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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

December 13, 2007

In response refer to:
2007/07371

Nancy Haley
Chief, California North Section
U.S. Army Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

Dear Ms. Haley:

This letter responds to your November 6, 2007, request for NOAA's National Marine Fisheries Service's (NMFS) concurrence that segment 2 of the Feather River Levee Repair project (FRLRP), in Yuba County, California, is not likely to adversely effect Federally listed, threatened Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley steelhead (*O. mykiss*), and the threatened Southern Distinct Population Segment (DPS) of North American green sturgeon (*Acipenser medirostris*), or their respective designated critical habitat, or the Essential Fish Habitat (EFH) of Pacific salmon.

The U.S. Army Corps of Engineers (Corps) proposes to permit the Three Rivers Levee Improvement Authority (TRLIA) to construct segment 2 of the FRLRP. TRLIA is a joint powers authority with the mission of advancing flood safety in southwestern Yuba County. Studies by the Corps, the California Department of Water Resources, and TRLIA have found that several reaches of the levee system protecting Reclamation District (RD) 784 do not satisfy geotechnical criteria for seepage at the water surface elevations for a 100-year flood event. TRLIA is implementing the FRLRP as part of the final phase of a program to repair levee deficiencies in RD 784. The FRLRP has been divided into three segments. Segments 1 and 3 will repair the levee in place, and segment 2 will construct a setback levee. This consultation addresses the segment 2 setback levee construction.

Segment 2 will be built along the east bank of the Feather River from project levee mile 17.2 to 23.4, between the Bear and Yuba Rivers, from Star Bend to immediately south of Shanghai Bend. The setback levee will replace a reach of levee that failed during the January 1997 flood. The new levee will be set back approximately 0.5 miles to the east of the existing alignment. After the setback levee is constructed, the existing levee will be breached at several locations to allow floodwaters to enter the setback area. A pump station located within the setback area will be relocated to the landside of the new levee.

Segment 2 will be completed in two stages. Stage one activities include construction of the setback levee and associated stability berms, construction of the new pump station, and excavation of borrow material. Stage two activities include degradation of all or portions of the existing levee, removal of the old pump station, filling Plumas Lake Canal from the setback



levee to the new pump station, and recontouring portions of the setback area to facilitate drainage of flood water back to the Feather River and to prevent fish stranding.

The project is anticipated to take approximately 22 months to construct. The setback levee embankment will be completed by December 2008, and the existing levee will be breached or removed by summer 2009. All in-channel construction activities will occur between June 15 and September 15, when listed anadromous fish are not expected to be present or affected by project activities. Levee degradation will not occur during the designated flood season, from November 1 to April 15, and earthwork in the setback area will only occur when flood waters of the Feather River will not be present. Approximately 1,600 acres of floodplain will be reconnected to the Feather River. Much of this area will be restored to riparian habitat through either passive or active restoration. An operations and maintenance plan will be developed and submitted to NMFS. Monitoring of the habitat development within the setback area will occur for five years. An annual monitoring summary will be submitted to NMFS by August 1 for each monitoring year.

Endangered Species Act (ESA) Section 7 Consultation

NMFS has received the information necessary to initiate consultation on Federally listed salmonids within the project area for the proposed action. Based on our review of the material provided with your request, and the best scientific and commercial information currently available, NMFS has determined that the action is not likely to adversely affect Central Valley spring-run Chinook salmon, Central Valley steelhead, the Southern DPS of North American green sturgeon, or their designated critical habitat. NMFS reached this determination for the following reasons: (1) In-channel construction activities will occur during winter months when adult and juvenile Central Valley spring-run Chinook salmon, Central Valley steelhead, and green sturgeon are not expected to be exposed to construction-related activities; (2) levee degradation or removal will not occur during the flood season, and earthwork in the setback area will only occur when flood waters of the Feather River will not be present; (3) the setback area will be graded to avoid fish stranding once the existing levee is breached or removed; (4) the site will be monitored for five years to validate that design and restoration objectives are met; and (5) the action will be beneficial to anadromous fish because it will increase the amount of floodplain area and the quantity and quality of shallow-water rearing and refugia habitat.


This concludes consultation for the proposed action. This concurrence does not provide incidental take authorization pursuant to section 7(b)(4) and section 7(o)(2) of the ESA. Reinitiation of consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not considered; (2) the action is subsequently modified in a manner that causes adverse effects to listed species or critical habitat; or (3) a new species is listed or critical habitat designated that may be affected by this action.

EFH Consultation

The proposed project is within the region identified as EFH for Pacific salmon in Amendment 14 of the Pacific Salmon Fishery Management Plan, pursuant to the Magnuson-Stevens Conservation and Management Act (MSA). We have reviewed this project for impacts to EFH for Pacific salmon under section 305(b)(2) of the MSA, and find the implementation of the project will not adversely affect EFH for Pacific salmon; therefore, we do not have any additional conservation recommendations for the proposed action.

Please contact Howard Brown at (916) 930-3608, or via e-mail at howard.brown@noaa.gov if you have any questions concerning this project, or require additional information.

Sincerely,


for Rodney R. McInnis
Regional Administrator

cc: Copy to file: ARN151422SWR07SA00475

Anja Kelsey, EIP/PBS&J, 1410 Rocky Ridge Drive, Suite 190, Roseville, CA 95661

Sean Bechta, EDAW, 2022 J Street, Sacramento, CA 95814

Paul Brunner, TRLIA, 1114 Yuba Street, Suite 218, Marysville, CA 95901