

June X, 2019

Mr. Wilbur Ross
Secretary, Department of Commerce

Mr. Barry Thom
Manager, NMFS West Coast Region

Dear Secretary Ross and Mr. Thom,

We write to express the concern of the Pacific Fishery Management Council (PFMC) regarding the Bureau of Reclamation's final Biological Assessment (BA) of the Reinitiation of Consultation on the Coordinated Long-Term Operation of the Central Valley Project and State Water Project (ROC or the proposed project). We believe that the proposed project would result in changes to Central Valley Project (CVP) and State Water Project (SWP) operations that could significantly harm Council managed fisheries and essential fish habitat (EFH) that the Council has identified as crucial for the propagation of those fishery resources.

The Pacific Council was established by the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (MSA), and has jurisdiction over more than 119 fish species in Federal waters off Washington, Oregon, and California, including fall run Chinook salmon in the Sacramento/San Joaquin and Klamath/Trinity systems. The MSA charges the Pacific Council to protect the habitat these fish depend on during all stages of their life cycle, and includes provisions to identify, conserve, and enhance EFH for those managed species.

The MSA requires Federal agencies including the Bureau of Reclamation to consult with the National Marine Fisheries Service on all proposed actions that may adversely affect EFH (MSA §305(b)(2)). The Pacific Council is also authorized under the MSA to comment on and make recommendations to Federal agencies regarding EFH protection. Furthermore, for activities that the Pacific Council believes are likely to substantially affect the habitat of the salmon fishery, the Pacific Council is obligated to provide comments and recommendations (MSA §305(b)(3)). It appears that the proposed project would adversely affect or modify council designated EFH.

As you know, the PFMC manages the harvestable surplus of fall run Chinook salmon in the Central Valley and the Klamath/Trinity River systems for commercial and recreational fisheries benefit. In addition, the Council manages these fisheries based on the survival and abundance of winter run Chinook salmon in the Central Valley, which are listed as endangered under the Endangered Species Act (ESA). Decreases in the survival or abundance of either fall run or winter run Chinook salmon would significantly impact Council managed fisheries by limiting the opportunity afforded to commercial and recreational fishermen according to our salmon Fishery Management Plan (FMP) through direct impacts to fish available for harvest, or constraints placed on harvest allocations.

Fall run Chinook stocks in the Central Valley and Klamath/Trinity have been recently declared to be overfished (e.g. depleted) due to the significant impacts caused by persistent drought conditions and water management problems. Pursuant to the FMP, the Council is developing

recovery plans for these stocks that identify impacts to EFH from water operations. Avoiding additional constraints on council managed fisheries by preventing deleterious impacts to EFH is of paramount importance to us.

The Proposed Project Inadequately Protects Winter Run Chinook Salmon

In 2015 we raised concerns¹ with Reclamation regarding the loss of temperature control at Lake Shasta and the Sacramento River downstream of CVP facilities there, resulting in extreme levels of winter run Chinook salmon mortality. Additionally, the National Marine Fisheries Service developed a draft set of Reasonable and Prudent Alternatives (RPA) for Shasta operations in 2017 to prevent the reoccurrence of these unacceptable conditions.

We are disappointed to see that many of the recommendations made in our earlier comments have not been incorporated into the BA, and that the proposed project would instead eliminate carryover storage requirements in Lake Shasta, including dispensing with the operational requirements in the RPA and the carryover requirements in the current biological opinion for CVP/SWP operations promulgated in 2009. The failure to include carryover storage requirements would significantly reduce cold water pooling capacity in the reservoir, which is critical in order to facilitate the survival of juvenile winter run Chinook salmon during dry and critically dry years, or protracted droughts.

The BA also proposes the elimination of consultation requirements with NMFS regarding Lake Shasta operations. This would likely result in the failure of the Bureau of Reclamation to account for the impacts of CVP/SWP operations to Council managed fisheries resulting from constraints driven by low abundance of winter run Chinook salmon. NMFS consultation on these operations is necessary in order to ensure that water operations are directed to ensure impacts to ESA listed salmon and the ancillary impacts to harvested species are accounted for. Such a failure could result in significant economic impact to commercial and recreational fisheries.

We also believe that the BA appears to propose CVP/SWP operations that would result in levels of temperature-dependent mortality for winter run Chinook salmon that exceed the draft RPA by a significant margin. In the 2017 RPA, NMFS outlined a set of temperature dependent mortality thresholds for various water year types. According to the BA, the parameters of the proposed project operations would result in exceedances of these mortality thresholds in all water year types. Of particular note, in critically dry years, the BA estimates 61% temperature dependent mortality under the parameters of the proposed project operations. This level exceeds by a significant margin the maximum threshold of 30% temperature dependent mortality determined by NMFS in the RPA.

The Proposed Project Would Result in Adverse Modifications to EFH

¹ See <http://www.pcouncil.org/wp-content/uploads/2009/12/SRWC-Temp-Flow-Letter-May-2015.pdf>

The PFMC is charged with the designation of EFH for Council managed fisheries under §305 of the MSA and to comment on federal agency actions that affect the EFH of Council-managed species. Accordingly, the Council has determined that areas and conditions contained within the CVP/SWP proposed project area constitute EFH. In the CVP/SWP project area, the Council identified currently viable EFH for all tributaries and the mainstems of the Sacramento and San Joaquin river systems, and most of the habitat historically accessible to Chinook salmon, as well as estuarine waters, including the Delta.

The EFH description of the Pacific Coast Salmon Fishery Management Plan (FMP) lists known threats to salmon habitat such as dam construction, reducing in-river flow, levee construction, logging riparian habitat, and pollution from both agricultural and urban runoff. These threats lead to loss of water quality, including elevated water temperatures, increased turbidity and suspended solids, flooding and dewatering of spawning areas, and alteration of the natural flow regime. The EFH description identifies beneficial habitat factors listed as EFH including side channel habitat, channel margin shading, high riffle/pool ratio and structure, and presence of large woody debris.

The Council is greatly concerned that the proposed project would result in the significant deleterious adverse modifications to Council designated EFH for managed fisheries, including fall run Chinook salmon. These impacts include but are not limited to impairment of conditions necessary for the survival and propagation of council managed fisheries in the Sacramento River due to inadequate temperature management and altered hydrographic conditions reducing flows at key periods of fall run salmon ontogeny, as well as adverse modifications to the Delta via increased diversions from CVP and SWP pumping facilities in the Delta.

The BA proposes to significantly increase Delta pumping and increase Old and Middle River (OMR) reverse flows from April to May, which constitutes a crucial period of outmigration for fall run Chinook salmon. Increased pumping and OMR reverse flows would result in the degradation of key EFH conditions, including deleterious reductions in estuarine flows, and increased likelihood of mortality driven by entrainment at fish screens and pumping facilities. Such impacts would significantly and adversely impact Council designated EFH and result in impacts to Council managed fisheries.

Conclusion and Request for Recommendation to Conserve EFH

As noted above, the Council believes that the proposed action would result in adverse impacts to Council designated EFH. Consistent with MSA §305(b)(4)(A), the Council requests that you make recommendations to the Secretary of the Interior regarding measures that can be taken to conserve the EFH we have identified as likely to be adversely impacted by the proposed project.

In closing, the Council urges you to scrupulously evaluate the proposed project in light of the significant impacts operational changes contained therein pose to Council managed fisheries and Council designated EFH.

Sincerely,

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