

**United States Department of Agriculture**  
**Office of the General Counsel**

Pacific Region-San Francisco Office  
33 New Montgomery, 17<sup>th</sup> Floor  
San Francisco, CA 94105-4511

Telephone: 415-744-3011  
Facsimile: 415-744-3170  
Internet: [joshua.rider@usda.gov](mailto:joshua.rider@usda.gov)

Via Electronic Filing

August 29, 2006

Ms. Magalie R. Salas, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D. C. 20426

Subject: **REVISED FINAL SECTION 4(e) CONDITIONS PURSUANT TO  
SECTION 241 OF ENERGY POLICY ACT OF 2005  
UPPER NORTH FORK FEATHER HYDROELECTRIC PROJECT  
FERC No. P-2105**

Dear Ms. Salas:

In response to the Pacific Gas and Electric Company's request for Administrative Hearing and Request for Alternative Conditions filed on December 16, 2005, the USDA-Forest Service (Forest Service), is providing the enclosed revised Final Section 4(e) Conditions for the Upper North Fork Feather Hydroelectric Project (P-2105).

The enclosed conditions represent revised language mutually agreed between the licensee and the Forest Service. They should replace the respective Final Conditions filed by the Forest Service on November 4, 2004. Please note that Condition No. 10 "Road Use by Government" has been retitled "Access by the United States." The licensee and Forest Service have not reached agreement on the language for Condition No. 19- Indemnification, or Condition No. 21-Damage to Land, Property, and Interests of the United States. Revised language for these two conditions will be filed when agreement is reached. The remaining conditions not referenced in this document remain unchanged.

If you have any questions, please contact Julie Tupper, Forest Service Regional Hydropower Team at 916-498-5324.

Respectfully submitted,

/s/ Jack Gipsman

for Joshua S. Rider  
Attorneys for the Forest Service

cc: Service List  
Julie Tupper, RHAT

UNITED STATES OF AMERICA

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FEDERAL ENERGY REGULATORY COMMISSION

IN THE MATTER OF

PACIFIC GAS AND ELECTRIC COMPANY

UPPER NORTH FORK FEATHER HYDROELECTRIC PROJECT No.2105

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing REVISED FINAL SECTION4(e) CONDITIONS upon those persons listed on the service list, obtained from the Commission's website, for the above-subject action, by causing the filing to be mailed to the indicated persons via first class mail or via e-mail as indicated.

Dated at San Francisco California, this 29<sup>th</sup> day of August, 2006.

/s/ Joshua Rider

Joshua Rider,  
Attorney for the Forest Service  
Office of the General Counsel  
United States Department of Agriculture  
33 New Montgomery, 17<sup>th</sup> Floor  
San Francisco, CA 94105-4511

**Upper North Fork Feather Hydroelectric Project: FERC No. 2105**  
**Revised Language for Conditions**

Condition No. 4: Approval of Changes

Notwithstanding any license authorization to make changes to the project, when such changes directly affect National Forest System lands the Licensee shall obtain written approval from the Forest Service prior to making any changes in any constructed project features or facilities, or in the uses of project lands and waters or any departure from the requirements of any approved exhibits filed with the Commission. Following receipt of such approval from the Forest Service, and a minimum of 60-days prior to initiating any such changes, the Licensee shall file a report with the Commission describing the changes, the reasons for the changes, and showing the approval of the Forest Service for such changes. The Licensee shall file an exact copy of this report with the Forest Service at the same time it is filed with the Commission. This article does not relieve the Licensee from the amendment or other requirements of Article 2 or Article 3 of this license.

Condition No. 6: Surrender of License or Transfer of Ownership

Prior to any surrender of this license, the Licensee shall provide assurance acceptable to the Forest Service that Licensee shall restore any project area directly affecting National Forest System lands to a condition satisfactory to the Forest Service upon or after surrender of the license, as appropriate. To the extent restoration is required Licensee shall prepare a restoration plan which shall identify the measures to be taken to restore such National Forest System lands and shall include adequate financial mechanisms to ensure performance of the restoration measures.

In the event of any transfer of the license or sale of the project, the Licensee shall assure that, in a manner satisfactory to the Forest Service, the Licensee or transferee will provide for the costs of surrender and restoration. If deemed necessary by the Forest Service to assist it in evaluating the Licensee's proposal, the Licensee shall conduct an analysis, using experts approved by the Forest Service, to estimate the potential costs associated with surrender and restoration of any project area directly affecting National Forest System lands to Forest Service specifications. In addition, the Forest Service may require the Licensee to pay for an independent audit of the transferee to assist the Forest Service in determining whether the transferee has the financial ability to fund the surrender and restoration work specified in the analysis.

Condition No. 9: Fire Prevention, Response, and Investigation

Within one year of license issuance the Licensee shall file with the Commission a Fire Prevention and Response Plan that is approved by the Forest Service, and developed in consultation with appropriate State and local fire agencies. The plan shall set forth in detail the Licensee's responsibility for the prevention (excluding vegetation treatment as described in Condition No. 41) reporting, control, and extinguishing of fires in the vicinity of the project resulting from project operations.

At a minimum the plan shall address the following categories:

1. Fuels Treatment/Vegetation Management: Identification of fire hazard reduction measures to prevent the escape of project-induced fires.
2. Prevention: Availability of fire access roads, community road escape routes, helispots to allow aerial firefighting assistance in the steep canyon, water drafting sites and other fire suppression strategies. Address fire danger and public safety associated with project induced recreation, including fire danger associated with dispersed camping, existing and proposed developed recreation sites, trails, and vehicle access.
3. Emergency Response Preparedness: Analyze fire prevention needs including equipment and personnel availability.
4. Reporting: Licensee shall report any project related fires to the Forest Service within 24 hours.
5. Fire Control/Extinguishing: Provide the Forest Service a list of the locations of available fire suppression equipment and the location and availability of fire suppression personnel. Include appropriate measures from Condition 41 and assure fire prevention measures will conform to water quality protection practices as enumerated in USDA, Forest Service, Pacific Southwest Region, Water Quality Management for National Forest System Lands in California-Best Management Practices.

#### **Investigation of Project Related Fires**

The Licensee agrees to fully cooperate with the Forest Service on all fire Investigations. The Licensee shall produce upon request all materials and witnesses not subject to the attorney-client or attorney work product privileges, over which the Licensee has control, related to the fire and its investigation including:

- All investigation reports
- All witness statements
- All photographs
- All drawings
- All analysis of cause and origin
- All other, similar materials and documents regardless of how collected or maintained

The Licensee shall preserve all physical evidence, and give custody to the Forest Service of all physical evidence requested. The Forest Service shall provide the Licensee with reasonable access to the physical evidence and documents the Licensee requires in order to defend any and all claims, which may arise from a fire resulting from project operations, to the extent such access is not precluded by ongoing criminal or civil litigation.

Condition No. 10: Access By The United States

The United States shall have unrestricted use of any road over which the Licensee has control within the project area for all purposes deemed necessary and desirable in connection with the protection, administration, management, and utilization of Federal lands or resources. When needed for the protection, administration, and management of Federal lands or resources the United States shall have the right to extend rights and privileges for use of the right-of-way and road thereon to States and local subdivisions thereof, as well as to other users. The United States shall control such use so as not to unreasonably interfere with the safety or security uses, or cause the Licensee to bear a share of costs disproportionate to the Licensee's use in comparison to the use of the road by others.

Condition No. 11: Road Use

The Licensee shall confine all vehicles being used for project purposes, including but not limited to administrative and transportation vehicles and construction and inspection equipment, to roads or specifically designed access routes, as identified in the Road Management Plan (refer to Condition No. 42). The Forest Service reserves the right to close any and all such routes where damages is occurring to the soil or vegetation, or, if requested by Licensee, to require reconstruction/construction by the Licensee to the extent needed to accommodate the Licensee's use. The Forest Service agrees to provide notice to the Licensee and the Commission prior to road closures, except in an emergency, in which case notice will be provided as soon as practicable.

Condition No. 17: Compliance with Regulations

The Licensee shall comply with the regulations of the Department of Agriculture for activities on National Forest System lands, and all applicable Federal, State, county, and municipal laws, ordinances, or regulations in regards to the area or operations on or directly affecting National Forest System lands, to the extent those laws, ordinances or regulations are not preempted by federal law.

Condition No. 20: Surveys, Land Corners

The Licensee shall avoid disturbance to all public land survey monuments, private property corners, and forest boundary markers. In the event that any such land markers or monuments on National Forest System lands are destroyed by an act or omission of the Licensee, in connection with the use and/or occupancy authorized by this license, depending on the type of monument destroyed, the Licensee shall reestablish or reference same in accordance with (1) the procedures outlined in the "Manual of Instructions for the Survey of the Public Land of the United States," (2) the specifications of the County Surveyor, or (3) the specifications of the Forest Service. Further, the Licensee shall ensure that any such official survey records affected are amended as provided by law.

Condition No. 22: Risks and Hazards on National Forest System Lands

As part of the occupancy and use of the project area, the Licensee has a continuing responsibility to reasonably identify and report all known or observed hazardous conditions on or directly affecting National Forest System lands within the project boundary that would affect the improvements, resources, or pose a risk of injury to individuals. Licensee will abate those conditions, except those caused by third parties or not related to the occupancy and use authorized by the License. Any non-emergency actions to abate such hazards on National Forest System lands shall be performed after consultation with the Forest Service. In emergency situations, the Licensee shall notify the Forest Service of its actions as soon as possible, but not more than 48 hours, after such actions have been taken. Whether or not the Forest Service is notified or provides consultation; the Licensee shall remain solely responsible for all abatement measures performed. Other hazards should be reported to the appropriate agency as soon as possible.

Condition No. 44: Special Status Species

The Licensee shall, beginning the first full calendar year after license issuance, in consultation with the Forest Service, annually review the current list of special status plant and wildlife species (species that are Federal Endangered or Threatened, Forest Service Sensitive, or Lassen or Plumas National Forest Watch Lists) that might occur on National Forest System lands in the project area directly affected by project operations. When a species is added to one or more of the lists, the Forest Service in consultation with the Licensee shall determine if the species or un-surveyed suitable habitat for the species is likely to occur on such National Forest System lands. For such newly added species, if the Forest Service determines that the species is likely to occur on such National Forest System lands, the Licensee shall develop and implement a study plan in consultation with the Forest Service to reasonably assess the effects of the project on the species. The Licensee shall prepare a report on the study including objectives, methods, results, recommended resource measures where appropriate, and a schedule of implementation, and shall provide a draft of the final report to the Forest Service for review and approval. The Licensee shall file the report, including evidence of consultation, with the Commission and shall implement those resource management measures required by the Commission.

Condition No. 46: Invasive Weed Management Plan

Within two years of license issuance, the Licensee shall file with the Commission an Invasive Weed Management Plan developed in consultation with the Forest Service, the appropriate County Agricultural Commissioner and California Department of Food and Agriculture. Invasive weeds will be those weeds defined in the California Food and Agriculture code, and other species identified by the Forest Service. The plan will address both aquatic and terrestrial Invasive weeds within the project boundary and adjacent to project features directly affecting National Forest System lands including, roads, and distribution and transmission lines.

1) The Invasive Weed Plan will include and address the following elements:

- Inventory and mapping of new populations of Invasive weeds using a Forest Service compatible database and GIS software. The Invasive weed GIS data layer will be updated periodically and shared with resource agencies.
- Action and/or strategies to prevent and control spread of known populations or introductions of new populations, such as vehicle/equipment wash stations.
- Development of a schedule for control of all known A, B, Q and selected other rated invasive weed species, designated by resource agencies.
- On-going annual monitoring of known populations of Invasive weeds for the life of the license in locations tied to project actions or effects, such as road maintenance, at project facilities, O&M activities, , new construction sites, etc. to evaluate the effectiveness of re-vegetation and Invasive weed control measures.
- The plan will include an adaptive management element to implement methods for prevention of aquatic Invasive weeds, as necessary. These actions may include, but may not be limited to: 1) public education and signing of public boat access, 2) preparation of an Aquatic Plant Management Plan approved by the Forest Service, and in consultation with other agencies, and 3) boat cleaning stations at boat ramps for the removal of aquatic Invasive weeds.

New infestations of A& B rated weeds shall be controlled within 12 months of detection or as soon as is practical and feasible (A, B, C, & Q ratings refer to the California Department of Food & Agriculture Action Oriented Pest Rating System). At specific sites where other objectives need to be met all classes of Invasive weeds may be required to be treated.

Monitoring will be done in conjunction with other project maintenance and resource surveys, so as not to require separate travel and personnel. Monitoring information, in database and GIS formats, will be provided to the Forest Service as part of the annual consultation on affected National Forest resources (Condition No. 5). To assist with this monitoring requirement, training in invasive plant identification will be provided to project employees and contractors by the Forest Service.

Licensee shall restore/revegetate areas where treatment has eliminated Invasive weeds in an effort to eliminate the reintroduction of Invasive weed species. Project-induced ground disturbing activities shall be monitored annually for the first 3 years after disturbance to detect and map new populations of Invasive weeds.