



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
650 Capitol Mall, Suite 5-100
Sacramento, California 95814-4700

APR 18 2014

Dr. Raymond I. Carruthers
Research Leader and Scientist
USDA-Agricultural Research Service
800 Buchanan Street
Albany, California 94710

Re: Clarification for Informal Consultation Concurrence Letter under the Endangered Species Act Section 7(a)(2) and Magnuson Stevens Act Essential Fish Habitat Response and Fish and Wildlife Coordination Act Recommendations for the *Egeria densa* Control Program

Dear Dr. Carruthers:

This letter is in response to your March 31, 2014, letter, which provides clarification to the *Egeria densa* Control Program (EDCP) for which the most recent letter of concurrence (2013/9391) was issued by NOAA's National Marine Fisheries Service (NMFS) on March 26, 2014.

While using the fish passage protocol (FPP) to ensure that during herbicide applications, a zone of the treatment area is left untreated for passage of listed fish species at all times, the U.S. Department of Agriculture (USDA) and its partner, the California Department of Parks and Recreation, Division of Boating and Waterways (CDBW) clarified that the inclusion of the FPP for EDCP applies only to the use of diquat, but not fluridone, imazamox, and penoxsulam. The rationale for the clarification pertains to the historical EDCP procedures for the application of fluridone, where the FPP was not implemented for the EDCP during the past 12 years. USDA and CDBW believe that the FPP is unnecessary for the application of fluridone, imazamox, and penoxsulam for the following reasons: (1) the potential for low dissolved oxygen (DO) following herbicide treatment is specific to fast acting herbicides (*e.g.*, diquat, a fast acting herbicide, has the greatest potential to result in low DO concentrations following treatment); (2) for submerged aquatic vegetation such as *Egeria densa*, it is difficult to limit the treatment area to 3 acres; and (3) CDBW has conducted DO monitoring at EDCP fluridone treatment sites and found no decrease in DO following herbicide applications. The DO monitoring results over the past six treatment seasons indicated that there is no reason to implement the FPP when fluridone, imazamox, and penoxsulam are used to treat *Egeria densa*.

According to the clarification of the project description, USDA and CDBW will follow the FPP to ensure that during diquat applications, a zone of the treatment area is left untreated for passage of listed fish species at all times. USDA and CDBW will take into account the location and size of treatment areas. USDA and CDBW will follow the treatment protocols on page 4 of the letter



of concurrence issued by NMFS on March 26, 2014, for fluridone, imazamox, and penoxsulam treatments. USDA and CDBW will continue to monitor DO pre- and post-treatments and during water quality sampling.

Based on a NMFS meeting with CDBW, review of your letter, and subsequent and electronic mail correspondences, the clarification of the FPP to the project description will not expose listed species or designated critical habitat to levels of herbicides beyond those that were previously considered in the informal consultation that was conducted for this project.

Please contact Dr. Melanie Harrison at (707) 575-1253, or via email at Melanie.Harrison@noaa.gov, if you have any questions or require additional information concerning this correspondence.

Sincerely,



Maria Rea
Assistant Regional Administrator
California Central Valley Area Office

cc: Copy to file – ARN #151422SWR2013SA0004
Sylvia Hunter, CDBW, 1 Capital Mall-Suite 410, Sacramento, CA 95814