



**Alan C. Lloyd, Ph.D**  
*Agency Secretary*

# State Water Resources Control Board

## Division of Water Rights

1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5300  
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000  
FAX: 916.341.5400 ♦ [www.waterrights.ca.gov](http://www.waterrights.ca.gov)



**Arnold Schwarzenegger**  
*Governor*

## NOTICE OF APPLICATION 31518 TO APPROPRIATE WATER BY PERMIT

**APPLICATION:** 31518

**COUNTY:** Butte

**DATE FILED:** June 16, 2004

**STREAM SYSTEM:** Butte Creek

Notice is hereby given that Pacific Gas and Electric Company (PG&E) filed an application for a water right permit. The State Water Resources Control Board (State Water Board) will determine whether a water right permit should be issued for the application and, if so, whether conditions are needed in the permit to protect the environment, the public interest, and downstream water users. This notice provides a description of the proposed project and also describes the procedure and time frame for submittal of protests against the application. This notice may be viewed at the Division of Water Rights' (Division) website at [www.waterrights.ca.gov](http://www.waterrights.ca.gov). Any correspondence directed to the applicant should be mailed to:

Joseph Ray  
Pacific Gas and Electric Company  
P.O. Box 770000  
San Francisco, CA 94177

**Please note:** The State Water Board does not have jurisdiction to prepare an environmental document subject to the California Environmental Quality Act (CEQA), or make determinations regarding the conditions for water use under the subject application since the proposed hydroelectric power project is subject to regulation by the Federal Energy Regulatory Commission (FERC).

### Description of Project

PG&E owns and operates the DeSabra-Centerville Hydroelectric Project (Project), which is licensed as FERC Project No. 803. The Project diverts water from Butte Creek into Butte Creek Canal for power generation at PG&E's DeSabra Powerhouse. The Project includes other diversions, which are not part of Application 31518. The flow in Butte Creek Canal is supplemented by several pipelines that divert flow from small tributaries of Butte Creek. One of the feeders diverts water from Inskip Creek, which is the focus of Application 31518.

The diversion from Inskip Creek is the only portion of the water rights associated with the Project that is not covered under the Butte Creek Adjudication, which quantifies PG&E's riparian and pre-1914 appropriative water rights. In order to resolve outstanding issues related to their water right to divert from Inskip Creek, PG&E has filed Application 31518. This diversion

has been in continuous use for many years, and as such no construction activities are necessary to establish the diversion.

The application is requesting a diversion of 15 cubic feet per second (cfs) from Inskip Creek. The water is diverted into Butte Creek Canal then to De Sabla Forebay, which is at the head of the penstock of De Sabla Powerhouse. After flowing through the powerhouse, return water is discharged into Butte Creek.

The 15 cfs diversion requested under Application 31518 with a fall of 1,530 feet will produce approximately 1,654 kilowatts of electrical power.

### **Summary of Application**

County: Butte  
Source: Inskip Creek tributary to Butte Creek thence Butte Slough thence Sacramento River  
Point of  
Diversion: Located within the NW ¼ of SE ¼ of section 36, T25N, R3E, MDB&M  
Amount: 15 cfs of direct diversion, not to exceed a total of 6,000 acre-feet per year  
Season: January 1 through December 31 for direct diversion  
Purpose: Hydropower generation  
Place of Use: Located within the NW ¼ of NW ¼ of section 10, T23N, R3E, MDB&M

### **Environmental Information**

The State Water Board does not have jurisdiction to prepare an environmental document subject to CEQA since the hydroelectric power project is subject to regulation by FERC.

## **PROTEST SUBMITTAL INFORMATION**

### **Protest Requirements**

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the State Water Board.

All protests must clearly describe the objections to approval of the application and the factual basis for those objections. There must be a clear link between the proposed project and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the application is approved. In addition, the party claiming interference with prior rights must provide specific information

describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the State Water Board is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed appropriation would not be within the State Water Board's jurisdiction, would not best conserve the public interest or public trust uses, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the appropriation will affect the public; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed project and how the project will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the applicant a duplicate copy of the protest.

If sufficient information is not submitted, the State Water Board may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest.

### **Procedure for Submitting Protests**

Protests should be submitted on standard protest forms available from the Division's website at [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/) or upon request, in writing or by telephone, from the Division. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the individual listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the applicant.**

### **Protest Submittal Deadline**

Protests submitted in response to this notice must be received by the Division by **3:00 p.m.** on the **60<sup>th</sup>** day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the engineer listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 14<sup>th</sup> Floor, Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or

e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division in order for the protest to be accepted. The State Water Board will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the State Water Board may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

### **Resolution of Protests**

The applicant will have 30 days to respond to a protest once it is accepted by the Division. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

This is a "major" project (the proposed diversion is greater than 3 cubic feet per second by direct diversion or greater than 200 acre-feet per year by storage) as defined by section 1348 of the Water Code. Therefore, any protest issues not resolved by the applicant or by provisions of section 1335 of the Water Code will be decided by the State Water Board following an evidentiary hearing.

### **CONTACT PERSON**

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Kate Gaffney by phone at (916) 341-5360 or by electronic mail at [kgaffney@waterboards.ca.gov](mailto:kgaffney@waterboards.ca.gov). Information and protest forms are also available at the Division's website: [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/).

Date of Notice: **JUNE 30, 2006**

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