Appendix A – Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

for the

REINITIATION OF CONSULTATION ON THE COORDINATED LONG-TERM OPERATION OF THE CENTRAL VALLEY PROJECT AND THE STATE WATER PROJECT

by and among

THE UNITED STATES FISH AND WILDLIFE SERVICE
THE NATIONAL MARINE FISHERIES SERVICE
THE BUREAU OF RECLAMATION
THE CALIFORNIA DEPARTMENT OF WATER RESOURCES
AND
THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

1.0 PARTIES TO MEMORANDUM

This Memorandum of Understanding (Memorandum) sets forth the terms and understanding between the Parties, collectively deemed the United States Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), the Bureau of Reclamation (Reclamation), the California Department of Water Resources (DWR), and the California Department of Fish and Wildlife (CDFW), to undertake the Reinitiation of Consultation on the Coordinated Long-term Operation of the Central Valley Project (CVP) and the State Water Project (SWP) pursuant to the Federal Endangered Species Act (ESA).

2.0 RECITALS AND PURPOSES OF THE MEMORANDUM

2.1 Recitals

The Parties have entered into this Memorandum in consideration of the following facts:

2.1.1 Reclamation is a Federal agency within the United States Department of the Interior charged with the responsibility of operating and maintaining dams, power plants, and canals in the 17 western states. Reclamation's Mid-Pacific Region operates and maintains the CVP, which was built to protect the region from flood waters and irrigate the semi-arid acreage of the Central Valley and later amended to include fish and wildlife purposes. The CVP is composed of 20 reservoirs with a combined storage capacity of more than 11 million acre-feet; over 11 hydroelectric power plants; and more than 500 miles of major canals and aqueducts.

2.1.2 DWR is a State agency within the California Natural Resources Agency responsible for constructing, operating and maintaining the SWP water storage

and conveyance facilities located throughout California, including pumping facilities located in the Sacramento-San Joaquin Delta. The SWP is composed of 21 reservoirs and lakes and 11 other storage facilities, with a combined storage capacity of more than 4 million acre-feet; five hydroelectric power plants and four pumping-generated plants; and more than 700 miles of major canals and aqueducts.

2.1.3 USFWS is a Federal agency within the United States Department of the Interior charged with the responsibility of administering the ESA and providing for the conservation of Federally-listed aquatic and terrestrial species and their habitat. USFWS is responsible for consulting with Federal action agencies under Section 7 of the ESA to address effects to Federally-listed aquatic and terrestrial species and their designated critical habitat to assist the Federal action agency in ensuring that their Federal action does not jeopardize listed species or destroy or adversely modify critical habitat.

2.1.4 NMFS is a Federal agency within the United States Department of Commerce charged with the responsibility of administering the Federal ESA and providing for the conservation of federally-listed anadromous and marine species and their habitat. NMFS is responsible for consulting with Federal action agencies under Section 7 of the ESA to address effects to Federally-listed marine species and their designated critical habitat to assist the Federal action agency in ensuring that their Federal action does not jeopardize listed species under NMFS' jurisdiction or destroy or adversely modify designated critical habitat.

2.1.5 CDFW is a State agency within the California Natural Resources Agency charged with the responsibility of administering the California Endangered Species Act (CESA). CDFW is authorized allow take of State-listed endangered or threatened, or candidate species through issuance of incidental take permits under California Fish and Game Code, section 2081(b), or through issuance of consistency determinations pursuant to California Fish and Game Code, section 2080.1

2.1.6 Section 103 of Public Law 99-546 authorized and directed the Secretary of the Interior to execute and implement the "Agreement between the United States of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and State Water Project" (Coordinated Operation Agreement or COA, May 20, 1985). Reclamation and DWR coordinate operations of the CVP and SWP as provided by the COA.

2.1.7 All Federal agencies have a responsibility to utilize their authorities in furtherance of the purposes of the ESA by carrying out programs for the conservation of listed species, and to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or destroy or adversely modify their designated critical habitat [ESA Sections 7(a)(1), 7(a)(2)].

2.1.8 Federal agencies must comply with the requirements of the National Environmental Policy Act (NEPA) when their involvement in major Federal actions that affect the quality of the human environment is sufficient to trigger NEPA responsibility under applicable law.

2.1.9 Reclamation accepted and implemented the USFWS 2008 and NMFS 2009 Biological Opinions (BiOps) on the Coordinated Long-term Operation of the CVP and SWP including the Reasonable and Prudent Alternatives to avoid jeopardy of listed species and adverse modification of designated critical habitat.

2.1.10 CESA establishes a prohibition against the take of any species that the California Fish and Game Commission has determined to be an endangered or threatened species or designated as a candidate species. (California Fish and Game Code §§ 2080, 2084). It is State policy for all State agencies, boards, and commissions to seek to conserve endangered and threatened species. (California Fish and Game Code §§ 2055).

2.1.11 The BiOps served as the basis for CDFW's issuance of consistency determinations to DWR for operations of the SWP, pursuant to California Fish and Game Code, section 2080.1. CDFW has also issued an incidental take permit to DWR authorizing take of longfin smelt y SWP operations in the Delta.

2.1.12 Reclamation completed the NEPA process on the Coordinated Long-term Operation of the CVP and SWP with issuance of a corresponding Record of Decision (ROD) on January 11, 2016.

2.1.13 On August 2, 2016, Reclamation and DWR, as the Applicant, jointly requested reinitiation of ESA Section 7 consultation with USFWS and NMFS on the Coordinated Long-term Operation of the CVP and SWP, based on new information related to multiple years of drought and recent data on Delta smelt and winter-run Chinook salmon population levels, and new information available and expected to become available as a result of ongoing work through collaborative science processes.

2.2 Purpose of Memorandum

The purposes of this Memorandum are to describe the expected tasks, processes (including schedule development), and participants for the reinitiation of consultation on the Coordinated Long-term Operation of the CVP and SWP.

3.0 AUTHORITIES

3.1 Bureau of Reclamation

The Rivers and Harbors Act of August 30, 1935, provided the initial Federal authority for the CVP. On Dec. 2, 1935, the president approved a finding of feasibility by the Secretary of the Interior, pursuant to the Reclamation Act of 1902. The Rivers and Harbors Act of August 26, 1937, brought the CVP under Reclamation Law and authorized the construction, operation and maintenance. On October 6, 1992, Section 3406(a) of the Central Valley Project Improvement Act (CVPIA), Public Law 102-575, amended the project purposes of the CVP to include fish and wildlife purposes.

3.2 Department of Water Resources

DWR was authorized under the State Central Valley Project Act (Water Code section 11100 et seq.), Burns-Porter Act (California Water Resources Development Bond Act), State Contract Act (Public Contract Code section 10100 et seq.), Davis-Dolwig Act (Water Code sections 11900 – 11925), and other acts of the State Legislature and applicable laws of the State of California to construct, operate, and maintain the SWP. As provided for by Federal ESA regulations, DWR is designated as an applicant for this consultation.

3.3 U.S. Fish and Wildlife Service

USFWS authority is pursuant to the Federal ESA and its implementing regulations as well as the Fish and Wildlife Coordination Act and the Fish and Wildlife Act of 1956, as amended and CVPIA.

3.4 National Marine Fisheries Service

NMFS authority is pursuant to the Federal ESA and its implementing regulations, as well as the Fish and Wildlife Coordination Act, as amended.

3.5 California Department of Fish and Wildlife

CDFW authority is pursuant to CESA and its role as the trustee for the State's fish and wildlife resources, set out in California Fish and Game Code, sections 711.7 and 1802.

4.0 DEFINITIONS

The following terms as used in this Memorandum will have the meanings set forth below. Terms specifically defined in statutes, including the ESA or NEPA, or the regulations and policies adopted under those statutes, shall have the same meaning when used in this Memorandum.

4.1 Biological objectives mean specific, measureable outcomes as a result of the implementation of a specific plan or project.

4.2 "CESA" means the California Endangered Species Act (California Fish and Game Code, §§2050-2115.5) and all regulations promulgated pursuant to that Act.

4.3 "Central Valley Project" or "CVP" means the Central Valley Project, as defined in 3404(d) of Title XXXIV of Public Law 102-575.

4.4 "Central Valley Project Improvement Act" or "CVPIA" means Title XXXIV of Public Law 102-575.

4.5 "Cooperating Agency" means any Federal agency, other than a lead agency, that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposed project or project alternative. A State or local agency of similar qualifications or a Native American tribe may, by agreement with the Federal lead agency, also become a cooperating agency.

4.6 "Coordinated Operations Agreement" means the Agreement between the United States of America and the State of California for the Coordinated Operation of the Central Valley Project and the State Water Project, dated November 24, 1986.

4.7 "Delta" or "Sacramento-San Joaquin Delta" means the Sacramento-San Joaquin Delta (including Suisun Marsh) as defined in Water Code §85058.

4.8 "California Department of Water Resources" or "DWR" means the California Department of Water Resources, a department of the California Natural Resources Agency.

4.9 "California Department of Fish and Wildlife" or "CDFW" means the California Department of Fish and Wildlife, a department of the California Natural Resources Agency.

4.10 "Designated Non-Federal Representative" means a non-Federal representative designated by a Federal agency to conduct informal consultation or prepare a biological assessment (BA) by giving written notice to the Director of USFWS and/or the Director of NMFS of such designation.

4.11 "Effective Date" means the date on which this Memorandum takes effect, described in Section 6.1.

4.12 "ESA" means the Federal Endangered Species Act of 1973, as amended (16 U.S.C. §§ 1531-1544) and all rules, regulations, and guidelines promulgated pursuant to that Act.

4.13 "Executive Sponsor" means a person of senior-level management in the execution of project management.

4.14 "Federally Listed Species" means the species that are listed as threatened or endangered species under the Federal ESA. See 50 C.F.R. § 17.11.

4.15 "Memorandum" means this Memorandum of Understanding.

4.16 "National Marine Fisheries Service" or "NMFS" means the National Marine Fisheries Service, an agency of the Department of Commerce.

4.17 "NEPA" means the National Environmental Policy Act (42 U.S.C. §§ 432-4347) and all rules, regulations and guidelines promulgated pursuant to that Act.

4.18 "Project Management Plan" or "PMP" means a document prepared for the purposes of defining how the project is executed, monitored, and controlled.

4.19 "Project Manager" or "PM" means a person delegated with oversight of the implementation of the PMP.

4.20 "State Water Project" or "SWP" means the State Water Project as authorized by Water Code sections 12930 et seq. and Water Code sections 11100 et seq. and operated by DWR.

4.21 "Bureau of Reclamation" or "Reclamation" means the Bureau of Reclamation, an agency of the Department of the Interior.

4.22 "U.S. Fish and Wildlife Service" or "USFWS" means the United States Fish and Wildlife Service, an agency of the Department of the Interior.

5.0 CONSULTATION ON THE COORDINATED LONG-TERM OPERATION OF THE CVP AND SWP

5.1 Goals and Objectives

The overall goal of the consultation on the coordinated long-term operation of the CVP and SWP is to achieve a durable and sustainable BiOp(s) issued by the USFWS and NMFS that accounts for the updated status of the species and species' needs as developed through ongoing collaborative science processes, operation of CVP and SWP facilities, existing operations of the CVP and SWP, and operation of potentially new components of the CVP and SWP.

Specific objectives for this process include[1]:

[1] These are further defined as agency-specific roles and responsibilities in Section 5.4 below.

- Ensuring the Coordinated Long-term Operation of the CVP and SWP is not likely to jeopardize the continued existence of any federally-listed species and is not likely to adversely modify their designated critical habitat

- Utilizing concepts that may consider existing and alternative ways of achieving biological objectives. This means using a revised approach to the functionality of operations; assessing potential impacts of the operation of the CVP and SWP, including appurtenant facilities; and assessing operations to account for new science, including but not limited to changing climate, hydrology, ecosystem changes, and other information.

- Preparing a fully integrated operational and biological analysis of all CVP and SWP Divisions, including, but not limited to the potential assessment of Trinity and Friant Divisions, and Oroville operations.

- Utilizing science-based adaptive management concepts.

- Reclamation and DWR will propose an Action that will target a non-jeopardy BiOp.

- Preparing a joint BiOp issued by USFWS and NMFS, or two closely coordinated BiOps issued separately by USFWS and NMFS.

- Preparing a BA and NEPA document through an open, transparent, and participatory stakeholder process that allow for feedback, dialog, and incorporation of ideas and information beyond agency-only staff.

- Relying on peer reviewed products and/or best available scientific and commercially available data for the BA analysis whenever possible, and committing to peer-review of environmental compliance documentation developed under this Memorandum, as appropriate.

- Conducting timely reviews due to close agency coordination.

- Coordinating ESA and NEPA processes with CESA authorization for the SWP.

- Ensure compliance and consultation for Essential Fish Habitat as provided for in the Magnuson-Stevens Fishery Conservation and Management Act.

5.2 Tasks

Ensuring that objectives of the consultation on the coordinated long-term operation of the CVP and SWP are met, will require participating State and Federal agencies[2] to:

- Explore potential alternative approaches to operate the CVP and SWP for all Project purposes.

[2] These are further defined as agency-specific roles and responsibilities in Section 5.4 below.

- Develop a Proposed Action that reflects current conditions, fully integrated operations of all CVP and SWP Divisions, incorporates new planned facilities, and includes a suite of actions to meet the requirements of ESA Sections 7(a)(1) and 7(a)(2), ensure compliance with the Magnuson-Stevens Fishery Conservation and Management Act, and facilitate requests for CESA authorization.

- Prepare a BA using peer-reviewed, and/or best available scientific and commercial data, in a timely manner;

- Prepare a single joint BiOp or closely coordinated BiOps using peer-reviewed and/or best available scientific and commercial data, in a timely manner.

- Provide analyses regarding potential effects of the Proposed Action to federally-listed and certain proposed species and their designated or proposed critical habitats.

- Evaluate the Proposed Action and alternatives in compliance with NEPA through preparation of an environmental impact statement (EIS).

5.3 Schedule

The Parties to this Memorandum will work collaboratively to develop a schedule for completion of major tasks including development of the Proposed Action, BA, BiOp(s), Draft EIS, and Final EIS. The Parties shall make a concerted effort to meet anticipated milestone dates with the understanding that regular meetings will be established with Parties to this Memorandum, including stakeholders as identified. Further, the Parties to this Memorandum agree that issues shall be swiftly resolved and that policy decisions shall be made quickly and efficiently. In the near-term, Parties to this Memorandum will develop a list of actions to potentially be analyzed in the alternatives development process, and draft an outline for the BA that will be reviewed by the agency directors.

As committed to by the Deputy Secretary of the Department of the Interior, this Memorandum is anticipated to be executed in the Fall of 2016. Additionally, the Deputy Secretary committed to the review of the draft outline of the BA by the agency directors by December 31, 2016.

The Parties will work to complete a Proposed Action for the BA and will work to solicit comments from each agency prior to submittal of a BA and a request for formal consultation. After receipt of a BA that is deemed sufficient for the purpose of formal consultation by NMFS and USFWS, a draft BiOp will be provided to Reclamation and DWR for review and comment.

5.4 Roles and Responsibilities

Given the scope and magnitude of the Project, it is anticipated that extensive coordination will be required throughout the entirety of the process. This coordination will require each agency's dedication of technical experts, administrative support, directors, and other

staff as required. A detailed Project Management Plan (PMP) will be developed by Reclamation by January 2017 which will assist in better defining agency roles and responsibilities and forthcoming expectations in detail.

Generally, the following actions are expected of each Party to this Memorandum:

5.4.1 All Parties

- Identify a Project Manager (PM) from each agency with sufficient authority to enable efficient and effective decision-making.

- Identify an Executive Sponsor with final decision-making authority for the agency.

- Fulfill tasks defined in the PMP, further described below.

- Perform timely review of materials.

- Report on status and progress.

- Identify issues as early in the process as possible.

- Openly share information.

5.4.2 Bureau of Reclamation

- Reclamation will assign a PM with responsibilities for managing the timely completion of tasks and review of materials as described in the PMP as well as coordinating the identification and resolution of potential issues.

- The PM will be responsible for coordinating ESA, NEPA, and other necessary compliance required for the Project.

- Reclamation's PM will coordinate updates to the PMP, as necessary throughout the process.

- Reclamation will identify an executive sponsor with authorities and responsibilities for addressing policy-level issues as appropriate, coordinating with the Parties to this Memorandum as needed to complete tasks described in this Memorandum, and to identify and resolve issues.

- Reclamation will be the Federal action agency as it relates to its ESA Section 7 responsibilities.

- Provide analyses regarding potential effects of the Proposed Action to federally-listed and certain proposed species and their designated or proposed critical habitats.

- Explore potential alternative approaches to operate the CVP and SWP for all Project purposes.

- Evaluate the Proposed Action and alternatives in compliance with NEPA through preparation of an EIS.

- Develop a Proposed Action that reflects current conditions, incorporates new planned facilities, and includes a suite of actions to meet the requirements of ESA Sections 7(a)(1) and 7(a)(2).

- Reclamation will secure a contractor and appropriate funding to help facilitate internal and external stakeholder outreach, technical analysis, alternatives development, preparation of an EIS, preparation of a BA, and the preparation of an administrative record documenting decision-making.

- Reclamation will assume appropriate legal responsibilities under the issued final BiOp(s) from USFWS and NMFS.

- Reclamation will facilitate coordination with CVP contractors and stakeholders.

5.4.3 Department of Water Resources

- DWR will assign a PM with responsibilities for coordinating and managing a team of technical, administrative, and other DWR and contracted staff, managing timely completion of tasks and review of materials as described in the PMP. The PM will closely coordinate with Reclamation's PM on the identification and resolution of issues and will ensure policy-level issues are elevated in a timely manner.

- DWR will identify an Executive Sponsor with authorities and responsibilities for addressing policy-level issues as appropriate, coordinating with the Parties to this Memorandum as needed to complete tasks described in this Memorandum and to identify and resolve issues.

- DWR will be an Applicant, as defined by ESA.

- DWR will work with the other parties to this Memorandum to aid in the development of alternatives and resulting ESA and NEPA documentation.

- DWR will participate as a NEPA cooperating agency during Reclamation's development of an EIS.

- DWR will explore potential alternative approaches to operate the CVP and SWP for all Project purposes.

- DWR will provide requested technical support from appropriate staff.

- DWR will facilitate coordination with SWP contractors.

5.4.4 National Marine Fisheries Service

- NMFS will assign a PM with responsibilities for ensuring the NMFS coordinates and collaborates in an effective manner and communicates status internally and to other agencies.

- NMFS will identify an Executive Sponsor with authorities and responsibilities for addressing policy-level issues as appropriate, coordinating with the Parties to this Memorandum as needed to complete tasks described in this Memorandum and to identify and resolve issues.

- NMFS will provide technical assistance to Reclamation related to the preparation of the BA.

- NMFS will, within 30 days of receipt of a BA formally submitted by Reclamation along with a consultation request, submit a notification letter to Reclamation indicating whether the document contains the information necessary to initiate Section 7 consultation.

- NMFS will prepare a draft and final BiOp, considering the potential of a joint BiOp prepared in conjunction with USFWS.

- NMFS, in coordination with USFWS, will issue a draft BiOp for Reclamation's review. NMFS's final BiOp and/or Administrative Record will include consideration and/or integration of comments received from the Reclamation review of the draft BiOp.

- NMFS will participate as a NEPA cooperating agency during Reclamation's development of an EIS.

- NMFS will provide input to Reclamation during the development of the draft BA to assist Reclamation in its responsibility to provide the best available scientific and commercial data with respect to NMFS species as required by 50 C.F.R. 402.14(d).

5.4.5 U.S. Fish and Wildlife Service

- USFWS will assign a PM with responsibilities for ensuring the USFWS coordinates and collaborates in an effective manner and communicates status internally and to other agencies.

- USFWS will identify an Executive Sponsor with authorities and responsibilities for addressing policy-level issues as appropriate, coordinating with the Parties to this Memorandum as needed to complete tasks described in this Memorandum and to identify and resolve issues.

- USFWS will provide technical assistance to Reclamation related to the preparation of the BA.

- USFWS will, within 30 days of receipt of a BA formally submitted by Reclamation along with a consultation request, submit a notification letter to Reclamation indicating whether the document contains the information necessary to initiate Section 7 consultation.

- USFWS will prepare a draft and final BiOp, considering the potential of a joint BiOp prepared in conjunction with NMFS.

- USFWS, in coordination with NMFS, will issue a draft BiOp for Reclamation's review. USFWS's final BiOp and/or Administrative Record will include consideration and/or integration of comments received from the Reclamation review of the draft BiOp.

- USFWS will participate as a NEPA cooperating agency during Reclamation's development of an EIS.

- USFWS will provide input to Reclamation during the development of the draft BA to assist Reclamation in its responsibility to provide the best scientific and commercial data available with respect to USFWS species as required by 50 C.F.R 402.14(d).

5.4.6 California Department of Fish and Wildlife

- CDFW will assign a PM with responsibilities for ensuring CDFW coordinates and collaborates in an effective manner and communicates status internally and with other agencies.

- CDFW will identify an Executive Sponsor with authorities and responsibilities for addressing policy-level issues as appropriate, coordinating with the Parties to this Memorandum as needed to complete tasks described in this Memorandum and to identify and resolve issues.

- CDFW will provide input, specifically as it relates to species within its jurisdiction, related to the development of alternatives for NEPA and a Proposed Action for the BA.

- CDFW will participate as a NEPA cooperating agency during Reclamation's development of an EIS.

- CDFW will work with DWR, USFWS, and NMFS to coordinate CESA authorization for the SWP.

6.0 MISCELLANEOUS PROVISIONS

6.1 Duration of this Memorandum

This Memorandum may be modified by mutual consent of authorized officials from Reclamation, DWR, USFWS, NMFS, and CDFW. This Memorandum will become effective upon signature by the authorized officials and will remain in effect until modified or terminated by any one of the Parties by mutual consent, or by completion of the Project as described.

6.2 Specialized Stakeholder Engagement

6.2.1 Cooperating Agencies

Sections 40 C.F.R. 1501.6 and 40 C.F.R. 1508.5 of the Council on Environmental Quality Regulations address cooperating agencies, which are Federal agencies other than a lead agency which have jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal or reasonable alternative. These regulations implement NEPA and mandate that Federal agencies prepare NEPA analyses and documentation "in cooperation with State and local governments" and other agencies with jurisdiction by law or special expertise [42 U.S.C. §§ 4331(a) and 42 U.S.C. §§ 4332(2)].

In accordance with these regulations, Reclamation will engage with other Federal agencies with special expertise or jurisdiction by law via a request to become a cooperating agency under NEPA. These Federal agencies may include, but are not limited to, agencies such as NMFS, USFWS, U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, Western Area Power Administration, and other entities, as appropriate. Reclamation may also request State and local governments to become cooperating agencies for the NEPA process, if such agencies have special expertise or jurisdiction by law, and their cooperation is found by Reclamation to be appropriate. These entities may include, but are not limited to, DWR, DFW, counties, cities, water districts, flood districts, and other such groups with appropriate knowledge about components of their respective geographic regions.

6.2.2 Designated Non-Federal Representatives

Reclamation and DWR both retain responsibility for operation of the CVP and SWP, respectively. Many water and power users may participate in the ESA consultation process as a Designated Non-Federal Representative (DNFR), as defined by 50 C.F.R. 402.08. As a DNFR, certain water and power users may be allowed to participate in development of the BA during the informal consultation process with NMFS and USFWS. Staff in water and power organizations have a technical understanding of the CVP and SWP, their operations, and corresponding ecosystem responses. Moreover, the contractual relationships between water and power users and DWR and Reclamation leads to the conclusion that it would be appropriate to designate certain water and power users as DNFRs for development of the BA during the informal consultation process.

6.2.3 Expanded Stakeholder Engagement Process

Organizations with specific interests or concerns regarding the Reinitiation of Consultation on the Coordinated Long-term Operation of the CVP and SWP, including Environmental and Recreational Fishery, Commercial Fishery, Commercial Passengry Fishery Non-Governmental Organizations (NGOs), Federal and State water and power users and Federal and State agencies within the purview of the reinitiation will be invited to participate in an expanded stakeholder engagement process specific to the development of the EIS for NEPA. Participants of this process will provide input during the preparation of NEPA environmental documents and BA associated with the reinitiation of consultation. By attending and receiving the presentations of materials presented at the expanded stakeholder engagement forum, participants will gain a deep understanding of the analyses and assumptions. Moreover, participants will review administrative draft documents associated with the EIS at the same time as cooperating agencies.

6.2.4 Federally Recognized Tribes

Federally Recognized Tribes with a specific interests or concerns regarding the Reinitiation of Consultation on the Coordinated Long-term Operation of the CVP and SWP, will be invited by Reclamation to become a cooperating agency for the associated NEPA process. As a cooperating agency, these Federally Recognized Tribes will participate in the development and review of the EIS and identify issues and provide information to be considered. Moreover, Reclamation leadership will engage in Government-to-Government consultation if requested by the Federally Recognized Tribe(s), seeking their input and considering their interest as a necessary and integral part of the decision-making process.

6.3 No Delegation of Authority

Nothing in this Memorandum shall cause, or shall be deemed to cause, any delegation of authority from any Party to this Memorandum to any other Party.

6.4 Applicable Laws

All activities undertaken pursuant to this Memorandum must be in compliance with applicable laws and regulations. All parties understand and acknowledge that regulations promulgated by USFWS and NMFS at 50 C.F.R. Part 402 govern consultations under Section 7 of the ESA and nothing in this Memorandum is to be construed contrary to the meaning and intent of those regulations.

6.5 Severability

In the event one or more provisions contained in this Memorandum is rendered illegal or impossible, or implementation is otherwise barred in any way by, executive or legislative branch action, or by policy decisions therein, the Parties will meet and confer to determine whether such portion will be deemed severed from this Memorandum and the remaining parts of this Memorandum will remain in full force and effect as though such, illegal, impossible or barred portion had never been a part of this Memorandum.

6.6 No Legally Enforceable Rights Created

All parties acknowledge and understand that this Memorandum sets out the expectations of each party as to the conduct of the reinitiated consultation on the Project in accordance with the ESA and the regulations governing such consultations contained in 50 C.F.R. Part 402. All parties also acknowledge and agree that this Memorandum does not, and shall not be construed to, create any rights or obligations for any party enforceable in a court of law by any party, by any party contracting with DWR or Reclamation, by any stakeholder affected by the Project, by any Designated Non-Federal Representative, or by any other third party, agency, person, or entity.

6.7 Anti-Deficiency Act

The Federal agency obligations described in this Memorandum are contingent on appropriations. No liability shall accrue to the United States or Federal agencies in the event funds are not appropriated or allotted.

This MOU is signed and dated:

Bureau of Reclamation:

For Mid-Pacific Regional Director — Date: 12/9/16

Department of Water Resources:

Director — Date: 12/29/16

California Department of Fish and Wildlife:

Director — Date: 12/21/2016

U.S. Fish and Wildlife Service:

Pacific Southwest Regional Director — Date: 12-19-16

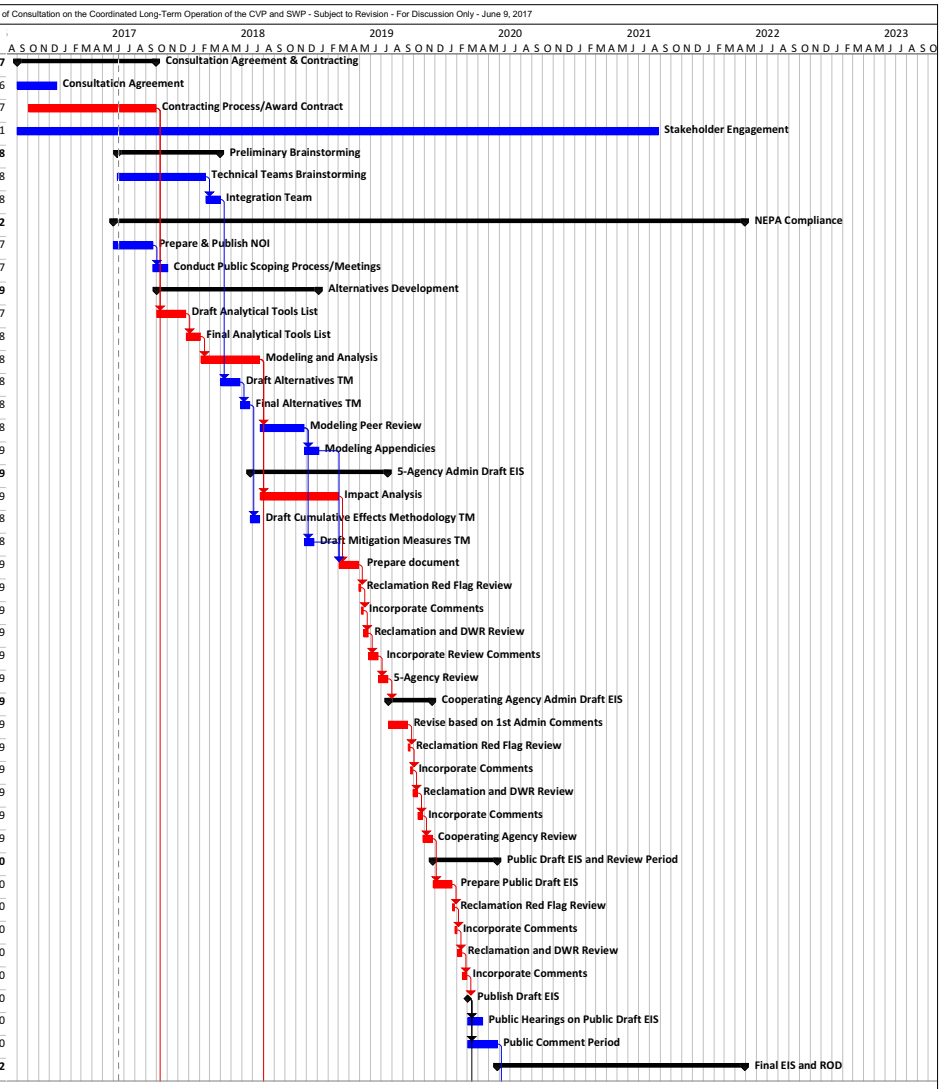
National Marine Fisheries Service:

West Coast Regional Administrator — Date: 12/30/2016

Appendix B – Project Schedule

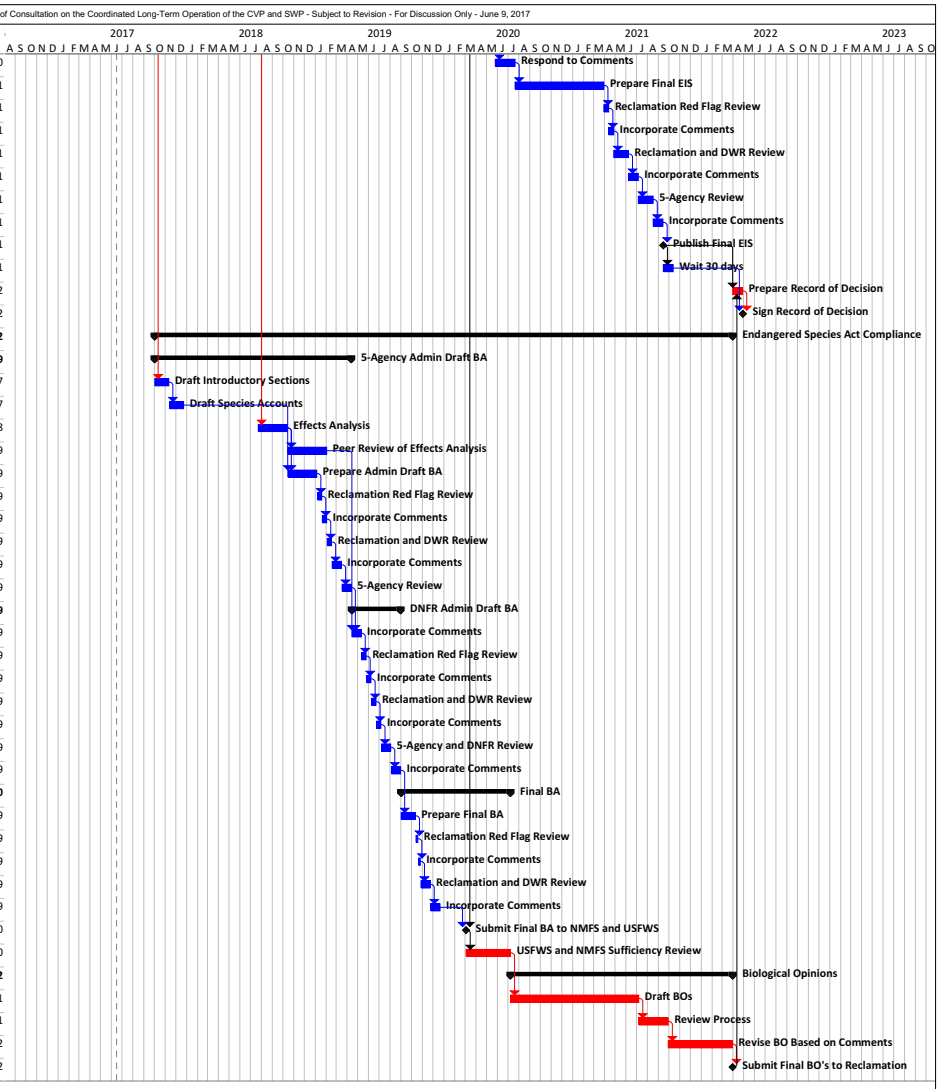
DRAFT Schedule for the Reinitiation of Consultation on the Coordinated Long-Term Operation of the CVP and SWP - Subject to Revision - For Discussion Only - June 9, 2017

ID	Task Name	Duration	Start	Finish
1	**Consultation Agreement & Contracting**	**282 days**	**9/1/16**	**9/29/17**
2	Consultation Agreement	80 days	9/1/16	12/21/16
3	Contracting Process/Award Contract	260 days	10/3/16	9/29/17
4	Stakeholder Engagement	1300 days	9/1/16	8/25/21
5	**Preliminary Brainstorming**	**210 days**	**6/12/17**	**3/30/18**
6	Technical Teams Brainstorming	180 days	6/12/17	2/16/18
7	Integration Team	30 days	2/19/18	3/30/18
8	**NEPA Compliance**	**1281 days**	**6/1/17**	**4/28/22**
9	Prepare & Publish NOI	80 days	6/1/17	9/20/17
10	Conduct Public Scoping Process/Meetings	30 days	9/21/17	11/1/17
11	**Alternatives Development**	**330 days**	**10/2/17**	**1/4/19**
12	Draft Analytical Tools List	60 days	10/2/17	12/22/17
13	Final Analytical Tools List	30 days	12/25/17	2/2/18
14	Modeling and Analysis	120 days	2/5/18	7/20/18
15	Draft Alternatives TM	40 days	4/2/18	5/25/18
16	Final Alternatives TM	20 days	5/28/18	6/22/18
17	Modeling Peer Review	90 days	7/23/18	11/23/18
18	Modeling Appendicies	30 days	11/26/18	1/4/19
19	**5-Agency Admin Draft EIS**	**280 days**	**6/25/18**	**7/19/19**
20	Impact Analysis	160 days	7/23/18	3/1/19
21	Draft Cumulative Effects Methodology TM	20 days	6/25/18	7/20/18
22	Draft Mitigation Measures TM	20 days	11/26/18	12/21/18
23	Prepare document	40 days	3/4/19	4/26/19
24	Reclamation Red Flag Review	5 days	4/29/19	5/3/19
25	Incorporate Comments	5 days	5/6/19	5/10/19
26	Reclamation and DWR Review	10 days	5/13/19	5/24/19
27	Incorporate Review Comments	20 days	5/27/19	6/21/19
28	5-Agency Review	20 days	6/24/19	7/19/19
29	**Cooperating Agency Admin Draft EIS**	**90 days**	**7/22/19**	**11/22/19**
30	Revise based on 1st Admin Comments	40 days	7/22/19	9/13/19
31	Reclamation Red Flag Review	5 days	9/16/19	9/20/19
32	Incorporate Comments	5 days	9/23/19	9/27/19
33	Reclamation and DWR Review	10 days	9/30/19	10/11/19
34	Incorporate Comments	10 days	10/14/19	10/25/19
35	Cooperating Agency Review	20 days	10/28/19	11/22/19
36	**Public Draft EIS and Review Period**	**131 days**	**11/25/19**	**5/25/20**
37	Prepare Public Draft EIS	40 days	11/25/19	1/17/20
38	Reclamation Red Flag Review	5 days	1/20/20	1/24/20
39	Incorporate Comments	5 days	1/27/20	1/31/20
40	Reclamation and DWR Review	10 days	2/3/20	2/14/20
41	Incorporate Comments	10 days	2/17/20	2/28/20
42	Publish Draft EIS	1 day	3/2/20	3/2/20
43	Public Hearings on Public Draft EIS	30 days	3/3/20	4/13/20
44	Public Comment Period	60 days	3/3/20	5/25/20
45	**Final EIS and ROD**	**503 days**	**5/26/20**	**4/28/22**



DRAFT Schedule for the Reinitiation of Consultation on the Coordinated Long-Term Operation of the CVP and SWP - Subject to Revision - For Discussion Only - June 9, 2017

ID	Task Name	Duration	Start	Finish
46	Respond to Comments	40 days	5/26/20	7/20/20
47	Prepare Final EIS	180 days	7/21/20	3/29/21
48	Reclamation Red Flag Review	10 days	3/30/21	4/12/21
49	Incorporate Comments	10 days	4/13/21	4/26/21
50	Reclamation and DWR Review	30 days	4/27/21	6/7/21
51	Incorporate Comments	20 days	6/8/21	7/5/21
52	5-Agency Review	30 days	7/6/21	8/16/21
53	Incorporate Comments	20 days	8/17/21	9/13/21
54	Publish Final EIS	1 day	9/14/21	9/14/21
55	Wait 30 days	20 days	9/15/21	10/12/21
56	Prepare Record of Decision	20 days	3/31/22	4/27/22
57	Sign Record of Decision	1 day	4/28/22	4/28/22
58	**Endangered Species Act Compliance**	**1173 days**	**10/2/17**	**3/30/22**
59	**5-Agency Admin Draft BA**	**400 days**	**10/2/17**	**4/12/19**
60	Draft Introductory Sections	30 days	10/2/17	11/10/17
61	Draft Species Accounts	30 days	11/13/17	12/22/17
62	Effects Analysis	60 days	7/23/18	10/12/18
63	Peer Review of Effects Analysis	80 days	10/15/18	2/1/19
64	Prepare Admin Draft BA	60 days	10/15/18	1/4/19
65	Reclamation Red Flag Review	10 days	1/7/19	1/18/19
66	Incorporate Comments	10 days	1/21/19	2/1/19
67	Reclamation and DWR Review	10 days	2/4/19	2/15/19
68	Incorporate Comments	20 days	2/18/19	3/15/19
69	5-Agency Review	20 days	3/18/19	4/12/19
70	**DNFR Admin Draft BA**	**100 days**	**4/15/19**	**8/30/19**
71	Incorporate Comments	20 days	4/15/19	5/10/19
72	Reclamation Red Flag Review	10 days	5/13/19	5/24/19
73	Incorporate Comments	10 days	5/27/19	6/7/19
74	Reclamation and DWR Review	10 days	6/10/19	6/21/19
75	Incorporate Comments	10 days	6/24/19	7/5/19
76	5-Agency and DNFR Review	20 days	7/8/19	8/2/19
77	Incorporate Comments	20 days	8/5/19	8/30/19
78	**Final BA**	**222 days**	**9/2/19**	**7/7/20**
79	Prepare Final BA	30 days	9/2/19	10/11/19
80	Reclamation Red Flag Review	5 days	10/14/19	10/18/19
81	Incorporate Comments	5 days	10/21/19	10/25/19
82	Reclamation and DWR Review	20 days	10/28/19	11/22/19
83	Incorporate Comments	20 days	11/25/19	12/20/19
84	Submit Final BA to NMFS and USFWS	1 day	3/3/20	3/3/20
85	USFWS and NMFS Sufficiency Review	90 days	3/4/20	7/7/20
86	**Biological Opinions**	**451 days**	**7/8/20**	**3/30/22**
87	Draft BOs	260 days	7/8/20	7/6/21
88	Review Process	60 days	7/7/21	9/28/21
89	Revise BO Based on Comments	130 days	9/29/21	3/29/22
90	Submit Final BO's to Reclamation	1 day	3/30/22	3/30/22



Appendix C – Risk Register

Defined Conditions for Impact Scales of a Risk on Major Project Objectives					
Project Objectives	Very Low	Low	Moderate	High	Very High
	1	2	3	4	5
Cost	<10% Cost Increase	10 - 20% cost increase	20-30% cost increase	30 - 40% cost increase	>40% cost increase
Schedule	Non-critical path delays that will not impact critical path	Non-Critical Path delays that may affect Critical Path & Critical Path delays <2 weeks	Non-Critical Path delays that may affect Critical Path and Critical Path delays of 2-4 weeks	4-6 week delay to critical path	>6 week delay to critical path
Scope	N/A	N/A	N/A	Additional work that will not affect the Critical Path	Any additional work that will affect the Critical Path
Probability Defined	Very Low= Unlikely (<10%)	Low= Unlikely (<25%)	Moderate= Possible (25-75%)	High= Likely (75-90%)	V. High= Probable (90%+)

Risk Management Plan

Date Risk ID'd (last updated)	Risk ID	Description of Risk/Constraint	Initial Qualitative Risk Analysis				Quantative Impact	Risk Response(s)	Qualitative Risk Analysis w/Response			Status
		(Include root causes, sources of information, the tolerance of the risk to project constraints, assumptions etc.)	Project Objective(s) Impacted (in order of priority): Schedule Cost Scope	Impact (1 - 5) 1= very low 2=low 3= moderate 4=high 5=v. high	Probability (1 - 5) 1= very low 2=low 3= moderate 4=high 5=v. high	Priority (Impact x probability) 1-4 = Minor 5-10 = Attentive 11-15 = Important 16-20 = Urgent 21-25 = Critical	(Description of Impact)	(Responses to reduce or eliminate the risk.)	Impact (1 - 5) 1= very low 2=low 3= moderate 4=high 5=v. high	Probability (1 - 5) 1= very low 2=low 3= moderate 4=high 5=v. high	Priority (Impact x probability) 1-4 = Minor 5-10 = Attentive 11-15 = Important 16-20 = Urgent 21-25 = Critical	
Initiation Phase												
09/12/16	IP-1	Developing appropriate scope and schedule for the effort	S, Sc	5	4	20	Highly aggressive initial schedule may lead to later schedule slips	Clearly communicate to all team members the aggressive schedule and importance of prioritizing work	4	3	12	Open
Planning Phase												
09/12/16	PP-1	Acceptance of Scope and Schedule	S, C, Sc	4	4	16	Revised scope, schedule and budget	Seeking concurrence with project scope in writing from all three agencies	4	3	12	Open
09/12/16	PP-2	Work Scope Changes	S, C, Sc	4	3	12	Revised scope, schedule and budget	Close coordination with stakeholders in order to limit scope changes	3	3	9	Open
09/12/16	PP-3	CSAMP Input is not timely	S, Sc	3	4	12	Reduces stakeholder acceptance of modeling results, may lead to conflict	Brief CSAMP early in the process, make the schedule clear to them, and let everyone know that Reclamation will move forwards without input if not received on time	3	3	9	Open
09/12/16	PP-4	Modeling tools disagreement	C, Sc	5	3	15	USFWS or NMFS may disagree with modeling tool used, requiring Reclamation to re-do modeling or requiring Reclamation to develop new models	Coordinate with USFWS and NMFS early and often, share draft of analytical tools TM	5	2	10	Open
09/12/16	PP-5	Co-NEPA lead agencies	Sc	5	2	10	USFWS or NMFS desire to be co-lead agencies with Reclamation, causing big schedule impacts due to increased review times	Initial signing of PMP verifies that USFWS and NMFS do not desire to be co-lead agencies	5	1	5	Open
09/12/16	PP-6	Additional RPAs or measures required	S, C, Sc	4	4	16	USFWS or NMFS may require additional RPAs in their Biological Opinions than analyzed in Reclamation's BA, causing impacts to future SWP / CVP operations	Coordinate with USFWS and NMFS early and often, share drafts, do peer review, etc.	4	3	12	Open
09/12/16	PP-7	Extended Review Time	C, Sc	3	4	12	Coordination with federal and state agencies may require more review time than scheduled/budgeted	Identify reviewers in advance and request priority for review of all documents	3	4	12	Open
09/12/16	PP-8	Establishing Acceptable Alternatives for Analysis	S,C,Sc	3	4	12	Developing a range of alternatives for the EIS/EIR that is deemed acceptable by stakeholders	Engage stakeholders in process and provide appropriate documentation/justification for concepts developed and selected for review in the	3	3	9	Open

Appendix D – Outreach Plan

DRAFT – June 9, 2017 -- DRAFT

Outreach Plan
for the
Reinitiation of Consultation on the
Coordinated Long-Term Operation
of the Central Valley Project and State Water Project

Purpose and Objectives

The purpose of this Outreach Plan (Plan) is to document Reclamation's approach to providing project updates to the general public and obtaining input from interested parties for the Reinitiation of Consultation (ROC) on the Coordinated Long-term Operation (LTO) of the Central Valley Project (CVP) and State Water Project (SWP). General public is defined as ordinary people in society who do not fall into any other group. Interested parties include water users, power customers, environmental non-governmental organizations, fishing organizations, local agencies, state agencies, and federal agencies.

The objectives of this Plan are to:

- Identify interested parties;
- Provide forums and mechanisms for distributing accurate, easy-to-understand, timely information on issues and activities throughout the process to the general public and interested parties;
- Encourage and solicit water user, power customer, environmental non-governmental organization, fishing organization, local agency, state agency, federal agency, and public comments on aspects of the process, well before key decision points;
- Incorporate comments/feedback received into the process and key decisions; and
- Ensure the letter and spirit of the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), and any other appropriate environmental laws are followed with respect to disclosure and opportunities for the general public and interested parties to provide comments.

The Plan outlines an outreach process. The purpose of the outreach process to water users, power customers, environmental non-governmental organizations, fishing organizations, local agencies, state agencies, and federal agencies, separate from the public involvement process, is to afford invited participants the opportunity to collaboratively work with Reclamation and each other to: (i) identify and address the core scientific issues in the NEPA compliance and ESA Section 7 consultation processes, (ii) assist in developing the ESA proposed action and NEPA preferred alternative, and (iii) provide input into the development of the NEPA environmental impact statement (EIS) and ESA Section 7 biological assessment (BA). The water user, power customer, environmental non-governmental organization, fishing organization, local agency, state agency, and federal agency engagement process will utilize focused and structured processes designed to resolve, or at least narrow, differences of opinion and to explicate key uncertainties in scientific information. The goal of the engagement process is to receive valuable input as Reclamation and the California Department of Water Resources (DWR) develop a preferred alternative (NEPA) and proposed action (ESA) based on the best available scientific

and commercial information which is intended to result in a joint biological opinion (BO) issued by the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS), or two closely coordinated BOs.

The purpose of the public involvement process is to provide the general public as well as all interested parties regular updates on the status of the project, key decisions made along the way, upcoming major milestones, and future opportunities for public input.

Introduction

Reclamation and DWR requested to reinitiate consultation on the LTO because of new information related to multiple years of drought, recent data on Delta Smelt and winter-run Chinook salmon population levels, and new information available and expected to become available as a result of ongoing work through collaborative science processes.

On August 2, 2016, Reclamation as the Federal action agency for the ESA Section 7 consultation, along with DWR as the anticipated applicant, sent letters to USFWS and NMFS requesting the reinitiation of consultation on the LTO. Reclamation and DWR stated their commitment to an open and transparent process for reviewing the Reasonable and Prudent Alternatives (RPAs) outlined in the 2009 NMFS Biological Opinion (2009 NMFS BO) and the 2008 USFWS Biological Opinion (2008 USFWS BO). USFWS responded to Reclamation's request on August 3, 2016, and NMFS responded on August 17, 2016 and agreed to reinitiate consultation.

This Plan documents Reclamation's approach to outreach in the ROC on LTO. As a matter of policy, the outreach process must involve a representative range of interests, including pertinent local, state and Federal agencies; CVP and SWP water users; power customers; fishing organizations; and environmental non-governmental organizations (NGOs). While every effort will be made to have a robust and collaborative engagement process, final decisions necessarily rest with Reclamation on those matters within its authority.

Background

Reclamation anticipates that the NEPA process will begin first with initiation of the public scoping process, followed by concurrent NEPA and ESA Section 7 processes through development of a Final EIS and BO(s). Reclamation anticipates a free and complete flow of information between the NEPA and ESA Section 7 consultation processes, with each informing the other.

The Mid-Pacific Region's Bay-Delta Office has the lead responsibility for overall management of the ROC on LTO. This office will be assisted by other offices in the Mid-Pacific Region. In addition, Reclamation is in the process of procuring the services of consulting firms to assist in the preparation of the EIS and BA. A separate contractor will provide facilitation for meetings associated with the outreach processes.

Participation in the ROC Involvement Processes

NEPA and the applicable implementing regulations (40 CFR Parts 1500-1508) provide certain minimum requirements regarding participation of cooperating agencies, public input to the scoping process and to the identification of alternatives, and public review of draft EISs. The Section 7 consultation process (50 CFR Part 402) also provides for participation of non-federal entities other than the action agency (Reclamation in this case) and USFWS and/or NMFS, but only in very limited circumstances.

On the other hand, Reclamation is not prohibited from providing, under both NEPA and Section 7 of the ESA, wider opportunities for input from public agencies and non-governmental entities. Accordingly, Reclamation will be inviting DWR, the California Department of Fish and Wildlife (DFW), CVP and SWP water users, power customers, fishing organizations, and environmental NGOs who represent a range of publics interested in the Bay-Delta (collectively, participants in the Outreach Plan) to participate in the engagement process. Relative to the Section 7 consultation process, DWR is the applicant and will be developing the proposed action with Reclamation.

The participants in the Outreach Plan will not constitute an advisory body tasked with providing advice to Reclamation on a consensus basis. Rather, each entity will speak for itself. Accordingly, Reclamation will, as appropriate, meet with parties individually, in different combinations, and collectively. Meetings will also be conducted in formats most conducive to the business at hand (*e.g.*, workshops, panel presentations, discussion sessions, information only meetings, *etc*.) and in compliance with all applicable federal and state laws regarding open meetings.

Finally, Reclamation will encourage USFWS and NMFS to participate in the outreach engagement process as much as possible. In particular, USFWS and NMFS participation and cooperation in working through core scientific issues is important.

Participants' Roles

Participants may have several designations or no designation. Roles include:

- **Cooperating Agencies:** Federal, state, and local agencies which have jurisdiction by law or special expertise with respect to any environmental impact may be cooperating agencies under NEPA. Cooperating agencies are able to review administrative drafts of the EIS and expected to share their special expertise.
- **Designated Non-Federal Representatives:** CVP and SWP contractors may request Designated Non-Federal Representative (DNFR) status. This allows them to provide information for inclusion in and draft portions of the BA.
- **Water Users:** Reclamation will meet with water users at the Water Users Conference and Association of California Water Agencies conferences. Water users that so request will, in accordance with Water Infrastructure Improvement for the Nation (WIIN) Act of 2016, section 4004 of Part II, Subtitle J of Public Law 114-322:

"(1) have routine and continuing opportunities to discuss and submit information to the action agency [Reclamation] for consideration during the development of any biological assessment;

(2) be informed by the action agency [Reclamation] of the schedule for preparation of a biological assessment;

(3) be informed by the consulting agency, the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, of the schedule for preparation of the biological opinion at such time as the biological assessment is submitted to the consulting agency by the action agency;

(4) receive a copy of any draft biological opinion and have the opportunity to review that document and provide comment to the consulting agency through the action agency [Reclamation], which comments will be afforded due consideration during the consultation;

(5) have the opportunity to confer with the action agency [Reclamation] and applicant [DWR], if any, about reasonable and prudent alternatives prior to the action agency or applicant identifying one or more reasonable and prudent alternatives for consideration by the consulting agency; and

(6) where the consulting agency suggests a reasonable and prudent alternative be informed—

(A) how each component of the alternative will contribute to avoiding jeopardy or adverse modification of critical habitat and the scientific data or information that supports each component of the alternative; and

(B) why other proposed alternative actions that would have fewer adverse water supply and economic impacts are inadequate to avoid jeopardy or adverse modification of critical habitat."

- **Fishing Organizations and Environmental NGOs:** Reclamation will meet as needed with fishing organizations and environmental NGOs, to allow for timely input before decision points. Reclamation anticipates meeting with the Natural Resources Defense Council, the Bay Institute, American Rivers, The Nature Conservancy, Defenders of Wildlife, Ducks Unlimited, Audubon, Water 4 Fish, Trout Unlimited, Institute for Fisheries Resources, Cal Trout, and the Golden Gate Salmon Association.
- **Power Customers:** Reclamation anticipates providing power customers with updates at their existing quarterly meetings.
- **Collaborative Science and Adaptive Management Program (CSAMP):** The CSAMP Policy Group has been expanded to include six new members: three new water user representatives, and three new fishing organization and environmental NGO representatives. With these additions to the CSAMP Policy Group, it can develop an adaptive management program that provides CVP-wide input into the ROC on LTO process, and includes diverse involvement in a more direct manner.
- **Delta Stewardship Council:** The Independent Science Board or an independent review panel is expected to be asked to perform a peer review of both the draft BA and portions of the draft BO(s).
- **Tribes:** Reclamation anticipates having separate meetings with the Hoopa Valley, Shasta Nation, Winnemem Wintu, United Auburn Indian Community, California Miwok, and other tribes as needed.

- **Public:** Members of the public such as landowners, local agencies, local governments, and others may be interested in this process. Quarterly public meetings and/or webinars will be held providing updates on the status of the ROC on LTO effort (see below).

NEPA Process

In addition to what is required under NEPA (*i.e.*, public scoping meetings, a scoping report, and public review of a draft EIS with public meetings), Reclamation is committed to include the following as part of the NEPA process:

- Reclamation will invite water users, qualified power customers, and other governmental entities, as appropriate, to become cooperating agencies for the EIS. The cooperating agencies will be able to provide input during the development of the EIS as provided by the NEPA regulations. In addition, the cooperating agencies will be allowed to review and comment on the Administrative Draft EIS.
- In addition to the public scoping meetings, Reclamation will hold additional public meetings (likely webinars) to inform the public and interested parties of key issues such as the range of alternatives to be addressed in the EIS. Reclamation will schedule quarterly meetings/webinars open to the public and will provide public announcements of the meeting and online meeting details.
- Consistent with the requirements of NEPA regulations, Reclamation will meet with interested parties to receive their input on issues and concerns which will be considered in the development of alternatives and the preferred alternative/proposed action.
- In addition to providing the Draft EIS for public review and holding public meetings to take comment on it, Reclamation will meet with interested parties if and as requested to discuss their comments.

ESA Section 7 Consultation Process

ESA Section 7 consultation input opportunities include:

- DWR is the applicant, and will be developing the proposed action and BA with Reclamation.
- Reclamation will seek input from the DNFRs in drafting the proposed action and will invite them to provide information for the BA, including information relevant to the status of the listed species and of their designated critical habitats within the action area and to the factors affecting the species' environment within the action area.
- Where appropriate, Reclamation will encourage USFWS and NMFS to make its staff available to participate in meetings with interested parties.
- Reclamation will provide the DNFRs with the opportunity to review and comment on the draft BA before it is submitted to the USFWS and NMFS.
- The DNFRs will be requested to provide input on the draft BA to Reclamation, and through Reclamation to USFWS and/or NMFS, during the informal phase of the Section 7 consultation.
- Reclamation will provide drafts of the BO(s) to the DNFRs and water users for their review and comment as required by WIIN when received from NMFS and USFWS,

subject to such mutually agreed upon timeframes. Reclamation will communicate comments received back to NMFS and USFWS.

- Throughout the informal and formal phases of the ESA Section 7 consultation, Reclamation will hold regularly scheduled meetings (in various formats suitable to the purpose of a meeting) with the interested parties (singly, in various combinations, and collectively) to solicit input on the development of a new or revised proposed action and on key scientific and other core issues, to discuss comments on draft documents, and to discuss the progress of the Section 7 consultation and any issues which may arise.

Other Engagement Opportunities

See the description below of which parties can participate at which points in the NEPA and ESA processes. All interested parties will be invited to attend quarterly public meetings/webinars, in addition to having individual meetings as needed.

	Public	DNFRs and/or Water Users	Fishing Orgs and Environmental NGOs	Power Customers	Cooperating Agencies
Public Meeting Frequency	Quarterly	Quarterly	Quarterly	Quarterly	Quarterly
Individual Meeting Frequency (informal comments accepted)		As needed (likely ACWA, Water Users conferences)	As needed	As needed	As needed
Endangered Species Act					
Receive BA Schedule	X	X	X	X	
Review Proposed Action		X	X	X	
Review Admin Draft BA		X	X (during peer review)	X (during peer review)	
Review portions of Draft BO		X	X	X	
National Environmental Policy Act					
Receive EIS Schedule	X	X	X	X	X
Review Alternatives		X	X	X	X
Provide input for EIS	X	X	X	X	X
Review Admin Draft EIS			X	X	X
Review Public Draft EIS	X	X	X	X	X

Members of the public and all interested parties will be invited to quarterly meetings/webinars. There will be a set amount of time for attendees to ask questions and provide comment at each public quarterly meeting/webinar. These meetings will not be a part of the NEPA or ESA process, and, as such, formal comment responses will not be developed.

Reclamation will also hold individual meetings with interested parties and by interest group. For example, Reclamation anticipates providing briefings to water users at the Association of California Water Agencies' two annual conferences, and the Mid-Pacific Region Water Users Conference for CVP water agencies. These meetings will provide an informal way for the participants in the Outreach Plan to provide input at various stages in the process.

Responsibilities

Participants in the Outreach Plan will agree to the following:

- Confidentiality: No participants will be allowed to share draft documents of any kind or statements made by others in meetings with the media or the general public.
- Respect: All participants will be required to show respect for the opinions of other participants, and act professionally.
- Science: Disagreements will be based in fact, as exemplified by collected data, physical processes, or published papers.

Reclamation will:

- Organize meetings with the participants identified in this Plan, as appropriate
- Organize and provide notice of quarterly public meetings likely via webinar
- Provide facilitators for all meetings, as appropriate, when different interests are represented
- Provide court reporters and note takers as needed
- Post public meeting notes and materials on the Bay-Delta Office website
- Ensure that information is equally shared with the participants in the Outreach Plan to the greatest extent allowed by law

Media and Public Relations

Reclamation, DWR, USFWS, NMFS, and CDFW should coordinate on any responses to media inquiries.

Reclamation anticipates posting key documents for public review on the Bay-Delta Office website at https://www.usbr.gov/mp/BayDeltaOffice/lto.html. Reclamation will post all public meeting agendas on the website in advance of the meeting, and post meeting presentations and handouts before or after each public meeting.

Appendix E – Change Management Plan

Change Request Form

Project: Reinitiation of Consultation on the Long Term Operations of the Central Valley Project and State Water Project

Request No.: _____

Project Phase & Task Name: _____

Budget: ☐ Impact? $____ Amount of Change in dollars.

Schedule: ☐ Impact? ____ Amount of Change in days.

Scope: ☐ Impact? Description below.

Description:

Include a description of the change either here or attached; this should also include a revised schedule and budget document.

Appendix F – Quality Management Plan

1.0 Introduction

1.1 Purpose of the Project Quality Management Plan

For the Reinitiation of Consultation on the Long Term Operations of the Central Valley Project and State Water Project the Quality Management Plan will address the biological and operational modeling, as well as environmental compliance and permitting documents.

2.0 Project Quality Management Overview

2.1 Organization, Responsibilities, and Interfaces

Name	Role	Quality Responsibility
Name	*Project Manager*	*Overall Quality Assurance Monitoring and auditing products; review of NEPA and ESA documents – Auditing products and process*
Name	*Modeling Team Lead*	*Ensure best available models are used – potentially facilitating peer review of modeling – Auditing products and process*
Name	*Environmental Consultant Project Manager*	*Ensure necessary permits are obtained & adequately cover the work being planned – Auditing products and process*
Name	*CSAMP / CAMT*	*Reviewing modeling information and providing input on the best available science in a timely manner*

2.2 Tools, Environment, and Interfaces

Tool	Description
Milestones	*Schedule incorporates Reclamation, USFWS, and NMFS benchmarks and milestones.*

Peer Review	*Modeling will be reviewed by multi-disciplinary interagency teams*
CSAMP / CAMT	*Technical output will be presented at the XX CSAMP meetings, with CSAMP input to be received by the next meeting.*
Core Team Coordination	*Regular monitoring of process progression and communication between the various agencies. It includes identifying issues and tracking their resolution.*

3.0 Project Quality Management

The Reinitiation of Consultation on the Long Term Operations of the Central Valley Project and State Water Project will incorporate the following methods of Quality Assurance/Quality Control (QA/QC):

- Peer Review: Biological and operational modeling will undergo interagency peer review prior to incorporation into environmental compliance or permitting documents. Peer review teams will comprise of multiple agencies, or alternatively USFWS, NMFS, Reclamation, DWR, and CDFW will each select a technical expert to represent them on the peer review. In addition or instead, independent peer reviews through the Delta Science Program's independent science panels or another organization may be performed.
- Environmental Permitting Reviews: Reviews and coordination with consultant team and agency staff to ensure NEPA and ESA documents include the required information and that they are suited to meet the laws and regulations for the work being executed.
- CSAMP / CAMT teams will review modeling information and technical analysis at the same time as peer review is ongoing.