

COMMENTS TO THE STATE WATER RESOURCES CONTROL BOARD  
 DRAFT WATER QUALITY CONTROL PLAN  
 for the  
 SAN FRANCISCO BAY/SACRAMENTO-SAN JOAQUIN  
 BAY DELTA ESTUARY

December 1994

**SUBMITTED BY THE STOCKTON EAST WATER DISTRICT**

The Framework agreement reached in December of 1994 was much-heralded as a compromise agreement for the protection of the Bay-Delta Estuary, which provided for certainty in water supply throughout the State. For many of the water right holders in California who were not signatories to that agreement, and were not at the table, the compromise is clear: our water rights were compromised in order to reach consensus.

The Draft plan also states that its "objectives and recommendations are intended to attain the goal of the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible." at p. 4. With regard to the San Joaquin River, the Draft plan misses the mark.

**PROGRAM OF IMPLEMENTATION**

**A. Implementation Measures Within the SWRCB's Authority**

**1. IMPLEMENTATION OF OBJECTIVES THROUGH WATER RIGHTS ACTIONS**

The Draft plan indicates that within three years this Board will allocate responsibility for meeting San Joaquin River flow objectives. The report also states, however, that: The USBR shall provide these flows, in accordance with the biological opinion for Delta smelt, during this three year period.

This sentence must be removed from the Draft report. This is a Water Quality Control Plan; it does not address water right allocations. Therefore, a statement such as this in the report which purports to assign an obligation for meeting the water quality objective is inappropriate.

It is true that the United States purports to provide these flows in the Framework Agreement, and this language is taken verbatim from this document. However, the authority for the United States to voluntarily contribute these flows is questionable, and will be challenged.

It is our understanding that the flows which the United States has agreed to contribute through its execution of the framework agreement will come from the New Melones project on the

Stanislaus River. There are numerous reasons why the United States cannot and should not agree to provide these flows from New Melones, even on an interim basis.

●The stated place of use for these waters is outside of the place of use for the water rights permits held by the United States for the New Melones project. The place of use for New Melones is specifically limited to the four county area surrounding the project, and does not include the Suisun Marsh or the western Delta.

●The water rights permits held by the United States for the New Melones project specifically state:

**Before making any change in the project determined by the State Water Resources Control Board to be substantial, permittee shall submit such change to the Board for its approval in compliance with Water Code Section 10504.5(a).**

The United States has not done so, despite the fact that allocation of New Melones water to meet the required San Joaquin River flow objectives would require the entire safe yield of the New Melones project.

●The Framework agreement and the Draft Plan state that the United States will provide the required flows "in accordance with the biological opinion for Delta Smelt". The flow requirements in the Draft Plan greatly exceed the requirements for San Joaquin River flows as set forth in the Delta Smelt Biological Opinion. (See Exhibit A attached). So the statement itself is misleading: will the United States provide these flows up to the requirements of the Delta Smelt opinion - or over and above the Delta Smelt opinion?

●Dedication of the flows of New Melones to meet the requirements for Delta Smelt is inconsistent with the Delta Smelt Biological Opinion itself. The Delta Smelt opinion recommends that:

**Additional sources of water potentially available to provide San Joaquin River outflow include "temporary water supplies" and Friant Class 2 water.**

The United States should be directed to review the possibility of using water from these and other sources.

●The dedication of flows from New Melones to meet the requirements for Delta Smelt and the San Joaquin River flows proposed in the Draft Plan violates the water supply contract between the United States and its CVP contractors on the Stanislaus River.

For all these reasons, this Board should not include any statement in the Draft Plan regarding the Bureau's stated intention to meet the proposed San Joaquin River outflows. The sentence should be deleted.

## 2. IMPLEMENTATION OF OBJECTIVES THROUGH WATER QUALITY AND WATER RIGHT ACTIONS

### a. Southern Delta Agricultural Salinity Objectives

The Plan states that: "Implementation of the objectives will be accomplished through the release of adequate flows to the San Joaquin River and control of saline agricultural drainage to the San Joaquin River and its tributaries." (at p. 25). Despite this statement, this Board has done nothing to contribute to the control of saline agricultural drainage to the San Joaquin River and its tributaries. In fact, just last week this Board approved the San Joaquin River Basin Plan proposed by the Regional Water Quality Control Board - Central Valley Region which failed to establish water quality standards for salinity in the San Joaquin River.

### B. Recommendations to other Agencies.

The Draft Plan states that "the principal water quality objectives that will be met by the actions of other entities are the objectives for salinity in the southern Delta for the protection of agricultural uses". (at p. 26). The Plan recommends that other agencies implement numerous recommendations.

What this Board fails to address, however, is its own failure to begin the process to control agricultural drainage. Recommendations are made that many agencies work on the problem; the only agency with direct authority to regulate the problem is the Regional Water Quality Control Board. This Board has failed to require the Regional Board to address this problem.

It is curious why the bullet: ●Discharges to the San Joaquin River is included under the heading Recommendations to Other Agencies. The Draft Plan states that "Controlled and limited discharges of agricultural drainage water to the San Joaquin River must occur in a manner that meets water quality objectives." The Draft Plan suggests that waste discharge requirements may be an appropriate tool to use. Again, just last week this Board refused to require the Regional Board to take action to utilize waste discharge requirements to control and limit the discharge of agricultural drainage water to the San Joaquin River.

If this Board does not require action of the Regional Board, which is under its direction, how can this Board expect other agencies with little or no direct authority over the problem to take action to address the problem. The Board must accept a

leadership role if this problem is ever to be addressed.

The Draft Plan purports to achieve water quality objectives while also achieving certainty to water users in California. With regard to the New Melones project, that certainty is that there will be no water available to its contractors. Certainly this is not the balance that this Board is looking for. The United States should not be allowed to make New Melones the sacrificial lamb for meeting San Joaquin River flow requirements. That is not the purpose of this Water Quality Control Plan, and it should not be allowed to occur even as an interim solution until the water rights phase of the Bay-Delta are completed.

  
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STOCKTON EAST WATER DISTRICT

EXHIBIT A

**Excerpts from Table 3 Draft Water Quality Control Plan: Water Quality Objectives for Fish and Wildlife Beneficial Uses**

**San Joaquin River  
Vernalis**

WN, AN	Feb-Apr 14	2,130 or 3,420
BN, D	and	1,420 or 2,280
C	May 16-June	710 or 1,140
W	Apr 15-	7,330 or 8,620
AN	May 15	5,730 or 7,020
BN		4,620 or 5,480
D		4,020 or 4,880
C		3,110 or 3,540
All	Oct	1,000*

\*Plus an additional 28,000 acre-feet pulse/attraction flow during all water years types as needed to bring flows up to a monthly average of 2,000 cfs, except for a critical year following a critical year. The pulse flow will be scheduled by the operations group established under the Framework Agreement.

**Table 3b 1994 Delta Smelt Opinion: Minimum average San Joaquin River flow (calculated at Vernalis) component of 6,800 cfs and 12,000 cfs required flows listed in table 3a.**

<u>Water-year Type</u>	<u>Wet</u>	<u>Above Normal</u>	<u>Below</u>	<u>Dry Dry</u>	<u>Critical</u>
San Joaquin River cfs:	2,000	2,000	1,500	1,200	800

Plus transport and habitat flows from the San Joaquin River in the event monitoring indicates adult Smelt are present in any San Joaquin River sampling from January through March, the following 30-day average flow amounts for a 30-day period from April 1 through May 15:

<u>Water-year Type</u>	<u>Wet</u>	<u>Above Normal</u>	<u>Below</u>	<u>Dry Dry</u>	<u>Critical</u>
San Joaquin River cfs:	5,200	3,600	3,200	2,600	2,400