



FOOTHILLS WATER NETWORK

COMMENTS ON FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS)

Yuba-Bear Hydroelectric Project (FERC #2266-102)
Licensee: Nevada Irrigation District

Drum-Spaulding Hydroelectric Project (FERC #2310-193)
Licensee: Pacific Gas & Electric Company

Deer Creek Hydroelectric Project (FERC #14530-000)
Licensee: Pacific Gas & Electric Company

Lower Drum Hydroelectric Project (FERC #14531-000)
Licensee: Pacific Gas & Electric Company

February 9, 2015

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
Via electronic filing

Dear Ms. Bose:

The Foothills Water Network (FWN or Network) and its member organizations respectfully respond to the Final Environmental Impact Statement (FEIS) for the coordinated relicensing of Project 2266, the Yuba-Bear Hydroelectric Project operated by Nevada Irrigation District (NID), and Project 2310, the Upper Drum-Spaulding Hydroelectric Project, Project 14531, the Lower Drum Hydroelectric Project and Project 14530, the Deer Creek Hydroelectric Project operated by Pacific Gas & Electric Company (PG&E).

Foothills Water Network

This response was jointly developed and signed by non-governmental organizations and individuals participating in the Drum-Spaulding and Yuba-Bear Relicensings.¹ The Foothills Water Network represents a broad group of non-governmental organizations and water resource stakeholders in the Yuba River, Bear River, and American River watersheds. The overall goal of the Foothills Water Network is to provide a forum that increases the effectiveness of non-profit

¹ Foothills Water Network, American Rivers, American Whitewater, California Sportfishing Protection Alliance, Dry Creek Conservancy, Friends of the River, Gold Country Fly Fishers, Northern California Council Federation of Fly Fishers, Ophir Property Owners Association, Save Auburn Ravine Salmon and Steelhead, Sierra Club, South Yuba River Citizens League, and Trout Unlimited.

conservation organizations to achieve river and watershed restoration and protection benefits for the Yuba, Bear, and American rivers. This includes negotiations at the county, state, and federal levels, with an immediate focus on the FERC relicensing processes.

Summary of these comments

In making these present comments, the Network generally reaffirms our August 22, 2013 comments on the Draft Environmental Impact Statement (DEIS) issued earlier in this proceeding.² More specifically, we incorporate by reference into these comments our comments on the DEIS to the degree that they are not modified by these comments and/or were not responded to affirmatively by the Commission in the FEIS.

In many cases, the Network's comments on the FEIS address issues that remain unresolved in the relicensing process. However, it is important to note that many other issues have been satisfactorily resolved, due in large part to the commitment of the relicensing participants to a collegial and productive negotiation process. The working relationships developed through the relicensing process contributed to agreement between participants on a range of issues from minimum flows to spill recession rates to protocols for canal outages. The Network is optimistic that the relationships developed will improve the chances for successful implementation of the Project as it transitions into the post-licensing phase.

The primary issues that are addressed in these comments are described below.

The FEIS includes the Commission's analysis of PG&E's proposal that the lower Drum developments be licensed separately from the rest of the Drum-Spaulding Project.³ In our comments on the DEIS, and in subsequent "Reply Comments to Comments of Placer County Water Agency on Draft Environmental Impact Statement (DEIS)," the Network made substantive and procedural recommendations regarding the Commission's treatment of this amendment to PG&E's Final License Application.⁴ However, rather than recirculate the DEIS or issue a supplemental DEIS as the Network recommended, the Commission elected to issue an FEIS and allow a formal comment period, most specifically to address PG&E's eleventh hour request to separately license the Lower Drum Project. The present comments contain the Network's response to the Commission's decision to separately license the Lower Drum Project while deferring analysis of prospective sale of the lower project to such time as sale occurs.

The FEIS declines to require flows in Auburn Ravine to protect anadromous fish, and declines to require licensee PG&E to provide for any flows in Auburn Ravine during periods when the Lower Drum canals are in outage. These comments respond to this decision and the supporting rationale.

² See FWN Comments on Draft Environmental Statement, eLibrary 20130822-5085.

³ See PG&E, "Non-Material License Application Amendment Requesting the Issuance of a Separate License for the Lower Drum Developments," eLibrary 20130521-5303; note that PG&E earlier requested that the Commission separately license the Drum-Spaulding Project's Deer Creek development, in order to facilitate sale of the Deer Creek development to NID.

⁴ See FWN "Reply Comments to Comments of Placer County Water Agency on Draft Environmental Impact Statement (DEIS)," eLibrary 20130923-5053.

The FEIS continues the error of the DEIS in that it improperly separates flows released through project facilities for strictly hydropower purposes from flows released through project facilities for consumptive purposes, and does not propose mitigations for flows released “for consumptive purposes.” We comment on this continuing inadequacy, particularly in the context of Auburn Ravine, and argue that in making this improper distinction the Commission effectively waives federal pre-emption in the setting of environmental measures.

The FEIS responds to the Network’s recommendation that a Consultation Group that allows stakeholder participation in license implementation be established for each project. These comments generally support the decision to require such groups for the Yuba-Bear and Drum-Spaulding projects. The comments recommend a similar group for the Lower Drum Project. While the Network appreciates being named in the draft license articles as a required consulting party on several plans, we also request a formal consultation role in implementing operational and other decisions affecting aquatic resources, specifically in Auburn Ravine.

The FEIS declines to adopt the recommendations of the Network and the California Department of Fish and Wildlife (CDFW) to implement Block Flows on the Middle Yuba and South Yuba rivers. These comments respond to this decision and the supporting rationale.

The FEIS contains no analysis of how project effects on aquatic species are likely to change over the life of the license due to changing climate conditions. The Commission states in Appendix J why it declines to perform such analysis as requested by United States Environmental Protection Agency (USEPA), South Yuba River Citizens League, and others (a similar recommendation was made in the Network’s DEIS comments).⁵ These comments respond to this decision and rationale.

The FEIS does not adequately analyze the cumulative effects of the Projects on key anadromous aquatic species. The Commission states in Appendix J why it believes that its newly expanded cumulative effects analysis is sufficient.⁶ These comments respond to this decision and rationale.

The FEIS declines to require any measures to create, improve or maintain trails that support riverine recreation. Specifically, it includes no measures regarding the Bear River Trail. These comments respond to this decision and rationale.

The FEIS questions the nexus between recreational use in the South Yuba River and the projects and concludes that PG&E should not be required to provide funding for recreational improvements or facility maintenance in this area. These comments respond to this decision.

The FEIS requires the addition of five gauges on small tributary streams as opposed to a single gauge near the confluence of the South Yuba River and Canyon Creek to provide publicly available flow information. These comments respond to this decision.

⁵ FEIS, Appendix J, p. J-3.

⁶ FEIS, Appendix J, pp. J-9 – J-10.

The FEIS proposes to require no Biological Opinion for anadromous fish in Auburn Ravine, and proposes to wait until measures are developed in the relicensing of the Yuba River Development Project for flows in the lower Yuba River in order to initiate consultation for the cumulative effects of the Yuba-Bear and Drum-Spaulding projects on anadromous fish in the lower Yuba River. We comment on these proposed means of treating consultation under Section 7 of the Endangered Species Act (ESA).

These and other matters are discussed below.

The FEIS inadequately addresses under NEPA the fundamental change in the Proposed Action to separately license the Lower Drum Project.

The stated reason that the Commission elected to offer a formal comment period on the FEIS was due to the request by PG&E after issuance of the DEIS to license the “Lower Drum Project” separately from the rest of the Drum Spaulding Project.⁷

The Network has twice commented on this proposed split: once in our comments on the DEIS and also as a follow-up in our reply comments to the comments of Placer County Water Agency (PCWA) on the issue as PCWA commented in its own comments on the DEIS.⁸ In addition, California Sportfishing Protection Alliance commented on the issue in oral comments on the DEIS.⁹ We incorporate these previous comments on this issue by reference.

In the FEIS, FERC staff summarizes its decision not to recirculate or supplement the DEIS by stating: “The separation of the existing Drum-Spaulding Project into three separately licensed individual projects changes only the description of the project boundary; it does not change the environmental impacts of the project.” FEIS p. 801. However, this rationale contains the assumption that the Lower Drum Project will continue to be operated as it is under current conditions. Such operation depends in particular on whether ownership of the Lower Drum Project is transferred.

In its comments on the DEIS, PCWA expressed concern that transfer of the Lower Drum Project could limit water supply deliveries to PCWA and to NID, in the event that the transfer were to a party that sought to operate the Lower Drum Project principally for power benefit rather than principally for water supply.¹⁰ PCWA recommends that the Commission include in its license terms for the Lower Drum Project measures to protect water supply in the event of transfer. In our Reply Comments to PCWA of September 23, 2013, we agreed with PCWA that a transfer to an entity that did not protect water supply would not be in the public interest, but suggested that it would be an overreach for the Commission to include specific measures to assure such protection. In our Reply Comments to PCWA, we argue that there are only three

⁷ See PG&E, “Non-Material License Application Amendment Requesting the Issuance of a Separate License for the Lower Drum Developments,” eLibrary 20130521-5303, op cit.

⁸ FWN Comments on the DEIS, pp. 16-20; FWN, Reply Comments to Comments of Placer County Water Agency on Draft Environmental Impact Statement (DEIS), September 23, 2013, op cit.

⁹ Oral Comments of Chris Shutes, August 14, 2013.

¹⁰ See Placer County Water Agency, Comments and Recommended Terms and Conditions of Placer County Water Agency Regarding Draft Environmental Impact Statement and Proposed Drum-Spaulding Project Application Amendment, eLibrary 21030822-5157.

reasonably foreseeable options for transfer that are consistent with the public interest mandate of the FPA: transfer to NID, transfer to PCWA, or transfer to a joint entity made up of NID and PCWA.

The developments that comprise the Lower Drum Project are not and will never be profitable as a stand-alone hydroelectric project; indeed, that is the apparent reason for which PG&E seeks to separate the Lower Drum Project from the Drum-Spaulding Project.¹¹ On the contrary, the value of the Lower Drum Project is in offsetting some of the costs of the real value of its facilities: the ability of the facilities to deliver water for water supply. PG&E's argument in its Reply Comments on the *Notice of Application Amendment Accepted for Filing and Soliciting Comments and Recommendations* for the Lower Drum Project, that the Drum-Spaulding Project does not have the primary purpose of water supply, *does not apply to the Lower Drum Project on a stand-alone basis.*¹² The project purpose of a stand-alone Lower Drum Project is fundamentally different than the project purpose of the Drum-Spaulding Project as a whole. Yet the FEIS does not acknowledge or analyze this change.

Separating the Lower Drum Project under a separate license simply allows PG&E to set up a sale of water supply facilities *as water supply facilities* without mitigating for the effects of water supply deliveries through these facilities. Instead, the FEIS continues to assert that water releases passed through hydropower facilities but which are also delivered for water supply purposes are not hydropower releases.

PG&E's releases to Auburn Ravine from South Canal (up to 80 cfs) account for about 27 percent of the total volume of water releases to Auburn Ravine that occur upstream of NID's Auburn Ravine I diversion dam (technical memorandum 3-13, *Western Placer County Streams*). While water deliveries associated with hydropower operations account for a portion of flows in Auburn Ravine below the Auburn Ravine 1 diversion dam, other sources associated with consumptive water deliveries cumulatively account for more than 70 percent of the flow in this stream reach. FEIS, p. 312.

The cited "70 percent of flow in this stream reach" *is delivered through Drum-Spaulding facilities, including powerhouses*; however the FEIS, consistent with FERC's previous positions, doesn't count this as "associated with hydropower." Only about 10% of water delivered to Auburn Ravine on an annual basis is delivered through PCWA's Auburn Tunnel or through NID's Combie-Ophir canal system; these facilities do, however, provide a means for PCWA and

¹¹ See FEIS Executive Summary, p. lxxv: "Under the proposed action alternative, project power would cost \$8,573,000, or \$60.33/MWh, more than the likely alternative cost of power. Under the staff alternative and staff alternative with mandatory conditions, project power would cost \$9,012,000, or \$63.42/MWh more than the likely alternative cost of power."

¹² PG&E, Attachment 2: Reply Comments on *Notice of Application Amendment Accepted for Filing and Soliciting Comments and Recommendations* for the Lower Drum Project, p. 4, eLibrary 20130923-5117: "PCWA asserts that Drum-Spaulding's primary purpose is delivery of consumptive water. More accurately, the project purpose includes water supply, along with power generation, as both uses are part of the pre-1914 water rights that PG&E - not PCWA - holds. And, PG&E uses the Drum-Spaulding Project for short term power demand under the CAISO to respond to heat storms or other emergencies. PCWA's description of the project purpose would not allow for this use."

NID respectively to provide water to Auburn Ravine completely independent of PG&E's Lower Drum infrastructure.

In the FEIS, Commission staff, consistent with previous decisions in this proceeding, ducks the Commission's responsibility to require mitigation for the multi-purpose uses of the projects using facilities "associated with" the Drum-Spaulding Project.

Section 3.3.2.2.2 of the final EIS has been modified to clarify that no source of water originating from within the project is available for PG&E to augment flows in Auburn Ravine. Sources of water outside of the project and not controlled by the licensee are not within the Commission's regulatory jurisdiction and cannot be included as a license condition. FEIS, Appendix J, p. J-29.

Operation of the Drum-Spaulding Project for water supply requires contractual agreements between PG&E and both NID and PCWA. Standard license term 10 requires:

The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

The Commission should require that PG&E, as part of its water delivery, conveyance, and water supply contracts with NID and/or PCWA, secure reliable water supplies for Auburn Ravine during project outages. We note that in the event of sale of the Lower Drum Project to NID and/or to PCWA, the argument that available sources of water would not be controlled by the licensee(s) would simply become void.

We continue to strongly disagree with staff's timid, across-the-board refusal to protect the anadromous fish resources of Auburn Ravine. The Commission has effectively surrendered authority over the protection of these critical instream resources to the State Water Board's Clean Water Act and/or water rights authorities; there can be no claim of federal pre-emption where the Commission withdraws from the field, following advocacy by affected licensees and water purveyors that this is the appropriate course of action.

In sum, the FEIS's announced decision to allow the separation of the Lower Drum Project from the remainder of the Drum-Spaulding Project improperly enables a procedural end-around past mitigation of multi-purpose project effects. As we discuss below, it also isolates an aspect of PG&E's Endangered Species Act exposure (listed species in Auburn Ravine). The failure of the FEIS to include reasonably foreseeable alternatives for the transfer of the Lower Drum Project additionally flaws the FEIS.

FWN continues to recommend that the Commission decline to license the Lower Drum Project separately from the Drum-Spaulding Project. If the Commission persists in its apparent initial decision to issue a separate license for Lower Drum, the Commission should issue a

supplement to the FEIS that requires mitigation for the power and non-power effects of operation of the Lower Drum Project on anadromous fish resources in Auburn Ravine.

If the Commission issues a separate license for the Lower Drum Project, the license should require an Annual Meeting and a Consultation Group for this new project.

In Appendix J of the FEIS, staff states:

The section 4(e) conditions applicable to the Upper Drum-Spaulding, Deer Creek, and Yuba-Bear Projects provide sufficient opportunities for NGO's to be involved in license implementation. We have revised the proposed license articles for the Lower Drum Project to require consultation with Foothills Water Network, as appropriate. FEIS, Appendix J, p. J-2.

In reviewing the draft license articles for the Lower Drum Project (Appendix F-2), we note that these articles would require consultation with the Network on the Aquatic Macroinvertebrate Monitoring Plan and on the Water Temperature and Stage Monitoring Plan. We appreciate the Commission's consideration of our interest in these plans.

However, the provisions for an Annual Meeting and for a Consultation Group provided for the Drum-Spaulding Project (Final Forest Service 4(e) Conditions Nos. 1 and 2) contain considerably greater opportunities for non-agency (and agency) stakeholder notification and input on license implementation. Non-exclusively, these include requirements for notification of monitoring results, provision of monitoring data, notification of license deviations and proposed variances or changes, and perhaps most importantly established forums in which stakeholders can offer suggestions and express interests and concerns.

Therefore, we request that the Commission, should it separately license the Lower Drum Project, include requirements for an Annual Meeting and Consultation Group that include the Network and other agency and non-agency stakeholders, using language as close to that in Drum-Spaulding Final 4(e) Conditions for these measures as is factually appropriate.

The FEIS does not appropriately weigh the protection of fisheries resources in the Middle Yuba River.

The FEIS repeats staff's decision not to require Block Flows in the Middle Yuba River for the protection of trout, as recommended by the Network and by the California Department of Fish and Wildlife. The FEIS states: "No, the Block Flow Proposal does not adequately balance the habitat needs of various aquatic resources and could adversely affect FYLF habitat." FEIS, p. 858.

The FEIS further states: "Rainbow trout are ubiquitous in project affected reaches" FEIS, p. 853. This last statement captures an important element of the Commission's balancing, particularly of the habitat needs of coldwater fish and frogs. While rainbow trout are *present* in many project waters, it is misleading to say they are "ubiquitous," which implies general

abundance.¹³ There is no outstanding trout fishery in any of the acknowledged project-affected reaches. There is no DFW-designated wild trout stream. There is no major destination recreational fishery. The North Yuba River, the reference reach used for the fish population surveys on the Middle Yuba River, generally showed at least double the abundance of the fish populations in the Middle Yuba River. A FERC-licensed project with over 40 project-affected reaches should have at least one really good recreational fishery. The Bear River in Bear Valley is the next closest thing in the (now) four projects; and it is a brown trout fishery, not to be managed for brown trout in proposed license conditions, in a reach routinely used for conveyance and unfishable in many high flow situations.

The FEIS continues, in the sentence quoted immediately above: "... [A]nd a quality recreational fishery exists in the Middle Yuba River between Jackson Meadows dam and Wolf Creek." FEIS, p. 853. This is factually inaccurate, not for the quality of the fishery, but for the fact that this reach of the Middle Yuba River is largely inaccessible to recreational angling upstream of Wolf Creek. It is for this reason that the Network and DFW placed such emphasis on the fishery downstream of Wolf Creek, which is accessible by dirt road.

The FEIS's analysis of foothill yellow-legged frogs in the Middle Yuba River also contains a factual error when it states: "Foothill yellow-legged frog eggs and tadpoles were abundant at some locations in the stream reach from Milton diversion dam downstream to Wolf Creek." FEIS p. 229. In fact, the area around Wolf Creek is the only location in the stated reach in which FYLF are abundant, and most of the detections at this location were actually downstream of Wolf Creek. There is only one location upstream of the general vicinity of Wolf Creek where *any* FYLF were found: at National Gulch, 2.4 miles upstream of Wolf Creek (maximum of 6 adults, 2 tadpoles, and 3 juveniles during any one survey); hardly an "abundant" population.¹⁴ Populations are more abundant at sites further downstream, but on these populations and the likely thermal effects of various proposed flow regimes, the FEIS, like the DEIS, is silent.

In our comments on the DEIS, we extensively discussed and analyzed the Commission's hypothesis that Block Flows on the Middle Yuba "could adversely affect FYLF habitat."¹⁵ The FEIS contains no substantive response to this, or to the analysis we provided in our Alternative Conditions for the Yuba-Bear Project.¹⁶

The FEIS is at least somewhat more equivocal on the Middle Yuba Block Flows issue than was the DEIS, however, and suggests that a future change may be appropriate:

This issue remains unresolved. Implementation of the proposed minimum streamflows in conjunction with additional conditions including the Consultation Group specific to the Middle Yuba River for water temperature management (Forest Service condition 2), and

¹³ Full Definition of Ubiquitous: "existing or being everywhere at the same time; constantly encountered, widespread, <a ubiquitous fashion>", <http://www.merriam-webster.com/dictionary/ubiquitous>.

¹⁴ Technical Memorandum 3-6, Foothill Yellow-Legged Frog Surveys, Table 3.4-2, and Attachment 3-6A; Foothill Yellow-Legged Frog Survey Maps, Figure 4.

¹⁵ See FWN Comments on the DEIS, pp. 28-36.

¹⁶ FWN Alternative Conditions, eLibrary 20120831-5126.

monitoring plans for fish populations, foothill yellow-legged frog, aquatic benthic macroinvertebrates, water temperature and stage, and channel morphology would provide data to continue to evaluate on an annual basis the effects of flow modifications (e.g., minimum streamflows and spill cessation) in project-affected stream reaches and provide an opportunity to recommend further adjustments that might be indicated. FEIS p. 854.

The standard license reopener provides little assurance for resource protection. If the Commission is persuaded that the issue is truly “unresolved,” it should at least state criteria and thresholds for a potential reopener, and specify a time period for review. Better, the Commission should simply reconsider and require implementation of the recommended Middle Yuba Block Flows.

Under current conditions and under conditions proposed for adoption in the FEIS, the recreational beneficial use of angling is impaired by the operation of the project. As we noted in our Alternative Condition for the Yuba-Bear Project: “At the highest required August flow (15 cfs in AN and Wet years), adult WUA in the middle reach is 29% of maximum for adult rainbow trout.” FWN Alternative Conditions, p. 10. The Commission has declined to require measures to protect water temperature in the Middle Yuba downstream of Wolf Creek in order to protect and enhance the best trout fishery surveyed in the Yuba-Bear/Drum-Spaulding relicensing proceeding. The weight given in balancing project-affected resources to rainbow trout in the Middle Yuba River downstream of Wolf Creek is insufficient; this fishery could be significantly improved at little cost.

The FEIS contains no effective remedy for changes in project effects to aquatic resources under conditions of climate change.

Numerous commenters, including the U.S. Environmental Protection Agency, the Network, and individual representatives of Network organizations commented on the absence of analysis in the DEIS concerning climate change and the effects of the project under changing climate conditions. The Response to Comments addresses this issue:

A 33-year period of record (1976-2008) was used to analyze hydrologic conditions in the project-affected watersheds and synthesize a[n] estimate of unregulated conditions. This hydrologic record provides an adequate characterization of the range and variability of annual flows and includes back to back critically dry years and a period of record drought up through 2008. These data were integral in evaluating proposed minimum flow conditions under various water years and modeling the effects of various environmental conditions on aquatic habitat and generating capacity. We believe that this form of analysis considers long term hydrologic trends and provides sufficient information to assess the impacts of changing climatic conditions on the projects. Additionally, we believe that our practice of including in hydropower licenses reopener provisions, in combination with extensive resource monitoring, which allows the Commission to alter license requirements in response to changed environmental conditions provides appropriate environmental safeguards and, indeed, provides more certain protection than predictions about future environmental conditions. FEIS, Appendix J, p. J-3.

As we described in our DEIS comments, projected changes in climate, precipitation and runoff during the 30-50 year lifetime of a new hydropower license are large enough to push beyond the range of historical patterns.¹⁷ We reiterate, consistent with our comments on the DEIS, that the Commission's evasion of assessing project effects on resources under changing climate conditions is legally inadequate. With minimal effort, the Commission could obtain publicly available information (many of the sources were identified in the Network's comments on the DEIS) that demonstrates the significant effects on water resources expected in California due to climate change. The Commission can and should use this information to assess project effects under climate change conditions on: increases in reservoir and instream flow release water temperatures, the frequency, magnitude and duration of reservoir spills, the "snowmelt recession hydrograph", and the probable occurrence of each water year type. The reliance by the Commission on historical hydrologic patterns as the basis for its FEIS precludes it from producing an informed climate change effects analysis that is consistent with the requirements of NEPA.

A reopener provision is an inadequate substitute for an informed climate change effects analysis. This is an issue profoundly relevant to the public interest that should be analyzed pre-license. The Commission should use the FEIS as an opportunity to ensure that its *pre-licensing* record with regard to all relevant factors is adequate to support findings that the new license adequately mitigates the project's impacts on specific resources, and the legal conclusion that the new license is best suited to a comprehensive plan for developing the waterway for the term of the new license.

The FEIS's procedural solution is equally inadequate. If the uncertainty of the extent of changes in project effects is too great to define contingent license measures, then a more defined set of conditions, protective measures and triggers for activation of protective measures for key resources is a more effective method of addressing climate change than an unsupported reference to a discretionary standard fish and wildlife reopener. For example, the Network and DFW's recommended Block Flow proposals for the Middle Yuba River and the South Yuba River are specific, measurable and targeted. They require specific actions in the event of defined conditions. Even PG&E's proposed (and Forest Service's required) South Yuba River Supplemental Flow measure provides more protection than relying on a non-specific reopener (though we continue to disagree with the temperature metrics in PG&E's South Yuba River Supplemental Flow measure and with the underlying balancing of resource values and effects). At a minimum, the new licenses should contain defined, affirmative measures that are intended to address changes of project effects on aquatic resources under climate change scenarios and that will be implemented when certain triggers are met, or else that will otherwise offer clear substantive and/or procedural remedies.

The FEIS's cumulative effects analysis in regard to aquatic species is inadequate because it fails to adequately analyze the effects of past actions, does not analyze certain reasonably foreseeable future actions, and conditions and defers consideration of certain present cumulative Project effects.

¹⁷ Network comments on DEIS, pp. 24-28.

The Cumulative Effects analysis in the FEIS, though improved from the DEIS, remains insufficient to properly inform the Commission and stakeholders of the cumulative effects of the Project on Central Valley spring-run Chinook salmon and Central Valley steelhead or facilitate consideration of actions necessary to mitigate those cumulative effects. The cumulative effects analysis fails at one of its primary goals: to impart to the reader a sense of how resources are likely to be affected by the Project in the context of past and future actions.

The FEIS does not adequately analyze the effects of past projects on key anadromous resources. The Network's DEIS comments note that the Commission failed to meaningfully address past cumulative impacts of the Projects and other watershed activities including mining, energy generation, debris management, water supply, and flood control on Central Valley spring-run Chinook salmon and Central Valley steelhead.¹⁸ The Network appreciates the fact that the Commission expanded its cumulative effects discussion in the FEIS by including some mention of historical practices, including mining activities; however, the discussion is cursory and consists primarily of description of the activity with some general mention of effects. Discussion does not equal analysis, and the FEIS contains little analysis regarding how past projects have harmed aquatic resources, including Chinook salmon and steelhead. We respectfully request that the Commission embrace this opportunity to articulate a cohesive history and analysis of the effects of activities and projects within the Yuba River watershed on historic anadromous aquatic resources, for the benefit of public understanding and informed decision-making.

Additionally, the Project does not include relevant reasonably foreseeable future actions and conditions in its analysis. For instance, as noted above, the FEIS fails to consider how Project effects to aquatic resources will change in response to future climate conditions. Additionally, as noted in several of the Network's previous filings, the Commission declines to consider the Project's impact on anadromous fish habitat above Englebright despite the fact that reintroduction is reasonably foreseeable during the term of the new license.

The Commission also declines to consider, at this time, the cumulative effects of the Projects on anadromous fish in the lower Yuba River. The Network appreciates the fact that the Commission recognizes that the Projects have the potential to cumulatively impact anadromous fish habitat and resources in the lower Yuba River. We also appreciate the fact that a delayed ESA consultation has the potential to facilitate a more thorough evaluation of the effects of the combined projects on anadromous resources. However, in order to ensure compliance with NEPA, the Commission must include such an analysis in its FEIS. The analysis should consider that linking the conclusion of this relicensing to the progress of another could harm resources if implementation of mitigation measures is significantly delayed.

Finally, the discussion in the FEIS of whether or how to lessen the cumulative effects of the Project on key aquatic resources largely declines to consider specific measures, preferring to rely on monitoring plans, the expected coordinated operations plan and reopeners to provide adequate remedy for any overlooked impacts.¹⁹ Consistent with our recommendations on climate change, we recommend that if the Commission is going to rely on monitoring and

¹⁸ Network comments on DEIS, pp. 20-23.

¹⁹ FEIS, Appendix J, p. J-9.

reopens as the substitute for analysis and mitigation, it should include defined, affirmative measures intended to address Project impacts on anadromous fish or offer other clear substantive and/or procedural remedies.

The approach described in the FEIS to consultation under the Endangered Species Act for the relicensing of the projects does not identify all affected listed fish species and does not adequately define the geographic scope of project effects for ESA purposes.

The FEIS describes staff's proposed treatment of consultation under the Endangered Species Act for the relicensing of the projects including potential project effects on steelhead in Auburn Ravine.²⁰ Because there are no confirmed steelhead upstream of Ophir Cataract (RM 26.2) and because conditions downstream of Ophir Cataract are determined to not be affected by project operations, the FEIS concludes that there are no project effects of the Drum-Spaulding Project on steelhead in Auburn Ravine, and that presumably no corresponding ESA consultation is needed.

In previous filings, we have disputed PG&E and the Commission's contentions that there are no project effects on steelhead or other fishery resources in Auburn Ravine downstream of AR-1 Diversion that warrant mitigation.²¹ We shall not rehash those arguments here. We incorporate our previous comments on these issues by reference.

In addition, we call the attention of the Commission to the fact that the presence of listed salmon species and steelhead in Auburn Ravine was likely identified in DFW rotary screw-trap monitoring in 2013 and included in a 2014 DFW Memorandum on this subject.²² The Memorandum concludes that rotary screw trap monitoring near River Mile 9.5 of Auburn Ravine in 2013 appears to show that non-natal rearing of ESA-listed winter-run and spring-run Chinook salmon took place in Auburn Ravine in 2013.²³ In addition, the screw traps captured 11 juvenile *O. mykiss* between February 1 and April 19, 2013.²⁴ At RM 9.5, about 8 miles downstream of habitat likely to support resident *O. mykiss*, their presence also strongly suggests rearing or outmigration by anadromous *O. mykiss*, either natal to Auburn Ravine or rearing in Auburn

²⁰ FEIS, pp. 383 to 394. See FEIS, pp. 399-400 for its discussion of potential project effects on steelhead in Auburn Ravine.

²¹ See FWN Comments on Proposed Study Plan, eLibrary no. 20081224-5041, pp. 15-18; FWN Comments on Revised Study Plan, eLibrary no. 20090209-5012, pp. 18-24; FWN Comments on Initial Study Report, eLibrary no. 20100513-5066, pp. 6-15; FWN REA Comments, eLibrary no. 20120731-5132, pp. 25-28; FWN Comments on DEIS, eLibrary no. 20130822-5085, pp. 41-45.

²² The memorandum is included as an attachment to California Department of Fish and Wildlife Comments on the FEIS, eLibrary 20150206-5016. In addition to DFW's Memorandum, we encourage the Commission to review other relevant sources of information and discuss in its FEIS the likelihood that steelhead may be or have recently been present upstream of AR-1. Such sources include but are not limited to: (1) California Department of Fish and Wildlife, *Anadromous Salmonid in Creek*, Letter to File, 1992 which identified a 16+ inch fish taken between PG&E's Wise Powerhouse and PCWA's Tunnel Outlet as likely anadromous steelhead; (2) PCWA, *Tunnel Outlet Modification IS-MND* pp. 3-32 and 3-39, 2009, noting that CDFG surveys indicate Auburn Ravine may constitute a probable steelhead spawning area due to the presence of very small individuals during spring and that the area both upstream and downstream of the Tunnel Outlet may represent a year-round rearing area for juvenile steelhead; and (3) Bailey, *Streams of W. Placer County...Lit. Review* pp. 20 and 21, 2003, discussing a number of items including evidence of presence of steelhead in Auburn Ravine.

²³ *Ibid*, p. 5-8.

²⁴ *Ibid*, p. 4.

Ravine after migrating upstream in search of rearing habitat in the manner suggested by DFW's memorandum for winter-run and spring-run salmon. Low flows in Auburn Ravine, particularly during the non-irrigation season when diversion works in lower Auburn Ravine are not yet in place, could potentially affect the survival of these listed juvenile salmon and steelhead. January - April flows in Auburn Ravine in recent years have dropped to levels that expose rearing salmonids to increased predation from birds and terrestrial animals, and that may also lead to other lethal conditions such as stranding or thermal stress.²⁵

Given the presence of these species in Auburn Ravine, particularly during the non-irrigation season, flows in Auburn Ravine have the potential to harm listed species. Staff's apparent intent to absolve the licensee of the Drum-Spaulding Project of the need for ESA consultation for listed salmonids in Auburn Ravine does not pass legal muster.

The FEIS does not consider the ramifications of delayed initiation of ESA consultation regarding anadromous fish in the lower Yuba River

The Commission has determined that it will initiate ESA consultation for the effects of the projects on listed anadromous fish downstream of Englebright Dam *after* recommended measures have been determined for the Yuba River Development Project (YRDP) which is undergoing relicensing at a schedule at least five years behind this relicensing process.

The interbasin transfer of flows associated with the Upper Drum-Spaulding, Lower Drum, Deer Creek, and Yuba-Bear Project may adversely affect the Central Valley spring-run Chinook salmon distinct population segment (DPS), Central Valley steelhead DPS, and southern DPS of the green sturgeon downstream of Englebright dam. Project dams on the Middle Yuba and South Yuba Rivers divert water from the river to many canals and conduits where power generation occurs and where water is delivered to NID and Placer County Water Agency (PCWA) at many points along the system. These diversions, in combination with operations of the Yuba River Project (FERC No. 2246), have the potential to cumulatively affect listed species. We will initiate formal consultation for the Upper Drum-Spaulding, Lower Drum, Deer Creek, and Yuba-Bear Projects after our evaluation of recommended measures, including flow releases, associated with relicensing of the Yuba River Project. FEIS, Executive Summary, p. lxxv.

The Network appreciates the fact that the proposed ESA consultation schedule has the potential to facilitate a more thorough evaluation of the effects of the combined projects on anadromous resources in the lower Yuba River. However, this does not absolve the Commission of its duty under NEPA to consider in its FEIS the direct and cumulative effects of the interbasin transfer of flows on listed anadromous fish downstream of Englebright Dam. Additionally, the Commission must consider the risk to the resources associated with linking the ESA consultation for the Yuba-Bear/Drum-Spaulding relicensing, thus delaying the conclusion of the proceeding and subsequent implementation of adopted protective measures, to the timeline of yet another relicensing process. The Yuba River Development Project relicensing is not only three years behind the YBDS relicensing schedule as indicated by respective license expiration dates, but is also experiencing an additional two-year delay due to study determinations and drought

²⁵See for example FWN Comments on Proposed Study Plan, op. cit., p. 17.

conditions. The YRDP relicensing process is vulnerable to additional delays associated with implementation of incomplete studies (especially if drought conditions persist) and other process-related hurdles that may be encountered as relicensing participants attempt to reach agreement on measures for a new license.

The Commission should consider the impacts to YBDS resources if the YRDP relicensing or environmental document is delayed according to current expectations or even longer. We request that the Commission consider interim solutions that would allow the YBDS licenses to issue notwithstanding the delay, or that would amend the current YBDS licenses to include measures critical for timely protection of aquatic resources. For example, spill cessation schedules are an agreed-upon measure for the new YBDS license that should be implemented forthwith.

The FEIS fails to consider the impact of the projects on recreational access in the Bear River corridor and relevant, reasonable mitigation measures.

Rivers corridors are used for a variety of recreational purposes, including hiking, fishing, bird watching, and simple enjoyment of the experience and the scenery. Many people who visit rivers, including the Bear River, find rivers intrinsically interesting and valuable. The Bear River is particularly valuable given the rich cultural history associated with its use and the fact that the number of reasonably accessible rivers in the Sierras is limited. The experience of walking along a river in the Sierras and in the project area in particular is a state treasure. Yet the FEIS fails to acknowledge that blockage of access to the Bear River is a project effect.

Extensive and detailed comments submitted to the Commission by the USFS, BLM, CDFW and FWN identify the numerous mechanisms by which the projects prevent the public from accessing the river. These mechanisms include canal spill channels that are impassable when operating and remain highly eroded gullies when not in use, high conveyance flows that make paths close to the river unusable, barriers around project facilities that prevent hikers from passing those facilities, and massive penstock and power line corridors that function as permanent obstacles to river access. Such project-created obstacles are scattered from the top of the watershed where the Drum Canal enters Bear Valley all the way downstream to Combie Reservoir. They fragment the watershed for humans as surely as they block migratory corridors for terrestrial animals.

The FEIS does not assess these project effects, and in considering trails focuses instead on whether the proposed Bear River Trail would fulfill a “project purpose.” This approach is inadequate. The blockage of access to rivers is a project effect and a condition that needs to be mitigated, regardless of whether creation or maintenance of the trail is found to constitute a project purpose. At points such as the Drum Powerhouse and connected penstocks, project facilities completely block access to the river; access to the river at the Drum Powerhouse site is prevented by chain link fencing topped with razor wire. There are also limitations to access by project “spills” (canal release points), especially in Bear Valley, where sudden high volume releases from the Drum Canal at the Tahoe Spill (RM 31.75) and the Bear Spill (36.6) often wash out the existing informal trail around the meadow. Releases from the Drum Canal near the headwaters of the Bear into the Bear River in Bear Valley affect the river channel through the

Bear Meadow. Project operations create flow fluctuations that inundate parts of the informal trail along the Bear River. In the absence of river access, a utility maintenance trail that runs parallel to the Bear River Canal has become the de facto riverine recreation trail for the area, yet the public is unprotected from falls into the fast moving, cold water of the nearby canal (which has no mechanism for easy exit).

Unsurprisingly, the FEIS also fails to identify any measures that will mitigate the project effects that limit river access for recreation. The FEIS concedes that the Bear River Trail would be beneficial to recreational users, but invokes language from the ILP Study Criteria to dismiss it.

Although development of such a trail would provide benefit to recreation users within the region, based on the information provided, there does not appear to be a nexus between this trail and the proposed Drum-Spaulding, Lower Drum, and Deer Creek Projects. FEIS, p. 470.

The Commission has previously required measures to mitigate project effects on access to rivers, such as flow measures to enhance whitewater boating opportunities and required whitewater boating put-in and take-out points.²⁶ Despite such precedent the FEIS declines to consider the Bear River Trail as a potential mitigation measure. The Commission is required to identify all relevant, reasonable mitigation measures or provide sound justification for not doing so. On this issue, it has done neither.²⁷

The FEIS uses an arbitrary standard that is inconsistent with the Commission's past practice to justify its determination that the inclusion of the Bear River Trail in the Drum-Spaulding license is unwarranted because the trail would not serve a project purpose.

The FEIS exclusively considers the Bear River Trail from the perspective of whether it is recreation that represents a "project purpose." The FEIS describes criteria by which the Commission supposedly determines whether a trail fits into the category of serving a project purpose:

The Commission considers trails that connect two or more project recreation facilities to be necessary for project purposes. Some existing project trails connect project recreation facilities to other non-project trails or non-project recreation facilities. To the extent that such trails or trailheads already exist within the project boundary, they are considered a project facility. However, generally, new trails, trailheads or trail facilities that do not connect two project recreation facilities are not considered necessary for project purposes. FEIS, p. 469.

²⁶ For instance, such whitewater facilities are required: on the Mokelumne River in the license for the Mokelumne River Project (P-137); on the Pit River for the Pit 3,4,5 Project (P-233); and on the San Joaquin River for the Kerckhoff Project (P-96).

²⁷ The Commission has also not addressed FWN's request that the Commission re-evaluate its response to USFS Condition 41, CDFW Measure 16 and BLM's Recommendation 1 (all concerning the Bear River Trail) in light of its failure to understand that the agencies recommendations were based on their adoption of FWN's detailed trail information presented in the REA. *See* Network Comments on the DEIS, p. 47. The Network continues to request a response.

The FEIS rejects the Bear River Trail on this basis, and also on the basis of unspecified safety concerns, ignoring recommendations in FWN DEIS comments for alleviating these concerns. The FEIS states:

The intended purpose of the proposed trail is to provide a river trail that coincides or intersects in several locations with the project boundary, not to provide trail access to or between project recreation facilities. Further, the trail may provide access to certain areas of the project that are closed to the public due to concerns over public safety. FEIS, p. 469.

The Network appreciates the fact that the Commission describes the standard by which it justifies its rejection of the Bear River Trail. However, the standard the Commission invokes in the FEIS appears to be arbitrary and inconsistent with past Commission action. The Commission should provide information regarding the origin of its standard for whether a river trail constitutes a project purpose, such as whether the standard exists in regulation or formal Commission guidance.

Additionally, the Commission should consider whether such a standard constitutes an outdated and overly restricted view of how recreation should fit within a project and how a project can best meet recreational needs. When Yuba-Bear and Drum-Spaulding project licenses were issued fifty years ago, boat launches on project reservoirs were considered to be the effective range of mitigation for loss of river boating opportunities. This expectation has evolved extensively in the last twenty years with whitewater advocacy in FERC licensing and the recognition of the value and importance of boating in rivers. It is time for the Commission's treatment of trails along rivers to advance to consistency with equivalent twenty-first century values.

Finally, the Commission should consider the stated standard in light of its past practice. On the Poe Project on the North Fork Feather River in California, the Commission will be requiring as a license condition the construction of a trail in response to demonstrated public need, even though the trail does not exclusively provide access between project facilities and does not contain a trailhead at a project facility.

PG&E reported that 10 percent of the visitors to Bardee's Bar indicated that they participated in hiking while visiting this site. There are no developed trails in the vicinity of Bardee's Bar, and PG&E did not provide information on specific locations or destinations that these individuals used for hiking. Butte County has recommended development of a trail in the Feather River canyon north of Bardee's Bar. PG&E reported that hiking is one of the activities expected to increase by more than 100 percent in the project area. In addition to the lack of developed trails in this area, there are also sensitive resources near this site. We conclude that there is a need to develop a trail in this area. A trail that originates from Bardee's Bar would enhance recreational opportunities in the Feather River canyon and also could be used to divert users away from sensitive resources. FEIS for the Poe Project, p. 143.²⁸

²⁸ See eLibrary 20060802-3036.

In the FEIS for the same project, the Commission declined to require a trail on the basis of site-specific merits in a situation that would not have met the “project purpose” standard noted above. This decision did not rely on (or even mention) the “project purpose” standard in its justification.

Creation of a trail on the west side of the NFFR would eliminate potential conflicts between hikers or bicyclers and the railroad and still would allow for a loop trail when using the Bardee’s Bar road and the Poe powerhouse access road. However, slopes of greater than 20 percent occur along the majority of the NFFR shoreline between Bardee’s Bar and Poe Beach. In general, slopes greater than 20 percent are not favored for trail location due to the potential for erosion and slope failure. In conclusion, the current low use of the project bypassed reach for hiking and mountain bicycling does not support the need for the creation of a trail in this steep location. FEIS for the Poe Project, p. 145.

The Commission should justify its application of the “project purpose” standard in this proceeding, and should also reconsider the utility and timeliness of the standard, including whether its application produces an outcome that is consistent with the requirements of NEPA and the FPA.

The FEIS does not adequately analyze recreational uses in project-affected reaches and associated costs to land management agencies.

As part of its preliminary 4(e) conditions, the Bureau of Land Management (BLM) provided to the Commission a rationale for payments from PG&E for recreational maintenance costs on the South Yuba River. The rationale notes that the project’s out-of-basin diversions in the South Yuba River have caused the river to be lower in the spring and summer months thereby causing a longer season for recreational use and a greater intensity of recreational use by swimmers and those engaging in hiking and picnicking activities. Questioning the relationship between these areas and the projects, the FEIS states that “it would not be appropriate to require PG&E to provide funding for improvements or annual funding for the facilities related to these areas.” FEIS, p. 484. We appreciate that fact the PG&E has agreed to provide, outside of license requirements, some payments to BLM for recreational costs on the South Yuba River. However, in order to ensure an adequate analysis of project effects consistent with the requirements of NEPA, we recommend that the Commission re-evaluate the scope of its analysis concerning project effects on recreational use in the South Yuba River.

There is a clear connection between the projects and recreational sites on the entire South Yuba River downstream of project facilities. The projects’ diversions from the South Yuba River watershed have a dramatic influence on the hydrograph of the South Yuba River, even as far downstream as the California State Park lands at Purdon Crossing (RM 11), Highway 49 (RM 7), Jones Bar (RM 6) and Bridgeport (RM 0). One of the most conspicuous influences is the reduction of spring and early summer flows. The resulting flow levels stimulate and facilitate increased recreational use.²⁹

²⁹ Technical Memorandum 2-4, Table 3.3-9, Hydrologic Alteration Study by PG&E and NID shows that median monthly flow in the South Yuba River at Jones Bar (32 miles below Spaulding Dam) is reduced from 2252 to 412 cfs in April, 3240 to 363 in May, and from 772 to 109 in June due to the project.

The heavy use of the South Yuba River by recreationists in the spring as well as summer (except in the wettest of years) is due in part to Project effects on high flows. Reduced frequency of high flows due to Project diversions at Bowman and Spaulding reservoirs greatly increases recreational use by swimmers.³⁰ Land management agencies, including the BLM and California State Parks, provide necessary maintenance and services to meet the needs of these recreationists. These needs are significantly greater than would occur without the projects. We recommend that the Commission reconsider its analysis of project effects on recreational use in the South Yuba River.

The FEIS fails to adequately consider the most cost-effective means of providing accurate flow information.

The FEIS recognizes the importance of year round publicly available flow information for recreationists of all types, and the particular importance of this flow information during times when flows are dynamic.

“Providing year-round real-time (15-minute as currently provided) streamflow data on the internet for Fordyce Creek below Fordyce dam, South Yuba River below Kidd Lake and Lower Peak Lake dam (at Cisco Grove), South Yuba River below Lake Spaulding (at Lang’s Crossing), and the Bear River at Highway 20, as proposed by PG&E and specified by the Forest Service, would allow boaters to take advantage of suitable boating flows provided by the project. Providing the year-round real-time streamflow data on a single, public website would provide the public with a single website to obtain recreation-related information for the project. Because the streamflows are affected by special events, reservoir spill, and outages, providing as much advance notice of these occurrences, their duration, and expected travel time for flows would increase whitewater boating opportunities.” FEIS pp. 482, 539.

FWN appreciates the Commission’s recognition of the importance of providing this information, and notes that the dynamic nature of the types of flow events that the Commission references require that there be more than one flow gauge. During relicensing, FWN recommended an additional flow gauge near the confluence of Canyon Creek and the South Yuba River, given that the only way to determine how long it takes water to get from one point to the next is by having an additional gauge downstream. We assumed that Commission staff would recognize that it is impossible to assess dynamic flows, particularly travel time, with only a single gauge. However, rather than adopting FWN’s recommendation, Commission staff proposed an alternative solution:

³⁰ See FEIS, Table 3-222. This table is misleading for indicating that acceptable flow ranges for swimming include any level above a minimum. The source (Technical Memo 8-1 by NID and PG&E) never attempted to survey swimmers about high flows or address high-flow limitations to swimming. The South Yuba River Comprehensive Management Plan (BLM 2005) lists swimming first among the most common recreational activities on the river, and explains that it is associated with relatively clear and warm water which does not occur at high flows.

By adding the flow data for the following proposed compliance monitoring locations, the public can estimate the flow on this reach of the South Yuba River: South Yuba River below Lake Spaulding (at Lang's Crossing), Canyon Creek below Bowman-Spaulding diversion dam, Texas Creek below Texas Creek diversion dam, Clear Creek below Bowman-Spaulding diversion conduit, Fall Creek below Fall Creek diversion dam, Trap Creek below Bowman-Spaulding diversion conduit, and Rucker Creek below Rucker Creek diversion gate. Coordinating with the Yuba-Bear Project licensee to provide the year-round real-time streamflow data for these compliance gages on a single, public website (could be a third-party website) would provide the public with a single website to obtain flow information for this reach (which has three whitewater boating runs) so that they can take advantage of whitewater opportunities on this reach and also be better informed on safe flows. FEIS pp. 483, 539.

We fail to understand how the addition of five gauges on small tributary streams can be more cost-effective than adding a single gauge near the confluence of the South Yuba and Canyon Creek. The additional gauges are only designed for compliance with minimum instream flow requirements, and are not intended to be rated at higher flow levels. Additionally, these gauges are not intended to be linked in real-time to the internet. Both rating at higher flows and real-time accessibility are necessary for gauging to be useful to whitewater users and adding these elements will create additional expense. As a result, Commission staff's recommendation to include these gauges on the canal tributaries is likely to be met with significant resistance from the licensee, and is not a proposal that we support.

The FEIS omits an important detail regarding the Water Temperature and Stage Monitoring Plan.

Working collaboratively with PG&E, USFS, CDFW and SWRCB staff, the Network agreed on a solution that will provide flow information near the confluence of Canyon Creek on the South Yuba. The results of this agreement are contained in the USFS Water Temperature and Stage Monitoring Plan, filed April 11, 2014.³¹ The FEIS acknowledges this plan:

“The Forest Service also specifies and PG&E proposes to implement the Water Temperature and Stage Monitoring Plan (filed April 11, 2014 and discussed under Monitoring Program under Aquatic Resources) that includes installing a monitoring station in the South Yuba River upstream of but as close as possible to Canyon Creek within three years that would monitor river stage hourly (15-minute interval readings that would be transmitted hourly) and would be available in real-time (hourly) to the public via the internet.” FEIS, p. 701.

By using a location where water temperature and stage monitoring is already being required, rather than developing an entirely new gauging location downstream of the confluence with Canyon Creek, we developed a plan that would provide real-time flow information to the public at a significant cost savings. While this location is less optimal than a gauging station

³¹ See e-Library 20140411-5035.

below the confluence, it will provide important travel time and accretion information for river recreationists on the South Yuba River.

The description of the plan in the FEIS is mostly correct; however, the water temperature and stage monitoring plan filed by the USFS clearly states that a rating curve is to be developed at the site so that flow information, rather than just stage information, can be reported out real-time to the internet. This important component should be acknowledged by the Commission.

Conclusion

The Network appreciates the fact that the relicensing participants have continued to productively engage one another on disputed issues throughout this process. The positive working environment has enabled agreement on many key issues. However, several important issues remain unresolved. We are disappointed that the Commission's FEIS ignores or inadequately addresses these issues. The omissions significantly weaken the legal strength of the FEIS and compromise the Commission's ability to adopt a license that properly balances beneficial uses. To address these issues, the Network recommends that the Commission implement the actions summarized below.

The Network recommends that the Commission decline to license the Lower Drum Project separately from the Drum-Spaulding Project. If the Commission issues a separate license for Lower Drum, the Commission must require mitigation for the power and non-power effects of operation of the Lower Drum Project on anadromous fish resources in Auburn Ravine. The Commission should issue a supplement to the FEIS that analyzes these effects and the measures required to mitigate them. Finally, the Commission should require an Annual Meeting and Consultation Group for the Lower Drum Project that includes the Network and other agency and non-agency stakeholders.

The Network recommends that the Commission adopt the FWN- and CDFW- recommended Block Flow measure in the Middle Yuba River downstream of Wolf Creek in order to protect and enhance rainbow trout and their habitat. The impairment of the recreational beneficial use of angling is not adequately mitigated by approved flow measures for the Middle Yuba River or in the overall balancing of uses over all four projects.

The Network recommends that the Commission conduct an analysis of how Project effects on aquatic species are likely to change over the life of the license due to climate change conditions instead of deferring the issue to a reopener.

The Network recommends that the Commission include defined, affirmative measures intended to address the cumulative effects of the Project on anadromous fish or offer other clear substantive and/or procedural remedies. The Commission should not rely on monitoring plans and reopeners as the substitute for an adequate analysis of cumulative effects and measures required to mitigate them.

The Network recommends that the geographic scope of the ESA consultation be expanded to include Auburn Ravine from its mouth to Wise Powerhouse, given the presence of listed species and the potential for flows in Auburn Ravine to harm listed species.

The Network recommends that the Commission consider the biological risks of its decision to delay ESA consultation for project effects to anadromous resources in the lower Yuba River. The Commission should consider how it will proceed if the YRDP relicensing or environmental document is delayed, and should consider interim solutions that would either allow the YBDS license to issue notwithstanding the delay or amend the current YBDS licenses to include measures critical for timely protection of aquatic resources.

The Network recommends that the Commission explicitly recognize that the blockage of access to rivers is a project effect and a condition that needs to be mitigated. Within this paradigm, the Commission should consider the Bear River Trail as a relevant mitigation measure or provide justification for its exclusion from consideration. The Commission should justify its application of the “project purpose” standard to trails in the proceeding, and should otherwise reconsider the utility and contemporary applicability of the stated standard.

The Network recommends that the Commission reconsider its analysis of project effects on recreational use in the South Yuba River.

The Network recommends that the Commission consider requiring one additional gauge near the confluence of Canyon Creek and the South Yuba River as a cost-effective means of providing accurate flow information.

Thank you for consideration of the Network’s comments on the Final Environmental Impact Statement. Please contact Traci Van Thull, Coordinator, Foothills Water Network if you have any questions.

Respectfully submitted,



Foothills Water Network

A handwritten signature in black ink, appearing to read 'T. Van Thull', is placed over a light gray rectangular background.

Traci Sheehan Van Thull
Coordinator, Foothills Water Network
PO Box 573
Coloma, CA 95613
traci@foothillswaternetwork.org



Chandra Ferrari

Chandra Ferrari
California Water Policy Director
Trout Unlimited
4221 Hollis St., Emeryville, CA 94608
(916) 214-9731
cferrari@tu.org



Chris Shutes

Chris Shutes
FERC Projects Director
California Sportfishing Protection Alliance
1608 Francisco St, Berkeley, CA 94703
blancapaloma@msn.com
(510) 421-2405



A handwritten signature in black ink, appearing to read "Gary Reedy". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Gary Reedy
Senior River Scientist
South Yuba River Citizens League
303 Railroad Avenue
Nevada City, CA 95959
gary@syrc.org



A handwritten signature in black ink, appearing to read "Dave Steindorf". The signature is cursive and somewhat stylized, with a long, vertical tail on the final letter.

Dave Steindorf
California Field Staff
4 Baroni Dr.
Chico, CA 95928
dave@amwhitewater.org



Steve Rothert
Director, California Field Office
American Rivers
432 Broad St.
Nevada City, CA 95959
srothert@americanrivers.org



**SIERRA
CLUB**

FOUNDED 1892



Allan Eberhart
Chair, Sierra Club - Mother Lode Chapter
24084 Clayton Road
Grass Valley, CA 95949
vallialli@wildblue.net



Frank Rinella
Northern California Federation of Fly Fishers
303 Vista Ridge Dr.
Meadow Vista Ca. 95722
sierraguide@sbcglobal.net



Jack Sanchez
President and Coordinator
Save Auburn Ravine Salmon and Steelhead
P.O. Box 4269
Auburn, CA 95604
alcamus39@hotmail.com

Ronald M. Stork

Ronald Stork
Senior Policy Advocate
Friends of the River
1418 20th Street, Suite 100
Sacramento, CA 95811-5206
(916) 442-3155 x 220
rstork@friendsoftheriver.org



Gregg Bates
Director
Dry Creek Conservancy
PO Box 1311
Roseville, CA 95678
dcc@surewest.net

Ron Otto
Auburn Ravine Preservation Committee Ophir Property Owners Assoc., Inc.
10170 Wise Road
Auburn, CA 95603
rottoophir@gmail.com

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

Nevada Irrigation District) Project No. 2266-102
Pacific Gas and Electric Company) Project Nos. 2310-193; 14530-000; 14531-000

Certificate of Service

I hereby certify that the foregoing Final Environmental Impact Statement Comments of Foothills Water Network, American Rivers, American Whitewater, California Sportfishing Protection Alliance, Friends of the River, Gold Country Fly Fishers, Northern California Council Federation of Fly Fishers, Ophir Property Owners Association, Save Auburn Ravine Salmon and Steelhead, Sierra Club, South Yuba River Citizens League, and Trout Unlimited in the above-captioned proceedings has this day been filed online with the Federal Energy Regulatory Commission and served via email or surface mail upon each person designated on the Service List compiled by the Commission Secretary for these Projects.

Dated at Sacramento, California this 9th day of February, 2015.



Traci Sheehan
Coordinator
Foothills Water Network