

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

Project No. 2100-000-California
Feather River Project
California Department of Water
Resources

March 31, 2017

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Subject: Designation of non-federal representative for consultation under the Endangered Species Act and the National Historic Preservation Act

To the parties addressed:

By letter dated March 24, 2017, the California Department of Water Resources, licensee for the Feather River Project No. 2100, requested designation as our non-federal representative for the purpose of informal consultation with the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (FWS), pursuant to section 7 of the Endangered Species Act (ESA).¹ The licensee also requested designation as our

¹ The licensee's designation request can be accessed by following this link:
<https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14531326>

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non-federal representative for the purpose of consultation with the California State Historic Preservation Officer (SHPO) under section 106 of the National Historic Preservation Act (NHPA). The licensee proposes operation, construction, and maintenance activities at the project to stabilize and remediate damaged spillway facilities, resulting from the recent damage to the flood control and emergency spillway facilities. Such activities include spillway reconstruction, flow management, material dredging, road construction, grading, vegetation management, and other construction-related activities. The project is located on the Feather River in Butte County, California.

By this letter, we designate the licensee as our non-federal representative for the purpose of conducting informal consultation with the FWS and NMFS, pursuant to the regulations at 50 C.F.R. §402.08 implementing section 7 of the ESA. The role of the non-federal representative may include conducting studies, developing and supplying information, attending meetings, ensuring that pertinent endangered species information is maintained in a project file, participating in informal consultation with your agency, developing a draft biological assessment if necessary, and keeping the Federal Energy Regulatory Commission (Commission) apprised of its actions. However, the Commission remains ultimately responsible for all findings and determinations regarding the effects of the project on any federally-listed species or critical habitat.

In addition to the above designation, we are in receipt of NMFS' February 24, 2017 letter regarding ongoing activities at the Feather River Project No. 2100, as a result of the February 7, 2017 spillway failure at the project. These matters were also discussed with Mr. Gary Sprague (NMFS), Mr. Eric See from the California Department of Water Resources (licensee), and Commission staff by phone on February 27, 2017. In NMFS' correspondence, it expressed concern about potential effects of flow fluctuations and dredging activities on federally-listed fish, as well as other commercially and recreationally-important fish species in the Feather River. NMFS also provided 12 recommendations to minimize the effects on anadromous fish species, critical habitat, and essential fish habitat in the Feather River, and requested that we initiate emergency section 7 consultation as soon as the current situation is under control.

As discussed during the February 27, 2017 conference call, the licensee has, and will implement the recommendations provided in NMFS' correspondence, to the extent possible. However, certain conditions may not be feasible, due to safety concerns, engineering requirements, and other professional recommendations. Nonetheless any conditions that are not feasible will be further discussed in future correspondence, along with the results of any data collected during environmental monitoring conducted downstream of the project. In addition to our immediate request to designate the licensee as our non-federal representative, the Commission also intends to complete formal consultation with NMFS under the emergency provisions of section 7, as soon as the

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current situation has stabilized and the requested monitoring data has been collected and analyzed.

By this letter, we also designate the licensee as our non-federal representative for the purpose of conducting consultation with the SHPO, and other consultation parties pursuant to the regulations at 36 C.F.R. §800.2(c)(4) implementing section 106 of the NHPA and informal consultation with the appropriate Indian tribes. As our non-federal representative, the licensee can perform tasks in support of our compliance with section 106. Such tasks may include, for example: performing cultural resource surveys and studies, determining areas of potential effect, identifying eligible properties, determining any adverse effects to those properties, proposing mitigation to address adverse effects if needed, and developing a draft Memorandum of Agreement in order to memorialize any proposed mitigation. However, the Commission remains ultimately responsible for all findings and determinations made pursuant to section 106.

We appreciate your assistance with section 7 and section 106 consultations regarding the work that is being planned at the Feather River Project. If you have any questions concerning this matter, please contact Mr. John Aedo at (415) 369-3335 or by email at john.aedo@ferc.gov.

Sincerely,

(for) Thomas J. LoVullo
Chief, Aquatic Resources Branch
Division of Hydropower
Administration and Compliance

cc: Ted Craddock, Chief
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