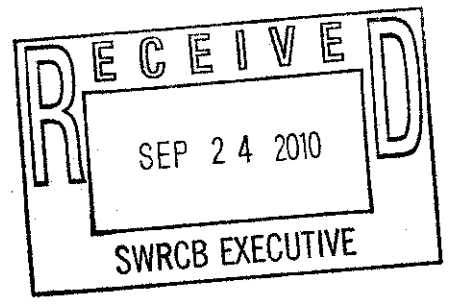


September 24, 2010

Via Email and U.S. Mail

Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100



**RE: COMMENT LETTER - OROVILLE DRAFT WATER QUALITY CERTIFICATION**

Dear Ms. Townsend,

this letter provides the comments of Coastsiding Fishing Club, Golden Gate Fishermen's Association, Pacific Coast Federation of Fishermen's Associations, San Francisco Crab Boat Owners Association, Small Boat Commercial Salmon Fishermen's Association, and Water4Fish on the July 2, 2010 third public draft of the 401 Certification for the relicensing of the Oroville Facilities, FERC #2100.

Our organizations represent people living in California's cities and towns, working to keep alive livelihoods and traditions that built our communities and culture. A major portion of our economic lifeblood stems from the salmon industry, both commercial and sport. Our salmon industries depend primarily on abundant runs of fall chinook salmon from the Sacramento River Basin. Some 90 percent of the salmon caught off California during a typical season originate in the Sacramento River system.

Nearly all ocean salmon fishing was closed in California in 2008 and 2009 due to the dramatic collapse of Sacramento fall chinook salmon, and the 2010 commercial salmon season was so heavily restricted, U.S. Commerce Secretary Gary Locke formally declared California's salmon fishery a disaster on September 2, 2010, citing "significant

economic hardship to commercial fishermen and their families in California." This declaration represented the third federal disaster declaration for the California salmon fishery in as many years.

There is widespread scientific consensus that significant factors contributing to the unprecedented decline in our fall-run salmon include degradation of river and estuary habitats for anadromous fisheries.

Management of the Oroville Facilities plays a critically important role in managing anadromous fisheries and fisheries habitat in the Sacramento River system. The facilities and operations heavily impact conditions for the spawning, rearing, and outmigration success of salmonids in the Feather River, a major salmon-bearing tributary of the Sacramento River. The facilities also represent the largest non-federal water storage facility in the state of California, with the ability to provide coldwater storage crucial for salmon survival, fishery-sustaining flows in the Feather River and Sacramento-San Joaquin Delta, and other instream beneficial uses.

We would like to join in the comments submitted by the California Sportfishing Protection Alliance regarding the July 2, 2010 third public draft of the 401 Certification.

In addition, we are especially concerned with the following:

### **1. Establishing Comprehensive, Objective, and Enforceable Standards**

In the wake of *Karuk Tribe of Northern California v. California Regional Water Quality Control Board, North Coast Region* (State Court of Appeals, A124351, A 124369, A 12430, 2010) the State Water Resources Control Board (SWRCB) must, to the degree reasonably possible, explicitly address within the 401 Certification itself all issues that have been or could be raised in regard to the exercise of its Clean Water Act Section 401 authority.

Considering the aggressive efforts of the Department of Water Resources (DWR) to limit the SWRCB's authority, despite its earlier, explicit recognition in the Oroville Settlement Agreement of the SWRCB's right to "reopen its conditions," the SWRCB should exercise its authority within the 401 defensively and expansively.

All contingent actions in the 401, including SWRCB approvals, must, to the greatest degree possible, have clear descriptions, metrics, decision trees and processes prescribed for them.

### **2. Explicit Protections for Lake Oroville Coldwater Pool**

The SWRCB must either place explicit restrictions on the operation of the State Water Project that protect the coldwater pool in Lake Oroville, water temperatures in the Lower Feather River, anadromous fisheries, and other instream beneficial uses, or else create stand-alone measures for the Oroville Facilities that protect these beneficial uses regardless, or in spite of, the operation of the State Water Project (SWP).

### **3. Carryover Storage Requirements**

The SWRCB must create explicit carryover storage requirements for Lake Oroville to protect the lower Feather River from the consequences of excessive water demand by the oversubscribed SWP.

#### **4. Sacramento-San Joaquin Flow Requirements**

The SWRCB must explicitly prescribe, or defensibly reserve its authority to prescribe, the contribution of the Oroville Facilities, and of the Feather River watershed upstream of the Yuba River, to increased Delta outflow and to Delta water quality.

#### **5. Adequate Attraction Flows**

The SWRCB must prescribe sufficient spring flow in the Feather River to provide sufficient attraction flows for Feather River salmon and steelhead and mitigate the impacts of much higher Yuba River flows.

#### **6. Explicit, Enforceable Water Temperature Standards**

The SWRCB must set clear measures that require DWR to achieve compliance with water temperature standards downstream of Lake Oroville. The SWRCB must set forth the process, decision points, and decision-making criteria, scope of action and level of effort that will be required of DWR to meet these standards. No level of effort short of a temperature control device built for Lake Oroville to the standards of the device on Lake Shasta should be allowed before any consideration is given by the Deputy Director to relaxing water temperature standards in the lower Feather River.

#### **7. Reasonable Mitigation for Lost Upstream Habitat**

The SWRCB must set clear metrics for the mitigation of the loss of fish passage and upstream habitat caused by the Oroville Facilities and the PG&E hydroelectric projects upstream. The SWRCB must require and enforce alternative actions if the outcome of Habitat Expansion Agreement does not measure up to the level of mitigation set forth by the SWRCB.

#### **8. Timely Implementation**

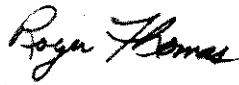
The SWRCB must set procedural defaults that allow for timely and complete notice of actions pending in the implementation and enforcement of the 401, and must retain and exercise its authority over actions specified in the 401. All cases of default acceptance of plans submitted by DWR, in the absence of response by the SWRCB, should be stricken from the 401 Certification.

We appreciate the opportunity to submit these comments.

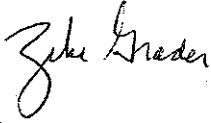
Respectfully,



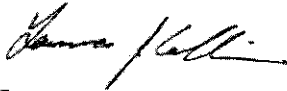
Dan L. Wolford  
Science Director  
Coastside Fishing Club



Roger Thomas  
President  
Golden Gate Fishermen's Association



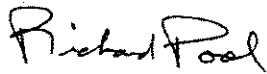
Zeke Grader  
Executive Director  
Pacific Coast Federation of Fishermen's Associations



Larry Collins  
President  
San Francisco Crab Boat Owners Association



Mike Hudson  
President  
Small Boat Commercial Salmon Fishermen's Association



Dick Pool  
Administrator  
Water4Fish