



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

AUG 07 2014

In Reply Refer to:
KDM:A005638

U.S. Bureau of Reclamation
c/o Mr. Robert Colella
2800 Cottage Way, MP-400
Sacramento, CA 95825-1898
RColella@usbr.gov

Dear Mr. Colella:

TEMPERANCE FLAT RESERVOIR PROJECT – U.S. BUREAU OF RECLAMATION (RECLAMATION) PERMITS 11885, 11886 AND 11887 (APPLICATIONS 234, 1465, AND 5638), SAN JOAQUIN RIVER IN MADERA AND FRESNO COUNTIES

On July 17, 2014, State Water Resources Control Board (State Water Board) staff from the Division of Water Rights (Division) Amanda Montgomery, Greg Brown and Kathy Mrowka met with Reclamation staff Sharon McHale and you and MWH consultants Jamil Ibrahim and Yung-Hsin Sun. At that time, the issue arose whether it would be possible to file a change petition to use the as-yet undeveloped portion of the water rights permit for the Friant Project for the Temperance Flat Reservoir Project (Temperance Flat), and Division staff agreed to research the question further and to follow-up. Upon further consideration, this option is not viable. A change petition for a permit or licensed may be approved only insofar as the change does not unreasonably harm public trust uses, injure other legal users of water, or result in initiation of a new right. Because the addition of Temperance Flat would allow additional diversion beyond that possible with the currently permitted facilities it would initiate a new right. (See State Water Board Order 2009-0061, pp. 5-7 [discussing when a proposed change initiates a new right].)

Division staff has evaluated whether Temperance Flat could be pursued under a new appropriative right. The San Joaquin River is listed in the Declaration of Fully Appropriated Streams (Declaration) as fully appropriated throughout the year based on State Water Board Decision 935. (State Water Board Order WR 89-25, Exhibit A.) Decision 935 authorized issuance of the permits for the Friant Project. If the Friant Project is licensed, and water allocated to the project in Decision 935 has not been used, if Reclamation no longer wishes to pursue continued development of the permitted amounts discussed in Decision 935, or if other information indicates that water is available, Reclamation may seek a revision of the Declaration of Fully Appropriated Streams on the basis of changed circumstances. (Cal. Code Regs., tit. 23, sec. 871.) Revision of the Declaration requires: (a) a finding by the Deputy Director for Water Rights that there is cause to revise the Declaration, and (b) an order by the State Water Board modifying the Declaration. If Reclamation pursues this option, it may submit a water right application with its request to revise the Declaration. The application could not be processed until and unless the Declaration is revised. However, the proposed application would be assigned a priority superior to that for subsequently submitted applications, should the Board

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

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Mr. Robert Colella

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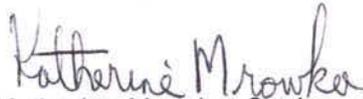
revise the Declaration of Fully Appropriated Streams such that the application could be accepted.

During the meeting, Reclamation informed the Division that the Department of Water Resources (DWR) will be the California Environmental Quality Act (CEQA) lead agency. Reclamation anticipates that a National Environmental Policy Act document will be circulated in September, 2014. The CEQA document will be circulated at a later date by DWR.

The briefing was very informative. We appreciated the opportunity for early information on the project.

If you require further assistance, I can be contacted at (916) 341-5363 or by email at kathy.mrowka@waterboards.ca.gov. Written correspondence should be addressed to me at the following address: State Water Resources Control Board, Division of Water Rights, Attn: Katherine Mrowka, P.O. Box 2000, Sacramento, CA 95814.

Sincerely,



Katherine Mrowka, Senior
Inland Streams Unit
Division of Water Rights