



LATE COMMENT

Comments of EBMUD Re: Drought-Related Curtailments of Post-1914 Water Rights in the Sacramento-San Joaquin River Delta (May 21, 2014)

Thank you for an opportunity to comment as you deliberate on the difficult task of drought related curtailments of post-1914 water rights in the Sacramento-San Joaquin River Delta.

The Mokelumne River, which is EBMUD's primary water source to serve over 1.3 million people, provides, on average, just 2.5% of total inflow into the Delta. In this remarkably dry year, EBMUD continues to make releases from Camanche Reservoir to the lower Mokelumne River to meet fishery flow requirements and obligations under inter-agency water rights agreements. These required releases will exceed the expected natural runoff from the Mokelumne watershed from June through December.

The Mokelumne River is managed by a set of interrelated agreements. These include the 1998 Joint Settlement Agreement (JSA) between EBMUD, CDFW and USFWS, setting minimum flow releases from Camanche Reservoir to benefit the fishery ecosystem.

- In 1998, FERC approved the JSA and amended EBMUD's FERC license for the Lower Mokelumne River Project 2916 to require the JSA flow releases.
- The SWRCB also approved the JSA flows in D-1641, amending EBMUD's water rights on the Mokelumne to require the JSA flow releases to benefit the Delta.
- EBMUD has made those releases and will continue doing so.

In addition, there are numerous inter-agency water right agreements among various water users on the Mokelumne River addressing water right priorities on the river, including:

- A set of agreements between EBMUD & the Woodbridge Irrigation District addressing how much water EBMUD must release downstream to satisfy WID's

overlapping pre-1914 and post-1914 water rights. Those agreements have built-in curtailment provisions in drought years, resulting in releases to WID this year being reduced from 60,000 acre-feet to 39,000 acre-feet.

- The Lodi Decrees, which are court-imposed decrees implementing a physical solution on the Mokelumne between various parties upstream and downstream of EBMUD's Mokelumne Project.

Together, the JSA, the inter-agency water right agreements and EBMUD's own water right obligations provide a complex but successful framework for management of the Mokelumne River, even during times of drought. The practical effect of this framework is that EBMUD's releases from Camanche Reservoir to the lower Mokelumne River are protective of fishery resources and senior water right holders and, for the remainder of 2014, obligate EBMUD to release more water to the lower Mokelumne River than would naturally be available.

As to employing a Term 91-like approach on the Mokelumne, we understand that a primary function and reason for Term 91 is to preclude junior water rights holders from diverting stored water releases by the Projects. We note that there are no CVP or SWP facilities on the Mokelumne, so there is no risk of diverting releases of stored Project water. As noted above, there already exists a series of interagency agreements and requirements on the Mokelumne that regulate releases, both to protect senior water right holders and to protect the fishery ecosystem.

Thank you.