
State Water Resources Control Board

June 29, 2021

Mr. Neil J. Wong
Supervisor, Hydro Licensing
Pacific Gas and Electric Company
Mail Code N13E
P.O. Box 770000
San Francisco, CA 94177
Sent via email: NJW5@pge.com

**Pit 1 Hydroelectric Project
Federal Energy Regulatory Commission Project No. 2687
Shasta County
Pit and Fall Rivers**

AMENDMENT TO WATER QUALITY CERTIFICATION

Dear Mr. Wong:

This water quality certification (certification) amendment is issued in response to Pacific Gas and Electric Company's (PG&E or Licensee) request to remove Condition 13 and Condition 14 from the Pit 1 Hydroelectric Project (Project) certification. Condition 13 requires PG&E to implement summer flushing flows to control aquatic vegetation growth and mosquito production in Fall River Pond. Condition 14 requires PG&E to monitor the effectiveness of these flushing flows for the first five years following license issuance, at which time the Deputy Director of the Division of Water Rights (Deputy Director) may modify or terminate the monitoring program.

Project Background

The Project is located on the Pit River and Fall River in Shasta County, near the community of Fall River Mills. The Executive Director of the State Water Resources Control Board (State Water Board) issued a certification for the Project on December 4, 2001. On March 19, 2003, the Federal Energy Regulatory Commission (FERC) issued a license for the Project, which incorporated the certification conditions.

The Shasta crayfish (*Pacifastacus fortis*) was listed as endangered under both the California and federal Endangered Species Acts in 1988. The United States Fish and Wildlife Service (USFWS) issued a Biological Opinion (BO) for the Project on October 24, 2002, which included an incidental take statement with terms and conditions to minimize incidental take of Shasta crayfish. The BO concluded that approval of a new license for Project operation with flushing flows, as proposed in

FERC's final Environmental Assessment, would not jeopardize the continued existence of the Shasta crayfish.

In 2003, PG&E formed a technical review committee (TRC) to oversee management activities throughout the range of the Shasta crayfish. The USFWS formed the Shasta Crayfish Recovery Team, comprised of a subset of the TRC members, to develop a Recovery Plan for Shasta Crayfish (Recovery Plan). The Recovery Plan aims to stabilize and protect the existing populations of Shasta crayfish so that the species may recover and be reclassified as threatened and ultimately delisted. The Recovery Plan identified the introduction and expansion of non-native species of crayfish and fish as well as disturbances related to land use practices as primary threats to the continued existence of a viable Shasta crayfish population in the Pit River. PG&E monitored Shasta crayfish populations at multiple locations in the Project and Hat Creek Hydroelectric Project areas. The TRC Summary Report (Report), dated May 2009, includes a summary of surveys conducted on Shasta crayfish populations. PG&E surveyed three locations on the mainstem Pit River in the Project area. The Report indicates a general decline in Shasta crayfish distribution and abundance at all sites.

History of Suspension of Flushing Flows

In May 2009, USFWS requested that the State Water Board suspend the flushing flows for the summer of 2009 due to concerns that the flows were contributing to the decline of the local Shasta crayfish population. On June 17, 2009, the State Water Board responded to USFWS's request stating that if PG&E determines the flushing flows are no longer necessary for controlling aquatic vegetation and mosquito production in Fall River Pond, PG&E could request termination of the flushing flow conditions in the certification.

As required by Condition 14 of the Project certification, PG&E monitored the effectiveness of the flushing flows at reducing aquatic vegetation and mosquito breeding habitat from 2005 through 2009. Data collected during this period indicate that increased base flows associated with implementation of the new FERC license for the Project may be more effective than flushing flows at reducing unwanted vegetation and mosquito breeding habitat. On June 24, 2009, PG&E submitted a request to the State Water Board to amend the certification to remove Condition 13 (flushing flows) and Condition 14 (flushing flow effectiveness monitoring). On August 28, 2009, State Water Board staff notified PG&E that the State Water Board must comply with the California Environmental Quality Act (CEQA) before amending the certification.

On December 17, 2009, USFWS submitted a letter to FERC stating that the October 24, 2004 BO had expired, and there is no authorized incidental take for Shasta crayfish for the Project. USFWS also stated that flushing flows are likely resulting in take and are facilitating the decline of the endangered Shasta crayfish in the Pit 1 bypass reach.

On April 15, 2010, FERC staff requested that the State Water Board temporarily suspend the flushing flows requirement (Condition 13) for 2010. FERC's letter recognized that it cannot unilaterally amend a certification condition.

While the flushing flows provide an incidental whitewater recreational opportunity, a precautionary approach to endangered species protection is warranted, and the State Water Board determined it would be reasonable to suspend flushing flows through temporary orders¹ until the CEQA analysis could be completed.

California Environmental Quality Act

As the CEQA lead agency, the State Water Board released a draft environmental impact report (EIR) for the Project certification amendment on June 26, 2017. The State Water Board received comments from PG&E and American Whitewater. In 2018, the State Water Board requested that PG&E consult with American Whitewater to address concerns related to the elimination of incidental whitewater boating flows. As a result of these discussions, PG&E revised its proposed amendment request to include enhanced access to the Pit River for members of the public through parking improvements and other measures intended to improve recreational opportunities, including changing the October whitewater flow release schedule from four consecutive days to two weekends. In response to these changes, the State Water Board released a recirculated draft EIR for public comment on April 2, 2021. The State Water Board relied on PG&E's revised amendment request to evaluate the impacts associated with the proposed Project certification amendment. The State Water Board received comments from PG&E, which were considered and addressed, as appropriate, in the final EIR.

The State Water Board will file a Notice of Determination with the Office of Planning and Research within five days of issuance of this certification amendment. (Cal. Code Regs., title 14, § 15075.)

Noticing

On June 4, 2020, the State Water Board provided public notice of PG&E's request for an amendment to the Project certification, pursuant to California Code of Regulations, title 23, section 3858, by posting information describing the amendment request on the Water Quality Certification Program Public Notices webpage and noticing interested parties via email. The State Water Board received no comments in response to this notice.

Certification Amendment

The State Water Board released a draft certification amendment for public comment on June 26, 2017 and received comment letters from PG&E and American Whitewater. On April 16, 2021, the State Water Board released a revised draft certification amendment for public comment that took into account PG&E and American Whitewater's comments on the previous draft certification amendment, as well as PG&E's revised project description. The State Water Board received one comment letter on the revised draft

¹ The State Water Board suspended flushing flows from 2010 through 2020 via Orders WQ-2010-0009-EXEC, WQ-2012-0008-EXEC, WQ-2013-0024-EXEC, WQ-2014-0023-EXEC, WQ-2015-0076-EXEC, WQ-2016-0072-EXEC, WQ-2017-0014-EXEC, WQ-2018-0111-EXEC, WQ-2019-0035-EXEC, and WQ-2020-0011-EXEC.

certification amendment from PG&E. The State Water Board considered all comments in development of this Project certification amendment.

PG&E's certification amendment application included a request to remove Condition 14 (flushing flow monitoring) from the certification. PG&E monitored aquatic vegetation growth from 2005 through 2009 and provided monitoring data that shows that the new base flows, implemented as part of the 2003 FERC Project license, are more effective at reducing aquatic vegetation and mosquito production than the flushing flows (Spring Rivers 2010).² Under the previous license (no base flows), average aquatic vegetation cover before and after implementation of flushing flows was 38 percent and 18 percent, respectively. Under the current license (continuous base flows), average vegetation cover before and after implementation of flushing flows was 2.8 percent and 1.3 percent, respectively. These data indicate that the new base flows significantly reduce aquatic vegetation cover relative to the previous FERC license and the flushing flows provide minimal benefit when compared to implementation of the base flows alone under the 2003 FERC Project license. Accordingly, the State Water Board finds that the flushing flows and associated monitoring are no longer needed and has removed the associated requirements as part of this Project certification amendment.

Amendment Approval

The State Water Board finds that the certification amendment, included as Attachment 1 (clean version) and Attachment 2 (strikethrough/underline version), will comply with state water quality standards and other appropriate requirements of state law. The State Water Board hereby amends the Project certification as detailed in Attachment 1. The language in Attachment 1 shall replace the applicable language in the December 4, 2001 Project certification, as reflected in Attachment 2 (underline/strikethrough version).

Approval of this Project certification amendment is granted with the following conditions:

1. 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).
2. 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.
3. 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.

² Spring Rivers Ecological Sciences. 2010a. Pit 1 Flushing Flow Effectiveness Monitoring Plan Summary Report. Final. Prepared for Pacific Gas and Electric Company, Environmental Services, San Ramon, California. June.

All documents and other information that constitute the public record for this amendment will be maintained by the Division of Water Rights and are available for public review at the following address:

State Water Resources Control Board
Division of Water Rights
1001 I Street, Sacramento, CA 95814

Documents are available at this location by appointment only. Please email dwr@waterboards.ca.gov to discuss options for document review.

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

Sincerely,



Eileen Sobeck
Executive Director

Enclosures: Attachment 1: Amended Certification (Clean Version)
Attachment 2: Amended Certification (Strikethrough/Underline Version)
Attachment 3: Notice of Determination (NOD)

ec (w/o NOD): Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
Via FERC eFiling

U.S. Environmental Protection Agency
Region 9, Water Division
Email: R9cwa401@epa.gov

Mr. Patrick Pulupa, Executive Officer
Central Valley Regional Water Quality Control Board
Email: Patrick.Pulupa@waterboards.ca.gov

Mr. Sean Murphy, PG&E
Email: SHM9@pge.com

Ms. Amy Kirsch, PG&E
Email: Amy.Kirsch@pge.com

cc (w/o NOD): Interested Parties List

**ATTACHMENT 1 – PIT 1 HYDROELECTRIC PROJECT
WATER QUALITY CERTIFICATION AMENDMENT
FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 2687
(CLEAN VERSION)**

The State Water Resources Control Board hereby amends the water quality certification for Pacific Gas and Electric Company's Pit 1 Hydroelectric Project to modify Conditions 13-15, and add Conditions 20-21.

13. The Licensee shall control growth of aquatic vegetation and mosquito production in the Fall River Pond by releasing a continuous minimum fish/aquatic habitat release as described in Condition 8.

To provide for whitewater boating recreation, the Licensee shall release through Fall River Pond 1,250 cfs, or the natural inflow to the Pit 1 Forebay, whichever is less, for two weekends (Saturday and Sunday) in October on or before October 31 of each year. The whitewater boating flows shall begin at approximately 2:00 a.m. on the first day (Saturday) and ramp up as prescribed in Condition 12. The whitewater boating flows shall be maintained until approximately 3:00 p.m. on the following day (Sunday) of each release of whitewater boating flows, and then be ramped down as prescribed in Condition 12. Each year by September 15, the Licensee shall consult with American Whitewater to schedule the whitewater boating flow weekends. The Licensee shall provide notice of the whitewater boating flow weekends to the SWRCB, American Whitewater, and other interested parties at least seven days prior to the first day of whitewater boating flows.

The Licensee may request modifications to the whitewater boating flows after consultation with American Whitewater and SWRCB staff. Such requests shall be submitted to the Deputy Director of the Division of Water Rights (Deputy Director)¹ for review and consideration for approval. The Licensee shall include comments and recommendations made in connection with the proposed whitewater boating flows modifications and a description of how the request incorporates or addresses the comments and recommendations. The Deputy Director may require modifications as part of any approval. The Licensee shall file with FERC the Deputy Director-approved whitewater boating flow modifications, and any approved amendments thereto. The Licensee shall implement the whitewater boating flows upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified by this condition.

14. The SWRCB reserves the authority to modify the conditions of the certification if monitoring results indicate that continued operation of the Pit 1 Project could negatively impact water quality or in response to new information regarding the Shasta crayfish (*Pacifastacus fortis*).
15. For the life of the new license, the Licensee shall provide the Chief of the Division of Water Rights by December 31 of each year, a report containing the flow records

¹ Formerly referred to as the "Chief of the Division of Water Rights." All references to the "Chief of the Division of Water Rights" are synonymous with references to "Deputy Director of the Division of Water Rights" or "Deputy Director."

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WATER QUALITY CERTIFICATION AMENDMENT
FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 2687
(CLEAN VERSION)**

from the previous water year. The report shall document the required instantaneous flow releases from the Fall River Weir and the releases made to maintain the minimum flows below the Pit 1 Powerhouse. The report shall include other streamflow data collected by the Licensee from the Pit River as identified in the streamflow measuring plan required in condition 9. The report shall be provided to the Department of Fish and Game upon its request. The report shall identify any events where the minimum flow requirements were not met, the circumstances for the violation and what measures were taken by the Licensee to correct the problem.

20. As proposed in the Licensee's letter to the SWRCB dated October 17, 2018, the Licensee shall improve access to the Pit River at the current river boating put-in (near Cassel-Fall River Road Bridge) by constructing 12 new overflow parking spaces in the immediate vicinity of the existing parking facility. The Licensee shall complete construction within two years following FERC's incorporation of this certification amendment into the Pit 1 Project license unless otherwise approved by the Deputy Director.

No later than 90 days prior to the desired construction start date, the Licensee shall submit a Water Quality Monitoring and Protection Plan (Plan) to the Deputy Director for review and consideration of approval. The purpose of the Plan shall be to ensure that construction of the new overflow parking does not impact water quality. At a minimum, the Plan shall demonstrate compliance with sediment and turbidity water quality objectives in *The Water Quality Control Plan for the Sacramento River Basin and San Joaquin River Basin*² and any amendments thereto. The Plan shall be developed in consultation with the SWRCB, CVRWQCB, American Whitewater, California Department of Fish and Wildlife,³ and U.S. Fish and Wildlife Service.

The Plan shall be based on actual site geologic, soil, and groundwater conditions, and at a minimum shall include:

- A description of site conditions;

² Central Valley Regional Water Quality Control Board. 2018. *The Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin*. Fifth Edition. Revised May 2018 (with Approved Amendments). Available at: https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf. Last accessed June 16, 2021.

³ Formerly referred to as the California Department of Fish and Game. All references to the "California Department of Fish and Game" are synonymous with references to "California Department of Fish and Wildlife."

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WATER QUALITY CERTIFICATION AMENDMENT
FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 2687
(CLEAN VERSION)**

- Detailed descriptions, design drawings, and specific topographic locations of all control measures in relation to the new overflow parking construction, which may include:
 - Measures to divert runoff away from disturbed land surfaces;
 - Measures to collect and filter runoff from disturbed land surfaces, including sediment ponds;
 - Measures to dissipate energy and prevent erosion; and
 - Measures to control hazardous materials and prevent construction-related pollutants from entering waterways;
- Revegetation measures for disturbed areas, which shall include use of native plants and locally sourced plants and seeds;
- A monitoring, maintenance, and reporting schedule; and
- Comments and recommendations made as part of consultation on Plan development and how the comments and recommendations were addressed in the Plan.

The Deputy Director may require modification as part of any approval. The Licensee shall file with FERC the Deputy Director-approved Plan and any approved amendments thereto. The Licensee shall implement the Plan upon receipt of Deputy Director and any other required approvals, in accordance with the schedule and requirements specified therein.

21. Upon request, the Licensee shall provide the U.S. Fish and Wildlife Service with any information that is in the Licensee's possession and necessary for the completion of an updated Biological Opinion for the Pit 1 Project.