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Public Comment
2016 Bay-Delta Plan Amendment & SED
Deadline: 3/17/17 12:00 noon

Ms. Felicia Marcus, Chair
Members of the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95814-0100



RE: Comments on the Bay-Delta Water Quality Control Plan

Hello Ms. Marcus,

I am humbled to have the opportunity to comment on the subject of unimpaired flow in the Delta Estuary. Currently, we are unaware of the exact amount of unimpaired flow in the Delta Estuary, however we are aware the current amount of freshwater entering the Delta Estuary is not enough to sustain and save the salmon from extinction.

As mentioned in the October 26, 2015 letter to Chair Felicia Marcus main authored by Bill Jennings and his coalition, unimpaired flow is feasible and it is the only viable solution to saving the salmon population. In 2010, some of the leading scientist on this subject have scientifically concluded that we must implement a policy of unimpaired flow to save the salmon . We are now in March of 2017, nearly seven years have elapsed since the scientific report was released. In other words, there has been inaction for the past seven years.

I am mindful that Board has a difficult job and that allocating water resources is no easy task. However, I ask that Board makes with full confidence any and all hard decisions to problems that can no longer be ignored. One of the hard decisions is set to unimpaired flow levels. I ask the Board to set the unimpaired flow limit to initially 65%, with the option to later raise the levels of unimpaired flows to 80% if need be. To protect farmers , this needs to be done in phases. Firstly, farmers should be given an eighteen month grace period to adjust to less water, this adjustment could include, but not limited to changing crops, reducing acreage planted or whatever else they deem feasible. During these eighteen months, the unimpaired flow should be set at thirty percent. After the eighteen months have elapsed, the unimpaired flow should be set at fifty percent for a period of nine months. After those nine months have elapsed, the unimpaired flow should be set to sixty-five percent for a period of twelve months. During this

entire time, the Board will have commissioned a third party (maybe even those who wrote the original report in 2010) to monitor the salmon population. If the third party concludes that the salmon need more water, the Board should increase the unimpaired flow to eighty percent for a period of another twelve months and continue to monitor salmon populations.

Congressman Devin Nunes of the 22nd District of California, once remarked that the salmon are a lost cause and even if we reserve all of the water to them, there is no saving their species. However, I respectfully disagree with Congressman Nunes and urge that Board do the same. Other opponents may argue that an allocation of water to save the salmon is a violation of Article X, section II of the California State Constitution, however they are incorrect. Allocating the water to almond farmers is reckless use of water. In comparisons, almonds can use up to 22x more water than other crops. Almond farmers should not be punished for wanting to make a profit, we do live in a capitalist society in which profit is encouraged (in fact water in California is referred to as “liquid gold”), however they must not at any cost profit by recklessly using water. Most of the almonds grown in California are exported. The Board in conjunction with the State Legislature must place higher export tariffs. In the Mono Lake case ruling, the California Supreme Court ruled that the Board has an affirmative duty take into consideration the public trust doctrine whenever applicable and to safeguard the public trust by correctly allocating water resources. Applying the letter of the law outlined in the Mono Lake, this Board is legally obligated to implement a policy of unimpaired flow in the lower San Joaquin River to protect the salmon.

This is a battle not of the North versus the South, but instead of farmers versus farmers. In addition to having 65% of unimpaired flow into the Delta Estuary, I ask the Board to host and mediate a peaceful conversation between both sides. In this discussion, both sides should not discuss why they need more water than the other, but instead how both parties can work together to solve the water issues of California, whether it is groundwater replenishment or desalination or moving forward with the two tunnels. This is an issue that requires both sides to come together and to work together. Now is not the time nor it never has been to draw the lines and fight one another. The Board plays a bigger role than it thinks in encouraging both sides to not only coexist, but to solve the overarching water issue.

If the Board does approve of a plan that is not the most suitable or lacks a definitive reasoning, the US Environmental Protection Agency does reserve the right to veto any plan put forth by the Board. As a friendly reminder, I urge the Board to implement the unimpaired flow allocation plan aforementioned. That in my humble opinion, is the most feasible and necessary solution to this issue. I do not wish the Board to come under the scrutiny of the US EPA or the public by attempting to approve a plan that is not effective. I cannot stress enough the need for an immediate solution and the immediate implementation of that solution.

This is an issue that affects more than the almond farmers or the Salmon fishers or the Board. This affects everyone, people in California, New York and even those abroad. How we conduct ourselves, is how the rest of the world will conduct itself. There are unfortunately countless regions in the world, where there is not a drop of clean water. We here in California

must put our water to good use and must work to enable those who do not have any clean water to gain access to it. In my school Biology class I learned that on an average day about two hundred species of animals, insects, plants and other species go extinct. The salmon cannot become a part of that statistic. If the salmon goes extinct, that is irreparable harm. That is unacceptable and we must not have that. The concept of letting the salmon go extinct for the “greater good” of society (or corporations) is foolish and intolerable., I ask this Board to immediately implement the unimpaired flow to 65% (increase to 80% if necessary) with the appropriations aforementioned.

With the utmost respect,

Deepak Kumar

On the 17th day of the month of March in the year 2017