

COMMENTS OF STOCKTON EAST WATER DISTRICT

CONSIDERATION OF THE SOUTHERN DELTA WATER QUALITY OBJECTIVES FOR SALINITY WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY/SACRAMENTO-SAN JOAQUIN DELTA ESTUARY

Stockton East Water District (SEWD) submits the following comments on the State Water Resources Control Board's (State Water Board) Consideration of the Southern Delta Water Quality Objectives for Salinity in the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary ("Southern Salinity Workshop").

The Southern Salinity Workshop – Notice of Public Workshop requested “information on the salinity objectives for the southern Delta, including a corresponding **program of implementation.**” The focus of SEWD’s comments and materials address the program of implementation and why the State Water Board should not require and/or mandate releases of water from New Melones Reservoir to provide dilution flows to meet the Interagency Station Nos. C-6, C-8 and P-12 on the San Joaquin River (respectfully, San Joaquin River at Brandt Bridge, Old River near Middle River and Old River at Tracy Road Bridge, collectively “Interior Southern Delta Salinity Objectives.”)

EXISTING PROGRAM OF IMPLEMENTATION

The 2006 Bay Delta Water Quality Control Plan – Program of Implementation recognizes that State Water Board conditioned the water right permits and license of the Department of Water Resources (DWR) and United States Bureau of Reclamation (USBR) on implementing the Interior Southern Delta Salinity Objectives. The terms and conditions do not require the release of dilution flows from New Melones Reservoir or any other USBR or DWR facility, but the State Water Board has suggested that dilution flows could be required from one of more DWR and USBR facilities.

NEW MELONES RESERVOIR SHOULD NOT PROVIDE DILUTION FLOWS TO ACHIEVE INTERIOR SOUTHERN DELTA SALINITY OBJECTIVES

Currently, USBR operates New Melones Reservoir to meet the salinity objective at **Vernalis** (upstream of the Interior Southern Delta Salinity Objectives) despite the fact that the State Water Board imposed this burden on all CVP permits, not just the New Melones permits. [D 1641, pgs. 159-160] USBR's election to use water solely from New Melones Reservoir for dilution flows to meet the Vernalis salinity objective over the years has required releases in excess of 134,000 acre feet in a single year, and for the years 1991 through 2003 water quality releases in excess of 659,000 acre feet. These water quality releases have deprived the New Melones CVP water contractors, including SEWD, of water under their contract with USBR. Additionally, these releases have far exceeded what was contemplated when New Melones Reservoir was authorized and constructed.

New Melones Congressional Authorization

Over the years, many parties to the Bay Delta proceedings have **inaccurately** suggested that New Melones Reservoir was authorized for the purpose of addressing water quality in the San Joaquin River. Congress did not authorize New Melones for water quality purposes. Rather, Congress directed the Army Corps of Engineers (Army Corps) to consider the "advisability of including storage for regulation of stream flow for the purpose of downstream water quality control," which it did. **Exhibit "A."** In 1965 the Army Corps concluded that no more than 48,500 acre feet annually would ever be required to control salinity at Vernalis. **Exhibit "B."** Relying on that conclusion, the Regional Director of the USBR concluded that provision of limited water quality benefits "will not affect the project's yield," and that the New Melones Project "should not be considered as a complete solution to this problem". **Exhibit "C."**

Based upon these and other findings, the Regional Director conditionally recommended including water quality as an authorized purpose of New Melones as follows:

Accordingly, I recommend that the . . . water quality objectives be incorporated into the New Melones Unit with the stipulation that, during its 50 year repayment period, these objectives will not require releases exceeding 70,000 acre feet in one year.

Based on the recommendation with this stipulation, the Army Corps of Engineers recommended inclusion of water quality as one of the authorized purposes for New Melones. The project proceeded to be built on that assumption and conclusion, and Congress took no further action. Further supporting this conclusion, in 1969 USBR entered into an agreement with the Regional Water Quality Control Board committing to provide water for water quality purposes “but not in excess of 70,000 acre-feet in any one year” to meet the salinity objective at Vernalis. **Exhibit “D.”**

The fact of the matter is that the inclusion of water quality as a purpose of use has impacted the yield of New Melones because USBR has elected to release water from New Melones as the sole method of achieving the Vernalis water quality objective. Congress, USBR and/or the Army Corps **never contemplated** placing an additional burden on New Melones Reservoir for achieving additional water quality objectives downstream of Vernalis, in specific the Interior Southern Delta Salinity Objectives. USBR’s election to use water solely from New Melones Reservoir for dilution flows to meet the Vernalis salinity objective over the years has required releases in excess of 134,000 acre feet in a single year (greatly exceeding the 70,000 acre foot maximum), and for the years 1991 through 2003 water quality releases in excess of 659,000 acre feet. **Exhibit “E.”** These water quality releases have deprived the New Melones CVP water contractors, including SEWD, of water under their contract with USBR.

Additional release from New Melones to achieve the Interior Southern Delta Salinity Objectives would further frustrate the New Melones Congressional Authorization and further deprive New Melones CVP water contractors of water needed in their service areas. This cannot and should not be done when there are other mechanisms and methods available that may be implemented to achieve the Interior Southern Delta Salinity Objectives, especially in light of the utter lack of evidence that New Melones Reservoir or Stanislaus River diversions have caused or impacted the salinity problem in interior Southern Delta.

Recent Congressional Authorization – HR 2828

In an effort to cure the inequitable and adverse impact on New Melones CVP water contractors of USBR utilizing New Melones solely to achieve Vernalis water quality objectives, Congress once again stepped in and passed legislation providing direction regarding New Melones Reservoir and specifically, actions that should be taken to increase the water supply available to the New Melones CVP water contractors, including SEWD.

The following is a brief highlight of the important aspects of HR 2828:

- HR 2828 (Public Law 108-361, signed October 25, 2004) contains important direction for the Secretary of the Interior and the Bureau of Reclamation regarding operation of New Melones Reservoir. **Exhibit “F.”**
- HR 2828 requires not later than one year from the enactment, the Secretary must develop **and initiate implementation** of a program (Program) to meet all existing water quality standards and objectives for which the CVP is responsible. October 25, 2005 and October 25, 2006 have come and passed and we are not aware of any Program developed or implemented by USBR to meet existing water quality objectives.
- HR 2828 is clear in what should be included in the Program: (1) Recirculation program to provide flow, reduce salinity concentrations and **reduce the reliance on New Melones Reservoir for meeting water quality and fishery objectives** through the use of excess capacity in export pumps and conveyance facilities; (2) Best Management Practices (BMP) Plan that focus on reducing water quality impacts from discharges from wildlife refuges. The BMP plan is to be coordinated with other entities discharging water into the San Joaquin River to reduce salinity concentrations discharged into the River, including the timing of discharges to optimize their assimilation.
- The overall purpose of the Program is to provide Interior with greater flexibility in meeting the existing objectives **so as to reduce the demand on water from New Melones Reservoir used for that purpose and to assist the Secretary in meeting any obligations to CVP contractors from the New Melones project.**

- HR 2828 also expressly authorizes acquisition of water from willing sellers to meet the water quality and flow objectives for which the CVP is responsible so as to assist in meeting allocations to CVP contractors from the New Melones Project.

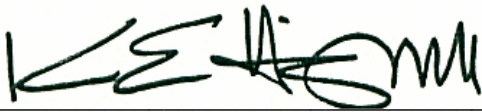
HR 2828 provides clear direction, new obligations such as dilution flows to achieve Interior Southern Delta Salinity Objective are prohibited, conversely all efforts must be made to **reduce the existing demand on water from New Melones Reservoir for meeting water quality objectives**, so that increased deliveries can be made to the New Melones CVP water contractors.

CONCLUSION

We appreciate the opportunity to provide written comments on the Consideration of the Southern Delta Water Quality Objectives for Salinity in the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

Respectfully Submitted,

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