
State Water Resources Control Board

APR 03 2018

Mr. Jeffrey Rieker
Operations Manager
U.S. Bureau of Reclamation
Central Valley Operations Office
3310 El Camino Avenue, Suite 300
Sacramento, California 95821

Dear Mr. Rieker

COMPLIANCE WITH SAN JOAQUIN RIVER FLOW REQUIREMENT FOR THE MONTH OF FEBRUARY 2018

This letter pertains to recent discussions we have had with you and other staff with the U.S. Bureau of Reclamation (Reclamation) regarding compliance with San Joaquin River (measured at Vernalis) flow requirements for February through June that are included in Reclamation's water rights pursuant to State Water Resources Control Board (State Water Board) Decision 1641 (D-1641). State Water Board staff is providing the following clarification regarding compliance with the San Joaquin River flow requirements in February of this year.

As you are aware, applicable San Joaquin River flow requirements vary based on the San Joaquin Valley water year type as published in California Department of Water Resources Bulletin 120 as well as on required Delta outflow levels. Preliminary determinations of water year type are made from December through April with a final determination in May. These determinations are typically issued a little more than a week into the month, which may create some uncertainty at times regarding the applicable water year type determination at the beginning of the month. Previously, in a letter dated March 11, 2009, then Chair of the State Water Board Charles R. Hoppin sent a letter to Reclamation regarding a previous situation in which there was uncertainty about the water year type at the beginning of the month. In that circumstance, the water year type changed from critical in February to dry in March, which was not determined until about the 10th of March. In that case, the State Water Board indicated that for purposes of determining compliance with D-1641, the water year type determination would not apply retroactively to the period before the forecast was published, and that the critical year type applied in the beginning of March until the forecast was published.

This year, due to low precipitation in January, Reclamation staff indicated that they expected the San Joaquin Valley water year type to be downgraded from dry in January to critical in February. In anticipation of this change, Reclamation provided lower flows in the beginning of the month than they would have provided had they been planning for a dry year type determination (the required flow level if February was a critical year would have been a monthly average flow of 1,140 cubic-feet per second (cfs) and a 7-day running average flow of no less than 912 cfs). The official forecast for February, however, was determined to be dry at the end

of the day on February 8 (requiring a monthly flow rate of 2,280 cfs, with a 7-day running average flow of no less than 1,824 cfs), rather than the critical year type Reclamation was expecting. Based on this forecast, Reclamation indicated that it increased releases to achieve compliance with the February flow requirements for the period after the water year type determination was made. The 7-day average dry year flow requirements were achieved from February 10 on, but even though releases were increased after the February 8 forecast, the monthly average flows were not achieved for the entire month (the average flows for the February 9 through 28 period were above 2,280 cfs).

In meetings with Reclamation staff, they indicated that they believe the flow levels achieved in February are in compliance with D-1641 pursuant to the March 11, 2009 letter from Chair Hoppin. However, the situation in 2009 was markedly different than the situation this February. In 2009, the State Water Board indicated that in that situation the upgrade to the water year type would not be retroactive to the date the official forecast was published. That was not the situation this year. This year, Reclamation made a prospective assumption that the water year type would be downgraded before the forecast was published, and that assumption turned out to be incorrect. As it turned out, the preliminary determination of the water year type remained the same.

Chair Hoppin's 2009 letter actually supports the conclusion that, in the face of uncertainty, Reclamation should not assume that the water year type will be downgraded until the forecast is updated early in the month. Just as Chair Hoppin did not indicate that Reclamation should have anticipated an upgrade in the water year type in 2009, Reclamation should not assume a downgrade in the water year type before the forecast is available unless there is clear information acceptable to the State Water Board that such a downgrade will likely occur. Likewise, if it is clear that a water year type will be upgraded based on the best available information at the beginning of the month, Reclamation should meet the water year type requirements at the beginning of the month, particularly since forecasting capabilities have improved and will continue to improve.¹ If there are questions regarding this situation in the future, Reclamation should seek clarification from the State Water Board ahead of time.

If you have questions or would like to discuss this matter further, please contact Diane Riddle at Diane.Riddle@waterboards.ca.gov or (916) 341-5297.

Sincerely,

ORIGINAL SIGNED BY:

Erik Ekdahl
Deputy Director
Division of Water Rights

¹Including weekly updates to Bulletin 120, daily hydrologic updates from the California Nevada River Forecast Center, recent precipitation, information from other agencies and water users in the watershed, and other information.