

Catherine O. Kutsuris
Director

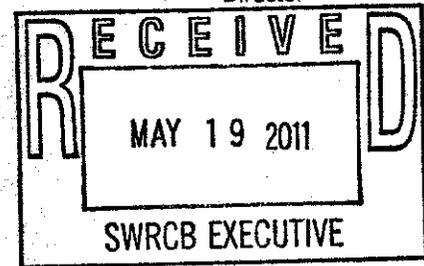
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**Contra
Costa
County**



May 23, 2011

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Re: Southern Delta Ag and SJR Flow Revised Notice of Preparation

Dear Ms. Townsend:

Contra Costa County appreciates this opportunity to make additional scoping comments on the State Water Resources Control Board's (SWRCB) Revised Notice of Preparation of a substitute environmental document (SED) relating to the SWRCB's current review of the Bay-Delta Plan. This phase of the SWRCB's review focuses on the San Joaquin River flow objectives and southern Delta salinity, and the program of implementation for those objectives.

Contra Costa County provided comments to the SWRCB on the San Joaquin River and South Delta Salinity Draft Technical Report on December 6, 2010. This scoping letter builds upon the ideas outlined in the December letter, e.g., setting San Joaquin flow objectives where the percentages of unimpaired flow vary by month, and ensuring additional reduced flow impacts are not shifted to the July-January period.

The County's SED scoping comments are as follows:

San Joaquin River fish and wildlife flow objectives

As described in Table 3 of Attachment 2 and elsewhere, the SWRCB is considering setting narrative flow requirements at Vernalis and potentially upstream at the confluences of the Tuolumne, Merced and Stanislaus Rivers. The County strongly supports increasing the flow requirements at Vernalis. However, the County requests that the flow requirements contain some quantitative components, i.e., specific minimum flow requirements, for all four major tributaries in the San Joaquin Valley watershed, including the upper San Joaquin River below Friant.

The County believes DWR's estimates of unimpaired runoff from each of the four main tributaries are accurate enough to be the basis for a flow standard. There are already standards in Decision 1641 that are based on

similar flow estimates. The current minimum Delta flow objectives are based on estimates of Delta outflow, even though the estimates assume fixed values for consumptive water use in the Delta and do not take into account filling and draining of the Delta with the spring-neap tidal cycle. The number of days required to comply with the existing estuarine habitat (X2) objectives are also determined from DWR's estimates of eight-river unimpaired runoff.

The SWRCB's Bay-Delta Plan already has a narrative Salmon Protection objective that states "*water quality conditions shall be maintained, together with other measures in the watershed, sufficient to achieve a doubling of natural production of Chinook salmon from the average production of 1967-1991, consistent with the provisions of State and federal law.*" This was adopted by the SWRCB as part of the Water Quality Control Plan (WQCP) for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (95-1WR) in May 1995 and remains in the 2006 WQCP.

This narrative objective failed to achieve the goal of doubling salmon populations. The SWRCB should not rely on a new narrative objective to restore the San Joaquin fish populations.

The lack of instream flows requirements below Friant Dam was the result of an unfortunate error in judgment by policy makers in the 1940s. The current SWRCB has much more information about ecosystem habitat and fisheries, and the consequences of drying up natural streams, and should not perpetuate the same mistake.

As noted in Footnote 1 on page 3 of Attachment 2, the San Joaquin River does not currently support salmon runs upstream of the Merced River confluence (upper San Joaquin River). This is a direct result of the lack of flow in this reach. Although the flows needed to reintroduce spring-run Chinook salmon are being determined through the San Joaquin River Restoration Program (SJRRP), the SWRCB should not wait until its next Bay-Delta review. It is also entirely possible that federal funding and support for the SJRRP may be withdrawn leaving the SWRCB with no further information that it has now. Quantified minimum flow requirements for the upper San Joaquin River Basin should be adopted as soon as possible.

As described in detail in the SWRCB's Delta Flow Criteria report, and apparent from the historical data for actual and unimpaired flows, the flows below the major reservoirs on several of the main tributaries, in many months, are often less than 10% of the available runoff (unimpaired flows). This is particularly true below Friant Dam, but also below New Don Pedro Dam on the Tuolumne, and to some extent on the Merced. Flows on the Stanislaus are generally higher because the U.S. Bureau of Reclamation uses New Melones Reservoir to meet water quality and flow objectives at Vernalis. It is time to address the serious depletion of natural stream flows on the San Joaquin River and ensure that at least 20% of the unimpaired flow is bypassed through the tributary reservoirs at all times.

The County, therefore, requests that the SWRCB's SED analyze as an alternative the following set of San Joaquin River flow objectives based on the following principles:

1. Each of the four major eastside tributaries must bypass at least 20% of their unimpaired inflow through their reservoirs. This is consistent with public trust statutes and the need to preserve the habitat and ecosystem values of each river. This public trust requirement applies to each individual watershed, and should be independent of the water rights priorities on other tributaries.
2. Additional flow contributions to meet the higher Vernalis flow requirement (up to 50% of unimpaired flow) should be based on water right priority within the whole San Joaquin Valley watershed (or an agreement like VAMP between the owners/operators of the major reservoirs).

3. A narrative flow requirement, such as that proposed by the SWRCB in Table 3 (Attachment 2) could be used to determine whether even more flow was necessary to restore and sustain fish populations.

The following table quantifies the flow requirements the County is requesting be analyzed in the SED, by location, and by month.

Minimum monthly-averaged flow as percentage of monthly unimpaired flow					
Month	Vernalis	Stanislaus River upstream of the confluence of with the SJR	Tuolumne River upstream of the confluence of with the SJR	Merced River upstream of the confluence of with the SJR	San Joaquin River upstream of the confluence with the SJR
January*	20%	20% with an upper cap**	20% with an upper cap	20% with an upper cap	20% with an upper cap
February	50%	30%	30%	30%	30%
March	50%	30%	30%	30%	30%
April	40%	20%	20%	20%	20%
May	30%	20%	20%	20%	20%
June	30%	20%	20%	20%	20%
July-December*	20%	20% with an upper cap	20% with an upper cap	20% with an upper cap	20% with an upper cap

* Minimum flows are also needed outside the February-June period of greatest concern for fish and wildlife to ensure flow impacts are not redirected to the July-January period.

** The upper cap could be based on the 70th-percentile of the unimpaired flows for each tributary and month. In other words, the minimum flow requirement of 20% of unimpaired flow would generally apply in critical, dry and normal years but would be capped at 20% of the 70th-percentile unimpaired flow in wet years. This cap would only apply from July-January, i.e., outside of the period of greatest concern for fish.

Note the percentages in the above table were obtained by reviewing graphs of actual flows versus unimpaired flow for each tributary, by month. High percentages of unimpaired flow are more difficult to meet during the April-July snowmelt period on the San Joaquin.

Southern Delta agriculture water quality objectives

Table 2 on page 1 of Attachment 3 indicates the SWRCB is proposing to degrade water quality in the Southern and Central Delta. The EC objectives at San Joaquin River from Vernalis to Brandt Bridge, Middle River from Old River to Victoria Canal, and Old River/Grant Line Canal from head of Old River to West Canal for April through August would be relaxed from 0.7 (as a 30-day running average) to 1.0 mnhos/cm. The September-March electrical conductivity (EC) objective would be relaxed from 1.0 to somewhere between 1.0 and 1.4 pending the outcome of the SWRCB's SED analyses.

As discussed in the County's December 2010 comments on the Technical Report, Delta water quality has already been significantly degraded because of the exports by the State Water Project and Central Valley Project (junior water right holders). Relaxing the south Delta agricultural objectives will further degrade the Delta as a source of drinking water for over 23 million Californians. The SWRCB's proposal will redirect impacts to in-Delta water users and the Delta ecosystem.

Contra Costa County requests the SWRCB analyze two additional alternatives where the water quality objectives for South Delta agriculture are made more protective:

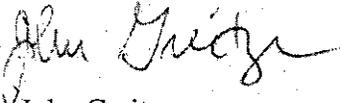
- (1) An alternative where these water quality objectives at Vernalis are **0.6 mmhos/cm** from April-August and **0.85 mmhos/cm** from September-March (as 30-day running averages). The other South Delta agriculture objectives would remain unchanged at 0.7 and 1.0 mmhos/cm, respectively. This Vernalis EC buffer would help the project operators avoid exceedences of the three interior Delta objectives.
- (2) An alternative where the water quality objectives for all four South Delta agriculture objectives are made more stringent, i.e., **0.6 mmhos/cm** from April-August and **0.85 mmhos/cm** from September-March (as 30-day running averages).

These alternatives will provide suitable bookends for determining existing and future benefits to Delta agriculture, fish habitat, municipal and industrial use by in-Delta diverters and exporters, and Delta recreation.

While the County strongly agrees that "*dilution is not the solution to pollution*," the severe reductions in flows in the San Joaquin Valley watershed have resulted in drastic reductions in the assimilative capacity of the river and its tributaries which have exacerbated water quality problems. Because the SWRCB intends to (and should) require increased flows in the San Joaquin River at Vernalis, analysis of these two alternatives in the SED will likely disclose there will be no additional water costs to SWP and CVP exporters.

Contra Costa County requests that all of these San Joaquin flow and South Delta salinity objectives be analyzed in detail in the SED. If you have any questions regarding these comments, please contact me at (925) 335-1201 or via email at john.greitzer@dcd.cccounty.us.

Sincerely yours,



John Greitzer
Contra Costa County Water Agency
Department of Conservation and Development

cc: County Board of Supervisors
County Clerk of the Board
State Legislative Delegation
Congressional Legislative Delegation