



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

July 31, 2024

Refer to NMFS No: WCRO-2024-01594

Shea O'Keefe  
Area 4 Biologist  
Natural Resource Conservation Service  
430 G Street, #4164  
Davis, California 95616-5475

Re: Endangered Species Act Section 7(a)(2) Biological Opinion for the Emergency Watershed Protection Program Project on Santa Paula Creek in Ventura County

Dear Ms. O'Keefe:

On July 2, 2024, NOAA's National Marine Fisheries Service (NMFS) received the Natural Resource Conservation Service's (NRCS) request for formal consultation under Section 7 of the U.S. Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531 et seq.). That request concerns NRCS' action under their Emergency Watershed Protection Program to fund and assist Ventura County Watershed Protection District (VCWPD) in restoring spur dikes including shifting the low-flow channel away from vulnerable properties positioned along the bank of Santa Paula Creek (proposed action). The proposed action is within range of the endangered Southern California (SC) Distinct Population Segment of steelhead (*Oncorhynchus mykiss*) and designated critical habitat for the species.

Your request qualified for our expedited review and analysis because it met our screening criteria and contained all required information on, and analysis of, your proposed action and its potential effects to listed species and designated critical habitat.

In formulating this biological opinion, we adopted the information and analyses you provided after our independent, science-based evaluation confirmed they meet our regulatory and scientific standards. In this regard, herein we adopt by reference "Existing Conditions" section of the Biological Assessment (BA) into the environmental baseline for this biological opinion, "Species Accounts" section of the BA into the status of the species for this biological opinion, and "Effects Analysis" section of the BA into the effects analysis for this biological opinion. The BA is available upon request from NRCS (Shea O'Keefe, shea.okeefe@usda.gov).

On July 5, 2022, the U.S. District Court for the Northern District of California issued an order vacating the 2019 regulations, which were revised or added to 50 CFR part 402 in 2019 ("2019 Regulations," see 84 FR 44976, August 27, 2019) without making a finding on the merits. On September 21, 2022, the U.S. Court of Appeals for the Ninth Circuit granted a temporary stay of the district court's July 5 order. On November 14, 2022, the Northern District of California issued an order granting the government's request for voluntary remand without vacating the 2019 regulations. The District Court issued a slightly amended order two days later on November 16, 2022. As a result, the 2019 regulations remain in effect, and we are applying the



2019 regulations here. For purposes of this consultation and in an abundance of caution, we considered whether the substantive analysis and conclusions articulated in the biological opinion and incidental take statement would be different under the pre-2019 regulations. We determined our analysis and conclusions would not be different.

NRCS coordinated early with NMFS on the proposed action through technical assistance requests (April 26, 2023; April 10 and May 10, 2024). During technical assistance, NMFS gained a comprehensive understanding of the proposed action at both local and watershed scales.

The proposed action is near Santa Paula, Ventura County, California (*see* Overview / Action Area section of the BA at 4-5) and expected to commence in August 2024 for a duration of approximately six months or less. NRCS will be providing funding to VCWPD to align the low-flow channel away from vulnerable properties and reinstall 10 of 24 spur dikes, which were originally installed in 2007 after the 2004/2005 storms (*see* Project Description of the BA at 10-17). The upstream boundary of the action area is near Mupu Elementary School and the downstream boundary is near the intersection of Birch Street and Magnolia Drive; the length of the action area is approximately 3,900 feet (*see* Figure 1 of the BA).

The proposed action includes dewatering portions of the creek while creating segments of a new low-flow channel so interruptions in habitat services (i.e., access, connectivity) are minimized. The dewatering will occur either sequentially or concurrently depending on flow conditions and construction capacity (*see* Image 1 in the BA at 12, Phases 1-3). All dewatering will have a duration no longer than two days for each phase/schedule<sup>1</sup> (*see* Santa Paula Creek Emergency Spur Dike Repair and Replacement (F3062), 100% design plans, sheet 4 of 21). The Schedule 1 (center) will dewater 760 feet of creek for re-installation of three spur dikes (6W, 7W, and 8W). The Schedule 2 (upstream) will dewater 478 feet of creek for re-installation of four spur dikes (2E, 3E, 4E, and 5E). The Schedule 3 (downstream) will dewater approximately 750 feet of creek presuming the low-flow channel alignment requires dewatering (NRCS 2024<sup>2</sup>) prior to re-installation of the final three spur dikes (9E, 10E, and 11E).

Under the proposed action, biological monitoring will be implemented where the biologist would have the authority to stop work to capture and relocate steelhead that may have been overlooked, missed, or at risk of becoming stranded due to the dewatering phase of instream activities. Observed steelhead would be relocated to adjacent and appropriate habitat not impacted by construction-related disturbance activities (*see* section *Measures to Minimize Disturbance to Aquatic Species and the In-stream Habitat* in the BA at 15-17; and *see* Part 4 of BA (enclosure): *Water Diversion Guide for the Ventura County Maintenance Program*, 2019).

We examined the status of each species that would be adversely affected by the proposed action to inform the description of the species' "reproduction, numbers, or distribution" as described in 50 CFR 402.02. We examined the condition of critical habitat throughout the designated area and discuss the function of the physical or biological features essential to the conservation of the

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<sup>1</sup> The word "phase" and "schedule" are used interchangeably in the BA and in this biological opinion.

<sup>2</sup> USDA-Natural Resources Conservation Service. 2024. *Inquiry re Emergency Watershed Project – Santa Paula Creek*. Electronic communication to NOAA Fisheries. July 16.

species that create the conservation value of that habitat. As stated above, although we adopt the “Species Accounts” section of the BA into the status of the species for this biological opinion, below we offer additional insight on consequences to the status of the species given climate-change projections. We also considered climate projections and related implications for the action area. Based on the best available science, we expect endangered SC steelhead will have reduced range and probability of occurrence in future years due to climate change (Taylor et al. 2019<sup>3</sup>). Individual populations have been more adversely affected by the extended drought through loss of over-summering habitat and the effects of wildfires on habitat quality and availability (NMFS 2023<sup>4</sup>). Overall, future habitat suitability is anticipated to be lower for the species, and climate models predict an increased number of large storms over the next several decades (Taylor et al. 2019).

The interaction of changing climate conditions with other stressors such as habitat fragmentation will result in additional threats to natural resources including threats to the viability of steelhead populations (Moyle et al. 2017<sup>5</sup>; Munsch et al. 2022<sup>6</sup>). Irregular climate and weather variations like prolonged drought, episodic floods, or persistent marine heatwaves, can impact salmonid populations by altering their aquatic habitats and food-webs, which in turn affect individual growth and survival rates in ways that can impact populations at local to regional scales. Climate variations impacting regions across 100s to 1000s of kilometers can thus change viability through impacts on steelhead abundance, productivity, spatial diversity, and distribution (Boughton 2023<sup>7</sup>).

Because the upper reaches of Santa Paula Creek are least disturbed and perennial, the watershed is expected to buffer the species in the Santa Clara River watershed against extirpation, particularly during periods of extended drought that are common to the region (NMFS 2012). Santa Paula Creek can serve as a refuge for fish during drought conditions. As of this writing, the most recent, extended drought (2012-2019) affecting California led to unprecedented dry conditions in southern California, including the observation of no flowing surface water throughout reaches that would normally be accessible to steelhead. Many stream reaches that are downstream of introduced migration barriers in the region experienced little to no flowing surface water until significant, recent storms of 2023 and 2024. Overall, this last, most recent drought and related conditions worsened the ongoing effects of anthropogenic activities and

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<sup>3</sup> Taylor, J. B., E. D. Stein, M. Beck, K. Flint, and A. Kinoshita. 2019. Vulnerability of stream biological communities in Los Angeles and Ventura counties to climate change induced alterations of flow and temperature. Southern California Coastal Water Research Project. August. Technical Report 1084. 104pp.

<sup>4</sup> National Marine Fisheries Service (NMFS). 2023. Five-Year Review: Summary & Evaluation of Southern California Steelhead. National Marine Fisheries Service. West Coast Region. 226 pp

<sup>5</sup> Moyle, P. B., R. A. Lusardi, P. J. Samuel, and J. V. E. Katz. 2017. State of the Salmonids: Status of California’s emblematic fishes. Center for Watershed Sciences, University of California, Davis and California Trout, San Francisco, CA. 579 pp.

<sup>6</sup> Munsch, S. H., C. M. Greene., N. J. Mantua, and W. H. Satterthwaite. 2022. One hundred-seventy years of stressors erode salmon fishery climate resilience in California’s warming landscape. *Global Change Biology*, 1-19.

<sup>7</sup> Boughton, D. A. 2023. South-Central / Southern California Coast Recovery Domain. Pages 175-209 in Southwest Fisheries Science Center. Viability assessment for Pacific salmon and steelhead listed under the Endangered Species Act: Southwest. U.S. Department of Commerce, NOAA Technical Memorandum NMFS-SWFSC-686.

<https://doi.org/10.25923/039q-q707>

related inability of many streams in the region to sustain life-history requirements of this species (Boughton 2023).

“Action area” means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR 402.02). We adopted section “Overview / Action Area” of the BA, which describes the extent of the action area.

The “environmental baseline” refers to the condition of the listed species or its designated critical habitat in the action area, without the consequences to the listed species or designated critical habitat caused by the proposed action. The environmental baseline includes the past and present impacts of all Federal, State, or private actions and other human activities in the action area, the anticipated impacts of all proposed Federal projects in the action area that have already undergone formal or early section 7 consultations, and the impact of State or private actions which are contemporaneous with the consultation in process. The consequences to listed species or designated critical habitat from ongoing agency activities or existing agency facilities that are not within the agency’s discretion to modify are part of the environmental baseline (50 CFR 402.02). We adopt the *Existing Conditions* section (at 5-6) and the *Southern California Steelhead in the Action Area and Vicinity* section (at 10) of the BA, which describe the Environmental Baseline.

As stated above, although we adopt these sections of the BA, below we offer additional insight on the current conditions in the action area and the Santa Paula Creek steelhead subpopulation. The action area has the potential to support migration and rearing of the Santa Paula Creek steelhead subpopulation (e.g., upstream of the action area near Steckel Park, see Figure 2-12 at 72 in NMFS 2020<sup>8</sup>), which in turn contributes to the survival of the Santa Clara River population - a Core 1 population focus for recovery (Table 7-1 in NMFS’ 2012 Recovery Plan for Endangered Southern California Steelhead<sup>9</sup>). Santa Paula Creek steelhead abundance remains suppressed considering the extent and magnitude of flood-control activities downstream of the action area (NMFS 2020) and complete migration barriers upstream of the action area (e.g., December 26, 2023, adult steelhead blocked by Caltrans drop structure at the Highway 150 crossing; Harvey Diversion Dam). Consequently, the number of individuals encountered is low. These observed individuals represent a small fraction of steelhead within the Santa Clara River watershed and surrounding tributaries.

In the context of designated critical habitat, the Santa Paula Creek watershed is critical to maintaining the steelhead population (NMFS 2020). However, downstream of the action area, habitat modifications as a result of flood-control activities maintain conditions difficult to sustain life-history requirements of this species in the action area. While at various points upstream of the action area, there are barriers (e.g., Caltrans drop structure, Harvey Diversion Dam) preventing adults from accessing the higher reaches of the watershed where historical spawning

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<sup>8</sup> National Marine Fisheries Service (NMFS). 2020. Endangered Species Act 7(a)(2) Biological Opinion, Issue and Implement O&M Manual for the Santa Paula Creek Flood-Risk Management Project. Issued to the Army Corps of Engineers on July 24. West Coast Region, California Coastal Office, Long Beach. 133 pp.

<sup>9</sup> National Marine Fisheries Service (NMFS). 2012. Southern California Steelhead Recovery Plan. Southwest Regional Office, National Marine Fisheries Service. Long Beach, California. January. 563pp

and nursery habitats exist. The action area is sparsely vegetated with early successional mule fat constituting most of the riparian community and alluvial scrub on the transitional upland slopes (see section *Biological Communities and Wildlife Habitats* at 6). For climate projections within the action area, we refer the reader to the previous discussion on status of the species.

Under the ESA, “effects of the action” are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action (see 50 CFR 402.17). In our analysis, which describes the effects of the proposed action, we considered 50 CFR 402.17(a) and (b).

In the *Effects Analysis* section of the BA (at 17-23), there is a detailed discussion and comprehensive assessment of the effects of the proposed action. After our independent, science-based evaluation, we determined it meets our regulatory and scientific standards. Therefore, we adopted this section of the BA here.

As described in more detail in the BA, endangered steelhead are expected to be affected by the proposed action. The effects of construction (loss of habitat via dewatering) are anticipated to be temporary and not impact more than 15 juvenile individuals of the endangered SC steelhead population for the duration of the proposed action. This anticipated number of individuals is informed by NMFS understanding of the trends in individual SC steelhead in the action area. Because the proposed action will consist of three phases/schedules within one work season, we anticipate five individual steelhead would be affected within each phase/schedule. The temporary loss of habitat is expected to be confined and localized. For the duration of the proposed action, we anticipate one juvenile steelhead would be injured (i.e., non-lethal take) during the following activities: dewatering of the work area (stranding), capture (handling) to relocate steelhead in the dewatered area, or during transport to the relocation site. We anticipate one juvenile steelhead would experience mortality as a result of dewatering.

Our summary below on the effects to designated critical habitat is based on the information in the BA, which we are incorporating by reference.

During construction of the spur dikes, we anticipate temporary adverse effects to designated critical habitat, including increased sedimentation, erosion, and turbidity and the potential for spills of hazardous materials (e.g., heavy equipment hydraulic fluid). These effects to water quality will be minimized through proposed design criteria including adherence to a Water Pollution Control Plan, Hazardous Substance Pollution Contingency Plan, Soil Management Plan, and an Erosion Control Plan (see Appendix E of the BA). Erosion and sediment control measures are expected to minimize erosion or siltation both on and off-site and prevent associated degradation of water quality (see BA section *Effects of Release and Exposure of Suspended Sediments*).

The revised spur dike designs further minimize adverse effects given the proposed footprint, which allows the wetted channel space to meander naturally during future storms (see Revised

Designs discussion in the BA at 21-22). Channel meandering efficiently regulates the erosive forces by lengthening the channel and reducing the gradient, thus controlling the ability of the creek to entrain and transport available sediment. The action area will retain the ability to create and maintain both the hydraulic and physical components of instream habitat. The spur dikes installed in 2007-2008 were not designed to maximize space for the active channel to meander. Because the action area is sparsely vegetated, the Revegetation Plan is anticipated to have beneficial effects and includes placing bundles in shallow trenches along the edge of the low-flow channel and within the five-year floodplain (*see section Revegetation Efforts* in the BA).

The action area frequently adjusts (e.g., streambed scour-fill cycle, and low-flow channel migration) due to the hydrologic nature (rapid rise and fall in river discharge associated with storms) and channel mobility (unconsolidated sand and gravel substrate). Essentially, the action area is extremely dynamic and contours (natural or excavated) are routinely subject to alteration by winter storms. As a result, the characteristics of the low-flow channel alignment (including associated flow-depth relationships) are expected to be altered after elevated flows. When excavating and grading are complete and work areas are accessible to the species (i.e., wetted or continuous flow is present) including adjustments to the low-flow channel after future storms, adverse effects on steelhead including changes in migration behavior are not anticipated due to the provided space for the channel to retain physical characteristics such as channel depth, width, and estimated flow velocities required for steelhead movement through the action area. Excavation to shift segments of the low-flow channel is designed to avoid adverse effects to migration habitat. The scale of excavating and grading avoid modifications to fluvial and channel morphology processes including volume, timing, and nature of sediment fluxes.

“Cumulative effects” are those effects of future state or private activities, not involving Federal activities, that are reasonably certain to occur within the action area of the Federal action subject to consultation (50 CFR 402.02 and 402.17(a)). Future Federal actions, which are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the ESA. The *Cumulative Effects* section of the BA (at 24), which is being adopted here, describes cumulative effects. NRCS described potential activities, but none of the activities are reasonably certain to occur within the action area.

Some continuing non-Federal activities are reasonably certain to contribute to climate effects within the action area. However, it is difficult if not impossible to distinguish between the action area’s future environmental conditions caused by climate change that are properly part of the environmental baseline vs. cumulative effects. Therefore, all relevant future climate-related environmental conditions in the action area are referenced earlier in the discussion of environmental baseline and described in the status of the species discussion above.

The Integration and Synthesis section is the final step in our assessment of the risk posed to species and critical habitat as a result of implementing the proposed action. In this section, we add the effects of the action to the environmental baseline and the cumulative effects, taking into account the status of the species and critical habitat, to formulate the agency’s biological opinion as to whether the proposed action is likely to: (1) reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing its numbers, reproduction, or

distribution; or (2) appreciably diminish the value of designated or proposed critical habitat as a whole for the conservation of the species.

The *Species Accounts* section of the BA (at 7-10), which is being adopted here, describes the status of the species. The risk of permanently losing the anadromous phenotype for endangered SC steelhead over the long term may be very high and likely increasing due to the lack of unobstructed migration corridors between upstream drought refugia and the Pacific Ocean. Overall, the endangered DPS of SC steelhead continues to have low viability and is at a high risk of becoming extinct in the foreseeable future (NMFS 2023).

Because juvenile steelhead are expected to be present in the action area during the proposed action, individual steelhead are subject to effects from capture and relocation prior to dewatering designated critical habitat, and water-quality alterations.

In regard to effects due to the dewatering activities, we anticipate injury or mortality during the process of capture and relocation, but general precautions are in place to minimize, if not eliminate, the risk of injury and mortality, and adjacent instream habitats are expected to suitably harbor the relocated steelhead. Because the habitat alteration due to the dewatering is short lived and localized, the proposed action is expected to minimize adverse effects to designated critical habitat.

Regarding effects due to water-quality and changes in the alignment of the low-flow channel, construction activities in the channel and long-term presence of the reinstalled spur dikes could disturb sediments and soils in the action area, leading to erosion, increased sedimentation, and increased turbidity. To minimize these adverse effects, the proposed action includes implementation of resource-protection measures, retains space for lateral channel migration, and avoids loss of geomorphic function in the action area. Thus, the expected increases in sedimentation and turbidity, potential release and exposure of contaminants, and level of soil and sediment disturbance associated with spur dike installation are not expected to result in adverse effects to individual listed steelhead and will minimize adverse effects to physical or biological features of designed critical habitat.

NMFS concludes no more than 15 juvenile steelhead will be captured and relocated throughout the duration of the proposed action as a result of dewatering within the action area. We anticipate five individuals will be captured and relocated in each of the three work phases/schedules. We anticipate death of no more than 1 juvenile steelhead, and injury of no more than 1 juvenile steelhead throughout the duration of the proposed action. Injury and death will likely occur during the following activities: de-watering process (stranding), capture (handling), or during the transport to the relocation site; this represents a small fraction of steelhead within the Santa Clara River watershed and surrounding tributaries inclusive of Santa Paula Creek. Lethal effects to one steelhead represent a small fraction of the entire SC steelhead DPS. Therefore, it is unlikely the low-level of injury and mortality of steelhead NMFS anticipates will have a significant impact on SC steelhead survival and recovery.

In general, unconfined creek channels naturally create and maintain instream habitat components. The proposed action will not restore those processes, but will instead artificially

create and maintain many of those same instream habitat components while not precluding future establishment of natural fluvial and geomorphic function. Thus, the proposed action does not appreciably reduce the likelihood of survival or recovery of listed salmonids, nor does it appreciably degrade the value of their critical habitat. 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 the proposed action is not likely to jeopardize the continued existence of the endangered SC steelhead or destroy or adversely modify its designated critical habitat.

## **INCIDENTAL TAKE STATEMENT**

Section 9 of the ESA and Federal regulations pursuant to section 4(d) of the ESA prohibit the take of endangered and threatened species, respectively, without a special exemption. "Take" is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. "Harm" is further defined by regulation to include significant habitat modification or degradation that actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding, or sheltering (50 CFR 222.102). "Harass" is further defined by interim guidance as to "create the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering." "Incidental take" is defined by regulation as takings that result from, but are not the purpose of, carrying out an otherwise lawful activity conducted by the Federal agency or applicant (50 CFR 402.02). Section 7(b)(4) and section 7(o)(2) provide that taking that is incidental to an otherwise lawful agency action is not considered to be prohibited taking under the ESA if that action is performed in compliance with the terms and conditions of this ITS.

### **Amount or Extent of Take**

In the biological opinion, NMFS determined incidental take is reasonably certain to occur as follows:

For every in-channel work phase/schedule, five juvenile steelhead will be captured and relocated to suitable instream habitat outside of the de-watered area (15 total over three phases). One of these captured individuals will be injured during the following activities: de-watering process (stranding), capture (handling), or during the transport to the relocation site. One individual within the action area will be killed as a result of the listed activities above. The accompanying biological opinion does not anticipate other forms of take incidental to the proposed action.

### **Effect of the Take**

In the biological opinion, NMFS determined the amount or extent of anticipated take, coupled with other effects of the proposed action, is not likely to result in jeopardy to the species or destruction or adverse modification of critical habitat.



## Reasonable and Prudent Measures

“Reasonable and prudent measures” are measures that are necessary or appropriate to minimize the impact of the amount or extent of incidental take (50 CFR 402.02).

1. Undertake measures to avoid or minimize injury to steelhead resulting from capture, and reconcile conditions that could harm or injure steelhead during the dewatering, transport, and relocation processes.
2. Report activities to NMFS associated with minimizing and monitoring the proposed action’s effects on steelhead.

## Terms and Conditions

In order to be exempt from the prohibitions of section 9 of the ESA, the Federal action agency must comply (or must ensure that any applicant complies) with the following terms and conditions. NRCS or any applicant has a continuing duty to monitor the impacts of incidental take and must report the progress of the action and its impact on the species as specified in this ITS (50 CFR 402.14). If the entity to whom a term and condition is directed does not comply with the following terms and conditions, then protective coverage for the proposed action would likely lapse.

1. The following terms and conditions implement reasonable and prudent measure 1:
  - A. The lead fisheries biologist shall continuously monitor the placement and removal of the water diversion (coffer dam and pipe) to ensure all steelhead are removed from the respective affected areas to be dewatered. This biologist shall capture steelhead stranded in residual wetted areas as a result of streamflow diversion and workspace dewatering, and relocate steelhead to a suitable instream location immediately upstream or downstream of the workspace. One or more of the following NMFS approved methods shall be used to capture steelhead: dip net, seine, throw net, minnow trap, or by hand. It is likely the lead fisheries biologist will require one or more people (who also have experience with fish handling) to assist with these activities. The seine mesh shall be adequately sized to ensure fish are not “gilled” during capture and handling activities. If a steelhead becomes entangled in the nets, then this shall be reported on the day of entanglement to NMFS biologist Brittany Struck (909-235-9905) for the purpose of developing a plan to further minimize injury to steelhead.
  - B. The lead fisheries biologist for the proposed action shall contact NMFS (Brittany Struck, (909) 235-9905 and [Brittany.Struck@noaa.gov](mailto:Brittany.Struck@noaa.gov)) immediately if one or more steelhead are found dead or injured. The purposes of the contact shall be to review the activities resulting in take, to determine if additional protective measures are required, and to discuss handling procedures for injured or dead steelhead. Steelhead shall be handled with extreme care and kept in water to the maximum extent possible once detected. All captured steelhead shall be

kept in cool, shaded, aerated water and protected from excessive noise or jostling during the transport to the relocation site.

- C. If a steelhead mortality does occur, the lead fisheries biologist for the proposed action shall coordinate with NMFS (Brittany Struck, (909) 235-9905 and Brittany.Struck@noaa.gov) to ship the carcass as soon as possible on dry ice through overnight, express mail to NMFS (Brittany Struck, 501 W. Ocean Blvd., Suite 4200, Long Beach, California 90802).

2. The following terms and conditions implement reasonable and prudent measure 2:

NRCS shall provide a written monitoring report to NMFS (Brittany Struck, Brittany.Struck@noaa.gov) within 30 days following completion of the proposed action. The report shall include the number of steelhead killed or injured during the proposed action and biological monitoring; the number and size of steelhead removed and relocated; latitude and longitude coordinates of the action area; the length of the stream that was dewatered; the area of the creek reach that was dewatered; and the revegetation efforts as a result of the proposed action within the five-year floodplain.

### **Conservation Recommendations**

Section 7(a)(1) of the ESA directs Federal agencies to use their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of the threatened and endangered species. Specifically, conservation recommendations are suggestions regarding discretionary measures to minimize or avoid adverse effects of a proposed action on listed species or critical habitat or regarding the development of information (50 CFR 402.02). NMFS has no conservation recommendation to minimize or avoid adverse effects on endangered SC steelhead anticipated as a result of the proposed action.

### **Reinitiation of Consultation**

Under 50 CFR 402.16(a): “Reinitiation of consultation is required and shall be requested by the Federal agency or by the Service where discretionary Federal agency involvement or control over the action has been retained or is authorized by law and: (1) If the amount or extent of taking specified in the incidental take statement is exceeded; (2) If new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) If 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 written concurrence; or (4) If a new species is listed or critical habitat designated that may be affected by the identified action.”

This letter underwent pre-dissemination review using standards for utility, integrity, and objectivity in compliance with applicable guidelines issued under the Data Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Public Law 106-554). The biological opinion will be available through NOAA Institutional Repository [<https://repository.library.noaa.gov/>]. A complete record of this consultation is on file at NMFS’ Long Beach Office.

Please direct questions regarding this letter to Brittany Struck at (909) 235-9905 or at Brittany.Struck@noaa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alecia Van Atta".

Alecia Van Atta  
Assistant Regional Administrator  
California Coastal Office

cc: Liz Colby, P.E., Emergency Watershed Protection Program, NRCS  
Pam Lindsey, Watershed Design & Construction Division, VCWPD  
Federal record: 151422WCR2024CC00132