



June 2, 2024

Debbie-Anne Reese, Acting Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

Re: Urgent Request for Approval of PG&E's Temporary Variance of Flow Requirements (FERC Project No. 77-320)

Dear Acting Secretary Reese,

We, the undersigned organizations, write to urgently request the immediate approval of Pacific Gas and Electric Company's (PG&E) application for a temporary variance of flow requirements for the Potter Valley Project (FERC Project No. 77).¹ This request follows a motion to intervene and comments by several of the undersigned groups submitted on July 28, 2023, emphasizing the critical and urgent need for FERC to act to protect critically imperiled salmonid species in the Eel River.²

Our groups are deeply concerned that FERC has yet to act on the variance request. As explained in our Motion to Intervene and comments, absent a flow variance, PG&E is required to operate

¹ PG&E, *Potter Valley Hydroelectric Project, FERC No. 77-CA 2024 Minimum Instream Flow Variance Request Due to Restricted Storage Capacity* (FERC Docket No. P-77) (February 21, 2024) Doc. Accession No. 20240222-5015. ("2024 Variance request")

² Friends of the Eel River, Pac. Coast Fed'n of Fishermen's Ass'ns, Inst. of Fisheries Res., Trout Unlimited, Cal. Trout, *Motion to Intervene and Comments of Friends of the Eel River, et al. re Pacific Gas and Electric Company's application for a temporary variance of flow requirements for the Potter Valley Project under P-77.*, FERC Project No. 77-313 (April 1, 2024), Doc. Accession No. 20240401-5521

the Project to meet the flow schedule specified in the 2003 Reasonable and Prudent Alternative (“RPA”)³ and adopted as an amendment to the Project license in 2004.⁴ However, dam safety concerns, including excess sedimentation and seismic hazards, have dramatically reduced storage in the Project’s Lake Pillsbury reservoir. New information about seismic risks has given PG&E cause to reduce storage in the reservoir by leaving the spillway gates atop Scott Dam open until further notice.⁵

Those storage limitations now make it impossible for PG&E to meet the RPA flow schedule under most circumstances. Even with modern models and forecasting, wet season precipitation and summer temperatures cannot be fully anticipated, requiring managers to maintain operational flexibility to make do with less water and higher temperatures. As PG&E summarizes the state of affairs, “current license-prescribed flows will be unobtainable in nearly all years.”⁶

To PG&E’s credit, the utility appears to be proactively moving to avoid potential harm to listed species caused by warm water temperatures with this and previous variances by managing reservoir volumes to maintain cooler release temperatures. However, this progress is hampered when variances are not approved early enough in the summer dry season to preserve water storage in the Lake Pillsbury Reservoir. Although the 2023 variance was approved in October 2023, it took effect too late to preserve storage and protect Eel River steelhead from warm water temperatures.

As PG&E notes in the proposed 2024 variance, “the delayed implementation of the 2023 variance likely contributed to a 2.5° C. warmer maximum release temperature than in 2022, despite 2023 being a much wetter year.”⁷ As Figure 4 from the 2024 variance request shows, under the 2022 variance, temperatures at the Scott Dam outlet remained at or slightly above 19° C. from late July to late September 2022. However, in 2023 Figure 4 shows that the water released from Scott Dam rose above 19° C. in early August and did not cool back below 19° C. for more than 40 consecutive days.⁸ For nearly a month, temperatures exceeded 21° C. at the outlet. Water released at those temperatures exacerbates the stress on juvenile steelhead trapped

³ NMFS, Biological Opinion for the Proposed License Amendment for the Potter Valley Project, Project No. 77-110 (Nov. 29, 2002), Doc. Accession No. 20021202-0257 (Nov. 29, 2002). (“Biological Opinion”)

⁴ *Order Amending License*, Project No. 77-110, 106 F.E.R.C. ¶ 61,065 (2004).

⁵ PG&E, *Potter Valley Hydroelectric Project, FERC No. 77-CA 2024 Minimum Instream Flow Variance Request Due to Restricted Storage Capacity* (FERC Docket No. P-77) (February 21, 2024) Doc. Accession No. 20240222-5015. (“2024 Variance request”)

⁶ *Ibid.*

⁷ *Ibid.*, p. 6.

⁸ *Ibid.*, see Figures 3 and 4 pp 6-7.

below the dam, rather than relieving it. Precisely the situation PG&E and the agencies had labored to prevent came to pass because the 2023 variance was approved too late.

As we discussed in our previous comments, FERC has already reviewed every substantial element of the proposed variance over previous years and has approved similar variance requests in recent years⁹. The 2022 variance demonstrated the efficacy of reducing diversions to the East Branch Russian River in maintaining the cold-water pool in Lake Pillsbury reservoir. By contrast, PG&E's inability to implement the 2023 variance due to FERC's belated approval showed that, given the existing constraints on Scott Dam and storage in the Lake Pillsbury Reservoir, operating the Project to comply with RPA-specified diversions to the East Branch Russian River results in potentially lethal increases in the temperature of water released from Scott Dam in the late summer.

The proposed variance differs slightly from the 2023 variance in that it would allow PG&E, in consultation with the agencies, to begin reducing diversions to the East Branch Russian River at 15° C instead of 16° C if deemed necessary. This change will allow flow reductions to take effect in time to prevent irreversible increases in the temperature by maintaining a pool of cool water in the Lake Pillsbury Reservoir. While reductions in diversions under the 2022 variance kept temperatures lower than they would otherwise have been, it is clear that intervening earlier in the calendar year will better protect and retain a cold pool in the reservoir through the hot months.

Without an approved variance, the Project owner cannot make the necessary changes to protect listed species. We respectfully urge the Commission to prioritize the approval of PG&E's temporary variance request. Action must be taken now, early in the summer, to mitigate the risks to listed species later in the year.

We also reiterate our recommendation that FERC establish a schedule for a long-term variance to ensure continued protection of the Eel River's salmonid populations and prevent the current situation from occurring again. Effective management of cold-water resources is crucial for the survival of these species, and prompt approval of the temporary variance is a necessary first step.

The undersigned organizations strongly support the proposed variance and urge the Commission to act swiftly. We appreciate your prompt attention to this critical matter and look forward to your immediate action to protect the Eel River fisheries.

⁹ Friends of the Eel River, Pac. Coast Fed'n of Fishermen's Ass'ns, Inst. of Fisheries Res., Trout Unlimited, Cal. Trout, *Motion to Intervene and Comments of Friends of the Eel River, et al. re Pacific Gas and Electric Company's application for a temporary variance of flow requirements for the Potter Valley Project under P-77.*, FERC Project No. 77-313 (April 1, 2024), Doc. Accession No. 20240401-5521

Thank you for your consideration.

Sincerely,

Redgie Collins
Legal and Policy Director
California Trout

Matt Clifford
California Director
Trout Unlimited

Alicia Hamann
Executive Director
Friends of the Eel River

Chris Shutes
Executive Director
California Sportfishing
Protection Alliance

Theresa Ryan
Water Committee Chair
Sierra Club, Redwood Chapter

Mark Sherwood
Executive Director
Native Fish Society

Regina Chichizola
Executive Director
Save California Salmon

Scott Harding
Stewardship Associate
American Whitewater

Mark Kramer
*Director of Federal External
Affairs, California Chapter*
The Nature Conservancy

Glen H. Spain
NW Regional Director
Pacific Coast Federation of
Fishermen's Associations
(PCFFA)
and Institute for Fisheries
Resources

Mark Rockwell
President and VP of
Conservation
Northern California Council
Fly Fishers International