

# PALOMINO LAKES MUTUAL WATER COMPANY

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March 23, 2024

**Via Electronic Submittal (E-Filing)**

Debbie-Anne Reese, Acting Secretary  
Federal Energy Regulatory Commission  
Office of Energy Projects  
888 First street, N.E.  
Washington, DC 20426

Re: MOTION TO INTERVENE AND COMMENTS for Potter Valley Project (No. 77-320) by the Palomino Lakes Mutual Water Company in response to the February 22, 2024 filing by Pacific Gas and Electric Company entitled "Potter Valley Hydroelectric Project, FERC No. 77-CA 2024 – Minimum Instream Flow Variance Request Due to Restricted Storage Capacity."

Dear Secretary Reese:

The Palomino Lakes Mutual Water Company (PLMWC) requests to intervene and make comments on Pacific Gas and Electric Company's (PG&E's) February 22, 2024 filing with the Federal Energy Regulatory Commission (FERC), entitled Potter Valley Hydroelectric Project (PVP), FERC No. 77- CA 2024 Minimum Instream Flow Variance Request due to Restricted Storage Capacity.

PLMWC provides water to residential customers in an unincorporated area of Sonoma County. Our 300 residents have no alternative water source (even trucked-in potable water is not available in our area), and are totally dependent on our well, which draws from Russian River underflow year-

round. Further, our customers have an economic dependency on available water. Our customers were subjected to continuous water rationing in 2020 and 2021, and if they wish to sell their homes they are required to disclose that water rationing has occurred and is likely to occur in the future. Beyond the immediate hardship of water rationing, this fact impacts PLMWC customers' property values.

Our Motion and Comments has two principal arguments:

1. Lack of evidence or documentation of NEPA requirements
  2. Economic and Ecological consequences of the variance
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1. It is our understanding that FERC has discretion in granting PG&E the variance request (i.e., this is not a Ministerial action), and as such FERC's decision must include documentation of the decision factors including, but not limited to, an Environmental Impact Statement (EIS). It is our understanding that an EIS needs to include both ecological and economic impacts of a proposed change. As both the Eel River and Russian River ecosystem are impacted by the availability of water, the impacts on both basins must be considered. In PG&E's variance petition, we were not able to find documentation or evidence that the NEPA-required research and analysis has been done. In their petition, we saw no mention of economic terminology such as cost/benefit, employment, property values, or socioeconomics. Indeed, the words "human" and "people" do not appear in their petition.
  2. Given this year's abundant rainfall, PG&E's request for variance is surprising, and it will have a direct impact on PLMWC customers, as well as the 1700 customers of 65 other mutual water companies dependent on the Russian River. At the moment, the Lake Mendocino reservoir, which is the main supply for the Russian River during dry months, is full to capacity. However, if PG&E's variance is authorized, the lake's level can be expected to be at less than 20% usable capacity by November. Various legal and regulatory requirements, in combination with the water demands of the 71,000 people in the Russian River watershed, will consume approximately 75,000 AF of Lake Mendocino

water during the year. Without replenishment from the Potter Valley Diversion, Lake Mendocino will essentially be managed as if this were a Dry Year.

Part of the water stored in Lake Mendocino is required to be used in the Russian River to maintain minimum instream flows determined by the National Marine Fisheries Service (NMFS) 2008 Biological Opinion for species of anadromous fish listed under the Endangered Species Act. A significant part of the summer water in the Russian River system is affected by the amount of water diverted via the PVP. Arbitrarily changing the water year classification and flow rate at E-16 will have far-reaching ecological consequences on the Russian River fishery, particularly during summer months.

Changing to the minimum instream flow requirement at E-16 impacts water supply reliability across the entire Russian River watershed. The California State Water Resources Control Board (SWRCB) has granted Appropriative Water Rights to over 1300 diverters, including PLMWC, along the Russian River from the PVP downstream to the Pacific Ocean. This is in addition to more than 900 riparian rights along the Russian River. These water rights are predicated, in part, on expected annual Eel River diversions that are based on PVP license conditions and water year classifications. The economic impacts of decreased water diversions from the PVP will be widespread.

Under PG&E's proposed variance, in order to preserve Lake Pillsbury storage and maintain cooler release temperatures at the E-2 gauge, Eel River flow requirements at E-11 will follow Wet Year guidelines, while the flows to the East Branch Russian River (EBRR) at E-16 will follow a Dry Year Classification. Under the proposed variance, EBRR instream flows will be initially reduced from the current 75 cf/s to a maximum 25 cf/s and could be reduced to 5 cf/s. Even the 25 cf/s level of PVP diversion virtually guarantees that Lake Mendocino will be drawn down significantly this year. It is possible that California's State Water Boards would have to order a curtailment this year, restricting

residential customers to 55 gallons of water per day. Even if that does not occur this year, if next year does not yield significant rainfall, a water emergency and curtailment become much more likely.

Because it is unclear how all of these variables will ultimately impact storage in Lake Pillsbury, **PLMWC requests that FERC reject PG&E's proposal to preemptively reduce the EBRR flows to 25 cf/s and instead require that PG&E's reduction algorithm take into consideration the current and forecasted storage levels at Lake Mendocino.** During wet months, the releases from Lake Pillsbury should be only those required for the Eel River ecosystem, but as soon as the rainfall stops, the releases should be increased to reflect the needs of the PVID and Lake Mendocino. PG&E thus needs to optimize the storage capacity for both Lake Pillsbury and Lake Mendocino. This would ensure that minimum pool levels in Lake Pillsbury and favorable conditions below Scott Dam are maintained while also reducing impacts on EBRR water availability for its multiple beneficial uses, appropriative water rights, natural resource requirements, and Tribal needs.

Further, **PLMWC requests that FERC reject PG&E's proposal on procedural grounds,** requiring that an EIS and other NEPA-mandated analyses and deliverables be completed.

Respectfully Submitted,

A handwritten signature in black ink that reads "David Taber". The signature is written in a cursive, slightly slanted style.

David Taber, President  
Palomino Lakes Mutual Water Company