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April 15, 2020

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PACIFIC GAS AND ELECTRIC COMPANY'S MULTIPLE REGION OPERATIONS AND MAINTENANCE DRAFT HABITAT CONSERVATION PLAN (HCP) AND DRAFT ENVIRONMENTAL ASSESSMENT (EA)

Dear Mr. Tattersall:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Assessment from the U.S. Fish and Wildlife Service for the Pacific Gas and Electric Company's Multiple Region Operations and Maintenance Draft Habitat Conservation Plan (Project) and draft Environmental Assessment (EA) pursuant the National Environmental Policy Act (NEPA).

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code through an Incidental Take Permit (ITP).

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PROJECT DESCRIPTION SUMMARY

The HCP is proposed by the Pacific Gas and Electric Company (PG&E). The objective of the HCP is to receive incidental take authorization for federally-listed covered species that could be affected by all PG&E operations and maintenance activities, minor new construction, and pipeline safety enhancement program activities related to PG&E's natural gas and electric transmission and distribution systems. The geographic scope of the HCP includes Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Humboldt, Kern, Lake, Lassen, Madera, Mariposa, Mendocino, Modoc, Monterey, Nevada, Placer, Plumas, Sacramento, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba counties. The geographic scope also includes, for mitigation purposes, an area known as the integrated plan area, which encompasses the geographic boundaries of PG&E's two existing HCPs in the San Joaquin Valley and California Bay Area. The proposed term of the HCP permit is 30 years.

COMMENTS

Draft HCP may be inadequate for CESA ITP

The Project will impact federally listed species, some of which are also listed under CESA (dually listed species), and other state-listed species. As such, CDFW suggests that projects that may impact dually listed species undertake federal and state permitting processes concurrently. This will require the Final HCP to accurately assess the severity of potential take, pursuant to Fish and Game Code section 86, or associated impacts (e.g., habitat impacts) to ensure the measures and conservation strategies identified in the HCP meet issuance criteria and full mitigation standards for a CESA ITP, if PG&E uses the HCP to request incidental take coverage from CDFW for these dually listed species. In addition, the proposed mitigation approach must be sufficient to offset impacts to these dually listed species if temporary impacts repeatedly occur over the 30-year permit. Such repeated impacts, depending on frequency, could result in permanent impacts and, as such, temporary impacts for some species may be considered permanent for the purposes of mitigation and habitat creation/enhancement in a CESA ITP.

1

Impacts to State-listed Plants may not be adequately considered

The Draft HCP states that several listed vernal pool plant species were considered but rejected from analysis because they would not be impacted. However, the EA clearly states in several places that suitable vernal pool habitat would be temporarily impacted and permanently impacted over a 30-year timeframe. Therefore, temporary and permanent impacts to vernal pool habitat are likely to affect these listed plant species, several of which are also listed under CESA.

2

CDFW strongly advises that PG&E consult with CDFW prior to the take of any dually listed plant species. Page 1-6 of the Draft HCP states that "...PG&E is also exempt from the provisions of CESA and the Native Plant Protection Act prohibiting incidental take of

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plants.” This statement should be removed as it is too broad and may be misinterpreted, since only the actions by PG&E that are deemed part of the performance of its “obligations to provide service to the public” would be covered by the exemption.

Impacts to other State-listed species may not be adequately considered

Several other species listed pursuant to CESA, which are likely to be impacted by Covered Activities, are not covered by the Draft HCP, for example Swainson’s hawk (*Buteo swainsoni*) and fish species including Coho salmon (*Oncorhynchus kisutch*) and Chinook salmon (*Oncorhynchus tshawytscha*) – spring run (threatened) and winter run (endangered), and green sturgeon (*Acipenser medirostris*) – southern distinct population segment. The rationale provided in the document for why the Draft HCP does not cover fish species is that PG&E conducts “limited in-water work and permits are needed for this work.” However, on Pages 3-6 through 3-8 of the Draft HCP, waterways and types of water crossing methods are described, which seems to contradict the statement on Page 1-14 of the Draft HCP that PG&E conducts limited in-water work. Dually listed fish species should be included in the Final HCP, especially since the document covers other aquatic species that share habitat with salmonids, including California red-legged frog and foothill yellow-legged frog. If these other aquatic species are covered, it is likely that impacts by the Covered Activities will also impact fish and their habitat.

4

Activities may impact Fully Protected Species

Two Covered Species listed in the Draft HCP are fully protected under Fish and Game Code and any take would be a violation of State law. These are Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*) and blunt-nosed leopard lizard (*Gambelia sila*). Take of fully protected species is prohibited except for specific activities related to species research and recovery, or if conservation is provided under a Natural Community Conservation Plan. CDFW is concerned that some of the potential impacts from Covered Activities risk take of fully protected species and that some of the proposed minimization measures violate Fish and Game Code. For example, BNLL-1 states that a state-approved biologist will move blunt-nosed leopard lizard out of harm’s way. Moving a lizard in this manner is considered capture, which is defined as take under Fish and Game Code, and therefore would be a violation of State law.

5

Additional definitions needed

Page 1-17 of the Draft HCP states that it does not cover “major new construction on undisturbed land.” Definitions of “major new construction” projects and “undisturbed land” should be provided. “Undisturbed land” could be broadly interpreted.

6

Activities on conserved and CDFW lands may not be adequately considered

The Final HCP should address impacts that may occur on lands already conserved and/or on CDFW-owned and managed lands. The Final HCP should include a discussion

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regarding additional mitigation required to offset impacts to lands already set aside as mitigation for past projects or lands conserved by the State due to the high functional value for listed species. The Final HCP should also address how PG&E will access CDFW-owned and managed lands or lands under conservation easement when PG&E does not have an existing access right-of-way on those lands.

CONCLUSION

CDFW appreciates the opportunity to comment on PG&E's Multiple Region Operations and Maintenance Draft HCP and the associated Draft EA. We also stand ready to further discuss our concerns for inclusion and resolve in the Final HCP, and if PG&E uses it to facilitate incidental take coverage under a CESA ITP.

Questions regarding this letter should be directed to Shannon Lucas, Senior Environmental Scientist (Supervisor) at (916) 376-8680 or shannon.lucas@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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