

**Before the
State Water Resources Control Board
February 17, 2009**

**Regarding the Hearing to Consider Taking an Emergency Drought-Related
Water Rights Action on a Petition for Temporary Urgency Change filed by
the Department of Water Resources and the United States Bureau of
Reclamation Regarding Temporary Relaxation of the February Delta Outflow
and the San Joaquin River Flow Objectives in Response to Current Dry
Conditions**

Policy Statement of NOAA's National Marine Fisheries Service

NOAA's National Marine Fisheries Service (NMFS) is appearing today to express support for the petition filed by the U.S. Bureau of Reclamation (Reclamation) and the California Department of Water Resources (DWR) for temporary relaxation of X2 standards for the month of February. NMFS has reviewed the petition as part of Reclamation's continued implementation of NMFS' 2004 biological opinion on the operations of the Central Valley Project (CVP) and State Water Project (SWP). NMFS is currently engaged in reviewing Reclamation's draft February forecast prior to its initial announcement this Friday, February 20, 2009. NMFS will continue to utilize the adaptive process on a weekly basis to proactively meet the biological needs of listed anadromous fish species with the constraints of the critically dry water year conditions.

Reclamation and NMFS are currently engaged in a reinitiation of the Endangered Species Act section 7 consultation on the long-term operations of the CVP and SWP on Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, Central Valley steelhead, Southern Distinct Population Segment of North American green sturgeon, Central California Coast steelhead, and Southern Resident killer whales. As you may know, we are scheduled to complete a new biological opinion by March 2, 2009, in order to meet a court-supervised deadline. We have requested a 90-day extension until June 2, 2009, to complete our biological opinion.

As part of our section 7 consultation process, we have reviewed the existing hydrologic and biological conditions, and have determined that providing suitable water temperatures through the summer and early fall for spawning and rearing salmon and steelhead will be very challenging. At best, the river miles of stream habitat with water temperatures suitable for salmonid reproduction will be diminished. At worst, cold water could run out before the end of the summer, resulting in extensive temperature-related mortality. Given the low storage levels in Shasta, Oroville and Folsom reservoirs, the proposed relaxation of the X2 standard would likely

retain more cold water storage (instead of releasing it to meet outflow objectives in February), and improve the extent and duration of salmon and steelhead spawning and rearing habitat this summer and early fall. If properly managed, this added increment of available cold water should help extend the period this summer wherein water temperature in the rivers below these dams remain below harmful levels.

NMFS recognizes the difficulty that the current hydrology creates for operations of the CVP and SWP in this water year. NMFS is committed to assisting Reclamation and DWR within the context of its regulatory responsibilities and statutory authorities during this difficult time. Thus, NMFS supports Reclamation's and DWR's petition to relax the X2 standard for the month of February.