



State Water Board Water Quality Certification Impacts on Yuba Water

Background, key impacts and timeline

Background

In November 2020, Yuba Water Agency filed lawsuits in both the U.S. District Court and California Superior Court to challenge a water quality certification issued by California's State Water Resources Control Board for Yuba Water's new license for its hydroelectric project, the Yuba River Development Project. The certification has three critical flaws:

- It disproportionately harms Yuba County's disadvantaged communities
- It was created with no collaboration, public process or science and in violation of laws and regulations, and
- Its proposed measures are blatantly unfair to Yuba Water

The State Water Board issued the certification without an application pending, which is required by federal and state law. The Federal Energy Regulatory Commission determined earlier this year that the State Water Board had waived its right to act for this licensing process when it failed to respond within one year of receiving Yuba Water's prior application.

The State Water Board asserts that it issued the certification without a pending application to protect California's interests in the relicensing proceedings. But environmental values were carefully addressed in an extensive, multi-year, open process that Yuba Water already went through to relicense the Yuba River Development Project with FERC.

Fiscal Impact of State Water Board Certification

Yuba Water estimates the impacts of meeting the certification's requirements to range from at least \$500 million to more than \$1 billion in lost revenue and additional regulation over the license's 50-year term. This estimate does not account for how reduced surface water supplies would impact local agriculture, and the resulting groundwater depletion from increased use.

Yuba Water has become a catalyst for public safety and economic growth in a region long impacted by the legacy of devastating flooding. In the last three years alone, **Yuba Water has given \$15.4 million in local grants and \$36.6 million in low-interest loans** to improve levees and reduce flood risk in Yuba County, protect fisheries on the lower Yuba River and to implement regional watershed management solutions, among other critical investments. If implemented, the certification would force Yuba Water to dramatically scale back its local financial commitments.

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November 2020

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Timeline

2017

June 26: FERC issues notice that Yuba Water's new hydropower license for its Yuba River Development Project has been accepted for filing and is ready for environmental analysis.

August 25: Yuba Water files initial application with the State Water Board for water quality certification under Section 401 of the federal Clean Water Act for relicensing of the Yuba River Development Project.

September 21: State Water Board accepts Yuba Water's application for water quality certification and acknowledges deadline of August 24, 2018 for certification action.

2018

May: FERC issues a Draft Environmental Impact Statement for Yuba River Development Project.

August 3: At direction of State Water Board staff, Yuba Water withdraws and refiles an application for water quality certification under Section 401 of the Clean Water Act with the State Water Board.

2019

January: Following extensive public comment and stakeholder engagement, FERC and the U.S. Army Corps of Engineers jointly issue a Final Environmental Impact Statement addressing Yuba Water and public comments on Draft Environmental Impact Statement.

January 25: U.S. Court of Appeals for the D.C. Circuit issues decision in *Hoopa Valley Tribe v. FERC (Hoopa Valley)*, which determines a state waives its authority to impose a water quality certification on a FERC license if it doesn't act within one year of original application, as required by the federal Clean Water Act.

July 31: State Water Board issues a denial without prejudice for Yuba River Development Project three days before one-year deadline for the last application and encourages Yuba Water to submit a new formal application for certification. Yuba Water does not refile, pending its request for clarification by FERC about whether the State Water Board waived its certification authority for the project.

2020

May 21: FERC rules State Water Board waived its right to issue a water quality certification for the Yuba River Development Project's relicensing.

July 17: State Water Board issues a water quality certification for the Yuba River Development Project's relicensing.

August 14: Yuba Water files petition for reconsideration of the water quality certification with the State Water Board.

November 13: Receiving no response from the State Water Board, Yuba Water files lawsuits in federal and state court challenging the water quality certification.



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