From:	Denning, MICHELLE
To:	Ren Lohoefener; Alexandra Pitts; Dan Castleberry; David Murillo; Jason Phillips; Erin Curtis
Subject:	Fwd: California Department of Fish and Wildlife Comments on the U.S. Department of the Interior, USFWS, Fish and Wildlife Coordination Act Report for the Proposed Shasta Dam Englargement Project/Shasta Lake Water Resources Investigation
Date:	Saturday, February 14, 2015 10:04:37 AM
Attachments:	SLWRI Comment Letter USFWS CAR CDFW 020215.pdf

FYI. It looks like Littlefield did not notify DFW that the report had been rescinded to allow for higher level review. I suspect the attached comment letter will be shared externally. DFW was included on monthly planning meetings until we determined that there were no imminent CEQA compliance activities for raising Shasta Dam and Reservoir. Without a CEQA nexus, the relationship is through the Fish and Wildlife Coordination Act.

Michelle

---------- Forwarded message ----------
From: **Wildlife R1 Correspondence** <R1Correspondence@wildlife.ca.gov>
Date: Fri, Feb 13, 2015 at 2:32 PM
Subject: California Department of Fish and Wildlife Comments on the U.S. Department of the Interior, USFWS, Fish and Wildlife Coordination Act Report for the Proposed Shasta Dam Englargement Project/Shasta Lake Water Resources Investigation
To: "mdenning@usbr.gov" <mdenning@usbr.gov>, "rganzfried@usbr.gov" <rganzfried@usbr.gov>, "mark_littlefield@fws.us" <mark_littlefield@fws.us>, "Rocky_montgomery@fws.gov" <Rocky_montgomery@fws.gov>, "dmyers01@fs.fed.us" <dmyers01@fs.fed.us>, "jknelson@fs.fed.us" <jknelson@fs.fed.us>, "Alston, Naseem@NOAA" <Naseem.Alston@noaa.gov>, "Woodward, Phil@Waterboards" <Phil.Woodward@waterboards.ca.gov>, "Babcock, Curt@Wildlife" <Curt.Babcock@wildlife.ca.gov>, "Milliron, Curtis@Wildlife" <Curtis.Milliron@wildlife.ca.gov>, "Zezulak, Dave@Wildlife" <Dave.Zezulak@wildlife.ca.gov>, "Dibble, Chad@Wildlife" <Chad.Dibble@wildlife.ca.gov>, "Roberts, Jason@Wildlife" <Jason.Roberts@wildlife.ca.gov>, "Cantrell, Scott@Wildlife" <Scott.Cantrell@wildlife.ca.gov>, "Henderson, Brad@Wildlife" <Brad.Henderson@wildlife.ca.gov>, "Harris, Michael R.@Wildlife" <Michael.R.Harris@wildlife.ca.gov>, "Bratcher, Patricia@Wildlife" <Patricia.Bratcher@wildlife.ca.gov>, "Kovacs, Karen@Wildlife" <Karen.Kovacs@wildlife.ca.gov>, "Bartlett, Tina@Wildlife" <Tina.Bartlett@wildlife.ca.gov>, "Cobb, Donna@Wildlife" <Donna.Cobb@wildlife.ca.gov>

Please see attached. All service is by e-mail.

Nancy Rich

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EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director

February 13, 2015

Ms. Michelle Denning
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Mr. Mark Littlefield
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Subject: California Department of Fish and Wildlife Comments on the U.S. Department of the Interior, U.S. Fish and Wildlife Service, Fish and Wildlife Coordination Act Report for the Proposed Shasta Dam Enlargement Project/Shasta Lake Water Resources Investigation

Dear Ms. Denning and Mr. Littlefield:

The California Department of Fish and Wildlife (Department) received the U.S. Department of the Interior, U.S. Fish and Wildlife Service (USFWS) Coordination Act Report (CAR) for the Proposed Shasta Dam Enlargement Project/Shasta Lake Water Resources Investigation (SLWRI) on December 4, 2014. Pursuant to our discussions with you in June 2014 regarding the CAR, the Fish and Wildlife Coordination Act (FWCA) requires consultation with the USFWS and the fish and wildlife agencies of states.

The FWCA provides a basic procedural framework for the orderly consideration of fish and wildlife conservation and enhancement measures in federally constructed, permitted, or licensed water development projects. The FWCA provides that whenever any water body is proposed to be controlled or modified *"for any purpose whatever"* by a federal agency or by any *"public or private agency"* under a federal permit or license, the action agency is required first to consult with the wildlife agencies, *"with a view to the conservation of fish and wildlife resources in connection with that project."* The FWCA authorizes preparation of reports and recommendations by the Secretary of the Interior (and/or Commerce) and the head of the State agency responsible for the administration of fish and wildlife resources to be submitted to the action agency. That report, if prepared, must be made available to the Congress or other authorizing agents when decisions are made to authorize a project.

While the Department participated in the SLWRI in its current iteration since 2000 and is a member of the SLWRI Project Coordination Team, we were not aware of the development of a new alternative, CP4A. The lack of detailed information on Alternative CP4A, now the preferred alternative, hampered our ability to provide a thorough review of the CAR. Our review and comments are therefore based solely on the content of the CAR, with the acknowledgement that additional information may have affected our response. In addition, the CAR repeatedly states that, *"…there is insufficient information provided … to analyze the effects...,"* or *"…the Service is unable to analyze the effects…"* due to insufficient information

on project details. Because of this, an additional CAR may be needed to allow the USFWS and the Department to fully analyze the impacts of the complete SLWRI, including Alternative CP4A.

The Department agrees with the conclusions drawn within the CAR.

The Department provides the following additional information, clarification, and comments.

State role: As discussed above, the CAR should recognize the role of the State, as identified in the FWCA.

Analysis Area: While the CAR does identify the need to assess certain wildlife species, it is not clear regarding State and federally listed species that have large home ranges, such as northern spotted owl (*Strix occidentalis caurina*) and Pacific fisher (*Martes pennanti pacifica*). If a suitable stand of habitat utilized for reproduction or foraging of these species is fragmented by a rise in reservoir elevation or other project activity, its impacts can extend beyond just loss of acreage; the function of the habitat can be negatively affected and rendered unusable. In this context, the Department encourages the development of a sufficiently-sized analysis area that will allow for the complete analysis of impacts to State fish, wildlife, and botanical resources.

In addition, the CAR identifies the need to include the lower reaches of the tributaries to the Sacramento River between Keswick Dam and Red Bluff Pumping Plant (RBPP), not only for the reasons stated in the CAR but also due to the already documented impacts of the dam on these tributaries. Channel incision and bank erosion in both the main channel and tributaries commonly occurs below dams. Problematic channel incision has largely been documented in Clear Creek, Cow Creek, Bear Creek, and Cottonwood Creek. Additional analysis is needed to assess the effects of proposed operations and flows on these and other critical tributaries below Keswick Dam. This impact warrants further investigation including consideration of mitigation measures such as gravel augmentation, bank stabilization, and riparian restoration to reduce potential erosion.

Primary Objectives of SLWRI: Based upon previous analyses and the conclusions drawn in the CAR, the Department questions the validity of continuing to use Anadromous Fish Survival as one of the two primary objectives of SLWRI. As stated in the CAR, only one alternative (CP4) provides any substantial benefit to anadromous fish survival; however, in the majority of years Alternative CP4 would result in either negligible or slightly negative impacts to Chinook salmon survival overall. In about 90 percent of the years, there would be no benefit to anadromous fish survival. Even in CP4, the benefits of an enlarged cold water pool for each of the four runs of Chinook salmon are limited to a few critical and dry water years representing 6 to 16 percent of the water years, based on the 1922 - 2002 period of simulation. In addition, the 2013 Public Draft of the Environmental Impact Statement on the SLWRI (Bureau of Reclamation [BOR] 2013) did not provide a net impact analysis on anadromous fish which would show the negative and positive impacts of the project within its entire area of potential impact (from Shasta Dam to the Sacramento-San Joaquin Delta).

Use of the Dedicated Pool, Alternatives CP4 and CP4A: The 2008 Planning Aid Memorandum (PAM) (USFWS 2008) identified an earlier recommendation from the USFWS, the Department, and National Marine Fisheries Service (NMFS) for *"dedicated environmental water"* to be included in a SLWRI alternative, in the amount of 378,000 acre-feet in

Alternative CP4. This water was to be adaptively managed and used at the discretion of the federal and State fisheries resource agencies. At its earliest inception, this water was to be used not only for fish resources but potentially for other natural resource needs, including but not limited to cottonwood regeneration, floodplain management/restoration, bird habitat creation, and habitat needs of species identified in the CALFED Multi Species Conservation Strategy (CALFED Bay Delta Program 2000). The Department encourages further discussion on this project attribute to proactively develop a plan to utilize this water.

Minimum flows on the Sacramento River: The Department agrees with the recommendation to consider increasing the minimum flows on the upper Sacramento River from the current 3,250 cubic feet per second (cfs) to a higher flow (the CAR mentions two flows: 4,000 and 4,200 cfs). The Department also encourages analyzing consistent flows in the fall to minimize the potential effect of redd dewatering during this period, which has negatively impacted fall-run Chinook (*Oncorhynchus tshawytscha*). In this context, the analysis of daily flows as opposed to monthly flow data, which is addressed as well in the CAR, is critical. The Department and its partner, the Pacific States Marine Fisheries Council, who have been monitoring redd dewatering and juvenile salmonid stranding as a result of flow fluctuations, plan to continue to provide information on these two issues to more effectively address this in the future given the importance of the upper Sacramento River to anadromous fish, particularly winter-run Chinook, which only spawn in the section above RBPP.

Modelling: The Department agrees that additional modelling and analysis is needed to address the potential impacts to special status species and habitats. FWCA identifies various tools to use to analyze impacts, including the Habitat Evaluation Procedure. In general, evaluation methodologies should be quantitative, scientifically based, and repeatable. Such techniques may be used in conjunction with establishing the project boundary, determining baseline values, establishing the future with and future without the project scenarios, and determining net change between the two (Smalley 2004). The Mitigation Policy as identified in the FWCA calls for evaluation using habitat-based evaluation techniques wherever possible. Other available "standard" techniques that may be applicable include the Habitat Evaluation System and Wetland Evaluation Technique (WET) developed by the Corps of Engineers, and the Hydromorphologic Methodology under development by the Corps of Engineers. Where instream flows are involved, the USFWS's Instream Flow Incremental Methodology may be able to provide information in making mitigation recommendations (Smalley 2004). There are also other evaluation tools developed specifically for the upper Sacramento River which should be utilized, including the Nature Conservancy's SAC Ecological Flows Tool.

Species listing: Western yellow-billed cuckoo (*Coccycus americanus*) is now listed as Threatened under the federal Endangered Species Act (ESA) and Pacific fisher is Proposed threatened, although they are listed as Candidate species in the CAR. The document needs to be updated to reflect the potential impact to these species as per ESA review requirements. The document also should reflect the dual listing status in the narrative where applicable (i.e., winter-run Chinook, spring-run Chinook, and western yellow-billed cuckoo all have dual listing status under ESA and the California Endangered Species Act [CESA]).

Southern Distinct Population Segment (DPS), Green Sturgeon: The CAR superficially addresses the Southern DPS of green sturgeon (*Acipenser medirostris*). The principal factor in the decline of the Southern DPS is the reduction of the spawning area to a limited section of the Sacramento River. In April 2006, the Southern DPS of North American Green Sturgeon was listed as threatened under ESA. The listing was due in part to the degradation

of the primary spawning habitat in the Sacramento River and the declining numbers of green sturgeon. A jeopardy determination was made in the 2009 OCAP Biological Opinion on Central Valley Project operations (NMFS 2009) on the species and its Critical Habitat, upon which the Department prepared a consistency determination. Available information on green sturgeon indicates that as with winter-run Chinook, the mainstem Sacramento River may be the last viable spawning habitat for the Southern DPS of Green Sturgeon. The CAR should clearly identify the issues facing this species and also mention the reasonable and prudent alternatives identified in the OCAP BO (NMFS 2009). In addition, the Department recommends discussions between BOR, USFWS, NMFS, and the Department to identify and incorporate any additional conservation measures, as well as address ESA and CESA analysis processes.

Neotropical Migratory Birds: The Department would like to emphasize the importance of adequately addressing impacts to neotropical migratory birds, which are the subject of numerous environmental laws and regulations, including the federal Neotropical Migratory Bird Act. Some of these species have special status and depend more on the Sacramento River for their recovery than other riverine systems in California, including the Western yellow-billed cuckoo. The second largest proposed critical habitat unit is on the Sacramento River, second only to the Colorado River (USFWS 2014). The bank swallow (*Riparia riparia*), which is a neotropical migrant and also listed as Threatened under CESA, is also highly dependent on the Sacramento River for its recovery; 70 to 90 percent of the populations known in California lie along the Sacramento River. To recover the bank swallow population in California, natural river processes will have to be restored on a significant portion of the Sacramento River and its tributaries. Many of the current flood management activities will have to be modified and replaced with more sustainable ones, and past habitat modification will have to be reversed. Spring and summer flow regimes that inundate or erode active colonies will have to be modified (Bank Swallow Technical Advisory Committee 2013). While the CAR mentions the importance of neotropical migratory birds, the Department stresses the need to address these species in the context of flow management for impact minimization.

Water Quality Impacts: As stated on page 89 of the CAR, the potential impacts to water quality as a result of inundating abandoned mines and contaminated tailings piles is at issue. It appears that this potentially huge and severe impact was inadequately addressed in the 2013 public draft of the SLWRI EIS (BOR 2013); sufficient information was not provided to the USFWS to completely address this impact in the CAR. The Department encourages BOR to begin and facilitate discussions with the water quality regulatory agencies, including the Department, the State Water Resources Control Board, and the U.S. Environmental Protection Agency to address these and other water quality issues.

McCloud River: The Department appreciates the inclusion of the McCloud River as an issue that needs resolution prior to additional steps taken on the SLWRI. Raising the water level behind Shasta Dam will convert part of the McCloud River into reservoir habitat, changing the free-flowing condition of the McCloud River. As per the California Wild and Scenic Rivers Act, the determination of adverse effect as a result of this change is made by the Secretary of the State of California's Resource Agency, currently known as the Natural Resource Agency (Public Resource Code §5093.60). BOR should request an effects determination from the California Natural Resources Agency, if it has not already done so.

Other Department-related regulations: The Department would like to take the opportunity to bring the following Fish and Game Code (FGC) sections to your attention that were not mentioned in the CAR, in the context of coordination as per FWCA:

- FGC 1505, regarding spawning areas management and protection, from Keswick to Squaw Hill Bridge near Vina, California
- FGC 1600, regarding lake or stream alteration
- FGC 5650, regarding water pollution
- FGC 5900-5904, regarding development of water resources projects
- FGC 5930-5948, regarding dams and impacts to fish resources

Definition of Suitable Habitat and Species Analyses: In numerous locations, acres of suitable habitat were shared in the CAR without a clear definition of how that habitat was defined. The Department would like to discuss this further. In addition, some species were lumped together in the CAR analysis which the Department would like to discourage. For example, bat species were lumped as a group when many are known to have very different habitat preferences. This makes it impossible to know if these species were adequately addressed in the CAR, which is particularly troubling given the special status of some of these species. The same comment holds true for State Fully Protected species, for which incidental take cannot be allowed or permitted.

Bald Eagle: Given its protection under the Eagle Protection Act, its listing as a State Endangered species and State Fully Protected species, and its role as a national symbol, the impacts of SLWRI on bald eagle (*Halieaatus leucocephalus*) are significant. Of the 28 nests that occur around Shasta Lake, four nests, or 14 percent, are anticipated to be lost as a result of an 18.5 ft. raise, the preferred alternative. As mentioned above, take cannot be authorized by the State for Fully Protected species. The Department encourages additional, pro-active discussion about the impacts to this species, as well as the other seven species that may be considered under Section 4 of ESA, as addressed on page 163 of the CAR. This includes Shasta snow wreath (*Neviusia cliftonii*), which is believed to have been severely impacted by the initial construction of the dam, and which would be further impacted significantly by a dam raise. In the spirit of FWCA, we would like to find solutions to these issues in a cooperative manner with BOR and the USFWS as soon as possible.

American and Feather Rivers: As mentioned in the CAR on page 131, there is an anticipated decreased flow on the American and Feather rivers as a result of reoperations created by a raised Shasta Dam. Absent a review of modelling results, the Department is unclear if there is a proposal for reoperation of the American or Feather rivers due to Shasta enlargement for the preferred alternative, and if there is an increase in Shasta releases to meet Bay-Delta Water Quality Objectives or the Coordinated Operations Agreement (COA) requirements. The proposed flow reductions on the American River may cause significant impacts to resources, and needs to be analyzed.

Mitigation Policy: Starting on page 132, the USFWS Mitigation Policy is addressed. While the Department acknowledges the USFWS process in this context, the habitat types listed as being present are too general, resulting in a loss of the ability to address certain unique habitats that are critical to the recovery of certain species. For example, limestone outcrop within the habitat type "Barren" is a unique habitat type important for Shasta salamander (*Hydromantes shastae*), listed as Threatened by the State of California.

The Department identifies general and species-specific minimization measures that have been shown to significantly reduce a particular project's impacts of taking species listed under CESA. Because these measures reduce the amount and extent of direct take, inclusion of these measures has reduced the scope and extent of other required actions to achieve full mitigation for these projects. Modifying or reducing a project footprint is often used to reduce the level of take which reduces the amount of compensatory mitigation. The Department relies on an accurate and complete understanding of the types and extent of impacts on the listed species. This understanding has facilitated the Department's determination of the types and amount of mitigation necessary to offset all incidental take-related impacts for those projects.

The value of the impacted habitat to species range-wide is another important consideration. Impacts to essential breeding habitat, movement/dispersal corridors, and foraging habitats are also assessed. Acreage-based assessments consider the total amount of habitat lost or degraded and the extent to which the project reduces habitat suitability, and how a project has affected species habitat on a landscape scale. Factors considered are total acreage lost; habitat degradation related to changes in structure and resource availability, community constituents (e.g., invasive species), disturbance, new access roads, staging or storage areas and other facilities; the amount of fragmentation/edge being created; and the distance to other suitable habitat. Temporal considerations include determining the duration of a listed species' habitat being lost or degraded and the length of time the species would be subjected to activities causing impacts, to characterize the impact on essential behaviors or life requirements of the covered species. Considerations include permanent versus temporary impacts, the duration of restoration/recovery, the duration of impacts to generation time, movement, and other relevant aspects of the life history of the listed species.

To meet CESA standards, unavoidable impacts of the taking that remain after minimization measures have been employed need to be fully mitigated by management of the affected species, typically through a combination of on-site restoration, off-site creation/restoration/enhancement, and/or off-site acquisition and protection. Each of these components typically carries a monitoring, management, and financial responsibility.

California lawmakers have identified a public interest in protecting and maintaining the State's wetland and riparian habitats (FGC §§1385 and 2780). In 1993, Executive Order W-59-93 established a comprehensive wetlands policy for the State that sought no overall net loss and long-term net gain in the quantity, quality, and permanence of wetlands acreage and values. The Fish and Game Commission also has adopted a Wetlands Resources Policy, which recognizes the habitat values of wetlands and the damage to fish and wildlife resources from projects resulting from net loss of wetland acreage or habitat values (Fish and Game Commission 2013).

The Fish and Game Commission expects the Department to apply the wetland policy and the implementing procedures in a manner which assures the protection and enhancement of California's wetland resources.

All wetland and riparian habitat types listed in the CAR under the Mitigation Policy section should be therefore listed as either Resource Category 1 or 2. While the Sacramento River may appear to have a lot of riparian habitat especially when compared to some other river systems, less than 2 percent of riparian habitat remains when compared to its historical extent (Katibah 1984 and Greco 1999, as cited in Stillwater Sciences 2007). Extant riparian habitat associated with the Sacramento river includes some of the best remaining examples of

certain habitat types, such as Valley Oak riparian woodland, that are found in California. This heightens its importance as a resource and draws attention to its critical condition.

Land Acquisition associated with the SLWRI: Other provisions of the FWCA relate to the acquisition and use of project lands and waters for fish and wildlife purposes, the evaluation of project effects including benefits and costs, and related matters. For example, section 4 of the FWCA provides that lands made available to the Secretary of the Interior for management of migratory birds may be managed by the Secretary of the Interior or made available to the states for management; these lands could be made available without cost to the state. If lands are to be acquired as part of the SLWRI, the Department requests to be informed at the earliest convenience in order to assess future management of said lands.

This concludes our comments. If you have further questions regarding our comments, please contact Senior Environmental Scientist Patricia Bratcher at Patricia.Bratcher@wildlife.ca.gov or (530) 225-3845. Thank you for your time and consideration.

Sincerely,

Neil Manji
Regional Manager

ec: Page 9

References: Page 10

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