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MESSAGE

Letter to follow.

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September 15, 2005

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Mr. Peter Silva, Hearing Officer
State Water Resources Control Board
1001 I Street, 25th Floor
Sacramento, CA 95814

Re: Public Hearing to Determine Whether to Adopt Draft Cease and Desist Orders
Against the U. S. Bureau of Reclamation and Calif. Dept. of Water Resources

Gentlemen:

The SDWA opposes the DWR and USBR's Motion to Consolidate three separate hearings.

As the Board knows, there are four matters pending before it that deal with Southern Delta Water Quality Objectives. The first is the Periodic Review of the 1995 Water Quality Control Plan. That process has included a number of workshops and anticipates a draft document and evidentiary hearings thereafter.

The second includes Petitions by the DWR and the USBR to revoke, and then delay implementation of the Water Quality Objectives at three southern Delta compliance locations, and the corresponding changes to their permit which require compliance with those Objectives.

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The third is the Board's Reconsideration of a recent decision by the Chief of the Division of Water Rights approving the JPOD Water Level Response Plan (and thus JPOD). This approval inappropriately attempted to delay the same Objectives.

The fourth is a Cease and Desist Order (CDO) proposed by the Board regarding the DWR and USBR's anticipated violation of the same Objectives/permit terms.

The only confusion and duplication that arises out of these processes has been created by the projects themselves. Knowing that they would be responsible for the new, more stringent Objectives since at least March 1999, and at most since 1995, the DWR and Bureau waited until the very last minute to warn the Board they would not be able to meet the standards (only this year's wet hydrology saved them). The testimony and argument presented at the Periodic Review workshops confirmed that the projects have taken absolutely no actions for at least six years (and actually ten years) which would have assisted them in meeting the scheduled effective date of the Objectives (April 1, 2005). Having taken no such actions to insure compliance with their permit conditions, the projects launched a belated multi-approach attack on the Objectives.

The Board will note that neither the DWR or the USBR asked the Board to change the 0.7/1.0 EC Objective during the workshops, but now argue that change is an excuse for their lack of action to meet the Objectives.

Combing the proceedings will simply confuse the underlying issues and the enforcement of existing standards. The only purpose served by the proposed consolidation is to let the projects try to get multiple "bites at the apple" in their efforts change the Objectives. The arguments, evidence and purposes for two of the actions referenced above deal with enforcement of existing standards. The other two deal with implementation of the 1995 Plan's Objectives. These two functions are entirely separate, and the projects should not be allowed to blur the distinction to their benefit and the detriment of those dependant on the Objectives.

Hence, the CDO and the Reconsideration should proceed as noticed; it being the duty of the Board to enforce permit terms and conditions, especially ones which derive from the current Water Quality Control Plan. Actions should be ordered now, so that there is sufficient time for the projects to undertake them and thus comply with their permits. Delay will only exacerbate the projects multi-year delays to do what is appropriate to meet their obligations; obligations that have been know for ten years.

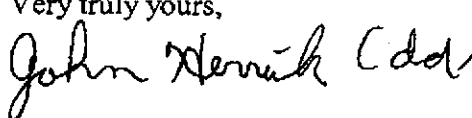
The Periodic Review process should proceed as schedule. Therein, it will be determined whether anything has changed which would justify or mandate that the previously determined level of protection for agricultural beneficial uses should be altered. The Pctitions filed by the projects should be withdrawn, or dismissed by the Board as they are an effort to circumvent the

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Periodic Review process and confuse the setting of Objectives with the implementation of Objectives.

Please call me if you have any questions or comments.

Very truly yours,



JOHN HERRICK

JH/dd

cc: Mr. John O'Hagan (DWR)	Mr. Alex Hildebrand (SDWA)
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