

Agenda Item: 5
Meeting Date: September 9, 2004

CALIFORNIA BAY-DELTA PUBLIC ADVISORY COMMITTEE

WATER SUPPLY RELIABILITY CENTRAL VALLEY PROJECT OPERATIONS CRITERA AND PLAN UPDATE

Summary: The U.S. Bureau of Reclamation initiated formal Endangered Species Act consultation on the coordinated operations of the CVP and SWP and also requested early consultation on operations of specific future facilities and actions in March 2004. Reclamation prepared a Biological Assessment for the project, updated in June 2004. The U.S. Fish and Wildlife Service completed the Biological Opinion on Delta Smelt in July 2004 and NOAA Fisheries continues to work on the Biological Opinion for Chinook salmon and steelhead.

Recommended Action: This is an informational item only. No action will be taken.

Background

The following description was provided by the U.S. Bureau of Reclamation:

The Operations Criteria and Plan (OCAP) ESA consultation primarily addresses ongoing/historic Central Valley and State Water Project operations, and several future changes. Reclamation formally consulted on several new actions, such as Freeport diversion project, municipal and industrial shortage policy, the Trinity ROD flows, the DMC/California Aqueduct Intertie. There was also early consultation (on actions that are not anticipated to be implemented in the immediate future) on the operation of South Delta Improvement Project (SDIP) [the increase to 8,500 cubic feet per second (cfs) at Banks Pumping Plant and South Delta barrier operations] with assumptions for a long-term Environmental Water Account (EWA). Additional consultation under ESA will be required prior to implementing any actions addressed in the early consultation. The OCAP consultation is not a decision making process, in essence it analyzes the effects of proposed operation on listed species. Decisions on implementing new actions are made in separate project-specific planning/environmental compliance processes.

Formal consultation was initiated March 15, 2004 and the Biological Assessment (BA) was sent on March 22, 2004. Reclamation posted BA modeling results on Reclamation's Mid-Pacific web site under CVP Operations on February 2, 2004 and posted the BA March 22, 2004. The BA was updated and posted June 30, 2004 and the OCAP document was posted on the web site too. FWS finished the Biological Opinion on Delta Smelt July 30, 2004 and posted that on their web site. The NOAA Fisheries consultation continues on salmon and steelhead.

List of Attachments

Attachment 1 -- Letter from USBR to NOAA Fisheries dated 3-15-04: Request for Initiation of Formal and Early Section 7 Consultation

Attachment 2 -- Letter from USBR to U.S. Fish and Wildlife Service dated 3-15-04: Request for Initiation of Formal and Early Section 7 Consultation

Attachment 3 -- Letter from Northern California/Nevada Council Federation of Fly Fishers to USBR dated 8-16-04

Attachment 4 -- Letter from Members of Congress to Commission of USBR dated 8-20-04

Contact

Chet Bowling
Operations Manager
Mid-Pacific Region
U.S. Bureau of Reclamation

Phone: (916) 979-2180



United States Department of the Interior

BUREAU OF RECLAMATION
Central Valley Operations Office
3310 El Camino Avenue, Suite 300
Sacramento, California 95821

IN REPLY
REFER TO:

CVO-100
ENV-7.00

MAR 15 2004

Mr. Rodney McInnis
Acting Regional Administrator
National Marine Fisheries Service
501 West Ocean Blvd., Suite 4200
Long Beach, CA. 90802-4213

Subject: Request for Initiation of Formal and Early Section 7 Consultation and Transmittal of Biological Assessment (BA) Addressing Coordinated Operations of the Central Valley Project (CVP), State Water Project (SWP), and the Operational Criteria and Plan (OCAP)

Dear Mr. McInnis:

The purpose of this letter is to request formal consultation on the coordinated operations of the CVP and SWP, and to request early consultation on specific future facilities and actions identified herein. In concert with your staff and others, Reclamation and the California Department of Water Resources (DWR) have been developing an OCAP and related BA addressing the current and future operation of the State and Federal water facilities. The documents address how the projects would be operated in the future as several proposed projects come on line and as demands increase. This consultation request is only on the actions undertaken by Reclamation and DWR in operating the CVP and SWP. No incidental coverage is requested for actions of non-CVP or non-SWP individuals or entities on lands not owned or controlled by the CVP or SWP. We provided a copy of the BA dated February 13, 2004, to your staff and have continued informal consultation. We are sending under separate cover a revised copy of the BA in which we have refined the project description and added information to the effects analyses.

As a prospective applicant, DWR has requested by letter dated March 12, 2004, that Reclamation enter into early consultation with NOAA Fisheries and the U.S. Fish and Wildlife Service on (1) future operation of the State's Harvey O. Banks Pumping Plant at 8,500 cubic feet per second (Banks 8500), (2) the operation of future permanent operable barriers in the South Delta, and (3) adjustments in the coordinated operation of the CVP and SWP for conveyance of up to 100,000 acre-feet of Level 2 CVP refuge water at Banks Pumping Plant and use of up to 75,000 acre-feet of CVP water to reduce SWP in-basin Bay/Delta water quality and flow requirements. The DWR also requests the following actions described in the Project Integration Proposal be included in early consultation: (1) adjustments in the coordinated operation of the CVP and SWP for conveyance of up to 50,000 acre-feet of Level 2 CVP refuge water at Banks Pumping Plant

Subject: Request for Initiation of Formal Section 7 Consultation and Transmittal of Biological 2 Assessments Addressing Coordinated Operations of the Central Valley Project (CVP), State Water Project (SWP) and the Operational Criteria and Plan (OCAP)

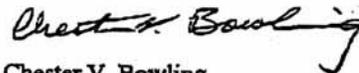
and use of up to 37,500 acre-feet of CVP water to reduce SWP in-basin obligation for Bay/Delta water quality and flow requirements; (2) upstream reservoir coordination; and (3) San Luis Reservoir coordination. As required by the Federal ESA regulations and for purposes of avoiding early consultation of highly speculative actions, DWR certifies that it, in coordination with Reclamation, intends to implement these proposed projects.

However, DWR also intends for the public to review these proposed projects as required by the National Environmental Policy Act and the California Environmental Quality Act and may modify these projects as appropriate per comments received from the public. The BA includes the description of and effects analyses for the facilities and actions for which the DWR is requesting early consultation. Reclamation will involve DWR throughout the consultation process. The goal is to receive a preliminary biological opinion (BO) for the early consultation on the same schedule as the final BO for all the other elements of coordinated CVP and SWP operations as described in the BA.

There may not be time for a formal review of draft BOs prior to the anticipated completion date of this consultation on June 30, 2004. However, we would appreciate, to the extent possible, the ability to review pertinent sections of the BOs prior to completion.

Please contact me directly at 916-979-2199 with any questions on this consultation request. Ms. Ann Lubas-Williams should continue to be contacted at 916-979-2068 with any questions related to the OCAP and BA documents.

Sincerely,



Chester V. Bowling
Operations Manager

cc: Mr. Kirk C. Rodgers
Regional Director
Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825

Mr. Michael Aceituno
Sacramento Area Office
National Marine Fisheries Service
650 Capital Mall, Suite 8-300
Sacramento, CA 95814-4706

Mr. Carl A. Torgerson
Operations Control Office
Department of Water Resources
3310 El Camino Ave., Suite 300
Sacramento, CA 95821

Ms. Barbara McDonnell
Environmental Services
Department of Water Resources
3251 S Street, Room 111
Sacramento, CA 95816

Subject: Request for Initiation of Formal Section 7 Consultation and Transmittal of Biological 3 Assessments Addressing Coordinated Operations of the Central Valley Project (CVP), State Water Project (SWP) and the Operational Criteria and Plan (OCAP)

Mr. Frank Michay
Regional Environmental Officer
2800 Cottage Way
Sacramento, CA 95825-1898

Mr. Diana Jacobs
Deputy Director, Scientific Advisor
Department Fish & Game
1416 9th Street
Sacramento, CA 95814

Mr. Perry Herrgesell
Central Valley Bay-Delta Branch
Department Fish & Game
4001 North Wilson Way
Sacramento, CA 95205

Mr. Wayne White
Fish and Wildlife Service
United States Fish and Wildlife Service
2800 Cottage Way, Room W-2605
Sacramento, CA 95825



United States Department of the Interior

BUREAU OF RECLAMATION
Central Valley Operations Office
3310 El Camino Avenue, Suite 300
Sacramento, California 95821

IN REPLY
REFER TO:

CVO-100
ENV-7.00

MAR 15 2004

MEMORANDUM

To: Mr. Wayne White, Field Supervisor
Fish and Wildlife Service

From: Chester V. Bowling, Operations Manager
Central Valley Operations Office

Subject: Request for Initiation of Formal and Early Section 7 Consultation and Transmittal of Biological Assessment (BA) Addressing Coordinated Operations of the Central Valley Project (CVP), State Water Project (SWP), and the Operational Criteria and Plan (OCAP)

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Subject: Request for Initiation of Formal Section 7 Consultation and Transmittal of Biological 2 Assessments Addressing Coordinated Operations of the Central Valley Project (CVP), State Water Project (SWP) and the Operational Criteria and Plan (OCAP)

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cc: Mr. Kirk C. Rodger
Regional Director
Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825-1898

Mr. Carl A Torgersen
Chief, Operations Control Office
Department of Water Resources
3310 El Camino Ave., Suite 300
Sacramento, CA 95821

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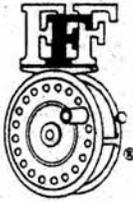
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DEPT OF JUSTICE

4007

**Subject: Request for Initiation of Formal Section 7 Consultation and Transmittal of Biological 3
Assessments Addressing Coordinated Operations of the Central Valley Project (CVP),
State Water Project (SWP) and the Operational Criteria and Plan (OCAP)**

**Mr. Perry Herrgesell
Central Valley Bay-Delta Branch
Department Fish & Game
4001 North Wilson Way
Sacramento, CA 95205**



Northern California/Nevada
Council
Federation of Fly Fishers

August 16, 2004

Mr. Kirk Rodgers
Regional Director
Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825



Re: Renewal of the Central Valley Project long-term water service contracts with
The Sacramento River Division Contractors

Dear Mr. Rodgers:

I am writing you on behalf of the thousands of members and supporters of the Northern California Council, Federation of Fly Fishers (NCCFFF). We are extremely concerned about the proposed renewal of long term CVP contracts listed above. It is our understanding that you propose to renew contracts for up to 322,000 acre-feet of CVP water to the users in the Sacramento River Division, and these contracts are for 25/40 years. We feel this type of long term commitment would have enormous impacts on California's fisheries in both the Sacramento River and the Bay-Delta ecosystem.

To better evaluate these impacts, we respectfully request the following:

1. Please send all NEPA and CEQA documentation related to these contracts as soon as possible to the mailing address below. If you do not have the relevant CEQA documents, please advise what local agency can provide them, and advise us how the Bureau is meeting its obligations under NEPA without obtaining and considering the CEQA documents on these contracts.
2. Please send us a draft of each Biological Opinion (BO) on these contracts, a draft of the BO on the underlying OCAP for the CVP from NOAA/NMFS, and the final Biological Assessment by USBR on these contracts. When the final BO's become available, please send them to us.
3. Extend the comment period by at least 60 days to allow the public an opportunity to review the analysis by NOAA/NMFS on the contracts. It is our understanding that you are withholding the results of the NOAA/NMFS analysis of fish impacts during the public review period and the associated NEPA documents, and closing off public comment before the fishery impacts can be reviewed. **It is not possible to have an objective public comment on these proposed contracts while withholding important information the public needs to make informed decisions.**

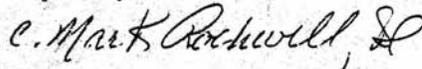
FEDERATION OF FLY FISHERS™
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4. Release the NOAA/NMFS analysis of fish impacts for public review immediately, to allow the public ample opportunity to read and understand what impacts these contracts may have on the fisheries of the Sacramento Rivers, and the Bay-Delta ecosystem. We would hope that the NOAA/NMFS analysis is not being held up to allow the Bureau to influence the recommendations or analysis.

It is with great trust and confidence that we submit this request. It is always our hope to work in concert with our government agencies, and to work together to reach beneficial decisions. A "rush to judgment" on this issue is not in the best interest of the people of California. Since these contracts are for such long periods (25-40 years), it makes sense to take the time necessary to understand all issues before they become permanent. This takes accurate information and time.

Respectfully,



C. Mark Rockwell, D.C.
V.P. Conservation, NCCFFF
19737 Wildwood West Dr.
Penn Valley, CA 95946
(530) 432-9198
vpconservation@nccfff.org

cc: Mr. Rodney McInnis
Southwest Regional Office, NMFS/NOAA
501 West Ocean Blvd., Suite 4200
Long Beach, CA. 90802-4213

Mr. Ryan Broddrick
Director, Calif. DFG
1416 Ninth St.
Sacramento, CA. 95814

Ms. Carolyn Yale
U.S. Environmental Protection Agency
75 Hawthorne St., 16th Floor, E-2
San Francisco, CA 94105-3901

Mr. Lester Snow
Dept. of Water Resources
1416 Ninth St.
Sacramento, CA 95814

Mr. Patrick Wright
CALFED
650 Capitol Mall, 5th Floor
Sacramento, CA 95814

Ms. Celeste Cantu
Executive Director
Water Resources Control Board
P.O. Box 100
Sacramento, CA. 95812-0100

Congress of the United States
Washington, DC 20515

August 20, 2004

Hon. John Keys, Commissioner
U.S. Bureau of Reclamation
1849 C Street, NW
Washington, DC 20240

Re: Renewal of the Central Valley Project long-term water contracts

Dear Commissioner Keys:

The undersigned Members of Congress have a strong interest in the appropriate allocation of California's water resources and the need to ensure prompt and full repayment of the federal investment in Reclamation projects, consistent with federal law. For reasons of fiscal responsibility and of equitable water use, we are extremely concerned about the imminent renewal of long-term Central Valley Project (CVP) contracts that are currently being proposed by the Bureau's Sacramento office.

First, it is our understanding that the Bureau has determined that many of these water districts will never have to repay the capital costs invested by the federal government in their water projects, compounding their generous interest subsidy with additional "ability to pay" capital subsidies. More than \$1 billion of the original federal investment in the CVP remains unpaid after over 50 years, despite federal repayment requirements. Because the Bureau has recouped only a bare fraction of its capital investments and continues to offer contracts with below-cost water prices, we believe it is essential that taxpayers be given a full opportunity to comment on these new contracts after the Bureau first makes public its rationale for waiving all capital costs and restoration charges for so many of these new contracts, and explains how complete CVP capital repayment will be ensured in a timely manner.

Second, the Bureau has already set final comment deadlines for several groups of proposed CVP contracts, including contracts for up to 322,000 acre-feet of water to the users in the Sacramento River Division, and for over 2,000,000 acre-feet in other contracts, before the public has reviewed the potential impact of these contracts on endangered salmon. As of this writing, almost three-quarters of the comment period for these contracts has elapsed without the required National Marine Fisheries Service (NMFS) analysis of potential impacts. The Central Valley Project Improvement Act (CVPIA) states as a central purpose the protection of fish, wildlife, and associated habitat; to rush through the process of approving long-term water contracts without this analysis runs counter to this core CVPIA purpose.

This type of long-term commitment could have enormous impacts on federal taxpayers, California's fisheries, and the San Francisco Bay-Delta ecosystem. Therefore, to better evaluate these impacts, we respectfully request the following:

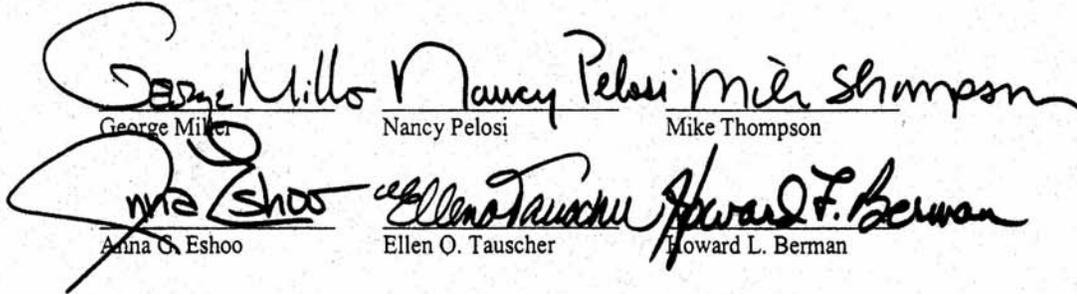
Hon. John Keys, Commissioner
August 20, 2004
Page Two

1. Please extend the comment period on all of the proposed contracts, and on the draft Environmental Assessments or Environmental Impact Statements on the contracts, by at least 60 days after the completion of the current Endangered Species Act consultation with the Department of Commerce to allow the public an opportunity to review the analysis by the NMFS on the impact of the contracts on endangered salmon. It is unfair to ask the public to evaluate the proposed contracts, and your proposed determination that the contracts will have "no significant impact" on the environment, before allowing the public to review the government's own analysis of likely impacts to fish habitat and endangered salmon runs.

2. Please provide public workshops or hearings on these proposed contracts, their pricing terms and repayment assumptions, and their potential impacts on the environment before you close the comment periods. Especially as the current period for public comment on these important contracts overlaps with Congress' traditional district work period, and with many of our constituents' summer holidays, we are extremely concerned that many potential impacts will not be publicly understood and discussed until the window has closed. Only by giving the public an opportunity to ask questions and understand the impacts of these major 25-year water commitments can the Bureau hope to win confidence from the public that these contracts will benefit rather than harm the public interest.

Thank you for considering our views. We request a response before your current comment deadline.

Very truly yours,


George Miller Nancy Pelosi Mike Thompson
Anna C. Eshoo Ellen O. Tauscher Howard L. Berman

Cc: The Hon. Gale Norton, Secretary of the Interior
Mr. Kirk Rodgers, Regional Director, Mid-Pacific Region