

From: **MILLIGAN, RONALD**

Date: Thu, Apr 17, 2014 at 10:05 PM

Subject: Request for Modified Order - Minimum Allowable Diversion

To: **THOMAS HOWARD**

Tom,

Consistent with the continuing discussions at RTDOT this week, please accept this Request from the Project agencies. Based on Reclamation's close examination of the environmental review conducted to support the Drought Operations Plan (DOP), we believe the fishery agencies would concur that this request is consistent with the DOP.

Thanks,

Ron

### **Request for Modified Order – Minimum Allowable Diversion**

The Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (Reclamation) request a modification to the April 11, 2014 Order Modifying an earlier Order that Approved a Temporary Urgency Change in License and Permit Terms and Conditions Requiring Compliance with Delta Water Quality Objectives in Response to Drought Conditions (Order).

This Order modifies Table 3 of Water Rights Decision 1641 (D-1641), which provides limits for the combined maximum water diversion of DWR and Reclamation. Specifically, under condition 1(b), when precipitation and runoff events occur that allow the Delta Cross Channel gates (DCC) to be closed and footnote 10 of D-1641 to be met, but when the additional Delta Outflow requirements contained in Table 4 of D-1641 are not being met, then exports of natural and abandoned flows are permitted up to D-1641 Export Limits contained in Table 3. Additionally, under condition 1(d), Table 3 San Joaquin River flow requirements at Airport Way Bridge, Vernalis, were modified to provide for pulse flow operations in consultation with the Department of Fish and Wildlife, National Marine Fisheries Service, and the U.S. Fish and Wildlife Service (fisheries agencies).

DWR and Reclamation request a modification of Order Condition 1(b) to also allow for the following: During the 31-day pulse flow period in April and May, when Delta outflows are not otherwise met as described in D-1641 or the Order, that diversions be limited to 1,500 cfs or the 3-day average of San Joaquin River flows at Vernalis, whichever is greater. It is understood that the current Order requires a minimum of 3,000 cfs NDOI as measured at Collinsville. The Projects are committed to maintain NDOI at or above this minimum flow.

This modification is consistent with the purposes of the April 8, 2014, Central Valley Project and State Water Project Drought Operation Plan and Operational Forecast (DOP). Section V and Section VIII, particularly Section VIII.1 of the DOP, which

describe various conditions that affect water operations for the San Joaquin River system. These conditions relate to pulse flows that are described in D-1641 and the NMFS Biological Opinion (BiOp). Section V outlined that water released for D-1641 pulse flows would be available for diversion subject to other limitations. Those other limitations are related to D-1641 and BiOps (as adjusted), including OMR reverse flows and D-1641 E/I ratio.

Consistent with the DOP and letters dated April 9, 2014, from DWR and Reclamation, other legal users of water should not be injured by this action. Delta water quality objectives, protective of municipal/industrial and agricultural uses, remain in place and the continued operation of SWP/CVP diversions are expected to generally improve salinity conditions in the southern Delta. However, as occurs at times in the South Delta when other water quality objectives are met, there may be an exception in achieving the agricultural objective for Old River at Tracy Road.

After consultation with the RTDOT, DWR and Reclamation have determined that the proposed action is consistent with the requirements of the federal Endangered Species Act and California Endangered Species Act coverage related to the DOP. The regional hydrodynamic effects on smelt, salmonids, steelhead, and sturgeon have been considered in the biological review analysis of the DOP. These regional hydrodynamic effects demonstrate a substantial tidal influence across the north and south Delta at the levels of outflow and export considered in the DOP and this request. No additional effects beyond those already considered in the biological review on delta smelt, long-fin smelt, winter-run Chinook, spring-run Chinook, steelhead and green sturgeon are associated with the proposed changes included in this request.

To support this request, DWR and Reclamation will provide a summary of outflows, exports and governing requirements, accounted for on a daily basis for April and May, similar to Attachment A of the Drought Operations Plan.

In conclusion, this modification balances the need for water for fisheries protection and water supplies for other purposes now and in the future.