



COUNTY OF SONOMA

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

SUMMARY REPORT

Agenda Date: 12/5/2023

To: Board of Supervisors, Sonoma County Water Agency Board of Directors
Department or Agency Name(s): Board of Supervisors, Sonoma County Water Agency
Staff Name and Phone Number: Grant Davis 547-1911 / Pam Jeane 521-1864
Vote Requirement: Majority
Supervisorial District(s): Countywide

Title:

Potter Valley Project Update and Formation of the Eel-Russian Project Authority

Recommended Action:

- A) Receive update on the Potter Valley Project license surrender process.
- B) Approve, and authorize the Chair to execute, 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.
- C) Request Chair appoint a representative from Sonoma Water's Board of Directors and a representative from the County Board of Supervisors to serve on the Eel-Russian Project Authority Board of Directors and appoint an alternate for each.

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 interbasin 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 Power and Water 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. The proposal calls for the formation of a new regional entity by the end of 2023. To meet that deadline, the entities have prepared a joint exercise of powers agreement (JPA) to form the Eel-Russian Project Authority.

This item provides an update on the Potter Valley Project and seeks approval of the JPA.

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.

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 the lack of diverted water would cause tens of millions of dollars of economic damage per year in the Russian River basin.

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 an even 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.

The Proposal

The New Eel-Russian Facility (facility) proposal includes 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. This proposed facility 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. The proposal seeks PG&E to include provisions in its final license surrender application that 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.

One element of the proposal requires receiving support for the proposal from National Marine Fisheries Service and California Department of Fish and Wildlife, and from representative governmental and non-governmental entities from the Russian and Eel River basins. To that end, the original project proponents have been meeting with key stakeholders. Thanks to a process led by California Department of Fish and Wildlife Director, Chuck Bonham and Round Valley Indian Tribes, four additional key stakeholders joined the original proponents in revising this proposal: California Department of Fish and Wildlife, CalTrout, Humboldt County and Trout Unlimited. The revised proposal was submitted to PG&E on November 7, 2023 (Attachment 1).

The revised proposal establishes principles that will guide the coalition to negotiate 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. The coalition intends to negotiate a License Surrender Agreement stating these principles as detailed terms. The coalition intends to reach such an agreement by November 2024, so that PG&E's License Surrender Application for the project as a whole includes agreed-to terms. PG&E will file that application with FERC in January 2025, formally beginning the hearing on license surrender for this project.

In addition, the revised proposal requires the coalition to focus on creating regional outcomes that benefit the Russian River interests, Eel River interests and tribal interests. The specifics remain to be determined, but the outcomes could include, among other issues, seeking to ensure that PG&E's plan provides for proper disposition of sediment from Lake Pillsbury that is released by Scott Dam's removal; ensuring PG&E respectfully protects tribal cultural resources; and ensuring that PG&E's plan provides adequate restoration of the Scott Dam and Cape Horn Dam sites.

On November 17, 2023, PG&E released its initial draft License Surrender Application which includes several measures proposed by the coalition. The draft can be viewed here: <https://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. Comments on this initial draft are due to PG&E on December 22, 2023. PG&E will file the final draft surrender application with FERC in June 2024, followed by another round of comments. The final application must be submitted to FERC by January 29, 2025.

Regional Entity - Eel-Russian Project Authority

To meet the proposal's December 31, 2023, deadline for regional entity formation, the original proponents have prepared a joint exercise of powers agreement (JPA) to form the Eel-Russian Project Authority (Authority) (Attachment 2). Once formed, this entity will have the legal standing to negotiate with PG&E for inclusion of the New Eel-Russian Facility in its license surrender application, to enter into necessary agreements with PG&E and other parties, and to implement the proposed Eel-Russian Facility project.

The initial member agencies (signatories to the JPA) would be: MCIWPC, Sonoma Water, and County of Sonoma. RVIT would have a seat on the five-member Board of Directors which would be comprised of two representatives from MCIWPC, one from Sonoma Water, one from the County of Sonoma, and one from RVIT.

The JPA includes a provision to add additional members.

Each director has one vote and the vote of a majority of a quorum is sufficient to carry an action; provided (1) that all approved actions of the Board of Directors must be supported by at least one representative from each from (a) MCIWPC and (b) either Sonoma Water or the County of Sonoma; and (2) that any direct financial or legal obligation of a member agency to the Authority shall require approval of the Director appointed by that member agency.

At this initial stage, it is not anticipated that the Authority will have any of its own staff. Rather, member agency staff and counsel will work together within existing resources on necessary administrative and other activities. As required by California law, the JPA designates the Sonoma County Auditor-Controller-Treasurer-Tax Collector as Treasurer and Auditor.

Sonoma Water is tasked with convening the first meeting, and Sonoma Water's offices will serve as the Authority's initial principal office. These designations may be changed in the future.

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. State and federal grant funds are also being pursued.

Outreach/Engagement

Since 2017, with the creation of Congressman Huffman's Ad Hoc Committee, a diverse array of stakeholders have been actively engaged in the broader PVP process.

More recently, in 2022, through funding from the Department of Water Resources, Kearns & West (on behalf of Sonoma Water) conducted 38 interviews with a total of 73 individuals throughout the Russian River watershed. The interviewees represented county and city governments, water providers, agricultural interests, recreation interests, business groups, environmental groups, state and federal regulatory agencies, and resource conservation districts.

A separate process gathered input from Tribes in Sonoma and Mendocino counties. This stakeholder assessment led to the creation of the Russian River Water Forum, which has been meeting since May 2023. The forum and includes stakeholders representing water users, tribes, the environment and agriculture in the Eel and Russian River basins. <https://russianriverwaterforum.org/>. The proponents presented the proposal to the forum Planning Group at its August meeting.

Proponents issued a press release in early August, after submitting the proposal to PG&E. Articles were published in The Press Democrat, Eureka Times Standard, the Ukiah Daily Journal, Mendocino's Redheaded Blackbelt and MendoFever blogs. The proponents also contacted multiple stakeholders, including federal and state elected officials, tribal representatives, water suppliers, agriculture, environmental and fishery organizations, and Humboldt and Lake county representatives.

Since the submission of the original proposal, presentations have been made to multiple organizations and city councils.

Agenda Date: 12/5/2023

Following the submission of the revised proposal in November, the expanded group of proponents again contacted stakeholders. The original and revised proposal and additional information is available at <https://www.sonomawater.org/PVP> <<https://www.sonomawater.org/RegionalPartnership>>.

Because project status and efforts are moving quickly, staff will provide any appropriate updates at the Board meeting.

Strategic Plan:

N/A

Racial Equity:

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

No

Prior Board Actions:

None.

FISCAL SUMMARY

Expenditures	FY23-24 Adopted	FY24-25 Projected	FY25-26 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
General Fund Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

Initial cost estimates of participation are under development and expected in the March-April 2024 timeframe.

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

Agenda Date: 12/5/2023

Narrative Explanation of Staffing Impacts (If Required):

None.

Attachments:

- Attachment 1: Revised Proposal for Pacific Gas & Electric Company, Draft License Surrender Application, Potter Valley Project (P-77), dated November 7, 2023
- Attachment 2: Joint Exercise of Powers Agreement creating the Eel-Russian Facility Authority
- Attachment 3: PowerPoint Presentation

Related Items "On File" with the Clerk of the Board:

None.