



State Water Resources Control Board



Alan C. Lloyd, Ph.D.
Agency Secretary

Division of Water Rights
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Arnold Schwarzenegger
Governor

July 1, 2005

Ronald Milligan
Operations Manager
U.S. Bureau of Reclamation
Central Valley Operations Office
3310 El Camino Ave., Suite 300
Sacramento, CA 95821

Carl A. Torgersen, Chief
SWP Operations Control Office
Department of Water Resources
P.O. Box 942836
Sacramento, CA 942836

Dear Mr. Milligan and Mr. Torgersen:

APRIL 25, 2005 WATER QUALITY RESPONSE PLAN PURSUANT TO DECISION 1641

This letter responds to your letter dated April 25, 2005, submitting the Final Water Quality Response Plan (WQRP) for Stage 1 and Stage 2 Joint Points of Diversion (JPOD) operations pursuant to State Water Resources Control Board (State Water Board) Decision 1641 (D-1641). Prior to use of each other's points of diversion in the Delta (referred to as JPOD), D-1641 (condition 5 on pages 150 and 151 and condition 5 on page 156) requires the California Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (USBR) to develop a response plan with input from Contra Costa Water District (CCWD) that is acceptable to the Chief of the Division of Water Rights (Division).

On July 28, 2004, I temporarily approved DWR's and USBR's July 1, 2004 WQRP subject to terms and conditions. In addition to other conditions, I required DWR and USBR to consult with South Delta Water Agency (SDWA) to determine potential water quality impacts to southern Delta diverters related to JPOD diversions and to submit a revised WQRP to me addressing potential water quality impacts to SDWA members. DWR and USBR submitted the April 25, 2005 WQRP in compliance with that condition.

The April 25, 2005 revised WQRP includes the same conditions as the July 1, 2004 WQRP in addition to two new conditions. The first new condition (condition 5) addresses potential impacts to CCWD and is incorporated from condition 2 of my July 28, 2004 approval of the previous WQRP as modified by State Water Board Order 2004-0043. The second new condition (condition 6) addresses potential water quality impacts to SDWA members and is modeled after the above mentioned requirement of the July 28, 2004 approval to consult with SDWA. Based on the continuing uncertainty regarding potential water quality impacts related to JPOD, I

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believe the two new conditions meet the requirements of D-1641, and are appropriate for addressing potential water quality impacts to CCWD and SDWA at this time. Accordingly, I approve the April 25, 2005 WQRP for Stages 1 and 2 JPOD diversions subject to the following terms and conditions:

1. DWR and USBR shall meet the requirements included in the WQRP dated April 25, 2005, and shall meet the further conditions in this approval. JPOD diversions are authorized pursuant to this WQRP if DWR and USBR are in compliance with the time schedule established in Draft Cease and Desist Orders 262.31-16 and 262.31-17 or any subsequent final order of the State Water Board on this matter and meet the following requirements:
 - a. DWR and USBR may conduct JPOD diversions if DWR and USBR are in compliance with all of the then-current conditions on their water right permits and licenses with the following exceptions:
 - i. Prior to January 1, 2009, DWR and USBR may conduct JPOD diversions if they meet an EC objective of 1.0 mmhos/cm at compliance locations C-6, C-8, and P-12 (San Joaquin River at Brandt Bridge, Old River near Middle River, and Old River at Tracy Road Bridge).
 - ii. After January 1, 2009, DWR and USBR may conduct JPOD diversions only if they meet all of the requirements of their water right permits and licenses, including, if it is still a condition of their permits, meeting the 0.7 mmhos/cm electrical conductivity (EC) objective for the protection of agricultural beneficial uses in the interior southern Delta at compliance locations C-6, C-8, and P-12 (San Joaquin River at Brandt Bridge, Old River near Middle River, and Old River at Tracy Road Bridge).
 - b. If any permit or license condition implementing the water quality objectives (with the exception of the 0.7 mmhos/cm agricultural EC objective for the interior southern Delta prior to January 1, 2009) is violated, JPOD diversions shall cease until such time as the water quality objectives are met.
2. This approval is based on the continuation of the facilities, Clifton Court Forebay (CCF) operational criteria, and regulatory restrictions on exports that exist as of the date of this letter. If facilities, CCF operations or export restrictions change, then DWR and USBR shall consult with the Chief of the Division to determine whether the WQRP requires changes and further approval.

Ronald Milligan
Carl A. Torgersen

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3. I retain continuing authority over my approval of the WQRP for the purpose of requiring changes as needed to meet the conditions in the water rights of the DWR and the USBR on use of Stages 1 and 2 JPOD and to protect the public welfare, protect public trust uses, and prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of the water involved.

If any interested party objects to my decision, the interested party may submit a petition for reconsideration in accordance with Sections 768 and 769 of Title 23 of the California Code of Regulations. A petition for reconsideration must be submitted in writing within 30 days from the date of this letter to:

Mr. Arthur G. Baggett, Jr., Chair
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

If you have any questions regarding this matter, please contact Diane Riddle, Environmental Scientist, at (916) 341-5297, or Barbara Leidigh, Staff Counsel IV, at (916) 341-5190.

Sincerely,

ORIGINAL SIGNED BY

Victoria A. Whitney
Division Chief

cc: John Herrick
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cc: (Continuation page.)

Ronald Milligan
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bcc: Vicky Whitney, Jim Kassel, Gita Kapahi, Barbara Leidigh

DKR:llv 05/03/05

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