



FILED
OFFICE OF THE
SECRETARY

2007 SEP 21 P 12: 02 September 20, 2007

Office of the Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

Re: 2007 Spring Pulse Flows under Article 37 for the Don Pedro Project (FERC No. 2299)

Dear Secretary Bose:

The Turlock Irrigation District and Modesto Irrigation District (Districts) provide this response to the letter of August 29, 2007 from George Taylor of the Commission's (FERC) Biological Resources Branch regarding allegations made by the California Department of Fish and Game (CDFG) in a letter of July 20, 2007 on the Article 37 flow schedule. Mr. Taylor requested that seven copies of this response also be submitted to your office.

The Districts take seriously their obligations and responsibilities as licensees for the Don Pedro Project (Project No. 2299). Throughout the term of the license, we have consistently met or exceeded all requirements and conditions prescribed by the Commission. The Districts work diligently on a year-round daily basis to ensure that the required flows are met or exceeded. We take extreme exception to the spurious allegations contained within the July 20, 2007 letter from the California Department of Fish and Game (CDFG) to the FERC regarding certain alleged discrepancies in the 2007 flow schedule for the Tuolumne River. We are troubled by CDFG's decision to submit their July 20, 2007 letter to FERC without even the courtesy of contacting our designated staff regarding their concerns.

The TID provided a detailed response on September 5, 2007 to CDFG of why the CDFG allegations were without merit. It provided an extensive recounting of the notifications and information made available in establishing the flow schedule this year. A copy of that letter was filed with the Commission and is also attached with this letter for ease of reference and to serve as a comprehensive response to the Commission's inquiry into this matter.

It is difficult for us to understand how in the driest year of the past thirteen, CDFG could fail to review and respond to several refinements of the spring pulse flow until two months after the pulse flow period had expired. In fact, the first that the Districts heard that CDFG had a concern was in late July when they received a copy of the letter sent to the Commission.

September 20, 2007

In closing, the Districts will continue to implement their FERC Article 37 flow obligations and make good faith efforts to accommodate the concerns and views of all interested parties including CDFG. However, it is impossible to engage in those discussions if the interested parties fail to express their concern in a timely fashion.

We trust that this letter and attachment adequately responds to the request contained in the letter of August 29, 2007. If you have any questions, please contact Wes Monier at 209-883-8321.

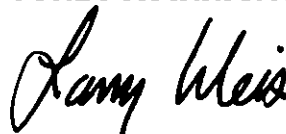
Respectfully submitted,

MODESTO IRRIGATION DISTRICT



Allen Short
General Manager

TURLOCK IRRIGATION DISTRICT



Larry Weis
General Manager

C: George Taylor – FERC, Washington
Philip Scordelis – FERC, San Francisco
CDFG – Fresno
USFWS – Field Supervisor, Sacramento

Attachment

September 20, 2007



TURLOCK IRRIGATION DISTRICT
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TURLOCK, CALIFORNIA 95381
(209) 863-8300

September 5, 2007

VIA E-MAIL

William E. Loudermilk
California Dept. of Fish and Game
1234 E. Shaw Ave.
Fresno, CA 93710

RE: July 20, 2007 DFG Correspondence to FERC Regarding 2007-2008 Tuolumne River Article 37
Flow Schedule for P-2299

Dear Mr. Loudermilk:

The Turlock and Modesto irrigation districts (Districts) are surprised by the nature of your letter and the manner in which it characterized flow schedule issues for this current fish flow year. CDFG had previously not expressed any concern or identified any issue regarding the 2007 flow schedule volumes with Mr. Wes Monier of TID during the period of April to June in which the initial flow schedules were established, despite ample opportunities to do so in a timely manner. Sending such a letter to FERC at a considerably later date is not the appropriate avenue to identify such concerns.

We are not aware of any "discrepancy", "error", "mistake", or "unknown reason" regarding the numbers as claimed by CDFG and the basis for the numbers was identified in our flow correspondence. CDFG was routinely provided this year with updated hydrology information and corresponding FERC flow volumes and schedules for review as was documented in our filing to the FERC of June 25, 2007. The Vernalis Adaptive Management Plan (VAMP) process has been the primary forum since 2000 for establishing specific spring pulse daily flows from each San Joaquin River tributary, which includes Tuolumne River flows that contribute to flow in the San Joaquin River at Vernalis. CDFG participated in VAMP meetings and received the VAMP materials. CDFG did provide e-mail comments on April 3 on an early VAMP schedule, but provided no comments on updated Tuolumne volumes and schedules provided by TID in e-mails of April 4 and April 16 and in our letter of April 18. Dry years require flow adjustments using revised runoff projections and it is incumbent upon CDFG to provide timely input as needed in the scheduling process.

Overall, there was a continuation of the 2007 dry trend during the spring pulse flow coordination process resulting in declining DWR Index runoff forecasts through April 10 combined with a forecasted lack of rainfall later in the month. A real concern was a repeat of the 2002 and 2004 situation where the final FERC flow volume was much less than projected based on 50% Index forecasts. Over-allocation of the spring pulse flow in 2007 could result in reduction of later base flows which were already projected to be at their lowest level. That led to the use of the 90% Index forecast (Median Critical Year) to guide development of the schedule initially established only through May 31, anticipating that the volume estimates would be changing. There are 20,091 acre-feet of spring pulse flow designated under the Median Critical Year type and 2,473 acre-feet of additional flow was added for a total spring pulse allocation of 22,564 acre-feet as stated in our letter of April 18. The Districts made a good faith effort to schedule a pulse flow volume in this very dry year based on the information at hand, which consists of realtime forecasts and historical data, and CDFG chose not to comment. The CDFG claim that spring pulse flow was taken to be used in the summer is unfounded.



In addition, there appears to be some inaccuracies in your letter, including those noted below:

- The April 10th 90% Index on line 10 of Paragraph 2 (Page 1) should be 1,773,183 as shown in the preceding line. That Index value corresponds to a Median Critical Year, not an Intermediate Critical-Dry Year
- The total April-May pulse flow allocation in the schedule had a total of 22,564 acre-feet, not 20,091 as expressed in line 6 of Paragraph 2 (Page 1)
- Paragraph 3 (Page 1) refers to the May 22 50% and 90% Indices cited in our May 31 letter. Those Indices correspond to Intermediate Critical-Dry Year and Median Critical Year, respectively. Those are the same two year types from the April 10 Indices and the designated spring pulse flow in a Median Critical Year is 20,091 acre-feet, not 32,619 acre-feet as stated on line 5 of Paragraph 3
- The 2007 year type is a Median Critical Year, not an Intermediate Critical-Dry Year as stated on line 11 of Paragraph 2 and again on line 8 of Paragraph 3 (Page 1). TID notified CDFG, USFWS, and NMFS of the final numbers in an August 13 e-mail
- The second paragraph on page 2 claims 11,565 acre-feet were taken from the spring pulse period. No water was "taken" from the spring pulse flow and it is not clear how your number was obtained. Subsequent weather conditions after the pulse volume is established in April contribute to the final flow volume not known until August.
- The frequency of VAMP target years as cited in Footnote 1 (Page 2) is no more "aberrant" than the numerous wet years immediately preceding the VAMP program or the 6-year drought of 1987-92.

Your letter expressed a concern in Footnote 1 and in Paragraph 1 of Page 2 that the VAMP flow target could have been affected. That was not the case and the Tuolumne pulse flow volume had no bearing on the VAMP flow target at Vernalis. Over 30,000 acre-feet of supplemental VAMP water from the San Joaquin River tributaries was utilized in the April 18 VAMP schedules, an amount which far exceeds any potential difference in volumes used for Tuolumne spring pulse flows.

The CDFG was informed by TID by e-mail on May 18 of the balance of water provisionally available after May 31 based on the May 15 Index forecast in a proposed schedule. That e-mail stated some water estimated to be available was proposed for allocation to the summer and early fall as that period contained the lowest base flow schedule. However, CDFG did not respond to that e-mail, and CDFG did not provide any comment on our May 31 flow schedule letter (CDFG also chose to not attend the June 13 TRTAC meeting where the flow schedule was reviewed).

CDFG is aware that Article 37 states that flows are "for fish purposes" and the Districts have been amenable to a wide variety of flow allocations in dry years. "Interpolation water" has been scheduled in various periods, including (1) spring pulses in 2002 and 2007, (2) summer flows in 2003, 2004, and 2007, (3) fall pulses in 2001-2004, and (4) fall/winter flow in 2003. Although other agencies and interest groups may desire enhanced summer flows, we have no stated preference other than to hopefully achieve the most fishery benefits from the water dedicated to that purpose.

We strongly disagree with the request by CDFG that we should mitigate an alleged loss of salmon production and deliver or carryover additional water. It is indeed remarkable for CDFG to make these claims following their above described lack of timely involvement this year. CDFG is also aware that the Districts already provide more than the scheduled flow amount on a daily basis in non-flood release periods to ensure the required flows are provided. In this year alone, during the April 15-May 24, 2007 period that contained pulse flow allocations, an additional 1,344 acre-feet were provided above the combined FERC schedule and 4,370 acre-feet of supplemental VAMP flows based on current USGS data. Similarly, during the following period of May 25-July 31, an additional 4,292 acre-feet above the FERC schedule was provided.

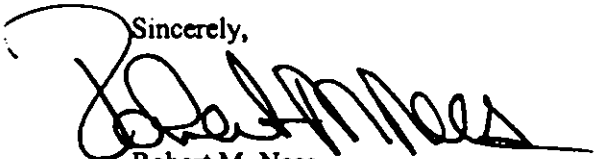
Some general points about the flow scheduling process based on review of the correspondence by the Districts and CDFG since 2000 are:

- Flow volumes and schedules are subject to change in drier years until the final 60-20-20 Index numbers are available in August
- It was observed in 2002 that dry years may continue to be very dry after the April 1 forecast, such that over-allocation of the large volume associated with the spring pulse could require reduction of later flows. That issue was discussed at the flow schedule workshop held in 2002
- Spring conditions were so dry in 2004 that the final annual volume was even less than the volume estimated by the April 1 90% Index. That year began the routine use of the 50% and 90% forecasts to generally establish an initial range of volumes for consideration
- If no comments are received on a proposed schedule, then that is the schedule implemented

The Districts have always abided by our FERC flow obligations and made a good faith effort throughout the flow scheduling and flow operation process. I again emphasize that operational decisions and input must be made in a timely manner and suggest a meeting be held if there is interest in further review of the process and issues. Wes Monier of TID is continuing our schedule coordination with CDFG, USFWS, and NMFS staffs based on the final annual volume of 115,813 acre-feet. Another letter will be provided when the flow schedule changes.

If you have any questions, please contact Wes Monier at 209-883-8321.

Sincerely,



Robert M. Nees
Assistant General Manager
Water Resources and Regulatory Affairs Administration

- C: Larry Weis - TID
Allen Short - MID
Walter Ward - MID
FERC Secretary
Philip Scordelis - FERC, San Francisco
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