



November 9, 2017

VIA ELECTRONIC MAIL

Felicia Marcus, Chair
Members of the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812
Bay-Delta@waterboards.ca.gov

Re: Phase II Bay-Delta Plan Input – Comments on the Final Phase II Scientific Basis Report

Dear Chair Marcus and Members of the Board:

Downey Brand represents the Tehama-Colusa Canal Authority (TCCA) and submits these comments on its behalf, regarding the Phase II update to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary Bay-Delta (the Bay-Delta Plan). TCCA appreciates this opportunity to comment on the process being used by the State Water Resources Control Board (State Water Board) for the Bay-Delta Plan Update.

TCCA is a joint exercise of powers agency comprised of 17 water districts and companies that receive water from the Central Valley Project (CVP). The TCCA service area is made up of 150,000 acres of irrigated farmland located along the west side of the Sacramento Valley, and includes the counties of Colusa, Glenn, Tehama, and Yolo. TCCA was formed in order to operate and maintain the facilities necessary to supply water to the federal contractors within the Sacramento Canals Unit of the CVP and to preserve its members' rights to water originating in the Sacramento Valley.

TCCA joins in the comprehensive comments submitted on November 9, 2017 by the Northern California Water Association and the Sacramento Valley Water Users, which are hereby incorporated by reference. In addition, TCCA specifically objects to the State Water Board regarding the program of implementation for the Bay-Delta Plan. The State Water Board has, obviously, not yet adopted water quality objectives in connection with the Bay-Delta Plan Update. Under the Porter-Cologne Water Quality Control Act, those objectives must include consideration of past, present and probable future beneficial uses of water and economic

considerations.¹ That is entire purpose of the Phase II process. Indeed, the Final Scientific Basis Report, dated October 4, 2017, notes that “policy considerations of competing uses of water” are forthcoming.² It is premature and predecisional, and therefore in direct violation of the California Administrative Procedures Act, to develop a program of implementation before considering these uses and adopting water quality objectives. Finally, TCCA specifically objects to the way in which the Final Scientific Basis Report “cherry picks” the evidence upon which it chooses to rely, ignoring the voluminous evidence submitted by NCWA and others in 2012 and 2016 that is inconsistent with the State Water Board’s commitment to an “unimpaired flows” approach to resolving the ecological problems in the Bay Delta Estuary.

TCCA appreciates this opportunity to comment on the Bay-Delta Plan Update process, and looks forward to future opportunities to comment on a substitute environmental document, staff report on the consideration of competing uses of water and proposed water quality objectives prior to adoption by the State Water Resources Control Board.

Very truly yours,

DOWNEY BRAND LLP



Meredith E. Nikkel

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¹ Water Code, § 13241.

² State Water Resources Control Board, “Scientific Basis Report in Support of New and Modified Requirements for Inflows from the Sacramento River and its Tributaries and Eastside Tributaries to the Delta, Delta Outflows, Cold Water Habitat, and Interior Delta Flows” (2017), at 1-2.