



San Francisco Water Power Sewer

Services of the San Francisco Public Utilities Commission

(5/20-21/14) Board Meeting- Item 13
Drought Curtailments of Post-1914 Water Rights
Deadline: 5/19/14 by 5:00pm

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LATE COMMENT

April 28, 2014

Barbara Evoy
State Water Resources Control Board
1001 I Street
P.O. Box 100
Sacramento, 95812-0100



Re: *Potential Curtailment of San Francisco's Diversions to the San Francisco Bay Area from the Hetch Hetchy Project on the Tuolumne River*

Dear Ms. Evoy:

Pursuant to our conversation last week and the conference call with the San Joaquin Tributaries Authority on April 18th, I write to provide information regarding the SWRCB notice of potential curtailment of water rights in the Tuolumne River watershed. The SWRCB recently updated its 2014 Drought website to include potential dates for pending curtailment of post-1914 water rights and projected curtailment of pre-1914 water rights. The SWRCB projects that it may issue curtailment notices to junior pre-1914 water rights holders on the Tuolumne River as soon as May 1st.

San Francisco provides water for municipal and domestic uses to 2.6 million water users in Tuolumne, Alameda, Santa Clara, San Mateo, and San Francisco counties through its Hetch Hetchy Regional Water System. Besides the residents and businesses of San Francisco, the Regional Water System serves 26 wholesale water agencies, Lawrence Livermore National Laboratory, the Town of Sunol, and Groveland Community Services District.

Regional Water System supply originates from the Tuolumne River, Alameda Creek, San Mateo Creek, and Pilarcitos Creek watersheds. On average, 85% of Regional Water System supplies come from the Tuolumne River watershed. San Francisco and its customers also have developed groundwater and reclaimed water supplies, and one customer, Alameda County Water District, is a State Water Project contractor. On average, San Francisco supplies 55 MGD to Santa Clara county water users; Santa Clara County in turn obtains its other supplies from the Central Valley Project, the State Water Project, and local surface and ground water. As the Board is well aware, CVP and SWP deliveries this year are at all-time lows, making Regional Water System supplies that much more important to many of our customers.

San Francisco's pre-1914 water rights are junior to the pre-1914 water rights of the Modesto and Turlock Irrigation Districts. The Raker Act, which granted San Francisco rights-of-way for the Hetch Hetchy Project, requires San Francisco to bypass flows to the Districts in recognition of their senior water rights. The Districts' Raker Act entitlements are 2,350 cfs or natural flow, whichever is less, year-round, and 4,000 cfs from April 15 to May 13, as measured at La Grange Dam. San Francisco also bypasses flow to meet the Waterford Irrigation District's pre-1914 water right to 66 cfs, which is now held by the Modesto Irrigation District (together, "water entitlements.") This year, San Francisco projects that the Districts' water entitlements will encompass all but about 25,000 acre-feet of Tuolumne River water which will be available to San Francisco under its own water rights.

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Ms. Barbara Evoy
Re: Potential Curtailments of Pre-1914 Tuolumne River Water Rights
April 28, 2014
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Agreements to develop water resources (also known as "physical solutions") have long been encouraged and recognized by the California Courts and the Board as an appropriate mechanism for water rights holders to maximize the beneficial use of water from a source while respecting the priority of water rights. Such a physical solution has long existed on the Tuolumne River through an agreement between San Francisco and the Districts to develop the Don Pedro Project.

In 1966 San Francisco and the Districts entered into the "Fourth Agreement," which established how funding for the Don Pedro Project was to be allocated among the parties and created a Water Bank that allows San Francisco to "pre-pay" water to satisfy the Districts senior water rights. San Francisco paid well over half the costs of the Don Pedro Project. The Districts in turn waived their right to require San Francisco to bypass their water entitlements so long as the Water Bank account is positive. In the event the Water Bank Account goes to zero, the Fourth Agreement requires San Francisco to release or bypass sufficient water to satisfy the Districts' water entitlements as measured at La Grange Dam. In other words, through the Raker Act and the Fourth Agreement, San Francisco and the Districts have developed a physical solution to ensure that San Francisco's junior pre-1914 appropriations will not cause injury to the Districts' senior appropriative water rights.

As stated several times during the conference call with the San Joaquin Tributaries Authority on April 18th, the purpose of curtailment notices are to protect the rights of senior water rights holders. In the case of the Tuolumne River, San Francisco and the Districts have agreements that protect the parties' respective rights to divert. Consequently, there is no need to provide a curtailment notice to San Francisco to cease diversions under its pre-1914 water right when considering protection of pre-1914 water rights holders on the Tuolumne River.

Feel free to contact me if you have any questions regarding this matter at (415) 934-536.

Sincerely,


Steven R. Ritchie
Assistant General Manager, Water

cc: Tom Howard, SWRCB
Caren Trgovich, SWRCB
Donn Furman, San Francisco City Attorney's Office
Roger Van Hoy, Modesto Irrigation District
Casey Hashimoto, Turlock Irrigation District
Nicole Sandkulla, Bay Area Water Supply and Conservation Agency