



SAN JOAQUIN COUNTY

FLOOD CONTROL & WATER CONSERVATION DISTRICT

P. O. BOX 1810

1810 EAST HAZELTON AVENUE
STOCKTON, CALIFORNIA 95201
TELEPHONE (209) 468-3000
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THOMAS R. FLINN
DIRECTOR OF PUBLIC WORKS
FLOOD CONTROL ENGINEER

ADVISORY WATER COMMISSION

May 19, 2010, 1:00 p.m.

Public Health Conference Room, 1601 E. Hazelton Avenue, Stockton, California

AGENDA

Roll Call

Approve Minutes for the Meeting of April 21, 2010

SCHEDULED ITEMS

I. Discussion Items:

- A. Special Presentation – High Speed Rail Going Through Your District? – Phil Pennino/Stacey Morgensen
- B. Update on State Water Board Public Hearing on Cease and Desist Orders Against Delta Farmers in San Joaquin County – DeeAnne Gillick
- C. Update on WEF Flood Management Tour, San Joaquin County Flood Management and SJAFCA Activities (See Attached) – Mark Connelly and Roger Churchwell
- D. Discussion and Possible Action on 5-Delta Counties Coalition and other Delta Activities (See Attached) – Tom Flinn and Mel Lytle

II. Action Items:

- A. Discussion and Possible Action on Participation in the Central Valley Salinity Alternatives for Long-Term Sustainability (CV Salts) Program (See Attached) – Mel Lytle

III. Communications (See Attached):

- A. Article - The Cost to Fix the Delta is Approximately \$39 Billion
- B. Article – Appellate Court Upholds Salinity Standards and Dissolved Oxygen Studies in the Sacramento-San Joaquin River Basin
- C. SWRCB Statement of Water Diversion and Use Deadline: July 1, 2010

Public Comment (Non-Agenda Items)

Adjournment

Next Regular Meeting: June 16, 2010, 1:00 p.m.
Public Health Conference Room

Commission may make recommendations to the Board of Supervisors on any listed item.

If you need disability-related modification or accommodation in order to participate in this meeting, please contact the Water Resource Staff at (209) 468-3531 at least 48 hours prior to the start of the meeting. Any materials related to items on this agenda distributed to the Commissioners less than 72 hours before the public meeting are available for public inspection at Public Works Dept. Offices located at the following address: 1810 East Hazelton Ave., Stockton, CA 95205. These materials are also available at <http://www.sjwater.org>. Upon request these materials may be made available in an alternative format to persons with disabilities.

**ATTACHMENT
I.C.**

**REPORT FOR THE MEETING OF
THE ADVISORY WATER COMMISSION OF THE SAN JOAQUIN COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
April 21, 2010**

The regular meeting of the Advisory Water Commission of the San Joaquin County Flood Control and Water Conservation District was held on Wednesday, April 21, 2010, beginning at 1:00 p.m., at Public Health Services, 1601 E. Hazelton Avenue, Stockton, California.

Roll Call

Present were Commissioners Nomellini, Roberts, Edwards, Alternates Conarro, Madison and Holbrook, Secretary Lytle, Vice Chair Alternate Williams. Others present are listed on the Attendance Sheet. The Commission had a quorum.

Approval of Minutes for the Meeting(s) of March 17, 2010.

Motion carried unanimously to approve the minutes of March 17, 2010 (Edwards/Roberts).

SCHEDULED ITEMS

I. Discussion Items:

A. Special Presentation – Striped Bass Predation in the San Joaquin Basin and its Potential Impacts on Native Salmonid Populations – Doug Demko J.D.

Doug Demko, President of FISHBIO Environmental LLC. (FISHBIO) gave a presentation on research into Striped Bass predation of Chinook salmon in the San Joaquin Basin. Historically, the Delta was relatively predator free. Today 95-98% of the bio-mass in the Delta today was introduced either accidentally or on-purpose for the establishment of select fisheries. In 1870-79, the striped bass was introduced from the east coast and immediately became popular with fisherman. Within 10-years, a commercial fishery was established and the Delta became a very productive environment. The striped bass can easily travel between salt water and fresh water, so unlike other fish which are territorial or have smaller home ranges, these fish follow the prey. The striped bass have the opportunity to prey on fish in the ocean, the San Francisco and Suisun Bays, the Delta, the Sacramento River, the Lower San Joaquin, and in the tributaries.

Water user groups tributary to the San Joaquin River are interested in managing and researching predation of anadromous fish in the Delta and in the tributaries. A fish weir was installed 7 or 8-years ago in the Stanislaus River to count Chinook salmon. The concern was that the California Department of Fish and Game (CDFG) was not getting an accurate picture of the salmon population. The weir also ended up being used over the last couple of years during March, April, May and June to determine the striped bass populations as well. There are two traps upstream and downstream. Daily, weekly and yearly estimates are made of the number of Chinook salmon moving downstream. For example, a million fish travel by the upstream trap, where only 100,000 travel by the downstream trap. In 2001, a loss of 80-85% of the fish population occurred in this one reach of river, which was even worse the following years. Over the course of 7 years, 75-80% of the fish population did not make it out of the Stanislaus.

The Vernalis Adaptive Management Program (VAMP) was designed to help analyze the paths that fish take to move out of the San Joaquin River and its tributaries. Generally, fish in the San Joaquin system have a shorter route to the Bay and don't have to travel by the pumping facilities. VAMP fish migration studies utilize a wireless tag which allows for tracking of large groups of fish. Only 1,000 are tagged for tracking at a time. For the last three years, researchers have been learning more about the extent of predation and where the fish are being lost. For instance in 2009, a study of 1,000 acoustic tagged fish were released upstream of Clifton Court Forebay. Unfortunately, 40% of the fish were gone before they reached the first test facility. The predation rate of loss was much higher than expected within the eight miles of river, which is more fish friendly than channels downstream. Concentrated locations of mortality are being found. The fish that made it to the facility at Clifton Court Forebay, an estimated 90% when detected, were either ingested by predators or tagged and defecated out into the stream bottom. Mr. Demko concludes that there are significant losses due to predation.

B. Update on San Joaquin County Flood Protection and SJAFCA Activities – Mark Connelly

Mr. Connelly, County Flood Management Division stated work is being done on the Lower San Joaquin River Feasibility Study, and still waiting for the State to approve the federal cost share agreement. The San Joaquin Area Flood Control Agency (SJAFCA) submitted a conditional letter of map revision to Federal Emergency Management Agency (FEMA) regarding the installation of an inflatable gate at Smith Canal. A response from FEMA is expected by the end of April. The Water Education Foundation Flood Management Tour will be held on May 12-13, 2010. Also, General Rock Donahue, U.S. Army Corps of Engineers will be visiting and touring San Joaquin County on Monday, August 16, 2010.

C. Discussion and Possible Action on 5-Delta Counties Coalition and other Delta Activities – Mel Lytle

Dr. Lytle updated the commission regarding the 5-Delta Counties Coalition (DCC) and other Delta activities. A letter was sent to Senator Boxer from the DCC describing the positions and issues regarding the Delta. The letter was signed by the Counties of Sacramento, Solano, Contra Costa and San Joaquin; however, Yolo County did not sign on and instead opted to deal with some of the issues on their own. Specifically Yolo County expressed highlighting their interests in the Yolo bypass. The letter from the DCC minus Yolo County describes water rights which need to be upheld, the threat of water quality, inadequate flood protection measures, BDCP and biological opinion impacts, insufficient attention to sound science, inadequate economic and ecosystem recreation assistance, and Peripheral Canal legislative protection from 1982. The DCC is also trying to distinguish in what arenas they would like to try to influence. Also, a board action taken by the Metropolitan Water District of Southern California to support proposed assembly bill AB-2092 (Huffman) which focuses on funding for the Delta Stewardship Council.

II. Action Items:

A. Discussion and Possible Action on Joint Meeting of the California partnership for the San Joaquin Valley and 5-Delta Counties Coalition – Mel Lytle

Dr. Lytle updated the commission regarding the 5-Delta Counties and the California Partnership. A meeting was held on April 1, 2010 with representatives from the 8 valley counties and DCC to discuss and define common ground regarding a resolution for the IRWMP framework and the Multi-County resolution regarding water and Delta related issues. The items agreed upon for support in the future include: Through-Delta Conveyance, Dredging, Levee Reconstruction, Projects that Reduce Reliance on the Delta, Extension of Levy Subvention Program, Storage and IRWMP's. The next meeting is scheduled for May 26, 2010.

No action was taken by the Commission.

III. Communications:

- A. SWRCB Notice of Public Hearings on Cease and Desist Orders against Various Delta Farmers in San Joaquin County
- B. Information on Dedication of the Freeport Regional Water Project
- C. Washington Post Article – LA Billionaires Sued Over Calif. Water Sales

Public Comment: None

Possible Future Agenda Items: None

Adjournment: 2:50 pm

Next Regular Meeting: May 19, 2010, 1:00 p.m.

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**WATER EDUCATION
FOUNDATION**

717 K Street, Suite 317
Sacramento, CA 95814
Phone: (916) 444-6240
FAX: (916) 448-7699
www.watereducation.org

FLOOD MANAGEMENT TOUR
Lower San Joaquin River and South Delta
May 12-13, 2010

Sponsored by: Water Education Foundation

Tour staff: *Rebecca Scott, Events/Tour Director, Water Education Foundation*
Rita Schmidt Sudman, Executive Director, Water Education Foundation

Resource speakers:
Jay Punia, Executive Officer, Central Valley Flood Protection Board
(Thursday, May 13)
John Cain, Director of Conservation for California Flood Management,
American Rivers (Wednesday, May 12)
Gilbert Cosio, Principal, MBK Engineers (Wednesday, May 12)
Chris Neudeck, Vice President, Kjeldsen, Sinnock & Neudeck, Inc.

DAY 1: STOCKTON, WEDNESDAY, MAY 12, 2010

7:30 a.m. **CHECK-IN, Hilton Stockton, 2323 Grand Canal Blvd, Stockton, 95207-8233,**
1-209-957-9090

8:00 a.m. **DEPART for San Joaquin County Agricultural Center, 2101 E. Earhart Ave,**
Stockton (pastries and coffee will be provided)
Route: Right on Grand Canal Blvd toward Lorenzo Ln, Right onto Da Vinci Dr, Left
onto W March Ln, I-5S, Take the Fresno Avenue exit toward Downtown
Stockton, Merge onto 4E via the exit on the Left toward 99, Merge onto 99S,
Take the Arch Rd exit (250), Take Arch Rd West ramp, Arch Rd becomes Arch
Airport Rd, Left onto B, Left onto Earhart Ave. on Left.

En route: Introduction to tour
Rebecca Scott, Events/Tour Director, Water Education Foundation
Gilbert Cosio, Principal, MBK Engineers

Chris Neudeck, Vice President, Kjeldsen, Sinnock & Neudeck, Inc.
John Cain, Director of Conservation for California Flood Management, American Rivers

8:30 a.m. Arrive San Joaquin County Agricultural Center

Overview of the flood management system of the Lower San Joaquin River and South Delta in comparison with the Sacramento River system.

Joe Countryman, Principal Engineer, MBK Engineers

Overview of flood fight maps and emergency flood evacuation, 1997 and 2006 flood events and lessons learned on the San Joaquin River system

Ron Baldwin, Director of Emergency Services, San Joaquin County

10:00 a.m. DEPART for San Joaquin River National Wildlife Refuge

Route: Right on B, Left on Arch Airport, Left on Mckinley Ave, Right on French Camp, Take 5S, Highway 132 east toward Modesto (for approx 15 miles), Right onto River Road (S Kasson on Left) (All-American Café is a landmark at Hwy 132 and River Road), Follow River Road for 3 miles, Left onto Dairy Road (follow for one mile until it ends), Refuge parking lot will be on the right (we will see a beige brick restroom building and wooden kiosks)

En route: State reservoir operations, DWR and Corps involvement. Discuss Vernalis gauging station operations

Dave Van Rijn, Senior Project Manager, US Army Corps of Engineers

Representative from U.S. Army Corps of Engineers, Sacramento District

Brief overview of San Joaquin River National Wildlife Refuge and floodplain restoration

John Cain, Director of Conservation for California Flood Management, American Rivers

10:45 a.m. ARRIVE San Joaquin River National Wildlife Refuge

Floodplain restoration, levee setbacks, Stanislaus & Tuolumne restoration projects

Speakers:

Eric Hopson, Refuge Manager

John Cain, Director of Conservation for California Flood Management

11:30 a.m. DEPART for LUNCH

Route: Back out to Maze Blvd (132 east), Right on Maze, Left at Mape's Ranch billboard

11:45 p.m. ARRIVE for LUNCH at Mape's Ranch
Tour of ranch: Bill Lyons

Floodplain habitat management & restoration, landowner relationships

Speakers:

Bill Lyons, Mape's Ranch

Patrick Koepele, Central Valley Director, Tuolumne River Trust

Julie Rentner, Resource Specialist, River Partners

1: 30 p.m. DEPART for Alex Hildebrand's property

Route: Right on CA-132 W/Maze Blvd, Right at S Kasson Rd, Right at Airport Way, Left at Perrin Rd, Continue onto S Hays Rd (up onto levee and around), follow road to left and turn left at Hildebrand sign

Brief overview of site at Alex Hildebrand's and upstream issues

Chris Neudeck, Vice President, Kjeldsen, Sinnock & Neudeck, Inc.

2:00 p.m. ARRIVE Alex Hildebrand's property, 23443 Hays Rd, Manteca, CA 95337

Upstream issues along South Delta and San Joaquin

Alex Hildebrand

3:00 p.m. DEPART for Paradise Cut

Route: Right on E Perrin Rd, Slight left to stay on E Perrin Rd, Left at Airport Way, Left to merge onto CA-120W, Exit onto I-5S, Take exit 460 for Manthey Rd, Turn right at S Manthey Rd, Take 1st right and go under freeway toward Mossdale Rd, Turn right at Mossdale Rd, go through gate and follow gravel road along the river to the left

Brief overview of Paradise Cut and River Islands project

Gilbert Cosio, Principal, MBK Engineers

3:15 p.m. ARRIVE Paradise Cut

Importance of Paradise Cut, RD 2062, South Delta Bypass, modifications for River Islands development

Speakers:

Susan Dell'Osso, Project Director, River Islands

Representative from Department of Water Resources

4:00 p.m. DEPART for Lathrop super levee

Route: East on Mossdale Rd, left at Mossdale Rd, Right at S Manthey Rd, 2nd left onto Stewart Rd. Go over rail line and stay to the right on the levee road.

En Route: Development in flood zones

Gilbert Cosio, Principal, MBK Engineers

- 4:15 p.m. ARRIVE** at Lathrop super levee
- Development in flood zones, River Islands project, flood protection,
Speakers:
Susan Dell'Osso, Project Director, River Islands
Sean Bechta, Senior Project Manager at AECOM
- 4:45 p.m. DEPART** for RD 17
Route: Head southwest on Stewart Rd toward S Manthey Rd, Turn left at S Manthey Rd, Take third left onto Brookhurst, Take Brookhurst all the way to the end.
- Brief overview of levee issues and improvement projects in RD 17
Gilbert Cosio, Principal, MBK Engineers
- 5:00 p.m. ARRIVE** at RD 17
- RD 17 three-phase levee improvement project, seepage issues, flood control
Dante Nomellini, Attorney, Central Delta Water Agency
- Environmental hurdles and regulatory issues associated with levee repairs or new levees
Sean Bechta, Senior Project Manager at AECOM
- 5:30 p.m. DEPART** for Hilton Stockton
Route: Cont on Brookhurst Blvd, Right on Bramblewood, Right on Almond Orchard, Left on Brookhurst, Turn left at S Manthey Rd, Take the 1st right onto Golden Valley , Right on River Islands, Turn left to merge onto I-5N, Take exit 476 for March Ln, Turn right at W March Ln, Take the 1st right onto Da Vinci Dr, Turn left at Grand Canal Blvd.
- 6:00 p.m. ARRIVE** Hilton Stockton, 2323 Grand Canal Blvd, Stockton, California, United States 95207-8233, 1-209-957-9090
- 6:45 p.m. No host cocktails** in Delta 4 Room
- 7:30 p.m. DINNER** at Hilton Stockton in Delta 4 Room
- Flood Management Perspectives in the Delta
Speaker:
Tom Zuckerman, chair of University of the Pacific's Board of Regents

DAY 2: THURSDAY, MAY 13, 2010

7:30 a.m. **DEPART for Breakfast at University of the Pacific**
Route: Right on Grand Canal Blvd, Right on Da Vinci Dr., Right at W March Ln, Right at Pacific Ave, Right at N Pacific Ave (on right), Follow campus road around to right, Left at Stop sign, pull to curb on left. We will walk around the back and up the stairs. (Bus can park in the lot on the right.)

En route: En Route: Role of the Central Valley Flood Protection Board for managing flooding along the Sacramento and San Joaquin Rivers
Jay Punia, Executive Officer, Central Valley Flood Protection Board

8:00 a.m. **ARRIVE at University of the Pacific for breakfast, 3601 Pacific Ave, Stockton, CA 95211 (Go to the University Center building and up to the second floor from the outside stairs)**

Calaveras River flood control project, habitat restoration programs, Friends of the Lower Calaveras River projects

Speakers:

Margit Aramburu, Director of Natural Resources, University of the Pacific
Jeremy Terhune, Friends of the Lower Calaveras River

9:30 a.m. **DEPART for Smith Canal**
Route: Out of campus, Right on Pacific, Right on W Alpine, Left on Kensington, Right on Mendocino, Turn Left onto N Pershing Ave, Right onto Argonne Dr, Bear right onto Monte Diablo Ave, Bear right onto road along the water.

En route: FEMA

Speaker:

Kathy Schaefer

Brief overview of Smith Canal

Barry O'Regan, Vice President, PBI

9:45 a.m. **ARRIVE Smith Canal**

FEMA flood maps, high risk flood zones, control gates

Speakers:

Roger Churchwell, Deputy Executive Director, San Joaquin Area Flood Control Agency (SJAFCA)

Barry O'Regan, Vice President, PBI

10:30 a.m. **DEPART for Bear Creek, RD 2115**

Route: Bear left onto Monte Diablo Ave, I-5N, Exit 481 Eight Mile Road, Left onto W Eight Mile Rd, Left onto Trinity Pkwy, Arrive near Lincoln Village

En route: Brief overview of encroachment issues at Bear Creek
Jay Punia, Executive Officer, Central Valley Flood Protection Board

10:45 a.m. ARRIVE Bear Creek

History and current status of encroachments on Bear Creek Levee, enforcement of levee standards

Speakers:

Mark Connelly, Engineering Services Manager, Flood Management Division, San Joaquin County

Jay Punia, Executive Officer, Central Valley Flood Protection Board

11:30 p.m. DEPART for **LUNCH** view PC Borrow Pits on the way

Route: Right on Eight Mile Rd, Take 5N, Exit at Hwy 12, Turn Left, Left at Tower Park Way

View and discuss borrow pits

Chris Neudeck, Vice President, Kjeldsen, Sinnock & Neudeck, Inc.

12:00 p.m. ARRIVE for **LUNCH** at Rosa's at Tower Park Restaurant
(14900 W. Highway 12, Lodi, CA 95242 209-365-4693)

Urban flood protection with project and non-project levees (panel discussion)

Speakers:

Chris Neudeck, Vice President, Kjeldsen, Sinnock & Neudeck, Inc.

Mark Connelly, Engineering Services Manager, Flood Management Division, San Joaquin County

Representative from Department of Water Resources

Dennis Clark, Project Manager, U.S. Army Corps of Engineers, Sacramento District

James Giottonini, Executive Director, San Joaquin Area Flood Control Agency

1:30 p.m. DEPART for Discovery Bay

Route: Left onto 12, Left onto 160, Take 4E, Left on Discovery Bay Blvd, Right on Willowlake at Boardwalk Grill sign, Right on Marina.

En route: Delta Islands & Levees Feasibility Study and the CALFED Levee Stability Program

Representative from Department of Water Resources

Dennis Clark, Project Manager, U.S. Army Corps of Engineers, Sacramento District

Brooke Schlenker, Water Resources Planner, U.S. Army Corps of Engineers

Brief overview of Discovery Bay and the Two-Gates Project
Chris Neudeck, Vice President, Kjeldsen, Sinnock & Neudeck, Inc.

2:30 p.m. **ARRIVE** Discovery Bay

Two-Gates Project, flow modification, access challenges and salinity concerns, compare with Franks Tract project

Speakers:

Mario Manzo, Bureau of Reclamation

Mike Guzzardo, Media Relations Director, Save the California Delta Association

3:30 p.m. **DEPART** for Jones Tract

Route: 4E to Left on Bacon Island Rd. Follow to end where there is a gravel pullout and house.

Brief overview of levee failure at Jones Tract

Chris Neudeck, Vice President, Kjeldsen, Sinnock & Neudeck, Inc.

3:45 p.m. **ARRIVE** Jones Tract

Delta levee stability, DRMS levee failure, levee rehabilitation

Speakers:

Mark Connelly, Engineering Services Manager, Flood Management Division, San Joaquin County

Chris Neudeck, Vice President, Kjeldsen, Sinnock & Neudeck, Inc.

4:15 p.m. **DEPART** for Hilton Stockton

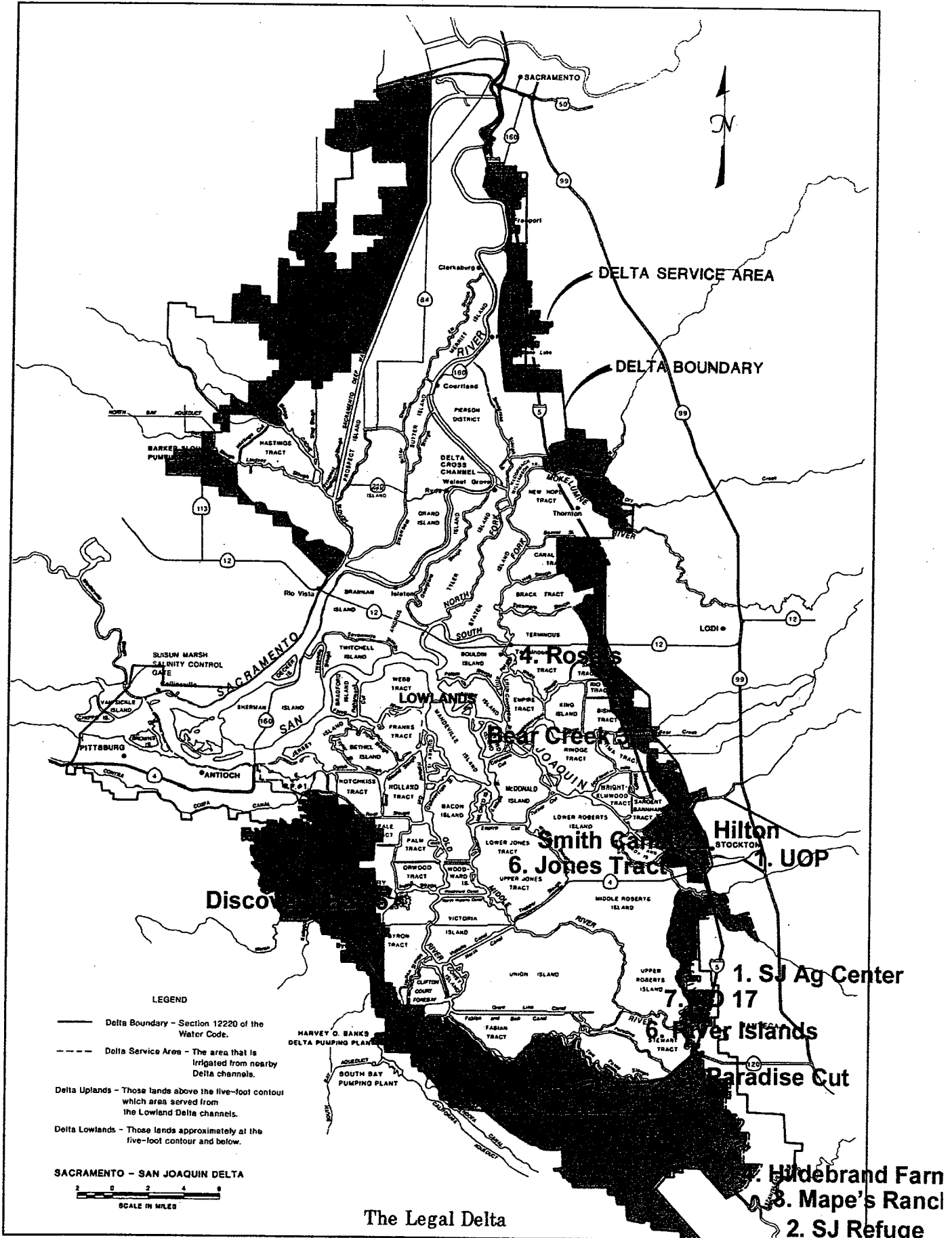
Route: 4E to 5N, Take W March Lane exit, Right, Right Da Vinci Ln, Left on Grand Canal Blvd

En route: Traditional approach of funding flood control projects and new paradigm where local and State governments are moving ahead of the of federal government and funding flood control project

Jay Punia, Executive Officer, Central Valley Flood Protection Board

5:00 p.m. **ARRIVE** Hilton Stockton, 2323 Grand Canal Blvd, Stockton, California, United States 95207-8233, 1-209-957-9090

DAY 1  **DAY 2** 



**ATTACHMENT
I.D.**



Delta Counties Coalition

Contra Costa County · Sacramento County · San Joaquin County · Solano County · Yolo County
"Working together on water and Delta issues"

April 20, 2010

The Honorable Denise Moreno Ducheny
Chair, Senate Budget & Fiscal Review
California State Senate
State Capitol Room 5019
Sacramento, CA 95814

The Honorable Bob Blumenfield
Chair, Assembly Budget
California State Assembly
State Capitol Room 6026
Sacramento, CA 95814

The Honorable Joe Simitian
Chair, Senate Budget Subcommittee #2
California State Senate
State Capitol Room 2080
Sacramento, CA 95814

The Honorable Ira Ruskin
Chair, Assembly Budget Subcommittee #3
California State Assembly
State Capitol Room 3123
Sacramento, CA 95814

RE: Funding for 2009 Delta Legislation Implementation

Dear Chairpersons Ducheny, Blumenfield, Simitian, and Ruskin,

We are writing to request funding to support local implementation of the 2009 Delta legislation.

As you heard during the March 9th Joint Hearing of the above-referenced committees you chair, various state and federal entities described what must be done in the coming months and years to implement the 2009 Delta legislation.

What was not discussed at that hearing is that the Delta Counties not only share similar responsibilities, but also now have many other responsibilities that are expected to link to or coordinate with various other aspects of the Delta legislation. These responsibilities have been added in an environment where local budgets are already inadequate for protecting the health, safety and welfare of the residents within our jurisdictions.

The Delta Counties believe our full participation in the Delta Protection Commission (DPC) is essential to addressing the interests and needs of the Delta. The DPC is the only state institution that ensures the level of local representation we deem critical to the work of the Delta Stewardship Council (DSC). The DPC also provides a forum on Delta issues that is more accessible to our constituents than the forum provided by the Delta Stewardship Council. Additional DPC involvement in Delta issues, including analysis of Bay-Delta Conservation Plan

proposals, will help the state by both providing independent analysis of Delta proposals and engaging stakeholders in developing appropriate mitigation measures and other compensation mechanisms related to Delta solutions.

In order to accomplish these important goals, however, there needs to be a significant increase in funding to the DPC. We recognize the FY 2010/11 budget increased the DPC budget by \$2 million, in large part to complete the Delta Economic Sustainability Plan by July 1, 2011. This funding level must be increased in FY 2010/11 because the 2009 Delta legislation has added new responsibilities onto the DPC that go far beyond the Economic Sustainability Plan or the DPC's ongoing responsibility for coordinating local General Plans in the Delta primary zone. The DPC's added responsibilities include:

- Developing a funding strategy to implement the Economic Sustainability Plan and provide recommendations to the legislature and federal agencies on the Delta Investment Fund (PRC §29778.5).
- Reviewing and commenting to the DSC on significant projects proposed within the scope of the Delta Plan (PRC §29773).
 - First up will be the need to comment on the draft Bay-Delta Conservation Plan (BDCP) and its draft Environmental Impact Report/Statement. To properly assess potential impacts on the Primary & Secondary Zones of the Delta, the DPC will need independent access to consultants (e.g.; economists, hydrologists, and biologists) to address the BDCP proposals.
- Recommending to the DSC a proposal to protect, enhance and sustain the unique cultural, historical, recreational, agricultural and economic values of the Delta as an evolving plan, in a manner consistent with the coequal goals (PRC §85301) .
- Reviewing and commenting to the Delta Conservancy's Strategic Plan (PRC § 32376).
- Updating of the Resource Management Plan to be consistent with the Delta Plan.

As a starting point for the budget discussion, we would like to propose the following:

- ✓ Make all DPC "(FTE)" staff positions permanent. In addition, grant the DPC's original budget request of nine new permanent FTEs and add three additional permanent FTEs (professional positions) to staff the new committees established by the DPC to cover both their additional responsibilities and the DPC Chair's position on the DSC. We also urge adding several more administrative staff positions to the DPC, given the expanded responsibilities and the lack of current administrative support. We note that additional funding should be provided to elevate certain DPC positions to a higher classification to put them on par with DSC staffing.
- ✓ Consultant costs for FY 2010/11 are proposed in order to complete the Economic Sustainability Plan. In FY 2010/11 "operating expenses and equipment" for DPC is funded at \$1.7 M, which is an increase \$1.42M compared to FY 2009/10. Given the

range of responsibilities now entrusted to the DPC, the FY 2010/11 funding level for operating expenses and equipment should be increased by \$500,000 to fund consultants to review BDCP studies, draft environmental documents, and to review findings in the Delta Plan that impact resources in the primary zone and secondary zone. This will provide funding capacity for consultants to assist the DPC and recognizes that DPC's responsibilities extend far into the future if the implementation of the Delta Plan is to be successful.

Given the significant role the Delta Counties must play in the execution of the actions that are contemplated in the Delta legislation, and because of the Delta Plan's critical importance to the communities of the Delta, it is very important that there is sufficient funding to the Delta Protection Commission to accomplish the tasks described above.

Sincerely,



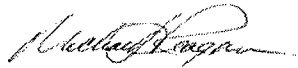
Mary Nejedly Piepho
Supervisor, Contra Costa County



Don Nottoli
Supervisor, Sacramento County



Larry Ruhstaller
Supervisor, San Joaquin County



Michael J. Reagan
Supervisor, Solano County



Mike McGowan
Supervisor, Yolo County



Delta Counties Coalition

Contra Costa County · Sacramento County · San Joaquin County · Solano County · Yolo County
"Working together on water and Delta issues"

May 4, 2010

The Honorable Barbara Boxer
United States Senate
112 Hart Senate Office Building
Washington, DC 20510

Dear Senator Boxer:

On behalf of the Delta Counties Coalition (DCC), a consortium of the California Counties of Contra Costa, Sacramento, San Joaquin, Solano and Yolo, we are writing to seek your support for the inclusion of language in the next Water Resources Development Act (WRDA) that would permit the Army Corps of Engineers to participate in the development and implementation of a variety of critically important water resource-related projects within the Delta.

The attached language, authorization for the Sacramento-San Joaquin Delta Water Infrastructure project, is intended to better secure the assistance of the Corps of Engineers in efforts to develop and implement a comprehensive solution to the water resource problems facing the Delta. Among other things, our proposal seeks to provide the Corps with the authority to participate in levee improvement, water supply and water quality projects as well as critical ecosystem and habitat restoration initiatives.

We look forward to working with you to shape an authorization that will allow the Corps to become a full partner in efforts to address the many water resource-related problems in the Delta. We stand ready to work with you and others in our congressional delegation to develop and implement solutions that seek to address the Delta issues in a comprehensive, sustainable manner.

If you or your staff has any questions concerning this very important matter, please do not hesitate to contact us.

Sincerely,

Mary Nejedly Piepho
Supervisor, Contra Costa County

Michael J. Reagan
Supervisor, Solano County

Don Nottoli
Supervisor, Sacramento County

Larry Ruhstaller
Supervisor, San Joaquin County

Mike McGowan
Supervisor, Yolo County



2010 WRDA Project Requests Senator Barbara Boxer

Application Name: WRDA.DeltaCountiesCoalition.Sacramento-San Joaquin Delta Water Infrastructure

Personal Information	Mailing Address	Permanent Address
Name: Gwinn, Roger	1130 Connecticut Avenue, NW	1130 Connecticut Avenue, NW
Phone: 202-331-8500	Suite 300	Suite 300
Email: rgwinn@tfgnet.com	Washington, DC 20036	Washington, DC 20036

Project/Study/Activity Requests

1. Name of Project
Sacramento-San Joaquin Delta Water Infrastructure
2. Location (include city, county, and state)
5-Delta Counties (Contra Costa, Sacramento,...
3. Corps District(s)
Sacramento and San Francisco
4. Non-Federal Sponsor Contact Information (name, phone, e-mail address)
Contra Costa Supervisor Mary Piepho, 925-820-8633
5. If this request is for a construction authorization, does the project have a completed Corps Report?
• *No*
6. Does this request modify an existing authorization?
• *No*
7. If yes, then please provide reference for the existing authorization
No Answer Given
8. Project Cost
\$66,000,000

Policy/Programmatic/Other Language Requests

1. Provision Title
No Answer Given
2. Geographic Areas Affected (if applicable)
No Answer Given

Description of Purpose and Need for Request

1. Description of Purpose and Need for Request

The proposed Sacramento-San Joaquin Delta Water Infrastructure authority will help the Delta Counties address current flood protection, water supply, water quality, and environmental restoration challenges facing the Delta. Specifically, the requested authority will allow the Corps of Engineers to

cost-share a variety of water-related environmental infrastructure and resource protection and development projects, including projects for: wastewater treatment and related facilities; water supply and related facilities; water conservation and related facilities; stormwater retention and remediation;

environmental restoration; surface water resource protection and development; and projects that support the Delta Long-Term Management Strategy.

The Sacramento-San Joaquin Delta is the largest estuary on the Pacific Coast of the United States and includes watersheds from the Calaveras, Consumnes, Mokelumne, San Joaquin and Sacramento Rivers. This watershed accounts for nearly half the snowmelt and runoff of the entire state. Located

east of the San Francisco Bay Area and Suisun Marsh at the confluence of the Sacramento-San Joaquin Rivers, the Delta stretches inland nearly 50 miles and includes portions of the City of Sacramento at its northern point, the City of Tracy at its southern point, and spanning 25 miles east and west from the

Cities of Antioch to Stockton. In total, the Delta encompasses an area of over 1,150 square miles with 57 islands and tracts surrounded by 700 miles of sloughs and channels.

The Delta Counties are greatly concerned about the decline in the Delta ecosystem. This new authority is needed to help ensure that current efforts to address this decline are carried out in a manner that not only achieves the desired environmental benefits but achieves them in a manner that is sustainable and will also protect public safety and the economic vitality of the Delta communities.

Proposed Authorization Language:

“SEC. __. Sacramento-San Joaquin Delta Water Infrastructure.

(a) Definitions.--In this section, the following definitions apply:

(1) Secretary.—The term ‘Secretary’ means the Secretary of the Army, acting through the Chief of Engineers.

(2) State.—The term ‘State’ means the State of California.

(b) Program.--The Secretary may establish a pilot program to provide environmental assistance to non-Federal interests in the Counties of Sacramento, Yolo, Solano, San Joaquin and Contra Costa, California.

(c) Form of Assistance.—Assistance under this section may be provided in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in the State, including projects for—

- (1) wastewater treatment and related facilities;*
- (2) water supply and related facilities;*
- (3) water conservation and related facilities;*
- (4) stormwater retention and remediation;*
- (5) environmental restoration;*
- (6) surface water resource protection and development; and*
- (7) Delta Long-Term Management Strategy.*

(d) Local Cooperation Agreement—

(1) In General.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) Requirements.—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) Plan.—Development by the Secretary, in consultation and coordination with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) Legal and institutional structures.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) Cost-sharing—

(A) In general.—The Federal share of project costs under each local cooperation agreement entered into under this subsection—

(i) shall be 75 percent; and

(ii) may be in the form of grants or reimbursements of project costs.

(4) Pre-cooperative agreement activities.—The Federal share of the cost of activities carried out by the Secretary under this section before the execution of a local cooperative agreement shall be 100 percent.

(5) In-Kind Contributions.—The Secretary shall credit toward the non-Federal share of the cost of the

project the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(6) Credit for interest.—In case of a delay in the funding of the Federal share of the costs of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the Federal share of the costs of the project.

(7) Land, easements and rights-of-way credit.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(8) Operation and maintenance.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(e) Applicability of Other Federal and State Laws.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) Nonprofit Entities.—In accordance with section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(g) Delta Islands and Levees Feasibility Study.—The Secretary is authorized and directed to incorporate local agencies into the planning process directly, requiring input from the Counties of Sacramento, Yolo, Solano, San Joaquin and Contra Costa, California, the local flood control and reclamation districts in the region and other local stakeholders early in this process to aid in determining the scope, and content of the Delta Islands and Levees Feasibility Study.

(h) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section \$50,000,000, to remain available until expended.”

**ATTACHMENT
II.A.**



NOTICE OF PUBLIC WORKSHOPS

To seek public input on the development of regulatory and non-regulatory programs to manage salt & nitrate in Central Valley waterbodies and potential modifications of Central Valley Basin Plans

NOTICE IS HEREBY GIVEN that the Central Valley Salinity Coalition (CVSC) and the CV-SALTS Executive Committee, in cooperation with the Central Valley Regional Water Quality Control Board staff, will hold public workshops to seek input on the information that CV-SALTS should consider in developing salt and nitrate management plans and proposing modifications or amendments to the Water Quality Control Plan for the Sacramento River, San Joaquin River and Tulare Lake Water Basins and Sacramento Bay Delta (Basin Plans) that may incorporate new or revised numeric objectives and management plans, and a program of implementation for application to manage Salts and Nitrate to in Central Valley surface water and groundwater.

Supplemental information regarding the CV-SALTS Initiatives and the need for management plans and potential Basin Plan amendments is available on the Central Valley Salinity Coalition website at: www.cvsalinity.org.

These workshops will provide participants with: (1) an opportunity to learn about the CV-SALTS programs including an overview of recent local salt and nitrate pilot implementation studies, (2) Comment on issues and content of future efforts to manage salt and nutrients and develop Salinity Management and Basin Plan amendments and discuss potential changes to water rights.

Workshop Dates:

Date: April 26, 2010

Time: 9:00 AM to Noon

Place: Yolo County Farm Bureau

69 W Kentucky Ave [MAP](#)

Woodland, CA 95695

Date: April 27, 2010

Time: 9:00 AM to Noon

Place: Tulare AgTac

Southern California Edison Agricultural Technology Application Center (AGTAC)

4175 South Laspina Street [MAP](#)

Tulare, CA 93274

Submission of Workshop Comments:

The Central Valley Salinity Coalition will accept comments on behalf of the CV-SALTS Public Education and Outreach and Executive Committees. We will accept both written and oral responses to the questions provided or on any salt and nitrate regulation concerns you have which may help determine the boundaries of the CV-SALTS Initiative. We recommend that responses address the issues raised in the Workshop questions document located at http://cvsalinity.org/index.php/documents/doc_download/340-outreach-meeting-questions-and-information in the format provided for responses. This PDF Document is fillable and responses can be written or pasted into this document. A MS Word version is also available. All written comments should be submitted to Daniel Cozad no later than **12:00 Noon on May 30, 2010** (contact information provided below).

Responses should be submitted by email to info@cvsalinity.org (if less than 15 megabytes in total size) or by fax at 860-736-8498. Please indicate in the subject line, "Workshop Questions Responses CV-SALTS Initiative Initial Outreach Workshops." Electronic submission via e-mail is strongly preferred. Comments provided at the Workshops will be reviewed and considered by the CV-SALTS Committees and Board Staff during the development of the CV-SALTS work. CV-SALTS anticipates Salinity and nitrate management plans and the Basin Plan amendments in 2013. The Central Valley Regional Water Quality Control Board will consider the amendments shortly thereafter.

WHO SHOULD ATTEND

All groups or individuals interested in or concerned about water quality and/or quantity, salinity, nitrate, water supply, and regulatory and non-regulatory controls of salt and nitrate in or who utilize Central Valley waters are encouraged to attend. This includes, but is not limited to, public and private land owners and facility managers; agricultural producers; commercial industries groups, academic faculty and students, water and wastewater ratepayers, taxpayer associations, water district managers; wastewater treatment and disposal managers; environmental groups; recycled water and water efficiency advocates, city and county officials in charge of land use planning and storm water management; and other federal, state and local lawmakers, regulators, and water management officials.

REGISTRATION

To assist the facilitators in Workshop logistics and event check-in we request that you register in advance. There is no charge for registration and it is not mandatory.

For Woodland on April 26, 2010 at <http://cv-salts-4-26.eventbrite.com/>

For Tulare on April 27, 2010 at <http://cv-salts-4-27.eventbrite.com/>

If you have problems registering email info@cvsalinity.org or call (888) 826-3635

CONTACT INFORMATION

Questions regarding this notice should be directed to Daniel Cozad at dcozad@cvsalinity.org or (888) 826-3635. To continue receiving notifications regarding CV-SALTS efforts, you must subscribe to the "CV-SALTS program at <http://cvsalinity.org/index.php/component/user/?task=register> or by sending your contact information to info@cvsalinity.org.

Workshop facilities are accessible to people with disabilities. Individuals requiring special accommodations are requested to contact Mr. Cozad at or (888) 826-3635 at least 5 working days prior to the meeting. TTY users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922.



Date: April 22, 2010
To: Board of Directors/Kevin M. Kauffman
From: Karna E. Harrigfeld
Subject: Stockton East Water District/CV Salts
File: 1026-020.002

The Central Valley Regional Water Quality Control Board (Regional Board) and State Water Resources Control Board (State Water Board) have initiated a comprehensive effort to address salinity problems in California's Central Valley and adopt long-term solutions that will lead to enhanced water quality and economic sustainability. The Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) is an effort to develop and implement a comprehensive salinity/nutrient management program.

The goal of CV-SALTS is to develop a region-wide Salt and Nitrate Management Plan (Plan). The Plan will be developed and implemented through amendments to the three water quality control plans that cover the Regional Water Board's jurisdictional area, which include the Sacramento and San Joaquin Rivers' Basin Plan, the Tulare Lake Basin Plan and the Sacramento/San Joaquin Rivers Bay-Delta Plan. This comprehensive basin plan amendment will involve: 1) the review of all surface and groundwater basins through the region to expand the listed water bodies and to confirm, revise or add designated beneficial uses of water bodies currently listed or added, 2) the review and establishment of applicable water quality objectives to meet the beneficial uses, and 3) to establish a comprehensive implementation plan to achieve the water quality objectives.

The Regional Board and State Water Board have convened a stakeholder process to develop the Plan. In an effort to provide funding for this process the Stakeholders in July 2008 formed the Central Valley Salinity Coalition (CVSC) which is a non-profit organized to facilitate and fund efforts needed for management of salinity in the Central Valley. The CV Salts initiative process has established three Committees. The committees are the Executive Committee, the Technical Advisory and Economic Committee, and the Public Outreach Committee. I participate in both the Technical Advisory committee as a member and on the Executive committee as a "participant." Only members of the CVSC can be members of the Executive committee.

The CV-SALTS stakeholder process is the Regional Board's primary mechanism to conduct the necessary studies, research and develop technical and science reports to develop all components of the basin plan amendment and to implement the Plan once it's adopted by the Board. Work to be done includes data collection, data base development, modeling, monitoring, research, studies and pilot project study programs.

Due to the complexity and far-reaching impacts of the Plan, the Regional Board has encouraged all users of Central Valley waters, within and outside of the Regional Water Board's jurisdictional area to participate as stakeholders. The Regional Water Board believes all stakeholders should be very involved in the development of basin plan amendments that could affect the use designation and quality of Central Valley waters they use.

The CVSC has asked Stockton East to join the non-profit organization. I have included the existing member agencies and their financial contribution.

Member	First Contribution	Class/Type	Notes
California Association Sanitary Agencies (CASA)	\$ 50,000	Association*	Board
Central Valley Clean Water Association	\$ 25,000	Association	Board
City of Fresno	\$ 25,000	Large	Board
San Joaquin Valley Drainage Authority	\$ 25,000	Association	Board
City of Stockton	\$ 25,000	Large	Board
Cal League of Food Processors	\$ 25,000	Association	Board
City of Tracy	\$ 25,000	Medium	Board
Wine Institute	\$ 25,000	Association	Board
Mountain House CSD	\$ 10,000	Small	Partial 2009
Discovery Bay CSD	\$ 10,000	Small	
City of Modesto	\$ 25,000	Large	Board
Iron House SD	\$ 10,000	Small	
Sacramento Regional Sanitation Dist.	\$ 25,000	Large	Board
San Joaquin River Group	\$ 25,000	Large	Board
California Rice Commission	\$ 25,000	Association	Board
City of Manteca	\$ 25,000	Medium	Board
East San Joaquin Water Quality Coalition	\$ 25,000	IL WQC	Board
Western United Dairymen	\$ 10,000	Association	
Pacific Water Quality Association	\$ 5,000	Association	
Agricultural Council of California	\$ 1,000	Association	
* CASA paid 2 years as founding member			

The State and Regional Boards have basically said anything having to do with salt in the Central Valley needs to come through the CV Salts Initiative process. Two significant issues that have recently come before the committees have been the Grasslands Bypass Project and San Joaquin River Salinity Upstream Objectives. At its April 21, 2010 meeting, the Regional Board suggested that the CV Salts Technical Committee be assigned the task of proposing salinity objectives upstream of Vernalis. Obviously, we

are keenly interested in this process and I think it is very important that we stay engaged.

As you can see from the membership list, many of the key entities involved with the San Joaquin salinity issues have joined the CVSC. I have mixed feelings as to whether or not it would be in the best interest of the District to join the CVSC. On the one hand, in order to be a voting member of the Executive committee the contribution level must be \$25,000 which is a significant amount of money when you consider that I actively participate and shape decisions as a "participant." On the other hand, the State and Regional Boards are actively requesting broad stakeholder participation and since we have a significant stake in the outcome, I think it may be important to show commitment by joining CVSC.

**ATTACHMENT
III.A-C.**

The Cost to Fix the Delta is approximately \$39 Billion

Major reform of the state's water system over the next 25 to 50 years is proposed, heedless of the enormous budget impacts involved, just when the state's financial condition has never been more dire.

A realistic assessment of the total costs to fix the Delta is approximately \$39 billion.

The \$39B cost is the sum of two major components:

- A. \$14B for conveyance, including full mitigation;
- B. \$25B for new programs and projects in the Delta;

A series of huge capital projects would be initiated by the Delta legislation including: new Delta conveyance, construction of several new surface storage reservoirs, construction of other local water management and delivery projects, Delta levee upgrades, ecosystem restoration, and creation of three new state agencies and expanded state programs to prepare and implement the Delta Plan.

If the \$11.14B water bond measure proposed for the November 2010 ballot is approved by voters, which requires a minimum of \$10B in non-state matching costs, this will add about \$21B in additional costs to be addressed during a similar time period as the Delta fix.

A. The exporters have repeatedly stated they will pay the cost of new conveyance.

2010 information from the BDCP proponents indicates the cost of isolated facility construction would be \$10B for a canal and \$12B for a tunnel. The Delta legislation requires "full mitigation of property tax or assessments levied by local governments or special districts for land used in the construction, location, mitigation, or operation of new Delta conveyance facilities." Conveyance costs that cover full mitigation, including tax payments and assessments are estimated at \$14B recognizing that the canal involves much greater acreage for construction and consequently more mitigation when compared to the tunnel. This total does not include substantial operation and maintenance costs for new facilities that will be paid by its owners.

B. \$25B of new programs and projects will be needed to implement the "Delta Plan." This \$25B of new costs will need to be funded somehow whether through a surcharge or fee or other means.

- \$25B in new costs spread over 50 years would require \$500M per year in new or additional fees or revenue, not counting cost increases over time.

This \$25B would provide:

- \$10B for ecosystem restoration
 - Delta ecosystem restoration is a required element of the Delta Plan, which is likely to incorporate the BDCP habitat conservation measures. Major items include 80,000 acres of habitat restoration (65,000 acres tidal, 5,000 acres riparian, and 10,000 acres

- floodplain); protection of terrestrial habitat and non-tidal wetlands; measures to address pollution and other causes of ecosystem stress; measures to address non-native invasive species; and measures to address harvest and hatchery management.
- The single largest ecosystem cost will be marsh habitat restoration for which there are comparable examples in southern San Francisco Bay, the Napa Salt Marsh, and Hamilton AFB. Full restoration costs can exceed \$40,000 per acre and marsh habitat restoration alone may exceed \$3B.
 - Preliminary BDCP cost estimates for less than half of the other 30-plus conservation measures were withdrawn in late 2009 for further analysis; however, costly items at that time included: non-physical barriers for juvenile salmon (\$491M), fish screening (\$428M), Chinook salmon mark-select program (\$335M), program administration (\$232M), Salmon-Steelhead illegal harvest reduction (\$207M), Mercury remediation (\$161M), and invasive species control stations (\$109M) with many other items yet to be estimated. The collective total of these seven items is \$2B.
 - The combination of marsh restoration plus seven of 30 conservation measures is over \$5B with many conservation measures yet to be estimated, including urban runoff measures, terrestrial habitat, non-tidal wetland habitat and maintenance costs. The complete cost of all measures could approach \$10B and the Delta Plan may include the entire list regardless of whether they end up in BDCP or not.
- \$14B in levee repair and strengthening
 - The estimated cost for Delta levees is based on work conducted under DWR's *Delta Risk Management Strategy* where costs for improving Delta levees to a variety of standards were estimated by DWR. The cost to improve the Delta levees to a seismically resistant standard was estimated at \$13.8B in 2008 dollars, which is more than \$14B in 2010 dollars. The cost to improve Delta levees to an agricultural standard would be less, but would not reduce or eliminate risk of failure due to earthquake.
 - For reference, DWR estimated in 2005 that a catastrophic earthquake in the Delta could cause \$30B – \$40B in economic harm to California meaning that the cost of not improving the levees could be much greater than the upgrade costs. Alternative conveyance will not be on-line in the near term to avoid this risk.
 - Over \$1B in Program Administration to implement the Delta Plan
 - The proposed FY 11 budget of the Delta Stewardship Council, which supplanted and incorporated the CALFED Bay-Delta Program via enactment of the Delta legislation, is \$49M per year, a continuing annual cost to implement the Delta Plan. If this level of cost continued for 25 years, the total would be over \$1B to be satisfied by new fees.
 - New enforcement staff (25 FTE) for the SWRCB to enforce Delta water rights, as approved by the Delta legislation at a cost of \$3.75M/yr, will be funded by increases to existing water rights fees paid by water right holders. If this level of cost continued for 25 years, the total would be over \$100M to fee payers.

PART II

The General Obligation bond of \$11.14B has been linked to the “Delta package” but the actual price tag of the water projects identified in this GO bond measure is \$21.3B.

The proposed \$11.14B bond measure (Cogdill, SB7X 2) contains several chapters where new costs and required matching are identified for delta improvements and infrastructure throughout the state:

- Chapter 5 - \$0.455B for Drought Relief with a required match of \$0.19B.
- Chapter 6 - \$1.4B for water supply reliability and conveyance projects in hydrologic regions throughout the State with a required match of \$1.4B in non-state funds.
- Chapter 7 - \$2.25B for Delta Sustainability, including \$1.5B for ecosystem restoration and \$0.75B for local improvements, including levee improvements. \$0.75B in matching required.
- Chapter 8 - \$3B for the public benefit portion of qualified storage projects and groundwater projects. SB7X 2 requires at least 50% matching and Sen. Cogdill stated in Committee (10/28/09) that total cost of 3 dams under study is \$8B (\$5B of \$8B is non-state match).
- Chapter 9 - \$1.785B for watershed and coastal protection throughout the state plus \$1.785B in matching (DWR Fact Sheet on bond specifies the required match).
- Chapter 10 - \$1.0B for groundwater cleanup and water quality improvement.
- Chapter 11 - \$1.0B for water recycling projects with non-state matching of at least \$1.0B.

Due to the local match requirements of the bond bill, water customers will also have to pay \$10.125B to receive state assistance in major categories set forth in the bond measure.

Therefore, **the actual cost of the various proposed water infrastructure projects identified in the existing bond measure is \$21.3B.** This total excludes the annual interest cost of the bond to be paid from California’s depleted general fund.

Appellate Court Upholds Salinity Standards and Dissolved Oxygen Studies in the Sacramento-San Joaquin River Basin

Decision Will Affect San Joaquin Valley Farmers

APRIL 21, 2010



In a decision last week, the Third Appellate District upheld two amendments to the Water Quality Control Plan for the Sacramento and San Joaquin River Basins (Basin Plan). The decision will require San Joaquin Valley farmers to stop irrigation runoff from entering the San Joaquin River unless it meets new salinity standards. This case represents yet another example of the broad discretion afforded to the State

Water Resources Control Board to adopt new approaches to water quality regulation, and afforded to Regional Water Quality Control Boards to reach various contributors to an impairment problem. Furthermore, under the court's holding, total maximum daily loads (TMDLs) can be expressed in terms of concentration, not just mass. This means that dischargers may not be able to rely upon an average and will more likely face penalties due to seasonal peaks of certain constituents.

The amendments upheld in *San Joaquin River Exchange Contractors Water Authority v. State Water Resources Control Board*, 2010 SOS 2014 (April 13, 2010), were adopted by the State Water Resources Control Board and the Central Valley Regional Water Quality Board (the Boards). They establish TMDL discharge limits for salt and boron in the lower San Joaquin River between Mendota Dam and Vernalis, and require dischargers to conduct studies on dissolved oxygen in Stockton's deep water ship channel to set a future dissolved oxygen TMDL (DO Amendment).

The amendments withstood challenges from San Joaquin River Group Authority and San Joaquin River Exchange Contractors Water Authority (the Petitioners), public agencies and mutual water companies that supply irrigation water to farmers, under federal and state water quality law and the California Environmental Quality Act (CEQA). First, the court rejected Petitioners' argument that the salt/boron TMDL violated the federal Clean Water Act and the state Porter-Cologne Water Quality Control Act by failing to implement an applicable Water Quality Objective (WQO). The Boards adopted the TMDL under a salinity WQO for Vernalis, the lowest downstream point on the San Joaquin River, pending the development of a salinity WQO for the lower San Joaquin River. The court held that interim use of the Vernalis WQO was reasonable, noting that, because Vernalis is unaffected by tidal influence from San Francisco Bay and the lower

San Joaquin River is the only source of salts, salt and boron loads at Vernalis are equal to the total load from the entire salt/boron TMDL project area. For the same reason, the court found that, under the Porter-Cologne Water Quality Control Act, Vernalis and the lower San Joaquin River are reasonably linked so as to constitute a single "specific area" for the WQO.

Next, the court held that TMDLs can be expressed in terms of concentration, in addition to mass per time and toxicity. The Petitioners argued that the salt/boron TMDL must regulate "load," which by definition means the "amount of matter" introduced into the water, not concentration. The court disagreed noting that the applicable code section states TMDLs "can be expressed in terms of either mass per time, toxicity, *or other appropriate measure.*" The court found that concentration is an appropriate measure.

Finally, the decision confirms that certified regulatory programs, such as the Water Quality Control Plan, need not engage in independent CEQA review provided that a program-generated written report provides sufficient analysis. The court found that the staff report for the salt/boron TMDL constituted an EIR-equivalent because it described the project, evaluated four alternatives and fifteen implementation options, included an environmental impact checklist that significantly discussed potential impacts and mitigation measures, adopted a statement of overriding considerations for potentially significant impacts, and was made available to the public for a reasonable amount of time. In regards to the DO Amendment, the court held that CEQA review was not required until after the initial studies are complete, and the TMDL allocations and other restrictions are reconsidered.

In addition to having a significant direct impact on San Joaquin Valley farmers, irrigation districts and others that discharge into the San Joaquin and Sacramento Rivers, the upheld salt/boron TMDL will have an indirect impact on the operations of the U.S. Bureau of Reclamation's Central Valley Project because of Reclamation's 1939 "exchange contract" with San Joaquin River water users who lost their water source when Reclamation built Friant Dam 70 years ago and diverted nearly all of the river's flows to irrigation districts on the San Joaquin Valley's east side. Under the exchange contract, Reclamation replaces the diverted flows with water pumped southward from the Delta that is more apt to contain problematic constituents.

For more information on this published decision and its potential impact on your projects, please contact your BB&K attorney or a member of the firm's Environmental & Natural Resources Law practice group.

Disclaimer: BB&K e-Bulletins are not intended as legal advice. Additional facts or future developments may affect subjects contained herein. Seek the advice of an attorney before acting or relying upon any information in this communiqué.

Home → Water Issues → Programs → Diversion Use

Statement of Water Diversion and Use Program

FREQUENTLY ASKED QUESTIONS

What is the benefit of filing Statements of Diversion and Use?

How many statements does a diverter need to file if they have more than one point of diversion?

Are 2009 diversions required to be reported this July 1 if a diverter already files triennial Supplemental Statements and their next filing date is not until 2011, or 2012?

What if a diverter misses the July 1 deadline for submitting a Statement?

For which time period is a diverter required to report?

What if a diverter knows the annual amount diverted or stored, but does not know the monthly values?

If a diverter uses both riparian water and contract water, how do they report the difference on their Statements?

If an individual collects "sheet flow" and there is no channel, gravel, or waterway is there still a requirement to report?

Is there a "cap" on the penalty amounts?

Does the diverter report the same amounts if they have both a riparian and Post-1914 appropriative water right for the same beneficial use?

Is a Statement required if the diverter is pumping groundwater?

Is a Statement required if the diverter has adjudicated water rights?

Is a Statement required if the diverter is diverting water from a natural spring?

Will the State Water Board penalize diverters for their use of water before 2009 if they have not yet filed an Initial Statement?

What is the "enforcement plan" for the new Statement penalties?

If a diverter filed an Initial Statement of Diversion and Use in the past, but did not file any of the required Supplemental Statements, what should they do?

Do Initial Statement filers need to use the new electronic water use reporting system?

[View / Download Blank Initial Statements of Diversion and Use forms](#)

What is the benefit of filing Statements of Diversion and Use?

The State Water Board maintains the official records for water rights in the State of California. Therefore, if a water diverter is:

1. Diverting under a valid water right;
2. In compliance with all provisions of the Water Code;
3. Reporting accurate monthly amounts;

then filing Statements of Diversion and Use establishes an official record of compliance with State law.

Water diverters with records on file are notified directly by the Division of Water Rights if someone is applying for a water right to divert water upstream from their diversion. Existing water diverters will be able to file a protest of these intended diversions.

In years of water shortage, Statements of Water Diversion and Use may be able to help a water user continue their diversion.

How many statements does a diverter need to file if they have more than one point of diversion?

Water Code section 5102 requires that a separate statement be filed for each point of diversion, regardless of type of water right claimed.

Are 2009 diversions required to be reported this July 1 if a diverter already files triennial Supplemental Statements and their next filing date is not until 2011, or 2012?

No. Diverters with existing Statements on file should continue to report on their next filing date.

What if a diverter misses the July 1 deadline for submitting a Statement?

The State Water Board can assess an initial \$1,000 penalty for failure to file, plus \$500 per day after notification from the State Water Board.

For which time period is a diverter required to report?

Initial Statements filed before this year's July 1 deadline should report water diverted and used between January 1, 2009 and December 31, 2009.

Supplemental Statements are required at the end of every three years following the Initial Statement filing.

What if a diverter knows the annual amount diverted or stored, but does not know the monthly values?

Monthly report values can be estimated until January 1, 2012, at which time precise monthly diversion and storage amounts become mandatory.

If a diverter uses both riparian water and contract water, how do they report the difference on their Statements?

Only the holder of the water right must report the diversion and use. The riparian water should be reported by the riparian diverter on a Statement of Diversion and Use, the contract amounts are reported by the water district that owns the water right. It is the riparian diverter's responsibility to determine the amount of water they pay for and the amount diverted under a riparian right.

If an individual collects "sheet flow" and there is no channel, gravel, or waterway is there still a requirement to report?

"Sheet flow" is informally defined as "a flow of water that originates from precipitation, snowmelt, or rising groundwater that covers a large aerial extent of the ground surface in a relatively thin film and is not concentrated into a watercourse."

If the collection is truly "sheet flow" and not a diversion from a known and definite channel, then there is nothing in the Water Code that requires reporting to the State Water Board.

Is there a "cap" on the penalty amounts?

No. In determining the appropriate penalty amount, the State Water Board shall consider all relevant circumstances, including, but not limited to:

- The extent of harm caused by the violation.
- The nature and persistence of the violation.
- The length of time over which the violation occurs.
- Any corrective action undertaken by the violator.

Does the diverter report the same amounts if they have both a riparian and Post-1914 appropriative water right for the same beneficial use?

No. Report the amount diverted for each point of diversion under the riparian right on a separate the Statement of Diversion and Use.

The amount diverted under a post-1914 water right should be reported on a Report of Permittee or a Licensee Report.

Is a Statement required if the diverter is pumping groundwater?

Only if the diverter is pumping from known subterranean streams.

Is a Statement required if the diverter has adjudicated water rights?

Yes. To the State Water Board's knowledge, there are no watermasters in the State currently providing detailed diversion reports. Therefore the responsibility belongs to individual diverters.

Groundwater diverters in adjudicated Southern California water basins are always exempt from filing Statements.*

**If the diverter is pumping groundwater from an unadjudicated basin in San Bernardino, Los Angeles, Riverside, or Ventura counties, a different form is required.*

Is a Statement required if the diverter is diverting water from a natural spring?

Yes. The only exception is if the diversion meets the following two criteria:

1. The diversion is from a spring that does not flow off the property on which it is located; and
2. The total diversion amounts from the spring do not exceed 25 acre-feet per year.

Will the State Water Board penalize diverters for their use of water before 2009 if they have not yet filed an Initial Statement?

Administrative penalties for failure to file a Statement before July 1, 2010 can only be imposed for water diverted on and after January 1, 2009.

What is the "enforcement plan" for the new Statement penalties?

The State Water Board is aware of specific individuals who may need to report. The State Water Board has notified some of these individuals and may provide notification to other individuals depending on resources. Whether or not the State Water Board provides actual notification, the State Water Board can assess a penalty for a reporting violation. Water diverters must take responsibility for compliance with the laws.

The State Water Board will vigorously enforce the new laws.

The Division is in the process of hiring 25 additional investigative staff which will triple our ability to investigate unlawful diversions and failure to file statements.

If a diverter filed an Initial Statement of Diversion and Use in the past, but did not file any of the required Supplemental Statements, what should they do?

File a new Initial Statement of Diversion and Use.

Do Initial Statement filers need to use the new electronic water use reporting system?

No. Initial Statements of Diversion and Use can only be filed on paper.

However, diverters filing the required Supplemental Statements at the end of every three years following an Initial Statement may be required to report using the online system beginning in 2011.

The State Water Board is considering regulations that will require electronic reporting beginning in 2011.

(Updated 5/13/10)