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**COUNTY OF MENDOCINO
BOARD OF SUPERVISORS**

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May 6, 2014

Ms. Irma Lagomarsino, Assistant Regional Administrator
NOAA Fisheries West Coast California Region Area Office
1655 Heindon Road
Arcata, CA 95521

RE: Denial of Request to Transfer Emergency Water for Sale to Redwood Valley County Water District (RVCWD)

Dear Ms. Lagomarsino,

We were very disappointed to find that, and at a loss to understand why, a representative from the National Oceanographic and Atmospheric Administration's (NOAA) office in Santa Rosa, California, produced a statement that reversed his public approval of a transfer of water that could have helped the community of Redwood Valley which is facing serious economic loss from a severe drought.

Mendocino County was the first in the State of California to declare a drought emergency in January of this year. We have been working with the California State Drought Emergency Task Force for many months. All of our communities have been conscientiously conserving water and some are already facing mandatory water rationing. Agriculture, the backbone of our economy, is seriously threatened at this time.

The Redwood Valley County Water District (RVCWD) has already been forced to decrease their domestic water supply deliveries to 50 gallons per person per day. Last month, the RVCWD Board made a determined effort to find a small amount of water that would have eased the 100% moratorium now in place for delivery of agricultural water to the community of Redwood Valley. Specifically, its Board of Directors attempted to invoke an emergency provision of the hydropower license for the Potter Valley Project. This project is owned and operated by Pacific Gas and Electric (PG&E), and licensed by the Federal Energy Regulatory Commission (FERC License P-77).

The emergency provision of the Potter Valley Project license is designated as E5. This provision was created during a license amendment proceeding that ended in 2004 with FERC accepting a flow regime change. This change was based on what was then the National Marine Fisheries Service (NMFS) South West Region's Reasonable and Prudent Alternative (RPA) developed after their Biological Opinion resulted in a "jeopardy finding."

The Potter Valley Project is a transbasin diversion of water from the Eel River into the Russian River that has existed since 1908. In 1922 Scott Dam was built upstream of the diversion allowing winter rainfall and snow melt to be stored in Lake Pillsbury for release in the summer for beneficial use by the project licensee as well as over 500,000 people that have become dependent upon this water supply in the Russian River watershed. Today the diverted water is used to generate power at the PG&E facility and at 4 smaller power plants downstream, 3 above Lake Mendocino, and one owned by the City of Ukiah at the base of Coyote Valley Dam.

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Part of the diverted water is used by the agricultural community of Potter Valley; the rest is then stored in Lake Mendocino. Water stored in Lake Mendocino is used by Redwood Valley and the cities of Calpella, Ukiah, Hopland, Cloverdale, Geyserville and Healdsburg. The water released from Lake Mendocino also supports a thriving agricultural economy along the Russian River corridor. Water is also mandated to be released from Lake Mendocino at certain times of the year to support migration of threatened species of salmonids.

The request by the Redwood Valley County Water District for water under the E5 emergency provision of the Potter Valley Project license was for 800 acre feet of water. That amount of water would have been diverted and stored in Lake Mendocino for use by Redwood Valley. At a diversion rate of 250 cubic feet per second, which is the maximum capacity of PG&E's diversion tunnel, it would have taken approximately 38 hours to fulfill the request from the Redwood Valley County Water District. At the time the water transfer request would have been granted all of the required minimum flows, under the NMFS RPA for the Eel River, would have been exceeded by many hundreds of cubic feet per second.

During two conference calls early in April (4/8/14 and 4/9/14), initiated by RVCWD and facilitated by PG&E, many of the stakeholders that had intervened in the proceedings for the Potter Valley Project license over the past 25 years agreed on one thing. That one thing was that it was in concept allowable for PG&E to divert 800 acre feet of water for Redwood Valley's agricultural community. These stakeholders included California Department of Fish and Wildlife, Friends of the Eel River, NMFS (NOAA), Potter Valley Irrigation District and others. PG&E contacted FERC regarding the proposal and FERC requested that the interveners acknowledge in writing that they supported the proposal.

Written agreements were subsequently received from Friends of the Eel River, California Department of Fish and Wildlife, CalTrout and the Potter Valley Irrigation District. The Round Valley Tribes did not protest the proposal. On April 14, 2014 Mr. Dick Butler from the Santa Rosa, California, office of NOAA emailed a statement to PG&E (attached), and to all of the participants in the earlier conference calls, denying the requested proposal due to the fact that he believed "the current situation does not qualify as an emergency". He went on to describe the definition of "emergency" as including "fire, flood, earthquake...as well as...riot, accident or sabotage." He continued saying that the emergency would have to cause "damage to, life, health, property or essential public services". Mr. Butler went on to describe the current drought emergency situation as a "predictable local event..."

We are very concerned that a Federal employee could make a determination that, first, drought is a "predictable local event" and, second, that the loss of a farmer's crop is not considered to be "damage to property".

The E5 provision of the FERC license amendment for the Potter Valley project is, in actual fact, not the original language found in the Draft RPA for the NMFS Biological Opinion. We have been concerned – NMFS in Santa Rosa is aware of this concern – since the FERC License was amended in 2004, that crucial language in the E5 provision was mysteriously removed between the time of the final draft of the RPA and when FERC published the amendment. The missing language in the draft RPA included two other exceptions under which water could have been diverted earlier this spring to provide more water for storage in Lake Mendocino. The omission in E5 of the RPA has caused a chronic water supply deficit in Lake Mendocino since the RPA went into effect in 2006. This was not expected as NMFS assured all the stakeholders that there would be a 15% average flow reduction resulting from implementation of the RPA. In fact, the flow reduction has been a minimum of 30%, and as high as 60%, more than the pre-RPA flow regime at the Potter Valley Project. Over the years this has impacted the water supply for people and for migration flows required below Lake Mendocino for the Russian River fishery.

This year, facing the worst drought since records have been kept, the impact of the flawed RPA for the Potter Valley project is greatly amplified. Beside the fact that the RPA is flawed, we are at a loss to understand how in one breath a NMFS official could agree to a minor diversion of water for a community facing severe economic losses and then turn around and deny that relief because he doesn't believe the loss of a farmer's crop constitutes an emergency.

We would like you to review the circumstances surrounding the proposed minor water diversion from the Potter Valley Project and provide us with an explanation of how the final decision to deny water to Redwood Valley was made.

Sincerely Yours,

John Pinches
Chair, Board of Supervisors

CC: Assemblymember Wesley Chesbro
State Senator Noreen Evans
Congressman Jared Huffman