



7430 Morningside Dr  
Granite Bay, CA 95746  
(916) 205-6073  
hbp@surewest.net  
www.horseshoebarpreserve.com

December 23, 2010

**VIA ELECTRONIC SUBMITTAL**

*Hon. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426*

**RE: COMMENTS ON PLACER COUNTY WATER AGENCY'S  
DRAFT LICENSE APPLICATION FOR THE MIDDLE FORK AMERICAN  
HYDROELECTRIC PROJECT #2079**

Dear Secretary Bose:

Horseshoe Bar Fish & Game Preserve, Inc. (HBP) submits this letter in response to Placer County Water Agency's September 27, 2010 submission of its Draft License Application for project # 2079. HBP is a member of the Middle Fork American River ("MFA") Working Group; as a member and stakeholder of that group, we have been participated in the MFA relicensing process by representation through the Foothills Water Network ("FWN"), and the Foothills Anglers Coalition (FAC), which has submitted their comments by separate letter.

It is important to note that HBP is fully supportive of all of the FWN and FAC comments, having signed them, and joins in and adopts those comments as a member of the MFA Working Group. Additionally, it has always been the understanding and policy of the MFA Working Group, FWN and FAC that individual members have the option to submit separate comments on any specific issue, while joining in the FWN & FAC comments. This comment letter has been submitted pursuant to that policy. Subsequently, we have submitted in a separate filing the HBP interest statement, which defines HBP interests, intent and purpose in participating as a stakeholder in these proceedings. This same interest statement was filed previously with PCWA.

Before setting out our separate comments on certain issues, the following background and remarks are essential:

Horseshoe Bar Fish and Game Preserve (HBP) is a duly organized and existing California corporation. HBP is located on private property covering thousands of acres for five miles on both sides on the Middle Fork of the American River. It was created to protect the fisheries, aquatic habitat and

resources in the Middle Fork of The American River, and expand the public and private use of the MFA's recreational resources. Over the past years, HBP has expanded its mission statement to support local schools, philanthropic and nonprofit organizations. Below is a list of organizations and events we have chosen to support financially, as well as, through public events at the property.

Philanthropic Organizations: Casting for Recovery (Women recovering from Breast Cancer); Wounded Warriors (Returning Veterans from Iraq & Afghanistan)

Schools: Waldorf Schools of North America, Placer Hills Education Foundation, Franklin Elementary School, Sacramento County Day School, Foresthill Schools

Non-Profit Organizations: Boy Scouts of America, Cub Scouts of America; Numerous Northern California Fly Fishing clubs including, Granite Bay Flycasters, California Fly Fishers Unlimited, San Jose Flycasters, Gold County Fly Fishers, Peninsula Fly Fishers, and Golden Gate Angling & Casting Club.

As set forth above, HBP concurs with, joins in, and adopts FWN's and FAC's comments on the DLA. We do, however, submit our own comments regarding the DLA.

## **1. MFA RELICENSING PROCESS**

### **The DLA is Not a "Consensus" Document as it Applies to the MFA's Peaking Reach**

PCWA's scheduling and management of the public input meetings, collaborative negotiations on the Peaking Reach were significantly abbreviated in comparison to bypass reach negotiations. As a result, meaningful discussions were not conducted and no consensus was ever reached.

Subsequently, continued negotiations with stakeholders and interest groups on peaking reach issues were conducted after the formal negotiation period concluded. However, this follow-on input to PCWA was not reflected in the DLA language concerning the peaking reach. It is HPB's sincere desire that meaningful discussions and negotiations regarding the will continue so that a true consensus can be formed.

## **2. INITIAL STUDY PROCESS**

### **2.1. Initial Studies Relating to Recreational Angling**

The initial recreational studies completely ignored a major recreational use of the MFA. In the FWN and HBP comments there are requests for studies on angler safety, fish stranding, river crossing and numerous other flow-related issues pertaining to angling. At a March 4, 2010 meeting concerning the Angler's interest, PCWA agreed to provide river crossing flow studies with the Anglers Focus Group. Unfortunately PCWA later refused to honor its commitment and there were no river crossing studies done with the anglers focus group. These should have been done in the same manner as they were for the boating interests, and the trail crossing interests.

## **2.2. Angling Recreational Surveys, Studies and Angler Input**

Throughout the process, the angling interest was treated in a manner significantly different than other interests. At the outset of the proceedings, an “angler focus group” meeting was held, from which erroneous, superficial information was drawn. Requests were made repeatedly for additional meetings, studies and surveys but until very late in the process those requests were summarily denied. During the January 2010 REC meeting we requested that the matter of the marginalization of anglers and the failure to address angler’s input be brought before the Plenary Group for a discussion. PCWA’s refused our request out of hand and told us to file a complaint to FERC. Attached are a copy of our complaint letter and the survey of the angler’s recreational use which PCWA refused to participate in conducting.

As a result of our filing the complaint PCWA held a second meeting in March of 2010. The angling interest was well represented at that meeting. It should be noted that was the only evening MFA Recreational stakeholder meeting was held at 7:00 PM and ran late into the evening. All of the other MFA REC meetings were held during the hours of 9:00 AM & 4:00 PM, hours which were exceedingly difficult for most working recreational users and interest groups to attend.

Information that was generated from the Angler’s meeting unfortunately did not find its way into the DLA. We have attached the summary of that meeting as prepared by Entrix, so that it is clear that it is part of the record. The disparate treatment of the angling interest group by PCWA, and paucity of meetings with the angling interest group should be contrasted with the deferential treatment accorded, the numerous meetings that were held with other interest groups, such as the whitewater boating interests. By way of example, in the Final REC-4 Technical Study Report, Exhibit E, there are approximately 806 pages devoted to whitewater interests, while there are only 93 pages devoted to the angling interest.

It is important to note that the California State Parks conducted a comprehensive study and user survey of the Auburn State Recreation Area in 2006. This study showed that 28% of the MFA users surveyed were involved in white water boating. This same study showed that 18% of the users surveyed were anglers. The overwhelming disparate treatment between these two groups throughout the PCWA studies and the DLA is shockingly inappropriate and clearly prejudicial. (Auburn State Recreation Area Survey Report; page 17, Table 19.)

## **2.3. Aquatic BMI Studies**

PCWA’s repetitive avoidance to conduct fish-related and BMI related studies on the Horseshoe Bar Preserve property below the tunnel chute fish barrier despite repeated requests to do so. This in turn renders PCWA’s conclusions regarding fish and BMIs in the peaking reach faulty and incomplete. HBP requests that PCWA conduct reasonable studies within the preserve area below the fish barrier of the Tunnel Chute in the same manner as it did elsewhere on the river, in order to collect more accurate data upon which to base its conclusions.

## **2.4. Fish Stranding Studies and Associated Fish Stranding incidents**

The requests for fish stranding studies were by in large limited and ignored considering the numerous letters and communications PCWA received over the last three years. Additionally information concerning the standing that was observed during the Oct 8th 2008 maintenance period was not entered into the record and included in DLA. Attached is a copy of the e-mail concerning the stranding

sent to PCWA on Oct. 8th 2008. PCWA's failure to address the stranding other than to state that the current license allows them to continue the practice of stranding fish and destruction of the BMI (See attached Letters). These communications show a disregard for the wild native fish and other aquatic life in the river.

## **2.5. Incomplete Studies**

HBP reserves the right to comment on incomplete studies and alter our comments on the Draft License Application. At this time, HBP fully intends to comment on these currently incomplete studies in response to PCWA's Final License Application. These incomplete studies include the Entrainment Study, the Bioenergetics Study and the Reservoir Fish Habitat Study. Additionally, there are also three management plans that are still outstanding. The HBP reserves the right to comment on these outstanding studies and management plans as well as to revise our recommendations for PM&Es as a result of the study outcomes.

## **3. DLA SPECIFIC COMMENTS**

### **3.1. Reintroduction of Salmonids into the Upper American River: NIMFS filing with FERC**

This issue was covered in the Foothills Water Network comment document. HBP wishes to add only one point that was not mentioned because the event had not occurred at the time of filing of those comments: NIMFS has filed its Biological Opinion and Conference Opinion and Draft Recovery Plan for Central Valley Listed Salmonids in the record of these proceedings.

### **3.2. Flow Impacts on Spawning Rainbow Trout (O. Mykiss)**

HBP has repeatedly requested over the last three years that PCWA conduct studies and investigate the O.mykiss reported spawning in the Grey Eagle Bar area of the MFA. PCWA was also asked to investigate the dewatering /destruction of O.mykiss Redds on the MFA. The record is replete with evidence that O.Mykiss is present in the main stem of the river and that they spawn during the maintenance period. PCWA refused to consider this in conducting their studies on the peaking reach. HBP requests that PCWA conduct the necessary studies to determine the nature and extent of the O.mykiss presence in the MFA, and the habits of the O.Mykiss that inhabit the main stem.

### **3.3. Fall Spawning Rainbow Trout**

Additionally, in spite of FWN's formal request, PCWA has not included in the DLA any analysis, comparison, requirements or considerations of the MFA's documented winter-spawning O. mykiss (rainbow trout) populations. PCWA's response was that flow-related analysis/comparisons would not be included in the technical study reports" for any time period other than spring.". HBP requests that further study, analysis and flow-related requirements/considerations of winter-spawning O. mykiss be required of PCWA as part of their license application.

### **3.4. Annual Maintenance Outage Minimum Flows**

The peaking reach's aquatic environment should not have to endure extreme low minimum flows for 30- days or more merely because of maintenance work. We would like to craft license terms and

conditions that require PCWA to reduce the outage flow periods to the absolute minimum. The project's license requirements should meet the needs of the environment, not the reverse.

### **3.5. Available Alternatives to Address Adverse Impacts Associated With Peaking Flows**

In doing its flow analysis, PCWA did not take into account available information relating to a settlement that occurred relative to the Yuba River, on peaking issues. The reason for bringing this to FERC's attention via a comment is that there is no dispute that peaking is harmful to the river and its ecosystem. Dr. Graig Addley who PCWA employed through Entrix repeatedly acknowledged that peaking has a very harmful effect on the entire aquatic life in the river. While clearly minimum flows are of vast importance, the difference between the high and low peaks is also critical. This issue was addressed in the Yuba River settlement and should have been considered by PCWA before producing the DLA.

### **3.6. PCWA failed to follow and implement the science that Entrix produced for the peaking reach, relating to the effects of peaking on available habitat for trout spawning, young-of-the-year rearing, and benthic macroinvertebrate refuge/habitat.**

- 3.6.1. PCWA's studies demonstrate two very significant scientific facts: (i) peaking drastically affects trout spawning habitat, young of the year rearing habitat, and BMI production and refugia habitat; (ii) there is virtually no spawning within the main channel of the Middle Fork below Oxbow dam because of the peaking of the system. These two facts are related, but bear specific separate mention.
- 3.6.2. The trout spawning habitat studies showed that 94% of the effective trout spawning habitat is destroyed by peaking flows at the RM 4.8 study site under current license conditions, and that at the RM 14.1 study site peaking flows destroy 81% of the spawning habitat. The DLA proposal would continue to destroy 88% of the spawning habitat at RM 4.8 and 75% of the spawning habitat at RM 14.1. To suggest that by virtue of this small reduction in adverse impact the DLA would provide "enhancement" to spawning habitat is equivalent to saying that it is ok to destroy 88% of the spawning habitat because previously only 94% was destroyed by PCWA. The numbers specified in this paragraph are drawn from Appendix AQ1, Figures O-18 and 19.
- 3.6.3. This, of course, is the reason that there is no spawning in the main stem of the river. Such spawning as does occur happens in the few tributaries that exist below Oxbow dam. PCWA's sole mitigation for this impact is to propose that gravels be introduced to re-establish spawning habitat. There are a number of problems with this: (i) PCWA proposes to introduce gravels above the tunnel chute. However, any gravel introduced in that area will simple wash into the tunnel, which is 50 feet in depth, and/or into the "lake" area beyond the tunnel, which area is over 70 feet deep. It will remain there until a storm of at least 100 year magnitude occurs to move the gravel out and downstream. HBP requests that PCWA conduct a study to determine feasible areas for gravel introduction below the tunnel chute and lake. Horseshoe Bar Preserve will provide access to PCWA for this purpose if PCWA determines that introduction below the tunnel and lake is a feasible area. (ii) Still, peaking will inevitably and immediately wash introduced gravels (even below the tunnel and lake) to the sides of the river as is currently the situation, so gravel introduction is probably not even a workable solution. HBP requests that in

its geomorphology analyses, PCWA consider this question and produce the necessary science to support a conclusion that gravel introduction will in fact mitigate for loss of spawning habitat caused by peaking. Finally, if spawning gravels are introduced in suitable locations as a mitigation measure, then that should be done regularly to encourage spawning in the side channel at Grey Eagle Bar and other areas.

- 3.6.4. The studies show that there are virtually no small fish in the main stem river, and virtually no young of the year. This is because peaking disturbs their refugia, strands them, and makes them available for easy predation by bigger fish and other terrestrial predators. HBP requests that PCWA produce the necessary science to determine reasonable and feasible mitigation measures designed to provide suitable habitat for small fish.
- 3.6.5. The RM 4.8 study site shows that BMI habitat is reduced to 20% at 75cfs. A similar loss of habitat occurred at the RM 14.1 studies. The DLA proposes a minimum flow of 125 CFS which will reduce the available habitat to 34%. Under the current operating policy PCWA minimum flow have been approximately 200 CFS which will reduce the available habitat to approximately 50%. As a consequence the DLA is actually asking to reduce the BMI habitat by 16% from its current operating policy. The DLA request to increase the destruction of habitat is not an enhancement and should not be allowed. BMI numbers clearly affect the number (few, as shown by the fish population studies) and size (all larger—larger fish eat small fish) of fish in the system. There are too few BMIs to support good populations of small fish. HBP members provided clear anecdotal information to PCWA during the study process that demonstrated that BMIs that did hatch were stranded and preyed upon so that their numbers were reduced nearly to zero. PCWA did not take this evidence into account. HBP requests that PCWA produce the necessary science to determine reasonable and feasible mitigation measures designed to provide suitable habitat for BMIs. The information specified in this paragraph was drawn from Appendix AQ1, Figures O-15 and 24.

### **3.7. Metric for measuring claimed enhancements**

By its own admission, PCWA has not utilized the 75 cfs minimum flow in the peaking reach as its operating standard. Rather, as shown clearly by the operating history presented by PCWA, it has historically operated the system at around 200 cfs as the minimum flow. Yet, in claiming “enhancements” PCWC refers to the minimum flow of 75 cfs required by the existing license. In effect, there is little if any enhancement if the existing condition is used as the metric for measuring claimed enhancements. In fact, PCWA is requesting a license that would be less than its current operating policy. The DLA actually provides less Spawning, incubation, and food production habitat than it currently available under its current operating conditions. PCWA’s suggestion that the DLA is an enhancement to the aquatic life in the MFA would be laughable if it were not so important to the health of the fishery. HBP requests that PCWA provide a discussion of its rationale for using the existing license condition as opposed to the existing operating condition, or at least do a comparative analysis using both metrics.

## **4. GENERAL COMMENTS**

### **4.1. Lack of Meaningful Spawning Mitigation in the MFA Peaking Reach**

The creation of the Project's Oxbow Dam facility functionally severed the upper tributary system (bypass reaches) from access of mainstem (peaking reach) fish populations to historic spawning areas. This barrier was created without significant spawning mitigation measures identified in the original License. Impacts of this lack of spawning habitat are clearly indicated in the aquatic fishery studies. As a general comment, HBP believes that this significant environmental impact should be remedied in the relicensing of the MFA Project. HBP strongly supports the non-flow mitigations for enhancing trout spawning as identified in the FWN's DLA comments.

### **4.2. Adaptive Management Issues**

It is essential that whatever flow regimes are identified under the new license, PCWA would be responsible to evaluate the instream flow impacts on BMI habitat and production. Should licensed flow regimes indicate decreases or adverse trends in BMI populations, then further studies should be conducted in developing and adapting regimes that are more conducive to BMI populations and overall aquatic ecosystem health.

### **4.3. Retention and modification of fishery management provisions in existing license amendment language.**

Although not identified in the DLA, FWN recommends that portions of the existing FERC No.2079 License Amendment language be retained and modified in the new License for fishery management purposes. This new language is referenced to the current 1981 License Amendment; FERC Project No. 2079; ORDER AMENDING LICENSE (MAJOR); (Issued March 18, 1981); Page 5: (E) Article 37: Footnote; 2/ New License language would be modified to read as follows: *"Oxbow Powerplant releases: The scheduled flow releases may be modified for beneficial aquatic and fishery management purposes upon consensus among the Licensee, the U.S. Forest Service, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game. Should consensus be unobtainable, parties will employ appropriate mediation and/or arbitration processes to reach a determination."*

### **4.4. Water sales**

Historically, PCWA has engaged in water transfers and sales. This clearly has an effect on reservoir storage levels, and that effect trickles down in a manner as to affect other issues in the peaking reach, such as the effect on fish and BMI habitat and numbers, of prolonged high flows required to ensure delivery of the water. HBP requests that PCWA conduct the reasonable studies to determine the effect of water sales on fish and BMI habitat and numbers, and on other issues such as water availability for increases in minimum flows and similar issues, and specifically the adverse effects on the angling interest. For example, in 2009, water sales caused unseasonably high flows below Oxbow Reservoir that made angling not only extremely difficult for a significant period of time, but created a dangerous condition for anglers trying to access the river.

Through this water sales process, PCWA has categorically avoided any detailed environmental analysis or compliance with California Environmental Quality Act (CEQA); Water Code section 1729, by implementing large-scale water transfers (typically 10,000 to 20,000 acre feet) as "temporary changes"

to its water rights applications/permits, which is allowed under Water Code sections 1725, et seq.. PCWA's petitions for "temporary changes" are exempt from the requirements from CEQA and other applicable parts of Water Code sections 1725. However, when considering the frequency of PCWA's implementation of large-scale water transfers in 2001, 2004, 2005 and 2009, it is arguable that these numerous transfers should continue to qualify for a CEQA exemption.

#### **4.5. MFA Event Coordination**

HBP's annual event for seriously wounded veterans brings together veterans from across the country in an effort to help them adjust and rehabilitate from both physical and mental injuries suffered during their service in the Iraq and Afghanistan wars. The individuals who participate in helping these veterans come from Los Angeles to Reno. They spend five days working with the veterans in teaching them how to fly fish, tie flies and gold pan. These activities have proven to be very beneficial in the effort to help rehabilitate these veterans. HBP also brings together professional counselors to assist veterans in adjusting and learning what programs are available to help them. Attached are articles printed in local newspapers covering the event. PCWA has made provisions in the DLA to cooperate with Tevis Cup and Western States 100 Events. We believe that the HBP Wounded Warrior Event to help rehabilitate returning seriously wounded veterans deserve the same consideration and cooperation so as not to endanger these veterans who have given so much to defend our country.

Thank you for your consideration of these comments submitted on behalf of the Horseshoe Bar Game and Fish Preserve.

Respectfully by:

Tom Bartos, President  
Horseshoe Bar Fish and Game Preserve

## **ATTACHMENT A**



7430 Morningside Drive  
Granite Bay, CA 95746  
Ph# 916-205-6073  
E-mail: [hbp@surewest.net](mailto:hbp@surewest.net)  
Website: <http://horseshoebarpreserve.com/>

07/09/2009

Placer County Water Agency  
Resource Development Department  
Mr. Mal Toy  
Project Manager  
P.O. Box 6570  
144 Ferguson Road  
Auburn, CA 95604

RE: Request for fish study

Dear Mr. Toy,

On May 21, 2009 I had an opportunity to fish with Bill Carnarrazo a noted guide and board member of the Upper American River Foundation. We happen to fishing below the Tunnel Chute in the wide expanse area above the side channel at Gray Eagle Bar that afternoon. Bill showed me the October caddis and how they moved around on the rocks. This large expanse covers approximately 10 acres and drains into the side channel. The sheer amounts of the October caddis was overwhelming and certainly presents a major source of food for the native rainbow trout.

Several weeks later I returned to the area with a member and tried to show him the October Caddis that had covered the rocks. To my surprise I could not find a single caddis. When I arrived home I went to the river flow website and saw that the peaking flows where the water peaks daily at over 1000 CFS and down to 200 CFS had began. The area above that had been covered with October Caddis had become dry which allowed the birds and other predators to pick clean the caddis. Also the small rainbow fry are also trapped and end up with the same faith. This obviously has an impact on the fishery.

With the determination that the Tunnel Chute is a fish barrier the fish study that was conducted above the Tunnel Chute provides information as to the fish above. The river below the Tunnel Chute is very different in that the river has many wide expanses such as the above that gets flooded and become dry daily. Also, as I explained to you in my correspondence over the last year, the dewatering of the Gray Eagle Bar side channel has a devastating effect on the fall spawning fish in that area. We are very concerned that during the maintenance period this year the fish in the side channel spawning will again be trapped and perish because it is dewatered.

Because there is a dramatic difference in the river topography above and below the fish barrier at the Tunnel Chute we request that a fish study be done to determine the effects of the peaking flows on the fishery. We would also request that PCWA give consideration to the dewatering of the Gray Eagle side channel when it does its maintenance this October. We understand that by the terms of the license you are permitted to reduce the flows to 75 CFS, however the destruction to the fishery and spawning fish could be mitigated by keeping the flows at the 300 CFS to 400 CFS range. Hopefully this should allow the fish and aquatic life in the area to survive.

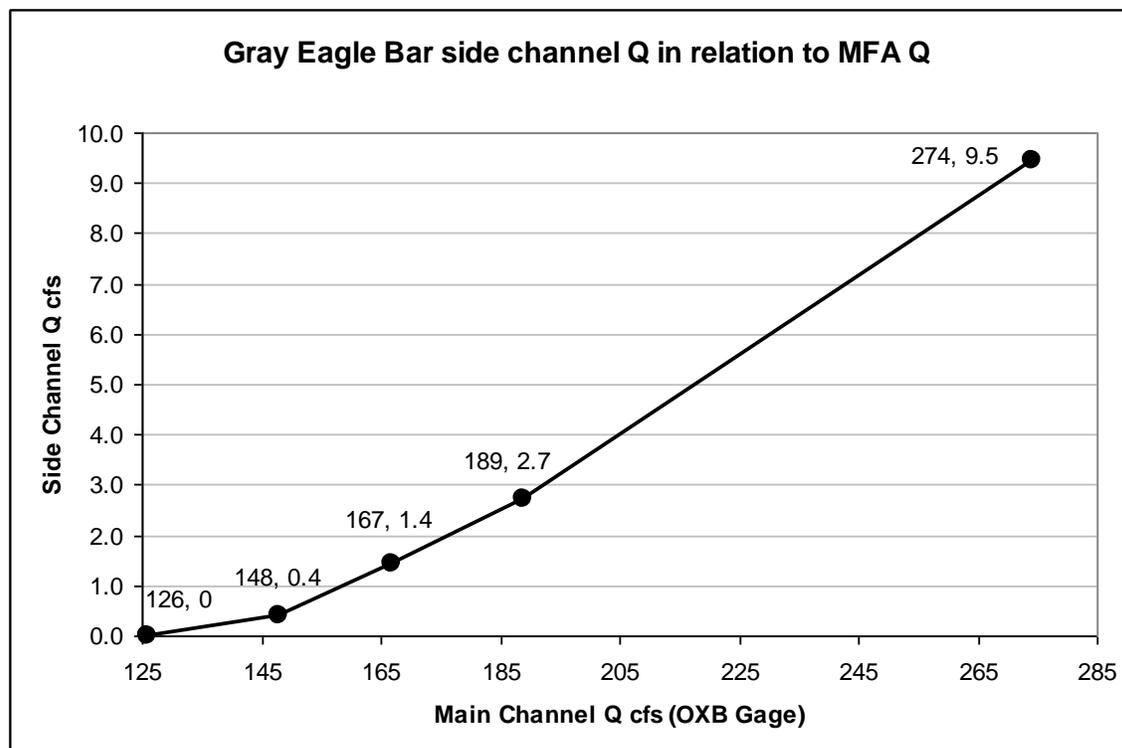
Sincerely,

Thomas G.M. Bartos  
President

## **ATTACHMENT B**

### GRAY EAGLE BAR SIDE CHANNEL OBSERVATIONS

Flow into the Gray Eagle Bar side channel was observed at five different discharges in the Middle Fork American River. The figure below relates the flow (cfs) measured at the Oxbow Gage (using the CDEC rating table) to the measured<sup>1</sup> discharge (cfs) at the top of side channel.



Main Channel cfs vs Side Channel cfs		
Date	Main (cfs)	Side (cfs)
11/13/2008	274	9.5
11/13/2008	189	2.7
11/14/2008	167	1.4
11/17/2008	148	0.4
11/21/2008 <sup>1</sup>	126	0

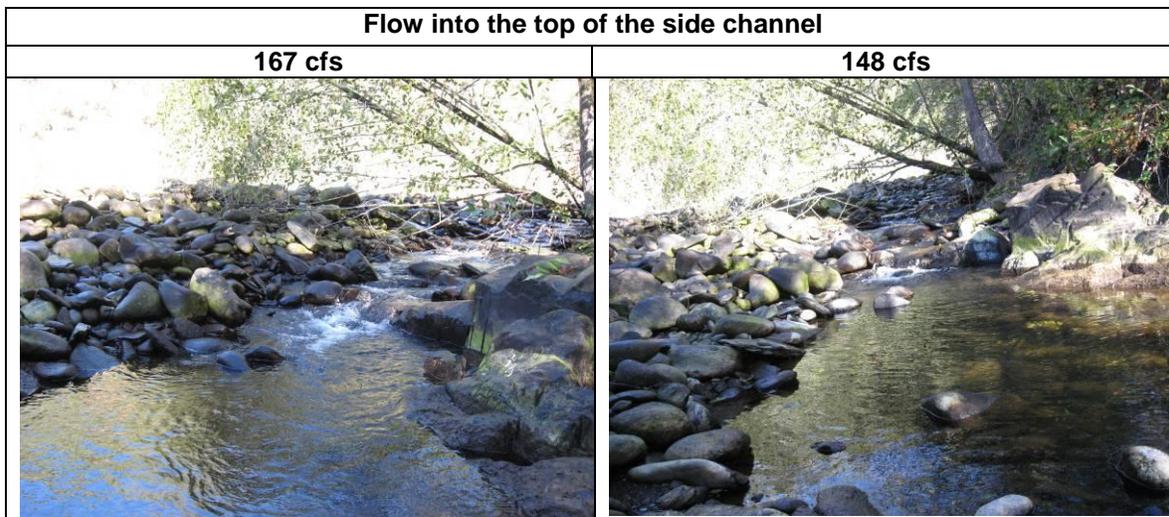
At a discharge of 148 cfs in the main channel some flow (0.4 cfs) remained in the side channel. However, two riffles, one in the midsection of the channel and one at the end of the channel, were dewatered. This resulted in disconnected pool habitat.

At a discharge of 126 cfs in the main channel no flow (or nearly no flow) existed in the side channel. The disconnected pools remained, however surface flow appeared to have ceased.

<sup>1</sup> At the lowest flow observed, discharge in the side channel was not measured. Field observation suggested flow into the side channel was essentially zero cfs.

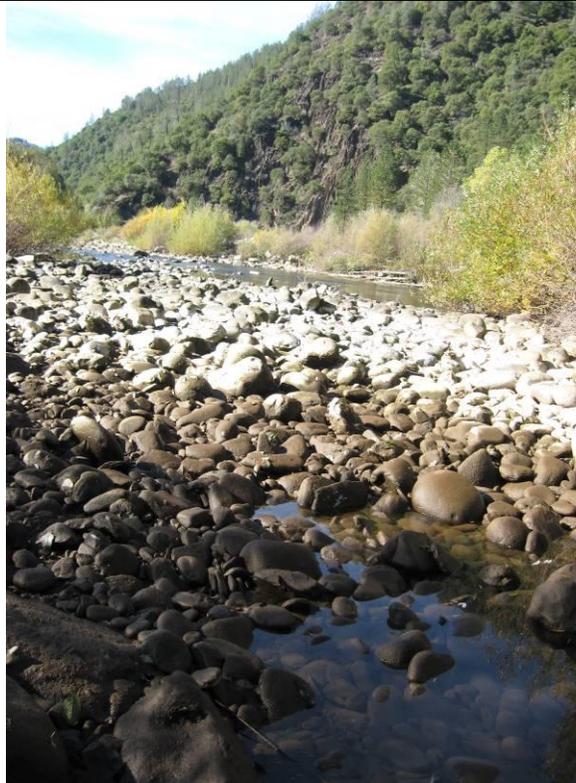
**GRAY EAGLE BAR SIDE CHANNEL OBSERVATIONS (CONTINUED)**

Below are photos of habitat conditions in the side channel at 167 cfs and 148 cfs (11/17/08 and 11/14/08, respectively) in the MFA main channel.



**GRAY EAGLE BAR SIDE CHANNEL OBSERVATIONS (CONTINUED)**

<b>Long riffle habitat in the mid-section of the side channel</b>	
<b>167 cfs</b>	<b>148 cfs</b>
	

<b>Looking downstream at the last pool in the side channel disconnected from main channel</b>	
<b>167 cfs</b>	<b>148 cfs</b>
<p>No photo</p>	

**GRAY EAGLE BAR SIDE CHANNEL OBSERVATIONS (CONTINUED)**

<b>Hydraulic Control in Main Channel and Side Channel</b>	
<b>Main channel at 167 cfs</b>	<b>Side channel at 167 cfs</b>
 A photograph of a wide, calm river channel. The water is dark and reflects the surrounding green trees and foliage on the banks. A red arrow points from the top of the image down to a specific area on the left bank where the water meets the shore.	 A photograph of a narrow, rocky side channel. The water is turbulent and white with foam as it flows over numerous large, dark rocks. The banks are lined with dense green trees and bushes.

## **ATTACHMENT C**



7430 Morningside Drive  
Granite Bay, CA 95746  
Ph# 916-205-6073  
E-mail: hbp@surewest.net  
Website: <http://horseshoebarpreserve.com/>

03/03/2009

Placer County Water Agency  
Resource Development Department  
Mr. Mal Toy  
Project Manager  
P.O. Box 6570  
144 Ferguson Road  
Auburn, CA 95604

RE: Gray Eagle Channel Dewatering Event; Interim Aquatic Habitat Management Objectives of the Horseshoe Bar Fish and Game Preserve

Dear Mr. Toy,

The following narrative details the interim management objectives of the HBP:

### **Interim Gray Eagle Bar Flows**

The HBP will seek to ensure that the Gray Eagle Bar channel receives sufficient water to function as critical aquatic and spawning habitat, which is vital to the continued health and natural regeneration of the wild trout.

- When the MFAR in stream flow (in the reach below Oxbow Dam) is released at a level below 200-175 cfs, it results in the dewatering of this important channel. This reduction of flows to below 200 CFS dewater a channel located on our property killing the fish and destroying a majority of the invertebrate and other aquatic life in the channel.
- In the case of the most recent dewatering incident (late November, 2008), not only did the in-stream flow reduction totally negate the existing spawning redds, but also resulted in the stranding of spawning wild trout. These stranded trout represented a viable spawning population, and quickly perished as a result of a lack of cover and escape, and eventual predation.
- The HBP requests that PCWA take whatever actions are necessary to insure that the Gray Eagle Bar channel continues to receive sufficient in-stream flow to prevent these wild and native fish from being stranded and allowed to die.

- The HBP has observed Rainbow trout spawning in this channel during the fall and early-winter months. These fish could be descendents of Coastal Steelhead species which were trapped in the North/Middle Fork when Folsom Dam was built in the 50's. Any loss of this critical spawning habitat would certainly have a dramatic and long lasting negative effect on the fishery, and specifically, on these native Rainbow trout.

### **Interim HBP Instream Flow Regime Objectives**

- The HBP will seek an interim flow prescription that provides for in stream flows that are not lower than a rate of 300 cfs to 400 cfs.

### **Interim HBP Instream Flow Ramp Rate Objectives**

#### Up-Ramp Flow Rate Targets:

- Target flow up-ramp rates that **generally would not exceed 130 cfs per hour** in the Oxbow Dam peaking reach.

#### Down-Ramp Rate:

- Target flow down-ramp rates that **generally would not exceed 200 cfs per hour for flows exceeding 1,000 cfs**, except for flow conditions beyond PCWA's control.
- Target flow down-ramp rates that **generally would not exceed 100 cfs per hour for flows less than 1,000 cfs**, except for flow conditions beyond PCWA's control.

#### Potential Adverse Effects of Current High Impact MFAR Flow Fluctuations:

- Reductions in available habitat
- Reduced access to side channels, upstream habitat, tributaries, and floodplain habitat
- Alteration of benthic macroinvertebrate (BMI) assemblage
- Forced movement or migration of fish
- Stranding of fish or dewatering their redds
- Altered quality of and access to rearing and spawning habitat
- Decreased habitat stability and therefore increased predation

### **Desired Stable Flow Periods**

- The HBP will seek a constant flow during the weekly Tuesday through Friday period that would not be less than a 300 cfs to 400 cfs range throughout the year.

Thomas G.M. Bartos  
President

## **ATTACHMENT D**



7430 Morningside Drive  
Granite Bay, CA 95746  
Ph# 916-205-6073  
E-mail: hbp@surewest.net  
Website:  
<http://horseshoebarpreserve.com/>

11/25/2008

Placer County Water Agency  
Resource Development Department  
Mal Toy  
Director  
P.O. Box 6570  
144 Ferguson Road  
Auburn, CA 95604

RE: Gray Eagle Channel

Dear Mr. Toy,

As I stated in my e-mail today it is our and Walt Stevens, the owner of the property, belief that the channel at Gray Eagle Bar is a genuine lawful channel on the Middle Fork of the American River. I have communicated with Walt Stevens today and he has indicated that this channel has been in documented existence for over 75 years. Mr. Stevens has aerial photos of this channel dating back to 1948. He also has maps that predate these photos that show the side channel as a legitimate channel. Mr Steven also indicated that there was a bridge at one time at the Gray Eagle Bar to allow access vehicles to cross over the Middle Fork and Gray Eagle Bar area.

We believe this channel is vital to the continued health of the native trout that are in the Middle Fork of the American River. Each fall the native Brown and a strain of Rainbow trout spawn in this channel. We believe the Rainbow trout that spawn in this channel during the fall are dependences of the Steelhead that were trapped up stream when Folsom Dam was built in the 50's. To lose this spawning ground would certainly have a dramatic negative effect on the fishery and these native fish.

We therefore ask that PCWA take whatever actions are necessary to insure that this channel continues to receive enough water to prevent the fish from being trapped and allowed to die. It is also imperative that there be sufficient water to allow the fish to spawn as they have for many years.

Sincerely,

Thomas G.M. Bartos  
President & Founder

## **ATTACHMENT E**

**From:** Horseshoe Bar Fish & Game Preserve, Inc. [<mailto:hbp@surewest.net>]  
**Sent:** Monday, October 18, 2010 8:30 AM  
**To:** Goishi, Kevin; Einar Maisch  
**Cc:** Mike Lee; Gray Allen; Andy Fecko  
**Subject:** Stranding of fish and destruction of the macro & micro invertebrates during maintenance

Mr. Kevin Goishi,  
Pacific Gas and Electric  
&  
Mr. Einar Maisch,  
Placer County Water Agency

The Foothills Anglers Coalition is a newly-formed California non-profit corporation made up of numerous Northern California Fly Fishing Clubs, Anglers, Fishing Guides and retailers. This Coalition was formed to help promote the protection and enhancement of the fisheries and aquatic environment of the American River Watershed.

As you are aware, over the last three years we have, both orally and in writing, brought up the issue of stranding fish and destruction of the macro and micro invertebrates on the Middle Fork of the American River during the fall maintenance period, caused by PCWA's/PG&E's failure to release adequate water during this period. We have provided pictures and statements from community leaders as to the stranding and destruction of bug life that occurs during this period due to the low flow of 75 cfs. Our requests to prevent this from occurring have largely been ignored and discounted. We have made every effort to work with PG&E and PCWA to resolve this matter.

Initially the concerns we expressed were met with statements from PCWA that the side channel at Gray Eagle Bar was not a legitimate channel. We responded with photographs dating back to the 1940's, together with maps and statements from the property owner that the channel has existed for over 100 years despite numerous floods and the breaking of Hell Hole Reservoir. In the case of the 2009 fish stranding event, I notified PCWA of the low-water fish entrapment that was occurring on Gray Eagle Bar. PCWA responded that they would send down a crew to rescue any stranded fish. The crew arrived three days after the water had been lowered to a point where no water was flowing and even then numerous Sculpins were found in small puddles that had not dried up totally.

As a result of the FERC relicensing process, PCWA has produced a study showing how the lowering of flows below 200 CFS results in the dewatering of this channel and the large areas surrounding Gray Eagle Bar. Fish in this area, as well as other similar areas, become trapped and any bug life is destroyed as the area dries up and predators feast on anything left to die.

As you know, this year we have spoken with each of you regarding the above issue. In those discussions we proposed that the flows not be reduced below 200 CFS. In response, Mr. Goishi stated that PG&E would consider our request if PCWA would agree to our proposal. At a meeting with Einar Maisch, Gray Allen and Ben Ransom, PCWA indicated that they wanted PG&E to put something in writing stating that they would agree with our requests. On October 15<sup>th</sup>, Mr. Goishi requested that PCWA put something into writing in order to accommodate our requests. PG&E & PCWA place the blame on each other for the destruction that occurs. Both parties also refuse to put anything in

**writing that they seem to be willing to agree to verbally. This type of finger pointing is both unprofessional and unproductive.**

**We believe that the continued stranding of fish and destruction of the macro & micro invertebrates is exceptionally destructive to the health of the Middle Fork American fishery and is unacceptable. We have made every effort possible to work in good faith with both PG&E and PCWA to resolve this matter amicably and avoid having to become adversaries. If PG&E and PCWA remains adamant in allowing the continued stranding of fish and destruction of the vital bug life in the Middle Fork of the American River, then we will have no choice but to take every action we deem necessary to prevent this from occurring including making the general public, the media, and governmental agencies aware of the unnecessary, unreasonable, and preventable stranding and destruction of fish and their essential food source.**

**Sincerely,**

**Thomas G.M. Bartos  
President  
HBP**

Document Content(s)

HBP Comments\_DLA\_MFA\_Project 2079.PDF.....1-25