

DEPARTMENT OF WATER RESOURCES

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Jennifer Pierre, General Manager
State Water Contractors

Jason Phillips, Chief Executive Officer
Friant Water Authority

August 30, 2024

Dear General Managers Febbo and Pierre, Executive Director Barajas, and Chief Executive Officer Phillips,

Thank you for your letter on August 21 asking that the Central Valley Project (CVP) and State Water Project (SWP) adaptively manage the Fall X2 provision for 2024. We also thank you for acknowledging that your request came later than ideal, at the literal onset of this measure and during a time when staff of many agencies are focused on consultation and permitting efforts – also at your request – for long-term operations of the projects. As always, we take your input seriously and continue to reflect on it.

The Department of Water Resources and U.S. Bureau of Reclamation, in partnership with the California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS), are currently exploring a revised CVP and SWP fall 2024 operations plan that may include a modification of the Fall X2 action from its description in the 2019 USFWS Biological Opinion and the 2020 Incidental Take Permit issued by CDFW. We will work with you as we prepare the appropriate documentation and applications for this modification under federal and state law.

We appreciate your shared interest in continuing to improve ecological conditions given the dire situation of Delta smelt where its population is at incredibly low numbers. We also appreciate your concern about the potential water supply impacts of measures, which is why our agencies have been and are consistently adaptively managing the projects under existing permits and opinions. We look forward to discussing with you how we anticipate actions such as Fall X2 will be handled through adaptive management in updated permits and biological opinions governing water project operations. As climate change heightens hydrological extremes, we must explore ways to be more responsive within this regulatory structure to the dynamic nature of the estuary, physical conditions, hydrology, water year type, and myriad other factors.

Our departments also would like to clarify key points raised in your letter, in particular, the assertion that there are no ecological benefits to the Fall X2 action. The available science demonstrates that the Fall X2 action provides some important benefits to Delta smelt, such as increased food abundance and favorable water temperatures. The question of whether these benefits translate to more Delta smelt the following year has only recently been brought to light through a new USFWS life cycle model. The life cycle model analysis shows that summer flows are more important drivers of Delta smelt abundance. This does not mean the Fall X2 action will not have some population benefits, especially given that it is expected to expand habitat in Suisun Bay. This is the one area in the upper estuary that had suitable water temperatures during the heat wave in July 2024.

It is important when evaluating and incorporating new science to consider the full context of relied upon scientific studies. Doing so advances collaborative science and helps ensure sound policy. This is why we thank you for pointing out in your letter that the full context of the recent analysis includes the possibility that summer, not fall may be the most important season for freshwater flow augmentation. This new science is now part of our ongoing collaborative and adaptive processes with you and others.

In the last several years, our agencies have demonstrated a commitment to adapt. This reality is reflected in the specific evolution of Delta smelt protection. A multi-agency experiment has looked at and implemented newer approaches factoring in salinity control gate operations, new publications and monitoring data, including 2011 and 2017, and collaboratively tested hypothesis about summer habitat. The current state permit and federal opinions have already adopted such adaptive improvements like integrating new science into monitoring, shifting from an overly-fall centric approach, and finding more efficient use of water compared to the original 2008 requirements. Indeed, the specific location of the Fall X2 requirement has been adapted to reflect a better balance between protection and water supply and new science. The USFWS Delta smelt life cycle model work has also facilitated a shift from a salvage-based threshold to one that relies on environmental conditions. These are but a few examples of us working with you to continue to adapt. Moreover, adaptive management and sound science are two fundamental areas of alignment between the projects and are key robust elements of the new permits and opinions that you have been engaged with developing for several years.

Any estimated changes to fall 2023 should inherently consider changes to water supply, upstream storage, and exports. Your claim that the "water cost" of implementing the Fall X2 requirement in 2023 exceeded 730,000 acre-feet between the federal and state projects is not correct. We are available for further conversation about these estimates and wider project impacts.

We appreciate your concerns and look forward to more dialogue as we manage environmental and economic needs.

Sincerely,



Karla A. Nemeth, Director
Department of Water Resources



Paul Souza, Regional Director
U.S. Fish and Wildlife Service



Adam Nickels, Principal Deputy Regional Director
Bureau of Reclamation



Charlton Bonham, Director
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Cc: Jennifer Quan, Regional Administrator
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