



# *San Joaquin Tributaries Association*

- Modesto Irrigation District
- Turlock Irrigation District
- South San Joaquin Irrigation District

P.O. Box 4060  
Modesto, CA 95352  
(209) 526-7405  
(209) 526-7315-Fax

- Merced Irrigation District
- Oakdale Irrigation District

January 16, 2004

Mr. Les Grober  
Mr. Eric Oppenheimer  
Regional Water Quality Control Board Members  
Central Valley Region  
11020 Sun Center Drive #200  
Rancho Cordova, CA 95670-6114

RE: Comments of the San Joaquin Tributaries Association on the Proposed  
Amendments to the Water Quality Control Plan for the Control of Salt and  
Boron Discharges Into the San Joaquin River

Dear Mr. Gorber, Mr. Oppenheimer, and Regional Board Members:

The San Joaquin Tributaries Association, which is comprised of the Oakdale Irrigation District, South San Joaquin Irrigation District, Turlock Irrigation District, Merced Irrigation District and Modesto Irrigation District, respectfully submits the following comments to the proposed Amendments to the Water Quality Control Plan for the Control of Salt and Boron Discharges Into the San Joaquin River.

A. Criteria Used for Evaluating Implementation Options Is Flawed.

In Section 4.4.4, the RWQCB identifies and explains the criteria it used for evaluating the 15 implementation options it developed. The six criteria identified are feasibility, cost to dischargers, cost to state, flexibility, time needed to implement and likelihood of success. The six identified criteria are incomplete, and fail to include two additional criteria that are at least as important, if not more so, than the six identified by the RWQCB.

The first missing criterion is the likelihood of meeting the water quality objectives. This is a criterion identified and used by the RWQCB when it considers its final four alternatives (*See* Section 4.4.7, p. 71), but it is not explicitly identified as a criterion at this point. Since the purpose of the implementation plan is to achieve attainment of the existing water quality objectives that apply to the LSJR at Vernalis (*See* p. 32), it seems obvious that the RWQCB must explicitly evaluate whether any of the options evaluated will meet such purpose.

While the likelihood of meeting the water quality objectives is not an explicit criterion, it is arguably an implicit one. In Section 4.4.5, particularly as part of the discussion of “feasibility,” one of the six identified criterion, there is a mention of whether or not, or how likely, the proposed option would meet the water quality objectives. (*See* Options 5-12). This implicit inclusion seems inappropriate and unfair, however, since the explanation of the “feasibility” criterion provided by the RWQCB does not include consideration of whether or not the proposed option will achieve the water quality objectives.

According to the RWQCB, the evaluation of a proposed options’ feasibility is based on (1) the technical feasibility, (2) the degree to which there is a clearly defined process, and (3) the degree to which any constraints or requirements associated with the implementation option is likely to be met. (*See* p. 42). If, as is suggested by the discussion of feasibility for each of the 15 options evaluated, the likelihood of meeting the water quality objectives is a consideration as to whether or not an option is feasible, the general explanation of feasibility on page 42 should clearly and unequivocally so state. Otherwise, when it is slipped in during the discussion of some, but not all, of the discussions for each of the various options evaluated, it appears that the criteria are being manipulated to ensure a particular outcome, rather than being evaluated on their face and having the outcome derive from the evaluation.

The second missing criterion is that of culpability or responsibility for the problem. The six identified criteria are completely neutral on their face as to whether or not the proposed option applies to the person, group or entity responsible for causing the water quality problems in the LSJR. (Arguably, the problem could be less in the establishment of the criteria for evaluating the options and more in the selection of the options to be evaluated). The failure to have this criterion is particularly troubling since it has the effect, when combined with the application of the existing six criteria, and especially the “cost to dischargers” criterion, of making it more likely that the person, group or entity primarily responsible for causing the problem will avoid the primary responsibility for solving the problem.

For example, Option 8 considers a WDR for the CVP/USBR only. Facially, this makes sense since the RWQCB notes in several places that the operation of the CVP is the primary cause of the water quality problems to be addressed by the implementation plan. (*See* pp. 27, 38, and 39). However, this option does not get as high a score as other options, primarily because the cost to discharger and flexibility criteria are given a medium score of 3. (*See* p. 55). Indeed, the RWQCB notes in its discussion of the costs to discharger criterion that this option “could place increased responsibility on the USBR...” (*Id.*). This analysis, while perhaps correct, actually has the effect of working in the favor of the USBR/CVP, since the RWQCB apparently concludes that the cost to discharger would be too expensive when compared to other options, even though this is to be expected since the USBR/CVP caused the problem.

When discussing the criteria generally, the RWQCB notes that each criterion will be scored on a relative basis. (*See* pp. 42-43). This methodology would be fair if each

option was focused on those responsible, since the final result would be the cheapest, most feasible and quickest to implementation. However, the failure to consider culpability or responsibility for causing the problem as either a criterion for evaluation or, in the alternative, in the development of the options evaluated, results in options that are focused on multiple parties, regardless of their responsibility, receiving higher scores when compared to those options focusing on fewer parties. Thus, for example, Option 11, which is the adoption of general WDRs to all public water agencies that discharge agricultural drainage into the LSJR, gets a low score of 4 for the cost to discharger criterion. The basis for this score, as explained by the RWQCB, is that there are 10 agencies that would be affected, and they could disperse the costs not only among themselves, but then again among their individual landowners, thereby diluting the costs over a larger number of parties than could be done in Option 8. Again, while this analysis may well be correct, it misses the point that not all, if any, of the 10 agencies or their landowners are the primary cause of the problem.

Unless culpability and responsibility for causing the problem is an explicit criterion (or drives the development of the options evaluated by the criteria currently used), factors such as flexibility and cost will favor options that affect a larger group of people, groups and entities, regardless of their responsibility for the problem. This will be true even if the RWQCB undertakes a phased approach, as is suggested in several options, that focuses first on high priority pollution sources. (*See Options 6, 7, 8, 11*).

#### B. Specific Evaluations Appear Flawed And Outcome Determinative

In Section 4.4.5, the RWQCB applies the six criteria discussed above to each of 15 options it developed to identify those options that are most likely to be successful. The evaluation results in a numeric score given for each of the five criteria, with the sixth criteria being the total score for each option evaluated. While the criteria themselves appear facially neutral, it appears that such criteria were manipulated in some instances.

The most glaring example of inconsistent and perhaps manipulative treatment of the scoring occurred for the time criterion. In the general description of this criterion, the RWQCB emphasized that the time at issue was not the time needed to achieve the water quality standards or to actually implement the prohibition, but rather the time needed to develop and implement an option, including the time to draft and adopt the necessary Basin Plan amendment language. (*See p. 43*). However, this general explanation was not always followed in the discussion of the various options evaluated.

The RWQCB estimated that the time for implementation would be one year or less for eight options (Options 1, 2, 3, 10, 12, 13, 14 and 15). However, not all of these options received the same score. Options 10, 12, 13, 14 and 15 all received a score of 5 (the best), while Options 1 and 2 received a score of 4, and Option 3 received a score of 1 (the worst). There does not appear to be any valid, logical reason as to why these options, each of which could be implemented in the same time period, would not receive the same numeric score. Option 3, which scored a 1, seems to be downgraded since the RWQCB would need to spend “a large amount of time and resources” to identify and address

discharges not in compliance. (*See* p. 48). This explanation seems improper for two reasons. First, time and effort spent by the RWQCB is already covered in the “State cost” criteria for this option, which results in a score of 1. Second, the general explanation for time given by the RWQCB never mentions the time needed to identify and enforce non-compliance. If this is to be an aspect of the time criterion, it should be explicitly included in the general description. If not, the RWQCB should not be permitted to alter a score based upon this phenomenon.

Also of note among these eight options that could be implemented within 1 year is the fact that Option 10 is given the narrative score of “medium,” followed by the numeric score of 5 (the best score). (*See* p. 58). This does not seem correct, as other options that received a narrative score of “medium,” be it for the time or other criteria, typically received something other than the highest possible score. (*See* Option 6 and 8, discussed below).

Three options, Option 6, 8 and 11, were estimated to be implementable in 1-2 years, and each was given the narrative score of “medium.” However, Option 11 received a numeric score of 5 (the best), while Options 6 and 8 received numeric scores of 3. There is virtually no explanation given for either the narrative or numeric score given these options, and certainly nothing that distinguishes among them, explaining why Option 11 received the highest score despite taking longer than Options 1 and 2, each of which received a 4, possibly longer than Options 10, 12, 13, 14 and 15 which received the same score of 5, and taking the same amount of time as Options 6 and 8 that received a score of 3.

Finally, it should be noted that Option 7, which was estimated to be implemented in 1-3 years, received a narrative score of “low” (the best), and got a numeric score of 5 (the best). Again, this is despite the fact that it would take longer than almost all of the other options considered.

Simply put, there does not appear to be any rhyme or reason for the various scores, either numeric or narrative. To begin with, the explanation of the scoring system given by the RWQCB indicates that the options taking the longest time to implement will be given a 0, while the fastest will be given a 5. (*See* p. 43). However, this is not what occurred, as several options were given a score of 5, even though they were estimated to take longer to implement than other options considered. (*Compare* Option 7 with Option 3, for example).<sup>1</sup> Equally troubling is the unequal treatment among options that could be implemented in similar time periods (*Compare* Option 6 with Option 11).

This is important, since the unequal treatment affects the overall score of each of the various options evaluated. For instance, only eight options, numbers 2, 3, 4, 7, 8, 11, 12, and 13, were found to be consistent with existing laws and policies. (*See* p. 67). Of these, the total scores ranged from a low of 10 (Option 3) to a high of 24 (Option 13).

---

<sup>1</sup> Were the scoring system applied in strict accordance with the general description given on page 43, only Option 4, which would take no time to implement, should have received a numeric score of 5, since it could be implemented in the least amount of time.

However, these scores would have been different had the time criterion been dealt with differently. Option 7 was the only one identified that might take as many as three years to implement. If it received a score of 1 based upon taking the most amount of time to implement, instead of the 5 it did receive, its score would have changed from 23 (the second highest) to 19 (third lowest). Similarly, had Option 8 received a 5, as did Option 11 (both of which were expected to be implemented in 1-2 years), Option 8's score would have gone from 19 to 21.

More important than the impact the disparate and unequal treatment of the score for the time component has on any one option is the suggestion that the document and analyses themselves, as a general matter, are untrustworthy.<sup>2</sup> The entire purpose of developing the amendment in a public process is to develop confidence in the process itself, even if certain groups or individuals are unsatisfied with the specific result. In this case, such confidence in the amendment as a whole can and will be undermined if it contains specific examples of disparate and unequal treatment that is neither in accordance with criteria established by the RWQCB nor adequately explained. The RWQCB's use of the time criterion in particular, but also all other criterion, must be re-evaluated and applied in an even, straightforward manner that is at once in accordance with the general guidelines established for that criterion and contains an adequate, reasonable explanation for differentiations in score for items with facially similar circumstances.

#### C. Segue From Options to Alternatives Unclear.

In Section 4.4.6, the RWQCB identifies the selection of four alternatives to be considered for implementation. While this Section explains that the alternatives developed were intended to incorporate a "combination of the most feasible and cost effective strategies," there is no specific reference back to any of the 15 options that were specifically considered, evaluated and scored in the previous Section. Given the obvious effort that the RWQCB undertook to identify, evaluate and score the 15 options, it seems highly irregular that there is no further discussion of the role that the options and their scores played in the development of the four alternatives. Only by expressly relating the development of the four alternatives to aspects or combinations of the 15 options can the public have confidence in this process, and by extension in the outcome. As noted above, not everyone will agree with the outcome, but its success will depend in large part in the confidence of the public and those who will be subject to the plan finally adopted that the process was fair and not rigged or manipulated in any way.

#### D. Consideration of No Project Alternative Is Flawed, Incomplete and Erroneous.

The No Project alternative is described as continuing "to address salt and boron

---

<sup>2</sup> The time component was chosen as an example since the disparate treatment was so obvious. However, scoring for other criteria shares the same problem. For example, Option 12 scores a narrative "high" for feasibility, but gets a numeric 4, when all other options that received a narrative "high" received a 5. Also, Option 11 received a narrative score of "low" and numeric score of 4 for discharger cost, when all other options receiving a narrative score of "low" received a 5.

discharges to the LSJR through the existing State Water Board and Regional Board Basin Plan policies. No change from the current level of regulatory oversight would occur.” (p. 67). Later, the RWQCB explains that the No Project alternative “assumes that the provisions of the State Water Board’s Water Right Decision 1641 will remain in effect.” (p. 71).

The No Project alternative, like each of the four alternatives considered, is evaluated using four criteria: technical feasibility, likelihood of meeting water quality objectives, discharger cost to implement, and time needed to implement. (p. 70). Despite the fact that the RWQCB found that the No Project alternative “is technically feasible,” “would be in effect immediately, “ and would “require no additional discharger expenditure,” the RWQCB does not recommend this alternative. (p. 71).

The RWQCB finds that this alternative is unlikely to meet the water quality objectives. (p. 72). It bases this finding on two grounds. First, that historical data shows that the Vernalis salinity standard has not been met at all times in the past, and second that modeling indicates that releases of dilution water from New Melones reservoir demonstrate that water quality exceedances will occur in the future. (p. 71-72). Both of these justifications are false and cannot withstand scrutiny.

1. The Historic Record Is Irrelevant to Current or Future Compliance Due To Recent, Significant Changes in Condition.

Prior to the SWRCB’s adoption of D-1641, the USBR was required, as part of its permits for the New Melones Project on the Stanislaus River, to release water for water quality purposes measured at Vernalis. (D-1422, p. 31, condition 5). At that time (1973), the standard to be met was 500 ppm. However, the condition expressly required the USBR to use water from New Melones to meet any modification of that criterion.

D-1641 changed this. The SWRCB found that the “actions of the CVP are the principal causes of the salinity concentrations exceeding the objectives at Vernalis.” (D-1641, p. 89). As a result of this finding, the SWRCB amended **all** of the USBR’s CVP permits, except for those at New Melones, making each conditioned upon the requirement that the Vernalis salinity standard be met.<sup>3</sup> (D-1641, p. 159-160). The USBR has, accordingly, been directed to “meet the Vernalis objective using any measures available to it.” (D-1641, p. 89).

The reservoirs of the CVP have a total capacity of 12 million acre-feet. While it may well have been proper, before D-1641, for an analysis to focus on the USBR’s ability to meet the salinity standards at Vernalis from New Melones, such focus is no longer appropriate. The USBR has a legal obligation, before diverting, storing or delivering any water by, at or through any facility of the CVP, to meet water quality at

---

<sup>3</sup> The permits for New Melones already required the USBR to meet water quality at Vernalis. D-1641 amended the USBR’s permits for New Melones, but continued the requirement that the Vernalis salinity standard be met. (D-1641, p. 160-163).

Vernalis. Whether or not it can do so solely using New Melones is simply no longer the sum total of the analysis that must be performed under the No Action alternative.

Thus, the RWQCB's reliance upon (1) the fact that the USBR has historically utilized "releases from New Melones Reservoir to dilute salt concentrations at Vernalis...", (2) modeling studies conducted for the 1995 Bay-Delta Plan, and (3) "historical water quality data indicates the LSJR frequently exceeds its water quality objectives during dry and critically dry year types..." (p. 71-72) is misplaced and irrelevant.<sup>4</sup> All of these items are based upon and/or analyze the USBR's use of New Melones only to meet the Vernalis salinity standard, and none analyze or consider the ability of the USBR to meet the Vernalis salinity standard using any or all of its other CVP facilities as it is now required to do. The SWRCB's decision in D-1641 to condition the USBR's permits for all of its CVP facilities upon meeting the Vernalis salinity standard represents a changed condition that the RWQCB has not properly evaluated as part of its analysis of the No Action alternative.

2. Proper Evaluation of No Action Alternative Will Show It to Be the Preferred Alternative.

Although the SJTA looks forward to a proper analysis of the No Action alternative that properly looks at the USBR's legal obligation to "meet the Vernalis objective using any measures available to it" (D-1641, p. 89), it does not seem too early to conclude that such an analysis should conclude that the No Action alternative is the preferred alternative and there is no need for further action by the RWQCB.

As noted above, of the four criteria used by the RWQCB to evaluate the four alternatives, the No Action alternative met three of them, with only the "likelihood of meeting the water quality objectives" criterion being found to not be met. However, this fourth criterion must almost certainly be found to be met since the USBR has the legal obligation to meet it. Absent a factual showing that the USBR simply cannot meet the standard utilizing its facilities of the CVP, the RWQCB must accept that the USBR will, in fact, comply with its legal obligation and meet salinity at Vernalis. The RWQCB has already acknowledged it must presume that a legal obligation to perform will be satisfied, as it properly relied upon the fact that the USBR will meet its legal obligation to provide drainage to the Grasslands Drainage Area, in part, to justify its findings under CEQA that the implementation of its proposed alternative will not have significant impacts to biological resources. (*See* p. 99). Indeed, the RWQCB concluded that while the USBR was evaluating three different options for providing drainage, whichever option it picks "will therefore result in a reduction of flow to Mud Slough and the LSJR..." The same can and must be said in this case. Whatever option the USBR picks to meet water quality at Vernalis, it will be met.

//

---

<sup>4</sup> It is also not accurate. Recent testimony by Alexander Hildebrand and other Delta farmers before the U.S. District Court, Eastern District of California, indicates that the Vernalis salinity standard has not been violated since at least 1995. (*CDWA v. USA*, Case No. CV-F-99-5650 OWW DLB).

//  
//

E. The Recommended Option is Fatally Flawed Since it Will Not Eliminate Violations of the Vernalis Salinity and Boron Standards.

The RWQCB expressly found that the “waste load allocations and load allocations presented in this TMDL are designed to meet salinity and boron water quality objectives in the LSJR at the Airport Way Bridge near Vernalis.” (*Id.*; *see also* p. 1). Thus, according to the RWQCB, implementation of its preferred alternative should meet the salinity and boron standards at Vernalis.

Unfortunately, this is not the case. None of the alternatives considered by the RWQCB for implementation, including its preferred alternative, will meet the salinity and boron standards measured at Vernalis at all times and under all conditions. (*See* p. 77-78). Indeed, if the preferred alternative is implemented, it is expected that water quality violations will continue to occur in all but the wettest years. (*See* Fig. 4-1, p. 78).

The SWRCB was sued for regarding its implementation plan (D-1641) for the 1995 Water Quality Control Plan by parties that argued that the plan did not fully implement either the flow requirements at Vernalis or the narrative standard for the doubling of salmonids. (*See* State Water Resources Control Board Cases, Sacramento Superior Court Case No. JC 4118). In the judgment of the Superior Court in that case, the SWRCB’s adoption of the San Joaquin River Agreement/Vernalis Adaptive Management Plan as an alternative and phased approach to meeting certain elements of the 1995 Water Quality Control Plan was inappropriate. The court found that the flow requirements identified in the 1995 Water Quality Control Plan were “legal minimum flow objectives that must be satisfied unless changed in an appropriate proceeding to modify the 1995 Plan itself.” (May 5, 2003 Decision, p. 90).

The Sacramento County Superior Court’s decision in this regard is the subject of an on-going appeal. Such appeal is based, in part, upon the fact that the SWRCB clearly intended the performance of the San Joaquin River Agreement/Vernalis Adaptive Management Plan to be a part of a staged implementation of the 1995 Water Quality Control Plan’s objectives. (*See* D-1641, p. 24). While at first glance it appears that the RWQCB here is providing for a similar phased implementation, there is a key difference. As recognized by the SWRCB, the 1995 Water Quality Control Plan itself recognized that some of its objectives were based upon limited scientific information and specifically provided for a reevaluation of such objectives once additional information and evidence became available. (*Id.*). This does not appear to be the case here, where the RWQCB justifies its claim of phased implementation upon the fact that new or revised water quality objectives for salinity and boron “**may** be established...” (*See* p. 34)(emphasis added). This seems to be a crucial difference between the actions taken by the SWRCB regarding the 1995 Water Quality Control Plan and D-1641, and the actions taken by the RWQCB in this case.

Unless it can be stated with certainty that the water quality objectives for salinity and boron will be changed, amended or revised, it seems that such standards must be considered the legal minimums that must be met by any implementation plan adopted by the RWQCB. Since the RWQCB's preferred alternative will not result in an elimination of the violations of the salinity and boron standards measured at Vernalis, it seems that adoption of the preferred alternative will be legally insufficient.

#### F. CEQA Analysis Is Incorrect.

The RWQCB proposes filing a Negative Declaration, finding that the adoption of its preferred alternative could not have a significant effect on the environment. (*See* p. 89). However, the analysis provided with the attached draft negative declaration strongly suggests that a negative declaration is inappropriate.

##### 1. Agricultural Resources May Be Affected

The draft negative declaration indicates that the adoption of the preferred alternative will have "no impact" on agricultural resources. (*See* p. 90). The justification for this seems two-fold. First, the RWQCB argues that adoption of the alternative will not convert farmland directly, nor dictate any particular management practice. (*See* p. 97). Second, it argues that costs have been "minimized." (*See* p. 98). These arguments seem to directly conflict with an earlier discussion of economics and impacts to agriculture contained in the amendment.

The RWQCB found that the adoption of the preferred alternative would increase costs to farmers of between \$25 and \$35 per acre per year, or perhaps between \$14 and \$19 per acre per year with the adoption of certain management practices. (*See* p. 85-86). The RWQCB notes that cost increase only seems relatively modest, and recognizes that "some of the major crops grown in the San Joaquin Valley are not profitable because costs often exceed revenues. Adding additional costs to marginally profitable or unprofitable agricultural operations **will be detrimental to agricultural interests** in the LSJR watershed." (*See* p. 86)(emphasis added).

The fact that the RWQCB claims to have minimized the costs to farmers is not a substitute for evaluating whether or not the costs will result in the conversion of agricultural land. From the analysis provided by the RWQCB on pages 85 and 86, at a minimum it seems that a more thorough analysis will need to be made to determine if the increased costs that are expected are such that they will likely make marginally profitable and/or unprofitable agricultural land be converted to non agricultural uses. The SJTA will not speculate as to what the results of such an analysis might show, but it seems clear that under CEQA such an analysis must be performed before determining whether or not a significant impact to agricultural resources will result from adoption of the preferred alternative.

##### 2. Biological Resources Analysis Is Incomplete.

Although the RWQCB finds that the adoption of the preferred alternative would have either “no impact” or a “less than significant impact” on biological resources (*See* p. 91), such conclusion again seems belied by the supporting analysis, which readily admits that the project would result in a reduction in flows and that “there are potential adverse impacts associated with reduced flows.” (*See* p. 99). The RWQCB argues that these adverse impacts, which may accrue to such special status species as Giant Garter Snake, California Red Legged Frog, Western Yellow-Billed Cuckoo, Bald Eagle and Swainson’s Hawk, will be “offset” by the benefit of removing salt and boron from the LSJR. (*See* p. 99-100). This argument is erroneous and improper.

Even assuming that the proposed project will reduce pollution, and that such reduction will be a benefit to the species that use the resource, such reduction does not by itself mean that the associated reduction in habitat will be mitigated or offset. Indeed, the RWQCB notes that the expected reduction in flows will “reduce the quantity of habitat for aquatic and riparian-dependent organisms.” (*See* p. 98). How or why the RWQCB concludes that better water quality somehow offsets the reduction in habitat is simply not clear. While it is possible that a thorough analysis would support this conclusion, no such analysis is provided. To the contrary, at first glance, it does not even seem that the two issues (habitat quantity and water quality) are even related for the identified species or any other species. There is no indication or discussion about how the reduction of salinity and boron will improve the quality of the habitat for any species even as it reduces the overall quantity of habitat.<sup>5</sup>

Moreover, from a strict CEQA analysis standpoint, the RWQCB must admit that there will be adverse impacts to biological resources as a result of the project. The pertinent question on page 91 asks whether or not the project would “Have a substantial adverse effect, either directly, or through habitat modifications, on any species identified as a candidate, sensitive, or special status species...” The analysis on pages 98-100 answers this question affirmatively. While the RWQCB may be able to argue that such impacts will be mitigated through the reduction in pollution, at a minimum it must admit the impact will be significant unless mitigated.

The RWQCB’s treatment of the biological resources issue for CEQA is legally insufficient and intellectually dishonest.

### 3. Mandatory Findings Of Significance Improperly Treated.

One of the mandatory findings of significance questions asks whether or not the project has “the potential to...reduce the habitat of a fish or wildlife species...” (*See* p. 96). As noted in the discussion in Section F.2 above, the RWQCB clearly states that the adoption of the preferred alternative “could reduce the quantity of habitat” for a number of riparian and aquatic species. Despite using almost the same language to describe the

---

<sup>5</sup> The RWQCB argues that the salinity TMDL was designed to restore beneficial uses, including fish and wildlife habitat. (*See* p. 100). This seems incorrect, at least for salinity. The salinity standard was adopted for the protection of agriculture in the Delta. The SJTA is not aware of any studies indicating that fish or wildlife are adversely impacted by the salinity levels of the LSJR.

impact as is used in the CEQA question, the RWQCB ironically and disingenuously finds that the project will not have any significant impacts, and fails to discuss the issue in the single narrative paragraph that discusses the mandatory findings of significance. (See p. 103). Clearly, the RWQCB must acknowledge that the project will reduce the available habitat for some aquatic and riparian species. Whether or not this adverse effect can be mitigated (and whether or not an EIR is required) is an analysis that simply is not provided and is legally required.

G. Adoption of TID Comments

The SJTA hereby adopts as its own and incorporates the comments, arguments and recommendations provided by the Turlock Irrigation District regarding the proposed Amendment.

For all of the above reasons, the SJTA respectfully requests that the proposed recommended alternative not be adopted.

Very truly yours,

By Allen Short  
Allen Short, Coordinator  
San Joaquin Tributaries Association

AS/cr

Cc: OID  
SSJID  
TID  
Merced ID  
Modesto ID  
SJRGA