

Yuba Salmon Forum¹

Proposed Process and Organizational Outline

1.0 Introduction

This document describes the **Yuba Salmon Forum** process and the protocols for participating in it. It is intended to provide a framework for participation, cooperation, communication, and decision making among Forum participants.

1.1 Participation in the Forum will not bind any participant to any particular interpretation of law or regulation, or require any participant to take particular action(s), or excuse any action otherwise required by applicable law.

1.2 Participation in the Forum will not limit the discretion under applicable law of any public agency.

1.3 Participation in the Forum will not be construed as a waiver or release of any right or authority held by any participant.

1.4 Participation in the Forum will not be construed as a waiver of sovereign immunity by the United States, the State of California, any Tribe or any public agency.

1.5 Participation in the Forum will not preclude any participant from continuing to assert its positions or take any actions in any other regulatory or adjudicatory proceeding.

2.0 Purpose

The purpose of the Forum will be to identify, evaluate, recommend, and seek to achieve implementation of effective near-term and long-term actions to achieve viable salmonid populations in the Yuba River watershed to contribute to recovery goals, while also considering

¹ The name “Salmon” includes native anadromous fish: salmon, steelhead, and sturgeon.

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other beneficial uses of water resources and habitat values in neighboring watersheds, as part of Central Valley salmonid recovery actions.

3.0 Forum Products, Reports, and Outcomes

3.1 The Forum will prepare a written report that will:

- (a) Identify, evaluate, and prioritize effective near-term and long-term actions to achieve viable salmonid populations in the Yuba River watershed to contribute to recovery goals, while also considering other beneficial uses of water resources and habitat values in neighboring watersheds, as part of Central Valley salmonid recovery actions;
- (b) Identify alternatives for potential implementation of these effective near-term and long-term actions under durable agreements, consistent with regulatory requirements and environmental compliance; and
- (c) Develop recommendations among the relevant parties to address financing, scheduling, roles and responsibilities.

3.2 The Forum will support and implement agreed-upon actions.

4.0 Relationship of the Forum process to other proceedings

4.1 The Forum process will be independent from other processes (e.g., FERC relicensing proceedings).

4.2 Participation in the Forum process will not limit any participant from taking whatever actions or asserting positions that the participant determined were in its best interest and consistent with its legal and/or regulatory obligations.

4.3 A participant may (but is not required to) determine that a work product from the Forum process should become part of a relicensing or other process or regulatory proceeding, and the Forum may consider information from other sources and processes.

5.0 Issues and Questions to be addressed by the Forum

The Forum will develop a program for addressing the following issues:

5.1 Salmon Recovery Opportunities

What are the primary opportunities for salmonid recovery actions in the Yuba River watershed, including the North Yuba River, Middle Yuba River, South Yuba River and Lower Yuba River?

5.2 Evaluation of Recovery Action Opportunities

For each primary alternative identified, evaluate the following:

- 5.2.1 biological, environmental, economic and operational benefits and impacts, and technical feasibility
- 5.2.2. measures/indicators of success and method(s) for evaluating success
- 5.2.3 effects of implementation on other uses of water within the Yuba watershed
- 5.2.4 process and timeframe for implementation (e.g., design, regulatory approvals and environmental compliance)
- 5.2.5 cost of implementation
- 5.2.6 possible funding sources/mechanisms
- 5.2.7 priority in relation to other potential actions for salmonid recovery within the Yuba watershed

5.3 Contributions to NMFS CV Recovery Plan

In what ways and to what extent would potential actions in the Yuba River watershed contribute to the goals of the National Marine Fisheries Service's Recovery Plan for Central Valley Spring-run salmon and Steelhead?

6.0 Forum Process and Principles:

6.1 Type of process:

The Forum will employ a consensus-building process similar to the type described in the Kearns & West May 2010 Draft Convening Report, to include the following characteristic elements:

- 6.1.1 Interest-based

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6.1.2 Science-driven with good data, including:

6.1.2 (a) consistent with rigorous principles and guidelines for planning for water resource projects;

6.1.2 (b) consistent with the requirements of NEPA, ESA, CEQA, CWA, FPA, MSA and other applicable laws; and

6.1.2 (c) All data developed by the Forum is available to all participants.

6.2 Facilitation

The process will be facilitated.

6.3 Process guidelines

6.3.1 identify clear objectives

6.3.2 agree upon a vision statement

6.3.3 have manageable issues/key issues to be addressed

6.3.4 confirm desired outcome(s) and work product(s)

6.3.5 include education/interest sharing regarding the Yuba watershed

6.3.6 commit to good-faith participation

6.3.7 establish operating principles

6.3.8 provide adequate resources and time

6.3.9 develop a budget, schedule, workplan and milestones

6.3.10 identify a process for contracting with consultants

6.4 Funding for Process

All Forum participants will have a shared responsibility for seeking and obtaining funding for the cost of the Forum and workplan processes.

7.0 Forum Participation and Structure

7.1 Stakeholder Participation

A person or entity may participate in the Forum subject to the following conditions:

7.1.1 the participant must meet the qualifications for the Forum caucus it is to be a member of and be identified as a member of that caucus

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7.1.2 by becoming a member of a Forum caucus, a participant commits to abide by the principles and guidelines of this Forum

7.1.3 participants agree to accept agreements and outcomes previously established by the Forum

7.2 Forum Organizational Elements

The Forum will initially be organized into **three Forum Caucuses**:

7.2.1 Agency Caucus

State and federal resource agencies with authority to regulate waterways, and water and natural resources in California (e.g., NMFS, USFWS, USACE, USFS, SWRCB, BLM, and DFG)

7.2.2 Water Caucus

The Water Caucus includes any entity, including a water or hydropower utility, which manages water in or from the Yuba River watershed for the purposes of power production, consumption or flood control (e.g. YCWA, PG&E, NID and PCWA), or any other entity, as approved by the Caucus.

7.2.3 Conservation Caucus

Conservation Caucus members are generally defined as tribes and non-governmental organizations with legitimate interests in the Forum's Purpose. (e.g., AR, SYRCL, TU, CSPA, AW, SC, NCCFFF, FWN, FOR, Tsi-Akim Maidu, and SSA). A Conservation Caucus organization must have as one of its significant missions and exempt purposes, environmentally-sound management of waterways and water resources and/or protection of the environment. Conservation Caucus members will be exempt from tax as provided in either Internal Revenue Code section 501(c)(3) or 501(c)4 or fiscally sponsored by a 501(c)3. Tribal representatives may represent federally-recognized and non-federally recognized tribes, or informal liaisons representing tribes' interests. No non-governmental organization or tribal representative may be admitted to this caucus

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membership if such organization has a primary function of representing trade, industrial or utility entities.

7.2.4 Caucus Internal Rules

Each of the caucuses will determine its internal rules for the authority of caucus representatives to represent and vote on behalf of the caucus at the Forum Working Group, Forum Steering Committee and Forum Plenary, and disclose these rules to the other caucuses.

7.2.5 Forum Working Group

Each of the caucuses will designate representatives to the **Forum Working Group**, which will be responsible for carrying out the work plan of the Forum (the Forum Working Group will establish policy, technical, legal and other committees, as necessary).

7.2.6 Forum Steering Committee

The Forum Working Group will establish a **Forum Steering Committee**, which would have two representatives from each caucus and will be responsible for the day-to-day Forum process under direction from the Forum Working Group, and other duties assigned to it by the Forum Working Group.

7.2.7 Forum Plenary

The Forum Working Group will establish the **Forum Plenary**, in which any member of a Forum caucus or member of the public can participate, to receive information and comment on the process and work product.

7.2.8 Membership Changes- Forum Caucus

Any Forum participant may terminate its membership in the Forum by so notifying its caucus representative to the Forum Steering Committee, who will promptly notify the other representatives to the Forum Steering Committee.

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7.2.9 Procedure for adding or replacing Forum Caucus members

Any Forum Caucus may add or replace members according to its own rules or procedures (that are consistent with the provisions of this document), but adding a participant after the process has commenced will be subject to the approval of the other caucuses. A caucus will expeditiously report any such actions to the Steering Committee, and the Steering Committee will communicate such action to all Forum participants and officially report on such actions at the next Plenary Session

7.2.10 Meeting Schedules

The Forum Steering Committee members will be in regular communication with each other and meet as often as is necessary. The Forum Working Group will meet approximately once per month. The Forum Plenary will meet about every four months.

8.0 Obligations of representatives:

8.1 Meeting Attendance

Each caucus representative to the Forum Working Group will make a good faith effort to attend each Forum Working Group meeting.

8.2 Coordination and Communication

The representatives to the Forum Working Group will be responsible for all coordination and communication between them and their respective caucus members to ensure the efficient and effective operation of the Forum Working Group,

8.3 Authorization to Act

The representatives to the Forum Working Group will be prepared and authorized to act on behalf of the caucus he or she represents and to regularly and fully participate in the Forum process.

8.4 Alternates

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If a representative cannot attend, he or she may designate a regular alternate to attend. It is the responsibility of the representative and alternate to stay fully briefed on Forum meeting discussions and deliberations. It is the responsibility of the primary representative to inform the alternate concerning the deliberations of the Forum Working Group. An alternate representative will be authorized to act on behalf of the caucus in the absence of the primary caucus representative.

8.5 Expectations of Forum Caucus Representatives

Forum Caucus representatives are expected to consult with and represent the concerns and interests of the organizations and constituents of the caucus they represent. Representatives with established organizations and constituents are responsible for ensuring that all significant issues and concerns of their organizations and constituents are fully and clearly articulated during Forum meetings. These representatives are also responsible for ensuring that any eventual recommendations or agreements are communicated to their constituents and/or the agencies they were appointed to represent. Forum representatives are free to informally communicate with each other. Representatives are encouraged to share relevant communications among all Forum representatives, as appropriate.

9.0 Forum Decision Making

9.1 Statement of Intent

The intent of the Forum, and its decision making process, is to facilitate efficient and durable resolutions that promote participation in the process and broad endorsement of Forum decisions, initiatives, and outcomes.

9.2 Decision-making in Working Group and Plenary:

The primary decision-making venue will be the Working Group. The Plenary will serve to inform Working Group actions and decisions, and vice versa. In certain cases the Plenary will serve as a decision-making body when the Working Group chooses to seek a decision by the Plenary.

9.3 Consensus Decision Making Requirements

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The Working Group and Plenary will strive for consensus decision-making. Consensus means that everyone in the Working Group and/or Plenary can “live with” the decision.

However, the minimum requirement for decision-making in Work Group is “Caucus Consensus.” Caucus Consensus requires that: (1) the number of representatives required under the rules of each caucus be present, or otherwise able to participate remotely with approval of other Caucus members; and (2) the authorized representatives from each caucus vote in favor of the action in accordance with the rules of each caucus. If Caucus Consensus cannot be reached in the Working Group, the decision may be elevated to the Plenary, which can take up the same decision or redirect the Working Group. The Working Group will not amend or repeal any resolution of the Plenary.

9.4 Decision-making in the Plenary:

All Plenary actions require that: (1) the number of representatives required under the rules of each caucus be present, or otherwise able to participate remotely with approval of other Plenary members; and (2) the authorized representatives from each caucus vote in favor of the action in accordance with the rules of each caucus.

9.5 Dispute Resolution:

On an as-needed basis, the Facilitator will use a variety of dispute resolution techniques (including mediation) to work through difficult issues. Participants will use an escalation process whereby they first strive to resolve conflicts that arise within the group where the conflict originates. If participants fail to reach resolution at the initial level, by mutual agreement, the affected participants can elevate the dispute to the next level of the Forum. For example, a conflict originating within the Working Group that is not resolved at the Working Group level may be elevated by a decision of the Working Group to the Plenary for resolution.

10.0 Facilitation

10.1 Facilitator Appointment and Duties

The meeting facilitator (Facilitator) will serve with the support and consent of the Forum under the direction of the Working Group. The Facilitator will be responsible for helping to ensure that

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the process runs smoothly, including (but not limited to) arranging and noticing meetings, communicating with participants, distribution of documents, recording meeting outcomes and helping the parties resolve their differences and achieve consensus on the issues to be addressed by the Forum.

10.2 Facilitator Availability and Practices

The Facilitator will be available to facilitate all Plenary Forum and Working Group meetings, and Steering Committee Meetings when requested. The Facilitator will work with the Plenary Forum, Working Group, and caucuses, as authorized by the Working Group, and may communicate separately with disputing individuals or parties for the purpose of reducing tension and achieving agreement on a process for resolving issues. In the event that minority dissenting opinions are unable to be accommodated within a proposed decision, the minority dissenting opinions will be recorded in an appropriate manner, including the meeting summaries or other written products or documentation produced by the Forum, as appropriate.

With approval from the Forum, the Facilitator may facilitate meetings remotely. Facilitators may, within their discretion, initiate communications and meetings with any Forum participant(s) as they deem appropriate.

10.3 Notification of Meetings:

A meeting will be noticed with an agenda by electronic mail or similar method of communication at least 5 working days in advance.

10.4 Meeting Notes:

The Facilitator will record decisions/actions and other significant outcomes of each meeting, including unresolved disputes. Meeting notes will be distributed to all caucus members within 5 working days of the meeting.

11.0 Forum Communications:

11.1 Internal Communications:

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All Forum participants are free to informally communicate with each other. However, participants are encouraged to share relevant communications among all participants as appropriate.

11.2 Communication Standards

Other than verbal communications at meetings, e-mail will be the primary means of formal communication among Forum participants. The initiator of any such e-mail is responsible for ensuring that it is sent to all participants, as applicable.

11.3 Media Communications:

Forum participants may communicate with the media regarding their own views, interests and positions, but will avoid making statements characterizing other participants' views, interests and positions. Participants will promptly inform the other participants of relevant communications with the media. The Facilitator will not make public statements, except at the request of the Working Group or Plenary. Participants will make every effort to notify other participants prior to making statements to the media, or responding to media requests, about the proceedings or outcomes of this Forum.

12.0 Amendments

12.1 Amendment Authorization

This document is subject to amendment from time to time by recommendation of the Working Group and approval by the Plenary under the procedures for Forum decision-making set forth above.