



DEPARTMENT OF FISH AND GAME

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February 10, 2009

**DIRECTOR'S STATEMENT OF DECISION
Based on Results of February 2-5, 2009 Smelt Larva Survey**

This Statement of Decision is made pursuant to California Code of Regulations, title 14, section 749.3 (the "Emergency Take Regulation"), providing emergency take authorization for certain entities engaged in activities that may take longfin smelt, a candidate species under the California Endangered Species Act, Fish and Game Code section 2050 *et seq.* The Emergency Take Regulation establishes a process that commences if and when triggering conditions are met; this process may result in imposing restrictions on reverse flows in Old and Middle Rivers (OMR flows).

Between February 2 and February 5, 2009, the Smelt Larva Survey detected a total of 140 longfin smelt larvae at nine of the 12 specified survey stations within the potential zone of influence of the south Delta export pumps. The nine stations and the number of larvae detected were: 809 (49 larvae); 812 (46 larvae); 815 (10 larvae); 901 (8 larvae); 902 (7 larvae); 910 (1 larva); 914 (3 larvae); 915 (14 larvae); and 918 (2 larvae). The Survey also detected a total of 1345 larvae at other stations outside the export pumps' potential zone of influence. The relative numbers of longfin smelt larvae detected at the specified stations and at other stations indicates that the bulk of the larvae present in the Delta are not immediately vulnerable to entrainment and take by the export pumps.¹

Following the confirmation and reporting of the results of the Smelt Larva Survey, the Smelt Working Group convened on both February 9 and 10, 2009 and considered, among other things, the factors presented in the Longfin Smelt Risk Assessment Matrix ("LSRAM"). The information developed by the Working Group is attached hereto as Exhibit 1. The Water Operations Management Team ("WOMT") convened its regular weekly meeting on February 10, 2009. Information regarding anticipated water project operations, the current longfin smelt abundance and distribution, and the LSRAM was considered. The written position of the WOMT as a result of that meeting is attached as Exhibit 2.

I have reviewed the relevant information, including the work of both the Smelt Working Group and WOMT. Based on my review, I find that no restrictions on OMR flows are currently required as conditions on the take authorization provided in the Emergency Take Regulation.

A handwritten signature in black ink, appearing to read "DKoch".

Donald Koch
Director

¹ As of the time this Statement was prepared, 28 of 35 Smelt Larva Survey station samples had been processed. The Department anticipates that some longfin smelt will be identified in most, if not all, of the samples from the remaining 7 stations to be processed. This information will not affect this decision.

SMELT WORKING GROUP
Monday, February 9, 2009

WEEKLY ADVICE FOR THE CALIFORNIA DEPARTMENT OF FISH AND GAME
FOR LONGFIN SMELT

Advice for week of February 9:

The Smelt Working Group provides no new advice; previous longfin smelt advice was to **maintain the 14-day average combined OMR flow no more negative than -3500 cfs.**

Basis for advice:

Our concern level for **longfin smelt** is based on:

- (1) longfin smelt juvenile and adult abundance remains low.
- (2) longfin smelt larvae were again detected at 9 of 12 central and south Delta Longfin Smelt 2084 trigger stations during the February 2-4, 2009 Smelt Larva Survey;
- (3) at all but 2 of the trigger stations longfin smelt larva density was relatively low (0 to 14 larvae per tow);
- (4) particle tracking modeling predictions that current OMR levels will not strongly affect longfin smelt larvae at high density locations in the western Delta/confluence area, nor at central Delta locations;
- (5) combined exports have been at 2000 cfs since before 1 February, and OMR has trended steadily less negative. Currently OMR is much less negative than our previous advice level of -3500cfs: USGS 14 day at about -2300 cfs; 5 day at about -1600 cfs.

The Smelt Working Group longfin smelt recommendation is based on discussion of the following information:

1. Size of spawning population. The spawning population remains low. The 2008 FMWT longfin smelt index of 139 was the fifth lowest on record.
2. Water temperatures. Water temperature (3 station average was 11.4° C on 9 February) is currently suitable for longfin smelt spawning and incubation.
3. Recent salvage. No longfin smelt have been salvaged since December 1. Longfin smelt larvae are not identified or counted in salvage.
4. Adult distribution. February survey information is not yet available. In January surveys, more adult longfin smelt were found in the Sacramento River than the San Joaquin River. The January Bay Study Survey detected 5 longfin smelt in the Delta east of Sherman Lake, but only one of the five was in the San Joaquin River. The January

Spring Kodiak Trawl Survey collected only one longfin smelt east of Sherman Lake, in the lower Sacramento River.

5. Larva and juvenile distribution. The 2084 longfin smelt (LFS) larva trigger (detection at 6 or more of 12 central and south Delta criteria stations) was tripped during the January 20-24 Smelt Larva Survey (SLS). The February 2-5 SLS detected a similar LFS larva distribution, but densities increased in the central and south Delta in comparison to the January 20-24 SLS. With the exception of stations 809 and 812, longfin smelt larva densities remained relatively low in the central and south Delta, particularly in comparison to Sacramento River densities (http://www.delta.dfg.ca.gov/data/sls/CPUE_Map.asp). Total larva numbers in the central and south Delta trigger region represent about 9% (n=140) of the partial total catch (i.e., n = 1494, catch based on 28 of 35 samples processed; longfin smelt larvae will likely be found in most or all of the remaining samples). Particle Tracking Modeling (see below) suggests that 812 is the only high density location that would be affected by current OMR flows; other lower density locations farther east and south would also be affected.

6. Particle tracking results. Results from particle tracking modeling (PTM) runs based on hydrology during three low outflow years (1992, 2002, 2008) and using surface oriented particles indicated that substantial fractions of particles from San Joaquin River stations 812, 815, and 906 would be drawn into the export pumps (about 45 to almost 90%, with the highest percentage from particles injected at station 906, the most eastern station) at an OMR of -3500 cfs. Currently, OMR is substantially less negative than -3500 cfs (about -2300 cfs for USGS 14-day average) and larva densities are relatively low at most San Joaquin River locations (approx. ≤ 70 larvae per 1000 cubic meters filtered) and most locations farther south within the Delta. The exception is station 812 (319 larvae per 1000 cubic meters filtered). At current OMR flows about 30% of particles from station 812 would be entrained in 90-days. These entrainment percentages would increase rapidly at more negative OMR flows, as would entrainment of particles from the Sacramento River. Densities in the Sacramento River near 3-Mile Slough are relatively high (> 800 per 1000 cubic meters filtered).

WEEKLY ADVICE FOR THE FISH AND WILDLIFE SERVICE FOR DELTA SMELT

Monday, February 9, 2009

Advice for week of February 9:

The Smelt Working Group's does not have any delta smelt advice at this time.

Basis for advice:

In the 2008 OCAP biological opinion, there is a salvage trigger and a turbidity trigger that could warrant a needed action. Neither of these triggers has been met, therefore no action is recommended by the workgroup.

WOMT Meeting Regarding Longfin Smelt
02/10/09

After considering the information from the Smelt Working Group, and based on the (1) current longfin smelt abundance and distribution, (2) the longfin smelt risk assessment matrix, and (3) projected water project operations, no special action is necessary for the protection of longfin smelt at this time. If the conditions change, WOMT will reconvene to discuss the situation.