

Oliver Meeting with Roger Patterson of Metropolitan Water District of Southern California

TO: Chris Oliver, Assistant Administrator for Fisheries
MEETING DATE: Wednesday, September 20, 2017
TIME: 10 AM (Eastern)
FROM: Barry Thom, Regional Administrator, West Coast Region, National Marine Fisheries Service (NMFS), (503)-231-6266

PURPOSE

Roger Patterson, Assistant General Manager of the Metropolitan Water District (MWD) of Southern California, has requested a meet and greet. He will likely discuss the importance of California's water issues broadly, including NMFS' recent Biological Opinion (BiOp) for the California WaterFix (CWF) (CWF BiOp), and the reinitiation of NMFS' 2009 BiOp on the long-term operations (LTO) of the Central Valley Project (CVP) and the State Water Project (SWP) (2009 LTO BiOp).

THREE THINGS YOU MUST KNOW:

- Roger Patterson and MWD: Mr. Patterson oversees MWD's strategic water initiatives for the Colorado River and Sacramento-San Joaquin Bay Delta (Delta). Earlier in his career, he served 25 years with the U.S. Bureau of Reclamation (Reclamation), including as Regional Director in the mid-Pacific region based in Sacramento; he is familiar with operations of the federal CVP. MWD is a regional wholesaler that delivers water to 26 member public agencies composed of 14 cities, 11 municipal water districts, and one county water authority who provides water to 19 million people in Los Angeles, Orange, Riverside, San Bernardino, San Diego and Ventura counties. In addition to its own extensive water system, MWD imports water from northern California (as a SWP contractor) and the Colorado River to supplement its local supplies.
- CWF: NMFS and the U.S. Fish & Wildlife Service (USFWS) issued final BiOps on CWF with non-jeopardy determinations in June 2017. Reclamation is currently drafting a request for clarifications of aspects of the NMFS CWF BiOp; NMFS is committed to working out details provided that they do not change the operations proposed by Reclamation in the biological assessment.
- Reinitiation of the NMFS 2009 LTO BiOp: NMFS has statutory responsibility to ensure that CVP and SWP water operations in California's Central Valley do not jeopardize the survival of various fish species listed under the Endangered Species Act (ESA). The 2009 LTO BiOp NMFS issued to Reclamation is a jeopardy BiOp, which includes a reasonable and prudent alternative (RPA) requiring a number of actions throughout the year to protect ESA-listed fish. Reclamation reinitiated ESA consultation in August 2016 and National Environment Policy Act (NEPA) scoping begins October 2017. Discussions are ongoing regarding how to incorporate CWF in the project. The process is expected to conclude with a joint NMFS/USFWS BiOp (or closely coordinated, but separate, BiOps) in 3-5 years (2020-2022).

BACKGROUND:***California WaterFix*****CWF Project Overview**

The CWF is a proposed water infrastructure project in the Delta that is arguably the largest civilian public works project in the United States (current cost estimates are about \$17 billion for the full proposed program). The Department of Commerce, through NMFS, has repeatedly stated that it is in full agreement with the state of California that CWF is a key part of a multi-pronged strategy to address the range of problems threatening both the Delta ecosystem and the reliability of the state's water delivery system. The project includes both construction of proposed water delivery infrastructure and the long-term operations of that infrastructure in concert with existing water delivery facilities.

CWF Project Status

ESA consultation for CWF and its operational requirements is complete; NMFS issued a final BiOp with a non-jeopardy determination on June 16, 2017, and USFWS did the same on June 23, 2017. After the NMFS Draft CWF BiOp was issued in January 2017, significant revisions were made to the project to reduce some of the adverse effects identified in the Draft BiOp. Since the NMFS CWF BiOp is a non-jeopardy BiOp, there is no RPA in which NMFS imposed changes to the proposed action. In contrast to the USFWS CWF BiOp, the NMFS CWF BiOp **does** cover operations of the new diversions and of the south delta diversion when the new diversions begin operating, though the operation's criteria may be revised during the reinitiated consultation of the 2009 LTO BiOp.

On June 29, 2017, the Golden Gate Salmon Association (representing commercial and sport salmon fishing interests), Natural Resources Defense Council, Defenders of Wildlife, and the Bay Institute filed a complaint against the Department of Commerce/NMFS under the Administrative Procedures Act. A similar complaint was filed against the Department of the Interior/USFWS.

Reclamation has yet to sign the Record of Decision to conclude the overall project environmental review under the federal NEPA process. A key project-related environmental review, still in progress, is the State Water Resources Control Board's review of a petition to change the points of diversion associated with the CVP and SWP water rights. The hearings associated with that process are scheduled to conclude in June 2018.

CWF Current Activities

Reclamation and CVP contractors have expressed concern to NMFS regarding certain elements of the NMFS CWF BiOp. We are confident that most of these concerns can be resolved at the Regional level with discussion and clarifying correspondence.

Reinitiation of NMFS' 2009 LTO BiOp

NMFS issued to Reclamation the 2009 LTO BiOp, a jeopardy BiOp with a RPA requiring a number of actions throughout the year to protect ESA-listed endangered Sacramento River winter-run Chinook salmon, threatened Central Valley spring-run Chinook salmon, threatened California Central Valley steelhead, and threatened Southern Distinct Population Segment of

North American green sturgeon. These protective actions were designed primarily to decrease in-river water temperatures, ensure adequate flows for various life history stages, and improve fish passage and spawning success. NMFS tailors these protections to both meet the needs of these endangered and threatened fish and to minimize impacts to other water supply users.

In August 2016, based on new information related to multiple years of drought, recent data demonstrating extremely low listed-salmonid population levels, and new information available as a result of collaborative science processes, Reclamation reinitiated consultation with NMFS. The CVP and SWP will continue to operate pursuant to the requirements of the 2009 LTO BiOp until the reinitiated consultation is complete and a new BiOp is issued. NEPA scoping begins October 2017. The process is expected to conclude with a joint NMFS/USFWS BiOp (or closely coordinated, but separate, BiOps) in 3-5 years (2020-2022).

CWF and Reinitiation of 2009 LTO BiOp

Reclamation, California Department of Water Resources, NMFS and USFWS are currently discussing the scope of CVP and SWP operations that will be included in the reinitiation of the 2009 LTO BiOp. Because CWF consultation is complete, NMFS expects that the effects of CWF will be included in the environmental baseline, as defined by the ESA Section 7 regulations.

RED FLAGS

None

PARTICIPANTS (italics indicate participation by phone)

Roger Patterson, Assistant General Manager of the Metropolitan Water District (MWD) of Southern California

Barry Thom, Regional Administrator, West Coast Region, NMFS

Maria Rea, Assistant Regional Administrator, California Central Valley Office, West Coast Region, NMFS