



July 27, 2018

Ms. Jeanie Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814-0100

Submitted via email to: commentletters@waterboards.ca.gov

Subject: Contra Costa Water District Comments on Appendix K Revised Water Quality Control Plan of the Final Substitute Environmental Document

Dear Ms. Townsend and Members of the Board:

Contra Costa Water District (CCWD) appreciates the opportunity to comment on Appendix K Revised Water Quality Control Plan of the Final Substitute Environmental Document (SED). CCWD has participated in the development of the SED and provided many comment letters in the past, including two on the scientific basis report that was released in 2010, two in response to the revised Notice of Preparation in 2011, one in response to the draft SED released in 2012, and one in response to the recirculated draft SED in March 2017. CCWD also presented testimony at the public workshop on January 3, 2017.

The potential that the actions proposed in Appendix K will adversely affect Delta water quality and CCWD's operations, which are based on water quality, has remained a CCWD's consistent concern throughout this process. CCWD serves over 500,000 customers in Eastern and Central Contra Costa County and is entirely reliant upon diversions from the Delta to meet demands. CCWD has invested hundreds of millions of dollars over the past 20 years to improve the water quality delivered to our customers while providing environmental benefits in the Delta. CCWD's operations are unique in that they are timed to divert fresh water when it is abundant in the Delta and store it in the Los Vaqueros Reservoir, an off-stream reservoir located near the city of Brentwood. Then, when the Delta is salty or when there is an extended drought, the fresh water is released into the CCWD system and blended with water diverted from the Delta to ensure reliable and consistently high quality water for delivery to our customers. Because CCWD's operations are driven by Delta salinity, any actions that may result in increased Delta salinity, even in the absence of water quality objective exceedances, can cause significant impacts to CCWD's water supply, water quality, and operational costs.

CCWD requests that the following changes be made to Appendix K:

1. Remove Footnote 5 in Table 3 providing for variances and exceptions to compliance;
2. Add a 15-day public comment period prior to the adoption of the Comprehensive Operations Plan and other special studies that will be developed by DWR and Reclamation; and
3. Add explicit language that defines the relationship between required flows on the tributaries to San Joaquin River and Delta inflows, outflows, and exports.

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The above concerns are discussed in detail below.

Variance Policy, Salinity Variance Program, and Salinity Exception Program

Footnote 5 in Table 3 indicates that the southern Delta salinity objectives are now subject to the Variance Policy, Salinity Variance Program and Salinity Exception Program adopted in Central Valley Regional Water Board Resolution No. R5-2014-0074. Subjecting the southern Delta numeric salinity objectives to variances and exceptions could render the objectives meaningless. The State Water Resources Control Board established the water quality objectives at these compliance locations to protect beneficial uses through comprehensive proceedings, which should not allow exceptions. The State Water Resources Control Board based the southern Delta salinity objectives on the calculated maximum salinity of applied water which sustains 100 percent yields of beans and alfalfa crops grown in the southern Delta. When exceedance of the water quality objectives is approved through variance and exception programs, negative impacts to beneficial uses would occur, including higher water supply/treatment cost for municipal and industrial customers and lower agricultural yield¹. Unless these negative impacts are mitigated by dischargers, the application of variance and exception programs shifts the impacts and water protection cost from the responsible parties (dischargers) to other legal users of water.

For these reasons, CCWD requests that no variances or exceptions to the proposed southern Delta salinity objectives be allowed and that Footnote 5 of Table 3 be removed from the Revised Water Quality Control Plan.

Opportunity for Public Comment on Implementation of Southern Delta Salinity Objectives

Appendix K contains State regulatory actions that require the Department of Water Resources and the Bureau of Reclamation to develop a comprehensive operations plan, special studies, modeling, monitoring, and reporting. However, there is no opportunity for public input and participation as these plans and studies are developed and approved. The Executive Director of the State Board has the sole authority to approve the comprehensive operations plan, the monitoring special study, and the monitoring and reporting plan. Given the potential importance of these studies and plans in determining water quality conditions in the Delta that may affect CCWD's operations, CCWD requests the opportunity to comment on the plans prior to adoption. While the revisions to Appendix K that would require the Department of Water Resources and the Bureau of Reclamation to consult with CCWD to develop the Comprehensive Operations Plan are appreciated, there is no requirement that DWR or Reclamation address or respond to any concern raised during consultation with CCWD. CCWD requests that all plans, reports, and studies be posted online, that a minimum 15-day public review and comment period be provided, and that responses to comments be posted online not less than 5-days prior to the Executive Director taking any action.

¹ Salt Tolerance of Crops in the Southern Sacramento-San Joaquin Delta. Dr. Glenn J. Hoffman. January 2010.

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Independence of the Phase 1 and Phase 2 Proceedings

When the State Board released the Final SED and Appendix K for public comment on July 6, 2018, a companion document was also released titled “July 2018 Framework for the Sacramento/Delta Update to the Bay-Delta Plan” (Framework). While we recognize that public comments were not explicitly solicited for this framework, CCWD respectfully requests your consideration of these comments as changes to Appendix K are finalized.

CCWD’s foremost concerns regarding the State Board’s consideration of Appendix K independent of the Sacramento/Delta update is the lack of clarity as to how the new inflow-based Delta outflow objectives in the Framework are defined, how they will be implemented, or how compliance will be assessed, particularly with regard to inflows from the San Joaquin River. The proposed inflow-based Delta outflow objective is:

The inflows required above, including for the Sacramento/Delta tributaries and the San Joaquin River, are required as outflows with adjustments for downstream natural depletions and accretions.

In order to understand the new proposed inflow-based outflow objective the following questions must be addressed:

1. What are the “inflows required above” for the San Joaquin River?
2. Where and when are inflows from the San Joaquin River measured?
3. Are the flow objectives considered in Appendix K sufficient to meet the proposed inflow-based outflow objective described in the Framework?
4. If the proposed changes in Appendix K do not result in sufficient flows on the San Joaquin to meet the inflow-based outflow objective, will additional flows from the tributaries be required above what is currently considered in Appendix K?
5. How can the required inflows, with adjustments for downstream natural depletions and accretion, be required as outflow without eliminating all in-Delta diversions and exports?

The objectives proposed in the Framework could result in additional flows from the tributaries and fundamentally different operations on the San Joaquin River than those that were analyzed in the SED. As a result, the SED may need to be revised and reissued to avoid “piecemealing”, as described at Page 16 of Master Response 1.2 of the SED:

“... there may be improper piecemealing when: (1) “the purpose of the reviewed project is to be the first step toward future development;” or (2) “the reviewed project legally compels or practically presumes completion of another action.” (Banning Ranch Conservancy v. City of Newport Beach (2012) 211 Cal.App.4th 1209, 1223 (Banning Ranch).) “On the other hand, two projects may properly undergo separate environmental review (i.e., no piecemealing) when the projects have different proponents, serve different purposes, or can be implemented independently.” (Ibid.)

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If the water quality objectives contained in Appendix K are to be independent of those considered in the Phase 2 proceedings, Appendix K requires an explicit description of the relationship between required flows on the tributaries to San Joaquin River and Delta inflows, outflows, and exports. Correspondingly, a consistent description of how the objectives from the Phase 1 proceedings are accounted for should be included in subsequent documentation prepared for the Phase 2 proceedings.

CCWD would be happy to discuss our comments and suggestions further. Please call me at (925) 688-8083 or call Maureen Martin at (925) 688-8323 if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Leah Orloff". The signature is fluid and cursive, with the first name "Leah" and last name "Orloff" clearly distinguishable.

Leah Orloff
Water Resources Manager

LO/MM:wec

From: LSJR-SD-Comments <LSJR-SD-Comments@waterboards.ca.gov>
Sent: Friday, August 03, 2018 3:45 PM
To: LSJR-SD-Comments; WQCP1Comments
Subject: FW: Contra Costa Water District's Comments on Appendix K of SED
Attachments: Phase 1 SED comment letter July 2018 Final.pdf

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From: Maureen Martin <mmartin@ccwater.com>
Sent: Friday, July 27, 2018 11:26 AM
To: commentletters <commentletters@waterboards.ca.gov>
Cc: Leah Orloff <lorloff@ccwater.com>; Marguerite Patil <mpatil@ccwater.com>; Doug Coty <DCoty@bpmnj.com>
Subject: Contra Costa Water District's Comments on Appendix K of SED

Good morning,

Please find Contra Costa Water District's comments on Appendix K of the Final SED attached. Please call me if you have any questions or concerns.

Thank you,

Maureen Martin, Ph.D.
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Contra Costa Water District
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Concord, CA 94520
(925) 688-8323