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ENVIRONMENTAL PROTECTION

State Water Resources Control Board

FEB 28 2014

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

Dear Secretary Bose:

DRAFT LICENSE APPLICATION COMMENTS ON YUBA COUNTY WATER AGENCY'S YUBA RIVER DEVELOPMENT PROJECT; FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 2246; YUBA COUNTY

Yuba County Water Agency (YCWA) owns and operates the Yuba River Development Project (Project), also known as Federal Energy Regulatory Commission (FERC or Commission) Project No. 2246. On December 2, 2013, YCWA filed the Project's Updated Study Report (USR) and Draft License Application (DLA) with FERC. The USR contains an update to the 48 FERC approved studies being performed by YCWA. The DLA contains YCWA's Project proposal for its new FERC license. Please note that State Water Resources Control Board (State Water Board) staff provided comments on YCWA's USR in a separate letter dated January 30, 2014. State Water Board staff's comments on YCWA's DLA are provided in Attachment A.

In accordance with Item 5 under the Pre-Application Filing Activities Under the Integrated Licensing Process section of the memorandum of understanding executed between the Commission and State Water Board on November 19, 2013, State Water Board staff will work with Commission staff to set up a time to discuss the needs of our respective agencies related to the Commission's issuance of the license and the State Water Board's issuance of water quality certification.

If you have questions related to this letter, please contact me at 916-341-5321 or through email at parker.thaler@waterboards.ca.gov. Written correspondence should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Water Quality Certification Program, Attn: Parker Thaler, P.O. Box 2000, Sacramento, CA 95812-2000.

Sincerely,

Parker Thaler
Environmental Scientist
Water Quality Certification Program

Enclosure: Attachment A - Comments on Yuba County Water Agency's Draft License Application

cc: See next page.

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ATTACHMENT A -
COMMENTS ON YUBA COUNTY WATER AGENCY'S
DRAFT LICENSE APPLICATION

State Water Resources Control Board (State Water Board) staff is providing the following comments in response to the Yuba County Water Agency's (YCWA's) release of its Draft License Application (DLA) for the Yuba River Development Project (Project), Federal Energy Regulatory Commission (FERC or Commission) Project No. 2246.

1. The State Water Board is the state agency responsible for issuing water quality certification in California (Wat. Code § 13160.). The water quality certification is issued with conditions to ensure the project will be in compliance with specified provisions of the Clean Water Act (CWA), including water quality standards and implementation plans promulgated pursuant to Section 303 of the CWA (33 U.S.C. § 1313). Accordingly throughout the FERC relicensing process, the State Water Board maintains independent regulatory authority to condition a proposed project's operations to protect water quality and beneficial uses of water consistent with section 401 of the CWA, the *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins* (Basin Plan), State Water Board regulations, the California Environmental Quality Act (CEQA), and other applicable state laws.

   On January 30, 2014, the State Water Board staff requested a Fish Passage Assessment for Spring-run Chinook and Central Valley Steelhead Study (Study) from YCWA to examine several existing fish passage alternatives in the Yuba River System, and to provide additional information on several of the fish passage alternatives. Much of the information requested in the Study was developed by the Yuba Salmon Forum, but has not yet been incorporated into the FERC relicensing process. The requested information will inform potential alternatives associated with development of environmental documents for the Project under the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA), as well as to inform conditions of the FERC license and State Water Board water quality certification (certification).

   For addition details on the Study request please refer to the State Water Board's January 30, 2104, letter, providing comments on YCWA's Updated Study Report.

2. Code of Federal Regulations Title 18, Section 5.22(a) states, "When the Commission has determined that the application meets the Commission's requirements as specified in Sections 5.18 and 5.19, the approved studies have been completed, any deficiencies in the application have been cured, and no other additional information is needed, it will issue public notice as required in the Federal Power Act... Finding that the application is ready for environmental analysis."

   Based on the existing Commission schedule under the Integrated Licensing Process, several studies may not be completed prior to YCWA's deadline to file its Final License Application (FLA) with the Commission on April 30, 2014. These studies include: 1) Study 7.11, Fish Behavior and Hydraulics; 2) Study 7.11a, Radio Telemetry; 3) Study 8.2, Recreation Flow; and 4) several study requests made by relicensing participants during the Updated Study Report (USR) comment period. State Water Board staff would

appreciate information regarding how FERC plans to address incomplete studies with respect to release of the Ready for Environmental Analysis.

3. The FLA should consider options to reduce entrainment at the Project's diversion facilities (e.g., Our House Diversion Dam, and Log Cabin Diversion Dam). According to the information contained Technical Memorandum 3-11 Entrainment, almost thirty percent (29.8%) of tagged fish in the Lohman Ridge Diversion Tunnel, and 2.1 percent of tagged fish in the Camptonville Diversion Tunnel were entrained. The tunnels were conveying flows of 200-250 cubic feet per second (cfs) 79 percent of the time. The tunnels are capable of conveying 860 cfs at Our House Diversion Dam and 1,100 cfs at Log Cabin Diversion Dam. Potential entrainment would likely increase with increased flows.

4. Page A-53 describes YCWA's proposed New Bullards Bar Dam Flood Control Outlet (FCO). Bullet 5 states the FCO would include:

   - *A concrete outlet structure including the tunnel outlet portal, a 60-ft-long open channel and a 27-ft-long flip-bucket energy dissipater at the end of the open channel, which would deflect the discharging water jet [45,000 – 66,000 cfs] away from the foundation area and towards the river canyon. The flip-bucket structure would be founded and bolted to rock to resist the hydrodynamic forces and vibrations. A cutoff would be provided to protect the flip bucket foundation from scour. The area between the flip bucket and the river would be cleared of all vegetation, overburden, and loose weathered rock down to sound rock.*

   Please describe the anticipated impacts associated with releases through the FCO on the "sound rock" between the river and the flip-bucket. Describe any impacts associated with use of the FCO on the river at the release point and downstream.

5. Page D-27, Table 6.2-1 estimated annualized costs (excluding energy), total capital costs, and total operation and maintenance costs over a 30 year period. YCWA has proposed a 50 year license (Section 2.0, IS-1). Please update Table 6.2-1 to also include estimates for a 50 year period.

6. Page E3.3.1-30 states, "If YCWA were to propose additional ground-disturbing activities not currently addressed in this Exhibit E that could affect erosion and sediment in surface waters, which in turn could affect water quality and aquatic resources, YCWA's proposed Project includes four conditions to address such instances."

   Please note, the water quality certification process allows the State Water Board to provide additional conditions as necessary, to address YCWA activities not discussed in the DLA/FLA.

7. Proposed Geology and Soils condition 3 (GS3) discusses YCWA's proposal to pass sediment below Our House and Log Cabin Diversion Dams. A low level valve at each dam would be opened for 48 continuous hours based on the following flow triggers: 1) 600 cfs downstream of Our House Diversion Dam, and 2) 540 cfs downstream of Log Cabin Diversion Dam. With each flow trigger there is an additional requirement that flows are expected to reach 1,000 cfs within 24 hours of opening the low level valve.

State Water Board staff is concerned with the proposed 48-hour time limit. YCWA is proposing to open the low level valves based on flow triggers. It would also be reasonable to base closure of the low level valves on flow triggers, rather than a time limit. Allowing flow volume and duration to dictate how long the low level valve is open will better support sediment transport below the dams and assist in creating a more natural flow pattern.

State Water Board staff looks forward to working with YCWA and other relicensing participants to better understand how the low level valves could best be used to maximize beneficial uses in the Yuba River system.

8. Proposed Geology and Soils condition 4 (GS4) describes YCWA's proposal to monitor channel morphology at set time intervals following use of the low level valves described in GS3. It may be beneficial for YCWA to coordinate this monitoring with other monitoring activities such as riparian vegetation, large wood debris, or aquatic resources.

9. Proposed Aquatic Resources condition 2 (AR2) describes YCWA's proposal to implement a spring runoff recession flow for the Middle Yuba below Our House Diversion Dam. There is no YCWA proposal for a spring runoff recession flow for Oregon Creek below Log Cabin Diversion Dam. Aquatic habitat below Log Cabin Diversion Dam could be improved with implementation of a spring runoff recession flow in Oregon Creek. Native fish and amphibians could benefit from a more natural spring recession flow pattern. YCWA should consider implementation of a spring runoff recession flow in Oregon Creek below Log Cabin Diversion Dam.

10. Proposed Endangered Species Act-Listed Threatened and Endangered Species condition 3 (TE3), *Establish Lower Yuba River Anadromous Fish Ecological Group*, states, "Licensee shall, within the first 6 months of the new license term, establish the Lower Yuba River Anadromous Fish Ecological Group (Group), whose members shall include Licensee, NMFS, USFWS, Cal Fish and Wildlife and SWRCB. The purpose of the Group shall be to assist [the] Licensee [in] implementing the terms and conditions of the new license that pertain to anadromous fish in the Yuba River downstream of Narrows 2 Powerhouse."

    Proposed condition TE3 does not discuss how the Group informs YCWA's decisions in implementing terms and conditions of the new license. Proposed condition TE3 does not describe what role the Group participants have in making final decisions. State Water Board staff are concerned that participation in the Group would be advisory and even if the majority of the Group advised a specific action, YCWA after consulting with the Group could choose to take a different action. State Water Board staff recommends YCWA clarify the management structure of the Group and how final decisions will be made and executed. The Group's role or authority should be clarified before the FLA is submitted.

    Proposed TE3 should be expanded to include YCWA consultation with the Group on terms and conditions of the new license concerning anadromous fish in the Yuba River above Englebright if anadromous fish reintroduction is part of the FERC relicensing process.

11. Proposed Aquatic Resources condition 1 (AR1) would maintain minimum streamflows below New Bullards Bar, Log Cabin and Our House Diversion Dams. Please note State Water Board staff and other relicensing participants are still evaluating flow options for these reaches. As YCWA progresses through the relicensing process State Water Board staff look forward to working with YCWA and other relicensing participants on additional model runs and flow options.

12. YCWA is proposing to relicense the Project for 50 years. YCWA has not proposed a condition to monitor water quality over the term of the license. State Water Board staff requests YCWA include a proposed condition or plan in the FLA to monitor water quality and respond to identified water quality issues.

13. The Yuba River is 303(d) listed for mercury including the areas of: 1) New Bullards Bar Reservoir; 2) North Fork Yuba River between New Bullards Bar and Englebright Reservoir; 3) Middle Yuba River; 4) South Yuba River from Lake Spaulding to Englebright Reservoir; 5) Englebright Reservoir; and 6) Lower Yuba River from Englebright Reservoir to the Feather River.

    As the Project moves forward the State Water Board will be considering any necessary measures needed to ensure protection of the Yuba River system's beneficial uses, including mercury related impacts to human health and wildlife. The State Water Board has a Statewide Mercury Program that is developing: 1) a mercury control program for reservoirs; and 2) mercury water quality objectives. Additional information on the Statewide Mercury Program can be found at: http://www.waterboards.ca.gov/water_issues/programs/mercury/

14. Proposed Water Resources conditions 2 and 3 (WR2 and WR3) propose the use of two different water year systems for the upper and lower Yuba River:

    - WR2 proposes a water year system similar to the Yuba Bear-Drums Spaulding water year index for flows below Our House Diversion Dam, Log Cabin Diversion Dam, and New Bullards Bar.

    - WR3 proposes the North Yuba Index (NYI) for Narrows 2 below Englebright Dam.

    State Water Board staff is not convinced dividing the Yuba River System into two water year systems is the best method to manage water in the Yuba River. Dividing the Yuba River system into two water year systems could create water supply issues. A situation could occur in which the upper Yuba River is experiencing low rainfall/flow resulting in a dry water year classification. At the same time the lower Yuba River could be in a schedule 2 (above normal) flow due to the New Bullards Bar Reservoir storage component in the NYI calculation. Little inflow to New Bullards Bar coupled with a Schedule 2 release at Narrows 2 could result in depleting New Bullards Bar reservoir to minimum pool unless YCWA: 1) requests a waiver from FERC and a temporary urgency change from the State Water Board to deviate from required flows (similar to situation in 2014); or 2) proposes a condition in the FLA that addresses dry year situations.

    Relicensing participants have yet to develop flow scenarios for the lower Yuba River. Results from technical memorandums concerning riparian, floodplain inundation, and

instream flow studies have only recently been completed. State Water Board staff looks forward to working with YCWA and other relicensing participants on developing a water year schedule/system that works for the entire Yuba River system in a wide range of situations.

15. State Water Board staff supports the *New Bullards Bar Dam New Flood Control Outlet – Effects of Construction and Operation on Fish, Wildlife, and Plant Resources and Operations Model Scenarios* study request, which was submitted to FERC by the California Department of Fish and Wildlife (CDFW) in its January 30, 2014 comment letter on the USR. Specifically State Water Board staff supports CDFW's study goals and objectives requesting that YCWA determine how construction, maintenance, and future operation activities associated with the proposed new flood control outlet facility could affect special status species and their habitats within and adjacent to the proposed new facility. Regarding CDWF's objective (describe scenarios under which the new flood control outlet will be used, including appropriate water balance and operations model runs), State Water Board staff recognizes that YCWA included the FCO in the Operations Model, and requests that YCWA conduct additional model runs to examine the FCO's effects on Project operations and managing spill events.