



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
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EDMUND G. BROWN JR., Governor  
CHARLTON H. BONHAM, Director



April 11, 2016

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**SUBJECT: COMMENTS FROM THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON SOUTH SUTTER WATER DISTRICT'S REQUEST FOR AUTHORIZATION TO USE THE TRADITIONAL LICENSING PROCESS FOR THE CAMP FAR WEST HYDROELECTRIC PROJECT, FERC NO. 2997**

Dear Secretary Bose:

The California Department of Fish and Wildlife (Department) has received a copy of the request filed by South Sutter Water District (SSWD, Licensee) on March 11, 2016, with the Federal Energy Regulatory Commission (FERC) to grant approval for use of the Traditional Licensing Process (TLP) in the relicensing proceeding of the Camp Far West Hydroelectric Project (FERC No. 2997, Project). The Department has also received Licensee's Notice of Intent to File an Application for a New License (NOI) and the Pre-Application Document filed with FERC on March 11, 2016. At this time, the Department is only providing comments on Licensee's request for authorization to use the TLP; we intend to formally address the contents of the NOI and PAD and provide comments and request any necessary studies in a future and separate letter.

#### **AUTHORITIES**

The Department is the appropriate State fish and wildlife agency for resource consultation and Federal Power Act Section 10(j) (16 U.S.C. Section 803 (j)) purposes. The fish and wildlife resources of the State of California are held in trust for the people of the State by and through the Department (Fish & G. Code § 711.7). The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (Fish & G. Code § 1802). The mission of the Department is to manage California's diverse fish, wildlife, and plant resources, and the habitats on which they depend, for their ecological values and for their use and enjoyment by the public. It is the goal of the Department to preserve, protect, and as needed, to restore habitat necessary to support native fish, wildlife, and plant species within the FERC-designated boundaries of the Project, as well as the areas adjacent to the Project in which resources are affected by the ongoing Project operations and maintenance activities.

#### **COMMENTS**

FERC regulations in 18 CFR Sections 5.3(b) and (c) provide an option for the use of the TLP in cases where the license applicant has addressed the following considerations:

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1) likelihood of a timely license issuance; 2) complexity in the resource issues; 3) level of anticipated controversy; 4) relative cost of the TLP compared to the integrated licensing process (ILP); 5) amount of available information and potential for significant disputes over studies; and 6) other factors pertinent to the matter. Although Licensee has provided a justification for use of the TLP, the Department disagrees with Licensee's justification and believes that the ILP is more appropriate for the relicensing of the Project for the reasons explained below.

#### *Complexity in the Resources Issues/Level of Anticipated Controversy*

Licensee may have prematurely drawn conclusions regarding the potential for controversy associated with the Project. Preliminary documents appear to minimize the complexity of Bear River resource issues, with particular regard for: 1) aquatic ecosystem health; 2) impacts to anadromous fish species in the lower Bear River; and 3) the impact of a downstream diversion dam. Anadromous issues include but are not limited to:

- Spawning of adult and rearing of juvenile white sturgeon (*Acipenser transmontanus*), a State of California Species of Special Concern;
- Spawning of adult and rearing of juvenile green sturgeon (*Acipenser medirostris*), a federally threatened species and State of California Species of Special Concern;
- Spawning and holding of adult and rearing of juvenile Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), a State and federally threatened species;
- Spawning of adult and rearing of juvenile Central Valley fall-run Chinook salmon, a State Species of Special Concern and a National Marine Fisheries Service (NMFS) Species of Concern;
- Spawning of adult and rearing of juvenile Central Valley steelhead trout (*Oncorhynchus mykiss irideus*), a federally threatened species; and
- Non-natal rearing of spring/ and fall-run Feather River anadromous fish species.

Consideration should be given to the anadromous resources of the Bear River and potential complexity and controversy that could interfere with a timely completion of the relicensing of the Project. In the March 14, 2016 letter requesting the use of the TLP, Licensee states, "the cumulative effects analysis might involve two Endangered Species Act (ESA)-listed anadromous salmonids: 1) Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*) Evolutionarily Significant Unit (ESU); and 2) Central Valley steelhead Distinct Population Segment (DPS) (*O. mykiss*)." The letter does not mention the other anadromous species that have the potential to be present in the Bear River below the Project dam and may be affected by the Project. As listed above, Central Valley spring-run Chinook salmon and Central Valley steelhead trout are not the only anadromous species that are utilizing the Bear River during multiple life stages. Licensee needs to consider all anadromous species that utilize the Bear River, including spring-run and fall-run Chinook salmon, steelhead trout, and white and green sturgeon when developing Project relicensing studies and analyzing Project effects in the draft license application and California Environmental Quality Act (CEQA) document for the Project.

#### *Relative Cost of the TLP Compared to the Integrated Licensing Process (ILP)*

The Department understands the potential difference in cost to Licensee using the TLP versus the ILP; the ILP may be more costly due to a greater number of meetings, reports, and FERC filings. However, the Department is committed to working with Licensee to ensure a cost-effective and efficient proceeding using the ILP by: minimizing the number of meetings between relicensing participants and Licensee and only requesting meetings with Licensee when necessary, collaborating with Licensee as early as possible to avoid redundant discussions on specific issues, coordinating with Licensee to resolve issues to avoid lengthy comments and unnecessary FERC filings, and coordinating with other agencies to facilitate efficient and effective agency participation during the proceeding.

*Amount of Available Information and Potential for Significant Disputes over Studies*

Anadromous species' presence and use of the Bear River is limited and not well understood. Due to the State and federal statuses of the anadromous species in the Bear River, the Department anticipates the need for multiple studies conducted over multiple seasons. These studies will need to assess the presence of these species at different life stages, document the availability and use of habitat by these species, and provide sufficient data to analyze how the Project may affect these species and their habitat. The TLP may not provide sufficient time for the development of the range of appropriate resource study plans to address and assess the potentially complex Bear River anadromous fisheries, nor would it allow adequate time for collection of resource data across multiple field seasons or years. The Department understands that FERC has less involvement in the TLP than the ILP, which may delay the resolution of any study disputes. The Department believes the ILP is more appropriate for this proceeding as it will provide an organized process administered by FERC that will ensure studies, analyses, and collaborative discussions occur in an appropriate time frame and include all relevant agencies, non-governmental organizations, and other interested parties.

The Department appreciates the opportunity to comment on Licensee's request for authorization to use the TLP for the relicensing of the Project. If you have questions or need more discussion on this matter, please feel free to contact Anna Milloy at (916) 358-2384 or [Anna.Milloy@wildlife.ca.gov](mailto:Anna.Milloy@wildlife.ca.gov).

Sincerely,



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