



Bringing
Water
Together

December 3, 2020

Submitted via: commentletters@waterboards.ca.gov

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

**Re: Comments – Limited Order for Yuba River Development Project
Certification**

Dear Ms. Townsend,

The Association of California Water Agencies (ACWA) appreciates the opportunity to provide comments on the State Water Resources Control Board's (State Water Board) Draft Order to Amend Condition 23 of Water Quality Certification for the Yuba River Development Project (Draft Order). ACWA represents over 450 public water agencies that deliver approximately 90 percent of the water used for residential, commercial, and agricultural purposes in California.

ACWA urges the State Water Board staff and Board Members to work collaboratively with Yuba Water Agency to address the comments outlined below, as well as Yuba Water Agency's specific concerns with the July 17, 2020 water quality certification (certification).

Comment 1 – ACWA Questions How the State Water Board Could Issue a Water Quality Certification without a Pending Application for the Certification.

ACWA's understanding is that the Yuba River Development Project does not currently have an application pending with the State Water Board and did not have one pending when staff issued the water quality certification. This is a fundamental issue for the issued certification.

Comment 2 – The State Water Board Regulatory Processes Should Be Open and Transparent. Staff Issued the Water Quality Certification as a Final Document without Opportunity for Comment on a Draft of the Certification.

The State Water Board should ensure that regulatory processes, including the issuance of water quality certifications, are developed in an open and transparent manner that

allow for public engagement. Water quality certifications can result in significant costs and operational impacts to public water agencies. In this case, ACWA's understanding is that staff did not make a draft of the certification available for public comment prior to issuing the final certification. ACWA urges the State Water Board to consider Yuba Water Agency's request that the State Water Board withdraw and vacate the certification and engage with Yuba Water Agency to better understand and attempt to resolve specific concerns with the certification and move forward with a more transparent process. Additionally, ACWA urges the State Water Board to: 1) review its existing processes for the issuance of water quality certifications; and 2) identify and act on opportunities to improve transparency and the opportunity for public engagement.

Comment 3 – The Certification Should Not Act as a Barrier to the Achievement of the Voluntary Agreements and the Ongoing Implementation of the Yuba Accord

Governor Newsom's *Water Resilience Portfolio* recognizes that the Voluntary Agreements (VAs) hold the "promise to adaptively manage enhanced flows and habitat to improve conditions for fish and wildlife, and identifies several actions to support the VAs to meet the goal of protecting and enhancing natural ecosystems." ACWA urges the State Water Board to ensure that the certification, and other ongoing regulatory efforts, do not create unnecessary challenges to achieving the VAs or hinder the viability of the Yuba Accord. Public water agencies have limited resources. Their ability to invest in infrastructure improvements and integrated habitat and multi-benefit projects depends on certainty of their long-term operations.

Yuba Water Agency has a history of working collaboratively to make real progress on multi-benefit, integrated initiatives in California. ACWA urges the State Water Board to consider these comments in light of this important history.

Thank you for considering ACWA's comments. I am available to discuss them at (916) 441-4545 or DaveE@acwa.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Eggerton", with a long, sweeping underline that extends to the right.

Dave Eggerton
Executive Director

cc: Ms. Eileen Sobeck, Executive Director, State Water Resources Control Board
Mr. Erik Ekdahl, Deputy Director, Division of Water Rights, State Water Resources Control Board
Ms. Erin Ragazzi, Assistant Deputy Director, Water Quality Certification, State Water Resources Control Board