STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WQ 2017-0014-EXEC

In the Matter of the Request to Amend Water Quality Certification for the

PIT 1 HYDROELECTRIC PROJECT FOR

PACIFIC GAS AND ELECTRIC COMPANY

FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 2687

SOURCE: Pit River

COUNTY: Shasta

ORDER APPROVING EXTENSION OF THE TEMPORARY SUSPENSION OF FLUSHING FLOW REQUIREMENTS

BY THE EXECUTIVE DIRECTOR:

1.0 PROJECT BACKGROUND

The State Water Resources Control Board (State Water Board) issued a water quality certification (certification) for the Pit 1 Hydroelectric Project (Project), Federal Energy Regulatory Commission (Commission) Project No. 2687 on December 4, 2001. This certification was incorporated into the license issued by the Commission on March 19, 2003. Condition 13 of the certification requires, in part, Pacific Gas and Electric Company (PG&E or Licensee) to release flushing flows through Fall River Pond. The flows are required to be released during one weekend in each of May or June, July, and August to reduce nuisance aquatic growth and control mosquito populations in Fall River Pond. Condition 14 of the certification requires PG&E to monitor the effectiveness of the flushing flows and allows the Deputy Director for Water Rights to modify or terminate the flushing flow monitoring program after review of the 5-year monitoring report prepared by the Licensee.

The Shasta crayfish (*Pacifastacus fortis*) was listed as endangered under both the California and Federal Endangered Species Acts in 1988. The United States Fish and Wildlife Service (FWS) issued a Biological Opinion (BO) for the Project on October 24, 2002, that included an incidental take statement with terms and conditions to minimize incidental take of Shasta crayfish. The BO concluded that approval of a new license for operation of the Project with flushing flows, as proposed in the final Environmental Assessment, would not jeopardize the continued existence of the Shasta crayfish.

In 2003, PG&E formed a technical review committee (TRC) to oversee management activities throughout the range of the Shasta crayfish. The FWS formed the Shasta Crayfish Recovery Team, which is comprised of a subset of the TRC members. The Shasta Crayfish Recovery Team developed a Recovery Plan for Shasta Crayfish (Recovery Plan). The Recovery Plan aims to stabilize and protect the existing populations of Shasta crayfish so that the species may

recover and be reclassified as threatened and ultimately delisted. The Recovery Plan identified the introduction and expansion of non-native species of crayfish and fish as well as disturbances related to land use practices as primary threats to the continued existence of a viable Shasta crayfish population in the Pit River. PG&E monitored Shasta crayfish populations at multiple locations within the Project and the Hat Creek Hydroelectric Projects. The TRC Summary Report (Report), dated May 2009, includes a summary of surveys conducted on Shasta crayfish populations. Three locations on the mainstem Pit River within the Project area were surveyed. The Report indicates that there has been a general decline in Shasta crayfish distribution and abundance at all sites.

2.0 HISTORY OF SUSPENSION OF FLUSHING FLOWS

FWS submitted a letter (received on May 21, 2009) to the State Water Board requesting the suspension of flushing flows for the summer of 2009 due to concerns that the flows were contributing to the decline of the local Shasta crayfish population.

On June 17, 2009, the State Water Board responded to FWS's request for suspension of flushing flows, advising FWS that if PG&E determines the flushing flows are no longer necessary for controlling aquatic vegetation and mosquito production in Fall River Pond, PG&E could request termination of the flushing flow conditions in the certification.

PG&E monitored the effectiveness of flushing flows at reducing aquatic vegetation from 2005 to 2008. Data collected during this period indicate that increased base flows may be more effective than flushing flows for reducing unwanted vegetation. On June 24, 2009, PG&E submitted a request to the State Water Board to amend the certification to remove Conditions 13 (flushing flows) and 14 (flushing flow effectiveness monitoring) based on data showing that surface vegetation in Fall River Pond has been reduced under the 150 cubic feet per second base flow required in the current license conditions. In a letter dated August 28, 2009, State Water Board staff notified PG&E that before an amendment of the certification can be considered, the State Water Board must comply with the California Environmental Quality Act (CEQA).

FWS submitted a letter to the Commission dated December 17, 2009, stating that the BO issued on October 24, 2004 expired, and there is no authorized incidental take for Shasta crayfish for the Project. FWS also stated that flushing flows are likely resulting in take, and are facilitating the decline of the endangered Shasta crayfish in the Pit 1 Bypass Reach.

In a letter dated April 15, 2010, Commission staff submitted a letter to the State Water Board requesting a temporary suspension of the flushing flows for 2010. The Commission's letter recognized that the Commission cannot unilaterally amend a water quality certification condition.

While the flushing flows provide an incidental whitewater recreational opportunity, a precautionary approach to endangered species protection is warranted, and the State Water Board determined it would be reasonable to temporarily suspend flushing flows for 2010 and 2011 while the CEQA process was undertaken for a permanent suspension of these flows. On July 6, 2010, the State Water Board approved Order WQ 2010-0009-EXEC temporarily suspending flushing flow requirements. The State Water Board and PG&E entered into a Memorandum of Understanding (MOU) for the preparation of environmental documents, which was executed on July 7, 2011. On January 23, 2017, the MOU was amended to reflect the

consultant's name change and update the project managers for both the consultant and State Water Board staff; the amendment does not modify or change any provision of the 2011 MOU.

In a letter dated March 22, 2012, PG&E requested that the State Water Board's order temporarily suspending flushing flows be extended through 2012 because PG&E had not completed the studies needed to properly evaluate the impacts of permanently suspending flushing flows. FWS staff supported PG&E's request for this extension in an email dated March 27, 2012. On June 14, 2012, the State Water Board approved Order WQ 2012-0008-EXEC extending the suspension of flushing flows through 2012. As required by the Order, PG&E issued the final Pit 1 Hydroelectric Project Shasta Crayfish Study Report on January 31, 2013.

State Water Board staff's work on the CEQA document has been delayed during California's historic drought. In successive letters dated March 28, 2013, April 21, 2014, March 19, 2015, and March 31, 2016, PG&E requested additional one-year extensions to the suspension of Project flushing flows to allow for the completion of the draft environmental impact report (EIR) required by CEQA. FWS provided letters of support on May 17, 2013, April 21, 2014, March 19, 2015, and June 9, 2016, respectively. On June 20, 2013, June 12, 2014, June 23, 2015, and June 28, 2016, respectively, the State Water Board issued Orders WQ 2013-0024-EXEC, WQ 2014-0023-EXEC, WQ 2015-0076-EXEC, and WQ 2016-0072-EXEC, respectively, approving the temporary suspension of flushing flow requirements through years 2013, 2014, 2015, and 2016.

In a letter dated April 18, 2017, PG&E requested that the State Water Board's order temporarily suspending flushing flows be extended through 2017 to allow for completion of the CEQA process and issuance of the certification amendment. FWS supported PG&E's request for continued suspension of flushing flows through 2017 in a letter dated June 13, 2017. The State Water Board staff released a draft EIR for public comment on June 26, 2017. The CEQA process, however, will not be complete prior to the 2017 implementation timeframe for flushing flows (i.e., one weekend in May or June, July, and August).

3.0 CEQA

Because the potential for a significant environmental impact exists if flushing flows are permanently suspended, the State Water Board cannot amend the Project's certification without subjecting the proposal to a CEQA analysis. On May 17, 2013, the State Water Board issued the Notice of Preparation and Scoping Meetings for an Environmental Impact Report for the Pit 1 Hydroelectric Project 401 Water Quality Certification Amendment. Public scoping meetings were held by State Water Board staff in Redding and McArthur, California on June 11, 2013. In addition to the comments submitted at the meetings, State Water Board staff received written comments from the California Department of Fish and Wildlife, American Whitewater, and 18 members of the public. The information gathered has aided in the development of the draft EIR.

If the requirement for flushing flows is suspended for a limited period, with continued monitoring of effects until a full CEQA analysis can be completed, significant impacts can be avoided. The State Water Board has determined the temporary suspension of flushing flows for 2017 will not have a significant adverse environmental effect and is categorically exempt from the requirements to prepare environmental documents under California Code of Regulations, title 14, section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources). A Notice of Exemption will be filed within five days of issuance of this action.

PG&E shall continue to conduct studies, as necessary, to evaluate the potential for flushing flows to cause a "take" in violation of either the Federal or California Endangered Species Acts.

ORDER

IT IS HEREBY ORDERED THAT:

1. PG&E shall continue the suspension of flushing flows through the 2017 calendar year.

2. PG&E shall continue monitoring the effectiveness of the higher base flows at controlling aquatic vegetation and mosquito production in Fall River Pond consistent with the procedures in the Flushing Flow Effectiveness Monitoring Plan.

3. PG&E shall provide the FWS with any information that is in PG&E's possession that is required for the completion of an updated BO for the Project.

Michael Lauffer
Acting Executive Director

June 27, 2017
Date