

United States Department of the Interior

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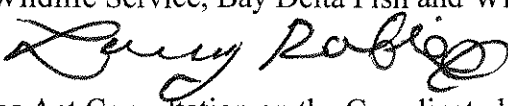


In reply refer to:
81420-2008-F-1481-11

MAY 01 2014

MEMORANDUM

To: Central Valley Office Operations Manager, Bureau of Reclamation Mid-Pacific Region, Central Valley Office

From: ~~Field~~ ^{Acting} Supervisor, U.S. Fish and Wildlife Service, Bay Delta Fish and Wildlife Office, Sacramento, California 

Subject: Reinitiation of Endangered Species Act Consultation on the Coordinated Operations of the Central Valley Project and the State Water Project

This memo is in response to your May 1, 2014, memo requesting reinitiation of the December 15, 2008, Biological Opinion (2008 BiOp) on the Coordinated Operation of the Central Valley Project (CVP) and State Water Project (SWP) (Projects) to include the drought responses under the proposed April 8, 2014 *CVP and SWP Drought Operations Plan and Operational Forecast April 1, 2014 through November 15, 2014* (Plan). Specifically, Reclamation requests concurrence that the drought response actions proposed by Reclamation and the California Department of Water Resources (DWR) in the Plan under *Scenario 2: Without Drought Barriers* will result in no additional adverse effects to delta smelt or its critical habitat for the remainder of water year (WY) 2014 and the beginning of WY 2015 beyond those analyzed in the 2008 BiOp. The 2008 BiOp included a provision for the Bureau of Reclamation (Reclamation) to reinitiate consultation if the WY is classified as dry or critically dry for a second consecutive (or more) year(s). This response is in accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

The following sources of information were used to develop this response: (1) the January 29, 2014, Petition for Temporary Urgency Change (TUC Petition); (2) the January 31, 2014, State Water Resources Control Board (SWRCB) TUC Petition Order; (3) the February 7, 2014, revised SWRCB TUC Petition Order; (4) the January 17, 2014, Governor's Proclamation of a State of Emergency; (5) your February 27, 2014, memo to the U.S. Fish and Wildlife Service (Service) with attached supporting documents; (6) the February 28, 2014, modified SWRCB TUC Petition Order; (7) your March 14, 2014, memo to the Service with the Plan and attached supporting documents; (8) your April 8, 2014, memo to the Service with attached supporting documents; (9) your May 1, 2014, memo to the Service with attached supporting documents and (10) other information available to the Service.

On January 29, 2014, Reclamation and the DWR submitted a Temporary Urgency Change Petition Regarding Delta Water Quality (TUC Petition), requesting the SWRCB to temporarily modify requirements of water rights decision D-1641 for 180 days, with specific requests for February related to the Delta outflow and Delta Cross Channel (DCC) standards described in D-1641, Table 3. In response to the TUC Petition, the SWRCB issued an Order on January 31, 2014. Approval of the TUC Petition by the SWRCB has enabled changes in operations that will provide minimum human health and safety supplies and conserve water for later protections of instream uses and water quality. On January 31, 2014, Reclamation requested reinitiation and concurrence from the Service that there would be no additional adverse effects on delta smelt or its critical habitat from the drought response actions proposed by Reclamation and DWR for the month of February than those previously analyzed in the 2008 BiOp. The Service issued a concurrence that the proposed modifications will have no additional adverse effects on delta smelt or its critical habitat on January 31, 2014.

On February 7, 2014, the SWRCB issued a revised TUC Petition Order that provided for increased exports (limited to natural or abandoned flow) during such times when D-1641 requirements were met. On February 27, 2014 Reclamation requested the extension of the February actions related to Delta outflow and DCC gate operations through March 31, 2014, be considered as part of the amended project description for drought response actions and requested concurrence that extension will result in no additional adverse effects on delta smelt or its critical habitat the for the month of March beyond those previously analyzed in the BiOp. The Service issued a concurrence that the proposed modifications will have no additional adverse effects on delta smelt or its critical habitat on February 28, 2014.

Reclamation reinitiation consultation on March 14, 2014 to temporarily modify the BiOp's Reasonable and Prudent Alternative (RPA) regarding Old and Middle River (OMR) flows and additional changes to the TUC Petition Order regarding Delta outflow and the position of X2. The Service issued the amendment to the BiOp on the proposed modifications on March 14, 2014. On April 8, 2014, Reclamation reinitiated consultation to address WY 2014 and early WY 2015 actions as described in the Plan. The Service concurred in an April 8, 2014 memo that April and May 2014 actions would not result in additional adverse effects beyond those previously analyzed in the BiOp but requested additional information for the June through November 2014 actions. Additional information was provided on May 1, 2014.

This memo addresses a range of drought responses from June through November 2014 without emergency drought barriers. The following describes Delta drought response measures from Section VII of the Plan including Scenario 2:

Proposed Delta Operations June-November 15, 2014

A. National Marine Fisheries Service BiOp Provisions

1. Modification of DCC gate operations (NMFS RPA Action IV.1.2): If the Projects determine that the DCC gates must open to provide for salinity management in the Delta, the Projects will provide at least a 5 day notice to the fish and wildlife agencies so that enhanced monitoring can begin. The Projects will implement enhanced monitoring and triggers to open and close the gates, as needed for protection of listed species.

B. Service BiOp Provisions

No modifications to the Service's 2008 BiOp RPA actions are currently proposed during June through November 15.

C. D-1641 Provisions

Reclamation and DWR may request further modifications of requirements contained in D-1641. Below is a description of those anticipated requests. These requests would be subject to approval by the State Water Board's Executive Director.

Scenario 2: Without Emergency Drought Barriers in Place

1. The minimum monthly Net Delta Outflow Index (NDOI) described in Figure 3 of D-1641 during the month of July shall be no less than 3,000 cfs.
2. The number of required days for 150 mg/l Cl at Contra Costa Canal Intake shall be 56 days.
3. The compliance location of the D-1641 Agricultural Western Delta Salinity Standard at Emmaton (14-day running average of 2.78 millimhos per centimeter through August 15) is moved to Three Mile Slough on the Sacramento River.
4. The mean monthly Rio Vista flow standard in September, October, and November shall be no less than 2,000 cfs.
5. Vernalis Base Flow: For June 1 through June 30, no specific minimum flows are required; flows will be maintained sufficient to meet D-1641 San Joaquin River electrical conductivity requirements at Vernalis.

To date this WY, the Service has determined that no changes in operations are necessary to protect adult or juvenile delta smelt under Components 1 or 2 of the 2008 BiOp RPA due to low risks of entrainment resulting from mostly low reverse OMR flows, consistently low turbidity in the south and central Delta, favorable distribution of adult delta smelt outside of the south and central Delta, and the lack of observed salvage of adult delta smelt at the Projects' fish salvage facilities. These conditions can be attributed to extreme hydrologic drought conditions resulting in low Delta inflow and limited Project exports.

Although the proposed departure from D- 1641 was not anticipated in the Project Description of the BiOp, or the modeling in the biological assessment, the proposed relaxations, based on the provisions provided in the TUC Order, as amended, and existing hydrologic and biological conditions for June through November appear to be within the range of effects previously analyzed in the 2008 BiOp. The Service, therefore, concurs with Reclamation's determination that the proposed modifications for June through November will have no additional adverse effects on delta smelt or its critical habitat.

We look forward to continued close coordination with you and your staff throughout this extremely challenging water year.

Please address any questions or concerns regarding this response to Mike Chotkowski, Field Supervisor or Kim S. Turner, Assistant Field Supervisor at (916) 930-5603. Please refer to Service file number 81420-2008-F-1481-11 in any future correspondence regarding this project.