

ORIGINAL



United States Department of the Interior

FISH AND WILDLIFE SERVICE  
California/Nevada Operations Office  
2800 Cottage Way, Room W-2606  
Sacramento, California 95825-1846



In reply refer to:

Ms. Magalie R. Salas, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

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OFFICE OF THE  
SECRETARY  
2004 DEC 10 P 1:17  
FEDERAL ENERGY  
REGULATORY COMMISSION  
DEC 10 2004

Subject: Response to Comments and Modified Section 18 Prescription for Fishways for the Upper North Fork Feather River Project, FERC No. 2105-089, Plumas County, California

Dear Ms. Salas:

Pursuant to the Department of the Interior's (Department) Mandatory Conditions Review Process (MCRP), we hereby provide the Department's response to the public comments received on our preliminary Section 18 prescription for fishways, and submit our modified prescription for the Upper North Fork Feather River Project, FERC Project No. 2105-089. We also provide an index to our Administrative Record in support of our modified prescription. A copy of this letter and index is being provided to each party named on the Service List for this proceeding. Our Administrative Record will be submitted to the Federal Energy Regulatory Commission (Commission) after it is duplicated.

BACKGROUND

On December 1, 2003, the Department filed comments, recommendations, and prescriptions in response to the Commission's August 25, 2003, Notice of Application Ready for Environmental Analysis for the Upper North Fork Feather River Project. In those comments, the Department reserved its authority under Section 18 of the Federal Power Act to prescribe the construction, operation, and maintenance of fishways, including measures to insure the effectiveness of such fishways. The Department's reservation included the authority to prescribe fishways for rainbow trout, steelhead, spring run chinook salmon, or any other fish to be managed, enhanced, protected, or restored to the Feather River Basin during the term of the license. The Department's comments also invited public comment on its preliminary determination to reserve

authority to prescribe fishways. On September 13, 2004, the Commission issued its Draft Environmental Impact Statement (DEIS) for the Upper North Fork Feather River Project. The DEIS acknowledged the Department's reservation of authority to prescribe fishways in its environmental analysis.

#### RESPONSE TO COMMENTS

The U. S. Fish and Wildlife Service (Service) received no comment letters regarding the Department's reservation of authority in response to the Department's December 1, 2003, invitation. In addition, the Service reviewed agency comments on the Commission's DEIS provided by the U.S. Forest Service, National Marine Fisheries Service, and California Department of Fish and Game. These agencies did not comment on the Department's reservation of authority. The Commission acknowledged the Department's reservation of authority in its DEIS, and we expect the new license to be conditioned accordingly. Therefore, since no new substantial evidence was presented during the MCRP, the Department's December 1, 2003, preliminary reservation of authority to prescribe fishways stands without modification.

Sincerely,



Stephen Pitts  
Acting  
Manager

Enclosure

cc:

V. Rai, OEPC, Washington, DC  
Pat Port, REO, San Francisco, CA  
S. Damiani, FWS, Washington, DC  
Commission Service List

## INDEX

### TO THE ADMINISTRATIVE RECORD FOR PRESCRIPTIONS SUBMITTED DECEMBER 1, 2003 BY THE U.S. FISH AND WILDLIFE SERVICE FOR THE U.S. DEPARTMENT OF THE INTERIOR

This is the Index for the Administrative Record for the Prescriptions for Fishways submitted by the U.S. Fish and Wildlife Service for the Department of the Interior (Department) on December 1, 2003. This Administrative Record supports the Department's Prescription for Fishways made pursuant to Section 18 of the Federal Power Act, and submitted to the Federal Energy Regulatory Commission (Commission) with the Department's Prescriptions for fishways for the Upper North Fork Feather River Project, Project No. 2105-089, Plumas County, California.

#### A. Documents Incorporated by Reference

All public records and documents currently part of the Commission's record for Project No. 2105-089, but not limited to:

1. Pacific Gas and Electric Company. 2002. Upper North Fork Feather River Project, Project No. 2105. Application For New License. October, 2002.
2. U.S. Department of Commerce. 2004. Letter from Steven Edmondson, National Marine Fisheries Service, Northern California Habitat Supervisor, to Randall Livingston, Pacific Gas and Electric Company, et al., concerning restoration of anadromous fish habitat in the Feather River Watershed. National Marine Fisheries Service, Southwest Region, Santa Rosa, CA. October 22, 2004. 11 pp.
3. U.S. Department of the Interior. 2003. Comments, Recommendations, Terms and Conditions, Upper North Fork Feather River Project, Project No. 2105-089. Office of Environmental Policy and Compliance, Washington, D.C. December 1, 2003. 37 pp.
4. \_\_\_\_\_ . 2004. Comments on the Draft Environmental Impact Statement and Settlement Agreement for the Upper North Fork Feather River Project, Project No. 2105-089. Office of Environmental Policy and Compliance. Washington, D.C. October 27, 2004. 12 pp.
5. U.S. Fish and Wildlife Service. 2003. Request for Departmental approval for intervention in the Federal Energy Regulatory Proceeding for the Upper North Fork Feather River Project, Project No. 2105-089. Sacramento Fish and Wildlife Office, Sacramento, CA. February 6, 2003. 4 pp.
6. \_\_\_\_\_ . 2003. Comments on Scoping Document 1 for the Upper North Fork Feather River Project, Project No. 2105-089. Sacramento Fish and Wildlife Office, Sacramento, CA. June 19, 2003. 7 pp.

7. \_\_\_\_\_ . 2004. Response to Federal Energy Regulatory Commission's Section 10(j) Preliminary Determination of Inconsistency. Sacramento Fish and Wildlife Office, Sacramento, CA. October 29, 2004. 19 pp.

**B. Other Documentation Considered in Support of the Department's Prescriptions for Fishways Considered in Support of the Department's Reservation of Authority for Prescription of Fishways.**

1. Hill, M. T., W. S. Platts, and R. L. Beschta. 1991. Ecological and Geomorphological Concepts for Instream and Out-of-Channel Flow Requirements. *Rivers*, Volume 2, Number 3, pp. 198-210.
2. Hunter, M. A., 1992. Hydropower Flow Fluctuations and Salmonids. A Review of the Biological Effects, Mechanical Causes, and Options for Mitigation. Technical Report Number 119. State of Washington Department of Fisheries. 45 pp.
3. Katopodis, C. 1992. Introduction to Fishway Design. Freshwater Institute. Winnipeg, Manitoba, Canada. 68 pp.
4. \_\_\_\_\_. 1994. Introduction to Fishway Design Addendum. Freshwater Institute. Winnipeg, Manitoba, Canada. 22 pp.
5. Moyle, Peter. 2002. Inland Fisheries of California, University of California Press, California. 502 pp.
6. U.S. Army Corps of Engineers. 1986. Fisheries Handbook of Engineering Requirements and Biological Criteria. U.S. Army Corps of Engineers. Portland, Oregon. 290 pp.
7. U.S. Department of Commerce. 2003. Technical Assistance Concerning the Feasibility and Benefits of Providing Fish Passage at FERC Lincensed Hydroelectric Facilities on the Feather River. Prepared by Eric Theiss, Hydropower Coordinator, for the Oroville relicensing collaborative. National Marine Fisheries Service, Southwest Region. Santa Rosa, CA. October, 2003. 32 pp.
8. U.S. Department of the Interior. 2001. Policy for the Review of Mandatory Conditions Developed by the Department of the Interior and Commerce in the Context of Hydropower Licensing. U.S. Department of the Interior and U.S. Department of Commerce, Washington, D.C. January 19, 2001. 36 pp.
9. U.S. Fish and Wildlife Service. 2002. Interagency Guidance for the Prescription of Fishways Pursuant to Section 18 of the Federal Power Act. U.S. Fish and Wildlife Service. Washington, D.C. May 8, 2002. 25 pp.

