



October 14, 2014

## LATE COMMENT



Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Subject: Dry Year Report Comments

Dear Ms. Townsend:

The East Bay Municipal Utility District (EBMUD) appreciates the opportunity to provide recommendations to the State Water Board regarding effective actions for future dry years. The recommendations listed below are based on EBMUD's experience during the 2014 curtailment notice and process.

During the State Water Board's May 21, 2014 workshop, EBMUD provided verbal and written comments describing the suite of existing agreements on the Mokelumne River that were intended to ensure that no legal water user is injured and that there would be no unreasonable effect on fish and wildlife (see attachment). Upon recommendation from the State Water Board during the workshop, EBMUD sent a letter on June 3, 2014 requesting a change to the curtailment order on the Mokelumne River that was supported by the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS) (see attached letter). However, by then, it appeared the State Water Board staff no longer had the ability to consider the unique conditions on the Mokelumne River.

Presently, EBMUD continues to assess water supply conditions to identify potential impacts and develop operational scenarios in the event that dry or critically dry conditions continue. A major factor in that assessment are the releases that EBMUD makes from Camanche Reservoir to the lower Mokelumne River to meet the Joint Settlement Agreement (JSA) fishery flows and other inter-agency water right agreements. These established agreements are protective of fishery resources and senior water right holders. Pursuant to the JSA, for the period from October 2014 through March 2015 the flows for the lower Mokelumne River to the Delta will be the JSA Dry Year regime. The JSA Dry Year flows during this timeframe provide about 50,000 acre-feet of water in addition to the water released for all other uses. The Dry Year flows have been sufficient in recent years to result in a healthy river and a very successful salmon return. Ultimately, the effect of a continued curtailment order on the Mokelumne River will be additional releases between now and March 2015, which are not likely to have any appreciable beneficial effect on the environment or water supply. If dry or critically dry year conditions continue to persist, our current water supply assessment indicates that the ability to capture runoff this fall and early winter will be critical to meeting the needs of the fishery, including

beneficial adaptive management actions, and water supply needs of senior water rights holders in 2015.

The District appreciates the State Water Board's October 3, 2014 notice of its plan to temporarily lift curtailments during significant storm events, as this will enable post-1914 appropriate water right holders to store water for later beneficial use. Allowing collection to storage on the Mokelumne River of runoff this fall and early winter will ultimately enhance and benefit the fishery resources by providing better management of the cold water pool. It will also provide more water for critical water supply needs. The existing agreements between EBMUD with the fishery resource agencies and other senior water right holders on the Mokelumne River contain provisions to adaptively manage storage in Pardee and Camanche Reservoirs to maximize beneficial uses. For these reasons, we respectfully request that the curtailment order for the Mokelumne River be fully rescinded as soon as possible.

As to recommendations for future dry years, EBMUD recommends that the State Water Board undertake the following actions:

**Recommendation 1: Develop priority levels for various streams and provide exceptions for streams with protective flow-related agreements with resource agencies.**

The State Water Board should start developing various priority levels for streams that would allow for more judicious application of curtailments rather than a blanket valley-wide curtailment notice. Streams with existing flow management measures that benefit the fishery resources should be considered low priority or exempt from curtailment. As noted earlier, the Mokelumne River has long been managed by a set of interrelated agreements including the Joint Settlement Agreement between EBMUD, CDFW, and USFWS, setting the minimum flow releases from Camanche Reservoir to benefit the fishery ecosystem.

**Recommendation 2: Utilize published forecast of runoff by DWR to determine curtailment actions on various watersheds**

The State Water Board should work closely with the Department of Water Resources (DWR) and utilize DWR's preliminary runoff forecasts as well as the April 1 forecast to assess and plan potential curtailment thresholds and for notifying water rights holders. To allow water rights holder's sufficient time to adapt and to attempt to secure alternative supplies, the State Water Board should notify water right holders of the potential drought curtailment to their water rights as early as possible, with weekly updates based on DWR's runoff projections. Then, upon a final determination that curtailment will be necessary, provide water rights holders 6-8 weeks to develop alternative supplies or request exemptions.

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**Recommendation 3: Continue to maintain exceptions for health and safety**

The current health and safety exceptions in the curtailment notices should be maintained to ensure that minimum public health and safety needs are met and communities with no other water source are able to meet minimum health and safety needs.

**Recommendation 4: Streamline short-term transfers**

The State Water Board should further streamline short-term transfers between willing buyers and sellers. The State Water Board could consider establishing “de-minimus” thresholds for transfers that may not require State Water Board oversight.

EBMUD welcomes the opportunity to provide more information regarding these recommendations if requested by the State Water Board.

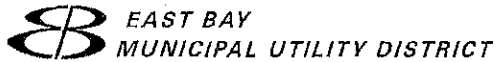
Very Truly Yours,



Lena L. Tam  
Manager of Water Resources Planning Division

Attachments

cc: Anders Christensen, WID



June 3, 2014

Mr. Thomas Howard  
Executive Director  
State Water Resources Control Board  
1001 - I Street  
Sacramento, CA 95814

Subject: Curtailment of Post -1914 Water Rights

Dear Mr. Howard:

This letter is in response to the State Water Board's "Notice of Unavailability of Water and Immediate Curtailment," (Curtailment Notice) received by the East Bay Municipal Utility District (EBMUD) on June 2, 2014, for its Mokelumne River water rights. EBMUD will comply with the Curtailment Notice and will file the required certification forms within 7 days of receipt. By this letter and as set forth below, EBMUD is requesting the following in order to facilitate required temperature management efforts to benefit the Mokelumne River anadromous fishery.

Under Section F.5 of the Joint Settlement Agreement (JSA) entered into between EBMUD, the California Department of Fish & Wildlife, and the United States Fish & Wildlife Service, EBMUD is required to use its best efforts to manage the hypolimnion volume (cold water temperature less than 16.4 degrees C) in Camanche Reservoir through the month of October. The State Water Board inserted this provision into License 11109 and Permit 10478 in its revised D-1641 in March 2000 (D-1641, pp. 176-177, condition 6(b).) EBMUD strives each year to use its best efforts to manage temperatures by joint operation of Pardee and Camanche Reservoirs to maintain the Camanche Reservoir hypolimnion so that cool water is available for release to the lower Mokelumne River for the fall run Chinook salmon migration.

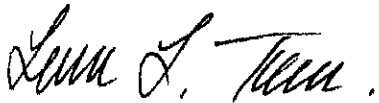
In our efforts to maintain the Camanche Reservoir hypolimnion this year, we have made an assessment of the hypolimnion now through the fall, and have determined that the Curtailment Notice would result in the early release of cold water from Camanche Reservoir in June, 2014, which will have the effect of impairing best efforts to maintain the Camanche Reservoir hypolimnion by reducing the amount of cold water available in October for the salmon fall up-migration. Our current assessment of the amount of hypolimnion volume in Camanche Reservoir is approximately 40 TAF while in Pardee Reservoirs it is about 54 TAF. Total required releases from Camanche Reservoir for the period June through September 2014 are approximately 61 TAF, while estimated, true natural flow (TNF) during this same period is approximately 17 to 27 TAF. Therefore, in order to meet total required releases under the current dry year release schedule, EBMUD will release up to an additional 44 TAF from Camanche Reservoir during the same period. (See attached table).

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The Curtailment Notice would require additional release of 2 to 5 TAF of cold water from Camanche in June, instead of allowing EBMUD to retain that water for later release in July and August to preserve more cold water in the reservoirs for the salmon fall up-migration. We are requesting to delay release of the 2 to 5 TAF from June 2014 for later release in 2014 in order to preserve more cold water in the reservoirs for the benefit of the fall run Chinook salmon. Release of the 2-5 TAF will be scheduled in consultation with the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife. This request will have no impact on meeting flow obligations under the JSA or on downstream senior water rights holders. Further, we want to stress that this request concerns 2 to 5 TAF of non-consumptive use that will be released downstream later in the summer. In our completion of the Curtailment Certification forms over the next several days, we will include a commitment to monitoring and reporting of TNF to ensure that the 2 to 5 TAF of water in question is non-consumptive and is returned to the Mokelumne River.

Attached are emails from the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife concurring with this approach.

Sincerely,



Lena L. Tam  
Manager, Water Resources Planning Division

Attachments

cc: Tina Bartlett, DFW  
Dan Welsh, USFWS



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**From:** Ratcliff, Donald [mailto:[donald\\_ratcliff@fws.gov](mailto:donald_ratcliff@fws.gov)]  
**Sent:** Tuesday, June 03, 2014 10:26 AM  
**To:** Setka, Jose  
**Cc:** [mike.healey@wildlife.ca.gov](mailto:mike.healey@wildlife.ca.gov); [tina.bartlett@wildlife.ca.gov](mailto:tina.bartlett@wildlife.ca.gov); [daniel\\_welsh@fws.gov](mailto:daniel_welsh@fws.gov); [Colin.purdy@wildlife.ca.gov](mailto:Colin.purdy@wildlife.ca.gov)  
**Subject:** Re: Response to Curtailment Notice

Jose,

After reviewing the last several weeks of Juvenile Migration Monitoring Summary Reports and the material you have provided, I concur with the proposed approach. Based on the migration reports and our discussions, it appears that the vast majority of juveniles have migrated out of the system and the most beneficial course we can pursue related to water management and anadromous fish at this point is to limit the amount of water to be released during June and protect the already limited ability to provide adequate conditions for returning adults this coming fall.

Thank you and please contact me if you would like to discuss further or have any additional questions or concerns,  
Donnie

On Mon, Jun 2, 2014 at 4:40 PM, Setka, Jose <[jsetka@ebmud.com](mailto:jsetka@ebmud.com)> wrote:

Good Afternoon,

Like all other post-1914 water right holders the District received a Curtailment notice from the SWRCB. The notice directs users to cease diversions and pass any TNF that may be coming into the system. In the case of the Mokelumne River, the JSA and other required releases (primarily pre-1914 water for WID) are more than the TNF with the possible exception of June. In the month of June TNF could exceed the required releases by 2 to 5 TAF. Based on the current dry year scenario (second driest rainfall year in the Mokelumne watershed) 5 TAF could make the difference come this October in regards to the amount of cold water available.

The attached letter to the SWRCB is requesting that we delay the 2 to 5 TAF in excess of required releases from June to July and August, which would allow it to be part of the required releases for those months. This will provide an additional 2 to 5 TAF of reservoir volume and a significant benefit to fall release water temperatures in an already very challenging temperature management year. To move this request forward we are requesting your concurrence with the approach. If you have any questions please feel free to contact me at 510-517-2169. Please reply via email if you are in agreement with the proposed approach. Since we are working with a very tight timeline (7 days starting today) a prompt review would be highly appreciated. Thanks you and have a great evening. Jose

**Jose D. Setka**

Manager Fisheries & Wildlife Division

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**From:** "Lynch, MaryLisa@Wildlife" <MaryLisa.Lynch@wildlife.ca.gov>

**Date:** June 3, 2014, 5:07:05 PM PDT

**To:** "Setka, Jose@ebmud.com" <jsetka@ebmud.com>

**Cc:** "Purdy, Colin@Wildlife" <Colin.Purdy@wildlife.ca.gov>, "Hill, Katherine@Wildlife" <Katherine.Hill@wildlife.ca.gov>, "Drongesen, Jeff@Wildlife" <Jeff.Drongesen@wildlife.ca.gov>, "Bartlett, Tina@Wildlife" <Tina.Bartlett@wildlife.ca.gov>, "Daniel Welsh@fws.gov" <Daniel.Welsh@fws.gov>

**Subject:** Concurrence on Request to the Water Board

Jose,

We have reviewed the draft letter to the Water Board requesting to delay release of the 2 to 5 TAF from June 2014 for later release in 2014 in order to preserve more cold water in the reservoirs. We understand that release of the 2-5 TAF will be scheduled in consultation with the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife for the benefit of the fall run Chinook salmon and that this request will have no impact on meeting flow obligations under the JSA or on downstream senior water rights holders. Given the circumstances, the Department agrees with this approach.

Thank you,

**MaryLisa F. Lynch**  
Water Program Supervisor



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