



# San Joaquin Tributaries Association

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- Modesto Irrigation District
- Turlock Irrigation District
- South San Joaquin Irrigation District

P.O. Box 4060  
Modesto, CA 95352  
(209) 526-7405

- Merced Irrigation District
- Oakdale Irrigation District

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SENT VIA ELECTRONIC TRANSMISSION

November 9, 2011

Dr. Jerry Meral, Deputy Secretary  
California Natural Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, California 95814  
[Jerry.meral@resources.ca.gov](mailto:Jerry.meral@resources.ca.gov)

Re: Bay-Delta Conservation Plan and Bay-Delta Proceedings

Dear Dr. Meral:

Attached is a letter the San Joaquin River Group Authority sent to the State Water Resources Control Board ("SWRCB") one year ago. The SWRCB has ignored the request and is continuing to rush to adopt new San Joaquin River flow objectives. The reason that we're hearing from the SWRCB Board members is, "we need to do something." The San Joaquin Tributaries Association respectfully disagree. At this point in time, the SWRCB does not need to address the San Joaquin River flow objectives because processes are already in place to address this issue.

We write this letter to you because it seems that the sequencing of projects, process and results is seriously wrong. We have been told the Bay-Delta Conservation Plan ("BDCP") is the most critical project/process regarding the Bay-Delta. We agree. If this is correct, then the BDCP process, goals and projects should be the top priority. The current SWRCB does not make the BDCP the top priority and, in fact and politically, actually acts as a subterfuge.

The SWRCB process will set new flow objectives based upon percentage of unimpaired flow. This has two impacts. First, any BDCP environmental documentation depicting San Joaquin River flows will need to be changed. We understand, but have not seen, that the BDCP is using D-1641 as a baseline. In the scheme of things, this is a minor technical adjustment. The problem becomes the political fight. Currently, the San Joaquin Tributaries Association is supportive of the BDCP. Will the valley be supportive of the BDCP, while the SWRCB is taking 20-60 percent of its water?

The second problem is, "How will one model the Sacramento River Basin? If a percentage of unimpaired flow is necessary on the San Joaquin River, then the Sacramento River, which has spring-run, winter-run and *O.mykiss*, and 90 percent of the fall-run, most certainly must have an unimpaired flow percentage, if not higher. Like the San Joaquin River Basin water right holders,

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do you think the Sacramento Valley interests are going to support the BDCP with this gun pointed at their heads?

If the SWRCB proceeds with implementing the San Joaquin River flow objectives, then the BDCP process will not be able to move forward. The hearing process to implement D-1641 took 86 days, with settlement agreements. This time, there are no settlement agreements. The SWRCB has shown that it is incapable of handling minor, contested, illegal Delta diversion cases. What would lead one to believe they could implement the San Joaquin River flow objectives through a water right proceeding and process the BDCP change petition?

One of the biggest regulatory approvals for the BDCP will be a change petition for the new facilities. Given the amount of interest and the contentious nature of such a proceeding, does the BDCP believe the SWRCB can handle such a petition and the water rights proceedings at the same time?

The San Joaquin River processes are underway. The San Joaquin River Restoration Program will be what it will be. The Stanislaus River will have a new OCAP-BO in 2013-2015. The Merced River is due to have a FERC license in 2014 and the Tuolumne River is due in 2016. The Tuolumne and Merced Rivers' combined compromise is approximately 50 percent of the watershed. Do we want to undergo this process for maybe 50 percent of the San Joaquin River flow that roughly contributes 15 percent of the flow to the Delta when those two rivers, Merced and Tuolumne, are going to have to get a 401 certification from the SWRCB in the FERC process?

On behalf of the San Joaquin Tributaries Association, I would like to request a meeting with you to discuss this very important issue.

Very truly yours,



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ALLEN SHORT  
San Joaquin Tributaries Association

Attachment  
cc: SJTA

DWR

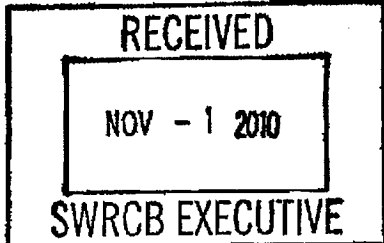


# San Joaquin River Group

- Modesto Irrigation District
- Turlock Irrigation District
- South San Joaquin Irrigation District
- San Joaquin River Exchange Contractors

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- Merced Irrigation District
- Oakdale Irrigation District
- Friant Water Authority
- City and County of San Francisco



DWR

October 29, 2010

Mr. Charlie Hoppin  
 State Water Resources Control Board  
 1001 I Street  
 PO Box 2815  
 Sacramento, CA 95812-2815

Dear Mr. Hoppin:

Attached to this letter is a brief summary of all the processes currently underway regarding the San Joaquin River Basin. The San Joaquin River Group Authority (SJRGA) respectively request that any hearing to implement New San Joaquin River Basin Plan Flow Objectives be continued until 2016. If the SWRCB commences with new flow objectives and a new plan for implementation, then we believe that many of the processes will be torn apart by such a divisive process. Furthermore, we believe the SWRCB's goal of adopting new flow objectives and implementing those objectives will become mired in a myriad of competing processes.

The main reason we make this statement is there are four processes currently underway that will change the flow regimen in the San Joaquin River. They are: 1) the San Joaquin River Restoration Program (SJRRP), 2) Merced River FERC, 3) Tuolumne River FERC, and 4) Stanislaus River OCAP-BO. San Joaquin River Restoration Project flows are to be in the river by 2014, but the SJRGA believes the schedule may slip by several years. Merced is supposed to complete its FERC process by 2014; Tuolumne by 2016. The OCAP-BO is currently in litigation. It will take approximately three to four years for a finalized BO for steelhead and salmon to be released. All of these processes point to 2016.

From the SJRGA's standpoint, it makes sense to get these processes resolved. Once the SWRCB knows what the flows in the San Joaquin River look like in 2016, then it can decide whether or not additional flow is going to be needed. If not, we will have staff in three to five separate processes over the next five years, arguing the same point.

We believe any hearing on implementation of the existing flow objective or new flow objective will cause further chaos in the San Joaquin River Basin. We are currently in discussions with the USBR to extend the San Joaquin River Agreement through 2011,

and are discussing an additional five-year agreement to get the parties through 2016. These discussions are just beginning. Our goal is to create a regulatory setting in which these processes can be completed.

Sincerely,

A handwritten signature in black ink that reads "Allen Short". The signature is written in a cursive style with a prominent "A" and "S".

Allen Short  
Coordinator

c: (via email)  
Art Baggett  
Tam Doduc  
Francis Spivy-Weber  
Tom Howard  
Les Grober  
SJRG

### **Stable Flow and Regulatory Requirements**

There are currently several processes underway in the San Joaquin River (SJR) Basin that could alter water quality, timing of flow and rate flow. Several of these processes will impact water operations and facilities in the SJR Basin. These processes run the continuum from small projects with minor effect, to major processes with potentially significant impacts. Some are underway, some are starting, and some are about to begin. Coordination of these various processes is essential to avoid wasted efforts and lost water.

There are two common themes to all of these processes: They will all be final or nearing completion by 2016, and in combination, they will fundamentally alter how water moves and is used in the SJR Basin. Any interim actions are likely to be obviated or superseded by these processes as they are concluded.

Changing flow and regulatory requirements and objectives at Vernalis before 2016 will cause divisiveness. There can be no doubt that an implementation hearing on the new SJR Flow Objectives will be very contentious. Avoiding such an immediate collision of interests and the legal battle that ensues before these other processes have added to the SJR flow baseline, and their beneficial impacts become known, should be a high priority for all water right holders/uses in the SJR Basin.

The proceeding of greatest concern to the SJRGA members is the SJR Basin Plan Flow and Salinity Basin objective. The SJR Basin Planning Process could profoundly alter or affect all of these other ongoing processes. Changing the flow and salinity objectives at Vernalis prior to these other efforts will result in wasting resources, a prolonged legal battle regarding water rights implementation of those objectives and more importantly, the ability to coordinate flow objectives on the Basin-wide approach.

### **Regulatory Processes in the San Joaquin River Basin**

Listed below are the processes/changes ongoing, or anticipated in the SJR Basin. Identified are some of the potential impacts that a basin plan change would have on these processes, and the benefits of extending VAMP or a similar agreement to 2016.

#### **A. SJR Restoration**

If the SWRCB proceeds to an implementation hearing on new SJR flow objectives, then the Bureau of Reclamation (USBR) water rights at Friant will be in front of the SWRCB. If no SJR Basin-Plan amendments, then San Joaquin River Restoration can go forward to full implementation in 2014, as scheduled in the Settlement Agreement.

#### **B. Merced FERC Flow**

If the SWRCB proceeds with the SJR Basin Planning Process, a new water quality baseline regulatory requirement will be established for Merced

Irrigation District's application for its CWA Section 401 Water Quality certification. This certification is necessary for reissuance of a Federal Energy Regulatory Commission ((FERC) power license. If there is no Basin Plan Amendment then Merced can relicense in 2014.

**C. MID/TID FERC Flow**

If the SWRCB proceeds with the SJR Basin Planning Process, a new water quality baseline regulatory requirement will be established for Modesto/Turlock Irrigation Districts' (MID/TID) application for its CWA Section 401 Water Quality certification. This certification is necessary for reissuance of a (FERC) power license. If there is no Basin Plan Amendment then MID/TID may obtain its license in 2016.

**D. OCAP-Biological Opinion Salmon**

Changing the San Joaquin River flow requirements and implementation will require NNFS via New Melones to hit yet another moving target. If the Basin Plan is not changed by virtue of a new agreement then NMFS can have reasonable certainty of flow for the duration of the new agreement.

**E. OCAP-Biological Opinion-SMELT**

Changing the flow requirements and implementation will also require USFWS to hit yet another moving target in its reconsultation. If the Basin Plan is not changed by virtue then USFWS can have reasonable certainty of flow for the duration of the agreement.

**F. Bay Delta Conservation Plan**

If new flow requirements are implemented on the San Joaquin River then the whole BDCP processes will have to start anew because the baseline will have changed. An extension of the VAMP (or VAMP like agreement) allows the BDCP process to finish NEPA/CEQA and have a preferred alternative. This would mean the SWRCB Basin Plan would be able to include the new Delta conveyance facilities and other associated BDCP actions.

**G. Dissolved Oxygen-TMDL**

If there are flow changes on the SJR, dissolved oxygen levels (DO-TMDL) are likely to change. An extended VAMP would allow parties the opportunity to finish downstream studies and aeration project implementation.

**H. SALT-TMDL**

There is one objective the SWRCB should consider changing: The Vernalis Salinity Objective. If the objective is changed, as recommended by the Hoffman Report, then the TMDL will need to be changed. It will take three-four years to develop new TMDL and the new TMDL needs to take into consideration the changes brought forward by all the processes described above.

**I. Upstream-Salinity Objective**

If the flow requirements change then the studies and the baseline setting for the upstream salinity objectives will need to start anew. The Upstream Salinity Objective setting process has been given to the CV-SALTS group and will take two years to complete. An implementation plan cannot be developed while flows and regulatory requirements are in continual flux. Setting of an interim plan can be done if flows are relatively stable through 2016, and the experience gained during this interim period can be used to modify the plan once final regulatory actions are completed.

**J. CV Salts**

The CV-SALTS program for the San Joaquin River will depend strongly upon real-time river management. In order for real-time management programs to be developed and tested, they must be done under a steady flow regime. Continual changes in flow based on changed regulatory requirements will make it difficult to evaluate the program.

**Other Processes**

Grassland Bypass  
West-side Drainage  
Recirculation  
Transfers  
Illegal Delta Diversion Complaints  
Predation  
DWR's Central Valley Flood Management Planning Program