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State Water Resources Control Board

July 18, 2012

Pablo R. Arroyave, Deputy Regional Director
U.S. Bureau of Reclamation
Mid-Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825-1898

Dear Mr. Arroyave:

NOTICE OF VIOLATION, UNITED STATES BUREAU OF RECLAMATION (USBR)

Notice is hereby given that you have violated the requirements of State Water Board Water Rights Decision 1641 (D-1641) to provide requisite spring pulse flow amounts in the San Joaquin River at Vernalis.

Pulse Flow Requirement

The 2006 Bay-Delta Water Quality Control Plan established spring pulse flow water quality objectives for the protection of fish and wildlife beneficial uses (Table 3, 2006 Plan). At the compliance location on the San Joaquin River at Vernalis, flows are required to be at 3,110 or 3,540 cubic feet per second (depending on the water year type) from April 15 – May 15. Based on this year's water designation, the flow requirement was 3,540.

USBR is required to meet these objectives pursuant to the water right permit for New Melones storage (D-1641), D-1641 provided as follows:

- 2. Permittee shall, on an interim basis until the Board adopts a decision assigning permanent responsibility for meeting the water quality objectives:
a. Ensure that the water quality objective for fish and wildlife beneficial uses for San Joaquin River flow at Airport Way Bridge, Vernalis set forth in Table 3 is met, with the exception that during the April-May pulse flow period while the SJRA is in effect, experimental target flows set forth in (b) below may be provided in lieu of meeting this objective.

The SJRA agreement expired in 2011 and is no longer in effect. If it had still been applicable, the pulse flow requirement for this year would have been 3,200. By letter dated May 4, 2012, USBR took the position that the SJRA alternative requirements were still in effect and indicated it would provide such flows.

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**Permit Violation**

In fact, USBR did not maintain pulse flows consistent with either the Table 3 objectives (3,540) or the SJRA alternative requirements (3,200). The average April 15 – May 15 Vernalis flows were 3,092. Accordingly, USBR was in violation of both the pulse flow objectives and the alternative requirement.

**Corrective Action**

To avoid future violations, the process established in the 2006 Plan should be followed in 2013 and thereafter until such time as the Plan is amended:

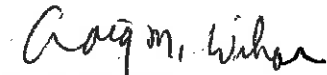
The pulse flow and time period of the pulse will be scheduled by the DWR and USBR in consultation with the applicable fishery agencies. The time schedule is subject to the approval of the Executive director of the State Water Board (Footnote 15, Table 3, 2006 Plan).

**Consequences For Not Taking Corrective Action In 2013**

Failure to establish and maintain required pulse flows in 2013 may subject the USBR to appropriate enforcement action.

If you have any questions regarding this notice, please contact me at (916) 445-5962 or by email at [cwilson@waterboards.ca.gov](mailto:cwilson@waterboards.ca.gov).

Sincerely,



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