



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

February 10, 2025

Regulatory Division (SPK-2021-00635)

Rugraw, LLC
Attn: Mr. Charlie Kuffner
70 Paseo Mirasol
Tiburon, California 94920-2078
charlie.kuffner@gmail.com

Dear Mr. Kuffner

We are responding to your March 30, 2021, pre-construction notification for a Department of the Army (DA) permit for the Lassen Lodge Hydroelectric Project. The approximately 2.3-acre project site is located on Battle Creek, Latitude 40.35241°, Longitude -121.65762°, within Tehama County, California.

Based on the information you provided to this office, the Lassen Lodge Hydroelectric Project involves the discharge of fill material into 0.03 acres of waters of the U.S. for the construction of a hydroelectric dam, subject to Section 404 of the Clean Water Act. The specific activity that requires DA authorization is the construction a hydroelectric structure that would have a capacity of five megawatts.

Construction of a diversion dam, intake, and control/fish screen structures will occur below the ordinary high-water mark (OHWM) of Battle Creek. The intake structure will include trash racks, fish screens, fish passage facilities, and water level control devices. The diversion structure will be five feet high and eighty feet long and consist of reinforced concrete. The streambed and southern bank will be excavated and concrete footing for the diversion structure will be poured into place consisting of approximately 36 cubic yards. The control/fish screen will be located on the southern bank and out of the natural streambed. Once the southern portion is complete, the stream will be diverted through the diversion dam dewatering drainpipe to maintain its natural flow. The northern section of the diversion dam footings will then be excavated, and concrete footing would be poured into place consisting of approximately 20 cubic yards. After both sections of the footings are complete, precast concrete elements will be brought to the site and installed for the diversion dam, buttresses, and intake and control structure walls.

The total impacts for the diversion dam and associate structures below the OHWM of Battle Creek would be 0.02 acre. The facilities constructed in uplands will

include approximately 2.4 miles of pipeline and penstock, transition structure, powerhouse, electric substation, approximately 0.4 mile of a twelve kilovolt (kV) station service line, approximately 11.5 miles of 60 kV transmission line, switchyard, and multipurpose areas.

A temporary diversion structure will be placed downstream of the streambed disturbance and will most likely consist of a coffer dam. The temporary diversion structure will be less than 0.01 acre. In water work will be conducted between July 1 and October 15 when streamflow is low. These activities will result in permanent effects to 0.02 acres of Battle Creek, including the permanent loss of 0.02 acres of Battle Creek and temporary effects to approximately 0.01 acres of Battle Creek. The proposed activities would be conducted in accordance with the *Diversion Structure Plan FERC Project # P-12496 Lassen Lodge Project* plans dated November 2, 2021 (Enclosure 2).

We have determined that activities in waters of the U.S. associated with the project are authorized by Nationwide Permit Number (NWP) 17, *Hydropower Projects*. You must comply with all terms and conditions of the NWP and applicable regional conditions. Enclosed is information about the NWP terms and conditions (Enclosure 1). You should pay particular attention to General Conditions 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 20, 21, 24, 25, 27, 29, and 30.

In addition, your work must comply with the following special conditions:

1. You shall implement the enclosed July 18, 2019, Programmatic Agreement (PA), entitled *Programmatic Agreement between the Federal Energy Regulatory Commission and the California State Historic Preservation Officer for Managing Historic Properties that May be Affected by Issuing an Original License to Rugraw, LLC for the Construction and Operation of the Lassen Lodge Hydroelectric Project in Tehama, County, California*, and signed by these entities, in its entirety. The Federal Energy Regulatory Commission has been designated the lead federal agency responsible for implementing and enforcing the PA as signed. If you fail to comply with the implementation and associated enforcement of the PA, this office may determine that you are out of compliance with the conditions of your verification and suspend the verification. Suspension may result in modification or revocation of the authorized work.

2. To ensure your project complies with the Federal Endangered Species Act, you must implement all of the mitigating measures proposed as part of your project description, which are identified in the enclosed U.S. Fish and Wildlife Service letter of concurrence (08ESMF00-2018-I-0717, dated December 20, 2017) and National Marine Fisheries Service letter of concurrence (WRCO-2018-10409 dated

March 13, 2019, and WCRO-2020-03211 dated November 24, 2020). If you are unable to implement any of the proposed measures, you must immediately notify this office, the U.S. Fish and Wildlife Office, and the National Marine Fisheries Service so we may consult as appropriate, prior to initiating the work, in accordance with Federal law.

3. At least 10 days prior to initiation of construction activities in waters of the U.S. authorized by this verification, you shall notify this office in writing of the anticipated start date for the work. No later than 10 calendar days following completion of construction activities in waters of the U.S. authorized by this verification, you shall notify this office in writing that construction activities have been completed.

4. Prior to initiation of any construction activities in waters of the U.S. authorized by this verification, you shall install construction best management practices (BMPs) as identified in the July 2018, *Final Environmental Impact Statement for Hydropower License Lassen Lodge Hydroelectric Project—FERC project No. 12496-002-California*, prepared by the Federal Energy Regulatory Commission, which is hereby incorporated by reference as a condition of this verification. You shall ensure the BMPs are maintained in good condition while ground disturbing activities are occurring, until construction activities in waters of the U.S. authorized by this verification are complete.

5. You shall comply with all terms and conditions of the enclosed November 13, 2020, Section 401 Water Quality Certification (Water Quality Certification for Rugraw, LLC Lassen Lodge Hydroelectric Project Federal Energy Regulatory Commission Project No. 12496).

Within 30 days after completion of the authorized work, you must sign the enclosed Compliance Certification and return it to this office.

This verification is valid until March 14, 2026, when the existing NWP's are scheduled to be modified, reissued, or revoked. Furthermore, if you commence or are under contract to commence this activity before the date the NWP is modified, reissued, or revoked, you will have 12 months from the date of the modification, reissuance or revocation to complete the activity under the present terms and conditions. Failure to comply with the general and regional conditions of this NWP, or the project-specific special conditions of this authorization, may result in the suspension or revocation of your authorization.

We would appreciate your feedback on this permit action including your interaction with our staff and processes. For more information about our program or to complete our Regulatory Program national customer service survey, visit our website at www.spk.usace.army.mil/Missions/Regulatory.aspx.

Please refer to identification number SPK-2021-00635 in any correspondence concerning this project. If you have any questions, please contact Gabriel Leggieri by email at gabriel.j.leggieri@usace.army.mil, or telephone at 916-557-5120.

Sincerely,



Maya Bickner
Senior Project Manager
CA North Section

Enclosures

cc:

Mr. James Tompkins, Rugraw, LLC, h2owiz20@gmail.com

Mr. Eric Oppenheimer, California State Water Resources Control Board,
Eric.Oppenheimer@waterboards.ca.gov

California Department of Fish and Wildlife, R1LSARedding@wildlife.ca.gov

Mr. William Foster, National Marine Fisheries Service, William.Foster@noaa.gov

Ms. Rebecca Kirby, U.S. Fish and Wildlife Service, Rebecca_kirby@fws.gov

COMPLIANCE CERTIFICATION

Permit File Name: Lassen Lodge Hydroelectric Project

Action ID: SPK-2021-00635

Nationwide Permit Number: 17, *Hydropower Projects*

Permittee: Rugraw, LLC
Attn: Mr. Charlie Kuffner
70 Paseo Mirasol
Tiburon, California 94920-2078

County: Tehama County

Date of Verification: February 10, 2025

Within 30 days after completion of the activity authorized by this permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Sacramento District
1325 J Street, Room 860, Sacramento, CA 95814
SPKRegulatoryMailbox@usace.army.mil

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of the permit your authorization may be suspended, modified, or revoked. If you have any questions about this certification, please contact the U.S. Army Corps of Engineers.

* * * * *

I hereby certify that the work authorized by the above-referenced permit, including all the required mitigation, was completed in accordance with the terms and conditions of the permit verification.

Permittee Signature

Date