
State Water Resources Control Board

April 3, 2020

Kristin White
Operations Manager
Central Valley Operations Office
United States Bureau of Reclamation
via email to knwhite@usbr.gov

Dear Ms. White,

WATER YEAR 2020 DECISION 1641 SAN JOAQUIN RIVER FLOW REQUIREMENTS AND EXPORT LIMITS

This letter responds to the U.S. Bureau of Reclamation's (Reclamation) March 12, 2020 letter notifying the State Water Resources Control Board (State Water Board) that the Decision 1641 (D-1641) San Joaquin River flow requirements at Vernalis (Vernalis flow requirements) were not met in February. This letter also responds to an email from Reclamation (Elizabeth Kiteck) today related to planned pulse flows on the Stanislaus River pursuant to the 2019 National Marine Fisheries Service Biological Opinion and flows during the April and May Vernalis pulse flow period and associated State Water Project and Central Valley Project (Project) export limits included in D-1641.

Reclamation is required to meet Vernalis flow requirements identified in Table 3 of D-1641 pursuant to Condition 2 on page 161. The Vernalis flow requirements are fixed monthly flow levels that vary by water year type, with higher fixed flows applying in wetter years and lower fixed flows applying in drier years (see Table 3, page 184; and footnote 13, page 186). The Vernalis flow requirements include "spring flow" requirements that apply from February 1 through April 14 and May 16 through June 30, including monthly average flow requirements and a requirement that the 7-day running average flows be no less than 80% of the minimum monthly average. The Vernalis flow requirements also include 31-day "pulse flow" requirements with a default time period for these flows of April 15 through May 15. D-1641 allows the pulse flows to be shifted in time based on consultation with the fisheries agencies upon approval of the State Water Board Executive Director. The spring flow and pulse flow requirements include two flow levels for each time period determined by required Delta outflow levels. D-1641 also limits Project exports during the pulse flow period to 100% of the flow of the San Joaquin River, or 1,500 cubic-feet per second (cfs), whichever is larger (D-1641 I:E). Similar to the pulse flow period, D-1641 allows for the I:E time period to be shifted based on consultation with the fisheries agencies. Pursuant to D-1641 (Condition 11d

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

on page 149), Reclamation is required to provide immediate written notification to the State Water Board's Executive Director if a compliance issue is anticipated to potentially occur or is known to have occurred (Condition 11 d. on page 149). In the event of any future D-1641 compliance issues, please notify the State Water Board in writing immediately.

The February 2020 Vernalis spring flow requirement was 2,250 cfs¹ as a monthly average (adjusted from 2,280 cfs to account for the leap year). The 7-day running average minimum flow requirement for February was 1,800 cfs (80% of 2,250 cfs). Vernalis flows fell below the 7-day running average minimum flow requirement of 1,800 cfs for eight days in February, from February 16 through February 23. The lowest 7-day running average flow level at Vernalis during this time period was 1,452 cfs. Monthly average flows at Vernalis were 2,209 cfs, which is below the required flow of 2,250 cfs. The cumulative loss of flows to support fish and wildlife beneficial uses during this time was approximately 3,000 acre-feet. To address this compliance issue, Reclamation is directed to provide an additional 3,000 acre-feet of water for fish and wildlife uses this spring. The timing of this flow shall be coordinated as soon as possible with the fisheries agencies and State Water Board staff.

The current San Joaquin Valley Water Year Hydrologic Classification (Figure 2, page 189) is Critically Dry. Assuming the water year type does not change in April and May, Reclamation would be required to meet flows of between 3,110 and 3,540 cfs during the pulse flow period, depending on required Delta Outflow levels pursuant to D-1641. Ms. Kiteck's email of today indicates that Reclamation has coordinated with the fisheries agencies to develop a plan to provide pulse flows on the Stanislaus River in coordination with pulse flows on the Tuolumne River that will provide a pulse flow at Vernalis from April 10 to May 10. Reclamation also indicates that it plans to shift the D-1641 I:E to the April 10 to May 10 time period to coincide with the pulse flows arriving at Vernalis. The shift in the D-1641 pulse flow and I:E time period is approved. However, the Vernalis pulse flow levels identified in Reclamation's email of today will not meet the D-1641 required pulse flow levels. Reclamation has indicated in the past that it does not agree that it is required to meet the D-1641 pulse flows since the expiration of the San Joaquin River Agreement. As stated previously, D-1641 is unequivocal on Reclamation's obligation to meet the pulse flow requirements (see March 14, 2017 letter from the State Water Board to Reclamation at: https://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/tucp/docs/03142017howard_ltr.pdf). Failure to comply with the "pulse flow" requirements would further result in water being unavailable to support fish and wildlife beneficial uses and may subject Reclamation to appropriate enforcement action.

Reclamation's letter of March 12, 2020 expressed concern that, "...continued high releases from New Melones Reservoir will deplete storage, reduce the likelihood of filling the following year, potentially impact release temperatures in future years and adversely impact other purposes which depend on the New Melones Reservoir supply." Although the flow requirements apply to the permits for New Melones storage, D-1641 provides flexibility to "meet the objectives by other means, such as recirculation,

purchases from willing sellers such as the members of the San Joaquin River Group, or releases from the Friant project.” (D-1641, page 15)

The State Water Board supports the ongoing efforts of the California Natural Resources Agency, the California Environmental Protection Agency, and Bay-Delta watershed stakeholders, including Reclamation, to develop Voluntary Agreements that could implement updates to the Bay-Delta Water Quality Control Plan. Such agreements, if adopted by the State Water Board, have the potential to protect water supply and the environment, and to align state and federal requirements in a manner that resolves the differing perspectives of our agencies. Our staff remain committed to providing regulatory and technical support for the Voluntary Agreement process and to working collaboratively with Reclamation. I appreciate Reclamation’s willingness to continue discussions with the State Water Board, and I look forward to coordinating with you further on this matter in the coming months. If you have any questions, please contact Diane Riddle at Diane.Riddle@Waterboards.ca.gov. Please be aware that due to the public health concerns regarding the novel COVID-19 virus and the resulting pandemic, many Division of Water Rights staff are telecommuting; therefore, the best avenue of communication at this time is via email.

Sincerely,

ORIGINAL SIGNED BY

Eileen Sobeck

cc: Stanislaus Watershed Team (via email)

¹ Dry water year with 28 days of 11,400 cfs as Net Delta Outflow Index required by the Delta outflow objective.