



North Coast Regional Water Quality Control Board

June 23, 2023

Pacific Gas and Electric Company **VIA ELECTRONIC AND CERTIFIED MAIL**
Attn: Alexa La Plante No. 7021-0950-0001-6500-1155
77 Beale Street
San Francisco, CA 94105
Email: ACLF@pge.com

Dear Alexa La Plante:

SUBJECT: PACIFIC GAS AND ELECTRIC COMPANY, NOTICE OF VIOLATION FOR UNPERMITTED DISCHARGES TO RYAN CREEK, MENDOCINO COUNTY – AND REQUIREMENT TO SUBMIT TECHNICAL AND MONITORING REPORTS

The California Regional Water Quality Control Board, North Coast Region (North Coast Water Board) is a state regulatory agency with responsibility for protecting the quality of the waters of the state within its area of jurisdiction. The North Coast Water Board has authority to require submission of information, direct action, establish regulations, levy penalties, and bring legal action when necessary to protect water quality.

The North Coast Water Board has evidence of unpermitted discharges of waste to waters of the state from Pacific Gas and Electric Company (PG&E) associated with utility corridor maintenance and/or road-related landslide activities. These discharges violate waste discharge prohibitions pertaining to logging, construction, and associated activities in the Water Quality Control Plan for the North Coast Region (Basin Plan). **The North Coast Water Board is requiring PG&E to submit Technical and Monitoring Reports pursuant to California Water Code section 13267 within 45 days of the date of this letter, as described in further detail in this letter.**

Background

As detailed in the attached inspection memo (see Attachment 1), on December 30, 2022, a debris flow occurred on steep north-facing slopes in an unnamed swale that drains to Ryan Creek, a Class I watercourse. The debris flow initiated on a PG&E easement road and extended for more than 400 feet downslope delivering road fill material and native soils downslope to a location where it discharged into Ryan Creek, a fish-bearing stream in the Eel River watershed. According to the California Geological Survey (CGS), the landslide stopped within 90 feet of a downslope private residence on the property. Based on observations made by California Department of Forestry and Fire Protection (CAL FIRE), CGS, and North Coast Water Board staff, the road failure initiated at the access road that PG&E had recently been utilizing for utility corridor maintenance activities.

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

The easement road and landslide are located on private lands owned by Mr. Joe Cinek. Mr. Cinek filed a complaint with CAL FIRE and CGS about the landslide and the agencies subsequently inspected the feature on January 20, 2023. In February 2023, CAL FIRE notified North Coast Water Board staff of the landslide and associated discharges to Ryan Creek. Water Board staff conducted a site inspection on March 22, 2023. CAL FIRE and CGS staff were also present during this inspection.

On March 29, 2023, North Coast Water Board staff requested additional information from PG&E about (1) the recent history of vegetation maintenance activities at the site, (2) any photographs that had recently been taken at the site, (3) evidence of recent storm-proofing best management practices that may have been implemented, and (4) what plans PG&E may have to stabilize the site this summer.

On April 28, 2023, PG&E provided responses to the request for information, including (1) a description of the recent Transition Right-of-Way Expansion and Electric Transmission Routine Maintenance activities during calendar years 2021 and 2022, (2) photographs of the area taken in March 2022, (3) explanation that Vegetation Management crews had broadcast chips and placed lopped & scattered wood material in the area of the access road in May 2021, and (4) the following statement regarding site conditions and next steps: "The landslide remains vulnerable to further sliding, which presents safety issues to some remedial efforts at this time. We have scheduled a BMP vendor to assess the site and install BMPs, where possible, to help redirect flows and provide temporary stability as soon as possible. We are working with our Geosciences Dept on additional next steps for any potential additional short-term as well as long-term solutions. We will keep you informed on our developments."

The CGS produced an inspection memo dated February 3, 2023, which states the following about the remaining hazards at the site: "Future reactivation the perched material and/or cracked and downdropped fill during heavy rain events and/or ground movement associated with seismic shaking remain a strong possibility. Based on this observation, it appears there are potential risks to life (residential structure) and property downslope and to the PG&E powerlines should additional landslide movement occur."

Water Quality Violations

PG&E has violated the Basin Plan by discharging, and threatening to discharge, earthen materials to Ryan Creek, a tributary to Eel River. The Eel River and its tributaries identified in this 13267 Order are waters of the state. The Eel River is listed on the CWA section 303(d) List for impairment to water quality due to sediment. The United States Environmental Protection Agency approved the South Fork Eel River Sediment Total Maximum Daily Load (TMDL) on December 16, 1999.

Basin Plan Section 4.2.1 (p. 4-29) contains the following waste discharge prohibitions:

1. The 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 is prohibited.

2. The 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 is prohibited.

Photographs and video of the site taken by the landowner immediately following the landslide show discharges of sediment-laden water into Ryan Creek. The remaining fill prism along the road appears vulnerable to additional mass wasting and constitutes a threatened discharge to waters of the state. These discharges and threatened discharges violate Prohibitions 1 and 2 under Section 4.2.1 of the Basin Plan and appear to exceed water quality objectives.

California Water Code section 13350 provides that any person who, in violation of a Basin Plan prohibition issued by a regional board, discharges waste, or causes or permits waste to be deposited where it is discharged, is subject to administrative civil liability of up to \$10 per gallon of waste discharged or up to \$5,000 per day of violation. If the North Coast Water Board elects to refer the matter to the Attorney General, the superior court may impose civil liability for up to \$15,000 per day, or \$20 per gallon of waste discharged, for each violation.

California Water Code Section 13267 Order for Technical and Monitoring Reports

California Water Code section 13267 authorizes the North Coast Water Board to require any person or entity who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within the region to furnish, under penalty of perjury, technical or monitoring reports when necessary to investigate the quality of any waters of the state.

I. Required Technical Report

For the purpose of investigating the discharges identified in the attached inspection memo, assessing compliance with the Basin Plan, assessing threat to water quality, and determining recommendations for further enforcement action, the North Coast Water Board requires PG&E to submit a technical report describing the conditions along PG&E's access road prior to the landslide, including evaluations of potential failure mechanisms that led to the discharges to waters of the state. This technical report should include plans for correcting the violations, preventing future violations, and remediating impacts from the discharges to waters of the state. **Within 45 days of the date of this letter**, PG&E must submit a technical report to the North Coast Water Board that contains, at a minimum, the following information:

1. An engineering geologic and/or geotechnical investigation should be performed to identify the complete geometry and characteristics of the landslide, and to support development of a plan to mitigate conditions at the site. The investigation shall follow state standards for landslide assessments and shall be performed by a

Geotechnical Engineer and a Certified Engineering Geologist¹ licensed in the state of California. The investigative report should be reviewed by appropriate state personnel following California Geological Survey Note 41.²

2. The technical report shall also include, but not be limited to the following information:
 - a. Mapped locations and descriptions of PG&E's utility corridors and access roads through the Cinek Property.
 - b. Mapped locations of the landslide area, including the point of initiation, primary depositional zone, and conveyance pathway to Ryan Creek.
 - c. Assessment of the triggering failure mechanism before the landslide was initiated, including but not necessarily limited to: road drainage patterns, rainfall intensity(ies), cumulative daily precipitation for the month prior to the failure, applied best management practices, etc.
 - d. Quantification of the remaining road prism volume that has potential to mobilize during future storm events.
3. A detailed description of actions that PG&E can take to correct and prevent additional discharges to Ryan Creek, including:
 - a. Analysis of potential options to address/prevent future discharge of landslide materials into Ryan Creek.
 - b. Analysis of potential options to stabilize the road prism at the initiation site that prevent future failure.
 - c. Description of best management practices to be installed along the entire PG&E access road to adequately drain the road and minimize potential road failures elsewhere.
 - d. Identification of the method(s) that can provide the greatest benefit and least negative impact to water quality, habitat, and other beneficial uses.
4. A proposed time schedule to conduct actions prior to the 2023 winter period to prevent additional discharges to waters of the state from PG&E's access roads throughout the property, including the landslide initiation site, and the landslide colluvial deposits above Ryan Creek.
5. Pursuant to California Water Code section 13267(b)(1), the following perjury statement, signed by a duly authorized representative: "I, [NAME], certify under penalty of law that this document and all attachments were prepared by me, or under my direction or supervision, and the information submitted is, to the best of

¹ In addition to the risks that the landslide feature and access road poses to water quality, the conditions on the site have been identified by the California Geological Survey as being a risk to human life and property, which supports the need for an assessment to be conducted by a Certified Engineering Geologist and a Geotechnical Engineer.

² [Guidelines for Reviewing Geologic Reports \(ca.gov\)](https://www.conservation.ca.gov/cgs/Pages/Publications/Note_41.aspx), available at (https://www.conservation.ca.gov/cgs/Pages/Publications/Note_41.aspx).

my knowledge and belief, true, accurate, and complete. I am aware that there are significant civil penalties for submitting false information.”

Required Monitoring and Reporting

For the purposes of determining the effectiveness of erosion and sediment control best management practices, assessing potential additional impacts to water quality and beneficial uses, and identifying where maintenance or additional corrective actions are needed, the North Coast Water Board requires PG&E to conduct monitoring and reporting at the following intervals for the 2023/24 and 2024/25 winter periods, as follows:

1. Monitoring is to be conducted within 72 hours following the first storm events with precipitation of one inch or greater in a 24-hour period, as reported by the National Weather Service’s weather station for Willits, California.
2. Monitoring is to be conducted following any precipitation events of 2” or greater within a 24-hour period, but no more frequently than once every month for the duration of the winter period (ending May 1, 2024).
3. Monitoring shall be conducted no less than four times per winter period.
4. Monitoring Reports must include:
 - a. A description of visual inspection observations and photos (with dates) of the access road documenting effectiveness of sediment and erosion controls best management practices (BMP), including identification of corrective actions needed or completed for any BMP failures.
 - b. A description of visual inspection observations and photos (with dates) of the colluvial deposits and/or treatments of the landslide feature.
 - c. A description of visual inspection observations and photos (with dates) of any additional discharges to Ryan Creek.
 - d. Pursuant to California Water Code section 13267(b)(1), the following perjury statement, signed by a duly authorized representative: “I, [NAME], certify under penalty of law that this document and all attachments were prepared by me, or under my direction or supervision, and the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant civil penalties for submitting false information.”

The North Coast Water Board requires the technical report and monitoring reports to ensure that violations are adequately corrected and that the impacted waters and beneficial uses are protected. The North Coast Water Board is requiring PG&E to submit the technical report and monitoring reports because PG&E, or a contractor under its direction, caused a discharge of waste to waters of the state in the North Coast Region. The evidence supporting this requirement for a technical report and monitoring reports is discussed in the attached inspection memo. The burden, including costs, of the report bears a reasonable relationship to its need and the benefits to be obtained. The report is required to obtain information that is necessary to: fully delineate the extent of site conditions on PG&E access roads within the Cinek Property, including the

landslide failure and hillslope products that moved downslope to an area that resulted in a discharge of sediment to Ryan Creek, and to identify corrective actions to limit additional road and slope instability that threatens to discharge additional materials to waters of the state. The cost bears a reasonable relationship to the benefits because of the potential impacts to beneficial uses that these discharges may have already caused or threaten to cause if not remediated prior to the next winter period. More detailed information is available in the North Coast Water Board's public file on this matter.

Based on information available to North Coast Water Board staff, including relevant professional experience, preparation of the technical and monitoring reports will require a combination of professionals including certified engineering geologist and geotechnical engineers. It is estimated that the preparation of the technical report will take approximately 60-80 hours to complete, and using an average hourly rate of \$190, the estimated cost to prepare the technical report is \$11,400-\$15,200. It is estimated that the preparation of the monitoring reports, including the field assessments, will take approximately 40-60 hours to complete, and using an average hourly rate of \$135, the estimated cost to prepare the monitoring reports is \$5,400-\$8,100. For additional details on the calculation of these costs, see Attachment 2. After consideration of these factors, staff has determined that the burden, including costs, of submitting the technical report and monitoring reports bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.

Process for Submitting Required Technical Report and Monitoring Reports

PG&E must submit the Technical Report and the Monitoring Reports in a searchable Portable Document Format (PDF) to Shannon Strong at Shannon.Strong@waterboards.ca.gov and Northcoast@waterboards.ca.gov.

The documents should include the following descriptor information used by the North Coast Water Board for tracking purposes: WDID: 1B23062WNME and ECM PIN: CW-888251.

Documents less than 50 MB must be sent via electronic mail and include "Submittal of Required Documents" in the subject line of the e-mail. Documents that are 50 MB or larger must be transferred to a disk and mailed to the North Coast Water Board office at:

c/o Shannon Strong, 5550 Skylane Blvd., Suite A, Santa Rosa, CA 95403

Liabilities

California Water Code section 13268 provides that failure to submit the information required by subdivision (b) of 13267 by the specified compliance date, or falsifying any information provided therein, is a misdemeanor and may result in civil liability. Noncompliance may subject you to civil liability in the amount of up to \$5,000 for each day of violation. Please be advised that compliance with this Order is not a substitute for compliance with other applicable laws. The North Coast Water Board reserves the right to take any enforcement action authorized by law.

Petitioning this Order

Any person aggrieved by this action of the North Coast Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 et seq. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or state holiday (including mandatory furlough days), the petition must be received by the State Water Board by 5:00 p.m. on the next business day. [Copies of the law and regulations applicable to filing petitions](#) may be found at the following address or will be provided upon request:

(http://www.waterboards.ca.gov/public_notices/petitions/water_quality).

If you have questions about this letter please contact Shannon Strong at (707) 576-2499 or Shannon.Strong@waterboards.ca.gov, Gil Falcone at (707) 576-2830 or Gil.Falcone@waterboards.ca.gov, or Jim Burke at (707) 576-2289 or James.Burke@waterboards.ca.gov.

Sincerely,

Joshua Curtis
Assistant Executive Officer

Attachments:

1. North Coast Water Board April 11, 2023, Inspection Report
2. Cost estimates to comply with technical monitoring reporting requirements

cc:

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