

# **TECHNICAL MEMORANDUM 7-1**

# **Endangered Species Act-Listed Plants**

# Yuba River Development Project FERC Project No. 2246

December 2012

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#### **TECHNICAL MEMORANDUM 7-1**

## **EXECUTIVE SUMMARY**

In 2012, Yuba County Water Agency (YCWA or Licensee) conducted botanical surveys for plant species listed as threatened or endangered under the federal Endangered Species Act (ESA) for the Yuba River Development Project (Project).

Surveys were conducted in conjunction with other botanical relicensing studies, including Special-Status Plants (Study 5.1); ESA-Listed Wildlife - Valley Elderberry Longhorn Beetle Study (Study 7.4); and California Endangered Species Act (CESA)-Listed Plants (Study 7.5).

ESA-listed plant surveys began on March 26, 2012 and concluded by July 29, 2012. A total of 1,936 acres (ac) was surveyed. The study followed California Department of Fish and Game's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFG 2009a); they were floristic in nature, and were conducted by foot and boat.

A complete list of all plant species found during floristic surveys is included in Attachment 7-1A.

No ESA-listed plant species were identified during YCWA's botanical relicensing studies. In addition, no ESA-listed plants were identified as incidental observations during YCWA's other relicensing studies performed from 2009 through 2012, and YCWA is unaware of any historic records of ESA-listed plants within the existing FERC Project Boundary. Further, based on a literature review, no ESA-listed plants have been reported to occur in the study area, but four ESA-listed plant species have a potential to occur within the Project Vicinity: Stebbins' morning-glory (*Calystegia stebbinsii*), Pine Hill flannelbush (*Fremontodendron decumbens*), Layne's ragwort (*Packera layneae*), and Hartweg's golden sunburst (*Pseudobahia bahiifolia*). Based on life history information for these plant species and on-the-ground observations made during botanical relicensing studies, all four species require conditions that are not present within the FERC Project Boundary.

YCWA consulted with United States Department of the Interior (USDOI), Fish and Wildlife Service's (USFWS) on October 22, November 8 and December 3, 2012 to review the results of the interim technical memorandum, and specifically any additional data gathering needs. At the December 3 meeting, USFWS said it was in the process of completing its internal reviews and consulting with other agencies. YCWA and USFWS agreed that for the purpose of the FERC-approved study, consultation would be considered complete. However, YCWA and USFWS agreed that consultation would continue under both FERC's Integrated Licensing Process (ILP) and Section 7 of the ESA. Under the ILP, consultation regarding additional data gathering could occur both formally (i.e., through the ILP Initial Study Report process), and informally (i.e.,

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<sup>&</sup>lt;sup>1</sup> For the purposes of this Relicensing, the Project Vicinity is defined as the area surrounding the Project in the order of a county or United States Geological Survey 1:24,000 topographic quadrangle.

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YCWA and USFWS could continue discussion of potential additional data gathering, if the parties believed there was benefit in doing so).

The study was conducted according to the Federal Energy Regulatory Commission (FERC)-approved ESA-Listed Plants (Study 7.1), with two variances. First, YCWA excluded from the study area 7.9 acres surrounding a known bald eagle (*Haliaeetus leucocephalus*) nest in compliance with the USFWS's National Bald Eagle Management Guidelines (2007). Second, the FERC-approved study stated the study would be complete in September 2012. Study completion was delayed due because the quality review of the data and consultation with the USFWS took slightly longer than anticipated.

The study is complete.

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#### **TECHNICAL MEMORANDUM 7-1**

## ENDANGERED SPECIES ACT-LISTED PLANTS<sup>2</sup>

Yuba County Water Agency's (YCWA or Licensee) continued operation and maintenance (O&M) of the Yuba River Development Project, Federal Energy Regulatory Commission (FERC or Commission) Project Number 2246 (Project) may potentially have an adverse effect on plants listed under the federal Endangered Species Act (ESA) as endangered (FE) or threatened (FT).

ESA-Listed Plants was conducted in conjunction with other botanical relicensing studies, including Special-Status Plants<sup>3</sup> (Study 5.1); ESA-Listed Wildlife - Valley Elderberry Longhorn Beetle Study (Study 7.4); and, State of California Endangered Species Act (CESA)-Listed Plants (Study 7.5). The results of those studies are provided in separate technical memoranda.

In its January 4, 2011, Notice of Intent to File License Application, Filing of Pre-Application Document (PAD), Commencement of Pre-Filing Process, and Scoping; Request for Comments on the PAD and Scoping Document, and Identification of Issues and Associated Study Requests Notice, FERC initiated informal consultation with the United States Department of Interior, Fish and Wildlife Service (USFWS) under section 7 of the ESA and the joint agency regulations thereunder at 50 CFR, Part 402. Further, in its notice, FERC designated YCWA as FERC's nonfederal representative for carrying out informal consultation, pursuant to section 7 of the ESA.

#### 1.0 **Goals and Objectives**

The goal of the study was to provide information to determine whether continued Project O&M or recreational use of Project facilities may have a measurable, adverse effect on ESA-listed plant species.

The objective of the study was to gather the information necessary to perform this analysis.

This technical memorandum presents the results for Study 7.1, ESA-Listed Plants, which was included in YCWA's September 8, 2011 Revised Study Plan for Relicensing of the Yuba River Development Project, and approved by FERC in its September 30, 2011 Study Plan Determination. There were no modifications to Study 7.1 subsequent to FERC's September 30, 2011 Study Determination.

For the purposes of this Relicensing, special-status plants are considered those plants that are: 1) found on National Forest System (NFS) land managed by the Forest Service and formally listed on the Forest Service's List of Sensitive Plant Species for the Plumas National Forest (FSS-P) or the Tahoe National Forest (FSS-T); 2) found on the CDFG's list of California Rare (SR) species, listed under the Native Species Protection Act of 1977; 3) listed under the federal ESA as Proposed or a Candidate for listing as endangered or threatened; 4) listed under the CESA as proposed for listing; or 4) found on the California Native Plant Society (CNPS) Inventory of Rare Plants and formally listed as a CNPS 1, 2 3 or 4 plant (CNPS 1, CNPS 2, CNPS 3, CNPS 4).

#### 2.0 Methods

The study was conducted in three steps: 1) define the study area; 2) gather data and information to prepare for the field effort, including known plant occurrences in the Project Vicinity;<sup>4</sup> and 3) conduct the surveys for the study area.

#### 2.1 Study Area

The study area was, at as minimum, the area within the existing FERC Project Boundary,<sup>5</sup> including all Project facilities and features (e.g., dams, Project roads, powerhouses and reservoirs) and Project recreation areas. The study area also included a buffer of 100 feet (ft) extending upslope from the high-water mark of Project reservoirs and from the FERC Project Boundary around Project recreation facilities. The total study area included 3,332 acres. A map of the study area is provided in Figure 2.1-1.

For the purposes of this relicensing, the Project Vicinity is defined as the area surrounding the Project in the order of a county or United States Geological Survey 1:24,000 topographic quadrangle.

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<sup>&</sup>lt;sup>5</sup> The existing FERC Project Boundary is the area that YCWA uses for normal Project operations and maintenance, and is shown on Exhibits J, K, and G of the current License.

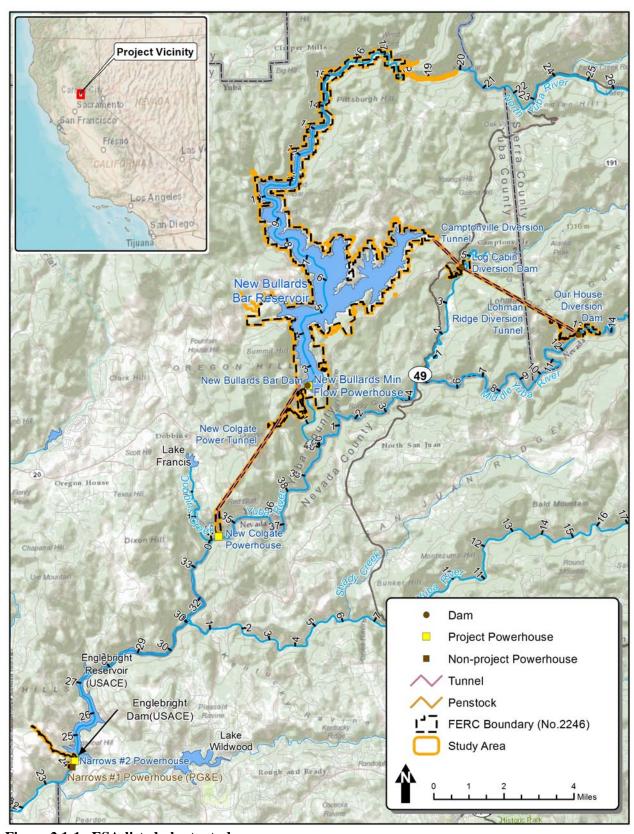


Figure 2.1-1. ESA-listed plants study area.

#### 2.2 Gather Data and Prepare for Field Effort

A literature review was conducted prior to the fieldwork to: 1) identify all possible ESA-listed plants in the study area; 2) identify locations where ESA-plants were previously observed in the Project Vicinity; and 3) gather life history information for all potential ESA-listed species. In addition, YCWA: 1) generated an official list of ESA-listed species via the online request service available at USFWS' website (USFWS 2011);<sup>6</sup> 2) reviewed the California Native Plant Society (CNPS) database (CNPS 2012) within the nine United States Geological Survey quadrangle maps that overlap the Project Boundary; and, 3) searched for recorded occurrences of ESA-listed plants using queries of California Department Fish and Game's (CDFG) California Natural Diversity Database (CNDDB) RareFind 4 (CDFG 2009b).

Based on these reviews, YCWA identified four ESA-listed plants that had a reasonable potential to occur within the existing FERC Project Boundary: Stebbins' morning-glory (*Calystegia stebbinsii*), Pine Hill flannelbush (*Fremontodendron decumbens*), Layne's ragwort (*Packera layneae*), and Hartweg's golden sunburst (*Pseudobahia bahiifolia*). All four of these plant species were also listed as state endangered (SE) under the CESA or state rare (SR) under state law by CDFG. Table 2.2-1 provides some information regarding these plants species, and life history information for each of the four ESA-listed plant species is provided below.

Table 2.2-1. ESA-listed plant species potentially occurring in the vicinity of YCWA's Yuba River Development Project.

Species		Status <sup>1</sup>	Flowering	Elevation	Habitat	Occurrence in	
Common Name	Scientific Name	Status	Period	Range (ft)	Requirements	Project Vicinity <sup>2</sup>	
Stebbins' morning-glory	Calystegia stebbinsii	FE SE CNPS 1B	Apr-Jul	607-2,395	Chaparral, cismontane woodland	Unknown in Project Vicinity; present in Pilot Hill, Grass Valley, Lake Combie	
Pine Hill flannelbush	Fremontodendron decumbens	FE SR CNPS 1B	Apr-Jul	1,394- 2,493	Chaparral, cismontane woodland/gabbroic or serpentinite, rocky	Unknown in Project Vicinity; present in Grass Valley	
Layne's ragwort	Packera layneae	FT SR CNPS 1B	Apr-Aug	656-3,281	Chaparral, cismontane woodland/serpentinite or gabbroic, rocky	In vicinity-Challenge, Clipper Mills; present in Pilot Hill, Rackerby	
Hartweg's golden sunburst	Pseudobahia bahiifolia	FE SE	Mar-Apr	50-500	Valley and foothill grassland, cismontane woodland	Unknown in Project Vicinity	

Special-status:

CNPS: California Native Plant Society listed species

1B: Species considered rare or endangered in California and elsewhere

FE: Federal Endangered Species

FT: Federal Threatened Species

SE: California Endangered Species

SR: California Rare Species

Occurrence in Project Vicinity: Some of the United States Geological Survey topographic quadrangles are found entirely within the Project Vicinity and some are partially within the Project Vicinity. Results based on CNPS nine-quadrangle search.

<sup>&</sup>lt;sup>6</sup> An official list of ESA-listed species generated from the USFWS' online request service is included as Attachment 7-1B.

#### Stebbins' Morning-glory (FE, SE)



On October 18, 1996, the USFWS listed Stebbin's morningglory as endangered under the ESA (Federal Register 61:54346). No Critical Habitat has been designated for this species. USFWS issued a Recovery Plan for Gabbro Soil Plants of the Central Sierra Nevada Foothills for Stebbins' morning-glory and five other plant species (USFWS 2002). A 5-year review process was initiated in 2009. Stebbins' morning-glory is listed as endangered under the CESA, but is not formally listed as a sensitive species by the United States Department of Agriculture,

Forest Service (Forest Service).

Stebbins' morning-glory is a leafy herbaceous perennial (i.e., a plant persisting or living for several years with a period of growth each year) with trailing to climbing stems. The leaves of Stebbins' morning-glory are 0.2 - 2 inches (in) long and palmately lobed into seven to nine narrow lobes. Its creamy yellow flowers, which are sometimes tinged with pink, are bell shaped and grow up to about 1.5 in long (Brummit 2012).

Stebbins' morning-glory occurs in chaparral habitats. Five small occurrences are known in the Grass Valley quadrangle, southwest of Grass Valley; four are near McCourtney Road and one is near Ponderosa Way (CDFG 2009b). In addition, Wilson (1986) reported other occurrences discontinuously scattered within two population centers in the northern and southern portions of the Pine Hill formation. Both the Grass Valley and Pine Hill occurrences are in gabbro or serpentine soils.

## Pine Hill Flannelbush (FE, SR)<sup>7</sup>



On October 18, 1996, the USFWS listed Pine Hill flannelbush as endangered under the ESA (Federal Register 61:54346). No Critical Habitat has been designated for this species. USFWS issued a Recovery Plan for Gabbro Soil Plants of the Central Sierra Nevada Foothills for Pine Hill flannelbush and five other plant species (USFWS 2002). A 5-year review process was initiated in 2009. Pine Hill flannelbush is not listed as endangered or threatened under CESA and is not formally listed as a sensitive species by the Forest Service, but it is on CDFG's list of California Rare (SR) species under the Native Species Plant Protection Act of 1977.

Pine Hill flannelbush is a small evergreen shrub of less than 3.5 ft in height. The soft to leathery leaves Pine Hill flannelbush are 0.5 - 2 inches (in) long and palmately lobed (lobing radiating from a common point); the orange flowers are 1 - 2 in wide and the fruits generally require fire to release seeds (Lloyd 2012).

All photos found at: <a href="http://cnps.web.aplus.net/cgi-bin/inv/inventory.cgi/Home">http://cnps.web.aplus.net/cgi-bin/inv/inventory.cgi/Home</a>> unless otherwise noted.

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Pine Hill flannelbush occurs on scattered rocky outcrops in chaparral on and in the vicinity of Pine Hill and in the black oak woodland on Pine Hill. Community associates are Ponderosa pine (*Pinus ponderosa*), gray pine (*Pinus sabiniana*), chamise (*Adenostoma fasciculatum*), and toyon (*Heteromeles arbutifolia*) (Kelman 1991, Boyd 1996). It is only known from one localized area near Pine Hill in western El Dorado County, scattered within an area of approximately 5,000 acres (ac). Although there are some reports of Pine Hill flannelbush occurring in some small scattered populations in Yuba and Nevada counties (CDFG 2009b), the occurrences are reported as morphologically and genetically distinct from Pine Hill flannelbush (Lloyd 2012).

#### Layne's ragwort (FT, SR)<sup>8</sup>



On October 18, 1996, the USFWS listed Layne's ragwort as threatened under the ESA (Federal Register 63:49002). No Critical Habitat has been designated for this species. USFWS issued a Recovery Plan for Gabbro Soil Plants of the Central Sierra Nevada Foothills for Layne's ragwort and five other plant species (USFWS 2002). A 5-year review process was initiated in 2009. Layne's ragwort is not listed under CESA and is not formally listed as a sensitive species by the Forest Service, but it is on CDFG's list of SR species under the

Native Species Plant Protection Act of 1977.

Layne's ragwort is a perennial plant of 1-3 ft tall. Its 1.5-3 in long leaves grow along sparsely hairy stems and its small yellow flowers grow in clusters of five to 12 (Weber and Löve 2012).

Layne's ragwort grows in open rocky areas of gabbro and serpentine soils within chaparral plant communities. Most known sites are scattered within a 40,000 ac area in western El Dorado County that includes the Pine Hill formation. Two known occurrences of Layne's ragwort in the Rackerby quadrangle are 0.9 - 1.5 miles (mi) southwest of Brownsville. Known occurrences of Layne's ragwort in the Challenge quadrangle include one population 0.6 mi west of upper New Bullards Bar Reservoir and one population east of Indian Creek. Known occurrences of Layne's ragwort in the Clipper Mills quadrangle include two populations; one 2 mi northeast of Woodleaf and one 0.7 mi south of Woodleaf (CDFG 2009b).

<sup>&</sup>lt;sup>8</sup> Photo found at: <a href="http://www.fws.gov/sacramento/es/plant\_spp\_accts/laynes\_butterweed.htm">http://www.fws.gov/sacramento/es/plant\_spp\_accts/laynes\_butterweed.htm</a>.

#### Hartweg's golden sunburst (FE, SE)<sup>9</sup>



On February 6, 1997, the USFWS listed Hartweg's golden sunburst as endangered under the ESA (Federal Register 62:5542). No Critical Habitat has been designated for this species. No Recovery Plan for Hartweg's golden sunburst has been developed. A 5-year review for the species was completed by USFWS in December 2007 with no change in designation recommended (USFWS 2010). Hartweg's golden sunburst is listed as endangered under CESA, but is not formally listed as a sensitive species by the Forest Service.

Hartweg's golden sunburst occurs in open grasslands and grasslands at the margins of blue oak (*Quercus douglasii*) woodland, primarily on shallow, well-drained, fine-textured soils, nearly always on the north or

northeast facing of mima mounds. These are mounds of earth roughly 1 to 6 ft high and 10 to 100 ft in diameter at the base, interspersed with basins that may pond water in the rainy season. The species is found only in the Central Valley of California. Historically, the range of the species may have extended from Yuba County south to Fresno County, a range of 200 mi. Within this range, the species was only locally abundant. Today, there are 16 populations on the eastern edge of the San Joaquin Valley. Remaining populations are concentrated in the Friant region of Fresno and Madera counties and the La Grange region in Stanislaus County (USFWS 2010).

#### 2.3 Botanical Surveys

YCWA performed botanical surveys on 1,936 ac between March 26 and July 29, 2012. Surveys were performed by several teams of qualified botanists, working simultaneously throughout the study area. Surveys were comprehensive over all safely accessible portions of the study area using systematic field techniques to ensure thorough coverage, with additional efforts focused in habitats with a higher probability of supporting ESA-listed plants (e.g., rocky, canyon walls). Surveys were floristic in nature and followed CDFG's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFG 2009a). Plants were identified using:

- Field Guide to the Sedges of the Pacific Northwest (Wilson et al. 2008)
- Jepson Manual of Higher Plants of California (Hickman ed. 1993)
- Jepson Manual: Vascular Plants of California, Second Edition (Baldwin et al. 2012)
- Wildflowers of the Sierra Nevada and the Central Valley (Blackwell 1999)
- Selected Plants of Northern California and Adjacent Nevada (Oswald 2002)

<sup>&</sup>lt;sup>9</sup> Photo found at: <a href="http://cnps.web.aplus.net/cgi-bin/inv/inventory.cgi/Home">http://cnps.web.aplus.net/cgi-bin/inv/inventory.cgi/Home</a>>.

#### 3.0 Results

A total of 1,936 acres within the 3,332-acre, study area were surveyed; 1,396 acres were not surveyed because of unsafe terrain. Attachment 7-1C shows the unsafe areas that were not surveyed.

Although 688 plant species<sup>10</sup> were found during floristic surveys, no occurrences of ESA-listed plants were located. In addition, YCWA's field teams performing other relicensing studies from 2009 through 2012 did not record any incidental observations of ESA-listed plant species. No maps of ESA-listed species were developed for the study area, and no consultation with Project O&M staff was required.

## 4.0 Discussion

No ESA-listed plants were located during YCWA's relicensing studies. YCWA is unaware of other botanical surveys in the study area.

YCWA identified four ESA-listed plants with the potential to occur in the existing FERC Project Boundary; Laynes ragwort, Pine Hill flannelbush, Hartweg's golden sunburst, and Stebbin's morning-glory. These plants were not found during YCWA's botanical relicensing studies. Based on life history information gathered through the literature search and on-the-ground observations made during botanical relicensing studies, all four species require conditions that are not present in the FERC Project Boundary.

Laynes ragwort and Pine Hill flannelbush are known to occur frequently in gabbro and serpentine habitats. Hartweg's golden sunburst has been found, almost exclusively, on mima mounds. No mima mounds, gabbro, or serpentine habitats are known to exist in the FERC Project Boundary.

The remaining species, Stebbins' morning-glory, is known to occur in chaparral habitats, which occur in scattered areas throughout the FERC Project Boundary. However, Stebbins morning-glory is only known to occur on gabbro and serpentine soils (CDFG 2009b and Wilson 1986); no gabbro and serpentine habitats are known to exist in the FERC Project Boundary.

## 5.0 Study-Specific Collaboration and Consultation

The FERC-approved study plan requires one study-specific consultation, which is addressed below.

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<sup>&</sup>lt;sup>10</sup> A complete list of all plant species found during botanical surveys performed in support of the Relicensing is included in Attachment 7-1A.

#### 5.1 USFWS Consultation

The FERC-approved study states:

...since FERC has designated YCWA as its non-federal representative for Section 7 informal consultation under the ESA, YCWA will consult with USFWS prior to, during, and after study implementation.

YCWA, as FERC's non-federal representative for informal Section 7 consultation under ESA, consulted with USFWS as described below:

- Since July 2009, YCWA met with Relicensing Participants, including USFWS, to provide USFWS staff with an overview of the Project and the relicensing.
- YCWA included USFWS staff on all e-mail correspondences regarding the relicensing, including study proposal development and Relicensing Participant meetings since July 2009.
- On September 29, 2009, YCWA provided to USFWS a Preliminary Information Package.
- On November 5, 2010, YCWA provided to USFWS a Pre-Application Document, which included a copy of Study 7.1, ESA-Listed Plants.
- On March 7, 2011, USFWS responded to YCWA's November 2010 Proposed Study Plans [submitted as Section 10.0 of the Pre-Application Document (2011a)], but did not make any comments on or suggest modifications to Study 7.1, ESA-Listed Plants.
- On September 1, 2011, USFWS responded to YCWA's August 17, 2011 Revised Study Plan, but did not make any comments on or suggest modifications to Study 7.1, ESA-Listed Plants.
- On July 15, 2012, USFWS issued a dispute letter to FERC's September 30, 2011, Study Determination, but did not dispute Study 7.1, ESA-Listed Plants.
- On September 20, 2012, YCWA posted to the Relicensing Website Interim Technical Memorandum 7.1, *ESA-Listed Plants* that summarized the results of the FERC-approved Study 7.1, *ESA-Listed Plants*. YCWA provided a hardcopy of the interim technical memorandum to USFWS.
- On October 22, 2012, FERC, USFWS and YCWA met to discuss the potential for Project effects related to ESA-listed plants. USFWS said it believed additional data gathering was not necessary, but would consider this and advise YCWA in mid November 2012.
- On November 8, 2012, USFWS advised YCWA that USFWS has not come to a decision regarding potential Project effects.
- On December 3, 2012, USFWS said it was in the process of completing its internal review of the September 2012 interim technical memorandum and consulting with other agencies. YCWA and USFWS agreed that for the purpose of the FERC-approved study, consultation would be considered complete. However, YCWA and USFWS agreed that consultation would continue under both FERC's Integrated Licensing Process (ILP) and

Section 7 of the ESA. Under the ILP, consultation regarding additional data gathering could occur both formally (i.e., through the ILP Initial Study Report process), and informally (i.e., YCWA and USFWS could continue discussion of potential additional data gathering, if the parties believed there was benefit in doing so).

## **6.0** Variances from FERC-Approved Study

This study was conducted according to the FERC-approved ESA-Listed Plants Study (Study 7.1) with two variances. A small portion of study area was excluded from survey for the protection of a known bald eagle (*Haliaeetus leucocephalus*) nest. First, to comply with USFWS's National Bald Eagle Management Guidelines (2007), botanical Relicensing surveys excluded a 330-foot buffer (7.9 ac) around a known bald eagle nest during breeding activities [United States Forest Service limited operating period is January 1 – August 31 (Masquelier 2000)].

Second, the FERC-approved study stated the study would be complete in September 2012. Study completion was delayed due because the quality review of the data and consultation with the USFWS took slightly longer than anticipated.

## 7.0 Attachments to This Technical Memorandum

This technical memorandum includes the following attachments:

Attachment 7-1A B	Botanical Species	List [1 A	Adobe pdf file	: 116 KB;	18 pages
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formatted to print double sided on 8 ½ x 11 paper]

Attachment 7-1B USFWS Query -Yuba River Development Project [1 Adobe pdf

file: 112 KB; 16 pages formatted to print double sided on 8 ½ x 11

paper]

Attachment 7-1C ESA-Listed Plants Inaccessible Study Area: Figures 1 - 8 [1 Adobe

pdf file: 4 MB; 12 pages formatted to print single sided on 11 x 17

paper]

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