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November 2, 2016

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Joseph Gallo Farms

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Associates, Inc.

Joy Sterling, CEO
Iron Horse Vineyards

The Honorable Jerry Brown
c/o State Capitol, Suite 1173
Sacramento, CA 95814

RE: Comment Letter - 2016 Bay-Delta Plan Amendment & San Joaquin River
SED

Dear Governor Brown:

The California State Board of Food and Agriculture (Board) strongly recommends that a comprehensive approach is needed to address the water quality challenges in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta). Understanding the limited flexibility that the State Water Resources Control Board (State Water Board) has on its regulatory approach related to improving water quality, our Board strongly recommends that negotiated voluntary agreements, as called for in the California Water Action Plan, be an acceptable, valid and preferred course of action to improving native fish populations and habitat while protecting other beneficial uses of water such as farming.

We applaud your direction to Chairperson Felicia Marcus and your California Natural Resources Agency (Resources Agency) to explore the potential for comprehensive agreements on environmental flows for the protection of native fish species. Not only does this approach benefit fish populations, but it also provides the best path forward in addressing water challenges related to clean drinking water, farming and local economies.

Currently to achieve negotiated voluntary agreements the Resources Agency, public water agencies and environmental groups will need to reach agreement on flow and non-flow measures for improving conditions for fisheries within local regions and jurisdictions which will need to be completed on an expedited timeline and in place by early summer 2017, with implementation shortly thereafter.

Further, for those agreements approved by the Resources Agency and which contain flow and non-flow measures, the State Water Board should accept those agreements instead of instituting a regulatory flow solution. We all recognize the need to present solutions to save the native fish and that part of that solution is more water - but non-flow components which will require funding and robust monitoring, data synthesis and adaptive management based on the data collection are also essential.



We also have deep concerns with the “unimpaired flow” approach, which is not practical as a regulatory approach nor does it help foster negotiated agreements. Significantly, in the absence of negotiated voluntary agreements that are approved by the Resources Agency and accepted by the State Water Board, the current regulatory approach on flow measures (30-50 percent unimpaired flows on the San Joaquin River and tributaries) will have substantial impacts to communities across the state. These impacts include:

- Farming and Ranching - the Substitute Environmental Document (SED) contains estimates of annual farm fallowing of 24,000 acres as a result of maintaining unimpaired flows at a 40 percent level. Further context on these impacts is needed, especially as it relates to drought as California prepares to enter our sixth consecutive year. In the “Economic Analysis of the 2015 Drought for California Agriculture” (Center for Watershed Sciences, University of California, pg.5) the following observation was included in the report:

We [Center for Watershed Sciences] estimate the 2015 drought may result in the fallowing of 542,000 irrigated acres, almost all (99.5%) in the Central Valley....If access to groundwater were to decrease or agriculture were to face additional curtailments for environmental flows, temperature, salinity, or other factors, the impact of the drought in 2016 and 2017 would increase substantially.

- Subsidence/Salinity - reduced surface water availability for drinking water in San Joaquin communities (Modesto, Turlock, Stockton, et al.) will most likely increase groundwater reliance, impacting some of California's 21 critically overdrafted groundwater basins and minimizing efforts to address saline intrusion and zones of depression. Fourteen (14) Disadvantaged Communities (DACs) exist inside the area regulated by SED, and all are entirely dependent on groundwater pumping for their municipal water supplies and thus will be adversely affected by this action.
- Groundwater Management - as California moves forward on the Sustainable Groundwater Management Act (SGMA), the proposed regulatory flow measure for the Bay-Delta will encourage increased groundwater pumping when the state is legally requiring local authorities to sustainably manage groundwater basins. The SED acknowledges that maximum groundwater pumping is not sustainable (Chapter 11, pg.11-52; SGMA) and is significant and unavoidable under the proposed flow measures (Chapter 9, Table 9-1, pg. 9-4; Chapter 18-16).
- Urban Communities - a number of cities, including San Francisco receive water supplies from surface water. The Tuolumne River provides up to 85 percent of water supply for the deliveries of the San Francisco Public Utilities Commission. The proposed flow measures are estimated to limit water availability in the Hetch Hetchy Reservoir, reducing overall consumer supplies. The SED assumes that municipal water districts will supplement reduced water supplies with the purchase of agricultural water. Unfortunately, with the ongoing shift to permanent crops as water supplies become constrained, the Board believes the availability of agriculture water will be more limited as well.

To help minimize the impacts to our environment and communities, the proposed regulatory flow approach (whereby the State Water Board would seek to amend water rights throughout the Delta watershed) should be the option of last resort used by the State Water Board. Instead, the State Water Board should 1) extend maximum flexibility to regions and jurisdictions that are actively involved in the negotiation process but are unable to meet the summer deadline and 2) accept negotiated voluntary agreements approved by the Resources Agency as an alternative to a regulatory flow approach. This will help to achieve the most beneficial outcomes for the environment and Central Valley communities.

This Board believes that negotiated voluntary agreements should include flow and non-flow measures in addition to having robust commitments to monitoring and reporting. These agreements must also embrace adaptive management, being responsive to changing environmental needs. Further, agreements should incorporate the following considerations.

- Functional flows that promote fish and wildlife by closely considering time, space and parameter scales relevant to biological processes are referenced in the report “Flows and Fishes in the Sacramento-San Joaquin Delta” (Delta Independent Science Board, August 2015). Further, functional flows work when non-flow measures are added.
- Ensure that all water is put to work to the fullest extent possible as required by the California Constitution, Article X, Section 2.
- Habitat and floodplain restoration that assures public safety while producing food and habitat for fish, birds and other terrestrial and aquatic species.
- Adherence to California's coequal goals as established within the 2009 Delta Reform Act to provide a more reliable water supply while protecting, restoring and enhancing the Delta ecosystem. This can only be achieved by working collaboratively and employing the best available science and the latest technology to assist in managing complex ecosystems.
- Groundwater recharge opportunities as supported by California Water Code §10721(g) and the Executive Order B-29-15.
- Management of water resources in a more tailored and efficient manner that allows predictability for various stakeholders, works for all parts of the state and avoids the waste of water.
- Recognition that the Bay-Delta is a significantly altered ecosystems that has been engineered to move water from the north of the state to the south. This altered ecosystem has created additional stressors for fish habitat, including non-native and invasive species. Predator management is a critical issue that should be acknowledged as an acceptable non-flow measure.

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In developing a functional flow approach, we also encourage state and federal agencies to enlist the Delta Science Program to pursue "One Delta, One Science" as called for in the Delta Sacramento-San Joaquin Delta Reform Act of 2009 (Water Code §85280(b)(4)). Additionally, given the recently reinitiated Endangered Species Act consultations on the long-term operations of the Central Valley Project and the State Water Project, it is critically important that the State Water Board closely coordinate with the federal resource agencies regarding the best available science on outflows. This is vital to ensure consistency and that outflow measures intended to benefit pelagic fisheries (i.e., delta smelt) do not adversely affect cold water management measures intended to benefit listed salmonid species.

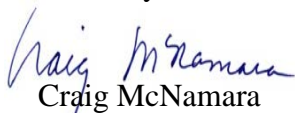
As we all know, California has a highly managed water system that has been designed over the past century to benefit cities, rural communities and the environment. With the increased challenges to native fish populations and the timely need for action, negotiated voluntary agreements are the best path forward for California's future.

We actively encourage you to meet with key water district managers and water district board members to convey the urgency of negotiating voluntary agreements with the Resources Agency and other parties. As you have stressed to the State Water Board and staff on the priority of analyzing and implementing voluntary agreements, this effort should also be undertaken with the public water agencies. Further, this meeting will dispel unfounded perceptions that the Administration is not serious about finding alternative solutions that will better serve our environment, economy and rural communities.

In addition, we would encourage the Resources Agency to actively reach out to the other state and federal agencies with jurisdiction over matters that affect the health of ecosystems and fish and press those agencies to take actions that support the recovery of threatened and endangered species beyond just additional flows (i.e. predator and invasive species). No one solution is going to enable the recovery of salmonids and the Delta Smelt; we must employ all strategies at once if the state is going to have a chance at stabilizing these threatened populations.

We look forward to working with you, Secretary Ross, Secretary Laird and Chairperson Marcus in creating a new chapter of collaboration on critical water issues facing California.

Sincerely,



Craig McNamara
President

cc: Secretary Karen Ross, California Department of Food and Agriculture
Secretary John Laid, California Natural Resources Agency
Director Chuck Bonham, California Department of Fish and Wildlife
Chairperson Felicia Marcus, State Water Resources Control Board
Nancy McFadden, Executive Secretary, Governor's Office
Kim Craig, Deputy Cabinet Secretary, Governor's Office
Karla Nemeth, Senior Advisor, Governor's Office