

134 FERC ¶ 62,010  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

United Water Conservation District

Project No. 2153-025

ORDER APPROVING ARROYO TOAD PROTECTION PLAN PUSUANT TO  
ARTICLE 401 AND U.S. FOREST SERVICE 4(E) CONDITION NUMBER 16

(Issued January 5, 2011)

1. On October 8, 2009, United Water Conservation District (UWCD), licensee for the Santa Felicia Project, filed an arroyo toad protection plan (plan) pursuant to article 401 and U.S. Forest Service (FS) 4(e) condition number 16 found in Appendix A of the project license.<sup>1</sup> The project is located on Piru Creek, a tributary of the Santa Clara River, in Ventura County, California. The project occupies 174.5 acres of federal lands, administered by the FS.
2. Article 401 requires the licensee file, for Commission approval, an arroyo toad protection plan as required by FS 4(e) condition number 16. Condition 16 requires the licensee file an arroyo toad protection plan that is approved by the FS. The plan must include procedures to minimize adverse effects to arroyo toads and arroyo toad critical habitat; ensure project-related activities meet restrictions included in site management plans for arroyo toads and arroyo toad critical habitat; and include implementation and effectiveness monitoring of measures taken or employed to reduce effects to arroyo toads and arroyo toad critical habitat.
3. The licensee's plan includes measures to minimize and mitigate for operational effects of the project on arroyo toads on Forest Service lands within the project. These measures include conducting pre-construction surveys to identify potential habitat. If suitable habitat is found, the presence of arroyo toads may be assumed or focused surveys will be conducted to determine presence or absence. If these surveys identify occupied habitat or if the species is presumed present within areas of proposed disturbance, the licensee will implement the following measures: 1) limit all construction to periods outside the breeding season and after larva have completed metamorphosis; 2) develop a project specific arroyo toad translocation plan approved by the FS and U.S. Fish and Wildlife Service (FWS); 3) erect exclusionary fences around construction areas and remove individuals from the impact area; 4) train all on-site personnel to be aware of

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<sup>1</sup>124 FERC ¶62,193 Order Issuing New License, issued September 12, 2008.

arroyo toad protection measures and requirements; 5) assess the conditions of exclusion fences on a daily basis; 6) ensure presence of a FWS-approved biological monitor during the erection of exclusion fences, vegetation clearing, and all ground-disturbing activities; and 7) perform weekly site visits by biological monitors to ensure that the fencing has not been breached and all project-related general best management practices are being successfully implemented. Prior to initiating these measures, the licensee will submit the results of the habitat surveys to FWS and the FS for review, authorization to implement site-specific measures, and to determine if formal consultation is warranted.

4. The licensee proposes to incorporate the arroyo toad protection plan into its herpetological monitoring plan required by article 404 of the project license and filed with the Commission on October 8, 2009. All associated monitoring and monitoring results, reports, and evaluations will be provided to the FWS, FS, California Department of Fish and Game, and the Commission. Specifically, an annual report will be prepared on any licensee activities that have the potential to impact arroyo toads on FS lands within the project boundary; activities proposed for the upcoming year that have the potential to impact arroyo toads on FS lands within the project boundary; assessment of the implementation and effectiveness of the plan, recommendations for changes to the plan; and updated records of consultation with the resource agencies. The licensee will also complete California Natural Diversity Database forms for arroyo toads documented during implementation of the plan.

5. In a letter dated November 9, 2010, the FS approved the plan. The plan should protect arroyo toads on FS lands within the project boundary. This plan satisfies the requirements of article 401 and FS 4(e) condition 16. This plan should be approved.

The Director orders:

(A) The arroyo toad protection plan, filed October 8, 2009, pursuant to article 401 and U.S. Forest Service 4(e) Condition number 16 of the project license for the Santa Felicia Project, is approved.

(B) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the FPA, 16 U.S.C. § 8251 (2006), and the Commission's regulations at 18 C.F.R. § 385.713 (2010). The filing of a request for rehearing does not operate as a

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stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

Robert J. Fletcher  
Chief, Land Resources Branch  
Division of Hydropower  
Administration and Compliance

Document Content(s)

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