SOUTH DELTA WATER AGENCY

4255 PACIFIC AVENUE, SUITE 2
STOCKTON, CALIFORNIA 95207
TELEPHONE (209) 956-0150
FAX (209) 956-0154
E-MAIL Jherrlaw@aol.com

Directors:
Jerry Robinson, Chairman
Robert K. Ferguson, Vice-Chairman
Natalino Bacchetti
Jack Alvarez

Engineer:
Alex Hildebrand
Counsel & Manager:
John Herrick

February 29, 2008

Via e-mail klarsen@waterboards.ca.gov

Ms. Karen Larsen
Senior Environmental Scientist
Central Valley Water Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Re: Regional Water Board Actions to Protect
Beneficial Uses in the Sacramento-San Joaquin Delta

Dear Ms. Larsen:

The South Delta Water Agency submits the following comments for consideration at the March 5, 2008, workshop regarding proposed actions to be considered to protect beneficial uses in the Delta. The Central Delta Water Agency also joins in these comments.

Salinity Management Plan. We suggest that this process be expedited as soon as possible. Current policy and technical group discussions suggest that some interests believe more research and data is needed. Sufficient information exists to identify the sources and potential corrective actions needed to be taken. The Board should promptly adopt the upstream salinity standard which is now many years past due. The last conversation I heard between staff and the State Water Resources Control Board was that the Chair of the SWRCB strongly suggested the draft upstream standard be presented no later than September 2007.

As you know, reasonable actions to address the salinity problem should result in an improvement in San Joaquin River quality. If done correctly, it should also include increased minimum flows on the River. Both of these would certainly decrease the concentrations of other constituents of concern, and improve the fisheries to some degree.

Comprehensive Regional Monitoring Plan. We agree that additional information is needed in order to identify and address contaminants and their impacts on beneficial uses.

However, an area-wide monitoring plan will be expensive to fund and difficult to manage. Creating such a program should begin with an analysis of whether or not local discharges of contaminants will result in concentrations of those contaminants which are know or suspected to impair beneficial uses.

For example, it should be much less expensive to develop estimates of discharge concentrations, and then estimate how that concentration would decrease when mixed into neighboring Delta channels. This is not to suggest that contaminant problems do not exist, but that a threshold analysis be done which will allow the limited funds to be focused on the most likely concerns. If any particular discharge results in the contaminants becoming 1000, or 10,000, etc. times diluted, that should enable us to conclude whether a problem is even possible.

Any such monitoring plan would have to include substantial upstream sites in order to determine if the constituents are originating somewhere other than in the Delta. As we have seen with salts, local discharges in the South Delta will always be above the standards if the source water is just at the standard. A discharger should only be accountable for the contaminants he adds to the water, not those he receives in the water, unless his/her/its water is imported into the San Joaquin Delta system.

It is necessary to describe ahead of time how information will be interpreted after it is developed. Without any statistical analysis of the reliability of the sampling, or the criteria against which one will decide if the data is meaningful, conclusions and future actions become simply a subjective decision. It is important for the Board to include interested parties and their consultants in developing such a plan.

Characterization of Delta Island Discharges. As stated above, sampling and testing all Delta drains is an impractical goal. It is like suggesting that every car exhaust be monitored every day. The better practice would be to first determine if and what constituents used in the Delta are of possible concern, then determine if the sampling and remedial actions of the local Coalition are sufficient to address the concerns. If they are not, then the Regional Board may wish to undertake, in cooperation with local interests, additional sampling and other efforts.

Current POD work shows that there may be some invertebrate toxicity in the Delta resulting from pesticide use (Werner, UCD). However, the POD also shows that the total biomass of zooplankton has not changed over time, but that the mix of various species has. This suggests that even if pesticide toxicity affects some biota, it does not create a void in the available food supply. If the changes in the types of zooplankton species affects such things as smelt, one must first decide if any decrease in toxicity will allow the mix of species to return to the types and proportions that existed when the smelt were healthy. Otherwise, efforts to decrease toxicity will have no effect on smelt survival. Suffice to say, the initial analyses of

goals, potential actions, and results are necessary before embarking on a broad data gathering project.

The Regional Board efforts should never include or make reference to assisting the analysis or evaluation of new Delta conveyance facilities. It is the Board job to protect beneficial uses in the waters of the state, not to assist some interests in increasing the reliability of their portion of an insufficient supply. The Board has not sought to analyze Delta water quality which would result from project operations that provide sufficient outflow, sufficient salinity control, or sufficient protections to water depth as required under current law. Exports can only be of water which is surplus to the Delta needs (see Water Code Sections 12203-05).

Increased Enforcement. This suggestion highlights the inadequacies of staff's treatment of the issues. We do not know if pesticides are a cause of substantial toxicity in Delta channels. We do not know if such toxicity has any adverse effects of the pelagic decline or on other species. We do not know to what degree (if any) illegal or misapplied pesticides contribute to toxicity in Delta channels. Not knowing any of this, the staff report suggests numerous times that enforcement actions need to be increased. The Board should focus on finding known causes of water quality impairment, not speculating on potential methods by which undetermined causes might be addressed.

A better approach would be to fund efforts to assist local Ag Commissioners and pesticide producers/seller in working with all farmers (not just in-Delta ones) to reinforce methods of use, develop new practices and work on substitute chemicals.

SDWA and CDWA expect to attend and participate in the March workshop, and will make additional comments as appropriate.

Please call me if you have any questions or comments.

Very truly yours,

JOHN HERRICK

JH/dd
cc: Dante J. Nomellini, Esq.