



North Fork Mono Tribe

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April 22, 2008

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

Re: Southern California Edison Alternative Licensing

Dear Secretary Salas:

On January 20, 2006 the North Fork Mono Tribe put in a Motion to Intervene regarding the relicensing of the six hydroelectric facilities including Mammoth Pool. That Motion to Intervene was on the relicensing for six hydro facilities on the Big Creek Drainage of the San Joaquin River in the territory of the North Fork Mono Tribe. These ALP Projects include: Big Creek 1 & 2 - FERC Project No. 2175; Big Creek 2A, 8 & Eastwood - FERC Project No. 067; Big Creek 3 - PERC Project No. 120; and Mammoth Pool Powerhouse - FERC Project No. 2085.

Once again the Tribe is submitting a memorandum to the "Motion to Intervene" on the relicensing of the above mentioned hydro projects. The Tribe as of this time is reiterating their stance on the licensing of these said facilities. Several stakeholders did not sign the Settlement Agreement including the North Fork Mono Tribe. Now that the EIS has been implemented and a draft is due out by September of 2008, it is imperative FERC staff and draft coordinators to review our "Motion to Intervene." There are some very serious issues that need to be addressed in the upcoming EIS Draft.

It was earlier stated that SCE had until February of 2008 to garner signatures from the remaining non-signatory stakeholders. SCE has made no attempt to discuss settlement issues with non-signatory stakeholders. As a matter of fact, FERC staff visited with SCE in July of 2007. A meeting was held and only signatory stakeholders were invited. However, two non-signatory stakeholders showed up anyway.

FERC staff seem to be a little surprised as SCE was only announcing the signatures to the Settlement Agreement they did get. At no time did they mention how many stakeholders did not sign the Settlement.

We realize that the Historic Properties Management Plan (HPMP) for Southern California Edison Company's (SCE) Alternative Licensing Process (ALP) should have been dealt with by the Federal Energy Regulatory Commission (FERC), State Historic Preservation Office (SHPO) and the National Advisory Council. The Alternative License Process was an experimental process and we see it as an experiment that has gone awry.

At the beginning of this five year process SCE viewed the whole process as "status quo". Meaning as long as SCE went through this alternative licensing process and they didn't have to relicense each facility separately, licensing would be a lot simpler especially if they held their position of 'minimum effort minimum loss.'

The North Fork Mono Tribe was one of several organizations at the table from the beginning to the end. A five year process that was set with issues and goals, a plenary committee and sub committees. The subcommittees encountered a few pitfalls along the way but more over good documented evidence was brought back to the table from the field, archives and human resources.

As negotiations opened up a year and half ago and settlements began to roll in by March April, in June, important evidence became major discussion items. One thing became quite clear to all participants, stakeholders, and negotiators that their respective settlements were 180 degrees opposite of SCE's settlement position. SCE set timelines and goals of when all settlements should have been settled, however SCE didn't negotiate, they just kept submitting their stance and held their position of "minimum" output.

SCE was in such a hurry to get these documents done and into FERC but now it has jeopardized the positions of those whom they failed to negotiate and settle with. SCE said they want to negotiate, only 'after the fact'. This attitude prevails because they were allowed to pull their settlement out of Powerhouse #4 Relicense on the San Joaquin River. It worked once - maybe it'll work again. Only this time they're laying the responsibility onto the federal and state agencies.

What you're going to find buried in the HPMP is how over 100 archaeological sites are going to continue to erode and dissolve until they disappear over the next 40 years. Already after the last 55 years the integrity of the sites have been extremely compromised. (Included documentation evidences over 50-90% erosion from the reservoir impacts.)

The regulations optimize the protections of these sites with data recover. However, weak to poor recordation of the sites prior to licensing of these hydro reservoirs coupled with a minimum effort of shovel probes and an

archaeological genocide via paper work to categorize sites important and insignificant thereby down-playing the importance of these ancestral and ethnographic sites as a whole cultural area.'

No serious testing was done to any important sites, thereby nullifying 'data recovery' as an option of protection. The HPMP will display years and months of discussion regarding many other protection mitigation measures however none of them will be effective enough to stop the eventual eradication of these sites.

The interesting thing about all this is that the United States Forest Service, Sierra National Forests, FERC, NAC, and SHPO have all been aware that this damage has been going on over the past 55 years, and did nothing about it. Now the Forest Service had the opportunity to make sure things were righted. Instead, they not only failed in their responsibility they ducked, shucked and hid sites from being evaluated, and wouldn't 'step-up' to sites that needed actual phase I testing. They tried to put shovel probes and augering off as phase I testing. The Sierra National Forest has been conducting shovel probes and augering as a form of reconnaissance for the past three decades. By making shovel probes and augering as phase I archaeology, 'real' data recovery was deemed phase II and therefore never entered into.

During negotiations with SCE on Powerhouse #4, FERC put the kibosh on settlements and negotiations by stating, "that FERC would not go back to any damages caused by the initial licensing period including damages to cultural resources from impacts when the hydro facilities and system was being built."

Now the tables are turned! Now each of your agencies know about the previous damage and the 'continued' damage that the relicensing is going to cause.

So now it is the responsibility of each reviewing agency to 'step-up' to their own mandated guidelines and not let this multi-billion dollar corporation get away with cultural genocide. While compensation is not going to protect the sites from further erosion 'just compensation' is what is called for according to the Fifth Amendment of the United States Constitution when Eminent Domain is in effect.

SCE has stated, "they are not changing their water management practices." So if mitigation measures, negotiations and your respective offices can not create satisfactory settlements then the next step will be litigation.

The mussels are gone or like the arch sites are barely hanging on; the fish population is nonexistent therefore the eagles no longer return or stay; water flows are too low; only a handful of Native American cultural resources are prevalent and or accessible; and all the U. S. Fish and Wildlife is concerned about is the Valley Elderberry Beetle. The North Fork Mono Tribe made sure the HPMP did not conflict with the Native American Religious Rights Act of

1978. The local American Indian population has been taking care of the elderberry for centuries, pruning, trim~ing, gathering and harvesting, and today the elderberry flourishes because of it.

The U.S. Fish & Wildlife does not have comparison data - only research of the Valley Elderberry beetle's existence at 500' to 3000' elevation. Yet the North Fork Mono Tribe has three separate names for each elderberry - mountain, foothill and valley. Did the USFW ever consult with Native Americans - NO, because that wouldn't be scientific. When a bush is trimmed USFW want seven new trees planted. I have transplanted elderberry three times in my life, in all cases one bush creates three to five more bushes in a two to five year period on its own. When the elderberry is not pruned or trimmed or gathered from it becomes a fire hazard. Its stalks become large, no succulent shoots come up, the berries are smaller but bunchier and it provides no stalks for hand clappers nor does it provide a home for the beetle. In North Fork the County and the local Forest Service have been trimll]ing and burning the elderberry along road 274 from North Fork to Bass Lake for years, approximately every five years, and the bush is healthy, pretty, and are conducive to healthy harvesting by all species, human - animal and insects.

While we all like the conveniences of electricity, many mountain Mono have grown up without electricity and some still don't have it. Some of our elders were born on ancestral sites and in ethnographic cultural areas that are now inundated by reservoirs providing today's conveniences.

So we're not going to do without conveniences, Edison is not going to change their water management, the federal and state agencies are not going to protect our cultural sites not many options left for the North Fork Mono Tribe whose territorial boundary SCE's Big Creek Drainage, nine hydro projects and \$23 billion comes from.

Respectfully,

Hon. Ron W. Goode

c:
National Advisory Council
California State Office of Historic Preservation
Native American Heritage Commission
Southern California Edison
ALP Stakeholders

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