

**Placer County Water Agency  
Middle Fork American River Project  
(FERC Project No. 2079)**

**SUPPORTING DOCUMENT A  
Relicensing Process Plan**



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## **CONTENT**

Supporting Document A (SD A) contains the Relicensing Process Plan and Communication and Participation Protocols (Protocols) for the Middle Fork American River Project (Project or MFP). Specifically, SD A contains information on early and formal relicensing activities and guidelines for participation in the relicensing process.

Placer County Water Agency (PCWA) is following the Federal Energy Regulatory Commission's (Commission's or FERC's) Integrated Licensing Process (ILP) to relicense the MFP. As part of this process, PCWA implemented early relicensing activities including stakeholder collaboration, data gathering, and studies. These early relicensing activities and the formal ILP process and schedule are described in SD A.

The Protocols included in SD A were developed in consultation with interested parties including the Licensee, governmental agencies, non-governmental organizations, Native American tribes, and unaffiliated members of the public. A subcommittee was formed to collaboratively develop the protocols on April 25, 2006. Draft Protocols were provided to the Plenary in June and July 2006, and any comments received were incorporated into final Protocols distributed to the MFP stakeholders on March 9, 2007.

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## **1.0 INTRODUCTION**

The following Relicensing Process Plan summarizes PCWA's approach for relicensing of the MFP and includes the Protocols for stakeholder participation. PCWA intends to use FERC's ILP to relicense the MFP and complete the process by the license expiration date. Throughout this relicensing, PCWA's primary goal is to ensure future reliable water and energy supplies for the people of Placer County.

The Relicensing Process Plan is organized to address the content requirements outlined in the FERC's regulations specified in Title 18 of the Code of Federal Regulations (CFR) § 5.6(d). Specifically, it describes PCWA's plan and schedule for pre-application activities, incorporating the time frames for pre-filing consultation, information gathering, and studies. This includes filing of the Notice of Intent (NOI) and Pre-Application Document (PAD); FERC scoping; study plan development, execution and reporting; filing the License Application; and, FERC application processing.

This document also contains Protocols that provide guidelines for participation in the relicensing process by interested parties including governmental agencies, non-governmental organizations, Native American tribes, and unaffiliated members of the public. The Protocols are included in Appendix A and are briefly described in Section 4.0 below.

## **2.0 RELICENSING ACTIVITIES**

PCWA intends to relicense the MFP using FERC's ILP and complete the process by the license expiration date. To facilitate communication during the relicensing, PCWA established a publicly-accessible Internet website <http://relicensing.pcwa.net/> which contains information regarding PCWA's past and current relicensing activities including meeting notices and agendas, meeting summaries, documents distributed to or received from participants, reference materials, key decisions, and links to relevant information sources such as FERC's ILP regulations. Updates to this Relicensing Process Plan and Schedule will be posted on the website. In addition, all materials are available at PCWA's Resource Library, located at the PCWA Business Center, 144 Ferguson Road, Auburn, California. Specific relicensing process objectives of the relicensing are:

- Retain the FERC license for the people of Placer County.
- Meet all regulatory deadlines and acquire a new license by February 28, 2013.
- Engage stakeholders (Federal and state resource agencies, Native American tribes, local governments, non-governmental organizations, and members of the public) in an open and transparent forum that promotes a free exchange of ideas and sharing of information among the participants.

- Maintain an efficient process by retaining a neutral facilitator and providing stakeholders with informative presentations and “first drafts” of technical study plans and reports for review and comments.
- Complete the study phase (development, implementation and reporting) and analytical tool development (i.e., Project operations model) early in the process to provide sufficient time for PCWA and the stakeholders to fully evaluate Project effects and collaboratively develop new license conditions for inclusion in the License Application.

An overview of the major elements of the relicensing process and corresponding FERC ILP regulatory requirements is illustrated on Figure SD A-1 and briefly discussed below.

## **2.1 EARLY RELICENSING ACTIVITIES**

Prior to the submittal of the PAD, PCWA initiated relicensing activities to:

- Enhance stakeholder involvement and understanding of available resource information; Project facilities, operations and maintenance activities; and potential Project betterments/improvements under consideration.
- Collaborate with stakeholders on the development of communication protocols that provide guidelines for participation in the relicensing by interested parties.
- Design and complete select baseline environmental studies in consultation with the resources agencies in 2005 and 2006 to augment existing resource information, facilitate early issue identification, and assist in the development of focused technical study plans.
- Reach stakeholder consensus on the scope of the technical study plans included in the PAD and implement select data collection activities in 2007 for studies that require multiple years to complete or whose results are integral to completion of another study.

Early environmental data gathering activities conducted in 2005 - 2006 focused on documenting channel characteristics (geomorphology), riparian vegetation, aquatic habitat, historical Project and pre-Project flows, water temperatures, and meteorological conditions in the streams and rivers upstream and downstream of Project facilities. Cultural resource inventories within the FERC Project boundary were also initiated. In addition, PCWA began development of a comprehensive Project operation model, in consultation with resource agencies, for use in the evaluation of potential new license conditions in 2009-2010. When completed, the operations model will allow alternative license conditions to be evaluated in terms of their resulting effects on flows downstream of Project facilities, reservoir water elevation/storage levels, power generation, consumptive water deliveries, and consistency with current FERC license requirement or other existing agreements.

Data collection activities in 2007 included a continuation of the 2005-2006 environmental data gathering, as well as, initiation of select elements of the more

comprehensive study plans included in the PAD. Major elements of the PAD study plans completed in 2007 include selection of flow modeling transects; fish, amphibian, macroinvertebrates, and water quality surveys; recreation user counts; cultural resource inventories; vegetation community and wildlife habitat mapping; bat surveys, and visual quality assessments of Project facilities. The remainder of the studies presented in the PAD will be completed in 2008 and 2009.

## **2.2 FORMAL RELICENSING ACTIVITIES**

### **2.2.1 Filing of Notice of Intent and Pre-Application Document**

With the filing of NOI and PAD to FERC on December 13, 2007, PCWA has formally initiated the relicensing process for MFP and the associated regulatory deadlines specified in the ILP. Although not required, PCWA has included within the PAD detailed technical study plans, developed in collaboration with stakeholders. In the NOI, PCWA has requested to be designated as the Commission's non-Federal representative for purposes of consultation under Section 7 of Endangered Species Act (ESA) and be authorized to initiate consultation under Section 106 of National Historic Preservation Act (NHPA). Comments on the PAD and additional study requests are due to FERC no later than 120 days from filing of the PAD (April 11, 2008).

### **2.2.2 FERC Scoping**

As part of formal scoping for the Project, FERC is required to hold an Initial Tribal Consultation Meeting with Federally-recognized tribes within 30 days of the filing of the NOI and PAD. Within 60 days of the filing of the NOI and PAD, FERC is required to issue Scoping Document 1 and provide a public notice of upcoming events, including public scoping meetings and site visits. Currently, FERC is planning to hold two public scoping meetings on the MFP relicensing at Auburn Recreation District-Canyon View Community Center, 471 Maidu Drive, Auburn, California on March 4, 2008 from 9:00 AM - 11:30 AM and from 6:30 PM - 9:00 PM. A virtual tour of the MFP will be provided during the public scoping meeting using maps, photograph and video. The purpose of the scoping meeting will be to discuss resource issues, management objectives, information needs, and finalize the relicensing process plan and schedule. Comments on Scoping Document 1 must be submitted to FERC within 60 days of its distribution.

FERC is also proposing to conduct a Project site visit, in coordination with PCWA, for interested parties on March 5, 2008 from 8:00 AM - 4:00 PM to view the lower elevation Project facilities. The site visit will originate at the Auburn Recreation District - Canyon View Community Center and transportation during the site visit will be provided by PCWA. The upper elevation Project facilities are not accessible to the public during the winter and early spring due to snow. If necessary, a site visit to the upper Project facilities will be scheduled later in the year. More details on the site visits will be publicly noticed by FERC.

### **2.2.3 Study Plan Development, Execution and Reporting**

Although detailed technical study plans developed in collaboration with stakeholders were included in the PAD, FERC has a well-defined process for evaluation of study plans. Due to extensive early consultation with stakeholders on the study plans prior to the submittal PAD, PCWA does not anticipate that modifications to the PAD study plans will be required during FERC's review process. However, comments on these study plans and additional study requests are due to FERC within 120 days after filing of the PAD (April 11, 2008). Within 45 days following the end of the comment period, PCWA must file with FERC proposed study plans (May 27, 2008).

The proposed plans must address any stakeholder comments received and if necessary, explain why additional study requests were not adopted. Stakeholders have 90 days to comment on the revised study plans. During the comments period, but no later than 30 days after filing the proposed study plans, PCWA must hold a study plan meeting to resolve any outstanding issues. A second revision of the study plans is due within 30 days of the close of the comment period, followed by a 15 day stakeholder comment period.

FERC will then issue a Study Plan Determination, with regard to the PCWA revised study plans, including any modifications deemed necessary in light of the record. If no disputes are received by a mandatory conditioning agency, the study plans are deemed final and implementation of the plans must proceed. In the case of a dispute, FERC initiates a formal dispute resolution process and within 70 days makes a final determination of the fate of the dispute, which must be incorporated into the study plans. Any comments on study plans that are not under dispute must be implemented by PCWA according to the proposed schedule.

PCWA will then be required to implement the study plans according to the final scope of work and schedule. Annually during study implementation, PCWA must file a study progress report to FERC describing overall progress in implementation of the study plans including data collected to date, any deviations in technical approaches or schedules, and a proposed schedule for completion of the remaining study plan components. The report must also include a description of any proposed modifications to the approved studies or new studies proposed by PCWA. FERC will then amend the approved study plans, as appropriate, after reviewing comments by stakeholders received during a public meeting or filed in writing. However, any modification of the approved study plans or additions of new study plans must meet strict criteria prior to being considered.

### **2.2.4 Filing of License Application**

By negotiating early, PCWA expects that the License Application will include proposed new license conditions that have been developed in collaboration with stakeholders, address multiple resource interests, and represent the best comprehensive use of the waterway. The early commitment by PCWA and stakeholders to reach consensus on the Technical Study Plans and early implementation of those studies by PCWA is

expected to provide the parties technical information in a timely manner to allow them to fully collaborate on the development of new license conditions prior to submittal of the License Application. PCWA believes that this collaboration will lead to the development of new license conditions that meet multiple resource interests while maintaining the benefits of the MFP for the people of Placer County.

PCWA must file a Draft Application or Preliminary Licensing Proposal to FERC no later than 150 days before the Final Application is filed (October 1, 2010). Comments from stakeholders on the document are due within 90 days (December 30, 2010), and will be addressed by PCWA in the Final Application. The Final Application must be filed with the FERC by February 28, 2011, two years before the license expiration date.

### **2.2.5 FERC Application Processing**

A two-year period is allocated within the ILP regulations for FERC's processing of the License Application. Upon receipt of the Final Application, the FERC issues a tendering notice, and subsequently, a Notice of Acceptance and Notice of Ready for Environmental Review (REA). Preliminary terms and conditions from the resource agencies and requests for intervention are due to the FERC no later than 60 days following the REA. The remainder of the time is allocated to the FERC's environmental review process, document preparation, and finalization of resource agencies' mandatory terms and conditions. During this time, FERC will issue a draft and final National Environmental Policy Act (NEPA) document (either an Environmental Assessment or an Environmental Impact Report) evaluating Project-related impacts and proposed new license conditions. Terms and conditions from mandatory resource agencies will be included in the environmental document and new license, including those contained in the required Clean Water Act Section 401 Certification. Based on consideration of recommendations by FERC staff in the NEPA document, the FERC Commission should issue a New License to PCWA for continued operations of the MFP on or before the current license expiration date of March 1, 2013.

## **3.0 RELICENSING SCHEDULE**

The proposed Relicensing Process Plan schedule for the MFP was developed consistent with the regulations provided in § 18 Part 5 of the Code of Federal Regulations Federal (18 CFR Part 5) - Integrated License Application Process. Figure SD A-1 provides an overview of key activities in the ILP. PCWA's proposed schedule presented in Table SD A-1 provides each of the major relicensing activities in the ILP, the associated CFR, the party responsible for implementation of the activity, and the deadline for each activity. PCWA's schedule also includes conducting early relicensing studies in 2007 and preparing a study progress report and scheduling a progress report meeting in 2008 for review and comment by stakeholders as outlined in Table SD A-2.

The proposed process schedule is based on the filing of the NOI and the PAD for the MFP by PCWA on December 13, 2007. The deadlines presented in the schedule identify the specific date that each activity must be completed by to comply with Federal regulations. However, relicensing activities may be completed early, prior to the specific

deadline. The ILP regulations also provide flexibility regarding the timing when some relicensing activities must be completed. Additionally, the initiation of some activities is dependant on the completion date of other activities. For example, the timing of study implementation is highly dependent on whether the dispute resolution process is initiated. The current process schedule includes timeframes for Formal Dispute Resolution even though any study disputes may be resolved through informal dispute resolution. Therefore, the process schedule is subject to change during the relicensing process. PCWA will revise the Relicensing Process Plan and schedule for the MFP, as needed, and post the updated version on the MFP relicensing website (<http://relicensing.pcwa.net>).

#### 4.0 COMMUNICATION AND PARTICIPATION PROTOCOLS

The Protocols for the MFP provides guidelines for participation in the relicensing process by PCWA and interested parties including governmental agencies, non-governmental organizations, Native American tribes, and unaffiliated members of the public. These interested parties are referred to as stakeholders or relicensing participants.

On April 25, 2006, PCWA held an introductory meeting with a variety of stakeholders to discuss the MFP and the relicensing process. During this meeting, a subcommittee of stakeholders was formed to collaboratively develop draft Protocols for review and consideration by a larger stakeholder group (Plenary). A list of the subcommittee members and their affiliation is provided below.

<b>Name</b>	<b>Affiliation</b>
Ed Bianchi	ENTRIX, Inc.
Marie Davis	Placer County Water Agency
Bill Deitchman	California State Parks
Jan Goldsmith	Kronick Moskovitz Tiedemann & Girard
Tom Jackson	Pacific Legacy
Julie Leimbach	Foothills Water Network
Matt Myers	State Water Resources Control Board
Beth Paulson	United States Department of Agriculture - Forest Service (USDA-FS) - Eldorado National Forest
Nate Rangel	California Outdoors
Mo Tebbe	USDA-FS - Tahoe National Forest
Bill Templin	American River Watershed Group
Mal Toy	Placer County Water Agency

Draft Protocols were provided to the stakeholders at a Plenary meeting conducted on June 20, 2006. The stakeholders reviewed the draft Protocols and provided comments during Plenary meetings held on June 20, 2006 and July 18, 2006. All comments were incorporated into a revised draft of the Protocols, which was provided to the stakeholders at the February 5, 2007 Plenary meeting. The Plenary approved the protocols at the February 5, 2007 Plenary meeting. The final Protocols, contained in Appendix A, were distributed to all of the MFP stakeholders on March 9, 2007.

**TABLES**

**Table SD A-1. Proposed Relicensing Process Schedule for the Middle Fork American River Project (FERC Project No. 2079).**(Relicensing activities that are shown in bold represent key milestone activities in the relicensing process.)

FERC 18 CFR §	Relicensing Activity	Responsible Party	Activity Time Frame	Deadline
<b>Initiation of Relicensing Process</b>				
5.5	<b>Filing of Notification of Intent (NOI)</b>	PCWA	Five to five and one half years prior to existing license expiration. Filed concurrent with Pre-application Document.	12/13/2007
5.5(e)	Request to be Non-Federal representative under Section 7 of the Endangered Species Act (ESA)	PCWA	Provide simultaneously with filing of NOI.	12/13/2007
5.5(e)	Request to initiate consultation under Section 106 of the National Historic Preservation Act (NHPA)	PCWA	Provide simultaneously with filing of NOI.	12/13/2007
5.6	<b>Filing of Pre-application Document (PAD)</b>	PCWA	Five to five and one half years prior to existing license expiration. Filed concurrent with NOI.	12/13/2007
<b>FERC Scoping</b>				
5.7	<b>Initial Tribal Consultation Meeting</b>	FERC	Within 30 days following filing of NOI/PAD .	1/14/2008
5.8	<b>Notice of Commencement of Proceeding and Scoping Document</b>	FERC	Within 60 days of filing NOI/PAD	2/11/2008
5.8(a)(b)	Issue notice of NOI/PAD and request for comments	FERC	Concurrent with notice of commencement of proceeding.	2/11/2008
5.8(b)	Decision regarding licensee request to initiate informal consultation under Section 7 of the ESA, or Section 106 of the NHPA	FERC	Concurrent with notice of commencement of proceeding.	2/11/2008
5.8(c)	Issue Scoping Document 1 (SD1)	FERC	Concurrent with notice of commencement of proceeding.	2/11/2008
5.8(b)(3)(viii)	<b>Conduct public scoping meeting and site visit</b>	FERC	Within 30 days of the notice of commencement of proceeding.	3/4-5/2008
5.9 (a)	File comments on PAD and SD1, and provide study requests	Participants	Within 60 days following the Commission's notice of commencement of proceeding.	4/11/2008
5.10	Issue Scoping Document 2 (if necessary)	FERC	Within 45 days following the deadline for filing of comments on SD1.	5/27/2008

**Table SD A-1. Proposed Relicensing Process Schedule for the Middle Fork American River Project (FERC Project No. 2079) (continued).**  
 (Relicensing activities that are shown in bold represent key milestone activities in the relicensing process.)

FERC 18 CFR §	Relicensing Activity	Responsible Party	Activity Time Frame	Deadline
<b>Study Plan Development</b>				
5.11 5.12	<b>Proposed Study Plan and Study Requests</b>			
5.11(a)	<b>File Proposed Study Plan</b>	PCWA	Within 45 days following the deadline for filing of comments on the PAD and providing study plan requests.	5/27/2008
5.11(e)	<b>Conduct study plan meeting</b>	PCWA	No later than 30 days after the deadline date for filing the Proposed Study Plan.	6/26/2008
5.12	File comments on Proposed Study Plan or submit revised study requests	Participants	Must be filed within 90 days after the Proposed Study Plan is filed.	8/25/2008
5.13	<b>Revised Study Plan and Study Plan Determination</b>			
5.13(a)	Issue Revised Study Plan	PCWA	Within 30 days following the deadline for filing comments on the Proposed Study Plan.	9/24/2008
5.13(b)	File comments on Revised Study Plan	Participants	Within 15-days following filing of the Revised Study Plan.	10/9/2008
5.13(c)	<b>Issue Study Plan Determination</b>	FERC	Within 30 days following filing of the Revised Study Plan.	10/24/2008
5.13(d) 5.14(a)	File notice of study dispute	Mandatory conditioning agencies	Within 20 days of the Study Plan Determination.	11/13/2008
5.13(d)	Study Plan approved, if no notice of study dispute is filed	FERC	Within 20 days of Study Plan Determination	11/13/2008
5.14	<b>Formal Study Dispute Resolution Process</b>			
5.14(d)	Convene Dispute Resolution Panel, if notice of Study Plan dispute is filed	FERC	Within 20 days of the notice of study dispute.	12/3/2008
5.14(i)	File with Commission and serve upon panel members comments and information regarding dispute	PCWA	No later than 25 days following the notice of study dispute.	12/8/2008
5.14(k)	Issue findings and recommendations regarding the study plan dispute to Director of the Office of Energy Projects	Dispute Resolution Panel	No later than 50 days following the notice of study dispute.	1/2/2009
5.14(l)	<b>Issue written determination on study plan dispute</b>	FERC	No later than 70 days from the date of filing of the notice of study dispute.	1/22/2009

**Table SD A-1. Proposed Relicensing Process Schedule for the Middle Fork American River Project (FERC Project No. 2079) (continued).**  
 (Relicensing activities that are shown in bold represent key milestone activities in the relicensing process.)

FERC 18 CFR §	Relicensing Activity	Responsible Party	Activity Time Frame	Deadline
<b>Conduct Studies</b>				
5.15(a)	Conduct First Year Studies (for study plans not under dispute)	PCWA	November 14, 2008 through November 13, 2009	11/13/2009
5.15(b) 5.15(c)(1)	File progress report and Initial Study Report	PCWA	Within one year after Commission approval of the study plan.	11/13/2009
5.15(c)(2)	Conduct Initial Study Report Meeting	PCWA	Within 15 days of filing the Initial Study Report.	11/30/2009
5.15(c)(3)	File Initial Study Report Meeting Summary including any study modifications or new studies	PCWA	Within 15 days following the Initial Study Report Meeting.	12/15/2009
5.15(c)(4)	File disagreement with Initial Study Report Meeting Summary	FERC and participants	Within 30 days following the filing of the Initial Study Report Meeting Summary.	1/14/2010
5.15(c)(7)	If no disagreements are filed, approve proposed amendment to study plans	FERC	Thirty days following the filing of the Initial Study Report Meeting Summary.	1/14/2010
5.15(c)(5)	If disagreements are filed, file responses to disagreement with Initial Study Report Meeting Summary	FERC, PCWA and participants	Within 30 days of the filing of a disagreement with Initial Study Report Meeting Summary	2/15/2010
5.15(c)(6)	Resolve disagreement and amend approved study plan	FERC	Within 30 days following the due date for responses to disagreement.	3/17/2010
5.15(f)	Conduct Second Year Studies	PCWA	November 14, 2009 through November 13, 2010	11/13/2010
5.15(f)	File progress report and Updated Study Report	PCWA	Within two years after Commission approval of the study plan.	11/13/2010
5.15(c)(2)	Conduct Updated Study Report Meeting	PCWA	Within 15 days of filing the Updated Study Report.	11/29/2010
5.15(c)(3)	File Update Study Report Meeting Summary including any study modifications or new studies	PCWA	Within 15 days following the Updated Study Report Meeting.	12/14/2010
5.15(c)(4)	File disagreement with Updated Study Report Meeting Summary	FERC and Participants	Within 30 days following the filing of the Updated Study Report Meeting Summary.	1/13/2011
5.15(c)(7)	If no disagreements are filed, approve proposed amendment to study plans	FERC	Thirty days following the filing of the Updated Study Report Meeting Summary.	2/14/2011

**Table SD A-1. Proposed Relicensing Process Schedule for the Middle Fork American River Project (FERC Project No. 2079) (continued).**  
 (Relicensing activities that are shown in bold represent key milestone activities in the relicensing process.)

FERC 18 CFR §	Relicensing Activity	Responsible Party	Activity Time Frame	Deadline
<b>Conduct Studies (continued)</b>				
5.15(c)(5)	If disagreements are filed, file responses to disagreement with Updated Study Report Meeting Summary	FERC, PCWA and Participants	Within 30 days of the filing of a disagreement with Updated Study Report Meeting Summary	2/14/2011
5.15(c)(6)	Resolve disagreement and amend approved study plan	FERC	Within 30 days following the due date for responses to disagreement.	3/16/2011
5.15(f)	Promptly proceed with any remaining undisputed studies or amended studies	PCWA		Starting 3/16/2011
<b>Filing of License Application</b>				
5.16(a)	<b>File Preliminary Licensing Proposal or Draft Application</b>	PCWA	No later than 150 days prior to the deadline for filing a new license application.	10/1/2010
5.16(e)	File comments on Preliminary Licensing Proposal or Draft License Application	FERC and Participants	Within 90 days of the filing date of the Preliminary Licensing Proposal or Draft Application.	12/30/2010
5.17(a)	<b>File License Application</b>	PCWA	Must be filed no later than 24 months before the existing license expires.	2/28/2011

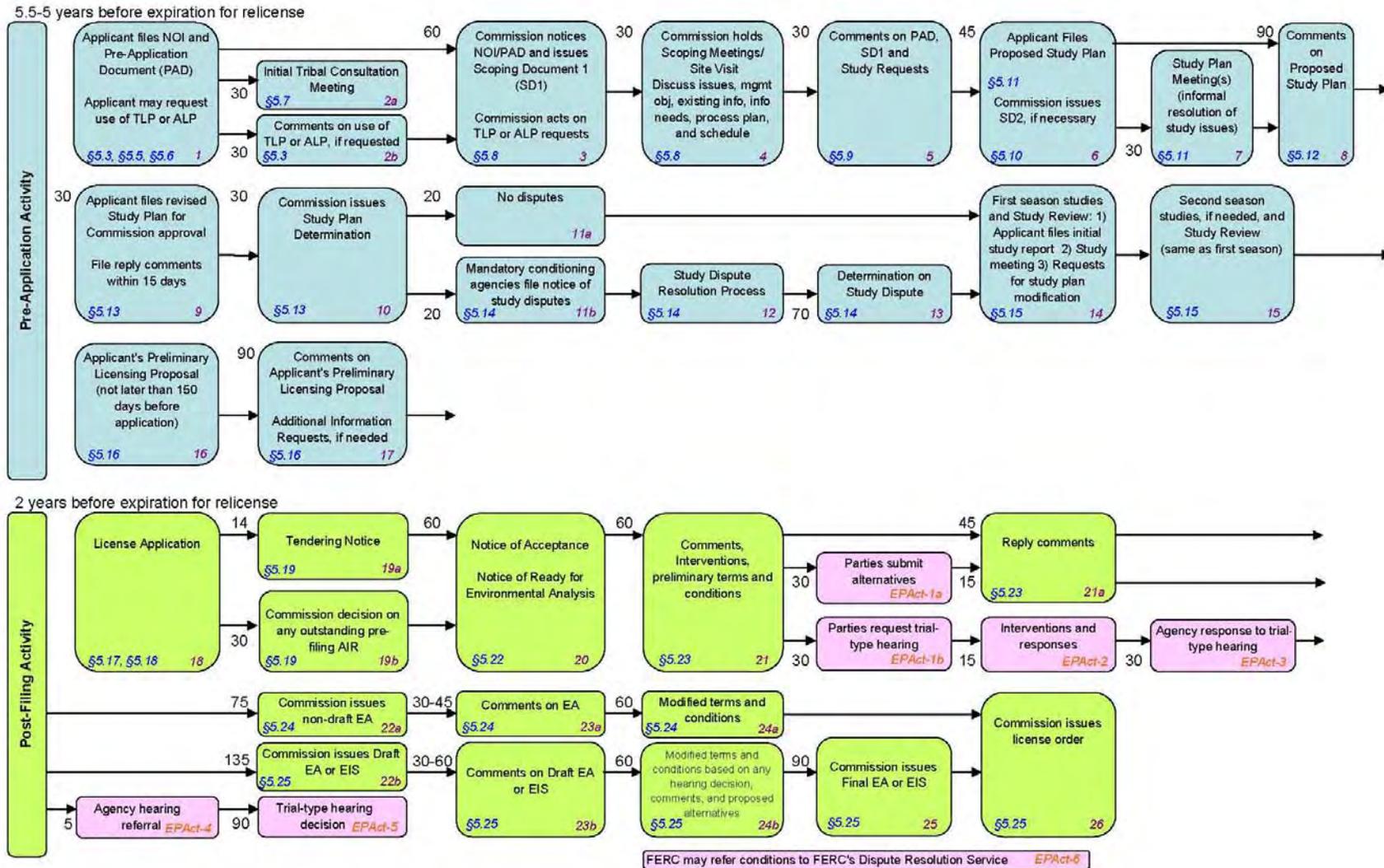
**Table SD A-2. Proposed Schedule to Conduct Early Studies and Prepare Early Study Progress Reports for the Middle Fork American River Project (FERC Project No. 2079).**

<b>Relicensing Activity</b>	<b>Responsible Party</b>	<b>Filing Deadline</b>
Conduct Early 2007 Studies	PCWA	5/15/ 2007 - 12/31/2007
File progress report and 2007 Initial Study Report	PCWA	1/22/2008
Conduct early 2007 progress report meeting	PCWA	2/4/2008
If needed, resolve any study plan modifications	PCWA and Participants	2/5/2008 - 3/18/2008
If needed, Finalize Revised Technical Study Plans	PCWA and Participants	4/1/2008
Conduct Early 2008 Studies	PCWA	1/1/2008 - 12/31/2008

**FIGURES**

Figure SD A-1. Integrated Licensing Process Schedule

**Integrated Licensing Process**  
(Section 241 of the Energy Policy Act of 2005)



**APPENDIX A**

**Middle Fork American River Project Communication and Participation Protocols**

**Placer County Water Agency  
Middle Fork American River Project  
(FERC No. 2079)**

**Middle Fork American River Project  
Communication and Participation Protocols**



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February 2, 2007

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**List of Attachments**

Attachment A. Supplemental Stakeholder Participation Statement.

## 1.0 OBJECTIVES

The objective of the Communication and Participation Protocols (Protocols) is to provide guidelines for participation in the relicensing process for Placer County Water Agency's (Licensee) Middle Fork American River Project (MFP or Project), Federal Energy Regulatory Commission (FERC or Commission) Project No. 2079 (MFP). The Protocols pertain to Licensee, governmental agencies, non-governmental organizations, Native American tribes, and unaffiliated members of the public who participate in the proceeding. The Protocols were formulated to provide guidance during early phases of the relicensing leading to settlement discussion on proposed license terms and conditions for the MFP. It is anticipated that the Protocols will be reviewed and revised, if appropriate, by the participants prior to initiation of settlement discussions.

## 2.0 DEFINITIONS

The following definitions apply:

- FERC: Federal Energy Regulatory Commission.
- FERC Project No. 2079 Mailing List: A mailing list of interested parties prepared and maintained by FERC throughout the relicensing.
- FERC Project No. 2079 Service List: A mailing list of parties that have formally intervened in the relicensing proceeding. The mailing list is prepared and maintained by FERC *after* it accepts the License Application.
- ILP: FERC's Integrated Licensing Process described in 18 CFR § 5.
- Licensee's FERC Project No. 2079 Interested Parties E-Mailing List: A list of interested parties, by e-mailing address, Licensee has prepared and maintains for the relicensing. Licensee anticipates that Licensee's FERC Project No. 2079 Interested Parties E-Mailing List will be updated periodically with FERC's Project No. 2079 e-mail list to keep both e-mail lists current during the relicensing. *Licensee's FERC Project No. 2079 Interested Parties E-Mailing List does not consist of all interested parties on the Licensee's FERC Project No. 2079 Interested Parties Mailing List since not all relicensing participants have access to e-mail.*
- Licensee's FERC Project No. 2079 Interested Parties Mailing List: A list of interested parties, by mailing address, Licensee has prepared and maintains for the relicensing. Licensee anticipates that at some time, Licensee's FERC Project No. 2079 Interested Parties Mailing List and FERC's Project No. 2079 Mailing List may be consolidated into one common list.
- MFP: Placer County Water Agency's Middle Fork American River Project, FERC Project No. 2079.
- PAD: Pre-Application Document required by FERC.
- PM&E Measures: Protection, mitigation, and enhancement measures.

- **Process Plan and Schedule:** The Relicensing Process Plan and Schedule prepared by the Licensee and included in the Licensee's Pre-Application Document (PAD), which will be maintained and updated by the Licensee through the relicensing.
- **Relicensing:** The relicensing process for the Middle Fork American River Project, FERC Project No. 2079.
- **Relicensing Participants:** Those Federal and state resource agencies, local governments, non-government organizations, Native American tribes, members of the public, and others interested in the Relicensing and represented at a scheduled Relicensing meeting or who participate in Relicensing activities.
- **Technical Working Group (TWG):** Focus group working on specific technical issues during the relicensing.

### **3.0 PARTICIPATION**

#### **3.1 PARTICIPANTS**

Participation in the Relicensing proceeding is open to Federal and state resource agencies, local governments, non-government organizations, Native American tribes, members of the public, and others having an interest in the Relicensing. To facilitate communication, governmental agencies and non-governmental organizations (NGO) are encouraged to designate one individual and one alternate to represent them during the Relicensing proceeding. The individuals designated as the representative for an agency or organization will be the point of contact for Relicensing correspondence and are encouraged to keep their respective organizations and constituencies informed of Relicensing activities. The individual so identified is expected to have the authority to speak on behalf of the organization.

Participants will clearly identify who they represent at the beginning of each meeting and if they represent more than one entity, all organizations will be identified.

#### **3.2 LATE PARTICIPATION IN THE RELICENSING**

Relicensing participants who begin participating in the relicensing after commencement of the relicensing are expected to get themselves informed and "up-to-speed" with the rest of the relicensing participants. Absence or late or delayed participation will not be allowed to disrupt the process.

#### **3.3 ROLES OF RELICENSING PARTICIPANTS WITH INDEPENDENT STATUTORY AUTHORITY**

Certain relicensing participants administer statutory authorities that may constrain participation in settlement negotiations. The Protocols do not modify the rights or duties of any such relicensing participant. Federal agencies with mandatory conditioning authority will participate in the relicensing process with the goal of reaching a settlement agreement on PM&E measures but will retain their independent statutory authority to condition the license.

The State Water Resources Control Board (SWRCB) has authority to grant, waive, or deny water quality certification as provided under Section 401 of the federal Clean Water Act (Water Code § 13160; 33 U.S.C. § 1341). The SWRCB and its staff are not relicensing participants within the meaning of that term in the Protocols, but its staff will provide input to the analysis of proposed PM&Es that may lead to a settlement among the relicensing participants. The staff of the SWRCB will not make commitments on behalf of the SWRCB, and will provide input only to the extent that doing so does not compromise the ability of the SWRCB to remain impartial in its decision-making role. The staff of the SWRCB will provide input to the settlement sessions with a view towards encouraging settlement among the relicensing Parties and providing relicensing participants with information concerning requirements applicable to SWRCB approvals. The relicensing participants understand that the role of the SWRCB staff is solely a guidance role and the SWRCB will not be a signatory to a Settlement Agreement.

Additional supplemental stakeholder participation statements are provided in Attachment A.

#### **4.0 LICENSEE'S RELICENSING WEBSITE**

Licensee has established and plans to maintain a publicly-accessible Internet website as a means of making relicensing information readily available to participants. Licensee anticipates posting the PAD, meeting notices/agenda, meeting summaries, public documents sent and received, reference materials, the Process Plan and Schedule, and other relicensing information on the website. The Middle Fork American River Project Relicensing website can be accessed at <http://relicensing.pcwa.net>.

#### **5.0 MEETINGS**

Participants will sign in at the beginning of the meetings to record who is at the meetings and their representation. Meetings will begin with introductions of all participants including who they represent.

##### **5.1 TYPES OF MEETINGS**

FERC's regulations require that certain meetings be conducted, and the Relicensing Process Plan and Schedule identifies several of these meetings. The ILP regulations stipulate that some of these meetings are the responsibility of FERC and some are the responsibility of the Licensee. In addition to the required meetings, Licensee anticipates that other meetings will be needed, particularly during development of study plans, and potential protection, mitigation, and enhancement measures. The Protocols apply only to meetings sponsored by the Licensee.

##### **5.1.1 Licensee's Meetings**

- Notice/Agenda - Licensee anticipates that it will provide notice for meetings not specifically required by the regulations (e.g., study plan development meeting), principally via e-mail using Licensee's FERC Project No. 2079 Interested Parties E-

mail List and on PCWA's relicensing website. Licensee-sponsored relicensing meetings will generally be scheduled with the consensus of the participants present. The Licensee will develop an agenda for upcoming meetings based on input from the participants at the previous meeting. The last agenda topic prior to adjourning a relicensing meeting will always be to identify agenda topics for the next scheduled meeting.

- Meeting Moderation - Licensee anticipates it will lead Licensee's meetings and be responsible to assure that all relicensing participants are heard. The relicensing meetings will reflect the Licensee's commitment to conduct an open and transparent process with a free exchange of information and interests.
- Meeting Summaries - Licensee will prepare a memo summarizing each relicensing meeting to assist relicensing participants. The purpose of the memo is to summarize decisions and action items committed to at the meeting for reference in future meetings and for review by those who could not attend the meeting. This memo is not intended to be a transcript of the meeting or meeting notes or to state the position of any relicensing participant. Licensee will distribute such meeting summaries via e-mail using Licensee's FERC Project No. 2079 Interested Parties E-Mailing List and post all meeting notices and summaries on the Project website. One of the first agenda items at each Licensee-sponsored meeting will be the review and approval of the most recent meeting summary.
- Use of Facilitator - Licensee will use an independent third-party neutral facilitator for the Plenary Collaborative meetings. If requested, the Licensee will provide a neutral facilitator for the other Licensee-sponsored meetings.
- Decision Making - Relicensing participants are expected to make a good faith effort to make decisions and reach agreement by consensus among the relicensing participants present at any scheduled Licensee-sponsored relicensing meeting. Consensus means that all participants to a given decision can "live with" the decision. For all major decisions the relicensing participants make, the moderator/facilitator will call the decision to question, asking each participant if they can live with the decision. Participants are expected to "speak-up" and respond to all decisions that are put to question. Unless otherwise indicated, all decisions made by relicensing participants are considered interim decisions subject to further discussion and modification based on additional information or reconsideration. All decisions and agreements of relicensing participants will be documented in writing. Documentation of decisions should cover any relicensing participant who misses a meeting and would like to return to a decision.
- Dispute Resolution - If consensus regarding a particular issue is not achieved after reasonable efforts, the issue will be considered to be in dispute. If a TWG cannot move past the dispute, the TWG will document the dispute and present it to the Plenary Group for resolution. The Licensee's obligation in this situation is to keep a record of the thread, parties, issues and important milestones regarding the dispute.

If the Plenary Group cannot find a solution, the Plenary Group may request assistance from FERC's formal dispute resolution team. Any unresolved disputes will be documented in the formal record and submitted to FERC.

FERC also has a formal study dispute resolution process described in 18 CFR § 5.14. The formal dispute resolution process is used by FERC when any Federal agency with authority to provide mandatory conditions pursuant to the Federal Power Act (FPA) Section 4(e) or to prescribe fishways pursuant to FPA Section 18 or any agency with authority to issue a water quality certification under Section 401 of the Clean Water Act files a notice of study dispute with respect to the Licensee's Revised Study Plans.

## **5.2 ATTENDANCE AT MEETINGS**

Relicensing participants are expected to make a good faith effort to attend or have a representative attend every full relicensing meeting and every meeting of each TWG or subgroup in which the participant is active. If the relicensing participant is unable to attend or have a representative attend a meeting, the relicensing participant will provide to Licensee any input at least two working days prior to the meeting.

Relicensing participants wanting to participate in relicensing but unable to attend a relicensing meeting may request to receive all materials distributed at the relicensing meeting and may provide written comments to the Licensee for consideration by the relicensing participants.

## **5.3 CAUCUS**

Any relicensing participant may call for a caucus at any time during any meeting.

## **5.4 PREPARATION**

Relicensing participants are expected to make a good faith effort to read background information provided before each meeting and to be prepared to effectively discuss topics on the meeting agenda.

## **6.0 DOCUMENTS**

### **6.1 TYPES OF DOCUMENTS**

FERC's regulations identify a number of documents required for the ILP. The ILP regulations stipulate that some of the documents are the responsibility of FERC and some are the responsibility of the Licensee. Licensee anticipates that there will also be other informal documents generated during the course of the relicensing.

### **6.1.1 FERC's Documents**

For documents issued by FERC, Licensee anticipates that FERC will distribute these documents in accordance with its Protocols. FERC has indicated it will use its FERC Project No. 2079 Mailing List for such distributions. Licensee anticipates that all documents issued or received by FERC will be posted and publicly available in the "eLibrary" on FERC's website at [www.ferc.gov](http://www.ferc.gov). Click on "Documents and Filing," "eLibrary," then "General Search." The website provides further instructions for obtaining documents.

Each participant in the relicensing can register to receive a notice each time FERC posts a document to its website regarding the relicensing. To register, go to FERC's website at [www.ferc.gov](http://www.ferc.gov). Click on "Documents and Filing," then "eSubscription." The website provides further instructions.

### **6.1.2 Licensee's Documents**

Licensee anticipates using electronic filing whenever possible for documents it files with FERC, and anticipates distributing such documents by e-mail to Licensee's FERC Project No. 2079 Interested Parties E-Mailing List or hard copy to Licensee's FERC Project No. 2079 Interested Parties Mailing List (the distribution will also go to FERC's Project No. 2079 Service List after the License Application is accepted). Licensee anticipates that it will also use e-mail for distribution of informal documents it initiates. Licensee anticipates that it will post on the relicensing website all public documents it sends or receives regarding the relicensing.

### **6.1.3 Other Participants' Documents**

Licensee anticipates that most relicensing participants will use electronic filing for documents they file with FERC and will distribute such documents by e-mail to Licensee's FERC Project No. 2079 Interested Parties E-Mailing List. Whenever possible, hard copies of documents filed with FERC should be made to FERC's Project No. 2079 Mailing List (the distribution will go to FERC's Project No. 2079 Service List after the License Application is filed). Licensee anticipates that all documents received by FERC will be posted and publicly available in the eLibrary on FERC's website at [www.ferc.gov](http://www.ferc.gov).

Licensee anticipates that most relicensing participants will use e-mail for distribution of informal documents they initiate.

### **6.1.4 Public Review File**

The Licensee shall maintain a Public Review File that constitutes the formal written record of the relicensing process. The Public Review File will include copies of written correspondence, summaries of all Plenary Group and TWG meetings, study plans and reports, status reports, contact logs, decision logs, and other documents submitted for

inclusion in the formal record. The public review file will contain the latest version of all agreements and decisions reached by the Plenary Group, thereby ensuring all such material will be transmitted to FERC.

The Licensee will document all action items and critical decisions of relicensing participants and post them on the website so that relicensing participants can track the decision-making and actions. The action items and decisions will be reviewed at the end of each meeting.

The Licensee will document oral communications for significant consultation activities (i.e. teleconferences) and information requests.

The Public Review File will be made available at the following locations for public review:

- In electronic format, at PCWA's Hydro Relicensing web page, accessible through <http://relicensing.pcwa.net>.
- In paper format, at PCWA's Resource Library, located at the PCWA Business Center 144 Ferguson Road, Auburn, California.

FERC's website will also have formally submitted documents. Any interested party may submit comments and other materials to PCWA and FERC for inclusion in the Public Review File. All written and electronic communications that an interested party would like to include in the Public Review File for the Middle Fork American River relicensing must be sent to both PCWA and FERC.

Written comments to FERC should be mailed to FERC's Secretary of the Commission (not FERC's staff assigned to the relicensing) at:

Kimberly D. Bose, Secretary  
Nathaniel J. Davis, Sr., Acting Deputy Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

Comments can also be electronically filed on FERC's website at [www.ferc.gov](http://www.ferc.gov). All material submitted for inclusion in the formal record must clearly display the following information on the first page: Middle Fork American River Project, Project No. 2079 Formal Communication. Relicensing participants should provide all material in electronic format, to the extent reasonably possible, to allow the material to be posted promptly on PCWA's relicensing website. Material may be submitted in both electronic and paper format, if appropriate. Written comments received by FERC will become part of the official record for the MFP and be posted and publicly available in the eLibrary on FERC's website.

## **6.2 SINGLE-TEXT APPROACH**

Participants in Plenary and TWGs will use a single-text approach for development of important, decision-based documents such as the Protocols, study plans, and agreements. All comments by the relicensing participants on a given document under consideration in or among the Plenary and/or TWGs will be made on the actual document in question, using track/edit changes if possible, such that the comments can easily be understood, shared, and integrated into a revised text. Each version of the text shall be clearly labeled. Alternatively, a group may elect to jointly edit a document during a meeting, with all participants offering comments during the session.

PCWA will maintain a cumulative record of the decisions reached on a given document.

Documents will include a footer, the title of the document, page numbers, date of origination, date of revision, version number, and initials of last person who has edited the document.

## **6.3 CONFIDENTIALITY**

Some information developed under the ILP may be confidential under California or applicable law. For example, information on Native American resources, locations of sensitive environmental and cultural resources, and engineering drawing of Project facilities are considered confidential material with restrictions on their distribution. It is the responsibility of the relicensing participant providing confidential information under applicable law to identify the information as confidential in advance of disclosure and inform the group.

PCWA's approach is to provide an open and transparent process acknowledging that confidentiality agreements with the tribes as well as FERC's regulations regarding the distribution of Critical Energy Infrastructure Information (CEII) must be honored.

When settlement negotiations begin, additional confidentiality agreements between the relicensing participants may be necessary.

## **7.0 PERSONAL CONDUCT**

### **7.1 RESPECT FOR PARTICIPANTS**

The personal integrity, values, and legitimacy of the interests of each relicensing participant are expected to be respected by all other relicensing participants. In addition, each relicensing participant agrees to adhere to the ground rules provided and reviewed by the Facilitator at each meeting.

### **7.2 COMMITMENTS**

Commitments will not be made lightly and will be kept.

### **7.3 COMMUNICATING INTERESTS**

Every relicensing participant is responsible for communicating their interests and the interests of the governmental agency or non-governmental organization they represent on topics under consideration. It is incumbent upon each relicensing participant to state his or her interests. Voicing these interests is essential to enable meaningful dialogue and full consideration of different points of view. Resource information germane to assessment of potential Project impacts and development of potential PM&E measures is expected to be shared with the other relicensing participants.

### **7.4 GOOD FAITH**

All relicensing participants are expected to make a good faith effort to achieve relicensing objectives through use of the ILP.

## **8.0 COMMUNICATIONS**

### **8.1 COMMUNICATIONS AMONG RELICENSING PARTICIPANTS**

All relicensing participants are free to informally communicate with each other; however, relicensing participants are encouraged to share relevant communications among all relicensing participants as appropriate.

Other than verbal communications at meetings, e-mail will be the primary means of formal communication among the relicensing participants. The initiator of any such e-mail is responsible for ensuring that it is sent to all relicensing participants, as applicable.

Licensee anticipates that telephone calls among relicensing participants will be treated informally, with no specific documentation.

### **8.2 COMMUNICATIONS WITH FERC**

Written comments to FERC should be mailed to FERC's **Secretary of the Commission** (not FERC's staff assigned to the relicensing) or electronically filed on FERC's website at [www.ferc.gov](http://www.ferc.gov). Written comments received by FERC will not be distributed but will become part of the official record for the MFP and be posted and publicly available in the eLibrary on FERC's website. Each participant in the relicensing can register to receive a notice each time FERC posts a document to its website regarding the relicensing (see Section 6.1.1, FERC's Documents).

### **8.3 MEDIA COMMUNICATIONS**

Relicensing participants may communicate with the media regarding their own views, interests and positions, but will avoid making statements characterizing other relicensing participants' interests. Relicensing participants will make a reasonable effort to promptly inform Licensee and other relicensing participants of relevant communications with the media. The Facilitator will not make public statements, except at the request of the relicensing participants.

### **9.0 COMPLIANCE WITH PROTOCOLS**

Each relicensing participant is expected to voluntarily abide by these Protocols. Licensee does not propose that participation in the relicensing is contingent upon formal acceptance of these Protocols, but that Licensee, Federal and state resource agencies, local governments, non-government organizations, Native American tribes, members of the public, and others participating in relicensing voluntarily abide by the letter and intent of these Protocols.

**ATTACHMENT A**  
**Supplemental Stakeholder Participation Statement**

## **SWRCB Collaborative Process Participation Statement**

The State Water Resources Control Board (SWRCB) and the nine Regional Water Quality Control Boards are the principal state agencies responsible for administering the state's water quality control program (Wat. Code, §§ 13000-14958.) This includes responsibility to grant, waive, or deny water quality certification as provided for under section 401 of the federal Clean Water Act (Wat. Code, § 13160; see generally 33 U.S.C. § 1341.) The SWRCB issues water quality certification before a license to operate a hydropower project may be issued by the Federal Energy Regulatory Commission (FERC). In addition, the SWRCB is the state agency responsible for administering surface water rights throughout the state (Wat. Code, §§ 1000-5976.)

Where the SWRCB's regulatory approval is required, the SWRCB has a legal duty, independent of any arguments raised by parties to the proceeding before the SWRCB, to assure that the requirements for that approval are satisfied. In this case, the SWRCB has an independent statutory duty under the Clean Water Act and the applicable regional water quality control plan to ensure that the operation of the Middle Fork American River Project (FERC No. 2079) will not adversely affect water quality or the beneficial uses of the affected lakes and stream reaches within the Middle Fork American River drainage.

The SWRCB agrees to participate in the development of information regarding the Middle Fork American River Project that may lead to a settlement among the interested parties. It is the policy of the SWRCB to promote voluntary settlements among the parties to adjudicative proceedings before the SWRCB. It is also the policy of the SWRCB to assist applicants and members of the public by making available information about the requirements of the programs it administers. The SWRCB will participate in the collaborative process with a view towards encouraging settlement among the parties and other persons interested in proceedings before the SWRCB, and providing applicants, protestants, and other interested persons with information concerning the requirements applicable to SWRCB approvals.

While the SWRCB can provide information that will help guide the parties towards a settlement that is likely to obtain the necessary regulatory approvals, however, the SWRCB cannot make a prior commitment to the outcome of any regulatory approval that must be issued by the SWRCB. The SWRCB acts in an adjudicative capacity when it acts on a request for water quality certification, water right application, change petition, or other water right approval that may be required for or requested in connection with a proposed project. The SWRCB must be an impartial decision-maker, avoiding bias, prejudice or interest, in any adjudicative proceedings conducted in accordance with the SWRCB's regulatory approvals. Consistent with its adjudicative responsibilities, including its obligation to consider any arguments that may be raised or information provided by parties to a SWRCB proceeding, the SWRCB cannot execute any settlement agreement or make any other commitment that would be binding on the SWRCB as part of its action on a request for water quality certification or other necessary SWRCB permit, license, or other regulatory approval.