



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region, California Central Valley Office
650 Capitol Mall, Suite 5-100
SACRAMENTO, CA 95814

Refer to NMFS ECO #: WCRO-2024-03171

March 10, 2025

Veronica Wilson
Senior Environmental Scientist
M1 Branch Chief
Caltrans District 3 Environmental
703 B Street
Marysville, CA 95901-5556

Re: Endangered Species Act Section 7(a)(2) Biological Opinion and Magnuson-Stevens
Fishery Conservation and Management Act Essential Fish Habitat Response for the
McBean Park Drive Bridge Replacement Project

Dear Ms. Wilson:

This letter responds to your November 21, 2024, request for initiation of consultation with NOAA's National Marine Fisheries Service (NMFS) pursuant to Section 7 of the Endangered Species Act (ESA) for the subject action. 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.

NMFS reviewed California Department of Transportation's (Caltrans) consultation request and related initiation package. Where relevant, we have adopted the information and analyses you have provided and/or referenced but only after our independent, science-based evaluation confirmed they meet our regulatory and scientific standards. In our biological opinion below, we indicate what parts of your document(s) we have incorporated by reference and where that information is being incorporated.

Caltrans is requesting formal consultation as part of its NEPA assignment of federal responsibilities by the Federal Highway Administration, effective May 27, 2022 pursuant to 23 USC 326. Pursuant to 50 CFR 402.12(j), Caltrans submitted a biological assessment to inform our Section 7 analysis of project impacts. In considering Caltrans' request for consultation, NMFS based its evaluation on the following:



1. Caltrans' November 21, 2024 letter requesting initiation of formal consultation (Caltrans 2024)
2. The November 2024 McBean Park Drive Bridge Replacement Project Biological Assessment prepared by QK, Inc. (QK Inc. 2024)
3. The September 1, 2020 Placer County Conservation Program (PCCP): Western Placer County Habitat Conservation Plan/ Natural Community Conservation Plan (Placer County 2020)
4. NMFS' March 15, 2021 Placer County Conservation Program Habitat Conservation Plan Biological Opinion (NMFS 2021)
5. Email and verbal communications with the Placer Conservation Authority

Updates to the regulations governing interagency consultation (50 CFR part 402) were effective on May 6, 2024 (89 Fed. Reg. 24268). We are applying the updated regulations to this consultation. The 2024 regulatory changes, like those from 2019, were intended to improve and clarify the consultation process, and, with one exception from 2024 (offsetting reasonable and prudent measures), were not intended to result in changes to the Services' existing practice in implementing section 7(a)(2) of the Act. 89 Fed. Reg. at 24268; 84 Fed. Reg. at 45015. We have considered the prior rules and affirm that the substantive analysis and conclusions articulated in this biological opinion and incidental take statement would not have been any different under the 2019 regulations or pre-2019 regulations.

BIOLOGICAL OPINION

The proposed bridge replacement project will take place in the City of Lincoln in Placer County, California. A detailed description of the proposed action is described in Chapter 2 of the applicant's biological assessment and is incorporated here by reference. The applicant is participating in the Placer County Authority's PCCP. NMFS concurs that the proposed project complies with all applicable conditions required by the PCCP and the associated incidental take permit. Required conditions are described in Chapter 6 of the PCCP and are incorporated here by reference.

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 also 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 species that create the conservation value of that habitat. Table 1 describes the status of the listed species and critical habitat that is likely to be adversely affected by the proposed action.

Table 1. Status of listed species and critical habitat.

| Species and Recovery Plans | Listing Classification and Federal Register Notice | Species Status Summary |
|---|--|---|
| California Central Valley (CCV) steelhead (<i>Oncorhynchus mykiss</i>) (CV salmonid recovery plan, NMFS 2014) | Threatened, 71 FR 834; January 5, 2006 | The most recent assessment of CCV steelhead viability found that the species remains in moderate risk of extinction; however, new and emerging evidence indicates that the proportions of hatchery returns to natural-origin returns are increasing, and the influence of hatcheries production has raised the risk of extinction from moderate to high in 11 out of 16 CCV steelhead populations (Johnson <i>et al.</i> 2023). Most natural-origin CCV populations are very small, not monitored, and may lack the resilience to persist for protracted periods if subjected to additional stressors, particularly widespread stressors such as climate change. While updated data on CCV steelhead in the American River is mostly based on hatchery returns, natural spawning populations within the Sacramento tributaries have fluctuated, but have shown a steady decline in the past 10 years (Johnson <i>et al.</i> 2023). |
| Critical Habitat | Designation Date and Federal Notice | Description |
| CCV steelhead (<i>O. mykiss</i>) | September 2, 2005; 70 FR 52488 | <p>Critical habitat for CCV steelhead includes stream reaches of the Feather, Yuba and American Rivers, Big Chico, Butte, Deer, Mill, Battle, Antelope, and Clear Creeks, the Sacramento River, as well as portions of the northern Delta. Critical habitat includes the stream channels in the designated stream reaches and the lateral extent as defined by the ordinary high-water line. In areas where the ordinary high-water line has not been defined, the lateral extent will be defined by the bank-full elevation.</p> <p>PBFs considered essential to the conservation of the species include spawning habitat, freshwater rearing habitat, freshwater migration corridors, and estuarine areas.</p> <p>Although the current conditions of PBFs for CCV steelhead critical habitat in the Central Valley are significantly limited and degraded, the habitat remaining is considered highly valuable.</p> |

“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). The project will occur at approximately 38°53'24.3"N 121°16'59.4"W and will affect critical habitat in the Auburn Ravine. The project footprint includes 11.6 acres and consists of the existing bridge, temporary staging areas, rock slope protection, and portions of McBean Park Drive to the west and east of the bridge. The proposed project will include the replacement of the existing bridge. Auditory effects are likely to extend 32.8-feet (10 meters) up and downstream from pile driving activity (Rodkin and Pommerenck 2014). Turbidity effects of this action are not likely to exceed 1,000-feet downstream (NMFS 2006). Taking into consideration the project footprint and the extent of expected effects of the action overlapping with listed species distribution and/or critical habitat,

the action area includes the 11.6-acre project area and will extend 32.8-feet upstream and 1,000-feet (304.8 meters) downstream of construction activities.

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 impacts to listed species or designated critical habitat from federal agency activities or existing federal agency facilities that are not within the agency’s discretion to modify are part of the environmental baseline (50 CFR 402.02). Chapter 3, Sections 3.1.–3.4. of the biological assessment describe in detail the environmental baseline of the action area and are incorporated here by reference. NMFS provides the following additional information regarding the environmental baseline. The Recovery Plan for CCV steelhead identifies the Auburn Ravine population as a “Core 2” population, which means it meets or has the potential to meet biological recovery standards for moderate extinction risk. The watersheds supporting “Core 2” populations have a lower potential to support viable populations (“Core 1”) due to a lower abundance of species or the amount and quality of habitat; however, they are important to providing increased life history diversity and support nearby “Core 1” populations (NMFS 2014).

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. At issue are the proposed project’s effects on the federally listed CCV steelhead and designated critical habitat. The applicant will participate in the PCCP, and the scope of the proposed project adheres to the participating criteria established in the PCCP. The biological assessment provides a detailed discussion and assessment of the effects of the proposed action in Chapter 4, Sections 4.1.–4.4. and is incorporated by reference here. The Placer County Authority provided details, in Section 2.4.1. of the PCCP, of the covered activities for the City of Lincoln, which are incorporated here by reference. NMFS’ biological opinion for the PCCP describes in Section 2.5., Effects of the Action, the anticipated effects of actions that are taken within the scope of the PCCP, which is incorporated here by reference.

“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 that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the ESA. Section 4.5. of the biological assessment describes cumulative effects and is adopted here by reference.

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.

CCV steelhead have experienced significant declines in abundance and available habitat in the California Central Valley relative to historical conditions. The status of the species section details the current range-wide status of CCV steelhead and critical habitat, and emerging evidence indicates that the proportions of hatchery returns to natural-origin returns are increasing and has raised the risk of extinction from moderate to high in 11 out of 16 CCV steelhead populations (Johnson *et al.* 2023). The environmental baseline describes the current baseline conditions found in the action area and identifies the Auburn Ravine CCV steelhead population as a “Core 2” population. Cumulative effects are likely to increase stormwater runoff from increased urbanization and from concurrent state and local projects in the action area.

One major factor affecting threatened and endangered anadromous fish in the Central Valley and aquatic habitat at large is climate change. Central California has shown trends toward warmer winters since the 1940s (Dettinger and Cayan 1995), and projected warming is expected to affect Central Valley salmonids because the runs are restricted to low elevations as a result of impassable rim dams (Crozier *et al.* 2019). The effects of climate change may be even greater in some cases for CCV steelhead, as juvenile steelhead need to rear in streams for one to two summers prior to emigrating as smolts. In the Central Valley, summer and fall temperatures below the dams in many streams already exceed the recommended temperatures for optimal growth of juvenile steelhead.

The effects of the action will adversely affect CCV steelhead and will result in both temporary and permanent impacts to designated critical habitat. Offsetting measures are described in Section 2.4.2. of the biological assessment and are incorporated here by reference. Further, participation in the PCCP ensures that restoration and conservation efforts carried out by the Placer County Authority will offset adverse effects of the project. Chapter 8 of the PCCP details how the implementation of the plan will forward restoration and conservation efforts and is incorporated here by reference.

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 CCV steelhead or destroy or adversely modify its designated critical habitat. Given that the proposed project is consistent with the PCCP, NMFS does not anticipate any adverse effects to CCV steelhead and critical habitat beyond what has been previously evaluated in its March 15, 2021, biological opinion.

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 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(0)(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 that incidental take is reasonably certain to occur as follows: NMFS anticipates that CCV steelhead will be harassed, harmed, or killed due to impacts related to impaired water quality, physical disturbance effects, acoustic effects from pile driving, dewatering, and fish capture and relocation. The applicant will participate in the PCCP, and thus, any incidental take associated with the action is covered under the NMFS (2021) *Biological Opinion for the Placer County Conservation Program Habitat Conservation Plan*. Section 2.9.1 details the amount or extent of take associated with covered actions, and is incorporated here by reference. If the take levels described therein are exceeded, the applicant will need to reinitiate consultation.

Effect of the Take

In the biological opinion, NMFS determined that 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” refer to those actions the Director considers necessary or appropriate to minimize the impact of the incidental take on the species (50 CFR 402.02).

Caltrans shall include the following in the permit:

- 1) Measures shall be taken to ensure that the applicant monitors, assesses, and provides a post-action report to NMFS.

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. The [name federal agency] 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, protective coverage for the proposed action would likely lapse.

The following term and condition implements reasonable and prudent measure 1:

- 1) The applicant shall submit to NMFS an annual report describing the impacts of the proposed action. This shall include any fishes known to have been killed or injured due to the project.
- 2) This report shall be submitted, preferably by email, annually by December 31, to the NMFS California Central Valley Office:

ccvo.consultationrequests@noaa.gov

National Marine Fisheries Service
Assistant Regional Administrator
California Central Valley Office
650 Capitol Mall, Suite 5-100
Sacramento, California 95814

Reinitiation of Consultation

Under 50 CFR 402.16(a): “Reinitiation of consultation is required and shall be requested by the federal agency where discretionary federal 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.”

ESSENTIAL FISH HABITAT RESPONSE

Thank you also for your request for essential fish habitat (EFH) consultation. NMFS reviewed the proposed action for potential effects on EFH pursuant to section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), implementing regulations at 50 CFR 600.920, and agency guidance for use of the ESA consultation process to complete EFH consultation.

NMFS concluded that the action would adversely affect EFH designated under the Pacific Coast Salmon Fishery Management Plan (PFMC 2014). The restoration and conservation planned by the PCCP will offset adverse effects to EFH, so no conservation recommendations are provided.

MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

Section 305(b) of the MSA directs federal agencies to consult with NMFS on all actions or proposed actions that may adversely affect EFH. Under the MSA, this consultation is intended to promote the conservation of EFH as necessary to support sustainable fisheries and the managed species’ contribution to a healthy ecosystem. For the purposes of the MSA, EFH means “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity”, and includes the associated physical, chemical, and biological properties that are used by fish (50 CFR 600.10). Adverse effect means any impact that reduces quality or quantity of EFH, and may include direct or indirect physical, chemical, or biological alteration of the waters or substrate and loss of (or injury to) benthic organisms, prey species and their habitat, and other ecosystem

components, if such modifications reduce the quality or quantity of EFH. Adverse effects may result from actions occurring within EFH or outside of it and may include direct, indirect, site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions (50 CFR 600.810). Section 305(b) of the MSA also requires NMFS to recommend measures that can be taken by the action agency to conserve EFH. Such recommendations may include measures to avoid, minimize, mitigate, or otherwise offset the adverse effects of the action on EFH (50 CFR 600.905(b)).

Supplemental Consultation

Caltrans must reinitiate EFH consultation with NMFS if the proposed action is substantially revised in a way that may adversely affect EFH, or if new information becomes available that affects the basis for NMFS' EFH conservation recommendations (50 CFR 600. 920(l)).

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. A complete record of this consultation is on file at the Sacramento NMFS office.

Please contact Kathryn Swick at the NMFS California Central Valley Office at (301) 427-7812 or via email at kathryn.swick@noaa.gov, if you have any questions concerning this consultation, or if you require additional information.

Sincerely,



Cathy Marcinkevage
Assistant Regional Administrator for
California Central Valley Office

cc: ARN 151422-WCR2024-SA00051
Gregory Saiyo, Caltrans District 3, Marysville, California
Theresa Johnson, Placer Conservation Authority, Lincoln, California

Citations:

California Department of Transportation (Caltrans). 2024. Request to Initiate Formal Consultation for Listed Salmonids, Designated Critical Habitat, and Essential Fish Habitat for the City of Lincoln, McBean Park Drive Bridge Replacement Project. Marysville, California.

Crozier, L. G., M. M. McClure, T. Beechie, S. J. Bograd, D. A. Boughton, M. Carr, T. D. Cooney, J. B. Dunham, C. M. Greene, and M. A. Haltuch. 2019. Climate Vulnerability Assessment for Pacific Salmon and Steelhead in the California Current Large Marine Ecosystem. PloS one 14(7):e0217711. <https://doi.org/10.1371/journal.pone.0217711>

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National Marine Fisheries Service (NMFS). (2006). Biological Opinion for the Sacramento River Flood Control Project, Critical Levee Erosion Repair Project. 151422SWR2006SA00115:HLB. Long Beach, CA. June 2006.

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NMFS. 2021. Endangered Species Act section 7(a)(2) Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat (EFH) Response Placer County Conservation Program Habitat Conservation Plan. WCRO-2020-03651. <https://doi.org/10.25923/f1rm-j378>

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Rodkin, R., & Pommerenck, K. (2014, October). Caltrans compendium of underwater sound data from pile driving-2014 update. In *INTER-NOISE and NOISE-CON Congress and Conference Proceedings* (Vol. 249, No. 3, pp. 4507-4605). Institute of Noise Control Engineering.