

**BEFORE THE
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

CERTIFICATE OF SERVICE

I hereby certify that U.S Fish and Wildlife Service's Comments on the Draft License Application for Camp Far West Hydroelectric Project, Federal Energy Regulatory Commission Project #P-2997 has this day been electronically filed with the Federal Energy Regulatory Commission and served, via deposit in U.S. mail or by electronic mail, upon each other person designated on the Service List for Project P-2997 compiled by the Commission Secretary.

Dated at Sacramento, California, this 10th of April, 2019.



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United States Department of the Interior

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In Reply Refer To:
FERC 2997

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

APR 10 2019

Mr. Brad Arnold
South Sutter Water District
2464 Pacific Ave
Trowbridge, CA 95659

Subject: U.S. Fish and Wildlife Service Comments on Draft License Application, Camp Far West Hydroelectric Project, FERC Project #P-2997; Yuba, Nevada, and Placer Counties, California

Dear Ms. Bose and Mr. Arnold:

The U.S. Fish and Wildlife Service (USFWS) files the following comments with the Federal Energy Regulatory Commission (Commission or FERC) on South Sutter Water District's (Licensee) Draft License Application (DLA) filed with the Commission on January 2, 2019, for the Camp Far West Hydroelectric Project (Commission P-2997) (Project). The USFWS submits the following comments and recommendations in accordance with the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. § 1531, *et seq.*), the Federal Power Act (FPA) (16 U.S.C. § 791a, *et seq.*), the Fish and Wildlife Coordination Act, as amended (16 U.S.C. § 661, *et seq.*), the Bald and Golden Eagle Protection Act of 1940, as amended (16 U.S.C. § 668-668d), and the Central Valley Project Improvement Act (CVPIA) (Pub. L. No. 102-575, 106 Stat. 4600, 4706, Title 34 (1992).

The USFWS appreciates the opportunity to comment on the DLA and looks forward to continuing to work with the Licensee to address issues and concerns raised in our comments. Flows in the lower Bear River are prescribed by the current license. The license requires a minimum of 25 cubic feet per second (cfs) for the lower Bear River from April 1 through June 30 and 10 cfs (or inflow to Camp Far West reservoir) from July 1 through March 31 in every year. Additionally, the Licensee, California Department of Water Resources, and the Camp Far West Irrigation District entered into an agreement that extends until 2035 to provide up to 37 cfs of water from July through September (in addition to that provided in the current license) to support the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary. The releases to support the Water Quality Control Plan are not made every year, and the DLA does not indicate how often these releases have been made since the agreement has been in place.

Due to staffing time constraints resulting from the 35 day federal government shutdown in December 2018 and January 2019, the following should not be construed as the USFWS's final position on proposed license conditions, but rather information to assist in collaborative discussions. The USFWS has been and will continue to be an active relicensing participant for the Project.

Issues and Concerns in the DLA

The DLA should more thoroughly address: (1) Central Valley Project Improvement Act (CVPIA) doubling goals for Chinook salmon (*Oncorhynchus tshawytscha*); (2) long-term monitoring for assessing Project effects on juvenile salmonid production; (3) aquatic invasive species; (4) California red-legged frog (*Rana draytonii*) conservation and consultation under the ESA; (5) rodenticide and other pesticide use at Project facilities; or (6) protection of the existing heron rookery.

CVPIA/AFRP Doubling Goals

To address the decline of Chinook salmon and steelhead trout populations in California, the CVPIA called for doubling of Chinook salmon runs; the USFWS Anadromous Fish Restoration Program (AFRP) identified CVPIA doubling goals for Chinook salmon in the 2001 *Final Restoration Plan for the Anadromous Fish Restoration Program* (USFWS 2001), which is filed with the Commission as a comprehensive plan. The DLA discounts the AFRP doubling goal for the Bear River of 450 average annual Chinook salmon spawners by stating that the data on which the goal is based is limited. The USFWS recognizes that there is limited data on Chinook salmon in the Bear River; however, the doubling goal is based on the best science available and the doubling goals were developed by an interagency team of recognized experts on salmonids. In the USFWS's September 7, 2016, comment letter (filed with the Commission) on the Pre-Application Document and Proposed Studies for the Project, we proposed a study plan for juvenile Chinook salmon survival. This study was anticipated to provide information on survival of juvenile salmon and Bear River natural production levels. However, the Licensee opted to not conduct this study. As there is no supplemental data available for the Bear River, the USFWS supports the AFRP doubling goal for this system and requests the Commission to implement reasonable Protection, Mitigation, and Enhancement (PME) measures for Chinook salmon within the Final License Application. These measures currently are in negotiation within the Traditional Licensing Process (TLP) for relicensing of the Project, and are anticipated to include actions such as fall pulse flows to support spawning migration, spring pulse flows to support juvenile Chinook outmigration and steelhead attraction, increased minimum instream flows in the winter and spring of wetter water year types, and ramping rates when the Project is either coming off of a spill event or reducing releases to the lower Bear River (as measured immediately downstream of the non-Project diversion dam).

The AFRP is working with Reclamation District 817 and MBK Engineers to develop and implement a levee setback for a portion of the lower Bear River. This Project was developed in response to levee erosion issues in the area and multi-stakeholder pressure to provide an ecosystem benefit solution. The levee setback is anticipated to provide additional flood capacity and riparian habitat, spawning habitat, or juvenile salmonid rearing habitat for the lower Bear River. Agency PME measures for pulse flows and ramping rates for the Project would be anticipated to complement these restoration actions and contribute to the AFRP doubling goal for the Bear River. Additional information on the levee setback project is available upon request.

Additionally, the USFWS completed a habitat assessment for the Beale Air Force Base in 2016 for Dry Creek (tributary to the lower Bear River) for anadromous salmonids. This study identified a number of potential restoration actions that could improve suitability for spawning and rearing of salmonids, several of which are anticipated to be implemented in fiscal year 2020: removing Beale dam (passage impediment), low-flow crossing at the downstream end of Dry Creek (passage impediment), installing a rocky ramp at the upstream end of Beale Lake, and injection of spawning gravel. Sufficient PME measures for minimum flows and pulse flows from the Project would allow fish passage from Bear River into Dry Creek and could potentially support the Dry Creek restoration project and contribute to the AFRP doubling goal for the Bear River. Additional information on the Dry Creek restoration project is available upon request.

Long-Term Monitoring

The DLA contains no proposal to monitor the status of salmonids within the lower Bear River for the new license period. Without periodic monitoring of these populations, the USFWS is unable to ascertain the long-term effects the Project and resulting PME conditions or how these future license conditions may need to be adjusted to better manage salmonid production. The USFWS requests that the Licensee, agencies, and TLP relicensing team collaboratively develop a reasonable monitoring plan for salmonids within the lower Bear River that allows a comparison of juvenile production and survival between years. The monitoring plan should be finalized within one year of license issuance.

Aquatic Invasive Species

Six aquatic invasive species that are known to occur in the Project area were not addressed adequately in the DLA: Asian clam (*Corbicula fluminea*), Brazilian waterweed (*Egeria densa*), floating water primrose (*Ludwigia peploides* ssp. *montevideensis*), parrot's feather milfoil (*Myriophyllum aquaticum*), Eurasian watermilfoil (*Myriophyllum spicatum*), and American bullfrog (*Lithobates catesbeianus*). The Commission and Licensee should develop an Aquatic Invasive Species Management Plan that addresses these and the additional aquatic invasive species that have the potential to occur within the Project area due to their proximal known locations. Management actions related to bullfrogs should be coordinated closely with measures to protect the California red-legged frog. This plan should be developed within one year of license issuance.

California Red-Legged Frog Consultation

The USFWS requested ESA consultation on effects to the California red-legged frog (*Rana draytonii*)(frog) and the vernal pool fairy shrimp (*Branchinecta lynchi*)(shrimp), pursuant to 50 CFR 402.14(a) in a letter filed with the Commission on February 1, 2019. This letter included comments regarding Project effects on the frog as well as the shrimp. The Licensee initiated consultation for the shrimp on February 28, 2019. No ESA consultation has occurred for the frog.

The California red-legged frog was federally listed as threatened on May 23, 1996 (61 **FR** 25813). Critical habitat for the California red-legged frog was established on March 17, 2010 (75 **FR** 12816).

At issue are the current management practices for the sewage treatment ponds associated with the recreational areas. Bullfrogs are established at the North Area sewage pond. Bullfrogs are well-

known invasive, non-native predators that eat and compete with native frogs, such as the California red-legged frog. At the time of ESA-listing of the California red-legged frog, bullfrogs were “considered to be a significant and widespread threat” (USFWS 1996). Introduced bullfrogs have been, and continue to be, a significant factor in the decline of the California red-legged frog (USFWS 1996, USFWS 2002). In spite of the population pressures that bullfrogs place on them, California red-legged frogs are typically able to persist: (1) In sub-optimal habitat where conditions are unfavorable to bullfrogs; (2) in marginal habitat adjacent to bullfrog-occupied areas; (3) where habitat is managed to reduce establishment of bullfrogs; or (4) where bullfrog depredation has been implemented. In areas where bullfrogs and California red-legged frogs co-occur, surveys typically detect high numbers of bullfrogs and low or undetectable numbers of California red-legged frogs. In these same areas, bullfrog removal and/or management have led to resurgence in the California red-legged frog population.

In our September 7, 2016, Pre-Application Document comment letter, we submitted a proposal for a California red-legged frog survey at locations within the Project area with suitable habitat. While the Commission and the Licensee chose not to conduct the survey, this does not mean that the species is not within the FERC Project boundary or in the area affected by the Project. As indicated in the USFWS September 7, 2016 letter, USFWS staff with more than 20 years of experience surveying and identifying the species identified a single, adult California red-legged frog at a small, ephemeral agricultural impoundment immediately adjacent to the North Area sewage pond, in addition to more than 100 bullfrogs at the sewage pond. This occurrence was submitted to California Natural Diversity Database (CNDDDB) by the USFWS. Subsequent site visits to the vicinity of the North Area sewage treatment pond by USFWS staff revealed that the North Area sewage pond is actively managed to restrict growth of vegetation in and around the pond. Although the method for vegetation control is not included in the DLA, use of herbicides or mechanical methods would both be anticipated to have impacts on any California red-legged frogs in the area. On May 20, 2017, four great blue herons were observed sitting at the edge of the sewage pond, presumably foraging on the frogs present following a recent mowing event. Any California red-legged frogs present would have been susceptible to these predators.

The South Area sewage treatment pond appears to have had different management activities than the North Area sewage treatment pond. The management practice of restricting vegetation growth at the ponds could further impact the California red-legged frog by removing available cover from predators. If managed appropriately, both ponds have the potential to support the California red-legged frog while fulfilling their sewage-treatment function.

Due to these potential ongoing impacts to the California red-legged frog, the USFWS requests that the Commission or the Licensee complete ESA consultation for the species prior to license issuance.

Rodenticide Use at Project Facilities

Within the DLA, the Licensee described the current and future planned use of rodenticides (D-Con) at the Camp Far West powerhouse. Prior to the use of any rodenticides within the Project area, the USFWS recommends the development of an Integrated Pest Management Plan that includes sanitation and exclusion methods as primary prevention. The Licensee should minimize the use of products containing second generation anticoagulants, in favor of other methods with fewer impacts to non-target animals that may feed on the target organisms.

Protection of the Existing Heron Rookery

A great blue heron (*Ardea herodias*) rookery exists within the Project area. The USFWS recommends the protection of this rookery during the breeding season by the implementation of a Limited Operating Period from March 15 to July 31 within a buffer of 0.25 mile of the rookery. Project activities, including recreation, should be limited to those which will have a low-likelihood of impacting the nesting herons. The USFWS would like to collaborate with the relicensing team to determine what activities would be appropriate.

Comments on Proposed License Conditions

Licensee Proposed Condition AR1 maintains the current license instream flow conditions for the lower Bear River. The USFWS, CDFW, Non-Governmental Organization groups, and the Licensee are actively negotiating instream flow conditions based on new (in process of negotiation) water year type for the Project, pursuant to the TLP. Agency proposals generally maintain the current license conditions for the drier water year types and provide higher flows in the winter and spring as well as pulse flows in the fall and spring for the wetter water year types to better support salmonid production in the lower Bear River and more closely mimic natural hydrology. The agency proposals also have included ramping rates for some months of the year when the Project reduces flows to the lower Bear River to minimize impacts to salmonid redds and fry that may be present downstream. The USFWS encourages the Commission to adopt into the Final License Application (FLA) the final instream flow conditions that result from these negotiations. Should the TLP negotiations result in a lack of agreement among parties, the USFWS will file an instream flow proposal to the Commission as part of their FLA comment package.

Licensee Proposed Condition TR1 provides that within one year of license issuance and in consultation with CDFW and USFWS, the Licensee will develop a Bald Eagle and Osprey Management Plan that will provide for the protection of bald eagles and osprey during nesting at Camp Far West Reservoir. The USFWS supports the inclusion of this measure in the FLA and appreciates the Licensee's efforts to develop this plan ahead of schedule. The USFWS looks forward to development of the plan.

Licensee Proposed Condition TR2 provides that within one year of license issuance and in consultation with CDFW, the Licensee will install and thereafter maintain devices to exclude bats from Project facilities. The USFWS is concerned that improper use of excluding devices can have large impacts to bats, especially when a maternity colony is present. The USFWS would like to assist in the development of this plan.

Other Comments

White and Green Sturgeon eDNA Sampling

The Licensee conducted an eDNA study that targeted four species: Chinook salmon (*Oncorhynchus tshawytscha*), steelhead (*Oncorhynchus mykiss*), green sturgeon (*Acipenser medirostris*), and white sturgeon (*Acipenser transmontanus*). Sampling occurred in February and March of 2017, during periods of high flow and high suspended sediments (flows ranged from 1,500 to 5,600 cfs). The Licensee reported that because of the flow and suspended sediment levels, the volume of water that could be filtered

for each sample was reduced by half over the required amount as identified in the January 2017 Stream Fish Study plan. The result of sampling during periods of high turbidity could lead to a false negative interpretation of eDNA data (Goldberg *et. al* 2016). The USFWS questions the validity of the resulting negative detection of eDNA for white and green sturgeon, due to this major variance to the study protocol and because samples were taken during adverse hydrology conditions and requests that the Licensee conduct an additional survey for green and white sturgeon. The Licensee should ensure their sampling events occur as closely as practicable with historic sightings of these two species within the lower Bear River (late March through June), during appropriate hydrological conditions for the sampling, and in accordance with the approved study plan.

Conclusion

The USFWS appreciates the opportunity to comment on the DLA. We have focused on major issues and concerns, and not editorial review, because of staffing and time constraints resulting from the federal government shutdown from December 23, 2018 through January 27, 2019. The USFWS looks forward to conducting and concluding ESA consultation on the California red-legged frog and in developing conservation measures consistent with sections 2(b and c), 3 (conserve), and 7(a)(1) of the ESA. If you have any questions regarding this response, please contact A. Leigh Bartoo of my staff at (916) 930-5621.

Sincerely,



Kaylee Allen
Field Supervisor

cc:

FERC #2997 Service List, Camp Far West Hydroelectric Project
Sarah Lose, CDFW, Rancho Cordova
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References

- Goldberg, C.S., C.R. Turner, K. Deiner, K.E. Klymus, P.F. Thomsen, M.A. Murphy, and M.B. Laramie. 2016. Critical considerations for the application of environmental DNA methods to detect aquatic species. *Methods in Ecology and Evolution* 7(11):1299-1307.
- United States Fish and Wildlife Service. 1996. Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the California Red-Legged Frog. *Federal Register* 61(101): 25813-25833
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