

# Why Support the Physical Solution?

By: Ventura River Water District

The adjudication lawsuit angers people, is expensive and divisive. But it's here. Unfortunately, the State Water Resources Control Board (SWRCB) is also here and preparing to require more water in the Ventura River, which they can only achieve by pumping and diversion restrictions. If we all agree on a Physical Solution the adjudication can be quickly resolved without adjudicating water rights or affecting peoples water use. The Physical Solution is a document before the court that outlines physical improvements we can easily make in the Ventura River to improve the condition of the protected Steelhead.

Regardless of different perspectives on the Adjudication or SWRCB, we believe it is essential that all parties work now on the draft Physical Solution, before the SWRCB completes its water restrictions. Here is why:

1. The SWRCB and Fish & Wildlife made the unusual decision to become parties to the adjudication and are participating in the development of the draft Physical Solution. Therefore, the Physical Solution will likely influence any regulations ultimately developed by the State. One can wonder whether the State entities' primary reason for participating in the Physical Solution is the potential to improve the fishery habitat while minimizing need for water use restrictions. They cannot achieve this on their own, but by partnering with the local community through the Physical Solution, they can.
2. The SWRCB authority is only to restrict water use, it does not have the authority to require habitat improvements. The Physical Solution is based upon the opinion of multiple experts that habitat improvement will provide more benefit to the fishery than increased flows. Therefore, the Physical Solution can provide a more holistic approach to the fishery than SWRCB's impending pumping and diversion restrictions.
3. After the Physical Solution is adopted, if the SWRCB develops a proposal for the river that is more beneficial to water users, the Physical Solution expressly provides that any party can petition the court to replace the Physical Solution with the SWRCB's rules if the party believes that water use restrictions are the better long-term approach for our valley.

Pumping restrictions mean that municipal and agricultural pumpers will need to use more water from Lake Casitas. Diversion restrictions mean that Casitas would have to reduce its diversions into the lake and release water down Coyote Creek resulting in less water in the lake for everyone.

The bottom line is that the SWRCB has very limited tools to improve the watershed. They cannot require the payment of money and they cannot require non-flow improvements. They cannot require concepts like capturing excess water in wet years and discharging it in dry years to mitigate pumping. They can only impose flow requirements, and then curtail human water use to implement those flows. Their cuts in water use to protect the Sacramento-San Joaquin Delta is perhaps the best-known

example. The State entities have made it very clear in their comments on the Physical Solution filed with the Court that they want additional flows – and with their limited authority this can only come from pumping and diversion restrictions. When enacting those restrictions, the SWRCB must use its water rights system, which is based on “first in time is first in right”. Ventura is among the oldest users, so it will be one of the last to have water taken away. The most recent users would be cut first and the State must work its way up the list until it takes the water it wants.

If we work now on the draft Physical Solution, we will have three options in the future:

1. Recommend approval of the Physical Solution to the Court to resolve the adjudication.
2. Live with pumping and diversion restrictions imposed by the SWRCB.
3. Convert the Physical Solution into a Voluntary Agreement with the SWRCB in exchange for eliminating or reducing pumping and diversion restrictions.

If we work on the draft Physical Solution could prevent the Adjudication from becoming a 15 year multi million-dollar water rights fight. We can gain negotiating influence with the SWRCB. We would have an option of a potential Voluntary Agreement that may save us from onerous pumping and diversion regulations. Working on the draft Physical Solution requires very little “legal” input, would be done with technical experts and water users who are party to the adjudication so it is primarily a commitment of our time. It is a win-win for everyone.

Board of Directors, Ventura River Water District September 15, 2021

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