



United States Department of the Interior

FISH AND WILDLIFE SERVICE
San Francisco Bay-Delta Fish & Wildlife Office
650 Capitol Mall, Suite 8-300
Sacramento, California 95814-4700



In reply refer to:
2022-0042433-S7
FERC # 1061

July 17, 2024

Debbie-Anne A. Reese, Acting Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

Subject: Sufficiency Review for the Section 7 Consultation on the Phoenix Hydroelectric Project, Tuolumne County, California

Dear Ms. Reese:

This letter is in response to the Federal Energy Regulatory Commission's (FERC) May 28, 2024, request for initiation of informal consultation and conference with the U.S. Fish and Wildlife Service (Service) on the Pacific Gas and Electric's (PG&E) Phoenix Hydroelectric Project (Project) in Tuolumne County, California. Your letter was received via email on May 28, 2024, and in the letter you requested a response from the Service in writing within 60 days regarding concurrence on your determinations that the Project is not likely to adversely affect the federally endangered foothill yellow-legged frog (*Rana boylei*)(frog), the federally proposed as threatened northwestern pond turtle (*Actinemys marmorata*)(turtle), and the federally proposed as threatened California spotted owl (*Strix occidentalis occidentalis*)(owl). This response is provided under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

The Service emailed a request to FERC to communicate directly with PG&E on June 11, 2024, which FERC supported, regarding planned Project activities and their potential to impact the federally-listed and federally proposed as listed species. The Service subsequently exchanged emails and held meetings (from June 13 through July 16) with PG&E to clarify several elements of the Project description and to discuss potential changes to reduce impacts to the species in question. Those discussions have not yet resulted in the reduction of potential impacts to the frog to a level commensurate with a "may affect, not likely to adversely affect" determination. Therefore, the Service is not able to concur, and instead has suggested formal consultation for the frog.

As such, this letter constitutes our sufficiency review of your request. The consultation initiation letter and referenced Environmental Assessment (EA) do not contain a level of detail sufficient to concur with your determinations. Although the letter and EA do not contain all of the information necessary to initiate formal consultation as outlined in the regulations governing

Ms. Debbie-Anne A. Reese, Acting Secretary

interagency consultations (50 CFR § 402.14), subsequent meetings with PG&E have provided additional information and clarification. As of July 16, 2024 the Service has sufficient information to begin the jeopardy analysis required for a biological opinion for the frog. In the event additional clarifications become necessary, the Service will communicate directly with PG&E for expediency, unless FERC proposes otherwise.

Please address any questions or concerns regarding this response to A. Leigh Bartoo via email at aondrea_bartoo@fws.gov.

Sincerely,

Heather Swinney
Deputy Field Supervisor

ecc:

FERC #P-1061 listserv

PG&E—Larry Wise

CDFW—Abimael Leon

Forest Service—Steve Holdeman

SWRCB—Eric Bradbury

BLM—Beth Brenneman