

Agenda
ROC on LTO Director's Meeting
March 8, 2019

I. Introductions

II. Opening Remarks

- a. Paul Souza
- b. Ernest Conant
- c. Barry Thom

III. Status of Consultations

- a. USFWS
- b. NMFS
- c. BA Updates from Reclamation
 - Reclamation says they are updating the BA to reflect agreements made at the focus group meetings and they have a tracker that addresses changes to USFWS-related actions, but nothing updated to NMFS-related changes. This is a concern for NMFS and a leap of faith for us. Need to nail down the commitment. Reclamation says they are going to update the BA to reflect agreed-upon changes but we need a commitment on timing.

IV. Elevation Topics

1. Trinity River ROD Flows

- a. Agency Positions/Perspectives

NMFS

- Seasonal operations in the Trinity River (which are included in the Trinity ROD) are described in the Proposed Action section and modeled in the BA, but listed as “Not Consulted On” because they are covered by an existing Biological Opinion (i.e., the 2000 Trinity ROD flows BiOp).
- NMFS believes the 2000 Trinity ROD flows BiOp warrants reinitiation.
- The 2000 Trinity BiOp does not provide take exemption for coho;
- The 2000 Trinity BiOp does not include Pacific eulachon, green sturgeon sDPS, or Southern Resident killer whales.
- Including the Trinity ROD flows as part of the proposed action in the ROC on LTO would provide Reclamation with appropriate take exemption for these listed species.
- Minimal BA revision from Reclamation is required (minor editing that would provide consistent, unambiguous language).

Reclamation

- Trinity ROD flows should not be part of the ROC on LTO. The current consultation schedule is too tight to take on this level of consultation.
- Also, Reclamation maintains that consulting on the ROD flows right now may result in proposing to divert more Trinity water into the Central Valley.

Draft Agenda for Discussion Purposes Only

b. Next Steps/Options for Resolution

- NMFS is seeking agreement from the Regional Directors that the Trinity ROD flows are included in the ROC on LTO.

2. COA

a. Agency Positions/Perspectives

NMFS

- *See separate NMFS briefing paper*
- NMFS concern is that the COA is so embedded into operations that it should be a clear part of the consultation.
 - NMFS experience is that the COA has restricted operational flexibility for (as an example), Shasta storage management and Delta Pumping Operations.
- Because this consultation provides ESA coverage for Oroville operations that are caused by reoperations to meet Delta conditions, understanding the COA will be important for take authorization for both CVP and SWP.
- We have an option to address this as interrelated and interdependent actions. They fit the definition almost perfectly.

Reclamation

- Reclamation's position is that the COA addendum was signed and environmental review complete. The EA and FONSI are posted to Reclamation's website. Reclamation completed an internal ESA "No Effect" Memo that they would not discuss or share with us.

b. Next Steps/Options for Resolution

- The COA is integral to operations, and NMFS believes it should be consulted on as part of this consultation.

3. Reclamation Shortage Policy

a. Agency Positions/Perspectives

NMFS

- *See separate NMFS briefing paper*
- Reclamation updated their shortage policy after 2009. NMFS requested cooperating agency status, and commented that it would be important to have an alternative that allowed for shortages for all contracts in locations and amounts needed to meet ESA metrics and needs. We were told that the shortage policy was flexible to ESA, and that these needs would be re-visited during the next CVP-DWR consultation. Also, contracts generally contain shortage provisions, but these provision are not specific as to ESA needs. Contracts generally are not separately consulted on, but defer to systemwide operations consultation.
- We have an option to address this as interrelated and interdependent actions. They fit the definition almost perfectly.

Reclamation

- Reclamation feels strongly that this should not be elevated. They also maintain that the shortage policy only applies to M&I allocations and thus is an insignificant part of the consultation.

b. Next Steps/Options for Resolution

Draft Agenda for Discussion Purposes Only

- The shortage policy is integral to operations, and NMFS believes it should be consulted on as part of this consultation.

4. Adaptive Management

a. Agency Positions/Perspectives

NMFS

- *See separate NMFS briefing paper*
- A comprehensive, robust Adaptive Management Program/Framework (AMP/F) is repeatedly called for by independent science review panels.
- Reasonable Certainty: A structured AMP/F can provide credible, durable solution to address uncertainty in elements of the project and effects.
- Without a structured program, each individual action would require a separate individual consultation.
- Necessary component for the State to issue an ITP

Reclamation

- Reclamation has not signed the CWF ROD and does not plan to adopt the 5-agency AMF for this consultation, but is committed to finding common ground.

b. Next Steps/Options for Resolution

- NMFS recommends a modification to the existing 5-agency AMF with CWF references removed and Reclamation's interest in "autonomy" addressed.

5. Fish Passage Program

a. Agency Positions/Perspectives

NMFS

- *See separate NMFS briefing paper*
- NMFS believes this action would provide water supply benefits, particularly in dry and critically dry years, once populations are established in historical habitats. The Fish Passage Program also was an important RPA action in the NMFS 2009 BiOp to partially ameliorate winter-run effects.

Reclamation

- Reclamation has not proposed this action. Reclamation's position is that the existence of project facilities are part of the baseline, and those effects are not the subject of this consultation. To the extent that fish passage is a recovery measure or part of a recovery plan, Reclamation's role in that effort should be a separate discussion.

b. Next Steps/Options for Resolution

- We just want to get this out in front of the new BOR director right now. We expect no movement on this right now.

6. I:E Ratio

a. Agency Positions/Perspectives

NMFS

- *See separate NMFS briefing paper*
- NMFS concerned that the proposed action does not provide a suitable replacement for April/May San Joaquin steelhead protections.

Draft Agenda for Discussion Purposes Only

- The proposed action results in more negative OMR flows in the south Delta during April and May than the I:E ratio.
- The proposed OMR loss/density trigger of 10 steelhead/TAF is not sensitive enough to detect the low numbers of San Joaquin River basin steelhead emigrating through the system
- The above, coupled with no proposed installation of a Head of Old River barrier in spring, will likely result in more loss of steelhead originating from the San Joaquin River Basin at the Federal and State export facilities than under the I:E ratio protections.

Reclamation

- Reclamation has not proposed this as part of the action.
- b. Next Steps/Options for Resolution
- This is more of a heads up conversation. Possibly something we discuss as a placeholder for a potential reinitiation.
 - Voluntary Settlement Agreements would put this water back in the system.
 - Lets agree to put a small group together

V. Issues Currently Being Worked on that are Not Resolved

1. Operations with Shasta Dam Raise

a. Agency Positions/Perspectives

NMFS

- NMFS believes there is not sufficient information regarding the details of the proposed action or the effects analysis for a site-specific or programmatic consultation. Details necessary include:
 - i. Updated CalSim run that includes the Shasta Dam Raise;
 - ii. How Reclamation proposes to operate with the Shasta Dam Raise, (will HEC5Q be updated to reflect the Shasta Dam Raise?).
 - iii. What changes will be made to the temperature control device and when that will occur; and
 - iv. Biological modeling for effects downstream of Keswick Dam based on the new operation and CalSim results.
 - v. How will downstream floodplain inundation frequency and duration be affected (i.e., Yolo Bypass).
- Reclamation proposed this action as a site-specific, core operations action relying on a project description and analysis from the 2012 Feasibility Study. Not having it in at all poses challenges and Reclamation is willing to explore options.
- Reclamation is telling us that they can get us the information we need to consult programmatically. But, the time is ticking on our BiOp schedule and this places a significant burden on NMFS to explore options. This is a schedule killer.

Reclamation

- Reclamation wants to get us the information we need to consult programmatically.
- b. Next Steps/Options for Resolution
- We should consider if we are taking on too much and if perhaps we should defer this to a fall conversation about reinitiation.

2. Shasta Cold Water Pool Management

Draft Agenda for Discussion Purposes Only

- NMFS has many questions about how the 4-tiered proposal from Reclamation (still unclear about the PA and Effects). There is a modeling focus-group meeting scheduled for next Tuesday.

3. OMR Management – Non-implementable triggers

- The PA includes various new OMR fish triggers for salmon and steelhead. One trigger is based on the “spring-run Juvenile Production Estimate,” yet no such metric is currently estimated. Another is based on the percentage of the spring-run and steelhead populations in the Delta. NMFS does not necessarily disagree, in theory, with the proposed metrics, but are not aware of any population estimates for spring-run Chinook salmon and steelhead in order to implement the fish triggers.
- Reclamation is willing to explore programs to support these triggers, however, is not proposing to fund or implement new programs to support the triggers.
- At the “Delta focus group” meeting on Thursday, 2/28/19, there was agreement that NMFS and CDFW would develop alternative criteria implementable with currently-available monitoring information and check back with Reclamation. Reclamation was open to NMFS proposing the alternative criteria in the BiOp to replace the impracticable criteria in the BA.

4. OMR Management – Offramp of real-time OMR restrictions

- There is language in the PA regarding a Director-level option to offramp real-time OMR restrictions (see short para at bottom of p. 4-54 to top of 4-55) to go to more negative levels that described in the BA
- Agreement at the 2/22/2019 all-day sufficiency review meeting to elevate this issue to the Directors.
- USFWS working on draft alternative language and shared with Reclamation and NMFS. NMFS has not reviewed the proposed change.

5. CVPIA B-2

- USFWS likely to carry this conversation.
- B2 is dedicated storage for fishery benefits. Since the 2009 BiOp it has been used to provide water for fish protections but is not mentioned in the BA.
- The B2 program...

6. Fall X2

- Mostly a USFWS matter and they will carry the conversation
- Lack of specificity for target to maintain fall habitat for Delta smelt.
- Reclamation would like to define habitat-based approaches (e.g., location, acreage, and salinity) to drive Suisun gate operations in the summer and potential fall actions.

VI. Looking Ahead

1. Voluntary Settlement Agreements
2. State CEQA/CESA