CELEBRATING 30 YEARS

Tuolumne River Trust

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March 28, 2012

Anson Moran, President
San Francisco Public Utilities Commission
1145 Market Street
San Francisco, CA 94103

Re: Proposed 2 mgd water transfer from MID to SFPUC

Dear President Moran and Commissioners:

This letter is to express the Tuolumne River Trust's serious concerns about the proposed water transfer of 2 mgd from the Modesto Irrigation District (MID) to the San Francisco Public Utilities Commission (SFPUC). We believe such a transfer is premature for the following reasons:

- The 2008 Water System Improvement Program (WSIP) PEIR that evaluated the water transfer relied on outdated baseline data to determine the potential impacts of additional diversions on the stretch of the Tuolumne River between O'Shaughnessy Dam and Early Intake.
- Water use in the SFPUC service territory has decreased dramatically, and future demand projections have been revised downward, raising questions about the need for additional water supply in the near future.
- FERC relicensing of New Don Pedro Dam will likely require enhanced flows in the lower Tuolumne River. This process should play its course before any water transfers are considered.

Outdated Baseline Data

When the WSIP PEIR was approved in 2008, it relied on stale baseline data regarding biological resources dependent on the Tuolumne River below O'Shaughnessy Dam. It also failed to include adequate analysis of the potential impacts of climate change on the River. We are concerned that increased diversions from Hetch Hetchy could have negative impacts on Poopenaut Valley and other sensitive ecosystems downstream of O'Shaughnessy Dam.

Table 5.3.1-2 of the WSIP PEIR (Vol. 3, Section 5.3, pp. 5.3.1-13) shows the "Schedule of Average Daily Minimum Required Releases to Support Fisheries Below O'Shaughnessy Dam" based on a 1985 agreement. However, in 1987 the City and County of San Francisco entered into an agreement with the U.S. Department of Interior requiring the City, or the U.S. Fish and Wildlife Service (USFWS), to undertake a study "…to determine what, if any effect, the Kirkwood Powerhouse and Kirkwood Addition would have or have had on the habitat for and populations of resident fish species, between O'Shaughnessy Dam and Early Intake..."

USFWS issued a draft report in 1992 (Attachment A) titled "Instream Flow Requirements for Rainbow and Brown Trout in the Tuolumne River Between O'Shaughnessy Dam and Early Intake." This report was never finalized, however, it stated:

> "In 1988, the U.S. Fish and Wildlife Service's Instream Flow Incremental Methodology (IFIM) was applied to the Tuolumne River below Hetch Hetchy Reservoir…An annual fishery allocation of between 59,207 acre-feet and 75,363 acre-feet is recommended, based on the findings of the instream flow study."

The report recommended increasing instream flows from O'Shaughnessy Dam. For example, in the months of December and January, it recommended an increase in flows from a minimum of 35 cfs to 50 cfs in dry years, from a minimum of 40 cfs to 70 cfs in normal years, and from a minimum of 50 cfs to 85 cfs in wet years. Attachment B compares flows listed in the WSIP PEIR with those recommended by the draft USFWS report.

Background

On January 31, 1985, the City and Interior Department entered into a Stipulation (Attachment C) that required a study of the impacts on fish, wildlife, recreational and aesthetic values, as a condition of any modification (including expansion) of the City's Hetch Hetchy System that may affect the flow of the Tuolumne River between O'Shaughnessy Dam and Early Intake. The 1985 Stipulation further provides that the purpose of the study is to determine what change, if any, should be made to the flow release schedule. It reserves the Interior Department's authority to require such change after consideration of any objection.

On November 4, 1985, the City entered into an Interim Agreement (Attachment D) with the Tuolumne River Trust and other conservation groups, confirming this obligation with respect to the third generating unit of Kirkwood Powerhouse. The Interim Agreement also granted the groups' standing to enforce the conditions of a subsequent agreement between the City and the Interior Department relating to a fisheries study.

On March 10, 1987, the City and Interior Department entered into a Stipulation (Attachment E) requiring the City, or the U.S. Fish and Wildlife Service (FWS), to undertake a study "…to determine what, if any effect, the Kirkwood Powerhouse and Kirkwood Addition would have or have had on the habitat for and populations of resident fish species, between O'Shaughnessy Dam and Early Intake…" The condition requires the study to be completed by December 1992, subject to extension only if the FWS determines that the study is inconclusive or inaccurate as a result of climatic or other environmental conditions. The Stipulation specifies adjustments to the minimum flow releases, if the FWS determines that flow in the Tuolumne River "…should be increased."

On March 20, 2006 the Tuolumne River Trust, represented by the Natural Heritage Institute, gave notice that the SFPUC was in violation of the "Modification for Kirkwood Powerhouse Unit No. 3 to Stipulation for Amendment of Rights-of-Way for Canyon

Power Project Approved by Secretary of the Interior on May 26, 1961 to Fulfill the Conditions Set Forth in Provision 6 of Said Amended Permit." Our letter (Attachment F) asserted that the study required by the Stipulation had not been published and the minimum flow release schedule had not been adjusted.

On February 5, 2008, the SFPUC responded (Attachment G), stating, "The purpose of this letter is to propose a collaborative process to resolve these implementation issues by December 2009." The SFPUC proposed, among other things, "the following measures, schedule and conditions to resolve the outstanding issues from the 1987 Stipulation."

> "The SFPUC, the USFWS, Yosemite National Park Service staff, and SFPUC consultants will work together to gather the information necessary to develop physical and biological objectives for an adaptive management plan for O'Shaughnessy Dam flow releases. It is anticipated that these initial studies shall be completed by December 2009."
>
> "The SFPUC and the USFWS, in consultation with the Yosemite National Park, the US Forest Service, the California Department of Fish and Game, SFPUC consultants, and the Trust, will review ongoing study material and work together to develop an adaptive management plan for releases into the affected reach to enhance a wider range of resource values. This plan will include a monitoring program, and may also include annual consultations between the USFWS and the SFPUC regarding water releases into the affected reach. The SFPUC and USFWS agree to make best efforts to complete the adaptive management plan by December 2009."

On May 26, 2009, the Tuolumne River Trust accepted the proposed measures, schedule, and conditions proposed by the SFPUC.

To meet the obligations of the agreement, the SFPUC initiated an Upper Tuolumne River Ecosystem Project (UTREP). The UTREP is "An ongoing effort to conduct long-term, collaborative, science-based investigations designed to: 1) Characterize historical and current river ecosystem conditions; 2) Assess their relationship to Hetch Hetchy Project operations; and 3) Provide recommendations for improving ecosystem conditions on a long-term, adaptively managed basis."

We applaud the SFPUC for initiating the UTREP, and appreciate efforts made to date. However, more than two years have passed since the anticipated completion date. The study and adaptive management plan must be finalized prior to any actions that could potentially harm the Tuolumne River between O'Shaughnessy Dam and Early Intake, such as the proposed water transfer.

<u>Climate Change Impacts</u>

The SFPUC is finalizing a report titled "Sensitivity of Upper Tuolumne River Flow to Climate Change Scenarios." According to SFPUC staff, "This report evaluates the effects

of a range of climate change-driven changes in temperature and precipitation based on current scientific understanding of climate change on runoff into Hetch Hetchy Reservoir." The draft report concluded:

- With differing increases in temperature alone, the median annual runoff at Hetch Hetchy would decrease by 0.7-2.1 percent from present-day conditions by 2040 and by 2.6-10.2 percent from present-day by 2100. Adding differing decreases in precipitation on top of temperature increases, the median annual runoff at Hetch Hetchy would decrease by 7.6-8.6 percent from present-day conditions by 2040 and by 24.7-29.4 percent from present-day conditions by 2100.
- In critically dry years, these reductions in annual runoff at Hetch Hetchy would be significantly greater, with runoff decreasing up to 46.5% from present day conditions by 2100 utilizing the same climate change scenarios.
- In addition to the total change in runoff, there will be a shift in the annual distribution of runoff. Winter and early spring runoff would increase and late spring and summer runoff would decrease.
- Under all scenarios, snow accumulation would be reduced and snow would melt earlier in the spring, with significant reductions in maximum peak snow water equivalent under most scenarios.

Again, this new information must be considered in the environmental review of a potential water transfer.

Revised Demand Projections

The last few years have seen dramatic declines in water usage in the SFPUC service territory. Last year, sales dropped below 220 mgd, well under the 265 mgd cap established in the WSIP and codified in the Water Supply Agreement.

Future demand projections also are down. After reviewing the 2010 Urban Water Management Plans prepared by its member agencies, the Bay Area Water Supply and Conservation Agency (BAWSCA) decreased its 2035 demand projections by 10 mgd. The SFPUC also projects a decrease in demand of 10 mgd (down to 71 mgd) by 2035.

In 2008 the SFPUC projected it would need the additional 2 mgd from a transfer during dry years in one out of three years on average. However, the contract would be "take or pay," so the SFPUC would be required to pay MID roughly $700 per acre-foot regardless of whether the water was actually used. Therefore, the water would essentially cost $2,100 per acre-foot of used water, making it more expensive than alternative sources being considered by the SFPUC.

With water use down from the WSIP baseline, the 2 mgd would be needed even less frequently, making the true cost per acre-foot even more expensive. At a time when rates are increasing substantially on an annual basis, it makes little sense for the SFPUC to commit to spending approximately $1.5 million per year for additional water when its need is uncertain. With ratepayers already concerned about rising rates, the SFPUC

should do what it can to avoid a greater backlash.

FERC Relicensing

The FERC relicensing process for New Don Pedro Dam was initiated in 2011 and will be completed by 2016. With current conditions on the lower Tuolumne as impaired as they are, FERC will likely require enhanced flows and improved management of releases from New Don Pedro Dam. The 4th Agreement between MID/TID and the SFPUC requires San Francisco to provide 51.7% of any new required releases,

Much has changed since New Don Pedro Dam received its initial license in 1966. NEPA was established, the Endangered Species and Clean Water Acts have been enacted, steelhead and salmon populations have plummeted, and the lower Tuolumne River no longer meets Clean Water Act standards. Discussions about water transfers should be postponed until after a final FERC determination is made and San Francisco's obligation is better understood.

Thank you for the opportunity to comment on this important matter.

Sincerely,

Peter Drekmeier

Peter Drekmeier
Bay Area Program Director