United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

In reply refer to:
81420-2008-F-1481-6

EXHIBIT
DOI-6

FEB 17 2009

Memorandum

To: Operation Manager, Bureau of Reclamation, Central Valley Operations Office, Sacramento, California

Susan M. Moore

From: Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, Sacramento, California

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

This memo is in response to your memo dated February 13, 2009 outlining your requested approval from the State Water Resources Control Board (SWRCB) for temporary modification to the water rights decision D-1641 permit terms related to the Delta outflow requirements (also referred to as X2). As background, we issued a biological opinion (BO) on the Coordinated Operations of the Central Valley Project (CVP) and State Water Project (SWP) on December 15, 2008. This BO included a provision for the Bureau of Reclamation (Reclamation) to reinitiate consultation if the water year is classified as dry or critically dry for a second consecutive (or more) year(s). Based on the recently released February forecast, this provision has been triggered and Reclamation has requested reinitiation from the Service.

In addition, the Service has received the following information: a letter from the California Department of Water Resources (DWR) and Reclamation to the SWRCB dated February 5, 2009; the Petition for Temporary Urgency Change dated February 10, 2009 (Petition) and, subsequent hydrologic information provided by Reclamation dated February 13, 2009. The Petition was jointly submitted by Reclamation and DWR with our input and, per your request, will be considered as part of the amended project description for purposes of reinitiating consultation.

No actions under Component 1 of the Reasonable and Prudent Alternative (RPA) have been taken due to the dry hydrological conditions, low water temperatures (below the optimum spawning range for delta smelt), low levels of turbidity, the favorable distribution of adult delta smelt in the North Delta, and two delta smelt (8 delta smelt, expanded salvage, which is within the incidental take limit) have been salvaged at the CVP/SWP export facilities. On February 10, 2009, the Service notified Reclamation and DWR that Component 2 under the RPA was triggered due to the apparent detection of larval delta smelt by recent California Department of Fish and Game sampling in the Delta. However, upon further examination, biologists determined that these larval fish were larval longfin smelt, so at this time Component 2 has not

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been triggered. Based on the above factors and the recent low reverse Old and Middle River flows, which are at the lower end of the RPA range, the Service has determined that no changes in CVP/SWP operations are needed.

In addition, the Petition submitted by the Reclamation and DWR included the following statement, "the SWP and CVP would concurrently manage export levels to comply with Old and Middle River flow recommendations consistent with the recent biological opinion covering delta smelt. Reclamation will continue to work with the U.S. Fish and Wildlife Service per the Adaptive Process described in the 2008 biological opinion."

Although the proposed departure from D-1641 was not anticipated in the Project Description of the BO or the modeling in the biological assessment, the proposed relaxation, based on the provisions provided in the Petition and the existing hydrologic and biological conditions, for the month of February appears to be within the range of effects analyzed in the 2008 biological opinion. As described on page 280 of the BO, we will continue to utilize the adaptive process on a weekly basis to proactively meet the biological needs of delta smelt within the constraints of the critically dry water year conditions.

If you have any questions, please contact Cay C. Goude or Ryan Olah at 414-6600.