

## **Buckman, Michael@Waterboards**

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**From:** N. Isakson <nisakson@mbay.net>  
**Sent:** Wednesday, July 17, 2013 6:44 PM  
**To:** Unit, Wr\_Hearing@Waterboards  
**Cc:** kobrien@downeybrand.com; Rose, David@Waterboards; pjmlaw@pacbell.net; Masuda, Roger@CALWATERLAW; 'KEVIN PIEARCY'; Norm Groot  
**Subject:** Re: MCWRA Proposed Revocation Hearing - Comment Letter  
**Attachments:** swrcb 11043 settlement comments 071813 final.pdf

Please find attached comments submitted on behalf of the SVWC in the above referenced matter.—this time with attachment!

thank you

Nancy Isakson

Nancy Isakson, President  
Salinas Valley Water Coalition  
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# Salinas Valley Water Coalition



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TRANSMITTED VIA EMAIL

State Water Resources Control Board  
Division of Water Rights  
Attention: Jean McCue  
P. O. Box 2000  
Sacramento, Ca 95812-2000

18 July, 2013

Re: MCWRA Proposed Revocation Hearing

Dear Ms. McCue;

This letter is written on behalf of the Salinas Valley Water Coalition (SVWC). The SVWC is a Party to the above referenced proceeding, and as such, are submitting the following comments regarding the signed Settlement Agreement (Agreement) between the Division of Water Rights Prosecution Team and Monterey County Water Resources Agency (MCWRA). It is our understanding that the signed Agreement has been submitted to the State Water Board Executive Director (Executive Director) for approval.

The Salinas Valley Water Coalition (SVWC) is a not-for-profit organization comprised of agricultural landowners, farmers and businesses within the Salinas Valley. The SVWC's primary purpose is to participate in, and educate their members of, the various governmental processes in an effort to preserve the water rights of its members, to protect their water resources and to effect water policy decisions in a manner that provides this protection while sustaining agricultural production and the quality of life within the Salinas Valley.

SVWC and its members have actively supported the development of water projects within the Salinas Valley. We have supported two reservoirs, the Castroville Seawater Intrusion Project, the Salinas Valley Reclamation Project and the Salinas Valley Water Project (SVWP) to sustain our basin's water resources and to address the seawater intrusion problem. We have worked with our neighbors and other organizations to resolve our differences so these projects could be successfully financed and implemented. It is to this end that we decided to be a Party to this proceeding. We have also been a member of the MCWRA's ad-hoc committee pertaining to the water right permit #11043.

## Comments:

We appreciate the opportunity to submit comment on the Agreement and further appreciate that they will be considered by the Executive Director.

### 1. Recital C states:

**“Phase II of the Project will provide the additional surface water needed, based on actual monitoring data of the effectiveness of Phase I, to bring complete resolution to seawater intrusion**

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**by the delivery of surface water to the areas identified in Applications 13225 and 13226. Permit 11043 is an important part of the Phase II solution to seawater intrusion.”**

The Settlement Agreement does not provide any specific information as to Applications 13225 and/or 13226 except to say that the “express intent of Applications 13225 and 13226 was to implement the solution outlined in Bulletin 52 to combat seawater intrusion.” Nor does the Settlement provide any details as to what ‘Phase II of the Project’ is, or is it simply a ‘phrase’ used to delineate the next project to stop seawater intrusion? Or does the Agreement mean Phase II of the Salinas Valley Water Project as contemplated in its EIR/Engineering Report?

The SVWC strongly supports efforts to fully stop seawater intrusion and to protect the water resources of the Salinas Valley. However, while the intent of the Settlement may be laudable, it is difficult to clearly ascertain that as no specifics are provided as to how, where and in what manner the water subject to the right of this permit, will be used.

**2. Amendments to Permit 11043.** The Agreement provides for amendments to Permit 11043, including a reduction in the “maximum amount of water diverted under Permit 11043” and establishes bypass flows that require the MCWRA to refrain from diverting under Permit 11043 unless the natural flow of the Salinas River at the Eastside Canal Intake point of diversion under Permit 11043, is greater than certain monthly amounts.

Establishing bypass flows may be needed and may be worthy of support, but it is impossible to know because there is no basis given for how, or why, the specific bypass flows were established and agreed to. This not only makes it difficult to support the Agreement, but we believe is a failure to fully inform the public as to the basis for the decisions made. We assume that this information was provided to the decision-makers so they could understand, and be fully informed, when making the decision to approve the Agreement; and hence, the information should be provided to the public so we can also be informed.

**3. Other Terms.** The Agreement states that “all other terms of Permit 11043 will remain unchanged. In particular, the purposed of the use of the water appropriated under Permit 11043 will continue to be for municipal and industrial and agricultural purposes and the points of diversion and places of use identified in Permit 11043 will remain unchanged.”

We believe this is an important condition of the Agreement and the SVWC has previously supported retaining the permit, as long as its use was within the context of the original permit. We believe this is the intent of the referenced statement, but we really do not know what this means and it is

our understanding that the MCWRA does not either. As part of their 11043 ad-hoc committee, the committee has several times asked specifically for the map that shows the specific place of use and points of diversion. The MCWRA has informed us, and continues to state, that they do not have a copy of the map, have requested a copy from the SWRCB but have been told the SWRCB does not have a map; so our question is, what specific area(s) is the place of use and where is the map? We assume that

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decision makers agreed to a Settlement with all of the information before them; this information should be shared with the public.

4. **Milestones.** The Agreement provides a fairly aggressive timeline and milestones for MCWRA to meet toward implementation of 'Phase II' of the Salinas Valley Water Project. It requires MCWRA to file annual progress reports to document the progress and completion of each milestone. What isn't stated, is how, and on what basis, will the 'progress' of each milestone be determined and evaluated? The MCWRA nor the public will be well served if there is broad discretion that allows decision-makers to determine whether sufficient progress has been made or not. There should be clear findings required that support the determination of the progress made at each milestone.

A strong right of access to government information is a key component of an accountable government. In the simplest sense, accountability is being answerable for performance or results. Much of the public's trust rests upon the government being openly accountable for its decisions, actions and mistakes. When the government operates in secret or refuses to disclose information to the public, it is in essence stripping the public of its ability to oversee and hold the government accountable. Often, a loss of public trust in the government results from these situations. However, it is the government that first displays a lack of trust in the public -- a lack of trust to handle and understand the information.

Access to information on government decisions, how they were made, and the results of implementing those decisions are vital to enabling the public to hold the government more accountable and assess its performance. Without sufficient information the public cannot fully understand the context in which decisions are made.

The SVWC supports stopping seawater intrusion and protecting the water resources of the Salinas Valley. We also believe that pursuing a resolution of differences is usually better than pursuing such a resolution through the court system. We believe the Agreement is well-intended, and is generally directed toward goals that we support; but because of the lack of information and supporting findings, we cannot ascertain if this agreement is giving the Salinas River Groundwater Basin the opportunity to address seawater intrusion, and on what basis, as it states that it is intended to do. We ask the SWRCB to not sign the settlement agreement until the release of this information for the public to review; we need to be better informed as to what can and can't be accomplished by retaining the permit. We ask the SWRCB to trust the public to handle and understand the information. Only then can we comment regarding our support of this settlement.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Isakson".

Nancy Isakson, President  
Salinas Valley Water Coalition

Cc: MCWRA Board of Directors