

Habitat Expansion Agreement Frequently Asked Questions

The following list contains answers to frequently asked questions about the Habitat Expansion Agreement (HEA) process.

Funding

Question: Is there a dollar amount associated with the mitigation effort?

Answer: The targeted combined spending by the Licensees is \$15 million, but it is not a hard-and-fast cap. The \$15 million is a decision-making point that allows DWR and PG&E to consider whether to proceed in the HEA process or to propose an alternative plan.

See Sections 11.1 and 11.5 of the HEA for further details.

Question: How was the \$15 million amount decided? Can the amount of funding be increased?

Answer: The HEA, including the dollar amount, was negotiated as an alternative to a trap-and-haul program on the Feather River. The signatories recognized that cost is a key consideration in the successful implementation of the HEA and agreed to make a good-faith effort to achieve the Habitat Expansion Threshold at the least cost to the Licensees.

If a proposed action that results from the evaluation and selection process exceeds \$15 million, the Licensees have the option of considering whether to continue pursuing the HEA, revert to the trap-and-haul approach, or negotiate another alternative. If a proposed action looks promising and is cost effective, the Licensees will consider increasing the dollar amount, as a trap-and-haul approach is both expensive and problematic from a technical standpoint. The Licensees will also be looking for opportunities for cost sharing for amounts greater than \$15 million.

Question: Is the funding a grant?

Answer: It is not a typical grant program. The HEA does not specify the funding mechanism. The Licensees may contribute the money to a proposed project that is being undertaken by others, construct a project, or partner with others.

Question: Is the \$15 million only for the project, or does it include outreach, design, planning, and environmental review?

Answer: The amount includes outreach, engineering, permitting, design, and staff time.

Question: Does the HEA restrict the funds from being used on state or federal lands?

Answer: No, in fact, state or federal lands might be good choices and provide partnering opportunities.

Question: Can the funds be contributed to a project that is underway but lacks sufficient funds to complete? (And how do current budget cuts and withheld funds relate to HEA criteria for funding?)

Answer: Yes, but with certain limitations. The HEA states: “Actions identified in other venues, including unfunded actions, are acceptable for consideration, provided that implementation of the project results in a net expansion of habitat over any Existing Requirements and Commitments, whether by the Licensees or others.” “Existing Requirements and Commitments” include, for example, legal or regulatory requirements imminent or issued by a regulatory agency; obligations set forth in a license amendment application, settlement agreement, or agreement in principle in a pending relicensing proceeding; and obligations contained in a final Biological Opinion at the time NMFS approves the action.

Further detail is provided in Section 3.2 of the HEA.

In the case of budget cuts and the withholding of funds that may affect completion of a project already underway, the same HEA criteria as stated above would apply.

HEA Selection Criteria

Question: How was the Habitat Expansion Threshold of providing habitat for 2,000 to 3,000 adult spring-run Chinook salmon determined?

Answer: The threshold was negotiated with the HEA signatories and was based on professional judgment. NMFS and PG&E biologists estimated the number of salmon that could potentially spawn in the upper North Fork Feather River watershed under current habitat conditions. Their estimate was based on available historical information, a spawning gravel analysis, and their personal knowledge of the subject stream reaches.

Question: What is the baseline for the 2,000–3,000 fish increase? The year used as a baseline could affect the measure.

Answer: The criterion is worded as “habitat potential,” which allows for annual variation in actual fish numbers. The Licensees are obligated to expand or increase the capacity of existing habitat to serve 2,000–3,000 adult Chinook salmon. The Licensees are not obligated to show that the population actually increased by this number, but that sufficient habitat was provided to support the specified number of salmon.

Question: Is monitoring required for the action?

Answer: The Licensees are responsible for identifying, evaluating, selecting, implementing, and—if included in the approved Habitat Expansion Plan—testing, operating, and maintaining the approved habitat expansion action(s). Timely and complete implementation of the approved plan fulfills the Licensee’s obligations under this HEA. The Licensees are not obligated to guarantee or verify fish production or utilization. Thus, monitoring fish response to implementation of the selected action(s) is not required.

See Section 6.1 of the HEA for further detail.

Question: How will you know that you have provided sufficient habitat for 2,000–3,000 Chinook salmon?

Answer: The HEA does not specify a particular measure. The Licensees will use professional judgment and work in consultation with NMFS to determine an appropriate metric system based on sound biological science.

Potential Actions

Question: What is the required lifespan for a potential project?

Answer: There is no specific answer in the HEA; however, NMFS stated that benefits are expected to extend through the term of a typical FERC license. Ideally, a permanent benefit will be achieved.

Question: What if conflicting opinions about potential actions are received (one agency recommends a project and another one rejects it)?

Answer: The Licensees will consider the opinions of all parties while applying the HEA evaluation and selection criteria. One of the evaluation criteria, “favorable local/political support,” relates to the issue of agency disagreement over a particular action. Ultimately, the Licensees will use their best judgment in application of the HEA criteria to evaluate potential projects. Also, any proposed actions would be subject to regulatory review by the agencies having jurisdiction.

Habitat Expansion vs. Enhancement

Question: Could an action involve improving/enhancing existing habitat?

Answer: There are provisions within the HEA for enhancement of existing accessible habitat, but expansion of habitat is favored in the HEA criteria.

Expansion vs. Enhancement defined with examples:

- Expansion means adding habitat, for example by removing barriers such as an impassable dam or inoperable fish ladder to allow fish access to currently unoccupied habitat.
- Enhancement means improving (or restoring) the existing habitat, for example by augmenting spawning gravels or augmenting flow.

Question: Are projects limited to big-ticket habitat expansion actions?

Answer: No, it is possible that several actions could be combined to meet the Habitat Expansion Threshold.

Permitting

Question: Who is responsible for the permitting required by the Resource Agencies for actions selected for the Habitat Expansion Plan? Will the individual or agency who proposes the action obtain permits for specific projects?

Answer: Within their respective authorities, the Resource Agencies are responsible for providing timely information and consultation as requested by the Licensees and for the timely processing of all permits, approvals, and rights necessary for implementation of the HEA, including permitting the proposed action. However, the HEA does not provide a determination as to whether permits, approvals, and rights will be issued.

See Section 7.0 of the HEA for additional detail.