



Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
North Central Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670-4599
916-358-2900
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



June 30, 2020

Governor's Office of Planning & Research

Jun 30 2020

STATE CLEARINGHOUSE

Mr. Jordan Smith
State Water Resources Control Board
Division of Water Rights
Water Quality Certification Program
P.O. Box 2000
Sacramento, CA 95812-2000
WR401Program@waterboards.ca.gov

Subject: Upper North Fork Feather River Hydroelectric Project, FERC Project #2105
REVISED DRAFT ENVIRONMENTAL IMPACT REPORT (RDEIR)
SCH# 2005082122

Dear Mr. Smith:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Revised Draft Environmental Impact Report (RDEIR) from the State Water Resources Control Board (SWRCB) for the Upper North Fork Feather River (UNFFR) Hydroelectric Federal Energy Regulatory Commission (FERC) Project # 2105 (Project) in Plumas County pursuant the California Environmental Quality Act (CEQA) statute and guidelines¹. CDFW previously submitted comments in response to the originally circulated DEIR in March of 2015.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, plants and their habitats. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code (Fish & G. Code).

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Fish & G. Code, § 1802.) Similarly, for purposes of CEQA, CDFW provides, as available, biological expertise during public agency

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW may also act as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) The Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law (Fish & G. Code, § 86) of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required. CDFW also administers the Native Plant Protection Act, Natural Community Conservation Program, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

PROJECT DESCRIPTION SUMMARY

The Project site is located in the upper reaches of the North Fork Feather River watershed in Plumas County, California.

The Project consists of the following existing facilities:

- three dams that form Lake Almanor, Butt Valley reservoir, and Belden forebay;
- five powerhouses (Butt Valley, Caribou No. 1, Caribou No. 2, Oak Flat, and Belden) containing eight hydroelectric generating units with a total nameplate capacity of 342.6 megawatts;
- tunnels and penstocks connecting the reservoirs to the powerhouses; and
- transmission, recreation, operations and maintenance, and access facilities.

Pacific Gas & Electric's (PG&E) license to operate the UNFFR Project expired in October 2004. In accordance with the Federal Power Act and FERC regulations, PG&E submitted an application to FERC for a new license on October 23, 2002. As part of its review of the PG&E application, FERC prepared the *Final Environmental Impact Statement (EIS) for the Upper North Fork Feather River Project* under the National Environmental Policy Act to evaluate the environmental consequences of operation of the UNFFR Project under a new license, including proposed measures from a 2004 Settlement Agreement. The 2004 Settlement Agreement was an agreement between most of the participants in the relicensing process that resolved most, but not all, of the issues pertaining to the continued operation of the UNFFR Project under a new license. SWRCB staff actively participated in the collaborative process in order to provide advice concerning the SWRCB's regulatory process, but the SWRCB was not party to the 2004 Settlement Agreement and is not a signatory to it. FERC completed the Final EIS in December 2005. Since the UNFFR Project license expired in 2004, PG&E has continued to operate the UNFFR Project under annual extensions to the license.

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PROPOSED ALTERNATIVES

The RDEIR proposed Project, as described in Chapter 3, is composed of the elements of PG&E's application to FERC along with modifications made in accordance with the 2004 Settlement Agreement, Forest Service 4e conditions, and the FERC staff Final EIS alternative. Many of the RDEIR proposed Project's potential impacts were evaluated in the Final FERC EIS. As allowed by Section 15150 of the CEQA Guidelines, the SWRCB incorporates, by reference, certain sections of the Final FERC EIS into its own CEQA analysis, including sections that analyze the impacts of the proposed Project.

In 2006, the United States Environmental Protection Agency listed the North Fork Feather River upstream of Lake Oroville as a water quality limited segment under Section 303(d) of the Clean Water Act. The listing was based on the SWRCB's determination that elevated water temperatures are impairing the cold freshwater habitat beneficial use of the North Fork Feather River. The SWRCB cited hydromodification and flow regulation as potential sources of the impairment in State Water Board Resolution No. 2006-0079. Water temperature was one of the issues identified in the 2004 Settlement Agreement as unresolved. In an effort to address unresolved water quality issues, the SWRCB used a tiered approach known as levels 1, 2, and 3 to develop an array of measures that could reduce water temperatures in the North Fork Feather River below Canyon dam. Various measures were evaluated at each level to assess their feasibility and ability to meet specific screening criteria. Although many measures were determined to be potentially feasible, three of the measures (i.e., thermal curtains at the Prattville intake, thermal curtains at the Caribou intakes, and increased Canyon Dam flow) were carried forward for analysis in the DEIR. Three alternatives based on these three measures were included in the RDEIR CEQA analysis:

- **Alternative 1:** Thermal curtain at the Prattville intake on Lake Almanor, increased summertime releases up to 250 cubic feet per second (cfs) from Canyon Dam, and thermal curtain at the Caribou intakes on Butt Valley reservoir.
- **Alternative 2:** Thermal curtains at Prattville intake and Caribou intakes.
- **Alternative 3:** Increased summertime releases up to 250 cfs from Canyon Dam.

GENERAL COMMENTS AND RECOMMENDED ALTERNATIVE

CDFW offers the comments and recommendations below to assist the SWRCB in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. CDFW is primarily concerned with potential project effects on aquatic habitats including impacts to water temperature and dissolved oxygen in both the UNFFR and Lake Almanor.

CDFW supports the SWRCB's preferred alternative – *Alternative 3 - Increased summertime releases from Canyon Dam to the Seneca Reach* – with additional

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considerations for the implementation of mitigation measures and for the accompanying Draft 401 Water Quality Certification. Alternative 3 is written as follows:

Alternative 3 consists of the minimum instream flow schedules put forth in the 2004 Settlement Agreement for both Seneca and Belden reaches, and increased cold-water releases to the Seneca reach up to 250 cfs between June 16 and September 15. It does not include installation of thermal curtains at the Prattville intake on Lake Almanor and at the Caribou intakes on Butt Valley reservoir (RDEIR page ES-5).

The RDEIR concludes all impacts under Alternative 3 will be less than significant with a series of mitigation measures including the following measure addressing potential impacts to water quality (WQ) and fisheries:

Mitigation Measure WQ-1: Implement water quality and fish monitoring, augment stocking of cold-water fishery in Lake Almanor, and adaptively manage Canyon Dam releases (REDIR page 188).

Mitigation Measure WQ-1 requires water temperature and dissolved oxygen (DO) data collection and fish monitoring in Lake Almanor, as well as an assessment of CDFW trout stocking needs to support the Almanor fishery. Additionally, WQ-1 requires the adaptive management of Canyon Dam releases in consultation with applicable resources agencies. Data collected under this mitigation measure will be used to monitor and assess potential impacts to Lake Almanor and UNFFR fish habitat and inform Canyon Dam releases to meet instream flow needs and/or adjust for lake temperature control (RDEIR pages 188-189). This mitigation measure, however, does not identify specific monitoring approaches or assessment methodologies to analyze collected data to understand impacts to fish habitat. CDFW recommends clarifying how water quality data will be used to assess impacts on fish habitat and to optimize a balance between lake water quality and downstream river reach benefits.

The modeling used in the RDIER demonstrates that a decrease in dissolved oxygen in the hypolimnion of Lake Almanor is possible (Impact FS-2), however also contemplates that:

Increased withdrawal of cold water from the hypolimnion of the Lake would reduce the volume of cold water, but also induce mixing with higher dissolved oxygen in the epilimnion, potentially creating more habitat of cool water with sufficient DO (RDEIR page 178).

Importantly, required Mitigation Measure WQ-1 under Alternative 3 is reflected in the SWRCB's UNFFR FERC Project #2105 [Draft 401 Water Quality Certification](#) (WQC) under Conditions 6, 7, and 8; Water Temperature Management, Water Quality Monitoring, and Lake Almanor Fish Monitoring, respectively. The WQC Conditions add implementation detail to the more generalized RDEIR description of Mitigation Measure WQ-1. Along with the mitigation recommended in the RDIER, a stepwise decision-making process should be included in Water Quality Certification conditions that does not sacrifice cold water benefits

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to the UNFFR but instead allows for physical modifications, such as oxygenation systems, that can maintain aquatic habitat in the lake while maintaining the modeled benefits to the UNFFR.

CDFW requests SWRCB consider the below CDFW Draft 401 Water Quality Certification comments as they are applicable to implementation of RDEIR-identified Alternative 3. Specifically, these comments offer implementation considerations to increase the specificity and efficacy of Mitigation Measure WQ-1 in identifying and mitigating potential Project impacts to water quality and fish habitat without sacrificing necessary benefits to downstream water bodies.

Condition 6 - Water Temperature

CDFW recommends clarifying and simplifying Condition 6 by:

- *Using a mean daily average water temperature of 20°C as the water temperature trigger for supplemental flow initiation.*
- *Using one compliance point (i.e., one gage) at Rock Creek gage NF-57. This gage represents the most downstream location directly affected by the UNFFR Project.*
- *Maintaining supplemental releases during the summer period, once triggered, and including an appropriate ramp down by September 15.*
- *Clarifying a maximum of 250 cfs total flow downstream of Canyon Dam.*

Conditions 7 and 8 - Fisheries and Water Quality Monitoring

In the UNNFR WQC, Water Quality Monitoring (Condition 7) and Lake Almanor Fish Monitoring (Condition 8) “will be used to monitor and assess potential impact to the cold water beneficial uses of Lake Almanor, which may identify the need to temporarily modify or suspend supplemental releases from Canyon Dam” (WQC page 13). CDFW recommends that freshwater habitat be monitored in Lake Almanor by measurement of water temperatures and DO saturation within the lake water column. If physical conditions are determined to negatively affect fish habitat, CDFW recommends that the licensee investigate and implement feasible measures to improve lake habitat, which could include oxygenation systems.

These two conditions should focus decision-making on an assessment of physical parameters. The conditions should be revised to base impact analysis on an assessment of when, under what conditions, and for what duration of time the physical parameters DO and temperature are depleted in the lake water column, rather than relying on Lake Almanor fish monitoring, the results of which would be confounded by multiple variables, not just DO and temperature.

In summary, CDFW supports the RDEIR preferred Alternative 3 and concurs with the SWRCB that under Alternative 3, with required mitigation measures, the Project’s significant impacts on biological resources will be less than significant when implemented in concert with the 2004 Settlement Agreement, Forest Service 4e conditions, and the SWRCB 401 Water Quality Certification in consideration of the above comments.

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ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link:

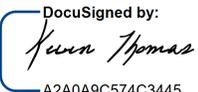
<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

CONCLUSION

Pursuant to Public Resources Code §21092 and §21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to r2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the RDEIR to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. Questions regarding this letter or further coordination should be directed to Sarah Lose, Senior Environmental Scientist at 916-747-5226 or sarah.lose@wildlife.ca.gov.

Sincerely,

DocuSigned by:


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Kevin Thomas

Regional Manager

ec: Briana Seapy, briana.seapy@wildlife.ca.gov
Beth Lawson, beth.lawson@wildlife.ca.gov
Zach Kearns, zachary.kearns@wildlife.ca.gov
California Department of Fish and Wildlife

Jordan Smith, jordan.smith@waterboards.ca.gov
Jeff Wetzel, jeff.wetzel@wildlife.ca.gov
State Water Resources Control Board

Office of Planning and Research, State Clearinghouse, Sacramento