



United States Department of the Interior

BUREAU OF RECLAMATION
Central Valley Operations Office
3310 El Camino Avenue, Suite 300
Sacramento, California 95821

IN REPLY
REFER TO:

CVO-100
WTR 4.10

SEP 26 2014

VIA ELECTRONIC MAIL AND U.S. MAIL

Mr. Thomas Howard
Executive Director
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Subject: Request for Modification, Water Rights Decision 1641 (D-1641) Vernalis Flow
Objective, October 2014

Dear Mr. Howard:

The U.S. Bureau of Reclamation (Reclamation) is requesting a modification to D-1641, River Flows for the San Joaquin at Vernalis for the month of October, 2014.¹ This request is made in connection with Reclamation and California Department of Water Resources' January 29, 2014 urgency change petition, as modified, in response to severe drought conditions. The Central Valley Project (CVP) and State Water Project (SWP) Drought Operations Plan and Operational Forecast of April 8, 2014 (DOP), did not specifically address Table 3, D-1641 Vernalis flows for October, which calls for a minimum monthly average of 1,000 cubic feet per second (cfs) per day under current conditions.

Currently, New Melones Reservoir is at about 520,000 acre-feet (af), or 37% of historical average for this time of year, and 22% of its capacity. In addition, the observed inflow at New Melones from October, 2013, through August, 2014, was merely 321,000 af. Under Reclamation's settlement agreement with senior water right holders on the Stanislaus River, in these conditions, Reclamation is obligated to deliver a volume of water to the senior water rights holders that exceeds this inflow to New Melones Reservoir. While some runoff projections suggest an additional 25,000 af of inflow to New Melones Reservoir in October 2014, current weather forecasts indicate that any early season, or near-term, rains appear to be unlikely. All of New Melones Reservoir project water obligations this year were met with water stored from

¹ Reclamation hereby amends its TUC requests for Vernalis flows but specifically reserves its legal objections, communicated previously to the Board, that reliance solely on New Melones project water on the Stanislaus River to meet mainstem instream flow objectives on the San Joaquin River is operationally unsustainable and not in accordance with the intent and terms of D-1641, or standards for substantive due process. D-1641 states on page 132, that the Board, "will consider a permanent allocation of responsibility with respect to the San Joaquin River basin after the SJRA has expired." The San Joaquin River Agreement expired, on its own terms, three years ago.

previous years. These would include, but are not limited to, the shoulder and spring pulse flows at Vernalis, as modified, salinity dilutions flows, and dissolved oxygen objectives on the Stanislaus River.

Specifically, Reclamation requests that the implementation of Table 3 in D-1641, River Flows for the San Joaquin at Vernalis be modified as follows:

- October: A 31-day period spanning October and November 2014 with a minimum average flow of 800 cfs. Reclamation shall consult with the U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (DFW), and the U.S. National Marine Fisheries Service (NMFS), as well as seek concurrence through the RTDOT, on a release schedule intended to meet the minimum 31-day average.

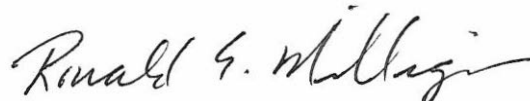
In this critically dry year USFWS, DFW, and NMFS will be working with reservoir operators to coordinate reservoir releases on the Tuolumne River, Merced River, and Stanislaus River to effectively use the limited flow available in the San Joaquin River Basin to benefit fish species this fall. The releases will be timed to best match ambient conditions with fishery objectives. This operation is considered to be a reasonable use of the limited resource considering the availability of additional flow to augment flow at Vernalis and potential tradeoffs of additional reservoir releases. Water retained in the San Joaquin River system that may have contributed to the Vernalis flow will be utilized to achieve fishery and water supply benefits in 2015.

Reclamation believes that it is making a reasonable contribution from New Melones Reservoir and the Stanislaus River towards the Bay-Delta Plan, Table 3, October minimum daily average flows. Given that it is the third consecutive critically dry year in the San Joaquin Basin, and that Reclamation did not benefit from any inflow at New Melones this year, Reclamation's contribution at Vernalis for October, 2014, will be as set forth in the NMFS' 2009 Biological Opinion (2009 BiOp), Appendix 2-E, critically dry year schedule, or, as modified as set forth above, following consultation with the State and federal fishery agencies. The D-1641 October flows were part of the San Joaquin River Agreement and typically received contributions from New Melones storage, and were also augmented with additional purchase water. As Reclamation's April 9, 2014 Vernalis change petition set forth, in sequential critically dry years, there is no water for purchase to augment flows at Vernalis. Therefore, Reclamation believes it is reasonable to consider the 2009 BiOp, Appendix 2-E critically dry year schedule, or as modified above by the fishery agencies, as Reclamation's contribution to Vernalis flows this fall.

Reclamation also believes that the proposed modification does not harm any other legal user of water. Reclamation, in coordination with DWR, intends to meet the other Bay-Delta Plan, Table 3 objectives, as modified through this period, including those related to Delta salinity and outflow. Reclamation will continue to assist in coordination of flow schedules through this period through the RTDOT.

Thank you for your continued consideration through this difficult drought emergency. Please contact me at 916-979-2199, or Mr. Paul Fujitani at 916-979-2197, if you have any questions regarding this request.

Sincerely,



Ronald Milligan
Manager, Operations

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