

Colella, Robert F

From: Bob Baiocchi [rbaiocchi@gotsky.com]
Sent: Wednesday, July 21, 2010 12:37 PM
To: James Kassel; Kathy Mrowka
Cc: Colella, Robert F
Subject: Formal Protest - Petition for Temporary Transfer - USBR - San Joaquin River - Bay Delta Estuary

Importance: High

State of California

Before the State Water Resources Control Board

US Bureau of Reclamation, Permittee

Water Right Permits 11885, 11886 and 11887

Petition of Temporary Transfer

Friant Dam; San Joaquin River; and Bay Delta Estuary

Formal Protest by the California Fisheries and Water Unlimited

The California Fisheries and Water Unlimited hereby file a formal protest against the petition for the temporary transfer of water shown above as follows:

Petitioner

The petitioner holds water right permits to storage and divert water from the San Joaquin River. We reference the public notice of July 8, 2010 for said petition.

The Permits

Under water right permit 11885 the petitioner can store 500,000 acre-feet of water and divert 3,000 cfs of water by direct diversion with a limit of 6,500 cfs. The purpose of use under said permit is for irrigation and incidental domestic purposes. The places of use were not mentioned in the notice. The permit was issued on June 29, 1959 by the State Water Board without any daily flow requirements for salmon and steelhead from Friant Dam into the San Joaquin River that violated state law and caused the demise of California Central Valley San Joaquin River spring-run salmon which are now listed for protection.

Under water right permit 11886 the petitioner can divert 3,000 cfs of water by direct diversion with a limit of 6,500 cfs. The purpose of use under said permit is for irrigation, municipal, domestic and recreation and incidental domestic purposes. The places of use were not mentioned in the notice. The permit was issued on June 29, 1959 by the State Water Board without any daily flow requirements for salmon and steelhead from Friant Dam into the San Joaquin River that violated state law and caused the demise of California Central Valley San Joaquin River spring-run salmon which are now listed for protection.

Under water right permit 11885 the petitioner can store 1,210,000 acre-feet of water and divert 3,000 cfs of water by direct diversion with a limit of 6,500 cfs. The purpose of use under said permit is for irrigation and incidental domestic purposes. The places of use were not mentioned in the notice. The permit was issued on June 29, 1959 by the State Water Board without any daily flow requirements for salmon and steelhead from Friant Dam into the San Joaquin River that violated state law and caused the demise of California Central Valley San Joaquin River spring-run salmon which are now listed for protection.

Protestant

The California Fisheries and Water Unlimited has standing before the State Water Board and its staff. We reference the records.

Bob Baiocchi, agent for the California Fisheries and Water Unlimited has standing before the State Water Board and its staff. See background attachment. The State Water Board, its staff, and the agent for the US Bureau of Reclamation have the electronic mailing address of Bob Baiocchi, President, California Fisheries and Water Unlimited. See below for address.

Public Notice

Bob Baiocchi has reviewed the public notice of July 8, 2010 regarding the petition for temporary transfer. We reference the public notice of July 8, 2010 by the State Water Board regarding said temporary transfer.

Environmental Information

Bob Baiocchi has written the US Bureau of Reclamation agent for information regarding this petition. The information is pertinent to this protest. When the information is received from the agent of the US Bureau of Reclamation, the California Fisheries and Water Unlimited will advise the State Water Board and its staff regarding the effects to the environment of the Bay Delta Estuary resulting from said petition.

For the records, the State Water Board violated state law and unlawfully failed to require mandatory daily flow requirements from Friant Dam into the San Joaquin River in said permits for 51 years. Further, the US Bureau of Reclamation willful and knowingly violated state law and failed to provide water from Friant Dam into the San Joaquin River for 51 years that led to the demise of California Central Valley San Joaquin River Spring-run Chinook salmon species.

Grounds for Protest

The legal and environmental grounds for this protest are based on all applicable state and federal statutes and regulations. Specifically: NEPA requirements; CEQA requirements; federal Endangered Species Act; California Constitution; Public Trust Doctrine; Mono Lake Decision; Federal Clean Water Act; Porter Cologne Water Quality Control Act; and all applicable federal and state statutes.

Disqualification of Agent for the Division of Water Rights

Ms. Katharine Mrowka is the agent assigned to this petition by the State Water Board. I request Ms. Mrowka is removed from being the agent for the State Water Board because she has a significant bias against the Bob Baiocchi and the California Fisheries and Water Unlimited and has discriminated against the organization and Bob Baiocchi for many years. The California Fisheries and Water Unlimited cannot receive a fair administrative ruling from Ms. Mrowka. Further, Ms. Mrowka is not a scientist and has a bias against California fisheries. I reference the records.

Terms and Conditions of Protest

Once I receive the information from the agent of the US Bureau of Reclamation I will submit dismissal terms and conditions or refer the matter to hearing.

Respectfully Submitted

Signed by Robert J. Baiocchi

Robert J. Baiocchi, President
California Fisheries and Water Unlimited
California Non-Profit Corporation

Dated: July 21, 2010

Certificate of Service (E-Mail Filing)

Mr. James Kassel, Asst Deputy Director
Division of Water Rights
State Water Board

Ms. Katherine Mrowka, Agent
Division of Water Rights

Mr. Robert Coletta, Agent
US Bureau of Reclamation, Petitioner

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