



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

March 24, 2011

In response, refer to:  
FERC P-2179

Dr. Jennifer Watts  
State Water Resources Control Board  
1001 I Street  
P.O. Box 2000  
Sacramento, CA 95812-2000

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 Investigation Order WR 2011-003-EXEC, Regarding Studies to be done by Merced Irrigation District for Merced River Hydroelectric Project, Federal Energy Regulatory Commission Project No. P-2179, on Merced River, California

Dear Dr. Watts and Secretary Bose:

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

NMFS, U.S. Fish and Wildlife Service, and California Department of Fish and Game were among many Federal, State, and non-government organizations that recently filed comments and 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)<sup>1</sup>.

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<sup>1</sup> 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](http://www.ferc.gov).



NMFS' information requests were very similar to those requests made by the State Water Board in their Order and the Order provides additional legal emphasis as to the importance of gathering adequate information during the FPA process. NMFS will utilize such information to further our Resource Goals and Objectives for the Merced River (NMFS 2009)<sup>2</sup> that may be affected by the Project. NMFS will also utilize study information to inform the various decisions we will make during the course of these FPA proceedings:

- Information to inform how we may exercise our FPA Section 18 authority, to either reserve our fish passage prescriptive authority or to stipulate fish passage prescriptions;
- Information to inform the contents of our proposed FPA Section 10(j) and 10(a) protection, mitigation, and enhancement measures;
- Information to inform what we recommend as Essential Fish Habitat designations, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §1801 *et seq.*); and
- Information to inform adequate Section 7 consultations on listed species and so that we may recommend Critical Habitat, pursuant to the ESA.

If you have questions regarding our support for the State Water Board's Order, please contact William E. Foster (916-930-3617) of my staff.

Sincerely,



Richard L. Wantuck  
Hydropower Program Supervisor  
Habitat Conservation Division

#### Enclosures

cc: Steve Edmondson, 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)  
FERC Service List P-2179

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<sup>2</sup> NMFS. 2009f. 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, California." NMFS, Southwest Region, Santa Rosa, California. November 13, 2009. Available at: [www.ferc.gov](http://www.ferc.gov).

**CERTIFICATE OF SERVICE**

**UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION**

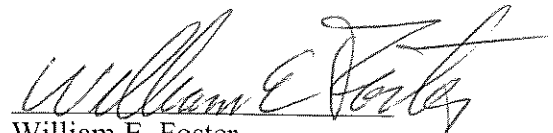
**Merced Irrigation District                    )**  
**Merced River Hydroelectric Project        )**  

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**Project No. P-2179**

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 State Water Board's Order 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 24th day of March 2011

  
William E. Foster  
National Marine Fisheries Service