


From: **Jeanne Zolezzi** JZOLEZZI@herumcrabtree.com 
Subject: RE: San Joaquin River Voluntary Agreement Proposal
Date: June 8, 2015 at 11:26 AM

To: **Howard, Tom** Tom.Howard@waterboards.ca.gov

Cc: **George, Michael@Waterboards** Michael.George@Waterboards.ca.gov, **O'Hagan, John@Waterboards** John.O'Hagan@waterboards.ca.gov, **David Weisenberger** DWeisenberger@banta-carbona.org, **Peter Rietkerk** PRietkerk@pattersonid.org, **Evoy, Barbara@Waterboards** Barbara.Evoy@waterboards.ca.gov, **Trgovcich, Caren@Waterboards** Caren.Trgovcich@waterboards.ca.gov, **Marcus, Felicia@Waterboards** Felicia.Marcus@waterboards.ca.gov, **Frances.Spivy-Weber@waterboards.ca.gov**, **Tam.Doduc@waterboards.ca.gov**, **Steven.Moore@waterboards.ca.gov**, **Dorene.Dadamo@waterboards.ca.gov**, **Mrowka, Kathy@Waterboards** Kathy.Mrowka@waterboards.ca.gov, **Dan Kelly** dkelly@somachlaw.com

JZ

Tom,

I understand your concerns. Based upon my conversation with your staff last week, we have attempted to create a broader agreement, and have proposed the attached. We currently have commitments to sign from Banta-Carbona Irrigation District, Patterson irrigation District, South Delta Water Agency and Byron-Bethany Irrigation District, who I know you are concerned about. We are waiting to hear from the additional signatories. We would request your reconsideration.

Jeanne M. Zolezzi

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ATTORNEYS

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From: Howard, Tom [mailto:Tom.Howard@waterboards.ca.gov]

Sent: Monday, June 08, 2015 10:57 AM

To: Jeanne Zolezzi

Cc: George, Michael@Waterboards; O'Hagan, John@Waterboards; David Weisenberger; Peter Rietkerk; Evoy, Barbara@Waterboards; Trgovcich, Caren@Waterboards

Subject: RE: San Joaquin River Voluntary Agreement Proposal

Jeanne,

I have thought about this quite a bit because I understand curtailment will be a tremendous hardship on your clients. But I cannot approve this proposal.

Fundamentally, I view this proposal as a commitment from your two pre-1914 clients on the lower San Joaquin River to bypass a specified amount of water and otherwise to continue their diversions. This is not an attempt by everyone in the watershed to share the burden of curtailments.

My decision is based on my obligation to treat all parties subject to curtailment the same. I would be obliged to allow other pre-1914 water right holders who offer a bypass a similar deal. In your area I think of Byron-Bethany as an example of a party who would not be receiving similar treatment.

From: Jeanne Zolezzi [<mailto:JZOLEZZI@herumcrabtree.com>]

Sent: Wednesday, June 03, 2015 2:49 PM

To: Howard, Tom

Cc: Marcus, Felicia@Waterboards; Spivy-Weber, Frances@Waterboards; Doduc, Tam@Waterboards; Moore, Steven@Waterboards; Dadamo, Dorene@Waterboards; George, Michael@Waterboards; O'Hagan, John@Waterboards; David Weisenberger; Peter Rietkerk; Evoy, Barbara@Waterboards; Trgovcich, Caren@Waterboards

Subject: San Joaquin River Voluntary Agreement Proposal

For your consideration.

Jeanne M. Zolezzi

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Proposed Expanded
Voluntary C...ment.docx



June 4, 2015

Mr. Tom Howard
Executive Officer
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Re: San Joaquin River System Voluntary Agreement

Dear Mr. Howard:

The San Joaquin River Basin and Delta stakeholders signing this letter would like to thank the State Water Resources Control Board (State Water Board) staff for the engagement and communication on potential curtailment action in response to the drought. We understand State Water Board staff is considering curtailment actions in response to drought conditions in order to protect senior water right holders from junior diversions in a time where there is not sufficient water to satisfy all demands. As the holders and users of the major senior water rights in the San Joaquin River Basin and Delta¹, we request the State Water Board withhold curtailing pre-1914 or riparian water rights in the San Joaquin River Basin in exchange for the voluntary settlement agreement outlined below.

We understand there is not sufficient inflow this year to satisfy the demands of all water right holders. In response to the drought and shortage of water supply, many of the San Joaquin River Basin stakeholders have revised operations and are implementing drought shortage measures. We understand the priority of water rights, the projected inflow for the remainder of the water year, and estimated depletions in the system. Our plans of operations and drought actions are based upon this information and none of the San Joaquin River Basin stakeholders intend to file complaints with the State Water Board or otherwise claim injury pursuant to these operations. In other words, we have developed operations plans that do not require, and would not benefit from,

¹ The majority of senior water right holders in the Delta have already reached agreement with the SWRCB on voluntary curtailments under their claimed riparian water rights. BBID and BCID are located within the legal Delta but hold pre-1914 appropriative water rights and are therefore not party to the prior agreement for voluntary curtailments.

the State Water Board implementing curtailment actions.

In addition, the undersigned are willing to cooperate to attempt to achieve the following on the San Joaquin River and Delta during the 2015 irrigation season (“**Commitments**”):

1. A live stream shall be maintained at all times between the mouth of the Merced River and Vernalis.
2. Minimum weekly average flow rate (cfs) at Vernalis shall not be less than 220 cfs.
3. The daily running average shall not be less than 50% below the above flow rate objective.
4. In order to insure that minimum flows reaching Vernalis continue to reach the Delta, Banta-Carbona Irrigation District will agree to reduce its diversions by 35% over 2013 diversions rates during the 2015 irrigation season.

We believe that this voluntary agreement would be beneficial to the San Joaquin River and Delta, as there are currently no flow standards in place of the San Joaquin River in July and August of 2015. In addition, San Joaquin River and Delta diverters are making very real, and painful, reductions in diversions of up to 50% of 2013 use. By way of example:

Patterson Irrigation District. PID has implemented conservation and voluntary reductions to achieve over a 35% average reduction in flows from June through September 2015 over the same period in 2013, as follows:

	2013	2014	Savings
June	8,991	5,700	37%
July	9,398	5,000	47%
August	9,615	4,700	51%
September	7,609	3,900	49%
Average Reduction			46%

Banta-Carbona Irrigation District. BCID has implemented conservation and voluntary reductions to achieve a 46% average reduction in flows from June through September 2015 over the same period in 2013, as follows:

	2013	2014	Savings
June	10,141	6,000	41%
July	11,015	6,500	41%
August	9,055	6,000	34%
September	6,014	4,500	25%
Average Reduction			35.25%

Byron-Bethany Irrigation District. Growers within BBID have implemented significant conservation measures, with the majority of crops currently being irrigated with drop or micro-sprinklers. BBID will commit to an additional 25% reduction in diversion from 2015 demands

reported to the SWRCB in response to the SWRCB's Information order, which would result in a voluntary reduction of 39% over the same period in 2013 as follows:

	2013	Reported 2015 Demand	Reduced 2015 Demand	Savings over 2013
June	4686	4,800	3,600	23%
July	4283	4,000	3,000	30%
August	4295	2,800	2,100	51%
September	2659	1,700	1,275	52%
Average Reduction				39%

The voluntary agreement being proposed would also benefit water quality in the San Joaquin River and Delta, and assist to maintain water in New Melones Reservoir on the Stanislaus River. Diversions from the San Joaquin River by Patterson Irrigation District and others of water that has an electrical conductivity (EC) value higher than the Vernalis salinity objective provide a water quality benefit to the San Joaquin River. These diversions remove salt load from the river so that less water is needed for dilution at Vernalis. For example, for May 2105, EC values on the San Joaquin River at the Patterson bridge station upstream of Patterson's diversion averaged 1,681 EC, while EC values at Vernalis have averaged 519 EC.

In addition, a voluntary agreement will help us all to avoid the extensive time and cost involved in litigation of curtailment issues in the courts, which will immediately follow a curtailment notice of any kind, however artfully drafted. We believe that resources in California this year are much better spent working together to answer questions that have troubled us for decades rather than litigation those same issues in court.

The parties wish to clarify that by their signature below they are not guaranteeing performance of the Commitments outlined above, nor are they agreeing to take any affirmative actions to implement them. Rather, the parties intend to take whatever voluntary actions they determine are prudent, if any, to further the Commitments. The parties further understand that if the Commitments are not met at any time, the State Water Board may attempt to impose additional curtailments of some or all pre-1914 water rights on the San Joaquin River system.

Through this letter, the San Joaquin River Basin stakeholders do not intend to waive any water right or priority of right or any other legal claims they may have. To the extent inflow or depletions are different from projections, we reserve our respective rights to protect water rights and enforce the rules of water right priority. However, we do not anticipate the need for State Water Board action and respectfully request the Board withhold any curtailment of pre-1914 or riparian water rights in the San Joaquin River Basin so long as the Commitments continue to be met.

Very truly yours,

MERCED IRRIGATION DISTRICT

By: _____
PHILLIP McMURRAY

TURLOCK IRRIGATION DISTRICT

By: _____
ART GODWIN

**CITY AND COUNTY OF
SAN FRANCISCO**

By: _____
JONATHAN KNAPP

OAKDALE IRRIGATION DISTRICT

By: _____
TIM O'LAUGHLIN

**SOUTH SAN JOAQUIN IRRIGATION
DISTRICT**

By: _____
STEVE EMRICK

MODESTO IRRIGATION DISTRICT

By: _____

SOUTH DELTA WATER AGENCY

By: _____
JOHN HERRICK

PATTERSON IRRIGATION DISTRICT

By: _____
JEANNE ZOLEZZI

**SAN JOAQUIN RIVER EXCHANGE
CONTRACTORS WATER AUTHORITY**

By: _____
PAUL MINASIAN

**BANTA-CARBONA IRRIGATION
DISTRICT**

By: _____
JEANNE ZOLEZZI

FRIANT WATER AUTHORITY

CENTRAL DELTA WATER AGENCY

By: _____
JENNIFER BUCKMAN

By: _____
DANTE NOMELLINI

BYRON-BETHANY IRRIGATION DISTRICT

By: _____
RICK GILMORE

cc: Ms. Felicia Marcus
Ms. Frances Spivy-Weber
Ms. Tam M. Doduc
Mr. Steven Moore
Ms. Dorene D'Adamo
Ms. Barbara Evoy
Mr. Michael George
Mr. John O'Hagan