
State Water Resources Control Board

FIRST CLASS MAIL AND EMAIL

September 4, 2012

Tim O'Laughlin
O'Laughlin & Paris LLP
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Dear Mr. O'Laughlin:

RECLAMATION'S FAILURE TO MEET VERNALIS FLOW OBJECTIVES

I am responding to your letter of August 30, 2012 entitled "Reclamation's Failure to Meet Vernalis Flow Objectives". Specifically, you ask whether a response from the State Water Resources Control Board (State Water Board) to the Bureau of Reclamation's (Reclamation) letter of August 8, 2012 is forthcoming.

The short answer is "no". In lieu of responding to the letter I met with Reclamation personnel on August 16, 2012. During the course of that meeting I responded to the major concerns raised in the letter as follows:

- The procedural question about my authority to issue the "Notice of Violation" (NOV).

I clarified that I was acting under authority delegated to me by the State Water Board to conduct informal fact-finding: State Water Board Resolution No. 2010-0048, Resolved 1.4. Delegation of such authority is consistent with the statute creating the Delta Watermaster position which states that the "board may provide additional duties or needs of the Delta Watermaster." Water Code section 85230(b). I further indicated that the NOV was not a notice of a proposed cease and desist order.

- Reclamation's position that the San Joaquin River Agreement (SJRA) target levels for spring pulse flows at Vernalis are in effect rather the Table 3 water quality objectives.

I reiterated my position in that the plan's wording of both the 2006 Bay-Delta Water Quality Control Plan and Decision D-1641 is that the Table 3 objectives are now in effect and that they were exceeded during the required period of April 15 - May 15, 2012. In response to Reclamation's assertion that its contract with Merced Irrigation District somehow reinstated the SJRA target levels, I stated that such a position was without persuasive merit.

- Reclamation's description of challenges they face in meeting spring pulse flow requirements at Vernalis.

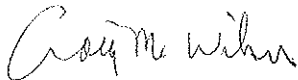
I indicated that I recognized those challenges and took them into account before taking the temperate and measured response of issuing the NOV in lieu of other options.

- Developing a path going forward.

I requested that my Office be involved in planning for the 2013 pulse flows and that the process be started as early as possible next spring. Reclamation agreed.

Please feel free to contact me at (916) 445-5962 if you have any further questions regarding this matter.

Sincerely,



Craig M. Wilson
Delta Watermaster

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