



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

DEC

4 2015

Refer to NMFS No.: WCR-2015-3801

Mr. Ronald Milligan  
Operations Manager  
Bureau of Reclamation  
3310 El Camino Avenue, Suite 300  
Sacramento, California 95825

Re: Reasonable and Prudent Alternative Action IV.1.2 of the 2009 Coordinated Long-term Operation of the Central Valley Project and State Water Project Biological Opinion - Request for Flexibility in Delta Cross Channel Gate Operations December 1 through December 14, 2015

Dear Mr. Milligan:

This letter responds to the U.S. Bureau of Reclamation's (Reclamation) December 2, 2015, letter and enclosures, wherein Reclamation proposes a modification to Reasonable and Prudent Alternative (RPA) Action IV.1.2 in NOAA's National Marine Fisheries Service's (NMFS) June 4, 2009, biological and conference opinion on the long-term operation of the Central Valley Project (CVP) and State Water Project (SWP, NMFS 2009 BiOp). In response to the continuing drought conditions, Reclamation proposes to open the Delta Cross Channel (DCC) gates by modifying the December 1-14, action triggers of RPA Action IV.1.2 such that the triggers would be based on exceedances of water quality concern levels rather than exceedances of the water quality criteria identified in State Water Resources Control Board Decision 1641 (D-1641). Modifying the action triggers in such a way would allow for a preemptive opening of the DCC gates to impede salt water intrusion and halt the deterioration of water quality in the Sacramento-San Joaquin Delta (Delta) during a period of minimal entrainment risk to listed species. Reclamation seeks concurrence from NMFS that the effects of the requested flexibility in DCC gate operations for December 1 through 14 are consistent with what was analyzed in the NMFS 2009 BiOp, do not jeopardize the continued existence of these listed species or adversely modify or destroy their designated critical habitats, and that any incidental take resulting from these changes is within the existing incidental take limits in the NMFS 2009 BiOp.

NMFS is aware that California has had to face critically dry conditions in the previous four water years, and that the State is now entering what could be its fifth straight year of below-average rainfall and very low snowmelt runoff. Without significant precipitation, the State's overall water storage levels will remain far below that which would be necessary to supply human needs, repel saltwater intrusion to the Delta, and provide for cold water necessary for listed fish. In light of the continuing dry conditions at the beginning of this water year, NMFS reaffirms its commitment to provide assistance in managing natural resources in California during the



ongoing drought conditions. With near-minimum releases from CVP and SWP reservoirs, respectively, and very low pumping in the Delta, the only opportunity to preserve and improve water quality conditions in the Delta comes through DCC gate operations.

Enclosed with Reclamation's request letter is a Biological Review of the proposed modification to DCC operations, which provides status updates on the presumed distribution of ESA-listed Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, California Central Valley steelhead, and the Southern Distinct Population Segment of North American green sturgeon, covered by the NMFS 2009 BiOp, and summarizes the generalized effects of modified DCC operations on those species. The Biological Review further describes the form and trend of effects expected and assigns a qualitative level of certainty to each effect conclusion. NMFS acknowledges that the Biological Review analyzed the anticipated effects of the modified DCC operations for the period of December 1-14, providing a mostly qualitative assessment that is based on the assumption that hydrologic and meteorological conditions will remain the same as current conditions. Considering that most of the species under NMFS jurisdiction are presumed to have yet to emigrate to the Delta based on current monitoring observations, the risk of entrainment through the DCC has a limited temporal duration and minimal risk to the listed species' populations based on the continuation of current conditions.

Although the Biological Review does not directly consider effects to critical habitat, the underlying analyses in the NMFS 2009 BiOp identify a properly functioning Delta as critical to migration pathways and rearing habitat, both of which are Primary Constituent Elements of critical habitat for listed anadromous fish species. That analysis includes effects to critical habitat related to opening the DCC gates per RPA action IV.1.2, concluding that those effects do not change the conservation value of critical habitat.

The following are NMFS' summaries and expectations based on Reclamation's proposed modification to the operation of the DCC gate for December 1-14:

- NMFS supports the modification to the December 1-14 action triggers of RPA Action IV.1.2;
- DCC gates will be closed within 24 hours if either:
  - The salinity level at any of the four water quality stations (Jersey Point, Bethel Island, Holland Cut or Bacon Island) drops below the concern levels; or
  - Fish monitoring data are greater than three fish per day for the Knights Landing Catch Index (KLCI) or Sacramento Catch Index (SCI) surveys, as outlined in RPA IV.1.2.
- U.S. Fish and Wildlife Service will intensify the SCI surveys to a daily effort during the period of time that the gates are open.
- While the DCC gates are open, combined exports will be limited to 1,100 cfs to support Human Health and Safety.


In conclusion, NMFS concurs that Reclamation's proposed opening of the DCC gates, based on a modification to the December 1-14 action triggers of RPA Action IV.1.2, is consistent with what was analyzed in the NMFS 2009 BiOp. We are making this finding based on both the Biological Review attached to Reclamation's letter, which describes the additional adverse effects of the



modified DCC operations, and our conclusion that the potential effects of the type of operations proposed was considered in the underlying analysis of the NMFS 2009 BiOp. The analysis in the NMFS 2009 BiOp considered that the DCC gate may need to be opened December 1-14 to address Delta water quality concerns and concluded that implementation of the RPA, including Action IV.1.2, is not likely to jeopardize the continued existence of Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, California Central Valley steelhead, the Southern Distinct Population Segment of North American green sturgeon, and the Southern Resident killer whales, and will not result in the destruction or adverse modification of their designated critical habitats. Furthermore, the best available scientific and commercial data indicate that modified operation of the DCC gates during December 1-14 will not exceed levels of incidental take anticipated for implementation of the RPA specified in the NMFS 2009 BiOp.

We look forward to continued close coordination with you and your staff throughout what may be another 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: Division Chron File: ARN #151422SWR2006SA00268

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