

**Appendix B**  
**NOAA Fisheries Correspondence**



COPY



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
Sacramento Area Office  
650 Capitol Mall, Suite 8-300  
Sacramento, California 95814-4706

January 4, 2005

In Reply Refer To:  
151422SWR2004SA20169:HLB

Mr. Brooks Taylor  
Biologist, Galloway Consulting, Inc.  
7 Sierra Nevada Court  
Chico, California 95928

Dear Mr. Taylor:

This responds to your December 9, 2004 letter requesting formal consultation with the National Marine Fisheries Service (NOAA Fisheries) on the effects of the State Route 32 Widening Project, in Chico, California, on anadromous salmonids in Deadhorse Slough.

NOAA Fisheries can only enter into formal section 7 consultation with another Federal agency or its designee. Therefore, this response is provided as informal technical assistance and is not intended to take the place of formal comments or consultation as required under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Deadhorse Slough is a tributary to Little Chico Creek, which flows into the Sacramento River downstream from Chico, California. According to our records, neither Little Chico Creek or Deadhorse Slough support self-sustaining populations of anadromous salmonids; however, sightings of anadromous salmonids have been made in Little Chico Creek during high stream flows. Based on personal communications with Dr. Paul Maslin, it is likely that Chinook salmon (*Oncorhynchus tshawytscha*) and Central Valley steelhead (*O. mykiss*) may occasionally use this stream for migration, spawning, or rearing.

The following list includes the Federally listed anadromous salmonids that may occur downstream from the action area, and may be affected by the proposed action:

- Central Valley spring-run Chinook salmon - threatened
- Central Valley steelhead - threatened

If a biological assessment is prepared for the project, it should identify the type and extent of project-related impacts to Federally listed fish species, and designated and proposed critical habitat. The assessment should include the following information:

1. A description of the action being covered.
2. A description of the specific area that may be affected by the action.



3. A description of any listed species or critical habitat that may be affected by the action.
4. A description of the manner in which the action may affect any listed species or critical habitat, and an analysis of any direct, indirect, or cumulative effects. Direct effects to listed species or designated critical habitat occur during implementation of the project. Indirect effect occur later in time or offsite, but are reasonably certain to occur. For purposes of the ESA, cumulative effects are defined as the effects of future State or private activities, not involving Federal activities, that are reasonably certain to occur within an action area of the Federal action subject to consultation (50 CFR 402.02). Future Federal actions are not included here because they require separate consultation pursuant to section 7 of the ESA.
5. A description of the relevant reports, including any environmental impact statements, environmental assessments, or other analysis prepared on the project.
6. Any other relevant studies or information available on the action, the affected listed species, or critical habitat.

To avoid or minimize project-related adverse impacts to Federally listed anadromous fish, NOAA Fisheries recommends that instream and near-stream construction activities be limited to periods when the stream channels are dry and anadromous fish are not present. Additionally, NOAA Fisheries recommends that conservation measures be developed that maintain upstream and downstream fish passage for all life history stages of anadromous salmonids, and that Best Management Practices (BMPs) that minimize erosion and sediment delivery to stream channels be developed and implemented. Depending upon the size and extent of the proposed action, additional measures may be necessary.

If you have any questions regarding this correspondence or if NOAA Fisheries can provide further assistance on this project, please contact Mr. Howard Brown in our Sacramento Area Office, 650 Capitol Mall, Suite 8-300, Sacramento, CA 95814. Mr. Brown may be reached by telephone at (916) 930-3608, or by Fax at (916) 930-3629.

Sincerely,



Michael E. Aceituno  
Supervisor, Sacramento Area Office

cc: NMFS-PRD, Long Beach, CA



**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

March 29, 2006 In response refer to:  
151422SWR2006SA00098:HLB

Thomas Cavanaugh  
Chief, Sacramento Valley Office  
U.S. Army Corps of Engineers  
1325 J Street  
Sacramento, California 95814-2922

Dear Mr. Cavanaugh:

This letter responds to your February 9, 2006, request for NOAA's National Marine Fisheries Service (NMFS) concurrence that the Humboldt Road Reconstruction project in the City of Chico, Butte County, California, is not likely to adversely affect Federally listed threatened Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley steelhead (*O. mykiss*), or their designated critical habitat.

The U.S. Army Corps of Engineers proposes to permit the City of Chico to reconstruct Humboldt Road between Forest Avenue and the eastern property of the Hank Marsh Junior High School. The reconstruction will involve widening the Dead Horse Slough Bridge. Dead Horse Slough is a tributary to Little Chico Creek. Construction will occur during summer and early fall months when the channel is dry.

#### Endangered Species Act Section 7 Consultation

NMFS has received the information necessary to initiate consultation on Federally listed salmonids within the proposed action area. Based on our review of the material provided with your request, and the best scientific and commercial information currently available, NMFS concurs that the proposed Humboldt Road Reconstruction project is not likely to adversely affect Central Valley spring-run Chinook salmon, Central Valley steelhead, and their designated critical habitat. NMFS reached this determination for the following reasons: (1) Dead Horse Slough and Little Chico Creek are not hydrologically connected to the Sacramento River or any other anadromous streams, and it is unlikely that Federally listed Central Valley spring-run Chinook salmon and Central Valley steelhead can access these stream channels and be directly or indirectly affected by the action; and (2) the action area is not designated critical habitat of Central Valley spring-run Chinook salmon and Central Valley steelhead.

This concludes consultation for the proposed action. This concurrence does not provide incidental take authorization pursuant to section 7(b)(4) and section 7(o)(2) of the Endangered Species Act. Reinitiation of consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law), and if: (1) new information reveals effects of the action that may affect listed species or critical habitat in a



manner or to an extent not considered; (2) the action is subsequently modified in a manner that causes adverse effects to listed species or critical habitat; or (3) a new species is listed or critical habitat designated that may be affected by this action.

Essential Fish Habitat Consultation EFH

We have also reviewed this project for impacts to EFH for Pacific salmon under section 305(b)(2) of the Magnuson-Stephens Fishery Conservation and Management Act and find the implementation of the project will not adversely affect EFH for Pacific salmon, therefore, we do not have any additional conservation recommendations for the proposed action.

Please contact Howard Brown at (916) 930-3608, or via e-mail at [howard.brown@noaa.gov](mailto:howard.brown@noaa.gov) if you have any questions concerning this project, or require additional information.

Sincerely,



*for* Rodney R. McInnis  
Regional Administrator

cc: NMFS-PRD, Long Beach, CA  
Galloway Consulting, 115 Meyers Street, Suite 120, Chico, CA 95828  
Rob Greenlaw, City of Chico, Department of Public Works, 411 Main Street, 2<sup>nd</sup> Floor, P.O.  
Box 3420, Chico, CA 95927