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VIA FACSIMILE AND U.S. MAIL
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Ms. Gita Kapahi
Chief Bay Delta/Special Projects Unit
State Water Resources Control Board
Post Office Box 2000
Sacramento, California 95812-2000

Re: Triennial Review of 1995 Bay-Delta Water Quality Control Plan

Dear Ms. Kapahi:

The following comments regarding review of the 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary are submitted on behalf of Stockton East Water District.

San Joaquin River Salinity Objectives Upstream of Vernalis Must be Established

One of the purposes of the objectives established in the Water Quality Control Plan, as stated by this Board in the 1995 Plan, is to "provide reasonable protection of municipal, industrial, and agricultural beneficial uses; and to provide reasonable protection of fish and wildlife beneficial uses..." WR 95-1 at p. 14. The 1995 Plan also stated that the water quality objectives "are established to attain the highest water quality which is reasonable, considering all demands being made on the waters of the Estuary."

One particular aspect of the 1995 Plan that has not achieved the plan's stated goals is Southern Delta salinity. The Plan assumed that releases from New Melones Reservoir, actions of the Central Valley Regional Water Quality Control Board and source control activities would result in the protection of agricultural beneficial uses. This has not occurred as anticipated. In fact, to the contrary, the situation in the river has gotten worse. Upstream drainage efforts have resulted in salts becoming increased in concentration before they are released into the river. Any decrease in salt discharge resulting from efforts in that area have been more than offset by increased deliveries to wetlands/refuges which not only degraded San Joaquin River water quality further, but have drastically increased

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releases of fresh water from New Melones in the winter to maintain the water quality objective at Vernalis.

New Melones is operated according to a plan that anticipates insufficient water will be available to dilute San Joaquin River flows in most Julys and Augusts in years drier than those designated "above normal." Despite the fact that proposed operation of New Melones will not meet the Vernalis salinity objective, the Bureau's attempts to meet the objective deprive contractors of water to which they are entitled under their contracts.

The Regional Board and its staff have failed to take any concrete action since the 1995 Plan was established and in direct contravention of the Board's clear direction to "promptly develop and adopt" salinity objectives in Decision 1641. The Regional Board has no intention to proceed promptly as evidenced by its most recent pronouncement that "establishment of water quality objectives for the upper reaches of the Lower San Joaquin River will be extremely difficult...and may take more than three to five years." [See January 30, 2004 Regional Board Staff Report]

The first water quality monitoring station on the San Joaquin River is at Vernalis – at the very end of the river where it meets the Delta. That leaves the entire San Joaquin River without water quality objectives. The result is no accountability until the San Joaquin River reaches the Delta; by that point New Melones Reservoir is the only source of fresh water to dilute the pollution as this Board has failed to force the Bureau of Reclamation to operate in a manner that eliminates that burden from New Melones.

The Board should amend the 1995 Plan to establish a new compliance location for the 0.7/1.0 EC value upstream in the San Joaquin River in the vicinity of the Newman Wasteway and the Merced River. There are many municipal, industrial, agricultural and fish and wildlife beneficial uses between the Newman Wasteway and Vernalis that have gone unprotected; adoption and implementation of the proposed objective would fulfill the goals of the Plan by providing "reasonable protection" for those beneficial uses.

San Joaquin River Flow Objectives for Fish and Wildlife Uses Must be Amended

The San Joaquin River flow objectives during February through April 14 and May 16 through June are improperly tied to hydrologic conditions in the Sacramento River basin. While, Table 3 – Footnote 13 states that the water year classification for the San Joaquin River flow objectives are established based on San Joaquin Valley Water Year Hydrologic Classification at the 75% exceedence level, a higher level of flow is triggered if X2 is at or west of Chipps Island. Location of X2 is highly dependent on Sacramento River flow conditions.

The past two years have been perfect examples of why a change must occur. In both years, the higher flow value was triggered because of Sacramento river flow moving X2 west of Chipps Island, while conditions in the San Joaquin River Basin have been dry. There is insufficient justification for the higher flow objectives on the San Joaquin River

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and tying it to Sacramento River hydrology. As such, the flow objectives should be modified with the lower value currently contained in the 1995 Plan as the controlling flow objective and the reference to X2 in Footnote 13 deleted. Any additional flow necessary to meet the existing X2 objective should be borne by the Sacramento River Basin.

San Joaquin River Flow Objectives for April 15-May 15 Should Be Reviewed

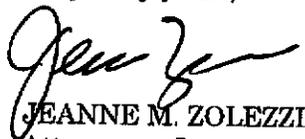
We support the review of the San Joaquin River flow objectives for the April 15-May 15 time period as necessitated by Judge Candee's decision regarding Decision 1641. The San Joaquin River flow objectives should be conformed to the VAMP flows targets as they are the "functional equivalent" of the existing objectives. We also believe that Table 3 - Footnote 14 of the 1995 Plan should be expanded to allow for varying pulse flows to provide the most protection for outmigrating salmon. Ongoing studies on the Stanislaus River have confirmed that fish are triggered to migrate based on short pulses of water and not sustained pulses over a period of time. As such, we believe that sufficient latitude should be provided to experiment with varying pulses in an attempt to optimize the outmigration of salmon based on real time assessment of needs.

Coordination with TMDL Basin Plan Amendment Process

We believe that the Regional Board's ongoing Salt and Boron Basin Plan Amendment to implement the Salt and Boron TMDL must be integrated with the 1995 Plan. This Board has already found the Bureau of Reclamation responsible for the salt problem in the San Joaquin River and conditioned all Bureau Central Valley Project facilities to meet the objective. What is the point of the basin plan amendment process when the State Board has already assigned responsibility to the Bureau of Reclamation?

Finally, we do not concur with a number of comments submitted that suggest a delay in processing the triennial review of the Plan. We believe it is critically important to undertake this review in an expeditious manner.

Very truly yours,


JEANNE M. ZOLEZZI
Attorney-at-Law

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cc: Mr. Kevin Kauffman, Stockton East Water District