



State Water Resources Control Board

NOTICE OF OPPORTUNITY TO RESPOND TO PETITIONS FOR RECONSIDERATION OF WATER QUALITY CERTIFICATION FOR DON PEDRO HYDROELECTRIC PROJECT AND LA GRANGE HYDROELECTRIC PROJECT FEDERAL ENERGY REGULATORY COMMISSION PROJECT NOS. 2299 AND 14581

NOTICE IS HEREBY GIVEN THAT the State Water Resources Control Board (State Water Board) has received timely petitions for reconsideration (Petitions) of its water quality certification (certification) for the Don Pedro Hydroelectric Project and La Grange Hydroelectric Project (collectively, Projects), from the following parties (collectively, Petitioners):

1. Turlock Irrigation District and Modesto Irrigation District (collectively, Districts);
2. City and County of San Francisco, on behalf of the San Francisco Public Utilities Commission (San Francisco);
3. Bay Area Water Supply and Conservation Agency (BAWSCA); and
4. Tuolumne River Trust, California Sportfishing Protection Alliance, Trout Unlimited, American Rivers, American Whitewater, Merced River Conservation Committee, Friends of the River, Golden West Women Flyfishers, Central Sierra Environmental Resource Center, Tuolumne River Conservancy, and Sierra Club Mother Lode Chapter.

The Petitions were filed pursuant to California Code of Regulations, title 23, section 3867.

BACKGROUND

The Projects, which are owned and operated by the Districts, are undergoing relicensing before the Federal Energy Regulatory Commission (FERC or Commission). The Projects are located on the Tuolumne River in Tuolumne and Stanislaus Counties, California. On July 20, 2020, the Districts filed requests with the State Water Board for Clean Water Act section 401 certification of the Projects. (33 U.S.C. § 1341.) On October 2, 2020, the Districts filed a petition requesting FERC to find that the State Water Board waived its certification authority for the Projects. On November 19, 2020, the Districts filed a formal withdrawal of their July 20, 2020 requests for certification of the Projects based on their argument that the State Water Board had waived its certification authority under section 401. The State Water Board issued a draft certification for the Projects on November 30, 2020, and a final certification on

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

January 15, 2021. On January 19, 2021, FERC denied the Districts' petition and found that the State Water Board had not waived its certification authority for the Projects. Within 30 days of the final certification for the Projects, the State Water Board received the above listed Petitions. The Petitions are available as described in the *Availability of Documents* section below.

AVAILABILITY OF DOCUMENTS

Copies of the Petitions and associated documents are available on a **File Transfer Protocol (FTP) site**. Please use the following information to access the documents on the FTP site:

FTP Webpage Address: <https://ftp.waterboards.ca.gov/>

User Name: Tuolumne-Petitions-FTP

Password: TAva4hdsf4hsateY

If you have difficulty accessing the documents on the FTP site, please email WR401program@waterboards.ca.gov to arrange for an alternative method to access the documents. Responses received in answer to this notice will also be made available on the FTP site within 10 days of the deadline for responses.

Additional documents related to the Projects, including the certification, are available on the State Water Board's webpages for the **Don Pedro Hydroelectric Project**¹ and **La Grange Hydroelectric Project**².

SUBMISSION OF RESPONSES TO PETITIONS

Any party or person wishing to file a response to the Petitions with the State Water Board shall do so by 4:00 PM on Friday, January 7, 2022, as directed below. (Cal. Code Regs., tit. 23, § 3867.1.) Copies of responses must also be submitted to the Executive Officer of the Central Valley Regional Water Quality Control Board and Petitioners at the following hard copy or email addresses:

Patrick Pulupa, Executive Officer
Central Valley Regional Water Board
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Patrick.Pulupa@waterboards.ca.gov

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¹ https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/donpedro_ferc2299.html

² https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/lagrange_ferc14581.html

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Electronic submittal of responses is preferred. Responses submitted to the State Water Board may be sent electronically to: WR401program@waterboards.ca.gov or hard copies can be mailed to:

Oscar Biondi
State Water Resources Control Board
Division of Water Rights – Water Quality Certification Program
P.O. Box 2000
Sacramento, CA 95812-2000

EX PARTE DISCLOSURE REQUIREMENTS

Reconsideration of the certification is subject to the prohibition on ex parte communications, as described in a [Memo from the State Water Board's Office of the Chief Counsel](http://www.waterboards.ca.gov/laws_regulations/docs/exparte.pdf) (http://www.waterboards.ca.gov/laws_regulations/docs/exparte.pdf). In general, communications about certain pending matters, such as reconsideration of the certification, in the absence of other parties and without notice and opportunity for all parties to participate in the communication are prohibited.

Any communications regarding reconsideration of the certification (except for non-controversial procedural matters) must occur at a publicly noticed meeting or workshop, or be submitted in writing and copied to the above-listed parties.

QUESTIONS REGARDING THIS NOTICE

If you have questions concerning this notice, please contact Oscar Biondi by email at Oscar.Biondi@waterboards.ca.gov or by voicemail at (916) 323-9397.

KEEP INFORMED OF PROJECT MILESTONES

To receive emails related to the Projects and other hydroelectric and water diversion projects subject to water quality certification, interested persons should enroll in the "Water Rights Water Quality Certification" e-mail notification service. Instructions on how to sign up for the **State Water Board's Email Subscription List** are outlined below:

1. Visit:
http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml
2. Provide your name and email in the required fields.
3. In the categories below the email and name fields, select "Water Rights," then "Water Rights Water Quality Certification."
4. Click the "Subscribe" button.
5. An email will be sent to you. You must respond to the email message to confirm your membership on the selected list(s).

By enrolling in this email list, you will receive notices for Division of Water Rights' Water Quality Certification Program pertaining to the certification process for hydroelectric and other water diversion projects. If you do not have internet access or do not wish to participate in the email subscription list, you may contact Mr. Oscar Biondi by phone at (916) 323-9397 to request to receive notices by mail. You can enroll or un-enroll from the email subscription service at any time.



Ann Marie Ore
Water Quality Certification and Public Trust
Section Manager

December 3, 2021

Date

ec: Petitioners (emails listed above)

Patrick Pulupa, Executive Officer
Central Valley Regional Water Quality Control Board
Email: Patrick.Pulupa@waterboards.ca.gov

Kimberly Bose, Secretary
Federal Energy Regulatory Commission
Filed via FERC e-Library to Projects Dockets

cc: Interested Parties List