

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF WATER RIGHTS  
JUNE 21, 2023**

**ITEM 9**

**SUBJECT**

CONSIDERATION OF DRAFT ORDER RESPONDING TO PETITIONS FOR RECONSIDERATION OF THE EXECUTIVE DIRECTOR'S MAY 6, 2022 APPROVAL OF THE 2022 SACRAMENTO RIVER TEMPERATURE MANAGEMENT PLAN.

**DISCUSSION**

On May 6, 2022, the Executive Director approved a Temperature Management Plan (TMP) for the Sacramento River that had been prepared by the U.S. Bureau of Reclamation (Reclamation) pursuant to State Water Board Order WR 90-5. Order 90-5 requires Reclamation to operate Shasta Dam and Reservoir on the Sacramento River and other related components of the federal Central Valley Project in a manner that maintains daily average water temperatures of 56 degrees Fahrenheit (F) at Red Bluff Diversion Dam (RBDD) on the Sacramento River. This requirement applies when higher temperatures would be detrimental to the fishery, and the compliance location may be changed with the submittal of an acceptable TMP to the extent that factors outside of Reclamation's reasonable control preclude Reclamation from meeting the requirement at RBDD.

The Executive Director's approval of the TMP acknowledged the extreme dry conditions at the time and associated limitations in water supplies in Shasta Reservoir for various purposes, including temperature management. The final TMP for 2022 included temperature targets for the purpose of protecting endangered winter-run Chinook salmon from adverse temperature conditions with limited cold water supplies. The Executive Director's approval included several conditions, including condition one, which required Reclamation to take all actions within its reasonable control to improve temperature conditions for Sacramento River winter-, spring- and fall-run Chinook salmon and to ensure that temperature dependent mortality (TDM) levels were minimized, and carryover storage levels were maximized to the extent feasible.

The Board received two petitions for reconsideration. One filed by numerous environmental organizations contended that the TMP was contrary to Order 90-5 and other laws and not supported by substantial evidence because it would result in unreasonable impacts to the salmon fishery and failed to require Reclamation to take all actions within its reasonable control to maintain adequate temperatures in the Sacramento River. Another filed by the Sacramento River Settlement Contractors maintained that condition one of the Executive Director's approval exceeded the Executive Director's authority under 90-5.

The draft order determines that the Executive Director has authority to conditionally approve a TMP pursuant to Order 90-5 and the 2022 TMP was consistent with Reclamation's responsibility under Order 90-5 to take all actions within its reasonable control to protect the salmon fishery from temperature-related impacts when meeting 56 degrees Fahrenheit at Red Bluff Diversion Dam is outside of Reclamation's reasonable control. Accordingly, the draft order concludes that the Executive Director's conditional approval of the TMP was appropriate and proper, and therefore the petitions for reconsideration are denied.

## **POLICY ISSUE**

Should the State Water Board approve the draft order denying the petitions for reconsideration of the 2022 Sacramento River TMP?

## **FISCAL IMPACT**

None.

## **REGIONAL BOARD IMPACT**

None.

## **STAFF RECOMMENDATION**

Staff recommends that the State Water Board adopt the draft order.