December 24, 2003

Ms. Gita Kapahi
Chief of the Bay Delta/Special Projects Unit
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

Subject: Review of the 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary

Dear Ms. Kapahi:

The Contra Costa Water District (CCWD) appreciates the opportunity to provide comments to the State Water Resources Control Board (State Water Board) regarding the review of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (1995 Plan). The purpose of the State Water Board's public workshop to be held on January 8, 2004, is to identify elements of the 1995 Plan that are in need of review. CCWD played an active role in the development and implementation of the 1995 Plan and intends to actively engage in the 1995 Plan's review.

CCWD is an urban water agency serving water from the Delta to approximately 450,000 people throughout central and eastern Contra Costa County for municipal and industrial use. CCWD has obtained its water supply from the Delta since 1940 and has a vital interest in protecting the quality and reliability of its water supply. CCWD's customers invested $450 million in the Los Vaqueros Project to improve CCWD water quality and provide an emergency supply. CCWD diverts water from the Delta under a Central Valley Project water supply contract and under its own water rights. CCWD has intakes in the Delta at Rock Slough, Old River south of Highway 4, and Mallard Slough. CCWD's entire service area is either within the Delta (as defined in Water Code section 12220) or is in an area which can conveniently be served therefrom, as has been demonstrated for more than 60 years of continuous service from the Contra Costa Canal.

CCWD's comments are intended to provide input to the State Water Board in focusing and guiding the review process. CCWD understands that this workshop and these written comments are the beginning of a process of review that will include additional workshops, hearings, and further opportunities to provide detailed input to the State Water Board. Consequently, CCWD is not providing a detailed discussion at this time, but rather an overview of the issues.

Objectives to protect Municipal and Industrial beneficial uses

More than twenty-two million Californians rely on the Delta for all or part of their drinking water. The current municipal and industrial (M&I) objectives in the 1995 Plan[1] are based on a secondary standard for taste and an industrial standard for linerboard manufacturing for cardboard boxes--i.e., the current M&I objectives were actually written to protect tin cans against rust. They were not designed to be protective of public health; consequently they do not provide even the minimum level of protection of public health.

During the development of the previous water quality control plans, the State Water Board was cognizant of emerging drinking water quality concerns and foresaw that the M&I standards would be in need of review as more information regarding disinfection byproducts was developed and water quality regulations changed[2]. Disinfection by-products are better understood now than they were when previous plans were adopted and the United States Environmental Protection Agency (USEPA) has proposed more stringent regulations on disinfection by-products[3]; thus it is an appropriate time to revisit the Plan objectives.

As part of the review process for the 1995 Plan, the State Water Board should consider adoption of M&I objectives that are based on protection of the drinking water beneficial use, with primary consideration of public health protection and the utilization of the best available science. As a starting point, the State Water Board should consider adopting as the objective the California Bay-Delta Authority's (CBDA, formerly CALFED) target of average concentrations at Clifton Court Forebay and other southern and central Delta drinking water intakes of 50 µg/l bromide and 3.0 mg/l total organic carbon, or an equivalent level of public health protection using a cost effective combination of alternative source waters, source control and treatment technologies[4]. Implementation of such an objective is entirely consistent with the CALFED Record of Decision and the CALFED Implementation Memorandum of Understanding, to which the State Water Resources Control Board is a signatory[5].

The numerical part of the CBDA target was based upon work funded by the California Urban Water Agencies (CUWA). CUWA convened a panel of nationally recognized drinking water quality experts to determine the required criteria for total organic carbon and bromide that would

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[1] Maximum daily average concentration of 250 mg/l chloride and a specified number of days not to exceed 150 mg/l chloride, depending on year type.

[2] For example, the 1991 Water Quality Control Plan for Salinity states: "If drinking water standards on DBPs are revised, the State Water Board will consider modifying existing salinity objectives." (p. 5-5) and "[t]he 150 mg/l chloride objective is being retained in order to protect municipal water quality at present levels until more is known about the public health hazards of disinfection by-products" (p. 6-21).

[3] EPA proposed the Stage-2 Disinfectants and Disinfection Byproduct Rule (DBPR) and the Long Term 2 Enhanced Surface Water Treatment Rule (LT2) in August 2003. The DBPR focuses on public health protection by limiting exposure to disinfection byproducts. LT2 focuses on microbial pathogens.

[4] CALFED Bay-Delta Program Record of Decision, August 28, 2000, p. 65.

[5] Also, the CALFED Drinking Water Quality Program Management MOU which states: In consultation with DHS, SWRCB/CVRWQCB and USEPA will have primary responsibility for the development of ambient water quality objectives for drinking water contaminants and their precursors (p. 4).

allow utilities treating Delta water to comply with current and predicted future drinking water regulations using the best available advanced technology. CBDA Agencies adopted the overall target based upon extensive stakeholder and agency involvement. Coupling the numerical target with the alternative means of compliance in a narrative objective will provide the flexibility to account for cost-effectiveness/practicability, changing standards, and improved technology.

Central Valley Drinking Water Policy

Source water protection is one aspect of a multi-barrier approach that also includes appropriately treating raw water, and ensuring safe distribution of treated water to consumers' taps. The USEPA, California Department of Health Services (DHS), and the American Water Works Association, in advocating this multi-barrier approach, recognize that treatment alone is not adequate to ensure clean, safe drinking water. The State Water Board's jurisdiction is, of course, protection of source water quality. Historically, the State Water Board has established objectives for which implementation includes regulation of water diversion and use to manage salinity levels, while the Regional Boards have adopted water quality objectives in their Basin Plans for many water quality constituents, with implementation that focuses primarily on regulation of discharges, including discharges into source water for drinking water supplies. Thus, both the State and Regional Boards have an important role in protecting the drinking water beneficial use of the Delta and its upstream tributaries, and their respective roles are complementary.

The Central Valley Regional Board, with support from a work group that includes DHS, EPA, and State Water Board staff, is in the process of developing the technical support needed for a comprehensive drinking water policy for the Central Valley Basin. A drinking water policy is needed because the Regional Board's Basin Plan lacks water quality objectives in the Delta and its tributaries for current and emerging drinking water constituents of concern, such as disinfection by-product precursors and pathogens, and therefore does not ensure adequate protection for drinking water. The technical analysis developed by the Regional Board and stakeholder work group will support a Regional Board Basin Plan Amendment that is expected to contain numerical or narrative objectives for drinking water constituents of concern. The exact form of the Policy and its implementation will be discussed and analyzed as part of the policy development. CCWD and other drinking water suppliers are actively participating in this process.

CCWD believes <u>both</u> the review of the 1995 Plan and the Central Valley Regional Board's efforts to develop a drinking water policy are necessary elements of protecting the beneficial uses of the Bay-Delta. As described above, the State Water Board and Regional Board play complementary roles in establishing water quality objectives for the Bay-Delta. The State Water Board, through the review of the 1995 Plan, can set appropriate M&I objectives and provide the broader policy guidance that will inform the Regional Board's basin planning efforts. The State Water Board's continued participation on the drinking water policy workgroup should ensure the two efforts are coordinated to achieve the desired level of water quality protection.

Compliance location for the M&I Objective

The State Water Board's notice mentions relocation of the compliance point for Pumping Plant #1 on the Contra Costa Canal as a possible topic for the review. Because there are sources of significant water quality degradation in the roughly seven miles between the entrance to Rock Slough and Pumping Plant #1, some have suggested that the compliance location for the 1995 Plan M&I standards should be relocated further east into the Delta to make compliance easier. CCWD believes this is not an appropriate topic for State Water Board review for the following reasons:

- Relocating the compliance location would violate Federal and State anti-degradation policies.
- Relocating the compliance location would create a conflict between the State and Federal Projects. The legislation through which Congress approved the Coordinated Operations Agreement between the Bureau of Reclamation and the Department of Water Resources[6] explicitly directs the Interior Secretary to operate the Central Valley Project, in conjunction with the State Water Project, to meet the water quality standards contained in Water Rights Decision D-1485. A compliance point relocation by the SWRCB would lead to a conflict between the Central Valley Project (required to meet the standard at Pumping Plant #1) and the State Water Project (required only to meet it at some new, different location).
- Relocating the compliance location would violate The Delta Protection Act, which requires "the maintenance of an adequate water supply in the Delta … to maintain and expand … urban … development," and mandates "the provision of salinity control and adequate water supply for users within the … Delta" (Water Code sections 12201 & 12202).
- Finally, and perhaps most importantly, relocating the compliance location would not *solve* the underlying problem, it *avoids* addressing it. CCWD, with the help of CALFED, is taking steps to directly address the problem of degradation in Rock Slough and the Contra Costa Canal through the Veale Tract water quality actions and the Contra Costa Canal Lining Project. Implementation of these projects will solve the problem and make relocation of the compliance location moot.

Water Year Instead Of Calendar Year Accounting For 150 Mg/L Chloride Objective; Flexibility in X2 standard; Changes in Delta Cross Channel Gate Operations

CCWD understands that other parties may raise these and other issues that bear on drinking water quality in the Delta. CCWD believes evaluation of the above topics must be done in the context of the full revised plan or amendments to understand their interactions and impact on drinking water quality in the Delta. For example, in the absence of a genuine drinking water standard, the X2 fish protection standard is incidentally providing a limited form of protection of drinking water beneficial uses that must be maintained.

However, there may be ways to ensure water quality protection while allowing more flexibility in the X2 standard, by, for example, reserving some of the water gained by relaxing the X2 standard in a "Water Quality Account" to be used at a later date to improve Delta water quality.

[6] Public Law 99-546, enacted October 27, 1986, 100 Stat. 3050

Similarly, changes in the accounting for the 150 mg/l chloride standard, modifications to Delta Cross Channel Gate Operations, and other actions could be combined to provide greater operational flexibility to the system while protecting and enhancing Delta water quality.
The CALFED Science Program is in the midst of a multi-year effort to study the Delta Cross Channel and evaluate operational alternatives for fish protection and water quality. Modifications to Franks Tract, currently being studied by the CBDA (CALFED) Program, may also provide improved water quality and operational flexibility. It is likely that new Delta standards would be needed to preserve the water quality improvements of certain Delta actions and should be evaluated to the extent possible by the State Water Board as part of the 1995 Plan review.

CEQA Process
As noted in the State Water Board workshop notice, any revised plan or plan amendments will need to include environmental documentation that is functionally equivalent to a document prepared under the California Environmental Quality Act (CEQA). That documentation should begin as early as possible in the Plan review process so as to ensure that environmental considerations are taken into account at a meaningful time. A schedule of all of the steps necessary for compliance with CEQA would be extremely helpful to CCWD and the other parties, and should be provided at the earliest possible time.

CCWD looks forward to working with the State Water Board to review and update the 1995 Plan. Should you have any question about these comments please contact me at (925) 688-8100.

Sincerely,

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GG/SAS:wec

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