



State of California – The Natural Resources Agency
 DEPARTMENT OF FISH AND GAME
 Bay Delta Region
 7329 Silverado Trail
 Napa, CA 94558
 (707) 944-5500
www.dfg.ca.gov

EDMUND G. BROWN, Jr. Governor
 JOHN McCAMMAN, Director



June 24, 2011

Communication "B"
June 29, 2011 Special Calistoga City Council Meeting
(Kimball Dam Bypass Project Public Hearing)

Mr. Richard Spitler, City Manager
 City of Calistoga
 414 Washington Street
 Calistoga, CA 94515

CITY OF CALISTOGA
 City Clerk

JUN 24 2011

Dear Mr. Spitler:

RECEIVED

Subject: Kimball Reservoir Bypass Plan

This letter serves as a follow-up to the June 21, 2011 meeting between the Department of Fish and Game (Department) and the City of Calistoga (City) and provides initial comments on the City's Draft Kimball Reservoir Bypass Plan dated May 27, 2011 (Bypass Plan). At the meeting, we discussed the results of the City's modeling efforts and the Department's concerns regarding the adequacy of the Bypass Plan. As you know, the Department's position is that the City is obligated under Fish and Game Code sections 1602¹ and 5937 to provide sufficient flow below Kimball Reservoir to conserve and protect aquatic resources. As explained below, the Department has determined that the flow scenario the City has chosen would not bypass sufficient flow to satisfy its statutory obligations, in addition to its public trust duties.

There are multiple issues with the Bypass Plan. However, the following two are critical to ensure sufficient flow below Kimball Reservoir to conserve and protect aquatic resources.

1. The Bypass Plan does not bypass any flow beyond incidental seepage until the reservoir is completely filled and water is allowed to pass over the reservoir spillway. In the Napa River system, steelhead migration occurs December through March during times that the reservoir is filling, and in most years, the reservoir captures all flows until it spills resulting in insufficient flow for steelhead migration during part or all of the mitigation period.
2. Steelhead, a species protected under the federal Endangered Species Act and a state species of special concern, have been known to migrate up to Kimball Reservoir during times that flow is present. The Bypass Plan details a list of flow regimes but does not disclose how the final flow regime was chosen and at our meeting, the City indicated the flows were not based on steelhead needs. Once the reservoir spills, under the scenario adopted in the Bypass Plan, the City would bypass 60% of inflow when it exceeds 3 cubic feet per second (cfs) and 40% of inflow when it is less than 3 cfs. At times, this will be appreciably less than the 5 cfs the Department recommended and the City agreed to in

¹ Fish and Game Code section 1602 requires the City to notify the Department of any activity that will substantially divert or obstruct the natural flow of any river, stream, or lake. If the Department determines the activity may substantially adversely affect fish and wildlife resources, the Department will prepare a Lake or streambed Alteration Agreement that includes measures necessary to protect the resources the activity could adversely affect. In this case, such measures would include adequate bypass flows. Department staff and wardens have informed the City on more than one occasion that it needs to notify the Department in accordance with section 1602. To date, however, the City has not done so.

Mr. Richard Spittler
June 24, 2011
Page 2


the past. Without any analysis of the effect of the bypass scenario on steelhead spawning habitat there is no way for the Department to evaluate the adequacy of the plan on steelhead.

In our meeting, the Department explained how the scenario in the Bypass Plan does not provide sufficient flows for steelhead passage and spawning while the reservoir is filling and during installation of the flashboards. The Department developed and provided bypass flow recommendations higher than those in the Bypass Plan, specifically, 13 cfs for passage and 5 cfs for spawning. The Department's recommendations are based upon site-specific studies conducted below the reservoir, unlike the City's proposed flow scenario which is based primarily on operational constraints. The Department also provided the City hydrographs to show the potential effects of the Department's proposed flows on the City's water availability. It is the Department's position that in all but severely dry years, there is sufficient water above the reservoir to provide adequate flows for aquatic resources and to satisfy the City's water needs. Department staff have been in recent discussions with the City's staff and hydrologist and feel confident that an interim bypass scenario which both protects sensitive public trust resources and ensures water for the City's needs can be developed in the near future.

Finally, the Department made it clear that if the City intends to proceed with the currently scheduled June 29, 2011 City Council hearing on the Bypass Plan, the Department would submit written comments and/or testify on the adequacy of the plan at the hearing expressing the same concerns we raised at our meeting and in this letter. The Department encourages the City to postpone the hearing given the inadequacies in the Bypass Plan and continue to work with the Department to develop an appropriate bypass scenario. Based on the information the Department has provided to the City, we believe if the City postpones the hearing for a minimum of 30 days, the City, working with the Department, can develop an alternative bypass scenario that will satisfy both the City's water needs and legal obligations to provide sufficient flow to protect and conserve aquatic resources below Kimball Reservoir. Continuing to pursue the Bypass Plan in its current form will not be productive because it does not meet the City's stated goals of fulfilling its public trust duties and would not be approved by the Department.

As discussed at our meeting, the Department will continue to work with the City on an alternative bypass scenario. If you have any questions or corrections, please contact Ms. Corinne Gray, Staff Environmental Scientist, at 707-944-5526 or Mr. Scott Wilson, Environmental Program Manager, at (707) 944-5584 or swilson@dfg.ca.gov.

Sincerely,


Carl Wilcox
Regional Manger
Bay Delta Region

cc: Barbara Evoy, State Water Resources Control Board, Division of Water Rights
David Hines, National Marine Fisheries Service