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March 17, 2017

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, California 95814-0100  
Re: Comments on Bay-Delta Water Quality Control Plan Amendment Phase 1 and SED

Dear Ms. Townsend:

Thank you for the opportunity to submit the following comments to the Board for their consideration. I appreciate the opportunity to participate in this important process.

**Executive Summary:**

This paper explicates a brief regarding the State Water Resources Control Board's (SWRCB) decision to revise the Water Quality Control Plan (WQCP) on how much unimpeded flow of Lower San Joaquin River (LSJR) water should be granted for the salmon population to recover. My primary argument calls for an eighty percent unimpaired flow which would be the best stratagem to not only sustain the dwindling Salmon population but to allow the salmon to thrive to reasonable levels for conservation purposes. Secondary arguments will call for alternative lower unimpaired flows which will place stresses on the salmon, however beneficial use of the flow from the LSJR will likely support agriculture, commercial use and municipal use.

**Problem & Needs Statement:**

Currently the State Water Resources Control Board (SWRCB) is deciding to review the 2006 Water Quality Control Plan (WQCP) in order to decide how much unimpaired flow should be allowed in the Lower San Joaquin River (LSJR), Stanislaus River, Merced River, and Tuolumne River in order to achieve the mandate to double the salmon population. The Board will also consider the effect of increasing unimpaired flows and necessarily decreasing diversions for private and public use within the San Joaquin Valley. The proposed formal alternatives before the Board range from no action to an unimpaired flow of 50%–60% described in Alternative 4. However, best available science supports unimpaired flow levels up to 80%–90%. Setting unimpaired flows will definitely impact the river in a multitude of ways. An eighty percent unimpaired flow would be the best strategy to allow the salmon population to recover because the USEPA region IX has previously stated, “These scientists recommended the equivalent of no less than 90% UF to achieve a high-level of ecological protection, and no less than 80% UF to achieve a moderate level of ecological protection. They concluded that alterations below an 80% UF threshold "will likely result in moderate to major changes in natural structure and ecosystem functions." (USEPA comment, 2013).

The SWRCB should carefully consider the evidence that the Chinook Salmon in the LSJR need a minimum of 80% flow to moderately recover and anything below this level would not likely achieve the required doubling of the salmon population. Unimpaired flows less than 80% lead to detrimental health of the Salmon, making them susceptible to disease, invasive species, stunting their growth due to limited space with impaired flow, and pumping the water

may cause the salmon confusion due to conveyance systems changing waterways which reduces spawning of the salmon who rely on the natural flow to navigate to spawn points. Allowing an eighty percent unimpaired flow also conserves the natural aesthetic of the LSJR for future generations to appreciate and spurs the development of strategic sustainable water use plans which California will need to consider with our limited freshwater sources.

Lastly, Arguments for the unimpaired flow are supported by California Constitution Article X, section 2, which states that the most beneficial use of water must be implemented, and waste of water is prohibited. The LSJR, Stanislaus, Merced, and Tuolumne Rivers are the natural habitat of the Salmon, which cannot be moved to a different location. They should be respected and stratagems to preserve them should be implemented rather than negatively impacting them with excessive diversions.

Those who argue for reduced unimpaired flow in the LSJR, are mostly agribusiness, commercial users of the river, and privatizers that are perpetrating a water grab. The farmers in the area are farming water intensive crops such as almonds, alfalfa, and pistachios. *See* Table 1102 on page 11-42. My argument to the farmers would be to embrace the salmon, within the LSJR and switch to crops reasonably grown in an arid climate. If the Board decides on an unimpaired flow of sixty percent we will likely see a much slower growth in the salmon population, if anything. With a forty percent unimpaired flow rate the salmon population will likely collapse due to lack of natural resources and eventually become extinct.

Under the Public Trust Doctrine if feasible, protections for the environment must be implemented. It appears quite feasible to ask farmers to refrain from growing extremely water-intensive crops. They can still grow crops, still make a good living, and still retain their way

of life. The public interest is served by saving the salmon and breaking the addiction to cheap water and exploitative crops. The SED shows that setting unimpaired flow at a number well above current levels is the least damaging practical alternative available. Switching 115,000 acres to crops like beans, potatoes, safflower, sugar beet, onion, garlic, and on and on, is no negative environmental impact at all. Not switching, means death to the salmon, which is irreparable environmental harm. It is an easy call.

**Tables & Graphics for Reference:**

<b>Unimpaired Flow Level</b>	<b>Effect on human use</b>	<b>Effect on Salmon Population</b>	<b>Recommended Course of Action</b>
<b>80%</b>	Limits the amount of water for farms, business and public use resulting in more efficient water use strategies.	Allows Salmon population to recover quickly and thrive in a healthy river environment.	<b>Best strategy</b>
<b>60%</b>	Allows human water use such as farms to profit	Salmon population may recover but not as quickly	<b>Good Strategy</b>
<b>40%</b>	Puts human use first, allows business to spur and is detrimental to environmental use	May cause collapse in Salmon population	<b>Okay Strategy</b>

**Conclusions & Recommendations:**

From the three levels of unimpaired flow it is obvious that the best course of action is to go with the eighty percent unimpaired flow so that the ecological impact on the health of the river and the salmon that reside within it can thrive sustainably. The strategy of eighty percent unimpaired flow goes hand in hand with multiple environmental laws and regulations, including the Public

Trust Doctrine, California Constitution article X section 2, and the Porter Cologne Water Quality Control Act, the Delta Reform Act of 2009, including the legislative mandate to double salmon populations. I sincerely hope that the SWRCB will consider these laws when making its decision to revise the latest Water Quality Control Plan.

**Conclusion:**

For the foregoing reasons, I urge the Board to make the best choice and to set unimpaired flow levels at 80% as the best strategy. If the Board finds that it cannot set unimpaired flows at 80% at this time, then I urge the Board to set 60% as the absolute minimum unimpaired flow for the LSJR and its tributaries.

Thank you for giving me this opportunity to comment and for considering my views.

Sincerely,

s/ Raffy G. Burany

**Authorities Cited:**

California, State Of. "San Francisco Bay/Sacramento – San Joaquin Delta Estuary (Bay-Delta) Program." *State Water Resources Control Board*. N.p., n.d. Web. 12 Mar. 2017.

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*Consumerist*. N.p., 27 Sept. 2013. Web. 12 Mar. 2017.

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*NRPA - Public Trust Doctrine* . N.p., n.d. Web. 12 Mar. 2017.