



## COUNTY OF SONOMA

575 ADMINISTRATION  
DRIVE, ROOM 102A  
SANTA ROSA, CA 95403

### SUMMARY REPORT

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**Agenda Date:** 7/22/2025

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**To:** Sonoma County Board of Supervisors, Sonoma County Water Agency Board of Directors

**Department or Agency Name(s):** Sonoma County Water Agency

**Staff Name and Phone Number:** Grant Davis, 707-547-1900

**Vote Requirement:** Majority

**Supervisory District(s):** All

**Title:**

Potter Valley Project

**Recommended Action:**

- A) Receive update on Potter Valley Project
- B) Approve and authorize the Chair (on behalf of County and Sonoma Water) to execute the Water Diversion Agreement for New Eel-Russian Facility in substantially the form presented and in a form approved by County Counsel
- C) Authorize Sonoma Water's General Manager to enter into agreements with the Eel-Russian Project Authority regarding staffing and technical support and other work in a form approved by County Counsel

**Executive Summary:**

The Potter Valley Project (PVP), currently owned and operated by Pacific Gas & Electric Company (PG&E), is a hydroelectric project that has provided an inter-basin water transfer to the Russian River watershed for more than 100 years. Ongoing water diversions into the Russian River through the PVP are vital to the health of the Russian River watershed, to ongoing water supply, and to Russian River fisheries. PG&E announced in 2019 that it would not relicense the project and would proceed to surrender and decommission the project, including ceasing water diversions. In May of 2023, PG&E announced it would consider alternatives for decommissioning if it received a viable proposal by the end of July 2023. The Mendocino County Inland Water and Power Commission (MCIWPC), the Round Valley Indian Tribes (RVIT), and the Sonoma County Water Agency (Sonoma Water) submitted a proposal to advance a regional solution for preserving flows in the Russian River and improving Eel River fisheries. Additional parties - California Department of Fish and Wildlife (CDFW), CalTrout, County of Humboldt, and Trout Unlimited - joined in an amended Two-Basin proposal. The proposal called for construction of a new facility to allow continued diversion to the Russian River basin pursuant to an agreement among the parties, and for the formation of a new regional entity.

In December 2023, Sonoma Water, the County of Sonoma, and MCIWPC entered into a joint exercise of powers agreement (JPA) to form the Eel-Russian Project Authority (ERPA) - the entity that will design, permit, construct, and own and operate the new diversion facility. RVIT has a seat on the Board of Directors. Sonoma Water is designated as the principal office and serves as the Secretary for the Authority. The Sonoma County Auditor-Controller-Treasurer-Tax Collector is designated as ERPA's Treasurer and Auditor. The joint exercise of powers agreement also authorizes the Authority to designate an employee of a member agency to serve as Executive Director.

Earlier this year, the coalition members executed a Memorandum of Understanding to Advance a Water Diversion Agreement for the New Eel-Russian Facility (MOU). The MOU provides a framework and states essential terms that the coalition proposes to include in a Water Diversion Agreement in order to avoid conflict over water resources, promote timely Eel River restoration, and achieve the co-equal goals of the Two-Basin Solution.

The parties have now negotiated the Water Diversion Agreement (WDA) which is before the Board of Supervisors and the Sonoma Water Board of Directors today. The WDA provides the ERPA with the right to divert water from the Eel River to the Russian River, pursuant to specified diversion rules designed to ensure that the diversions protect fish and the Eel River ecosystem, for a 30-year term (extendable by 20 more years upon meeting certain criteria).

This item provides an update on the Potter Valley Project, seeks approval of the Water Diversion Agreement for New Eel-Russian Facility, and seeks authority for Sonoma Water's General Manager to enter into agreements with regarding staffing, technical support and other work needed to support ERPA's implementation of the Two-Basin Solution.

**Discussion:**

**Background:**

The Potter Valley Project, owned and operated by PG&E, has been diverting water from the Eel River into the Russian River watershed for more than a century. The PVP has played a crucial role in supplying water for agriculture, municipalities, rural residents, and instream flows to benefit aquatic ecosystems and threatened salmonids in Mendocino and Sonoma counties. For decades, an average of 150,000 acre-feet (AF) of water annually was transferred from the Eel River to the Russian River watershed, and during this period hundreds of water rights permits were issued by the state, based on this water being available. Between 2007 and 2021, the transfer dropped to an average of about 60,000 AF per year, due to changes in PG&E's license and operational changes it made. Historically, PVP diversions account for about 3% of the Eel River flow. Since 2021, diversions have further declined to a range of 30,000-40,000 acre-feet/year due to failing infrastructure and seismic risks associated with Scott Dam.

Built in 1908, the PVP includes Lake Pillsbury, a 77,000 acre-foot storage reservoir impounded by Scott Dam in Lake County. The Project also includes the Van Arsdale Reservoir, which is a storage reservoir impounded by the Cape Horn Dam, and a tunnel and penstocks that divert Eel River water to the project's 9.4-megawatt hydroelectric power facility, located on the East Branch Russian River in Mendocino County. From there, the water flows into the East Branch of the Russian River in Potter Valley and then into Lake Mendocino, providing for the needs of water rights holders along the Russian River in Mendocino and Sonoma counties. This diverted water, coupled with the strategic timing of its release, is vital to all users of Russian River water. Based on records from 1911-2017, without the Potter Valley Diversion, Lake Mendocino would have gone dry 56 out of 108 years (unless intervening measures were taken). A study conducted by economic consultant, Dr. Robert Eyler, Economic Forensics and Analytics, found that even a 10% reduction in water available to agricultural, industrial, and municipal users in Sonoma County would cause tens of millions of dollars of economic damage per year.

The PVP is licensed by the Federal Energy Regulatory Commission (FERC). In 2019, PG&E announced that it would not proceed with relicensing the project and would instead enter into a license surrender and

decommissioning process. In April 2022, the project's FERC operating license expired, and the project is currently operating at reduced capacity under an annual license.

PG&E stated that its license surrender application would propose to remove Scott and Cape Horn Dams and end any operations, including water diversions to the Russian River, unless it received a complete and credible proposal by July 2023. Complying with this deadline, Mendocino County Inland Water and Power Commission (MCIWPC), Sonoma Water, and the Round Valley Indian Tribes (RVIT) submitted a proposal to PG&E to advance a regional solution to preserve water diversions into the Russian River watershed through the PVP and provide effective and timely fish migration past the diversion facilities into the upper Eel River watershed (generally referred to as the Two-Basin Solution). Thanks to a process led by California Department of Fish and Wildlife Director Chuck Bonham and Round Valley Indian Tribes, this initial proposal was revised in November 2023 to add four additional key stakeholders: California Department of Fish and Wildlife (CDFW), CalTrout, County of Humboldt, and Trout Unlimited.

The revised proposal established principles to guide the coalition's negotiation of terms and conditions related to construction of a water diversion facility at the Cape Horn dam site. Such a facility would be designed and constructed to ensure reliable water supplies to the Russian River and protect and restore degraded Eel River fisheries. The essential principle is that PG&E would remove the project dams, and a regional entity would construct a replacement facility at the Cape Horn dam site in a manner that does not delay PG&E's work. In addition, the revised proposal required the coalition to focus on creating regional outcomes that benefit the Russian River interests, Eel River interests, and tribal interests.

#### The Proposal: New Eel-Russian Facility and the Eel-Russian Project Authority

The New Eel-Russian Facility (NERF or facility) proposal included the creation of a regional entity to engage in discussions with PG&E for inclusion of the new facility in its license surrender application and to enter into necessary agreements with PG&E and other parties. The NERF would allow for ongoing water diversions through the PVP's tunnel between the Eel River and Russian River, while allowing for upstream and downstream fish migration to support larger efforts aimed at achieving naturally reproducing, self-sustaining and harvestable native anadromous fish populations. PG&E agreed to include the facility (through FERC's non-project use of project lands provisions) in its license surrender application which would allow the regional entity to preserve some of the water diversion components near Cape Horn Dam (which PG&E plans to remove) and obtain FERC approval for the regional entity to construct the New Eel-Russian Facility.

In the absence of this proposal, PG&E's decommissioning plan for the PVP would include removing facilities that allow for critical water diversions to the Russian River. The proposal is also important to assure that removal or modification of facilities allow for upstream and downstream fish migration at Cape Horn Dam, consistent with goals for a sustainable and harvestable Eel River fishery.

To meet the proposal's December 31, 2023 deadline for regional entity formation, the Eel-Russian Project Authority (ERPA or Authority) was formed in December 2023 through a joint exercise of powers agreement between Sonoma Water, the County of Sonoma, and MCIWPC. RVIT has a seat on the five-member Board of Directors, which comprises two representatives from MCIWPC, one from Sonoma Water, one from the County of Sonoma, and one from RVIT. Supervisor David Rabbitt serves as ERPA's Chair as Sonoma Water's representative; Supervisor James Gore serves as the County's representative.

On March 19, 2024, the ERPA Board, with input from a technical advisory group consisting of public agency staff and non-governmental organization representatives, selected the preferred NERF design to be included in PG&E's license surrender application. The proposed facility includes new fish screens, a mechanical pump station and retaining wall, and a conduit to convey water to a reconfigured tunnel inlet. The pump station will operate seasonally during high flow in the Eel River (during wet seasons - fall, winter and spring), and will convey water into the existing diversion tunnel, which has a capacity of approximately 300 cubic feet per second (2,244 gallons per second, equivalent to about 595 acre-feet per day). Computer modeling indicates that under typical wet-season conditions, the facility can reliably divert up to 50,000 acre-feet/ year. Depending on rainfall levels and Lake Mendocino storage capacity, diversion volumes up to 30,000 acre-feet/year are anticipated. The total construction cost of the new diversion facility is preliminarily estimated at \$50 million.

On January 31, 2025, PG&E released its Final Draft License Surrender Application, including the proposed NERF design, for public review. (The document can be viewed here:

[<https://www.pottervalleysurrenderproceeding.com/>](https://www.pottervalleysurrenderproceeding.com/) [<http://www.pottervalleysurrenderproceeding.com/>](http://www.pottervalleysurrenderproceeding.com/)

.) This is a major milestone in efforts to advance a regional solution for preserving flows in the Russian River and improving Eel River fisheries. PG&E will be filing the License Surrender Application with FERC by July 29, 2025.

#### Water Diversion Agreement for the New Eel-Russian Facility

On February 13, 2025, coalition members executed a Memorandum of Understanding to Advance a Water Diversion Agreement for the New Eel-Russian Facility (MOU) (Attachment 1). The MOU provides a framework and states essential terms that the coalition proposes to include in a Water Diversion Agreement in order to avoid conflict over water resources, promote timely Eel River restoration and achieve the co-equal goals of the Two-Basin Solution: (1) improving fish migration and habitat on the Eel River with the objective of achieving naturally reproducing, self-sustaining, and harvestable native anadromous fish populations; and (2) maintaining material and continued water diversion from the Eel River through the existing tunnel to the Russian River to support water supply reliability, fisheries, and water quality in the Russian River Basin. At the signing ceremony, CDFW Director Bonham committed \$18 million toward this partnership, directing \$9 million to the design and capital costs of modernizing the old diversion and building the NERF, and a parallel \$9 million as initial support for the MOU's envisioned Eel River Restoration Fund. The MOU provides that the parties would work together to finalize a Water Diversion Agreement before July 29, 2025, and the CDFW funding is tied to executing this agreement.

The parties have now negotiated the Water Diversion Agreement for the New Eel-Russian Facility (Attachment 2). The Water Diversion Agreement (WDA) provides ERPA with the right to divert water from the Eel River to the Russian River, pursuant to specified diversion rules designed to ensure that the diversions protect fish and the Eel River ecosystem, for a 30-year term (extendable by 20 more years upon meeting certain criteria). Key provisions include:

Support for PG&E's License Surrender Application and NERF: The parties agree to support the elements of the License Surrender Application to (i) decommission Scott and Cape Horn Dams, and (ii) seek authority for ERPA to construct NERF as a Non-Project Use of Project lands. The parties further agree to support ERPA's applying for and securing regulatory approvals necessary for construction, operation, and maintenance of NERF from regulators other than FERC.

**PG&E's Water Rights:** The WDA proposes that PG&E transfer all of its project water rights to RVIT; RVIT would then enter into a lease with ERPA on terms consistent with the WDA to allow ERPA to divert water to the Russian River basin pursuant to the agreed upon diversion rules specified in Appendix 3. All other flow available under the project water rights would be dedicated to instream beneficial uses and tribal cultural uses in the Eel River. (Because PG&E has been focused on completing its License Surrender Application, the parties have not yet negotiated an asset transfer agreement with PG&E. Therefore, the WDA include a range of mechanisms to preserve these bargained-for benefits related to project water rights.)

**Lease Payment:** In exchange for the right to divert water, ERPA will make an annual lease payment to the Round Valley Indian Tribes consisting of two components: (1) a use charge of \$1,000,000 per year, adjusted annually for inflation, to RVIT, in consideration for the use of RVIT's water rights for the operation of NERF; and (2) a restoration payment of \$750,000 per year, adjusted annually for inflation, to an Eel River Restoration Fund, in recognition of RVIT's forbearing to assert federally reserved water and fishing rights against ERPA during the term of the lease. The amount would increase to \$1,000,000 per year if ERPA is able to secure 100% of the construction cost of NERF from outside sources (i.e., not through bonding or use charges). Payments would start after NERF begins operations.

**Diversion Rules, Performance Metrics, and Adaptive Management:** The rules for the diversion of water from the Eel River to the Russian River (Diversion Rules) are intended to ensure that ERPA operates the NERF in a manner that protects Eel River biological resources and ecological processes. Diversion Rules were developed for four seasonal periods based on the natural hydrograph and life history of Eel River salmon, steelhead, and lamprey. The Diversion Rules define seasonal Eel River flow thresholds. The NERF cannot divert water unless flow in the Eel River is higher than these thresholds - termed flow floors in the WDA. In addition to protection provided by the flow floors, the Diversion Rules also contain maximum seasonal diversion rates that allow no more than 20-30% of Eel River flow upstream of NERF to be diverted to the Russian River. Having NERF diversions represent a specified proportion of the flow allows diversions to follow the natural patterns of flow (the hydrograph) in the undammed Eel River. Because the maximum capacity of the NERF diversion is 300 cubic feet per second, when flows in the Eel River are high, and the diversion is operating at maximum capacity, the proportion of Eel River flow diverted through the NERF will be less than 20-30%.

Monitoring will be conducted to ensure compliance with the Diversion Rules and that the resulting Eel River flow regime protects intended ecological objectives and physical habitat downstream of the NERF. Monitoring metrics were selected to link operations to ecological responses while considering confounding factors such as the effect of sediments released from dam removal and natural variability in weather and hydrology that may affect fish populations. The WDA includes metrics to determine Diversion Rule compliance (flow) and ecological effectiveness (physical habitat, fish passage, water temperature) that will be directly influenced by NERF operations. Annual reports and more extensive 5-year reviews will be evaluated by a Technical Advisory Committee. Potential adjustments to the Diversion Rules will be considered if the monitoring results demonstrate that NERF operations are having a negative effect on Eel River fisheries recovery.□

**Initial Term and Renewal Term:** The WDA will have an initial term of 30 years, starting on the date NERF begins operation. The agreement proposes that NERF will begin operations after PG&E has removed Cape Horn Dam, ERPA has constructed NERF, and FERC has authorized the removal of the associated lands and facilities from its jurisdiction. The agreement has a renewal term for an additional 20 years, if five conditions are met: (1) the

Eel River Restoration Fund has received at least \$25 million in funds, not including the annual restoration payment; (2) ERPA substantially complies with the WDA's payment and water diversion provisions; (3) ERPA demonstrates that continued diversion is not expected to materially adversely affect recovery of Eel River fisheries during the renewal term; (4) ERPA demonstrates that its members and other water users in the Russian River basin have made substantial efforts during the initial term to reduce or eliminate reliance on diversion from the Eel River Basin, anticipating that the diversion from the Eel River basin will terminate if subsequent renewal does not occur; and (5) ERPA demonstrates continued need for diversion from the Eel River to support water supply reliability, fisheries, and water quality in the Russian River basin. In addition, the lease payment in the renewal term would increase from the amount in Year 30 by (i) 50% of the savings from retirement of any bond that ERPA used to finance the construction of NERF, or (ii) 15%, whichever is greater.

After the initial 30-year term and renewal 20-year term, either operations of NERF will terminate and NERF will be removed by ERPA, or the parties may decide to amend the agreement or negotiate a successor agreement for continued operation.

**Funding Goals:** The WDA sets forth goals for raising federal, state, and private funds to support the Two-Basin Solution. These funding goals support shared objectives among the parties but are not required elements for renewal of the agreement. During the initial term, the parties will seek to raise \$50 million for the design, permitting, and construction of NERF (this amount does not include the bond financing obtained by ERPA, or the use charges paid by water users to ERPA, Sonoma Water, or MCIWPC). Additionally, the parties will undertake to raise \$50 million to contribute to the Eel River Restoration Fund for the restoration of the Eel River fisheries (this amount includes the funds paid by ERPA through the annual restoration payment). During the renewal term, the parties would jointly undertake to raise additional funds for continued implementation of the Two-Basin Solution: \$100 million for Eel River Restoration Fund, and \$100 million for projects to enhance water supply reliability in the Russian River basin.

**Dispute Resolution and Enforcement:** The WDA provides for a range of dispute resolution procedures including meet-and-confer, mediation, arbitration, and enforcement by a court or a State Water Board. The agreement lists certain provisions that are subject to mandatory arbitration, as well as the ability to seek a court injunction for failure to comply with the diversion schedule. The WDA also states that, under Government Code section 11415.60, RVIT and ERPA will propose a stipulation to the State Water Board, establishing procedures and prompt remedies for the enforcement of the diversion schedule and related terms of the project water rights. Finally, the agreement includes a limited waiver of sovereign immunity by RVIT for purposes of the enforcing the agreement, including the obligations related to the lease of water rights.

To meet the MOU's July 29, 2025 deadline to finalize the WDA, each party is working through its own process for formal approval of the WDA. As of the time of this writing, MCIWPC will be considering approval on July 18, ERPA on July 21, and Humboldt and RVIT on July 22 (same date as your Board). Staff will provide an oral update at the July 22 meeting.

#### Next Steps - ERPA Work

To date, ERPA has not had any of its own staff. Rather, Sonoma Water and MCIWPC staff and counsel have been working together within existing resources on necessary administrative and other activities. Once the anticipated filing of PG&E's License Surrender Application with the inclusion of the NERF occurs, ERPA must undertake technical and environmental work, as well as develop a business plan and continue public

education, outreach, and engagement efforts in support of the Two-Basin Solution and NERF.

Pursuant to the joint exercise of powers agreement and ERPA Board of Directors action, Sonoma Water is designated as the principal office and serves as the Secretary for the Authority. The Sonoma County Auditor-Controller-Treasurer-Tax Collector is designated as ERPA's Treasurer and Auditor. The joint exercise of powers agreement also authorizes the Authority to designate an employee of a member agency to serve as Executive Director. A joint powers authority may also contract with member agencies to provide staffing or other services, and member agencies may be reimbursed and receive payment for such services.

To coordinate ERPA's necessary work and have an official representative to speak on its behalf, at its July 21, 2025 Board of Directors meeting, it is anticipated that ERPA will designate Sonoma Water staff- to act as its Executive Director, subject to concurrence of Sonoma Water's Board of Directors. With the myriad actions that will be required by ERPA, it is essential that someone act in the position of Executive Director. To date, Sonoma Water staff have been attending public meetings, coordinating with PG&E and the coalition, and working with technical consultants all in furtherance of the Two-Basin Solution and ERPA's interests without the ability to directly represent ERPA. Sonoma Water Management is supportive of a designated Sonoma Water staff member taking on this critical role. The designated staff member would remain a Sonoma Water employee. This Board item seeks authority for Sonoma Water's General Manager to reach agreement with ERPA on a Sonoma Water staff designation as Executive Director and on eventual reimbursement and funding support for this staffing function.

It is also anticipated that ERPA will have taken action on July 21 to authorize Sonoma Water to perform services and engage consultants on ERPA's behalf to perform critical work in support of ERPA and NERF. In particular, Sonoma Water has been leading outreach and communication efforts (Attachments 3 and 4; ERPA fact sheets), overseeing NERF design work, developing NERF environmental compliance and permitting scopes of work, and investigating ERPA business models. Staff will provide an oral update on ERPA's action at the July 22 meeting. This Board item seeks authority for Sonoma Water's General Manager to reach agreements with ERPA to carry out this work on ERPA's behalf including provisions on reimbursement and payment for services.

As noted above, CDFW has committed \$9 million to ERPA for NERF design and capital costs. With the execution of the WDA, staff is hopeful that this funding will be available to ERPA this fall. Other state and federal grant funds are also being pursued. ERPA member agency staff have been actively working to develop a financial plan that includes reasonable assumptions about construction, maintenance, and operating costs and how these costs will be shared by beneficiaries of the diversion.

**Strategic Plan:**

N/A

**Racial Equity:**

**Was this item identified as an opportunity to apply the Racial Equity Toolkit?**

No

**Prior Board Actions:**

December 5, 2023: Board of Supervisors and Sonoma Water Board of Directors approved the Joint Exercise of

Powers Agreement between the Mendocino County Inland Water and Power Commission, County of Sonoma, and Sonoma County Water Agency, and creating the Eel-Russian Project Authority.

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY25-26 Adopted</b>	<b>FY26-27 Projected</b>	<b>FY27-28 Projected</b>
Budgeted Expenses			
Additional Appropriation Requested			
<b>Total Expenditures</b>			
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
General Fund Contingencies			
<b>Total Sources</b>			

**Narrative Explanation of Fiscal Impacts:**

There is no immediate fiscal impact from approval and execution of the Water Diversion Agreement. Sonoma Water staff have already been performing work related to the Two Basin Solution and in support of ERPA. This work will continue under the agreements with ERPA proposed by this item, including reimbursement and payment of services by ERPA once it receives the funding committed by the California Department of Fish and Wildlife. Sonoma Water will return to the Board for specific consultant agreements to implement this work as appropriate.

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>

**Narrative Explanation of Staffing Impacts (If Required):**

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**Attachments:**

Attachment 1: Memorandum of Understanding to Advance a Water Diversion Agreement for the New Eel-Russian Facility

Attachment 2: Water Diversion Agreement

Attachment 3: Fact Sheet - Eel-Russian Project Authority Project Overview

Attachment 4: Fact Sheet - Eel-Russian Project Authority Water Supply

Attachment 5: PowerPoint Presentation



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**Agenda Date:** 7/22/2025

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**Related Items “On File” with the Clerk of the Board:**

None.