

Changes in red underline are new changes that staff are proposing based on public comments on the draft reconsideration order that were submitted during the comment period that closed September 16, 2014.

Changes in black underline are changes to the underlying Temporary, Urgency Change Order that were proposed in the draft reconsideration order that was released for public review and comment on September 3, 2014.

On Page 13 of the Draft Order, at the end of section 3.0, after the citation to California Code of Regulations, title 23, section 770, insert a new footnote that contains the following text:

The State Water Board is directed to order or deny reconsideration on a petition within 90 days from the date on which the board adopts the decision or order. (Wat. Code, § 1122.) If the State Water Board fails to act within that 90-day period, a petitioner may seek judicial review, but the board is not divested of jurisdiction to act upon the petition simply because it failed to complete its review of the petition on time. (State Water Board Order WR 2009 0061 at p. 2, fn. 1; see California Correctional Peace Officers Ass'n v. State Personnel Bd. (1995) 10 Cal.4th 1133, 1147-1148, 1150-1151; State Water Board Order WQ 98-05-UST at pp. 3-4.)

Renumber the remaining footnotes accordingly.

On page 17 of the Draft Order, modify footnote number 8 (now footnote number 9) as follows:

The Cities of Roseville and Folsom and the San Juan Water District argued that their contractual entitlements to water from Folsom Reservoir have priority over Project exports based on area of origin protections, and therefore Reclamation should develop a Folsom Reservoir Operations Plan that ensures that their needs will be met. In response, SLDMWA argued that such a plan was not necessary, and that Roseville, Folsom, and San Juan Water District did not have a priority over other CVP water users on the bases they had claimed. We disagree that an operations plan is unnecessary, but recognize that development of a drought contingency plan is a complex undertaking that will require careful consideration of various legal requirements, including evaluation of DWR's and Reclamation's legal obligations under federal reclamation law, the terms and conditions of the water right permits for the Projects, the ESA requirements, the Coordinated Operating Operations Agreement between DWR and Reclamation, and DWR's and Reclamation's contractual obligations water supply contracts. Factors other than contractual priorities may control how Folsom Reservoir is operated in the near future, and it may not be necessary to resolve the dispute between the agencies with contracts for water supplies from Folsom Reservoir in order to develop an adequate drought contingency plan. Accordingly, it is unnecessary to address the contractors' arguments concerning area of origin protections in this Order.

On page 31 of the Draft Order, modify footnote number 17 (now footnote number 18) as follows:

~~There have been no recent confirmed identifications of spring-run Chinook salmon on the Stanislaus River.~~ While fish ~~like that exhibit~~ spring-run Chinook salmon like behaviors have been observed on the Stanislaus River, ~~these were likely strays from the Sacramento River, and not part of a~~ it is unclear whether a consistent self-sustaining population currently exists. As such, any effects on spring-run Chinook salmon this year were highly speculative, and therefore spring-run are not addressed further in this Order.

On page 55 of the Draft Order, modify Ordering Condition number 4 as follows:

DWR and Reclamation shall calculate and maintain a record of the amount of water conserved through the changes authorized by this Order and shall submit such records on a monthly basis to the State Water Board ~~by the end within 1020 working days~~ after the first day of the following month. The water conserved shall be maintained in storage to protect flows for fisheries, used to maintain water supplies, or used to improve water quality. The use of such water shall be determined through the Real-Time Drought Operations Management Team Process described above.

On page 55 of the Draft Order, modify Ordering Condition number 5 as follows:

DWR and Reclamation shall develop monthly water balance estimates indicating actual and proposed operations through the end of the water year. Specifically, actual and projected inflows, north of Delta contract deliveries, other channel depletions, exports, and Delta outflows shall be identified. The water balance shall be posted on DWR's website and updated as necessary based on changed conditions. Monthly updates shall be posted and provided to the State Water Board ~~by the end within 1020 working days~~ days after the first day of the following month.

On page 56 of the Draft Order, modify Ordering Condition number 6 as follows:

DWR and Reclamation shall consult with the fisheries agencies and the State Water Board on a weekly basis regarding operational decisions that may affect listed species and other beneficial uses of water, including fall-run Chinook salmon. DWR and Reclamation shall conduct necessary modeling and monitoring and prepare other necessary technical information to inform ~~real-time~~ operational decisions. ~~Required modeling and monitoring shall be determined through the Real-Time Drought Operations Management Team Process or as may be required pursuant to any modification to this Order.~~ DWR and Reclamation shall make available, upon request of State Water Board or fisheries agency staff, technical information to inform these operational decisions, including planned operations, temperature models, modeling and monitoring information, water quality modeling and monitoring information, and information about potential impacts of operational changes on other water users. DWR and Reclamation shall report to

the Board monthly at its Board meetings on their drought operations and the information discussed above beginning with the first October Board meeting.

On page 57 of the Draft Order, modify Ordering Condition number 11 as follows:

In consultation with the fisheries agencies, DWR and Reclamation shall develop a water year 2015 drought contingency plan for operations in the Delta and the associated Project reservoirs in the event that water supplies remain inadequate to satisfy the Projects' water right permit and license requirements and other uses. **The drought contingency plan shall identify the biological and other justifications for the plan.** The drought contingency plan shall **also** identify planned minimum monthly flow and storage conditions that consider Delta salinity control, fishery protection, and supplies for municipal water users related to projected flow and storage conditions **using 50 and 90 percent exceedance probabilities for assumed hydrology**, and any other information that may be requested by the Executive Director or his designee. **The plan for the beginning of the water year through January 15, 2015, shall be submitted to the Executive Director by October 15, 2014. The plan for the remainder of the water year after January 15, 2015, shall be submitted to the Executive Director by January 15, 2015. The plan shall be updated as necessary based on changed circumstances.** Following submittal, **the plans and any updates to the plans** will be posted on the State Water Board's website for public review. The Executive Director will consider public comments that may be submitted when determining whether to take any action based on the plan or whether to request additional information.

Beginning on page 57 of the Draft Order, modify Ordering Condition number 12b as follows:

Reclamation, in coordination with the fisheries agencies, shall prepare by ~~December 1, 2014~~ **January 15, 2015**, a temperature management plan for the Sacramento River for the 2015 winter-run Chinook salmon spawning and rearing period **that considers other fisheries needs, including spring- and fall-run Chinook salmon.** That plan shall identify actions that will be taken throughout the year to manage storage, cold water pool and flow conditions under different potential hydrologic conditions to protect winter-run Chinook salmon **and other salmon runs** in the Sacramento River from redd dewatering, stranding, and temperature impacts. Reclamation shall update the plan as conditions change or upon the request of the fisheries agencies or State Water Board staff. For the remainder of the drought, Reclamation shall meet weekly with the Sacramento River Temperature Task Group (SRTTG) to discuss operations and options for reducing or avoiding redd dewatering, stranding and temperature impacts to winter-run Chinook salmon. Reclamation shall confer on recommendations from the SRTTG group at the Real Time Drought Operations Management Team meeting and other applicable CVP and SWP operational decision making meetings.