

April 20, 2010

VIA U.S. MAIL AND EMAIL - JSIMI@WATERBOARDS.CA.GOV

Joseph Simi
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Re: **Draft Report on Salt Tolerance of Crops in the Lower San Joaquin River
(Stanislaus to Merced River Reaches) - Comments by the City of Tracy**
Client-Matter No. 07547.00004

Dear Mr. Simi:

On behalf of the City of Tracy ("City"), we would like to sincerely thank the Regional Water Quality Control Board for the Central Valley Region ("Regional Board") for commissioning this important salinity study to update the state of science on appropriate and reasonable water quality objectives for the lower San Joaquin River and the Sacramento/San Joaquin Delta ("Delta"). The City wholeheartedly supports reconsideration of the applicable salinity objectives based on more recent science and studies.

As the Regional Board contemplates the proper salinity objectives for the lower San Joaquin River and southern Delta, the City would like to point out that hundreds of millions of dollars will be needed around the Delta for many of the municipal dischargers to consistently meet an end-of-pipe effluent limits that equate to the water quality objectives, even if those objectives are raised from current levels. Similarly, if all agricultural discharges currently regulated under the waiver need to meet these same objectives, the costs to farmers will be huge. At the same time, the City, as a water purveyor, strives to supply the cleanest drinking water available since that water, after usage by the community, ends up as influent to its wastewater treatment plant and is ultimately discharged back into the Delta. For these reasons, the City requests that the Regional Board carefully consider and balance each of the factors in Water Code section 13241 when establishing a revised Electrical Conductivity ("EC") objective for this region. Once reasonable EC objectives are determined, the Regional Board's main focus should then be on the implementation of these objectives as required by Water Code section 13242.

Because the long term average values for EC have been demonstrated by years of data to maintained over time and because these objectives are not set to protect against short-term acute effects, the objectives should be set to apply only at identified, permitted water diversion points

that are used to extract water from the River or Delta for irrigation or municipal supply purposes. Setting EC objectives to apply throughout the water body is unnecessary since these objectives are being set for off-stream use protection, not for instream uses such as aquatic life protection or recreational uses. This would provide dischargers (both point and non-point) with some level of dilution and mixing credit while still ensuring that the compliance points maintain the needed water quality to protect the AGR and MUN uses, where applicable. Alternatively, explicit mixing zones, dilution credit, or other variance provisions should be included in Basin Plan amendments incorporating the revised objectives.

Since there is no evidence that municipal discharges have caused the average values in the local waterway (outside a mixing zone) to exceed the currently applicable EC objectives, there is no need to over-regulate these sources of salinity as they have not been demonstrated to be the major drivers of salinity in the Delta. With a thoughtful and reasonable implementation policy, which does not require end-of-pipe effluent limitations equivalent to the objectives themselves, all uses can be protected while also reasonably regulating discharges to the River and Delta. In this financially difficult time for municipalities, the City urges the Regional Board to incorporate regulatory flexibility into any salinity objective adoption process.

Thank you for allowing the City to submit comments on this important draft report.

Respectfully submitted,

DOWNEY BRAND LLP



Melissa A. Thorme
Special Counsel for the City of Tracy

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cc: Steve Bayley, City of Tracy