COMMENTS
Application for New Major License
Project No.: 2107-016
Docket No: P-2107-016
Applicant: Pacific Gas and Electric Company
Name of Project: Poe Project

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Ms. Magalie Salas, Secretary
Federal Energy Regulatory Commission

Dear Ms. Salas:

The California Sportfishing Protection Alliance offers the following comments on the Draft Environmental Assessment for the Poe Hydroelectric Project (FERC 2107-016), as noticed on August 2, 2006.

Statement of Issues

At least two critical elements of this Draft EA are based on unsupported speculation. First, FERC staff assumes that lower base flows in the North Fork Feather River bypass reach will be more beneficial for foothill yellow-legged frogs than would higher flows. Second, FERC staff assumes that summer temperature goals for the reach are not achievable, and therefore abandons a course of action that might reasonably be expected to provide temperatures that would provide suitable habitat for a robust trout population in the bypass reach.

FYLF surveys were conducted by Garcia and Associates, as part of the Rock Creek-Cresta license implementation, in May through July of 2006 on the Poe and Cresta bypass reaches of the NF Feather River. These surveys showed that extreme fluctuations in flow had severe deleterious effects on FYLF egg masses, desiccating approximately half of the egg masses observed on both reaches. The same surveys found, however, that the frogs in many cases found alternative sites for oviposition in the place of breeding sites, observed in previous years, that were either excessively inundated, subject to excessive flow velocity, or eliminated entirely when high flows altered the streambed.

The science does not support the theory that frogs simply do better at lower flows. On the contrary, habitat appears to move around in differing flows, preferred egg-laying areas change, and there may even be more options for breeding at higher flows. What is clear without doubt is that rapid and steep fluctuations in flow have unacceptable negative impacts.

The conclusions reached by FERC staff regarding temperature in the Poe bypass reach make the unsupported assumption that temperatures upstream in the Upper North Fork Feather and Rock Creek-Cresta projects cannot be improved to the point that this will allow temperature goals in the Poe reach to be achievable, particularly at higher base flows on Poe.

These two unsupported assumptions on the part of FERC staff lead staff to throw up its collective hands and make these speculative assumptions the foundation of its argument for low base flows in the Poe bypass reach. The base flows for the Poe bypass reach proposed by FERC staff do not tie specific resource objectives to the flows and are not supported with a specific rationale. Rather, staff crudely splits the baby using mathematical averages, and suggests that splitting the difference between licensee- and Forest Service-proposed base flows will provide a slightly higher and more variable hydrograph that will at least have resource results that are somewhat better that the 150 cfs flatline proposed by the licensee. This methodology contains an overriding and inherent bias towards power production: power production is the only resource in question that can appropriately be measured solely in quantitative and not also in qualitative terms. This fails to meet the requirement of the Federal Power Act to give equal consideration to fish and wildlife, and ultimately, as we shall see, to protection of recreation opportunities.

It is our understanding that the upper section of the Poe reach is marginally boatable by kayak at 500 cfs, improves notably at 600 cfs, and tops out for boatability at about 800 cfs. The upper section is evidently not very appropriate for rafting. The lower portion of the reach is optimum for kayaks and for rafts at about 1000 to 1200 cfs.

Because FERC staff proposed very low base flows, it made the assumption that the differential between base flows and flows high enough for boating was so great that the consequences of boating flows would have unacceptable impacts to frogs. However, an increase in base flows to a point where the differential between those base flows (which in some cases could themselves provide boating opportunities) and boating flows were on the order of 200 cfs would likely reduce impacts of boating flows to frogs to a level that was not significant.

Assuming low base flows, the Draft EA proposes monitoring of various aspects of the project, including amphibian, fish and water temperature. FERC staff leaves it totally to the State Water Resources Control Board to address the water temperature issue in a manner that conforms to the Central Valley Region Basin Plan. The Draft EA does not propose a flow regime that is likely to resolve the major aquatic issues facing the bypass reach, but rather puts off to the future the possibility that these issues may somehow, after

monitoring, be addressed. Monitoring alone is no solution. Measures predicted to improve temperature or other aquatic conditions need to be implemented. Subsequent monitoring should then be used to verify the effectiveness of the measures implemented.

In assuming low base flows, the Draft EA reduces the likelihood of connectivity between the NF Feather and major tributaries Flea Valley Creek and Mill Creek, whose lower sections could serve as temperature refugia in some cases when water in the main stem exceeded temperatures suitable for trout.

For the moment, which all too likely will be the next thirty years, FERC staff pushes the resolution of the problems of the Poe Project upstream. In spite of the fact that boating flows have been highly controversial and are under ongoing discussion in the Rock Creek-Cresta Project immediately upstream, the draft EA suggests that boating in that project makes up for lack of boating on Poe. Although not all of the fisheries goals have been achieved on Rock Creek-Cresta, staff equally suggests that folks ought to head on upstream to do their fishing as well.

Access issues are raised in the Draft EA, and several improvements are recommended. The major access improvement that could reasonably be made in the Poe reach, the improvement of Bardee's Bar Road to the point where it can safely and readily accommodate two wheel drive vehicles, is not included in the recommendations.

Flow information for the Poe bypass reach is currently unavailable to the public on a real-time basis. The Pulga gage, NF23, is about one mile downstream of Poe dam, and is significantly downstream of the two major tributaries in the reach, Flea Valley Creek and Mill Creek.

CSPA proposed solutions for the Poe Project

1. CSPA proposes the adoption of the revised minimum flow schedule that has been or will in the next two weeks be submitted by the agencies, known amongst the agencies as the October 2005 Agency Proposal, with modifications if any. We understand this schedule will be submitted by the Forest Service as part of its revised 4(e) conditions.

Adoption of this schedule will improve many of the problems discussed above:

- Lack of adequate flows, notably in relation to water temperature, for fish.
- Problems with fish passage from the main stem NF Feather River to major tributaries.
- Impacts to resources, especially frogs, from boating flows.
- Lack of boating flows because of potential resource impacts.
- Reduced production of aquatic insects as compared to higher flows; this will improve food sources for fish and amphibians alike.

2. CSPA proposes development of an integrated plan within the entire NF Feather watershed to address temperature issues. Eliminating water temperatures above 20

degrees C. to the fullest extent possible in the NF Feather watershed is of critical importance to CSPA.

Since the disappearance from the political horizon of the proposal for a Lake Almanor temperature curtain, PG&E and FERC have returned to a piecemeal approach to the North Fork projects, and proposals for a comprehensive temperature solution have unfairly been left to State Water Resources Control Board to shoulder alone.

CSPA believes that the proposed Finding of No Significant Impact, "issuance of the license as recommended by staff would not constitute a major federal action significantly affecting the quality of the human environment, " (p.239) is incorrect on several counts, including impacts to trout, to whitewater boating, and to connectivity between the North Fork and its major tributaries. However, on the issue of water temperature, it is utterly indefensible, both because of unanalyzed cumulative impacts and because the action threatens (in fact, virtually assures) the violation of the temperature standards in the Central Valley Regional Basin Plan and the intent of the Clean Water Act. CSPA therefore supports, as a first step, the call by Plumas and Butte Counties for an Environmental Impact Statement to evaluate alternatives for creation and preservation of coldwater habitat throughout the North Fork Feather watershed.

3. CSPA supports a restriction of flow fluctuations following the onset of FYLF breeding, as defined in the 4(e) conditions by the Forest Service.

4. CSPA proposes a limited regime of whitewater boating days, starting with an initial 5 year period at one day per month in July, August, September and October, with flow magnitudes that are no greater than 200 cfs above base flows. This must be instituted in conjunction with a whitewater boating adaptive management program, run by a coordinating committee of affected stakeholders, which defines and executes a plan to determine impacts specifically to foothill yellow-legged frogs, and which also determines the level of boater satisfaction. The adoption of the revised agency base flows are, for CSPA, a prerequisite for this boating flow proposal. Given these conditions, CSPA is willing to forego macroinvertebrate sampling as part of the boating flow adaptive management process.

CSPA proposes that no boating flows occur until consensus within the adaptive management coordinating committee is reached on appropriate monitoring plans and measurable metrics both for frogs and for boater satisfaction. CSPA proposes that the adaptive management program address ramping rates and flow duration in addition to total flow differential between boating and base flows. CSPA also proposes that a fixed range of possible increases in flow magnitude for consideration after the initial five year period be specified prior to initiation of boating flows.

CSPA notes that ongoing frog studies are already taking place on the Poe reach in conjunction with the Rock Creek-Cresta license implementation.

5. CSPA proposes a project boundary adjustment which makes Bardee's Bar Road part of the Poe Project. CSPA proposes that the licensee upgrade and maintain this road so that it is safely and readily passable by two wheel drive vehicles. This is by far the single most significant access improvement that can be made to the Poe Project. Almost all of the current use of this road is project related: for access for PG&E, or for recreational access to the river. PG&E has long had a free ride on this road from Butte County, one of the poorest counties in the state. This road's poor condition not only limits access for the majority of potential recreational users, it also makes it highly unlikely that it will be adequately policed by an overworked Butte County Sheriff's Department and/or the Forest Service.

6. CSPA proposes the development of hiking trails for river access both upstream and downstream of Bardee's Bar. The proposed trail between Bardee's Bar and the Poe Powerhouse, as outlined in the comments submitted by Mike Taylor, former Hydropower Coordinator for Plumas National Forest, would in particular provide significant angling access that is not currently available. CSPA finds the discrepancy in the expected cost between the proposed trails upstream and downstream of Bardee's Bar to be completely without credibility. CSPA encourages serious study of the feasibility and desirability of both of these proposed trails.

7. CSPA supports the monitoring programs for amphibians, fish, water temperature and others as recommended by the Forest Service and other agencies.

8. CSPA believes that the potential negative impacts of a fish passage facility at Big Bend Dam, or the removal of Big Bend dam, have not been examined with a sufficient degree of attention to detail. It is unclear which fish species are likely to get how far upstream at what time of year and under what conditions, and exactly which amphibian life stages at what locations are likely to be affected by fish moving up from Lake Oroville, whether those fish are native or exotic. We find it unpersuasive that exotic species moving up from Lake Oroville would compete with native fish to the point of having a negative effect. It appears to CSPA that a serious consideration of fish passage between Poe Powerhouse and Lake Oroville has been avoided for the simple fact that performing a rigorous study or providing such passage would be inconvenient for the licensee. Such a serious consideration needs to be performed.

9. Real time flow information needs to be made available for recreational users of the Poe bypass reach, including anglers. The portion of the reach between Poe Dam and the current location of the gage, NF23, is one of the few portions of the reach that is presently readily accessible for angling, and flow amounts are therefore particularly critical in this entire section of river. CSPA proposes that either: a) the compliance gage be moved upstream of both Flea Valley Creek and Mill Creek; or that b) the inflow from Flea Valley Creek and Mill Creek be gauged on a real-time basis to the nearest cfs, and that these amounts be subtracted from the measured flow at NF23 in order to determine release compliance for releases from Poe Reservoir. Compliance data needs to be to the nearest cfs. For angling purposes, the round up to the nearest 50 cfs as displayed for Rock Creek and Cresta reaches is confusing. 50 cfs does make a difference.

Conclusion

Together, FERC and PG&E have proposed to make the Poe Project the poor cousin of the two projects upstream on the North Fork Feather River, effectively low-balling resource protection, mitigation and enhancement measures to operate the project as a largely unencumbered cash cow. CSPA views the Poe reach of the NF Feather as a truly unique resource that offers outstanding potential as a trout fishery, as amphibian habitat, and as a series of recreational opportunities.

Respectfully submitted,

Chris Shutes
Hydro Relicensing Consultant
California Sportfishing Protection Alliance

cc: service list

Certificate of Service

I hereby certify that I have placed in the U.S. mail on this day, September 15, 2006, in Berkeley, California, a true and correct copy of the preceding comment letter regarding the Poe Project from Chris Shutes, on behalf of the California Sportfishing Protection Alliance, to the Federal Regulatory Energy Commission dated September 15, 2006, addressed to each of the parties on the Poe Project service list, except those parties who have officially opted to be served by electronic mail. I hereby certify that I have electronically mailed on this day, September 15, 2006, from Berkeley, California, a true and correct copy of the preceding comment letter regarding the Poe Project from Chris Shutes, on behalf of the California Sportfishing Protection Alliance, to the Federal Regulatory Energy Commission dated September 15, 2006, to those parties on the Poe Project service list who have officially opted to be served by electronic mail.

Christopher R. Shutes