



**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

**NATIONAL MARINE FISHERIES SERVICE
West Coast Region
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404-4731**

June 2, 2021

Refer to NMFS No: WCR-2020-02463

Cristin Hallissy
Office Chief, Biological Sciences and Permits
California Department of Transportation, District 4
P.O. Box 23660, M/S 8E
Oakland, California 94623-0660

Re: Erratum-- Endangered Species Act Section 7(a)(2) Concurrence Letter and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for San Mateo State-Route 1 (SR-1) and SR-84 Structures and Scour Mitigation Project (04-2J790).

Dear Ms. Hallissy:

On April 28, 2021, NOAA's National Marine Fisheries Service (NMFS) completed an Endangered Species Act Section 7(a)(2) Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act (MSA) Essential Fish Habitat (EFH) response for the San Mateo State-Route 1 (SR-1) and SR-84 Structures and Scour Mitigation Project (Project) and issued the biological opinion and MSA response to the California Department of Transportation (Caltrans)¹ on April 28, 2021. Shortly thereafter, NMFS realized there are inadvertent errors in the biological opinion that need to be corrected.

The errors in the biological opinion render NMFS' effects analysis inconsistent with the conclusion. In the effects analysis of the biological opinion (sections 2.5, 2.6, and 2.7), NMFS determined the proposed project would not affect the persistence or recovery of the Pilarcitos Creek and San Gregorio Creek populations of Central California Coast (CCC) steelhead, the San Gregorio Creek population of CCC coho salmon, or the CCC steelhead Distinct Population Segment (DPS) or CCC coho salmon Evolutionary Significant Unit (ESU). NMFS also determined that, when added to the environmental baseline, cumulative effects, and species status, the effects to critical habitat from the proposed action would not appreciably reduce the quality and function of critical habitat at the larger CCC steelhead DPS or CCC coho salmon ESU. However, in the conclusion section of the biological opinion (Section 2.8) we inadvertently stated that the proposed action would likely jeopardize the continued existence of CCC steelhead and CCC coho salmon, and destroy or adversely modify their designated critical habitat. This

¹ Pursuant to 23 USC 327, and through a series of Memorandum of Understandings (MOU) beginning June 7, 2007, the Federal Highway Administration (FHWA) assigned and Caltrans assumed responsibility for compliance with Section 7 of the federal Endangered Species Act (ESA) and the Magnuson-Stevens Fishery Conservation and Management Act (MSA) for the federally-funded highway projects in California. Therefore, Caltrans is considered the federal action agency for consultations with NMFS for federally funded projects involving FHWA. Caltrans proposes to administer federal funds for the implementation of the proposed project. Thus, per the aforementioned MOU, Caltrans is considered the federal action agency for this project.

was a typographical error, as clearly demonstrated by the statements and determinations made by NMFS in the effects, cumulative effects, and integration and synthesis sections of the biological opinion that preceded the conclusion section.

NMFS' procedures allow for the correction of errors in a consultation document that are clearly non-substantive, such that they do not warrant a reinitiation evaluation, but nevertheless should be corrected to avoid confusion. 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) the amount or extent of incidental taking specified in the incidental take statement is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in the opinion; (3) the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion; or (4) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16). Based on the above, NMFS concludes the errors in the biological opinion are non-substantive, could cause confusion if left uncorrected and, therefore, require correction, but not reinitiation of consultation. Thus, per the aforementioned procedure, NMFS is providing an Erratum (Enclosure 1) with corrections of typographical errors that will replace the associated text in the April 28, 2021 biological opinion. There will be no changes made to the original biological opinion, and the previously issued biological opinion remains in effect, including its effective date. Upon receipt of this letter and Erratum, both should be attached to the April 28, 2021 biological opinion and considered a part of the original consultation.

Thank you for coordinating with NMFS regarding this clarification. Should you have any questions regarding the contents of this letter or the associated enclosure, please contact Elena Meza at 707-575-6068, or via email at elena.meza@noaa.gov.

Sincerely,



Alecia Van Atta
Assistant Regional Administrator
California Coastal Office

Enclosure

cc: Greg Pera, Caltrans District 4, gregory.pera@dot.ca.gov
Elizabeth Leyvas, Caltrans District 4, Elizabeth.leyvas@dot.ca.gov
Copy to E-File: ARN 151422WCR2020SR00184

Erratum with corrections to the April 28, 2021 Endangered Species Act Section 7(a)(2) Concurrence Letter and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for San Mateo State-Route 1 (SR-1) and SR-84 Structures and Scour Mitigation Project (04-2J790). Text modifications are highlighted as bold, italicized, and underlined font (new), and bold strikethrough (replaced, or deleted).

Erratum 1.

In the conclusion section of the biological opinion (Section 2.8), the sentence currently states (Page 44):

After reviewing and analyzing the current status of the listed species and critical habitat, the environmental baseline within the action area, the effects of the proposed action, the effects of other activities caused by the proposed action, and cumulative effects, it is NMFS' biological opinion that the proposed action is likely to jeopardize the continued existence of CCC steelhead and CCC coho salmon, and destroy or adversely modify its designated critical habitat.

The sentence is revised as follows:

After reviewing and analyzing the current status of the listed species and critical habitat, the environmental baseline within the action area, the effects of the proposed action, the effects of other activities caused by the proposed action, and cumulative effects, it is NMFS' biological opinion that the proposed action is not likely to jeopardize the continued existence of CCC steelhead and CCC coho salmon, ~~and~~ nor destroy or adversely modify its designated critical habitat.