



**Pacific Gas and  
Electric Company**

STATE WATER RESOURCES  
CONTROL BOARD

Power Generation

2009 JUN 25 PM 12:01

DIV. OF WATER RIGHTS  
SACRAMENTO

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RK

245 Market Street  
San Francisco, CA 94105

Mailing Address  
Mail Code N11C  
P.O. Box 770000  
San Francisco, CA 94177

June 24, 2009

Ms. Victoria A. Whitney  
Deputy Director, Division of Water Rights  
California State Water Resources Control Board  
1001 I Street, 14<sup>th</sup> Floor  
Sacramento, CA 95814

**RE: Pit 1 Project, FERC No. 2687  
Request for Change in Article 401, Condition 13 of the License for the Pit 1  
Hydroelectric Project, in Shasta County, California**

Dear Ms. Whitney:

On May 26, 2009, the United States Fish and Wildlife Service (USFWS) sent a letter to the Federal Energy Regulatory Commission (FERC) and the State Water Resources Control Board (SWRCB) expressing a concern regarding a decline in the endangered Shasta crayfish (*Pacifastacus fortis*), and requesting the suspension of flushing flows at Pacific Gas and Electric Company's (PG&E) Pit 1 Project, FERC No. 2687. A copy of USFWS May 26, 2009 letter is attached.

### **PG&E's FERC License and Existing Section 401 Conditions**

On March 19, 2003, FERC issued a new license for the Pit 1 Project. This license includes Clean Water Act Section 401 conditions and requires PG&E to release flushing flows to control nuisance aquatic vegetation and mosquito production in Fall River Pond, and to prepare a plan to monitor the effectiveness of flushing flows.

The specific Section 401 Conditions are as follows:

- The Licensee shall control growth of aquatic vegetation and mosquito production in the Fall River Pond by releasing a continuous minimum fish/aquatic habitat release as described in Condition 8 and by releasing flushing flows through Fall River Pond for two consecutive days (Saturday and Sunday) three times per year. Flushing flows are defined as 1,250 cfs or the natural flow to the Pit 1 Forebay, whichever is less. The flushing flow will be released in May or June when warranted by vegetation growth in the Fall River Pond. The second flushing flow will be released in July, and the third flushing flow will be released at the end of August, prior to the Labor Day weekend. The releases will be made from approximately 2 a.m. Saturday morning and continue until approximately 3 p.m. the following Sunday afternoon and*

*then be ramped down over a period of time. PG&E shall develop a vegetation flushing flow ramping plan in consultation with the Department of Fish and Game and the California Water Board and obtain written approval of the plan by the Chief of the Division of Water Rights. The Licensee shall implement the flushing program as soon as practicable after issuance of the new license.*

*The Licensee shall provide as much advanced public notice as possible of a proposed flushing flow release but no less than 48 hours through a boat-a-phone or existing PG&E website.*

14. *The Licensee shall monitor the effectiveness of releasing flushing flows to control aquatic vegetation and mosquito production in Fall River Pond. The initial monitoring shall be for 5 years after the issuance of the new license. The Licensee shall develop a vegetation flushing monitoring program in consultation with the Fall River Mills Community Services District, Fall River Chamber of Commerce, the Pine Grove Mosquito Abatement District, and the Department of Fish and Game, and obtain written approval of the program by the Chief of the Division of Water Rights. The Chief of the Division of Water Rights may modify or terminate the flushing flow monitoring program after review of the 5-year monitoring report prepared by the licensee.*

#### **PG&E's Request for Modifications to Section 401 Conditions**

Many factors can contribute to a species' decline. In the interest of responding to the USFWS' concerns, and in the spirit of continued cooperation with the USFWS, PG&E hereby asks the SWRCB to modify certain Section 401 water quality certificate (Certification) conditions that were incorporated into the Pit 1 Project license. Specific modifications requested include: changes to Certification Condition 13, Flushing Flows to Control Aquatic Vegetation; and Certification Condition 14, Flushing Flow Effectiveness Monitoring. These modifications are consistent with USFWS' recommendations.

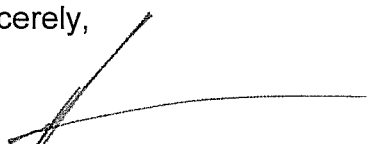
The requested modifications in Certification Conditions 13 and 14 are to review the results presented in the first four years of the annual flushing flow reports and terminate the flushing flows in Pit 1 during the summer months. Based on monitoring results from flushing flows conducted in 2005 through 2008, surface vegetation cover under the current license has been minimal. Based on the monitoring results, the continuous minimum base flows through Fall River Pond have had a substantially greater role in suppressing vegetation than the flushing flows.

After the SWRCB modifies the water quality certificate conditions, PG&E will then file the new conditions with FERC for incorporation into the Pit 1 Project license. To further address the USFWS' concerns, PG&E requests the SWRCB to permit that summer flushing flows be halted as early as July 2009. PG&E also requests that the SWRCB provide the proposed modifications to the FERC by July 10, 2009.

Ms. Victoria A. Whitney  
June 24, 2009  
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If you have any questions, please call me at (415) 973-3642.

Sincerely,



Charles White, Senior License Coordinator  
Hydro Licensing

Attachment

cc: Attached List

Ms. Victoria A. Whitney  
June 24, 2009  
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cc List:

Mr. Russ Kanz  
State Water Resources Control Board  
P.O. Box 2000  
Sacramento, CA 95812-2000

Mr. Gary Stacey, Regional Manager  
California Department of Fish and Game  
601 Locust Street  
Redding, CA 96001

Ms. Cay Goude, Field Supervisor  
U.S. Fish and Wildlife Service  
2800 Cottage Way, Rm W-2605  
Sacramento, CA 95825

Mr. Steve Baumgartner  
California Department of Fish and Game  
601 Locust Street  
Redding, CA 96001

Ms. Kim Squires  
U.S. Fish and Wildlife Service  
2800 Cottage Way, Room W2605  
Sacramento, CA 95825

Mr. Matt Myers  
California Department of Fish and Game  
601 Locust Street  
Redding, CA 96001

Dennis Heiman  
Central Valley Regional Water Quality Control  
Board  
415 Knollcrest Drive, Suite 100  
Redding, CA 96002

Mr. Glenn S. Yoshioka  
Native Nongame Fishes Coordinator  
Fisheries Branch  
California Department of Fish and Game  
830 S Street  
Sacramento, CA 95811

Mr. Robert Bailey  
District Conservationist  
Natural Resources Conservation Services  
3644 Avtech Parkway, Suite C  
Redding, CA 96002-9241

Mr. Steve Clay  
Partners for Fish and Wildlife  
Modoc National Wildlife Refuge  
P.O. Box 1610  
Alturas, CA 96101

Ms. Kathy Brown  
Conservation Partnerships Program Coordinator  
U.S. Fish and Wildlife Service  
2800 Cottage Way, Room W2605  
Sacramento, CA 95825

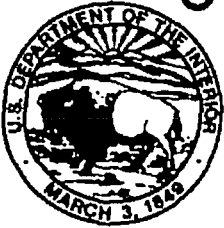
Ms. Jessica Jim, Chair  
Pit River Tribe  
37014 Main Street  
Burney, CA 96013

Mr. Josh Hull  
U.S. Fish and Wildlife Service  
2800 Cottage Way, Room W2605  
Sacramento, CA 95825

Mr. Ross Montgomery Jr.  
Sergeant-at-arms  
Pit River Tribe  
37014 Main Street  
Burney, CA 96013

Mr. Woody Elliott  
District Resource Ecologist  
California Department of Parks and Recreation  
Northern Buttes District  
400 Glen Drive  
Oroville, CA 95966

ORIGINAL



United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Sacramento Fish and Wildlife Office  
2800 Cottage Way, Room W-2605  
Sacramento, California 95825-1846

In Reply Refer To:  
81420-2008-I-1103-1

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

Ms. Victoria A. Whitney, Deputy Director  
Division of Water Rights  
California State Water Resources Control Board  
1001 I Street, 14<sup>th</sup> Floor  
Sacramento, California 95814

Subject: Request for Change in Article 401, Condition 13 of the License for the Pit 1 Hydroelectric Project, FERC Project No. 2687, in Shasta County, California

Dear Ms. Bose and Ms. Whitney:

This letter is in response to information presented to the U.S. Fish and Wildlife Service (Service) during the course of post licensing meetings for the Pit 1 Hydroelectric Project, Federal Energy Regulatory Commission (FERC) Project No. 2687, in Shasta County, California. At issue are the effects of the flushing flows described in Article 401, Condition 13 of the license on the endangered Shasta crayfish (*Pacifastacus fortis*). This letter is issued under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. §1531 *et. seq.*)(Act), and the regulations governing interagency consultations (50 CFR § 402).

As part of the FERC license for the project that was issued on March 19, 2003, the State Water Resources Control Board (SWRCB) 401 Water Quality Certification requires the licensee, Pacific Gas and Electric (PG&E), to release flushing flows through Fall River Pond and hence the spring-fed Pit 1 bypass reach for two consecutive weekend days three times annually in May/June, July, and August (Condition 13) to control growth of aquatic vegetation and mosquito production in the Fall River Pond and to monitor the effectiveness of these flushing flows for five years after issuance of the new license (Condition 14). PG&E has been implementing these summer flushing flows annually since 2003.

On April 22, 2009, the Shasta Crayfish Technical Review Committee and Shasta Crayfish Recovery Team met to review the first five and six-years of monitoring for the Pit 1 and Hat Creek (FERC No. 2661) projects. During this summary review workshop, the status and

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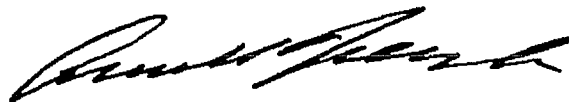
precipitous decline of Shasta crayfish observed in the Pit 1 bypass reach was discussed. In October of 2005 a total of 21 Shasta crayfish were found (6 adults, 7 juveniles, and 8 young of the year) in this reach, but only one adult dying male was found in September of 2008. Conversely, two competitor/predator non-native crayfish species more tolerant to temperature fluctuation have doubled and tripled respectively during the same time period.

On May 11, 2009, a five-year summary meeting for the Pit 1 Water Quality Monitoring was held with the State Water Board and Regional Water Quality Control Board. The Service and California Department of Fish and Game were in attendance. Technical discussions regarding the flushing flows included the status of Shasta crayfish in the spring-fed Pit 1 bypass, the reduction and/or elimination of coldwater refugia, and an increase of daily minimum temperatures to 21°C. In addition, as a result of information presented during the May 11, 2009, meeting, it appears that the Minimum Instream Flow, as required by the FERC license, is controlling the control nuisance aquatic vegetation in Fall River Pond and that flushing flows do not appear to be necessary.

The Service is concerned that the flushing flows are facilitating the decline of the endangered Shasta crayfish in the Pit 1 bypass. Therefore, the Service requests the suspension of the flushing flows this summer (2009) prior to the five-year licensee review and recommendation to prevent any further adverse effects and take of Shasta crayfish in the Pit 1 Bypass Reach.

Please address any questions or concerns regarding this request to Kim Squires or Arnold Roessler, Forest and Foothills Branch Chief, at (916) 414-6600.

Sincerely,



*Per* Chris Nagano  
Chief, Division of Endangered Species

cc:  
FERC Project 2687 Service List