



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

December 18, 2007

In response refer to:
F/SWR3:JAF

Jeff Miller
Director
Alameda Creek Alliance
P.O. Box 192
Canyon, California 94516-0192

Pete Alexander
Fisheries Biologist
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, California 94605

Manny da Costa
Environmental Compliance Specialist
Alameda County Flood Control and Water Conservation District
399 Elmhurst Street
Hayward, California 94544

Dear Messrs. Miller, Alexander, and da Costa:

The purpose of this letter is to respond to your letter dated November 28, 2007, requesting authorization from NOAA's National Marine Fisheries Service (NMFS) to conduct rescue and relocation activities involving adult steelhead (*Oncorhynchus mykiss*) within the Alameda Creek watershed. In past years, adult salmonids have been observed during the winter months immediately below an impassable structure in the Alameda Creek Flood Control Channel (*i.e.*, BART weir). The Alameda Creek Alliance (ACA), Alameda Creek Flood Control and Water Conservation District (ACFCWCD), and East Bay Regional Park District (EBRPD) have proposed a protocol for rescuing steelhead during the winter of 2007-08, to increase the likelihood of successful reproduction. A similar request for steelhead rescue was approved by NMFS for the winters of 2004-05, 2005-06, and 2006-07.

Central California Coast steelhead are listed as threatened under the Federal Endangered Species Act. The take prohibitions for this species were finalized on July 10, 2000 (64 FR 42422), and an amendment published on June 28, 2005 (70 FR 37160), brings all threatened salmon and *O.*



mykiss distinct population segments (DPS) under the same 4(d) protective regulations. Within that final rule there is a Take Prohibition Limit for Rescue and Salvage Actions (Limit No. 3) which "relieves certain agency and official personnel or their designees from the take prohibition when they are acting to aid an injured or stranded salmonid..." (64 FR 73479).

NMFS has reviewed the rescue protocol presented in your November 28, 2007, letter, and we have coordinated with Kristine Atkinson with the California Department of Fish and Game. ACA and EBRPA have proposed three "rescue directors" to oversee each rescue operation. These individuals, Pete Alexander (EBRPD), Manny da Costa (ACFCWCD), and Jeff Miller (ACA), are familiar with proper steelhead handling procedures and have access to the equipment necessary to conduct these rescues. The proposed rescue protocol appears to be sufficient and appropriate for the current situation in Alameda Creek. Adult steelhead stranded below the BART weir will not be capable of passing upstream and the flood control channel does not provide suitable conditions for steelhead spawning or juvenile rearing.

Under Limit No. 3, NMFS is naming Pete Alexander, Manny da Costa, Jeff Miller, and your assistants as designees to rescue stranded steelhead from lower Alameda Creek below the BART weir. This take authorization is in effect from the date of this letter through June 1, 2008. A copy of this letter must be in the possession of the person rescuing fish. Under this rescue operation, steelhead will be collected by hand, seines, or dip nets.

While rescuing adult salmonids from lower Alameda Creek, the following measures will be adhered to:

- (1) Only adult steelhead with an intact adipose fin will be captured and re-located to areas upstream in the Alameda Creek watershed. All steelhead with an adipose fin clip may be captured and re-located downstream of the BART weir.
- (2) Adult steelhead with an intact adipose fin will be captured and re-located to upstream areas with suitable habitat in Alameda Creek or in Stonybrook Creek.
- (3) External tags including radio tags may be utilized on adult steelhead.
- (4) Steelhead captured may be weighed, measured, and fin clip sampled for genetic analysis.
- (5) All rescue efforts must be conducted under the direct and immediate supervision of one of the three rescue directors named above: Pete Alexander, Manny da Costa, or Jeff Miller.
- (6) The following information shall be collected and reported by June 30, 2008:
 - dates and times for all fish rescue events (both successful and unsuccessful rescue attempts);
 - list of participants for each rescue event;

- number of fish by species collected at each rescue event;
- measured fork length, examined for injuries, and general health and condition noted of all salmonids collected;
- information regarding individual fish that received external tags;
- location and time of release of each salmonid; and
- photos of salmonids, if available.

Please submit your report to NMFS, Attention: Joshua Fuller at 777 Sonoma Avenue, Room 325, Santa Rosa, California 95404, upon completion of your rescue operations.

Your letter also included substantial information regarding your research activities; however, it does not fulfill all the necessary requirements to be submitted as a formal permit application. Your research activities could be authorized in the annual 4(d) research program or under a Section 10(a)(1)(A) research permit. NMFS encourages development of a research application, and we are available to assist with this task. In order for NMFS to allow the continuation of your proposed research activities in the future, the appropriate authorization must be obtained. Development of a more comprehensive program will likely yield valuable information for watershed planning and assist in the re-establishment of an anadromous run in the basin. The appropriate research application can be acquired from NMFS.

Please contact Joshua Fuller at (707) 578-8552 or via email at Joshua.Fuller@noaa.gov if you have any questions regarding this letter.

Sincerely,



Dick Butler
Santa Rosa Area Office Supervisor
Protected Resources Division

cc: Russ Strach, National Marine Fisheries Service, Sacramento, California
Gary Stern, National Marine Fisheries Service, Santa Rosa, California
Jeffrey Jahn, National Marine Fisheries Service, Santa Rosa, California
Chuck Armor, California Department of Fish and Game, Yountville, California
George Neilands, California Department of Fish and Game, Yountville, California
Kristine Atkinson, California Department of Fish and Game, Santa Cruz, California