



July 14, 2017

Nathan Fisch
State Water Board Resources Control Board
Division of Water Rights
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Via e-mail

Re: Comments of California Sportfishing Protection Alliance and American Whitewater on the Draft Water Quality Certification for the Relicensing of Pacific Gas & Electric Company's Poe Hydroelectric Project, Federal Energy Regulatory Commission Project No. 2107

Dear Mr. Fisch:

The California Sportfishing Protection Alliance (CSPA) and American Whitewater (AW) respectfully submit comments on the Draft Water Quality Certification for the Relicensing of Pacific Gas & Electric Company's Poe Hydroelectric Project, Federal Energy Regulatory Commission Project No. 2107 (draft Certification).

Both CSPA and AW have a longstanding interest and presence in the North Fork Feather River watershed generally, and both organizations have a longstanding interest in the Poe Project in particular. In addition to our participation in the FERC relicensing process for the Poe Project, both CSPA and AW have been active for many years through participation in the Rock Creek – Cresta Ecological Resources Committee in the management and review of water and aquatic resources on the Poe Project. Thus both organizations bring extensive experience to the table in evaluating the draft Certification.

In general, CSPA and AW support the draft Certification. Overall, it represents and incorporates the discussions and agreements of relicensing participants.

CSPA and AW have specific concerns with draft Certification conditions 3, 4, 5 and 10. We describe those concerns below.

Condition 3

Condition 3 states that the licensee may request a modification of instream flow requirements in the event of extremely dry conditions. Generally, CSPA and AW do not object to establishment of a default response in project operations on this project or other projects in the event of drought. However, we believe that Condition 3 as stated does not appropriately approach the

issue. A condition that modifies streamflows during droughts or dry year sequences should define the river-specific, objective conditions that would trigger a change and should clearly define what the changed flow regime would be. Condition 3, on the contrary, is vague about the conditions in which the Board may apply exceptions to the flow requirements set forth in Condition 1 of the draft Certification. It also does not define what the default flows would be in the event of drought conditions or sequential dry years.

Instead, Condition 3 refers to general circumstances, including a declaration of drought emergency by the Governor. Calling out a gubernatorial declaration of emergency as a potential trigger is inappropriate. First, it substitutes the opinion of a politician for definition of a defined, objective condition. Second, it does not account for the specifics of the NF Feather River watershed or the water balance of the Poe Project. The Poe reach of the NF Feather River is fed in part by springs in Lake Almanor that even in dry summer conditions rarely produce less than 800 cfs. In addition, there is no water supply impact to bypassing the Poe power tunnel and powerhouse: whether it passes downstream through the powerhouse or in the river, water released from Poe Dam arrives downstream in Oroville Reservoir where it is available for multiple uses, including water supply.

CSPA and AW also object to making resource agencies the sole, real-time decision makers about the propriety of a flow variance under the dry conditions that Condition 3 generally but not specifically defines. At minimum, there should be an opportunity for public comment in a formal proceeding before the Board in the event that licensee requests and Board staff and resource agencies recommend a flow variance. During the recent drought, FERC called for comment and intervention following requests from licensees for flow variances. A formal process to address a flow variance requested of the Water Board can equally take place on an expedited basis and is a reasonable safeguard for protection of instream beneficial uses under the Clean Water Act.

Condition 3 is not a clear and enforceable condition. It states without specificity, limitation or qualification what the licensee may do to change the streamflows that the Certification otherwise requires to protect instream beneficial uses. This lack of clarity makes the condition unnecessary. A licensee does not need an explicit condition in a Certification to request a flow variance at any time.

We recommend that the final Certification delete Condition 3.

Condition 4

Condition 4 establishes a cumbersome monitoring and feedback process to determine the need and value of a 6-hour pulse flow of 2000 cfs once every year. Based on our experience with the hydrology of the NF Feather River, we note that in almost every water year there are flows in excess of 2000 cfs. This includes Dry and Critically Dry years. This is both because of stochastic natural events and because there is frequent maintenance and generation downtime (for various reasons) on the Poe Project. Based on our experience with the geomorphology of the NF Feather River, flows of 2000 cfs have a beneficial effect on movement of fine sediment,

but the geomorphic effect of this level of flow is overwhelmed in higher flow events when they occur.

CSPA and AW recognize the benefit of a 6-hour 2000 cfs pulse flow in drier years in which there is no other perturbation of the regulated flow regime, and recommend that the Certification retain a requirement for such a managed pulse flow in the absence of any other pulse flow of this magnitude and duration in the same year (whether from natural events or because of operational actions). However, because the relative benefit of a 6-hour, 2000 cfs pulse flow is small compared with larger events, and because larger events are relatively frequent on the Poe reach of the NF Feather River, we do not see the benefit of a monitoring program whose apparent purpose would be to determine whether the magnitude and frequency of the pulse flow as presently stated is appropriate. The cost and level of effort of the monitoring that Condition 4 would require would be very high. We do not believe that the two potential uses of such monitoring, to inform a possible adjustment in the magnitude and/or in the frequency of the pulse flow, warrants this cost and level of effort. Therefore, we recommend that the final Certification contain a revised Condition 4 that retains the requirement for the pulse flow but that deletes the requirement for a monitoring program that would accompany the pulse flow.

Condition 5

Condition 5 of the draft Certification requires, at Section 5.1, down-ramping at specified rates off of spills that occur during the frog-breeding period. Section 5.1 states in part:

For any spill flows between 3,000 cfs and 1,000 cfs measured at Gage 23, the Licensee shall operate the Project with the goal that recession flows in the North Fork Feather River below Poe Reservoir follow the recession rates of the East Branch of the North Fork Feather River as measured at Gage 51.

However, the Certification provides no requirements or even guidance on how the licensee must or could operate to follow the recession rates of the East Branch of the North Fork Feather River.

Section 5.1 of Condition 5 further requires: “For a spill that is less than 1,000 cfs or once a spill becomes less than 1,000 cfs, the Licensee shall transition down to the required base flow using the 21-day ramp down schedule outlined in Table 4.” For reference, Table 4 is reproduced below:

Day	Flow	Day	Flow	Day	Flow
1	1000	8	600	15	350
2	900	9	500	16	300
3	800	10	500	17	300
4	800	11	450	18	300
5	700	12	450	19	300
6	700	13	400	20	300
7	600	14	350	21	300

The apparent problem with this “21-Day Ramp Down Schedule” is that Condition 1 of the Certification requires instream flows in the Poe bypass reach in the April-July period that are greater than 300 cfs in all water year types except Critically Dry years. The flow table from Condition 1 is reproduced below:

Month	Water Year Type²			
	Wet	Normal	Dry	Critically Dry
October	250	250	180	180
November	275	275	180	180
December	300	300	180	180
January	325	300	180	180
February	350	325	225	225
March	350	350	300	300
April	400	400	325	300
May	500	400	350	300
June	500	400	350	300
July	500	400	350	300
August	500	400	350	300
September	400	350	300	250

¹ No diversion may occur until the minimum instream flows are satisfied.
² Water year types are defined in Condition 2.

The actual duration of the “21-Day” rampdown would range in non-Critically Dry years from 9 days to 13 days, and in Critically Dry years would be 16 days.

There are many aspects of Section 5.1 of Condition 5 that are not clear to us.

First, it is not clear to us whether beginning a numerically defined rampdown at 1000 cfs will be protective of foothill yellow-legged frog (FYLF) egg masses. Forest Service personnel observed FYLF egg masses in 2017 on the Cresta reach of the NF Feather River, immediately upstream of the Poe reach. They found that the onset of FYLF breeding on the Cresta reach in 2017 began at flow levels higher than 1000 cfs. Though there is currently a rampdown requirement on the Cresta reach that initiates as flows drop below 1000 cfs, observers noted that dropping flows may have caused some damage to FYLF egg masses on the Cresta reach in 2017. Any damage that did occur may have occurred despite the best efforts of project operators to meet the rampdown requirement. The analysis of this event is not yet complete. Compounding the difficulty of the analysis, it is not clear the degree to which sideflow may have contributed to any damage to FYLF egg masses on the Cresta reach in 2017.

Second, we note that the rampdown measure in Section 5.1 of Condition 5 is based on the rampdown condition that is currently in effect on the Cresta reach of the NF Feather River. However, the infrastructure on the Cresta reach is different than the infrastructure on the Poe reach. On the positive side for managing Poe Dam, Poe Dam has four radial gates with much more capacity than the single radial gate on Cresta Dam; Cresta also has two drum gates that come into operation at high flows and that are extremely difficult to manage. On the negative side, Cresta Dam is remotely operable and Poe Dam is not. Cresta Dam is equipped with

Remote Terminal Units (RTU's) that allow operators to remotely adjust releases real-time; the RTU's in fact automate this operation in substantial part. The licensee will need to install and test RTU's on Poe Dam in order to comply with Section 5.1 of Condition 5. It is not clear what infrastructure PG&E can feasibly install, how PG&E will operate that infrastructure, or how long it will take PG&E to install and learn to operate that infrastructure.

Third, combining the points above, it is not clear what the actual eventual capabilities of PG&E will be in operating to meet long-term rampdown rates for the Poe reach.

Over the past year or more, State Board staff has met with other resource agencies and with the licensee to discuss a rampdown measure for the Poe Project. State Board staff discussed rampdown on Poe separately with staff from CSPA and AW; however, State Board staff did not invite CSPA and AW to attend meetings with the agencies and the licensee. In our view, this was shortsighted and inefficient and did not clearly lead to an outcome that is best for the resource.

Therefore, CSPA and AW recommend that State Board staff convene a workshop to discuss options, opportunities and constraints relating to Section 5.1 of Condition 5 of the draft Certification. The workshop should focus on the following questions:

1. Is the rampdown rate stated in Section 5.1 of Condition 5 (Table 4) of the draft Certification sufficiently protective of FYLF egg masses?
2. If the rampdown rate in Table 4 is not sufficiently protective, how should the final Certification change it, both in terms of the highest flow in which Table 4 initiates and in terms of the rampdown rate itself?
3. What feasible infrastructure must the licensee install in order to comply with the rampdown rate?
4. What rampdown rate can the licensee feasibly operate to?
5. For flows between 3000 cfs and the flow level and which Table 4 initiates, what if any additional specificity can Condition 5 provide to help the licensee achieve the goal "that recession flows in the North Fork Feather River below Poe Reservoir follow the recession rates of the East Branch of the North Fork Feather River?"

The workshop should include, at minimum: CSPA and AW, who have a proven track record in helping to collaboratively develop a similar measure for the Cresta reach of the NF Feather River; staff from the State Board and from the other resource agencies; licensee managers and especially licensee operations staff familiar with the real-time operation of Poe Dam. The goal of the workshop should be to propose language to the Water Board to replace Section 5.1 of Condition 5 of the draft Certification. We recommend that State Board staff plan the workshop to be two consecutive days in duration, with the option for a follow-up day or days if needed.

FYLF are a key resource on the Poe reach. There are no measures in the proposed FERC license whose purpose is to protect this resource from precipitous changes in flow. FYLF have just been listed as a Candidate species under the California Endangered Species Act. It is essential that State Board staff, the licensee, the agencies and other stakeholders including CSPA and AW do

the technical planning to protect this key resource as well as possible, and that Condition 5 in the final Certification require the smartest and most effective measures feasible to protect FYLF.

Condition 10

Condition 10 of the draft Certification states in part:

Five years after the implementation of new Canyon Dam flow releases associated with the relicensing of the Upper North Fork Feather River Project (FERC Project No. 2105), results from the Project's Temperature Monitoring Plan will be used to evaluate whether changes to the instream flows are appropriate. If changes to the instream flows are deemed appropriate by the Deputy Director to protect temperature related beneficial uses, the Licensee shall, after consultation with the Forest Service, CDFW, and State Water Board, submit a plan for Deputy Director approval to modify the instream flows (Condition 1) to improve temperature conditions. Consultation shall include an evaluation of potential effects related to potential instream flow changes.

This section of Condition 10 should provide greater specificity about the criteria by which the Deputy Director will evaluate whether "changes to the instream flows are ... appropriate ... to protect temperature related beneficial uses." It should state the beneficial uses that the Deputy Director will consider, and it should state how the Deputy Director will evaluate the effects of temperature on these uses. In particular, there is an apparent implication in the language of this condition that colder water will better protect "temperature related beneficial uses." However, some entities have argued in the past that warmer water is in some cases preferable for FYLF than colder water. The final Certification should more clearly define the decision space and the issues at play in Condition 10.

If the Deputy Director does ultimately, pursuant to Condition 10, propose to modify the instream flows in Condition 1, the condition as written requires the licensee to consult with the Forest Service, CDFW and State Board staff and then submit a plan for changing flows. Condition 36 of the draft Certification requires that there be a notice and opportunity for hearing on any plan to change the Certification. Condition 10 should clarify when in the process of changing a flow regime pursuant to Condition 10 the Board would issue such notice and opportunity for hearing.

Conclusion

CSPA and AW appreciate the fact that the Division of Water Rights has produced and circulated the draft Certification for the Poe Project. The Water Quality Certification for the Poe Project has been lingering for about ten years. We urge State Board staff to complete and circulate the CEQA document for the Certification as soon as possible. We urge State Board staff to make the revisions we have recommended to conditions 3,4 and 10 of the draft Certification immediately. Finally, we urge State Boards staff to schedule and hold the workshop we have recommended relating to Condition 5 no later than September 15, 2017.

Thank you for the opportunity to comment on the draft Water Quality Certification for the relicensing of the Poe Project.

Respectfully submitted,



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