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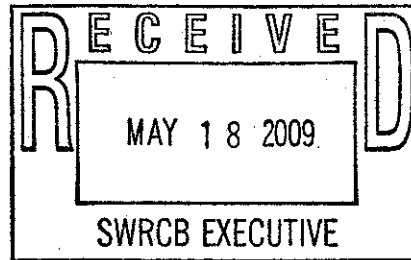
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May 18, 2009



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*Via E-Mail to [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov) and  
Overnight Mail to Jeanine Townsend, Clerk of the Board*

Chair Charlie Hoppin and Members of the State Water Board  
c/o Jeanine Townsend, Clerk of the Board  
Executive Office  
State Water Resources Control Board  
Cal/EPA Headquarters  
1001 "T" Street, 24th Floor  
Sacramento, CA 95814-2828

**Re: COMMENT LETTER - 5/19/09 BOARD MEETING: ITEM 5.  
CONSOLIDATION OF PLACES OF USE OF CVP AND SWP**

Dear Chair Hoppin and Members of the State Water Board:

On behalf of the County of San Joaquin and the San Joaquin County Flood Control and Water Conservation District (collectively hereinafter the "County"), we submit the following comments to item 5 of the Tuesday, May 19, 2009 State Water Board meeting regarding the Draft Order to consolidate the place of use for certain Department of Water resources (DWR) and United States Bureau of Reclamation (USBR) water right permits.

The County recognizes that California is experiencing unique and challenging hydrologic conditions. The current condition of lack of precipitation following a prior drought year is problematic and results in water shortages. San Joaquin County is concerned for the many who are suffering water shortages during this drought year throughout the State, including water users in our own County. Addressing these water shortages requires making tough decisions and adopting unique solutions. Due to the unique water shortages the State is currently experiencing, the County does not object to the petition to temporarily consolidate the State Water Project and Central Valley Project places of use to more easily facilitate water transfers.

However, the County is gravely concerned about the continuing failure of USBR and DWR to observe, and the State Water Board's failure to enforce, the permit conditions

applicable to the CVP and SWP, particularly related to salinity control requirements. The draft order should be amended to include a specific condition requiring DWR and USBR to meet the permit conditions of D1641 and Cease and Desist Order WR 2006-0006 regarding salinity objectives. These conditions must be met by DWR and USBR and enforced by the State Water Board.

D- 1641 provides that the CVP permits of USBR and the SWP permits of DWR are conditioned as follows: "This permit is conditioned upon implementation of the water quality objectives for agricultural beneficial uses in the Southern Delta, as specified in Table 2, attached, at the following locations in the southern Delta." (D 1641 p. 159, Conditions 6 and 1, Footnote omitted referring to the USBR permit condition.)

In 2005 the State Water Board reiterated this requirement in the Cease and Desist Order WR 2006-0006 (CDO). The CDO states "DWR and USBR are each fully responsible to meet the objectives in the interior southern Delta, as described in Table 2 of D 1641." CDO p. 26, Conclusion Paragraph 1. )

Despite these clear directives the USBR's attorney during closing arguments states that she disagreed with the County's position and that USBR was not responsible for meeting such salinity objectives. This lack of appreciation on behalf of USBR and DWR of their responsibilities under this Board's Orders needs to end. In order to ensure that permit conditions are satisfied, including the southern Delta salinity objectives, the draft order needs to require strict compliance with the Southern Delta salinity objectives in order for any of the proposed transfers or exchanges approved under this Order to occur. The County respectfully requests that the draft order be amended by adding an additional condition which states:

"If DWR or USBR violate any permit or license condition implementing the water quality objectives, the transfers and/or exchanges under this order shall cease until such time as the water quality objectives are met."

This proposed condition parallels the language approved by the State Water Board in WR 2006-0006 related to joint points of diversion.

The County appreciates the limitations placed on the Petitioners in the draft order limiting approval of transfers initiated prior to January 1, 2010 and limiting the Drought Water Bank transfers to 16,000 acre feet under this Petition. Although these conditions place certain limitations on the approved actions, the County's proposed condition is also needed. DWR and USBR have, and continue to demonstrate, a lack of commitment to meet the water quality standards and any permit amendments for continued operation of the Projects needs to be conditioned on meeting the water quality objectives.

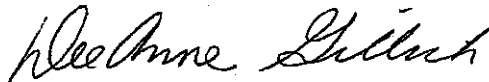
The standards were violated in 2007 and 2008, and have already been violated in 2009. Initial modeling demonstrates that operational changes can allow for salinity standards in

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the South Delta to be met, even in this time of drought. These modifications could be implemented this water year and such modifications must be required and facilitated in order to protect beneficial uses within the Delta and within the County of San Joaquin. Nearly two-thirds of the legal Delta is located within the County of San Joaquin and the County is an interested stakeholder in the future viability of the Delta. The southern Delta salinity objectives are critical for the continued viability of this most important part of San Joaquin County's economy.

In summary, the County does not object to the pending petitions to temporarily consolidate the places of use for the CVP and SWP. However, even in this time of water shortage DWR and USBR must be required to meet their permit conditions, including meeting the salinity objectives for the south Delta. The County respectfully requests that the draft order include the proposed condition to require DWR and USBR to take meaningful action to implement measures to meet their Southern Delta salinity obligations.

Very truly yours,



DeeAnne Gillick  
Attorney at Law

DMG/ect

cc: David Wooten, County Counsel  
C. Mel Lytle, Ph.D., Water Resources Coordinator  
Thomas J. Shephard, Sr.