
State Water Resources Control Board

June 30, 2023

Mr. Matthew Joseph
Supervisor, Hydro License Compliance
Sent via email: MWJA@pge.com

**Poe Hydroelectric Project
Federal Energy Regulatory Commission Project No. 2107
Butte County
North Fork Feather River**

**TEMPORARY AMENDMENT TO POE HYDROELECTRIC PROJECT WATER
QUALITY CERTIFICATION, REQUEST FOR TEMPORARY FLOW, RAMPING RATE,
AND MONITORING MODIFICATIONS**

Dear Mr. Joseph:

On February 28, 2023, the State Water Resources Control Board (State Water Board) received a request from the Pacific Gas and Electric Company (PG&E) for a temporary change to the Poe Hydroelectric Project (Project) water quality certification (certification).¹ PG&E is requesting temporary variances to minimum instream flows (MIFs) (Condition 1: Minimum Instream Flows), ramping rates (Condition 5: Interim and Long-Term Ramping Rates), and monitoring (Condition 9: Poe Bypass Reach Biological Monitoring and Condition 13: Tributary Access). The temporary variances are requested to repair the Poe Dam bypass gate and address recommendations from the Department of Water Resources, Division of Safety of Dams (DSOD).

BACKGROUND

The Executive Director of the State Water Board issued the Project certification on December 22, 2017. On December 17, 2018, the Federal Energy Regulatory Commission (FERC) issued a new license for the Project, which includes the Project certification conditions.

In 2019, DSOD recommended that PG&E recoat the Poe Dam bypass gate and replace the gate seals to maintain gate functionality. PG&E proposes to complete this work between August 1, 2023, and November 1, 2023, with the ramp down of flows to less

¹ State Water Board staff determined a certification amendment was necessary for the requested changes and on March 24, 2023, notified PG&E that an amendment was needed.

than 500 cubic feet per second (cfs) in June – July 2023². PG&E's request includes temporary modifications to certification conditions, as follows:

- Condition 1: Minimum Instream Flows: Condition 1 of the Project certification requires MIFs. PG&E requests a temporary variance to reduce the required MIF in the Poe Reach from 500 cfs³ to 100 cfs through November 1, 2023. The bypass gate is the only regulating valve on Poe Dam; while out of service, PG&E will bypass MIFs through an existing 36-inch pipe with a capacity of 100 to 150 cfs. PG&E plans to leave this pipe fully open during work associated with this amendment to allow the highest flows possible in the Poe Reach.
- Condition 5: Interim and Long-Term Ramping Rates: On April 11, 2023, PG&E revised its request to incorporate the Long-Term Ramping Rate Plan (LTRR Plan) approved by FERC on March 27, 2023.⁴ PG&E proposes to implement the Protocol 2⁵ ramp-down noted in the LTRR Plan until flows reach 500 cfs, consistent with existing certification provisions. PG&E would then ramp flows down at a rate of one foot over three weeks⁶ until flows reach 100-150 cfs “by making downward adjustments in flow once or twice a week.”
- Condition 9: Poe Bypass Reach Biological Monitoring and Condition 13: Tributary Access: PG&E requests to postpone fish population and benthic macroinvertebrate (BMI) monitoring (Condition 9), and tributary access monitoring (Condition 13) until MIFs return to the flows required per Condition 1 of the Project certification. PG&E's request states that monitoring should be postponed because the purpose of fish, BMI, and tributary access monitoring is to characterize the impacts of the new FERC license's MIFs, which would not be implemented during repairs to Poe Dam bypass gate.

The State Water Board provided public notice of the amendment request online and via email on March 17, 2023, and received no comments.

² Given existing high flows in the Poe Reach, down ramping of flows to less than 500 cfs is not anticipated until July 2023 and will likely extend into August 2023.

³ MIF is determined by month and water year type as forecasted by the Department of Water Resources' Bulletin 120 Water Supply Forecast for the Feather River at Oroville. The May 2023 Bulletin 120 established a Wet Year, resulting in MIFs of 500 cfs in July and August, 400 cfs in September, and 250 cfs in October.

⁴ The State Water Board's Deputy Director of the Division of Water Rights approved the LTRR Plan on August 5, 2021.

⁵ Protocol 2 is defined as: Beginning at midnight on May 15, if a spill has continuously exceeded 1,200 cfs since May 1, when the spill recedes to 1,200 cfs, PG&E will maintain a 1,200 cfs flow for seven days. After the seven days, PG&E will reduce outflow at a rate not to exceed 10 percent per day until flows reach 800 cfs. PG&E will then maintain an 800 cfs flow for seven days, after which PG&E will reduce outflow at a rate not to exceed 10 percent every two days until the MIF is reached.

⁶ This ramping rate is protective of foothill yellow-legged frog egg masses and juveniles that may be present in the Project area between mid-April through mid-September.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

Issuance of a certification amendment is a discretionary action that requires the State Water Board to comply with the California Environmental Quality Act (CEQA). For this certification amendment, and for the purpose of CEQA compliance, the State Water Board is the lead agency. The State Water Board reviewed the proposed amendment and determined that the request meets the criteria for a Class 1 categorical exemption – Existing Facilities (Cal. Code Regs., tit. 14, § 15301, subd. (m)) and that there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

The State Water Board will file a Notice of Exemption with the Office of Planning and Research within five working days of issuance of this certification amendment. (Cal. Code Regs., tit. 14, § 15062.)

CONDITIONAL APPROVAL

State Water Board staff reviewed PG&E's proposed amendment and agree that the requested MIF and ramping rate variances are necessary to complete the dam safety repairs.

Staff believe that PG&E should conduct the required fish, BMI, and tributary access monitoring as required in the FERC Project license and associated plans. Reducing flows from 500 cfs to 100-150 cfs for four months could result in unanticipated impacts to fish, BMI, and tributary connectivity. Given MIF variances are likely necessary for future maintenance and repair actions, PG&E should continue to monitor impacts to fish, BMI, and tributary access during the MIF variance. These monitoring results may inform conditioning for future MIF variance approvals if requested, while providing compliance with the long-term monitoring requirements. Additionally, in a letter dated May 12, 2023, the United States Forest Service approved changes in flow but did not approve changes in the timing of monitoring required per the FERC Project license. As such, approving a change in the monitoring through this amendment would result in additional monitoring as PG&E would need to monitor this year per United States Forest Service's approval and in the future under the approved variance. Therefore, a change in the monitoring required per Condition 9 and Condition 13 of the Project certification is not approved as part of this amendment and PG&E is required to conduct 2023 monitoring consistent with existing requirements of the Project license, including Condition 9 and Condition 13 of the Project certification.

The State Water Board finds the proposed amendment to be protective of state water quality standards and other appropriate requirements of state law with the conditions outlined below. Approval of this Project certification amendment is granted with the following conditions:

- (1) PG&E shall conduct fish population, BMI community, and tributary access monitoring in 2023 as described in the approved Poe Bypass Reach Fish and Benthic Macroinvertebrate Monitoring Plan (Condition 9) and approved Poe Tributary Access Plan (Condition 13). PG&E shall include in its monitoring reports any observed impacts to fish, BMI, and tributary access from the decreased flow associated with this amendment.

- (2) Unless otherwise approved by the State Water Board's Deputy Director of the Division of Water Rights, PG&E shall: (1) ramp down to the MIFs following Protocol 2 of the LTRR Plan; and (2) ramp down from the MIFs at a rate of one foot over three weeks until flows reach the capacity of the existing 36-inch pipe (ranging between 100 – 150 cfs). PG&E shall include in its annual ramping rate report the flow changes associated with this amendment.
- (3) As part of ongoing water temperature monitoring required by Condition 10 (Temperature Monitoring) of the Project certification, PG&E shall include in its monitoring report the temperatures recorded during implementation of this amendment.
- (4) This certification amendment is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with section 3867).
- (5) This certification amendment is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to California Code of Regulations, title 23, section 3855, subdivision (b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (6) This certification amendment is conditioned upon total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28 and owed by the applicant.

The State Water Board hereby amends the Project certification to include a one-time temporary modification to the Condition 1 MIF and Condition 5 ramping rate requirements for repairs to Poe Dam's bypass gate. PG&E shall file this amendment with FERC.

If you have questions regarding this document please contact Savannah Downey, Project Manager, by email to: Savannah.Downey@waterboards.ca.gov or by phone at: (916) 322-1585.

Sincerely,



Eileen Sobek
Executive Director

cc: Continued on next page.

cc: Interested Parties List

ec: Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
Via eFiling to Project Docket

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