



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

July 22, 2016

Dr. J. Frederick Caslick
Wildlife and Sport Fish Restoration Program Division Chief
U.S. Fish and Wildlife Service
Office of Migratory Birds & State Programs
Wildlife & Sport Fish Restoration
911 N.E. 11th Avenue
Portland, Oregon 97232-4181

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

Dear Mr. Caslick:

I am writing to confirm that the Environmental Protection Agency, Region 9 (EPA) has designated the Hawaii Department of Health (DOH) 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 Hawaii Drinking Water State Revolving Fund (HI DWSRF) program and the Hawaii Clean Water State Revolving Fund (HI 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.

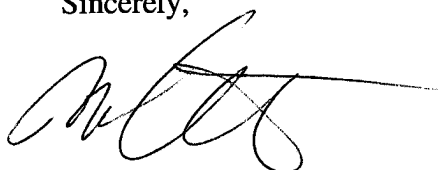
The HI DWSRF and HI CWSRF programs are administered by the State under Title VI of the federal Clean Water Act and Title XII of the Safe Drinking Water Act. The loan funds are capitalized by federal grants. Federally assisted projects must comply with a number of federal legal requirements, including ESA. Please note that, in some cases, the DOH 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 DOH pursuant to the designation of DOH as the non-federal representative for conducting informal consultations are included in a letter from EPA to Keith Kawaoka, Deputy Director of Environmental Health, 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 DOH

curtailment of financing, interest penalties, requirements of corrective action or other enforcement action as deemed necessary. Should DOH 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 Susan Polanco at (808) 541-2722.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Montgomery', with a long horizontal flourish extending to the right.

Michael Montgomery
Assistant Director, Water Division

Enclosure

cc:

Mr. Keith Kawaoka
Deputy Director for Environmental Health
Hawaii Department of Health
1250 Punchbowl Street, Room 325
Honolulu, Hawaii 96823

U.S. Fish and Wildlife Service
Pacific Islands WFSR Coordinator
300 Ala Moana Blvd.
Honolulu, Hawaii 96813



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July 22, 2016

Michael Seki
Science Center Director
NOAA Inouye Regional Center
NMFS/PIFSC/DO
1845 Wasp Blvd., Building 176
Honolulu, HI 96818

SUBJECT: Designation of Non-Federal Representative under Section 7 of the Federal Endangered Species Act and Section 305(b)(2) of the Magnuson-Stevens Act

Dear Mr. Seki:

I am writing to confirm that the Environmental Protection Agency, Region 9 (EPA) has designated the Hawaii Department of Health (DOH) 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 Hawaii Drinking Water State Revolving Fund (HI DWSRF) program and the Hawaii Clean Water State Revolving Fund (HI CWSRF) program. In addition, I am confirming that EPA has designated DOH as the non-federal representative pursuant to 50 CFR Section 600.920(c) for purposes of initiating the consultation process with the National Marine Fisheries Service (NMFS) under Section 305(b)(2) of the Magnuson-Stevens Act (MSA) for projects funded under the HI DWSRF and HI CWSRF programs. These designations apply 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 these designations do not apply for a particular federally-assisted SRF project.

The HCWSRF and HDWSRF 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 and the MSA. Please note that, in some cases, the DOH may be assisted in its role as EPA's non-federal representative by the SRF loan recipient or a professional environmental consultant.

Responsibilities of Non-federal ESA Representative for Hawaii CWSRF and DWSRF Projects

The roles and responsibilities for EPA and the DOH pursuant to the designation of DOH as the non-federal representative for conducting informal consultations are included in a letter from EPA to Keith Kawaoka Deputy Director of Environmental Health, dated July 22, 2016 (a copy of which is attached). 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 DOH curtailment of financing, interest penalties, requirements of corrective action or other enforcement action as deemed necessary. Should DOH 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.

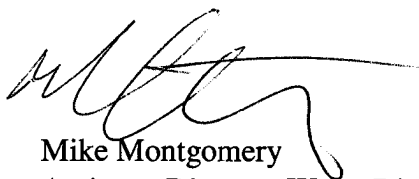
Designation of Non-federal Representative for Essential Fish Habitat Consultations

Under Section 305(b)(2) of the MSA, federal agencies are required to consult with NMFS if a federal activity or action may adversely affect “essential fish habitat” (EFH) as defined by NMFS under that Act. EPA’s federal action of funding and overseeing the HI CWSRF and HI DWSRF programs requires appropriate compliance with MSA Section 305(b)(2).

EPA is by this letter notifying NMFS that it has designated DOH as the non-federal representative to conduct any required EFH consultations, as provided for in 50 CFR Section 600.920(c). Under the terms of that regulation, EPA will continue to be ultimately responsible for compliance with the consultation requirements of the MSA. The roles and responsibilities of EPA and DOH as to MSA consultations are outlined in the attached letter from EPA to DOH.

If you have any questions regarding these designations, please contact Doug Eberhardt, Infrastructure Section Manager, EPA Region 9, at (415) 972-3420. You may also contact Susan Polanco at (808) 541-2722.

Sincerely,



Mike Montgomery
Assistant Director, Water Division

Enclosure

cc:

Mr. Keith Kawaoka
Deputy Director for Environmental Health
Hawaii Department of Health
1250 Punchbowl Street, Room 325
Honolulu, Hawaii 96823

Mary Abrams, Field Supervisor
Ecological Services Branch
Pacific Islands Fish and Wildlife Office
U.S. Fish and Wildlife Service
Room 3-122
300 Ala Moana Blvd.
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