State Water Resources Control Board

August 10, 2023

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
Via efile to docket P-1061

Phoenix Hydroelectric Project
Pacific Gas and Electric Company
Federal Energy Regulatory Commission
Tuolumne County
Lyons Reservoir, South Fork Stanislaus River

COMMENTS ON DRAFT ENVIRONMENTAL ASSESSMENT

Dear Secretary Bose:

On July 13, 2023, the Federal Energy Regulatory Commission (FERC) issued a draft Environmental Assessment (EA) for Pacific Gas and Electric Company's (PG&E) Phoenix Hydroelectric Project (Project), FERC No. 1061. State Water Resource Control Board (State Water Board) staff have reviewed the draft EA and are providing comments in Attachment A: *Comments on Federal Energy Regulatory Commission's Draft Environmental Assessment for the Phoenix Hydroelectric Project*.

If you have questions regarding this submittal, please contact Eric Bradbury by email to: Eric.Bradbury@waterboards.ca.gov. Written correspondence should be addressed as follows:

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Sincerely,

Eric Bradbury
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Enclosure: Attachment A – Comments on Federal Energy Regulatory Commission's Draft Environmental Assessment for the Phoenix Hydroelectric Project

cc:

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ATTACHMENT A: COMMENTS ON FEDERAL ENERGY REGULATORY COMMISSION'S DRAFT ENVIRONMENTAL ASSESSMENT FOR THE PHOENIX HYDROELECTRIC PROJECT

State Water Board Authority

Section 401 of the Federal Clean Water Act (33 U.S.C. § 1341) requires any applicant for a federal license or permit that may result in a discharge into navigable waters to provide the licensing or permitting federal agency with a water quality certification (certification) that the project will comply with specified provisions of the Clean Water Act, including water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act. (33 U.S.C. § 1313). Section 401 of the Clean Water Act directs the agency responsible for certification to prescribe effluent limitations and other conditions necessary to ensure compliance with the Clean Water Act. The State Water Board is the certifying agency under Section 401 for the Project. Accordingly, on August 25, 2022, the State Water Board issued a final certification for the Project under Section 401 of the Clean Water Act.

The State Water Board's certification for the Project ensures compliance with applicable water quality standards and water quality objectives as identified in water quality control plans. Water quality control plans designate the beneficial uses of water that are to be protected (such as municipal and industrial, agricultural, and fish and wildlife beneficial uses), water quality objectives for the reasonable protection of the beneficial uses and the prevention of nuisance, and a program of implementation to achieve the water quality objectives. (Wat. Code, §§ 13241, 13050, subds. (h), (j).) The beneficial uses, together with the water quality objectives contained in the water quality control plans and applicable state and federal anti-degradation requirements, constitute California's water quality standards for purposes of the Clean Water Act.

Water Quality Monitoring

1) Page 34, paragraph two of the EA states: *"The existing data shows that the water quality is very good, and the only measurable effect observed are temperature changes in the SFSR, and those effects are generally beneficial and localized. These temperature impacts would be monitored and are described in PG&Es proposed aquatic resources plan. Similar to the discussion for the water temperature monitoring, there is no apparent project-specific purpose for conducting additional monitoring.*"

   Water quality monitoring data provided by PG&E in its Final License Application (FLA) and its supplemental submittals is limited with respect to water quality constituents other than temperature. This limited water quality data makes determination on Project's impacts to water quality uncertain.

   Additionally, the new license will include new water year types, minimum instream flow requirements, and ramping schedules, all of which have the potential to impact water quality in the South Fork Stanislaus River (SFSR) below Lyon's Dam. Over the course of the new license, and any annual extensions, it

is unknown what effect new operations will have on water quality. The purpose of ongoing water quality monitoring during the new 40 year license term is to ensure protection of water quality standards associated with Project operations, and to inform adaptive management actions to address any Project related water quality impacts.

Condition 4 of the certification requires monitoring for, at a minimum, dissolved solids, turbidity, nutrients, pH, dissolved oxygen, temperature, and electrical conductivity for a period of time under new license conditions until it is clear whether adaptive management is necessary to protect water quality and beneficial uses, or sufficient monitoring data exists to inform the Project's potential water quality impacts.

Fisheries Resources

2) Page 35, paragraph four of the EA states: *"For example, whereas PG&E's proposed fish monitoring would provide population information, such as identification, abundance, and size of important fish species found in the Project area, it is unclear how these data would be used to identify and address specific project effects on the resource."*

Fish population monitoring is intended to facilitate the evaluation of Project operations, maintenance, and reservoir management effects on associated beneficial uses.[1] Fish population monitoring data can be used to determine if Project operations are protective of native fish and wildlife species and are sufficient to provide suitable habitat throughout the term of the new license given proposed Project operational changes.

Certification condition 5 requires fish population monitoring to ensure protection of beneficial uses and water quality objectives. Fish population monitoring, consistent with the requirements of condition 5 has been recommended by the California Department of Fish and Wildlife, the United States Fish and Wildlife Service (USFWS) under section 10(j) of the Federal Power Act, required by the Forest Service under section 4(e) of the Federal Power Act authority, and agreed to by PG&E.

Red Eye Bass

3) Page 38, paragraph one of the EA states: *"regardless of whether the plan would include a reduction of flows, there has been no information provided to suggest*

[1] Beneficial uses for the Stanislaus River above New Melones Reservoir include: municipal and domestic supply, agricultural, power, contact recreation, non-contact recreation, warm freshwater habitat, cold freshwater habitat, and wildlife habitat.

the project or the proposed measures would increase predation of native fish, increase redeye population size, or affect fish distribution. Therefore, there would not be a project-specific benefit from a redeye bass management plan."

During the relicensing process, no historic information was presented to inform redeye bass populations or potential Project effects. Any assertion that the Project and its operations do not increase redeye bass populations in the SFSR below Lyons Dam requires additional analysis and review. Without historical monitoring data, it can't be determined if previous Project operations (e.g., minimum flows) and proposed future operations have and will continue to affect fish communities in the SFSR below Lyons Dam.

Editorial Comments

4) The State Water Board's certification in Appendix P of the draft EA is the draft water quality certification released for public comment on June 27, 2022. The final certification for the Project, released on August 25, 2022, is available online at: https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/phoenix_ferc1061/phoenix_wqc.pdf

5) The draft EA has several mentions of SCE [Southern California Edison] instead of PG&E.