



July 29, 2022

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

Re: Potter Valley Project (P-77) Decommissioning Plan and Schedule

Dear Secretary Bose,

On behalf of the undersigned organizations we offer these comments on the PG&E draft license surrender schedule for the Potter Valley Project, P-77 (Project). We appreciate PG&E for providing the schedule and for describing opportunities for consultation and public comment. We also understand that FERC issued a letter today finding PG&E's proposed schedule acceptable.¹ However, we believe that this schedule can and should be significantly shortened, and that the Commission should require greater specificity regarding the opportunities for consultation and public comment, and for PG&E's responses.

In today's letter, FERC recognizes that "adjustments to the schedule [may be] necessary."² The available evidence strongly supports shortening the proposed schedule to ensure the continued survival of Chinook salmon and steelhead in the Eel River which are currently at risk of extinction.

FERC Should Require PG&E to Conduct its Surrender Schedule More Quickly

We note in the table attached as Exhibit 1 below several suggestions by which PG&E could significantly reduce times provided in its proposed schedule. Among the most significant would be eliminating the

¹ FERC, Letter Re: Schedule for filing surrender application and designation of non-federal representative for consultation (July 29, 2022), Doc. Accession No. 20220729-3016.

² *Id.* at 2.

initial six months PG&E has provided to “secure consultant support for the development of the surrender application and decommissioning plan.” PG&E has long been on notice of its obligation to file this decommissioning plan, and has more than adequate institutional assets to address its obligations with the dispatch required here.

The proposed timeline should be shortened because survival and recovery of ESA-listed Chinook and especially steelhead are jeopardized by the existence and operations of the Project. The National Marine Fisheries Service (NMFS) has recently confirmed that both of the Project dams on the Eel River are implicated in continuing take of salmon and steelhead listed under the federal Endangered Species Act (ESA).³ Studies and the 2002 NMFS Biological Opinion resulting from the 1983 relicensing of the Project and subsequent ten year study evaluating the impacts of the Project on downstream fishery resources established that the existence and operations of the Project dams had been so seriously affecting Chinook salmon and steelhead in the Eel River as to risk their extinction if operations were not significantly modified. Between October 1996 and August 2000, multiple populations of salmon and steelhead in the Eel River were listed under the ESA as threatened.

Scott Dam is a complete barrier to upstream fish passage and thus to salmon and steelhead migration and reproduction. Pikeminnow introduced to the Eel River via the Lake Pillsbury reservoir cause significant mortality especially of juvenile steelhead in the reach between the dams. The lower dam, Cape Horn, has a fishway - the longest and tallest in California. But the fishway often blocks fish passage when clogged by sediment and debris after high flows, and exposes both upstream and downstream migrants to significant predation risks.

As NMFS explained in its March 16, 2022, letter to the Commission:

*NMFS’ 2002 Opinion on the amendment to the Project license identified RPAs and provided incidental take authorization for implementing the proposed action for a 20-year period, which elapses on April 14, 2022. The 20-year duration of the proposed action is a central component of the Opinion. We relied upon this set duration to: (1) assess the effects of the proposed action; (2) develop the RPAs necessary to avoid jeopardy and the destruction or adverse modification of critical habitat; and (3) evaluate the effectiveness of the RPAs over the expected life of the proposed action. **Based on information currently available, we conclude that the Project is causing take of ESA-listed salmonids in a manner not anticipated in the Opinion and from activities not described in the Opinion.*** (emphasis added)

Thus, it is urgent that the Project and its operations be decommissioned and facilities removed from the Eel River as soon as possible.

³ See NMFS, Letter re: Endangered Species Act and Magnuson-Stevens Fishery Conservation and Management Act Consultations on the Potter Valley Project (March 16, 2022), Doc. Accession No. 20220317-5064.

To this end, it is fortunate that a great deal is already known about the Project. PG&E's 2017 Pre-Application Document summarized many of the basic facts about the Project and its operations, in a light favorable to PG&E as the Project owner and operator. The studies PG&E undertook before it abandoned its relicensing effort resulted in some useful data collection. In addition, the Two Basin Partnership (NOI Parties) completed several studies which illuminate options for project decommissioning. These studies include two Scott Dam removal engineering alternatives, four Cape Horn Dam modification and removal studies complete with alternative diversion scenarios, water balancing studies, upper habitat assessments confirming the 288 quality miles of upper habitat blocked by the dams, and restoration estimates for post-dam removal processes.

Thus, because PG&E's surrender and decommissioning plans can start where these processes left off, a shortened timeline for the surrender schedule can still provide the information PG&E and FERC require.

PG&E Should More Clearly State its Stakeholder Outreach Plans and Goals and Set Deadlines

Second, we request that the Commission provide additional detail about the nature of public comment to ensure a transparent and meaningful process for considering the stakeholders' views, including those of Tribal nations, conservation and fishing groups, other interests, and the public, in addition to the state and federal resource agencies. We also recommend that the Commission specifically order PG&E to meet interim deadlines leading up the final deadline for filing the License Surrender Application and Decommissioning Plan.

Finally, we request that the Commission, in responding to PG&E's proposed schedule, set forth a draft schedule for the completion of the surrender proceeding subsequent to PG&E's submittal of its final surrender application and decommissioning plan.

It is evident that for regulatory reasons, and to manage liability and risk to the company and its customers, PG&E will have to remove the Potter Valley Project dams on the Eel River as part of Project decommissioning. If the company and the Commission approach this project with the urgency required, removal of the Potter Valley Project dams will happen quickly enough to permit the recovery of Eel River salmon and steelhead.

A table with PG&E's proposal and our recommendations follows as Exhibit 1.

Thank you for your consideration,

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Executive Director
Friends of the Eel River

Brian Johnson
California Director
Trout Unlimited

Redgie Collins
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The Conservation Angler

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NW Regional Director

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Resources

Exhibit 1: Proposed Revisions to Schedule

PG&E Proposal: Activity	PG&E Proposal: Period Following FERC's Approval of PG&E Plan and Schedule (in Months)	Our Proposal: Period Following FERC's Approval of PG&E Plan and Schedule (in Months)
Secure consultant support for the development of the surrender application and decommissioning plan	1-6	No extra time needed
Conduct initial outreach to agencies and other stakeholders to solicit relevant information for the preparation of the surrender application and decommissioning plan	3-8	4
Prepare initial draft surrender application including decommissioning plan	6-16	4-10 FERC should make release of the initial draft decommissioning plan an interim deadline not more than 10 months from the order to prevent schedule slippage

Obtain input from agencies and other stakeholders regarding PG&E's initial draft surrender application and decommissioning plan	16-19	10-13 FERC should specify that “other stakeholders” includes tribal nations, conservation groups, and the public FERC should direct PG&E to hold at least one public meeting in the Eel River basin and to allow oral and written comments from any interested party
Address comments from agencies and other stakeholders and prepare final draft surrender application and decommissioning plan	19-22	13-16 FERC should require PG&E to include written, specific responses to both oral and written comments received.
Provide final draft surrender application and decommissioning plan to agencies and stakeholders for a 30-day review and comment period	22-23	16-18 FERC should mandate a 60 day comment period to begin no later than 16 months from FERC’s scheduling order
Address comments from agencies and other stakeholders on final draft surrender application and decommissioning plan	24-28	18-20

Prepare and file final surrender application and decommissioning plan	28-30	20-22
TOTAL MONTHS AFTER APPROVAL	30	22

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Pacific Gas & Electric Company
Potter Valley Project

Project No. P-77-000

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, by first class mail or electronic mail, a letter to Secretary Bose, Federal Energy Regulatory Commission, containing comments regarding the draft license surrender schedule for the Potter Valley Project, P-77. This Certificate of Service is served upon each person designated on the official P-77-000 Service List compiled by the Commission in the above-captioned proceedings.

Dated this 29th day of July, 2022.



David Weibel
Legal Secretary
Shute, Mihaly & Weinberger LLP