



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
650 Capitol Mall, Suite 5-100
Sacramento, California 95814-4700

March 25, 2022

Ms. Eileen Sobeck
Executive Director
State Water Resources Control Board
1001 I Street
Sacramento, California 95814
Eileen.Sobeck@waterboards.ca.gov

Re: Temporary Urgency Change Petition Regarding Delta Water Quality

Dear Ms. Sobeck:

NOAA's National Marine Fisheries Service (NMFS) is writing in regards to the Temporary Urgency Change Petition (TUCP) filed with the State Water Resources Control Board (SWRCB) by the U.S. Bureau of Reclamation (Reclamation) and the California Department of Water Resources (DWR) on March 18, 2022. Reclamation and DWR are requesting the SWRCB to modify certain terms of the Central Valley Project (CVP) and State Water Project (SWP) water rights permits from what is currently provided in Water Rights Decision 1641 (D-1641) during the period from April 1 through June 30, 2022. The SWRCB has requested NMFS to provide information regarding the effects of the TUCP on fish species protected under the Endangered Species Act (ESA). This letter is provided as technical assistance and does not serve as Endangered Species Act section 7 consultation nor provide exemption for the take of listed species.

The TUCP proposes to temporarily modify certain conditions of D-1641 based on extraordinarily dry conditions and extremely low storage in CVP and SWP reservoirs that necessitate proactive management of water resources in Water Year 2022 to balance competing demands on water supply and to protect beneficial uses of the Delta, including those for fish and wildlife. Our understanding is that the TUCP will support Reclamation and DWR priorities to operate the CVP and SWP to provide water supplies for minimum health and safety, preserve upstream storage for release later in the summer to control saltwater intrusion into the Sacramento-San Joaquin Delta (Delta) and to preserve cold water in Shasta Reservoir and other reservoirs to manage river temperatures for various runs of Chinook salmon and steelhead.

Reclamation and DWR prepared a biological review to support the TUCP. NMFS staff evaluated the draft biological review and submitted comments on March 14, 2022.

We believe that Reclamation and DWR's priorities to preserve cold water storage in upstream reservoirs are aligned with NMFS priorities. The TUCP is expected to directly support increased reservoir storage at Oroville and Folsom and this supports our priorities for cold water pool and temperature management in the Feather and American rivers for anadromous fish protection. The TUCP also is compatible with implementation of the State/Federal Interim Operations Plan

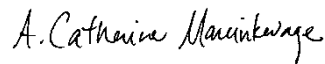


(IOP) and priorities relative to conserving water in Shasta Reservoir for the purpose of providing instream flow and temperature conditions to protect federally listed endangered winter-run Chinook salmon in the upper Sacramento River and at the Livingston Stone National Fish Hatchery. The TUCP, combined with other ongoing integrated drought actions, represents a reasonable approach to support these priorities.

We are committed to coordinating with Reclamation, the U.S. Fish and Wildlife Service, DWR, the SWRCB and the California Department of Fish and Wildlife during TUCP implementation through the Water Operations Management Team (WOMT), and the Shasta Planning Group that was established under the IOP. These teams meet weekly to discuss and coordinate CVP and SWP operations, and will discuss TUCP actions and other drought actions, as appropriate. WOMT and the Shasta Planning Group have structured mechanisms to elevate unresolved operational matters to the Directors of the six agencies where necessary. In addition, as part of the TUCP, DWR and Reclamation will continue to coordinate with CVP and SWP technical working groups and monitoring programs. We believe that this coordination will improve the planning necessary to support species protections in Water Year 2022.

NMFS appreciates the opportunity to provide input on the TUCP process. Please direct questions regarding this letter to Howard Brown, Senior Policy Advisor, NMFS California Central Valley Office, at (916) 930-3608 or via e-mail at Howard.Brown@noaa.gov.

Sincerely,



Cathy Marcinkevage
Assistant Regional Administrator
California Central Valley Area Office

cc: to the file ARN: 151422-WCR2022-SA0001

Diane Riddle, Diane.Riddle@waterboards.ca.gov

Kaylee Allen, Kaylee.Allen@usfws.gov

Russ Callejo, Rcallejo@usbr.gov

Lenny Grimaldo, Lenny.grimaldo@water.ca.gov