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## State Water Resources Control Board

May 9, 2024

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### **TERM 18 PLAN AND TERM 27 REPORT – CACHUMA PROJECT IN SANTA BARBARA COUNTY**

The State Water Resources Control Board (State Water Board, or Board) adopted Order WR 2019-0148 (Order) on September 17, 2019. The Board is currently in the process of completing compliance assessments for this project, which were paused during the drought emergency. This letter regards the U.S. Bureau of Reclamation's (Reclamation) submittals related to compliance with Order terms 18 and 27, including Reclamation's requests to extend the annual submission deadline for term 27 Reports.

Reclamation submitted several compliance-related documents including a Term 18 Plan in December 2019 and a Term 20 Plan in March 2020. In addition, Reclamation submitted the Term 27 Annual Report (Report) for Water Year (WY) 2020 in March 2021, the Report for WY 2021 in October 2022, a draft Report for WY 2022 in November 2023, and a final Report for WY 2022 in April 2024. Though Reclamation submitted each of these reports after the annual December 31 deadline established in the Order, Reclamation did take steps in November of 2020 and 2021 to request that the Board extend the annual reporting deadline to March 31.

Reclamation also submitted a Petition for Reconsideration of the Order in October 2019. This letter does not address any issues currently pending reconsideration by the Board. Please note that on March 8, 2024, a draft order responding to Reclamation's Petition for Reconsideration was released for public comment. It is anticipated that this draft order will be considered for Board adoption on June 18, 2024.

### **Compliance with Order Term 18**

Order term 18 requires Reclamation, within 90 days of Board adoption of the Order, to submit to the Deputy Director a plan describing the measures already in place or that will be implemented to ensure compliance with terms 15 and 16. Among other

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requirements, terms 15 and 16 designate instream flow requirements that Reclamation must meet for the protection of steelhead in the Santa Ynez River. On October 30, 2019, Reclamation submitted a draft Term 18 Plan to the National Marine Fisheries Service (NMFS) and California Department of Fish and Wildlife (CDFW). NMFS and CDFW submitted comments on the draft plan to Reclamation on December 11 and 12, 2019, respectively. On December 17, 2019, Reclamation submitted the draft plan to the Board, followed by a January 29, 2020, supplement including written responses to the comments from NMFS and CDFW.

On May 26, 2020, the Board's Division of Water Rights (Division) requested additional information necessary to complete the Term 18 Plan. Reclamation updated the plan and submitted a revised version on August 7, 2020. This revised plan satisfied most of the requirements of term 18 but was insufficient to ensure compliance with the designated flow requirements at the Highway 154 Bridge. In later discussions with the Division, Reclamation stated that it was working with U.S. Geological Survey (USGS) to develop a new stream gage to satisfy these compliance requirements. Reclamation's most recent draft Term 27 Report stated that this gage was installed in October 2022, rendering the previously submitted draft Term 18 Plan out of date.

Per your WY 2022 Report, the new USGS stream gage is 2,000 feet upstream of the Highway 154 Bridge compliance location. CDFW has raised concerns that loss of flow occurs between the new gage location and the compliance location. On August 10, 2021, CDFW measured a stream loss of 4.3 cubic feet per second (cfs) between the two points. Accordingly, Reclamation must revise the Term 18 Plan to incorporate the use of the new gage and include an evaluation and correction factors for stream losses between the gage and compliance location in a representative range of conditions, including a range of flow conditions during different seasons, including both summer and fall periods when conditions are drier, and wetter conditions during both winter and spring. Until the Term 18 Plan is finalized, Reclamation must meet the minimum flow requirements for the Highway 154 compliance location by achieving the required flow plus 4.3 cfs at the new USGS gage upstream. The updated plan, including the required evaluation and proposed correction factors for stream losses, must be submitted within 14 months of the date of this letter.

### **WY 2022 Term 27 Annual Report**

Regarding Reclamation's WY 2022 Term 27 Annual Report, the Division requests a letter providing the following information:

- Any existing analyses regarding reducing the safe yield of the Cachuma Project to prevent the loss of beneficial uses during severe shortages (term 16f).

- Data or records to show the ongoing progress of the Oak Woodland Restoration Plan (term 33).
- An outline of the contents of the study plan or reference to the information Reclamation will rely on to develop and undertake the study of the effectiveness of the Table 2 Flows (term 19).
- An explanation of why Reclamation is not making any new or conserved water supplies available to the Member Units. Provide an update on the operational status and capacity of the City of Santa Barbara's desalination plant and the operational status of any other desalination, recycled water, transfers, demand management, reservoir surcharging, or other new sources of supply for the Member Units that may be proposed in the future (term 35).

The Board also notes that Reclamation is not in compliance with term 34. In the compliance item for term 34 in your most recent Term 27 Report, you referred to Reclamation's October 16, 2019 petition for reconsideration. This petition for reconsideration does not contain any discussion of term 34. Reclamation did address term 34 in a May 28, 2019 letter, asserting that the Board lacked the authority to amend Reclamation's contracts. This letter does not constitute a timely petition for reconsideration of term 34. In addition, Reclamation's May 28, 2019 letter does not accurately reflect the requirements of term 34. Term 34 requires Reclamation to make a good-faith effort to propose a revision of the contract to Santa Barbara County Water Agency and report on this work to the Board. The Order notes that in the event that Reclamation does not succeed in revising the contract by the end of 2020, the Board retains the authority to further modify Reclamation's permit terms regarding this issue.

### **Compliance with Other Order Terms**

Regarding other required submissions, the Board acknowledges that it has received Reclamation's draft Term 20 Plan. Because of the nexus between this plan and Reclamation's pending petition for reconsideration, the Board has not yet provided a response to this draft plan but anticipates doing so after the Board adopts a formal response to Reclamation's petition for reconsideration.

The Board understands that due to the extended drought between 2020 and 2022, Reclamation did not take action during those years towards completing the study required by order term 19 which will evaluate the effectiveness of flows required under term 16 in wet or above normal water year types. As 2023 was a wet water year and precipitation in water year 2024 is currently 105% of historic average, the Board requests an update detailing Reclamation's progress towards compliance with term 19.

## Future Compliance

The Board hereby grants the requested extension of the submission deadline for the annual term 27 reports to March 31 of the year following the water year in question. For example, the final report for WY 2023, running from October 1, 2022, to September 30, 2023, would be due to the Board on March 31, 2024. However, the Board also notes that Reclamation's submissions have been delayed substantially beyond the requested extended deadline. Given that this extended deadline has already passed for the WY 2023 Term 27 Annual Report, please provide an estimated completion date for this report.

Lastly, in order for documents to be posted on the Water Board website, they are legally required to be WCAG 2.1 Level AA accessible. In the interest of public transparency, we ask that all future term 27 and other compliance submissions be WCAG 2.1 Level AA accessible.

Sincerely,



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