

**YUBA COUNTY WATER AGENCY NOTICE OF INTENT TO RELY ON FERC/
USACE FINAL ENVIRONMENTAL IMPACT STATEMENT, IN COMBINATION
WITH A SUPPLEMENTAL ANALYSIS, TO SATISFY CEQA FOR THE YUBA
RIVER DEVELOPMENT PROJECT RELICENSING
AND
NOTICE OF CEQA SCOPING MEETINGS**

Date: November 7, 2022

To: Governor's Office of Planning and Research/State Clearinghouse Unit,
Responsible Agencies, Trustee Agencies, and Interested Parties

From: Yuba County Water Agency

Lead Agency: Yuba County Water Agency
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Project Title: Yuba River Development Project FERC Relicensing

Subject: November 7 to December 22, 2022 public review period for Notice of Intent (NOI) to prepare a Supplemental Analysis pursuant to California Environmental Quality Act (CEQA) Guidelines section 15221; *NOI to Rely on the Federal Energy Regulatory Commission (FERC) and United States Army Corps of Engineers (USACE) Final Environmental Impact Statement (FEIS), in Combination with the Supplemental Analysis, to Satisfy CEQA for the Yuba River Development Project (YRDP) FERC Relicensing*; and notice of public scoping meetings.

SECTION 1.0

INTRODUCTION; BACKGROUND; CEQA COMPLIANCE PLAN; SCOPING

The Yuba County Water Agency (YCWA) owns and operates the Yuba River Development Project (YRDP), which is a hydroelectric project that operates pursuant to a license issued by the Federal Energy Regulatory Commission (FERC) (FERC Project No. 2246) under the Federal Power Act (FPA). YCWA is considering whether to accept an expected new YRDP license from FERC. YCWA has applied for a license with a 50-year term. YCWA is a local government agency generally subject to the requirements of the California Environmental Quality Act (CEQA). YCWA is the CEQA lead agency for the FERC relicensing project because it will carry out and implement the project. (CEQA Guidelines section 15051.) This notice of intent informs responsible and trustee agencies and other interested parties about YCWA's CEQA compliance plan for relicensing and its intention to prepare a supplement to FERC's final environmental impact statement (FEIS) and hold related scoping meetings.

1.1 Licensing Background

The YRDP FERC license expired in 2016. In anticipation of the expiration of the initial license, YCWA started the FERC application process in 2014 and, in 2017, filed with FERC a final Application for a New License for Major Project – Existing Dam (FLA). In January 2019, FERC, along with the United States Army Corps of Engineers (USACE) as a cooperating agency, issued a Final Environmental Impact Statement for Hydropower License, Yuba River Development Project, Project No. 2246-065 – California (the FEIS) pursuant to the National Environmental Policy Act (NEPA).

Section 401 of the federal Clean Water Act authorizes a state to issue a water quality certification with conditions (WQC) on a federal license for a hydroelectric project to ensure that the project complies with state water quality standards. The WQC-issuing agency in California is the State Water Resources Control Board (SWRCB). Federal law provides that if a state fails to act on a WQC application within a reasonable period of time (not to exceed one year), the WQC is considered waived with respect to the application. As required by FERC's regulations (18 C.F.R. § 5.23(b)(1)), YCWA applied to the SWRCB for a WQC on August 24, 2017. At the SWRCB's request, YCWA withdrew and refiled its application for a WQC on August 3, 2018. On July 31, 2019, the SWRCB denied YCWA's application without prejudice. YCWA has not filed a new application for a WQC with the SWRCB.

On May 21, 2020, FERC issued an order concluding that the SWRCB waived its authority to issue a WQC for the YRDP relicensing. In a decision dated August 4, 2022, the Ninth Circuit Court of Appeals ruled that FERC's factual determination was not supported by substantial evidence and therefore vacated FERC's 2020 order. YCWA and other FERC licensees affected by the Ninth Circuit's decision have filed a petition for rehearing.

On July 20, 2020, the SWRCB purported to issue a WQC with 50 conditions, even though there was no pending WQC application by YCWA. In a ruling dated June 28, 2022, the Fresno County Superior Court ordered the SWRCB to set aside and vacate the 2020 WQC. The SWRCB has appealed that decision.

The state and federal court lawsuits remain pending and unresolved. Further appeals are expected. Considering the recent and possible future court decisions, it is uncertain how, when, or whether FERC will address the 2020 SWRCB WQC or a subsequent SWRCB WQC. Therefore, the requirement and timing for issuance of SWRCB WQC for YRDP relicensing are uncertain at this time.

On September 18, 2020, FERC issued a biological assessment (BA) under the federal Endangered Species Act (ESA) and requested initiation of formal ESA consultation with the U.S. Department of Commerce, National Marine Fisheries Service (NMFS). NMFS responded to FERC on October 16, 2020 and asserted that the BA did not provide all the information needed to initiate consultation.

In a letter dated March 8, 2021, FERC announced its plans to prepare a supplemental EIS (SEIS) and revised BA. FERC explained that the SEIS will address new information in the administrative record and may revise FERC staff's preferred project alternative. Following completion of the SEIS and revised BA, FERC will re-request ESA consultation with NMFS, and NMFS then is expected to prepare an ESA biological opinion.

Following completion of the SEIS and ESA consultation, FERC is expected to issue a new YRDP license so that YCWA may continue to operate and maintain the YRDP subject to the terms and conditions as described in the final FERC license.

1.2 CEQA Compliance Plan and Objective of Supplemental Analysis

The California Supreme Court recently ruled that a California government agency licensee generally must comply with CEQA in connection with FERC licensing or relicensing of a project in the state. (*County of Butte v. Department of Water Resources*, decided Aug. 1, 2022.) The court explained that the CEQA document serves as an informational source for the California agency's own decision-making regarding relicensing. It informs the decision about whether to accept the particular license and its terms and conditions, whether to request FERC to incorporate other terms into the license or seek reconsideration by FERC, and potential mitigation measures that may fall outside of FERC's jurisdiction. CEQA review also aids the assessment of options going forward.

However, since FERC is a federal agency implementing a federal law (Federal Power Act [16 USCS § 791a]), the *County of Butte* court also concluded that CEQA is preempted by federal law to the extent that a CEQA requirement or action interferes or is inconsistent with the FERC license, FERC relicensing process under federal law, or FERC's exclusive jurisdiction over the FERC-licensed project. For example, YCWA may be barred from incorporating mitigation measures under CEQA that would conflict with a term of the FERC license.

YCWA will need to decide whether to accept the new FERC license. In accepting a new license issued based on YCWA's 2017 FLA, YCWA would:

- Continue to operate, maintain, and manage the existing YRDP facilities, which include: (1) New Bullards Bar Dam and Reservoir; (2) Our House and Log Cabin diversion dams; (3) Lohman Ridge and Camptonville diversion tunnels; (4) New Colgate and Narrows 2 power tunnels and penstocks; (5) New Colgate, New Bullards Minimum Flow, and Narrows 2 powerhouses and associated switchyards; (6) Narrows 2 Powerhouse Full Bypass (Full Bypass); (7) recreation facilities at New Bullards Bar Reservoir; and (8) appurtenant facilities and features (e.g., buildings, switchyards, roads, trails and gages) pursuant to the new license and its terms and conditions.
- Make the following modifications and improvements to existing YRDP facilities as would be approved by the new license: (1) addition of a tailwater depression system (TDS) at New Colgate Powerhouse;¹ (2) addition of a new Auxiliary Flood Control Outlet (a.k.a. Atmospheric River Control or ARC Spillway²) at New Bullards Bar Reservoir; (3) modification to the Our House Diversion Dam fish release outlet; (4) modification to the Log Cabin Diversion Dam fish release outlet; (5) modification to the Lohman Ridge Diversion Tunnel Intake; (6) modifications to recreation facilities at New Bullards Bar Reservoir; and (7) modifications to Project roads.
- Implement the other terms and conditions in the new license.

Acceptance and implementation of the new FERC license and continued operation and maintenance of the YRDP pursuant to the new license as described above are collectively referred to in this notice as the "Proposed Project." The FEIS evaluated four alternatives: (1) YCWA's (applicant's) proposal; (2) YCWA's proposal with certain FERC staff modifications (the FERC Staff Alternative); (3) FERC Staff Alternative with all mandatory conditions; and (4) no action, meaning that YCWA would continue to operate the project with no changes. In the FEIS's conclusion, FERC staff (in 2019) selected the FERC Staff Alternative as the preferred alternative. The FEIS also recognizes that the final FERC license must include (1) any mandatory conditions submitted by the Forest Service pursuant to FPA section 4(e) that meet the FPA requirements, and (2) any conditions included in a final, valid, and timely WQC issued by the SWRCB under Clean Water Act section 401.

¹ YCWA has not determined yet whether to implement the TDS if FERC were to authorize it. In order to ensure that YCWA analyzes the Proposed Project's full possible environmental impacts, the Supplemental Analysis, in combination with FERC's FEIS, will address environmental impacts of the TDS's implementation.

² YCWA is in the process of preparing a project-specific draft EIR for its planned ARC spillway. The ARC spillway is described in more detail in section 4.2.2.1 below. The draft EIR will evaluate the spillway as a separate, standalone project. YCWA plans to release a draft EIR for public comment in early 2023. YCWA also plans to apply to FERC for an amendment to the existing FERC license that would allow spillway construction ahead of completion of relicensing.

As explained above, FERC is in the process of preparing an SEIS and later will undertake ESA consultation. Consequently, through this additional evaluation, FERC staff may modify the staff recommended alternative, which could include additional or modified license conditions.

The Supplemental Analysis will assume that FERC issues a new license based on the FERC Staff Alternative as described in the FEIS and summarized at section 4.2.4 below. As it prepares the Supplemental Analysis, YCWA will reassess the scope and details of the Proposed Project based on any subsequent related actions or decisions by FERC (e.g., as a result of the SEIS or ESA consultation). The draft Supplemental Analysis will describe the Proposed Project based on the circumstances existing at the time of its release.

The Proposed Project is a discretionary action directly undertaken by YCWA and has the potential to have physical effects on the environment. As such, YCWA's Proposed Project approval is subject to CEQA, Cal. Pub. Res. Code §§ 21000–21178. YCWA, as the project's proponent, is the lead agency under CEQA and has the principal responsibility for approving and carrying out the Project.

CEQA requires that, when a project requires both CEQA compliance and an environmental impact statement prepared under NEPA, the lead agency shall, whenever possible, use the environmental impact statement as the project environmental impact report (EIR). (Public Resources Code section 21083.7.) CEQA Guidelines section 15221 implements this requirement and provides that when a project will require compliance with both CEQA and NEPA, a California local agency should use the federal EIS rather than preparing an EIR under CEQA if: (1) the EIS is prepared before an EIR was completed; and (2) the EIS complies with the CEQA Guidelines. (See also Cal. Pub. Res. Code §§ 21083.5, 21083.7.) Where the federal agency circulated the EIS in a way that satisfies California requirements for notice and public comment, the CEQA lead agency may use the EIS without additional EIS recirculation. Prior to using the EIS in this situation, the lead agency must give notice that it will use the EIS in the place of an EIR and that it believes that the federal document meets the requirements of CEQA. The notice shall be given in the same manner as a notice of the public availability of a draft EIR. (CEQA Guidelines § 15225.)

Because NEPA does not require a separate discussion of some issues required by CEQA, such as growth-inducing impacts, those points of analysis, if missing from the EIS, must be added or supplemented before the EIS can be used to satisfy CEQA. (CEQA Guidelines section 15221(b).) Therefore, section 15221 authorizes a California local government agency to prepare a supplement to add and supplement points of analysis before the EIS will be used for CEQA compliance.

YCWA staff and environmental consultants have reviewed the FERC FEIS to determine whether it meets the requirements of CEQA for use as YCWA's CEQA document for relicensing. Following that review, YCWA believes and determined that the FEIS complies with the CEQA requirements, except for the information to be included in the Supplemental Analysis to be prepared pursuant to this NOI.

YCWA, therefore, intends to use and rely on the FEIS to satisfy CEQA review requirements for the relicensing of the YRDP. The FERC FEIS is available on FERC's ELibrary (<https://elibrary.ferc.gov/eLibrary/search>) under YRDP Docket No. P-2246 at accession no.

20190102-3000, on the YCWA website at <https://www.yubawater.org/217/Yuba-River-Development-Project-Relicensi>, and physical copies are available at YCWA's place of business at 1220 F Street, Marysville, California. YCWA's Notice Of Intent To Rely On FERC/USACE Final Environmental Impact Statement, In Combination With A Supplemental Analysis, To Satisfy CEQA For The Yuba River Development Project Relicensing And Notice Of CEQA Scoping Meetings (NOI) is available in those same electronic and physical locations.

Consequently, YCWA intends to prepare a Supplemental Analysis pursuant to section 15221(b) to add and supplement, among other things, the following CEQA considerations that were not addressed or fully covered in the FEIS: 1) air quality effects; 2) noise effects; 3) climate change; 4) a program for monitoring or reporting on mitigation measures; 5) Native American tribe consultation, including outreach requirements required by Public Resources Code section 21080.3.1 (adopted by Assembly Bill 52); and 6) growth-inducing impacts of the Project. During the course of preparing the Supplemental Analysis, YCWA may identify other CEQA considerations that will be included. For example, the Supplemental Analysis may include an analysis of alternatives to implementing the Proposed Project as described in the FEIS, including alternatives based on the July 2020 WQC concerning which the Fresno County Superior Court has issued a writ of mandate and on proposals for WQC terms that other parties have proposed during the SWRCB's WQC-related proceedings.

YCWA has prepared and is distributing this NOI to give notice to interested agencies and parties of its intent to rely on the FEIS for the YRDP relicensing, in combination with a supplemental analysis to be prepared by YCWA, to meet the requirements of CEQA in accordance with Public Resources Code section 21083.7 and CEQA Guidelines sections 15221 and 15225. YCWA is providing this NOI by (1) uploading electronic documents to the Governor's Office of Planning and Research, State Clearinghouse Unit, via CEQA Submit for publication to CEQAnet, (2) mailing notices to responsible agencies, trustee agencies, and other interested parties, which are listed in [Attachment A](#), (3) filing the notice with FERC through the FERC eLibrary, (4) posting the Notice of Availability and NOI on the YCWA website for public access, (5) posting the Notice of Availability at County Clerk offices for Yuba, Nevada and Sierra Counties, (6) publishing the Notice of Availability in county newspapers of general circulation in the area affected by the proposed project, and (6) posting the Notice of Availability and this NOI at county libraries. The three newspapers where the Notice of Availability will be published are: the Appeal Democrat (Yuba/Sutter counties), The Union (Grass Valley/Nevada County), and the Downieville Mountain Messenger (Sierra County). Libraries where the Notice of Availability and this NOI will be posted are: the Yuba County Library in Marysville and Grass Valley Library in Grass Valley.

1.3 Scoping Process

To support development of the FEIS, FERC issued a NEPA scoping document on January 4, 2011; held an environmental site review of the YRDP on February 1, 2011; and held afternoon and evening NEPA public scoping meetings in Marysville, California, on February 11, 2011. The scoping meetings were announced in local newspapers and in the Federal Register. The afternoon meeting was attended by individuals representing non-governmental organizations (NGO) and agencies, including the United States Department of Agriculture, Forest Service (USFS), United States Department of the Interior, United States Fish and Wildlife Service (FWS), NMFS,

SWRCB, and California Department of Fish and Wildlife (CDFW). The evening meeting was attended by tribal and NGO representatives and members of the public. Based on comments at the public meetings and written comments FERC received on scoping document 1 by March 7, 2011, FERC issued a revised scoping document on March 18, 2011. Following YCWA's filing of its application for a new license, FERC solicited and received written comments on the application; issued a draft EIS³; held a second round of public outreach that included holding afternoon and evening public meetings in Marysville, California, on July 10, 2018; and receiving written comments on the draft EIS. The meetings were announced in local newspapers and in the Federal Register. In addition, FERC held a meeting with Federal and State fish and wildlife agencies to discuss those agencies' FPA section 10(j) recommended fish and wildlife conditions on August 29, 2018, in Sacramento, California. The meeting was announced in local newspapers and in the Federal Register. On May 31, 2018, as part of its ESA consultation, FERC requested concurrence from FWS regarding FERC's finding that the Proposed Project may affect, but is not likely to adversely affect, certain species. On June 22, 2018, FWS concurred with FERC's determination, completing FERC's ESA consultation with FWS. As discussed above, FERC later will consult with the NMFS under section 7 of the ESA regarding fish under its jurisdiction. During the relicensing, YCWA held over 150 meetings with interested parties, including the SWRCB's representatives, to discuss issues and to collaboratively develop conditions to be included in the new license.

To supplement the extensive scoping that has occurred during the FERC FEIS and relicensing process, YCWA will hold afternoon and evening CEQA public scoping meetings during the NOI public comment period at the following times and locations to discuss and receive input on the issues that are not addressed in FERC's FEIS, but will or should be addressed in YCWA's CEQA Supplemental Analysis:

<u>Date:</u>	<u>Time:</u>	<u>Location:</u>
Wednesday, November 16, 2022	2:00 to 4:00 PM	YCWA Headquarters 1220 F Street Marysville, California 95901
Thursday, November 17, 2022	5:00 to 7:00 PM	Gold Miners Inn 121 Bank Street Grass Valley, California 95945

The public scoping meetings will have an open house format and will allow agencies and individuals an opportunity to submit written comments to YCWA officials, which will be included in the administrative record. There will be no formal agenda nor formal presentation; alternatively, posterboards presenting proposed project features will be available for public review. YCWA and their consultants will be available during the open house to discuss proposed project physical footprint and features, proposed operations, CEQA process, and respond to public questions, as possible. Participants of the open house will be requested to document comments or questions on the proposed project and submit during the scoping meeting, or via mail or email by the end of the public scoping period to the addresses noted below. If you plan on attending one of these meetings

³ FERC's draft EIS is available on FERC's ELibrary under the YRDP docket at Accession Number 20180530-3011.

and need a translator or for additional accessibility preferences, please submit a message to jjames@yubawater.org.

Written comments on this NOI can be submitted to YCWA within 45 days of its issuance, namely by 5:00pm on December 22, 2022, via United States mail or e-mail. To be considered, all comments on the NOI must be written and received by John James, YCWA's designated contact person for the Project, at Mr. James' mailing or e-mail address (1220 F Street, Marysville, CA 95901; jjames@yubawater.org). If the commenter is a California state or local government agency, its comments should address: (1) whether the agency will be a Responsible Agency or a Trustee Agency, as those terms are used in CEQA, for the Proposed Project; and (2) if the agency is a Responsible Agency, the significant environmental issues and reasonable alternatives and mitigation measures which the Responsible Agency will need to have explored in the Supplemental Analysis.

YCWA will prepare and circulate a draft Supplemental Analysis for public review and comment in accordance with CEQA Guidelines section 15225. Because FERC undertook a thorough notice and public comment process under NEPA in such a manner as to satisfy equivalent California requirements, the January 2019 FEIS will not be re-circulated for review and comment. As discussed above, the FEIS is available from both YCWA and FERC. Attached below are excerpts from the January 2019 FERC FEIR, including project background, project location, and project description, as defined in the January 2019 document.

SECTION 2.0

PROJECT BACKGROUND

Under the provisions of the Federal Power Act, on May 16, 1963, the Federal Power Commission (FPC), FERC's predecessor agency, issued an initial license to YCWA for the YRDP. The FPC issued an order on May 6, 1966, that amends the initial license and makes the license effective from May 1, 1966, through April 30, 2016.

The YRDP was constructed in the mid-1960s and put into service in 1970. YCWA obtained all necessary rights, including access to lands and water rights, and permits to operate and maintain the YRDP, and has been the sole owner and operator of the YRDP since that time.

A major change to the YRDP occurred in 2005 when YCWA and 16 other interested parties signed memoranda of understanding that specify the terms of the Yuba Accord, a comprehensive, consensus-based program to resolve and address issues relating to instream flow requirements for the lower Yuba River downstream of the USACE Englebright Dam,⁴ water transfers, conjunctive use of surface water and groundwater, and fisheries management. The Yuba Accord was developed by a multi-agency resource team, including representatives from NMFS; FWS; California Department of Fish and Game⁵; and a group of NGOs. Following preparation and certification of a final EIR for the Yuba Accord in 2007, YCWA and various parties executed the following four agreements, which together comprise the Yuba Accord: 1) the Lower Yuba River Fisheries Agreement, which specifies the Yuba Accord's minimum streamflows in the lower Yuba River and creates a detailed fisheries monitoring and evaluation program; 2) the Water Purchase Agreement, under which the California Department of Water Resources purchases from YCWA water for the state's Environmental Water Account and the State Water Project and the Central Valley Project contractors; 3) the Conjunctive Use Agreements with the YCWA member units (local irrigation/water districts and companies), which specify the terms of the Yuba Accord's groundwater conjunctive-use program; and 4) amendments to the 1966 Power Purchase Contract between YCWA and the Pacific Gas and Electric Company. The Accord also was implemented through a SWRCB water rights order (Corrected Order WR 2008-0014). YCWA has been operating the YRDP to implement the Yuba Accord since 2006 and, since 2008, according to the authorizations and requirements in SWRCB Corrected Order WR 2008-0014.

In anticipation of the expiration of the initial FERC license, YCWA filed with FERC a FLA. YCWA's FLA, as amended, includes more than 30 conditions, many of which include detailed implementation plans, proposed for inclusion in the new license on which YCWA, agencies and other stakeholders reached collaborative agreement. YCWA's FLA, as amended, is available at <https://www.yubawater.org/DocumentCenter/Index/31> (under Relicensing Documents).

⁴ In this document, the Yuba River from the USACE's Englebright Dam to the confluence with the Feather River is sometimes referred to as the "lower Yuba River."

⁵ In January 2013, the California Legislature changed the name of the California Department of Fish and Game to the California Department of Fish and Wildlife.

Since 2016, FERC has issued to YCWA annual licenses that allow YCWA to continue to operate and maintain the YRDP under the terms and conditions in the existing license until such time as FERC issues a new license for the YRDP or otherwise disposes of the YRDP under the FPA, whichever comes first.

In January 2019, FERC and the USACE issued the FEIS for relicensing of the YRDP. The FEIS assesses the effects associated with operations of the YRDP under the alternatives described above. The FEIS includes a recommendation that FERC issue a new license to YCWA for the YRDP and includes conditions to be included in any new license for the YRDP. Under the new license, the FERC jurisdictional boundary would be modified to delete lands not used for YRDP purposes and add other lands encompassing modified YRDP facilities, a net reduction of 1,410 acres.

When FERC issues the new license, YCWA may do one of the following:

- Accept the new license, which would require YCWA to continue to operate and maintain the YRDP in accordance with the new license and comply with and implement all the terms and conditions included in the new license (i.e., YCWA may not accept only some of the terms and conditions);
- Reject the new license, in which case FERC would require YCWA to surrender the licensed facilities, under conditions which are uncertain at this time; or
- Contest the new license by seeking rehearing before FERC and requesting FERC to incorporate different terms into the license. If YCWA does not contest the new license within the 30-day statutory rehearing period under the FPA, FERC will deem YCWA to have accepted the license.

SECTION 3.0

PROJECT LOCATION

The YRDP is located in the Yuba River Basin on the mainstem Yuba River, the North Yuba River, and the Middle Yuba River, including Oregon Creek, a tributary to the Middle Yuba River, and the lower Yuba River. Given the dispersed nature of the YRDP facilities, the YRDP does not have a single physical address.

YRDP facilities are located in Yuba, Nevada and Sierra counties, California. Most of the YRDP is located on lands owned by the United States. The federal lands include National Forest System (NFS) lands managed by the USFS as parts of the Tahoe National Forest and the Plumas National Forest, and federal lands administered by the USACE as part of Englebright Dam and Reservoir. All other lands on which YRDP facilities are located are owned by YCWA or on private land where YCWA holds an easement. Figure 3-1 illustrates the general regional location of the Yuba River Basin. Figure 3-2 shows the principal YRDP facilities. Refer to the FEIS for additional information regarding the YRDP setting.

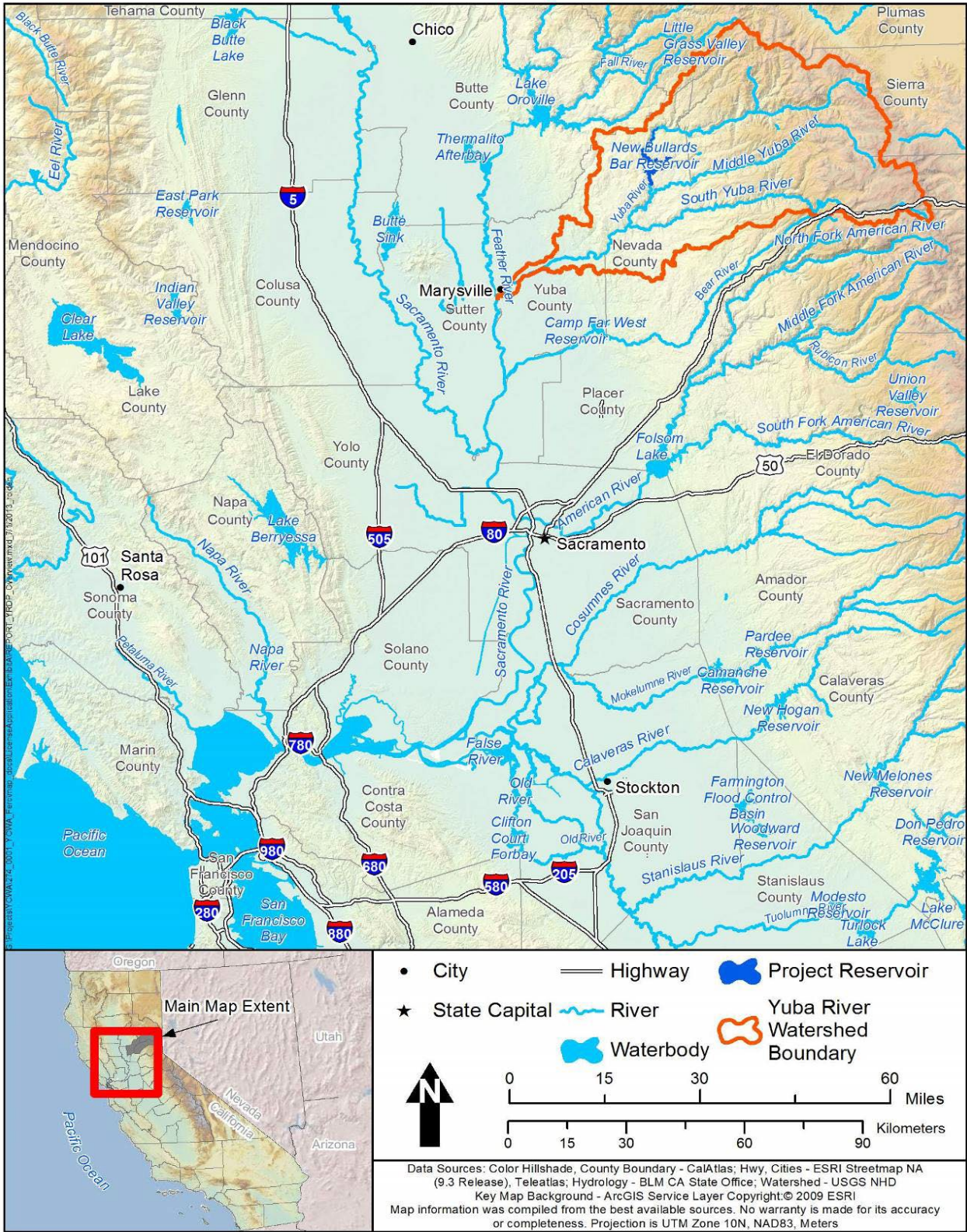


Figure 3-1. Yuba River Basin in Relation to the Feather River and other tributaries to the Sacramento River.

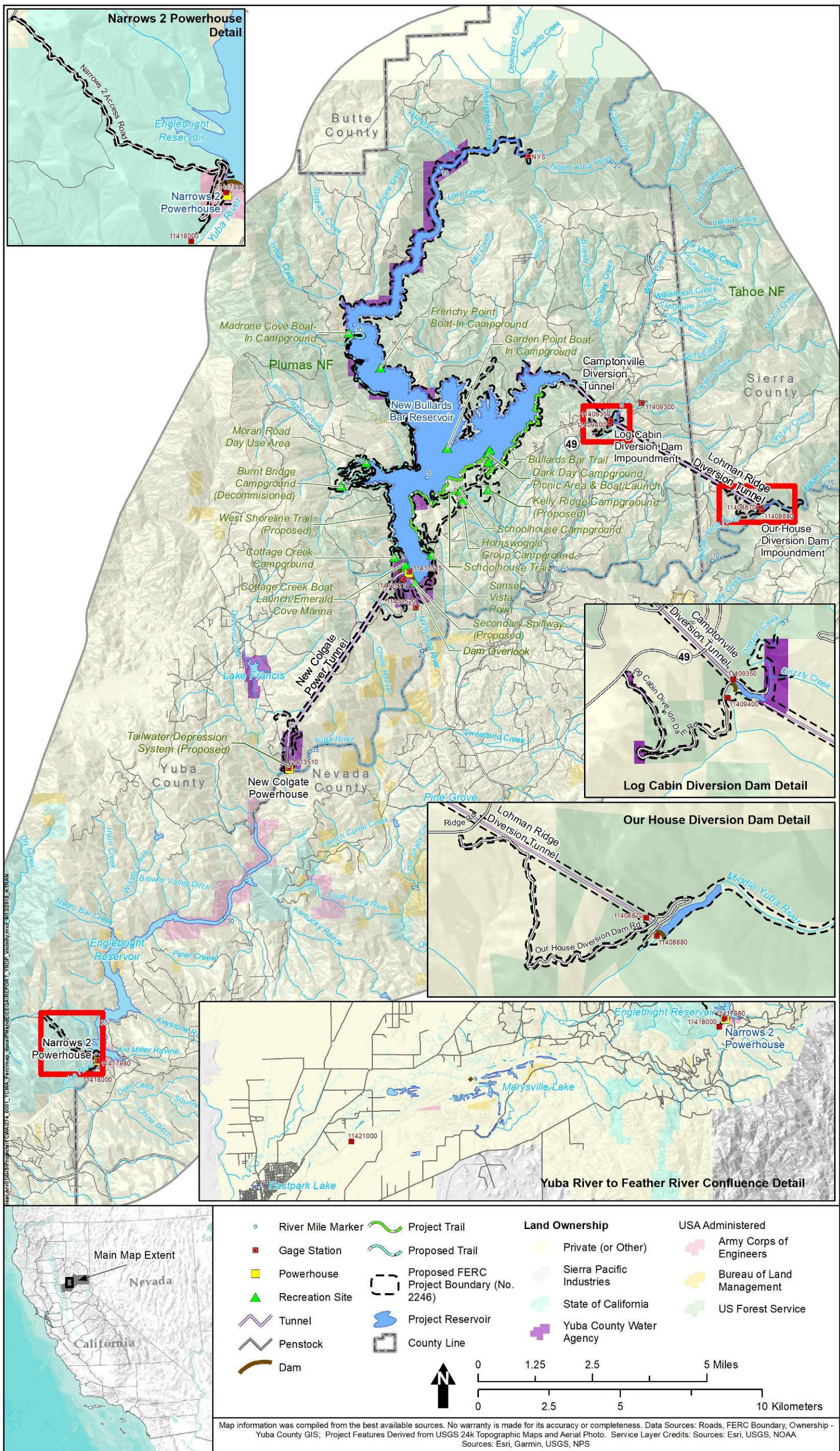


Figure 3-2. Yuba County Water Agency's Yuba River Development Project and vicinity.

SECTION 4.0

PROJECT DESCRIPTION

4.1 Project Objectives

YCWA’s fundamental objective in proposing the Proposed Project is to obtain a new FERC license of maximum term for the YRDP at minimum cost, both initially and ongoing, that protects and enhances the YRDP’s water supply and flood control benefits, while maximizing economic benefits from the production of electrical power and protecting and enhancing environmental, recreational, and other non-power interests and needs.

In addition to this fundamental objective, the following secondary objectives guide the development of the Proposed Project:

- To comply with all applicable federal, state and local laws and regulations applicable to the YRDP.
- To continue to provide at a reasonable cost clean, carbon-free and renewable hydroelectric generation to meet part of California’s power requirements, resource diversity, and capacity needs.
- To continue to protect the environment from adverse impacts due to YRDP operations and maintenance and, where full protection is not possible, to mitigate to the extent reasonably possible the impacts of YRDP operations and maintenance.
- To enhance at a reasonable cost environmental resources potentially affected by YRDP operation and maintenance, especially anadromous fishes in the lower Yuba River.
- To make physical enhancements to the YRDP to enhance flood control and water supply benefits.
- To make operational enhancements to the YRDP in anticipation of the reasonably foreseeable consequences of climate change, especially with regards to predicted lower snowpack and an increase in frequency of prolonged droughts.
- To provide revenue from the sale of YRDP power so that, after funding YRDP operations, maintenance, and license implementation, YCWA can invest the remaining YRDP revenue in Yuba County flood control, water supply, and other projects for the benefit of the citizens of Yuba County consistent with the special act by which the California Legislature created YCWA to address the “water problems in the County of Yuba.” (West’s Water Code Appendix § 84-26.)
- To continue YCWA water transfers from the Yuba River.

4.2 Proposed Project

The Proposed Project is the acceptance of the expected new FERC license, continuing YRDP operations and maintenance under the terms of the new license, and implementation of the license

conditions, including modifications to some YRDP facilities, operations and maintenance. The principal existing YRDP facilities are described in section 4.2.1, and planned modifications to these facilities, based on the FEIS and anticipated FERC license terms and conditions, are described in section 4.2.2. Existing and modified facilities are shown in Figure 3-2. Modifications to the YRDP operations and maintenance are described in section 4.2.3. The terms and conditions that are expected to be included in the new YRDP license are described in the FEIS, as discussed in section 4.2.4 below.

4.2.1 Existing Facilities

4.2.1.1 Our House Diversion Dam and Impoundment

Our House Diversion Dam is a 130-foot (ft) radius, double curvature, concrete arch dam located in Sierra County on the Middle Yuba River 12.6 miles (mi) upstream of its confluence with the North Yuba River. The dam is 70 ft high with a crest length of 368 ft and a crest elevation of 2,030 ft, and has a drainage area of 144.8 square miles (sq mi). The dam and reservoir divert water through the Lohman Ridge Diversion Tunnel to the Log Cabin Diversion Dam and Reservoir on Oregon Creek. Figure 4-1 shows Our House Diversion Dam and associated facilities.



Figure 4-1. Our House Diversion Dam and associated features.

4.2.1.2 Log Cabin Diversion Dam and Impoundment

Log Cabin Diversion Dam is a 105-ft radius, concrete arch dam located in Yuba County on Oregon Creek 4.3 mi upstream of the confluence with the Middle Yuba River. The dam and reservoir divert water through the Camptonville Diversion Tunnel to New Bullards Bar Reservoir on the North Yuba River. Figure 4-2 shows Log Cabin Diversion Dam and associated facilities.



Figure 4-2. Log Cabin Diversion Dam and associated features.

4.2.1.3 New Bullards Bar Dam and Reservoir

New Bullards Bar Dam is a 1,110-ft radius, double curvature, concrete arch dam located on the North Yuba River about 2.4 mi upstream of its confluence with the Middle Yuba River. The dam is 645 ft high with a maximum elevation of 1,965 ft. The dam forms New Bullards Bar Reservoir. Figure 4-3 shows New Bullards Bar Dam and associated features.



Figure 4-3. New Bullards Bar Dam and associated features.

4.2.1.4 New Bullards Bar Recreation Facilities

The YRDP includes 16 developed recreation facilities associated with New Bullards Bar Reservoir. These recreation facilities include: 1) Hornswoggle Group Campground; 2) Schoolhouse Campground; 3) Dark Day Campground; 4) Cottage Creek Campground (the campground was burned in a fire in 2010 and it is being reconstructed in phases); 5) Garden Point Boat-in Campground; 6) Madrone Cove Boat-in Campground; 7) Frenchy Point Boat-in Campground; 8) Dark Day Picnic Area; 9) Sunset Vista Point; 10) Dam Overlook; 11) Moran Road Day Use Area; 12) Cottage Creek Boat Launch; 13) Dark Day Boat Launch; 14) Schoolhouse Trail; 15) Bullards Bar Trail; and 16) floating comfort stations. All of the recreation facilities are located on NFS lands, with the exception of the Dam Overlook, Cottage Creek Boat Launch and small portions of the Bullards Bar Trail, which are located on lands owned by YCWA. The location of the recreation facilities is shown in Figure 3-2. FEIS Table 3-61 further describes the recreation facilities.

4.2.1.5 New Colgate Power Tunnel and Penstocks

New Colgate Power Tunnel begins with an intake structure on the upstream face of New Bullards Bar Dam composed of a curtain wall, trashrack and two intakes, one with an invert elevation of

1,808 ft and the other with an invert elevation of 1,627.5 ft. New Colgate Power Tunnel and Penstock deliver water from New Bullards Bar Reservoir to the New Colgate Powerhouse. Figure 4-4 shows the New Colgate Penstocks.



Figure 4-4. New Colgate Penstock, Powerhouse and Switchyard and associated features.

4.2.1.6 New Colgate Powerhouse and Switchyard

The New Colgate Powerhouse is a mostly underground, steel reinforced, concrete powerhouse located adjacent to the Yuba River. The powerhouse contains two vertical-shaft Voith Siemens Pelton type turbines with a total actual measured capacity of 340 MW under a design head of 1,306 ft and a measured flow of 3,430 cfs. The New Colgate Switchyard is located adjacent to New Colgate Powerhouse. Figure 4-4 shows New Colgate Powerhouse and Switchyard and associated features.

4.2.1.7 Narrows 2 Powerhouse

The Narrows 2 Powerhouse is an indoor powerhouse located on the lower Yuba River about 200 ft downstream of Englebright Dam. The powerhouse consists of one vertical axis Francis turbine with a capacity of 55 MW at a head of 236 ft and flow of 3,400 cfs. The powerhouse facilities also

include a switchyard, penstock and bypass. Figure 4-5 shows the Narrows 2 Powerhouse and associated features.⁶

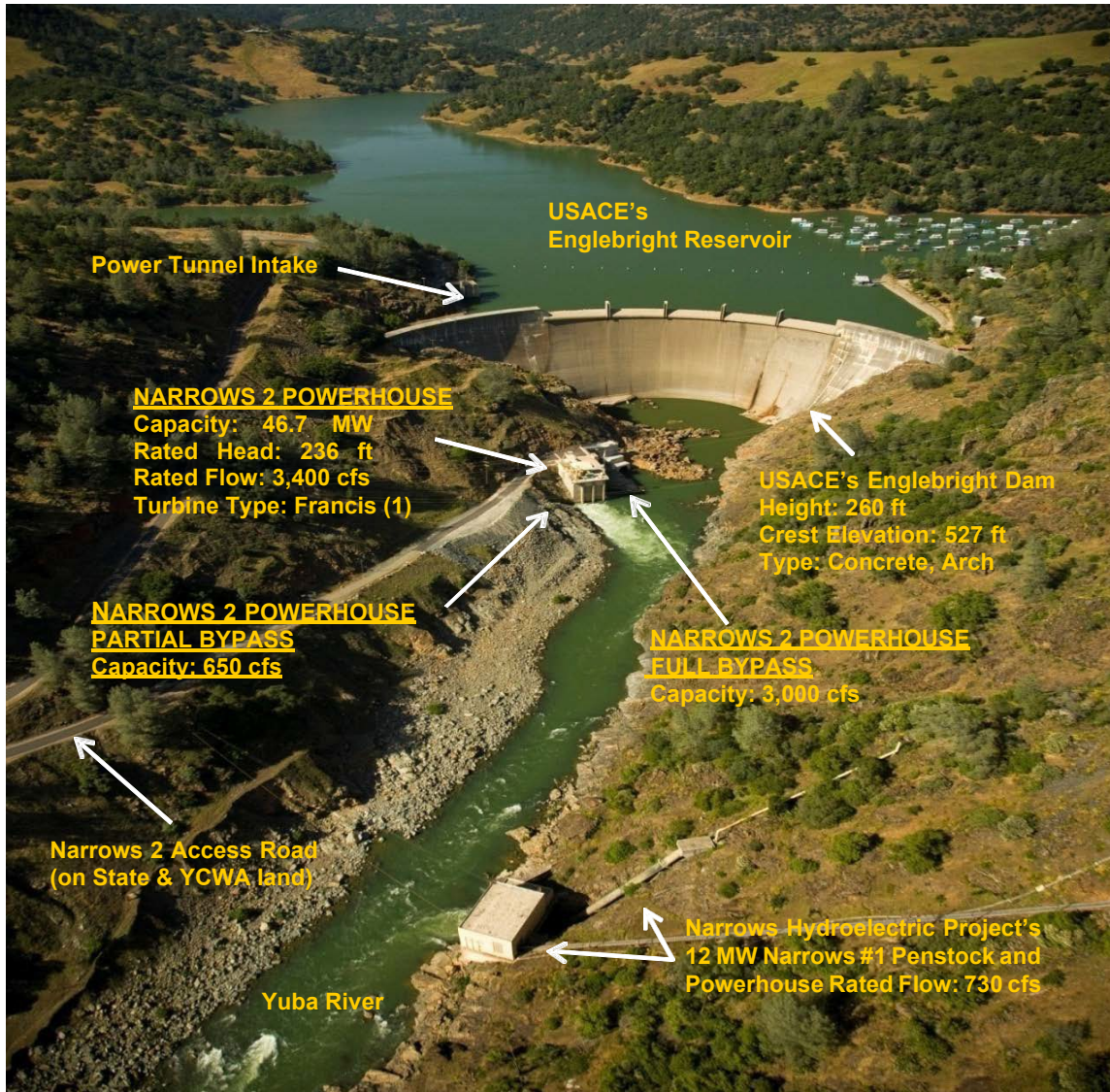


Figure 4-5. Narrows 2 Development facilities and features. [Note: Englebright Dam, which is a facility of the U.S. Army Corps of Engineers, and YCWA's Narrows Hydroelectric Project, which is a separate FERC-licensed project, also are depicted.]

⁶ YCWA also owns and operates the Narrows 1 Powerhouse and related facilities shown on Figure 4-5 across the river from the Narrows 2 Powerhouse; however, the Narrows 1 Powerhouse is not part of the YRDP and instead operates under a separate FERC license.

4.2.2 Modified Existing Facilities

The expected FERC license would require or authorize the modification of certain YRDP facilities, which are summarized in this section.

4.2.2.1 New Bullards Bar Dam Atmospheric River Control Spillway

Acceptance of the expected new license by YCWA would authorize YCWA to construct and operate a new secondary spillway (which is known as the Atmospheric River Control or ARC Spillway), located south of the existing New Bullards Bar Dam spillway in the upper left abutment area. YCWA is in the process of preparing a project-specific draft EIR for its planned ARC Spillway. YCWA plans to release a draft EIR for public comment for the spillway as a separate project in early 2023. YCWA also plans to apply to FERC for an amendment to the existing FERC license that would allow spillway construction ahead of completion of relicensing. If FERC approves a spillway specific amendment to the existing FERC license, then YCWA would not rely on or wait for the new FERC license as FERC authorization for the ARC Spillway.

The primary benefit of the ARC Spillway is increased flood management. This increased flexibility in flood management would allow a significant reduction in flood flows and reduced flood stage at Marysville and the Feather River confluence. It would also anticipate potential FERC requirements for increased spillway capacity at New Bullards Bar Dam in response to potential maximum flood (PMF) calculation revisions or climate change modeling. As configured at this time,⁷ the new ARC Spillway would have a discharge capacity at the bottom of the New Bullards Bar flood pool elevation of 1,918 ft, and at the normal maximum water surface elevation, of approximately 35,000 cfs and 60,000 cfs, respectively. Figure 4-6 shows the modified conceptual-level plan and profile drawings of the new ARC Spillway.

⁷ Subsequent to issuance of the FEIS, YCWA's engineers, in consultation with a FERC-appointed Board of Engineering Consultants, have modified the conceptual plans for the ARC Spillway as described in the FEIS, through the general concept and footprint has not changed (i.e., ARC Spillway on the left downstream abutment of New Bullards Bar Dam that would withdraw water from a deeper elevation in the reservoir than the existing spillway to enhance flood control operation). The changes will be addressed in YCWA's EIR for the ARC Spillway.

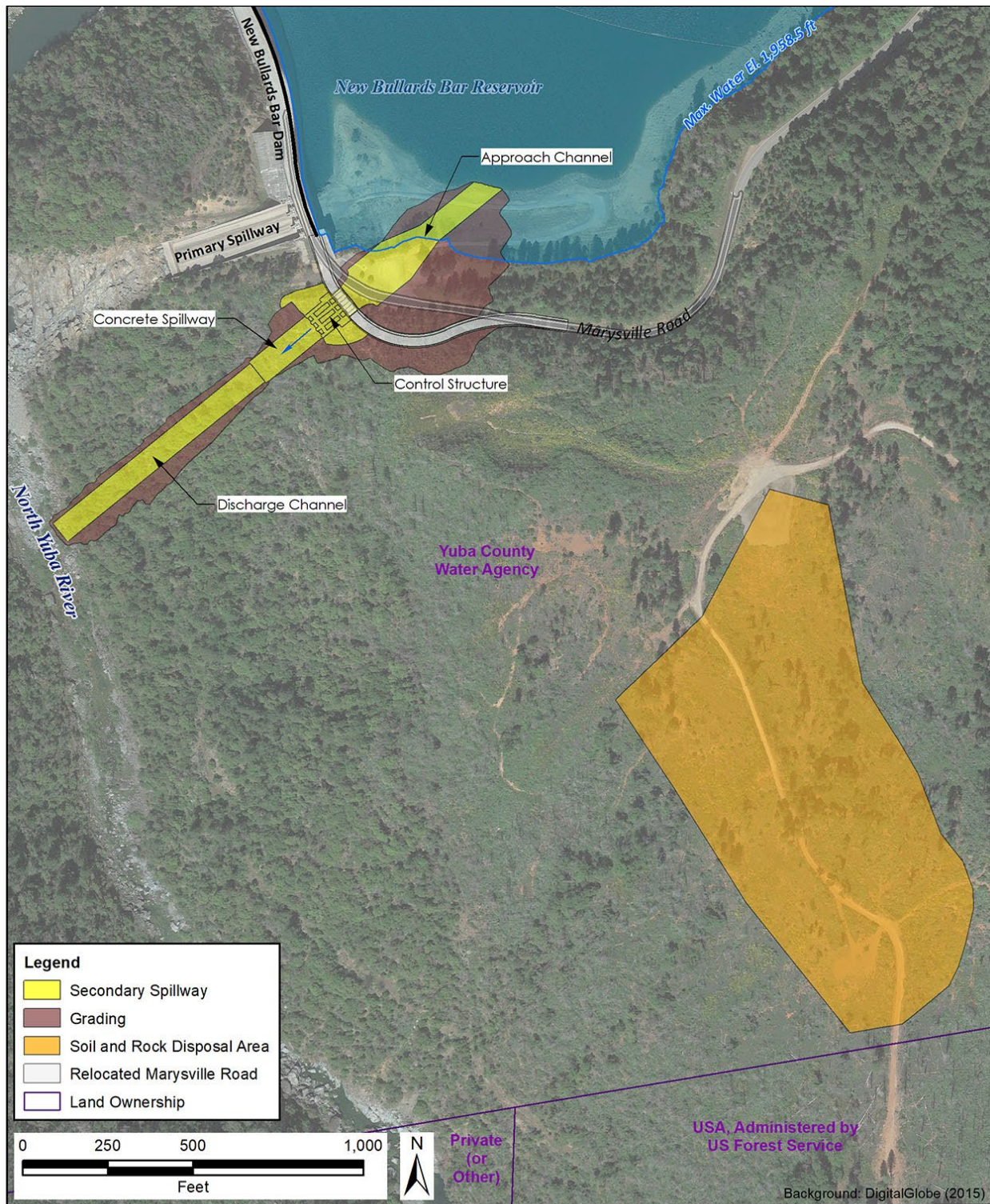


Figure Source: GEI Consultants, Inc.2020.

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16Sep2020 SI

Figure 4-6. New Bullards Bar Dam Secondary Spillway.

4.2.2.2 New Colgate Powerhouse New Tailwater Depression System

The New Colgate Powerhouse generators are driven by six-jet, vertical-shaft Pelton wheel turbines. The turbine runners rotate in the air of the turbine discharge chambers where water can fall freely off the turbine buckets. When the water level in the turbine discharge chamber rises, the foam and backsplash cause uneven resistance to free rotation with resulting vibration. Consequently, the rate of water release must be reduced and, at high stages, the operation of the turbines must cease.

The water level in the turbine discharge chambers rises as the water level in the Yuba River rises during high-flow events. The high runoff can come from spillway releases at New Bullards Bar Dam, unregulated flow downstream of the dam and the Middle Yuba River. Above certain water levels at the New Colgate Powerhouse, its releases must be reduced to prevent excessive vibration. Besides affecting power generation, this reduces the ability to move water, which could encroach upon the available flood storage space in the reservoir.

Acceptance of the new license by YCWA would authorize YCWA to modify the New Colgate Powerhouse by installing and operating a new tailwater depression system (TDS), which would introduce compressed air into the turbine discharge chamber to lower the tailwater elevation to a level that does not interfere with turbine operation, thereby allowing continued turbine operation during high flows. The TDS would thus enhance the ability to regulate flood releases from New Bullards Bar Reservoir and increase the production of energy. The proposed TDS is described at FEIS sections 2.2.1 and 2.2.3. At this time, YCWA has not determined whether to implement the TDS. The Supplemental Analysis, in conjunction with the FEIS, will analyze the environmental impacts of implementing the TDS, if any.

4.2.2.3 Our House Diversion Dam and Log Cabin Diversion Dam Fish Release Outlets

Acceptance of the new license by YCWA would change the minimum flows on the Middle Yuba River downstream of Our House Diversion Dam from the requirement in the existing license of 30 - 50 cfs to an adjusted minimum flow of 40 - 120 cfs, and a change to minimum flows on Oregon Creek downstream of Log Cabin Diversion Dam from the requirement in the existing license of between 8 - 12 cfs to a new minimum flow regime of 6 - 43 cfs. Further, acceptance of the new license by YCWA would require that YCWA control spill at Our House Diversion Dam by releasing up to 600 cfs and to control spill at Log Cabin Diversion Dam by releasing up to 100 cfs. These modified flows would exceed the capabilities of the existing fish release outlets at the dams (i.e., maximum existing valve capacities are 59 cfs at Our House Diversion Dam and 18 cfs at Log Cabin Diversion Dam), which would require modifications at each dam.

Acceptance of the new license by YCWA would allow YCWA to install a 68-inch diameter outlet pipe at Our House Diversion Dam with a control valve at the same invert elevation as the existing fish release outlet, and a 38-inch diameter outlet pipe at Log Cabin Diversion Dam with a control valve installed at the same invert elevation as the existing fish release outlet. The new 68-inch diameter outlet at Our House Diversion Dam would result in an outlet capacity of 611 cfs at minimum head (i.e. upstream water level at tunnel invert elevation of 2015.0 ft); the new 38-inch diameter outlet at Log Cabin Diversion Dam would result in an outlet capacity of 106 cfs at minimum head (i.e. upstream water level at tunnel invert elevation of 1952.0 feet). The existing fish release outlets at Our House and Log Cabin diversion dams would remain in place and be able to release at their existing capacities. The new fish release outlets at the dams would not affect the existing low level outlets at the dams. The proposed fish release outlets are described at FEIS sections 2.2.1 and 2.2.3.

4.2.2.4 Lohman Ridge Diversion Tunnel Intake

Acceptance of the new license by YCWA would require YCWA to periodically close the Lohman Ridge Diversion Tunnel on the Middle Yuba River. There is an existing gate on the tunnel intake, but it is not appropriate for closing and opening the tunnel during high flows.

Acceptance of the new license by YCWA would allow YCWA to replace the gate with a more efficient regulating gate structure and relocate the existing bulkhead gate. The proposed modifications are described at FEIS section 2.2.1.

4.2.2.5 Recreation Facilities

Acceptance of the new license by YCWA would require that YCWA modify certain existing New Bullards Bar area recreation facilities. The Proposed Project, therefore, includes: 1) the rehabilitation and upgrade of the existing campground and recreation facilities including improved, expanded and new campsites, picnic sites, entrance kiosks, roadways and parking areas, signage, restrooms, trails, and utilities; and 2) the construction and installation of the following new facilities: a) Kelly Ridge and Shadow Ridge Campgrounds with 45 campsites with water, restrooms, showers, and trails; b) Cottage Creek Picnic Site with 10 picnic sites and parking; c) Dark Day Recreation Vehicle Dump Station and Entrance Station; d) New Colgate Powerhouse

Access Trail; and e) West Shoreline Trail. The rehabilitation, expansion, and upgrade plans and new facilities are described in the FEIS and in Recreational Facilities Plan dated June 2017, which is available at <https://www.yubawater.org/DocumentCenter/View/773/17---Revised-Condition-RR1---Recreation-Facilities-Plan-PDF>).

4.2.2.6 Roads

Acceptance of the new license by YCWA would require that YCWA add 14 road segments to the YRDP, all of which are existing roads, and one existing trail. The roads and trail to be added to the YRDP area are described in the FEIS. This is an administrative process since all the roads and trails are existing; the roads and trails would be included in YRDP facilities under the proposed new license and, therefore, would fall under FERC's jurisdiction as YRDP facilities.

In addition, two new recreation trails would be added to the YRDP: 1) the new West Shoreline Trail; and 2) the new Our House Diversion Dam River Access Trail. Both of the recreation trails are described above and shown in Figure 3-2.

4.2.3 Operations and Maintenance

YRDP would continue to operate and maintain the YRDP in the same manner as it operates and maintains the YRDP now, with changes due to the conditions in the new license, which are described in the FEIS. The existing and proposed changes in operations are described at FEIS section 2.0.

4.2.4 Proposed Conditions in New FERC License

In the FEIS, FERC staff recommended a license based on the YCWA FLA and modifications and additions recommended by FERC staff, as described in the FEIS. The FEIS describes those modifications and additions in its sections 2.3, 5.1.1 and 5.12. In addition to FERC staff's modifications and additions, the final FERC license also will be subject to mandatory conditions submitted by USFS under FPA section 4(e). The FEIS discusses these 4(e) conditions in its section 5.3.2. For purposes of the Proposed Project and the Supplemental Analysis, YCWA assumes that the final FERC license will include the modifications and additions to the YCWA FLA recommended by FERC staff, as well as USFS's FPA section 4(e) conditions.

The status of the Clean Water Act section 401 WQC conditions is uncertain at this time. The FEIS's section 2.4 discusses preliminary draft section 401 WQC conditions proposed by the SWRCB in 2017. Those may have been superseded in 2020 by the SWRCB WQC dated July 17, 2020. However, as discussed above, earlier this year, the Fresno County Superior Court ordered the SWRCB to set aside and vacate the 2020 WQC. In a 2020 order, FERC found that the SWRCB had waived its WQC authority over the YRDP's relicensing. As also discussed above, however, earlier this year the Ninth Circuit Court of Appeals ruled that FERC's 2020 WQC waiver determination was invalid. YCWA is seeking rehearing of that Ninth Circuit decision. The state and federal court lawsuits therefore both remain pending and unresolved. YCWA does not know what subsequent court rulings may decide or what FERC and SWRCB may do regarding the WQC.

Therefore, the requirement and timing for issuance of SWRCB WQC for YRDP relicensing and content of any future WQC are currently uncertain.

Depending upon the outcome of the federal and state court litigation and subsequent actions by FERC or SWRCB, it is possible that, during the course of the FERC relicensing proceeding, the SWRCB may be in a position to issue a WQC for the Proposed Project and impose related terms and conditions on the FERC license through Clean Water Act section 401. In that event, and based on the best available information at this time, YCWA expects that the WQC conditions would be the same as or similar to those contained in the 2020 SWRCB WQC. Consequently, to plan for this possibility, the Supplemental Analysis will evaluate the Proposed Project's environmental impacts both with and without incorporation of the 2020 WQC conditions by projecting and analyzing implementation of the 2020 SWRCB WQC conditions and the associated environmental, economic, and social effects.

Attachment A
Notice of Intent Distribution List

Attachment A - Responsible Agencies, Trustee Agencies, and Other Interested Parties

Name	Affiliation
Alan Mitchnick	FERC
Alberto Ramirez	Stakeholder
Allan Eberhart	Sierra Club, Motherlode Chapter
Allan Gere	Gold Country Fly Fishers
Andrea Claros	FERC
Andy Vasquez	Yuba County Supervisor
Ann Mehta	Yuba Water Agency
Anna Allison	CDFW
Barbara Rivenes	Sierra Club, Motherlode Chapter
Barbara V.	AquAlliance
Beth Lawson	CDFW
Board of Supervisors	Nevada County LAFCo
Bob Center	American Whitewater
Bob Schneider	Sierra Club, Motherlode Chapter
Brian Johnson	Trout Unlimited
California Trout	California Trout
Cathy LeBlanc	Camptonville Community Partnership
Chairperson	Miwok/Maidu
Chandra Ferrarri	Trout Unlimited
Charles J. Mathews Jr.	Cordua Irrigation District
Charles McClain	Stakeholder
Charlie Alpers	USGS, CA Water Science Center
Chris and Lisa Burton	Stakeholder
Chris Shutes	California Sportfishing Protection Alliance
Christina McClung	Yuba Water Agency
Christopher Sproul	Environmental Advocates
County Clerk Recorder	County of Butte
County Clerk Recorder	County of Lassen
County Clerk Recorder	County of Placer
County Clerk Recorder	County of Plumas
County Clerk Recorder	County of Washoe
County Clerk Recorder	County of Yuba
Craig Geldard	PG&E
Creig Marcus	Enterprise Rancheria
Crystal Dilworth	Shingle Springs Rancheria
Darrel Cruz	Washoe Tribe of Nevada & California
Dave Steindorf	American Whitewater
David Rheinheimer	UCD Watershed Sciences
Deborah Byrne	Yuba County Fish and Game Commission
Donna Johnston	County of Sutter
Dr. Arthur L. Craigmill	UCD, Sierra Foothill Research and Extension Center
Dr. Eric Huber	California Trout
Eric	Friends of the River
Eric Parfrey	Sierra Club, Motherlode Chapter
Erik Ekdahl	SWRCB

Name	Affiliation
Frank Blackett	FERC
Frank Herwatt	Stakeholder
Frank Rinella	Federation of Fly Fishers
Geoff Rabone	Yuba Water Agency
Grayson Coney	Tsi-Akim Maidu
Greg Bates	Dry Creek Conservancy
Gregory Diaz	County of Nevada
James Hastreiter	FERC
Jason Emmons	UCD Watershed Sciences
Jeff Parks	SWRCB
Jim Branham	Sierra Nevada Conservancy
Jim Brobeck	Aqualliance
Jim Edwards	Berry Creek Rancheria
John Christensen	Christensen Associates, Inc.
John James	Yuba Water Agency
Joshua Viers	UCD Watershed Sciences
K. Farrington	Shingle Springs Rancheria
Kathleen Forrest	CA Parks and Recreation
Keiko Mertz	South Yuba River Citizens League
Keith Scott	Stakeholder
Kelly Wolcott	FERC
Kenneth Hogan	FERC
Kristen Gangl	SWRCB
Laura Winner	Mooretown Rancheria
Letty Litchfield	Attorney
Linda M. Santos	Stakeholder
Lois Martin	Southern Sierra Miwuk Nation
Lori Iaconis	Yuba Water Agency
M. Davis	American Rivers
M. Sheely	California DWR
Marie Rainwater	Rainwater & Associates, LLC
Mark Allen	Normandeau Associates, Inc
Mark Rockwell	Fly Fishers International
Mark Sayers	Browns Valley Irrigation District
MaryLisa Cornell	CDFW
Matt Mentink	Stakeholder
Melinda Booth	South Yuba River Citizens League
Melinda Booth	South Yuba River Citizens League
Melodi McAdams	United Auburn Indian Community
Michael A. Swiger	Attorney, VNF
Mike DeSpain	Mechoopda Maidu Indians
Mike Healey	CDFW
Mike Kline	Yuba Water Agency
Natalie Stauffer-Olsen	Trout Unlimited
Nicola Ulibarri	Stakeholder
Oscar Biondi	SWRCB, Water Rights

Name	Affiliation
Parker Thaler	SWRCB
Peck Ha	USACE
Pete Hammontre	Dobbins/Oregon House Improvement Foundation
Peter Huebner	County of Sierra
Peter Wakeland	United Auburn Indian Community
Philip Choy	SWRCB
Quenn Finch	USACE
Rachel Hutchinson	South Yuba River Citizens League
Rachel Hutchinson	South Yuba River Citizens League
Randy Bodhaine	Stakeholder
Rea Cichocki	Strawberry Valley Rancheria
Regina Cuellar	Shingle Springs Rancheria
Rich Miller	Gold Country Fly Fishers
Richard Roos-Collins	Water and Power Law Group PC
Robert Hughes	CDFW
Ron Stork	Friends of the River
Rorie Lin Gotham	American Whitewater
Ryan Peek	UCD Watershed Sciences
Sarah Yarnell	UCD Watershed Sciences
Scott Ligare	UCD Watershed Sciences
Scott Robertson	RWS Accountants
Sean Hoobler	CDFW
Shannon Brown	UCD
Stephen Grinnell	Stakeholder
Steve Allen	Gold Country Fly Fishers
Steve Rothert	American Rivers
Susan Monheit	SWRCB
Ted Frink	California DWR
Tim Truong	Yuba Water Agency
Tim Wilkinson	Stakeholder
Tina Bartlett	CDFW
Traci Sheehan	Foothills Water Network
Ty Gorre	One River Medicine
Wendy Tinnel	Camptonville Community Partnership
Willie Whittlesey	Yuba Water Agency
	Hydropower Reform Coalition