

State Water Resources Control Board

SEP 02 2016

Mr. Darold Perry
Supervisor, Hydro License Implementation
Sacramento Municipal Utility District
P.O. Box 1500
Pollock Pines, CA 95726-1500

Dear Mr. Perry:

RESPONSE TO REQUEST FOR TEMPORARY AMENDMENT TO THE UPPER AMERICAN RIVER HYDROELECTRIC PROJECT WATER QUALITY CERTIFICATION; FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 2101; SACRAMENTO AND EL DORADO COUNTIES

In a letter dated July 22, 2016, the Sacramento Municipal Utility District (SMUD) requested a one-time temporary amendment (amendment) to the water quality certification (certification) for the Upper American River Hydroelectric Project (UARP). The amendment would temporarily modify the minimum streamflow requirements outlined in the UARP certification at two locations in order to facilitate construction of two new weirs at: (1) South Fork Rubicon River below Robbs Peak Reservoir Dam (Robbs Peak Forebay); and (2) Silver Creek below Camino Reservoir Dam (Camino Reservoir). The proposed modifications to minimum streamflow requirements are as follows:

Table 1. License Required Minimum Streamflows and Proposed Variance¹

		August	September	October
Robbs Peak Forebay	Required	11	6	3
	Proposed ²	3	3	No variance
Camino Reservoir	Required	18	18	15
	Proposed ³	No variance	5	5

¹ All streamflows are in cubic feet per second (cfs). Required streamflows are for an Above Normal Year.
² Bypass system is engineered to accommodate 5 cfs in case of unforeseen events, 3 cfs is the minimum.
³ Bypass system is engineered to accommodate 7 cfs in case of unforeseen events, 5 cfs is the minimum.

SMUD requests a temporary variance of the minimum streamflows (variance) required per Condition 1 of the UARP certification in order to meet the following objectives:

- Comply with Condition 6 of the UARP certification which requires compliance streamflow gaging at multiple locations including Robbs Peak Forebay and Camino Reservoir; and
- Comply with Condition 1 of the UARP certification which states "Where facility modification [e.g., a stream gage weir] is required to maintain the specified minimum streamflows, the Licensee [SMUD] shall complete such modifications as soon as reasonably practicable and no later than three years after license issuance."

The proposed variance would not result in an increase in power production.

The State Water Board provided public notice of the temporary amendment request on the Division of Water Rights' website on July 26, 2016. Notification was provided to interested parties on July 26, 2016, through the Division of Water Rights' automated LYRIS email notification system. No comments were received.

Biological Evaluation

Robbs Peak Forebay Weir:

SMUD provided State Water Board staff with the Robbs Peak Forebay Reach Streamflow Gaging Weir Project Plan (Robbs Peak Project Plan) dated July 2016. The Robbs Peak Project Plan outlines actions that will be taken to avoid stranding aquatic species and outlines environmental controls that will be implemented to minimize impacts to water quality and aquatic resources associated with construction of the Robbs Peak Forebay weir.

Camino Reservoir Weir:

SMUD provided State Water Board staff with a Terrestrial and Aquatic Wildlife Biological Evaluation/Biological Assessment of the Proposed Weir on Silver Creek below Camino Reservoir (BE/BA). The BE/BA provided an assessment of potential effects to biological aquatic resources associated with construction and operation of the Camino Reservoir weir. The BE/BA looked specifically at impacts to foothill yellow-legged frog, western pond turtle, bald eagle, northern goshawk, California spotted owl, Townsend's big-eared bat, fringed myotis, pallid bat, and Pacific fisher. SMUD determined that the proposed Project activities are not anticipated to have long-term adverse effects on the biological aquatic resources listed above.

Additionally, SMUD provided State Water Board staff the Camino Streamflow Gaging Weir Project Plan (Camino Project Plan) dated February 18, 2016. The Camino Project Plan outlines actions that will be taken to avoid stranding aquatic species and outlines environmental controls that will be implemented to minimize impacts to water quality and aquatic resources associated with construction of the Camino Reservoir weir.

Permit Compliance

Robbs Peak Forebay Weir:

Per the Robbs Peak Project Plan, SMUD has obtained the following approvals and permits for the Robbs Peak Forebay weir:

- Design and Location Approval, issued by the Federal Energy Regulatory Commission (FERC)
- Section 1602 – Streambed Alteration Agreement¹ and approval for minimum streamflow variance for construction, issued by the California Department of Fish and Wildlife (CDFW);
- Clean Water Act, section 401 certification from the Central Valley Regional Water Quality Control Board²
- Clean Water Act section 404 – Letter of Permission³, issued by the United States Army Corps of Engineers (USACE); and
- United States Forest Service (USFS) approval for the streamflow variance.

¹ Notification No. 1600-2014-0030-R2 (May 30, 2014)

² WDID#5A09CR00150 (June 5, 2015)

³ Section 404 Letter of Permission SPK-2013-00954 (June 19, 2015)

As part of the Robbs Peak Project Plan, SMUD also prepared a Restoration Plan and a Fire Prevention Plan and obtained a property easement to access the Project site.

Camino Reservoir Weir:

Per the Camino Project Plan, SMUD has obtained the following approvals and permits for the Camino Reservoir weir:

- USFS project approval;
- Section 1602 - Streambed Alteration Agreement⁴ and approval for minimum streamflow variance for construction, issued by CDFW; and
- Section 404 – UARP Regional General Permit No. 9, issued by USACE.

As part of the Camino Project Plan, SMUD also prepared a Fire Prevention Plan.

The Camino and Robbs Peak Project Plans together with resource protection measures incorporated into the permits for construction of the Robbs Peak Forebay and Camino Reservoir weirs will ensure the protection of water quality, aquatic species, and other aquatic resources.

California Environmental Quality Act (CEQA)

Issuance of a certification and temporary amendment thereof, is a discretionary action that requires the State Water Board to comply with the California Environmental Quality Act (CEQA). For this temporary amendment to the UARP certification, and for the purpose of CEQA compliance, SMUD is the lead agency. SMUD filed a Notice of Exemption (NOE) for the Camino Reservoir weir on October 8, 2015, and an NOE for the Robbs Peak Forebay weir on June 12, 2015.

The proposed amendment to Condition 1 of the UARP certification falls under the following CEQA Categorical Exemptions and does not have a reasonable possibility of significant effects due to unusual circumstances or when considered cumulatively with other projects:

- **Class 3 Categorical Exemption: New Construction or Conversion of Small Structures.** Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. (Cal. Code Regs., tit. 14, §§ 15303.)
- **Class 6 Categorical Exemption: Information Collection.** Class 6 consists of basic data collection, research, experimental management and resource evaluation activities which do not result in serious or major disturbance to an environmental resource. (Cal. Code Regs., tit. 14, §§ 15306.)

An NOE has been prepared (attached) and will be filed with the Office of Planning and Research within five days of issuing the amendment. (Cal. Code Regs., tit. 14, § 15062.)

⁴ Notification No. 1600-2015-0259-R2 (February 9, 2016)

Conditional Approval

Approval of the amendment to the UARP certification is hereby granted with the conditions described below. Failure to comply with the conditions outlined below constitutes grounds for enforcement for violation of the UARP certification.

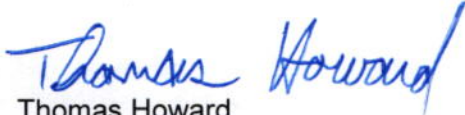
- 1) Streamflows may be modified in September and October 2016, as presented in the Table 1 of this amendment. Upon completion of construction of the Robbs Peak Forebay and Camino Reservoir weirs, the variance authorized by this amendment will terminate and minimum streamflows as described in Condition 1 of the UARP certification shall be resumed as soon as practicable. Should the construction activities exceed the timeframe described in the Request for Temporary Water Quality Certification Amendment⁵, SMUD may seek approval from the Deputy Director of the Division of Water Rights (Deputy Director) to extend the variance. SMUD shall seek Deputy Director approval as soon as it is apparent such an extension is necessary. In an extension request, SMUD shall include relevant details regarding how the temporary streamflow variance extension may impact water quality and beneficial uses.
- 2) SMUD shall implement the resource protection measures described in the BE/BA for the Camino Reservoir weir and all environmental control measures outlined in the Camino Project Plan, dated February 18, 2016. SMUD shall implement all resource protection measures and best management practices outlined in the permits associated with construction and operation of the Camino Reservoir weir, including the Section 1602 CDFW Streambed Alteration Agreement, and USACE 404 permit;
- 3) SMUD shall implement all environmental control measures outlined in the Robbs Peak Project Plan, dated July 2016. SMUD shall implement all resource protection measures and best management practices outlined in the permits associated with construction and operation of the Robbs Peak Forebay and Camino Reservoir weirs, including the Section 1602 CDFW Streambed Alteration Agreement, USACE 404 permit, and 401 certification;
- 4) All other conditions of the UARP certification, including ramping rates, and the mandatory conditions described in California Code of Regulations, title 23, section 3860, remain in full force and effect during this one-time streamflow variance;
- 5) This certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867);
- 6) This certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to California Code of Regulations, title 23, section 3855, subdivision (b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought; and
- 7) This certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, chapter 28 and owed by SMUD.

⁵ Request for Temporary Water Quality Certification Amendment for the UARP, FERC Project No. P-2101, for a Minimum Streamflow Variance in the South Fork Rubicon River below Robbs Peak Forebay and in Silver Creek below Camino Reservoir, dated July 22, 2016.

All documents and other information that constitute the public record for this temporary amendment will be maintained by the Division of Water Rights and are available for public review at the following address: State Water Board, Division of Water Rights, 1001 I Street, Sacramento, California, 95814.

If you have questions regarding this letter, please contact Ms. Kristen Gangl, UARP Manager, by phone at: (916) 323-9389 or by email at: kristen.gangl@waterboards.ca.gov. Written correspondence should be directed to: State Water Resources Control Board, Division of Water Rights, Water Quality Certification Program, Attn: Kristen Gangl, P.O. Box 2000 Sacramento, CA 95812-2000.

Sincerely,



Thomas Howard
Executive Director

Attachment: Notice of Exemption

cc: Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

Ms. Katy Parr
United States Forest Service
100 Forni Road
Placerville, CA 95667

Ms. Elizabeth Lee
Central Valley Regional Water Quality
Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95825

Tomas Torres, Director
United States Environmental Protection
Agency
75 Hawthorne Street
San Francisco, CA 94105

Mr. Peck Ha
United States Army Corps of Engineers
1325 J Street, Room 1350
Sacramento, CA 95814

Ms. Anna Milloy
California Department of Fish and Wildlife
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670

To: Office of Planning and Research
 P.O. Box 3044, Room 113
 1400 Tenth Street
 Sacramento, CA 95812-3044

From (Public Agency):
 State Water Resources Control Board
 P.O. Box 2000
 Sacramento, CA 95812-2000

Project Title: Minimum Streamflow Variance in the South Fork Rubicon River below Robbs Peak Forebay and in Silver Creek below Camino Reservoir (Project)

Project Applicant: Sacramento Municipal Utility District (SMUD)

Project Location - Specific: The Projects are located in the South Fork Rubicon River below Robbs Peak Forebay and in Silver Creek below Camino Reservoir, approximately 27 and 15 miles, respectively, northeast from Placerville, California in El Dorado County.

Project Location - City: N/A **Project Location – County:** El Dorado

Description of Nature, Purpose, and Beneficiaries of Project:

SMUD is requesting State Water Resources Control Board (State Water Board) approval to reduce the minimum instream flows required under the Upper American River Hydroelectric Project water quality certification (Condition 1). The reduction in minimum instream flows is necessary to allow for the installation of new streamflow gaging weirs to provide accurate compliance gaging of the minimum streamflows from the Robbs Peak Forebay and Camino Reservoir per Condition 6 of the water quality certification. The Project is estimated to take three to four weeks at Robbs Peak Forebay and approximately four to six weeks at Camino Reservoir.

Name of Public Agency Approving Project: State Water Resources Control Board

Name of Person or Agency Carrying Out Project: Sacramento Municipal Utility District

Exempt Status: (check one):

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Class 3 §15303 and Class 6 §15306
- Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The Class 3 exemption applies as the weirs are consistent with construction of a new minor structure. The Project will pose no significant adverse impacts to listed species or their habitat. There are no known hazardous materials at the site that may be disturbed or removed. The Project will not cause cumulatively significant impacts. Additionally, the Class 6 exemption applies as there is no indication that the Project may cause a serious or major disturbance to an environmental resource.

Contact Person: Kristen Gangl

Area Code/Telephone/Extension: (916) 323-9389

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature:  Title: Executive Director

Date received for filing at OPR: SEP 02 2016

Governor's Office of Planning & Research

SEP 02 2016

STATE CLEARINGHOUSE