

HMS
RE
JT
HMS



Consisting of 240,000 acres on the Westside of the San Joaquin Valley

September 8, 2004

Item 1
Sept. 14, 2004 Workshop
hard cc: Board
Debbie Irvin

email: Board
CC, HMS, TH, CMW, BJL, DI
VAW, JWK, LJM, GK, JT

JAMES E. O'BANION
Chairman

ROY CATANIA
Vice Chairman

STEVE CHEDESTER
Executive Director

LARRY FREEMAN
Water Resources Specialist

JOANN TOSCANO
Administrative Assistant

**MINASIAN, SPRUANCE,
BABER, MEITH, SOARES
& SEXTON LLP**
Legal Counsel

VIA FACSIMILE & U.S. MAIL - 4 PAGES
(916) 341-5252

State Water Resources Control Board Members
Post Office Box 100
Sacramento, CA 95812

RE: **Triennial Review Process**

Ladies and Gentlemen

**CENTRAL CALIFORNIA
IRRIGATION DISTRICT**

James E. O'Banion
President

Christopher White
General Manager

**SAN LUIS CANAL
COMPANY**

Jack Threlkeld
President

James D. Staker
General Manager

**FIREBAUGH CANAL
WATER DISTRICT**

Mike Stearns
President

Jeff Bryant
General Manager

**COLUMBIA CANAL
COMPANY**

Roy Catania
President

Randy Houk
General Manager

The San Joaquin River Exchange Contractors Water Authority (Exchange Contractors) represents approximately 240,000 acres of irrigated land lying west and east of the San Joaquin River. We have had an opportunity to review your Staff Report and recommended subjects to be included in workshops in regard to the Triennial Review Process. We submit the following comments and call to your attention certain matters which we believe should be included within the review process.

A review of Vernalis Water Quality requirements is a valuable endeavor and we strongly urge that you fully review the Vernalis standards, their scientific basis and the causes of water quality impairment in the San Joaquin River system. If you do not examine all the existing regulatory actions, other agency inactions, and the cause and effects of those actions, then you will not have a program that is implementable and water quality on the San Joaquin River will continue to degrade.

As you are aware, the Bureau of Reclamation was required as a term of the San Luis Act to provide drainage for the San Luis Unit lands. Additionally, Decision 1641 adopted in April of 2000, included the following language on page 86, requiring the Bureau to submit to you their drainage plan within 5 years.

"The USBR has been directed by the court to initiate activities to resolve the drainage problems in the San Joaquin Valley. It should proceed promptly to initiate such activities and file any necessary applications."

And then concluded:

P.O. Box 2115
541 H Street
Los Banos, CA 93635
(209) 827-8616
Fax (209) 827-9703
e-mail: sjrecwa@sbcglobal.net

State Water Resources Control Board Members

RE: *Triennial Review Process*

September 8, 2004

Page 2

"If, in five years, modeling and planning studies indicate that salinity objectives will not be consistently achieved, the USBR shall report to the Chief of the Division of Water Rights all activities that were taken in attempting to meet the objectives, including out-of-valley alternatives."

This time will lapse in April 2005.

We are not aware of any applications to the Regional Water Quality Control Board or to the State Water Resources Control Board (SWRCB) by the Bureau of Reclamation for the installation and operation of drainage measures. As we have done since 1963, the Exchange Contractors continue to attempt to enforce the obligation of the San Luis Act through the Federal District Court for the Eastern District. One of the latest rulings of Judge Oliver W. Wanger is attached for your information.

The Water Quality Control Plan Triennial Review proposes to consider the Vernalis Standard. In light of the Bureau's inaction, poor quality water including salts, boron and selenium flows downslope into the groundwater aquifers which flow into the drainage channels in the Exchange Contractors' service area and the San Joaquin River. The salinity readings in these channels and the San Joaquin River are not reducing and the "informal, in-valley drainage system of the Bureau" which travels through our lands and empties into the San Joaquin River will increase the constituents reaching the San Joaquin over time.

We believe it improper for the State Water Resources Control Board to suggest that we examine the Water Quality Control Plan requirements for Vernalis without recognizing that the Bureau in adopting and implementing this informal in-valley system of drainage is by its inaction authorizing increases in the flows of salts in the San Joaquin River over time. If the SWRCB would ask the Bureau for a report on its drainage plans in anticipation of the final date of April 2005 provided in Decision 1641 it would become apparent that any standard you adopt for Vernalis is unlikely to be met because of the Bureau's inaction and failure to comply with your direction and the order of the 9th Circuit Court of Appeal entered in year 2000 through our efforts to provide for drainage.

We were initially heartened by your recommendation that standards not be set upstream of Vernalis. However, the fact that the Regional Board is continuing its process of adopting TMDL's for salt, boron in the upper reaches of the San Joaquin River indicates that there is a lack of understanding of the impacts of attempting to regulate constituents in an uncoordinated fashion which constituents are under the substantial control of the Bureau of Reclamation and not the irrigators within the area. As an example, the Grassland Bypass Discharge Permit calls

for selenium discharges to be reduced to the level of no greater than the Basin Plan requirements. The drainage coming downslope from the San Luis Unit in the "informal, in-valley drainage system" often exceeds 200 parts per billion selenium. The adoption of over burdensome, unrealistic and unattainable standards which private landowners and water agencies are supposed to abide by in their activities in this uncoordinated manner is poor public policy and is simply a band-aid approach to water quality management.

We know that you would agree that we should complete and finish water projects that have been started. The drainage project contemplated in the San Luis Act has never been completed. Progress toward completion of a drainage plan may be essential for addressing water quality issues. Many of the issues that will be reviewed in your workshops could be viewed as allowing for the establishment of Water Quality Control Plan elements which would be essential for approval of any future projects such as needed increased pumping from the Delta.

We have no objection to the SWP and our neighbors within the CVP obtaining additional flexibility and more reliable water quantities. Our view is simply that we must have material and substantial progress towards drainage management and control of the CVP project area served by the Bureau of Reclamation and "finish that Project" as soon as possible. To that end the Exchange Contractors have proposed to implement interim drainage management measures within our service area and have asked the Bureau to join with us in that effort. To meet any goals of the Grasslands Bypass Project Discharge Permit conditions construction must start immediately. This Board could be of substantial help in assuring that these measures and facilities essential to drainage management are available. Without those measures almost any figure you establish for Vernalis and any loads which your Regional Board establishes for our drainage area are unlikely to be achieved.

Conclusion

We will look forward to participation in your workshops. We believe that your notice and resolution should be broadened to require examination of the Bureau compliance with Decision 1641 in regard to drainage of the San Luis Unit as a first step or element of consideration of the Vernalis Standards.

We feel that your workshops in regard to Cross Delta Gate Operation, Fish flows in the San Joaquin River, X-2 and other technical standards should focus upon the need to make substantial progress on drainage issues as those issues are integral to success in complying with your Water Quality Control Plan. It is just common sense that we should complete our existing projects.

State Water Resources Control Board Members

RE: *Triennial Review Process*

September 8, 2004

Page 4

As always, we look forward to working on these important issues with you.

Sincerely yours,



Steve Chedester,
Executive Director

Enclosures

- cc: San Joaquin River Exchange Contractors Water Authority Board Members, w/out enc.
- State Water Resources Control Board Members, w/enc.
- Mr. Kirk Rodgers, USBR, w/enc.
- Mr. Allen Short, San Joaquin River Group Authority, w/enc.
- Paul Minasian, Esq., w/out enc.