



JON D. RUBIN

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By Facsimile and Hand Delivery

Ms. Gita Kapahi
Chief of the Bay Delta/Special Projects Unit
Division of Water Rights Mail Room
1001 "I" Street, 2nd Floor
Sacramento, CA 95814

Re: Review of the 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary

Ms. Kapahi:

The San Luis & Delta-Mendota Water Authority ("Authority"), on behalf of its member agencies,¹ submits the following comments regarding the State Water Resources Control Board's ("Water Board") periodic review of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary ("1995 Bay-Delta Plan" or "1995 Plan").

The Authority is a Joint Powers Authority whose member agencies contract with the United States Bureau of Reclamation ("Reclamation") for the supply of Central Valley Project ("CVP" or "Project") water. Project water supplied to the Authority's member agencies is pumped from the Sacramento-San Joaquin River Delta ("Delta") through the Tracy Pumping Plant and is used to satisfy the water needs of over 1,000,000 acres of highly productive agricultural land in the western San Joaquin Valley, San Benito County, and Santa Clara County. Authority members also provide approximately 200,000 acre-feet of water for municipal and industrial uses, primarily in the Santa Clara Valley, and 250,000 to 300,000 acre-feet of water for waterfowl and wildlife habitat in the San Joaquin Valley. The 1995 Plan imposes obligations on Reclamation's operation of the CVP, which, in turn, affects Reclamation's ability to meet its contractual obligations to the Authority's member agencies. For this reason, the Authority and

¹ The Authority's member agencies are: Banta-Carbona Irrigation District; Broadview Water District; Central Calif. Irrigation District; Centinella Water District; City of Tracy; Columbia Canal Company; Del Puerto Water District; Eagle Field Water District; Firebaugh Canal Water District; Fresno Slough Water District; Grassland Water District; James Irrigation District; Laguna Water District; Mercy Springs Water District; Oro Loma Water District; Pacheco Water District; Pajaro Valley Water Mgmt. Agency; Panoche Water District; Patterson Water District; Plain View Water District; Pleasant Valley Water District; Reclamation District 1606; San Benito County Water District; San Luis Canal Company; San Luis Water District; Santa Clara Valley Water District; Tranquillity Irrigation District; Turner Island Water District; West Side Irrigation District; West Stanislaus Irrigation District; Westlands Water District; and Widren Water District.

Gita Kapahi
Chief of the Bay Delta/Special Projects Unit
Page 2

its member agencies maintain a vital interest in the Water Board's review of the 1995 Bay-Delta Plan.

In the 1995 Bay-Delta Plan, the Water Board established water quality objectives that it believed were reasonable considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible. Due to information developed since the Water Board adopted the 1995 Bay-Delta Plan, the Authority believes that revisions to the 1995 Plan may now be necessary to achieve that overall purpose.

I. General Comments

In mid-2003, many of the entities with an interest in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary started a series of discussions that were intended to further the California Bay-Delta Authority (formerly "CALFED") Program. Those discussions are continuing and will likely be completed by the fall of 2004. The Authority is optimistic that, as a result of those discussions, many of its concerns with the 1995 Plan will be resolved. Accordingly, to ensure that the resources of the Water Board are not wasted on issues that are rendered superfluous, the comments the Authority presents herein are limited to those issues that are not likely to or cannot be addressed through that process. If the discussions are unsuccessful or do not otherwise produce the results the Authority expects, the Authority will likely amend this comment letter. To avoid the need for such action and because of the ongoing discussions, the Authority encourages the Water Board to hold an additional workshop in the fall of 2004 to receive additional comments on the scope of review. If that is not possible, the Authority requests that, at the least, the Water Board establish a hearing schedule that would not have the Water Board hearing testimony on issues related to the in-Delta and San Joaquin River objectives until late fall, 2004.

II. Issues Presented By the Water Board

Proposed Issues: Whether the Water Board should "amend the chloride objectives on Table 1 for Municipal and Industrial uses that apply at Contra Costa Pumping Plant #1 in the 1995 Plan" by (1) moving the compliance point for Contra Costa Water District Pumping Plant #1 from Interagency Station Number C-5 to some other location, and (2) changing the time period for the first chloride objective (chloride less than or equal to 150 mg/l) to make it correspond to the water year (October 1 through September 30) instead of the calendar year.

Response To Issues: The Authority believes that the Water Board should consider amending the chloride objectives that apply at Contra Costa Pumping Plant #1. There are two reasons why such an amendment to the objectives may be necessary.

Gita Kapahi
 Chief of the Bay Delta/Special Projects Unit
 Page 3

First, the compliance point for Contra Costa Water District Pumping Plant #1 may be more appropriately located at a location on Old River near Rock Slough. The reason is simple. Currently, responsibility for meeting the objective rests with Reclamation and DWR. The compliance point, however, is at a location where, at times, neither Reclamation nor DWR can operate to meet the objective. Were the Water Board to move the compliance point for Contra Costa Water District Pumping Plant #1 from Interagency Station Number C-5 to a location on Old River near Rock Slough, Reclamation and DWR may be better able to operate to meet the objective. Second, an amendment of the time period for the first chloride objective (chloride less than or equal to 150 mg/l) to correspond to the water year (October 1 through September 30) instead of the calendar year, may allow Reclamation and DWR to more often achieve the objective, without an unnecessary water cost to other beneficial uses.

Proposed Issue: Whether the Water Board should amend the salinity objectives on Table 3 for Fish and Wildlife uses that apply to the western Suisun Marsh, at Interagency Station Numbers S-97 and S-35?

Response To Issue: The Authority has no position on whether the Water Board should consider amending the salinity objectives that apply to the western Suisun Marsh, at Interagency Station Numbers S-97 and S-35.

Proposed Issues: Whether the Water Board should "amend the San Joaquin River flow objectives for Fish and Wildlife uses in the 1995 Plan." Specifically, the Water Board questioned whether it should (1) "amend the April 15-May 15 Vernalis flow objectives in the 1995 Plan to allow for implementation of a range of flow and export conditions that are compatible with the experiment known as the Vernalis Adaptive Management Plan," and (2) "amend the other Vernalis flow objectives in the 1995 Plan."

Response To Issues: The Authority believes that the Water Board may want to consider amending the San Joaquin River flow objectives for Fish and Wildlife uses in the 1995 Plan. However, it would be better, if such a consideration were made, that it occur after a decision is rendered by the California Court of Appeal, Third Appellate District, in the Coordinated Special Proceeding Special Title -State Water Resources Control Board Cases, Case No. C044714 (Appeal from the Superior Court of the County of Sacramento, Judicial Council Coordination Proceeding No. JC 4118, The Honorable Roland L. Candee, Judge), and the ongoing discussions regarding the furtherance of the California Bay-Delta Authority Program are completed.

Proposed Issue: Whether the Water Board should consider amending the narrative objective for salmon protection on Table 3 in the 1995 Plan?

Response To Issue: The Authority believes that the Water Board should not consider amending the narrative objective for salmon protection. The Water Board recently completed a

Gita Kapahi
Chief of the Bay Delta/Special Projects Unit
Page 4

hearing on this issue and concluded that there is no current need for numerical objectives for salmon protection.

Proposed Issue: Whether the Water Board should consider amending the preliminary Water Quality Compliance and Baseline Monitoring program provided in Table 4 of the 1995 Plan?

Response To Issue: The Authority has no position on whether the Water Board should consider amending the preliminary Water Quality Compliance and Baseline Monitoring program.

III. Additional Issues Proposed By The Authority

Proposed Issue: Whether the Water Board should consider amending the water quality objectives on Table 3 for Fish and Wildlife uses that apply to export limits?

Response To Issue: The Authority believes that the Water Board should consider amending the water quality objectives that apply to export limits.

Currently, the 1995 Plan calls for the export rate to be no greater than 35% of the inflow for February-June and 65% for July-January. The limit for February is allowed to vary up to 45%, depending on Delta inflow during January. Limits during all months are allowed to vary based on procedures set forth in the Plan. Therefore, the limit is already applied on a flexible basis. However, the bases for flexing the limits is not necessarily based on population level effects. An amendment could establish more specific, quantitative, population-based procedures for flexing the export limit.

Proposed Issue: Whether the Water Board should consider amending the water quality objectives on Table 3 for Fish and Wildlife uses that apply to operation of the Delta Cross Channel Gate?

Response To Issue: The Authority believes that the Water Board should consider amending the water quality objectives that apply to operation of the Delta Cross Channel Gate.

Currently, the 1995 Plan requires closing the Delta Cross Channel for the period February 1-May 20 and for specified numbers of days in both November-January and May 21-June 15. Information is now available that would allow estimation of the quantitative population level

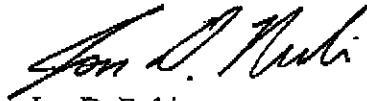
Gita Kapahi
Chief of the Bay Delta/Special Projects Unit
Page 5

effect of gate closures on outmigrant populations. An amendment of the limitations on operation of the Delta Cross Channel Gate may allow for the use of such information as a basis for decisions about gate closures.

The Authority thanks you for your consideration of its comments.

Very truly yours,

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A Professional Corporation



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