

State Water Resources Control Board

JAN 25 2013

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

Dear Secretary Bose:

YUBA COUNTY WATER AGENCY'S YUBA RIVER DEVELOPMENT PROJECT (PROJECT),
FEDERAL ENERGY REGULATORY COMMISSION (FERC) NO. 2246.

The State Water Resources Control Board (State Water Board) has authority under the federal Clean Water Act (33 U.S.C. § 1251-1357) to restore and maintain the chemical, physical and biological integrity of the Nation's waters. Throughout the relicensing process the State Water Board maintains independent regulatory authority to condition the operation of the Project to protect water quality and the beneficial uses of stream reaches consistent with section 401 of the federal Clean Water Act, the Water Quality Control Plan (Basin Plan) for the Sacramento River and San Joaquin River Basins, State Water Board regulations, California Environmental Quality Act, and any other applicable state laws.

On December 3, 2012 the Yuba County Water Agency (YCWA) filed their Initial Study Report (ISR) with FERC. The ISR contained an update to the forty-four FERC approved studies that YCWA has been performing as pre-licensing studies (18 CFR 5.15(a)). Following the release of the ISR a public meeting was held at YCWAs office in Marysville on December 12, 2012.

On December 27, 2012, YCWA posted its ISR Meeting Summary beginning a 30 day comment period in which "any participant or the Commission [FERC] may file a disagreement concerning the applicant's [YCWA] meeting summary within 30 days, setting forth the basis for the disagreement. This filing must also include any modifications to ongoing studies or new studies proposed by the Commission staff or other participant" Code of Federal Regulations (18 CFR 5.15(c)(4)).

The State Water Board hereby submits the below information and comments pertaining to YCWA's ISR comment period:

1) Recreation and Entrainment Study Conflict:

The Recreation Study as currently described in the *Interim Technical Memorandum Recreation Flow 8-2* (Study 8-2) will adversely impact the entrainment study being performed at Lohman Ridge Diversion Tunnel and Camptonville Diversion Tunnel.

JAN 25 2013

Study 8-2 was not completed in 2012 due to water conditions outside of YCWA's control. YCWA stated in their Interim Technical Memorandum that in 2013 they will artificially create the necessary flows to finish the recreation study by mechanically operating the slide gate which controls the flows entering Lohman Ridge Diversion Tunnel. If YCWA changes the flows entering Lohman Ridge Diversion Tunnel it will alter flows at the entrainment array installed in the tunnel and adversely affect the entrainment study currently being conducted. If YCWA completes Study 8-2 as explained in their Interim Technical Memorandum the entrainment data being gathered will not be based on normal flows.

This situation has been discussed among relicensing participants and YCWA. Most relicensing participants favor delaying Study 8-2 completion until 2014, unless opportunistic flows in 2013 provide the necessary flow targets to complete Study 8-2 without diverting water away from the entrainment study. The State Water Board endeavors to ensure all beneficial uses of the Yuba River System are protected. The entrainment study will provide valuable data to inform future decisions regarding this Project. The State Water Board supports completing the entrainment study prior to any flow alterations at Lohman Ridge Diversion Tunnel for the purposes of creating artificial recreation flows on the Middle Yuba.

2) Antenna Array Removal:

Page ES-16 of *Interim Technical Memorandum 3-11 Entrainment* states "During high flow, large debris and even small trees can accumulate on the face of the trash rack. When cleaning occurred, the antennas were temporarily removed, then the trash rack was lifted and all debris passed through the tunnel. This ensured the antenna was not damaged by potential tree-sized debris. The antennas and racks were replaced immediately following cleaning."

It has been estimated that the fish tracking antenna arrays located at Lohman Ridge Diversion Tunnel and Camptonville Diversion Tunnel, were removed for trash rack cleaning approximately 8 to 10 times, for an undetermined duration. The removal period may have ranged from 30 minutes to a few hours. Specific information on the antenna removal will not become available until after the close of this comment period. Study objectives to determine if the diversion of water at Lohman Ridge and Camptonville Diversion Tunnel intakes are likely to have adverse effects on native fish populations and western pond turtle, may not fully be realized if water is diverted away from this area for the recreational study.

The State Water Board requests YCWA provide the date, time, duration, and flows rates for all past and proposed future antenna removals. The State Water Board also requests YCWA notify relicensing participants at least 1 to 2 days prior to future antenna removal to provide relicensing participants an opportunity to go to the site and observe antenna removal activities.

The requested information will inform the State Water Board on the matter of Project generated entrainment situations and have bearing on future determinations regarding this Project. The State Water Board supports the other relicensing participants' requests associated with the Entrainment Study specifically the Forest Service's request for extending the entrainment study to create a more complete set of data.

JAN 25 2013

3) Lack of Documentation for Fish Parasites:

During a meeting with resource agencies on January 11, 2013, the Forest Service voiced concerns that during fish surveys conducted for several of the FERC approved studies YCWA affiliates did not document the presence of parasites on surveyed fish. While the fish survey form contained a field for "fish health" the documentation of parasites was not listed as an entry choice. This should be corrected as the presence of parasites can reduce overall fitness.

The exclusion of parasite documentation creates a situation in which the goals of study 3.8 *Stream Fish Populations Upstream of Englebright Reservoir* may not fully be realized. Page 4 of the study states "The objectives of the study are on a site and species specific basis: 1) characterization of fish species composition and relative spatial distribution; 2) estimate of total or relative abundance of fish by species; 3) analysis of fish population size-structure and age-class structure; 4) calculation of fish condition factor; and 5) fry emergence timing." The omission of fish parasite occurrence in the data record introduces error into the evaluation of fish condition and fitness that could lead to erroneous findings. Further, it was cited on page 2 of the *Interim Technical Memorandum 3-8* that "Fish were in good condition. They exhibited robust bodies, free of visible disease, parasites, and lesions..." In light of the information provided by other Resource Agencies who observed surveys of the site, the State Water Board finds this statement to be inaccurate and requests it be revised.

The State Water Board supports the Forest Service's requests submitted in their comment letter regarding parasite documentation and we refer FERC to the pictures and information provided in their comment letter.

4) Water Quality:

The FERC approved study 2.3 *Water Quality*, tested water quality in the Yuba River system. One water quality constituent of concern evaluated was mercury. The study plan called for one surface water sample to be collected from both the New Colgate Powerhouse tailrace and the Narrows No.2 Powerhouse tailrace when the powerhouses are operating simultaneously. YCWA collected samples at the specified locations in accordance with a 5,000 cfs flow trigger on March 16, 2012. Due to a shipping error the samples were delayed and were not preserved within the required holding time. YCWA resampled the sites on March 19, 2012.

In accordance with the State Water Boards Statewide Mercury Program, the State Water Board supports continued mercury related investigations to determine the impact of Project related activities in the Yuba River system. 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. Details of the Statewide Mercury Program can be found at: http://www.waterboards.ca.gov/water_issues/programs/mercury/

5) Incomplete Interim Technical Memorandum:

Several of the Interim Technical Memorandums are not complete. Consequently it is not possible for the State Water Board to fully review and analysis them. These reports include: 1) *Channel Morphology Upstream of Englebright Reservoir 1.1*, 2) *Water Quality 2.3*, 3) *Water Temperature Model 2.6*, 4) *Special-Status Amphibians- Foothill*

JAN 25 2013

Yellow-Legged Frog Habitat Model 3.5, 5) Instream Flow Upstream of Englebright 3.10, 6) Stream Fish Populations Upstream of Englebright Reservoir 3.8, 7) Entrainment 3.11, 8) Riparian Habitat Upstream of Englebright Reservoir 6.1, 9) Riparian Habitat Below Englebright 6.2, 10) Recreational use and Visitor Surveys 8.1, and 11) Recreational Flows 8.2.

6) Water Balance Operations Modeling:

Please note that the FERC relicensing for the Yuba-Bear and Drum Spaulding Projects (FERC Nos. 2266 and 2310) will soon be complete. New minimum instream flows contained therein will affect the Yuba River Development Project. The State Water Board requests that the new Yuba-Bear and Drum Spaulding Project flow regimes be included in subsequent versions of the Water balance/operations model (Study 2.2) for this Project, as applicable.

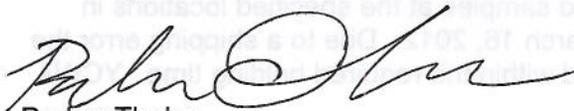
7) Riparian Habitat:

The State Water Board supports the comments and requests made by the Forest Service regarding the *Interim Technical Memorandum 6.1 Riparian Habitat Upstream of Englebright Reservoir*, specifically the comments made regarding the rationale for germination/hydrology modeling, and requested edits/corrections to the Interim Technical Memorandum.

If you have any questions, please contact me at 916-341-5321 or through email at parker.thaler@waterboards.ca.gov. Written correspondence should be addressed as follows:

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Sincerely,



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