

From: "Bob Baiocchi" <rbaiocchi@gotsky.com>
To: "Greg Wilson" <gwilson@waterboards.ca.gov>
CC: "Charles Hoppin" <CHoppin@waterboards.ca.gov>, "Vicky Whitney" <VWHITNEY...>
Date: 5/23/2010 10:06 AM
Subject: Fw: Petitions for Temporary Change - THE EVIDENCE
Attachments: 2006%20SWP%20Mitigation%20Loss%20Calculation.pdf

May 22, 2010

Mr. Greg Wilson
 Water Transfers
 Division of Water Rights
 State Water Resources Control Board

Re: Four (4) Water Transfers Bundled into One Public Notice

Mr. Wilson:

Here is the attachment and evidence. See attachments shown below (letter) and above (evidence). See and read attachments.

As Chairman Hoppin, Deputy Director Whitney, and you clearly know, said petitions cannot be approved by the Board or its staff because of unreasonable effects to fish at the State Pumps pursuant to Section 1435 (b) (3) of the California Water Code. The water transfer constitutes a "take" of endangered salmon and threatened steelhead at the State Pumps and violates the provisions of the federal and state Endangered Species Acts. I have advise you, Chairman Hoppin, and Deputy Ditector several times in objections and formal protests I have filed in the past years, and the evidence has been purposely ignored by the Board and its staff.

I recommend that Chairman Hoppin and Deputy Director consult with Attorney General Jerry Brown regarding complying with California statutes regarding these water transfers and future water transfers before we loss the entire California salmon fisheries..

I will continue to object to water transfer to prevent the last California salmon being a trophy on the wall of the office of the Chairman of the State Water Board, a rice farmer with a conflict of interest.

Place the attached evidence into the records, including the attachment letter shown below of the comment from the California Fisheries and Water Unlimited pursuant to any and all decisions regarding this matter.

Sincerely

Signed by Robert J. Baiocchi

Robert J. Baiocchi, President
 California Fisheries and Water Unlimited
 California Non-Pro-fot Corporation

cc: All parties (cc and bcc)

----- Original Message -----

From: "Bob Baiocchi" <rbaiocchi@gotsky.com>
 To: "Greg Wilson" <gwilson@waterboards.ca.gov>
 Cc: "Jerry Brown" <PIU@doj.ca.gov>; "Charles Hoppin" <CHoppin@waterboards.ca.gov>
 Sent: Saturday, May 22, 2010 2:10 PM
 Subject: Fw: Petitions for Temporary Change

> May 22, 2010
 >
 > Mr. Greg Wilson
 > Water Tranfers
 > Division of Water Rights
 > State Water Resources Control Board

>
> Re: Four (4) Water Transfers Bundled into One Public Notice
>
> Mr. Wilson:
>
> According to a public notice, the following is stated:
>
> "The State Water Resources Control Board has issued public notices for 4
> (four) temporary transfers. A summary of each transfer is provided below.
> Comments regarding these transfers are due on June 14, 2010. The public
> notices for these transfers are available for viewing online at:
>
> http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_notices/
>
> Goose Club Farms proposes to transfer up to 653 acre-feet (af) of water to
> eight State Water Contractor Agencies. Water would be used within the
> State Water Project (SWP) service area. Water would be made available
> through crop shifting/idling within Sutter County.
>
> Garden Highway Mutual Water Company proposes to transfer up to 5,802 af of
> water to eight State Water Contractor Agencies. Water would be used within
> the SWP service area. Water would be made available through groundwater
> substitution within Sutter County.
>
> Tule Basin Farms proposes to transfer up to 3,520 af of water to eight
> State Water Contractor Agencies. Water would be used within the SWP
> service area. Water would be made available through groundwater
> substitution within Sutter County.
>
> The City of Sacramento and Sacramento Suburban Water District propose to
> transfer up to 4,377 af of water to eight State Water Contractor Agencies.
> Water would be used within the SWP service area. Water would be made
> available through groundwater substitution within Sacramento County.
>
> If you have any questions regarding these notices please contact Greg
> Wilson at (916) 341-5427 or gwilson@waterboards.ca.gov. "
>
> Provide me with the following public information:
>
> 1. The four (4) water transfers were bundled into one (1) public notice.
> Forward the statute and regulation to me that the Division can notice and
> approve four (4) water transfer petitions at the same time under one
> public notice for all four (4) petitions to transfer water to several
> water contractors at several places of use and for several differenet
> beneficial uses of the people water. It appears to me that Chairman Hoppin
> has taken the water transfer petition process too far because of his
> conflict interest as a rice farmer.
>
> 2. The public notices did not provide the name and e-mail address of the
> agent for each petition. Forward the names of the agents for each petition
> and the mailing addesses of the petitioners. The public notice is
> deficient without this information because it adversely affect the public
> from submitting timely comments or protest to the petitioners.
>
> 3. Provide me with a copy of the CEQA documents that was prepared by the
> Division of Water Rights for each water transfer petition pursuant to CEQA
> and its Guidelines. Note. A recent court case requires the State Water
> Board to prepare CEQA documents for water transfers. If a CEQA document
> was not prepared, provide me with an explanation why the State Water Board
> avoided CEQA and its Guidelines for this and other water transfers. Did
> Chairman Hoppin direct you to violate CEQA and its Guidelines?
>
> 4. Forward the envionmental evaluations and analysis that was prepared by
> the Division of Water Rights for each water transfer petition. Note: There
> have been documented 22 million losses of salmon, steelhead, and striped
> bass at the State Pumps in about a 20 year period of time. You are fully
> aware of the adverse effects and losses to the people salmon, steelhead
> and stroped bass at the State Pumps, but you and Deputy Director Whitney
> avoid this fact. Place the above attachment as evidence into the records
> for each petition for water transfer. Did Chairman Hoppin direct you to

> avoid the losses of endangered salmon and threatened steelhead at the
> State Pumps and approve water transfer using the State Pumps?

>

> 5. Please forward the letter of consultation from the Department of Fish
> and Game for each water transfer petition regarding whether endangered and
> threatened species and their habitat will be affected by the subject water
> transfer. Note: Without formal comments from the CDFG, you and the Deputy
> Director Whitney have no written evidence that the subject water transfers
> are in compliance with the State Endangered Species Act and will not have
> any effects on endangered and threatened listed species. The evidence I am
> submitting show there are adverse effects to salmon, steelhead, and
> striped bass. The California Water Code requires the State Water Board to
> deny water transfer when fish species will be adversely affected by the
> water transfers. Deputy Director Whitney, Chairman Hoppin and their staff
> continue to willfully and knowingly violate state law to facilitate water
> transfers of the people water at the expense of the people endangered
> salmon and threatened steelhead.

>

> 6. Please forward the letter of consultation from the US NOAA Fisheries
> for each petition regarding whether endangered and threatened species and
> their habitat will be affected by the subject water transfer. Note:
> Without formal comments from the CDFG, you and the Deputy Director have no
> written evidence that the subject water transfer is in compliance with the
> federal Endangered Species Act and will not have any effects on endangered
> and threatened listed species. The evidence I am submitting show there are
> adverse effects to salmon, steelhead, and striped bass. The California
> Water Code requires the State Water Board to deny water transfer when fish
> species will be adversely affected by the water transfer. Deputy Director
> Whitney, Chairman Hoppin and their staff continue to willfully and
> knowingly violate state law to facilitate water transfers of the people
> water at the expense of the people endangered salmon and threatened
> steelhead.

>

> 7. What is the deadline date for filing objections and/or formal protests
> with the State Water Board on the subject water transfer. The public notice
> did not provide this information. I request the opportunity to file said
> objections and/or formal protest with the State Water Board and its staff.
> Failure to provide public notice and allow for formal objections and
> formal protest is discrimination.

>

> 8. The California Fisheries and Water Unlimited are requesting that the
> Division of Water Rights investigate whether the petitioners are putting
> the people's water to full beneficial use as required by the California
> Water Code. Please forward the petitioner's statements of diversion and
> use to me or advise me where that information is available on the Board's
> website.

>

> 9. The California Fisheries and Water Unlimited request the people's water
> not put to beneficial use by the petitioners reverts back to the public.
> The people's water was required to be put to full beneficial use and not
> intended to be sold for profit by permittees or licensees

>

> 10. For the record, the water being diverted and sold by the petitioners
> to several water contractors for this water transfer has a value
> \$1,435,700 to \$2,871,400 or more.

>

> 11. For the record, you failed to provide me with public information
> regarding your involvement in a major water transfer that was worth
> millions of dollars. You are not immune from the California Public
> Information Act or the Board's Conflict of Interest Policy.

>

> Answer this letter electronically in a timely manner because Deputy
> Director Whitney approves water transfer change petitions with very little
> public information and as swiftly as possible to satisfy Chairman Hoppin
> of the State Water Board.

>

> For the record, the California Fisheries and Water Unlimited is part owner
> of the public trust assets of the State of California that includes the
> people's water, fish, et al, and we expect the State Water Board and its
> staff to follow California statutes and regulations.

Memorandum

To : Ms. Barbara McDonnell
Chief, Division of Environmental Services
Department of Water Resources

Date : January 31, 2007

From : Department of Fish and Game

Subject: Mitigation Loss Calculations for Four Pumps Agreement

The State Water Project (SWP) mitigation loss calculation for 2006 is complete as required by the Four Pumps Agreement between the Department of Water Resources and the Department of Fish and Game. As previously agreed, loss of striped bass under 21mm is based on the mean loss from 1985 through 1995. The estimated mitigation losses for 2006, which are based on five year mean values, are as follows:

<u>SPECIES</u>	<u>NUMBER OF EQUIVALENTS</u>
Striped bass	173,435 (yearlings)
Chinook salmon	94,423 (smolts)
Steelhead rainbow trout	14,182 (yearlings)

The attached table lists the annual SWP loss estimates for yearling-equivalent striped bass, smolt-equivalent Chinook salmon, and yearling-equivalent steelhead rainbow trout (Table 1). The five year loss running averages are also enclosed (Table 2).



Charles Armor
Regional Manager
Bay-Delta Region

Attachment

cc: Department of Water Resources
Sacramento, California
Ms. Delores Brown
Mrs. Laura Flournoy

Department of Fish and Game
Sacramento, California
Mr. Carl Wilcox
Ms. Belloiry Fong
Mr. Fred Jurick

Stockton, California
Mr. Bob Fujimura
Fish Facilities Files

Table 1. Yearling-equivalent losses for striped bass and steelhead rainbow trout and smolt-equivalent losses for Chinook salmon for the State Water Project, 1984-2006.

YEAR	Yearling-Equivalent Striped Bass			Smolt-Equivalent Chinook Salmon			Yearling-Equivalent Steelhead		
	<20 mm	>20 mm	Total Loss	YOY	Yearling	Total Loss	YOY	Yearling	Total Loss
1984		873,853	873,853	290,696	947,503	1,238,199	0	1,713	1,713
1985	65,177	370,976	436,153	472,512	489,713	962,225	0	15,621	15,621
1986	35,315	944,061	979,376	1,147,249	2,300,866	3,448,115	0	15,663	15,663
1987	41,726	954,958	996,684	528,544	713,791	1,242,334	747	21,266	22,013
1988	59,625	874,055	933,680	409,103	747,953	1,157,056	0	25,080	25,080
1989	56,306	579,003	635,309	373,717	246,641	620,358	253	32,571	32,824
1990	7,717	401,353	409,070	90,098	188,228	278,326	0	19,187	19,187
1991	15,117	192,765	207,882	122,127	128,466	250,593	0	38,430	38,430
1992	13,452	299,687	313,139	21,341	224,603	245,944	275	39,931	40,206
1993	25,766	1,194,011	1,219,777	17,547	68,521	86,068	0	47,782	47,782
1994	2,253	122,656	124,909	8,217	25,073	33,290	0	1,738	1,738
1995	3,256	265,225	268,481	26,224	199,012	225,236	0	4,802	4,802
1996*	29,610	214,213	243,823	28,425	121,437	149,862	0	14,240	14,240
1997*	29,610	219,225	248,835	39,792	38,973	78,765	0	1,153	1,153
1998*	29,610	71,980	101,590	10,107	28,683	38,790	0	352	352
1999*	29,610	271,436	301,046	199,537	73,867	273,404	0	4,917	4,917
2000*	29,610	926,501	956,111	173,324	71,333	244,657	74	27,848	27,922
2001*	29,610	262,459	292,069	97,264	80,472	177,736	67	35,146	35,213
2002*	29,610	243,270	272,880	16,914	36,751	53,665	24	9,606	9,630
2003*	29,610	173,492	203,102	43,318	96,780	140,098	0	25,262	25,262
2004*	29,610	161,021	190,631	26,479	84,691	111,170	0	20,321	20,321
2005*	29,610	101,999	131,609	38,600	63,400	102,000	0	9,859	9,859
2006*	29,610	39,341	68,951	26,330	38,851	65,181	0	5,837	5,837

* After the sampling program was eliminated, YE Striped Bass <20mm estimate is the average of 85-95 loss.

Table 2. Five year running averages for yearling-equivalent losses for striped bass and steelhead rainbow trout and smolt-equivalent losses for chinook salmon for the State Water Project, 1984-2006.

Period	Yearling-Equivalent Striped Bass			Smolt-Equivalent Chinook Salmon			Yearling-Equivalent Steelhead		
	<20 mm	>20 mm	Total Loss	YOY	Yearling	Total Loss	YOY	Yearling	Total Loss
Mean 84-88	50,461	803,581	854,041	569,621	1,039,965	1,609,586	149	15,869	16,018
Mean 85-89	51,630	744,611	796,240	586,225	899,793	1,486,018	200	22,040	22,240
Mean 86-90	40,138	750,686	790,824	509,742	839,496	1,349,238	200	22,753	22,953
Mean 87-91	36,098	600,427	636,525	304,718	405,016	709,733	200	27,307	27,507
Mean 88-92	30,443	469,373	499,816	203,277	307,178	510,455	106	31,040	31,145
Mean 89-93	23,672	533,364	557,035	124,966	171,292	296,258	106	35,580	35,686
Mean 90-94	12,861	442,094	454,955	51,866	126,978	178,844	55	29,414	29,469
Mean 91-95	11,969	414,869	426,838	39,091	129,135	168,226	55	26,537	26,592
Mean 92-96	14,867	419,158	434,026	20,351	127,729	148,080	55	21,699	21,754
Mean 93-97	18,099	403,066	421,165	24,041	90,603	114,644	0	13,943	13,943
Mean 94-98	18,868	178,660	197,528	22,553	82,636	105,189	0	4,457	4,457
Mean 95-99	24,339	208,416	232,755	60,817	92,394	153,211	0	5,093	5,093
Mean 96-00	29,610	340,671	370,281	90,237	66,859	157,096	15	9,702	9,717
Mean 97-01	29,610	350,320	379,930	104,005	58,666	162,670	28	13,883	13,911
Mean 98-02	29,610	355,129	384,739	99,429	58,221	157,650	33	15,574	15,607
Mean 99-03	29,610	375,432	405,042	106,071	71,841	177,912	33	20,556	20,589
Mean 00-04	29,610	353,349	382,959	71,460	74,005	145,465	33	23,637	23,670
Mean 01-05	29,610	188,448	218,058	44,515	72,419	116,934	18	20,039	20,057
Mean 02-06	29,610	143,825	173,435	30,328	64,095	94,423	5	14,177	14,182