



**Sonoma  
Water**

September 15, 2022

Erik Ekdahl  
Deputy Director  
Division of Water Rights  
California State Water Resources Control Board

**SUBJECT: June 17, 2022, Order Approving Temporary Urgency Change to Sonoma County Water Agency Permits 12947A, 12949, 12950, and 16596 - Term 13 Report of Updated Proposed Milestones and Completion Dates for Additional Activities Related to the State Water Resources Control Board Consideration of, and Potential Action on, Sonoma Water's Petitions to Permanently Change Permit 12947A and Other Interrelated Water Rights**

Dear Mr. Ekdahl,

As required by Term 13 of the Temporary Urgency Change Order dated June 17, 2022, Sonoma County Water Agency (Sonoma Water) submits the following report (Attachment 1) of milestones for activities necessary for the State Water Resources Control Board's consideration of petitions to permanently change Permit 12947A and other interrelated water rights.

Please contact me with any questions regarding the Fish Habitat Flows and Water Rights Project CEQA process at (707) 547-1903 or [jessica.martinilamb@scwa.ca.gov](mailto:jessica.martinilamb@scwa.ca.gov). Questions regarding Sonoma Water's filed petitions may be directed to Todd Schram at (707) 524-1173 or [todd.schram@scwa.ca.gov](mailto:todd.schram@scwa.ca.gov)

Sincerely,

A handwritten signature in blue ink that reads "Jessica Martini-Lamb".

Jessica Martini-Lamb  
Environmental Resources Manager

c: Sonoma Water – Grant Davis, Pam Jeane, Kent Gylfe, Don Seymour, David Manning  
County Counsel – Cory O'Donnell, Verne Ball  
BKS – Ryan Bezerra

rw S:\Clerical\Pinks\09-12-22\SW\_Letterhead\_Digital\_long.docx

## Attachment 1

### **June 17, 2022, Temporary Urgency Change Order (Order) Term 13 Report of Updated Proposed Milestones and Completion Dates for Additional Activities Related to the State Water Resources Control Board Consideration of, and Potential Action on, Sonoma Water's Petitions to Permanently Change Permit 12947A and Other Interrelated Water Right Permits**

As Sonoma Water has discussed with the State Water Resources Control Board (State Water Board), Sonoma Water's plan to support permanent changes to Permits 12947A, 12949, 12950 and 16596 (Sonoma Water's water-right permits) involves recirculating, completing and certifying the Fish Habitat Flows and Water Rights Project (Fish Flow Project) Environmental Impact Report (EIR, State Clearinghouse # 2010092087 [Fish Flow EIR]). Through the Fish Flow Project, Sonoma Water proposes to modify the State Water Board's Decision 1610 hydrologic index and revise associated minimum instream flow requirements, request an extension of time to put its existing 75,000 acre-feet per year water rights to full beneficial use, and to add additional points of diversion for the Town of Windsor and Occidental Community Services District.

As described in the State Water Board's June 17, 2022 Order (the Order), a number of factors have hindered action on Sonoma Water's long-term change petitions to modify Decision 1610 and Permits 12947A, 12949, 12950, and 16596. "Progress has been hindered by two additional significant issues: 1) the severity of the ongoing drought since February 2021 and 2) the ongoing uncertainty regarding the future of transfers of water from the Eel River watershed through the Potter Valley Project (PVP)" With the expiration of Pacific Gas & Electric's (PG&E) PVP Federal Energy Regulatory Commission (FERC) project license on April 14, 2022, and the failure to secure new ownership of the project, the process to surrender the PVP will soon commence. The Order states that until the nature and duration of the surrender process proposed by PG&E and approved by FERC is known, progress on the long-term petitions and the related supporting environmental analyses will be hindered.

Due to the uncertainty of future PVP operations, the effort to model appropriate future conditions in the Russian River watershed is complicated and time-consuming. As a result, Sonoma Water proposes an interim, five- to seven-year change to its water-right permits in order to modify the hydrologic index to reflect conditions in the Russian River watershed as opposed to the current index located in the Eel River watershed (cumulative inflow into Lake Pillsbury). This interim change would align the applicable streamflow requirements with the Russian River watershed's hydrology and limit the need for further temporary urgency change petitions (TUCPs) pending the completion of the Fish Flow EIR.

As amended by the State Water Board's Decision 1610 (1986), Sonoma Water's water-right permits contain minimum instream flow requirements based on cumulative inflow to Lake Pillsbury in the Eel River watershed. (See, e.g., Decision 1610, p. 56 (reservation for Permit 12947A).) Decision 1610 acknowledged that changes to Sonoma Water's water-right permits could be necessary eventually, depending on FERC's regulation of PG&E's PVP. (Decision 1610, pp. 34-35.) By 1986, the PVP annually had imported, for decades, significant amounts of water diverted from the Eel River watershed to the Russian River

watershed. The amount imported averaged approximately 156,000 acre-feet annually. Subsequent to an amendment to PG&E's FERC operating license in the mid-2000s, the average annual transfer declined to approximately 62,000 acre-feet annually. Furthermore, in August 2021, PG&E reported that the transformer bank at the powerhouse had failed and will require replacement. This has resulted in a further reduction in imports of Eel River water to the Russian River watershed. On May 11, 2022, FERC directed PG&E to propose a schedule for filing a surrender application for the project. On July 8, 2022, PG&E submitted a plan and schedule to FERC to surrender its license. FERC approved PG&E's schedule and plan on July 29, 2022. Per FERC's approved schedule (Attachment 2), PG&E will submit a final license surrender application and decommissioning plan by January 29, 2025. FERC's license-surrender proceedings will likely take at least several years. Long-term PVP operations, and therefore imports to the Russian River watershed, may not be resolved for more than five years from now.

In light of this uncertainty concerning a significant component of the Russian River's hydrology, Sonoma Water is revising the draft EIR for the Fish Flow Project that it circulated for public review and comment in 2016. A critical element of the work to prepare a revised draft EIR is the development of modeling scenarios that reflect reasonably likely future PVP operations. Given the uncertainty surrounding the PVP, this portion of the work to prepare a revised draft Fish Flow EIR requires significant time. It also must be completed before much of the other work on the revised draft EIR can begin. For example, a biological analysis of future conditions for listed fish in the Russian River will depend on the modeling of reasonably likely future PVP operations. Further, Sonoma Water will consider PG&E's license surrender application plan (and specifically, what it proposes to do with diversion facilities) to incorporate applicable information as it becomes available.

Based on this situation with the preparation of a revised draft EIR, and FERC's approved schedule for PG&E's surrender and decommissioning plan, Sonoma Water currently anticipates completing that revised draft EIR and recirculating it for public review and comment in about February 2025. Sonoma Water then will need to review, and respond to, comments on that revised draft. Based on the significant volume of comments on the initial draft EIR for the Fish Flow Project, Sonoma Water expects a significant volume of comments on the revised draft. Sonoma Water therefore currently projects that it would certify a final EIR for the Fish Flow Project in about July 2026. After that, Sonoma Water assumes that the State Water Board will hold a hearing on its pending water-right petitions several months after the EIRs certification. Assuming one year for the State Water Board to prepare an order following the hearing, Sonoma Water currently projects the State Water Board's final action on the pending petitions would occur in about fall of 2027.

Based on recent years' experience, however, Sonoma Water believes that interim action must be taken to move the location of the hydrologic index that governs Permit 19247A's minimum instream flow requirements to the Russian River basin. The disconnection between Lake Pillsbury cumulative inflows and Russian River hydrology that has occurred with changing PVP operations has been a key driver of Sonoma Water's need to file ten TUCPs in the last fifteen years. This situation has required significant ongoing work for both Sonoma Water and the State Water Board. Perhaps more importantly, TUCPs also do not enable rapid responses to changing hydrology in the Russian River watershed because of the unavoidable time lag associated with Sonoma Water's preparation of those TUCPs and the State Water Board's consideration of them. Pending Sonoma Water's certification of the Fish Flow EIR and the State

Water Board's action on the pending change petitions, changing the hydrologic index on an interim basis of several years appears to be the best course of action.

Sonoma Water believes that such an interim change could be accomplished in one of two ways:

- First, Sonoma Water could file new, time-limited change petitions to modify the hydrologic index for a period of several years before permanent changes can be implemented. Sonoma Water currently believes that a change for five to seven years would be sufficient, based on the schedule for the Fish Flow Project's EIR and for the State Water Board's consideration of the pending long-term petitions described above. Under this option, Sonoma Water's petitions would be standard change petitions under Water Code section 1701.
- Second, the State Water Board could unilaterally trigger the "reopener" for changes in PVP conditions that Decision 1610 inserted in Sonoma Water's water-right permits. Sonoma Water anticipates that a "reopener" process would involve the State Water Board conducting a workshop to consider comments about what a related proceeding would involve, followed by an assignment of the matter to the Administrative Hearings Office (AHO) for a hearing. The AHO already is developing familiarity with the Russian River and Lake Mendocino in its proceeding concerning the pending petitions for assignment of state filings by Mendocino County Russian River Flood Control and Water Conservation Improvement District.

Under either of these scenarios, Sonoma Water believes that California Environmental Quality Act (CEQA) coverage can be obtained through a combination of two sources:

- First, Sonoma Water and the State Water Board historically have relied on a number of categorical exemptions to support temporary urgency change orders (TUCOs) that have moved the hydrologic index for 180 days. Those exemptions have been the Class 1 exemption for the operation of existing facilities, the Class 7 exemption for regulatory agencies' actions to protect the environment and the Class 8 exemption for regulatory agencies' actions to maintain the environment. These exemptions similarly would apply to the proposed interim change to Sonoma Water's water-right permits' hydrologic index because, as with the previous TUCOs, that interim change would be necessary to ensure that Lake Mendocino maintains a sufficient cold water pool to support listed fish in the upper Russian River in light of changing PVP operations.
- Second, the Governor's drought emergency proclamations adjust the application of CEQA for water-right changes like an interim change to Sonoma Water's water-right permits' hydrologic index. The Governor's April 12, 2021 Emergency Proclamation directs the State Water Board to consider "modifying requirements for reservoir releases or diversion limitations ... to ensure adequate, minimal water supplies for critical purposes" to the extent "necessary to address the impacts of the drought in the Russian River Watershed" and suspends CEQA for the Board to carry out the directive. (April 12, 2021 proclamation, ¶ 7.) This term remains in effect. The Governor's July 8, 2021, also suspends CEQA to enable the State Water Board to consider changes to reservoir releases in order to maintain minimum supplies for environmental and human uses. (July 8, 2021 proclamation, ¶¶ 4, 12.) These terms remain in effect.

In summary, Sonoma Water's schedule for activities related to the State Water Board's consideration of the pending petitions now involves two steps as a result of the uncertainty associated with future PVP operations. First, Sonoma Water proposes an interim step under which the State Water Board would consider modifying Sonoma Water's water-right permits' hydrologic index by moving its assessment location to the Russian River watershed for a period of five to seven years. Second, during that five- to seven-year period, Sonoma Water anticipates that it will be able to complete its Fish Flow EIR and provide the State Water Board with CEQA coverage sufficient for it to consider the pending petitions.

## Attachment 2

**Pacific Gas& Electric's July 8, 2022, Potter Valley Hydroelectric Project, FERC No. 77-164-CA, Schedule for the Surrender Application**



**Pacific Gas and  
Electric Company**<sup>TM</sup>

**Power Generation**

245 Market Street  
San Francisco, CA 94105

Mailing Address:  
Mail Code N11D  
P.O. Box 770000  
San Francisco, CA 94177

July 8, 2022

**Via Electronic Submittal (E-File)**

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E. Room 1A  
Washington, DC 20426

**RE: Potter Valley Hydroelectric Project, FERC No. 77-164-CA  
Response to Request for Plan and Schedule for the Surrender Application**

Dear Secretary Bose:

On May 11, 2022, the Federal Energy Regulatory Commission (FERC or Commission) requested Pacific Gas and Electric Company (Licensee or PG&E) submit a plan and schedule for the Surrender Application of PG&E's Potter Valley Hydroelectric Project, FERC No. 77, (Project). In addition, the letter requested PG&E respond to National Marine Fisheries Service's March 17, 2022, filing.

PG&E's plan and schedule is included as Attachment 1. PG&E's response to the NMFS' letter will be provided under separate cover.

PG&E is also requesting FERC designate PG&E as FERC's non-federal representative for the purposes of consultation under Section 106 of the National Historic Preservation Act, as amended, and the implementing regulations at 36 CFR Section 800.2(c)(4) as well as FERC's non-federal representative for purposes of consultation under Section 7 of the Endangered Species Act, as amended, and the joint agency regulations thereunder at 50 CFR Part 402, Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and the implementing regulations at 50 CFR Section 600.920.

If you have any questions on this please contact Tony Gigliotti, the assigned Project Manager, at (925) 357-7120.

Sincerely,

Janet Walther  
Senior Manager, Hydro Licensing

FERC Service List

List of Attachments

Attachment 1—Item 1: Plan and Schedule for Submitting Surrender Application



*Pacific Gas and  
Electric Company™*

---

**POTTER VALLEY PROJECT  
FERC NO. 77**

**ATTACHMENT 1**

**Potter Valley Project (FERC No. 77) Plan and Schedule for Surrender Application**





### **Project Description**

The 9.4-megawatt Project is located on the Eel River and the East Branch Russian River in Mendocino and Lake Counties, California, about 15 miles northeast of the city of Ukiah. Project features include Lake Pillsbury, a 2,300-acre storage reservoir impounded by Scott Dam; 106-acre Van Arsdale Reservoir, impounded by the Cape Horn Diversion Dam; and a tunnel and penstock across a natural divide to the project's powerhouse located in the headwaters of the Russian River Basin.

### **Procedural Background**

The Project license expired on April 14, 2022, with PG&E operating on an annual license since that time. On April 6, 2017, PG&E filed a Notice of Intent (NOI) to file an application for a new license and a pre-application document (PAD). On January 25, 2019, PG&E filed a Notice of Withdrawal of Notice of Intent to File License Application and Pre-Application Document, indicating it was discontinuing its efforts to relicense the project. On March 1, 2019, the Commission issued a Notice Soliciting Applications, establishing a deadline of 120 days from the date of the notice (i.e., July 1, 2019) for interested applicants, other than PG&E, to file NOIs, PADs, and requests to complete the pre-filing stages of the licensing process.

As a result of the Commission's Solicitation, on June 18, 2019, the NOI Parties<sup>1</sup> submitted an NOI to the Commission, utilizing the Commission's ILP process. According to the pre-filing process plan and schedule submitted to the Commission, the NOI Parties intended to complete a feasibility study in April 2020, consult on the need for additional studies, and file a final license application by April 14, 2022.

Over the course of the NOI Parties' efforts to complete the Project relicensing process, PG&E participated as the Project owner and operator, provided the NOI Parties with all relicensing information developed by PG&E prior to withdrawing its NOI and PAD, and collaborated with the NOI Parties to provide information regarding the condition and operation of Project works.

On September 2, 2021, the NOI Parties filed a request that the Commission place in abeyance the Revised Process Plan and Schedule for the project ILP until May 31, 2022, to "...allow ... time to evaluate: (1) funding, (2) how the Project would best contribute to a comprehensive strategy to manage the emerging crises in fisheries and water resources management in the Eel and Russian River Basins, and (3) the feasibility of continued diversion in a license-surrender scenario. By letter dated September 23, 2021, the Commission granted an abeyance to the Revised Process Plan and Schedule, but only until April 14, 2022, at which time the final license application must be filed. The Commission also requested the NOI Parties (1) file a status report within 60 days of receipt of the letter, and (2) file an additional progress report by January 31, 2022, if the NOI Parties had not established a Regional Entity by the due date for the first 60-day status report.

The NOI Parties submitted their first status report to the Commission on November 22, 2021, indicating it was highly improbable that they would submit a license application by April 14, 2022. On January 31, 2022, the NOI Parties submitted a letter to the Commission indicating they had not established a Regional Entity or accomplished the other tasks required to complete a final license application and, as a result, would not file a final license application for the Project as required.

---

<sup>1</sup> The NOI Parties were acknowledged proxies for a new Regional Entity that ultimately would be the license applicant for the project.

On April 15, 2022, PVP 77 LLC (PVP) filed an application for a license to operate and maintain the Project. On April 22, 2022, the Commission rejected PVP’s application on the basis that it “patently fails to conform to the requirements of the Commission’s regulations”. On April 22, 2022, PVP submitted a Request for Rehearing in accordance with 18 C.F.R. § 385.713. On May 26, 2022, FERC issued a Notice of Denial of Rehearing by Operations of Law and Providing for Further Consideration. On July 6, 2022, FERC issued a letter modifying the April 22, 2022 letter and denied the rehearing.

On May 11, 2022, the Commission directed PG&E to provide a plan and schedule for submitting a surrender application and a response to National Marine Fisheries Service’s March 17, 2022, filing within 60 days (by July 11, 2022).

**Proposed Plan and Schedule for Preparation and Filing of the Surrender Application**

30 months after approval from FERC of the Plan and Schedule (Figure 1) PG&E will file with FERC the Potter Valley Project surrender application and decommissioning plan.

**Figure 1**

<b>Activity</b>	<b>Period Following FERC's Approval of PG&amp;E Plan and Schedule (in Months)</b>
Secure consultant support for the development of the surrender application and decommissioning plan	1-6
Conduct initial outreach to agencies and other stakeholders to solicit relevant information for the preparation of the surrender application and decommissioning plan	3-8
Prepare initial draft surrender application including decommissioning plan	6-16
Obtain input from agencies and other stakeholders regarding PG&E's initial draft surrender application and decommissioning plan	16-19
Address comments from agencies and other stakeholders and prepare final draft surrender application and decommissioning plan	19-22
Provide final draft surrender application and decommissioning plan to agencies and stakeholders for a 30-day review and comment period	22-23
Address comments from agencies and other stakeholders on final draft surrender application and decommissioning plan	24-28
Prepare and file final surrender application and decommissioning plan	28-30
<b>TOTAL MONTHS AFTER APPROVAL</b>	<b>30</b>