



December 15, 2005

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: FERC Project No. 2105-089 Final Environmental Impact Statement Comments

Dear Secretary Salas:

The Maidu Cultural and Development Group (hereinafter "MCDG") is an intervener in FERC Project No. 2105-089. We welcome the opportunity to comment on the Final Environmental Impact Statement (hereinafter "FEIS"). MCDG thanks the Commission for recognizing the importance of involving the MCDG and the other Maidu people, recognized and unrecognized tribes, in the licensing process.

We are especially appreciative of the opportunity to be a concurring party to the Programmatic Agreement and thus, to be involved in the final development and implementation of the Historic Properties Management Plan (hereinafter the "HPMP"). By providing in the FEIS that the MCDG, the Honey Lake Maidu, the Greenville Rancheria, and the Susanville Rancheria need to be consulted under Section 106 of the National Historic Preservation Act (hereinafter "NHPA") when Pacific Gas and Electric Company (hereinafter "PG&E") develops the HPMP, the Commission is emphasizing and recognizing the unique status of unrecognized California Indians with the Federal Government.

MCDG agrees with the Commission's requirement, stated on page 3-321 of the FEIS that the final HPMP be based upon PG&E's draft HPMP, *after it has been revised to address comments from interested parties*. The Commission noted that the United

States Forest Service's (hereinafter "USFS") final Section 4(e) license condition, no. 43, specified that PG&E must file a USFS approved HPMP within 1 year after license issuance. MCDG has carefully reviewed the Programmatic Agreement filed with this Commission on August 11, 2005, and to which MCDG was a concurring party. Thus, MCDG believes that accomplishing the goal of a final HPMP in the allotted time will take coordination, consideration and cooperation among all of the parties. MCDG concurs that the Commission has stressed this to PG&E.

We want to further stress that the HPMP be developed in a timely manner so that the MCDG can effectively participate in the Stewardship Council process. The Maidu people have a unique opportunity to receive land through the Land Conservation Commitment of the Watershed Lands Stewardship Council (hereinafter "Stewardship Council"), which was established pursuant to a bankruptcy settlement between PG&E and the California Public Utilities Commission (hereinafter "CPUC"). Therefore, it is of critical importance to the MCDG that the HPMP address the need for a curation facility, an interpretative center, and land upon which to practice Traditional Ecological Knowledge (hereinafter "TEK").¹

MCDG continues to question the methods whereby the Indian land allotments were acquired by Great Western Power. However, we are reserving further discussion on our position regarding this issue at this time. Nevertheless, PG&E now has an unprecedented opportunity to do the right thing for the Mountain Maidu people and provide an opportunity for young Maidu people to learn the traditional culture in a way that they can incorporate into their lives and those of their children.

MCDG is pleased that PG&E has included in their Settlement Agreement a proposal for an Information and Educational Program to be implemented within 2 years of issuance of the license. However, MCDG shares the concerns of the National Park Service (hereinafter "NPS") and the USFS regarding the lack of actual details on the implementation of such a program. In addition, the Programmatic Agreement *does not* specifically identify the development and implementation of any kind of education program, except perhaps vaguely, in I.C.9. MCDG is also uncomfortable with the Commission's wording, at page 3-320, last paragraph, that the program would "likely" include an explanation and that other information would "likely" be included in the final HPMP. MCDG requests that stronger language be used to require PG&E to create an outline, procedure and protocol for implementation of the Information and Education Program.

MCDG requests that the Information and Education Program referenced above include the funding of an interpretive center with a curation facility. The MCDG is supported in this request by the Plumas County Board of Supervisors, the U.S. Forest Service and the Tasmam Koyom Indian Sanctuary Foundation. An interpretive center at the site of the historical archaeological areas would be an integral part of the provision of information and education to the public at large. MCDG is more than willing to assist

¹ TEK is the practice of traditional Maidu land stewardship

PG&E in formulating practical mitigation measures, as suggested in the last paragraph on page 3-320 of the FEIS.

MCDG acknowledges that PGE has requested information regarding other sources of funding for the creation and operation of such a facility. MCDG is made up of groups of Maidu, who have not been federally recognized at this time. They have little consistent funding to operate such a center, however, they have the manpower to staff it. It is for this reason, and with the support of those entities named above, that the MCDG requests that a condition of the Information and Education Program be that PG&E create, in consultation with these entities, the interpretive center and fund its operation.

Furthermore, MCDG requests that the curation facility and interpretative center be unique to the Mountain Maidu People. We realize that there are other museums in the area; however, those facilities do not reflect the unique culture of the Mountain Maidu people. Rather, the local museums include materials on the mining, ranching and timber history of the area and offer only limited information on Maidu history. In addition, the Maidu Interpretive Center that is 150 miles away in Roseville focuses on the KonKow and Nisenan Maidu of that area.

Although PG&E states that they do not hold any artifacts that need curation, there are many items in other collections that could be returned to the Mountain Maidu if they had their own facility to house them. We respectfully request that the Commission require this issue to be addressed in the final HPMP. Since the Commission has retained authority to review the Stewardship Council land divestitures within the FERC Project boundaries, the Commission should remain mindful of the need to ensure that the entire Maidu Community is benefited by utilizing some of these divested lands for the above purposes. Therefore, MCDG expects the Commission to make a diligent effort to ensure that the Mountain Maidu have similar facilities in our own traditional territory.

Of utmost concern to the MCDG in this licensing process is the protection of Maidu cultural resources under the water, above the water and along the shoreline of the lakes. In this regard, MCDG thanks the Commission for recommending against the installation of thermal curtains to reduce the water temperatures in the Upper North Fork of the Feather River (hereinafter “UNFFR”) and instead recommending minimum instream flows. We acknowledge the Commission’s realization that the dredging associated with the thermal curtains would have impacted Maidu burial sites under the water in the lakes.

In addition, PG&E must stop the removal of artifacts by companies and individuals from sites on the lake bottoms, along the shorelines, and above the lakes. The protection of these sites and the artifacts within them needs to be enforced. Laws requiring the protection of these sites and artifacts, including the Archeological Resource Preservation Act (hereinafter “ARPA”), must be addressed in the HPMP.

MCDG recognizes that PG&E has proposed a 3-stage process for the protection of cultural resources. However, we find this proposal to be impractical and inadequate,

and that it would likely lead to further degradation of the affected areas. Instead, MCDG proposes that the Commission require that Stage 1 and Stage 2 be combined. All parties already know there is a problem with vandalism and the taking of artifacts from in and around the project area. To not include enforcement as a condition does not acknowledge this problem.

MCDG further recognizes the Commission's statement, on page 3-322 of the FEIS, that law enforcement is the responsibility of the U.S. Forest Service and Plumas County and any provisions regarding law enforcement should not be included in the license. However, MCDG would like to see stronger language regarding the inclusion of methods of "enforcement" of protection measures, included in the Commission's recommendations for the HPMP.

Moreover, a safe repository for recovered cultural artifacts also needs to be addressed in the HPMP. In this regard, MCDG agrees with the Commission's expectation that PG&E will include in the HPMP an outline of procedures and protocols regarding the discoveries of artifacts and remains.

MCDG agrees that it may be appropriate under certain circumstances to share cultural resources information with Plumas County. However, MCDG asserts that such information is the property of the Maidu community. Therefore, the release of that information should be discussed in consultation with the Maidu community and authorization sought through an agreement discussing the protocol to be followed regarding the confidentiality of such information. MCDG requests that such an agreement be reached as part of the development of the HPMP. In the meantime, the release of any information should be done on a case-by-case basis in consultation with the Maidu community.

MCDG thanks the Commission for not recommending the NOAA Fisheries Section 18 fishway prescription for the UNFFR Project. The Maidu community had concerns about this project including the closing of our streams to subsistence fishing while using them as fish nurseries, and possible adverse damage to Maidu sites associated with construction and other activities needed to implement the project.

On a similar matter, in addition to the requirement that PG&E monitor water temperatures in the reaches of the UNFFR for three years, we request that the Commission include a license condition requiring PG&E to explore off-site upstream restoration as a way to further enhance and improve the fish habitat in the UNFFR and its watershed.

Finally, we renew our request that further meetings for the development of the HPMP be held in the project area, to allow members of the Maidu community to participate. This issue was not addressed in the Programmatic Agreement, which presents a significant problem for the Maidu Community; most of whom are not of a socio-economic bracket that would allow them to take frequent leave from work and travel long distances for meetings. The HPMP cannot be considered to be effective

consultation in accordance with the NHPA if the interested parties are unable to attend the meetings because they are held out of their geographic reach. MCDG acknowledges the Commission's expectation that the HPMP needs to outline procedures for inclusion of consulting parties and the organization of future working group meetings. To this end, However, MCDG requests that this concern be addressed and resolved as part of the HPMP license condition, by placing a condition on PG&E which requires consultation with the concurring parties when scheduling consultation meetings on these issues.

We again applaud and thank the Commission for your efforts to respect and address the unique needs of the MCDG and the Mountain Maidu.

Respectfully submitted,

/Submitted Electronically

Lorena Gorbet
Project Coordinator
Maidu Cultural and Development Group

cc: Service List for P-2105-089
Pacific Gas & Electric Company
Pacific Forest and Watershed Lands Stewardship Council
MCDG Board of Directors
Maidu Summit Group Members

Attachment: CEQA Scoping Comments