

**From:** Kim Delfino <KDelfino@defenders.org>  
**Sent:** Thursday, May 01, 2014 8:59 PM  
**To:** Howard, Tom; Grober, Les@Waterboards  
**Cc:** Wilson, Craig@Waterboards; Buckman, Michael@Waterboards;  
amy.aufdemberge@sol.doi.gov; pfujitani@usbr.gov  
**Subject:** Letter in Support of NRDC TBI Petition for Urgent Rehearing

May 1, 2014

Dear Tom and Les,

On behalf of Audubon California, California Waterfowl Association, Defenders of Wildlife, and the Grasslands Water District, we are writing to support the Petition for Urgent Rehearing filed by the Natural Resources Defense Council (“NRDC”) and The Bay Institute (“TBI”) on April 28, 2014 (hereinafter “Petition”). In the Petition, NRDC and TBI pointed out that the April 11, 2014 Order approving a temporary urgency change petition that waives compliance with the April and May Vernalis flow objectives under Decision 1641 (“Order”) will unreasonably affect fish and wildlife and is not in the public interest.

It has come to our attention that the recent update to the water allocations to the state and federal water contractors is likely to result in a reduction in Delta exports affecting the south of Delta wildlife refuges. In particular, it is our understanding that such decisions combined with the State Water Resources Control Board’s Order may result in the south of Delta wildlife refuges receiving less than 75% of their Level 2 Water Supply under the federal Central Valley Project Improvement Act (“CVPIA”).

Under Section 3406(d)(4) of the CVPIA, the Secretary may temporarily reduce deliveries of Level 2 water supply “up to 25% of such total whenever reductions due to hydrologic circumstances are imposed upon agricultural deliveries of Central Valley Project water.” Thus, the CVPIA was very clear that the nineteen federal state and private wildlife refuges in California’s Central Valley shall not receive less than 75% of their minimum water supply (Level 2) in dry years. Further, this section provides that the Level 2 water supply to these refuges “shall not” be reduced more than any reductions imposed on agricultural service contractors.

Congress enacted these water supply guarantees to the 19 Central Valley refuges and wildlife areas in order to protect the last remaining five percent of the historic Central Valley wetlands and to provide birds of the Pacific Flyway habitat during critical periods when no other wetland habitat may be available. In this year’s critical drought period in which wetlands outside of these 19 refuges and wildlife areas will be sparse, it is absolutely essential that the federal and state agencies live up to the letter and spirit of the CVPIA.

Therefore, given the impact of the current water allocation decisions by the federal and state water project operators as well the effect of the Board’s waiver of the May and April Vernalis flow objectives under the Order, we respectfully urge the Board to grant NRDC and TBI’s Petition for Urgent Rehearing. Further, we urge that in any future board proceedings and orders, the Board ensure that its decisions do not undermine the refuge water supply requirements of the CVPIA.

Sincerely,

Mike Lynes  
Audubon California

Jeff Volberg  
California Waterfowl Association

Kim Delfino  
Defenders of Wildlife

Ric Ortega  
Grasslands Water District