

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

**In the Matter of Specified License and Permits¹ of the
Department of Water Resources and U.S. Bureau of Reclamation
for the State Water Project and Central Valley Project**

**APRIL 6, 2015 ORDER MODIFYING AN ORDER
THAT APPROVED IN PART AND DENIED IN PART
A PETITION FOR TEMPORARY URGENCY CHANGES TO
LICENSE AND PERMIT TERMS AND CONDITIONS
REQUIRING COMPLIANCE WITH DELTA WATER QUALITY OBJECTIVES
IN RESPONSE TO DROUGHT CONDITIONS**

BY THE EXECUTIVE DIRECTOR

1.0 INTRODUCTION

This Order modifies the State Water Resources Control Board's (State Water Board) Executive Director's March 5, 2015 Order (March 5 Order) that responded to a temporary, urgency change petition (TUCP) filed by the Department of Water Resources (DWR) and the United States Bureau of Reclamation (Reclamation) (collectively Petitioners) on January 23, 2015 (January 23 Petition). The January 23 Petition requested changes to the conditions of the Petitioners' water rights for the State Water Project (SWP) and Central Valley Project (CVP) (collectively Projects) specified in State Water Board Decision 1641 (D-1641) that require the Petitioners to meet water quality objectives designed to protect fish and wildlife and agricultural use in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta). The March 5 Order made several modifications to an order dated February 3, 2015, which approved most of the changes requested by the Petitioners. The February 3 and March 5 Orders approved the following changes for the months of February and March:

1. The minimum daily Delta outflow of 7,100 cubic feet per second (cfs) or equivalent salinity measured as electrical conductivity or EC (2.64 millimhos per centimeter (mmhos/cm) at Collinsville), plus the requirement to meet higher flows of 11,400 cfs or 29,200 cfs or equivalent salinity (2.64 mmhos/cm at Chipps Island or Roe Island respectively) for a specified number of days, depending on hydrology, was reduced to a minimum Delta outflow requirement of 4,000 cfs;

¹ The petition was filed for Permits 16478, 16479, 16481, 16482 and 16483 (Applications 5630, 14443, 14445A, 17512 and 17514A, respectively) of the Department of Water Resources for the State Water Project and License 1986 and Permits 11315, 11316, 11885, 11886, 11887, 11967, 11968, 11969, 11970, 11971, 11972, 11973, 12364, 12721, 12722, 12723, 12725, 12726, 12727, 12860, 15735, 16597, 20245, and 16600 (Applications 23, 234, 1465, 5638, 13370, 13371, 5628, 15374, 15375, 15376, 16767, 16768, 17374, 17376, 5626, 9363, 9364, 9366, 9367, 9368, 15764, 22316, 14858A, 14858B, and 19304, respectively) of the United States Bureau of Reclamation for the Central Valley Project.

other system losses due to evaporation and seepage. Further, the San Joaquin River basin is tracking closer to a 99 percent exceedance level or worse, which may result in even lower actual storage levels. While there is some uncertainty regarding what would happen at different storage levels, Reclamation staff produced information identifying expected conditions at various storage levels. At storage levels between 225 and 160 TAF, all cold water coming into the reservoir may be trapped behind old Melones Dam, but existing cold water supplies should continue to be available in New Melones. At storage levels between 160 and 95 TAF, there may be no cold water resources available in New Melones. At storage levels between 95 and 87 TAF, old Melones and New Melones are likely disconnected and New Melones water will warm in accordance with air temperatures. At storage levels below 95 TAF there are further significant water quality concerns, including significant temperature and sediment and debris loading issues. It also appears questionable whether water can even be released below storage levels of 87 TAF, or possibly more, because all of the water would be stored behind old Melones Dam where sediment and debris may be blocking the outlet. Of further concern is the issue of when reservoir levels would recover after dropping to such low levels. During the early 1990s drought relatively shortly after New Melones was constructed, storage levels in New Melones dropped below 100 TAF in September of 1992 and did not begin to recover until mid-January of 1993 and still stayed below 1 MAF until March of 1995. Since the early 1990s, sedimentation and debris loading have likely increased as well as demands from New Melones. All of these issues create a significant concern regarding operations of New Melones this year and going into next year.

The February 3 Order, March 5 Order, and this Order are consistent with the legal requirements governing approval of a TUCP. In order to approve a TUCP, the State Water Board or its Executive Director, acting under delegated authority, must find (1) that there is an urgent need for the proposed changes, (2) that the changes will not injure any legal user of water, (3) that the changes will not result in unreasonable effects to fish and wildlife, and (4) that the changes are in the public interest. In determining whether the impacts of a change on fish and wildlife would be unreasonable, and whether the change would be in the public interest, the impacts of the change must be weighed against the benefits of the change to all beneficial uses, including fish and wildlife.

The February 3 Order, March 5 Order, and this Order achieve a reasonable balance of competing demands for the limited water supplies available during the ongoing drought, taking into consideration: (1) the impacts of reduced Delta outflows on estuarine species and migrating salmonids in the Bay-Delta, (2) the need to conserve water in upstream storage for multiple, critical purposes later in the year, including temperature control on the Sacramento and San Joaquin Rivers to protect endangered winter-run Chinook salmon, agricultural use, wildlife refuges, municipal and industrial use, and salinity control in the Delta, and (3) the need to export water for a variety of uses south of the Delta, including agricultural use, municipal and industrial use, and wildlife refuges.

All of the changes approved by this Order are to requirements to meet water quality objectives designed to protect fish and wildlife beneficial uses, with the exception of the change to the requirement to meet the salinity objective at Emmaton, which is designed to protect agricultural beneficial uses. As described in section 5.3 of this Order, the changes to Emmaton salinity as well as the other requirements will not injure any lawful user of water.

As described in section 2.7, estuarine fish populations now are at record low levels and cannot be considered resilient at all. Anadromous salmonid populations have also experienced significant impacts over the past four years associated with the drought. The changes are likely