



July 8, 2014

Via Electronic Submittal (eFile)

Kimberly D. Bose, Secretary
FEDERAL ENERGY REGULATORY COMMISSION
888 – 1st Street, N.E.
Washington, D.C. 20426-0001

**Subject: Yuba River Development Project
FERC Project No. 2246-065
Response to USFWS' June 9, 2014 Letter**

Dear Secretary Bose:

On June 9, 2014, the United States Department of Interior, Fish and Wildlife Service (USFWS) filed a letter with the Federal Energy Regulatory Commission (FERC) in the above docket. The USFWS letter transmitted a copy of the June 9 letter that USFWS sent to the Lower Yuba River Accord's River Management Team (RMT)¹ with USFWS' comments on the RMT's April 8, 2013 *Aquatic Resources of the Lower Yuba River Past, Present & Future - Yuba Accord Monitoring and Evaluation [M&E] Program Draft Interim Report* (Draft M&E Program Interim Report). In addition to transmitting these comments, the USFWS letter refers to USFWS' March 3, 2014 comments on the Draft License Application filed by the Yuba County Water Agency (YCWA) and requests that FERC, in the relicensing of YCWA's Yuba River Development Project, FERC Project No. 2246 (Project), consider only the data presented in the RMT's Draft M&E Program Interim Report, and that FERC not consider the conclusions contained in that report.

This letter provides YCWA's responses to the USFWS filing. As discussed in this letter, YCWA disagrees with USFWS' comments on the Draft M&E Program Interim Report, and will be responding to those comments in the RMT venue. In any event, YCWA's *Application for New License Major Project – Existing Dam (FLA)* for the Project, which YCWA filed with FERC on April 28, 2014, is a “stand alone” document that does not rely largely upon, let alone ‘defer’ to, the Draft M&E Program Interim Report, as USFWS claims. Accordingly, USFWS' requests to FERC are misplaced and should be rejected.

¹ The RMT is not part of the relicensing. The RMT is comprised of representatives of: YCWA; USFWS; United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS); California Department of Fish and Wildlife; and non-governmental organizations. These parties make decisions regarding RMT budgets, studies and protocols. RMT results are reviewed by the above parties and others including Pacific Gas and Electric Company, California Department of Water Resources, and various academic institutions.

BACKGROUND

On April 28, 2014, YCWA filed the FLA with FERC. The FLA presents, among other things, YCWA's assessment of: the environmental baseline; the potential effects of YCWA's proposed Project on environmental baseline conditions; and YCWA's proposed protection, mitigation and enhancement (PM&E) conditions.

To prepare the FLA, YCWA used information in the 48 technical memoranda that were prepared by YCWA to summarize the results of FERC-ordered relicensing studies,² and over 500 references, one of which was the Draft M&E Program Interim Report.

Pursuant to the Lower Yuba River Accord's Fisheries Agreement, the M&E Program was designed to evaluate: the effectiveness of the implementation of the Lower Yuba River Accord in protecting anadromous salmonids; the condition of fish resources in the Yuba River downstream of Englebright Dam; and the viability of Yuba River fall-run Chinook salmon (*Oncorhynchus tshawytscha*) and any subpopulations of the Central Valley steelhead (*O. mykiss*) Distinct Population Segment and spring-run Chinook salmon Evolutionarily Significant Unit that may occur in the Yuba River.

The M&E Program is scheduled and funded to run through at least 2015. The RMT elected to produce the Draft M&E Program Interim Report both as a 'report card' on the M&E Program results regarding the implementation of the Lower Yuba River Accord for regulators, stakeholders and the broader scientific community, and to help inform the relicensing process.

The RMT, in collaboration with the Pacific States Marine Fisheries Commission and the University of California, Davis, issued the Draft M&E Program Interim Report on April 8, 2013 as a review draft. Numerous questions, comments and issues were raised to and addressed by RMT members, including USFWS, during the preparation of the April 8, 2013 review draft. When this review draft was circulated on April 8, 2013, the circulation notice requested that comments be filed with the RMT by June 5, 2013. No comments were submitted until USFWS submitted its comments on June 9, 2014, which was over 1 year after the deadline for comments.

The June 9 USFWS letter claims that: 1) the RMT did not collect the appropriate data to determine the effects of the Lower Yuba River Accord on anadromous salmonids; and 2) the Draft M&E Program Interim Report contains conclusions not supported by data. YCWA disagrees with these USFWS assertions, and will address them, as appropriate, in the RMT venue.

² FERC-approved Study 7.8, *ESA/CESA-Listed Salmonids Downstream of Englebright Dam*, required that "if this study relies on information from RMT data, report or analytics, YCWA will attach the relevant RMT work product to the relicensing report for this study." In conformance with this requirement, YCWA included the Draft M&E Program Interim Report at Attachment 7.8C to Technical Memorandum 7-8, *ESA/CESA-Listed Salmonids Downstream of Englebright Dam*.

YCWA's RESPONSE TO USFWS REQUEST TO FERC

The USFWS makes its request to FERC primarily because USFWS apparently believes the analysis of current habitat conditions for salmonids in the FLA defers largely to the Draft M&E Program Interim Report.


USFWS is in error. The FLA is a "stand alone" document and the analyses and conclusions presented in the FLA do not rely largely upon, let alone 'defer' to, the Draft M&E Program Interim Report. The FLA utilized data and results from the Draft M&E Program Interim Report, along with other data sources, primarily for characterizing the current status of the spring- and fall-run Chinook salmon and the Central Valley steelhead, and the environmental baseline conditions in the Yuba River downstream of Englebright Dam. The FLA's evaluations of the environmental baseline and the potential effects of YCWA's Proposed Project were conducted using daily hydrologic and water temperature models developed for the relicensing after the issuance of the Draft M&E Program Interim Report. The models were used to analyze such things as spawning habitat availability, fry and juvenile rearing habitat availability, potential redd dewatering, fry and juvenile stranding and isolation, and water temperature suitabilities. None of these analyses were conducted for the Draft M&E Program Interim Report, and none of them are described in that report.

Accordingly, while the Draft M&E Program Interim Report is a valuable reference document, it is only one of many reference documents that were used to prepare the FLA and that are cited in the FLA. YCWA therefore expects that, as FERC reviews and acts on the FLA, FERC will use the Draft M&E Program Interim report as one of many reference documents, but not for any other purpose.

YCWA acknowledges that USFWS and other stakeholders in the relicensing may choose to use or not use information in the relicensing docket, such as the Draft M&E Program Interim Report, when preparing their recommended PM&E measures for the new license. And stakeholders, should they choose to do so, may introduce new information into the docket to support their recommendations. YCWA fully expects that FERC staff will do the same when developing its Staff Alternative in the National Environmental Policy Act environmental impact statement.

If you have any questions regarding this matter, please contact me.

Sincerely,


for Curt Aikens
General Manager

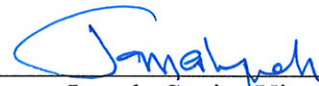
Attach: Certificate of Service for Parties on FERC's Official Service List for the Yuba River Development Project (FERC Project No. 2246-065)

cc: Alan Mitchnick - FERC, D.C.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding (Yuba River Development Project, FERC Project No. 2246-065).

Dated in Sacramento, CA this 8th day of July, 2014.



James Lynch, Senior Vice President
HDR Engineering, Inc.
Hydropower Services
2379 Gateway Oaks, Suite 200
Sacramento, CA 95833
(916) 679-8740