

Congress of the United States
Washington, DC 20515

October 21, 2022

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N. E.
Washington, D.C. 20426

RECEIVED

By The Federal Energy Regulatory Commission Office of External Affairs at 9:47 am, Oct 26, 2022

RE: UPPER NORTH FORK FEATHER RIVER PROJECT, FERC NO. 2105

Dear Secretary Bose:

I am writing to follow up to my June 14th, 2021 letter as new developments have taken place. On August 4th, the U.S. Court of Appeals for the Ninth Circuit issued their decision in the cases brought to it by the State Water Resources Control Board (SWRCB) in regard to the Federal Energy Regulatory Commission's (Commission) action to waive the SWRCB's authority to issue a Water Quality Certification (WQC) for three projects.

My staff inform me the waiver for the relicensing of the Upper North Fork Feather River Project, FERC No. 2105 (Project) is still final and non-appealable, however, since the Commission's waivers in the Yuba County Water Agency, Nevada Irrigation District, and Merced Irrigation District cases have now been invalidated by the Court, the Commission may be more inclined to accept the SWRCB's WQC conditions into a new license for the Project.

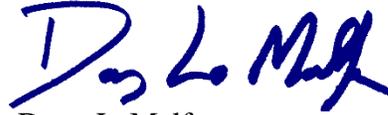
Again I ask, should the Commission choose to include any waived WQC conditions in the license, that the Commission ensure these conditions are consistent with Section 10(a) of the Federal Power Act and supported by the record before FERC. Your staff will find many of the conditions are redundant to the Final Environmental Impact Statement (FEIS) for the Project, the 2004 Settlement Agreement, or U.S. Forest Service 4(e) conditions. However, some of the conditions found in the WQC are outside the scope of the SWRCB's authority under the Clean Water Act or require ongoing approval by the Deputy Director of the SWRCB throughout the license term, which is inconsistent with the Commission's exclusive authority to implement and enforce licenses. All references to these incompatible conditions should be removed.

Additionally, Condition 6, "Water Temperature Management" of the WQC, calls for an increase in water releases from Lake Almanor of up to 250 cfs from June 16th to September 15th in order to reduce water temperatures in the lower reaches of the Upper North Fork Feather River downstream from the Project area. As described by FERC in its FEIS, these additional flows would provide only minimal downstream benefits while causing significant adverse effects on other beneficial uses, including fishery and other resources in Lake Almanor.

I ask that you give the concerns addressed by my constituents full and fair consideration as your staff move forward with the relicensing of the Project. Further details on the inconsistencies, and general abuse of authority by the SWRCB's WQC, can be found in PGE's letters to FERC dated

October 21st, and December 4th, 2020. Please contact my Legislative Director, John Veale, for any additional comments or clarification of concerns at (202) 225-3076.

Respectfully,

A handwritten signature in blue ink that reads "Doug LaMalfa". The signature is stylized and cursive.

Doug LaMalfa
Member of Congress