



1331 Concord Avenue  
P.O. Box H20  
Concord, CA 94524  
(925) 688-8000 FAX (925) 688-8122

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October 14, 2005

Division of Water Rights  
State Water Resources Control Board  
P.O. Box 2000, Sacramento, CA 95812-2000  
Attn: Jean McCue

**Re: CCWD Policy Statement Regarding SWRCB Approval of JPOD Water Quality Response Plan**

Dear Ms. McCue:

Contra Costa Water District (CCWD) offers the following policy statement in response to Key Issue 3 in the September 23, 2005 Revised Notice of Public Hearing. Key Issue 3 relates to the recent approval by the State Water Resources Control Board (SWRCB) of the Water Quality Response Plan for Joint Point of Diversion (JPOD).

Condition 1.a.i of the approval for the Water Quality Response Plan (Victoria Whitney to Ronald Milligan and Carl A. Torgersen, July 1, 2005) is highly irregular. If the Division Chief's July 1, 2005 approval letter was in error, then CCWD respectfully requests that the SWRCB rescind the approval and order that it be reissued without the relaxation. If it was SWRCB's intent to have the WQRP supercede a portion of D-1641, then CCWD respectfully requests that SWRCB rescind the Staff relaxation of the southern Delta agricultural water quality objectives authorized by the July 1, 2005 letter.

Implementation of this condition would allow use of JPOD when southern Delta salinity objectives are being violated, which would effectively relax water quality objectives set forth in the 1995 Water Quality Control Plan and in Decision 1641. Approval of the Water Quality Response Plan is an inappropriate mechanism to use in modifying water right conditions relating to implementation of Bay-Delta water quality objectives. Such changes must be made through the appropriate public process, with associated environmental review and water rights hearings. The ongoing periodic review of the 1995 Water Quality Control Plan, or the upcoming hearing on the State and Federal petition for long-term change to these same objectives would be appropriate venues in which to take up the question of the proper water quality objectives to protect agricultural beneficial uses in the southern Delta.

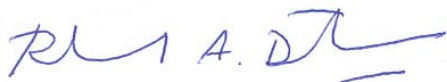
Thus, from a procedural perspective, relaxation of the southern Delta agricultural water quality objectives from 0.7 to 1.0 mmhos/cm EC was beyond the powers and authorities of the Chief of the Division of Water Rights as delegated by SWRCB Resolution No. 2002-0106. CCWD requests that this procedural error and error in law be corrected by revising Conditions 1.a and 1.b on page 2 of the July 1, 2005 letter to read as follows:

- a. DWR and USBR may conduct JPOD diversions if DWR and USBR are in compliance with all of the then-current conditions in their water right permits and licenses, including meeting the 0.7 mmhos/cm electrical conductivity (EC) objective for the protection of agricultural beneficial uses in the interior southern Delta at compliance locations C-6, C-8, and P-12 (San Joaquin River at Brandt Bridge, Old River near Middle River, and Old River at Tracy Road Bridge).
- b. If any permit or license condition implementing the water quality objectives is violated, JPOD diversions shall cease until such time as the water quality objectives are met.

Regarding Key Issues 1 and 2 in the hearing notice, CCWD requests that all Delta salinity objectives in Water Rights Decision 1641 be enforced, whether through Cease and Desist Orders or other means.

As noted in the enclosed Notice of Intent to Appear, CCWD staff will be present at the October 24, 2005 hearing to make a policy statement and to provide rebuttal testimony if necessary.

Sincerely,



Richard A. Denton  
Water Resources Manager

RAD/MM:wec

cc: Parties to the October 24 hearing