

## SECTION 5

# CONSISTENCY WITH COMPREHENSIVE PLANS

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This section describes federal and State of California comprehensive plans related to the Relicensing of Yuba County Water Agency's (YCWA or Licensee) Yuba River Development Project (Project). The section is divided into three major sections. Section 5.1 describes plans that Section 10(a) of the Federal Power Act (FPA) requires the Federal Energy Regulatory Commission (FERC) to consider in the Relicensing. These plans are referred to as Qualifying Comprehensive Plans. Section 5.2 describes Non-Qualifying Comprehensive Plans or agreements that may be pertinent in the Relicensing.<sup>1</sup> Section 5.3 describes other ongoing Relicensings in the Yuba River Basin.

## 5.1 Qualifying Comprehensive Plans

As described above, Section 10(a) of the FPA requires FERC to consider the extent to which a project is consistent with federal and state comprehensive plans for improving, developing, or conserving a waterway or waterways affected by the Project. On April 27, 1988, FERC issued Order No. 481-A which revised Order No. 481, issued October 26, 1987, establishing that FERC will accord FPA Section 10(a)(2)(A) comprehensive plan status to any federal or state plan that meets the following three criteria:

- Is a comprehensive study of one or more of the beneficial uses of a waterway or waterways
- Specifies the standards, the data, and the methodology used to develop the plan
- Is filed with FERC

A review of FERC's Revised List of Comprehensive Plans shows that 61 comprehensive plans have been filed with FERC specifically for the State of California and United States government agencies have filed six plans that apply to multiple states (FERC 2010). Licensee believes that 19 of these qualifying comprehensive plans have a potential to be related to the Project relicensing. Each of these plans is discussed below by resource area. It is important to note that all of the qualifying comprehensive plans that may apply to the Project relicensing were developed after the Project was constructed and began operating. Consequently, the Project was an existing condition during each qualifying comprehensive plan's development.

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<sup>1</sup> Copies of Qualifying and Non-Qualifying plans as well as other agreements, decisions, contracts and plans that may be of interest to Relicensing Participants can be found on the Relicensing Website ([www.ycwa-relicensing.com](http://www.ycwa-relicensing.com)) under "Comprehensive Plans and Relevant Agreements." While all Qualifying Plans are discussed in Section 5.1, not all contracts, decisions, etc. on the website are discussed in Section 5.2.

## **5.1.1 Water Resources**

### **5.1.1.1 California Water Plan (CDWR 1983) and California Water Plan Update (CDWR 1994)**

The California Department of Water Resources (CDWR) first published the California Water Plan in 1957. The California Water Plan focused on the quantity and quality of water available to meet California's water needs, and management actions that could be implemented to improve the State's water supply reliability. Since then, CDWR has updated the California Water Plan numerous times including in 1983 and 1994 (the reference used in FERC's August 2007 List of Comprehensive Plans for the California Water Plan Update). The most recent update was in December 2005. The Project is located in what the California Water Plan calls the "Sacramento River Hydrologic Region." The Project reservoirs represent a small portion of the water supply in the Sacramento River Hydrologic Region.

Water supplies will not be affected by the relicensing proceeding or continued operation of the Project unless Project reservoirs are removed, minimum streamflow requirements are significantly increased, or consumptive water deliveries are significantly reduced.

### **5.1.1.2 Water Quality Control Plan for the Sacramento and San Joaquin River Basins (CVRWQCB 1998)**

This reference is to the water quality control plans adopted by the California State Water Resources Control Board (SWRCB) pursuant to the Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act. The nine plans, which apply to different areas of California, formally designate existing and potential beneficial uses and water quality objectives. The water quality control plan applicable to the Project Area<sup>2</sup> is the Central Valley Regional Water Quality Control Board's (CVRWQCB) Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan). The SWRCB has updated the water quality control plans several times since 1995. The most recent version of the Basin Plan is the fourth edition approved in 1998 with approved amendments through 2009.

For a discussion of the Basin Plan as it applies to the Yuba River in the Project Area and downstream, and Licensee's anticipated activities to comply with that Basin Plan, refer to Section 4.1.9 of this Pre-Application Document. Refer to Section 5.3 of this document for a detailed discussion of SWRCB's Water Quality Control Plan for the Delta.

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<sup>2</sup> For the purposes of this document, Project Area is defined as the area within the Federal Energy Regulatory Commission (FERC) Project Boundary and the land immediately surrounding the FERC Project Boundary (i.e., within about 0.25 mile of the FERC Project Boundary) and includes Project-affected reaches between facilities and downstream to the next major water controlling feature or structure, the United States Army Corps of Engineers' (USACE) Daguerre Point Dam.

#### 5.1.1.3 Water Quality Control Plans and Policies (SWRCB 1999)

This reference refers to an April 1999 submittal by the SWRCB to FERC of a listing of all SWRCB plans and policies. This submittal stated that all of the listed plans and policies are part of the “State Comprehensive Plan,” even though it does not exist as a single plan.

The main plan and policies listed in that submittal to FERC included the most recent edition of the Basin Plan, which is addressed in Section 4.1.9 of this Pre-Application Document.

#### 5.1.1.4 Final Programmatic Environmental Impact Statement/Environmental Impact Report for the CALFED Bay-Delta Program (CDWR 2000)

The California Water Policy Council and the Federal Ecosystem Directorate united in June 1994 to form CALFED. In June 1995, CALFED established its Bay-Delta Program (Program) to develop a long-term, comprehensive solution to environmental issues in the Sacramento-San Joaquin Delta and San Francisco Bay. The Program is a cooperative, interagency effort involving 15 state and federal agencies with management and regulatory responsibilities in the San Francisco Bay-San Joaquin Delta Estuary (Bay-Delta).

The Program was divided into three phases. In Phase I, completed in September 1996, the Program identified the problems confronting the Bay-Delta, developed a mission statement, and developed guiding principles. Following scoping, public comment, and agency review, the Program identified three preliminary alternatives to be further analyzed in Phase II. The three Phase II preliminary alternatives each included Program elements for levee system integrity, water quality improvements, ecosystem restoration, water use efficiency, and three differing approaches to conveying water through the Bay-Delta.

In Phase II, completed in July 2000 the Program refined the preliminary alternatives, conducted a comprehensive programmatic environmental review, and developed implementation strategies. The Program added greater detail to each of the Program elements and crafted frameworks for two Program elements: water transfers and watershed management. The Phase II report contains a general summary of the Program plans. More fundamentally, the report also describes the Program process, the fundamental Program concepts that have guided their development, and analyses that have contributed to Program development. Further, this report describes how this large, complex Program may be implemented, funded, and governed in the future. The following plans outline Program actions:

- Ecosystem Restoration Program Plan (Volumes 1, 2, and 3)
- Water Quality Program Plan
- Water Use Efficiency Program Plan
- Water Transfer Program Plan
- Levee System Integrity Program Plan
- Watershed Program Plan

The goals of the Water Quality and Watershed programs under CALFED include improving overall water quality by reducing the loadings of many constituents of concern that enter Bay-Delta tributaries from point and non-point sources. Principal targeted constituents include heavy metals (such as mercury), pesticide residues, salts, selenium, pathogens, suspended sediments, adverse temperatures, and disinfection byproduct precursors such as bromide and total organic carbon. The remaining Program plans include the:

- Implementation Plan
- Multi-species Conservation Strategy (MSCS)
- Comprehensive Monitoring, Assessment, and Research Program (CMARP)

Phase II was completed, with publication of the final programmatic Environmental Impact Statement (EIS)/Environmental Impact Report (EIR) in July 2000.

Phase III is on-going and consists of implementation of the Preferred Program Alternative over 20-30 years. Information from the final programmatic EIS/EIR will be incorporated by reference into subsequent tiered environmental documents for specific projects in accordance with National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) guidelines. Project reservoirs do not feed directly into the Bay-Delta. Licensee anticipates that resource agencies that participate in the Program will participate in the relicensing to the extent necessary to assure consistency between the Program and the relicensing.

## **5.1.2 Aquatic Resources**

### **5.1.2.1 Cooperative Agreement to Implement Actions to Benefit Winter-Run Chinook Salmon in the Sacramento River (CDFG et al. 1988)**

Licensee was not able to obtain a copy of the Cooperative Agreement to Implement Actions to Benefit Winter-Run Chinook Salmon in the Sacramento River Plan, which is listed on FERC's August 2007 List of Comprehensive Plans, from the internet, FERC, the California Department of Fish and Game (CDFG), the United States Department of Interior (USDOI), Fish and Wildlife Service (USFWS), USDOI Bureau of Land Management (BLM) or the United States Department of Commerce (USDOC) National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS).

## **5.1.3 Wildlife Resources**

### **5.1.3.1 Central Valley Habitat Joint Venture Implementation Plan (USFWS et al. 1990)**

The California Central Valley Habitat Joint Venture (CVHJV) is one of 12 current joint ventures charged with implementation of the North American Waterfowl Management Plan (USFWS 1986). The CVHJV was formally established by a working agreement signed in July 1988 and is guided by an implementation board comprised of representatives from the California Waterfowl Association, Defenders of Wildlife, Ducks Unlimited, National Audubon Society, Waterfowl Habitat Owners Alliance, and The Nature Conservancy. Technical assistance is provided to the

board by USFWS, CDFG, the California Department of Food and Agriculture (CDFA), and other organizations and agencies.

The Central Valley of California is the most important wintering area for waterfowl in the Pacific Flyway, supporting 60 percent of the total population. Historically, the Central Valley contained more than 4 million acres of wetlands; however, only 291,555 acres remained in 1990 when the CVHJV was first implemented. The primary cause of this wetland loss was conversion to agriculture, flood control, navigation projects, and urban expansion.

The CVHJV will: 1) protect 80,000 acres of existing wetlands through fee acquisitions or conservation easements; 2) restore 120,000 acres of former wetlands; 3) enhance 291,555 acres of existing wetlands; 4) enhance waterfowl habitat on 443,000 acres of private agricultural land; and 5) secure 402,450 acre-feet (ac-ft) of water for existing State Wildlife Areas, National Wildlife Refuges, and the Grasslands Resource Conservation District (GRCD). These habitat conservation efforts are intended to result in a fall flight of 1 million ducks and 4.7 million wintering ducks. The wintering bird totals will include 2.8 million northern pintail, a species whose wintering population is vitally dependent on the Central Valley.

The CVHJV is a regional approach to conservation and management of waterfowl populations in the Central Valley, but has no specific relevance to the operation and management of the Project.

#### **5.1.4 Threatened, Endangered, and Fully Protected Species**

##### **5.1.4.1 Restoring the Balance (California Advisory Committee on Salmon and Steelhead Trout 1988)**

The California Advisory Committee on Salmon and Steelhead Trout was established by California legislation in 1983 to develop a strategy for the conservation and restoration of salmon and steelhead resources in California. To streamline its process, the committee divided California's steelhead and salmon resources into 11 systems – the Project is located in the Sacramento River System. The report focuses mostly on the Central Valley; the Project Area was not identified specifically. The committee recommended among other things that California should seek to double its steelhead and salmon populations, and recommended strategies to do so. Many of the recommendations were advanced and discussed in subsequent related publications described below.

Licensee intends to consult with NMFS and CDFG regarding application of this document to the relicensing to the extent that a Project nexus occurs.

##### **5.1.4.2 Central Valley Salmon and Steelhead Restoration and Enhancement Plan (CDFG 1990a)**

The Central Valley Salmon and Steelhead Restoration and Enhancement Plan was released by CDFG in April 1990. This plan is intended to outline CDFG's restoration and enhancement goals for salmon and steelhead resources of the Sacramento and San Joaquin river systems and to

provide direction for various CDFG programs and activities. This plan is also intended to provide the understanding and arguments for the restoration and enhancement of the State's salmon and steelhead resources.

Licensee intends to consult with NMFS and CDFG regarding application of this document to the relicensing proceeding to the extent that a Project nexus occurs.

#### 5.1.4.3 Restoring Central Valley Streams Plan (CDFG 1993)

The Restoring Central Valley Streams Plan was released by CDFG in November 1993. The goals of the plan, all targeted toward anadromous fish, are to restore and protect California's aquatic ecosystems that support fish and wildlife, to protect threatened and endangered species, and to incorporate the State legislature mandate and policy to double the population of anadromous fish in California. The plan encompasses only Central Valley waters accessible to anadromous fish, excluding the Sacramento-San Joaquin Delta.

Licensee intends to consult with NMFS and CDFG regarding application of this document to the relicensing proceeding to the extent that a Project nexus occurs.

#### 5.1.4.4 Steelhead Restoration and Management Plan for California (CDFG 1996)

The Steelhead Restoration and Management Plan for California was released by CDFG in February 1996. This plan focuses on restoration of native and naturally produced (i.e., wild) stocks of steelhead because these stocks have the greatest value for maintaining genetic and biological diversity. Goals for steelhead restoration and management are: 1) increase natural production, as mandated by the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act of 1988, so that steelhead populations are self-sustaining and maintained in good condition; and 2) enhance angling opportunities and non-consumptive uses.

Licensee intends to consult with NMFS and CDFG regarding application of this document to the relicensing proceeding to the extent that a Project nexus occurs.

#### 5.1.4.5 Final Restoration Plan for Anadromous Fish Restoration Program (USFWS 2001a)

The Final Restoration Plan for Anadromous Fish Restoration Program was released by USFWS as a revised draft on May 30, 1997 and adopted as final on January 9, 2001. This plan identifies restoration actions that may increase natural production of anadromous fish in the Central Valley of California. This plan is split up into watersheds within the Central Valley with restoration actions identified for each watershed. It also lists the involved parties, tools, priority rating, and evaluation of each restoration action. The plan encompasses only Central Valley waters accessible to anadromous fish, including the Sacramento-San Joaquin Delta.

Licensee intends to consult with NMFS, USFWS, and CDFG regarding application of this document to the relicensing proceeding to the extent that a Project nexus occurs.

## **5.1.5 Recreation Resources**

### **5.1.5.1 California Outdoor Recreation Plan (CDPR 1994)**

The objectives of California Department of Parks and Recreation (CDPR) California Outdoor Recreation Plan (CORP), the most recent version of which is from 2002, are to determine outdoor recreation problems and opportunities that are currently the most critical, and to explore the most appropriate actions by which state, federal, and local agencies might address these issues. The CORP also provides valuable information on the State's recreation policy, code of ethics, statewide recreation demand, demographic, economic, political, and environmental conditions. The plan lists the following major issues: 1) improving resource stewardship; 2) serving a changing population; 3) responding to limited funding; 4) building strong leadership; 5) improving recreation opportunities through planning and research; 6) responding to the demand for trails; and 7) halting the loss of wetlands. The CORP applies to state and local parks and recreation agencies, and does not apply to federal or private sector recreational providers.

Because none of the recreation facilities in the Project Area are state or local parks, the CORP has little direct application to the Project other than general guidance.

### **5.1.5.2 Public Opinions and Attitudes in Outdoor Recreation (CDPR 1998)**

CDPR's Public Opinions and Attitudes in Outdoor Recreation survey, the most recent version of which is 2002, provides information used in the development of the CDPR's CORP. This survey identifies: 1) California's attitudes, opinions, and values with respect to outdoor recreation; and 2) demand for and participation in 42 selected outdoor recreation activities.

As with the CORP, this document applies to state and local parks and recreation agencies, and has little direct application to the Project other than general guidance.

### **5.1.5.3 Recreation Needs in California (California - The Resources Agencies 1983)**

In response to the Roberti-Z'berg Urban Open Space and Recreation Program Act of 1976, the CDPR conducted a statewide recreational needs assessment. The report consisted of two major elements: 1) the Recreation Patterns Study that surveyed current participation and projected recreation demand; and 2) the Urban Recreation Case Studies that examined the leisure behavior and needs of seven underserved populations. The purpose of the needs analysis was to: 1) develop statewide recreation planning data; 2) analyze the recreation needs of California's urban residents; and 3) modify project selection criteria used in the administration of grants to local agencies under the Roberti-Z'berg Act.

In general, this report is a wide-ranging, programmatic document providing guidance for statewide planning. The urban-specific study has little relevance to the Project Area, which is mostly remote.

#### 5.1.5.4 The Recreational Fisheries Policy of the U.S. Fish and Wildlife Service (USFWS 1989)

This is a 12-page policy signed by John F. Turner, then director of USFWS, on December 5, 1989. Its purpose is to unite all of USFWS' recreational fisheries capabilities under a single policy to enhance the nation's recreational fisheries. Regional and assistant directors are responsible for implementing the policy by incorporating its goals and strategies into planning and day-to-day management efforts. USFWS carries out this policy relative to FERC-licensed hydroelectric projects through such federal laws as the Fish and Wildlife Coordination Act, the CWA, the Endangered Species Act (ESA), NEPA, and the FPA, among others.

Project compliance with each of these laws is discussed in Section 4.0 of this Pre-Application Document. Licensee anticipates the Project will comply with the policy and associated acts through USFWS's participation in the relicensing proceeding, and USFWS's review and comment on proposed protection, mitigation, and enhancement measures.

### **5.1.6 Land Use**

#### 5.1.6.1 Tahoe National Forest Land and Resource Management Plan (USDA Forest Service 1990)

The Forest and Rangeland Renewable Resources Planning Act (FRRRPA) requires that each national forest prepare an initial forest plan that provides direction for the efficient use and protection of forest resources within their administrative boundaries. The Tahoe National Forest (TNF) Land and Resource Management Plan (LRMP) was adopted in 1990 (USDA-FS, 1990). The LRMP sets two levels of management direction: one is forest-wide and the other is area-specific. With respect to forest-wide management, direction comes from forest-wide goals, objectives, standards, and guidelines. Area-specific direction is set forth in the management direction for 106 areas and includes management area emphasis, standards, guidelines, and practices. The LRMP addresses resources across TNF.

Through the Sierra Nevada Forest Plan Amendment process, the LRMP has been updated twice since 1990 and it is in the process of being updated a third time (USDA-FS, 2001a; 2004; 2010). Licensee intends to consult closely with the United States Department of Agriculture (USDA) Forest Service (Forest Service) during relicensing to assure consistency with the TNF LRMP.

#### 5.1.6.2 Plumas National Forest Land and Resource Management Plan (USDA Forest Service 1988)

As described above, the FRRRPA requires that each national forest prepare an initial forest plan that provides direction for the efficient use and protection of forest resources within its administrative boundaries. The Plumas National Forest (PNF) LRMP was adopted in 1988.

Licensee intends to consult closely with the Forest Service during relicensing to assure consistency with the PNF LRMP.



### 5.1.6.3 The Nationwide Rivers Inventory (NPS 1982)

The Nationwide Rivers Inventory (NRI) is a listing by the USDOJ, National Park Service (NPS) of more than 2,400 free-flowing river segments in the United States that are believed to possess one or more “outstandingly remarkable” natural or cultural values (ORV) judged to be of more than local or regional significance. In addition to these eligibility criteria, river segments are divided into three classifications: Wild, Scenic, and Recreational river areas. Under a 1979 presidential directive and related council on environmental quality procedures, all federal agencies must seek to avoid or mitigate actions that would adversely affect one or more NRI segments. Such adverse impacts could alter the river segment’s eligibility for listing and/or alter their classification.

Section 7.10 of this Pre-Application Document discusses segments of river in the Project Area listed on the NRI.

## **5.2 Non-Qualifying Comprehensive Plans and Agreements**

### **5.2.1 SWRCB 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary**

The Bay-Delta is important to the natural environment and economy of California. The watershed of the Bay-Delta provides drinking water to two-thirds of the state’s population and water for a multitude of other urban uses. The watershed also supplies water to some of the state’s most productive agricultural areas, both inside and outside of the Bay-Delta. The Bay-Delta itself is one of the largest ecosystems for fish and wildlife habitat and production in the United States.

SWRCB adopted a new water quality control plan for the Bay-Delta in May 1995. The 1995 Bay-Delta Plan identified 17 beneficial uses, both within the Delta and throughout the state, to be served by the waters of the Delta. These uses fall into three broad categories: 1) municipal and industrial; 2) agricultural; and 3) fish and wildlife. The 1995 Bay-Delta Plan identified water quality objectives for each of these categories of uses to attain the highest water quality that is reasonable, considering the demands made on the waters of the Bay-Delta. SWRCB established various salinity objectives for the reasonable protection of agriculture as a beneficial use from the effects of salinity intrusion and agricultural drainage in the western, interior, and southern Bay-Delta. To protect fish and wildlife uses, SWRCB’s plan established objectives for six parameters: 1) dissolved oxygen, 2) salinity, 3) amounts of Delta outflow, 4) river flows, 5) export limits, and 6) Delta cross-channel gate operation. The plan also included a narrative objective for salmon protection.

In addressing implementation of the objectives in the 1995 Bay-Delta Plan, SWRCB divided the program of implementation into four general components: 1) measures within SWRCB’s authority over water diversion and use that implement the water quality objectives; 2) measures requiring a combination of SWRCB’s water quality and water rights authorities and actions by

other agencies to implement the objectives; 3) recommendations to other agencies to improve fish and wildlife habitat conditions; and 4) a monitoring and special studies program.

In November 1997, SWRCB issued a draft EIR for implementation of the 1995 Bay-Delta Plan. The following month, SWRCB issued a notice of public hearing, setting hearing dates for the water rights proceeding in which SWRCB would allocate responsibility for implementing the flow-dependent objectives of the 1995 Bay-Delta Plan.

SWRCB commenced a new proceeding to amend the 1995 Bay-Delta plan on September 29, 2006. The draft amended Bay-Delta Plan and accompanying appendices, including environmental documentation, accompanied the Notice of Public Hearing. Before commencing this proceeding, SWRCB conducted a series of workshops in 2004 and 2005 to receive information on specific topics addressed in the Bay-Delta Plan. The SWRCB sent notice of all workshops to all parties that indicated interest in receiving notices.

SWRCB adopted the revised Bay-Delta Plan (2006 Plan) on December 13, 2006. The 2006 plan supersedes the 1995 Bay-Delta Plan as well as the plans that preceded 1995 Bay-Delta Plan. The 2006 plan made only minor changes to the 1995 plan and the program of implementation. No changes were made to the designated beneficial uses.

In August 2008, SWRCB announced plans to review, and possibly amend, the 2006 plan pursuant to Water Code Section 13240. This process will include the preparation of environmental documentation as required by CEQA.

Current operations of the Yuba River Project are consistent with the Lower Yuba River Accord, as described below, which promotes the objectives of CALFED and provided the first major long-term water acquisition by the State of California for the Bay-Delta Environmental Water Account.

## **5.2.2 Draft Bay-Delta Conservation Plan (BDCP Steering Committee 2010)**

The Bay-Delta Conservation Plan (BDCP) is anticipated to provide for water supply reliability and the recovery of listed species through a Habitat Conservation Plan (HCP) under federal law and a Natural Community Conservation Plan (NCCP) under state law. The BDCP process is intended to provide authorizations pursuant to Section 10 of the ESA and California Fish and Game Code Section 2835 or 2081 to allow the incidental take of threatened and endangered species resulting from covered activities and conservation measures identified through the planning process, including those associated with water operations of the State Water Project and the federal Central Valley Project. The BDCP will include a wide range of conservation actions including habitat restoration, protection, and enhancement; conveyance facilities; water operations and management; monitoring, assessment, and adaptive management; cost and funding; and governance structure and decision-making.

The BDCP is being prepared by a coalition that includes the USDOJ Bureau of Reclamation (BOR), CDWR, Mirant Delta LLC, and the water supply contractors of the Central Valley Project and the State Water Project. Also participating in its preparation are USFWS, NMFS, the California Resources Agency, CDFG, SWRCB, and various stakeholders, including the Nature Conservancy, Environmental Defense, Defenders of Wildlife, the California Farm Bureau Federation (CFBF), the Natural Heritage Institute, American Rivers, the Contra Costa Water District (CCWD), and the Bay Institute. These organizations are members of the steering committee that is helping to guide preparation of the BDCP. The regulatory agencies, USFWS, NMFS, CDFG, and SWRCB are participating in the steering committee to provide technical input and guidance in support of the steering committee's efforts to complete the BDCP.

CDWR is currently evaluating the environmental impacts of the BDCP. A joint EIR/EIS for the BDCP is being prepared. CDWR will serve as the lead agency under CEQA and will work in cooperation with the federal lead and co-lead agencies: BOR, NMFS, and USFWS.

The draft EIR/EIS is expected to be ready for public review and comment by early 2011.

### **5.2.3 Delta Vision Strategic Plan (Delta Vision Blue Ribbon Task Force 2008) and Delta Vision Committee Implementation Report (Delta Vision Committee 2008)**

Delta Vision was created by Executive Order S-17-06 of Governor Arnold Schwarzenegger on September 17, 2006, to find a durable vision for sustainable management of the Bay-Delta, so that it could continue to support environmental and economic functions critical to the people of California.

In February 2007, the governor appointed an independent seven-member Delta Vision "Blue Ribbon" Task Force that was responsible for recommending future actions to achieve a sustainable Delta. The governor also appointed the Delta Vision Committee, which consists of several gubernatorial cabinet members, and which was charged with reviewing the Delta Vision Task Force's recommendations and preparing the final Delta Vision Committee Implementation Report.

The Task Force evaluated the existing and proposed land and water uses, ecosystem functions and processes, and management practices in the Delta and identified alternative Delta management scenarios.

In October 2008, the Delta Vision Task Force issued its Delta Vision Strategic Plan, which includes various recommended measures and management practices to protect the Delta ecosystem and the state's water supply. These recommendations propose changes in the use of land and water resources, services to be provided within the Delta, governance, funding mechanisms, and ecosystem management practices.

On January 2, 2009, the Delta Vision Committee issued its Delta Vision Committee Implementation Report.

#### **5.2.4 Lower Yuba River Accord**

In 2005, Licensee and 16 other interested parties signed memoranda of understanding that specify the terms of the Lower Yuba River Accord (Yuba Accord), a comprehensive, consensus-based program to protect and enhance aquatic habitat in the Yuba River downstream of the United States Army Corps of Engineers' (USACE) Englebright Dam. Following environmental review, Licensee executed the following four agreements in 2007, which together comprise the Yuba Accord: 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 CDWR purchases water, some of which is provided by the Yuba Accord's minimum streamflows, from Licensee for CALFED's Environmental Water Account (the first long-term acquisition of water by this program), which protects Bay-Delta fish and wildlife and State Water Project and Central Valley Project contractors; 3) the Conjunctive Use Agreements with seven of Licensee's member units, which specify the terms of the Yuba Accord's groundwater conjunctive-use program; and 4) amendments to the 1966 Power Purchase Agreement between Licensee and Pacific Gas and Electric Company (PG&E). Together, this package of agreements provides more water for instream flows and greater reliability for both instream and consumptive uses than would have been possible without the agreements.

Licensee has been operating the Project in conformance with the Yuba Accord since 2006. The 2006, 2007 and early 2008 operations were under one-year pilot programs that were approved by SWRCB. On May 20, 2008, SWRCB adopted its Corrected Order WR 2008-0014, which approved the long-term amendments to Licensee's water-right permits that were necessary so that Licensee may continue to implement the Yuba Accord.

#### **5.2.5 Lower Yuba River Fisheries Management Plan (CDFG 1991)**

In February 1991, CDFG issued its final Lower Yuba River Fisheries Management Plan. This plan contained various management recommendations for the lower Yuba River, including proposed new instream flow and temperature requirements and recommendations for several additional fisheries studies. The SWRCB considered this plan in detail during its water-rights hearings in 1992 and 2000, which ultimately led to the SWRCB's water-rights Decision 1644 and Revised Decision 1644. The recommendations in the 1991 plan have been superseded by the Lower Yuba River Accord. The SWRCB's Revised Decision 1644 was substantially modified by the SWRCB's Corrected Order WR 2008-0014.

#### **5.2.6 Biological Opinion for Amendment of Yuba River Development Project License (NMFS 2005b)**

On November 4, 2005, NMFS issued its biological and conference opinion (BO) for YCWA's requested amendments to its FPA license: 1) to authorize YCWA to construct and operate its proposed flow bypass at its Narrows II Powerhouse at USACE's Englebright Dam; and 2) for revisions in the flow-reduction and flow-fluctuation criteria in YCWA's license. This BO analyzed the potential effects of the proposed action on Central Valley spring-run Chinook

salmon and Central Valley steelhead and their critical habitats, and southern Distinct Population Segment (DPS) green sturgeon. The BO concluded that these proposed activities would not jeopardize the continued existences of these species or destroy or adversely modify these critical habitats. The BO specifies required reasonable and prudent measures and associated terms and conditions for these activities.

On November 22, 2005, FERC issued its order modifying and approving YCWA's proposed license amendments. This order directed YCWA to implement the BO's reasonable and prudent measures and terms and associated terms and conditions.

### **5.2.7 Draft Recovery Plan (NMFS 2009a)**

On November 7, 2009, NMFS announced that its draft Central Valley Salmon and Steelhead Recovery Plan was available for public review and comment. On November 24, 2009, NMFS extended the deadline for public comments on this draft plan to February 3, 2010.

ESA recovery plans are authorized by section 4(f) of the ESA. Recovery plans are guidance documents, not regulatory documents. NMFS's November 7, 2009 notice states that the ESA envisions that recovery plans are the central organizing tools for guiding the recoveries of listed species, that recovery plans guide federal agencies in fulfilling their obligations under section 7(a)(1) of the ESA, and that recovery plans provide a context and framework for implementing other provisions of the ESA with respect to a particular species, including consultations under section 7(a)(2) of the ESA and the development of habitat conservation plans under section 10(a)(1)(B) of the ESA.

The draft Central Valley Salmon and Steelhead Recovery Plan addresses the Sacramento River winter-run Chinook salmon ESU, the Central Valley spring-run Chinook salmon ESU and the DPS of Central Valley steelhead. The draft plan describes recovery strategies, lists recovery goals, objectives and criteria, and proposes recovery scenarios and numerous recovery actions throughout the Central Valley, including many proposed recovery actions in the Yuba River watershed.

On February 1, 2010, YCWA submitted detailed comments on the draft plan. NMFS has not taken any further public actions regarding the draft plan.

### **5.2.8 New USACE/NMFS ESA Consultation (NMFS 2007)**

On March 23, 2007, USACE submitted to NMFS a Biological Assessment of USACE's existing operations of its Daguerre Point and Englebright dams on the Yuba River, and requested re-initiation of formal consultation for spring-run Chinook salmon and Central Valley steelhead, and initiation of formal consultation for North American green sturgeon, under section 7 of the ESA.

On November 21, 2007, NMFS issued its Biological Opinion for this consultation. The Biological Opinion concluded that USACE's proposed project (the existing operations of the two

USACE dams) was not likely to jeopardize the continued existence of these fish species or result in the adverse modification of their respective designated critical habitats. Because there was a likelihood of incidental take of these species, the Biological Opinion contained an incidental take statement, which included the reasonable and prudent measures and associated terms and conditions that NMFS believed were necessary and appropriate to avoid, minimize and monitor project impacts.

This Biological Opinion was challenged in *South Yuba River Citizens League v. National Marine Fisheries Service*, No. CIV S-06-2845 LKK/JFM (E. D. Cal.). On July 8, 2010, the court issued an order in this case. The court concluded in this order that NMFS's adoption of this Biological Opinion was arbitrary and capricious. As a result, USACE and NMFS must re-initiate consultation under section 7 of the ESA for USACE's existing operations of Daguerre Point and Englebright dams. The new consultation ultimately will result in a new Biological Opinion for USACE's existing operations of these dams. At the time this Pre-Application Document (PAD) is filed with FERC, the court has not yet issued an order specifying the schedule for completion of this re-consultation.

### **5.3 Other Ongoing FERC Relicensings in the Yuba River Basin**

At the time Licensee prepared this PAD, three hydro relicensing projects besides Licensee's Project relicensing were ongoing in the Yuba River Basin. The relicensings are upstream of the Project and include: 1) South Feather Water and Power Agency's (SFWPA) South Feather Power Project (FERC Project No. 2088); 2) Nevada Irrigation District's (NID) Yuba-Bear Hydroelectric Project (FERC Project No. 2266); and 3) PG&E's Drum-Spaulding Project (FERC Project No. 2310). SFWPA filed its application for a new license on March 6, 2007, and FERC issued a Final Environmental Impact Statement (FEIS) in June 2009. A new license has not been issued. The initial licenses for NID's and PG&E's projects each expire on April 30, 2013. NID and PG&E have stated they intend to file draft license applications on November 1, 2010, and final license applications by April 2011. The new licenses, once issued by FERC, may affect the Project. Refer to Sections 6.2, 6.3 and 6.4 of this PAD for more information regarding these three projects.