



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
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Sacramento, California 95814-4700

Feb 10, 2015

Mr. David Murillo
Regional Director
Bureau of Reclamation
2800 Cottage Way
Sacramento, California 95825

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

Re: Modification to the Interim Contingency Plan for February and March Pursuant to Reasonable and Prudent Alternative Action I.2.3.C of NOAA's National Marine Fisheries Service's 2009 Biological and Conference Opinion on the Coordinated Long-term Operation of the Central Valley Project and State Water Project.

Dear Mr. Murillo and Mr. Cowin:

This letter is in response to the U.S. Bureau of Reclamation's (Reclamation) February 9, 2015, letter, and enclosed Biological Review (along with a corrected Table 7 received via e-mail on February 10, 2015), wherein Reclamation and the California Department of Water Resources (DWR) propose to adjust water operations, consistent with the provisions of their Temporary Urgency Change (TUC) Petition submitted to the State Water Resource Control Board (State Board) on January 23, 2015, and as detailed in the project description submitted to NOAA's National Marine Fisheries Service (NMFS) on January 27, 2015. Together, the TUC Petition and the project description were accepted as the Interim Contingency Plan for February and March¹, consistent with drought exception procedures outlined in NOAA's National Marine Fisheries Service's (NMFS) 2009 Biological and Conference Opinion on the Long-term Operation of the Central Valley Project (CVP) and State Water Project (SWP, NMFS BiOp), Reasonable and Prudent Alternative (RPA) Action I.2.3.C. Within the Interim Contingency Plan, Reclamation and DWR provided a streamlined consultation framework for considering flexibility in the implementation of Old and Middle River (OMR) reverse flow requirements as defined in the NMFS BiOp, RPA Action IV.2.3, if conditions warranted.

¹ NMFS' response to Reclamation and DWR's TUC Petition is available at:
http://www.westcoast.fisheries.noaa.gov/publications/Central_Valley/Water%20Operations/2015-01-29_nmfs_tucp_response_letter.pdf



In light of the recent storm event and the increased inflow into the Delta, Reclamation and DWR propose to capture abandoned and natural flow by adjusting the implementation of RPA Action IV.2.3 in the NMFS BiOp. Specifically, Reclamation and DWR have requested the following flexibilities through February:

- Modification of footnote 13 in the NMFS BiOp, Action IV.2.3² to allow the transition period to be 2 days after an action response is completed.
- Modify the 14-day running average OMR to be up to -5,500 cfs for up to a 7-day period toward the end of the month of February 2015, provided OMR is not targeted to be more negative than -5,000 cfs for more than 5 days for the remainder of the month.

Reclamation has requested NOAA's National Marine Fisheries Service's (NMFS) concurrence that these actions are consistent with the NMFS BiOp. In addition to the requested flexibilities, above, Reclamation and DWR commit to operate during this period consistent with the conditions below:

- Prior to implementing any flex of the OMR target, the Projects will hold at an OMR target of -5,000 cfs for several days while assessing real-time monitoring data to determine delta smelt and salmon response and developing Delta conditions. If conditions are favorable, only then would the Projects consider short-term operations with pumping rates that are up to 25% more negative than the targeted OMR flow (-6,250 cfs OMR on a 5-day average) in close coordination with the U.S. Fish and Wildlife Service (USFWS), NMFS, and the California Department of Fish and Wildlife (CDFW). This added increment of negative OMR would be for a very short period not to exceed 5 days.
- In addition, for the period following the 5 days at an average of -6,250 cfs OMR, the Projects will operate to the -5,000 cfs OMR (or other prescribed OMR target) as conditions allow for the remainder of the 14-day averaging periods (9 days) under the BiOps as consistent with the Interagency 2015 Drought Strategy for the CVP and SWP, December 2014.
- Debris loads due to water hyacinth near the CVP fish collection facility unfortunately precludes the use of Jones Pumping Plant as the preferential location for the increased increments of pumping for the immediate future.
- The Delta Cross Channel gates will remain closed consistent with the State Board's Order and BiOps during this proposed operation.
- Conditions develop that are favorable for both Delta Smelt and listed salmon species – primarily winter-run Chinook salmon - that would allow for operation at more negative

² Footnote 13 is on page 75 of the NMFS' 2009 RPA with 2011 amendments, provided as Enclosure 2 of the document available at:

http://www.westcoast.fisheries.noaa.gov/publications/Central_Valley/Water%20Operations/Operations,%20Criteria%20and%20Plan/040711_ocap_opinion_2011_amendments.pdf

OMR rates in conjunction with elevated Delta outflows. This includes, sustained low turbidity levels in the south and central delta and no significant changes in catch or salvage data that signal an increase of delta smelt at risk of entrainment.

- Operations consistent with the February 3, 2015, TUC Order.
- Subject to the day-to-day evaluation and adjustment to changing conditions based on the latest distribution and assessment of risk to listed species in the Delta using information from:
 - Delta Smelt Early Warning Surveys;
 - Turbidity Modeling and Readings;
 - Continuing Salmon and Smelt Surveys;
 - Delta Hydrodynamics; and
 - Enhanced Practical Tracking Models for salmonids, if available.

Reclamation and DWR's January 27, 2015, Interim Contingency Plan, supported by NMFS' January 29, 2015, concurrence on the Interim Contingency Plan, provides a framework for the consultation process if OMR flexibilities are warranted and requested. Discussions regarding the potential OMR flexibilities were initiated through the Real-Time Drought Operations Team (RTDOT) on February 2, 2015, and Reclamation and DWR's Proposed Action and Biological Review were developed in close coordination with the USFWS, NMFS, and CDFW.

The enclosed table provides an example of how the OMR flexibilities could be implemented, as proposed and using an OMR index, and includes the daily and 14-day running average OMR values. In addition, Table 1 in the Biological Review provides an example of the projected Freeport and Vernalis flows, outflow, combined exports, and daily OMR, which were used in the Delta Simulation Model II modeling to evaluate potential effects of the Proposed Action.

To support Reclamation and DWR's proposed flexibilities, the Biological Review provided updated information on the current distribution of the listed anadromous salmonid species (as of February 8, 2015), and a general effects analysis of the proposed water operations. NMFS has carefully reviewed the analysis, and concurs with its findings³. In summary, NMFS concurs that the current request for the OMR flexibilities is consistent with the Interim Contingency Plan for February and March 2015. We are making this finding in consideration of Reclamation and DWR's planned operations for the remainder February 2015, as described above. The analysis concludes that the Proposed Action will likely cause hydrodynamic changes in the Delta that may enhance the risk of entrainment of juvenile winter-run Chinook salmon, spring-run Chinook salmon, California Central Valley steelhead, and green sturgeon into the central and south Delta, and may cause greater loss at the CVP/SWP fish collection facilities during the 5 days of more negative OMR flows and possibly to a lesser extent, over the extended period of the Proposed

³ The Biological Review was based on monitoring data available as of 2/8/15. Since that time, NMFS has learned that over 4% (22 of the 571) of the acoustic-tagged hatchery winter-run Chinook salmon released by Livingston Stone National Fish Hatchery (LSNFH) in Redding, California have been detected passing the acoustic receiver in the Sacramento River near downtown Sacramento. These data, in conjunction with high catch of likely LSNFH fish in the Sacramento Trawl, indicates faster travel times than expected by agency biologists. NMFS will continue to monitor the acoustic tracking of hatchery winter-run Chinook salmon during implementation of the OMR flexibility.

Action, which incorporates the 14-day averaging period. These effects will be minimized through: (1) planned operations being limited to 5 days of OMR flows no more negative than -6,250 cfs and co-occurring with a period of high Delta outflow, and (2) the continued implementation of all of the action triggers provided in RPA Action IV.2.3. We have reached this conclusion through examining real-time physical and biological data. Our conclusion is based on recognition in the RPA that Reclamation may not be able to operate to all RPA elements in the case of continued drought.


Furthermore, we have examined the level of incidental take at the export facilities to date in water year 2015 (as of February 9, 2015, there has been an estimated loss of 102 natural winter-run Chinook salmon at the export facilities) relative to the incidental take limit of 2,490 natural winter-run Chinook salmon⁴, and conclude that implementation of the Interim Contingency Plan, modified by the proposed OMR flexibilities, will not exceed levels of take at the export facilities anticipated for implementation of the RPA specified in the NMFS BiOp.

NMFS expects there to be continued close coordination with Reclamation and DWR on current and projected operations on a weekly basis through existing meetings (Delta Operations for Salmonids and Sturgeon technical working group, Delta Conditions Team, Water Operations Management Team, *etc.*). The RTDOT will continue to meet on at least a weekly basis to address the potential for drought response actions for future months, and to discuss the process by which such actions will be presented to the State Board and the fish agencies (CDFW, NMFS, USFWS) for approval. In addition, minor changes to the Proposed Action, from those characterized in the enclosed table and Table 1 of the Biological Review based on changes in hydrology, will be discussed and agreed to by the RTDOT.

We look forward to continued close coordination with you and your staff throughout this extremely challenging water year.

If you have any questions regarding this letter, please contact me at will.stelle@noaa.gov, (206) 526-6150, or contact Maria Rea at (916) 930-3600, maria.rea@noaa.gov.

Sincerely,


William W. Stelle, Jr.
Regional Administrator

cc: Copy to file: ARN151422SWR2006SA00268

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Example of daily and 14-day average Old and Middle River (OMR) flows while implementing the proposed OMR flexibilities

Date	Daily OMR (cfs)	14-day average OMR (cfs)
February 9	-5,000	N/A
February 10	-5,000	N/A
February 11	-6,250	N/A
February 12	-6,250	N/A
February 13	-6,250	N/A
February 14	-6,250	N/A
February 15	-6,250	N/A
February 16	-5,000	N/A
February 17	-5,000	N/A
February 18	-5,000	N/A
February 19	-5,000	N/A
February 20	-5,000	N/A
February 21	-5,000	N/A
February 22	-5,000	-5,446
February 23	-5,000	-5,446
February 24	-5,000	-5,446
February 25	-5,000	-5,357
February 26	-5,000	-5,268
February 27	-5,000	-5,179
February 28	-5,000	-5,089
March 1	-5,000	-5,000
March 2	-5,000	-5,000

