



Central Region
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January 27, 2023

Bryan Kelly, Deputy General Manager
Merced Irrigation District
744 W 20th Street
Merced, California 95340

Subject: FISH PASSAGE AT CROCKER-HUFFMAN DAM

Dear Mr. Kelly:

By letter dated December 8, 2022, the California Department of Fish and Wildlife (CDFW) informed the Merced Irrigation District (MID) that fish passage needs to be restored at the Crocker-Huffman Dam and offered to meet with MID to offer technical assistance to accomplish this goal. MID declined CDFW's offer. Instead, in response to CDFW's letter, you explained that MID would stay involved in "ongoing proceedings and forums that consider a broad array of interrelated and important issues on the Merced River and downstream[,]" including "the ongoing [Federal Energy Regulatory Commission's (FERC)] relicensing proceedings that began in 2008 for the Merced River and Merced Falls hydroelectric projects".¹

CDFW agrees there are many issues affecting fish species and habitat on the Merced River that are interrelated. However, this does not mean that each of these issues need to, will, or can be addressed at the same time or in one proceeding or forum. As the National Marine Fisheries Service (NMFS) explained in its January 5, 2023 letter to MID on this same topic, Crocker-Huffman Dam is not part of the FERC licensing proceedings for the two projects mentioned above.² Regarding the voluntary settlement agreements related to the 2018 Bay-Delta Plan Update you mentioned, negotiations related to the Merced River ended in October 2021³ and have not resumed. Regarding the other proceeding you mentioned involving the Stanislaus, Tuolumne, and Merced Working Group, the Revised Draft Initial Lower San Joaquin River Biological Goals (June 2022) do not mention fish passage at the Crocker-Huffman Dam. In short, CDFW is not aware of any discussions regarding fish passage at the dam in any ongoing proceeding or

¹ Letter from Bryan Kelly, MID, to Julie Vance, CDFW, dated December 20, 2022, p. 2.

² Letter from Cathy Marcinkevage, NMFS, to John Sweigard, Phillip McMurray, and Bryan Kelly, MID, and Julie Vance and Gerald Hatler, CDFW, dated January 5, 2023, p. 2.

³ Letter from the California Natural Resources Agency to the San Francisco Public Utilities Commission and the Oakdale, Turlock, South San Joaquin, Modesto, and Merced Irrigation Districts, dated October 20, 2021.

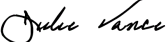
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forum, but even if that were the case, it would not preclude MID from obtaining technical assistance and developing a fish passage plan, nor would these other processes excuse MID from its present and ongoing legal obligation to provide fish passage. (See Fish & G. Code, §§ 5901, 12025.1, subd. (a).)

To reiterate, CDFW is willing to meet with MID to accomplish the goal of restoring fish passage at Crocker-Huffman Dam, whether by using the existing fishway or by some other means. As you know, NMFS would also like to meet with MID on this issue. If MID agrees to meet, CDFW can help arrange the meeting and include NMFS. If MID does not agree to meet, CDFW will conclude that MID is unwilling to take any steps to restore or otherwise provide fish passage at Crocker-Huffman Dam voluntarily. Again, CDFW's contact for this matter will be Gerald Hatler, Fisheries Program Manager for CDFW's Central Region. Mr. Hatler can be reached at (559) 341-1814 or by email at gerald.hatler@wildlife.ca.gov. CDFW respectfully requests a response to this letter within ten days of receipt.

Sincerely,

DocuSigned by:



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Julie Vance

Regional Manager

cc: John Sweigard, General Manager
Phillip McMurray, General Counsel
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