



United States Department of the Interior

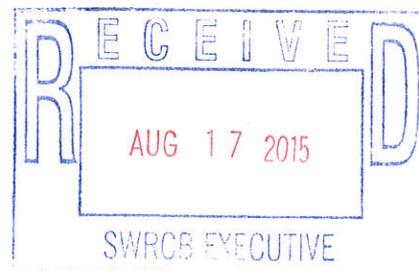
DWR

IN REPLY
REFER TO:

CVO-100
ENV-7.00

BUREAU OF RECLAMATION
Central Valley Operations Office
3310 El Camino Avenue, Suite 300
Sacramento, California 95821

AUG 07 2015



Ms. Maria Rea
Assistant Regional Administrator
California Central Valley Area Office
National Marine Fisheries Service
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Subject: Contingency Plan for Water Year (WY) 2015 Pursuant to Reasonable and Prudent Alternative (RPA) Action I.2.3.C of the 2009 Coordinated Long-term Operation of the Central Valley Project (CVP) and State Water Project (SWP) Biological Opinion (NMFS 2009 BiOp) – West False River Emergency Drought Barrier

Dear Ms. Rea:

By letter dated July 1, 2015, the National Marine Fisheries Service (NMFS) concurred that the Bureau of Reclamation's (Reclamation) and the Department of Water Resources' (DWR) Contingency Plan for July – November 2015, as amended by the Revised Sacramento River Temperature Management Plan, is consistent with RPA Action I.2.3.C in NMFS' 2009 BiOp. Reclamation is now seeking affirmation from NMFS that operations described in the previously submitted Updated Project Description dated May 14, 2015, and Revised Sacramento River Water Temperature Management Plan submitted June 25, 2015, both which assume the West False River Emergency Drought Barrier (EDB) is in place, are within the limits of the Incidental Take Statement of the BiOp and do not jeopardize the listed species or adversely modify or destroy designated critical habitats addressed in the NMFS 2009 BiOp.

Faced with potentially insufficient water supplies to repel salinity in the Sacramento-San Joaquin Delta (Delta), DWR installed an emergency, temporary rock barrier across West False River in May-June 2015. The barrier is scheduled to be removed by November 15, 2015. Keeping saltwater out of the central Delta is a priority, as a large portion of the state's freshwater supply travels through this part of the Delta. The barrier is intended to help prevent saltwater contamination of water supplies used by people who live in the Delta and in Contra Costa, Alameda, and Santa Clara counties, as well as the 25 million people who rely on the Delta-based federal and state water projects for at least some of their water supply.

The West False River EDB project was constructed by DWR under the U.S. Army Corps of Engineers' (Corps) procedures in emergency situations as described at 33 C.F.R. Section 325.2(e)(4). In a May 1, 2015, electronic mail, Reclamation requested emergency consultation under the Endangered Species Act regulations (50 CFR 402.05) to address the

effects of operating the CVP and SWP with the West False River EDB in place on listed species and designated critical habitats. Pursuant to the emergency consultation provision in the ESA section 7 regulations (50 CFR 402.05), Reclamation and the Corps is required to initiate formal consultation as soon as practicable after the emergency is under control. By letter dated July 15, 2015, the Corps has requested formal consultation under Section 7 of the ESA for a Department of the Army permit application for construction of the EDB project.

Reclamation and DWR previously reviewed the effects of the West False River EDB on listed species and their designated critical habitat and submitted this review to NMFS as part of our May 18, 2015, and June 25, 2015, requests for concurrence on the Contingency Plan for WY 2015 pursuant to RPA Action I.2.3.C. A review of the effects associated with operation of the CVP and SWP with and without the West False River EDB in place was provided in the Biological Review titled "*Biological Review for Endangered Species Act Compliance with the WY 2015 Drought Contingency Plan July through November 15 Project Description*" and dated May 14, 2015. The Updated Biological Information submitted June 25, 2015, associated with the Revised Sacramento River Water Temperature Management Plan also assumed implementation of the EDB. Based on this previously submitted biological information, and NMFS' subsequent concurrence dated July 1, 2015, Reclamation seeks affirmation that the effects of the West False River EDB on listed species and their designated critical habitats will not result in violation of the incidental take limit in the NMFS 2009 BiOp, nor will these actions jeopardize the continued existence of the listed species or destroy or adversely modify their designated critical habitat.

The May 14, 2015, Biological Review and Updated Biological Information submitted June 25, 2015, and NMFS' July 1, 2015, concurrence supports Reclamation and DWR's conclusion that the effects associated with the proposed July through November 2015 modifications to CVP and SWP operation, with the West False River EDB in place, are within what was analyzed in the NMFS 2009 BiOp. Any incidental take resulting from these operational changes are within the existing incidental take limits in the NMFS 2009 BiOp. Because these operational actions are contemplated within the drought exception procedures described in the NMFS 2009 BiOp, they do not jeopardize the listed species or adversely modify or destroy designated critical habitats addressed in the NMFS 2009 BiOp. Reclamation seeks NMFS' affirmation of this determination.

We look forward to working with you and your staff as we navigate through another extremely challenging water year and appreciate your willingness to work with us on this time sensitive matter.

Sincerely,



Ronald Milligan
Operations Manager

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cc: Mr. Larry Rabin
Acting Field Supervisor, Bay Delta Fish
and Wildlife Office
U.S. Fish and Wildlife Service
650 Capitol Mall, Suite 8-300
Sacramento, CA 95814

✓ Mr. Tom Howard
Executive Director
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Mr. Ren Lohofener
Regional Director
Pacific Southwest Region
U. S. Fish and Wildlife Service
2800 Cottage Way
Sacramento, CA 95825

Mr. Mark Cowin
Director
California Department of Water Resources
1416 Ninth Street
Sacramento, CA 95814

Mr. David Murillo
Regional Director
Mid-Pacific Region
Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825

Mr. Dean Messer
Chief, Environmental Services
California Department of Water Resources
P.O. Box 94836
West Sacramento, CA 94236-0001

Mr. Chuck Bonham
Director
California Department of Fish and Wildlife
1416 Ninth Street
Sacramento, CA 95814

Mr. John Leahigh
Operations Control Office
California Department of Water Resources
3310 El Camino Avenue, Suite 300
Sacramento, CA 95821