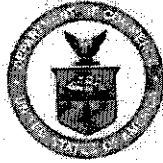


4/19/11 Bd Mtg. Item 8
Merced Irrigation District
Deadline: 4/13/11 by 12 noon



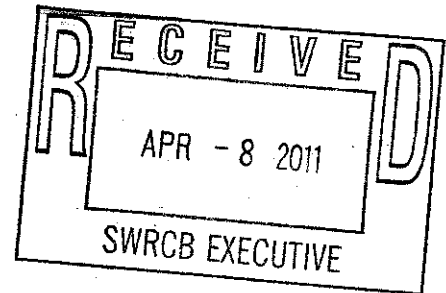
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
SOUTHWEST REGION
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404-4731

April 8, 2011

In response, refer to:
FERC P-2179

Jeanine Townsend, Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

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



Re: National Oceanic and Atmospheric Administration's National Marine Fisheries Service's Support for State Water Resources Control Board's Draft Order WR 2011-00XX regarding the State Water Resources Control Board's Investigation Order WR 2011-003-EXEC and Merced Irrigation District's Petition in relation to the Merced River Hydroelectric Project, Federal Energy Regulatory Commission Project No. P-2179, on Merced River, California

Dear Clerk of the Board and Secretary Bose:

The National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration supports State Water Resources Control Board's Draft Order WR 2011-00XX, issued April 6, 2011, regarding the State Water Resources Control Board's Investigation Order WR 2011-003-EXEC and denying Merced Irrigation District's (MID) Petition for Stay. The SWRCB's Investigation Order WR 2011-003-EXEC, issued January 28, 2011, ordered studies to be done by MID (Applicant) for the Merced River Hydroelectric Project, Federal Energy Regulatory Commission (FERC or Commission) Project No. P-2179 (Project), on Merced River, California.

NMFS also supports the proposed Technical Workshop, but we believe that the legal issues should be resolved first in a Board Hearing. In addition, NMFS would like to request a time extension for additional comments on both SWRCB Orders and the Technical Workshop or Board Hearing through April 19, 2011.

NMFS, U.S. Fish and Wildlife Service, and California Department of Fish and Game (CDFG) were among many Federal, State, and conservation groups (CG) that recently filed comments, proposed studies, and information requests for the Project regarding the Applicant's Initial Study Report for the Project, pursuant to the Federal Power Act (FPA) (NMFS 2011).



NMFS' information requests were very similar to those requests made by the CDFG, CGs, and State Water Board in its Order WR 2011-003-EXEC. Order WR 2011-003-EXEC and Draft Order WR 2011-00XX provide additional emphasis as to the importance of gathering adequate information during the FPA licensing process that could be utilized by all relevant Federal and State agencies. NMFS agrees with the logic expressed in the letters of support for Order WR 2011-003-EXEC submitted by CDFG and CG regarding the need for study information regarding the Project's effects on all resources in the Merced River, including anadromous fish resources (CDFG 2011; CG 2011).

NMFS will utilize appropriate study information to further our Resource Goals and Objectives for the Merced River (NMFS 2009) that may be affected by the Project. NMFS will also utilize appropriate study information in making decisions and recommendations and conducting consultations under applicable authorities during the course of these FPA proceedings, including:

- NMFS' decisions under FPA Section 18 authority to prescribe fishways (16 U.S.C. §811);
- NMFS' recommendations under FPA Sections 10(a) and 10(j) for conditions for the protection, mitigation, and enhancement of anadromous fish, including their spawning grounds and habitat (16 U.S.C. §803);
- NMFS' recommendations pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*);
- The Commission's Essential Fish Habitat Consultation with NMFS, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §1801 *et seq.*); and
- The Commission's Endangered Species Act Section 7 Consultation with NMFS, pursuant to 16 U.S.C. §§ 1531 *et seq.*

If you have questions regarding our support for the SWRCB's Order WR 2011-003-EXEC and Draft Order WR 2011-00XX, please contact William E. Foster (916-930-3617) of my staff.

Sincerely,

Steven A. Edmondson
Southwest Regional Habitat Manager
Habitat Conservation Division

Enclosures

- (A) References
- (B) Certificate of Service

cc: Richard Wantuck, NMFS, Santa Rosa, CA
Howard Brown, NMFS, Sacramento, CA
U.S. Fish and Wildlife Service (electronically delivered)
California Department of Fish and Game (electronically delivered)
State Water Resources Control Board, Jennifer Watts (electronically delivered)
FERC Service List P-2179

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Merced Irrigation District)
Merced River Hydroelectric Project)

Project No. P-2179

References

California Department of Fish and Game (CDFG). 2011. Letter from Jeffery R. Single, CDFG, to Dr. Jennifer Watts, SWRCB, RE: "Comments on Petition for Reconsideration of Investigation Order for the Merced Irrigation District Merced River Hydroelectric Project, Federal Energy Regulatory Commission (Commission) Project No. 2179." CDFG, Sacramento, CA. March 23, 2011.

Conservation Groups (CG). 2011. Letter from Merced River Conservation Committee, Trout Unlimited, California Sportfishing Protection Alliance, Friends of the River, Golden West Women Flyfishers, Northern California Council of Federation of Fly Fishers, and American Rivers (collectively, CG) to Dr. Jenifer Watts, State Water Board, re: "Petition for Reconsideration of Investigation Order Water Rights (WRO) 2011-003-EXEC for the Merced Irrigation District, Merced River Hydroelectric Project, Federal Energy Regulatory Commission, Project No. 2179." March 24, 2011.

National Marine Fisheries Service (NMFS). 2009. Letter from Mr. Richard L. Wantuck, NMFS, to Kimberly D. Bose, FERC, Re: "The U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service's Updated Resource Management Goals and Objectives for the Merced River (P-2179) and Merced Falls (P-2467) Hydroelectric Projects, Merced River (P-2179) and Merced Falls (P-2467) Hydroelectric Projects, Merced River, California." NMFS, Southwest Region, Santa Rosa, California. November 13, 2009. Available at: www.ferc.gov.

National Marine Fisheries Service (NMFS). 2011. Letter from Mr. Richard L. Wantuck, NMFS, to Kimberly D. Bose, FERC, Re: "Request for Additional Information and Studies based on Material Changes in Applicable Law, Regulations, and Implementation, New Significant Information, and the Initial Study Report for the Merced River Hydroelectric Project, Federal Energy Regulatory Commission Project No. P-2179, Merced River, California." NMFS, Southwest Region, Santa Rosa, California. January 28, 2011 Available at: www.ferc.gov.

State Water Resources Control Board (SWRCB). 2011. Letter and Investigation Order WR 2011-003-EXEC from Dr. J. Watts, SWRCB, to Secretary Bose, FERC, and Merced Irrigation District, Re: "Requests for Second Year Studies for the Merced River Hydroelectric Project, Federal Energy Regulatory Commission Project No. 2179." January 28, 2011, SWRCB, CA.

Enclosure B

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Merced Irrigation District)
Merced River Hydroelectric Project)
_____)

Project No. P-2179

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, by first class mail or electronic mail, a letter to Secretary Bose, Federal Energy Regulatory Commission, with NOAA's National Marine Fisheries Service's Support for the SWRCB's Order WR 2011-003-EXEC and Draft Order WR 2011-00XX as applicable to the P-2179 proceedings of the Merced River Hydroelectric Project; and this Certificate of Service upon each person designated on the official Service List compiled by the Commission in the above-captioned proceeding.

Dated this 8th day of April 2011



William E. Foster
National Marine Fisheries Service