

August 25, 2020

1. Finding of No Significant Impact

1.1. Background

1.1.1. Proposed Action:

The proposed action is to issue a permit under the Endangered Species Act (ESA) section 10(a)(1)(B) to Stockton East Water District (District), for a period of 50 years authorizing the District's Calaveras River operations and other activities associated with the Calaveras River Habitat Conservation Plan.

1.1.2. Alternatives Evaluated in the Environmental Assessment:

- **Alternative 1: Do not issue the permit, do not approve the Calaveras River Habitat Conservation Plan (No-Action Alternative)**
- **Alternative 2: Issue the section 10(a)(1)(B) permit and approve the Calaveras River Habitat Conservation Plan**

1.1.3. Selected Alternative:

Alternative 2: Issue the section 10(a)(1)(B) permit and approve the Calaveras River Habitat Conservation Plan

1.2. Related Consultations:

The National Marine Fisheries Service completed an ESA Section 7(a)(2) Biological Opinion on the issuance of an ESA Section 10(a)(1)(B) incidental take permit for the Calaveras River Habitat Conservation Plan.

1.3. Significance Review

The Council on Environmental Quality (CEQ) Regulations state that the determination of significance using an analysis of effects requires examination of both context and intensity, and lists ten criteria for intensity (40 C.F.R. § 1508.27). In addition, the Companion Manual for National Oceanic and Atmospheric Administration Administrative Order 216-6A provides sixteen criteria, the same ten as the CEQ Regulations and six additional, for determining whether the impacts of a proposed action are significant. Each criterion is discussed below with respect to the proposed action and any measures to reduce impacts and considered individually as well as in combination with the others.

1. *Can the proposed action reasonably be expected to cause both beneficial and adverse impacts that overall may result in a significant effect, even if the effect will be beneficial?*

The Proposed Action will likely result in many beneficial effects including improvements to salmonid populations and their habitat in the Calaveras River basin. The conservation strategies as described in the EA will include measures to minimize effects to salmonids and the environment, resulting in less than significant impact.

2. *Can the proposed action reasonably be expected to significantly affect public health or safety?*

While the Project Area is subject to flood inundation and fire hazard, the Proposed Action would not introduce any new activity that would affect public health, induce new hazards, or add demand or affect response time of any public health provider. Therefore, there would be no impact to public health and safety.

3. *Can the proposed action reasonably be expected to result in significant impacts to unique characteristics of the geographic area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas?*

The purpose of the HCP is to reduce impacts to ESA-listed species while continuing to provide surface water to the District's agricultural service area. None of the elements of the HCP's activities would cause physical changes that would result in the conversion of farmland to non-agricultural uses or induce changes in crop production types and procedures or the timing/volume of water supplied during the irrigation season.

Under the Proposed Action, there would be activities involving earth-moving activities that may impact historic or cultural resources. However, as described in the EA, best management practices would be implemented to ensure that these resources would be minor and less than significant.

Overall, under the Proposed Action, there would be benefits to biological resources. There would be temporary impacts to ESA-listed species during construction of fish passage facilities, however, the implementation of best management practices as described in the EA, would minimize impacts to biological resources to the maximum extent practicable.

4. *Are the proposed action's effects on the quality of the human environment likely to be highly controversial?*

The National Marine Fisheries Service (NMFS) has carefully considered the effects of the proposed project activities to the human environment. The conclusion from the evaluation of the EA is that the Proposed Action will not result in any significant adverse direct, indirect, or cumulative impacts to the human environment. Therefore, the level controversy associated with this action is expected to be low.

5. *Are the proposed action's effects on the human environment likely to be highly uncertain or involve unique or unknown risks?*

The effects on the human environment are not highly uncertain and do not involve unique or unknown risks. Although there are some uncertainties involved in the ongoing operations of the project, the risks are known, and the proposed Calaveras River HCP includes mitigation measures that will minimize or avoid adverse impacts. The proposed District's operations are similar in nature to other water districts operations in the California Central Valley and the procedures and effects are well known.

6. *Can the proposed action reasonably be expected to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?*

The Proposed Action is considered to be beneficial to the Calaveras River environment as a whole and will not establish a precedent for future actions with significant effects. Many of the proposed activities have been ongoing and will continue for the duration of the permit. In addition, the proposed activities are similar in nature to other projects that have been permitted by NMFS under the ESA in the Central Valley, and NMFS has reviewed and carefully analyzed each of these projects.

7. *Is the proposed action related to other actions that when considered together will have individually insignificant but cumulatively significant impacts?*

The cumulative impacts of the proposed project and relevant past, present, and reasonably foreseeable future actions (Caltrans routine maintenance activities, levee maintenance and repair, South Stockton Master Water Plan Update and Reservoir, USACE Flood Operations at New Hogan Dam, Farmington Groundwater Recharge Program, etc.) were evaluated in the EA. Adverse cumulative impacts are not anticipated to occur as a result of the Proposed Action when considering the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions. The District's operations have limited adverse individual impacts. The cumulative impact for the Proposed Action is considered to be beneficial to the Calaveras River environment as a whole.

8. *Can the proposed action reasonably be expected to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources?*

No anticipated adverse effects or loss/destruction of significant scientific, cultural, or historical resources are anticipated to occur under the Proposed Action. Best management practices would be implemented that would minimize the level of impact to these resources to a level that is less than significant.

9. *Can the proposed action reasonably be expected to have a significant impact on endangered or threatened species, or their critical habitat as defined under the Endangered Species Act of 1973?*

NMFS completed an ESA Section 7 consultation on the issuance of an ESA section 10(a)(1)(B) permit covering activities proposed in the Calaveras River Habitat Conservation Plan for species under NMFS' jurisdiction. The consultation concluded that the effects of the

HCP would not jeopardize the continued existence of listed Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, and California Central Valley (CCV) steelhead and would not destroy or adversely modify designated critical habitat for CCV steelhead. The Calaveras River HCP would provide benefits to the species and critical habitat. There will be some level of take; however, it will not rise to the level of jeopardy because conservation measures will be implemented as described in Chapter 7 of the HCP. These conservation measures consist of biological goals and objectives, as well as corresponding conservation strategies, which would be implemented to avoid and minimize take to the maximum extent practicable. The measures also ensure that permitted activities will not appreciably reduce the likelihood of survival and recovery of CCV steelhead and fall/late-fall Chinook salmon.

10. *Can the proposed action reasonably be expected to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection?*

The EA evaluated the Proposed Action and determined that the proposed HCP would not violate federal, state, or local law or requirements imposed for the protection of the environment. The review of the proposed HCP pursuant to section 10(a)(1)(B), is designed to ensure compliance with the ESA and to protect the covered species and their habitat, which is part of the purpose and need for the Proposed Action.

11. *Can the proposed action reasonably be expected to significantly adversely affect stocks of marine mammals as defined in the Marine Mammal Protection Act?*

Marine mammal species overlap in time and space with a portion of the life cycle of all covered species (salmon and steelhead) but are not expected to be adversely affect by the HCP.

12. *Can the proposed action reasonably be expected to significantly adversely affect managed fish species?*

Fall-run Chinook salmon are targets of the federal ocean salmon fishery and state in-river fishery. Covered species that migrate from the Calaveras River watershed could be incidentally harvested in the ocean salmon fishery. Benefits of habitat improvements of the proposed action may therefore benefit ocean fisheries during the 50-year permit of the HCP; any potential impacts would benefit managed species. The proposed action is therefore not expected to adversely affect managed species.

13. *Can the proposed action reasonably be expected to significantly adversely affect essential fish habitat as defined under the Magnuson-Stevens Fishery Conservation and Management Act?*

The proposed action is not expected to have adverse effects to essential fish habitat as defined under the Magnuson-Stevens Fishery Conservation and Management Act. The Calaveras HCP would include measures that would benefit and minimize impacts to essential fish habitat.

14. *Can the proposed action reasonably be expected to significantly adversely affect vulnerable marine or coastal ecosystems, including but not limited to, deep coral ecosystems?*

The proposed action does not reasonably expect to significantly adversely affect vulnerable marine, coastal ecosystems, or deep coral ecosystems because the proposed action does not occur in these areas.

15. *Can the proposed action reasonably be expected to significantly adversely affect biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)?*

The proposed action is not expected to have significant adverse effects to biodiversity or ecosystem functioning. Although Calaveras River salmon and steelhead would interact with other species through competition and predator/prey interactions, the HCP would provide benefits that could increase the abundance and spatial structure of salmon and steelhead in the watershed through fish passage improvements that would benefit ecosystem function within the affected area.

16. *Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?*

The proposed action does not involve the introduction, removal, or movement of any non-indigenous species into or out of the affected area. The Calaveras River HCP would not introduce non-native species or expand their current range.

2.1. Determination

In view of the information presented in this FONSI and the analysis contained in the supporting Environmental Assessment, it is hereby determined that issuing a permit under ESA section 10(a)(1)(B) to Stockton East Water District (District), for a period of 50 years authorizing the incidental take of listed species and potentially future listed species caused by the District's Calaveras River operations and other activities associated with the Calaveras River Habitat Conservation Plan, will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an environmental impact statement for this action is not necessary.



Barry A. Thom
Regional Administrator
West Coast Region
National Marine Fisheries Service

August 25, 2020
Date