

**PUBLIC HEARING REGARDING EMERGENCY DROUGHT CONDITIONS
TAKING AN EMERGENCY DROUGHT RELATED WATER RIGHTS ACTION
ON A PETITION FOR TEMPORARY URGENCY CHANGE**

**POLICY STATEMENT OF STOCKTON EAST WATER DISTRICT
February 17, 2009**

Stockton East Water District (Stockton East) has the following comments on the Petition for Temporary Urgency Change (Temporary Urgency Petition) filed by the Department of Water Resources (DWR) and the United States Bureau of Reclamation (Reclamation) regarding relaxation of the February Delta Outflow and the San Joaquin River Flow Objectives in response to current drought conditions. Stockton East supports DWR and Reclamation's request for relaxation of February Delta Outflow and San Joaquin River flow objectives and urges the State Water Board to grant the Temporary Urgency Petition.

The State is experiencing severe drought conditions. On the San Joaquin River basin, it is the third straight dry/critical year. While we welcome the recent rain and snow over the past weekend, it will not fill empty space in the reservoirs. For example, New Melones Reservoir currently holds approximately 1.1 million acre feet in storage and an equivalent amount available for storage. The last snow survey estimated New Melones inflow to be approximately 265,000 acre feet, well off the average annual inflow 1,050,000 acre feet. New Melones CVP contractors are projected to receive ZERO allocation. New Melones CVP contractors have over 18,000 acres of permanent orchards and vines that rely on this water and we are uncertain with a zero allocation how these permanent crops will be irrigated this year.

It is important to note the establishment of the San Joaquin Flow objective at Airport Way Bridge, Vernalis was the byproduct of a negotiated political solution via the Principles for Agreement in 1994. Conspicuously absent from these negotiations were ALL of the interests on the San Joaquin River tributaries. Despite the absence of all interests, the negotiated solution included requirements for San Joaquin River flows. In developing the San Joaquin River Flow Objective, which is the San Joaquin River contribution to the Delta Outflow, the parties arbitrarily set the San Joaquin Flow Objective at either 10%, 20% or 30% of the surrogate X2 Delta Outflow at either Collinsville or Chipps Island. No biological

assessment or other scientific justification supported these figures; the parties simply picked a percentage.

Moreover, the San Joaquin River Flow objectives 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. Thus, as in this year, if the Temporary Urgency Petition is not granted the higher level of 1,140 cfs will be triggered instead of the 710 cfs even though the San Joaquin River basin is facing a critically dry year. There is no scientific or biological justification for the higher flow objectives the San Joaquin River triggered by the placement of X2. Flows on the San Joaquin River should not be tied to Sacramento River hydrology.

DWR and Reclamation's Temporary Urgency Petition demonstrates that an urgent need exists and confirms that the requested change will not injure other legal users of water or unreasonably effect fish and wildlife or other instream beneficial uses, and therefore has met the burden for issuance of the Temporary Urgency Petition. We urge this Board to grant the requested petition.

On a final note, the issue of modification of the San Joaquin River flow objective and the lack of scientific support for the existing objective is not a new issue. Stockton East submitted evidence during the 2005 review of the Bay-Delta Water Quality Control Plan supporting modification of the objective. As a result of the hearings in 2005-2006, the State Water Board has scheduled a detailed review of this objective later this spring. During this process we urge this Board to demand more from Reclamation than simply relying on New Melones Reservoir to meet any new San Joaquin River flow objective, Reclamation has other means to meet the San Joaquin River flow objective other than New Melones Reservoir, and frankly has been directed by this State Water Board to use other sources, the Bureau has refused to do so. In implementing the San Joaquin River flow objectives in the future, the State Water Board must demand more from Reclamation.