**20-781** **Agenda Date: 9/29/2020**

# REPORT TO COUNCIL

## SUBJECT

Action on a Resolution Considering the Information in the Final Environmental Impact Statement Prepared by the Federal Energy Regulatory Commission and Adopting and Certifying the CEQA Supplement Prepared for the Bucks Creek Hydroelectric License [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure]

## BACKGROUND

The City of Santa Clara and Pacific Gas and Electric (PG&E) jointly own and operate the 84.8 megawatt Bucks Creek Hydroelectric project in Plumas County, California, and have been engaged in a multi-year effort to relicense the project (see the Project Review Timeline, Attachment 2).

On March 8, 1990, the City and PG&E entered into the Grizzly Development and Mokelumne Settlement Agreement (GDMSA) which, among other provisions, allowed the City's Electric Department dba Silicon Valley Power, to construct and own the Grizzly Powerhouse, and become a joint licensee to the Bucks Creek Project (Federal Energy Regulatory Commission (FERC) Project No. 619). Section 2.7.2 of the GDMSA obligates the Parties (the City and PG&E) to pursue amendments, renewals, or other FERC approvals as they arise during the period the City is a joint licensee. To this end, the City and PG&E filed a Notice of Intent (NOI) to seek a new license for the existing 84.8 MW capacity of the Bucks Creek Hydroelectric Project, FERC Project No. 619, on November 15, 2013.

The Project is located on Bucks, Grizzly, and Milk Ranch creeks in Plumas County, California. Key Project features include Bucks Lake, Lower Bucks Lake, Grizzly Forebay, Three Lakes, and their respective dams and diversions; the Milk Ranch Conduit and feeder diversions; and Grizzly and Bucks Creek powerhouses. The Project is a tributary to the North Fork Feather River, with the Bucks Creek Powerhouse discharging into the Rock Creek Reach upstream of the Cresta Reservoir.

Relicensing the power plant would allow the City to continue operating an economically beneficial and dependable source of electrical energy from a renewable resource that does not contribute to atmospheric pollution, including greenhouse gases. The project would also include measures to protect and enhance fish and wildlife resources and would improve recreation opportunities at the project site. If approved, the new license would run for a term specified by FERC; standard license terms are 40 years, but FERC may write the license for as much as 50 years.

Because the City is a joint licensee of the Bucks Creek Project, and uses the Grizzly Powerhouse for the public purpose of power generation, the City of Santa Clara elected to be the Lead Agency for California Environmental Quality Act (CEQA) as it relates to the Project, and the new FERC hydroelectric licensing pursuant to FERC's Integrated Licensing Process (ILP).

Issuance of the Water Quality Certification by the State Water Resources Control Board (SWRCB) is expected to take place shortly after the City adopts the Final CEQA Supplement, and FERC is then expected to issue the new hydroelectric license for the Bucks Creek Project (FERC Project No. 619) once the Water Quality Certification becomes final.

## DISCUSSION

The Bucks Creek Project is located within Plumas County, California, in the Sierra Nevada Mountains, and is entirely within the Plumas National Forest. Most of the land within the Project boundary is public land managed by the Forest Service, though PG&E has some inholdings.

The proposed Project analyzed in the Environmental Impact Statement (EIS, Attachment 3) and CEQA Supplement (Attachment 4) is the continued operation and maintenance of the Bucks Creek Project under a new license.

If the relicensing is granted, the Project would continue to be operated as it has historically been operating, and no activities are proposed that would involve major construction or changes in power generation facilities or operations. The licensees (the City and PG&E) propose relatively minor modifications to the Bucks Lake Dam flow release structure, to the Milk Ranch Conduit, to Project recreation facilities, and to the Project boundary. In addition, the project proposes 37 protection, mitigation and enhancement (PM&E) measures that would be implemented with the new license, as listed in detail at pages 2-23 to 2-27 of the FEIS. The PM&E measures were developed by the licensees in coordination with relicensing stakeholders to assure full protection, mitigation and enhancement of environmental resources. These PM&E measures include implementation of a wide array of plans to protect and enhance natural resources, including an erosion management plan, a bald eagle management plan, an integrated vegetation management plan, a recreation management plan, and a fire prevention and response plan. Other PM&Es limit operation and maintenance activities that would interfere with the breeding season of various species, call for an evaluation of the project transmission lines for avian hazards, and require periodic nesting surveys for spotted owls and northern goshawks.

### Project Alternatives

Both NEPA and CEQA require an analysis of alternatives, in addition to the project initially proposed. In the EIS, four alternatives were analyzed by FERC:

- Licensees' Proposal
- No-action alternative
- FERC Staff Alternative
- FERC Staff Alternative with Mandatory Conditions

The "Licensees' Proposal" is the proposal put forward by the City and the PG&E. It includes the many PM&Es referenced above.

The "No-Action alternative" analyzes the impacts from Bucks Creek if the project continued to operate exactly as it does now, without additional licensing conditions. This is analogous to the "No Project Alternative" that is required in CEQA documents.

The FERC Staff Alternative modifies some of the licensee-proposed PM&Es, and is described on

pages 2-32 to 2-33 of the FEIS. For example, FERC asked that the drought management plan use localized data rather than regional or statewide data when evaluating low-water conditions. Additionally, for purposes of handling certain endangered species, FERC asked for some specific qualifications for the biologists that would be performing the work. FERC also asked for a more stringent avian protection plan.

Finally, the FERC Staff Alternative with Mandatory Conditions adds conditions from the State Water Board related to the Clean Water certification and from the Forest Service relating to operating the Bucks Creek project on Forest Service land. These additional conditions require annual consultation with the Forest Service, a requirement to perform additional biological evaluation for new project features on forest service land, and monitoring of aquatic resources.

As explained in the CEQA Supplement, all of the project alternatives would improve conditions compared to the no-action alternative as a result of implementing environmental measures intended to protect or enhance environmental resources. The differences among the project alternatives would not impact proposed Project operation or facility modifications, and would not, overall, change any of the significance determinations for any resources under CEQA.

As part of the Council's action, staff is requesting that the Council adopt the "FERC Staff with Alternative with Mandatory Conditions" as the Project, as this will facilitate the relicensing.

**Resources Analyzed in the Environmental Impact Statement**

The following environmental resources, which are normally a part of the CEQA environmental checklist, were not discussed in the CEQA supplement because the City determined they were evaluated adequately in the FERC EIS.

- Aesthetics
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Recreation
- Tribal Cultural Resources
- Cumulative Impacts associated with the above resources

The EIS concluded that although there would be some unavoidable, adverse effects on soil, geomorphic, water quality, aquatic, and terrestrial resources, all of these impacts would be minor and temporary. Some minor levels of fish mortality would also continue to occur, but the FEIS concluded that the number of fish affected would be relatively low.

The EIS also determined that the effects of the Project on geology and soil resources could include some temporary minor continued erosion associated with project operation, the renovation of recreation facilities, and interruption of sediment transport at project reservoirs. Most of these effects, however, would be reduced by the recommended resource enhancement measures.

For terrestrial resources, the EIS concluded that the Project could result in some loss of vegetation and wildlife habitat from construction of project recreation facilities that require permanent removal of vegetation and from project maintenance. Such effects on vegetation and wildlife habitat would be reduced by implementing an Integrated Vegetation Management Plan.

Finally, the EIS determined that continued operation of the Project could potentially affect some archaeological sites. Proposed construction activities, including recreation enhancements, also have the potential for unavoidable adverse effects on cultural resources, particularly in areas that have not yet been surveyed (e.g., submerged areas, areas with steep slopes and/or dense vegetation). The implementation of an updated Historic Properties Management Plan would ensure proper protection and management of any significant cultural resources encountered within the project area, and would provide satisfactory resolution of any project-related adverse effects.

**Resources Analyzed in the CEQA Supplement**

The following resource areas, which are normally included in the CEQA environmental checklist, were either found to be absent from the FERC FEIS or determined to be insufficiently analyzed therein to meet the requirements of CEQA. These 11 topic areas, along with a cumulative analysis, form the bulk of the topics in the CEQA Supplement:

- Agriculture and Forest Resources
- Air Quality
- Energy
- Greenhouse Gas Emissions
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Transportation
- Utilities and Service Systems
- Wildfire
- Cumulative impacts associated with the above resources

As detailed in the Supplement, all of the above resource areas had a significance determination of either “no impact” or “less than significant,” after taking into account the whole Project, including all PM&E measures and required terms and conditions. The analysis of the 11 resource areas indicated that implementation of the new license would have no impact to three of the resources (agriculture and forest resources, mineral resources, and population and housing) and a less than significant impact to each of the remaining eight. With the exception of GHG emissions associated with replacing the small loss of power due to minimum instream flow requirements, impacts identified were associated with seasonal construction activities (e.g. air emissions and noise generated during construction) and operation of the proposed facility improvements (e.g. impacts associated with use of the new and modified recreation facilities). The PM&E measures associated with the new license would protect, avoid and/or minimize any potentially significant impacts to a level of less than significant and no additional mitigation would be necessary.

Cumulative impacts would be those associated with other construction activities in the project vicinity and with the expansion of nearby recreation or residential facilities that might, cumulatively, stress

public services and utilities. However, there are no existing or reasonably foreseeable projects in the vicinity of the Project or within the Project boundary that would contribute to cumulative construction impacts or increase visitors or residents to the area. As such, the Project would not contribute to any cumulative impacts associated with construction activity during the term of the new license.

Because the Supplement identified no potentially significant or significant unavoidable impacts in any resource areas, no mitigation measures are required for this project. As such, in contrast to other CEQA documents the City has adopted, in this case there is no Mitigation and Monitoring Program.

**Public Participation in the Environmental Review Process**

Both the City and FERC solicited input from the public and affected public agencies in both Santa Clara and Plumas Counties. City staff, in coordination with FERC, conducted two public meetings on the DEIS in August 2019 in Oroville and Santa Clara. During the 60-day DEIS circulation period, FERC received comments from eight separate entities, including the U.S. Fish and Wildlife Service, the U.S. Environmental Protection Agency, and the California Department of Fish and Wildlife. FERC prepared responses to those comments, as well as making revisions to the DEIS, and those responses and edits are incorporated into the FEIS. The City received no substantive comments on the Draft CEQA Supplement; as such, there was no need for revision or responses to comments, and the Draft is therefore proposed to be adopted as the Final CEQA Supplement.

**Next Steps in the Approval Process**

The State Water Resources Control Board (State Water Board) is the agency in California that is responsible for acting on applications for water quality certification of hydroelectric projects under section 401 of the Clean Water Act (CWA). The State Water Board must comply with the California Environmental Quality Act (CEQA) to issue water quality certification (a discretionary action) for the Project. CEQA compliance is also necessary to support the future discretionary action of the City of Santa Clara, including the decision of whether or not to accept the new license issued by FERC. The State Water Board usually acts as the CEQA Lead Agency for FERC relicensing projects in California when the applicant is a private entity (e.g., PG&E). However, in its capacity as part owner of the Bucks Creek Project, the City is acting as the CEQA Lead Agency for the Project, and the State Water Board is a Responsible Agency in the CEQA process.

## FISCAL IMPACT

There is no additional fiscal impact to the City other than administrative staff time and expense. The Bucks Creek project has been incorporated into Silicon Valley Power's integrated resource planning and budget forecast.

## COORDINATION

This report has been coordinated with the Community Development Department, Finance Department, and the City Attorney's Office.

## PUBLIC CONTACT

Public contact was made by publishing a notice in the *Weekly* (formerly the *Santa Clara Weekly*) on September 16, 2020 and by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a

Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

## RECOMMENDATION

1. Adopt a Resolution considering the information in the Final Environmental Impact Statement prepared by the Federal Energy Regulatory Commission and certifying and adopting the CEQA Supplement for the Bucks Creek Hydroelectric Project (SCH No. 2019069104) with the "FERC Staff Alternative With Mandatory Conditions" Selected as the Project;
2. Note and file the Notice of Determination for the Bucks Creek CEQA Supplement; and
3. Direct staff to proceed with the relicensing process for the Bucks Creek Hydroelectric Project by forwarding the CEQA supplement to the State Regional Water Quality Control Board for their use in the Clean Water certification process.

Reviewed by: Manuel Pineda, Chief Electric Utility Officer
Approved by: Deanna J. Santana, City Manager

## ATTACHMENTS

1. Bucks Creek CEQA Supplement Resolution
2. Bucks Creek Project Review Timeline
3. Bucks Creek Final Environmental Impact Statement
4. Bucks Creek Draft CEQA Supplement