

# Out-of-Valley Drainage Disposal and Salt Balance

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## **SJVDP Policy and Management Committee Position**

Because the SJVDP Policy and Management Committee decided to exclude out-of-valley drainage disposal or valleywide salt balance in 1987, they were not included in the 1990 *Plan*. The Committee realized, however, that removing salt from the Valley may be necessary, and the in-valley action plan of the 1990 *Plan* was a first step in creating prerequisite conditions for eventually exporting salt.

Conditions in 1990 showed an average of 50 years remain before shallow groundwater in the Valley generally reaches the 2,500 ppm TDS level, making the water unfit for agricultural operations. Several decades remain before a decision would be required on an out-of-valley solution. This timeline assumed implementation of all recommended drainage reduction measures, including pumping shallow groundwater with less than 1,250 ppm TDS for irrigation use. The latter recommendation at present has not been implemented. The 1990 *Plan* did not conclude that implementing the in-valley drainage reduction options would result in sustainable agriculture for the indefinite future, but would merely “buy time.”

In a 1989 letter report from the National Research Council (NRC, 1989), the National Academy of Sciences expressed strong dissatisfaction with the SJVDP decision to consider only in-valley solutions. The SJVDP Citizens Advisory Committee recognized in a 1990 report (CAC, 1990), the need for studies leading to a long-term solution, including salt disposal or use.

## **Status of Drain and Court Decision**

In 1992, Sumner Peck Ranch, Incorporated, et al. brought suit in U.S. District Court, Eastern District of California, against the Bureau for failure to complete the Drain as authorized by federal law. Firebaugh Canal Company and Central California Irrigation District located in the Grasslands subarea joined Sumner Peak Ranch in the suit.

On December 2, 1994, Judge Oliver W. Wanger found that the Secretary of the Interior, through the Bureau, made a policy decision not to complete the Drain, thus violating the federal San Luis Act, and constituting an action unlawfully withheld and causing irreparable injury to the plaintiffs. Judge Wanger further ruled that no other provisions of federal or State law precluded the possibility of completing the Drain. The Bureau was ordered to apply to SWRCB for a discharge permit. (U.S. District Court, 1994)

The Bureau appealed the court order and several local agencies and environmental groups have joined in the appeal. The order has not been stayed pending the appeal. The Bureau requested guidance from SWRCB on the requirements for a permit application. On April 18, 1996, SWRCB adopted a resolution stating that the California Environmental Quality Act/National Environmental Policy Act process would be used to provide the framework for project planning and permitting.

SWRCB also directed its staff to negotiate with the Bureau and other responsible agencies to reimburse SWRCB costs incurred during the application process. A Memorandum of Understanding is being drafted among SWRCB, the Bureau, and WWD for reimbursing SWRCB costs and other expenses associated with preparing the EIR/EIS.

The Bureau has also engaged in settlement discussion with WWD. In July 1997, the Bureau and WWD signed a settlement agreement to resolve the lawsuit. If all plaintiffs dismiss their claims and Judge Wanger vacates his order, the agreement becomes effective. According to the agreement, WWD will purchase all lands that are the subject of the plaintiffs' claims, and within five years the Bureau may purchase those lands from WWD. WWD and the Bureau will cooperate in a study to find potential in-valley or out-of-valley solutions to drainage problems in the San Luis Unit of CVP. The Bureau has agreed to cooperate in facilitating implementation of a solution that is economically, environmentally, socially, and technically feasible.