



Greenville Rancheria

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ELECTRONICALLY FILED

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: FERC Project No. 2105-089 Final Environmental Impact Statement Comments

Dear Secretary Salas:

The Greenville Rancheria submits the following comments on the Project 2105-089 Final Environmental Impact Statement (FEIS).

1. Timely Completion of an Effective Historic Properties Management Plan

We would like to thank FERC for indicating in the FEIS that Native American cultural sites below the water level require protection as well as those above the waterline and sites being impacted by shoreline erosion within the project. The HPMP should also reflect an admission by the Licensee that inundated cultural sites are not necessarily protected by being underwater, and that they are subject to the danger of being negatively impacted by aquatic activity, reduced water levels, or dredging. Additionally, the Licensee should institute more vigorous measures to halt the removal of artifacts by companies and individuals from the lake bottom and along the shoreline. It is essential that the protection measures for these cultural resources sites possess an enforcement mechanism, and this should be addressed in the HPMP. Finally, the FERC should take into account the issues raised below (nos. 2, 4, & 5), and require that they be positively resolved by consultation and included in the HPMP. Specifically, the Tribe does not wish the Commission to mandate a period of consultation which will terminate without the positive results we have requested.

The Greenville Rancheria would like to stress that the HPMP be developed in a timely manner¹, and that this item be made a mandatory license condition, with the potential of punitive measures for Licensee's non-compliance. In the past, HPMPs developed by the Licensee have not been completed on time, leaving the Tribe with a heightened degree of uncertainty concerning the protection of cultural resources in the APE.

¹ FS final Section 4(e) condition no. 43 specifies that PG&E file an FS-approved HPMP within one year after issuance of the new license.

2. Proposed Curation and Interpretive (I & E) Center

A unique opportunity exists for the Maidu community to receive land through the terms of the Settlement Agreement resolving the Licensee's recent bankruptcy. The Pacific Forest and Watershed Lands Stewardship Council possesses the authority to convert approximately 140,000 acres of the Licensee's property to the public interest, including the interests of Native American Tribes. Inasmuch as it lies within the FERC's jurisdiction, it is important that the Commission endeavor to facilitate, in formulating the license provisions, the acquisition of land by the Native American community for the proposed curation facility and interpretative center (I & E) for land stewardship according to Traditional Ecological Knowledge (TEK). Please bear in mind that this concept has been proposed numerous times for this project by various interested parties. The Greenville Rancheria agrees with these other parties that the Licensee cannot adequately address the spectacular cultural resources found within this project by mere signage at kiosks, or by printing leaflets and brochures. The privilege of interpreting these resources and educating the public should be unique to the Maidu people.

In regard to the Licensee's contention that there are other museums in the vicinity, the Tribe responds that although there are other museums in the Northstate, such as the Maidu Interpretive Center 150 miles away in Roseville, these fine institutions center on the KonKow and Nisenan Maidu of that particular locale, hence these facilities are not unique to the local Maidu people. Truly local museums include materials on the mining, ranching, and timber history of the area, but are not comprehensive depositories of local Maidu history. The Licensee also states that it does not hold any artifacts that need curation, but there are many items in other state and federally funded collections that could be returned to the local Native American community if there were an appropriate facility to house them. Lastly, the Licensee's objection that the Maidu community has not developed a full-fledged plan for the center is premature. Such a proposal will certainly be formulated consequent to the Commission's acceptance of this proposal.

We would hope that the Commission will make a diligent effort to ensure that local Tribes and other Native Americans have an adequate facility to house a center focusing on the unique cultural background found within the UNFFR Project Area and the traditional ancestral territory of the first inhabitants of Big Meadows, Mountain Meadows, Butt Valley, and Humbug Valley. The proposed Native American Interpretive Center is a critical issue that the FERC should include among the conditions for the 2105 relicensing.

3. Legality of Acquisition of Indian Land Allotments

While the issue of land title may require resolution through litigation, we feel that the Commission's record should reflect some evidence of this injustice, and that the FERC should take whatever means that lie within its jurisdiction to remedy it, at least by making a recommendation to the Stewardship Council for the dedication of trust lands to the benefit of Native American Tribes, and requiring the Licensee to provide land and seed funds for the interpretive center mentioned above.

The acquisition of Indian land allotments by the Licensee's predecessor, Great Western Power, was accomplished by questionable methods. The original Quit Claim Deeds filed in Washington, D.C. indicate that the majority of the documents were signed by "X"s, indicating that the Native Americans who signed them were unable to read or

write, and consequently may not have known what the document represented, also raising questions as to their individual identity. The sale of the Allotments were brokered by an agent of the Great Western Power Company, since the Indian Agent at the Greenville Indian Agency stated (in recorded correspondence) that he was too busy running the boarding school at the Agency. The Native Americans were not given a choice of whether their land was to be flooded or not, as those who chose not to sell had their land condemned by the County. Several of these condemned parcels had only the riparian rights condemned, but somehow this land was also lost to the Natives, and is now claimed by the Licensee. Some of the Native Americans believed that they were trading their land that was to be flooded for land that was above the water level, but their families discovered years later that their parents had unknowingly signed land leases only.

In all, the hydroelectric projects in Big Meadows, Mountain Meadows, Butt Valley, and Humbug Valley swallowed up 110 Indian land Allotments totaling 16,853 acres, resulting in a huge cultural disruption to the Native Americans who were displaced, made landless, and without secure access to traditional cultural sites in these areas, including family burial sites.

4. Installation of Thermal Curtains

In the FEIS, the Commission appears not to recommend the installation of thermal curtains to reduce the water temperatures in the North Fork of the Feather River, and instead, recommends minimum instream flows. FERC's stated rationale for this decision includes the negative impacts that the dredging associated with thermal curtains would have upon Native American burial sites under the water, both in Lake Almanor and Butt Valley Reservoir, as well as other harmful effects that would result. However, the California State Water Resources Control Board is still considering this alternative, and the possibility still exists for the thermal curtains to be implemented.² The Tribe would urgently request that FERC absolutely "rule out" the use of thermal curtains in no uncertain terms.

Title 40 of the Code of Federal Regulations³ specifies a mandatory "antidegradation policy" for the States, which, briefly, calls for a) the maintenance and protection of existing instream water uses and b) the level of water quality necessary to protect existing uses. Essentially, the construction of one or more Thermal Curtains would withdraw up to approximately 50% of the cold water pool from Lake Almanor, kill the food source for Butt Valley Reservoir trophy fishery, and *still not* guarantee the positive result for the fisheries down river.

Finally, if reduction of water temperatures in the lower reaches of the North Fork of the Feather River remains an issue, the Tribe would like to recommend the acceptance

² Section 401 of the Clean Water Act (CWA) (33 U.S.C. § 1341) requires every applicant (PG&E, in this case) for a federal license that may result in a discharge into navigable waters to provide the federal licensing agency (FERC) with certification that the project will be in compliance with specified provisions of the CWA, and provides that the conditions of certification shall become conditions of any federal license or permit for the project. The State Water Resources Control Board (State Water Board) is the agency in California that is responsible for water quality certification of any potential discharge from an activity that requires a FERC license or amendment. {Wat. Code, § 13160; Cal. Code Regs., tit. 23, §3855, subd.(b).}

³ Protection of the Environment, Section 131.12

of the “Watershed Restoration and Improvement Alternative”⁴ which has been developed by members of the 2105 Committee over the past few months. We believe that off-site mitigation to improve the streams in the North Fork Feather River Watershed will reflect in improved fish and wildlife habitats and bring many more benefits to the North Fork Feather River and PG&E. Offsite mitigation also provides improved access for the Native American community to many miles of watershed creeks for the riparian resources which were lost to the Tribe with the intentional flooding of Big Meadows, Mountain Meadows, and Butt Valley. Once the streams throughout the watershed are restored, there will be less silt going downstream and more water being held by the restored meadows until later in the year before being released. Within 30 or 40 years the cooler temperatures in the watershed streams will filter down and cool the reaches in the North Fork Feather River in the late Summer.

5. Native American Archaeological Monitoring for the Marvin Alexander Beach Project

The Greenville Rancheria previously submitted comments on this facet of the Project activity. To summarize, the Licensee is proposing to replace existing toilet facilities, develop a gravel parking area, install picnic tables, develop the sandy beach, and install a swim area delineator on the West Shore of Lake Almanor near Prattville. All in all, it seems to be a worthwhile project and should move forward without measurable opposition. However, is unclear to the Tribe whether this activity is being accomplished pursuant to the existing license, or in anticipation of the new license, so these comments are included in our comments on the FEIS.

Last July 21st and 26th, respectively, the Susanville Rancheria and the Greenville Rancheria, both federally recognized Indian Tribes, sent letters to the Licensee objecting to any ground-disturbing activities at the *Marvin Alexander Beach* site without the presence of tribally appointed Native American archaeological monitors. The Tribes’ stated reason for this precaution is that before Big Meadows was intentionally inundated to form Lake Almanor, there was a substantial Native American (Maidu) population in and around the Meadows, and that there are significant Native American Village sites in this area. There are also burial sites associated with these Village sites, significantly, one very close to Prattville that was actually dredged through in the 1930’s. The DEIS supports the Tribes’ statements in this regard, listing fourteen potential Traditional Cultural Properties (TCP’s) in the project area and references to nine ethno-historical Maidu villages.

On August 10, 2005, the California State Historic Preservation Office notified the Licensee that FERC may make a determination of “No Historic Properties Affected” for the improvements at Marvin Alexander Beach. Predictably, PG&E UNFFR Relicensing Project Manager Tom Jereb wrote the FERC on September 15, 2005, objecting to the presence of Native American archaeological monitors on this project, stating that there are adequate protections for any Native American cultural resources through implementation of Section 106 regulations. Mr. Jereb also referenced state statutes that would apply, and stated that there was no “reasonable potential to impact cultural resources”.

⁴ “The Feather River Watershed Restoration Alternative” of the Feather River Coordinated Resources Management Group (Jim Wilcox and Leah Wills)

The Greenville Rancheria vigorously contests the above findings and statements of SHPO and the Licensee. There are several important factors to be considered in reviewing the Tribe's request for the presence of Native American Archaeological Monitors at this project:

- the dredging operations over the now inundated burial site(s);
- the consequent scattering of Native American ancestral remains;
- the intensity of Maidu population in the area prior to the flooding;
- the consequent scattering of Native American artifacts and other cultural resources;
- and the intense concern of every Native American tribe and organization in the area.

The activities at the Marvin Alexander Beach area *cannot* be conducted without a very high potential of encountering Native American artifacts, cultural resources, or even Native American remains. SHPO and the Licensee appear to maintain that since the precise location of these items have not been determined, recorded, and assigned GPS coordinates, they cannot be formally accepted as archaeological sites, and no protection can be accorded them. The Greenville Rancheria would respectfully but very vigorously disagree. These resources are *most certainly* in this area. To conclude otherwise would be to challenge the universal testimony of the entire local Native American community. *Of course* some of the resources are underwater and *have been scattered* by aquatic activity, dredging, and and/or looting. The precise location of each of these resources is, by virtue of the factors just stated, INDETERMINATE. Clearly, the Tribes' request for the presence of Native American archeological monitors is *not* an unreasonable one. The existing protective regulations cited by the Licensee have not been adequate in the past, in any number of examples, to protect Native American cultural resources which are now gone *forever*. Native American archaeological monitors have not only the unique indigenous knowledge, but also the strongest motive to see that these resources are protected. There seems to be no defensible reason for excluding Native American monitors from the project, and the Tribe, and the Tribe requests that the FERC make this a condition of the new license, and/or a condition for any ground-disturbing activity pursued at Marvin Alexander Beach pursuant to the existing license.

6. NOAA Fisheries Section 18 Prescription

FERC appears, in the FEIS, not to recommend the NOAA Fisheries Section 18 fishway prescription for the UNFFR Project. The Greenville Rancheria had several concerns about this prescription, including the possibility of introduction of diseases to the native fish of the area, the closing of streams to fishing while using them as fish nurseries, and adverse impacts to cultural sites associated with the construction required to implement this proposal.

7. Location of Future Meetings for the Development of Plans pursuant to the New License

The Tribe would request that the meetings for the plans to be developed under the proposed license be held in the project area where it will be easier for the various Native American groups to attend. Most of the community is not in a socio-economic bracket

which would afford frequent absences from work and long traveling distances for meetings. We would request that this be made a condition for the proposed license.

Thank you for considering our comments on the Final Environmental Impact Statement for the Project 2105-089 relicensing process.

Sincerely,


Lorie A. James
Tribal Chairperson

LAJ:gjg