



April 30, 2010

**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Southwest Region  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802- 4213

2009/01111:DL

Mark Helvey  
Assistant Regional Administrator  
Sustainable Fisheries Division  
Southwest Regional Office  
National Marine Fisheries Service  
501 West Ocean Blvd Suite 4200  
Long Beach, CA 90802

Dear Mr. Helvey:

This document transmits NOAA's National Marine Fisheries Service (NMFS) final biological opinion (Opinion; Enclosure) based on NMFS Protected Resources Division (PRD) review of the proposed action of continued management of the west coast ocean salmon fishery in accordance with the Pacific Coast Salmon Fishery Management Plan (FMP) and its effects on species listed on the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), in accordance with Section 7 of the ESA. Specifically, this Opinion is primarily focused on analyzing the effect of the ocean salmon fishery on the endangered Sacramento River winter Chinook salmon (winter-run). The information used in the development of this Opinion came from a January 2010 transmittal letter and biological assessment prepared by NMFS Sustainable Fisheries Division (SFD), a Draft Technical Memorandum prepared by NMFS Southwest Fisheries Science Center (SWFSC), discussions and comments between NMFS PRD and SFD staff, discussions and comments between NMFS PRD and SWFSC staff, peer review reports from the Center for Independent Experts, and review of the literature and other relevant documents pertaining to the ocean salmon fishery or winter-run. A complete administrative record of this consultation is on file at the NMFS PRD Long Beach Area Office.

Based on the best available scientific and commercial information, NMFS' Opinion concludes that the continued management of west coast ocean salmon fishery under the FMP given the proposed action, including protective measures for winter-run that have already previously been implemented, is likely to jeopardize the continued existence of the endangered winter-run.

The ESA provides that if NMFS has reached a jeopardy, or destruction or adverse modification conclusion, it must identify a reasonable and prudent alternative (RPA) to the proposed action that is expected to avoid the likelihood of jeopardy to the species, and avoid destruction or adverse modification of designated critical habitat, if such an alternative action can be offered. NMFS includes with this Opinion and RPA that we believe meets all four regulatory requirements, as set forth in 50 CFR 402.02. NMFS PRD and SFD (along with the SWFSC) have had discussion on the preparation of the biological assessment, drafts of the Opinion, and development of the RPA. Because this is a jeopardy Opinion, NMFS SFD is required [50 CFR



402.15(b)] to notify NMFS PRD "...of its final decision on the action." NMFS PRD, therefore, requests that NMFS SFD provide a timely notification as to your agency's final decision.

Please contact Mr. Chris Yates at (562) 980-4007, if you have any questions.

Sincerely,



*Rodney R. McInnis*  
Rodney R. McInnis  
Regional Administrator

Enclosure

cc: Copy to file: 151422SWR2009PR00139