

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

Project No. 2687-149--California
Pit No. 1 Hydroelectric Project
Pacific Gas & Electric Company

April 15, 2010

Ms. Dorothy Rice
Executive Director
California State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Subject: Request for temporary suspension of the summer flushing flow requirement at the Pit No.1 Hydroelectric Project

Dear Ms. Rice:

The purpose of this letter is to request a temporary suspension of Condition 13 of the State of California's water quality certificate for the Pit No. 1 Hydroelectric Project (FERC No. 2687). The Commission issued a new license for the Pit No. 1 Project on March 19, 2003.¹ The project is owned and operated by Pacific Gas & Electric Company (PG&E or licensee) and is located on the Fall and Pit Rivers near the towns of Fall River Mills and McArthur in Shasta County, California. The State Water Resources Control Board (State Water Board) issued its water quality certification for relicensing the Pit 1 Project on December 5, 2001. The Commission appended the conditions of the water quality certificate to the license order and included them in the license in Ordering Paragraph (D).

Condition 13 of the water quality certificate requires PG&E to release flushing flows during the summer, over three weekends, to control nuisance aquatic growth in the Fall River Pond and to provide whitewater boating opportunity in the bypassed reach of the Pit River. Based on the licensee's recent monitoring reports,² the U.S. Fish and

¹ See Order Issuing New License. 102 FERC ¶ 61,309 (2003).

² Pursuant to the terms and conditions of the incidental take statement in the biological opinion issued by the FWS, license article 409 requires PG&E to implement a plan to monitor the habitat and populations of the Shasta crayfish in the project area.

Wildlife Service (FWS) has determined, as stated in letters dated May 26, 2009, and December 17, 2009, that the flushing flow releases are adversely affecting federally endangered Shasta crayfish (*Pacifastacus fortis*) and their habitat.

The Commission, on its own accord, may not unilaterally amend a water quality certificate condition. Therefore, by letters dated May 21, 2009, and May 28, 2009, respectively, the FWS and PG&E requested that the State Water Board eliminate the flushing flow requirement under Condition 13. The State Water Board stated in its August 28, 2009 letter that, before it can amend the water quality certificate, it must first comply with the California Environmental Quality Act (CEQA) and prepare an Environmental Impact Report. That process is currently underway; however, we understand based on communication with staff from the State Water Board that the required environmental review will likely extend beyond the period for the scheduled flushing flow releases this summer.³

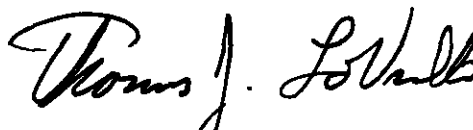
In order to avoid any potential harm to the endangered Shasta crayfish resulting from further flushing flow releases, we request, based on the available data and information to date, that you agree to a temporary suspension of the requirements of water quality certificate Condition 13 for the 2010 season. Suspension of the flushing flow releases for 2010 would allow the State Water Board to continue to develop the CEQA document while avoiding any potential harm to the Shasta crayfish. In conjunction with this request, by letter dated April 15, 2010, we have also requested that the FWS concur in our determination that this temporary suspension of the flushing flow releases for 2010 is not likely to adversely affect the Shasta crayfish.

With the next flushing flows required to be released in May or June of 2010, there is some urgency required to resolve this issue in the next month. Therefore, we would appreciate receiving your determination at your earliest convenience.

³ On March 30, 2010, the Commission held a teleconference with PG&E, USFWS, the Board, and the California Department of Fish and Game. During the teleconference, Russ Kanz of the Board indicated that preparation of a CEQA document would likely extend beyond the 2010 flushing flow season.

Thank you for your consideration. If you have any questions regarding this request, please contact Mr. John Aedo at (415) 369-3335.

Sincerely,



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