

**APPENDIX I**

**NOAA FISHERIES,  
NATIONAL MARINE FISHERIES SERVICE**

**CONCURRENCE LETTER  
ON  
2004 RENEWAL OF INTERIM WATER SERVICE  
CONTRACTS**



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
 NATIONAL MARINE FISHERIES SERVICE  
 Southwest Region  
 501 West Ocean Boulevard, Suite 4200  
 Long Beach, California 90802-4213

February 27, 2004

In Reply Refer To:  
 SWR-00-SA-5945:BFO

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Mr. Frank Michny  
 Regional Environmental Officer  
 U.S. Bureau of Reclamation  
 Mid-Pacific Regional Office  
 2800 Cottage Way  
 Sacramento, California 95825-1898

Dear Mr. Michny:

This is in response to your letter of November 14, 2003 requesting National Marine Fisheries Service's (NOAA Fisheries) concurrence on renewal of 53 water service contracts within the Central Valley Project (CVP) for an interim two-year period from March 1, 2004 through February 28, 2006. These new interim contracts are similar to the 42 interim contracts renewed in 2002 and contain provisions described in current biological opinions (i.e. 1993 winter-run opinion [WRO], as amended, and the interim steelhead/spring-run opinion [CVP-operations, criteria and plan OCAP] issued September 20, 2002) addressing CVP and State Water Project (SWP) operations.

On December 22, 2003, NOAA Fisheries issued a letter of non-concurrence on the proposed contract renewals. This was based on the fact that interim steelhead/spring-run CVP-OCAP opinion existing at the time would expire on March 31, 2004, therefore, it would not cover interim contract renewals for the next two years. Since that time, the Bureau of Reclamation (Reclamation) has requested an extension of the CVP-OCAP steelhead/spring-run opinion (See Reclamation letter MP-440, WTR-4.00, dated September 22, 2003, requesting a two-year extension from April 1, 2004 to April 1, 2006, for spring-run Chinook salmon and Central Valley steelhead.).

NOAA Fisheries has reviewed the information provided by Reclamation (letter dated December 24, 2003, MP-150, ENV-7.00) and by FAX dated January 21, 2004 concerning contract amounts, unscreened diversions, and estimates of fish losses as requested in NOAA Fisheries's non-concurrence letter (December 22, 2003). A supplemental steelhead/spring-run CVP-OCAP biological opinion, has been issued by NOAA Fisheries on February 27, 2004, which covers the continuation of project operations and the effects of interim contract renewals until March 31, 2006. The existing WRO as amended, covers CVP long-term contracts for the time period

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requested. Based on the steelhead/spring-run CVP OCAP opinion covering project operations for the next two years, NOAA Fisheries can now concur with Reclamation's determination of not likely to adversely affect for the proposed interim contract renewals.

This determination is based upon the following factors:

- 1) Contract amounts are limited to established needs or existing contract amount, whichever is less. There will be no increase in total deliveries.
- 2) The contracts contain shortage provisions that allow for reduction of deliveries for various reasons, including the need for the CVP operations to be modified to meet requirements for listed species.
- 3) There are existing biological opinions that address the effects of the operation of the CVP and SWP on the winter-run and spring-run Chinook salmon, and steelhead. In addition, Reclamation is presently in consultation with NOAA Fisheries to develop a new biological opinion addressing the long-term operation of the CVP and SWP to replace the existing interim OCAP opinion. Reclamation has also consulted on the effects of the operation of the Trinity Division on coho salmon (see NOAA Fisheries biological opinion for Trinity River Mainstem Fishery Restoration issued October 12, 2000).
- 4) The hydrologic operations of the CVP are, and will continue to be, operated in compliance with existing, amended, or new biological opinions that address the effects of the operation of the CVP on listed species. A letter dated October 29, 1999, was provided to NOAA Fisheries to confirm this commitment.
- 5) Reclamation is committed to engaging NOAA Fisheries as part of the Central Valley Project Improvement Act (CVPIA) - (b)(2) Interagency Team, to provide recommendations on how to best dedicate and manage 800,000 acre-feet of CVP yield and approximately 300,000 acre-feet of CALFED environmental water.
- 6) The proposed action is tiered from the CVPIA Programmatic Environmental Impact Statement (PEIS) and was considered within, and is consistent with the programmatic biological opinion that NOAA Fisheries developed.
- 7) The Cross Valley Canal (CVC) and Friant contracts have an existing biological opinion (issued January 20, 2001) addressing long-term contract renewal. Any water delivered to the CVC contractors will comply with the requirements of that biological opinion during the term of the proposed interim renewal contracts.

NOAA Fisheries agrees with Reclamation that the existing biological opinion for winter-run Chinook salmon covers the effects of the CVP operations for the next two years and will be re-analyzed for the long-term CVP-OCAP. Therefore, no effects for winter-run Chinook need to be included in the supplemental biological opinion just issued, however, the biological opinion for Cross Valley Canal and Friant contracts does not have incidental take authorization. As a result, these contract renewals will need to be addressed in the project description for the long-term CVP-OCAP opinion.

If you have any questions regarding this correspondence, please contact Mr. Bruce Oppenheim in the Sacramento Area Office, 650 Capitol Mall, Suite 8-300, Sacramento, CA 95814. Bruce may be reached by telephone at (916) 930-3603, or by Fax at (916) 930-3629.

Sincerely,



*for* Rodney R. McInnis  
Acting Regional Administrator

cc: NMFS-PRD, Long Beach, CA  
Irma Lagomarsino, NMFS, Arcata, CA

