



United States Department of the Interior



FISH AND WILDLIFE SERVICE
San Francisco Bay-Delta Fish and Wildlife Office
650 Capitol Mall, Suite 8-300
Sacramento, California 95814

In reply refer to:
FERC #2100
ECOSphere # 2023-0048680-S7-001

February 3, 2026

Debbie-Anne A. Reese, Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

Subject: Reinitiation of Consultation and Informal Conference for the Feather River
Hydroelectric Project, Federal Energy Regulatory Commission Project #2100, Butte
County, California

Dear Secretary Reese:

This letter is in response to the Federal Energy Regulatory Commission's (FERC) May 13 and August 20, 2025, letters requesting concurrence for the Feather River Hydroelectric Project (Project) from the U.S. Fish and Wildlife Service (Service) that the proposed Project may affect but is not likely to adversely affect the federally threatened North Feather Distinct Population Segment of the foothill yellow-legged frog (*Rana boylei*) (FYLF) and critical habitat for the federally threatened California red legged frog (*Rana draytonii*) (CRLF) and the proposed as threatened California spotted owl (*Strix occidentalis occidentalis*) (owl), western spadefoot (*Spea hammondi*) (spadefoot), monarch butterfly (*Danaus Plexippus*) (monarch), and the non-essential experimental population of the California condor (*Gymnogyps californianus*) (condor). Critical habitat was proposed for FYLF on January 14, 2025 (90 FR 3412) but does not occur within the Project area. Revised critical habitat was designated for the CRLF on March 17, 2010 (75 FR 12816), and the critical habitat unit BUT-1 occurs at the upstream end of Lake Oroville, adjacent to the North Fork Feather River arm of the reservoir. Critical habitat has not been proposed for the spadefoot, monarch, or owl. This response is provided under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), and in accordance with the implementing regulations pertaining to interagency cooperation (50 CFR 402).

The Service issued a combined informal consultation for the threatened delta smelt (*Hypomesus transpacificus*), the threatened CRLF, the threatened slender Orcutt grass (*Orcuttia tenuis*), the threatened Greene's tuctoria (*Tuctoria greeneri*), the threatened Layne's butterweed (*Senecio layneae*), the endangered Conservancy fairy shrimp (*Branchinecta conservatio*), the endangered Butte County meadow foam (*Limnanthes floccosa ssp. californica*), the endangered hairy Orcutt grass (*Orcuttia pilos*), the endangered Hartweg's golden sunburst (*Pseudobahia babifolia*), and the endangered Hoover's spurge (*Charnaesyce hooveri*) and a biological opinion for the federally-threatened vernal pool fairy shrimp (*Branchinecta lynchi*), the threatened valley elderberry longhorn beetle (*Desmocerus californicus*

dimorphus (beetle), the threatened giant garter snake (*Thamnophis gigas*), and the endangered vernal pool tadpole shrimp (*Lepidurus packardii*) for the Project on April 9, 2007 (Service file number: 1-1-07-F-0049; 2007 consultation or 2007 Biological Opinion). Therefore, this consultation is a reinitiation of the 2007 consultation to include newly listed and proposed species and not a stand-alone consultation.

FERC has reaffirmed their determinations for each of the species from the 2007 Biological Opinion, except for the bald eagle (*Haliaeetus leucocephalus*), which has been delisted. We have reviewed the information FERC provided with their reaffirmed determinations and found that the 2007 consultation remains valid.

In their December 30, 2025 and January 13, 2026 emails, California Department of Water Resources (DWR) (the licensee) indicated that take has occurred since 2007 for the vernal pool fairy shrimp, vernal pool tadpole shrimp, and the valley elderberry longhorn beetle. In 2007, DWR road construction activities permanently impacted 0.021 acre of vernal pools. This impact was mitigated by the purchase of 0.042 acre at Stillwater Plains Mitigation Bank. The 2007 Biological Opinion allows for no more than 9.5 acres of impacts to vernal pools over the entire license period. In 2009, DWR moved one elderberry shrub (0.03 acre) from the Saddle Dam due to dam safety concerns. This impact was mitigated by DWR purchasing three credits for the beetle at the River Ranch Conservation Bank in 2009. In 2017, DWR transplanted two elderberry shrubs from the Oroville dam spillway (emergency after-the-fact consultation #08FBDT00-2018-IE-0349). The 2007 Biological Opinion allows for no more than 12 acres of elderberry shrub habitat impacts over the entire license period. DWR has stated that the take described above is the only take that has occurred from Project activities since issuance of the 2007 Biological Opinion.

The Federal action on which we are consulting is the proposed relicensing of the Project which includes the continued operation and maintenance of the Project facilities for power generation and other public purposes, future resource actions, and implementation of conservation measures developed in coordination with the Service. FERC is requesting reinitiation to include the FYLF, critical habitat for the CRLF, the proposed for listing owl, spadefoot, and monarch, as well as the condor with the changes to the Project Description included in the Proposed Conservation Measures section later in this document. The remainder of the document reflects the inclusion of these species and critical habitat to the consultation.

We have reviewed the proposed Project, including: (1) the May 13, 2025 and August 20, 2025, letters from FERC to the Service requesting consultation and the attached Biological Assessment (BA); (2) the October 30, 2025 letter from FERC updating the species determinations from the original 2007 Biological Opinion; (3) DWR's emails on December 30, 2025 and January 13, 2026 providing a summary of actions related to federally listed species since 2007; (4) additional information provided to the Service by the DWR; and (3) the best available science on the species and their habitats.

Add to the Consultation History

May 13, 2025	The Service received FERC's request for concurrence letter.
June 2025 through January 2026	The Service corresponded with FERC and DWR to clarify Project Description details.

- August 20, 2025 The Service received FERC's letter amending the consultation request.
- September 9, 2025 The Service submitted an additional information request to FERC to update the determinations for each of the species from the original 2007 Biological Opinion and to provide a summary of actions pertaining to federally listed species since the issuance of that Biological Opinion.
- October 30, 2025 FERC submitted to the Service their response to our additional information request which included updated species determinations but did not provide a summary of actions. Due to the lapse in Federal appropriations, the Service did not receive this response until November 13, 2025.
- November 20, 2025 The Service requested DWR provide the additional information that was not included in FERC's October 30, 2025 response via email.
- December 30, 2025 The Service received DWRs summary via email.
and January 13, 2026

Add to the Proposed Conservation Measures

The DWR has proposed conservation measures intended to reduce environmental impacts of the proposed Project. Only those measures that are not already included in the 2007 Biological Opinion are included here, although many additional measures from the earlier consultation are expected to benefit the species included in this reinitiation.

- In the event a condor is sighted in the Project area or nearby vicinity, DWR shall report the occurrence to the Service as soon as practicable. DWR and the Service shall then coordinate to determine if additional measures are necessary to protect the species.
- Rodenticides shall not be utilized within 0.7 mile from a Protected Activity Center (PAC) for the owl. DWR shall coordinate annually with CDFW/Rarefind to determine if any new PACs have been identified in the vicinity of Lake Oroville.
- Prior to implementing activities that could impact native milkweed plants, DWR shall survey for milkweeds and establish buffers to avoid impacts to plants that could host monarch eggs or larvae. Any detections of monarch within the Project area shall be reported to the Service as soon as practicable.
- Should a spadefoot be detected within the Project area, DWR shall report the occurrence to the Service as soon as practicable. DWR shall coordinate with the Service to determine if additional measures are necessary to reduce impacts to the species.

Add to the Conclusion

After reviewing all available information, the Service concurs with your determination that the proposed Project may affect, but is not likely to adversely affect the FYLF, CRLF critical habitat, spadefoot, monarch, condor, and owl due to the following reasons: (1) FYLF are not expected to occur within the Project boundary and the nearest known population is upstream of Lake Oroville in the North Fork Feather River; (2) CRLF critical habitat unit BUT-1 occurs proximal to the upstream end of Lake Oroville and is not expected to be impacted by Project activities; (3) although

potential habitat for spadefoot occurs within parts of the Project area, the species has not been detected in the Project area for several decades and DWR shall notify and coordinate with the Service should the species be detected in the future; (4) measures to protect the giant garter snake and vernal pool-dependent species are expected to benefit the spadefoot, should it occur in the future; (5) owls are not known to nest within the Project area, however, DWR shall coordinate annually with CDFW/Rarefind to determine if any new owl PACs have been detected and to establish appropriate buffers; (6) should a condor be detected within the Project area, DWR shall coordinate with the Service to determine if additional measures are necessary to reduce impacts to the species; and (7) DWR shall survey for milkweed species and establish buffers prior to implementing activities that could result in harm to the monarch.

REINITIATION—CLOSING STATEMENT

This concludes reinitiation of the 2007 consultation to include informal consultation and informal conference on the Feather River Hydroelectric Project. You may ask the Service to confirm the conference concurrence as a consultation concurrence, issued through informal consultation, if the action hasn't occurred yet or is ongoing when, and if, the owl, spadefoot, and monarch are listed. The request must be in writing. If you determine that the proposed Project has not changed and the Service finds that there have been no significant changes in the action as planned or in the information used during the conference, the Service will confirm the conference concurrence as the consultation concurrence on the proposed Project and no further section 7 consultation will be necessary. As provided in 50 CFR §402.16,

(a) Reinitiation of consultation is required and shall be requested by the Federal agency, where discretionary Federal involvement or control over the action has been retained or is authorized by law and:

- (1) If the amount or extent of taking specified in the incidental take statement is exceeded;
- (2) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered;
- (3) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion or written concurrence; or
- (4) If a new species is listed or critical habitat designated that may be affected by the identified action.

(b) An agency shall not be required to reinitiate consultation after the approval of a land management plan prepared pursuant to 43 U.S.C. 1712 or 16 U.S.C. 1604 upon listing of a new species or designation of new critical habitat if the land management plan has been adopted by the agency as of the date of listing or designation, provided that any authorized actions that may affect the newly listed species or designated critical habitat will be addressed through a separate action-specific consultation. This exception to reinitiation of consultation shall not apply to those land management plans prepared pursuant to 16 U.S.C. 1604 if:

- (1) Fifteen years have passed since the date the agency adopted the land management plan prepared pursuant to 16 U.S.C. 1604; and

Debbie-Anne Reese, Secretary

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(2) Five years have passed since the enactment of Public Law 115-141 [March 23, 2018] or the date of the listing of a species or the designation of critical habitat, whichever is later.

If you have any questions regarding this response, please contact A. Leigh Bartoo of my staff via email at aondrea_bartoo@fws.gov.

Sincerely,

**HEATHER
SWINNEY**  Digitally signed by
HEATHER SWINNEY
Date: 2026.02.03
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Heather Swinney
Acting Project Leader

ecc:

FERC #P-2100 listserv
CDFW—Michael Maher
Forest Service—Leslie Edlund
DWR—Eric See, James Gleim
FERC—Rebecca Kipp


**BEFORE THE
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

CERTIFICATE OF SERVICE

I hereby certify that U.S Fish and Wildlife Service's Concurrence Letter for the Informal Section 7 Consultation on the Feather River Hydroelectric Project, Federal Energy Regulatory Commission Project #2100 has this day been electronically filed with the Federal Energy Regulatory Commission and served, via electric mail, upon each other person designated on the Service List for Project P-2100 compiled by the Commission Secretary.

Dated at Sacramento, California, this 4th of February, 2026.

**AONDREA
BARTOO**

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