United States Department of the Interior

OFFICE OF THE SOLICITOR
Pacific Southwest Region
2800 Cottage Way
Sacramento, California 95825

September 18, 2026

Debbie-Anne Reese, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Washington, DC 20426
RE: Potter Valley Hydroelectric Project (Project No. 77-332)

MOTION FOR LEAVE TO FILE OUT-OF-TIME COMMENTS AND COMMENTS OF THE UNITED STATES DEPARTMENT OF THE INTERIOR

Dear Secretary Reese:

Pursuant to 18 C.F.R. § 385.2008(b), the United States Department of the Interior respectfully submits this Motion for Leave to File Out-of-Time Comments in the above-captioned proceeding. In support of this Motion, the Department states as follows:

I. BACKGROUND

On May 22, 2026, the Commission issued a public notice of an opportunity to submit comments regarding Project No. 77-332, surrender and decommissioning of the Potter Valley Hydroelectric Project. The Commission subsequently extended the deadline until September 18, 2026, at 5:00 P.M. Eastern Time.

The Department has intervened in this proceeding to protect federal interests and is now submitting comments. The Department has multiple important interests in this proceeding, including but not limited to its responsibilities towards the storage and supply of water for beneficial purposes, species listed under the Endangered Species Act, trust responsibilities to Indian Tribes, and fire suppression activities.

The Department is submitting its comments on September 18, 2026, before 10:00 P.M. Eastern Time, which is five (5) hours after the prescribed deadline.

II. MOTION FOR LEAVE TO FILE LATE COMMENTS

Pursuant to 18 C.F.R. § 385.2008(b) (Rule 2008), the Commission may extend a deadline or accept a late-filed document upon a showing of extraordinary circumstances sufficient to justify the failure to act in a timely manner. In this instance, the Department experienced a delay of five (5) hours in filing its comments due to unexpected delays. While the Department is ordinarily adept at acting effectively with geographically-dispersed interests and parties, there were unforeseen and unavoidable impediments to the Department's ability to adequately coordinate amongst multiple agencies with direct jurisdiction over these issues on this occasion.

Attached hereto, the Department's comments will assist the Commission with its decision-making process by providing information on the effects of potential project decommissioning, especially on the human, environmental and biological resources and issues within the Department's jurisdiction. Because of the Department's statutory jurisdiction over a multitude of resources and issues which will be impacted by decommissioning, the Department's comments add a unique perspective that cannot be duplicated by any other entity.

Acceptance of these late comments will not delay or disrupt this proceeding, nor will it cause undue prejudice to any existing party. The Commission has not yet issued a final or dispositive order on this matter. Indeed, since the deadline for these comments is a Friday at 5:00 PM Eastern Time and the Department's comments are being submitted on the same evening, it is questionable whether the five (5) hour delay in their submittal would have any delay, disruption, or prejudice on the proceeding or any party to it. Therefore, all parties retain a fair opportunity to review and respond to the points raised herein.

III. CONCLUSION

For the reasons stated above, the Department respectfully requests that the Commission find that good cause exists under 18 C.F.R. § 385.2008(b) and grant this motion to accept the accompanying comments into the official record of this proceeding.

Respectfully submitted,

LANCE WENGER Digitally signed by LANCE WENGER Date: 2026.09.18 17:42:58 -07'00'

Lance Wenger
Regional Solicitor

United States Department of the Interior

OFFICE OF THE SECRETARY

September 18, 2026

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IN REPLY REFER TO:
ER26/0279

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

RE: Scoping Comments of the United States Department of the Interior — Proposed Surrender, Decommissioning, and Non-Project Use of Project Lands

Dear Secretary Reese:

The Department of the Interior submits these comments on Scoping Document 1 for Pacific Gas and Electric Company's application to surrender the license for the Potter Valley Hydroelectric Project and to authorize non-project use of project lands for construction of a New Eel-Russian Facility (NERF).

The Department's primary interest in this proceeding is straightforward. For more than a century, the Project has moved water from the Eel River into the Russian River basin. That water irrigates hundreds of farms in Potter Valley and the Ukiah Valley, sustains municipal supply for communities from Mendocino County through Sonoma and Marin Counties, supports fire suppression, and underpins a working rural economy. PG&E proposes to remove Scott Dam and Cape Horn Dam. The applicants and their partners offer NERF as the substitute. The Department's concern — and the concern the Commission's environmental document must confront, not defer — is that the substitute is not in place, is not funded for construction, is not sized or timed to meet irrigation-season demand, and has no demonstrated place to store the winter water it would divert.

Water supply for farms and communities is not a secondary amenity of this proceeding. It is a direct effect on the human environment under the National Environmental Policy Act. The Commission should treat it as such.

The Department's Interest and the Standard of Review

The Department administers the Bureau of Reclamation, whose statutory mission is the development and reliable delivery of water in the West; the U.S. Fish and Wildlife Service, which holds responsibilities under the Endangered Species Act and the Fish and Wildlife Coordination Act; and the Bureau of Indian Affairs, which carries the United States' trust responsibility to federally recognized Tribes, including the Round Valley Indian Tribes, a party to the July 2025 Water Diversion Agreement.

Reclamation has a strong interest in supporting reliable delivery of water to rural communities, but that interest does not convert this proceeding into a Departmental takeover of the Project. The Department does not have, and is not here requesting, authority from Congress to own or operate the works. That said, the Department believes the Commission should take a hard look at water-supply consequences before it authorizes the dismantling of the only interbasin works that now serve those farms and communities.

The Department requests cooperating-agency status for the Fish and Wildlife Service under 40 C.F.R. § 1501.8. The Department further requests that the Commission include the U.S. Army Corps of Engineers, San Francisco District — owner and operator of Coyote Valley Dam and Lake Mendocino — as a cooperating agency. As explained below, proponents of surrender and of NERF have treated a Corps reservoir as the storage solution that makes the proposed diversion useful, without a Corps operations assessment and without an authorized or funded storage project.

Given the intensity of public controversy, the scale of the proposed demolition, the irreversible loss of Lake Pillsbury storage, and the unproven character of the proposed replacement supply, the Department requests that the Commission prepare an environmental impact statement, not an environmental assessment. These comments are consistent with the position the Secretary of Agriculture has already placed on this docket: the United States should not accept surrender of this Project unless the water-supply deficiencies the proposed action would create are identified and cured in the Commission's environmental review.

What the Existing Project Supplies — and What Is at Stake

The Project has diverted Eel River water into the East Branch Russian River since 1908. Average annual transfers were approximately 150,000 acre-feet in water years 1922 through 2006; approximately 64,000 acre-feet after the 2004 license amendment, in water years 2007 through 2020; and approximately 42,000 acre-feet in water years 2021 through 2025, after the transformer-bank failure, the seismic restriction on Lake Pillsbury storage, drought, and successive flow variances. The 2026 variance year is estimated at approximately 38,000 acre-feet. Those figures are Sonoma Water's, presented on July 9, 2026.

The water is not an abstraction. Potter Valley Irrigation District serves on the order of 390 farms and approximately 4,600 to 4,900 irrigated acres under combined licenses totaling 22,670 acre-feet. PG&E's existing contract obligation to the District — the obligation Scoping Document 1 cited when it declined to study surrender without some future diversion — is up to 19,000 acre-feet. Sonoma Water's own 2025 Potter Valley Water Supply Reliability Study estimates a late-spring and summer shortfall of approximately 9,000 acre-feet per year if the Project is reduced to run-of-river operations of the kind NERF would provide. Frost protection in March through May is among the uses that cannot wait for a winter pulse stored somewhere that does not exist. Downstream, Project water has historically accounted for more than 30 percent of summer supply in the reach above Dry Creek. Lake Mendocino, which receives the water that Potter Valley does not consume, is cited by the Corps as serving on the order of 600,000 people in Mendocino, Sonoma, and Marin Counties. Inland Water and Power Commission analyses have warned that, without Project imports, Lake Mendocino would fail to meet demands in eight years out of ten and would go dry in two of those eight. Mendocino County agricultural and related business activity on the order of hundreds of millions of dollars a year depends on this supply.

Scoping Document 1 correctly lists, as issues, effects of altered hydrology on the East Branch Russian River after dam removal — "water supply and flow" — and socioeconomic effects on water reliability and cost and on agricultural production. It then proceeds as if those issues can be resolved by noting that a future diversion facility is "necessary to satisfy existing water delivery obligations." Necessity is not the same as existence. The Commission's analysis must test whether the proposed substitute actually satisfies those obligations, in volume, in season, and on a schedule that does not leave a multi-year gap.

NERF Will Not Be Online Before the Dams Come Out

The Department has reviewed the public design, permitting, and funding record for NERF. That record does not support a finding that replacement supply will be in operation on the day the existing works stop delivering water.

Design and permitting are described as fully funded. Construction is not. The capital cost was estimated at approximately $50 million as of March 2025; Russian River users would also bear annual operations and maintenance costs on the order of $7 million to $12 million, plus $1 million per year to the Round Valley Indian Tribes and $750,000 to $1 million per year into an Eel River restoration fund. Those are real costs shifted onto the same farms and communities whose supply is being put at risk.

The design schedule in ERPA and Inland Water and Power Commission materials runs to 60 percent design in February 2027, 90 percent in March 2028, and final design in December 2028. California Environmental Quality Act review for NERF is described as a roughly 24-month process from initiation in 2026. Federal permits still required include a Clean Water Act section 404 permit from the Corps, a section 401 certification from the State Water Resources Control Board, and Endangered Species Act consultation. ERPA itself has described an operations window of "perhaps 2030 to 2035." Sonoma Water's planning assumption, stated publicly, is that the Project will continue under annual licenses with modified flow conditions until 2035, and that NERF will operate only after that date. PG&E has separately described a decommissioning finish near 2030, with NERF "potentially taking another five years."

Proponents say construction will occur "simultaneously" with removal of Cape Horn Dam. That is not a continuity plan. NERF is designed to occupy the Cape Horn / Van Arsdale footprint after the gravity diversion is taken apart. It is not designed to operate in parallel with the existing works for a multi-year overlap. Any slip in design, CEQA, section 404, biological consultation, construction funding, or contractor performance produces a gap. The Water Diversion Agreement contains no delay protocol. It does not say what water, if any, Potter Valley or Lake Mendocino receives if the dams are gone and the pumps are not running.

PG&E's non-project-use request would keep NERF lands inside the project boundary until Cape Horn work needed for NERF is finished and NERF has been constructed. That paper condition does not keep Scott Dam in place, does not keep Lake Pillsbury storage available, and does not keep the existing diversion running. It is not a water-supply guarantee.

The Commission should analyze, as a distinct alternative and as a proposed condition of any surrender, a prohibition on removal or disablement of Scott Dam, Cape Horn Dam, and the existing diversion works until NERF is constructed, fully permitted, financed, and in actual operation. “Simultaneous” is a hope, and the Commission’s should take that into consideration.

The Water NERF Would Produce Is Not Adequate in Volume or in Season

Based on the proponents’ own modeling, Sonoma Water’s July 9, 2026, presentation is the best available public statement of how NERF would have performed under the Water Diversion Agreement in recent years.

Over the last 13 water years, modeled annual NERF diversions ranged from approximately 18,000 acre-feet in the 2021 drought to approximately 86,000 acre-feet in 2017. Drought-year yield at 18,000 acre-feet is less than half of recent impaired Project deliveries and a small fraction of the pre-2007 average. The claim that “there is water for diversion in all year types” is not the same as the claim that there is enough water, at the right time, to replace what farms and cities now receive.

The seasonal mismatch is sharper. The Water Diversion Agreement sets the following operating rules:

> Fall (October 1–December 31): floor 300 cubic feet per second, diversion rate 20 percent of flow above the floor, and one freshet exceeding 500 cubic feet per second before fall diversions begin. Winter (January 1–February 29): floor 250 cfs, rate 30 percent. Spring (March 1–May 31): floor 125 cfs, rate 20 percent. Summer (June 1–September 30): floor 35 cfs, rate 20 percent. Diversion stops if flow is below the floor or the allowable diversion is less than 5 cfs. Tunnel capacity is approximately 300 cfs.
>
> Those rules concentrate diversion in winter and spring and collapse it in summer. Sonoma Water’s monthly comparison for the last 20 months shows observed transfers remaining substantial through June, July, and August of 2025 — 7,135, 7,603, and 3,017 acre-feet diverted. Modeled NERF transfers for those three months were 1,070, 243, and zero. NERF is modeled to drop to zero by August. Observed operations did not. Irrigation demand, frost protection in March through May, and municipal peak use occur when the proposed facility is designed to run least.
>
> Two further points follow from the same table. First, the Water Diversion Agreement does not carry forward PG&E’s contract obligation of up to 19,000 acre-feet to Potter Valley Irrigation District as a NERF duty. The Commission cannot treat NERF as the reason it need not study a no-diversion world unless the environmental document shows that NERF actually replaces that summer-weighted delivery. The model and the Agreement both show that it does not. Second, the Agreement is a 30-year instrument, with a possible 20-year renewal expressly conditioned on Russian River users reducing their reliance on the diversion and on

additional restoration funding. The proposed substitute is designed to shrink. That long-term contraction is itself a water-supply impact Scoping Document 1 does not list. The environmental document must analyze it.

There Is Not Adequate Storage to Make NERF Water Useful

Sonoma Water's July 9 modeling distinguishes water that could be diverted from water that could be stored in Lake Mendocino or passed through for downstream beneficial use without being dumped for flood control. That distinction is the heart of the supply problem.

In non-drought years of the 13-year series, an average of approximately 40,000 acre-feet per year of additional NERF water cannot be captured with current storage. The model includes a placeholder 3,000 acre-foot future Potter Valley storage project. That project does not exist. For October 2024 through May 2026, NERF is modeled to divert 123,695 acre-feet — nearly double the 63,016 acre-feet actually diverted — but to store only 57,522 acre-feet, compared with 52,674 acre-feet actually stored. The extra water the Agreement would authorize is, on this record, water with nowhere to go. Sonoma Water's own takeaway is that "we need more Russian River storage to maximize those transfers because of change in seasonality of the transfers," and that the analysis "shows the significant benefits to be achieved by constructing additional storage." Those sentences concede that the storage does not now exist.

Proponents point to a raise of Coyote Valley Dam as the opportunity that closes the gap. Based on the Department's most recent contact with the proponents of removal and of NERF, they have not consulted the Army Corps of Engineers personnel who operate that dam on whether Lake Mendocino can, under the current Water Control Manual, accept and hold the winter and spring volumes the Water Diversion Agreement would deliver. Citing a Corps dam as a storage solution without the Corps at the table is not a plan.

The facts that are public are enough to retire the citation as mitigation. Coyote Valley Dam is a Corps project, completed in 1958. The Corps — not ERPA, not Sonoma Water, and not the Commission — operates Lake Mendocino under a Water Control Manual whose primary authorized purpose is flood risk management. The 2025 Forecast-Informed Reservoir Operations update to that manual allows discretionary encroachment of 11,650 acre-feet into flood space between November 1 and February 15. That is operational flexibility the Corps may withhold when flood risk requires it. It is not new conservation storage. It also does not cover the Water Diversion Agreement's spring season. Spring diversions run March 1 through May 31 — after the Forecast-Informed window closes — and compete with a rising conservation guide curve and remaining flood-control space. Even a full exercise of Corps discretion in midwinter would not hold the spring pulse.

A physical raise is further from reality. The original authorized project contemplated a dam 36 feet higher and on the order of 77,000 additional acre-feet of storage. A General Investigation to evaluate modernization, including a possible raise, was authorized in the Water Resources Development Act of 2016. A feasibility cost-sharing agreement was signed on April 11, 2025, with Mendocino County Inland Water and Power Commission and the Lytton Rancheria as non-federal sponsors. The Corps paused the study on October 20, 2025, for lack of appropriations.

Fiscal year 2025 funding was zero. The fiscal year 2026 budget is zero. As of the sponsors' September 2026 status reports — filed this month — the study remains paused. Even if restarted, it is a multi-year feasibility study, not an authorized construction project. Construction would then require a Chief's Report, new congressional authorization, and appropriations. A 2015 estimate put a 36-foot raise on the order of $320 million. That is a decade-class undertaking. It cannot offset removal of Scott Dam and Cape Horn Dam on the schedule contemplated here.

Scoping Document 1 does not mention Lake Mendocino, Coyote Valley Dam, the Army Corps of Engineers, the 2025 Water Control Manual, Forecast-Informed Reservoir Operations, or the paused General Investigation. That is a scoping failure. The Commission cannot analyze post-removal water supply on the East Branch Russian River, or the effect of reduced irrigation water on agricultural production, without analyzing where winter NERF water would be stored, who has legal authority to store it, and what happens in the years — and they will be years — before any new storage could exist.

Cost, Timeline, and the Burden on Water Users and Landowners

The proposed action shifts cost and risk onto the people who can least absorb a supply interruption. Construction of NERF is unfunded. Operations, maintenance, tribal payments, and restoration assessments will be billed to Russian River users. Potter Valley growers are being told, in Sonoma Water's 2025 reliability study, that closing a 9,000 acre-foot summer gap would require new in-valley ponds, new groundwater development, and demand reductions of 20 to 30 percent. Those projects are not built and not permitted. Farmers would pay for them while also paying for NERF. Landowners around Lake Pillsbury face the separate loss of a reservoir, recreation economy, and groundwater support. None of that is a free byproduct of "decommissioning an uneconomic power project." It is a transfer of stranded-asset costs from a utility that has chosen to walk away onto farms, cities, and rural landowners.

The Commission's schedule compounds the problem. PG&E's management and mitigation plans are not due until July 25, 2027. Implementation details that will determine whether water continues to move during drawdown and demolition have not been written. Scoping Document 1 already treats continued Project operation as an unreasonable no-action alternative because PG&E has decided the Project is uneconomic. A licensee's preference is not a NEPA finding that replacement supply exists.

Alternatives and Connected Actions the Commission Should Not Dismiss

Scoping Document 1 proposes to eliminate from detailed study the retention of Scott Dam, project surrender without NERF, federal takeover, and a non-power license. The Department does not ask the Commission to assume that the Department will own or operate the Project. Reclamation has been clear that it does not presently possess, and is not here requesting, statutory authority to take the works. The Department does ask the Commission to take a hard look at alternatives that protect water supply, because that is what NEPA requires when the proposed action would extinguish a century-old agricultural and municipal supply.

At minimum, the environmental document should analyze in detail the following:

- A delayed-removal alternative under which Scott Dam, Cape Horn Dam, and the existing diversion remain in operation under annual license until NERF is constructed, permitted, financed, and operating, and until storage sufficient to convert Water Diversion Agreement-season water into irrigation-season supply has been identified and shown to be available.
- A no-gap condition alternative that keeps the gravity diversion in service during NERF construction rather than dismantling it “simultaneously” in the same footprint.
- Surrender and decommissioning without a demonstrated, funded, and operational replacement — not as a preferred course, but as the true baseline against which NERF-as-mitigation must be tested. If NERF slips, that is the world farms and cities will inhabit. The Commission should not hide it behind a facility that exists only on paper.
- Retention of Scott Dam, or continued operation of the diversion works under a non-power authorization, if a capable operator is identified. The Department notes that the Secretaries of the Interior and of Agriculture met on June 15, 2026, with PG&E and with parties exploring continued beneficial use of the dams. Similarly, the Department is aware of interested parties in the acquisition of the projects. The Commission should not treat operator interest as closed for purposes of alternatives screening while those discussions are ongoing.
- NERF operations and Russian River storage — including current Lake Mendocino constraints, Forecast-Informed Reservoir Operations limitations, and any proposed Coyote Valley Dam modification — as connected actions or reasonably foreseeable future actions. Dam removal that disables the only interbasin diversion cannot be environmentally reviewed as if the replacement pumps and the missing storage were someone else’s later permit.
- A cost allocation analysis: capital, operations, tribal and restoration payments, replacement-storage costs, and lost agricultural production, identified by payer.

Analyses the Environmental Document Must Contain

The Department requests that the Commission include the following studies and disclosures. Each maps to issues already listed in Scoping Document 1 at sections 4.2.2 and 4.2.12, which are presently under-scoped.

A month-by-month, water-year-type comparison of historical Project deliveries, recent impaired deliveries, and modeled NERF diversions and stored volumes, using the Water Diversion Agreement rules and extending at least through the 13-year series Sonoma Water has already modeled. The comparison must separate water diverted from water stored and put to beneficial use.

An irrigation-season and frost-protection analysis for Potter Valley and the Ukiah Valley, including the 9,000 acre-foot late-spring and summer shortfall identified in the 2025 reliability study and the absence of a 19,000 acre-foot Potter Valley Irrigation District delivery obligation in the Water Diversion Agreement.

A Lake Mendocino operations assessment, prepared with the Corps, of whether the current Water Control Manual and the 2025 Forecast-Informed Reservoir Operations rules would accept and hold modeled NERF winter and spring volumes without flood-control release. The assessment must not assume a dam raise.

A storage-gap analysis that identifies, for each water-year type, the acre-feet of NERF water that cannot be stored with existing facilities; that excludes placeholder projects and paused studies from the "available storage" column; and that states the residual supply available to farms and cities after that subtraction.

A sequencing and gap-year analysis covering the period from a surrender order through NERF commercial operation, including the consequences of a two-year, five-year, and ten-year delay in NERF construction or permitting.

Cumulative effects of dam removal, NERF seasonality, Lake Mendocino operating constraints, drought, and the Water Diversion Agreement's built-in requirement that Russian River users reduce reliance on the diversion over time.

Conditions the Department Expects Any Surrender Order to Address

Should the Commission ultimately consider a surrender and a non-project-use authorization, the Department expects the order to address, at minimum, the following. These are scoping comments, not a prejudgment of the merits. They are the conditions without which the proposed action would leave a documented hole in regional water supply.

Scott Dam, Cape Horn Dam, and the existing diversion works shall not be removed or rendered inoperable until NERF is constructed, fully permitted, financed, and in operation.

The Commission shall have found, based on a written Corps operations assessment and a completed storage analysis, that existing or authorized Russian River storage is adequate to put Water Diversion Agreement diversions to beneficial use in the season of need. A paused feasibility study is not storage. A 3,000 acre-foot placeholder is not storage.

An enforceable interim-supply plan shall be in place for Potter Valley Irrigation District and for Lake Mendocino contractors covering every month between disablement of the gravity diversion and reliable NERF operation.

Management plans due in 2027 shall be filed and reviewed before any demolition schedule is authorized, and shall include water-supply continuity measures, not only sediment, fisheries, and site-restoration measures.

Tribal Trust

As the prior comments of the Potter Valley, Wiyot, and Round Valley Indian Tribes reflect, the Project Area and Eel River and fishery are historically, culturally, and spiritually significant to a number of Tribes and the Project's flood-control and water supply functions are also important to

Tribes and tribal communities. The proposed New Eel-Russian Facility if implemented would also provide an economic development opportunity for the Round Valley Indian Tribes. BIA recommends that each alternatives analysis fully accounts for, and integrates, tribal perspectives on resource impacts.

Conclusion

The Department does not contest that the Eel River's fisheries matter, or that a licensee may propose to surrender a project it no longer wishes to run. The Department does contest any environmental review that treats the dismantling of working water infrastructure as the main event and the replacement of that water as a later, local problem. Sonoma Water's July 2026 modeling is clear on the three points that matter for scoping. NERF would divert water every year. It would divert that water at the wrong time of year for the farms and cities that use it. And without storage that does not now exist and is not on a funded path to exist, a large share of even that mistimed water cannot be used.

The Commission should prepare an environmental impact statement. It should invite the Corps as a cooperating agency. It should restore for detailed study the alternatives that keep water moving until a real substitute is operating. And it should not issue a surrender order that allows Scott Dam and Cape Horn Dam to come down on a promise.

The Department reserves all authorities and rights to comment further as the record develops.

Sincerely,

LAURA FLEMING

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Date: 2026.09.18 18:09:23 -04'00'

Laura Fleming
Deputy Director, Exercising the Delegated Authority of the Director, Office of Environmental Policy and Compliance

cc: Viktoriya Sirova, OEPC Regional Environmental Officer
Carter Brown, Associate Solicitor – Water Resources
Lance Wenger, Regional Solicitor – Pacific Southwest