

State Water Resources Control Board

OCT 20 2014

Mr. Christopher J. Moffitt
Sacramento Municipal Utility District
P.O. Box 15830
Sacramento, CA 95852-1830

Dear Mr. Moffitt:

RESPONSE TO REQUEST FOR VARIANCE FROM MINIMUM INSTREAM FLOW REQUIREMENT; UPPER AMERICAN RIVER PROJECT, FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 2101; SACRAMENTO AND EL DORADO COUNTIES

Thank you for your October 9, 2014¹ letter regarding the Sacramento Municipal Utility District's (SMUD) anticipated inability to meet the minimum instream flow requirements below Buck Island Reservoir Dam beginning on or about October 23, 2014. The Buck Island Reservoir Dam minimum instream flow requirements are outlined in Condition 1.B² of the water quality certification (certification) issued to SMUD for the Upper American River Hydroelectric Project on October 4, 2013. Your letter states that SMUD "*construes the inability to store sufficient water due to the historic drought and the attendant water right curtailment to be an operating emergency reasonably beyond its control.*" The letter further states that "*if you [Deputy Director for Water Rights] disagree with this construction of Condition 1³, please consider this letter a request for your approval to suspend the Buck Island release requirement unless or until future runoff enables SMUD to make or resume making the required release.*"

State Water Board staff has reviewed the notification and request dated October 9, 2014. Although the projected inability to provide the 1 cfs minimum flow requirement may be reasonably beyond SMUD's control given the lack of precipitation and inflow upstream of Buck Island Reservoir, the State Water Board does not agree with SMUD's interpretation of the drought as an "operating emergency." Nonetheless, SMUD's letter also includes a request to

¹ Received October 14, 2014

² Condition 1.B. (Little Rubicon River below Buck Island Reservoir Dam) requires a minimum instream flow of 1 cubic foot per second (cfs) be provided in the months of July through February in a Dry water year type. If the natural inflow above Buck Island Reservoir (as measured in Highland/Rockbound Creek) falls below 1 cfs, a minimum flow requirement of 1 cfs must still be provided.

³ Condition 1 states in part "The minimum streamflows specified in the schedules may be temporarily modified if required by equipment malfunction or operating emergencies reasonably beyond the control of the Licensee [SMUD]. If the streamflow is so modified, the Licensee shall provide notice to the [Federal Energy Regulatory] Commission, USFS [United States Forest Service], USFWS [United States Fish and Wildlife Service], CDFW [California Department of Fish and Wildlife], and the Deputy Director as soon as possible, but no later than 10 days after such incident. The minimum streamflows specified may also be temporarily modified for short periods in non-emergency situations five days after notice to the Commission, and upon approval by the Deputy Director."

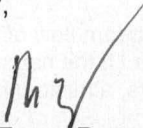
suspend the release requirement below Buck Island Reservoir, which is permitted pursuant to the provision of Condition 1 that allows "minimum streamflows... [to] be temporarily modified for short periods in non-emergency situations five days after notice to the Commission , and upon approval by the Deputy Director." SMUD provided notice to the Commission on October 9, 2014. Due to a lack of inflow from the upper watershed and the associated diminished water storage at Buck Island Reservoir, SMUD's request to suspend the Buck Island minimum instream flow requirement is hereby approved with the following conditions:

- An increase in precipitation in the ensuing months may allow for the minimum instream flows outlined in the certification to be resumed. Immediately following measureable precipitation, signified by an increase in storage and inflow to Buck Island Reservoir, SMUD shall make a determination if the storage in Buck Island Reservoir and inflows will allow for the resumption of the required minimum instream flows detailed in the certification. SMUD shall notify the Deputy Director of its determination within 48-hours and resume the certification minimum streamflows as soon as operationally feasible and no later than 72-hours after an affirmative determination to resume flows. Equipment failure that prevents the remote adjustment of the flow release valve at Buck Island Reservoir may require manual operation of the valve by SMUD staff. If it is unsafe for SMUD staff to reach Buck Island Reservoir within 72 hours due to weather conditions at the time SMUD notifies the Deputy Director with an affirmative determination, SMUD shall include in the determination the timeframe in which SMUD can safely make adjustments to the Buck Island Reservoir outlet.
- The previous notification to the Commission shall be modified and resubmitted to the Commission to reflect the terms of this conditional approval.

If you have questions regarding this letter please contact Mr. Michael Maher, Project Manager, by phone: (916) 341-5408, or email: michael.maher@waterboards.ca.gov. Written correspondence should be directed to:

State Water Resources Control Board
Division of Water Rights
Water Quality Certification Program
Attention: Michael Maher
P.O. Box 2000
Sacramento, CA 95812-2000.

Sincerely,



Barbara Evoy, Deputy Director
Division of Water Rights

(cc: on the next page)

OCT 20 2014

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

Mr. Adam Laputz
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Laurence Crabtree, Forest Supervisor
El Dorado National Forest
100 Forni Road
Placerville, CA 95667

Susan K. Moore, Field Supervisor
US Fish and Wildlife Service
2800 Cottage Way, Rm. W-2605
Sacramento, CA 95825

Anna Ewing, Senior Environmental Scientist Specialist
California Department of Fish and Wildlife
1701 Nimbus Road
Rancho Cordova, CA 95670