



June 21, 1999

Kirk Rodgers  
Acting Regional Director  
Mid-Pacific Region  
Bureau of Reclamation  
2800 Cottage Way  
Sacramento, California 95825

Re: Request that Bureau of Reclamation Increase Rate of Delta Exports

Dear Kirk:

As you are aware, the current rate of exports at the Tracy Pumping Plant is giving rise to a water supply crisis, the consequences of which could be devastating to Central Valley Project contractors, the water users they serve, and the California economy. This letter is written to request that you immediately increase pumping at Tracy to the level allowed under the 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary in order to avoid the looming disaster.

Presently the rate of exports is insufficient to meet existing demand and the level of storage in San Luis Reservoir is dropping at an alarming rate. Indeed, in order to meet existing demand water is being released from storage in San Luis Reservoir at such a high rate that water levels are declining at nearly 2.5 feet per day. If exports were ramped up beginning on June 22, 1999, at existing demand levels it is projected that the low-point of storage in San Luis Reservoir would be 200,000 acre-feet at the end of August. This is compared to a May 15, 1999, operations forecast that projected end of August storage would be 602,000 acre-feet. If there is an increase in demand because of hot weather or if an increase in pumping is delayed, demands will not be met and the Reservoir could reach dead storage in August.

842 SIXTH STREET

SUITE 7

P.O. BOX 2157

LOS BANOS, CA

93635

209 826-9696

209 826-9698 FAX

D - 0 1 2 0 5 6

D-012056

Kirk Rodgers  
June 21, 1999  
Page 2

The difference between the projection based on existing conditions and the May 15 projection results from limitations on exports imposed purportedly to protect the Delta smelt. These limitations have reduced combined exports by more than 300,000 acre-feet. The San Luis & Delta-Mendota Water Authority and its members cannot understand how limitations on CVP operations imposed under a "no jeopardy" biological opinion could have effects of these magnitudes. In 1995, when the Fish and Wildlife Service issued its biological opinion addressing the effects of the operations of the CVP and State Water Project on the Delta smelt it anticipated that operations of the CVP and SWP would result in the take of the species. Notwithstanding this finding, the biological opinion concluded:

The proposed long-term combined CVP and SWP operations as modified by the winter-run biological opinion, the Principles for Agreement and the draft WQCP are not likely to jeopardize the continued existence of the threatened delta smelt and the proposed threatened Sacramento splittail, or adversely modify critical habitat for the delta smelt.

As required by the Endangered Species Act, the biological opinion specified those reasonable and prudent measures considered necessary to minimize the impact of the incidental take resulting from the proposed operation of the CVP and SWP and specified terms and conditions to implement the reasonable and prudent measures. We understand that the current reduction in exports is being imposed as a result of those terms and conditions. However, we also understand that under regulations promulgated by Fish and Wildlife Service "[r]easonable and prudent measures, along with the terms and conditions that implement them, *cannot alter the basic design, location, scope, duration, or timing of the action and may involve only minor changes.*" 50 C.F.R. § 402.14(i)(2) (Emphasis added). Therefore, it seems to us that, given the magnitude of the terms and conditions' effects, Fish and Wildlife's action in imposing the current 3500 cfs combined export rate limitation is inconsistent with its own regulations.

The immediate problem facing Reclamation and its contractors is meeting short-term demand. If as a result of limitations imposed by the Fish and Wildlife Service, Reclamation is unable to supply the 70% allocation on the schedule requested by its contractors the consequences would be immediate and severe. From experience gained in 1995 during a short-term regional power failure we know that water districts cannot regulate their growers' demand. Rather than watch as their crops wither from lack of water, farmers who do not have access to groundwater and who planted crops based on a 70% allocation will deplete a district's water distribution system. Once the system has

Kirk Rodgers  
June 21, 1999  
Page 3

been de-watered, it may be several weeks before water service can be restored to areas served by the system, and during this period large areas of annual and permanent crops can be destroyed.

In addition, if water in storage in San Luis Reservoir falls below 300,000 acre-feet, water supplied from the Reservoir to Santa Clara Valley Water District will become unsuitable for treatment as drinking water because at that elevation the water is algae-laden. When storage in San Luis Reservoir drops to approximately 110,000 acre-feet, Reclamation is simply unable to deliver water to Santa Clara. Approximately one-third of Santa Clara County's water supply is provided under Reclamation's contract with the Santa Clara Valley Water District. The area served by this water includes the unique electronic and computer manufacturing area known as "Silicon Valley", which has been described as the "economic engine" of the Bay Area. The high-technology businesses and industries of Silicon Valley are vitally important, not only to the local and state economies, but also to the national economy. Reliability of water supply is of paramount concern to these high-technology businesses and industries, and a significant disruption would occur if a high-quality water supply could not be maintained.

The situation facing Reclamation's contractors is unlike the situation in 1997, when Reclamation projected end of August storage in San Luis Reservoir of approximately 150,000 acre-feet. In 1997, Reclamation and its contractors had several months to plan the reoperation of their water supply systems and make other arrangements to reschedule demand. The instant situation came to our attention one week ago, and the only feasible solution to this potential disaster is to immediately increase pumping at the Tracy Pumping Plant.

An issue related to the current operations of the Tracy Pumping Plant is how Interior will fulfill its obligations under the December 15, 1994, Bay-Delta Accord. The Authority agreed to the limitations contained in the Accord because it promised to provide water supply certainty while the CALFED process developed a plan to restore the Delta. In exchange for this promised certainty, CVP and SWP contractors gave up, for the interim period, nearly 1,000,000 acre-feet of water in a dry year. From our perspective, the manner in which the Fish and Wildlife Service is proceeding violates the letter and the spirit of the Accord. As soon as the immediate water supply crisis has been resolved, we would like an opportunity to meet with you and other Interior officials to discuss how Interior intends to implement the Accord's make-up provisions in the future.

We are confident that you understand exigencies of the circumstances in which CVP contractors find themselves and that the potential consequences of an

Kirk Rodgers  
June 21, 1999  
Page 4

interruption in supply are not exaggerated. Your immediate consideration of this request is appreciated.

Very truly yours,

*Dan Nelson*  
Dan Nelson  
Executive Director

cc: The Honorable Gray Davis  
The Honorable Dianne Feinstein  
The Honorable Cal Dooley  
The Honorable George Radanovich  
The Honorable Gary Condit  
The Honorable Jim Costa  
The Honorable Mike Machado  
Secretary Mary D. Nichols  
Director Thomas Hannigan