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79 FERC ¶ 62,073

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Project No. 2916-013

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RESOURCES DEPT.

East Bay Municipal Utility)
District) Project No. 2916-013ORDER APPROVING AND MODIFYING
AMENDED PROPOSED REVISED RECREATION PLAN

(Issued May 1, 1997)

On April 12, 1990, East Bay Municipal Utility District (licensee), filed a revised recreation plan for the lower Mokelumne River Project, No. 2916, as required by the Regional Director. 1/ The revised recreation plan was supplemented by the licensee on January 2, 1992, and amendments were filed on: (1) September 7, 1993, in response to the Order on Proposed Revised Recreation Plan and Complaint issued July 9, 1993; 2/ and (2) April 18, June 16, and July 15, 1994, in response to the Order on Rehearing issued February 16, 1994. 3/ The revised recreation plan also complies with the requirements of Article 38 of the license. 4/

BACKGROUND

A. Project Description

The Lower Mokelumne River Project (project) is located on the Mokelumne River in Amador, Calaveras, and San Joaquin Counties, California. The project is a multi-purpose system of surface reservoirs and aqueducts operated for water supply, flood control, hydropower production, and recreation.

Recreation facilities at the project are located on Camanche Lake and Pardee Lake. Camanche Lake has two main recreation areas: North Shore Recreation Area and South Shore Recreation Area. The North Shore Recreation Area has individual tenting sites, group campsites, a marina and boat ramps, tennis courts, and rental cottages. The South Shore Recreation Area has individual tenting campgrounds, recreational vehicle (RV) campgrounds for short-term and seasonal use, picnic grounds, boat ramps, a swimming beach, a marina, and tennis courts.

- 1/ Letter from C.L. Emmerling, Regional Director, San Francisco Regional Office to C.T. Way, Chief Engineer, East Bay Municipal Utility District, dated July 8, 1986.
- 2/ 64 FERC ¶ 61,043 (1993).
- 3/ 66 FERC ¶ 61,199 (1994).
- 4/ 14 FERC ¶ 62,237 (1981).

The Mokelumne River Fish Installation Day Use Area (formerly know as Van Assen Park) provides river access and day use facilities downstream of Camanche dam. The Camanche Hills Hunting Preserve, located on 1,500 acres of project land on the north side of the reservoir, provides fee hunting for waterfowl and upland game. It is open to the public, subject to state laws for controlled hunting areas.

The Pardee Recreation Area has individual tenting campsites, RV campsites, picnic facilities, a marina and boat ramp, and swimming pools.

B. Recreational Development

The Commission issued a license for the project on March 10, 1981. 5/

The licensee's plan to upgrade recreation facilities at Pardee, and make no changes to the recreation facilities at Camanche Lake, was approved and included in the project license. At that time, the licensee did not file any plans for additional recreation facilities at Pardee Lake. Article 38 of the license required the licensee to request Commission approval before starting construction of any additional recreation facilities at Pardee Lake. Neither the Van Assen Park nor the Comanche Hills Hunting Preserve were included in the approved plan.

In 1986, an inspection of the project by the Commission's San Francisco Regional Office found facilities at Pardee Lake in generally good repair, but documented substandard recreation development at the Camanche Lake facilities. The inspection report also documented privately-owned mobile homes and permanently-parked recreation vehicles within the project boundaries that precluded full public use of project recreational development.

As a result of the inspection report, the Regional Director directed the licensee to correct the deficiencies found during the inspection. The Director's letter advised the licensee to redraw the project boundaries to exclude private mobile homes and other permanent tenants from the project boundary and to shorten the length of stay allowed for seasonal RV use.

The letter also required the licensee to file a proposed revised recreation plan that would, among other things:
(1) accurately describe existing recreation facilities;
(2) detail the existing management and operations responsibilities, including copies of concessionaire agreements;
(3) provide a schedule for rehabilitation or removal of closed facilities; (4) include an assessment of recreational demand and

- 5/ 14 FERC ¶ 62,237 (1981).

use at the project; and (5) provide an analysis of certain public health and safety concerns, including the condition of sewer and water facilities, and the impacts of night boating activities.

The licensee filed a proposed revised recreation plan for the project on April 12, 1990.

C. Prior Commission Action

In response to the public notice of the proposed revised plan, the Tenants Association of South Camanche (Tenants) filed a petition to intervene and a protest on November 13, 1990. The Tenants contended, among other things, that the licensee's proposal to relocate some of the trailers, many of which had occupied their sites for up to 20 years, was not justified by recreational use in the area. The Tenants urged the Commission to reject the licensee's proposed plan, and to require a thorough recreation study.

On July 17, 1992, the Tenants filed a complaint alleging that the licensee had started to implement the proposed plan, including eviction proceedings, prior to Commission approval. The Tenants asked the Commission, among other things, to require the licensee to cease all activity related to implementation of the proposed recreation plan.

The Commission responded to the Tenants by an Order on Proposed Revised Recreation Plan and Complaint on July 9, 1993. The Commission declared that long-term residency, or essentially granting individuals exclusive use of a site, is inconsistent with the Commission's policy of maximizing public access to project lands, waters, and recreational facilities, and that the licensee's proposal was in accord with Commission policy. However, the Commission agreed that a plan to monitor recreational use was needed along with an accounting of all changes made to the recreation facilities since the proposed plan was filed. In view of the fact that rental patterns had been of long standing, the Commission granted an additional two years from the date of the order, before relocations could be required.

A February 16, 1994, Order on Rehearing provided some clarifications of the previous order, and deferred the relocation of long-term residents for two years from the date that the amended proposed revised recreation plan is approved by the Commission.

LICENSEE'S PROPOSED PLAN

On April 12, 1990, the licensee filed a revised recreation plan as directed by the Commission's Regional Director's letter of July 8, 1996. The licensee supplemented the plan on January 2, 1992, and filed amendments on September 7, 1993, and April 18, June 16, and July 15, 1994, in response to the Order on

Proposed Revised Recreation Plan and Complaint issued July 9, 1993, the Order on Rehearing issued February 16, 1994, and Commission staff letters dated January 12, 1994, and May 27, 1994. The licensee intends the plan to supersede its report on recreation resources (Exhibit E) and project map (Exhibit G) that were part of the project application and made part of the project license.

The licensee's revised recreation plan includes:

- (1) a description of project's recreation facilities;
- (2) a description of the new management structure for the Pardee and Camanche Lake recreation facilities, including the redistribution of camp sites to increase the number of short-term sites, decrease the number of long-term sites, and limit long-term stays to 8 months;
- (3) a schedule for rehabilitation of the existing facilities;
- (4) a description of plans to remove a closed water slide;
- (5) a statement of the licensee's intent to prohibit night boating on the project lakes;
- (6) a description of the Camanche Hills Hunting Preserve and Van Assen Park (renamed the Mokelumne River Fish Installation Day Use Area);
- (7) information on the sewage lagoons and "Beaver Pond" at Camanche Reservoir;
- (8) a summary of the Camanche Lake fishery management plan; and
- (9) revised Exhibit G maps that exclude the private mobile home parks at Camanche Lake from the project boundary.

At Pardee Lake the licensee proposes to increase the number of short-term RV campsites from 25 to 37 and retain the remaining 68 sites for seasonal use. The plan also proposes improvements to the marina including new docks and a new marina building.

At the Camanche Lake North and South Shore Recreation Areas, the licensee proposes to perform various area-wide improvements including:

- (1) improvements to the water and waste water systems;
- (2) structural improvements to many of the area's buildings and boat docking facilities;

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- (3) installation of fencing and replacement of signs;
- (4) upgrades to the area roads;
- (5) resurfacing boat ramps; and
- (6) upgrades to the overall landscaping.

At the Camanche Lake North Shore Recreation Area, the licensee proposes to reduce the density of the 175 individual tent campsites from 17 sites per acre to 10 sites per acre. A second group camp site accommodating 15 people would be added. The overflow campground accommodating 100 sites would remain unchanged. The licensee also proposes to eliminate a horse rental stable, but continue to provide equestrian access at a new multi-purpose trail, the China Gulch Trail.

At the Camanche Lake South Shore Recreation Area the licensee proposes to decrease the total number of tent campsites from 328 sites at four campgrounds to 220 sites at three campgrounds. This would be accomplished by eliminating 24 campsites near Cat Fish Lake and reducing the density of the remaining 220 campsites to 10 refurbished sites per acre. In addition, the licensee proposes to increase the number of picnic sites from 47 to 100 units.

The licensee also proposes to redistribute and decrease the density of the RV campsites within the Camanche Lake South Shore Recreation Area. Under the existing conditions described in the 1990 proposed plan, there were 4 Recreational Vehicle (RV) campgrounds in the Camanche Lake South Shore Recreation Area. 6/

The licensee proposes to limit the stay, and redistribute the location of RV campsites, at the Camanche Lake South Shore Recreation Area. The maximum length of stay at short-term RV campsites would be reduced from 45 days to 21 days; the number of short-term RV campsites would be increased from 119 to 213. The maximum length of stay at long-term RV sites would be reduced from an unlimited period to eight months, while the number of long-term RV campsites would be reduced from 178 to 85. The licensee proposes to convert Area C from a long-term campground to a short-term campground. Long-term stay RVs currently in Area C would be moved to Area F (created by combining the existing Areas D and E). Area F would then be removed from the project boundary and Exhibit G would be revised. Area P would remain as a short-term campground.

6/ The plan identifies the different areas by letter. RV Campground Areas E and P had a total of 119 RV campsites that were designated for short-term stays not to exceed 45 days. Areas C and D had a total of 178 RV campsites that were designated for unlimited, long-term stays.

The licensee also submitted revised Exhibit G maps that exclude the private mobile home parks at Camanche Lake from the project boundary. Two mobile home parks are excluded from the Camanche Lake North Shore Recreation Area and one mobile home park is excluded from the Camanche Lake South Shore Recreation Area. In addition, RV Area F is excluded from the project boundary.

COMMENTS ON THE REVISED PLAN

The licensee solicited comments on its draft of the revised recreation plan from interested state and federal agencies. Letters of comment were received from the California Department of Parks and Recreation (March 5, 1990), the National Park Service (February 22, 1990), and the California Department of Fish and Game (February 22, 1990) and were included in the licensee's revised plan. There were no adverse comments.

The Commission issued a new Notice of Application on August 1, 1994. The California Sportfishing Protection Alliance (Alliance) and the Committee to Save the Mokelumne River jointly filed a petition of intervention and comments on August 15, 1994. The Tenants filed comments on September 12, 1994.

The Alliance listed thirteen items it feels should be addressed in the plan. These include: (1) water quality; (2) reservoir levels; (3) boat launching and mooring facilities; (4) a sport fishery management plan for each reservoir; (5) camping and day use facilities; (6) facilities for the elderly and persons with disabilities; (7) drinking water; (8) rest rooms and garbage facilities; (9) access to project waters; (10) public safety measures; (11) swimming areas; (12) access roads; and (13) reasonable use fees. In addition, the Alliance requested confirmation of whether or not funds from the California Department of Water Resources (Water Resources) were used to construct or maintain recreation facilities to ensure that, if such funds were used, the plan is consistent with any agreements between Water Resources and the licensee tied to the use of those funds.

The Tenants expressed concern that the information provided in the plan is not adequate, because the data submitted by the licensee do not accurately represent recreation use and demand at the project, and the data are not broken down by recreation site. Therefore, the data do not show when and at which sites recreation demand exceeds capacity. The Tenants dispute the licensee's description of the need for more short-term sites in Area C, because the data do not distinguish between Areas C and F. The Tenants recommend that a recreation survey is needed to determine the distribution of recreation use and demand, and to better determine the most suitable recreation development for the project. The Tenants also cite examples of campers being turned away from the park's main gate because the park was reportedly

full, but open RV sites were observed to still be available in Area C.

The licensee filed a response to the Tenants' comments stating that the concerns were addressed in the Commission's Order on Rehearing. The licensee cites the Commission's statement that "the data East Bay [licensee] collected on recreation use and demand from the past four years will provide...sufficient information to determine whether to approve East Bay's amended proposed revised plan with respect to the need for additional short-term RV campsites." 1/ The licensee also responded to the observation that campers may be turned away when spaces are still available by explaining that the spaces may be reserved for people who arrive late or fail to arrive, and that it is the policy of the concessionaire to not double book reservations for spaces.

DISCUSSION AND CONCLUSIONS

The licensee's revised recreation plan was filed in response to a letter from the Commission's Regional Director in July 1986, after an inspection of the project showed facilities at Camanche Lake were in a substandard condition, that privately owned mobile homes at both Camanche Lake and Pardee Lake recreation areas were located within the project boundaries, and that recreational vehicles were permanently parked or parked for the entire recreation season and were therefore precluding public access. Article 38 of the license requires the licensee to request Commission approval before starting construction of additional recreation facilities at Pardee Lake.

I considered the concerns of the Alliance and the Tenants.

With regard to items cited in the Alliance's motion to intervene, I find that the licensee's revised recreation plan covers each of the items that the Alliance believes should be included in the plan, with the exception of its call for the plan to include adequate facilities for the elderly and persons with disabilities. My review of the licensee's plan finds that the licensee's construction drawings provided in response to the Commission's May 27, 1994 letter, show some designated handicapped parking spaces and typical details for curb cuts to accommodate persons with disabilities. It is not clear from the licensee's plan, however, what other accommodations have been made at other project facilities, such as campsites, rest rooms, etc., to accommodate persons with disabilities. I conclude that the licensee should review its responsibilities under the Americans with Disabilities Act and file a description of how the design of proposed project recreation facilities has considered the needs of the physically disabled.

1/ 66 FERC ¶ 61,199 (1994).

The Alliance also requests that the licensee confirm that if Water Resources monies were used to construct and maintain project recreation facilities, that the proposed actions are consistent with any agreement between the Water Resources and the licensee. I note that Water Resources did not find a need to file comments on the proposed recreation plan, and I do not need the information in order to take action. The licensee is responsible for obtaining all necessary and required permits and approvals, including any needed from the Water Resources.

With respect to the Tenant's comments, no new issues were raised, and their concerns have been addressed in previous orders in this proceeding. I find the licensee's explanation for the observation about unused sites when campers are turned away to be reasonable. I do not find a need for further action in this matter.

Two aspects of the licensee's revised recreation plan do not respond to the requirements of the Regional Director's July 8, 1986, letter and the previous orders in this proceeding.

First, the licensee's revised recreation plan does not define a triggering mechanism for future development. I find, however, that the triggering mechanism is covered by the recreation use monitoring plan that was required by the July 9, 1993, Commission order, and that reference adequately responds to the Regional Director's requirement. 2/

Second, the licensee's revised recreation plan does not include copies of the concessionaire agreements for the management of the recreation facilities. The plan indicates that lease agreements with the previous management entities for the Pardee and Camanche Lakes recreation facilities were terminated and an interim management team was contracted with until a permanent management team could take over the management in 1990 or 1991. The Commission has not received copies of the present concessionaire agreements. I conclude that the licensee should file copies of all concessionaire agreements with the Commission within 30 days of the date of issuance of this order.

Based on the above, I find that the licensee's revised recreation plan, as amended by order of the Commission, satisfies the requirements of the Regional Director and the previous

2/ The licensee's plan to monitor recreation use and demand at the project was filed on January 10, 1994 and approved by Director's order issued on December 15, 1994. 69 FERC ¶ 62, 223 (1994). The first recreation use and demand report required by the December 1994 order was submitted by the licensee on March 13, 1995 and approved by Director's order issued June 6, 1995. 71 FERC ¶ 62,161 (1995).

actions by the Commission, as well as the requirements of Article 38 of the license, and should be approved, as modified.

Upon approval of the proposed plan, the two-year period for relocation of long-term residents will commence, as provided in the February 16, 1994, Order on Rehearing.

The Director orders:

(A) The licensee's revised recreation plan for the Lower Mokelumne River Project No. 2916, filed on April 12, 1990, supplemented on January 2, 1992, and amended on September 7, 1993, and April 18, June 16, and July 15, 1994, as modified by ordering paragraphs (B) and (C), and is approved.

(B) The licensee shall submit copies of the concessionaire agreement(s) for the project recreation facilities within 30 days of the date of issuance of this order.

(C) The licensee shall file a description of how the design of the project's recreation facilities considers the needs of the physically disabled within 90 days of the date of issuance of this order.

(D) Unless otherwise directed in this order, the licensee shall file an original and eight copies of any filing required by this order with:

The Secretary
Federal Energy Regulatory Commission
Mail Code DPCA, HL-11
888 First Street, NE
Washington, D.C. 20426

In addition, the licensee shall serve copies of these filings on any entity specified in this order to be consulted on matters related to these filings. Proof of service on these entities shall accompany the filings with the Commission.

(E) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.



Kevin P. Madden
Acting Director
Office of Hydropower Licensing

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