



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

July 22, 2016

Mr. Ren Lohofener,
Regional Director
U.S. Fish & Wildlife Service
Pacific Southwest Region Headquarters
2800 Cottage Way
Sacramento, CA 95825

SUBJECT: Designation of Non-Federal Representative under Section 7 of the Federal Endangered Species Act

Dear Mr. Lohofener:

I am writing to confirm that the Environmental Protection Agency, Region 9 (EPA) has designated the California State Water Resources Control Board (SWRCB) as our non-federal representative pursuant to 50 CFR Section 402.08 for purposes of initiating the consultation process and preparing a biological assessment, if necessary, under Section 7 of the federal Endangered Species Act (ESA) for certain projects funded under the California Drinking Water State Revolving Fund (CA DWSRF) program and the California Clean Water State Revolving Fund (CA CWSRF) program. This designation applies to State Revolving Fund projects supported with funds directly made available by federal capitalization grants, called federally-assisted projects, unless EPA notifies your agency that this designation does not apply for a particular federally-assisted SRF project.

The CA CWSRF and CA DWSRF programs are administered by the State under Title VI of the federal Clean Water Act and Title XII of the Safe Drinking Water Act. The loan funds are capitalized by federal grants. Federally assisted projects must comply with a number of federal legal requirements, including ESA. Please note that, in some cases, the SWRCB may be assisted in its role as EPA's non-federal representative by the SRF loan recipient or a professional environmental consultant.

The roles and responsibilities for EPA and the SWRCB pursuant to the designation of SWRCB as the non-federal representative for conducting informal consultations are included in a letter from EPA to Darrin Polhemus, Deputy Director of the Division of Financial Assistance SWRCB, dated July 22, 2016 (a copy of which is enclosed). EPA will continue to be ultimately responsible for compliance with the Section 7 requirements of the ESA. The State requires, through loan contract provisions for federally-assisted SRF projects, that the loan recipients evaluate potential effects to listed species and designated critical habitat and to implement measures determined necessary or appropriate during the ESA Section 7 consultation process to avoid adverse effects to listed species (including incidental take) or adverse modification of designated or proposed critical habitat. Failure to implement such measures or steps may result in SWRCB curtailment of financing, interest penalties, requirements of corrective action or

other enforcement action as deemed necessary. Should SWRCB fail to properly enforce the implementation of such measures, EPA may take appropriate steps, including corrective action authorized by federal regulations, which may involve the withholding of SRF payments.

If you have any questions regarding this designation, please contact Doug Eberhardt, Infrastructure Section Manager, EPA Region 9, at (415) 972-3420. You may also contact Juanita Licata at (415) 972-3450 or Josh Amaris at (415) 972-3597.

Sincerely,



Michael Montgomery
Assistant Director, Water Division

Enclosure

cc:

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