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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

June 3, 2008

Mr. Pablo Arroyave
Area Manager
U.S. Bureau of Reclamation
Klamath Basin Area Office
6600 Washburn Way
Klamath Falls, Oregon 97603

Dear Mr. Arroyave:

Enclosed with this letter is NOAA's National Marine Fisheries Service's (NMFS) draft biological opinion for the Bureau of Reclamation's (Reclamation) proposed operation of the Klamath Project from 2008 to 2018. The draft biological opinion addresses effects of the proposed action on the threatened Southern Oregon/Northern California Coast coho salmon (SONCC coho salmon) Evolutionary Significant Unit and its designated critical habitat and the threatened Southern Distinct Population Segment (DPS) of green sturgeon in accordance with section 7 of the Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*). NMFS considered the comments it received from two of three independent peer reviewers on an earlier draft of the opinion in preparing the draft biological opinion. Those independent reviews are enclosed with this letter. NMFS is still considering the third set of comments received on May 28, 2008, and will incorporate any further changes needed prior to issuance of the final biological opinion.

NMFS concludes the proposed action is not likely to adversely affect threatened Southern DPS green sturgeon. However, NMFS concludes the proposed action is likely to jeopardize the continued existence of SONCC coho salmon, and is likely to destroy or adversely modify its designated critical habitat. NMFS is required to develop a reasonable and prudent alternative (RPA) in coordination with Reclamation (50 CFR §402.14(g)(5)). Although NMFS does not have a draft RPA developed at this time, the results of our analysis indicate that revisions to Klamath Project operations that would provide higher base flows in average and wetter water year types (approximately 25 to 55 percent exceedences) during the spring period (March through June), and increased flow variability through the fall would be necessary components of an RPA. In addition, due to the integral relationship between the U.S. Fish and Wildlife Service's (FWS) final biological opinion on Reclamation's Klamath Project and water availability and flexibility, NMFS will coordinate with the FWS when developing an RPA.



Comments on the draft biological opinion should be provided in writing by a schedule mutually-agreed to by Reclamation and NMFS. NMFS will consider comments it receives on the draft biological opinion when preparing the final biological opinion. NMFS will also give full consideration to all comments and information received from affected Indian Tribes during NMFS' government-to-government consultations with the Tribes.

In addition, in response to your July 16, 2007, request for information regarding the presence of Federally-listed species and designated critical habitat that may be affected by the proposed Klamath Project operations, NMFS responded on August 20, 2007, to Reclamation that available information indicates that SONCC coho salmon and green sturgeon were the only species that may occur in the action area. However, it has recently come to our attention that the endangered *Orcinus orca* (commonly known as orcas or "killer whales") Southern Resident killer whale DPS could be affected by the proposed action since operation of the Klamath Project may affect the amount of prey for orcas (e.g. Chinook salmon) during certain periods when orcas are feeding along the west coast. Because this information is recent, Reclamation has not yet submitted an assessment of the proposed action's effects on Southern Resident killer whale DPS and requested consultation. If Reclamation's assessment indicates that the Klamath Project may affect orcas, NMFS expects to consult with Reclamation to evaluate the potential effects of the Klamath Project on the Southern Resident killer whale DPS.

Finally, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, each Federal agency is mandated to consult with NMFS with respect to any action authorized, funded, or undertaken, or proposed to be, by such agency that may adversely affect any Essential Fish Habitat [EFH, 16 U.S.C. 1855(b)(2)]. As of this date, NMFS has not received from Reclamation an EFH assessment regarding its proposed action. Based on our analysis of coho salmon critical habitat, NMFS expects the proposed action would adversely affect designated Pacific Coast Salmon EFH within the Klamath River Basin. If Reclamation's EFH assessment indicates that the Klamath Project may affect Pacific Coast Salmon EFH, NMFS expects to consult with Reclamation to evaluate the potential effects of the Klamath Project on Pacific Coast Salmon EFH.

Please contact Mr. Jim Simondet at (707) 825-5171, if you have any questions concerning this draft biological opinion.

Sincerely,



Rodney R. McInnis
Regional Administrator

Enclosures