

STAFF SUMMARY FOR FEBRUARY 10-11, 2016

35. EMERGENCY ACTION – SACRAMENTO RIVER FISHING CLOSURE**Today's Item**Information Action

Possible emergency action to close all fishing in 5.5 miles of the Sacramento River from 650 feet downstream of Keswick Dam to the Highway 44 bridge in Redding for four months, to protect winter-run Chinook salmon due to low flow conditions.

Summary of Previous/Future Actions (N/A)**Background**

Sacramento River winter-run Chinook salmon (SRWC) is federally- and state-listed as endangered, and is at high risk of extinction. SWRC suffered a 95% loss of the 2014 natural production brood year due to low reservoir storage and elevated temperatures caused by the ongoing drought. Estimated mortality in 2015 is predicted to be similar to 2014. Current projections indicated that similar water conditions could occur in 2016.

DFW staff evaluated the spawning locations for 2015 SRWC and concluded that all but two observed redds were above the Highway 44 bridge. The Sacramento River from Keswick Dam downstream to the Red Bluff Diversion Dam is a Commission designated Wild Trout Water and provides some of the best rainbow trout fishing in California. The proposed emergency fishing closure from the Keswick Dam to the Highway 44 bridge is 5.5 miles, about a nine percent reduction in the fishery; this is also one of the most popular reaches of the river for both shore based and boat anglers.

Pursuant to Section 11346.1 of the Government Code, DFW proposes to close fishing to a portion of the Sacramento River from April 1 through July 31, 2016. FGC took similar emergency action on Apr 17, 2015 for the same stretch of the Sacramento River.

Significant Public Comments

A local business expressed concern that the emergency fishing closure will not protect winter-run Chinook salmon unless water flows and the use of high-powered motorized vessels are also addressed (Exhibit 3)

Recommendation

FGC staff: Supports the DFW recommendation.

DFW: Adopt emergency regulations to close to fishing 5.5 miles of the Sacramento River from 650 feet below Keswick Dam to the Highway 44 bridge in Redding.

Exhibits

1. [DFW memo, dated Jan 21, 2016](#)
2. [Statement of Proposed Emergency Regulatory Action](#)
3. [Email from Michael Caranci, The Fly Shop, received Jan 15, 2016](#)

STAFF SUMMARY FOR FEBRUARY 10-11, 2016

Motion/Direction

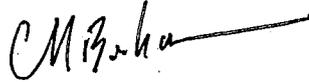
Moved by _____ and seconded by _____ that the Commission takes emergency action to amend Subsection (b)(156.5)(B) of Section 7.50, to close all fishing in the Sacramento River from 650 feet below Keswick Dam to the Highway 44 bridge.

Memorandum

Date: January 21, 2016

To: Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Emergency Statement to Amend Subsection (b)(156.5)(B) of Section 7.50, Title 14, California Code of Regulations, Re: Emergency Closure of the Sacramento River due to Low Flow Conditions**

Attached please find the Statement of Proposed Emergency Regulatory Action to amend subsection (b)(156.5)(B) of Section 7.50, Title 14, California Code of Regulations, Re: Emergency Closure of the Sacramento River Due to Low Flow Conditions.

On January 17, 2014 the Governor proclaimed a State of Emergency to exist in California due to severe drought conditions. As part of the declaration, the Governor ordered the Department of Fish and Wildlife (Department) to work with the California Fish and Game Commission (Commission), using the best available science, to determine whether restricting fishing in certain areas will become necessary and prudent as drought conditions persist.

Sacramento River winter-run Chinook salmon suffered a 95% loss of the 2014 natural production brood year due to low reservoir storage and elevated water temperatures caused by the ongoing drought. Estimated mortality in 2015 is predicted to be similar to 2014. Current projections indicate that similar water conditions could occur in 2016. Chinook salmon return to their natal rivers and streams every three years to spawn. Therefore, it is vital to protect this year's cohort to prevent extinction of winter-run Chinook salmon. State and federal agencies are working together to help ensure there is sufficient cold water to prevent a third year cohort collapse. This could be accomplished via the State Water Resources Control Board process or a change in the appropriate reasonable and prudent alternative actions outlined in the 2009 Biological Opinion on the Long-Term Operations of the Central Valley Project and State Water Project.

Maximizing adult spawning numbers is critical to the population. Department staff have evaluated the 2015 winter-run Chinook salmon spawning locations and have concluded that all but two observed redds were above the Highway 44 bridge.

Although fishing for winter-run Chinook salmon in this reach of the Sacramento River is not allowed under current regulations, incidental by-catch by anglers has been documented to occur, especially during low flow periods. Even if returned to the water, incidental by-catch adds unnecessary stress on winter-run Chinook salmon resulting in the potential loss of adults before spawning. A fishing closure in the holding and spawning areas of winter-run Chinook salmon will add to protections for a Federal and State Endangered fish facing a high risk of extinction. An emergency fishing closure from the Keswick Dam to the Highway 44 bridge is a 5.5 mile (about nine percent) reduction in areas open to fishing upstream of the Red Bluff Diversion Dam. The Department does not propose a permanent closure but a temporary 4-month suspension of fishing and annually assessing the success of all efforts to protect the winter-run Chinook salmon population. If adopted, this emergency closure would take effect upon final approval by the Office of Administrative Law and end July 31, 2016. Normal fishing opportunities would resume August 1, 2016.

Pursuant to Section 8.01, Title 14, California Code of Regulations, the Department Director has authority to temporarily close fisheries experiencing degraded environmental conditions due to drought. The criteria used to determine if an emergency fishing closure is warranted were developed to protect legal fisheries. Winter-run Chinook salmon is a state and federally-listed endangered species and, as stated above, fishing for winter-run Chinook salmon is not allowed. As a result, the Director cannot use his authority under Section 8.01 to protect this species. For this reason, the Department is requesting the Commission take emergency action and implement a temporary fishing closure on the Sacramento River to protect winter-run Chinook salmon.

A meeting has been scheduled on Friday, January 29, 2016 from 4:00-5:30 p.m. at the Public Library at 1100 Parkview Avenue in Redding to receive initial public input regarding this emergency action.

If you have any questions or need additional information, please contact Stafford Lehr, Acting Deputy Director, Wildlife and Fisheries Division, at (916) 653-4673.

Attachments

ec: Stafford Lehr
Acting Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Neil Manji, Regional Manager
Northern Region (Region 1)
Neil.Manji@wildlife.ca.gov

Bill Cox
Acting Branch Chief
Fisheries Branch
William.Cox@Wildlife.ca.gov

Curtis Milliron, Environmental
Program Manager
Northern Region (Region 1)
Curtis.Milliron@wildlife.ca.gov

Craig Martz, Program Manager
Regulations Unit
Wildlife and Fisheries Division
Craig.Martz@wildlife.ca.gov

Karen Mitchell, Senior Environmental
Scientist (Specialist)
Fisheries Branch
Wildlife and Fisheries Division
Karen.Mitchell@wildlife.ca.gov

Scott Barrow, Senior Environmental
Scientist (Specialist)
Regulations Unit
Wildlife and Fisheries Division
Scott.Barrow@wildlife.ca.gov

CALIFORNIA FISH AND GAME COMMISSION
STATEMENT OF PROPOSED EMERGENCY REGULATORY ACTION

Emergency Action to
Amend subsection (b)(156.5)(B) of Section 7.50,
Title 14, California Code of Regulations
Re: Emergency Closure Due to Low Flow Conditions

I. Statement of Facts Constituting the Need for Emergency Regulatory Action

On January 17, 2014 the Governor proclaimed a State of Emergency to exist in California due to severe drought conditions. As part of the declaration, the Governor ordered the Department of Fish and Wildlife (Department) to work with the California Fish and Game Commission (Commission), using the best available science, to determine whether restricting fishing in certain areas will become necessary and prudent as drought conditions persist. On April 25, 2014 the Governor issued an Executive Order (EO) to proclaim a continuation of the State of Emergency based ongoing drought conditions. This EO and the original orders are still in place and specifically direct the Department to monitor winter-run Chinook salmon in the Sacramento River and tributaries.

Sacramento River winter-run Chinook salmon suffered a 95% loss of the 2014 natural production brood year due to low reservoir storage and elevated water temperatures caused by the ongoing drought. Estimated mortality in 2015 is predicted to be similar to 2014. Current projections indicate that similar water conditions could occur in 2016. Chinook salmon return to their natal rivers and streams every three years to spawn. Therefore, it is vital to protect this year's cohort to prevent extinction of winter-run Chinook salmon. State and federal agencies are working together to help ensure there is sufficient cold water to prevent a third year cohort collapse. This could be accomplished via the State Water Resources Control Board process or a change in the appropriate reasonable and prudent alternative actions outlined in the 2009 Biological Opinion on the Long-Term Operations of the Central Valley Project and State Water Project.

The Drought Operations Plans have outlined measures to try and prevent extinction of winter-run Chinook salmon which include: increased hatchery production, enhanced monitoring, and increased rescue efforts. Maximizing adult spawning numbers is critical to the population. Department staff have evaluated the 2015 winter-run Chinook salmon spawning locations and have concluded that all but two observed redds were above the Highway 44 bridge. Although fishing for winter-run Chinook salmon in this reach of the Sacramento River is not allowed under current regulations, incidental by-catch by anglers has been documented to occur, especially during low flow periods. Even if returned to the water, incidental by-catch adds unnecessary stress on winter-run Chinook salmon resulting in the potential loss of adults before spawning. A fishing closure in the holding and spawning areas of winter-run will add to protections for a Federal and State Endangered fish facing a high risk of extinction.

The Sacramento River from Keswick Dam downstream to the Red Bluff Diversion Dam (RBDD) is a Commission designated Wild Trout Water and provides some of the best

rainbow trout fishing in California. The proposed emergency fishing closure from the Keswick Dam to the Highway 44 bridge is a 5.5 mile (about nine percent) reduction in areas open to fishing upstream of the RBDD. Although this represents a small portion of the fishery, it is one of the most popular reaches for both shore based and boat anglers. The Department does not propose a permanent closure but a temporary 4-month suspension of fishing (April 1 through July 31) and will annually assess the success of all efforts to protect the winter-run Chinook salmon population.

Pursuant to Section 8.01, Title 14, California Code of Regulations, the Department Director has authority to temporarily close fisheries experiencing degraded environmental conditions due to drought. The criteria used to determine if an emergency fishing closure is warranted were developed to protect legal fisheries. Winter-run Chinook salmon is a state and federally-listed endangered species and, as stated above, fishing for winter-run Chinook salmon is not allowed. As a result, the Director cannot use his authority under Section 8.01 to protect this species. For this reason, the Department is requesting the Commission take emergency action to implement a temporary fishing closure on the Sacramento River to protect winter-run Chinook salmon.

PROPOSED ACTION BY THE COMMISSION:

The Department acknowledges the importance of this sport fishery and understands any closure to angling will likely have a substantial effect to both local anglers and anglers travelling from other parts of the State. However, given the gravity and magnitude of the current situation facing winter-run Chinook salmon, the Department acting under the directives of the State and Federal Endangered Species Acts, and the orders and provisions contained in the aforementioned 2014 Proclamations and EO's will be requesting the Commission through emergency action to close the Sacramento River downstream from Keswick Dam to the Highway 44 bridge. If adopted, this emergency closure would take effect upon final approval by the Office of Administrative Law and end July 31, 2016. Normal fishing opportunities would resume August 1, 2016.

Amend Sacramento River subsection (b)(156.5)(B) of Section 7.50, Title 14, CCR, to close all fishing in the Sacramento River from 650 feet below Keswick Dam to the Highway 44 bridge, from the effective date of the emergency regulation (about April 1, 2016) through July 31, 2016.

II. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

- (a) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (b) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (c) Programs Mandated on Local Agencies or School Districts:

None.

- (d) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

- (e) Effect on Housing Costs:

None.

III. Authority and Reference

The Fish and Game Commission proposes this emergency action pursuant to the authority vested by sections 200, 202, 205, 215, 220, 240, 315, and 316.5 of the Fish and Game Code and to implement, interpret, or make specific sections 200, 202, 205, 206, 215 and 316.5 of said Code.

IV. Section 240 Finding

Pursuant to Section 240 of the Fish and Game Code, the Commission made the finding that the adoption of this regulation is necessary for the immediate conservation, preservation, or protection of birds, mammals, reptiles, or fish, including, but not limited to, any nests or eggs thereof.

Informative Digest (Plain English Overview)

On January 17, 2014 the Governor proclaimed a State of Emergency to exist in California due to severe drought conditions. As part of the declaration, the Governor ordered the Department of Fish and Wildlife (Department) to work with the California Fish and Game Commission (Commission), using the best available science, to determine whether restricting fishing in certain areas will become necessary and prudent as drought conditions persist. On April 25, 2014 the Governor issued an Executive Order (EO) to proclaim a continuation of the State of Emergency based on ongoing drought conditions. This EO and the original orders are still in place and specifically direct the Department to monitor winter-run Chinook salmon in the Sacramento River and tributaries.

Sacramento River winter-run Chinook salmon suffered a 95% loss of the 2014 natural production brood year due to low reservoir storage and elevated water temperatures caused by the ongoing drought. Estimated mortality in 2015 is predicted to be similar to 2014. Current projections indicate that similar water conditions could occur in 2016. Chinook salmon return to their natal rivers and streams every three years to spawn. Therefore, it is vital to protect this year's cohort to prevent extinction of winter-run Chinook salmon. State and federal agencies are working together to help ensure there is sufficient cold water to prevent a third year cohort collapse. This could be accomplished via the State Water Resources Control Board process or a change in the appropriate reasonable and prudent alternative actions outlined in the 2009 Biological Opinion on the Long-Term Operations of the Central Valley Project and State Water Project.

The Drought Operations Plans have outlined measures to try and prevent extinction of winter-run Chinook salmon which include: increased hatchery production, enhanced monitoring, and increased rescue efforts. Maximizing adult spawning numbers is critical to the population. Department staff have evaluated the 2015 winter-run Chinook salmon spawning locations and have concluded that all but two observed redds were above the Highway 44 bridge. Although fishing for winter-run Chinook salmon in this reach of the Sacramento River is not allowed under current regulations, incidental by-catch by anglers has been documented to occur, especially during low flow periods. Even if returned to the water, incidental by-catch adds unnecessary stress on winter-run Chinook salmon resulting in the potential loss of adults before spawning. A fishing closure in the holding and spawning areas of winter-run will add to protections for a Federal and State Endangered fish facing a high risk of extinction.

The Sacramento River from Keswick Dam downstream to the Red Bluff Diversion Dam (RBDD) is a Commission designated Wild Trout Water and provides some of the best rainbow trout fishing in California. The proposed emergency fishing closure from the Keswick Dam to the Highway 44 bridge is a 5.5 mile (about nine percent) reduction in areas open to fishing upstream of the RBDD. Although this represents a small portion of the fishery, it is one of the most popular reaches for both shore based and boat anglers. The Department does not propose a permanent closure but a temporary 4-month suspension of fishing (April 1 through July 31) and will annually assess the success of all efforts to protect the winter-run Chinook salmon population.

Pursuant to Section 8.01, Title 14, California Code of Regulations, the Department Director has authority to temporarily close fisheries experiencing degraded environmental conditions due to drought. The criteria used to determine if an emergency fishing closure is warranted were developed to protect legal fisheries. Winter-run Chinook salmon is a state and federally-listed endangered species and, as stated above, fishing for winter-run Chinook salmon is not allowed. As a result, the Director cannot use his authority under Section 8.01 to protect this species. For this reason, The Department is requesting the Commission take emergency action and implement a temporary fishing closure on the Sacramento River to protect winter-run Chinook salmon.

A meeting has been scheduled on Friday, January 29, 2016 from 4:00-5:30 p.m. at the Public Library at 1100 Parkview Avenue in Redding to receive initial public input regarding this emergency action.

PROPOSED ACTION BY THE COMMISSION:

The Department acknowledges the importance of this sport fishery and understands any closure to angling will likely have a substantial effect on both local anglers and anglers travelling from other parts of the State. However, given the gravity and magnitude of the current situation facing winter-run Chinook salmon, the Department acting under the directives of the State and Federal Endangered Species Acts, and the orders and provisions contained in the aforementioned 2014 Proclamations and EO's will be requesting the Commission through emergency action to close the Sacramento River downstream from Keswick Dam to the Highway 44 bridge. If adopted, this emergency closure would take effect upon final approval by the Office of Administrative Law and end July 31, 2016. Normal fishing opportunities would resume August 1, 2016.

Amend Sacramento River subsection (b)(156.5)(B) of Section 7.50, Title 14, CCR, to close all fishing in the Sacramento River from 650 feet below Keswick Dam to the Highway 44 bridge, from the effective date of the emergency regulation (about April 1, 2016) through July 31, 2016.

Benefits: The proposed regulation will provide benefits to the environment through the conservation and preservation of the endangered winter-run Chinook salmon population.

The proposed regulation is neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (sections 200, 202, 205, 315, and 316.5, Fish and Game Code).

Regulatory Language

§7.50. Alphabetical List of Waters with Special Fishing Regulations.

Subsection (b)(156.5)(B) of Section 7.50, Title 14, CCR, is amended to read:

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag and Possession Limit</i>
(156.5) Sacramento River and tributaries below Keswick Dam (Butte, Colusa, Contra Costa, Glenn, Sacramento, Solano, Sutter, Tehama and Yolo Cos.)	Also see Sierra District General Regulation (See Section 7.00(b))	
(A) Sacramento River from Keswick Dam to 650 feet below Keswick Dam	Closed to all fishing all year.	
(B) Sacramento River: from 650 feet below Keswick Dam to the Deschutes Road bridge. <u>1. from 650 feet below Keswick Dam to the Highway 44 bridge.</u>	All year. Only barbless hooks may be used. <u>Closed to all fishing from [OAL to insert effective date] through July 31.</u>	2 hatchery trout or hatchery steelhead** 4 hatchery trout or hatchery steelhead** in possession.
	<u>August 1 through December 31. Only barbless hooks may be used.</u>	<u>2 hatchery trout or hatchery steelhead** 4 hatchery trout or hatchery steelhead** in possession.</u>
<u>2. from the Highway 44 bridge to the Deschutes Road bridge.</u>	<u>All year. Only barbless hooks may be used.</u>	<u>2 hatchery trout or hatchery steelhead** 4 hatchery trout or hatchery steelhead** in possession.</u>

NOTE: Authority cited: Sections 200, 202, 205, 215, 220, 240, 315, and 316.5, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215 and 316.5, Fish and Game Code.

From: [Michael Caranci](#)
To: [FGC](#); [Michael Michalak](#); [Nick Fasiano](#); [Bryan Quick](#); [Patrick Pendergast](#); [Terry Jepsen](#); [Zack Thurman](#)
Subject: Proposed Sacramento River Closure
Date: Friday, January 15, 2016 7:39:32 AM

Fish and Game Commission,

I recently learned that the Fish and Game Commission is strongly considering re-implementing the emergency fishing closure on the Sacramento River in Redding for the summer of 2016. Obviously this was a huge concern last year from the local fishing, guiding, and business community as this stretch of river is vital to the region for so many reasons, from habitat to fish and wildlife to economic value related to angling-based tourism. We were able to mitigate the closure last year with only moderate loss, although I still have people every week contacting us to ask if the Sac is open for fishing again, nearly 6 months after it re-opened.

Of course, we were extremely disappointed to learn that the closure, which had a direct impact on the lives of many in our community, was ineffectual in protecting the endangered Winter Chinook. Rather, our first-hand observation over the course of last summer was quite the opposite, that the fishing closure most likely had a negative impact on the resource, directly related to the dramatic increase in high-powered watercraft (jetski's) on this stretch of river. As we predicted and warned in the meeting last spring, without fishermen and drift boats on the river, adrenaline junkies came out in force and every hiker, biker, and business owner with a view of the river complained to us that there were many jetskis on the river, every day throughout the closure. These boaters zoom up and down at very high speed, make a lot of noise, disrupt the spawning beds because they can run in very shallow water, and of course the added wakes further degrade the shoreline habitat, nesting birds, and the fish everywhere in the river.

I think we all know and realize, include the Fish and Game Commission, that fly fishermen pose no direct threat to the salmon. We don't catch them, and we don't kill them. But if the proposed river closure can add political pressure on the Bureau of Reclamation to consider better flow management out of Shasta and Keswick Dams to aid in the salmon recovery, we would gladly support another closure. But not if the jetski's are continued to be allowed to further degrade the resource.

You must ask yourself, which is the lesser of the two evils? Fly fishermen who protect the fish and use light leaders and tiny barbless hooks, or jetskiers who indirectly attack spawning winter run salmon every day of their crucial spawning period?

Something has to be done to protect these fish or they'll go away for ever. You're considering investing billions of taxpayers dollars to truck fish around the dams (a failed policy in other watersheds across the US), and you're considering again closing a fishery that is a vital resource to our local, rural economy. But I haven't seen any efforts taken to actually protect the fish from the things that are directly impacting their existence: first and foremost being improper flow releases by BOR, and second the impacts from high powered motorized vessels on the river. Any legislation to close the fishery without also addressing these other two problems is both foolhardy and irresponsible.

The Fly Shop has a loud voice in our angling community, as well as the business community here in the North State. If you can address the flow and motor/jetski issue, we will support your efforts to temporarily close the fishery. Otherwise, all you're doing with a closure is hurting the very people around here who actually do care about protecting these fish.

Regards,

Michael Caranci
The Fly Shop
530-222-3555 or 800-669-3474

michael@theflyshop.com