RECOMMENDED ACTION AND JUSTIFICATION: Review and approve the pre-application document (PAD) for the Merced Irrigation District’s Merced River hydroelectric project relicensing.

BACKGROUND AND HISTORY OF BOARD ACTIONS: At your Board’s October 7, 2008 meeting you received the recommendations from the Water Advisory Board for comments to the Merced Irrigation District’s relicensing to be submitted on a pre-application document. Your Board’s comments from that meeting have been incorporated in this draft. Also attached are comments submitted to the Water Advisory Board as well a listing of the preliminary issues already designated to be considered as part of the district’s relicensing project.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION: it is possible that some of the Board’s concerns will not be addressed in the upcoming relicensing hearing.

Financial Impact? ( ) Yes (x) No Current FY Cost: $  
Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded  
Amount in Budget: $  
Additional Funding Needed: $  
Source:  
Internal Transfer  
Unanticipated Revenue  
Transfer Between Funds  
Contingency  
( ) General  ( ) Other  

CLERK’S USE ONLY:  
Res. No.: 985  
Vote – Ayes: 5  
Noes:  
Absent:  
Approved  
Minute Order Attached  ( ) No Action Necessary  
The foregoing instrument is a correct copy of the original on file in this office.  
Date:  
Attest: MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California  
By: Deputy  

COUNTY ADMINISTRATIVE OFFICER:  
Requested Action Recommended  
No Opinion  
Comments:
MARIPosa COUNTY water agency

Minute Order

To: Richard J. Benson, CAO

From: Margie Williams, Clerk of the Board

Subject: Review and Approval of the Pre-application Document (PAD) for the Merced Irrigation District’s Merced River Hydroelectric Project Relicensing

Resolution Wa 08-6
Board of Supervisors Resolution 08-485

The Water Agency of the County of Mariposa, California,

Adopted this Order on October 14, 2008

Action and Vote:

11:00 a.m. Mariposa County Water Agency
(Chair – Director Aborn; Vice-Chair – Director Turpin)

A. Public Presentation – none.

B. Review and Approval of the Pre-application Document (PAD) for the Merced Irrigation District’s Merced River Hydroelectric Project Relicensing (County Administrative Officer/Personnel/Risk Manager)
(Continued from October 7, 2008)

Water Agency Action: Rick Benson advised that the comments on the PAD have been revised to reflect the direction given by the Water Agency on October 7th. Mark Rowney, MPUD General Manager, reviewed the revisions and discussion was held. Thomas P. Guarino, County Counsel, responded to questions relative to the comments and the process. Director Pickard suggested that support for the educational kiosk be included for purposes of including the County’s history. Rick Benson suggested that a separate letter could be sent relative to the Board’s interest.

Input from the public was provided by the following:

Michael Martin, member of the Merced River Conservation Committee, noted that he has already provided input on the fisheries and economic potential for the County. He invited everyone to attend a workshop on the FERC relicensing that the Committee is hosting at the Midpines Community Center on October 21st. He recommended that the Agency adopt a stronger position; and he advised that he emailed suggested language changes to the Directors for their consideration.

Ralph Mendershausen, member of the Merced River Conservation Committee, provided input on the comments and stated he feels that Agency should be stronger about welcoming the study on the fisheries.

Paul Chapman stated he feels that Mark Rowney has done the best with the comments; and he feels that everything should be left open for studies.

Further discussion was held with Mark Rowney. (M)Turpin, (S)Pickard, Water Agency Res. 08-6 was adopted approving the PAD as presented. The motion was amended by the second, agreeable with the maker, to include direction that the correspondence received from Mr. Martin and Mr. Mendershausen that
are referred to in the PAD be included as attachments/Ayes: Unanimous. Director Bibby asked about the status of receiving an update from Attorney Tiedemann; and County Counsel responded that information has been provided to the Directors as attorney/client privilege. Mark Rowney advised that MID has set November 3rd as the date for their submittal of the relicensing application and has scheduled a meeting for December 8th.

11:43 a.m. The Board of Supervisors reconvened.

Review and Approval of the Pre-application Document (PAD) for the Merced Irrigation District’s Merced River Hydroelectric Project Relicensing (County Administrative Officer/Personnel/Risk Manager) (Continued from September 23, 2008)

**BOARD ACTION:** Supervisor Pickard suggested that information be added to the cover letter describing the relationship between the Board of Supervisors as the legislative body and sitting as the Board of Directors for the Mariposa County Water Agency. (M)Pickard, (S)Aborn, Res. 08-485 was adopted approving the PAD, with the inclusion of the information suggested by Supervisor Pickard. Supervisor Turpin asked that the PAD also be sent to Attorney Tiedemann. Ayes: Unanimous.

Cc: MPUD
Board of Supervisors
Dana Hertfelder, Public Works Director
File
October 14, 2008

Mr. Ted Selb
Merced Irrigation District
Box 2288
Merced, CA 95344

REF: FERC LICENSE 2179 - PRELIMINARY APPLICATION DOCUMENT (PAD)

Dear Mr. Selb:

Thank you for the opportunity to review and comment on the referenced PAD. Mariposa County Staff, the Mariposa County Water Agency Advisory Committee, and private citizens have provided information concerning Mariposa County's interest in the referenced project. It should be noted that the Mariposa County Board of Supervisors also sits as the board of the Mariposa County Water Agency. As such, this PAD reflects the concerns and comments of both Mariposa County and the Mariposa County Water Agency.

The entire project is located within Mariposa County. Mariposa County has listed some resources and services that are affected by the project that the County wishes to study further with a review of current and potential impacts with MID. In addition, there may be other studies and investigations that evolve as the project progresses. Mariposa County is interested in participating in those studies and investigations, as well. The Mariposa County Water Agency has received reports regarding fish restoration and historical and cultural resources. Those reports are attached for your reference.

The County and MID have entered into agreements (commonly referred to as the 1960 and 1990 agreements) which address water resource development on the Merced River (including tributaries), and hydroelectric facilities. These agreements are included in Technical References/Water Resources of the PAD. Mariposa County generally supports the re-licensing project and looks forward to a positive working relationship with MID.

Mariposa County - An Equal Opportunity Employer
Please include this letter and attachments as additional response to the PAD questionnaire dated June 13, 2008.

Thank you,

LYLE TURPIN
Chairman
Mariposa County Board of Supervisors

BRAD A. ABORN
Chairman
Mariposa County Water Agency

LT/RB/mj
Enclosures

Bc:
Richard J. Benson, CAO
MPUD
Board of Supervisors
Dana Hertfelder, Public Works Director
Edward J. Tiedemann, Esq.
**RESOURCE**  
Public Safety  

**PROJECT/DEPARTMENT**  
Mariposa Co. Sheriff  

**ISSUE**  
Boating Safety/Law Enforcement

The entire project area is located within Mariposa County. The Mariposa County Sheriff's Office (MCSO) provides boat patrol on Lake McClure, law enforcement, radio dispatch, grant administration, search and rescue and coroner services within the entire project area. The operation of Sheriff's services in the project area is paid for through the General Fund of the county with some funding from the State of California for the boat patrol specifically. The current project creates a significant demand on MCSO services that may not be adequately addressed. Additional recreational enhancements project improvements that may result from re-licensing requirements will further impact the MCSO resources. Further study by the MCSO and MID should take place as the re-licensing progresses.

**RESOURCE**  
Fire  

**PROJECT/DEPARTMENT**  
Mariposa Co. Fire  

**ISSUE**  
Fire Protection

The Mariposa County Fire Department (MCFD) provides fire protection services and emergency medical response (EMS) to the project area. The general operation of the MCFD is funded primarily through the general taxes collected within the entire county. In addition to the MCFD general operation, Mariposa County has established an assessment district adjacent to the project area to fund a contract with Cal Fire (Amador plan) for enhanced fire protection in the area. The impacts of the current project and potential impacts from future operations of the project including mitigation measures and additional FERC license requirements for the project will affect the MCFD operations. Further study by the MCFD and MID should take place as the re-licensing progresses.

**RESOURCE**  
Emergency Medical  

**PROJECT/DEPARTMENT**  
Mariposa Co. Health  

**ISSUE**  
Ambulance services

Ambulance services in the project area are provided by a Mariposa County subsidized private ambulance company. The ambulance service like other public safety services is available 24 hours per day, 7 days a week. The project clearly benefits from the ambulance service. Further study by Mariposa County and MID of current and potential impacts of the project on ambulance service should take place.
The Mariposa County Dept. of Public Works is responsible for the maintenance of most public roads with the exception of State highways within Mariposa County. All vehicle access to the project is provided by the Mariposa County road system. Funding for the maintenance of the road system is provided through special State and Federal transportation funding programs with augmentation from the general fund of the county. The current project creates a significant impact on roads in the area, including Hornitos Road, Merced Falls Road and Ranchita Drive to name a few. Additional recreational enhancements and project improvements that may result from re-licensing requirements will add additional use and accelerate deterioration of the county roads in the project area. Additional study by the Mariposa Dept. of Public Works and MID should take place during the project re-licensing process.

In the past there has been health Department responses required concerning environmental health issues within the project area. When the project impounded water is used recreationally there have been some infectious disease events that have required Health Dept. Staff response and investigation. Similar to other County provided public safety services, the Health Department must be available to all areas of the county. An assessment of the Health department services provided within the project area should be evaluated by MID and Mariposa County.

In addition to the specific government services discussed above, there may be impacts to other government programs. Other programs may include the court system, probation, planning, building permits and social services to name a few. Mariposa County wishes to review all local government programs with MID and determine the "project" impacts, if any, on all public services the county provides.
RESOURCE  PROJECT/DEPARTMENT  ISSUE
Water  Farm Advisor/Administration  Water Resources for Agricultural & Domestic Needs

The agricultural industry and domestic water supply within Mariposa and Merced County is heavily dependent on the water resources of the Sierra Nevada with the Merced River watershed as the most significant surface water asset. Mariposa County is interested in maintaining the current progressive relationship with Merced Irrigation District concerning surface water resources that originate in Mariposa County and benefit both the Merced and Mariposa areas. The Mariposa County Board of Supervisors wish to review the current condition and potential future benefits to both MID and Mariposa County of this valuable resource.

RESOURCE  PROJECT/DEPARTMENT  ISSUE
Fisheries  Administration  Anadromous Fish /Enhanced Fishery

Current Pad responses include recommendations for the study of project effects on the Merced River as a fishery as well as investigations into the feasibility of re-introducing migratory anadromous fish to the “upper” Merced River. Mariposa county has also been provided with a presentation concerning the investigations and the potential fishery enhancement. Mariposa County wishes to be involved in these analyses and decisions when such studies take place as the upper Merced River is entirely within the County.

RESOURCE  PROJECT/DEPARTMENT  ISSUE
Cultural  Administration  Undocumented and or Inundated Resources

Mariposa County has been provided a presentation concerning a proposal for the inventory of historic and archaeological sites in the project area as well as the “upper” Merced River. These resources are of special interest to Mariposa due to the County’s well known rich historical background. Mariposa County wishes to participate in the investigations and analysis of historical and cultural resources when conducted. Mariposa County should be involved in the investigations of these important resources.
Hi Mark:

Here is a little summary of the Merced River Fish Restoration:

As far as my vision for "Merced River fish restoration", I have two points of focus: Upper and Lower river restoration.

LOWER MERCED RIVER: The FERC facilities break the river in 1/2 (since the dams are located between River Mile 52 [Crocker Huffman Diversion] and about RM 62.5 [New Exchequer Dam]). The basic premise here is to adopt a Protect-Reconnect-Restore approach, which provides a general model based on accepted principles of conservation biology and restoration ecology. This approach has been tailor-made to the specific needs of each endangered or threatened populations (Steelhead trout, spring-run Chinook salmon, and fall-run Chinook salmon). Successful restoration must treat the root causes of the decline, not just the symptoms, and be implemented at the scale of entire watersheds (Williams et al. 1997). Monitoring and adaptive management is the final necessary strategy that will ensure that we continue to learn and adapt to the uncertainties of a growing human population and changing climate. This is the basic approach to salmon restoration in the Northwest US in Oregon and Washington, and is totally applicable to the Merced River. The restoration portion of the headwaters of the Merced as spawning and rearing habitat is probably as protected as it can be, with the YNP and Wild & Scenic designations, so item one is taken care of. Reconnect is a much more difficult problem, as there are some major engineering hurdles. There has never been a fish ladder built on any dam anywhere as large as New Exchequer. So the alternative is likely "Trap and Truck", AND provide downstream migration bypassing (herding smolts and jacks, and young steelhead into bypass structures to avoid turbine mortalities with suitable flows and minimal diversions or protected diversions). If this reconnection is made, then the genetic interchange between ocean reared stocks and headwater stocks can occur, and this is what used to happen before the dams, diversions, and blockages occurred. And there needs to be Restoration of original Merced River-origin fishes (with Steelhead it is possible that there are relictual populations in streams that have not been genetically contaminated with DFG planting programs). Spring-run Salmon and Fall-run Salmon genetics are nowhere as politically "hot" an issue, and there is a very small fall-run Chinook salmon population in the lower Merced, and there is a plan for re-establishing a spring run in the San Joaquin River, below Friant Dam (if they can raise the $1.5 b to fund it).....if that occurs, it would be likely that a spring run could get going in the Merced. In the lower reaches (below RM 52 in Merced County), there are a series of projects, involving the US F&WS Anadromous Fish Restoration Project, National Marine Fisheries Service, and California Department of Fish and Game, and Department of Water Resources, that needs to continue, and be enhanced. Water flows in the lower river (increases in releases and decreases in diversions) are argued the biggest impediments to fish restoration (and passage and water quality conditions) in the lower River. The opportunity for further protection of this lower section is hugely limited by the confined nature of the river (in levees and no natural floodplains), private ownership of all of the properties right up to the streambank, and the lack of flood flows for gravel replenishment and riparian habitat improvements. This lower section of the basin includes not only the lower Merced River, but also the San Joaquin River, and the Bay Delta. New water initiatives for the Bay Delta are critical for the restoration of the anadromous fishes of the Sacramento-San Joaquin Rivers.

UPPER MERCED RIVER: Restoration of the upstream sections of the populations should be enhanced by planting and managing an upstream population from Lake McClure. There needs to be an evaluation of the amount of habitat, barriers (being done by Merced Irrigation District), water quality, condition of ecosystem, and costs, but I think from my research, that this could be easily accomplished for between $500-900 k per annum for about 40 years (the upper river Restoration projects). It would also need to involve monitoring and adaptive management. As far as restored fisheries, the adaptive management of the lower Sacramento River and the lower American River house multimillion dollar year round Steelhead...
trout, resident trout, and fall-run Chinook salmon fisheries, when conditions are better (not this year, as the entire system is closed because of horrible returns of fall-run Chinook salmon in the Sacramento-San Joaquin system. The next two years look equally miserable). My April 2007 report also details fisheries of Pyramid Lake, NV and the Crowley Lake-upper Owens Rivers, which have been 1) a restored fishery that was brought back from the dead, and 2) Crowley which had no native salmonid and they were successfully introduced.

BENEFITS TO MARIPOSA COUNTY: Fishery associated recreation creates a economic stimulus to rural areas. The Transit Occupancy Tax will benefit from a restored salmonid fishery in the Upper Merced River. Federal and State fishery agencies have indicated support for such projects and the concept of a restored anadromous fishery in the Merced River, as well as other FERC relicensings (Bear-Yuba, Oroville, Klamath). In other basins (Pyramid Lake) and Crowley, the annual expenditures in each fishery are $9.0 M and $39 M annually, respectively. The non-local recreational angler in California spends an average of $250 per day for food and lodging, and fishing equipment. If there were 400 anglers per day, that would generate $100,000 per day IN LOCAL REVENUES to local merchants on which there is TOT generated to Mariposa County. If this were a destination fishery, like the lower Sacramento River, Pyramid Lake, or Lake Crowley, I think that county government (and the Mariposa Economic Development Council and Tourism Board) should be supporting such an effort.

See you at the meeting tomorrow.

Michael
Subject: My comments to the MID scoping meeting in Merced 7-23

INVENTORY OF HISTORICAL AND CULTURAL RESOURCES:

I also wish to see MID do an inventory of historic and archaeological sites on its properties. These may have never been properly documented and inventoried. I did the Mariposa County Historic Sites Survey in 1980/81 but I did not cover anything between Bagby and Mt. King Mine. The "Great Tunnel Mine" at Bagby should be one of your historic sites to document and inventory as it is an amazing but failed engineering gamble from the 1870's. It sits next to your parking lot and has a (for Mariposa County) rare old stone building intact beside it. MID has the makings of a visitor center and information center with the history and pre-history of "Benton Mills". This area was remarkable for its historic significance in the development of Mariposa County. At present that significance is largely obscured by the presence of the lake and parking lot. The parking lot at Bagby is part of your lake management and your generation process. There are sites further up the lake from Bagby and within your management area which show distinct signs of gold rush history. These should be inventoried, photographed and described by those competent in such matters. They should also be mapped and interpreted, and where possible linked to the local history. It is not possible to interpret these historic sites without also noting the pre-history (Native American) of the same places. That covered or flooded history, which MID's lands and waters now include should be mitigated with a conscientious effort at documentation, interpretation and preservation.

Aside from an inventory of cultural and historical resources, MID should explore the possibility of an interpretive center with Mariposa County or an arm of it such as its Historic Sites and Records Commission. Such a center should be located on MID property at Bagby and be part of the experience people enjoy on site.

In my view this site is one of the most significant in understanding the history and development of Mariposa County. It is hard to overstate this importance. This historic centrality of the site to the surrounding area is presently obscured and largely invisible. Appropriately, the central aspect of the site's historical importance since Fremont's time has been power generation. MID's project is clearly connected to the matters of a healthy watershed and recreation. It is just as connected to the history of the region.

NON-MOTORIZED TRAILS:
Merced Irrigation District should also be a good neighbor in its approach to recreation. Its recreational facilities can and should be seen in the context of up and downstream movement. As the population of the surrounding area grows there will be an inevitable need for outstanding recreational experience. A trail system for non-motorized use from Merced to Yosemite would be such an experience. MID should explore the possibilities of expanding its recreational
offerings to facilitate or be part of a regional system of non-motorized trails. At present many miles of historic trails lie under the waters of Lake McClure.

These suggestions are made in the interest of a healthy and integrated watershed. The health, conservation, and respect for our resources are part and parcel of their effective exploitation. **MID needs to see itself as an active player in the broader Merced River conservation effort.**

Ralph Mendershausen
PRELIMINARY ISSUES LIST

1.0 Preliminary Issues List

The preliminary issue list below was developed by meeting participants at July 23 and August 13, 2008 Agency/Public meetings for Merced Irrigation District’s (Merced ID or Licensee) Merced River Hydroelectric Project Relicensing.

Prior to development of the list at each meeting, Licensee said that: 1) all Relicensing Participants should understand that the list is preliminary; 2) because an issue is placed on this preliminary list at one of the meetings, Relicensing Participants should not infer that Licensee concurs that the issue should be addressed in the Relicensing. Licensee may conclude that an issue does not result from a Project effect, or is otherwise outside the scope of the Relicensing; 3) Licensee would include the preliminary issues in its Pre-Application Document; and 4) Licensee may edit any individual preliminary issue identified at a meeting to be more clear than what was quickly recorded on a flip chart during the meeting.

To facilitate presentation of the preliminary issues, Licensee has applied an alpha-numeric designation to each.

1.1 Geology and Soils

G&S-1 Effect of the Project on geomorphologic processes, including sediment and gravel transport in the Merced River both upstream and downstream of Lake McClure

G&S-2 Effect of Project on mining, including effect on opportunities for mining downstream of the Project

1.2 Water Resources

WR-1 Effect of the Project on water flow in the Merced River downstream of Crocker-Huffman Diversion Dam

WR-2 Effect of the Project on Merced ID’s water transfers (i.e., Merced ID’s opportunistic sale of water to a third party downstream of the Project)

WR-3 Effect of the Project on compliance with the SWRCB’s Basin Plan

WR-4 Effect of the Project on compliance with the SWRCB’s Clean Water Act Section 303(d) List of Total Maximum Daily Load (TMDL) Priority Schedule

WR-5 Effect of the Project on water quality due to Project recreation

WR-6 Effect of the Project on water quality due to the use of pesticides and rodenticides

WR-7 Effects of the Project on instream flow and water quality/quantity

WR-8 Effect of global warming on water supply and storage, and in particular how water will be distributed in the future (e.g., for irrigation, power, and recreation)
1.3 **Aquatic Resources**

AR-1 Effect of the Project on coldwater fishes in the Merced River watershed
AR-2 Effect of the Project on trout and salmon upstream of Lake McClure, including the populations and fishing
AR-3 Effect of the Project on warmwater fishes in Lake McClure and upstream of Lake McClure
AR-4 Effect of the Project on fishes due to entrainment into Project intakes
AR-5 Effect of the Project on special-status fishes including blockage of passage for Fall- and Late Fall-Run Chinook salmon (NMFS Species of Concern)
AR-6 Effect of the Project on special-status amphibians and aquatic reptiles and aquatic invertebrates
AR-7 Effect of the Project on benthic macroinvertebrates
AR-8 Effect of the Project on the spread of invasive aquatic species, such as the zebra mussel
AR-9 Effect of the Project on fish and wildlife management

1.4 **Wildlife Resources**

WI-1 Effect of the Project on special-status wildlife species
WI-2 Effect of the Project on nesting raptors due to drowning as Lake McClure water surface elevation rises in the spring
WI-3 Effect of the Project on deer and CDFG harvest/game species

1.5 **Botanical Resources**

BR-1 Effect of the Project on special-status plant species, including plants listed by BLM as Rare

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1 For the purpose of the Relicensing, Licensee considers a special-status fish, aquatic species and wildlife species to be those species: 1) found on public land administered by the United States Department of Interior, Bureau of Land Management (BLM) and formally listed by BLM as a Sensitive Species; 2) listed by the National Marine Fisheries Service on its List of Species of Concern; 3) listed under the federal Endangered Species Act (ESA) as Proposed or a Candidate for listing as endangered or threatened or proposed for delisting; 4) listed under the California Endangered Species Act (CESA) as Proposed or a Candidate for listing as endangered or threatened or proposed for delisting; or 5) formally listed by California Department of Fish and Game as a Species of Concern. Species listed as threatened or endangered under the ESA or CESA are addressed separately in the Relicensing and are not considered special-status for the purpose of the Relicensing proceedings.

2 For the purpose of the Relicensing, Licensee considers a special-status plant species to be those plant species: 1) found on public land administered by BLM and formally listed by BLM as a Sensitive Species; 2) listed under the ESA as Proposed or a Candidate for listing as endangered or threatened or proposed for delisting; 3) listed under the CESA as Proposed or a Candidate for listing as endangered or threatened or proposed for delisting; or 4) found on the California Native Plant Society (CNPS) Inventory of Rare Plants and formally listed as a CNPS 1 or 2 plant (CNPS1 or CNPS2). Plants listed as threatened or endangered under the ESA or CESA are addressed separately in the Relicensing and are not considered special-status for the purpose of the Relicensing proceeding.
BR-2 Effect of the Project on the spread of noxious weeds (One meeting participant suggested target noxious weeds should include those listed as A, B and C on CDFA’s List of Noxious Weeds, and as A-1, A-2 and B on CalEPPC’s List of Exotic Pest Plants of Greatest Ecological Concern.)

BR-3 Effect of the Project on special-status, protected arboreal trees

1.6 Riparian, Wetland and Littoral Habitat

RW&L-1 Effect of the Project on the extent and quality of riparian habitat, upland wetlands and 100-year floodplain including downstream of Crocker-Huffman Diversion Dam

RW&L-2 Effect of the Project and Project recreation on wildlife habitat due to encroachment into riparian habitat

1.7 Federal and State Threatened and Endangered Species

T&E-1 Effect of the Project (e.g., physical barriers) on upstream and downstream migration of ESA- and CESA-Listed anadromous fishes, including Spring-run Chinook salmon (FT and CT) and Central Valley steelhead (FT)

T&E-2 Effect of the Project on ESA- and CESA-Listed anadromous fishes due to water temperature

T&E-3 Effect of the Project on ESA- and CESA-Listed anadromous fishes due to attraction flows

T&E-4 Effect of the Project on ESA- and CESA-Listed anadromous fishes adult holding habitat, juvenile holding habitat, and spawning habitat

T&E-5 Effect of the Project on ESA- and CESA-Listed anadromous fishes due to stranding

T&E-6 Effect of the Project on California red-legged frog (FT)

T&E-7 Effect of Project on Valley elderberry longhorn beetle (FT)

T&E-8 Effect of the Project on limestone salamander (CT and CFP), including on BLM’s Limestone Salamander Area of Critical Environmental Concern

T&E-9 Effect of the Project on bald eagle habitat (CE)

T&E-10 Effect of the Project on ESA-listed wildlife species

T&E-11 Effect of the Project on ESA-listed botanical species

T&E-12 Effect of the Project on CESA-listed and Fully Protected wildlife species

T&E-13 Effect of the Project on CESA-listed botanical species

T&E-14 Effect of CDFG’s Merced River Fish Hatchery on anadromous fishes

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3 For the purpose of the Relicensing, Licensee considers a T&E species to be one that is formally listed as threatened or endangered under the ESA (referred to herein as FT or FE, respectively) or threatened or endangered under the CESA (referred to herein as CT or CE, respectively). In addition, to CESA, California Department of Fish and Game affords special protection to some fish and wildlife species, referring to them as "fully protected" or "protected" (CFP and CP, respectively). CFP designations for fish are authorized under the California Fish and Game Code § 5515 and California Code of Regulations, Title 14, Division 1, Chapter 2, Article 4, Section 5.93. CFP designations for amphibians and reptiles are authorized under § 5050 of the Fish and Game Code. The Code of Regulations, Title 14, Division 1, Chapter 5, authorizes CP designations for both amphibians (Section 41) and reptiles (Section 42). Species listed as CP or CFP are treated in this section of the PAD.

August 13, 2008 Preliminary Issues ©2008, Merced Irrigation District Page 3 of 10
Effect of the Project on prior T&E agreements, potential for Project to enter into Safe Harbor Agreements, and for development of Habitat Conservation Plans and Natural Community Conservation Plans

Effect of the Project on operations of both CDFG’s Merced River Fish Hatchery and privately-owned fish hatcheries with regards to anadromous fishes, recreation, aquatic resources, wildlife (e.g., netting of birds), and chemical eradication of native species

1.8 **Recreational Resources**

Effect of the Project (including loss of trails during initial Project construction) on the local recreation trail system, including connectivity with existing and proposed trail systems

Effect of the Project on river boating and general river recreation opportunities, including access for general recreation, fishing and hunting

Effect of the Project on opportunities for recreation due to Project reservoirs

Effect of the Project on recreation due to the level of use and/or quality of Project recreation facilities, including ADA accessibility and condition and capacity of recreation facilities

Effect of the Project on recreation due to changes (i.e., increase) in amount of water diverted for power generation

Effect of the Project on public safety (i.e., exposure of boating hazards) if Lake McClure is lower under new license than it is under the existing license

Effect of the Project on recreation/fishing access and recreation values downstream at Crocker-Huffman Diversion Dam

Effect of the Project on anadromous fishery downstream of Crocker-Huffman Diversion Dam during the fishing season

Effect of the Project on BLM’s road systems, including OHV access

Effect of the Project on whitewater boating opportunities in the Merced River

Effect of the Project on public access to and transit on historical trails and banks of the Merced River

1.9 **Land Use**

Effect of the Project on Lake Don Pedro Community Services District infrastructure (i.e., past, present and future effects)

Effect of the Project on Mariposa County infrastructure (i.e., past, present and future effects)

Effect of the Project on agriculture including irrigation, historical agriculture use, and grazing

Effect of the Project on groundwater pumping in the Merced groundwater basin due to anticipated reduction in diversions for agriculture

Effect of the Project on aggregate mining (e.g. Did and will Project create demand for aggregate mining?)
Effect of the Project on Wild and Scenic Rivers, including the effect if Merced ID raises Lake McClure's normal pool level

Effect of the Project on need for housing and commercial development in the area

Effect of the Project on fuel loads on federal, State and Project property

1.10 Socio-economic Resources

Effect of the Project on county community services, such as for fire, law enforcement and emergency response (i.e., past, present and future effects)

Effect of the Project on existing agreements with PG&E and County of Mariposa

Effect of the Project on State of California services, such as those provided by CalFire and California Boating and Waterways

Effect of Project on economic development of local communities, such as those in Mariposa County

Effect of the Project on the case load of local, State and federal courts

1.11 Visual Resources

Effect of the Project on the viewscape (i.e., loss of viewscape)

Effect of the Project on visual quality due to reservoir drawdown

Effect of the Project on visual quality due to construction debris and garbage

1.12 Cultural Resources

Effect of the Project on the historic sites such as Bagby

Effect of the Project on pre-historic and historic cultural resources/properties

Effect of the Project on public access by Tribe members to and transit on trails and banks of the Merced River used by Tribes

1.13 Tribal Interests

Effect of the Project on traditional/tribal spiritual areas and other traditional uses in the FERC Project Boundary and adjacent locations. These include, but are not limited to: uses of geologic formations (i.e., landmarks); retrieval of fish for both ceremonial and spiritual purposes; gathering of plants for food, medicinal purposes and traditional uses (e.g., basket making); and use of signal points including sightlines for fire signals.

Effect of the Project on sensitive ethno-botanical/limestone cave species, and historic and prehistoric use of the caves

1.14 Noise

Effect of the Project on local noise levels
2.0  Process Issues

During the July 23, 2008 Agency/Public meeting, some meeting participants expressed concerns about some process issues. These are listed below.

- Interagency Task Force [Following the meeting, Eric Theiss, NMFS, sent to those on the Relicensing Contact List a link to the Internet Site where the information can be found.]
- Coordination with the CFQA process for the Clean water Act Section 401 Water Quality Certificate [At the August 13 meeting, Licensee explained the expected timing of the NEPA and CEQA processes.]
- Draft communication guidelines to be sent to both agencies and NGO’s [Following the meeting, Licensee sent a draft Relicensing Communication Guidelines to those on the Relicensing Contact List and posted the draft guidelines on the Relicensing Website.]
- Timing of notification for Relicensing meetings and types of meetings [This is addressed in the Communication Guidelines referenced in the previous bullet.]
- Timing of PAD submittal, in particular with regards to study proposal development [At the August 13 meeting, Licensee said that it would delay filing of the NOI and PAD from early September to late October 2008 in response to requests at the July 23 meeting. Licensee also explained it planned to initiate study proposal development within a few weeks of PAD issuance, based on “straw man” detailed study proposals that Licensee will include in the PAD.]

3.0  Meeting Participant Proposed Studies

While discussion of studies was not on the agenda for the July 23 or August 13, 2008 Agency/Public meetings, some meeting participants described studies they felt should be performed. Licensee agreed to include this list with the preliminary issues list form the meetings, but stated that listing of the study here should not be inferred to mean that Licensee proposes the study or plans to conduct it under Relicensing. Licensee may conclude that the study is not related to the Project, or is otherwise outside the scope of the Relicensing. The studies are:

- Describe Merced ID’s noxious weed practices and survey Merced ID property for noxious weeds
- Review history and prehistory of site mills/mines and importance to Mariposa and Merced counties
- Study fish populations and distribution in Project reservoirs and sections of the Merced River upstream and downstream from the Project
- Evaluate channel restoration activities by others downstream of Crocker-Huffman Diversion Dam
- Assess historic water quality studies, including any water quality studies by Merced ID
- Survey cultural resources within the Project area
• Assess interaction between Lake McClure fishery with upstream fishes in the Merced River and tributaries
• Assess effect of the Project on existing macroinvertebrate, phytoplankton and zooplankton communities
• Evaluate current fishery management practices in Lake McClure and McSwain Reservoir, and interaction with fishery management practices upstream and downstream of the Project
• Perform a number of anadromous fish-related studies including:
  o Determine historical extent of anadromy by a fish passage barrier analysis, including upstream of Lake McClure
  o Estimate the number of anadromous fish that would be produced by the watershed without the Project
  o Measure year-round water temperatures from the Old River confluence to the historical extent
  o Calculate the potential for recreating the same numbers and life-history types of anadromous fishes in the lower Merced River through natural production
  o Evaluate the potential for passage of fish from downstream to upstream of Lake McClure
  o Perform a feasibility study for fish passage at Crocker-Huffman Diversion Dam, Merced Falls Dam and McSwain Dam each
  o Determine the effect of the existing CDFG Merced River Fish Hatchery on the Merced River natural populations, and potential enhancement opportunities
  o Evaluate the potential of implementing state-of-the-art mitigation and/or conservation hatchery practices on production of anadromous fish
  o Calculate the amount of water diverted from the Merced River annually through Project and non-Project structures
  o Evaluate the potential to reduce water diversions out of the Merced River through conservation measures
  o Evaluate existing Merced River anadromous fish restoration programs and anadromous fish status
• Evaluate land management (i.e., recreational management) of Project lands
• Evaluate adequacy of existing Project recreation facilities, opportunities, and access to address current and future demand
• Evaluate need to improve Project maintenance and clean-up activities
• Evaluate current and future recreation management approaches, funding and structure.
• Evaluate appropriate and compatible use of Project lands for public use/access, open space, recreational uses and cultural values
• Evaluate potential for integrating land uses by acquiring or removing lands to meet Project goals for appropriate and compatible land uses
• Evaluate funding and staffing to address land management needs for Project lands.

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4 Following the July 23, 2008 meeting, Michael Martin provided additional specificity via e-mail regarding his study recommendations, many of which pertained to anadromous fish. This can be viewed on the Licensee’s Relicensing Website (www.merced-relicensing.com), under “Correspondences,” on the Quick Launch bar. Open the folder named “NGO - Merced River Conservation Committee,” and click on the file named “2008 - 0725 – M. Martin, Summary of Study Recommendations.”
Evaluate existing and future fuel loads on State, Federal and Project properties, current fuel management practices, and coordination with other landowners.

Evaluate positive and negative effects of reservoir drawdown on visual quality of Lake McClure.

Evaluate effects of Project construction debris, garbage, and invasive species on the appearance of the Project area.

Evaluate appropriate Project landscaping, restoration, preservation and vegetation and facilities management/maintenance programs for aesthetic enjoyment.

Evaluate the effect of existing and future Project features and land uses on the aesthetic quality of the Project area.

4.0 Meeting Participant Proposed Measures

While discussion of potential new license conditions was not on the agenda for the July 23 and August 13, 2008 Agency/Public meetings, some meeting participants described measures they would like to be included in a new license for the Project. Licensee agreed to include this list with the preliminary issues list, but stated that listing of the measures here should not be inferred to mean that Licensee plans to propose them for inclusion in the new license. These measures are:

• New Bagby historic town site interpretive center
• New trails connecting existing trails and including cultural sites (One meeting participant suggested new 19.5 miles of trails since they thought that was the length of trail inundated by the Project when the Project was initially constructed. Another meeting participant suggested completing the Merced River Trail from Bagby to El Portal, and restoring the historic South Fork Trail from the main stem of the Merced River to Highway 41.)
• Raptor management plan
• Wildlife management plan
• Upstream and downstream fish passage facilities for anadromous fish migration at Crocker-Huffman Diversion Dam, Merced Falls Dam, McSwain Dam, and New Exchequer Dam (later may not be a facility but other mechanism)
• Expansion of river boating opportunities
• Augmentation of flow for variety of recreational activities, such as boating
• Enhancement of river boating access
• Enhancement of existing recreation facilities, including for access
• Enhancement of recreational wildlife viewing
• Interpretive center and other interpretive items such as pamphlets, kiosks and signage
• Special landscaping and campgrounds
• Enhancement of angling/hunting access and opportunities
• New ADA accessible fishing platforms
• Conversion of the CDFG’s Merced River Fish Hatchery to a mitigation and/or conservation fish hatchery
- Coordinated management of fuels on federal, State and Project property with local landowners
- Improvement of economic development including recreation-related tourism
  - Improve economic development through facilitation of Project recreation-related tourism
    - Improve incentives for tourist to recreate at Lake McClure
    - Opportunities for expanded commercialism
    - Opportunities for Project facilities-related (i.e. coldwater and warmwater fisheries) activities
    - Promote and support competitive or spectator sports (fishing tournaments)
    - Promote existing facilities