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

12 PACIFIC COAST FEDERATION OF  
FISHERMEN’S ASSOCIATIONS, et al.,  
13 Plaintiffs,

14 v.

15 GINA RAIMONDO, in her official  
capacity as Secretary of Commerce, et  
16 al.,  
Defendants.

Case No. 1:20-cv-00426-DAD-EPG  
Case No. 1:20-cv-00431-DAD-EPG

**OCTOBER 1, 2021 JOINT STATUS REPORT**

17 \_\_\_\_\_  
18 THE CALIFORNIA NATURAL  
RESOURCES AGENCY, et al.,  
19 Plaintiffs,

20 v.

21 GINA RAIMONDO, et al.,  
22 Defendants.

1 Pursuant to the Court’s August 20, 2021 Order Granting Motion to Stay until September  
2 30, 2021 (Doc. No. 285, Case No. 1:20-cv-00431-DAD-EPG; Doc. No. 194, Case No. 1:20-  
3 cv- 00426-DAD-EPG) (“Aug. 2021 Order”), the parties in the two above-captioned cases hereby  
4 submit this joint status report outlining their respective positions on how these cases should  
5 proceed. While each group of parties presents their specific positions below, all parties in both  
6 cases agree that these matters should continue to be stayed for two more weeks to allow the  
7 parties to continue to attempt to reach agreement on the appropriate path forward in these related  
8 lawsuits.

9 **Federal Defendants’ and State Plaintiffs’ Report**

10 On September 30, 2021, the United States Bureau of Reclamation (Reclamation), in  
11 coordination with the United States Fish and Wildlife Service (FWS), the National Marine  
12 Fisheries Service (NMFS), and the California Department of Water Resources (DWR), requested  
13 to reinitiate consultation on the Long-Term Operation of the Central Valley Project (CVP) and  
14 State Water Project (SWP) under Section 7 of the Endangered Species Act. Attach. 1; *see also*  
15 Attach. 2 (NOAA letter), Attach. 3 (FWS letter). The Federal Defendants and Plaintiffs in *CNRA*  
16 *v. Raimondo* (“the State Plaintiffs”) will expeditiously pursue reinitiated consultation under  
17 Section 7 of the Endangered Species Act, with goals of (a) completion of new Biological  
18 Opinions within 12 months of receipt by NMFS and USFWS of a Proposed Action from  
19 Reclamation; (b) Reclamation submitting a comprehensive Proposed Action, including all  
20 analyses necessary to support the Proposed Action, by December 2022; and (c) Reclamation  
21 preparing associated National Environmental Policy Act (NEPA) documents to implement the  
22 new Proposed Action/Preferred Alternative by October 1, 2024.

23 As part of the reconciliation process described in Federal Defendants’ prior filings (Doc.  
24 No. 272, Case No. 1:20-cv-00431-DAD-EPG; Doc. No. 186, Case No. 1:20-cv- 00426-DAD-  
25 EPG), the Federal Defendants and the State Plaintiffs have also been “fully engaged in the  
26 serious task of determining how the projects will be operated during [the] interim period [when]  
27 ESA-consultation is re-initiated.” Aug. 2021 Order at 5. Specifically, the Federal Defendants and  
28

1 the State Plaintiffs have been working diligently to develop a plan for operations of the  
2 CVP/SWP (“interim operations plan”) through September 30, 2022 while reinitiated consultation  
3 is ongoing. The Federal Defendants and the State Plaintiffs acknowledge that reinitiated  
4 consultation may take more than one year, but both agree that addressing interim operations for  
5 one year at this time allows the parties to plan for operations based on actual and expected  
6 conditions for the water year that starts today, October 1, 2021. The Federal Defendants and the  
7 State Plaintiffs have presented and discussed their interim operations plan with all parties in  
8 these cases, although not all parties have been able to provide feedback as of September 30,  
9 2021, and discussions with other parties are ongoing.

10 In order to allow sufficient time for all parties to fully discuss the interim operations plan  
11 and attempt to reach agreement with the plaintiffs in *PCFFA v. Raimondo* (“*PCFFA Plaintiffs*”) and  
12 Defendant-Intervenors in both cases, and to obtain the required approvals from all of the  
13 parties, the Federal Defendants and the State Plaintiffs propose that these cases remain stayed for  
14 two additional weeks, through and until October 15, 2021. At that time, the Federal Defendants  
15 and the State Plaintiffs propose that the parties submit another joint status report outlining their  
16 respective positions on how these cases should proceed. Subject to obtaining the necessary  
17 approvals, this joint status report will attach the interim operations plan and describe the status of  
18 the parties’ agreement thereto.

19 **PCFFA Plaintiffs’ Report**

20 Federal Defendants and State Plaintiffs first shared a written proposal with *PCFFA*  
21 Plaintiffs on Monday, September 27, 2021. *PCFFA* Plaintiffs provided a written response to the  
22 Federal Defendants’ and State Plaintiffs’ proposal within two days, on Wednesday, September  
23 29, 2021, and understand that the Federal Defendants are in the process of reviewing that  
24 response. *PCFFA* Plaintiffs also requested that the Federal Defendants and State Plaintiffs share  
25 the modeling that they have done of their proposed interim operations. *PCFFA* Plaintiffs  
26 understand that State Plaintiffs are in the process of preparing a response with the modeling and  
27 related assumptions.



1 Furthermore, agreement of State Water Contractor (“SWC”) Defendant-Intervenors to the  
2 continued stay is premised on an understanding that (i) Federal Defendants and State Plaintiffs  
3 will provide in a timely manner all analyses of the effects of the proposed interim operations plan  
4 on project operations, water deliveries, and listed species and (ii) prior to the adoption and  
5 implementation of an interim operations plan that deviates from the action analyzed in the 2019  
6 Biological Opinions and adopted in the 2019 Record of Decision, Federal Defendants will  
7 comply with the Endangered Species Act, 16 U.S.C. 1536(a)(2), the National Environmental  
8 Policy Act, 42 U.S.C. 4332(2)(C), and the Water Infrastructure Improvements for the Nation  
9 (WIIN) Act, Pub. L. No. 114-322 (2016). To the extent that the Federal Defendants attempt to  
10 implement any of the components of the proposed interim operations during the pendency of the  
11 stay, SWC objects to such implementation and reserves all rights and positions to oppose such  
12 implementation.

13 DATED: October 1, 2021

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that today I electronically filed the foregoing with the Clerk of the Court via the CM/ECF system, which will send notification to the attorneys of record in this case.

/s/ Lesley Lawrence-Hammer.  
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