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Before the State Water Resources Control Board
Southern Delta Water Quality Objectives for Salinity Workshop
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First, we'd like to incorporate by reference the comments by South and Central Delta Water Agencies – with the exception of South Delta's comments on recirculation. We believe the concerns expressed by USFWS and others in the D-1641 proceedings are still relevant.

Second, we're dismayed over the lack of evidentiary process in this proceeding. Although this is a quasi-legislative proceeding, we cannot understand the Board's rejection of its most effective tool in separating fact from fiction. DWR and the Bureau's omelet of distortion and half-truth would look very different if subjected to cross and rebuttal. We're left with a record that is little more than he said, she said.

For example:

- A. Did DWR's modeling incorporate industrial and municipal wastewater discharges? Have any modeling experts or the peer reviewers who have harshly criticized these models testified in this workshop?
- B. Have any of the studies DWR presented concerning salinity effects on crops been published in the scientific literature or peer reviewed?
 - a. For example, DWR characterizes the John Letey report as having established that an EC of 1.0 is protective of South Delta agriculture. Have we already forgotten, that during the C&D hearing, South Delta - on cross - got Letey to admit that his work wasn't specific to the Delta and Central Delta's expert - on rebuttal - testified that Letey failed to consider Delta soil types?
- C. How can a running 30-day average be protective of a sensitive life-stage of a crop during a single irrigation period?
- D. How is the Board going to evaluate the artificial reality woven by DWR's presentation on SDIP? Has anyone bothered to read the mountain of adverse comments to the environmental documents – many by the Board's own staff? Why are fish and wildlife agencies not participating in this proceeding? I

assure you, had this been an evidentiary hearing, we would have subpoenaed field-level agency staff that were not allowed to testify.

We applaud DWR for the clearest representation yet of the adverse effects of export pumping on San Joaquin River outflows. The particle-tracking animation graphically demonstrates that water from the San Joaquin River does not reach the Bay when the pumps are operating. This is consistent with Vogel's fish tagging telemetry data that shows that San Joaquin out migrants are routed to the pumps and don't reach Chipps' Island. This information eliminates one of DWR's principle justifications for SDIP and buttresses our long-standing recommendation that export pumping should be significantly restricted during VAMP.

Third, if you are going to reevaluate Delta salinity standards, you should also begin to identify the data and analyses required to support a comprehensive antidegradation analysis. Examination of this Board's APU 90-004, the regs and EPA antidegradation guidance, make clear that a standard setting proceeding requires an antidegradation review. And, any proposal to weaken Delta salinity standards will require the mother of all antidegradation analyses.

Fourth, why are we here? Staff responses to our questions at the pre-workshop meeting reveal that:

- A. Staff is not familiar with the historical record. Over the last 25 years, numerous evidentiary hearings have been conducted on this issue.
 - a. For example, DWR claims that irrigation with water with a 1.0 EC causes no problems in the Imperial Valley. That issue has already been considered and resolved in an evidentiary setting specific to the Delta.
- B. Staff has failed to identify gaps in the evidentiary record. Given finite resources, prudence would suggest that we isolate the issues that haven't been addressed or resolved in previous hearings before moving forward. Surely, we're not going to abandon the vast evidentiary record and millions of dollars expended in past hearings on these issues.
- C. The Board obviously lacks the funds and staff resources to undertake this review. Has the Board been reduced to begging for contributions from those it regulates? Wouldn't it make more sense for everyone to cooperate to secure funding from the legislature to support necessary staff and consultants? We're certainly willing to help. In fact, we believe we know someone who would be willing to introduce such a bill.

Fifth, this Board cannot meaningfully resolve South Delta salinity issues until it addresses:

- A. The importation of millions and millions of tons of salt into the San Joaquin basin via the DMC.

1. Relaxing the salinity objective in the South Delta (i.e., at the pumps) will increase salt loading into the DMC and subsequently into the San Joaquin River.
2. The continuing discharge of high salinity tailwater into the DMC (between the pumps and Exchange Contractor diversions) increases salt loading to the San Joaquin River.
3. Increased mass loading of salt by municipal and industrial dischargers further increases salt concentration in the DMC and, again, ultimately to the San Joaquin River.

B. It must also address the loss of assimilative capacity caused by diversion of dilution water from the San Joaquin – diversions that exacerbate salt concentration in the river and South Delta. For example:

1. Water delivered to cotton farmers in Kern County via the Friant-Kern Canal is so pure that it must be blended to get it to soak into the ground. Why should Kern County cotton farmers be allowed to irrigate with pure Sierra snowmelt and not DMC water. Cotton is not salt sensitive. Why should the Exchange Contractors, whose lands abut the San Joaquin, be allowed to import salt into the Basin via the DMC? Shouldn't DMC water go to Kern County so that riparians along the San Joaquin could irrigate with San Joaquin water? Shouldn't a switch of source water, which would eliminate millions of tons of salt loading into the San Joaquin Basin, be evaluated before South Delta agriculture and the Delta ecosystem are further victimized?
2. Every time someone in San Francisco or the East Bay takes a shower, they increase the salt concentration in the San Joaquin River. Shouldn't the Bay Area be required to share the responsibility for meeting the Vernalis standard, along with New Melones? Shouldn't that shared responsibility be evaluated before South Delta agriculture and the Delta ecosystem are further victimized?

C. And, it must address the refusal of the Central Valley Regional Board to comply with D-1641 mandates to control municipal & industrial salt loading and establish salinity compliance points upstream of Vernalis.

1. Has everyone forgotten that this Board in both the 1995 Plan and D-1641 directed the Regional Board to "immediately" move the salt compliance point upstream?
2. Has everyone forgotten that the Regional Board promised, during the San Joaquin River salt TMDL hearing last year,

that it would do so by September 2006? Our recollection is that the State Board Chair arm-twisted Les Grober into agreeing to a September rather than December date.

3. Has everyone forgotten that this Board directed the Regional Board to control salt loading from municipal and industrial dischargers? Is this Board aware of the massive increases in salt loading that the Regional Board has allowed or is proposing to allow in NPDES permits?
4. Shouldn't the Regional Board be required to comply with explicit past State Board directives before South Delta agriculture and the Delta ecosystem are further victimized?

Sixth, we remind the Board that it cannot ignore the explicit statutory restrictions placed upon exports and export facilities. By law, exports may not harm legal users of Delta water, unreasonably impact beneficial uses in the Delta or destroy our common legacy of public trust resources. Those are export project preconditions. We urge you to carefully review the comments of Central Delta Water Agency.

Seventh, there has been virtually no mention of the on-going Salinity Task Force. It has been treated like the crazy aunt kept locked in the basement. How or will this proceeding be coordinated or integrated with that process?

Eighth, any relaxation of the salinity standard and resulting change in hydrology will have redirected effects on the array of chemical constituents identified as impairing the Delta. Reduction of the volume of water required to comply with the 0.7 standard will inevitably increase the concentration of other chemical contaminants. It will also affect the distribution of salt sensitive species in the Delta.

Ninth, there has been much discussion during this workshop on the need for balancing. Unfortunately, most of this discussion has micro-focused upon the South Delta. Any discussion of balancing must address the entire suite of contributing factors to salinity problems.

- A. How do you discuss "balancing" without including the unreasonable use and method of diversion of dilution flows around the lower reaches of the San Joaquin River and South Delta?
- B. How can you consider "balancing" without evaluating the unreasonable use and method of diversion with respect to Kern County and the Exchange Contractors? How do you balance the continued importation of millions and millions of tons of salt into the San Joaquin watershed? Or, the mindless irrigation of the poisoned soils of Westlands?
- C. How can any evaluation of "balancing" occur without careful consideration of the effects that a reduction in assimilative capacity will

have on the fate and transport of other pollutants or the distribution of biological species?

- D. How can you arrive at a “balancing” while turning a blind-eye to the Regional Board’s blatant refusal to comply with explicit directives of the State Board? How do you balance the continued increase in salt loading from industrial and municipal sources? Or, the failure to establish upstream compliance points? Or, the absurdity of a hundred-foot TMDL where standards are vastly exceeded a hundred-feet upstream of the confluence of the Stanislaus and San Joaquin?

Finally, why is this workshop primarily focused on evaluating a protective standard that was derived and reaffirmed through numerous formal evidentiary proceedings, while essentially ignoring the many failures to comply with mandated implementation measures that would have significantly reduced the problem? Why is the spotlight shining on the victims and not the perpetrators?

The vast majority of the parties to this workshop – those with most of the resources and political influence - stand to benefit from a relaxation of salinity standards. The environmental community and Delta farmers – who have most to lose – simply lack the resources to compete on an equal footing. We remind you that, regardless of resource disparity or political winds, the State Board is a trustee agency charged with protecting beneficial uses and the people’s public trust resources.