

CHAPTER 6

CONSULTATION AND COORDINATION

6.1 INTRODUCTION

Prior to preparation of this EA, input was solicited and incorporated from a broad range of cooperating and consulting agencies and the public. This chapter summarizes the public involvement program and key issues raised by the public and interest groups. This chapter also addresses the manner in which Federal statutes, implementing regulations, and executive orders potentially applicable to implementation of the CVPIA have been addressed. The conclusions of compliance are based on the Environmental Consequences presented in Chapter 4. The compliance summaries apply only to the alternatives discussed in this EA and not the development of concurrent CVPIA implementation programs.

6.2 PUBLIC INVOLVEMENT

Reclamation started the preparation of this EA with Scoping Meetings. Scoping served as a fact-finding process to identify public concerns and recommendations about the long-term contract renewal issues that would be addressed in this EA and the scope and level of detail for analyses. Scoping activities began in October 1998 after a Notice of Intent to prepare environmental documentation for long-term contract renewals was filed in the Federal Register. The scoping period formally ended in January 1999. The Scoping Report was released in summer of 1999.

Public input continued during long-term contract negotiations to define the contract language. Discussions were also held with the Shasta and Trinity long-term water service Contractors during the preparation of this document.

At public scoping meetings, Reclamation provided information about the long-term contract renewal process, and solicited public comments, questions, and concerns. At these meetings, participants had numerous comments and questions about how important issues would be considered both in the PEIS and the long-term contract renewal process. The majority of the comments received during the Scoping process addressed the Needs Assessment methodology to be used as part of the long-term contract renewal process. Contract renewal negotiation issues were also addressed. The least number of comments addressed environmental review issues.

Reclamation received numerous comments about issues to be considered in the PEIS and methodologies for analyzing impacts. Comments concerning the development of alternatives were considered in the formation of the alternatives. However, a decision was made to focus the description of alternatives on the contract proposals, and to address issues related to water supply improvements being addressed by CALFED and the Least Cost Yield study. Consideration of comments on methods to address impacts

were considered in the development of the Environmental Consequences section of this EA. However, the impact analysis focused on the comparison of the alternatives with the projected No-Action Alternative, not the Existing Conditions scenario.

Draft EAs for this action were provided for public review in 2000 and 2004.

6.3 WITH OTHER AGENCIES

This EA was prepared in accordance with the policies and regulations for the following issues. These issues and how compliance was addressed in this EA are discussed in the remaining sections of this chapter. Work is continuing on each of these requirements. As individual projects are implemented, compliance requirements will be considered.

- National Environmental Policy Act (NEPA)
- California Environmental Quality Act (CEQA)
- Endangered Species Act (ESA)
- Fish and Wildlife Coordination Act (FWCA)
- National Historic Preservation Act (NHPA)
- Indian Trust Assets (ITA)
- Indian Sacred Sites on Federal Land
- Environmental Justice
- State, Area-wide, and Local Plan and Program Consistency
- Floodplain Management
- Wetlands Protection
- Wild and Scenic Rivers Act
- Farmland Protection Policy Act and Farmland Preservation
- Clean Air Act
- Safe Drinking Water Act (SDWA)
- Clean Water Act (CWA)

6.3.1 NATIONAL ENVIRONMENTAL POLICY ACT

This EA was prepared pursuant to regulations implementing the National Environmental Policy Act (NEPA) (42 USC 4321 *et seq.*). NEPA provides a commitment that Federal agencies will consider the environmental effects of their actions. This EA tiers off of the PEIS (40 CFR 1508.28) and evaluates the potential site-specific environmental and socioeconomic effects of renewing the long-term water service contracts for the Shasta and Trinity Divisions. This EA also provides information regarding the No-Action Alternative and alternatives, and environmental impacts of the alternatives.

6.3.2 CALIFORNIA ENVIRONMENTAL QUALITY ACT

Implementation, funding, and permitting actions carried out by State and local agencies must comply with the California Environmental Quality Act (CEQA). The CEQA requirements are similar to NEPA requirements. This EA could be used as a basis for preparation of a CEQA document.

6.3.3 ENDANGERED SPECIES ACT

Reclamation prepared a Biological Assessment/Essential Fish Habitat Assessment in August 2003 to determine if the proposed action will affect listed threatened and endangered species (North State Resources 2003). The biological assessment addressed all species affected by the action of contract renewals in the water divisions. Tables 8a and 8b of the Biological Assessment/Essential Fish Habitat Assessment summarize potential impacts to Federally listed, proposed, and candidate species, and designated or proposed critical habitat on a district-by-district basis for the Trinity River District and the Shasta District, respectively. Depending on the district, special-status species and critical habitats may be affected, but are unlikely to be adversely affected by long-term contract renewal.

Consultation with the U.S. Fish and Wildlife Service (USFWS) has been completed for seven of the ten long-term water service contract renewals in the Shasta and Trinity River Divisions. For all seven contracts, the USFWS has concurred with the determinations of the BA, which are that the long-term contract renewals are not likely to adversely affect special-status species and designated or proposed critical habitats of those species. A similar conclusion is expected for the remaining three contracts.

Consultation with the National Oceanic and Atmospheric Administration (NOAA) and USFWS must be completed before Reclamation can approve Findings for a proposed action. Reclamation must sign the Findings (FONSI) before long term renewal contracts can be signed by Reclamation.

USFWS and NOAA letters of consultation are provided at the conclusion of Chapter 6.

6.3.4 FISH AND WILDLIFE COORDINATION ACT

The Fish and Wildlife Coordination Act (FWCA) requires that Reclamation consult with fish and wildlife agencies (Federal and state) on all water development projects that could affect biological resources. The implementation of the CVPIA, of which this action is a part, has been jointly analyzed by Reclamation and the USFWS and is being jointly implemented. This continuous consultation and consideration of the views of the USFWS in addition to its review of this document and consideration of its comments satisfies any applicable requirements of the FWCA.

6.3.5 NATIONAL HISTORIC PRESERVATION ACT

Section 106 of the National Historic Preservation Act (NHPA) requires that Federal agencies evaluate the effects of Federal undertakings on historical, archeological, and cultural resources and afford the Advisory Council on Historic Preservation opportunities to comment on the proposed undertaking. The first step in the process is to identify cultural resources included on (or eligible for inclusion on) the National Register of Historic Places that are located in or near the project area. The second step is to identify the possible effects of proposed actions. The lead agency must examine whether feasible alternatives exist that would avoid such effects. If an effect cannot reasonably be avoided, measures must be taken to minimize or mitigate potential adverse effects. Reclamation staff will complete the Section 106 consultation process prior to implementing any actions.

6.3.6 INDIAN TRUST ASSETS

The United States Government's trust responsibility for Indian resources requires Reclamation and other agencies to take measures to protect and maintain trust resources. These responsibilities include taking reasonable actions to preserve and restore tribal resources. Indian Trust Assets (ITAs) are legal interests in property and rights held in trust by the United States for Indian tribes or individuals. Indian reservations, rancherias, and allotments are common ITAs. Based upon information provided by Reclamation, no ITAs exist within the Shasta and Trinity Divisions.

6.3.7 INDIAN SACRED SITES ON FEDERAL LAND

Executive Order 13007 provides that in managing Federal lands, each Federal agency with statutory or administrative responsibility for management of Federal lands shall, to the extent practicable and as permitted by law, accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners, and avoid adversely affecting the physical integrity of such sacred sites. No sacred sites were identified during the scoping or planning process, and, therefore, none were included in the impact assessment of this EA.

6.3.8 ENVIRONMENTAL JUSTICE

Executive Order 12898 requires each Federal agency to achieve environmental justice as part of its mission by identifying and addressing disproportionately high and adverse human health or environmental effects, including social or economic effects, of programs, policies, and activities on minority populations and low-income populations of the United States. This EA has evaluated the environmental, social, and economic impacts on minority and low-income populations in the impact assessment of alternatives. No disproportionate impacts on minority or low-income populations were identified.

6.3.9 STATE, AREA-WIDE, AND LOCAL PLAN AND PROGRAM CONSISTENCY

Executive Order 12372 requires that Federal agencies provide for opportunities for state and local officials to provide input on proposed Federal assistance or development actions. Consistency of the proposed action with the plans and policies of the City of Redding, City of Shasta Lake, and Shasta County have been considered, and input from Federal, state, and local officials has been sought in

developing the analysis for this EA. The Draft EA will be circulated to the appropriate state and local agencies to satisfy review and consultation requirements.

6.3.10 FLOODPLAIN MANAGEMENT

If a Federal agency program will affect a floodplain, the agency must consider alternatives to avoid adverse effects in the floodplain or to minimize potential harm. Executive Order 11988 requires Federal agencies to evaluate the potential effects of any actions they might take in a floodplain and to ensure that planning, programs, and budget requests reflect consideration of flood hazards and floodplain management. The alternatives would not affect floodplain management as compared to the No-Action Alternative.

6.3.11 WETLANDS PROTECTION

Executive Order 11990 authorizes Federal agencies to take actions to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands when undertaking Federal activities and programs. Any agency considering a proposal that might affect wetlands must evaluate factors affecting wetland quality and survival. These factors should include the proposal's effects on the public health, safety, and welfare due to modifications in water supply and water quality; maintenance of natural ecosystems and conservation of flora and fauna; and other recreational, scientific, and cultural uses. The alternatives would not affect wetlands as compared to the No-Action Alternative.

6.3.12 WILD AND SCENIC RIVERS ACT

The Wild and Scenic Rivers Act designates qualifying free-flowing river segments as wild, scenic, or recreational. The Act establishes requirements applicable to water resource projects affecting wild, scenic, or recreational rivers within the National Wild and Scenic Rivers System, as well as rivers designated on the National Rivers Inventory. Under the Act, a Federal agency may not assist in the construction of a water resources project that would have a direct and adverse effect on the free-flowing, scenic, and natural values of a wild or scenic river. If the project would affect the free-flowing characteristics of a designated river or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area, such activities should be undertaken in a manner that would minimize adverse impacts and should be developed in consultation with the National Park Service. None of the EA alternatives would adversely effect flows in wild and scenic, or recreational rivers.

6.3.13 FARMLAND PROTECTION POLICY ACT AND FARMLAND PRESERVATION

Two policies require Federal agencies to include assessments of the potential effects of a proposed project on prime and unique farmland. These policies are the Farmland Protection Policy Act of 1981 and the Memoranda on Farmland Preservation, dated August 30, 1976, and August 11, 1980, respectively, from the U.S. Council on Environmental Quality. Under requirements set forth in these policies, Federal agencies must determine these effects before taking any action that could result in converting designated prime or unique farmland for nonagricultural purposes. If implementing a project would adversely affect farmland preservation, the agencies must consider alternatives to lessen those effects. Federal agencies also must ensure that their programs, to the extent practicable, are compatible with state, local, and private

programs to protect farmland. The Natural Resource Conservation Service (NRCS) is the Federal agency responsible for ensuring that these laws and polices are followed. No specific consultation was conducted during preparation of this EA. The alternatives would not affect agricultural or urban lands as compared to the No-Action Alternative.

6.3.14 CLEAN AIR ACT

The Federal Clean Air Act (CAA) was enacted to protect and enhance the nation's air quality in order to promote public health and welfare and the productive capacity of the nation's population. The CAA requires an evaluation of any Federal action to determine its potential impact on air quality in the project region. Coordination is required with the appropriate local air quality management district as well as with the EPA. This coordination would determine whether the project conforms to the Federal Implementation Plan and the State Implementation Plan (SIP).

Section 176 of the CAA (42 U.S.C. Section 7506(c)) prohibits Federal agencies from engaging in or supporting in any way an action or activity that does not conform to an applicable SIP. Actions and activities must conform to a SIP's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and in attaining those standards expeditiously. EPA promulgated conformity regulations (codified in 40 CFR Section 93.150 *et seq.*).

The alternatives assume that current practices to control dust and soil erosion on lands that are seasonally fallowed would continue and that the land use agencies would continue to work with the air quality districts. Therefore, it assumed that no air quality impacts would occur due to the alternatives as compared to the No Action Alternative.

6.3.15 SAFE DRINKING WATER ACT

The Safe Drinking Water Act (SDWA) (PL 99-339) became law in 1974 and was reauthorized in 1986 and again in August 1996. Through the SDWA, Congress gave the EPA the authority to set standards for contaminants in drinking water supplies. Amendments to the SDWA provide more flexibility, more state responsibility, and more problem prevention approaches. The law changes the standard-setting procedure for drinking water and establishes a State Revolving Loan Fund to help public water systems improve their facilities and to ensure compliance with drinking water regulations and to support state drinking water program activities.

Under the SDWA provisions, the California Department of Health Services has the primary enforcement responsibility. The California Health and Safety Code establishes this authority and stipulates drinking water quality and monitoring standards. To maintain primacy, a state's drinking water regulations cannot be less stringent than the Federal standards. The analysis of the EA alternatives as compared to the SDWA requirements indicated that there were no changes in compliance as compared to the No-Action Alternative.

6.3.16 CLEAN WATER ACT

The Clean Water Act (CWA) gave the EPA the authority to develop a program to make all waters of the United States “fishable and swimmable.” This program has included identifying existing and proposed beneficial uses and methods to protect and/or restore those beneficial uses. The CWA contains many provisions, including provisions that regulate the discharge of pollutants into water bodies. The discharges may be direct flows from point sources, such as an effluent from a wastewater treatment plant, or a non-point source, such as eroded soil particles from a construction site. The analysis of the EA alternatives as compared to the CWA requirements indicated that there were no changes in compliance as compared to the No-Action Alternative.

Shasta and Trinity Divisions

Shasta County Water Agency

Bella Vista

Shasta CSD

Mountain Gate CSD

Feather

Sacramento River Division

Kanawha

Stony Creek

4-E

Corning

Orland-Artois

La Grande*

Westside*

Davis*

Colusa County*

County of Colusa*

Dunnigan*

There are either no listed species or critical habitat within the action area (defined for this analysis as the water service area of each water district) or, if listed species or critical habitat are present or likely to occur within the action area (water districts marked by an asterisk *), we do not believe that there will be measurable direct or indirect effects on them as a result of the proposed action. However, we are still analyzing possible adverse effects to listed species by operation and maintenance of conveyance facilities in the water districts marked with an asterisk (*). We are addressing the effects of these actions in a separate, ongoing area-wide consultation with your office because it is our understanding that information is not uniformly available on operation and maintenance of federal conveyance facilities at the water district level.

This concludes informal consultation on the 16 water service contracts listed above. No further action is needed unless: (1) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered; (2) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered; or (3) a new species is listed or critical habitat designated that may be affected by the action, and (4) discretionary Federal agency involvement or control over the action is maintained (or is authorized by law). Reclamation should continue to monitor these actions and review this determination as needed based on the reinitiation criteria.

Based on the information provided in your April 13, 2003 letter, the accompanying Biological Assessments for long-term contract renewals provided for the Shasta and Trinity River Divisions (dated August 2003), the Feather Water District (dated April 2004), and the Black Butte, Corning Canal, and Tehama-Colusa Canal Units (dated April 2004), supplemental information provided

by your office and by the Reclamation Mid-Pacific Regional Office, including GIS data, and other information available to us, we have determined that ground-truthing specific areas within some districts is necessary to determine adverse affects, as appropriate, for the following districts:

City of Redding
City of Shasta Lake
Clear Creek CSD
Kirkwood
Orland-Artois
Corning
Proberta
Thomes Creek

We are coordinating with Reclamation staff to facilitate those efforts. Once our analysis is complete, we will issue our determination for those districts listed above.

Initiation of Formal Consultation and Request for Supplemental Information

This request for supplemental information addresses deficits in the four biological assessments. Until we receive the supplemental information we cannot proceed with the formal consultations. The requested information is consistent with the *Central Valley Project Improvement Act*, the *Biological Opinion on Implementation of the CVPIA and Continued Operation and Maintenance of the CVP* (Service File # 1-1-98-F-0124) (CVPIA Opinion), and is pursuant to the regulations governing interagency consultations (50 CFR §402.14(c)).

- A. Exhibit A is missing from all draft contracts currently on display for public review and comment on Reclamation's web site. Please provide us with all appropriate Exhibit A's so that we fully understand the proposed action.
- B. Please provide Water Needs Assessments for the following districts, or written confirmation that they receive less than the minimum delivery to require a Water Needs Assessment: Black Butte Unit, Mountain Gate, Keswick, USFS, Centerville Community Services, and Shasta Community Services. Please provide us with the appropriate Water Needs Assessments so that we may begin formal consultation on these districts.

This represents the Service's review of the actions presented in your April 13, 2004, request for formal consultation on the proposed Long-term Contract Renewals for Northern California Area Offices located in Shasta, Tehama, Glenn, Colusa, and Yolo counties, California.

Mr. Micheal J. Ryan

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If you have questions regarding the proposed Long Term Renewal of Water Service Contracts project, please contact Allison Arnold or Jan Knight at (916) 414-6620 or -6645.

Sincerely yours,

A handwritten signature in black ink that reads "Kenneth D. Sanchez". The signature is written in a cursive style with a large, prominent "K" at the beginning.

Kenneth D. Sanchez
Acting Field Supervisor

cc:

USBR, Sacramento, CA, (Attn: Frank Michny)

USBR, Shasta Lake, CA, (Attn: Buford Holt)

CDFG, Red Bluff, CA, (Attn: Paul Ward)



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846



In reply refer to:
1-1-04-I-2949

NOV 12 2004

NOV 15 '04

Memorandum

To: Area Manager, Northern California Area Office, Bureau of Reclamation
Sacramento, California

From: *Peter A. Cross*
for Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California

Subject: Conclusion of Informal Consultation on Long-Term Renewal of Six Water
Service Contracts in the Shasta, Trinity, and Sacramento River Divisions and
Request for Supplemental Information for Six Others

OFFICIAL FILE COPY RECEIVED

NOV 15 '04

BUREAU OF RECLAMATION
NORTHERN CA AREA OFFICE

CODE	INT	DATE
100	<i>10/15/04</i>	<i>11/6</i>
340		
300		

This memorandum is in response to your April 13, 2004, letter requesting formal consultation on the proposed long term renewal of Central Valley Project water service contracts in the Shasta, Trinity, and Sacramento River Divisions of the Northern California Area Office. Your request was received by the U.S. Fish and Wildlife Service (Service) on April 14, 2004. This response is in accordance with the Endangered Species Act of 1973, as amended.

Conclusion of Informal Consultation

We have reviewed the information provided in your April 13, 2004 letter; the accompanying Biological Assessments for long-term contract renewals provided for the Shasta and Trinity River Divisions (dated August 2003) and the Black Butte, Corning Canal, and Tehama-Colusa Canal Units (dated April 2004); supplemental information provided by your office and by the U.S. Bureau of Reclamation (Reclamation) Mid-Pacific Regional Office, including GIS data; and other information available to us. We have determined that the proposed renewal of long term water service contracts is not likely to adversely affect listed species or critical habitat in the following six water districts:

- Shasta and Trinity Divisions
 City of Redding
 City of Shasta Lake
 Clear Creek Community Services

- Sacramento River Division
 Orland-Artois
 Corning
 Thomes Creek

Classification	<i>ENV-6.00</i>
Project	<i>CVP</i>
Control No.	
Felder No.	



There are either no listed species or critical habitat within the action area (defined for this analysis as the water service area of each water district) or, if listed species or critical habitat are present or likely to occur within the action area, we do not believe that there will be measurable direct or indirect effects on them as a result of the proposed action.

This concludes informal consultation on the six water service contracts listed above. No further action is needed unless: (1) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered; (2) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered; or (3) a new species is listed or critical habitat designated that may be affected by the action; and (4) discretionary Federal agency involvement or control over the action is maintained (or is authorized by law). Reclamation should continue to monitor these actions and review this determination as needed based on the reinitiation criteria.

Based on the information provided in your April 13, 2004 letter; the accompanying Biological Assessments for long-term contract renewals provided for the Shasta and Trinity River Divisions (dated August 2003); the Feather Water District (dated April 2004) and the Black Butte, Corning Canal, and Tehama-Colusa Canal Units (dated April 2004); supplemental information provided by your office and by the Reclamation Mid-Pacific Regional Office, including GIS data; and other information available to us, we have determined that ground-truthing specific areas within the districts is necessary to determine adverse affects, as appropriate, for the Kirkwood Water District and the Proberta Water District.

We are coordinating with Reclamation staff to facilitate those efforts. Once our analysis is complete, we will issue our determination for the two districts listed above.

Initiation of Formal Consultation and Request for Supplemental Information

This request for supplemental information addresses deficits in the biological assessments. Until we receive the supplemental information we cannot proceed with the formal consultations. The requested information is consistent with the *Central Valley Project Improvement Act*, the *Biological Opinion on Implementation of the CVPIA and Continued Operation and Maintenance of the CVP* (Service File # 1-1-98-F-0124) (CVPIA Opinion), and is pursuant to the regulations governing interagency consultations (50 CFR §402.14(c)).

- A. Please provide Water Needs Assessments for the following districts, or written confirmation that they receive less than the minimum delivery to require a Water Needs Assessment: Black Butte Unit, Mountain Gate, Keswick, USFS, Centerville Community Services, and Shasta Community Services. Please provide us with the appropriate Water Needs Assessments so that we may begin formal consultation on these districts.

This represents the Service's review of the actions presented in your April 13, 2004, request for formal consultation on long-term renewal of the six water service contracts listed above in the Shasta, Trinity, and Sacramento River Divisions.

If you have questions regarding the proposed project, please contact Allison Arnold or Jan Knight at (916) 414-6620 or (916) 414-6645.



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

December 10, 2004

In Reply Refer To:
 151422SWR04SA9139:MET

OFFICIAL FILE COPY RECEIVED	
DEC 20 '04	
BUREAU OF RECLAMATION NORTH DIVISION OFFICE	
100	ADN 12/20
300	RDS 12/23

Done by JH 12/20/04 C. J. for Den Bultema & Smith

Michael J. Ryan
 Area Manager
 U.S. Bureau of Reclamation
 2800 Cottage Way
 Sacramento, California 95825

Dear Mr. Ryan:

This letter responds to your April 15, 2004 letter requesting formal consultation with the National Marine Fisheries Service (NOAA Fisheries) on the U.S. Bureau of Reclamation's (Reclamation) long-term contract renewal of Central Valley Project (CVP) water service contracts for the Shasta and Trinity River Division water contractors in Shasta County, California. This consultation concerns impacts to Federally listed endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley spring-run Chinook salmon (*O. tshawytscha*), threatened Central Valley steelhead (*O. mykiss*), candidate Central Valley fall/late fall-run Chinook salmon (*O. tshawytscha*), the designated critical habitat of winter-run Chinook salmon, and the essential fish habitat (EFH) of Pacific Salmon.

Reclamation proposes to renew 10 CVP water service contracts. The total amount of water to be delivered under these contracts is approximately 55,000 acre-feet. This water has historically been used and will continue to be used for agricultural as well as municipal and industrial (M&I) purposes.

The renewed contracts would provide for the continued diversions and delivery of the same quantities of water as the existing service contracts. The contract renewals also provide for continued diversions and delivery of water to the same lands and for the same purposes as the existing contracts.

Water will continue to be delivered through existing CVP facilities and will be placed to beneficial use within the authorized place of use for CVP water. The proposed action does not include construction, installation, or modification of any new facilities or structures.

NOAA Fisheries has reviewed the project description for the proposed action and other pertinent information related to this consultation, including the NOAA Fisheries biological opinions for CVP and State Water Project (SWP) Long-term Operations, Criteria, and Plan

Classification
Project
Control No.
Folder No.



[(OCAP) NOAA Fisheries 2004], and the Central Valley Project Improvement Act [(CVPIA) NOAA Fisheries 2000]. The OCAP biological opinion found that CVP actions providing water to service contractors are likely to adversely affect Federally listed Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, and Central Valley steelhead, and the critical habitat of winter-run Chinook salmon, due to reservoir releases, Sacramento River flows, water temperatures, and physical facility operations. These effects are expected to impact and result in the take of individual fish by decreasing spawning success, killing vulnerable life stages such as eggs, larvae, and juveniles due to stranding or elevated water temperatures, or increasing the likelihood of disease or juvenile vulnerability to predation due to temperature stress. The OCAP biological opinion determined that the anticipated level of take is not likely to jeopardize the continued existence of Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, or Central Valley steelhead, and is not likely to destroy or adversely modify the designated critical habitat of Sacramento River winter-run Chinook salmon.

Following review of the biological assessment, additional information provided, and the best scientific and commercial information currently available, we find that the effects of Reclamation's issuance of long term contracts to the Shasta and Trinity River Division water contractors on Federally listed endangered winter-run Chinook salmon, Federally listed threatened Central Valley spring-run Chinook salmon, and threatened Central Valley steelhead, and the designated critical habitat of winter-run Chinook salmon were previously considered as part of the OCAP action and fully analyzed in the OCAP biological opinion. This biological opinion included an incidental take statement pursuant to section 7(b)(4) and section 7(o)(2) of the Endangered Species Act (ESA) that exempted anticipated project impacts from the prohibitions of section 9. The effective period for the incidental take exemption provided in the OCAP biological opinion is 25 years (*i.e.*, through 2030).

Upon expiration of the OCAP biological opinion, Reclamation is required to reinitiate formal consultation, at which time aspects of the OCAP that are interrelated to the proposed action will be analyzed, and an updated incidental take statement will be issued. NOAA Fisheries' determination that the potential for take of listed species associated with the issuance of the subject long term contracts are fully covered in the incidental take statement for the OCAP biological opinion is contingent upon Reclamation implementing all measures intended to prevent and minimize impacts to fish and fish habitat identified in the OCAP biological opinion. With the exception of future reinitiation of formal consultation on the OCAP, no further action pursuant to the ESA is necessary by Reclamation, unless new information indicates that the project may affect listed species in a manner or to an extent not considered in this review or a new species is listed or critical habitat is designated that may be affected by the proposed action, and there is no substantial revision or modification to the information provided.

This letter does not provide exemptions for any form of take associated with the proposed action. Instead, it identifies aspects of the project that were previously considered and exempted in an existing biological opinion. Only those impacts that were specifically analyzed in the OCAP biological opinion are covered, and those exemptions are only valid through the term of that biological opinion (through 2030).

In addition, we find the NOAA Fisheries OCAP EFH consultation addressed effects to EFH for Pacific salmon as described in Amendment 14 of the Pacific Salmon Fishery Management Plan pursuant to the MSA. We find no additional effects of this project to EFH that were not analyzed in the OCAP consultation. Therefore, additional EFH Conservation Recommendations will not be provided. Written response as required under section 305(b)(4)(B) of the Magnuson-Stevens Act and Federal regulations (50 CFR § 600.920) will not be required. Should additional information reveal that the project may affect EFH and/or impact salmonids in a way not previously considered, or should the action be modified in a way that may cause additional effects to EFH, this determination may be reconsidered.

If you have any questions regarding this correspondence or if NOAA Fisheries can provide further assistance on this project, please contact Mr. Michael Tucker in our Sacramento Area Office, 650 Capitol Mall, Suite 8-300, Sacramento, CA 95814. Mr. Tucker may be reached by telephone at (916) 930-3604, or by Fax at (916) 930-3629.

Sincerely,


for Rodney R. McInnis
Regional Administrator

cc: NOAA Fisheries-PRD, Long Beach California