



UNITED STATES DEPARTMENT OF COMMERCE
 National Oceanic and Atmospheric Administration
 NATIONAL MAPS AND BENTON A. SWANSON
 Southwest Region
 501 West Ocean Boulevard, Suite 4000
 Long Beach, California 90802-4013

January 10, 2004

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 1/12/04
 [Signature]

Kathy Wood
 Chief, Resource Management Division
 U.S. Bureau of Reclamation
 1243 N Street
 Fresno, California 93721

Dear Ms Wood:

This letter acknowledges your request of formal section 7 consultation pursuant to the Endangered Species Act (ESA) of 1973, as amended, [16 U.S.C. 1531 et seq] received by NOAA Fisheries on April 13, 2004, for the U.S. Bureau of Reclamation's (Reclamation) Long-Term Contract Renewal (LTCR) for the Delta-Mendota Canal (DMC) Unit. This consultation concerns impacts on Federally listed endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley spring-run Chinook salmon (*O. tshawytscha*), and threatened Central Valley steelhead (*O. mykiss*), pursuant to the ESA. In addition, the proposed project area has been identified as Essential Fish Habitat (EFH) for Pacific salmon in Amendment 14 of the Pacific Salmon Fishery Management Plan, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Federal action agencies are mandated by the MSA (section 305(b)(2)) to consult with the NOAA Fisheries on all actions that may adversely affect EFH and NOAA Fisheries must provide EFH Conservation Recommendations (section 305(b)(4)(A)).

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 Federal Central Valley Project (CVP) and the 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).

The proposed action considered in this consultation would renew the 25-year-long CVP water service contract to DMC Unit contractors continuing CVP water delivery. Water would be delivered to DMC Unit contractors through existing facilities without constructing new or modifying current facilities and the renewal would continue to provide the existing water supply for municipal, industrial, and agriculture use. Water supply for the DMC Unit contractors in the San Joaquin Valley originates primarily as controlled releases from CVP reservoirs on the Sacramento River system and is transported via the Sacramento River to the Sacramento-San Joaquin Delta (Delta). This water and other water available in the Delta from

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the San Joaquin River or Delta tributaries is collected at Reclamation's Tracy Pumping Plant in the southern end of the Delta after moving through various natural and constructed facilities. The Tracy Pumping Plant lifts water from the Delta into the DMC to be transported to various delivery points for DMC Unit contractors along its reach ultimately flowing into the Mendota Pool located at the confluence of the San Joaquin River and the north fork of the Kings River, near Mendota, approximately 30 miles west of Fresno.

NOAA Fisheries has reviewed the environmental assessment provided by Reclamation and other pertinent information related to this consultation, including the OCAP BO. The OCAP BO addressed impacts of the delivery of Sacramento and San Joaquin Basin origin water into the DMC via the Tracy Pumping Plant and found operations were likely to adversely affect listed Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, and Central Valley steelhead due to direct and indirect take associated with pumping operations. Incidental take for operation of the Tracy Pumping Plant was authorized in the OCAP BO and reasonable and prudent measures were included in an incidental take statement to further avoid or minimize anticipated adverse effects to listed salmonids.

Following review of the biological assessment, additional information provided, and the best scientific and commercial information currently available, we find that all anticipated effects of the LTCR for the DMC Unit to Federally listed endangered Sacramento River winter-run Chinook salmon, threatened Central Valley spring-run Chinook salmon, and threatened Central Valley steelhead are addressed in the October 22, 2004 NOAA Fisheries OCAP BO. This is because effects of the LTCR for the DMC Unit result solely from export of water through the CVP's Tracy Pumping Plant. We do not anticipate additional effects would result from the proposed LTCR beyond those considered in the OCAP BO. This determination is contingent upon Reclamation implementing all measures intended to prevent and minimize impacts to fish and fish habitat identified in the OCAP BO. Therefore, we do not believe formal consultation on the LTCR for the DMC Unit is necessary. No further action pursuant to the ESA is required by Reclamation, at this time. However, we may request reinitiation of the consultation process 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 critical habitat not considered in this review; or (3) a new species is listed or critical habitat designated that may be affected by the action. No additional incidental take is authorized for this contract specific action beyond the amount or extent of incidental take authorized in the October 22, 2004 OCAP BO.

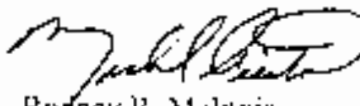
Essential Fish Habitat

In addition, we find the October 2004 NOAA Fisheries OCAP BO 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 listed salmonids that were not covered in the OCAP BO. Therefore, 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 EFL, 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. Jeff McLain in our Sacramento Area Office, 650 Capitol Mall, Suite 8-300, Sacramento, CA 95814. Mr. McLain may be reached by telephone at (916) 930-5648, or by fax at (916) 930-3629.

Sincerely,


Rodney R. McInnis
Regional Administrator

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