

August 28, 2018

**VIA ELECTRONIC FILING**

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE  
Washington DC 20426

Re: Turlock Irrigation District and Modesto Irrigation District  
Don Pedro Hydroelectric Project No. 2299  
Copy of Notice of Withdrawal of Request for Trial-Type Hearing and Submittal  
of Alternative Conditions filed with the U.S. Department of the Interior

Dear Secretary Bose:

Turlock Irrigation District and Modesto Irrigation District, owners and licensees of the Don Pedro Hydroelectric Project No. 2299, are herein providing the Federal Energy Regulatory Commission ("FERC") with a copy of their submission to the U.S. Department of the Interior's ("Interior") Office of Environmental Policy and Compliance of their August 28, 2018 Notice of Withdrawal of their February 28, 2018 request for trial-type hearing and submittal of alternative conditions with respect to certain preliminary Federal Power Act Section 4(e) conditions filed with FERC by Interior's Bureau of Land Management on January 29, 2018.

Please contact the undersigned with any questions or concerns regarding this filing.

Respectfully submitted,

**/s/ Kimberly Ognisty**  
Kimberly Ognisty  
1700 K Street N.W.  
Washington, D.C. 20006  
(202) 282-5217  
kognisty@winston.com

ATTORNEY FOR TURLOCK IRRIGATION DISTRICT AND  
MODESTO IRRIGATION DISTRICT

**UNITED STATES OF AMERICA  
BEFORE THE  
UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT**

**RECEIVED**

**Attention: Office of Environmental Policy and Compliance  
U.S. Department of the Interior  
1849 C Street, N.W.  
Mail Stop 2462  
Washington, D.C. 20240**

**AUG 28 2018**  
Office of Environmental  
Policy & Compliance

<b>Turlock Irrigation District and Modesto Irrigation District</b>	) ) ) )	<b>Project No. 2299 (Don Pedro Hydroelectric Project)</b>
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**TURLOCK IRRIGATION DISTRICT'S AND MODESTO IRRIGATION DISTRICT'S  
NOTICE OF WITHDRAWAL OF REQUEST FOR TRIAL-TYPE HEARING AND  
SUBMITTAL OF ALTERNATIVE CONDITIONS WITH RESPECT TO  
PRELIMINARY SECTION 4(e) CONDITIONS SUBMITTED BY THE UNITED  
STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT,  
FOR THE DON PEDRO HYDROELECTRIC PROJECT NO. 2299**

On January 29, 2018, the U.S. Department of the Interior's ("Interior") Bureau of Land Management ("BLM") filed with the Federal Energy Regulatory Commission ("FERC") preliminary Federal Power Act ("FPA") Section 4(e) (16 U.S.C. § 797(e)) conditions for inclusion in the new license for Turlock Irrigation District's and Modesto Irrigation District's (collectively, the "Districts") Don Pedro Hydroelectric Project No. 2299 ("Project"). On February 28, 2018, the Districts, pursuant to Section 4(e) of the FPA and 43 C.F.R. Part 45, Subpart B, filed with Interior's Office of Environmental Policy and Compliance ("OEPC") a request for a trial-type hearing on disputed issues of material fact with respect to Condition Nos. 4, 12, and 13 of BLM's January 29, 2018 preliminary Section 4(e) conditions, which pertained to, *inter alia*, recreational facilities at the Wards Ferry Bridge area ("Wards Ferry") at the Project. Also on February 28, 2018, the Districts, pursuant to Section 33 of the FPA (16 U.S.C. § 823d) and 43 C.F.R. Part 45, Subpart C,

filed with OEPC alternative conditions to Condition No. 13 of BLM's January 29, 2018 preliminary Section 4(e) conditions.

Following the filing of the Districts' request for a trial-type hearing and submittal of alternative conditions, the Districts and BLM entered into discussions to settle the issues leading to the Districts' request for a trial-type hearing and the submittal of alternative conditions. In order to provide the parties with sufficient time to continue those discussions and reach an amicable settlement, the Districts and BLM agreed on April 13, 2018, to stay the trial-type hearing process for a period not to exceed 120 days from April 13, 2018, and on such date, BLM provided notice to OEPC and FERC of the parties' agreement to stay the hearing process.

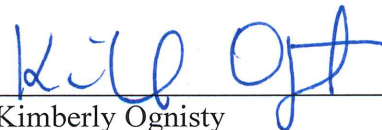
Working diligently and in good faith, the Districts and BLM subsequently reached agreement with respect to the settlement of the proceeding. Pursuant to that agreement, BLM was required to file with FERC: (1) revised preliminary Section 4(e) Condition Nos. 4 and 13; (2) notice of BLM's withdrawal of preliminary Section 4(e) Condition No. 12; and (3) notice of the withdrawal of three recommendations submitted to FERC by Interior agencies on January 29, 2018, pursuant to Section 10(a) of the FPA (16 U.S.C. § 803(a)) related to recreational facilities at Wards Ferry (BLM §10(a) Recommendation No. 1 (geotechnical studies in the vicinity of Wards Ferry); and National Park Service § 10(a) Recommendation Nos. 1 and 2 (whitewater boating take-out facility and day use area in the vicinity of Wards Ferry)). Pursuant to the agreement between the Districts and BLM, the Districts were required to file with Interior and FERC a notice withdrawing their February 28, 2018 request for a trial-type hearing and submittal of alternative conditions ("Withdrawal Notice") following BLM's filings at FERC.

BLM made its agreed-upon filings at FERC on August 23, 2018. As BLM explained therein, its revised Section 4(e) conditions will provide for the adequate protection and utilization

of BLM's "reservation"<sup>1</sup> during the term of the new license for the Project. Consistent with their agreement with BLM, the Districts hereby submit to Interior (via OEPC) their Withdrawal Notice withdrawing their February 28, 2018 request for a trial-type hearing and submittal of alternative conditions.

The Districts would like to thank BLM and Office of the Solicitor personnel for their professionalism in working with the Districts and their representatives in crafting an amicable settlement of this matter. Although the Districts still question the need for, and the scope of, the negotiated improvements at Wards Ferry, they appreciate the actions taken by BLM on August 23, 2018, to reduce the burden of those improvements. The compromise reflected in BLM's filing will provide for recreational enhancements at Wards Ferry that are consistent both with BLM's responsibilities under Section 4(e) of the FPA and with the overall public interest under that section and Section 10(a) of the FPA. The Districts look forward to working with BLM in implementing all of its Section 4(e) conditions included in the new license for the Project.

Respectfully submitted,



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Kimberly Ognisty  
1700 K Street, N.W.  
Washington, D.C. 20006  
(202) 282-5217  
[kognisty@winston.com](mailto:kognisty@winston.com)

ATTORNEY FOR TURLOCK IRRIGATION DISTRICT AND  
MODESTO IRRIGATION DISTRICT

Date: August 28, 2018

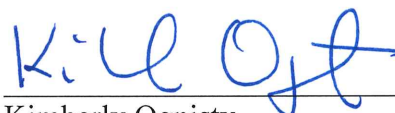
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<sup>1</sup> BLM's position is that the federal land administered by BLM within the existing FERC boundary at the Project constitutes a "reservation" subject to Section 4(e) of the FPA; the Districts have reserved their right, should the need arise, to contest whether such BLM-administered land constitutes a "reservation" subject to Section 4(e) of the FPA.

**CERTIFICATE OF SERVICE**

Pursuant to the provisions of 43 C.F.R. § 45.70, I hereby certify that I have this day served a complete copy of the foregoing document on the Federal Energy Regulatory Commission and on each “license party” to the relicensing proceeding for Project No. 2299, as set forth in the attached list, by electronic means, if an email address has been provided, or by regular mail, if an email address has not been provided, in accordance with 43 C.F.R. § 45.13(c).

Dated at Washington, DC, this 28<sup>th</sup> day of August 2018.



Kimberly Ognisty  
Winston & Strawn LLP  
1700 K Street NW  
Washington, DC 20006  
(202) 282-5217

Service List  
Project No. 2299

<p>Scott Armstrong All Outdoors Whitewater Rafting P. O. Box 481 Lotus, CA 95651 <a href="mailto:scott@aorafting.com">scott@aorafting.com</a></p>	<p>Jeffrey M. Bayne Spiegel &amp; McDiarmid LLP 1875 Eye Street, N.W. Washington, D.C. 20006 <a href="mailto:Jeffrey.bayne@spiegelmc.com">Jeffrey.bayne@spiegelmc.com</a></p>
<p>Gary Bobker Program Director The Bay Institute Pier 35 The Embarcadero at Beach Street San Francisco, CA 94133 <a href="mailto:bobker@bay.org">bobker@bay.org</a></p>	<p>Allison Boucher Project Manager Tuolumne River Conservancy 1163 E. March Lane Suite D-708 Stockton, CA 95210 <a href="mailto:feathersfurflowers@gmail.com">feathersfurflowers@gmail.com</a></p>
<p>Stephen Bowes National Park Service 333 Bush Street San Francisco, CA 94104</p>	<p>John Buckley Executive Director Central Sierra Environmental Resource Center 18711 Tiffeni Drive, Suite F Twain Harte, CA 95370 <a href="mailto:johnb@cserc.org">johnb@cserc.org</a></p>
<p>Sarah Carrillo, County Counsel Office of the County Counsel County of Tuolumne 2 South Green Street Sonora, CA 95370 <a href="mailto:scarrillo@co.tuolumne.ca.us">scarrillo@co.tuolumne.ca.us</a></p>	<p>Cindy Charles GWWF Conservation Chairperson Golden West Women Flyfishers 1940 Sacramento St., #6 San Francisco, CA 94109 <a href="mailto:cindy@ccharles.net">cindy@ccharles.net</a></p>
<p>Chandra A. Ferrari California Water Policy Direct Trout Unlimited 4221 Hollis Street Emeryville, CA 94608 <a href="mailto:cferrari@tu.org">cferrari@tu.org</a></p>	<p>Field Manager Bureau of Land Management 5152 Hillsdale Circle El Dorado Hills, CA 95762</p>
<p>Field Supervisor Attn: FERC Coordinator U.S. Fish and Wildlife Service San Francisco Bay-Delta Fish and Wildlife Office 650 Capitol Mall, Suite 8-300 Sacramento, CA 95814</p>	<p>Sarah Foley Best Best &amp; Krieger LLP 300 South Grand Avenue, 25<sup>th</sup> Floor Los Angeles, CA 90071 <a href="mailto:Sarah.foley@bbklaw.com">Sarah.foley@bbklaw.com</a></p>

<p>William Foster  William Foster Fish Biologist  NOAA Fisheries Service, West Coast Region  NMFS 650 Capitol Mall, Suite 5-100  Sacramento, CA 95814  <a href="mailto:William.foster@noaa.gov">William.foster@noaa.gov</a></p>	<p>William Huang  Spiegel &amp; McDiarmid LLP  1875 Eye Street, N.W.  Suite 700  Washington, D.C. 20006  <a href="mailto:William.huang@spiegelmc.com">William.huang@spiegelmc.com</a></p>
<p>Bryan Kelly  Merced Irrigation District (CA)  744 W. 20<sup>th</sup> Street  Merced, CA 95340  <a href="mailto:bkelly@mercedid.org">bkelly@mercedid.org</a></p>	<p>Kathryn Kempton  Attorney-Advisor  NOAA Office of General Counsel –  Southwest  501 W. Ocean Blvd., Suite 4470  Long Beach, CA 90802  <a href="mailto:Kathryn.kempton@noaa.gov">Kathryn.kempton@noaa.gov</a></p>
<p>Jonathan P. Knapp, Esq.  Deputy City Attorney  City and County of San Francisco  San Francisco City Attorney’s Office  1390 Market Street, Suite 418  San Francisco, CA 94102  <a href="mailto:Jonathan.knapp@sfcityatty.org">Jonathan.knapp@sfcityatty.org</a></p>	<p>Patrick Koepele  Deputy Executive Director  Tuolumne River Preservation Trust  P. O. Box 933  Sonora, CA 95370-0933  <a href="mailto:patrick@tuolumne.org">patrick@tuolumne.org</a></p>
<p>Ellen Levin  1145 Market Street, Suite 401  San Francisco, CA 94103  <a href="mailto:elevin@sflower.org">elevin@sflower.org</a></p>	<p>Katharine M. Mapes  Attorney  Spiegel &amp; McDiarmid LLP  1875 Eye Street, N.W.  7<sup>th</sup> Floor  Washington, D.C. 20006  <a href="mailto:Katharine.mapes@spiegelmc.com">Katharine.mapes@spiegelmc.com</a></p>
<p>Michael Martin  Chairman, Merced River Conservation  Committee  P. O. Box 2216  Mariposa, CA 95338-2216  <a href="mailto:mmartin@sti.net">mmartin@sti.net</a></p>	<p>Michael McCarty  Michael N. McCarty Law Office PLLC  1050 30<sup>th</sup> Street, N.W.  Washington, D.C. 20007  <a href="mailto:michael@mccarty-legal.com">michael@mccarty-legal.com</a></p>
<p>Martin McDonnell  President, Sierra Mac River Tr.  27890 Hwy 120  Groveland, CA 95321  <a href="mailto:marty@sierramac.com">marty@sierramac.com</a></p>	<p>Nathan Metcalf  Hanson Bridgett LLP  425 Market Street, 26<sup>th</sup> Floor  San Francisco, CA 94105  <a href="mailto:nmetcalf@hansonbridgett.com">nmetcalf@hansonbridgett.com</a></p>
<p>Luke Miller  Attorney of Record  Office of the Regional Solicitor  U.S. Department of Interior  2800 Cottage Way, Rm. E-1712  Sacramento, CA 95825  <a href="mailto:Sol-ferc@sol.doi.gov">Sol-ferc@sol.doi.gov</a></p>	<p>Kerry O’Hara  Assistant Regional Solicitor  U.S. Department of Interior  2800 Cottage Way, Rm. E-1712  Sacramento, CA 95825  <a href="mailto:Sol-ferc@sol.doi.gov">Sol-ferc@sol.doi.gov</a></p>

<p>Steve Rothert  California Director  American Rivers  120 Union Street  Nevada City, CA 95959  <a href="mailto:srothert@americanrivers.org">srothert@americanrivers.org</a></p>	<p>Nicole Sandkulla  Chief Executive Officer/General Manager  Bay Area Water Supply and Conservation Agency  155 Bovet Road, Suite 650  San Mateo, CA 94402  <a href="mailto:nsandkulla@bawsca.org">nsandkulla@bawsca.org</a></p>
<p>Allison Schutte  San Francisco Bay Area Water Users Association  425 Market Street  26<sup>th</sup> Floor  San Francisco, CA 94105  <a href="mailto:aschutte@hansonbridgett.com">aschutte@hansonbridgett.com</a></p>	<p>Christopher Shutes  FERC Projects Director  California Sportfishing Protection Alliance  1608 Francisco Street  Berkeley, CA 94703  <a href="mailto:blancapaloma@msn.com">blancapaloma@msn.com</a></p>
<p>Theresa Simsiman  California Stewardship Assistance  American Whitewater  7969 Madison Avenue, #1706  Citrus Heights, CA 95610  <a href="mailto:theresa@americanwhitewater.org">theresa@americanwhitewater.org</a></p>	<p>Ronald Martin Stork  Friends of the River  1418 20<sup>th</sup> Street  Suite 100  Sacramento, CA 95811  <a href="mailto:rstork@friendsoftheriver.org">rstork@friendsoftheriver.org</a></p>
<p>Gene Tanaka  Best Best &amp; Krieger LLP  2001 N. Main Street  Suite 390  Walnut Creek, CA 94596  <a href="mailto:Gene.tanaka@bbklaw.com">Gene.tanaka@bbklaw.com</a></p>	<p>Stephen Welch  American River Touring Association, Inc.  24000 Casa Loma Road  Groveland, CA 95321  <a href="mailto:arta@arta.org">arta@arta.org</a></p>
<p>Tyler Wendt  P. O. Box 67  Angels Camp, CA 95222  <a href="mailto:tylerw@oars.com">tylerw@oars.com</a></p>	<p>Janet Whitlock  Regional Environmental Officer  Office of Environmental Policy and Compliance  Department of the Interior  333 Bush Street, Suite 515  San Francisco, CA 94104</p>
<p>Janice Yoshioka  California Department of Fish and Wildlife  1234 E. Shaw Avenue  Fresno, CA 93710  <a href="mailto:Janice.yoshioka@wildlife.ca.gov">Janice.yoshioka@wildlife.ca.gov</a></p>	



**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

Dated at Washington, D.C., this 28<sup>th</sup> day of August, 2018.

**/s/ Kimberly Ognisty**

Kimberly Ognisty

1700 K Street N.W.

Washington, D.C. 20006

(202) 282-5217

kognisty@winston.com