



DEPARTMENT OF FISH AND GAME
OFFICE OF THE GENERAL COUNSEL

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February 13, 2008

Hon. Richard Rogers, President
California Fish and Game Commission
1416 Ninth Street, 13th Floor
Sacramento, CA 95814

Dear President Rogers:

In the Department of Fish and Game's report to the Commission dated February 4, setting the terms and conditions for incidental take of longfin smelt during its candidacy period (2084 regulation), the Department suggested the following:

Should Reclamation refuse to cooperate to protect longfin smelt in the operation of the CVP, one solution would be for the Commission to request an action by the State Water Resources Control Board (SWRCB) which would be complementary to the proposed 2084 regulation. (Page 6)

Since the Commission's action of February 7, 2008, the Department has worked with the Department of Water Resources (DWR) and the Bureau of Reclamation (Bureau) to determine their willingness to cooperate with the terms and conditions set by the Commission. In that regard, the Department has received the attached letter from the Bureau assuring the Department that "Reclamation has been and will continue to be a partner with the State of California to work through the longfin smelt issues over the next six months." Further, the Bureau emphasizes the cooperative efforts in the development of the Bay-Delta Conservation Plan (BDCP) and Central Valley Project Operating Criteria and Plan (OCAP) Biological Assessment, which include both the Bureau and the Department.

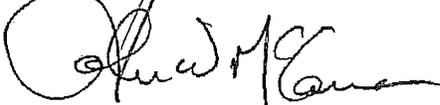
Based on the commitment to work cooperatively with the State in addressing longfin smelt concerns, and consistent with the recommendation provided to the Commission in the report cited above, the Department has determined that there is no need to ask the State Water Resources Control Board to take up the issue of complementary actions consistent with the proposed 2084 regulation. If the Bureau fails to cooperate with the Department in the implementation of measures to protect longfin smelt this year, the Department may then seek assistance from the SWRCB.

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I understand that the Commission is expecting a letter to the SWRCB to be prepared and that today's letter is a change in course from what was discussed at the February 7 meeting, though it is consistent with the Department's written report. I would be happy to discuss this with the Commission at its next meeting in March.

Please do not hesitate to contact me if you have any questions or concerns before that time.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. McCamman". The signature is written in a cursive style with a large initial "J" and "M".

John W. McCamman
Acting Director

cc: Tam Doduc, Chair, State Water Resources Control Board
Tom Howard, Chief Deputy Director, SWRCB
John Carlson, Executive Director, Fish and Game Commission
Lester Snow, Director, Department of Water Resources
John Davis, Deputy Regional Manager, Bureau of Reclamation