

# **SOUTHERN CALIFORNIA EDISON**

## **Kern River No. 1 Hydroelectric Project (FERC Project No. 1930)**



### **FINAL LICENSE APPLICATION**

#### **VOLUME 2 (PART 2d)**

#### **EXHIBIT E: SUPPORTING DOCUMENTS**



May 2026

# **SOUTHERN CALIFORNIA EDISON**

## **Kern River No. 1 Hydroelectric Project FERC Project No. 1930**

### **Final License Application**

#### **Volume 2 (Part 2d) Exhibit E: Supporting Documents**

Southern California Edison  
2244 Walnut Grove Avenue  
Rosemead, CA 91770

May 2026

*Support from:*



**APPENDIX E.4**  
**Consultation Documentation**

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**LIST OF ACRONYMS**

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APE	Area of Potential Effects
CEII	Critical Energy Infrastructure Information
CFR	Code of Federal Regulations
CUL	Cultural Resources
DLA	Draft License Application
EJ	Environmental Justice
ESA	Endangered Species Act

FERC	Federal Energy Regulatory Commission
FLA	Final License Application
ILP	Integrated Licensing Process
ISR	Initial Study Report
NGO	non-governmental organization
NHPA	National Historic Preservation Act
PAD	Pre-Application Document
Project	Kern River No. 1 Hydroelectric Project
PSP	Proposed Study Plan
RSP	Revised Study Plan
SCE	Southern California Edison
SD1	Scoping Document 1
SHPO	State Historic Preservation Officer
SQF	Sequoia National Forest
TSR	Technical Study Report
TWG	Technical Working Group
USFWS	United States Fish and Wildlife Service
USR	Updated Study Report

## **E.4 CONSULTATION DOCUMENTATION**

Appendix E.4 describes Southern California Edison's (SCE) consultation efforts conducted in connection with relicensing the Kern River No. 1 Hydroelectric Project (Project), Federal Energy Regulatory Commission (FERC) Project No. 1930. This appendix is organized into the following subsections:

- E.4.1, *Early Outreach Activities*
- E.4.2, *Pre-Application Document Development and Distribution*
- E.4.3, *Federal Energy Regulatory Commission Scoping*
- E.4.4, *Study Plan Development and FERC Study Plan Determination*
- E.4.5, *Technical Study Implementation*
- E.4.6, *Endangered Species Act—Section 7 Informal Consultation*
- E.4.7, *National Historic Preservation Act—Section 106 Informal Consultation*
- E.4.8, *Section 106 Informal Consultation with Tribes*
- E.4.9, *Draft License Application Development and Distribution*
- E.4.10, *Final License Application Development and Distribution*

Documents referred to in this section are available on SCE's relicensing website at <https://www.sce.com/regulatory/regulatory-information/hydro-licensing/kr1> or FERC's eLibrary at <https://elibrary.ferc.gov/eLibrary/search> under Docket P-1930. Consultation efforts, beginning with SCE's early outreach activities in 2022 prior to filing the Pre-Application Document (PAD), are summarized in Table E.4-1, with additional details provided below.

As required by Code of Federal Regulations (CFR), Title 18, Section 5.18(b)(5)(ii)(G) (18 CFR § 5.18(b)(5)(ii)(G)), a distribution list attached to the cover letter of this filing identifies the federal and state resource agencies, local governments, Native American Tribes, non-governmental organizations (NGO), and other interested parties (collectively referred to as "Stakeholders") that SCE consulted during preparation of this Application for New License.

### **E.4.1 Early Outreach Activities**

SCE initiated early outreach activities in July 2022. The intent of early outreach activities was to identify potential stakeholders and local communities, understand their resource interests, describe Project facilities and operations to interested parties, and solicit existing resource information. Early outreach activities included the following:

- Developing a comprehensive distribution list of federal and state resource agencies, local governments, Native American Tribes, NGOs, and other interested parties.
- To facilitate communication during the relicensing, SCE established a publicly accessible website, at [www.sce.com/regulatory/regulatory-information/hydro-licensing/kr1](http://www.sce.com/regulatory/regulatory-information/hydro-licensing/kr1). The website serves as a repository for information on relicensing activities, including meeting notices and agendas; major filings by SCE or FERC; reference materials; key decision and action items; and links to relevant information sources.
- On July 21, 2022, SCE distributed a Project Information Questionnaire to Stakeholders to solicit information on existing resources in the Project vicinity and to identify potential resource issues.
- On August 16, 2022, as a follow-up to the Project Information Questionnaire, SCE provided more specific data requests to the Sequoia National Forest (SQF), United States Fish and Wildlife Service (USFWS), and the California Department of Fish and Wildlife to obtain readily available information to support PAD development. SCE specifically requested information on botanical, wildlife, fish, and aquatics resources from the agencies.
- On August 23, 2022, SCE notified Stakeholders of the early outreach activities being conducted as part of the relicensing process, including the questionnaire that was also made electronically available on the Project website, and notice that a public relicensing kick-off teleconference would be conducted. In addition, SCE posted the relicensing public announcement on social networks (i.e., Facebook and Nextdoor).
- On June 13, 2023, SCE conducted a public relicensing teleconference to acquaint Stakeholders with FERC's Integrated Licensing Process (ILP), including key milestones and opportunities for Stakeholder participation; describe Project facilities and operations; and explain the PAD contents and organization.

#### **E.4.2 Pre-Application Document Development and Distribution**

On May 5, 2023, SCE filed a Notice of Intent and PAD with FERC. The PAD provided FERC and Stakeholders with background information related to Project facilities, operations, and maintenance activities; summarized existing, relevant, and reasonably available information; defined pertinent Project issues; and identified potential study needs. The PAD also included 13 Draft Technical Study Plans.

#### **E.4.3 Federal Energy Regulatory Commission Scoping**

On June 29, 2023, FERC issued a Notice of Commencement of Pre-Filing Process and Scoping Document 1 (SD1) for the Project. SD1 included FERC's preliminary list of issues and alternatives to be addressed in a National Environmental Policy Act document

analyzing potential conditions of a new Project license. Additionally, FERC requested that any party interested in providing comments on the PAD and SD1 and/or submitting formal study requests do so by September 5, 2023, in accordance with a 60-day comment period.

During the comment period, FERC conducted an environmental site review (August 1, 2023) and held two public scoping meetings (August 2, 2023). The daytime scoping meeting focused on concerns of resource agencies, Native American Tribes, and NGOs while an evening scoping meeting focused on receiving comments from the public. The environmental site review was open to all interested parties.

Six entities filed comments on SD1, including one from SCE. FERC revised SD1 based on oral comments received at the scoping meetings and written comments received through the scoping process. FERC issued Scoping Document 2 on October 17, 2023.

#### **E.4.4 Study Plan Development and FERC Study Plan Determination**

On August 23, 2023, SCE filed with FERC Updated Draft Technical Study Plans. The updated study plans incorporated Stakeholder comments received during 13 Technical Working Group (TWG) meetings held between June 28 and August 30, 2023. The Updated Draft Technical Study Plans superseded the Draft Technical Study Plans filed in the PAD in May 2023.

On October 17, 2023, SCE filed a Proposed Study Plan (PSP) with FERC that included 13 Technical Study Plans for the Project. SCE revised four Technical Study Plans based on study requests filed with FERC as part of its scoping process.

On February 13, 2024, SCE filed a Revised Study Plan (RSP). SCE addressed specific study plan comments either as a modification to the previously filed PSP, or by providing a rationale as to why a comment or new study request was not adopted. The RSP included revisions to five Technical Study Plans.

FERC issued its Study Plan Determination on March 14, 2024, that approved SCE's RSP with staff-recommended modifications. Of the 13 studies proposed by SCE, 12 were approved as filed, and one was approved with staff-recommended modifications; FERC also adopted one new staff-recommended study, for a total of 14 study plans.

#### **E.4.5 Technical Study Implementation**

SCE began implementing the approved Study Plans in 2024. Study progress was documented in two reports as follows:

- March 12, 2025 – Initial Study Report (ISR) which documented results of the first study season (2024).
- March 13, 2026 – Updated Study Report (USR) which documented results of the second study season (2025).

As required, the study reports summarized SCE's overall progress in implementing the relicensing studies, including an explanation of any variances and modifications to ongoing studies.

Each study report was filed with FERC and stakeholders were concurrently notified of their availability for review. Within 15 days of each filing, SCE conducted a meeting to discuss the contents of the study reports and address comments regarding study plan implementation. These meetings were held on the following dates:

- March 19, 2025 – ISR Meeting (hybrid)
- March 26, 2026 – USR Meeting (hybrid)

The meeting discussions were documented in meeting summaries, which were filed with FERC within 15 days of each meeting. Stakeholders were concurrently notified of their availability for a 30-day review on the following dates:

- April 3, 2025 – ISR Meeting Summary
  - Two Stakeholders filed comments with FERC in response to SCE's ISR / ISR Meeting Summary. The comments received were on elements of the technical memoranda submitted as part of the ISR filing. No formal requests for study modification or requests for new studies were filed by Stakeholders. On June 12, 2025, SCE filed a response to the comments with FERC.
  - Because no disagreements or requests to amend the study plan were filed with FERC by the May 14, 2025 deadline, FERC did not issue a determination related to the ISR process.
- April 10, 2026 – USR Meeting Summary
  - Three Stakeholders filed comments with FERC in response to SCE's USR/ USR Meeting Summary. Stakeholders, including SCE, have until June 15, 2026 to file responses to comments. The deadline for FERC to issue its determination on study disagreements/amendments is July 13, 2026 (after filing of this License Application).

#### **E.4.5.1 Technical Study Memorandum**

Study methods and results were compiled in a series of technical memoranda. Each technical memorandum included the following information: (1) study goals and objectives; (2) study area; (3) study approach and methods; (4) data summary, if available, or an update on activities completed to date; (5) summary of study-specific consultation; and (6) outstanding study elements and schedule for completion.

Prior to filing the ISR, SCE distributed the technical memoranda to Stakeholders for a 90-day review period in January, February, and March 2025. In accordance with individual study plan schedules, three technical memoranda were updated with additional data

collected since the initial distribution and distributed for a second review period. These studies were: TERR 2 – Wildlife Resources (June 2025), REC 2 – Recreation Facility Use Assessment (September 2025), and AQ 2 – Water Quality/Water Temperature (January 2026). Table E.4-2 presents the distribution schedule for each technical memorandum and its status. Stakeholder comments were addressed and the current technical memoranda are included in Appendix E.2 of this Exhibit E.

#### **E.4.6 Endangered Species Act—Section 7 Informal Consultation**

Section 7 of the Endangered Species Act (ESA) requires federal agencies to ensure their actions are not likely to jeopardize the continued existence of federally listed threatened or endangered species or result in the destruction or adverse modification of designated critical habitat. SCE's Section 7 consultation efforts are summarized below.

- On May 5, 2023, SCE requested designation as the non-federal representative for conducting informal ESA Section 7 consultation with the USFWS for the Project. On June 29, 2023, FERC initiated informal consultation with USFWS and granted SCE's request to be designated as the non-federal representative for carrying out informal consultation.
- On February 5, 2026, SCE met with USFWS to discuss potential impacts to federally listed species and proposed Critical Habitat. USFWS directed SCE to prepare a Biological Assessment that analyzes the effects of the Proposed Action on the federally listed Kern Canyon slender salamander and relictu slender salamander. USFWS intends to conference on the two slender salamander species but indicated it does not intend to conference on proposed species (monarch butterfly and western pond turtle) or proposed Critical Habitat for the slender salamanders at this time. A Draft Biological Assessment is included in Appendix E.3 of this Exhibit E.

#### **E.4.7 National Historic Preservation Act—Section 106 Informal Consultation**

The operation and maintenance of the Project, Project-related recreational development, and associated enhancements or improvements covered by the license may affect properties listed in or eligible for inclusion in the National Register of Historic Places (hereinafter, "historic properties"). Issuance of the license is an undertaking subject to review by FERC under Section 106 (54 U.S.C. § 306108) of the National Historic Preservation Act (NHPA) (54 U.S.C. § 300101 et seq.) and its implementing regulations, "Protection of Historic Properties" (36 C.F.R. § 800), which require FERC to consider the effect of its proposed undertaking on historic properties. SCE's efforts on behalf of FERC regarding Section 106 consultation are summarized below.

- On May 5, 2023, SCE requested designation as the non-federal representative for conducting Section 106 consultation with the California State Historic Preservation Officer (SHPO) for the Project. On June 29, 2023, FERC initiated informal consultation with SHPO and granted SCE's request to be designated as the non-federal representative for carrying out informal consultation.

- On July 16, 2024, SCE submitted the proposed Area of Potential Effects (APE) and study areas to SHPO.
- In a letter dated August 30, 2024, SHPO concurred with the delineation of the APE and study areas but reserved the right to consult on its expansion should planned studies or consultation identify cultural resources that extend beyond the FERC Project boundary or otherwise are found to be affected by the Project.
- On January 31, 2025, the draft Cultural Resources (CUL) 1 – Built Environment and CUL 2 – Archaeology Technical Memorandum (non-confidential documents) were distributed to stakeholders for 90-day review. Comments received are addressed in the draft CUL 1 and CUL 2 Technical Study Reports (TSRs, confidential documents).
- On March 3, 2026, the CUL 1 and CUL 2 – TSRs were distributed to SQF for review and comment.

#### **E.4.8 Section 106 Informal Consultation with Tribes**

SCE conducted informal Section 106 consultation with Tribes in association with the Project relicensing. SCE coordinated with appropriate Tribal representatives to identify cultural and Tribal resources of traditional cultural or religious importance to Native Americans that may be present in the Project APE. This informal consultation included a combination of written, telephone, and e-mail correspondence; meetings; and site visits. Additional consultation and efforts to include Tribes in the relicensing process are summarized below.

- On June 7, 2023, FERC initiated formal government-to-government Section 106 consultation with six federally recognized tribes. Tribes were invited to participate in the relicensing process by FERC. Follow-up e-mails and telephone contacts were made by FERC after sending letters by registered mail.
- On June 29, 2023, SCE held a Cultural TWG Meeting to discuss the PAD, information gaps and Draft Technical Study Plans with agencies and Tribes.
- Throughout the study planning process for the CUL 1, CUL 2, and TRI 1 – Study Plans, Tribes were kept informed.
- Beginning in September 2024, the Project ethnographer called and e-mailed Tribal representatives on the Project Tribal contact list to elicit interest in participating in the Tribal Resources Study (details are in the confidential consultation log).
- On December 3, 2024, SCE conducted a site visit to discuss elements of the Project with Tribal representatives and SQF heritage staff.
- On June 4, 2025, SCE e-mailed the Project's Tribal contact list a questionnaire requesting additional input and information for the TRI 1 – TSR.

- On June 25, 2025, SCE held an in-person meeting with participating Tribal representatives to discuss preliminary findings and maps for the Tribal Resources Report.
- On August 7, 2025, SCE held a virtual meeting with participating Tribal representatives to review new ethnographic information and mapping for the Kern River Canyon.
- On February 2, 2026, the TRI 1 – TSR was distributed for review and comment to participating Tribes. The TRI 1 – TSR was distributed to other Tribes on March 9, 2026.
- On April 13, 2026, SCE held a virtual meeting with participating Tribal representatives and the SQF Heritage Program Manager to discuss the CUL 2-Archaeology TSR and the TRI 1 – Tribal Resources TSR results.

The Tribal resource investigation made a good-faith effort at proper communication with Tribal leaders, in alignment with FERC’s Policy Statement on Consultation with Indian Tribes in Commission Proceedings, issued July 23, 2003 (Docket No. PL03-4-000; Order No. 635; FERC 2003), and updated by 18 CFR § 2.1c (FERC 2019).

#### **E.4.9 Draft License Application Development and Distribution**

Pursuant to FERC’s regulations at 18 CFR § 5.16, SCE is required to file a preliminary licensing proposal no later than 150 days prior to the deadline for filing a license application. As allowed under 18 CFR § 5.16(c), SCE elected to file a draft license application (DLA), which includes the contents of a license application required by 18 CFR § 5.18 instead of the preliminary licensing proposal. 18 CFR § 5.16(c) states that if an applicant elects to file a DLA, a notice of its intent should be included in the USR.

The deadline to file a DLA for the Project was January 2, 2026. The USR was not due until March 16, 2026. Due to this disparity in the relicensing process schedule, and to satisfy the notification requirement under 18 CFR § 5.16(c), SCE filed a notice of its intent to prepare a DLA with FERC on March 12, 2025, as part of the ISR filing.

On December 18, 2025, SCE filed a DLA with FERC. Concurrent with filing the DLA with FERC, SCE also notified relicensing participants via email of its filing and availability for a 90-day review and comment period, which ended on April 1, 2026. A total of six comment letters on the DLA were filed with FERC (Table E.4-3). Attachment E.4-1 provides each comment letter and SCE’s response to those comments.

#### **E.4.10 Final License Application Development and Distribution**

This License Application filed with FERC in May 2026 meets the content requirements specified in 18 CFR § 5.18. Further, as specified in the Commission’s regulations in 18 CFR § 5.18(b), Exhibit E addresses the resources listed in the PAD provided for in 18 CFR § 5.6; follows FERC’s guidelines in “Preparing Environmental Assessments:

Guidelines for Applicants, Contractors, and Staff"; and meets the format and content requirements specified by FERC.

Exhibit E of the License Application provides the necessary technical information and analyses to identify and evaluate potential impacts of continued operation and maintenance of the Project under the Proposed Action. In addition, Exhibit E specifies new environmental measures and management and monitoring plans under the Proposed Action to protect, maintain, or enhance environmental and cultural resources.

The License Application includes public, critical energy infrastructure information (CEII) and privileged information. An electronic version of the final license application (FLA), excluding CEII and privileged information, is available on SCE's public relicensing website at <https://www.sce.com/regulatory/regulatory-information/hydro-licensing/kr1> or FERC's eLibrary at <https://elibrary.ferc.gov/eLibrary/search> under Docket P-1930. In addition, members of the public without internet access may review public volumes of the FLA using computers available during regular business hours at the Kern River Valley Branch Library, located at 7054 Lake Isabella Boulevard, Lake Isabella, California 93240 or the Beale Memorial Library, located at 701 Truxton Avenue, Bakersfield, CA 93301. Any interested party may request an electronic copy of public portions of the FLA by contacting Kadi Whiteside, SCE Relicensing Project Manager, by phone at (626) 807-3641 or via e-mail at [karen.whiteside@sce.com](mailto:karen.whiteside@sce.com).

Volumes III, IV, and V will not be made available to the public because they contain CEII or privileged information. Volume III (CEII) includes sensitive and detailed engineering information that, if used incorrectly, may compromise the safety of the Project and those responsible for its proper operation. Volume IV (privileged) contains information regarding the location(s) of special-status biological resources. The disclosure of this information could be harmful to these resources. Volume V (to be filed with FERC following stakeholder review) will include the TSRs for cultural and Tribal resources and the Historic Properties Management Plan once they are complete. These documents contain information regarding the location and character of sensitive cultural resources. The disclosure of this information could be harmful to these resources. Upon request, Volumes III, IV, and V will be separately provided to those entities with jurisdiction over those resources.

In accordance with 18 CFR § 5.17(d)(2), SCE will publish notice twice of the filing of this FLA in the Kern Valley Sun and the Bakersfield Californian newspapers no later than 14 days after the filing date. A copy of proof of publication of this public notice will be filed with FERC upon receipt.

#### **E.4.11 References**

FERC (Federal Energy Regulatory Commission). 2003. *Policy Statement on Consultation with Indian Tribes in Commission Proceedings*. Issued July 23, 2003, Docket No. PL03-4-000; Order No. 635.

———. 2019. *Revision to Policy Statement on Consultation With Indian Tribes in Commission Proceedings*, 18 CFR 2 (October 10, 2019).

## TABLES

**Table E.4-1. Summary of Stakeholder Meeting Dates and Topics**

Date	Type/Purpose	General Attendance	Relicensing Process Overview and Schedule	Existing Information/ Data Request	Relicensing Process Plan/ Communication Protocols	Project Facilities and Operations	Technical Study Plan Development	Technical Study Implementation	Project Site Visit
6/13/2023	Project Kick-off Teleconference	Interested Stakeholders	X	X	X	X			
6/28/2023	TWG Study Plan Development: Land Resources	Interested Stakeholders		X	X		X		
6/29/2023	TWG Study Plan Development: Cultural Resources	Interested Stakeholders		X	X		X		
7/7/2023	TWG Study Plan Development: Aquatic Resources	Interested Stakeholders		X	X		X		
7/11/2023	TWG Study Plan Development: Terrestrial Resources	Interested Stakeholders		X	X		X		
7/12/2023	TWG Study Plan Development: Recreation Resources	Interested Stakeholders		X	X		X		
7/26/2023	TWG Study Plan Development: Land Resources	Interested Stakeholders		X	X		X		
7/27/2023	TWG Study Plan Development: Cultural Resources	Interested Stakeholders		X	X		X		
7/31/2023	TWG Study Plan Development: Aquatic Resources	Interested Stakeholders		X	X		X		

Date	Type/Purpose	General Attendance	Relicensing Process Overview and Schedule	Existing Information/ Data Request	Relicensing Process Plan/ Communication Protocols	Project Facilities and Operations	Technical Study Plan Development	Technical Study Implementation	Project Site Visit
8/1/2023	Environmental Site Review	Interested Stakeholders	X	X	X	X			X
8/2/2023	Scoping Meetings	Interested Stakeholders	X	X	X	X			
8/10/2023	TWG Study Plan Development: Recreation Resources	Interested Stakeholders		X	X		X		
8/15/2023	TWG Study Plan Development: Terrestrial Resources	Interested Stakeholders		X	X		X		
8/22/2023	TWG Study Plan Development: Cultural Resources	Interested Stakeholders		X	X		X		
8/23/2023	TWG Study Plan Development: Land Resources	Interested Stakeholders		X	X		X		
8/30/2023	TWG Study Plan Development: Recreation Resources	Interested Stakeholders		X	X		X		
11/14/2023	PSP Meeting	Interested Stakeholders	X		X		X		
3/27/2024	TWG Study Plan Development: REC 2 Recreation Facility Use Assessment	Interested Stakeholders					X		
5/21/2024	SQF Relicensing Update	SQF	X					X	

Date	Type/Purpose	General Attendance	Relicensing Process Overview and Schedule	Existing Information/ Data Request	Relicensing Process Plan/ Communication Protocols	Project Facilities and Operations	Technical Study Plan Development	Technical Study Implementation	Project Site Visit
8/8/2024	TWG Study Plan Update: Aquatic Resources	Interested Stakeholders						X	
12/3/2024	Project Site Visit	Tribes				X			X
12/5/2024	TWG Study Plan Update: Recreation Resources	Interested Stakeholders						X	
3/19/2025	ISR Meeting	Interested Stakeholders	X			X		X	
4/24/2025	TWG Study Plan Update: REC 2 Recreation Facility Use Assessment	Interested Stakeholders						X	
5/7/2025	Site Visit	SQF				X			X
3/26/2026	USR Meeting	Interested Stakeholders	X			X		X	
4/13/2026	Cultural/Tribal Study Results Update	Tribal Representatives, SQF Heritage Program Manager						X	

Key: ISR = Initial Study Report  
PSP = Proposed Study Plan  
TWG = Technical Working Group  
USR = Updated Study Report  
SQF = Sequoia National Forest

**Table E.4-2. Technical Memorandum Distribution Dates**

Technical Memorandum/Report	Study Plan Status	TWG Distribution Date <sup>1</sup>
AQ 1 – Hydrology Technical Memorandum	Complete	January 31, 2025
AQ 2 – Water Quality/Water Temperature Technical Memorandum	Complete	March 11, 2025 January 27, 2026
AQ 3 – Fish Population Technical Memorandum	Complete	February 28, 2025
EJ 1 – Environmental Justice Technical Memorandum	Complete	February 28, 2025
LAND 1 – Road and Trail Condition Assessment Technical Memorandum	Complete	January 31, 2025
LAND 2 – Erosion and Sedimentation Technical Memorandum	Complete	February 28, 2025
REC 1 – Recreation Facility Condition Assessment Technical Memorandum	Complete	February 28, 2025
REC 2 – Recreation Facility Use Assessment Technical Memorandum	Complete	February 28, 2025 September 9, 2025
REC 3 – Whitewater Boating Technical Memorandum	Complete	February 28, 2025
TERR 1 – Botanical Resources Technical Memorandum	Complete	January 31, 2025
TERR 2 – Wildlife Resources Technical Memorandum	Complete	March 11, 2025 June 6, 2025
CUL 1 – Built Environment Technical Report <sup>2</sup>	Ongoing	January 31, 2025 March 3, 2026 to SQF
CUL 2 – Archaeology Technical Report <sup>2</sup>	Ongoing	January 31, 2025 March 3, 2026 to SQF
TRI 1 – Tribal Resources Technical Report <sup>2</sup>	Ongoing	January 31, 2025 February 2, 2026 to participating Tribes March 3, 2026 to SQF March 9, 2026 to other Tribes

Notes: <sup>1</sup> In addition to distribution of the technical memoranda as part of the Technical Working Groups, the technical memoranda were also provided for stakeholder review as part of the ISR filed with FERC on March 12, 2025, the DLA (except for the cultural and tribal studies) filed with FERC on December 18, 2025, and the USR filed with FERC on March 13, 2026.

<sup>2</sup> Development of the Draft CUL 1, CUL 2, and TRI 1 TSRs are ongoing. These reports will be filed with FERC following stakeholder review and incorporation of comments.

Key: SQF = Sequoia National Forest  
 TWG = Technical Working Group

**Table E.4-3. Stakeholder Comments on the Draft License Application Filed with FERC**

<b>Comment Letter Number</b>	<b>Filing Entity</b>	<b>Filing Date</b>	<b>FERC Accession Number</b>
1	California State Water Resources Control Board	March 20, 2026	20260320-5022
2	Kern River Fly Fishers	March 23, 2026	20260323-0008
3	Kern River Fly Fishers	March 31, 2026	20260331-5215
4	United States Forest Service	March 31, 2026	20260331-5333
5	Kern Gateway Trail Committee	April 1, 2026	20260401-5060
6	Kern River Boaters	April 1, 2026	20260401-5471

Key: FERC = Federal Energy Regulatory Commission

## **ATTACHMENT E.4-1**

Comments Filed on the Draft License Application and SCE's Responses

## Stakeholder Comments on Draft License Application and Associated SCE Responses

### Comment Letter 1: State Water Resources Control Board (SWB) (Filed March 20, 2026)

No.	Stakeholder Comment	SCE Response
<b>COMMENT LETTER 1: State Water Resources Control Board (SWB) (Filed March 20, 2026)</b>		
SWB-1	<p>Compliance with the California Environmental Quality Act (CEQA) is required as part of the water quality certification (certification) process. CEQA requires the lead agency to evaluate a project's potential impacts to environmental resources as well as identify mitigation measures and alternatives to reduce project impacts. CEQA also requires public input on identified impacts and mitigation measures. CEQA documentation must analyze and evaluate the Project's impacts to all relevant resources, including aquatic biological resources, special status species, and water quality. Information from studies and data gathering during FERC relicensing informs CEQA document development.</p> <p>CEQA Guidelines define the lead agency as "the public agency which has the principal responsibility for carrying out or approving a project." (Cal. Code Regs., tit. 14, § 15367.) The State Water Board is the public agency with the responsibility of issuing a certification for the Project's license and will act as the CEQA lead agency. As the CEQA lead agency, the State Water Board plans to commence the CEQA process prior to SCE submitting a certification application and will work with SCE on a three-party CEQA Memorandum of Understanding.</p>	<p>SCE understands that compliance with CEQA is required as part of the water quality certification process and that the State Water Board will act as the CEQA lead agency. SCE has begun discussions with the State Water Board and is working on a draft memorandum of understanding to enter into an agreement with a third-party consultant to begin the CEQA process.</p>
SWB-2	<p>Section 401 of the Clean Water Act requires any applicant for a federal license or permit for an activity that may result in any discharge to navigable waters to obtain certification from the State that the activity will comply with the applicable water quality requirements, including the requirements of section 303 of the Clean Water Act for water quality standards and implementation plans. Clean Water Act section 401 directs that certifications shall prescribe effluent limitations and other conditions necessary to ensure compliance with the Clean Water Act and with any other appropriate requirements of state law. Conditions of certification shall become a condition of any federal license or permit for a project subject to certification. Licensing of the Project will result in a discharge to navigable waters and SCE must obtain certification from the State Water Board as part of FERC licensing for Project's construction and operations. The State Water Board is the state agency responsible for issuing certification for hydropower projects in California.</p> <p>A certification issued by the State Water Board for Project licensing must ensure compliance with the applicable regional and state water quality control plans. Water quality control plans designate the beneficial uses of water that are to be protected, water quality objectives for the reasonable protection of the beneficial uses and the prevention of nuisance, and a program of implementation to achieve the water quality objectives. The beneficial uses, together with the water quality objectives contained in the water quality control plans, and applicable antidegradation requirements, constitute California's water quality standards for purposes of the Clean Water Act. In issuing a certification for a project, the State Water Board must ensure consistency with the designated beneficial uses of waters affected by the project, the water quality objectives developed to protect those uses, and antidegradation requirements.</p> <p>The Project facilities are located on the Kern River above Kern 1 Powerhouse and below the Borel Hydroelectric Project, downstream of Lake Isabella. The Water Control Plan for the Tulare Lake Basin (The Tulare Lake Basin Plan) sets forth water quality standards for waterbodies in the region, including Project related waters of the Kern River. Beneficial uses established by the Tulare Lake Basin Plan for Project waters relevant to water quality include: hydropower generation; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; wildlife habitat; and rare, threatened, or endangered species habitat. In addition to beneficial uses, the Tulare Lake Basin Plan includes narrative and numeric surface water quality objectives that aim to preserve and protect the beneficial uses listed above.</p> <p>The State Water Board must ensure that any project is consistent with the Statement of Policy with Respect to Maintaining High Quality Waters in California (Antidegradation Policy). The Antidegradation Policy requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably impact present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water</p>	<p>SCE understands the requirement to obtain a certification from the State Water Board under Section 401 of the Clean Water Act for the Project's continued operation and maintenance. SCE also understands that the State Water Board is the state agency responsible for issuing certification for hydropower projects in California.</p>

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	<p>quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. The state Antidegradation Policy incorporates the federal Antidegradation Policy, which requires "[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."</p>	
SWB-3	<p>Separately from the relicensing process, on June 5, 2025 the State Water Board issued a water quality certification for the Sediment Management Practices at Democrat Dam for the Kern River No. 1 Hydroelectric Project (Sediment Management Practices). The Sediment Management Practices certification includes the following language:</p> <p style="padding-left: 40px;">“The sediment management practices covered by [the Sediment Management certification] should be part of the relicensing of the Hydroelectric Project, which will require a separate certification action by the State Water Board. To the extent the new license for the Hydroelectric Project includes certification conditions that cover sediment management practices at Democrat Dam, such conditions shall supersede the conditions of this certification.”</p> <p>The Draft Sediment Management Plan includes sediment management practices substantially similar to those included in the Sediment Management Practices certification, including monitoring, reporting, time-of-year and flow rate restrictions, and the actual sediment management practices themselves. Any certification conditions for the Project that cover sediment management practices at Democrat Dam, including those described in the Draft Sediment Management Plan, that conflict with those in the Sediment Management Practices certification would supersede conflicted relevant conditions of the Sediment Management Practices certification.</p>	<p>SCE appreciates this streamlining and clarity regarding compliance obligations. SCE understands that conditions in the Sediment Management Practices certification (issued June 5, 2025) would be superseded by relevant conditions in the certification issued for Project relicensing.</p>

**Comment Letter 2: Kern River Fly Fishers (KRFF, Gary Bray) (Filed March 23, 2026); and Comment Letter 3: Kern River Fly Fishers (KRFF, James Ahrens) (Filed March 31, 2026)**

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KRFF-1	<p>The Kern River Fly Fishers submit these comments on Southern California Edison’s (SCE’s) Draft License Application (DLA) for the Kern River No. 1 Hydroelectric Project (KR1), FERC Project No. 1930. Our organization represents anglers who fish the lower Kern River Canyon between Democrat Dam and the KR1 Powerhouse – the 10.2-mile bypass reach where project operations divert the majority of river flows for commercial power generation. We write to identify critical deficiencies in SCE’s fisheries studies, to challenge SCE’s proposed minimum flows as inadequate and scientifically unsupported, and to urge the Commission to require meaningful ecological flow improvements as a condition of any new license.</p> <p>The lower Kern River is a stocked and wild fishery that serves a majority-Latino, lower-income urban community for whom this canyon is among the closest accessible public fishing water in California. The project reach runs through Sequoia National Forest along the state-eligible Wild and Scenic River corridor. Committing this fishery to another 40-50 years of the same impoverished minimum flows, on the basis of a study record that lacks bypass reach fish data and relies on only one year of temperature and DO analysis, is not consistent with FERC’s equal consideration mandate under Section 10(a)(1) of the Federal Power Act.</p>	<p>Responses to adequacy of FERC-approved fisheries studies and the Proposed Action minimum instream flows are addressed in Comments KRFF-4 through KRFF-11.</p> <p>California Department of Fish and Wildlife (CDFW) manages the Kern River in the Project area as a put-and-take trout fishery, with no known natural recruitment. CDFW stocks rainbow trout at three locations within the Kern River, including the bypass reach between Democrat Dam and the Live Oak Day Use Area (FLA Section 7.4.1.2, Table 7.4-1). CDFW stocks rainbow trout two times a year during the spring when lower water temperatures are conducive to stocking. The summer water temperatures into the Project from Lake Isabella, however, exceed 20 degrees Celsius (°C) July through early October. Average daily temperatures during August exceed 23°C, and maximum daily temperatures approach 25°C (FLA Appendix E.2, AQ 2 Water Quality/Water Temperature TM Figure 5-3). Only 1 rainbow trout was found during fall fish population sampling in 2025, and historical sampling from 1999 to 2008 only found rainbow trout (3) in one sampling year (FLA Appendix E.2, AQ 3 Fish Population, Table 3-12). Water temperatures apparently exceed the cold-water limitation of rainbow trout, precluding them from over-summering in the river. Introduced largemouth and smallmouth bass are present in the reach as are channel catfish, which can be the target of anglers. Primarily, however, the river reach is a typical Sierra Nevada foothill transition zone fishery (hardhead-sucker) (Moyle 2002). The river reach is not actively managed by CDFW for introduced warm-water species (e.g., largemouth or smallmouth bass).</p> <p>As described in the FLA and the subsequent set of responses below, the Fish Population Study (AQ 3) was completed in accordance with the FERC-approved study plan. The findings indicate that the river downstream of Democrat Dam (the bypass reach) supports a healthy population of native species, hardhead minnow, and Sacramento sucker. The reach also contained non-native warm-water game species (e.g., largemouth bass, catfish species, centrarchids).</p> <p>Also, the FLA Appendix E.2, AQ 2 Water Quality/Water Temperature TM includes two full years of water quality sampling. <i>Moyle, P.B. 2002. Inland Fishes of California. Revised and Expanded Edition. University of California Press. 502 pp.</i></p>
KRFF-2	<p><b>I. SCE’s Fisheries Studies Are Fundamentally Incomplete and Should Not Support a Final License</b></p> <p><u>A. The Bypass Reach – The Only Reach That Matters for Fisheries – Has Never Been Sampled</u></p> <p>SCE’s AQ 3 - Fish Population Interim Technical Memorandum (December 2025) acknowledges that the bypass reach fish population study was not completed in 2024 because "flows in the Kern River were too high in 2024 to safely sample." SCE plans to conduct this sampling in fall 2025, with results due in March 2026.</p> <p>This means the DLA before the Commission contains no fish population data from the 10.2-mile bypass reach where project operations occur. The impoundment sampling that was completed measures conditions in a small, warm-water reservoir behind Democrat Dam — a stagnant pond environment fundamentally unlike the bypass reach river channel. It is not a valid proxy for bypass reach conditions.</p> <p>FERC should not issue a final license based on this incomplete record. The Commission should require that bypass reach fish population sampling be fully completed and analyzed, that the complete AQ 2 — Water Quality/Water Temperature Technical Memorandum be filed including the species temperature requirement analysis (not available until March 2026), and that a meaningful comment period follow those filings, before any final license is considered.</p>	<p>FERC’s Integrated Licensing Process establishes defined procedural deadlines that licensees are required to meet, including submitting the DLA based on the best available information at the time of filing. As noted in the DLA, SCE was transparent in identifying those studies that were ongoing, had outstanding components, or were subject to agency or Tribal review. The DLA clearly disclosed where data collection and analysis were incomplete and indicated that final technical memoranda and updated analyses would be provided in the FLA.</p> <p>The analyses and conclusions presented in the DLA were based on the information available at that time and were intended to support continued review and stakeholder engagement during the licensing process, recognizing that certain study elements were still in progress. These conclusions did not suggest that the evidentiary record was final in all respects but rather provided an interim assessment subject to refinement as additional data became available.</p> <p>Since filing the DLA, SCE completed the outstanding AQ 3 study components (including bypass reach sampling), presented this information at the Updated Study Report meeting, and incorporated the resulting data into the FLA. The FLA updates the relevant analyses and conclusions and, where appropriate, refines or qualifies prior statements so they are supported by the complete record. The FLA also clarifies the basis and level of certainty associated with its findings to avoid overstating conclusions where earlier analyses relied on partial datasets.</p> <p>Overall, SCE has evaluated and integrated the full body of available information into the FLA to provide a comprehensive and technically supported assessment of Project effects, consistent with applicable regulatory requirements and study objectives.</p>
KRFF-3	<p><b>I. SCE’s Fisheries Studies Are Fundamentally Incomplete and Should Not Support a Final License</b></p> <p><u>B. The AQ 3 Study Design Is Structured to Find Low Fish Numbers</u></p> <p>Even setting aside the missing bypass reach data, SCE’s fish population study is designed in a way that virtually guarantees it will document low fish abundance. The FPMP specifies that bypass reach sampling will occur "during non-spill, minimum flow conditions (approximately 25 cfs or less)."</p> <p>This design choice embeds the problem directly into the methodology. At 15-25 cfs, the bypass reach is a series of isolated pools with minimal connectivity, high temperatures, and degraded oxygen conditions. Any fish documented under those conditions represent the rump population that has survived — not the</p>	<p>SCE disagrees with the views expressed in this comment. The fisheries studies were carefully developed and completed consistent with generally accepted practices in the scientific community and were reviewed and approved through FERC’s Integrated Licensing Process, which provides multiple opportunities for stakeholder input on study needs, methodologies, and implementation.</p> <p>Study plan development was initiated in 2023 through Technical Working Group meetings that were open to all stakeholders. Stakeholders were invited to comment on the Proposed Study Plan (PSP), Revised Study Plan (RSP), and propose study modifications regarding the objectives, sampling design, and flow conditions under which data would be collected. Stakeholders were also encouraged to provide comments as part of the Initial and Updated Study Report</p>

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	<p>population that would exist under ecologically adequate flows. SCE will then use this low-flow population count as the baseline for evaluating whether the current minimum flows are "adequate" for fish. This is circular reasoning: sample the fish during the conditions you are proposing to continue, find low numbers, and conclude the low numbers are the natural state of the fishery.</p> <p>A genuinely informative study would sample at multiple flow levels — including under higher flows during pulse events or spills — and compare fish abundance, distribution, and condition across flow regimes. No such comparison is proposed or required under SCE's study plan.</p>	<p>processes. Kern River Fly Fishers (KRFF) did not raise concerns regarding alleged bias in flow conditions or sampling design during those earlier opportunities.</p> <p>FERC considered stakeholder input prior to issuing its Study Plan Determination (SPD), which approved the study methods as appropriate to meet the stated study objectives. SCE has implemented the fish population study in accordance with the FERC-approved study plan.</p> <p>Bypass reach fisheries sampling was completed successfully in December 2025. Flow conditions (~20 cubic feet per second [cfs]) were suitable for conducting the study under the approved methodology, allowing biologists to safely wade and effectively sample at five locations using electrofishing and trammel nets. This does not bias the fish sampling results; rather, it promotes high-quality data collection.</p> <p>Contrary to KRFF's comments, SCE collected more fish in 2025 than had been previously collected during prior sampling and documented that the bypass reach has a healthy fish community dominated by native species (i.e., Sacramento sucker, and hardhead minnow). In addition, introduced game species (e.g., bass, catfish) were collected throughout the reach. The fisheries data demonstrate that the assemblage is composed of a variety of native and non-native game and non-game species in good condition (i.e., average condition factor &gt; 1.0), and of multiple age-classes that are typical of California transition zone river systems.</p> <p>The AQ 3 technical memorandum, which was filed with FERC in March 2026, provides photographs of sampling conditions at all sites in the bypass reach. Contrary to the comments, the reach is not a "series of isolated pools with minimal connectivity, high temperatures, and degraded oxygen conditions" as suggested without any data or information to support the statement. Rather, the reach is wholly connected with deep pools that provide ample cover for fish and flowing riffle habitat that keeps dissolved oxygen levels at saturation levels.</p> <p>No dissolved oxygen measurements less than 8 milligrams per liter (mg/L) were documented during the AQ 2, Water Temperature and Water Quality Study. SCE's 2024 and 2025 water quality monitoring demonstrated that all measurements of dissolved oxygen in the Project area met Basin Plan objectives and surface water criteria. Low-flow, non-spill conditions are required for successful and safe completion of fisheries surveys in the steep, high-gradient, and high-velocity bypass reach.</p>
KRFF-4	<p><b>I. SCE's Fisheries Studies Are Fundamentally Incomplete and Should Not Support a Final License</b></p> <p><u>C. The Historical Data Shows a Declining Fishery That SCE Does Not Explain</u></p> <p>SCE's AQ 3 comparison of impoundment sampling data from 1994, 1995, and 2024 reveals a troubling shift in species composition that SCE does not address. Species present in 1994/1995 but absent in 2024 include: smallmouth bass, white crappie, hitch (<i>Lavinia exilicauda</i>), mosquitofish, Sacramento pikeminnow, and stocked rainbow trout. The 1999-2008 SCE smallmouth bass study — the primary post-license compliance fisheries effort — was designed around smallmouth bass. No smallmouth bass were captured in the 2024 sampling.</p> <p>SCE does not offer any explanation for these disappearances in its DLA. The record, however, provides one — and it is damning not because it describes a single accident, but because it describes a pattern of repeated, unmitigated harm.</p> <p>In 2001, SCE released an estimated 272,000 cubic yards of accumulated silt from behind Democrat Dam into the bypass reach below. By contemporaneous accounts, the release smothered the river — filling in the deep pools that smallmouth bass depend on for thermal refuge and cover, and blanketing the substrate that supports the macroinvertebrate community that feeds the entire food web. SCE's own consultant acknowledged the sediment mass was so large it took approximately seven years to move through the river channel. Following the 2001 event, SCE was required to adopt a sediment management plan. That plan, however, did not require SCE to haul sediment away from the river — it permitted continued in-river dumping of 3,000 to 20,000 cubic yards at a time. SCE exercised that permission in 2007, 2009, 2011, 2012, and 2013. Each event set back a fishery that was slowly recovering from the previous one.</p> <p>The 2013 event was documented by The Bakersfield Californian, which published photographs showing a thick shelf of silt clinging to boulders two feet above receding flows. Writing in the Californian at that time, longtime Kern River angler Gary Bray — who had fished the river for sixty years — described what he witnessed: the spawning gravel needed by bass was buried in mud; the invertebrate habitat that supports the</p>	<p>SCE disagrees with the views expressed in this comment. As noted in the DLA, few fish were collected in the Democrat Dam Impoundment in 1994. In 1995, the assemblage was dominated by non-native warm-water fish species such as white crappie, brown bullhead catfish, and largemouth bass, with fewer (10 individuals or less) bluegill sunfish, common carp, hitch, mosquitofish, rainbow trout, smallmouth bass, and white catfish, and native species, such as hardhead minnow, Sacramento pikeminnow, and Sacramento sucker. The species composition in the Democrat Dam Impoundment was similar in 2024–2025, with the fish community still comprising many non-native warm-water game species. In 2024–2025, more largemouth bass, bluegill sunfish, common carp, and white catfish were observed in the impoundment than in 1995, and these species provide recreational angling opportunities. In addition, native species (Sacramento sucker and hardhead minnow) were more abundant in the Project area in 2024 and 2025 than in previous years, accounting for approximately 53 percent of the fish assemblage. Nothing in the data from 2024 or 2025 suggests a declining fish community compared to historical data. The low number of hardhead documented in the Democrat Dam Impoundment is not surprising as hardhead often occur in low numbers in reservoir habitats inhabited by introduced centrarchid species (e.g., bass, sunfish, crappie) and prefer riverine habitats (pools and riffles) (Moyle 2002).</p> <p>In the bypass reach, native fish species (Sacramento sucker and hardhead minnow) constituted approximately 77.5 percent of the total catch, demonstrating that minimum instream flow conditions support self-sustaining populations of native fish and a variety of non-native fish species including smallmouth bass and largemouth bass.</p> <p>Multiple factors (e.g., fisheries management, annual hydrology, climate change, steep river gradient) affect the composition of fish species in the Lower Kern River including historical sedimentation and erosion. Natural high flows in 2004 and 2005 were sufficient to fully flush the fine sediment and reset the channel to pre-release conditions following the September 2000 event. Since 2000, SCE has monitored sediment in the river (detail in following paragraph). Long-lasting sediment impacts were not observed during 2025 sampling in the bypass reach and were not reflected in the 2025 bypass reach fish monitoring data, as reflected by the presence and predominance of native species such as hardhead minnow and Sacramento sucker. Contrary to the views expressed by the commenter, the data does not support the conclusion that sediment management has caused lower abundance of smallmouth bass documented in</p>

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	<p>food web was eliminated; and the fishery that had just begun recovering from the previous dump was destroyed again. "This most recent insult to the Kern will take years for the fishery to recover," Bray wrote, "just in time for the next destructive dumping that will surely occur in a few years." He was right. A local angler photographed visible sediment deposits throughout the canyon as late as May 2013, a dozen years after the 2001 flush, and the 2024 fish survey found zero smallmouth bass. Brett Duxbury of Kern River Boaters, who has commented extensively on both the KR1 and KR3 relicensings, has urged FERC to require SCE to "haul their sediment away, provide radically increased minimum flows, and order Edison to reestablish a viable fishery." That demand is precisely calibrated to the two-decade pattern of harm documented above. The most parsimonious explanation for why SCE's 2024 sampling found zero smallmouth bass where the 1995 sampling found a functioning population is that SCE repeatedly destroyed that population through its sediment management practices, and the new license should require restoration — not just continued monitoring of the damage.</p> <p>The 2024 impoundment data itself shows that native hardhead minnow — a CDFW Species of Special Concern and Forest Service Sensitive Species — was captured at a rate of only 0.4 fish per mile, the lowest of any species except channel catfish. One of the two hardhead captured presented with an unidentified wound or infection. The hardhead population in the KR1 project area is under stress. SCE's response is to propose continued operation under the same conditions.</p>	<p>2025. For example, high flow releases from Lake Isabella during the spawning season and warming water temperatures due to climate change are a couple of factors that could be affecting smallmouth bass populations.</p> <p>Since the sediment release in September 2000 (not 2001, as identified in the comment), SCE has been coordinating with resource agencies including California Department of Fish and Wildlife (CDFW), U.S. Army Corps of Engineers (USACE), and the State Water Board regarding sediment management activities, especially after 2002 when the McNally Fire occurred. Some of the initial sediment management permits issued to SCE by resource agencies in the years immediately following the fire included actions tied to post-fire sediment management issues. Since 2007, and in accordance with permit conditions from CDFW, USACE, and the State Water Board, SCE has been filing annual reports with CDFW. These reports address monitoring of sediment conditions downstream of Democrat Dam. The 2013 sediment release mentioned in the comments was monitored by SCE and CDFW staff. No long-term sedimentation effects in the bypass reach were identified. The Project's sediment management activities have been coordinated and reported on annually to resource agencies and performed in compliance with associated permits. The goal of the current sediment management practices at Democrat Dam is to prevent a buildup of sediment that led to the 2000 release during dam maintenance activities.</p> <p>SCE is currently in the process of renewing the permits associated with sediment management and has not performed a draining of Democrat Dam since the 2013 release mentioned above. SCE will continue to manage sediment in coordination with the appropriate permitting agencies and in compliance with applicable requirements. Refer to the LAND 2, Erosion and Sedimentation Technical Memorandum, and to the proposed Sediment Management Plan in Appendix E.1, of the FLA, for more information.</p> <p>Reference: <i>Moyle, P.B. 2002. Inland Fishes of California. Revised and Expanded Edition. University of California Press. 502 pp.</i></p>
KRFF-5	<p><b>I. SCE's Fisheries Studies Are Fundamentally Incomplete and Should Not Support a Final License</b></p> <p><u>D. Lake Isabella Is a Shared Cause – Project Operations Remain a Separate, Mitigable Impact</u></p> <p>The Commission will likely hear SCE argue, as it does in the DLA, that flows in the bypass reach are substantially influenced by operations at Lake Isabella, which is managed by the U.S. Army Corps of Engineers for flood control and irrigation supply. That is partially true: in dry years or during irrigation-season storage, Isabella releases may be low enough that project inflow falls at or below the minimum flow requirements, meaning SCE is effectively passing everything through and the project itself is not the limiting factor. In those conditions, Isabella's management shares responsibility for low flows in the canyon.</p> <p>This partial concession does not diminish SCE's separate obligation to the fishery — it clarifies it. In the many years when inflow to Democrat Dam exceeds 412 cfs (the project's diversion capacity, per Exhibit E), SCE is actively intercepting water that would otherwise flow through the bypass reach. SCE's own flow data show mean annual inflow to the project ranging from over 1,000 cfs to more than 10,000 cfs in wet years. In those conditions, the 412-cfs diversion cap is binding, and the gap between what flows naturally and what SCE releases to the bypass reach is the project's direct and measurable impact. Every cfs diverted above the minimum is a project impact on the fishery, and it is an impact that is well within SCE's operational control to mitigate through higher minimum flow requirements.</p> <p>The appropriate framework is this: in years of adequate inflow, SCE must be required to leave more water in the river as a condition of its license. In years of drought-reduced inflow where the project genuinely cannot control what reaches the bypass reach, other mechanisms — coordination with the Corps on Isabella releases, reservoir operations review, or supplemental ecological flow requirements — may be needed. But the Commission should not accept Isabella's background operations as a reason to excuse SCE from setting defensible, ecology based minimums that apply whenever flow conditions allow. The fact that Isabella also affects the system does not reduce SCE's independent FERC obligation under Section 10(a)(1) to protect fish and wildlife at the project.</p>	<p>Several sections of the FLA discuss historical hydrology inflows to the Project from Lake Isabella, Project minimum instream flows, and No-Action Alternative and Proposed Action operations, including Section 5, Proposed Action and Alternatives; Section 7.2, Water Use and Hydrology; and Appendix E.2, AQ1 Hydrology.</p> <p>The No-Action and Proposed Action operations are typically the same with respect to diversions and instream flows. As the commenter states, SCE's diversion of flow is restricted by the capacity of the diversion infrastructure. SCE generally diverts a maximum of 385 cubic feet per second (cfs) to provide sufficient freeboard in the canal sections rather than the 412 cfs identified in the comment. Water not diverted for hydropower generation spills over the dam and continues downstream through the bypass reach.</p> <p>The comment is correct that inflows to the Project are controlled by the U.S. Army Corps of Engineers' releases from Lake Isabella. SCE does not control inflows to the Project.</p> <p>The comment is also correct that the Project's flow nexus is related to the volume of flow diverted at Democrat Dam and the minimum instream flows downstream of Democrat Dam.</p> <p>Minimum instream flow comments are addressed in KRFF-7 through KRFF-9. Please refer to those responses to comments.</p>

No.	Stakeholder Comment	SCE Response
KRFF-6	<p><b>I. SCE's Fisheries Studies Are Fundamentally Incomplete and Should Not Support a Final License</b></p> <p>E. The Angler Use Methodology Cannot Count Most Anglers</p> <p>SCE's REC 2 Recreation Facility Use Assessment uses trail counter and paper survey box data to estimate angler use. This methodology fails to capture the primary mode of angler access in the KR1 bypass reach. Anglers primarily access the lower Kern River directly from Highway 178 pullouts, scrambling to the river at accessible points along the canyon wall. They do not, as a rule, enter via project access trails — the five trails SCE monitored.</p> <p>SCE's own DLA acknowledges that "the primary recreational activity in the Project area is fishing" and that "most of the lower Kern River consists of stocked rainbow trout with wild populations of bass and brown trout." It also states that "angling access is scattered throughout the bypass reach." Yet SCE made no effort to count anglers at the scattered highway pullout access points where they actually appear. The resulting angler use data is methodologically incapable of supporting any conclusion about fishing demand in the bypass reach. FERC should discount it accordingly.</p> <p><b>Furthermore, several of the most productive and accessible fishing pools in the bypass reach are blocked by SCE's locked gates and unauthorized "No Trespassing" signs — including the Penstock/Forebay area near the powerhouse. Any count of anglers who turned back at those signs measures nothing about actual fishing demand.</b></p>	<p>The REC 2 study does not use trail counters to estimate angler use. The REC 2 study conducted a complete year of intercept in-person surveys at developed day-use areas and at identified undeveloped river access points along State Route (SR) 178, during which survey technicians administered surveys to recreators. The survey form (included as an appendix to the REC 2 Technical Memorandum) was developed in consultation with the Recreation Technical Working Group. Section 3 of the form includes questions pertaining to angling. In addition, the REC 2 study included installation of recreation self-survey boxes at each of the four developed recreation areas. The survey boxes included the same survey form as was administered by the recreation survey technicians. One hundred forty-eight (148) of the 447 survey respondents indicated they had fished on the lower Kern River and provided additional details about their angling experience.</p> <p>As a point of clarification, the REC 2 study (Section 5.1.2.1) found that the primary recreation activity in the Project area is picnicking, not fishing. Specifically, picnicking was the most described primary recreation activity (39 percent), followed by fishing (20 percent), and hiking, walking, or trail use (19 percent).</p> <p>The FLA has been updated to reflect this finding where applicable.</p> <p>As another point of clarification, the Project trails leading to the Penstock/Forebay Area are not along the river, but on the opposite side of SR-178 and extend uphill away from the river. This is true of most Project trails which provide SCE personnel with access to the Project flowline that extends mid-slope above SR-178 and the river. The only Project trail that provides river access is the Democrat Gage Trail, the trailhead of which is approximately one mile distant from SR-178 by way of Willow Spring Creek Road (which terminates at the trailhead). Incidentally, The Democrat Gage Trail is also accessible from the Democrat Trail, a Forest Service trail that extends from the top of Democrat Beaches Road (a Forest Service road) to a midpoint on Willow Creek Spring Road. Refer to the REC 2 TM, Map 3-1a.</p>
KRFF-7	<p><b>II. The Proposed Minimum Flows Are Not Supported by Scientific Analysis and Are Inadequate for a Functional Fishery</b></p> <p><u>A. SCE Never Conducted a Flow-Fishery Relationship Analysis</u></p> <p>The minimum flows in the current license – 15cfs in winter, 50 cfs in summer – were established in the 1998 license and are derived from pre-existing negotiated baselines, not from a scientific analysis of what flows the bypass reach fishery actually requires. SCE's DLA does not include any analysis of the relationship between flow level and fish habitat quality, fish population abundance, or water temperature in the bypass reach. No habitat suitability modeling was performed. No Instream Flow Incremental Methodology (IFIM) analysis was conducted. No Physical Habitat Simulation (PHABSIM) was run.</p> <p>SCE simply proposed to continue the existing flows and asserts, without analysis, that they provide "suitable" aquatic habitat. This is not an adequate scientific basis for a 40-50 year license commitment. The Commission's environmental review process is designed to evaluate whether proposed flows are ecologically justified, not merely whether they replicate the historic status quo.</p>	<p>Contrary to the sentiments expressed in this comment, the relicensing record for the Project includes multiple analyses that evaluate the relationship between flow and fish habitat in the bypass reach and were used to establish and later confirm the existing minimum instream flows.</p> <p>First, the minimum instream flows in the current FERC license were based on an instream flow study completed in 1986 that used Physical Habitat Simulation (PHABSIM) in cooperation with CDFW (EA Engineering 1986). The study area included the reach downstream of Democrat Dam (i.e., the bypass reach). The study developed Weighted Usable Area (WUA) for rainbow trout (adult, juvenile, fry, spawning) and smallmouth bass (adult, juvenile, fry). The minimum flows were required in the license by the Forest Service 4(e) Condition No. 4.</p> <p>Second, as part of the current FERC license, FERC required a follow-up evaluation of the adequacy of those minimum flows under Article 402. Pursuant to Article 402, SCE conducted a multi-year study from 1999 through 2008 (Accession #: 20090527-5053). The study included fish populations sampling and instream flow modeling (PHABSIM) for smallmouth bass and hardhead. The conclusions of the study with respect to smallmouth bass were:</p> <p><i>"Overall, the minimum instream flows set for the KR 1 bypass reach appear to be suitable for smallmouth bass. However, high irrigation flows released from Lake Isabella in the spring and summer, unrelated to KR1 Project operations, decrease available habitat and may have a negative effect on recruitment. The high summer flows also decrease habitat for hardhead, but to a smaller extent."</i></p> <p>The report was submitted to the agencies for a 30-day review period on April 24, 2009. Forest Service and CDFW comments acknowledged the adequacy of the study. The report was then submitted to FERC.</p> <p>Additionally, and as described in the response to KRFF-3, study plan development was initiated in 2023 through Technical Working Group meetings open to all stakeholders, who had opportunities to comment on the Proposed Study Plan (PSP), Revised Study Plan (RSP), and the Initial and Updated Study Reports, including the opportunity to propose modifications to objectives and methods..</p> <p>FERC considered stakeholder input prior to issuing its Study Plan Determination (SPD), which approved the study methods as appropriate to meet the stated study objectives. No comments were filed requesting development of an instream flow study. SCE implemented the aquatic studies (including the hydrology, water temperature and fish population study) in accordance with the FERC-approved study plan.</p>

No.	Stakeholder Comment	SCE Response
		<p>Since existing MIFs were developed utilizing the prior instream flow study, and since there are no major changes to proposed operations, and the environmental / resource studies continue to show favorable conditions, there was no proposed change to MIFs for this proceeding.</p> <p>References:  <i>EA Engineering, Science, and Technology, Inc. 1986. Kern River Hydroelectric Project Instream Flow Study and Fish Population Characterization. Prepared for Southern California Edison Company, Rosemead, California.</i>  <i>FERC 1998. Order Issuing New License and Final Environmental Assessment for Hydropower License for the Kern River No. 1 Hydroelectric Project, FERC Project No. 1930-014. Issued June 16, 1998.</i>  <i>SCE. 2009. Final Report Kern River No. 1 Hydroelectric Project Smallmouth Bass Study. Prepared for Southern California Edison by ENTRIX Inc.</i></p>
KRFF-8	<p><b>II. The Proposed Minimum Flows Are Not Supported by Scientific Analysis and Are Inadequate for a Functional Fishery</b></p> <p><u>B. The California Environmental Flows Framework Provides a More Defensible Standard</u></p> <p>Advocates in the ongoing KR3 relicensing process - including representatives of the Kern River Fly Fishers - applied the California Environmental Flows Framework (CEFF), a collaborative, science-based tool developed under a UC Davis-led statewide initiative, to develop minimum flow recommendations for the North Fork Kern River below Fairview Dam. The CEFF recommendations for that reach are 195 cfs in winter, 335 cfs in spring, and 230 cfs in late summer and fall. These recommendations have not been applied to the KR1 bypass reach. They should be, and SCE's failure to do so is a fundamental gap in the DLA's ecological analysis.</p> <p>The lower Kern Canyon where KR1 operates is warmer, lower in elevation, and arguably more thermally challenged than the KR3 reach. The CEFF's upstream recommendations nonetheless provide a directly relevant benchmark. KR1's proposed 15 cfs winter minimum is 13 percent of the CEFF winter recommendation for the cooler upstream reach. Its 50 cfs summer minimum is 22 percent of the CEFF summer recommendation.</p> <p>SCE has not applied the CEFF to the KR1 bypass reach. It has not commissioned any equivalent analysis. FERG should require it. A 40-50 year license should be grounded in the best available science on ecological flows, not in a 1998 negotiated number that has never been subjected to a flow-fishery relationship analysis.</p>	<p>Refer to response to KRFF-7</p> <p>California Environmental Flows Framework (CEFF) is sometimes used to organize the process of assessing instream flows (e.g., functional relationship of baseflows, high flows, and recession rates) relative to physical, chemical, and biological processes to support a healthy riverine ecosystem. The framework proposes general principles and best practices that help managers make decisions to balance the water needs of people and the environment, taking human uses and other water management objectives into consideration. CEFF is just one of many tools that have been used in the past 50 years of instream flow science to evaluate existing conditions and functional flows, as well as help make decisions on flows. The KR 1 relicensing studies and previous instream flows studies were developed in the same manner with the goal of comprehensively assessing potential project effects and achieving this goal of balancing competing water needs:</p> <ul style="list-style-type: none"> <li>• The instream flow studies completed previously (EA Engineering 1986, SCE 2009) are the fundamental building blocks in any instream flow analysis, including CEFF, for baseline summer and potentially winter flows (see response to KRFF-7).</li> <li>• The TERR 1 Botanical Study was specifically designed to characterize the relationship between riparian vegetation and hydrology (flow magnitudes and recession rates). Stage/discharge relationships were created at 10 transects in the bypass reach and the riparian vegetation was mapped. The study found that existing Project hydrology provides sufficient flow for riparian vegetation dispersal and recruitment. For example, recession rates under existing Project hydrology averaged much less than 1.6 inches per day, indicating that inundation recession is sufficient for the growth and maintenance of riparian vegetation.</li> <li>• The AQ 1 Hydrology study was designed to assess and model inflow versus bypass hydrology. The study showed that the frequency of annual high flow pulse flow events downstream of Democrat Dam was similar to frequency of upstream inflows pulse flow events (86%) (Table 5-8) and that the rate of change of flows (decrease or increase) was the same (Table 5-9).</li> <li>• The AQ 2 Water Quality and Water Temperature study assessed water quality and water temperature for two consecutive years. No Project related water quality or water temperature issues were identified. Natural inflow water temperatures into the Project are relatively warm during the summer and excess warming in the bypass reach was not observed (Figures 5-1 and 5-2). Dissolved oxygen concentrations were always near saturation levels (Tables 5-2 and 5-3) as is expected in a river where no organic enrichment is present.</li> <li>• The AQ 3 Fish Population study assessed the status of the fishery in Democrat Dam and the bypass reach. Healthy native fish species populations were present (e.g., hardhead and Sacramento sucker) and a variety of non-native warm water fishes. Because of the natural warm water temperatures, the river reach does not support coldwater fish. The river reach is in a transition zone between cold and warm water that is primarily dominated by native hardhead and Sacramento suckers.</li> <li>• Land 2 Erosion and Sedimentation study assessed potential Project related erosion and found that there was not project related erosion. The study also addressed sediment management practices.</li> </ul>

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		<p>Overall, a full assessment of Environmental Flows for the Project has been completed. The existing flow regime supports a diverse array of riverine physical, chemical, and biological processes including hydropower generation and no issues have been identified that suggest the flow regime should be modified.</p> <p>The commenter's comparison of flow recommendations for a different river reach (North Fork Kern River below Fairview Dam), which is a coldwater trout river, is not directly applicable to the KR1 bypass reach. The two systems differ in terms of hydrology, channel morphology, temperature regime, and fish assemblage.</p>
KRFF-9	<p><b>II. The Proposed Minimum Flows Are Not Supported by Scientific Analysis and Are Inadequate for a Functional Fishery</b></p> <p><u>C. The KR3 Flow Comparison: If 130 cfs Was Insufficient Upstream, 50 cfs Is Indefensible Downstream</u></p> <p>The KR3 project, SCE's Kernville-area hydroelectric facility on the North Fork Kern River, provides the most directly comparable benchmark for evaluating KR1's proposed minimum flows. KR3's current license (issued 1996) requires minimum flows of 40 cfs in winter and 100-130 cfs through the summer months - a product of the 1990s relicensing in which CDFW, the U.S. Forest Service, and the State Water Resources Control Board jointly agreed those flows were the minimum necessary to protect trout populations in the dewatered reach below Fairview Dam. That agreement was the floor, not the ceiling. Advocates in the current KR3 relicensing are arguing those minimums remain inadequate.</p> <p>KR1's bypass reach is downstream of both KR3 and Lake Isabella. It sits at lower elevation, in a wider and more sun-exposed canyon, with substantially greater thermal loading. Yet KR1's proposed summer minimum (50 cfs) is less than 40 percent of the minimum that the three lead resource agencies agreed was necessary at the cooler, higher-elevation KR3 reach thirty years ago. KR1's winter minimum of 15 cfs is less than 40 percent of KR3's winter minimum of 40 cfs - itself widely regarded as insufficient. If KR3's advocates and resource agencies are arguing that 130 cfs in summer is too low for the North Fork, the Commission should require a credible, evidence-based justification for how 50 cfs serves a lower, warmer, more degraded reach of the same river system. No such justification exists in the DLA. The Commission should require SCE to address this disparity with data, not assertion.</p>	<p>Refer to responses to KRFF-7 and KRFF-8.</p> <p>The comparison of flow recommendations for a different river reach (North Fork Kern River below Fairview Dam), which is a coldwater trout river with a different suite of biological and recreational resources is not applicable to the KR1 bypass reach. For example, the two systems differ in terms of water temperature regime, channel morphology, hydrology, fish assemblage, and recreation. The KR1 river reach is warm water river reach with a transition zone native fish assemblage (e.g., hardhead and Sacramento sucker) and non-native predatory species assemblage (e.g., bass). The proposed flow regime should be expected to be much different.</p> <p>There was no observed Project related nexus to water temperature. The AQ 2 Water Quality and Water Temperature study evaluated water temperature continuously May- October for two years, 2024 and 2025. Figures 5-1 and 5-2 show that there is minimal water temperature change (example typically much less than 1 °C) between the inflow water temperature to Democrat Dam and water temperature in the farthest downstream portion of the bypass reach. The warmer water temperature differences in the KR1 Project area compared to the KR3 North Fork Kern River below Fairview Dam are related to natural conditions (lower elevation, warmer air temperature) and likely thermal loading that occurs at Lake Isabella.</p>
KRFF-10	<p><b>II. The Proposed Minimum Flows Are Not Supported by Scientific Analysis and Are Inadequate for a Functional Fishery</b></p> <p><u>D. Low Flows Cause the Very Conditions SCE Uses to Explain Away Low Fish Numbers</u></p> <p>SCE's studies find warm water temperatures (maximum 24.9°C), declining native fish populations, and absence of target game species. SCE attributes temperature patterns to "solar radiation and ambient atmospheric conditions" and does not connect them to flow levels. This framing is scientifically incomplete.</p> <p>Basic limnological principles - acknowledged in SCE's own AQ 2 documentation - establish that water volume directly affects thermal buffering capacity. A stream running at 15 cfs in a wide, boulder-filled canyon under a summer sun will reach lethal temperatures faster and more consistently than the same channel running at 150 cfs. Lower flows also reduce the mixing and aeration that maintain dissolved oxygen, particularly in pools where fish congregate during low-water periods. SCE's AQ 2 Technical Memorandum itself states: "Increased water temperature reduces oxygen solubility while elevating metabolic oxygen demand. This causes lower oxygen concentrations that may be detrimental to some aquatic organisms." aquatic organisms."</p> <p>SCE has created the conditions it then uses to explain why it has found few fish, and then proposes to perpetuate those conditions for another generation. FERC should not accept this circular logic. The appropriate scientific inquiry is: at what flow levels would the bypass reach support a functional trout and bass fishery given the thermal environment of the lower Kern Canyon? That question has never been asked, let alone answered.</p>	<p>The complete AQ 3 Fish Population data set is now available. Native fish, including hardhead, dominated the bypass reach fishery, making up approximately 77.5 percent of the assemblage (Sacramento sucker, 63.2 percent; hardhead minnow 14.3 percent). The Democrat Dam Impoundment was dominated by native fish (Sacramento sucker) and game fish (largemouth bass, catfish species). There is no indication of a declining fishery or declining native fish populations. The fisheries data collected in 2025 in the bypass reach demonstrated that there is a healthy fish community, dominated by native species (i.e., Sacramento sucker and hardhead minnow). The data demonstrated that most fish collected were in good condition (i.e., average condition factor &gt; 1.0), that there were multiple age classes of many fish species demonstrating natural reproduction is occurring, and no disease or deformities were documented.</p> <p>As noted in the FLA, no DO measurements less than 8 mg/L occurred in 2024 or 2025 during the AQ 2 Water Temperature and Water Quality Study. SCE's 2024 and 2025 water quality monitoring demonstrated that all measurements of DO in the Project area met Basin Plan objectives and surface water criteria and that water quality in the Project area meets Basin Plan objectives.</p> <p>Continuous monitoring completed by SCE in 2024 and 2025 during the AQ 2 Water Temperature and Water Quality Study showed that water temperature variation throughout the Project area was minimal, generally less than a 1°C change in water temperature between inflowing water and outflowing water. The data collected by SCE indicates that water temperature in the Project area is not affected by Project operations.</p>

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KRFF-11	<p><b>II. The Proposed Minimum Flows Are Not Supported by Scientific Analysis and Are Inadequate for a Functional Fishery</b></p> <p>E. Pulse Flows Are Absent From Any Discussion</p> <p>SCE's DLA contains no proposal for periodic pulse flows - higher, short-duration releases that simulate natural hydrograph variation. Pulse flows serve multiple critical fishery functions: they flush fine sediment from spawning gravels, oxygenate isolated pools, cue spawning behavior, reconnect isolated habitat patches, maintain macroinvertebrate diversity (the food base for fish), and prevent the algal mats that bloom in warm, low-velocity conditions.</p> <p>SCE's only high-flow operations are its sediment bypass procedures, which are designed for impoundment management, not ecological benefit, and which SCE explicitly limits to avoid "impacts on hardhead minnow spawning and rearing." In other words, even the high-flow events SCE does manage are constrained by fishery concerns, yet SCE proposes no analogous positive flows to support the fishery. A license condition requiring annual or seasonal pulse flows of 100-300 cfs timed to ecological cues would cost SCE minimal generation revenue and deliver substantial fishery benefit.</p>	<p>The comments regarding high flow events are not accurate. High flow events are present in the bypass reach and the "pulse flows" identified by the commenter are too low to function as suggested. The Project has a relatively small effect on annual high flow hydrology. The annual peak flow recurrence interval flows are shown below. The 1.5 year flow (often associated with approximately bankfull flow) in the bypass reach (i.e., with Project) is 1,103 cfs versus 1,367 without the Project. There is even less difference between the higher recurrence interval recurrence flows (2, 5, 10, 20 year).</p> <p>High flow events and their timing in the bypass reach are a function of the inflow hydrology into the Project from Lake Isabella releases by the US Corp of Engineers upstream. SCE's diversion capacity cannot substantially alter the high flow events; therefore, the Project's "theoretical" influence on high flow events in the reach is negligible.</p> <table border="1" data-bbox="1560 526 2147 834"> <thead> <tr> <th rowspan="2">Recurrence Interval (years)</th> <th colspan="3">Annual High Flow (1999-2023)</th> </tr> <tr> <th>Historical Without Project (cfs)</th> <th>Historical With Project</th> <th>Percent</th> </tr> </thead> <tbody> <tr> <td>1.5</td> <td>1,367</td> <td>1,103</td> <td>81%</td> </tr> <tr> <td>2</td> <td>1,631</td> <td>1,343</td> <td>82%</td> </tr> <tr> <td>5</td> <td>4,540</td> <td>4,152</td> <td>91%</td> </tr> <tr> <td>10</td> <td>5,431</td> <td>5,067</td> <td>93%</td> </tr> <tr> <td>20</td> <td>6,965</td> <td>6,582</td> <td>95%</td> </tr> </tbody> </table> <p>The reach regularly receives seasonal high flows on an annual basis (see table below). The flow magnitudes mentioned in the comment (100-300 cfs) are below the high flow magnitudes that typically occur in the bypass reach annually and far less than the flows needed to mobilize sediment and/or cue aquatic processes. The flows needed for these processes are already present in the bypass reach. The requested "pulse flows" would not serve their stated purposes. Please see the AQ 1 Hydrology study and Section 7.02 Water Use and Hydrology in the FLA.</p>	Recurrence Interval (years)	Annual High Flow (1999-2023)			Historical Without Project (cfs)	Historical With Project	Percent	1.5	1,367	1,103	81%	2	1,631	1,343	82%	5	4,540	4,152	91%	10	5,431	5,067	93%	20	6,965	6,582	95%
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KRFF-12	<p><b>III. Water Quality Findings Require Mitigation, Not Just Monitoring</b></p> <p><u>A. Every Fish Sampled Exceeds Safe Methylmercury Thresholds</u></p> <p>SCE's AQ 2 methylmercury analysis found that all 29 sport fish sampled from the Democrat Dam impoundment exceeded the California OEHHA Guidance Tissue Level of 0.08 mg/kg. Largemouth bass - the most popular sport fish in the impoundment - averaged 0.29 mg/kg, with the highest individual sample at 0.57 mg/kg. These concentrations are in the range that triggers mandatory consumption advisories in California.</p> <p>Despite this finding, SCE proposes no mitigation. No consumption advisory is posted at any fishing access point on or adjacent to SCE project lands. The DLA contains no request for OEHHA evaluation or any public health notification. SCE acknowledges the finding and moves on.</p> <p>The Commission should require, as a license condition, that SCE post clear fish consumption advisory signage at the Democrat Dam Impoundment fishing access area, at the Democrat Beach recreation site, and at other angler access points in the project area. The majority of anglers fishing this area are from the lower-income and Latino communities most likely to rely on their catch for food. They are entitled to know.</p>	<p>Methylmercury contamination in fish is a problem throughout California due to atmospheric deposition, historical mining, and natural sources. Reference data described in the FLA for Kern County show the same high methylmercury concentrations as identified in the AQ 2 Water Quality and Water Temperature study. The data collected do not suggest that the Project is causing or exacerbating methylmercury values in the river. Methylmercury levels in fish within the Project area are likely derived from legacy pollutants in the watershed or atmospheric deposition. The Project has no measurable control over or influence on methylmercury levels in the Kern River. Like many rivers in California, the concentration of methylmercury in sampled fish tissue was higher than the OEHHA's reference concentration of 0.08 mg/kg, which poses a health risk for those that consume fish regularly, children, and pregnant women. California's Office of Environmental Health Hazard Assessment offers over 150 site-specific advisories for lakes, rivers, bays, reservoirs, and the coast. For water bodies without site-specific advice such as for the Kern River in the Project area, or for species not included in a site-specific advisory, appropriate statewide advisories are published (please see <a href="https://oehha.ca.gov/fish/fish-advisories">https://oehha.ca.gov/fish/fish-advisories</a>). As discussed in Section 7.3 of the FLA, Lake Isabella, which is approximately 20 river miles upstream of the Project, is listed as impaired for mercury.</p>																																																																																																														

No.	Stakeholder Comment	SCE Response
KRFF-13	<p><b>III. Water Quality Findings Require Mitigation, Not Just Monitoring</b></p> <p><u>B. The AQ 2 Study Is Incomplete and Cannot Support Conclusions About Temperature Impacts</u></p> <p>The AQ 2 - Water Quality/Water Temperature study is a two-year study, and only Year 1 (2024) data has been analyzed as of the DLA filing. SCE's own filing states that "Aquatic species water temperature requirements (from Moyle 2002) will be summarized in the final technical memo to be issued in March 2026."</p> <p>FERC is therefore being asked to evaluate the adequacy of proposed minimum flows for protecting the fishery before the section of the water quality study that directly addresses fish temperature requirements has been completed. This is not an adequate basis for a license determination. The Commission should require the complete AQ 2 analysis, including the species temperature requirements assessment and the full two-year dataset, to be filed and subject to public comment before any final license action.</p>	<p>Refer to response to comment KRFF-2.</p>
KRFF-14	<p><b>IV. The Scenic and Recreational Context: Flowing Water Is the Fishery</b></p> <p>FERC should understand that the minimum flows SCE proposes are not just an abstraction about "habitat adequacy." They are the physical experience of the river. Every angler who has visited the lower Kern Canyon between October and May under the current license has seen the result of 15 cfs in a Sierra river channel: a boulder field punctuated by isolated, tepid puddles connected by a trickle. Fish cannot thrive in those conditions. Stocked trout placed in those pools in the fall die, move, or are caught quickly, and there is no self-sustaining population to take their place.</p> <p>The Forest Service has identified the lower Kern River as an eligible Wild and Scenic River with outstanding remarkable values for scenery, recreation, wildlife, and fisheries. That designation means nothing if the project operating within that corridor is permitted to dewater it to 15 cfs for seven months of every year, indefinitely, with no analysis of whether higher flows are ecologically necessary and feasible.</p> <p>The lower Kern Canyon is the closest National Forest to Bakersfield, California's ninth-largest city. It is the primary natural water resource accessible to a majority-Latino, lower-income community that depends on it for recreation, subsistence fishing, and connection to the natural world. A new license that perpetuates 1998 flow levels, based on an incomplete study record, without any flow-fishery analysis, and with no pulse flow provisions, fails this community and fails the river.</p>	<p>Refer also to the response to KRFF-7, KRFF-8, and KRFF-9 with respect to minimum instream flows.</p> <p>Minimum instream flows are evaluated in the context of aquatic resources, geomorphology, and overall Project operations based on the study program developed and implemented through the ILP. Flows in the lower Kern River are naturally variable due to seasonal water availability and fluctuations, plus other water management operations beyond the control of SCE.</p> <p>In addition, based on the results of the REC 2 study, anglers most frequently fish in the fall and winter and most survey respondents who were anglers indicated that river flows did not affect their angling experience (134 out of 148 anglers who responded to the REC 2 survey). Additionally, 94% of all respondents to the REC 2 survey rated the scenic quality of the lower Kern River area in general as "good" or "very good".</p> <p>Wild and Scenic River eligibility and Nationwide Rivers Inventory listing do not, in and of themselves, establish specific flow requirements or preclude the continued operation of an existing hydroelectric facility. The 2023 Land Management Plan for the Sequoia National Forest and the Wild and Scenic Rivers Act itself also expressly includes provisions for pre-existing facilities during the time of designation. It should also be noted that the Project was constructed and has been in operation for decades prior to the proposed eligibility designation.</p>
KRFF-15	<p><b>V. Requested License Conditions</b></p> <p><u>5. Smallmouth Bass Fishery Assessment and Restoration Plan:</u></p> <p>Require SCE to commission an independent assessment of the legacy impacts of SCE's serial sediment releases (2001, 2007, 2009, 2011, 2012, and 2013) on the KR1 bypass reach fishery, specifically addressing: (a) the extent to which pool and spawning gravel habitat was smothered and has or has not recovered; (b) the role of these repeated releases in the disappearance of smallmouth bass from the project reach; and (c) whether active restoration measures - including pool excavation, gravel augmentation, or assisted recolonization - are feasible and warranted. Based on that assessment, require SCE to develop and implement a Fishery Restoration Plan as a condition of the new license, in consultation with CDFW and the Forest Service. The new license should also require SCE to haul accumulated sediment away from the Democrat Dam impoundment rather than flushing it downstream - the approach that would prevent recurrence of the pattern documented above. SCE was responsible for these releases and has operated under the resulting degraded conditions for the entirety of its current license without any restoration requirement. That omission should not carry forward into the next license term.</p>	<p>On March 13, 2026, in accordance with FERC's updated process plan and schedule included in Scoping Document 2, SCE filed the Updated Study Report (USR) for the Project. The USR includes complete results for the AQ 2 and AQ 3 studies and stakeholders had a 90-day period to comment on the USR and the associated meeting summary (until May 14, 2026). In addition, the FLA includes final technical memorandums and updated analyses for those studies that were not complete at the time of filing the DLA.</p> <p>Also refer to response to comment KRFF-2.</p>

No.	Stakeholder Comment	SCE Response
KRFF-16	<p><b>V. Requested License Conditions</b></p> <p><u>2. Flow-Fishery Relationship Analysis:</u></p> <p>Require SCE to commission an independent analysis of the flow-temperature-fishery relationship in the bypass reach using the California Environmental Flows Framework or equivalent methodology, and to propose revised minimum flows based on that analysis as part of its Final License Application.</p>	<p>This license condition is unwarranted. Refer to response to comment KRFF-7, KRFF-8, and KRFF-9</p>
KRFF-17	<p><b>V. Requested License Conditions</b></p> <p><u>3. Increased Minimum Flows:</u></p> <p>Require a substantial increase in minimum instream flows, with a target of at least 50--75 cfs from October 1 through May 31 and at least 100--150 cfs from June 1 through September 30, based on the results of the flow-fishery analysis. SCE's current winter minimum of 15 cfs is scientifically indefensible for a reach designated for cold and warm freshwater beneficial uses.</p>	<p>This license condition is unwarranted. Refer to response to comment KRFF-7, KRFF-8, KRFF-9, KRFF-10, and KRB-2.</p>
KRFF-18	<p><b>V. Requested License Conditions</b></p> <p><u>4. Annual Pulse Flow Requirement:</u></p> <p>Require SCE to provide at least two annual pulse flows of 100--300 cfs in the bypass reach, timed to ecological cues (e.g., late winter sediment flushing and late spring/early summer spawning cues), coordinated with CDFW and the Forest Service.</p>	<p>This license condition is unwarranted. Refer to response to comment KRFF-11.</p>
KRFF-19	<p><b>V. Requested License Conditions</b></p> <p><u>5. Smallmouth Bass Fishery Assessment and Restoration Plan:</u></p> <p>Require SCE to commission an independent assessment of the legacy impacts of SCE's serial sediment releases (2001, 2007, 2009, 2011, 2012, and 2013) on the KR1 bypass reach fishery, specifically addressing: (a) the extent to which pool and spawning gravel habitat was smothered and has or has not recovered; (b) the role of these repeated releases in the disappearance of smallmouth bass from the project reach; and (c) whether active restoration measures - including pool excavation, gravel augmentation, or assisted recolonization - are feasible and warranted. Based on that assessment, require SCE to develop and implement a Fishery Restoration Plan as a condition of the new license, in consultation with CDFW and the Forest Service. The new license should also require SCE to haul accumulated sediment away from the Democrat Dam impoundment rather than flushing it downstream - the approach that would prevent recurrence of the pattern documented above. SCE was responsible for these releases and has operated under the resulting degraded conditions for the entirety of its current license without any restoration requirement. That omission should not carry forward into the next license term.</p>	<p>This license condition is unwarranted. Refer to response to comment KRFF-4.</p>
KRFF-20	<p><b>V. Requested License Conditions</b></p> <p><u>6. Thermal Modeling:</u></p> <p>Require SCE to model water temperatures in the bypass reach under a range of flow scenarios (50, 100, 150, 200, and 300 cfs) using a validated thermal model, and to report the results to FERC with recommendations for flow levels that would maintain temperatures below critical thermal thresholds for trout and other target species.</p>	<p>This license condition is unwarranted; there is no basis for this request. SCE monitored water temperature in the AQ 2 Water Quality and Water Temperature study for two years (2024 and 2025). Water temperatures throughout the bypass reach were similar to water temperature inflows to the Project. The data shows the Project does not negatively affect water temperature.</p> <p>In addition, this request is procedurally improper and far too late in the Integrated Licensing Process. Under 18 C.F.R. Part 5, study disputes must be raised and resolved through the approved study plan, ISR, and USR process. SCE has completed the ISR, conducted the required meetings, and filed the USR in accordance with 18 C.F.R. § 5.15, and the regulations do not contemplate new study requests after the USR absent a specific, well-supported "good cause" showing. No such showing has been made here. Accordingly, the request is untimely under Part 5 and should be rejected on procedural grounds as well as for lack of any substantive nexus.</p>

No.	Stakeholder Comment	SCE Response
KRFF-21	<p><b>V. Requested License Conditions</b></p> <p><u>7. Multi-Year Baseline Fisheries Monitoring:</u></p> <p>Require multi-year (minimum 3-year) annual electrofishing surveys of the bypass reach, including both low-flow and higher-flow conditions, to establish a meaningful population baseline before any final flow decisions are made.</p>	<p>This license condition is unwarranted and there is ample information available regarding the existing fish community in the bypass reach. As noted in the FLA, multi-year monitoring completed pursuant to Article 403 of the existing license was specifically intended to evaluate the adequacy of the existing (i.e., proposed) minimum flow requirements for the fish community. Previous data collected in the early 2000s demonstrated that the fish assemblage was composed of a mix of game and non-game native and introduced species typical of the region. More recent fisheries data collected in 2025 pursuant to AQ 3 demonstrated that there is a healthy fish community dominated by native species (i.e., Sacramento sucker and hardhead minnow) in the bypass reach. The data demonstrated that fish were in good condition (i.e., average condition factor &gt; 1.0), that there were multiple age classes of many fish species demonstrating natural reproduction is occurring, and few signs of disease or deformities were documented. SCE's planned monitoring frequency (Year 1 and Year 6) will allow SCE to continue to verify that existing conditions are suitable for game and non-game fish species, however, there are no changes proposed to the minimum instream flows. The commenter's suggestion to perform multi-year fisheries studies after license issuance to inform the minimum flow regime is contradictory to the long history of the current minimum flows and monitoring that has already occurred. Refer to the FLA, Appendix E.1, Fish Population Monitoring Plan, the purpose of which is to provide monitoring of the fish assemblage within the Project area.</p> <p>SCE reiterates that sampling the bypass at higher flow conditions (i.e., greater than ~ 30 cfs) is unsafe and would be ineffective. Water depth and water velocity would be too high to sample effectively.</p>
KRFF-22	<p><b>V. Requested License Conditions</b></p> <p><u>8. Mercury Consumption Advisory Posting:</u></p> <p>Require SCE to post California OEHHA-compliant fish consumption advisory signs at the Democrat Dam Impoundment, Democrat Beach, and all identified angler access points in the project area, based on the finding that all 29 sampled fish exceeded the methylmercury reference concentration.</p>	<p>This license condition is unwarranted. See response to comment KRFF-12.</p>
KRFF-23	<p><b>V. Requested License Conditions</b></p> <p><u>9. Angler Access Improvements:</u></p> <p>Require SCE to designate and improve a minimum of three angler access points along Highway 178 in the bypass reach, with adequate parking turnouts, stream access paths, and posted information about the fishery. Current access is inadequate and dispersed, and SCE's angler use methodology cannot validly count fishing demand under these conditions.</p>	<p>This license condition is unwarranted. SR-178 is not within the FERC Project boundary nor part of SCE's management responsibilities, nor are any river access points along the bypass reach. Parking and access along the bypass reach is constrained by natural geology and limited physical space, not the Project itself or its infrastructure. Evidence of this is included in the Project's relicensing history:</p> <p>Existing License Article 411 required SCE to develop an Access Improvement Plan to evaluate the feasibility of providing safe public access improvements within the bypass reach, in consultation with resource agencies and interested parties. The plan evaluated five sites identified in License Article 411, as well as two alternative sites suggested during the consultation process. Agencies and interested parties that SCE consulted with as part of the process included the Forest Service, CDFW, California Department of Transportation, Kern County Search and Rescue, American Whitewater Affiliation; Kern River Outfitters, Sierra Club Kern-Kaweah Chapter, and others.</p> <p>On October 28, 1999, SCE filed the Access Improvement Plan, which concluded that none of the evaluated sites were feasible for development. Specifically, poor highway conditions precluded the construction of safe parking areas, and steep banks limited the feasibility of constructing access trails. The two alternative sites identified during consultation were also determined to be infeasible. Following consultation and evaluation of all potential access opportunities, SCE and the consulted parties determined that the only feasible improvement was construction of a trail from the Lucas Creek Parking Lot to the Kern River (GPS coordinates 35°28'49.62"N; 118°42'39.14"W, downstream of the confluence of Lucas Creek with the Kern River). FERC approved the Access Improvement Plan in an order issued on May 2, 2000, concurring with SCE's feasibility determinations. Construction of the Lucas Creek Trail (distinguished from the Project Trail that leads from SR-178 uphill to the flowline – also called the Lucas Creek Trail) was completed on December 10, 2004, and acknowledged by FERC on September 9, 2005.</p> <p>Because the physical conditions and terrain within the bypass reach have not materially changed since completion of the Access Improvement Plan (1999), additional study or reconsideration of access improvements along the bypass reach would not result in different conclusions. See also response to KGTC-21.</p>

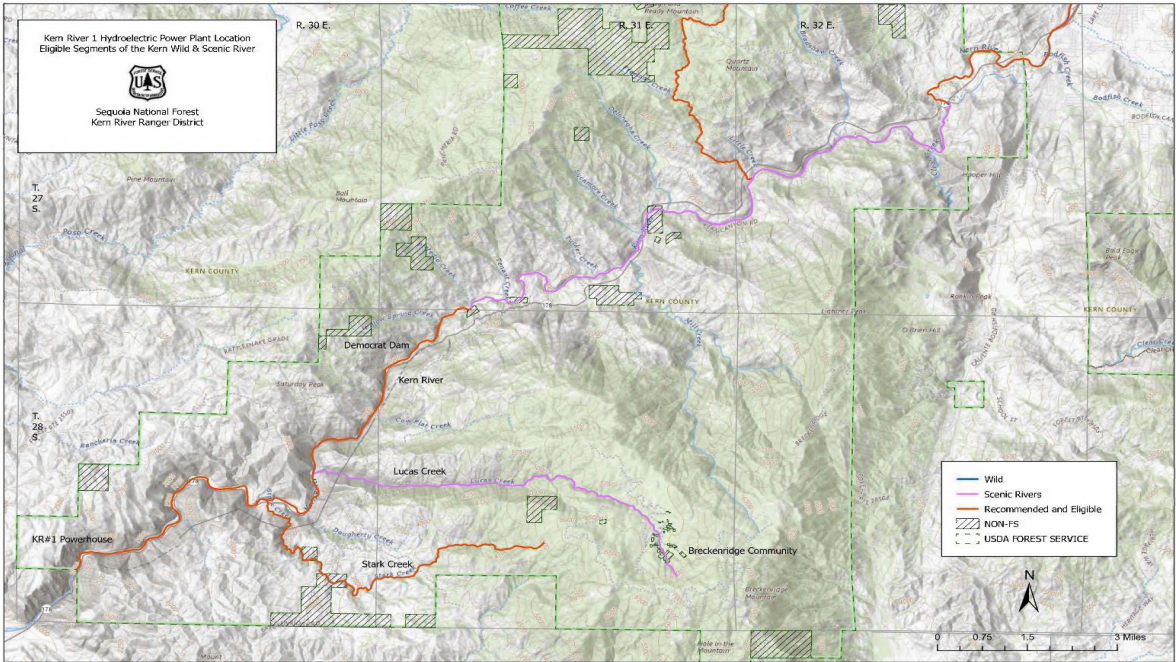
No.	Stakeholder Comment	SCE Response
		<p>References:</p> <p><i>Southern California Edison's Final Recreation Plans re Kern River 1 Hydroelectric Project pursuant to Articles 409m 410, &amp; 411 under P-1930. (October 28, 1999). Accession No. 19991029-0249</i></p> <p><i>Order approving access improvement plan of Southern California Edison Co for Kern River #1 Proj-1930 (May 2, 2000). Accession No. 20000504-0339</i></p>
<p>KRFF-24</p>	<p><b>V. Requested License Conditions</b></p> <p><u>10. Hardhead Minnow Habitat Protection:</u></p> <p>Require SCE to formally assess hardhead minnow population status in the bypass reach (not just the impoundment) and to incorporate hardhead habitat requirements into any flow determination, given the species' status as a CDFW Species of Special Concern and Forest Service Sensitive Species.</p>	<p>This license condition is unwarranted because hardhead population status and habitat conditions in the bypass reach have already been evaluated through the completed Fish Population and Water Quality studies. SCE successfully sampled the bypass reach in 2025, and the study results documented a healthy, self-sustaining hardhead population (e.g., multiple life stages) under existing Project operations and that water temperature and flow conditions are suitable for hardhead.</p> <p>The studies further demonstrated that the bypass reach contains abundant suitable habitat for hardhead, including deep pool and riffle/run habitat with well-oxygenated conditions and water temperatures within the species' preferred range. The AQ 2 Water Quality and Water Temperature study showed that water temperature was between 20°C and 25°C. As noted by Moyle (2002), "most streams in which [hardhead] occur have summer temperatures in excess of 20°C" and optimal water temperature for hardhead juveniles (as determined by laboratory experiments) appear to be 24°C to 28°C.</p> <p>Study results were analyzed in the FLA and SCE is proposing to implement a Fish Population Monitoring Plan under the new license, which would continue fish population monitoring efforts in the Project area following license issuance. Accordingly, the requested license condition would largely duplicate assessments that have already been completed and future monitoring that is already proposed.</p> <p>Reference:</p> <p><i>Moyle, P. B. 2002. Inland Fishes of California. Revised and Expanded Edition. University of California Press. 502 pp.</i></p>
<p>KRFF-25</p>	<p><b>VI. Conclusion</b></p> <p>The lower Kern River in the KR1 project reach is a degraded fishery operating under flows that were set in 1998, have never been validated by a flow-fishery relationship analysis, and are now proposed to continue for another 40-50 years on the basis of a study record that lacks bypass reach fish data and is incomplete in its water quality and temperature analysis.</p> <p>The Commission has an obligation under Section 10(a)(1) of the Federal Power Act to give equal consideration to recreation and fisheries alongside power generation. The evidence in the record - SCE's own evidence - shows a fishery in decline, water temperatures at or above thermal stress thresholds for trout, missing native species, and universal methylmercury contamination of sport fish. SCE's response to all of this is to propose no change.</p> <p>Doing nothing differently is not good enough for another generation of anglers, another generation of children who deserve a river worth fishing in, or another generation of a community for whom this canyon is its most accessible piece of the natural world. We urge the Commission to require better.</p>	<p>Please see SCE's responses to KRFF comments above, including KRFF-3 through KRFF-11</p>

**Comment Letter 4: United States Forest Service (USFS), Sequoia National Forest (Filed March 31, 2026)**

No.	Stakeholder Comment	SCE Response
USFS-1	<p><b>Cover Letter</b></p> <p>Pursuant to 18 C.F.R. § 5.16(e), the USDA Forest Service, Sequoia National Forest (hereafter “Forest Service”) provides the following response to the Draft License Application (DLA) for the Kern River No. 1 Hydroelectric Project (FERC No. 1930), filed by Southern California Edison Company (SCE), with the Federal Energy Regulatory Commission (FERC), on December 18, 2025. SCE requested comments by April 1, 2026. These comments will also be filed with the FERC.</p> <p>We provide the attached comments in the spirit of collaboration with SCE, and other relicensing participants. We are fully committed to working with SCE both before and after filing the Final License Application (FLA) to develop approaches, solutions, and measures that will address as many of the relicensing participants’ interests as possible.</p> <p>This response includes one attachment which contains detailed comments, organized by sections of the DLA, as follows:</p> <ul style="list-style-type: none"> <li>I. General Comments</li> <li>II. DLA Volume I: Exhibits A, B, C, D, F, G, H</li> <li>III. DLA Volume II: Exhibit E part 1 of 2</li> </ul>	<p>Comment noted.</p>
USFS-2	<p><b>Cover Letter</b></p> <p>We note that the preliminary proposed protection, mitigation, and enhancement (PM&amp;E) measures were not fully developed in the DLA, though basic outlines of draft management and monitoring plans were included. Though we have subsequently received updated versions of some of these PM&amp;Es from SCE during relicensing discussions, to maintain an appropriate record, our attached comments are on the DLA versions of these PM&amp;E measures.</p>	<p>For clarification, fully developed protection, mitigation, and enhancement measures were included in the DLA and also included in the FLA. Please refer to FLA Exhibit E, Appendix E.1, <i>Proposed Environmental Measures, Management and Monitoring Plans</i>.</p>
USFS-3	<p><b>Cover Letter</b></p> <p>The most recent Land Management Plan for the Sequoia National Forest (LMP) was signed in May 2023. There is no indication that any of the existing license resource management plans proposed for use in the new license were reviewed for consistency with the LMP. This needs to be done for all resource management plans. All resource management and monitoring Plans must be consistent with the new LMP. All existing and applicable management plans proposed to be used in the next license term should be included in the FLA.</p>	<p>Section 10(a)(2)(A) of the FPA requires FERC to consider the extent to which a project is consistent with federal or state comprehensive plans for improving, developing, or conserving a waterway or waterways affected by the project. In addition, 18 CFR Section 5.6(b)(2) requires that a potential applicant exercise due diligence in determining what information exists that is relevant to describing a project’s existing environment, including a review of federal and state comprehensive plans filed with FERC and listed on FERC’s website.</p> <p>SCE completed review of FERC’s most recent <i>List of Comprehensive Plans</i> (FERC 2025) and a review of other relevant planning documents to determine which are relevant to relicensing of the Project. SCE identified nine plans that pertain to the Project, including the Land Management Plan for the Sequoia National Forest (Forest Service 2023). Potential effects of the Proposed Action, including proposed environmental measures, management and monitoring plans, were evaluated with respect to each of the relevant comprehensive plans. The purpose of the evaluation was to ensure that operation and maintenance of the Project is consistent with the goals and objectives outlined in these comprehensive plans. Refer to Exhibit E, Section 10.5, <i>Consistency with Comprehensive Plans</i>.</p> <p>Environmental measures proposed to be included in the new license are provided in the Appendix E.1 of the FLA.</p>
USFS-4	<p><b>Cover Letter</b></p> <p>The incomplete recreation data from pending studies may cause some delay in developing the Recreation Management Plan. The Forest Service is also concerned that data from pending studies may not be adequate to develop appropriate PM&amp;E measures. Regardless, there is substantial recreational use and impacts along that river corridor that must be addressed.</p> <p>The Forest Service looks forward to working with SCE and other stakeholders through further discussions and development of resource management plans and PM&amp;E measures to be included in the FLA.</p>	<p>SCE acknowledges the Forest Service’s interest in ensuring that recreation use and potential impacts within the Project area are appropriately addressed. Since filing the DLA, SCE has completed the outstanding study components, filed the final REC 2 study memo in March 2026 (with the USR), presented this information at the USR meeting, and incorporated the resulting data into the FLA.</p> <p>SCE’s proposed PM&amp;E measures are appropriately tailored to its role and responsibilities as the licensee while addressing Project-related effects. SCE does not propose to develop a Recreation Management Plan because it does not own or operate recreation facilities within the vicinity of the Project; however, SCE does include a <i>Project Access Roads and Trails Management Plan</i> in its Proposed Action (FLA, Appendix E.1). The <i>Project Access Roads and Trail Management Plan</i> describes SCE’s responsibilities, environmental measures, and Forest Service consultation</p>

No.	Stakeholder Comment	SCE Response
	<p>If you have any questions regarding this response, you may contact Anthony Edwards, Forest Supervisor, (Sequoia National Forest) at (559) 784-1500, anthony.edwards@usda.gov.</p>	<p>requirements as related to operations and maintenance of project roads and trails. Project trails used by SCE personnel to access SCE facilities may double as recreational trails available to the public that would otherwise be absent. As such, SCE's ongoing maintenance of these trails benefits public users. In addition, within those areas where SCE Project Trails coincide with the Powerhouse Trail (a Forest Service Trail) users of the Powerhouse Trail benefit from SCE's maintenance of those sections. Refer to the response to comment KGTC-2 for a description of those portions of SCE Project Trails that coincide with the Forest Service's Powerhouse Trail.</p> <p>As noted in other responses, public recreation facilities in the vicinity of the Project (four day-use areas) are administered by the Forest Service or a concessionaire to the Forest Service. The day-use areas are located on narrow flats of land between SR-178 and the river and are all accessed from SR-178. None of the day-use areas are included in SCE's FERC license and all are outside the FERC Project boundary. In addition, undeveloped river access points and trails in the vicinity of the Project are located on Forest Service land and, as such, are managed by the Forest Service.</p> <p>SCE recognizes that the river corridor supports recreational use and has considered available study data in developing its proposed measures. SCE will continue to coordinate with the Forest Service and other Stakeholders during FERC's post-filing process to further discuss applicable recreation-related resources, including Project trail and recreational trail overlap and any refinement of PM&amp;E measures within the scope of the Project as appropriate.</p>
USFS-5	<p><b>Introduction</b></p> <p>The Forest Service, Sequoia National Forest, provides the following comments on the Kern River No. 1 Hydroelectric Project (hereafter "Project") Draft License Application (DLA) to further the collaborative process with the Licensee and other relicensing participants. The Licensee (Southern California Edison Company [SCE]) has affirmed a continued commitment to working collaboratively and cooperatively as the relicensing process moves forward. We are fully committed to working with SCE and other relicensing participants both before and after filing the Final License Application (FLA) to develop approaches, solutions, and measures that will address as many of the relicensing participants' interests as possible.</p> <p>We reviewed the following documents.</p> <p>I. Draft License Application Volume I: Exhibits A, B, C, D, G, H II. Draft License Application Volume II: Exhibit E, Part 1 of 2</p> <p>Our comments mirror DLA headings or subheadings, with specific DLA page references as needed. Note that if we did not comment on a particular area of the DLA, it does not mean we agree with it. Due to limited time to review this document, we had to focus on a subset of key issues. In the coming months, we expect to work with SCE on all their proposed PM&amp;E measures.</p>	<p>Comment noted. SCE appreciates the collaboration with the Forest Service.</p>
USFS-6	<p><b>General Comments</b></p> <p><b>References to the Forest Service and National Forest Documents</b></p> <p>When referring to the Sequoia National Forest Land and Resource Management Plan, please cite it as USDA Forest Service (2023).</p>	<p>SCE acknowledges the Forest Service's preferred citation format for the Sequoia National Forest Land and Resource Management Plan (USDA Forest Service, 2023). However, SCE has applied a consistent citation format throughout the license application in accordance with its document style and formatting conventions. For clarity and consistency across the application, SCE has retained its original citation format.</p>
USFS-7	<p><b>DLA Volume I – Exhibits A, B, C, D, G, H</b></p> <p><b>Exhibit A, 6.0 Description of Project Lands of the United States within the Project Area (Page A-11)</b></p> <p>Per SCE "Information regarding lands of the United States that are within the FERC Project boundary, including legal subdivisions and acreage, will be included in the Final License Application."</p> <p>It is crucial to include that information in the FLA for full Forest Service assessment of potential projects impacts to federal lands and appropriate 4e conditioning.</p>	<p>As required by 18 CFR § 4.51(b), Exhibit A, Item 6 of the FLA includes information regarding lands of the United States that are within the FERC Project boundary.</p>
USFS-8	<p><b>DLA Volume I – Exhibits A, B, C, D, G, H</b></p> <p><b>EXHIBIT G, 2.0 Project Maps (page G-3 and G-4).</b></p>	<p>As required by 18 CFR § 4.51(h), Exhibit G of the FLA includes information on modifications and corrections made to Project maps to more accurately depict the FERC Project boundary. Maps depicting these changes are provided in Appendix G-1.</p>

No.	Stakeholder Comment	SCE Response
	<p>Per SCE “Under SCE’s Proposed Action, the existing FERC Project boundary will be modified to (1) include only those lands necessary for operation and maintenance of the Project; (2) remove lands no longer necessary for operation and maintenance of the Project; and (3) correct known errors in the current Exhibit G for the Project. These specific boundary modifications or corrections will be included in the revised Exhibit G as part of the Final License Application (FLA). (3) Federal Lands A calculation of the current and proposed FERC Project boundary acreage is summarized in Table G-2. The FLA will include updated information on proposed acreages.”</p> <p>Given that SCE proposes to modify the project boundary to both include and exclude National Forest System (NFS) lands from the new license, it is crucial to include that information in the FLA. That information is essential for full Forest Service assessment of potential projects impacts on NFS land and appropriate 4e conditioning response.</p>	
USFS-9	<p><b><u>DLA Volume I – Exhibits A, B, C, D, G, H</u></b> <b>Exhibit H 1 (ii) B (5) (page H-16)</b></p> <p>Per SCE “There are no known records of injury or death to the public within the project boundary within the last 10 years.” The Kern County Sheriff maintains a comprehensive record of recorded deaths for the Lower Kern River. Between 1968 and 2024 they record 342 deaths in the Lower Kern River Canyon. They do not count individuals that are lost, presumed dead, but not recovered. Deaths along the Lower Kern are attributed to river drowning, car accidents on the winding SR-178 and hypothermia. It would be unreasonable to expect that within the last ten years there were no deaths to the recreating public in or immediately adjacent to the project facilities or bypass reach.</p> <p>Of additional note, SCE did not provide any public safety information in the Rec 2- Interim Recreation Facility Use Assessment Technical Memo which states SCE will provide that public recreation safety information in the revised draft Rec 2 study technical memorandum. Public safety within the project boundaries is an issue that seems to be missing from the entire DLA.</p>	<p>As required by 18 CFR § 5.18(c)(1)(ii)(B)(5), SCE provided “a discussion of the project’s employee safety and public safety record, including the number of lost-time accidents involving employees and the record of injury or death to the public within the project boundary.” This request is specifically related to injury or death to the public <b>within the Project boundary</b>. SCE’s FLA correctly identifies that “there are no known records of injury or death to the public within the Project boundary within the last 10 years.”</p> <p>The REC 2 Technical Memorandum provided in Appendix E.2 of the DLA and FLA includes public recreation safety information as described in the study plan approved by FERC on March 14, 2024. The study’s public safety scope is focused on identifying existing programs and measures implemented by SCE to protect public health and safety at Project facilities. See REC 2, Section 5.4 for a list of key safety features identified in SCE’s Public Safety Plan for the Project as well as the provisions of the Emergency Action Plan overseen by FERC for the Project.</p> <p>It should be noted that the Kern River No. 1 Project does not include any recreation facilities (i.e., SCE does not manage any recreation facilities as part of the Project). All recreation facilities (developed and undeveloped) are on Forest Service property and are managed by the Forest Service.</p>
USFS-10	<p><b><u>DLA Volume I – Exhibits A, B, C, D, G, H</u></b> <b>Exhibit H 1 (ii) B (5) (page H-16)</b></p> <p>The Rec-2 interim study also found that in the five undeveloped river access points the percentage of available parking was 133% of parking capacity on weekends, 250% of parking capacity on weekdays, and 159% on holidays. Overflow parking on a narrow winding SR-178 canyon road is of concern. No parking or river safety signage is posted on any of the undeveloped recreation access points or on any of the river access trails from the FS managed day use areas.</p>	<p>The REC 2 study characterized recreation use at four Forest Service owned and operated developed recreation facilities and at undeveloped locations identified as river access points along SR-178/the bypass reach (five locations). The five undeveloped locations identified as river access points are not characterized in the study plan or in the TM as formal recreation facilities or designated parking areas. Indeed, some of them may simply be highway turnouts.</p> <p>The REC 2 TM reports the total number of vehicles parked at Forest Service developed recreation areas and at the undeveloped river access points along SR-178. Vehicle counts were conducted on two weekend-days and two weekdays each month, as well as during three holiday weekends (a total of 51 days of vehicle counts) over the course of the study year (May 2024–April 2025). As stated in Table 5-9, the two undeveloped locations along SR-178 identified as river access points where parking capacity was observed to be exceeded on some survey days were River Access Site 1 – estimated parking capacity 2 vehicles, and River Access Site 3 – estimated parking capacity 3 vehicles. Because parking capacity at these sites is very limited, even one additional vehicle results in a substantial exceedance (i.e., value over 100%).</p> <p>While vehicle presence at these sites was observed to exceed capacity on some survey days, surveyors never observed any of the Forest Service developed day use parking lots fill to capacity (including on holidays and weekends), and therefore there was always capacity at a developed recreation site that could have been utilized. On average just 15 percent of the total parking capacity was occupied on an average day when vehicle counts occurred, indicating there is more than enough capacity for parking along the bypass reach. Further, and as noted in other responses, SCE does not manage any recreation facilities as part of the Project. All recreation facilities (developed and undeveloped) are on Forest Service property and are managed by the Forest Service.</p>
USFS-11	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b></p> <p>The sections on Hydrology, Water Quality, Geomorphology, Geology and Soils were reviewed, and the Forest Service agrees that there should be no adverse impacts from implementation of the proposed action.</p>	<p>Comment noted.</p>

No.	Stakeholder Comment	SCE Response
<p>USFS-12</p>	<p><b>Volume 2 (Part 1) Exhibit E</b></p> <p><b>4.0 Statutory and Regulatory Requirements and Applicable Laws</b></p> <p><b>4.7. Wild and Scenic Rivers Act (Page 4-3)</b></p> <p>Per SCE: “Section 7(a) of the Wild and Scenic Rivers Act, 16 USC § 1278(a), requires federal agencies to make a determination as to whether the operation of a project under a new license would invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the designated river corridor. The segment of the Kern River within the FERC Project boundary is not Congressionally designated as a Wild and Scenic River.”</p> <p>The Land Management Plan for the Sequoia National Forest (2023) through the 2012 Planning Rule wild and scenic rivers evaluation process determined that Kern River segments within the KR 1 License boundary were eligible for inclusion in the National Wild and Scenic River system. The administrative management standards established to protect those WSR values during subsequent planning processes 2023 LMP are located on page 116 and Figure 18, and designated, recommended, and eligible wild and scenic rivers, are located on page 152.</p> <p>The Lower Kern River, through the KR1 license area, was found eligible for inclusion in the National Wild and Scenic River system in 2023 (Forest Plan, page 116 and Figure 18, page 152). The Forest Service adopted the forest management standard to manage the eligible, suitable, or recommended river corridor to protect free flow and outstandingly remarkable values to maintain its preliminary classification. Outstandingly remarkable values (ORV) for the Lower Kern were determined to be Recreation, Scenery, and Wildlife. In 2024, the National Park Service, using the Sequoia NF 2023 Forest Plan, placed the Lower Kern on the National Rivers Inventory register and identified Recreation, Scenery and Wildlife significant ORVs.</p>  <p>Image 1. Map of Kern River 1 Hydroelectric Power Plan location and eligible segments of the Kern Wild and Scenic River</p> <p>Portions of Lucas Creek and Stark Creek within the KR1 project area were similarly identified as eligible for inclusion in the National Wild and Scenic River System. Forest Service Handbook 1909.12, section 84.3 now applies as a Forest Service management standard to those designated eligible WSR segments within the KR-1 license boundary. Additionally, Standard (MA-EWSR-STD) 01 (2023 page 116 applies) which states “Manage eligible, suitable, or recommended river corridors, to protect free flow and outstandingly</p>	<p>Refer to the response to KRFF-14 and to USFS-24.</p> <p>SCE recognizes the Lower Kern River has been identified as an eligible Wild and Scenic River. The FLA includes discussion regarding the Lower Kern River as an eligible wild and scenic river corridor, including the relationship of the Project to that eligibility. Refer to Section 7.9, Land Use (7.9.1 and 7.9.3.2), and to Map 7.9-3.</p>

No.	Stakeholder Comment	SCE Response
	<p>remarkable value (ORV) and maintain preliminary classification". ORV designations within eligible, suitable, or recommended WSR segments on the Kern River, Stark Creek, and Lucas Creek within the license boundary include scenery, recreation, historical and archaeological values. None of these values were identified or assessed for project impact in the DLA.</p> <p>SCE's statement above is not completely accurate. If SCE needs additional information regarding Section 7(a), please see the Interagency Wild and Scenic River Coordinating Council's October 2004 technical report, "Wild &amp; Scenic Rivers Act: Section 7", available at <a href="https://rivers.gov/rivers/rivers/sites/rivers/files/2023-07/section-7.pdf">https://rivers.gov/rivers/rivers/sites/rivers/files/2023-07/section-7.pdf</a>.</p> <p>Per the Interagency Wild and Scenic River Coordinating Council's October 2004 technical report cited above.</p> <p><i>"IV. Agency-Identified, 5(d)(1), Study Rivers found eligible or suitable for the National System through federal agency planning processes are not protected by the Act from proposed hydroelectric facilities or other federally assisted water resources projects that have the potential to affect the river's free-flowing characteristics and other identified values. However, the managing agency should, within its authorities, protect the values that make the river eligible or suitable. If a river is listed in the Nationwide Rivers Inventory (NRI), the federal agency involved with the action must consult with the land managing agency, or the NPS, if the river is on private lands, in an attempt to avoid or mitigate adverse effects. This consultation is required pursuant to a directive from the Council on Environmental TQuality."</i></p>	
<p>USFS-13</p>	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b></p> <p><b>4.0 Statutory and Regulatory Requirements and Applicable Laws</b></p> <p><b>4.7. Wild and Scenic Rivers Act (Page 4-3)</b></p> <p>Current operations and practices have not been examined by SCE for their potential to impact Lower Kern River ORVs under the new license. FERC must consult on these impacts. SCE must examine the impact of these operations for FERC's consultation with the Forest Service. Public recreation access needs additional attention. For instance, the posting of no trespassing signs that encompass more than just utility-owned project facilities limits the opportunity of the public to access the river and use National Forest System lands within the river corridor for recreation.</p> <p>Additionally, SCE indicates at 7.10.3.3 that trails currently outside the FERC project boundary will be added as project trails in the final license application. There is no discussion of where those trails might be or the impact on the recreating public.</p> <p>The posting of current sternly worded "No Trespassing" signs may constitute an adverse effect to the Lower Kern River recreation ORV. The no trespass signs impact the public's use during the study period; the data collected during the study period erroneously reflects low use in these trails. Ensuring safe public recreational access to the maximum extent possible should be the goal when developing PM&amp;E measures.</p> <p>Any future plans for facility reconstruction or modification could affect the Lower Kern River's protected ORVs of recreation, scenery and wildlife. Potential effects to the ORVs from project operations and maintenance should be analyzed and discussed in the FLA.</p>	<p>SCE recognizes the Lower Kern River has been identified as an eligible Wild and Scenic River. The FLA includes discussion regarding the Lower Kern River as an eligible wild and scenic river corridor, including the relationship of the Proposed Action to that eligibility. Refer to the FLA Section 7.9, Land Use (7.9.1 and 7.9.3.2), and to Map 7.9-3. Refer also to responses pertaining to the Wild and Scenic Rivers Act (KRFF-14 and USFS-24).</p> <p>As relates to public recreation access and potential effects of signage during the collection of data for the REC 2 study: refer also to KGTC-8, KGTC-12, KGTC-13, KGTC-14, and KGTC-26.</p> <p>As relates to Project trails and the FERC Boundary: As part of the FERC relicensing process, SCE reviewed the existing FERC Project boundary against the latest data sources available, including GPS, LiDAR imagery, and improved aerial imagery, which allow for greater accuracy in the depiction of Project facilities. SCE also reviewed the boundary to ensure that it encloses only those lands that are necessary for safe and efficient operation and maintenance of the project or for other specified project purposes. Exhibit G of this FLA identifies modifications to the FERC Project boundary, including existing trails that are currently located outside of the FERC Project boundary, but which are used for operation and maintenance of the Project. Per FERC's regulations, these trails are required to be included within the boundary and SCE is responsible for maintaining them. SCE is not proposing any changes to the trails or creation of new trails, just the inclusion of identified trails within the Project boundary. Refer to Section 5.2.1 of the FLA for a list of project facilities (including trails) proposed to be added to the FERC Project Boundary. Refer also to response to KGTC-2. Refer to the <i>Project Access Roads and Trail Management Plan</i> (FLA, Appendix E.1, Measures) for a description of SCE's responsibilities, environmental measures, and consultation requirements as related to operations and maintenance of project roads and trails.</p>
<p>USFS-14</p>	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b></p> <p><b>Section 5.1.5.7 Pest Management, Page 5-15</b></p> <p>SCE mentions the use, and planned continued use, of rodenticide to manage rodents. Rodenticide and insecticide are pesticides and require a Pesticide Use Proposal, and approval of use from the Forest Service.</p>	<p>As described in Section 5.1.5.7, SCE currently utilizes rodent control measures within building interiors to support employee and contractor health and safety. Snap traps are used on the exterior to help prevent rodents from entering buildings, and bait stations are used indoors if rodents are detected. No bait or controlled rodenticides are currently used outside of buildings or ancillary facilities on Forest Service lands. SCE would comply with all PUP requirements should the need to use rodenticides or pesticides outside of buildings be identified.</p>

No.	Stakeholder Comment	SCE Response
USFS-15	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b>  <b>5.1.7.5 Land Management Access Improvement Plan, Pages 5-19 to 5-20</b>                      Access Improvement Plan appears to be missing any mention of trail head parking. Trailhead parking and maintenance should be discussed in the FLA.</p>	<p>Section 5.1.7.5 is a sub-section under Section 5.1.7, Existing Environmental Measures, which describes SCE's compliance with current and ongoing license articles related to Project operation and maintenance and environmental resources management included as part of the current FERC License Order. License Article 411 required SCE to develop an Access Improvement Plan that assessed the feasibility of providing safe access improvements along the Project bypass reach. Refer to response to comment KRFF-23 for SCE's compliance with License Article 411.</p>
USFS-16	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b>  <b>Section 5.1.8.3 Emergency Action Plan, Pages 5-22 to 5-23</b>                      This section of the application mentions an Emergency Action Plan (EAP) for the Stark Flume and Forebay, and the justification for not having an EAP for the Democrat Diversion Dam. These are EAPs for flood events resulting from a failure of the structures that are part of the facilities within the FERC boundary. It does not take into consideration a flooding emergency because of failures up-river that may cause a threat to life and property within the KR1 boundary, such as Borel Power Plant or a failure of the Isabella Lake Dam. The captured water above the Democrat Diversion Dam is a popular rafting and kayaking take out, fishing, and day use site that attracts a notable number of people throughout the year, peaking in summer. An EAP should be created to communicate to users at Democrat in the event of a flood or wildland fire, along with a plan to evacuate the area. If a fire cuts off the only road coming and going from the take-out and SCE facilities, what is the alternate plan to evacuate employees and visitors, or to safely shelter in place?</p>	<p>The Dam Safety Program for the Kern River No. 1 Project and other Commission projects, including FERC-licensed projects located upstream, is established under Part 12 of the Commission's regulations and operates independently of the relicensing process. Note that while SCE's own dam safety analysis includes hydrologic information within the watershed context of the site (and following industry-standard practices of modeling), it is not SCE's responsibility to address dams that are outside of SCE's ownership and control (i.e., Isabella Hydroelectric Project).</p> <p>Because the dam safety program is ongoing throughout the license term, any changes that could affect dam safety will be addressed as they occur and SCE re-evaluates the exemption of Democrat Dam on an annual basis with FERC based on the established criteria of Part 12. Exhibit F (filed as CEII) includes a summary of FERC's most recent dam safety inspection, as well as any associated action items identified based on the findings. FERC has determined that the Kern River No. 1 Project is in good operating condition.</p> <p>As a point of clarification SCE accesses Democrat Dam and associated SCE infrastructure via Willow Spring Creek Road/Democrat Dam Road (a Project Road) and not via the Forest Service road that provides access to the Democrat Raft Take-out Boating Site (a Forest Service facility). SCE takes the safety of its employees, contractors and visitors seriously and has protocols in place regarding safe evacuation or sheltering-in-place while working in rural and remote areas. These protocols are not specifically required as part of the relicensing effort and are internal, but SCE appreciates the Forest Service's concern for SCE's employees, contractors and visitors.</p>
USFS-17	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b>  <b>Section 5.2.6 Proposed Environmental Measures, Management Plans and Monitoring Plans page 5-</b>                      A Recreation Management Plan needs to be added to this list to ensure present and future project operations have no adverse impacts on recreational use and enjoyment of the NRI Lower Kern River. Fishing, picnicking, scenic views, parking, and strolls along the river were many activities noted by the public outside of maintained recreation facilities, as well as hiking and wildflower viewing. Providing safety signage and adequate and safe parking opportunities would be appropriate. Attention to issues of public safety within the project boundaries as well as water quality are key attributes that contribute to a quality visitor experience.</p>	<p>SCE recognizes that the river corridor supports recreational use and has considered available study data in developing its proposed measures. SCE will continue to coordinate with the Forest Service and other Stakeholders during FERC's post-filing process to further discuss recreation-related resources, as appropriate, including any refinement of PM&amp;E measures within the scope of the Project.</p> <p>Refer also to response to comment USFS-4.</p>
USFS-18	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b>  <b>Map 5-3c Project Facilities</b>                      Powerhouse Trail is mislabeled as Stark Creek Trail. Stark Creek Trail is located uphill of the tunnels and adits. Stark Creek Trail (30E50) should be labeled as Powerhouse Trail (30E30) on the map.                      Powerhouse Trail is not treated as a project trail yet clearly is used to service adits 14 &amp; 15. The trail is also a natural access point to access parts of Tunnels 14 and 15. Stark Creek Trail (30E50) should be Powerhouse Trail (30E30) on the map.</p>	<p>Refer to response to comment KGTC-2.</p> <p>Pursuant to 18 CFR § 4.41, the FERC Project boundary must encompass only those lands necessary for Project purposes, including the operation and maintenance of the Project over the term of the FERC license. Project trails are trails established by SCE to conduct routine operations and maintenance (O&amp;M) activities at Project facilities. The Project trail names are used by SCE to distinguish among access routes and are not official or publicly referenced names.</p> <p>Where Project trails are coincident with the Powerhouse Trail, they are included in the FERC Project Boundary or proposed to be included in the FERC Project Boundary with this new license.</p>
USFS-19	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b>  <b>7.1.4 Major Land Uses, Page 7.1-6,</b>                      First paragraph, third and fourth sentences point to boating as a recreation use but do not translate the hydrologic information into boatable conditions. For recreation analysis, it is not enough to describe the river generally; the document should identify whether flows are runnable, how often those flows occur, and whether they coincide with likely boating use periods. Without that connection, the analysis does not</p>	<p>Section 7.1.4, <i>Major Land Uses</i> is a sub-section under Section 7.1, <i>General Description of the River Basin</i>. FERC content requirements for this section are specified in 18 CFR § 5.18(b)(1). Specifically, this section provides an overview of the Kern River Basin, including information on the overall basin area and subbasin areas; length of stream reaches; waterbodies located within the basin including lakes and tributary streams; major land and water uses; and other dams and diversions in the basin. For information on recreation use and whitewater boating, please refer to Section 7.10, Recreation Resources and the recreation technical memorandums (REC 1 – Facility Condition Assessment; REC 2 – Facility Use Assessment; and REC 3 – Whitewater Boating) provided in Exhibit E, Appendix E.2.</p>

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	adequately evaluate the Project's effect on boating opportunities. To identify major land uses the Forest Service suggests providing runnable flow ranges in cfs, estimate how often those flows occur, and compare them with likely boating seasons.	
USFS-20	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b></p> <p><b>7.3 Water Quality</b> <b>Table 7.3-2, page 7.3-29</b></p> <p>Why is there a big difference in Dissolved Oxygen downstream of Powerhouse No.1 (9.2 vs 6.5)? A discussion of the difference should be included in the FLA.</p>	The dissolved oxygen value referred to is from 1992 in-situ measurements (Table 7.3-2) collected during the previous relicensing effort. That measurement seems to be anomalous, which is not unusual for dissolved oxygen data as dissolved oxygen meters, particularly in 1992, are notoriously finicky if not calibrated correctly. There is no reason for low dissolved oxygen in the tailrace and the data collected in 2024 and 2025 (Table 7.3- C-2 and Table 7.3-C3) as part of AQ 2 show that the dissolved oxygen readings are near saturation levels as they should be. All DO measurements collected in 2024 and 2025 were > 8.0 mg/L. As noted in Table 7.3-4 in the FLA, DO data from the CEDEN database om 2016 also show that all DO measurements in the Project area are > 8.0 mg/L./Diverted water for generation is conveyed through flow lines and back into the river at the powerhouse. There are no sources of oxygen depletion related to the Project.
USFS-21	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b></p> <p><b>Map 7.5-2e Non-Native Invasive Plants Within the FERC Project Boundary, Along Project Access Trails, and Along the Kern No. 1 Project Bypass Reach.</b></p> <p>Stark Creek Trail (30E50) should be labeled as Powerhouse Trail (30E30) on the map.</p>	Refer to response to comment USFS-18 and KGTC-2. SCE did not change map labeling related to this trail.
USFS-22	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b></p> <p><b>7.6.1.6 Erosion and Sediment Sources Associated with Project Facilities</b> <b>Culverts and other Drainage Features</b></p> <p>Page 7.6-6 SCE states: Five of the 41 drainage features surveyed were classified as "Concern Likely" and require major maintenance or replacement. Table 7.6-6. Project Access Road Drainage Features and Classification identify 3 culverts on Willow Springs Creek Road and 2 culverts on Stark Creek Road "Concern Likely," but do not mention whether the culverts have been addressed under the existing license. In the Forest Service response to Land 1 TM, those roads were identified as having significant erosion issues</p>	<p>One objective of the LAND 1 TM was to document <i>current</i> Project road and trail conditions. The section and table referenced are summarizing information from the LAND 1 TM. SCE understands there are Project features identified as "concern likely " indicating that the feature is not functioning as designed and needs major maintenance or possible replacement due to sediment/detritus blockage, erosion concerns that are directing run-off away from drainage, and other observable structural issues. The findings of the LAND 1 study will be used by SCE Operations to inform operations and maintenance priorities for the coming years.</p> <p>Refer to the <i>Project Access Roads and Trail Management Plan</i> (RTMP, FLA, Appendix E.1, Measures) for a description of SCE's responsibilities, environmental measures, and consultation requirements as related to operations and maintenance of project roads and trails. As described in the RTMP, SCE participates in an Annual Consultation Meeting with the Forest Service each year during which SCE shares any major maintenance planned, including any maintenance to features along SCE Project roads and trails.</p>
USFS-23	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b></p> <p><b>Map 7.8-2e Riparian Alliances and Special Aquatic Features Within the FERC Project Boundary, Along Project Access Trails, and Along the Kern No. 1 Project Bypass Reach</b></p> <p>Stark Creek Trail (30E50) should be labeled as Powerhouse Trail (30E30) on the map.</p>	Refer to response to comment USFS-18 and KGTC-2. SCE did not change map labeling related to this trail.
USFS-24	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b></p> <p><b>7.9.1.2 Land Use and Management within FERC Project Boundaries page 7.9.3</b></p> <p>SCE maintains that Wild and Scenic Rivers Act does not apply to the Lower Kern River, because it does not have formal Congressional determination. In 2024, the National Park Service listed the Lower Kern River on the National River Inventory. Because the Lower Kern was added to the National River Inventory in 2024, the following stipulations within Interagency Wild and Scenic River Coordinating Council's October 2004 technical report, "Wild &amp; Scenic Rivers Act: Section 7", applies.</p> <p><i>"IV. Agency-Identified, 5(d)(1), Study Rivers found eligible or suitable for the National System through federal agency planning processes are not protected by the Act from proposed hydroelectric facilities or other federally assisted water resources projects that have the potential to affect the river's free-flowing characteristics and other identified values. However, the management agency should, within its authorities, protect the values that make the river eligible or suitable. If a river is listed in the Nationwide Rivers Inventory (NRI), the federal agency involved with the action must consult with the land</i></p>	<p>SCE acknowledges that the lower Kern River was added to the National Park Service Nationwide Rivers Inventory (NRI) in 2024. Inclusion on the NRI identifies the river as potentially eligible for designation; however, it does not constitute designation under the Wild and Scenic Rivers Act, nor does it trigger the protections afforded to designated rivers under Section 7(a) of the Act. Only rivers designated by Congress as components of the National Wild and Scenic Rivers System receive the statutory protections and licensing restrictions described in Section 7(a) of the Act.</p> <p>While Section 7(b) of the Wild and Scenic Rivers Act establishes certain protections and consultation requirements pertaining to river segments identified by Congress under section 5 for study as potential additions to the National Wild and Scenic Rivers System, those protections only apply to project "construction." And although the segment of the North Fork Kern River in which KR1 is located is listed in section 5 of the Act, SCE's relicensing application is not proposing any "construction." Thus, the protections and prohibitions under Section 7(b) of the Act also do not apply in this relicensing proceeding.</p> <p>Regardless, SCE acknowledges the guidance cited from the Interagency Wild and Scenic Rivers Coordinating Council (2004), which indicates that for NRI-listed rivers, federal agencies should coordinate with the appropriate land management agency or the National Park Service, as applicable, to consider and, where practicable, avoid or mitigate</p>

No.	Stakeholder Comment	SCE Response
	<p><i>managing agency, or the NPS, if the river is on private lands, in an attempt to avoid or mitigate adverse effects. This consultation is required pursuant to a directive from the Council on Environmental Quality.”</i></p> <p>Unresolved issues related to public recreation access and safety might trigger Forest Service and FERC consultation under 5(d)(1) of the Wild and Scenic River Coordinating Council’s 2004 technical report.</p>	<p>adverse effects on identified river values. This guidance does not establish additional regulatory prohibitions or a “non-conforming use” standard.</p> <p>Moreover, any consultation requirements contemplated in Section 5(d)(1) of the Act and the 2004 technical report have been fully met in FERC’s relicensing ILP process. Consistent with this guidance, potential effects to river values—including recreation access and safety—have been evaluated as part of the KR1 Project licensing process, in coordination with the Forest Service as the land-managing agency. The KR1 Project represents an existing condition, and the Proposed Action evaluates Project-related effects relative to that baseline.</p> <p>For these reasons, SCE does not view the lower Kern’s NRI listing, or the Interagency Council’s Section 5(d)(1) guidance as creating additional Wild and Scenic Rivers Act consultation or licensing obligations beyond those that are already being addressed through this FERC relicensing process. Coordination with relevant agencies regarding resource protection, including recreation-related considerations, is inherent to that process.</p> <p>Compliance with the 2023 Land Management Plan for the Sequoia National Forest—including consideration of eligible, suitable, or recommended wild and scenic river segments—is addressed in FLA Section 7.9 (Land Use) and further described in Section 7.11 (Aesthetic Resources).</p> <p>Refer also to responses to KRFF-14, USFS-12 and USFS-13.</p>
USFS-25	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b> <b>7.10.1.4 Recreation Opportunities and Use, Trail Use, Page 7.10-7</b> Powerhouse Trail mislabeled as Stark Creek Trail on maps. The Stark Creek Trail starts off Dougherty Creek Trail above the project.</p>	<p>Refer to response to comment USFS-18 and KGTC-2. SCE did not change map labeling related to this trail.</p>
USFS-26	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b> <b>7.10.2 Proposed Environmental Measures</b> Add: Recreation Management Plan and Public Safety Plan.</p>	<p>A Public Safety Plan (considered CEII) is currently in place for the Project. Independent of the relicensing process, FERC requires that a Public Safety Plan be developed by the project owner where public safety measures are necessary. SCE’s Public Safety Plan for the Kern River No. 1 Project includes a list of safety devices and a schematic drawing showing the location of each device. The plan is maintained and updated by SCE and is reviewed by Commission staff during each operation inspection for accuracy and adequacy.</p> <p>Also refer to response to comment USFS-16.</p>
USFS-27	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b> <b>7.10.3.4 Effects of Continued Project Operation and Maintenance on Recreational Whitewater Boating Use in the Project Bypass Reach.</b></p> <p>It should be noted that public use of trails is constrained by limited parking and what is perceived to be dangerous access to trails.</p> <p>There are informal (possible historic) trails in the vicinity of Forest Road No. 28S81 roughly at the Highway 178 intersection. Technically the first official trail on Forest Road No. 28S81 is Dougherty Creek Trail which starts about 1/8- road mile from the 178 intersection. Dougherty Creek trail bisects Powerhouse Trail (Forest Trail No. 30E30 which is used as a project trail) then has an intersection located outside of the project area with the official Stark Creek Trail.</p>	<p>SCE agrees that only minimal safe locations for parking exist along SR-178. This was also a finding of the Access improvement Plan filed in 1999. Refer to KRFF-23.</p> <p>As regards Dougherty Creek Trail and nearby trails, SCE notes this comment. Map 3-1e in the REC 2 TM identifies the locations of the Dougherty Creek Trail and Stark Creek Trail (both Project Trails) in relation to the Forest Service Powerhouse Trail. Map 5-5e in the FLA identifies these same trails in relation to the Proposed FERC Project Boundary.</p>
USFS-28	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b> <b>7.10.4 Unavoidable Adverse Effects</b></p> <p>Per SCE “There are no unavoidable adverse effects to recreation resources from continued operation and maintenance of the Project under the Proposed Action.”</p> <p>This statement is not supported given many recreation and public safety data gaps. The DLA indicates that trails outside the current project boundary will be added to the FLA but no maps or information is provided. Public recreation safety data is missing. The data that is available is not fully discussed. Five undeveloped parking areas studied in REC-2 are documented to be 133% to 250% beyond maximum capacity with no</p>	<p>SCE maintains that there are no unavoidable adverse effects to recreation resources from continued operation and maintenance of the Project under the Proposed Action. Refer to other responses on this topic including: USFS-10 (addressing available parking), and to KGTC-2, KGTC 5, and KGTC-8 (addressing trail use and signage).</p>

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	public safety signage for either the road or the river is a recreation access and safety concern. SCE currently has sternly worded “NO Trespassing Signs” posted which discourages public visitation in areas beyond project boundaries. Additional information is needed on public use for determining appropriate signage and potentially restricting access for an NRI river with a Recreation ORV.	
USFS-29	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b>  <b>7.12. Cultural Resources</b>            Second paragraph, Page 7.12-1</p> <p>It is difficult to assess the adequacy of Section 7.12 when the technical studies are still pending. Preparing the DLA without those studies completed has a pre-decisional quality. While the section notes that the completed studies “will be submitted . . . before the Final License Application,” it does not offer any timeline or note how comments or concerns with those studies would be incorporated into the FLA. The Forest Service and stakeholders should be given the opportunity to submit additional comments on the DLA after reviewing the technical studies.</p>	Comment noted. The CUL 1, CUL 2, and TRI 1 technical reports were submitted to the Forest Service on March 3, 2026. Section 7.12, Cultural Resources and 7.13, Tribal Resources of the FLA were updated with the most recent study results and analysis. The final reports will be filed with FERC as confidential and Privileged.
USFS-30	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b>  <b>7.12.1 Area of Potential Effects and Study Area, Page 7.12-1</b></p> <p>36 C.F.R. 800.16(d) defines the area of potential effects as “the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historical properties, if any such properties exist.” The Forest Service previously made clear that the APE as defined (the FERC project boundary) is inadequate – visual, auditory and atmospheric effects do not stop at an arbitrarily defined line, least of all one drawn so close to the point source of those effects. Similarly, construction activities and hazard mitigation measures have the potential to deposit dust or waste material such as slash (e.g., resulting from tree falling) well beyond the FERC project boundary. Road maintenance activities, such as roadwork, could channel run off into site boundaries located well outside the FERC project boundary. The Forest Service has provided this input repeatedly to SCE and has seen no evidence that those “comments were incorporated into the revised CUL 1 and CUL 2 TSPs” in any substantial manner.</p>	<p>SCE, as the non-federal representative for National Historic Preservation Act Section 106 consultation for FERC, submitted the proposed Area of Potential Effects (APE) and study area to the State Historic Preservation Officer (SHPO) on July 16, 2024. The SHPO agreed in letter dated August 30, 2024, with the delineation of the current APE and study area but reserved the right to consult on its expansion should planned studies or consultation identify cultural resources that extend beyond the FERC Project boundary or otherwise are found to be affected by the Project.</p> <p>The APE is based on FERC’s jurisdiction for Operation and Maintenance (O&amp;M) of the project which is limited to the FERC Boundary. Also, no construction activities are planned as part of this relicensing effort. If future O&amp;M activities extend outside of the FERC Boundary, that would trigger additional reviews under the jurisdiction of the Forest Service as the lead federal agency rather than FERC.</p> <p>Refer to the <i>Project Access Roads and Trail Management Plan</i> (FLA, Appendix E.1, Measures) for a description of SCE’s responsibilities, environmental measures, and consultation requirements as related to operations and maintenance of project roads and trails.</p>
USFS-31	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b>  <b>Ethnographic Background, Page. 7.12-7, last paragraph</b></p> <p>The relationship between Tübatulabal and Kawaiisu is much less trivial than outlined in this single sentence – or in the section as a whole.</p>	This section of the FLA has been updated.
USFS-32	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b>            Travel and Trade, Page. 7.12-9, last paragraph</p> <p>Williamson (1853) mapped some of these trails (and included trail names) – his map is available online.</p>	Comment noted.
USFS-33	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b>  <b>KAWAIIISU ETHNOGRAPHY, Page 7.9-11, first paragraph</b></p> <p>Kawaiisu territory included the Piute Mountains and potentially parts of Breckenridge Mountain.</p>	Comment noted. Text has been adjusted where appropriate in the FLA.
USFS-34	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b>  <b>7.12.2.2 Physical Environment and Climate and Cultural Contexts</b>  <b>Later Tensions, Page 7.12-12 – second to last paragraph.</b></p> <p>Gold was discovered on the Kern River in 1854.</p>	Comment noted. Text has been adjusted where appropriate in the FLA.

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	<p>Much of the influx of Shoshone and Paiute in the early 1860s was the product of the Owens Valley Indian War.</p>	
<p>USFS-35</p>	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b> <b>Mining, Pages 7.12-14 to 7.12-15,</b> Fremont did not have an expedition in 1851. His fifth expedition passed through the Kern River Valley in April of 1854 (his fourth expedition was in the 1840s) but did not note the presence of any mining nor any discovery of gold. Gold was discovered on the Kern River shortly after Fremont's passage by a prospecting party including C. K. Worland and William Packard at a place they called Elbow Bar (likely just upstream from Democrat Dam). By December, gold had been discovered on Greenhorn Creek, a few miles outside the project area and Keysville (Havilah Courier, September 8, 1866).  The area around Democrat Hot Springs including the footprint of Democrat Dam was part of the Democrat Mining District.  Location names provided by Ptomey may be incorrect – the Forest Service minerals program made repeated errors with historic mining locations in the 1990s and early 2000s. Based on historic-period newspaper accounts and mining records on file with the Forest Service, the Red Cloud Mine and its arrastra appear to be located very near (if not within the APE) of SCE's road to Democrat Dam.  "The quick growth of mining was generally followed by quick decline." – Mining persisted in and around the study area from the 1850s through the 1970s and continues in a small way with numerous active mining claims being located on the river and its tributaries.  The Forest Service does not understand why the information we provided has not been incorporated into the DLA and why there continues to be errors and inconsistencies despite the information provided. The Forest Service hopes the pending studies have an improved historical context for mining in the study area. The Forest Service provided SCE with hundreds of pages of mining history for the Kern River and surrounding mountains and believes that all appropriate information provided along with information from pending studies should be incorporated into the FLA.</p>	<p>Comment noted. Text has been adjusted where appropriate in the FLA.</p>
<p>USFS-36</p>	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b> <b>Section 7.12.3 Proposed Environmental Measures, Page 7.12-24</b> How can the Forest Service (or any other stakeholder) analyze the effectiveness of the Proposed Environmental Measures without the final technical studies? If the Forest Service and stakeholders cannot revisit the DLA following review of the technical studies, will there be a meaningful opportunity to provide input regarding environmental measures and the HPMP prior to the production of the FLA?</p>	<p>Comment noted. The Draft CUL 1, CUL 2, and TRI 1 technical reports were submitted to the Forest Service on March 3, 2026. The Forest Service will be able to review and comment on the Draft Historic Properties Management Plan which will incorporate the results of the any Forest Services comments on the Draft CUL 1, CUL 2, and TRI 1 technical reports.</p>
<p>USFS-37</p>	<p><b><u>Volume 2 (Part 1) Exhibit E</u></b> <b>Section 7.12.4 Potential Project Effects, Page 7.12-24</b> Here too, it is difficult to consider effects without the completed technical studies. Informal consultation with SHPO regarding the area of potential effects acknowledged that defining the project APE as the FERC boundary is likely inadequate – SHPO recommended to the Forest Service that the issue could be addressed in the HPMP.</p>	<p>Comment noted. Potential Project effects will be addressed in the HPMP.</p>

**Comment Letter 5: Kern Gateway Trail Committee (KGTC) (Filed April 1, 2026)**

No.	Stakeholder Comment	SCE Response
KGTC-1	<p><b>Cover Letter</b></p> <p>The Kern Gateway Trail Committee, a project of the Kern River Parkway Foundation, submits these comments on Southern California Edison’s (SCE’s) Draft License Application (DLA) for the Kern River No. 1 Hydroelectric Project (KR1, FERC Project No. 1930), filed December 18, 2025. These comments identify specific inadequacies in the DLA and are organized by DLA section to facilitate SCE’s required response and FERC’s review. The comments address: Exhibit E Section 5.3 and Table A-3 (project trail classification); Section 7.10 and Appendix E.2 REC-2 TM (recreation use methodology); Section 7.11 and the Visual Resources Protection Plan in Appendix E.1 (aesthetic resources); Section 7.14 (socioeconomics and environmental justice); the Project Access Roads and Trails Management Plan in Appendix E.1; the Draft Sediment Management Plan in Appendix E.1; and Appendix E.2 Technical Memoranda AQ-2 and REC-3.</p> <p>Each section below identifies a specific inadequacy in the DLA, cites the relevant exhibit, section, table, or appendix, and states what FERC should require. SCE must respond specifically to each identified deficiency. The central deficiency pervades the DLA: SCE’s own data shows two to three trail users per trail per day — counts gathered while unauthorized No Trespassing signs, locked gates, barbed wire, and blocked parking suppressed public access at every surveyed site. SCE presents these suppressed counts as evidence that current capacity is adequate. They are not. They are evidence of SCE’s own barriers. FERC should reject this framing and require SCE to treat its suppressed baseline as a floor, not a ceiling, for what public demand in the lower Kern Canyon actually is.</p>	<p>Comment noted.</p>
KGTC-2	<p><b>I. Exhibit E, Section 5.3 and Table A-3 (Exhibit A): SCE’s Project Trail Classification Omits the Powerhouse Trail Despite SCE’s Own Field Documentation</b></p> <p>The Powerhouse Trail is the most consequential trail omission in SCE’s DLA, and SCE’s own documents reveal the contradiction. SCE’s Project Access Roads and Trails Management Plan (Appendix E.1) and Table A-3 of Exhibit A list ten project access trails — none of which is the Powerhouse Trail. Yet the Powerhouse Trail appears throughout the DLA as the acknowledged connecting infrastructure the project trails depend on.</p> <p>SCE’s own engineers field-verified the Powerhouse Trail during relicensing and recorded it in Table 5-3 of Exhibit E (Section 5, p. 5-32, footnote 3): “The current Exhibit G maps on file with FERC indicate a trail extends from SR 178 up to Flume No. 3. However, during field reconnaissance staff confirmed this trail does not connect to SR 178. Instead, this trail runs along a portion of the Forest Service’s Powerhouse Trail (from Cow Flat Creek to Conduit No. 6).” SCE field-verified the Powerhouse Trail, corrected its project maps using it, and declined to accept any maintenance responsibility for it. Notably, the Powerhouse Trail was also not included as a study site in the REC-2 recreation use assessment, despite being the connecting trail that all five surveyed project trails lead to. A trail used by SCE to define its project boundaries, correct its FERC maps, and characterize its project trail system — yet excluded from its recreation use study — warrants inclusion in the new license as a designated project trail. Furthermore, Exhibit E Section 7.10 (p. 7.10-7) explicitly describes all five surveyed project trails as trails “that connect to the Forest Service Powerhouse Trail” — making the Powerhouse Trail the acknowledged connecting spine of SCE’s own project trail system. We submit that a trail SCE relied on to define its project trail boundaries and used to correct its FERC maps is properly classified as a project trail subject to maintenance and improvement obligations under the new license. The current Exhibit G maps on file with FERC indicate a trail extends from SR 178 up to Flume No. 3. However, during field reconnaissance staff confirmed this trail does not connect to SR 178. Instead, this trail runs along a portion of the Forest Service’s Powerhouse Trail (from Cow Flat Creek to Conduit No. 6).”</p> <p>[Refer to Figure 1 and Figure 2 in the Kern Gateway Trail Committee Comment Letter]</p>	<p>SCE respectfully disagrees that the entire Powerhouse Trail should be classified as a “Project trail.” “Project trails” are trails utilized by SCE to access Project areas to conduct routine O&amp;M activities. Project trails are not designed or maintained as public recreation trails, and SCE does not propose to assume recreation-oriented maintenance or improvement obligations for Project trails. Furthermore, pursuant to 18 CFR § 4.41, the FERC Project boundary must encompass only those lands necessary for Project purposes, including the operation and maintenance of the Project over the term of the FERC license.</p> <p>Where SCE’s Project trails coincide with portions of the Forest Service the Powerhouse Trail, those segments are either already within, or are proposed to be included in the FERC Project Boundary. The following Project Trails coincide with portions of the Powerhouse Trail.</p> <p>Cow Flat Creek Trail (0.13-mile) and Cow Flat Creek to Conduit No. 6 Trail (0.61-mile) (Refer to Map 5-5c and REC 2 Map 3-1c).</p> <p>Approximately half of the 0.52-mile Lucas Creek Trail merges with Powerhouse trail (refer to Map 5-5d and REC 2 Map 3-1d).</p> <p>Approximately half of the 0.45-mile Dougherty Creek Trail merges with the Powerhouse Trail (refer to Map 5-5e and REC 2 Map 3-1e).</p> <p>Stark Creek Trail (1.15 mile) from Conduit No. 8 to Adit 13&amp;14 (Refer to Map 5-5e and REC 2 Map 3-1e)</p> <p>The <i>Cow Flat Creek to Conduit No. 6 Trail</i> and the <i>Stark Creek Trail</i> are currently outside the FERC Project boundary and SCE proposes to revise the FERC Project Boundary to add these trails to the license (refer to Exhibit G and Maps 5-5a-g). As such, SCE accepts responsibility for maintaining these two portions of the trail. Portions of the Powerhouse Trail that are not used by SCE for O&amp;M of the Project are considered recreational features managed by the Forest Service.</p> <p>As part of relicensing, SCE conducted field reconnaissance to verify existing conditions and ensure the accuracy of Project mapping, including clarification of the alignment of certain access routes in relation to the Powerhouse Trail. The inclusion of the Powerhouse Trail in mapping discussions or as a geographic reference point does not establish it as a Project trail, nor does it indicate that the Powerhouse Trail is used or relied upon for Project purposes.</p> <p>The recreation study evaluated recreational resources within the Project vicinity, including trails where appropriate to understand recreational use of the area. Consideration of the Powerhouse Trail in that context does not change its</p>

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		<p>ownership, management, or function, and does not support its designation as a Project facility subject to license requirements. Accordingly, SCE has not included the entirety of the Powerhouse Trail as a Project trail in the FLA. SCE will continue to coordinate with the Forest Service regarding recreation resources in the Project area, as appropriate, consistent with each entity's roles and responsibilities.</p> <p>Refer to the Project Access Roads and Trail Management Plan (FLA, Appendix E.1, Measures) for a description of SCE's responsibilities, environmental measures, and consultation requirements as related to operations and maintenance of project roads and trails.</p>
<p>KGTC-3</p>	<p><b>I. Exhibit E, Section 5.3 and Table A-3 (Exhibit A): SCE's Project Trail Classification Omits the Powerhouse Trail Despite SCE's Own Field Documentation</b></p> <p>While not all sections of the powerhouse trail are equally well built and maintained, it is clear that the trail was originally built for the KR1 hydro plant, to connect the various tunnels and addits with a surface trail. It follows the elevation of the flow line from Cow Flat Creek all the way to the Penstock/Forebay. USFS acknowledges this trail as does SCE. The maps of the Powerhouse Trail show it ending with a descent to highway 178 just west of Peachacho Creek when there is a trail that continues onward to connect with other SCE trails at the Penstock/Forebay. The new license should clearly designate the Powerhouse Trail as a project trail, with corresponding maintenance and improvement obligations, reflecting its historic and continuing connection to project operations.</p> <p>[Refer to Figure 3 through Figure 7 in the Kern Gateway Trail Committee Comment Letter]</p>	<p>Refer to response to comment KGTC-2.</p>
<p>KGTC-4</p>	<p><b>I. Exhibit E, Section 5.3 and Table A-3 (Exhibit A): SCE's Project Trail Classification Omits the Powerhouse Trail Despite SCE's Own Field Documentation</b></p> <p>The KR1 project trail system and the Powerhouse Trail have a direct nexus to project operations: they are project features that attract recreationists and hikers, originally constructed to enable access for project operation and maintenance, connecting tunnels, adits, conduits, and other project structures along the elevation of the KR1 flow line — making the trail system as old as the powerplant itself. Today, these trails are shared by both SCE personnel and the public and connect directly to the U.S. Forest Service's Powerhouse Trail, a designated USFS recreation trail. SCE's DLA should recognize the Project Access Trails as Recreation Facilities — used by the public both as recreation destinations in themselves and as connections to the USFS Powerhouse Trail — and accept maintenance and improvement obligations accordingly. Therefore, FERC should require SCE to include the Powerhouse Trail in its Project Access Roads and Trails Management Plan as a project trail and to accept maintenance responsibility for it as a condition of the new license. Additionally, FERC should require that the KR1 project boundary be extended to encompass all sections of the Powerhouse Trail. Under 18 CFR 4.41(h)(2), the project boundary must enclose not only lands necessary for operation and maintenance, but also lands necessary "for other project purposes, such as recreation, shoreline control, or protection of environmental resources." FERC Order 313 further requires licensees to acquire lands to assure optimum development of recreational resources, develop suitable public recreational facilities with adequate public access, and coordinate with other agencies in developing recreation areas. The Powerhouse Trail was built for project purposes, is acknowledged by SCE as the connecting spine of its project trail system, and is necessary to provide the recreation access this community needs. Including it within the project boundary is the only way to ensure SCE's maintenance and improvement obligations are enforceable under the new license.</p>	<p>Refer to response to comment KGTC-2.</p>
<p>KGTC-5</p>	<p><b>II. Appendix E.2, REC-2 TM (December 2025), Section 4.3: The Trail Use Study Methodology Is Fundamentally Flawed and Cannot Support SCE's Adequacy Finding</b></p> <p>SCE's REC-2 Recreation Facility Use Assessment Interim Technical Memorandum (Appendix E.2, December 2025) presents trail use data from TrafX infrared counters installed November 14, 2024, and survey boxes installed January 23, 2025, at five project trails. SCE summarizes its findings at Exhibit E, Section 7.10, p. 7.10-13, and in REC-2 TM Section 5.2.1, as follows:</p> <p><i>"Project roads and trails—developed and maintained by SCE to access Project facilities and generally</i></p>	<p>The results of the REC 2 study consistently indicate low levels of use across all Project trails, averaging approximately one to three users per trail per day. This estimate includes both public recreationists and SCE personnel accessing Project facilities. Furthermore, because the TrafX counters may record non-recreational triggers (e.g., livestock or vegetation movement), actual public recreational use is likely lower than recorded counts. These findings are consistent across locations and methods and constitute substantial evidence regarding recreation use in the Project area.</p> <p>The REC 2 study was conducted in accordance with the FERC-approved study plan and was designed to characterize recreation use under existing conditions, including current access configurations. The presence of gates and signage at two Project roads—specifically at the entrances to the Willow Creek Spring/Democrat Dam Road and Forebay</p>

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	<p><i>located within the FERC Project boundary on SQF land—are available for public use. Results from the REC 2 study show light recreation use of these trails, averaging only two to three users per trail per day, indicating that current capacity is adequate and overuse is not an issue... Based on these findings, continued Project operation and maintenance is not expected to limit the ability of Project trails to meet either present or foreseeable future recreation demand... Continued Project operation and maintenance would have no effect on the adequacy of Project trails to meet recreation demand compared to the No-Action Alternative.”</i></p> <p>This conclusion — that current trail capacity is adequate and that SCE’s operations have no effect on recreation demand — cannot withstand scrutiny. The study’s methodology, combined with the conditions under which data was collected, resulted in a severe and systematic undercount of actual and potential public demand. The Commission should not accept these counts as a reliable baseline without accounting for the following fundamental deficiencies.</p>	<p>Operations Area Road—predates the relicensing process and represent a longstanding feature of the recreation environment evaluated in the study. The study documents actual use patterns under real-world conditions rather than attempting to model speculative scenarios under modified access conditions. Furthermore, only one of the five Project trails studied, the Democrat Gage Trail, is located behind a gate that, during the time of the study, included “No Trespassing” signage. This gate is at the top of the Willow Creek Spring/Democrat Dam Road. The Democrat Gage Trail is approximately one mile distant (downhill) from this gate. Incidentally, The Democrat Gage Trail is also accessible from the Democrat Trail, a Forest Service trail that extends from the top of Democrat Beaches Road (a Forest Service road) to a midpoint on Willow Creek Spring Road. Refer to REC 2 Map 3-1a.</p> <p>Low levels of use were observed across all surveyed trails, including those not associated with gated access or signage. This indicates that observed use patterns are not attributable to any single access feature, but instead reflects the broader recreation setting, site characteristics, and user preferences within the Project vicinity.</p> <p>Refer also to response to comment KRFF-6.</p>
KGTC-6	<p><b>II. Appendix E.2, REC-2 TM (December 2025), Section 4.3: The Trail Use Study Methodology Is Fundamentally Flawed and Cannot Support SCE’s Adequacy Finding</b></p> <p>A. REC-2 TM, Section 5.2.1 and Figure 5-4: The Out-and-Back Counter Assumption Is Inapplicable to Connecting Trails</p> <p>SCE’s report acknowledges that most project trails are out-and-back routes and therefore interprets every two counter activations as one visitor. SCE applies this assumption as a blanket default even for trails that explicitly connect to other trails. In its own study, SCE states about the Cow Flat Creek Trail (REC 2, Section 5.3.2): “Though the Cow Flat Creek Trail is not strictly an out-and-back trail because it connects to the Forest Service’s Powerhouse Trail, it is likely that many users hiked up the trail and then back down during a single day... Therefore, it is reasonable to assume that many (or most) visitors passed the TrafX counter twice during a visit and that, therefore, two counts should often be interpreted as representing one individual.” SCE applies this “likely” and “reasonable to assume” reasoning even for the one trail it explicitly acknowledges connects to the Powerhouse Trail. But consider what the data actually shows: the Cow Flat Creek Trail is only 0.14 miles long — a five-to-ten-minute walk. SCE’s own data reports an average trail use duration of 2.4 hours at this location. A 2.4-hour visit on a 0.14-mile trail is not an out-and-back hike. It is a through-hike onto the Powerhouse Trail, continuing along the canyon and returning via a different route or simply spending extended time in the canyon interior. SCE’s methodology counted many of these hikers as a single person making two passes past the counter — in effect, counting them as half a visit. The Cow Flat Creek data, read honestly, is strong evidence of through-hiking onto the Powerhouse Trail corridor. SCE’s default assumption erases this entirely, and systematically undercounts actual visitation at every location where trail connections exist.</p>	<p>The REC 2 study presents the full dataset collected from TrafX counters and provides site-specific interpretation of those data. Specific to the Cow Flat Creek Trail the narrative states:</p> <p>... the average daily trail count was 3.4, the median count was 5, and the mode was 0. Trail counts include SCE personnel who use the Cow Flat Creek Trail to access infrastructure, conduct flow monitoring, and perform trail maintenance. Approximately four to 10 SCE personnel use the Cow Flat Creek Trail for non-recreational purposes each month, including hydrographers and civil maintenance crews. During a single visit, SCE personnel may pass the counter multiple times.</p> <p>As acknowledged in the REC 2 TM, the Cow Flat Creek Trail connects to the Powerhouse Trail, and some users may continue beyond the counter location before returning to their point of origin. While alternative travel patterns are possible, including loop use via other trails, such use would generally require coordination of transportation and is expected to occur less frequently than out-and-back travel.</p> <p>Consistent with standard practice for interpreting infrared counter data on trails with bidirectional use, the REC 2 study evaluates counts in the context of likely user behavior. Under reasonable assumptions regarding out-and-back travel, counter activations may represent multiple passes by the same individual during a single visit. However, even without applying any adjustment factor, recorded use levels remain low and supports the conclusion that public recreational use of the Cow Flat Creek Trail, like other Project trails, is limited.</p> <p>Accordingly, regardless of the specific interpretation applied to counter data, the REC 2 study consistently demonstrates low levels of trail use at this location throughout the study period.</p>
KGTC-7	<p><b>II. Appendix E.2, REC-2 TM (December 2025), Section 4.3: The Trail Use Study Methodology Is Fundamentally Flawed and Cannot Support SCE’s Adequacy Finding</b></p> <p>B. REC-2 TM, Section 4.3, Footnote 6: The Penstock/Forebay Trail — the Study’s Most Important Omission — Was Excluded on SCE’s Own Initiative</p> <p>SCE excluded the Penstock/Forebay and Overflow Spillway Trail access area from trail counter and survey box installation, citing “security and safety concerns.” This is the single most significant omission in the study. These trails together form the closest potential hiking loop to the city of Bakersfield, at the most dramatic bend in the lower Kern Canyon, where the trail gets to around 800’ above the river, with expansive views up canyon and down canyon to the mouth of the canyon and the city beyond. The Kern Gateway Trail Committee specifically requested that counters and a survey box be installed here; that request was not accommodated. The result is a dataset that is structurally blind to the most promising and what should be the highest-demand corridor in the entire project reach. The Kern Gateway Trail committee has taken community members and community leaders on numerous hikes in the project reach and none of the alternative trails along this section of the canyon come close to comparing to the scenic beauty of this section.</p>	<p>FERC considered stakeholder input prior to issuing its Study Plan Determination, which approved the study methods as appropriate to meet the stated study objectives. This FERC-approved study plan did not include study of the Penstock/Forebay or Overflow Spillway Trail. SCE has implemented the recreation use study in accordance with the FERC-approved study plan.</p> <p>Also refer to response to comment KRFF-3.</p>

No.	Stakeholder Comment	SCE Response
KGTC-8	<p><b>III. Appendix E.2, REC-2 TM, Sections 5.2.1–5.2.5: Site-Specific Access Barriers Suppressed Counts at Every Surveyed Location</b></p> <p>Access barriers at KR1 project trails — including No Trespassing signs, locked gates, barbed wire, and damaged infrastructure — have reduced public use of recreational resources that should be open and welcoming to the community. These barriers are not a new development. Decades of restricted access have shaped how generations of Kern Valley and Bakersfield-area residents perceive this canyon — as a place they cannot hike freely. That cumulative effect is the suppression that matters most: not merely what happened during the REC-2 study period, but the accumulated perception, built over years, that the public is not welcome here. Critically, this means that repeating the REC-2 study under the same conditions would not produce substantially different results. The underlying conditions — unauthorized signage, locked gates, blocked parking, excluded trails — must change before any study can accurately measure actual public demand. The new license is the mechanism to require that change. Even under these constrained conditions, the REC-2 data shows consistent trail use at every surveyed location. That use represents a floor, not a ceiling, for what this canyon can support when access is clear, legal, and well-marked.</p>	<p>SCE disagrees with the assertion that the REC 2 study results are invalid or systematically understated due to access barriers. The REC 2 study was conducted in accordance with the FERC-approved study plan and was designed to characterize recreation use under existing conditions within the Project vicinity. As such, the study appropriately reflects the recreation environment as it currently exists, including site access conditions present during the study period.</p> <p>The features identified in the comment—such as signage, gates, and fencing—are existing site conditions that pre-date the relicensing studies and are not attributable to study design or implementation. These features were consistently present throughout the study period and therefore do not introduce bias into the dataset; rather, they define the baseline conditions that the study was intended to evaluate.</p> <p>As described in the DLA, Project roads and trails are located on NFS land, and access management is under the jurisdiction of the Forest Service. SCE does not own or operate developed recreation facilities in the Project area.</p> <p>With respect to barbed wire fencing referenced, this fencing (part of the existing condition) is located across the Lucas Creek Trail. The fencing was not installed by SCE and is understood to be associated with authorized grazing activities on NFS land.</p> <p>The results of the REC 2 study document low levels of trail use across all surveyed locations, averaging approximately one to three users per trail per day, inclusive of SCE operational use. This pattern is consistent across sites with varying access conditions, including locations without the specific features identified in the comment. In addition, TrafX counter data may include non-recreational detections (e.g., SCE personnel, livestock, or vegetation movement), indicating that actual public recreational use may be lower than recorded values.</p> <p>The assertion that observed use represents a “suppressed baseline” or “floor” of potential demand is speculative and not supported by evidence collected as part of the FERC-approved study. The REC 2 study was not designed to model hypothetical future demand under altered access conditions, but rather to characterize existing recreation use to inform FERC’s evaluation of Project effects. The data collected provide a representative and methodologically sound basis for that analysis.</p> <p>Accordingly, SCE maintains that the REC 2 study results are valid, representative of existing conditions, and appropriate for use in assessing current recreation use and potential Project effects.</p> <p>Refer also to the response to comment KGTC-5.</p>
KGTC-9	<p><b>III. Appendix E.2, REC-2 TM, Sections 5.2.1–5.2.5: Site-Specific Access Barriers Suppressed Counts at Every Surveyed Location</b></p> <p>A. REC-2 TM, Section 4.3, Footnote 6 / Exhibit E, Section 7.10: Unauthorized No Trespassing Signage Predated and Invalidated the Study at the Canyon’s Most Scenic Area</p> <p>Across SR-178 from the KR1 Powerhouse, two project-area trails — the Penstock/Forebay Trail and the Overflow Spillway Trail — offer a rare and valuable hiking loop configuration from a single access point. Loop trails are among the most popular trail configurations because they allow hikers to experience new terrain throughout their hike without retracing their steps. This particular loop would provide dramatic views of the most scenic bend in the lower Kern Canyon, the closest point of National Forest access to the city of Bakersfield.</p> <p>This entire area is currently inaccessible to the public because of a locked gate and unauthorized SCE “No Trespassing” signage. The U.S. Forest Service asked SCE to remove these signs during the relicensing study period because they were not permitted under SCE’s existing license or its USFS special use permits. As of the date of these comments, the sign at this location remains in place. The Kern Gateway Trail Committee’s request to place a trail counter or survey box at this location was also declined by SCE, meaning no use data was collected here at all. At the March 26, 2026 Updated Study Report meeting in Kernville, an SCE staff member defended the signs on the grounds that they predated the study period and therefore did not affect the study. This argument misses the essential point: signs that predated the study period do not exonerate the study — they deepen the concern. If these unauthorized No Trespassing signs have been in place for years, their effect on public behavior extends far beyond the study window. They</p>	<p>Refer to response to comment KGTC-7</p>

No.	Stakeholder Comment	SCE Response
	<p>have shaped public perception, over time, that this area is off-limits. The REC 2 study measured the downstream effect of that perception. It did not measure demand.</p> <p><b>Note:</b> While SCE's gates and signs block casual public access, some members of the public who are aware that the "No Trespassing" signs lack legal authorization do hike in this area. That those hikers exist at all — willing to pass signs threatening legal consequences in order to reach this landscape — is itself evidence of genuine demand. With legitimate, signed, maintained access, use would be substantially higher.</p> <p>[Refer to Figure 8 through Figure 11 in the Kern Gateway Trail Committee Comment Letter]</p>	
<p>KGTC-10</p>	<p><b>III. Appendix E.2, REC-2 TM, Sections 5.2.1–5.2.5: Site-Specific Access Barriers Suppressed Counts at Every Surveyed Location</b></p> <p>B. Exhibit E, Table 5-3: The Overflow Spillway Trail Received a "Poor" Condition Rating — Damage Caused by SCE's Own 2014 Penstock Failure Remains Unrepaired</p> <p>One segment of the Spillway Trail was damaged by erosion directly caused by a failure of SCE's penstock infrastructure. In 2014, a penstock rupture triggered a major mudslide that closed Highway 178, caused significant property damage, and severely eroded the hillslope above the powerhouse. Investigative reporting by the Bakersfield Californian (Lois Henry, "Mother Nature Got Help Shutting Down Hwy. 178," Bakersfield Californian) documented that SCE's aging penstock infrastructure contributed to the failure and the resulting highway closure and hillslope damage. Notably, SCE's own DLA acknowledges the result: Table 5-3 of Exhibit E (Overall Condition of Project Access Trails) rates the Overflow Spillway Trail as "Poor" — the worst condition rating in the table. SCE does not identify any specific plan to repair it.</p> <p>This trail damage was caused by SCE's own infrastructure failure, and the washed-out trail segment has not been repaired. The trail remains passable but includes a section with exposed, eroded footing that creates a safety hazard for hikers. Repairing this damage — caused by SCE's own infrastructure — should be a condition of the new license.</p> <p>[Refer to Figure 12 in the Kern Gateway Trail Committee Comment Letter]</p>	<p>Consistent with the comment, SCE identified the condition of the Overflow Spillway Trail as "poor" in the LAND 1 TM, Table 5-3). An objective of the LAND 1 study was to document current Project road and trail conditions. Despite the "poor" rating identified in the LAND 1 TM, the current condition of the trail is adequate for SCE Operations to access and inspect the Forebay Overflow Spillway (a pipe). The trail that extends uphill of the Forebay Overflow Spillway may be the section of trail referred to in this comment. The section of trail uphill from the Forebay Overflow Spillway is not a "Project trail" (see response to KGTC-2) or a recognized Forest Service Trail and is not within the FERC Project Boundary. To access the Skip Hoist Landing and Forebay SCE personnel use the Skip Hoist/Forebay Trail (refer to Map REC 3-1g)</p> <p>SCE conducted repairs to damage to and around Project assets following rupture of the penstock in 2014, including erosion control near the top of the pipe.</p> <p>Refer to the Project Access Roads and Trail Management Plan (FLA, Appendix E.1, Measures) for a description of SCE's responsibilities, environmental measures, and consultation requirements as related to operations and maintenance of Project roads and trails.</p>
<p>KGTC-11</p>	<p><b>III. Appendix E.2, REC-2 TM, Sections 5.2.1–5.2.5: Site-Specific Access Barriers Suppressed Counts at Every Surveyed Location</b></p> <p>C. REC-2 TM, Section 5.2.1 / Table 5-21: Survey Box Placement Behind Unauthorized Signage Permanently Taints the Democrat Gage Trail Use Data</p> <p>The Democrat Gage Trail access gate bore unauthorized SCE "No Trespassing" signage identical in character to the signage at the Powerhouse area. USFS asked SCE to remove it. Just prior to the submission of these comments, SCE did remove the sign at the Democrat Gage Trail — a step in the right direction that USFS can confirm. However, the unauthorized "No Trespassing" sign at the Powerhouse area, blocking access to the Penstock/Forebay Trail just above the KR1 powerhouse, remains in place. SCE's trail survey box at the Democrat Gage Trail was installed on the far side of the gate, down the road nearly a mile — meaning any member of the public who turned back at the sign during the entire study period was never counted. The Democrat Gage Trail use data therefore reflects only visitors willing to pass an unpermitted No Trespassing sign. It cannot be treated as representative of actual public demand, and the study period data is materially affected by the sign that has since been removed.</p> <p>[Refer to Figure 13 in the Kern Gateway Trail Committee Comment Letter]</p>	<p>Refer to response to comment KGTC-5 and KGTC-8.</p>
<p>KGTC-12</p>	<p><b>III. Appendix E.2, REC-2 TM, Sections 5.2.1–5.2.5: Site-Specific Access Barriers Suppressed Counts at Every Surveyed Location</b></p> <p>D. REC-2 TM, Table 5-21 / Figure 5-5: The Lowest-Use Trail in the Study Had a Physical Obstruction at Its Trailhead Throughout the Entire Study Period</p>	<p>The barbed wire fence present across the Lucas Creek Trail is not owned, installed, or maintained by SCE. The fencing is understood by SCE to be associated with authorized grazing activities on NFS land. The fence was in place at the time the trail counter was installed. During the survey period, the fence was temporarily cut when a fire reached that portion of the trail (presumably by fire response personnel) and was subsequently repaired approximately one month later. The fence remained in place at the time the trail counter was removed.</p>

No.	Stakeholder Comment	SCE Response
	<p>A barbed wire fence across the Lucas Creek Trail trailhead presents a physical obstacle to hikers seeking to use this project trail. SCE acknowledges the Lucas Creek Trail as a formally designated project trail and installed a trail counter to measure use. The Lucas Creek Trail recorded the lowest use counts of any surveyed trail. The presence of barbed wire at the trailhead throughout the study period likely deterred potential hikers, and the resulting low counts should be understood in that context rather than as evidence of low inherent demand.</p> <p>[Refer to Figure 14 in the Kern Gateway Trail Committee Comment Letter]</p>	<p>As noted in response to KGTC-8, the REC 2 study appropriately reflects the recreation environment as it currently exists, including site access conditions present during the study period. The barbed wire fence is a feature present before and during the study period and is part of the baseline conditions that the study was intended to evaluate.</p> <p>Trail counts captured by the TRAFx counter at the Lucas Creek Trail indicate the Lucas Creek Trail is used occasionally by public hikers. As described in REC 2, Section 5.2.1.3, the average daily trail count was 1.7, the median count was 2, and the mode was 0. Twelve percent (12%) equal to about 26 of the 220 trail use survey forms collected over the one-year survey period were collected from the Lucas Creek Trail self-survey box indicating that this trail is used occasionally by visitors despite the presence of the barbed wire fencing.</p>
<p>KGTC-13</p>	<p><b>III. Appendix E.2, REC-2 TM, Sections 5.2.1–5.2.5: Site-Specific Access Barriers Suppressed Counts at Every Surveyed Location</b></p> <p>E. REC-2 TM, Tables 5-2 and 5-3 / Section 5.1.1: A Locked Gate Blocked the Largest Parking Area in the Dougherty Creek Corridor Throughout the Study Period</p> <p>The Dougherty Creek Trail access has two components: a small highway pullout just off SR-178, and a much larger paved and graded parking area accessible via a short road that SCE controls and locks. Large, flat, accessible parking is extraordinarily rare in the lower Kern Canyon between Bakersfield and Lake Isabella. This parking area is gated and inaccessible to the public. If access to this area were permitted, trail use data suggests demand would be substantially higher. Hikers approaching Dougherty Creek Trail must instead park in the cramped highway pullout, walk past a locked gate, and hike up the paved access road before reaching the trailhead.</p> <p>The two satellite images below show this configuration. The annotated version identifies the small existing highway pullout (upper blue area, gate marked by orange line), the large currently locked parking area (large blue polygon), and the second gate at the bottom of the site. With only a change in the gate lock placement and by opening the first gate, this large parking area could immediately serve multiple trails including both Dougherty Creek and Stark Creek.</p> <p>[Refer to Figure 15 and Figure 16 in the Kern Gateway Trail Committee Comment Letter]</p>	<p>Refer to the response to KGTC-8</p>
<p>KGTC-14</p>	<p><b>IV. Appendix E.1, Project Access Roads and Trails Management Plan / REC-2 TM, Section 5.1.1: The Plan Contains No Trailhead Infrastructure Commitments Despite SCE's Own Parking Capacity Data Showing Unmet Demand</b></p> <p>Across all five project trails and the broader corridor, trail use data is depressed by the absence of basic trailhead amenities: parking areas, clear signage, restrooms, and information about what is open to the public. SCE's own REC-2 TM data illustrates this directly. Table 5-9 of the REC-2 TM reports the percentage of available parking filled at undeveloped river access points along SR-178 — the same pullouts that trail users rely on to access project trails. The maximum percentage of parking filled at these undeveloped sites reached 133 percent on weekends, 250 percent on weekdays, and 150 percent on holidays. These figures are not consistent with SCE's conclusion that current recreational capacity is adequate. They document that existing parking is already insufficient for current demand — let alone the 12 percent population growth SCE cites in its own future demand analysis. The parking deficit is the access deficit. Until designated trailhead parking is available, visitor counts on project trails will continue to understate the actual level of public interest in this corridor.</p> <p>We disagree with SCE's conclusion that recreation amenities are adequate to meet current demand and foreseeable future demand. The REC-2 TM does not adequately capture recreation use of Project trails, nor does it capture existing and future demand. The data is not comprehensive enough to ensure FERC has adequate information to analyze environmental effects and inform license conditions. A study conducted while unauthorized signs discouraged public access, while gates blocked parking areas, while barbed wire obstructed trailheads, and while the most scenic and highest-demand corridor was entirely excluded does not measure public demand — it reflects the effect of those barriers on an already-suppressed public. The parking data in the same study document (REC-2 TM, Table 5-9) independently confirms demand exceeds supply: existing undeveloped access points along SR-178 filled to 250 percent of capacity on weekdays.</p>	<p>Refer to responses to comments KGTC-5 through KGTC-13.</p> <p>As regards parking capacity – refer also to USFS-10. As stated in Table 5-9 of the REC 2 TM, the two undeveloped locations along SR-178 identified as river access points where parking capacity was observed to be exceeded on some survey days were River Access Site 1 – estimated parking capacity 2 vehicles, and River Access Site 3 – estimated parking capacity 3 vehicles. Because parking capacity at these sites is very limited, even one additional vehicle results in a substantial exceedance.</p> <p>The REC 2 study evaluated vehicle use and parking conditions at the four developed Forest Service recreation facilities and at five undeveloped river access points along SR-178. While instances of parking exceeding estimated capacity were observed at two small, informal river access locations (with estimated capacities of two to three vehicles), these locations are not designated recreation facilities and were not intended to function as primary access points.</p> <p>In contrast, the study found that Forest Service-developed recreation sites—designed to accommodate public use—consistently had substantial available capacity. Across all sampling periods, including weekends and holidays, developed recreation parking areas were never observed to reach capacity, with an average occupancy of approximately 15 percent. These findings indicate that adequate parking capacity is available within the Project vicinity to accommodate existing recreation demand.</p> <p>As noted in other responses, the assertion that observed use represents a “suppressed baseline” or “floor” of potential demand is speculative and not supported by evidence collected as part of the FERC-approved study. The REC 2 study was not designed to model hypothetical future demand under altered access conditions, but rather to characterize existing recreation use to inform FERC's evaluation of Project effects. The data collected provides a representative and methodologically sound basis for that analysis.</p>

No.	Stakeholder Comment	SCE Response
	<p>SCE’s adequacy conclusion is not supported by its own data. FERC should require SCE to remove all unauthorized access barriers and evaluate trail use and parking demand under unimpeded conditions as part of its final license application.</p>	<p>SCE maintains that the REC 2 study results are valid, representative of existing conditions, and appropriate for use in assessing current recreation use and potential Project effects.</p> <p>Likewise, SCE’s conclusion that recreation amenities in the vicinity of the Project are adequate to meet current demand and are expected to accommodate foreseeable future demand is supported by observed excess parking capacity at existing developed recreational facilities. As such it is reasonable to identify capacity as adequate and able to support foreseeable future demand based on regional trends indicating increasing visitation to the Sequoia National Forest and projected increases in population growth in Kern County, from which the majority of Project-area visitors originate.</p>
<p>KGTC-15</p>	<p><b>V. Exhibit E, Section 7.10.3 (Future Recreation Demand): SCE’s Demand Projection Ignores Documented Community Need and Fails to Evaluate the Kern Gateway Trail</b></p> <p>The Kern Gateway Trail is a proposed hiking trail system along the south wall of the Kern Canyon, connecting the canyon mouth to Democrat Dam along the south side of the Kern River. The majority of the proposed trail system runs directly through the KR1 project reach. The final 1.5 miles of the proposed system would connect through private land and past SCE-managed land to the canyon mouth, where trailhead access is being advanced in coordination with all necessary stakeholders. Significantly, a substantial portion of the proposed KGT alignment overlaps with the U.S. Forest Service’s Powerhouse Trail — the same designated USFS recreation trail that SCE’s project trails connect to and that SCE used to correct its own FERC project maps. The KGT is not a new trail in a blank landscape; it builds on and formalized existing project-connected trail infrastructure that is already in use. SCE project trails access the Powerhouse Trail and so, if the KGT is fully built and connected, SCE project trails will be critical access trails to get add flexibility to hikers on where to start/finish hikes, making the KGT more than just a trail, but a network of trails.</p> <p>The Kern Canyon is one of the most dramatic and scenic landscapes in the Sequoia National Forest — and it is the closest unit of National Forest to Bakersfield, California’s ninth-largest city, with a population of approximately 500,000. The canyon mouth sits on the eastern boundary of the City of Bakersfield and the KR1 powerhouse is just a five-minute drive into the canyon from Bakersfield’s eastern city limits and only 20 minutes from downtown Bakersfield. For hundreds of thousands of residents, this is their nearest access to national forest wilderness. As explored earlier, despite extraordinary proximity to a major population center, public hiking access through the canyon is constrained by inadequate trailheads, locked gates, unauthorized “No Trespassing” signage, and poor trail maintenance — conditions that this proceeding has the authority and the obligation to address.</p> <p>The Kern Gateway Trail proposal has earned broad and growing community support, including:</p> <ul style="list-style-type: none"> <li>• 2,329 verified petition signatures from Kern County residents (Exhibit A)</li> <li>• A unanimous resolution of support from the Bakersfield City Council (City of Bakersfield Resolution No. 185-2024, December 18, 2024) (Exhibit B)</li> <li>• A letter of support from the Kern Council of Governments</li> <li>• Support from the Kern County Superintendent of Schools</li> <li>• Endorsements from numerous non-profit organizations and tribal groups, including the Bakersfield American Indian Health Project and the Tejon Indian Tribe</li> </ul> <p>The petition signature data (Exhibit C) and the City of Bakersfield Resolution (Exhibit B) are attached as exhibits to these comments. This level of organized, cross-sector community support is direct evidence of genuine unmet public demand that SCE’s future demand analysis entirely ignores. The 2,329 verified petition signatures gathered at <a href="http://www.change.org/kerngatewaytrail">www.change.org/kerngatewaytrail</a> (Exhibit A) represent residents actively seeking improved hiking access in the Kern Canyon — the kind of revealed preference data that should inform any serious projection of future recreation demand for this corridor. SCE’s Section 7.10.3 demand projection relies solely on a 12 percent Kern County population growth forecast through 2050. It does not account for the KGT petition, the unanimous Bakersfield City Council resolution of support, the letter from the Kern Council of Governments, or any of the organized community demand documented in this record. A demand projection that ignores documented, quantified public interest in recreation improvements in the specific project corridor is not</p>	<p>As noted previously, the KR1 Project does not include developed recreation facilities. Public recreation sites within the bypass reach (four day-use areas) are located on SNF land and are administered by the Forest Service or its concessionaires. Similarly, undeveloped river access points and trails in the Project vicinity are located on NFS land and are managed by the Forest Service. These facilities are not part of the FERC Project and are not operated or maintained by SCE. The trail referenced in the comment is a proposed trail (a potential future development) and therefore is not part of the existing conditions being evaluated.</p> <p>Project roads and trails were developed and are maintained to support operation and maintenance of Project facilities. While available for public use, these routes are not uniformly designated or managed as developed recreation facilities. The extent of recreation-related obligations under a FERC license is appropriately defined by the nexus between Project features and recreation use, as well as the level of demonstrated demand.</p> <p>The results of the REC 2 study consistently indicate low levels of use across all Project trails, averaging approximately one to three users per trail per day. This estimate includes both public recreationists and SCE personnel accessing Project facilities. Furthermore, because the TRAFx counters may record non-recreational triggers (e.g., livestock or vegetation movement), actual public recreational use is likely lower than recorded counts. These findings are consistent across locations and methods and constitute substantial evidence regarding recreation use in the Project area. The REC 2 study was not designed to model hypothetical future demand under altered access conditions, but rather to characterize existing recreation use to inform FERC’s evaluation of Project effects. The data collected provides a representative and methodologically sound basis for that analysis.</p> <p>Expressions of community interest, including support for regional trail concepts, represent important stakeholder input but do not, in themselves, establish site-specific demand levels or justify Project-specific mitigation measures absent a demonstrated connection to Project effects.</p>

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	<p>an adequate basis for concluding that current conditions meet foreseeable future demand. FERC should require SCE to address this documented demand in its Final License Application.</p> <p>[Refer to Exhibit B, Exhibit C, and Figure 17 in the Kern Gateway Trail Committee Comment Letter]</p>	
<p>KGTC-16</p>	<p><b>VI. Exhibit E, Section 7.14.2: SCE Proposes Zero Environmental Justice Mitigation Despite Its Own Socioeconomic Data Establishing the Community’s Documented Need</b></p> <p>SCE’s Exhibit E Section 7.14 (Socioeconomics) acknowledges that Kern County is a severely disadvantaged community by any objective measure — yet SCE proposes no environmental justice mitigation whatsoever. This omission is not merely an oversight; it is a fundamental failure of the public interest analysis required under the Federal Power Act.</p>	<p>Exhibit E, Section 7.14, <i>Socioeconomics</i> describes existing social and economic conditions in the Project vicinity. Consistent with FERC’s Study Plan Determination, SCE prepared an Environmental Justice (EJ) Study (Appendix E.2) to identify the presence of EJ communities, develop outreach strategies and solicit input from these communities, and assess the potential for the Project to have disproportionately adverse and significant impacts on those communities. Using FERC’s prescribed methodology, no minority EJ communities were identified in the study area. One block group (CT 52.06 BG 1) would be considered an EJ community under prior, now-abandoned federal guidelines, based on income, according to FERC’s “low-income threshold criteria”. SCE is seeking a new license to continue operation and maintenance of the existing Project, with no proposed changes that would result in new or disproportionately adverse effects on low-income populations. Accordingly, SCE determined that no EJ mitigation measures are warranted.</p> <p>Also refer to response to comment KGTC-17.</p>
<p>KGTC-17</p>	<p><b>VI. Exhibit E, Section 7.14.2: SCE Proposes Zero Environmental Justice Mitigation Despite Its Own Socioeconomic Data Establishing the Community’s Documented Need</b></p> <p>The socioeconomic data SCE presents in its own DLA (Exhibit E, Section 7.14) establishes the following:</p> <p><u>Income and poverty:</u> Kern County’s per capita income was \$29,201 in 2023 — 40 percent below the California average of \$48,013. Median household income in Kern County (\$68,893) was 28 percent below the state median (\$95,521). Nineteen percent of Kern County residents live below the federal poverty line, compared to 12 percent statewide.</p> <p><u>Unemployment:</u> Kern County’s average unemployment rate (8 percent) was significantly higher than the California average (6 percent).</p> <p><u>Demographics:</u> 57 percent of Kern County residents identify as Hispanic or Latino. SCE’s own REC 2 visitor survey data (Section 7.10) found that 47 percent of day-use visitors to the project area identified as Latino, with 65 percent reporting household incomes between \$41,000 and \$80,000 and approximately 20 percent reporting incomes below \$40,000. These are not casual visitors with abundant recreation alternatives — they are working families for whom this canyon is their primary accessible natural area.</p> <p>These figures are drawn directly from SCE’s own filing. They describe a population that is: (1) majority people of color; (2) substantially lower-income than the state average; (3) living closer to a National Forest boundary than almost any other major urban population in California; and (4) significantly dependent on the lower Kern Canyon for outdoor recreation. SCE did not address this environmental justice profile in its proposed mitigation package. Exhibit E, Section 7.14.2 contains a single sentence on this point: “No PM&amp;E measures related to socioeconomics are proposed as part of the Project.” That sentence is the entirety of SCE’s response to the environmental justice profile documented in the preceding pages of its own DLA. It is not an adequate response. FERC’s equal consideration mandate under FPA Section 10(a)(1) requires the Commission to actively weigh recreation values alongside power generation. When a project serves a majority low-income, majority Latino community with documented recreational access deficits, and when that project degrades the aesthetic and recreational quality of the region’s primary natural resource, the failure to propose any mitigation is not a neutral finding — it is a substantive violation of the equal consideration standard. SCE must specifically respond to why Section 7.14.2 proposes no mitigation in light of the data it presents in Sections 7.14.1 and 7.10. FERC should require SCE to provide meaningful public hiking access at the KR1 project — trailheads, maintained trails, clear signage — as an environmental justice mitigation measure of the first order.</p>	<p>SCE acknowledges the concerns regarding socioeconomic conditions in Kern County and the importance of equitable access to recreational opportunities. As described in Exhibit E, Section 7.14 and the EJ Study (Appendix E.2), SCE evaluated the presence of EJ communities and the potential for the Project to result in disproportionately adverse and significant effects on those communities, consistent with FERC’s Study Plan Determination. While certain populations in the study area meet low-income criteria under prior federal guidance, EJ mitigation is typically considered where a project would cause disproportionately adverse effects on EJ communities, especially for the siting of new facilities. Because SCE is seeking a new license to continue operation and maintenance of the existing Project, with no proposed changes that would result in new or increased adverse effects on EJ communities, no such impacts were identified. In addition, the commenter’s recommendation to provide additional recreation facilities (e.g., trailheads, trails, and signage) appears to reflect a general request to enhance recreational opportunities rather than mitigation of speculative Project-related EJ impacts.</p>
<p>KGTC-18</p>	<p><b>VII. Exhibit E, Section 7.11 / Appendix E.1, Visual Resources Protection Plan: Painting Buildings Is Not Adequate Mitigation for a Dewatered Wild and Scenic-Eligible River Corridor</b></p> <p>Exhibit E Section 7.11 (Aesthetic Resources) acknowledges that the Powerhouse, switchyard, and forebay operations area are situated within a landscape designated “High” under the Forest Service’s Scenic Integrity</p>	<p>SCE does not agree with the assertion that the Visual Resources Protection Plan (VRPP) is inadequate or that additional mitigation is required beyond the measures identified in the DLA.</p> <p>As described in Exhibit E, Section 7.11, the visual resource analysis was conducted in accordance with Forest Service methodology and evaluates Project visibility, viewer sensitivity, and consistency with the SNF Land Management Plan,</p>

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	<p>Objective (SIO) — the highest possible designation, requiring that the landscape appear essentially unaltered. SCE simultaneously acknowledges that its project facilities are inconsistent with this designation (Exhibit E, Section 7.11.2). SCE’s sole proposed mitigation for this inconsistency is found in Appendix E.1, Visual Resources Protection Plan, which requires SCE to paint its buildings in earth tones and screen equipment with vegetation where feasible. That is the entirety of SCE’s aesthetic mitigation proposal for a project that has occupied a High SIO landscape for over a century. SCE must specifically explain, in its response to these comments, why paint colors constitute adequate mitigation for a High SIO designation under the Sequoia National Forest Land Management Plan.</p> <p>SCE acknowledges (Exhibit E, Section 7.11.1.2) that the Forest Service has identified the lower Kern River as an eligible Wild and Scenic River with outstanding remarkable values for scenery, recreation, wildlife, prehistory, and history. Proposed minimum flows identical to those from 1998 are not adequate mitigation for the ongoing aesthetic and recreational harm that dewatering this eligible Wild and Scenic River corridor causes. Public hiking access — giving people a way to experience the canyon’s scenic grandeur on foot, even when the river runs low — is the most direct and proportionate form of mitigation available.</p>	<p>including Scenic Integrity Objectives (SIOs). The DLA acknowledges that certain Project features are visible within a landscape classified as High SIO; however, these facilities have been in place for over a century, are part of the existing visual character of the lower Kern River canyon and pre-date the establishment of the Wild &amp; Scenic River Act as well as the Lower Kern River’s eligibility designation.</p> <p>The VRPP includes measures—such as use of non-reflective, earth-tone colors and selective vegetative screening—intended to minimize visual contrast and reduce the Project’s visibility to the extent practicable. These measures are consistent with standard Forest Service visual resource management practices for existing infrastructure. The objective of the VRPP is to avoid or minimize additional visual impacts associated with ongoing operation and maintenance; it is not intended to eliminate or fully obscure long-standing Project features.</p> <p>With respect to Wild and Scenic River considerations, the lower Kern River has been identified by the Forest Service as eligible; however, it has not been designated as part of the National Wild and Scenic Rivers System by Congress. As such, the protections of the Wild and Scenic Rivers Act does not, in itself, establish specific flow or visual mitigation requirements. As discussed in the FLA, SCE has evaluated Project effects on scenic resources and river values consistent with applicable planning frameworks.</p> <p>KGTC’s recommendation to modify minimum instream flows or to provide additional recreation access as visual mitigation is outside the scope of the VRPP and is addressed, as applicable, in other resource sections of the FLA. Minimum instream flows are evaluated in the context of aquatic resources, geomorphology, and overall Project operations, and are not established solely for aesthetic purposes. Similarly, development of recreation facilities or public access is subject to land management authority and planning processes of the Forest Service, which manages recreation resources on NFS lands in the Project vicinity.</p> <p>Accordingly, SCE maintains that the VRPP, as presented in Appendix E.1, provides appropriate and reasonable measures to address visual resource considerations associated with continued Project operation.</p>
<p>KGTC-19</p>	<p><b>VII. Exhibit E, Section 7.11 / Appendix E.1, Visual Resources Protection Plan: Painting Buildings Is Not Adequate Mitigation for a Dewatered Wild and Scenic-Eligible River Corridor</b></p> <p>SCE’s operation of the KR1 project removes the majority of the Kern River’s natural flow for much of each year, routing the flow through tunnels, flumes, and conduits to the powerhouse approximately 17 miles downstream. What remains in the bypass reach for many of the cooler months is the licensed minimum instream flow (MIF) of 15 cfs from fall through spring and 50 cfs in summer months — a figure unchanged from the 1998 license. SCE has at times pointed to releases from Lake Isabella as the primary driver of flow conditions in the lower canyon. This framing obscures SCE’s own substantial and independent contribution to flow conditions. The KR1 project diverts up to approximately 400 cfs from the Kern River at Democrat Dam. When releases from Lake Isabella are in the range of 400 to 800 cfs — a common range during drier periods — the KR1 diversion represents between 50 and 100 percent of the available flow. Under these conditions, the difference between what the bypass reach receives and what it would naturally carry is almost entirely attributable to the project diversion, not to Isabella. SCE’s operation of the project is a substantial and direct impact on the lower canyon’s aesthetic and ecological character when Isabella flows are at moderate or low levels, and that impact requires mitigation regardless of what Lake Isabella does independently.</p> <p>At 15 cfs, the Kern River — historically one of the most powerful rivers in the Southern Sierra Nevada — is reduced to a thin trickle threaded between enormous boulders in a channel scaled for hundreds or thousands of times that flow. A person can easily rock-hop across it in sneakers. The visual impact is severe and continuous along the SR-178 corridor. But the harm is not only aesthetic. At 15 cfs, the river also loses the pool depth, flow velocity, dissolved oxygen levels, and thermal diversity that support the smallmouth bass, hardhead minnow, and trout fishery of the lower Kern Canyon. Angling was the primary recreation activity reported by 20 percent of surveyed visitors in SCE’s own REC-2 study — the second most common activity after picnicking. A river running at 15 cfs cannot sustain the fishery that those anglers depend on, and SCE’s proposal to maintain this minimum flow for another 40–50 years is not adequate mitigation for that ongoing impact. At 50 cfs — the summer minimum — conditions are similarly inadequate for either aesthetics or aquatic habitat. Since the summer months overlap with the primary irrigation season, minimum flows are less</p>	<p>Refer to response to comments KRFF-3 and KRFF-4 related to the fishery.</p> <p>Refer to response to comment KRFF-4 related to Lake Isabella releases.</p> <p>Refer to response to comments KRFF-7, KRFF-8, KRFF-9 and KRFF-11 related to the minimum instream flows and high flow regime.</p> <p>Refer to response to comment KRB-6 related to water quality.</p> <p>As described in the FLA, flow conditions in the lower Kern River are influenced by multiple factors, including upstream reservoir storage and releases from Lake Isabella, watershed hydrology, and Project diversions. The characterization presented in the comment does not reflect the full range of hydrologic conditions evaluated in the FLA or the operational constraints under which the Project functions. SCE’s analysis considers these factors comprehensively in evaluating Project effects.</p> <p>The commenter’s assertions regarding specific ecological and recreational outcomes at particular flow levels represent generalized statements that are not supported by the full body of technical analysis presented in the FLA. For example, the REC 2 study documents that angling occurs within the Project vicinity under a range of flow conditions.</p> <p>Finally, the commenter’s recommendation to treat flow modifications as visual mitigation is not consistent with the purpose of the VRPP. Visual mitigation measures are intended to address the visibility and contrast of Project facilities on the landscape, not to alter Project operations or hydrologic conditions.</p> <p>Accordingly, SCE maintains that the analysis of flow conditions and their effects has been appropriately conducted and disclosed in the FLA.</p> <p>Refer also to the response to comment KGTC-18 regarding the adequacy and scope of the VRPP and to KRB-20 which describes SCE’s responsibility under the Federal Power Act and NEPA to identify and evaluate Project-related effects by comparing the Proposed Action to the no-action (existing conditions) baseline (not to a “no project” alternative).</p>

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	<p>common in summer, but infrequency does not mean adequacy. It means the cumulative harm from minimum-flow periods compounds over the full license term without a binding obligation to address it.</p> <p>[Refer to Figure 18 and Figure 19 in the Kern Gateway Trail Committee Comment Letter]</p>	
<p>KGTC-20</p>	<p><b>VIII. Exhibit E, Section 7.11 / Appendix E.1, Project Access Roads and Trails Management Plan: The KR1 Powerhouse Site Is the Canyon’s Most Significant Scenic Impact and Its Most Important Potential Trailhead</b></p> <p>SCE’s own aesthetic analysis (Exhibit E, Section 7.11) describes the Powerhouse, switchyard, and adjacent transmission lines as “the most visually predominant Project features” visible from SR-178, situated at one of the most scenic bends in the lower Kern Canyon. SCE has, paradoxically, blocked public hiking access at this exact location.</p> <p>The KR1 Powerhouse site contains the largest accessible parking area in the lower canyon. For the proposed Kern Gateway Trail, this site would serve as the critical westernmost trailhead in the Sequoia National Forest — the anchor point connecting National Forest trail segments to the canyon mouth through the private land there. Losing this trailhead would leave an unacceptable gap in the trail system that cannot be compensated by any other location (see Figure 21).</p> <p>[Refer to Figure 20 and Figure 21 in the Kern Gateway Trail Committee Comment Letter]</p>	<p>The powerhouse and associated facilities are part of an active hydroelectric generation and transmission facility that must remain secure to protect public safety and critical infrastructure. The area is gated due to the presence of operational hazards (e.g., high voltage electrical equipment and confined work areas). In addition, the Upper and Lower Powerhouse roads and parking area is required for SCE personnel and operational use and is not available for public use without compromising facility operations and security, including assuring access to the roads and parking area is available and free of obstructions (e.g., public vehicles) for SCE employees. For these reasons, the KR1 Powerhouse site is not suitable or feasible as a public access or parking location.</p> <p>Refer also to response to comment KGTC-21.</p>
<p>KGTC-21</p>	<p><b>VIII. Exhibit E, Section 7.11 / Appendix E.1, Project Access Roads and Trails Management Plan: The KR1 Powerhouse Site Is the Canyon’s Most Significant Scenic Impact and Its Most Important Potential Trailhead</b></p> <p>We recognize that the access road leading up to the Powerhouse parking area presents real considerations: the road is narrow, and the entrance and exit onto Highway 178 is tight, with limited sight lines. These are legitimate safety questions that deserve a proper engineering answer, not a reason to keep the lot permanently closed. FERC should require SCE to commission a traffic and safety analysis of the SR-178 access point as part of a Trail Management Plan (see Section X), specifically evaluating options to improve the highway entrance and whether the road geometry can be modified to make it safely usable as a public trailhead.</p> <p>If that study concludes that the upper access road cannot be made safely operable for public vehicle use, there is an alternative that should be evaluated: the flat area adjacent to Highway 178 directly across from the powerhouse has potential for a surface parking area that could serve the same trailhead function. Hikers parked there would need to cross SR-178 to reach the staircase and trail above. Two infrastructure solutions could address this: a pedestrian-activated signal installed at this crossing location, or a pedestrian bridge spanning Highway 178 and connecting the lower parking area directly to the staircase that accesses the upper trail. Either approach would allow this world-class trailhead to function safely without requiring vehicles to navigate the narrow upper access road. FERC should require that the traffic and safety analysis evaluate both the upper parking area option and this lower parking-plus-crossing alternative, so the full range of solutions is on the table.</p> <p>[Refer to Figure 21 and Figure 22 in the Kern Gateway Trail Committee Comment Letter]</p>	<p>As a point of clarification – there are three short roads identified near the powerhouse. Two are on the river side of SR-178: Lower Powerhouse Road (0.09-mile) and Upper Powerhouse Road (0.10-mile). The Forebay Operations Road (0.13-mile) is on the mountain side of the highway (across SR-178 from the river) and is the road that provides access to the Forebay Operations Area Lot (where the Aerial Cable Tower and Aerial Tram Lower Landing are located) and to the “Forebay Operation Area to Aerial Tram Upper Landing Trail”. The Forebay Operation Area to Aerial Tram Upper Landing Trail is the trail referred to as the “Skip Hoist/Forebay Trail” in the PAD and REC 2 TM, and the trail of interest in this comment. Refer to Exhibit A Map A-2g, Exhibit E Map 5-5g and REC 2 Map 3-1g.</p> <p>SCE acknowledges the commenter’s interest in evaluating the KR1 Powerhouse area as a potential trailhead and the associated access and safety considerations along SR-178. As noted by the commenter, access via the Forebay Operations Road presents constraints and safety concerns due to its intersection with SR-178 and the surrounding terrain.</p> <p>As context, the trails accessed from the Forebay Operations Area were considered during development of the REC 2 study; however, this location was not selected for installation of a trail counter or survey box due to site-specific safety and security concerns, including proximity to Project infrastructure (and ongoing vandalism of that infrastructure) and constrained access conditions. Nonetheless, use of the Penstock/Forebay Trail was captured through the trail user survey. Results indicate that while the trail is used, overall use levels are relatively low compared to other Project-area trails (16 percent of reported prior visits) (REC 2 Table 5-25) and do not indicate a need for development of a new public trailhead at this location.</p> <p>Importantly, SCE has already evaluated potential access/parking options near the powerhouse as part of the Access Improvement Plan required under existing License Article 411. This effort included participation by the California Department of Transportation, along with other stakeholders, and considered site-specific safety, feasibility, and operational constraints. Further, the existing parking area is required for SCE personnel and operational use, and is not available for public use without compromising facility operations, security and public safety. For these reasons, the KR1 Powerhouse site is not suitable or feasible as a public access or parking location.</p> <p>Given the existing evaluation of access conditions, the presence of Project infrastructure, and the relatively low levels of documented trail use in this area, SCE does not consider additional analysis of new trailhead facilities or SR-178 crossing infrastructure (e.g., signalization or pedestrian bridge) to be warranted. Recreation access and safety considerations are appropriately addressed through the existing licensing process and associated plans.</p> <p>Refer also to response to comment KGTC-20 and KRFF-23.</p>

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KGTC-22	<p><b>XI. Exhibit E, Section 3.1 / FPA §10(a)(1): FERC’s Equal Consideration Mandate and Established Precedent Require Binding Infrastructure Conditions, Not Perpetual Feasibility Studies</b></p> <p>A. Poe Hydroelectric Project (FERC No. P-2107): FERC Has Already Rejected the Argument That Low Use Counts Justify Withholding Trail Infrastructure</p> <p>The Poe Hydroelectric Project (FERC No. P-2107), operated by PG&amp;E on the North Fork Feather River, provides directly applicable precedent. Like KR1, the Poe project operates in a visually spectacular river canyon within a national forest, significantly dewatering miles of river corridor, in a region with documented need for additional recreation infrastructure.</p> <p>When PG&amp;E submitted its recreation plan under the new Poe license and omitted the Poe Hiking Trail — arguing it was infeasible and that demand was too low to justify the cost — FERC rejected those arguments. In February 2022, FERC ordered PG&amp;E to consult with stakeholders on a final trail route and provide a plan and schedule for construction. FERC held that even accepting PG&amp;E’s higher cost estimate, trail construction was still justified. PG&amp;E’s own feasibility consultants had described the trail backdrop as “stunning” and the experience as “valuable.” FERC agreed. American Whitewater and the California Sportfishing Protection Alliance intervened throughout this proceeding to hold PG&amp;E to its obligations, and ultimately prevailed.</p> <p>The parallels to KR1 are direct: a scenic river canyon in a national forest, dewatered by a run-of-river hydroelectric project, adjacent to a population center with documented unmet recreation demand. SCE’s argument that low trail use counts justify doing nothing maps exactly onto PG&amp;E’s argument that FERC rejected. FERC should apply the same standard here.</p>	<p>SCE does not agree that the Poe Hydroelectric Project (FERC No. 2107) requires FERC to impose binding trail-construction conditions at KR1 or precludes consideration of low existing use in evaluating recreation measures.</p> <p>In the February 2022 order that the comment references, FERC addressed two different trail concepts based on a unique license history and an express feasibility-study requirement in Article 407. First, for the Bardees Bar Trail, the Commission expressly concurred with the licensee that the trail “would be high cost, would see low estimated use, and would provide low recreational value.” Pac. Gas &amp; Elec. Co., 178 FERC ¶ 62,116, at P 26 (2022). That determination directly contradicts the commenter’s assertion that FERC has rejected reliance on low use and cost in deciding not to require new trail infrastructure. Second, with respect to the Poe Hiking Trail, FERC’s decision to require construction was grounded in factors that are not present here: (1) an existing license article that already required a feasibility study and potential trail development; (2) a record showing that the trail “is feasible and would provide a valuable recreation resource at the project,” including a finding that it has the potential to be a high-quality recreational experience (id. at PP 27, 30); (3) agency cost information indicating that construction costs could be managed (id. at P 28); and (4) Forest Service and multiple state agencies affirmatively supporting that specific trail (id. at PP 11, 17, 29–30).</p>
KGTC-23	<p><b>XI. Exhibit E, Section 3.1 / FPA §10(a)(1): FERC’s Equal Consideration Mandate and Established Precedent Require Binding Infrastructure Conditions, Not Perpetual Feasibility Studies</b></p> <p>B. FPA §10(a)(1) / Exhibit E, Section 3.1: The Equal Consideration Mandate Is Not Satisfied by Paint Colors and a Promise to Study Trail Feasibility</p> <p>Under Section 10(a)(1) of the Federal Power Act, FERC is required to give “equal consideration” to energy development, fish and wildlife protection, irrigation, flood control, water supply, and recreation. Recreation is a co-equal statutory consideration.</p> <p>(4) SCE’s proposed mitigation package does not include substantive new recreation infrastructure; and (5) FERC’s own precedent in the Poe proceeding establishes that trail construction is an appropriate and required license condition in circumstances directly analogous to those present here.</p> <p>A license renewal that does not include meaningful recreational mitigation would fail to satisfy FERC’s statutory obligations under the Federal Power Act.</p>	<p>The FPA section 4(e) “equal consideration” requirement is directed to the Commission’s evaluation; it does not prescribe any particular type or amount of mitigation, nor does it mandate construction of new recreation infrastructure in every relicensing. Rather, FERC weighs power and non-power values, including recreation, on the basis of the full record. Project roads and trails on NFS land were constructed and are maintained for operation and maintenance of Project facilities; public use is incidental and, as REC-2 demonstrates, occurs at low levels (approximately one to three users per trail day, inclusive of SCE personnel).</p>
KGTC-24	<p><b>X. Appendix E.1: SCE’s Proposed Environmental Measures Are Inadequate — Required License Conditions</b></p> <p>Appendix E.1 of the DLA contains eight proposed environmental measures. None of them requires construction of trail infrastructure, removal of unauthorized access barriers, trailhead development, minimum flow increases, or environmental justice mitigation. The measures that do exist — a Visual Resources Protection Plan that limits SCE to earth-tone paint, a Sediment Management Plan with no volume cap, and a Project Access Roads and Trails Management Plan with no public access commitments — are facially inadequate responses to the impacts documented in SCE’s own Exhibit E. FERC should require the following specific conditions in the new license:</p>	<p>The assertion that the proposed environmental measures are inadequate mischaracterizes both the purpose of the relicensing process and the evidentiary record. Under FERC’s licensing framework and the Federal Power Act, license conditions must be supported by a demonstrated nexus to Project effects and must be reasonable in light of the comprehensive development standard.</p> <p>Appendix E.1 reflects measures that are appropriately tailored to identified Project-related effects, as documented in Exhibit E. The commenter’s requested measures—such as new trail construction, removal of access controls, trailhead development, minimum flow increases beyond those supported by study results, and environmental justice mitigation—are not supported by evidence of Project-caused impacts requiring such actions, nor are they shown to be necessary to meet FERC’s balancing of power and non-power values. Accordingly, the proposed measures are proportionate, evidence-based, and consistent with FERC’s statutory obligations.</p>
KGTC-25	<p><b>X. Appendix E.1: SCE’s Proposed Environmental Measures Are Inadequate — Required License Conditions</b></p> <p>1. Trail Infrastructure Construction Obligation:</p>	<p>Refer to responses to KRFF-23 and to KGTC-15, KGTC-20, KGTC-21, and KGTC-24</p>

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	<p>Require SCE to construct or fund the construction of improved trailheads and trail segments in the project reach, with priority given to: (a) a designated public trailhead with parking, signage, and restroom facilities serving the Penstock/Forebay Trail and Overflow Spillway Trail loop; (b) the Powerhouse Trail in its full extent from the project Powerhouse to Cow Flat Creek; and (c) connecting segments of the Kern Gateway Trail as identified in consultation with the Kern Gateway Trail Committee, Kern River Parkway Foundation, and the U.S. Forest Service. A timeline for construction, not merely a feasibility study, should be a license condition.</p>	
<p>KGTC-26</p>	<p><b>X. Appendix E.1: SCE's Proposed Environmental Measures Are Inadequate — Required License Conditions</b></p> <p>2. Immediate Gate and Signage Actions:</p> <p>Require SCE to, within 90 days of license issuance: (a) remove unauthorized “No Trespassing” signs from the Penstock/Forebay Trail access road; (b) relocate the SCE lock to above the large parking area at the Dougherty Creek access point, thereby allowing expanded parking access; and (c) clear the barbed wire obstruction from the Lucas Creek Trail trailhead or provide an pedestrian friendly gate.</p>	<p>Refer to KGTC-24</p> <p>SCE manages Project roads and trails in accordance with current license conditions, which include consultation requirements with the Forest Service. Refer to Appendix E.1, Project Access Roads and Trails Management Plan for a description of SCE's responsibilities as regards O&amp;M of Project roads and trails (including O&amp;M of signage and gates) and for SCE's consultation requirements for coordinating and communicating road and trail maintenance activities with the Forest Service.</p> <p>Regarding “a”: The road referred to in the comment as the “Penstock/Forebay Trail Access Road” is identified in the license application as the “Forebay Operations Road” (0.13-mile). It is on the mountain side of the highway (across SR-178 from the river) and is the road that provides access to the Forebay Operations Area Lot. Refer to Exhibit A Map A-2g, Exhibit E Map 5-5g and REC 2 Map 3-1g. SCE is actively coordinating with the Forest Service regarding the referenced signage in accordance with the existing license conditions. Refer also to KGTC-21.</p> <p>Regarding “b”: The gates on Stark Creek Road were not installed by SCE and are understood to be installed for a combination of traffic control and cattle management. Their existence predates this license application and study. SCE manages the Stark Creek Road in accordance with current license conditions. As regarding parking in the area, the Stark Creek Road is across SR-178 from both the Lower Richbar and Upper Richbar day use areas, both of which include formal parking that is underutilized. There is also overflow day use parking at these locations that extends to areas on both sides of SR-178.</p> <p>Regarding “c”: With respect to barbed wire fencing located across the Lucas Creek Trail, the fencing (part of existing conditions) was not installed by SCE and is understood to be associated with authorized grazing activities on NFS land.</p>
<p>KGTC-27</p>	<p><b>X. Appendix E.1: SCE's Proposed Environmental Measures Are Inadequate — Required License Conditions</b></p> <p>3. KR1 Powerhouse Trailhead:</p> <p>Require SCE to commission a traffic and safety analysis of SR-178 access and develop a plan to open the KR1 Powerhouse parking area to the public as a designated trailhead serving the Penstock/Forebay Trail, Overflow Spillway Trail, and the Kern Gateway Trail system. If SCE compellingly demonstrates that the main lot is operationally infeasible, it must provide an alternative trailhead of equivalent capacity and scenic value within a mile of the powerhouse along Highway 178, allowing trail access at this scenic section of the canyon in the National Forest to mitigate for their obstruction of one of the best access points.</p>	<p>Refer to response to KRFF-23, KGTC-20, KGTC-21 and KGTC-24.</p>
<p>KGTC-28</p>	<p><b>X. Appendix E.1: SCE's Proposed Environmental Measures Are Inadequate — Required License Conditions</b></p> <p>4. Project Trail Reclassification as Recreation Facilities:</p> <p>Require SCE to formally reclassify all KR1 Project Access Trails — including the Powerhouse Trail, Cow Flat Creek Trail, Lucas Creek Trail, Dougherty Creek Trail, Democrat Gage Trail, Adit 17 &amp; 18 Trail, and Penstock/Forebay and Overflow Spillway Trails — as designated Recreation Facilities in the new license. Under the current license, these trails are classified as operational access routes. Reclassifying them as Recreation Facilities would formally establish SCE's maintenance, signage, and public access obligations and would trigger the full range of FERC's recreation-related license requirements for these trails. SCE's own DLA acknowledges the Powerhouse Trail as the connecting spine of its project trail system (DLA Exhibit E, Section 7.10, p. 7.10-7). The Powerhouse Trail in particular should be included within the FERC</p>	<p>Refer to response to KGTC-2 and KGTC-24.</p>

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	<p>project boundary in its entirety, consistent with 18 CFR 4.41(h)(2) and FERC Order 313, to ensure that SCE's maintenance obligations are enforceable under the new license.</p>	
<p>KGTC-29</p>	<p><b>X. Appendix E.1: SCE's Proposed Environmental Measures Are Inadequate — Required License Conditions</b></p> <p>5. Recreation Trail Management Plan:</p> <p>Require SCE to develop and submit a Recreation Trail Management Plan (RTMP) to FERC within one year of license issuance, developed in consultation with the U.S. Forest Service, the Kern Gateway Trail Committee, and other relevant stakeholders. A trail management plan is the standard mechanism through which FERC licensees with significant recreational trail systems define and commit to their stewardship obligations. The RTMP for the KR1 project should address, at a minimum: (a) Trail classification and designation — formally identifying each trail as a public recreation facility, its intended use types (hiking, wildlife viewing, etc.), and its relationship to connecting USFS trails; (b) Visitor parking — a site-by-site assessment of current and needed parking capacity at each trailhead, including the SR-178 access and safety analysis for the KR1 Powerhouse parking area described in Condition 3 above, and identification of solutions for each location; (c) Trail construction and rehabilitation schedule — a prioritized timeline for repairing damaged segments (including the Overflow Spillway Trail, rated "Poor" condition in DLA Table 5-3), improving trail tread, and constructing new connecting trail segments consistent with the Kern Gateway Trail alignment; (d) Signage plan — a comprehensive plan for trailhead kiosks, wayfinding markers, and public information signage at each access point, in multiple languages, consistent with 18 CFR Part 8 requirements that licensees post conspicuous notice that facilities are open to the public without discrimination; (e) Annual maintenance standards — defined frequency and standards for trail clearing, tread maintenance, erosion repair, and barrier removal; (f) Monitoring and reporting — annual visitor use monitoring using methodology that accounts for through-hiking and connected trail use, reported to FERC; and (g) Coordination protocol — a defined process for coordinating with the USFS, KGT, and other partners on trail improvements, events, and public outreach. The RTMP should be a living document, updated every five years and subject to FERC approval.</p>	<p>SCE proposes to manage Project roads and trails in accordance with the Project Access Roads and Trail Management Plan (FLA, Appendix E.1, Measures). The Project Access Roads and Trail Management Plan describes SCE's responsibilities, environmental measures, and consultation requirements as related to operations and maintenance of project roads and trails. There is no Recreation Trail Management Plan. Refer to responses to KRFF-23, USFS-17 and KGTC-24.</p>
<p>KGTC-30</p>	<p><b>X. Appendix E.1: SCE's Proposed Environmental Measures Are Inadequate — Required License Conditions</b></p> <p>6. Penstock/Forebay Trail Repair:</p> <p>Require SCE to remediate the washed-out segment of the Penstock/Forebay Trail damaged by the 2014 penstock infrastructure failure, restoring it to a safe and publicly accessible condition. This damage was caused by SCE's own aging infrastructure and should be addressed as part of the Recreation Trail Management Plan.</p>	<p>Regarding the plans to repair the referenced trail (the Overflow Spillway Trail), the current condition of the trail is adequate for SCE Operations to access and inspect the Forebay Overflow Spillway (a pipe). The trail that extends uphill of the Forebay Overflow Spillway is not a Project trail or a recognized Forest Service trail and is not within the FERC Project Boundary.</p> <p>Please refer to the Project Access Roads and Trail Management Plan (FLA, Appendix E.1, Measures) for a description of SCE's responsibilities, environmental measures, and consultation requirements as related to operations and maintenance of project roads and trails. There is no Recreation Trail Management Plan.</p>
<p>KGTC-31</p>	<p><b>X. Appendix E.1: SCE's Proposed Environmental Measures Are Inadequate — Required License Conditions</b></p> <p>7. Minimum Flow Review:</p> <p>Require SCE to present a minimum flow alternatives analysis in the final license application that evaluates higher minimum flows and their effects on scenic quality, recreation, and fisheries. The current MIF of 15 cfs is unchanged from 1998 and represents a severe and continuing aesthetic harm to the lower Kern Canyon and to the fishery of this river stretch.</p>	<p>Refer to responses to KRFF comments re: MIF (including KRFF-7, -8 and -9) and to KGTC-24.</p>
<p>KGTC-32</p>	<p><b>X. Appendix E.1: SCE's Proposed Environmental Measures Are Inadequate — Required License Conditions</b></p> <p>8. Environmental Justice Recreation Access Plan:</p> <p>Given the demographics documented in SCE's own DLA (57 percent Latino county population, 19 percent poverty rate, per capita income 40 percent below state average), require SCE to develop an Environmental Justice Recreation Access Plan as a license condition. This plan should identify specific measures to</p>	<p>Refer to response to comment KGTC-17 and KGTC-24.</p>

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	<p>improve recreation access for lower-income and minority communities, including multilingual signage, community outreach in partnership with Bakersfield schools, community organizations, and tribal groups.</p>	
<p>KGTC-33</p>	<p><b>XI. Appendix E.1, Draft Sediment Management Plan: The Plan Authorizes Annual Full Pond Drains With No Volume Cap, No Fishery Threshold, and No Restoration Obligation for Legacy Impacts</b></p> <p>SCE's Draft Sediment Management Plan (Appendix E.1, SMP) was filed with the DLA on December 18, 2025. The plan describes two operational modes — partial sediment bypass and full sediment bypass — and states that full sediment bypass “is anticipated to occur annually” when inflows are below 800 cfs and conditions are suitable (SMP, Section 5.2.2.2). The plan does not set a maximum single-event release volume, does not establish a threshold at which flushing must be halted to protect the bypass reach fishery, and does not require evaluation of mechanical removal (dredging) as an alternative to in-river flushing. SMP Section 6.0 limits monitoring to qualitative observations during Years 1 through 6, with no binding remediation trigger if monitoring reveals fishery damage. The plan does not address the legacy impacts of the catastrophic 2001 release or subsequent flushing events. FERC should not accept this plan as adequate for a 40- to 50-year license.</p>	<p>Refer to responses to KRFF comments KRFF-4, KRFF-11 and KRFF-19</p> <p>The September 2000 sediment release was an isolated incident that has not occurred since. SCE has worked with responsible agencies to develop protocols and processes to reduce the potential for future large releases of sediment. Please refer to response to comments KRFF-4 regarding annual historical agency coordination and reporting regarding sediment management since 2000.</p> <p>The Sediment Management Plan (SMP) in the FLA (Appendix E.1) includes sediment management flow thresholds and season windows to protect aquatic species. The SMP includes continuous turbidity monitoring during full sediment bypass, development of natural turbidity threshold criteria, assessment of the amount of sediment in Democrat Dam Impoundment and in the river below the dam, phased release of sediment depending on the amount in the impoundment, post-release monitoring of sediment in Democrat Dam Impoundment and the river below the dam, and reporting of full sediment bypass activities to the appropriate resource agencies.</p> <p>The SMP commits SCE to monitoring during full sediment bypass activities through year 6 and potentially longer. Following Year 6, SCE will provide a monitoring summary report and make a recommendation to continue, modify, or discontinue the monitoring. This will include a recommendation to modify or continue the existing full sediment bypass procedure, if appropriate. SCE will provide a draft of the monitoring summary report to the Forest Service, State Water Board, and CDFW for review and comment by March 31 (Year 7). A final monitoring summary report will be filed with FERC by June 30 (Year 7) and distributed to the Forest Service, State Water Board, and CDFW. Where appropriate, the summary report will incorporate fish monitoring results through Year 6.</p> <p>Recognizing that sediment transport processes are a normal and integral part of natural river dynamics, and that the Kern River is a geomorphically resilient river with high sediment transport capacity, the intent of the SMP is to: (1) increase the frequency of routine sediment management activities, (2) keep sediment in the river (e.g., sand and gravel), and (3) safely and continuously manage sediment to avoid buildup. Sediment in the Kern River provides an ecological role for both aquatic species habitat (algae, benthic macroinvertebrates, fish) and riparian species habitat. It is best to keep sediment in the river. Sediment transport processes are a normal and integral part of natural river dynamics, and the Kern River is a geomorphically resilient river with high sediment transport capacity.</p> <p>The SMP also includes a section on emergency-related sediment removal (Section 5.2.3), which states that large-scale watershed or landscape events (e.g., wildfire, intense rainfall, or atmospheric river events) may occur during the term of the new license, resulting in substantial sediment deposits in the Kern River. SCE acknowledges that continuous bypass procedures may not be capable of mobilizing the full volume of deposited sediment or larger bed material in such scenarios; therefore, physical removal (e.g., dredging) or other sediment management actions may be necessary. SCE, however, does not intend to use dredging as a routine method of sediment management under normal operating conditions.</p> <p>SCE is currently in the process of renewing the permits associated with sediment management and has not performed a full sediment bypass of Democrat Dam since the 2018. SCE will continue to manage sediment in coordination with the appropriate permitting agencies and in compliance with applicable requirements. Refer to the LAND 2, Erosion and Sedimentation Technical Memorandum, and to the SMP in Appendix E.1, of the FLA, for more information.</p>
<p>KGTC-34</p>	<p><b>XI. Appendix E.1, Draft Sediment Management Plan: The Plan Authorizes Annual Full Pond Drains With No Volume Cap, No Fishery Threshold, and No Restoration Obligation for Legacy Impacts</b></p> <p>The history of sediment management at Democrat Dam is well-documented and deeply concerning. In 2001, SCE released an estimated 272,000 cubic yards of accumulated silt from behind Democrat Dam into the bypass reach. SCE's own consultant acknowledged that the sediment mass was so large it took approximately seven years to move through the river channel. Following that event, SCE was required to develop a sediment management plan. That plan allowed continued in-river flushing of 3,000 to 20,000 cubic yards at a time. SCE conducted additional sediment releases in 2007, 2009, 2011, 2012, and 2013. Each release set back a fishery that was slowly recovering. The bypass reach has never returned to its pre-</p>	<p>SCE acknowledges the September 2000 sediment release and the importance of continuously managing sediment at Democrat Dam to avoid buildup of sediment.</p> <p>Contrary to the comment, the 2025 AQ 3 Fish Population study (Table 3-12) did observe smallmouth bass. The study showed that fewer smallmouth bass were observed and more largemouth bass compared to historical sampling. However, the data also show the highest number of native fish, hardhead and Sacramento Sucker, ever observed since historical fish sampling has been conducted in the study reach. The smallmouth bass study (SCE 2009) shows that high irrigation flows during the spawning and rearing season can have a detrimental effect on smallmouth bass. The inherent variability other ecological factors that occur year-to-year (e.g., flow, natural water temperature, downstream movement of fish from upstream of Democrat Dam) over the term of the historical sampling preclude the conclusion that smallmouth bass population levels are directly correlated with sediment management practices post-2000 (please note that sediment management practices were also occurring prior to 2000).</p>

No.	Stakeholder Comment	SCE Response
	2001 smallmouth bass population levels; SCE's 2024 fish survey found zero smallmouth bass where a functioning population existed in 1995.	The comments mischaracterize the effect of sediment management on smallmouth bass population dynamics. Also, our understanding is that native fish is the management priority in the bypass reach rather than smallmouth bass (i.e., native species versus predatory non-native species). However, SCE is committed to managing sediment in the Kern River in a way that is consistent with natural turbidity processes and levels, Basin Plan standards, and in consultation with resource agencies and applicable permits or requirements (see comment KGTC-33).
KGTC-35	<p><b>XI. Appendix E.1, Draft Sediment Management Plan: The Plan Authorizes Annual Full Pond Drains With No Volume Cap, No Fishery Threshold, and No Restoration Obligation for Legacy Impacts</b></p> <p>It has now been approximately ten years since the last major sediment release. Sediment continues to accumulate behind Democrat Dam. Without a binding plan in place, the pattern of periodic large-scale flushing is likely to repeat — with the same consequences for the bypass reach fishery that have been documented repeatedly over the past two decades. The new license represents the opportunity to break this cycle, not perpetuate it.</p>	The intent of the sediment management plan is to safely and continuously manage sediment to avoid buildup, as the comment suggests. Please also refer to response to comments KRFF-4, KRFF-11, KRFF-19, and KGTC-34.
KGTC-36	<p><b>XI. Appendix E.1, Draft Sediment Management Plan: The Plan Authorizes Annual Full Pond Drains With No Volume Cap, No Fishery Threshold, and No Restoration Obligation for Legacy Impacts</b></p> <p>FERC should require the new license to include a binding Sediment Management Plan as a license condition, not as a post-license deliverable. That plan should: (a) prohibit single-event releases exceeding a volume threshold determined in consultation with CDFW and the Forest Service to be safe for the bypass reach fishery; (b) require SCE to evaluate mechanical removal (dredging and off-site disposal) as an alternative to in-river flushing, and to use removal when the fishery risk from flushing exceeds defined thresholds; (c) include a monitoring protocol for tracking sediment accumulation behind Democrat Dam and for assessing downstream sediment conditions in the bypass reach; and (d) require an independent assessment of the legacy impacts of the 2001 sediment release and subsequent events on pool habitat, spawning gravel, and the bass fishery, with a Fishery Restoration Plan developed based on those findings. FERC should not issue a new 40- to 50-year license without this plan in place.</p>	SCE's proposed Sediment Management Plan will be a binding requirement of the new license, and SCE is working with the respective agencies on the plan as well as interim permits to cover these sediment management activities. Refer to response to comments KRFF-4, KRFF-11, KRFF-19, KGTC-33, KGTC-34, and KGTC-35.
KGTC-37	<p><b>XII. Appendix E.2, AQ-2 TM (Updated January 2026): Bacteria Sampling Conducted Exclusively in Average-to-Wet Years Cannot Establish a Reliable Baseline for a Watershed That Is Dry Two Years Out of Three</b></p> <p>SCE's AQ-2 Water Quality and Temperature Technical Memorandum (Appendix E.2, updated January 2026) conducted bacteria sampling in the KR1 bypass reach during 2023 and 2024. Both years were average to above-average water years for the Kern River watershed. The updated AQ-2 TM does not identify this as a limitation of its findings, does not model E. coli concentrations under minimum instream flow conditions, and does not evaluate bacteria levels during dry years when dilution is lowest and recreational contact is most likely to exceed California standards. This sampling design does not adequately represent typical conditions in the lower Kern Canyon.</p> <p>The Kern River watershed experiences approximately two dry years for every one wet year, based on historical hydrology. In dry years, overall river flows are substantially lower, dilution of E. coli and other fecal indicator bacteria is reduced, water temperatures are higher (which promotes bacterial growth), and recreational use of the river — including swimming and wading contact — tends to concentrate in the limited remaining pools. The interaction between reduced dilution flows and continued bacterial inputs from wildlife, cattle, and human use creates conditions under which bacteria concentrations can be substantially higher than what SCE's average-year sampling would capture.</p> <p>SCE's AQ 2 study does not address the question that matters most from a public health and recreation standpoint: in a typical dry year, with flows at or near minimum instream flow levels, how do E. coli concentrations in the lower Kern River bypass reach compare to California's contact recreation standards? The study as conducted cannot answer this question because it was not designed to capture dry-year conditions. Given that the new license will be in effect for 40 to 50 years — a period during which climate projections suggest increasing frequency of dry years in the Southern Sierra Nevada — dry-year water</p>	<p>The AQ 2 Water Quality and Water Temperature study monitored bacteria during 2024 and 2025 at four separate locations (above and below Democrat Dam). Generally, the bacterial samples were consistent with the Basin Plan standard. During the first sampling each year, when flows in the river were increasing due to releases from Lake Isabella, there were individual samples at a few locations with high fecal coliform. Likely this was the result of increasing flows picking up animal (or human) waste along the entire river corridor.</p> <p>There is no evidence that the Project is a source of fecal coliform or that the Project influences fecal coliform concentrations. There is no evidence that bacterial data from a dry year would be substantially different than data from 2024 and 2025,, which were normal water years, with 2025 being a relatively dry normal year.</p>

No.	Stakeholder Comment	SCE Response
	<p>quality is not an edge case. It is the central public health question for recreational users of the lower Kern Canyon.</p>	
<p>KGTC-38</p>	<p><b>XII. Appendix E.2, AQ-2 TM (Updated January 2026): Bacteria Sampling Conducted Exclusively in Average-to-Wet Years Cannot Establish a Reliable Baseline for a Watershed That Is Dry Two Years Out of Three</b></p> <p>FERC should require SCE to supplement the AQ 2 study with dry-year bacteria sampling, or to model E. coli concentrations under minimum instream flow conditions using existing flow and temperature data, in consultation with the Regional Water Quality Control Board and CDFW. The license should also require SCE to post public water quality advisory information at project trailheads and access points whenever monitoring data indicates that bacteria levels exceed recreational contact standards, in the same way that other recreational water bodies in California post such advisories.</p>	<p>Refer to comments to comment KGTC-37</p>
<p>KGTC-39</p>	<p><b>XIII. Appendix E.2, REC-3 TM: The Boatable Days Analysis Overstates Days at High Flows, Ignores the Marginal Impact of the KR1 Diversion at Critical Flow Thresholds, and Proposes No Operational Mitigation</b></p> <p>SCE's DLA includes a calculation of "boatable days" on the lower Kern River as a measure of the project's impact on whitewater recreation. This calculation does not accurately capture the project's impact on whitewater recreation opportunity, for reasons that go in both directions: it overstates the number of genuinely boatable days at the high end of flows, and understates the significance of lost boatable days at the critical threshold range.</p> <p>The lower Kern Canyon run is a technically demanding but popular whitewater section. For intermediate recreational paddlers, approximately 800 cfs in the bypass reach represents a good boating flow — adequate volume, manageable gradient, and readable hydraulics. Below 800 cfs the run becomes marginal or unrunnable for most paddlers; above approximately 2,000 to 3,000 cfs it becomes unsafe for the general public. SCE's boatable days calculation counts extreme high-flow days — flows unrunnable for most paddlers — as boatable days, inflating the total. The critical issue is at the lower threshold. When Lake Isabella releases 800 cfs, the bypass reach without the KR1 project would receive approximately 800 cfs — a good recreational boating day. With KR1 diverting up to 400 cfs, the bypass reach receives only approximately 400 cfs — too low for most paddlers. For the bypass reach to receive 800 cfs when KR1 is diverting at capacity, Isabella must release approximately 1,200 cfs. The number of days per year when Isabella releases at least 1,200 cfs is substantially smaller than the number of days it releases at least 800 cfs. That difference — the lost boatable days attributable specifically to the KR1 diversion — is not quantified in SCE's analysis and should be.</p>	<p>Refer to responses to KRB-22 through -25</p>
<p>KGTC-40</p>	<p><b>XIII. Appendix E.2, REC-3 TM: The Boatable Days Analysis Overstates Days at High Flows, Ignores the Marginal Impact of the KR1 Diversion at Critical Flow Thresholds, and Proposes No Operational Mitigation</b></p> <p>FERC should require SCE to revise its boatable days analysis to: (a) apply a realistic upper boatability threshold reflecting the skill levels of actual intermediate recreational paddlers, excluding extreme high-flow days that are unsafe for the general public; (b) define approximately 800 cfs as the relevant minimum boatable flow threshold for the bypass reach, in consultation with Kern River Boaters; and (c) quantify how many days per year Isabella releases fall between 800 and 1,200 cfs — the range where the KR1 diversion is the direct and marginal cause of an unboatable bypass reach — and how many lost boatable days are attributable specifically to the project. This analysis should be conducted in consultation with Kern River Boaters, the Army Corps of Engineers, and CDFW.</p> <p>Beyond the study revisions, FERC should require meaningful operational mitigation for whitewater recreation as a license condition. Specifically: (a) Flow forecasting and public notification — require SCE to post daily and weekly flow forecasts for the KR1 bypass reach on a publicly accessible website or app, so that recreational paddlers can plan around expected conditions. Advance notice of likely boatable windows is a low-cost measure that substantially improves the recreational value of the project corridor; and (b) Recreational flow augmentation — require SCE to evaluate the feasibility of reducing or pausing the</p>	<p>Refer to responses to KRB-22 through -25</p>

No.	Stakeholder Comment	SCE Response
	<p>diversion on weekends and summer holidays when Isabella outflows are in the 800–1,200 cfs range — the specific window where reducing the KR1 diversion would bring the bypass reach to or above the 800 cfs recreational boating threshold. In these windows, the marginal cost to SCE’s generation is modest, and the benefit — converting an unboatable day into a boatable one during peak demand periods — is substantial. A protocol for targeted flow releases should be developed in consultation with Kern River Boaters, the Army Corps of Engineers (which operates Lake Isabella), and CDFW.</p>	
	<p><b>XIV. Conclusion</b></p> <p>The Kern River No. 1 Hydroelectric Project has operated for decades in one of California’s most spectacular river canyons, providing power to the region while substantially reducing the natural flows and recreational character of the lower Kern River. SCE’s DLA — specifically Exhibit E Sections 7.10, 7.11, and 7.14, and the eight proposed measures in Appendix E.1 — proposes to continue this arrangement for another 40 to 50 years without substantive new commitments to public recreation access, aesthetic mitigation, environmental justice, or sediment management. Each deficiency identified in these comments is keyed to a specific DLA section or exhibit. SCE is required to respond specifically to each one. The community has demonstrated genuine demand: 2,329 verified petition signatures (Exhibit A), a unanimous City Council resolution (Exhibit B), and documented unmet need from a majority-Latino, lower-income population that lives closer to this national forest than almost any other urban community in California. The new license is the opportunity to make that access real.</p> <p>FERC has the authority and the obligation to do better. The Federal Power Act’s equal consideration mandate, FERC’s own precedent in the Poe proceeding, and the compelling public interest record before the Commission all support requiring SCE to build the infrastructure that will give the people of the Bakersfield area meaningful access to their national forest backyard.</p> <p>The Kern Gateway Trail represents a once-in-a-generation opportunity to connect a historically underserved community to a world-class natural landscape in their own backyard. It has broad support, a sound conceptual plan, and willing partners. What it needs is a licensee willing to open its gates and a Commission willing to require it. FERC should use the full weight of its licensing authority to make that happen.</p> <p>We appreciate the Commission’s attention to these comments and respectfully request that they be incorporated into the record. We are available to provide additional information or testimony at the Commission’s request.</p> <p>[Refer to Figure 23 in the Kern Gateway Trail Committee Comment Letter]</p>	<p>Comment noted.</p>

**Comment Letter 6: Kern River Boaters (KRTC) (Filed April 1, 2026)**

No.	Stakeholder Comment	SCE Response
KRB-1	<p><b>INTRODUCTION</b></p> <p>Kern River Boaters (“KRB”) respectfully submits these comments on Southern California Edison Company’s Draft License Application for the Kern River No. 1 Project. KRB is a California nonprofit public benefit corporation with federal 501(c)(3) status dedicated to protecting the ecological health, recreational value, and public enjoyment of the Kern River and its tributaries. KRB represents more than 2,300 members with direct, long-term interests in the condition and management of the Kern River. KRB’s members include whitewater boaters, anglers, hikers, and other river users who use and care about the Kern River and its project-affected reaches. Many of KRB’s members have decades of firsthand familiarity with Kern River flows, recreation patterns, access conditions, and resource issues in project-affected reaches.</p> <p>KRB has participated in this proceeding by filing initial comments earlier in the licensing process. KRB submits these comments to help ensure that the record before the Commission is factually rigorous, analytically sound, and complete with respect to recreation and environmental issues. KRB’s purpose here is not to seek new studies, but to identify places where the Draft License Application overstates the certainty of its conclusions, relies on unsupported or weakly supported inferences, or fails to grapple with record evidence bearing on project effects. KRB is committed to making evidence-based claims, showing its work, and contributing to a full and testable record. To that end, KRB welcomes scrutiny of its reasoning and encourages correction of any factual error so that the record may be improved.</p>	<p>Comment noted.</p>
KRB-2	<p><b>1. The Record Does Not Support Sce’s Determination That the Existing Minimum Instream Flow Regime is Adequate for a New License Term.</b></p> <p>SCE proposes to carry the existing minimum instream flow unchanged into a new license that will govern the Kern River for approximately fifty years: 50 cfs from June through September, 15 cfs from October through May, or inflow if less. DLA Appendix E.1, Draft Minimum Instream Flow Measure, § 1.1. SCE’s effects analysis then concludes that this regime will have “no effect” on fish habitat, water quality, water temperature, and recreation resources. DLA Ex. E §§ 7.2.3, 7.3.3.1, 7.4.3.1, 7.10.3.4. Those conclusions are not supported by the record SCE itself developed.</p> <p><b>The existing MIF was designed for species management priorities that no longer apply.</b> The current 50/15 cfs regime was set based on a 1986 instream flow study that targeted smallmouth bass and rainbow trout. DLA Ex. E § 7.4.1.4, at 7.4-3 (citing EA 1986 and FERC 1998). The study found that 50 cfs provided 83 percent of maximum weighted usable area for adult rainbow trout, and 15 cfs provided 94 percent of maximum WUA for smallmouth bass life stages. <i>Id.</i> CDFW confirmed those recommendations in 1990. <i>Id.</i></p> <p>Since then, the management framework has fundamentally changed. CDFW has shifted its species of management concern from the non-native smallmouth bass to the native hardhead minnow, a California Species of Special Concern and Forest Service Sensitive Species. DLA Ex. E § 7.4.1.4, at 7.4-4 n.4; § 7.4.1.7. SCE’s own 2009 PHABSIM study — conducted under the current license — found that maximum WUA for adult hardhead occurs at 150 cfs, three times the current summer MIF. DLA Ex. E § 7.4.1.4, at 7.4-4. SCE’s 2025 bypass reach fish sampling confirms this shift is not theoretical: only 1 rainbow trout was captured in the entire 10.2-mile bypass reach, while hardhead were present at four of five sampling sites with active juvenile recruitment documented. AQ-3 §§ 5.3.2.1–5.3.2.5. Smallmouth bass — the species the MIF was designed around — appeared at only two of five sites, at low abundance. AQ-3 § 5.3.2, Table 3-9.</p> <p>In short, SCE proposes to perpetuate for fifty years a minimum flow calibrated to a species that is functionally absent from most of the bypass reach, while providing only one-third of the flow its own habitat modeling identifies as optimal for the species CDFW now manages for. SCE offers no analysis explaining why 50 cfs is adequate for hardhead despite the 150 cfs PHABSIM result. The DLA simply reports the 150 cfs figure and then proposes 50 cfs without reconciling the gap. That is not a supportable effects determination.</p>	<p>Refer also to responses to KRFF-4 through KRFF-11.</p> <p>SCE has evaluated Project-related effects using resource-specific studies and analyses and compared those effects to the existing condition baseline. Because SCE is proposing no changes to the minimum flow regime, no effects to water quality, aquatic habitat, or the fish community as compared to existing conditions are anticipated.</p> <p>The 2009 instream flow study shows that the existing MIF, 15 cfs and 50 cfs, WUA relationship is 56% and 72% of maximum WUA for adult hardhead, respectively, and 100% and 98%, of juvenile hardhead, respectively. As mentioned, the flow-habitat relationships (EA 1986; SCE 2009) indicate the MIFs provide relatively high amounts of physical habitat (depth, velocity) for rainbow trout and smallmouth bass. The inflowing water temperature and high summer flows (irrigation deliveries) from Lake Isabella, however, are likely the primary limiting factors for rainbow trout (summer water temperatures are too warm, 20-25°C) and for smallmouth bass (summer high flows; sensu SCE 2009) rather than MIFs. This is likely true for hardhead as well (see habitat time series analysis in the FLA Section 7.4 Fish and Aquatic Resources).</p> <p>The AQ 3 Fish Population monitoring indicates that a healthy transition zone (Moyle 2002) native fish community is present in the bypass reach. The 2025 sampling in the bypass reach documented that native fish species (hardhead minnow and Sacramento sucker) comprised approximately 77.5 percent of the total catch, demonstrating that existing flow and habitat conditions support a self-sustaining native fish population and a variety of non-native game species, including largemouth and smallmouth bass. Fish collected in the bypass reach were in good condition (i.e., average condition factor &gt; 1.0), and there were multiple age classes of native species demonstrating that natural reproduction is occurring, and there were no signs of disease or deformities. The bypass reach provides 10.2-miles of deep pool and riffle/run habitat, which is the preferred habitat of hardhead (Moyle 2002), and that is within the temperature preferences of hardhead.</p> <p>In summary, despite evolving CDFW management direction in the Project area, the available study results and monitoring data indicate that the existing minimum instream flow regime and current Project operations continue to support suitable aquatic habitat conditions and a healthy, self-sustaining transition-zone native fish community, including hardhead, in the bypass reach.</p> <p>References:</p> <p><i>Moyle, P. B. 2002. Inland Fishes of California. Revised and Expanded Edition. University of California Press. 502 pp.</i></p> <p><i>EA Engineering, Science, and Technology, Inc. 1986. Kern River Hydroelectric Project Instream Flow Study and Fish Population Characterization. Prepared for Southern California Edison Company, Rosemead, California.</i></p>

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		<p>FERC 1998. Order Issuing New License and Final Environmental Assessment for Hydropower License for the Kern River No. 1 Hydroelectric Project, FERC Project No. 1930-014. Issued June 16, 1998.</p> <p>SCE. 2009. Final Report Kern River No. 1 Hydroelectric Project Smallmouth Bass Study. Prepared for Southern California Edison by ENTRIX Inc.</p>																																																																																																																																	
KRB-3	<p><b>1. The Record Does Not Support Sce’s Determination that the Existing Minimum Instream Flow Regime is Adequate for a New License Term.</b></p> <p><b>SCE’s own hydrology study quantifies the scale of the flow alteration.</b> SCE’s AQ-1 Technical Memorandum includes a hydrologic alteration analysis comparing bypass reach flows with and without the project diversion. The results are stark. At the median, the project reduces bypass flows by 86–88 percent during October through December:</p> <table border="1" data-bbox="326 631 842 1028"> <thead> <tr> <th>Month</th> <th>Median Inflow</th> <th>Median Bypass</th> <th>Reduction</th> </tr> </thead> <tbody> <tr> <td>October</td> <td>271</td> <td>35</td> <td>87%</td> </tr> <tr> <td>November</td> <td>213</td> <td>30</td> <td>86%</td> </tr> <tr> <td>December</td> <td>264</td> <td>32</td> <td>88%</td> </tr> <tr> <td>January</td> <td>330</td> <td>113</td> <td>66%</td> </tr> <tr> <td>February</td> <td>333</td> <td>147</td> <td>56%</td> </tr> <tr> <td>March</td> <td>409</td> <td>123</td> <td>70%</td> </tr> <tr> <td>September</td> <td>435</td> <td>194</td> <td>55%</td> </tr> </tbody> </table> <p>AQ-1 Table 5-6. The average annual 1-day minimum flow drops from 134 cfs without the project to 31 cfs with the project — a 77 percent reduction. AQ-1 Table 5-7. In drought years (WY 2014, 2015, 2021, 2022), the 90th-percentile exceedance flow in the bypass reach is 17–21 cfs — barely above the 15 cfs MIF floor. AQ-1 Table 5-5.</p> <p>SCE performed this analysis. It is part of the relicensing record. But the DLA’s effects sections in §§ 7.2, 7.3, and 7.4 do not engage with it. The effects analysis does not ask what the bypass reach would look like with 271 cfs in October instead of 35 cfs. It does not ask whether 150 cfs of additional thermal mass would change the temperature regime. It does not ask whether hardhead habitat would be materially different at median unimpaired flows versus the current MIF. SCE produced the data showing a severe hydrologic alteration and then wrote its effects conclusions as though the alteration did not exist.</p>	Month	Median Inflow	Median Bypass	Reduction	October	271	35	87%	November	213	30	86%	December	264	32	88%	January	330	113	66%	February	333	147	56%	March	409	123	70%	September	435	194	55%	<p>The AQ 1 Technical Memorandum (Table 5-6), mean monthly and median monthly flows released into the bypass reach are shown below:</p> <p><b>Table 5-6. Monthly Mean and Median Flows</b></p> <table border="1" data-bbox="1554 514 2542 1094"> <thead> <tr> <th rowspan="2">Month</th> <th colspan="3">Mean Flow (cfs)</th> <th colspan="3">Median Flow (cfs)</th> </tr> <tr> <th>Project Inflow</th> <th>Release to Bypass Reach</th> <th>Change</th> <th>Project Inflow</th> <th>Release to Bypass Reach</th> <th>Change</th> </tr> </thead> <tbody> <tr> <td>January</td> <td>398</td> <td>224</td> <td>-174</td> <td>330</td> <td>113</td> <td>-216</td> </tr> <tr> <td>February</td> <td>452</td> <td>288</td> <td>-163</td> <td>333</td> <td>147</td> <td>-186</td> </tr> <tr> <td>March</td> <td>678</td> <td>447</td> <td>-231</td> <td>409</td> <td>123</td> <td>-286</td> </tr> <tr> <td>April</td> <td>1,032</td> <td>743</td> <td>-289</td> <td>509</td> <td>186</td> <td>-323</td> </tr> <tr> <td>May</td> <td>1,530</td> <td>1,212</td> <td>-318</td> <td>763</td> <td>423</td> <td>-340</td> </tr> <tr> <td>June</td> <td>1,875</td> <td>1,530</td> <td>-345</td> <td>1,227</td> <td>858</td> <td>-369</td> </tr> <tr> <td>July</td> <td>1,510</td> <td>1,182</td> <td>-328</td> <td>1,226</td> <td>892</td> <td>-334</td> </tr> <tr> <td>August</td> <td>1,013</td> <td>721</td> <td>-292</td> <td>860</td> <td>555</td> <td>-305</td> </tr> <tr> <td>September</td> <td>625</td> <td>413</td> <td>-212</td> <td>435</td> <td>194</td> <td>-241</td> </tr> <tr> <td>October</td> <td>441</td> <td>257</td> <td>-185</td> <td>271</td> <td>35</td> <td>-236</td> </tr> <tr> <td>November</td> <td>302</td> <td>133</td> <td>-169</td> <td>213</td> <td>30</td> <td>-183</td> </tr> <tr> <td>December</td> <td>289</td> <td>115</td> <td>-174</td> <td>264</td> <td>32</td> <td>-232</td> </tr> </tbody> </table> <p>Key: cfs = cubic feet per second</p> <p>Mean monthly flows are lowest during the fall and winter months and higher in the spring and summer months due to irrigation releases from Lake Isabella. The AQ 3 Fish Population monitoring in 2025 documented a healthy and robust assemblage of native fish species (hardhead and Sacramento sucker) as well as other game and non-game fish species based on the existing flow regime in the bypass reach.</p> <p>Because there are no proposed changes to the instream flow, the Proposed Action and the No-Action alternatives have the same conditions. The FLA analysis correctly analyzes the Proposed Action alternative.</p> <p>With regard to water temperature, the observed water temperature in 2024 and 2025 in the bypass reach was similar to the inflow water temperature to the Project (AQ 2 Water Quality and Water Temperature study). There was no indication that Project diversions were adversely altering water temperature.</p>	Month	Mean Flow (cfs)			Median Flow (cfs)			Project Inflow	Release to Bypass Reach	Change	Project Inflow	Release to Bypass Reach	Change	January	398	224	-174	330	113	-216	February	452	288	-163	333	147	-186	March	678	447	-231	409	123	-286	April	1,032	743	-289	509	186	-323	May	1,530	1,212	-318	763	423	-340	June	1,875	1,530	-345	1,227	858	-369	July	1,510	1,182	-328	1,226	892	-334	August	1,013	721	-292	860	555	-305	September	625	413	-212	435	194	-241	October	441	257	-185	271	35	-236	November	302	133	-169	213	30	-183	December	289	115	-174	264	32	-232
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KRB-4	<p><b>1. The Record Does Not Support SCE’s Determination that the Existing Minimum Instream Flow Regime is Adequate for a New License Term</b></p> <p><b>The MIF contains no adaptive mechanism for a changing climate.</b> SCE’s own continuous temperature monitoring shows maximum instantaneous water temperatures reaching 24.9°C in 2024 and 24.8°C in 2025, with daily averages exceeding 23°C from late July through mid-September in both years. AQ-2 §§ 5.4, Tables 5-15, 5-16. SCE itself acknowledges that those temperatures are “too warm for cold water species like rainbow trout” and that rainbow trout stocked in the reach are “unlikely to be able to grow and survive during the summer season.” AQ-2 § 5.4. Yet the Basin Plan designates this reach for COLD freshwater habitat beneficial use, and the proposed MIF Measure contains no temperature trigger, no seasonal adjustment mechanism, and no adaptive protocol for the next fifty years.</p>	<p>Refer also to response to KRB-3 and to KRFF-8, -9, and -10.</p> <p>Continuous monitoring completed by SCE in 2024 and 2025 during the AQ 2 Water Temperature and Water Quality Study showed that water temperature variation throughout the Project area was minimal, generally much less than a 1°C change in water temperature between inflowing water and outflowing water at the bottom of the bypass reach. As such, the data collected by SCE demonstrated that water temperature in the bypass reach was not affected by operations. Importantly, water temperature data collected in the Project area in 2024 and 2025 demonstrate that Basin Plan objectives for WARM and COLD waters are met (i.e., water temperature in the Project area does not increase by more than 5 degrees °F [2.78°C] above the natural receiving water temperature [CRWQCB 2018]).</p> <p>Inflowing water into the Project (water released from Lake Isabella into the Kern River above Democrat Dam) is generally too warm to sustain coldwater fish (rainbow trout) year-around. Temperatures during the summer and early fall are between 20°C and 25°C. The water temperature entering the Project from upstream (Lake Isabella releases) may</p>																																																																																																																																	

No.	Stakeholder Comment	SCE Response
	<p>The proposed MIF Measure is two pages long. Appendix E.1, Draft Minimum Instream Flow Measure. It specifies the same 50/15 cfs values in effect since 1998, provides deviation procedures for emergencies and planned maintenance, and contains nothing else — no adaptive management framework, no trigger for reassessment, no relationship to temperature or habitat thresholds, no connection to the PHABSIM results SCE’s own studies produced. For a license that will govern the river through approximately 2076, that is an extraordinary omission.</p>	<p>continue to increase in the future and could become slightly warmer, still resulting in the reach continuing to be too warm for trout. This is not a Project effect.</p> <p>Reference: <i>CRWQCB (California Regional Water Quality Control Board). 2018. Water Quality Control Plan for the Tulare Lake Basin Third Edition. Revised May 2018 (with approved amendments).</i></p>
KRB-5	<p><b>1. The Record Does Not Support Sce’s Determination that the Existing Minimum Instream Flow Regime is Adequate for a New License Term</b></p> <p><b>The Fish Population Monitoring Plan does not compensate for these deficiencies.</b> SCE’s proposed monitoring — sampling in Year 1 and Year 6 of the license, with no further specified schedule — is too infrequent to detect population-level responses to flow conditions and too disconnected from the MIF to serve as an adaptive check. Appendix E.1, Draft Fish Population Monitoring Plan, § 3.0. The U.S. Forest Service made precisely this point in the parallel KR3 proceeding, commenting that sampling intervals of five years or longer “may not allow for the cause of any potential change in fish populations to be ascertained.” USFS Comments on KR3 DLA, Acc. No. 20241001-5366, Att. 1 § 7.4. The same concern applies here with even greater force, because the KR1 Fish Population Monitoring Plan proposes only two sampling events in the first six years, with no commitment to any schedule thereafter.</p> <p>KRB does not request new studies in this comment. KRB identifies a gap between the record evidence SCE developed and the conclusions SCE drew from it. The record shows a minimum flow set for a species assemblage that no longer exists in the bypass reach, contradicted by SCE’s own habitat modeling for the species that does, imposed on a reach where SCE’s own hydrology study documents flow reductions of 55–88 percent at the median, with no adaptive mechanism for a license term extending to 2076. On that record, SCE’s categorical “no effect” determinations for fish habitat, water quality, and recreation are unsupported.</p>	<p>Refer to response to comments KRFF-21 with respect to fish population monitoring.</p> <p>Refer to response to comments KRFF-7 through KRFF-11 and KRB-2 in relation to minimum instream flows.</p> <p>The Proposed Action does not reduce flows compared to the No-Action Alternative. See FLA Section 7.02 Water Use and Hydrology for a description of the Proposed Action and No-Action Alternative hydrology.</p>
KRB-6	<p><b>2. SCE’s Water Quality Effects Determinations Rest on a Monitoring Record that Systematically Avoids the Conditions Most Likely to Reveal Project Effects.</b></p> <p>SCE concludes that the Proposed Action would have “no effect” on water quality and water temperature in the bypass reach. DLA Ex. E § 7.3.3.1. That conclusion rests on a monitoring record that, by design, does not capture the conditions under which project effects on dissolved oxygen and water temperature would be most pronounced. When the monitoring protocol is examined against SCE’s own continuous temperature data, the gap between what SCE measured and what SCE concluded becomes clear.</p>	<p>The AQ 2 Water Temperature and Water Quality Study consisted of two years of water quality and water temperature data collection. The study plan and study were developed and completed consistently with generally accepted practices in the scientific community. The AQ 2 study was developed, reviewed, and approved through FERC’s ILP, which is specifically structured to provide multiple opportunities for stakeholders, including resource agencies, to provide input on study needs, methodologies, and implementation. The allegation that the monitoring is somehow designed to favor certain conditions and not capture others is unfounded.</p> <p>Study plan development was initiated in 2023 through Technical Working Group meetings that were open to all stakeholders. Stakeholders were invited to comment on the Proposed Study Plan (PSP), Revised Study Plan (RSP), and propose study modifications, regarding the objectives, sampling design, and flow conditions under which data would be collected. Stakeholders were also encouraged to provide comments as part of the Initial and Updated Study Report processes.</p> <p>FERC considered stakeholder input prior to issuing its Study Plan Determination (SPD), which approved the study methods as appropriate to meet the stated study objectives. SCE has implemented the AQ2 study in accordance with the FERC-approved study plan.</p> <p>The two years of AQ 2 study results show that water quality in the Project area is of high quality and meets Basin Plan standards. Dissolved oxygen concentrations were always near saturation levels (Tables 5-2 and 5-3) as is expected in a river (large reaeration rates and surface area to volume ratio), where no organic enrichment is present. Continuous water temperature monitoring showed that water temperature variation throughout the Project area was minimal, generally much less than a 1°C change in water temperature between inflowing water and outflowing water. <i>In situ</i> and laboratory grab water quality sampling during the spring high flow and fall low flow season showed that water quality sampling parameters and dissolved and total metal concentrations met Basin Plan water quality objectives and CTR and EPA water quality criteria. As such, the data collected by SCE demonstrated that water quality in the Project area is not affected by Project operations. Because SCE is proposing no changes to operations, no effects to water quality or water temperatures are anticipated associated with the Proposed Action.</p>

No.	Stakeholder Comment	SCE Response
KRB-7	<p><b>2. SCE's Water Quality Effects Determinations Rest on a Monitoring Record that Systematically Avoids the Conditions Most Likely to Reveal Project Effects.</b></p> <p>SCE's dissolved oxygen record consists entirely of daytime spot samples taken outside the period of peak thermal stress. The Basin Plan objective for dissolved oxygen in the Kern River from Lake Isabella to the KR1 Powerhouse is a minimum of 8.0 mg/L. DLA Ex. E § 7.3.1.3; CRWQCB 2018. SCE's entire DO record for the relicensing consists of in-situ spot measurements taken during two sampling events per year — one in June, one in late September or October — in 2024 and 2025. AQ-2 §§ 5.1.2, Tables 5-2, 5-3. Every one of those measurements was taken during daytime hours. In 2024, sampling times ranged from 0830 to 1300. In 2025, sampling times ranged from 0850 to 1715. AQ-2 Tables 5-2, 5-3.</p> <p>No measurements were taken at night or pre-dawn, which is when DO in rivers reaches its daily minimum due to the cessation of photosynthesis and continued aquatic and microbial respiration. The diurnal DO cycle is well understood: concentrations decline through the night and reach their lowest point in the hours before sunrise. SCE's protocol excludes that entire portion of the cycle. The record therefore reflects conditions most favorable to high DO readings. Whether the Basin Plan objective is met during the daily and seasonal periods of greatest thermal stress is a question the record cannot answer.</p> <p>That matters because the margin is thin. SCE's lowest recorded DO measurement across both years was 8.33 mg/L, taken at site KR 54.36 at 1615 on September 30, 2025. AQ-2 Table 5-3. That reading is only 0.33 mg/L above the Basin Plan objective — in the late afternoon, when DO is typically rising or near its daily peak. A pre-dawn measurement at the same site on the same day could plausibly fall below 8.0 mg/L. SCE's record provides no basis to evaluate that possibility because the sampling design excludes the hours when the answer matters most.</p> <p>The record also contains an earlier DO measurement of 6.5 mg/L downstream of the KR1 Powerhouse from 1992 sampling — well below the 8.0 mg/L Basin Plan objective. DLA Ex. E Table 7.3-2; see also USFS Comments on KR1 DLA at 6 (March 30, 2026) (noting the discrepancy and requesting discussion in the FLA). SCE's DLA does not explain or discuss that result. The existence of a sub-objective DO measurement in the project's own historical record further undercuts the certainty of SCE's "no effect" conclusion.</p>	<p>Refer to response to comment KRB-6.</p> <p>There is no basis for this comment.</p> <p>The Kern River in the Project area is a high gradient river with no organic loading (e.g., wastewater), no aquatic macrophytes and high surface aeration. As noted in the FLA, no DO measurements less than 8 mg/L occurred in 2024 or 2025 during the AQ 2 Water Temperature and Water Quality Study. SCE's 2024 and 2025 water quality monitoring demonstrated that all measurements of DO in the Project area met Basin Plan objectives and surface water criteria and that water quality in the Project area meets Basin Plan objectives.</p> <p>All dissolved oxygen measurements were near saturation as expected (AQ 2 Water Quality and Water Temperature Tables 5-2 and 5-3). There is no reason to suspect a nighttime dissolved oxygen sag in this river (high surface reaeration rates and large surface to volume ratio, low organic loading, low macrophyte presence) and there is no reason to expect there is a Project nexus to dissolved oxygen.</p>
KRB-8	<p><b>2. SCE's Water Quality Effects Determinations Rest on a Monitoring Record that Systematically Avoids the Conditions Most Likely to Reveal Project Effects.</b></p> <p><b>The in-situ sampling dates avoid the period of maximum thermal stress.</b> SCE's own continuous temperature data shows that the warmest period in the bypass reach occurs from late July through mid-September, with daily average temperatures consistently exceeding 23°C and reaching 24.4°C (August 6, 2024) and 24.8°C (September 4–5, 2025). AQ-2 § 5.4, Tables 5-15, 5-16. Yet SCE's in-situ DO and water quality measurements were taken in June and late September or October — bracketing the thermal peak rather than capturing it. The June sampling coincides with spring runoff, when flows are high and water temperatures are below 20°C. The late September and October sampling falls after the thermal peak has begun to decline. AQ-2 Tables 5-2, 5-3.</p> <p>The result is that SCE measured dissolved oxygen when flows were highest, temperatures were most moderate, and DO saturation capacity was greatest — and then used those measurements to conclude that the project has no effect on DO under a flow regime that reduces the river to 50 cfs or less during the precise months when thermal stress is most acute. That sampling design cannot support the weight SCE places on it.</p>	<p>Refer to response to comment KRB-6 and KRB-7.</p> <p>The AQ 2 Water Quality and Water Temperature study design, which was used related to <i>in-situ</i> measurements and laboratory grab samples, is a standard scientific approach to evaluate water quality under what are typically higher flow (spring conditions) and lower flow (fall) conditions. The approach helps to address potential issues related to dilution of water quality constituents (nutrients, metals, etc.). Continuous monitoring of water temperature was also used in the study to evaluate summer water temperatures for two years.</p> <p>With respect to dissolved oxygen, the Kern River, particularly in the bypass reach, is a high gradient river. Rivers, particularly high gradient rivers have high, continuous reaeration rates. First the surface to volume ratio is high, meaning there is a large exposure of the water to air, second, turbulence on the surface, in riffles/rapids, and the completely mixed conditions, greatly increases the reaeration rates. Based on the data that were collected, dissolved oxygen in the water was near saturation (as expected based on the above discussion). There is no reason to believe dissolved oxygen saturation conditions would be different at other times. The river is primarily a bedrock, boulder, and sand bed river. There are no large sources of organic inputs (e.g., wastewater) and there is limited algal and macrophyte growth. There is no reason to expect to see dissolved oxygen sags in this or similar rivers. We know of no similar rivers in the Sierra Nevada range that have dissolved oxygen impairment. There are no reasons to believe the Kern River has dissolved oxygen impairment. The comments are not based on sound science.</p>
KRB-9	<p><b>2. SCE's Water Quality Effects Determinations Rest on a Monitoring Record that Systematically Avoids the Conditions Most Likely to Reveal Project Effects.</b></p> <p><b>SCE's temperature analysis asks the wrong question.</b> SCE's temperature effects determination rests on the observation that water temperature changes little from upstream to downstream through the bypass reach — an average of 0.7°C in 2024 and a maximum downstream change of 1.8°C in 2025. DLA Ex. E §</p>	<p>Refer to responses to comment KRB-4, KRB-6, and KRB-7.</p> <p>The analysis in the FLA for the Proposed Action correctly uses the No-Action Alternative baseline to evaluate water temperature. Nevertheless, extensive water temperature data collected historically and with the AQ 2 Water Quality and Water Temperature study (2024 and 2025) indicate that there is very little warming in the bypass reach, &lt;1°C. Likely this</p>

No.	Stakeholder Comment	SCE Response
	<p>7.3.1.4; AQ-2 § 5.4. From that observation, SCE concludes that “the Project has little effect on water temperature.” AQ-2 § 5.4.</p> <p>That analysis answers the wrong question. The relevant question under the Basin Plan is not whether temperature changes longitudinally within the bypass reach; it is whether the project’s diversion of up to 412 cfs from the river — reducing median flows by 55 to 88 percent depending on the month (AQ-1 Table 5-6) — affects the thermal regime of the bypass reach compared to unimpaired conditions. A river carrying 271 cfs in October has substantially more thermal mass, and therefore greater resistance to solar warming and air temperature influence, than a river carrying 35 cfs. SCE’s own hydrology study documents that difference. AQ-1 Table 5-6. But the effects analysis never connects the hydrologic alteration to the thermal outcome. SCE measured the symptom (longitudinal temperature) and missed the mechanism (reduced thermal mass from diversion).</p> <p>The absence of that analysis is especially significant because the water entering the project area from Lake Isabella is already warm. SCE reports that inflowing water temperature at KR 55.6 (upstream of Democrat Dam) reached 24.9°C in 2024 and regularly exceeded 23°C in both monitoring years during July through September. AQ-2 Tables 5-15, 5-16. SCE’s own effects analysis acknowledges that “water released into this reach from Lake Isabella is approximately 23°C (warm) during the summer/fall months.” DLA Ex. E § 7.4.1.5, at 7.4-9. When the inflow itself is already at or near biologically stressful temperatures, the volume of water in the bypass reach is the primary variable determining whether localized solar heating pushes conditions further above critical thresholds. A 50 cfs stream will heat faster and to a higher instantaneous maximum than a 271 cfs stream receiving the same solar input. SCE’s record does not evaluate that relationship because SCE never asked the question.</p>	<p>occurs because of the steep, narrow Kern River canyon, which reduces solar radiation exposure and facilitates higher transit times for the water.</p> <p>Water temperatures are not stressful for native transition zone fishes (e.g., hardhead and Sacramento Sucker) and for non-native gamefish (e.g., bass and sunfish). They are stressful for rainbow trout. This is a natural consequence of elevation and air temperature. As rivers transit from higher elevation to lower elevation, warming is a natural process and transition zone water temperatures and fisheries exist throughout the lower elevation Sierra Nevada rivers. Also, the inflow water temperature to the Project is not within the control of SCE.</p>
KRB-10	<p><b>2. SCE’s Water Quality Effects Determinations Rest on a Monitoring Record that Systematically Avoids the Conditions Most Likely to Reveal Project Effects.</b></p> <p><b>The COLD beneficial use designation is contradicted by SCE’s own findings.</b> The Basin Plan designates the Kern River from Lake Isabella to the KR1 Powerhouse for Cold Freshwater Habitat (COLD) beneficial use, among others. DLA Ex. E § 7.3.1.2. Yet SCE’s own 2025 fish sampling found exactly one rainbow trout in the entire bypass reach, while the assemblage is dominated by warm- and cool-water species — Sacramento sucker (63%), hardhead (14%), and brown bullhead (15%). AQ-3 § 5.3.2. SCE’s AQ-2 study expressly states that summer water temperatures in the bypass reach are “too warm for cold water species like rainbow trout” and that stocked trout are “unlikely to be able to grow and survive during the summer season.” AQ-2 § 5.4.</p> <p>SCE treats those findings as evidence that the current thermal regime is suitable for the species that happen to be present. But the more important question — which the DLA does not ask — is whether the current thermal regime reflects the designated beneficial use or the project’s alteration of it. If the bypass reach is too warm for trout because the project removes 55–88 percent of the river’s flow during the months when thermal buffering matters most, then the warm-water-dominated assemblage is itself a project effect, not a baseline condition. SCE cannot use the biological consequences of inadequate flows as evidence that the flows are adequate.</p>	<p>Refer to responses to comment KRB-4, KRB-6, and KRB-7.</p>
KRB-11	<p><b>2. SCE’s Water Quality Effects Determinations Rest on a Monitoring Record that Systematically Avoids the Conditions Most Likely to Reveal Project Effects.</b></p> <p><b>The record does not support SCE’s “no effect” conclusion on water quality.</b> KRB does not assert that the record conclusively proves Basin Plan DO violations are occurring. KRB asserts that the record SCE developed is not capable of determining whether they are or are not. A monitoring design that excludes pre-dawn dissolved oxygen, avoids the July–August thermal peak, relies on spot measurements rather than continuous data, and never analyzes the relationship between project-caused flow reductions and thermal or DO outcomes cannot support a categorical “no effect” determination for a fifty-year license. SCE’s conclusion outruns its evidence.</p>	<p>Refer to response to comment KRB-6 and KRB-8.</p>

No.	Stakeholder Comment	SCE Response
KRB-12	<p><b>3. The DLA’s Fish and Aquatic Resources Conclusions Were Drawn Without Current Bypass Reach Data, and the Subsequently Filed Data Confirm the Analytical Gap.</b></p> <p>SCE concludes in the DLA that the Proposed Action would “maintain impoundment elevations, instream flow conditions and overall reach hydrology,” that “[a]quatic habitat and water quality conditions in the Project area would remain suitable to support native and non-native game and non-game fish species,” and that “[t]he continuation of the existing minimum instream flows would continue to provide a high percentage of suitable aquatic habitat (i.e., WUA) for species of management interest (smallmouth bass, hardhead, and rainbow trout).” DLA Ex. E § 7.4.3.1, at 7.4-16. Those conclusions were drawn without any current fish population data from the bypass reach — the 10.2-mile reach most directly affected by the project’s diversion.</p>	<p>Refer to response to comment KRFF-3.</p> <p>Since issuance of the DLA, SCE has completed the required additional fisheries surveys within the bypass reach, and the results of those efforts were incorporated into the AQ 3 Fish Population study and FLA and conclusions related to fish and aquatic resources updated as appropriate.</p>
KRB-13	<p><b>3. The DLA’s Fish and Aquatic Resources Conclusions Were Drawn Without Current Bypass Reach Data, and the Subsequently Filed Data Confirm the Analytical Gap.</b></p> <p><b>The DLA acknowledged the data gap but drew firm conclusions anyway.</b> The DLA expressly states that SCE “planned to conduct fish population monitoring in the bypass reach in 2024 pursuant to FERC’s Study Plan Determination; however, due to high flows and unsafe sampling conditions, the monitoring was postponed until the fall of 2025.” DLA Ex. E § 7.4.1.6. The DLA’s bypass reach fish discussion therefore relied on data from 1999 through 2008 — sampling that ended sixteen years before the DLA was filed. Id. Appendix E.2 separately confirmed that AQ-3 had “[o]utstanding study components” and that a complete technical memorandum would be filed with the FLA. DLA Appendix E.2, Table E.2-1. Despite that acknowledged gap, the DLA’s effects analysis in § 7.4.3 does not qualify its conclusions or identify them as preliminary. It presents categorical “no effect” findings as though the bypass reach record were complete.</p>	<p>FERC’s ILP establishes defined procedural deadlines that licensees are required to meet, including submitting the DLA based on the best available information at the time of filing. As noted in the DLA, SCE was transparent in identifying those studies that were ongoing, had outstanding components, or were subject to agency or Tribal review. The DLA clearly disclosed where data collection and analysis were incomplete and indicated that final technical memoranda and updated analyses would be provided in the FLA.</p> <p>The analyses and conclusions presented in the DLA were based on the information available at that time and were intended to support continued review and stakeholder engagement during the licensing process, recognizing that certain study elements were still in progress. These conclusions were not intended to suggest that the evidentiary record was final in all respects, but rather to provide an interim assessment subject to refinement as additional data became available.</p> <p>Since filing the DLA, SCE has completed the outstanding study components and incorporated the resulting data into the FLA. The FLA updates the relevant analyses and conclusions, and where appropriate, refines or qualifies prior statements to ensure they are supported by the complete record. Overall, SCE has evaluated and integrated the full body of available information into the FLA to provide a comprehensive and technically supported assessment of Project effects, consistent with applicable regulatory requirements and study objectives.</p>
KRB-14	<p><b>3. The DLA’s Fish and Aquatic Resources Conclusions Were Drawn Without Current Bypass Reach Data, and the Subsequently Filed Data Confirm the Analytical Gap.</b></p> <p><b>The 2025 bypass reach data, now in the record, confirm the mismatch between the proposed MIF and the species actually present.</b> SCE completed bypass reach fish sampling in December 2025 at approximately 20 cfs. AQ-3 § 4.3. The results are now part of the relicensing record and bear directly on the adequacy of the DLA’s effects conclusions.</p> <p>The 2025 sampling collected 591 fish representing eight species across five sites in the bypass reach. AQ-3 § 5.3.2. The assemblage is dominated by native species: Sacramento sucker comprised approximately 63 percent and hardhead approximately 14 percent of the catch. AQ-3 §§ 5.3.2.1–5.3.2.5, Table 3-9. Hardhead were present at four of five sampling sites, with young-of-year individuals documented at Site B — evidence of active reproduction in the bypass reach. AQ-3 § 5.3.2.2. These findings strengthen the significance of SCE’s own 2009 PHABSIM result showing that adult hardhead WUA peaks at 150 cfs. DLA Ex. E § 7.4.1.4, at 7.4-4. Hardhead are not merely historically present; they are actively recruiting in the reach. The proposed 50 cfs summer MIF provides one-third of the flow SCE’s own habitat model identifies as optimal for this species.</p> <p>Meanwhile, the two species for which the existing MIF was calibrated are functionally absent or irrelevant in the bypass reach. Only one rainbow trout was captured across all five sites and the entire 10.2-mile reach. AQ-3 § 5.3.2.4. SCE elsewhere acknowledges that stocked trout represent a put-and-take fishery “with no known natural recruitment” and that summer temperatures in the bypass reach are “too warm for cold water species like rainbow trout.” DLA Ex. E § 7.4.1.2; AQ-2 § 5.4. Smallmouth bass — the species whose habitat requirements drove the 1986 IFIM study and the 15 cfs winter MIF — were captured at only two of five bypass reach sites, at low abundance. AQ-3 §§ 5.3.2.2, 5.3.2.4. That is consistent with the DLA’s own</p>	<p>Refer to response to KRB-2</p>

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	acknowledgment that CDFW “has since shifted management focus” from smallmouth bass to hardhead. DLA Ex. E § 7.4.1.4, at 7.4-4 n.4.	
KRB-15	<p><b>3. The DLA’s Fish and Aquatic Resources Conclusions Were Drawn Without Current Bypass Reach Data, and the Subsequently Filed Data Confirm the Analytical Gap.</b></p> <p><b>The DLA’s effects analysis does not reconcile these facts.</b> The DLA states that the proposed MIF “would continue to provide a high percentage of suitable aquatic habitat (i.e., WUA) for species of management interest (smallmouth bass, hardhead, and rainbow trout).” DLA Ex. E § 7.4.3.1, at 7.4-16. But the record now shows that the WUA relationship for hardhead peaks at 150 cfs — not 50 cfs — and that the two other species listed alongside hardhead in that sentence are either absent (one trout in the entire reach) or present at only a fraction of sites (smallmouth bass at two of five). The DLA does not explain how 50 cfs provides a “high percentage” of suitable habitat for hardhead when SCE’s own modeling identifies the adult optimum at three times that level. That gap between SCE’s data and SCE’s conclusion has not been addressed.</p>	Refer to response to KRB-2.
KRB-16	<p><b>3. The DLA’s Fish and Aquatic Resources Conclusions Were Drawn Without Current Bypass Reach Data, and the Subsequently Filed Data Confirm the Analytical Gap.</b></p> <p><b>SCE deflects responsibility for low-flow conditions onto Lake Isabella operations.</b> Throughout the fish and aquatic resources section, the DLA attributes habitat limitations during high-flow periods to irrigation releases from Lake Isabella, stating that those releases “will likely continue to reduce the suitability of the instream flow habitat in the bypass reach on a seasonal basis; however, this is outside of the control of SCE and not a part of the Proposed Action.” DLA Ex. E § 7.4.3.1, at 7.4-16. That framing is selective. During the spring and summer high-flow season, Isabella releases do exceed the diversion capacity, and spill provides bypass flows well above the MIF. But during the months when Isabella releases decline — the fall and winter period when the project controls bypass conditions— the diversion reduces median flows from 213–330 cfs to 30–113 cfs. AQ-1 Table 5-6. Those are the months when the MIF is operative and when the project’s effect on habitat is most direct. SCE’s emphasis on Isabella-driven high flows draws attention away from the low-flow periods when the project’s own operations determine what the bypass reach receives.</p>	Refer to response to KRB-2, KRFF-7, KRFF-8, KRFF-9, KRFF-10 and KRFF-11.
KRB-17	<p><b>3. The DLA’s Fish and Aquatic Resources Conclusions Were Drawn Without Current Bypass Reach Data, and the Subsequently Filed Data Confirm the Analytical Gap.</b></p> <p><b>SCE’s proposed Fish Population Monitoring Plan is disconnected from the MIF.</b> SCE proposes to sample the bypass reach in Year 1 and Year 6 of the new license, with no specified schedule thereafter and no mechanism linking monitoring results to MIF reassessment. Appendix E.1, Draft Fish Population Monitoring Plan, § 3.0. The monitoring plan documents species composition, distribution, and condition factor. It does not establish thresholds, triggers, or criteria for determining whether the MIF is achieving its stated purpose. If hardhead abundance or recruitment declines between Year 1 and Year 6, the plan does not identify what, if anything, would follow. The monitoring is observational only; it creates no feedback loop to the flow regime it is ostensibly designed to evaluate.</p> <p>KRB does not contend that the 2025 sampling data prove the bypass reach fishery is in crisis. The data show fish in generally good condition with native species reproducing. AQ-3§ 5.3.5. KRB’s point is different: the DLA drew categorical effects conclusions before the bypass reach data existed, the data now in the record confirm that the species assemblage does not match the MIF design basis, and SCE has not reconciled its proposed flow regime with the habitat requirements of the species actually present and actively recruiting in the reach. On that record, the DLA’s conclusion that the existing MIF will “maintain” suitable aquatic habitat and produce “no effect” on fish resources is not supported by substantial evidence.</p> <p>The DLA also does not address whether the project’s sediment management practices have contributed to the documented decline in fish species diversity. Species present in the impoundment in 1994 and 1995 — including smallmouth bass, hitch, Sacramento pikeminnow, and white crappie — were absent from the 2024 sampling. DLA Ex. E § 7.4.1.6; AQ-3 § 5.2.5. That issue is addressed separately below. See Comment 4.</p>	<p>Refer to response to comment KRFF-21 with respect to fish monitoring.</p> <p>Refer to response to comments on KRFF-2, KRFF-3, and KRFF-4 with respect to fish monitoring data.</p> <p>Refer to response to comments KRFF-7 through KRFF-11 and KRB-2 in relation to minimum instream flows.</p> <p>With regard to conclusions in the DLA, refer to the response to KRB-13.</p>

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KRB-18	<p><b>4. The Draft Sediment Management Plan Does Not Protect the Bypass Reach Fishery and Does Not Account for the Legacy of Past Sediment Releases.</b></p> <p>The DLA documents that multiple fish species present in the Democrat Dam Impoundment in 1994 and 1995 — including smallmouth bass, hitch, Sacramento pikeminnow, and white crappie — were absent from the 2024 sampling. DLA Ex. E § 7.4.1.6; AQ-3 § 5.2.5. The DLA does not analyze what caused those disappearances. It reports the changed assemblage as a fact and moves on.</p> <p>The record, however, provides a plausible mechanism that the DLA does not examine. SCE manages sediment at Democrat Dam through periodic full sediment bypass events that release accumulated impoundment sediment directly into the bypass reach. DLA Ex. E § 5.1.5.4; Appendix E.1, Draft Sediment Management Plan. These are not minor maintenance operations. Full sediment bypass involves draining the impoundment and flushing the accumulated sediment load downstream through the 10.2-mile bypass reach — the same reach where the species disappearances have been documented. The DLA’s effects analysis concludes that sediment operations would have a “negligible effect” on fish, but that conclusion is forward-looking only. It does not ask whether past full sediment bypass events contributed to the loss of smallmouth bass and other species from the project area over the past three decades. That question is directly relevant to the relicensing record because the proposed MIF was calibrated to a species assemblage that included smallmouth bass — a species that no longer appears in the project area.</p> <p>The proposed Sediment Management Plan compounds this gap by authorizing continued annual full sediment bypass with no fishery-protective safeguards. The plan states that full sediment bypass “is anticipated to occur annually” when inflows are below 800 cfs and conditions are suitable. Appendix E.1, Draft Sediment Management Plan, § 5.2.2.2. It establishes no maximum single-event release volume. It establishes no fishery-based threshold at which flushing must be halted or modified to protect downstream habitat. It does not require evaluation of mechanical removal — dredging and off-site disposal — as an alternative to in-river flushing. And its monitoring provisions are limited to qualitative observations during Years 1 through 6, with no binding remediation trigger if monitoring reveals fishery damage. Id. §§ 5.2, 6.0.</p> <p>To the extent SCE may rely on the Forest Service’s concurrence that sediment operations under the proposed action would have no adverse geomorphic impacts, that concurrence does not reach the fishery question. The Forest Service stated that it reviewed the sections on hydrology, water quality, geomorphology, geology, and soils and agreed there should be “no adverse impacts from implementation of the proposed action.” USFS Comments on KR1 DLA at 3 (March 30, 2026). That statement addresses whether sediment moves through the system without causing geomorphic harm. It does not address whether releasing accumulated fine sediment into the bypass reach on an annual basis is consistent with protecting the fish assemblage — including hardhead, a California Species of Special Concern and Forest Service Sensitive Species that is actively recruiting in the bypass reach. AQ-3 §§ 5.3.2.1–5.3.2.5. Those are different questions, and the Forest Service’s concurrence on the first does not answer the second.</p> <p>SCE should revise the Draft Sediment Management Plan to address these deficiencies. At a minimum, the FLA should include fishery-protective thresholds for in-river sediment releases, evaluate mechanical removal as an alternative to full in-river sediment bypass, and address whether the project’s historical sediment management practices contributed to the documented disappearance of multiple fish species from the project area between 1995 and 2024. A plan that authorizes annual full sediment bypass with no volume cap, no fishery-based halt threshold, and no requirement to consider alternatives to in-river disposal does not support a “negligible effect” conclusion for a fifty-year license term.</p>	<p>Refer also to comment KRFF-4 and KGTC-33 and-34.</p> <p>Since the sediment release in September 2000—undertaken as part of dam maintenance activity, which resulted in high turbidity and sediment deposits, SCE has been coordinating with resource agencies including CDFW, USACE, and the Water Board regarding sediment management activities, especially after 2002 when the McNally Fire occurred. Some of the initial sediment management permits issued to SCE by resource agencies in the years immediately following the fire included actions tied to post-fire sediment management issues. Since 2007, and in accordance with permit conditions from CDFW, USACE and the Water Board, SCE has been filing Annual Reports with CDFW. These reports include monitoring of sediment conditions downstream of Democrat Dam. No long-term sedimentation effects in the bypass reach have been identified since monitoring was initiated. KR1’s sediment management activities have been coordinated and reported on annually to resource agencies and performed in compliance with associated permits.</p> <p>The goal of future sediment management at Democrat Dam is to prevent a buildup sediment that led to the 2000 release. In February 2022, the USACE permits expired followed by expiration of the CDFW Agreement in March 2023. SCE is currently in the process of renewing the permits and will continue to manage sediment in coordination with the permitting agencies and in compliance with applicable requirements. The Sediment Management Plan includes resource protective measures for the actions (including conditions under which sediment management operations would cease) and the plan will be updated to be consistent with additional requirements based on issued permits, as applicable.</p> <p>Refer to response to comment KGTC-33, the FLA, and the Sediment Management Plan (FLA Appendix E.1, Measures) with respect to leaving sediment in the river and protections for fisheries.</p>
KRB-19	<p><b>5. SCE’s Treatment of Wild And Scenic River Eligibility Does Not Engage With Project Effects on Outstandingly Remarkable Values.</b></p> <p>The U.S. Forest Service has identified the lower Kern River from Lake Isabella 31 miles downstream to the canyon mouth — inclusive of the entire KR1 project area — as eligible for Wild and Scenic designation under the “recreational” classification, with outstandingly remarkable values for scenery, recreation, wildlife,</p>	<p>While Wild and Scenic River eligibility and Nationwide Rivers Inventory listing are important considerations, these designations do not, in and of themselves, establish specific flow requirements or preclude the continued operation of an existing hydroelectric facility. As discussed in prior responses (including KRFF-14, USFS-12, USFS-13 and USFS-24), federal agencies are directed to consider and, where feasible within their authorities, protect identified values; however, the evaluation of Project effects and any potential measures is undertaken as part of FERC’s comprehensive public interest determination.</p>

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	<p>population and habitat, prehistory, and history. DLA Ex. E § 7.9.1.2, at 7.9-3 (citing Forest Service 2022). In 2024, the National Park Service placed the Lower Kern River on the Nationwide Rivers Inventory, identifying Recreation, Scenery, and Wildlife as significant ORVs. USFS Comments on KR1 DLA at 3, 5 (March 30, 2026). That listing triggers a consultation requirement under the Council on Environmental Quality directive applicable to NRI rivers. Id. at 5. The Sequoia National Forest Land Management Plan manages eligible Wild and Scenic rivers to “protect free-flow and outstandingly remarkable values and maintain preliminary classifications.” Id.</p> <p>SCE’s treatment of this designation consists of one paragraph. Section 7.9.3.2 states that because “there would be no change to Project operations under the Proposed Action, there would be no effects to the eligibility of the lower Kern River as an eligible Wild and Scenic River.” DLA Ex. E § 7.9.3.2, at 7.9-7. That is the same status-quo-as-baseline reasoning that pervades the DLA’s effects analysis, and it is no more adequate here than elsewhere.</p> <p>The question is not whether the Proposed Action changes current operations. The question is whether perpetuating the current flow regime for a new license term of approximately fifty years is consistent with protecting the outstandingly remarkable values the Forest Service has identified. The record SCE developed raises that question even if SCE’s effects analysis does not ask it.</p> <p>The recreation ORV is directly implicated by the project’s effect on whitewater boating flows. SCE’s own Updated Study Report documents 263 fewer boating days on the Richbar run under with-project conditions compared to without-project conditions over water years 2014 through 2024. REC-3 at 18–19. The wildlife and population/habitat ORVs are implicated by the MIF’s mismatch with the habitat requirements of hardhead — a California Species of Special Concern and Forest Service Sensitive Species actively recruiting in the bypass reach — for which SCE’s own PHABSIM study identifies optimal habitat at 150 cfs, three times the proposed summer MIF. DLA Ex. E § 7.4.1.4, at 7.4-4; AQ-3 §§ 5.3.2.1–5.3.2.5.</p> <p>SCE cannot discharge its obligation to address Wild and Scenic eligibility by noting that it proposes no operational changes. The Forest Service manages eligible rivers to protect ORVs. Two of those ORVs — recreation and wildlife/habitat — are affected by the same flow regime the DLA proposes to carry forward unchanged. At a minimum, the FLA should evaluate whether the proposed MIF is consistent with protecting the identified ORVs over the new license term, rather than treating operational continuity as a sufficient answer.</p>	<p>SCE recognizes the importance of the lower Kern River’s scenic, recreational, and ecological values and has evaluated Project effects on these resources consistent with the ILP process and study plan requirements.</p> <p>Refer also to response to KRB-20.</p>
KRB-20	<p><b>6. SCE’s Reliance on The No-Action Baseline Does Not Justify Its Broader Claims That Recreation Resources Are Unaffected, Adequate, Or Free From Unavoidable Adverse Effects.</b></p> <p>KRB does not dispute the basic point that, for NEPA purposes, SCE may compare the Proposed Action to a no-action alternative reflecting continued existing operations. The problem is what SCE does next. SCE repeatedly takes a narrow comparative premise—that the Proposed Action would not materially change current project operations—and stretches it into much broader substantive conclusions about recreation resources. The Draft License Application does not simply say that the Proposed Action would produce little incremental change in recreation conditions relative to the no-action baseline. It goes further and asserts that continued Project operation and maintenance “would have no effect on recreation resources compared to the No-Action Alternative,” that existing recreation opportunities are “expected to remain sufficient to meet both current and future recreation needs,” that continued operation and maintenance “is not expected to have any effect on whitewater boating opportunities on the bypass reach,” and that “[t]here are no unavoidable adverse effects to recreation resources from continued operation and maintenance of the Project under the Proposed Action.” DLA Ex. E at 7.10-14 through 7.10-16.</p> <p>Those propositions are not all the same. A claim that the Proposed Action would make little or no change relative to the no-action alternative is one thing. A claim that recreation resources are substantively “unaffected,” “adequate,” or free from “unavoidable adverse effects” is another. SCE repeatedly blurs those distinct propositions together. That matters because the no-action baseline does not answer the separate relicensing question whether the existing configuration is appropriate to carry forward for a new license term,</p>	<p>The comment conflates the licensee’s analytical obligations with broader policy conclusions that are reserved to FERC. Under the Federal Power Act and NEPA, the licensee’s responsibility in Exhibit E is to identify and evaluate Project-related effects by comparing the Proposed Action to the no-action (existing conditions) baseline, using available study data and record evidence.</p> <p>SCE’s analysis is consistent with this standard. SCE has evaluated Project-related effects using resource-specific studies and analyses and compared those effects to the existing condition baseline. Where the record demonstrates that the Proposed Action would result in no measurable change in recreation conditions relative to existing operations, it is appropriate to characterize effects as “no effect”—that is, no incremental Project effect. This does not rely solely on the baseline comparison, but is also supported by recreation use data, capacity observations, and study results included in the record (e.g., that study results show that trail use is limited, that parking is adequate). Refer to the REC 2 study results and to other responses pertaining to recreation use data study results including KRFF-23, USFS-4, USFS-10, KGTC-5 and KGTC-6. As regards cumulative effects, please refer to response to comment KRB-35.</p> <p>Importantly, the ultimate determination of whether the Project is “best adapted” to beneficial public uses under Section 10(a)(1) of the Federal Power Act is made by FERC based on the full record. The licensee’s role is to provide a fact-based assessment of Project effects, which SCE’s License Application does.</p> <p>Accordingly, the recreation analysis does not improperly rely on the no-action baseline, but rather applies the correct comparative framework and supports its conclusions with record evidence, consistent with FERC’s filing requirements.</p>

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	<p>or whether the evidentiary record actually supports SCE’s claims of adequacy and absence of adverse effect.</p> <p>SCE’s own filing requirements make that point. In Exhibit H, SCE recognizes that where an applicant proposes no modifications to existing project facilities or operations, it still must provide “at least a reconnaissance-level study to show that the project facilities or operations in conjunction with other developments in the area would conform with a comprehensive plan for improving or developing the waterway and for other beneficial public uses as defined in Section 10(a)(1) of the Federal Power Act.” DLA, Ex. H, at H-3 Dec. 2025). And SCE further asserts in that same exhibit that the Project, as proposed, “would conform with a comprehensive plan for improving or developing the waterway and for other beneficial public uses as defined in Federal Power Act section 10(a)(1).” <i>Id.</i> at H-</p> <p>12. So even on SCE’s own presentation, the relicensing inquiry is not exhausted by saying “we are not changing much.” The question remains whether the Project as proposed for relicensing is in fact best adapted to beneficial public uses, including recreation, and whether the record is sufficient to support that conclusion. See also 16 U.S.C. § 803(a)(1).</p> <p>The DLA itself confirms that SCE is not merely describing a frozen status quo. Section 7.10.3.1 states that SCE proposes “minor modifications to the FERC Project boundary,” including adding lands necessary for Project operation, removing lands no longer necessary, and correcting errors in Project maps. It also states that under the Proposed Action SCE will implement the Project Access Roads and Trails Management Plan and the Vegetation Management Plan. Exhibit E, section 7.10.3.1, at 7.10-14. KRB does not contend that these are massive changes. But their existence further shows why the DLA’s most categorical “no effect” rhetoric is imprecise. SCE is not literally proposing a pure null set.</p> <p>More importantly, many of SCE’s conclusions are not merely legal baseline statements at all. They are empirical claims. SCE says the three developed day-use areas along the bypass reach and the raft take-out site “currently provide capacity to meet present and foreseeable future demand,” that existing riverside recreation opportunities “are expected to remain sufficient to meet both current and future recreation needs,” and that Project trails average “only two to three users per trail per day,” indicating “current capacity is adequate and overuse is not an issue.” DLA Ex. E at 7.10-14 to 7.10-15. Those are factual adequacy judgments. They do not become immune from scrutiny merely because SCE has also invoked the no-action baseline. KRB is entitled to challenge whether the underlying data and reasoning actually support those adequacy findings.</p> <p>The same is true of whitewater boating. SCE says that because the Proposed Action would maintain existing minimum instream flow requirements and proposes no other changes affecting boating opportunities, “continued Project operation and maintenance is not expected to have any effect on whitewater boating opportunities on the bypass reach,” and that conditions are anticipated to remain similar into the foreseeable future. DLA Ex. E at 7.10-16. Again, that moves beyond a narrow baseline comparison and into a broader merits conclusion. It effectively treats continuity of the existing minimum flow regime as sufficient by itself to resolve the substantive recreation issue. But that does not follow. A claim that there is little operational change is not the same as a demonstrated claim that the existing boating regime is adequate, or that project effects on boating are nonexistent in any meaningful sense, or that no adverse recreation consequences attend continued relicensed operation.</p> <p>SCE’s cumulative-effects discussion shows the same slippage. There, SCE says section 7.10 “concludes that continued operation and maintenance of the Project would have no effect on recreation resources compared to the No-Action Alternative,” and therefore the Project “would not cumulatively contribute to recreation-related effects.” DLA Ex. E at 8-9 to 8-10. That conclusion is only as sound as the premise on which it rests. If section 7.10 has in fact converted a narrow no-change premise into broader unsupported claims about adequacy and absence of adverse effect, then the cumulative-effects section simply repeats the same defect one level up.</p> <p>KRB’s point here is therefore limited but important. KRB is not arguing that every statement using the phrase “compared to the No-Action Alternative” is facially illegitimate. Nor is KRB arguing that SCE may never conclude that some proposed measures would have little incremental effect relative to existing conditions.</p>	

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	<p>KRB's point is that the no-action baseline does not do all the work SCE says it does. It does not establish that recreation resources are adequate. It does not establish that whitewater boating opportunities are unaffected in any meaningful sense. And it does not establish that there are "no unavoidable adverse effects" from continued operation and maintenance under a new license. Those broader propositions require their own factual and analytical support.</p> <p>That support is especially important in a relicensing proceeding because the Commission is not merely deciding whether to tolerate the continuation of the status quo. It is making a new licensing judgment that carries existing conditions forward under a new federal license term. See 16 U.S.C. § 803(a)(1). Where SCE chooses to defend that proposed license by asserting adequacy, no meaningful effect, and no unavoidable adverse consequences to recreation resources, it must support those assertions with actual record evidence and sound reasoning. It cannot simply invoke the current configuration as the baseline and treat the substantive inquiry as over.</p> <p>KRB therefore requests SCE revise or clarify the recreation analysis so that it distinguishes among at least three different propositions: first, that the Proposed Action may in some respects introduce little operational change relative to the no-action alternative; second, that SCE believes existing conditions are adequate to meet certain recreation demands; and third, that SCE contends any remaining adverse effects do not warrant different license measures. The DLA repeatedly collapses those different propositions into a single overbroad assertion of "no effect." SCE should not take that shortcut.</p>	
KRB-21	<p><b>7. The DLA Does Not Address the Visual Effect of Project-Caused Flow Reductions on a River Viewed by the Traveling Public Along its Entire Length.</b></p> <p>The lower Kern River bypass reach runs for 10.2 miles through Kern Canyon, paralleled for its entire length by State Route 178 — the principal transportation corridor between the City of Bakersfield and the communities and recreation areas around Lake Isabella. DLA Ex. E § 7.10.1.2, at 7.10-2. The Forest Service has identified scenery as an outstandingly remarkable value for the lower Kern River's Wild and Scenic eligibility determination, and the Sequoia National Forest assigns a Scenic Integrity Objective of "High" to most of the land within the FERC Project boundary. DLA Ex. E §§ 7.9.1.2, at 7.9-3; 7.11.1.5, at 7.11-6.</p> <p>SCE's aesthetic resources analysis concludes that "continued operation of the Project would have no substantive change to the existing aesthetic environment" and proposes a Visual Resources Protection Plan focused on facility painting and structural maintenance. DLA Ex. E §§ 7.11.3, 7.11; Appendix E.1, Draft Visual Resources Protection Plan. That analysis addresses the visibility of project structures. It does not address the visibility of project-caused flow conditions in the river itself — the dominant visual feature of the canyon landscape as experienced from SR-178.</p> <p>The visual effect of the project's diversion on the bypass reach is quantifiable from SCE's own record. During October through December, the project reduces median bypass flows from 213–271 cfs to 30–35 cfs. AQ-1 Table 5-6. A river carrying 30 cfs through a boulder-dominated, 10.2-mile canyon does not look like a river carrying 271 cfs. At 30–35 cfs, the bypass reach presents as an exposed rock channel with minimal visible flow — a condition that persists for months during the fall and winter. At unimpaired median flows, the same reach would carry seven to nine times more water, presenting as a continuous, visually dynamic river.</p> <p>That difference is not experienced by a handful of specialists. It is experienced by every person who drives SR-178 — a route that serves as the primary access between a metropolitan area of nearly 900,000 people and one of the most visited recreation areas in the southern Sierra Nevada. DLA Ex. E § 7.10.1.6 (citing Kern County household population of 890,000 and Sequoia National Forest visitation of approximately 777,000 in 2016). The aesthetic impact of a severely dewatered bypass reach is therefore among the most broadly experienced of all project effects, yet the DLA does not discuss it.</p> <p>KRB raised this concern in scoping comments. KRB described the bypass reach at fish flow as presenting "large stagnant pools, lots of algae, and where there is moving water, it is narrow, slotted, and hard to see through the road blast." KRB cited a Kern County Sheriff's Office helicopter video documenting conditions at or near the MIF, in which no patches of moving water are discernible and the reach resembles exposed rock</p>	<p>Refer to response to comments to KRB-19, KRB-20, and to prior responses including: USFS-12, USFS-13, USFS-24 and KGTC-18.</p>

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	<p>rather than a functioning river. See <a href="https://www.facebook.com/kernsheriff/videos/1744769682365133/">https://www.facebook.com/kernsheriff/videos/1744769682365133/</a>. KRB also cited CalTrans data reported by the U.S. Forest Service indicating that 2 to 3 million vehicles traverse the canyon one-way annually. SCE's own socioeconomic data documents that the communities most directly served by this corridor are majority Latino with per capita income 40 percent below the state average; 47 percent of day-use visitors surveyed in REC-2 identified as Latino. DLA Ex. E §§ 7.14.1, 7.10. Despite this evidence of massive public effects implicating environmental justice, the DLA's aesthetic analysis addresses only facility appearance and does not evaluate the visual effect of project-caused flow reductions on the river itself.</p> <p>The DLA's Visual Resources Protection Plan addresses paint colors, structural screening, and vegetation management around facilities. Appendix E.1, Draft Visual Resources Protection Plan, § 6.0. Those are appropriate measures for facility aesthetics. They do not address the primary visual impact of the project on the canyon landscape: the conversion of a river to a fraction of its natural flow for months at a time, in plain view of the traveling public along the entire length of the bypass reach.</p> <p>SCE should revise the FLA to address the aesthetic effect of project-caused flow reductions on the visual character of the bypass reach as experienced from SR-178 and other public vantage points. At a minimum, the scenic impact analysis should acknowledge that flow quantity — not just facility appearance — is a component of the aesthetic resource, and should evaluate whether the proposed MIF is consistent with protecting the scenic ORV the Forest Service has identified for this eligible Wild and Scenic river.</p>	
KRB-22	<p><b>8. SCE Improperly Equates Sparse or Specialized Whitewater Use with Absence of Project Effect</b></p> <p>SCE's whitewater analysis suffers from a basic logical defect. It repeatedly points to evidence that use of the bypass reach is limited, specialized, difficult, or hard to quantify, and then treats those characteristics as if they establish that Project operations do not meaningfully affect the resource. That does not follow. Limited use is not the same as no effect. Specialized use is not the same as no effect. Difficulty is not the same as no effect. And inability to generate an "accurate estimate of current use" is certainly not affirmative proof that Project operations do not constrain or diminish whitewater opportunity.</p> <p>The DLA's own description of the resource makes that point. SCE writes that "[e]vidence suggests the bypass reach is not frequently boated, and when it is boated that boaters are mostly expert or expedition-level paddlers." DLA Ex. E at 7.10-15 to 7.10-16. This description is far too coarse and unsupported by the record. SCE repeatedly speaks of the "bypass reach" as though its boating resource were a single expert-only run, but its own materials show otherwise. In the DLA, SCE separately identifies three runs: Cadillacs, Richbar, and Cataracts. It describes Cadillacs as Class V (Expert), Richbar as Class IV (Intermediate-Advanced), and Cataracts as Class V+ (Expert). DLA Ex. E at 7.10-8 to 7.10-9 (Dec. 2025). And in REC-3, SCE states even more specifically that "[b]oaters rated the difficulty of the Richbar Run as a Class III/IV+," while separately stating that "[b]oaters running [the Cadillacs and Cataracts] sections of river are expert to expedition-level boaters and are proficient at running Class V whitewater." REC-3 at 14-15. SCE therefore cannot fairly describe the relevant boating resource as though the entire reach were synonymous with the most difficult downstream whitewater. Richbar is a distinct run, and SCE's own record places it in a materially different difficulty band from Cadillacs and Cataracts.</p> <p>SCE's use-estimate discussion makes the problem even clearer. It relies heavily on the 2005 Recreation Use Monitoring Study, which in turn relied on Forest Service manifest forms, and states that "between three and seven boaters ran the Cataracts Run each year between 2001 and 2005," while boating use on other lower Kern runs ranged from "several hundred boaters per year to more than 2,000 boaters per year." DLA Ex. E at 7.10-10 to 7.10-11. But SCE immediately acknowledges the critical limitation of that information: "because permits are not required to boat the bypass reach, and because no use data are collected for this section of the river, an accurate estimate of current use is not available." <i>Id.</i> at 7.10-11. That concession should have stopped SCE from making broad conclusions about the insignificance of the resource. Instead, SCE does the opposite: it uses stale low-use figures, coupled with admitted lack of current use data, to support a modern "no effect" conclusion. That is not careful analysis. It is a gap in proof.</p> <p>Said differently, if SCE truly lacks "an accurate estimate of current use," then the company cannot honestly use non-quantification as substantive evidence that Project effects on boating are negligible. The absence of</p>	<p>SCE's analysis does not conflate limited use with lack of effect. Instead, it provides a structured evaluation of how Project operations influence boating opportunities, while also characterizing the nature and extent of use based on the best available information developed in accordance with the FERC-approved study plan.</p> <p>The REC 3 TM presents a comprehensive evaluation of whitewater boating resources based on historical data, targeted boater outreach, and detailed hydrologic modeling.</p> <p>SCE explicitly evaluated the relationship between Project operations and whitewater boating opportunities by quantifying "boatable days" under both "with-project" and "without-project" hydrologic conditions over an 11-year period (2014–2024). This analysis incorporated boater-identified flow preferences for each of the three runs (Cadillacs, Richbar, and Cataracts), measured and modeled hourly flow data, and a defined methodology for identifying boating opportunities (i.e., flows within acceptable thresholds for at least four hours during the day). This approach directly addresses the flow-dependent nature of the resource and does not rely on use levels as a proxy for effect.</p> <p>The results of this analysis demonstrate that Project operations do influence the number of boatable days in the bypass reach. For example, the REC-3 study identified reductions of 210, 263, and 308 boating days for the Cadillacs, Richbar, and Cataracts runs, respectively, when comparing "with-project" to "without-project" conditions over the period of record. These findings are presented transparently in the REC-3 Technical Memorandum and reflect SCE's acknowledgment that Project diversions affect flow conditions relevant to whitewater boating.</p> <p>The REC 3 study also appropriately characterizes the existing whitewater boating resource based on multiple lines of evidence. These include: (1) historical use information, (2) intercept and online survey results, and (3) targeted outreach to experienced boaters. Collectively, these data indicate that boating in the bypass reach is a specialized and relatively infrequent activity compared to other recreation uses in the area. This characterization is not presented as evidence of "no effect," but rather as context for understanding the scale and nature of the affected resource.</p> <p>While limited or specialized use does not, by itself, demonstrate an absence of Project effects, SCE's analysis does not rely on that inference. Instead, the study distinguishes between (1) the existence and characteristics of the resource (including its specialized nature and flow sensitivity), (2) the availability of boating opportunities under different hydrologic scenarios, and (3) the level of observed and reported use. These are evaluated as separate, but related, components of the overall assessment.</p> <p>With respect to uncertainty in use estimates, SCE acknowledges that accurately quantifying total boating use in the bypass reach is challenging due to the absence of permit systems, the dispersed nature of access, and the episodic timing of boatable flows. SCE relied on targeted boater consultation and flow-based analyses (i.e., boatable day</p>

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	<p>current use data does not prove absence of demand. It may reflect the very features SCE itself identifies elsewhere: the run is difficult, private boaters are “not currently required to obtain a permit,” there is “no commercial whitewater boating in the bypass reach,” and access is dispersed from roadside pullouts along SR-178 rather than through a formalized developed facility system. SCE REC-3 at 9. Those characteristics make the reach hard to census; they do not make it unimportant.</p> <p>SCE then attempts to update the picture by pointing to more recent REC-2 and REC-3 efforts, but those too do not support the weight SCE places on them. In the DLA, SCE says that “over the course of the year during which in person intercept surveys were conducted along the bypass reach and impoundment . . . survey technicians collected or received 374 survey forms representing 1,251 individual day-users, yet none reported whitewater boating the bypass reach.” It adds that a “60-day public online survey, combined with targeted outreach to 35 boaters believed to have firsthand experience on the reach, yielded input from only 14 individuals who had boated one or more of its runs.” DLA Ex. E at 7.10-11. Again, even taken at face value, those facts do not establish no project effect. They show only that bypass-reach boating is a relatively small, specialized, and difficult-to-capture use compared to more conventional roadside day use. They say nothing about whether Project operations suppress boating opportunities when flows would otherwise be boatable, or whether the existing flow regime constrains the frequency, timing, quality, or accessibility of that use.</p> <p>Indeed, SCE’s own REC-3 description of the interview process underscores how thin the sample actually is. The REC-3 report states that the online Questionnaire was made available for sixty days and that “[a] total of five unique respondents completed the Questionnaire online during the 60-day online survey period.” It further states that from a final list of “35 unique boaters,” only “9 people were successfully interviewed,” and that “[i]n total, 14 unique respondents completed the structured interview process.” REC-3 at 12-13. That is useful anecdotal information from knowledgeable users. It is not a robust basis for transforming low-count specialized use into an affirmative conclusion that Project effects on boating are nonexistent or immaterial. That is especially true because the interview sample and narrative discussion tend to emphasize the more difficult Cadillacs/Cataracts boating cohort, while SCE’s own separate Richbar discussion places that run at a lower difficulty level. REC-3 at 14-15. And the actual content of those REC-3 interviews cuts against SCE’s effort to trivialize the resource. The report explains that for the Cadillacs and Cataracts runs, “[b]oaters running these sections of river are expert to expedition-level boaters and are proficient at running Class V whitewater.” It adds that “most boaters are targeting the Cataracts Run,” that “the unique character and difficulty of the whitewater are the primary reasons to boat this section of the river,” and that “[m]ost boaters indicated they are not constrained with respect to when they can boat the run and take advantage of boating opportunities when boatable flows are present.” REC-3 at 15. In other words, the record does not show an unimportant resource. It shows a highly specialized, high-value resource used by highly skilled boaters who respond to episodic opportunities when flows allow. The fact that the user group is narrow is a reason to analyze the resource carefully, not a reason to wave it away.</p> <p>The same point appears in SCE’s own discussion of flow preferences. REC-3 states that for the Richbar Run, the eight respondents’ “minimum acceptable flow” preferences ranged from 700 cfs to 1,600 cfs, while optimum preferences ranged from 1,000 cfs to 3,500 cfs. It explains that minimum acceptable flow considerations centered on “boatability,” “route availability,” and “low-water safety considerations such as pinning or the presence of ‘sieves.’” REC-3 at 14-15. And for the bypass reach more generally, REC-3 summarizes prior guidance showing suggested boating flows of roughly 600 to 2,500 cfs and older study references identifying minimum and optimal flows in that same general order of magnitude. REC-3 at 9. Those passages are important because they show that flow matters acutely to this use. The resource is not simply “there” or “not there.” It exists on a flow-dependent spectrum. A project that diverts up to 412 cfs cannot be treated as irrelevant to a boating resource whose own participants describe boatability in flow bands beginning around 600 to 700 cfs and extending upward from there. DLA Ex. E at 7.10-16; Initial Statement, Ex. B at B-49.</p> <p>SCE’s central move is therefore backwards. It reasons, in effect, that because the reach is difficult and because the user population is relatively small and expert, Project effects are too limited to matter. But the better inference is often the opposite: where a resource is highly flow-sensitive, difficult, and dependent on a comparatively small set of capable users taking advantage of episodic natural opportunities, diversion-</p>	<p>calculations) to evaluate how Project operations influence the availability of the resource, independent of precise use counts.</p> <p>SCE does not dismiss the importance of whitewater boating as a recreational resource. Consistent with Federal Power Act requirements, SCE evaluated whitewater boating alongside other recreational uses, recognizing that different activities vary in intensity, accessibility, and user population. The assessment reflects that whitewater boating in the bypass reach is a flow-dependent and specialized use, and it evaluates Project effects accordingly using hydrologic and preference-based metrics rather than relying solely on observed use levels.</p>

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	<p>related changes may be especially important to whether the resource is available in practice. A broad, easy, beginner-friendly run may tolerate some reduction in days without disappearing from common use. A narrow Class V/V+ opportunity may not. The DLA never really confronts that.</p> <p>Nor does SCE confront the obvious selection problem in its own evidence. The DLA says “none” of the 1,251 day-users represented in REC-2 intercept surveys reported whitewater boating the bypass reach. DLA Ex. E at 7.10-11. But the same filing makes clear that bypass-reach boating is atypical compared to ordinary riverside recreation, occurs only in certain flow windows, involves roadside put-ins and take-outs, and is practiced by expert paddlers who may move quickly through the reach. DLA Ex. E at 7.10-15 to 7.10-16. REC-3 likewise notes that some boaters complete the Cadillacs/Cataracts run “in less than an hour,” while others take “3 to 4 hours,” and that access is from SR-178 with limited parking and safety concerns associated with roadside traffic. REC-3 at 15. On those facts, it is hardly surprising that general recreation intercept surveys would be a poor tool for quantifying bypass-reach boating. But poor detection is not evidence of no use, much less evidence of no project effect.</p> <p>The DLA also understates the significance of this resource by comparing the bypass reach to more popular lower Kern runs. It notes that other runs had use “from several hundred boaters per year to more than 2,000 boaters per year,” whereas the Cataracts run had only three to seven annual manifest-reported boaters in the early 2000s. DLA Ex. E at 7.10-10 to 7.10-11. But that comparison mostly proves that Cataracts is a different kind of run. It does not prove that Project-caused flow reductions are unimportant to those who do use it, or to the public interest in preserving a distinctive advanced whitewater opportunity in the lower Kern system. A rare or elite use is still a use. Under the Federal Power Act, FERC must give “equal consideration” to “the protection, mitigation of damage to, and enhancement of, fish and wildlife,” “recreational opportunities,” and other nondevelopmental values when determining whether a project is “best adapted” to beneficial public uses. 16 U.S.C. § 797(e); 16 U.S.C. § 803(a)(1). The statute does not say a recreation resource becomes disposable once its user population is smaller than a campground’s. The Commission has already rejected the argument that low observed use counts justify withholding recreation infrastructure at a run-of-river project in a national forest canyon. See Poe Hydroelectric Project, FERC No. P-2107 (February 2022 order requiring trail construction despite licensee’s low-demand arguments).</p> <p>SCE’s own conformance filing reinforces that point. In Exhibit H, SCE represents that the Project “considers all existing and potential uses of the Kern River, including recreation,” and that relicensing “would conform with a comprehensive plan for improving or developing the waterway and for other beneficial public uses as defined in Federal Power Act section 10(a)(1).” DLA Ex. H at H-12. Having made that claim, SCE cannot reduce a specialized whitewater resource to insignificance simply because it is specialized. If anything, “existing and potential uses” is precisely the formulation that should keep the agency from writing off a difficult but real recreation use merely because it is not mass-market.</p> <p>KRB’s point is therefore narrow but important. KRB does not contend that the bypass reach supports the same volume of use as easier and more commercially accessible runs elsewhere on the Kern. Nor does KRB contend that every low-use statistic in the DLA is wrong. The problem is the inference SCE draws from those facts. Sparse use may show that the affected user class is smaller. Specialized use may show that the relevant recreation opportunity is one for advanced paddlers rather than the general public. Difficulty may explain why use is episodic and highly flow-dependent. But none of those propositions establishes that Project diversions do not reduce boating opportunity, diminish the frequency of boatable days, or impair the quality of the whitewater resource as experienced by the users who are capable of using it.</p> <p>For that reason, SCE should revise the whitewater discussion so that it no longer treats evidence of limited, specialized, or hard-to-quantify use as if it were evidence of no meaningful Project effect. At a minimum, SCE should distinguish among three different propositions that the DLA now blurs together: first, that bypass-reach whitewater boating is a relatively specialized use; second, that current data do not support a precise census of total use; and third, that SCE contends continued operation under the Proposed Action does not warrant additional measures. Those are very different propositions. The current DLA repeatedly treats the first two as proof of the third, without doing the analytical work in between.</p>	

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KRB-23	<p><b>9. Richbar — and The Richbar+ Reach Immediately Above It — Is Not Restricted to Expert Paddlers.</b></p> <p>SCE’s treatment of bypass-reach whitewater is too coarse because it allows the hardest downstream whitewater to dominate the characterization of the whole resource. That is especially misleading as to Richbar. The Draft License Application states that the bypass reach is “less frequently run” and that the individuals who do boat it “are generally highly skilled expert or expedition level boaters drawn to the uniqueness and difficulty of the whitewater.” DLA Ex. E at 7.10-10 to 7.10-11. Elsewhere, the DLA similarly says that “[e]vidence suggests the bypass reach is not frequently boated, and when it is boated that boaters are mostly expert or expedition-level paddlers.” <i>Id.</i>, at 7.10-15 to 7.10-16. Those statements are too broad as applied to Richbar. They flatten materially different runs into a single “expert-only” narrative and, in doing so, understate the recreational significance and broader usability of the Richbar portion of the bypass reach.</p> <p>SCE’s own materials show that Richbar is not the same as Cadillacs or Cataracts and should not be treated as though it were. In the REC-3 study, SCE identifies three distinct runs within the bypass reach: Cadillacs, Richbar, and Cataracts. It describes Cadillacs as “Class V (Expert),” Richbar as “Class IV (Intermediate–Advanced),” and Cataracts as “Class V+ (Expert).” REC-3 at 5-6. The DLA says the same thing in substance, listing the bypass reach as “Cadillacs (Class V), Richbar (Class IV), and Cataracts (Class V+).” DLA Ex. E at 7.10-8 to 7.10-9 (Dec. 2025). So even on SCE’s own account, Richbar is already in a materially different difficulty category from the expert-only runs downstream. SCE therefore cannot fairly use the existence of Class V and V+ boating elsewhere in the bypass reach to characterize Richbar itself as effectively restricted to expert or expedition-level paddlers.</p> <p>REC-3 is even more explicit. In its discussion of Richbar, SCE states: “Boaters rated the difficulty of the Richbar Run as a Class III/IV+.” REC-3 at 15. SCE then immediately distinguishes the harder downstream runs, stating: “Boaters running these sections of river are expert to expedition-level boaters and are proficient at running Class V whitewater.” <i>Id.</i>, at 15. That distinction matters. SCE’s own study does not say Richbar is Class V. It does not say Richbar is restricted to expert paddlers. To the contrary, it places Richbar in a lower and broader skill band, then separately reserves the “expert to expedition-level” description for Cadillacs and Cataracts. <i>Id.</i>, at 15. The DLA should be revised to reflect that distinction rather than obscuring it through generalized references to the “bypass reach” as though all of its meaningful boating opportunities belonged in the same expert-only category.</p> <p>KRB’s firsthand experience is consistent with, and more specific than, the narrower distinction already visible in SCE’s own record. KRB understands Richbar as the Lucas Creek-to–Nude Beach reach, roughly three to four miles in length and generally Class III. KRB further understands that the reach immediately above Lucas Creek—what KRB refers to here as “Richbar+”—adds about a mile of harder whitewater beginning below Toilet Bowl, or alternatively below Fin Rock, and running down to the Lucas Creek portage. In KRB’s experience, that added mile is roughly Class IV. KRB’s members have repeatedly boated Richbar with intermediate paddlers under suitable flows. That firsthand experience directly contradicts any implication that the Richbar opportunity is confined to experts or expedition boaters. KRB offers that practical observation here as stakeholder input based on direct river use; it is not necessary for SCE or the Commission to accept every aspect of KRB’s run description to see the larger point that SCE’s generalized “expert-only” framing is too coarse.</p> <p>SCE’s own map of the Richbar reach is broadly consistent with KRB’s point that Richbar itself is not Class V water. The Richbar Whitewater Run map identifies “Dodderly Creek (III-),” “Upper Richbar (III-),” “Lower Richbar (II),” “Nude Beach Rapid (III+),” and “Lucas Creek (III+).” REC-3 at Map 3-3. The same map then shows substantially harder rapids farther downstream of Nude Beach, including “Two Holes (IV+),” “More of the Start (V-),” “Bolt Route (V),” “Pre-Cleavage (V-),” “Cleavage (V),” “Triple Falls Entrance (V),” “Triple Falls (V+/VI),” and “The Plank (V/V+).” <i>Id.</i> That mapping supports the core point KRB is making here: the bypass reach is not a single undifferentiated expert-only run. SCE’s own map depicts a meaningful difference between the Richbar segment and the much harder water below. Even if SCE chooses for shorthand purposes to describe Richbar generally as Class IV, its own map still shows that Richbar is not properly understood as synonymous with the Class V and V+ boating farther downstream.</p>	<p>SCE disagrees with KRB’s assertion that the bypassed reach characterization is limited and focused on the two Class V(V+) whitewater runs. As described in KRB’s own comment, KRB-22: “<i>Richbar is a distinct run, and SCE’s own record places it in a materially different difficulty band from Cadillacs and Cataracts.</i>”</p> <p>As described and illustrated at length in the REC 3 TM, whitewater flow preferences were developed and analyzed separately for each whitewater run. It should be noted that this is not feasible from an instream flow perspective as flow runs concurrently through each whitewater run and there are no mechanisms to augment or divert flow once in the bypassed reach.</p> <p>The REC-3 study does not state the Richbar Run is “effectively restricted to expert or expedition-level paddlers”: it clearly states that the Richbar Run is suitable for intermediate to advance skilled whitewater boaters.</p> <p>Based on consultation with boaters, in-field observations, and the lack of any data that substantiates higher use levels, SCE stands by the assertion that run does not receive a high-level of use, especially in comparison to other whitewater upstream of the Democrat Dam Impoundment on the Kern River.</p> <p>SCE has made no assertions of the Richbar Run’s recreational value and broader potential and disagrees with the KRB’s comment that SCE has made an “... <i>understatement of Richbar’s recreational value and broader potential.</i>”</p> <p>In short, the information presented by SCE is comprehensive, accurately characterizes the three whitewater runs in the bypassed reach, and does not assign comparative value. The factual content of the KRB’s comments support this assertion.</p>

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	<p>This matters because SCE's overstatement of Richbar's difficulty feeds directly into its understatement of Richbar's recreational value and broader potential. A run framed as effectively expert-only will naturally appear niche, low-demand, and resistant to broader public use. A run that is in fact usable by competent intermediate paddlers under adequate flows is something else. It is still a specialized whitewater resource, but it is not a fringe curiosity. It is a meaningful recreation opportunity for a materially larger user class than the DLA's rhetoric suggests. That distinction is important both factually and legally. Factually, it means current low use levels cannot simply be attributed to immutable run difficulty. Legally, it means FERC should not assess the resource as though it served only a tiny elite cohort when the relevant run may in fact have broader but suppressed public utility.</p> <p>SCE's own flow-preference data reinforces the practical significance of Richbar. The DLA reports a "Boatable Flow Range" for Richbar of "700 cfs to 3,500 cfs," with a "Minimum Acceptable Flow Threshold" of "700 cfs to 1,600 cfs" and an "Optimum Flow Threshold" of "1,000 to 3,500 cfs." DLA Ex. E at 7.10-9. REC-3 similarly states that "[t]he minimum acceptable flow preferences of the eight boaters who provided input about their experience boating the Richbar Run ranged between 700 cfs and 1,600 cfs," and that optimum preferences ranged "between 1,000 cfs and 3,500 cfs." REC-3 at 15. Those are not the characteristics of a merely theoretical resource. They are the characteristics of a concrete flow-dependent recreation opportunity whose practical availability turns on whether flows are actually present in a usable range.</p> <p>SCE's own discussion of the Richbar run's user experience also points in the same direction. REC-3 notes that some boaters reported being able to complete the Richbar run "in less than an hour," while others said it could take "3 to 4 hours," and explains that a boater may choose to extend time on the run by "playing, exploring route options, and/or guiding 'new' boaters through the run." REC-3 at 15. That is a revealing passage. It is not how one would ordinarily describe a run limited to an expert-only niche. It is, however, consistent with KRB's point that Richbar has broader practical utility, including as a run on which more experienced paddlers may guide newer ones when flows are suitable.</p> <p>In short, SCE understates Richbar by collapsing it into a broader "bypass reach" narrative dominated by Cadillacs and Cataracts. That is analytically unsound. Richbar should be treated as a distinct recreation resource. SCE's own materials place it in a lower difficulty category than the expert-only runs downstream, and REC-3 specifically reports that boaters rated Richbar "as a Class III/IV+." KRB's firsthand experience is consistent with that description but more specific: KRB understands Richbar itself to be roughly Class III when put in below Lucas Creek, with the optional Richbar+ mile above Lucas Creek running in the Class IV to IV+ range depending on the put-in location. KRB's firsthand experience further indicates that Richbar itself is not confined to expert paddlers and has repeatedly been boated by competent intermediate paddlers under suitable flows. The run's practical significance is therefore materially greater than the DLA's expert-centric framing suggests.</p> <p>SCE should revise its discussion so that it no longer implies that the relevant Richbar opportunity is limited to experts or expedition-level boaters. At a minimum, the DLA should distinguish clearly between Richbar, on the one hand, and the much harder Cadillacs/Cataracts reaches, on the other, and should evaluate Richbar's recreation value on its own terms rather than through the lens of the hardest water in the bypass reach.</p>	
KRB-24	<p><b>10. Richbar's Present Underuse Does Not Show Low Value; It Reflects Two Suppressive Barriers: Inadequate Flows and Inadequate Public Flow Information.</b></p> <p>Richbar's current use levels should not be mistaken for evidence of low recreational value or weak public interest. The better inference is that use is being suppressed by practical barriers. The two most important are straightforward: first, the run requires adequate flows in a defined and usable range; second, because the run is flow-sensitive, boaters need timely, convenient, and intelligible flow information in order to take advantage of the opportunities that do exist. SCE's analysis gives too little weight to both points. It treats present use mostly as a reflection of the run's inherent character, when in reality present use is also a function of whether boatable water is available and whether boaters can readily know when it is available. That matters because a resource that is underused due to suppressive project-related barriers is not the</p>	<p>KRB asserts that current use of the Richbar Run is primarily suppressed by two factors—limited boatable flows and inadequate public flow information—and that these factors, rather than inherent characteristics of the resource, explain observed use levels. SCE does not agree that these factors, either individually or collectively, support the conclusion that demand for the Richbar Run is being substantially suppressed or mischaracterized in the DLA.</p> <p>SCE agrees that the availability of boatable flows is a fundamental prerequisite for whitewater boating. However, the REC 3 analysis demonstrates that the occurrence of boatable flows in the bypass reach is primarily driven by regional hydrology—specifically inflows to Lake Isabella—and not solely by Project operations. The 11-year period of record (2014–2024) reflects substantial interannual variability, including years with extremely dry conditions and years with above-average runoff. Under both "with-project" and "without-project" conditions, boating opportunities on the Richbar Run remain episodic and highly variable.</p>

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	<p>same thing as a resource that lacks value. DLA Ex. E at 7.10-9 to 7.10-10; Draft Stream Gaging Plan, section 5.0, at 2.</p> <p>The first barrier is flow itself. As discussed in Comments 8 and 9, SCE's own record identifies Richbar's boatable range as 700 to 3,500 cfs, with minimum acceptable flows starting at 700 cfs. DLA Ex. E at 7.10-9. That is not a background detail. It is the central fact governing actual use. If the run needs roughly 700 cfs before it even becomes meaningfully boatable for the interviewed users, then the frequency, duration, and predictability of those flows is the first-order determinant of real recreational opportunity.</p> <p>SCE's own boating-day calculations confirm how strongly Richbar use depends on flow windows rather than on some static lack of interest. The DLA states that during water years 2014 through 2024, "the total number of boating days that occurred for the Richbar Run was 649 days (16 percent of days over 11 water years)," and that the annual number ranged from "0 in multiple years" to "a high of 156 in 2019." DLA Ex. E at 7.10-10. The Updated Study Report goes farther and states that, under modeled "without-project" hydrology, the total number of Richbar boating days for 2014 through 2024 would have been 912, meaning "263 fewer boating days" occurred under the "with-project" scenario than under the modeled "without-project" scenario. REC-3 at 18-19. In other words, Richbar opportunity is episodic, highly variable, and materially affected by project diversions. Some years produce no boating days at all under SCE's own criteria. Other years produce substantial opportunity. That pattern is exactly what one would expect for a valuable but flow-limited run. It does not support the dismissive inference that current use must be low because the resource lacks broader significance. It supports the opposite inference: opportunity appears and disappears with flow, and use necessarily follows.</p> <p>The second barrier is public flow information. For a run whose usability depends on whether flows are in a boatable range for meaningful windows, information is part of the resource. A boater cannot take advantage of a short-lived opportunity he cannot readily detect. Yet SCE's proposed public-flow framework remains notably underdesigned for that purpose. In the Draft Stream Gaging Plan, SCE proposes that flow data below Democrat Dam, together with an estimate of inflow upstream of Democrat Dam, "will be provided for public viewing via the internet," but then limits the public-facing commitment to "at a minimum hourly average flow." Draft Stream Gaging Plan, section 5.0, at 2. The same plan adds a broad disclaimer that the provisional data "have not been reviewed for accuracy," "may be subject to significant change," and that SCE "accepts no liability for the accuracy, availability, suitability, reliability, usability, completeness or timeliness of the data or graphical depictions of the data provided via this website." <i>Id.</i> at 2-3. That is a weak and cautious public-information commitment for a recreation resource SCE is at the same time trying to characterize as adequately served.</p> <p>The practical point is simple. Richbar is a run that users must catch when it is in. SCE itself defines a "boating day" as one in which the relevant flow threshold is present "for a minimum of four hours between 10:00 a.m. and 4:00 p.m." REC-3 at 17. A resource that turns on time-sensitive flow windows demands especially usable public flow information. If the public must depend on coarse, provisional, or cumbersome information channels to determine whether a run is in, actual use will be suppressed. That is not a theoretical concern. It is a predictable result of the way flow-dependent recreation works.</p> <p>SCE's own REC-3 interview summary confirms that boaters do in fact depend on outside flow information before deciding to go. For Richbar, SCE reports: "Boaters said they checked the flows on the Dreamflows website and/or the US Army Corps of Engineers' website prior to boating the run." REC-3 at 14. SCE then says that "[i]n general, boaters said they were satisfied with the availability of flow data; however, one boater indicated that having flow data forecasts would improve the dissemination of flow data." <i>Id.</i> at 14-15. That passage does not help SCE as much as it may think. To begin with, it rests on only eight Richbar-experienced respondents, not a broad census of potential users. More importantly, the passage itself confirms the premise of this comment: boaters must check external flow information before deciding whether Richbar is worth pursuing, and at least one interviewed user specifically identified the need for better predictive information. Once that is so, SCE cannot treat public flow dissemination as incidental to the boating resource. It is one of the gates through which actual use must pass.</p>	<p>Importantly, the data does not support the assertion that Project operations fundamentally change the nature of boating opportunity in the bypass reach. Specific to the Richbar Run, under modeled "without-project" conditions, nearly half of the analyzed years (5 of 11) would still have 24 or fewer boating days annually, including multiple years with zero boating days. This pattern is materially similar under "with-project" conditions. While the REC 3 analysis identifies a reduction of 263 boating days over the 11-year period when comparing "with-project" to "without-project" hydrology, this difference must be understood in context: boating opportunities remain limited and inconsistent under either scenario due to the underlying hydrologic regime. The Project does not convert a consistently boatable resource into an unboatable one; rather, it operates within a system where boating opportunities are inherently constrained and flow-dependent.</p> <p>The methodology used to define boating days further underscores this point. The adopted flow range for the Richbar Run (700 to 3,500 cfs) was intentionally broad and based on the full range of boater-reported preferences, encompassing both minimum acceptable and optimal conditions across respondents. This approach maximizes the identification of potential boating opportunities. If narrower, user-specific flow preferences were applied—as would be the case for individual boaters—the number of boating days would decrease under both "with-project" and "without-project" scenarios, and the relative difference between scenarios would likewise be reduced. As such, the REC 3 results are conservative in characterizing the availability of boating opportunities.</p> <p>SCE also evaluated boating opportunities across three intermediate flow ranges for each run to reflect the diversity of user preferences. For the Richbar Run these were: 700–1,600 cfs; 1,600–2,500 cfs; and 2,500–3,500 cfs. These results, presented in Appendix E of the REC 3 Technical Memorandum, demonstrate that boating suitability varies not only in frequency but also in quality across flow conditions. For any given boater with a narrower preferred range, actual usable opportunities would be more limited than the aggregate totals presented.</p> <p>With respect to public flow information, SCE does not agree that access to flow data represents a meaningful barrier to use of the Richbar Run. Boater consultation conducted as part of the REC 3 study indicates that users already rely on publicly available sources (e.g., Dreamflows and U.S. Army Corps of Engineers data) and reported general satisfaction with the availability of flow information. While individual respondents noted that predictive information could be beneficial, this does not indicate that existing information is insufficient to support use of the resource.</p> <p>Under the proposed license, SCE will further enhance public access to flow information by providing streamflow data from the Kern River below Democrat Dam (USGS Gage No. 11192500; SCE Gage No. 409), as well as an estimate of inflows upstream of Democrat Dam, via the internet, either directly or through third-party platforms such as Dreamflows. These data will be provided at a minimum as hourly average flows, representing a meaningful improvement in the availability and transparency of site-specific flow information relevant to the bypass reach. While provisional data disclaimers are standard practice for real-time hydrologic data and reflect appropriate caution regarding data accuracy, they do not limit the practical utility of the information for recreational trip planning.</p> <p>Finally, KRB's characterization does not account for other key factors influencing use of the Richbar Run, including access conditions, safety considerations along SR-178, the need for coordination of put-in and take-out locations, and the availability of alternative whitewater resources in the Kern River system. The upper Kern River and other downstream reaches provide more consistent and predictable boating opportunities, often with easier access and established use patterns. The presence of nearby Class III run alternatives is a relevant and appropriate consideration in evaluating overall demand for the Richbar Run.</p> <p>In summary, the available data do not support the conclusion that current use of the Richbar Run is substantially suppressed by Project-related factors or by inadequate flow information. Rather, the REC 3 analysis demonstrates that boating opportunity in the bypass reach is inherently limited, episodic, and strongly influenced by hydrologic variability, with or without the Project.</p>

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	<p>The Dreamflows history is also important, because it shows that convenient public information for “Kern - Below Democrat” is not some longstanding, mature feature of the run. Dreamflows’ own change log states that on April 17, 2004, Dreamflows “Started reporting flows for the following new California site: Kern - Below Democrat.” Dreamflows, “What’s New?,” entry dated Apr. 17, 2004. But Dreamflows’ change log further states that on December 1, 2022, it “Stopped reporting estimated river flow for the California gauge site Kern - Below Democrat, and started reporting actual river flow (from a physical gauge) in its place,” adding: “Thanks to Southern California Edison for providing this realtime gauge data.” Dreamflows, “What’s New?,” entry dated Dec. 1, 2022. So it would be wrong to say there was never any Dreamflows information for Below Democrat. But it would also be wrong to assume that users historically enjoyed the same kind of convenient and reliable information that exists now. Dreamflows says the site long reported “estimated river flow,” and only in late 2022 switched to “actual river flow (from a physical gauge).” That distinction matters when evaluating historic and current use levels, because suppressed use in a world of estimated, imperfect, or cumbersome information should not be mistaken for proof of weak demand.</p> <p>KRB’s firsthand experience is consistent with that basic logic. In KRB’s experience, one of the principal reasons Richbar remains underused relative to its actual potential is not merely that it is a specialized river segment, but that users face the combined friction of uncertain or inadequate flows and imperfectly convenient flow information. Those two barriers reinforce one another. When opportunities are already episodic, any extra informational friction further suppresses use. A run with broad, daily, summer-long commercial predictability can tolerate clumsy information systems. A run like Richbar cannot.</p> <p>This point also exposes a deeper weakness in SCE’s logic. SCE tends to reason from observed use to significance: not many observed users, therefore low significance. But for a flow-dependent whitewater run, the causal chain often runs the other way: constrained flows and imperfect flow information reduce opportunity, reduced opportunity depresses actual use, and then that depressed use is mistakenly cited as proof of low demand. That circularity is exactly what SCE and the Commission should avoid here.</p> <p>For these reasons, neither SCE nor the Commission should treat Richbar’s present use levels as reliable evidence of low recreational value or low future utility. At a minimum, the DLA should be revised to acknowledge that Richbar’s current level of use is shaped by two practical barriers identified in SCE’s own record and in KRB’s firsthand experience: the limited occurrence of adequate flows within a defined boatable range, and the need for timely, convenient, intelligible public flow information so boaters can identify and act on those opportunities. SCE’s reliance on present use as a measure of recreational significance is incomplete and misleading.</p>	
KRB-25	<p><b>11. SCE’s Boatable-Day Analysis Understates Project Effects by Ignoring Quality Degradation on Days that Remain Nominally Boatable.</b></p> <p>SCE’s recreation analysis quantifies the project’s effect on whitewater boating using a binary metric: a “boating day” is one where bypass reach flows fall within the boatable range for at least four hours between 10:00 a.m. and 4:00 p.m. DLA Ex. E at 7.10-10; REC-3 at 17. For Richbar, the Updated Study Report reports that 263 fewer boating days occurred under with-project conditions than would have occurred without the project diversion over water years 2014 through 2024. REC-3 at 18–19. That figure captures one dimension of the project’s effect. It does not capture the other.</p> <p>The first barrier is flow itself. Those are not the same thing. A day at 1,400 cfs provides a qualitatively different boating experience than a day at 750 cfs. Both may register as “boatable” under SCE’s binary metric. But the boater whose optimum begins at 1,000 cfs experiences a materially degraded opportunity at 750 cfs — closer to the margin of boatability, with the safety and route-availability concerns SCE’s own respondents associate with minimum-acceptable conditions. REC-3 at 15.</p> <p>The project’s diversion is the mechanism that produces this degradation. SCE’s operations model uses a conduit capacity of 385 cfs. AQ-1 § 5.3.1. On a day when unimpaired bypass flow would be 1,400 cfs, the diversion can reduce the bypass to approximately 1,000 cfs — still within the boatable range for Richbar, but shifted from well within the optimum zone to its lower boundary. On a day when unimpaired flow would be 1,100 cfs, the diversion can reduce the bypass to approximately 700 cfs — the bare minimum acceptable</p>	<p>For additional context around the comparison of project and without-project boating days on Richbar, refer to response to comment KRB-24.</p> <p>To further analyze boating opportunities, the boatable flow range identified for each run was broken down into three flow ranges, instead of just “minimum acceptable flow” and “optimum” flow. This approach reflected the wide diversity in flow preferences based on boater consultation.</p> <p>Specific to the Richbar Run, the boatable flow range of 700 cfs to 3,500 was used to encompass a wide range of potential boaters, with a wide spectrum of boatable flow preferences. The low threshold of 700 cfs is most likely too low for some boaters while the high threshold of 3,500 cfs is too high for others.</p> <p>For the Richbar run boating day opportunities were calculated separately for each flow range of 700 cfs to 1,600 cfs, 1,600 cfs to 2,500 cfs, and 2,500 cfs to 3,500 cfs. This three-tranche range approach was used for the Cadillacs and Cataracts runs and used separate flow ranges developed for each run.</p> <p>With this approach the number of boating days, “with” and “without” project, for a target flow range, are presented, and the change from “with” and “without” calculated. If a boater’s flow preference is limited to one of the flow ranges, then the total number of boating days, regardless of “with” or “without” project, would be reduced. This information is presented in REC 3, Appendix E.</p>

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	<p>threshold. Those days count as “boatable” in SCE’s analysis. But the quality of the boating opportunity has been materially reduced by the diversion. SCE’s binary framework does not register that effect at all.</p> <p>The same logic applies across all three runs. For Cadillacs, where the optimum range begins at 1,500 cfs, a diversion of 385 cfs can push a 1,900 cfs day to 1,500 cfs — from comfortably within the optimum to its lower edge. For Cataracts, where the minimum acceptable threshold starts at 500 cfs, a diversion of 385 cfs means that any unimpaired flow below approximately 900 cfs may be pushed from optimum conditions into the minimum-acceptable or sub-boatable range. DLA Ex. E at 7.10-9; REC-3 at 14-15.</p> <p>SCE’s boatable-day metric therefore understates the project’s recreational effect in two ways. First, it does not capture the days shifted from optimum to merely acceptable conditions. Second, it does not capture the days shifted from acceptable to marginally acceptable conditions. In both cases, the diversion degrades the quality of the boating opportunity even where it does not eliminate it entirely. SCE’s framework treats every day within the boatable range as equivalent. It is not. The boaters SCE interviewed distinguish between minimum acceptable and optimum for a reason: the experience and the safety margin change meaningfully across that spectrum. REC-3 at 14–15.</p> <p>This is not a novel analytical concept. The Whittaker et al. (2005) methodology on which SCE’s own REC-3 study design rests recognizes that flow-recreation relationships operate on a quality continuum, not as a binary threshold. REC-3 at 7 (citing Whittaker et al. 2005 as the methodological foundation). Having adopted a framework that distinguishes minimum acceptable from optimum, SCE should not then collapse that distinction by counting every day in the range as equivalent.</p> <p>The DLA should be revised to acknowledge that the project’s diversion affects not only the number of boatable days but the quality of boating opportunity on days that remain nominally within the boatable range. At a minimum, the with-project and without-project analysis should separately report the number of days at or above the optimum flow threshold versus the number of days between the minimum acceptable and optimum thresholds, for each run, so that the quality-degradation effect is visible in the record.</p>	<p>KRB is incorrect in stating that “SCE’s boatable-day metric therefore understates the project’s recreational effect ... ,” “ ... does not capture the days shifted from optimum to merely acceptable conditions,” and “ ... does not capture the days shifted from acceptable to marginally acceptable conditions.”</p> <p>SCE’s boating day analysis goes beyond a simplistic “minimum acceptable/optimal flow threshold analysis. The three-tiered analysis reflects boating flow preferences based on boater consultation. Due to the wide range in flow preferences, SCE thought it important to provide an analysis of flow for separate flow range preferences.</p> <p>The REC 3 study acknowledges that boater preferences vary widely. Some boaters prefer low-water technical challenges, while others prefer high-volume flows that are much higher in magnitude than other boaters would run. SCE did not assign a higher value to one group of boaters’ preferences by establishing a minimum and optimal flow thresholds that would be applied to a user group as a whole. Instead, data was developed that clearly shows boatable flows for differing flow preferences. The graphs and tables presented in Appendix E of the REC 3 TM clearly show flow transition between these flow ranges. The assumption that 700 cfs is “marginal”, is as inaccurate as saying 3,500 cfs is “optimal”. However, the data presented in the FLA allows the reader to make that determination and assess boatable flow conditions “with” and “without” project</p>
KRB-26	<p><b>12. SCE’s Proposed Public-Flow Dissemination Measures are Too Coarse For a Flow-Dependent Recreation Resource And Should Be Revised.</b></p> <p>SCE’s proposed public-flow dissemination framework is inadequate for a whitewater resource whose usability and safety depend on timely flow conditions. KRB does not contend that SCE must provide perfect or final quality-checked data to the public before any flow value can be posted. Provisional data are often the most useful data for real-world recreation decisions. But SCE’s current proposal is too coarse, too heavily caveated, and too poorly matched to the actual way boaters and other river users evaluate flow-dependent opportunity and risk. The basic problem is a mismatch: SCE proposes to use finer-resolution data for project compliance and internal operational purposes, while offering the public only a blunter and potentially misleading product for a resource that turns on changing river conditions.</p> <p>SCE’s own filings make that mismatch plain. In the Draft Minimum Instream Flow Measure, SCE states that minimum instream flow compliance “will be based on daily average flow measurements using gage data measured in 15-minute time increments.” Draft Minimum Instream Flow Measure, section 1.2, at 1-2. In the Draft Stream Gaging Plan, by contrast, SCE states that public flow information below Democrat Dam and the corresponding upstream inflow estimate “will be provided for public viewing via the internet,” but only “at a minimum hourly average flow.” Draft Stream Gaging Plan, section 5.0, at 2. That is an obvious disparity. SCE is already working from 15-minute increments for compliance purposes, yet commits only to hourly averages for the public.</p> <p>That disparity matters because SCE’s own recreation analysis shows that boating opportunity on Richbar is highly flow-sensitive and time-sensitive. The DLA defines a “boating day” as one where the applicable threshold flow is present “for a minimum of four hours between 10:00 a.m. and 4:00 p.m.” DLA Ex. E at 7.10-10 (Dec. 2025). The Updated Study Report uses the same general framework. REC-3 at 17. For a run whose boatability depends on threshold conditions during a finite daytime window, public information that</p>	<p>KRB asserts that SCE’s proposed public-flow dissemination framework is inadequate because it relies on hourly average flows rather than higher-resolution data and includes standard provisional data disclaimers. SCE does not agree that the proposed approach is insufficient for recreational use, safety considerations, or public transparency.</p> <p>First, the proposed provision of hourly average flow data represents a meaningful and appropriate level of detail for public-facing dissemination of real-time hydrologic information. Hourly flow data are widely used across the western United States for recreational planning, including whitewater boating, angling, and general river use. The REC 3 study confirms that boaters currently rely on publicly available flow information (e.g., Dreamflows and U.S. Army Corps of Engineers data) and, based on consultation, generally consider that information sufficient to plan boating trips. The record does not support the conclusion that access to higher temporal resolution data (e.g., 15-minute increments) is necessary to support safe or informed recreational use of the bypass reach.</p> <p>Second, the distinction between 15-minute data used for compliance and hourly averages provided to the public does not represent a material limitation. The 15-minute data referenced by KRB are used for internal compliance verification and quality control purposes. Translating these data into hourly averages for public dissemination is a standard and reasonable practice that improves data stability and interpretability for general users. For a resource such as the Richbar Run—where boating opportunities are defined based on sustained flow conditions (i.e., a minimum of four hours within a defined range between 10:00 a.m. and 4:00 p.m.)—hourly average data provide an appropriate and sufficiently precise representation of flow conditions relevant to recreation.</p> <p>Third, KRB’s assertion that hourly data are “too coarse” does not align with the underlying hydrologic and recreational context. As demonstrated in the REC 3 analysis, boating opportunities in the bypass reach are driven by broader hydrologic conditions and seasonal runoff patterns, not short-duration fluctuations at sub-hourly scales. The defining characteristic of the resource is the episodic and highly variable occurrence of flows within the boatable range, often over multi-hour to multi-day periods due to natural latency in the system. In this context, the use of hourly average data does not obscure meaningful boating opportunities or create a practical barrier to use.</p> <p>With respect to safety, SCE agrees that users should make informed decisions regarding flow conditions. The proposed dissemination of hourly flow data, including both measured flows below Democrat Dam and estimated inflows upstream,</p>

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	<p>consists only of hourly average flow is already smoothing and delaying the conditions users actually care about.</p> <p>SCE's own whitewater study also shows that boaters do in fact rely on public flow information before deciding whether to go. For Richbar, SCE reports: "Boaters said they checked the flows on the Dreamflows website and/or the US Army Corps of Engineers' website prior to boating the run." REC-3 at 14. SCE adds that, "[i]n general, boaters said they were satisfied with the availability of flow data; however, one boater indicated that having flow data forecasts would improve the dissemination of flow data." <i>Id.</i> at 14-15. That passage confirms the core point. Public flow information is not incidental to this resource. It is one of the practical conditions of use.</p> <p>The safety implications are also real. SCE's own report states that for Richbar, "the perceived difficulty of the run increases with higher flow," and that "[a]t higher flows, there is less recovery time, and the potential consequences of a swim are increased." REC-3 at 15. At the other end of the range, the same discussion of minimum acceptable flows shows that low flow affects basic boatability, route availability, and low-water safety concerns such as pinning and sieves. <i>Id.</i> at 15. So this is not just a convenience issue. Flow information affects trip planning, safe decision-making, and the practical ability of users to avoid conditions that are either too low or too high.</p> <p>SCE's proposed public-facing product is especially problematic because the public may reasonably understand it as more immediate and precise than it really is. The Draft Stream Gaging Plan says only that SCE will provide "at a minimum hourly average flow." Draft Stream Gaging Plan, section 5.0, at 2. But Dreamflows labels the Below Democrat page "Realtime Flows," and Dreamflows' own alerts documentation explains that "Dreamflows doesn't poll agencies continuously, but rather does so every 30 minutes during the day, and every hour during the night." Dreamflows further states that alerts are generated "at the same time as the Realtime reports are run," typically "about 22 and 52 minutes past the hour during the day," and warns that delays are inherent in the entire chain from gauge measurement to public display and alerting. Dreamflows, "Kern - Below Democrat Calc - river flow graph," page header showing "Realtime Flows"; Dreamflows, "All About Alerts," sections "Flow Alerts" and "Limits and Limitations."</p> <p>KRB's point is not that Dreamflows is acting improperly by using the word "realtime." The point is that for recreation and safety purposes, a public-facing product labeled and perceived as real-time can nevertheless be averaged, periodically updated, delayed, provisional, or some combination of the above. That matters here because SCE's own plan commits only to hourly average public values, while the public-facing ecosystem through which boaters actually look up flows may naturally be read as reflecting current river conditions. For a run like Richbar, where thresholds matter and safety consequences change with flow, that ambiguity is not trivial.</p> <p>The history of the Below Democrat information reinforces the same point. Dreamflows' historical change log states that on April 17, 2004, Dreamflows "Started reporting flows for the following new California site: Kern - Below Democrat." But Dreamflows also states that on December 1, 2022, it "Stopped reporting estimated river flow for the California gauge site Kern - Below Democrat, and started reporting actual river flow (from a physical gauge) in its place," adding: "Thanks to Southern California Edison for providing this realtime gauge data." Dreamflows, "Dreamflows Changes - Historical," entries dated Apr. 17, 2004, and Dec. 1, 2022. That history matters in two ways. First, it shows that public Below Democrat information has not always existed in the same form it exists today. Second, it shows that the public-facing history of this site includes a transition from "estimated river flow" to "actual river flow (from a physical gauge)." SCE therefore cannot reasonably assume that historical or observed use patterns developed under a long-settled, fully transparent, highly legible public information regime.</p> <p>The present disclaimer language in SCE's Draft Stream Gaging Plan only deepens the problem. SCE states that the public data are provisional, "have not been reviewed for accuracy," "may be subject to significant change," and that SCE "accepts no liability for the accuracy, availability, suitability, reliability, usability, completeness or timeliness of the data or graphical depictions of the data provided via this website." Draft Stream Gaging Plan, section 5.0, at 2-3. Some caution is understandable. Provisional flow data should be labeled as provisional. But there is a difference between responsibly flagging provisional data and stripping the data of nearly every practical attribute a user would care about. A plan that promotes public</p>	<p>provides a clear and accessible basis for such decision-making. As with all publicly available streamflow data, users are expected to apply their own judgment and experience when interpreting conditions in the field. This is standard practice for whitewater boating and other flow-dependent recreation activities and is not unique to the Kern River.</p> <p>KRB also raises concerns regarding the inclusion of provisional data disclaimers. These disclaimers are standard for real-time hydrologic data provided by federal and state agencies (including USGS and the U.S. Army Corps of Engineers) and are necessary to appropriately communicate data limitations. They do not diminish the practical utility of the information, but rather ensure that users understand the nature of provisional data. SCE's proposed disclaimer language is consistent with this widely accepted practice.</p> <p>Importantly, the proposed Stream Gaging Plan (FLA Appendix E.1, Measures) represents an enhancement in public access to flow information for the bypass reach. SCE will provide streamflow data from the Kern River below Democrat Dam (USGS Gage No. 11192500; SCE Gage No. 409), as well as an estimate of inflows upstream of Democrat Dam (combined from SCE gages 409 and 410), via the internet either directly or through third-party platforms such as Dreamflows. This represents a transparent and accessible framework that supports both recreational use and public awareness of flow conditions.</p> <p>Finally, KRB's recommendation to provide 15-minute provisional data to the public is not warranted based on the available record. While such data could be provided, the record does not demonstrate that doing so would materially change recreational use patterns, improve safety outcomes, or alter the fundamental hydrologic constraints that define boating opportunities in the bypass reach. As discussed in prior responses, the primary factor influencing boating opportunity on the Richbar Run is the availability of sufficient flow within a broad, flow-dependent system, not the temporal resolution of publicly displayed data.</p> <p>In summary, SCE's proposed public-flow dissemination framework appropriately balances data availability, usability, and transparency. It reflects standard industry practice, aligns with how recreational users access and interpret flow information, and provides a meaningful level of detail sufficient to support flow-dependent recreation in the bypass reach.</p>

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	<p>dissemination of flow information for recreation and transparency, while simultaneously disclaiming “usability” and “timeliness,” is not well calibrated to the actual role those data play.</p> <p>This issue is not limited to boating opportunity. It also bears on public accountability. SCE’s Stream Gaging Plan states that one of its purposes is to “identify and describe Project stream gages used to document compliance with minimum instream flows” and to “[d]escribe dissemination of real-time flow information to the public.” Draft Stream Gaging Plan, section 2.0, at 1. Where minimum instream flow compliance is being tracked through 15-minute increment data, the public has a legitimate interest in access to the same practical level of transparency, even if the publicly posted values remain expressly provisional. A system in which SCE uses finer-resolution data to administer the project, while the public sees only hourly averages, is not the strongest transparency design for either recreation or compliance oversight.</p> <p>KRB therefore recommends that SCE revise the public-flow dissemination component of the Draft Stream Gaging Plan. At a minimum, SCE should provide the public with the most recent available provisional 15-minute flow data used for compliance tracking, or the nearest practical equivalent, rather than relying solely on hourly average values. SCE should also clearly label each public value with its timestamp, averaging interval, and whether it reflects measured river flow below Democrat Dam, a separate inflow estimate upstream of the dam, or a calculated/composite figure. Hourly averages may still be useful as a supplemental display, but they should not be the only public product for a run whose usability and safety depend on narrower windows and changing conditions.</p> <p>KRB further recommends that SCE’s public presentation avoid generalized “real-time” labeling unless accompanied by clear explanation of what the displayed value actually is and how often it is updated. A public user should not have to guess whether a displayed figure is an hourly average, a 15-minute value, an estimate, a physical gauge reading, or a computed result. Nor should the user have to infer whether the displayed number may already lag field conditions in a meaningful way. Those distinctions are important to boaters, anglers, and other river users who make practical decisions based on flow. In short, SCE’s current proposal gives the public a blunter, more delayed, and more heavily caveated product than the resource reasonably calls for. For Richbar and similar flow- dependent uses, public flow information is not a side issue. It is part of the recreation resource, part of the safety picture, and part of the public’s ability to monitor compliance with project flow obligations. SCE should revise the Draft Stream Gaging Plan accordingly.</p>	
KRB-27	<p><b>13. SCE’s Parking and Access Analysis Does Not Establish Adequacy of Recreation Access or Absence of Recreation Impact.</b></p> <p>SCE’s discussion of parking, access, and trails suffers from the same basic problem as its boating analysis: it takes a few narrow indicators and asks them to do much more work than they can bear. In the DLA, SCE states that the three developed day-use areas along the bypass reach and the raft take-out site “currently provide capacity to meet present and foreseeable future demand,” that “even on summer holiday weekends no site reached parking capacity,” and that “existing riverside recreation opportunities along the bypass reach and at Democrat Impoundment are expected to remain sufficient to meet both current and future recreation needs.” DLA Ex. E at 7.10-14 to 7.10-15. SCE then makes the same move for Project trails, saying trail use averaged “only two to three users per trail per day,” “current capacity is adequate and overuse is not an issue,” and continued operation “would have no effect on the adequacy of Project trails to meet recreation demand compared to the No-Action Alternative.” <i>Id.</i>, at 7.10-15. Those conclusions are broader than the underlying metrics can support.</p> <p>To begin, SCE’s own underlying REC-2 results do not show universal parking adequacy. They show uneven use and site-specific pinch points, especially at undeveloped river access sites. REC-2 states that across the four developed day-use areas there are “a total of 91 designated parking spaces,” and that the five undeveloped river access points along SR-178 have an “estimated capacity for 25 vehicles.” REC-2 at 10-11. REC-2 then reports that while average parking fill rates at the developed sites were low, the “maximum percentage of parking filled” at the undeveloped river access points along SR-178 reached 133 percent on weekends, 250 percent on weekdays, and 150 percent on holidays. <i>Id.</i> at 29-30, Tables 5-5 through 5-9. Most important, SCE expressly notes: “Parking capacity estimates were surpassed at River Access Site 1 (parking capacity 2 vehicles) and River Access Site 3 (parking capacity 3 vehicles) on some survey days.” <i>Id.</i> at 30, Table 5-9 note.</p>	Refer to prior responses to comments including USFS-10, -13, and -16, and to KGTC-5, -8, -11, and -26

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	<p>That is not a record of simple across-the-board adequacy. It is a record showing that some of the dispersed access points actually used along the bypass reach experienced exceedances.</p> <p>That matters because SCE's DLA repeatedly reasons from average underuse at developed sites to broad adequacy conclusions for the entire recreation setting. But undeveloped SR-178 access points are not interchangeable with the four developed sites. REC-2 itself recognizes them as separate categories, with separate survey treatment, separate capacities, and separate use patterns. REC-2 at 1-2. If the question is whether recreation access associated with bypass-reach use is adequate, then exceedances at the undeveloped river access points matter directly. SCE cannot wash those out by averaging them together with lightly used developed day-use areas.</p> <p>SCE's own breakdown of vehicle distribution underscores the same point. REC-2 states that more vehicles were parked at Upper Richbar than at other sites, followed by Democrat Raft Take-out, and that "[c]ollectively, 26 percent of the total vehicles counted were parked at the five undeveloped river access points along SR-178." REC-2 at 10. That is a substantial share of the observed parking activity. It means the undeveloped access points are not a trivial sidelight. They are a meaningful part of actual recreation access in the project vicinity. So when SCE says average capacity was adequate, it is not enough to point to the fact that developed sites were often lightly used. The company must also grapple with the fact that dispersed SR-178 access locations are materially used and, on some days, materially over capacity.</p> <p>The same problem appears in SCE's future-demand reasoning. SCE says current facilities are adequate to meet present and future demand, including demand associated with "a 12 percent increase in Kern County's population by 2050." DLA Ex. E at 7.10-14 to 7.10-15. REC-2 repeats that same logic, stating that because parking was generally underused and trails averaged one to three users per day, "recreation amenities in the vicinity of the Project are adequate to meet current demand and foreseeable future demand." REC-2 at 21. But that is a weak analytical bridge. Population growth does not translate mechanically into recreation demand at a given site, and average current underuse at some locations does not prove that access is suitably distributed, safely configured, or adequate at the particular access points users actually prefer or need. At most, SCE's data may support a narrow statement that the four developed sites were not generally full during the REC-2 count period. That is not the same as a demonstrated finding that recreation access in the project vicinity is adequate "to meet present and foreseeable future demand."</p> <p>The trail analysis is vulnerable for the same reason. SCE states in the DLA that Project trails show "light recreation use," averaging "only two to three users per trail per day," and therefore "current capacity is adequate and overuse is not an issue." DLA Ex. E at 7.10-15. REC-2 similarly says trail use averaged "only one to three users per trail per day over the study period," again concluding that "current capacity is adequate and overuse is not an issue." REC-2 at 21. But trail counts alone do not establish adequacy of access. Low average use could reflect low demand, or it could reflect imperfect trail location, weak wayfinding, safety concerns, poor connectivity, user preference for roadside informal access, or the fact that some opportunities are flow-dependent and episodic. SCE never really sorts those possibilities out. It simply treats low counts as proof that the trail system is adequate. That is not analysis; it is assumption.</p> <p>The point is sharpened by SCE's own description of the trail study design. REC-2 says the study objectives included characterizing use at developed day-use facilities, characterizing dispersed use at undeveloped SR-178 access points, characterizing use along Project trails, estimating future recreation use, and documenting public safety issues. REC-2 at 1. In other words, the study was not merely a parking census. It was supposed to say something meaningful about access and recreation use patterns. Yet SCE's DLA discussion collapses all of that into simple capacity talk: some parking remained available, trails had low counts, therefore access is adequate. That is much too blunt.</p> <p>SCE's treatment of public safety also makes its adequacy conclusions look too quick. REC-2 expressly states that one study objective was to "[d]ocument potential public safety issues and existing programs and measures that are implemented by SCE to protect public health and safety." REC-2 at 1. And in describing the study methods, REC-2 says SCE was to identify existing safety issues and programs and review safety incidents. <i>Id.</i>, at 9. Yet the DLA's adequacy discussion does not seriously integrate the access/safety side of the record. Parking exceedance at small informal SR-178 pullouts is not just a numbers issue; it can also be a safety and suitability issue. The same is true of dispersed access behavior more generally. An access point can</p>	

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	<p>be “under capacity” on average and still be poorly configured, unsafe, awkwardly distributed, or inadequate for the uses that actually depend on it.</p> <p>There is also a category error running through SCE’s discussion of “capacity.” SCE measures parking-space occupancy and trail-user counts, then treats those as proxies for the adequacy of “recreation opportunities.” But recreation opportunity is broader than parking capacity. It includes whether users can get to the river where they need to, whether access is reasonably distributed, whether dispersed access points are workable when opportunities arise, whether the access system fits the kinds of uses the river actually supports, and whether safety concerns or informational barriers suppress actual use. A lightly used trail does not prove that access is adequate. A half-empty parking lot at one location does not prove that access is adequate somewhere else. And an average occupancy figure does not prove that the system is adequate at the times and places when recreation demand actually concentrates.</p> <p>The developed/nondeveloped distinction is especially important here because SCE itself says the Project “does not own or operate developed recreation facilities in the vicinity of the Project,” while also acknowledging the importance of “informal river access locations” and Project roads and trails. DLA Ex. E at 7.10-14 to 7.10-15. So the DLA’s adequacy conclusions are not even limited to facilities SCE controls in a straightforward sense. SCE is making broad judgments about the adequacy of recreation access across a mixed landscape of developed non-Project sites, informal SR-178 pullouts, and Project roads and trails. That is all the more reason the analysis should be careful and site-specific. Instead, SCE relies on broad averages and generalized assurances.</p> <p>KRB’s point here is not that the record proves a present recreation-access crisis. Nor is KRB arguing that every developed site is overcrowded. The problem is narrower and more basic: SCE has not shown what it says it has shown. It may be fair for SCE to say that the four developed day-use areas were generally not full during the REC-2 count period. It may also be fair to say that trail counters recorded low average use on several Project trails. But those observations do not establish that access associated with bypass-reach recreation is adequate, that current and future demand will be met, or that continued project operation will have “no effect” on recreation access in any meaningful sense. Those are larger conclusions than the underlying data will support.</p> <p>SCE should revise this part of the DLA in at least three respects. First, SCE should expressly acknowledge that parking capacity at undeveloped SR-178 access points was exceeded at some locations and should stop presenting the parking record as one of simple across-the-board adequacy. See REC-2 at 29-30, Table 5-9 and note. Second, SCE should distinguish between parking occupancy data and the broader question whether recreation access is suitably distributed, safe, and adequate for the uses actually occurring in the bypass reach. Third, SCE should narrow its future-demand and no-effect conclusions to match the evidence it actually has, rather than using average underuse at some sites and low trail counts as proof that recreation access generally is adequate now and will remain so through the license term.</p>	
KRB-28	<p><b>14. SCE Prematurely and Speculatively Dismisses the Cultural-Resource Concern Raised By Overland Boater Access.</b></p> <p>SCE’s treatment of the cultural-resources issue raised by overland boater access is not an actual resource analysis. It is a conjectural recreation-side reassurance presented as though it were enough to resolve a cultural concern. KRB’s point is not that boating should be restricted or that the present record proves material cultural-resource harm from boating access. KRB’s point is narrower: where a cultural-resource concern has been raised, SCE cannot dismiss it through generalized assumptions about boater behavior in a recreation memo. See REC-3 at 20.</p> <p>The key passage appears in the REC-3 Updated Study Report. There, SCE acknowledges that “[a] stakeholder raised a concern during the KR1 Initial Study Report meeting on March 19, 2025, about potential impacts to cultural resources from boaters accessing the river channel overland from SR-178.” REC-3 at 20. But instead of analyzing that concern through the lens of cultural-resource evidence, site sensitivity, recurring access patterns, or consultation with the relevant cultural and Tribal-resource processes, SCE immediately dismisses it on generalized behavioral assumptions: “However, as the</p>	<p>Potential impacts to Cultural Resources are analyzed and discussed within the CUL-1, CUL-2, and TRI-1 Technical Study Reports. These studies did not identify specific impacts to cultural or Tribal resources from overland boating access. The concern raised by the Tribal member was more about boaters / recreationists’ access to the area that could lead to illegal collection of artifacts rather than the boater’s method of access. Nevertheless, discussion of potential impacts to cultural and Tribal resources has been removed from the REC 3 TM and are discussed in the appropriate cultural and Tribal sections of the FLA and confidential technical reports.</p>

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	<p>collected data indicates, whitewater boating in the bypass reach is infrequent and typically limited to a small group of expedition-level boaters during periods of boatable flows. Given this limited use, it is unlikely that boater access is contributing materially to ground disturbance affecting cultural resources. Further, typically, whitewater boaters are focused on accessing the river channel and getting 'on-water' as quickly as possible. As such, little time is spent in the field, or on the riverbank, and there are minimal ground disturbing activities associated with access to the river channel and boating put-in and take-out activities." <i>Id.</i> at 20. That paragraph is vulnerable for several reasons.</p> <p>First, it is not actually a cultural-resources analysis. It does not identify the relevant cultural-resource baseline, any sensitive locations, any surveyed or unsurveyed access points, any relation between overland paths and the area of potential effects, any review of repeated foot traffic, or any consultation-based determination that dispersed boater access is immaterial to cultural-resource protection. It simply assumes that because use is said to be infrequent and because boaters are assumed to move quickly, the concern is probably minor. That is not the same thing as evidence. At most, such observations might be offered as hypotheses for consideration in the actual cultural and Tribal review process; they are not a substitute for that process.</p> <p>Second, the reasoning is circular. SCE begins with its own broad characterization that bypass-reach boating is "infrequent" and "typically limited to a small group of expedition-level boaters," then uses that characterization to dismiss the possibility of material disturbance. REC-2 at 20. But as KRB has already explained in earlier comments, SCE repeatedly overstates the "expert-only" nature of the resource, particularly by allowing the hardest downstream whitewater to define the entire bypass reach and by understating the distinct significance of Richbar. Even putting that aside, however, low or episodic use is not the same thing as no effect. Repeated use of the same informal access path by a relatively small cohort can still create trail formation, bank wear, vegetation loss, trampling, or repeated interaction with sensitive places. SCE offers no resource-specific analysis showing otherwise.</p> <p>Third, SCE's own whitewater study confirms that overland access is a recurring and inherent part of the boating resource. REC-3 states that Cadillacs requires "an overland hike from SR-178" for the put-in and an overland hike at take-out unless boaters continue downstream. REC-3 at 5. It states that Richbar's put-in "is accessible via an overland hike from SR-178," with "no developed trail or river access improvements associated with the put-in," and that for some Richbar extensions "an overland hike is required to reach shuttle vehicles parked along SR-178." <i>Id.</i> at 5-6. It states that Cataracts take-out "requires an overland hike from the river up to SR-178." <i>Id.</i> at 6. So SCE cannot plausibly treat overland access as some incidental or speculative possibility. Its own study materials establish that overland access from SR-178 is a normal and recurring feature of whitewater use in this reach.</p> <p>Fourth, SCE's dismissal comes against the backdrop of a cultural and Tribal review process that was unresolved at the DLA stage and remains unresolved in important respects even after the USR. At the DLA stage, Appendix E.2 stated that "[s]ome studies are not yet complete as of filing the DLA," and that for those studies the appendix included only "the most current results available," with "[f]inal technical memoranda" to be included in the Final License Application. DLA Appendix E.2 at E.2-1. Table E.2-1 identified the relevant cultural and Tribal studies — CUL 1, CUL 2, and TRI 1 — as not yet final in the DLA package, explaining that the reports were under review by the Forest Service and Tribes and would be provided in the Final License Application. <i>Id.</i> at E.2-2. SCE likewise stated that the "TRI 1 – Tribal Resources Technical Study Report" was still being completed and that the information in section 7.13 might be updated after review of the draft TRI 1 report. DLA Ex. E at 7.13-1.</p> <p>By the Updated Study Report, SCE had advanced those studies materially, but the process was still not over. The USR states that the three remaining study plans with elements still to be completed are "the cultural and Tribal resource studies: CUL 1 – Built Environment, CUL 2 – Archaeology, and TRI 1 – Tribal Resources," and explains that consultation with the Sequoia National Forest and Tribes remains ongoing and that each report will be submitted to the State Historic Preservation Officer for concurrence on National Register eligibility. The USR's study-status table is more precise: for CUL 1 and CUL 2, SCE states that it had "Completed final Technical Memo," but lists as ongoing the work to finalize the technical study reports, consult</p>	

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	<p>with the Forest Service and Tribes, obtain SHPO concurrence on eligibility, and prepare and consult on development of the Historic Properties Management Plan. TRI 1 is described similarly. And the USR's transmittal table states that CUL 1, CUL 2, and TRI 1 are "complete" as studies, but that the technical reports remain under review by the Forest Service and Tribes and the final technical reports will be filed confidentially with the Final License Application.</p> <p>That procedural posture matters. When the cultural and Tribal-resource record is still under review by the Forest Service and Tribes and expressly subject to later update, SCE should not be making offhand dismissals of overland-access concerns based on a recreation memo's assumptions about what boaters "typically" do. If SCE wants to say that dispersed boating access is unlikely to create material cultural-resource concerns, it should ground that statement in the actual cultural/Tribal review process and the eventual cultural-resource findings, not in generalized impressions from the whitewater study.</p> <p>Fifth, SCE's own Tribal Resources discussion elsewhere shows that "access issues" are a recognized mechanism by which project activities may affect Tribal resources. SCE states that maintenance activities "may affect Tribal resources if the activity involves ground disturbance or has the potential to cause indirect effects such as erosion, visual effects, or access issues to Tribal resources." DLA Ex. E at 7.13-7 (Dec. 2025). That does not prove that boating access creates such effects. But it does show that SCE itself recognizes access-related disturbance and access-related interference as legitimate resource concepts in the Tribal context. That makes the casual dismissal in REC-3 look even less defensible.</p> <p>SCE may respond that it was only making a limited observation, not a final Section 106 finding. But that is exactly the point: the observation is too sweeping for the evidentiary footing it has. A comment record should not allow statements like "it is unlikely that boater access is contributing materially to ground disturbance affecting cultural resources" to pass as though they were well-supported, when the statement is based primarily on assumptions about user behavior, a generalized claim of low use, and no cited cultural-resource analysis. REC-3 at 20.</p> <p>KRB's point here is modest. KRB is not asserting that the present record proves significant cultural-resource damage from boating access, and KRB is not advocating boating restrictions through this comment. KRB is asserting only that SCE has not shown the opposite, and that the issue should rise or fall through the actual cultural and Tribal review process rather than through unsupported assumptions in the whitewater study. The concern was raised. SCE acknowledges that overland access from SR-178 occurs. SCE acknowledges elsewhere that ground disturbance and access issues can matter to Tribal resources. DLA Ex. E at 7.13-7. And the cultural/Tribal review process remains ongoing even after the USR. On that record, SCE should not be allowed to convert a thin recreation-side intuition into a de facto no-problem conclusion.</p> <p>SCE should revise this discussion so that it no longer implies that the cultural-resource issue has effectively been resolved through the whitewater study. At a minimum, SCE should substantially narrow the quoted dismissal of cultural-resource concerns from overland access and should make clear that any such issue is being addressed, if at all, through the ongoing cultural and Tribal consultation, SHPO review, and HPMP-development processes rather than through generalized assumptions about boating behavior. The current phrasing is speculative, overconfident, and unsupported by the recreation record SCE cites.</p>	
KRB-29	<p><b>15. The DLA's Recreation and Environmental Conclusions Rest on an Incomplete and Methodologically Limited Record.</b></p> <p>SCE's recreation and environmental conclusions are only as strong as the record on which they rest. Here, the record was admittedly incomplete when the DLA was filed, and the methods used to generate it were too limited to support the level of certainty SCE claims. KRB does not contend that every study limitation invalidates every result, or that SCE was forbidden to file a DLA while technical work remained in progress. The problem is that SCE writes as though the evidentiary picture were settled when its own filing materials said otherwise.</p>	Refer to response to KRB-13

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KRB-30	<p><b>15. The DLA’s Recreation and Environmental Conclusions Rest on an Incomplete and Methodologically Limited Record.</b></p> <p><b>The DLA was filed on a partial record.</b> Appendix E.2 states: “Some studies are not yet complete as of filing the DLA. For those studies, this appendix includes the most current results available. Final technical memoranda will be included in the Final License Application.” DLA Appendix E.2, at E.2-1. Table E.2-1 identifies AQ-2 as having “Additional data analysis ongoing,” AQ-3 as having “Outstanding study components,” and REC-2 as having “Outstanding study components” — each with a complete technical memorandum promised for the FLA. Id. at E.2-2. The cultural and Tribal studies (CUL 1, CUL 2, TRI 1) remained under review by the Forest Service and Tribes. Id.</p> <p>The recreation chapter is even more explicit. Section 7.10.1.2 states: “The REC-2 --Recreation Facility Use Assessment study is ongoing as of filing the Draft License Application. The information and analysis presented in this section includes study results through June 2025.” DLA Ex. E at 7.10-2. Yet elsewhere in the same chapter, SCE drew categorical conclusions about adequacy, no effect, and no unavoidable adverse effect — as though the unfinished studies were a formality.</p>	<p>Refer to response to comment KRB-13.</p>
KRB-31	<p><b>15. The DLA’s Recreation and Environmental Conclusions Rest on an Incomplete and Methodologically Limited Record.</b></p> <p><b>The completed recreation methods confirm the need for caution.</b> The REC-2 study as completed in the USR identifies three variances from the approved study plan. First, the implementation schedule was extended because Forest Service approvals delayed installation of trail cameras and survey boxes. REC-2 at 4. Second, the intercept survey form “did not include the full set of questions identified in the REC-3 -- Whitewater Boating TSP,” asking whitewater boaters only “one follow-up question about how river flows affect their boating experience.” Id. Third, “due to safety and timing constraints, technicians conducted counts once per shift rather than two.” Id. Each variance weakens the precision of the resulting data: delayed start, incomplete whitewater instrument, reduced count frequency. SCE should not treat data generated under those conditions as though it supported categorical adequacy findings.</p> <p>The methods for undeveloped river access points were inherently limited as well. SCE characterized the five undeveloped SR-178 access points through “opportunistic in-person intercept surveys” conducted “if it was safe to do so and there was opportunity to pull over.” DLA Ex. E at 7.10-11; REC-2 at 4. A method that depends on whether it is safe and convenient for survey personnel to pull over on a highway shoulder does not naturally support confident claims about use patterns for dispersed and episodic recreation.</p>	<p>All relicensing studies, including the REC 2 and REC 3 studies, were implemented consistently with the FERC-approved study plan, which was developed through a collaborative process with opportunities for agency and stakeholder input, including study methods, timing, and data collection approaches (refer also to KRFF-). As documented in the REC 2 TM, the variances were minor, disclosed, and do not materially affect the validity or usability of the data. As described in REC 2:</p> <p><i>From May 2024 to April 2025, 374 survey forms representing 1,251 individuals were completed by day users. In addition, from January 23, 2025, to January 25, 2026, 73 survey forms representing 167 individual day users were collected from the developed day use area self-survey boxes (and from QR Codes attached to the self-survey boxes). Therefore, a total of 447 surveys forms representing 1,418 individual day users were collected during the study.</i></p> <p>This was a successful study that gathered a significant amount of information from day users along the bypass reach throughout the year. Further many respondents demonstrated consistency in user preferences throughout the year. For example 94% of users described their primary recreation activity as picnicking and no surveys were collected that indicated the user was boating the bypass reach (the only surveys from individuals who indicated that whitewater boating was their primary activity were five surveys collected from the Democrat Raft Take-out Boating Site at the Democrat Dam Impoundment, not along the bypass reach).</p>
KRB-32	<p><b>15. The DLA’s Recreation and Environmental Conclusions Rest on an Incomplete and Methodologically Limited Record.</b></p> <p><b>REC-3 was completed entirely at Level 1.</b> The approved study plan adopted a sequential framework — Level 1 Desktop Review, Level 2 Limited Reconnaissance, Level 3 On-water Assessment — with progression based on whether additional data were needed. REC-3 at 7. SCE concluded the study at Level 1. Id. at 21. The Commission should recognize what the resulting record is: a desktop and interview-based whitewater study, not a reconnaissance study and not an on-water flow-preference study. REC-3’s whitewater sample consists of fourteen respondents — five from a 60-day public online survey and nine from targeted outreach to 35 identified boaters. REC-3 at 12–13. That is useful anecdotal information from experienced users. It is not a basis for sweeping conclusions about the insignificance of the resource or the absence of meaningful project effect.</p>	<p>There are no outstanding study elements. All data needed to address the study plan objectives were collected during the Level 1 Desktop Assessment. Therefore, based on the study approach detailed in the approved REC 3 TSP, no further assessment is necessary to comprehensively address study objectives. The REC 3 – Whitewater Boating Study is complete.</p>
KRB-33	<p><b>15. The DLA’s Recreation and Environmental Conclusions Rest on an Incomplete and Methodologically Limited Record.</b></p> <p><b>The water quality and fish records were similarly incomplete.</b> The DLA’s water quality effects conclusions were written before the full two-year AQ-2 dataset had been incorporated. AQ-2 at 1. The fish and aquatic resources effects conclusions were written without any bypass reach population data — sampling postponed from 2024 to 2025. DLA Ex. E § 7.4.1.6. In both cases, the subsequently filed data</p>	<p>Refer to response to comment KRB-13.</p>

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	<p>confirmed analytical gaps that the DLA's categorical conclusions did not anticipate, as discussed in Comments 2 and 3.</p> <p>SCE was entitled to file a DLA on the schedule the relicensing process required. But it was not entitled to treat an admittedly incomplete or evolving technical record as though it already justified final-sounding conclusions. The FLA should revise, narrow, or qualify any conclusion that was framed categorically even though the underlying record was incomplete at the time of filing, and should reconcile earlier DLA phrasing with the fuller record now available.</p>	
KRB-34	<p><b>16. SCE's Proposed Daily-Average Minimum Instream Flow Compliance Standard Can Mask Sub-Daily Dewatering and Should Be Replaced With an Actual Instantaneous Floor.</b></p> <p>SCE's proposed minimum instream flow compliance construct is materially weaker than the phrase "minimum instream flow" would ordinarily suggest to the public. In the Draft Minimum Instream Flow Measure, SCE states that the minimum instream flow release "will be based on daily average flow measurements using gage data measured in 15-minute time increments," and that "[t]he daily average flow must meet or exceed the thresholds specified in the minimum instream flow schedule." DLA Appendix E.1, section 1.2, at 1-2.</p> <p>That is not an instantaneous floor. It is not a requirement that the river remain at or above the stated minimum at all times. It is an averaging construct.</p> <p>That distinction matters. A daily-average compliance standard can mask substantial intraday variation. As a matter of simple arithmetic, a project can fall below the nominal threshold for meaningful portions of the day and still produce a compliant daily average if flows are increased later. In other words, a river can experience sub-daily dewatering or materially depressed conditions at some times and still appear compliant on paper once the 15-minute values are averaged across the day. That is exactly the sort of compliance design that can hide what river users and river resources actually experience on the ground.</p> <p>SCE's own filing language elsewhere makes the problem more acute because it uses the rhetoric of continuity even though the proposed compliance metric is an average. In Exhibit E, SCE describes the sandbox release arrangement as infrastructure that "provides FERC continuous minimum instream flow release requirements." DLA Ex. E Table 5-2, at 5-29 to 5-30. The Initial Statement similarly says that "[c]ontinuous minimum instream flows are released back into the river from the sandbox via this channel." DLA Ex. A Initial Statement at A-8. If SCE wishes to describe the physical release infrastructure as continuous, it should be equally candid that its proposed compliance standard is not a continuous at-or-above-threshold obligation. The filing should not be allowed to trade on "continuous" language while the operative compliance provision measures only a daily average.</p> <p>The concern here is not abstract. SCE's own hydrology work for KR1 explicitly operates at sub-daily and hourly scales. In AQ-1 – Hydrology, SCE states that it developed "average hourly flow hydrology," evaluated "sub-daily" hydrograph changes, and produced "an hourly timestep dataset" for the relevant reaches. AQ-1 §§ 4.2, 4.3, and 5.1.2, at 2-4. The same report tabulates annual numbers of flow increases and decreases and reports mean hourly changes in bypass-reach release. <i>Id.</i>, Table 5-9, at 13. SCE therefore cannot plausibly suggest that within-day changes are too fine-grained to matter. Its own hydrology analysis recognizes that sub-daily flow behavior is a real and measurable feature of project operations.</p> <p>That matters to recreation. A boater, angler, or riverside user does not experience the daily average. The user experiences the river as it actually is when the user is there. For Richbar and other flow-dependent uses, actual conditions during the relevant hours determine whether the opportunity exists in practice and whether it can be pursued safely. SCE's own recreation analysis defines a "boating day" by reference to whether threshold flows are present "for a minimum of four hours between 10:00 a.m. and 4:00 p.m." DLA Ex. E at 7.10-10. That is already a recognition that timing matters. A compliance metric that averages the whole day can obscure whether the river actually met threshold conditions during the hours that matter to users.</p>	<p>This comment is not based on real data from the bypass reach and is hypothetical.</p> <p>SCE sets minimum flow releases from the Project and does not vary the flow releases. In fact, SCE includes approximately 20 percent buffer flow and sets alarm points to ensure that minimum flows are always met. There is no indication in the historical record that sub-daily flow fluctuations have occurred at the Project and no indication that they would occur in the future.</p> <p>The Proposed Action minimum instream flow compliance is a standard approached that is protective.</p>

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	<p>It also matters to safety. SCE’s own REC-3 report states that on Richbar “the perceived difficulty of the run increases with higher flow” and that “[a]t higher flows, there is less recovery time, and the potential consequences of a swim are increased.” REC-3 at 15. At lower flows, the same section identifies concerns involving “boatability,” “route availability,” and low-water hazards such as pinning and sieves. <i>Id.</i> So both low and high sub-daily deviations matter in practice. A daily average may say “compliant,” while users on the ground encounter conditions materially different from what the nominal minimum flow would lead them to expect.</p> <p>The same point matters to habitat and aquatic conditions. Minimum instream flows are supposed to describe actual water left in the river, not merely an arithmetic average achieved over a twenty-four-hour period. If the river is depressed below the nominal minimum for significant periods and then later compensated by higher releases, that may satisfy an average-based accounting rule, but it does not mean the river had the claimed minimum flow continuously available to aquatic resources throughout the day. KRB does not need to show in these comments exactly how large those effects would be in every circumstance to make the basic point. The point is that a daily-average standard is categorically less protective than an actual floor, because averaging permits within-day dips that a true floor would forbid.</p> <p>This also matters for public transparency and compliance oversight. As discussed above, SCE proposes to base minimum instream flow compliance on 15-minute gage data aggregated to a daily average, while the Draft Stream Gaging Plan states only that public flow information will be provided “at a minimum hourly average flow.” DLA Draft Stream Gaging Plan, section 5.0, at 2; Draft Minimum Instream Flow Measure, section 1.2, at 1-2. So the public would not necessarily see the same temporal resolution that underlies SCE’s own compliance accounting. That makes it harder for the public to assess whether the river is actually being maintained at meaningful minimum conditions throughout the day, as opposed to merely achieving a compliant average by day’s end.</p> <p>KRB therefore submits that the Commission should not accept the current proposed compliance construct as sufficient. The better approach is an actual instantaneous minimum instream flow floor: the river should not be allowed to fall below the specified minimum at any time except under whatever narrow and expressly defined emergency or force-majeure exceptions the Commission finds appropriate. That is the clearest and most honest way to ensure that a “minimum instream flow” is in fact a minimum flow in the river, not simply a daily arithmetic result.</p> <p>If the Commission is not prepared to require a true instantaneous floor, it should at minimum require SCE to be explicit and consistent about what it is proposing. SCE should not describe the release system as “continuous” without equally clear acknowledgment that the proposed compliance standard is only a daily-average standard and does not guarantee at-or-above-threshold conditions at all times. And the public-flow dissemination system should be revised so that river users and the public can see the same practical compliance-relevant data stream on which SCE relies internally.</p> <p>In short, SCE’s proposed minimum instream flow standard is weaker than it sounds, weaker than river users would reasonably understand it to be, and weaker than the river deserves. The Commission should require an actual instantaneous minimum flow floor rather than allowing sub-daily dewatering to disappear inside a daily average. At a minimum, if FERC declines to impose an instantaneous floor, it should expressly acknowledge in the license record that SCE’s proposed standard permits within-day dips below the nominal minimum so long as the daily average is recovered.</p>	
KRB-35	<p><b>17. SCE’s Cumulative-Effects Discussion Simply Repeats Unsupported No-Effect Assumptions and Should Be Revised.</b></p> <p>SCE’s cumulative-effects discussion adds almost no independent analysis. Instead, it largely imports the same unsupported assumptions that already weaken the underlying recreation discussion and then presents the result as a cumulative-effects conclusion. That is not enough. A cumulative-effects analysis cannot be</p>	<p>Cumulative effects are defined as the incremental effect of the Project when added to other past, present, and reasonably foreseeable future actions. Accordingly, for this comment, the threshold question is whether the Project introduces a measurable incremental contribution to recreation effects. SCE’s analysis appropriately addresses this standard. As explained in Section 7.10, the Proposed Action reflects continued existing operations and does not change recreation access, flows, or facilities. Based on recreation studies and record evidence, no incremental Project-related recreation effects were identified. Given the absence of an incremental effect, it is appropriate—and consistent with NEPA practice—to conclude that the Project does not cumulatively contribute to recreation-related effects. The cumulative-effects section does not “assume away” the analysis but rather relies on the established analytical framework: where</p>

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	<p>sound if it merely repeats an inadequately supported no-effect premise from the project-level discussion and then uses that premise to declare the cumulative inquiry resolved.</p> <p>The DLA's cumulative-effects section is unusually explicit about this. In section 8.2.4, SCE states that section 7.10 "concludes that continued operation and maintenance of the Project would have no effect on recreation resources compared to the No-Action Alternative." It then reasons that, because section 7.10 reached that conclusion, "the Project would not cumulatively contribute to recreation-related effects in combination with other hydroelectric projects and activities in the Kern River Basin." DLA Ex. E at 8-9 to 8-10 (Dec. 2025). That is not really a cumulative-effects analysis at all. It is an incorporation by reference of the same disputed premise KRB has already challenged throughout these comments.</p> <p>That matters because section 7.10 is not a stable foundation on which to build a cumulative-effects conclusion. As discussed above, section 7.10 repeatedly overstates what the recreation record shows. It treats sparse or specialized use as though that established absence of project effect; it overgeneralizes the difficulty of bypass-reach boating by allowing the hardest downstream whitewater to define the whole; it uses parking and trail counts as though they proved broad access adequacy; it understates the practical role of flow quantity and flow information in suppressing Richbar use; and it draws categorical "no effect" and "no unavoidable adverse effect" conclusions from a recreation record that SCE itself described as incomplete or methodologically limited at the DLA stage. See, e.g., DLA Ex. E at 7.10-14 to 7.10-16; DLA Appendix E.2, at E.2-1 to E.2-2; REC-2 at 4; REC-3 at 7, 12-15, 21. If the underlying no-effect premise is weak, a cumulative-effects conclusion that merely repeats it is weak as well.</p> <p>The deficiency is not merely formal. Cumulative-effects analysis exists precisely because individual actions that may appear modest in isolation can still contribute to a broader pattern of degraded conditions when combined with other projects, diversions, access conditions, and basin-wide management constraints. Yet SCE's discussion effectively bypasses that inquiry. Rather than asking whether KR1 contributes, even in a limited way, to broader flow-related, access-related, or recreation-opportunity constraints in the lower Kern system, SCE says in substance: section 7.10 found no effect, therefore there can be no cumulative contribution. DLA Ex. E at 8-9 to 8-10. That reasoning assumes away the very issue cumulative analysis is supposed to address.</p> <p>This shortcut is especially problematic because SCE's own record documents a concrete project contribution to reduced boating opportunity. As discussed in Comment 10, the project removed 263 Richbar boating days over water years 2014 through 2024 compared to without-project conditions. REC-3 at 18-19. That is not a record of "no contribution" in any meaningful sense. SCE may dispute its significance, but it cannot convert it into a literal noncontribution.</p> <p>The same point applies more broadly to the project's role in the recreation setting. SCE's own recreation analysis identifies a mixed landscape of developed day-use areas, informal SR-178 access points, Project roads, Project trails, and flow-dependent river uses. DLA Ex. E at 7.10-14 to 7.10-15. Updated REC-2 results show that parking capacity at certain undeveloped SR-178 access points was exceeded on some survey days. REC-2 at 29-30, Table 5-9 and note. Even if those issues are not dramatic in isolation, they are exactly the kinds of conditions that should be assessed in cumulative terms: how project operations, access patterns, informal use concentration, and basin-wide recreation pressures combine over time. SCE does not really do that analysis. Instead, it rests on a generalized assurance that because section 7.10 found no project effect, there can be no cumulative contribution. DLA Ex. E at 8-9 to 8-10.</p> <p>As discussed in Comment 6, SCE's reliance on the no-action baseline does not establish that the project is not contributing to the existing recreation environment as part of the cumulative whole. A cumulative-effects inquiry is concerned with the total environmental picture, not just whether the new proposal adds an obvious increment beyond the current configuration.</p> <p>SCE's cumulative-effects treatment is also too thin because it does not meaningfully engage the specific mechanisms through which KR1 may contribute to broader recreation effects. It does not grapple with the project's contribution to lost or suppressed boating days under with-project hydrology. It does not grapple with the way project-related flow limitations interact with already episodic recreational opportunity. It does not grapple with the fact that practical use is also shaped by flow-information accessibility and by dispersed</p>	<p>there is no Project-level effect, there is no incremental contribution to cumulative effects. While cumulative recreation conditions in the basin may be influenced by other factors (e.g., regional use trends, non-Project actions, etc.), those conditions do not establish a Project-related cumulative impact absent a demonstrated nexus to Project operations. The commenter's arguments instead focus on disputing underlying study conclusions or asserting that existing conditions for facilities outside of SCE's management responsibility or ownership are inadequate. However, cumulative-effects analysis does not require the licensee to resolve all baseline conditions or regional trends; it requires an evaluation of whether the Project contributes to those conditions. The record does not demonstrate such a contribution.</p>

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	<p>access conditions along SR-178. And it does not grapple with the possibility that even a project proposing relatively few operational changes may still continue to contribute to an existing basin-wide pattern of constrained river recreation opportunity. Those are all cumulative questions in the ordinary sense of the word. SCE bypasses them.</p> <p>KRB's point here is not that SCE or the Commission must find severe cumulative recreation effects on the present record. The point is that SCE has not done the work necessary to support its confident no-contribution conclusion. A legally and analytically sufficient cumulative-effects discussion must do more than say that the project-level section found no effect and therefore the cumulative answer is also no effect. Where the project-level analysis itself is disputed, qualified, methodologically thin, or internally overbroad, the cumulative-effects section must stand on its own reasoning. SCE's does not.</p> <p>SCE should therefore revise section 8.2.4 so that it no longer relies solely on the project-level "no effect" conclusion from section 7.10. At a minimum, SCE should be required to identify the actual pathways by which KR1 may contribute, or may be alleged to contribute, to broader recreation-related effects in the Kern River Basin, and then explain why those pathways do or do not amount to a meaningful cumulative contribution. If SCE wishes to maintain a no-cumulative-contribution conclusion, it should be required to defend that conclusion directly, not merely inherit it from the same unsupported assumptions already embedded in the underlying recreation section. Without that revision, the cumulative-effects section will remain what it currently is: not a genuine cumulative analysis, but a thin restatement of the same contested no-effect premise KRB has already shown to be overbroad.</p> <p>SCE should revise section 8.2.4 so that it no longer relies solely on the project-level "no effect" conclusion from section 7.10. At a minimum, SCE should identify the actual pathways by which KR1 may contribute, or may be alleged to contribute, to broader recreation-related effects in the Kern River Basin, and then explain why those pathways do or do not amount to a meaningful cumulative contribution. If SCE wishes to maintain a no-cumulative-contribution conclusion, it should defend that conclusion directly, not merely inherit it from the same unsupported assumptions already embedded in the underlying recreation section.</p>	
KRB-36	<p><b>18. SCE's Dismissal of Project Retirement in Section 6 Is Premature in The Absence of Any Economic Record.</b></p> <p>Section 6.1.3 of the DLA dismisses project retirement in two sentences: "Southern California Edison is not proposing to decommission the Project, and the record to date does not demonstrate any serious resource concerns that cannot be mitigated if the Project is relicensed. As such, there is no reason to include decommissioning as a reasonable alternative to be evaluated and studied." DLA Ex. E § 6.1.3, at 6-1.</p> <p>That determination is premature for a reason the DLA itself makes plain. Section 9.0, Developmental Analysis — the section that would contain the economic analysis of project operation, including cost, power value, and net benefit — is expressly identified as "a placeholder in the DLA" that "will be updated as part of the Final License Application." DLA Ex. E § 1.0, at 1-2. The DLA therefore contains no cost-benefit analysis, no generation revenue data, no assessment of the project's net economic value, and no basis for evaluating whether the project's developmental benefits justify its environmental costs.</p> <p>The assertion that "resource concerns" can be "mitigated if the Project is relicensed" is a conclusion that depends on the cost and feasibility of mitigation relative to the project's economic value. That evaluation cannot be performed without the developmental analysis. A project whose annual generation revenue substantially exceeds the cost of effective mitigation presents a different policy question than a project that operates at or near a net loss. SCE's Section 6 conclusion assumes the answer to a question the DLA does not yet contain the data to ask.</p> <p>KRB does not in these comments advocate for decommissioning of the KR1 Project. KRB identifies a sequencing problem: SCE dismissed project retirement as an alternative before filing the economic analysis that would inform whether that dismissal is justified. The FLA should revisit Section 6.1.3 once the Developmental Analysis is complete and should explain how the project's economic profile supports the conclusion that resource concerns can be adequately mitigated under a new license.</p>	<p>SCE disagrees that its determination to dismiss project retirement is premature. Under the FERC licensing framework, the applicant proposes a project for continued operation, and alternatives are evaluated to inform FERC's decision; however, the applicant is not required to propose or analyze decommissioning where it is not being pursued and where no substantial resource concerns have been identified that would warrant such consideration.</p> <p>As indicated in the DLA, Section 9, Developmental Analysis has been updated in the FLA. The developmental analysis evaluates the Project's costs, benefits, and economic performance and supports SCE's determination to pursue continued operation of the Project.</p>

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KRB-37	<p><b>19. SCE’s Draft License Application Gives Insufficient Weight to Recreation as a Beneficial Public Use in Relicensing and Improperly Treats Status-Quo Continuation as Enough.</b></p> <p>SCE’s recreation discussion repeatedly suggests that because the Proposed Action largely continues existing operations, and because observed recreation use is often modest or specialized, the relicensing analysis is effectively over. That is the wrong frame. A relicensing proceeding is not merely a check on whether the applicant proposes dramatic new impacts beyond the existing configuration. It is a forward-looking federal licensing decision governed by the Federal Power Act, and it requires an actual judgment whether the project as proposed for a new license term is “best adapted to a comprehensive plan” for the relevant waterway and for “other beneficial public uses, including recreational purposes.” 16 U.S.C. § 803(a)(1). SCE’s DLA repeatedly falls short of that standard by collapsing relicensing adequacy into status-quo continuation.</p> <p>SCE acknowledges as much in its own filing requirements discussion. In Exhibit H, SCE states that where “no modifications to the project facilities or operations are proposed,” the applicant must still provide “at least a reconnaissance-level study to show that the project facilities or operations in conjunction with other developments in the area would conform with a comprehensive plan for improving or developing the waterway and for other beneficial public uses as defined in Section 10(a)(1) of the Federal Power Act.” DLA Ex. H, at H-3. SCE then asserts that the Project “would conform with a comprehensive plan for improving or developing the waterway and for other beneficial public uses as defined in Federal Power Act section 10(a)(1).” Id. at H-12. That is an important claim. But the DLA’s recreation analysis does not do the work necessary to support it. Instead, SCE repeatedly reasons that because it is not proposing major operational changes, because current use appears modest at some sites, and because some user classes are specialized, existing conditions are sufficient and relicensing raises no meaningful recreation issue. That is not the same as showing the Project is best adapted to beneficial public uses for a new license term.</p> <p>The point is especially important because SCE’s own Application section says the company is seeking “a new license” to “continue operation and maintenance of the Project,” and that it “proposes to operate the Project in a manner consistent with the current license while incorporating ongoing, updated, and new environmental measures.” DLA Ex. E at 2-1. That formulation may describe SCE’s proposal, but it does not answer the Commission’s task. The question is not whether SCE would prefer to continue largely as before. The question is whether carrying those conditions forward under a new federal license is best adapted to recreation and other public values. Where the applicant is asking for a new term extending far into the future, the Commission cannot lawfully treat “same as current” as a substitute for that statutory judgment.</p> <p>The defects identified in Comments 8 through 17 illustrate the problem. Across whitewater analysis, access assessment, flow dissemination, and methodology, the DLA repeatedly converts thin or qualified evidence into broad adequacy conclusions. Those are all examples of the same larger mistake: SCE analyzes relicensing as though the burden were merely to show that current conditions are not obviously disastrous. That is not the governing standard under Section 10(a).</p> <p>This matters because recreation is not a minor afterthought in the Federal Power Act. Section 10(a)(1) expressly includes “recreational purposes” among the beneficial public uses for which a project must be best adapted. 16 U.S.C. § 803(a)(1). Section 4(e) and Section 10(j) likewise require federal land-management and fish-and-wildlife concerns to be addressed through license conditions and recommendations. See 16 U.S.C. §§ 797(e), 803(j). SCE itself summarizes those authorities in Exhibit E, noting that FERC will solicit Section 4(e) conditions from the Forest Service and Section 10(j) recommendations from fish-and-wildlife agencies after the Final License Application is filed. DLA Ex. E at 4-1 to 4-2. In that statutory setting, the applicant cannot lawfully minimize recreation simply because the relevant use is not mass-market or because the applicant proposes little change from current practice.</p> <p>The point is reinforced by the quantitative record. As discussed in Comment 10, SCE’s own boatable-day analysis documents 263 fewer Richbar boating days under with-project conditions compared to without-project hydrology. REC-3 at 18–19. A record showing materially fewer boating days under with-project conditions cannot fairly be treated as though relicensing presents no meaningful recreation issue.</p>	<p>Refer to prior responses to comments including USFS-10, -13, and -16, and to KGTC-5, -8, -11, and -26; KRB-20, KRB-22, -23, and -25.</p>

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	<p>The same is true of access and transparency. SCE's own record shows that dispersed SR-178 access points matter, that some such points exceeded estimated parking capacity on some survey days, that trail and facility-use methods were limited, and that public flow information is a practical condition of use for Richbar and related whitewater opportunities. REC-2 at 29-30, Table 5-9 and note; DLA Draft Stream Gaging Plan, section 5.0, at 2-3; REC-3 at 14-15. Those are all ordinary relicensing subjects. They bear on whether the next license should simply perpetuate current conditions or should include stronger recreation-facing measures. SCE's recurrent move is to treat them as too small, too niche, or too status-quo-bound to matter. That move is inconsistent with the Commission's duty to give recreation full weight as a beneficial public use.</p> <p>KRB's point is therefore straightforward. SCE may argue that, in its view, existing project operations and proposed measures are adequate. But it cannot use continuity alone as the answer. It cannot act as though the relicensing question is exhausted once it says the Proposed Action is largely similar to the current license. And it cannot reduce a real recreation resource to insignificance simply because that resource is specialized, episodic, or underused under current constraints. The Commission should evaluate recreation here as Congress required: as a beneficial public use that must be affirmatively considered in deciding whether the new license is best adapted to the waterway and the public interest.</p> <p>For the reasons stated in Comment 6 and throughout these comments, SCE should distinguish clearly in the FLA between the claim that the Proposed Action involves limited operational change and the separate claim that the Project is best adapted to beneficial public uses for a new license term.</p>	
KRB-38	<p><b>Conclusion</b></p> <p>Each of the foregoing comments identifies specific deficiencies in the DLA and requests that SCE address them in the Final License Application. KRB does not request new studies. KRB requests that SCE reconcile its effects conclusions with the record evidence its own studies produced, narrow categorical determinations that outrun the supporting data, and revise proposed measures where the record does not support the adequacy SCE claims. If SCE does not address these deficiencies in the FLA, KRB respectfully requests that the Commission treat the issues identified in these comments as unresolved and evaluate the FLA accordingly.</p>	Refer to prior responses to KRB comments.

## **STAKEHOLDER COMMENT LETTERS**



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## State Water Resources Control Board

March 19, 2026

Mr. Wayne Allen  
Southern California Edison Company  
1515 Walnut Grove Avenue  
Rosemead, CA 91770  
**Sent via email: [Wayne.Allen@sce.com](mailto:Wayne.Allen@sce.com)**

Ms. Debbie-Ann Reese, Secretary  
Federal Energy Regulatory Commission  
**Via e-filing to FERC Project Docket**

**Kern River No. 1 Hydroelectric Project  
Federal Energy Regulatory Commission Project No. 1930  
Kern County  
Kern River**

### **COMMENTS ON DRAFT LICENSE APPLICATION**

Dear Mr. Wayne Allen and Secretary Reese:

Southern California Edison Company (SCE) owns and operates the Kern River No.1 Hydroelectric Project (Project), also referred to as Federal Energy Regulatory Commission (FERC) Project No. 1930. As part of Project relicensing, on December 18, 2025, SCE filed its Draft License Application (DLA) with FERC and interested parties for a 90-day comment period.

State Water Board staff have reviewed the Project DLA and hereby submit the enclosed comments. The comments are provided in *Attachment A: State Water Board Staff Comments on Draft License Application for Kern River No. 1 Hydroelectric Project*.

If you have questions related to this letter, please contact James Noss, Project Manager, by phone to: 916-327-3117 or email to: [James.Noss@waterboards.ca.gov](mailto:James.Noss@waterboards.ca.gov). Written correspondence should be directed to:

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E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

State Water Resources Control Board  
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Water Quality Certification Program  
Attn: James Noss  
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Sacramento, CA 95812

Sincerely,



James Noss  
Environmental Scientist  
Water Quality Certification Program  
Division of Water Rights

Attachment:

A – State Water Board Staff Comments on Draft License Application for Kern  
River No.1 Hydroelectric Project

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- 3 -

March 19, 2026

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## ATTACHMENT A

### STATE WATER BOARD STAFF COMMENTS ON THE DRAFT LICENSE APPLICATION FOR KERN RIVER NO. 1 HYDROELECTRIC PROJECT

The following comments are provided by State Water Resources Control Board (State Water Board) staff on Southern California Edison Company's (SCE) Draft License Application (DLA) for relicensing of the Kern River No. 1 Hydroelectric Project (Project) also referred to as Federal Energy Regulatory Commission (FERC) Project No. 1930.

1. Compliance with the California Environmental Quality Act (CEQA) is required as part of the water quality certification (certification) process. CEQA requires the lead agency to evaluate a project's potential impacts to environmental resources as well as identify mitigation measures and alternatives to reduce project impacts. CEQA also requires public input on identified impacts and mitigation measures. CEQA documentation must analyze and evaluate the Project's impacts to all relevant resources, including aquatic biological resources, special status species, and water quality. Information from studies and data gathering during FERC relicensing informs CEQA document development.

CEQA Guidelines define the lead agency as "the public agency which has the principal responsibility for carrying out or approving a project." (Cal. Code Regs., tit. 14, § 15367.) The State Water Board is the public agency with the responsibility of issuing a certification for the Project's license and will act as the CEQA lead agency. As the CEQA lead agency, the State Water Board plans to commence the CEQA process prior to SCE submitting a certification application and will work with SCE on a three-party CEQA Memorandum of Understanding.

2. Section 401 of the Clean Water Act requires any applicant for a federal license or permit for an activity that may result in any discharge to navigable waters to obtain certification from the State that the activity will comply with the applicable water quality requirements, including the requirements of section 303 of the Clean Water Act for water quality standards and implementation plans. Clean Water Act section 401 directs that certifications shall prescribe effluent limitations and other conditions necessary to ensure compliance with the Clean Water Act and with any other appropriate requirements of state law. Conditions of certification shall become a condition of any federal license or permit for a project subject to certification. Licensing of the Project will result in a discharge to navigable waters and SCE must obtain certification from the State Water Board as part of FERC licensing for Project's construction and operations. The State Water Board is the state agency responsible for issuing certification for hydropower projects in California.

A certification issued by the State Water Board for Project licensing must ensure compliance with the applicable regional and state water quality control plans. Water quality control plans designate the beneficial uses of water that are to be protected, water quality objectives for the reasonable protection of the beneficial uses and the prevention of nuisance, and a program of implementation to

achieve the water quality objectives. The beneficial uses, together with the water quality objectives contained in the water quality control plans, and applicable antidegradation requirements, constitute California's water quality standards for purposes of the Clean Water Act. In issuing a certification for a project, the State Water Board must ensure consistency with the designated beneficial uses of waters affected by the project, the water quality objectives developed to protect those uses, and antidegradation requirements.

The Project facilities are located on the Kern River above Kern 1 Powerhouse and below the Borel Hydroelectric Project, downstream of Lake Isabella. The Water Control Plan for the Tulare Lake Basin (The Tulare Lake Basin Plan) sets forth water quality standards for waterbodies in the region, including Project-related waters of the Kern River. Beneficial uses established by the Tulare Lake Basin Plan for Project waters relevant to water quality include: hydropower generation; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; wildlife habitat; and rare, threatened, or endangered species habitat. In addition to beneficial uses, the Tulare Lake Basin Plan includes narrative and numeric surface water quality objectives that aim to preserve and protect the beneficial uses listed above.

The State Water Board must ensure that any project is consistent with the Statement of Policy with Respect to Maintaining High Quality Waters in California (Antidegradation Policy). The Antidegradation Policy requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably impact present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. The state Antidegradation Policy incorporates the federal Antidegradation Policy, which requires "[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."

3. Separately from the relicensing process, on June 5, 2025 the State Water Board issued a water quality certification for the Sediment Management Practices at Democrat Dam for the Kern River No. 1 Hydroelectric Project (Sediment Management Practices). The Sediment Management Practices certification includes the following language:

"The sediment management practices covered by [the Sediment Management certification] should be part of the relicensing of the Hydroelectric Project, which will require a separate certification action by the State Water Board. To the extent the new license for the Hydroelectric

Project includes certification conditions that cover sediment management practices at Democrat Dam, such conditions shall supersede the conditions of this certification.”

The Draft Sediment Management Plan includes sediment management practices substantially similar to those included in the Sediment Management Practices certification, including monitoring, reporting, time-of-year and flow rate restrictions, and the actual sediment management practices themselves. Any certification conditions for the Project that cover sediment management practices at Democrat Dam, including those described in the Draft Sediment Management Plan, that conflict with those in the Sediment Management Practices certification would supersede conflicted relevant conditions of the Sediment Management Practices certification.

ORIGINAL

*Kern River Fly Fishers*  
*Bakersfield, California*

FILED  
SECRETARY OF THE  
COMMISSION

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FEDERAL ENERGY  
REGULATORY COMMISSION

February 2026

**Secretary**

Federal Energy Regulatory Commission

888 First Street, N.E.

Washington, D.C. 20426

**Re: Comments on the Draft License Application for the Kern River No. 1 Hydroelectric Project (FERC Project No. 1930) — Fisheries, Instream Flows, Water Quality, Angler Access, and Study Adequacy**

Dear Secretary and Members of the Commission:

The Kern River Fly Fishers submit these comments on Southern California Edison's (SCE's) Draft License Application (DLA) for the Kern River No. 1 Hydroelectric Project (KR1, FERC Project No. 1930). Our organization represents anglers who fish the lower Kern River Canyon between Democrat Dam and the KR1 Powerhouse — the 10.2-mile bypass reach where project operations divert the majority of river flow for commercial power generation. We write to identify critical deficiencies in SCE's fisheries studies, to challenge SCE's proposed minimum flows as inadequate and scientifically unsupported, and to urge the Commission to require meaningful ecological flow improvements as a condition of any new license.

The lower Kern River is a stocked and wild fishery that serves a majority-Latino, lower-income urban community for whom this canyon is among the closest accessible public fishing water in California. The project reach runs through Sequoia National Forest along the state-eligible Wild and Scenic River corridor. Committing this fishery to another 40–50 years of the same impoverished minimum flows, on the basis of a study record that lacks bypass reach fish data and relies on only one year of temperature and DO analysis, is not consistent with FERC's equal consideration mandate under Section 10(a)(1) of the Federal Power Act.

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## **I. SCE's Fisheries Studies Are Fundamentally Incomplete and Should Not Support a Final License**

### **A. The Bypass Reach — The Only Reach That Matters for Fisheries — Has Never Been Sampled**

SCE's AQ 3 – Fish Population Interim Technical Memorandum (December 2025) acknowledges that the bypass reach fish population study was not completed in 2024 because “flows in the Kern River were too high in 2024 to safely sample.” SCE plans to conduct this sampling in fall 2025, with results due in March 2026.

This means the DLA before the Commission contains no fish population data from the 10.2-mile bypass reach where project operations occur. The impoundment sampling that was completed measures conditions in a small, warm-water reservoir behind Democrat Dam — a stagnant pond environment fundamentally unlike the bypass reach river channel. It is not a valid proxy for bypass reach conditions.

**FERC should not issue a final license based on this incomplete record.** The Commission should require that bypass reach fish population sampling be fully completed and analyzed, that the complete AQ 2 – Water Quality/Water Temperature Technical Memorandum be filed including the species temperature requirement analysis (not available until March 2026), and that a meaningful comment period follow those filings, before any final license is considered.

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Even setting aside the missing bypass reach data, SCE's fish population study is designed in a way that virtually guarantees it will document low fish abundance. The FPMP specifies that bypass reach sampling will occur “during non-spill, minimum flow conditions (approximately 25 cfs or less).”

This design choice embeds the problem directly into the methodology. At 15–25 cfs, the bypass reach is a series of isolated pools with minimal connectivity, high temperatures, and degraded oxygen conditions. Any fish documented under those conditions represent the rump population that has survived — not the population that would exist under ecologically adequate flows. SCE will then use this low-flow population count as the baseline for evaluating whether the current minimum flows are “adequate” for fish. This is circular reasoning: sample the fish during the conditions you are proposing to continue, find low numbers, and conclude the low numbers are the natural state of the fishery.

A genuinely informative study would sample at multiple flow levels — including under higher flows during pulse events or spills — and compare fish abundance, distribution, and condition across flow regimes. No such comparison is proposed or required under SCE's study plan.

### **C. The Historical Data Shows a Declining Fishery That SCE Does Not Explain**

SCE's AQ 3 comparison of impoundment sampling data from 1994, 1995, and 2024 reveals a troubling shift in species composition that SCE does not address. Species present in 1994/1995 but absent in 2024 include: smallmouth bass, white crappie, hitch (*Lavinia exilicauda*), mosquitofish, Sacramento pikeminnow, and stocked rainbow trout. The 1999–2008 SCE smallmouth bass study — the primary post-license compliance fisheries effort — was designed around smallmouth bass. No smallmouth bass were captured in the 2024 sampling.

SCE does not offer any explanation for these disappearances in its DLA. The record, however, provides one — and it is damning not because it describes a single accident, but because it describes a pattern of repeated, unmitigated harm.

In 2001, SCE released an estimated 272,000 cubic yards of accumulated silt from behind Democrat Dam into the bypass reach below. By contemporaneous accounts, the release smothered the river — filling in the deep pools that smallmouth bass depend on for thermal refuge and cover, and blanketing the substrate that supports the macroinvertebrate community that feeds the entire food web. SCE's own consultant acknowledged the sediment mass was so large it took approximately seven years to move through the river channel. Following the 2001 event, SCE was required to adopt a sediment management plan. That plan, however, did not require SCE to haul sediment away from the river — it permitted continued in-river dumping of 3,000 to 20,000 cubic yards at a time. SCE exercised that permission in 2007, 2009, 2011, 2012, and 2013. Each event set back a fishery that was slowly recovering from the previous one.

The 2013 event was documented by The Bakersfield Californian, which published photographs showing a thick shelf of silt clinging to boulders two feet above receding flows. Writing in the Californian at that time, longtime Kern River angler Gary Bray — who had fished the river for sixty years — described what he witnessed: the spawning gravel needed by bass was buried in mud; the invertebrate habitat that supports the food web was eliminated; and the fishery that had just begun recovering from the previous dump was destroyed again. “This most recent insult to the Kern will take years for the fishery to recover,” Bray wrote, “just in time for the next destructive dumping that will surely occur in a few years.” He was right. A local angler photographed visible sediment deposits throughout the canyon as late as May 2013, a dozen years after the 2001 flush, and the 2024 fish survey found zero smallmouth bass. Brett Duxbury of Kern River Boaters, who has commented extensively on both the KR1 and KR3 relicensings, has urged FERC to require SCE to “haul their sediment away, provide radically increased minimum flows, and order Edison to reestablish a viable fishery.” That demand is precisely calibrated to the two-decade pattern of harm documented above. The most parsimonious explanation for why SCE's 2024 sampling found zero smallmouth bass where the 1995 sampling found a functioning population is that SCE repeatedly destroyed that population through its sediment management practices, and the new license should require restoration — not just continued monitoring of the damage.

The 2024 impoundment data itself shows that native hardhead minnow — a CDFW Species of Special Concern and Forest Service Sensitive Species — was captured at a rate of only 0.4 fish per mile, the lowest of any species except channel catfish. One of the two hardhead captured presented with an unidentified wound or infection. The hardhead population in the KR1 project area is under stress. SCE's response is to propose continued operation under the same conditions.

#### **D. Lake Isabella Is a Shared Cause — Project Operations Remain a Separate, Mitigable Impact**

The Commission will likely hear SCE argue, as it does in the DLA, that flows in the bypass reach are substantially influenced by operations at Lake Isabella, which is managed by the U.S. Army Corps of Engineers for flood control and irrigation supply. That is partially true: in dry years or during irrigation-season storage, Isabella releases may be low enough that project inflow falls at or below the minimum flow requirements, meaning SCE is effectively passing everything through and the project itself is not the limiting factor. In those conditions, Isabella's management shares responsibility for low flows in the canyon.

This partial concession does not diminish SCE's separate obligation to the fishery — it clarifies it. In the many years when inflow to Democrat Dam exceeds 412 cfs (the project's diversion capacity, per Exhibit E), SCE is actively intercepting water that would otherwise flow through the bypass reach. SCE's own flow data show mean annual inflow to the project ranging from over 1,000 cfs to more than 10,000 cfs in wet years. In those conditions, the 412-cfs diversion cap is binding, and the gap between what flows naturally and what SCE releases to the bypass reach is the project's direct and measurable impact. Every cfs diverted above the minimum is a project impact on the fishery, and it is an impact that is well within SCE's operational control to mitigate through higher minimum flow requirements.

The appropriate framework is this: in years of adequate inflow, SCE must be required to leave more water in the river as a condition of its license. In years of drought-reduced inflow where the project genuinely cannot control what reaches the bypass reach, other mechanisms — coordination with the Corps on Isabella releases, reservoir operations review, or supplemental ecological flow requirements — may be needed. But the Commission should not accept Isabella's background operations as a reason to excuse SCE from setting defensible, ecology-based minimums that apply whenever flow conditions allow. The fact that Isabella also affects the system does not reduce SCE's independent FERC obligation under Section 10(a)(1) to protect fish and wildlife at the project.

### **E. The Angler Use Methodology Cannot Count Most Anglers**

SCE's REC 2 Recreation Facility Use Assessment uses trail counter and paper survey box data to estimate angler use. This methodology fails to capture the primary mode of angler access in the KR1 bypass reach. Anglers primarily access the lower Kern River directly from Highway 178 pullouts, scrambling to the river at accessible points along the canyon wall. They do not, as a rule, enter via project access trails — the five trails SCE monitored.

SCE's own DLA acknowledges that "the primary recreational activity in the Project area is fishing" and that "most of the lower Kern River consists of stocked rainbow trout with wild populations of bass and brown trout." It also states that "angling access is scattered throughout the bypass reach." Yet SCE made no effort to count anglers at the scattered highway pullout access points where they actually appear. The resulting angler use data is methodologically incapable of supporting any conclusion about fishing demand in the bypass reach. FERC should discount it accordingly.

Furthermore, several of the most productive and accessible fishing pools in the bypass reach are blocked by SCE's locked gates and unauthorized "No Trespassing" signs — including the Penstock/Forebay area near the powerhouse. Any count of anglers who turned back at those signs measures nothing about actual fishing demand.

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## **II. The Proposed Minimum Flows Are Not Supported by Scientific Analysis and Are Inadequate for a Functional Fishery**

### **A. SCE Never Conducted a Flow-Fishery Relationship Analysis**

The minimum flows in the current license — 15 cfs in winter, 50 cfs in summer — were established in the 1998 license and are derived from pre-existing negotiated baselines, not from

a scientific analysis of what flows the bypass reach fishery actually requires. SCE's DLA does not include any analysis of the relationship between flow level and fish habitat quality, fish population abundance, or water temperature in the bypass reach. No habitat suitability modeling was performed. No Instream Flow Incremental Methodology (IFIM) analysis was conducted. No Physical Habitat Simulation (PHABSIM) was run.

SCE simply proposes to continue the existing flows and asserts, without analysis, that they provide "suitable" aquatic habitat. This is not an adequate scientific basis for a 40–50 year license commitment. The Commission's environmental review process is designed to evaluate whether proposed flows are ecologically justified, not merely whether they replicate the historical status quo.

### **B. The California Environmental Flows Framework Provides a More Defensible Standard**

Advocates in the ongoing KR3 relicensing process — including representatives of the Kern River Fly Fishers — applied the California Environmental Flows Framework (CEFF), a collaborative, science-based tool developed under a UC Davis-led statewide initiative, to develop minimum flow recommendations for the North Fork Kern River below Fairview Dam. The CEFF recommendations for that reach are 195 cfs in winter, 335 cfs in spring, and 230 cfs in late summer and fall. These recommendations have not been applied to the KR1 bypass reach. They should be, and SCE's failure to do so is a fundamental gap in the DLA's ecological analysis.

The lower Kern Canyon where KR1 operates is warmer, lower in elevation, and arguably more thermally challenged than the KR3 reach. The CEFF's upstream recommendations nonetheless provide a directly relevant benchmark. KR1's proposed 15 cfs winter minimum is 13 percent of the CEFF winter recommendation for the cooler upstream reach. Its 50 cfs summer minimum is 22 percent of the CEFF summer recommendation.

SCE has not applied the CEFF to the KR1 bypass reach. It has not commissioned any equivalent analysis. FERC should require it. A 40–50 year license should be grounded in the best available science on ecological flows, not in a 1998 negotiated number that has never been subjected to a flow-fishery relationship analysis.

### **C. The KR3 Flow Comparison: If 130 cfs Was Insufficient Upstream, 50 cfs Is Indefensible Downstream**

The KR3 project, SCE's Kernville-area hydroelectric facility on the North Fork Kern River, provides the most directly comparable benchmark for evaluating KR1's proposed minimum flows. KR3's current license (issued 1996) requires minimum flows of 40 cfs in winter and 100–130 cfs through the summer months — a product of the 1990s relicensing in which CDFW, the U.S. Forest Service, and the State Water Resources Control Board jointly agreed those flows were the minimum necessary to protect trout populations in the dewatered reach below Fairview Dam. That agreement was the floor, not the ceiling. Advocates in the current KR3 relicensing are arguing those minimums remain inadequate.

KR1's bypass reach is downstream of both KR3 and Lake Isabella. It sits at lower elevation, in a wider and more sun-exposed canyon, with substantially greater thermal loading. Yet KR1's

proposed summer minimum (50 cfs) is less than 40 percent of the minimum that the three lead resource agencies agreed was necessary at the cooler, higher-elevation KR3 reach thirty years ago. KR1's winter minimum of 15 cfs is less than 40 percent of KR3's winter minimum of 40 cfs — itself widely regarded as insufficient. If KR3's advocates and resource agencies are arguing that 130 cfs in summer is too low for the North Fork, the Commission should require a credible, evidence-based justification for how 50 cfs serves a lower, warmer, more degraded reach of the same river system. No such justification exists in the DLA. The Commission should require SCE to address this disparity with data, not assertion.

#### **D. Low Flows Cause the Very Conditions SCE Uses to Explain Away Low Fish Numbers**

SCE's studies find warm water temperatures (maximum 24.9°C), declining native fish populations, and absence of target game species. SCE attributes temperature patterns to "solar radiation and ambient atmospheric conditions" and does not connect them to flow levels. This framing is scientifically incomplete.

Basic limnological principles — acknowledged in SCE's own AQ 2 documentation — establish that water volume directly affects thermal buffering capacity. A stream running at 15 cfs in a wide, boulder-filled canyon under a summer sun will reach lethal temperatures faster and more consistently than the same channel running at 150 cfs. Lower flows also reduce the mixing and aeration that maintain dissolved oxygen, particularly in pools where fish congregate during low-water periods. SCE's AQ 2 Technical Memorandum itself states: "Increased water temperature reduces oxygen solubility while elevating metabolic oxygen demand. This causes lower oxygen concentrations that may be detrimental to some aquatic organisms."

SCE has created the conditions it then uses to explain why it has found few fish, and then proposes to perpetuate those conditions for another generation. FERC should not accept this circular logic. The appropriate scientific inquiry is: at what flow levels would the bypass reach support a functional trout and bass fishery given the thermal environment of the lower Kern Canyon? That question has never been asked, let alone answered.

#### **E. Pulse Flows Are Absent From Any Discussion**

SCE's DLA contains no proposal for periodic pulse flows — higher, short-duration releases that simulate natural hydrograph variation. Pulse flows serve multiple critical fishery functions: they flush fine sediment from spawning gravels, oxygenate isolated pools, cue spawning behavior, reconnect isolated habitat patches, maintain macroinvertebrate diversity (the food base for fish), and prevent the algal mats that bloom in warm, low-velocity conditions.

SCE's only high-flow operations are its sediment bypass procedures, which are designed for impoundment management, not ecological benefit, and which SCE explicitly limits to avoid "impacts on hardhead minnow spawning and rearing." In other words, even the high-flow events SCE does manage are constrained by fishery concerns, yet SCE proposes no analogous positive flows to support the fishery. A license condition requiring annual or seasonal pulse flows of 100–300 cfs timed to ecological cues would cost SCE minimal generation revenue and deliver substantial fishery benefit.

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### **III. Water Quality Findings Require Mitigation, Not Just Monitoring**

#### **A. Every Fish Sampled Exceeds Safe Methylmercury Thresholds**

SCE's AQ 2 methylmercury analysis found that all 29 sport fish sampled from the Democrat Dam Impoundment exceeded the California OEHHA Guidance Tissue Level of 0.08 mg/kg. Largemouth bass — the most popular sport fish in the impoundment — averaged 0.29 mg/kg, with the highest individual sample at 0.57 mg/kg. These concentrations are in the range that triggers mandatory consumption advisories in California.

Despite this finding, SCE proposes no mitigation. No consumption advisory is posted at any fishing access point on or adjacent to SCE project lands. The DLA contains no request for OEHHA evaluation or any public health notification. SCE acknowledges the finding and moves on.

The Commission should require, as a license condition, that SCE post clear fish consumption advisory signage at the Democrat Dam Impoundment fishing access area, at the Democrat Beach recreation site, and at other angler access points in the project area. The majority of anglers fishing this area are from the lower-income and Latino communities most likely to rely on their catch for food. They are entitled to know.

#### **B. The AQ 2 Study Is Incomplete and Cannot Support Conclusions About Temperature Impacts**

The AQ 2 – Water Quality/Water Temperature study is a two-year study, and only Year 1 (2024) data has been analyzed as of the DLA filing. SCE's own filing states that "Aquatic species water temperature requirements (from Moyle 2002) will be summarized in the final technical memo to be issued in March 2026."

FERC is therefore being asked to evaluate the adequacy of proposed minimum flows for protecting the fishery before the section of the water quality study that directly addresses fish temperature requirements has been completed. This is not an adequate basis for a license determination. The Commission should require the complete AQ 2 analysis, including the species temperature requirements assessment and the full two-year dataset, to be filed and subject to public comment before any final license action.

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### **IV. The Scenic and Recreational Context: Flowing Water Is the Fishery**

FERC should understand that the minimum flows SCE proposes are not just an abstraction about "habitat adequacy." They are the physical experience of the river. Every angler who has visited the lower Kern Canyon between October and May under the current license has seen the result of 15 cfs in a Sierra river channel: a boulder field punctuated by isolated, tepid puddles connected by a trickle. Fish cannot thrive in those conditions. Stocked trout placed in those pools in the fall die, move, or are caught quickly, and there is no self-sustaining population to take their place.

The Forest Service has identified the lower Kern River as an eligible Wild and Scenic River with outstanding remarkable values for scenery, recreation, wildlife, and fisheries. That designation means nothing if the project operating within that corridor is permitted to dewater it to 15 cfs for seven months of every year, indefinitely, with no analysis of whether higher flows are ecologically necessary and feasible.

The lower Kern Canyon is the closest National Forest to Bakersfield, California's ninth-largest city. It is the primary natural water resource accessible to a majority-Latino, lower-income community that depends on it for recreation, subsistence fishing, and connection to the natural world. A new license that perpetuates 1998 flow levels, based on an incomplete study record, without any flow-fishery analysis, and with no pulse flow provisions, fails this community and fails the river.

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## V. Requested License Conditions

The Kern River Fly Fishers respectfully request that FERC include the following conditions in any new license for the KR1 Hydroelectric Project:

**1. Complete Study Record Before Final License:** Require SCE to file complete AQ 3 bypass reach fish population data and the final AQ 2 species temperature requirements analysis before any final license determination, with a 60-day public comment period following those filings.

**2. Flow-Fishery Relationship Analysis:** Require SCE to commission an independent analysis of the flow-temperature-fishery relationship in the bypass reach using the California Environmental Flows Framework or equivalent methodology, and to propose revised minimum flows based on that analysis as part of its Final License Application.

**3. Increased Minimum Flows:** Require a substantial increase in minimum instream flows, with a target of at least 50–75 cfs from October 1 through May 31 and at least 100–150 cfs from June 1 through September 30, based on the results of the flow-fishery analysis. SCE's current winter minimum of 15 cfs is scientifically indefensible for a reach designated for cold and warm freshwater beneficial uses.

**4. Annual Pulse Flow Requirement:** Require SCE to provide at least two annual pulse flows of 100–300 cfs in the bypass reach, timed to ecological cues (e.g., late winter sediment flushing and late spring/early summer spawning cues), coordinated with CDFW and the Forest Service.

**5. Smallmouth Bass Fishery Assessment and Restoration Plan:** Require SCE to commission an independent assessment of the legacy impacts of SCE's serial sediment releases (2001, 2007, 2009, 2011, 2012, and 2013) on the KR1 bypass reach fishery, specifically addressing: (a) the extent to which pool and spawning gravel habitat was smothered and has or has not recovered; (b) the role of these repeated releases in the disappearance of smallmouth bass from the project reach; and (c) whether active restoration measures — including pool excavation, gravel augmentation, or assisted recolonization — are feasible and warranted. Based on that assessment, require SCE to develop and implement a Fishery

Restoration Plan as a condition of the new license, in consultation with CDFW and the Forest Service. The new license should also require SCE to haul accumulated sediment away from the Democrat Dam impoundment rather than flushing it downstream — the approach that would prevent recurrence of the pattern documented above. SCE was responsible for these releases and has operated under the resulting degraded conditions for the entirety of its current license without any restoration requirement. That omission should not carry forward into the next license term.

**6. Thermal Modeling:** Require SCE to model water temperatures in the bypass reach under a range of flow scenarios (50, 100, 150, 200, and 300 cfs) using a validated thermal model, and to report the results to FERC with recommendations for flow levels that would maintain temperatures below critical thermal thresholds for trout and other target species.

**7. Multi-Year Baseline Fisheries Monitoring:** Require multi-year (minimum 3-year) annual electrofishing surveys of the bypass reach, including both low-flow and higher-flow conditions, to establish a meaningful population baseline before any final flow decisions are made.

**8. Mercury Consumption Advisory Posting:** Require SCE to post California OEHHA-compliant fish consumption advisory signs at the Democrat Dam Impoundment, Democrat Beach, and all identified angler access points in the project area, based on the finding that all 29 sampled fish exceeded the methylmercury reference concentration.

**9. Angler Access Improvements:** Require SCE to designate and improve a minimum of three angler access points along Highway 178 in the bypass reach, with adequate parking turnouts, stream access paths, and posted information about the fishery. Current access is inadequate and dispersed, and SCE's angler use methodology cannot validly count fishing demand under these conditions.

**10. Hardhead Minnow Habitat Protection:** Require SCE to formally assess hardhead minnow population status in the bypass reach (not just the impoundment) and to incorporate hardhead habitat requirements into any flow determination, given the species' status as a CDFW Species of Special Concern and Forest Service Sensitive Species.

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## VI. Conclusion

The lower Kern River in the KR1 project reach is a degraded fishery operating under flows that were set in 1998, have never been validated by a flow-fishery relationship analysis, and are now proposed to continue for another 40–50 years on the basis of a study record that lacks bypass reach fish data and is incomplete in its water quality and temperature analysis.

The Commission has an obligation under Section 10(a)(1) of the Federal Power Act to give equal consideration to recreation and fisheries alongside power generation. The evidence in the record — SCE's own evidence — shows a fishery in decline, water temperatures at or above thermal stress thresholds for trout, missing native species, and universal methylmercury contamination of sport fish. SCE's response to all of this is to propose no change.

Doing nothing differently is not good enough for another generation of anglers, another generation of children who deserve a river worth fishing in, or another generation of a community for whom this canyon is its most accessible piece of the natural world. We urge the Commission to require better.

Respectfully submitted,



Gary Bray

President

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Document Content(s)

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March 31, 2026

Before the Federal Energy Regulatory Commission

Southern California Edison

KR-1 Hydro project

Docket No. p-1930-090

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In 2001, SCE released an estimated 272,000 cubic yards of accumulated silt from behind Democrat Dam into the bypass reach below. By contemporaneous accounts, the release smothered the river — filling in the deep pools that smallmouth bass depend on for thermal refuge and cover, and blanketing the substrate that supports the macroinvertebrate community that feeds the entire food web. SCE’s own consultant acknowledged the sediment mass was so

large it took approximately seven years to move through the river channel. Following the 2001 event, SCE was required to adopt a sediment management plan. That plan, however, did not require SCE to haul sediment away from the river — it permitted continued in-river dumping of 3,000 to 20,000 cubic yards at a time. SCE exercised that permission in 2007, 2009, 2011, 2012, and 2013. Each event set back a fishery that was slowly recovering from the previous one.

The 2013 event was documented by The Bakersfield Californian, which published photographs showing a thick shelf of silt clinging to boulders two feet above receding flows. Writing in the Californian at that time, longtime Kern River angler Gary Bray — who had fished the river for sixty years — described what he witnessed: the spawning gravel needed by bass was buried in mud; the invertebrate habitat that supports the food web was eliminated; and the fishery that had just begun recovering from the previous dump was destroyed again. “This most recent insult to the Kern will take years for the fishery to recover,” Bray wrote, “just in time for the next destructive dumping that will surely occur in a few years.” He was right. A local angler photographed visible sediment deposits throughout the canyon as late as May 2013, a dozen years after the 2001 flush, and the 2024 fish survey found zero smallmouth bass. Brett Duxbury of Kern River Boaters, who has commented extensively on both the KR1 and KR3 relicensings, has urged FERC to require SCE to “haul their sediment away, provide radically increased minimum flows, and order Edison to reestablish a viable fishery.” That demand is precisely calibrated to the two-decade pattern of harm documented above. The most parsimonious explanation for why SCE’s 2024 sampling found zero smallmouth bass where the 1995 sampling found a functioning population is that SCE repeatedly destroyed that population through its sediment management practices, and the new license should require restoration — not just continued monitoring of the damage.

The 2024 impoundment data itself shows that native hardhead minnow — a CDFW Species of Special Concern and Forest Service Sensitive Species — was captured at a rate of only 0.4 fish per mile, the lowest of any species except channel catfish. One of the two hardhead captured presented with an unidentified wound or infection. The hardhead population in the KR1 project area is under stress. SCE’s response is to propose continued operation under the same conditions.

#### **D. Lake Isabella Is a Shared Cause — Project Operations Remain a Separate, Mitigable Impact**

The Commission will likely hear SCE argue, as it does in the DLA, that flows in the bypass reach are substantially influenced by operations at Lake Isabella, which is managed by the U.S. Army Corps of Engineers for flood control and irrigation supply. That is partially true: in dry years or during irrigation-season storage, Isabella releases may be low enough that project inflow falls at or below the minimum flow requirements, meaning SCE is effectively passing everything through and the project itself is not the limiting factor. In those conditions, Isabella’s management shares responsibility for low flows in the canyon.

This partial concession does not diminish SCE’s separate obligation to the fishery — it clarifies it. In the many years when inflow to Democrat Dam exceeds 412 cfs (the project’s diversion capacity, per Exhibit E), SCE is actively intercepting water that would otherwise flow through the bypass reach. SCE’s own flow data show mean annual inflow to the project ranging from over 1,000 cfs to more than 10,000 cfs in wet years. In those conditions, the 412-cfs diversion cap is binding, and the gap between what flows naturally and what SCE releases to the bypass reach is the project’s direct and measurable impact. Every cfs diverted above the minimum is a project

impact on the fishery, and it is an impact that is well within SCE's operational control to mitigate through higher minimum flow requirements.

The appropriate framework is this: in years of adequate inflow, SCE must be required to leave more water in the river as a condition of its license. In years of drought-reduced inflow where the project genuinely cannot control what reaches the bypass reach, other mechanisms — coordination with the Corps on Isabella releases, reservoir operations review, or supplemental ecological flow requirements — may be needed. But the Commission should not accept Isabella's background operations as a reason to excuse SCE from setting defensible, ecology-based minimums that apply whenever flow conditions allow. The fact that Isabella also affects the system does not reduce SCE's independent FERC obligation under Section 10(a)(1) to protect fish and wildlife at the project.

### **E. The Angler Use Methodology Cannot Count Most Anglers**

SCE's REC 2 Recreation Facility Use Assessment uses trail counter and paper survey box data to estimate angler use. This methodology fails to capture the primary mode of angler access in the KR1 bypass reach. Anglers primarily access the lower Kern River directly from Highway 178 pullouts, scrambling to the river at accessible points along the canyon wall. They do not, as a rule, enter via project access trails — the five trails SCE monitored.

SCE's own DLA acknowledges that "the primary recreational activity in the Project area is fishing" and that "most of the lower Kern River consists of stocked rainbow trout with wild populations of bass and brown trout." It also states that "angling access is scattered throughout the bypass reach." Yet SCE made no effort to count anglers at the scattered highway pullout access points where they actually appear. The resulting angler use data is methodologically incapable of supporting any conclusion about fishing demand in the bypass reach. FERC should discount it accordingly.

Furthermore, several of the most productive and accessible fishing pools in the bypass reach are blocked by SCE's locked gates and unauthorized "No Trespassing" signs — including the Penstock/Forebay area near the powerhouse. Any count of anglers who turned back at those signs measures nothing about actual fishing demand.

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## **II. The Proposed Minimum Flows Are Not Supported by Scientific Analysis and Are Inadequate for a Functional Fishery**

### **A. SCE Never Conducted a Flow-Fishery Relationship Analysis**

The minimum flows in the current license — 15 cfs in winter, 50 cfs in summer — were established in the 1998 license and are derived from pre-existing negotiated baselines, not from a scientific analysis of what flows the bypass reach fishery actually requires. SCE's DLA does not include any analysis of the relationship between flow level and fish habitat quality, fish population abundance, or water temperature in the bypass reach. No habitat suitability modeling was performed. No Instream Flow Incremental Methodology (IFIM) analysis was conducted. No Physical Habitat Simulation (PHABSIM) was run.

SCE simply proposes to continue the existing flows and asserts, without analysis, that they provide “suitable” aquatic habitat. This is not an adequate scientific basis for a 40–50 year license commitment. The Commission’s environmental review process is designed to evaluate whether proposed flows are ecologically justified, not merely whether they replicate the historical status quo.

## **B. The California Environmental Flows Framework Provides a More Defensible Standard**

Advocates in the ongoing KR3 relicensing process — including representatives of the Kern River Fly Fishers — applied the California Environmental Flows Framework (CEFF), a collaborative, science-based tool developed under a UC Davis-led statewide initiative, to develop minimum flow recommendations for the North Fork Kern River below Fairview Dam. The CEFF recommendations for that reach are 195 cfs in winter, 335 cfs in spring, and 230 cfs in late summer and fall. These recommendations have not been applied to the KR1 bypass reach. They should be, and SCE’s failure to do so is a fundamental gap in the DLA’s ecological analysis.

The lower Kern Canyon where KR1 operates is warmer, lower in elevation, and arguably more thermally challenged than the KR3 reach. The CEFF’s upstream recommendations nonetheless provide a directly relevant benchmark. KR1’s proposed 15 cfs winter minimum is 13 percent of the CEFF winter recommendation for the cooler upstream reach. Its 50 cfs summer minimum is 22 percent of the CEFF summer recommendation.

SCE has not applied the CEFF to the KR1 bypass reach. It has not commissioned any equivalent analysis. FERC should require it. A 40–50 year license should be grounded in the best available science on ecological flows, not in a 1998 negotiated number that has never been subjected to a flow-fishery relationship analysis.

## **C. The KR3 Flow Comparison: If 130 cfs Was Insufficient Upstream, 50 cfs Is Indefensible Downstream**

The KR3 project, SCE’s Kernville-area hydroelectric facility on the North Fork Kern River, provides the most directly comparable benchmark for evaluating KR1’s proposed minimum flows. KR3’s current license (issued 1996) requires minimum flows of 40 cfs in winter and 100–130 cfs through the summer months — a product of the 1990s relicensing in which CDFW, the U.S. Forest Service, and the State Water Resources Control Board jointly agreed those flows were the minimum necessary to protect trout populations in the dewatered reach below Fairview Dam. That agreement was the floor, not the ceiling. Advocates in the current KR3 relicensing are arguing those minimums remain inadequate.

KR1’s bypass reach is downstream of both KR3 and Lake Isabella. It sits at lower elevation, in a wider and more sun-exposed canyon, with substantially greater thermal loading. Yet KR1’s proposed summer minimum (50 cfs) is less than 40 percent of the minimum that the three lead resource agencies agreed was necessary at the cooler, higher-elevation KR3 reach thirty years ago. KR1’s winter minimum of 15 cfs is less than 40 percent of KR3’s winter minimum of 40 cfs — itself widely regarded as insufficient. If KR3’s advocates and resource agencies are arguing that 130 cfs in summer is too low for the North Fork, the Commission should require a credible, evidence-based justification for how 50 cfs serves a lower, warmer, more degraded reach of the

same river system. No such justification exists in the DLA. The Commission should require SCE to address this disparity with data, not assertion.

#### **D. Low Flows Cause the Very Conditions SCE Uses to Explain Away Low Fish Numbers**

SCE's studies find warm water temperatures (maximum 24.9°C), declining native fish populations, and absence of target game species. SCE attributes temperature patterns to "solar radiation and ambient atmospheric conditions" and does not connect them to flow levels. This framing is scientifically incomplete.

Basic limnological principles — acknowledged in SCE's own AQ 2 documentation — establish that water volume directly affects thermal buffering capacity. A stream running at 15 cfs in a wide, boulder-filled canyon under a summer sun will reach lethal temperatures faster and more consistently than the same channel running at 150 cfs. Lower flows also reduce the mixing and aeration that maintain dissolved oxygen, particularly in pools where fish congregate during low-water periods. SCE's AQ 2 Technical Memorandum itself states: "Increased water temperature reduces oxygen solubility while elevating metabolic oxygen demand. This causes lower oxygen concentrations that may be detrimental to some aquatic organisms."

SCE has created the conditions it then uses to explain why it has found few fish, and then proposes to perpetuate those conditions for another generation. FERC should not accept this circular logic. The appropriate scientific inquiry is: at what flow levels would the bypass reach support a functional and bass fishery given the thermal environment of the lower Kern Canyon? That question has never been asked, let alone answered.

#### **E. Pulse Flows Are Absent From Any Discussion**

SCE's DLA contains no proposal for periodic pulse flows — higher, short-duration releases that simulate natural hydrograph variation. Pulse flows serve multiple critical fishery functions: they flush fine sediment from spawning gravels, oxygenate isolated pools, cue spawning behavior, reconnect isolated habitat patches, maintain macroinvertebrate diversity (the food base for fish), and prevent the algal mats that bloom in warm, low-velocity conditions.

SCE's only high-flow operations are its sediment bypass procedures, which are designed for impoundment management, not ecological benefit, and which SCE explicitly limits to avoid "impacts on hardhead minnow spawning and rearing." In other words, even the high-flow events SCE does manage are constrained by fishery concerns, yet SCE proposes no analogous positive flows to support the fishery. A license condition requiring annual or seasonal pulse flows of 100–300 cfs timed to ecological cues would cost SCE minimal generation revenue and deliver substantial fishery benefit.

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### **III. Water Quality Findings Require Mitigation, Not Just Monitoring**

#### **A. Every Fish Sampled Exceeds Safe Methylmercury Thresholds**

SCE's AQ 2 methylmercury analysis found that all 29 sport fish sampled from the Democrat Dam Impoundment exceeded the California OEHHA Guidance Tissue Level of 0.08 mg/kg. Largemouth bass — the most popular sport fish in the impoundment — averaged 0.29 mg/kg,

with the highest individual sample at 0.57 mg/kg. These concentrations are in the range that triggers mandatory consumption advisories in California.

Despite this finding, SCE proposes no mitigation. No consumption advisory is posted at any fishing access point on or adjacent to SCE project lands. The DLA contains no request for OEHHA evaluation or any public health notification. SCE acknowledges the finding and moves on.

The Commission should require, as a license condition, that SCE post clear fish consumption advisory signage at the Democrat Dam Impoundment fishing access area, at the Democrat Beach recreation site, and at other angler access points in the project area. The majority of anglers fishing this area are from the lower-income and Latino communities most likely to rely on their catch for food. They are entitled to know.

## **B. The AQ 2 Study Is Incomplete and Cannot Support Conclusions About Temperature Impacts**

The AQ 2 – Water Quality/Water Temperature study is a two-year study, and only Year 1 (2024) data has been analyzed as of the DLA filing. SCE’s own filing states that “Aquatic species water temperature requirements (from Moyle 2002) will be summarized in the final technical memo to be issued in March 2026.”

FERC is therefore being asked to evaluate the adequacy of proposed minimum flows for protecting the fishery before the section of the water quality study that directly addresses fish temperature requirements has been completed. This is not an adequate basis for a license determination. The Commission should require the complete AQ 2 analysis, including the species temperature requirements assessment and the full two-year dataset, to be filed and subject to public comment before any final license action.

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## **IV. The Scenic and Recreational Context: Flowing Water Is the Fishery**

FERC should understand that the minimum flows SCE proposes are not just an abstraction about “habitat adequacy.” They are the physical experience of the river. Every angler who has visited the lower Kern Canyon between October and May under the current license has seen the result of 15 cfs in a Sierra river channel: a boulder field punctuated by isolated, tepid puddles connected by a trickle. Fish cannot thrive in those conditions. Stocked trout placed in those pools in the fall die, move, or are caught quickly, and there is no self-sustaining population to take their place.

The Forest Service has identified the lower Kern River as an eligible Wild and Scenic River with outstanding remarkable values for scenery, recreation, wildlife, and fisheries. That designation means nothing if the project operating within that corridor is permitted to dewater it to 15 cfs for seven months of every year, indefinitely, with no analysis of whether higher flows are ecologically necessary and feasible.

The lower Kern Canyon is the closest National Forest to Bakersfield, California's ninth-largest city. It is the primary natural water resource accessible to a majority-Latino, lower-income community that depends on it for recreation, subsistence fishing, and connection to the natural world. A new license that perpetuates 1998 flow levels, based on an incomplete study record, without any flow-fishery analysis, and with no pulse flow provisions, fails this community and fails the river.

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## V. Requested License Conditions

The Kern River Fly Fishers respectfully request that FERC include the following conditions in any new license for the KR1 Hydroelectric Project:

**1. Complete Study Record Before Final License:** Require SCE to file complete AQ 3 bypass reach fish population data and the final AQ 2 species temperature requirements analysis before any final license determination, with a 60-day public comment period following those filings.

**2. Flow-Fishery Relationship Analysis:** Require SCE to commission an independent analysis of the flow-temperature-fishery relationship in the bypass reach using the California Environmental Flows Framework or equivalent methodology, and to propose revised minimum flows based on that analysis as part of its Final License Application.

**3. Increased Minimum Flows:** Require a substantial increase in minimum instream flows, with a target of at least 50–75 cfs from October 1 through May 31 and at least 100–150 cfs from June 1 through September 30, based on the results of the flow-fishery analysis. SCE's current winter minimum of 15 cfs is scientifically indefensible for a reach designated for cold and warm freshwater beneficial uses.

**4. Annual Pulse Flow Requirement:** Require SCE to provide at least two annual pulse flows of 100–300 cfs in the bypass reach, timed to ecological cues (e.g., late winter sediment flushing and late spring/early summer spawning cues), coordinated with CDFW and the Forest Service.

**5. Smallmouth Bass Fishery Assessment and Restoration Plan:** Require SCE to commission an independent assessment of the legacy impacts of SCE's serial sediment releases (2001, 2007, 2009, 2011, 2012, and 2013) on the KR1 bypass reach fishery, specifically addressing: (a) the extent to which pool and spawning gravel habitat was smothered and has or has not recovered; (b) the role of these repeated releases in the disappearance of smallmouth bass from the project reach; and (c) whether active restoration measures — including pool excavation, gravel augmentation, or assisted recolonization — are feasible and warranted. Based on that assessment, require SCE to develop and implement a Fishery Restoration Plan as a condition of the new license, in consultation with CDFW and the Forest Service. The new license should also require SCE to haul accumulated sediment away from the Democrat Dam impoundment rather than flushing it downstream — the approach that would prevent recurrence of the pattern documented above. SCE was responsible for these releases and has operated under the resulting degraded conditions for the entirety of its current license

without any restoration requirement. That omission should not carry forward into the next license term.

**6. Thermal Modeling:** Require SCE to model water temperatures in the bypass reach under a range of flow scenarios (50, 100, 150, 200, and 300 cfs) using a validated thermal model, and to report the results to FERC with recommendations for flow levels that would maintain temperatures below critical thermal thresholds for trout and other target species.

**7. Multi-Year Baseline Fisheries Monitoring:** Require multi-year (minimum 3-year) annual electrofishing surveys of the bypass reach, including both low-flow and higher-flow conditions, to establish a meaningful population baseline before any final flow decisions are made.

**8. Mercury Consumption Advisory Posting:** Require SCE to post California OEHHA-compliant fish consumption advisory signs at the Democrat Dam Impoundment, Democrat Beach, and all identified angler access points in the project area, based on the finding that all 29 sampled fish exceeded the methylmercury reference concentration.

**9. Angler Access Improvements:** Require SCE to designate and improve a minimum of three angler access points along Highway 178 in the bypass reach, with adequate parking turnouts, stream access paths, and posted information about the fishery. Current access is inadequate and dispersed, and SCE's angler use methodology cannot validly count fishing demand under these conditions.

**10. Hardhead Minnow Habitat Protection:** Require SCE to formally assess hardhead minnow population status in the bypass reach (not just the impoundment) and to incorporate hardhead habitat requirements into any flow determination, given the species' status as a CDFW Species of Special Concern and Forest Service Sensitive Species.

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## VI. Conclusion

The lower Kern River in the KR1 project reach is a degraded fishery operating under flows that were set in 1998, have never been validated by a flow-fishery relationship analysis, and are now proposed to continue for another 40–50 years on the basis of a study record that lacks bypass reach fish data and is incomplete in its water quality and temperature analysis.

The Commission has an obligation under Section 10(a)(1) of the Federal Power Act to give equal consideration to recreation and fisheries alongside power generation. The evidence in the record — SCE's own evidence — shows a fishery in decline, water temperatures at or above thermal stress thresholds for trout, missing native species, and universal methylmercury contamination of sport fish. SCE's response to all of this is to propose no change.

Doing nothing differently is not good enough for another generation of anglers, another generation of children who deserve a river worth fishing in, or another generation of a

community for whom this canyon is its most accessible piece of the natural world. We urge the Commission to implement our requests.

Respectfully submitted,

James Ahrens

Bord Member

**Kern River Fly Fishers**

**Kern River Fly Fishers Council**

Bakersfield, California

**File Code:** 2770  
**Date:** March 30, 2026

Mr. Wayne Allen  
Southern California Edison  
2244 Walnut Grove Avenue  
Rosemead, CA 91770

*Via email and electronic filing*

**SUBJECT: FOREST SERVICE COMMENTS ON THE DRAFT LICENSE APPLICATION FOR THE KERN RIVER NO. 1 HYDROELECTRIC PROJECT, FERC NO. P-1930**

Dear Mr. Allen:

Pursuant to 18 C.F.R. § 5.16(e), the USDA Forest Service, Sequoia National Forest (hereafter “Forest Service”) provides the following response to the Draft License Application (DLA) for the Kern River No. 1 Hydroelectric Project (FERC No. 1930), filed by Southern California Edison Company (SCE), with the Federal Energy Regulatory Commission (FERC), on December 18, 2025. SCE requested comments by April 1, 2026. These comments will also be filed with the FERC.

We provide the attached comments in the spirit of collaboration with SCE, and other relicensing participants. We are fully committed to working with SCE both before and after filing the Final License Application (FLA) to develop approaches, solutions, and measures that will address as many of the relicensing participants’ interests as possible.

This response includes one attachment which contains detailed comments, organized by sections of the DLA, as follows:

- I. General Comments
- II. DLA Volume I: Exhibits A, B, C, D, F, G, H
- III. DLA Volume II: Exhibit E part 1 of 2



We note that the preliminary proposed protection, mitigation, and enhancement (PM&E) measures were not fully developed in the DLA, though basic outlines of draft management and monitoring plans were included. Though we have subsequently received updated versions of some of these PM&Es from SCE during relicensing discussions, to maintain an appropriate record, our attached comments are on the DLA versions of these PM&E measures.

The most recent Land Management Plan for the Sequoia National Forest (LMP) was signed in May 2023. There is no indication that any of the existing license resource management plans proposed for use in the new license were reviewed for consistency with the LMP. This needs to be done for all resource management plans. All resource management and monitoring Plans must be consistent with the new LMP. All existing and applicable management plans proposed to be used in the next license term should be included in the FLA.

The incomplete recreation data from pending studies may cause some delay in developing the Recreation Management Plan. The Forest Service is also concerned that data from pending studies may not be adequate to develop appropriate PM&E measures. Regardless, there is substantial recreational use and impacts along that river corridor that must be addressed.

The Forest Service looks forward to working with SCE and other stakeholders through further discussions and development of resource management plans and PM&E measures to be included in the FLA.

If you have any questions regarding this response, you may contact Anthony Edwards, Forest Supervisor, (Sequoia National Forest) at (559) 784-1500, [anthony.edwards@usda.gov](mailto:anthony.edwards@usda.gov).

Sincerely,

ANTHONY EDWARDS  
Forest Supervisor

Enclosure

Cc: Secretary Reese, Federal Energy Regulatory Commission; Monique Sanchez; Dawn Alvarez; Karen Miller; Nancy Chapman; John Gomez; William Brown, FERC service list

# ***ATTACHMENT 1***

## **Kern River No. 1 Hydroelectric Project FERC Project No. 1930**

### **Draft License Application**

### **USDA Forest Service Comments**

**April 1, 2026**

#### **Introduction**

The Forest Service, Sequoia National Forest, provides the following comments on the Kern River No. 1 Hydroelectric Project (hereafter “Project”) Draft License Application (DLA) to further the collaborative process with the Licensee and other relicensing participants. The Licensee (Southern California Edison Company [SCE]) has affirmed a continued commitment to working collaboratively and cooperatively as the relicensing process moves forward. We are fully committed to working with SCE and other relicensing participants both before and after filing the Final License Application (FLA) to develop approaches, solutions, and measures that will address as many of the relicensing participants’ interests as possible.

We reviewed the following documents.

- I. Draft License Application Volume I: Exhibits A, B, C, D, G, H
- II. Draft License Application Volume II: Exhibit E, Part 1 of 2

Our comments mirror DLA headings or subheadings, with specific DLA page references as needed. Note that if we did not comment on a particular area of the DLA, it does not mean we agree with it. Due to limited time to review this document, we had to focus on a subset of key issues. In the coming months, we expect to work with SCE on all their proposed PM&E measures.

## **General Comments**

### **References to the Forest Service and National Forest Documents**

When referring to the Sequoia National Forest Land and Resource Management Plan, please cite it as USDA Forest Service (2023).

### **DLA Volume I – Exhibits A, B, C, D, G, H**

#### **Exhibit A, 6.0 Description of Project Lands of the United States within the Project Area (Page A-11)**

Per SCE “Information regarding lands of the United States that are within the FERC Project boundary, including legal subdivisions and acreage, will be included in the Final License Application.”

It is crucial to include that information in the FLA for full Forest Service assessment of potential projects impacts to federal lands and appropriate 4e conditioning.

#### **EXHIBIT G, 2.0 Project Maps (page G-3 and G-4).**

Per SCE “Under SCE’s Proposed Action, the existing FERC Project boundary will be modified to (1) include only those lands necessary for operation and maintenance of the Project; (2) remove lands no longer necessary for operation and maintenance of the Project; and (3) correct known errors in the current Exhibit G for the Project. These specific boundary modifications or corrections will be included in the revised Exhibit G as part of the Final License Application (FLA). (3) Federal Lands A calculation of the current and proposed FERC Project boundary acreage is summarized in Table G-2. The FLA will include updated information on proposed acreages.”

Given that SCE proposes to modify the project boundary to both include and exclude National Forest System (NFS) lands from the new license, it is crucial to include that information in the FLA. That information is essential for full Forest Service assessment of potential projects impacts on NFS land and appropriate 4e conditioning response.

#### **Exhibit H 1 (ii) B (5) (page H-16)**

Per SCE “There are no known records of injury or death to the public within the project boundary within the last 10 years.”

The Kern County Sheriff maintains a comprehensive record of recorded deaths for the Lower Kern River. Between 1968 and 2024 they record 342 deaths in the Lower Kern River Canyon. They do not count individuals that are lost, presumed dead, but not recovered. Deaths along the Lower Kern are attributed to river drowning, car accidents on the winding SR-178 and hypothermia. It would be unreasonable to expect that within the last ten years there were no deaths to the recreating public in or immediately adjacent to the project facilities or bypass reach. Of additional note, SCE did not provide any public safety information in the Rec 2- Interim Recreation Facility Use Assessment Technical Memo which states SCE will provide that public recreation safety information in the revised draft Rec 2 study technical memorandum.

Public safety within the project boundaries is an issue that seems to be missing from the entire DLA. The Rec-2 interim study also found that in the five undeveloped river access points the percentage of available parking was 133% of parking capacity on weekends, 250% of parking capacity on weekdays, and 159% on holidays. Overflow parking on a narrow winding SR-178 canyon road is of concern. No parking or river safety signage is posted on any of the undeveloped recreation access points or on any of the river access trails from the FS managed day use areas.

## **Volume 2 (Part 1) Exhibit E**

The sections on Hydrology, Water Quality, Geomorphology, Geology and Soils were reviewed, and the Forest Service agrees that there should be no adverse impacts from implementation of the proposed action.

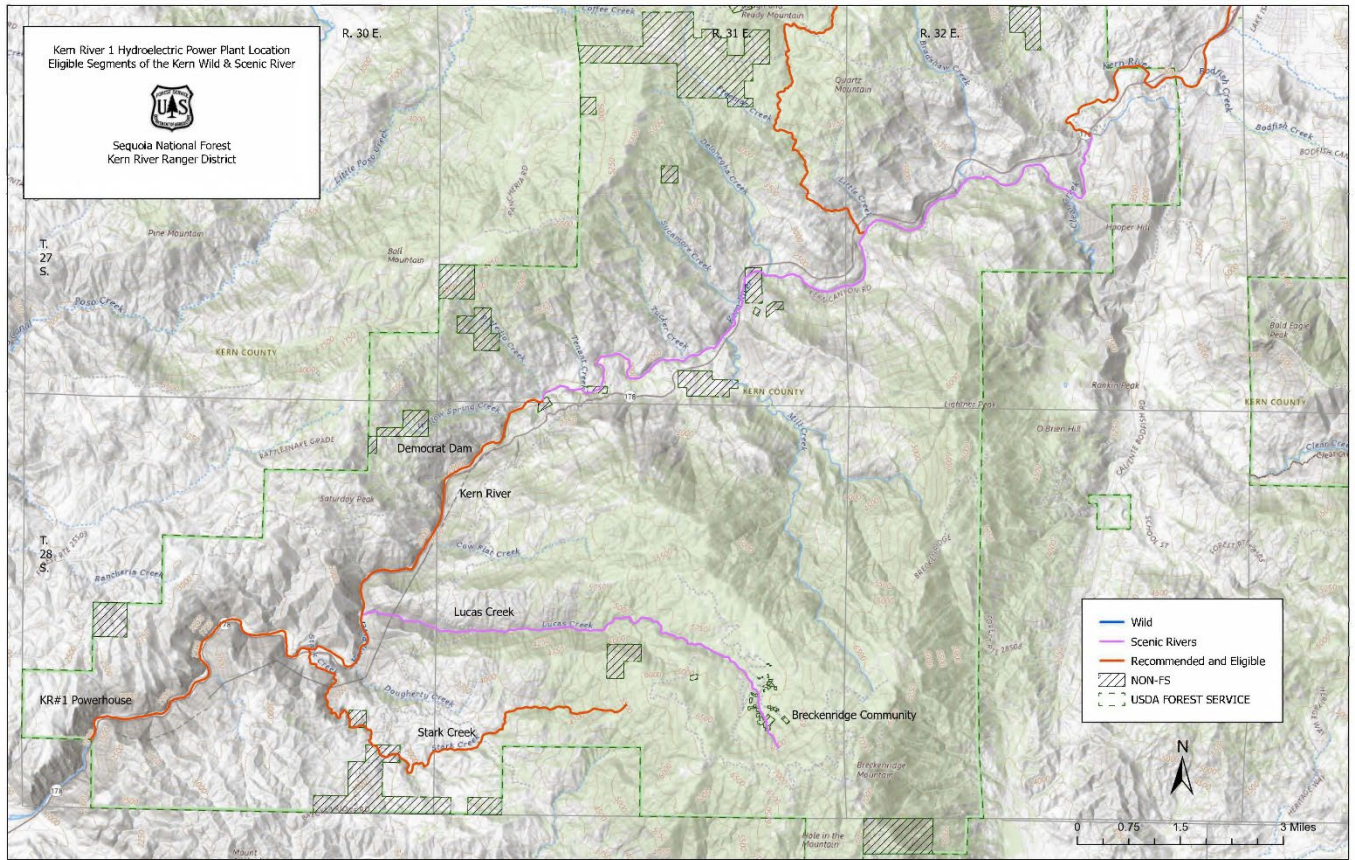
### **4.0 Statutory and Regulatory Requirements and Applicable Laws**

#### **4.7. Wild and Scenic Rivers Act (Page 4-3)**

Per SCE: “Section 7(a) of the Wild and Scenic Rivers Act, 16 USC § 1278(a), requires federal agencies to make a determination as to whether the operation of a project under a new license would invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the designated river corridor. The segment of the Kern River within the FERC Project boundary is not Congressionally designated as a Wild and Scenic River.”

The Land Management Plan for the Sequoia National Forest (2023) through the 2012 Planning Rule wild and scenic rivers evaluation process determined that Kern River segments within the KR 1 License boundary were eligible for inclusion in the National Wild and Scenic River system. The administrative management standards established to protect those WSR values during subsequent planning processes 2023 LMP are located on page 116 and Figure 18, and designated, recommended, and eligible wild and scenic rivers, are located on page 152.

The Lower Kern River, through the KR1 license area, was found eligible for inclusion in the National Wild and Scenic River system in 2023 (Forest Plan, page 116 and Figure 18, page 152). The Forest Service adopted the forest management standard to manage the eligible, suitable, or recommended river corridor to protect free flow and outstandingly remarkable values to maintain its preliminary classification. Outstandingly remarkable values (ORV) for the Lower Kern were determined to be Recreation, Scenery, and Wildlife. In 2024, the National Park Service, using the Sequoia NF 2023 Forest Plan, placed the Lower Kern on the National Rivers Inventory register and identified Recreation, Scenery and Wildlife significant ORVs.



**Image 1. Map of Kern River 1 Hydroelectric Power Plan location and eligible segments of the Kern Wild and Scenic River**

Portions of Lucas Creek and Stark Creek within the KR1 project area were similarly identified as eligible for inclusion in the National Wild and Scenic River System. Forest Service Handbook 1909.12, section 84.3 now applies as a Forest Service management standard to those designated eligible WSR segments within the KR-1 license boundary. Additionally, Standard (MA-EWSR-STD) 01 (2023 page 116 applies) which states “Manage eligible, suitable, or recommended river corridors, to protect free flow and outstandingly remarkable value (ORV) and maintain preliminary classification”. ORV designations within eligible, suitable, or recommended WSR segments on the Kern River, Stark Creek, and Lucas Creek within the license boundary include scenery, recreation, historical and archaeological values. None of these values were identified or assessed for project impact in the DLA.

SCE’s statement above is not completely accurate. If SCE needs additional information regarding Section 7(a), please see the Interagency Wild and Scenic River Coordinating Council’s October 2004 technical report, "Wild & Scenic Rivers Act: Section 7", available at <https://rivers.gov/rivers/sites/rivers/files/2023-07/section-7.pdf>.

Per the Interagency Wild and Scenic River Coordinating Council’s October 2004 technical report cited above. ***“IV. Agency-Identified, 5(d)(1), Study Rivers found eligible or suitable for the National System through federal agency planning processes are not protected by the Act from proposed hydroelectric facilities or other federally assisted water resources projects that have the potential to affect the river’s***

*free-flowing characteristics and other identified values. However, the managing agency should, within its authorities, protect the values that make the river eligible or suitable. If a river is listed in the Nationwide Rivers Inventory (NRI), the federal agency involved with the action must consult with the land managing agency, or the NPS, if the river is on private lands, in an attempt to avoid or mitigate adverse effects. This consultation is required pursuant to a directive from the Council on Environmental Quality.”*

Current operations and practices have not been examined by SCE for their potential to impact Lower Kern River ORVs under the new license. FERC must consult on these impacts. SCE must examine the impact of these operations for FERC’s consultation with the Forest Service. Public recreation access needs additional attention. For instance, the posting of no trespassing signs that encompass more than just utility-owned project facilities limits the opportunity of the public to access the river and use National Forest System lands within the river corridor for recreation. Additionally, SCE indicates at 7.10.3.3 that trails currently outside the FERC project boundary will be added as project trails in the final license application. There is no discussion of where those trails might be or the impact on the recreating public. The posting of current sternly worded “No Trespassing” signs may constitute an adverse effect to the Lower Kern River recreation ORV. The no trespass signs impact the public’s use during the study period; the data collected during the study period erroneously reflects low use in these trails. Ensuring safe public recreational access to the maximum extent possible should be the goal when developing PM&E measures.

Any future plans for facility reconstruction or modification could affect the Lower Kern River’s protected ORVs of recreation, scenery and wildlife. Potential effects to the ORVs from project operations and maintenance should be analyzed and discussed in the FLA.

#### **Section 5.1.5.7 Pest Management, Page 5-15**

SCE mentions the use, and planned continued use, of rodenticide to manage rodents. Rodenticide and insecticide are pesticides and require a Pesticide Use Proposal, and approval of use from the Forest Service.

#### **5.1.7.5 Land Management**

##### **Access Improvement Plan, Pages 5-19 to 5-20**

Access Improvement Plan appears to be missing any mention of trail head parking. Trailhead parking and maintenance should be discussed in the FLA.

#### **Section 5.1.8.3 Emergency Action Plan, Pages 5-22 to 5-23**

This section of the application mentions an Emergency Action Plan (EAP) for the Stark Flume and Forebay, and the justification for not having an EAP for the Democrat Diversion Dam. These are EAPs for flood events resulting from a failure of the structures that are part of the facilities within the FERC boundary. It does not take into consideration a flooding emergency because of failures up-river that may cause a threat to life and property within the KR1 boundary, such as Borel Power Plant or a failure of the Isabella Lake Dam. The captured water above the Democrat Diversion Dam is a popular rafting and kayaking take out, fishing, and day use site that attracts a notable number of people throughout the year, peaking in summer. An EAP should be created to communicate to users at Democrat in the event of a flood or wildland fire, along with a plan to evacuate the area. If a fire cuts off the only road coming and going from the take-out and SCE facilities, what is the alternate plan to evacuate employees and visitors, or to safely shelter in place?

#### **Section 5.2.6 Proposed Environmental Measures, Management Plans and Monitoring Plans page 5-**

A Recreation Management Plan needs to be added to this list to ensure present and future project operations have no adverse impacts on recreational use and enjoyment of the NRI Lower Kern River. Fishing, picnicking, scenic views, parking, and strolls along the river were many activities noted by the public outside of maintained recreation facilities, as well as hiking and wildflower viewing. Providing safety signage and

adequate and safe parking opportunities would be appropriate. Attention to issues of public safety within the project boundaries as well as water quality are key attributes that contribute to a quality visitor experience.

#### **Map 5-3c Project Facilities**

Powerhouse Trail is mislabeled as Stark Creek Trail. Stark Creek Trail is located uphill of the tunnels and adits. Stark Creek Trail (30E50) should be labeled as Powerhouse Trail (30E30) on the map.

#### **Map 5-3f Project Facilities**

Powerhouse Trail is not treated as a project trail yet clearly is used to service adits 14 & 15. The trail is also a natural access point to access parts of Tunnels 14 and 15. Stark Creek Trail (30E50) should be Powerhouse Trail (30E30) on the map.

#### **7.1.4 Major Land Uses, Page 7.1-6,**

First paragraph, third and fourth sentences point to boating as a recreation use but do not translate the hydrologic information into boatable conditions. For recreation analysis, it is not enough to describe the river generally; the document should identify whether flows are runnable, how often those flows occur, and whether they coincide with likely boating use periods. Without that connection, the analysis does not adequately evaluate the Project's effect on boating opportunities. To identify major land uses the Forest Service suggests providing runnable flow ranges in cfs, estimate how often those flows occur, and compare them with likely boating seasons.

### **7.3 Water Quality**

#### **Table 7.3-2, page 7.3-29**

Why is there a big difference in Dissolved Oxygen downstream of Powerhouse No.1 (9.2 vs 6.5)? A discussion of the difference should be included in the FLA.

#### **Map 7.5-2e Non-Native Invasive Plants Within the FERC Project Boundary, Along Project Access Trails, and Along the Kern No. 1 Project Bypass Reach.**

Stark Creek Trail (30E50) should be labeled as Powerhouse Trail (30E30) on the map.

#### **7.6.1.6 Erosion and Sediment Sources Associated with Project Facilities**

##### **Culverts and other Drainage Features**

Page 7.6-6 SCE states: Five of the 41 drainage features surveyed were classified as "Concern Likely" and require major maintenance or replacement. Table 7.6-6. Project Access Road Drainage Features and Classification identify 3 culverts on Willow Springs Creek Road and 2 culverts on Stark Creek Road "Concern Likely," but do not mention whether the culverts have been addressed under the existing license. In the Forest Service response to Land 1 TM, those roads were identified as having significant erosion issues.

#### **Map 7.8-2e Riparian Alliances and Special Aquatic Features Within the FERC Project Boundary, Along Project Access Trails, and Along the Kern No. 1 Project Bypass Reach**

Stark Creek Trail (30E50) should be labeled as Powerhouse Trail (30E30) on the map.

#### **7.9.1.2 Land Use and Management within FERC Project Boundaries page 7.9.3**

SCE maintains that Wild and Scenic Rivers Act does not apply to the Lower Kern River, because it does not have formal Congressional determination. In 2024, the National Park Service listed the Lower Kern River on the National River Inventory. Because the Lower Kern was added to the National River Inventory in 2024, the following stipulations within Interagency Wild and Scenic River Coordinating Council's October 2004 technical report, "Wild & Scenic Rivers Act: Section 7", applies. ***“IV. Agency-Identified, 5(d)(1), Study Rivers found eligible or suitable for the National System through federal agency planning processes are not protected by the Act from proposed hydroelectric facilities or other federally assisted water resources projects that have the potential to affect the river’s free-flowing characteristics and other identified values. However, the management agency should, within its authorities, protect the values that make the river eligible or suitable. If a river is listed in the Nationwide Rivers Inventory (NRI), the federal agency involved with the action must consult with the land managing agency, or the NPS, if the river is on private lands, in an attempt to avoid or mitigate adverse effects. This consultation is required pursuant to a directive from the Council on Environmental Quality.”***

Unresolved issues related to public recreation access and safety might trigger Forest Service and FERC consultation under 5(d)(1) of the Wild and Scenic River Coordinating Council’s 2004 technical report.

#### ***7.10.1.4 Recreation Opportunities and Use, Trail Use, Page 7.10-7***

Powerhouse Trail mislabeled as Stark Creek Trail on maps. The Stark Creek Trail starts off Dougherty Creek Trail above the project.

#### **7.10.2 Proposed Environmental Measures**

Add: Recreation Management Plan and Public Safety Plan.

#### ***7.10.3.4 Effects of Continued Project Operation and Maintenance on Recreational Whitewater Boating Use in the Project Bypass Reach.***

It should be noted that public use of trails is constrained by limited parking and what is perceived to be dangerous access to trails.

There are informal (possible historic) trails in the vicinity of Forest Road No. 28S81 roughly at the Highway 178 intersection. Technically the first official trail on Forest Road No. 28S81 is Dougherty Creek Trail which starts about 1/8- road mile from the 178 intersection. Dougherty Creek trail bisects Powerhouse Trail (Forest Trail No. 30E30 which is used as a project trail) then has an intersection located outside of the project area with the official Stark Creek Trail.

#### **7.10.4 Unavoidable Adverse Effects**

Per SCE “There are no unavoidable adverse effects to recreation resources from continued operation and maintenance of the Project under the Proposed Action.”

This statement is not supported given many recreation and public safety data gaps. The DLA indicates that trails outside the current project boundary will be added to the FLA but no maps or information is provided. Public recreation safety data is missing. The data that is available is not fully discussed. Five undeveloped parking areas studied in REC-2 are documented to be 133% to 250% beyond maximum capacity with no public safety signage for either the road or the river is a recreation access and safety concern. SCE currently has sternly worded “NO Trespassing Signs” posted which discourages public visitation in areas beyond

project boundaries. Additional information is needed on public use for determining appropriate signage and potentially restricting access for an NRI river with a Recreation ORV.

### **Section 7.12 Cultural Resources**

Second paragraph, Page 7.12-1

It is difficult to assess the adequacy of Section 7.12 when the technical studies are still pending. Preparing the DLA without those studies completed has a pre-decisional quality. While the section notes that the completed studies “will be submitted . . . before the Final License Application,” it does not offer any timeline or note how comments or concerns with those studies would be incorporated into the FLA. The Forest Service and stakeholders should be given the opportunity to submit additional comments on the DLA after reviewing the technical studies.

#### **Section 7.12.1 Area of Potential Effects and Study Area, Page 7.12-1**

36 C.F.R. 800.16(d) defines the area of potential effects as “the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historical properties, if any such properties exist.” The Forest Service previously made clear that the APE as defined (the FERC project boundary) is inadequate – visual, auditory and atmospheric effects do not stop at an arbitrarily defined line, least of all one drawn so close to the point source of those effects. Similarly, construction activities and hazard mitigation measures have the potential to deposit dust or waste material such as slash (e.g., resulting from tree falling) well beyond the FERC project boundary. Road maintenance activities, such as roadwork, could channel run off into site boundaries located well outside the FERC project boundary. The Forest Service has provided this input repeatedly to SCE and has seen no evidence that those “comments were incorporated into the revised CUL 1 and CUL 2 TSPs” in any substantial manner.

#### **Ethnographic Background, Page. 7.12-7, last paragraph**

The relationship between Tūbatulabal and Kawaiisu is much less trivial than outlined in this single sentence – or in the section as a whole.

#### **Travel and Trade, Page. 7.12-9, last paragraph**

Williamson (1853) mapped some of these trails (and included trail names) – his map is available online.

#### ***KAWAIISU ETHNOGRAPHY*, Page 7.9-11, first paragraph**

Kawaiisu territory included the Piute Mountains and potentially parts of Breckenridge Mountain.

#### ***7.12.2.2 Physical Environment and Climate and Cultural Contexts***

#### **Later Tensions, Page 7.12-12 – second to last paragraph.**

Gold was discovered on the Kern River in 1854.

Much of the influx of Shoshone and Paiute in the early 1860s was the product of the Owens Valley Indian War.

#### **Mining, Pages 7.12-14 to 7.12-15,**

Fremont did not have an expedition in 1851. His fifth expedition passed through the Kern River Valley in April of 1854 (his fourth expedition was in the 1840s) but did not note the presence of any mining nor any discovery of gold. Gold was discovered on the Kern River shortly after Fremont’s passage by a prospecting party including C. K. Worland and William Packard at a place they called Elbow Bar (likely just upstream from Democrat Dam). By December, gold had been discovered on Greenhorn Creek, a few miles outside the project area and Keysville (Havilah Courier, September 8, 1866).

The area around Democrat Hot Springs including the footprint of Democrat Dam was part of the Democrat Mining District.

Location names provided by Ptomey may be incorrect – the Forest Service minerals program made repeated errors with historic mining locations in the 1990s and early 2000s. Based on historic-period newspaper accounts and mining records on file with the Forest Service, the Red Cloud Mine and its arrastra appear to be located very near (if not within the APE) of SCE’s road to Democrat Dam.

“The quick growth of mining was generally followed by quick decline.” – Mining persisted in and around the study area from the 1850s through the 1970s and continues in a small way with numerous active mining claims being located on the river and its tributaries.

The Forest Service does not understand why the information we provided has not been incorporated into the DLA and why there continues to be errors and inconsistencies despite the information provided. The Forest Service hopes the pending studies have an improved historical context for mining in the study area. The Forest Service provided SCE with hundreds of pages of mining history for the Kern River and surrounding mountains and believes that all appropriate information provided along with information from pending studies should be incorporated into the FLA.

**Section 7.12.3 Proposed Environmental Measures, Page 7.12-24**

How can the Forest Service (or any other stakeholder) analyze the effectiveness of the Proposed Environmental Measures without the final technical studies? If the Forest Service and stakeholders cannot revisit the DLA following review of the technical studies, will there be a meaningful opportunity to provide input regarding environmental measures and the HPMP prior to the production of the FLA?

**Section 7.12.4 Potential Project Effects, Page 7.12-24**

Here too, it is difficult to consider effects without the completed technical studies.

Informal consultation with SHPO regarding the area of potential effects acknowledged that defining the project APE as the FERC boundary is likely inadequate – SHPO recommended to the Forest Service that the issue could be addressed in the HPMP.

**References – available upon request.**

## **Kern Gateway Trail Committee**

A Project of the Kern River Parkway Foundation

Bakersfield, California

March 2026

### **Secretary**

Federal Energy Regulatory Commission

888 First Street, N.E.

Washington, D.C. 20426

### **Re: Comments on the Draft License Application for the Kern River No. 1 Hydroelectric Project (FERC Project No. 1930) — Inadequacies in Exhibit E Sections 5, 7.10, 7.11, 7.14; Appendix E.1 Environmental Measures; and Appendix E.2 Technical Memoranda REC-2, REC-3, AQ-2**

Dear Secretary and Members of the Commission:

The Kern Gateway Trail Committee, a project of the Kern River Parkway Foundation, submits these comments on Southern California Edison's (SCE's) Draft License Application (DLA) for the Kern River No. 1 Hydroelectric Project (KR1, FERC Project No. 1930), filed December 18, 2025. These comments identify specific inadequacies in the DLA and are organized by DLA section to facilitate SCE's required response and FERC's review. The comments address: Exhibit E Section 5.3 and Table A-3 (project trail classification); Section 7.10 and Appendix E.2 REC-2 TM (recreation use methodology); Section 7.11 and the Visual Resources Protection Plan in Appendix E.1 (aesthetic resources); Section 7.14 (socioeconomics and environmental justice); the Project Access Roads and Trails Management Plan in Appendix E.1; the Draft Sediment Management Plan in Appendix E.1; and Appendix E.2 Technical Memoranda AQ-2 and REC-3.

Each section below identifies a specific inadequacy in the DLA, cites the relevant exhibit, section, table, or appendix, and states what FERC should require. SCE must respond specifically to each identified deficiency. The central deficiency pervades the DLA: SCE's own data shows two to three trail users per trail per day — counts gathered while unauthorized No Trespassing signs, locked gates, barbed wire, and blocked parking suppressed public access at every surveyed site. SCE presents these suppressed counts as evidence that current capacity is adequate. They are not. They are evidence of SCE's own barriers. FERC should reject this framing and require SCE

to treat its suppressed baseline as a floor, not a ceiling, for what public demand in the lower Kern Canyon actually is.

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## **I. Exhibit E, Section 5.3 and Table A-3 (Exhibit A): SCE's Project Trail Classification Omits the Powerhouse Trail Despite SCE's Own Field Documentation**

The Powerhouse Trail is the most consequential trail omission in SCE's DLA, and SCE's own documents reveal the contradiction. SCE's Project Access Roads and Trails Management Plan (Appendix E.1) and Table A-3 of Exhibit A list ten project access trails — none of which is the Powerhouse Trail. Yet the Powerhouse Trail appears throughout the DLA as the acknowledged connecting infrastructure the project trails depend on.

SCE's own engineers field-verified the Powerhouse Trail during relicensing and recorded it in Table 5-3 of Exhibit E (Section 5, p. 5-32, footnote 3): "The current Exhibit G maps on file with FERC indicate a trail extends from SR 178 up to Flume No. 3. However, during field reconnaissance staff confirmed this trail does not connect to SR 178. Instead, this trail runs along a portion of the Forest Service's Powerhouse Trail (from Cow Flat Creek to Conduit No. 6)." SCE field-verified the Powerhouse Trail, corrected its project maps using it, and declined to accept any maintenance responsibility for it. Notably, the Powerhouse Trail was also not included as a study site in the REC-2 recreation use assessment, despite being the connecting trail that all five surveyed project trails lead to. A trail used by SCE to define its project boundaries, correct its FERC maps, and characterize its project trail system — yet excluded from its recreation use study — warrants inclusion in the new license as a designated project trail. Furthermore, Exhibit E Section 7.10 (p. 7.10-7) explicitly describes all five surveyed project trails as trails "that connect to the Forest Service Powerhouse Trail" — making the Powerhouse Trail the acknowledged connecting spine of SCE's own project trail system. We submit that a trail SCE relied on to define its project trail boundaries and used to correct its FERC maps is properly classified as a project trail subject to maintenance and improvement obligations under the new license. *The current Exhibit G maps on file with FERC indicate a trail extends from SR 178 up to Flume No. 3. However, during field reconnaissance staff confirmed this trail does not connect to SR 178. Instead, this trail runs along a portion of the Forest Service's Powerhouse Trail (from Cow Flat Creek to Conduit No. 6)."*



Figure 1. Map from REC-2 TM (p. 50) showing the Cow Flat Creek Trail and the start of the USFS Powerhouse Trail. The Powerhouse Trail connects to KR1 flowline tunnel access points; tunnel tailings visible in talus piles below the trail indicate construction associated with KR1. Red lines show the proposed Kern Gateway Trail alignment continuing upstream of Cow Flat Creek toward Democrat Dam. (Source: SCE REC-2 TM, December 2025; KGT overlay by Kern Gateway Trail Committee)



Figure 2. Map from REC-2 TM (p. 51) showing the Powerhouse Trail corridor. The KR1 powerplant predates Highway 178; workers traveled between tunnel access points along what is now the Powerhouse Trail. Condition varies: some sections maintain adequate width and gradient while others are narrow and overgrown. (Source: SCE REC-2 TM, December 2025)

While not all sections of the powerhouse trail are equally well built and maintained, it is clear that the trail was originally built for the KR1 hydro plant, to connect the various tunnels and addits with a surface trail. It follows the elevation of the flow line from Cow Flat Creek all the way to the Penstock/Forebay. USFS acknowledges this trail as does SCE. The maps of the Powerhouse Trail show it ending with a descent to highway 178 just west of Peachacho Creek when there is a trail that continues onward to connect with other SCE trails at the Penstock/Forebay. The new license should clearly designate the Powerhouse Trail as a project trail, with corresponding maintenance and improvement obligations, reflecting its historic and continuing connection to project operations.

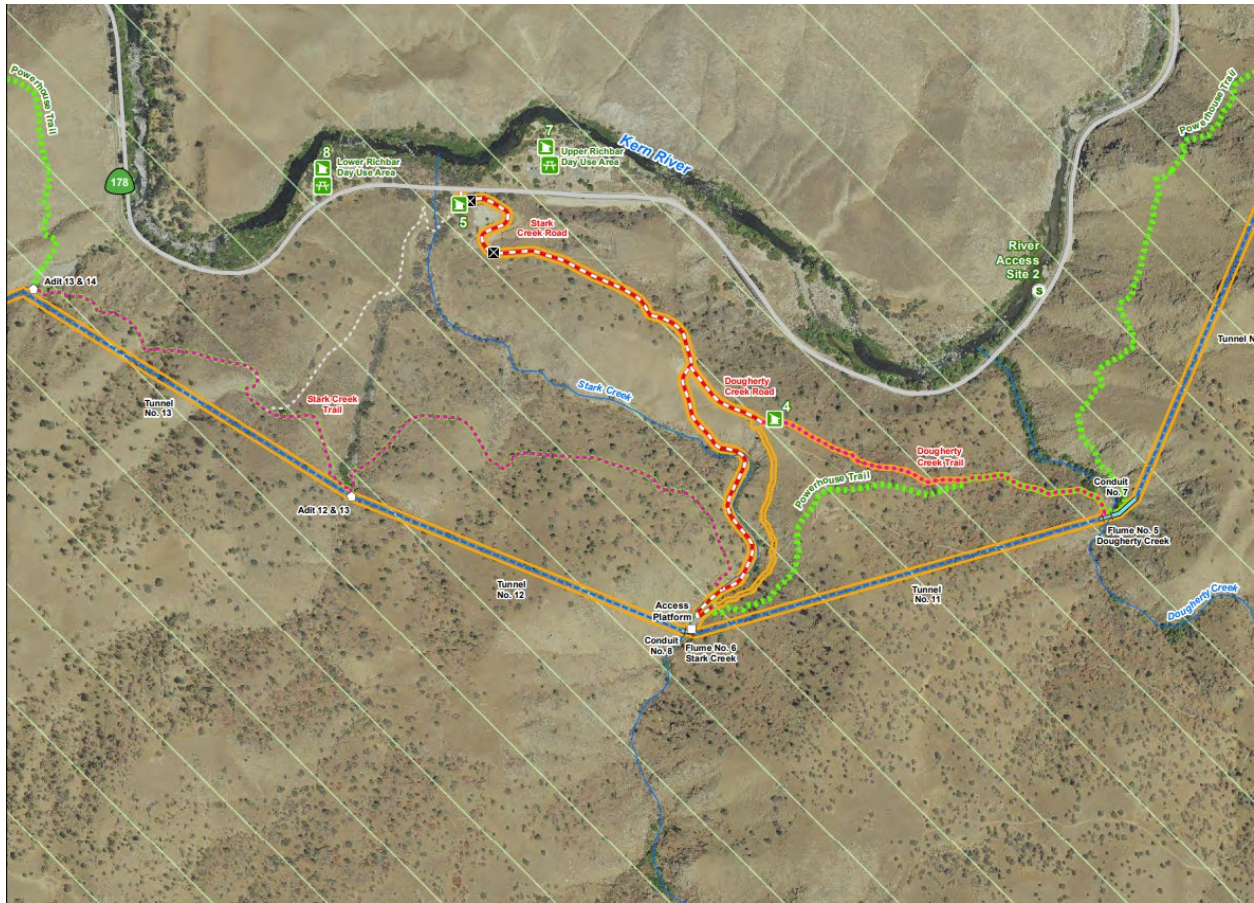


Figure 3. Map from REC-2 TM (p. 52) showing SCE's claimed project trail network. SCE's mapping omits trail segments historically linked to KR1 operations and currently used by the public for recreation. (Source: SCE REC-2 TM, December 2025)

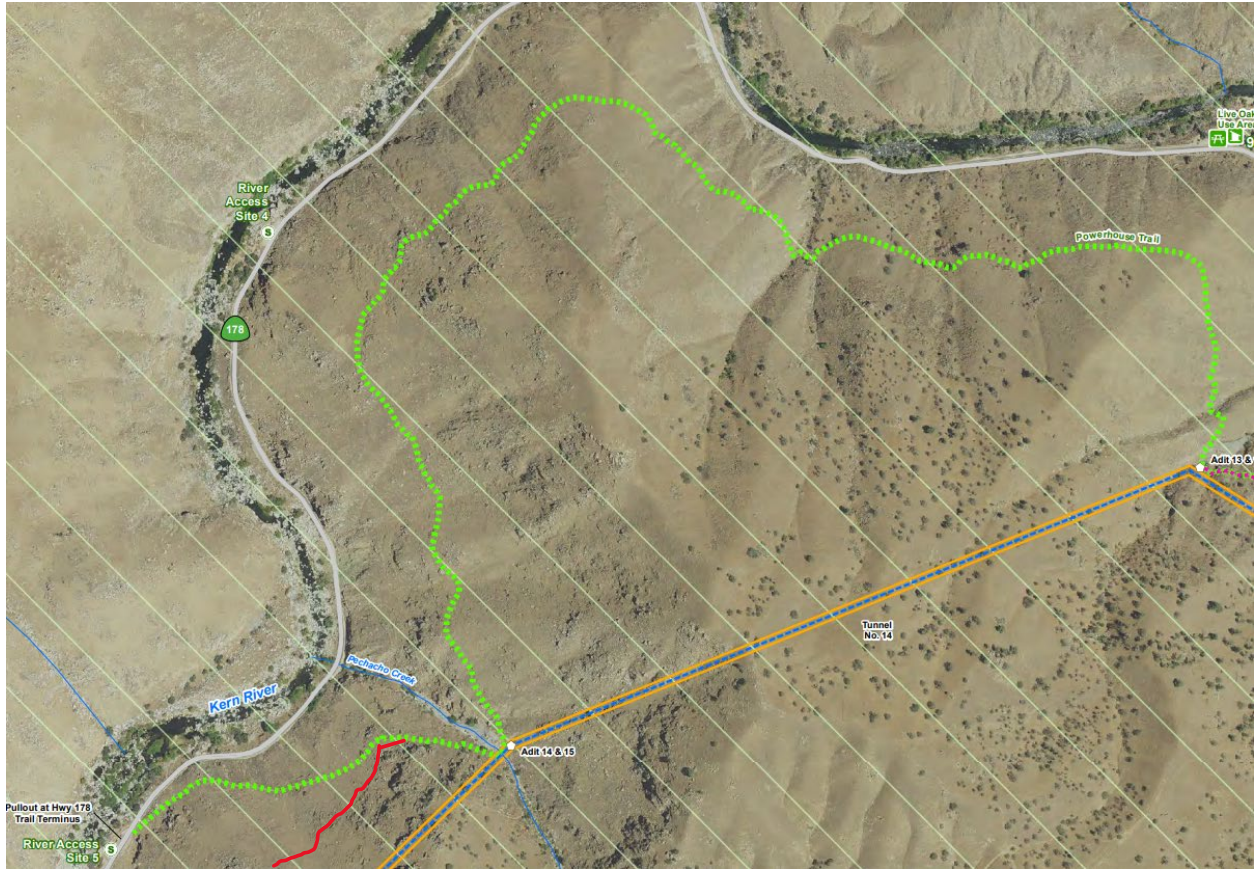


Figure 4. Map from REC-2 TM (p. 53) with red lines added showing trail segments not included in SCE's mapping. The Powerhouse Trail connects Adit 14 & 15 and Adit 13 & 14 and is in poor condition in this section. These segments should be included in a Recreation Trail Management Plan. (Source: SCE REC-2 TM, December 2025; annotations by Kern Gateway Trail Committee)



Figure 5. Map from REC-2 TM (p. 54) with red lines added showing unmapped trail segments. The Overflow Spillway Trail continues beyond the spillway with several switchbacks climbing to the Adit 17 & 18 Trail — visible in satellite imagery and from SR-178 — but is not mapped by SCE. An additional connecting trail segment between Conduit No. 9 and the Powerhouse Trail also exists and forms part of the proposed Kern Gateway Trail alignment. Both segments should be assessed as project trails. (Source: SCE REC-2 TM, December 2025; annotations by Kern Gateway Trail Committee)



*Figure 6. The Powerhouse Trail between the KR1 Powerhouse and Richbar Day Use Area — the trail SCE acknowledges as the connecting spine of its project trail system. The trail is narrow and poorly maintained in many places, yet offers spectacular views of the Kern Canyon and Kern River below. With proper maintenance and a legitimate trailhead, this would be one of the premier hiking routes in the region. (Photo: Kern Gateway Trail Committee, February 2026)*



*Figure 7. Spring California poppy bloom along the Powerhouse Trail corridor between Lucas Creek and Dougherty Creek. The Kern Canyon produces spectacular wildflower displays in wet years. This extraordinary seasonal resource is effectively inaccessible to most of the public due to inadequate trailheads, locked gates, and poor trail maintenance. Improved access would allow hundreds of thousands of Bakersfield-area residents to experience world-class wildflower viewing and hiking within a 30-minute drive of downtown. (Photo: Kern Gateway Trail Committee, March 2025)*

The KR1 project trail system and the Powerhouse Trail have a direct nexus to project operations: they are project features that attract recreationists and hikers, originally constructed to enable access for project operation and maintenance, connecting tunnels, adits, conduits, and other project structures along the elevation of the KR1 flow line — making the trail system as old as the powerplant itself. Today, these trails are shared by both SCE personnel and the public and connect directly to the U.S. Forest Service’s Powerhouse Trail, a designated USFS recreation trail. SCE’s DLA should recognize the Project Access Trails as Recreation Facilities — used by the public both as recreation destinations in themselves and as connections to the USFS Powerhouse Trail — and accept maintenance and improvement obligations accordingly. Therefore, FERC should require SCE to include the Powerhouse Trail in its Project Access Roads and Trails Management Plan as a project trail and to accept maintenance responsibility for it as a condition of the new license. Additionally, FERC should require that the KR1

project boundary be extended to encompass all sections of the Powerhouse Trail. Under 18 CFR 4.41(h)(2), the project boundary must enclose not only lands necessary for operation and maintenance, but also lands necessary “for other project purposes, such as recreation, shoreline control, or protection of environmental resources.” FERC Order 313 further requires licensees to acquire lands to assure optimum development of recreational resources, develop suitable public recreational facilities with adequate public access, and coordinate with other agencies in developing recreation areas. The Powerhouse Trail was built for project purposes, is acknowledged by SCE as the connecting spine of its project trail system, and is necessary to provide the recreation access this community needs. Including it within the project boundary is the only way to ensure SCE’s maintenance and improvement obligations are enforceable under the new license.

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## II. Appendix E.2, REC-2 TM (December 2025), Section 4.3: The Trail Use Study Methodology Is Fundamentally Flawed and Cannot Support SCE’s Adequacy Finding

SCE’s REC-2 Recreation Facility Use Assessment Interim Technical Memorandum (Appendix E.2, December 2025) presents trail use data from TrafX infrared counters installed November 14, 2024, and survey boxes installed January 23, 2025, at five project trails. SCE summarizes its findings at Exhibit E, Section 7.10, p. 7.10-13, and in REC-2 TM Section 5.2.1, as follows:

*“Project roads and trails—developed and maintained by SCE to access Project facilities and generally located within the FERC Project boundary on SQF land—are available for public use. Results from the REC 2 study show light recreation use of these trails, averaging only two to three users per trail per day, indicating that current capacity is adequate and overuse is not an issue... Based on these findings, continued Project operation and maintenance is not expected to limit the ability of Project trails to meet either present or foreseeable future recreation demand... Continued Project operation and maintenance would have no effect on the adequacy of Project trails to meet recreation demand compared to the No-Action Alternative.”*

This conclusion — that current trail capacity is adequate and that SCE’s operations have no effect on recreation demand — cannot withstand scrutiny. The study’s methodology, combined with the conditions under which data was collected, resulted in a **severe and systematic undercount** of actual and potential public demand. The Commission should not accept these counts as a reliable baseline without accounting for the following fundamental deficiencies.

### A. REC-2 TM, Section 5.2.1 and Figure 5-4: The Out-and-Back Counter Assumption Is Inapplicable to Connecting Trails

SCE's report acknowledges that most project trails are out-and-back routes and therefore interprets every two counter activations as one visitor. SCE applies this assumption as a blanket default even for trails that explicitly connect to other trails. In its own study, SCE states about the Cow Flat Creek Trail (REC 2, Section 5.3.2): "Though the Cow Flat Creek Trail is not strictly an out-and-back trail because it connects to the Forest Service's Powerhouse Trail, it is likely that many users hiked up the trail and then back down during a single day... Therefore, it is reasonable to assume that many (or most) visitors passed the TrafX counter twice during a visit and that, therefore, two counts should often be interpreted as representing one individual." SCE applies this "likely" and "reasonable to assume" reasoning even for the one trail it explicitly acknowledges connects to the Powerhouse Trail. But consider what the data actually shows: the Cow Flat Creek Trail is only 0.14 miles long — a five-to-ten-minute walk. SCE's own data reports an average trail use duration of 2.4 hours at this location. A 2.4-hour visit on a 0.14-mile trail is not an out-and-back hike. It is a through-hike onto the Powerhouse Trail, continuing along the canyon and returning via a different route or simply spending extended time in the canyon interior. SCE's methodology counted many of these hikers as a single person making two passes past the counter — in effect, counting them as half a visit. The Cow Flat Creek data, read honestly, is strong evidence of through-hiking onto the Powerhouse Trail corridor. SCE's default assumption erases this entirely, and systematically undercounts actual visitation at every location where trail connections exist.

#### **B. REC-2 TM, Section 4.3, Footnote 6: The Penstock/Forebay Trail — the Study's Most Important Omission — Was Excluded on SCE's Own Initiative**

SCE excluded the Penstock/Forebay and Overflow Spillway Trail access area from trail counter and survey box installation, citing "security and safety concerns." This is the single most significant omission in the study. These trails together form the closest potential hiking loop to the city of Bakersfield, at the most dramatic bend in the lower Kern Canyon, where the trail gets to around 800' above the river, with expansive views up canyon and down canyon to the mouth of the canyon and the city beyond. The Kern Gateway Trail Committee specifically requested that counters and a survey box be installed here; that request was not accommodated. The result is a dataset that is structurally blind to the most promising and what should be the highest-demand corridor in the entire project reach. The Kern Gateway Trail committee has taken community members and community leaders on numerous hikes in the project reach and none of the alternative trails along this section of the canyon come close to comparing to the scenic beauty of this section.

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### **III. Appendix E.2, REC-2 TM, Sections 5.2.1–5.2.5: Site-Specific Access Barriers Suppressed Counts at Every Surveyed Location**

Access barriers at KR1 project trails — including No Trespassing signs, locked gates, barbed wire, and damaged infrastructure — have reduced public use of recreational resources that should be open and welcoming to the community. These barriers are not a new development. Decades of restricted access have shaped how generations of

Kern Valley and Bakersfield-area residents perceive this canyon — as a place they cannot hike freely. That cumulative effect is the suppression that matters most: not merely what happened during the REC-2 study period, but the accumulated perception, built over years, that the public is not welcome here. Critically, this means that repeating the REC-2 study under the same conditions would not produce substantially different results. The underlying conditions — unauthorized signage, locked gates, blocked parking, excluded trails — must change before any study can accurately measure actual public demand. The new license is the mechanism to require that change. Even under these constrained conditions, the REC-2 data shows consistent trail use at every surveyed location. That use represents a floor, not a ceiling, for what this canyon can support when access is clear, legal, and well-marked.

### **A. REC-2 TM, Section 4.3, Footnote 6 / Exhibit E, Section 7.10: Unauthorized No Trespassing Signage Predated and Invalidated the Study at the Canyon's Most Scenic Area**

Across SR-178 from the KR1 Powerhouse, two project-area trails — the Penstock/Forebay Trail and the Overflow Spillway Trail — offer a rare and valuable hiking loop configuration from a single access point. Loop trails are among the most popular trail configurations because they allow hikers to experience new terrain throughout their hike without retracing their steps. This particular loop would provide dramatic views of the most scenic bend in the lower Kern Canyon, the closest point of National Forest access to the city of Bakersfield.

This entire area is currently inaccessible to the public because of a locked gate and unauthorized SCE “No Trespassing” signage. The U.S. Forest Service asked SCE to remove these signs during the relicensing study period because they were not permitted under SCE’s existing license or its USFS special use permits. As of the date of these comments, the sign at this location remains in place. The Kern Gateway Trail Committee’s request to place a trail counter or survey box at this location was also declined by SCE, meaning no use data was collected here at all. At the March 26, 2026 Updated Study Report meeting in Kernville, an SCE staff member defended the signs on the grounds that they predated the study period and therefore did not affect the study. This argument misses the essential point: signs that predated the study period do not exonerate the study — they deepen the concern. If these unauthorized No Trespassing signs have been in place for years, their effect on public behavior extends far beyond the study window. They have shaped public perception, over time, that this area is off-limits. The REC 2 study measured the downstream effect of that perception. It did not measure demand.



*Figure 8. Locked gate and unauthorized “No Trespassing” signage at the Penstock/Forebay Trail access road, KR1 Powerhouse area. This sign was not authorized under SCE’s existing FERC license or its USFS special use permits. USFS requested its removal during the relicensing study period; it remains in place as of the date of these comments. The Penstock/Forebay Trail and Overflow Spillway Trail beyond this gate together form the closest Sequoia National Forest hiking loop to Bakersfield’s approximately 500,000 residents. (Photo: Kern Gateway Trail Committee, March 2025)*



*Figure 9. SCE's official KR1 project sign at the Powerhouse, stating "Recreation Facilities Are Open to the Public Without Discrimination." A short distance from this sign stands the unauthorized No Trespassing gate shown in Figure 8, blocking public access to the Penstock/Forebay and Overflow Spillway Trails. No trail counter or survey box was installed at this location during the REC-2 study. (Photo: Kern Gateway Trail Committee, March 2025)*

**Note:** While SCE's gates and signs block casual public access, some members of the public who are aware that the "No Trespassing" signs lack legal authorization do hike in this area. That those hikers exist at all — willing to pass signs threatening legal consequences in order to reach this landscape — is itself evidence of genuine demand. With legitimate, signed, maintained access, use would be substantially higher.



*Figure 10. A hiker on the Adit 17 & 18 Trail above the Penstock/Forebay area — one of the canyon’s most scenic viewpoints and the closest National Forest terrain to Bakersfield. Reaching this trail requires passing through the unauthorized “No Trespassing” gate shown in Figure 8. With proper maintenance and a legitimate trailhead, this section would be a premier hiking destination. (Photo: Kern Gateway Trail Committee, March 2024)*

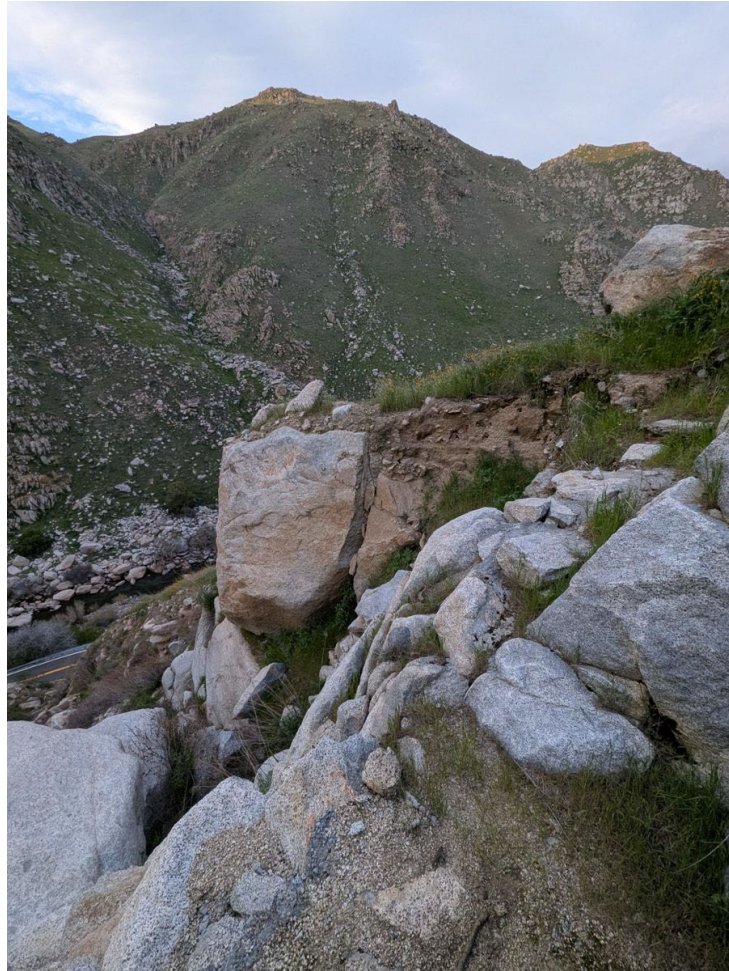


*Figure 11. A hiker on the Adit 17 & 18 Trail above the Penstock/Forebay, taking in a panoramic view of the lower Kern Canyon. Highway 178 and the Kern River are visible far below. This viewpoint is among the most spectacular accessible from the Bakersfield area, yet it remains effectively inaccessible without a legitimate trailhead, maintained trail, or public parking. (Photo: Kern Gateway Trail Committee, February 2026)*

### **B. Exhibit E, Table 5-3: The Overflow Spillway Trail Received a “Poor” Condition Rating — Damage Caused by SCE’s Own 2014 Penstock Failure Remains Unrepaired**

One segment of the Spillway Trail was damaged by erosion directly caused by a failure of SCE’s penstock infrastructure. In 2014, a penstock rupture triggered a major mudslide that closed Highway 178, caused significant property damage, and severely eroded the hillslope above the powerhouse. Investigative reporting by the Bakersfield Californian (Lois Henry, “Mother Nature Got Help Shutting Down Hwy. 178,” Bakersfield Californian) documented that SCE’s aging penstock infrastructure contributed to the failure and the resulting highway closure and hillslope damage. Notably, SCE’s own DLA acknowledges the result: Table 5-3 of Exhibit E (Overall Condition of Project Access Trails) rates the Overflow Spillway Trail as “Poor” — the worst condition rating in the table. SCE does not identify any specific plan to repair it.

This trail damage was caused by SCE's own infrastructure failure, and the washed-out trail segment has not been repaired. The trail remains passable but includes a section with exposed, eroded footing that creates a safety hazard for hikers. Repairing this damage — caused by SCE's own infrastructure — should be a condition of the new license.



*Figure 12. Washed-out section of the Overflow Spillway Trail, damaged by erosion following the 2014 penstock failure that also closed Highway 178. The trail remains passable but includes exposed, eroded footing that presents a safety hazard. SCE's DLA rates this trail "Poor" condition in Table 5-3 but does not identify a specific repair plan. (Photo: Kern Gateway Trail Committee, March 2025)*

### **C. REC-2 TM, Section 5.2.1 / Table 5-21: Survey Box Placement Behind Unauthorized Signage Permanently Taints the Democrat Gage Trail Use Data**

The Democrat Gage Trail access gate bore unauthorized SCE "No Trespassing" signage identical in character to the signage at the Powerhouse area. USFS asked SCE to remove it. Just prior to the submission of these comments, SCE did remove the sign at the Democrat Gage Trail — a step in the right direction that USFS can confirm. However, the unauthorized "No Trespassing" sign at the Powerhouse area, blocking

access to the Penstock/Forebay Trail just above the KR1 powerhouse, remains in place. SCE's trail survey box at the Democrat Gage Trail was installed on the far side of the gate, down the road nearly a mile — meaning any member of the public who turned back at the sign during the entire study period was never counted. The Democrat Gage Trail use data therefore reflects only visitors willing to pass an unpermitted No Trespassing sign. It cannot be treated as representative of actual public demand, and the study period data is materially affected by the sign that has since been removed.



*Figure 13. Locked gate at the Democrat Gage Trail access point during the REC-2 study period with unauthorized "No Trespassing" signage in place. SCE's trail survey box was located on the far side of this gate, meaning only visitors willing to pass the sign were counted. SCE removed this sign shortly before submission of these comments. (Photo: Kern Gateway Trail Committee, March 2025)*

#### **D. REC-2 TM, Table 5-21 / Figure 5-5: The Lowest-Use Trail in the Study Had a Physical Obstruction at Its Trailhead Throughout the Entire Study Period**

A barbed wire fence across the Lucas Creek Trail trailhead presents a physical obstacle to hikers seeking to use this project trail. SCE acknowledges the Lucas Creek Trail as a formally designated project trail and installed a trail counter to measure use. The Lucas Creek Trail recorded the lowest use counts of any surveyed trail. The presence of

barbed wire at the trailhead throughout the study period likely deterred potential hikers, and the resulting low counts should be understood in that context rather than as evidence of low inherent demand.

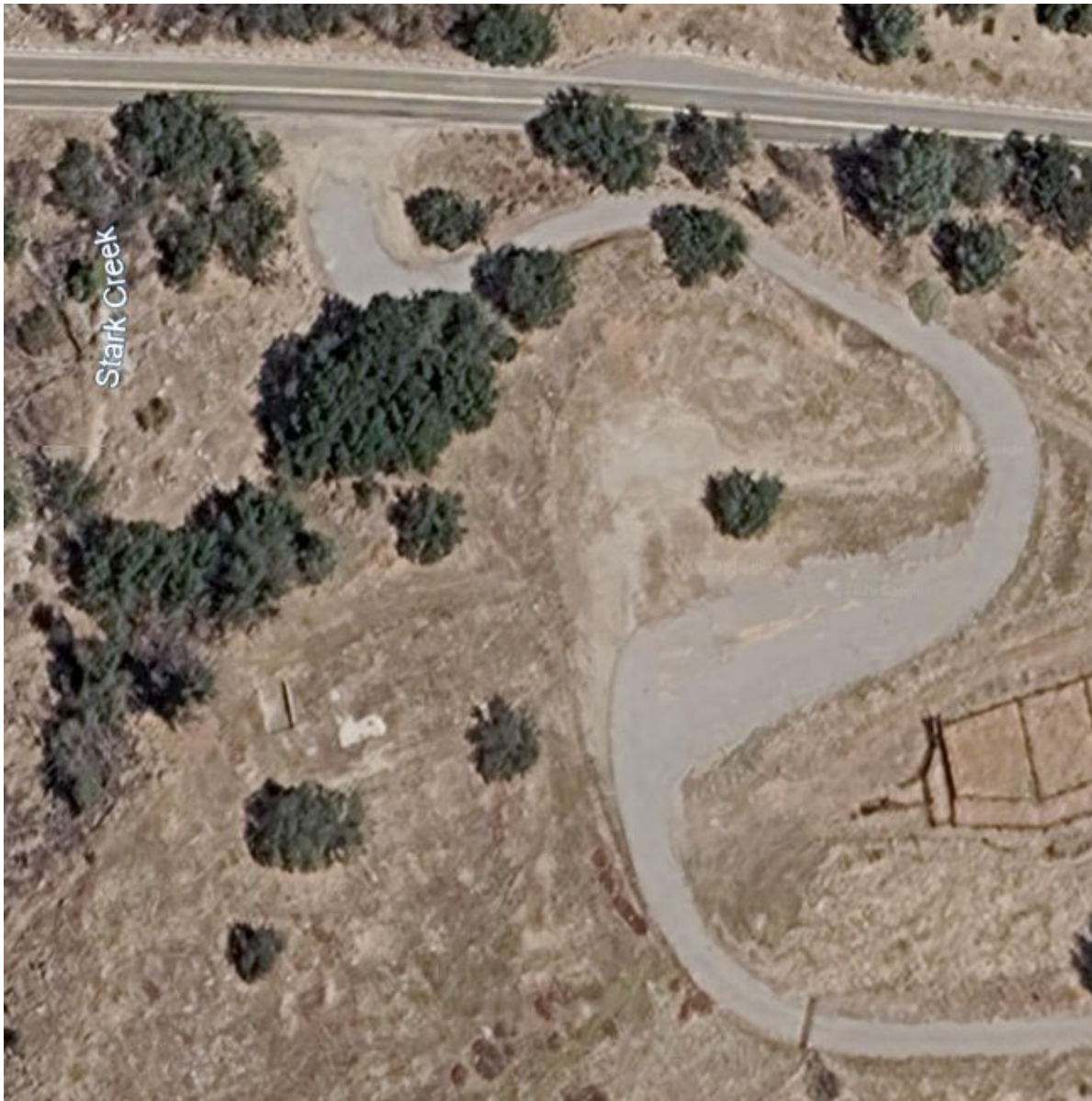


*Figure 14. Barbed wire fence at the Lucas Creek Trail trailhead — a formally designated KR1 project trail included in SCE's REC-2 study. The presence of this obstruction throughout the study period likely deterred potential hikers and should be considered when interpreting the trail's low use counts. (Photo: Kern Gateway Trail Committee, February 2026)*

### **E. REC-2 TM, Tables 5-2 and 5-3 / Section 5.1.1: A Locked Gate Blocked the Largest Parking Area in the Dougherty Creek Corridor Throughout the Study Period**

The Dougherty Creek Trail access has two components: a small highway pullout just off SR-178, and a much larger paved and graded parking area accessible via a short road that SCE controls and locks. Large, flat, accessible parking is extraordinarily rare in the lower Kern Canyon between Bakersfield and Lake Isabella. This parking area is gated and inaccessible to the public. If access to this area were permitted, trail use data suggests demand would be substantially higher. Hikers approaching Dougherty Creek Trail must instead park in the cramped highway pullout, walk past a locked gate, and hike up the paved access road before reaching the trailhead.

The two satellite images below show this configuration. The annotated version identifies the small existing highway pullout (upper blue area, gate marked by orange line), the large currently locked parking area (large blue polygon), and the second gate at the bottom of the site. With only a change in the gate lock placement and by opening the first gate, this large parking area could immediately serve multiple trails including both Dougherty Creek and Stark Creek.



*Figure 15. Aerial view of the Dougherty Creek / Stark Creek access area. The paved road leads from Highway 178 (top) through the site to a substantial flat parking area currently gated and inaccessible to the public. (Source: Google Maps)*



Figure 16. Annotated aerial view of the Dougherty Creek / Stark Creek access area. Blue areas indicate: (upper) the existing small highway pullout currently used for parking, with gate location marked in orange; (large polygon) the much larger parking area currently gated and inaccessible. Relocating the gate lock to above the lower gate would open this area to the public at minimal cost. (Source: Google Maps; annotations by Kern Gateway Trail Committee)

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#### **IV. Appendix E.1, Project Access Roads and Trails Management Plan / REC-2 TM, Section 5.1.1: The Plan Contains No Trailhead Infrastructure Commitments Despite SCE's Own Parking Capacity Data Showing Unmet Demand**

Across all five project trails and the broader corridor, trail use data is depressed by the absence of basic trailhead amenities: parking areas, clear signage, restrooms, and information about what is open to the public. SCE's own REC-2 TM data illustrates this

directly. Table 5-9 of the REC-2 TM reports the percentage of available parking filled at undeveloped river access points along SR-178 — the same pullouts that trail users rely on to access project trails. The maximum percentage of parking filled at these undeveloped sites reached 133 percent on weekends, 250 percent on weekdays, and 150 percent on holidays. These figures are not consistent with SCE's conclusion that current recreational capacity is adequate. They document that existing parking is already insufficient for current demand — let alone the 12 percent population growth SCE cites in its own future demand analysis. The parking deficit is the access deficit. Until designated trailhead parking is available, visitor counts on project trails will continue to understate the actual level of public interest in this corridor.

We disagree with SCE's conclusion that recreation amenities are adequate to meet current demand and foreseeable future demand. The REC-2 TM does not adequately capture recreation use of Project trails, nor does it capture existing and future demand. The data is not comprehensive enough to ensure FERC has adequate information to analyze environmental effects and inform license conditions. A study conducted while unauthorized signs discouraged public access, while gates blocked parking areas, while barbed wire obstructed trailheads, and while the most scenic and highest-demand corridor was entirely excluded does not measure public demand — it reflects the effect of those barriers on an already-suppressed public. The parking data in the same study document (REC-2 TM, Table 5-9) independently confirms demand exceeds supply: existing undeveloped access points along SR-178 filled to 250 percent of capacity on weekdays. SCE's adequacy conclusion is not supported by its own data. FERC should require SCE to remove all unauthorized access barriers and evaluate trail use and parking demand under unimpeded conditions as part of its final license application.

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## **V. Exhibit E, Section 7.10.3 (Future Recreation Demand): SCE's Demand Projection Ignores Documented Community Need and Fails to Evaluate the Kern Gateway Trail**

The Kern Gateway Trail is a proposed hiking trail system along the south wall of the Kern Canyon, connecting the canyon mouth to Democrat Dam along the south side of the Kern River. The majority of the proposed trail system runs directly through the KR1 project reach. The final 1.5 miles of the proposed system would connect through private land and past SCE-managed land to the canyon mouth, where trailhead access is being advanced in coordination with all necessary stakeholders. Significantly, a substantial portion of the proposed KGT alignment overlaps with the U.S. Forest Service's Powerhouse Trail — the same designated USFS recreation trail that SCE's project trails connect to and that SCE used to correct its own FERC project maps. The KGT is not a new trail in a blank landscape; it builds on and formalized existing project-connected trail infrastructure that is already in use. SCE project trails access the Powerhouse Trail and so, if the KGT is fully built and connected, SCE project trails will be critical access trails to get add flexibility to hikers on where to start/finish hikes, making the KGT more than just a trail, but a network of trails.

The Kern Canyon is one of the most dramatic and scenic landscapes in the Sequoia National Forest — and it is the **closest unit of National Forest to Bakersfield**, California’s ninth-largest city, with a population of approximately 500,000. The canyon mouth sits on the eastern boundary of the City of Bakersfield and the KR1 powerhouse is just a five-minute drive into the canyon from Bakersfield’s eastern city limits and only 20 minutes from downtown Bakersfield. For hundreds of thousands of residents, this is their nearest access to national forest wilderness. As explored earlier, despite extraordinary proximity to a major population center, public hiking access through the canyon is constrained by inadequate trailheads, locked gates, unauthorized “No Trespassing” signage, and poor trail maintenance — conditions that this proceeding has the authority and the obligation to address.

The Kern Gateway Trail proposal has earned broad and growing community support, including:

- 2,329 verified petition signatures from Kern County residents (Exhibit A)
- A unanimous resolution of support from the Bakersfield City Council (City of Bakersfield Resolution No. 185-2024, December 18, 2024) (Exhibit B)
- A letter of support from the Kern Council of Governments
- Support from the Kern County Superintendent of Schools
- Endorsements from numerous non-profit organizations and tribal groups, including the Bakersfield American Indian Health Project and the Tejon Indian Tribe

The petition signature data (Exhibit C) and the City of Bakersfield Resolution (Exhibit B) are attached as exhibits to these comments. This level of organized, cross-sector community support is direct evidence of genuine unmet public demand that SCE’s future demand analysis entirely ignores. The 2,329 verified petition signatures gathered at [www.change.org/kerngatewaytrail](http://www.change.org/kerngatewaytrail) (Exhibit A) represent residents actively seeking improved hiking access in the Kern Canyon — the kind of revealed preference data that should inform any serious projection of future recreation demand for this corridor. SCE’s Section 7.10.3 demand projection relies solely on a 12 percent Kern County population growth forecast through 2050. It does not account for the KGT petition, the unanimous Bakersfield City Council resolution of support, the letter from the Kern Council of Governments, or any of the organized community demand documented in this record. A demand projection that ignores documented, quantified public interest in recreation improvements in the specific project corridor is not an adequate basis for concluding that current conditions meet foreseeable future demand. FERC should require SCE to address this documented demand in its Final License Application.



# KERN GATEWAY TRAIL

Entryway to the magical Kern Canyon

The Kern Gateway Trail is a proposed hiking trail on the south side of the Kern Canyon, from the canyon mouth to Democrat Dam. Hundreds of feet above the river, the trail would provide a unique experience of the powerful beauty of this great California waterway as it cuts a path through the Southern Sierra Nevada range. It would extend over 15 miles if linked and fully built, giving recreational access to a spectacular natural environment.

The Kern Gateway Trail concept plan is a collaboration between the Kern Gateway Trail Committee and the Kern River Parkway Foundation, with technical assistance from the National Park Service - Rivers, Trails and Conservation Assistance Program.

## PROPOSED TRAIL PLAN



## SPECTACULAR VIEWS



Hiker overlooking Kern River in one of the steepest and most dramatic sections of the proposed Kern Gateway Trail.



The Kern Canyon is blanketed in colorful Spring wildflowers.

## FOLLOW THE TRAIL



Figure 17. Kern Gateway Trail proposed alignment map, from canyon mouth to Democrat Dam. The trail would extend over 15 miles when fully built, running hundreds of feet above the Kern River through Sequoia National Forest. From Cow Flat Creek to the KR1 powerhouse, the alignment follows the Powerhouse Trail; SCE project trails serve as access points throughout. (Source: Kern Gateway Trail Committee / NPS-RTCA)

## VI. Exhibit E, Section 7.14.2: SCE Proposes Zero Environmental Justice Mitigation Despite Its Own Socioeconomic Data Establishing the Community’s Documented Need

SCE’s Exhibit E Section 7.14 (Socioeconomics) acknowledges that Kern County is a severely disadvantaged community by any objective measure — yet SCE proposes no environmental justice mitigation whatsoever. This omission is not merely an oversight; it is a fundamental failure of the public interest analysis required under the Federal Power Act.

**The socioeconomic data SCE presents in its own DLA (Exhibit E, Section 7.14) establishes the following:**

**Income and poverty:** Kern County’s per capita income was \$29,201 in 2023 — 40 percent below the California average of \$48,013. Median household income in Kern County (\$68,893) was 28 percent below the state median (\$95,521). Nineteen percent

of Kern County residents live below the federal poverty line, compared to 12 percent statewide.

**Unemployment:** Kern County's average unemployment rate (8 percent) was significantly higher than the California average (6 percent).

**Demographics:** 57 percent of Kern County residents identify as Hispanic or Latino. SCE's own REC 2 visitor survey data (Section 7.10) found that 47 percent of day-use visitors to the project area identified as Latino, with 65 percent reporting household incomes between \$41,000 and \$80,000 and approximately 20 percent reporting incomes below \$40,000. These are not casual visitors with abundant recreation alternatives — they are working families for whom this canyon is their primary accessible natural area.

These figures are drawn directly from SCE's own filing. They describe a population that is: (1) majority people of color; (2) substantially lower-income than the state average; (3) living closer to a National Forest boundary than almost any other major urban population in California; and (4) significantly dependent on the lower Kern Canyon for outdoor recreation. SCE did not address this environmental justice profile in its proposed mitigation package. Exhibit E, Section 7.14.2 contains a single sentence on this point: "No PM&E measures related to socioeconomic are proposed as part of the Project." That sentence is the entirety of SCE's response to the environmental justice profile documented in the preceding pages of its own DLA. It is not an adequate response. FERC's equal consideration mandate under FPA Section 10(a)(1) requires the Commission to actively weigh recreation values alongside power generation. When a project serves a majority low-income, majority Latino community with documented recreational access deficits, and when that project degrades the aesthetic and recreational quality of the region's primary natural resource, the failure to propose any mitigation is not a neutral finding — it is a substantive violation of the equal consideration standard. SCE must specifically respond to why Section 7.14.2 proposes no mitigation in light of the data it presents in Sections 7.14.1 and 7.10. FERC should require SCE to provide meaningful public hiking access at the KR1 project — trailheads, maintained trails, clear signage — as an environmental justice mitigation measure of the first order.

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## **VII. Exhibit E, Section 7.11 / Appendix E.1, Visual Resources Protection Plan: Painting Buildings Is Not Adequate Mitigation for a Dewatered Wild and Scenic-Eligible River Corridor**

Exhibit E Section 7.11 (Aesthetic Resources) acknowledges that the Powerhouse, switchyard, and forebay operations area are situated within a landscape designated

“High” under the Forest Service’s Scenic Integrity Objective (SIO) — the highest possible designation, requiring that the landscape appear essentially unaltered. SCE simultaneously acknowledges that its project facilities are inconsistent with this designation (Exhibit E, Section 7.11.2). SCE’s sole proposed mitigation for this inconsistency is found in Appendix E.1, Visual Resources Protection Plan, which requires SCE to paint its buildings in earth tones and screen equipment with vegetation where feasible. That is the entirety of SCE’s aesthetic mitigation proposal for a project that has occupied a High SIO landscape for over a century. SCE must specifically explain, in its response to these comments, why paint colors constitute adequate mitigation for a High SIO designation under the Sequoia National Forest Land Management Plan.

SCE acknowledges (Exhibit E, Section 7.11.1.2) that the Forest Service has identified the lower Kern River as an eligible Wild and Scenic River with outstanding remarkable values for scenery, recreation, wildlife, prehistory, and history. Proposed minimum flows identical to those from 1998 are not adequate mitigation for the ongoing aesthetic and recreational harm that dewatering this eligible Wild and Scenic River corridor causes. Public hiking access — giving people a way to experience the canyon’s scenic grandeur on foot, even when the river runs low — is the most direct and proportionate form of mitigation available.

SCE’s operation of the KR1 project removes the majority of the Kern River’s natural flow for much of each year, routing the flow through tunnels, flumes, and conduits to the powerhouse approximately 17 miles downstream. What remains in the bypass reach for many of the cooler months is the licensed minimum instream flow (MIF) of 15 cfs from fall through spring and 50 cfs in summer months — a figure unchanged from the 1998 license. SCE has at times pointed to releases from Lake Isabella as the primary driver of flow conditions in the lower canyon. This framing obscures SCE’s own substantial and independent contribution to flow conditions. The KR1 project diverts up to approximately 400 cfs from the Kern River at Democrat Dam. When releases from Lake Isabella are in the range of 400 to 800 cfs — a common range during drier periods — the KR1 diversion represents between 50 and 100 percent of the available flow. Under these conditions, the difference between what the bypass reach receives and what it would naturally carry is almost entirely attributable to the project diversion, not to Isabella. SCE’s operation of the project is a substantial and direct impact on the lower canyon’s aesthetic and ecological character when Isabella flows are at moderate or low levels, and that impact requires mitigation regardless of what Lake Isabella does independently.

At 15 cfs, the Kern River — historically one of the most powerful rivers in the Southern Sierra Nevada — is reduced to a thin trickle threaded between enormous boulders in a channel scaled for hundreds or thousands of times that flow. A person can easily rock-hop across it in sneakers. The visual impact is severe and continuous along the SR-178 corridor. But the harm is not only aesthetic. At 15 cfs, the river also loses the pool depth, flow velocity, dissolved oxygen levels, and thermal diversity that support the smallmouth bass, hardhead minnow, and trout fishery of the lower Kern Canyon. Angling was the primary recreation activity reported by 20 percent of surveyed visitors in SCE’s own REC-2 study — the second most common activity after picnicking. A river running at 15

cfs cannot sustain the fishery that those anglers depend on, and SCE's proposal to maintain this minimum flow for another 40–50 years is not adequate mitigation for that ongoing impact. At 50 cfs — the summer minimum — conditions are similarly inadequate for either aesthetics or aquatic habitat. Since the summer months overlap with the primary irrigation season, minimum flows are less common in summer, but infrequency does not mean adequacy. It means the cumulative harm from minimum-flow periods compounds over the full license term without a binding obligation to address it.



*Figure 18. The Kern River bypass reach at near-minimum instream flow of approximately 40 cfs, photographed just upstream of the KR1 powerhouse. The channel, built to carry a powerful Sierra Nevada river, is reduced to a trickle between boulders. Natural flows at this location would support vigorous rapids, angling habitat, and aquatic ecosystems. SCE proposes to maintain these same minimum flows for another 40–50 years. (Photo: Kern Gateway Trail Committee, February 2026)*



*Figure 19. Near-minimum flow conditions in the KR1 bypass reach, photographed from SR-178 near Lucas Creek. The river is virtually invisible behind a field of boulders. Highway 178 through the Kern Canyon is a scenic resource of statewide significance; minimum instream flows degrade this experience for hundreds of thousands of annual visitors while also eliminating angling habitat and aquatic ecosystem function. (Photo: Kern Gateway Trail Committee, February 2026)*

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## **VIII. Exhibit E, Section 7.11 / Appendix E.1, Project Access Roads and Trails Management Plan: The KR1 Powerhouse Site Is the Canyon’s Most Significant Scenic Impact and Its Most Important Potential Trailhead**

SCE’s own aesthetic analysis (Exhibit E, Section 7.11) describes the Powerhouse, switchyard, and adjacent transmission lines as “the most visually predominant Project features” visible from SR-178, situated at one of the most scenic bends in the lower Kern Canyon. SCE has, paradoxically, blocked public hiking access at this exact location.



*Figure 20. The KR1 powerhouse in the lower Kern Canyon's most scenic and dramatic bend, where large industrial structures and transmission lines are inserted into a High Scenic Integrity Objective landscape. SCE's proposed mitigation for this impact is limited to painting buildings in earth tones. (Photo: Kern Gateway Trail Committee, February 2026)*

The KR1 Powerhouse site contains the largest accessible parking area in the lower canyon. For the proposed Kern Gateway Trail, this site would serve as the critical westernmost trailhead in the Sequoia National Forest — the anchor point connecting National Forest trail segments to the canyon mouth through the private land there. Losing this trailhead would leave an unacceptable gap in the trail system that cannot be compensated by any other location (see Figure 21).

We recognize that the access road leading up to the Powerhouse parking area presents real considerations: the road is narrow, and the entrance and exit onto Highway 178 is tight, with limited sight lines. These are legitimate safety questions that deserve a proper engineering answer, not a reason to keep the lot permanently closed. FERC should require SCE to commission a traffic and safety analysis of the SR-178 access point as part of a Trail Management Plan (see Section X), specifically evaluating options to improve the highway entrance and whether the road geometry can be modified to make it safely usable as a public trailhead.

If that study concludes that the upper access road cannot be made safely operable for public vehicle use, there is an alternative that should be evaluated: the flat area adjacent to Highway 178 directly across from the powerhouse has potential for a surface parking area that could serve the same trailhead function. Hikers parked there would need to cross SR-178 to reach the staircase and trail above. Two infrastructure solutions could address this: a pedestrian-activated signal installed at this crossing location, or a pedestrian bridge spanning Highway 178 and connecting the lower parking area directly to the staircase that accesses the upper trail. Either approach would allow this world-class trailhead to function safely without requiring vehicles to navigate the narrow upper access road. FERC should require that the traffic and safety analysis evaluate both the upper parking area option and this lower parking-plus-crossing alternative, so the full range of solutions is on the table.



*Figure 21. The KR1 Powerhouse parking area — the largest parking lot in the lower Kern Canyon between Bakersfield and Lake Isabella — gated and inaccessible to the public. No trail counter or survey box was installed at this location during the REC-2 study. (Photo: Kern Gateway Trail Committee, February 2025)*



Figure 22. Hikers ascending the Penstock/Forebay Trail, with the locked KR1 Powerhouse parking area visible upper right and SCE powerhouse facilities upper left. This site offers a large parking area, dramatic canyon terrain, and two trail options forming a scenic loop — all within 20 minutes of downtown Bakersfield. (Photo: Kern Gateway Trail Committee, February 2025)

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## **IX. Exhibit E, Section 3.1 / FPA §10(a)(1): FERC’s Equal Consideration Mandate and Established Precedent Require Binding Infrastructure Conditions, Not Perpetual Feasibility Studies**

### **A. Poe Hydroelectric Project (FERC No. P-2107): FERC Has Already Rejected the Argument That Low Use Counts Justify Withholding Trail Infrastructure**

The Poe Hydroelectric Project (FERC No. P-2107), operated by PG&E on the North Fork Feather River, provides directly applicable precedent. Like KR1, the Poe project operates in a visually spectacular river canyon within a national forest, significantly dewatering miles of river corridor, in a region with documented need for additional recreation infrastructure.

When PG&E submitted its recreation plan under the new Poe license and omitted the Poe Hiking Trail — arguing it was infeasible and that demand was too low to justify the cost — FERC rejected those arguments. In February 2022, FERC ordered PG&E to consult with stakeholders on a final trail route and provide a plan and schedule for construction. FERC held that even accepting PG&E’s higher cost estimate, trail construction was still justified. PG&E’s own feasibility consultants had described the trail backdrop as “stunning” and the experience as “valuable.” FERC agreed. American

Whitewater and the California Sportfishing Protection Alliance intervened throughout this proceeding to hold PG&E to its obligations, and ultimately prevailed.

The parallels to KR1 are direct: a scenic river canyon in a national forest, dewatered by a run-of-river hydroelectric project, adjacent to a population center with documented unmet recreation demand. SCE's argument that low trail use counts justify doing nothing maps exactly onto PG&E's argument that FERC rejected. FERC should apply the same standard here.

### **B. FPA §10(a)(1) / Exhibit E, Section 3.1: The Equal Consideration Mandate Is Not Satisfied by Paint Colors and a Promise to Study Trail Feasibility**

Under Section 10(a)(1) of the Federal Power Act, FERC is required to give "equal consideration" to energy development, fish and wildlife protection, irrigation, flood control, water supply, and recreation. Recreation is a co-equal statutory consideration.

(4) SCE's proposed mitigation package does not include substantive new recreation infrastructure; and (5) FERC's own precedent in the Poe proceeding establishes that trail construction is an appropriate and required license condition in circumstances directly analogous to those present here.

A license renewal that does not include meaningful recreational mitigation would fail to satisfy FERC's statutory obligations under the Federal Power Act.

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## **X. Appendix E.1: SCE's Proposed Environmental Measures Are Inadequate — Required License Conditions**

Appendix E.1 of the DLA contains eight proposed environmental measures. None of them requires construction of trail infrastructure, removal of unauthorized access barriers, trailhead development, minimum flow increases, or environmental justice mitigation. The measures that do exist — a Visual Resources Protection Plan that limits SCE to earth-tone paint, a Sediment Management Plan with no volume cap, and a Project Access Roads and Trails Management Plan with no public access commitments — are facially inadequate responses to the impacts documented in SCE's own Exhibit E. FERC should require the following specific conditions in the new license:

**1. Trail Infrastructure Construction Obligation:** Require SCE to construct or fund the construction of improved trailheads and trail segments in the project reach, with priority given to: (a) a designated public trailhead with parking, signage, and restroom facilities serving the Penstock/Forebay Trail and Overflow Spillway Trail loop; (b) the Powerhouse Trail in its full extent from the project Powerhouse to Cow Flat Creek; and (c) connecting segments of the Kern Gateway Trail as identified in consultation with the

Kern Gateway Trail Committee, Kern River Parkway Foundation, and the U.S. Forest Service. A timeline for construction, not merely a feasibility study, should be a license condition.

**2. Immediate Gate and Signage Actions:** Require SCE to, within 90 days of license issuance: (a) remove unauthorized “No Trespassing” signs from the Penstock/Forebay Trail access road; (b) relocate the SCE lock to above the large parking area at the Dougherty Creek access point, thereby allowing expanded parking access; and (c) clear the barbed wire obstruction from the Lucas Creek Trail trailhead or provide an pedestrian friendly gate.

**3. KR1 Powerhouse Trailhead:** Require SCE to commission a traffic and safety analysis of SR-178 access and develop a plan to open the KR1 Powerhouse parking area to the public as a designated trailhead serving the Penstock/Forebay Trail, Overflow Spillway Trail, and the Kern Gateway Trail system. If SCE compellingly demonstrates that the main lot is operationally infeasible, it must provide an alternative trailhead of equivalent capacity and scenic value within a mile of the powerhouse along Highway 178, allowing trail access at this scenic section of the canyon in the National Forest to mitigate for their obstruction of one of the best access points.

**4. Project Trail Reclassification as Recreation Facilities:** Require SCE to formally reclassify all KR1 Project Access Trails — including the Powerhouse Trail, Cow Flat Creek Trail, Lucas Creek Trail, Dougherty Creek Trail, Democrat Gage Trail, Adit 17 & 18 Trail, and Penstock/Forebay and Overflow Spillway Trails — as designated Recreation Facilities in the new license. Under the current license, these trails are classified as operational access routes. Reclassifying them as Recreation Facilities would formally establish SCE’s maintenance, signage, and public access obligations and would trigger the full range of FERC’s recreation-related license requirements for these trails. SCE’s own DLA acknowledges the Powerhouse Trail as the connecting spine of its project trail system (DLA Exhibit E, Section 7.10, p. 7.10-7). The Powerhouse Trail in particular should be included within the FERC project boundary in its entirety, consistent with 18 CFR 4.41(h)(2) and FERC Order 313, to ensure that SCE’s maintenance obligations are enforceable under the new license.

**5. Recreation Trail Management Plan:** Require SCE to develop and submit a Recreation Trail Management Plan (RTMP) to FERC within one year of license issuance, developed in consultation with the U.S. Forest Service, the Kern Gateway Trail Committee, and other relevant stakeholders. A trail management plan is the standard mechanism through which FERC licensees with significant recreational trail systems define and commit to their stewardship obligations. The RTMP for the KR1 project should address, at a minimum: (a) Trail classification and designation — formally identifying each trail as a public recreation facility, its intended use types (hiking, wildlife viewing, etc.), and its relationship to connecting USFS trails; (b) Visitor parking — a site-

by-site assessment of current and needed parking capacity at each trailhead, including the SR-178 access and safety analysis for the KR1 Powerhouse parking area described in Condition 3 above, and identification of solutions for each location; (c) Trail construction and rehabilitation schedule — a prioritized timeline for repairing damaged segments (including the Overflow Spillway Trail, rated “Poor” condition in DLA Table 5-3), improving trail tread, and constructing new connecting trail segments consistent with the Kern Gateway Trail alignment; (d) Signage plan — a comprehensive plan for trailhead kiosks, wayfinding markers, and public information signage at each access point, in multiple languages, consistent with 18 CFR Part 8 requirements that licensees post conspicuous notice that facilities are open to the public without discrimination; (e) Annual maintenance standards — defined frequency and standards for trail clearing, tread maintenance, erosion repair, and barrier removal; (f) Monitoring and reporting — annual visitor use monitoring using methodology that accounts for through-hiking and connected trail use, reported to FERC; and (g) Coordination protocol — a defined process for coordinating with the USFS, KGT, and other partners on trail improvements, events, and public outreach. The RTMP should be a living document, updated every five years and subject to FERC approval.

**6. Penstock/Forebay Trail Repair:** Require SCE to remediate the washed-out segment of the Penstock/Forebay Trail damaged by the 2014 penstock infrastructure failure, restoring it to a safe and publicly accessible condition. This damage was caused by SCE’s own aging infrastructure and should be addressed as part of the Recreation Trail Management Plan.

**7. Minimum Flow Review:** Require SCE to present a minimum flow alternatives analysis in the final license application that evaluates higher minimum flows and their effects on scenic quality, recreation, and fisheries. The current MIF of 15 cfs is unchanged from 1998 and represents a severe and continuing aesthetic harm to the lower Kern Canyon and to the fishery of this river stretch.

**8. Environmental Justice Recreation Access Plan:** Given the demographics documented in SCE’s own DLA (57 percent Latino county population, 19 percent poverty rate, per capita income 40 percent below state average), require SCE to develop an Environmental Justice Recreation Access Plan as a license condition. This plan should identify specific measures to improve recreation access for lower-income and minority communities, including multilingual signage, community outreach in partnership with Bakersfield schools, community organizations, and tribal groups.

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## **XI. Appendix E.1, Draft Sediment Management Plan: The Plan Authorizes Annual Full Pond Drains With No Volume Cap, No Fishery Threshold, and No Restoration Obligation for Legacy Impacts**

SCE's Draft Sediment Management Plan (Appendix E.1, SMP) was filed with the DLA on December 18, 2025. The plan describes two operational modes — partial sediment bypass and full sediment bypass — and states that full sediment bypass “is anticipated to occur annually” when inflows are below 800 cfs and conditions are suitable (SMP, Section 5.2.2.2). The plan does not set a maximum single-event release volume, does not establish a threshold at which flushing must be halted to protect the bypass reach fishery, and does not require evaluation of mechanical removal (dredging) as an alternative to in-river flushing. SMP Section 6.0 limits monitoring to qualitative observations during Years 1 through 6, with no binding remediation trigger if monitoring reveals fishery damage. The plan does not address the legacy impacts of the catastrophic 2001 release or subsequent flushing events. FERC should not accept this plan as adequate for a 40- to 50-year license.

The history of sediment management at Democrat Dam is well-documented and deeply concerning. In 2001, SCE released an estimated 272,000 cubic yards of accumulated silt from behind Democrat Dam into the bypass reach. SCE's own consultant acknowledged that the sediment mass was so large it took approximately seven years to move through the river channel. Following that event, SCE was required to develop a sediment management plan. That plan allowed continued in-river flushing of 3,000 to 20,000 cubic yards at a time. SCE conducted additional sediment releases in 2007, 2009, 2011, 2012, and 2013. Each release set back a fishery that was slowly recovering. The bypass reach has never returned to its pre-2001 smallmouth bass population levels; SCE's 2024 fish survey found zero smallmouth bass where a functioning population existed in 1995.

It has now been approximately ten years since the last major sediment release. Sediment continues to accumulate behind Democrat Dam. Without a binding plan in place, the pattern of periodic large-scale flushing is likely to repeat — with the same consequences for the bypass reach fishery that have been documented repeatedly over the past two decades. The new license represents the opportunity to break this cycle, not perpetuate it.

FERC should require the new license to include a binding Sediment Management Plan as a license condition, not as a post-license deliverable. That plan should: (a) prohibit single-event releases exceeding a volume threshold determined in consultation with CDFW and the Forest Service to be safe for the bypass reach fishery; (b) require SCE to evaluate mechanical removal (dredging and off-site disposal) as an alternative to in-river flushing, and to use removal when the fishery risk from flushing exceeds defined thresholds; (c) include a monitoring protocol for tracking sediment accumulation behind Democrat Dam and for assessing downstream sediment conditions in the bypass reach; and (d) require an independent assessment of the legacy impacts of the 2001 sediment release and subsequent events on pool habitat, spawning gravel, and the bass fishery, with a Fishery Restoration Plan developed based on those findings. FERC should not issue a new 40- to 50-year license without this plan in place.

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## **XII. Appendix E.2, AQ-2 TM (Updated January 2026): Bacteria Sampling Conducted Exclusively in Average-to-Wet Years Cannot Establish a Reliable Baseline for a Watershed That Is Dry Two Years Out of Three**

SCE's AQ-2 Water Quality and Temperature Technical Memorandum (Appendix E.2, updated January 2026) conducted bacteria sampling in the KR1 bypass reach during 2023 and 2024. Both years were average to above-average water years for the Kern River watershed. The updated AQ-2 TM does not identify this as a limitation of its findings, does not model *E. coli*

concentrations under minimum instream flow conditions, and does not evaluate bacteria levels during dry years when dilution is lowest and recreational contact is most likely to exceed California standards. This sampling design does not adequately represent typical conditions in the lower Kern Canyon.

The Kern River watershed experiences approximately two dry years for every one wet year, based on historical hydrology. In dry years, overall river flows are substantially lower, dilution of *E. coli* and other fecal indicator bacteria is reduced, water temperatures are higher (which promotes bacterial growth), and recreational use of the river — including swimming and wading contact — tends to concentrate in the limited remaining pools. The interaction between reduced dilution flows and continued bacterial inputs from wildlife, cattle, and human use creates conditions under which bacteria concentrations can be substantially higher than what SCE's average-year sampling would capture.

SCE's AQ 2 study does not address the question that matters most from a public health and recreation standpoint: in a typical dry year, with flows at or near minimum instream flow levels, how do *E. coli* concentrations in the lower Kern River bypass reach compare to California's contact recreation standards? The study as conducted cannot answer this question because it was not designed to capture dry-year conditions. Given that the new license will be in effect for 40 to 50 years — a period during which climate projections suggest increasing frequency of dry years in the Southern Sierra Nevada — dry-year water quality is not an edge case. It is the central public health question for recreational users of the lower Kern Canyon.

FERC should require SCE to supplement the AQ 2 study with dry-year bacteria sampling, or to model *E. coli* concentrations under minimum instream flow conditions using existing flow and temperature data, in consultation with the Regional Water Quality Control Board and CDFW. The license should also require SCE to post public water quality advisory information at project trailheads and access points whenever monitoring data indicates that bacteria levels exceed recreational contact standards, in the same way that other recreational water bodies in California post such advisories.

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### **XIII. Appendix E.2, REC-3 TM: The Boatable Days Analysis Overstates Days at High Flows, Ignores the Marginal Impact of the KR1 Diversion at Critical Flow Thresholds, and Proposes No Operational Mitigation**

SCE's DLA includes a calculation of "boatable days" on the lower Kern River as a measure of the project's impact on whitewater recreation. This calculation does not accurately capture the project's impact on whitewater recreation opportunity, for reasons that go in both directions: it overstates the number of genuinely boatable days at the high end of flows, and understates the significance of lost boatable days at the critical threshold range.

The lower Kern Canyon run is a technically demanding but popular whitewater section. For intermediate recreational paddlers, approximately 800 cfs in the bypass reach represents a good boating flow — adequate volume, manageable gradient, and readable hydraulics. Below 800 cfs the run becomes marginal or unrunnable for most paddlers; above approximately 2,000 to 3,000 cfs it becomes unsafe for the general public. SCE's boatable days calculation counts extreme high-flow days — flows unrunnable for most paddlers — as boatable days, inflating the total. The critical issue is at the lower threshold. When Lake Isabella releases 800 cfs, the bypass reach without the KR1 project would receive approximately 800 cfs — a good recreational boating day. With KR1 diverting up to 400 cfs, the bypass reach receives only approximately 400 cfs — too low for most paddlers. For the bypass reach to receive 800 cfs

when KR1 is diverting at capacity, Isabella must release approximately 1,200 cfs. The number of days per year when Isabella releases at least 1,200 cfs is substantially smaller than the number of days it releases at least 800 cfs. That difference — the lost boatable days attributable specifically to the KR1 diversion — is not quantified in SCE’s analysis and should be.

FERC should require SCE to revise its boatable days analysis to: (a) apply a realistic upper boatability threshold reflecting the skill levels of actual intermediate recreational paddlers, excluding extreme high-flow days that are unsafe for the general public; (b) define approximately 800 cfs as the relevant minimum boatable flow threshold for the bypass reach, in consultation with Kern River Boaters; and (c) quantify how many days per year Isabella releases fall between 800 and 1,200 cfs — the range where the KR1 diversion is the direct and marginal cause of an unboatable bypass reach — and how many lost boatable days are attributable specifically to the project. This analysis should be conducted in consultation with Kern River Boaters, the Army Corps of Engineers, and CDFW.

Beyond the study revisions, FERC should require meaningful operational mitigation for whitewater recreation as a license condition. Specifically: (a) Flow forecasting and public notification — require SCE to post daily and weekly flow forecasts for the KR1 bypass reach on a publicly accessible website or app, so that recreational paddlers can plan around expected conditions. Advance notice of likely boatable windows is a low-cost measure that substantially improves the recreational value of the project corridor; and (b) Recreational flow augmentation — require SCE to evaluate the feasibility of reducing or pausing the diversion on weekends and summer holidays when Isabella outflows are in the 800–1,200 cfs range — the specific window where reducing the KR1 diversion would bring the bypass reach to or above the 800 cfs recreational boating threshold. In these windows, the marginal cost to SCE’s generation is modest, and the benefit — converting an unboatable day into a boatable one during peak demand periods — is substantial. A protocol for targeted flow releases should be developed in consultation with Kern River Boaters, the Army Corps of Engineers (which operates Lake Isabella), and CDFW.

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## **XIV. Conclusion**

The Kern River No. 1 Hydroelectric Project has operated for decades in one of California’s most spectacular river canyons, providing power to the region while substantially reducing the natural flows and recreational character of the lower Kern River. SCE’s DLA — specifically Exhibit E Sections 7.10, 7.11, and 7.14, and the eight proposed measures in Appendix E.1 — proposes to continue this arrangement for another 40 to 50 years without substantive new commitments to public recreation access, aesthetic mitigation, environmental justice, or sediment management. Each deficiency identified in these comments is keyed to a specific DLA section or exhibit. SCE is required to respond specifically to each one. The community has demonstrated genuine demand: 2,329 verified petition signatures (Exhibit A), a unanimous City Council resolution (Exhibit B), and documented unmet need from a majority-Latino, lower-income population that lives closer to this national forest than almost any other urban community in California. The new license is the opportunity to make that access real.

FERC has the authority and the obligation to do better. The Federal Power Act's equal consideration mandate, FERC's own precedent in the Poe proceeding, and the compelling public interest record before the Commission all support requiring SCE to build the infrastructure that will give the people of the Bakersfield area meaningful access to their national forest backyard.



*Figure 23. A hiker on the Dougherty Creek section of the Powerhouse Trail above the Kern Canyon. This trail, this canyon, and this landscape are what is at stake. Access should not depend on knowing that posted signs lack legal authorization. It should be as simple as driving to a trailhead, reading a sign, and starting a hike. (Photo: Kern Gateway Trail Committee, February 2026)*

The Kern Gateway Trail represents a once-in-a-generation opportunity to connect a historically underserved community to a world-class natural landscape in their own backyard. It has broad support, a sound conceptual plan, and willing partners. What it needs is a licensee willing to open its gates and a Commission willing to require it. FERC should use the full weight of its licensing authority to make that happen.

We appreciate the Commission's attention to these comments and respectfully request that they be incorporated into the record. We are available to provide additional information or testimony at the Commission's request.

Respectfully submitted,

**Jonathan Yates**

Kern Gateway Trail Committee, a Project of the Kern River Parkway Foundation  
Bakersfield, California

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## **Exhibits**

### **Exhibit A — KGT Public Petition: “Build the Kern Gateway Trail!”**

Change.org petition created August 23, 2022 by Jonathan Yates. As of April 1, 2026: 2,329 verified signatures. Available online at: [www.change.org/kerngatewaytrail](http://www.change.org/kerngatewaytrail). Petition screenshot and signature export attached.

### **Exhibit B — City of Bakersfield Resolution No. 185-2024 in Support of the Kern Gateway Trail**

Passed unanimously by the Bakersfield City Council on December 18, 2024 (Ayes: Councilmembers Arias, Gonzales, Weir, Smith, Freeman, Gray, Kaur; Noes: none; Absent: none). Signed by Mayor Karen Goh, December 18, 2024. The resolution formally commits the City of Bakersfield to “support of developing, implementing, and promoting the Kern Gateway Trail” and identifies SCE as a required collaborator. Resolution attached.

### **Exhibit C — KGT Petition Signature Data Export (CSV)**

Exported April 1, 2026. Contains signatory names, locations, and dates. Submitted to document the geographic distribution and volume of public support for trail access improvements in the KR1 project corridor. Signature data attached.

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

IN RE

**SOUTHERN CALIFORNIA EDISON  
KERN RIVER NO. 1 HYDROPROJECT**

DOCKET NO. P-1930-090

**KERN RIVER BOATERS' RESPONSE TO  
SCE'S KR1 DRAFT LICENSE APPLICATION**

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UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

IN RE

**SOUTHERN CALIFORNIA EDISON  
KERN RIVER NO. 1 HYDROPROJECT**

DOCKET NO. P-1930-090

**KERN RIVER BOATERS' RESPONSE TO  
SCE'S DRAFT LICENSE APPLICATION**

**INTRODUCTION**

Kern River Boaters (“KRB”) respectfully submits these comments on Southern California Edison Company’s Draft License Application for the Kern River No. 1 Project. KRB is a California nonprofit public benefit corporation with federal 501(c)(3) status dedicated to protecting the ecological health, recreational value, and public enjoyment of the Kern River and its tributaries. KRB represents more than 2,300 members with direct, long-term interests in the condition and management of the Kern River. KRB’s members include whitewater boaters, anglers, hikers, and other river users who use and care about the Kern River and its project-affected reaches. Many of KRB’s members have decades of firsthand familiarity with Kern River flows, recreation patterns, access conditions, and resource issues in project-affected reaches.

KRB has participated in this proceeding by filing initial comments earlier in the licensing process. KRB submits these comments to help ensure that the record before the Commission is factually rigorous, analytically sound, and complete with respect to recreation and environmental issues. KRB’s purpose here is not to seek new studies, but to identify places where the Draft License Application overstates the certainty of its conclusions, relies on unsupported or weakly supported inferences, or fails to grapple with record evidence bearing on project effects. KRB is committed to making evidence-based claims, showing its work, and contributing to a full and testable record. To that end, KRB welcomes scrutiny of its reasoning and encourages correction of any factual error so that the record may be improved.

## COMMENTS

### **1. The Record Does Not Support Sce’s Determination That The Existing Minimum Instream Flow Regime Is Adequate For A New License Term.**

SCE proposes to carry the existing minimum instream flow unchanged into a new license that will govern the Kern River for approximately fifty years: 50 cfs from June through September, 15 cfs from October through May, or inflow if less. DLA Appendix E.1, Draft Minimum Instream Flow Measure, § 1.1. SCE’s effects analysis then concludes that this regime will have “no effect” on fish habitat, water quality, water temperature, and recreation resources. DLA Ex. E §§ 7.2.3, 7.3.3.1, 7.4.3.1, 7.10.3.4. Those conclusions are not supported by the record SCE itself developed.

**The existing MIF was designed for species management priorities that no longer apply.** The current 50/15 cfs regime was set based on a 1986 instream flow study that targeted smallmouth bass and rainbow trout. DLA Ex. E § 7.4.1.4, at 7.4-3 (citing EA 1986 and FERC 1998). The study found that 50 cfs provided 83 percent of maximum weighted usable area for adult rainbow trout, and 15 cfs provided 94 percent of maximum WUA for smallmouth bass life stages. *Id.* CDFW confirmed those recommendations in 1990. *Id.*

Since then, the management framework has fundamentally changed. CDFW has shifted its species of management concern from the non-native smallmouth bass to the native hardhead minnow, a California Species of Special Concern and Forest Service Sensitive Species. DLA Ex. E § 7.4.1.4, at 7.4-4 n.4; § 7.4.1.7. SCE’s own 2009 PHABSIM study — conducted under the current license — found that maximum WUA for adult hardhead occurs at 150 cfs, three times the current summer MIF. DLA Ex. E § 7.4.1.4, at 7.4-4. SCE’s 2025 bypass reach fish sampling confirms this shift is not theoretical: only 1 rainbow trout was captured in the entire 10.2-mile bypass reach, while hardhead were present at four of five sampling sites with active juvenile recruitment documented. AQ-3 §§ 5.3.2.1–5.3.2.5. Smallmouth bass — the species the MIF was designed around — appeared at only two of five sites, at low abundance. AQ-3 § 5.3.2, Table 3-9.

In short, SCE proposes to perpetuate for fifty years a minimum flow calibrated to a species that is functionally absent from most of the bypass reach, while providing only one-third of the flow its own habitat modeling identifies as optimal for the species CDFW now manages for. SCE offers no analysis explaining why 50 cfs is adequate for hardhead despite the 150 cfs PHABSIM result. The DLA simply reports the 150 cfs figure and then proposes 50 cfs without reconciling the gap. That is not a supportable effects determination.

**SCE’s own hydrology study quantifies the scale of the flow alteration.** SCE’s AQ-1 Technical Memorandum includes a hydrologic alteration analysis comparing bypass reach flows with and without the project diversion. The results are stark. At the median, the project reduces bypass flows by 86–88 percent during October through December:

Month	Median Inflow	Median Bypass	Reduction
October	271	35	87%
November	213	30	86%
December	264	32	88%
January	330	113	66%
February	333	147	56%
March	409	123	70%
September	435	194	55%

AQ-1 Table 5-6. The average annual 1-day minimum flow drops from 134 cfs without the project to 31 cfs with the project — a 77 percent reduction. AQ-1 Table 5-7. In drought years (WY 2014, 2015, 2021, 2022), the 90th-percentile exceedance flow in the bypass reach is 17–21 cfs — barely above the 15 cfs MIF floor. AQ-1 Table 5-5.

SCE performed this analysis. It is part of the relicensing record. But the DLA’s effects sections in §§ 7.2, 7.3, and 7.4 do not engage with it. The effects analysis does not ask what the bypass reach would look like with 271 cfs in October instead of 35 cfs. It does not ask whether 150 cfs of additional thermal mass would change the temperature regime. It does not ask whether hardhead habitat would be materially different at median unimpaired flows versus the current MIF. SCE produced the data showing a severe hydrologic alteration and then wrote its effects conclusions as though the alteration did not exist.

**The MIF contains no adaptive mechanism for a changing climate.** SCE’s own continuous temperature monitoring shows maximum instantaneous water temperatures reaching 24.9°C in 2024 and 24.8°C in 2025, with daily averages exceeding 23°C from late July through mid-September in both years. AQ-2 §§ 5.4, Tables 5-15, 5-16. SCE itself acknowledges that those temperatures are “too warm for cold water species like rainbow trout” and that rainbow trout stocked in the reach are “unlikely to be able to grow and survive during the summer season.” AQ-2 § 5.4. Yet the Basin Plan designates this reach for COLD freshwater habitat beneficial use, and the proposed MIF Measure contains no

temperature trigger, no seasonal adjustment mechanism, and no adaptive protocol for the next fifty years.

The proposed MIF Measure is two pages long. Appendix E.1, Draft Minimum Instream Flow Measure. It specifies the same 50/15 cfs values in effect since 1998, provides deviation procedures for emergencies and planned maintenance, and contains nothing else — no adaptive management framework, no trigger for reassessment, no relationship to temperature or habitat thresholds, no connection to the PHABSIM results SCE’s own studies produced. For a license that will govern the river through approximately 2076, that is an extraordinary omission.

**The Fish Population Monitoring Plan does not compensate for these deficiencies.** SCE’s proposed monitoring — sampling in Year 1 and Year 6 of the license, with no further specified schedule — is too infrequent to detect population-level responses to flow conditions and too disconnected from the MIF to serve as an adaptive check. Appendix E.1, Draft Fish Population Monitoring Plan, § 3.0. The U.S. Forest Service made precisely this point in the parallel KR3 proceeding, commenting that sampling intervals of five years or longer “may not allow for the cause of any potential change in fish populations to be ascertained.” USFS Comments on KR3 DLA, Acc. No. 20241001-5366, Att. 1 § 7.4. The same concern applies here with even greater force, because the KR1 Fish Population Monitoring Plan proposes only two sampling events in the first six years, with no commitment to any schedule thereafter.

KRB does not request new studies in this comment. KRB identifies a gap between the record evidence SCE developed and the conclusions SCE drew from it. The record shows a minimum flow set for a species assemblage that no longer exists in the bypass reach, contradicted by SCE’s own habitat modeling for the species that does, imposed on a reach where SCE’s own hydrology study documents flow reductions of 55–88 percent at the median, with no adaptive mechanism for a license term extending to 2076. On that record, SCE’s categorical “no effect” determinations for fish habitat, water quality, and recreation are unsupported.

## **2. SCE’s Water Quality Effects Determinations Rest On A Monitoring Record That Systematically Avoids The Conditions Most Likely To Reveal Project Effects.**

SCE concludes that the Proposed Action would have “no effect” on water quality and water temperature in the bypass reach. DLA Ex. E § 7.3.3.1. That conclusion rests on a monitoring record that, by design, does not capture the conditions under which project effects on dissolved oxygen and water temperature would be most pronounced. When the monitoring

protocol is examined against SCE's own continuous temperature data, the gap between what SCE measured and what SCE concluded becomes clear.

**SCE's dissolved oxygen record consists entirely of daytime spot samples taken outside the period of peak thermal stress.** The Basin Plan objective for dissolved oxygen in the Kern River from Lake Isabella to the KR1 Powerhouse is a minimum of 8.0 mg/L. DLA Ex. E § 7.3.1.3; CRWQCB 2018. SCE's entire DO record for the relicensing consists of in-situ spot measurements taken during two sampling events per year — one in June, one in late September or October — in 2024 and 2025. AQ-2 §§ 5.1.2, Tables 5-2, 5-3. Every one of those measurements was taken during daytime hours. In 2024, sampling times ranged from 0830 to 1300. In 2025, sampling times ranged from 0850 to 1715. AQ-2 Tables 5-2, 5-3.

No measurements were taken at night or pre-dawn, which is when DO in rivers reaches its daily minimum due to the cessation of photosynthesis and continued aquatic and microbial respiration. The diurnal DO cycle is well understood: concentrations decline through the night and reach their lowest point in the hours before sunrise. SCE's protocol excludes that entire portion of the cycle. The record therefore reflects conditions most favorable to high DO readings. Whether the Basin Plan objective is met during the daily and seasonal periods of greatest thermal stress is a question the record cannot answer.

That matters because the margin is thin. SCE's lowest recorded DO measurement across both years was 8.33 mg/L, taken at site KR 54.36 at 1615 on September 30, 2025. AQ-2 Table 5-3. That reading is only 0.33 mg/L above the Basin Plan objective — in the late afternoon, when DO is typically rising or near its daily peak. A pre-dawn measurement at the same site on the same day could plausibly fall below 8.0 mg/L. SCE's record provides no basis to evaluate that possibility because the sampling design excludes the hours when the answer matters most.

The record also contains an earlier DO measurement of 6.5 mg/L downstream of the KR1 Powerhouse from 1992 sampling — well below the 8.0 mg/L Basin Plan objective. DLA Ex. E Table 7.3-2; see also USFS Comments on KR1 DLA at 6 (March 30, 2026) (noting the discrepancy and requesting discussion in the FLA). SCE's DLA does not explain or discuss that result. The existence of a sub-objective DO measurement in the project's own historical record further undercuts the certainty of SCE's "no effect" conclusion.

**The in-situ sampling dates avoid the period of maximum thermal stress.** SCE's own continuous temperature data shows that the warmest period in the bypass reach occurs from late July through mid-September, with daily average temperatures consistently exceeding 23°C and reaching 24.4°C (August 6, 2024) and 24.8°C (September 4–5, 2025).

AQ-2 § 5.4, Tables 5-15, 5-16. Yet SCE's in-situ DO and water quality measurements were taken in June and late September or October — bracketing the thermal peak rather than capturing it. The June sampling coincides with spring runoff, when flows are high and water temperatures are below 20°C. The late September and October sampling falls after the thermal peak has begun to decline. AQ-2 Tables 5-2, 5-3.

The result is that SCE measured dissolved oxygen when flows were highest, temperatures were most moderate, and DO saturation capacity was greatest — and then used those measurements to conclude that the project has no effect on DO under a flow regime that reduces the river to 50 cfs or less during the precise months when thermal stress is most acute. That sampling design cannot support the weight SCE places on it.

**SCE's temperature analysis asks the wrong question.** SCE's temperature effects determination rests on the observation that water temperature changes little from upstream to downstream through the bypass reach — an average of 0.7°C in 2024 and a maximum downstream change of 1.8°C in 2025. DLA Ex. E § 7.3.1.4; AQ-2 § 5.4. From that observation, SCE concludes that “the Project has little effect on water temperature.” AQ-2 § 5.4.

That analysis answers the wrong question. The relevant question under the Basin Plan is not whether temperature changes longitudinally within the bypass reach; it is whether the project's diversion of up to 412 cfs from the river — reducing median flows by 55 to 88 percent depending on the month (AQ-1 Table 5-6) — affects the thermal regime of the bypass reach compared to unimpaired conditions. A river carrying 271 cfs in October has substantially more thermal mass, and therefore greater resistance to solar warming and air temperature influence, than a river carrying 35 cfs. SCE's own hydrology study documents that difference. AQ-1 Table 5-6. But the effects analysis never connects the hydrologic alteration to the thermal outcome. SCE measured the symptom (longitudinal temperature) and missed the mechanism (reduced thermal mass from diversion).

The absence of that analysis is especially significant because the water entering the project area from Lake Isabella is already warm. SCE reports that inflowing water temperature at KR 55.6 (upstream of Democrat Dam) reached 24.9°C in 2024 and regularly exceeded 23°C in both monitoring years during July through September. AQ-2 Tables 5-15, 5-16. SCE's own effects analysis acknowledges that “water released into this reach from Lake Isabella is approximately 23°C (warm) during the summer/fall months.” DLA Ex. E § 7.4.1.5, at 7.4-9. When the inflow itself is already at or near biologically stressful temperatures, the volume of water in the bypass reach is the primary variable determining whether localized solar heating pushes conditions further above critical thresholds. A 50 cfs stream will heat faster

and to a higher instantaneous maximum than a 271 cfs stream receiving the same solar input. SCE's record does not evaluate that relationship because SCE never asked the question.

**The COLD beneficial use designation is contradicted by SCE's own findings.** The Basin Plan designates the Kern River from Lake Isabella to the KR1 Powerhouse for Cold Freshwater Habitat (COLD) beneficial use, among others. DLA Ex. E § 7.3.1.2. Yet SCE's own 2025 fish sampling found exactly one rainbow trout in the entire bypass reach, while the assemblage is dominated by warm- and cool-water species — Sacramento sucker (63%), hardhead (14%), and brown bullhead (15%). AQ-3 § 5.3.2. SCE's AQ-2 study expressly states that summer water temperatures in the bypass reach are “too warm for cold water species like rainbow trout” and that stocked trout are “unlikely to be able to grow and survive during the summer season.” AQ-2 § 5.4.

SCE treats those findings as evidence that the current thermal regime is suitable for the species that happen to be present. But the more important question — which the DLA does not ask — is whether the current thermal regime reflects the designated beneficial use or the project's alteration of it. If the bypass reach is too warm for trout because the project removes 55–88 percent of the river's flow during the months when thermal buffering matters most, then the warm-water-dominated assemblage is itself a project effect, not a baseline condition. SCE cannot use the biological consequences of inadequate flows as evidence that the flows are adequate.

**The record does not support SCE's “no effect” conclusion on water quality.** KRB does not assert that the record conclusively proves Basin Plan DO violations are occurring. KRB asserts that the record SCE developed is not capable of determining whether they are or are not. A monitoring design that excludes pre-dawn dissolved oxygen, avoids the July–August thermal peak, relies on spot measurements rather than continuous data, and never analyzes the relationship between project-caused flow reductions and thermal or DO outcomes cannot support a categorical “no effect” determination for a fifty-year license. SCE's conclusion outruns its evidence.

### **3. The DLA's Fish And Aquatic Resources Conclusions Were Drawn Without Current Bypass Reach Data, And The Subsequently Filed Data Confirm The Analytical Gap.**

SCE concludes in the DLA that the Proposed Action would “maintain impoundment elevations, instream flow conditions and overall reach hydrology,” that “[a]quatic habitat and water quality conditions in the Project area would remain suitable to support native and non-native game and non-game fish species,” and that “[t]he continuation of the

existing minimum instream flows would continue to provide a high percentage of suitable aquatic habitat (i.e., WUA) for species of management interest (smallmouth bass, hardhead, and rainbow trout).” DLA Ex. E § 7.4.3.1, at 7.4-16. Those conclusions were drawn without any current fish population data from the bypass reach — the 10.2-mile reach most directly affected by the project’s diversion.

**The DLA acknowledged the data gap but drew firm conclusions anyway.** The DLA expressly states that SCE “planned to conduct fish population monitoring in the bypass reach in 2024 pursuant to FERC’s Study Plan Determination; however, due to high flows and unsafe sampling conditions, the monitoring was postponed until the fall of 2025.” DLA Ex. E § 7.4.1.6. The DLA’s bypass reach fish discussion therefore relied on data from 1999 through 2008 — sampling that ended sixteen years before the DLA was filed. *Id.* Appendix E.2 separately confirmed that AQ-3 had “[o]utstanding study components” and that a complete technical memorandum would be filed with the FLA. DLA Appendix E.2, Table E.2-1. Despite that acknowledged gap, the DLA’s effects analysis in § 7.4.3 does not qualify its conclusions or identify them as preliminary. It presents categorical “no effect” findings as though the bypass reach record were complete.

**The 2025 bypass reach data, now in the record, confirm the mismatch between the proposed MIF and the species actually present.** SCE completed bypass reach fish sampling in December 2025 at approximately 20 cfs. AQ-3 § 4.3. The results are now part of the relicensing record and bear directly on the adequacy of the DLA’s effects conclusions.

The 2025 sampling collected 591 fish representing eight species across five sites in the bypass reach. AQ-3 § 5.3.2. The assemblage is dominated by native species: Sacramento sucker comprised approximately 63 percent and hardhead approximately 14 percent of the catch. AQ-3 §§ 5.3.2.1–5.3.2.5, Table 3-9. Hardhead were present at four of five sampling sites, with young-of-year individuals documented at Site B — evidence of active reproduction in the bypass reach. AQ-3 § 5.3.2.2. These findings strengthen the significance of SCE’s own 2009 PHABSIM result showing that adult hardhead WUA peaks at 150 cfs. DLA Ex. E § 7.4.1.4, at 7.4-4. Hardhead are not merely historically present; they are actively recruiting in the reach. The proposed 50 cfs summer MIF provides one-third of the flow SCE’s own habitat model identifies as optimal for this species.

Meanwhile, the two species for which the existing MIF was calibrated are functionally absent or irrelevant in the bypass reach. Only one rainbow trout was captured across all five sites and the entire 10.2-mile reach. AQ-3 § 5.3.2.4. SCE elsewhere acknowledges that stocked trout represent a put-and-take fishery “with no known natural recruitment” and that summer temperatures in the bypass reach are “too warm for cold water species like

rainbow trout.” DLA Ex. E § 7.4.1.2; AQ-2 § 5.4. Smallmouth bass — the species whose habitat requirements drove the 1986 IFIM study and the 15 cfs winter MIF — were captured at only two of five bypass reach sites, at low abundance. AQ-3 §§ 5.3.2.2, 5.3.2.4. That is consistent with the DLA’s own acknowledgment that CDFW “has since shifted management focus” from smallmouth bass to hardhead. DLA Ex. E § 7.4.1.4, at 7.4-4 n.4.

**The DLA’s effects analysis does not reconcile these facts.** The DLA states that the proposed MIF “would continue to provide a high percentage of suitable aquatic habitat (i.e., WUA) for species of management interest (smallmouth bass, hardhead, and rainbow trout).” DLA Ex. E § 7.4.3.1, at 7.4-16. But the record now shows that the WUA relationship for hardhead peaks at 150 cfs — not 50 cfs — and that the two other species listed alongside hardhead in that sentence are either absent (one trout in the entire reach) or present at only a fraction of sites (smallmouth bass at two of five). The DLA does not explain how 50 cfs provides a “high percentage” of suitable habitat for hardhead when SCE’s own modeling identifies the adult optimum at three times that level. That gap between SCE’s data and SCE’s conclusion has not been addressed.

**SCE deflects responsibility for low-flow conditions onto Lake Isabella operations.**

Throughout the fish and aquatic resources section, the DLA attributes habitat limitations during high-flow periods to irrigation releases from Lake Isabella, stating that those releases “will likely continue to reduce the suitability of the instream flow habitat in the bypass reach on a seasonal basis; however, this is outside of the control of SCE and not a part of the Proposed Action.” DLA Ex. E § 7.4.3.1, at 7.4-16. That framing is selective. During the spring and summer high-flow season, Isabella releases do exceed the diversion capacity, and spill provides bypass flows well above the MIF. But during the months when Isabella releases decline — the fall and winter period when the project controls bypass conditions — the diversion reduces median flows from 213–330 cfs to 30–113 cfs. AQ-1 Table 5-6. Those are the months when the MIF is operative and when the project’s effect on habitat is most direct. SCE’s emphasis on Isabella-driven high flows draws attention away from the low-flow periods when the project’s own operations determine what the bypass reach receives.

**SCE’s proposed Fish Population Monitoring Plan is disconnected from the MIF.**

SCE proposes to sample the bypass reach in Year 1 and Year 6 of the new license, with no specified schedule thereafter and no mechanism linking monitoring results to MIF reassessment. Appendix E.1, Draft Fish Population Monitoring Plan, § 3.0. The monitoring plan documents species composition, distribution, and condition factor. It does not establish thresholds, triggers, or criteria for determining whether the MIF is achieving its stated purpose. If hardhead abundance or recruitment declines between Year 1 and Year 6, the

plan does not identify what, if anything, would follow. The monitoring is observational only; it creates no feedback loop to the flow regime it is ostensibly designed to evaluate.

KRB does not contend that the 2025 sampling data prove the bypass reach fishery is in crisis. The data show fish in generally good condition with native species reproducing. AQ-3 § 5.3.5. KRB's point is different: the DLA drew categorical effects conclusions before the bypass reach data existed, the data now in the record confirm that the species assemblage does not match the MIF design basis, and SCE has not reconciled its proposed flow regime with the habitat requirements of the species actually present and actively recruiting in the reach. On that record, the DLA's conclusion that the existing MIF will "maintain" suitable aquatic habitat and produce "no effect" on fish resources is not supported by substantial evidence.

The DLA also does not address whether the project's sediment management practices have contributed to the documented decline in fish species diversity. Species present in the impoundment in 1994 and 1995 — including smallmouth bass, hitch, Sacramento pikeminnow, and white crappie — were absent from the 2024 sampling. DLA Ex. E § 7.4.1.6; AQ-3 § 5.2.5. That issue is addressed separately below. See Comment 4.

#### **4. The Draft Sediment Management Plan Does Not Protect the Bypass Reach Fishery and Does Not Account for the Legacy of Past Sediment Releases.**

The DLA documents that multiple fish species present in the Democrat Dam Impoundment in 1994 and 1995 — including smallmouth bass, hitch, Sacramento pikeminnow, and white crappie — were absent from the 2024 sampling. DLA Ex. E § 7.4.1.6; AQ-3 § 5.2.5. The DLA does not analyze what caused those disappearances. It reports the changed assemblage as a fact and moves on.

The record, however, provides a plausible mechanism that the DLA does not examine. SCE manages sediment at Democrat Dam through periodic full sediment bypass events that release accumulated impoundment sediment directly into the bypass reach. DLA Ex. E § 5.1.5.4; Appendix E.1, Draft Sediment Management Plan. These are not minor maintenance operations. Full sediment bypass involves draining the impoundment and flushing the accumulated sediment load downstream through the 10.2-mile bypass reach — the same reach where the species disappearances have been documented. The DLA's effects analysis concludes that sediment operations would have a "negligible effect" on fish, but that conclusion is forward-looking only. It does not ask whether past full sediment bypass events contributed to the loss of smallmouth bass and other species from the project area over the past three decades. That question is directly relevant to the relicensing record because the

proposed MIF was calibrated to a species assemblage that included smallmouth bass — a species that no longer appears in the project area.

The proposed Sediment Management Plan compounds this gap by authorizing continued annual full sediment bypass with no fishery-protective safeguards. The plan states that full sediment bypass “is anticipated to occur annually” when inflows are below 800 cfs and conditions are suitable. Appendix E.1, Draft Sediment Management Plan, § 5.2.2.2. It establishes no maximum single-event release volume. It establishes no fishery-based threshold at which flushing must be halted or modified to protect downstream habitat. It does not require evaluation of mechanical removal — dredging and off-site disposal — as an alternative to in-river flushing. And its monitoring provisions are limited to qualitative observations during Years 1 through 6, with no binding remediation trigger if monitoring reveals fishery damage. *Id.* §§ 5.2, 6.0.

To the extent SCE may rely on the Forest Service’s concurrence that sediment operations under the proposed action would have no adverse geomorphic impacts, that concurrence does not reach the fishery question. The Forest Service stated that it reviewed the sections on hydrology, water quality, geomorphology, geology, and soils and agreed there should be “no adverse impacts from implementation of the proposed action.” USFS Comments on KR1 DLA at 3 (March 30, 2026). That statement addresses whether sediment moves through the system without causing geomorphic harm. It does not address whether releasing accumulated fine sediment into the bypass reach on an annual basis is consistent with protecting the fish assemblage — including hardhead, a California Species of Special Concern and Forest Service Sensitive Species that is actively recruiting in the bypass reach. AQ-3 §§ 5.3.2.1–5.3.2.5. Those are different questions, and the Forest Service’s concurrence on the first does not answer the second.

SCE should revise the Draft Sediment Management Plan to address these deficiencies. At a minimum, the FLA should include fishery-protective thresholds for in-river sediment releases, evaluate mechanical removal as an alternative to full in-river sediment bypass, and address whether the project’s historical sediment management practices contributed to the documented disappearance of multiple fish species from the project area between 1995 and 2024. A plan that authorizes annual full sediment bypass with no volume cap, no fishery-based halt threshold, and no requirement to consider alternatives to in-river disposal does not support a “negligible effect” conclusion for a fifty-year license term.

## **5. SCE's Treatment Of Wild And Scenic River Eligibility Does Not Engage With Project Effects On Outstandingly Remarkable Values.**

The U.S. Forest Service has identified the lower Kern River from Lake Isabella 31 miles downstream to the canyon mouth — inclusive of the entire KR1 project area — as eligible for Wild and Scenic designation under the “recreational” classification, with outstandingly remarkable values for scenery, recreation, wildlife, population and habitat, prehistory, and history. DLA Ex. E § 7.9.1.2, at 7.9-3 (citing Forest Service 2022). In 2024, the National Park Service placed the Lower Kern River on the Nationwide Rivers Inventory, identifying Recreation, Scenery, and Wildlife as significant ORVs. USFS Comments on KR1 DLA at 3, 5 (March 30, 2026). That listing triggers a consultation requirement under the Council on Environmental Quality directive applicable to NRI rivers. *Id.* at 5. The Sequoia National Forest Land Management Plan manages eligible Wild and Scenic rivers to “protect free-flow and outstandingly remarkable values and maintain preliminary classifications.” *Id.*

SCE's treatment of this designation consists of one paragraph. Section 7.9.3.2 states that because “there would be no change to Project operations under the Proposed Action, there would be no effects to the eligibility of the lower Kern River as an eligible Wild and Scenic River.” DLA Ex. E § 7.9.3.2, at 7.9-7. That is the same status-quo-as-baseline reasoning that pervades the DLA's effects analysis, and it is no more adequate here than elsewhere.

The question is not whether the Proposed Action changes current operations. The question is whether perpetuating the current flow regime for a new license term of approximately fifty years is consistent with protecting the outstandingly remarkable values the Forest Service has identified. The record SCE developed raises that question even if SCE's effects analysis does not ask it.

The recreation ORV is directly implicated by the project's effect on whitewater boating flows. SCE's own Updated Study Report documents 263 fewer boating days on the Richbar run under with-project conditions compared to without-project conditions over water years 2014 through 2024. REC-3 at 18–19. The wildlife and population/habitat ORVs are implicated by the MIF's mismatch with the habitat requirements of hardhead — a California Species of Special Concern and Forest Service Sensitive Species actively recruiting in the bypass reach — for which SCE's own PHABSIM study identifies optimal habitat at 150 cfs, three times the proposed summer MIF. DLA Ex. E § 7.4.1.4, at 7.4-4; AQ-3 §§ 5.3.2.1–5.3.2.5.

SCE cannot discharge its obligation to address Wild and Scenic eligibility by noting that it proposes no operational changes. The Forest Service manages eligible rivers to protect

ORVs. Two of those ORVs — recreation and wildlife/habitat — are affected by the same flow regime the DLA proposes to carry forward unchanged. At a minimum, the FLA should evaluate whether the proposed MIF is consistent with protecting the identified ORVs over the new license term, rather than treating operational continuity as a sufficient answer.

#### **6. SCE’s Reliance On The No-Action Baseline Does Not Justify Its Broader Claims That Recreation Resources Are Unaffected, Adequate, Or Free From Unavoidable Adverse Effects.**

KRB does not dispute the basic point that, for NEPA purposes, SCE may compare the Proposed Action to a no-action alternative reflecting continued existing operations. The problem is what SCE does next. SCE repeatedly takes a narrow comparative premise—that the Proposed Action would not materially change current project operations—and stretches it into much broader substantive conclusions about recreation resources. The Draft License Application does not simply say that the Proposed Action would produce little incremental change in recreation conditions relative to the no-action baseline. It goes further and asserts that continued Project operation and maintenance “would have no effect on recreation resources compared to the No-Action Alternative,” that existing recreation opportunities are “expected to remain sufficient to meet both current and future recreation needs,” that continued operation and maintenance “is not expected to have any effect on whitewater boating opportunities on the bypass reach,” and that “[t]here are no unavoidable adverse effects to recreation resources from continued operation and maintenance of the Project under the Proposed Action.” DLA Ex. E at 7.10-14 through 7.10-16.

Those propositions are not all the same. A claim that the Proposed Action would make little or no change relative to the no-action alternative is one thing. A claim that recreation resources are substantively “unaffected,” “adequate,” or free from “unavoidable adverse effects” is another. SCE repeatedly blurs those distinct propositions together. That matters because the no-action baseline does not answer the separate relicensing question whether the existing configuration is appropriate to carry forward for a new license term, or whether the evidentiary record actually supports SCE’s claims of adequacy and absence of adverse effect.

SCE’s own filing requirements make that point. In Exhibit H, SCE recognizes that where an applicant proposes no modifications to existing project facilities or operations, it still must provide “at least a reconnaissance-level study to show that the project facilities or operations in conjunction with other developments in the area would conform with a comprehensive plan for improving or developing the waterway and for other beneficial public uses as defined in Section 10(a)(1) of the Federal Power Act.” DLA, Ex. H, at H-3

(Dec. 2025). And SCE further asserts in that same exhibit that the Project, as proposed, “would conform with a comprehensive plan for improving or developing the waterway and for other beneficial public uses as defined in Federal Power Act section 10(a)(1).” *Id.* at H-12. So even on SCE’s own presentation, the relicensing inquiry is not exhausted by saying “we are not changing much.” The question remains whether the Project as proposed for relicensing is in fact best adapted to beneficial public uses, including recreation, and whether the record is sufficient to support that conclusion. See also 16 U.S.C. § 803(a)(1).

The DLA itself confirms that SCE is not merely describing a frozen status quo. Section 7.10.3.1 states that SCE proposes “minor modifications to the FERC Project boundary,” including adding lands necessary for Project operation, removing lands no longer necessary, and correcting errors in Project maps. It also states that under the Proposed Action SCE will implement the Project Access Roads and Trails Management Plan and the Vegetation Management Plan. Exhibit E, section 7.10.3.1, at 7.10-14. KRB does not contend that these are massive changes. But their existence further shows why the DLA’s most categorical “no effect” rhetoric is imprecise. SCE is not literally proposing a pure null set.

More importantly, many of SCE’s conclusions are not merely legal baseline statements at all. They are empirical claims. SCE says the three developed day-use areas along the bypass reach and the raft take-out site “currently provide capacity to meet present and foreseeable future demand,” that existing riverside recreation opportunities “are expected to remain sufficient to meet both current and future recreation needs,” and that Project trails average “only two to three users per trail per day,” indicating “current capacity is adequate and overuse is not an issue.” DLA Ex. E at 7.10-14 to 7.10-15. Those are factual adequacy judgments. They do not become immune from scrutiny merely because SCE has also invoked the no-action baseline. KRB is entitled to challenge whether the underlying data and reasoning actually support those adequacy findings.

The same is true of whitewater boating. SCE says that because the Proposed Action would maintain existing minimum instream flow requirements and proposes no other changes affecting boating opportunities, “continued Project operation and maintenance is not expected to have any effect on whitewater boating opportunities on the bypass reach,” and that conditions are anticipated to remain similar into the foreseeable future. DLA Ex. E at 7.10-16. Again, that moves beyond a narrow baseline comparison and into a broader merits conclusion. It effectively treats continuity of the existing minimum flow regime as sufficient by itself to resolve the substantive recreation issue. But that does not follow. A claim that there is little operational change is not the same as a demonstrated claim that the existing boating regime is adequate, or that project effects on boating are nonexistent in any

meaningful sense, or that no adverse recreation consequences attend continued relicensed operation.

SCE's cumulative-effects discussion shows the same slippage. There, SCE says section 7.10 "concludes that continued operation and maintenance of the Project would have no effect on recreation resources compared to the No-Action Alternative," and therefore the Project "would not cumulatively contribute to recreation-related effects." DLA Ex. E at 8-9 to 8-10. That conclusion is only as sound as the premise on which it rests. If section 7.10 has in fact converted a narrow no-change premise into broader unsupported claims about adequacy and absence of adverse effect, then the cumulative-effects section simply repeats the same defect one level up.

KRB's point here is therefore limited but important. KRB is not arguing that every statement using the phrase "compared to the No-Action Alternative" is facially illegitimate. Nor is KRB arguing that SCE may never conclude that some proposed measures would have little incremental effect relative to existing conditions. KRB's point is that the no-action baseline does not do all the work SCE says it does. It does not establish that recreation resources are adequate. It does not establish that whitewater boating opportunities are unaffected in any meaningful sense. And it does not establish that there are "no unavoidable adverse effects" from continued operation and maintenance under a new license. Those broader propositions require their own factual and analytical support.

That support is especially important in a relicensing proceeding because the Commission is not merely deciding whether to tolerate the continuation of the status quo. It is making a new licensing judgment that carries existing conditions forward under a new federal license term. See 16 U.S.C. § 803(a)(1). Where SCE chooses to defend that proposed license by asserting adequacy, no meaningful effect, and no unavoidable adverse consequences to recreation resources, it must support those assertions with actual record evidence and sound reasoning. It cannot simply invoke the current configuration as the baseline and treat the substantive inquiry as over.

KRB therefore requests SCE revise or clarify the recreation analysis so that it distinguishes among at least three different propositions: first, that the Proposed Action may in some respects introduce little operational change relative to the no-action alternative; second, that SCE believes existing conditions are adequate to meet certain recreation demands; and third, that SCE contends any remaining adverse effects do not warrant different license measures. The DLA repeatedly collapses those different propositions into a single overbroad assertion of "no effect." SCE should not take that shortcut.

## **7. The DLA Does Not Address The Visual Effect Of Project-Caused Flow Reductions On A River Viewed By The Traveling Public Along Its Entire Length.**

The lower Kern River bypass reach runs for 10.2 miles through Kern Canyon, paralleled for its entire length by State Route 178 — the principal transportation corridor between the City of Bakersfield and the communities and recreation areas around Lake Isabella. DLA Ex. E § 7.10.1.2, at 7.10-2. The Forest Service has identified scenery as an outstandingly remarkable value for the lower Kern River’s Wild and Scenic eligibility determination, and the Sequoia National Forest assigns a Scenic Integrity Objective of “High” to most of the land within the FERC Project boundary. DLA Ex. E §§ 7.9.1.2, at 7.9-3; 7.11.1.5, at 7.11-6.

SCE’s aesthetic resources analysis concludes that “continued operation of the Project would have no substantive change to the existing aesthetic environment” and proposes a Visual Resources Protection Plan focused on facility painting and structural maintenance. DLA Ex. E §§ 7.11.3, 7.11; Appendix E.1, Draft Visual Resources Protection Plan. That analysis addresses the visibility of project structures. It does not address the visibility of project-caused flow conditions in the river itself — the dominant visual feature of the canyon landscape as experienced from SR-178.

The visual effect of the project’s diversion on the bypass reach is quantifiable from SCE’s own record. During October through December, the project reduces median bypass flows from 213–271 cfs to 30–35 cfs. AQ-1 Table 5-6. A river carrying 30 cfs through a boulder-dominated, 10.2-mile canyon does not look like a river carrying 271 cfs. At 30–35 cfs, the bypass reach presents as an exposed rock channel with minimal visible flow — a condition that persists for months during the fall and winter. At unimpaired median flows, the same reach would carry seven to nine times more water, presenting as a continuous, visually dynamic river.

That difference is not experienced by a handful of specialists. It is experienced by every person who drives SR-178 — a route that serves as the primary access between a metropolitan area of nearly 900,000 people and one of the most visited recreation areas in the southern Sierra Nevada. DLA Ex. E § 7.10.1.6 (citing Kern County household population of 890,000 and Sequoia National Forest visitation of approximately 777,000 in 2016). The aesthetic impact of a severely dewatered bypass reach is therefore among the most broadly experienced of all project effects, yet the DLA does not discuss it.

KRB raised this concern in scoping comments. KRB described the bypass reach at fish flow as presenting “large stagnant pools, lots of algae, and where there is moving water, it is

narrow, slotted, and hard to see through the road blast.” KRB cited a Kern County Sheriff’s Office helicopter video documenting conditions at or near the MIF, in which no patches of moving water are discernible and the reach resembles exposed rock rather than a functioning river. See

<https://www.facebook.com/kernsheriff/videos/1744769682365133/>. KRB also cited CalTrans data reported by the U.S. Forest Service indicating that 2 to 3 million vehicles traverse the canyon one-way annually. SCE’s own socioeconomic data documents that the communities most directly served by this corridor are majority Latino with per capita income 40 percent below the state average; 47 percent of day-use visitors surveyed in REC-2 identified as Latino. DLA Ex. E §§ 7.14.1, 7.10. Despite this evidence of massive public effects implicating environmental justice, the DLA’s aesthetic analysis addresses only facility appearance and does not evaluate the visual effect of project-caused flow reductions on the river itself.

The DLA’s Visual Resources Protection Plan addresses paint colors, structural screening, and vegetation management around facilities. Appendix E.1, Draft Visual Resources Protection Plan, § 6.0. Those are appropriate measures for facility aesthetics. They do not address the primary visual impact of the project on the canyon landscape: the conversion of a river to a fraction of its natural flow for months at a time, in plain view of the traveling public along the entire length of the bypass reach.

SCE should revise the FLA to address the aesthetic effect of project-caused flow reductions on the visual character of the bypass reach as experienced from SR-178 and other public vantage points. At a minimum, the scenic impact analysis should acknowledge that flow quantity — not just facility appearance — is a component of the aesthetic resource, and should evaluate whether the proposed MIF is consistent with protecting the scenic ORV the Forest Service has identified for this eligible Wild and Scenic river.

## **8. SCE Improperly Equates Sparse Or Specialized Whitewater Use With Absence Of Project Effect**

SCE’s whitewater analysis suffers from a basic logical defect. It repeatedly points to evidence that use of the bypass reach is limited, specialized, difficult, or hard to quantify, and then treats those characteristics as if they establish that Project operations do not meaningfully affect the resource. That does not follow. Limited use is not the same as no effect. Specialized use is not the same as no effect. Difficulty is not the same as no effect. And inability to generate an “accurate estimate of current use” is certainly not affirmative proof that Project operations do not constrain or diminish whitewater opportunity.

The DLA’s own description of the resource makes that point. SCE writes that “[e]vidence suggests the bypass reach is not frequently boated, and when it is boated that boaters are mostly expert or expedition-level paddlers.” DLA Ex. E at 7.10-15 to 7.10-16. This description is far too coarse and unsupported by the record. SCE repeatedly speaks of the “bypass reach” as though its boating resource were a single expert-only run, but its own materials show otherwise. In the DLA, SCE separately identifies three runs: Cadillacs, Richbar, and Cataracts. It describes Cadillacs as Class V (Expert), Richbar as Class IV (Intermediate-Advanced), and Cataracts as Class V+ (Expert). DLA Ex. E at 7.10-8 to 7.10-9 (Dec. 2025). And in REC-3, SCE states even more specifically that “[b]oaters rated the difficulty of the Richbar Run as a Class III/IV+,” while separately stating that “[b]oaters running [the Cadillacs and Cataracts] sections of river are expert to expedition-level boaters and are proficient at running Class V whitewater.” REC-3 at 14-15. SCE therefore cannot fairly describe the relevant boating resource as though the entire reach were synonymous with the most difficult downstream whitewater. Richbar is a distinct run, and SCE’s own record places it in a materially different difficulty band from Cadillacs and Cataracts.

SCE’s use-estimate discussion makes the problem even clearer. It relies heavily on the 2005 Recreation Use Monitoring Study, which in turn relied on Forest Service manifest forms, and states that “between three and seven boaters ran the Cataracts Run each year between 2001 and 2005,” while boating use on other lower Kern runs ranged from “several hundred boaters per year to more than 2,000 boaters per year.” DLA Ex. E at 7.10-10 to 7.10-11. But SCE immediately acknowledges the critical limitation of that information: “because permits are not required to boat the bypass reach, and because no use data are collected for this section of the river, an accurate estimate of current use is not available.” *Id.* at 7.10-11. That concession should have stopped SCE from making broad conclusions about the insignificance of the resource. Instead, SCE does the opposite: it uses stale low-use figures, coupled with admitted lack of current use data, to support a modern “no effect” conclusion. That is not careful analysis. It is a gap in proof.

Said differently, if SCE truly lacks “an accurate estimate of current use,” then the company cannot honestly use non-quantification as substantive evidence that Project effects on boating are negligible. The absence of current use data does not prove absence of demand. It may reflect the very features SCE itself identifies elsewhere: the run is difficult, private boaters are “not currently required to obtain a permit,” there is “no commercial whitewater boating in the bypass reach,” and access is dispersed from roadside pullouts along SR-178 rather than through a formalized developed facility system. SCE REC-3 at 9. Those characteristics make the reach hard to census; they do not make it unimportant.

SCE then attempts to update the picture by pointing to more recent REC-2 and REC-3 efforts, but those too do not support the weight SCE places on them. In the DLA, SCE says that “over the course of the year during which in person intercept surveys were conducted along the bypass reach and impoundment . . . survey technicians collected or received 374 survey forms representing 1,251 individual day-users, yet none reported whitewater boating the bypass reach.” It adds that a “60-day public online survey, combined with targeted outreach to 35 boaters believed to have firsthand experience on the reach, yielded input from only 14 individuals who had boated one or more of its runs.” DLA Ex. E at 7.10-11. Again, even taken at face value, those facts do not establish no project effect. They show only that bypass-reach boating is a relatively small, specialized, and difficult-to-capture use compared to more conventional roadside day use. They say nothing about whether Project operations suppress boating opportunities when flows would otherwise be boatable, or whether the existing flow regime constrains the frequency, timing, quality, or accessibility of that use.

Indeed, SCE’s own REC-3 description of the interview process underscores how thin the sample actually is. The REC-3 report states that the online Questionnaire was made available for sixty days and that “[a] total of five unique respondents completed the Questionnaire online during the 60-day online survey period.” It further states that from a final list of “35 unique boaters,” only “9 people were successfully interviewed,” and that “[i]n total, 14 unique respondents completed the structured interview process.” REC-3 at 12-13. That is useful anecdotal information from knowledgeable users. It is not a robust basis for transforming low-count specialized use into an affirmative conclusion that Project effects on boating are nonexistent or immaterial. That is especially true because the interview sample and narrative discussion tend to emphasize the more difficult Cadillacs/Cataracts boating cohort, while SCE’s own separate Richbar discussion places that run at a lower difficulty level. REC-3 at 14-15.

And the actual content of those REC-3 interviews cuts against SCE’s effort to trivialize the resource. The report explains that for the Cadillacs and Cataracts runs, “[b]oaters running these sections of river are expert to expedition-level boaters and are proficient at running Class V whitewater.” It adds that “most boaters are targeting the Cataracts Run,” that “the unique character and difficulty of the whitewater are the primary reasons to boat this section of the river,” and that “[m]ost boaters indicated they are not constrained with respect to when they can boat the run and take advantage of boating opportunities when boatable flows are present.” REC-3 at 15. In other words, the record does not show an unimportant resource. It shows a highly specialized, high-value resource used by highly skilled boaters who respond to episodic opportunities when flows allow. The fact that the user group is narrow is a reason to analyze the resource carefully, not a reason to wave it away.

The same point appears in SCE's own discussion of flow preferences. REC-3 states that for the Richbar Run, the eight respondents' "minimum acceptable flow" preferences ranged from 700 cfs to 1,600 cfs, while optimum preferences ranged from 1,000 cfs to 3,500 cfs. It explains that minimum acceptable flow considerations centered on "boatability," "route availability," and "low-water safety considerations such as pinning or the presence of 'sieves.'" REC-3 at 14-15. And for the bypass reach more generally, REC-3 summarizes prior guidance showing suggested boating flows of roughly 600 to 2,500 cfs and older study references identifying minimum and optimal flows in that same general order of magnitude. REC-3 at 9. Those passages are important because they show that flow matters acutely to this use. The resource is not simply "there" or "not there." It exists on a flow-dependent spectrum. A project that diverts up to 412 cfs cannot be treated as irrelevant to a boating resource whose own participants describe boatability in flow bands beginning around 600 to 700 cfs and extending upward from there. DLA Ex. E at 7.10-16; Initial Statement, Ex. B at B-49.

SCE's central move is therefore backwards. It reasons, in effect, that because the reach is difficult and because the user population is relatively small and expert, Project effects are too limited to matter. But the better inference is often the opposite: where a resource is highly flow-sensitive, difficult, and dependent on a comparatively small set of capable users taking advantage of episodic natural opportunities, diversion-related changes may be especially important to whether the resource is available in practice. A broad, easy, beginner-friendly run may tolerate some reduction in days without disappearing from common use. A narrow Class V/V+ opportunity may not. The DLA never really confronts that.

Nor does SCE confront the obvious selection problem in its own evidence. The DLA says "none" of the 1,251 day-users represented in REC-2 intercept surveys reported whitewater boating the bypass reach. DLA Ex. E at 7.10-11. But the same filing makes clear that bypass-reach boating is atypical compared to ordinary riverside recreation, occurs only in certain flow windows, involves roadside put-ins and take-outs, and is practiced by expert paddlers who may move quickly through the reach. DLA Ex. E at 7.10-15 to 7.10-16. REC-3 likewise notes that some boaters complete the Cadillacs/Cataracts run "in less than an hour," while others take "3 to 4 hours," and that access is from SR-178 with limited parking and safety concerns associated with roadside traffic. REC-3 at 15. On those facts, it is hardly surprising that general recreation intercept surveys would be a poor tool for quantifying bypass-reach boating. But poor detection is not evidence of no use, much less evidence of no project effect.

The DLA also understates the significance of this resource by comparing the bypass reach to more popular lower Kern runs. It notes that other runs had use “from several hundred boaters per year to more than 2,000 boaters per year,” whereas the Cataracts run had only three to seven annual manifest-reported boaters in the early 2000s. DLA Ex. E at 7.10-10 to 7.10-11. But that comparison mostly proves that Cataracts is a different kind of run. It does not prove that Project-caused flow reductions are unimportant to those who do use it, or to the public interest in preserving a distinctive advanced whitewater opportunity in the lower Kern system. A rare or elite use is still a use. Under the Federal Power Act, FERC must give “equal consideration” to “the protection, mitigation of damage to, and enhancement of, fish and wildlife,” “recreational opportunities,” and other nondevelopmental values when determining whether a project is “best adapted” to beneficial public uses. 16 U.S.C. § 797(e); 16 U.S.C. § 803(a)(1). The statute does not say a recreation resource becomes disposable once its user population is smaller than a campground’s. The Commission has already rejected the argument that low observed use counts justify withholding recreation infrastructure at a run-of-river project in a national forest canyon. See Poe Hydroelectric Project, FERC No. P-2107 (February 2022 order requiring trail construction despite licensee’s low-demand arguments).

SCE’s own conformance filing reinforces that point. In Exhibit H, SCE represents that the Project “considers all existing and potential uses of the Kern River, including recreation,” and that relicensing “would conform with a comprehensive plan for improving or developing the waterway and for other beneficial public uses as defined in Federal Power Act section 10(a)(1).” DLA Ex. H at H-12. Having made that claim, SCE cannot reduce a specialized whitewater resource to insignificance simply because it is specialized. If anything, “existing and potential uses” is precisely the formulation that should keep the agency from writing off a difficult but real recreation use merely because it is not mass-market.

KRB’s point is therefore narrow but important. KRB does not contend that the bypass reach supports the same volume of use as easier and more commercially accessible runs elsewhere on the Kern. Nor does KRB contend that every low-use statistic in the DLA is wrong. The problem is the inference SCE draws from those facts. Sparse use may show that the affected user class is smaller. Specialized use may show that the relevant recreation opportunity is one for advanced paddlers rather than the general public. Difficulty may explain why use is episodic and highly flow-dependent. But none of those propositions establishes that Project diversions do not reduce boating opportunity, diminish the frequency of boatable days, or impair the quality of the whitewater resource as experienced by the users who are capable of using it.

For that reason, SCE should revise the whitewater discussion so that it no longer treats evidence of limited, specialized, or hard-to-quantify use as if it were evidence of no meaningful Project effect. At a minimum, SCE should distinguish among three different propositions that the DLA now blurs together: first, that bypass-reach whitewater boating is a relatively specialized use; second, that current data do not support a precise census of total use; and third, that SCE contends continued operation under the Proposed Action does not warrant additional measures. Those are very different propositions. The current DLA repeatedly treats the first two as proof of the third, without doing the analytical work in between.

### **9. Richbar — And The Richbar+ Reach Immediately Above It — Is Not Restricted To Expert Paddlers.**

SCE's treatment of bypass-reach whitewater is too coarse because it allows the hardest downstream whitewater to dominate the characterization of the whole resource. That is especially misleading as to Richbar. The Draft License Application states that the bypass reach is "less frequently run" and that the individuals who do boat it "are generally highly skilled expert or expedition level boaters drawn to the uniqueness and difficulty of the whitewater." DLA Ex. E at 7.10-10 to 7.10-11. Elsewhere, the DLA similarly says that "[e]vidence suggests the bypass reach is not frequently boated, and when it is boated that boaters are mostly expert or expedition-level paddlers." *Id.*, at 7.10-15 to 7.10-16. Those statements are too broad as applied to Richbar. They flatten materially different runs into a single "expert-only" narrative and, in doing so, understate the recreational significance and broader usability of the Richbar portion of the bypass reach.

SCE's own materials show that Richbar is not the same as Cadillacs or Cataracts and should not be treated as though it were. In the REC-3 study, SCE identifies three distinct runs within the bypass reach: Cadillacs, Richbar, and Cataracts. It describes Cadillacs as "Class V (Expert)," Richbar as "Class IV (Intermediate-Advanced)," and Cataracts as "Class V+ (Expert)." REC-3 at 5-6. The DLA says the same thing in substance, listing the bypass reach as "Cadillacs (Class V), Richbar (Class IV), and Cataracts (Class V+)." DLA Ex. E at 7.10-8 to 7.10-9 (Dec. 2025). So even on SCE's own account, Richbar is already in a materially different difficulty category from the expert-only runs downstream. SCE therefore cannot fairly use the existence of Class V and V+ boating elsewhere in the bypass reach to characterize Richbar itself as effectively restricted to expert or expedition-level paddlers.

REC-3 is even more explicit. In its discussion of Richbar, SCE states: "Boaters rated the difficulty of the Richbar Run as a Class III/IV+." REC-3 at 15. SCE then immediately distinguishes the harder downstream runs, stating: "Boaters running these sections of river

are expert to expedition-level boaters and are proficient at running Class V whitewater.” *Id.*, at 15. That distinction matters. SCE’s own study does not say Richbar is Class V. It does not say Richbar is restricted to expert paddlers. To the contrary, it places Richbar in a lower and broader skill band, then separately reserves the “expert to expedition-level” description for Cadillacs and Cataracts. *Id.*, at 15. The DLA should be revised to reflect that distinction rather than obscuring it through generalized references to the “bypass reach” as though all of its meaningful boating opportunities belonged in the same expert-only category.

KRB’s firsthand experience is consistent with, and more specific than, the narrower distinction already visible in SCE’s own record. KRB understands Richbar as the Lucas Creek-to–Nude Beach reach, roughly three to four miles in length and generally Class III. KRB further understands that the reach immediately above Lucas Creek—what KRB refers to here as “Richbar+”—adds about a mile of harder whitewater beginning below Toilet Bowl, or alternatively below Fin Rock, and running down to the Lucas Creek portage. In KRB’s experience, that added mile is roughly Class IV. KRB’s members have repeatedly boated Richbar with intermediate paddlers under suitable flows. That firsthand experience directly contradicts any implication that the Richbar opportunity is confined to experts or expedition boaters. KRB offers that practical observation here as stakeholder input based on direct river use; it is not necessary for SCE or the Commission to accept every aspect of KRB’s run description to see the larger point that SCE’s generalized “expert-only” framing is too coarse.

SCE’s own map of the Richbar reach is broadly consistent with KRB’s point that Richbar itself is not Class V water. The Richbar Whitewater Run map identifies “Dodder Creek (III-),” “Upper Richbar (III-),” “Lower Richbar (II),” “Nude Beach Rapid (III+),” and “Lucas Creek (III+).” REC-3 at Map 3-3. The same map then shows substantially harder rapids farther downstream of Nude Beach, including “Two Holes (IV+),” “More of the Start (V-),” “Bolt Route (V),” “Pre-Cleavage (V-),” “Cleavage (V),” “Triple Falls Entrance (V),” “Triple Falls (V+/VI),” and “The Plank (V/V+).” *Id.* That mapping supports the core point KRB is making here: the bypass reach is not a single undifferentiated expert-only run. SCE’s own map depicts a meaningful difference between the Richbar segment and the much harder water below. Even if SCE chooses for shorthand purposes to describe Richbar generally as Class IV, its own map still shows that Richbar is not properly understood as synonymous with the Class V and V+ boating farther downstream.

This matters because SCE’s overstatement of Richbar’s difficulty feeds directly into its understatement of Richbar’s recreational value and broader potential. A run framed as effectively expert-only will naturally appear niche, low-demand, and resistant to broader public use. A run that is in fact usable by competent intermediate paddlers under adequate

flows is something else. It is still a specialized whitewater resource, but it is not a fringe curiosity. It is a meaningful recreation opportunity for a materially larger user class than the DLA's rhetoric suggests. That distinction is important both factually and legally. Factually, it means current low use levels cannot simply be attributed to immutable run difficulty. Legally, it means FERC should not assess the resource as though it served only a tiny elite cohort when the relevant run may in fact have broader but suppressed public utility.

SCE's own flow-preference data reinforces the practical significance of Richbar. The DLA reports a "Boatable Flow Range" for Richbar of "700 cfs to 3,500 cfs," with a "Minimum Acceptable Flow Threshold" of "700 cfs to 1,600 cfs" and an "Optimum Flow Threshold" of "1,000 to 3,500 cfs." DLA Ex. E at 7.10-9. REC-3 similarly states that "[t]he minimum acceptable flow preferences of the eight boaters who provided input about their experience boating the Richbar Run ranged between 700 cfs and 1,600 cfs," and that optimum preferences ranged "between 1,000 cfs and 3,500 cfs." REC-3 at 15. Those are not the characteristics of a merely theoretical resource. They are the characteristics of a concrete flow-dependent recreation opportunity whose practical availability turns on whether flows are actually present in a usable range.

SCE's own discussion of the Richbar run's user experience also points in the same direction. REC-3 notes that some boaters reported being able to complete the Richbar run "in less than an hour," while others said it could take "3 to 4 hours," and explains that a boater may choose to extend time on the run by "playing, exploring route options, and/or guiding 'new' boaters through the run." REC-3 at 15. That is a revealing passage. It is not how one would ordinarily describe a run limited to an expert-only niche. It is, however, consistent with KRB's point that Richbar has broader practical utility, including as a run on which more experienced paddlers may guide newer ones when flows are suitable.

In short, SCE understates Richbar by collapsing it into a broader "bypass reach" narrative dominated by Cadillacs and Cataracts. That is analytically unsound. Richbar should be treated as a distinct recreation resource. SCE's own materials place it in a lower difficulty category than the expert-only runs downstream, and REC-3 specifically reports that boaters rated Richbar "as a Class III/IV+." KRB's firsthand experience is consistent with that description but more specific: KRB understands Richbar itself to be roughly Class III when put in below Lucas Creek, with the optional Richbar+ mile above Lucas Creek running in the Class IV to IV+ range depending on the put-in location. KRB's firsthand experience further indicates that Richbar itself is not confined to expert paddlers and has repeatedly been boated by competent intermediate paddlers under suitable flows. The run's practical significance is therefore materially greater than the DLA's expert-centric framing suggests.

SCE should revise its discussion so that it no longer implies that the relevant Richbar opportunity is limited to experts or expedition-level boaters. At a minimum, the DLA should distinguish clearly between Richbar, on the one hand, and the much harder Cadillacs/Cataracts reaches, on the other, and should evaluate Richbar's recreation value on its own terms rather than through the lens of the hardest water in the bypass reach.

**10. Richbar's Present Underuse Does Not Show Low Value; It Reflects Two Suppressive Barriers: Inadequate Flows And Inadequate Public Flow Information.**

Richbar's current use levels should not be mistaken for evidence of low recreational value or weak public interest. The better inference is that use is being suppressed by practical barriers. The two most important are straightforward: first, the run requires adequate flows in a defined and usable range; second, because the run is flow-sensitive, boaters need timely, convenient, and intelligible flow information in order to take advantage of the opportunities that do exist. SCE's analysis gives too little weight to both points. It treats present use mostly as a reflection of the run's inherent character, when in reality present use is also a function of whether boatable water is available and whether boaters can readily know when it is available. That matters because a resource that is underused due to suppressive project-related barriers is not the same thing as a resource that lacks value. DLA Ex. E at 7.10-9 to 7.10-10; Draft Stream Gaging Plan, section 5.0, at 2.

The first barrier is flow itself. As discussed in Comments 8 and 9, SCE's own record identifies Richbar's boatable range as 700 to 3,500 cfs, with minimum acceptable flows starting at 700 cfs. DLA Ex. E at 7.10-9. That is not a background detail. It is the central fact governing actual use. If the run needs roughly 700 cfs before it even becomes meaningfully boatable for the interviewed users, then the frequency, duration, and predictability of those flows is the first-order determinant of real recreational opportunity.

SCE's own boating-day calculations confirm how strongly Richbar use depends on flow windows rather than on some static lack of interest. The DLA states that during water years 2014 through 2024, "the total number of boating days that occurred for the Richbar Run was 649 days (16 percent of days over 11 water years)," and that the annual number ranged from "0 in multiple years" to "a high of 156 in 2019." DLA Ex. E at 7.10-10. The Updated Study Report goes farther and states that, under modeled "without-project" hydrology, the total number of Richbar boating days for 2014 through 2024 would have been 912, meaning "263 fewer boating days" occurred under the "with-project" scenario than under the modeled "without-project" scenario. REC-3 at 18-19. In other words, Richbar opportunity is episodic, highly variable, and materially affected by project diversions. Some years produce no boating days at all under SCE's own criteria. Other years

produce substantial opportunity. That pattern is exactly what one would expect for a valuable but flow-limited run. It does not support the dismissive inference that current use must be low because the resource lacks broader significance. It supports the opposite inference: opportunity appears and disappears with flow, and use necessarily follows.

The second barrier is public flow information. For a run whose usability depends on whether flows are in a boatable range for meaningful windows, information is part of the resource. A boater cannot take advantage of a short-lived opportunity he cannot readily detect. Yet SCE's proposed public-flow framework remains notably underdesigned for that purpose. In the Draft Stream Gaging Plan, SCE proposes that flow data below Democrat Dam, together with an estimate of inflow upstream of Democrat Dam, "will be provided for public viewing via the internet," but then limits the public-facing commitment to "at a minimum hourly average flow." Draft Stream Gaging Plan, section 5.0, at 2. The same plan adds a broad disclaimer that the provisional data "have not been reviewed for accuracy," "may be subject to significant change," and that SCE "accepts no liability for the accuracy, availability, suitability, reliability, usability, completeness or timeliness of the data or graphical depictions of the data provided via this website." *Id.* at 2-3. That is a weak and cautious public-information commitment for a recreation resource SCE is at the same time trying to characterize as adequately served.

The practical point is simple. Richbar is a run that users must catch when it is in. SCE itself defines a "boating day" as one in which the relevant flow threshold is present "for a minimum of four hours between 10:00 a.m. and 4:00 p.m." REC-3 at 17. A resource that turns on time-sensitive flow windows demands especially usable public flow information. If the public must depend on coarse, provisional, or cumbersome information channels to determine whether a run is in, actual use will be suppressed. That is not a theoretical concern. It is a predictable result of the way flow-dependent recreation works.

SCE's own REC-3 interview summary confirms that boaters do in fact depend on outside flow information before deciding to go. For Richbar, SCE reports: "Boaters said they checked the flows on the Dreamflows website and/or the US Army Corps of Engineers' website prior to boating the run." REC-3 at 14. SCE then says that "[i]n general, boaters said they were satisfied with the availability of flow data; however, one boater indicated that having flow data forecasts would improve the dissemination of flow data." *Id.* at 14-15. That passage does not help SCE as much as it may think. To begin with, it rests on only eight Richbar-experienced respondents, not a broad census of potential users. More importantly, the passage itself confirms the premise of this comment: boaters must check external flow information before deciding whether Richbar is worth pursuing, and at least one interviewed user specifically identified the need for better predictive information. Once

that is so, SCE cannot treat public flow dissemination as incidental to the boating resource. It is one of the gates through which actual use must pass.

The Dreamflows history is also important, because it shows that convenient public information for “Kern - Below Democrat” is not some longstanding, mature feature of the run. Dreamflows’ own change log states that on April 17, 2004, Dreamflows “Started reporting flows for the following new California site: Kern - Below Democrat.” Dreamflows, “What’s New?,” entry dated Apr. 17, 2004. But Dreamflows’ change log further states that on December 1, 2022, it “Stopped reporting estimated river flow for the California gauge site Kern - Below Democrat, and started reporting actual river flow (from a physical gauge) in its place,” adding: “Thanks to Southern California Edison for providing this realtime gauge data.” Dreamflows, “What’s New?,” entry dated Dec. 1, 2022. So it would be wrong to say there was never any Dreamflows information for Below Democrat. But it would also be wrong to assume that users historically enjoyed the same kind of convenient and reliable information that exists now. Dreamflows says the site long reported “estimated river flow,” and only in late 2022 switched to “actual river flow (from a physical gauge).” That distinction matters when evaluating historic and current use levels, because suppressed use in a world of estimated, imperfect, or cumbersome information should not be mistaken for proof of weak demand.

KRB’s firsthand experience is consistent with that basic logic. In KRB’s experience, one of the principal reasons Richbar remains underused relative to its actual potential is not merely that it is a specialized river segment, but that users face the combined friction of uncertain or inadequate flows and imperfectly convenient flow information. Those two barriers reinforce one another. When opportunities are already episodic, any extra informational friction further suppresses use. A run with broad, daily, summer-long commercial predictability can tolerate clumsy information systems. A run like Richbar cannot.

This point also exposes a deeper weakness in SCE’s logic. SCE tends to reason from observed use to significance: not many observed users, therefore low significance. But for a flow-dependent whitewater run, the causal chain often runs the other way: constrained flows and imperfect flow information reduce opportunity, reduced opportunity depresses actual use, and then that depressed use is mistakenly cited as proof of low demand. That circularity is exactly what SCE and the Commission should avoid here.

For these reasons, neither SCE nor the Commission should treat Richbar’s present use levels as reliable evidence of low recreational value or low future utility. At a minimum, the DLA should be revised to acknowledge that Richbar’s current level of use is shaped by two

practical barriers identified in SCE’s own record and in KRB’s firsthand experience: the limited occurrence of adequate flows within a defined boatable range, and the need for timely, convenient, intelligible public flow information so boaters can identify and act on those opportunities. SCE’s reliance on present use as a measure of recreational significance is incomplete and misleading.

### **11. SCE’s Boatable-Day Analysis Understates Project Effects By Ignoring Quality Degradation On Days That Remain Nominally Boatable.**

SCE’s recreation analysis quantifies the project’s effect on whitewater boating using a binary metric: a “boating day” is one where bypass reach flows fall within the boatable range for at least four hours between 10:00 a.m. and 4:00 p.m. DLA Ex. E at 7.10-10; REC-3 at 17. For Richbar, the Updated Study Report reports that 263 fewer boating days occurred under with-project conditions than would have occurred without the project diversion over water years 2014 through 2024. REC-3 at 18–19. That figure captures one dimension of the project’s effect. It does not capture the other.

The first barrier is flow itself. Those are not the same thing. A day at 1,400 cfs provides a qualitatively different boating experience than a day at 750 cfs. Both may register as “boatable” under SCE’s binary metric. But the boater whose optimum begins at 1,000 cfs experiences a materially degraded opportunity at 750 cfs — closer to the margin of boatability, with the safety and route-availability concerns SCE’s own respondents associate with minimum-acceptable conditions. REC-3 at 15.

The project’s diversion is the mechanism that produces this degradation. SCE’s operations model uses a conduit capacity of 385 cfs. AQ-1 § 5.3.1. On a day when unimpaired bypass flow would be 1,400 cfs, the diversion can reduce the bypass to approximately 1,000 cfs — still within the boatable range for Richbar, but shifted from well within the optimum zone to its lower boundary. On a day when unimpaired flow would be 1,100 cfs, the diversion can reduce the bypass to approximately 700 cfs — the bare minimum acceptable threshold. Those days count as “boatable” in SCE’s analysis. But the quality of the boating opportunity has been materially reduced by the diversion. SCE’s binary framework does not register that effect at all.

The same logic applies across all three runs. For Cadillacs, where the optimum range begins at 1,500 cfs, a diversion of 385 cfs can push a 1,900 cfs day to 1,500 cfs — from comfortably within the optimum to its lower edge. For Cataracts, where the minimum acceptable threshold starts at 500 cfs, a diversion of 385 cfs means that any unimpaired

flow below approximately 900 cfs may be pushed from optimum conditions into the minimum-acceptable or sub-boatable range. DLA Ex. E at 7.10-9; REC-3 at 14–15.

SCE's boatable-day metric therefore understates the project's recreational effect in two ways. First, it does not capture the days shifted from optimum to merely acceptable conditions. Second, it does not capture the days shifted from acceptable to marginally acceptable conditions. In both cases, the diversion degrades the quality of the boating opportunity even where it does not eliminate it entirely. SCE's framework treats every day within the boatable range as equivalent. It is not. The boaters SCE interviewed distinguish between minimum acceptable and optimum for a reason: the experience and the safety margin change meaningfully across that spectrum. REC-3 at 14–15.

This is not a novel analytical concept. The Whittaker et al. (2005) methodology on which SCE's own REC-3 study design rests recognizes that flow-recreation relationships operate on a quality continuum, not as a binary threshold. REC-3 at 7 (citing Whittaker et al. 2005 as the methodological foundation). Having adopted a framework that distinguishes minimum acceptable from optimum, SCE should not then collapse that distinction by counting every day in the range as equivalent.

The DLA should be revised to acknowledge that the project's diversion affects not only the number of boatable days but the quality of boating opportunity on days that remain nominally within the boatable range. At a minimum, the with-project and without-project analysis should separately report the number of days at or above the optimum flow threshold versus the number of days between the minimum acceptable and optimum thresholds, for each run, so that the quality-degradation effect is visible in the record.

## **12. SCE's Proposed Public-Flow Dissemination Measures Are Too Coarse For A Flow-Dependent Recreation Resource And Should Be Revised.**

SCE's proposed public-flow dissemination framework is inadequate for a whitewater resource whose usability and safety depend on timely flow conditions. KRB does not contend that SCE must provide perfect or final quality-checked data to the public before any flow value can be posted. Provisional data are often the most useful data for real-world recreation decisions. But SCE's current proposal is too coarse, too heavily caveated, and too poorly matched to the actual way boaters and other river users evaluate flow-dependent opportunity and risk. The basic problem is a mismatch: SCE proposes to use finer-resolution data for project compliance and internal operational purposes, while offering the public only a blunter and potentially misleading product for a resource that turns on changing river conditions.

SCE's own filings make that mismatch plain. In the Draft Minimum Instream Flow Measure, SCE states that minimum instream flow compliance "will be based on daily average flow measurements using gage data measured in 15-minute time increments." Draft Minimum Instream Flow Measure, section 1.2, at 1-2. In the Draft Stream Gaging Plan, by contrast, SCE states that public flow information below Democrat Dam and the corresponding upstream inflow estimate "will be provided for public viewing via the internet," but only "at a minimum hourly average flow." Draft Stream Gaging Plan, section 5.0, at 2. That is an obvious disparity. SCE is already working from 15-minute increments for compliance purposes, yet commits only to hourly averages for the public.

That disparity matters because SCE's own recreation analysis shows that boating opportunity on Richbar is highly flow-sensitive and time-sensitive. The DLA defines a "boating day" as one where the applicable threshold flow is present "for a minimum of four hours between 10:00 a.m. and 4:00 p.m." DLA Ex. E at 7.10-10 (Dec. 2025). The Updated Study Report uses the same general framework. REC-3 at 17. For a run whose boatability depends on threshold conditions during a finite daytime window, public information that consists only of hourly average flow is already smoothing and delaying the conditions users actually care about.

SCE's own whitewater study also shows that boaters do in fact rely on public flow information before deciding whether to go. For Richbar, SCE reports: "Boaters said they checked the flows on the Dreamflows website and/or the US Army Corps of Engineers' website prior to boating the run." REC-3 at 14. SCE adds that, "[i]n general, boaters said they were satisfied with the availability of flow data; however, one boater indicated that having flow data forecasts would improve the dissemination of flow data." *Id.* at 14-15. That passage confirms the core point. Public flow information is not incidental to this resource. It is one of the practical conditions of use.

The safety implications are also real. SCE's own report states that for Richbar, "the perceived difficulty of the run increases with higher flow," and that "[a]t higher flows, there is less recovery time, and the potential consequences of a swim are increased." REC-3 at 15. At the other end of the range, the same discussion of minimum acceptable flows shows that low flow affects basic boatability, route availability, and low-water safety concerns such as pinning and sieves. *Id.* at 15. So this is not just a convenience issue. Flow information affects trip planning, safe decision-making, and the practical ability of users to avoid conditions that are either too low or too high.

SCE's proposed public-facing product is especially problematic because the public may reasonably understand it as more immediate and precise than it really is. The Draft Stream Gaging Plan says only that SCE will provide "at a minimum hourly average flow." Draft Stream Gaging Plan, section 5.0, at 2. But Dreamflows labels the Below Democrat page "Realtime Flows," and Dreamflows' own alerts documentation explains that "Dreamflows doesn't poll agencies continuously, but rather does so every 30 minutes during the day, and every hour during the night." Dreamflows further states that alerts are generated "at the same time as the Realtime reports are run," typically "about 22 and 52 minutes past the hour during the day," and warns that delays are inherent in the entire chain from gauge measurement to public display and alerting. Dreamflows, "Kern - Below Democrat Calc - river flow graph," page header showing "Realtime Flows"; Dreamflows, "All About Alerts," sections "Flow Alerts" and "Limits and Limitations."

KRB's point is not that Dreamflows is acting improperly by using the word "realtime." The point is that for recreation and safety purposes, a public-facing product labeled and perceived as real-time can nevertheless be averaged, periodically updated, delayed, provisional, or some combination of the above. That matters here because SCE's own plan commits only to hourly average public values, while the public-facing ecosystem through which boaters actually look up flows may naturally be read as reflecting current river conditions. For a run like Richbar, where thresholds matter and safety consequences change with flow, that ambiguity is not trivial.

The history of the Below Democrat information reinforces the same point. Dreamflows' historical change log states that on April 17, 2004, Dreamflows "Started reporting flows for the following new California site: Kern - Below Democrat." But Dreamflows also states that on December 1, 2022, it "Stopped reporting estimated river flow for the California gauge site Kern - Below Democrat, and started reporting actual river flow (from a physical gauge) in its place," adding: "Thanks to Southern California Edison for providing this realtime gauge data." Dreamflows, "Dreamflows Changes - Historical," entries dated Apr. 17, 2004, and Dec. 1, 2022. That history matters in two ways. First, it shows that public Below Democrat information has not always existed in the same form it exists today. Second, it shows that the public-facing history of this site includes a transition from "estimated river flow" to "actual river flow (from a physical gauge)." SCE therefore cannot reasonably assume that historical or observed use patterns developed under a long-settled, fully transparent, highly legible public information regime.

The present disclaimer language in SCE's Draft Stream Gaging Plan only deepens the problem. SCE states that the public data are provisional, "have not been reviewed for accuracy," "may be subject to significant change," and that SCE "accepts no liability for the

accuracy, availability, suitability, reliability, usability, completeness or timeliness of the data or graphical depictions of the data provided via this website.” Draft Stream Gaging Plan, section 5.0, at 2-3. Some caution is understandable. Provisional flow data should be labeled as provisional. But there is a difference between responsibly flagging provisional data and stripping the data of nearly every practical attribute a user would care about. A plan that promotes public dissemination of flow information for recreation and transparency, while simultaneously disclaiming “usability” and “timeliness,” is not well calibrated to the actual role those data play.

This issue is not limited to boating opportunity. It also bears on public accountability. SCE’s Stream Gaging Plan states that one of its purposes is to “identify and describe Project stream gages used to document compliance with minimum instream flows” and to “[d]escribe dissemination of real-time flow information to the public.” Draft Stream Gaging Plan, section 2.0, at 1. Where minimum instream flow compliance is being tracked through 15-minute increment data, the public has a legitimate interest in access to the same practical level of transparency, even if the publicly posted values remain expressly provisional. A system in which SCE uses finer-resolution data to administer the project, while the public sees only hourly averages, is not the strongest transparency design for either recreation or compliance oversight.

KRB therefore recommends that SCE revise the public-flow dissemination component of the Draft Stream Gaging Plan. At a minimum, SCE should provide the public with the most recent available provisional 15-minute flow data used for compliance tracking, or the nearest practical equivalent, rather than relying solely on hourly average values. SCE should also clearly label each public value with its timestamp, averaging interval, and whether it reflects measured river flow below Democrat Dam, a separate inflow estimate upstream of the dam, or a calculated/composite figure. Hourly averages may still be useful as a supplemental display, but they should not be the only public product for a run whose usability and safety depend on narrower windows and changing conditions.

KRB further recommends that SCE’s public presentation avoid generalized “real-time” labeling unless accompanied by clear explanation of what the displayed value actually is and how often it is updated. A public user should not have to guess whether a displayed figure is an hourly average, a 15-minute value, an estimate, a physical gauge reading, or a computed result. Nor should the user have to infer whether the displayed number may already lag field conditions in a meaningful way. Those distinctions are important to boaters, anglers, and other river users who make practical decisions based on flow. In short, SCE’s current proposal gives the public a blunter, more delayed, and more heavily caveated product than the resource reasonably calls for. For Richbar and similar flow-

dependent uses, public flow information is not a side issue. It is part of the recreation resource, part of the safety picture, and part of the public's ability to monitor compliance with project flow obligations. SCE should revise the Draft Stream Gaging Plan accordingly.

### **13. SCE's Parking And Access Analysis Does Not Establish Adequacy Of Recreation Access Or Absence Of Recreation Impact.**

SCE's discussion of parking, access, and trails suffers from the same basic problem as its boating analysis: it takes a few narrow indicators and asks them to do much more work than they can bear. In the DLA, SCE states that the three developed day-use areas along the bypass reach and the raft take-out site "currently provide capacity to meet present and foreseeable future demand," that "even on summer holiday weekends no site reached parking capacity," and that "existing riverside recreation opportunities along the bypass reach and at Democrat Impoundment are expected to remain sufficient to meet both current and future recreation needs." DLA Ex. E at 7.10-14 to 7.10-15. SCE then makes the same move for Project trails, saying trail use averaged "only two to three users per trail per day," "current capacity is adequate and overuse is not an issue," and continued operation "would have no effect on the adequacy of Project trails to meet recreation demand compared to the No-Action Alternative." *Id.*, at 7.10-15. Those conclusions are broader than the underlying metrics can support.

To begin, SCE's own underlying REC-2 results do not show universal parking adequacy. They show uneven use and site-specific pinch points, especially at undeveloped river access sites. REC-2 states that across the four developed day-use areas there are "a total of 91 designated parking spaces," and that the five undeveloped river access points along SR-178 have an "estimated capacity for 25 vehicles." REC-2 at 10-11. REC-2 then reports that while average parking fill rates at the developed sites were low, the "maximum percentage of parking filled" at the undeveloped river access points along SR-178 reached 133 percent on weekends, 250 percent on weekdays, and 150 percent on holidays. *Id.* at 29-30, Tables 5-5 through 5-9. Most important, SCE expressly notes: "Parking capacity estimates were surpassed at River Access Site 1 (parking capacity 2 vehicles) and River Access Site 3 (parking capacity 3 vehicles) on some survey days." *Id.* at 30, Table 5-9 note. That is not a record of simple across-the-board adequacy. It is a record showing that some of the dispersed access points actually used along the bypass reach experienced exceedances.

That matters because SCE's DLA repeatedly reasons from average underuse at developed sites to broad adequacy conclusions for the entire recreation setting. But undeveloped SR-178 access points are not interchangeable with the four developed sites. REC-2 itself recognizes them as separate categories, with separate survey treatment, separate capacities,

and separate use patterns. REC-2 at 1-2. If the question is whether recreation access associated with bypass-reach use is adequate, then exceedances at the undeveloped river access points matter directly. SCE cannot wash those out by averaging them together with lightly used developed day-use areas.

SCE's own breakdown of vehicle distribution underscores the same point. REC-2 states that more vehicles were parked at Upper Richbar than at other sites, followed by Democrat Raft Take-out, and that "[c]ollectively, 26 percent of the total vehicles counted were parked at the five undeveloped river access points along SR-178." REC-2 at 10. That is a substantial share of the observed parking activity. It means the undeveloped access points are not a trivial sidelight. They are a meaningful part of actual recreation access in the project vicinity. So when SCE says average capacity was adequate, it is not enough to point to the fact that developed sites were often lightly used. The company must also grapple with the fact that dispersed SR-178 access locations are materially used and, on some days, materially over capacity.

The same problem appears in SCE's future-demand reasoning. SCE says current facilities are adequate to meet present and future demand, including demand associated with "a 12 percent increase in Kern County's population by 2050." DLA Ex. E at 7.10-14 to 7.10-15. REC-2 repeats that same logic, stating that because parking was generally underused and trails averaged one to three users per day, "recreation amenities in the vicinity of the Project are adequate to meet current demand and foreseeable future demand." REC-2 at 21. But that is a weak analytical bridge. Population growth does not translate mechanically into recreation demand at a given site, and average current underuse at some locations does not prove that access is suitably distributed, safely configured, or adequate at the particular access points users actually prefer or need. At most, SCE's data may support a narrow statement that the four developed sites were not generally full during the REC-2 count period. That is not the same as a demonstrated finding that recreation access in the project vicinity is adequate "to meet present and foreseeable future demand."

The trail analysis is vulnerable for the same reason. SCE states in the DLA that Project trails show "light recreation use," averaging "only two to three users per trail per day," and therefore "current capacity is adequate and overuse is not an issue." DLA Ex. E at 7.10-15. REC-2 similarly says trail use averaged "only one to three users per trail per day over the study period," again concluding that "current capacity is adequate and overuse is not an issue." REC-2 at 21. But trail counts alone do not establish adequacy of access. Low average use could reflect low demand, or it could reflect imperfect trail location, weak wayfinding, safety concerns, poor connectivity, user preference for roadside informal access, or the fact that some opportunities are flow-dependent and episodic. SCE never really sorts those

possibilities out. It simply treats low counts as proof that the trail system is adequate. That is not analysis; it is assumption.

The point is sharpened by SCE's own description of the trail study design. REC-2 says the study objectives included characterizing use at developed day-use facilities, characterizing dispersed use at undeveloped SR-178 access points, characterizing use along Project trails, estimating future recreation use, and documenting public safety issues. REC-2 at 1. In other words, the study was not merely a parking census. It was supposed to say something meaningful about access and recreation use patterns. Yet SCE's DLA discussion collapses all of that into simple capacity talk: some parking remained available, trails had low counts, therefore access is adequate. That is much too blunt.

SCE's treatment of public safety also makes its adequacy conclusions look too quick. REC-2 expressly states that one study objective was to "[d]ocument potential public safety issues and existing programs and measures that are implemented by SCE to protect public health and safety." REC-2 at 1. And in describing the study methods, REC-2 says SCE was to identify existing safety issues and programs and review safety incidents. *Id.*, at 9. Yet the DLA's adequacy discussion does not seriously integrate the access/safety side of the record. Parking exceedance at small informal SR-178 pullouts is not just a numbers issue; it can also be a safety and suitability issue. The same is true of dispersed access behavior more generally. An access point can be "under capacity" on average and still be poorly configured, unsafe, awkwardly distributed, or inadequate for the uses that actually depend on it.

There is also a category error running through SCE's discussion of "capacity." SCE measures parking-space occupancy and trail-user counts, then treats those as proxies for the adequacy of "recreation opportunities." But recreation opportunity is broader than parking capacity. It includes whether users can get to the river where they need to, whether access is reasonably distributed, whether dispersed access points are workable when opportunities arise, whether the access system fits the kinds of uses the river actually supports, and whether safety concerns or informational barriers suppress actual use. A lightly used trail does not prove that access is adequate. A half-empty parking lot at one location does not prove that access is adequate somewhere else. And an average occupancy figure does not prove that the system is adequate at the times and places when recreation demand actually concentrates.

The developed/nondeveloped distinction is especially important here because SCE itself says the Project "does not own or operate developed recreation facilities in the vicinity of the Project," while also acknowledging the importance of "informal river access locations"

and Project roads and trails. DLA Ex. E at 7.10-14 to 7.10-15. So the DLA's adequacy conclusions are not even limited to facilities SCE controls in a straightforward sense. SCE is making broad judgments about the adequacy of recreation access across a mixed landscape of developed non-Project sites, informal SR-178 pullouts, and Project roads and trails. That is all the more reason the analysis should be careful and site-specific. Instead, SCE relies on broad averages and generalized assurances.

KRB's point here is not that the record proves a present recreation-access crisis. Nor is KRB arguing that every developed site is overcrowded. The problem is narrower and more basic: SCE has not shown what it says it has shown. It may be fair for SCE to say that the four developed day-use areas were generally not full during the REC-2 count period. It may also be fair to say that trail counters recorded low average use on several Project trails. But those observations do not establish that access associated with bypass-reach recreation is adequate, that current and future demand will be met, or that continued project operation will have "no effect" on recreation access in any meaningful sense. Those are larger conclusions than the underlying data will support.

SCE should revise this part of the DLA in at least three respects. First, SCE should expressly acknowledge that parking capacity at undeveloped SR-178 access points was exceeded at some locations and should stop presenting the parking record as one of simple across-the-board adequacy. See REC-2 at 29-30, Table 5-9 and note. Second, SCE should distinguish between parking occupancy data and the broader question whether recreation access is suitably distributed, safe, and adequate for the uses actually occurring in the bypass reach. Third, SCE should narrow its future-demand and no-effect conclusions to match the evidence it actually has, rather than using average underuse at some sites and low trail counts as proof that recreation access generally is adequate now and will remain so through the license term.

#### **14. SCE Prematurely And Speculatively Dismisses The Cultural-Resource Concern Raised By Overland Boater Access.**

SCE's treatment of the cultural-resources issue raised by overland boater access is not an actual resource analysis. It is a conjectural recreation-side reassurance presented as though it were enough to resolve a cultural concern. KRB's point is not that boating should be restricted or that the present record proves material cultural-resource harm from boating access. KRB's point is narrower: where a cultural-resource concern has been raised, SCE cannot dismiss it through generalized assumptions about boater behavior in a recreation memo. See REC-3 at 20.

The key passage appears in the REC-3 Updated Study Report. There, SCE acknowledges that “[a] stakeholder raised a concern during the KR1 Initial Study Report meeting on March 19, 2025, about potential impacts to cultural resources from boaters accessing the river channel overland from SR-178.” REC-3 at 20. But instead of analyzing that concern through the lens of cultural-resource evidence, site sensitivity, recurring access patterns, or consultation with the relevant cultural and Tribal-resource processes, SCE immediately dismisses it on generalized behavioral assumptions: “However, as the collected data indicates, whitewater boating in the bypass reach is infrequent and typically limited to a small group of expedition-level boaters during periods of boatable flows. Given this limited use, it is unlikely that boater access is contributing materially to ground disturbance affecting cultural resources. Further, typically, whitewater boaters are focused on accessing the river channel and getting ‘on-water’ as quickly as possible. As such, little time is spent in the field, or on the riverbank, and there are minimal ground disturbing activities associated with access to the river channel and boating put-in and take-out activities.” *Id.* at 20. That paragraph is vulnerable for several reasons.

First, it is not actually a cultural-resources analysis. It does not identify the relevant cultural-resource baseline, any sensitive locations, any surveyed or unsurveyed access points, any relation between overland paths and the area of potential effects, any review of repeated foot traffic, or any consultation-based determination that dispersed boater access is immaterial to cultural-resource protection. It simply assumes that because use is said to be infrequent and because boaters are assumed to move quickly, the concern is probably minor. That is not the same thing as evidence. At most, such observations might be offered as hypotheses for consideration in the actual cultural and Tribal review process; they are not a substitute for that process.

Second, the reasoning is circular. SCE begins with its own broad characterization that bypass-reach boating is “infrequent” and “typically limited to a small group of expedition-level boaters,” then uses that characterization to dismiss the possibility of material disturbance. REC-2 at 20. But as KRB has already explained in earlier comments, SCE repeatedly overstates the “expert-only” nature of the resource, particularly by allowing the hardest downstream whitewater to define the entire bypass reach and by understating the distinct significance of Richbar. Even putting that aside, however, low or episodic use is not the same thing as no effect. Repeated use of the same informal access path by a relatively small cohort can still create trail formation, bank wear, vegetation loss, trampling, or repeated interaction with sensitive places. SCE offers no resource-specific analysis showing otherwise.

Third, SCE's own whitewater study confirms that overland access is a recurring and inherent part of the boating resource. REC-3 states that Cadillacs requires "an overland hike from SR-178" for the put-in and an overland hike at take-out unless boaters continue downstream. REC-3 at 5. It states that Richbar's put-in "is accessible via an overland hike from SR-178," with "no developed trail or river access improvements associated with the put-in," and that for some Richbar extensions "an overland hike is required to reach shuttle vehicles parked along SR-178." *Id.* at 5-6. It states that Cataracts take-out "requires an overland hike from the river up to SR-178." *Id.* at 6. So SCE cannot plausibly treat overland access as some incidental or speculative possibility. Its own study materials establish that overland access from SR-178 is a normal and recurring feature of whitewater use in this reach.

Fourth, SCE's dismissal comes against the backdrop of a cultural and Tribal review process that was unresolved at the DLA stage and remains unresolved in important respects even after the USR. At the DLA stage, Appendix E.2 stated that "[s]ome studies are not yet complete as of filing the DLA," and that for those studies the appendix included only "the most current results available," with "[f]inal technical memoranda" to be included in the Final License Application. DLA Appendix E.2 at E.2-1. Table E.2-1 identified the relevant cultural and Tribal studies — CUL 1, CUL 2, and TRI 1 — as not yet final in the DLA package, explaining that the reports were under review by the Forest Service and Tribes and would be provided in the Final License Application. *Id.* at E.2-2. SCE likewise stated that the "TRI 1 – Tribal Resources Technical Study Report" was still being completed and that the information in section 7.13 might be updated after review of the draft TRI 1 report. DLA Ex. E at 7.13-1.

By the Updated Study Report, SCE had advanced those studies materially, but the process was still not over. The USR states that the three remaining study plans with elements still to be completed are "the cultural and Tribal resource studies: CUL 1 – Built Environment, CUL 2 – Archaeology, and TRI 1 – Tribal Resources," and explains that consultation with the Sequoia National Forest and Tribes remains ongoing and that each report will be submitted to the State Historic Preservation Officer for concurrence on National Register eligibility. The USR's study-status table is more precise: for CUL 1 and CUL 2, SCE states that it had "Completed final Technical Memo," but lists as ongoing the work to finalize the technical study reports, consult with the Forest Service and Tribes, obtain SHPO concurrence on eligibility, and prepare and consult on development of the Historic Properties Management Plan. TRI 1 is described similarly. And the USR's transmittal table states that CUL 1, CUL 2, and TRI 1 are "complete" as studies, but that the technical reports remain under review by the Forest Service and Tribes and the final technical reports will be filed confidentially with the Final License Application.

That procedural posture matters. When the cultural and Tribal-resource record is still under review by the Forest Service and Tribes and expressly subject to later update, SCE should not be making offhand dismissals of overland-access concerns based on a recreation memo's assumptions about what boaters "typically" do. If SCE wants to say that dispersed boating access is unlikely to create material cultural-resource concerns, it should ground that statement in the actual cultural/Tribal review process and the eventual cultural-resource findings, not in generalized impressions from the whitewater study.

Fifth, SCE's own Tribal Resources discussion elsewhere shows that "access issues" are a recognized mechanism by which project activities may affect Tribal resources. SCE states that maintenance activities "may affect Tribal resources if the activity involves ground disturbance or has the potential to cause indirect effects such as erosion, visual effects, or access issues to Tribal resources." DLA Ex. E at 7.13-7 (Dec. 2025). That does not prove that boating access creates such effects. But it does show that SCE itself recognizes access-related disturbance and access-related interference as legitimate resource concepts in the Tribal context. That makes the casual dismissal in REC-3 look even less defensible.

SCE may respond that it was only making a limited observation, not a final Section 106 finding. But that is exactly the point: the observation is too sweeping for the evidentiary footing it has. A comment record should not allow statements like "it is unlikely that boater access is contributing materially to ground disturbance affecting cultural resources" to pass as though they were well-supported, when the statement is based primarily on assumptions about user behavior, a generalized claim of low use, and no cited cultural-resource analysis. REC-3 at 20.

KRB's point here is modest. KRB is not asserting that the present record proves significant cultural-resource damage from boating access, and KRB is not advocating boating restrictions through this comment. KRB is asserting only that SCE has not shown the opposite, and that the issue should rise or fall through the actual cultural and Tribal review process rather than through unsupported assumptions in the whitewater study. The concern was raised. SCE acknowledges that overland access from SR-178 occurs. SCE acknowledges elsewhere that ground disturbance and access issues can matter to Tribal resources. DLA Ex. E at 7.13-7. And the cultural/Tribal review process remains ongoing even after the USR. On that record, SCE should not be allowed to convert a thin recreation-side intuition into a de facto no-problem conclusion.

SCE should revise this discussion so that it no longer implies that the cultural-resource issue has effectively been resolved through the whitewater study. At a minimum, SCE should

substantially narrow the quoted dismissal of cultural-resource concerns from overland access and should make clear that any such issue is being addressed, if at all, through the ongoing cultural and Tribal consultation, SHPO review, and HPMP-development processes rather than through generalized assumptions about boating behavior. The current phrasing is speculative, overconfident, and unsupported by the recreation record SCE cites.

### **15. The DLA’s Recreation and Environmental Conclusions Rest on an Incomplete and Methodologically Limited Record.**

SCE’s recreation and environmental conclusions are only as strong as the record on which they rest. Here, the record was admittedly incomplete when the DLA was filed, and the methods used to generate it were too limited to support the level of certainty SCE claims. KRB does not contend that every study limitation invalidates every result, or that SCE was forbidden to file a DLA while technical work remained in progress. The problem is that SCE writes as though the evidentiary picture were settled when its own filing materials said otherwise.

**The DLA was filed on a partial record.** Appendix E.2 states: “Some studies are not yet complete as of filing the DLA. For those studies, this appendix includes the most current results available. Final technical memoranda will be included in the Final License Application.” DLA Appendix E.2, at E.2-1. Table E.2-1 identifies AQ-2 as having “Additional data analysis ongoing,” AQ-3 as having “Outstanding study components,” and REC-2 as having “Outstanding study components” — each with a complete technical memorandum promised for the FLA. *Id.* at E.2-2. The cultural and Tribal studies (CUL 1, CUL 2, TRI 1) remained under review by the Forest Service and Tribes. *Id.*

The recreation chapter is even more explicit. Section 7.10.1.2 states: “The REC-2 -- Recreation Facility Use Assessment study is ongoing as of filing the Draft License Application. The information and analysis presented in this section includes study results through June 2025.” DLA Ex. E at 7.10-2. Yet elsewhere in the same chapter, SCE drew categorical conclusions about adequacy, no effect, and no unavoidable adverse effect — as though the unfinished studies were a formality.

**The completed recreation methods confirm the need for caution.** The REC-2 study as completed in the USR identifies three variances from the approved study plan. First, the implementation schedule was extended because Forest Service approvals delayed installation of trail cameras and survey boxes. REC-2 at 4. Second, the intercept survey form “did not include the full set of questions identified in the REC-3 -- Whitewater Boating TSP,” asking whitewater boaters only “one follow-up question about how river flows affect

their boating experience.” Id. Third, “due to safety and timing constraints, technicians conducted counts once per shift rather than two.” Id. Each variance weakens the precision of the resulting data: delayed start, incomplete whitewater instrument, reduced count frequency. SCE should not treat data generated under those conditions as though it supported categorical adequacy findings.

The methods for undeveloped river access points were inherently limited as well. SCE characterized the five undeveloped SR-178 access points through “opportunistic in-person intercept surveys” conducted “if it was safe to do so and there was opportunity to pull over.” DLA Ex. E at 7.10-11; REC-2 at 4. A method that depends on whether it is safe and convenient for survey personnel to pull over on a highway shoulder does not naturally support confident claims about use patterns for dispersed and episodic recreation.

**REC-3 was completed entirely at Level 1.** The approved study plan adopted a sequential framework — Level 1 Desktop Review, Level 2 Limited Reconnaissance, Level 3 On-water Assessment — with progression based on whether additional data were needed. REC-3 at 7. SCE concluded the study at Level 1. Id. at 21. The Commission should recognize what the resulting record is: a desktop and interview-based whitewater study, not a reconnaissance study and not an on-water flow-preference study. REC-3’s whitewater sample consists of fourteen respondents — five from a 60-day public online survey and nine from targeted outreach to 35 identified boaters. REC-3 at 12–13. That is useful anecdotal information from experienced users. It is not a basis for sweeping conclusions about the insignificance of the resource or the absence of meaningful project effect.

**The water quality and fish records were similarly incomplete.** The DLA’s water quality effects conclusions were written before the full two-year AQ-2 dataset had been incorporated. AQ-2 at 1. The fish and aquatic resources effects conclusions were written without any bypass reach population data — sampling postponed from 2024 to 2025. DLA Ex. E § 7.4.1.6. In both cases, the subsequently filed data confirmed analytical gaps that the DLA’s categorical conclusions did not anticipate, as discussed in Comments 2 and 3.

SCE was entitled to file a DLA on the schedule the relicensing process required. But it was not entitled to treat an admittedly incomplete or evolving technical record as though it already justified final-sounding conclusions. The FLA should revise, narrow, or qualify any conclusion that was framed categorically even though the underlying record was incomplete at the time of filing, and should reconcile earlier DLA phrasing with the fuller record now available.

## **16. SCE’s Proposed Daily-Average Minimum Instream Flow Compliance Standard Can Mask Sub-Daily Dewatering And Should Be Replaced With An Actual Instantaneous Floor.**

SCE’s proposed minimum instream flow compliance construct is materially weaker than the phrase “minimum instream flow” would ordinarily suggest to the public. In the Draft Minimum Instream Flow Measure, SCE states that the minimum instream flow release “will be based on daily average flow measurements using gage data measured in 15-minute time increments,” and that “[t]he daily average flow must meet or exceed the thresholds specified in the minimum instream flow schedule.” DLA Appendix E.1, section 1.2, at 1-2. That is not an instantaneous floor. It is not a requirement that the river remain at or above the stated minimum at all times. It is an averaging construct.

That distinction matters. A daily-average compliance standard can mask substantial intraday variation. As a matter of simple arithmetic, a project can fall below the nominal threshold for meaningful portions of the day and still produce a compliant daily average if flows are increased later. In other words, a river can experience sub-daily dewatering or materially depressed conditions at some times and still appear compliant on paper once the 15-minute values are averaged across the day. That is exactly the sort of compliance design that can hide what river users and river resources actually experience on the ground.

SCE’s own filing language elsewhere makes the problem more acute because it uses the rhetoric of continuity even though the proposed compliance metric is an average. In Exhibit E, SCE describes the sandbox release arrangement as infrastructure that “provides FERC continuous minimum instream flow release requirements.” DLA Ex. E Table 5-2, at 5-29 to 5-30. The Initial Statement similarly says that “[c]ontinuous minimum instream flows are released back into the river from the sandbox via this channel.” DLA Ex. A Initial Statement at A-8. If SCE wishes to describe the physical release infrastructure as continuous, it should be equally candid that its proposed compliance standard is not a continuous at-or-above-threshold obligation. The filing should not be allowed to trade on “continuous” language while the operative compliance provision measures only a daily average.

The concern here is not abstract. SCE’s own hydrology work for KR1 explicitly operates at sub-daily and hourly scales. In AQ-1 – Hydrology, SCE states that it developed “average hourly flow hydrology,” evaluated “sub-daily” hydrograph changes, and produced “an hourly timestep dataset” for the relevant reaches. AQ-1 §§ 4.2, 4.3, and 5.1.2, at 2-4. The same report tabulates annual numbers of flow increases and decreases and reports mean hourly changes in bypass-reach release. *Id.*, Table 5-9, at 13. SCE therefore cannot plausibly suggest that within-day changes are too fine-grained to matter. Its own hydrology analysis

recognizes that sub-daily flow behavior is a real and measurable feature of project operations.

That matters to recreation. A boater, angler, or riverside user does not experience the daily average. The user experiences the river as it actually is when the user is there. For Richbar and other flow-dependent uses, actual conditions during the relevant hours determine whether the opportunity exists in practice and whether it can be pursued safely. SCE's own recreation analysis defines a "boating day" by reference to whether threshold flows are present "for a minimum of four hours between 10:00 a.m. and 4:00 p.m." DLA Ex. E at 7.10-10. That is already a recognition that timing matters. A compliance metric that averages the whole day can obscure whether the river actually met threshold conditions during the hours that matter to users.

It also matters to safety. SCE's own REC-3 report states that on Richbar "the perceived difficulty of the run increases with higher flow" and that "[a]t higher flows, there is less recovery time, and the potential consequences of a swim are increased." REC-3 at 15. At lower flows, the same section identifies concerns involving "boatability," "route availability," and low-water hazards such as pinning and sieves. *Id.* So both low and high sub-daily deviations matter in practice. A daily average may say "compliant," while users on the ground encounter conditions materially different from what the nominal minimum flow would lead them to expect.

The same point matters to habitat and aquatic conditions. Minimum instream flows are supposed to describe actual water left in the river, not merely an arithmetic average achieved over a twenty-four-hour period. If the river is depressed below the nominal minimum for significant periods and then later compensated by higher releases, that may satisfy an average-based accounting rule, but it does not mean the river had the claimed minimum flow continuously available to aquatic resources throughout the day. KRB does not need to show in these comments exactly how large those effects would be in every circumstance to make the basic point. The point is that a daily-average standard is categorically less protective than an actual floor, because averaging permits within-day dips that a true floor would forbid.

This also matters for public transparency and compliance oversight. As discussed above, SCE proposes to base minimum instream flow compliance on 15-minute gage data aggregated to a daily average, while the Draft Stream Gaging Plan states only that public flow information will be provided "at a minimum hourly average flow." DLA Draft Stream Gaging Plan, section 5.0, at 2; Draft Minimum Instream Flow Measure, section 1.2, at 1-2. So the public would not necessarily see the same temporal resolution that underlies SCE's

own compliance accounting. That makes it harder for the public to assess whether the river is actually being maintained at meaningful minimum conditions throughout the day, as opposed to merely achieving a compliant average by day's end.

KRB therefore submits that the Commission should not accept the current proposed compliance construct as sufficient. The better approach is an actual instantaneous minimum instream flow floor: the river should not be allowed to fall below the specified minimum at any time except under whatever narrow and expressly defined emergency or force-majeure exceptions the Commission finds appropriate. That is the clearest and most honest way to ensure that a "minimum instream flow" is in fact a minimum flow in the river, not simply a daily arithmetic result.

If the Commission is not prepared to require a true instantaneous floor, it should at minimum require SCE to be explicit and consistent about what it is proposing. SCE should not describe the release system as "continuous" without equally clear acknowledgment that the proposed compliance standard is only a daily-average standard and does not guarantee at-or-above-threshold conditions at all times. And the public-flow dissemination system should be revised so that river users and the public can see the same practical compliance-relevant data stream on which SCE relies internally.

In short, SCE's proposed minimum instream flow standard is weaker than it sounds, weaker than river users would reasonably understand it to be, and weaker than the river deserves. The Commission should require an actual instantaneous minimum flow floor rather than allowing sub-daily dewatering to disappear inside a daily average. At a minimum, if FERC declines to impose an instantaneous floor, it should expressly acknowledge in the license record that SCE's proposed standard permits within-day dips below the nominal minimum so long as the daily average is recovered.

#### **17. SCE's Cumulative-Effects Discussion Simply Repeats Unsupported No-Effect Assumptions And Should Be Revised.**

SCE's cumulative-effects discussion adds almost no independent analysis. Instead, it largely imports the same unsupported assumptions that already weaken the underlying recreation discussion and then presents the result as a cumulative-effects conclusion. That is not enough. A cumulative-effects analysis cannot be sound if it merely repeats an inadequately supported no-effect premise from the project-level discussion and then uses that premise to declare the cumulative inquiry resolved.

The DLA's cumulative-effects section is unusually explicit about this. In section 8.2.4, SCE states that section 7.10 "concludes that continued operation and maintenance of the Project would have no effect on recreation resources compared to the No-Action Alternative." It then reasons that, because section 7.10 reached that conclusion, "the Project would not cumulatively contribute to recreation-related effects in combination with other hydroelectric projects and activities in the Kern River Basin." DLA Ex. E at 8-9 to 8-10 (Dec. 2025). That is not really a cumulative-effects analysis at all. It is an incorporation by reference of the same disputed premise KRB has already challenged throughout these comments.

That matters because section 7.10 is not a stable foundation on which to build a cumulative-effects conclusion. As discussed above, section 7.10 repeatedly overstates what the recreation record shows. It treats sparse or specialized use as though that established absence of project effect; it overgeneralizes the difficulty of bypass-reach boating by allowing the hardest downstream whitewater to define the whole; it uses parking and trail counts as though they proved broad access adequacy; it understates the practical role of flow quantity and flow information in suppressing Richbar use; and it draws categorical "no effect" and "no unavoidable adverse effect" conclusions from a recreation record that SCE itself described as incomplete or methodologically limited at the DLA stage. See, e.g., DLA Ex. E at 7.10-14 to 7.10-16; DLA Appendix E.2, at E.2-1 to E.2-2; REC-2 at 4; REC-3 at 7, 12-15, 21. If the underlying no-effect premise is weak, a cumulative-effects conclusion that merely repeats it is weak as well.

The deficiency is not merely formal. Cumulative-effects analysis exists precisely because individual actions that may appear modest in isolation can still contribute to a broader pattern of degraded conditions when combined with other projects, diversions, access conditions, and basin-wide management constraints. Yet SCE's discussion effectively bypasses that inquiry. Rather than asking whether KR1 contributes, even in a limited way, to broader flow-related, access-related, or recreation-opportunity constraints in the lower Kern system, SCE says in substance: section 7.10 found no effect, therefore there can be no cumulative contribution. DLA Ex. E at 8-9 to 8-10. That reasoning assumes away the very issue cumulative analysis is supposed to address.

This shortcut is especially problematic because SCE's own record documents a concrete project contribution to reduced boating opportunity. As discussed in Comment 10, the project removed 263 Richbar boating days over water years 2014 through 2024 compared to without-project conditions. REC-3 at 18-19. That is not a record of "no contribution" in any meaningful sense. SCE may dispute its significance, but it cannot convert it into a literal noncontribution.

The same point applies more broadly to the project's role in the recreation setting. SCE's own recreation analysis identifies a mixed landscape of developed day-use areas, informal SR-178 access points, Project roads, Project trails, and flow-dependent river uses. DLA Ex. E at 7.10-14 to 7.10-15. Updated REC-2 results show that parking capacity at certain undeveloped SR-178 access points was exceeded on some survey days. REC-2 at 29-30, Table 5-9 and note. Even if those issues are not dramatic in isolation, they are exactly the kinds of conditions that should be assessed in cumulative terms: how project operations, access patterns, informal use concentration, and basin-wide recreation pressures combine over time. SCE does not really do that analysis. Instead, it rests on a generalized assurance that because section 7.10 found no project effect, there can be no cumulative contribution. DLA Ex. E at 8-9 to 8-10.

As discussed in Comment 6, SCE's reliance on the no-action baseline does not establish that the project is not contributing to the existing recreation environment as part of the cumulative whole. A cumulative-effects inquiry is concerned with the total environmental picture, not just whether the new proposal adds an obvious increment beyond the current configuration.

SCE's cumulative-effects treatment is also too thin because it does not meaningfully engage the specific mechanisms through which KR1 may contribute to broader recreation effects. It does not grapple with the project's contribution to lost or suppressed boating days under with-project hydrology. It does not grapple with the way project-related flow limitations interact with already episodic recreational opportunity. It does not grapple with the fact that practical use is also shaped by flow-information accessibility and by dispersed access conditions along SR-178. And it does not grapple with the possibility that even a project proposing relatively few operational changes may still continue to contribute to an existing basin-wide pattern of constrained river recreation opportunity. Those are all cumulative questions in the ordinary sense of the word. SCE bypasses them.

KRB's point here is not that SCE or the Commission must find severe cumulative recreation effects on the present record. The point is that SCE has not done the work necessary to support its confident no-contribution conclusion. A legally and analytically sufficient cumulative-effects discussion must do more than say that the project-level section found no effect and therefore the cumulative answer is also no effect. Where the project-level analysis itself is disputed, qualified, methodologically thin, or internally overbroad, the cumulative-effects section must stand on its own reasoning. SCE's does not.

SCE should therefore revise section 8.2.4 so that it no longer relies solely on the project-level “no effect” conclusion from section 7.10. At a minimum, SCE should be required to identify the actual pathways by which KR1 may contribute, or may be alleged to contribute, to broader recreation-related effects in the Kern River Basin, and then explain why those pathways do or do not amount to a meaningful cumulative contribution. If SCE wishes to maintain a no-cumulative-contribution conclusion, it should be required to defend that conclusion directly, not merely inherit it from the same unsupported assumptions already embedded in the underlying recreation section. Without that revision, the cumulative-effects section will remain what it currently is: not a genuine cumulative analysis, but a thin restatement of the same contested no-effect premise KRB has already shown to be overbroad.

SCE should revise section 8.2.4 so that it no longer relies solely on the project-level “no effect” conclusion from section 7.10. At a minimum, SCE should identify the actual pathways by which KR1 may contribute, or may be alleged to contribute, to broader recreation-related effects in the Kern River Basin, and then explain why those pathways do or do not amount to a meaningful cumulative contribution. If SCE wishes to maintain a no-cumulative-contribution conclusion, it should defend that conclusion directly, not merely inherit it from the same unsupported assumptions already embedded in the underlying recreation section.

### **18. SCE’s Dismissal Of Project Retirement In Section 6 Is Premature In The Absence Of Any Economic Record.**

Section 6.1.3 of the DLA dismisses project retirement in two sentences: “Southern California Edison is not proposing to decommission the Project, and the record to date does not demonstrate any serious resource concerns that cannot be mitigated if the Project is relicensed. As such, there is no reason to include decommissioning as a reasonable alternative to be evaluated and studied.” DLA Ex. E § 6.1.3, at 6-1.

That determination is premature for a reason the DLA itself makes plain. Section 9.0, Developmental Analysis — the section that would contain the economic analysis of project operation, including cost, power value, and net benefit — is expressly identified as “a placeholder in the DLA” that “will be updated as part of the Final License Application.” DLA Ex. E § 1.0, at 1-2. The DLA therefore contains no cost-benefit analysis, no generation revenue data, no assessment of the project’s net economic value, and no basis for evaluating whether the project’s developmental benefits justify its environmental costs.

The assertion that “resource concerns” can be “mitigated if the Project is relicensed” is a conclusion that depends on the cost and feasibility of mitigation relative to the project’s economic value. That evaluation cannot be performed without the developmental analysis. A project whose annual generation revenue substantially exceeds the cost of effective mitigation presents a different policy question than a project that operates at or near a net loss. SCE’s Section 6 conclusion assumes the answer to a question the DLA does not yet contain the data to ask.

KRB does not in these comments advocate for decommissioning of the KR1 Project. KRB identifies a sequencing problem: SCE dismissed project retirement as an alternative before filing the economic analysis that would inform whether that dismissal is justified. The FLA should revisit Section 6.1.3 once the Developmental Analysis is complete and should explain how the project’s economic profile supports the conclusion that resource concerns can be adequately mitigated under a new license.

**19. SCE’s Draft License Application Gives Insufficient Weight To Recreation As A Beneficial Public Use In Relicensing And Improperly Treats Status-Quo Continuation As Enough.**

SCE’s recreation discussion repeatedly suggests that because the Proposed Action largely continues existing operations, and because observed recreation use is often modest or specialized, the relicensing analysis is effectively over. That is the wrong frame. A relicensing proceeding is not merely a check on whether the applicant proposes dramatic new impacts beyond the existing configuration. It is a forward-looking federal licensing decision governed by the Federal Power Act, and it requires an actual judgment whether the project as proposed for a new license term is “best adapted to a comprehensive plan” for the relevant waterway and for “other beneficial public uses, including recreational purposes.” 16 U.S.C. § 803(a)(1). SCE’s DLA repeatedly falls short of that standard by collapsing relicensing adequacy into status-quo continuation.

SCE acknowledges as much in its own filing requirements discussion. In Exhibit H, SCE states that where “no modifications to the project facilities or operations are proposed,” the applicant must still provide “at least a reconnaissance-level study to show that the project facilities or operations in conjunction with other developments in the area would conform with a comprehensive plan for improving or developing the waterway and for other beneficial public uses as defined in Section 10(a)(1) of the Federal Power Act.” DLA Ex. H, at H-3. SCE then asserts that the Project “would conform with a comprehensive plan for improving or developing the waterway and for other beneficial public uses as defined in Federal Power Act section 10(a)(1).” *Id.* at H-12. That is an important claim. But the DLA’s

recreation analysis does not do the work necessary to support it. Instead, SCE repeatedly reasons that because it is not proposing major operational changes, because current use appears modest at some sites, and because some user classes are specialized, existing conditions are sufficient and relicensing raises no meaningful recreation issue. That is not the same as showing the Project is best adapted to beneficial public uses for a new license term.

The point is especially important because SCE's own Application section says the company is seeking "a new license" to "continue operation and maintenance of the Project," and that it "proposes to operate the Project in a manner consistent with the current license while incorporating ongoing, updated, and new environmental measures." DLA Ex. E at 2-1. That formulation may describe SCE's proposal, but it does not answer the Commission's task. The question is not whether SCE would prefer to continue largely as before. The question is whether carrying those conditions forward under a new federal license is best adapted to recreation and other public values. Where the applicant is asking for a new term extending far into the future, the Commission cannot lawfully treat "same as current" as a substitute for that statutory judgment.

The defects identified in Comments 8 through 17 illustrate the problem. Across whitewater analysis, access assessment, flow dissemination, and methodology, the DLA repeatedly converts thin or qualified evidence into broad adequacy conclusions. Those are all examples of the same larger mistake: SCE analyzes relicensing as though the burden were merely to show that current conditions are not obviously disastrous. That is not the governing standard under Section 10(a).

This matters because recreation is not a minor afterthought in the Federal Power Act. Section 10(a)(1) expressly includes "recreational purposes" among the beneficial public uses for which a project must be best adapted. 16 U.S.C. § 803(a)(1). Section 4(e) and Section 10(j) likewise require federal land-management and fish-and-wildlife concerns to be addressed through license conditions and recommendations. See 16 U.S.C. §§ 797(e), 803(j). SCE itself summarizes those authorities in Exhibit E, noting that FERC will solicit Section 4(e) conditions from the Forest Service and Section 10(j) recommendations from fish-and-wildlife agencies after the Final License Application is filed. DLA Ex. E at 4-1 to 4-2. In that statutory setting, the applicant cannot lawfully minimize recreation simply because the relevant use is not mass-market or because the applicant proposes little change from current practice.

The point is reinforced by the quantitative record. As discussed in Comment 10, SCE's own boatable-day analysis documents 263 fewer Richbar boating days under with-project

conditions compared to without-project hydrology. REC-3 at 18–19. A record showing materially fewer boating days under with-project conditions cannot fairly be treated as though relicensing presents no meaningful recreation issue.

The same is true of access and transparency. SCE's own record shows that dispersed SR-178 access points matter, that some such points exceeded estimated parking capacity on some survey days, that trail and facility-use methods were limited, and that public flow information is a practical condition of use for Richbar and related whitewater opportunities. REC-2 at 29-30, Table 5-9 and note; DLA Draft Stream Gaging Plan, section 5.0, at 2-3; REC-3 at 14-15. Those are all ordinary relicensing subjects. They bear on whether the next license should simply perpetuate current conditions or should include stronger recreation-facing measures. SCE's recurrent move is to treat them as too small, too niche, or too status-quo-bound to matter. That move is inconsistent with the Commission's duty to give recreation full weight as a beneficial public use.

KRB's point is therefore straightforward. SCE may argue that, in its view, existing project operations and proposed measures are adequate. But it cannot use continuity alone as the answer. It cannot act as though the relicensing question is exhausted once it says the Proposed Action is largely similar to the current license. And it cannot reduce a real recreation resource to insignificance simply because that resource is specialized, episodic, or underused under current constraints. The Commission should evaluate recreation here as Congress required: as a beneficial public use that must be affirmatively considered in deciding whether the new license is best adapted to the waterway and the public interest.

For the reasons stated in Comment 6 and throughout these comments, SCE should distinguish clearly in the FLA between the claim that the Proposed Action involves limited operational change and the separate claim that the Project is best adapted to beneficial public uses for a new license term.

### CONCLUSION

Each of the foregoing comments identifies specific deficiencies in the DLA and requests that SCE address them in the Final License Application. KRB does not request new studies. KRB requests that SCE reconcile its effects conclusions with the record evidence its own studies produced, narrow categorical determinations that outrun the supporting data, and revise proposed measures where the record does not support the adequacy SCE claims. If SCE does not address these deficiencies in the FLA, KRB respectfully requests that the Commission treat the issues identified in these comments as unresolved and evaluate the FLA accordingly.

Respectfully submitted by the Directors of Kern River Boaters,

//s// ED

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//s// JLP

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//s// BD

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