



January 16, 2026

Via Electronic Submittal (E-File)

Eric Oppenheimer
Executive Director
State Water Resources Control Board
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With copy to:

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

**RE: Potter Valley Hydroelectric Project, FERC No. 77 Sub-Docket 318
Article 52 Flow Amendment
Clean Water Act Section 401 Water Quality Certification
Comments on Draft and Notification of Withdrawal of Application**

Dear Executive Director Oppenheimer:

Pacific Gas and Electric Company (PG&E) respectfully submits the enclosed comments on the draft 401 Water Quality Certification (Draft WQC) issued by the State Water Resources Control Board (SWRCB) on December 22, 2025, for the license amendment application (Amendment Application) pending before the Federal Energy Regulatory Commission (FERC or Commission) for the Potter Valley Hydroelectric Project license, FERC No. 77 (Project) (License Amendment sub-docket 318).¹ As discussed in more detail below, PG&E notified FERC on December 19, 2025,² that it would supplement (Supplement) its Amendment Application. Subsequently, the draft WQC does not accurately reflect the planned revisions to the Amendment Application, and for reasons discussed herein, PG&E respectfully withdraws its application for 401 Water Quality Certification.

As stated in previous letters, PG&E has reviewed the SWRCB's previous communications and has concluded that the proposed license amendment is not an "activity . . . which may result in any discharge" within the meaning of section 401 of the CWA because the Amendment

¹ 1/30/2025 Application to Amend Potter Valley License, FERC Accession Number 20250130-5282

² FERC Accession No. 202521219-5321.

Application does not propose to increase the existing discharge authorized under the current license, nor add any substance to the existing discharge, nor significantly alter the volume, timing or intensity of water flowing into the navigable waterway.³ Rather, the amendment application is proposing minor changes to instream flows that are within the range of flows authorized by the current license to manage the requirement to maintain a lower lake level elevation. However, PG&E submitted a WQC application to the SWRCB on February 20, 2025, to ensure there would be no delay in the FERC proceeding should the Commission disagree with PG&E's position. If appropriate, PG&E will reapply for a 401 Water Quality Certification after it has filed the Supplement with FERC and the SWRCB can consider the revised proposal.

Though PG&E is withdrawing its application for 401 Water Quality Certification, we summarize some of the broader issues of concern with the Draft WQC that influenced the decision to withdraw the WQC application, below.

The draft WQC does not reflect PG&E's future supplement to the Amendment Application. The Supplement will include revisions to the flow provisions in the pending Amendment Application that provide a more flexible release strategy for the dry season and a revised Exhibit E and evaluation of environmental effects compared to operations under the existing conditions.

The Draft WQC Condition 1 would require PG&E to prepare and implement a dry season flow plan. The predetermined dry season flow plan prescribed in Condition 1 would conflict with the flexible release strategy PG&E has developed in coordination with stakeholders. Further, the SWRCB's timing requirements for the annual preparation of the dry season flow plan by April 10 is unreasonable because final water year classification types for the Project are not finalized until later in the spring. Subsequently, the development of a dry season flow plan by April 10 would be based on assumptions, not actual water availability conditions for the particular water year. This would result in the continued pattern of seeking temporary annual variances from FERC, which is a situation the pending Amendment Application (and Supplement) seeks to resolve. In addition, the Supplement will also include a provision to meet regularly with the Drought Working Group to determine flows in the East Branch Russian River within the 5 to 25 cfs range. The SWRCB's statement in the Draft WQC that "*PG&E's amendment request proposes to no longer maintain the Drought Working Group to coordinate flow variances*" will be incorrect for the Supplement.

Many of the requirements in the Draft WQC Conditions 1,2,3, and 4 have conflicts with PG&E's pending Amendment Application and future Supplement. PG&E developed additional monitoring measures outlined in the February 9, 2024, Letter of Intent (LOI) in partnership with the National Marine Fisheries Service (NMFS), United States Fish and Wildlife Service (USFWS), California

³ *Ala. Rivers Alliance v. FERC*, 325 F.3d 290, 299-300 (D.C. Cir. 2003) (stating that a proposed amendment that reduces, and thus simply alters, a discharge does not require certification); *N.C. v. FERC*, 112 F.3d 1175, 1188 (D.C. Cir. 1997) (finding certification not required because "a decrease in the volume of water passing through the dam turbines cannot be considered a 'discharge' as that term is defined in the CWA.").

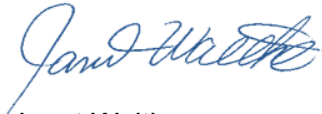
Department of Fish and Wildlife (CDFW), and the Round Valley Indian Tribes (RVIT). The LOI is included in the Amendment Application, and is cited in the Draft WQC. Yet the Draft WQC Conditions risk causing deviations from the consensus language of the LOI, and could inadvertently result in conflicting or infeasible requirements. For example, Condition 2 specifies that the licensee shall not allow water temperature to rise more than 5 degrees Fahrenheit above natural receiving water temperature. This is infeasible because Lake Pillsbury reservoir and Project operations alter seasonal water temperature patterns downstream of Scott Dam currently and will continue to do so under the proposed amendment. Water releases from Scott Dam deplete the cool water pool of the reservoir in the summer/fall, which then results in warmer water releases that often exceed the 5 degrees Fahrenheit threshold in September, based on water temperature monitoring data collected under the FERC-approved Summer Water Temperature Monitoring Plan from 2010 - 2021. To comply with Condition 2, PG&E would have to stop releasing water from Scott Dam when the water temperature threshold is exceeded; however, doing so would put the Project out of compliance with minimum instream flow requirements (Condition 1 of the Draft WQC) and harm ESA-listed species in the Eel River in conflict with Condition 6 of the Draft WQC.

The Draft WQC includes statements indicating that PG&E's operations impact Chinook salmon, coho salmon, and steelhead on the East Branch Russian River below Coyote Dam. It is important to note that neither PG&E nor the Potter Valley Project have any control over flow releases from Coyote Dam and their effects on fish and their aquatic habitats downstream of Coyote Dam. Further, water diverted from the Eel River to the East Branch Russian River, after passing through the Potter Valley Powerhouse, is diverted to PVID for consumptive use. The remaining outflow is abandoned to the East Branch Russian River and diverted by many other water users prior to flowing into the U.S. Army Corps of Engineer's (USACE) Lake Mendocino. PG&E has no control over these subsequent water diversions or whether any Eel River flows are delivered into the USACE Lake Mendocino and Coyote Dam.

Some requirements in the Draft WQC are grossly unsupported, and overly burdensome. As noted above, proposed flows in the license Amendment Application are within the range of flows required by the current Project License; therefore, FERC's approval of the License Amendment or the Supplement will not result in a new, additional, or increased discharge that is different than discharges allowed under the existing license and will not alter the Project's effect on water quality. As such, the addition of turbidity and dissolved oxygen monitoring specified in Condition 2 for water quality monitoring is unjustified. Further, PG&E already monitors water temperature as a requirement of the FERC-approved Summer Water Temperature Monitoring Plan and the LOI in the Eel River, below Scott Dam year-round, and at thirteen locations during summer. Subsequently, the SWRCB's additional monitoring in reservoir tributaries as background sites for setting compliance criteria in Condition 2 is not appropriate. Given the scope of the proposed Amendment Application and Supplement and the existing license requirements, the addition of turbidity and dissolved oxygen monitoring and increased temperature monitoring requirements is scientifically and legally unjustified.

Should you have any questions regarding this letter, please contact Chadwick McCreedy, senior license coordinator for PG&E, at (530) 685-5710.

Sincerely,



Janet Walther
Director, Hydro Licensing

cc: via email

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