

FEDERAL ENERGY REGULATORY COMMISSION
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March 14, 2024

OFFICE OF ENERGY PROJECTS

Project No. 1930-090 – California
Kern River No. 1 Hydroelectric Project
Southern California Edison Company

VIA FERC Service

Mr. David Moore
Relicensing Project Manager
Southern California Edison Company
1515 Walnut Grove Avenue
Rosemead, California 91770

Reference: Study Plan Determination

Mr. Moore:

Pursuant to 18 C.F.R. § 5.13(c) of the Commission’s regulations, this letter contains the study plan determination for the Kern River No. 1 Hydroelectric Project (FERC No. 1930) (KR1 Project or project) located on the lower Kern River on the western slope of the Sierra Nevada, approximately 15 miles east of the City of Bakersfield in Kern County, California. The determination is based on the study criteria set forth in section 5.9(b) of the Commission’s regulations, applicable law, Commission policy and practice, and the record of information for the project.

Background

On October 17, 2023, Southern California Edison (SCE) filed a Proposed Study Plan (PSP) for 13 studies in support of its preparation of a relicense application for the KR1 Project. The PSP addresses studies on project facilities and geologic, aquatic, terrestrial, recreational, cultural, and socioeconomic resources.

SCE held an initial study plan meeting to discuss the PSP on November 14, 2023. Comments on the PSP were filed by American Whitewater, Commission staff, Leah Carter, and the National Park Service (Park Service).

SCE filed a Revised Study Plan (RSP) on February 13, 2024. The RSP includes the 13 studies previously included in the PSP, with four having revisions based on comments received on the PSP. Comments on the RSP were filed by the Park Service on

February 26, 2024. On March 7, 2024, SCE filed a letter responding to the comments filed by the Park Service.

Study Plan Determination

SCE's RSP is approved with the staff-recommended modifications discussed in Appendix B. As indicated in Appendix A, of the 13 studies proposed, 12 are approved as filed, and 1 is approved with staff-recommended modifications. Additionally, SCE is required to conduct a staff-recommended *Environmental Justice Study*.

The specific modifications and basis for modifying the RSP are discussed in Appendix B. Commission staff reviewed all comments and considered all study plan criteria in section 5.9 of the Commission's regulations. However, only the specific study criteria particularly relevant to the determination are referenced in Appendix B.

Studies proposed in the RSP for which no issues were raised in comments on the RSP are not discussed in this determination. Unless otherwise indicated, all components of the approved studies not modified in this determination must be completed as described in SCE's RSP. Pursuant to section 5.15©(1) of the Commission's regulations, the Initial Study Report for all studies in the approved study plan **must be filed by March 15, 2025**.

Nothing in this study plan determination is intended, in any way, to limit any agency's proper exercise of its independent statutory authority to require additional studies. In addition, SCE may choose to conduct any study not specifically required herein that they feel would add pertinent information to the record.

If you have any questions, please contact Jessica Fefer, the Commission's relicensing coordinator for the project, at (202) 502-6631 or jessica.fefer@ferc.gov.

Sincerely,

for
Terry L. Turpin
Director
Office of Energy Projects

Enclosures: Appendix A – Summary of Determinations on Proposed and Requested Studies
Appendix B – Staff's Recommendations on Proposed and Requested Studies

**APPENDIX A: SUMMARY OF DETERMINATIONS
ON PROPOSED AND REQUESTED STUDIES**

Kern River No. 1 Hydroelectric Project P-1930-090

Study	Recommending Entity	Approved	Approved with Modifications	Not Required
SCE's Revised Study Plan				
AQ 1 – Hydrology	Southern California Edison (SCE)	X		
AQ 2 – Water Quality & Water Temperature	SCE	X		
AQ 3 – Fish Population	SCE	X		
CUL 1 – Built Environment	SCE	X		
CUL 2 – Archaeology	SCE	X		
TRI 1 – Tribal Resources	SCE	X		
LAND 1 – Road and Trail Condition Assessment	SCE	X		
LAND 2 – Erosion and Sedimentation	SCE	X		
REC 1 – Recreation Facility Condition Assessment	SCE	X		
REC 2 – Recreation Facility Use Assessment	SCE, National Park Service		X	
REC 3 – Whitewater Boating	SCE	X		
TERR 1 – Botanical Resources	SCE	X		
TERR 2 – Wildlife Resources	SCE	X		
New Studies Requested				
Environmental Justice Study	Commission staff	X		

APPENDIX B: STAFF'S RECOMMENDATIONS ON PROPOSED AND REQUESTED STUDIES

Kern River No. 1 Hydroelectric Project No. 1930-090

The following discusses Commission staff's recommendations on one of the studies proposed by Southern California Edison (SCE) for which modification requests were filed by the National Park Service (Park Service), as well as a new study recommended by staff. We base our recommendations on the study criteria outlined in the Commission's regulations [18 C.F.R. section 5.9(b)(1)-(7)].

I. PROPOSED STUDY WITH REQUESTED MODIFICATIONS

Study REC-2: Recreation Facility Use Assessment

Applicant's Proposed Study

Although SCE does not currently own or operate any developed recreation sites in the project vicinity, project operation has the potential to affect use of 16 non-project developed recreation and dispersed day-use areas and trailheads along the bypassed reach and adjacent to the project impoundment due to fluctuations in the reservoir and bypassed reach water levels.¹ To identify potential effects of project operation on recreation use, SCE proposes to conduct a Recreation Facility Use Assessment study that assesses recreation use at the 16 non-project recreation sites.

The objectives of the study are to: (1) characterize recreation use at the developed public recreation facilities along the bypassed reach and adjacent to the project impoundment; (2) characterize dispersed recreation use at undeveloped sites along the bypassed reach accessible from Service Road (SR) 178; (3) characterize recreation use along project trails that provide access to the lower Kern River or to an existing United States Forest Service (Forest Service) trail in the vicinity of the bypassed reach and project impoundment; (4) determine the adequacy of recreation facilities along the bypassed reach and adjacent to the project impoundment to meet future demand; and (5)

¹ Developed day-use areas include Democrat Raft Take-out Boating Site (located at the project impoundment), Upper Richbar Day Use Area, Lower Richbar Day Use Area, and Live Oak Day Use Areas (each located along the project bypassed reach). Trailheads include Democrat Gage Trail, the Powerhouse Trail, and trails that connect to the Powerhouse Trail including Cow Flat Creek Trail, Steel Flume Trail, Lucas Creek Trail, Dougherty Creek Trail, and Stark Creek Trail. Undeveloped recreation sites include five sites that are along the project bypassed reach and accessible from SR 178.

determine the adequacy of SCE's existing programs and measures to protect public health and safety at the 16 non-project recreation sites.

The specific components of the study include: (1) compiling existing information on recreation use at the 16 non-project recreation sites along the bypassed reach and project impoundment; (2) if available existing data is not sufficient to characterize recreation use, conducting “on-ground”² vehicle counts year-round with two counts each shift from April through September and one count each shift from October through March and opportunistic in-person surveys from April through September at the developed day-use facilities and the undeveloped areas along SR 178 that support informal river access; (3) collecting data on day use at the developed recreation facilities and project trails using self-survey forms located in tamper-proof boxes installed at each of the 16 sites and using trail cameras on project trails year-round; (4) analyzing existing information and the collected study data results to estimate future recreation use and needs at the 16 sites; and (5) identifying SCE’s existing programs and measures to protect public health and safety (i.e., buoy lines, fencing, signage, alarms) and characterizing the safety incidents relating to recreation that have occurred at the 16 sites over the past 10 years.

Comments on the Study

Consultation

The Park Service recommends that the study include a provision for SCE to consult with the recreation Technical Working Group (TWG) in determining the sufficiency of existing data to characterize recreation use to ensure that stakeholders understand the basis for the decision. The Park Service also recommends that the study include a provision to consult with the recreation TWG and interested trail groups using focus groups to aid in aspects of the study design, including determining the location of tamper-proof survey boxes and cameras and developing the in-person survey instrument.

Vehicle Counts and In-person Survey Sampling

The Park Service recommends that the study include a provision for conducting vehicle counts twice each shift for the entire year, rather than twice each shift from April through September and only once each shift from October through March (as specified in the RSP). The Park Service also recommends that the proposed in-person survey sampling at developed recreation sites be extended through their open season, rather than

² The revised study plan uses the term “on-ground” to reference sampling that would be conducted by technicians on site for the study, as opposed to the use of automated counters.

ending sampling in September (as specified in the revised study plan (RSP)), since of the four total developed recreation sites, two are open through October (e.g., Lower Richbar Day Use Area and Live Oak Day Use Area), and two are open year-round (e.g., Democrat Raft Take-out Boating Site and Upper Richbar Day Use Area). Lastly, the Park Service recommends that in-person surveys at undeveloped recreation sites be conducted year-round, instead of only April through September (as specified in the RSP)³, to account for angling activity that is most popular from October through March.

In its letter filed on March 7, 2024, SCE states that it does not object to the Park Service’s requested modifications to the RSP.

Discussion and Staff Recommendation

Background

The 16 developed and undeveloped recreation sites are located immediately adjacent to the bypassed reach and project impoundment and provide access to project waters. Recreation at these sites, including angling and whitewater boating activity, have the potential to be affected by project operations due to fluctuating water levels in the impoundment and reduced flows in the bypassed reach. Project trails include the Democrat Gage Trail, which provides access to the bypassed reach, and five trails that extend from SR 178 up to the Forest Service trail called “Powerhouse Trail.” These trails are used by SCE to access project infrastructure and by the local community for hiking along the bypassed reach, providing access to the Forest Service’s Powerhouse Trail, and connecting to longer hiking opportunities. Because the informal trails are maintained by SCE to assist with project operation yet are located on public land and used by the public, project-related activities (i.e., trail closures for maintenance activities) have the potential to affect public use of them.

Consultation

The RSP specifies that SCE would conduct on-ground vehicle counts and in-person surveys at the day-use facilities and along SR 178, in consultation with the Forest Service, if sufficient data is not available to characterize recreation using existing information. The RSP also specifies that SCE would consult with the recreation TWG to identify undeveloped locations along SR 178 used to access the river, as well as to finalize the in-person survey intercept forms to be available and distributed at

³ While the RSP is unclear if surveys would be conducted year-round, the study schedule found in the table on page REC-2-9 of the RSP shows that in-person surveys would be conducted from April through September 2024, which would miss the October through March fishing season use.

undeveloped locations. However, the RSP does not identify how SCE will determine if on-ground vehicle counts and in-person surveys are needed, or how the sufficiency of existing data will be determined [section 5.9(b)(4)]. Therefore, we recommend that the study include a provision for SCE to consult with the recreation TWG when determining the sufficiency of existing data for characterizing recreation use. Additionally, while the RSP includes consultation with the recreation TWG and interested trail groups (including Kern Gateway Trail members) for the development of the trail survey and location of survey boxes and cameras, it does not specify its methods for consultation. The Park Service recommends that SCE use focus groups to engage the recreation TWG and the trail groups. Because focus groups are a generally acceptable method for collecting qualitative data about project context and would result in additional data to inform license conditions [section 5.9(b)(4) and (6)], we recommend the study be modified to use focus groups to engage with the recreation TWG and interested trail groups. We estimate that the additional cost of conducting focus groups to be negligible.

Vehicle Counts and In-person Survey Sampling at Developed and Undeveloped River Access Sites

The RSP specifies that SCE would conduct on-ground vehicle counts and in-person surveys at the developed river access day-use facilities and the undeveloped river access areas along SR 178 that support informal river access. As specified in the RSP, SCE would count the number of vehicles observed for a randomly selected four days per month (two weekdays and two weekend days) for one year, and on one day of each holiday weekend from April through September⁴ (for a total of 51 sampling days). Each sampling day would include two four-hour shifts across nine total locations (four developed sites and five undeveloped sites as indicated in the RSP). The two shifts each day would be randomly selected from three timing options: from 7:00 to 11:00 a.m., 11:00 a.m. to 3:00 p.m., or 3:00 to 7:00 p.m. From April through September, vehicles would be counted twice per shift. From October through March, vehicles would be counted once per shift. During each shift from April through September, the survey technician(s) would pull into each of the nine sites (parking if space is available) and complete a walking circuit of the parking lot facilities and adjacent river locations. The RSP indicates a 15-minute minimum on slow days and a 30-minute maximum on busy days would be dedicated to collecting in-person surveys at each site from April through September, which totals from 2 hours and 15 minutes to 4 hours and 30 minutes across the nine sites proposed. If travel time between sites, survey sampling only during the busy season, or the time needed to administer vehicle counts would impact the time needed to complete in-person survey sampling, a significant amount of data that would

⁴ To include Memorial Day, Fourth of July, and Labor Day. SCE did not include Juneteenth in their list of holidays between April-September.

otherwise help inform the development of license requirements would go uncollected [section 5.9(b)(4)].

On-ground vehicle counts can record quantitative data (e.g., number of visitors) for the duration of the time a technician is on-site. However, on-ground vehicle counts cannot collect visitor demographics or qualitative information such as recreation user preferences. This information is needed to understand types of users and their preferences, inform management and access to project waters, and inform the development of license requirements [section 5.9(b)(5)]. Because of this, and because no survey sampling days were proposed for October through March when a significant amount of recreation use could occur, we recommend that the study be modified to conduct in-person surveys and vehicle counts at the developed sites for the entire open season (e.g., extend sampling through October at Lower Richbar Day Use Area and Live Oak Day Use Area, and year-round at Democrat Raft Take-out Boating Site and Upper Richbar Day Use Area) and all identified undeveloped sites year-round to capture angling activity appropriately. For the same reasons, we also recommend that SCE conduct vehicle counts twice during each shift year-round rather than twice during each shift from April through September and once during each shift from October through March. The modification to conduct in-person surveys for the entire open season at developed sites and year-round at undeveloped sites will increase the amount of in-person survey days by 24 days at all undeveloped sites and at Democrat Raft Take-out Boating Site and Upper Richbar Day Use Area (because they are open year-round), with 4 of those additional survey days also including Lower Richbar Day Use Area and Live Oak Day Use Area (because these sites close at the end of October). The modification to count vehicles twice per shift at developed and undeveloped recreation sites year-round (rather than only once per shift from October through March) will not increase the number of days or shifts. However, the modification will increase vehicle count times by 24 counts, which will ensure that the study data related to demographics, recreation user preferences, and amount of use will be collected systematically year-round and represent all types of users. This additional data is needed for Commission staff to adequately analyze any project effects on recreation resources in the project area and to inform the need for, and potential development of, license conditions [section 5.9(b)(4) and (5)]. We estimate that conducting in-person surveys and vehicle counts year-round or during the open season, as recommended, would cost an additional \$3,000.

II. NEW STUDY RECOMMENDED BY STAFF

Environmental Justice Study

Commission staff have identified information needed to assess project effects that is not included in the PAD or proposed in SCE's RSP. As required in section 5.9(b)(1)-(7) of the Commission's regulations, we have addressed the required criteria in the study request that follows.

Goals and Objectives

Section 5.9(b)(1) – Describe the goals and objectives of each study proposal and the information to be obtained.

The study has five objectives: (1) to identify the presence of any environmental justice communities that may be affected by the relicensing of the KR1 Project and identify outreach strategies to engage the identified environmental justice communities in the relicensing process, if present; (2) to identify the presence of non-English speaking populations that may be affected by the project and identify outreach strategies to engage non-English speaking populations in the relicensing process, if present; (3) to discuss effects of relicensing the project on any identified environmental justice communities and identify any effects that are disproportionately high and adverse; (4) to identify mitigation measures to avoid or minimize project effects on environmental-justice communities; and (5) to identify sensitive receptor locations within the project area and identify potential effects and measures taken to avoid or minimize the effects to such locations, if they are present.

Relevant Resource Management Goals and Public Interest Considerations

Section 5.9(b)(2) – If applicable, explain the relevant resource management goals of the agencies or Indian tribes with jurisdiction over the resource to be studied.

Not applicable.

Section 5.9(b)(3) – If the requester is not a resource agency, explain any relevant public interest considerations in regard to the proposed study.

Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*,⁵ and Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations*,⁶ as amended, requires federal agencies to consider if impacts on human health or the environment would be disproportionately high and adverse for minority and low-income populations (i.e., environmental justice communities) in the surrounding community resulting from the programs, policies, or activities of federal agencies. If environmental justice communities do exist near the KR1 Project, Commission staff will need to assess potential effects from relicensing the project on those communities. Since the pre-filing process for the KR1 Project began, the Commission has been developing an approach to completing the required assessment and

⁵ 86 Fed. Reg. 7, 619-7, 633 (January 27, 2021).

⁶ 59 Fed. Reg. 7, 629-7, 633 (February 16, 1994).

comply with both Executive Orders. We are now ready to better direct our applicants to provide us with the information to complete that assessment.

Further, Sections 4(e) and 10(a) of the Federal Power Act require the Commission to give equal consideration to all uses of the waterway on which a project is located, and what conditions should be placed on any license that may be issued. In making its license decision, the Commission must equally consider the environmental, recreational, fish and wildlife, and other non-developmental values of the project, as well as power and developmental values.

Existing Information and Need for Additional Information

Section 5.9(b)(4) – Describe existing information concerning the subject of the study proposal, and the need for additional information

SCE's PAD does not identify any potential environmental justice communities, nor determine any potential project effects to those communities. Also, no studies proposed by SCE would collect the necessary information.

The information necessary to conduct an identification of environmental justice communities near the project is available through the U.S. Census Bureau's American Community Survey (Census 2022); however, such information must be aggregated and compared in order to make determinations about the presence of environmental justice communities within the project area. The nature of effects of the project on any communities present would need to be determined through consultation with the communities, and are dependent on the applicant's relicensing proposal.

Project Nexus

Section 5.9(b)(5) – Explain any nexus between project operations and effects (direct, indirect, and/or cumulative) on the resource to be studied, and how the study results would inform the development of license requirements.

Continued operation and maintenance of the KR1 Project has the potential to affect human health or the environment in environmental justice communities. Examples of resource impacts may include, but are not necessarily limited to, project-related effects on: erosion or sedimentation of private properties; groundwater or other drinking water sources; subsistence fishing, hunting, or plant gathering; access for recreation; housing or industries of importance to environmental justice communities; and operation-related effects on air quality, noise, and traffic.

Proposed Methodology

Section 5.9(b)(6) – Explain how any proposed study methodology (including any preferred data collection and analysis techniques, or objectively quantified information, and a schedule including appropriate field season(s) and the duration) is consistent with generally accepted practice in the scientific community or, as appropriate, considers relevant tribal values and knowledge.

Below, we provide the methodology that Commission staff has adopted for collecting environmental justice data for hydroelectric projects. This methodology has been successfully employed on a number of projects in the licensing process and is consistent with guidance from the Environmental Protection Agency’s *Promising Practices for Environmental Justice Methodologies in NEPA Reviews* (2016). Please prepare a study report that provides the following:

- (a) A table of racial, ethnic, and poverty statistics for each state, county, and census block group within the geographic scope of analysis. For the project, the geographic scope of analysis is all areas within 1 mile of the project boundary. The table should include the following information from the U.S. Census Bureau’s most recently available *American Community Survey 5-Year Estimates* (Census 2020) for each state, county, and block group (wholly or partially) within the geographic scope of analysis:
 - i. total population;
 - ii. total population of each racial and ethnic group (i.e., White Alone Not Hispanic, Black or African American, American Indian and Alaska Native, Asian, Native Hawaiian and Other Pacific Islander, some other race, two or more races, Hispanic or Latino origin [of any race]) (count for each group);
 - iii. minority population including individuals of Hispanic or Latino origin as a percentage of total population;⁷ and
 - iv. total population below poverty level as a percentage.⁸

The data should be collected from the most recent *American Community Survey* files available, using table #B03002 for race and ethnicity data and table #B17017 for low-income households (Census 2022). A table template is provided below.

⁷ To calculate the percent total minority population, subtract the percentage of “White Alone Not Hispanic” from 100 percent for any given area.

⁸ To calculate percentage of total population below poverty level, divide the total households below the poverty level by the total number of households and multiply by 100.

- (b) Identification of environmental justice populations by block group, using the data obtained in response to part (a) above, by applying the following methods included in EPA’s *Promising Practices for Environmental Justice Methodologies in NEPA Reviews* (2016).
- i. To identify environmental justice communities based on the presence of minority populations, use the “50-percent” and the “meaningfully greater” analysis methods. To use the “50-percent” analysis method, determine whether the total percent minority population of any block group in the affected area exceeds 50-percent. To use the “meaningfully greater” analysis, determine whether any affected block group affected is 10-percent greater than the minority population percent in the county using the following process:
 1. calculate the percent minority in the reference population (county);
 2. to the reference population’s percent minority, add 10-percent (i.e., multiply the percent minority in the reference population by 1.1); and
 3. this new percentage is the threshold that a block group’s percent minority would need to exceed to qualify as an environmental justice community under the meaningfully greater analysis method.
 - ii. To identify environmental justice communities based on the presence of low-income populations, use the “low-income threshold criteria” method. To use the “low-income threshold criteria,” the percent of the population below the poverty level in the identified block group must be equal to or greater than that of the reference population (county).
- (c) A map showing the project boundary and location(s) of any proposed project-related construction in relation to any identified environmental justice communities within the geographic scope. Denote on the map if the block group is identified as an environmental justice community based on the presence of minority population, low-income population, or both.
- (d) A discussion of anticipated project-related effects on any environmental justice communities for all resources where there is a potential nexus between the effect and the environmental justice community. For any identified effects, please also describe whether or not any of the effects would be disproportionately high and adverse.

- (e) If environmental justice communities are present, please provide a description of your public outreach efforts regarding your project, including:
 - i. a summary of any outreach to environmental justice communities conducted prior to filing the application (include the date, time, and location of any public meetings beyond those required by the regulations);
 - ii. a summary of comments received from members of environmental justice communities or organizations representing the communities;
 - iii. a description of information provided to environmental justice communities; and
 - iv. planned future outreach activities and methods specific to working with the identified communities.
- (f) A description of any mitigation measures proposed to avoid and/or minimize project effects on environmental justice communities.
- (g) Identification of any non-English speaking groups, within the geographic scope of analysis, that would be affected by the project (regardless of whether the group is part of an identified environmental justice community). Please describe your previous or planned efforts to identify and communicate with these non-English speaking groups, and identify and describe any measures that you propose to avoid and minimize any project-related effects to non-English speaking groups.
- (h) If new construction is proposed, identification of sensitive receptor locations (e.g., schools, day care centers, hospitals, etc.) within the geographic scope of analysis. Show these locations on the map generated in step (c). Provide a table that includes their distances from project facilities and any project-related effects on these locations, including measures taken to avoid or minimize project-related effects.

This study should be conducted in consultation with other relicensing stakeholders who express interest. The final study report should include documentation of any consultation you conducted with entities that expressed interest in environmental justice, copies of their comments, and an explanation of how you have addressed their comments in your final response.

Level of Effort and Cost

Section 5.9(b)(7) – Describe considerations of level of effort and cost, as applicable, and why any proposed alternative studies would not be sufficient to meet the stated information needs.

The estimated cost of all efforts to complete this study is \$50,000 and can be completed in a single study season. As stated previously, there is currently no approved study that would achieve the goals and objectives of the requested Environmental Justice Study.

Template for Environmental Justice Table

	RACE AND ETHNICITY DATA										LOW-INCOME DATA
Geography	Total Population (count)	White Alone Not Hispanic (count)	African American (count)	Native American/ Alaska Native (count)	Asian (count)	Native Hawaiian & Other Pacific Islander (count)	Some Other Race (count)	Two or More Races (count)	Hispanic or Latino (count)	Total Minority (%)	Below Poverty Level (%)
State											
County or Parish											
Census Tract X, Block Group X											

III. LITERATURE CITED

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- U.S. Census Bureau (Census). 2022. 2022 American Community Survey 5-year Estimate Detailed Tables B03002 and B17017. Available at: <https://data.census.gov>.