

September 7, 2014

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1002 I Street, 24th Floor
Sacramento, CA 95814



Re: Comments on Proposed Order Taking Action on Petitions for Reconsideration of and Addressing Objections to the Executive Director's January 31, 2014 Order that Approved Temporary Urgency Changes in License and Permit Terms and Conditions for the State Water Project and Central Valley Project and Subsequent Modifications to That Order

Dear Ms. Townsend:

In the Board's consideration of the reference draft order, provide them my comments to consider.

This letter of comment is only about two things: 1) my disappointment in the decisions made by the Board during droughts, and at other times, in regards to balanced protection of fish and wildlife, and 2) public confidence in the Board's decisions which is the basis on which we – California - all move forward.

I commented on the first petition by letter dated February 2, 2014. Subsequently I submitted letters on this same matter to the Board staff and others on February 4, 2014, March 19, 2014 and May 23, 2014, and an email of comments to Michael Buckman dated April 18, 2014. As I look back over those concerns expressed I realize that we have a crisis in California – a crisis in public confidence of the Board to make the right decisions. Specifically I am referring to the never ending calls that less and less water, repeatedly less and less than the existing standards call for and which have resulted in huge losses to aquatic resources, will not have an unreasonable impact on fish and wildlife. The losses are not immediately evident and therein lies the problem. Cause and effect can be blurred.

Part 4.4, paragraph 1, lines 2 and 3: The Board should change this sentence to read "Many of the specific comments were made moot by subsequent changes." To say as in the draft "...or are now moot because the effective period for change has passed" is the equivalent of saying "We made mistakes but the water is under the bridge so let's forget about it." What the Board should add in this paragraph is a sentence "Specific comments submitted that were rejected but, with hindsight, we would have made some accommodation include" or "Specific comments not adopted by the Board and for which today we would make the same decision to ignore or reject include..."

Part 4.4, page 23, paragraph 2, line 3 and 4: The Board apparently considers in its balancing "... with the potential for a continuation of the drought into the future." So, does a one month drought bring into play "the potential for continuation of drought into the future" consideration? Will the potential for continuation of drought come into play in

consideration of impacts to listed threatened and endangered species protections? Do the project operators assume a continuation of drought into their fall operation projections or do they assume some other hydrologic future? The Board is interjecting public fear into their explanation of the handling of these many petitions. The Board needs to make a statement in the Order "The Board's weighing of the short term impacts to fish and wildlife against the long term impact to all beneficial uses of water is a purely subjective call and not subject to any review save for a Court's."

Part 4.4, page 23 and 25: This paragraph claims that the Board has a new condition, that "the requirement that DWR and Reclamation consult with fisheries agencies and the State Water Resources Control Board on a weekly basis regarding operational decisions that may affect listed species and other beneficial uses, and provide technical information when necessary to support those decisions to the State Water Board and fisheries agencies, will ensure that the fish and wildlife needs are considered in real time decision-making under the TUCP Order." Isn't that what has been happening for the last few decades? Isn't that like the Water Operations Management Team's charge? With such good intentions then how did we get to where we are today in terms of failing populations of aquatic resources? A statement needs to be added to say "While this rigorous real-time consultation process is needed and will be implemented, it does not guarantee that the science provided by the fisheries agencies will result in an outcome measurably benefitting aquatic resources."

"While this rigorous real-time consultation process is needed and will be implemented, it does not guarantee

So much fear has been stoked in the people of California in the past and especially in the last 12 months by a few water project operators and some corporate farms that the question is how is the Board going to be able to go back to the standards ever? There will always be the threat of continued drought. The Board needs to describe those conditions of precipitation for which the standards will apply without relaxation, whether or not mistakes in operations were made. The Board has set a new standard. The new standard is whenever there is a water shortage for irrigated agriculture, even for annual crops, relaxation of standards will be accommodated as it will likely be decreed to not unreasonably impact fish and wildlife. If reasonable reservoir carryover storage is not required of project operators, water temperatures will continue to cook salmon and operators will continue to say that they are water short and there is an urgent need for relaxations (lessening) in water flow standards for instream use.

I have made a few suggestions for deletions and/or additions to the proposed order that, if adopted, will make the process more transparent and perhaps will improve public confidence in the Board's decision-performance and orders.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Morat", with a long, sweeping horizontal line extending to the right.

Richard Morat
2821 Berkshire Way
Sacramento, CA 95864