

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

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In the Matter of Water Quality Certification For  
**THE PACIFIC GAS & ELECTRIC COMPANY**  
**HAT CREEK 1 & 2 POWER PROJECT**

**FEDERAL ENERGY REGULATORY FERC PROJECT NO. 2661**

SOURCES: Hat Creek thence Pit River

COUNTY: Shasta

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**WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE**

BY THE EXECUTIVE DIRECTOR:

The **PACIFIC GAS & ELECTRIC COMPANY** (PG&E) proposes to relicense the Hat Creek 1 & 2 Hydroelectric Project (Hat 1 & 2) with the Federal Energy Regulatory Commission (FERC). Hat 1 & 2 is located on Hat Creek four miles from its confluence with the Pit River, near the town of Cassel in Shasta County. The project is run-of-river and consists of two powerhouses (Hat 1 & 2) with a combined installed capacity of 20 megawatts.

The Federal Clean Water Act (33 U.S.C. §1251 et seq.) was enacted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (33 U.S.C. §1251(a)). Section 101(g) of the Clean Water Act (33 U.S.C. §1251(g)) requires federal agencies to "cooperate with state and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources". Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit to provide the responsible federal agency with certification that the project will be in compliance with specified provisions of the Clean Water Act, including section 303 ("Water Quality Standards and Implementation Plans," 33 U.S.C. §1313); directs the state agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of state law; and provides that state certification conditions shall become conditions of any federal license or permit for the project.

The State Water Resources Control Board (SWRCB) is the agency responsible for water quality certification in California (Wat. Code, § 13160); and has delegated this function to the Executive Director by regulation (Cal. Code Regs., tit. 23, § 3838, subd. (a).)

The California Regional Water Quality Control Boards have adopted, and the State Board has approved, Water Quality Control Plans (Basin Plans) for each watershed basin in accordance with provisions of section 303 of the Clean Water Act related to the establishment of water quality standards and planning (33 USC §§1313). Basin Plans identify beneficial uses of the waters within each Region.

The California Regional Water Quality Control Board, Central Valley Region, in its Water Quality Control Plan for the Central Valley Region, Sacramento River Watershed, has established the beneficial uses of Hat Creek as Irrigation, Hydropower Generation, Contact and Non-Contact Recreation, Cold Freshwater Habitat, Warm Freshwater Habitat, Cold Spawning, and Wildlife Habitat.

Protection of the chemical, physical, and biological integrity of waters of the state for instream beneficial uses identified in the Basin Plans requires maintenance of adequate stream flows as well as effluent limitations and other limitation on discharges of pollutants from point and nonpoint sources to navigable waters and their tributaries.

The SWRCB staff has reviewed the proposed project (water quality certification) pursuant to the California Environmental Quality Act (CEQA). The baseline conditions for water quality certification are the natural background conditions. The SWRCB has used the final Environmental Assessment prepared by the Federal Energy Regulatory Commission for this project to satisfy its CEQA obligation (Cal.Code Reg., Title 14, Chapter 3, Section 15221). The Environmental Assessment has been submitted for agency and public review as broadly as state law requires meeting the standards for review and notification (Cal Code Reg., Title 14, Section 15225). The SWRCB has also considered the information included in the Hat Creek 1 & 2 license application and additional information developed by PG&E to satisfy informational needs of the agencies. In addition, SWRCB staff have consulted with state and federal agencies and participating stakeholders. Further, the SWRCB has considered the Basin Plan, the existing water quality conditions and project related controllable factors.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE PROJECT, THE SWRCB CERTIFIES THAT THE HAT CREEK 1 & 2 HYDROELECTRIC PROJECT OPERATED BY PACIFIC GAS & ELECTRIC COMPANY (PG&E) will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law provided PG&E complies with the following terms and conditions during the operation of the project certified herein.

1. This certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the Water Code and Article 6 (commencing with §3867) of Chapter 28 of Division 3 of title 23 of the California Code of Regulations.
2. The SWRCB may add to or modify the conditions of this certification as appropriate to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.

3. Notwithstanding any more specific conditions in this certification, the project shall be operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.
4. The SWRCB may add to or modify the conditions of this certification as appropriate to coordinate the operations of this project with (1) water quality objectives adopted to protect the beneficial uses of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Estuary) or (2) water right decisions or orders implementing the objectives. The SWRCB will make such additions or modifications to this certification only when reasonably necessary to achieve the water quality objectives or protect the beneficial uses of water in the Bay-Delta Estuary.
5. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to a suspected violation of any condition of this certification, the SWRCB may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this certification, the SWRCB may add to or modify the conditions of this certification as appropriate to ensure compliance.
6. Hat Creek 1 & 2 shall be operated as a run-of-river project and shall not be operated in a peaking mode.
7. In order to protect the beneficial use designations identified in the Basin Plan, the operation of the project shall not add the following substances to surface waters:
  - Taste or odor-producing substances to impart undesirable tastes to domestic and municipal water supplies or odors to fish flesh or other edible products of aquatic origin or to cause nuisance or adversely affect beneficial uses;
  - Perceptible floating material including, but not limited to, solids, liquids, foams or scums which could result in degradation of water quality;
  - Suspended or settleable material in concentrations that cause a nuisance or adversely affect beneficial uses;

- Oil, greases, waxes or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water;
  - Toxic pollutants present in the water column, sediments, or biota in concentrations that adversely affect beneficial uses; that produce detrimental response in human, plant, animal, or aquatic life; or that bioaccumulate in aquatic resources at levels which are harmful to human health; and,
  - Coliform organisms attributable to animal or human wastes.
8. PG&E proposes to terminate cattle grazing on project lands. If PG&E does not terminate, or re-establishes cattle grazing on Hat 1 & 2 lands where there is the potential of animal coliform or sediment being discharged into Hat Creek, PG&E shall develop a grazing management and animal fecal coliform monitoring program in consultation with the Regional Water Quality Control Board, the Department of Fish and Game, U.S. Fish and Wildlife Service and representatives of the Pit River Tribe and approved by the Chief of the Division of Water Rights. The program shall describe actions to be taken by PG&E to meet Basin Plan objectives regarding sediment and animal induced non-point source pollution. The plan shall include but not be limited to the development of appropriate fencing or other grazing practices to restrict livestock access to the bed and banks of Hat Creek. Once the program is approved, PG&E shall implement the program as soon as practicable.

Notwithstanding the grazing management and coliform monitoring program identified above, PG&E shall, in consultation with the Department of Fish and Game, U.S. Fish and Wildlife Service and representatives of the Pit River Tribe, develop and implement an erosion and sediment control plan. The plan shall include adaptive management actions that address the control of erosion and sediment entering into Hat Creek or its tributaries. The plan will address the maintenance or remediation of project features including but not limited to project roads, the Hat 2 flume, potential dredging of Cassel Pond and any other project operation including project provided recreation that could contribute to erosion and or sediment input into Hat Creek. The plan shall consider the control of muskrat populations within the project boundaries and shall also consider the effects of project induced sediment on populations of the Shasta Crayfish. The plan shall include a stream sediment flushing program to be coordinated if feasible with normal project maintenance operations. The plan shall be approved by the Chief of the Division of Water Rights. PG&E shall implement any erosion or sediment control programs as soon as practicable.

9. During operation of the Hat Creek 1 facilities authorized by this certification, the Licensee shall maintain a continuous minimum instream flow of 8 cubic feet per second (cfs) in the Hat Creek 1 diverted reach below the Cassel Diversion Dam with the following exception:

Written consent from the Chief of the Division of Water Rights and the Director of the Department of Fish and Game will allow the flows in this condition to be temporarily

modified, during and to the extent required: 1) for performance of required maintenance of the dams, their outlet facilities, and minimum flow release facilities; 2) by operating emergencies beyond the control of the Licensee; and 3) in the interest of public safety. The Licensee shall notify the Chief of the Division of Water Rights and the Director of the Department of Fish and Game at least five working days prior to any such departure, except during emergencies.

10. During operation of the Hat Creek 2 facilities authorized by this certification, the Licensee shall maintain a continuous minimum instream flow of 8 cubic feet per second (cfs) immediately below the Baum Lake Dam and a minimum continuous instream flow of 43 cfs in the Hat Creek 2 reach as measured at the Joeger Diversion Dam.

Written consent from the Chief of the Division of Water Rights and the Director of the Department of Fish and Game will allow the flows in this condition to be temporarily modified, during and to the extent required: 1) for performance of required maintenance of the dams, their outlet facilities, and minimum flow release facilities; 2) by operating emergencies beyond the control of the Licensee; and 3) in the interest of public safety. The Licensee shall notify the Chief of the Division of Water Rights and the Director of the Department of Fish and Game at least five working days prior to any such departure, except during emergencies.

11. Within one year of receiving a new FERC license for the Hat Creek 1 and 2 Project, PG&E shall, in consultation with the Department of Fish and Game and the U.S. Fish and Wildlife Service and the U.S. Geologic Survey, develop a minimum instream flow gaging and monitoring program. The purpose of the gaging program is provide reasonable assurance that the minimum instream flows required in this certification are being released. The plan shall be submitted to the Chief of the Division of Water Rights for approval. PG&E shall implement the plan as soon as practicable.
12. PG&E shall develop and implement a fish monitoring program in consultation with the Department of Fish and Game and the U.S. Fish and Wildlife Service and the Pit River Tribe. The program shall be based on previously used methods by PG&E. The monitoring program shall establish a monitoring schedule and a schedule for submitting a monitoring report that summarizes the results of the fish population monitoring and any recommendations to protect or enhance the fishery within the Hat Creek 1 & 2 Project boundaries. The final report shall be submitted to the Chief of the Division of Water Rights as well as the consulted agencies.
13. If PG&E proposes to use herbicides to control star thistle or other noxious weeds at locations where residues of the herbicide may enter Hat Creek either directly or by runoff, PG&E shall develop a herbicide use plan in consultation with the Department of Fish and Game and the U.S. Fish and Wildlife Service. The plan must be approved by the Chief of the Division of Water Rights prior to the application of herbicides for noxious weed control.

14. This certification does not authorize any act that results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this certification or water rights held by the Licensee, the Licensee shall obtain authorization for the take prior to any construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this certification.

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Celeste Gant  
Executive Director

Date: August 21, 2002