

# Congress of the United States

Washington, DC 20515

December 12, 2025

The Honorable Laura V. Swett  
Chairwoman  
Federal Energy Regulatory Commission  
888 1<sup>st</sup> St NE  
Washington, D.C. 20426

The Honorable Chris Wright  
Secretary  
U.S. Department of Energy  
1000 Independence Ave SW  
Washington, D.C. 20585

Dear Chairwoman Swett and Secretary Wright,

We write to you concerning the Department of Energy's (DOE) directive to the Federal Energy Regulatory Commission (FERC) on October 23, 2025, regarding preliminary permits for hydropower projects, and FERC's subsequent Notice Inviting Comments on DOE's proposed Notice of Proposed Rulemaking (proposed NOPR). Any final actions by FERC must reflect statutory requirements, trust and treaty obligations, and the unique government-to-government relationship between the United States and Tribal Nations—all upheld by Congress, the Supreme Court, and agencies' own regulations.

As the proposed NOPR notes, FERC may issue preliminary permits for hydropower projects it maintains jurisdiction over in order to, "secure priority of application for a license... under Part I of the Federal Power Act (FPA) while a permittee obtains the data and performs the acts required to determine the feasibility of the project and to support an application for a license." While the FPA does not require project applicants to obtain the support of third parties before receiving a preliminary permit, FERC in 2024 formally established a policy to not issue said permits for projects on Tribal lands if the relevant Tribe(s) are opposed; this is similar to policies for projects opposed by federal land managers or federal agencies. The proposed NOPR reverses this policy, stating the FPA, "did not authorize or empower third parties to deny preliminary permits."

We recognize that the FPA grants FERC ultimate authority to issue preliminary permits for hydropower projects, and we also value the importance hydropower brings to a sustainable and secure electric grid. However, FERC nor DOE appear to have considered Tribes' authority over their lands that is central to the federal government's trusty and treaty obligations. FERC and DOE must recognize that Tribes should not be considered typical third parties. They are sovereign governments with a unique relationship to the United States; federal agencies must be careful not to limit Tribal self-determination and erode these government-to-government relationships.

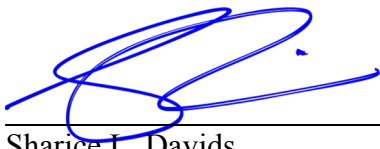
The proposed NOPR includes no consideration of Tribal sovereignty, and—as evidenced by the many Tribal comments submitted during the recent comment period—FERC has not engaged in robust consultations with Tribes about this policy proposal.

Not only does reversing this policy ignore Tribal sovereignty, but it will also hinder America's energy security too. By rejecting preliminary permits opposed by relevant Tribes, FERC incentivizes project sponsors to consult with Tribes early in the process, developing stronger applications supported by local Native communities. This policy also helps prevent applicants from wasting time (both the project sponsor's and FERC staff's) for projects that may ultimately be litigated and/or denied.

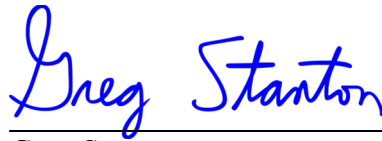
There is no question that hydropower should continue to play an important role in our nation's energy security. But we respectfully ask that you strongly consider the comments submitted in opposition by many Tribal governments, Tribal organizations, and organizations that serve Tribal Nations and reject this policy proposal. FERC permitting decisions should instead be based upon the United States' trust and treaty obligations, include proactive Tribal consultation, recognize Tribal sovereignty over Tribal lands as a decisive factor, and maintain a framework that relies on Tribal concurrence.

Should you choose to move forward with this reversal, we ask that you respond to us no later than December 18, 2025, detailing how FERC and DOE plan to uphold the federal government's trust and treaty obligations and prioritize government-to-government consultations with affected Tribes.

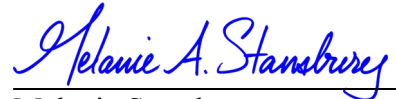
Sincerely,



Sharice L. Davids  
Member of Congress



Greg Stanton  
Member of Congress



Melanie Stansbury  
Member of Congress



Gwen S. Moore  
Member of Congress



Mike Quigley  
Member of Congress



Pramila Jayapal  
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Jared Huffman  
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Haley M. Stevens  
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Darren Soto  
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