

## REGULATORY DEVELOPMENTS

### STATE WATER RESOURCES CONTROL BOARD PARTIALLY APPROVES TEMPORARY CHANGES TO THE STATE WATER PROJECT AND CENTRAL VALLEY PROJECT WATER RIGHT PERMITS

In light of continued drought conditions and limited water supply, the U.S. Bureau of Reclamation (Bureau) and California Department of Water Resources (DWR) requested temporary changes to operational terms of water right permits for Central Valley Project (CVP) and State Water Project (SWP). The State Water Resources Control Board (SWRCB) granted the majority of these requests, but did not approve a request to increase interim exports from the Delta.

#### Background

On January 23, 2015, the Bureau and DWR (collectively: petitioners) jointly submitted a Temporary Urgency Change Petition (TUCP) to the SWRCB and requested changes to the terms of water rights permits relating to operation of the State Water Project and Central Valley Project.

Specifically, petitioners requested that SWRCB Decision 1641—which has governed their permits since 1999—be modified for 180 days in the following ways: (1) the minimum required monthly Net Delta Outflow Index (NDOI) be lowered during February and March to not less than 4,000 cubic feet per second (cfs); (2) minimum monthly flows on San Joaquin River be set at 500 cfs during February and March; (3) the Delta Cross Channel (DCC) gates at Walnut Grove be kept opened during February and March to reduce salinity in the Delta and preserve upstream storage; (4) SWP/CVP export rate be up to 1,500 cfs when NDOI is less than 5,500 cfs or the DCC gates are open; and (5) the SWP/CVP export rate be up to 3,500 when NDOI is greater than 5,500 cfs and the DCC gates are closed.

NDOI is an estimate of net outflows of water from the Sacramento-San Joaquin Delta, and takes into account river inflows, precipitation, agricultural consumptive demand, and project exports. The DCC is a controlled diversion channel 30 miles downstream from Sacramento that diverts water from the Sacramento River into a branch of the Mokelumne River; when the DCC gates are open, water releases combat salt water intrusion in the Delta, dilute local pollu-

tion, and improve the quality of irrigation supplies in the Central Valley.

#### The SWRCB's Order

The SWRCB approved most of the requested changes, but denied petitioners' request to increase CVP/SWP export rates from the Delta to 3,500 cfs when NDOI is greater than 5,500 cfs.

Specifically, the SWRCB ordered that: (1) minimum monthly NDOI would be reduced to 4,000 cfs; (2) minimum monthly San Joaquin River flows at Vernalis would be reduced to 500 cfs; (3) the DCC gates would be opened during February and March as long as such operations were consistent with certain triggers that close the gates for the protection of fish species; (4) exports of 1,500 cfs would be allowed when NDOI is less than 7,100 cfs regardless of whether the DCC gates are open or closed; and (5) Delta exports up to the full amounts specified in D-1641 would be allowed when NDOI is above 7,100 cfs and the DCC gates are closed.

The SWRCB found that such modifications were in the public interest because they would not injure other legal users of water and would not cause unreasonable effects on fish, wildlife, or other instream beneficial uses. Specifically, the reduced NDOI requirement would allow for higher pulse flows benefiting fish species, and keeping the DCC gates open in February and March would reduce the need for additional freshwater releases from upstream storage in order to contain salinity in the Delta. The SWRCB noted that the prescribed export limits did not apply to transfers of non SWP/CVP water, as such transfers would be independently reviewed by the SWRCB.

The SWRCB denied, however, petitioners' request to increase the interim Delta export level to 3,500 cfs when NDOI is at least 5,500 cfs. In support of its determination, the SWRCB stated that:

...there is not currently adequate information to indicate that this export level is reasonable

given the current status of species and their distribution in the Delta and the potential additional risk of entrainment from the interim pumping level on various species...

The SWRCB further noted that “the water supply tradeoffs are not clear given the unknown water contract allocations that will occur this year.” The SWRCB did however, indicate that the order could potentially be amended:

...if adequate information is developed to determine that the interim pumping level could be allowed in a way that would not have unreasonable impacts on fish and wildlife, this order may be amended to allow for the interim pumping level.

### **Conclusion and Implications**

The changes to SWP/CVP operations are intended to “reduce to some extent the significant water supply related impacts expected if conditions remain dry” and:

...will help conserve stored water so that it can be released throughout 2015 for multiple purposes, including municipal and agricultural supply, wildlife refuge supplies, temperature control on the Sacramento River, and salinity control in the Delta.

Objections to the SWRCB’s order are due by February 13, 2015. Additional potential changes in project operations for the period of April through September 30 of 2015 are planned for discussion at a February 18, 2015, SWRCB workshop. (David E. Cameron, Meredith Nikkel)

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