

HERUM, CRABTREE, DYER, ZOLEZZI & TERPSTRA, LLP

2291 West March Lane
Suite B100
Stockton, California 95207
(209) 472-7700 (209) 472-7986 Fax
(209) 525-8444 Modesto (209) 525-8484 Modesto Fax

OCT 01 1998

Karna E. Harrigfeld

September 30, 1998

VIA FACSIMILE AND U.S. MAIL

Rick Woodard
CALFED Bay-Delta Water Quality Program
1416 Ninth street, Suite 1155
Sacramento, California 95814

Re: Preliminary Working Draft/Revised Water Quality Program Appendix
File No. 1026-015

Dear Mr. Woodard:

On behalf of the Stockton East Water District (District), we submit the following comments on the CALFED's Preliminary Working Draft of the Revised Water Quality Program Appendix.

General Comments

The purpose of the CALFED Bay-Delta Program is to develop a long-term comprehensive plan to restore ecological health and improve water management for beneficial uses of the Bay-Delta system. Littered throughout the CALFED historical documents are references to the need to make significant improvements in water quality in order to effectively restore the ecological health of the Delta. Implicit in this desired goal is the need to solve the water quality problem in the San Joaquin River. The District has made previous comments on the deficiency in the Water Quality Program contained in the CALFED Draft Programmatic EIS/EIR. Unfortunately, the revised draft falls short of what is truly necessary to solve the salinity problem plaguing the San Joaquin River.

Water Quality Consequence of Storage and Conveyance Alternatives

There are a number of statements throughout this document that no attempt is made to evaluate the water quality consequences of the CALFED storage and conveyance alternatives. Why not? Implementation of the any one of the storage and conveyance alternatives will have an impact on water quality in the San Joaquin River. In order to have a legally defensible and more importantly in order to make an educated decision on

which alternative to implement, the environmental document must fully analyze the impacts associated with implementation of the storage and conveyance alternatives. Moreover, it is crucial to know what storage and conveyance alternatives will have the most beneficial impact on water quality in the San Joaquin River.

Salinity

The report makes the statement that "none of the actions proposed here are expected to solve the salinity problems entirely. However, the combination of these both local level actions and basin-wide approaches will improve water quality to a large degree." Actions contemplated by CALFED Water Quality Program must make great strides at **solving the salinity problem**, not simply improving the water quality conditions in the San Joaquin River. The salinity problem is not a new problem, but has existed since the 1940s. The serious degradation was originally recognized in the 1975 Regional Water Quality Control Board's Basin Plan for the San Joaquin River. If this Water Quality Program is truly going to be the tool used for the next 30 years, then it must provide the answers necessary to solve the problem, not simply make incremental benefits that may have long term harmful effects, such as increasing the salt load.

In the previous Water Quality Program Appendix included with the Draft EIS/EIR, it explicitly stated that use of dilution flows should only be made in emergency situations for spill response or uncontrollable discharges. However, this document acknowledges and tacitly implies that continued dilution flows from New Melones Reservoir is acceptable. How can this be reconciled with the previous statement that storing or using water with the explicit intent of diluting a pollutant is inconsistent with federal and state laws.

Under Solution Approaches – Local Actions, it is suggested that the Central Valley Regional Water Quality Control Board "could" use its regulatory authority to require implementation of these actions (use of drainage operation plans). The Regional Board **must** exert its regulatory authority to mandate that agricultural surface and subsurface drainers devise plans to reduce the discharge of salt into the San Joaquin River. Without this regulatory mandate, the salinity problem in the San Joaquin River will never be solved. Additionally, water quality objectives must be adopted along the entire stem of the San Joaquin River, as well as development of total maximum daily load (TMDL) allocations must be adopted and implemented not merely suggested.

The District supports the concept of real-time management that would coordinate the existing reservoir releases for fish flows with existing discharges of salt resulting in a reduction of reservoir releases needed explicitly to provide dilution flows. However, to the extent that this is simply shifting the time in which salts are discharged which would result in increased concentrations of salt during other periods of time, has no net beneficial affect and should not be pursued. Instead of expending vast amounts of

resources to coordinate such action, resources should be spent on actions that result in net reductions in salts being discharged to the San Joaquin River.

Construction of the San Luis Drain or an equivalent out of valley drain prior to the delivery of water from the San Luis Unit was mandated by the Congressional Authorization for the San Luis Unit. A federal court has ordered the Bureau apply to the State Board for construction of an out of valley drain. In 1996, the State Board directed its staff to negotiate a Memorandum of Understanding with the Bureau and Westlands Water District for the payment of their oversight costs which to date has neither been negotiated nor executed.

The Regional Water Quality Control Board's Basin Plan specifically states that valley drain to carry the salts generated by agricultural irrigation out of the valley remains the best technical solution to the water quality problems of the San Joaquin River. Moreover, the Basin Plan states that a valley wide drain will be the only feasible, long-range solution for achieving a salt balance in the Central Valley. In light of the foregoing facts, this Water Quality Program must contain a thorough discussion of the benefits of construction of an out of valley drain as a solution to the water quality problem in the San Joaquin River. The one paragraph description of the foregoing is wholly inadequate. The CALFED Water Quality Program cannot ignore this solution option, as it is the one truly viable alternative to solve the San Joaquin River water quality problems.

We look forward to reviewing future iterations of this Water Quality Control Program.

Very truly yours,



KARNA E. HARRIGFELD
Attorney-at-Law

KEH:des

cc: ✓ Mr. Lester A. Snow, CALFED Bay-Delta Program
Mr. Edward M. Steffani, Stockton East Water District