

Debbie-Anne Reese
January 24, 2023

Filed Electronically

January 25, 2024

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

**Subject: Response to Comments on 2023 Initial Study Report Meeting Summary,
Rush Creek Project (FERC Project No. 1389)**

Dear Acting Secretary Reese:

On November 21, 2023, Southern California Edison Company (SCE) filed the Rush Creek Project (Project) Initial Study Report (ISR) Meeting Summary with the Federal Energy Regulatory Commission (FERC). The following entities filed comments on the ISR Meeting Summary:

- California Department of Fish and Wildlife (CDFW)
- State Water Resources Control Board (State Water Board)
- Kendrick Taylor
- Joyce Kauffman
- Robert Marks
- American Rivers, California Sportfishing Protection Alliance, and June Lake Regional Planning Advisory Committee
- Inyo National Forest

No new studies were requested in the comment letters. Several of the comments requested a modification to an existing study. Comments requesting modification of an ongoing study are summarized below. Following each comment summary is SCE's response. The comment letters are included in Attachment A for reference.

AQ 3, Water Temperature Study

CDFW and the State Water Board provided similar comments pertaining to AQ-3.

CDFW Comment

The Water Temperature Study Plan, AQ 3, schedule on page C-2 of the ISR only identifies one year of studies in 2023. Based on CDFW's review of Appendix C of the Pre-Application Document (PAD) and ISR, we request that SCE conduct one additional year

State Water Board Comment

An additional year of data collection should be included for studies AQ-3 and AQ-4 because of anomalous environmental conditions that occurred during water year 2023 (October 1, 2022 through September 30, 2023).

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of data collection. CDFW requests this study modification pursuant to the criteria set forth in 18 CFR § 5.15(d)2; the study was conducted under anomalous environmental conditions or that environmental conditions have changed in a material way.

SCE Response

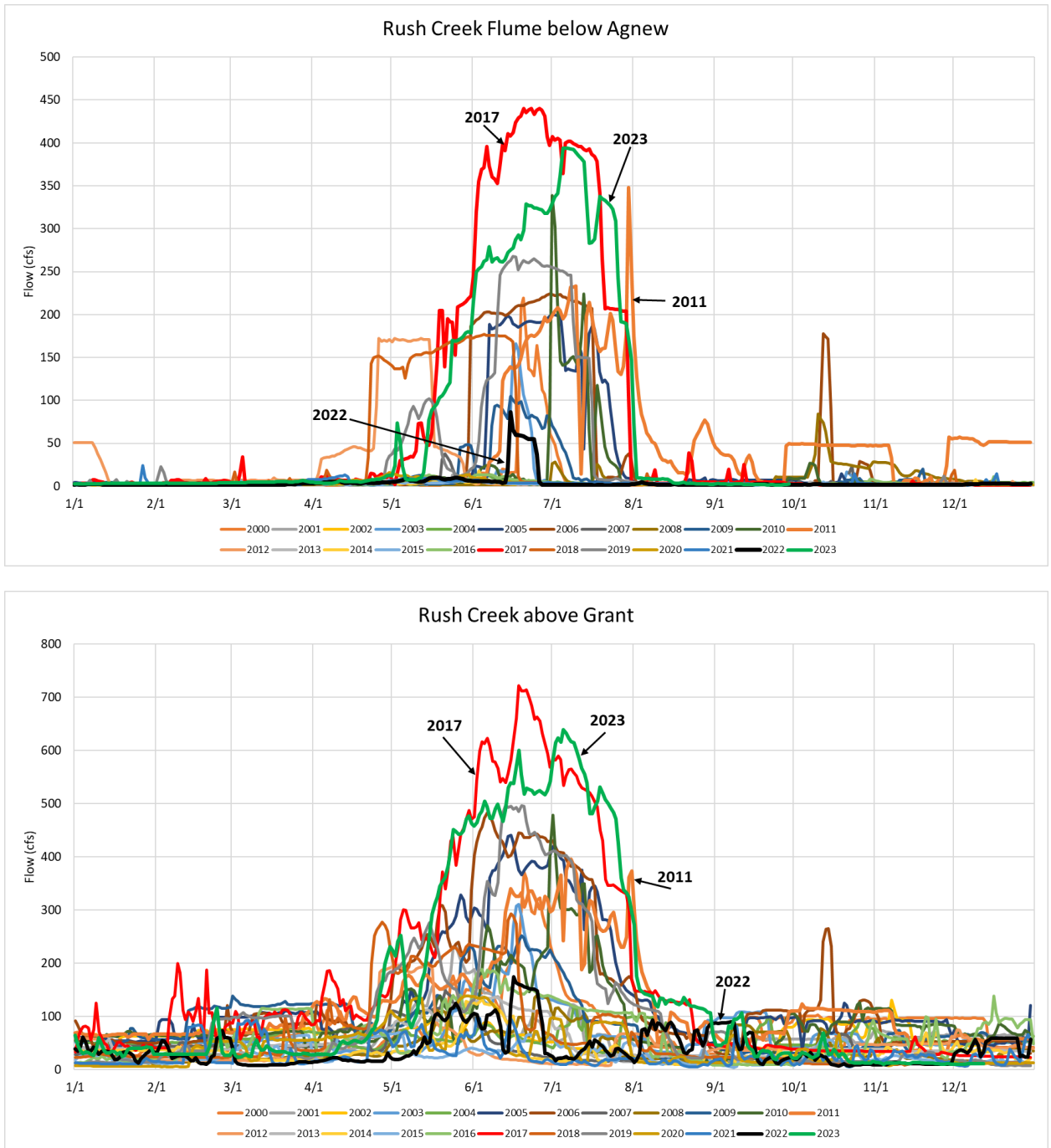
SCE does not propose to adopt these study modifications, as they do not meet the requirement under FERC's regulations that a proposed study modification must demonstrate that the AQ 3 study was: (1) not conducted as provided for in the FERC-approved study plan; or (2) was conducted under anomalous environmental conditions or that environmental conditions have changed in a material way. 18 C.F.R. § 5.15(d). The 2023 hydrology was representative of recent wet years (2011, 2017, 2023) in the Project area (Figure 1). Flows in 2023 were generally lower than those that occurred in 2017. Lower flow conditions after the snowmelt runoff occurred (August–December) in 2023 were similar to those in previous years. Beginning in August 2023, the flows above Grant Lake showed a pattern typical of all other years to date.

SCE collected 2 years of water temperature data in the Project area (2022 and 2023). The 2022 data were collected in response to input from stakeholders. Specifically, on March 8, 2022, SCE sent an e-mail to the Aquatic Technical Working Group (TWG) participants detailing a commitment to collect water temperature data at seven lower elevation sites ($\leq 7,300$ feet) consistent with the locations and methods identified in the AQ 3 Technical Study Plan from May 15 to December 1, 2022 (early data collection). In addition, SCE utilized the current U.S. Forest Service meteorological station near the Rush Creek Powerhouse to obtain 2022 air temperature data. The early data collection was initiated by SCE on May 15, 2022, prior to FERC's formal Study Plan Determination on October 26, 2022. The year 2022 was a low-flow water year (Figure 1). In 2023, SCE collected water temperature data at 14 locations, consistent with the AQ 3 Technical Study Plan. Data were collected from low-elevation sites ($\leq 7,300$ feet) from May 15 through December 1, 2023. Data were also collected from high-elevation sites from May 15 through October 15, 2023.

Because SCE has collected 2 years of water temperature data—2022 (a dry year) and 2023 (a wet year)—and because there are no known water temperature issues (e.g., water temperatures throughout the Project area are cold), no additional data needs to be collected and SCE does not propose to modify the AQ 3, Water Temperature Study.

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Figure 1 Hydrology in the Project Area since 2000 (flow over Horsetail Falls)



AQ 4, Water Quality Study

State Water Board Comment

An additional year of data collection should be included for studies AQ-3 and AQ-4 because of anomalous environmental conditions that occurred during water year 2023 (October 1, 2022 through September 30, 2023)... additional data collection may be necessary to determine compliance with the Water Quality Control Plan for the Lahontan Region (Basin Plan). Several

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Basin Plan objectives define an exceedance as relative to “natural” or “normal” conditions (e.g., turbidity, pH), which cannot be determined from anomalous conditions.

SCE Response

Historical water quality data collected in the Project area have identified that the water quality throughout the Project area is high-mountain pristine water quality (refer to the Pre-Application Document [PAD], Section 4.4, Water Quality). There are no known water quality issues in the Project area. AQ 4, Water Quality Study, has a component in the study plan that states the following:

If water quality sampling results (2023) indicate an exceedance of objectives/criteria identified in the Basin Plan or with other relevant water quality standards (refer to Table AQ 4-2), SCE will implement a second year of water quality sampling (2024) focused on those parameters that were exceeded. The specific sampling approach will be developed in consult with the State Water Board, resource agencies, and the Technical Working Group.

The 2023 hydrology was representative of recent wet years (2011, 2017, 2023) in the Project area (Figure 1). Flows in 2023 in the late summer and fall were representative of other years. Specifically, beginning in August 2023 flows through the Project area were similar to other years, when, after the high snowmelt flows have passed through the system, only storage at the Project reservoirs is released. Thus, FERC’s regulatory standard for justifying a study modification—i.e., that the FERC-approved study was conducted under anomalous environmental conditions or that environmental conditions have changed in a material way (18 C.F.R. § 5.15(d))—has not been met with respect to the State Water Board’s proposed modification.

Because there are no known historical or anticipated water quality issues in the Project area due to the high mountain location, and because water quality samples collected in both higher spring and lower fall flow conditions in 2023 did not reveal any water quality issues, SCE does not propose to modify the AQ 4, Water Quality Study.

AQ 6, Fish Population and Barriers Study

CDFW Comment

The Fish Population and Barriers Study Plan, AQ 6, schedule on page C-3 of the ISR only identifies one year of studies in 2023. Based on CDFW’s review of Appendix C of the PAD and ISR, we request that SCE conduct one additional year of surveys. CDFW requests this study modification pursuant to the criteria set forth in 18 CFR § 5.15(d)2; the study was conducted under anomalous environmental conditions or that environmental conditions have changed in a material way.

SCE Response

As described above, the hydrology in 2023 was not an anomalous condition in the Project area, rather it was representative of wet year hydrology with flows returning to lower flows in August 2023. With regard to adult fish sampling, the populations sampled in 2023 were a product of previous years (2020–2023) and representative of adult fish populations in the Project area. Therefore, CDFW’s proposed study modification—with regard to an additional year of surveys of adult populations—is unwarranted under the “anomalous environmental conditions” standard of 18 C.F.R. § 5.15(d). Moreover, the barrier analysis conducted in AQ 6, Fish Population and Barriers Study, was not dependent on flows as the primary barriers were large natural or Project

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obstructions independent of flow (e.g., Agnew Dam, Gem Dam, and Horsetail Falls). Finally, there are historical fish population data for the reservoirs and in the stream segment between Waugh Lake and Gem Lake. For these reasons, additional data collection of adult populations at locations above Agnew Dam would not be expected to yield new information of significance to the relicensing study and therefore SCE does not propose to collect a second year of data on adult populations at locations above Agnew Dam.

With regard to young-of-year data collection, SCE maintains that the fish sampling that occurred in 2023 was representative of wet year reproduction/recruitment. SCE recognizes, however, that wet years have the potential to influence young-of-the-year fish. SCE agrees, therefore, that an additional year of data collection at the Rush Creek fish population sites downstream of Agnew Dam could potentially yield information about young-of-the-year abundance in a normal or dry year depending on the hydrology in 2024. At the four sites identified in the table below, only one year of fish population data exists showing young-of-the-year recruitment (refer to the AQ 6, Fish Population and Barriers Technical Study Plan, Table AQ 6-1 for the complete list of all sampling locations). Therefore, if 2024 is a normal or dry year, SCE proposes to collect fish population data at the following four locations in 2024: Rush Creek below Agnew Dam RM 18.55, Rush Creek above Silver Lake RM 17.05 and RM 17.55, and Rush Creek below Silver Lake RM 15.2 to augment our understanding of young-of-the-year abundance.

Stream Segment Name	Segment Length (miles) / River Miles (RM)	Sampling Location River Mile / Site ID	Site Length (meters [m])	Sampling Method
Rush Creek Below Agnew Dam	0.40 (RM 18.2–18.60)	RM 18.55 / RC18.55	100 m	Electrofishing/ Snorkeling
Rush Creek Above Silver Lake	0.94 (RM 16.72–17.66)	RM 17.05 / RC17.05 and RM 17.55 / RC17.55	100 m each site	Electrofishing/ Snorkeling
Rush Creek Below Silver Lake	2.69 (RM 13.20–15.89)	RM 15.2 / RC15.2	100 m	Electrofishing/ Snorkeling

Notes:
 m = meters; RC = Rush Creek; RM = River Mile

AQ 7. Special-Status Amphibians Study

CDFW and the State Water Board provided similar comments pertaining to AQ-7.

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CDFW Comment

Based on CDFW's review of Appendix C of the PAD and ISR, we request that SCE conduct one additional year of data collection. CDFW requests this study modification pursuant to the criteria set forth in 18 CFR § 5.15(d)2; *the study was conducted under anomalous environmental conditions or that environmental conditions have changed in a material way.*

State Water Board Comment

... snowpack and associated streamflow was anomalously high in 2023. Surveys conducted for AQ-7 Special-Status Amphibians and Aquatic Reptiles may suffer from similar issues to AQ-3 and AQ-4, in that abnormal conditions may have prevented collection of data representative of typical conditions in the Project area. An additional year of surveys in a drier water year is needed to accurately determine presence of special-status aquatic species within Project-affected waters.

SCE Response

As described above, the hydrology in 2023 was not an anomalous condition in the Project area, rather it was representative of wet year hydrology with flows returning to lower flows in August 2023. Survey results are representative of the Project area because data was collected consistent with the survey requirements established in the U.S. Fish and Wildlife Service (USFWS) survey guidance, as outlined in the 2014 *Programmatic Biological Opinion on Nine Forest Programs on Nine National Forests in the Sierra Nevada of California for the Endangered Sierra Nevada Yellow-legged Frog, Endangered Northern Distinct Population Segment of the Mountain Yellow-legged Frog, and Threatened Yosemite Toad*¹ (hereafter Programmatic BO). Specifically, the Programmatic BO stipulates that at least one survey for Sierra Nevada yellow-legged frog (SNYLF) and Yosemite toad (YT) be conducted in the spring/summer following a winter that results in 80 percent or greater average snowpack to maximize the probability of detecting the species.

The snowpack results for water year 2023 met the hydrologic condition of 80 percent or greater average snowpack. Both SNYLF and YT are more active and visible when breeding conditions are suitable (i.e., in wet years). In addition, habitat mapping conducted in 2023 is more conservative and inclusive, because more water was present on the landscape than would be present in a drier year. Per the Programmatic BO, SNYLF and YT are also more likely to be actively breeding and therefore more likely to be encountered in a wet year. Therefore, visual encounter surveys conducted in 2023 (i.e., wet year) would have the maximum probability of detecting SNYLF and YT in the Project Area.

Two visual encounter surveys were conducted for SNYLF and YT in 2023, and no individuals were detected. Thus, SCE maintains that a study modification cannot be justified on the basis of the "anomalous environmental conditions" standard of 18 C.F.R. § 5.15(d). However, conducting a third visual encounter survey for SNYLF in 2024 would complete the protocol-surveys defined under the Programmatic BO for determination of occupancy of the Project site. For example, if no SNYLF are detected in the study area in 2024, the Project site would meet the standards for determining unutilized potential habitat for SNYLF for 10 years, as specified in the Programmatic BO. Three consecutive years of surveys are required to determine occupancy of a site for YT,

¹ USFWS. 2016. Designation of Critical Habitat for Sierra Nevada Yellow-legged Frog and Northern Distinct Population Segment of the Mountain Yellow-legged Frog and Threatened Species Status for Yosemite Toad; Final Rule (Federal Register Vol. 81, No. 166, Pages 59046–59119), August 26, 2016.

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and therefore a second year of surveys for YT in 2024 would not be sufficient to determine occupancy. However, if SNLYF surveys are conducted in 2024, YT surveys would be conducted at the same time.

Because the wet water year conditions of 2023 would have supported the maximum probability of detecting SNLYF and YT in the Project Area, SCE does not propose to conduct an additional year of study due to anomalous conditions. However, to determine occupancy of the Project site for SNLYF in accordance with the Programmatic BO, SCE does propose conducting a second year of visual encounter surveys for SNLYF and YT consistent with the methodology described in the TERR 2, Wildlife Resources Technical Study Plan. In conjunction with the surveys, SCE will verify habitat mapping and make modifications, if appropriate.

AQ 7, Special-Status Amphibians Study

American Rivers, California Sportfishing Protection Alliance, and June Lake Regional Planning Advisory Committee (AR, CSPA, JLRPAC)—Joint Letter Comment

The ISR meeting summary discusses a question regarding the Special Status Amphibian and Reptile Study (AQ 7), stating that the presence of fish in project-affected reaches of Rush Creek precludes the need to evaluate these reaches as habitat for Sierra Nevada yellow-legged frogs (SNLYF). However, despite the presence of fish, some evaluation of these stream reaches for the presence of SNLYF may be appropriate, notwithstanding the fact that fish prey on some life stages of SNLYF.

SCE Response

SCE concurs that evaluation of stream reaches for the presence of SNLYF is appropriate for the Project. Consistent with the AQ 7, Special-status Amphibians Study, SCE conducted habitat mapping (including mapping of the presence of USFWS-defined Primary Constituent Elements) and visual encounter surveys for SNLYF. Therefore, no additional data needs to be collected. In addition, because these stakeholders did not provide any justification under 18 C.F.R. § 5.15(c) supporting their proposed study modification, SCE does not propose to modify the methodology of the AQ 7 Special-Status Amphibian Study.

LAND 2, Noise Study

Kendrick Taylor and Joyce Kauffman provided similar comments pertaining to the computer models used for the noise study.

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Taylor Comment

... doubtfully that models can accurately calculate the noise. The calculation will be complicated due to the use of a heavy lift helicopter carrying the maximum external load, doing low speed and low elevation flight maneuvers, in a tight canyon with rock walls that extend above the entire flight path. The only way to calibrate such a model and reliably determine the noise levels will be to use measurements made with the same class of helicopter, with the same external load, in the same canyon, making the same flight maneuvers, under similar atmospheric conditions.

Kauffman Comment

Another problem with the designed noise study is that actual dBA readings will be taken for the ambient noise levels, but computer modeling will be used for the rest. That seems to us to be a serious methodological flaw. Since we live in a canyon, dBA readings of actual sky cranes flying projected flight paths should be required.

SCE Response

The software utilized for the noise study, the Advanced Acoustic Model (AAM), is a simulation model that computes time varying noise levels for each step in a user-defined flight trajectory or vehicle path or over a distributed quadrilateral area. The following information on the AAM noise model is provided from the Department of Transportation and the technical user's guide.²

When computing noise from multiple operations, the results can be combined to create integrated metric contours suitable for use in National Environmental Policy Act (NEPA) analyses. AAM has its roots in the Rotorcraft Noise Model (RNM), originally sponsored by NASA and further developed under funding from NASA, the U.S. Department of Defense, the Oregon Department of Transportation, and Uber Elevate. The U.S. Department of Transportation's Volpe National Transportation Systems Center is currently the custodian responsible for technical oversight and distribution of the code.

Noise propagation from source (vehicle) to receivers accounts for geometric spreading, air absorption, and finite ground impedance. AAM can optionally account for varying ground terrain or atmospheric gradient effects. AAM includes a curved ray module that can be used to compute the effects of propagation through wind and temperature gradients over uniform terrain. Propagation effects due to foliage are also included in AAM.

The AAM software used for the noise analysis accounts for varying ground terrain through the use of user-imported United States Geological Survey (USGS) elevation data in the form of a gridfloat and hydrography files identifying areas with surface water. Explanation of the AAM software provided in the technical user's guide³ includes the following information.

The computational methodology for ground reflection and attenuation over areas where topographic features are significant is twofold. First, the effect of terrain and receiver altitude relative to vehicle location (slant range) are computed. Second, the effects of

² Department of Transportation 2020. Volpe Center. Advanced Acoustic Model (AAM), Technical Reference and User's Guide. December.

³ Ibid.

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terrain and ground cover on ground reflection and attenuation due to the multiple ray paths are computed with Rasmussen's algorithms.⁴ These algorithms account for shielding (modeled as wedges) and structures (modeled as thin screens), multiple reflections in valleys, the effects of ground impedance, turbulent decoherence, and foliage.⁵ Diffraction of sound into a shadow zone is calculated by the method of Berry and Daigle.⁶

AAM can present the time history of a noise event at a single observer position, the noise footprint on the ground at a given time, or the noise contours for many different noise metrics, while accounting for the acoustic impacts of extreme natural terrain, such as that found in the Grand Canyon⁷.

In 2021, a federally directed study⁸ analyzed the accuracy of the Noisemap suite of computer programs, which AAM is a part of, through real-time aircraft sound monitoring compared to computer software results. The study found that:

There are two main variables that contribute to accurate noise modeling: a functioning model and accurate input data. The results of this study indicate that the Department of Defense-approved noise models work as intended. Additionally, the noise levels of modeled aircraft (a key input to the model) are accurate as they were obtained by actually measuring sound generated by the aircraft in various parameters under controlled conditions. The largest variable in any aircraft noise-modeling effort is the expected operational flight parameter data. These data include runway and flight track utilization, altitudes at various points in the flight track, and engine power settings among other parameters. Although the results of this study indicate that Department of Defense-approved aircraft noise models work as intended, the Navy will continue to refine operational data collection procedures to enhance model accuracy and reliability.

The noise analysis made use of noise data collected from similar and generally larger and louder helicopters. For instance, the Sikorsky Skycrane (S-64) is very similar to the military heavy-lift Sikorsky Sea Stallion (CH-53D), which shares the same six-bladed single main rotor with a similar diameter (72 feet 0 inches vs. 72 feet 3 inches); both have two engines of roughly the same power/size and both have a maximum takeoff weight of 42,000 pounds. Given the potential that many of the Skycrane trips could be heavily loaded, the study conservatively used the latest noise data collected on the newer and larger Navy CH-53E Super Stallion for the analysis of the Skycrane, which increases the engines from two to three, main rotor from six to seven blade with a larger diameter of 79 feet, and the maximum takeoff weight to 73,000 pounds. The Navy CH-53E Super Stallion regularly carries large external loads during training operations while operating at low speeds and low elevation. The other helicopters proposed for use during construction (modified Sikorsky Army Black Hawk UH-60N and Eurocopter ASTAR) are analyzed in the noise study based upon noise measurements of similar aircrafts. The Navy variant Seahawk Sikorsky

⁴ Rasmussen, K.B. 1984. The Effect of Terrain Profile on Sound Propagation Outdoors. Danish Acoustical Institute Technical Report 111, Technical University of Denmark, Lyngby, Denmark, January.

⁵ Department of Transportation 2020. Volpe Center. Advanced Acoustic Model (AAM), Technical Reference and User's Guide. December.

⁶ Bateman, H. 1915. Some recent research on the motion of fluids. *Monthly Weather Review* 43:163, April.

Berry, A. and G.A. Daigle. 1988. Controlled experiments of the diffraction of sound by a curved surface. *Journal of the Acoustical Society of America* 83 (6):2047-2058.

⁷ Miller, N.P., G.S. Anderson, R.D. Horonjeff, C.W. Menge, J.C. Ross, and M. Newark. 2003. Aircraft Noise Model Validation Study. Harris Miller & Hanson, Inc., HMMH Report No. 295860.29, Burlington, MA, January.

⁸ Department of the Navy. 2021. Report to Congress. Real-Time Aircraft Sound Monitoring Final Report. November 30.

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SH-60B was used to represent the Black Hawk, and the slightly larger and heavier Messerschmitt-Bölkow-Blohm Bo 105 was used to represent the ASTAR.

LAND 2, Noise Study, included a conservative selection of helicopter noise surrogates representing the proposed helicopter flight operations. Based upon the AAM technical information and the extensive development and testing of the software that calibrated the model for analysis under similar conditions, the study utilized an approach that provides the best available methodology to determine potential noise levels—a methodology that has been found to be appropriate for projects bound by the National Environmental Policy Act and the California Environmental Quality Act. For these reasons, SCE does not propose to modify the LAND 2, Noise Study.

LAND 2, Noise Study

Joyce Kauffman Comment

... the problem of how to measure the noise impact on us. The LAND-2 TSP recognizes the need to characterize ambient and project-generated helicopter noise and SCE's intent to establish POIs along the flight path. We ask that at least two of those POIs be at the east and west ends of Mono St.

SCE Response

The current noise study includes a point of interest (HE-1) located at the eastern end of Palisades Drive, approximately 350 feet from one of the requested points on Mono Street, and another point (HE-2) located at the southern end of Pine Crest Avenue, approximately 200 feet from the other requested point on Mono Street. Because the June and August noise measurements, originally planned for 2023, were delayed, the noise team will be going back out in 2024 to collect additional measurements. While SCE does not propose to modify the LAND 2 Noise Study, data will be collected at these two additional points.

AQ 1 Instream Flow Study, AQ 2 Hydrology Study, AQ5 Geomorphology Study, TERR 1 Botanical Study, and LAND 1 Aesthetics Study

Robert Marks Comment

Study the possibility of the restoration of Agnew Lake, its basin, and Rush Creek from its restored outlet at Agnew Lake to Horsetail Falls.

... Given that Agnew Lake dam will be either partially or fully removed, I request that SCE's TSPs AQ-1, AQ-2, AQ-5, TERR-1, and LAND-1 be modified to study the effects of the removal of Agnew Dam on Agnew Lake and Rush Creek, and in particular to study what would be required for the restoration of Agnew Lake, its basin, and Rush Creek from Agnew Lake to Horsetail Falls to their pre-dam (i.e. pre-1916) conditions.

... Establish a key observation point (KOP) on the Rush Creek Trail that, as closely as possible, replicates the point from which the photo below was taken to facilitate comparative analysis and restoration plans.

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SCE Response

SCE appreciates the information from Mr. Marks regarding Agnew Lake and Rush Creek immediately below the dam to Horsetail Falls. This information has been provided to SCE's resource experts to utilize during development of the relicensing application for the Project. SCE's proposed study plans (specifically AQ 1, AQ 2, AQ 5, and TERR 1) are sufficient to fully understand environmental conditions and develop PM&E measures, as may be appropriate, in Agnew Lake and the stream reach below the dam. The studies will provide an understanding of the existing environmental conditions and be used to identify potential environmental effects of full and partial dam removal upstream and downstream of Agnew Dam. AQ 1 will provide information on instream habitat, including the reach below Agnew Lake, under a range of flows (including historical flows, existing flows, Proposed Project flows, and unimpaired flows). Similarly, AQ 2 will develop hydrology characterizing historical flows, existing flows, proposed Project flows, and unimpaired flows. AQ 5 will characterize erosion, stream bank stability, and sediment deposition in Rush Creek, including below Agnew Lake. FERC's Study Plan Determination requires SCE to characterize sediment deposition and test for containments in sediment in the Project reservoirs (Waugh, Gem, and Agnew Lakes). Finally, TERR 1 characterizes botanical resources including riparian resources in Rush Creek below Agnew Dam. With regard to the photo of Agnew Lake provided, a KOP from this relative location was already established during the 2023 field season as part of the LAND 1 Aesthetics Study.

SCE will develop and implement PM&E plans for areas within the FERC Project boundary affected by partial or full dam removal in the vicinity of Agnew Dam. Development of such plans will be initiated once SCE selects its proposed Project alternative and resource information from the studies becomes available. The restoration plans will be included in the Final License Application (FLA) and will be available for review and comment by all relicensing participants.

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Therefore, SCE does not propose to modify the AQ 1 Instream Flow Study, AQ 2 Hydrology Study, AQ 5 Geomorphology Study, TERR 1 Botanical Study, or LAND 1 Aesthetic Study.

Full Decommissioning Study and Environmental Justice Study

Inyo National Forest Comment

The Forest Service is concerned SCE did not engage in any efforts to collect information related to either the decommissioning analysis or environmental justice study in 2023. Further, it is unclear based upon SCE's ISR comments, whether SCE treats these two specific studies as standalone studies, or as information that can be submitted under alternative schedules. The Forest is concerned that SCE's proposal to include the decommissioning information in separate bits and pieces and within the FLA rather than as a report or within a Final Study Plan Report would not allow for stakeholders any significant opportunity to assess the methodologies used, the information gathered throughout the process, or sufficient time to review the quality of any analysis.

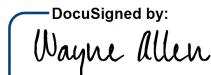
SCE Response

Both the Environmental Justice Study and the Full Decommissioning Study will be issued as separate standalone studies. The Environmental Justice Study is in progress and the report will be released in March 2024. Phase I of the Full Decommissioning Study is in progress and the Full Dam Decommissioning Report Phase 1 will be released in March 2024. Phase II of the Full Decommissioning Study will require field work in 2024 and the findings will be released in a supplemental Full Dam Decommissioning Report.

Conclusion

SCE appreciates all comments received in response to the ISR Meeting Summary and for the opportunity to address those comments in this letter. SCE looks forward to working with FERC, resource agencies, Tribes, non-governmental organizations, governmental agencies, and members of the public during the relicensing proceedings. If you have any questions regarding this filing, please contact Matthew Woodhall, SCE Relicensing Project Manager, by phone at (909) 362-1764 or via e-mail at matthew.woodhall@sce.com.

Sincerely,

DocuSigned by:

108CF18A73DA445E
Wayne P. Allen
Principal Manager

Attachments:

- Attachment A: Comments Filed on the Rush Creek Project 2023 Initial Study Report Meeting Summary



December 20, 2023

Via e-filing

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

Subject: California Department of Fish and Wildlife Comments on Southern California Edison's 2023 Initial Study Report Meeting Summary for the Relicensing of the Rush Creek Hydroelectric Project, FERC Project No. 1389

Dear Secretary Bose:

The California Department of Fish and Wildlife (CDFW) has reviewed the 2023 Initial Study Report (ISR) filed with the Federal Energy Regulatory Commission (FERC) on October 26, 2023, by Southern California Edison (SCE) for the relicensing of the Rush Creek Hydroelectric Project (Project, FERC No. 1389). Additionally, CDFW attended the virtual ISR meeting on November 9, 2023. With this letter, CDFW provides comments on the ISR and requests modifications to three Project studies.

AUTHORITIES

CDFW is the appropriate State fish and wildlife agency for resource consultation pursuant to the Federal Power Act Section 10(j) (16 U.S.C. section 803 (j)). The fish and wildlife resources of the State of California are held in trust for the people of the State by and through CDFW (Fish & G. Code § 711.7). CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (Fish & G. Code § 1802). Information generated through the appropriate studies will be utilized by CDFW in the development of recommendations.

The mission of CDFW is to manage California's diverse fish, wildlife, and plant resources, and the habitats on which they depend, for their ecological values and for their use and enjoyment by the public. It is the goal of CDFW to preserve, protect, and as needed, to restore habitat necessary to support native fish, wildlife, and plant species within the FERC-designated boundaries of the Project, as well as the areas adjacent to the Project in which resources are affected by ongoing Project operations, maintenance, and recreational activities.

BACKGROUND

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SCE's Revised Study Plan (RSP), filed with FERC on September 23, 2022, contained 15 study descriptions, six of which were modified to address stakeholder comments. The Technical Study Plan Implementation Summary included in the ISR as Attachment B provided updates to all of the studies as well as variances and outstanding elements. Two studies were not included in the ISR that had been approved in the Study Plan Determination: *The Environmental Justice Study* and *The Full Project Decommissioning Study*. Outlines for each of these studies were provided in the ISR Meeting Summary but were not discussed during the virtual ISR. CDFW does not propose any new studies for the Project.

GENERAL COMMENTS

None of the proposed Project studies have been completed to date, thus it is difficult for CDFW to determine if the studies followed/are following the FERC-approved study plans, if additional data needs to be collected for one or more specific studies, and if the conclusions presented in the ISR are accurate. CDFW intends to file additional comments on study data and technical memoranda once outstanding studies are completed, technical memoranda are finalized, and the *Updated Study Report* is filed with FERC. CDFW is requesting study modifications for three studies, which will require additional field work in 2024: *AQ-3 Water Temperature*, *AQ-6 Fish Populations in Streams and Reservoirs*, and *AQ-7 Special-Status Amphibians*. CDFW requests these study modifications pursuant to the criteria set forth in 18 CFR § 5.15(d):

Any proposal to modify an ongoing study pursuant to paragraphs (c)(1)-(4) of this section must be accompanied by a showing of good cause why the proposal should be approved, and must include, as appropriate to the facts of the case, a demonstration that: (1) Approved studies were not conducted as provided for in the study plan; or (2) The study was conducted under anomalous environmental conditions or that environmental conditions have changed in a material way.

STUDY MODIFICATION REQUESTS

AQ 3 – Water Temperature Technical Study Plan

CDFW Comment: The *Water Temperature Study Plan*, AQ 3, schedule on page C-2 of the ISR only identifies one year of studies in 2023. Based on CDFW's review of Appendix C of the *Pre-Application Document (PAD)* and ISR, we request that SCE conduct one additional year of data collection. CDFW requests this study modification pursuant to the criteria set forth in 18 CFR § 5.15(d)2; *the study was conducted under anomalous environmental conditions or that environmental conditions have changed in a material way.*

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In 2023, SCE initiated a one-year temperature monitoring study. The year 2023 in which water temperature data was collected coincided with a record-setting extremely wet year in California. Although similar extreme wet years exist on the long-term record and are not anomalous in California's hydrologic series, this type of extremely wet water year type does not adequately represent a range of hydrology for the purposes of meeting the study goal: to develop the essential additional information necessary to supplement existing information to address the potential effects of the Project on water temperature in Project reservoirs and Project-affected stream reaches.

Temperature data during an extremely wet year in the Rush Creek watershed may miss high water temperatures that could occur in dry water years when there is less flow and higher ambient air temperature. Temperature data during varying water year types is needed to appropriately determine Project effects on water temperature. Additionally, proposed protection, mitigation, and enhancement measures (PM&Es) should not be based solely on one year of water temperature data collected during extremely wet conditions. CDFW believes the extremely wet conditions experienced during the study were absolutely *anomalous environmental conditions* and warrant adding one additional year of water temperature monitoring to capture temperature trends during normal to dry rainfall-runoff conditions in this watershed.

AQ 6 – Fish Population and Barriers Technical Study Plan

CDFW Comment: The *Fish Population and Barriers Study Plan*, AQ 6, schedule on page C-3 of the ISR only identifies one year of studies in 2023. Based on CDFW's review of Appendix C of the PAD and ISR, we request that SCE conduct one additional year of surveys. CDFW requests this study modification pursuant to the criteria set forth in 18 CFR § 5.15(d)2; *the study was conducted under anomalous environmental conditions or that environmental conditions have changed in a material way.*

In 2023, SCE initiated one year of fish population and barriers studies. The year 2023 in which fish population data was collected coincided with a record-setting extremely wet year in California. Although similar extreme wet years exist on the long-term record and are not anomalous in California's hydrologic series, this type of extremely wet water year type does not adequately represent a range of hydrology for the purposes of meeting the study goal: Document fish species composition, distribution, and relative abundance in Project-affected stream reaches and Project reservoirs; and to characterize fish growth, condition factor,

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and population age structure in Project affected stream reaches and Project reservoirs.

Collecting only one year of data on fish populations in an extremely wet year would likely result in an incomplete understanding of the fish populations and would not account for inter-annual variability. Fish population surveys in streams occurred during summer 2023 baseflows, these baseflows were significantly higher than baseflows in dry years. Additionally, proposed protection, mitigation, and enhancement measures (PM&Es) should not be based solely on one year of fish survey data collected during extremely wet conditions. CDFW believes the extremely wet conditions experienced during the study were absolutely *anomalous environmental conditions* and warrant adding one additional year of fish population surveys to account for the variability of runoff conditions in this watershed.

AQ – 7 Special Status Amphibians Technical Study Plan

CDFW Comment: The *Special-Status Amphibians Study Plan*, AQ 7, schedule on page C-3 of the ISR only identifies one year of studies in 2023. Based on CDFW's review of Appendix C of the PAD and ISR, we request that SCE conduct one additional year of data collection. CDFW requests this study modification pursuant to the criteria set forth in 18 CFR § 5.15(d)2; *the study was conducted under anomalous environmental conditions or that environmental conditions have changed in a material way.*

In 2023, SCE initiated one year of special-status amphibian studies. The year 2023 in which survey data was collected coincided with a record-setting extremely wet year in California. Although similar extreme wet years exist on the long-term record and are not anomalous in California's hydrologic series, this type of extremely wet water year type does not adequately represent a range of hydrology for the purposes of meeting the study goal: Identify and map potential habitat (including primary constituent elements) for the state listed as endangered Sierra Nevada yellow-legged frog (*Rana sierrae*) and the state species of special concern Yosemite toad (*Anaxyrus canorus*), and conduct visual encounter surveys to determine the presence of Sierra Nevada yellow-legged frog and Yosemite toad.

Special-status amphibian surveys during varying water year types are needed to adequately characterize the goals proposed in this study. Additionally, proposed protection, mitigation, and enhancement measures (PM&Es) should not be based solely on one year of survey data collected during extremely wet

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conditions. CDFW believes the extremely wet conditions experienced during the study were absolutely *anomalous environmental conditions* and warrant adding one additional year of surveys to account for the variability of runoff conditions in this watershed.

CONCLUSION

CDFW appreciates the opportunity to comment on the ISR filed with FERC on October 26, 2023, for the FERC relicensing of the Lee Vining Creek Hydroelectric Project. CDFW looks forward to further discussions with the technical working group members and reviewing the draft Technical Study Reports.

If you have any question pertaining to this letter, please contact Graham Meese, Senior Environmental Scientist (Specialist), at (760) 996-7387 or Graham.Meese@wildlife.ca.gov

Sincerely,

Trisha A. Moyer

Trisha Moyer

Habitat Conservation Program Supervisor
Inland Deserts Region 6, Eastern Sierra

cc: California Department of Fish and Wildlife

Alisa Ellsworth, Environmental Program Manager
California Department of Fish and Wildlife
Alisa.Ellsworth@wildlife.ca.gov

Graham Meese, Senior Environmental Scientist (Specialist)
California Department of Fish and Wildlife
Graham.Meese@wildlife.ca.gov

Beth Lawson, Senior Hydraulic Engineer
California Department of Fish and Wildlife
Beth.Lawson@wildlife.ca.gov

United States Forest Service

Tristan Leong, Region 5 Hydroelectric Coordinator
United States Forest Service
Tristan.Leong@usda.gov

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Monique Sanchez, Region 5 Hydropower Coordinator
United States Forest Service
Monique.sanchez@usda.gov

Todd Ellsworth, Hydrologist
United States Forest Service
Todd.Ellsworth@usda.gov

State Water Resources Control Board

Garrett Long, Water Resources Control Engineer
State Water Resources Control Board
Garrett.Long@Waterboards.ca.gov

Adam Cohen, Senior Environmental Scientist (Specialist)
State Water Resources Control Board
Adam.Cohen@Waterboards.ca.gov

Mono Lake Committee

Bartshe Miller, Policy Director
Mono Lake Committee
Bartshe@monolake.org

Southern California Edison

Matthew Woodhall, Project Lead
Southern California Edison
Matthew.woodhall@sce.com

CalTrout

Alan Roesberry, Chief Administrative Officer
CalTrout
ARoesberry@caltrout.org

Mono County Planning Commission

Wendy Sugimora
Mono County Planning Commission
WSugimora@mono.ca.gov

Cardno, Inc.

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Page 7

Julie Smith, Senior Consultant
Cardno, Inc.
Julie.Smith@cardno.com



State Water Resources Control Board

December 21, 2023

Mr. Wayne Allen
Southern California Edison Company
1515 Walnut Grove Avenue
Rosemead, CA 91770
Sent via email: Wayne.Allen@sce.com

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426
Via e-filing to FERC Docket P-1389

**Rush Creek Hydroelectric Project
Federal Energy Regulatory Commission Project No. 1389
Mono County
Rush Creek, Waugh Lake, Gem Lake, and Agnew Lake**

COMMENTS ON THE INITIAL STUDY RESULTS FOR THE RUSH CREEK HYDROELECTRIC PROJECT

Dear Mr. Allen and Secretary Bose:

Southern California Edison (SCE) owns and operates the Rush Creek Hydroelectric Project (Project), also referred to as Federal Energy Regulatory Commission (FERC) Project No. 1389. On October 26, 2023, SCE filed the 2023 Initial Study Report for the Rush Creek Project (ISR) with FERC. An Initial Study Report Meeting was held on November 9, 2023, and an Initial Study Report Meeting Summary was filed on November 21, 2023. State Water Board staff have reviewed the ISR and are submitting the enclosed comments in Attachment A: *Comments on the Initial Study Report for the Rush Creek Hydroelectric Project*.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

Mr. Wayne Allen

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December 21, 2023

If you have questions regarding this letter, please contact Adam Cohen by email at Adam.Cohen@waterboards.ca.gov. Written correspondence should be directed to:

State Water Resources Control Board
Division of Water Rights
Water Quality Certification Program
Attn: Adam Cohen
P.O. Box 2000
Sacramento, CA 95812

Sincerely,

 Digitally signed by Adam
Cohen
Date: 2023.12.21 14:55:16
-08'00'
Water Boards

Adam Cohen, Ph.D.
Senior Environmental Scientist, Specialist
Water Quality Certification Program
Division of Water Rights

Attachment: Attachment A: Comments on Initial Study Report for the Rush Creek
Hydroelectric Project

Mr. Wayne Allen

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December 21, 2023

ec: Matthew Woodhall
Southern California Edison Company
Matthew.woodhall@sce.com

Martin Ostendorf
Southern California Edison Company
Martin.Ostendorf@sce.com

Tristan Leong
United States Department of Agriculture, Forest Service
tristan.leong@usda.gov

Monique Sanchez
United States Department of Agriculture, Forest Service
monique.sanchez@usda.gov

Chad Mellison
United States Fish and Wildlife Service
Chad_Mellison@FWS.gov

Beth Lawson
California Department of Fish and Wildlife
Beth.Lawson@wildlife.ca.gov

Patricia Moyer
California Department of Fish and Wildlife
Patricia.Moyer@Wildlife.ca.gov

Graham Meese
California Department of Fish and Wildlife
Graham.Meese@Wildlife.ca.gov

Wendy Sugimora
Planning Commission, Mono County
WSugimora@mono.ca.gov

Julie Smith
Cardno
Julie.Smith@cardno.com

ATTACHMENT A: COMMENTS ON INITIAL STUDY REPORT FOR RUSH CREEK HYDROELECTRIC PROJECT

State Water Resources Control Board (State Water Board) staff are providing the following comments on Southern California Edison Company’s (SCE) *2023 Initial Study Report for the Rush Creek Project*.

1. An additional year of data collection should be included for studies AQ-3 and AQ-4 because of anomalous environmental conditions that occurred during water year 2023 (October 1, 2022 through September 30, 2023). Title 18 Code of Federal Regulations, section 5.15(d) specifies that:

“Any proposal to modify an ongoing study pursuant to paragraphs (c)(1)-(4) of this section must be accompanied by a showing of good cause why the proposal should be approved, and must include, as appropriate to the facts of the case, a demonstration that:

- (1) Approved studies were not conducted as provided for in the approved study plan; or*
- (2) the study was conducted under anomalous environmental conditions or that environmental conditions have changed in a material way.”*

Water year 2023 was an anomalously wet water year throughout the Sierra Nevada, including at the Rush Creek Hydroelectric Project (Project). At the California Department of Water Resources Dana Meadows weather station (Station ID DAN), approximately 12 miles northwest of the Project, the annual maximum snow depth in 2023 was tied (with late March 1983) for the highest on record (Figure 1).

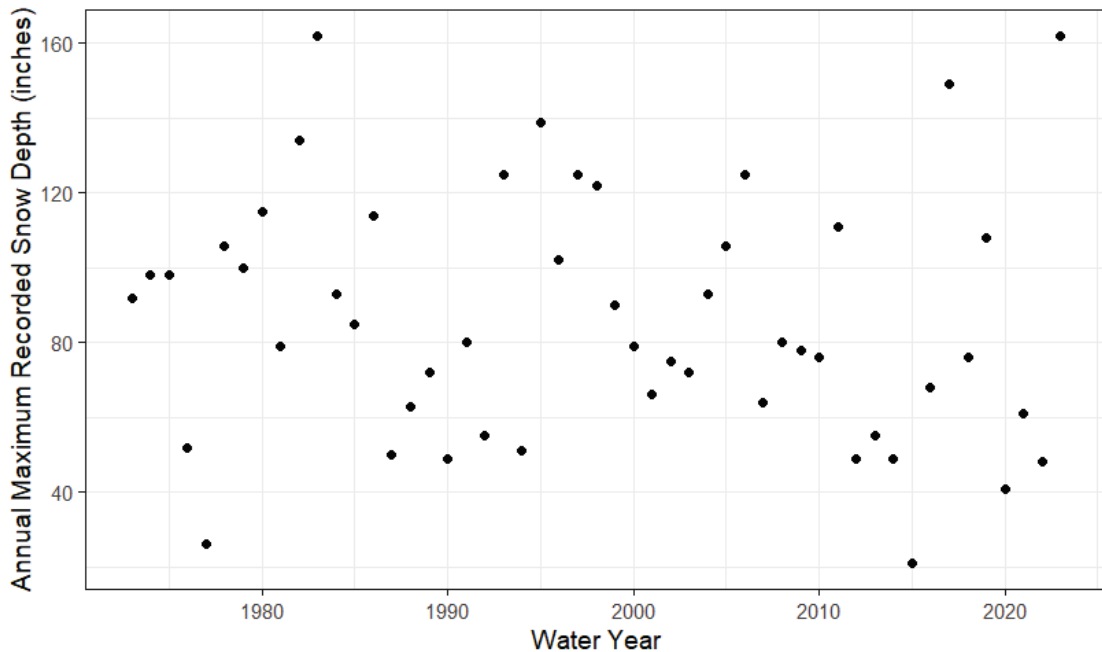


Figure 1: Annual maximum snow depth recorded at Dana Meadows snow course, 1973 - 2023. California Data Exchange Center station “DAN”, operated by the California Department of Water Resources.

The United States Geologic Survey (USGS) West Walker River near Coleville gage (USGS gage no. 10296000) in the eastern Sierra, which is largely unimpaired by diversions or dams, had the second highest mean daily flow since 1939 (Figure 2).

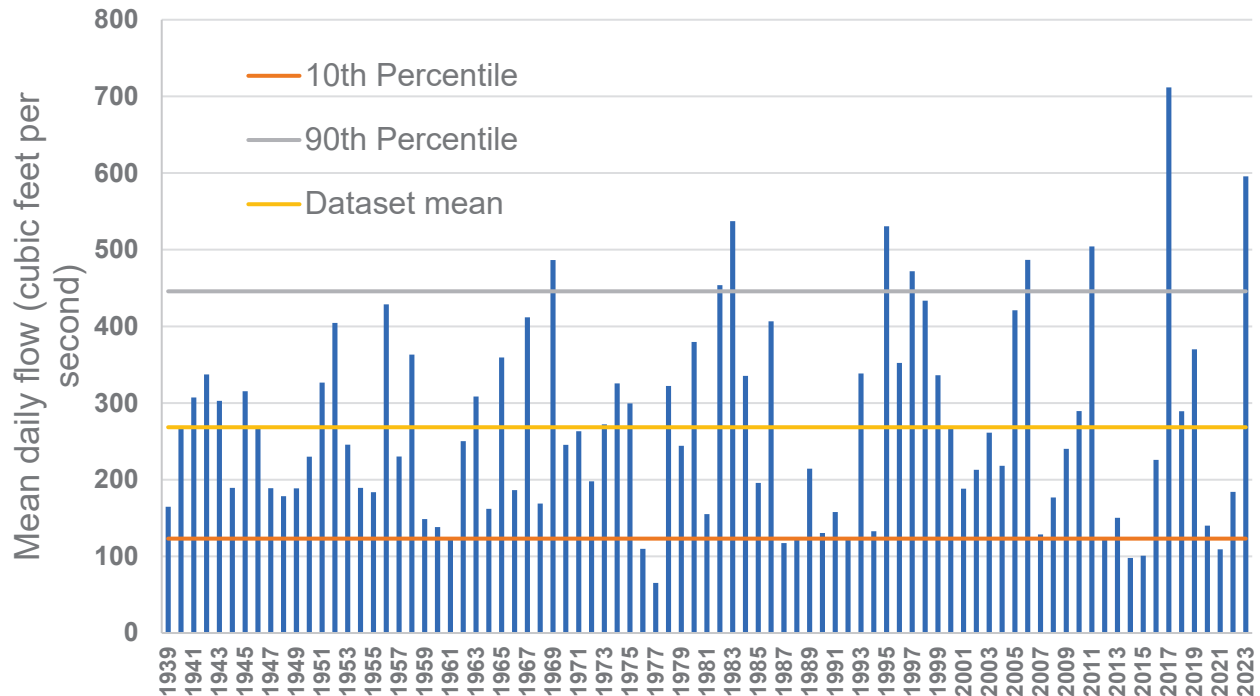


Figure 2: Mean daily flow at West Walker River near Coleville (USGS Gage 10296000), 1939 - 2023.

In the Sierra Nevada, as in other snow-dominated watersheds, accumulated winter snow and resultant snowmelt are the primary controls on several aspects of lake chemistry, including water temperature, some nutrient concentrations, and phytoplankton biomass (Sadro et al., 2018). As 2023 was an exceptionally high snow year, water quality data collected as part of AQ-3 *Water Temperature* and AQ-4 *Water Quality* are not representative of conditions that typically occur. Additionally, Project operations and maintenance have the potential to impact water temperature and quality, but analyzing potential Project effects using data from an exceptionally high snow year may diminish any potential Project effects or make them difficult to discern. The Initial Study Report (ISR) acknowledges that 2023 was an abnormally high snow year. For example, no reservoir profiles could be recorded at Gem Lake “due to the presence of snow and associated limited access”. Similarly, because winter snowpack in the western United States is declining over the long-term (Barnett et al. 2008), water temperature and chemistry data collected during drier conditions are necessary to understand potential Project effects, and to inform potential protection, mitigation, and enhancement measures throughout the duration of a multi-decade license. Pursuant to 18 Code of Federal Regulations section 5.15(c), State Water Board staff request an additional year of data collection for studies AQ-3 and AQ-4

because of the anomalous environmental conditions that occurred in water year 2023; if snowpack in spring 2024 is again above-average, the second year of collection should be delayed until a below-average year occurs.

2. In addition to the reasoning specified in Comment 1, additional data collection may be necessary to determine compliance with the Water Quality Control Plan for the Lahontan Region (Basin Plan). Several Basin Plan objectives define an exceedance as relative to “natural” or “normal” conditions (e.g., turbidity, pH), which cannot be determined from anomalous conditions. AQ-4 states that additional data collection will only be conducted if data collected in the first year of sample collection indicate an exceedance for a particular water quality parameter; however, no data have been provided to State Water Board staff to determine whether any exceedances have occurred, and given the anomalously high snow year during which the data were collected, State Water Board staff believe it would be difficult to determine whether an exceedance occurred.
3. As described in Comment 1, snowpack and associated streamflow was anomalously high in 2023. Surveys conducted for AQ-7 *Special-Status Amphibians and Aquatic Reptiles* may suffer from similar issues to AQ-3 and AQ-4, in that abnormal conditions may have prevented collection of data representative of typical conditions in the Project area. An additional year of surveys in a drier water year is needed to accurately determine presence of special-status aquatic species within Project-affected waters.
4. As the eventual lead agency for the California Environmental Quality Act process for Project relicensing, State Water Board staff look forward to obtaining additional information and data from the decommissioning study required by the Federal Energy Regulatory Committee (FERC) in the October 26, 2022 Study Plan Determination. The Phase II Study as described in the ISR Meeting Summary indicates a need for understanding potential toxicity in sediment accumulated behind Project dams; State Water Board staff are available to discuss methods and parameters to be measured, and encourage collection of sediment toxicity data simultaneously with additional water quality sampling in 2024.

REFERENCES

Barnett, T.P., Pierce, D.W., Hidalgo, H.G., Bonfils, C., Santer, B.D., Das, T., Bala, G., Wood, A.W., Nozawa, T., Mirin, A.A. and Cayan, D.R., 2008. Human-induced changes in the hydrology of the western United States. *science*, 319(5866), pp.1080-1083.

Sadro, S., Sickman, J.O., Melack, J.M. and Skeen, K., 2018. Effects of climate variability on snowmelt and implications for organic matter in a high-elevation lake. *Water Resources Research*, 54(7), pp.4563-4578.

Kendrick Taylor, June Lake, CA.

I understand the need to retire to hazardous SCE dams in Rush Creek. However the residents and business of June Lake should not bear the burden of the excessive noise that is inherit in SCE's decommission plans. My neighbors and I have experienced the noise from heavy lift helicopters with a sling load during previous SCE operations. It forced us to leave for days at time. We could not have house guests. It made it difficult for one neighbor to sell their property.

When SCE was working on the dams during the summer of 2016 and 2017 there were up to 20 helicopter flights a day that passed about 1,000 feet from my house. My house shook and it was impossible to have a conversation inside. The flights with a sling load heading to the June Lake heliport where particularly bad because they had to slowly maneuver two hundred feet above the ground and almost hover to maintain control of the external load. These were not a few brief bursts of noise. The loud, prolonged and frequent noise prevented us from using our homes.

Even after the proposed decommissioning takes place, there will still be ongoing flights to support the required restoration work on the land that was covered by the reservoirs and maintain the Gem Lake dam. The proposed helicopter activity is the start of a new and long term industrial operation adjacent to our homes. Considering the intensity and duration of use this is not a temporary helicopter landing spot as portrayed by SCE. The operations at June Mountain ski area meet the FAA definition of a heliport and will require FAA approval. It should not be treated as a temporary inconvenience.

The current SCE proposal calls for up to 8,000 flights, with a heavy lift helicopter and external load, over seven summers. This is seven summers of ~60 over flights a day, from 7 am to 7 pm, even on Saturdays. This is much more than a temporary annoyance as it will deprive us of using our property for seven or more summers.

An issue is how to classify the decommissioning operation. Mono County has different noise standards for different activities with allowable levels ranging from 55 dBA to 75 dBA. (Mono County code Table 10.16.060 A,B,C). If the operation only lasted ten days it would be considered a temporary construction activity and the louder noise standards would apply. Since it will span at least four years, and adding in restoration work likely more than seven, the operations should be held to a more restrictive noise standard for a long term industrial operation adjacent to a neighborhood. Mono county currently charges \$250 per day for a violation of the county noise ordinance. This is the cost of a couple of minutes of flight time for a skycrane and hence there is no enforcement mechanism. The issue of effective enforcement of noise standards needs to be addressed.

I am skeptical of the permitting noise studies that will use a model to calculate the noise. As a geophysicist who has spent 35 years studying wave propagation I am extremely doubtfully that models can accurately calculate the noise. The calculation will be complicated due to the use of a heavy lift helicopter carrying the maximum external load, doing low speed and low elevation flight maneuvers, in a

tight canyon with rock walls that extend above the entire flight path. The only way to calibrate such a model and reliably determine the noise levels will be to use measurements made with the same class of helicopter, with the same external load, in the same canyon, making the same flight maneuvers, under similar atmospheric conditions. This will cost more than using the model alone, but SCE should be required to do it because that is the only way to get accurate information for the permitting process.

There needs to be clearly establish thresholds for what noise is allowable and these thresholds should be established in conjunction with the community. There needs to be an independent effort to continuously monitor the noise during all phases of the operation. There needs to be a well-defined set of meaningful penalties for violations of the noise thresholds, which start with significant fines that quickly escalate, leading to a stop work order. A local entity, such as Mono County, should be funded by SCE to cover the monitoring and enforcement costs.

The permitting process needs to account for the economic effects on businesses and residents associated with the reduced ability to use or sell their property for a period that may extend more than seven years. SCE should be required to compensate local business and property owners for the loss that is caused by SCE operations.

SCE created this problem, so I will leave it to SCE to determine the best way to resolve it. Obvious approaches include the following. First, leave material on site after proper restoration operations. Two, using an upgraded tram to move material down. After all, a hundred years ago the materials went up by tram, so an upgraded tram can bring most of the material down. Third, use a flight path that minimizes the noise to business and residents. Fourth, restrict the hours of operations to between 8 am and 5 pm, Monday through Friday. Five, rigorously defining noise limits and require SCE funding of a local authority to monitor and enforce those limits in an effective manner.

These approaches will result in higher costs to SCE. The shareholders of SCE purchased the liability of the decrepit infrastructure and should bear the costs, not the residents and business of June Lake. SCE spends a lot of money to station emergency and fire crews at the June Mountain heliport during flight operations for the purposes of keeping their employees safe. They should have similar concerns regarding my neighborhood.

Joyce P Kaufman, June Lake, CA.
 SCE Rush Creek Project (FERC Project No. 1389-059)
 2023 Initial Study Report Meeting Summary

Comment on Land-2 NOISE (p. 8 of the Meeting Summary)
 5058 characters

We live in Peterson Tract about a mile from the Rush Creek power plant, can see Horsetail Falls from our deck, and more often than not can hear the hydro plant rotors at best humming and at worst roaring as loud as the falls. We have also lived through several of SCE's Agnew Lake and Gem Lake dam repair operations, and have been significantly impacted by the noise helicopters have made flying to and from the work sites. The recent work on Agnew Lake dam went on for two summers (2017-18), six days a week from 7 am- 7 pm, rendering enjoyment of our home difficult. The cumulative effect of the helicopter noise had a definite effect on our health and wellbeing.

So, we are deeply worried about the impact the proposed relicensing actions of partially or fully removing Agnew Lake and Rush Creek Meadows dams, and retrofitting Gem dam, will have on our quality of life because of the noise generated by helicopters. We want that threat of noise eliminated or drastically reduced.

According to SCE's studies (Pre-Application Documents 3.0 Proposed Project Alternatives), the following table shows the number of round-trip helicopter flights (double those numbers to get the number of flights) projected to impact our neighborhood:

Construction Activities Associated with the SCE Rush Creek Hydro Relicensing Project

Helicopter Trips (RT)

Rush Meadows Dam Trips/day#	Seasons*	Total trips^	Trips/season	Trips/month	
Full removal	2	1426	713	143	6
Partial removal	1	150	150	30	7
Agnew Dam					
Full removal	2	988	494	99	5
Partial removal	1	110	110	22	1
Gem Dam Retrofit	3	1752	584	117	5
Subtotals					
Full removal		2414	1207	242	11
Partial removal		260	260	52	8
Gem	1752	584	117	5	

Total	Full +Gem	4166	1791	359	16
	Partial +Gem	2012	844	169	13

*One season is defined as June 1 through October 31.

^Trips are defined as round-trip, and include construction operations only; trips associated with restoration are not included.

#A day is defined as a workday, six days per week (Mon-Sat), 7:00-am-5:30 pm, and calculated at 24 work days per month

Figures rounded up to next whole number

Source: SCE Pre-Application Documents 3.0 Proposed Project Alternatives

If Agnew Lake and Rush Creek Meadows dams are fully removed, and the debris is taken out, then along with the retrofitting of Gem dam, there could be seven "seasons" totaling 8000 helicopter flights going over us, or 30 per day! That would be like living in a war zone for seven years.

We want that impact ameliorated. Partial removal of the dams is one way to do that, and so too is leaving the debris up there. Moreover, when the Inyo National Forest (INF) approved helicopter use for SCE's Gem Lake valve replacement project in 2021, it routed the helicopter flights on Flight Path B from the June Mountain Ski Area Staging Area to the Hat Ridge landing zone, taking them further away from Peterson tract homes and behind Carson Peak. Flight Path B reduced—but did not eliminate—the helicopter noise buffeting our neighborhood. A similar flight path could be required for work removing on Rush Meadows dam and doing the work retrofitting Gem Lake Dam.

However, the Draft Land-2 Technical Study Plan says under the heading "Extent of Study Area" that among the areas to be studied is "Along the helicopter flight path from June Mountain Ski Area Parking Lot to top of ridge near Agnew Dam." If that is the only helicopter flight path being considered, then we will be subject to up to 8000 flights impacting us. FERC (or the Inyo National Forest) should require as a condition of relicensing that helicopters supporting work being done on the Rush Meadows and Gem Lake dam areas use the Flight Path B mandated in 2021. If that costs SCE more than so be it.

The biggest remaining impact on us thus would be flights to and from the Agnew Lake dam site. Limiting that work to partial dam removal and leaving the debris there would minimize the number of helicopter flights buzzing our neighborhood.

Regardless of how many flights there are, there is also the problem of how to measure the noise impact on us. The LAND-2 TSP recognizes the need to characterize ambient and project-generated helicopter noise and SCE's intent to establish POIs along the flight path. We ask that at least two of those POIs be at the east and west ends of Mono St. Another problem with the designed noise study is that actual dBA readings will be taken for the ambient noise levels, but computer modeling will be used for the rest. That seems to us to be a serious methodological flaw. Since we live in a canyon, dBA readings of actual sky cranes flying projected flight

paths should be required.

To give SCE a financial incentive to minimize the number of helicopter flights and their impact on us, FERC could require as a condition of relicensing that they pay a fee to each developed residential or commercial property affected by the noise.

Thank you for your consideration.

Joyce Kaufman
660 Piute Dr.
June Lake, CA. 93529
jpkaufman70@gmail.com

Bob Marks
660 Piute Dr.
June Lake, CA. 93529
rmarks1949@icloud.com

Filed Electronically

December 19, 2023

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**Subject: Docket P-1389-059
Comments on Initial Study Report Meeting Summary of November 21, 2023**

Dear Secretary Bose,

As a registered individual stakeholder in the Rush Creek Project, I attended and spoke at SCE's Initial Study Report Meeting for the Rush Creek Hydroelectric Project on November 9, 2023. At that meeting, I commented that I thought that the Technical Study Plans should be modified to include the study of the restoration of Agnew Lake and Rush Creek below its Agnew Lake outlet to Horsetail Falls, and in the interests of time then gave only a brief rationale and glimpse of newly available data to support such revisions. During that meeting, FERC Rush Creek Project Coordinator Quinn Emmering posted links in the chat to three FERC documents regarding the process for requesting new or modified technical study plans. Those links were also put into SCE's Initial Study Report Meeting Summary of November 21, 2023.

I have read those FERC documents and guidelines, and so am now filing to request modifications to SCE Technical Study Plans AQ-1 Instream Flow, AQ-2 Hydrology, AQ-5 Geomorphology, TERR-1 Botanical Resources, and LAND-1 Aesthetics. Attached in support of my filing is a letter from Friends of the Inyo (Appendix 2).

Request for modification of approved study: The Nexus between project operations and effects on the resource to be studied

There is little doubt that the partial or full removal of Agnew Dam will be one of the SCE project's major operations. That being the case, there is also little doubt that that operation will have direct effects on Agnew Lake and Rush Creek from the outlet of Agnew Lake to what is now called Horsetail Falls. Unfortunately, none of the Technical Study Plans include the effects of project operations on Agnew Lake and that section of Rush Creek.

Given that Agnew Lake dam will be either partially or fully removed, I request that SCE's TSPs AQ-1, AQ-2, AQ-5, TERR-1, and LAND-1 be modified to study the effects of the removal of Agnew Dam on Agnew Lake and Rush Creek, and in particular to study what would be required for the restoration of Agnew Lake, its basin, and Rush Creek from Agnew Lake to Horsetail Falls to their pre-dam (i.e. pre-1916) conditions. There is a strong public interest in seeing and enjoying Agnew Lake and Rush Creek restored to what they were before SCE's predecessors built Agnew Lake dam and the Rush Creek hydroelectric plant. There are also sound environmental reasons for restoring the lake, the basin, and the creek, as well as a strong likelihood that SCE will be required to do that restoration as a condition of relicensing.

Showing of good cause, and why was this request not made earlier?

The reason this request should be taken seriously now is that a significant amount of new data has become available since the filing of SCE's Pre-Application Document, the formulation of Scoping Documents 1 and 2 in 2022, and the development of the Proposed Technical Studies. This new data makes this request both reasonable and timely.

I am a historian and have been working on an environmental history of the Mono Basin. The goal of my research is a book, and since 2019 I have published four articles and made numerous conference presentations exploring aspects of the environmental history of the Mono Basin (Marks 2020, Marks 2021, Marks 2022, Marks 2023a, Marks 2023b). Only in the past year, and after the beginning of the SCE Rush Creek hydro project relicensing, have I begun researching the history of hydroelectric power in the Mono Basin (Marks 2023c). It is through that recent research that I have found new and relevant information in sources cited in this request for modification that were not known at the time the TSPs were formulated.

Specific Modifications Requested

In existing SCE relicensing documents, Agnew Lake and Rush Creek are either after-thoughts or assumed knowns. In its Pre-Application Document (4.12.3.3 "Agnew Dam Area"), SCE writes that "[a]s originally designed, Agnew Dam impounded Agnew Lake, a 40-acre reservoir... Since 2013, under FERC-mandated storage restrictions, only a small natural lake (23 acres; 569 ac-ft) that pre-dates the Project, exists upstream of the dam." However, there is nothing "natural" about the remnant lake that now exists, and as will be shown below, there is documentary evidence from which the actual size of Agnew Lake in 1906 can be calculated. There is also evidence documenting pre-1916 Rush Creek stream flows from Agnew Lake, and what Agnew Lake, its basin, and Rush Creek looked like before Agnew Dam was built.

Possibly as a result of assuming that what now exists above Agnew Dam is “natural,” none of the Aquatics /Water Resources Technical Study Plans include Agnew Lake or Rush Creek below its outlet and above Horsetail Falls. Neither AQ-1 Instream Flow, AQ-2 Hydrology nor AQ-5 Geomorphology currently include a discussion of Agnew Lake; attention in those TSPs is to upstream reaches of Rush Creek and to Rush Creek channel restoration after Rush Meadows dam is removed and the Waugh Lake bed exposed, or to the section of Rush Creek below the power station near SR 158. Certainly, those studies are worthy and restoration of the upper section of Rush Creek is warranted. But so too is the section of Rush Creek below its Agnew Lake outlet.

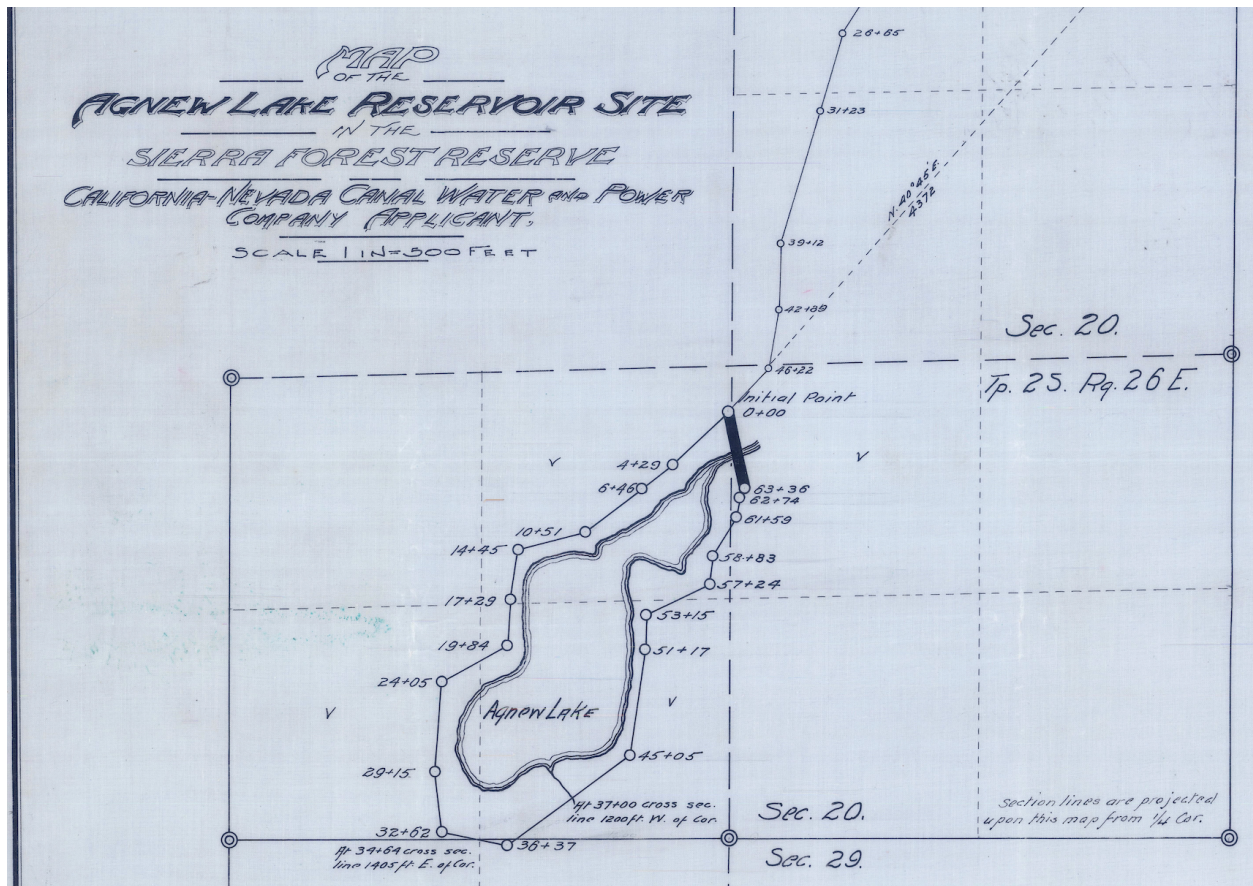
Specific attention in the FERC-approved AQ-1 Study Plan to the restoration of upper Rush Creek to its pre-Rush Meadows Dam condition (i.e. prior to 1918-1924) appears to contradict the statement made by SCE’s outside council that FERC regulations do not include requirements related to pre-project conditions (p. 6 of the ISR Meeting Summary). That may or may not be factual, but in either that case or the one I am proposing, it is irrelevant. The project actually began on May 6, 1903 when J. S. Cain posted a “Notice of Water and Reservoir Location” (which was amended on June 23, 1903) locating and claiming the water of Rush Creek running into Agnew Lake for the purpose “of generation, manufacturing, and distributing electricity or electrical power...we intend to divert the said water by means of a dam forty (40) feet high...constructed across the said Rush Creek” (Cain 1903a and 1903b). These plans to build a dam and reservoir on Agnew Lake were followed immediately by work building trails, then in 1906 by a survey of Agnew Lake and the proposed reservoir (see below and Appendix 1), and subsequently in 1907-1914 by applications to the Forest Service and the Interior Department for the easements necessary to build the dam and put in flowlines to the powerhouse. Thus, the project actually began in 1903, and to request studying the restoration of Agnew Lake, its basin, and Rush Creek below its Agnew Lake outlet to their pre-1916 conditions still locates such a restoration within the time period of the project.

My requested modifications of the above-named TSPs to include Agnew Lake and Rush Creek might begin with determining the lake level and acreage of Agnew Lake prior to the completion of Agnew Dam in 1916, and of Rush Creek stream flows into and from Agnew Lake. Several documentary, photographic, and cartographic sources make those determinations possible.

Lee (1916) documents the Agnew Lake pre-dam surface level of 8471 feet (Plate No. 9 “Area and Capacity Curves Agnew Lake Reservoir”). HAER CA-166-F locates the level of Agnew Lake Reservoir at 8499’ and height of the dam at 30,’ putting the original lake level at about 8470’. From these documents and contemporary measurements it should be possible to determine the pre-1916 surface level of Agnew Lake.

A 1906 survey of the Agnew Lake Reservoir Site, submitted on August 14, 1914 to the U.S. Department of Interior Land Office in Independence CA for a permit to build the Agnew Lake dam and reservoir (which was approved on May 21, 1915), plotted a contour line 30’ feet in elevation above the ordinary water level of Agnew Lake (see below and APPENDIX 1). The survey plots the contour line of the projected reservoir as well as that of Agnew Lake itself. Although the lake level is not noted on the survey map, it should be possible to use the full-scale (1” to 500’) map to determine the acreage of the natural lake. The Agnew Lake Reservoir Map is

accompanied by Field Notes (Hanna 1914) which give the height of the dam as 40 feet; the flood line above lake level as 30 feet; the area of the reservoir as 43.6 acres; the capacity of the reservoir as 600 acre feet; and the date of the survey as September 29 and 30, 1906. I obtained this map and field notes from the National Archives, and can make both available to the Technical Study Groups.



Survey of Agnew Lake, September 29-30, 1906
 showing Agnew Lake and the proposed reservoir site.
 From the full map in APPENDIX 1

Once the Agnew Lake level and acreage are determined, it should be possible to model the hydrological and instream flows of Rush Creek from Gem Lake down into a restored Agnew Lake and to model annual flow fluctuations in and out of Agnew Lake and into Horsetail Falls. For that study, Lee (1916, Table 11) provides monthly discharge data for Rush Creek below Agnew Lake for the years 1900-1901 to 1913-14. These historical data are reported in terms of second feet per square mile and can be converted to cubic feet per second (cfs). These data cover a part of Rush Creek that appears to correlate to one of the stream segments already being studied in the AQ-2 Hydrology TSP (Rush Creek Below Agnew Dam RM 18.61, in Table AQ 2-1 “Hydrology Analysis Locations in Project -Affected Stream Reaches”).

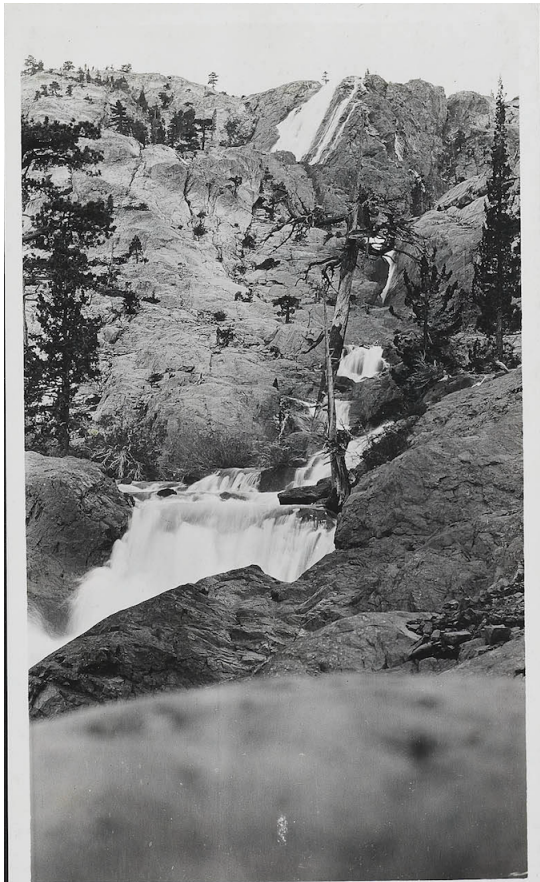
The pre-dam Agnew Lake level is important to determine for restoring the Rush Creek outlet from Agnew Lake and for regulating restored Agnew Lake levels by estimating the natural Agnew Lake level fluctuations. But equally important is studying the flows into and out of a restored Agnew Lake. Limnological and ecological studies could address the question of how Agnew Lake will change when penstock bypasses are eliminated and greater flows from Gem Lake reservoir are directed to maintain a restored Agnew Lake. How long does the water stay in Agnew Lake? How are water temperature, algae, invertebrates, and fish etc. affected by those changes?

Finally, recently identified photographic resources from 1910-15 make visualizing and rendering the pre-dam Agnew Lake, its basin, and its Rush Creek outlet possible. The 1910 photo below shows that the Agnew Lake basin was more forested than it now is, corroborating evidence cited in HAER (p. 11) that “trees standing on the reservoir site were cut down, sawed into lumber...and erected on the ground by contractors, and used for the forms” for the concrete dam. These newly identified photos also could provide evidence for the TERR-1 study group to analyze and develop vegetation restoration plans. In this photo, the Rush Creek outlet at the far end can be seen flowing through rocks and a forested stand on the way to the site where Agnew Dam was ultimately built. LAND-1 Aesthetics should establish a KOP on the Rush Creek Trail that as closely as possibly replicates the point from which this photo was taken to facilitate comparative analysis and restoration plans.



Agnew Lake, September 7th, 1910

Significantly, these photographic archives also contain the only pre-dam photos (ca. 1915) of what were then called Rush Creek Falls that I have been able to find (see below). LAND-1 Aesthetics and AQ-2 Hydrology could take note of these photos to identify Horsetail Falls courses and the location of potential or historic plunge pools (AQ-1).



118. View of upper part of Rush Creek Falls, showing part of the 1250 ft. drop from Agnew Lake.



117. Part of the Rush Creek Falls.

MORE

Moreover, there is no discussion in LAND-1 whether, and if so how, water flows from Rush Creek into Horsetail Falls will or should be regulated. The list of Agnew Dam Area facilities (Pre-Application Document, Proposed Project Alternatives, pages 3-33 and 3-34) lists the flowline from Agnew Dam to Agnew Junction as being removed, but the Agnew Junction valve house and standpipe being retained. Why? The Google Earth image below shows those buildings and structures, including what appears to be a weir or some other structure regulating Rush Creek flows that is not on the PAD list of Agnew Dam Area facilities. The requested study of the restoration of Agnew Lake and Rush Creek flowing out of Agnew should also consider using restored natural flows to regulate the water flowing into and over Horsetail Falls, thus removing the structure in the photo below from Rush Creek.



Agnew Junction Area (Google Earth image 9/13/2019)

MORE

Lee's stream flow data and the August 21, 1910 photograph below of Rush Creek from its Agnew Lake outlet to the proposed dam site can be combined to make interesting and probably important conclusions. This photo shows Rush Creek flowing through a forested channel possibly 10-20 feet wide and several hundred feet long (see also the Sept 7th 1910 photo of Agnew Lake above), and using Lee's stream flow data for August 1910 we know it was then discharging about 6 cfs (totaling 460 ac ft that month), down from an April 1910 high of 125 cfs and 7,460 ac ft (Lee 1916, Table 11). Among the conclusions that might be drawn from this photograph is that Rush Creek flowed some distance from its Agnew Lake outlet to where Agnew Lake dam was built. This is the section of Rush Creek that needs to be restored.



Take a closer look at this photograph. Imagine that you are just below the Rush Creek outlet at Agnew Lake looking downstream. Maybe you are standing in the creek with hip boots on; maybe fishing, maybe taking pictures. Maybe that's your dog in the stream looking back at you (yes, there is a dog center-right in the photograph). You feel some rocks and cobbles underfoot, but the water is not flowing so fast or so high that you can't get a good stance. You feel the pressure of the water on your legs, and you hear the stream gurgling as it passes around your legs and over the rocks ahead. Further down the stream cuts under a bank and the surface is calmer; maybe there's a brown trout lurking in a deeper hole. It's a hot August day, but the water is cool and you are shaded by the Jeffries and lodgepole pines on the banks. You look further down the stream to where it disappears, and you hear the falls below. You look up at the bright blue sky and take a deep breath. Time stops. The moment is perfect.

That vision could become reality again if the restoration of Agnew Lake, its basin, and Rush Creek below Agnew Lake are studied and made a condition of relicensing.

Lee (1916) also provides Rush Creek stream flow data above Gem Lake (Table 10) for the same 1900-1914 period, so the amount of water flowing through Rush Meadows and into Gem Lake prior to the construction of Gem Lake Dam in 1916 and of Rush Meadows Dam in 1918 and 1924-25 is known. The HAER report also quotes the architect/engineer who designed Agnew and Gem lake dams as saying that the sand for mixing the concrete came from the shores of Gem Lake, indicating that clean sediment had settled out in Gem Lake. Did Agnew Lake also serve as a settling pond for suspended sediment? What is the likely sediment budget of a restored Agnew Lake? If so, how long would it take to fill with sediment? Can sediment core samples from the Agnew Lake bed be taken and analyzed? Data exist to reconstruct the pre-dam hydrology of the Rush Creek/Gem Lake/Agnew Lake system prior to the construction of the Rush Creek hydroelectric system to answer some of these questions, but field work needs to be done. That information is important to be able to determine the flows of water that would be needed from Gem Lake reservoir into Agnew Lake to restore and maintain it and its Rush Creek outlet after Rush Meadows and Agnew Lake dams are decommissioned and either partially or fully removed. (On a related matter, the aggregate for the concrete for Agnew and Gem dams came from a large rock crushing operation on the west end of Agnew Lake; the only material for the concrete poured to make the dams and brought to the site was Portland cement. About two-thirds of the volume of the concrete in the dams thus was locally sourced and not imported.)

To conclude: Data and documentation are available to reconstruct the pre-1916 level and acreage of Agnew Lake, and of Rush Creek flows into and out of Gem Lake, and to determine the hydrological and other environmental conditions necessary for the restoration and maintenance of Agnew Lake, its basin, and Rush Creek to pre-dam conditions. I do not have the expertise to conduct those studies, but SCE's Technical Working Groups do. I ask that FERC require them to do so.

Thank you for your consideration.

Sincerely,



Bob Marks
660 Piute Dr.
June Lake, CA 93529
rmarks1949@icloud.com

REFERENCES

Documents

- Cain, J. S. (1903a). "Notice of Appropriation of Water and Reservoir Location," May 6, 1903. Mono County Recorder (Bridgeport, CA), Water Appropriations Book C, pp. 328-329.
- Cain, J. S. (1903b). "Notice of Appropriation of Water," June 23, 1903. Mono County Recorder (Bridgeport, CA), Water Appropriations Book C, pp. 354-56.
- HAER (Historic American Engineering Record) No. CA-166-F, "Rush Creek Hydroelectric System, Agnew Lake Dam."
- Hanna, Thos. R. (1914). "Field Notes of Agnew Lake Reservoir Site in the Sierra Forest Reserve." California-Nevada Canal, Water and Power Company, Applicant (San Francisco, Cal.).
- Lee, Chas. H. (1916). "Report on the Possible Utilization of Water Supply derived from Rush and Leevining Creeks for the Development of Hydro-Electric Power at Plants Located on Rush Creek, Leevining, and Owens River Gorge." Proposed by City of Los Angeles, Department of Public Service, Bureau of Power and Light. Charles H. Lee Papers and Photographs, UC Riverside Water Resources Collections and Archives, available online at <https://calisphere.org/item/ark:/86086/n2028r17/>

Maps

- "Map of the Agnew Lake Reservoir Site in the Sierra National Forest" (1914) submitted by the California-Nevada Canal Water and Power Company, Applicant, to the Department of the Interior.
- Mt. Lyell quadrangle, USGS 1901.

Photographs

- Rush Creek "Dam Site Agnew Lake, Aug 21st 1910," California Electric Power Corp.-Southern Sierras Power Company, Huntington Digital Library.
https://hdl.huntington.org/digital/collection/p16003coll2/id/75428_P048
- "Lake Agnew taken from Lower Gem Looking North, Sept 7th, 1910." California Electric Power Corp.-Southern Sierras Power Company, Huntington Digital Library.
https://hdl.huntington.org/digital/collection/p16003coll2/id/75428_P048
- "115. Agnew Lake, looking down stream from Gem Lake dam site," and 116. "Looking down stream toward Agnew Lake from Gem Lake Dam, showing course of pressure line," California Electric Power Corporation, Huntington Digital Library
<https://hdl.huntington.org/digital/collection/p16003coll2/id/59496/rec/1>, P006.

“117. Part of Rush Creek Falls,” and “118. View of upper part of Rush Creek Falls, showing part of the 1250 ft. drop from Agnew Lake.” California Electric Power Corporation, Huntington Digital Library
<https://hdl.huntington.org/digital/collection/p16003coll2/id/59496/rec/1>, P007.

Publications and Presentations

Marks, Robert B (2021). “Sheep Replace Pronghorn: An Environmental History of the Mono Basin to 1900.” *Eastern Sierra History Journal*, Vol. 2, Article 3.

Marks, Robert B. (2022), “Mr. Clover Goes to Washington: Land, Water, and Fraud in the Mono Basin, 1910-1945,” *Eastern Sierra History Journal*, Vol. 3, Article 1.

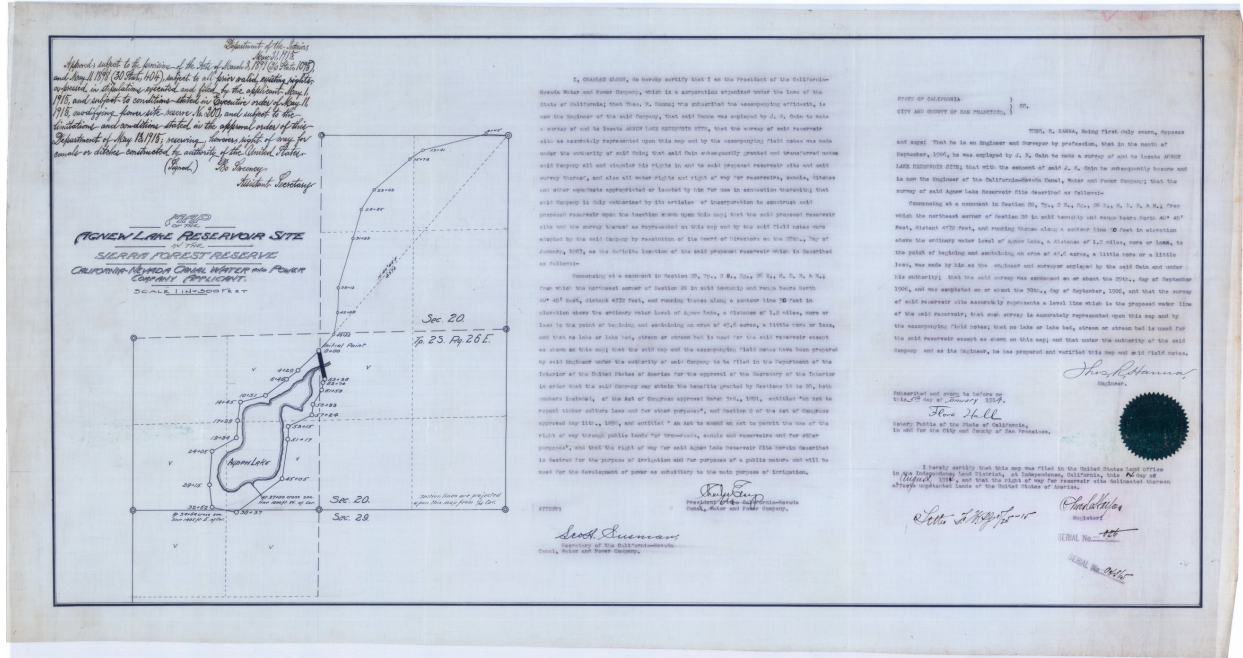
Marks, Robert B. (2023a) “Dispossessed Again: Paiute Land Allotments in the Mono Basin, 1907-1929,” *Eastern Sierra History Journal*, Vol. 4, Article 1.

Marks, Robert B. (2023b). “Before Mulholland: Land, Water, and Power in the Mono Basin, 1872-1923,” *Southern California Quarterly*, Vol. 105, No. 2 (Summer 2023): 105-141.

Marks, Robert B. (2023c). “I Do Hereby Locate and Claim All the Water: A History of Hydroelectric Power in the Mono Basin to 1925.” Eastern Sierra History Conference, Bishop CA, October 28, 2023.

APPENDIX 1

Map of Agnew Lake Reservoir Site in the Sierra National Forest Scale 1"=500'; Original map size within the black border 17"x34"



MORE

MORE

MORE

APPENDIX 2



12/19/2023

Friends of the Inyo
621 West Line St, Suite 201
Bishop, CA 93514

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Subject: Docket P-1389-059
Comment on Initial Study Report Meeting Summary of November 21, 2023.
Filed electronically in the appendices of the comments submitted by Robert Marks.

Dear Secretary Bose,

Friends of the Inyo is a grassroots non-profit organization of over 1,500 active members, based in Bishop, California. Our mission is to protect and care for the land and water of the Eastern Sierra. Since our founding in 1986, we have actively engaged with land and water management agencies in the Eastern Sierra, including the United States Forest Service (USFS) and the Bureau of Land Management (BLM), to protect and improve Eastern Sierra ecosystems.

As a registered organizational stakeholder in the Rush Creek Project (Project), Friends of the Inyo has been in consistent attendance and conversation with Southern California Edison (SCE), including at the Initial Study Report Meeting for the Rush Creek Hydroelectric Project on November 9, 2023. At that meeting we were able to hear Robert Marks' suggestion that the Technical Study Plans be modified to include the study of the restoration of Agnew Lake and Rush Creek below its Agnew Lake outlet. As a local environmental conservation organization, we have a vested interest in seeing responsible development and, after time has run its course, as it has at the Rush Creek site, responsible restoration. We have already expressed a strong interest in the restoration of lands in the Project that are within the Wilderness boundary in order to restore the area's health, habitat quality, and general Wilderness character.

We believe that, given the current undertakings for relicensing, it would be a benefit for the environment, for the community, and for the team at SCE to at least study the possibility of the restoration of Agnew Lake, its basin, and Rush Creek from its restored outlet at Agnew Lake to Horsetail Falls. Both partial and full removal of Agnew Dam will have direct effects on Agnew Lake and Rush Creek. Both the effects of this dam removal and restoration to pre-dam conditions should be studied given emerging information on the area's pre-1916 conditions from local historians like Robert Marks.

Friends of the Inyo appreciates the opportunity to be engaged in the study process for the relicensing of Southern California Edison's project at Rush Creek and looks forward to the information that will emerge as the Technical Study Plans are implemented.

Thank you,

A handwritten signature in black ink, appearing to read 'Allison Weber', written in a cursive style.

Allison Weber

Water and Forest Campaigns Manager

allison@friendsoftheinyo.org



*June Lake Regional
Planning Advisory
Committee*

December 20, 2023

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D. C. 20426
Via Electronic Filing

Re: Comments of American Rivers, the California Sportfishing Protection Alliance, and June Lake Regional Planning Advisory Committee on the Initial Study Report and Initial Study Report meeting summary for the relicensing of the Rush Creek Hydroelectric Project, P-1389-059

Dear Ms. Bose:

American Rivers (AR), the California Sportfishing Protection Alliance (CSPA), and June Lake Regional Planning Advisory Committee respectfully submit these comments on the Initial Study Report (ISR) and the ISR meeting summary for the relicensing of the Rush Creek Hydroelectric Project, P-1389-059, located in Mono County, California and owned and operated by Southern California Edison (SCE).¹

Decommissioning Study and Environmental Justice Study

We were disappointed that SCE had not completed a full decommissioning study or an environmental justice study, as was required in the Commission's Study Plan Determination.² This unilateral decision by SCE may result in delays to the project timeline. We appreciate the clear statement by FERC project coordinator Mr. Quinn Emmering during the ISR meeting as to the necessity of the studies being completed. The meeting summary outlines appropriate study plans for these two missing studies,³ and we look forward to seeing the results when they are ready.

¹ See Scoping Document 1, Rush Creek Hydroelectric Project, P-1389, California (Feb. 14, 2022), eLibrary no. [20220214-3040](#).

² See Study Plan Determination, Rush Creek Hydroelectric Project, P-1389, California (Oct. 26, 2022), pp. B16-B18, eLibrary no. [20221026-3011](#).

³ See 2023 Initial Study Report Meeting Summary, Rush Creek Hydroelectric Project, P-1389, California (Nov. 21, 2023), eLibrary no. [20231121-5167](#).

Study to evaluate decommissioning of some or all project works will clearly benefit from information regarding pre-project conditions. The comment by SCE counsel Ms. Elizabeth McCormick that FERC regulations do not include requirements related to pre-project conditions⁴ is inconsistent with the larger study plan. We were pleased to see SCE consultant Mr. Craig Addley welcome information regarding pre-project conditions. This information may be relevant to the evaluation of appropriate restoration efforts.

Hydrology Study

Similarly, development of the unimpaired hydrology is necessary to evaluate ongoing project effects. An unimpaired hydrology dataset is also necessary to develop a technically competent operations model. We are pleased to see in the Initial Study Report, Attachment B, that the development of the unimpaired hydrology is the initial step in the Hydrology Study (AQ 2), and we look forward to review of progress early in 2024.


Special Status Amphibian and Reptile Study


The ISR meeting summary discusses a question regarding the Special Status Amphibian and Reptile Study (AQ 7), stating that the presence of fish in project-affected reaches of Rush Creek precludes the need to evaluate these reaches as habitat for Sierra Nevada yellow-legged frogs (SNLYF). However, despite the presence of fish, some evaluation of these stream reaches for the presence of SNLYF may be appropriate, notwithstanding the fact that fish prey on some lifestages of SNLYF.


Conclusion

Thank you for the opportunity to comment on the Initial Study Report for the relicensing of the Rush Creek Hydroelectric Project. We look forward to continued engagement in this licensing proceeding.

Respectfully submitted,


Chris Shutes
FERC Projects Director
California Sportfishing Protection Alliance
1608 Francisco St.
Berkeley, CA 94703
(510) 421-2405
blancapaloma@msn.com


Colleen McNally-Murphy
Associate National Director, Hydropower
Reform Coalition
American Rivers
1101 14th St NW, Ste 1400
Washington, DC 20005
(202) 243-7037


⁴ See 2023 ISR Meeting Summary, pp. 6.

cmcnally-murphy@americanrivers.org

David Rosky
Member, June Lake Regional Planning Advisory Committee
June Lake, CA 93529
(530) 320-0404
dave.rosky@gmail.com



United States
Department of
Agriculture

Forest
Service

Pacific
Southwest
Region

Inyo National Forest
351 Pacu Lane, Suite 200
Bishop, CA 93514
(760) 873-2400 Voice
(760) 873-2538 Text (TDD)

File Code: 2770

Date: December 13, 2023

Kimberly Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Via Electronic Submittal

Subject: FOREST SERVICE RESPONSE TO INITIAL STUDY REPORT FOR THE RUSH CREEK HYDROELECTRIC PROJECT, FERC NO. 1389

Dear Secretary Bose:

Pursuant to 18 CFR § 5.15(c)(4), the Forest Service is providing the attached response to the Initial Study Report (ISR) filed on October 26, 2023, and Initial Study Report Meeting held November 9, 2023, by Southern California Edison (SCE) for the Rush Creek Hydroelectric Project, FERC No. 1389. This response is being submitted by the USDA Forest Service, Inyo National Forest, hereafter referred to as "Forest Service".

On October 26, 2022, FERC issued its study plan determination for the Rush Creek Project. FERC's determination incorporated draft technical study plans proposed by SCE, a decommissioning study requested by the Forest Service, and an environmental justice study by FERC staff. Review of the ISR and ISR meeting summary indicate that SCE has attempted to collect data for various studies, however no data or technical memoranda were provided for these efforts. SCE explains that the lack of technical data or reports is due in large part to a challenging field season in 2022 that was hampered by above average precipitation, snow, and runoff, which delayed field data collection.

While it is true that 2022 posed challenges to field collection efforts, these challenges do not explain why SCE did not undertake or engage in other non-field related efforts to address required studies not proposed by SCE. Specifically, the Forest Service is concerned SCE did not engage in any efforts to collect information related to either the decommissioning analysis or environmental justice study in 2023. Further, it is unclear based upon SCE's ISR comments, whether SCE treats these two specific studies as standalone studies, or as information that can be submitted under alternative schedules. The Forest is concerned that SCE's proposal to include the decommissioning information in separate bits and pieces and within a Final License Application rather than as a report or within a Final Study Plan Report would not allow for stakeholders any significant opportunity to assess the methodologies used, the information gathered throughout the process, or sufficient time to review the quality of any analysis. Moreover, submitting information as part of a Final License Application could delay FERC's



ability to determine whether it has sufficient information to proceed with environmental review. It is likely that a situation could arise whereby FERC or others may request additional information if studies are not timely or comprehensively completed within the ILP schedule. The Forest Service believes that all required study efforts can be implemented in parallel and submitted as a final package rather than on alternative trajectories which may not meet the Final Study Report timeline. The Forest Service is hopeful that SCE's proposed March 2024 initiation meeting for the decommissioning study will solicit sufficient input regarding the level of analysis sought by FERC, the Forest Service, and other stakeholders, and align this effort with the other study efforts to be completed before any Final License Application.

Since SCE's ISR has not yet provided any data or technical memoranda from the first year of study efforts, we do not have any specific comments on any reports. We look forward to reviewing draft reports as soon as possible, pending our comments on the ISR and the ongoing collaborative discussions among the Licensees and other Relicensing Participants. All studies have additional field work or analysis to be completed in 2024. The Forest Service reserves the right to comment on any data or reports that are released after the current comment period for the Initial Study Report.

If you have any questions regarding these comments, please contact Adam Barnett, Public Services Staff Officer, at adam.barnett@usda.gov or 760-873-2461.

Sincerely,



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LESLEY YEN
Forest Supervisor

Document Content(s)

20240125_P-1389_SCE_FERC_ISR_MeetingSummary_Response_to_Stakeholders.pdf .1
20240125 P-1389 Attachment A_CDFW Comments ISR.pdf.....13