

***Appendix F. Compliance with Section 7 of
the Endangered Species Act***



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846



In reply refer to:
1-1-04-I-2214

JUL 21 2004

To: Refuge Manager, Sacramento National Wildlife Refuge Complex
Willows, California

From:  Field Supervisor, Sacramento Fish and Wildlife Office
Sacramento, California *Chf Nagao*

Subject: Informal Intra-agency Section 7 Evaluation for the *Draft Comprehensive Conservation Plan and Environmental Assessment for the Sacramento River National Wildlife Refuge*, Butte, Glenn, and Tehama counties, California

This letter is in response to your July 6, 2004, letter requesting concurrence that the *Draft Comprehensive Conservation Plan and Environmental Assessment for the Sacramento River National Wildlife Refuge* (CCP), dated June 2004, will not will not adversely affect federally-listed species. The Sacramento Office of the U.S. Fish and Wildlife Service (Service) received your request and the accompanying CCP on July 7, 2004. At issue are potential effects to the federally-listed vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardii*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), giant garter snake (*Thamnophis gigas*), and bald eagle (*Haliaeetus leucocephalus*). Our primary concern and mandate is the protection of federally-listed species pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

As part of the informal intra-agency Section 7 consultation process, the Service has reviewed the following documents: (1) your July 6, 2004, letter requesting informal Section 7 consultation; (2) the *Draft Comprehensive Conservation Plan and Environmental Assessment for the Sacramento River National Wildlife Refuge*, dated June 2004; (3) the *Intra-agency Formal Consultation on Management, Operations, and Maintenance of the Sacramento National Wildlife Refuge Complex, Willows, California* (Service File Number 1-1-98-F-0013), dated April 28, 1999; (4) the subsequent amendment (Service File Number 1-1-02-F-0206), dated June 10, 2002; and, (5) the Service's *Informal Endangered Species Section 7 Consultation for Integrated Pest Management Plan for Walnut Production at the Sacramento River National Wildlife Refuge, Butte, Glenn, and Tehama Counties, California* (Service File Number 1-1-04-I-1462), dated June 10, 2004.

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The Sacramento River National Wildlife Refuge (Refuge) is located in Butte, Glenn, and Tehama counties, and consists of approximately 10,141 acres of riparian and agricultural habitats owned by the Service, and approximately 1,281 acres of riparian habitats owned by Llano Seco Ranch. The CCP is designed to guide management of the Refuge for the next 15 years, and is accompanied by a hunting plan, fishing plan, fire management plan, and integrated pest management plan. The purposes of the CCP are to: (1) provide a clear statement of direction for future management of the Refuge; (2) provide long-term continuity in Refuge management; (3) communicate the Service's management priorities for the Refuge to their partners, neighbors, visitors, and the general public; (4) provide an opportunity for the public to help shape the future management of the Refuge; (5) ensure that management programs on the Refuge are consistent with the mandates of the National Wildlife Refuge System; (6) ensure that the management of the Refuge is consistent with Federal, State, and local plans; and, (7) provide a basis for budget requests to support the Refuge's needs for staffing, operations, maintenance, and capital improvements.

The Service concurs with your determination that the activities outlined in the CCP and in the accompanying hunting plan, fishing plan, fire management plan, and integrated pest management plan will lead to long-term benefits to federally-listed species. Furthermore, the activities proposed in the CCP are consistent with the *Intra-agency Formal Consultation on Management, Operations, and Maintenance of the Sacramento National Wildlife Refuge Complex, Willows, California* (Service File Number 1-1-98-F-0013), dated April 28, 1999, and the subsequent amendment (Service File Number 1-1-02-F-0206), dated June 10, 2002.

If you have questions regarding the informal intra-agency Section 7 consultation for the *Draft Comprehensive Conservation Plan and Environmental Assessment for the Sacramento River National Wildlife Refuge*, please contact Rick Kuyper or Adam Zerrenner, Sacramento Valley Branch Chief, of my office at (916) 414-6645.

cc:

California Department of Fish and Game, Rancho Cordova, California (Attn: Terry Roscoe)

INTRA-SERVICE SECTION 7 EVALUATION

Originating Unit: Sacramento NWR Complex
(530) 934-2801

Date: July 6, 2004

I. Region: 1

II. Service activity: Draft Comprehensive Conservation Plan and Environmental Assessment for the Sacramento River National Wildlife Refuge

III. Pertinent Species and Habitat

A. Listed species and/or their critical habitat within the action area:

1. Within the action area that will or may be affected:

- Bald eagle (*Haliaeetus leucocephalus*)
- Giant garter snake (*Thamnophis gigas*)
- Chinook salmon, Sacramento River winter-run ESU
(*Oncorhynchus tshawytscha*)
- Chinook salmon, Central Valley spring-run ESU
(*Oncorhynchus tshawytscha*)
- Steelhead, Central Valley ESU (*Oncorhynchus mykiss*)
- Valley elderberry longhorn beetle (*Desmocerus californicus
diamorphus*)

2. Within the action area that will not be affected: NONE

B. Proposed species and/or proposed critical habitat: NONE

1. Within the action area that will or may be affected: NONE

2. Within the action area that will not be affected: NONE

C. Candidate species within the action area:

- Western yellow-billed cuckoo (*Coccyzus americanus occidentalis*)
- Chinook salmon, Central Valley fall-run and late-fall-run ESU
(*Oncorhynchus tshawytscha*)

D. Include species/habitat occurrence on a map.

IV. Geographic area or station name and action: The proposed action is to implement a Comprehensive Conservation Plan for the Sacramento River National Wildlife Refuge. This management plan and the associated wildlife management activities and public use will be implemented at all Units of the Refuge. The current riparian habitat restoration program was

addressed in the restoration environmental assessment for the following Units of the Refuge: Ryan (now part of La Barranca Unit), Ohm, Haleakala (now part of Ohm Unit), Pine Creek, Kaiser (now referred Capay Unit), Phelan Island, Koehnen (now referred to as Deadman's Reach Unit), Hartley Island, and Stone (now referred to as Drumheller Unit). Public fishing at Packer Lake was covered under a previous Intra-service Section 7 consultation.

V. Location (maps attached):

A. Central Valley/San Francisco Bay Ecoregion

B. County and State:

Tehama County, California– Blackberry Island Unit, La Barranca Unit, Todd Island Unit, Moony Island Unit, Ohm Unit, Flynn Unit, Heron Island, Rio Vista Unit, and Foster Island Unit.

Butte County, California– Pine Creek Unit, Deadman's Reach Unit, and Llano Seco Unit.

Glenn County, California– McIntosh Landing North, McIntosh Landing South, Capay Unit, Phelan Island Unit, Jacinto Unit, North Ord Unit, Ord Unit, South Ord Unit, Hartley Island Unit, Sul Norte Unit, Codora Unit, Packer Unit, and Drumheller Slough Unit.

C. Blackberry Island Unit– 4.7 miles south of Red Bluff, California
La Barranca Unit– 5.3 miles south of Red Bluff, California
Todd Island Unit– 6.7 miles south of Red Bluff, California
Mooney Island Unit– 7.1 miles south of Red Bluff, California
Ohm Unit– 8.0 miles south of Red Bluff, California
Flynn Unit– 9.3 miles south of Red Bluff, California
Heron Island Unit– 1.2 miles south of Tehama, California
Rio Vista Unit– 8.4 miles south of Tehama, California
Foster Island Unit– 12.5 miles south of Tehama, California
Pine Creek Unit– 7.9 miles west of Chico, California
Deadman's Reach Unit– 10.2 miles southwest of Chico, California
Llano Seco Unit– 15.2 miles southwest of Chico, California
McIntosh North Unit– 2.7 miles north of Hamilton City, California
McIntosh South Unit– 1.3 miles north of Hamilton City, California
Capay Unit– 3.5 miles south of Hamilton City, California
Phelan Island Unit– 4.7 miles south of Hamilton City, California
Jacinto Unit– 6.9 miles south of Hamilton City, California
North Ord Unit– 7.4 miles south of Hamilton City, California
Ord Unit– 8.2 miles south of Hamilton City, California
South Ord Unit– 9.1 miles south of Hamilton City, California
Hartley Island Unit– 3.3 miles north of Butte City, California
Sul Norte Unit– 0.3 miles west of Butte City, California

Codora Unit– 0.6 miles southwest of Butte City, California
Packer Unit– 1.2 miles southwest of Butte City, California
Drumheller Unit– 3.1 miles south of Butte City, California

VI. Description of the proposed action:

See attached Comprehensive Conservation Plan titled *Draft Comprehensive Conservation Plan and Environmental Assessment for the Sacramento River National Wildlife Refuge* and Draft Environmental Assessment.

VII. Determination of effects

A. Explanation of effects of the action:

The management goals and strategies specified in the *Draft Comprehensive Conservation Plan and Environmental Assessment for the Sacramento River National Wildlife Refuge* (CCP) will not adversely affect endangered, threatened and neither candidate species, nor will they adversely modify Critical Habitat or Essential Fish Habitat for listed species. In the long-term, riparian habitat restoration and management along the Sacramento River, and associated vegetation, habitat and wildlife surveys (inventory and monitoring) and research will benefit listed species. Wildlife dependant public use (wildlife observation, environmental education, nature interpretation, photography, fishing, hunting) will likely increase awareness of refuge natural resources, including listed species. Furthermore, the CCP is consistent with the Environmental Assessment titled *Proposed Restoration Activities on the Sacramento River National Wildlife Refuge: Ryan, Ohm, Haleakala, Pine Creek, Kaiser, Phelan Island, Koehnen, Hartley Island, and Stone Unit*, the Intra-agency Formal Section 7 for public fishing at Packer Lake, and the Intra-agency Formal Section 7 titled *Consultation on Management, Operations, and Maintenance of the Sacramento National Wildlife Refuge Complex, Willows, California* and dated April 1999, and the consultation letter with the National Oceanographic and Atmospheric Administration, Fisheries (SWR-01-SA-5781:MET) dated August 17, 2001.

Wildlife population surveys have been conducted on Sacramento River NWR for ten years. The Point Reyes Bird Observatory is conducting avian monitoring using fixed-radius point counts, constant effort mist netting, spot mapping, area searches, and vegetation analysis. California State University, Chico is conducting baseline and long-term riparian vegetation monitoring. Numerous and diverse research investigations have been done at various scales by universities, federal and State agencies, conservation agencies, and the refuge (Appendix R). These monitoring projects and research investigation will assist refuge management for fish, wildlife, plants and vegetation associated with the middle Sacramento River ecosystem and the Refuge.

A diversity of wildlife exists in the area. Species listed by federal or state government as endangered or threatened potentially near Sacramento River NWR and vicinity include:

Bald Eagle (*Haliaeetus leucocephalus*) – federal listed as threatened and State-listed as endangered – nests in Lake, Mendocino, Trinity, Siskiyou, Modoc, Shasta, Tehama, Lassen, Plumas and Butte counties, and in the Lake Tahoe Basin. The bald eagle occurs throughout the

year at and in the vicinity of Sacramento River NWR, but is not known to breed here. Individuals forage and roost throughout the northern Sacramento Valley in locations supporting a variety of permanent and temporary wetlands. Eagles occur in areas that have relatively large, open roost trees. Suitable perch trees occur along the Sacramento River throughout the project sites and vicinity.

Western Yellow-billed Cuckoo (*Coccyzus americanus occidentalis*) – federal candidate species and State-listed as endangered – breeding range in California includes lower Colorado River, Kern River and Sacramento River. Surveys for the western yellow-billed cuckoo identified a breeding range on the middle Sacramento River between Red Bluff and Meridian, just southeast of Colusa. The cuckoo was located on the Sacramento River NWR during recent surveys. The cuckoo nests in larger trees, such as Fremont's cottonwood, located in close proximity to mixed riparian forest and willow and herbaceous scrublands.

Giant garter snake (GGS) (*Thamnophis couchi gigas*) – federal and state-listed as threatened – historically ranged from the Sacramento/San Joaquin Delta to the south end of the Tulare Lake Basin. The present distribution is from Chico to central Fresno County. The giant garter snake requires freshwater wetlands, such as marshes and low gradient streams. Permanent wetlands are of particular importance, as they provide habitat over the summer and early fall when seasonal wetlands are dry. Giant garter snakes have adapted to drainage and irrigation systems, especially those associated with rice cultivation.

Chinook salmon, Sacramento River winter-run ESU (*Oncorhynchus tshawytscha*) – federal listed as endangered and State-listed as endangered – only occurs in California and most spawning is limited to the main stem of the Sacramento River. This ESU includes populations of winter-run chinook salmon in the Sacramento River and its tributaries. Adult salmon leave the ocean and migrate through the Sacramento-San Joaquin Delta, upstream into the Sacramento River from December through July. Downstream migration of juvenile winter-run chinook salmon occurs from November through May. They migrate in the Sacramento River past the refuge as fry and smolts. Winter-run chinook salmon can rear in the following areas on the Sacramento River: above Red Bluff Diversion Dam (moving downstream as smolts, and probably in the lower river between river mile 70 and 164 (moving downstream on as fry). Water temperatures determine juvenile rearing locations and river conditions strongly influence movement. Critical Habitat for the Sacramento River winter-run chinook salmon was designated June 16, 1993 (58 CFR 33212, June 16, 1993). Critical Habitat for this ESU includes the Sacramento River from Keswick Dam to Chipps Island, all the waters westward from Chipps Island to the Carquinez Strait Bridge, all the waters of San Pablo Bay, and all the waters of the San Francisco Bay north of the San Francisco Bay–Oakland. Critical habitat includes the river bottom and riparian zone, which are those terrestrial areas that directly affect a freshwater aquatic ecosystem.

Chinook salmon, Central Valley spring-run ESU (*Oncorhynchus tshawytscha*) – federal listed as threatened and State-listed as threatened – only occurs in California in the main stem of the Sacramento River, and the Mill Creek, Deer Creek, Big Chico Creek, and Butte Creek tributaries. This ESU includes all naturally spawned populations of spring-run chinook salmon in the Sacramento River and its tributaries. Adult salmon leave the ocean and migrate through

the Sacramento-San Joaquin Delta, upstream into the Sacramento River from March through September. Downstream migration of juvenile spring-run chinook salmon occurs from March through June, while yearlings emigrate downstream from November through April. Most spawning occurs in headwater tributary streams. Critical habitat for this ESU is under development.

Chinook salmon, Central Valley fall-run and late-fall-run ESU (*Oncorhynchus tshawytscha*) – federal candidate species – This ESU only occurs in California and includes all naturally spawned populations of fall-run chinook salmon in the Sacramento and San Joaquin River Basins and their tributaries, east of Carquinez Strait. The ESU is designated as a candidate for listing due to concerns over specific risk factors. **Fall-run Chinook salmon** occur on the main stem of the Sacramento River. Adult salmon leave the ocean and migrate through the Sacramento-San Joaquin Delta, upstream into the Sacramento River from July through December and spawn from October through December. Spawning occurs on the mainstem of the Sacramento River, including below the Red Bluff Diversion Dam. **Late-fall-run Chinook salmon** occur on the main stem of the Sacramento River. Adult salmon leave the ocean and migrate through the Sacramento-San Joaquin Delta, upstream into the Sacramento River from October through April and spawn from January through April. Spawning occurs above the Red Bluff Diversion Dam and lower tributaries of the middle and upper Sacramento River.

Steelhead (*Oncorhynchus mykiss*) Central Valley Evolutionary Significant Unit – federal listed as threatened – an anadromous form of rainbow trout, which only occurs in California and has traditionally supported a major sport fishery in the Sacramento River system. This ESU includes all naturally spawned populations of steelhead and their progeny in the Sacramento and San Joaquin Rivers and their tributaries. Excluded are steelhead from San Francisco and San Pablo Bays and their tributaries. The historical range of steelhead in the Central Valley has been reduced by dams and water diversions that now restrict the species to the lower portions of major rivers where habitat is less favorable for steelhead spawning and rearing. They use the Sacramento River as a migration corridor to and from spawning grounds in the mainstem of the river above the Red Bluff Diversion Dam, the tributary streams, and the Coleman National Fish Hatchery. They are present in the Sacramento River year-round, either as smolts migrating downstream or adults migrating upstream or downstream. Upstream migration begins in July, peaks in the fall, and continues through February or March. Most spawning occurs from January through March. Juvenile migration generally occurs during the spring and early summer after at least 1 year of rearing in upstream areas. Populations have greatly declined over much of the species' range, including the Sacramento River basin, due to blockage of upstream migration by dams and flood control projects, agricultural and municipal diversions, deleterious temperatures in the Sacramento River, reduced availability of spawning gravels, and toxic discharges. Critical habitat for this ESU is under development.

Valley elderberry longhorn beetle (*Desmocerus californicus*) – federal listed as threatened – are known only from their host plant, the elderberry (*Sambucus mexicana*). Adults feed on foliage and are present from March through early June and breed during this period. Eggs are laid on leaves, branches, bark crevices, and trunks and hatch within a few days. Larvae bore through the stem pith, creating a pupation gallery. Adults chew through bark creating exit holes. Upon emergence, the adults occupy foliage, flowers, and stems of the host plant. This life cycle

is believed to take two years. These beetles are endemic to riparian habitat of the Sacramento and San Joaquin Valleys. Elderberry shrubs occur in mixed riparian forests and Valley oak and elderberry savannas. All elderberry shrubs larger than one-inch diameter are considered habitat for this species. Elderberry plants occur throughout the refuge in natural riparian forests and are being planted at restoration sites in mixed-riparian forest and elderberry savanna. Elderberry bushes are not planted within 300 feet of the refuge boundary next to private agricultural operations.

VIII. Effect determination and response requested.

A. Listed species/designated critical habitat:

<u>Determination</u>	<u>Response requested</u>
may effect/not likely to adversely affect (species: <u>Bald eagle</u>)	<u>X</u> Concurrence
may effect/not likely to adversely affect (species: <u>Giant garter snake</u>)	<u>X</u> Concurrence
may effect/not likely to adversely affect (species: <u>Winter-run chinook salmon</u>) (Refuge to contact NOAA-Fisheries)	<u>X</u> Concurrence
may effect/not likely to adversely affect (species: <u>Spring-run chinook salmon</u>) (Refuge to contact NOAA-Fisheries)	<u>X</u> Concurrence
may effect/not likely to adversely affect (species: <u>Central Valley steelhead</u>) (Refuge to contact NOAA-Fisheries)	<u>X</u> Concurrence
may effect/not likely to adversely affect (species: <u>Valley elderberry longhorn beetle</u>)	<u>X</u> Concurrence

B. Proposed species/proposed critical habitat:

NONE

<u>Determination</u>	<u>Response requested</u>
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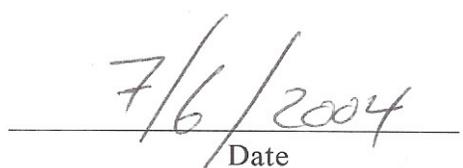
C. Candidate Species:

<u>Determination</u>	<u>Response requested</u>
no effect (species: <u>Western yellow-billed cuckoo</u>)	<u>X</u> Concurrence
no effect (species: <u>Fall-run chinook salmon</u>) (Refuge to contact NOAA-Fisheries)	<u>X</u> Concurrence
no effect (species: <u>Late fall-run chinook salmon</u>) (Refuge to contact NOAA-Fisheries)	<u>X</u> Concurrence



Signature

Refuge Manager/Sacramento NWR Complex



Date

IX. Reviewing ESO Evaluation:

A. Concurrence X Nonconcurrency _____

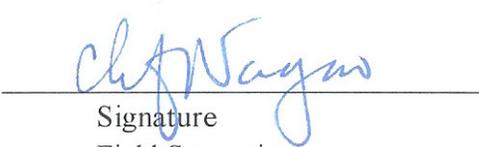
B. Formal consultation required

C. Conference required

D. Informal conference required

E. Remarks (attach additional pages as needed):

*The actions proposed
have been analyzed
in 2 formal consultations
with SNWR- 1-1-98-F-0013 and
1-1-02-F-0206*



Signature

Field Supervisor
Sacramento Fish and Wildlife Office



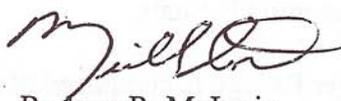
Date

Provided that all of the conservation and mitigation measures listed in the CCP are strictly adhered to, NOAA Fisheries concurs that the proposed Comprehensive Conservation Plan for the Sacramento River National Wildlife Refuge is not likely to adversely affect listed salmonids or their critical habitat.

Finally, the proposed project area has been identified as Essential Fish Habitat (EFH) for Chinook salmon (*Oncorhynchus tshawytscha*) in Amendment 14 of the Pacific Salmon Fishery Management Plan pursuant to the MSA. Federal action agencies are mandated by the MSA (section 305[b][2]) to consult with NOAA Fisheries on all actions that may adversely affect EFH, and NOAA Fisheries must provide EFH Conservation Recommendations (section 305[b][4][A]). Because the proposed action is not likely to adversely affect species listed under the ESA (including Sacramento River winter-run Chinook salmon and Central Valley spring-run Chinook salmon), and the habitat requirements of Central Valley fall/late fall-run Chinook salmon in the project area are similar to those of the listed species, EFH Conservation Recommendations are not required at this time, however, if there is a substantial revision to the action FWS will need to initiate EFH consultation.

If you have any questions regarding this correspondence or if NOAA Fisheries can provide further assistance on this project, please contact Mr. Michael Tucker in our Sacramento Area Office, 650 Capitol Mall, Suite 8-300, Sacramento, CA 95814. Mr. Tucker may be reached by telephone at (916) 930-3604, or by Fax at (916) 930-3629.

Sincerely,


Rodney R. McInnis
Regional Administrator

cc: NMFS-PRD, Long Beach, CA



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

In reply refer to:
1-1-04-I-1462

DATE: 5-5-04

Mr. Kevin Foerster
Refuge Manager
U.S. Fish and Wildlife Service
Sacramento National Wildlife Refuge Complex
725 County Road 99 W
Willows, California 95988

RT		INT	RT		INT
X	MGR			SECTY	
X	D-MGR			ADM OFCR	
	ARM-N			BUDG TECH	
	ARM-S			PURC AGT	
	ARM-R			WR 2800	
	BIO-1		MAY	SAC SHOP	
	BIO-2			COL SHOP	
	BIO-3			SUT SHOP	
	BIO-4			RIV SHOP	
	ESMT-1			FMO	
	ESMT-2			SUP RNG TECH	
	ORP			LD RNG TECH	
	INT SPEC			RNG TECH-1	
	LEO			RNG TECH-2	

Subject: Informal Endangered Species Section 7 Consultation for Integrated Pest Management Plan for Walnut Production at the Sacramento River National Wildlife Refuge, Butte, Glenn, and Tehama Counties, California

Dear Mr. Foerster:

This is in response to your March 22, 2004, letter and accompanying documents that requested informal consultation on the proposed Integrated Pest Management Plan (IPM Plan) for Walnut Production at the Sacramento River National Wildlife Refuge (Sacramento River NWR) located at Butte, Glenn, and Tehama counties, California. Your request was received by the U.S. Fish and Wildlife Service (Service) on March 23, 2004. At issue are potential effects to the federally-listed valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) (VELB), giant garter snake (*Thamnophis gigas*), and bald eagle (*Haliaeetus leucocephalus*). Our primary concern and mandate is the protection of federally-listed species pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

The proposed project involves the development of an IPM Plan to manage 1,529 acres of walnut orchards that are managed for wildlife habitat and commercial nut production. The walnut orchards are leased to farmers who commercially grow the walnut crop until the orchards are removed and native vegetation is planted. It is the goal of the Sacramento River NWR to replace these walnut orchards with native vegetation to provide habitat for native species. Currently, these orchards are being managed for walnut production rather than being abandoned because these orchards, if left unmanaged, would provide a habitat for pests, including insects, weeds, diseases, and rodents. The purpose of the plan is to: (1) identify those walnut pest control methods/materials currently approved for use in the Sacramento River NWR; (2) incorporate their use into an IPM program consistent with the goals of the Sacramento River NWR;



(3) provide long-term planning to meet the Service's goal of reducing effects of pesticide use on Federal trust resources to the greatest extent possible.

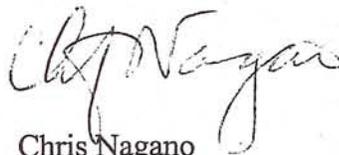
The Service has reviewed the proposed project, including: (1) the *Draft Integrated Pest Management Plan for Walnut Production on the Sacramento River National Wildlife Refuge*, dated September 2003; (2) the *Environmental Assessment, Cooperative Farming on the Sacramento NWR, Tehama, Butte, and Glenn counties, California*, dated June 1994; (3) the *United States District Court, Western District of Washington at Seattle, Washington Toxics Coalition, Northwest Coalition for Alternatives to Pesticides, Pacific Coast Federation of Fishermen's Associations, and Institute for Fisheries Resources (Plaintiffs), v. Environmental Protection Agency, and Mike Leavitt, Administrator, (Defendants), v. American Crop Protection Agency, et al. (Intervener-Defendants) (Case Number C01-132C)*, dated July 2, 2002; and, (4) *Intra-agency Formal Consultation on Management, Operations, and Maintenance of the Sacramento National Wildlife Refuge Complex, Willows, California (Service File Number 1-1-98-F-0013)*, dated June 10, 2002.

The Service concurs with your determination that the proposed project will not adversely affect federally-listed species. The VELB is not likely to be adversely affected because buffers of 300 feet or more will be used between the walnut orchards and elderberry plants (*Sambucus* sp.), the host plant for the VELB. Giant garter snakes are not likely to be adversely affected because this species does not occur near orchards at the Sacramento River NWR, and there is no suitable habitat present. Bald eagles could potentially nest in walnut orchards, but at this time there are no known occurrences of bald eagles nesting or foraging in or near walnut orchards.

Therefore, unless new information reveals effects of the proposed action that may affect listed species in a manner or to an extent not considered, or a new species or critical habitat is designated that may be affected by the proposed action, no further action pursuant to the Act is necessary.

If you have questions regarding the proposed Integrated Pest Management Plan for Walnut Production on the Sacramento River NWR Project, please contact Rick Kuyper or Adam Zerrenner, Sacramento Valley Branch Chief, of my office at (916) 414-6645.

Sincerely,



Chris Nagano
Chief, Endangered Species Division

cc:

California Department of Fish and Game, Rancho Cordova, California (Attn: Terry Roscoe)



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

April 29, 2004

In Reply Refer To:
SWR-04-SA-9119:MET

Kevin S. Forester, Refuge Manager
Sacramento National Wildlife Refuge
U.S. Fish and Wildlife Service
752 County Road 99W
Willows, California 95988

Dear Mr. Forester:

This is in response to your letter of March 22, 2004, requesting National Marine Fisheries Service's (NOAA Fisheries) concurrence that the proposed integrated pest management plan for walnut production at the Sacramento River National Wildlife Refuge (SRNWR) in Glenn, Butte, and Tehama Counties, California is not likely to adversely affect Federally listed endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley spring-run Chinook salmon (*O. tshawytscha*), threatened Central Valley steelhead (*O. mykiss*), candidate Central Valley fall/late fall-run Chinook salmon (*O. tshawytscha*) and their respective designated critical and essential habitats.

The SRNWR currently has within its boundaries 1,529 acres of walnut orchards that are managed for wildlife habitat and commercial nut production. The U.S. Fish and Wildlife Service (Service) uses the proceeds from the walnuts to help fund riparian restoration on several units of the SRNWR. The long term plan is to begin to remove these orchards over the next two to five years and replace them with native riparian and upland vegetation to provide habitat for fish and wildlife species. It is important that these orchards be properly managed until they are removed so as to avoid infestations of pests such as insects, weeds, diseases, and vertebrates, which could in turn cause off site impacts to neighboring walnut farmers along the river.

The Service has developed an integrated pest management plan (IPMP) with a primary focus on controlling codling moths, naval orange worms, web spinning mites, walnut husk flies, San Jose scale, aphids, walnut blight, vertebrate pests and weeds. The primary method of control of these pests will be closely controlled application of chemical and organic pesticides. Several protective measures will be implemented in the application of these pesticides to ensure they do not enter or adversely affect the aquatic environment of the Sacramento River. These measures include, but are not limited to, maintenance of wide unsprayed vegetated buffers from 200 to 300 feet in width, minimal application rates, low active ingredient concentrations, use of rapid degradation and soil binding chemicals, avoidance of application during inversions or winds over seven miles per hour, and the addition of drift control agents.

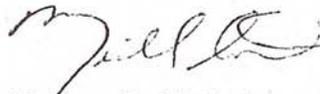


Based on the restorative goals of this project, the likelihood of long term beneficial effects on salmonid habitat, and provided that the above listed protective measures are strictly adhered to, NOAA Fisheries concurs with your determination that implementation of the proposed integrated pest management plan for walnut production at the Sacramento River National Wildlife Refuge is not likely to adversely affect listed salmonids or their critical habitat. This concludes section 7 consultation for the proposed project; however, should new information indicate that the project may effect listed species in an unforeseen manner, further consultation may be necessary.

Finally, the proposed project area has been identified as Essential Fish Habitat (EFH) for Chinook salmon (*Oncorhynchus tshawytscha*) in Amendment 14 of the Pacific Salmon Fishery Management Plan pursuant to the MSA. Federal action agencies are mandated by the MSA (section 305[b][2]) to consult with NOAA Fisheries on all actions that may adversely affect EFH, and NOAA Fisheries must provide EFH Conservation Recommendations (section 305[b][4][A]). Because the proposed action is not likely to adversely affect species listed under the ESA (including Sacramento River winter-run Chinook salmon and Central Valley spring-run Chinook salmon), and the habitat requirements of Central Valley fall/late fall-run Chinook salmon in the project area are similar to those of the listed species, EFH Conservation Recommendations are not required at this time; however, if there is a substantial revision to the action the Service will need to initiate EFH consultation.

If you have any questions regarding this correspondence or if NOAA Fisheries can provide further assistance on this project, please contact Mr. Michael Tucker in our Sacramento Area Office, 650 Capitol Mall, Suite 8-300, Sacramento, CA 95814. Mr. Tucker may be reached by telephone at (916) 930-3604, or by Fax at (916) 930-3629.

Sincerely,



Rodney R. McInnis
Acting Regional Administrator

cc: NMFS-PRD, Long Beach, CA