

**Critical Success Factors for NMFS to meet the expedited schedule
identified for the reinitiation of consultation on long-term operations**

Updated on October 25, 2018

Section 2(c)(ii-iii) of the October 19, 2018, White House Memo, Promoting the Reliable Supply and Delivery of Water in the West, directed the Secretary of Interior to issue final biological assessments for the long-term coordinated operations of the Central Valley Project and the California State Water Project by January 31, 2019 and the Secretaries of Interior and Commerce to issue biological opinions within 135 days. NMFS is recommending the following critical success factors to ensure that, to the maximum extent practicable, these documents can be completed in a timely and sufficient manner and consistent with applicable law.

Formal consultation is initiated through a request that must include the following six pieces of information as described in CFR 402.14(c). Below, is an annotated break down of information needs specific to this consultation:

1. A description of the proposed action to be covered.
2. A description of the specific area that may be affected by the proposed action.
3. A description of any listed species or critical habitat that may be affected by the proposed action.
4. A description of the manner in which the action may affect any listed species or critical habitat, and an analysis of any direct, indirect, or cumulative effects.
 - a. Direct Effects: Effects to listed species of designated critical habitat that occur during implementation of the project.
 - b. Indirect Effects: Effects to listed species that occur later in time or offsite, but are reasonably certain to occur.
 - c. Cumulative Effects: For purposes of the ESA, cumulative effects are defined as the effects of future State or private activities, not involving Federal activities, that are reasonably certain to occur within an action area of the Federal action subject to consultation (50 CFR 402.02). Future Federal actions are not included here because they require separate consultation pursuant to Section 7 of the ESA.
5. Relevant reports, including any environmental impact statements, environmental assessments, biological assessments or other analysis prepared regarding the proposal.
6. Any other relevant studies or other information available on the action, the affected listed species, or critical habitat.

Critical Success Factors

NOAA's National Marine Fisheries Service (NMFS) submits a recommended list of recent science and models to use in the Biological Assessment (BA) to the Bureau of Reclamation (Reclamation) by November 2, 2018.

The Bureau of Reclamation (Reclamation) submits a draft of the project description and proposed analytical approach to NMFS by November 30, 2018.

NMFS provides a written response to the project description and analytical approach by December 15, 2018.

Reclamation submits draft effects analysis for NMFS review by January ??, 2019.

All areas of dispute or disagreement are resolved by January 31, 2019.

The BA includes a complete project description designed to result in no jeopardy for NMFS' listed species, no adverse modification for designated critical habitats.

The proposed action adopts the 2011 amended reasonable and prudent alternative (RPA) actions of the 2009 Biological Opinion (BiOp) and any changes are **non-controversial**, are accompanied by best available science that is not disputed between the agencies, and contains an analysis that the action is at least equally protective to the current RPA action(s) based on that science.

All sections of final BA are complete, accurate, and have sufficient detail to support BiOp development. There is no significant disputed science in the BA, and to the maximum extent practicable, the Description of Proposed Action, Effects Analysis, Status of the Species and Environmental Baseline are "copy and paste-able" into the BiOp.

All major technical/policy issues and red flags regarding science, modeling and the jeopardy/adverse modification standard are fully resolved before Reclamation submits the final BA to NMFS.

Final BA is complete (sufficient detail to assess the specific effects of both construction and operations on listed species), no additional information is needed when submitted to FWS/NMFS.

BOR, FWS, and NMFS would be working closely together through the entire consultation process. Any issues would be quickly elevated and resolved.

Existing staff and/or technical staff from agencies and consultants working on the development of the BA are available for technical assistance during the BiOp development phase.

Agencies have dedicated staff who are working solely on this effort throughout the development of the BA and BiOp (to provide technical assistance and understanding of issues throughout the process) and resources available for implementing and completing the expedited schedule are not re-directed to drought, new legislation, or other issues.

Peer review and BOR review of draft BiOp does not result in significant changes to the BiOp.

Internal reviews at the Regional, HQ, Department, and Solicitor levels do not result in significant changes to the BiOp.

Conservation needs of individual species do not come in conflict with one another.

Reclamation and NMFS would be working closely together through the entire consultation process. Any issues would be quickly elevated from the CORE team to the Directors and resolved. CORE team meetings will be independently facilitated, with draft meeting notes distributed for review within 3 business days, and final meeting notes timely distributed soon after, to include the Directors. All agreements and issues for elevation will be documented and managed.