

File Code: 2770

Date: April 12, 2019

Karmina Padgett
State Water Resources Control Board
Division of Water Rights – Water Quality Certification Board
P.O. Box 2000
Sacramento, CA 95812

Dear Ms. Padgett:

I am responding to your Notice of Informal Consultation regarding California Environmental Quality Analysis (CEQA) for the Pine Creek Mine Hydroelectric Project, Federal Energy Regulatory Commission (FERC) Project No. 12532. Through this Notice, the State Water Board is soliciting comments from affected resource agencies on the type of CEQA documentation that the State Water Board will prepare. While we do not have specific recommendations on the appropriate type of documentation for this project, we would like to take this opportunity to point out errors in the project description you provided in the Notice and alert you to our concerns regarding FERC's environmental analysis.

Background & Concerns with Project:

The Forest Service has voiced a number of concerns relating to this proposed project and its licensee. After purchasing the Pine Creek Mine patented lands, in 2002 Lynn Goodfellow of Pine Creek Mine, LLC constructed a tunnel plug in the subsurface of National Forest System Lands without Forest Service knowledge or authorization. This unpermitted structure is proposed as part of the project before FERC, where the hydroelectric turbine would be installed. It is therefore a key element to this development. Unfortunately, this unpermitted structure has never been reviewed by a qualified engineer to determine its ability to serve this purpose. Further, the Forest Service has serious concerns about the existing condition, safety, and integrity of this unauthorized structure, and its current effects on NFS resources, which result in the impoundment of groundwater beneath the subsurface of Forest Service land.

Use of FERC's EA:

The Notice states that the State Water Board will use FERC's National Environmental Policy Act (NEPA) document as the basis for the State Water Board's CEQA analysis. The Forest Service has significant concerns that the Environmental Assessment (EA) prepared by FERC suffers from a number of critical deficiencies and errors. Please see enclosed Forest Service comments on the EA deficiencies filed with the Commission. Therefore, using the EA as the basis for your own analysis would likely yield similarly inaccurate or deficient information.

Although the Pine Creek Mine has been idle since 2000, Pine Creek Mine, LLC claims that there is active mining at the site, and that the primary purpose of the hydroelectric project is to supply electricity for this mining operation, with the excess generation being made available for sale. In 2016 the State Water Board provided comments and preliminary conditions on FERC's Notice for Ready for Environmental Analysis for the project. State Water Board's comments referred to the stated intention of the Pine Creek Mine to resume mining operations, and the effect that mining could have on water quality. Your staff predicated their preliminary conditions on the understanding that, *the existing Pine Creek Mine has not been operational for many years, and some of the environmental assumptions are based on those*



conditions. The Forest Service believes it would be prudent for the Board to clarify what operational assumptions it relies upon when analyzing the effects of the project. Further, it is assumed that the tunnel plug as described above, is competent, safe, adequate, or would be permitted for use as a hydroelectric project component. The Board should correct its project description that the project involves more than private inholdings, and requires a special use authorization for the unpermitted tunnel plug existing operation.

In closing, we look forward to the Board clarifying the deficiencies in FERC's analysis, as it begins its environmental analysis of the Project. Should you have any questions regarding this project please contact Sheila Irons, Lands Specialist, at 766-924-5534 or sheila.iron@usda.gov.

Sincerely,

A handwritten signature in cursive script that reads "Tammy Randall-Parker".

TAMMY RANDALL-PARKER
Forest Supervisor

Enclosures