



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
777 Sonoma Ave., Room 325
Santa Rosa, CA 95404-4731

October 17, 2008

In response refer to:
151416SWR2008SR00380

Monterey County
Planning and Building
Inspection Administration

OCT 20 2008

RECEIVED

Carl Holm, Assistant Director
Monterey County Planning Department
168 W. Alisal Street, 2nd Floor
Salinas, California 93901

Dear Mr. Holm:

Thank you for the opportunity to comment on the September 2008 Draft Environmental Impact Report (DEIR) for the 2007 Monterey County General Plan. NOAA's National Marine Fisheries Service (NMFS) received a notice seeking written comments on the DEIR on September 5, 2008. Our comments on the September 2008 DEIR for the 2007 Monterey County General Plan are provided below. Please also refer to our October 2, 2006, comments we provided to the Monterey County Planning Department on the County of Monterey's Draft Program Environmental Impact Report for the 2006 Monterey County General Plan.

Many rivers, streams, and creeks within Monterey County support federally-threatened South-Central California Coast (S-CCC) Distinct Population Segment (DPS) steelhead (*Oncorhynchus mykiss*; 71 FR 834). Many of these watercourses are designated as critical habitat for S-CCC steelhead (70 FR 52488). NMFS is responsible for the protection of S-CCC steelhead pursuant to the Federal Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*) and implementing regulations promulgated thereunder.

NMFS has determined the S-CCC steelhead DPS is suffering a significant decline in overall abundance and productivity, is becoming increasingly fragmented, and that four sub-populations have become or are nearly extirpated. These population trends in conjunction with the large scale anthropogenic influences (*e.g.*; water diversions, the influences of large dams, agricultural practices [including irrigation], urbanization, loss of wetlands and riparian areas, roads, grazing, gravel mining, and logging) on habitat conditions lead to the conclusion that this DPS continues to decline toward extinction. Further adverse effects to steelhead and their designated critical habitat as a result of water use are of primary concern to NMFS relative to the DEIR.

Specific comments

Page 4.3-14 refers to "the central coast steelhead"; but should be changed to South-Central California Coast steelhead.



Page 4.3-78 states, "Work in Salinas River and Arroyo Seco River channels is exempted if it is covered by a (U.S. Army Corps of Engineers) 5-year regional Section 404 permit, approved by the (California Department of Fish and Game), and approved by the (Monterey County Water Resources Agency)." This sentence is incorrect. The existing 5-year regional Section 404 permit expires on October 31, 2008, and does not include any channel maintenance activities in the Arroyo Seco River. We expect the Monterey County Water Resources Agency will apply for another 5-year regional Section 404 from the U.S. Army Corps of Engineers, which will require Federal Endangered Species Act consultation between NMFS and the U.S. Army Corps of Engineers; we do not expect the Monterey County Water Resources Agency will propose to authorize channel maintenance activities in the Arroyo Seco River.

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Page 4.3-97: We support the development and adoption of a stream setback ordinance. Setbacks must be adequate to (1) sufficiently remove harmful human activities near watercourses, and (2) prevent the need for costly and invasive human interventions in the stream ecosystem. The stream setback ordinance should apply not only to those rivers and creeks listed on page 4.3-97, but to all watercourses supporting steelhead. We would like to work with Monterey County on the development of a stream setback ordinance because local regulations affecting stream corridor health and function directly affect our ability to conserve and protect steelhead and their habitat.

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Page 4.3-103; Area Plan Policies: Although some Area Plans have supplemental policies supporting water quality protection related to construction impacts on soil erosion and sedimentation, all Area Plans should have policies regarding construction-related soil erosion and sedimentation.

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Page 4.9-1: The DEIR should acknowledge that NMFS has listed approximately 472 miles as designated critical habitat in Monterey County for S-CCC DPS steelhead and describe how the General Plan will avoid impacts to steelhead critical habitat.

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Page 4.9-1: The DEIR does not address lagoons/estuaries within Monterey County. The DEIR should describe how the General Plan will avoid impacts to these important habitats.

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Page 4.9-48: When referring to the issuance of a biological opinion, the DEIR should state that NMFS, in addition to the U.S. Fish and Wildlife Service, also issues biological opinions.

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Page 4.9-47; Endangered Species Act: The ESA was enacted to identify species at risk of extinction, to provide a means to help such species recover, and to protect the ecosystems of which declining species are a part. Section 9 of the ESA prohibits on 'take' applies to the activities of everyone – every state, city, and county government, every business, and every citizen. Local agencies are liable under the ESA for issuing permits which result in take of federally-protected species.

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In addition to sections 7 and 10 of the ESA, section 4(d) has rules that include a set of limits on the application of the ESA 'take' prohibitions for specific categories of activities that contribute

to the conservation of listed steelhead or adequately limit their adverse impacts. The limits can be thought of as exceptions to the 'take' prohibitions.

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One of the limits, Limit No. 12 – Municipal, Residential, Commercial and Industrial Development and Redevelopment (MRCI), may be applicable to Monterey County. As a general matter, MRCI development (and redevelopment) has a significant potential to degrade habitat and injure or kill steelhead in a variety of ways. With appropriate safeguards, MRCI development can be specifically tailored to minimize impacts on listed fish to the extent that additional Federal protections would not be needed to conserve the listed DPS. To be approved for a limit on ESA 'take' prohibitions, a program must adequately contribute to the conservation of salmonids and meet their biological requirements. By providing limitation from take liability, NMFS encourages governments and private citizens to adjust their programs and activities to be "salmon safe". For more information, contact NMFS or see <http://www.nwr.noaa.gov/ESA-Salmon-Regulations-Permits/4d-Rules/Index.cfm>.

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Page 4.9-55; Section 4.9.5.2: "NMFS" should be added to the end of the first two paragraphs, to read ..."or regulations, or by the CDFG, USFWS, or NMFS..."

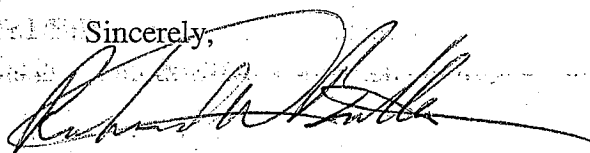
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Page 4.9-74: Pursuant to Mitigation Measure BIO-1.3, we recommend the County contact NMFS when proposed projects may affect steelhead or their habitat. If the project will not take or harm listed fish, then there is no need to modify the activity, or to contact NMFS. If, however, after reviewing the project, it seems likely it will take or harm listed fish, or there is uncertainty about whether take or harm may occur, the acting agency, entity, or individual should contact NMFS to seek more information on evaluating the project's impacts and determining ways to avoid harming the fish and violating the ESA.

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Thank you again for the opportunity to comment on the DEIR and we look forward to working with the County in the future. Please contact Mr. Bill Stevens at (707) 575-6066, or via e-mail at William.Stevens@noaa.gov, if you have any questions concerning these comments.

Sincerely,



Dick Butler
Santa Rosa Area Office Supervisor
Protected Resources Division

cc: Russ Strach, NMFS, Sacramento