



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

January 10, 2005

In Reply Refer To:

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BUREAU OF RECLAMATION	
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Michael J. Ryan
Area Manager
United States Bureau of Reclamation
2800 Cottage Way
Sacramento, California 95825

Dear Mr. Ryan:

This letter responds to your April 16, 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 (LTCR) of Federal Central Valley Project (CVP) water service contracts in the Sacramento River Divisions's Black Butte, Corning Canal, and Tehama-Colusa Canal Units, in Tehama, Glenn, Colusa, and Yolo Counties, 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*), and the designated critical habitat of Sacramento River winter-run Chinook salmon and the Essential Fish Habitat (EFH) of Pacific Salmon.

At Reclamation's request, initiation of this consultation was delayed until completion of section 7 consultation on the Long-Term Operations, Criteria, and Plan (OCAP) for the coordinated operations of the CVP and the California State Water Project (SWP). The reason for this request was that Reclamation believed that all aquatic concerns would be addressed in the OCAP consultation and therefore it was a necessary precursor to completing this contract specific consultation. The OCAP consultation was completed with the issuance of a biological opinion by NOAA Fisheries on October 22, 2004 (OCAP BO).

Reclamation proposes to renew eighteen water service contracts in the Sacramento River Division's Black Butte, Corning Canal, and Tehama-Colusa Canal Units. These include 10 contracts and 7 subcontracts in the Tehama-Colusa Canal Unit, 3 contracts in the Corning Canal Unit, and 5 contracts in the Black Butte Unit. Fifteen contracts have an agriculture purpose (*i.e.*, irrigation) or a combined purpose (*i.e.*, irrigation, municipal, and industrial) and will be renewed for 25 years. Three contracts that have only a municipal and industrial (M&I) purpose will be renewed for 40 years. Renewed contracts will be effective beginning March 2005, and will expire in February 2029, with the exception of the three M&I contracts which will expire in February 2044. Water will continue to be delivered through existing CVP

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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.

The Sacramento River Division provides for the transport of water to the three units through releases from Shasta and Keswick Dams. Some of the water comes from the Trinity River via the Trinity River Division. Once in the Sacramento River, CVP water is diverted by the Red Bluff Diversion Dam (RBDD) into the Tehama-Colusa and Corning Canals for distribution to water contractors. The Sacramento River Division also is served by supplemental diversions through the Constant Head Orifice (CHO) on lower Stony Creek.

The eighteen water contracts address the annual delivery of approximately 325,000 acre feet (af) of CVP water. Up to 285,800 af of contract water will be delivered to the Tehama-Colusa Canal Unit, and up to 32,900 af and 3,120 af will be delivered to the Corning Canal and Black Butte Units, respectively. Annual contract water quantities range from 25 to 62,00 af each. Actual water delivery to the contractors varies based on Reclamation's annual allocation. Water demand is dependant upon climate, but generally diversions begin approximately April 1 and cease October 31. Water demand is highest between May 1 and October 1.

All diversions are screened, except at the CHO on lower Stony Creek where water can be diverted for a 45-day period in the spring (*i.e.*, April 1 to May 15), and a 45-day period in the fall (*i.e.*, September 15 to October 30). During these periods, water cannot be diverted from the Sacramento River into the Tehama-Colusa Canal by gravity flow at RBDD because the dam gates are up to allow upstream fish passage. CVP water is pumped into the Tehama-Colusa Canal and supplemented with water through the CHO diversion on Stony Creek.

NOAA Fisheries has reviewed the project description for the proposed action and other pertinent information related to this consultation, including the OCAP BO and lower Stony Creek Water Management and Operations biological opinion (lower Stony Creek BO), issued March 11, 2002. The OCAP BO found that CVP actions providing water to contractors in Reclamation's Sacramento River Division 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 that reduce habitat availability and suitability. These effects are expected to impact and result in the take of individual fish by delaying or blocking adult migration into suitable spawning habitat and 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 BO 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 Sacramento River winter-run Chinook salmon.

The lower Stony Creek BO found that diversion of water from Stony Creek into the CHO is likely to adversely affect Central Valley steelhead due to fish entrainment into the unscreened

diversion canal, and reduced instream flow below the diversion point. These effects are expected to impact individual fish through killing entrained juveniles, and delaying adult migration into suitable spawning habitat and decreasing spawning success. The lower Stony Creek BO determined that the anticipated level of take is not likely to jeopardize the continued existence of Central Valley steelhead, and is not likely to destroy or adversely modify the designated critical habitat 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 LTRs in the Sacramento River Divisions's Black Butte, Corning Canal, and Tehama Colusa Canal Units 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 analyzed in the OCAP BO, and the lower Stony Creek BO. We do not anticipate additional effects of the proposed LCTR which were not considered in either the OCAP BO or lower Stony Creek BO. These biological opinions include incidental take statements pursuant to section 7(b)(4) and section 7(o)(2) of the Endangered Species Act (ESA) that exempt anticipated project impacts from the prohibitions of section 9.

NOAA Fisheries' determination that adverse effects of LTRs in the Sacramento River Division's Black Butte, Corning Canal, and Tehama-Colusa Canal Units have been considered in previous biological opinions is contingent upon Reclamation implementing all measures intended to prevent and minimize impacts to fish and fish habitat identified in the OCAP BO and the lower Stony Creek BO. No further action pursuant to the ESA is necessary by Reclamation, however, re-initiation of the consultation process may be required if one of the following criteria is met: (1) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not considered in this review; (2) the action is subsequently modified in a manner that causes adverse effects to listed species; or (3) a new species is listed or critical habitat designated that may be affected by this action.

This letter identifies aspects of the project that were previously considered in existing biological opinions. No additional incidental take is authorized for this specific action beyond the amount or extent of incidental take anticipated in the March 22, 2002 lower Stony Creek BO, or the October 22, 2004 OCAP BO. Specifically, this letter does not address potential effects to salmonids and their habitat from the aspects of the contract renewal related to the Black Butte Unit and the CHO beyond March 2005, and effects related to the Corning Canal and Tehama-Colusa Canal Units beyond 2030.

Essential Fish Habitat

In addition, we find the NOAA Fisheries OCAP EFH consultation, and the lower Stony Creek Water Management and Operations 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 those consultations. 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. Howard Brown in our Sacramento Area Office, 650 Capitol Mall, Suite 8-300, Sacramento, California 95814. Mr. Brown may be reached by telephone at (916) 930-3608, or by Fax at (916) 930-3629.

Sincerely,


Rodney R. McInnis
Regional Administrator

cc: NOAA Fisheries-PRD, Long Beach California
Frank Michny (MP-150), Bureau of Reclamation, Mid-Pacific Region, Sacramento, CA