



March 16, 2017

State Water Resources Control Board
c/o Jeanine Townsend, Clerk of the Board
P.O. Box 100
Sacramento, CA 95814-0100

Re: Mokelumne Agencies' Joint Comments on Bay-Delta Plan Update Phase 1 SED

Dear State Water Board Members:

The undersigned agencies submit the following comments on the State Water Resources Control Board's (State Water Board) September 2016 Revised Draft Substitute Environmental Document for Flow Requirements on the Lower San Joaquin River and Salinity Standards for the Southern Delta (SED). While the Mokelumne River is an eastside stream to be addressed in Phase 2 of the Bay-Delta Plan update, we are offering our comments from a regional perspective on Phase 1 as we believe they may help to advance a more broadly supported outcome for the Water Quality Control Plan in all phases. Some of the undersigned may be submitting separate comment letters focusing on issues specific to our respective agencies; however, we felt it is important to highlight for the Board five common issues of critical importance to water agencies with an interest in the Mokelumne River.

1. State Clear Ecological Goals and Outcomes

The SED needs to clearly state the specific ecological goals and expected outcomes for the Lower San Joaquin River and Southern Delta. These goals and outcomes should also clearly state and identify priorities and milestones for achieving the identified goals and outcomes. The SED should more clearly acknowledge that proposed actions to achieve those goals and outcomes will have a range of impacts, some of which may involve tradeoffs between outcomes.

2. Utilize Phased-Approach for Flow and Non-Flow Measures

The SED focuses primarily on the use of unimpaired flow (UIF) as the tool to improve fish returns in the three San Joaquin River tributaries. We are concerned about the proposed use of this approach, for several reasons:

- The concept of using unimpaired flow as the primary basis for updating water quality objectives to attempt to increase the health of the Bay-Delta does not fully account for the current physical and regulatory realities on Central Valley river systems. In reality, water year type, long-term droughts, climate change, hydropower projects, diversions, flood control requirements, infrastructure limitations, invasive aquatic plants, and current channel capacities (among other factors) affect the timing and rate of flows on these rivers. The SED's use of an UIF metric does not adequately account for these realities. Further, in order to coordinate the operation of various projects and facilities on the tributaries, complex agreements and operating regimes have been put in place to

maximize beneficial uses. Imposition of unimpaired flow criteria would, among other impacts, likely require amendments to such agreements / regimes to prevent injury to water rights and avoid impacting the performance of long-term investments in water rights and projects. While the SED includes some flexibility in the application of the use of UIF, more flexibility is needed to address specific river system conditions.

- The SED's primary focus on increasing flows discounts the role of non-flow measures, which are essential for protecting fishery ecosystems. On some streams, stakeholders have developed programs that have controlled flow regimes and developed non-flow measures that have successfully restored and protected fisheries and the ecosystem while still meeting municipal and agricultural beneficial uses. Water rights holders should get credit for the non-flow measures which have proven successful for fisheries. In addition, we believe that negotiated flow regimes specifically developed for the conditions on a given stream should be the preferred approach for the State Water Board in these proceedings.
- Requiring higher releases can have an adverse, if unintended impact on beneficial uses during dry years when there is insufficient runoff to meet all water supply needs and emergency water conservation orders are in place to preserve water. Requiring higher releases in dry years will deplete water in storage reserved for subsequent years and result in other impacts to fish. A regime that relies primarily on UIF in a dry year or dry year sequence presents a significant risk of depleting cold water pools required for fishery health.
- An analysis of the impact of five critically dry years on water supplies for all beneficial uses should be required for each Alternative in the SED to adequately assess cumulative impacts due to climate change. The SED should also contain an analysis that includes the latest drought from 2012-2016. A five-year analysis is proposed in the long-term water conservation policy proposal ("Making Water Conservation a California Way of Life, Implementing Exec. Order B-37-16"), and a similar requirement should apply in analyzing the SED's alternatives.

3. Support the Development of Voluntary Settlements

The California Natural Resources Agency, with the State Water Board's encouragement, has been actively calling for "voluntary agreements" to improve ecological conditions in the Delta and upstream watersheds. As discussed, within the Sacramento and Central Delta basin there are a number of river systems that have successful multi-stakeholder voluntary agreements in place. In addition to flow measures, these agreements have implemented various significant non-flow measures that are specific to each agreement. Examples of non-flow measures include in-stream habitat enhancement, riparian restoration, predator control, screening diversions, effectiveness monitoring, and adaptive management strategies, all to meet system specific program goals and objectives. The most successful component of these agreements has been the engagement of stakeholders, including agencies, NGOs, and local landowners. Rather than simply stating that volunteer agreements are encouraged, as part of the Phase 1 SED the State Water Board should develop a model framework of a successful agreement using actual examples from other Central Valley systems. These types of agreements will take substantial

time and effort to complete. If progress on these agreements is occurring, then the State Water Board's schedule for the WQCP update should provide reasonable time for them to conclude.

4. Consider and Integrate SGMA

The Phase 1 SED acknowledges that imposition of the unimpaired flow recommendations on agencies with water rights on the three San Joaquin River tributaries would reduce surface water supplies relied on and invested in by local water agencies. The SED acknowledges that all of the Alternatives would impact groundwater, and Alternatives 3 and 4 "would have significant and unavoidable impacts on groundwater (supply and quality)..." (pg. 22-12.) The SED goes on to state that the reduction in surface water supply would be offset by increased groundwater pumping. The whole point of SGMA is to prevent over-drafting of groundwater basins, recharge over drafted basins, and begin sustainable groundwater management of basins in overdraft condition. In order to achieve its mandate, SGMA is likely to restrict yield from groundwater in many Central Valley groundwater basins. Thus, for the State Water Board to claim that water agencies will not be adversely impacted by the SED because they will offset their water supply deficiencies by pumping more groundwater, while SGMA is likely to restrict groundwater use in the next few years, creates another problem, not a solution. We would therefore request that the State Water Board revise the Phase 1 SED to fully consider and integrate SGMA into its environmental analysis, including the amount of water needed for groundwater recharge and banking, and to likewise consider SGMA in the upcoming Phase 2 SED.


5. Assess Cumulative Impacts From the Existing Export Operations and the California WaterFix

The existing export pumping operations can affect salmon and steelhead on the Mokelumne River. These operations combined with the California WaterFix, if approved, could at times reduce Sacramento River system fresh water flows into the Delta and potentially further impact that important ecosystem. As a result, the cumulative effects of the WaterFix Project must be considered in each SED Alternative to ensure an adequate CEQA document.

We appreciate the opportunity to comment on the SED and to work collaboratively with the State Water Board to develop a comprehensive, science-based and feasible proposal for updating the Bay-Delta Water Quality Control Plan that will enhance and protect natural resources while balancing other beneficial uses of water.

Sincerely,

AMADOR WATER AGENCY



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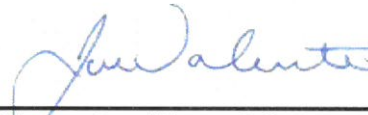
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