

**DEPARTMENT OF ENVIRONMENTAL RESOURCES**

3800 Cornucopia Way, Suite C, Modesto, CA 95358-9494
Phone: 209.525.6700 Fax: 209.525.6774

July 26, 2018

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

Dear Ms. Townsend:

Re: Comment Letter – Revisions to Proposed Bay-Delta Plan Amendments

Please find enclosed comments and responses provided by Stanislaus County regarding the Revised Substitute Environmental Document (SED) prepared in support of the State Water Board's proposal regarding specific amendments to the Water Quality Control Plan (Bay-Delta Plan) for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Attachment 1).

In addition, Stanislaus County also submits Resolution 2018-0376 in Opposition to the Unimpaired Flow requirements contained in the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

After taking 16 months of reviewing, editing and formulating responses to comments on the Bay-Delta Plan, the State Water Board released the final draft SED and Bay-Delta Plan amendments on July 8, 2018. While Stanislaus County appreciates the opportunity to comment on the changes to the amendments, we think it is unreasonable and out of line with CEQA requirements not to be permitted to comment on the many substantive responses that were included with the draft Final SED. In addition, the 21-day comment period is out of line with public review times specified in the California Environmental Quality Act (CEQA), which at the very least should be 30 days; however, under the circumstances 45 or 60 days would be more reasonable considering the complexity of the issues. Twenty-one days is unreasonable and further illustrates the state's deep lack of concern for the regions affected by the Bay-Delta Plan as it "railroads" the Bay-Delta plan through the public review process.

Stanislaus County offers the following general comments and observations. The SED is required to support a balancing decision between two co-equal goals under the Delta Reform Act, and to allow for balancing of all current and foreseeable water demands and values under the Porter-Cologne Water Quality Control Act. In addition, the SED must adequately inform the public and the planning community regarding potential impacts in a way that allows them a meaningful opportunity to comment. As it currently exists, the SED does neither. Furthermore, we find that the State Board's responses to our comments are not adequately reasoned in many cases, and in other cases do not constitute a good-faith response. In some cases, new information is provided that is erroneous, incomplete or misleading. On this basis, we believe the SED is fundamentally inadequate and requires revision and recirculation in order to comply with the requirements of CEQA.

Imbalanced Approach Responses Reflects Partiality

Ecological Benefits and Water Supplies

Comment Number/Description 1178-1, 2, 12 and 13. No changes were made to the SED or impact analysis. The approach to impact analysis in the SED remains imbalanced, in other words, it is inconsistent with the level of detail, technical and scientific studies, and peer reviews used to assess, analyze and evaluate potential ecological benefits. The results of this inconsistency de-emphasizes the potential adverse impacts on water supply resilience and the resulting impacts to our urban and rural communities, and the agricultural business sector at large. The State Water Board's response is dismissive and does not provide a good-faith reasoned analysis that would meet the fair argument standard.

Groundwater Resources Analysis and Sustainable Groundwater Management Act

Comment Number/Description: 1178-3, 14, 15, 16 and 25. No changes were made to the SED or impact analysis. The SED did not include an analysis of the interplay between implementation of unimpaired flow and the compliance with the Sustainable Groundwater Management Act (SGMA). The SED did not use "best available science" or "best available information" to conduct a groundwater resources and water supply impact assessment, and in fact, it did not even use basic available tools and information from other state agencies such as C2VSim, which could have been used with relatively little effort to gain valuable information regarding the locations where groundwater drawdown impacts may be expected, and to assess the amount of pumping reduction or recharge increase needed to ameliorate adverse effects. The State Board provides no valid rationale why existing tools should not be used to better understand these impacts and their implications for SGMA compliance. To claim that any additional level of detail in the analysis would be speculative is simply false. Because the data are available and the analysis can be readily performed and would provide a much more meaningful programmatic level

analysis, we believe the State Board has failed in its obligation to adequately disclose adverse environmental impacts under CEQA. Further, as a result of not using “best available science” or “best available information,” or even the available information, the State Water Board’s response introduces new information that is inaccurate and misleading. For example, the responses broadly characterize all of the groundwater subbasins in the plan area as being in a state of overdraft, when in fact groundwater level data in the state’s CASGEM database indicates that large portions of the subbasins are in balance.

Small Public Water Systems, Wells and Disadvantaged Communities in Plan area

Comment Number/Description: 1178-19, 20 and 22. Impacts to small public water supply systems and wells are not adequately evaluated. Minor changes were made to the SED text; no changes were made to the impact analysis. State Board claims to have identified 93 public water suppliers in the study area based on the “best available information.” However, in Stanislaus County alone, there are over 170 small water supply systems that are regulated by the State Water Board’s Division of Drinking Water. This is incomplete data that neglects affected wells in the Plan area and results in an incomplete analysis of potential affects. Further, disadvantaged communities (DACs) often operate small water supply systems that may be more vulnerable to adverse impacts, it places all responsibility for further evaluation of potential impacts to water supply systems operated by DACs on studies conducted for the future development of GSPs, thereby supplanting its responsibility for further evaluation of potential impacts to water supply systems operated by DACs on studies conducted for the future development of GSPs. Stanislaus County acknowledges that *sustainable management* of local groundwater supplies will ultimately be the responsibility of local GSAs, which must engage with DACs. However, the potential for adverse impacts to DACs and small community water systems locations should be presented in the SED to inform the public about the potential impacts, allow the public to comment, and inform the planning community.

Comment Number/Description: 1178-27. The SED analysis fails to meet the requirement to consider the Human Right to Water contained in the Water Code, as it did not identify potentially disproportionate impacts to Disadvantaged Communities (DACs) and small water systems. Mere acknowledgement that DACs may be disproportionately affected is not sufficient. No changes were made to the SED impact analysis. The State Water Board provides no additional information that responds to the observation that the broad and generalized approach used in the SED impact assessment will little to help the public anticipate even approximately where implementation of the Plan amendments will adversely impact DACs and small water systems. We assert that the tools and information to make these determinations are readily available, and can be used at the programmatic level in order to identify and disclose potential impacts to the public. Therefore, the

analysis of potential impacts to wells and small community water systems is based on incorrect and incomplete information to inform the public, and allow for meaningful responses by the public.

In closing, Stanislaus County believes the State Water Board's responses to comments defends the high-caliber of science and reasoning behind the ecosystem restoration part of the equation, but fails to use even basic, readily available sources, science, data and information in its evaluation of water supply resiliency in the Plan area. As a result of this imbalance, the public is left with generalized statements, and incomplete, and in some cases misleading information and data that ultimately limit the public's ability to properly evaluate the SED and provide appropriate comments. The current version of the SED maintains this imbalanced approach and the State Water Board's responses to the County's comments are inadequately reasoned, contain fallacies and inaccurate information, and do not constitute good-faith responses.

Sincerely,



Walter P. Ward

Water Resources Manager

From: Walter Ward <ward@envres.org>
Sent: Thursday, July 26, 2018 4:28 PM
To: LSJR-SD-Comments@waterboards.ca.gov; WQCP1Comments
Subject: Stanislaus County Comments
Attachments: SED Comment Cover Letter 072718.pdf; Review of SED Comment Responses 072718.docx; SED Resolution of Opposition.pdf

To Whom it May Concern,

Please see attached SED comment cover letter, table of specific comments and Board of Supervisors Resolution of Opposition.

Respond to me directly if you have any questions or concerns.

Walt Ward
Stanislaus County
Water Resources Manager
3800 Cornucopia Way, Suite C
Modesto, CA 95358-9494
209-525-6710 (Office)
209-272-6156 (Cell)