

December 30, 2021

Secretary Kimberly Bose
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**RE: PG&E Comments on Draft Supplemental Environmental Assessment for
Hydropower License Surrender
Kilarc-Cow Creek Hydroelectric Project (FERC Project No. 606-027)**

Dear Secretary Bose:

Pacific Gas and Electric Company (PG&E) has reviewed the Supplemental Environmental Assessment (Supplemental EA) for the Kilarc-Cow Creek Hydroelectric Project, FERC Project No. 606 (Project), issued by Commission staff on December 3, 2021. Overall, PG&E concurs with the recommendations presented in the Supplemental EA.

PG&E would like to make the following clarifications:

- Section 5.1.7 of the Supplemental EA states that the only federal candidate species potentially occurring at the project is the Pacific fisher. The Southern Sierra Nevada Distinct Population Segment of the Pacific fisher was listed as endangered in May 2020, and it occurs outside of the Kilarc-Cow Creek Project area.¹ The Northern California/Southern Oregon subpopulation is not a federal candidate species and was not listed. Please update the Supplemental EA accordingly.
- Section 5.1.7 of the Supplemental EA states that the valley elderberry longhorn beetle (VELB) does or may potentially occur in appropriate habitats in the vicinity of the Kilarc and Cow Creek developments. Note the U.S. Fish and Wildlife Service revised the range of VELB in 2014, and the Kilarc-Cow Creek Project is no longer within the range of VELB.² Please remove VELB from the analysis of ESA species considered in the Supplemental EA.

¹ U.S. Fish and Wildlife Service (USFWS) issued a final rule on May 15, 2020, listing only the Southern Sierra Nevada Distinct Population Segment of Fisher as endangered under the ESA (85 FR 29532). This listing did not include the Northern California/Southern Oregon subpopulation.

² The USFWS re-evaluated and revised the description of the VELB's life history, population distribution, range, and occupancy. On September 17, 2014, the USFWS published a withdrawal of a proposed rule to remove VELB from the Federal list of Endangered and Threatened Wildlife (50 CFR Part 17), and re-evaluated the species range. In May 2017, the USFWS issued a *Framework for Assessing Impacts to the Valley Elderberry Longhorn Beetle* (Service 2017) (Framework).

- In general, PG&E is not commenting on analysis of alternatives excluded from FERC's recommended action in Section 7.0 of the Supplemental EA, with one exception.³ In the alternative analysis presented in Section 5.1.7.2, FERC refers to the presence of steelhead in Hooten Gulch. PG&E clarifies that the Biological Opinion issued by the National Marine Fisheries Service states as follows :“Juvenile and fry steelhead and Chinook salmon would not be present in the vicinity of the Cow Creek Powerhouse because the Abbot Diversion blocks access to Hooten Gulch. Therefore, there would be no effect on listed salmonids at this location.” Please update the Supplemental EA to be consistent with the Biological Opinion issued by NMFS.
- In Section 3.3 of the Supplemental EA, Commission staff recommends the inclusion of Conditions 21-47 of the California SWRCB's waived WQC in the Order. PG&E requests that FERC does not include these conditions in any surrender order issued as they are tied to the SWRCB's Clean Water Act authority, which has been waived, and are administrative in nature. Rejecting these administrative conditions is consistent with other proceedings in which the Commission found that the SWRCB waived its authority to issue a water quality certification.⁴

Please contact me at lisa.whitman@pge.com, or (415) 265-9971, with any questions.

Sincerely,



Lisa Whitman,
Relicensing Supervisor

³ Most of these alternatives are beyond the scope of FERC's jurisdiction with respect to surrender applications.

⁴ See, e.g., *Placer County Water Agency*, 171 FERC ¶ 62,118, at P 49 (2020) (finding that SWRCB conditions 21-42 should not be included in the license if certification has been waived because they are administrative in nature and tied to the SWRCB's Clean Water Act authority).