

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, DC 20426

October 5, 2004

OFFICE OF ENERGY PROJECTS

Project No. 2105-089
Upper North Fork Feather River Project
Pacific Gas and Electric Company

Ms. Stacy Dixon
Tribal Chairman
Susanville Indian Rancheria
Drawer "U"
Susanville, CA 96130

Re: Upper North Fork Feather River Project (FERC No. 2105)

Dear Chairman Dixon:

Your September 9, 2004, letter and the Rancheria's Resolution No. SU-BC-23-2004, addressed to Rollie Wilson, the Commission's Tribal Liaison, have been forwarded to our Office of Energy Projects. I discussed your concerns with the Tribal Liaison and hope that this letter clarifies how you can effectively participate in any future Commission proceeding regarding the matters you raise.

In your correspondence you express concern that the Susanville Indian Rancheria (SIR) has not been notified or consulted about a Pacific Gas and Electric Company (PG&E) proposal to install a "thermal curtain" around the Prattville intake and conduct related dredging in Lake Almanor, the storage reservoir for the Upper North Fork Feather River (UNFFR) Project. You explain that this proposal has the potential to significantly affect Native burial sites located at the bottom of Lake Almanor in the Prattville area.

Although I am aware that PG&E has been studying the feasibility of potential measures, including a thermal curtain in Lake Almanor, for providing cooler water to the Upper North Fork Feather River, PG&E has not filed a proposal to implement any such measures with the Commission. Please be assured that any proposal that would alter UNFFR structures or operation would require Commission authorization.

Should PG&E file a proposal to modify the Prattville intake, the Commission would issue public notice of the proposal and request agency, tribal, and public comments on the proposal. Commission staff would then analyze the environmental

impacts of the proposal, both positive and negative, including any impacts to burial sites under Lake Almanor, and determine whether it was in the public interest. Concerns of the Susanville Indian Rancheria, as well as concerns of other commentors, would be addressed during our environmental review. This review would serve as the basis for the Commission's decision in the matter, assuming again that a proposal is filed with the Commission.

The idea of using cold water stored in Lake Almanor to cool downstream river reaches arose during settlement negotiations for relicensing PG&E's downstream Rock Creek-Cresta Project (FERC No. 1962). In that settlement PG&E agreed to evaluate the effectiveness and feasibility of modifying the Prattville intake to provide cold water to the Rock Creek and Cresta bypassed reaches of the river and potentially subsequently to implement a modification. In the order issuing the license and approving the settlement agreement, the Commission stated that those actions were beyond the scope of the Rock Creek-Cresta license and as a result the Commission specifically excluded provisions relating to the Prattville intake from the Rock Creek-Cresta license, stating that any such proposal would need to be considered in the context of the UNFFR Project. The Commission further stated that while PG&E may bind itself, pursuant to the settlement agreement to conduct studies relating to the Prattville intake, any modification to UNFFR Project facilities would have to be approved by the Commission.

In accordance with its settlement agreement, PG&E has been consulting with the Rock Creek-Cresta Ecological Resources Committee (ERC) and conducting studies. It is our understanding that the studies have been completed and PG&E and the ERC are now interpreting the study results and contemplating possible future actions. Depending on the results of the studies and discussions thereof, PG&E may, or may not, file a request with the Commission to modify the Prattville intake.

Finally, please note that once a contested proceeding has begun before the Commission, off-the-record communications between Commission staff (including the Tribal Liaison) and parties to the proceeding regarding the merits of the proceeding (as opposed to procedural matters) are generally prohibited by the Commission's rules governing off-the-record communications. See 18 C.F.R. § 385.2201 (2004). While such off-the-record communications are generally prohibited, your correspondence fits within the exemption for communication relating to the preparation of an environmental impact statement (EIS) prior to issuance of the final EIS. See 18 C.F.R. § 385.2201 (e)(1)(vi) (2004). Even exempt off-the-record communications must be disclosed, however, and I have delivered copies of your correspondence to the Commission's Secretary for notice in the Federal Register and inclusion in the decisional record for this proceeding. To ensure that any matters you raise are included in the record and thus can be considered by the Commission, I encourage you to formally file any further communications you may wish to submit dealing with substantive issues.

We hope that this letter addresses your concerns regarding cultural resources at Lake Almanor and that it effectively communicates the process that would be followed should a proposal be made to alter UNFFR structures or operation. If you have any questions about technical matters relating to the project, please contact John Mudre at (202) 502-8902 or at john.mudre@ferc.gov. If our Tribal Liaison can be of further assistance, he can be reached at (202) 502-8787 or at rollie.wilson@ferc.gov.

Sincerely,

Ann F. Miles
Director, Division of
Hydropower Licensing

cc: Service List
Public Files