

Errata
January 5, 2010 State Water Board Agenda
Item 7

State Water Board staff recommend the following changes to the November 17, 2009 draft order modifying cease and desist Order WR 2006-0006. Changes are highlighted.

1. On page 8, modify the second sentence in the first full paragraph and add a new footnote 5 (*all subsequent footnotes will be renumbered accordingly*):

According to the exceedance reports that USBR and DWR have submitted to the State Water Board as part of this proceeding pursuant to the 2006 CDO,⁵ the salinity objective was exceeded at Station P-12 during the following periods: (1) April 2007 (USBR Exhibit 8);⁶⁵ (2) June 16 through July 13, 2008 (DWR Exhibit DWR-27); (3) April 1 through April 20, 2009 (DWR Exhibit DWR 30); and (4) June 24 through July 3, 2009 (DWR Exhibit DWR-32). In addition, the exceedance reports that were submitted indicate that the salinity objective was exceeded at Station C-6 (San Joaquin River at Brandt Bridge) from June 25 through July 13, 2008, and at Station C-8 (Old River near Middle River) from June 22 through July 13, 2008. (DWR Exhibit DWR-27.)⁷⁶

⁵ The exceedances only include those that were reported in the exceedance reports that DWR and USBR submitted as part of this proceeding. Additional exceedances that were not documented in the exceedance reports that were submitted as part of this proceeding are not included in this listing.

2. On page 18, the first sentence in footnote 11 should be modified to read:

USBR, CSPA, and C-WIN argue that Water Code section 13360 prohibits the State Water Board from specifying the manner of compliance with the southern Delta Salinity objectives.

3. On page 18, the second sentence of the first full paragraph should be modified to read:

DWR presented expert witness testimony, which South Delta did not refute, that salinity in the southern Delta cannot be significantly improved controlled by restricting exports or increasing releases from reservoirs in the Sacramento River watershed. (DWR Exhibit DWR-06.) In addition, the witness presented testimony that CVP and SWP exports have minimal impact on and control over water quality at the interior southern Delta salinity locations. (Ibid.)

4. On page 21, the last sentence of ordering paragraph 1 should be modified to read:

Notwithstanding the foregoing, if as a result of the State Water Board's review of the 2006 Bay-Delta Plan, the Board adopts an order or decision modifying DWR's or USBR's responsibility for meeting the interior southern Delta salinity objective, then DWR and USBR shall implement measures to ensure ~~obviate the threat of non-~~compliance with the Board's order or decision.

5. On page 21, after the second sentence in ordering paragraph 2, add the following two sentences:

Notwithstanding the foregoing, if as a result of the State Water Board's review of the 2006 Bay-Delta Plan, the Board adopts an order or decision modifying DWR's or USBR's responsibility for meeting the interior southern Delta salinity objective, then DWR and USBR shall submit a revised, detailed plan and schedule to the Executive Director for compliance with the Board's order or decision. The plan shall include planned completion dates for actions that will ensure compliance with the Board's order or decision and shall specify the date by which compliance will be achieved.

6. On page 22, the fifth sentence of ordering paragraph 2 should be modified to read:

The plan and schedule submitted by DWR and USBR are subject to approval by the Executive Director of the State Water Board, shall be comprehensive, shall provide for full compliance with DWR's and USBR's responsibility to meet the interior southern Delta salinity objective (or any Board order or decision modifying DWR's or USBR's responsibility for meeting the objective), and shall include significant project milestones.

7. On page 24, the fifth sentence of ordering paragraph 7 should be modified to read:

In evaluating the feasibility of increasing flows in the San Joaquin River, DWR and USBR shall (1) evaluate the feasibility of both increased releases from CVP and SWP facilities and purchases or exchanges of water from third parties, and (2) evaluate the potential impacts of increasing flows on water supplies, including water supplies needed to protect fishery resources.

8. On page 25, the following sentence should be added to the end of ordering paragraph 8:

Any decision of the Executive Director under authority delegated pursuant to this paragraph is subject to reconsideration pursuant to sections 768 through 771 of title 23 of the California Code of Regulations.