SOUTH DELTA WATER AGENCY

4255 PACIFIC AVENUE, SUITE 2
STOCKTON, CALIFORNIA 95207
TELEPHONE (209) 956-0150
FAX (209) 956-0154
E-MAIL Jherrlaw@aol.com

Directors:
Jerry Robinson, Chairman
Robert K. Ferguson, Vice-Chairman
Natalino Bacchetti
Jack Alvarez

Engineer:
Alex Hildebrand
Counsel & Manager:
John Herrick

May 30, 2008

Via E-Mail

Mr. Rudy Schnagl, Chief
San Joaquin River Watershed programs
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

Re: Draft Management Agency Agreement with USBR

Dear Mr. Schnagl:

The South Delta Water Agency and the Central Delta Water Agency submit the following comments to the proposed Management Agency Agreement ("MAA") between the CVRWQCB and the USBR. The purpose of the MAA is to set forth an agreed to approach for the Bureau to meet its salt/boron allocations under the Regional Board's TMDL program, as incorporated into the Basin Plan. Under the TMDL program, the Regional Board assigned specific salt loads to the Bureau's Delta-Mendota Canal.

Unfortunately, the MAA provides virtually no specifics, goals, or obligations by which the Bureau's efforts can be measured and which would show improvement to the salinity problem of the San Joaquin River.

As the Regional Board is well aware, the Bureau imports hundreds of thousands of tons of salt to the valley each year. That salt is concentrated as a result of the consumptive use of water by crops and wetlands owned/operated by the parties who contract for the delivery of the CVP water. Thereafter, hundreds of thousands of tons of the more concentrated salts return to the River through surface drainage or subsurface accretions, at concentrations many times the downstream standard. The remaining imported salts are trapped in the basin, either in the soils, or the groundwater. Previous estimates put this accumulated salt load at 40 million tons. Much of these salts also make their way into the River, sometimes at a regular rate due to the slope of the groundwater, at other times in an irregular fashion depending on the weather.

It should be noted that the original statutes authorizing the San Luis Unit of the CVP required a drainage system/mechanism be provided to remove these salts from the valley before deliveries of water could be made. The purpose of this requirement was to prevent the very problem now facing us; the salting up of the valley and the River.

Hence, in order for the Bureau to address the problem it created it must focus on a number of things. First, it must specify how it will decrease the amount of salt being imported into the valley. Nothing in the MAA or the Bureau's Salinity Management Plan (referred to as the "Action Plan" in the MAA) addresses this issue. The documents list numerous actions, including conservation, drainage control, etc, but fail to discuss how such actions will decrease the amount of salt being imported into the area. None of the conservation efforts ongoing or proposed seek to reduce the delivery of imported water to the contractors, meaning that they plan on receiving the same amount of water and salt.

The conservation efforts do seek to reduce the amount tail water or drainage, but that does not address the problem. Conservation increases the concentration of the salts by re-suing the same water multiple times. A decrease in the total surface drainage may seem to have a beneficial effect on the loads and concentrations entering the River. However, many times all of the concentrated salts still enter the River requiring downstream dilution, and decreasing the total flow of the River. In addition, those salts which do not reach the River through surface flows are still in the system; either in the soils or the groundwater. As stated before, much of those salts still enter the River in an uncontrolled manner, depending on rainfall events.

The MAA and the Action Plan should specify how the Bureau intends to address these issues, and provide milestones to measure progress. To the contrary, the documents simply discuss the development of more studies and the only time lines are for the drafting and adoption of reports, monitoring and evaluations.

In addition to specifying how it will reduce the importation of salts into the valley, the Bureau must address how it intends to deal with the millions of tons previously imported and currently stored in the basin. The salt problem of the River and valley will continue until there is plan by which these salts can be removed from the system, either through an isolated drain, or transported in the River at acceptable concentrations. Neither the MAA or the Action Plan address this issue. The Action Plan makes reference to coordinating refuge drainage with high flows to avoid elevated salinities, but the reference falls well short of any commitment and does not address the previously imported salts. The MAA and Action Plan should quantify the amounts being discharged from these sources and specify how much and when the coordinated releases will be accomplished.

The MAA itself could not be more generic, and thus ineffective. After specifying that the agreement is to address the Bureau's TMDL allocation, it then sets forth the "obligations" of the Bureau. Those obligations include instituting a two year monitoring and reporting program; and nothing else. The program itself requires quarterly reports, a draft program plan, the approval of the plan by the Regional Board, a draft report, and a final report.

These reports and plans are to provide the Regional Board with "data and quantification methods used to evaluate the salts loads from the DMC . . . salinity offset credits . . . the activities conducted and resources provided by Reclamation in implementing . . . the Action Plan . .. " and "the progress and status of efforts to establish a viable" program" and milestones for planned activities." Clearly, the MAA can in no way be described as a method by which the Bureau will meet its TMDL allocation. There is not one requirement in the MAA which will result in any improvement to River water quality, and certainly no outline by which progress towards meeting the allocation can be measured.

The Action Plan lists a hodgepodge of various programs, some of which have not and will not have any impact on San Joaquin River salinity. It first references the flow actions the Bureau is involved in, one assumes to provide dilution flows for the salts. New Melones is mentioned, but New Melones has been operating and providing water quality releases for over twenty years with no real impact on the underlying problem. The Action Plan certainly does not commit the Bureau to make additional releases, and in fact, PL 108-361 (HR 2828) requires the Bureau to *decrease* its reliance on New Melones for meeting River standards. Obviously, New Melones will not be a part of improving the River.

It next identifies water acquisition plans, again one assumes to provide additional dilution flows. However, such acquisitions have been authorized since CVPIA was enacted and again authorized in PL 108-361. To date, the Bureau *has not made one such purchase*, and has most likely not even investigated one. The Regional Board should demand the Bureau specify how much and when it plans on providing such additional purchased flows.

Finally with regard to flow, the Action Plan references the Environmental Water Account. Although I don't recall the EIR/EIS for that program to include coordination of releases to meet standards, I will assume the Bureau can do such a thing. Again, rather than specifying how much and when the Bureau will use EWA to better the River, the program is simply noted. This falls short of any tangible commitment to address the salinity problem.

The Action Plan then purports to address salt load reduction actions. Unfortunately, the methods referenced include such things as the Grasslands Bypass Project and regional drainage programs. The Action Plan makes no mention of actual accomplishments, only referring to improved "capacity to reduce salt." Why doesn't the Action Plan tell us how and if the GBP has

met it salt reduction goals, and explain what happened to any salts not discharged to the River by surface drainage. Whatever the most recent results of these projects, the salts imported into the basin have not gone away. As before, the listing of these projects provides no commitment by the Bureau to decrease the importation of salts into the basin, or the dilution of salts reaching the River.

Lastly, the Action plan discussed "mitigation" of the salts it has imported into the basin. Under this section, the Bureau proposes to form a program whereby salt concentrations can be monitored in real time to assist other stakeholders to coordinated their discharges. Although this may be the one beneficial portion of the Action Plan (and the MAA) it also highlights one of the underlying problems with the Bureau and Regional Board's approach. The efforts under such a program are geared to allow upstream dischargers to release salts (imported and natural) in a manner such that the Vernalis standard will be met. However, these efforts result in all of the River's assimilative capacity being used up.

The reason this is important is that if all of the assimilative capacity is used up at Vernalis, no downstream user can consumptively use River water and discharge. As we have seen, the Bureau and DWR plead innocence when the downstream standards are violated because "they met the Vernalis standard." It cannot be seriously argued that removing all of the River's assimilative capacity is a solution to the salinity problem. The Regional Board cannot approve a program that allows high concentrations of imported salts to enter the River which destroy downstream parties ability to use the River. Under such a scenario, the downstream users would have to remove or dilute the CVP salts before they can discharge because the CVP only mitigated its impacts to a certain degree.

It should be noted that the 1995 Bay-Delta Water Quality Control Plan always anticipated that the Brandt Bridge standard (on the San Joaquin River downstream of Vernalis) would be met with flows, yet the Bureau makes no effort to provide the flows. Since the Regional Board will eventually undertake a TMDL for salt in the Delta, it must insure the current TMDL on the River is not implemented in a manner which will require Delta interests to later mitigate CVP salts left unaddressed in the River TMDL.

Lastly with regard to the Action Plan, we see that the Bureau attempts to claim that the Vernalis standard has not been exceed since 1995. This is of course is misleading. By only diluting the high salt concentrations in the River at Vernalis, the Bureau has insured that any downstream use will be impaired. The Tracy Bridge at Old River standard has been violated both last summer and this winter because the Bureau has denied downstream users the access to any assimilative capacity (and because of the way the projects have altered flows in the southern Delta). This situation could in large part be addressed if the Regional Board would set and enforce the upstream salinity standard the SWRCB has repeatedly ordered for the last twenty years.

If the purpose of the MAA is to bind the Bureau to a plan and time line for decreasing salt loads into the valley, to decrease salt concentrations in the River, and to mitigate its adverse impacts on other users' ability to use the River as they have done historically, it certainly does not do so. The MAA should contain specific requirements, specific reductions, and specific mile stones whereby measurable improvements are made, culminating in compliance with the TMDL allocation assigned to the Bureau. SDWA and CDWA strongly recommend the Regional Board not adopt the draft MAA until it contains enforceable obligations which address the San Joaquin River salt problem. This issue has been studied for 40 years with virtually no progress or improvement. No such progress or improvement will occur until the Regional Board and SWRCB force the Bureau to clean up its mess.

Very truly yours,

JOHN HERRICK

cc: Dante J. Nomellini, Esq.