

CURRENT FERC LICENSE¹

1.0 Current FERC License Requirements

1.1 License Articles

The Federal Power Commission (FPC) the predecessor to FERC issued the Project initial license to the Yuba County Water Agency on May 16, 1963. Subsequently, on May 6, 1966, the license was made effective for the period from May 1, 1966, through April 30, 2016. The initial license included 50 articles numbered 1 through 57 (articles 9, 14, 15, 16, 17, 23 and 24 were left blank by FERC). Since the initial license, FERC has added 10 articles to the license, number 58 through 67. As a result, the existing license contains 60 articles. Of these, YCWA considers 20 articles (articles 28, 29, 30, 35, 36, 41, 42, 43, 44, 48, 50, 51, 52, 56, 58, 60, 62, 65, 66 and 67), which are highlighted in gray in the text below, “expired” or “out of date” since each pertains to a construction activity that has been completed, a filing related to a construction activity that has been completed, or another activity that has been completed. As a result, the existing license contains 40 “active” articles. The general topic that each of the 40 active articles addresses is listed below.

Table 1. List of requirements in Yuba County Water Agency’s current Federal Energy Regulatory Commission license for the Yuba River Development Project (FERC Project No. 2246).

Article	Description	Article	Description
1	General	31	Construction of fish and wildlife protective devices and structures by Licensee
2 & 3	FERC approval of changes	32	Construction of fish handling facilities by US
4	FERC inspection and supervision	33	Minimum flow
5	Project boundary	34	Minimum pool
6	Gaging and stream gaging	37	Sediment control
7	Public access to Project waters and permitting of roads, boat docks, piers, etc.	38	Minimization of habitat alteration
8	Approval of facilities by US land management agency	39	Mitigation of damage to wildlife
10	Public safety related to safety of transmission lines, telephone lines, etc.	40	Operation of New Bullards Bar Dam to maintain water quality for anadromous fish
11	Avoid inductive interference	45	Fire suppression
12	Clear t-line right-of-ways on US-owned lands	46	Flood control
13	Merchantable timber on US-owned lands	47	Supplying storage for water in Englebright Reservoir for New Narrows Power Plant
18	US rights to waters	49	Interference with future water projects
19	Use of water for fire suppression, sanitary and domestic needs on US-owned lands	53	Additional transmission facilities if ordered by FERC
20	Construction liability	54	Install additional capacity if ordered by FERC
21	Permit use of US-owned lands for transportation and communication	55	Coordinate with others if ordered by FERC

¹ This document meets the requirements of 18 CFR §5.6(d)(2)(v)(A) for a complete description of the current license requirements (*i.e.*, the requirements of the existing license as amended during the license term). This document will be included in Licensee’s Pre-application Document.

Table 1. (continued)

Article	Description	Article	Description
22	Takeover of Project roads	57	Annual fees to US for administration of authorized capacity and compensation for lands
25	Lease of Project lands	59	US not liable for damages to New Narrows Power Plant from construction of Federal reservoir downstream
26	Ownership of Project property	61	Recreation plan
27	Terms and conditions of Federal Power Act	63	DO monitoring plan
		64	SHPO consultation prior to construction activities

Articles in the existing FERC Project license are below. Comments, including specifying any subsequent orders related to the article, are annotated at the end of the article if the article has been modified from the initial Order Issuing License. Unless otherwise noted, the article was included in the May 16, 1963, Order Issuing the License, and has not been amended. Articles YCWA considers out-of-date are noted. Primary FERC orders (*i.e.*, an order that modified an existing license article) can be found on YCWA’s Relicensing Website (www.ycwa-relicensing.com) under the folder labeled “Initial License” and the subfolder labeled “FERC Orders.”

Article 1. The entire project, as described in the order of the Commission, shall be subject to all the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, that if the license or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval amended, supplemental, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. Said project works shall be in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct. The Licensee shall comply with such rules and regulations of general

or special applicability as the commission may from time to time prescribe for the protection of life, health, or property.

Article 4. The construction, operation, and maintenance of the project and any work incident to additions or alterations shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, San Francisco, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of any such alterations to the project. Construction the project works or any feature thereof shall not be initiated until the program of inspection for the alterations or any feature thereof has been approved by said representative. The Licensee shall also furnish to said representative such information as he may require concerning the construction, operation, and maintenance of the project, and any alteration thereof, and shall notify him of the date upon which work will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The licensee shall allow him and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties.

[Included in May 16, 1963 Order Issuing License, and amended by P-2246 35 FPC Order Amending License (Major) issued May 6, 1966 to read as shown above.]

Article 5. Upon the completion of the project, or at such other time as the Commission may direct, the licensee shall submit to the Commission for approval revised maps, plans, specifications, and statements insofar as necessary to show any divergence from or variations in the project area and project boundary as finally located or in the project works as actually constructed when compared with the area and boundary shown and the works described in the license or in the maps, plans, specifications, and statements approved by the Commission, together with a statement in writing setting forth the reasons which in the opinion of the licensee necessitated or justified variations in or divergence from the approved maps, plans, specifications, and statements. Such revised maps, plans, specifications, and statements shall, if and when approved by the Commission, be made a part of the license under the provisions of article 2 hereof.

Article 6. For the purpose of determining the stage and flow of the stream or streams from which water is to be diverted for the operation of the project works, the amount of water held in and withdrawn from storage, and the effective head on the turbines, the licensee shall install and thereafter maintain such gages and stream-gaging stations as the Commission may deem necessary and best adapted to the requirements; and shall provide for the required readings of such gages and for the adequate rating of such stations. The licensee shall also install and maintain standard meters adequate for the determination of the amount of electric energy generated by said project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission and may be altered from time to time if necessary to secure adequate determinations, but such alteration

shall not be made except with the approval of the Commission or upon the specific direction of the Commission. The installation of gages, the ratings of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of said project, and the licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision or cooperation for such periods as may be mutually agreed upon. The licensee shall keep accurate and sufficient record of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 7. So far as is consistent with the proper operation of the project, the licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the licensee for the purpose of full public utilization of such lands and waters for navigation and recreational purposes, including fishing and hunting, and shall allow to a reasonable extent for such purposes the construction of access roads, wharves, landings, and other facilities on its lands the occupancy of which may, in appropriate circumstances, be subject to payment of rent to the licensee in a reasonable amount: Provided, that the licensee may reserve from public access, such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property and Provided further, that the licensee's consent to the construction of access roads, wharves, landings, and other facilities shall not, without its express agreement, place upon the licensee any obligation to construct or maintain such facilities.

Article 8. In the construction and maintenance of the project the location and standards of roads and trails, and other land uses, including the location and condition of quarries, borrow pits, spoil disposal areas, and sanitary facilities, shall be subject to the approval of the department or agency of the United States having supervision over the lands involved.

Article 9. *[The May 16, 1963, Order Issuing License did not include an Article 9.]*

Article 10. In the construction and maintenance of the project works, the licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines, and telegraph, telephone, and other signal wires or power transmission lines constructed prior to its transmission lines constructed prior to its transmission lines and not owned by the licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling and obstructing traffic and endangering life on highways, streets, or railroads.

Article 11. The Licensee shall make provision, or shall bear the reasonable cost, as determined by the agency of the United States affected, of making provision for avoiding inductive interference between any project transmission line or other project facility constructed, operated, or maintained under the license, and any radio installation, telephone line, or other communication facility installed or constructed before or after construction of such project

transmission line or other project facility and owned, operated, or used by such agency of the United States in administering the lands under its jurisdiction.

Article 12. The licensee shall clear such portions of transmission line rights-of-way across lands of the United States as are designated by the officer of the United States in charge of the lands; shall keep the areas so designated clear of new growth, all refuse, and inflammable material to the satisfaction of such officer; shall trim all branches of trees in contact with or liable to contact the transmission line; shall cut and remove all dead or leaning trees which might fall in contact with the transmission line; and shall take such other precautions against fire as may be required by such officer. No fires for the burning of waste material shall be set except with the prior written consent of the officer of the United States in charge of the lands as to time and place.

Article 13. Timber on lands of the United States cut, used, or destroyed in the construction and maintenance of the project works or in the clearing of said lands shall be paid for in accordance with requirements of and at the current stumpage rates applicable to the sale of similar timber by the agency of the United States having jurisdiction over said lands; and all slash and debris resulting from the cutting or destruction of such timber shall be disposed of as the officer of such agency may direct.

Article 14. *[The May 16, 1963, Order Issuing License did not include an Article 14.]*

Article 15. *[The May 16, 1963, Order Issuing License did not include an Article 15.]*

Article 16. *[The May 16, 1963, Order Issuing License did not include an Article 16.]*

Article 17. *[The May 16, 1963, Order Issuing License did not include an Article 17.]*

Article 18. The United States specifically retains and safeguards the right to use water in such amount, as determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and the operations of the licensee, so far as they affect the use, storage, and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe in the interest of navigation, and as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of waters for power purposes and for other beneficial public uses, including recreational purposes; and the license shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Secretary of the Army may prescribe in the interest of navigation, or as the Commission may prescribe for the other purposes hereinbefore mentioned.

Article 19. The licensee shall interpose no objection to, and shall in no way prevent, the use by the agency of the United States having jurisdiction over the lands of the United States affected, or by persons or corporations occupying lands of the United States under permit, of water for fire suppression from any stream, conduit or body of water, natural or artificial, used by the licensee in the operation of the project works covered by the license, or to the use by said

parties of water for sanitary and domestic purposes from any stream or body of water, natural or artificial, used by the licensee in the operation of the project works covered by the license.

Article 20. The licensee shall be liable for injury to, or destruction of, any buildings, bridges, roads, trails, lands, or other property of the United States, occasioned by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto under the license. Arrangements to meet such liability, either by compensation for such injury or destruction, or by reconstruction or repair of damaged property, or otherwise, shall be made with the appropriate department or agency of the United States.

Article 21. The licensee shall allow any agency of the United States, without charge, to construct or permit to be constructed on, through, and across the project lands, conduits, chutes, ditches, railroads, roads, trails, telephone and power lines, and other means of transportation and communication not inconsistent with the enjoyment of said lands by the licensee for the purposes stated in the license. This article shall not be construed as conferring upon the licensee any right of use, occupancy, or enjoyment of the lands of the United States or other than for the construction, operation, and maintenance of the project as stated in the license.

Article 22. There is reserved to the appropriate department or agency of the United States, or of the state or county involved, the right to take over, maintain, and supervise the use of any project road as a public road after construction of the project works is completed.

Article 23. *[The May 16, 1963, Order Issuing License did not include an Article 23.]*

Article 24. *[The May 16, 1963, Order Issuing License did not include an Article 24.]*

Article 25. No lease of the project or part thereof whereby the lessee is granted the exclusive occupancy, possession, or use of project works for purposes of generating, transmitting, or distributing power shall be made without the prior written approval of the Commission; and the Commission may, if in its judgment the situation warrants, require that all the conditions of the license, of the act, and of the rules and regulations of the Commission shall be applicable to such property so leased to the same extent as if the lessee were the licensee: Provided, that the provisions of this article shall not apply to parts of the project or project works which may be used by another jointly with the licensee under a contract or agreement whereby the licensee retains the occupancy, possession, and control of the property so used and receives adequate consideration for such joint use, or to leases of land while not required for purposes of generating, transmitting, or distributing power, or to buildings or other property not built or used for said purposes, or to minor parts of the project or project works, the leasing of which will not interfere with the usefulness or efficient operation of the project by the licensee for such purposes.

Article 26. The licensee, its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties necessary or useful to the project and to the development, transmission, and distribution of power there from will be voluntarily sold,

transferred, abandoned, or otherwise disposed of without the approval of the Commission: Provided, that a mortgage or trust deed or judicial sales made there under, or tax sales, shall not be deemed voluntary transfers within the meaning of this article. In the event the project is taken over by the United States upon the termination of the license, as provided in section 14 of the act, or is transferred to a new licensee under the provisions of section 15 of the act, the licensee, its successors and assigns will be responsible for and will make good any defect of title to or of right of user in any of such project property which is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and will pay and discharge, or will assume responsibility for payment and discharge, of all liens or encumbrances upon the project or project property created by the licensee or created or incurred after the issuance of the license: Provided, that the provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment of other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear, or to require the licensee, for the purpose of transferring the project to the United States or to a new licensee, to acquire any different title to or right of user in any of such project property than was necessary to acquire for its own purposes as licensee.

Article 27. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms or conditions of the Federal Power Act which are not expressly set forth herein.

Article 28. The Licensee shall commence construction of the project works within one year from May 1, 1966, shall thereafter in good faith and with due diligence prosecute such construction, and shall complete construction within 4 ½ years from May 1, 1966.

[Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 29. The Licensee shall within one year from the date of completion of the project, file with the Commission revised Exhibits F and K to define the final project boundary in accordance with the rules and regulations of the Commission.

[Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 30. The Licensee shall submit, in accordance with the Commission's rules and regulations, final design Exhibit L drawings for the finally adopted New Bullards Bar Dam and Spillway and shall not begin construction of these or any project works contingent thereon until the Commission has approved the Exhibit L drawings.

[FPC Order05-06-66 deleted this article from the license.]

Article 31. The Licensee shall construct, maintain and operate such protective devices and shall comply with such reasonable modifications of the project structures and operation in the interest of fish and wildlife resources, provided that such modifications shall be reasonably consistent with the primary purpose of the project, as may be prescribed hereafter by the

Commission upon its own motion or upon recommendation of the Secretary of the Interior or the California Department of Fish and Game after notice and opportunity for hearing and upon a finding that such modifications are necessary and desirable and consistent with the provisions of the Act: *Provided further*, That's subsequent to approval of the final design drawings prior to commencement of construction no modifications of project structures in the interest of fish and wildlife resources which involve a change in the location, height or main structure of a dam, or the addition of or changes in outlets at or through a dam, or a major change in generating units, or a rearrangement or relocation of a powerhouse, or major changes in a spillway structure shall be required.

Article 32. Whenever the United States shall desire, in connection with the project, to construct fish handling facilities or to improve the existing fish handling facilities at its expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such fish handling facilities or such improvements thereof. In addition, after notice and opportunity for hearing the licensee shall modify the project operation as may be prescribed by the Commission, consistent with the primary purpose of the project, in order to permit the maintenance and operation of the fish handling facilities constructed or improved by the United States under the provision of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish handling facilities or to relieve the Licensee of any obligation under this license.

Article 33. The Licensee shall maintain the following minimum streamflow schedules for maintenance of fishlife in the several streams listed:

(a)

Stream	Flow (cfs) ²	
	April 15 to June 15	June 16 to April 14
Middle Yuba (below Hour House Diversion)	50	30
Oregon Creek (below Log Cabin Diversion)	12	8
North Yuba (below New Colgate Diversion)	5	5

1.Or natural flow, whichever is less. Maximum 24-hour fluctuations of plus or minus 10 percent are permitted for flows in Middle Yuba below Hour House Diversion and in Oregon Creek below Low Cabin Diversion.

² Or natural flow, whichever is less, measured at a point not more than 500 feet downstream of dam. Maximum 24-hour fluctuations of plus or minus 10 percent are permitted except for the flows below New Colgate Diversion.

(b)

Stream	Flow (cfs) ³		
	January 1 to June 30	July 1 to September 30	October 1 to December 31
Yuba River (below Timbuctoo Dam)	245	70	400

1. Provided that these flows shall be in addition to releases made to satisfy existing downstream demands.

(c) Water releases for fish life as specified in paragraphs (a) and (b) of this article shall be subject to the following reduction in any critical dry year, defined as a water year for which the April 1 forecast of the California Department of Water Resources predicts that streamflow in the Yuba River at Smartsville be 50 percent or less of normal:

(d)

Yuba River at Smartsville streamflow forecast percent of normal	Reduction in water Release for fishlife, percent
50	15
45	20
40 or less	30

However, in no event shall releases for fish life below Daguerre Point Dam be reduced to less than 70 cfs. The critical dry year provisions herein shall be effective from the time the aforesaid forecast is available until the April 1 forecast of the following year.

(e) In addition to maintaining winter minimum water releases for fish life in Yuba River below Daguerre Point Dam, as specified in paragraphs (b) and (c) of this article, the Licensee shall maintain uniform and continuous releases from Englebright Dam within the limits of the following schedule:

³ Measured at a point not more than one-half mile downstream from the Irrigation Diversion Weir and provided that these flows shall be in addition to releases made to satisfy existing downstream water rights.

(f)

Period	Releases (cfs) 1	Measurement Point
October 16 to 31	600-1,050	New station to be built downstream from the two Narrows powerhouses.
November	600-700	
December	600-1,400	
Jan. 1 to 15	1,000-1,850	
Jan. 16 to Mar. 31	800	

1. Provided that:

- A. Variations from this schedule are permissible during emergencies, uncontrollable flood flows, and critical dry year curtailments.
- B. With the exception of emergencies, releases required by U.S. Army Corps of Engineers flood control criteria, releases required to maintain a flood control buffer or for other flood control purposes, bypasses of uncontrolled flows into Englebright Reservoir, uncontrolled spilling, or uncontrolled flows of tributary streams downstream of Englebright Dam, Licensee shall make reasonable efforts to operate New Bullards Bar Reservoir and Englebright Reservoir to avoid fluctuations in the flow of the lower Yuba River downstream of Englebright Dam, and daily changes in project operations affecting releases or bypasses of flow from Englebright Dam shall be continuously measured at the USGS gage at Smartsville, and shall be made in accordance with the following conditions:
 - i. Project releases or bypasses that increase streamflow downstream of Englebright Dam shall not exceed a rate of change of more than 500 cfs per hour.
 - ii. Project releases or bypasses that reduce streamflow downstream of Englebright Dam shall be gradual and, over the course of any 24-hour period, shall not be reduced below 70 percent of the prior day's average flow release or bypass flow.
 - iii. Once the daily project release or bypass level is achieved, fluctuations in the streamflow level downstream of Englebright Dam due to changes in project operations shall not vary up or down by more than 15 percent of the average daily flow.
 - iv. During the period from September 15 to October 31, the licensee shall not reduce the flow downstream of Englebright Dam to less than 55 percent of the maximum five-day average release or bypass level that has occurred during that September 15 to October 31 period or the minimum streamflow requirement that would otherwise apply, whichever is greater.
 - v. During the period from November 1 to March 31, the licensee shall not reduce the flow downstream of Englebright Dam to less than the minimum streamflow release or bypass established under (iv) above; or 65 percent of the maximum five-day average flow release or bypass that has occurred during that November 1 to March 31 period; or the minimum streamflow requirement that would otherwise apply, whichever is greater.

[Initial Article 33 revised by P-2246 30 FPC 1610 Order Modifying Order on Rehearing issued December 27, 1963 and P-2246 35 FPC Order Amending License (Major) issued May 6, 1966. Order amended by 113 FERC 62,137 Order Modifying and Approving Amendment of License issued November 22, 2005.]

Article 34. The Licensee shall maintain a minimum pool in New Bullards Bar Reservoir at Elevation 1,730 feet.

[Included in May 16, 1963 Order Issuing License and amended by P-2246 35 FPC Order Amending License (Major) issued on May 6 1966. Temporarily waived by 13 FERC 62,225 Order Approving Temporary Waiver of the Requirement of License Article 34 issued December 2, 1980.]

Article 35. The Licensee shall so regulate releases from Timbuctoo Afterbay Dam during normal operation that they shall not fluctuate at an hourly rate of more than 300 cfs, such fluctuations to be measured within one-half mile below Timbuctoo Afterbay Dam.

[FPC Order05-06-66 deleted this article from the license.]

Article 36. The Licensee shall construct and maintain at Timbuctoo Afterbay Dam such facilities for trapping and removing salmon and steelhead trout as have been approved by the Commission.

[FPC Order05-06-66 deleted this article from the license.]

Article 37. The Licensee shall take whatever steps are required to prevent entry into any streams or waters in or below the project area of any clay, silt, fines, sand, gravel, detritus, oil, or other substance delirious to fish and aquatic life and/or their habitat, resulting from construction or operation of the project.

Article 38. The Licensee shall construct and operate the project in a manner providing minimum possible alteration of fish and wildlife habitat, consistent with reasonable economic practices, except where habitat changes result from specific modifications of construction and operation designed to enhance fish and wildlife under ways and means approved by the California Department of Fish and Game, the Secretary of Agriculture, and the Secretary of the Interior.

Article 39. Mitigation of damages to wildlife resulting from project activities shall be made by the Licensee as directed by the Commission based upon investigations by the California Department of Fish and Game and the Licensee as to the extent of such damages and means of mitigation, or upon recommendation of the Secretary of the Interior or of the Secretary of Agriculture.

Article 40. Consistent with the primary purpose of the power intakes in the New Bullards Bar Dam, the Licensee shall operate, within limits of the project, the multiple-level power intakes in New Bullards Dam to provide water of suitable quality in the Yuba River downstream from the New Narrows Power Plant for the production of anadromous fish as may be prescribed by the Commission upon the recommendations of the Director of the California Department of Fish and Game and the Fish and Wildlife Service, Department of the Interior.

[Included in May 16, 1963 Order Issuing License, and amended by P- 2246 30 FPC 1610 Order Modifying Order on Rehearing issued December 27, 1963 and the P-2246 35 FPC 691 Order Amending License (Major) issued May 6, 1966, to read as shown above.]

Article 41. The Licensee shall, prior to the impounding of water, clear the area of project reservoirs as follows: *New Bullards Bar Reservoir*—All vegetation between elevation 1,700 feet and 1,955 feet, except that in precipitous and inaccessible areas of the reservoir. Timber, slash, and woody debris from logging and clearing operations may be removed by flotation in accordance with the “YUBA RIVER DEVELOPMENT CLEARING PLAN FOR THE NEW BULLARDS BAR RESERVOIR” and *Other Project Reservoirs* (not including the Englebright Reservoir)—all lands in the bottom and margins up to high-water level; shall clear and keep clear to an adequate width lands of the United States along open conduits; and shall dispose of all temporary structures, unused timber, brush, refuse, or inflammable material resulting from the clearing of the lands or from the construction and maintenance of the project works. In addition, all trees along the margins of reservoirs which may die from the operation of the reservoir shall

be removed. The clearing of the lands and the disposal of the material shall be done with a due diligence and to the satisfaction of the authorized representative of the Commission. Any debris permitted to be floated to central disposal points shall be removed from the reservoir as soon as possible during the initial storage of water in the reservoir.

[Included in May 16, 1963 Order Issuing License and amended by P-2246 40 FPC 1001 Order Further Amending License (Major) issued October 3, 1968. Authorizing Commencement of Construction of Power Intake at New Bullards Bar Dam of Project. Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 42. The Licensee shall strip and stockpile top soil from all borrow areas prior to borrow operations, and shall re-grade these areas as practicable and replace top soil upon completion of borrow operations. Additionally, all borrow areas on lands of the United States shall be revegetated with browse species. This stipulation does not apply to areas inundated by reservoirs.

[Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 43. All construction activity shall be carried on with the least possible erosion damage and least possible disfiguration of the landscape. Insofar as practicable, spillways from dams and conduits shall be located in natural stream channels and and/or on relatively stable material.

[Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 44. During construction of the project, the Licensee shall keep a road open across the North Yuba River in the vicinity of Bullards Bar, at all times, for National Forest use and protection.

[Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 45. The Licensee shall do everything reasonably within its power and shall require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon the request of officers of the agency concerned to prevent, make advance preparations for suppression, and suppress fires on the lands to be occupied or used under the license. The Licensee shall be liable for and pay the costs incurred by the United States in suppressing fires caused from the construction, operation, or maintenance of the project works or of the work appurtenant or accessory thereto under the license.

Article 46. The Licensee shall operate the project reservoirs for flood control in accordance with rules prescribed by the secretary of the Army, such rules to be specified in a formal agreement between the Licensee and the District Engineer, U.S. Army Engineers District, Sacramento, California. Said agreement shall be subject to review from time to time at the

request of either party; provided, however, that a different procedure of review may be prescribed by formal agreement.

[Included in May 16, 1963 Order Issuing License, and amended by P-2246 30 FPC 1610 Order Amending Order on Rehearing issued December 27, 1963 to read as shown above.]

Article 47. The Licensee shall enter into contractual arrangements with the District Engineer, U.S. Army Engineer district, Sacramento, California, pursuant to the River and Harbor Act of June 25, 1938, with respect to supplying storage for water in the Corps' Englebright Reservoir for power development at the New Narrows Power Plant, upon such conditions of delivery, use and payment as the Secretary of the Army may approve, such payments to be deposited to the credit of the Englebright Reservoir.

Article 48. The licensee shall assume liability for any structural damage to the U.S. Corps of engineers' Englebright project incurred as a result of construction of the proposed New Narrows power facilities.

[Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 49. The Licensee shall operate the project in such manner as will not conflict with future depletion of the water of the Yuba River and its tributaries or prevent or interfere with the future diversion and use of such water for the irrigation of lands or other beneficial consumptive uses.

[Included in May 16, 1963 Order Issuing License and deleted by P-2246 30 FPC 1610 Order Modifying Order on Rehearing issued December 27, 1963.]

Article 50. The Licensee shall enter into a formal agreement with the Bureau of Reclamation on river operations within the Yuba Basin which agreement shall be subject to the approval of the commission.

[Included in May 16, 1963 Order Issuing License. Agreement date June 12, 1963 approved by P-2246 30 FPC 1610 Order Modifying Order on Rehearing issued December 27, 1963. [Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 51. The Licensee shall negotiate with the National Park Service for archeological survey and salvage within project reservoir sites to be accomplished prior to inundation and to be financed by the Licensee in an amount not to exceed \$60,000.

[Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 52. The Licensee shall not commence construction of any of the project works of the New Colgate Development until the Commission has approved the final design for New Bullards Bar Dam.

[Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 53. The Commission reserves the right to determine at a later date what additional transmission facilities, if any, shall be included in this license as part of the project works.

Article 54. The Licensee shall install additional capacity and make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so, after notice and opportunity for hearing.

Article 55. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other power systems and in such manner as the Commission may direct in the interest of power and other beneficial uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 56. The Licensee shall, within one year from the effective date of this license, file with the Commission a recreational use plan which shall include not only recreational improvements which may be provided by others, but the recreational improvements the Licensee plans to provide.

[Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 57. The Licensee shall pay to the United States the following annual charges:

- (i) For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable annual charge in accordance with the provisions of Part II of the Commission's regulations in effect from time to time. The authorized capacity for that purpose is 482,500 horsepower.
- (ii) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of 3834.47 acres of its lands, exclusive of transmission line rights-of-way, an amount to be determined from time to time pursuant to the Commission's Regulations

[Included in May 16, 1963 Order Issuing License and amended by P 2246 35 FPC Order Amending License issued May 6, 1966; P-2246 47 FPC Order Approving Revised Exhibit L Drawings and Revised Exhibit M and Adjusting Authorized Installed Capacity issued January 4, 1972; 12 FERC 62,014 Order Approving As-Built Exhibit K and Amending License issued July 8, 1980; 31 FERC 62,186 Order Amending License issued May 9, 1985; and 59 FERC 62,257 Order Amending License, Approving Revised Exhibit M, and Revising Annual Changes issued June 10, 1992.]

Article 58. The Licensee shall engage at least three qualified, independent consultants for the purpose of reviewing and reporting on the foundation treatment of the New Bullards Bar arch dam and other hydraulic structures, including tunnels. The report of the consultant shall be submitted prior to the initiation of foundation treatment. The Licensee shall also submit a final report of the board covering the construction of the project upon completion.

[Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 59. The Licensee shall not hold the United States liable for any damage to New Narrows Power Plant due to inundation or backwater resulting from a downstream Federal reservoir with a water surface elevation of up to and including 345 feet (USGS datum) measured at the downstream dam, nor shall the Licensee hold the United States liable for any loss of power head or reduction in power protection due to said reservoir within the limits of a normal water surface elevation not in excess of 340 feet (USGS datum) measured at the downstream dam.

Article 60. The Licensee shall not commence construction of the multi-level power intake at New Bullards Bar Dam until specifically authorized by the Commission following concurrence with the Licensee by the Director of the California Department of Fish and Game and by the Fish and Wildlife Service, Department of the Interior, on the location and functional design of the intake.

[Added to license by P-2246 35 FPC Order Amending License. Authorized to commence construction by October 3, 1968 issued May 6 1966. P-2466 40 FPC Order Further Amending License (Major) and Authorizing Commencement of Construction of Power Intake at New Bullards Bar Dam of Project. [Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 61. The Licensee shall construct, maintain and operate or shall arrange for the construction, maintenance and operation of such recreational facilities including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities and utilities, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal and State agencies, after notice and opportunity for hearing and upon findings based upon substantial evidence that such facilities are necessary and desirable, and reasonably consistent with the primary purpose of the project.

[Added to license by P-2246 35 FPC Order Amending License issued May 6, 1966. Recreation study plan approved by 54 FERC 62,082 Order Modifying and Approving Recreation Study Plan issued February 4, 1991. Article 61 amended as read above by 64 FERC 62,117 Order Approving Recreation Plan with Modification, Requiring Study Plan, and Amending License issued August 19, 1993. Study Plan for the Assessment of Recreation at Log Cabin and Our House Diversion Dams made part of license by 66 FERC 62,182 Order Approving Recreation Study and Boating Speed Restriction Plan issued March 25, 1994. The amendment to the Yuba River Project recreation plan for the continued use of the Cottage Creek Picnic Area for overflow camping was approved by 104 FERC 62,226 Order Amending Recreation Plan issued

September 30, 2003. Recreation Plan modified by 107 FERC 62,004 Order Approving Revision of the Recreation Plan with a seasonal closure of Moran Road to vehicular traffic from October 15 to May 1 each year, road surface and drainage improvements, a parking area for approximately 7 cars, an accessible portable toilet, and all construction and maintenance activities scheduled between May 2 and October 14 issued April 5, 2004.]

Article 62. The License shall install instruments in the dam and foundation for the purpose of measuring foundation stresses and movements, deflections in the dam, and stresses and temperatures in the concrete, and shall submit to the Commission annually, for a period of five years after completion of construction of the New Bollards Bar Dam, reports evaluating the results of the instrumentation.

[Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 63. The Licensee shall maintain the State of California dissolved oxygen (DO) standard in the North Fork of the Yuba River, as measured downstream of the minimum flow release tailrace, for the protection of water quality. Further, Licensee, in cooperation with the Central Valley Regional Water Quality Control Board, the California Department of Fish and Game, and the U. S. Fish and Wildlife Service, shall develop and implement a mutually satisfactory monitoring plan to assess the impact of project operation on the DO concentrations of the North Fork of the Yuba River. Within 6 months from the date of issuance of this license, the Licensee shall file a description of the monitoring plan, a schedule for completion, and a date for filing a final report with the Director, Office of Hydropower Licensing, along with comments from the above agencies on the adequacy of the plan. The Director may require modification of the plan.

The results of the monitoring program shall be submitted to the Commission. If the results of the monitoring program indicate that changes in project structures or operations are necessary to maintain the State of California DO standard, the Licensee also shall file for Commission approval, as part of the final report, a schedule for implementing the specific changes in project structures or operations, along with comments from the agencies listed above on the adequacy of the specific changes in project structures or operations. At the same time that the implementation schedule is filed with the Commission, copies of the schedule shall be served on the agencies consulted.

[Added by 31 FERC 62,186 Order Amending License issued May 9, 1985. Dissolved oxygen monitoring plan filed on September 24, 1985, supplemented March 7, 1986, and added to license by Order Approving Dissolved Oxygen Monitoring Plan issued April 16, 1986.]

Article 64. The Licensee shall, prior to any future construction at the project, consult with the California State Historic Preservation Officer (SHPO) about the need for cultural resource survey and salvage work. Documentation of the nature and extent of consultation, including a cultural resources management plan, shall be filed with the Commission 6 months before any construction activity. The Licensee shall make available funds in a reasonable amount for any such work, as required. If any previously unrecorded archeological or historical sites are

discovered during the course of the construction or development of any project works or other facilities at the project, construction activity in the vicinity shall be halted, a qualified archeologist shall be consulted to determine the significance of the sites, and the Licensee shall consult with the SHPO to develop a mitigative plan for the protection of significant archeological or historical resources. If the Licensee and the SHPO cannot agree on the amount of money to be expended on archeological or historical work related to the project, the Commission reserves the right to require the Licensee, at its own expense, to conduct any such work found necessary.

Article 65. The Licensee shall commence construction of the New Bullards Bar Dam Project within two years from the issuance date of this order and shall complete construction of the project within four years from the issuance date of this order.

[Added to License in 31 FERC 62,186 Order Amending License issued May 9, 1985. Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 66. The Licensee shall provide one copy to the Commission's Regional Engineer and two copies to the Director, Division of Inspections, of the final contract drawings and specifications for pertinent features of the project, such as water retention structures, powerhouse, and water conveyance structures, at least 60 days prior to start of construction. The Director, Division of Inspections, may require changes in the plans and specifications to assure a safe and adequate project.

[Added to License in 31 FERC 62,186 Order Amending License issued May 9, 1985. Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

Article 67. The Licensee shall within 90 days of completion of construction file with the Commission for approval by the Director, Division of Project Management, revised Exhibits A and F to describe and show the project as-built.

[Added to License in 31 FERC 62,186 Order Amending License issued May 9, 1985. Licensee considers this article to be out-of-date since it pertains to initial Project construction, which has been completed.]

1.2 Current FERC License Maps, Design Drawings and Plans

1.2.1 Project Maps (Exhibits J and K)⁴

The current FERC license includes 14 maps that show the Project Area. These maps include:

⁴ All Exhibit J and K maps depicting the FERC Project Boundary will be included in Exhibit G of the application for a new license, in conformance with 18 CFR § 4.51(h).

<u>Exhibit No.</u>	<u>FERC Map No.</u>	<u>Title</u>
2246-151	G-1	New Bullards Bar Dam—Project Location
2246-152	G-2	New Bullards Bar Dam—Project Location
2246-153	G-3	New Bullards Bar Dam—County Assessor’s Map
2246-129	K-1-A	Bullards Bar Project—Reservoir Map
2246-130	K-2-A	Bullards Bar Project—Reservoir Map
2246-131	K-3-A	Bullards Bar Project—Reservoir Map
2246-132	K-4-A	Bullards Bar Project—Reservoir Map
2246-133	K-5-A	Bullards Bar Project—Reservoir Map
2246-134	K-6-A	Bullards Bar Project—Reservoir Map
2246-135	K-7-A	Bullards Bar Project—Reservoir Map
2246-136	K-8-A	Bullards Bar Project—Reservoir Map
2246-137	K-9-A	Middle Yuba—Oregon Creek Diversion Project—Log Cabin and Hour House Reservoir Map
2246-154	K-10-A	New Colgate Project Map
2246-139	K-11-A	Narrows Project—Detailed Map

Copies of Project maps are available on the Relicensing Website (www.ycwa-relicensing.com).

1.2.2 Project Design Drawings (Exhibit L)⁵

The current FERC license for the Project includes 13 plan-and-profile design drawings of Project facilities:

<u>Exhibit No.</u>	<u>FERC Drawing No.</u>	<u>Title</u>
2246-149	F-1	New Bullards Bar Dam – Site Plan
2246-144	F-2	Bullards Bar Dam—Site Plan and Profile
2246-150	F-2	New Bullards Bar Dam—Turbine Building
2246-145	F-3	Bullards Bar Dam—Powerhouse Site Plan
2246-146	F-4	Bullards Bar Dam—Penstock Profile and Details
2246-147	F-5	Bullards Bar Dam—Powerhouse Plan and Details
2246-148	F-6	Bullards Bar Dam—Powerhouse Sections and Details
2246-155	L-24	New Colgate Project—Tunnel Plan, Profile, and Sections
2246-156	L-42	General Arrangement Site Plan –Option A, Wye Junction
2246-157	L-43	General Arrangement Site Plan—Option B, Tee Junction
2246-158	L-44	Turbine Shutoff Valve—General Arrangement
2246-159	L-45	Bypass Valve Structure—Equipment Arrangement –Sheet 1
2246-160	L-46	Bypass Valve Structure—Equipment Arrangement—Sheet 2

Copies of Exhibit L drawings are available on request from YCWA.

1.2.3 Project Recreation Map (Exhibit R)

The current FERC license includes 20 maps that show Project recreation areas and facilities. These include:

⁵ All design drawings showing plan-and-profiles of Project facilities will be included in Exhibit F of the application for a new license, in conformance with 18 CFR § 4.51(g).

<u>Exhibit No.</u>	<u>FERC Map No.</u>	<u>Title</u>
2246-140	R-1-2	New Bullards Bar Project—Recreational Facilities
2246-141	R-1-3	New Bullards Bar Project—Recreational Facilities
2246-119	R-2-2	New Bullards Bar Project—Recreational Facilities
2246-120	R-3	New Bullards Bar Project—Recreational Facilities
2246-121	R-4-1	New Bullards Bar Project—Recreational Facilities
2246-122	R-4-2	New Bullards Bar Project—Recreational Facilities
2246-123	R-5	New Bullards Bar Project—Recreational Facilities
2246-124	R-6-1	New Bullards Bar Project—Recreational Facilities
2246-125	R-6-2	New Bullards Bar Project—Recreational Facilities
2246-126	R-7-1	New Bullards Bar Project—Recreational Facilities
2246-127	R-7-2	New Bullards Bar Project—Recreational Facilities
2246-128	R-7-3	New Bullards Bar Project—Recreational Facilities
2246-157	R-9	Moran Road Improvements
2246-157	R-10	Cottage Creek Layout
2246-158	R-11	Cottage Creek Layout
2246-159	R-12	Cottage Creek Layout
2246-160	R-13	Cottage Creek Pavement Delineation
2246-161	R-14	Cottage Creek Restroom Plan
2246-162	R-15	Bullards Bar Road Work
2246-163	R-16	Dark Day Test Campground

Copies of Exhibit R maps are available on the Relicensing Website (www.ycwa-relicensing.com).

2.0 **References Cited**

Federal Power Commission (FPC). 1953. Form L-6. Terms and Conditions of License for Unconstructed Major Project Affecting Navigable Waters and Lands of the United States. Federal Power Commission, Washington D.C. December 15, 1953

_____. 1963. Order Issuing License (Project No. 2246). FPC, Washington DC. May 16, 1963

_____. 1963. P-2246 30 FPC 1610 Order Modifying Order on Rehearing. FPC, Washington DC. December 27, 1963

_____. 1966. P-2246 35 FPC Order Amending License (Major). FPC, Washington DC. May 6, 1966

_____. 1968. P-2246 40 FPC Order Further Amending License (Major) and Authorizing Commencement of Construction of Power Intake at New Bullards Bar Dam of Project. FPC, Washington DC. October 3, 1968

_____. P-2246 47 FPC Order Approving Revised Exhibit L Drawings and Revised Exhibit M and Adjusting Authorized Installed Capacity. FPC, Washington DC. January 4, 1972

_____. P-2246 49 FPC Order Approving Exhibit R and “As-Built” Exhibit Drawings. FPC, Washington DC. June 1, 1973

- Federal Energy Regulatory Commission (FERC).1980. 12 FERC 62,014 Order Approving As-Built Exhibit K and Amending License. FERC, Washington DC. July 8, 1980
- _____. 1980. 13 FERC 62,225 Order Approving Temporary Waiver of the Requirement of License Article 34. FERC, Washington DC. December 2, 1980
- _____. 1985. 31 FERC 62,186 Order Amending License. FERC, Washington DC. May 9, 1985
- _____. 1986. 35 FERC 62,103 Order Approving Dissolved Oxygen Monitoring Plan. FERC, Washington DC. April 16, 1986
- _____. 1987. 38 FERC 62, 221 Order Approving Revised Exhibit F Drawings. FERC, Washington DC. March 9, 1987
- _____. 1991. 54 FERC 62,082 Order Modifying and Approving Recreation Study Plan. FERC, Washington DC. February 4, 1991
- _____. 59 FERC 62,257 Order Amending License, Approving Revised Exhibit M, and Revising Annual Changes. FERC, Washington DC. June 10, 1992
- _____. 1993. 64 FERC 62,117 Order Approving Recreation Plan with Modification, Requiring Study Plan, and Amending License. FERC, Washington DC. August 19, 1993
- _____. 1994. 66 FERC 62,182 Order Approving Recreation Study and Boating Speed Restriction Plan. FERC, Washington DC. March 25, 1994
- _____. 1995. 71 FERC 62,084 Order Approving Recreation Use Survey. FERC, Washington DC. May 1, 1995.
- _____. 1996. Order Relabeling Exhibits. FERC, Washington DC. April 16, 1996
- _____. 2003. 104 FERC 62,226 Order Amending Recreation Plan. FERC, Washington DC. September 30, 2003
- _____. 2004. 107 FERC 62,004 Order Approving Revision of the Recreation Plan. FERC, Washington DC. May 5, 2004
- _____. 2005. 113 FERC 62,137 Order Modifying and Approving Amendment of License. FERC, Washington DC. November 22, 2005
- _____. 2006. Order Approving As-Built Exhibit R Drawings. FERC, Washington DC. April 25, 2006