



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Water Branch  
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[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



February 13, 2023

Ms. Diane Riddle, Assistant Deputy Director  
Division of Water Rights  
California State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814

## **2023 FEBRUARY THROUGH MARCH TEMPORARY URGENCY CHANGE PETITION**

Dear Ms. Riddle,

This letter is in response to your verbal request, consistent with Water Code section 1437, for consultation with the California Department of Fish and Wildlife (CDFW) regarding potential effects to fish and wildlife resources as a result of the 2023 February through March Temporary Urgency Change Petition (WY 2023 TUCP) submitted by the California Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (Reclamation) on February 13, 2023. In the TUCP, DWR and Reclamation request modifications to requirements of Water Right Decision 1641 (D-1641) to enable changes to operation of the State Water Project (SWP) and Central Valley Project (CVP) (collectively Projects) for February through March 2023. Specifically, DWR and Reclamation have requested to modify footnote [d] of Table 4 in D-1641 to state “[d] This standard applies only in months when the average EC at Port Chicago during the 14 days immediately prior to the first day of the month is less than or equal to 2.64 mmhos/cm. This standard does not apply in February and March 2023.” All other conditions in Table 4 would continue to apply.

In their WY 2023 TUCP Biological Review DWR and Reclamation note “During January, SWP and CVP project operations were primarily controlled by the cap on Old and Middle River (OMR) flow at -5,000 cfs, Integrated Early Winter Pulse Protection “first flush” action (OMR @ -2,000 cfs), and a turbidity bridge (OMR @ -2000 cfs for 5 days, additional 5 days at -3,500 cfs).” As a result of these actions, both Delta Smelt and Longfin Smelt were distributed to favorable rearing habitats thus minimizing presence in the interior Delta and associated entrainment risk. However, proposed changes will reduce Delta outflow thus resulting in incremental impacts to food web production, longfin smelt and other native species abundance. Additionally, both Winter- and Spring-run Chinook Salmon are expected to be present in the Delta during this time and will experience incremental impacts to routing, rearing, and through-Delta survival as a result of the proposed changes. DWR and Reclamation commit to keeping Delta Cross Channel Gates closed for the duration of the requested operational changes, thus minimizing potential impacts to winter- and spring-run Chinook salmon.

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As stated in the TUCP, “[e]xtreme wet conditions and freshwater quality conditions in January triggered the Port Chicago requirement for February...Absent a TUCP in February and March, DWR and Reclamation would attempt to meet all D-1641 water quality requirements including the Port Chicago standard through a combination of upstream releases from Lake Oroville and Folsom Lake, as well as export reductions. Releases from Lake Shasta would likely not be needed. These actions would reduce the amount of storage in both Projects and therefore hamper efforts to recover from the ongoing drought.”

On February 13, 2023, Governor Newsom issued Executive Order N-3-23, Paragraph 3 of which directs the State Water Resources Control Board to consider modifying requirements for reservoir releases or diversion limitations in SWP or CVP facilities to “(i) conserve water upstream later in the year in order to protect cold water pools for salmon and steelhead, (ii) enhance instream conditions for fish and wildlife, (iii) improve water quality, (iv) protect carry-over storage, (v) ensure minimum health and safety water supplies, or (vi) provide opportunities to maintain or to expand water supplies north and south of the Delta.” DWR and Reclamation cite this directive in their WY 2023 TUCP.

As a part of their WY 2023 TUCP, DWR and Reclamation conducted a biological review to assess the potential impacts of the requested changes to D-1641 and concluded that the requested changes will not result in unreasonable impacts to fish and wildlife. CDFW staff have reviewed the WY 2023 TUCP, and the associated biological review. In consideration of the February 13, 2023 Executive Order and the WY 2023 TUCP, CDFW agrees with DWR and Reclamation’s assessment that impacts to fish and wildlife resources from the proposed changes would be no more than incremental, and we do not have additional information to add to the biological review.

CDFW appreciates the coordination and communication between our two departments during these exceptionally dry conditions. If you have questions regarding this letter, please contact me at (916) 903-6426, or by email at [Brooke.Jacobs@wildlife.ca.gov](mailto:Brooke.Jacobs@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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Brooke Jacobs, Chief  
Water Branch

**cc: California Department of Fish and Wildlife**

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