
From: Gibson, Thomas@Wildlife
Sent: Friday, March 14, 2014 8:38 PM
To: Crothers, Cathy@DWR
Cc: Mizell, James@DWR; Leahigh, John@DWR; Stein, Russell@DWR; Wilcox, Carl@Wildlife; Moon, Laura [K.@DWR](mailto:L.Moon@DWR)
Subject: RE: Confirmation of Existing Consistency Determination for Drought Operational Changes

Dear Cathy –

This is in response to your request for confirmation of continuing coverage under the California Endangered Species Act (CESA) in light of the drought response measures proposed by the Department of Water Resources and the Bureau of Reclamation (Reclamation) for the remainder of March 2014, as described in the March 14, 2014, letters that Reclamation submitted to the U.S. Fish and Wildlife Service (USFWS) and NOAA's National Marine Fisheries Service (NMFS). We are in receipt of those letters and the respective responses from the USFWS and NMFS, also dated March 14, 2014.

As noted in the USFWS memorandum, the proposed drought response measures are expected to have minimal, if any, additional adverse effects on delta smelt, and the jeopardy determination and incidental take statement in the 2008 Biological Opinion (upon which our consistency determination for delta smelt was based) remain unchanged.

In its letter, NMFS concluded that the proposed measures are consistent with Action 1.2.3.C and meet the specified criteria for a drought contingency plan in its 2009 Biological Opinion (upon which our consistency determination for winter-run and spring-run Chinook salmon was based).

Because the USFWS and NMFS (as described in more detail in their correspondence) have concluded that the proposed drought response measures remain within their respective Biological Opinions, including their incidental take statements, the CESA consistency determinations that were based on those Biological Opinions remain in effect.

Thank you for your continued close coordination on these matters. Please contact me if you have any questions.

Tom

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Please note that as of Jan 1, 2013, our new name is the California Department of Fish and Wildlife (CDFW) and new department internet and email addresses took effect on that date.

From: Crothers, Cathy@DWR
Sent: Friday, March 14, 2014 8:20 PM
To: Gibson, Thomas@Wildlife
Cc: Mizell, James@DWR; Leahigh, John@DWR; Stein, Russell@DWR
Subject: Fwd: Confirmation of Existing Consistency Determination for Drought Operational Changes

Dear Tom,

The Department of Water Resources (DWR), requests that the Department of Fish and Wildlife consider the letters you received today from US Bureau of Reclamation regarding proposed drought operations by DWR and Reclamation and from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service regarding determination under ESA for these operations in the month of March. DWR requests that DFW review these letters and confirm its existing Consistency Determination under the California Endangered Species Act for the proposed operational changes.

DWR and the U.S. Bureau of Reclamation (Reclamation) received a Temporary Urgency Change Order (Order) on January 31, 2014, and subsequent modifications to that Order on February 7 and 28, 2014. The Order allows for effective management of the ongoing drought through the month of March.

DWR and Reclamation requested that the State Water Resources Control Board further amend the Order to allow pumping above the minimum 1,500 cfs rate where Delta outflow falls between a 3-day running average of 7,100 cfs and 11,400 cfs during the month of March. Further, where outflow falls within this range the Delta Cross Channel Gates will remain closed. Requests were also sent to the federal fish agencies for a determination of Endangered Species Act coverage under the existing biological opinions for these operational changes.

To summarize the federal fish agencies responses, the U.S. Department of Fish and Wildlife determined that the proposed drought measures for March 2014 will not result in additional adverse effects on delta smelt or its critical habitat beyond those analyzed in its 2008 biological opinion for the long term operations of the Central Valley Project and State Water Project. Similarly, National Marine Fisheries Service determined that the proposed March drought measures are consistent with provisions of its 2009 biological opinion for the long term operations of the Central Valley Project and State Water Project. The full opinions of the federal fish agencies are contained in the attached letters.

Please let me know if you need additional information for DFW to make a determination regarding the operations.

Thanks,

Cathy Crothers

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