

SAN FRANCISCO PUBLIC UTILITIES COMMISSION

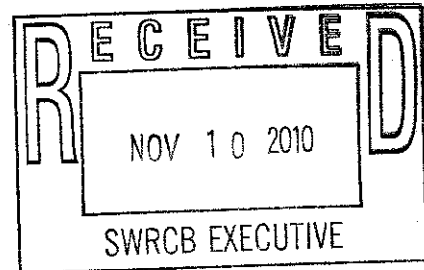
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Sent via email to: commentletters@waterboards.ca.gov

November 10, 2010

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



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Re: Comment Letter – Instream Flow Studies Report

Dear Ms. Townsend:

The San Francisco Public Utilities Commission's (SFPUC) Water Enterprise manages a complex water supply system stretching from the Sierra to the San Francisco Bay Area featuring a series of reservoirs, tunnels, pipelines, and treatment systems in both Central Valley and Bay Area watersheds. The SFPUC, the third largest municipal utility in California, serves 2.4 million residential, commercial, and industrial customers in the Bay Area. Approximately one-third of delivered water goes to retail customers in San Francisco, while wholesale deliveries to 26 suburban agencies in Alameda, Santa Clara, and San Mateo counties comprise the other two-thirds of our deliveries. I write to comment on the draft report entitled *Instream Flow Studies for the Protection of Public Trust Resources: A Prioritized Schedule and Estimate of Costs*.

As an initial observation, the SFPUC believes the scope of this admittedly ambiguous statutory provision should be limited to rivers and streams that are tributary to the Delta. Water Code section 85087, under which the instream flow studies are authorized, is located within the "Sacramento-San Joaquin Delta Reform Act of 2009" ("Act"). There is no suggestion anywhere in the Act that the instream flow studies were to include almost every significant stream in the State. In addition, Water Code section 85087 does not specify or authorize the development of instream flow studies "for the protection of public trust resources," as the report is titled; such a study would necessarily involve a balancing of many more interests and resource considerations than the legislation contemplates.

The SFPUC Water Enterprise adopted an Environmental Stewardship Policy in 2006 to proactively manage, protect and restore environmental resources critical to or directly affected by SFPUC operations. The SFPUC has undertaken extensive ecosystem-based studies on many of the streams affected by its facilities, including the Tuolumne River above Don Pedro Reservoir and Alameda Creek in the South Bay region. In addition, we have participated in fish studies on the Tuolumne River below Don Pedro Reservoir ("lower Tuolumne"). The SFPUC submits that additional instream flow studies in these stream systems are not warranted and are not an efficient use of the State's resources.

Indeed, the lower Tuolumne is well studied, as fish and instream flow studies have been conducted almost continually for the past 50 years.

Tuolumne River above Don Pedro Reservoir

After adoption of the Environmental Stewardship Policy the SFPUC initiated the Upper Tuolumne River Ecosystem Project with the goal of conducting a set of long-term, collaborative, science-based investigations designed to: (1) characterize historical and current river ecosystem conditions; (2) assess their relationship to Hetch Hetchy Project operations; and (3) develop environmental flow and other recommendations for improving ecosystem conditions. Primary partner agencies in the project are Yosemite National Park Service, Stanislaus National Forest, and the U.S. Fish and Wildlife Service. The SFPUC and partner agencies also meet regularly with the Upper Tuolumne River Stakeholder Group to provide updates and receive input from these participants. The principle outcome of the project will be a set of ecosystem-based and adaptively managed instream flow recommendations for Hetch Hetchy Project facilities in the Upper Tuolumne River Watershed.

Since 2008, the SFPUC and the partner agencies have conducted three years of studies and experiments and have developed temperature, habitat, and other ecological models to support flow recommendations and resource management in the reach. The SFPUC expects to release the draft report, including proposed flow recommendations and an adaptive management and monitoring plan, in January 2011. With the release of this draft report, the SFPUC and partner agencies will begin similar efforts in Cherry Creek, Eleanor Creek, and the mainstem Tuolumne River from Early Intake to New Don Pedro Reservoir.

Alameda Creek Watershed

The SFPUC owns and operates facilities in the Southern Alameda Creek watershed – namely Calaveras Dam, the Alameda Creek Diversion Dam, and Turner Dam on San Antonio Creek. The SFPUC is signatory to the Alameda Creek Fisheries Restoration Workgroup Memorandum of Understanding (2006), which describes the process by which collaborative studies are conducted and funded to plan for the restoration of steelhead to the watershed. Over the last 15 years, the SFPUC has conducted many studies and monitoring activities focused on native fishes, including rainbow trout/steelhead (*Oncorhynchus mykiss*). This collaborative and independent work has created a solid foundation from which the SFPUC expects to reach agreement with California Department of Fish and Game (CDFG) and National Marine Fisheries Service (NMFS) as part of the Calaveras Dam Replacement Project on minimum release schedules for Calaveras Dam and Alameda Creek Diversion Dam. The SFPUC is also preparing the Alameda Watershed Habitat Conservation Plan, and under the program expects to address issues below Turner Dam on San Antonio Creek.

Tuolumne River below Don Pedro Reservoir

The Don Pedro Project on the Tuolumne River is owned and operated by the Modesto Irrigation District and the Turlock Irrigation District. The Districts also hold a FERC license (FERC Project No. 2299) that sets forth minimum reservoir release requirements for the Tuolumne River below LaGrange Dam. Reservoir release requirements for the Don Pedro Project have been the focus of intense study since 1986. The original project license required the project's minimum flow schedules to be reevaluated after the first 20 years of operation based on studies prepared in cooperation with the CDFG and USFWS. A list of fish studies performed through 1993 appears in the *Final Environmental Impact Statement for Reservoir Release Requirements for Fish at the New Don Pedro Project, California FERC Project No. 2299-024 July 1996*.

Based on studies performed during the first 20 years of operation and in consideration of a mediated settlement agreement among the licensees, resource agencies and NGOs, FERC amended the Don Pedro license to increase minimum flow schedule. FERC also ordered another ten years of fish studies. Besides the FERC-order studies, the Districts prepared and adopted a Habitat Restoration Plan for the Lower Tuolumne River Corridor (March 2000), which sets forth a comprehensive restoration strategy based on years of biological and geomorphic investigation, and a Coarse Sediment Management Plan for the Lower Tuolumne River (July 2004), which sets forth a long-term plan to address the largest-scale and (some consider) most significant in-river factor limiting salmonid production in the Lower Tuolumne River. The earlier fish studies and 10 years of fish studies performed after 1995 are summarized and listed in the *2005 Ten Year Summary Report pursuant to Paragraph (G) of the 1996 FERC Order issued July 31, 1996*.

Based on the Ten Year Summary Report, FERC has ordered yet another round of fish studies in cooperation with CDFG, USFWS, and NMFS.¹ Under current study plans (submitted pursuant to FERC Orders), a water temperature model will be completed by October 2010 and an Instream Flow and Effective Habitat Evaluations study will be completed by January 2012. In addition, there may be yet another round of fish studies on the lower Tuolumne as the Districts seek a new license for Don Pedro. The SWRCB will of course participate in the relicensing of the Don Pedro Project through its Clean Water Act section 401 Water Quality Certification. In summary, the lower Tuolumne

¹ (1) Order on Ten-Year Summary Report Under Article 58 (123 FERC ¶62,012) issued April 3, 2008; (2) Order On Rehearing, Amending License, Denying Late Intervention, Denying Petition, and Directing Appointment of a Presiding Judge for a Proceeding on Interim Conditions (128 FERC ¶61,035), issued July 16, 2009, as amended; (3) Order Modifying and Approving in Part Tuolumne River *Oncorhynchus Mykiss* Ten-Year Monitoring Report Pursuant to Article 58 (131 FERC ¶ 62,097), issued May 10, 2010; (4) Order Modifying and Approving Instream Flow and Water Temperature Model Study Plans (131 FERC ¶ 62,110), issued May 12, 2010; (5) Order Granting Extension of the May 12, 2010 Order Modifying and Approving Instream Flow and Water Temperature Modeling Study Plans, issued July 21, 2010.

River does not need yet another instream flow study to duplicate almost 50 years of fish studies in support of determining reservoir release requirements.

Other Streams

While they were not included in the draft report, I also wanted to make you aware of work we have performed on two other streams in our San Mateo watersheds, San Mateo Creek and Pilarcitos Creek. In the San Mateo Creek watershed, the SFPUC is doing work on and around Lower Crystal Springs Dam, and as part of this effort has reached agreement with CDFG and NMFS on a minimum release schedule for native aquatic resources downstream of the dam, including *O. mykiss*. In the Pilarcitos Creek watershed, the SFPUC has been making perennial releases from Stone Dam since October 2005, and is conducting annual monitoring of native aquatic resources downstream of this facility in preparation for a future consultation with NMFS and CDFG to reach agreement at this location for minimum instream flows. The SFPUC is also signatory to the Pilarcitos Creek Restoration Workgroup Memorandum of Understanding (2007), which developed an Integrated Watershed Management Plan that is now being implemented.

In summary, the SFPUC is nearing completion of multi-agency, collaborative instream flow studies for its Alameda Watershed and O'Shaughnessy Dam facilities and will initiate instream flow studies for Cherry Valley Dam and Eleanor Dam in 2011. Moreover, the Modesto and the Turlock Irrigation Districts, with the SFPUC, will complete an instream flow study for the lower Tuolumne River by January 2012 and likely will conduct additional flow and habitat studies for its FERC re-licensing of New Don Pedro Dam. With these collaborative, multi-agency studies currently in process and nearing completion, the SFPUC believes that the SWRCB should not expend limited State resources to duplicate studies in those watersheds where adequate fish and instream flow studies and planning already exist or are occurring, or for which robust local efforts are underway to address fish issues.

Sincerely,



Steven R. Ritchie
Assistant General Manager, Water

cc: Modesto Irrigation District
Turlock Irrigation District
Bay Area Water Supply and Conservation Agency