



United States Department of the Interior

BUREAU OF RECLAMATION
Mid-Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825-1898

IN REPLY REFER TO:

MP-100
WTR-4.10

DEC 11 2015



Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Item 7 - Consideration of a proposed Order granting In Part and Denying In Part the Petitions for Reconsideration of the Executive Director's February 3, 2015 Order that approved Temporary Urgency Changes in License And Permit Terms and Conditions for the State Water Project and Central Valley Project and Subsequent Modifications to that Order

Dear Madam Chair and Members of the Board:

The Bureau of Reclamation can appreciate the State Water Resource Control Board's (Board) concern with the cold water pool and fish impacts. However, we object to the Board adoption of the above-referenced proposed Order, as currently drafted, due to procedural and substantive concerns. Specifically, the proposed Order renews the Board's July 3, 2015 Order, absent any request from Reclamation or the California Department of Water Resources (DWR) for such renewal. This contrary to Cal. Water Code § 1441, and principles of due process. In addition, the proposed Order would impose substantive requirements, such as carryover requirements for the end-of-October, 2016, at Shasta and Folsom reservoirs, prematurely, based on limited information, and without required important procedures.

It appears that the Board is proposing to impose the substantive requirements, such as carryover storage limits, for the purpose of improving temperature and water supply management in 2017, should 2016 be another drought year. However, imposition of such requirements, now, could significantly impair Reclamation's and DWR's 2016 operations and are therefore, premature, and appear to be arbitrary. In addition, Reclamation believes that the proposed Order, if adopted, would allow the Board to impose changes to water rights which are beyond the Board's obligation to make findings required under Cal. Water Code § 1435, namely that urgency changes be made without injury to any other lawful user of water and without unreasonable effects on fish and wildlife. Implementation of such water right changes would also be questionable due to current lack of any consultation under Federal or state endangered species acts.

EXHIBIT BKS-51

Reclamation understands that the 2015 water year brought many challenges, especially with respect to temperature management on the Sacramento River. The primary causes for these temperature-related challenges were prolonged drought, and specifically for 2015, an equipment calibration error, and the lack of winter snowpack and overall inflow to Lake Shasta. Our collective desire for early decision-making based on estimated Shasta Lake water temperatures was further complicated last year given the dynamic nature of temperature stratification in the spring at Shasta Lake. Once we reached more certainty in the cold-water resource in the late spring, Reclamation was able to develop a temperature plan based on knowledge of actual temperature stratification, and Reclamation was able to manage to that plan throughout the remaining 2015 water year.

Given the many uncertainties about future hydrologic and meteorological conditions ahead in 2016, Reclamation is concerned that setting end of year storage targets based on limited information could be detrimental to actual temperature management during the summer of 2016. In fact, for temperature management we learned in 2015 that the most useful information is not early planning projections, based on computer modeling with anomalous results, but knowledge of actual lake temperature stratification and on-going evaluation of real-time operations.

NOAA Fisheries has nearly completed installation of a fiber optic system that, once operational, can help provide real-time temperature information of Lake Shasta as it stratifies. When this system is operational, it will allow for more meaningful temperature planning in the spring of 2016.

Reclamation is working in earnest with DWR and Board staff on a strategy for 2016 operations, should drought conditions persist. Reclamation asks the Board not to adopt the proposed Order in its current form, and allow for further and fuller information on 2016 hydrology and water temperatures to be realized before imposing additional requirements, such as substantive carryover requirements.

Reclamation intends to make additional comments at the Board's regularly scheduled meeting of December 15, 2015. We look forward to resolving these concerns and continued collaborative efforts with the Board staff, and fishery agencies throughout the coming months.

Sincerely,

A handwritten signature in black ink, appearing to read "David G. Murillo". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

David G. Murillo
Regional Director