



September 15, 2014

Ms. Felicia Marcus
Chair c/o Jeanine Townsend,
Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, California 95814

SENT VIA EMAIL: commentletters@waterboards.ca.gov

Subject: Comment Letter: Delta September 2014 Workshop

Dear Ms. Marcus:

In response to the July 23 letter, the State Water Board received several letters from Delta water users, and the Board scheduled the September 24 workshop. The workshop notice sets forth three questions to be addressed: 1) Do Delta diverters have the right to divert stored water released from SWP or CVP reservoirs? 2) What sources of water exist that are available for diversion by users in the Delta? And, 3) will the information requested by DWR and Reclamation accomplish anything?

DWR and Reclamation do not believe, for their purposes, that it is necessary at this time for the State Water Board take up questions 1 and 2. Such inquiries are complex and time consuming, and are more appropriate for a narrowly framed water rights complaint hearing. However, immediate action to assist in 2015 drought planning efforts is necessary. DWR and Reclamation believe that timely reporting of information on historic and predicted Delta water use is possible and is an important and reasonable step to inform DWR, Reclamation, and other agencies in their water management decisions. Thus the State Water Board draft order to produce information circulated for this workshop should be modified to include information on Delta diversions through 2015.

Predictions for 2015 are that the water management challenges faced in 2014 will continue in 2015 due to very low storage levels, even if higher precipitation occurs in 2015. 2014 is an exceptionally dry year that has required dramatic adjustments by water users and managers throughout California. (See Governor's Executive Order B-21-13, and Emergency Proclamations 01-17-2014 and 04-25-2014.) Over the course of the past three years of drought the State Water Resources Control Board ("State Water Board") has issued 49 temporary urgency change orders to water right permit holders, including the Department of Water Resources ("DWR") and United States Bureau of Reclamation ("Reclamation"). DWR and Reclamation are, and will continue to be for the foreseeable future, responsible for Delta water quality and outflow protections, as specified in Water Rights Decision 1641 ("D-1641").

In 2014 DWR and Reclamation faced challenges complying with D-1641 in part because actual Delta consumptive use was higher than estimated. DWR and Reclamation utilize an estimated Delta consumption number in order to make operational decisions. During the early months of 2014 this estimate did not capture the unusually large diversion of water from the Delta. Despite DWR and Reclamation significantly limiting deliveries to contractors of the SWP and CVP to historical lows and working closely with regulatory agencies to manage the use of limited water supplies to best protect aquatic species and water quality, the quantity of water in storage within the major reservoirs of California is exceedingly low and DWR and Reclamation are taking steps to prepare for severe shortages moving into 2015.

Because DWR and Reclamation are required to protect Delta water quality and outflow, on July 23, 2014, DWR and Reclamation filed a very limited and common sense request with the State Water Board to gather information from central and southern Delta water diverters that will assist in planning for yet another year of drought in 2015. More accurate information on monthly water use and projected use within the Delta will result in better planning. This letter clarifies and refocuses the discussion. The July 23 letter requested that the State Water Resources Control Board ("State Water Board") exercise its authority to order southern and central Delta diverters claiming riparian and pre-1914 water rights to provide the State Water Board with the information required under 23 C.C.R. §879(c), e.g. the basis of claimed water right and the scope of past and future diversions. As was necessary under the regulations, DWR and Reclamation provided information that stored water was likely being diverted by southern Delta diverters. DWR and Reclamation believe, however, that it is the information concerning actual diversions within the Delta, not the adjudication of water rights, that is important information necessary for proper planning and management of the State's water resources.

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The State Water Board has expressed concern about water management of the major reservoirs – ensuring adequate storage and carryover supplies, reducing water use, etc. – and has instituted a regular reporting system of water usage by some water agencies. Recently the State Water Board proposed amending its May 2, 2014 Temporary Urgency Change Order (TUC) in order to require DWR and Reclamation provide yet more detailed operational information on a monthly basis and to produce a 2015 drought contingency plan. Yet some water diverters only report their use annually, and generally six months after close of the year, with the result that the delay in reporting can make CVP and SWP water management decisions more difficult. (See the June reporting date on annual water use reports attached to the July 23 letter.) DWR and Reclamation request the State Water Board seek timely data from the central and south Delta diverters so that better informed decisions are possible consistent with the Board's orders.

Thus, to better prepare for drought planning, DWR and Reclamation propose that the draft order attached to the workshop notice requesting monthly information on water use in 2014 be amended to extend the time period through 2015, and include reporting of predicted monthly use. Forecasting 2015 water diversions on the Sacramento River and San Joaquin River watersheds will improve reservoir management. DWR and Reclamation have identified some critical missing information needed to inform required delta flow calculations, which the Water Board could obtain. In a drought year such as 2014, and likely 2015, management of the system requires more and better information as the capacity to absorb storage losses is very limited.

For all these reasons DWR and Reclamation strongly urge the State Water Board to move forward with obtaining additional information from southern and central Delta diverters. However, we also propose that the Board forego as unnecessary at this time the water rights validations and watershed adjudications requested by other parties. DWR will present information to the State Water Board supportive of this letter at the workshop on September 24, 2014.

Sincerely,



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Director
California Department of Water Resources



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Regional Director
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