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## North Coast Regional Water Quality Control Board

June 1, 2022

Rhonda Shiffman  
Pacific Gas and Electric Company  
6111 Bollinger Canyon Road, Mail Code: Y3A  
San Ramon, CA 94583  
[Rhonda.Shiffman@pge.com](mailto:Rhonda.Shiffman@pge.com)

Certified Mail 7021 0950 0001 6499 7558

Dear Ms. Shiffman:

**Subject:** Notice of Violation and Transmittal of Inspection Report Associated with Unauthorized Impacts to Unnamed Tributary to Mill Creek at 3250 Reeves Canyon Road, Redwood Valley, Mendocino County

**File:** Pacific Gas and Electric Company – Violations at 3250 Reeves Canyon Road (CW-881367)

This letter is to notify you of observed and documented violations of the requirements listed below for unauthorized discharges to waters of the state from the above-referenced subject property:

1. Water Quality Control Plan for the North Coast Region (Basin Plan) section 4.2.1.
2. California Water Code (Water Code) sections 13260, 13264, and 13376.
3. Federal Clean Water Act sections 401 and 404.

Within 20 days of receipt this letter, please contact Regional Water Board staff to discuss your plan to correct the observed violations.

The North Coast Regional Water Quality Control Board (Regional Water Board) is the public agency with primary responsibility for the protection of groundwater and surface water quality for all uses within the north coast region of the State of California. It has come to our attention that on or about March 9, 2022, Pacific Gas and Electric Company (PG&E) and/or its agents conducted power pole installation activities on private property located at 3250 Reeves Canyon Road (Site) and damaged the bed and banks of an unnamed tributary to Mill Creek, waters of the state. Upland slopes and potential wetlands adjacent to the stream channel are also damaged.

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An excavator used for pole installation activities drove off road and across an unnamed tributary to Mill Creek causing damage to the stream channel and hillside. By this letter, we are providing you notice that such activities violate provisions of the Water Quality Control Plan for the North Coast Region (Basin Plan), the California Water Code, and may violate the federal Clean Water Act (Refer to Exhibit A, Regulatory Citations) due to discharges and/or threatened discharges of earthen material and pollutants into waters of the state. In particular, PG&E failed to comply with California Water Code Sections 13260 and 13264.

On April 11, 2022, the Mendocino County Resource Conservation District notified Regional Water Board staff that private property and a stream channel was damaged by a contractor working for PG&E. Regional Water Board staff inspected the damage with the landowner on April 27, 2022. The landowner showed staff where an excavator was driven off their private access road which created a new trail in saturated soils and through the bed of an unnamed stream tributary to Mill Creek. The excavator crossed the stream channel at a previously undisturbed location without a proper vehicle crossing structure. Inspection confirmed the excavator created deep ruts across the bed and banks of jurisdictional waters of the state without appropriate review and authorization from the Regional Water Board (Refer to Exhibit B – April 27, 2022, Inspection Report).

This NOV is specifically for unpermitted activities within waters of the state. PG&E has been provided several NOVs for similar unauthorized activities and ought to be aware by now that operation of heavy equipment and alteration of waters of the state and or United States, including wetlands, requires a permit from the Regional Water Board. Specifically, PG&E failed to comply with Basin Plan Section 4.2.1 Prohibitions 1 and 2, Water Code sections 13260 and 13264. This NOV provides PG&E with guidance intended to remind PG&E about the Regional Water Board's regulatory requirements and the importance of contractor oversight and obtaining permit coverage prior to conducting activities to prevent potentially violating the Clean Water Act, the Water Code, and the Regional Water Board's Basin Plan.

Activities that may directly or indirectly impact waters of the state and/or waters of the United States require an application for Water Quality Certification (401) and/or Waste Discharge Requirements (WDRs) for review and approval by the Regional Water Board's Executive Officer. These activities might also require input, consultation, and permits from other federal, state, and local agencies. For additional information on permits for fill and excavation activities within waters of the state please consult our website here:

[https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/water\\_quality\\_certification/](https://www.waterboards.ca.gov/northcoast/water_issues/programs/water_quality_certification/).

By no later than July 1, 2022, we request that PG&E obtain a jurisdictional determination for potential impacts to federal waters and submit the appropriate application for 401 Certification or Notice of Intent (NOI) to Enroll Under and Comply with the Terms of Water Quality Order No. 2004-004-DWQ (General WDRs),

Statewide General Waste Discharge Requirements for Dredged or Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside of Federal Jurisdiction. The submittal should also include details for stream crossing restoration and details of Best Management Practices to be employed to control pollutant discharges from the disturbed areas created by equipment driven off road to access the pole. A copy of the NOI and General WDR can be found on our website here: [https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2004/wqo/wqo2004-0004.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf)

### **Non-compliance and Enforcement**

Please note that correcting the conditions of non-compliance at the Site does not preclude enforcement for the violations alleged in this notice. The Regional Water Board reserves its right to fully enforce the law against any violation and threatened violation by taking enforcement actions. Discharges or threatened discharges of waste, including earthen material, into waters of the state that create a condition of nuisance or pollution may subject a person to a Cleanup and Abatement Order pursuant to Water Code section 13304. An actual discharge to waters of the state, including allowing fill to remain within a wetland, may subject a person to an administrative liability up to \$5,000 per day of violation for each violation, or \$10 for each gallon of waste discharged pursuant to Water Code section 13350. Unlawful discharges to waters of the United States and/or violations of the Clean Water Act may subject a person to up to \$10,000 per day of violation for each violation, and up to \$10 per gallon of waste discharged over 1,000 gallons not cleaned up pursuant to Water Code section 13385. The Regional Water Board retains its discretion to refer this matter to the Attorney General for enforcement. We will contact you upon further assessment of these violations to discuss any potential associated civil liability or other enforcement actions.

### **Summary/Conclusion**

By **July 1, 2022**, submit a restoration plan, complete permit application, and appropriate application fee for review and authorization, to [Northcoast@waterboards.ca.gov](mailto:Northcoast@waterboards.ca.gov) and copy Dean Prat of the Southern 401 Unit at [Dean.Prat@waterboards.ca.gov](mailto:Dean.Prat@waterboards.ca.gov).

If you have any questions regarding this matter, please contact me at [Jonathan.Warmerdam@waterboards.ca.gov](mailto:Jonathan.Warmerdam@waterboards.ca.gov) or (707) 576-2468.

Sincerely,

Jonathan Warmerdam  
Environmental Program Manager  
Non-point Source and Surface Water Protection Division

220601\_DLP\_dp\_PGE\_3240ReevesCanyon\_NOV

## Certified Return Receipt Requested

cc: Will Connor, U.S. Army Corps of Engineers,  
[William.M.Connor@usace.army.mil](mailto:William.M.Connor@usace.army.mil)  
Jennifer Siu, EPA Wetlands Office, [siu.jennifer@epa.gov](mailto:siu.jennifer@epa.gov)  
Lee Margadant, California Department of Fish and Wildlife,  
[Lee.Margadant@wildlife.ca.gov](mailto:Lee.Margadant@wildlife.ca.gov)  
Nathan Jacobsen, State Water Resources Control Board, Office of Chief Counsel,  
[Nathan.Jacobsen@waterboards.ca.gov](mailto:Nathan.Jacobsen@waterboards.ca.gov)  
Paul Hann, State Water Resources Control Board,  
[Paul.Hann@waterboards.ca.gov](mailto:Paul.Hann@waterboards.ca.gov)  
Jeremiah Puget, North Coast Regional Water Board,  
[Jeremiah.Puget@waterboards.ca.gov](mailto:Jeremiah.Puget@waterboards.ca.gov)  
Koko Tomassian, [Koko.Tomassian@energysafety.ca.gov](mailto:Koko.Tomassian@energysafety.ca.gov)

## Exhibit A: Regulatory Citations:

Regulatory Section	Citation
Basin Plan Section 4.2.1, Prohibition 1	Prohibits “[t]he discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses.”
Basin Plan Section 4.2.1, Prohibition 2	Prohibits “[t]he placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses.”
California Water Code Section 13260	“(a) Each of the following persons shall file with the appropriate regional board a report of the discharge, containing the information that may be required by the regional board: (1) A person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system. (2) A person who is a citizen, domiciliary, or political agency or entity of this state discharging waste, or proposing to discharge waste, outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region.”
California Water Code Section 13261(a)	“A person who fails to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).”
California Water Code Section 13264 (a)	“No person shall initiate any new discharge of waste or make any material changes in any discharge, or initiate a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:”
California Water Code Section 13265(a)	“Any person discharging waste in violation of Section 13264, after such violation has been called to his attention in writing by the regional board, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b). Each day of such discharge shall constitute a separate offense.”

California Water Code Section 13304	“A person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall, upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts...”
California Water Code Section 13350	“A person who (1) violates a cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of a waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state, or (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other actions or provisions of this division, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).”
California Water Code section 13376	“A person who discharges pollutants or proposes to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or a person who discharges dredged or fill material or proposes to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with the procedures set forth in Section 13260.”
California Water Code Section 13385	“A person who violates any of the following shall be liable civilly in accordance with this section: (1) Section 13375 or 13376...(5) A requirement of Section 301...401...of the Federal Clean Water Act...”
Clean Water Act	section 401 (33 U.S.C. 1341) and section 404 (b)(1) (33 U.S.C. 1344) of the Clean Water Act

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## North Coast Regional Water Quality Control Board

**TO:** Gil Falcone  
Senior Environmental Scientist

**FROM:** Dean Prat  
Engineering Geologist

**DATE:** May 5, 2022

**SUBJECT:** Inspection of Stream Channel and Hillside Damage Caused by Equipment Accessing PG&E Pole Location During Saturated Soil Conditions

**INSPECTION DATE:** April 27, 2022 (1000-1130)

**LOCATION:** 3250 Reeves Canyon Road, Mendocino County

**INSPECTED BY:** Dean Prat, Regional Water Board, Southern 401 Unit

**ACCOMPANIED BY:** Tom Piper, Landowner

### BACKGROUND

Mr. Joseph Scriven, Assistant Executive Director of the Mendocino County RCD, emailed Gil Falcone on April 11, 2022, and provided notice that he was contacted by landowner Tom Piper regarding damage to Mr. Piper's property caused by a contractor working for PG&E. Mr. Piper's property is located on Reeves Canyon Road, approximately 3.3 miles west of Highway 101. Photos attached to Mr. Scriven's email show damage to a stream channel and adjacent grassy slopes from heavy equipment.

Mr. Scriven provided an April 13 email from Mr. Piper indicating a crew of Donahoo employees showed up on March 9 and said they were contracted by PG&E to replace a power pole that Mr. Piper knew was going to be installed on March 16. The crew informed Mr. Piper they were hand digging and it got too rocky, so they wanted to bring in equipment. Mr. Piper told them the pole location was previously accessed through Rideout property because Mr. Piper's access road is located on the opposite side of a ravine from the pole location. Mr. Piper provided the crew another route option using a ranch road that is higher on the ridge with a culvert crossing over the unnamed stream channel in bottom of the ravine. Use of the ranch road would allow the Donahoo crew to cross the stream over a culvert and get to the opposite side of the ravine before needing to go offroad over upland areas to the pole location.

After providing the Donahoo crew with two access options, Mr. Piper went on an errand in town. When he returned later that afternoon, he met the Donahoo trucks and their excavator on Reeves Canyon Road and he observed the excavator was still dripping

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mud a half mile down the road from his property. Upon arriving home, Mr. Piper noticed the rut damage in a seasonal road he only uses during dry soil conditions. Mr. Piper did not notice the more egregious stream crossing damage for another week.

Mr. Scriven asked if there is a mechanism to address the property damage and repairs and indicated that Mr. Piper welcomed a site visit from Regional Water Board staff. On April 20, I contacted Mr. Piper to gather additional background information and schedule an inspection. Mr. Piper provided additional information in an April 21 email and stated the damage was not reported to PG&E or Donahoo. The email also indicated Mr. Piper's hopes that someone with authority would bring this to the attention of PG&E to address the poor timing of their operation in order to prevent this type of property damage.

### **OBSERVATIONS**

I inspected the damage with Mr. Piper on April 27, 2022. We walked to where the crew drove off a well-used ranch road with a stable surface and onto a seasonal road. The seasonal road was covered by dense grass that obscured visible signs of the roadbed and alignment. Mr. Piper showed me where the excavator drove off the seasonal road alignment, traversed off road over grassy uplands, drove through the stream channel, and continued up the opposite side of the ravine. The equipment also snagged a wire fence and drug it down the hillside while leaving a path of dirt tracks along the entire route indicating saturated soil conditions.

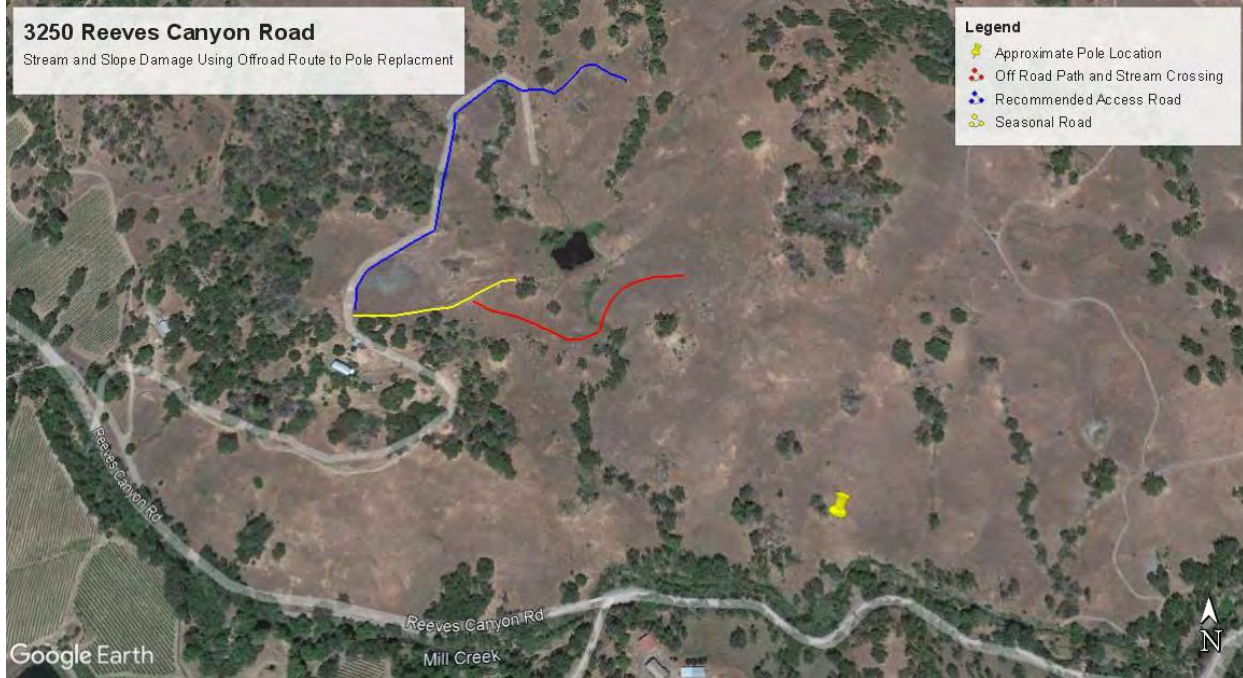
The equipment left deep ruts through the streambed and crushed the streambanks of an unnamed tributary to Mill Creek. The stream was flowing. Tracks through the stream channel were estimated to be at least one-foot deep. In the upland areas the equipment left a two-track path indicating equipment was driven over the same route going to the pole location and back. Multiple tracks crossing through the stream channel area indicate the streambanks and adjacent ground was saturated to the degree the equipment needed to cross the channel at different locations to avoid getting stuck.

### **RECOMMENDATIONS**

Mr. Piper requested help getting his property, fence, and the stream channel repaired. Mr. Piper would like the ruts and tracks covered with seed and straw to stabilize all disturbed soil, restore vegetation cover, and minimize future erosion. We discussed restoration of the damaged stream channel areas and agreed that restoration will require handwork to restore the stream channel area to pre-existing contours and the area needs to be drier prior to attempting restoration activities.

There was not an apparent emergency to replace the pole and soil conditions were obviously too saturated to access the pole location. The crew could have used another route to access the pole that did not require crossing the stream. Based on the extent of unauthorized impacts to waters of the state and past violations by PG&E that have been reported to PG&E through inspection reports and multiple Notice of Violation letters, I recommend the Regional Water Board issue an Administrative Civil Liability Complaint to PG&E and/or its contractor and require a restoration plan and necessary permits to facilitate the repairs to the stream and Mr. Piper's property.

Google Earth image and photos of the damage to the stream channel.



Google Earth image showing approximate locations of roads and pole.



Photo of area upslope of offroad stream crossing taken from approximate location where offroad path leaves the grass covered seasonal road leading to the pond. The recommended access road with a culverted stream crossing is located near the top of the photo.



View of stream channel crossing and associated damage facing north.



View facing north of north side of stream and damage to channel and banks.



View of stream crossing area facing downstream.



Closeup of approximately one-foot deep rut adjacent to stream channel with cap for scale.



Overview of stream crossing damage facing southwest showing channel and slope damage and evidence of multiple offroad stream crossings.



View facing south showing damage to channel and banks on south side of stream.