



O'Laughlin & Paris LLP

Attorneys at Law

March 1, 2017

Via Email and U.S. Mail

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
Email: commentletters@waterboards.ca.gov

3-7-17 Board Meeting-Item 7
Climate Change
Deadline: 3/3/17 12 noon



**Re: 3/7/2017 Board Meeting – Item #7
Consideration of Adopting a Comprehensive Response to Climate Change
Comments – San Joaquin Tributaries Authority**

Dear Ms. Townsend:

The San Joaquin Tributaries Authority (“SJTA”) urges the State Water Resources Control Board (“SWB” or “Board”) to revise the proposed Resolution for a Comprehensive Response to Climate Change (“Draft Resolution”) to include a provision requiring that climate change analysis inform the *development of objectives* for water quality control plans before such plans can be approved by the SWB under Water Code section 13245.

One of the most important functions of the SWB and the Regional Water Quality Control Boards (“Regional Boards”) is the development of water quality control plans. These plans, whether covering one basin or several, must be designed to reasonably protect the beneficial uses to which the water in the basin(s) is put. (Water Code, § 13240, et seq.) The current Substitute Environmental Document (SED) in support of potential changes to the Water Quality Control Plan (WQCP) for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (“WQCP/SED”) for Phase 1 (San Joaquin River Flows and Southern Delta Water Quality) lacks a serious or informative climate change analysis.

As the SWB is aware, the current WQCP/SED does not incorporate any climate change analysis in the development of the objectives that are supposed to protect the beneficial uses of water. In lieu of such analysis, the WQCP/SED dismissively asserts that “adaptive implementation [of the objectives] would allow agencies to respond to changing circumstances... that might arise due to climate change.” (WQCP/SED at ES-97, 14-5). Climate change analysis should inform the creation of the water quality objective itself; it should not be conducted on the fly through adaptive implementation after the objective has already been approved by the SWB.

The WQCP/SED also states that the regular review and update of water quality control plans required by law will be sufficient to account for “changing conditions related to water quality and water planning such as climate change.” (WQCP/SED, at ES-97). While it is correct that water quality control plans are to be reviewed by the SWB at least every three years under the Clean Water Act (33 U.S.C §1313[c][1]), the WQCP/SED ignores the reality that the current water quality control plan for the Bay-Delta has not been substantially

2617 K Street, Suite 100
Sacramento, California 95816
(916) 993-3962
(916) 993-3688-fax

117 Meyers Street, Suite 110
Chico, California 95928
(530) 899-9755
(530) 899-1367-fax

Mailing Address:
2617 K Street, Suite 100
Sacramento, California 95816

Ms. Jeanine Townsend, Clerk to the Board
Re: Climate Change Comments
March 1, 2017
Page 2

updated in more than twenty years. With average annual temperatures in the State of California expected to rise by 1°C to 3°C between 2010 and mid-century (WQCP/SED, at 14-12), the SWB cannot afford to wait another twenty years for the next Bay-Delta plan to address the changing climate. The WQCP/SED needs to address all of the following issues in the context of climate change: municipal and industrial supply, agricultural supply, hydrology in the basin, availability of surface water, hydroelectric power, greenhouse gas emissions, groundwater pumping and carbon-sequestering. The proposed Resolution should be modified to compel this analysis before the objectives are considered for approval by the SWB.

The Draft Resolution does not require the SWB or the Regional Boards to employ the type of rigorous climate change analysis that is necessary when developing objectives for water quality control plans. In its current form, the Draft Resolution includes only two references to climate change in the context of water quality control plans. The first directs the Executive Director to engage the United States Environmental Protection Agency and interested stakeholders on how to best address meeting existing water quality standards given the impacts of climate change. (Draft Resolution, p. 5.) The second directs SWB staff to incorporate the effects of climate change when evaluating and approving long term projects designed to meet existing objectives in the Bay-Delta water quality control plan. (Draft Resolution, p. 5.) Both of these proposals are insufficient because neither requires that climate change be considered in the development of the objectives for water quality control plans. In addition, there are currently no “long-term projects” being evaluated by SWB staff for meeting water quality objectives, and even if such a project were developed, it would not necessarily be submitted to the SWB for approval. The only foreseeable “long-term project” which will be used to implement water quality objectives is the proposed program of implementation (POI) in the WQCP/SED. Evaluating climate change in the POI process could substantially change the analysis of whether a beneficial use is or is not being reasonably protected the objectives. By relegating the evaluation of climate change to the POI, the SWB will fail to meet its statutory obligation under Water Code section 13241 of setting objectives that reasonably protect beneficial uses into the future as the climate changes.

The Draft Resolution should be revised to ensure that climate change is addressed in the development of water quality objectives, not merely in the attempt to meet water quality objectives which may have been developed without the benefit of any climate change analysis.

Very truly yours,



Tim O'Laughlin

TO/llw

cc: *San Joaquin Tributaries Authority (via email only)*