

# SOUTH DELTA WATER AGENCY

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July 16, 2013

Via E-Mail [cwilson@waterboards.ca.gov](mailto:cwilson@waterboards.ca.gov)

Mr. Craig Wilson, Delta Watermaster  
Office of Delta Watermaster  
State Water Resources Control Board  
P. O. Box 100  
Sacramento, CA 95812-0100

Dear Mr. Wilson:

This is a follow up to my letter dated June 15 of this year regarding prior correspondence between you, DWR and USBR in the matter of meeting western Delta Water Quality Standards and preserving a sufficient cold water pool in Shasta for later in the year fishery needs. I believe additional information is necessary from DWR and USBR before the matter is resolved or acceptable to the public.

It is my understanding that correspondence from DWR and USBR as well as conversations between those agencies and you and Mr. Tom Howard of SWRCB dealt with the projects' concern that meeting the "Dry" year Water Quality Objectives for the western Delta put at risk the cold water pool in Shasta reservoir, which in turn would put certain salmon populations at risk. The proposal suggested by the projects was to treat the water year classification as being "Critical" rather than "Dry" (under D-1641). This would allow for decreased releases from Shasta to meet the western Delta standards, thus protecting or maximizing the cold water pool in that reservoir for later use. I saw no discussion in the DWR/USBR or SWRCB correspondence regarding how alterations of export regimes might be part of any effort to meet either the western Delta standards or the cold water obligations under SWRCB Order 90-05.

In response to that proposal, the SWRCB staff agreed to allow this alteration of D-1641, or more correctly stated the SWRCB would not seek any enforcement action if the projects indeed operated to meet the "Critical" year classification. Both the proposal and the SWRCB staff decision was done without public notice or participation. South Delta Water Agency through me objected to this "relaxation" of the standards, as did other Delta interests.

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A review of the online data provided by SWRCB and DWR indicates that although some of the western Delta standards are currently being violated and likely to be violated through the operative time frame this summer, exports are near maximum and the Shasta reservoir is losing storage.

Per the DWR's Operations web site, total CVP and SWP exports since July 1, 2013 have been from a low of (approximately) 8600 cfs to a high of 10,400 cfs; with the current (7/15/13) export rate at 8618 cfs. Per CDEC, during the his same period, Shasta inflow has been approximately 2800-3600 cfs while outflow was approximately 10,400 to 11,300 cfs. This appears to shown two significant things. The first is that if the projects had instead allowed a portion of their current exports to go to Delta outflow, then the western Delta standards would have been, or would be met.

Second, Shasta is obviously *losing* storage which means the cold water pool is likely decreasing. If the projects instead held a portion of the water they are currently exporting in Shasta, the loss of storage in Shasta would be less and the protected cold water pool would be greater in the months to come.

It appears therefore that when the projects asked for relief from the obligation to meet the western Delta standards, they decided instead to export the water needed for those standards and did not maximize the protection of the cold water pool in Shasta.

If there is some other explanation of this data or my conclusions, it is incumbent on DWR and USBR to provide such. There appears to be no obvious reason why permittees like the projects can get temporary relief from their permit obligations while maximizing the benefits under those permits. This situation is a near duplicate of that in early 2009 when the projects asked to be relieved from the outflow standard and instead doubled exports which resulted in them taking one-third of the needed outflow standard rather than simply meeting the standard.

As I stated in my prior letter, this situation, like that in 2009, indicates that the projects are being operated without any real consideration for multi-year compliance with D-1641 or project permits. In 2009 the CVP and SWP system went bankrupt after just two years of drought, and it appears that today, after only a six month drought, the CVP and SWP cannot meet minimum requirements under their permits. By definition, this not only adversely affects the beneficial uses for which the western Delta standards were adopted, but it shows that the recovery of Delta related fisheries are being frustrated by project operations. It is likely (if not explicit in D-1641) that all Delta related water quality objectives provide benefits to fisheries even if the objective is not for that purpose. One wonders what the effects on the various endangered species (at historic population lows) is from the projects choosing to export water rather than let it become part of outflow or keep it in storage in Shasta.

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I know of no authority given to the SWRCB staff of Board which would allow either to decide that use of water for export agriculture needs south of the Delta somehow supercedes the meeting of standards (when water is actually available) which are the conditions to the permits to export. By allowing such "sharing of a shortage" the SWRCB is turning area of origin law upside down and eviscerating the protections purportedly provided by fully adopted water quality objectives. If a portion of the water now being exported was instead held in Shasta storage for later in the year cold water needs, would that water if released then not provide a supply for other downstream needs? Would this not affect your calculations that resulted in your recent notice that insufficient water might be in the system this fall for other users?

I ask that you reconsider your earlier decision. It is not only better policy, but I believe a mandatory obligation to require the projects to meet their permit conditions rather than export the water for their own use. It should not appear that the SWRCB has chosen to not enforce the obligations of the projects when it is inconvenient for them to do so. At some time we will have to face the fact that during many water year types and combination of year types there simply isn't enough water to support even minimal export demands. The fisheries and in-Delta agriculture should not be sacrificed during the time it takes the SWRCB to fully appreciate its obligations to the rest of the water community.

Please call me if you have any questions or comments.

Very truly yours,



JOHN HERRICK

cc: Dante J. Nomellini, Esq.  
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