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May 13, 2009

Mr. Steve Rotherth
Director, California Field Office
American Rivers
432 Broad Street
Nevada City, CA 95959

Dear Steve:

Thank you for your comments and continued interest in the success of the Habitat Expansion Agreement (HEA), as expressed in your letter of February 27, 2009. The Department of Water Resources (DWR) and Pacific Gas and Electric Company (PG&E) are committed to the full implementation of the HEA.

The HEA Steering Committee is continually creating and updating documents needed to fulfill our obligation under the HEA within the specified timeline presented in the HEA. Since we sent out the Annual Report in January, we have updated several key documents and have posted them on the HEA website (www.sac-basin-hea.com); click on the "Jump to Habitat Expansion Actions" to see the list of documents. Because a few of the documents are in progress, such as the Work Plan, we have posted them as drafts. The Work Plan is posted on the home page. In the interest of transparency, we will continue to update the Work Plan on the website as we proceed. An updated Working List of Potential Habitat Expansion Actions will also be posted on the website. We will send out a notice to all of the contacts we have developed during the HEA implementation effort when we post the list.

Since our outreach to the HEA signatories in January, we have also solicited input from more than 25 potential public stakeholder organizations through the Resource Conservation Districts and various watershed groups in the Sacramento River basin using the same questionnaire developed for signatory input. The deadline for input from the potential stakeholders was April 30th. The Steering Committee has been working to

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ensure that the working list of potential actions is as complete and accurate as possible, and includes the information solicited via the questionnaires and comment forms received from the signatories and stakeholders. The Steering Committee has included potential habitat expansion actions above, as well as below, rim dams in the Sacramento River Basin on our working list. For example, fish passage above Oroville and Englebright are two actions being evaluated. We recognize that no individual actions will meet all of the criteria and while some will be eliminated through the process, we wanted to work from as large a list as possible and look for opportunities to aggregate actions within a watershed as a means to increase our ability to meet more of the criteria, most importantly, the Habitat Expansion Threshold. The updated Working List of Potential Actions will be completed shortly and posted to the website.

The Evaluation, Selection, and Approval Criteria will be applied to select the most promising and cost-effective actions for inclusion in the Draft Habitat Expansion Plan, as you suggest in item 1 in your comments regarding the list of potential actions. At this time, the Steering Committee is applying these criteria and considering each of the actions that may be viable under the HEA. Working definitions for the application of the criteria have evolved and are being reviewed by the National Marine Fisheries Service (NMFS) to ensure that they meet the terms of the HEA. The working definitions will be posted to our website for review by the HEA signatories and potential stakeholders. The Steering Committee is committed to working within the requirements of the HEA to select actions. One particular point of clarification we are seeking is a working definition of actions that are subject to existing commitments, such as Battle Creek, as you highlighted in item 3 in your comments regarding the list of potential actions. Together with NMFS, we are also evaluating various quantitative and qualitative methods of estimating an action's potential to contribute to the Habitat Expansion Threshold. We are consulting with NMFS extensively so that we present a Draft Habitat Expansion Plan that will meet with the Approval Criteria.

The Steering Committee will continue to consult with NMFS on these and other topics to ensure that we have the same basis of understanding as we proceed. It is also our goal to meet the HEA requirements in the timeframe specified in consultation with the signatories as well as potential public stakeholders. The Steering Committee plans to meet again with the HEA signatories and stakeholders in June to provide an update on the progress made in developing and implementing the evaluation and selection process, and to present our current list of viable actions (i.e., the list of actions resulting from application of the HEA criteria to the list of potential actions).

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We appreciate your continued interest in the HEA and hope to meet with you and the other signatories in June. Please feel free to contact us at any time if you have any questions, or additional input for the list of potential actions being considered by the Steering Committee.

Sincerely,

The HEA Steering Committee

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cc: Mr. Rodney R. McInnis
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bcc: via email

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