



February 7, 2014

Filed via Electronically Submittal (E-File)

Mr. Kimberly D. Bose, Secretary
888 First Street, N.E.
Washington, D.C. 20426

RE: Request for Temporary Urgency Changes to Yuba County Water Agency's Federal Power Act License for Yuba River Development Project (FERC Project No. 2246)

Dear Ms. Bose:

The Yuba County Water Agency (YCWA) filed a request for flow requirement reductions in a letter to you dated February 4, 2014. In that request, YCWA stated it would provide documentation of support from the fishery agencies and environmental organizations. The documents supporting this request from the California Department of Fish and Wildlife, National Marine Fisheries Service, the United States Fish and Wildlife Service, and all four environmental organizations are attached.

Please contact me at 530.741.5015 if there are any questions or additional information is needed.

Sincerely,

A handwritten signature in blue ink that reads "Curt Aikens".

Curt Aikens
General Manager

Enclosure:

cc: Tina Bartlett, Ca Fish and Wildlife
Dan Welsh, USFWS
Maria Rea/Gary Sprague, NMFS
Caleb Dardick/Gary Reedy, SYRCL
Ron Stork, FOR
Gary Bobker, TBI
Rene Henery, TU

From: Drongesen, Jeff@Wildlife [<mailto:Jeff.Drongesen@wildlife.ca.gov>]

Sent: Tuesday, February 04, 2014 4:42 PM

To: Aikens, Curt@YCWA

Cc: Willy, Alison; elizabeth_campbell@fws.gov; Daniel_Welsh@fws.gov; Lynch, MaryLisa@Wildlife; Lawson, Beth@Wildlife; Hoobler, Sean@Wildlife; McReynolds, Tracy@Wildlife; Healey, Mike@Wildlife; Tom Johnson; Paul Bratovich; Alan Lilly; jim.lynch@hdrinc.com; reg2@pge.com; Steve Grinnell; Bartlett, Tina@Wildlife

Subject: FW: Yuba Drought Flow Requirement Reduction Request

Dear Mr. Aikens:

This is in response to your January 30, 2014 e-mail request that the Department support your Request for Temporary Urgency Changes to Yuba County Water Agency's Federal Power Act License for Yuba River Development Project (FERC Project No. 2246), support your Request for a Temporary Urgency Change Petition to the SWRCB for YCWA's water right Permits 15026, 15027 and 15030, and sign a Temporary Amendment to Lower Yuba River Fisheries Agreement.

YCWA proposes to reduce lower Yuba River flows to 500 cfs, as measured at the Smartsville Gage—following approval by FERC, SWRCB, signatories to the Lower Yuba River Fisheries Agreement, National Marine Fisheries Service, and USFWS—and maintain the flows at 500 cfs until April 30, 2014. On and after May 15, 2014, the California Department of Water Resources Bulletin 120 (Water Conditions in California) will be used to determine the North Yuba Index and the appropriate minimum flow schedules for the lower Yuba River; Instream flow at Marysville Gage for February 1 through March 31, 2014 will be 350 cfs. The Department understands that the RMT will be meeting regularly until May 15th to discuss the status of the drought situation as conditions may change, to provide guidance on future adjustments to flow, and the need for monitoring going forward.

The Department agrees with the proposed license amendment, and associated temporary urgency changes, but recommends that the flow reductions occur incrementally over a period of several days. Gradual flow reductions are thought to be protective of juvenile salmonids, because they minimize stranding of fish that are mobile in the water column. It is our understanding from participating in the RMT discussions that the flow reductions down to 500 cfs will occur at a rate of approximately 1.3 inches (3.3 cm) per day.

Chinook salmon fry stranding is likely to occur when the flows are reduced to 500 cfs. If steelhead trout spawning has begun before the flow reduction goes into effect, redd dewatering may occur. YCWA has modeling data that can be used to identify the areas where redd dewatering and fry stranding is most likely to occur for both species. As was discussed at the RMT, the Department recommends that monitoring of redd dewatering and fry stranding is conducted in conjunction with the upcoming flow reductions in 2014. Additionally, the Department suggests additional monitoring include juvenile snorkel surveys, placement of Rotary Screw Trap (RST) to collect salmonid fish condition factor and outmigration timing, steelhead redd survey, and temperature monitoring.

A signed copy of the Temporary Amendment to Lower Yuba River Fisheries Agreement is attached. Please contact MaryLisa Lynch at 916-358-2921 if you have any questions.

From: [Maria Rea - NOAA Federal](#)
To: [Curt Aikens](#)
Cc: [Dan Castleberry](#); [Carl Wilcox](#); [Bartlett, Tina@Wildlife](#); [Les Grober](#); [Howard Brown](#); [Gary Sprague](#)
Subject: Yuba River Flow Modification requests
Date: Monday, February 03, 2014 5:51:42 PM

Dear Curt,

Given the extremely dry conditions, non-existent snow pack, and low amount of storage in New Bullards Bar Reservoir this year, the National Marine Fisheries Service (NMFS) supports the Yuba County Water Agency (YCWA) request to make temporary modifications to the minimum flows in the lower Yuba River, as identified in the documents provided to Yuba River Management Team on January 27, 2014.

NMFS is supporting the YCWA proposal due to benefits to fish associated with the implementation of the proposal compared to not implementing the proposal. The primary benefits are the smoothing of lower Yuba River flows, and extending the time prior to reaching the New Bullards Bar reservoir minimum pool. By implementing the proposal, flows are not projected to drop from 700 cfs to 250 cfs in early April. The flows are expected to be maintained at 500 cfs downstream of Englebright Dam from implementation of the proposal until early May, when flows downstream of Englebright Dam are expected to increase with the beginning of water deliveries.

Because of the extremely dry water conditions and the sensitive nature of Yuba River fish species listed under the Endangered Species Act (ESA), ESA critical habitat, and essential fish habitat in the lower Yuba River, we request that directly after flow decreases YCWA implement monitoring for redd dewatering and fish stranding. We request this monitoring be coordinated with the Yuba River Management Team, and that NOAA be provided with weekly updates by email. We also request that the decreases in flows occur over 2 to 3 days, to minimize gravel bar stranding.

At this time there is no biological opinion covering lower Yuba River flows and anadromous fish species listed under the Federal Endangered Species Act. Therefore, there is no incidental take coverage for operations affecting flows. At this time, NMFS' is providing technical assistance in this analysis of YCWA's flow modification proposal, and NMFS' support for this proposal should not be construed as the completion of consultation or incidental take coverage under the Endangered Species Act regarding the effects of YCWA project operations on lower Yuba River flows and listed anadromous fish species.

NMFS appreciates working with Yuba County Water Agency, and the work YCWA has put into the flow proposal and the supporting documents. We also appreciate working with the members of Yuba River Management Team, and the information and views they bring to the management of the Yuba River.

Sincerely,
Maria

Maria Rea
Assistant Regional Administrator, California Central Valley Area Office
NOAA Fisheries West Coast Region

650 Capitol Mall, Suite 5-100
Sacramento, CA 95814
[\(916\) 930-3600](tel:(916)930-3600)
Maria.Rea@noaa.gov





United States Department of the Interior



In Reply Refer to

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Suite W-2605
Sacramento, California 95825-1846

Mr. Curt Aikens
General Manager
Yuba County Water Agency
1220 F Street
Marysville, California 95901

FEB 5 2014

Subject: U.S. Fish and Wildlife Service Concurrence with January 31, 2014, Request for Temporary License Deviation of Article 33(d) for Federal Energy Regulatory Commission Project No. P-2246 on the Yuba River, and State Water Resources Control Board Accord Flow Requirements.

Dear Mr. Aikens:

This is in response to your January 30, 2014, e-mail request that the U.S. Fish and Wildlife Service (Service) support reductions in the Federal Energy Regulatory Commission (FERC), State Water Resources Control Board (SWRCB), and Lower Yuba River Fisheries Agreement minimum instream flow requirements for the lower Yuba River. These flows are subject to Article 33(d) of the FERC license for the Yuba River Development Project (FERC No. p-2246) (Project) to Yuba County Water Agency (YCWA). The proposal would allow for a temporary deviation from the flows prescribed under Article 33(d) of the FERC license, until May 15, 2014.

YCWA proposes to reduce lower Yuba River flows to 500 cfs, as measured at the Smartsville Gage—following approval by FERC, SWRCB, signatories to the Lower Yuba River Fisheries Agreement, National Marine Fisheries Service, and USFWS—and maintain the flows at 500 cfs until April 30, 2014. On and after May 15, 2014, the California Department of Water Resources Bulletin 120 (Water Conditions in California) will be used to determine the North Yuba Index and the appropriate SWRCB minimum flow schedules for the lower Yuba River. YCWA has requested that the SWRCB temporarily reduce the conference-year flow requirement to 500 cfs for February 1 through March 31, 2014, and increase the required minimum instream flow at the Smartsville Gage for April 1 to April 30, 2014, from no requirement to 500 cfs and increase the required minimum instream flow at Marysville Gage for February 1 through March 31, 2014 from 245 cfs to 350 cfs.

The FERC license conditions for the Project require instream flows of 600 cfs until March 31, as measured at the Smartsville Gage, at which time the flow requirement of 245 cfs at the Marysville Gage goes into effect. The proposed action is likely to benefit steelhead trout spawning in 2014, because a decrease in flow on March 31 will not occur under the proposed action. The USFWS agrees with the proposed flow deviations, but recommends that the flow reductions occur incrementally over a period of several days. Gradual flow reductions are

thought to be protective of juvenile salmonids, because they minimize stranding of fish that are mobile in the water column.

Chinook salmon fry stranding is likely to occur when the flows are reduced to 500 cfs. If steelhead trout spawning has begun before the flow reduction goes into effect, redd dewatering is likely to occur. YCWA has modeling data that can be used to identify the areas where redd dewatering and fry stranding is most likely to occur for both species. The USFWS requests that monitoring of redd dewatering and fry stranding is conducted in conjunction with the upcoming flow reductions in 2014. YCWA has agreed to the monitoring and will use the River Management Team comprised of the fishery agencies, environmental organizations, and YCWA to develop and implement the monitoring protocols.

Given the drought and the available information, the USFWS believes that the requested flow deviations are a reasonable way to address the biological impacts created by the dry conditions.

If you have any questions regarding this response, please contact me, or Alison Willy of my staff, at (916) 414-6600.

Sincerely,



Daniel Welsh
Assistant Field Supervisor

cc:

Parker Thaler, SWRCB, Sacramento
MaryLisa Lynch, CDFW, Rancho Cordova
Gary Sprague, NMFS, Sacramento
Beth Campbell, USFWS, Stockton

Temporary Amendment to Lower Yuba River Fisheries Agreement

This Temporary Amendment (“Temporary Amendment”) to the Lower Yuba River Fisheries Agreement is entered into effective January 31, 2014 by and between the Yuba County Water Agency, the California Department of Fish and Wildlife (formerly known as the “California Department of Fish and Game”), and the following non-governmental organizations: South Yuba River Citizens League, Friends of the River, Trout Unlimited and The Bay Institute.

Recitals

A. In November 2007, the Parties executed the Lower Yuba River Fisheries Agreement (the “Fisheries Agreement”). The Fisheries Agreement became effective when the conditions precedent described in part 4 of the agreement were met, and the Fisheries Agreement has been in effect since then. (Except as otherwise specified, the definitions in this Temporary Amendment are the definitions in section 2 of the Fisheries Agreement.)

B. Except as otherwise provided in the Fisheries Agreement, Section 5.1.1 of the agreement requires YCWA to comply with the minimum instream flow schedules in Exhibit 1 to the agreement during all times when the agreement is in effect. The specific flow schedule that YCWA must implement at any particular time is determined by the value of the North Yuba Index, which is defined in Exhibit 4 to the Fisheries Agreement, according to the rules in Exhibit 2 to the agreement. Exhibit 4 provides that the value of the North Yuba Index that will be in effect at any time is calculated using the active New Bullards Bar Reservoir storage on the previous September 30 plus actual inflow into the reservoir since September 30 plus the forecasted reservoir inflow for the remainder of the water year, using the 50% unimpaired flow exceedance forecasts in the most-recent DWR Resources Bulletin 120, which DWR issues in February, March, April and May (and sometimes June) of each year.

C. The Fisheries Agreement defines Conference Years as years for which the North Yuba Index is less than 500 thousand acre-feet (“TAF”). Section 5.1.5 of the Fisheries Agreement specifies the operations requirements for the Yuba Project that YCWA must follow during Conference Years.

D. Section 5.4.3 of the Fisheries Agreement provides that YCWA will comply with the flow ramping requirements that are specified in YCWA’s existing FERC license for the Yuba Project, which include the flow ramping requirements at page 11 of FERC’s November 22, 2005 order modifying and amending that license.

E. Hydrological conditions in the Yuba River watershed during calendar year 2013 were the driest on record, and these critically dry conditions have continued through January 2014. These hydrological conditions are described in the technical report by Stephen Grinnell, P.E., “Yuba River Development Project 2014 Drought Planning.” A copy of this report is attached to this Temporary Amendment as Appendix A.

F. As discussed in Appendix A, YCWA is forecasting that, the North Yuba Index that will be calculated using DWR's May 2014 Bulletin 120 forecasts will be less than 500 TAF, so, when that that Bulletin 120 is published, 2014 will be a Conference Year. However, for the reasons described in Appendix A, and particularly because the North Yuba Index is calculated using the 50% exceedance forecasts in Bulletin 120, the North Yuba Index may not result in a Conference Year designation under the February, March and possibly April editions of Bulletin 120, and a Conference Year therefore may not be designated under Exhibits 2 and 4 of the Agreement until April or May 2014.

G. As a result of these critically dry hydrological conditions and the possible delay in the Conference Year designation for 2014 until April or May, YCWA is asking FERC and the SWRCB to act now to make the temporary changes to YCWA's FERC license and water-right permits that are described in numbered paragraphs 1 through 5 on pages 1-2 of Appendix A. If approved by FERC and the SWRCB, these temporary changes will remain in effect through May 15, 2014. YCWA is asking FERC and the SWRCB to make these temporary changes so that YCWA may operate the Yuba Project in a manner that will conserve water stored in New Bullards Bar Reservoir and produce a protective flow pattern for fish in the Lower Yuba River for the spring that can be achieved with the limited available water supplies.

H. Because YCWA has obligations under the Fisheries Agreement to maintain minimum instream flows that are in addition to YCWA's obligations under its FERC license and water-right permits, YCWA has asked the other Parties to the agreement to agree to the temporary amendments to sections 5.1.1, 5.1.5 and 5.4.3 of the agreement that are specified in lettered paragraphs A and B on page 2 of Appendix A. YCWA also has asked these other Parties to support YCWA's requests to FERC and the SWRCB that are described in recital G.

I. The other Parties to the Fisheries Agreement are willing to agree to the temporary amendments to the agreement that are described in the following sections of this Temporary Amendment, and to support YCWA's requests to FERC and the SWRCB that are described in recital G.

NOW, THEREFORE, in consideration of these recitals and the mutual promises in the Fisheries Agreement and this Temporary Amendment, the Parties agree as follows:

1. Between the effective date of this Temporary Amendment and May 15, 2014, sections 5.1.1, 5.1.5 and 5.4.3 of the Fisheries Agreement are temporarily amended as described in lettered paragraphs A and B on page 2 of Appendix A. These temporary amendments will not change the second paragraph of section 5.1.5, and YCWA will prepare the strategic management plan described in that paragraph, submit this plan to the River Management Team and take all of the other actions required by that paragraph.

3. The Fisheries Agreement will remain in effect and is only temporarily amended as expressly provided in this Temporary Amendment.

4. This Temporary Amendment will expire on May 15, 2014 and have no further force or effect after that date.

5. Each person signing this Temporary Amendment has the authority to execute this Temporary Amendment on behalf of the Party for whom he or she is signing it.

Dated: _____

YUBA COUNTY WATER AGENCY

By _____

Dated: 2/4/14

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

for Tina Bartlett

By: *Jim Ruygen*

Dated: _____

SOUTH YUBA RIVER CITIZENS LEAGUE

By _____

Dated: _____

FRIENDS OF THE RIVER

By _____

Dated: _____

TROUT UNLIMITED

By _____

Dated: _____

THE BAY INSTITUTE

By _____

2. Each Party's execution of this Temporary Amendment demonstrates that Party's support for the temporary amendments to YCWA's FERC license and water-right permits that are described in recital H, and YCWA may file copies of this Temporary Amendment with FERC and the SWRCB as demonstrations of such support.

3. The Fisheries Agreement will remain in effect and is only temporarily amended as expressly provided in this Temporary Amendment.

4. This Temporary Amendment will expire on May 15, 2014 and have no further force or effect after that date.

5. Each person signing this Temporary Amendment has the authority to execute this Temporary Amendment on behalf of the Party for whom he or she is signing it.

Dated: _____

YUBA COUNTY WATER AGENCY

By _____

Dated: _____

CALIFORNIA DEPARTMENT OF FISH
AND WILDLIFE

By: _____

Dated: _____

SOUTH YUBA RIVER CITIZENS
LEAGUE

By _____

Dated: _____

FRIENDS OF THE RIVER

By _____

Dated: 02/07/2014 _____

TROUT UNLIMITED



By Rene Henery _____

2. Each Party's execution of this Temporary Amendment demonstrates that Party's support for the temporary amendments to YCWA's FERC license and water-right permits that are described in recital H, and YCWA may file copies of this Temporary Amendment with FERC and the SWRCB as demonstrations of such support.

3. The Fisheries Agreement will remain in effect and is only temporarily amended as expressly provided in this Temporary Amendment.

4. This Temporary Amendment will expire on May 15, 2014 and have no further force or effect after that date.

5. Each person signing this Temporary Amendment has the authority to execute this Temporary Amendment on behalf of the Party for whom he or she is signing it.

Dated: _____

YUBA COUNTY WATER AGENCY

By _____

Dated: _____

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

By: _____

Dated: _____

SOUTH YUBA RIVER CITIZENS LEAGUE

By Ronald Storch

Dated: February 5, 2014

FRIENDS OF THE RIVER

By _____

Dated: _____

TROUT UNLIMITED

By _____

2. Each Party's execution of this Temporary Amendment demonstrates that Party's support for the temporary amendments to YCWA's FERC license and water-right permits that are described in recital H, and YCWA may file copies of this Temporary Amendment with FERC and the SWRCB as demonstrations of such support.

3. The Fisheries Agreement will remain in effect and is only temporarily amended as expressly provided in this Temporary Amendment.

4. This Temporary Amendment will expire on May 15, 2014 and have no further force or effect after that date.

5. Each person signing this Temporary Amendment has the authority to execute this Temporary Amendment on behalf of the Party for whom he or she is signing it.

Dated: _____

YUBA COUNTY WATER AGENCY

By _____

Dated: _____

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

By: Colin Dard

Dated: _____

SOUTH YUBA RIVER CITIZENS LEAGUE

By _____

Dated: _____

FRIENDS OF THE RIVER

By _____

Dated: _____

TROUT UNLIMITED

By _____

Dated: _____ February 4, 2014

THE BAY INSTITUTE

A handwritten signature in black ink, appearing to read 'Cory Plummer', written in a cursive style.

By _____
