
State Water Resources Control Board

NOTICE OF AVAILABILITY FOR PUBLIC REVIEW AND COMMENT OF A DRAFT ORDER DENYING PETITIONS FOR RECONSIDERATION OF THE EXECUTIVE DIRECTOR'S MAY 6, 2022 APPROVAL OF A SACRAMENTO RIVER TEMPERATURE MANGEMENT PLAN PREPARED PURSUANT TO ORDER WR 90-5

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board (State Water Board or Board) is accepting written public comments on a draft order denying petitions for reconsideration of the Executive Director's May 6, 2022 approval of a Sacramento River Temperature Management Plan (TMP) prepared pursuant to Order WR 90-5.

Order 90-5 requires the U.S. Bureau of Reclamation (Reclamation) to operate Shasta Dam and Reservoir on the Sacramento River and other related components of the federal Central Valley Project (CVP) in a manner that maintains daily average water temperatures of 56 degrees Fahrenheit (F) at Red Bluff Diversion Dam (RBDD) on the Sacramento River. This requirement only applies when higher temperatures would be detrimental to the fishery, and the compliance location may be changed with the submittal of an acceptable TMP to the extent that factors outside of Reclamation's reasonable control preclude Reclamation from meeting the requirement at RBDD.

The Executive Director's approval of the TMP acknowledged the extreme dry conditions at the time and associated limitations in water supplies in Shasta Reservoir for various purposes, including temperature management. The final TMP for 2022 included temperature targets for the purpose of protecting endangered winter-run Chinook salmon from adverse temperature conditions with limited cold water supplies. The Executive Director's approval included several conditions, including condition one, which required Reclamation to take all actions within its reasonable control to improve temperature conditions for Sacramento River winter-, spring- and fall-run Chinook salmon and to ensure that temperature dependent mortality (TDM) levels were minimized, and carryover storage levels were maximized to the extent feasible.

The Board received two petitions for reconsideration. One filed by numerous environmental organizations contends that the TMP was contrary to Order 90-5 and other laws and not supported by substantial evidence because it would result in unreasonable impacts to the salmon fishery and failed to require Reclamation to take all actions within its reasonable control to maintain adequate temperatures in the Sacramento River. Another filed by the Sacramento River Settlement Contractors maintained that condition one of the Executive Director's approval exceeded the Executive Director's authority under 90-5.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

The draft order determines that the Executive Director has authority to conditionally approve a TMP pursuant to Order 90-5 and the 2022 TMP was consistent with Reclamation's responsibility under Order 90-5 to take all actions within its reasonable control to protect the salmon fishery from temperature-related impacts when meeting the temperature requirement at RBDD is outside of Reclamation's reasonable control. Accordingly, the draft order concludes that the Executive Director's conditional approval of the TMP was appropriate and proper, and therefore the petitions for reconsideration are denied.

Interested persons may submit written comments on the draft order to the Clerk to the State Water Board. In order to be fully considered, any written comments pertaining to the draft order must be received by the Clerk by no later than **12:00 pm (noon) on Tuesday, June 13, 2023**. Comments should be submitted electronically (via e-mail) to commentletters@waterboards.ca.gov. Please indicate in the subject line **"Comment Letter: 2022 TMP Reconsideration."**

The draft order and information related to the 2022 TMP and the petitions for reconsideration may be viewed at:

https://www.waterboards.ca.gov/drought/sacramento_river/.

Questions concerning this notice may be directed to Bay-Delta@waterboards.ca.gov.

Date June 1, 2023



Courtney Tyler
Clerk to the Board