
State Water Resources Control Board

July 25, 2025

Mr. Michael Cooke, Director of Water
Resources and Regulatory Affairs
Turlock Irrigation District
333 East Canal Drive
Turlock, CA 95381

Sent via email: micooke@tid.org

Debbie-Anne Reese, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

Via e-filing

**Don Pedro Hydroelectric Project and La Grange Hydroelectric Project
Federal Energy Regulatory Commission Project Nos. 2299 and 14581
Stanislaus and Tuolumne Counties
Tuolumne River and Tributaries**

**STATE WATER RESOURCES CONTROL BOARD STAFF COMMENTS ON
TURLOCK IRRIGATION DISTRICT AND MODESTO IRRIGATION DISTRICT'S
DRAFT INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE DON
PEDRO AND LA GRANGE HYDROELECTRIC PROJECTS**

Dear Mr. Cooke and Secretary Reese:

On June 27, 2025, Turlock Irrigation District and Modesto Irrigation District (collectively, Districts) issued a Notice of Intent (NOI) to adopt an Initial Study/Mitigated Negative Declaration (IS/MND), as a supplement to the Federal Energy Regulatory Commission's (FERC) 2020 Final Environmental Impact Statement (FEIS), to satisfy California Environmental Quality Act (CEQA) requirements for the FERC relicensing of the Don Pedro Hydroelectric Project (Don Pedro Project, FERC Project No. 2299) and original licensing of the La Grange Hydroelectric Project (La Grange Project, FERC Project No. 14581) (collectively, Projects). The NOI opened a public review period to submit comments on the draft IS/MND prepared by the Districts by July 27, 2025.

Background on Water Quality Certification and CEQA Processes

The Districts own and operate the Projects, which are located in the Tuolumne River watershed in Tuolumne and Stanislaus Counties, California. On September 16, 2024, the Districts issued a NOI to rely on FERC's FEIS with Mandatory Conditions, in combination with a Supplemental Analysis, to satisfy CEQA requirements for relicensing of the Don Pedro Project and licensing of the La Grange Project. On October 16, 2024, State Water Resources Control Board (State Water Board) staff submitted a comment letter to the Districts, providing comments in response to the Districts' September 16, 2024 NOI.

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

On December 13, 2024, the State Water Board received water quality certification (certification) applications from the Districts for the Projects pursuant to section 401 of the federal Clean Water Act (33 U.S.C. § 1341). In the Districts' certification applications, the Districts notified the State Water Board of their intent to supplement the Projects' 2020 FEIS completed by FERC pursuant to the National Environmental Policy Act with a supplemental analysis to satisfy CEQA requirements that FERC's 2020 FEIS did not cover. The Districts also indicated their intent to complete the CEQA process for the licensing/relicensing of the Projects in May 2025.

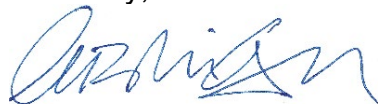
On January 9, 2025, the State Water Board issued a letter notifying the Districts that the certification applications are complete pursuant to California Code of Regulations, title 23, section 3835, subdivision (c). On February 28, 2025, the Districts filed with FERC a status report regarding their activities related to obtaining certification for the licensing/relicensing of the Projects. The report noted the Districts' intent to rely on FERC's 2020 FEIS, in combination with a Supplemental Analysis, to satisfy CEQA. The Districts also noted their intent to adopt a final CEQA document by August 2025 (not May 2025 as they had previously advised the State Water Board).

State Water Board staff submit the enclosed comments pertaining to the Districts' draft IS/MND and NOI to adopt an IS/MND as a CEQA supplement to FERC's EIS to support the licensing/relicensing of the Projects. The comments are provided in: *Attachment A: Comments on Turlock Irrigation District and Modesto Irrigation District's Draft Initial Study/Mitigated Negative Declaration for the Don Pedro Hydroelectric Project and La Grange Hydroelectric Project.*

If you have questions regarding this letter please contact Eric Bradbury, the State Water Board's Project Manager for the Projects' licensing/relicensing, by email to: Eric.Bradbury@waterboards.ca.gov or by phone call to: (916) 327-9401. Written correspondence should be directed to:

State Water Resources Control Board
Division of Water Rights – Water Quality Certification Program
Attn: Eric Bradbury
P.O. Box 2000
Sacramento, CA 95812-2000

Sincerely,



Oscar Biondi – Senior Water Resource Control Engineer
Water Quality Certification Program
Division of Water Rights

Attachment: Attachment A: Comments on Turlock Irrigation District and Modesto Irrigation District's Draft Initial Study/Mitigated Negative Declaration for the Don Pedro Hydroelectric Project and La Grange Hydroelectric Project

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California State Clearinghouse
Office of Land Use and Climate Innovation
Via Posting to CEQAnet for SCH Number 2024090634

Attachment A: Comments on Turlock Irrigation District and Modesto Irrigation District's
Draft Initial Study/Mitigated Negative Declaration for the Don Pedro Hydroelectric
Project and La Grange Hydroelectric Project

State Water Resources Control Board (State Water Board or Board) staff are providing the following comments on Turlock Irrigation District (TID) and Modesto Irrigation District's (MID) (collectively, Districts) Draft Initial Study/Mitigated Negative Declaration (IS/MND), as a supplement to the Federal Energy Regulatory Commission (FERC) 2020 Final Environmental Impact Statement (FEIS), to satisfy California Environmental Quality Act (CEQA) requirements for the Don Pedro Hydroelectric Project (Don Pedro Project, FERC Project No. 2299) Relicensing and La Grange Hydroelectric Project (La Grange Project, FERC Project No. 14581) Licensing (collectively, Projects):

1. Section 401 of the federal Clean Water Act (Section 401) requires any applicant for a federal license or permit for an activity that may result in any discharge to navigable waters to obtain water quality certification (certification) from the State that the activity will comply with water quality requirements. (33 U.S.C. § 1341(a)(1), (d).) Certifying authorities may issue certifications with conditions implementing Clean Water Act requirements, including the requirements of section 303 of the Clean Water Act for water quality standards and implementation plans, or to implement "any other appropriate requirement of State law." (*Id.*, § 1341(d).) Section 401 further provides that certification conditions shall become conditions of any federal license or permit for the project. (*Ibid.*) If a certifying authority denies certification, the federal agency cannot issue a license or permit approving the project. (*Id.*, § 1341(a)(1).) The State Water Board is the state agency responsible for Section 401 certification in California. (Wat. Code, § 13160.)
2. Compliance with CEQA (Pub. Resources Code, § 21000 et seq.) is required as part of the certification process. The CEQA Guidelines define the lead agency as "the public agency which has the principal responsibility for carrying out or approving a project." (Cal. Code Regs., tit. 14, § 15367.) For the licensing/relicensing of the Projects, TID is the CEQA lead agency. The State Water Board will act as a responsible agency for the purposes of CEQA.

CEQA requires the lead agency to evaluate a project's potential impacts to environmental resources as well as identify mitigation measures and alternatives to reduce project impacts. CEQA also requires public input on identified impacts and mitigation measures. CEQA documentation must analyze and evaluate a project's potential impacts to all relevant resources, including aquatic biological resources, special status species, and water quality standards and other provisions of applicable water quality control plans and policies.

3. On December 13, 2024, the State Water Board received certification applications from the Districts for relicensing of the Don Pedro Project and licensing of the La Grange Project. On January 9, 2025, the State Water Board issued a letter notifying the Districts that the certification applications are complete and advising the Districts that the Board would act on the certification applications on or before December 13, 2025, which is the one-year deadline for action under Section 401.

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In the January 9, 2025 letter, Board staff also noted that the State Water Board must be provided with ample time to properly review a final CEQA document before taking action on certification applications.

The Districts initially notified FERC of their plan to complete the CEQA supplement by May 2025¹; however, on February 28, 2025, the Districts filed a CEQA timeline update with FERC noting their intent to complete the CEQA process by August 2025.

On September 16, 2024, the Districts issued a *Notice of Intent to rely on FERC Final Environmental Impact Statement with Mandatory Conditions, in combination with a Supplemental Analysis to satisfy CEQA for the Relicensing of the Don Pedro Hydroelectric Project and an Original License for the La Grange Hydroelectric Project*. On October 16, 2024, State Water Board staff provided the Districts with comments in response to this NOI.

State Water Board staff would like to emphasize that the final CEQA supplemental analysis should include all of the relevant changes to the Projects, including proposed operations, since issuance of FERC's 2020 FEIS, and the State Water Board must be given ample time to review the final CEQA document prior to the December 13, 2025 certification action date. (Cal. Code Regs., tit. 23, § 3856, subd. (f).)

4. In section 1.2, Project Background, on page 1-2, the draft IS/MND states: "Because a thorough alternatives analysis was completed for the FERC FEIS, no additional alternatives are considered necessary to evaluate within the CEQA process" and on page 1-3 it states: "It is premature and pre-decisional to identify in this Draft CEQA Supplemental Analysis conditions that may be in a SWRCB [Board] WQC [certification] for either Project. Therefore, these unknown conditions are not addressed in this Draft CEQA Supplemental Analysis, although the Districts recognize that they would be required to implement conditions once a WQC is issued."

As mentioned above, on September 16, 2024, the Districts issued an NOI to rely on FERC's FEIS with Mandatory Conditions, in combination with a Supplemental Analysis, to satisfy CEQA requirements for licensing/relicensing the Projects. On October 16, 2024, State Water Board staff submitted a letter (October 2024 Comment Letter) to the Districts, providing comments on the Districts' NOI. In the October 2024 Comment Letter, State Water Board staff requested that the

¹ On June 25, 2024, the Districts filed a letter with FERC discussing their "Process Plan and Schedule for Requesting Water Quality Certification Under Section 401 of the Clean Water Act." FERC eLibrary Docket Nos. 2299-000 and 14581-000, Accession No. 20240625-5026.

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Districts include analysis of potential conditions of the Projects' 2021 certification² in their supplemental CEQA analysis. Although this 2021 certification was later set aside by the Board, it is a helpful resource for the Districts to identify potential requirements or alternatives that should be analyzed as part of the Districts' CEQA analysis. In the October 2024 Comment Letter, State Water Board staff listed several potential certification conditions (as examples) which should be analyzed as part of the CEQA process, noting that analysis could help inform the certification process.

5. The draft IS/MND repeatedly uses the term "Proposed Project Area" without providing a definition or description for this term. Board staff is concerned that if the Districts intend this phrase to be synonymous with the FERC project boundaries (either the existing or proposed boundaries) for the Projects, the Districts' CEQA analysis may fail to adequately assess and analyze all impacts of the Projects. In section 3.13.2, on page 3-78, the draft IS/MND acknowledges: "Although the Lower Tuolumne River is outside the Proposed Project Area, the Proposed Project and associated activities could have an impact on this portion of the Tuolumne River." The Projects have the ability to control and limit flows in the Lower Tuolumne River, impact flows in the Lower San Joaquin River, and impact attainment of water quality objectives and the protection of beneficial uses downstream of the FERC boundaries for the Projects. The CEQA Guidelines define "Project" to mean "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (Cal. Code Regs., tit. 14, § 15378, subd. (a).) The Checklist in Appendix G to the CEQA Guidelines (and page 3-4 of the draft IS/MND) states: "All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as a well as project-level, indirect as well as direct, and construction as well as operational impacts." Accordingly, State Water Board staff request that in analyzing the Projects' impacts, the Districts' CEQA document use appropriate geographic scope(s) to encompass all impacts of the Projects on a particular CEQA environmental factor.
6. The Districts own and operate dams that are migration barriers to salmon and steelhead. The State Water Board's *Substitute Environmental Documents (SED) for the Lower San Joaquin River and Southern Delta*³ (2018 SED) and National

² On January 15, 2021, the State Water Board's Executive Director issued a certification for the licensing/relicensing of the Projects. This certification was set aside on the Board's own motion on May 7, 2024 (State Water Board Order WQ 2024-00462) and is therefore no longer in effect.

³ The 2018 SED for the 2018 Bay-Delta Plan can be accessed at the following address: https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/bay_delta_plan/water_quality_control_planning/2018_sed/

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Marine Fisheries Service's (NMFS) *Recovery Plan for the Evolutionary Significant Units of Sacramento River Winter-run Chinook Salmon and Central Valley Spring-run Chinook Salmon and the Distinct Population Segment of California Central Valley Steelhead* (NMFS 2014) detail how the combination of migration barriers, flow conditions, and habitat alterations are known to have caused negative effects to native fish species in the Tuolumne River watershed. As described in the State Water Board's 2018 SED, the San Joaquin River Basin once supported large spring-run and fall-run (and possibly late fall-run) Chinook salmon populations; however, it is widely thought that the basin now only supports fall-run Chinook salmon populations, and these populations are facing a high risk of extirpation. The Stanislaus, Tuolumne, and Merced rivers (individually or combined) have had larger reductions in the natural production of adult fall-run Chinook salmon than any of the other tributaries (or combination of three tributaries) to the Sacramento or San Joaquin rivers when comparing the 1967-1991 and 1992-2011 time periods. While the draft IS/MND does include new flow criteria (e.g., pulse flows and ramping rates), it does not address the water quality impacts of the Projects dams (e.g., lower flows leading to increased water temperature) nor does it include mitigation measures to avoid or substantially lessen the effects of the Projects on salmonids and ensure the protection of beneficial uses for fish and wildlife, under a new FERC license(s). Given the Board is considering a certification that the Projects will comply with water quality standards and other appropriate requirements of State law, the Districts' IS/MND should identify and analyze potential requirements or alternatives that satisfy the legal requirements of CEQA, and support the Board's needs in acting on the Districts' requests for certification of the Projects.

7. In 2018, the State Water Board's *Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary* (2018 Bay-Delta Plan) was updated to include flow objectives for the Tuolumne River. The 2018 Bay-Delta Plan established a water quality objective to: "Maintain 40% of unimpaired flow, with an allowed adaptive range between 30% - 50%, inclusive, from each of the Stanislaus, Tuolumne, and Merced Rivers from February through June." The 2018 Bay-Delta Plan update was evaluated in accordance with CEQA in the Board's 2018 SED.

The Districts' draft IS/MND includes no analysis or evaluation of the flows required by the 2018 Bay-Delta Plan. As stated in the October 2024 Comment Letter, the Districts' CEQA supplemental analysis for the Projects should include an analysis of the Projects' impacts when operated in compliance with the flows required by the 2018 Bay-Delta Plan. This may be accomplished by pointing to applicable portions of the Board's 2018 SED. State Water Board staff request that the Districts' IS/MND include an analysis and evaluation of compliance with applicable provisions of the 2018 Bay-Delta Plan, including the unimpaired flow provisions, throughout the term of the new FERC license(s) for the Projects.

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In section 3.13.1, on page 3-78, the draft IS/MND contends that “specific requirements for the Tuolumne River in the Proposed Project Area are not currently established and therefore, cannot be assessed.” State Water Board staff disagree with this contention and refer the Districts to the water quality objectives established in the 2018 Bay-Delta Plan, including those discussed above. Also in section 3.13.1, on page 3-81, the draft IS/MND contends that “the Bay-Delta Plan is still in development so an assessment of whether the Proposed Project would conflict or obstruct implementation of the Bay-Delta Plan cannot be completed at this time since it is speculative. . . . Once the Bay-Delta Plan is available and specifies requirements for the [Lower Tuolumne River], the Districts will review the requirements” State Water Board staff also disagree with this contention and once again refer the Districts to objectives established in the 2018 Bay-Delta Plan.

8. State Water Board staff note the Districts’ draft IS/MND assesses the Projects’ impact on California Central Valley (CCV) steelhead habitat as less than significant for purposes of CEQA, which looks at impacts relative to existing conditions. However, as stated in Comment 1, the State Water Board is responsible for certifying that the Projects will be operated under any new FERC license(s) in a manner that complies with water quality standards, including compliance with water quality objectives and protection of designated beneficial uses. The State Water Board has already identified correlations between operations of the Projects and Tuolumne River temperature (Chapter 19, Appendix F.1 and Master Response 3.1 from the State Water Board’s 2018 SED). The Districts should anticipate that any certification issued by the Board will contain conditions to ensure the Projects operate in a manner that meets water quality standards and other appropriate requirements of State law. To that end, the Districts’ IS/MND should evaluate actions or requirements that would be needed to ensure compliance with water quality objectives and protection of beneficial uses (e.g., cold freshwater habitat, cold migration, and cold spawning), such as those included in the Board’s 2021 certification for the Projects as noted in Comment 4.
9. Section 3.13, Hydrology and Water Quality of the draft IS/MND does not address the 2018 Bay-Delta Plan. In addition, the CEQA analysis should include analyses of potential conditions that ensure the Projects are operated in a manner that is protective of water quality and beneficial uses. The 2021 certification, which was set aside, includes useful examples of potential conditions that could be considered. The Projects’ final CEQA document must evaluate the requirements and potential conditions set forth in these documents to identify and analyze potential impacts to the environment associated with the continued operation of the Projects under a new FERC license(s).

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10. As Board staff noted in the October 2024 Comment Letter, there are a number of other projects currently being proposed by the Districts with the potential to result in cumulative impacts. In accordance with the requirements of CEQA, State Water Board staff request that the Districts' IS/MND consider cumulative impacts from all projects that are currently being proposed by the Districts as well as other reasonably foreseeable future projects. This includes but is not limited to: (1) the Districts' pending appropriative water right application A033277 that proposes the additional diversion of up to 2,700,000 acre-feet from the Tuolumne River; (2) the Districts' involvement in the proposed Healthy Rivers and Landscapes Program⁴; and (3) Sustainable Groundwater Management Act implementation.
11. In section 3.19.2, Impact Analysis, both impacts REC-1 and REC-2 refer to the Recreation Resource Management Plan (RRMP). As described in this section of the draft IS/MND, the RRMP includes multiple measures and programs that address different aspects of recreation under the Proposed Project throughout the term of the new license(s) for the Projects: (1) a Recreation Use Monitoring Program; (2) a Recreation Facility Development Program; (3) operation of recreation facilities (including maintenance activities); and (4) monitoring of developed recreation area facilities and undeveloped shoreline recreation. Within section 3.19.2's impact analysis, the terms "periodically" and "routinely" are used when discussing monitoring and maintenance activities under the RRMP. State Water Board staff request the Districts clarify the timing of activities proposed under the RRMP, specifically:
 - A. Provide a definition for "periodically" in the context of reviewing the Recreation Facility Development Program.
 - B. Provide a definition for "routinely" in the context of maintaining the Proposed Projects recreational facilities, as well as, monitoring developed recreation area facilities and undeveloped shoreline recreation under the RRMP.

⁴ <https://resources.ca.gov/-/media/CNRA-Website/Files/Initiatives/Support-Healthy-Rivers-and-Landscape/20240408-HRL-Agreements-0408--2-pm.pdf>