

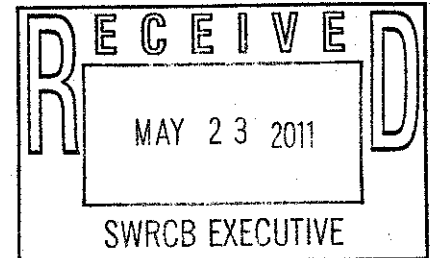
77045-34734

*DeeAnne M. Gillick*

May 23, 2011

*Via Overnight Mail & Via Email:*  
*comment letters@waterboards.ca.gov*

State Water Resources Control Board  
c/o Jeanine Townsend, Clerk of the Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



Re: Comment Letter – Southern Delta Ag and SJR Flow Revised NOP

Dear Members of the State Water Resources Control Board:

On behalf of the County of San Joaquin and the San Joaquin Flood Control and Water Conservation District (collectively hereinafter the "County"), we respectfully submit the following comments regarding the revised notice of preparation and notice of additional scoping meeting for the update and implementation of the 2006 Bay Delta Plan focused on the southern Delta salinity and San Joaquin River flow objectives.

The County has provided previous comments to the State Water Board regarding this matter and submits these additional comments to supplement the previously provided comments.

Modification of, and implementation of, the existing or modified objectives has a significant impact on San Joaquin County. The lower San Joaquin River flows through San Joaquin County and the Stanislaus River forms a portion of the southern boundary of the County. Large portions of the County are served both municipal and agricultural water supplies from the Stanislaus and San Joaquin Rivers and the southern Delta. The southern Delta is located entirely within San Joaquin County and the beneficial users which are protected by the southern Delta salinity objectives are all located within the County. As a result, any and all action by the State Water Board regarding these objectives greatly impacts the County.

San Joaquin River Flow

The County supports establishing flow requirements for the San Joaquin River being met from contributions from sources other than solely the Stanislaus River. Past practices to rely almost exclusively on Stanislaus River releases to mitigate for, meet flow standards and meet salinity objectives downstream is unreasonable. The County is

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encouraged that flows will be required from other than the Stanislaus River. Flows from the mainstream of the San Joaquin River should also be considered and required. The County recognizes that the San Joaquin River Restoration Program is pending but this does not justify the State Water Board not evaluating and requiring contributions from the upper San Joaquin River watershed. The State Water Board, as the regulating agency of water rights, water supply and water quality within California, should establish enforcement standards and requirements regarding the upper San Joaquin River. Ignoring one segment of the river because another program is proceeding, which the State Water Board is not involved, is not justifiable.

The Draft San Joaquin River Fish and Wildlife Flow Objectives indicates on page 4 of 6 that the State Water Board will take actions to "assure that provision of flows to meet the narrative San Joaquin River flow objective do not result in redirected impacts to groundwater resources." Control of groundwater by the State Water Board is in excess of Board's statutory authority. Expansion of State Water Board authority over groundwater would be a significant change in California water law and policy and have significant affects. More regulation by the State would be costly to the State and all water users and property owners within the State. Currently groundwater regulation is at a local level and this level of control and management should continue. At this time, the County does not support the State Water Board becoming involved in the regulation of groundwater.

#### Southern Delta Salinity

The County does not support the proposal to increase the interior Delta salinity objectives. The salinity objectives are intended to protect agricultural beneficial uses within the southern Delta. These standards were developed in the 1970s and imposed on the California Department of Water Resources (DWR) and the United States Bureau of Reclamation (USBR) largely due to the impacts of the export projects on the Delta. The projects are obligated to maintain the water quality within the Delta not just due to State Water Board enforcement but pursuant to the Delta Protection Statute, Water Code sections 12200 et seq. This obligation cannot be relaxed based on the current information before the State Water Board.

The current State Water Board report prepared by Dr. Glenn Hoffman ("Hoffman Report") does not support the conclusion that the standards can be increased. Rather it concludes that more studies are necessary to properly understand the water quality needs within the South Delta. It concludes more information is needed stating on page 102 as recommendations as follows: "It is recommended that a field experiment be conducted to ensure that the salt tolerance of bean is established in local conditions." Furthermore, the recommendations state as follows: "if the water quality standard is to be changed throughout the year then the salt tolerance of bean at different growth stages (time of year) needs to be determined." This indicates that the impacts to beans if the water

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quality standards are met are not known. This does not provide substantial evidence to support increasing the water quality objectives.

Although the Hoffman Report states on page 101 that the models in the report predict that the water quality standard could be increased, this conclusion is "[s]ubstantiated by the observation that bean is furrow irrigated with an irrigation efficiency of about 70% which results in a high leaching fraction." This conclusion cannot be supported by the factual situation within the area of the southern Delta water quality monitoring stations. The Hoffman Report relies on calculation of leaching fractions based on drainage from areas not affected by shallow, salty groundwater which is subject to elevation changes due to tidal action. This is the situation within the area of the south Delta of concern and the location of all three objective monitoring stations within the interior Delta. The conclusions within the Hoffman Report indicating that the water quality standard "could be increased" is based on the erroneously assumed high leaching fraction within all of the south Delta. The County supports the concerns and facts presented by the South Delta Water Agency that the Hoffman Report is flawed and inadequate.

The County supports the adoption of a narrative standard for southern Delta salinity objectives. Contributing factors to the current salinity problem in the South Delta includes the contributions of CVP imported salts to the San Joaquin River, the decreased flows in the River due to the CVP operations and concentrations of salts in Delta channels due to altered flow patterns due to the CVP and SWP pumps and other factors. The existing salinity objectives were established in the 1978 Delta Plan. Water Right Decision D 1641 (D 1641) adopted in 2000 reevaluated the factors impacting water quality within the southern Delta. Regarding the responsibility to meet the Delta salinity objectives the State Water Board in D 1641 summarizes as follows:

"Salinity problems in the southern Delta result from low flows in the San Joaquin River and discharges of saline drainage water to the river. The actions of the CVP are the principal causes of the salinity concentrations exceeding the objectives at Vernalis. Downstream of Vernalis, salinity is influenced by San Joaquin River inflow, tidal action, diversions of water by the SWP, CVP, and local water users, agricultural return flows, and channel capacity. Measures that affect circulation in the Delta, such as barriers, can help improve the salinity concentrations." D 1641 at p. 89.

D 1641 continues stating that the circulation problems in the Delta are caused by "... export pumping by the SWP and CVP and in-Delta diversions in the southern Delta [which] cause null zones, areas with little or no circulation." D 1641 at p. 87. Flow and circulation within the southern Delta must be addressed. Such flow within the southern Delta is impacted and degraded due to the export projects. Circulation in Southern Delta has long been identified as a problem and contributing to the southern Delta salinity

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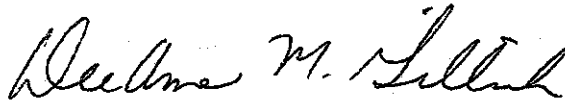
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issues. The County supports the State Water Board requirement that DWR and USBR develop and implement meaningful mitigation measures to improve South Delta circulation and water levels in order to address south Delta water quality and meet the needs of agricultural beneficial uses within the south Delta.

If you should have any questions or concerns, please do not hesitate to contact me at (209) 948-8200.

Very truly yours,



DeeAnne M. Gillick  
Attorney at Law

DMG/ect

cc: C. Mel Lytle  
David Wooten  
Thomas J. Shephard, Sr.