

Memorandum

Date: May 30, 2008

To: Mr. Rudy Schnagl, Chief
San Joaquin River Watershed Programs
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, California 95670

From: Department of Water Resources

Subject: Comments on the Draft Management Agency Agreement Between the Central Valley Water Quality Control Board and the United States Bureau of Reclamation

Enclosed for your use are the Department of Water Resources' (DWR) comments on the Draft Management Agency Agreement (MAA) and draft Actions to Address the Salinity and Boron Total Maximum Daily Load Issues for the Lower San Joaquin River (Action Plan). DWR recognizes the effort it took in coming to this agreement and appreciates the opportunity to review and comment on it. Our main concern is described below.

Overall, DWR is supportive of the MAA and believes that the implementation of the MAA will benefit water quality in the lower San Joaquin River. However, DWR has and continues to provide significant funding for the actions described in the draft Action Plan. DWR has also partnered with the United States Bureau of Reclamation (USBR), along with other stakeholders, in developing and implementing many of the current and future actions. In many cases, DWR's contributions far exceed federal contributions.

In light of the above, DWR recommends that the salinity offset credits to be applied to the various elements of the USBR's Action Plan need to be awarded appropriately. In other words, salinity offset credits should be awarded on the basis of the USBR's involvement and funding of an action and not simply on the success of an action in reducing salinity loads.

DWR looks forward to working with you and the USBR toward finding viable solutions regarding salinity and boron in the San Joaquin River Basin. If you have any questions, please feel free to contact Jose Faria, Branch Chief, Special Investigations Branch, San Joaquin District, at (559) 230-3339, or you may also contact Paula Landis, Chief, San Joaquin District, at (559) 230-3310.



Erick Soderlund
Staff Counsel
(916) 653-8826

Enclosure

ESoderlund:AShepard
LegalShareDrive:ashepard:esoderlund:corres:MAAComments Memo 5-30-08
Spell Check: 5-30-08

Comments on the Draft MAA and Action Plan

1. General Comments

It appears that the implementation of the Draft Management Agency Agreement (MAA) could benefit water quality in the lower San Joaquin River. However, it is important to note that the State, through DWR, has and continues to provide significant funding for the actions described on page one of the Draft MAA. In particular, DWR has issued over \$50 Million in Proposition 13, 50 and 204 grants. These contributions far exceed federal contributions and suggest that federal mitigation credits need to be awarded accordingly.

In the fourth edition of the Basin Plan for the Sacramento and San Joaquin River, the Central Valley Regional Water Quality Control Board (Regional Board) indicated that it intends to enter into a MAA with the United States Bureau of Reclamation (USBR) to address salt imports into the Delta-Mendota Canal (DMC) to the Lower San Joaquin River (LSJR) watershed and that the MAA should include provisions requiring the USBR to meet DMC load allocation, or provide mitigation and/or dilution flows to create additional assimilative capacity for salt in the LSJR equivalent to the DMC loads in excess of their allocation.

As proposed, the MAA is focused on mitigation (e.g., Real Time Management Program). However the success of any mitigation will depend on the participation of stakeholders or third parties to the proposed agreement. The Plan does not propose a mechanism to insure that stakeholders will participate in the Plan. An MAA or Memorandum of Understanding should be considered.

Two types of stakeholders exist: 1) those who are subject to the load allocations and must participate in the real-time program for conditional waivers, and 2) those who are not subject to load allocations (e.g., east-side water districts) but are nevertheless important to the success of the program.

For stakeholders that are subject to TMDL's for salinity and boron, should the credit for participation in the Real Time Management Program go to the stakeholder or the USBR?

For the second type of stakeholder, will the USBR provide additional dilution flows needed to create assimilative capacity in the LSJR in excess of their DMC load allocation?

2. Specific Comments

MAA – Page 2

Recital 10 indicates that the USBR prepared the document entitled *Actions to Address the Salinity and Boron TMDL Issues for the Lower San*

Joaquin River. This was a joint DWR/USBR document and should be identified as such.

Recital 11 states that "Reclamation's Action Plan includes Reclamation's agreement to lead the effort to develop stakeholder interest in a real-time water quality management program (hereinafter "Real Time Program")." Since page 10 of Reclamation's Action Plan states that stakeholder participation is "crucial" to the success of a Real Time Program, it seems that in order for this MAA to be effective, Reclamation would have to insure stakeholder participation rather than simply lead "the effort to develop interest."

Recital 11 also states that "Stakeholders along the San Joaquin that are subject to salt and boron load allocations in the Basin Plan must participate in the Real Time Program to qualify for conditional waivers of waste discharge requirements" Is this enough of an incentive to make them participate in the Real Time Program?

Action Plan – Page 1

Reclamation's Action Plan lists many "current actions." Some of these actions are actually being carried out by other entities with Reclamation funding or cooperation. It is appropriate to identify the other entities involved.

Action Plan – Page 4

Third paragraph mentions that a key component of Reclamation's Action Plan will include "a description of the salt mitigation benefit of each element and a clear explanation of how the proposed quantification method accurately quantifies the salt load effect" with the proposed quantification methods for salt load offset credits. The Board will have to get this information consistently from Reclamation if the Real Time Program is to be an effective management tool.

Seasonal water releases from wetlands are also a source of salt entering the San Joaquin River. The timing of these releases should be an important component to the Real Time program.

Action Plan – Page 8

The second paragraph states that "full implementation of the WSRDP will assure compliance with salinity objectives at Vernalis." Is it true that this, alone, will assure compliance? When will full implementation be in effect?

Water Use Efficiency Grant Programs: It is important to recognize that the State also has similar grant programs such as the Integrated Regional

Water Management program, Groundwater Assistance, Drainage Reuse, and other grants that have water use efficiency components.

Action Plan – Page 10

Stakeholder involvement (not just interest) will be necessary for the success of a RTMP.

Action Plan – Page 11

We agree that improvements to the monitoring network are needed; however there is a substantial network in place already that should be recognized.