



CALIFORNIA FARM BUREAU FEDERATION

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Via Electronic Mail and Regular U.S. Mail
(commentletters@waterboards.ca.gov)

March 17, 2017

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814-0100



Re: Comment Letter – 2016 Bay-Delta Plan Amendment & SED

Dear Chairperson Marcus and Members of the Board:

The California Farm Bureau Federation (“Farm Bureau”) is grateful for the opportunity to provide you with comments on the **DRAFT REVISED SUBSTITUTE ENVIRONMENTAL DOCUMENT IN SUPPORT OF POTENTIAL CHANGES TO THE WATER QUALITY CONTROL PLAN FOR THE BAY-DELTA: SAN JOAQUIN RIVER FLOWS AND SOUTHERN DELTA WATER QUALITY**, as released on September 15, 2016 (“Flows Document”). These comments come on behalf of the statewide Farm Bureau organization, as well as its member county Farm Bureaus in the region directly affected by the Flows Document: the Stanislaus County Farm Bureau and the Merced County Farm Bureau.¹

Farm Bureau is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing nearly 48,118 agricultural, associate and collegiate members in 56 counties, and a large segment of this membership is reliant upon the water resources of the Stanislaus, Tuolumne, and Merced Rivers for its part in contributing to the incredibly vibrant and productive agricultural economy and landscape found in this crucial region of California’s Central Valley. We hope you will view the following comments within the context of those family farmers and ranchers that are dependent upon these water resources for their livelihoods.

¹ These comments are limited to the flow standard component of the Flows Document and offer no comment on the southern Delta water quality aspects at this time. While water quality for the agricultural beneficial use of water should be fully protected throughout the Delta, in our judgment this is also a highly technical and geographically specific area where the local expertise of those directly impacted should carry the greatest weight and authority.

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As a point of departure, we note that there is tremendous scientific uncertainty underpinning the Flows Document. Analytic flaws have been identified in great detail by numerous stakeholders, including affected local water districts, during the public review process associated with the document. This scientific uncertainty in turn raises a most foundational concern about the worth of the Flows Document and its “unimpaired flow” approach to species rehabilitation – namely, whether the Board’s process comports with the mandate of Article X, Section 2 of the California Constitution that California’s water resources are put to use to the fullest extent possible in ways which are not wasteful or unreasonable. By proposing the extraction of huge volumes of “unimpaired flows” from otherwise legal and beneficial water users, at enormous human cost and without any reasonable and commensurate assurance of benefit to the environment, we submit that the Flows Document has indeed proposed a wasteful and unreasonable use of water.

Beyond this constitutional concern, this seems a particularly poor time in California for the Board to embark upon such an ambitious path. The Board should be painfully aware that we have just emerged from a historic, multi-year drought, which involved unprecedented hardship for California water users, and significant systemic questions remain about available year-over-year supply and infrastructure to sustain a growing California into an uncertain hydrological future. From an agricultural standpoint, dry-year and carryover storage impacts to vital surface water supplies that are undisclosed or obscured in the Flows Document and underlying modeling are particularly severe. Contrary to apparent assumption, water efficiency technologies do not offer an adequate solution to this problem, where such technologies are not always agronomically indicated, disrupt or fail to capture system-level efficiencies,² are more energy intensive, are technically or economically infeasible, increase yields but not overall consumption, and are in any case insufficient to close large dry year and future groundwater supply shortages. As Farm Bureau and others have pointed out, California remains in zero-sum mode with respect to water resources until basic questions are addressed regarding additional supply and statewide management, while the Flows Document would be destined to exacerbate that growing disconnect between water supplies and system demands, if adopted.

Moreover, the recent passage of the Sustainable Groundwater Management Act of 2014 (“SGMA”) is likely to lead to additional pressures on water supplies across California generally, and specifically within the region superintended by the Flows Document. We think the economic analysis of impacts to agriculture associated with the document understates the effect the flow proposals will have on agriculture, as SGMA simultaneously constricts groundwater pumping in certain areas. State policy under SGMA requires local interests to avoid “undesirable results” and manage groundwater resources for long-term sustainability—yet the Flows Document would deprive water users on the three affected rivers of the very historical surface water supply reliability that has allowed this unique area of the San Joaquin Valley to achieve precisely this until now. You have heard considerable testimony as to that aspect of the

² Examples include conjunctive use management of available surface and groundwater, downstream reuse of return flows, as well as in lieu and active groundwater recharge.

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Flows Document from affected local water districts and agricultural stakeholders. The interplay of constricted surface water supplies associated with the flow proposals and the effects of SGMA upon groundwater withdrawals are likely to be of synergistic effect in severely adversely impacting not just agriculture within the region, but also municipal and domestic drinking water supplies, disadvantaged communities that are already struggling, the larger agriculturally-based regional economy, recreation, power generation, and off-stream environmental values.

Numerous flaws have been identified in the Flows Document that cast considerable doubt on its likely effectiveness in achieving desired benefits for the species involved, including the Central Valley fall-run chinook salmon, and in this regard the proposed flow objectives make no attempt to achieve any rational balancing of harms to the affected interests. In addition, the Flows Document appears to suffer from numerous legal infirmities. For example, the Flows Document brushes aside water rights priorities, even as it is dealing with some of the most senior water rights in the state. Without clear achievable objectives or any credible plan of implementation, the Flows Document ensures (essentially and impermissibly) that the project will be re-defined later. And, not least of all, the Flows Document appears to underestimate the distinct risk, and related statewide management and planning implications, of a massive basin wide adjudication.

The Flows Document also fails to analyze, improperly analyzes, or significantly understates adverse environmental impacts in many areas while at the same time calling even acknowledged significant adverse impacts to water supplies and agricultural lands simply “significant but unavoidable.” Overall, as a CEQA document, the Flows Document fails to thoroughly explore an adequate range of feasible alternatives and mitigation measures to achieve most or all of the stated objectives of the proposed project, while at the same time reducing or avoiding the significant adverse environmental impacts as required by law.

There is a better path. Given the uncertainties in beneficial effect associated with the “unimpaired flow” proposals, on balance with the far greater harm which will be caused to water users on the Stanislaus, Tuolumne and Merced Rivers if the Flows Document is adopted, we think the State of California’s better course is to pursue voluntary agreements with affected water users. These voluntary agreements would likely not only avoid far-ranging and wholly unnecessary economic shock to the region, but could also have greater beneficial effect on the fish populations which are of concern to the Board. In this regard, you have heard affected water districts outline a series of comprehensive alternative approaches to provide reasonable protection for fish and wildlife while at the same time reducing unwarranted water supply impacts and preserving the regional economies and social fabric of the affected region. Such common-sense, reasonable approaches can and should be further developed through intensive, good-faith negotiations with the affected water districts—and not in a mere follow-on “adaptive implementation” process that assumes the proposed 30-to-50-percent unimpaired flow as a base, but rather as a stand-alone separate alternative to the current Flows Document proposal.

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In particular, conditions for fish can be significantly improved through a “functional flow” approach which targets affected populations directly, in a manner which is more efficient than the blunderbuss of “unimpaired flow.” The water districts have outlined non-flow measures for the benefit of species of interest, including programs with respect to competing predation, habitat, and timing of flows. Much of this work is grounded in the existing FERC relicensing processes on the Merced and Tuolumne Rivers, and in years of science and intensive management on Stanislaus River. Before looking toward blanket notions of “unimpaired flow” as the solution to fish and wildlife objectives, we urge the Board and State of California to turn their attention to these directions in proactive management and fisheries science with greater focus and urgency.

As the Board Chair noted during one of the recent Phase 1 hearings, the Board does have a “track record” working with stakeholders on voluntary agreements to achieve Board objectives while avoiding harsh unintended consequences often associated with a more prescriptive regulatory approach. Farm Bureau does appreciate the stamina and thoughtfulness which the Board has approached the extensive public hearing process associated with the Flows Document, and if nothing else those hearings laid bare the limited range of prescriptive policy approaches that would be fruitful in achieving fisheries objectives on these rivers. We certainly hope that the Board will not now reverse its progress on developing consensus through voluntary agreements, and will instead carry forward its history of collaborative cooperation and practical flexibility on complex water issues on the Stanislaus, Tuolumne and Merced Rivers.

In summary, the Flows Document appears to portend a water-rights overlay which would be an abrupt U-turn on over a century of orderly development of water resources on these river systems, and on the fabric and landscape of human development that has been the reasoned policy of the State of California. It arrives in a package of uncertain science which would be paid for at tremendous cost to both humans and the off-stream landscapes of the region. Its adoption would not be sound policy.

We urge instead that the Board table this document and instead pursue voluntary agreements calculated to integrate both reasonable environmental objectives and the human use of water on the landscape.

Very truly yours,



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