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9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**
11 **FRESNO DIVISION**

12)
13)
14) THE DELTA SMELT
15) CONSOLIDATED CASES
16)
17)

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

**Declaration of Ren Lohofener In
Support of Defendants' Motion for
Extension and Revision of The Remand
Schedule**

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1 I, Ren Lohofener, declare as follows:

2 1. I am the Regional Director of the Pacific Southwest Region of the U.S. Fish and
3 Wildlife Service (“Service”). In this capacity I oversee over 1,000 employees in California,
4 Nevada, and Oregon employed in support of numerous programs and projects including National
5 Wildlife Refuges, Endangered Species, Conservation Partnerships, Science Applications,
6 Migratory Birds, Fisheries and numerous subprograms like environmental contaminants, fish
7 passage, and many others.

8 2. The Pacific Southwest Region’s Bay Delta Fish and Wildlife Office is staffed by
9 about 40 employees. Among many obligations, this office administers the Endangered Species
10 Act (ESA) in the Bay Delta Region, including preparation of the draft and final remand
11 Biological Opinions (BiOp) regarding the effects of the continued long-term operation of the
12 Central Valley Project (CVP) and State Water Project (SWP) on delta smelt and a host of other
13 federally protected species. Additionally, this office is working on many important efforts in the
14 San Francisco Bay, the Delta and its tributaries, such as providing technical assistance in the
15 development of the Bay Delta Conservation Plan (BDCP) and participating as a federal co-lead
16 agency in the corresponding NEPA process, implementation of the Central Valley Project
17 Improvement Act (CVPIA), and participating in the State Water Resources Control Board’s
18 revision of the Water Quality Control Plan for the Bay-Delta.

19 3. I approved and signed the Service’s final 2008 BiOp on the Long Term Operations of
20 the Central Valley Project and State Water Project (“2008 BiOp”) that found jeopardy for the
21 delta smelt and included a Reasonable and Prudent Alternative (RPA) to the Proposed Action,
22 which was provisionally accepted by the U.S. Bureau of Reclamation (Reclamation). I am
23 familiar with the litigation that has followed. The litigation has been a major drain on employee
24 resources in the Regional Office and the Fish and Wildlife Office since 2008.

25 4. The Service, the Department of the Interior (Department) and other federal agencies
26 are working in close partnership with the State of California to develop both short-term actions and a
27 long-term strategy for providing a sustainable water supply and successful ecosystem restoration in
28 the Bay Delta Region. Part of this strategy is the BDCP, a habitat conservation plan initiated over 5

1 years ago, which is being developed pursuant to the requirements of Section 10 of the Endangered
2 Species Act (ESA). Providing technical assistance to the State and the Department for the
3 development of the BDCP, and exercising independent responsibilities under ESA and NEPA for
4 BDCP is extremely staff intensive and requires the same areas of scientific and technical expertise as
5 the remand Section 7 ESA and NEPA processes. Additionally, these and other high priority projects
6 are running on similar timelines, creating competing demands for the limited staff resources.

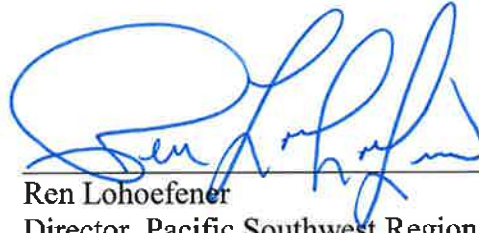
7 5. The state and federal parties to the remand litigation are committing to creation of a
8 collaborative science and adaptive management program to help inform operational strategies
9 during the proposed three-year extension of the remand schedule. This program is described in
10 the “Federal and State Proposal for Modification to the Remand Schedule and an Alternative
11 Process for Development of Operational Strategies and a Collaborative Science and Adaptive
12 Management Program” (Federal and State Understanding). We believe this collaborative science
13 and adaptive management program will be helpful in two ways. First, the program will provide
14 the opportunity for all litigants to help design and evaluate a scientifically robust adaptive
15 management process for implementing key actions in the RPAs through annual operations
16 strategies. This program is intended to help resolve key scientific uncertainties related to
17 species protection and water availability in the Delta. Second, this program is structured on an
18 adaptive management process that is similar to what has been proposed for the BDCP. This
19 three year program will provide a valuable proof-of-concept for the adaptive management
20 process proposed in the BDCP.

21 6. It is my belief that at the end of this extension, the Services will be better able to
22 ensure consistency for the delta smelt remanded BiOp and the remanded BiOp in
23 the *Consolidated Salmonid Cases*. Given the importance of conserving listed species while
24 providing water security for California, it is essential that the Fish and Wildlife Service and
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1 NOAA Fisheries BiOp schedules allow the agencies to use the best available scientific and
2 commercial data and provide consistent approaches to avoiding and resolving potential conflicts.

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

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7 Dated this 7th day of December, 2012

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11 Ren Lohofener
12 Director, Pacific Southwest Region
13 U.S. Fish and Wildlife Office
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