

November 9, 2018

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 – California
Comment on CDFW's November 6, 2018 Letter**

Dear Secretary Bose:

This letter comments on the California Department of Fish and Wildlife's (CDFW) November 6, 2018, letter to the Federal Energy Regulatory Commission (FERC), which responded to the Yuba County Water Agency's (Agency) September 28 and October 18, 2018 letters to FERC. The Agency's letters discussed the estimated revenue losses that would be associated with CDFW's Federal Power Act (FPA) Section 10(j) recommendations.

Page 4 of CDFW's letter states:

Presumably, a new water purchase agreement will be negotiated in 2025, upon which available water sales would need to be calculated above any FERC mandated instream flows. Current water purchase "losses" can only be considered through 2025, not the full term of a 30-50 year FERC license.

CDFW's statement is incorrect for the following reasons.

1. While the term of the December 4, 2007 Water Purchase Agreement between the Agency and the California Department of Water Resources (2007 Water Purchase Agreement) currently has a termination date of December 31, 2025, the Agency and the California Department of Water Resources currently are negotiating an extension of this term (and the agreement's current transfer water pricing provisions) beyond 2025. Based on these negotiations, the Agency believes that: (a) the 2007 Water Purchase Agreement is likely to remain in effect well past 2025; and (b) its transfer water pricing provisions will continue to be a basis for calculating the revenue losses that the Agency would incur throughout the term of the new license if CDFW's 10(j) recommendations were implemented.
2. The water transfer accounting principles in the 2007 Water Purchase Agreement are not subject to adjustment due to regulatory actions, such as the provisions of the new

FPA license for the Yuba River Development Project. Specifically, Amendment 5 (December 14, 2014) to the 2007 Water Purchase Agreement states:

The Water Scheduling and Accounting Principles (Exhibit 1) of the Agreement: (a) are intended to provide long-term protection of legal users of water (including without limitation, DWR, Participating Contractors, the SWP and the CVP) from injury from Yuba water transfers; (b) apply throughout the term of the Agreement to Yuba water transfers made available under the Agreement; and (c) are not subject to adjustment due to any regulatory actions (including actions regarding instream flows) that concern Yuba's water rights permits or licenses, a FERC Annual License, the FERC Long-Term License or a Water Quality Certification issued by the State Board in relation thereto. [emphasis added]

3. The Agency has adopted resolutions declaring the Agency's intent to retain control downstream of the confluence of the Yuba and Feather Rivers of all water the Agency releases to meet regulatory requirements for fisheries in the lower Yuba River. (YWA Resolution Nos. 2000-5 and 2018-8.) Therefore, if the term of the Water Purchase Agreement with the California Department of Water Resources is not extended beyond 2025, then the Agency would expect to contract with other parties to purchase transfer water from the Agency at then-current market rates, with calculations of the transfer amounts based on the baseline provisions in the 2007 Water Purchase Agreement.

Accordingly, FERC should rely on the Agency's September 28 and November 18, 2018, letters for an assessment of potential financial impacts of CDFW's Section 10(j) flow recommendations on the Agency's long-term water transfers.

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

Sincerely,



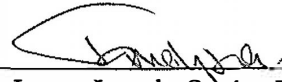
Curt Aikens
General Manager

cc: Alan Mitchnick, FERC DC
Parties on FERC's Official Service List for the Yuba River Development
Project Relicensing, FERC Project No. 2246-065
Relicensing Participants on YCWA's Yuba River Development Project's
Relicensing E-Mail Contact List (via e-mail)

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 9th day of November 2018.



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