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Janet Walther
Senior Manager, Hydro Licensing
Pacific Gas and Electric Company
Mail Code N11D
P.O. Box 770000
San Francisco, CA 94177
JMW3@pge.com

Via Email and Electronic Filing

SUBJECT: FOREST SERVICE RESPONSE TO PACIFIC GAS AND ELECTRIC COMPANY'S ADDITIONAL REASONABLE CONTROL MEASURES REPORT, LICENSE CONDITION NO. 4D

PACIFIC GAS AND ELECTRIC COMPANY, ROCK CREEK-CRESTA HYDROELECTRIC PROJECT (FERC NO. 1962)

Dear Ms. Walther:

This letter constitutes the Forest Service's response to Pacific Gas and Electric's (PG&E) December 2022 ***Additional Reasonable Water Temperature Control Measures Report***, ("Report") for the Rock Creek-Cresta Hydroelectric Project (FERC No. 1962, "Project"). This report is required by Article 401 and Forest Service Federal Power Act [FPA] Section 4(e) Condition No. 4D within the FERC license order for this Project issued October 2001, and Section I.4 of the Rock Creek-Cresta Relicensing Settlement Agreement (SA), dated December 2000.

The Forest Service has been working with PG&E and other members of the ERC on cold water measures for the Rock Creek and Cresta reaches of the NFFR since the license was issued in 2001 and up through development of this Report. PG&E's draft and revised report provides a comprehensive compilation of water temperature information for North Fork Feather River (NFFR) in the Report Appendices, including water temperature measures that have been both implemented and modeled. This information is then summarized in the main body of the Report, and we appreciate having all of this information in one set of documents.

On October 17, 2022, PG&E provided a draft Report to the Project's Ecological Resources Committee (ERC) and the Forest Service. Forest Service technical staff and members of the ERC provided comments on the draft Report by PG&E's requested deadline of November 15, 2022. Importantly, Forest Service and ERC staff identified a significant flaw in the Report's premise concerning the objective of the measures to be studied. The draft Report appeared to



assert that if a measure (or measures) cannot maintain water temperatures of 20°C at all times in both the Rock Creek and Cresta reaches, then that means there are no reasonable control measure(s) available. However, this assumption sets aside the purpose of these measures which is to “*reasonably protect cold freshwater habitat*” (Forest Service Condition No. 4A. and SA I.1). As we discussed on multiple occasions during monthly ERC meetings leading up to the release of the Report, the Forest Service believes that further consideration must be made in context with the whole of Condition No. 4 and SA Section I.

While some of Forest Service and ERC staff comments were appropriately addressed in the Final Report, provided to the Forest Service on December 2, 2022, PG&E provided only a cursory response to this core concern and continued to reference PG&E’s assumptions and conclusion that “*...none of the potential measures are reasonable and meet the objective of Condition No. 4D*” (Report, Section 8. Recommendations, pg. 31). We are open to further discussion of these comments and PG&E’s response.

Based on Condition No. 4D and Section I.4 of the SA, we believe the next step is for the ERC and Forest Service to make an “*affirmative determination on whether additional temperature control measures shall be implemented*”. However, due to the fundamental discrepancy in interpreting the temperature objectives, the Report in its current state does not provide the information we need to collaboratively make such a determination.

Even though the Report includes a thorough compilation of existing information on water temperatures in the NFFR, this information is scattered throughout multiple large appendices. Further, parts of the Appendices and the summaries in the body of the Report are dependent on PG&E’s narrow interpretation of how to apply the water temperature objectives, and determine if any reasonable control measures should be carried forward. Ideally, the Forest Service, PG&E, and other members of the ERC would have collaboratively agreed on the interpretation of the license Condition and SA water temperature objectives prior to the extensive discussions that occurred beginning in May 2021, in support of development of the Report. However, it was only during these discussions that it became clear that the Forest Service, PG&E, and other members of the ERC did not have the same interpretations. The Report could then have provided clear comparisons of any measures to protect cold freshwater habitats implemented or modeled, along with details on associated economic costs to PG&E. This sort of comparison would give the Forest Service and ERC the information needed to make an affirmative determination.

The Forest Service does not approve the Report in its current form due to disagreement in interpreting the temperature objectives. Given our response here, and the previously submitted comments from several ERC members, it appears that the ERC may need to invoke the dispute resolution process defined in the Project SA (see SA Appendix B, Section II, Pages B-7 to B-8). We defer to the ERC to begin that process and are committed to participating in any further discussions resulting from it and/or from the FERC’s review of the Report.

If you have any questions about this letter, please contact Dawn Alvarez, USDA Forest Service, Pacific Southwest Region Hydroelectric Program Manager (707) 980-0914, dawn.alvarez@usda.gov or Erika Brenzovich, Recreation, Engineering, Lands, and Minerals Staff Officer (detailed), Plumas National Forest at 530-283-7798, erika.brenzovich@usda.gov.

Sincerely,

(for:) CHRISTOPHER CARLTON
Forest Supervisor

cc: Emily Moghaddas, Joseph Hoffman, Erika Brenzovich, Leslie Edlund, Dawn Alvarez, Amy Lind