



File Code: 2770
Date: July 17, 2017

Nathan Fisch
State Water Board Resources Control Board
Division of Water Rights -Water Quality Certification Program
P.O. Box 2000
Sacramento, CA 95812-2000

Subject: FOREST SERVICE COMMENTS ON THE STATE WATER RESOURCES CONTROL BOARD DRAFT WATER QUALITY CERTIFICATION FOR THE POE HYDROELECTRIC PROJECT, FERC NO. 2107

Dear Mr. Fisch:

The Forest Service appreciates this opportunity to provide comments on the State Water Resource Control Board's (SWRCB) June 14, 2017 draft Water Quality Certification (WQC) for the Poe Hydroelectric Project No. 2107. The Forest Service filed final Federal Power Act Section 4(e) mandatory conditions and 10(a) recommendations with FERC, for the Poe Hydroelectric Project, on May 28, 2007.

My staff and I have reviewed the draft WQC and our comments are provided below, in two sections: (1) comments and minor language differences between the terms and conditions provided in the draft WQC and the analogous Forest Service Final 4(e)/10(a) condition (except ramping rates), and (2) specific comments on SWRCB's approach to ramping rates (**Condition 5**) relative to the Forest Service approach (**Condition No. 24, Part 5**).

Comments and Minor Differences for All Conditions (except Ramping Rates)

- **SWRCB Condition 2 and Forest Service Condition No. 24, Part 1** (Water Year Types)
 - We noted a difference in the timing of the first water year forecast each year. SWRCB indicates February, while Forest Service indicated January 10. We understand that the first available forecast is available from the California Department of Water Resources in February and thus may amend our 4(e) condition.
 - Please clarify what "*and cold freshwater dependent aquatic species*" means, within this sentence: "*With an increase in ambient temperatures, decrease in precipitation (snow fall), and cold freshwater dependent aquatic species, it may be necessary to revise water year types during the life of the license*". Do you



mean that “cold freshwater species” have decreased, along with precipitation? If so, we suggest including a separate sentence describing such changes.

- **SWRCB Condition 4 and Forest Service Condition No. 24, Part 3** (Sediment Management and Pulse Flows).
 - The SWRCB condition contains no reference to spawning size substrate. This is a key driver for aquatic species and should be discussed.
 - In the SWRCB condition, it is not clear what triggers additional monitoring, after the initial/baseline monitoring of fine sediment. The analogous Forest Service condition requires additional monitoring after two consecutive years without flow events of 2000 cfs (cubic feet per section; mean daily) or higher and we suggest the SWRCB consider this trigger.
- **SWRCB Condition 7 and Forest Service Condition No. 24, Part 4 and Condition No. 31** (Gaging Plan, Streamflow Measurement, and River Flow Information). This SWRCB condition appears to combine elements of two Forest Service conditions (Streamflow Measurement and River Flow Information). We support the development of a Gaging Plan, as required by the SWRCB condition, but not previously included in the analogous Forest Service conditions.
- **SWRCB Condition 8 and Forest Service Condition No. 29 [4(e) and 10(a)]** (Recreation Plan). We noted a few differences between the SWRCB condition and the Forest Service condition. These differences may be related to how the Forest Service separated measures between our 4(e) and 10(a) conditions. We suggest that the appropriate time to resolve any differences may be during the development of the Recreation Plan, which will be required to occur within the first six months to one year of new license issuance.
- **SWRCB Conditions 9, 10, 11 and Forest Service Condition No. 28** (Poe Reach Biological, Water Temperature, and Riparian Monitoring). We noted a few differences between the SWRCB conditions and the analogous Forest Service condition. We suggest that the appropriate time to resolve any differences may be during the development of the Recreation Plan, which will be required to occur within the first six months to one year of new license issuance.
- We note that SWRCB Conditions do not include an analogous condition to Forest Service **Condition No. 24, Part 2** (Discretionary Out of Season Flow Events Below Poe Dam). This condition provides additional protection for FYLF and we do not see how it is covered by the other SWRCB Conditions. We suggest adding it.
- We note that SWRCB conditions do not include an analogous condition to Forest Service **Condition No. 24, Part 6** (Tributary Access). This condition provides protection for aquatic species and we do not see how it is covered by the other SWRCB Conditions. We suggest adding it.

Specific Comments on Ramping Rates (SWRCB Condition 5)

The SWRCB condition differs significantly from the analogous Forest Service condition (**Condition No. 24, Part 5**). We appreciate SWRCB’s thoughtful approach to ramping rates that are protective of foothill yellow-legged frogs (FYLF, *Rana boylei*, a Forest Service Sensitive Species) and generally support SWRCB Condition 5. Note that FYLF is also undergoing a Federal Endangered Species Act review by the USDI Fish and Wildlife Service (since 2015) and is a Candidate for Listing under the California Endangered Species Act (as of June 27, 2017).

In the years since the Forest Service filed 4(e) conditions, new research has documented negative effects of out of season pulse flows/spills and rapid flow recession on FYLF. Given that new information, the ramping rates proposed by SWRCB are generally more protective of FYLF than the analogous Forest Service condition (**Condition No. 24, Part 5**). However, to be fully protective, we recommend the following changes:

- Section 5.1:
 - Clearly define “follow the recession rates of the East Branch of the North Fork Feather River”.
 - Change “*For a spill that is less than 1,000 cfs or once spill becomes less than 1,000 cfs...*” to “*For a spill that is 1,000 cfs or less, or once a spill reaches 1,000 cfs or less...*”.
 - Table 4 could be construed to mean that the full “21 day ramp down” would be followed in every year. However, we believe the SWRCB meant that the ramp down would end once the required baseflow/minimum instream flow for the current water year type and month is reached. We suggest clarifying, in both the text and in Table 4, that whenever the required baseflow/minimum instream flow for the current year, water year type, is reached, the ramp down may be considered complete, even it is less than 21 days long. In all cases, we recommend an analysis of stage-discharge relationships for each water year type to determine stranding risks for FYLF.
 - It is unclear as to what is meant by “*In cases of multiple days of the same release level, the Licensee shall extend the draw down to mimic the natural hydrograph.*” Please clarify.
 - We recommend the following edits (ALL CAPS) to this sentence “*However, should natural hydrological conditions, AFTER THE 21 DAY RAMP DOWN, dictate a need to ramp flows up, the Licensee shall attempt to follow the rate of change in the East Branch of the North Fork Feather River at Gage 51, FOR BOTH THE UP RAMP AND THE SUBSEQUENT DOWN RAMP.*”
- Section 5.2:
 - Part a. – Clarify that “0.5 foot/hour” represents water depth (stage) change. I.e., Licensee will need to determine a stage/discharge relationship to implement this Condition.
 - Part b. – References Condition 6, but no ramping rates are defined in Condition 6.
- Section 5.3 – We support the SWRCB measure regarding short-term use of Pressure Release Valves at Poe Powerhouse to reduce the impacts spills that could result from unplanned outages, equipment failures, and unit trips. However, we recommend that no planned outages be scheduled between April 1 and September 30 to be fully protective of FYLF egg, tadpole, and young of year life stages.
- Section 5.4 - Clarify that “xx foot/hour” represents water depth (stage) change. I.e., Licensee will need to determine a stage/discharge relationship to implement this Condition.

We propose to meet with the SWRCB (and other interested parties) prior to the issuance of the final WQC to reach common understanding and draft mutually acceptable language for the above described Conditions. If agreement can be reached, and as needed, we will amend our 4(e) conditions.

We look forward to assisting the SWRCB in implementing actions on National Forest System lands when a new license is issued. If you have any questions regarding this filing you may contact Amy Lind (Tahoe and Plumas National Forests, Hydroelectric Coordinator) at (530)478-6298 or alind@fs.fed.us.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D Lovato', with a stylized flourish at the end.

DANIEL LOVATO
Forest Supervisor

cc: Dawn Alvarez, Dave Wood, Amy Lind