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SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

FEB 20 2015

Tim O'Laughlin
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Sacramento, CA 95816

RESPONSE TO SAN JOAQUIN TRIBUTARIES AUTHORITY (SJTA) COMMENTS ON DROUGHT INFORMATION ORDER

Dear Mr. O'Laughlin:

This letter responds to your comments on behalf of the San Joaquin Tributaries Authority (SJTA) dated February 12, 2015, regarding the Drought Information Order WR 2015-0002-DWR (Order). In brief, your comments request that the State Water Resources Control Board (State Water Board) remove all statement holders on the San Joaquin River and tributaries upstream from Vernalis from the Order because none of the SJTA members have been subject to a complaint.

You suggest that the information order authority under California Code of Regulations, Title 23, section 879, subdivision (c) (section 879(c)) can be triggered only by a complaint. By its terms, section 879(c) is triggered either by a "complaint alleging interference with a water right by a riparian or pre-1914 appropriative water right holder" or "upon receipt of information that indicates unlawful diversions of stored water by riparians or pre-1914 appropriative water right holders."

Here, the Division of Water Rights (Division) has received a complaint alleging interference with a water right by San Joaquin River users. The August 13, 2014, California Sport Fishing Alliance (CSPA) complaint you quote in your comments specifically alleges that "the USBR [United States Bureau of Reclamation] and other upstream diverters on the San Joaquin River have deprived Delta riparian landowners of the ability to divert riparian water because of their illegal diversion of riparian flows in the upper San Joaquin watershed." (CSPA Complaint, at p. 3) Moreover, CSPA specifically states "a complaint against USBR and others for unauthorized and illegal diversion of San Joaquin River riparian flow" (*Id.* at p. 5.). Therefore, CSPA's complaint is against all users above Vernalis, not just the Bureau of Reclamation.

The Division also has information that indicates actual or threatened unlawful diversions of stored water by riparians or pre-1914 appropriative water right holders. The CSPA complaint and the others received last year (and cited in the Order) suggest that continued diversions by riparians and pre-1914 appropriative water right holders during periods when water quality standards are controlling Water Project operations may result in increased Project storage releases. Unauthorized diversions by San Joaquin watershed riparians or pre-1914 appropriative water right holders may trigger increased Project storage releases even if the diversions are not directly downstream from Project reservoirs.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

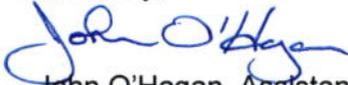
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The purpose of the Order is to investigate the complaint and the information received by the Division regarding potential unauthorized diversions by riparian and pre-1914 appropriative water rights holders. In this way, the Order is consistent with the February 5, 2015 letter signed by SJTA and others urging the State Water Board to take action to "administer the priority system and protect storage releases from diversion by those not entitled to the water to assure that all diverters are diverting consistent with the water rights priority system."

Because the complaint and the information received implicate San Joaquin River users upstream of Vernalis, the Order appropriately includes those users. Your request to remove those users is therefore denied.

Please feel free to contact me if you have any questions. You may contact me by phone at (916) 341-5368 or via e-mail at John.O'Hagan@waterboards.ca.gov.

Sincerely,



John O'Hagan, Assistant Deputy Director
Division of Water Rights

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