

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

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Turlock and Modesto Irrigation Districts)
New Don Pedro Project) P-2299
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FRIENDS OF THE TUOLUMNE, INC. (FOT)

Friends of the Tuolumne, Inc. provides these comments on the FERC Order dated April 3, 2008.

We believe the recent FERC order regarding Tuolumne River license requirements failed to consider important issues related to the health of the fishery. One of the first sentences of the Don Pedro Dam operating license states that operations “shall protect the fishery”. The current status of the Tuolumne River fishery is in a state of emergency. Immediate modifications to address them are necessary to prevent irreversible loss of Tuolumne fish species.

The current license does not provide adequate protections for the listed Steelhead (*Oncorhynchus mykiss*). Steelhead are a major species of the Tuolumne River fishery. It is the legal responsibility of the license to protect them. They were unjustly omitted from consideration in the 1995 Don Pedro review/Settlement Agreement . Flow schedules and management practices were not developed to accommodate their unique needs. To date Steelhead have not been adequately recognized or protected.

For these reasons and as expanded upon below we request a re-hearing at the earliest opportunity.

STEELHEAD

While we agree that studying steelhead is of utmost importance, we contend that the normal flows during dry to median dry years will not produce meaningful information. Flows of at least 600 cfs during the full summer for at least two summers in a row are needed to attract steelhead. The two years of studies may not show any meaningful data if summer flows are below 600 cfs. Empirical observations have demonstrated Steelhead populations expand during periods of back-to-back above average flow years where flows remained high in

the summer. A quick review of the Stanislaus River and its flows will demonstrate the inadequacy of the Tuolumne River flows.

The most recent report "Maternal Origin and Migratory History of *Oncorhynchus mykiss* captured in rivers of the Central Valley, California" by Zimmerman, Edwards, and Perry, 2008, documents Steelhead in the Tuolumne River. As signatory to the FERC Settlement Agreement, we remember well that over our objections trout/Steelhead were not discussed during the license re-hearing/ Settlement Agreement of 1995. The license addresses Chinook salmon exclusively. Because the flow schedule addressed only salmon and did not consider the needs of Steelhead, now is the time for FERC to review the needs of steelhead and the flows necessary to sustain a steelhead fishery. The license requires the Districts to protect the fishery, which includes trout and Steelhead. They are currently damaging the trout fishery with summer flows too low to maintain a fishery for 10 miles below the La Grange dam. They have a legal obligation to protect the public trust and the need for trout flows is well known, yet consistently disregarded.

We also request that the Districts fund an additional game warden who would patrol the river from Waterford upstream to the La Grange dam. This warden is necessary considering the dire condition of the Chinook salmon and trout fishery.

PROPOSED STUDIES

We have no expectation that the Districts will find funding sources for their proposed studies. Funding agencies see these studies as a responsibility of the Districts and are reluctant to spend moneys when the Districts have agreed to spend so little of their own. We request that FERC order the Districts to spend their own moneys during the next 10 years under the direction of the Tuolumne River Technical Advisory Committee. With the emergency status of Chinook salmon, recognition of resident Steelhead, and legal responsibility for the public trust, it is reasonable that they spend District funds for studies. With a fixed dollar amount in mind, the Technical Advisory Committee would then have meaningful discussions to determine which studies to perform.

We note that invertebrate surveys will be continued. However, the recent invertebrate surveys have not been analyzed. The surveys have little usefulness at this time. We need the analysis to help determine the health of the river in general and the health of the spawning riffles in particular. We request the FERC order the Districts to analyze completed and future surveys so that the information can be used by scientists managing the river.

FLOWS

Spring flood flows are a critical aspect in the health of the Tuolumne River. These flows are the flood releases above the minimum required flows. During years with flood releases the riparian floodplain is inundated providing multiple benefits to the wildlife, including fry development. We request that these flows be studied and correlated to fish count surveys. The timing of these flood releases should be considered and efforts made to use them for the benefit of the river. At the present time, the releases are done with no regard to beneficial uses.

Steelhead populations have been observed to dramatically expand when flows of 600 cfs and greater extend throughout the summer during two consecutive seasons. During wet years such high flows should become part of the operating license.

CONCLUSION

We respectfully request the FERC to protect the Steelhead by ordering increased flows. The flows in the current license are designed to protect only Chinook salmon and are inadequate for Steelhead. We also respectfully request that the Districts be required to perform the desired studies with their own funding since outside funding is not likely. Included in these studies should be an analysis of the invertebrate surveys, a game warden, and funds to be allocated to specific studies by the Technical Advisory Committee.

Respectfully submitted,

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Directors and Officers of Friends
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and procedure, 128 C.F.F. § 385.2010 (2000).

Dated at Bend, Oregon, this 1st day of May, 2008.

DM Boucher
Allison Boucher

David and Allison Boucher, Officers and Directors

FERC/commnts on Apr 08 Order

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