

February 2, 2014

✓ State Water Resources Control Board
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Re Comments on the Notice and Order of Temporary Urgency Change filed by California Department of Water Resources and United States Bureau of Reclamation regarding permits and licenses of the State Water Project and the Central Valley Project

The State Water Resources Control Board (Board) and state & federal project operators have appropriately but somewhat incompletely responded to the water storage and precipitation shortage urgency. Appropriately the Board's order explicitly conditions approval as not authorizing any act which results in the taking of a candidate, threatened or endangered species under both state and federal Endangered Species Acts. My comments address some additional actions that might be appropriate and of which the Board acknowledges it has continuing authority and will take them up if and when needed.

The petition and order allows for 180 days variance with D-1641 on matters of Delta outflow, Delta Cross Channel operations, requires some new record keeping and forecasts of future conditions, and directs a new multi-agency Real-Time Drought Operations Management Team. The emphasis of this petition and order is focused on human health and safety and the long term response to a drought of great severity for which we do not know when it will end.

The Real-Time Drought Operations Management Team: The Team has been ordered to have broad and powerful authority to monitor, report, implement, and make substantial real-time decisions. The Board will have a member on the Team. However, at this time there is no detail as to the functioning of this team and how governance is shared among the individual agency representatives. For example, is there a chair? The Board's order states that "the Board has ultimate authority regarding any changes." Still, the politics and urgency of the situation demand a process where any of the agencies have a veto power to elevate any matter to the level of the Board before proceeding with decision making at the team level. A possibility of a later "blame game" cannot be allowed. I urge the Board to reconsider the organizational and functional aspects of this team.

Water temperature monitoring and forecasts: The Board must require that the Real-Time Drought Operations Management Team to develop and share in a timely fashion with all interested parties monthly water temperature forecasts for releases to the rivers below

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project reservoirs operated for supply through this calendar year. This would mean release temperatures below Keswick, Nimbus, Oroville, etc. without these forecasts the state of the salmonid resource can not be known and thus protected.

The Order, page 10, states *“With the DCC gates open there is potential for decreased survival of Sacramento River-origin species as they move through the central Delta. Potential hazards include increased entrainment, predation and salvage. The petitioners provided a detailed analysis of how these issues will not result in decreased survival, and state that they will continue to consult with the fishery agencies on these issues.”* There should be great interest in this report and the claim. It will be sought for review, and it should be a topic for discussion at the February 18, 2014 workshop, if not before.

The next phase of drought water operations – petitions for temporary transfers - is what will be near-future focus. The Board focuses on continued minimum exports for human health and safety. Further the Board’s order “...do not apply to water transfers under non-SWP or CVP water rights or between SWP and CVP contractors.” The urgency of the current shortages, the Governor’s own admissions and encouragement of water transfers, the long history of minimizing shortages by temporary water transfers facilitated by SWP and/or CVP pumps without requiring any additional mitigation, the need to protect human health and safety above many other beneficial uses, the known condition and history of these export facilities for poor fish salvage performance, the potential for “take” of endangered species, and much more, will all make for a difficult, though not necessarily slow, process.

I trust that these written comments suffice in lieu of an appearance at the February 18, 2014 workshop.

Sincerely,



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