

State of California  
Department of Fish and Wildlife

## Memorandum

Date: June 13, 2013

To: Barbara Evoy, Deputy Director  
Division of Water Rights  
State Water Resources Control Board  
Post Office Box 2000  
Fax (916) 341-5400  
Attn: Amber.Villalobos@waterboards.ca.gov

From: ~~of~~ Tina Bartlett, Regional Manager  
Department of Fish and Wildlife  
North Central Region  
1701 Nimbus Road, Suite A



Subject: **Initial Study Document, CEQA Checklist, and Proposed Mitigated Negative Declaration, and Comments on Draft Water Quality Certification, DeSabra-Centerville Hydroelectric Project Butte Creek and the West Branch Feather River, Butte County**

On April 12, 2013, the California Department of Fish and Game, now known as the California Department of Fish and Wildlife (Department), received the Initial Study and draft Proposed Mitigated Negative Declaration (IS/MND) for the DeSabra-Centerville Hydroelectric Project operating under the existing Federal Energy Regulatory Commission (FERC) License 803 and the associated Draft Water Quality Certification (WQC), Butte Creek and the West Branch of the Feather River, Butte County (Project). The Department appreciates the State Water Board's (Board) invitation to accept comments on the Project until June 13, 2013. First and foremost we would like to compliment the Board and its staff on the Draft WQC. Given the complexities surrounding this project, the Board has done a fine job of drafting a WQC that addresses all of the issues. The Department offers the following comments and recommendations on this IS/MND in our role as a trustee and responsible agency Pursuant to Section 15082(b) of the California Environmental Quality Act (CEQA) Guidelines, and the California Public Resource Code §21000 et seq. As a trustee for California's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and their habitats. As a responsible agency, the Department administers the California Endangered Species Act (CESA), the Native Plant Protection Act (NPPA), and other provisions of the Fish and Game Code (FGC) that conserve the State's fish and wildlife public trust resources.

### **Project Overview and Description**

The Project, as proposed, would involve a suite of operational modifications to the existing DeSabra-Centerville Hydroelectric Facility Project, a FERC licensed facility managed and operated by the Pacific Gas and Electric Company (PG&E). The

existing Project consists of three developments referred to as Toadtown, DeSabra, and Centerville, which include three reservoirs, three powerhouses, 14 diversion and feeder dams, five canals and associated equipment and transmission facilities. The existing Project's Butte Creek drainage basin is an area of 96,012 acres that includes 41.5 miles of Butte Creek. The existing Project's West Branch Feather River drainage basin is an area of 70,003 acres that includes 39 miles of the West Branch Feather River. The total area of combined existing Project drainage basins is 166,015 acres. Water in the existing Project drainage basins is supplied by fall and winter rain in the lower elevations, and spring and early summer snowmelt in the higher elevations.

The proposed Project area is defined as the zone of potential and reasonably direct impact, typically extending 1-100 feet from the proposed Project boundary and including Butte Creek, from Butte Creek diversion dam down to, but not including, Parrott-Phelan diversion dam and West Branch Feather River from Round Valley reservoir down to, but not including, Miocene diversion dam. The existing Project area within the Butte Creek drainage basin is located almost entirely in the Foothill Region. The existing Project area within the West Branch Feather River drainage basin extends from the Mountain Region down to the Foothill Region.

The Project proposes to modify the existing FERC Project which is operated primarily as run-of-the-river and operates on a continuous basis. The Project includes many new measures, including but not limited to, new minimum stream flows, a water temperature improvement facility in the DeSabra Forebay, annual employee awareness training for natural resources, improved consultation with resource agencies, erosion control measures on roads and in the Round Valley Reservoir plunge pool, a canal fish rescue plan, a diversion facility removal for 5 diversion dams, a long-term operations plan, wildlife facility monitoring, wet meadow, and vegetation and invasive weed management planning.

The Department's most substantial environmental concerns relate to the Project's potential impacts to State and federal listed species and sensitive or rare habitats, as explained below.

The comments provided herein are based on the information provided in the IS/MND and WQC, our knowledge of species and habitat in the Project area, and our involvement with regional conservation planning efforts. Our comments are limited to the Project area and alternatives that are likely to result in biological impacts.

### **Comments specific to the Proposed Mitigated Negative Declaration**

The IS/MND biological analysis discloses that the Project will have impacts to State listed species and certain habitats. The Project generally identifies that there will be impacts to riparian habitat, wetlands, State and federal listed Central Valley Spring-run Chinook salmon (*Oncorhynchus tshawytscha*) and the State Species of Special Concern (SSC) foothill yellow-legged frog (*Rana boylei*) (FYLF).

### California Endangered Species Act

A California Endangered Species Act (CESA) (FGC §2081(b)) permit should be obtained if the Project has the potential to result in incidental take of species of plants or animals listed under CESA, either during construction, or over the life of the Project. Issuance of a CESA permit is subject to CEQA documentation; therefore, the IS/MND should specify activities that may result in direct or indirect incidental take, measures to avoid and minimize take, measures to fully mitigate the take, and a mitigation monitoring and reporting program. If the Project will impact any CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA permit. A CESA permit may only be obtained if the impacts of the authorized take of the species is minimized and fully mitigated and adequate funding has been ensured to implement the mitigation measures. The Department may only issue a CESA permit if the Department determines that issuance of the permit does not jeopardize the continued existence of the species. The Department will make this determination based on the best scientific information available, and shall include consideration of the species' capability to survive and reproduce, including the species known population trends and known threats to the species.

The Project provides avoidance and minimization measures and the modification of the Project operations and concludes that with implementation of the measures, the impacts would be reduced to below the level of significance pursuant to CEQA. The Department has concerns about the completeness of the impact analysis with regard to listed species and proposed mitigation measures regarding the issues below.

### Foothill yellow-legged frog (FYLF)

The IS/MND acknowledges that the project will impact known populations of FYLF; however, the level of impact is not analyzed and no mitigation is proposed for the loss of riparian habitat and gravel bar areas. The IS/MND proposes only to monitor these populations and the associated impacts of Project activities. The removal of riparian habitat and displacement of gravel may significantly reduce the breeding, foraging and basking areas required for the survival of FYLF populations and may be considered significant pursuant to CEQA without implementing appropriate avoidance, minimization and mitigation measures.

### **Riparian Habitat and Wetlands**

Riparian habitat is an extremely important vegetation community in California and it is estimated that less than 10 percent of the historical acreage remains. More than 90 species of mammals, reptiles, invertebrates and amphibians such as California red-legged frog (*Rana draytonii*), foothill yellow-legged frog (*Rana boylei*), and valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) depend on California's riparian habitats. Over 135 species of California birds such as the willow flycatcher (*Empidonax traillii*), yellow-billed cuckoo (*Coccyzus americanus*), and red-shouldered hawk (*Buteo lineatus*) either use riparian habitats preferentially at some

stage of their life history or are completely dependent upon them. This habitat provides food, nesting habitat, cover, and migration corridors for hundreds of different species, including listed species. In addition to its significance for biological resources, riparian habitat also provides riverbank protection, erosion control and improved water quality.

The IS/MND does not state which features of the Project are under the jurisdiction of the Department, nor does it note whether a Lake or Streambed Alteration (LSA) Agreement is needed. Notification to the Department is required, pursuant to FGC §1600 et seq., for proposed projects that may: divert, obstruct, or change the natural flow or the bed, channel or bank of any river, stream, or lake; use material from a streambed; or result in the disposal or deposition of debris, waste, or other material where it may pass into any river stream, or lake. The proposed Project will result in alterations to wetlands and riparian habitats. In issuing a LSA Agreement, the Department will be acting as a Responsible Agency pursuant to CEQA. The Department is required by California Code of Regulations Title 14 Chapter 3 (CEQA Guidelines) §15096 to review the CEQA document certified by the Lead Agency approving the Project and, from that review, to make certain findings concerning the activities' potential to cause significant, adverse environmental effects. Therefore, it is important that the IS/MND address all of the potential biological streambed alteration impacts and propose feasible mitigation, not just monitoring. This will reduce the need for the Department to require additional environmental review for preparation of the LSA Agreement.

The IS/MND notes that the Project could affect riparian habitat through effects on water levels within the existing riparian habitats. Dewatering and possible removal of the Lower Centerville Canal could reduce a small amount of riparian habitat along the canal. Additionally, changes in vegetation as a result of increased flows could influence sediment deposition and channel structure. The IS/MND analysis does not provide sufficient information regarding the impacts to riparian habitats or adequate measures to avoid, minimize or mitigate these impacts to reduce them to below the level of significance pursuant to CEQA. To be complete, the analysis should provide an estimate of the number of riparian trees greater than 4 inches diameter at breast height (DBH), or an estimate of the number of acres of riparian habitat that may be impacted within the Project area, and provide a plan for restoring and monitoring this habitat. A riparian restoration plan should be prepared that includes how and where the riparian impacts will be restored and monitored. If restoration will be the primary mitigation for the impacts then complete monitoring details should also be developed and should include specific success criteria for riparian restoration plantings, funding assurances for the cost of planting and monitoring, and the process for replanting to achieve an identified target survival of trees, species of trees, and percentage of tree canopy. Restoration should occur on property that is protected in perpetuity and managed for riparian habitat.

The Project construction may also impact wetland habitat, however, the estimated amount of impact has not been provided. For this analysis to be complete, it should include a comprehensive quantification of direct and indirect impacts, and temporary

and permanent impacts to wetlands that will be affected by the Project. This analysis should include wetland habitat impacted by construction actions as well as repairs to flume facilities or structures that may reduce water loss or seepage

### **Comments specific to the Draft Water Quality Certification**

#### **Central Valley Spring-run Chinook salmon (SRCS)**

Butte Creek is one of only three Central Valley streams that continue to harbor a sustaining genetically distinct population of the threatened SRCS. SRCS in the Sacramento River drainage were listed as Threatened under CESA in February 1999. SRCS, Central Valley ESU, was listed as Threatened under the federal Endangered Species Act (ESA) in September 1999, and re-affirmed in June 2005, (70 FR 37160 (June 28, 2005)). The listings were due to significant declines beginning in the late 1960's. The federal Central Valley Project Improvement Act, Public Law 102-575, 1991 (CVPIA) Butte Creek baseline period average for the years 1967 through 1991, was 364 adults with a high of 1,300 during 1988 and 1989, and low of 10 in 1979 (CDFG 1998).

Based on a better understanding of habitat utilization by salmonids and water temperatures in the PG&E project reaches, FERC 803 was amended March 15, 1984 and further amended in January 31, 1992. After the State and federal listing of SRCS, PG&E operated the Project in accordance with FERC's August 21, 1997 Order (FERC 1997) and FERC's August 20, 1998 revised Order (FERC 1998) placing temperature restrictions on releases from Round Valley and Philbrook Reservoirs to protect SRCS. Also in 1999, the licensee developed and implemented an annual DeSabra-Centerville Project reservoir operating plan (Plan). The basic objective of plan implementation was to manage Round Valley and Philbrook reservoir releases to maintain temperatures at the Hendricks Head Dam diversion at 16°C or less through the first week in September and 15°C or less thereafter. The Plan was developed in consultation with State and federal Resource Trustee Agencies, U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and the Department.

Early project management consultation objectives were to operate the project to achieve cold water temperatures below Lower Centerville Diversion Dam (LCDD). The Plan was to operate the project to balance the need for power generation and the need to maintain reasonable flows through DeSabra Forebay, determined to be 100 cubic feet per second (cfs). During the summer of 2002, observations of significant numbers of SRCS dying prior to spawning were documented. In 2003, based upon concern for Project impacts to SRCS, PG&E provided funding for the Department to study SRCS pre-spawn mortality during the summer holding period. Implementing a standard salmon carcass survey, there were approximately 17,294 adult SRCS that migrated to Butte Creek during 2003, of which an estimated 11,231(65%) died prior to spawning, while 6,063 survived to spawn. Pre-spawn mortalities, as confirmed by a Department pathologist, were primarily due to large numbers of fish concentrated in limited holding pools, high water temperature, and an outbreak of two pathogens, *Flavobacterium columnare* (columnaris) and the protozoan *Ichthyophthirius multifiliis* (Ich). Since the significant die-off of 2003, PG&E in consultation with the State and federal resource

agencies have further refined release strategies from Round Valley and Philbrook Reservoirs to mitigate water temperatures and deliver cooler water at key times during the summer holding period. As a result, for the period of 2004-2012, there have been an estimated 3,298 pre-spawn mortalities out of an estimated total returning population of 78,661(4%). During that same period, annual pre-spawn mortality has been attributed to natural attrition, not widespread disease outbreak.

In conjunction with adaptively managing the PG&E DeSabra-Centerville Hydroelectric Project (FERC 803), major restoration actions outside the FERC 803 project boundaries on Butte Creek undertaken since 1992 have significantly contributed to an increase in the SRCS population and reduced the potential for extinction. To date, approximately \$50 million State and federal dollars have been spent on restoration activities since 1992 (not including the cost of multiple studies and technical evaluations). Restoration efforts include retrofits to existing and/or new fish ladders, installation of fish screens, dam removals where possible, and development of adult exclusion barriers to prevent straying. Significant commitments have been made to land acquisitions, physical monitoring, and management of instream flows. Actions include the M&T Ranch water exchange agreement, Durham Mutual water acquisition agreement, ten real-time flow gauging stations, and dedication of Department personnel to monitor and manage the acquired flows.

The combination of adaptively managing the FERC 803 project and numerous basin restoration projects, have recovered the Butte Creek SRCS population to a stable, viable Evolutionary Significant Unit (ESU). Since 1992, Butte Creek has had an average SRCS annual escapement of 8,090. A key component to assessing the recovery has been the monitoring program conducted by the Department. The Department has conducted snorkel surveys since the early 1990's, spawning carcass surveys since 2001, pre-spawn mortality carcass surveys since 2003, and documentation of water temperatures in Butte Creek. Monitoring and analyses have afforded resource managers the scientific basis for management decisions that are made in consultation with PG&E. Data reports included a 2-dimensional hydraulic and habitat model (Gard 2003), development of CE-QUAL-W2 water temperature model simulations (Cole and Wells 2004), and 10 Butte Creek Spring-run Chinook salmon Pre-spawn Mortality Evaluations (Department of Fish and Game publications 2004-2012).

#### Condition 1. Minimum Instream Flows

The WQC condition 1 (Minimum Instream Flows) requires that one full calendar year after initial operation of the DeSabra Forebay water temperature reduction device (Condition 9), the licensee shall cease diverting water into the Lower Centerville Canal at the Lower Centerville Diversion Dam, thereby allowing full flow of water below Lower Centerville Diversion Dam into Butte Creek, also referred to as "full flows" into Butte Creek.

The Department respectfully requests that the Water Board reconsider the recommendations the Department made in our June 30, 2008 filing with FERC. Specifically recommendation 3 states:

*After construction of the physical modification is complete, continued temperature monitoring shall be conducted in Butte Creek at locations BC5 (Butte Creek above DeSabra Powerhouse), BC6/LCC1 (Butte Creek at Lower Centerville Diversion Dam), BC7A (Butte Creek at Pool 4), BC8 (Butte Creek above CVPH), and BC9 (Butte Creek below CVPH).*

*After two years of monitoring, the Licensee shall report the results of temperature monitoring to the Department, resource agencies, and other interested parties. If the expected temperature benefits have been realized in Butte Creek, the Department staff and other resource agencies shall determine whether it is feasible to go forward with flow increases in the WBFR and/or Butte Creek. After five years of temperature monitoring, the Department and other resource agencies will determine the need for continued comprehensive temperature monitoring in lower Butte Creek.*

While we understand what the modeling has demonstrated *may* be achieved via the DeSabra Forebay Temperature Improvement Project, we would like to see what is in fact actually achieved before we alter operations that have been so successful in contributing towards the recovery of this ESU. We would like to see PG&E continue to provide the existing Project stream flows and monitor the status of water temperatures for two years after the DeSabra Forebay Temperature Improvement Project and before any increased flows in Butte Creek are implemented.

Moreover, we believe that "full flow" should be considered a "test" before any decision is made to implement permanently. Ideally both temperature and salmon, including pre-spawn mortality, should be monitored for six to eight years (two cohorts) before permanently defaulting to the full flow releases proposed. At a minimum they should be monitored for one full cohort (three to four years) after the Forebay fix before the further compounding factor of additional flow is added to the data that will need to be analyzed. This approach is advised because the changes resulting from the facility modification may influence stream conditions that affect salmon. This monitoring would provide data for two cohorts of salmon under the new modified facility, using the Department's current monitoring protocol. Full flow will require a new monitoring protocol (see comments regarding Condition 16).

Condition 1 further states that if **substantial evidence** (as determined by the monitoring required in Conditions 10, 16 and 17 and consultation with agencies) demonstrates that the cessation of diversion into the Lower Centerville Canal at the Lower Centerville Diversion Dam is having adverse effects on the cold freshwater beneficial use in Butte Creek below the Lower Centerville Diversion Dam, the Licensee or a resource agency may submit a request to the Deputy Director to resume the diversion into Lower Centerville Canal. The request shall include the basis for the

requested change in flows and supporting data and information documenting the adverse effects on temperature, anadromous fish, and/or cold water habitat. The Department has concerns regarding the length of time it may take to provide "substantial evidence" if Department field staff have any indication that the cessation of diversion into the Lower Centerville Canal at the Lower Centerville Diversion Dam is having adverse impacts on this State and federally listed species in any given year. The Department recommends that the Board include language in the WQC that implements quantifiable monitoring thresholds that would trigger either immediate return to the existing Project flow conditions to prevent additional mortality or immediate consultation with the Department and National Marine Fisheries Service (NMFS) to decide actions to prevent further take of the species. We recommend that pre-spawn mortality be used as the quantifiable threshold. The Department's ten years of monitoring data (2003-2012) should be used as the "baseline" condition for pre-spawn mortality. Including the large die-off in 2003 (65%), the average annual pre-spawn mortality is 10%. Excluding 2003, after operational changes were in place, average annual mortality is 4% with a range of zero to 9.5%. We recommend that the quantifiable threshold during the testing phase for the full flow releases be 15% of average pre-spawn mortality. Should the threshold be exceeded in any given year, the Board would require the Licensee to immediately return to the existing Project flow conditions and/or immediately consult with the Department and NMFS.

#### **Condition 9. DeSabra Forebay Water Temperature Improvements**

Condition 9 requires the Licensee to submit and implement a plan that includes a final design, a schedule for construction of the new facility, a description of Project operations (during construction, operation, and when the Butte Canal or the pipe is out of service), and measures to mitigate any negative impacts on water quality and beneficial uses within and in the proximity of the DeSabra Forebay during construction and operation.

Department staff support this condition, and encourage the Board to include language in the 401 certification that will ensure that compliance with this condition is expedited with no schedule delays. As outlined in the 401 certification, there are some issues in the relicensing of this project where significant differences of professional opinion exist among the Relicensing Participants. However, the need for the DeSabra Forebay Temperature Improvement Plan was the **singular issue that all Relicensing Participants agreed upon**, and agreed upon the importance of timely completion. The anticipated benefit of approximately 1°C improvement of temperature in lower Butte Creek will provide a needed benefit to the SRCS population that pushes the temperature tolerance of the species in most water years. The Department does have some comments and suggestions for improving on the Condition as proposed in the Draft WQC.

We are concerned that there is not a firm objective in the plan. Please refer back to the Department's 10(j) recommendations in our June 2008 letter. We ask that you include our recommendation that the Temperature Improvement Plan be designed to



reduce the thermal loading within the DeSabra Forebay by  $\geq 80\%$ , which is equivalent to total heating of  $\leq 0.2$  °C, during the summer period. The heat gain should be measured as the change in temperature between stations BTC3 (Toadtown Canal above DeSabra Forebay) and DeSabra Powerhouse (DSPH).

The language in the draft 401 certification states in bullet point 3, under construction details, that the Licensee should submit "A description of how the Project will be operated to continue to provide cold water to lower Butte Creek during construction and when the Butte canal or pipeline is in or out of service." Since issuance of the draft 401 certification, the Licensee has had many discussions with Relicensing Participants where they have described the difficulty of planning construction during a 4-6 month summer dry period, and have stated that they cannot possibly plan construction of the Temperature Improvement device without curtailing their diversions into the Upper Butte Canal and Hendricks-Toadtown canal system. Department staff disagree that construction of this device will require complete curtailment of diversions into the Project canals for an entire summer season. The Licensee should consult with the Agencies and Department engineering staff to develop a plan, and submit it to the Deputy Director, that describes how the Licensee will continue to deliver up to 125 cfs from the West Branch Feather River to Butte Creek during Project construction to protect the cold freshwater beneficial use in Butte Creek during critical summer months. As currently written, bullet point 3 in Condition 9 simply requires that the Licensee *describe* how the project will be operated to continue to provide cold water to lower Butte Creek during construction and when the Butte canal or pipeline is in or out of service. The Department would like to see language in the Final WQC that this is not just a description, but a requirement. Moreover, the Department requests that the Final WQC include language that if, for any reason, the requirement cannot be met, then there is the potential to result in take of a species listed under CESA, which may require a take permit from the Department.

## Condition 12.

Condition 12 requires the Licensee to submit a Hendricks Fish Plan within one year of License issuance while Condition 10 requires the Licensee to develop and propose to the Deputy Director new streamflows below Hendricks Head Dam. These conditions are both appropriate, but the language in Condition 10 should be changed to ensure that keeping the new ladder at Hendricks Head Dam functional is *balanced* with the need for cold water to protect the cold freshwater beneficial uses in Butte Creek. We recommend changing the language in Condition 10 to state:

Using water temperature monitoring data gathered under the Plan, the Licensee, in consultation with the Agencies, shall develop and propose new stream flows below Hendricks Diversion Dam ***that will consider the design flow constraints of the Hendricks fish ladder and screen and that are sufficient to ensure that there are no flow-related passage impediments that prevent access to the fish ladder as well as the need for protection of cold freshwater beneficial uses in Butte Creek.***

Condition 12 states in bullet point 7 that "Detailed design drawings for the facilities and a schedule for completion of installation [should be submitted] within three years of license issuance." In addition to these submittals, the Licensee should be required to consult with the Agencies and submit a plan to the Deputy Director that describes how the Licensee will continue to deliver up to 125 cfs from the West Branch Feather River to Butte Creek during Project construction to support the cold freshwater habitat beneficial use in Butte Creek.

Condition 12 should also reference the Department's Fish Screening Criteria, dated June 19, 2000  
([http://www.dfg.ca.gov/fish/Resources/Projects/Engin/Engin\\_ScreenCriteria.asp](http://www.dfg.ca.gov/fish/Resources/Projects/Engin/Engin_ScreenCriteria.asp)).

Condition 16. "Federally-and State-Listed Anadromous Fish Monitoring"

The WQC condition 16 requires that within one year of license issuance, the Licensee shall file an Anadromous Fish Monitoring Plan with the Deputy Director for approval. Item 1 requires that at a minimum, monitoring shall include annual snorkel surveys, pre-spawn mortality surveys and carcass surveys. The Department is concerned that if and when the Licensee ceases diverting water into the Lower Centerville Canal at LCDD, flows in that reach would be so high as to preclude snorkel surveys. This will significantly change monitoring of biological resources in that section of the stream. The historical snorkel and pre-spawn mortality surveys would no longer be feasible. Increased flows would create safety concerns for personnel in-stream and the survey accuracy would be compromised. New survey techniques will need to be established, in consultation with the Department, to document adult distribution and abundance. Therefore, it is not appropriate to include language that the Licensee continues this protocol. A new survey method that will result in data of similar detail will need to be proposed in the plan, agreed to by the Department and then implemented. Comparing historic distribution data with data collected by new techniques will be problematic when assessing cause and effects of project operational changes on pre-spawn mortality and spawning success. Ideally, a four to eight year period of monitoring after the DeSabra Forebay Temperature Project is in place, would allow an overlap of using both the old monitoring methods and the new monitoring methods on one to two cohorts of fish. This would eliminate one complicating factor in evaluating the cause of any changes in fish behavior or distribution. If the Board does not adopt our recommendation to allow a minimum of four years for monitoring before full flows are implemented, then we request that the Board include language in the Final WQC such that as soon as the Anadromous Fish Monitoring Plan is approved by the Deputy Director, both techniques should be utilized for a minimum of two years, or until such time as flows in Butte Creek preclude the historical methods of surveying.

Condition 24. Wet Meadow

This condition in the WQC requires the Licensee to develop a Plan to include "a summary of all annual management and maintenance activities and associated costs available from 1986 to issuance of the new license; and a funding proposal to maintain

the wet meadow habitat located within Butte Creek House Ecological Reserve (BCHER) for the term of the license and any annual extensions.” The Department appreciates the Board including this term in the Draft WQC. We do have some concerns about the condition as it is currently written.

At the time of acquisition, the Department did not, as a standard, require an endowment for long-term management of lands that were donated, deeded, etc., thus the agreement that was entered into with PG&E to reimburse the Department up to \$5,000 annually (adjusted for inflation and other issues) was not in perpetuity. The Department did not have the current mechanisms or requirements that we now have implemented to require and receive funds for long-term management of mitigation lands. The Department has a policy that became effective January 2012 detailing required mandatory parameters for the Department to accept mitigation on State lands. This policy is a current updated policy applicable to the agreement from 1986 and should be reviewed with this in mind. The Department did not have a mechanism to bill PG&E for reimbursement for Operation and Maintenance (O&M) at BCHER for many years. However, we have a standard practice for how to proceed with receipt and tracking of mitigation funds now.

Because the property currently has no management endowment or management funds (held by the Department or designated for this purpose) and because Department staff only recently learned about this ‘agreement’ funding source, there has been no charge made for reimbursement for O&M or other actions at BCHER until 2012. Until we recently became aware of the “agreement”, all costs for fencing/gate repair, signs, meadow dam repairs, etc. have been paid for out of other wildlife management fund sources since 1986.

The Plan under Condition 24 should be updated to reflect our contemporary mechanism for the receipt, management, funding tracking and use of mitigation funds. The PG&E funding should be provided to the Department in the form of a check which will be deposited into a designated mitigation account with a Program Cost Account (PCA) and Index that the Department can charge to cover O&M costs.

An alternative, appropriate and currently acceptable practice for the Department to receive mitigation monitoring and O&M funds for mitigation would be to provide the Department with an endowment principal based on a Property Assessment Record (PAR) analysis developed using the management prescriptions set forth in the Draft Management Plan for the Butte Creek House Ecological Reserve, 1996.

## **Conclusion**

The proposed Project will have an impact to fish and wildlife habitat and should be evaluated and mitigated in such a manner to reduce its impacts to biological resources. The Department appreciates the opportunity to provide comments on the Project and hopes you will consider our concerns with the proposed Project, MND and WQC. Department personnel are available for consultation regarding biological resources and to develop strategies to minimize impacts of Project activities. Please contact us if you would like to discuss our concerns, comments, and recommendations

Ms. Evoy  
June 13, 2013  
Page 12

in greater detail. We also recommend early coordination in the review of the preferred Project analysis and subsequent analysis of impacts to biological resources and to facilitate processing of any Department permits. Please contact MaryLisa Lynch at, (916) 358-2921 or [MaryLisa.Lynch@wildlife.ca.gov](mailto:MaryLisa.Lynch@wildlife.ca.gov).

ec: Jeff Drongesen  
MaryLisa Lynch  
Jennifer Garcia  
Beth Lawson  
Tracy McReynolds  
Department of Fish and Wildlife

## Reference

California Department of Fish and Game. 1998. Report to the Fish and Game Commission: A Status Review of the Spring-Run Chinook Salmon (Oncorhynchus tshawytscha) in the Sacramento River Drainage, Candidate Species Status Report 98-01.

Cole, T. M. and S. A. Wells. 2004. CE-QUAL-W2: A Two-Dimensional, Laterally Averaged, Hydrodynamic and Water Quality Model, Version 3.2. User Manual; Instruction Report EL-03-1. U.S. Army Corps of Engineers, Washington, DC. Also see: [www.ce.pdx.edu/w2/](http://www.ce.pdx.edu/w2/) for a description of the model and its capabilities.

FERC. 1997. FERC Order for DeSabra-Centerville Hydroelectric Project, FERC Project No.803-087, Regarding New Water Temperature Requirements for Reservoir Releases. FERC, Washington D.C. August 21, 1997

FERC. 1998. FERC Order for DeSabra-Centerville Hydroelectric Project, FERC Project No.803-087, Regarding Amending Water Temperature Requirements for Reservoir Releases. FERC, Washington D.C. August 21, 1997

Gard, M. et al., 2003. Flow-Habitat Relationships for Spring-run Chinook Salmon Spawning in Butte Creek. U.S. Fish and Service, SFWO, Energy Planning and Instream Flow Branch, Butte Creek 2-D Modeling Final Report. August 29, 2003. 86pp.

Garman C. E., 2013. Butte Creek Spring-Run Chinook Salmon, Oncorhynchus tshawytscha, Pre-spawn Mortality Evaluation, 2012. Calif. Dept. of Fish and Game, Inland Fisheries Admin. Report No .2013-1 2013. 62 pp.

Garman, C. E. and T. R. McReynolds, 2011-1. Butte Creek Spring-Run Chinook Salmon, Oncorhynchus tshawytscha, Pre-spawn Mortality Evaluation, 2011. Calif. Dept. of Fish and Game, Inland Fisheries Admin. Report No .2012-1 2012. 59 pp.

McReynolds, T. R. and C. E. Garman. 2008-2. Butte Creek Spring-Run Chinook Salmon, Oncorhynchus tshawytscha, Pre-spawn Mortality Evaluation, 2007. Calif. Dept. of Fish and Game, Inland Fisheries Admin. Report No .2008-2, 2008. 59 pp.

McReynolds, T. R. and C. E. Garman. 2009-2. Butte Creek Spring-Run Chinook Salmon, Oncorhynchus tshawytscha, Pre-spawn Mortality Evaluation, 2008. Calif. Dept. of Fish and Game, Inland Fisheries Admin. Report No .2009-2, 2009. 59 pp.

McReynolds, T. R. and C. E. Garman. 2009-1. Butte Creek Spring-Run Chinook Salmon, Oncorhynchus tshawytscha, Pre-spawn Mortality Evaluation, 2009. Calif. Dept. of Fish and Game, Inland Fisheries Admin. Report No .2009-1 2009. 59 pp.

McReynolds, T. R. and C. E. Garman. 2010-1. Butte Creek Spring-Run Chinook Salmon, Oncorhynchus tshawytscha, Pre-spawn Mortality Evaluation, 2010. Calif. Dept. of Fish and Game, Inland Fisheries Admin. Report No .2010-1 2010. 58 pp.

Ward, P.D., T. R. McReynolds and C. E. Garman. 2004b. Butte Creek Spring-Run Chinook Salmon, *Oncorhynchus tshawytscha*, Pre-spawn Mortality Evaluation, 2003. Calif. Dept. of Fish and Game, Inland Fisheries Admin. Report No. 2004-5, 2004. 91 pp

Ward, P.D., T. R. McReynolds and C. E. Garman. 2006a. Butte Creek Spring-Run Chinook Salmon, *Oncorhynchus tshawytscha*, Pre-spawn Mortality Evaluation, 2004. Calif. Dept. of Fish and Game, Inland Fisheries Admin. Report No.2006-1, 2006. 49 pp.

Ward, P.D., T. R. McReynolds and C. E. Garman. 2006b. Butte Creek Spring-Run Chinook Salmon, *Oncorhynchus tshawytscha*, Pre-spawn Mortality Evaluation, 2005. Calif. Dept. of Fish and Game, Inland Fisheries Admin. Report No.2006-5, 2006. 56 pp.

Ward, P.D., T. R. McReynolds and C. E. Garman. 2007-1. Butte Creek Spring-Run Chinook Salmon, *Oncorhynchus tshawytscha*, Pre-spawn Mortality Evaluation, 2006. Calif. Dept. of Fish and Game, Inland Fisheries Admin. Report No. 2007-1, 2007. 61 pp.