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Clerk of the Board

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October 14, 2008

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Mr. John Herrick, General Manager  
South Delta Water Agency  
4255 Pacific Avenue, Suite #2  
Stockton, CA 95207

**SUBJECT: SOUTH DELTA WATER AGENCY AND LAFAYETTE RANCH COMPLAINT**

Dear Board Members:

The County of San Joaquin and the San Joaquin County Flood Control and Water Conservation District (collectively County) supports the Complaint for Violation of Permit and License Conditions, Violation of Cease and Desist Order and Trespass filed by the South Delta Water Agency and Lafayette Ranch against the U.S. Bureau of Reclamation and the Department of Water Resources. The County respectfully urges that this matter be heard by the State Water Resources Control Board as soon as possible and that an appropriate enforcement action be taken for these ongoing and repeated violations.

Of concern to the County are the actions of the Department of Water Resources (DWR) and the United States Bureau of Reclamation (USBR) regarding their failure to comply with their Water Right Permit terms, including D 1641 and Order WR 2006-0006. In particular, DWR and USBR are failing to meet the southern Delta interior salinity objectives. Prior violation of the salinity objectives occurred in 2003 and in 2007. This year's violations of the objectives occurred in March and in June and are continuing to occur. In addition, DWR and USBR are operating joint points of diversion. Under the circumstances this is also in violation of their permits.

The Southern Delta Salinity Standards were established to protect the beneficial uses within the Delta. These uses are important to San Joaquin County, which has over one-half of the legal Delta within its boundaries. It is inappropriate that the users of DWR and USBR water continue to receive and use water resulting in increased salinity in the San Joaquin River and the southern Delta when, at the same time, salinity objectives to protect beneficial uses within the Delta are not being met in violation of the DWR and USBR permits terms.

D-1641 granted DWR and USBR the authority to use each other's Delta diversion facilities or Joint Points of Diversion (JPOD). Use of the JPOD is authorized only when the projects are in compliance with their respective permit terms (D-1641 at p. 150). DWR and USBR's permits require each entity to meet established salinity objectives at several monitoring points within the Delta.

Cease and Desist Order WR 2006-0006 (CDO) was issued as a result of a Cease and Desist hearing which concerned DWR and USBR's anticipated violation of the interior Delta salinity objectives in upcoming years, and whether or not JPOD could be utilized if the terms and conditions of DWR and USBR's permits were violated. In the CDO, the State Water Board clearly maintained that JPOD could only be utilized when DWR and USBR were "...in compliance with all of the conditions of their water rights and licenses including...the 0.7 EC objective(s) [in the southern Delta]" (CDO at p. 32).

In 2007, the USBR and DWR predicted that the south Delta salinity objectives would be violated and reported such potential exceedences to Dorothy Rice, your Executive Director, by letter on April 24, 2007. At this time, USBR and DWR represented that the potential exceedences of the water quality objectives were "beyond the control" of USBR and DWR. Ms. Rice disagreed with this representation by USBR and DWR and informed these export project operators by letter, dated May 11, 2007, of additional actions within their control. On November 28, 2007, Ms. Rice reiterated the State Water Resources Control Board position that JPOD cannot be utilized when permit terms and conditions are being violated by DWR and USBR.

The salinity standards are not being met again in 2008. These standards were violated in March of 2008 and again in June. The violations that commenced in June have continued throughout the summer. This is in clear and open violation of DWR and USBR's permit terms. In addition, JPOD has occurred during this time period in what is also a clear violation of the permit terms and conditions of DWR and USBR.

As we have stated before, the DWR and USBR have endlessly delayed, through both wet and dry periods, dealing with the very real problem of salinity in the San Joaquin River. The USBR and DWR have been repeatedly advised and ordered to address the problem, but have continued to ignore all advice and have failed to follow orders. The time has come to tackle the salinity problem, and that time is now.

Furthermore, DWR and USBR must meet the salinity objectives by taking actions other than releases of fresh water from New Melones Dam and Reservoir. The USBR has been instructed to do so by Congress, but has failed to carry out these Congressional directives.

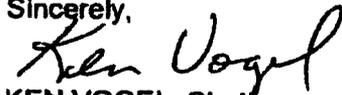
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On October 25, 2004, President Bush signed into law HR 2828 (Public Law 108-361), which contains important direction for the Secretary of Interior and the Bureau of Reclamation regarding operation of New Melones Reservoir. Public Law 108-361 directs USBR, with the assistance of the State, to initiate and implement actions to achieve the Bay-Delta water quality objectives while reducing the demand on water from New Melones Reservoir for meeting these objectives. The fundamental purpose of the legislation is to provide USBR with greater flexibility in meeting the existing objectives and to reduce the demand on water from New Melones Reservoir used for that purpose and to assist the Secretary in meeting any obligations of the Central Valley Projects contractors from the New Melones Project. USBR currently relies exclusively on New Melones Reservoir to meet the Vernalls objective and is failing to meet the interior Delta objectives. Both of their actions must stop. The USBR must meet the salinity objectives; however, it cannot do so by exclusively relying on New Melones Reservoir releases or by increasing releases from New Melones Reservoir. Other alternatives have been identified; however, the USBR has failed to make meaningful progress or take meaningful action to implement these alternatives. The USBR must do so now and cannot continue the status quo, especially during this time of Statewide water shortage.

The County supports the complaint filed by the South Delta Water Agency and Lafayette Ranch. The facts clearly indicate that the terms and conditions of the Water Rights Permits and licenses held by the Department of Water Resources and the United States Bureau of Reclamation have been, and continue to be, violated which is cause for further enforcement actions by the State Water Resources Control Board. The hard work of your staff and other entities during the cease and desist hearing, which resulted in ORDER WR 2006-0006, should not be ignored. The County of San Joaquin and the San Joaquin County Flood Control and Water Conservation District requests that this matter be set for a hearing by the State Water Resources Control Board pursuant to Section 821 of Title 23 of the California Code of Regulations. This hearing should commence as soon as possible. Although the irrigation season for 2008 is almost over, these important matters should be resolved prior to the 2009 irrigation season. Noticing a hearing immediately is necessary in order for this consideration to occur in a meaningful and timely manner.

Sincerely,



KEN VOGEL, Chairman  
Board of Supervisors  
County of San Joaquin

KV:LC:mk  
WR-8J019-04

c: John Herrick, South Delta Water Agency  
DeeAnne Gillick, Neumiller & Beardslee  
T. R. Flinn, Director of Public Works  
Thomas M. Gau, Chief Deputy Director  
C. Mel Lytle, Ph.D., Water Resource Coordinator