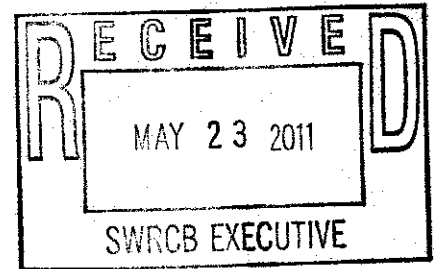




SAWYERS & HOLLAND

Attorneys at Law

May 23, 2011



VIA EMAIL/FIRST-CLASS MAIL

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1011 I Street, 24th Floor
Sacramento, CA 95814
commentletters@waterboards.ca.gov

Re: Comment Letter - Southern Delta Ag and SJR Flow Revised NOP
Comments of Chowchilla Water District to the April 1, 2011
Revised Notice of Preparation and Notice of Additional Scoping Meeting
Our File No. 52029.001

Dear Ms. Townsend:

The Chowchilla Water District ("Chowchilla") hereby submits the following comments on the above-referenced Notice of Preparation (the "NOP").

Chowchilla is familiar with the comments submitted by the San Joaquin Tributaries Association on the NOP and joins in those comments insofar as they relate to the following subjects:

- The improper pre-determination of the Board's plan of implementation (Section 1 of the SJTA's comments).
- The impropriety of utilizing the FERC process to implement flow objectives (Section 2 of the SJTA's comments).
- The urgent need for the Board to address illegal downstream diversions before imposing new flow-related obligations on upstream water rights holders (Section 4 of the SJTA's comments).
- The need for scientifically supported flow regimes that reflect current conditions (described generally in Sections 7-9 of the SJRA's comments).

Chowchilla also notes that any approach to allocating flow responsibilities must be accompanied by an analysis of impacts and a balancing of those impacts against benefits derived. While Chowchilla does not necessarily oppose the use of water rights priorities as a starting place for allocating flow responsibilities as proposed by Section 3 of the SJTA's comments, the application of water rights priorities (or any other approach) cannot occur in a vacuum. Impacts on water rights holders must be assessed and considered regardless of the allocation approach used.

Fresno Los Banos Monterey

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May 23, 2011

Page 2



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For example, impacts would not be equitably or proportionately distributed among waterways or water right holders in the San Joaquin River basin if responsibility for new Vernalis flow requirements is determined solely based on the water rights priority system, because junior water right holders would be required to reduce or completely cease their water use before senior appropriators would be required to reduce their use regardless of the consequences. That would result in a disproportional and inappropriate allocation of impacts by effectively "drying up" junior appropriators even if the result is only a modest and perhaps inconsequential contribution to Vernalis flows.

This would be true on the Chowchilla River, which is an ephemeral stream. Providing flows via that system would be extremely inefficient while depriving a substantial area of critically needed and irreplaceable water supplies. Moreover, it would create a false pathway for migrating salmon. Regardless of the allocation methodology used, those substantial impacts must be measured against the insignificant contributions of water that would result from requiring contributions of Chowchilla River water to meet new standards. Simply stated, to the extent impacts are greater than benefits derived, water should not be taken from the affected appropriator, and all applications of the water rights priority system or any other allocation methodology must be tempered with such an impact analysis.

Finally, Chowchilla reminds the Board of the substantial commitment of flows to the San Joaquin River being made by Chowchilla as a contributor to the flows mandated by the San Joaquin River Restoration Program. Imposition of additional flow requirements would be devastating to Chowchilla and those it serves.

Very truly yours,

A handwritten signature in cursive script that reads "Gary W. Sawyers by dt".

Gary W. Sawyers

GWS:dt

cc: Chowchilla Water District