

Alan Day – President
Division 5

George W. Osborne – Director
Division 1

Greg Prada – Director
Division 2



Bill George – Director
Division 3

Dale Coco, MD – Director
Division 4

Jim Abercrombie
General Manager

Thomas D. Cumpston
General Counsel

In Reply Refer To: M0214-005

February 7, 2014

VIA FED-EX

Erin Ragazzi
Environmental Program Manager
State Water Resources Control Board
1001 I Street, 14th Floor
Sacramento, California 95814

SUBJECT: El Dorado Hydroelectric Project – FERC Project No. 184
Emergency Drought Coordination

Dear Ms. Ragazzi:

Thank you for contacting District staff regarding the February 4, 2014 special meeting of the El Dorado Irrigation District (District) Board of Directors, which was convened to consider an Emergency Drought Declaration. I appreciate the shared communication efforts between the State Water Resources Control Board (SWRCB) and the District to seek clarifications regarding the District's emergency actions to help ensure compliance with the requirements of the Water Quality Certification for Project No. 184.

Given the extraordinary water supply challenges facing El Dorado County, I am writing to request your participation at the February 13, 2014 meeting of the Project No. 184 Ecological Resources Committee (ERC). The purpose of this meeting is to develop a modified stream flow plan for Project No. 184 that responds to the unprecedented drought conditions that currently exist in the Sierra Nevada and throughout California. The meeting is scheduled for 9:00 a.m. at the District Headquarters located at 2890 Mosquito Road in Placerville.

At the February 4, 2014 meeting, the District Board of Directors surpassed staff's recommendation by approving a resolution implementing a Stage 2 Water Supply Warning, which calls for customers to reduce water usage by 30%. The Board of Directors also found and declared that the drought conditions constitute an emergency beyond the District's control within the meaning of Article 404 of the Project No. 184 FERC license and Condition 1 of the Project No. 184 Water Quality Certification. The objectives of the resolution are to protect existing water supplies and minimize water usage to ensure that District customers have adequate water supplies in both 2014 and 2015.

The resolution also includes operational modifications and other measures aimed at conserving water for consumptive uses, and to sustain Project No. 184's ability to maintain some level of instream flows through the latter half of 2014. The unprecedented drought conditions had already prompted the District to cease all project power production, except temporarily during storm events, and we anticipate no change to that posture unless the drought eases significantly. The operational modifications include temporary modification to the Project No. 184 instream flow requirements, while the District consults with Project No. 184 stakeholders, including the SWRCB, on a longer-term variance proposal to be submitted to the FERC for approval.

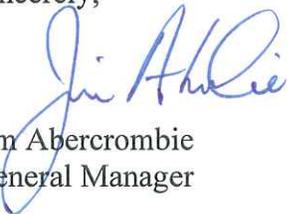
A copy of the resolution, as adopted, is enclosed for your reference.

The District began implementing operational modifications on February 5, 2014. The temporary instream flow modifications are: maintaining existing flows of 15 cfs below Kyburz diversion dam, maintaining existing 2 cfs or natural flow below the Lake Aloha main dam; reducing flows below the Caples Lake main dam from 5 cfs to 2 cfs (as was approved and implemented January - May 2009), reducing flows below the Silver Lake dam from 4 cfs or natural flow to 2 cfs or natural flow, and reducing flows below the Echo Lake dam from 6 cfs or natural flow to 2 cfs or natural flow. These modifications are consistent with the provision of Article 404 that authorizes the District to temporarily modify any minimum flow requirements for the license if required by operating emergencies beyond the control of the District. The District has implemented these actions solely as interim measures while consultations occur.

The District notified the SWRCB, U.S. Forest Service, California Department of Fish and Wildlife, and ERC of the temporary modifications on February 5, 2014 and is committed to work expeditiously in consultation with these parties to develop a proposed stream flow regime to remain in effect throughout the duration of the drought and implement the plan immediately upon approval of FERC. I appreciate your assistance to help the District maintain its ability to provide safe and reliable drinking water to its customers while balancing the needs of the natural resources in these extreme drought conditions.

I hope to see you on the 13th. If you have any questions, please contact me or Brian Deason, Hydroelectric Compliance Analyst, at (530) 642-4064 or at bdeason@eid.org.

Sincerely,



Jim Abercrombie
General Manager

JA/BD:lk

Enclosure: Resolution of the Board of Directors of El Dorado Irrigation District Declaring a Stage 2 Water Warning and the Existence of an Emergency



cc w/enclosure:

El Dorado Irrigation District:

Thomas D. Cumpston, General Counsel

Tom McKinney, Director of Operations

Brian Mueller, P.E., Director of Engineering

Daniel M. Corcoran, Environmental Manager

Brian Deason, Hydroelectric Compliance Analyst

1 RESOLUTION OF THE BOARD OF DIRECTORS OF
2 EL DORADO IRRIGATION DISTRICT
3 DECLARING A STAGE 2 WATER WARNING
4 AND THE EXISTENCE OF AN EMERGENCY

5
6 **OPERATIVE FACTS**

7 **WHEREAS**, El Dorado Irrigation District (District) has experienced dry conditions since
8 2012, with unimpaired runoff in the American River basin of 74% of normal in 2012 and 41% of
9 normal in 2013; and

10 **WHEREAS**, calendar year 2013 was the driest year on record in California, and

11 **WHEREAS**, January 2014 was the driest January on record in California; and

12 **WHEREAS**, as of January 28, 2014, the United States Drought Monitor states that all of
13 El Dorado County is in an extreme drought condition, and 67% of California is in extreme or
14 exceptional drought condition, compared to 28% on January 1; and

15 **WHEREAS**, as of January 31, 2014, snow water content in the Central Sierra region was
16 18% of average, according to the state Department of Water Resources (DWR); and

17 **WHEREAS**, the Mother Lode region endured its longest recorded dry period during the
18 rainy season, from December 7, 2013 to January 29, 2014 (52 days); and

19 **WHEREAS**, January 2014 precipitation in the region was 5% of normal; and

20 **WHEREAS**, daytime high temperatures in the region were above average on every single
21 day of January 2014, the average daily high temperature was two degrees higher than the prior
22 record, and record high temperatures were recorded on twelve days, including the highest single-
23 day January temperature on record (January 24); and
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1 **WHEREAS**, from January 1 through January 29, 2014, calculated natural flows in the
2 South Fork American River averaged 14 cubic feet per second, while natural flows during the
3 same period in 1976 and 1977 never fell below 18 cfs and averaged 87 and 31 cfs, respectively;
4 and
5

6 **WHEREAS**, as of January 31, 2014, storage in Folsom Reservoir was at 17% of
7 capacity, which is 32% of average, and the current lake level of 357 feet is just 10 feet higher
8 than the historic low in November 1977; and
9

10 **WHEREAS**, on January 31, 2014, the United States Bureau of Reclamation
11 (Reclamation) solicited data from the District and others to enable Reclamation to calculate the
12 minimum Central Valley Project deliveries necessary from Folsom Reservoir to protect public
13 health and safety; and
14

15 **WHEREAS**, in January 2014, storage in Jenkinson Lake, the District's largest source of
16 supply, was declining rather than rising; and
17

18 **WHEREAS**, at 63% of capacity on January 31, 2014, Jenkinson Lake was at virtually the
19 same level as on January 31, 1976, and would be at about 54%, much lower than the 1976 level,
20 if not for the transfer of 3,643 acre-feet of water through the Hazel Creek Tunnel over the past
21 twelve months; and
22

23 **WHEREAS**, at a January 23, 2014 meeting of the state Delta Stewardship Council, the
24 Delta Watermaster and representatives of DWR's drought task force, Reclamation, and the
25 Sacramento Water Forum characterized the current conditions of drought and reservoir storage as
26 worse than in 1976 and 1977, when California suffered its worst two-year drought on record; and
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28

1 **WHEREAS**, the District and water managers throughout California suffered severe
2 hardship in 1977 due in part to their failure to take more aggressive actions in 1976 to guard
3 against a succeeding dry year; and
4

5 **WHEREAS**, on January 17, 2014, Governor Edmund G. Brown Jr. proclaimed a state of
6 emergency in California due to drought conditions, and made findings that included the
7 following:

- 8 • 2014 is projected to become the driest year on record;
- 9 • Drinking water supplies are at risk in many California communities;
- 10 • Fewer crops can be cultivated and farmers' long-term investments are put at risk;
- 11 • Extremely dry conditions have persisted since 2012 and may continue beyond this
12 year;
- 13 • The magnitude of the severe drought conditions presents threats beyond the
14 control of the services, personnel, equipment and facilities of any single local
15 government;
- 16 • Conditions of extreme peril to the safety of persons and property exist in
17 California due to water shortage and drought conditions with which local
18 authority is unable to cope; and
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22 **WHEREAS**, the Governor's emergency proclamation included the following directives:

- 23 • Californians are called on to reduce their water usage by 20 percent;
- 24 • Local urban water suppliers are called on to implement their local water shortage
25 contingency plans immediately to avoid or forestall outright restrictions that could
26 become necessary later in the drought season;
- 27
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- 1 • DWR and the State Water Resources Control Board (Water Board) will accelerate
2 funding for water supply enhancement projects and near-term water conservation
3 projects;
- 4 • The Water Board will put water rights holders throughout the state on notice that
5 they may be directed to cease or reduce water diversions;
- 6 • The Water Board will consider modifying requirements for reservoir releases or
7 diversion limitations that arise from water quality control plans, to enable water to
8 be conserved upstream;
- 9 • The California Environmental Quality Act and the statutory requirement to
10 comply with water quality control plans are suspended for the Water Board's
11 actions to carry out the foregoing directive, on the basis that compliance will
12 prevent, hinder, or delay the mitigation of the effect of the emergency; and
13
14

15 **WHEREAS**, the Water Board has sent its notice of potential curtailment of diversions to
16 the District and other water rights holders in California; and
17

18 **APPLICABLE LAW, REGULATION, AND POLICY**

19 **WHEREAS**, the District's adopted 2008 Drought Preparedness Plan and District staff's
20 updated 2012 Drought Action Plan provide for an incremental, multi-stage drought response,
21 summarized as follows:

- 22 • In a declared Stage 1 Water Supply Alert, customers are called on to voluntarily
23 reduce water usage by 15%;
- 24 • In a declared Stage 2 Water Supply Warning, a combination of voluntary and
25 mandatory actions are intended to reduce water usage by 30%;
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- In a declared Stage 3 Water Supply Crisis, mandatory actions and/or water rationing are intended to reduce water usage by 50%; and
- If water supplies are still insufficient, a Water Supply Emergency is declared and mandatory rationing is imposed to reduce water usage by more than 50%;

WHEREAS, the District’s approved March 26, 2012 rate increases included the authorization to impose surcharges on all water commodity charges during declared drought conditions, to incentivize the water conservation sought and to maintain revenue neutrality for the District to fund its ongoing operations; and

WHEREAS, Public Resources Code section 21080(b)(4) and CEQA Guidelines section 15269(c) exempt from CEQA any actions that are necessary to prevent or mitigate an emergency; and

WHEREAS, CEQA Guidelines section 15359 defines “emergency” as “a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to life, health, property, or essential public services;” and

WHEREAS, Article 404 of the Federal Energy Regulatory Commission (FERC) operating license for the District’s hydroelectric Project 184 authorizes the District to temporarily modify any minimum flow requirements for the license if required by operating emergencies beyond the control of the District; and

WHEREAS, the Condition No. 1 of the Water Board’s Water Quality Certification for Project 184 also authorizes the District to temporarily modify any streamflows if required by operating emergencies reasonably beyond the District’s control; and

1 **WHEREAS**, Public Contract Code section 20567 authorizes irrigation districts to let
2 contracts without notice for bids in case of an emergency; and

3 **WHEREAS**, Public Contract Code section 22050(a)(2) requires that before action is
4 taken to procure equipment, services, and supplies without giving notice for bids, the governing
5 body must first make a finding, based on substantial evidence set forth in the minutes of its
6 meeting, that the emergency will not permit a delay resulting from a competitive solicitation for
7 bids, and that the action is necessary to respond to the emergency; and

8 **WHEREAS**, Public Contract Code section 11102 defines “emergency” as “a sudden,
9 unexpected occurrence that poses a clear and imminent danger, requiring immediate action to
10 prevent or mitigate the loss or impairment of life, health, property, or essential public services;”
11 and

12 **WHEREAS**, District Board Policy 2050 authorizes the District’s General Manager to act
13 “in emergency situations where no Board Policies or Administrative Regulations exist;” and

14 **WHEREAS**, District Administrative Regulation 3061.1, subdivision g, authorizes
15 emergency procurements of supplies, equipment, services, or construction items when there
16 exists a threat to public health, welfare, or safety, and requires Board of Directors ratification of
17 emergency procurements exceeding \$50,000; and

18 **NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED** by the Board of
19 Directors of the El Dorado Irrigation District (Board) as follows:
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- 21
- 22 1. The Board concurs with and adopts the above-stated findings of the Governor’s
23 emergency proclamation.
 - 24 2. The Board approves the 2012 updated Drought Action Plan.
- 25
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- 1 3. The Board declares a Stage 2 Water Supply Warning, voluntary phase, effective
2 immediately.
- 3
4 4. The Board continues its consideration of a) a 15% drought surcharge on all water
5 and recycled water commodity charges, and b) whether to impose Stage 2 drought
6 actions on a mandatory basis, to its meeting of March 10, 2014.
- 7 5. The Board finds and declares that the current drought conditions constitute an
8 emergency within the meaning of CEQA Guidelines section 15359, Public
9 Contracts Code section 11102, District Board Policy 2050, and District
10 Administrative Regulation 3061.1, subdivision g.
- 11
12 6. The Board finds and declares that the drought conditions constitute an emergency
13 condition beyond the District's control within the meaning of Article 404 of the
14 Project 184 FERC operating license, and Condition No. 1 of the Water Board
15 Water Quality Certification for Project 184.
- 16
17 7. The Board finds and declares that the adoption of this Resolution and all of the
18 delegations, authorizations, and directions to the General Manager and District
19 staff specified in paragraph 9, below, satisfy the requirements and criteria of
20 Public Resources Code section 21080(b)(4), CEQA Guidelines section 15269(c),
21 and Public Contract Code sections 22050(a)(2) and 20567.
- 22
23 8. The foregoing findings and declarations are based upon all written, oral, and
24 visual evidence, including both facts and professional opinions, presented to the
25 Board at the hearing of this Resolution.
- 26
27 9. The Board hereby delegates, authorizes, and directs the District General Manager
28 and his designees to take all actions reasonably deemed necessary to respond to

1 the emergency conditions declared herein, including but not limited to the
2 following specific actions:

- 3
- 4 a. Temporarily maintain the currently applicable instream flows of 15 cfs below
5 Project 184's Kyburz diversion dam and 2 cfs or natural flow below the Lake
6 Aloha main dam, until FERC and the Water Board each approve a temporary
7 variance to the otherwise applicable regulatory requirements for these
8 locations.
- 9
- 10 b. Temporarily reduce the instream flows below the Caples Lake main dam from
11 5 cfs to 2 cfs, below the Silver Lake dam from 4 cfs or natural flow to 2 cfs or
12 natural flow, and below the Echo Lake dam from 6 cfs or natural flow to 2 cfs
13 or natural flow, each until May 1 or FERC and the Water Board each approve
14 a temporary variance to the otherwise applicable regulatory requirements for
15 this location, whichever comes first.
- 16
- 17 c. Develop a proposal for temporary variances to the Project 184's instream flow
18 requirements for as long as drought conditions persist, in consultation with the
19 U.S. Forest Service, Water Board, the California Department of Fish and
20 Wildlife, and members of the Project 184 Ecological Resources Committee,
21 and submit the proposal to FERC and the Water Board as soon as possible.
- 22
- 23 d. Develop and submit a proposal to the Water Board for temporary modification
24 of the minimum instream flow requirements prescribed for the Deer Creek
25 Wastewater Treatment Plant by Water Rights Order No. WR 95-7, for as long
26 as drought conditions persist.
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- e. Request a variance from the state Division of Safety of Dams' April 1 and 2 deadlines to allow the District to close the radial gates and install flashboards at Silver Lake, and stoplogs at Echo Lake, as soon as possible in 2014.
- f. Implement all voluntary Stage 2 drought actions, other than a rate surcharge, as detailed in the 2012 updated Drought Action Plan.
- g. Enter into professional services and construction contracts as reasonably deemed necessary to expedite the preservation and enhancement of water supply availability for the District's customers.
- h. Report to and seek ratification of the Board for any actions taken in excess of normal authority or authority expressly granted by this Resolution, at the first regular Board meeting held after each such action.
- i. Report to the Board at least monthly, and more often if necessary, on the current status of the drought conditions, responsive actions taken, weekly water usage data, and the need, if any, for further Board actions, including a Stage 3 drought declaration and the declaration of a water supply emergency.

10. This Resolution shall take effect immediately upon adoption. Subject to the ratification required by Public Contract Code sections 22050(b)(3), (c)(1), and (c)(2), and by District Administrative Regulation 3061.1, subdivision g, this Resolution shall remain in full force and effect until rescinded by a subsequent Resolution of the Board of Directors.

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The foregoing Resolution was introduced at a special meeting of the Board of Directors of the EL DORADO IRRIGATION DISTRICT held on the 4th day of February, 2014 by Director _____, who moved its adoption. The motion was seconded by Director _____, and a poll vote was taken which stood as follows:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

The motion having a majority of votes "Aye", the Resolution was declared to have been adopted, and it was so ordered.

Alan Day
President, Board of Directors of
EL DORADO IRRIGATION DISTRICT

ATTEST:

Clerk to the Board

(SEAL)

1 I, the undersigned, Clerk to the Board of the EL DORADO IRRIGATION DISTRICT hereby
2 certify that the foregoing resolution is a full, true and correct copy of a Resolution of the Board of
3 Directors of the EL DORADO IRRIGATION DISTRICT entered into and adopted at a special
4 meeting of the Board of Directors held on the 4th day of February, 2014.
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9 Clerk to the Board
10 EL DORADO IRRIGATION DISTRICT
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