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Date: April 10, 2014 at 11:43:37 AM PDT

To: Tom Howard <thoward@waterboards.ca.gov>, Les Grober <lgrober@waterboards.ca.gov>

Cc: "Wilson, Craig@Waterboards" <Craig.Wilson@waterboards.ca.gov>, "Poole, Kate" <kpoole@nrdc.org>, "Jonathan Alan Rosenfield Ph. D. (rosenfield@bay.org)" <jon.tbi@gmail.com>

Subject: Protest of USBR TUC petition to relax Vernalis flow standards

Dear Tom & Les,

This morning I received a copy of the temporary urgency change petition from the Bureau of Reclamation that has been transmitted to both of you, and I wanted to alert you to our significant objections to the changes proposed in this petition. The proposal to relax base and pulse flows in April and May is not justified, will cause unreasonable effects on fish and wildlife, and is not in the public interest.

The documents provided by the fishery agencies acknowledge that the Stanislaus River steelhead are in a very precarious state (only 25 adult steelhead were counted at the weir on the Stanislaus River since October 2013, and only 21 juvenile steelhead were estimated to have migrated downstream through March 26, 2014). See Attachment E, pages 14, 26-27. These documents also acknowledge that reductions in San Joaquin inflow to the Delta, and increased pumping in the Delta, will substantially reduce steelhead survival through the Delta:

"The low quality habitat along routes to the ocean likely results in low emigration survival, especially in critically dry years such as this and is likely a large contributor to why the steelhead component of the *O. mykiss* population in the San Joaquin basin is small. It is hypothesized that steelhead escapement in two years will be lower than during previous wetter years due to poorer steelhead survival through the lower San Joaquin River between Durham Ferry (proximal to the confluence of the Stanislaus River) and Lathrop than during previous wetter years (see San Joaquin River I:E ratio and San Joaquin River flow downstream of the Head of Old River section)."

Attachment E, page 27; see *id.*, page 41-42 (describing cumulative effects of the proposed plan as reducing survival of steelhead and other salmonids).

Furthermore, the fishery agencies have not analyzed the impacts of the petition (or the plan) to fall run Chinook salmon, spring run chinook salmon in the Stanislaus River, or to other species that are not listed under the state and federal ESAs but which are critically important fishery resources that are beneficial uses protected under the water quality control plan and that will be adversely affected by this proposed temporary urgency change.

In addition, the SWRCB's Phase I proceeding regarding lower San Joaquin River flow objectives is replete with scientific information, evidence, and testimony from numerous fishery agencies, independent scientific reviews, and biologists with conservation groups (including NRDC) demonstrating that increased flows in the Lower San Joaquin River are necessary to protect instream beneficial uses. That information also demonstrates that reducing Vernalis flows this year would have unreasonable effects on fish and wildlife. See, e.g., State Water Resources Control Board. 2010. Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem. August 3, 2010. Available online at: http://www.swrcb.ca.gov/waterrights/water_issues/programs/bay_delta/deltaflow/docs/final_rpt0803

[10.pdf](#); State Water Resources Control Board. 2012. Public Draft Substitute Environmental Document in Support of Potential Changes to the Water Quality Control Plan for the San Francisco Bay-Sacramento/San Joaquin Delta Estuary: San Joaquin River Flows and Southern Delta Water Quality. December 2012. Available online at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/bay_delta_plan/water_quality_control_planning/2012_sed/;

California Department of Fish and Wildlife. 2013. Comments regarding the Substitute Environmental Document in Support of Potential Changes to the Water Quality Control Plan for the San Francisco Bay – Sacramento / San Joaquin Delta Estuary: San Joaquin River Flows and Southern Delta Water Quality. March 28, 2013. Available online at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/baydelta_pdsed/docs/comments032913/scott_cantrell.pdf

In contrast, as the letter acknowledges, not only is the Bureau making substantial water deliveries to senior water rights holders on the Stanislaus (355,000 acre feet per the initial allocation), but they are also planning a significant allocation of water (55%, over 85,000 acre feet) to junior water service contractors on the Stanislaus River. See petition, page 2; USBR, 2014 CVP water Quantities and Allocation, available online at:

http://www.usbr.gov/mp/PA/water/docs/1_CVP_Water_Quantities_Allocation.pdf. Of the maximum 155,000 acre feet contract amounts for these junior East Side water service contractors (Stockton East Water District and Central San Joaquin Water Conservation District), it is our understanding that only 10,000 acre feet is for Municipal and Industrial supply, with the remainder for agricultural uses.

In addition, under existing biological opinions and SWRCB requirements, 100% of the San Joaquin River inflow during the pulse flow period can be captured by the CVP and SWP. This can provide water supply for human health and safety needs, or for contract supply in 2014 and/or 2015. Providing full Vernalis pulse and base flows thus provides substantial benefits for fish and wildlife, as well as the potential for the projects to capture 100% of that water for water supply.

Therefore, we urge the SWRCB to reject the proposed temporary urgency change petition because it will cause unreasonable effects on fish and wildlife and is not in the public interest. This email constitutes a formal protest and objection to the petition.

Please contact me at your convenience if you have any questions or need additional information. We greatly appreciate you taking this information into account as the Board considers the petition.

Sincerely,
Doug

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