

xc: Kashwade
Brown
Anderson } 6/2/97



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Sacramento Field Office
3310 El Camino Avenue, Suite 130
Sacramento, California 95821-6340

IN REPLY REFER TO

1-1-97-I-1457

May 30, 1997

Memorandum

To: Operations Manager, Bureau of Reclamation
Sacramento, California

From: Field Supervisor, Ecological Services
Sacramento Field Office, Sacramento, California

Subject: Formal Section 7 Consultation Regarding Incidental Take of Delta Smelt by the Central Valley Project and the State Water Project Pursuant to the March 6, 1995 Biological Opinion (1-1-94-F-70)

This is in response to your May 23, 1997, request for re-initiation of formal consultation regarding the incidental take of delta smelt by the Central Valley Project (CVP) and the State Water Project (SWP), and follows up two telephone conference calls of the No-Name Group on May 27, and May 30, 1997. During the first conference call, the No-Name Group discussed options for reducing the amount of incidental take of delta smelt that has occurred during the month of May from the operations of the CVP and SWP. The second conference call centered around a proposal to relax the Export/Inflow Ratio from 35 percent to 40 percent for the month of June.

According to the March 6, 1995, biological opinion, the total allowable incidental take of delta smelt for the month of May, in any above normal year, shall not exceed 9,769. The water year for 1997 has been determined to be a wet year. On May 16, 1997, the combined salvage of delta smelt for the month of May exceeded the allowable incidental take limit. Subsequently, actions were proposed and implemented as a result of discussions within the CalFed Operations Group, the No-Name Group, and the delta smelt working group. However, the amount of take continued to increase and as of May 30, the total amount of take had reached 30,200, over three times the allowable amount. Therefore, the U.S. Fish and Wildlife Service (Service) believes the operation of the projects is out of compliance with the March 6, 1995, biological opinion, and its continued actions pose a serious threat to the conservation of delta smelt.

During the first conference call, the Service stated that three measures were necessary to ensure the conservation of delta smelt. These measures were: (1) maintain the Delta Cross Channels gates open, (2) decrease water exports through reduced pumping, and (3) maintain upstream water releases in the American River and Sacramento River. Subsequently, during the second conference call, the Service stated that the export/inflow ration should not exceed 35 percent. The following provides further clarification of these measures and their biological justification:

1. Ensure that the Delta Cross Channel gates remain open until the 20th millimeter survey provides information that all delta smelt have moved to Suisun Bay.

Biological Justification: Leaving the Delta Cross Channel gates open will likely assist movement of the delta smelt downstream, especially during the neap tide conditions that currently exist. This recommendation should have no negative effect on water quality conditions at Emmanton since current data shows that salinity in this area is decreasing.

2. Reduce combined exports at the CVP and SWP to 2250 cfs until the morning of June 8, 1997:

Biological Justification: The 1997 Delta Hydrologic Conditions Forecast showed that when exports were reduced during the month of May, incidental take of delta smelt decreased. Because the Real-Time Monitoring data has not yet been worked up, the exact location of downstream migrating delta smelt is not known. To avoid any further risk to delta smelt, it is imperative that combined exports be reduced to provide sufficient time for the remainder of the delta smelt population to escape the "zone of influence" of the CVP and SWP export facilities and arrive in spawning grounds in Suisun Bay.

3. Maintain upstream water releases in the American River and Sacramento River.

Biological Justification: These flows are essential to transport and maintain the delta smelt in suitable rearing habitat in Suisun Bay and to avoid additional take.

4. Maintain the Export/Inflow Ratio at 35 percent.

Biological Justification: On May 29, the 14-day running average of delta smelt take at the export facilities reached 1,475 which is well over the allowable average of 400. Because the "clock" is not re-set on June 1, this trend is likely to continue. Any increase in the export/inflow ratio at this time will only compromise the delta smelt, likely lead to an exceedance of incidental take of 10,709 individuals for the month of June and trigger future red light conditions.

The Service maintains that immediate implementation of these measures is necessary to ensure the conservation of delta smelt.

Wayne S. White
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cc: ARD-ES
Bob Potter, Deputy Director, DWR