



UNITED STATES DEPARTMENT OF COMMERCE  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
West Coast Region  
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MEMORANDUM FOR: Barry Thom  
Regional Administrator

FROM: Maria Rea  
Assistant Regional Administrator  
California Central Valley Office

SUBJECT: Review and clearance process for the Reinitiation of Consultation  
on the Long-Term Operations of the CVP and SWP biological  
opinion

This memo describes the proposed process for expedited and effective internal review by NOAA's National Marine Fisheries Service (NMFS) West Coast Region (WCR) of the upcoming California Central Valley Office (CCVO) consultation under Endangered Species Act section 7 on the U.S. Bureau of Reclamation's (Reclamation) Reinitiation of Consultation on the Coordinated Long-Term Operation of the CVP and SWP (ROC on LTO) proposed action. The proposed action includes operation and maintenance of existing Central Valley Project/State Water Project facilities.

**Goals and objectives for expedited review:**

1. Comply with NMFS WCR quality assurance/quality control (QA/QC) policy and practices related to section 7 formal consultations.
2. Ensure lessons learned from the April 12, 2005, Inspector General report and litigation on the 2009 biological opinion on the long term operations of the Central Valley Project and State Water Project (OCAP) are incorporated.
3. Discuss and apply lessons learned from the California Water Fix consultation with the ROC on LTO team.
4. Facilitates NMFS' ability to meet the timeline provided in the October 19, 2018, White House Memorandum "Promoting the Reliable Supply and Delivery of Water in the West".

**WCR review and signature process:**

According to the Quality Assurance Plan for ESA Section 7 Consultations in the NMFS West Coast Region, dated October 17, 2018, a biological opinion would require four levels of review: first line supervisor, division section 7 coordinator, Assistant Regional Administrator (ARA), and General Counsel. If the biological opinion is not controversial or not concluding jeopardy and/or adverse modification, the ARA may sign the biological opinion under his or her signature block. However, if it is controversial or concluding jeopardy and/or adverse modification, the Regional Administrator would sign the opinion. For either type of



biological opinion, the regional section 7 coordinator may be requested to review the biological opinion.

**Internal opportunities for efficiencies:**

- Designation of a project manager responsible for managing the project within the mission and goals of the agency and the schedule of the White House memo, working with lead and team staff to establish and meet project goals and schedule, and overseeing the clearance of products. This role is filled by Garwin Yip, CCVO Water Operations and Delta Consultations (WODC) Branch Chief.
- Designation of a policy oversight specialist responsible for managing and elevating policy concerns, providing guidance and recommendations for resolving elevated issues, and tracking resource and budget needs. This role is filled by Howard Brown, CCVO Senior Policy Advisor.
- Designation of a science coordinator responsible for managing data exchanges with Reclamation, NMFS, and the NMFS SWFSC, ensuring that technical information is provided to the team in a timely manner, and facilitates the application of best available science to the consultation products. This role is filled by Cathy Marcinkevage, CCVO Future Operations and Adaptive Management Branch Chief.
- Designation of a lead biologist responsible for providing section drafting assignments and timelines, assisting in interpretation and synthesis of results, reviewing sections for compliance with section 7 regulations and policy, reviewing sections for consistency in adherence to analytical approach, and briefing policy oversight specialist on matters that require elevation and policy resolution. This role is filled by Barb Byrne, CCVO WODC Branch Staff.
- Involve key reviewers (*e.g.*, division section 7 coordinator, regional section 7 coordinator, and General Counsel, *etc.*) early in the process to discuss approaches to the consultation. The early engagement with the reviewers would: (1) be beneficial, (2) expedite the review process for the biological opinion, and (3) be balanced; however, the reviewers will retain their independence and provide the fresh set of eyes for the QA/QC review of the biological opinion, as intended.
- The division and regional section 7 coordinators will work together to ensure all sections are reviewed for clearance.
- Reviewers who are not requested to review the biological opinion in its entirety (such as the regional section 7 coordinator or ARA), or those who are unable to review its entirety, will write a memo to the record describing their role in the review (*e.g.*, if only portions were reviewed, identify sections focused on and sections not reviewed) and general comments and impressions (*e.g.*, despite not reviewing the entirety of the biological opinion, the analysis generally supports the conclusions).
- A summary of previous litigation documents, the Inspector General report, and peer reviews on the OCAP biological opinion have been shared among the reviewers and managers as lessons learned to inform development and review of the biological opinion.
- Dedicated staff, including a technical editor and administrative records assistant will have been acquired to ensure consistency and efficiency in document production.

**External opportunities for efficiencies:**

- Immediate elevation of any issues or disagreements to the Policy Advisor, the Assistant Regional Administrator and the Regional Administrator for swift resolution and guidance.

**NMFS staff involvement:**

- Division section 7 coordinator: Participate during decisive stages of BA review and throughout the planning and development of the biological opinion.
- Regional section 7 coordinator: Participate in early coordination and review of relevant sections of the biological opinion to provide timely feedback to the final review draft.
- General Counsel: Provides legal guidance and direction to the biological opinion development team and biological opinion reviewers. Review sections of the biological opinion as they are developed to provide timely feedback to allow incorporation into final review draft. Provide final General Counsel review and clearance.
- ARA: Review key biological opinion sections as they are developed and provide timely feedback to allow incorporation into final review draft.
- NMFS staff: CCVO (augmented by select CCO and PRD) staff will collectively oversee development of biological opinion, including developing the analytical framework, conducting analyses, and drafting determinations and take statements.

**Ground rules for reviews:**

- ESA section 7 regulations are currently being revised but were not finalized at the initiation of consultation. Until the regulations are revised, the biological opinion will follow current (as of March 14, 2019) regulations.
- Ensure consistency with applicable regulation, policy and guidance.
- No style edits.
- Direct track changes where possible and margin comments where necessary.