

State Water Resources Control Board

December 20, 2016

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Sacramento, CA 95825
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RE: NOTICE FOR SUBMISSION OF INTERIOR SOUTHERN DELTA SALINITY
OBJECTIVES COMPLIANCE PLAN AND SCHEDULE PURSUANT TO CEASE AND DESIST
ORDER WR 2010-0002 (2010 CDO)

Dear Ms. Crothers and Ms. Aufdemberge:

Pursuant to Water Code §85230 and State Water Resources Control Board (SWRCB) Resolution No. 2015-0058 ¶1.5, I have the authority and responsibility to enforce "orders and license and permit terms and conditions" as to "diversions in the Delta," including diversions of the State Water Project (SWP) at the Banks Pumping Plant and of the Central Valley Project (CVP) at the Jones Pumping Plant.

As you know, the 2010 CDO requires the Department of Water Resources (DWR) and the United States Bureau of Reclamation (USBR) to prepare and submit a plan for meeting the southern Delta salinity objectives embedded in D-1641 (the Compliance Plan).¹ To date, the Compliance Plan has not been submitted.

Based on a series of recent communications, my office initiated an inquiry regarding the Compliance Plan. In the course of our inquiry, it has become apparent that there has been confusion about the actual deadline for submission of the Compliance Plan. The 2010 CDO:

- explicitly contemplates that the SWRCB would complete the then-pending update of the Delta Water Quality Control Plan (WQCP) prior to the anticipated due date for the Compliance Plan. However, the update of the WQCP has been delayed and remains pending.²

¹ 2010 CDO, Ordering Paragraph 1.

² Subsequent to adoption of the 2010 CDO, the SWRCB deferred adoption of the WQCP pending further technical analysis and support. The SWRCB also divided the update process into several distinct phases. The Phase 1 Substitute Environmental Document was released for public review on September 15, 2016 and is currently the subject of a series of public hearings. The Phase 2 Working Draft Scientific Basis Report was released on October 19, 2016 and is currently undergoing review by the Delta Independent Science Board.

- provides that, if the proceedings are deferred (as indeed they have been), those proceedings would be "deemed to have been completed" by January, 2013. Thus, under one interpretation, the Compliance Plan was due within 180 days thereafter (that is, in July of 2013).
- indicates that, in order to assist DWR and USBR with determining the due date for the Compliance Plan, the SWRCB's Deputy Director for the Division of Water Rights would provide DWR and USBR notice of completion of the WQCP update proceedings. Because those proceedings have not yet been completed, the Deputy Director has never issued the notice referenced in the 2010 CDO.

Please consider this letter notice that the proceedings referenced in the 2010 CDO are deemed, for purposes of the 2010 CDO, to have been completed. This notice is in fulfillment of the above-referenced notice by the Deputy Director, based on the SWRCB's intervening re-delegation of authority to me. Therefore, within 180 days (that is, not later than June 19, 2017), please submit the Compliance Plan to the SWRCB's Executive Director. I will appreciate receiving a courtesy copy of the Compliance Plan when it is submitted.

If you have any questions related to this letter, please contact me by email at Michael.George@waterboards.ca.gov or by telephone at (916) 445-5962.

Sincerely,



Michael Patrick George
Delta Watermaster

cc (via email): Members of the SWRCB

Tom Howard, Executive Director
Les Grober, Deputy Director, Division of Water Rights
Dana Heinrich, Office of Chief Counsel
John Herrick, General Counsel, South Delta Water Agency
Robin McGinnis, Office of Chief Counsel, Department of Water Resources
John Leahigh, State Water Operations, Department of Water Resources
Mark Holderman, South Delta Branch Chief, Department of Water Resources
Ron Milligan, Central Valley Operations Manager, Bureau of Reclamation
Elizabeth Kitek, Central Valley Operations Chief, Bureau of Reclamation
Christine Rico, Environmental Scientist, Office of the Delta Watermaster