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January 20, 2004

VIA ELECTRONIC MAIL AND U.S. MAIL

Mr. Leslie F. Grober, Chief  
San Joaquin River TMDL Unit  
Regional Water Quality Control Board, Central Valley Region  
11020 Sun Center Drive # 200  
Rancho Cordova, California 95670-6114

RECEIVED  
STOCKTON  
WATER RECLAMATION  
DEPARTMENT  
JAN 22 PM 2:05

Re: San Joaquin River Basin Plan Amendment/Technical TMDL for Salt and Boron

Dear Les:

Stockton East Water District (SEWD) appreciates the extended opportunity to comment on the Proposed Implementation Plan for the Technical TMDL for Salt and Boron. The following comments are submitted on behalf of SEWD and incorporate and elaborate on the main points made by Jennifer Spaletta, on behalf of SEWD, during the San Joaquin County panel presentation made the Regional Board on December 5, 2003.

**I. Summary of Comments:**

1. The proposed implementation plan provides no incentive for the Bureau of Reclamation to reduce salt load because it can continue to dilute salt with fresh flows from New Melones Reservoir.
2. It is misleading to state that the recommended alternative "exports salt out of the basin" when in fact the salty water is simply diluted with fresh water from the Stanislaus River and then re-circulated into the basin through the Delta Mendota Canal.
3. Real Time Monitoring should be further evaluated to determine if it will result in the release of additional flows from New Melones Reservoir to meet the Vernalis salinity objective at times of the year when there historically has not been a need for these releases AND if it will result in the release of additional flows from New Melones Reservoir to meet the February through June flow objectives established in the 1995 Bay-Delta Water Quality Control Plan.

4. The proposed plan violates the Board's anti-degradation policies and the policy to encourage construction of an out-of-valley drain.
5. The implementation plan should be implemented simultaneously with an upstream salinity objective on the San Joaquin River.
6. The implementation plan should require Bureau compliance in a shorter term.
7. The Regional Board should implement this TMDL in part through petitioning the SWRCB to modify the Bureau's water right permits.
8. A concentration based waste discharge requirement, rather than a load allocation, should be further evaluated.

## II. Background

SEWD has a 1983 contract with the United States Bureau of Reclamation (Bureau) for 75,000 acre-feet of water from the Stanislaus River, stored in New Melones Reservoir. Yet, SEWD has yet to see any significant deliveries under this contract due to the Bureau's releases of New Melones water for environmental purposes, including releases to satisfy the salinity objective at Vernalis. Even in light of the State Water Resources Control Board (SWRCB) finding that the Stanislaus River basin contributes only a de minimus amount to the salinity problem in the San Joaquin River, the Bureau has released **in excess of 650,000 acre feet for water quality purposes from New Melones** to dilute the highly saline water in the San Joaquin River in the past 9 out of 13 years. The Bureau has released **an average of 113,238 acre-feet of water annually** during the last three years from New Melones to dilute the highly saline water in order to meet the Vernalis salinity objective. Exhibit A is a chart of the historic releases from New Melones to meet the Vernalis objective.

While SEWD continues to receive little to nothing under its CVP contract, CVP contractors south of the Delta have received an average of 72% of their contractual entitlements. In sum, the water deliveries to the Westside of the San Joaquin Valley that have created the salinity problem in the San Joaquin River have continued, while CVP water deliveries to the Eastside of the valley, namely SEWD, have never materialized due to the need to dilute the salty discharge that drains from these Westside lands. While this disproportionate impact to valley irrigators is primarily due to the Bureau's own decisions, these decisions have been, and continue to be driven by the Regional Board's inaction in developing and implementing meaningful salinity objectives upstream of Vernalis.

It is against this backdrop that SEWD submits these comments. While the district firmly believes that the salinity problem in the San Joaquin River can only be solved with upstream objectives, and an out-of-valley drain, the district understands that the current implementation plan is also part of the long-term solution.

### III. Detailed Comments

- 1. The proposed implementation plan provides no incentive for the Bureau of Reclamation to reduce salt load because it can continue to dilute salt with fresh flows from New Melones Reservoir.**

The proposed implementation plan allocates load via a formula that uses the Lower San Joaquin River (LSJR) flow at Vernalis. In the formula, load and flow are directly related so that increased flows at Vernalis allow for increased load discharges into the river upstream. If this flow variable includes New Melones releases made for water quality purposes, then there is no incentive for the USBR to actually work to reduce salt loading of the river, rather it can just release more water from New Melones.

$$\text{Loading Capacity (LC)} = Q * \text{WQO} * .8293 * .85$$

where Q = SJR flow at Airport Way Bridge near Vernalis  
WQO = salinity water quality objective  
.8293 is a conversion factor and .85 represents a 15% safety factor

The LC is then allocated to point and non-point discharges. If Q increases, then the LC increases, and each discharger is allowed to discharge more salt.

It may be that staff intends to calculate the assimilative capacity of the river by excluding certain releases from New Melones, however, this is not detailed in the report. Since New Melones releases are the primary method the Bureau uses to address this problem, they should be discussed in detail in the staff report so that it is clear how these releases are being accounted for in the implementation plan.

- 2. It is misleading to state that the recommended alternative “exports salt out of the basin” when in fact the salty water is simply diluted with fresh water from the Stanislaus River and then re-circulated into the basin through the Delta Mendota Canal**

Staff's presentation to the Regional Board emphasized that it chose Alternative 4 because it “exported salt out of the basin.” This is misleading. Only an out-of-valley drain would actually export salt out of the basin. The plan chosen by staff simply allows salt to continue to be discharged into the LSJR as long as it is sufficiently diluted at Vernalis. However, this diluted water is then re-circulated back into the basin via the state and federal pumping facilities, with only a portion of the salt actually flowing out to the ocean.

- 3. Real Time Monitoring should be further evaluated to determine if it will result in the release of additional flows from New Melones Reservoir to meet the Vernalis salinity objective at times of the year when there historically has not been a need for these releases AND if it result in the release of additional flows from New Melones Reservoir to meet the**

**February through June flow objectives established in the 1995 Bay-Delta Water Quality Control Plan.**

The proposed plan suggests that as part of the "real time monitoring solution" dischargers might retain high salt water so that it may be released into the LSJR at times when the assimilative capacity is greater.

Again, if the assimilative capacity is calculated in a manner that includes water quality releases from New Melones, this simply means that these releases will be extended to more months out of the year than they currently are - to the further detriment of New Melones contractors. This also suggests that LSJR river flow will be reduced when dischargers are holding back salty water, which could cause the need for additional releases to be made from New Melones to meet the February through June flow objectives established in the 1995 Bay-Delta Water Quality Control Plan which are tied to the Bureau's water right permits. The impact that the load allocation and real time monitoring methods will have on flow needs to be fully analyzed.

**4. The proposed plan violates the Board's anti-degradation policies and the policy to encourage construction of an out-of-valley drain.**

The staff report reviews the consistency of the implementation plan with various regional and state board water quality policies and concludes that it is consistent. Pages 25-30. We must strongly disagree - particularly with the policies that require maximum beneficial use of the state's good quality water supplies, and the anti-degradation policies. Due to the lack of any established salinity objectives upstream of Vernalis, and the fact that the load allocation is directly linked to flow at Vernalis, the implementation plan actually encourages the use New Melones water for dilution of salinity and effectively makes this otherwise high quality water unavailable for beneficial uses in San Joaquin County.

Staff also concludes that the implementation policy is "neutral" with respect to the board policy to encourage the construction of the drain. Again, we would strongly disagree since the proposal expressly allows dischargers to meet the load allocations through modification of the timing of releases and through dilution flows. These two solutions simply shift the burden of the salinity problem to the New Melones contractors who will have to forgo deliveries because their water is released to meet the Vernalis objectives. The proposed plan removes any incentive for the Bureau to construct an out of valley drain.

**5. The implementation plan should be enacted simultaneously with an upstream salinity objective on the San Joaquin River.**

The implementation plan states that the Regional Board has been directed to adopt salinity objectives upstream of Vernalis, but simply declines to do so. Much of SEWD's concerns would be remedied if this were simply made a priority because it would require the Bureau to find another solution to the salinity problem, other than New Melones flows.

Staff has suggested that it has not proposed an upstream objective yet, because it is taking one step at a time. Respectfully, the proposed implementation plan puts the cart before the horse. The actions that will likely be undertaken by the Bureau to meet the goals of this plan (primarily the use of dilution flows) will not be useful in meeting upstream salinity objectives that are established at a later date. Conversely, if the upstream objectives (and an implementation plan to meet them) came first, the Bureau would be forced to take meaningful actions to solve the salt problem in the river BEFORE it gets to Vernalis, obviating the need for much of this implementation plan.

**6. The implementation plan should require Bureau compliance in a shorter term.**

The timing of the implementation plan is troubling. It gives the Bureau 2 years to enter into an "agreement" to try and meet the objectives – with no actual commitment to do so. It also anticipates an 8-20 year compliance schedule to implement the load allocations. This seems far too long.

**7. The Regional Board should implement this TMDL in part through petitioning the SWRCB to modify the Bureau's water right permits.**

The proposed regulatory enforcement of the implementation plan is also troubling. The staff mention the power the state board has to condition water right permits, but make no mention of the fact that the "interim" solution used by the SWRCB to meet water quality goals was to require releases of fresh water for dilution from New Melones. If the Regional Board is actually going to implement a load allocation program consistent with board water quality objectives, they should reopen the Bureau's permits to require that the Bureau meet the water quality objectives OTHER THAN with dilution flows from New Melones.

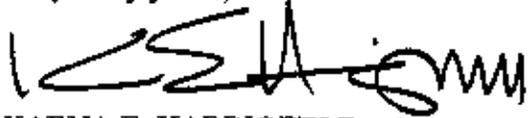
**8. A concentration based waste discharge requirement, rather than a load allocation, should be further evaluated.**

The Regional Board should consider, especially for eastside agricultural drainers, utilizing a concentration based waste discharge requirement rather than a load allocation because reductions strictly based on load will likely reduce drainage of "good quality" water from the east side tributaries users (Stanislaus, Tuolumne and Merced rivers). Currently, agricultural users return flows from these east side tributaries provide dilution flow, a strict requirement on load may reduce this drainage which will have an adverse affect on the quality of water in the LSJR.

Mr. Leslie F. Grober  
January 20, 2004  
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We thank you for this opportunity to comment and look forward to working with the Regional Board staff to implement effective water quality objectives for salinity.

Very truly yours,

A handwritten signature in black ink, appearing to read 'K. E. Harrigfeld', written over a horizontal line.

KARNA E. HARRIGFELD  
Attorney-at-Law

KEH:rl

Enclosure

cc: Kevin Kauffman

EXHIBIT "A"

**Summary of Total Monthly Water Quality Releases from 1991 - 2003**

During the 13 Year period there were 9 Years when WQ Releases were made from New Melones

*The following two tables show the total amount of water releases for a particular month and the frequency of months when water quality releases were required:*

	WQ Release AF/Monthly Totals
January	1,893.8
February	30,675.0
March	97,757.8
April	109,971.2
May	39,903.9
June	128,782.3
July	143,753.4
August	71,076.7
September	33,304.5
October	2,254.7
November	0.0
December	0.0
TOTAL	659,373.3

	WQ Release Months of Releases
January	1/9 *
February	2/9 **
March	6/9
April	5/9
May	5/9
June	7/9
July	8/9
August	5/9
September	3/9
October	1/9
November	0/9
December	0/9

\*2002

\*\*2002, 2003

New Melones Water Quality Release Summary  
 Water Year 1991

	WQ Release AF
January	0.0
February	0.0
March	0.0
April	0.0
May	533.4
June	1,162.3
July	16,185.2
August	9,663.2
September	9,221.0
October	2,254.7
November	0.0
December	0.0
TOTAL	39,019.8

Water Year 1992

	WQ Release AF
January	0.0
February	0.0
March	8,637.9
April	25,077.0
May	3,166.9
June	12,356.1
July	14,973.6
August	0.0
September	0.0
October	0.0
November	0.0
December	0.0
TOTAL	64,211.5

Water Year 1993

	WQ Release AF
January	0.0
February	0.0
March	5,116.1
April	0.0
May	0.0
June	10,751.8
July	19,742.7
August	13,700.5
September	10,472.2
October	0.0
November	0.0
December	0.0
TOTAL	59,783.5

Water Year 1994

	WQ Release AF
January	0.0
February	0.0
March	40,599.9
April	6,355.5
May	0.0
June	25,660.0
July	26,586.1
August	21,585.0
September	13,611.3
October	0.0
November	0.0
December	0.0
TOTAL	134,397.8

Water Year 1995

	WQ Release AF
January	0.0
February	0.0
March	0.0
April	0.0
May	0.0
June	0.0
July	0.0
August	0.0
September	0.0
October	0.0
November	0.0
December	0.0
TOTAL	0.0

Water Year 1996

	WQ Release AF
January	0.0
February	0.0
March	0.0
April	0.0
May	0.0
June	0.0
July	17,188.6
August	4,975.3
September	0.0
October	0.0
November	0.0
December	0.0
TOTAL	22,164.0

Water Year 1997

	WQ Release AF
January	0.0
February	0.0
March	0.0
April	0.0
May	0.0
June	0.0
July	83.3
August	0.0
September	0.0
October	0.0
November	0.0
December	0.0
TOTAL	83.3

Water Year 1998

	WQ Release AF
January	0.0
February	0.0
March	0.0
April	0.0
May	0.0
June	0.0
July	0.0
August	0.0
September	0.0
October	0.0
November	0.0
December	0.0
TOTAL	0.0

Water Year 1999

	WQ Release AF
January	0.0
February	0.0
March	0.0
April	0.0
May	0.0
June	0.0
July	0.0
August	0.0
September	0.0
October	0.0
November	0.0
December	0.0
TOTAL	0.0

Water Year 2000

	WQ Release AF
January	0.0
February	0.0
March	0.0
April	0.0
May	0.0
June	0.0
July	0.0
August	0.0
September	0.0
October	0.0
November	0.0
December	0.0
TOTAL	0.0

Water Year 2001

	WQ Release AF
January	0.0
February	0.0
March	4,311.0
April	17,940.2
May	11,898.0
June	30,228.9
July	27,791.7
August	21,152.7
September	0.0
October	0.0
November	0.0
December	0.0
TOTAL	113,322.5

Water Year 2002

	WQ Release AF
January	0.0
February	7,535.4
March	16,905.1
April	21,709.9
May	9,205.1
June	28,991.5
July	21,202.2
August	0.0
September	0.0
October	0.0
November	0.0
December	0.0
TOTAL	105,549.1

Water Year 2003

	WQ Release AF
January	1,893.8
February	23,139.6
March	22,187.8
April	38,888.6
May	15,100.5
June	19,631.7
July	0.0
August	0.0
September	0.0
October	0.0
November	0.0
December	0.0
TOTAL	120,842.0