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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

THE DELTA SMELT CONSOLIDATED CASES

Case No.: 1:09-cv-407-LJO-DLB

Declaration of Donald Glaser In Support of Defendants' Motion for Extension and Revision of The Remand Schedule

I, Donald Glaser, declare as follows:

1. I am the Regional Director of the Mid-Pacific Region of the U.S. Bureau of Reclamation ("Reclamation"). In this capacity I oversee a staff of approximately 1094 in parts of California, Nevada and Oregon employed in support of numerous programs and projects focused on water delivery, water conservation, water recycling and reuse, power generation, and protecting natural and cultural resources.

2. As part of the continued long-term operation of the federal Central Valley Project (CVP) and the State Water Project (SWP), Reclamation, with the California Department of Water Resources as an applicant, consults under Section 7 of the Endangered Species Act (ESA) with the U.S. Fish and Wildlife Service (Service) and the National Marine Fisheries Service (NMFS) to determine the effects of ongoing and proposed future CVP/SWP operations on listed species.

3. On behalf of Reclamation, I provisionally accepted the Reasonable and Prudent Alternatives (RPAs) included in the Service's 2008 BiOp and the NMFS 2009 BiOp on the Long Term Operations of the CVP and SWP, and I am familiar with the litigation that followed.

4. Reclamation is in the process of preparing an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) in compliance with the court's Final Amended Judgment. The level of species protection in the 2008/2009 BiOps will guide development of alternatives to be analyzed in the EIS. This EIS is intended to satisfy the court's orders on NEPA issues in both the *Delta Smelt Consolidated Cases* and the *Consolidated Salmonid Cases*.

5. To initiate formal consultation, Reclamation will send the Service and NMFS a consultation package. Generally, the consultation package will include a description of the Proposed Action, in this case the continued long-term operation of the CVP/SWP, and an Effects Analysis, which will analyze the effects of the Proposed Action on listed species using the best scientific or commercial data available. Consistent with past practice, Reclamation intends to analyze all listed species under both the Services' and NMFS' jurisdiction in one Effects Analysis.

6. As part of developing the Proposed Action, Reclamation initiated the Remand Stakeholder Engagement Process to gather information from stakeholders. Reclamation created the Remand Stakeholder Engagement Process as a way to help develop common understandings among stakeholders and to provide a forum for information exchange on the remand NEPA and ESA processes.

7. Additionally, the information developed through the collaborative science and adaptive management process described in the "Federal and State Proposal for Modification to the Remand Schedule and an Alternative Process for Development of Operational Strategies and a Collaborative Science and Adaptive Management Program" (Federal and State Understanding) could also be used to help develop common understandings of the science underlying species protection actions and to develop a consultation package for purposes of Section 7 consultation with the Service and NMFS.

8. It is my belief that additional stakeholder and public engagement, through the Remand Stakeholder Engagement Process, the collaborative science and adaptive management program to be developed pursuant to the Federal and State Understanding document and the ongoing NEPA process will lead to better scientific information and a greater understanding of what actions are needed to protect species.

9. Unfortunately, the current court ordered schedules in both the *Delta Smelt Consolidated Cases* and the *Consolidated Salmonid Cases* do not provide sufficient time for substantial stakeholder and public engagement on a new Proposed Action. The Service and NMFS have both indicated that they will need complete consultation packages in August, 2013, in order to meet the schedules for their remand BiOps. The Proposed Action must be fully developed in early 2013 in order to be analyzed sufficiently in the consultation package to be provided in August, 2013. Additionally, NMFS has indicated that if there are substantial changes to the 2008 Biological Assessment's Proposed Action (the Proposed Action analyzed in the 2009 NMFS BiOp) they will be unable to meet the court ordered schedule for the remand BiOp. To date, Reclamation has held two meetings of the Remand Stakeholder Engagement group and will likely be able to meet with that group at most two more times before the Proposed

Action must be fully developed. Reclamation does not believe this will be sufficient time for stakeholders to work through key issues related to the Proposed Action, but recognizes that it must move forward with preparation of the consultation package to provide the Service and NMFS with sufficient time to meet the court order.

10. If the three year extension were granted, Reclamation would continue to work on the NEPA analysis in the interim. This extension of time would allow for a much more robust analysis of alternatives in the EIS.

11. The process used by the agencies for the last several consultations has clearly not led to common understandings among the stakeholders about what actions are needed to protect listed species. Reclamation is very interested in pursuing these alternative processes in hopes that it will lead to more common understandings amongst stakeholders on actions to protect listed species and the scientific foundation on which those actions are based. The goal is to find a way to reduce litigation, which could lead to a more efficient operation and allow Reclamation to move forward with long term actions in the future. However, developing common understandings will take time, and is likely not possible with the current court ordered schedules.

I declare under the penalty of perjury under the laws of the State of California and the United States, that the foregoing is true and correct to the best of my knowledge.

Dated this 10th day of December, 2012

Donald Glaser
Director, Mid-Pacific Region
U.S. Bureau of Reclamation