
State Water Resources Control Board

April 30, 2021

Mr. Ted Craddock
Deputy Director, State Water Project
Department of Water Resources
Ted.craddock@water.ca.gov

Mr. Ernest Conant
Regional Director
U.S. Bureau of Reclamation
econant@usbr.gov

COMPLIANCE WITH WATER RIGHT REQUIREMENTS IN THE BAY-DELTA WATERSHED

Dear Messrs. Craddock and Conant,

We write to respond to the news, received last week, that the Projects have violated terms and conditions of their water rights, including requirements imposed under State Water Resources Control Board (State Water Board) Decision 1641 (D-1641). The current and forecasted violations include the following D-1641 violations:

- Failure to achieve April Delta outflow requirements that are the collective responsibility of DWR and Reclamation.
- Failure to achieve April-May San Joaquin River pulse flow requirements that are the responsibility of Reclamation.
- Failure to achieve salinity requirements in the southern Delta that are the collective responsibility of DWR and Reclamation that have persisted since February 11 that threaten to continue throughout the summer.

Your respective operations managers have made recent, sobering presentations at State Water Board meetings and workshops describing the dismal hydrology in the Delta watershed. Recent information from the National Weather Service is showing that precipitation accumulations for 2020/2021 for the watershed are likely to be the second lowest on record, as is runoff to the Sacramento River, second only to the extreme

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

drought years of 1976/1977. As your operations managers have pointed out, these conditions have severely strained operations of the Central Valley Project (CVP) and the State Water Project (SWP) (together, the Projects). With the exception of New Melones Reservoir, the Projects' reservoir storage levels are well below historic averages for this time of year and the extremely dry soils and low snowpack is expected to result in very modest runoff.

In response to current conditions, the State Water Board has alerted all water right holders throughout the state to prepare for constrained water supplies in the months ahead. On April 29, the State Water Board invoked curtailments of water rights in the Delta Watershed that include water right permit/license Term 91. As supplies continue to tighten and agricultural demand increases, we anticipate notifying additional water right holders (including the Projects) in accordance with the holders' water right priorities, that water is not available for their use. That process will continue throughout the summer and into the fall if needed, as water becomes unavailable to increasingly senior water right holders.

In order to inform whether there will be future compliance issues, the Board's decisions related to enforcement actions for the current violations (and any future violations), and to evaluate tradeoffs related to those issues, the Projects are hereby directed to provide the following information to the State Water Board:

- An evaluation of whether additional failures to meet existing water right requirements are anticipated over the remainder of the water year, and the causes of any anticipated violations;
- Steps that the Projects propose to take to mitigate the extent and duration of such violations;
- Alternative actions that the Projects have considered and either rejected or deferred;
- Requests to state and federal agencies (including the State Water Board), contractors or stakeholders to assist the Projects in avoiding, mitigating, and managing risks of violations;
- Strategies for balancing among potentially conflicting priorities for scarce water supplies for:
 - Preserving storage to mitigate potential impacts to municipal supplies and the environment, and to help ensure salinity control in the Delta, by further reducing contract deliveries;
 - Protecting access to safe drinking water for communities dependent on Project supplies;
 - Providing for temperature management to protect endangered salmonids;
 - Maintaining salinity control within the Delta;
 - Carrying out third-party water transfers across the Delta;
 - Preserving carryover storage in case of continued dry conditions;

- Avoiding damage to Project infrastructure; and
- Reducing or eliminating violations of water quality objectives.

The State Water Board expects that the Projects will provide this information in as close to real time as possible, and that the evaluation of potential water rights violations be submitted no later than 15 days from receipt of this letter. If the State Water Board does not receive responses that demonstrate the Projects are making a substantial effort to ensure future violations do not occur, we will explore all avenues of enforcement.

The State Water Board recognizes the management responses that the Projects have taken to cope with current dry conditions, including:

- Restricting water allocations to different users, including 5% allocations to SWP south of Delta users, a suspension of any allocations to CVP south of Delta agricultural users, and reduced allocations to other users;
- Limiting Delta exports to minimal levels (recent average combined exports of 1,200 to 1,300 cubic feet per second); and
- Coordinating operations between the CVP and SWP to conserve reservoir storage.

Although the current violations are exacerbated by the extreme dry conditions, they are in part the result of the overallocation of Project water during dry conditions. Additionally, risk management and operational decisions by the Projects were made that appear to have discounted the need to maintain regulatory compliance. These issues become more apparent when water resources are severely constrained, as they are now.

The State Water Board understands that options for effective management of water supplies in the Delta watershed have dwindled as hydrological conditions have deteriorated and each operating decision narrows future flexibility. However, prior experience and increasing vulnerability due to climate change demand that you improve long-term drought planning and preparedness. While California struggles through current water shortage conditions, the State Water Board will work with the Projects to mitigate harm when and where we can. But as we look beyond the current water supply struggle—whether it is unpredictably relieved or extended next year—we cannot revert to managing the Projects as though ensuing years will be “average.”

We look forward to receiving the requested information as soon as possible and coordinating more closely as we progress through this difficult year.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eileen Sobeck".

Eileen Sobeck
Executive Director

cc: Jared Blumenfeld (California Environmental Protection Agency)
Wade Crowfoot (California Natural Resources Agency)
Joaquin Esquivel (State Water Board)
Susan Tatayon (Delta Stewardship Council)
Karla Nemeth (DWR)
Chuck Bonham (California Department of Water Resources)
Paul Souza (U.S. Fish and Wildlife Service)
Barry Thom (National Marine Fisheries Service)
Molly White (DWR)
Kristin White (Reclamation)
Eric Oppenheimer (State Water Board)
Erik Ekdahl (State Water Board)
Michael George (State Water Board)
Diane Riddle (State Water Board)