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Mr. Will Stelle, Regional Administrator
West Coast Region National Marine Fisheries Service
7600 Sand Point Way, NE, Bldg 1
Seattle, WA 98115-0070

RE: Habitat Expansion Agreement Annual Report for period beginning July 2014 through June 2015

Dear Mr. Stelle:

The purpose of this letter is to provide an Annual Status Report (**Annual Report**) to the National Marine Fisheries Service (**NMFS**) on progress achieved in implementing habitat expansion actions contemplated under the *Amended Habitat Expansion Agreement for Central Valley Spring-Run Chinook Salmon and California Central Valley Steelhead (HEA)*, which has an effective date of May 9, 2011. This Annual Report is intended to fulfill the reporting obligation of the Licensees, Pacific Gas and Electric Company (**PG&E**), and the California Department of Water Resources (**DWR**), described in Section 6.2 of the Amended HEA. The reporting period covered by this Annual Report is July 2014 through June 2015.

As a reminder, here are highlights of pertinent HEA-related activities that occurred leading up to this year's reporting period:

- On November 19, 2010, PG&E and DWR submitted the Final Habitat Expansion Plan (**HEP**) in fulfillment of the HEA. The Final HEP proposed habitat expansion actions for spring-run Chinook salmon and steelhead in the Yuba River below Englebright Dam.
- On February 29, 2012, NMFS issued a Biological Opinion for the U.S. Army Corps of Engineers' (**Corps**) operation and maintenance of Englebright and Daguerre

Point dams and Englebright Reservoir (**2012 BiOp**) that included the actions proposed by the Final HEP.

- In January 2014, NMFS issued its response to the Final HEP. NMFS determined that the habitat expansion actions proposed in the Final HEP did not meet the following NMFS HEA Approval Criteria: (a) estimated to meet the habitat expansion threshold; (b) assures necessary testing, operation and maintenance; (c) supports establishing a geographically separate, self-sustaining population of spring-run; and (d) supports separating spring-run habitat from Central Valley fall-run Chinook salmon. On the subject of Approval Criterion (e) "meets the requirements for eligible habitat expansion action(s) pursuant to Section 3 of this Agreement," NMFS indicated that it would not make a determination due to ongoing consultations regarding preparation of a new Biological Opinion for the Corps' activities in the lower Yuba River.
- In May 2014, NMFS issued two documents of importance relative to the legal dispute over the 2012 BiOp: 1) Final Biological Opinion on the Corps' operation and maintenance of Daguerre Point Dam and fish ladders; and 2) Concurrence Letter for the Corps' ongoing operation and maintenance of Englebright Dam and Reservoir. These documents superseded the 2012 BiOp and no longer included the Corps' responsibility for habitat expansion actions that overlap with those proposed in the Final HEP. Thus, the eligibility of the proposed HEP actions had been clarified, as they now meet NMFS Approval Criterion (e).
- On August 21, 2014, PG&E and DWR submitted the HEA Annual Report covering the period July 2013 through June 2014. At that time, we indicated our disappointment with NMFS' negative determination on Approval Criteria (a), (b), (c), and (d), because we are confident that the actions proposed in the Final HEP not only meet the NMFS Approval Criteria, but also provide a cost-effective and timely contribution to the recovery of spring-run Chinook salmon and steelhead. Further, we recommended that a meeting be held among the HEA Principals from NMFS, DWR, and PG&E at the earliest convenience of the three parties to discuss all options for working together to find an agreeable resolution to implementing the HEA. Finally, we asked for NMFS concurrence with this approach.

Over the past year, we have continued to follow developments associated with anadromous salmonid restoration activities in the Yuba River watershed. Of most importance in this arena is the work of the Yuba Salmon Partnership Initiative (YSPI), a collaboration of NMFS, California Department of Fish and Wildlife, Yuba County Water Agency, American Rivers, Trout Unlimited, and California Sportfishing Protection Alliance dedicated to the development of a program for reintroducing spring-run Chinook salmon to the North Yuba River above New Bullards Bar Reservoir and enhancing salmonid habitat below Englebright Dam. On May 7, 2015, YSPI released a Term Sheet to guide development of a binding agreement for implementing the program and achieving anadromous salmonid restoration in the watershed. In Section 5.7.2.D of the Term Sheet, the HEA is addressed as follows:

“The Settlement Agreement will state the Parties’ mutual intent to support some or all actions, including reintroduction, in the Action Plan as actions eligible for a funding contribution under the HEA, provided that the actions satisfy the requirements stated in the HEA and the parties to the HEA have followed the procedures stated in the HEA to determine eligibility for a funding. Specifically, the Parties will specify Action Plan actions that: (i) are not “Existing Requirements and Commitments;” and (ii) are “Eligible Habitat Expansion Actions,” as those terms are used in HEA sections 3 and 4. This provision does not purport to modify the requirements and procedures of the HEA, or to pre-determine the rights and obligations thereunder for those Parties who are also signatories to the HEA.”

In addition, during June through August 2014, DWR completed a gravel enhancement project required as a preliminary off-license action under the Oroville Facilities relicensing Settlement Agreement and relevant to the HEA. The project added over 8,300 cubic yards of spawning gravels suitable for spring-run Chinook salmon and steelhead to the low flow channel of the Feather River. Based on pre- and post-project surveys, the project has created 10,521 square meters of spawning habitat and resulted in 1,166 Chinook salmon redds, illustrating the potential for very rapid benefits from projects that seek to create new spawning habitat for spring-run Chinook salmon and steelhead, such as the actions proposed in the Final HEP.

After reviewing the Final HEP, your agency’s response to the Final HEP, ongoing planning for restoration activities in the Yuba River watershed, and the recent successful spawning bed creation project in the Feather River, we remain confident that the Final HEP meets the HEA criteria and that it would make a significant contribution to the recovery of spring-run Chinook salmon and steelhead in the very near term. We recommend that, as a first step in restarting HEA discussions, a meeting be held among the HEA Principals from NMFS, DWR, and PG&E at the earliest convenience of the three parties.

Please let us know if you concur with this approach, and we’ll work towards determining a meeting time and location. We look forward to continuing to work with NMFS on implementation of the HEA. If you have any questions regarding this Annual Report, please contact either of us.

Sincerely,



Dean F. Messer, Chief
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