channels in the Delta. *Phelps v. State Water Resources Control Board* (2008) 157 Cal.App.4<sup>th</sup> 89, 111; See also *El Dorado Irrigation Dist. V. State Water Resources Control Bd.* (2006) 142 Cal.App.4<sup>th</sup> 937, 962. Southern Delta appropriators, absent purchasing other water, are only entitled to excess natural flow and abandoned water. *United States v. SWRCB* (1986) 182 Cal.App.3d, 82, 116 [citing *Meridian, Ltd v. San Francisco* (1939) 13 Cal.2d 424, 455; *Phoenix Water Co. v. Fletcher* (1863)23 Cal. 481, 487]; Water Code § 1202.<sup>3</sup> The Project Agencies and their contractors have not abandoned their stored or water transfer water, as they are putting it to beneficial use in meeting regulatory requirements and for delivery to the water contractors.

Some south and central Delta water users appeared to also be seeking to expand California Water Law by asserting rights to water from the "Delta Pool."<sup>4</sup> The "Delta Pool" concept is that by virtue of the geography in the Delta water from many sources, including the Sacramento River, San Joaquin River, and the Pacific Ocean, mix and becomes a new source of appropriable water. The State Water Board explicitly rejected the idea that water users in the south and central Delta have rights to divert under a "Delta Pool" concept. (See Order WR 2011-0005, pg. 37; Order 2004-0004, pg. 15.)

## II. Previous Source Water Analysis

The State Water Board, in recognition that water users in the south Delta only have a right to water from the San Joaquin River, made findings on the availability of San Joaquin River water in the southern Delta. Specifically, in D-1641, the Board concluded:

1. On average, insufficient water is available to supply the southern Delta in Below Normal, Dry and Critical Dry years in August, September and October.
2. On average, sufficient water is available in September only in Wet Years.
3. Insufficient water is available in July during 16 percent of years, in August during 56 percent of years, in September during 78 percent of years, and in October during 70 percent of years. (D-1641, pg. 33).

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<sup>3</sup> Pre-1914 appropriators in the south and central Delta could potentially divert this foreign water, but only if the foreign water is in excess of the Water Projects' needs. *Stevinson WaterDistrict v. Roduner* (1950) 36 Cal.2d 264; SWRCB Order WR 89-8; California Water Code section 1203.

<sup>4</sup> During the recent State Water Board proceedings, south Delta diverters claimed a right to divert ocean water. See Order WR 2011-0005, pg. 37; June 30, 2014, letter submitted by South Delta Water Agency to the State Water Board. However, in California, a riparian or appropriative right cannot be established or defined by availability and diversion of ocean water. More importantly, none of the Statements of Diversions filed in the South and Central Delta state ocean water as a source.

The State Water Board summarized those conclusions by stating: riparian [and pre-1914 appropriative] rights to the water of the San Joaquin River are inadequate to meet the agricultural demands in the southern Delta in some months of many years. D-1641, pg. 33. We believe that similar conditions exist in some or all areas of the central Delta.

### III. Current Source Water Information Available

To date in July, actual flow in the San Joaquin River flow at Vernalis has only averaged about 250 cfs. Calculated natural flow in San Joaquin River tributaries is an estimated average of 887 cfs to date in July. The southern Delta diversion requirement identified for July in D-1641 (Page 32) is 1,400 cfs and for August is 1,334 cfs. Current and projected flows at Vernalis, as well as natural inflow on upstream San Joaquin River tributaries, are both considerably less than half of the southern Delta diversion requirement. This shortage in water supply from natural flow on the lower San Joaquin River indicates that water is being diverted from other sources, presumably the Projects' stored water or water contracted through transfer and/or exchange agreements, neither of which is available to southern Delta diverters.

Additional irrigation demands by some members of Central Delta Water Agency also rely substantially on San Joaquin River flows. These diversions exacerbate the supply shortage already existing in southern Delta channels and likely result in further diversion from stored water.

Under Water Year 2014 hydrologic conditions in particular, when water users in the south and central Delta divert water in excess of that available under their asserted water rights, they divert stored water and/or water purchased through transfer or exchange agreements. Without additional information that the State Water Board has the authority under the emergency regulations to require, the Project Agencies and their water contractors are presumably injured by diversions in the Delta. Therefore the Project Agencies respectfully request that the State Water Board exercise its statutory authority and obtain information from these Delta water users to support their assumed right to water or require curtailment as unauthorized diversions.

Thank you in advance for your consideration.

Sincerely,



Mark Cowin  
Director  
California Department of Water Resources



David G. Murillo  
Regional Director  
Bureau of Reclamation

**Attachments**

**cc: Felicia Marcus, Chair, State Water Resources Control Board  
Tom Howard, Executive Director, State Water Resources Control Board**

[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: ARNAUDO BROS LP  
 Statement Number: S017302  
 Date Submitted: 2013-02-28

1. Water is used under	Riparian Claim Pre-1914 Claim
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion (CFS)	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January	0	0	0
February	0	0	0
March	0	0	0
April	2.99	346.7	346.7
May	2.99	346.7	346.7
June	2.99	346.7	346.7
July	2.99	346.7	346.7
August	2.99	346.7	346.7
September	2.99	346.7	346.7
October	2.99	178.21	178.21
November	0	0	0
December	0	0	0
Total		2258.41	2258.41
Comments			

5. Water Diversion Measurement

a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage
b. Types of measuring devices used	
c. Additional technology used	
d. Description of additional technology used	
e. Who installed your measuring device(s)	
f. Make, model number, and last calibration date of your measuring device(s)	
f. Why direct measurement using a device listed in Section 1 is "not locally cost effective"	Other
f. Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"	No meters installed or meter readers hired
g. Method(s) used as an alternative to direct measurement	Other
g. Explanation of method(s) used as an alternative to direct measurement	Past history of crop needs for water

6. Purpose of Use

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

Irrigation	558.55 Acres
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<b>7. Changes in Method of Diversion</b>

<b>8. Conservation of Water</b>		
a.	Are you now employing water conservation efforts?	Yes
a.	Describe any water conservation efforts you have initiated	Good farming practices, concrete ditches and pipelines, and all excess water recycled to the delta canal
b.	Amount of water conserved	100 Acre-Feet
b.	I have data to support the above surface water use reductions due to conservation efforts.	Yes

<b>9. Water Quality and Wastewater Reclamation</b>		
a.	Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?	No
b.	Amount of reduced diversion	
b.	Type of substitute water supply	
b.	Amount of substitute water supply used	
b.	I have data to support the above surface water use reductions due to the use of a substitute water supply	

<b>10. Conjunctive Use of Surface Water and Groundwater</b>		
a.	Are you now using groundwater in lieu of surface water?	No
b.	Amount of groundwater used	
b.	I have data to support the above surface water use reductions due to the use of groundwater.	

<b>11a. Additional Remarks</b>

<b>Attachments</b>		
<b>File Name</b>	<b>Description</b>	<b>Size</b>
No Attachments		

<b>Contact Information of the Person Submitting the Form</b>	
First Name	Steve
Last Name	Widhalm
Relation to Water Right	Other
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes



[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: TUSCANY RESEARCH INSTITUTE

Statement Number: S021005

Date Submitted: 2013-06-24

1. Water is used under	Riparian Claim Pre-1914 Claim
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January		112.43	15.52
February		21.5	13.44
March		61.52	38.45
April		43	26.87
May		62.79	39.24
June		160.43	100.21
July		190.02	118.76
August		132.5	82.81
September		11.63	7.27
October		16.06	10.04
November		110.99	14.62
December		109.79	13.87
Total		1032.66	481.1
Comments			

5. Water Diversion Measurement	
a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage
b. Types of measuring devices used	
c. Additional technology used	
c. Description of additional technology used	
d. Who installed your measuring device(s)	
e. Make, model number, and last calibration date of your measuring device(s)	
f. Why direct measurement using a device listed in Section 1	Other

is "not locally cost effective"	
Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"	The cost of acquisition, installation, maintenance (including vandalism and theft deterrence and remediation), collection and compilation of data from measuring devices is not locally cost-effective because the value of the local benefits of installing and maintaining meters is not greater than the value of the local cost of implementing that measure. There are no apparent grants available to otherwise cover costs of water meters and related actions. Moreover, the unique hydrogeological characteristics of the Delta (e.g., tides, seepage, interconnected channels, etc.) indicate that meters are not the best available technology in this region. Any water diverted in the Delta which is not consumed or evaporated is recycled to the Delta Pool for reuse. As further support for the conclusion that measuring devices are not locally cost-effective reference is made to the documentation on file with the SWRCB attesting to the lack of such costeffectiveness submitted in connection with the SWRCB's July 21, 2011 "Water Measurement Workshop" and the SWRCB's follow-up solicitation of comments (due November 18, 2011) re the same.
Method(s) used as an alternative to direct measurement	Crop duty estimates/consumptive use estimates
9. Explanation of method(s) used as an alternative to direct measurement	Used ITRC REPORT 03-001 ETc Table for Irrigation Scheduling and Design, Zone 12 for Surface Irrigation, Typical year adjusted for the reporting year using CIMIS monthly ETo for Manteca. For crops not covered by the ITRC report ETc was determined using ratios to alfalfa from Table A-5, DWR Bulletin 168, October 1978.

**6. Purpose of Use**

Irrigation	607.3 Acres
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**7. Changes in Method of Diversion**

**8. Conservation of Water**

a. Are you now employing water conservation efforts?	Yes
Describe any water conservation efforts you have initiated	Good water management and farming practices, cover crops, mulching, laser leveling. Any diverted water which is not consumed or evaporated is recycled to the Delta Pool. Credit is claimed for these water conservation efforts under section 1011 of the Water Code. A specific amount conserved is not reported due to the lack of a present method to precisely quantify that amount.
Amount of water conserved	Acre-Feet
b. I have data to support the above surface water use reductions due to conservation efforts.	

**9. Water Quality and Wastewater Reclamation**

a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?	No
b. Amount of reduced diversion	
Type of substitute water supply	
Amount of substitute water supply used	

I have data to support the above surface water use reductions due to the use of a substitute water supply	
---	--

10. Conjunctive Use of Surface Water and Groundwater	
a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

11a. Additional Remarks
The amount diverted is a multiple of the reported use amount, plus a factor to account for field flooding (if any). The multiple is to account for additional water that is diverted but not consumed or evaporated. (Note: add the following insertion to the above insertion if you had multiple PODs deliver water to the same field or parcel): The point of diversion that is the subject of this report is one of <u>3</u> (insert number) points of diversion that provided water to an approximate <u>607.30</u> acre field/parcel. For purposes of these reports, the amount of acreage irrigated, water used and water diverted associated with each of those points of diversion has been evenly split along them.

Attachments		
File Name	Description	Size
No Attachments		

Contact Information of the Person Submitting the Form	
First Name	Clint
Last Name	Womack
Relation to Water Right	
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes

[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: Farmland Reserve, Inc.  
 Statement Number: S017817  
 Date Submitted: 2013-06-26

1. Water is used under	Riparian Claim Pre-1914 Claim Other: License 1605,4953 & Overlying & statutory rights (& contract right if applicable)
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion (CFS)	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January	0.00001	0.00001	0.00001
February	0	31.39	31.39
March	7.34	0	0
April	0	29.32	29.32
May	5.29	0	0
June	0	0	0
July	0	0	0
August	0	0	0
September	0	0	0
October	0	0	0
November	0	0	0
December	0	0	0
Total		60.71001	60.71001
Comments			

5. Water Diversion Measurement

a. Measurement	Water directly diverted and/or diverted to storage was measured
b. Types of measuring devices used	Acoustic Meter
c. Additional technology used	Data Logger Flow Totalizer
Description of additional technology used	solar power
d. Who installed your measuring device(s)	Other/Unknown: California Licensed Contractor under the guidance of a California Licensed Civil Engineer
e. Make, model number, and last calibration date of your measuring device(s)	AgriFlo, 3.00.5, 2-17-12
f. Why direct measurement using a device listed in Section 1 is "not locally cost effective"	
Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"	
g. Method(s) used as an alternative to direct measurement	

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

Explanation of method(s) used as an alternative to direct measurement
---

**6. Purpose of Use**

Irrigation	2277 Acres
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**7. Changes in Method of Diversion**

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**8. Conservation of Water**

Are you now employing water conservation efforts?	Yes
a. Describe any water conservation efforts you have initiated	Good water management and farming practices. Any diverted water which is not consumed or evaporated is recycled to the Delta Pool. Credit is claimed for these water conservation efforts under section 1011 of the Water Code. A specific amount conserved is not reported due to the lack of a present method to precisely quantify that amount.
Amount of water conserved	Acre-Feet
b. I have data to support the above surface water use reductions due to conservation efforts.	

**9. Water Quality and Wastewater Reclamation**

a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?	No
Amount of reduced diversion	
Type of substitute water supply	
b. Amount of substitute water supply used	
I have data to support the above surface water use reductions due to the use of a substitute water supply	

**10. Conjunctive Use of Surface Water and Groundwater**

a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

**11a. Additional Remarks**

Because text cannot be entered into the Max. Diversion Rate and Amount Diverted entry boxes, January's input of 0.00001 is a place holder to note that no data is available for the month of January. Flow meters were installed in February of 2012. Estimates of the overall crop evapotranspiration of water can readily be performed for the entire site; however the site specific irrigation practices and irrigation delivery system capabilities and configuration would require excessive speculation to report an amount used under the point of diversion. Therefore, this report presents the amount used the same as the amount diverted.

**Attachments**

File Name	Description	Size
No Attachments		

**Contact Information of the Person Submitting the Form**

First Name	Kelly
Last Name	Tryon

# SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

Relation to Water Right	Agent
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes



[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: Coney Island Farms Inc  
 Statement Number: S020858  
 Date Submitted: 2013-06-18

1. Water is used under	Riparian Claim Pre-1914 Claim Other: overlying & statutory rights
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January		19.48	12.18
February		10.85	6.78
March		11.37	7.1
April		11.77	7.35
May		30.85	19.28
June		81.03	50.64
July		82.04	51.28
August		49.18	30.74
September		3.98	2.49
October		6.16	3.85
November		8.95	5.59
December		10.31	6.44
Total		325.97	203.72
Comments			

5. Water Diversion Measurement

a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage	
b. Types of measuring devices used		
c. Additional technology used		
d. Description of additional technology used		
e. Who installed your measuring device(s)		
f. Make, model number, and last calibration date of your measuring device(s)		
f. Why direct measurement using a device	Other	

listed in Section 1 is "not locally cost effective"	
Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"	The cost of acquisition, installation, maintenance (including vandalism and theft deterrence and remediation), collection and compilation of data from measuring devices is not locally cost-effective because the value of the local benefits of installing and maintaining meters is not greater than the value of the local cost of implementing that measure. There are no apparent grants available to otherwise cover costs of water meters and related actions. Moreover, the unique hydrogeological characteristics of the Delta (e.g., tides, seepage, interconnected channels, etc.) indicate that meters are not the best available technology in this region. Any water diverted in the Delta which is not consumed or evaporated is recycled to the Delta Pool for reuse. As further support for the conclusion that measuring devices are not locally cost-effective reference is made to the documentation on file with the SWRCB attesting to the lack of such cost-effectiveness submitted in connection with the SWRCB's July 21, 2011 "Water Measurement Workshop" and the SWRCB's follow-up solicitation of comments (due November 18, 2011) re the same.
Method(s) used as an alternative to direct measurement	Crop duty estimates/consumptive use estimates
9. Explanation of method(s) used as an alternative to direct measurement	Used ITRC REPORT 03-001 ETC Table for Irrigation Scheduling and Design, Zone 12 for Surface Irrigation, Typical year adjusted for the reporting year using CIMIS monthly ETo for Manteca. For crops not covered by the ITRC report ETC was determined using ratios to alfalfa from Table A-5, DWR Bulletin 168, October 1978.

**6. Purpose of Use**

Irrigation	79 Acres
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**7. Changes in Method of Diversion**

**8. Conservation of Water**

Are you now employing water conservation efforts?	Yes
a. Describe any water conservation efforts you have initiated	Good water management and farming practices, lined ditches and pipelines. Any diverted water which is not consumed or evaporated is recycled to the Delta Pool. Credit is claimed for these water conservation efforts under section 1011 of the Water Code. A specific amount conserved is not reported due to the lack of a present method to precisely quantify that amount.
Amount of water conserved	Acre-Feet
b. I have data to support the above surface water use reductions due to conservation efforts.	

**9. Water Quality and Wastewater Reclamation**

a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?	No
b. Amount of reduced diversion	
Type of substitute water supply	
Amount of substitute water supply used	

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

' have data to support the above surface water use reductions due to the use of a substitute water supply	
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10. Conjunctive Use of Surface Water and Groundwater	
a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

11a. Additional Remarks
The amount diverted is a multiple of the reported use amount, plus a factor to account for field flooding (if any). The multiple is to account for additional water that is diverted but not consumed or evaporated.

Attachments		
File Name	Description	Size
No Attachments		

Contact Information of the Person Submitting the Form	
First Name	Kelly
Last Name	Arceo
Relation to Water Right	Other
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes

[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: Coney Island Farms Inc  
 Statement Number: S020857  
 Date Submitted: 2013-06-18

1. Water is used under	Riparian Claim Pre-1914 Claim Other: overlying & statutory rights
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January		63.01	39.38
February		35.1	21.93
March		37.45	23.41
April		39.5	24.69
May		96.52	60.32
June		258.89	161.81
July		268.27	167.67
August		171.86	107.41
September		13.94	8.71
October		19.92	12.45
November		28.93	18.08
December		33.34	20.84
Total		1066.73	666.7
Comments			

5. Water Diversion Measurement

a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage
b. Types of measuring devices used	
c. Additional technology used	
d. Description of additional technology used	
e. Who installed your measuring device(s)	
f. Make, model number, and last calibration date of your measuring device(s)	
f. Why direct measurement using a device	Other

listed in Section 1 is "not locally cost effective"	
Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"	The cost of acquisition, installation, maintenance (including vandalism and theft deterrence and remediation), collection and compilation of data from measuring devices is not locally cost-effective because the value of the local benefits of installing and maintaining meters is not greater than the value of the local cost of implementing that measure. There are no apparent grants available to otherwise cover costs of water meters and related actions. Moreover, the unique hydrogeological characteristics of the Delta (e.g., tides, seepage, interconnected channels, etc.) indicate that meters are not the best available technology in this region. Any water diverted in the Delta which is not consumed or evaporated is recycled to the Delta Pool for reuse. As further support for the conclusion that measuring devices are not locally cost-effective reference is made to the documentation on file with the SWRCB attesting to the lack of such cost-effectiveness submitted in connection with the SWRCB's July 21, 2011 "Water Measurement Workshop" and the SWRCB's follow-up solicitation of comments (due November 18, 2011) re the same.
Method(s) used as an alternative to direct measurement	Crop duty estimates/consumptive use estimates
9. Explanation of method(s) used as an alternative to direct measurement	Used ITRC REPORT 03-001 ETC Table for Irrigation Scheduling and Design, Zone 12 for Surface Irrigation, Typical year adjusted for the reporting year using CIMIS monthly ETo for Manteca. For crops not covered by the ITRC report ETC was determined using ratios to alfalfa from Table A-5, DWR Bulletin 168, October 1978.

6. Purpose of Use	
Irrigation	255.5 Acres

7. Changes in Method of Diversion	

8. Conservation of Water	
Are you now employing water conservation efforts?	Yes
a. Describe any water conservation efforts you have initiated	Good water management and farming practices, lined ditches and pipelines. Any diverted water which is not consumed or evaporated is recycled to the Delta Pool. Credit is claimed for these water conservation efforts under section 1011 of the Water Code. A specific amount conserved is not reported due to the lack of a present method to precisely quantify that amount.
Amount of water conserved	Acre-Feet
b. I have data to support the above surface water use reductions due to conservation efforts.	

9. Water Quality and Wastewater Reclamation	
a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?	No
b. Amount of reduced diversion	
Type of substitute water supply	
Amount of substitute water supply used	

I have data to support the above surface water use reductions due to the use of a substitute water supply	
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10. Conjunctive Use of Surface Water and Groundwater	
a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

11a. Additional Remarks
The amount diverted is a multiple of the reported use amount, plus a factor to account for field flooding (if any). The multiple is to account for additional water that is diverted but not consumed or evaporated.

Attachments		
File Name	Description	Size
No Attachments		

Contact Information of the Person Submitting the Form	
First Name	Kelly
Last Name	Arceo
Relation to Water Right	Other
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes



**JPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**  
**[SUMMARY OF FINAL SUBMITTED VERSION]**

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012**

Primary Owner: Victoria Island LP  
 Statement Number: S021293  
 Date Submitted: 2013-06-13

1. Water is used under	Riparian Claim Pre-1914 Claim
2. Year of first use	1800

<b>3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used</b>			
<b>Month</b>	<b>Rate of diversion</b>	<b>Amount directly diverted or collected to storage (Acre-Feet)</b>	<b>Amount beneficially used (Acre-Feet)</b>
January		72.16	45.1
February		71.18	44.69
March		61.9	38.69
April		107.39	67.12
May		212.16	132.6
June		312.56	195.35
July		274.38	171.49
August		146.26	91.41
September		98.02	61.26
October		51.62	32.26
November		46.59	29.12
December		42.82	26.76
Total		1497.04	935.85
Comments			

<b>5. Water Diversion Measurement</b>	
a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage
b. Types of measuring devices used	
c. Additional technology used	
c. Description of additional technology used	
d. Who installed your measuring device(s)	
e. Make, model number, and last calibration date of your measuring device(s)	
f. Why direct measurement using a device listed in Section 1 is "not locally cost effective"	Other
f. Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"	The cost of acquisition, installation, maintenance, collection and compilation of data from measuring devices cannot be recovered and there is no apparent grant available to cover such costs. Excess water is recycled to the Delta Pool and the only practical way to determine water use is using ETo and ETC to support an estimate.

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

	Method(s) used as an alternative to direct measurement	Crop duty estimates/consumptive use estimates
g.	Explanation of method(s) used as an alternative to direct measurement	Used ITRC REPORT 03-001 Etc Table for Irrigation Scheduling and Design, Zone 12 for Surface Irrigation, Typical year adjusted for the reporting year using CIMIS monthly ETo for Manteca. For crops not covered by the ITRC report ETo was determined using ratios to alfalfa from Table A-5, DWR Bulletin 168, October 1978.

**6. Purpose of Use**

Irrigation	292.6 Acres
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**7. Changes in Method of Diversion**

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**8. Conservation of Water**

	Are you now employing water conservation efforts?	Yes
a.	Describe any water conservation efforts you have initiated	Good water and farming practices, lined ditches, pipelines and excess water is recycled to the Delta Pool.
	Amount of water conserved	Acre-Feet
b.	I have data to support the above surface water use reductions due to conservation efforts.	No

**9. Water Quality and Wastewater Reclamation**

a.	Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?	No
	Amount of reduced diversion	
	Type of substitute water supply	
b.	Amount of substitute water supply used	
	I have data to support the above surface water use reductions due to the use of a substitute water supply	

**10. Conjunctive Use of Surface Water and Groundwater**

a.	Are you now using groundwater in lieu of surface water?	No
	Amount of groundwater used	
b.	I have data to support the above surface water use reductions due to the use of groundwater.	

**11a. Additional Remarks**

The amount diverted is a multiple of the reported amount used except that an amount is added to account for field flooding.

**Attachments**

File Name	Description	Size
No Attachments		

**Contact Information of the Person Submitting the Form**

First Name	James
Last Name	Jerkovich
Relation to Water Right	Other
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes

[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: TUSCANY RESEARCH INSTITUTE

Statement Number: S021003

Date Submitted: 2013-06-24

1. Water is used under	Riparian Claim Pre-1914 Claim Other: overlying and statutory rights
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January		168.79	22.09
February		28.64	17.9
March		83.28	52.05
April		54.09	33.81
May		87.13	54.45
June		243.65	152.28
July		289.05	180.65
August		200.86	125.54
September		17.52	10.95
October		22.87	14.29
November		166.77	20.82
December		164.9	19.66
Total		1527.55	704.49
Comments			

5. Water Diversion Measurement

a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage	
b. Types of measuring devices used		
c. Additional technology used		
c. Description of additional technology used		
d. Who installed your measuring device(s)		
e. Make, model number, and last calibration date of your measuring device(s)		
f. Why direct measurement using a device	Other	

<p>listed in Section 1 is "not locally cost effective"</p>	
<p>Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"</p>	<p>The cost of acquisition, installation, maintenance (including vandalism and theft deterrence and remediation), collection and compilation of data from measuring devices is not locally cost-effective because the value of the local benefits of installing and maintaining meters is not greater than the value of the local cost of implementing that measure. There are no apparent grants available to otherwise cover costs of water meters and related actions. Moreover, the unique hydrogeological characteristics of the Delta (e.g., tides, seepage, interconnected channels, etc.) indicate that meters are not the best available technology in this region. Any water diverted in the Delta which is not consumed or evaporated is recycled to the Delta Pool for reuse. As further support for the conclusion that measuring devices are not locally cost-effective reference is made to the documentation on file with the SWRCB attesting to the lack of such costeffectiveness submitted in connection with the SWRCB's July 21, 2011 "Water Measurement Workshop" and the SWRCB's follow-up solicitation of comments (due November 18, 2011) re the same.</p>
<p>Method(s) used as an alternative to direct measurement</p>	<p>Crop duty estimates/consumptive use estimates</p>
<p>9. Explanation of method(s) used as an alternative to direct measurement</p>	<p>Used ITRC REPORT 03-001 ETC Table for Irrigation Scheduling and Design, Zone 12 for Surface Irrigation, Typical year adjusted for the reporting year using CIMIS monthly ETo for Manteca. For crops not covered by the ITRC report ETC was determined using ratios to alfalfa from Table A-5, DWR Bulletin 168, October 1978.</p>

**6. Purpose of Use**

<p>Irrigation</p>	<p>615.5 Acres</p>
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**7. Changes in Method of Diversion**

**8. Conservation of Water**

<p>Are you now employing water conservation efforts?</p>	<p>Yes</p>
<p>a. Describe any water conservation efforts you have initiated</p>	<p>Good water management and farming practicescover crops, mulching, laser leveling. Any diverted water which is not consumed or evaporated is recycled to the Delta Pool. Credit is claimed for these water conservation efforts under section 1011 of the Water Code. A specific amount conserved is not reported due to the lack of a present method to precisely quantify that amount.</p>
<p>Amount of water conserved</p>	<p>Acre-Feet</p>
<p>b. I have data to support the above surface water use reductions due to conservation efforts.</p>	

**9. Water Quality and Wastewater Reclamation**

<p>a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?</p>	<p>No</p>
<p>b. Amount of reduced diversion Type of substitute water supply Amount of substitute water supply used</p>	

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

I have data to support the above surface water use reductions due to the use of a substitute water supply
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10. Conjunctive Use of Surface Water and Groundwater	
a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

11a. Additional Remarks
The amount diverted is a multiple of the reported use amount, plus a factor to account for field flooding (if any). The multiple is to account for additional water that is diverted but not consumed or evaporated. (Note: add the following insertion to the above insertion if you had multiple PODs deliver water to the same field or parcel): The point of diversion that is the subject of this report is one of <u>2</u> (insert number) points of diversion that provided water to an approximate <u>615.50</u> acre field/parcel. For purposes of these reports, the amount of acreage irrigated, water used and water diverted associated with each of those points of diversion has been evenly split along them.

Attachments		
File Name	Description	Size
No Attachments		

Contact Information of the Person Submitting the Form	
First Name	Clint
Last Name	Womack
Relation to Water Right	
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes

[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: Coney Island Farms Inc  
 Statement Number: S020859  
 Date Submitted: 2013-06-18

1. Water is used under	Riparian Claim Pre-1914 Claim Other: overlying & statutory rights
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January		9.99	6.24
February		5.56	3.48
March		5.51	3.45
April		5.38	3.36
May		17.3	10.81
June		42.99	26.87
July		40.73	25.45
August		19.39	12.12
September		1.55	0.97
October		3.16	1.97
November		4.59	2.87
December		5.29	3.3
Total		161.44	100.89
Comments			

5. Water Diversion Measurement

a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage
b. Types of measuring devices used	
c. Additional technology used	
Description of additional technology used	
d. Who installed your measuring device(s)	
e. Make, model number, and last calibration date of your measuring device(s)	
f. Why direct measurement using a device	Other



listed in Section 1 is "not locally cost effective"	
Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"	The cost of acquisition, installation, maintenance (including vandalism and theft deterrence and remediation), collection and compilation of data from measuring devices is not locally cost-effective because the value of the local benefits of installing and maintaining meters is not greater than the value of the local cost of implementing that measure. There are no apparent grants available to otherwise cover costs of water meters and related actions. Moreover, the unique hydrogeological characteristics of the Delta (e.g., tides, seepage, interconnected channels, etc.) indicate that meters are not the best available technology in this region. Any water diverted in the Delta which is not consumed or evaporated is recycled to the Delta Pool for reuse. As further support for the conclusion that measuring devices are not locally cost-effective reference is made to the documentation on file with the SWRCB attesting to the lack of such cost-effectiveness submitted in connection with the SWRCB's July 21, 2011 "Water Measurement Workshop" and the SWRCB's follow-up solicitation of comments (due November 18, 2011) re the same.
Method(s) used as an alternative to direct measurement	Crop duty estimates/consumptive use estimates
9. Explanation of method(s) used as an alternative to direct measurement	Used ITRC REPORT 03-001 ETc Table for Irrigation Scheduling and Design, Zone 12 for Surface Irrigation, Typical year adjusted for the reporting year using CIMIS monthly ET <sub>o</sub> for Manteca. For crops not covered by the ITRC report ETc was determined using ratios to alfalfa from Table A-5, DWR Bulletin 168, October 1978.

**6. Purpose of Use**

Irrigation	22 Acres
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**7. Changes in Method of Diversion**

**8. Conservation of Water**

Are you now employing water conservation efforts?	Yes
a. Describe any water conservation efforts you have initiated	Good water management and farming practices, lined ditches and pipelines. Any diverted water which is not consumed or evaporated is recycled to the Delta Pool. Credit is claimed for these water conservation efforts under section 1011 of the Water Code. A specific amount conserved is not reported due to the lack of a present method to precisely quantify that amount.
Amount of water conserved	Acre-Feet
b. I have data to support the above surface water use reductions due to conservation efforts.	

**9. Water Quality and Wastewater Reclamation**

a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?	No
b. Amount of reduced diversion	
Type of substitute water supply	
Amount of substitute water supply used	

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

I have data to support the above surface water use reductions due to the use of a substitute water supply	
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10. Conjunctive Use of Surface Water and Groundwater	
a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

11a. Additional Remarks
The amount diverted is a multiple of the reported use amount, plus a factor to account for field flooding (if any). The multiple is to account for additional water that is diverted but not consumed or evaporated.

Attachments		
File Name	Description	Size
No Attachments		

Contact Information of the Person Submitting the Form	
First Name	Kelly
Last Name	Arceo
Relation to Water Right	Other
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes

[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: ROBERT M ACOSTA  
 Statement Number: S016582  
 Date Submitted: 2013-04-04

1. Water is used under	Pre-1914 Claim
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January		0	0
February		0	0
March		0	0
April		48	48
May		48	48
June		48	48
July		48	48
August		48	48
September		24	24
October		0	0
November		0	0
December		0	0
Total		264	264
Comments	The water is used for irrigation of row crops and various types of hay. Corn is also produced on a rotating basis. The farm has been in continuous production since the 1800's.		

5. Water Diversion Measurement	
a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage
b. Types of measuring devices used	
Additional technology used	
c. Description of additional technology used	
d. Who installed your measuring device(s)	
e. Make, model number, and last calibration date of your measuring device(s)	
f. Why direct measurement using a device listed in Section 1 is "not locally cost effective"	Diversions are infrequent No power at diversion point Other
f. Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"	the cost to bring in power is expensive. the diversion is 2 times per month for 6 mo. The farm is not used as a primary source of income and only on a part time basis. This is a family farm/hobby not a business.

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

Method(s) used as an alternative to direct measurement	Crop duty estimates/consumptive use estimates Modeled/estimated flows
g. Explanation of method(s) used as an alternative to direct measurement	water control via direct visual observations. The amt. of water use is est. using time and water management principles from records for the past 100 years. The amount of water use for 24 ac. is averaged by using accumulated data from previous water use records.

6. Purpose of Use	
Irrigation	24 Acres

7. Changes in Method of Diversion	
enlarge diversion dam. Rework , realign old ditches. New slide gates obtained. All surface ditches cleaned with backhoe . All debris removed and sent to land field. All weeds and other dead forge removed .	

8. Conservation of Water	
a. Are you now employing water conservation efforts?	Yes
a. Describe any water conservation efforts you have initiated	new gate valves installed on all irrigation flow points. weed control on continuous schedule.
Amount of water conserved	Acre-Feet
b. I have data to support the above surface water use reductions due to conservation efforts.	Yes

9. Water Quality and Wastewater Reclamation	
a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?	No
Amount of reduced diversion	
Type of substitute water supply	
b. Amount of substitute water supply used	
I have data to support the above surface water use reductions due to the use of a substitute water supply	

10. Conjunctive Use of Surface Water and Groundwater	
a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

11a. Additional Remarks	

Attachments		
File Name	Description	Size
No Attachments		

Contact Information of the Person Submitting the Form	
First Name	robert
Last Name	acosta
Relation to Water Right	Owner
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes

[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: Berniece L. Silva Trust  
 Statement Number: S018507  
 Date Submitted: 2013-06-12

1. Water is used under	Riparian Claim Pre-1914 Claim Other: overlying & statutory rights
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January		21.65	13.53
February		12.06	7.54
March		13.34	8.34
April		14.57	9.11
May		30.9	19.32
June		86.75	54.22
July		94.21	58.88
August		67.93	42.46
September		5.53	3.46
October		6.84	4.28
November		9.94	6.21
December		11.46	7.16
Total		375.18	234.51
Comments			

5. Water Diversion Measurement

a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage	
b. Types of measuring devices used		
c. Additional technology used		
c. Description of additional technology used		
d. Who installed your measuring device(s)		
e. Make, model number, and last calibration date of your measuring device(s)		
f. Why direct measurement using a device	Other	

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

<p>listed in Section 1 is "not locally cost effective"</p>	
<p>Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"</p>	<p>The cost of acquisition, installation, maintenance (including vandalism and theft deterrence and remediation), collection and compilation of data from measuring devices is not locally cost-effective because the value of the local benefits of installing and maintaining meters is not greater than the value of the local cost of implementing that measure. There are no apparent grants available to otherwise cover costs of water meters and related actions. Moreover, the unique hydrogeological characteristics of the Delta (e.g., tides, seepage, interconnected channels, etc.) indicate that meters are not the best available technology in this region. Any water diverted in the Delta which is not consumed or evaporated is recycled to the Delta Pool for reuse. As further support for the conclusion that measuring devices are not locally cost-effective reference is made to the documentation on file with the SWRCB attesting to the lack of such cost-effectiveness submitted in connection with the SWRCB's July 21, 2011 "Water Measurement Workshop" and the SWRCB's follow-up solicitation of comments (due November 18, 2011) re the same.</p>
<p>Method(s) used as an alternative to direct measurement</p>	<p>Crop duty estimates/consumptive use estimates</p>
<p>9. Explanation of method(s) used as an alternative to direct measurement</p>	<p>Used ITRC REPORT 03-001 ETc Table for Irrigation Scheduling and Design, Zone 12 for Surface Irrigation, Typical year adjusted for the reporting year using CIMIS monthly ETo for Manteca. For crops not covered by the ITRC report ETc was determined using ratios to alfalfa from Table A-5, DWR Bulletin 168, October 1978.</p>

**6. Purpose of Use**

<p>Irrigation</p>	<p>87.79 Acres</p>
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**7. Changes in Method of Diversion**

<p> </p>
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**8. Conservation of Water**

<p>Are you now employing water conservation efforts?</p>	<p>Yes</p>
<p>a. Describe any water conservation efforts you have initiated</p>	<p>Good water management and farming practices. Any diverted water which is not consumed or evaporated is recycled to the Delta Pool. Credit is claimed for these water conservation efforts under section 1011 of the Water Code. A specific amount conserved is not reported due to the lack of a present method to precisely quantify that amount.</p>
<p>Amount of water conserved</p>	<p>Acre-Feet</p>
<p>b. I have data to support the above surface water use reductions due to conservation efforts.</p>	<p> </p>

**9. Water Quality and Wastewater Reclamation**

<p>a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?</p>	<p>No</p>
<p>b. Amount of reduced diversion</p>	<p> </p>
<p>Type of substitute water supply</p>	<p> </p>
<p>Amount of substitute water supply used</p>	<p> </p>



**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

I have data to support the above surface water use reductions due to the use of a substitute water supply	
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10. Conjunctive Use of Surface Water and Groundwater	
a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

11a. Additional Remarks
The amount diverted is a multiple of the reported use amount, plus a factor to account for field flooding (if any). The multiple is to account for additional water that is diverted but not consumed or evaporated.

Attachments		
File Name	Description	Size
No Attachments		

Contact Information of the Person Submitting the Form	
First Name	Kelly
Last Name	Arceo
Relation to Water Right	Other
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes

[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: Abbate Farms  
 Statement Number: S018798  
 Date Submitted: 2013-07-24

1. Water is used under	Riparian Claim Pre-1914 Claim Other: OVERLYING AND STATUTORY RIGHTS
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January		0	0
February		0	0
March		14.38	8.99
April		67.79	42.37
May		100.65	62.91
June		109.48	68.42
July		187.14	116.96
August		129.18	80.74
September		103.35	64.6
October		0	0
November		0	0
December		0	0
Total		711.97	444.99
Comments			

5. Water Diversion Measurement

a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage	
b. Types of measuring devices used		
c. Additional technology used		
c. Description of additional technology used		
d. Who installed your measuring device(s)		
e. Make, model number, and last calibration date of your measuring device(s)		
f. Why direct measurement using a device	Other	

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

<p>listed in Section 1 is "not locally cost effective"</p>	
<p>Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"</p>	<p>The cost of acquisition, installation, maintenance (including vandalism and theft deterrence and remediation), collection and compilation of data from measuring devices is not locally cost-effective because the value of the local benefits of installing and maintaining meters is not greater than the value of the local cost of implementing that measure. There are no apparent grants available to otherwise cover costs of water meters and related actions. Moreover, the unique hydrogeological characteristics of the Delta (e.g., tides, seepage, interconnected channels, etc.) indicate that meters are not the best available technology in this region. Any water diverted in the Delta which is not consumed or evaporated is recycled to the Delta Pool for reuse. As further support for the conclusion that measuring devices are not locally cost-effective reference is made to the documentation on file with the SWRCB attesting to the lack of such cost-effectiveness submitted in connection with the SWRCB's July 21, 2011 "Water Measurement Workshop" and the SWRCB's follow-up solicitation of comments (due November 18, 2011) re the same.</p>
<p>Method(s) used as an alternative to direct measurement</p>	<p>Crop duty estimates/consumptive use estimates</p>
<p>9. Explanation of method(s) used as an alternative to direct measurement</p>	<p>Used ITRC REPORT 03-001 ETC Table for Irrigation Scheduling and Design, Zone 12 for Surface Irrigation, Typical year adjusted for the reporting year using CIMIS monthly ETo for Manteca. For crops not covered by the ITRC report ETC was determined using ratios to alfalfa from Table A-5, DWR Bulletin 168, October 1978.</p>

**6. Purpose of Use**

<p>Irrigation</p>	<p>255 Acres</p>
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**7. Changes in Method of Diversion**

**8. Conservation of Water**

<p>a. Are you now employing water conservation efforts?</p>	<p>Yes</p>
<p>a. Describe any water conservation efforts you have initiated</p>	<p>Good water management and farming practices, and/or lined ditches, and/or pipelines, and/or drip irrigation, and/or sprinkler irrigation, and/or low energy spray irrigation, and/or cover crops, and/or mulching, and/or laser leveling. Any diverted water which is not consumed or evaporated is recycled to the Delta Pool. Credit is claimed for these water conservation efforts under section 1011 of the Water Code. A specific amount conserved is not reported due to the lack of a present method to precisely quantify that amount.</p>
<p>b. Amount of water conserved</p>	<p>Acre-Feet</p>
<p>b. I have data to support the above surface water use reductions due to conservation efforts.</p>	

**9. Water Quality and Wastewater Reclamation**

<p>a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?</p>	<p>No</p>
<p>b. Amount of reduced diversion</p>	

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

Type of substitute water supply	
Amount of substitute water supply used	
I have data to support the above surface water use reductions due to the use of a substitute water supply	

<b>10. Conjunctive Use of Surface Water and Groundwater</b>	
a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

**11a. Additional Remarks**

The amount shown as "used" may include months during which any permanent crop was not irrigated and/or months during which any annual crop was not in place. This is done to reflect the actual water used or lost from the land (including weeds) as per the UC Davis/CalPoly data on ET. This is done because any water "consumed" in this area is a net decrease in the Delta Pool. However, the amounts shown as diverted in each month reflects only actual diversions. Hence, the information submitted may show water use in months with no surface water diversion.

<b>Attachments</b>		
<b>File Name</b>	<b>Description</b>	<b>Size</b>
No Attachments		

<b>Contact Information of the Person Submitting the Form</b>	
First Name	JOHN
Last Name	HERRICK
Relation to Water Right	Agent
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes

[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: Sarale Farms Inc  
 Statement Number: S016653  
 Date Submitted: 2013-07-19

1. Water is used under	Riparian Claim Pre-1914 Claim Other: OVERLYING AND STATUTORY RIGHTS
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January		0	0
February		0	0
March		0	0
April		50.22	31.39
May		74.57	46.61
June		81.11	50.7
July		77.35	48.34
August		68.33	42.71
September		51.47	32.17
October		21.68	13.55
November		0	0
December		0	0
Total		424.73	265.47
Comments			

5. Water Diversion Measurement	
a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage
b. Types of measuring devices used	
c. Additional technology used	
d. Description of additional technology used	
e. Who installed your measuring device(s)	
f. Make, model number, and last calibration date of your measuring device(s)	
f. Why direct measurement using a device	Other

listed in Section 1 is "not locally cost effective"	
Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"	The cost of acquisition, installation, maintenance (including vandalism and theft deterrence and remediation), collection and compilation of data from measuring devices is not locally cost-effective because the value of the local benefits of installing and maintaining meters is not greater than the value of the local cost of implementing that measure. There are no apparent grants available to otherwise cover costs of water meters and related actions. Moreover, the unique hydrogeological characteristics of the Delta (e.g., tides, seepage, interconnected channels, etc.) indicate that meters are not the best available technology in this region. Any water diverted in the Delta which is not consumed or evaporated is recycled to the Delta Pool for reuse. As further support for the conclusion that measuring devices are not locally cost-effective reference is made to the documentation on file with the SWRCB attesting to the lack of such cost-effectiveness submitted in connection with the SWRCB's July 21, 2011 "Water Measurement Workshop" and the SWRCB's follow-up solicitation of comments (due November 18, 2011) re the same.
Method(s) used as an alternative to direct measurement	Crop duty estimates/consumptive use estimates
9. Explanation of method(s) used as an alternative to direct measurement	Used ITRC REPORT 03-001 ETc Table for Irrigation Scheduling and Design, Zone 12 for Surface Irrigation, Typical year adjusted for the reporting year using CIMIS monthly ETc for Manteca. For crops not covered by the ITRC report ETc was determined using ratios to alfalfa from Table A-5, DWR Bulletin 168, October 1978.

**6. Purpose of Use**

Irrigation	81.5 Acres
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**7. Changes in Method of Diversion**

**8. Conservation of Water**

Are you now employing water conservation efforts?	Yes
a. Describe any water conservation efforts you have initiated	Good water management and farming practices, and/or lined ditches, and/or pipelines, and/or drip irrigation, and/or sprinkler irrigation, and/or low energy spray irrigation, and/or cover crops, and/or mulching, and/or laser leveling. Any diverted water which is not consumed or evaporated is recycled to the Delta Pool. Credit is claimed for these water conservation efforts under section 1011 of the Water Code. A specific amount conserved is not reported due to the lack of a present method to precisely quantify that amount.
Amount of water conserved	Acre-Feet
b. I have data to support the above surface water use reductions due to conservation efforts.	

**9. Water Quality and Wastewater Reclamation**

a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?	No
b. Amount of reduced diversion	



**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

Type of substitute water supply	
Amount of substitute water supply used	
I have data to support the above surface water use reductions due to the use of a substitute water supply	

<b>10. Conjunctive Use of Surface Water and Groundwater</b>	
a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

**11a. Additional Remarks**

The amount shown as "used" may include months during which any permanent crop was not irrigated and/or months during which any annual crop was not in place. This is done to reflect the actual water used or lost from the land (including weeds) as per the UC Davis/CalPoly data on ET. This is done because any water "consumed" in this area is a net decrease in the Delta Pool. However, the amounts shown as diverted in each month reflects only actual diversions. Hence, the information submitted may show water use in months with no surface water diversion.

<b>Attachments</b>		
<b>File Name</b>	<b>Description</b>	<b>Size</b>
No Attachments		

<b>Contact Information of the Person Submitting the Form</b>	
First Name	JOHN
Last Name	HERRICK
Relation to Water Right	Agent
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes

[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: TROY DAYAK  
 Statement Number: S017590  
 Date Submitted: 2013-06-30

1. Water is used under	Riparian Claim Pre-1914 Claim
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion (CFS)	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January	0	0	0
February	0	0	0
March	0	0	0
April	0.51	20.4	20.4
May	0.46	18.4	18.4
June	0.68	27.2	27.2
July	0.78	31.2	31.2
August	0.68	27.2	27.2
September	0.51	20.4	20.4
October	0	0	0
November	0	0	0
December	0	0	0
Total		144.8	144.8
Comments			

5. Water Diversion Measurement

a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage
b. Types of measuring devices used	
c. Additional technology used	
Description of additional technology used	
d. Who installed your measuring device(s)	
e. Make, model number, and last calibration date of your measuring device(s)	
f. Why direct measurement using a device listed in Section 1 is "not locally cost effective"	Other
Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"	a meter is on this pump to measure electric usage and time usage. the horsepower multiplied by the time usage give us the cubic feet.
g. Method(s) used as an alternative to direct measurement	Electricity records dedicated to the pump
Explanation of method(s) used as an alternative to direct measurement	a meter devoted to this diversion pump gives us the usage.

6. Purpose of Use

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

Irrigation	40 Acres
Stockwatering	0
Domestic	0

**7. Changes in Method of Diversion**

**8. Conservation of Water**

Are you now employing water conservation efforts?		Yes
a.	Describe any water conservation efforts you have initiated	continuing to eliminate seepage, leakage and waste
Amount of water conserved		Acre-Feet
b.	I have data to support the above surface water use reductions due to conservation efforts.	No

**9. Water Quality and Wastewater Reclamation**

a.	Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?	No
Amount of reduced diversion		
Type of substitute water supply		
b.	Amount of substitute water supply used	
I have data to support the above surface water use reductions due to the use of a substitute water supply		

**10. Conjunctive Use of Surface Water and Groundwater**

a.	Are you now using groundwater in lieu of surface water?	No
Amount of groundwater used		
b.	I have data to support the above surface water use reductions due to the use of groundwater.	

**11a. Additional Remarks**

Attachments		
File Name	Description	Size
No Attachments		

**Contact Information of the Person Submitting the Form**

First Name	Candy
Last Name	Soares
Relation to Water Right	Other
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes

[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: ANTONIO BRASIL  
 Statement Number: S018081  
 Date Submitted: 2013-06-25

1. Water is used under	Riparian Claim Pre-1914 Claim Other: overlying and statutory rights
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January		130.73	81.7
February		0	0
March		0	0
April		0	0
May		184.64	115.29
June		517.81	323.63
July		562.32	351.45
August		405.47	253.42
September		33.03	20.64
October		25.26	15.78
November		37.89	23.68
December		38.29	23.93
Total		1935.44	1209.52
Comments			

5. Water Diversion Measurement	
a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage
b. Types of measuring devices used	
c. Additional technology used	
c. Description of additional technology used	
d. Who installed your measuring device(s)	
e. Make, model number, and last calibration date of your measuring device(s)	
f. Why direct measurement using a device	Other

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

listed in Section 1 is "not locally cost effective"	
Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"	The cost of acquisition, installation, maintenance (including vandalism and theft deterrence and remediation), collection and compilation of data from measuring devices is not locally cost-effective because the value of the local benefits of installing and maintaining meters is not greater than the value of the local cost of implementing that measure. There are no apparent grants available to otherwise cover costs of water meters and related actions. Moreover, the unique hydrogeological characteristics of the Delta (e.g., tides, seepage, interconnected channels, etc.) indicate that meters are not the best available technology in this region. Any water diverted in the Delta which is not consumed or evaporated is recycled to the Delta Pool for reuse. As further support for the conclusion that measuring devices are not locally cost-effective reference is made to the documentation on file with the SWRCB attesting to the lack of such cost-effectiveness submitted in connection with the SWRCB's July 21, 2011 "Water Measurement Workshop" and the SWRCB's follow-up solicitation of comments (due November 18, 2011) re the same.
Method(s) used as an alternative to direct measurement	Crop duty estimates/consumptive use estimates
9. Explanation of method(s) used as an alternative to direct measurement	Used ITRC REPORT 03-001 ETC Table for Irrigation Scheduling and Design, Zone 12 for Surface Irrigation, Typical year adjusted for the reporting year using CIMIS monthly ET <sub>o</sub> for Manteca. For crops not covered by the ITRC report ETC was determined using ratios to alfalfa from Table A-5, DWR Bulletin 168, October 1978.

**6. Purpose of Use**

Irrigation	524 Acres
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**7. Changes in Method of Diversion**

**8. Conservation of Water**

Are you now employing water conservation efforts?	Yes
a. Describe any water conservation efforts you have initiated	Good water management and farming practices, and/or lined ditches, and/or pipelines, and/or drip irrigation, and/or sprinkler irrigation, and/or low energy spray irrigation, and/or cover crops, and/or mulching, and/or laser leveling. Any diverted water which is not consumed or evaporated is recycled to the Delta Pool. Credit is claimed for these water conservation efforts under section 1011 of the Water Code. A specific amount conserved is not reported due to the lack of a present method to precisely quantify that amount.
Amount of water conserved	Acre-Feet
b. I have data to support the above surface water use reductions due to conservation efforts.	

**9. Water Quality and Wastewater Reclamation**

a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?	No
b. Amount of reduced diversion	

# SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

Type of substitute water supply	
Amount of substitute water supply used	
I have data to support the above surface water use reductions due to the use of a substitute water supply	

10. Conjunctive Use of Surface Water and Groundwater	
a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

11a. Additional Remarks
The amount shown as "used" may include months during which any permanent crop was not irrigated and/or months during which any annual crop was not in place. This is done to reflect the actual water used or lost from the land (including weeds) as per the UC Davis/CalPoly data on ET. This is done because any water "consumed" in this area is a net decrease in the Delta Pool. However, the amounts shown as diverted in each month reflects only actual diversions. Hence, the information submitted may show water use in months with no surface water diversion.

Attachments		
File Name	Description	Size
No Attachments		

Contact Information of the Person Submitting the Form	
First Name	John
Last Name	Herrick
Relation to Water Right	Agent
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes



[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: Roy Mazzanti Revocable Trust  
 Statement Number: S017899  
 Date Submitted: 2013-06-24

1. Water is used under	Riparian Claim Pre-1914 Claim Other: overlying & statutory rights
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January		70	14.45
February		12.88	8.05
March		14.25	8.91
April		15.56	9.73
May		33	20.63
June		92.64	57.9
July		100.61	62.88
August		72.54	45.34
September		5.91	3.69
October		7.31	4.57
November		10.62	6.64
December		59.11	7.65
Total		494.43	250.44
Comments			

5. Water Diversion Measurement

a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage
b. Types of measuring devices used	
c. Additional technology used	
c. Description of additional technology used	
d. Who installed your measuring device(s)	
e. Make, model number, and last calibration date of your measuring device(s)	
f. Why direct measurement using a device	Other

listed in Section 1 is "not locally cost effective"	
Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"	The cost of acquisition, installation, maintenance (including vandalism and theft deterrence and remediation), collection and compilation of data from measuring devices is not locally cost-effective because the value of the local benefits of installing and maintaining meters is not greater than the value of the local cost of implementing that measure. There are no apparent grants available to otherwise cover costs of water meters and related actions. Moreover, the unique hydrogeological characteristics of the Delta (e.g., tides, seepage, interconnected channels, etc.) indicate that meters are not the best available technology in this region. Any water diverted in the Delta which is not consumed or evaporated is recycled to the Delta Pool for reuse. As further support for the conclusion that measuring devices are not locally cost-effective reference is made to the documentation on file with the SWRCB attesting to the lack of such cost-effectiveness submitted in connection with the SWRCB's July 21, 2011 "Water Measurement Workshop" and the SWRCB's follow-up solicitation of comments (due November 18, 2011) re the same.
Method(s) used as an alternative to direct measurement	Crop duty estimates/consumptive use estimates
9. Explanation of method(s) used as an alternative to direct measurement	Used ITRC REPORT 03-001 ETC Table for Irrigation Scheduling and Design, Zone 12 for Surface Irrigation, Typical year adjusted for the reporting year using CIMIS monthly ETo for Manteca. For crops not covered by the ITRC report ETC was determined using ratios to alfalfa from Table A-5, DWR Bulletin 168, October 1978.

**6. Purpose of Use**

Irrigation	93.75 Acres
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**7. Changes in Method of Diversion**

**8. Conservation of Water**

Are you now employing water conservation efforts?	Yes
a. Describe any water conservation efforts you have initiated	Good water management and farming practices, lined ditches and pipelines. Any diverted water which is not consumed or evaporated is recycled to the Delta Pool. Credit is claimed for these water conservation efforts under section 1011 of the Water Code. A specific amount conserved is not reported due to the lack of a present method to precisely quantify that amount.
Amount of water conserved	Acre-Feet
b. I have data to support the above surface water use reductions due to conservation efforts.	

**9. Water Quality and Wastewater Reclamation**

a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?	No
b. Amount of reduced diversion	
Type of substitute water supply	
Amount of substitute water supply used	

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

I have data to support the above surface water use reductions due to the use of a substitute water supply	
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<b>10. Conjunctive Use of Surface Water and Groundwater</b>	
a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

<b>11a. Additional Remarks</b>
The amount diverted is a multiple of the reported use amount, plus a factor to account for field flooding (if any). The multiple is to account for additional water that is diverted but not consumed or evaporated. The point of diversion that is the subject of this report is one of four points of diversion that provided water to an approximate 375 acre field/parcel. For purposes of these reports, the amount of acreage irrigated, water used and water diverted associated with each of those points of diversion has been evenly split among them.

<b>Attachments</b>		
<b>File Name</b>	<b>Description</b>	<b>Size</b>
No Attachments		

<b>Contact Information of the Person Submitting the Form</b>	
First Name	Kelly
Last Name	Arceo
Relation to Water Right	Other
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes

[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: TRANSMISSION AGENCY OF NORTHERN CALIFORNIA

Statement Number: S021250

Date Submitted: 2013-06-21

1. Water is used under	Riparian Claim Pre-1914 Claim Other: overlying & statutory rights
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January		308.52	43.39
February		200.53	25.21
March		122.26	27.1
April		66.07	41.29
May		133.01	83.13
June		279.5	174.68
July		261.85	163.65
August		187.04	116.9
September		15.45	9.66
October		100.85	13.71
November		192.08	19.92
December		275.84	22.96
Total		2143	741.6
Comments			

5. Water Diversion Measurement	
a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage
b. Types of measuring devices used	
c. Additional technology used	
c. Description of additional technology used	
d. Who installed your measuring device(s)	
e. Make, model number, and last calibration date of your measuring device(s)	
f. Why direct measurement using a device	Other

listed in Section 1 is "not locally cost effective"	
Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"	The cost of acquisition, installation, maintenance (including vandalism and theft deterrence and remediation), collection and compilation of data from measuring devices is not locally cost-effective because the value of the local benefits of installing and maintaining meters is not greater than the value of the local cost of implementing that measure. There are no apparent grants available to otherwise cover costs of water meters and related actions. Moreover, the unique hydrogeological characteristics of the Delta (e.g., tides, seepage, interconnected channels, etc.) indicate that meters are not the best available technology in this region. Any water diverted in the Delta which is not consumed or evaporated is recycled to the Delta Pool for reuse. As further support for the conclusion that measuring devices are not locally cost-effective reference is made to the documentation on file with the SWRCB attesting to the lack of such cost effectiveness submitted in connection with the SWRCB's July 21, 2011 "Water Measurement Workshop" and the SWRCB's follow-up solicitation of comments (due November 18, 2011) re the same.
Method(s) used as an alternative to direct measurement	Crop duty estimates/consumptive use estimates
9. Explanation of method(s) used as an alternative to direct measurement	Used ITRC REPORT 03-001 ETC Table for Irrigation Scheduling and Design, Zone 12 for Surface Irrigation, Typical year adjusted for the reporting year using CIMIS monthly ETo for Manteca. For crops not covered by the ITRC report ETC was determined using ratios to alfalfa from Table A-5, DWR Bulletin 168, October 1978.

6. Purpose of Use	
Irrigation	281.5 Acres

7. Changes in Method of Diversion	

8. Conservation of Water	
Are you now employing water conservation efforts?	Yes
a. Describe any water conservation efforts you have initiated	Good water management and farming practices, pipelines, cover crops, mulching, laser leveling. Any diverted water which is not consumed or evaporated is recycled to the Delta Pool. Credit is claimed for these water conservation efforts under section 1011 of the Water Code. A specific amount conserved is not reported due to the lack of a present method to precisely quantify that amount.
Amount of water conserved	Acre-Feet
b. I have data to support the above surface water use reductions due to conservation efforts.	

9. Water Quality and Wastewater Reclamation	
a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?	No
b. Amount of reduced diversion	
Type of substitute water supply	
Amount of substitute water supply used	

# SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

I have data to support the above surface water use reductions due to the use of a substitute water supply	
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10. Conjunctive Use of Surface Water and Groundwater	
a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

11a. Additional Remarks
The amount diverted is a multiple of the reported use amount, plus a factor to account for field flooding (if any). The multiple is to account for additional water that is diverted but not consumed or evaporated.

Attachments		
File Name	Description	Size
No Attachments		

Contact Information of the Person Submitting the Form	
First Name	DON
Last Name	WAGENET
Relation to Water Right	Other
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes



[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: Grunauer Community Property Trust et al  
 Statement Number: S017215  
 Date Submitted: 2013-06-19

1. Water is used under	Riparian Claim Pre-1914 Claim Other: overlying and statutory rights
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January		0	0
February		0	0
March		0	0
April		6.83	4.27
May		35.61	22.25
June		54.54	34.09
July		173.61	108.51
August		204.79	127.99
September		52.83	33.02
October		0	0
November		0	0
December		0	0
Total		528.21	330.13
Comments			

5. Water Diversion Measurement

a.	Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage
b.	Types of measuring devices used	
c.	Additional technology used	
	Description of additional technology used	
d.	Who installed your measuring device(s)	
e.	Make, model number, and last calibration date of your measuring device(s)	
f.	Why direct measurement using a device	Other

**SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE**

listed in Section 1 is "not locally cost effective"	
Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"	The cost of acquisition, installation, maintenance (including vandalism and theft deterrence and remediation), collection and compilation of data from measuring devices is not locally cost-effective because the value of the local benefits of installing and maintaining meters is not greater than the value of the local cost of implementing that measure. There are no apparent grants available to otherwise cover costs of water meters and related actions. Moreover, the unique hydrogeological characteristics of the Delta (e.g., tides, seepage, interconnected channels, etc.) indicate that meters are not the best available technology in this region. Any water diverted in the Delta which is not consumed or evaporated is recycled to the Delta Pool for reuse. As further support for the conclusion that measuring devices are not locally cost-effective reference is made to the documentation on file with the SWRCB attesting to the lack of such cost-effectiveness submitted in connection with the SWRCB's July 21, 2011 "Water Measurement Workshop" and the SWRCB's follow-up solicitation of comments (due November 18, 2011) re the same.
Method(s) used as an alternative to direct measurement	Crop duty estimates/consumptive use estimates
9. Explanation of method(s) used as an alternative to direct measurement	Used ITRC REPORT 03-001 ETC Table for Irrigation Scheduling and Design, Zone 12 for Surface Irrigation, Typical year adjusted for the reporting year using CIMIS monthly ETo for Manteca. For crops not covered by the ITRC report ETC was determined using ratios to alfalfa from Table A-5, DWR Bulletin 168, October 1978.

**6. Purpose of Use**

Irrigation	259.94 Acres
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**7. Changes in Method of Diversion**

**8. Conservation of Water**

Are you now employing water conservation efforts?	Yes
a. Describe any water conservation efforts you have initiated	Good water management and farming practices, and/or lined ditches, and/or pipelines, and/or drip irrigation, and/or sprinkler irrigation, and/or low energy spray irrigation, and/or cover crops, and/or mulching, and/or laser leveling. Any diverted water which is not consumed or evaporated is recycled to the Delta Pool. Credit is claimed for these water conservation efforts under section 1011 of the Water Code. A specific amount conserved is not reported due to the lack of a present method to precisely quantify that amount.
Amount of water conserved	Acre-Feet
b. I have data to support the above surface water use reductions due to conservation efforts.	

**9. Water Quality and Wastewater Reclamation**

a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?	No
b. Amount of reduced diversion	

# SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

Type of substitute water supply	
Amount of substitute water supply used	
I have data to support the above surface water use reductions due to the use of a substitute water supply	

10. Conjunctive Use of Surface Water and Groundwater	
a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

11a. Additional Remarks
The amount shown as "used" may include months during which any permanent crop was not irrigated and/or months during which any annual crop was not in place. This is done to reflect the actual water used or lost from the land (including weeds) as per the UC Davis/CalPoly data on ET. This is done because any water "consumed" in this area is a net decrease in the Delta Pool. However, the amounts shown as diverted in each month reflects only actual diversions. Hence, the information submitted may show water use in months with no surface water diversion.

Attachments		
File Name	Description	Size
No Attachments		

Contact Information of the Person Submitting the Form	
First Name	John
Last Name	Herrick
Relation to Water Right	Agent
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes

[SUMMARY OF FINAL SUBMITTED VERSION]

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE FOR 2012

Primary Owner: GLORIA A BACCHETTI  
 Statement Number: S019076  
 Date Submitted: 2013-06-26

1. Water is used under	Riparian Claim Pre-1914 Claim Other: overlying and statutory rights
2. Year of first use	1800

3-4. Maximum Rate of Diversion for each Month and Amount of Water Diverted and Used			
Month	Rate of diversion	Amount directly diverted or collected to storage (Acre-Feet)	Amount beneficially used (Acre-Feet)
January		10.06	6.29
February		29.82	18.64
March		27.39	17.12
April		74.49	46.56
May		144.22	90.13
June		240.5	150.31
July		227.19	141.99
August		102.78	64.24
September		25.74	16.09
October		0	0
November		0	0
December		0	0
Total		882.19	551.37
Comments			

5. Water Diversion Measurement

a. Measurement	Direct measurement using a device listed in Section 1 is "not locally cost effective" for water directly diverted and/or diverted to storage	
b. Types of measuring devices used		
c. Additional technology used		
c. Description of additional technology used		
d. Who installed your measuring device(s)		
e. Make, model number, and last calibration date of your measuring device(s)		
f. Why direct measurement using a device	Other	

<p>listed in Section 1 is "not locally cost effective"</p>	
<p>Explanation of why use of devices and technologies listed in Section 1 are "not locally cost effective"</p>	<p>The cost of acquisition, installation, maintenance (including vandalism and theft deterrence and remediation), collection and compilation of data from measuring devices is not locally cost-effective because the value of the local benefits of installing and maintaining meters is not greater than the value of the local cost of implementing that measure. There are no apparent grants available to otherwise cover costs of water meters and related actions. Moreover, the unique hydrogeological characteristics of the Delta (e.g., tides, seepage, interconnected channels, etc.) indicate that meters are not the best available technology in this region. Any water diverted in the Delta which is not consumed or evaporated is recycled to the Delta Pool for reuse. As further support for the conclusion that measuring devices are not locally cost-effective reference is made to the documentation on file with the SWRCB attesting to the lack of such cost-effectiveness submitted in connection with the SWRCB's July 21, 2011 "Water Measurement Workshop" and the SWRCB's follow-up solicitation of comments (due November 18, 2011) re the same.</p>
<p>Method(s) used as an alternative to direct measurement</p>	<p>Crop duty estimates/consumptive use estimates</p>
<p>9. Explanation of method(s) used as an alternative to direct measurement</p>	<p>Used ITRC REPORT 03-001 Etc Table for Irrigation Scheduling and Design, Zone 12 for Surface Irrigation, Typical year adjusted for the reporting year using CIMIS monthly ETo for Manteca. For crops not covered by the ITRC report Etc was determined using ratios to alfalfa from Table A-5, DWR Bulletin 168, October 1978.</p>

**6. Purpose of Use**

<p>Irrigation</p>	<p>237.5 Acres</p>
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**7. Changes in Method of Diversion**

**8. Conservation of Water**

<p>Are you now employing water conservation efforts?</p>	<p>Yes</p>
<p>a. Describe any water conservation efforts you have initiated</p>	<p>Good water management and farming practices, and/or lined ditches, and/or pipelines, and/or drip irrigation, and/or sprinkler irrigation, and/or low energy spray irrigation, and/or cover crops, and/or mulching, and/or laser leveling. Any diverted water which is not consumed or evaporated is recycled to the Delta Pool. Credit is claimed for these water conservation efforts under section 1011 of the Water Code. A specific amount conserved is not reported due to the lack of a present method to precisely quantify that amount.</p>
<p>Amount of water conserved</p>	<p>Acre-Feet</p>
<p>b. I have data to support the above surface water use reductions due to conservation efforts.</p>	

**9. Water Quality and Wastewater Reclamation**

<p>a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility, or water polluted by waste to a degree which unreasonably affects such water for other beneficial causes?</p>	<p>No</p>
<p>b. Amount of reduced diversion</p>	

# SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

Type of substitute water supply	
Amount of substitute water supply used	
I have data to support the above surface water use reductions due to the use of a substitute water supply	

10. Conjunctive Use of Surface Water and Groundwater	
a. Are you now using groundwater in lieu of surface water?	No
b. Amount of groundwater used	
I have data to support the above surface water use reductions due to the use of groundwater.	

**11a. Additional Remarks**

The amount shown as "used" may include months during which any permanent crop was not irrigated and/or months during which any annual crop was not in place. This is done to reflect the actual water used or lost from the land (including weeds) as per the UC Davis/CalPoly data on ET. This is done because any water "consumed" in this area is a net decrease in the Delta Pool. However, the amounts shown as diverted in each month reflects only actual diversions. Hence, the information submitted may show water use in months with no surface water diversion.

Attachments		
File Name	Description	Size
No Attachments		

Contact Information of the Person Submitting the Form	
First Name	JOHN
Last Name	HERRICK
Relation to Water Right	Agent
Has read the form and agrees the information in the report is true to the best of his/her knowledge and belief	Yes



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**PROOF OF SERVICE**

I am employed in the County of Sacramento; my business address is 500 Capitol Mall, Suite 1000, Sacramento, California; I am over the age of 18 years and not a party to the foregoing action.


On March 4, 2016, I served the following document(s):

**DECLARATION OF MICHAEL VERGARA IN SUPPORT OF BYRON-BETHANY IRRIGATION DISTRICT'S OPPOSITION TO THE DEPARTMENT OF WATER RESOURCES' MOTION FOR PROTECTIVE ORDER; RE: PAUL HUTTON**

X (via electronic mail) by causing to be delivered a true copy thereof to the person(s) and at the email addresses set forth below:

**SEE ATTACHED SERVICE LIST**

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 4, 2016, at Sacramento, California.

  
\_\_\_\_\_  
Yolanda De La Cruz

**SERVICE LIST OF PARTICIPANTS  
BYRON-BETHANY IRRIGATION DISTRICT  
ADMINISTRATIVE CIVIL LIABILITY HEARING  
(Revised 9/2/15; Revised: 9/11/15)**

SOMACH SIMMONS & DUNN  
A Professional Corporation

<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>Division of Water Rights Prosecution Team Andrew Tauriainen, Attorney III SWRCB Office of Enforcement 1001 I Street, 16th Floor Sacramento, CA 95814 <a href="mailto:andrew.tauriainen@waterboards.ca.gov">andrew.tauriainen@waterboards.ca.gov</a></p>	<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>Byron-Bethany Irrigation District Michael E. Vergara Somach Simmons &amp; Dunn 500 Capitol Mall, Suite 1000 Sacramento, CA 95814 <a href="mailto:dkelly@somachlaw.com">dkelly@somachlaw.com</a></p>
<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>Patterson Irrigation District Banta-Carbona Irrigation District The West Side Irrigation District Jeanne M. Zolezzi Herum\Crabtree\Suntag 5757 Pacific Avenue, Suite 222 Stockton, CA 95207 <a href="mailto:jzolezzi@herumcrabtree.com">jzolezzi@herumcrabtree.com</a></p>	<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>City and County of San Francisco Jonathan Knapp Office of the City Attorney 1390 Market Street, Suite 418 San Francisco, CA 94102 <a href="mailto:jonathan.knapp@sfgov.org">jonathan.knapp@sfgov.org</a></p>
<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>Central Delta Water Agency Jennifer Spaletta Law PC P.O. Box 2660 Lodi, CA 95241 <a href="mailto:jennifer@spalettalaw.com">jennifer@spalettalaw.com</a></p> <p>Dante John Nomellini Daniel A. McDaniel Dante John Nomellini, Jr. NOMELLINI, GRILLI &amp; MCDANIEL 235 East Weber Avenue Stockton, CA 95202 <a href="mailto:ngmplcs@pacbell.net">ngmplcs@pacbell.net</a> <a href="mailto:dantejr@pacbell.net">dantejr@pacbell.net</a></p>	<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>California Department of Water Resources Robin McGinnis, Attorney P.O. Box 942836 Sacramento, CA 94236-0001 <a href="mailto:robin.mcginnis@water.ca.gov">robin.mcginnis@water.ca.gov</a></p>
<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>Richard Morat 2821 Berkshire Way Sacramento, CA 95864 <a href="mailto:rmorat@gmail.com">rmorat@gmail.com</a></p>	<p><b><u>VIA ELECTRONIC MAIL</u></b></p> <p>San Joaquin Tributaries Authority Tim O'Laughlin Valerie C. Kincaid O'Laughlin &amp; Paris LLP 2617 K Street, Suite 100 Sacramento, CA 95816 <a href="mailto:towater@olaughlinparis.com">towater@olaughlinparis.com</a> <a href="mailto:vkincaid@olaughlinparis.com">vkincaid@olaughlinparis.com</a></p>

DECLARATION OF MICHAEL VERGARA IN SUPPORT OF BYRON-BETHANY IRRIGATION DISTRICT'S OPPOSITION TO THE DEPARTMENT OF WATER RESOURCES' MOTION FOR PROTECTIVE ORDER; RE: PAUL HUTTON

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<u>VIA ELECTRONIC MAIL</u>	<u>VIA ELECTRONIC MAIL</u>
South Delta Water Agency John Herrick Law Offices of John Herrick 4255 Pacific Avenue, Suite 2 Stockton, CA 95207 Email: <a href="mailto:Jherrlaw@aol.com">Jherrlaw@aol.com</a>	State Water Contractors Stefani Morris 1121 L Street, Suite 1050 Sacramento, CA 95814 <a href="mailto:smorris@swc.org">smorris@swc.org</a>

**SERVICE LIST  
WEST SIDE IRRIGATION DISTRICT  
CEASE AND DESIST ORDER HEARING**

**SOMACH SIMMONS & DUNN**  
A Professional Corporation

<p>Division of Water Rights Prosecution Team Andrew Tauriainen, Attorney III SWRCB Office of Enforcement 1001 I Street, 16th Floor Sacramento, CA 95814 <a href="mailto:andrew.tauriainen@waterboards.ca.gov">andrew.tauriainen@waterboards.ca.gov</a></p>	<p>The West Side Irrigation District Jeanne M. Zolezzi Karna Harringfeld Janelle Krattiger Herum\Crabtree\Suntag 5757 Pacific Avenue, Suite 222 Stockton, CA 95207 <a href="mailto:jzolezzi@herumcrabtree.com">jzolezzi@herumcrabtree.com</a> <a href="mailto:kharringfeld@herumcrabtree.com">kharringfeld@herumcrabtree.com</a> <a href="mailto:jkrattiger@herumcrabtree.com">jkrattiger@herumcrabtree.com</a></p>
<p>State Water Contractors Stefani Morris 1121 L Street, Suite 1050 Sacramento, CA 95814 <a href="mailto:smorris@swc.org">smorris@swc.org</a></p>	<p>Westlands Water District Daniel O'Hanlon Rebecca Akroyd Kronick Moskovitz Tiedemann &amp; Girad 400 Capitol Mall, 27<sup>th</sup> Floor Sacramento, CA 95814 <a href="mailto:dohanlon@kmtg.com">dohanlon@kmtg.com</a> <a href="mailto:rakroyd@kmtg.com">rakroyd@kmtg.com</a></p> <p>Phillip Williams of Westlands Water District <a href="mailto:pwilliams@westlandswater.org">pwilliams@westlandswater.org</a></p>
<p>South Delta Water Agency John Herrick Law Offices of John Herrick 4255 Pacific Avenue, Suite 2 Stockton, CA 95207 Email: <a href="mailto:Jherrlaw@aol.com">Jherrlaw@aol.com</a></p>	<p>Central Delta Water Agency Jennifer Spaletta Law PC P.O. Box 2660 Lodi, CA 95241 <a href="mailto:jennifer@spalettalaw.com">jennifer@spalettalaw.com</a></p> <p>Dante Nomellini and Dante Nomellini, Jr. NOMELLINI, GRILLI &amp; MCDANIEL <a href="mailto:ngrmplcs@pacbell.net">ngrmplcs@pacbell.net</a> <a href="mailto:dantejr@pacbell.net">dantejr@pacbell.net</a></p>
<p>City and County of San Francisco Jonathan Knapp Office of the City Attorney 1390 Market Street, Suite 418 San Francisco, CA 94102 <a href="mailto:jonathan.knapp@sfgov.org">jonathan.knapp@sfgov.org</a></p>	<p>San Joaquin Tributaries Authority Valerie C. Kincaid O'Laughlin &amp; Paris LLP 2617 K Street, Suite 100 Sacramento, CA 95816 <a href="mailto:vkincaid@olaughlinparis.com">vkincaid@olaughlinparis.com</a></p>
<p>Byron-Bethany Irrigaton District Michael E. Vergara Somach Simmons &amp; Dunn 500 Capitol Mall, Suite 1000 Sacramento, CA 95814 <a href="mailto:dkelly@somachlaw.com">dkelly@somachlaw.com</a></p>	<p>California Department of Water Resources Robin McGinnis, Attorney P.O. Box 942836 Sacramento, CA 94236-0001 <a href="mailto:robin.mcginnis@water.ca.gov">robin.mcginnis@water.ca.gov</a></p>

DECLARATION OF MICHAEL VERGARA IN SUPPORT OF BYRON-BETHANY IRRIGATION DISTRICT'S OPPOSITION TO THE DEPARTMENT OF WATER RESOURCES' MOTION FOR PROTECTIVE ORDER; RE: PAUL HUTTON