

A scenic view of a river flowing through a forested area with rocky banks. The river is the central focus, with white water rapids and a rocky shoreline in the foreground. The background is a dense forest of tall trees under a clear sky.

The Proposed Lower Yuba River Accord

From Controversy to Consensus

WATER LAW SYMPOSIUM

San Francisco, California

February 4, 2006

Proposed Yuba Accord - Overview

- Path to resolving controversy and settling litigation over lower Yuba River instream flows and related matters
- Negotiations spanned 2 years; 17 parties
- Resulted in 3 complex, interrelated draft agreements for the Yuba Accord and 1 additional agreement to address South Canal fish screen issues

Proposed Yuba Accord - Overview

The April 21, 2005 Yuba Accord proposal requires

- Higher instream flows and fishery studies for the lower Yuba River fishery until 2016 (when YCWA's current FERC license expires – the parties hope to extend the Yuba Accord into the term of the new FERC license)
- Comprehensive conjunctive use/efficiency program for YCWA and its Member Unit agricultural water districts
- Carefully structured water purchase program

Three Phases of Yuba Accord Process

- Development of Yuba Accord proposal (completed April 21, 2005)
- Environmental review/public information (through 2006)
- Yuba Accord implementation (early 2007)

Proposed Yuba Accord - Overview

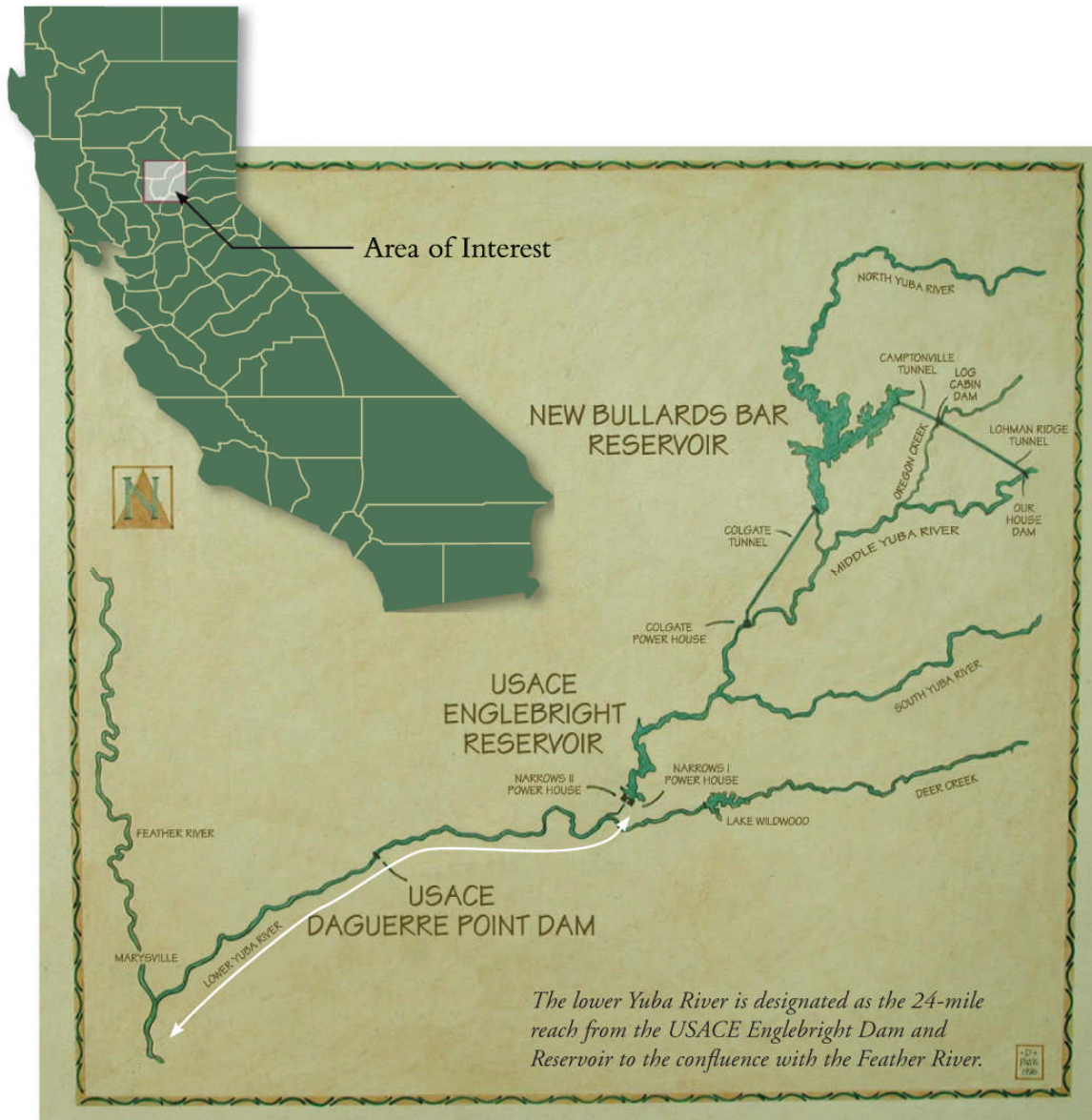
Today's Presentation

- Background
- Proposed Yuba Accord key provisions
- Next steps

Yuba County Water Agency

- Special district (not County government)
- 1959 - State Legislature adopted the YCWA Act
- Located about 50 miles north of Sacramento
- YCWA - 7 member Board, 30 staff, \$8 million operating budget
- Authorized activities
 - Flood storage
 - Water supply
 - Power generation
 - Fisheries enhancement
 - Recreation

Lower Yuba River



Deb Pate (modified by MWH)

History

- 1850s Gold rush miners damage the Yuba River
- 1906 USACE builds Daguerre Point Dam
- 1941 USACE builds Englebright Dam
- 1965 CDFG and YCWA agreement on instream flow requirements
- 1969 YCWA builds Yuba River Project

New Bullards Bar Dam and Reservoir



YCWA Archives

New Bullards Bar Dam and Reservoir was financed and constructed by YCWA in 1969. This 960,000-AF modern multipurpose facility is part of the Yuba Project and produces 360 megawatts of hydroelectric power, provides flood control and recreation benefits, and water supplies to local farmers.

Lower Yuba River Fisheries

- One of the Central Valley's last wild, native Chinook salmon and steelhead runs
- Primary species of concern for management agencies
 - Central Valley fall-run Chinook salmon: federal species of concern
 - Central Valley spring-run Chinook salmon: state and federally threatened
 - Central Valley steelhead: federally threatened
- California Fish and Game Code § 6900
 - “Proper salmon and steelhead trout resource management requires maintaining adequate levels of natural, as compared to hatchery, spawning and rearing.”
- Lower Yuba River is considered a significant source of naturally spawned Chinook salmon and steelhead (CDFG 1991)

Major Flood Events

Yuba River flooded Yuba County in:

- 1950
- 1986 (California settled flood claims for \$464 million)
- 1997 (California settled flood claims for \$45 million. 110,000 people were evacuated from the Marysville and Yuba City area, which was one of the largest evacuations in California history, and 40,000 acres were inundated)

1997 Flood



Appeal Democrat/Brian Davies



Appeal Democrat/Craig Kohlruss

SWRCB Proceedings/Litigation

- 1988 complaint to SWRCB
- 1991 CDFG Lower Yuba River Fisheries Management Plan
- 1992 SWRCB Hearing
- 2000 SWRCB Hearing
- 2001 Decision 1644 (D-1644)
- 2003 Superior Court Order directing SWRCB to vacate D-1644
- 2003 Revised Decision 1644 (RD-1644)
- 2003-Present litigation challenging RD-1644
- 2005 Proposed Yuba Accord

SWRCB D-1644 and RD-1644

- Interim flow requirements through 04/21/2006, and higher long-term flow requirements thereafter
- Significantly higher requirements for lower Yuba River flows
- Long-term requirements would significantly impact local water supplies
- Long-term requirements would eliminate out-of-county water transfers and associated revenues
 - No revenues for groundwater conjunctive-use programs
 - No revenues for flood-control projects

Consensus

- New instream-flow requirements that will provide equivalent or greater levels of protection for lower Yuba River fisheries
- Reliable local water supplies
- Water from increased instream flows will be transferable (only a portion of these increased flows will be transferable)
- Transfer revenues will be used for
 - Fisheries core monitoring, focused studies and habitat enhancement
 - Groundwater pumping in conjunctive use programs
 - Flood-control measures

Proposed Yuba Accord - Structure

- 3 related agreements

Fisheries Agreement:

Lower Yuba River fisheries protection & enhancement

Water Purchase Agreement:

Supplemental water supplies for EWA, DWR, and Reclamation

Conjunctive Use Agreements:

Integrated use of surface water and groundwater supplies

- Term of agreements: through at least 2016 (FERC relicensing)

Proposed Fisheries Agreement MOU

Participants

- California Department of Fish and Game
- South Yuba River Citizens League
- The Bay Institute
- Trout Unlimited
- Friends of the River
- National Marine Fisheries Service
- U.S. Fish and Wildlife Service
- YCWA

Proposed Fisheries Agreement

Major Elements

- Instream flow schedules
 - Provides a new set of 6 flow schedules, based upon a new water index, that improves fishery habitat and provides transferable water
 - Schedules additional groundwater substitution transfers in a “fish friendly” manner
- River Management Team / Fund
 - Provides for a collaborative process for multi-year coordination, monitoring, studies and restoration actions
 - Local, state, and federal representatives
- Term of agreement
 - 2016 or until new FERC license for Yuba Project is issued

Proposed Fisheries Agreement

Major Elements (continued)

- FERC relicensing
 - Facilitates development of consensus proposal to FERC for project relicensing
- Conditions precedent
 - SWRCB approvals and amendment of D-1644
 - Agreements for conjunctive use and water purchase
 - NEPA/CEQA
 - PG&E agreement
 - Incidental take authorization

Proposed Fisheries Agreement

Key Benefits

- Establishes minimum instream flows for Chinook salmon, steelhead, and other fish species equal to or greater than current protections
- Improves instream habitat conditions, including colder water during summer and fall months, which is one of the times it is most desired
- Provides \$6 million to finance a scientific fisheries studies and enhancement program
- Establishes a River Management Team for scheduling flows and implementing fishery studies

The Yuba Accord and ESA Issues

Continuation of post-New Bullards Bar Reservoir improved habitat for:

- Steelhead – Enhanced flows of cold water during summer and fall holding and rearing periods
- Spring-Run Chinook Salmon – Enhanced flows of cold water during summer holding and fall spawning periods
- Fall-Run Chinook Salmon – Enhanced flows of cold water during fall upstream migration and spawning periods

Proposed Water Purchase Agreement Participants

- Environmental Water Account (DWR/USBR)
- California Department of Water Resources
- U.S. Bureau of Reclamation
- YCWA

Proposed Water Purchase Agreement

Major Elements

- The Yuba Accord's dry-year yield (approximately 175,000 AF per year) will be comparable to the dry-year yield of the enlarged Shasta Dam proposal, at a fraction of the cost. (The enlarged Shasta Dam proposal is expected to provide a dry-year yield of approximately 125,000 AF per year at an estimated cost of \$400 million.)

Proposed Water Purchase Agreement

Major Elements (continued)

- Provides water in four components
 - Component 1 = 60 TAF every year (EWA base) from reservoir releases
 - Component 2 = discounted water that would have accrued to projects in Delta if long-term RD-1644 flows were to take effect in 2006 in absence of Yuba Accord Fisheries Agreement on Yuba River (15 TAF in dry years and 30 TAF in critical years)
 - Component 3 = 40 TAF transfer water made available for take-or-pay purchase in driest years, and available for option in less dry years with low project allocations
 - Component 4 = groundwater substitution water made available for option in driest years, up to about 90 TAF in most of those years (consistent with safe yield)

Proposed Water Purchase Agreement

Major Elements (continued)

- Pricing provisions
 - Component 1 water (about \$65 per AF)
 - 540 TAF over 9 years
 - Pre-payment of \$32,700,000
 - Payment of \$2,550,000 on or before 09/30/2015
 - Component 2 water
 - Dry years \$50 per AF
 - Critical years \$65 per AF
 - Component 3 and 4 water (comparable to Phase 8 settlement pricing)
 - Wet years \$25 per AF
 - Above normal years \$50 per AF
 - Below normal years \$75 per AF
 - Dry years \$100 per AF
 - Critical years \$125 per AF

Proposed Water Purchase Agreement

Major Elements (continued)

- Water accounting criteria
 - Transfer
 - Refill
- Conference year principles (like 1976-77 drought)
- Term of agreement until 2016 or FERC relicensing
 - Post-2016: 20 TAF per year until 2025
 - The parties hope to extend the Yuba Accord into the term of the new FERC license

Proposed Water Purchase Agreement

Key Benefits

- Provides a revenue source until 2016 for YCWA to be used for YCWA authorized activities including Yuba Accord implementation, flood control, and conjunctive use
- Improves water supply reliability for EWA, DWR and Reclamation
 - First major long-term water acquisition for EWA
- Helps meet the goal of a new state law requiring that DWR use not less than 50% of Prop 50, Chapter 7(d) funds for long-term water purchases for EWA (Water Code sections 79550(d) and 79555)

Proposed Conjunctive Use Agreements Participants

- Browns Valley Irrigation District
- Brophy Water District
- Dry Creek Mutual Water Company
- Hallwood Irrigation Company
- Ramirez Water District
- South Yuba Water District
- Wheatland Water District
- YCWA

Proposed Conjunctive Use Agreements

Major Elements

- Conjunctive use operations
 - Integration of surface and groundwater supplies for irrigating local farmlands and providing Yuba Accord flows
 - Consistent with the YCWA March 2005 AB3030/SB1938 Groundwater Management Plan and safe yield of aquifer
- “Schedule 6” years (4% of years of record) – provide for payments to Member Units for additional Yuba River flow by requiring 30 TAF of groundwater substitution pumping
- Deficiency provisions
- Groundwater substitution water transfers when needed and within safe aquifer yield

Proposed Conjunctive Use Agreements

Key Benefits

- Provides reliability for continued irrigation of crops
- Provides funding for local water districts to convert diesel motors to more efficient electric motors to improve air quality conditions and meet water transfer needs
- Establishes a comprehensive local stewardship program of surface water and groundwater supplies
 - Improved conservation, efficiency, and conjunctive use measures
- Third-party impacts avoided or mitigated

YCWA/DFG South Canal Fish Screen Letter Agreement

- Sets up collaborative process with South Districts, DFG, USFWS, NMFS, environmental groups and YCWA to design and construct South Canal fish screen (subject to availability of funds)
- Financing through Yuba Accord, South Districts and public funds

Next Steps

- Request Stay of Superior Court actions challenging RD-1644
- 2006 Pilot Program (modeled after Yuba Accord)
- CEQA/NEPA process
- ESA consultation and CESA compliance
- Public involvement
 - CEQA/NEPA process
 - Participation by the public, local interests, and other agencies will be encouraged
 - Numerous presentations and briefings throughout CA
- SWRCB action on YCWA petitions to implement Yuba Accord
- Resolution of RD-1644 litigation

CEQA/NEPA Compliance Timeline

Public Scoping Meetings	Completed July 2005
Public Review Draft EIR / EIS	March 2006
60-Day Public Review Period - Hearings / Meetings	March - April 2006
Complete ESA/ CESA Compliance	July 2006
Final EIR / EIS	August 2006
Agency Review and Approvals <ul style="list-style-type: none">● YCWA - Notice of Determination● Reclamation - Record of Decision	October / November 2006

Other Actions

SWRCB Action on Petitions to Implement Yuba Accord	November 2006 - January 2007
Dismiss D-1644 Litigation	January 2007
Start Implementing Yuba Accord	January 2007

Additional Information on the Lower Yuba Accord

Go to www.ycwa.com for more information



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