

From: Rabin, Larry@fws.gov

Sent: Friday, February 27, 2015 9:05 AM

To: Grober, Les@Waterboards

Cc: Wilcox, Carl@Wildlife; Garwin.Yip@noaa.gov; Ren_Lohofener@fws.gov; Castleberry, Dan@fws; Rea, Maria@NOAA; Stein, Russell@DWR; Leahigh, John@DWR; Fry, Susan@USBR; RMILLIGAN@usbr.gov

Subject: Re: Additional Info

Dear Les,

This email responds to your request for additional information that the State Water Resources Control Board (Board) might consider in making its determination as to whether or not the proposed changes included in the January 23, 2015 Temporary Urgency Change Petition (TUCP) submitted by the Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (Reclamation) would have unreasonable impacts on fish, wildlife and other instream beneficial uses. We are providing this information as technical assistance to identify potential effects for consideration by the Board. We recognize that the Board and its staff alone have the expertise on hand to determine whether these effects are reasonable, given the broad-ranging effects of drought on all beneficial uses of water.

Thank you for giving the U.S. Fish and Wildlife Service (Service) the opportunity to provide additional information. As we communicated at the February 18, 2015 public Board workshop, on January 30, 2015 the Service accepted Reclamation's determination that proposed TUCP drought actions would result in no additional adverse effects on Delta Smelt or its critical habitat for the months of February and March 2015 beyond those previously analyzed in the 2008 Biological Opinion (BiOp). The Service's analysis that led to our acceptance was narrowly focused on our Endangered Species Act responsibilities, associated with continuing Reclamation's January 9, 2015 reinitiation of the 2008 BiOp on the Coordinated Operation of the Central Valley Project and the State Water Project.

Consequently the Service would like to take this opportunity to remind the Board of Interior's comments we submitted along with Reclamation in 2010, and the Phase 2 Technical Staff comments submitted by the Service, dated August 17, 2012. The former provided a broad overview of our understanding of historical flow changes in the estuary and the potential effects of those changes on salmon and estuary-resident fishes. The latter provided general background information related to Delta Smelt and ecosystem changes in the estuary's low-salinity zone. Both documents provided a number of key points that could be relevant to the Board's determination. Among them:

- (2010 DOI): *"Flow in the Delta is one of the primary determinants of habitat availability and an integral component of overall ecosystem function"*
- (2010 DOI): *"Fish populations dependent on the Delta are declining. It is almost universally agreed that changes in Delta flows and flow variability have contributed to the declines of multiple native fish species."*
- (2010 DOI): *"Inflow to the Delta and outflow to the Bay must be sufficient to support successful spawning, larval and juvenile transport, rearing, and adult migration of Delta fish."*

We encourage the Board to take into account these and other key points that are made in these documents as it considers its Determination during this extremely challenging water year.

Best,

-Larry

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On Sat, Feb 21, 2015 at 5:45 PM, Grober, Les@Waterboards <Les.Grober@waterboards.ca.gov> wrote:
Larry, Carl, Garwin,

Per my earlier email, here are two questions that we would like answered.

What if any additional information that has not already been submitted should the Board be considering when determining whether the proposed changes included in the TUCP would have unreasonable impacts on fish, wildlife and other instream beneficial uses? As you have expressed to us, your review of the TUCP changes were for compliance with the BO requirements and not necessarily to determine the potential unreasonable effects of the modifications to D-1641 on fish and wildlife. Specifically, what additional issues beyond those you have already evaluated for your ESA findings should be evaluated to determine the potential unreasonable effects of the modifications to D-1641 on fish and wildlife? We need a brief written answer to these questions by no later than close of business Wednesday because as you may have seen, we are continuing the workshop on March 4. And, as I indicated in my previous email, we will likely issue another Executive Director Order by Feb 27.

Please call me if you'd like to discuss before our meeting Wednesday.

Thanks, Les