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July 23, 2025

Michael Cooke
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Subject: Response to Notice of Intent to Adopt a Mitigated Negative Declaration for the Don Pedro and La Grange Hydroelectric Projects FERC Licensings under P-2299-082 and P-14581-002 State Clearinghouse No. 2024090634

Dear Michael Cooke:

This correspondence is in response to a June 27, 2025 *“Notice of Intent (NOI) to Adopt a Mitigated Negative Declaration for the Don Pedro Hydroelectric Project and the La Grange Hydroelectric Project FERC Licensing”*. This NOI informed the California Department of Fish and Wildlife (CDFW), a California Environmental Quality Act (CEQA) Responsible and Trustee Agency, that Turlock Irrigation District (Turlock ID) and Modesto Irrigation District (MID) (collectively, Districts) have prepared a Draft CEQA Supplemental Analysis to the Federal Energy Regulatory Commission’s (FERC or Commission) final environmental impact statement (FEIS) that contains FERC staff’s recommendation with mandatory conditions for terms to be included in the relicensing of the Don Pedro Hydroelectric Project (FERC Project No. 2299-082) and issuing of an original license for the La Grange Hydroelectric Project (FERC Project No. 14581-002) (collectively, Projects).

On September 16, 2024, pursuant to CEQA Guidelines section 15225, Turlock ID in its lead agency role gave notice that it would use the FEIS in the place of an Environmental Impact Report (EIR) or Negative Declaration and that it believes that the FEIS meets the requirements for CEQA. Their CEQA Supplemental Analysis follows the general CEQA Initial Study/Mitigated Negative Declaration (IS/MND) format as a guideline to add and supplement any CEQA considerations that were not addressed or fully covered in the FEIS.

BACKGROUND

The Don Pedro Hydroelectric Project (Don Pedro Project) is owned and operated by the Districts. The Turlock ID operates and maintains hydropower facilities at La Grange Diversion Dam (La Grange Project). The Projects are located on the Tuolumne River in

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Tuolumne and Stanislaus counties, California. The Districts seek to obtain a new 50-year license for the Don Pedro Project and an original 50-year license for the La Grange Project from FERC.

Under a new FERC license for the Don Pedro Project, the Districts would accept to: (1) continue to operate and maintain the existing Don Pedro Project facilities; and (2) make modifications to: operations and maintenance, some facilities, the existing FERC Project boundaries; and (3) implement the other terms and conditions in the new license consistent with those in FERC Staff Alternative with Mandatory Conditions for the Don Pedro Project as described in the FEIS.

Under an original FERC license for the La Grange Project, Turlock ID would accept to: (1) continue to operate and maintain the La Grange Project facilities; and (2) implement the terms and conditions in an original license consistent with those in FERC Staff Alternative with Mandatory Conditions for the La Grange Project as described in the FEIS.

The FEIS' FERC Staff Alternative with Mandatory Conditions would not require any hydropower generation-related project facilities to be added to the Projects. However, on October 11, 2017, the Districts proposed enhancements to existing recreation facilities associated with the Don Pedro Project in the Recreation Resource Management Plan (RRMP) of the Amendment to the Don Pedro Project Final License Application (AFLA) filed with FERC.

Mandatory Conditions in the 2020 FEIS include preliminary conditions submitted by the United States Department of the Interior (DOI), Bureau of Land Management (BLM) pursuant to the Federal Power Act (FPA) Section 4(e). FERC recommendations within the scope of FPA Section 10(j) have been submitted by CDFW, the DOI Fish and Wildlife Service (USFWS), and the National Marine Fisheries Service (NMFS).

The FPA requires that every hydropower license applicant have a Water Quality Certification (WQC or Certification) pursuant to Section 401 of the Federal Water Pollution Control Act (Clean Water Act) or a waiver of certification from the state. The State Water Resources Control Board (State Water Board) is the state agency responsible for federal issuance of Certifications. FERC staff recognized that any conditions included in a final, valid, and timely WQC must also be included in the FERC license for the Projects as Mandatory Conditions. The WQC conditions are not being assessed in this CEQA process. The State Water Board requires CEQA compliance to issue a WQC for the proposed Projects.

The Districts used and primarily relied on the FEIS to satisfy CEQA review requirements for the FERC relicensing of the Don Pedro Project and the licensing of the La Grange Project.

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AUTHORITY

CDFW is the appropriate State Fish and Wildlife agency for resource consultation and FPA Section 10(j) (16 U.S.C. § 803, subd. (j)) purposes. The fish and wildlife resources of the State of California are held in trust for the people of the state by and through CDFW (Fish & G. Code, § 711.7). CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (Fish & G. Code, § 1802). The mission of CDFW is to manage California's diverse fish, wildlife, and plant resources, and the habitats on which they depend, for their ecological values and for their use and enjoyment by the public. It is the goal of CDFW to preserve, protect, and as needed, to restore the habitat necessary to support native fish, wildlife, and plant species within the FERC-designated boundaries of these Projects, as well as the areas adjacent to these Projects in which resources are affected by ongoing project operations and maintenance activities and recreational use.

CDFW's coordination with the State Water Board and other resource agencies is an effective path to codifying our preferred conditions via certifications, because CDFW only has recommendation authority under the FPA. Along with federal land management agencies' mandatory 4(e) conditions and National Oceanic and Atmospheric Administration's (NMFS) Section 18 fishway prescriptions, Certification conditions can be used by state and federal agencies to help mitigate hydropower impacts on riverine ecosystems. In the proposed Projects, CDFW and the State Water Board will both act as Responsible and/or Trustee Agencies, as both agencies have discretionary permits and approvals to be made in support of the proposed Projects. Specifically, CDFW may be requested to provide a permit that would authorize "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), if deemed necessary for project implementation.

COMMENTS AND RECOMMENDATIONS

General

The Commission's FEIS for the Projects (FERC 2020) included recommendations regarding special-status species, water infrastructure and instream flow requirements. The Draft CEQA Supplemental Analysis (IS/MND) should have revised, expanded and updated the findings of the FEIS as necessary to disclose the potential impacts and conservation measures that will support the Don Pedro and La Grange Project licensings.

The FEIS conveys that before the Commission makes licensing decisions; it will consider all concerns relevant to the public interest. The FEIS will be part of the record from which the Commission will make its decisions. Therefore, CDFW anticipates that

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the Commission will consider the findings of the IS/MND along with the recommendations made herein when making relicensing decisions, including project concerns relevant to the public interest that were not addressed in the FEIS.

FERC Project Boundary

The IS/MND establishes that the Proposed FERC Project Boundary encompasses the Don Pedro Project and La Grange Project, including both reservoirs (Don Pedro Reservoir and La Grange Headpond), the mainstem Tuolumne River upstream of Don Pedro Reservoir to approximately 0.76 river miles upstream of the confluence with Turnback Creek, the mainstem Tuolumne River downstream from Don Pedro Dam to La Grange Headpond, Big Creek, Twin Gulch, and approximately 0.12 river miles of the lower Tuolumne River as it flows out of the La Grange Dam (River Mile (RM) 52.2) (Section 3.7.1).

CDFW recommends that the CEQA analysis area encompasses the entire lower Tuolumne River up to the confluence with the San Joaquin River. This change should be reflected in the Impacts Analysis section of the IS/MND (Section 3.7.2).

Special-Status Species

The IS/MND indicates that no special-status species occur within the Proposed Project Area (Section 3.7.1); however, CDFW offers the following recommendations about riverine fish species documented in the lower Tuolumne River.

San Joaquin River spring-run Chinook salmon (*Oncorhynchus tshawytscha*) are known to occur in the Tuolumne River. Some of the observed spring-run Chinook salmon have been identified as strays that were raised in captivity on the San Joaquin River near Friant Dam as part of the San Joaquin River Restoration Program (SJRRP) for the purpose of developing a San Joaquin River-specific population of fish (SJRRP 2016). However, more than three-hundred spring-run Chinook salmon have been identified in the Tuolumne River this year (2025) below La Grange Dam during the summer of 2025, which warrants a broader analysis of the status of this species in the Proposed Project Area. For instance, on a July 1, 2025, letter to CDFW, the Districts proposed to install a segregation weir to manage both spring-run and fall-run Chinook spawning in the lower Tuolumne River, upstream of the Old La Grange bridge. Therefore, CDFW maintains that spring-run Chinook salmon are present throughout the Proposed Project Area and can be vulnerable to water project operations in the lower Tuolumne River. The IS/MND for the proposed Projects must assess the impacts of water project operations on this experimental population.

The California Fish and Game Commission approved white sturgeon (*Acipenser transmontanus*) as a candidate for potential listing as a protected species under CESA on June 19, 2024, and published these findings in the California Regulatory Notice

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Register (Notice Register) on June 27, 2024. As such, white sturgeon is now a candidate under CESA and receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085). This species has also been recently documented in the lower Tuolumne River (Diviney and Dahl 2024, USFWS 2025). White sturgeon has been reportedly stranded in this reach of the lower Tuolumne River because of low flows attributed to water project operations (CDFW 2023). It is important to note that State Candidate species are afforded the full protection of CESA, and therefore to avoid a violation of CESA, any project-related take of white sturgeon would require acquisition of an Incidental Take Permit pursuant to Fish and Game Code section 2081, subdivision (b). Therefore, the CEQA Supplemental Analysis for the proposed Projects must assess the impacts of water project operations and the adopted flow schedule on white sturgeon passage and stranding avoidance measures implemented. In its current version, the IS/MND categorically states that no impacts to fish migration are expected to occur within the Proposed Project Area (Impact BIO-4, Page 3-38). CDFW requests the inclusion of both white sturgeon and spring-run Chinook salmon in the riverine fisheries discussion of the IS/MND (Section 3.7.1, Page 3-21) and in the Impacts Analysis (Section 3.7.2).

North American green sturgeon (*Acipenser medirostris*), a federally listed threatened species, has been recently documented in the Stanislaus River and in the San Joaquin River upstream of the Merced River confluence (Anderson et al. 2018, Root et al. 2020). The IS/MND for the proposed Projects must assess the impacts of water project operations on green sturgeon, at least throughout the reach upstream of the infiltration galleries. CDFW anticipates that the operation of these features of the Don Pedro Project could affect flows in this reach with possible impacts on special-status fish species, such as green sturgeon.

Proposed Experimental Gravel Cleaning Program

The IS/MND indicates that “the Districts propose and FERC’s FEIS staff recommend to conduct a five-year program of experimental gravel cleaning using a gravel ripper and pressure washer operated from a backhoe, or equivalent methodology, including monitoring interstitial fines before and after gravel cleaning, to improve the quality of salmonid spawning gravel in the lower Tuolumne River. Gravel cleaning would be conducted at or below the confluence of intermittent streams downstream from La Grange Diversion Dam, including Gasburg Creek (RM 50.3) and Peaslee Creek (RM 45.5).” (Section 3.7.2)

CDFW has concerns about the possible impacts of this intense mechanical manipulation of the benthic habitat and its potential impact on the macroinvertebrate fauna and other gravel dwelling organisms. These impacts were not analyzed in the FERC (2020) environmental document, and they should have been acknowledged and analyzed in the IS/MND.

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Water Infrastructure: Infiltration Galleries

The Districts proposed including two in-river infiltration galleries (IG-1 and IG-2) in the Don Pedro Project (Section 2.4.2.2). The infiltration galleries are part of a regional surface water supply project with the goal of withdrawing water from the Tuolumne River to serve municipal and industrial uses in the cities of Ceres and Turlock. The IS/MND indicates that Turlock ID installed IG-1, with a capacity of approximately 100 cubic feet per second (cfs), at RM 25.8 in 2001, which is currently operational. In addition, the Districts proposed to install a second infiltration gallery, IG-2, with a capacity of approximately 100 to 125 cfs, just downstream of IG-1.

CDFW requests clarification on whether additional CEQA analysis will be conducted for the installation of the proposed infiltration gallery (IG-2) and/or for the operation and maintenance of both in-river infiltration galleries (IG-1 and IG-2) in the Don Pedro Project. CDFW also requests clarification of the location of the proposed infiltration gallery (IG-2) relative to the proposed Don Pedro FERC Project Boundary in this relicensing process.

Flow Requirements

A cursory review of the Draft IS/MND document reveals that it does not include flow schedules. Disclosing detailed flow schedule information is essential in the evaluation of the flow requirements for the Projects under FERC licensing. CDFW requests that the Districts include tables and descriptions of minimum instream flows, pulse flows, floodplain flows, and compliance points.

The IS/MND includes a discussion of the existing and proposed project operations and maintenance for the La Grange Project (Section 2.5.2). In this section, the Districts assert that “[o]ther than the minimum flow release of 5 to 10 cfs to the plunge pool downstream of the La Grange Project, [they] do not propose to make substantive changes to the operation of the La Grange Project.” CDFW requests clarification about any proposed changes in minimum flow releases since the Districts already release 5 -10 cfs from the “hillside” discharge gates.

The 2020 FEIS included a discussion of instream flow requirements but did not sufficient consideration of the need for functional flows on the Tuolumne River, particularly the fall pulse and winter storm flows. The California Environmental Flows Framework (CEFF) (UC Davis 2024) identifies five distinct flows of a natural flow regime that are important to sustain the ecological, geomorphic, and biogeochemical functions of a river. CDFW requests that the IS/MND includes a discussion of how each alternative provides functional flows and a discussion of how any flow proposals that do not contain all functional flows provide support to the physical, biological, and ecological processes of the Tuolumne River.

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CDFW also requests that the CEQA Supplemental Analysis discusses the ability for the proposed Project to meet the Bay-Delta Plan Phase 1 flows (see Impact BIO-6, Page 3-40). The requirements of the Bay Delta Plan have been identified for the Tuolumne River and should be assessed in the IS/MND (Section 3.13.1, Page 108). In 2018, the State Water Board approved Phase 1 of the Bay-Delta Plan which identifies a percentage of unimpaired flow from January-June at a new compliance point for the Tuolumne River. Although the Bay-Delta Plan is not self-implementing, it has been described in enough detail for assessment regarding the potential for the FERC Staff proposed flow regime to meet the requirements of the Bay-Delta Plan.

Finally, comprehensive functional flow requirements are important to maintain both the fishes, wildlife, and riparian species that need a healthy river to survive and complete their lifecycles.

CDFW supports license conditions conducive to functional environmental flows that promote riparian and floodplain restoration, adequate water quality and special-status species.

Water Quality

The IS/MND states that water temperatures in the lower Tuolumne River within the Proposed Project Area are controlled by water temperature in the reservoir that is released through the penstocks at the Don Pedro Dam. Therefore, water temperature impacts in the Proposed Project Area are not expected (Section 3.7.2, Page 3-25). However, CDFW attributes this conclusion to the reduced extent of the Proposed Project Area as compared to the area that required CEQA analysis to evaluate project impacts, which should include the entire lower Tuolumne River. The lower Tuolumne River continues to be listed under Section 303(d) of the Clean Water Act ("303(d) list") for temperature impairment as it does not meet established water quality standards for temperature. As such, CDFW recommends a broader discussion and consideration of water temperatures in the Impacts Analysis of the IS/MND.

CDFW finds it concerning that no dissolved oxygen (DO) monitoring has been proposed for most of the Tuolumne River. Dissolved oxygen data would be required to make determinations about the lower Tuolumne River's current ability to meet the DO requirements set forth by the Water Quality Control Plan for the Sacramento and San Joaquin Basins (Basin Plan).

CDFW acknowledges that FERC's FEIS (2020) was completed before the Water Board voted to approve Phase 1 of the Bay-Delta Water Quality Control Plan. Because of the timing of both regulatory processes, it would be reasonable to request additional analysis. The State Water Board (2018b) completed a Substitute Environmental Document (SED) for Phase 1 of the Bay-Delta Plan and has issued a *CEQA Findings and Statement of Overriding Considerations* since; therefore, it is unclear to CDFW

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which CEQA findings and evaluation the Districts are discussing in the IS/MND (https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/121218_13_attachment_1_as_adopted.pdf). The Bay Delta Plan is available and includes information about proposed flows and a new compliance point that should be considered in the CEQA Supplemental Analysis for the Don Pedro and La Grange Project licensings.

CONCLUSION

The findings of Turlock ID's environmental analysis under CEQA should ensure adequate assessment and disclosure of potential project impacts on environmental resources. An adequate and timely CEQA process should inform the development of new water quality certifications for the Projects.

CDFW appreciates the opportunity to review and provide public comments to Turlock ID on their "*Draft CEQA Supplemental Analysis (Initial Study/Mitigated Negative Declaration) for the Don Pedro and La Grange Hydroelectric Projects Licensing*". Please address any questions or concerns regarding these comments to Abimael León, the Regional FERC Coordinator, at Abimael.Leon@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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for Julie A. Vance
Regional Manager

cc: Debbie-Anne A. Reese, Secretary (via Electronic Submission)
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