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## State Water Resources Control Board

December 1, 2025

Secretary Debbie-Anne Reese  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Filed via Federal Energy Regulatory Commission Docket for P-77-332**

**Potter Valley Hydroelectric Project  
Federal Energy Regulatory Commission Project No. 77  
Lake and Mendocino Counties  
Eel and East Branch Russian Rivers**

### **COMMENTS ON NOTICE OF APPLICATION ACCEPTED AND REQUEST TO POSTPONE THE DEADLINE FOR WATER QUALITY CERTIFICATION APPLICATION SUBMITTAL**

Dear Secretary Reese:

State Water Resources Control Board (State Water Board) staff request that the Federal Energy Regulatory Commission (FERC or Commission) postpone its direction for the Pacific Gas and Electric Company (PG&E) to submit a water quality certification (certification) application for the decommissioning of the Potter Valley Hydroelectric Project (Hydroelectric Project) and license surrender until further environmental studies and documentation are complete.

On July 25, 2025, PG&E submitted to the Commission an application for surrender of its license (Surrender Application) for the Hydroelectric Project. Concurrently, PG&E filed an application for non-project use of project lands, which seeks the Commission's authorization for PG&E to allow the Eel-Russian Project Authority (ERPA) to construct the proposed New Eel-Russian Facility (NERF).

The Surrender Application describes PG&E's proposal for surrender of the Hydroelectric Project, which includes the planned removal of two dams and associated facilities that require complex environmental and water supply considerations. The Surrender Application also includes PG&E's plan to develop, in coordination with resource agencies, 41 management plans and environmental measures within 24 months of the Surrender Application's July 2025 submission.

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E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

In an October 9, 2025 email regarding the Surrender Application from PG&E to State Water Board staff, PG&E stated it intends to apply for certification from the State Water Board in connection with the Surrender Application following completion of the 41 management plans and environmental measures.

On October 31, 2025, the Commission released a *Notice of Application for Surrender of License and Non-Project Use of Project Lands, Accepted for Filing, Soliciting Comments, Motions to Intervene, and Protests* (Notice). This Notice, among other things, requires that within 60 days of the Notice (i.e., by December 30, 2025), PG&E provide: “(1) a copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.”<sup>1</sup> The State Water Board intervened on November 3, 2025.<sup>2</sup>

Similar to State Water Board staff’s request for postponement of the certification application, on November 24, 2025<sup>3</sup>, PG&E submitted a request to the Commission to modify the deadline provided in the Commission’s October 31, 2025 Notice. Specifically, PG&E proposes to submit “a detailed schedule for submitting the [water quality certification] request for the License Surrender Application no later than 60 days after the Commission issues its Notice of Intent to Prepare an Environmental Impact Statement or other formal notice by the Commission triggering review of the License Surrender Application under the National Environmental Policy Act.”

### **Commission Timing for Certification and Application Acceptance**

In general, an application for surrender of a Commission license shall be filed in the same form and manner as the application for license. 18 CFR § 6.1. Additionally, past license surrenders in California (e.g., Kanaka Hydroelectric Project [FERC Project No. 7242] and the Lower Klamath Project [FERC Project No. 14803]) have typically followed procedures similar to licensing.

As the Commission knows, the Integrated Licensing Process (ILP), the default licensing process, requires the license applicant to file a copy of certification, a copy of a certification application, or evidence of waiver of certification within 60 days from the date of issuance of the notice of ready for environmental analysis. 18 CFR § 5.23(b)(1). While nothing in Part 6 of the Commission’s regulations on the license surrender process requires the Commission issue a notice of ready for environmental analysis for surrender applications, the regulations also do not require the Commission to direct an applicant for surrender to file a certification, certification application, or evidence of

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<sup>1</sup> The State Water Board notes that the third option provided in the Notice, evidence of waiver, is not an appropriate option in this proceeding as the State Water Board has not yet received a written request for certification upon which it could have failed to act, and the State Water Board’s regulations require issuance or denial of certification before the federal period for certification expires. Cal. Code Regs. tit. 23, § 3859, subd. (a).

<sup>2</sup> Document Accession Number: 20251103-5151.

<sup>3</sup> Document Accession Number: 20251125-5062.

certification waiver before the environmental review process begins. Consistent with the ILP process, the application for certification should not be filed before the Commission deems the project ready for environmental analysis and begins the environmental review process under the National Environmental Policy Act.

PG&E's Surrender Application identified 41 plans and measures to be developed within 24 months of the Surrender Application's submission. These plans and measures are necessary to further define the process for the decommissioning of the Hydroelectric Project and surrender of the license (Surrender Project) and measures to reduce its impacts to environmental resources and public safety. Without properly developed plans and measures, the State Water Board, the Commission, and members of the public are unable to accurately assess the potential impacts or provide meaningful review and comment on the Surrender Project. In some cases (e.g., Aquatic Resource Management Plan, Sediment/Channel Monitoring and Response Plan, etc.), PG&E's current plans and measures lack qualitative and/or quantitative standards and do not fully disclose potential impacts to environmental resources. Additionally, without information collected from studies necessary to inform the certification and associated California Environmental Quality Act (CEQA) process, PG&E's 41 plans and measures may not accurately reflect current environmental conditions and impacts associated with the Surrender Project.

Waiting until the Surrender Project is ready for environmental analysis to require PG&E to apply for certification will not preclude timely action on PG&E's certification request or delay the Hydroelectric Project's ultimate decommissioning. Although recent United States Environmental Protection Agency interpretation of Clean Water Act section 401 precludes issuance of certification absent a currently pending request, nothing in California or federal law precludes the State Water Board from taking steps towards a decision on a future certification request, including requesting studies and preparing environmental documentation to evaluate potential impacts prior to submittal of a certification application. As such, while PG&E has not yet submitted a certification application to the State Water Board, the certification process is underway.

In February 2024, State Water Board staff requested additional information from PG&E to better assess the Surrender Project's environmental and public safety impacts. On March 3, 2025, State Water Board staff provided comments on PG&E's draft surrender application and conceptual decommissioning plan for the Hydroelectric Project, which was released for public review on January 25, 2025.<sup>4</sup> On July 1, 2025, State Water Board staff met with PG&E to provide and discuss a revised list of recommended studies that would better inform the certification and associated CEQA process. On September 12, 2025, PG&E responded to the State Water Board's request for additional studies with preliminary timing of proposed studies as well as rationale on studies PG&E believes are not necessary. State Water Board staff are currently working with PG&E staff to develop study plans to collect the needed information to inform future certification action.

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<sup>4</sup> Document Accession Number: 20250304-5009.

Additionally, on September 22, 2025, the State Water Board released a *Notice of Preparation of an Environmental Impact Report for the Potter Valley Hydroelectric Project License Surrender and Decommissioning Project*<sup>5</sup> (NOP) requesting comments by November 3, 2025. The State Water Board initiated its CEQA process through issuance of the NOP for the Surrender Project recognizing that the environmental process will be lengthy and will ultimately inform the certification. State Water Board staff held public scoping meetings in Fortuna, Ukiah, Santa Rosa, and Sacramento. In total, State Water Board staff received approximately 120 comments. Members of the public, tribal organizations, and agencies commented that additional studies are needed to inform the Surrender Project's plans and measures as well as potential environmental and public safety impacts.

It is unlikely that PG&E could provide a sufficiently complete certification application within 60 days of the Commission's Notice. Based on experience with the Lower Klamath Project license surrender and decommissioning, State Water Board staff believe robust planning must be undertaken for a project of this magnitude and complexity, which entails detailed analysis and consideration of impacts based on tangible data and information. Therefore, State Water Board staff respectfully ask that the Commission rescind the requirement that PG&E file an application for certification within 60 days of the Notice, and instead require PG&E to submit a timeline for collecting needed information for all the proposed studies, completing proposed plans in consultation with the State Water Board and other parties, and ultimately filing a certification application. State Water Board staff will continue its work on certification-related efforts, including continuing with the CEQA process in advance of PG&E's certification application with the goal of having sufficient information to act on PG&E's request for certification of the Surrender Project when it is ultimately submitted.

If you have questions regarding this letter, please contact Wilhelmina Chon, by email to: [Wilhelmina.Chon@waterboards.ca.gov](mailto:Wilhelmina.Chon@waterboards.ca.gov), or phone call to: (916) 319-0745. Written correspondence should be directed to:

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Sincerely,

*Wilhelmina Chon*

Wilhelmina Chon  
Environmental Scientist

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[https://waterboards.ca.gov/waterrights/water\\_issues/programs/water\\_quality\\_cert/docs/2025/potter-valley-nop.pdf](https://waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/2025/potter-valley-nop.pdf)

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