



January 24, 2011

Mr. Rodney McInnis
Regional Administrator, Southwest Region
United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
501 West Ocean Boulevard, Suite 4200
Long Beach, CA 90802-4213

SUBJECT: Yuba River Development Project
FERC Project No. 2246
Request for Coordination Meeting
Regarding Informal Consultation under Section 7 of the ESA

Dear Mr. McInnis:

This letter requests a coordination meeting between Yuba County Water Agency (YCWA) and the United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS) regarding the Federal Energy Regulatory Commission's (FERC) potential issuance of a new license (Major Project-Existing Dam) to YCWA for the Yuba River Development Project, FERC Project No. 2246 (Project).¹ Issuance of a new license constitutes the "Action" referred to in this letter. Background information regarding the Action is summarized below.

YCWA is the owner and operator of and holds the current license for the Project, which has been in place and operating for over 45 years.

The purpose of the requested meeting is to identify the expectations of NMFS, FERC and YCWA and coordinate the information needed for the relicensing and Endangered Species Act (ESA) consultation process as it pertains to ESA-listed species under NMFS's jurisdiction. YCWA intends to invite FERC staff to participate, either in person or by telephone, in the meeting.

A YCWA representative will contact you in the next few weeks to schedule the meeting.

¹ YCWA intends to meet separately with USFWS to discuss coordination of Section 7 informal consultation with USFWS regarding ESA-listed species under USFWS's jurisdiction.

THE ACTION

On November 5, 2010, the Yuba County Water Agency (YCWA) filed with FERC a Notice of Intent (NOI) to file an application for a new license for the Project. Simultaneously with the filing of the NOI, under separate cover YCWA filed with FERC a supporting Pre-Application Document (PAD).²

In both its NOI and PAD, YCWA stated that it intended to use FERC's Integrated Licensing Process (18 CFR, Part 5) to prepare its license application.

On the day YCWA filed its NOI and PAD with FERC, YCWA advised NMFS via e-mail of the NOI and PAD filings and the availability of the documents on FERC's ELibrary and on YCWA's Relicensing Website (www.ycwa.relicensing.com).

On January 4, 2011, FERC issued a Notice of Commencement of Proceeding in response to YCWA's NOI and PAD filings. Among other things, FERC's notice stated that FERC was initiating informal consultation with NMFS under section 7 of the ESA and the joint agency regulations thereunder at 50 CFR, Part 402, and FERC designated YCWA as FERC's non-federal representative for carrying out informal consultation, pursuant to Section 7 of the ESA.

YCWA intends to file an application for a new license no later than 2 years prior to April 30, 2016, the date the current FERC license expires.

PROJECT SUMMARY

Refer to YCWA's PAD, especially Section 6.0, for a detail description of Project facilities and operations, including location maps and Project drawings. A brief summary of the Project is provided below.

The Project is located in Yuba, Sierra, and Nevada counties, California, on the main stems of the Yuba River, the North Yuba River, and the Middle Yuba River, and on Oregon Creek, a tributary to the Middle Yuba River. A portion of the Project is located on public land managed by the United States Department of Agriculture, Forest Service as part of the Plumas and Tahoe national forests. Project facilities include:

- 1 dam and associated storage reservoir - New Bullards Bar
- 2 diversion dams - Our House and Log Cabin
- 2 diversion tunnels - Lohman Ridge and Camptonville
- 2 underground power tunnels - New Colgate and Narrows 2
- 1 above ground penstock - New Colgate

² YCWA's PAD meets the intent and content requirements of an initial consultation package (ICP), also known as a first stage consultation document (FSCD) under 18 CFR § 4.38(b)(1) or § 16.8(b)(1), respectively.

- 3 powerhouses - New Colgate, New Bullards Minimum Flow, and Narrows 2
- 7 recreation areas - Emerald Cove Marina, Hornswoggle Group Camp, Schoolhouse Family Camp, Dark Day Campground, Dark Day Boat Ramp, Garden Point Campground, and Madrone Cove Campground – all located on the shoreline of New Bullards Bar Reservoir

YCWA operates New Bullards Bar Reservoir by capturing winter and spring runoff from rain and snowmelt. Consequently, New Bullards Bar Reservoir normally reaches its annual peak storage at the end of the spring runoff season, and then is gradually drawn down until its lowest elevation is reached in mid-winter of the following year. The reservoir does not undergo substantial daily changes in elevation. New Bullards Bar Reservoir has mandatory flood pool criteria established by the United States Army Corps of Engineers (USACE) from October through April; these criteria can affect storage. Our House and Log Cabin diversion dam impoundments do not store water and YCWA operates them to divert water to New Bullards Bar Reservoir in spring during high flow periods. YCWA operates New Colgate Powerhouse for peaking/ancillary services, and operates New Bullards Minimum Flow and Narrows 2 powerhouses as base-load facilities.

The Project passes flow through the federally-owned Englebright Reservoir, which is located on the Yuba River near the City of Marysville and managed by the USACE. Englebright Dam and Reservoir are not part of the Project, nor are they under FERC's jurisdiction. None of the Yuba River Development Project facilities are integral parts of Englebright Dam: the Project's Narrows 2 Power Conduit and Narrows 2 Powerhouse, the lowermost Project facilities, are not connected or attached to Englebright Dam in any way, nor do they intersect the dam in any way (e.g., the powerhouse power tunnel and penstock does not pass through the dam). The Narrows 2 Power Conduit Intake is located in Englebright Reservoir about 300 feet upstream of the north abutment of the dam.

A uniquely important set of agreements regarding Project operations is the Lower Yuba River Accord (Yuba Accord). In 2005, YCWA and 16 other interested parties signed memoranda of understanding that specified the terms of the Yuba Accord. The Yuba Accord is a comprehensive, consensus-based program to protect and enhance aquatic habitat in the Yuba River downstream of Englebright Dam. Following environmental review, YCWA executed four agreements in 2007, which together comprise the Yuba Accord. The four agreements are: 1) the Lower Yuba River Fisheries Agreement, which specifies the Yuba Accord's Lower Yuba River minimum streamflows and creates a detailed fisheries monitoring and evaluation program; 2) the Water Purchase Agreement, under which the California Department of Water Resources (CDWR) purchases water, some of which is provided by the Yuba Accord's minimum streamflows, from YCWA for CALFED's Environmental Water Account (the first long-term acquisition of water that protects Bay/Delta fish and wildlife), and for State Water Project and Central Valley Project contractors; 3) the Conjunctive Use Agreements with seven of YCWA's member units,

which specify the terms of the Yuba Accord's groundwater conjunctive-use program; and 4) amendments to the 1966 Power Purchase Contract between YCWA and PG&E.

The Yuba Accord was developed by a multi-agency resource team, including representatives from NMFS, the United States Department of Interior, Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG), and a group of non-governmental organizations. The Yuba Accord flow schedules were developed to essentially optimize habitat conditions during high flow years for this highly regulated river system. Subsequently additional flow schedules were developed by the resources team for drier conditions which included a "balancing of resources" approach.

Together, this package of agreements commits more water to minimum instream flows and provides greater reliability for both instream and consumptive uses than would be possible without the agreements. YCWA has been operating the Project in conformance with the Yuba Accord since 2006.³ On May 20, 2008, the State Water Resources Control Board (SWRCB) adopted its Corrected Order WR 2008-0014, which approved the long-term amendments to YCWA's water-right permits that were necessary so that YCWA may continue to implement the Yuba Accord.

ESA-LISTED SPECIES UNDER NMFS'S JURISDICTION THAT MAY BE AFFECTED BY THE ACTION

Refer to Section 7.7 of YCWA's PAD for a detail description of ESA-listed species under NMFS's jurisdiction that may be potentially affected by the issuance of new license for the Project. As a summary, these species include:

- Steelhead (*Oncorhynchus mykiss irideus*), California Central Valley Distinct Population Segment (DPS), Critical Habitat⁴
- Chinook salmon (*Oncorhynchus tshawytscha*) spring-run Evolutionarily Significant Unit (ESU), Critical Habitat⁵
- North American green sturgeon (*Acipenser medirostrus*), Southern DPS, Critical Habitat⁶

OTHER RELEVANT INFORMATION

YCWA's PAD includes other information that may be related to Section 7 consultation, such as existing relevant and reasonably available information/scientific studies (see Section

³ The 2006, 2007, and early 2008 operations were under one-year pilot programs that were approved by the SWRCB.

⁴ NMFS (74 FR 52300) designated critical habitat for steelhead in the Yuba River as the area from the confluence with the Feather River upstream to USACE's Englebright Dam.

⁵ NMFS (70 FR 52488) designated critical habitat for Central Valley spring-run Chinook salmon ESU in the Yuba River as the area from the confluence with the Feather River upstream to USACE's Englebright Dam.

⁶ NMFS (74 FR 52300) designated critical habitat for the Southern DPS of North American green sturgeon in the Yuba River as the area from the confluence with the Feather River upstream to USACE's Daguerre Point Dam.

7 of the PAD); known Project effects and issues (Section 8), and YCWA's preliminary identification of information gaps and preliminary proposed studies (Section 10).⁷

We look forward to contacting you regarding scheduling of the Section 7 informal coordination meeting. If you have any questions about this letter or the Project, please contact me.

Sincerely,

YUBA COUNTY WATER AGENCY



Curt Aikens
General Manager

cc: Alan Mitchnick – FERC DC
Steve Edmondson – NMFS Northern California Habitat Supervisor, Santa Rosa, CA
Maria Rea – NMFS Central Valley Area Supervisor, Sacramento, CA
Rob Nielsen – NMFS Section 7 Coordinator, Sacramento, CA

⁷ On April 27, 2009, YCWA via its PAD Information Questionnaire requested from NMFS any existing, relevant and readily available information that NMFS might have in its possession or know of regarding potentially affected resources, known Project effects, issues, or data gathering needs. In addition, since early 2009, YCWA has held meetings, to which NMFS has been invited, to discuss the relicensing, including information gaps a potential data gathering/studies.