

# Memorandum

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To : Mr. Edward Anton, Chief  
State Water Resources Control Board  
Division of Water Rights  
901 P Street  
Sacramento, California 95814

Date : May 19, 1995

From : Department of Fish and Game

Subject : California Endangered Species Act Consultation regarding the 1995  
Water Quality Control Plan for the San Francisco Bay/Sacramento-  
San Joaquin Delta Estuary (CESA Number 2090-1994-037-0)

In a 1994 memorandum the State Water Resources Control Board (Board) requested Department of Fish and Game (DFG) consultation under Section 2090 of the California Endangered Species Act regarding the triennial review of its 1991 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (1991 Bay/Delta Plan). In response, the DFG entered into the requested consultation.

The DFG has reviewed the water quality objectives and other provisions of the Board's draft 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (1995 Bay/Delta Plan) issued on December 15, 1994, the product of the Board's triennial review of the 1991 Bay/Delta Plan. This review included the separately bound Environmental Report appendix. The DFG also has reviewed the May 1995 revisions to the 1995 Bay/Delta Plan.

We note that the Board has included in the proposed 1995 Bay/Delta Plan the appropriate provisions of the current federal Biological Opinions on the effects of Long-term Operation of the Central Valley Project (CVP) and the State Water Project (SWP) on delta smelt and Sacramento splittail (conference) issued by the U.S. Fish and Wildlife Service (USFWS) and the Sacramento winter-run chinook salmon issued by the National Marine Fisheries Service (NMFS). The Board also has incorporated DFG recommendations regarding standards for Suisun Marsh.

At this time the DFG cannot definitively comment on the implementation of the 1995 Bay/Delta Plan under CESA Section 2090, as future Board actions may materially affect threatened and endangered species. The DFG is prepared, however, to comment on the 1995 Bay/Delta Plan itself.

The DFG has considered the potential effects of the Board's proposed action on State-listed species, including the California black rail, California clapper rail, salt marsh harvest mouse, Sacramento winter-run chinook salmon and delta smelt. Based on our review of the documents submitted by the Board and the federal Biological Opinions referenced above, DFG finds that


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adoption of the 1995 Bay/Delta Plan will not likely jeopardize the continued existence of these threatened or endangered species or result in the destruction or adverse modification of habitat essential to the continued existence of the species.

Further, adoption of 1995 Bay/Delta plan by the Board will not result in any taking of the threatened or endangered species identified above that is not presently authorized by the USFWS or the NMFS. Incidental take of delta smelt and Sacramento winter-run salmon resulting from operation of the SWP and the CVP is the subject of incidental take statements in the already referenced federal Biological Opinions for the long-term CVP/SWP operations. Implementation by the Department of Water Resources and the Bureau of Reclamation of the reasonable and prudent measures in those incidental take statements will minimize the adverse effects of any incidental take of delta smelt or winter-run salmon by the SWP and CVP. No take of the other species identified above is expected to result from adoption of the 1995 Bay/Delta Plan.

The foregoing represents the DFG's findings with respect to the Board's adoption of the 1995 Bay/Delta Plan. A complete CESA Biological Opinion is in preparation and will be forwarded to you shortly. Subsequent actions by the Board to implement the 1995 Bay/Delta Plan may affect threatened and endangered species and therefore, may require the Board to request additional consultation with the DFG at the time such implementation actions are contemplated.

If you have any questions or comments please contact Mr. Jim White, Environmental Specialist, Department of Fish and Game, 1416 Ninth Street, Sacramento, California 95814, (916) 653-3540.

  
for Boyd Gibbons  
Director

cc: Mr. Jim White  
Mr. Dick Daniel  
Department of Fish and Game  
Environmental Services Division  
Sacramento, California

Inland Fisheries Division

Bay Delta and Special Water Projects Division