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STOCKTON EAST WATER DISTRICT

**STATE OF CALIFORNIA
 STATE WATER RESOURCES CONTROL BOARD**

In the Matter of:)	
)	
HEARING TO DETERMINE WHETHER TO)	
ADOPT CEASE AND DESIST ORDER)	FINAL COMMENTS ON DRAFT
AGAINST THE UNITED STATE BUREAU OF)	ORDER ADOPTING CEASE AND
RECLAMATION AND THE CALIFORNIA)	DESIST ORDER AND DENYING
DEPARTMENT OF WATER RESOURCES,)	PETITIONS FOR
AND RECONSIDER THE CONDITIONAL)	RECONSIDERATION
APPROVAL OF THE APRIL 25, 2005 WATER)	
<u>QUALITY RESPONSE PLAN</u>)	

Stockton East Water District (Stockton East), a participant in the above-referenced hearing, hereby submits the following comments to the *DRAFT ORDER ADOPTING CEASE AND DESIST ORDER AND GRANTING MOTIONS FOR RECONSIDERATION -- UNITED STATES BUREAU OF RECLAMATION AND DEPARTMENT OF WATER RESOURCES, SOUTHERN SACRAMENTO-SAN JOAQUIN DELTA.*

In D 1641 the State Water Resources Control Board (State Board) imposed conditions upon all Central Valley Project (CVP) permits requiring compliance with the southern delta salinity objective at Vernalis, and made the CVP and State Water Project (SWP) jointly responsible for complying with salinity objectives at the remaining southern delta compliance points. The State Board also directed the U.S. Bureau of Reclamation (USBR) to consider sources of dilution water other than New Melones for meeting these objectives. WR-2000-02 [D 1641] at pp. 83, 159-160.

In D 1641 the State Board also determined that the water quality benefits of the barriers could also be achieved by other means, but noted that requiring additional flows “could result in an unreasonable use of water.” WR-2000-02 [D 1641] at p. 87. The Draft Order ignores this concern, while at the same time recognizing that Department of Water Resources (DWR) and USBR could meet the salinity objectives imposed by D 1641 through methods other than construction of the permanent barriers:

“DWR’s and USBR’s permit/license conditions do not require construction of permanent barriers as the exclusive method of compliance. Accordingly, this order requires DWR and USBR to develop a plan and a time schedule to comply with their water right permit/license conditions requiring them to meet the 0.7 interior southern Delta EC objectives.” Draft Order at p. 22.

The Draft Order should provide more specific direction to DWR and USBR on what steps should be taken to ensure compliance with the objectives. If the State Board simply directs DWR and USBR to comply with the objectives without further direction, they will look solely to releases from New Melones Reservoir to meet those objectives; as they have stated:

“ . . . imposition of the more stringent 0.7 EC agriculture salinity objective could force DWR and Reclamation to release large quantities of water from upstream reservoirs in an attempt to meet the 0.7 EC objective in the southern Delta.” Draft Order at p. 15.

The State Board has acknowledged that releasing large quantities of water from upstream reservoirs to meet the salinity objectives would likely constitute an unreasonable use of water in violation of the California Constitution. WR-2000-02 [D 1641] at p. 10. The State Board should not remain silent on this issue here.

The Order should require that the plan and time schedule required of DWR and USBR also address the issue of unreasonable use of water and compliance with federal law if compliance measures other than construction of the permanent barriers are proposed for meeting the 0.7 EC objectives in the southern Delta.

Dated: January 10, 2006

Respectfully Submitted,



JEANNE M. ZOLEZZI

PROOF OF SERVICE BY ELECTRONIC MAIL AND U.S. MAIL

I, Rosie Lopez, certify and declare as follows:

I am over the age of 18 years, and not a party to this action. My business address is 2291 West March Lane, Suite B100, Stockton, California 95207, which is located in the county where the mailing described below took place.

I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing. On January 10, 2006 at my place of business a copy of **FINAL COMMENTS ON DRAFT ORDER ADOPTING CEASE AND DESIST ORDER AND DENYING PETITIONS FOR RECONSIDERATION** was placed for deposit following ordinary course of business as follows:

[XX] BY U.S. MAIL with the United States Postal Service in a sealed envelope, with postage thereon fully prepaid.

The envelope(s) were addressed as follows:

Patrick Porgans
Patrick Porgans & Assoc., Inc.
Post Office Box 60940
Sacramento, California 95860

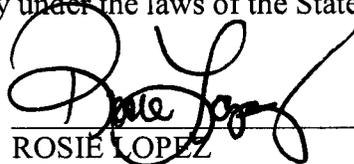
Gary Bobker, Program Director
The Bay Institute
500 Palm Drive, Suite 200
Novato, California 94949

[XX] BY ELECTRONIC MAIL. Based on an agreement of the parties to accept service by e-mail or electronic transmission, on January 10, 2006, at approximately 2:45 p.m. I caused the **NOTICE OF INTENT TO APPEAR** for Stockton East Water District, to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

SEE ATTACHED SERVICE LIST.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: January 10, 2006



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