

July 8, 2013

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

Re: Draft Memorandum of Understanding between the Federal Energy Regulatory Commission and the California State Water Resources Control Board Concerning Coordination of Pre-Application Activities for Non-Federal Hydropower Proposals in California

Dear Ms. Vallejo:

Thank you for the opportunity to comment on the draft Memorandum of Understanding (MOU) for coordination of pre-application activities in non-federal hydropower proceedings.

The California Hydropower Reform Coalition (CHRC) strongly supports this initiative. The resulting coordination will improve the timeliness of pre-application activities. It will likely improve the quality of the ultimate licensing decisions, by encouraging the Commission and the State Water Board to analyze and pursue alternatives that may achieve compliance with the Federal Power Act and water quality standards alike. The MOU respects the independent judgment of each agency under your respective authorities.

We recommend two changes to the draft MOU.

Pre-Application Activities

We recommend that you add an item regarding the filing of pre-application communications. Our proposed new language is italicized.

- 6. The State Water Board and Commission will file all of their written communications in their respective dockets for a proceeding.*

Post-Application Filing Activities under the ILP

While focusing on pre-application activities, the draft MOU includes a section anticipating possible cooperation between the Commission and the State Water Board in the preparation of a joint environmental document in appropriate licensing proceedings. To the best of our knowledge, such cooperation has not occurred since 1990, even though it is permitted and indeed encouraged under the National Environmental Policy Act and California Environmental Quality Act, respectively. We support such cooperation. We recommend that the draft MOU be revised to provide for consideration of the existing procedures of other federal and state agencies for this purpose. For example, the procedures used by Federal Highway Administration and

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CalTrans are a useful precedent – permitting each agency to make separate findings and conclusions in the joint document, to the extent necessary.

<http://www.dot.ca.gov/ser/vol1/sec6/ch37joint/chap37.htm>. Lastly, we encourage the Commission and the State Water Board to explore the possibility of a joint environmental document in pending relicensing proceedings, not just future proceedings.

We recommend that item 1 in this section be revised as follows:

1. If such projects are identified, the Commission and the State Water Board will develop a case-specific letter of understanding that outlines the cooperative post-application filing procedures and schedules. *For this purpose, they will consider procedures currently used by other federal and state agencies to prepare joint environmental documents.*

In sum, we enthusiastically encourage the State Water Board and Commission to finalize and adopt this MOU. We are prepared to assist in its implementation.

Respectfully submitted,

John Seebach
AMERICAN RIVERS
Chair, Hydropower Reform Coalition

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AMERICAN WHITEWATER
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