

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

**THE CONSOLIDATED DELTA SMELT CASES**

**Lead Case:**

**1:09-cv-00407-LJO-BAM**

**Member Cases:**

**1:09-cv-00480- LJO -GSA**

**1:09-cv-00422- LJO -GSA**

**1:09-cv-00631- LJO -DLB**

**1:09-cv-00892- LJO -DLB**

**Partially Consolidated With:**

**1:09-cv-01201- LJO -DLB**

**ORDER PERMITTING RESPONSE  
RE REQUEST TO EXTEND REMAND  
SCHEDULE (Doc. 1109)**

**THE CONSOLIDATED SALMONID CASES**

**Lead Case:**

**1:09-CV-01053-LJO-BAM**

**Member Cases**

**1:09-CV-01090-LJO-DLB**

**1:09-CV-01378-LJO-DLB**

**1:09-CV-01520-LJO-SMS**

**1:09-CV-01580-LJO-DLB**

**1:09-CV-01625- LJO-SMS**

**ORDER PERMITTING RESPONSE  
RE REQUEST TO EXTEND REMAND  
SCHEDULE (Doc. 745)**

The Court has preliminarily reviewed the Joint Status Report (“JSR”) filed yesterday, February 18, 2014, in which Federal and State Defendants request an additional one year extension to the respective remand schedules in the *Consolidated Delta Smelt* and *Consolidated Salmonid* cases. *Smelt* Doc. 1109; *Salmonid* Doc. 745. While all parties appear to be in agreement that some form of additional extension is warranted, several Plaintiffs and Defendant Intervenors request a shorter (six month) extension. State Contractor Plaintiffs propose that specific benchmarks be imposed. JSR at 15-

1 16. Kern County Water Agency and the Coalition for a Sustainable Delta complain about specific  
2 resource allocation and participation issues, and appear to be requesting that several additional  
3 conditions be imposed upon the remand process, including the requirement that CSAMP devise a  
4 “structured approach for development of a new BA and new BiOps that will provide a roadmap  
5 whereby scientific data, analyses, and findings that emerge from the collaborative adaptive  
6 management process are integrated into the [ESA compliance process].” JSR at 19. Defendant  
7 Intervenor warn that such a “structured approach” should not lose sight of the fact that the  
8 collaborative scientific processes in which the parties are currently engaged” is not and cannot be a  
9 substitute for the agencies' performing their independent obligations under section 7 of the Endangered  
10 Species Act, nor obligate the agencies to incorporate any findings that emerge from CSAMP into [the  
11 ESA compliance process].” JSR at 20.

12  
13  
14 The Parties indicate that, due to time constraints related to filing the JSR, they have not had  
15 time to review the separate positions of the State Contractors, Kern County Water Agency and the  
16 Coalition for a Sustainable Delta, and/or Defendant Intervenor. JSR at 12 n.4. The Court believes it  
17 would be helpful for the Federal and State Defendants to file a response addressing: (1) the possibility  
18 of a six month, as opposed to a one year, extension, with a status report due shortly before expiration  
19 of the six month extension; and (2) the various conditions proposed and central concerns raised by the  
20 separate position statements. Any such response shall be filed on or before February 28, 2014 and  
21 shall not exceed eight (8) pages in length. Unless the Court specifically orders further briefing, the  
22 matter shall be deemed submitted for decision on the papers upon the filing of Defendants’ response.

23  
24 **SO ORDERED**

25 **Dated: February 19, 2014**

26 **/s/ Lawrence J. O’Neill**  
27 **United States District Judge**  
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