Pacific Fishery Management Council

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Philip Anderson, Chair | Charles A. Tracy, Executive Director

October 12, 2017

Grant Davis, Director
California Department of Water Resources
P.O. Box 942836, Room 1115-1
Sacramento, CA 94236-0001

Dear Mr. Davis:

The Pacific Fishery Management Council (PFMC) provides the following comments regarding the Federal Energy Regulatory Commission's (FERC) proposed relicensing of the California Department of Water Resources (DWR) Oroville Facilities Hydroelectric Project on the Feather River in California, and its impacts on essential fish habitat (EFH) for fall-run Chinook salmon.

Council Jurisdiction

This letter pertains in particular to the habitat conditions needed for the Feather River runs of the Sacramento River fall Chinook salmon stocks. The Feather River, downstream of the Oroville Dam Fish Barrier, is designated as EFH for Chinook salmon (PFMC 2014[1]).

The Council is one of eight Regional Fishery Management Councils established by the Magnuson-Stevens Fishery Conservation and Management Act (MSA) of 1976, and recommends management actions for Federal fisheries off Washington, Oregon, and California. The Council represents the interests of the Federal government, tribal governments, state governments, sport and commercial salmon fishing communities, and the public that depend on our management actions, including our duties under EFH to take action to conserve fresh water habitat for the salmon runs of the west coast.

The MSA includes provisions to identify, conserve, and enhance EFH for species regulated under a Federal fishery management plan. As defined in the MSA, the term "essential fish habitat" means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity. Section 305(b)(3)(A) of the MSA authorizes the Council to comment on any Federal or state activity that may affect the habitat, including EFH, of a fishery resource under its authority. Furthermore, the Council is obligated under Section 305(b)(3)(B) to provide comments and recommendations for activities that the Council believes are likely to substantially affect the habitat of an anadromous fishery resource under its authority.

[1] Pacific Fishery Management Council (PFMC). 2014. Environmental assessment of the Pacific Coast Salmon Plan Amendment 18: Incorporating Revisions to Pacific Salmon Essential Fish Habitat, Regulatory Identifier Number 0648-BC95, Pacific Fishery Management Council, Portland, Oregon.

Importance of fall Chinook

Sacramento River fall Chinook salmon are a major component of the salmon fishery in the marine and inland waters in California and Oregon, providing an average of 60 percent of the ocean harvest to the Oregon fishery south of Cape Falcon and as much as 95 percent of the California harvest. The Feather River salmon population is the single largest contributor to Sacramento River fall Chinook harvest in the west coast salmon fishery.

Impacts on Feather River fall Chinook salmon

The Council **supports the structural and operational fixes required by the National Marine Fisheries Service's (NMFS) recent biological opinion** on the proposed relicensing (NMFS 2016) of Oroville Dam.

Currently, the sole suitable spawning habitat for natural reproduction on the Feather River is in the "low-flow channel," an eight-mile stretch from the Fish Barrier Dam down to the Thermalito Afterbay Outlet. Habitat below the Thermalito Afterbay Outlet (the "high-flow channel") is generally unsuitable for fall Chinook spawning, primarily because of lethally high water temperatures.

Settlement Agreement Impacts

Proposed activities under the Settlement Agreement for Licensing of the Oroville Facilities will eliminate access to some or all of the currently available and essential spawning habitat for fall Chinook on the Feather River through placement of a segregation weir. The proposed weir will also prevent fall Chinook from directly reaching the fish hatchery.

Mitigation

In order to mitigate the effects of proposed relicensing actions, we encourage DWR to **expedite implementation of the NFMS Biological Opinion and Settlement Agreement Articles** for temperature changes and habitat alterations to the low-flow and high-flow channels prior to license renewal. Without cool water below the segregation weir, primarily in the high-flow channel, the future habitat modifications designed to separate the spawning of fall and spring Chinook will severely impact the population of naturally spawned fall Chinook on the Feather River. The existing thermal pollution coming from the Thermalito Outlet hinders successful egg survival of salmon redds below the outlet on the Feather River. Therefore, the Council stresses that FERC and DWR must prioritize actions to address high-water temperatures resulting from the Thermalito Complex before implementing a segregation weir in the low-flow channel.

We also request provisions for maintaining hatchery fish production levels before the segregation weir is put in place. As noted above, the Feather River salmon population is the single largest contributor to Sacramento River fall Chinook harvest in the west coast salmon fishery. A segregation weir will prevent fall Chinook from returning to the hatchery, thereby imperiling hatchery operations.

Council Request

We request that DWR **proceed immediately with planning and other work that does not require advance FERC approval**. To the extent that any work, such as construction, requires FERC approval, we ask that DWR seek such approval while the relicensing application is pending.

We also encourage DWR to **expedite the temperature changes to the low-flow channel** in compliance with the California State Water Quality Control Board request; and we encourage DWR to **prioritize developing methods to ensure that daily maximum temperatures are not exceeded**.

Finally, we encourage you to **continue to advocate for near-future solutions that directly (rather than indirectly) reduce water temperature in the high-flow channel**, and request that DWR **assess and correct reasons for reduced spawning in the high-flow channel**.

We thank you for your consideration of this important matter. If you have any questions, please do not hesitate to contact us.

Sincerely,

Charles A. Tracy

Charles A. Tracy
Executive Director

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Council Members
Mr. Judson Feder, NOAA General Counsel
The Hon. John Garamendi, U.S. Representative, California 3rd District
The Hon. Doug LaMalfa, U.S. Representative, California 1st District
The Hon. Jim Nielsen, California Senate 4th District
Ms. Maria Rea, NMFS, Assistant Regional Administrator, California Central Valley Office
Habitat Committee