
State Water Resources Control Board

FEB 05, 2020

Mr. Steven Bauman, P.E.
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**Poe Hydroelectric Project
Federal Energy Regulatory Commission Project No. 2107
Butte County
North Fork Feather River**

**SUBJECT: AMENDMENT TO POE HYDROELECTRIC PROJECT WATER
QUALITY CERTIFICATION**

Dear Mr. Bauman:

On November 26, 2019, Pacific Gas and Electric Company (PG&E) requested an amendment to the water quality certification (certification) for the Poe Hydroelectric Project (Project; Federal Energy Regulatory Commission [FERC] Project No. 2107). The Project certification currently requires PG&E to submit management plans to the Deputy Director of the Division of Water Rights (Deputy Director) for review and approval within one year of FERC license issuance (i.e., December 17, 2019). PG&E's requested amendment would extend the one-year deadline by approximately three, six, or 12 months for the following plans:

1. Three-month Extension until March 31, 2020 for:
 - a. Sediment Management Plan (Condition 4);
 - b. Amphibian portion of Poe Bypass Reach Biological Monitoring Plan (Condition 9)¹;
 - c. Riparian Monitoring Plan (Condition 11); and
 - d. Tributary Access Plan (Condition 13).

¹ Condition 9 requires PG&E to develop a Biological Monitoring Plan for fish, benthic macroinvertebrates, and amphibians. During agency consultation, PG&E and the consulting agencies (see *Background* section for specific agency names) agreed to develop the following two plans to meet this requirement: 1) Fish and Benthic Macroinvertebrate Monitoring Plan; and 2) Amphibian Monitoring Plan.

2. Six-month Extension until June 30, 2020 for:
 - a. Recreation Improvement and Monitoring Plan (Condition 8); and
 - b. Road Management Plan (Condition 12).

3. Twelve-month Extension until December 31, 2020 for:
 - a. Ramping Rate Plan (Condition 5); and
 - b. Bardees Bar Spoil Pile Revegetation Plan (Condition 15).

The State Water Resources Control Board (State Water Board) provided public notice of the amendment request on December 4, 2019 by posting information regarding 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.

BACKGROUND

The State Water Board issued a certification for the Project on December 29, 2017. On December 17, 2018, FERC issued a new license for the Project, which includes the Project certification conditions. The certification requires PG&E to develop 11 plans for the protection of water quality and beneficial uses.

PG&E began developing plans in early 2019 in consultation with State Water Board staff, United States Forest Service (Forest Service), United States Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW), American Whitewater, California Sportfishing Protection Alliance, Butte County, and Plumas County. PG&E submitted the Water Temperature Monitoring Plan (Condition 10) in May 2019 and received Deputy Director approval on June 11, 2019. PG&E submitted the Recreational Technical Review Group Memorandum of Understanding (Condition 6), Streamflow Gaging Plan (Condition 7), and Fish and Benthic Macroinvertebrate Monitoring Plan (Condition 9) for Deputy Director approval in November 2019. The remaining plans are in various stages of consultation and development.

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 has reviewed the proposed amendment and has determined that the variance will not have a significant adverse effect on the environment and is categorically exempt pursuant to California Code of Regulations, title 14, section 15306 (Class 6 - Information Collection). The State Water Board will file a Notice of Exemption with the Office of Planning and Research within five days of issuance of this certification amendment. (Cal. Code Regs., title 14, § 15062.)

CONDITIONAL APPROVAL

The State Water Board finds the proposed amendment to be protective of state water quality standards and other appropriate requirements of state law. In addition to PG&E's proposed amendment, the State Water Board also finds it appropriate to add the following language to Condition 26 (new text in bold and underline):

*"The State Water Board's approval authority includes the authority to withhold approval or to require modification of a proposal or plan prior to approval. The State Water Board may take enforcement action if the Licensee fails to provide or implement a required plan in a timely manner. **If a time extension is needed to submit an item for Deputy Director approval, the Licensee shall submit a written request for the extension, with justification, to the Deputy Director no later than 60 days prior to the deadline. The Licensee shall file with FERC any Deputy Director-approved time extensions.**"*

This addition will expedite State Water Board review of and decision on any future requests for time extensions.

The State Water Board hereby amends the Project certification to include the new language to Condition 26 (above) and extend the plan deadlines for the eight plans, as follows:

Plan (Condition No.)	New Plan Deadline (for submittal to Deputy Director)
Sediment Management Plan (Condition 4)	March 31, 2020
Ramping Rate Plan (Condition 5)	December 31, 2020
Recreation Improvement and Monitoring Plan (Condition 8)	June 30, 2020
Amphibian portion of Poe Bypass Reach Biological Monitoring Plan (Condition 9)	March 31, 2020
Riparian Monitoring Plan (Condition 11)	March 31, 2020
Road Management Plan (Condition 12)	June 30, 2020
Tributary Access Plan (Condition 13)	March 31, 2020
Bardees Bar Spoil Pile Revegetation Plan (Condition 15)	December 31, 2020

Additionally, approval of the amendment to the Project certification 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.

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 Board, Division of Water Rights, 1001 I Street, Sacramento, CA 95814.

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

State Water Resources Control Board
Division of Water Rights – Water Quality Certification Program
Attn: Savannah Downey
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Sacramento, CA 95812-2000

Sincerely,

ORIGINAL SIGNED BY

Eileen Sobeck
Executive Director

cc: On next page.

cc: Ms. Kimberly D. Bose, Secretary
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Mr. Patrick Pulupa, Executive Officer
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Butte County Department of Water and
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Mr. Randy Wilson, Planning Director
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Interested Parties List

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