



## Early Fall CSPA Newsletter, September 2022

*From the Desk of Chris Shutes*

### Changes at CSPA

Bill Jennings has temporarily stepped aside from his role as CSPA's Executive Director in the wake of cascading health problems. These problems began when another driver ran a stop sign and broadsided Bill's car in Stockton in July 2021. Bill's wounds seemed manageable at first, but he has been unable to recover.



CSPA looks forward to Bill's complete recovery and his return to diverse projects and a busy schedule. In the meantime, Bill remains as Chairman of CSPA's Board of Directors.

I have taken on the role of Acting Executive Director on an indefinite basis.

No one can take the place of Bill Jennings, who for a hundred good reasons is a legend in California water and fisheries advocacy. The best I can do is continue the projects and initiatives that Bill undertook and administered, even as CSPA looks for new actions consistent with our mission of protecting fisheries, habitat, and water quality.

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## The Tyranny of the Deal

CSPA is hearing loud rumblings that the Newsom administration is about to roll out new chapters of its never-ending tragic melodrama, the "Voluntary Agreement." The Voluntary Agreement would substitute for a State Water Board update of the Bay-Delta Water Quality Control Plan. The Voluntary Agreement is the centerpiece of the Newsom administration's war on regulation and enforceable protections for our waterways.

The Voluntary Agreements:

- Provide the water equivalent of 33 cents on the dollar, and in some cases far less, for needed flow into and through the Delta.
- Promote more destructive new water developments like Sites Reservoir and the proposed Delta tunnel by becoming the basis of analysis for water available to those projects.
- Leave in place the existing fish-killing framework for operation of the Delta, Water Rights Decision 1641 (with "temporary urgency changes" in dry years).
- Pay water users for water that should be left in rivers to protect fish in the first place, privatizing the public trust.
- Perpetuate the overallocation of water for agricultural use.

Voluntary solutions alone are always too little too late. That is why CSPA is in the trenches of regulatory process for the long haul. CSPA supports the authority of regulatory agencies even though the agencies often don't use their authorities to protect the public's resources. And when politicians or regulatory agencies directed by politicians enable destruction of public resources, CSPA goes to court, as we did last [October](#) and [November](#).

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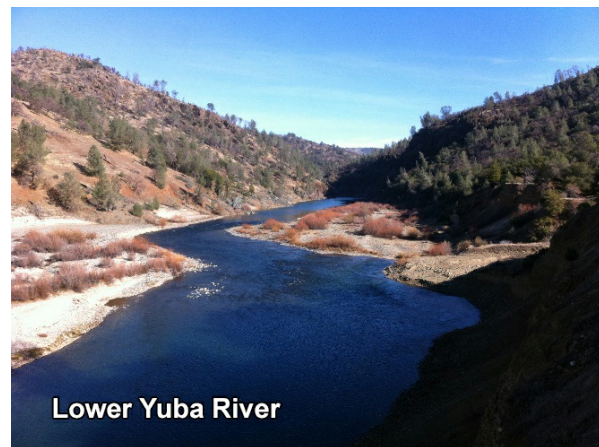
## Hey VA's: Wild California Fish Need More Water, Not Less.....



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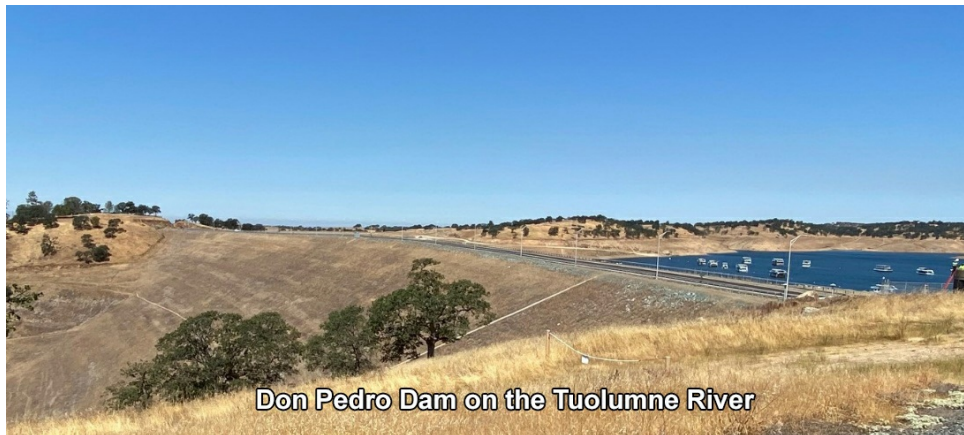
## Defending Section 401 of the Clean Water Act: We Whipped ‘Em Once, We Whipped ‘Em Twice

As reported on CSPA’s main webpage on [June 20](#) and [July 7](#), court victories by CSPA and others beat back efforts by 4 California irrigation districts and a water agency to avoid regulation of their hydropower projects by the State Water Board. These victories vindicated 3½ years of CSPA’s concerted work and strategy to rein in the Federal Energy Regulatory Commission’s (FERC). One court rejected FERC’s reliance on “such thin evidence as a simple courtesy email reminding an applicant of an impending deadline” to eliminate water quality protections for 50 years. The other court stated quite simply: “What the Districts propose could lead to ‘gamesmanship.’” In our view, the gaming was already well underway when all these districts and the water agency tried to skate from the Clean Water Act. They utterly failed to produce (or even begin) required documents under the California Environmental Quality Act (CEQA), which the State Water Board required by law. Then they blamed the State because they hadn’t done their homework.





**Lower Merced River**



**Don Pedro Dam on the Tuolumne River**

## CSPA Told You So

Systemic change in water policy is a pillar of CSPA’s strategy to restore California’s fisheries. Such change often takes years to achieve and often does not hit the headlines when it happens. Here are three important changes that have surfaced in the last year. Did CSPA cause them, or push them, or did CSPA just call them years before someone else figured out they had to happen? You decide.

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### What CSPA Said

In the water rights hearing for “California WaterFix” (aka twin tunnels under the Delta), [CSPA called](#) in 2018 for a numeric end-of-September carryover storage requirement of 1.6 million acre-feet in the Department of Water Resources’ (DWR) Oroville Reservoir. (See link, p. 19)

### What Agencies Did

In the DWR’s [State Water Project Delivery Capability Report for 2019](#), DWR explains on pages 3, 24, 25, and 30 how it is now operating to an end-of-September carryover storage target of 1.6 million acre-feet in Oroville Reservoir.

### Comments

After vehement argument in the WaterFix tunnels hearing that a 1.6 million-acre-foot carryover requirement would destroy operational flexibility, DWR did an about-face 2 years later. The target is not, however, enforceable, and it is not subject to environmental review or public process to change.

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### What CSPA Said

In 2021, CSPA presented an [Alternative Sacramento River Temperature Management Plan \(TMP\)](#) that [Proposed Operations](#)

### What Agencies Did

In 2021, the Bureau of Reclamation [dismissed](#) CSPA’s recommendations, saying, “Reclamation has taken all

### Comments

The State Water Board caved in to Reclamation in 2021. Reclamation saved the Board in 2022 by voluntarily limiting

of summer releases from Shasta Reservoir of no more than 5000 cubic feet per second (cfs), to be achieved in large part by limiting deliveries to Sacramento River Settlement Contractors north of the Delta.

reasonable actions within its authority to maximize the water available for temperature management.”

In 2022, Reclamation’s [Final Sacramento River Temperature Management Plan](#) limited summer releases from Shasta to 4500 cfs and reduced deliveries to Settlement Contractors to 18% of contract amounts. To date in 2022, this has kept water cold in part of the Sacramento River and helped preserve Shasta Reservoir’s storage and cold water pool.

deliveries and instead, in part, paying Settlement Contractors with public funds. Regrettably, the State Water Board did not set a regulatory precedent by ordering the outcome; the precedent is paying agricultural water users to not over-divert.

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### What CSPA Said

In 2010, CSPA went to hearing before the State Water Board on the water rights application of the cities of Woodland and Davis. CSPA [argued](#) that the Board should consider water availability for the application “only after the completion of proceedings that might significantly alter the amounts and timing of water required for Delta outflow.” CSPA said the State Water Board’s 2010 [Delta Flow Criteria Report](#) provided evidence that the Davis-Woodland water availability analysis overstated how much water would be available to the cities.

### What Agencies Did

In Water Rights Decision [1650](#) (2011), the State Water Board granted the Woodland-Davis application, noting: “Although new objectives could reduce... water available..., some water would be available for appropriation even if the flow criteria outlined in the Report were incorporated as new regulatory requirements.”

11 years later, in an August 27, 2022 [letter](#), Water Board staff found the application for water rights for proposed Sites Reservoir deficient, stating: “the application’s water availability analysis does not assess or consider reasonably foreseeable updates to instream flow and Delta outflow objectives...Bay-Delta Plan.”

### Comments

In the past, the Board has declined to consider future flow conditions in analysis of water availability. The August 27 Sites acceptance letter breaks that precedent to a degree. The letter accords weight to the Board’s Framework for Sacramento/Delta updates to the Bay-Delta Plan (Framework, 2018), although the Framework has no independent effect without an adopted Plan. It is likely that the magnitude of the proposed Sites water right influenced Board staff here. And there is no assurance that the required analysis will kill a project that is destructive on its face

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## CSPA NEEDS YOUR SUPPORT NOW!

***THIS NEWSLETTER REPORTS ON JUST A FEW FRONTS WHERE CSPA HAS BEEN FIGHTING FOR OUR FISH AND CLEAN WATER. IT TAKES A LOT OF TIME AND EXPERTISE. WE HAVE BEEN WINNING SOME KEY BATTLES. WE NEED YOUR SUPPORT NOW TO CONTINUE OUR MOMENTUM.....***

***WITH FLAWED CALIFORNIA WATER POLICY AND THE REALITY OF CLIMATE CHANGE, WILD FISH SUCH AS THE YUBA RIVER AND TUOLUMNE RIVER BEAUTIES SHOWN BELOW WILL BE GONE FOREVER IF WE DON’T CONTINUE OUR FIGHT.***

***PLEASE BECOME A MEMBER OF CSPA OR MAKE A DONATION HERE....***

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***YOUR CONTRIBUTION SUPPORTS OUR DECADES OF WORK, ALLOWS US TO EXPAND OUR EFFORTS, AND BRINGS HOPE FOR THE FUTURE.***



Lower Yuba River Rainbow Trout

Photo: T. Cannon



CSPA Board Member Cindy Charles with Tuolumne River Wild Rainbow Trout