



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

Executive Office

Tam M. Doduc, Board Chair

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Arnold Schwarzenegger
Governor

February 8, 2007

Mr. Ron Milligan
Operations Manager
Bureau of Reclamation
3310 El Camino Avenue, Suite 300
Sacramento, CA 95821

Mr. Carl Torgersen, Chief
SWP Operations Control Office
Department of Water Resources
3310 El Camino Avenue, Suite 300
Sacramento, CA 95821-9000

Dear Mr. Milligan and Mr. Torgersen:

FISHERY PROTECTION PLAN FOR JOINT POINT OF DIVERSION

This letter acknowledges receipt of the Revised Fishery Protection Plan (Fishery Plan) for Joint Point of Diversion (JPOD), dated December 26, 2006. This Fishery Plan is required by State Water Resources Control Board (State Water Board) Revised Decision 1641 (D-1641) (pages 152 and 157) and must be approved by the Executive Director of the State Water Board prior to the commencement of Stage 2 JPOD operations. My staff has reviewed the revised Fishery Plan and by this letter I approve the Fishery Plan subject to the conditions stated below.

D-1641 sets out six elements, numbered (a) through (f), that the Fishery Plan must address. In general, the Fishery Plan satisfactorily addresses each of these elements and contains conditions that are well defined and enforceable. The Fishery Plan adequately defines the conditions under which JPOD pumping must cease due to fishery concerns.

In order to facilitate communication with the State Water Board and so that I may be advised when there are potential fishery concerns related to use of JPOD, I request that you insert the following language into the Fishery Plan on page 6 under part (i):

The State Water Board shall be notified of all DAT/WOMT meetings and shall be invited to participate when the DAT/WOMT process is initiated.

In addition, the Fishery Plan states several times that Stage 2 JPOD operations are unlikely to affect operations at Oroville Reservoir, and the Fishery Plan contains no specific criteria or procedures to monitor operations at Oroville. Accordingly, approval of the Fishery Plan extends only to operations at Shasta and Folsom reservoirs and applies only to the water rights of the U.S. Bureau of Reclamation (USBR) (D-1641, page 152).

California Environmental Protection Agency

Mr. Ron Milligan
Mr. Carl Torgersen

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July 20, 2007

The Fishery Plan is based on the requirements in the existing Biological Opinions (BOs) issued to the California Department of Water Resources and the USBR for their project operations. However, since conditions are constantly changing in the Delta, the BOs are likely to be revised in the future. Because changes in the BOs may in the future result in inconsistencies between this Fishery Plan and the BOs, this Fishery Plan's approval is conditioned upon it being submitted to the Executive Director for review after any relevant BO is rescinded, amended, adopted or revised in the future. If, upon review, the Executive Director finds that the Fishery Plan requires changes to make it consistent with a BO, the Fishery Plan shall not be considered approved until such changes are made and approved by the Executive Director. Any revised Fishery Plan shall be submitted to the Executive Director for approval at least thirty days prior to any use of JPOD under Stage 2 after the change in requirements under an applicable BO.

Subject to the additions and limitations stated above, I approve the Fishery Plan for Stage 2 JPOD. If you have questions regarding this approval, please contact Gita Kapahi of my staff at (916) 341-5289.

Sincerely,

ORIGINAL SIGNED BY

Thomas Howard
Acting Executive Director

cc: Mr. Jim White
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