



United States Department of the Interior




FISH AND WILDLIFE SERVICE
San Francisco Bay-Delta Fish and Wildlife Office
650 Capitol Mall, Suite 8-300
Sacramento, California 95814

In reply refer to:
81420-2008-F-1481-15

JUN 26 2015

MEMORANDUM

To: Central Valley Office Operations Manager, Bureau of Reclamation Mid-Pacific Region, Central Valley Office

From: Acting Field Supervisor, U.S. Fish and Wildlife Service, Bay Delta Fish and Wildlife Office, Sacramento, California 

Subject: Reinitiation of Endangered Species Act Consultation on the Coordinated Operations of the Central Valley Project and the State Water Project

This memorandum is in response to your May 22, 2015 memorandum, and your June 25, 2015 supplement, which continues the January 9, 2015, reinitiation of the December 15, 2008 Biological Opinion (2008 BiOp) on the Coordinated Operation of the Central Valley Project (CVP) and State Water Project (SWP) (Projects). The 2008 BiOp included a provision for the Bureau of Reclamation (Reclamation) to reinitiate consultation if the water year is classified as dry or critically dry for a second consecutive (or more) year(s). As such, Reclamation is seeking concurrence from the U.S. Fish and Wildlife Service (Service) that the drought response modifications proposed by Reclamation and the California Department of Water Resources (DWR) through the months of July to November 2015, and as described below, will result in effects that are consistent with the range of effects analyzed for Delta Smelt and its critical habitat in the 2008 BiOp and Reasonable and Prudent Alternative. This response is in accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

The following sources of information were used to develop this response: (1) your June 25, 2015 memorandum to the Service with the attached *June 90 Percent Forecast*; (2) your May 22, 2015 memorandum to the Service with the attached *Updated Project Description for July-November 2015 Drought Response Actions to Support Endangered Species Act Consultations* (Project Description) and the *Biological Review for Endangered Species Act Compliance with the WY 2015 Drought Contingency Plan July through November 15 Project Description* (Biological Review); (3) your previous January 9, 2015, reinitiation request and subsequent supplemental requests dated January 27, 2015, February 9, 2015, and March 24, 2015, and respective supporting biological information; and (4) other information.

As described in the Project Description, Reclamation and DWR are specifically requesting that the State Water Resources Control Board temporarily modify D-1641 Delta outflow

requirements, Rio Vista flow requirements, and Western Delta salinity compliance point requirements in association with a Temporary Urgency Change Petition that we received from Reclamation and DWR on May 22, 2015. These changes would reduce reservoir releases from those otherwise required to meet D-1641 from July through November in order to conserve storage for fishery protection, future minimum human health and safety needs, and if necessary, salinity control. Reclamation is also requesting changes to the Ripon dissolved oxygen compliance point requirement contained in the State Water Board D-1422, and extension of the July through September water transfer window through November 15, 2015, to allow for the incremental conveyance of transfer water proposed to be retained in Shasta and Folsom reservoirs for diversion from the south Delta at the Jones Pumping Plant or Banks Pumping Plant. The incremental release of transfer water in the fall will both help improve in-stream fishery conditions and increase critical drought supplies south of the Delta. The incremental increase in pumping associated with the transfers will be above the reduced base Project operation limited by drought conditions, and is currently estimated to be above the rate needed to support minimum human health and safety. Reclamation is not requesting any modification to the Reasonable and Prudent Alternative (RPA) in the 2008 BiOp, such that if a Service determination is made regarding Old and Middle River flows based on Delta Smelt entrainment risk, that determination would control. The Project Description also includes possible future modifications that may be proposed in 2015 to address the ongoing drought, including: (1) San Joaquin River at Vernalis flow requirements; (2) San Joaquin River salinity requirements; and (3) New Melones October pulse flow requirements. However, Reclamation's current request and the attached Biological Review do not cover those potential future requests. Consequently, the Service will not address them in this memorandum. If it is found that any of the three potential modifications mentioned above are necessary, Reclamation will consult with the Service on the associated effects to Delta Smelt and other listed species, as appropriate.

As indicated in the Biological Review, the ongoing drought continues to affect Delta Smelt. The trend in Delta Smelt abundance has continued to decline with the 2014 Fall Midwater Trawl Delta Smelt index at 9, its lowest on record, and half of the 2013 survey index value. Spring Kodiak Trawl total catch for the five surveys conducted this year was 102 fish, just 38% of the previous low total catch in 2008. This continues to give us reason to be concerned about the impacts of drought-related stressors on the population.

Although the biological review identifies potential effects on Delta Smelt, it also acknowledges uncertainties in its conclusions. Although the proposed modifications to D-1641, changes to the Ripon dissolved oxygen compliance point, and extension of the water transfer window were not anticipated in the project description for the 2008 BiOp, the Service accepts Reclamation's determinations, in both your May 22 and June 25 memoranda, that the proposed drought response modifications for July through November 2015 are consistent with the range of effects previously analyzed in the 2008 BiOp.

Similar to the February 2015 and March 2015 reinitiation, Delta Smelt entrainment risk will be subject to reevaluation and adjustment to changing conditions, and will be based on a review of

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Delta Smelt distribution and catch data, ongoing Interagency Ecological Program monitoring, and fish salvage operations, as well as gauge data. These data will be used to inform the Real-Time Drought Operations Management Team, Water Operations Management Team, Smelt Working Group, Delta Conditions Team and other groups who will be providing input on a near real-time basis.

We remain committed to continued close coordination with you and your staff throughout this extremely challenging water year. Please address any questions or concerns regarding this response to me or Kim S. Turner, Assistant Field Supervisor at (916) 930-5603. Please refer to Service file number 81420-2008-F-1481-15 in any future correspondence regarding this project.