



Report In Brief

U.S. Department of Commerce Office of Inspector General

July 2005



Why We Did This Review

On October 8, 2004, in a letter to the inspectors general of the departments of Interior and Commerce, 19 members of the U.S. House of Representatives requested a review of allegations that Interior's Bureau of Reclamation, "... in its haste to finalize water contracts in California, has improperly undermined the required NOAA Fisheries environmental review process for the proposed long-term Operations, Criteria, and Plan (OCAP) for the Central Valley Project (CVP) and the State Water Project (SWP)."

Background

California's CVP is one of the nation's major water conservation efforts. First undertaken by the Bureau of Reclamation in 1935, the CVP includes all federal reclamation projects located within or diverting water from or to the watershed of the Sacramento and San Joaquin rivers and their tributaries. The Endangered Species Act requires federal agencies to ensure that any actions they authorized, funded, or carried out are unlikely to jeopardize the continued existence of any endangered or threatened marine species or destroy or adversely modify critical habitats of listed marine species.

To view the full report, visit www.oig.doc.gov/oig/reports/2005/NOAA-STL-17242-07-2005.pdf

National Oceanic and Atmospheric Administration

The NMFS Review Process for the California Central Valley and State Water Projects' Biological Opinion Deviated from the Region's Normal Practice (STL-17242)

What We Found

We sought to (1) identify the review process used to issue NOAA's October 22, 2004, opinion on the Bureau of Reclamation's Central Valley Project and California's State Water Project, and (2) determine whether the National Marine Fisheries Service (NMFS)—in developing the OCAP opinion—followed the consultation process for issuing biological opinions that is defined by its policies, procedures, and normal practices. We did not seek to determine whether the issued opinion is scientifically sound or supportable. We found

1. The NMFS southwest regional office deviated from the agency's established consultation initiation process.
2. The southwest regional office did not follow its process for ensuring the quality of the biological opinion.
3. Neither the regional Section 7 coordinator nor the Office of General Counsel cleared the OCAP opinion.

In addition, there were allegations that a draft "jeopardy" opinion had been issued by NMFS to the Bureau of Reclamation and was subsequently changed to "no jeopardy" without sufficient justification. But we found no evidence to support the allegation that a draft "jeopardy" opinion had previously been provided to Bureau of Reclamation officials.

What We Recommended

We recommended the Assistant Administrator for Fisheries

1. Review existing delegations, policies and directives for Section 7 consultations,
2. Develop and implement a standard national set of policies and procedures for Section 7 delegations, including clarifying the legal review process,
3. Issue these policies and procedures to staff through its Policy Directives System, and
4. Submit these policies and procedures for incorporation into the NOAA Delegations of Authority.