

of attachment B that "We believe there are public trust restrictions upon the power of the State, as trustee, to inordinately reduce instream flows. Instream flows and Delta inflow and outflow have been altered or reduced with attendant severe adverse impacts on water quality and fish and wildlife resources." This statement is totally contrary to the position we have taken in ongoing litigation concerning not only the Delta issues, but also the state public trust issues that are currently before the California Supreme Court in the Mono Lake litigation. Not only has our position in the ongoing litigation possibly been jeopardized by this statement to the SWRCB, but the operation of all Bureau facilities in California are in jeopardy if the above statement is accepted as the legal position of the U.S. by the California courts. There is little question but that the State, Sierra Club, and National Audubon Society will bring this statement to the California Supreme Court's attention.

I am of the opinion that your immediate attention needs to be focused on these matters, and a determination made ASAP as to how we should proceed. I will be glad to discuss this matter with you at your earliest convenience.

Gary Fisher
 Assistant Solicitor
 Branch of Water and Power
 Energy and Resources

Attachment

cc: David Houston (w/attachment)
 Special Assistant to the Commissioner
 Stuart Somach, U.S. Attorney, Sacramento
 Regional Solicitor, Pacific Southwest Region
 David Watts, Assistant Solicitor--National Parks
 Division of Conservation and Wildlife (w/attachment)

Solicitor

Docket

DER Solicitor RF
 DER RF
 DER Water RF
 DER Goldberg
 DER Washington
 DER Mauro
 DER Fisher

Also involved

