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16 UNITED STATES DISTRICT COURT
17 EASTERN DISTRICT OF CALIFORNIA

18 THE DELTA SMELT CASES
19 SAN LUIS & DELTA-MENDOTA 20 WATER AUTHORITY, et al. v. 21 SALAZAR, et al. (Case No. 1:09-cv-407)
22 STATE WATER CONTRACTORS v. 23 SALAZAR, et al. (Case No. 1:09-cv-422)
24 COALITION FOR A SUSTAINABLE 25 DELTA, et al. v. UNITED STATES FISH 26 AND WILDLIFE SERVICE, et al. (Case No. 1:09-cv-480)
27 METROPOLITAN WATER DISTRICT v. 28 UNITED STATES FISH & WILDLIFE SERVICE, et al. (Case No. 1:09-cv-631)
STEWART & JASPER ORCHARDS, et al. v. UNITED STATES FISH AND WILDLIFE SERVICE, et al. (Case No. 1:09-cv-892)
FAMILY FARM ALLIANCE v. SALAZAR, et al. (Case No. 09-cv-1201)

CASE NO. 1:09-cv-407-LJO-DLB
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

**Federal Defendants' Revised Notice of
Implementation of RPA Component 1,
Action 2**

Judge: Honorable Lawrence J. O'Neill

1 On December 31, 2012, Federal Defendants provided notice that Component 1, Action 2
2 of the Reasonable and Prudent Alternative (“RPA”) of the 2008 Delta Smelt Biological Opinion
3 would be implemented forty-eight (48) hours from the notice. Doc. No. 1085. Federal
4 Defendants’ notice explained that, for the week of December 31, 2012, the U.S. Fish & Wildlife
5 Service (“Service”) had determined that Old and Middle River (“OMR”) flows be no more
6 negative than -2000 cfs, with the potential to move to an increased negative OMR of -3500 cfs as
7 early as January 3, 2013, contingent upon completion of an acceptable adaptive management
8 plan. *See* Doc. 1085-1 (12/31/12 Service Memorandum). The Service’s determination was based
9 in part on a December 31, 2012 Smelt Working Group (“SWG”) recommendation that OMR
10 flows be no more negative than -2000 cfs during the transition between Action 1, which ended on
11 January 1, 2013, and the initiation of Action 2. *Id.* The SWG also proposed that, if during the 7
12 days after Action 1, there were 4 successive days of zero salvage, or if there was zero salvage in 5
13 out of the 7 days, the SWG would meet to discuss the potential to lift the extension of -2000 cfs
14 OMR. *Id.*

15 On January 4, 2013, the Service determined that OMR flows be no more negative than -
16 3500 cfs, based on a 14-day running average with simultaneous 5-day running average within
17 25% of -3500 cfs. *See* 1/4/13 Service Memo. attached hereto as Ex. A. An OMR flow of -3500
18 cfs is within the range of allowable net daily OMR flows for Action 2, which is -1250 to -5000
19 cfs. *Id.* The Service’s determination is based upon a review of current south and central Delta
20 turbidity data and turbidity prediction model results. *Id.* Daily turbidities at stations in the south
21 and central Delta are below 12 NTU, and have been falling since the beginning of the week. *Id.*
22 The available turbidity forecast models indicate that turbidity in the south and central Delta will
23 continue to decline over the next two weeks. *Id.* Additionally, daily salvage of adult delta smelt
24 remains low after Action 1 was implemented on December 17, 2012. *Id.* Taking these facts
25 together, the Service believes Action 1 provided protection from entrainment and adverse
26 migratory cues that might have arisen in its absence, and that a -3500 cfs OMR at this time
27 provides adequate protection from entrainment. *Id.*

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Respectfully Submitted,

Dated: January 4, 2013

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CERTIFICATE OF SERVICE

I hereby certify that, on January 4, 2013, the foregoing, with supporting attachments, was filed with the Clerk of the Court using the CM/ECF system, which will send notification of such to the attorneys of record in this matter.

Robert P. Williams
Robert P. Williams, Trial Attorney