



*CONFIDENTIAL AND PRIVILEGED
SUBJECT TO ATTORNEY-CLIENT PRIVILEGE*

COMMENTS OF FMY ASSOCIATES, INC.

**ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR
HYDROPOWER LICENSE**

**FEDERAL ENERGY REGULATORY COMMISSION, OFFICE OF
ENERGY PROJECTS, DIVISION OF HYDROPOWER**

**OROVILLE PROJECT FACILITIES
P-2100**

PREPARED BY FMY ASSOCIATES INC.

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The Office of Energy Projects (“Staff”) of the Federal Energy Regulatory Commission (“FERC”) submitted its Draft Environmental Impact Statement (“DEIS”) on the Oroville Facilities Project, California (FERC Project No. 2100) on September 29, 2006. The DEIS addresses a variety of issues with respect to the relicensing of the Oroville Facilities (or “Project”) as requested by the Department of Water Resources of the State of California (“DWR”) in this docket. A number of such issues have been addressed by previous reports filed by FMY Associates, Inc. (“FMY”) in this docket.

FMY has prepared the following response to the DEIS, and in particular to address errors made by the Staff in its analysis of the filings submitted by FMY as well as those of DWR, TCW¹ and CH2M Hill² regarding the socioeconomic impacts of the Oroville Facilities. The TCW and CH2M Hill Reports were riddled with errors, ranging from simple mathematical and calculation errors to policy and conclusion errors, which made all or parts of each report misleading, unreliable and in many cases simply wrong. FMY addressed many of these issues in its June 2006 filing³, which among other things called attention to not only errors in policy and conclusions, but also simple and obvious mathematical and calculation errors. It appears, however, that none of the analysis and findings in the June 2006 FMY Report were considered or even acknowledged by the Staff and the same mistakes, including the mathematical and calculation errors, are repeated in the DEIS. We will briefly address these issues again in this Report.

1. Lost Tax Revenues Caused by the Project and Payments in Lieu of Taxes

In reciting the filings that were made regarding this subject, the DEIS fails to reference the June 2006 FMY Report, (FERC Accession No. 20060626-5116), which will be cited frequently in commenting on this section of the DEIS. The DEIS, instead, relies heavily on the TCW and CH2M Hill Reports, despite the numerous mistakes and misleading conclusions contained in both reports.

1.1 The Position Taken in the DEIS Regarding Lost Tax Revenues

The DEIS discusses the issue of lost tax revenues to Butte County, relying heavily on the analyses and conclusions contained in the CH2M Hill and TCW Reports. The CH2M Hill Report, for example, discusses the costs and benefits to the County associated with the Oroville Facilities and concludes generally that the costs are small if any and the benefits substantial. The reliance of the DEIS on the CH2M Hill and TCW Reports without incorporating the corrections contained in the June 2006 FMY Report makes the DEIS subject to the same defects as the CH2M Hill and TCW Reports, including the policy, conclusion and mathematical errors. The lost tax revenues are addressed in this

¹ Report by TCW Economics, “Economic and Fiscal Effects of the Oroville Hydroelectric Facilities Operations: A Local Perspective”, dated May 24, 2006 (“TCW Report”).

² Report by CH2M Hill, “Operational, Socioeconomic, and Fiscal Impacts of the Oroville Facilities: A Critical Assessment of the Analyses Conducted by Butte County”, dated May, 2006 (“CH2M Hill Report”).

³ “Comments of FMY Associates, Inc. on Filings Submitted by California Department of Water Resources and the State Water Contractors Regarding the Socio-Economic Impacts of the Oroville Project Facilities on Butte County, California” prepared by FMY Associates, Inc. and dated June 2006 (“June 2006 FMY Report”).

subsection whereas the claimed benefits of the Oroville Facilities to Butte County are discussed in the next subsection.

The January 2006 Socioeconomic Report prepared by FMY⁴ provided a detailed analysis, together with back up documentation, on how to calculate the value of land occupied by Project Facilities and the lost property tax revenues that resulted from the transfer of land to DWR and the fact that DWR does not pay property taxes on such property. Three different methods were used to calculate the value of the local land taken by DWR. The January, 2006 Socioeconomic Report by FMY concluded that the value of lost tax revenues attributable to the Oroville Facilities range from \$3.0 million to \$6.87 million per year using those three methods.⁵ This Report by FMY was referenced in the CH2M Hill Report, where it took the approach of criticizing the lowest cost estimate developed in the Socioeconomic Report by FMY but did not challenge the higher, and more realistic, estimates resulting from the two other valuation methods used in the our Report. The two higher estimates provided in the January 2006 Socioeconomic Report by FMY remain unchallenged and rebutted; they should be utilized in arriving at the value of property taxes lost by the County due to the Oroville Facilities.

The DEIS correctly states that the CH2M Hill study does not address the two alternative methods used to arrive at the value of taxes lost to the County based on the January 2006 Socioeconomic Report by FMY; namely: (i) FMY's estimate of the potential tax revenues that would be associated with the Big Bend power project if it were still operating; or (ii) the FMY estimate of the potential tax revenue from the Oroville Project if it were privately owned. Unfortunately, the DEIS then proceeds to analyze the latter case using an erroneous tax rate of .13% (provided by CH2M Hill), which results in a lost tax revenue to Butte County of \$893,170 per year. In the state of California, and according to the California Board of Equalization methodology, which would be applied in this case, 100% of the revenue from the 1.0% property tax rate goes to the County when such tax rate is applied to power plants of greater than 50 MW's. See <http://www.boe.ca.gov/proptaxes/pdf/SAM-FINAL2003.pdf> As discussed below, once this error in tax rate is corrected, the resulting tax loss to Butte County is equal to \$6.9 million per year, as we found.

Considering the value of property taxes lost by the County due to the Oroville Facilities as stated in our January 2006 Socioeconomic Report and relying on the two methods employed therein and not challenged in the CH2M Hill and TCW Reports, together with

⁴ Report by FMY Associates, Inc., "Socioeconomic Impacts of the Oroville Project Facilities on Butte County, California", dated January 2006 ("Socioeconomic Report by FMY").

⁵ The first method determined the average assessed value of land in the County per acre and assigned that value to the lands occupied by the Project Facilities. This method gave an assessed property value of approximately \$299.5 million and lost property taxes of approximately \$3.0 million per year. A second method treated the former PG&E Big Bend hydroelectric project as if PG&E continued to own, operate and pay taxes on the power plant, plus the value of the additional land not occupied by the PG&E facility. The second method gave an assessed property value of \$326.5 million and hence lost taxes associated with the Oroville Facilities of \$3.27 million per year. In the third method, the taxes that would be paid on the Oroville Facilities if owned by a private, tax paying entity were calculated based on an estimated \$687.0 million of assessed property value and the estimated annual taxes lost by the County were \$6.87 million per year.

correcting the CH2M Hill and TCW Reports to account for the fact that 1.0% of property taxes for power plants greater in size than 50 MW would go to the County, provides results identical to those stated in our January 2006 Socioeconomic Report and restated in the June 2006 FMY Report. Thus, the DEIS analysis, if it takes this crucial fact with respect to the correct tax rate into account, would yield a lost tax revenue to Butte County of \$6.9 million per year, the same value as stated in the Socioeconomic Report by FMY and the June 2006 FMY Report. The DEIS goes on to inexplicably state that the lower range provided by the CH2M Hill and the TCW reports provides a more likely estimate of lost tax revenues, completely ignoring the proper tax rate as noted above and using the erroneous tax rate proposed in the CH2M Hill and TCW reports.

Section 1.5 of the June 2006 FMY Report provides a complete analysis of the TCW and CH2M Hill reports regarding foregone taxes. That analysis clearly indicates the lower range, as used in the CH2M Hill and TCW reports and then repeated in the DEIS, is not a reasonable estimate of foregone taxes. Therefore, the likely tax revenues lost by Butte County because of the existence of the Oroville Facilities are in the range of \$3.23 million (assuming Big Bend still in existence) to \$6.87 million (assuming Oroville Facilities owned by tax paying entity), as stated in our January 2006 Socioeconomic Report and the June 2006 FMY Report.⁶

1.2 The Position Taken in the DEIS Regarding the Benefits which the Oroville Facilities Provide to the County

Having severely understated the tax revenues lost by the County, the DEIS then attempts to offset the understated lost tax revenues with the “conjectural” and “unqualified” indirect benefits associated with the Oroville Project. Importantly, these claimed indirect benefits are not supported by any facts. The DEIS states that these indirect benefits may include:

Indirect Benefit Reference	Source Report	June 2006 FMY Report
(a) Flood Protection	CH2M Hill	Section 2.5, Page 17
(b) Increased Rice Production	TCW	Section 1.0, Page 2
(c) Higher Property Taxes Associated with Higher Residential Property Values Near Lake Oroville	TCW	Section 1.1, Page 3

⁶ The original January 2006 Socioeconomic Report by FMY developed three scenarios to evaluate the value of property taxes lost to Butte County due to the non-tax paying status of the Oroville Facilities. Each scenario included the assumptions that defined the scenario, the methodology that was applied and a detailed description of results thereof. This approach of developing multiple scenarios to bound the likely potential outcomes is a common technique in cases where the actual outcome cannot be determined with certainty. In order to arrive at a proper estimate of the lost tax revenues, it is important to evaluate the lost taxes using such scenarios. The tax exempt status of the licensee obviously means that we have to consider alternatives to the status quo in order to assess the taxes which would have accrued to the County had the Facilities not been owned by a tax exempt entity. The failure of DWR and its consultants to perform this type of alternative analysis further demonstrates the unreliability of their approach and conclusions.

These claimed benefits are each discussed briefly below.

- (a) In the case of the indirect benefits associated with flood protection, in the CH2M Hill Report it was erroneously stated that land has a higher value due to the flood protection benefits provided by the Oroville Facilities. In the June 2006 FMY Report, however, it was pointed out that CH2M Hill misuses FMY's land valuation methodology in arriving at its erroneous conclusion and further points out that there is no evidence that the increases in land values that CH2M Hill attributes to flood control are any different than they would have been absent the Oroville Facilities. As stated in the Socioeconomic Report by FMY, it would be impossible to accurately build a case for exactly how development would have proceeded over the past 50 years if the Oroville Facilities had not been constructed. That was the reason we used three scenarios to determine a range of likely impacts and foregone property tax values, two of which assumed the facilities were never built. Therefore, such claimed benefits, as stated first in the TCW and CH2M Hill Reports and later restated in the DEIS, are based on faulty assumptions and methodology, do not have any factual basis and should be disregarded.
- (b) With respect to the benefits claimed for increased rice production, the TCW Report claimed that the value of rice produced in the County increased substantially due to the existence of the Oroville Facilities. It stated that the value of rice produced in Butte County increased from \$658,000 in the 1964-1968 period to \$5.1 million in 1996-2000 period, an increase of 675%, or a 6.6% annual growth rate. In the June 2006 FMY Report it was clearly demonstrated that the purported increase in rice production was largely a result of increases in rice prices due to general inflation, rather than due to additional rice production as claimed in the TCW Report. The June 2006 FMY Report demonstrated that the effect of inflation alone for the same 32 year period cited in the TCW Report was 5.1% per year. The remaining 1.4% annual growth in the value of rice production could easily be attributed to productivity growth in the rice industry, as supported by DWR filings in this docket.⁷ Therefore, the additional rice production claimed to result from the Oroville Facilities did not really materialize and should not be considered a benefit provided by the Oroville Facilities.
- (c) Finally, the DEIS follows the lead in the TCW Report with respect to the claim that the Oroville Facilities increased property values not just around Lake Oroville but everywhere in Butte County, resulting in higher tax revenues for Butte County. With respect to the higher property taxes associated with higher residential property values near Lake Oroville claimed in the TCW Report, FMY agrees that a very small number of high-end homes have been built in the vicinity of Lake Oroville, however, these homes represent a small fraction of the 90,000 residential properties located in Butte County, which on average remain at or very near the bottom of residential property values in the State of California.

⁷ Please refer to the June 2006 FMY Report for a discussion of this topic and the reference to Historical Rice Yield discussed by DWR in its Attachment C.

DWR's own reports filed in this Docket on May 12, 2006⁸, show that the Project has not increased local property values. In fact, for the over 10 years studied (1991 – 2002) there has been only nominal growth in local property values in Butte County, roughly \$307 per year. This level of increase is far below the property value increases experienced elsewhere in California. DWR's own reports show that the Project has instead helped depress the value of local real estate relative to what such values might have been absent the negative impact of the Project. The rate of increase in value for local real estate in Butte County has significantly lagged behind the rate of property value increase experienced in other areas in the Northern California region, as well as lagging behind property value increases for the State of California as a whole. Therefore, the increase in land values for a very small number of lots in the County is more than offset by the decrease in land values elsewhere in the County attributed to the existence of the Oroville Facilities.

The DEIS repeats the same factual errors in the "Net Fiscal Effects" section on page 333 and in section 5.1.2.8 on page 368. It calculates the lost tax revenues associated with the Oroville Facilities at \$732,900, underestimating the actual tax losses by nearly 90%. To this incorrect lost tax revenues estimate the DEIS then applies a factually unsupported and baseless estimate of gains to Butte County of \$598,000. This gain is said to be due to flood protection, increased rice production and higher property values, the nonexistence of which we have already proven. The DEIS, while acknowledging the "unqualified" nature of these estimates, nevertheless gives them legitimacy by improperly counting such unquantified and faulty estimates against the substantially underestimated tax revenue losses suffered by Butte County. The analysis and conclusions of these sections of the DEIS should be deleted or reversed.

1.3 The Position Taken in the DEIS Regarding Payments in Lieu of Taxes

In section 5.1.2.8 the DEIS concludes that while Butte County cannot collect property taxes from DWR, the Project provides other indirect tax benefits through flood protection, reliable water supply for agriculture, and increased property values near Lake Oroville.

All of these issues were discussed in section 1.2 above. The claimed benefits of the Project associated with flood protection, water supply and property values should all be rejected since all were demonstrated to be erroneous. The harm suffered by Butte County because of the Project is clearly not offset by any benefits provided by the Project, since no such benefits exist in reality. The recommendations submitted in the Socioeconomic Report by FMY with respect to Payments in Lieu of Taxes should be implemented as proposed.

1.4 Conclusions Regarding Lost Tax Revenues

The DEIS considers the County's lost tax revenues on the one hand and claimed benefits of the Oroville Facilities on the other hand. On the claimed benefits side, in each case, the FMY analysis shows that the DEIS accurately states that the indirect benefit analyses from

⁸ One report is titled "Recreation and Tourism Economy in Oroville" and the other titled "Property Value Analysis Using A Hedonic Property-Pricing Mode" ("DWR May 12, 2006 Reports").

both the TCW and CH2M Hill reports is based on “more cursory evaluations,” is “conjectural” and is not based on record evidence. On the lost tax revenue side, however, the DEIS underestimates the amount of property tax lost by Butte County due to the Oroville Facilities by almost 90%. This understatement is due to a misunderstanding about the tax rate that should be applied in this case. However, and quite astonishingly, the DEIS then concludes, “Given all the information we have considered in our analysis, we conclude that the Oroville Facilities result in either a small net loss or potentially a net gain in Butte County’s annual property tax revenue.” This conclusion can only be reached by giving the same credibility and value to the conjectural, cursory and above all faulty evaluations on the indirect benefits side of the equation as to the properly and accurately developed lost tax revenue side of the equation. No factual evidence supports this DEIS conclusion.

Further, the DEIS conclusion is based on the application of an incorrect tax rate from the staff analysis, which acts to undervalue the lost tax revenues by \$6 million annually. The conclusions reached in the DEIS should be changed, considering the analysis provided in the June 2006 FMY Report, and should reflect the reality that the Oroville Facilities have resulted in substantial losses in property tax revenues for Butte County, estimated to be in the range of \$6.87 million per year, with no offsetting benefits provided by the Oroville Facilities.

2. Allocation of Low Cost Power

2.1 Position Taken in the DEIS on the Significance of Low Cost Power Allocation

The DEIS references the CH2M Hill Report in its conclusion “that the availability of lower cost power would likely not have led to the amount of development cited in the County’s support for a low-cost power allocation.” The CH2M Hill Report goes on to estimate that, on average, electricity costs account for 0.64% to 2.64% of total cost for various industries, not significant enough to provide an impact on the local economy.

2.2 The Real Impact of Low Cost Power Allocation

The June 2006 FMY Report, Section 2.4, strongly counters CH2M Hill’s generalized findings regarding the insignificance of the cost of power to companies in various sectors of the economy by showing that in specific industries electricity represents a significant cost of production, from 10% to 50% of total production costs. It is to companies in these specific sectors that the availability of low cost power would be a compelling reason to locate in Butte County, invest capital, create jobs and begin to reverse the economic decline in the area. The experience of the two largest electric utilities in California, namely, Pacific Gas & Electric Company (“PG&E”) and Southern California Edison (“SCE”) in this area should be considered. Both PG&E and SCE offer economic incentives to businesses in the form of lower cost power, in order to provide incentives for new businesses to locate or relocate in California. This low-cost electricity programs also seek to retain existing businesses, which, absent the program, would be likely to relocate outside of California. These two electric utilities have enjoyed much success in this area,

as demonstrated in the June 2006 FMY Report. This utility experience also demonstrates the value of a low cost power benefit in promoting economic development.

As discussed in the June 2006 FMY Report, SCE states that there are a number of energy intensive companies for whom electricity comprises a large portion of their costs. For example, in the air reduction industry the cost of electricity is 45% to 50% of total operating costs, in the plastic blow molding industries electricity makes up 10% to 20% of operating costs, and glass bottle manufacturers spend 10% to 13% of their operating costs on electricity.

The main point missed by the CH2M Hill Report, as well as the DEIS, is that not every industry or company is sensitive to the cost of electricity, but there are enough companies and industries for whom the cost of electricity is a major decision factor that it does determine where they will locate. Therefore, low cost power can be a powerful economic development tool for those companies and industries for which electricity costs are a significant share of their total operating expenses.

To clarify these conclusions even further, consider the following example provided by SCE. If a company has a 2% net margin, it means that profits as a percentage of total sales are 2%. Assume electricity costs represent 20% of its cost of goods sold. A 25% reduction in the cost of electricity under an incentive program would reduce the company's total electricity costs to 15% instead of 20% of its total production costs. This 25% reduction in electricity costs reduces total costs by 5% and consequently increases the company's net margin from 2% to 7%. Therefore, as a result of a 25% reduction in electricity costs, this company's profits increase by 250%. The results are even more pronounced when one considers companies that are more electricity intensive, spending more than 20% on electricity. This example shows how sensitive a company can be to a reduction in the cost of electricity and how the electricity price can dominate its decision on where to locate.

As stated in the June 2006 FMY Report, the discount which should be offered to Butte County for the electricity supplied by the Oroville Facilities would be in the 63% range, if such electricity is sold to Butte County at cost. This far exceeds the discounts provided by PGE and SCE, which start at 25% and decline to zero over five years. Applying a 63% discount in electricity cost to a company, as stated in the above example, would increase the profits of such company by 650%. Such an incentive would be a very strong driver in that company's decision to locate in Butte County, which in turn creates employment, raises local incomes and contributes to the tax base of Butte County.

Unlike the June 2006 FMY Report, which relies on robust conclusions derived from the actual behavior of the electric utilities in California, and discussions with their key personnel in charge of these low cost power allocation programs, the DEIS conclusion is highly flawed because it does not rely on any factual evidence. The DEIS analysis would not withstand a rigorous review of how economic development occurs and is promoted. Economic development is not conducted on the basis of the averages that CH2M Hill seems to rely upon but rather on attracting specific businesses based on the attributes that can be provided locally. For Butte County, a low cost power allocation from the Oroville

Facilities would be a very attractive benefit to energy intensive businesses, and therefore, would result in additional employment, incomes and tax revenues for the County.

2.3 The Basis for Providing Low Cost Power to Butte County

The DEIS also states that providing low cost power to Butte County residents would not have the economic benefit ascribed to it by FMY because the FMY analysis is based on power being provided at cost, “and there is no basis for that assumption”. The assumption that power would be made available at cost is the whole point of a low cost power allocation.

The January 2006 Socioeconomic Report prepared by FMY described and measured in detail the harm that has been caused to Butte County due to the Oroville Facilities. To mitigate and partially compensate for the harm suffered by the local community, a portion of the electricity which is generated at below market cost should be allocated to the local community. As we have shown, the Oroville Facilities generate power at a cost substantially below the price observed in the wholesale market for electricity. The position taken in the FMY reports is that a small portion of such generation should be allocated to Butte County and such allocation should be paid for by Butte County at a price equal to the cost of generation, hence not causing a loss to DWR. Any price below the cost of generation, for example free electricity, would cause a loss and is not advocated here.

There are many precedents for the allocation of low cost power to the local community by government entity licensees to compensate for the lost property tax revenues and other harm done to the local communities by their hydroelectric projects. In the case of the hydropower generation facilities owned by the New York Power Authority, for example, a host of local businesses and other local entities receive power generated at the St. Lawrence and Niagara Projects based on the licensee's cost of production, which provides substantial benefit to the local communities and their governments and compensates for the harm they have suffered. Another example is the low cost power that is allocated to the local communities located in the Pacific Northwest by the Bonneville Power Administration. Aside from the precedents applicable to this case, logic dictates that providing electricity at cost to the local community and its government would provide mutual benefits to both sides while not imposing a loss on the generating entity, and hence is a viable option to mitigate the harm suffered by the local community.

Rather than all of the Oroville Project power being used to move water at the cost of producing the power, a low cost power allocation ensures some portion of that power is made available locally at the same price as the cost to produce that power. In either instance, the power cost is the same; the difference is who benefits from the allocation of that power. An allocation of low cost power to Butte County is one of the preferred methods to compensate for the harm imposed on the local community, while not imposing any losses on DWR, since DWR recovers its cost of generation, as proposed here.

2.4 Conclusions Regarding the Provision of Low Cost Power to Butte County

Please refer to our June 2006 filing for a complete analysis of the impact of low cost power on the local community. The Staff did not consider our June 2006 comments in reaching their conclusions, despite the overwhelming evidence, as well as the logic of our comments, and based on actual experience in California. Again, the conclusions reached here and in the June 2006 FMY Report, that a low cost power allocation will create real economic growth in Butte County and that the cost of that power should be the same as the cost to produce it, are based on robust research and quantitative analysis. A low cost power allocation to Butte County would in fact spur growth and help reverse the negative trend which has resulted from the existence and continued operation of the Oroville Facilities.

3. Benefits Provided by the Oroville Facilities

3.1 Position Taken in the DEIS on the Benefits Provided by the Oroville Facilities

At Section 5.1.2.8, the DEIS acknowledges that operation of the Oroville Facilities causes “a negative net fiscal impact to Butte County” and we have previously shown how that negative impact has been grossly understated through FERC Staff’s reliance on the CH2M Hill and TCW Reports. FERC Staff has also allowed DWR to understate the overall net economic benefits of the Project as shown in Table 71. This understatement of the Project’s benefits has the effect of making DWR appear less financially able to eliminate the negative impacts that the Project imposes on Butte County. Any claimed lack of economic resources, however, is completely false even if one only looks at the value of the electricity produced at the Project and does not consider the even higher value associated with the water that is provided to Southern California entities.

3.2 Review of DWR Costs and Benefits

On the revenue side of the ledger, in Table 68, the DEIS presents DWR’s on-peak and off-peak power values as \$35.35/MWh and \$27.76/MWh respectively, which is referenced by footnote back to DWR’s Clarification no.3. In Clarification no.3, DWR presents a Value of Energy Table for 2005, purportedly prepared by the California Energy Commission (“CEC”). We were not able to find the referenced data anywhere on the CEC website however. Further, it would seem far more reasonable for DWR to rely on its own database for the cost of power it purchases and the value of the power it sells than to refer to an elusive CEC database.

Without access to DWR’s records, which would provide a ready source of reliable market data for the value of power and ancillary services from the Oroville Facilities, the June 2006 FMY Report, section 2.1, provides an in depth review of the value of power, which together with the Socioeconomic Report prepared by FMY provides several market based approaches to valuing the power benefits of the Project. Results of those quantitative and analytical efforts produced power values that ranged from \$66.69/MWH to \$111.00/MWH. All of the analyses were based on different approaches to valuing the cost of replacement power, consistent with the valuation methods required by FERC.⁹

⁹ The Commission requires applicants to provide as part of the license application, and in accordance with 18 CFR Section 4.51(e)(5), “A statement of the estimated annual value of project power, based on a

We have found no market information that makes the power values presented by DWR even remotely plausible. By contrast, in reviewing DWR documents such as Bulletin 132 and filings with FERC, inconsistencies abound.¹⁰ Given the importance of the on-peak and off-peak power values in determining the net power and economic benefits of the Oroville Project, we believe DWR should be required to provide its raw historical data for the value of the energy, capacity and ancillary services it sells and the cost of the energy it purchases.

On the cost side of the ledger, one must consider the capital charge assessed against the Oroville Facilities. In light of the fact that the construction cost of the Oroville Facilities was \$281,500,000¹¹, the current outstanding bond value of \$231,871,326 as shown in Table 69 requires an explanation, especially given that Bulletin 132-04 shows that the original Oroville Revenue Bonds (\$245 million) were paid off in 1994. It is unclear why DWR is reporting such a high balance given the earlier retirement of the bonds, as well as the amortization schedule for the original loan over the past few decades.

In evaluating the net power and economic benefits of the Project, only financing costs directly associated with the power generation facilities should be included. We believe DWR should provide a definitive review of the amortization of the original project bonds, and the addition of new capital assets and the financing thereof. This would provide a clear picture of the basis for the financing cost that is being placed against the Project.

We are also concerned about the very dramatic differences in certain costs shown in the DEIS versus what was shown in the PDEA. The following table clearly shows the magnitude of changes between January 2005, when the PDEA was filed, and August 2005 when DWR provided updated information upon which the DEIS has relied. The significant changes over such a short period of time are particularly surprising given the extended operating history of the Oroville Facilities:

Cost Category	PDEA, January 2005	DWR, August 2005	Increase
Annual O&M	\$19,890,000	\$26,431,000	33%
Net Investment	\$153,700,000	\$231,871,326	50%
Levelized Bond Cost	\$10,046,000	\$16,845,200	67%

showing of the contract price for the sale of power or the estimated average annual cost of obtaining an equivalent amount of power (capacity and energy) from the lowest cost alternative source.” (emphasis added).

¹⁰ As an example, DWR’s Application for Partial Exemption from Payment of Annual Charges dated January 10, 2006 states that DWR exchanged 203,617,000 kwh, on-peak, and 32,012,000 kwh, off-peak, with SCE for 185, 240,000 kwh off-peak. On the face of it, this looks like a very good deal for SCE. It appears though that the exchange includes certain transmission rights on SCE’s system which are not valued in the benefits. This same filing with FERC states that Operating Revenues were \$12,030,867 with the only apparent source of income the sale of 218,325,462 kWh of power. If this is in fact the case, the value of the power would be over \$55 per MWh – far in excess of the on-peak and off-peak values DWR has used in its analysis of the Project’s power and economic benefits.

¹¹ DWR’s Application for Partial Exemption from Payment of Annual Charges dated January 10, 2006.

The increase in Project costs due to these factors alone is over \$13 million annually. These are monies no longer apparently available to respond to Butte County's request for redress, and yet how does one accept at face value that so much could change in 8 months or that DWR could be so reckless and irresponsible with its accounting? At the very least, FERC must question how much reliance it can place on any of the financial and economic information submitted by DWR.

It is virtually impossible to ascertain from the various DWR filings in this Docket and a comparative analysis of Bulletin 132¹² what the basis for the costs are, let alone how such large changes could be justified. What is extremely surprising is that FERC Staff has shown no apparent interest in understanding the underpinnings for the entire cost benefit analysis for this Project and has just accepted whatever information DWR provides.

3.3 Conclusions Regarding the Costs and Benefits of the Oroville Facilities

In earlier sections of this Report, we have shown the DEIS fundamental defects in conclusion regarding the magnitude of the economic harm done to Butte County by the presence of the Oroville Facilities. In this Section we have described the serious flaws in the financial and economic information provided by DWR to the FERC Staff. We conclude that the only proper response is for the FERC Staff to request full documentation from DWR for all of the financial information thus far accepted by the FERC Staff and a full explanation of how that information relates to the information contained in Bulletin 132, DWR's financial face to the public.

On the basis of our market analysis, which looked at both DWR's Bulletin 132 and reliable market price data, we must conclude that the annual net benefits of the three alternatives under review and shown in Table 71 are significantly understated. Because of the very low DWR provided values for peak and off-peak power production, which have been used in the DEIS, and because of the likely overstated costs of retiring the bonds and other claimed costs, an inaccurate financial picture has been presented. The overstatement of costs and understatement of benefits paints a picture that suggests there are insufficient benefits associated with the Project to ameliorate the negative effects of the Project on Butte County. This is incorrect and FERC staff should conduct a thorough investigation of the facts by requiring DWR to present the raw data necessary for staff to analyze and reach its own conclusions.

4. Errors Contained in the TCW and CH2M Hill Reports and Repeated in DEIS

In the June 2006 FMY Report, we addressed errors contained in the TCW and CH2M Hill Reports. Despite the fact that these errors were brought to the attention of FERC, the same errors were included in the DEIS. Since these mathematical errors change many of the conclusions reached in the DEIS it is important to address these errors and make corresponding corrections in the FEIS.

¹² The SWP issues Bulletin 132 annually as a report on its operations and finances.

4.1 Population Growth in Butte County

As stated in our June 2006 FMY Report, the TCW Report erroneously stated that the population in Butte County grew faster than the population in neighboring counties. This claim was refuted in our June 2006 FMY Report and conclusively shown to be a mathematical error. Unfortunately, this same error has been repeated in the DEIS and needs to be revised in the DEIS.

The TCW Report, repeated by the DEIS, makes an assertion that due to the economic benefits provided by the Oroville Facilities, the County's population grew faster than the neighboring communities and will continue to grow at similar rates in the future as well. In fact, a simple calculation of the growth rate of the population in Butte County, if done correctly, shows that the growth rate in population is 2.2% and not 3.2% as reported in the TCW Report. Further, the correct growth rate is lower than those of the neighboring communities and the State of California. Further, the lower growth rate is clearly one of the outcomes of the negative impact imposed on the local community by the Oroville Facilities.

Please refer to Section 1 of the June 2006 FMY Report regarding the analysis of this issue. Given the general agreement of FMY and the DEIS that the Oroville Facilities affect growth rates in Butte County, substituting the actual growth rates in Butte County only serves to provide additional proof of the negative impacts that the Oroville Facilities have on the County.

4.2 Impact of the Oroville Facilities on the Value of Rice

Please refer to Section 1 of the June 2006 FMY Report to review the analysis regarding the growth in the value of rice produced in the County as a direct benefit of the Oroville Facilities. The FMY analysis showed that in fact there was no real increase in the annual value of rice grown in Butte County over the 1964-1968 to 1996-2000 period. Any increase in the dollar value of the rice produced in the County can be traced back to general inflation or productivity gains related to factors other than the impact of the Oroville Facilities. In other words, there was no increase in the production of rice that could be related to the existence of the Oroville Facilities, and any gains claimed by TCW and adopted in the DEIS are illusory. Again, despite the clear results of the analysis, the Staff followed the claims made by DWR and its consultants and erroneously claimed benefits from the Oroville Facilities for Butte County.

4.3 Impact of the Oroville Facilities on Property Values

The DEIS seems to have accepted DWR and its consultants reports that property values have increased in Butte County because of the existence of the Oroville Facilities. As stated in Section 1.1 of the June 2006 FMY Report, and restated herein in section 1.2(c) above, real property values have actually decreased in Butte County because of the Oroville Facilities. Increased property values for a small percentage of the properties,

which happen to be in the proximity of Lake Oroville does not indicate that property values have increased in general or in the aggregate. The TCW analysis, which followed by the DEIS, ignored the impact on values of the majority of the properties in Butte County, which through the analysis in the June 2006 FMY Report were shown to actually decline in value. Again, the error that was presented in the TCW Report and then accepted and stated again in the DEIS has implications for the conclusions made about the impact of the Oroville Facilities. The correct conclusion on this issue continues to be that the Oroville Facilities have had a major and continuing negative impact on Butte County property values and the relicensing process provides the rare opportunity to correct that.

5. Conclusions

There are a number of errors in the DEIS, which in most part can be contributed to the unconsidered adoption of the filings submitted by DWR and its consultants, TCW and CH2M Hill. These errors, many of which are mathematical or based on the misstatement of readily available data, have a major impact on the conclusions reached in the DEIS concerning the socioeconomic impacts of this Project.

As described herein and based on the January 2006 and June 2006 FMY Reports, the County incurs substantial and continuing losses in its property tax revenues due to the existence and operations of the Oroville Facilities. These losses are estimated to be between \$3.23 and \$6.87 million annually. The DEIS seems to have accepted the \$6.87 million annual loss in property tax revenues, except for the application of the wrong tax rate, 0.13% instead of the 1% that the California Board of Equalization mandates must be applied in this case. The DEIS did not consider or acknowledge the analysis and conclusions contained in the June 2006 FMY Report. Payments in Lieu of Taxes in the amount of \$6.9 million annually should be paid by DWR to compensate for the taxes losses incurred by the County due to the Project.

We have recommended an allocation of low cost power to Butte County. As reported herein and supported by the robust analysis in the February 2006 and June 2006 FMY Reports, such an allocation of low cost power would have a dramatic impact on the economic wellbeing of the County by encouraging energy intensive firms to locate within the County. That in turn will help reverse the vicious cycle of decline that the County and its residents have experienced due to the Project and will improve employment, sales and incomes for the residents and businesses within the County and ultimately increase tax revenues for Butte County.

There are major errors contained in the DEIS, which are directly tied to the errors in the CH2M Hill and TCW Reports as well as the filings submitted by DWR, indicative of the poor quality of the conclusions and recommendations in those reports. The seemingly simple calculation and mathematical errors that have been repeated in the DEIS have important implications regarding the impact of the Oroville Facilities on the well being of Butte County and its residents, as well as policy decisions to be made in this docket. The June 2006 FMY Report provided analysis and proposed corrections to these errors and should be utilized by the Commission in its consideration of the socioeconomic issues discussed in the FEIS.



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December 19, 2006

Ms. Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N. E.
Washington, D. C. 20426

Re: Oroville Facilities Project; Docket No. P-2100

Dear Ms. Salas:

Attached is a signed Affidavit for Dr. Faramarz Yazdani of FMY Associates, Inc. Dr. Yazdani is currently outside of the United States and thus authorized the undersigned to sign this Affidavit on his behalf. Upon Dr. Yazdani's return to the U. S. in the next few weeks we will submit a new Affidavit that includes his original signature.

Thank you for your attention to this matter, and please do not hesitate to contact me if you have any question.

Sincerely,

A handwritten signature in cursive script that reads "Carol A. Smoots".

Carol A. Smoots

Enclosure

5. Between 1985 to 1992, I worked for the California Public Utilities Commission supervising power contracts and modeling and econometrically estimating total factor productivity for electric utilities.

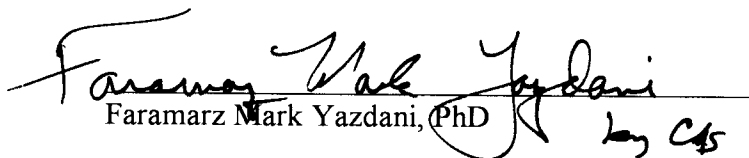
6. I hold a doctorate in Economics and International Finance from Stanford University, a degree I was awarded in 1985.

7. Butte County, California engaged the services of FMY Associates, Inc. to review certain economic data related to the proposed relicensing of the Oroville Facilities Project ("Project") by the California Department of Water Resources ("DWR"), and specifically in preparing a response to the Draft Environmental Impact Statement ("DEIS") issued by the Federal Energy Regulatory Commission on September 29, 2006 and evaluating the conclusions therein.

8. Under my direction and control, FMY Associates, Inc., assessed the DEIS and prepared a report entitled "Comments of FMY Associates, Inc. on the Draft Environmental Impact Statement for Hydropower License" for the Butte County Board of Supervisors and Chief Administrative Officer in December 2006 to set forth our findings and conclusions.

9. I attest that the information contained in this report is true and accurate to the best of my information and belief. A true and correct copy of the "Comments of FMY Associates, Inc. on the Draft Environmental Impact Statement for Hydropower License" is attached to this filing.

DATED this ___ day of December 2006.


Faramarz Mark Yazdani, PhD
by CS