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CHAIR: SELECT COMMITTEE ON RAIL

January 3, 2017

Felicia Marcus, Board Chairwoman
State Water Resources Control Board
PO Box 100
Sacramento, CA 95812-0100

RE: Public Hearings on the Draft SED for Update to the Bay-Delta Plan

Madam Chair and Members of the board.

I want to thank you all for your visits last month to the Northern San Joaquin Valley. Over 2,000 Valley residents had an opportunity to express their strong opposition to Bay-Delta Plan SED recommended by your staff and consultants. Their testimony was in addition to the thousands who already had signed petitions and sent you letters opposing this plan.

Madam Chair, on a number of occasions during these hearings, you expressed frustration that there had been such a "disconnect" between those who wrote the proposal and those who are most impacted by it. The people in Merced, Stanislaus, and San Joaquin counties share that frustration, in no small part, because your office and staff have refused to meet to discuss the basic assumptions and facts which shaped the report before you today. In fact, your staff refused to even provide responses to the comments received on the 2012 version of this report. We were told responses would be incorporated into this newest version. Upon review, we have found that this latest version fails to directly address the most pressing issues raised by the impacted communities.

Many of us counseled that the release of this new report was a mistake. We believed such action would poison efforts to reach a settlement, because the draft report would likely dismiss the many legitimate concerns that had previously been expressed. Any updated report should have established a set of basic facts to serve as a foundation for further discussion.

Once the report was released in September, our worst suspicions were confirmed. The update is full of misinformation, is not realistic, does not reflect current circumstances, and, in the words of your own staff, is significantly flawed. As we advised, it has created enormous ill will and distrust in the adversely impacted communities.

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The report includes a chart that models the recommended alternative flows, which indicates an increase of 1,104 salmon. You later said this was misinformation or misunderstood information. It would have been easy to discuss these numbers with the appropriate knowledgeable persons, but your staff and consultants chose not to do so. Nor have you or your staff published a correct number.

The report's treatment of groundwater is another striking example of poor analysis. It deliberately lowballs the economic impacts of the proposal on agriculture by claiming lost surface water would be made up by additional groundwater pumping, a solution seemingly at odds with SGMA which you and the rest of the Water Board also have a responsibility to implement. Such an action likely would not be allowed even before SGMA's implementation date.

We also know that the loss of surface water for recharge will directly threaten the quantity and quality of drinking water in Merced, Stanislaus, and San Joaquin counties. Your report dismisses drinking water concerns as significant and unavoidable and offers no legitimate solutions. Your refusal to make mitigation a part of your proposal sends exactly the wrong kind of message.

Your report should have recognized these issues. It also should have recognized the serious water quality challenges the flows proposal poses to the city of Modesto, which has, for years, blended surface water with groundwater to provide safe drinking water for its residents and to Manteca, which fights salinity in their water with surface water from the Stanislaus River. Your report also should have reflected what the new flows would do to plans to bring surface water to the citizens of Turlock and Ceres, both of whom have serious groundwater challenges.

You acknowledge the problem, but you don't analyze the cost of remedial action or even if such remedial action is feasible.

Nowhere is this disconnect more discernable than in the discussion of the implementation program, which contains carryover storage requirements in addition to new flow requirements. In dry years, this could amount to hundreds of thousands of acre-feet of additional water unavailable for beneficial uses. This element of the plan is even more ludicrous since any benefit to fish from this effort to manage the water temperature would immediately disappear once the fish reach the much warmer San Joaquin River.

You heard in these hearings the financial impact on a myriad of essential services like health, education and public safety. That should not have been new information and should have been incorporated into the update before release. You heard from leaders what the impacts of water uncertainty will have on job creation, real estate, and investments. That too should have been part of your document.

I want you to know that most of the people who spoke at the hearings, and the dozens of local officials who appeared and commented, want to be willing partners in facing California's water challenges. Hopefully, the settlement discussions reconcile some of

these issues. But pursuing this plan, which even its proponents say will not do much to help the salmon absent other policies, will bring economic devastation to an area where over one million Californians live. The plan offers no path to real solutions to the challenges it seeks to address.

I've made clear my support for the effort most recently expressed by the Governor for significant and meaningful settlement discussions between the parties on these important issues. Some of us in the Legislature have urged this course for the last four years. Once discussions did begin two years ago, they appeared to be one sided, where the districts would make suggestions, but the state would be nonresponsive. As this was going on, your staff and consultants proceeded with the work to update the report you now have before you.

There is strong and justified belief that you and your staff have not acted in good faith up to this point. The obligation to restore confidence that legitimate settlements can be reached through negotiations rests squarely on the State . Given the litany of new information provided to you during the recent public hearings, my recommendation is that you send this report back to your staff and your consultants with a directive to start over.

Sincerely,

Assemblymember Adam C. Gray
21st Assembly District