

**State of California**  
**Before the State Water Resources Control Board**  
**Oroville Facility of the State Water Project**

**Oroville Project FERC Project 2100 (aka Feather River Project FERC 2100)**

**California Department of Water Resources, Licensee**

**Oroville Dam and all Oroville Facilities**

**Feather River Watershed Above and Below Oroville Dam**

**North Fork Feather River, Middle Fork Feather River, South Fork Feather River; West Branch Feather River and all Tributaries flowing into Oroville Reservoir and the Main Stem Feather River Flowing out of Oroville Dam**

**Follow Up Comments by the California Fisheries and Water Unlimited**

**This are follow up comments by the California Fisheries and Water Unlimited regarding the draft Water Quality Certification for the Oroville Project 2100. On January 31, 2010 the California Fisheries and Water Unlimited submitted its initial comments to the State Water Board and its staff.**

**These follow up comments are directed to Mr. Russ Kanz and Mr. Tristan Leong of the water quality certification staff. According to my records both staff people were involved with the development of water quality certification for the Oroville Project.**

**Please answer the following questions and respond to the following recommendations:**

**Feather River Tributaries Flowing Into Oroville Reservoir**

**Oroville Reservoir inundated numerous streams that flow into Oroville Reservoir that sustain native resident rainbow trout and their habitat. Surface water temperatures in the reservoir can affect cold-water species and their habitat of resident native rainbow trout in the lower reaches of these stream environments that have been inundated by reservoir water levels. The Feather River Salmon and Steelhead Fish Hatchery did not mitigate for the losses of resident native rainbow trout species and their habitat in tributaries flowing into Oroville Reservoir. The protection of native rainbow trout species is the beneficial use of the state's water. See basin plan.**

**Were water temperature studies conducted to determine the effects to water quality in the lower reaches of the stream environments to determine the effects to resident native rainbow trout species and their pre-project habitat?**

**Were resident native rainbow trout populations inventoried to determine native rainbow trout populations in the lower reaches of streams that were inundated by water levels by the management of Oroville Reservoir and affected by water quality conditions?**

**Did the water quality certification mitigate for the effects to water quality in the lower stream environments and also the effects to native resident rainbow trout species resulting from elevated water levels? Please provide me with the mitigate measures that have been or will be included in the water quality certification.**

**Recommendation by the California Fisheries and Water Unlimited: I am requesting a Water Quality Resident Native Rainbow Trout Management Plan that mitigates for the effected by water levels by Oroville Reservoir for each of the following rivers and streams: West Brunch Feather River; Middle Fork Feather River; North Fork Feather River; Berry Creek; Frazier Creek; Canyon Creek; East Fork Canyon Creek; Bean Creek; Nutmeg Creek' Kanaka Creek; Powell Creek Woodman Ravine; McCabe Creek; Rich Gulf; Grizzle Creek; and other stream not mentioned that have been affected by water levels at Oroville Reservoir.**

#### **Oroville Facility of the State Water Project**

**When the Division of Water Rights evaluated water projects, the use of the people's water was evaluated from the point of storage to the point of diversion and points of use.**

**Did the water quality certification disclose, evaluate, and mitigate for the losses to fish species at the State Pumps resulting from the people's water being stored at Oroville Reservoir and thence diverted at the State Pumps in the Bay Delta Estuary?**

**Did the water quality certification disclose, evaluate, and mitigate the effects to water quality in the Bay Delta Estuary resulting from the people's water being stored and diverted from Oroville Reservoir and diverted at the State Pumps in the Bay Delta Estuary?**

**Did the water quality certification disclose, evaluate, and mitigate the cumulative effects to water quality in the Bay Delta Estuary resulting from the people's water being diverted at the Federal Pumps from project and non-project water?**

**There have been million of million of fish species losses at the State Pumps. The fish species at the State Pumps that are being lost are juvenile salmon, steelhead, and**

**striped bass species. Some of these species races of salmon are protected by the federal and state ESA. See attachment.**

**The Chief of the Division of Water Rights has ignored those “unreasonable” fish losses at the State Pumps when approving temporary water transfer petitions and violated state law.**

**Forward to me the water quality analysis concerning the losses of juvenile salmon, steelhead, and striped bass fish losses at the State Pumps and the effects to water quality in the Bay Delta Estuary resulting from water being stored at Oroville Reservoir and rediverted at the State Pumps.**

**Recommendation by the California Fisheries and Water Unlimited: I am requesting that all water transfers using the State Pumps is denied by the Board and it staff until the State Water Board develops and implement measures that will reduce the losses of juvenile salmon, steelhead, and striped bass species at the State Pumps.**

#### **Oroville Reservoir - Sediment**

**The mandated maximum water levels at Oroville Reservoir that were ordered by the COE, as amended, do not protect private and public properties in the downstream reaches of the Feather River and Sacramento River below Oroville Dam from flooding and the effects from sediment being discharges from Oroville Reservoir during spilling events and also soils disturbed from the high flooding flows. Reduced water levels at Oroville Reservoir most likely would reduce flooding below Oroville Dam. The protection of damages and harm caused to private and public properties resulting from flood flow releases from Oroville Dam is the beneficial use of the state’s water.**

**Forward the water quality analysis that was prepare for water quality certification for flooding events from Oroville Dam to the downstream reaches of the Feather River and Sacramento River. This analysis should include the effects to private and public properties and the mitigate measures to prevent damage and losses to private and public lands.**

**Recommendation by the California Fisheries and Water Unlimited: The Board must require DWR to prepare a Flood Control Management Plan for flood spilling flows from Oroville Dam that protects the beneficial use of the state’s water and protect private and public lands from damage caused by flooding and releases of water from Oroville Reservoir.**

#### **Fish Screen – Hyatt Powerhouse**

**The Hyatt Powerhouse power conduit at the face of Oroville Dam is not screened to prevent the entrainment and harm to fish species that are diverted from Oroville Reservoir into the Diversion Pool below the dam. The mixing of Coho salmon that**

are planted at Oroville Reservoir resulting from the unscreened power conduit can interbreed with endangered salmon in the Feather River below Oroville Dam and have serious effects on endangered salmon. The Coho salmon that are planted in Oroville Reservoir could also escape to the Pacific Ocean and interbreed with native endangered Coho salmon. The Coho salmon planted in Oroville Reservoir are not endangered because of breeding. Communications with Steve Edmondson, US NOAA Fisheries.

In addition, there may be northern pike species in the waters of Oroville Reservoir that were diverted from Lake Davis and this fish species could invade the Sacramento and Feather River watersheds and the Bay Delta Estuary. A request to screen the Hyatt Powerhouse to prevent the invasion of northern pike was ignored by the CDWR and the CDFG. Further, black bass populations that are diverted through the unscreened Hyatt Powerhouse conduit could also cause predation on endangered salmon and threatened steelhead species below Oroville Dam and the Fish Barrier Dam. The protection of endangered spring-run salmon and threatened steelhead is the beneficial use of the state's water.

Clearly the Hyatt Powerhouse should be screened to protect Feather River spring-run salmon species and threatened steelhead species in conjunction with water temperatures requirements to maintain these anadromous species and also protect the beneficial uses of the state's water below Oroville Dam.

Forward to me the fish screen analysis that was prepared for the water quality certification for Oroville Dam and Reservoir.

**Recommendation by the California Fisheries and Water Unlimited:** I am requesting the Hyatt Powerhouse conduit is screened to protect the endangered and threatened anadromous fisheries below the dam.

### **Habitat Expansion Plan**

The DWR, SWRCB and other parties agreed to the Sacramento River Watershed Habitat Expansion Plan (HEA) that limits mitigation measures for endangered salmon and threatened steelhead at the Oroville Project. The HEA also prevents mitigation for endangered salmon and threatened steelhead above Oroville Dam and also does not provide any water quality protection measures for the Oroville Project and other dams in the Sacramento River watershed. The protection of endangered salmon and threatened steelhead species is the beneficial use of the state's water. The HEA violates the beneficial uses of the state's water basin plan. CEQA and NEPA documents were not prepared for the HEA nor did the Board order a hearing regarding the effects to endangered salmon and threatened steelhead resulting from the HEA.

**Recommendation by the California Fisheries and Water Unlimited: The Board must require the preparation of a NEPA and CEQA document for the HEA with full public participation followed by a hearing before the Board.**

**Post the comments of December 31, 2010 and these comments of February 1, 2010 by the California Fisheries and Water Unlimited on the SWRCB Website.**

**I am requesting specific answers to questions and recommendations from Mr. Russ Kanz and Mr. Tristan Leong regarding the comments by the California Fisheries and Water Unlimited on December 31, 2010 and February 1, 2010.**

**Respectfully**

**Signed by Robert J. Baiocchi**

**Robert J. Baiocchi, President  
California Fisheries and Water Unlimited  
California Non-Profit Corporation**

**Dated: February 1, 2010**

**Cc: Ms. Dorothy Rice, Executive Director  
State Water Resource Control Board**

**Mr. Charles Hoppin, Chairman  
State Water Resources Control Board**

**Ms. Victoria Whitney, Chief  
Division of Water Rights**

**Mr. Russ Kanz  
Division of Water Rights**

**Interested Parties (bcc)**