



United States Department of the Interior

BUREAU OF RECLAMATION
Washington, DC 20240



DEC 29 2009

IN REPLY REFER TO:
96-42020
RIM-1.10

Mr. Paul S. Weiland
Nossaman LLP
18101 Von Karman Avenue
Suite 1800
Irvine, California 92612

Dear Mr. Weiland:

I am responding to your letter of December 10, 2008, appealing the Bureau of Reclamation's November 4, 2008, response to your Request for Information Correction, dated September 5, 2008, and written on behalf of the Coalition for a Sustainable Delta.

You requested that all statements that refer to or rely on the hypothesis by Dr. William Bennett regarding the potential effects of winter pumping be deleted from the *Biological Assessment on the Continued Long-Term Operations of the Central Valley Project and State Water Project* (CVP/SWP Operations BA) based on Reclamation having no records on the unpublished hypothesis.

In response to your appeal, Reclamation sought independent review regarding Reclamation's inclusion of the references to Dr. Bennett's hypothesis in the CVP/SWP Operations BA. We provided your original request for information correction, the response of the Director of the Mid-Pacific Region, and your appeal, to Dr. Peter E. Smith for review. Dr. Smith's credentials and his evaluation are enclosed.

Dr. Smith provided a peer review (evaluation) of the 'Bennett Hypothesis' itself as well as reviewing the vetting that it has been given in the professional and academic communities. Dr. Smith also evaluated Reclamation's characterization and use of the Bennett Hypothesis in the CVP/SWP Operations BA. He concluded that the Bennett Hypothesis is plausible and has been sufficiently vetted in the professional community to be considered within the context of the said biological assessment.

With respect to the latter, he specifically stated: "... the caveats included in the latest (August 2008) version of the BA are adequate to advise the FWS [U.S. Fish and Wildlife Service] and other readers of the normal skepticism with which unpublished science should be viewed." Reclamation detailed these comments to you in our letter of ~~November 4, 2008.~~

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Dr. Smith did not find any attempt by Reclamation to misrepresent the Bennett Hypothesis as having any more credibility than it deserves.

Based on Dr. Smith's review and the information presented in Reclamation's November 4, 2008, response to your initial Request for Correction, I find that no correction of information is necessary.

If you require additional information, please contact Mr. Donald R. Glaser, Mid-Pacific Regional Director, at 916-978-5000 (TDD 916-978-5608).

Sincerely,
Darryl Beckmann
Acting For
Michael L. Connor
Commissioner

Enclosures - November 17, 2009, appeal review; Curriculum Vitae

cc: Honorable Ken Salazar
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