



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



June 25, 2024

Bryan Kelly, Deputy General Manager
Merced Irrigation District
744 West 20th Street
Merced, California 95340
bkelly@mercedid.org

SUBJECT: Response to Notice of Intent to Rely on FERC Final Environmental Impact Statement, with Mandatory Conditions, in Combination with a Supplemental Analysis, to Satisfy CEQA for the Merced River and Merced Falls Hydroelectric Projects under P-2179 and P-2467 State Clearinghouse No. 2024051222

Dear Bryan Kelly:

This correspondence is in response to a May 24, 2024 “*Notice of Availability (NOA) for Notice of Intent to Rely on FERC Final Environmental Impact Statement, With Mandatory Conditions in Combination with a Supplemental Analysis, To Satisfy CEQA for the Merced River Hydroelectric Project and Merced Falls Hydroelectric Project Relicensings*”. This NOA informed the California Department of Fish and Wildlife (CDFW), a California Environmental Quality Act (CEQA) responsible and trustee agency, about Merced Irrigation District’s (Merced ID) intention to prepare a CEQA Supplemental Analysis to the Federal Energy Regulatory Commission’s (FERC or Commission) Final Environmental Impact Statement (FEIS) that contains FERC staff’s recommendation with mandatory conditions for terms to be included in the new licenses for the Merced River Hydroelectric Project (FERC Project No. 2179) and Merced Falls Hydroelectric Project (FERC Project No. 2467) (collectively, Projects). The CEQA Supplemental Analysis will follow the standard CEQA Initial Study format as a guideline. In addition, a separate Merced ID CEQA Programmatic Environmental Impact Report (PEIR) is under development for all of Merced ID’s recreational facilities at the Projects.

BACKGROUND

The Projects are owned and operated by Merced ID. The Projects are located on the Merced River in Merced and Mariposa counties, California.

The FERC license for the Merced River Hydroelectric Project (Merced River Project) was initially issued on April 8, 1964 (1964 FERC license) and expired on February 28, 2014. On February 26, 2012, Merced ID filed an Application for License with FERC for the

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Merced River Project. The Merced River Project operates under an annual license until the relicensing process is complete.

The FERC license for the Merced Falls Hydroelectric Project (Merced Falls Project) was initially issued on July 28, 1969, and expired on February 28, 2014. The Merced Falls Project operates under an annual license until the relicensing process is complete. On February 8, 2012, Pacific Gas and Electric Company (PG&E) filed an application to relicense the Merced Falls Project with FERC. On July 6, 2015, FERC approved the transfer of the Projects' licenses and associated lands to Merced ID.

Under a new FERC license for the Merced River Project, Merced ID would accept to: (1) continue to operate, maintain, and manage the existing Merced River Project facilities; (2) remove from licensed facilities, but retain in operation outside the license, the minor facilities associated with the delivery of water to the Merced National Wildlife Refuge; (3) construct new and upgrade existing recreation facilities at all of the existing Project recreation areas (i.e., McClure Point, Barrett Cove, Horseshoe Bend, Bagby, and McSwain recreation areas); (4) make minor modifications to the existing FERC Project Boundary; and (5) implement the other terms and conditions in the new license.

Under a new FERC license for the Merced Falls Project, Merced ID would accept to: (1) continue to operate, maintain, and manage the Merced Falls Project facilities; (2) make minor modifications to the existing FERC Project Boundary; and (3) implement the other terms and conditions in the new license.

The FERC preferred alternative from the FEIS, combined with all other mandatory conditions including those submitted by the Bureau of Land Management (BLM) pursuant to the Federal Power Act (FPA) section 4(e) as well as the United States Fish and Wildlife Service (FWS) will be carried through Merced ID's CEQA Supplemental Analysis as the proposed project. The FPA requires that every hydropower license applicant must have a Water Quality Certification (WQC or Certification) pursuant to Section 401 of the Federal Water Pollution Control Act (Clean Water Act) or a waiver of certification from the state. The State Water Board is the state agency responsible for federal issuance of Certifications. Since the State Water Board set aside the WQC on May 7, 2024, the conditions of a new certification are not being assessed in this CEQA process.

Merced ID will also use and rely on a PEIR for the Merced ID Recreation Facility Plan to satisfy CEQA review requirements for all the recreational facilities included in the FERC relicensing of the Merced River Project and Merced Falls Project.

AUTHORITY

CDFW is the appropriate State Fish and Wildlife agency for resource consultation and FPA Section 10(j) (16 U.S.C. §803 (j)) purposes. The fish and wildlife resources of the State of California are held in trust for the people of the state by and through CDFW

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(Fish & G. Code § 711.7). CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (Fish & G. Code § 1802). The mission of CDFW is to manage California's diverse fish, wildlife, and plant resources, and the habitats on which they depend, for their ecological values and for their use and enjoyment by the public. It is the goal of CDFW to preserve, protect, and as needed, to restore habitat necessary to support native fish, wildlife, and plant species within the FERC-designated boundaries of these Projects, as well as the areas adjacent to these Projects in which resources are affected by ongoing project operations and maintenance activities and recreational use.

CDFW's coordination with the State Water Board and other resource agencies is an effective path to codifying our preferred conditions via certifications, because CDFW only has recommendation authority under the FPA. Along with federal land management agencies' mandatory 4(e) conditions and National Oceanic and Atmospheric Administration's (NMFS) Section 18 fishway prescriptions, Certification conditions can be used by state and federal agencies to help mitigate hydropower impacts on riverine ecosystems.

COMMENTS

General

The FERC's FEIS for the Projects, released almost a decade ago, included conditions regarding water year type, minimum instream flows, pulse flows in spring and fall, and requirements to develop numerous plans for resource protection. The proposed Supplemental CEQA analysis should revise and update the findings of the FEIS as necessary.

The FEIS conveys that before FERC makes licensing decisions, it will consider all concerns relevant to the public interest. The FEIS will be part of the record from which FERC will make its decisions. Therefore, CDFW anticipates that FERC will consider the findings of the most recent CEQA analysis when making relicensing decisions, including project concerns relevant to the public interest that were not addressed in the FEIS.

The FEIS described flow requirements at Shaffer Bridge (RM 32.5). Downstream flow compliance requirements are important for the protection of instream flows through the entire Merced River and into the San Joaquin River. Comprehensive flow requirements are important to maintain both the fishes, wildlife, and riparian species that need a wetted river to survive and complete their lifecycles. The inclusion of conditions that require temperature monitoring on the Merced River is important to protect native fish species sensitive to temperature such as Central Valley steelhead (*Oncorhynchus mykiss*) and Chinook salmon (*Oncorhynchus tshawytscha*).

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CDFW supports license conditions conducive to riparian and floodplain restoration, higher instream flows during the winter, dissolved oxygen monitoring, and additional monitoring for anadromous fishes.

Water Temperature and Fish Monitoring

CDFW supports the FEIS recommended level of water temperature and fish monitoring included in the environmental measures for the protection of aquatic resources in the Projects. Recognizing that FERC concluded that the Merced River Project as proposed with staff-recommended measures is likely to adversely affect the Central Valley steelhead, we highlight the need for water temperature and fish monitoring as a license condition. Moreover, CDFW finds that conducting annual fall fish sampling in the reach of the Merced River downstream of Merced Falls dam and upstream of Crocker-Huffman diversion dam (Merced Falls reach) to monitor fish populations should provide data that will assist in understanding the potential for anadromous fish restoration.

Drought Plan

CDFW supports the development of a general drought management plan for the Projects in consultation with the technical advisory committee that includes provisions for (1) fish and streamflow monitoring, (2) documenting, reporting, and responding to any drought impacts to fish, (3) avoiding dewatering of the Lower Merced River, and (4) plans for water allocation that take into account the needs of both the environment and the public. The development of a Drought Plan is of great concern to CDFW particularly considering the dry conditions in the lower Merced River in 2015 (CDFW 2017) and during the summer of 2022 (Attachment 1). The FEIS adopted the following relevant conditions in support of the development of a Drought Plan:

- (1) Notify the Water Board, BLM, FWS, NMFS, and California DFW by March 10 of the second or subsequent dry/critically dry water year if Merced ID has drought concerns (i.e., if there may not be sufficient water to meet both environmental and irrigation demands). By May 1 of these same years (i.e., the second or subsequent dry/critically dry water year), consult with these same agencies to discuss the project's operational plans to manage the drought conditions and file a drought plan with the Commission with a request for expedited approval (AQR1, part 5).
- (2) Condition 9: Develop a drought plan, in consultation with the committee specified in condition 1 that provides overarching guidance for operations during an emergency drought and/or multiple critically dry years and specifies license or WQC variances the Merced ID may request.
- (3) File the drought plans developed after two or more consecutive dry or critically dry water years as proposed with the Commission for approval.

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- (4) The Water Board (preliminary WQC condition 15) reserves the right to condition the project with a minimum pool requirement for Lake McClure in light of the whole record but does not yet specify a minimum pool. The Water Board (preliminary WQC condition 9) also specifies that Merced ID submit a drought plan within 1 year of license issuance. The plan would provide overarching guidance for operation during an emergency drought and/or multiple critically dry years and would be created in consultation with a committee. The plan would include Commission license or WQC variances that Merced ID may request. No further details were provided as to the content of the plan.
- (5) NMFS (10[j] recommendation 1.1A[8]) recommends a contingency for multiple consecutive dry and/or critically dry water years that would modify project operation. Merced ID would notify the resource agencies of drought concerns by March 10 of the second or subsequent dry/critically dry water year. By May 1 of these same years, Merced ID would consult with the resource agencies to discuss operational plans to manage the drought conditions. Following this consultation, Merced ID would file a drought plan with the Commission. Merced ID states in its response letter of September 5, 2014, that it accepts NMFS' recommendation, and on September 22, 2014, filed its revised, proposed measure with the Commission that includes a provision for contingency planning during a multi-year drought that is nearly identical to the NMFS recommendation.

Ramping Rates

The FEIS identified the importance of avoiding rapid flow fluctuations that could have adverse effects on the Merced River fishery. CDFW recommends the development of adequate ramping rates to ensure that this goal is met. The FEIS recommended that Merced ID operate the power plants to avoid rapid fluctuation of the Merced River. At Crocker-Huffman diversion, it was recommended to restrict the rate of change of release during any 1-hour period to no more than double nor less than one-half the amount of release as the start of the change, and during emergency periods, endeavor to make releases in a manner that is not detrimental to fish (license article 42). Likewise, CDFW would like to ensure that ramping rates are not detrimental to fish. The FEIS requirement above could be improved by prescribing ramping rates that are more protective to fish. We recommend using Hunter (1992) which recommends rates of no more than 2-inches/hour. In addition, the scope of emergency conditions should be defined and in emergency conditions, a consideration should be made if more aggressive ramping rates are necessary. As described in the FEIS, the proposed rate changes emphasize flow management under emergency conditions as opposed to normal operations. Such emergency conditions need to be defined objectively. If more aggressive ramping rates are needed for emergency purposes, then those could be considered and adopted in consultation with resource agencies.

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Ramping at the very highest flows and very lowest flows is not as likely to cause fish stranding and other impacts as when flows are decreasing from being on floodplains to in channel. So, potentially different rates could be determined for different conditions, such as overbank inundation, overbank-to-instream transition, and in-stream flow conditions. Moreover, CDFW would be more concerned with rapid flow decreases rather than increases. CDFW anticipates that ramping at the highest flows and lowest flows is not likely to cause fish stranding and other impacts as when flows are decreasing from being on floodplains during overbank inundation to in channel. Rapid flow decreases are particularly concerning in terms of their impact on the fish.

Fish Stocking

CDFW supports the inclusion of a fish stocking measure as part of the new Licenses for the Projects. These measures can be developed based on previous agreements between CDFW and Merced ID (Attachment 2). Fish stocking has been addressed in the FEIS as follows:

- (1) Merced ID proposed the following environmental measure for Recreation Resources (Merced ID designations for proposed measures are in parenthesis): "Annually stock rainbow trout, fingerling kokanee, and Chinook salmon in Lake McClure and McSwain reservoir for recreational fishing (AQR3)."
- (2) A resource-specific preliminary mandatory Water quality Certification (WQC) condition (Condition 16): "Develop a fish stocking plan in consultation with the committee specified in condition 1. Beginning the first year after license, annually stock fish in Lake McClure with a minimum of 32,000 to 70,000 of catchable sized fish and 39,000 to 95,000 fingerlings. Annually stock fish in McSwain reservoir with 1,000 to 2,000 catchable-sized rainbow trout."
- (3) A proposed recreation measure for the Merced Falls Project reads to "[d]evelop a fish stocking plan in consultation with California DFW that includes stocking 11,000 adult-sized rainbow trout at the Merced Falls impoundment for the first 2 years following license issuance and a plan for stocking (schedule and type and amount of fish) for the rest of the license term."

CDFW recommends including an additional measure in the aquatic resources section (2.3.2) to "develop and implement a fish stocking plan that includes the type, size, and amount of fish to be stocked in the reach of the Merced River downstream of Merced Falls dam and upstream of Crocker-Huffman diversion dam (Merced Falls reach) in consultation with CDFW. The fish stocking plan for the Merced Falls reach can be based on recreational use, angling demand, and state fish stocking management targets and include an implementation schedule to ensure appropriate recreational fish stocking levels at the project for the license term."

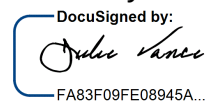
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CONCLUSION

CDFW is looking forward to considering the results of Merced ID's environmental analysis under CEQA to ensure an adequate assessment and disclosure of potential project impacts on environmental resources. An adequate and timely CEQA process should inform the development of new water quality certifications for the Projects.

CDFW appreciates the opportunity to review and provide public comments to Merced ID on their "*Notice of Availability (NOA) for Notice of Intent to Rely on FERC Final Environmental Impact Statement, With Mandatory Conditions in Combination with a Supplemental Analysis, To Satisfy CEQA for the Merced River Hydroelectric Project and Merced Falls Hydroelectric Project Relicensings*". Please address any questions or concerns regarding these comments to Abimael León, the Regional FERC Coordinator, at Abimael.Leon@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

Attachments

cc: Kimberly D. Bose, Secretary (via Electronic Submission)
Federal Energy Regulatory Commission
888 First Street, NE
Washington DC, 20246

ec: State Clearinghouse
Office of Planning and Research
state.clearinghouse@opr.ca.gov

Adam Cohen
State Water Resources Control Board
Division of Water Rights – Water Quality Certification Program
Adam.Cohen@waterboards.ca.gov

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REFERENCES

CDFW. 2017. Statewide Drought Response: Stressor Monitoring. Summary Report 2014-2017.

Hunter, M.A.1992. Hydropower flow fluctuations and salmonids: A review of the biological effects, mechanical causes, and options for mitigation. State of Washington, Department of Fisheries. Technical Report. Number:119

**ATTACHMENT 1 – CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE NOTICE
TO STATE WATER RESOURCES CONTROL BOARD
REGARDING 2022 MERCED RIVER CONDITIONS**



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 22, 2022

Ms. Eileen Sobeck
Executive Director
State Water Resources Control Board
Post Office Box 100
Sacramento, California 95812-0100

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE NOTICE TO STATE WATER
RESOURCES CONTROL BOARD REGARDING 2022 MERCED RIVER CONDITIONS**

Dear Ms. Sobeck:

This letter is to alert the State Water Resources Control Board (SWRCB), Division of Water Rights, of conditions in the lower Merced River during the summer of 2022. On July 7, 2022, California Department of Fish and Wildlife (Department) staff monitoring the lower Merced River found it to be dry and disconnected from the San Joaquin River. The dry river conditions are a major concern of the Department. The fish and wildlife resources of the State of California are held in trust for the people of the State by and through the Department (Fish & Game Code § 711.7). The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (Fish & G. Code § 1802). The mission of the Department is to manage California's diverse fish, wildlife, and plant resources, and the habitats on which they depend, for their ecological values and for their use and enjoyment by the public.

As part of the Department's drought monitoring efforts, staff began monitoring the lower Merced River conditions in May 2022 with weekly surveys of the lower five miles of the river. On July 7, 2022, staff observed the Merced River completely disconnected at Hatfield Park (River Mile [RM] 2.5). Surveys conducted from RM 4.5 to the confluence revealed a disconnected channel in several locations with intermittent wetting until July 28, 2022, when isolated pools had dried up and the riverbed remained dry. Monthly surveys were conducted, until October, for the same river reaches to monitor change or progress. Staff findings showed that the river remained fully disconnected from July through September (Figure 1) until the river reconnected on October 7, 2022. Although the lower Merced River became disconnected from the San Joaquin River, it is important to note that flows at Crocker Huffman were consistent through the summer of 2022 (Figure 2) and the Federal Energy Regulatory Commission minimum flow requirement of 15 cubic feet per second at Shaffer Bridge (RM 33) was met the entire time.

The Basin Plan for Sacramento and San Joaquin River Basins identifies the beneficial uses of the Merced River from McSwain Reservoir to the San Joaquin River as: contact and non-contact recreation including fishing, canoeing and rafting, warm and cold freshwater habitat, migration (warm and cold), and spawning (warm and cold) as well as for wildlife

Conserving California's Wildlife Since 1870

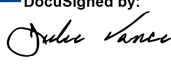
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habitat (CRWCB 2019). All these beneficial uses require flowing water in the stream. In addition, for the Merced River to provide a migration corridor for warm-water or cold-water fishes, it needs to hydraulically connect to the San Joaquin River with enough water depth for fish to pass upstream which was not the case during the summer of 2022 (Figure 3).

We recommend the SWRCB investigate and address the factors contributing to the unusable conditions in the lower Merced River for native fish and wildlife and find solutions to avoid similar conditions in the future.

The Department looks forward to continuing to work with SWRCB to protect the Merced River and San Joaquin Basin. If you have questions regarding these concerns, please contact Mrs. Gretchen Murphey, Senior Environmental Scientist (Specialist). She can be reached by phone at (209) 617-1903 or by email at Gretchen.Murphey@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A Vance
Regional Manager

cc: Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington DC, 20246

ec: See Page Three

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ec: Deborah Giglio-Willoughby
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Gretchen Murphy
California Department of Fish and Wildlife
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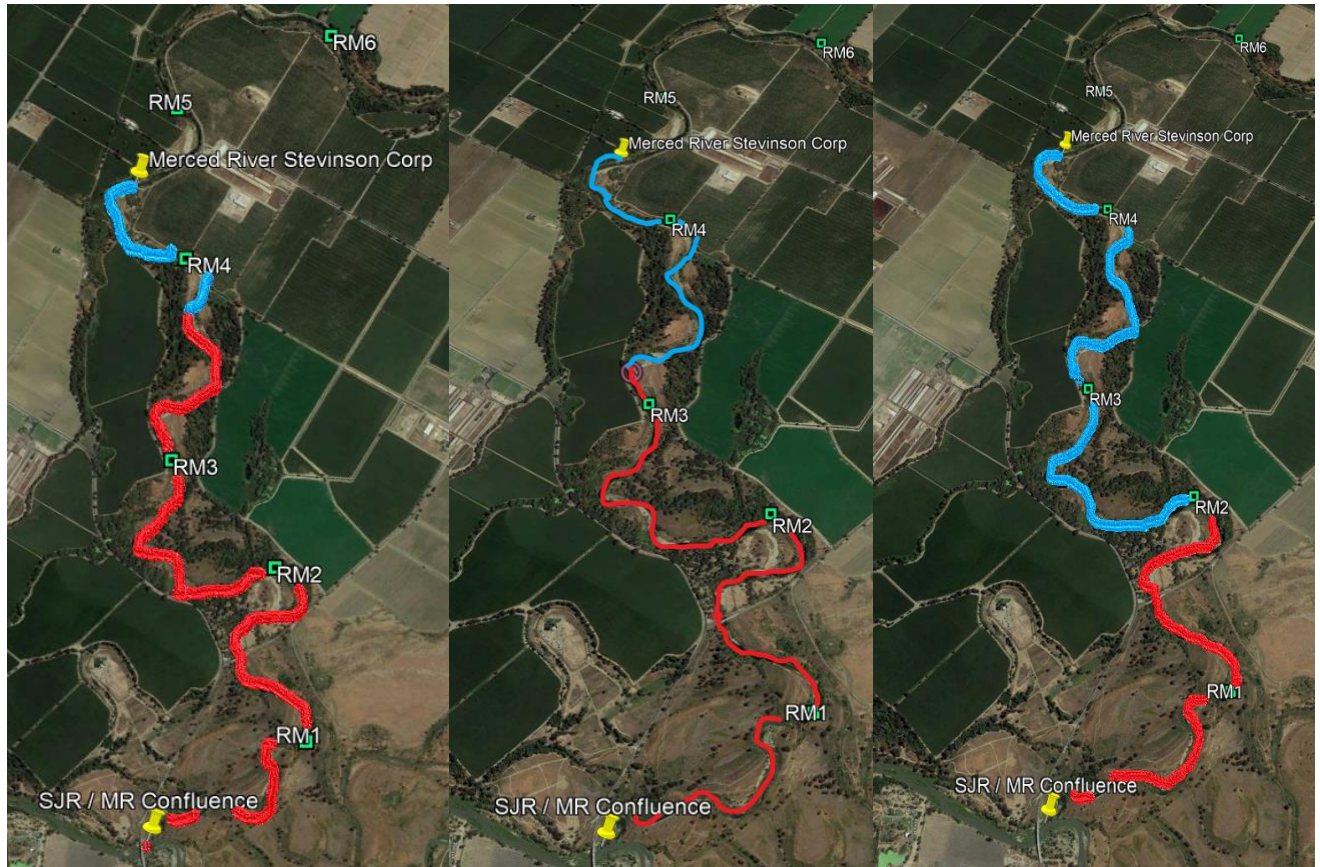


Figure 1. Maps of the dry portions of the lower Merced River in 2022. (blue traces indicated areas of wetted channel, while red traces indicate disconnected, dry portions or intermittent isolated pools.

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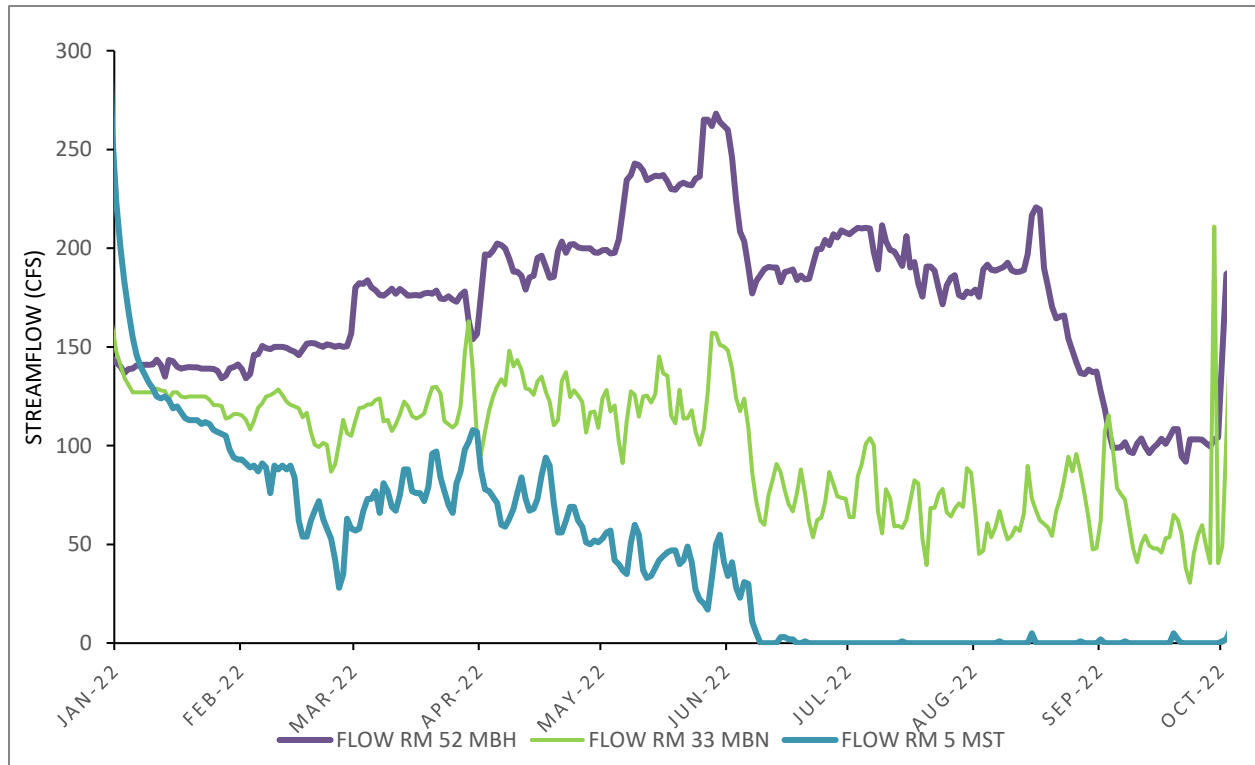


Figure 2. Mean daily flow below Crocker Huffman Dam RM 52 (MBH), Shaffer Bridge RM 33) (MBN) and Stevenson RM 5) (MST) Data obtained from CDEC

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Figure 3. Photographs taken from Hatfield Bridge (RM 2.5) on May 5, 2022 (top) September 14, 2022 (bottom). Left photo is looking downstream, right photo is looking upstream.

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References:

California Data Exchange Center. 2022. California Department of Water Resources.
<https://cdec.water.ca.gov/>

California Regional Water Quality Control Board (CVRCB). 2019. Water Quality Control
Plan for the California Regional Water Quality Control Board Central Valley
Region. Revised February 2019.
https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/#basinplans

**ATTACHMENT 2 – MEMORANDUM OF UNDERSTANDING BETWEEN CDFW AND
MERCED ID**



State of California - The Resources Agency
DEPARTMENT OF FISH AND GAME
<http://www.dfg.ca.gov>
San Joaquin Valley and Southern Sierra Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005

ARNOLD SCHWARZENEGGER, Governor



April 13, 2007

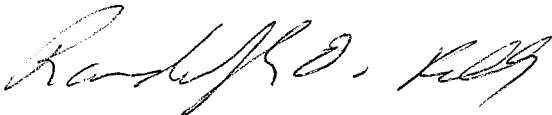
Garith W. Krause, General Manager and CEO
Merced Irrigation District
Post Office Box 2288
Merced, California 95340-0288

Dear Mr. Krause:

The Department of Fish and Game (Department) approves the request to extend the Memorandum of Understanding (MOU) between the California Department of Fish and Game and the Merced Irrigation District regarding stocking at McClure and McSwain reservoirs until December 31, 2011.

If you have any questions, please contact Mr. Randy Kelly at the above address or phone number, extension 273.

Sincerely,


for W. E. Loudermilk
Regional Manager

cc: ✓ McClure Reservoir
9090 Lake McClure Road
Snelling, California 95369

Department of Fish and Game
Fish Health Laboratory
Brian Quelvog, Biologist

DEPARTMENT OF FISH AND GAME
REGION 4
1234 East Shaw Avenue
Fresno, California 93710
(209) 222-3761



April 9, 1996

Mr. Ross Rogers
General Manager
Merced Irrigation District
P.O. Box 2288
Merced, California 95340-0288

Dear Mr. Rogers:

Enclosed is a fully executed copy of the MOU regarding fish stocking at McClure and McSwain reservoirs.

If you have any questions, please contact Mr. Randy Kelley at the above address or phone number, extension 174.

Sincerely,

George D. Nokes
Regional Manager

Enclosure

cc: ✓ Mr. Mike Bermingham
McClure Reservoir
Snelling, California

Mr. John Modin
Fish Health Laboratory
Department of Fish and Game
Rancho Cordova, California

Mr. Brian Quelvog
Department of Fish and Game
Fresno, California

Attn:
Randy Kelley
1064

MEMORANDUM OF UNDERSTANDING

between

State of California, Department of Fish and Game

and

Merced Irrigation District

This Memorandum of Understanding (MOU) is made on this 4th day of April, 1996, by and between the California Department of Fish and Game, hereinafter called the Department; and the Merced Irrigation District, hereinafter called the District.

WHEREAS, the Department has been established under the laws of the State of California for conservation of and is trustee for all native and desired nonnative fish, wildlife, plants, and habitats necessary for the continued viability of those species; where conservation is defined as protection, propagation, regulation, management, and wise use of resources; and

WHEREAS, the District is authorized under the laws of the State of California to provide for the water and power needs within its jurisdiction and within those responsibilities has a vested interest in providing for the recreational needs of the citizens of the state.

WHEREAS, the intent of this MOU is to strengthen cooperation between the two agencies and to effect the most efficient means of providing an adequate source of trout for the angling public.

WHEREAS, there is a need for the parties to be kept informed on matters of mutual interest, the Department shall inform the District on all pertinent matters involving fisheries management and fish disease and shall solicit, consider, and incorporate, where appropriate, District recommendations. The District shall inform the Department as it becomes aware of any matter that may substantively affect fish, wildlife, plants, or their habitats and shall solicit, consider, and incorporate, where appropriate, Department recommendations.

Now, therefore, in fulfillment of this MOU, the Department agrees:

1. To recognize this agreement in lieu of the annual filing of an Application for Private Fish Stocking (DFG form 749) for the stocking of trout in McClure and McSwain reservoirs for the duration of this agreement.
2. To actively participate with the District in any planning involving fisheries management by providing expertise and recommendations as requested by the District.
3. To provide enforcement of State laws or regulations relating to fish as appropriate.

The District agrees:

1. To notify both the regional office and the Department's fish pathology laboratory thirty (30) days prior to the first delivery of fish each calendar year, advising them of the date of the first delivery and the vendor (aquaculture facility) selected.
2. To make any contract for the delivery of fish contingent upon inspection and acceptability by the Department.
3. To notify the Department, in a timely manner, of any significant changes in the management of McClure or McSwain reservoirs which may affect their fisheries.

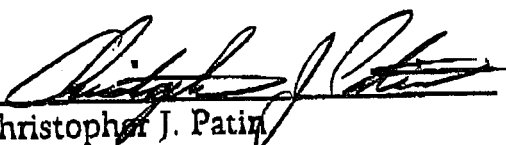
The Department and the District agree:

1. To share information and discuss concerns relating to the fisheries at McClure and McSwain reservoirs including, but not limited to angling pressure and success, fish health, and potential impacts of future development.
2. To discuss anticipated changes in angling regulations and reservoir management as it would affect its fisheries.

3. To work cooperatively on fishery enhancement projects and public education programs involving McClure and McSwain reservoirs.
4. That each and every provision of this agreement is subject to the laws of the State of California.
5. That amendments or supplements to this agreement may be proposed by either party. Such amendments, including appendices, will become incorporated into this agreement upon approval by both parties.
6. That in carrying out the terms of the agreement, there shall be no discrimination against any person because of race, religion, color, handicapped condition, sex, or national origin.
7. That this agreement shall become effective on January 1, ¹⁹⁹⁶ after being signed by both parties and shall remain in effect for a period of five years or until terminated by either party thirty (30) days after written notice is received by the other, whichever comes first.

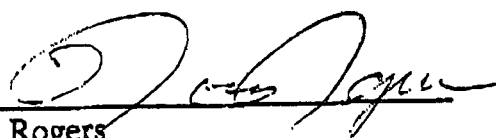
IN WITNESS WHEREOF, the parties hereto, by their duly authorized officials, have executed this agreement as of the last date written below.

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME


Christopher J. Patin
Regional Manager

4/4/96
Date

MERCED IRRIGATION DISTRICT


Ross Rogers
General Manager

March 29, 1996
Date