

**California Ricelands Salmon Project Partnership
Memorandum of Understanding**

NMFS-2022-WCRO-161

I. Parties:

California Rice Commission (CRC), Natural Resources Conservation Service (NRCS), and National Marine Fisheries Service (NMFS), collectively, the "Parties".

II. Introduction:

Phase 1 of the California Ricelands Salmon Project (Project) tested various field management actions and salmon survivability on small rice test plots. Phase 2 of the Project will implement the field management actions on 1-3 full-size rice farms within the active floodplain under highly studied/supervised conditions in order to further refine and demonstrate the effectiveness of these methods. If favorable results are realized, the objective would be to incorporate these activities into a practice standard within the NRCS Field Office Technical Guide for future/ongoing use, on a voluntary basis, by rice farmers and landowners.

III. Purpose:

This Memorandum of Understanding (MOU) serves as the basis for partnership efforts on the Project and provides overall goals, commitments and processes for how the Parties will work together to test and refine new innovative management activities through development of technical specifications and implementation guidelines. These activities will be designed to be consistent with rice farming and enhance floodplain habitat for juvenile salmonids. Once successful testing and research of the draft technical specifications and guidelines has occurred, NRCS may be able to offer project funding to rice growers to implement floodplain conservation activities through Farm Bill conservation programs.

IV. Goals and objectives:

The Parties agree to work together to study, monitor, adapt and implement new ricelands management methodologies that can improve aquatic habitat for fish and other organisms, a resource concern identified by NRCS in California, and with the goal of enhancing conservation and recovery of California Central Valley salmon and other native fish. The opportunity to enhance management activities on historic flood plains, existing rice fields, and flood bypasses has the potential to activate critical food web and ecological processes that support juvenile salmonid rearing, growth, survival and recovery.

Specific objectives consistent with this goal may be developed further under the partnership, and initially include:

1. Working together to review the results of the Phase 2 study and refine and adapt the management activities and implementation guidelines that could be implemented on ricelands with technical and financial assistance from NRCS.

2. Enhanced communication and coordination leading to efficient and effective Federal Endangered Species Act (ESA) Section 7 consultation process(es) related to the Project consistent with legal mandates.
3. Providing greater certainty for landowners enrolled in the study and management activities and implementation guidelines with respect to ESA take authorizations and consultation process(es) related to the Project.
4. Identify and reduce key information gaps and scientific uncertainties revealed during the Phase 2 study to inform and streamline final design of, consultation related to, and implementation of the management activities and implementation guidelines.

V. Scope:

The initial scope is defined by the draft technical guidelines and Phase 2 Study plan (attachments) which will include coordinated work on 300-500 acres across 1-3 farms over 2-4 years. The Parties may agree to extend the scope further in time to encompass the full implementation phase. With successful completion of research conducted under Phase 2, the Parties will work with NRCS to finalize guidelines for implementation and rice field technical specifications for this type of project and for NRCS to offer conservation technical and financial assistance opportunities through the farm bill to rice growers able to meet the requirements found within the technical documents.

VI. Responsibilities of the Parties:

NMFS West Coast Region will:

1. Provide expertise and technical assistance to NRCS, CRC and/or its contractor/designee, and individual landowners as time and resources allow, in furtherance of this MOU, including:
 - a. Work with other Parties to ascertain the most efficient and effective ESA take authorization and consultation process(es) related to the Project.
 - b. Review outlines and drafts of any biological assessment(s) prepared during ESA Section 7 process(es) related to the Project as requested by NRCS.
2. Provide a draft biological opinion or sections of a draft biological opinion to NRCS for review if requested by NRCS.
3. Work with other Parties as requested to coordinate with California Department of Fish and Wildlife and U.S. Fish and Wildlife Service to address those agencies' regulatory authorities and responsibilities related to the Project.
4. Coordinate with the NMFS Southwest Fisheries Science Center on scientific advice and research proposals related to the Project as requested by other Parties.

California Rice Commission will:

1. Perform overall project management functions to execute the Project in coordination with all Parties.
2. Coordinate with any other entities with an interest in the outcome of the Project.

3. Assist in the ESA Section 7 consultation process(es) related to the Project to facilitate a collaborative outcome, taking into account individual members' and stakeholders' opinions and recommendations.

NRCS will:

1. Be the Federal agency responsible for ESA Section 7 consultation(s) with NMFS related to the Project.
2. Work with and require contractors to coordinate with NMFS as necessary for any ESA Section 7 consultation process(es) related to the Project when providing Federal funds for projects on private lands.
3. Provide Project information to NMFS necessary to fully comply with the ESA for agency funded activities.
4. Utilize their authorities by carrying out programs for the conservation of endangered species and threatened species.

VII. Coordination and Consultation Processes:

The Parties agree to work together through a monthly technical team meeting and quarterly policy level meeting to develop and implement a work plan to meet mutually agreed upon timelines. Each Party reserves their authority and ability to make independent decisions under their respective authorities.

All Parties agree to strive to resolve disagreements on issues that may arise under this MOU at the technical team level to the extent possible. However, Parties agree to timely elevation to the policy level for resolution of any unresolved disagreements on issues that may arise under this MOU for the purpose of meeting the goals and objectives above.

Initially, the Parties agree to work through an ESA Section 7 consultation process related to Phase 2 of the Project. This is considered the most efficient process given the long-term nature of this study and goal to transition to a final new management activity. Parties will work together during Phase 2 to gather information to evaluate long-term beneficial and adverse effects and establish long-term metrics and monitoring protocols. The goal is to include these metrics and monitoring protocols in the final management activity and implementation guidelines. The Parties will continue to work together to identify the most efficient and effective ESA Section 7 consultation process related to implementing the technical guidelines and management activities under one of NRCS's practice standards. The Parties will continue to discuss programmatic ESA Section 7 consultation as an option for future implementation of an NRCS financial assistance program.

VIII. General Provisions -

A. Non-binding Nature:

This MOU does not impose legally binding requirements and nothing in this MOU will be construed as limiting or affecting in any way the legal authorities or responsibilities of the Parties. This MOU in no way: (i) impairs any Party from continuing its own planning or project implementation; (ii) limits a Party from exercising its regulatory authority in any matter; (iii) infers

that a Party's governing body or management will act in any particular manner on a project; or (iv) gives any of the Parties any authority over matters within the jurisdiction of any other Party. Nothing in this MOU creates any legal rights, obligations, benefits, or trust responsibilities, substantive or procedural, enforceable at law or in equity, by a Party against any other Party, a Party's officers, or any person.

This MOU is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

B. Term:

This MOU will become effective upon signature of all Parties and shall remain in effect for ten years from the date of execution, unless terminated by 60-day written notice of a Party to all other Parties. At least every two years, the parties will review this MOU to ensure its accuracy and applicability. Upon the expiration of ten years, the MOU may be renewed or extended through written agreement of all Parties. A Party may withdraw from this MOU at any time with 60-day written notice to all other Parties.

C. Authority:

The Endangered Species Act of 1973, 16 U.S.C. 1531-1544 is the authority that NMFS is using to enter into the agreement with California Rice Commission (CRC), Natural Resources Conservation Service (NRCS).(NMFS is essentially providing technical assistance under Endangered Species Act section 7 and NMFS implementing regulations and policies).

D. Amendments:

Modifications or amendments to the terms of this MOU shall be in writing and executed upon agreement by all Parties.

E. Relationship of Parties:

Execution of this MOU does not create a new legal entity with a separate existence from the individual Parties. This MOU does not create an "advisory committee" as that term is defined in the Federal Advisory Committee Act, as amended (Pub. L. 92-463). This MOU neither expands nor is in derogation of those powers and authorities vested in the Parties, or any of them, by applicable laws, statutes, regulations, or Executive Orders, nor does it modify or supersede any other applicable interagency agreements existing as of the date of this MOU. This MOU shall operate only between the Parties and shall inure solely to the benefit of the Parties. The provisions of this MOU are intended only to assist the Parties in determining and performing their responsibilities as described under this MOU.

F. Funding and Availability of Funds:

Funding by any Party toward any interagency effort in the Project is subject to the requirements of any and all applicable laws, regulations, and procedures. Nothing in this MOU is intended or shall be construed to authorize or require the obligation, appropriation, reprogramming, or expenditure of any funds by any Party as permitted by applicable law. The Parties, and their respective agencies and offices, will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing the objectives of this MOUs. As required by the Anti-Deficiency Act, 31 U.S.C. 1341, 1342, and 1517, all commitments made by Federal Parties to this MOU are subject to the availability of appropriated funds and budget priorities; nothing in this MOU shall be construed as requiring any Party to expend funds in

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violation of the Anti-Deficiency Act Any funding commitment or services, if pursued, will be handled in accordance with applicable laws, regulations, and procedures and require execution of separate agreements.

G. Data and Information Sharing:

Any information furnished to NRCS or NMFS under this MOU is subject to the Freedom of Information Act (5 U.S.C. 552). Cooperators providing technical or financial assistance under USDA programs and agreements may have access to information that must not be subsequently disclosed and may only be used for the purpose of providing that assistance.

H. Other

All activities and programs conducted under this MOU shall be in compliance with the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended; Civil Rights Restoration Act of 1987 (Public Law 100-250); and other nondiscrimination statutes; namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendment of 1972, and the Age Discrimination Act of 1975. Also, they will be in accordance with regulations of the Secretary of Agriculture (7 CFR Part 15, subpart A), which provide that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of an applicant or recipient receiving federal financial assistance from the Department of Agriculture or any Agency thereof.

All activities, funded by the NRCS, shall be in compliance with the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D).

IX. Contacts

NOAA – National Marine Fisheries Service

Brian Ellrott, Central Valley Salmonid Recovery Coordinator
650 Capitol Mall, Suite 5-100, Sacramento, CA 95814
Brian.ellrott@noaa.gov
562-676-2170

USDA – Natural Resources Conservation Service

Jennifer Cavanaugh, Environmental Compliance Coordinator
430 G Street, Davis, CA, 95616
Jennifer.cavanaugh@usda.gov
530-792-5632

USDA – Natural Resources Conservation Service

Timmie Mandish, West Region Fish Biologist
West National Technical Support Center, Natural Resources Conservation Service
1201 NE Lloyd Blvd, Ste 801, Portland, OR 97232
timmie.mandish@usda.gov
Office ph: 503-273-2419, Cell 971-806-6278

California Rice Commission
Paul Buttner, Manager of Environmental Affairs
1231 I Street, Suite 205, Sacramento, CA 95814-2933
pbuttner@calrice.org
916-387-2264

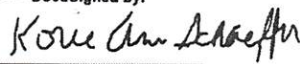
California Rice Commission
Kim DeVincenzi, Manager, Finance and Administration
1231 I Street, Suite 205, Sacramento, CA 95814-2933
kdevincenzi@calrice.org
916-387-2264

Signatures

In witness whereof, the parties to this MOU through their duly authorized representatives have executed this MOU on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

United States Department of Commerce, National Oceanic and Atmospheric Administration,
National Marine Fisheries Service, West Coast Region

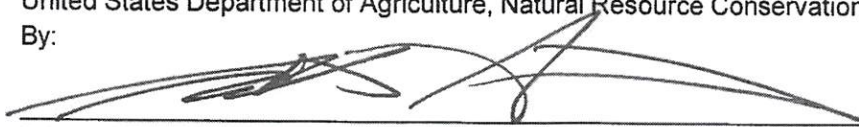
By:

DocuSigned by:


Printed Name and Title: Korie Schaeffer, Acting Deputy Regional Administrator

United States Department of Agriculture, Natural Resource Conservation Service

By:

 9/8/22

Printed Name and Title: Carlos Suarez, State Conservationist – California

California Rice Commission

By:

 9/9/22

Printed Name and Title: Timothy Johnson, President and CEO