

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

|                                                  |   |                    |
|--------------------------------------------------|---|--------------------|
| Pacific Gas and Electric Company                 | ) |                    |
| In Re: Notice of Application for Surrender       | ) |                    |
| Of License and Non-Project Use of Project        | ) |                    |
| Lands, Accepted for Filing, Soliciting Comments, | ) | Project No. 77-332 |
| Motions to Intervene, and Protests               | ) |                    |
| _____                                            | ) |                    |

**ROUND VALLEY INDIAN TRIBES’  
OPPOSITION TO ELSINORE VALLEY MUNICIPAL WATER  
DISTRICT’S MOTION TO INTERVENE LATE**

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Pursuant to Rule 214 of the Federal Energy Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure, 18 C.F.R. § 385.214, (Rule 214) and Elsinore Valley Municipal Water District's (EVMWD) Motion to Intervene Late (Motion), filed July 7, 2026, the Round Valley Indian Tribes (Tribes or RVIT) hereby submit this opposition to EVMWD's Motion. Nearly a year after PG&E filed its license surrender application in the above-captioned proceeding, EVWMD, located more than 600 miles from the Potter Valley Project (Project), now seeks to intervene to participate in this proceeding. The Motion should be denied. The Motion does not satisfy the requirements of Rule 214 because it does not set out the factual and legal bases in support of intervention, it does not articulate an interest that will be directly affected by this proceeding, and it does not demonstrate that EVMWD's participation is in the public interest. Moreover, a principal reason asserted for granting late intervention - protection of tribal cultural interests - is specious.

The Tribes are a sovereign Indian nation recognized as such by the United States. The Tribes timely intervened in this proceeding on December 1, 2025. The history and location of the Round Valley Indian Reservation reflect the centrality of the Eel River fishery to the Tribes' time immemorial presence in the region and its reliance on the Eel River for subsistence, cultural, recreational, and economic purposes. The Reservation is bordered on the Eel River's mainstem on the west, the Middle Fork of the Eel River on the east, and the North Fork of the Eel River on the

north. The Reservation was created in large part to provide a homeland for the Tribes and to protect a way of life centered on the Eel River fishery.

Moreover, the Tribes have unadjudicated and unquantified federal reserved water rights and fishing rights derived by implication from the creation of the Reservation by the United States. *See Baley v. United States*, 942 F. 3d 1312, 1335 (Fed. Cir. 2019) (internal citation and quotation marks omitted), cert. denied, 2020 WL 3405869, June 22, 2020 (tribes have an “implied right to unappropriated water to the extent needed to accomplish the purpose of the reservation”); *see also Parravano v. Babbitt*, 70 F. 3d 539, 546 (9th Cir. 1995) (Yurok Tribe’s Reservation straddling the Klamath River and its tributaries was intended to provide a protected place for the Tribe to practice its fishing-based culture, so the Tribe has water and fishing rights protected by federal law). RVIT’s federal water and fishing rights are entitled to legal protection even in the absence of quantification. *See Baley v. United States*, *supra* (irrigators are not entitled their full allocation of water under federal contracts because tribes in the Klamath Basin have senior water rights the federal agencies must implement, even in the absence of adjudication and quantification).

**1. EVMWD’s Motion Fails to Meet the Requirements of Rule 214.**

EVMWD’s Motion is fatally defective. First, it fails to set forth “in sufficient factual detail” that its interests “may be directly affected by the outcome of the proceeding. . . .” 18 C.F.R § 385.214(b)(2)(ii). Conclusory statements that removal

of the Project dams “will impact the agricultural and residential communities within its District,” more than 600 miles away from the Project, without any factual details about the nature and scope of the alleged impacts, do not satisfy the intervention rule. Motion at page 4. Likewise, EVMWD’s belief that license surrender “will affect water security throughout the State,” without further explanation, is too vague and attenuated to satisfy the interest requirement. Motion at page 4. A FERC license surrender proceeding is not the forum to debate abstract notions of state water policy. Finally, EVWMD’s Motion is devoid of any facts or legal argument to demonstrate that its intervention is in the public interest. That it is a water district chartered under California law serving customers 600 miles from the Project with no hydrologic connection to the Eel River or the Russian River is insufficient to meet the public interest requirement. Granting intervention under these circumstances would open the door to any water district in California intervening in any water-related hydroelectric proceeding, which would render the requirements of Rule 214 meaningless.

**2. Baseless Pretensions to Protect Native American Interests Do Not Justify an Eight-Month Delay in Moving to Intervene.**

The Commission should reject EVMWD’s argument that its long delay in seeking to intervene may be excused in part by its duty to “protect significant Native American and Tribal interests that may be affected by the Commission’s decision in this proceeding.” Motion at 5. This expression of concern comes as a complete

surprise to RVIT, as there has been no evidence presented that any policy, law, regulation or board of directors' action has articulated such a concern or imposed such a duty in any way.

EVMWD's expression of concern here is especially ironic, because it has rebuffed RVIT's efforts to discuss the water district's concerns. On April 28, 2026, President Joseph Parker of the Round Valley Indian Tribes Tribal Council sent a letter to Greg Thomas, General Manager of EVMWD explaining the impacts of the Project on the vital cultural, subsistence and economic interests of the Tribes. Attached as Exhibit A. President Parker also expressed concern that if EVMWD's efforts proceeded beyond the exploratory stage, the Two Basin Solution that provides for the needs of both the Eel River fishery and the Russian River water users would be upended. President Parker invited Mr. Thomas and the EVMWD board to visit the Round Valley Reservation to see first-hand the devastating impact of the Project dams on the way of life of tribal members, and to better understand the efforts of the Tribes and its partners to minimize the disruption of dam removal. Neither Mr. Thomas, nor anyone else from EVMWD, responded to President Parker's invitation. The Tribes' door remains open to those who wish to visit the Reservation and meaningfully discuss the Project's impacts; however, such discussions must be based on mutual respect, rather than any paternalistic motivation that outsiders might know what is in the best interest of tribal communities in the region.

The Motion should also be denied because EVMWD has not shown why the time limitation for intervention motions should be waived, as required by 18 C.F.R § 385.214(b)(3) (intervention motions filed after the time period expires must show “good cause why the time limitation should be waived.”). EVMWD does not request a waiver of the time limitation, much less explain why it should be waived. There are no grounds for waiver under these circumstances. FERC issued a “Notice of Application for Surrender of License and Non-Project Use of Project Lands, Accepted for Filing, Soliciting Comments, Motions to Intervene, and Protests, Project No. 77-332” (Notice) on October 31, 2025. The Notice set a deadline of December 1, 2025, for responses. Nineteen days after the deadline, on December 19, 2025, EVMWD submitted comments on the application. Doc. Accession No. 20251229-0003. Although EVMWD was obviously aware of the Notice and deadline, no motion to intervene was filed. The Tribes, and other parties in this proceeding, were justified in concluding that EVMWD had no interest in participating in this proceeding as a party. Now, eight months after the deadline has passed, EVMWD seeks to intervene, without explaining its delay or showing good cause for waiving the time limitation.

Hollow expressions of concern about tribal interests cannot ameliorate the prejudice EVMWD’s actions have caused to RVIT’s interests and the interests of the local communities that have worked for several years at great expense to craft a

solution that seeks to meet the needs of both watersheds affected by the Project's decommissioning. PG&E's license surrender application also requests authorization to use Project lands for the non-Project purpose of facilitating the construction of the New Eel River Facility that will divert water from the Eel River to the Russian River under rules that RVIT and other stakeholders have approved in a Water Diversion Agreement. This local solution devised by the most directly affected communities is the best expression of the public interest to be accommodated in this proceeding. EVMWD's vague protestations about impacts 600 miles away do not promote the public interest but rather threaten to prejudice that outcome.

For these reasons, the motion to intervene should be denied.

Dated: July 17, 2026

Respectfully submitted,

BERKEY WILLIAMS LLP

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served, by first class mail or electronic mail, an Opposition to Elsinore Valley Municipal Water District's Motion to Intervene Late by the Round Valley Indian Tribes, upon each person designated on the official Service List compiled by the Commission in the above-captioned proceedings.

Dated July 17, 2026

*Martha Morales*

Martha Morales, Legal Secretary  
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# EXHIBIT A

**ROUND VALLEY INDIAN TRIBES**  
*A Sovereign Nation of Confederated Tribes*

TRIBAL COUNCIL OFFICE  
77826 COVELO ROAD  
COVELO, CALIFORNIA 95428  
PHONE: 707-983-6126  
FAX: 707-983-6128



LOCATION: ON STATE HWY 162  
ONE MILE NORTH OF COVELO  
IN ROUND VALLEY  
TRIBAL TERRITORY SINCE TIME BEGAN

**ROUND VALLEY INDIAN RESERVATION ESTABLISHED 1856**

April 28, 2026

**By Email and U.S. Mail**

Mr. Greg Thomas  
General Manager  
Elsinore Valley Municipal Water District  
Attn: Susie Evans, Sr. Executive Assistant  
PO Box 3000  
Lake Elsinore, CA 92530

Subject: Social Media Reports Regarding Interest of Elsinore Valley Municipal Water District in Acquisition of Cape Horn Dam and Scott Dam (Potter Valley Project) on the Eel River in Northern California.

Dear Mr. Thomas:

We are aware of recent social media and press reports regarding the potential interest of Elsinore Valley Municipal Water District (EVMWD) in acquiring the Potter Valley Hydroelectric Project (Project) and Cape Horn Dam and Scott Dam on the Eel River in Northern California. Your spokesperson has been quoted as characterizing this interest as “an initial exploratory phase.”<sup>1</sup> You may not be aware of the adverse effects of these two dams on our people, the potential liabilities that any successor owner of these dams will likely face, and the resolve of our people to oppose their retention. We are writing to provide you with facts about our home, our rights, and our commitment to future generations to protect our waters, our fishery, and our culture from exploitation to benefit others.

Because you are from Southern California, almost 600 miles from the dams, we want to make sure you hear all the facts and not just one side of the story from those advising you to engage in this exploration. The history of these two dams is very simple: they were constructed more than 100 years ago without the approval of our Tribal Nation. Over many decades, significant amounts of Eel River water were diverted for the generation of electricity and then left in the Russian River Basin downstream of the Project for appropriation by water users, free of charge. The Project subordinated not just our river, but also our fishery, our culture, our communities, and the health and welfare of our members solely to benefit others. To be clear our Tribal Nation never agreed to the Project, nor have we ever received any benefit from the Project; yet we live under the adverse effects of the Project daily.

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<sup>1</sup> <https://lostcoastoutpost.com/2026/apr/22/socal-water-agency-says-its-just-very-exploratory/>



We have an unbroken connection, from the beginning of time through today, to the waters and resources of the Eel River watershed. Our ancestors hunted, fished, and gathered in these lands for millennia, fulfilling our sacred obligation, from one generation to the next, to protect, preserve, and enhance the river that gives us life. The Eel River borders our reservation and its tributaries run throughout our lands. Make no mistake; we will vigorously oppose any attempt by EVMWD, or any other entity, to retain these dams and move our water resources elsewhere. This is about protecting what is ours and restoring what was taken, and we will use every legal means possible to do so.

PG&E has made the business decision to decommission these facilities. That presents an opportunity to restore what was taken. Any effort to retain the dams will undermine the Two Basin Solution, a regional agreement that has co-equal goals of resilient water supply to the Russian River Basin through Eel River diversions and restoration of fish habitat in the Eel River Basin. Those who want to retain the dams ignore a fundamental component of the Two Basin Solution: our Tribal Nation has agreed to allow the diversions into the Russian River to continue as long as it does not harm the recovery of our fishery, which includes the ability of our fish to access habitat in the upper watershed that has been blocked by the dams. As explained in the attached letter to Secretary Rollins, our members live and work in the broader region. We want to find a solution that works for both basins—something not afforded us 100 years ago and something your exploration jeopardizes. If your efforts proceed beyond the exploratory stage, the Two Basin Solution will be upended, to the detriment of thousands of water users in the Russian River Basin and our restoration efforts in the Eel River Basin.

The Two Basin Solution acknowledges our senior rights, a path forward with equity for both basins, and restoration of our fishery and our river by removing Cape Horn Dam and Scott Dam. The Two Basin Solution is not perfect; no negotiated solution regarding the allocation of limited resources ever is. But we are committed to it, and it is part of a longer-term regional water supply approach to which we are equally committed. In that approach, fishery restoration and water supply reliability will work together to benefit our entire region.

We expressed our dam removal goals to senior staff at the Department of Agriculture several weeks ago. Our position has been very public for a long time and should come as no surprise to anyone undertaking even the most rudimentary review of current events on the Project. Your decision not to reach out to us prior to the public announcement of your intentions is troubling and calls into question a willingness to openly and transparently evaluate the environment into which you are potentially stepping.

In the absence of a Two Basin Solution and dam removal, we are prepared to take steps to quantify and enforce our federal reserved fishing and water rights, which date to 1856, against any future owner of these dams. As I am sure you know, other legal impediments stand in the way of any potential dam operations in the future; federal and state Endangered Species Act requirements, laws protecting tribal and cultural resources, and significant investments in dam safety and seismic stability. On that point, PG&E, offered these dams to local stakeholders, yet no one stepped forward with a serious offer to purchase them. This fact alone should be a red flag for your ratepayers.

Our resiliency is informed by our history. In the late 1960s the Corps of Engineers developed plans for the Dos Rios Project, which would have flooded our homelands and exported our water to Southern California. Our leadership at the time fought long and hard to stop that project from proceeding. We were joined by others in Northern California but also informed by our experiences with the creation of the Project in that this time, we made sure our voices were heard. It was reported that in refusing to

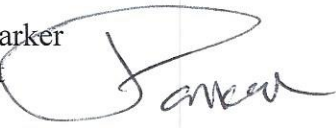
authorize the Dos Rios Project, then Governor Reagan was swayed by the potential impacts to our Nation.

Your webpage discusses being "stewards" of water resources, but there can be no stewardship when there is exploitation; any attempt to retain these dams is nothing more than the continued reallocation of our resources to benefit someone else. It is difficult to believe that after our long history of resistance, we would still find ourselves in the position of having to defend against attempts to re-allocate our resources to benefit others. Yet this is where we find ourselves—and this is where we will hold the line.

It is our hope that upon receipt of this information, you will more fully understand both our position in this matter and the difficulty any entity attempting to purchase these dams will face. We understand that as a water manager you must always be searching for opportunities to enhance supplies. We do not fault you for that, but we do fault you for looking into our basin to solve your problems without reaching out to us first. If you need further information, we invite you to our homelands so you can see firsthand the devastation of these dams on our people—something the Secretary of Agriculture has yet to do.

Sincerely,

Joseph Parker  
President

A handwritten signature in dark ink, appearing to read "JParker", is written over the printed name and title of Joseph Parker.

Cc: Honorable Brooke Rollins, Secretary of Agriculture  
Honorable Doug Burgum, Secretary of the Interior  
EVMWD Board of Directors