

STATE WATER RESOURCES  
CONTROL BOARD

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DIV OF WATER RIGHTS  
SACRAMENTO



**UNITED STATES DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

NATIONAL MARINE FISHERIES SERVICE

Southwest Region

650 Capitol Mall, Suite 5-100

Sacramento, CA 95814-4700

**JUN 22 2012**

Michelle Lobo  
State Water Resources Control Board  
Division of Water Rights  
P.O. Box 2000  
Sacramento, California 95812-2000

Dear Ms. Lobo:

Thank you for your May 23, 2002, letter requesting the opinion of NOAA's National Marine Fisheries Service (NMFS) regarding a petition from the Golden Gate Salmon Association (GGSA) to the State Water Resources Control Board (State Water Board) to amend the Clean Water Act Water Quality Certification (Certification) for the Federal Energy Regulatory Commission's (FERC) relicensing of the California Department of Water Resources (DWR) Oroville Facilities Hydroelectric Project (FERC #2100). You are seeking NMFS' perspective on the petition's allegations and supporting evidence, and whether the State Water Board should hold a workshop to determine if an amendment to the Certification is necessary, or if the Certification itself is preventing NMFS from developing the Endangered Species Act section 7 biological opinion for FERC #2100.

The petitioners presented evidence, most of which was gained from NMFS in a Freedom of Information Act (FOIA) request, regarding recent information on federally threatened Southern distinct population segment of North American green sturgeon (*Acipenser medirostris*) in the Feather River. Our records show that Exhibit F, of the petition, was not gained through FOIA and appears to be an April, 2009, draft document that was used for internal discussion purposes during the analysis and preparation of the NMFS 2009 draft biological opinion for FERC #2100. This April, 2009, document does not represent new information and should not be used by the State Water Board in making decisions about how to proceed with the certification. The remainder of the petition's exhibits do present new and relevant information about the status of green sturgeon in the Feather River, and support recent analysis by NMFS that green sturgeon are spawning in the Feather River.

NMFS is in the process of analyzing this new green sturgeon information and focused on completing the biological opinion for FERC #2100. Although neither the proposed FERC action nor the Certification for FERC #2100 provide explicit protection measures for green sturgeon in the Feather River, the Certification itself does not conflict with, and is not preventing NMFS from completing the biological opinion. As required by law, NMFS is also reviewing and analyzing new information and updated status accounts for Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), and California Central Valley steelhead (*O. mykiss*). A



final biological opinion will be issued within the next few months, after NMFS internal review and coordination with the DWR and FERC.

Your letter also points out that, in their petition, GGSA makes several broad statements about balancing the needs for anadromous fish in general. The challenge of managing several anadromous fish species within the footprint of FERC #2100 is difficult. As new information becomes available over the course of the new license, FERC, DWR and numerous Federal and State agencies and stakeholder interests will undoubtedly need to work cooperatively to incorporate this information into the adaptive management framework described in the settlement agreements, certifications, biological opinions and other permits that are interrelated to FERC #2100.

Please contact Howard Brown at (916) 930-3608, or via e-mail at [Howard.Brown@noaa.gov](mailto:Howard.Brown@noaa.gov) if you have any questions concerning this correspondence, or require additional information.

Sincerely,



Maria Rea  
Supervisor, Central Valley Office

cc: Copy to file – ARN 151422SWR2000SA5808  
NMFS-PRD, Long Beach, CA  
NMFS-HCD, Santa Rosa, CA