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13 **UNITED STATES DISTRICT COURT**  
14 **EASTERN DISTRICT OF CALIFORNIA**  
15 **FRESNO DIVISION**

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17  
18 THE CONSOLIDATED DELTA SMELT  
19 CASES

Lead Case:  
1:09-cv-407-LJO-DLB

Member Cases:  
1:09-cv-422-LJO-DLB  
1:09-cv-631-LJO-DLB  
1:09-cv-892-LJO-GSA  
Partially Consolidated With:  
1:09-cv-480-LJO-GSA  
1:09-cv-1201-LJO-DLB

**Declaration of Paul Fujitani In  
Support of the Joint Status Report  
and Request to Further Extend  
the Remand Schedule For The  
Delta Smelt Biological Opinion**

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27 THE CONSOLIDATED SALMONID  
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Lead Case:  
1:09-cv-1053-LJO-DLB

Member Cases:  
1:09-cv-1090-LJO-DLB  
1:09-cv-1378-LJO-DLB  
1:09-cv-1520-LJO-DLB

1 CASES

1:09-cv-1580-LJO-DLB  
1:09-cv-1625-LJO-SMS

**Declaration of Paul Fujitani In  
Support of the Joint Status Report  
and Request to Further Extend  
the Remand Schedule For The  
Salmonid Biological Opinion**

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1 I, Paul Fujitani , declare as follows:

2 1. I am the Deputy Operations Manager of the Central Valley Operations Office of the  
3 United States Bureau of Reclamation (Reclamation), Mid-Pacific Region. At this time, I am the  
4 Acting Operations Manager as the CVO Manager is currently on an extended leave of absence.  
5 In my capacity as Acting Operations Manager, I have responsibility for the day-to-day operations  
6 of the Central Valley Project (CVP), including, but not limited to, Shasta Dam, Folsom Dam,  
7 New Melones Dam, and the Jones Pumping Plant, and the Federal operations at San Luis  
8 Reservoir. I have held the Deputy Operations Manager position since November 20, 2011, and  
9 have been Acting Operations Manager since February 3, 2014.

10 2. I assisted in preparation of the first Annual Operational Plan as called for in the  
11 December 20, 2012 court filing. This Plan identifies the operational priorities in the Bay Delta  
12 for both fishery and water supply for the coming year. The Plan is attached to this Declaration as  
13 Exhibit A. The Plan was developed by Reclamation, the U.S. Fish and Wildlife Service  
14 (Service), National Marine Fisheries Service (NMFS), California Department of Water  
15 Resources (DWR) and California Department of Fish and Wildlife (DFW). It has been reviewed  
16 by the CAMT. The Plan will be updated throughout the year as the CSAMP continues its work  
17 and hydrologic and operational conditions change.

18 3. Water Year 2014 has started off extremely dry. As of February 13, 2014, the CVP has  
19 over 2 million acre feet less in storage than it had at the beginning of 2013. DWR has issued the  
20 February Water Supply Index which shows that the Sacramento Valley Index is critical in a 50 %  
21 exceedance forecast and the San Joaquin Valley Index is critical in a 75% exceedance forecast.  
22 Calendar year 2013 was the driest on record in accumulated precipitation in the Sierra Nevada.  
23 The lack of precipitation and low reservoir inflows has left most reservoirs in the state emptier  
24 than normal. For example, as of February 9, 2014, Shasta Reservoir is at 37% of capacity, San  
25 Luis Reservoir is at 30% of capacity and Folsom Reservoir is at just 22% of capacity. DWR has  
26 announced that State Water Project contractors will initially receive 0% of their requested  
27 deliveries for 2014. Reclamation has not yet made an initial allocation announcement, but we  
28 expect the initial allocation to be substantially below contract quantities.

1 4. While California's water situation may change, no significant precipitation is shown  
2 in the current forecasts. The NOAA Climate Prediction Center has issued a designation of  
3 persistent drought in California through April.

4 5. In light of the very limited storage and deteriorating water quality conditions in the  
5 Delta, on January 29, Reclamation and DWR filed a Temporary Urgency Change (TUC) Petition  
6 with the State Water Resources Control Board (State Board). On January 31, the Board issued an  
7 order relaxing outflow standards, setting export limits and allowing for Delta Cross Channel  
8 Gate operations as necessary to preserve storage, and improve salinity intrusion into the Delta  
9 while reducing impacts to Chinook salmon. The State Board's Order was amended on February  
10 7 to allow for increased exports when water is available from natural or abandoned flow, or  
11 transfers.

12 6. Reclamation and DWR continue to implement the 2008/09 Biological Opinions on the  
13 continued long-term operation of the CVP and SWP ("BiOps") during the remand period.  
14 Because implementation of the TUC Order represented a change in the project description in the  
15 2008/2009 BiOps, Reclamation analyzed the effects of the actions on the listed species covered  
16 by the BiOps. FWS concurred that the drought response actions did not cause any additional  
17 effects beyond those analyzed in the BiOp. NMFS concurred that the drought response actions  
18 were within the drought contingency response exception procedure in the BiOp and within the  
19 incidental take limits.

20 7. Both the Service and NMFS BiOps have health and safety and other exception  
21 procedures included in the Reasonable and Prudent Alternatives. Reclamation invoked the  
22 drought contingency plan exception in NMFS BiOp RPA Action I.2.3.C describing  
23 implementation of the storage saving measures in the TUC petition. Reclamation informed both  
24 NMFS and Service that they will likely have to take additional drought response measures  
25 throughout 2014.

1 8. Given current conditions, it will likely not be possible for Reclamation and DWR to  
2 allow any experiments for the CSAMP that reduce water supply this year.

3  
4 I declare under the penalty of perjury under the laws of the State of California and the United  
5 States, that the foregoing is true and correct to the best of my knowledge.

6  
7 Dated this 18th day of February, 2014

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11 Paul Fujitani  
12 Central Valley Operations Office  
13 U.S. Bureau of Reclamation, Mid-Pacific Region  
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## EXHIBIT A

**WATER YEAR 2014  
INITIAL OPERATIONAL STRATEGY  
January 2014**

**Synopsis**

Operation of the Central Valley Project (CVP) and State Water Project (SWP) will likely be very challenging this year. Continued dry hydrologic conditions and low reservoir levels throughout the state could lead to serious conditions related to water supplies, Delta water quality, and fishery habitat if 2014 is a third consecutive dry year.

Low Fall Midwater Trawl (FMWT) indices of delta smelt and long-fin smelt are a concern for 2014 operations. Further, providing a broad range of favorable in-stream conditions this year for all adult Chinook salmon runs will likely be difficult given projected low reservoir levels, reduced cold water availability and potential for reduced releases to meet contractual obligations.

**Seasonal Status of Water Supply Conditions**

The U.S. Bureau of Reclamation started the 2014 water year with nearly 2 million acre-feet less CVP storage than the start of the 2013 water year. As of January 1, 2014, we have over 3.5 million acre-feet less water in CVP storage than we had at this time in 2013. In addition, the SWP's Lake Oroville has 1.2 million acre-feet less water in storage than a year ago. This change is primarily attributable to the very low reservoir inflows this year - especially when compared to the wetter condition of November and December 2012. Water supplies south of the Delta are particularly low at this time, with San Luis Reservoir at approximately 30% of combined CVP and SWP capacity as of December 31, 2013.

Precipitation in the Sierra Nevada so far for the 2014 water year (October through December) is approximately 17% of average for the northern Sierra and about 22% of average for the southern Sierra. Accumulated precipitation for calendar year 2013 ended up as the driest on record for the Sierra Nevada. The very dry condition of the overall watershed, coupled with the lack of any strong signal of changing weather patterns in the western Pacific, underlie the designation of Persistent Drought through February 2014 for California by the NOAA Climate Prediction Center.

In late November, the California Department of Water Resources (DWR) announced an initial allocation of five (5) percent for SWP contractors in calendar year 2014. This equals the lowest initial SWP allocation ever. The lowest previous initial SWP allocation, also five percent, was for

calendar year 2010, and was made on the heels of the 2007-2009 drought. The final SWP allocation for 2010, made on June 22, was 50%

In light of these conditions, many state and local water agencies are starting to prepare contingency plans in the event that 2014 is a third consecutive dry year and/or if very limited runoff dictates water shortages to even senior water rights holders. Groundwater is also a growing concern for many areas, including some small rural water systems that rely on fractured rock aquifers, and areas where groundwater overdraft may increase the potential for land subsidence.

### **Seasonal Status of Key Fish Species**

#### **Pelagic Species**

The 2013 FMWT surveys have been conducted and compiled. These monthly surveys (September through December) comprise the annual FMWT indices. These indices are used, among other things, to determine the incidental take limit for delta smelt under the 2008 U.S. Fish and Wildlife Service Biological Opinion.

#### **Delta Smelt**

The 2013 delta smelt abundance index was 18, making it the second lowest index in FMWT history (dating back to 1967). Delta smelt abundance was highest in 1970 and has been consistently low since 2003, except in 2011.

#### **Longfin Smelt**

The 2013 longfin smelt abundance index of 164 was the eighth lowest index in FMWT history (dating back to 1967). Similar to 2012, 60% percent of the total catch occurred in December.

#### **Chinook Salmon Runs**

The winter-run Chinook salmon escapement in 2013 was the highest the Sacramento River has seen since 2007, with more than 6,000 spawning adults.

The spring-run Chinook salmon escapement in 2013 was strong. Aerial redd surveys have documented 57 spring-run Chinook salmon redds in the mainstem Sacramento River just downstream of Keswick Dam, the highest number since at least 2007. Approximately 18,500 spring-run Chinook salmon have returned to the tributaries of the Sacramento River, the highest escapement since 1998. The spring-run escapement index for Clear Creek was 662, considerably higher than the 10-year average of 88 and the previous high of 200.

Likewise, fall-run Chinook salmon escapement in 2013 was strong. Aerial redd surveys have documented approximately 1,450 fall-run Chinook salmon redds in the mainstem Sacramento River downstream of Keswick Dam, which is equivalent to the 2012 return and the highest number since at least 2007.

The Chinook salmon returns in 2013 were likely the progeny of spawning in 2010. Although water year 2010 was dry, the progeny of the 2010 returns likely benefited from favorable river and delta conditions in the winter and spring of water year 2011, likely resulting in higher freshwater survival of juveniles and smolts than usual, and of ocean conditions being good overall recently.

As of January 9, 2014, no ESA-listed salmon and steelhead species have been salvaged at the Tracy Fish Collection Facility (CVP) or the Skinner Fish Collection Facility (SWP).

### **Collaborative Science and Adaptive Management Program**

The Collaborative Science and Adaptive Management Program (CSAMP) is being implemented via the Collaborative Adaptive Management Team (CAMT) with direction from the CSAMP Policy Group. The CAMT is expected to have a draft progress report in mid-January 2014 that will detail options for experiments that identify operational modifications in the Delta for the 2014 water year. When this information is made available, this operational strategy will be updated to reflect that information.

### **Initial Operational Strategy**

At this point in Water Year 2014, the general operating strategy for the CVP and SWP is to:

- Conserve upstream storage as much as possible through lowered reservoir releases while still meeting Delta requirements and fishery needs in the rivers.
- Take every opportunity to maintain Delta pumping at levels allowed by current Delta water quality standards and Biological Opinions.
- Compliance with Delta water quality would be met by reductions in exports and limited use of the DCC gates if allowable and only as necessary to achieve the objective.
- Continue coordination and cooperation among agencies to promptly address tradeoffs that may occur due to the seasonal use of the limited water supply or use of water in the Delta vs. upstream storage. Seek to achieve multiple beneficial uses for operational actions.
- Intensify modeling of conditions and monitoring of various fish species; and increase coordination with resource agencies regarding balancing use of limited water for supplies, water quality, and fish protection.