

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426
September 15, 2004

OFFICE OF ENERGY PROJECTS

Project No. 2105-089
Upper North Fork Feather River Project
Pacific Gas and Electric Company

Willie R. Taylor, Director
U.S. Department of the Interior
Office of Environmental Policy and Compliance
1849 C Street, N.W., MS 2342
Washington, DC 20240

Reference: Section 10(j) Preliminary Determination of Inconsistency

Dear Mr. Taylor:

Thank you for your December 1, 2003 letter regarding the proposed relicensing of Pacific Gas and Electric Company's (PG&E's) Upper North Fork Feather River Project (FERC No. 2105). In your letter, you recommended a number of measures to protect fish and wildlife resources under Section 10(j) of the Federal Power Act (FPA). Of your 21 recommendations, 20 were within the scope of Section 10(j). In our September 2004 draft environmental impact statement (DEIS; copy enclosed), we considered your recommendations, but do not recommend the adoption of the following recommendations that we found to be within the scope of Section 10(j):

- Recommendation no. 1 - Implement variable releases ranging from 60 to 170 cfs into the Seneca reach from Canyon dam, and variable releases ranging from 100 to 250 cfs into the Belden reach from the Belden dam
- Recommendation no. 2 - Provide the following pulse flow releases below Canyon dam and Belden Forebay dam: one release per month in January, February, and March of 1,500 cfs in wet years; one release per month in January, February, and March of 1,200 cfs in normal years; one release in March of 700 cfs in dry years, only if no other pulse was released in January or February; and no pulse flows in critically dry years
- Recommendation no. 3 - Develop a pulse flow plan for lower Butt Creek
- Recommendation no. 5 - Develop a water temperature management plan to avoid unintended adverse effects of sublethal temperature stress on aquatic biota as a result of structures or operations that involve planned surface

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water releases, construct a modified Prattville intake, and fund other structure(s) to satisfy appropriate water temperature criteria beyond that provided by the Coldwater Habitat and Fishery Mitigation and Enhancement Fund under the relicensing settlement agreement for the Rock Creek-Cresta Project

- Recommendations nos. 6 and 8 - Develop a geomorphological monitoring plan and a coarse sediment management plan for the project's bypassed reaches
- Recommendations nos. 10 and 11 - Develop a fish monitoring plan and a macroinvertebrate monitoring plan for the project
- Recommendation no. 19 - Develop an erosion control plan for the project
- Recommendation no. 20 - Develop a ramping rate plan for the project
- Recommendation no. 21- Develop a wildlife monitoring plan for the project

The DEIS provides our explanation of why we believe your recommendations are either outside the scope of Section 10(j) or are inconsistent with the FPA or other applicable law, including supporting analysis and conclusions, and an explanation of how the measures recommended in the environmental document would adequately and equitably protect, mitigate damages to, and enhance fish and wildlife affected by development, operation, and management of the project. In general, we recommend instead the environmental measures contained in the multi-party relicensing settlement agreement, which PG&E filed with the Commission on April 30, 2004.

You may file comments in response to our preliminary determination of inconsistency, including any modified recommendations, within the time frame allotted for comments on the DEIS. Please respond to the following questions: Are our alternative recommendations on these issues, as described in the DEIS, acceptable to you? If not, are there any other measures that you would agree to that would accomplish the objective of your original recommendations? Is there any additional evidence to support your recommendations or to demonstrate why they are consistent with the FPA?

In your filing, you may also request a meeting, telephone or video conference, or other additional procedure to attempt to resolve any preliminary determination of inconsistency. We suggest that any such procedure encompass the items in the attached agenda. Our regulations require that any meeting or conference occur within 90 days of the date of issuance of the environmental document.

Please remember that, under sections 313(b) and 10(a) of the FPA, we must provide the Commission with substantial evidence that any recommended measures would adequately protect or enhance fish or wildlife resources and that any project

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adopted would reflect equal consideration of the beneficial public uses of the waterway as set forth in the FPA.

If you have any questions, please contact John Mudre (202) 502-8902 or by email at john.mudre@ferc.gov.

Sincerely,

Timothy J. Welch
Branch Chief
Hydro West Branch 2

Enclosure: Draft Environmental Impact Statement, Upper North Fork Feather River Project, FERC No. 2105

cc: Service List
Public Files