



## Legislation Text

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**File #:** 2019-0977, **Version:** 1

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**To:** Board of Directors of Sonoma County Water Agency  
**Department or Agency Name(s):** Sonoma County Water Agency  
**Staff Name and Phone Number:** Grant Davis (707) 547-1927  
**Vote Requirement:** Majority  
**Supervisory District(s):** All

**Title:**

Potter Valley Project Amended Planning Agreement

**Recommended Actions:**

- A) Authorize the Chair to execute the Amended Planning Agreement to Undertake Feasibility Study of a Potential Licensing Proposal for the Potter Valley Project with Mendocino County Inland Water & Power Commission and California Trout, Inc. in support of a Two-Basin Solution.
- B) Authorize the Chair to execute future amendments to the Amended Planning Agreement to add additional parties who are willing to work toward a Two-Basin Solution and agree to the terms of the Amended Planning Agreement.

**Executive Summary:**

Pacific Gas & Electric's (PG&E) Potter Valley Project (PVP or Project) is a hydroelectric facility that diverts Eel River water through a tunnel to a powerhouse in the Russian River watershed. After producing power, water is discharged from the powerhouse to the East Fork of the Russian River and then flows into Lake Mendocino. The current license for the Project issued by the Federal Energy Regulatory Commission (FERC) will expire in April 2022. On April 6, 2017, PG&E began the relicensing process by filing a Notice of Intent (NOI) and Pre-Application Document (PAD).

In 2017, Congressman Jared Huffman convened an ad hoc committee of interested parties to work toward a Two-Basin Solution for the future of the Project that addresses issues and concerns in both the Eel River and Russian River watersheds. The County of Sonoma and Sonoma County Water Agency (Sonoma Water) have been participating in the ad hoc committee convened by Congressman Huffman, and have been working with regional stakeholders, including PG&E, to plan for the future of the Project that protects fisheries and water supply in both the Eel and Russian River Watersheds.

On January 25, 2019, PG&E filed a Notice of Withdrawal of its Notice of Intent to file a new application with FERC, stating it would not seek a new license for the Project. On March 1, 2019, FERC issued a Notice Soliciting Applications for any party interested in filing a license application for a new license. Any party interested in seeking a new license must file an NOI and PAD by July 1, 2019. In order to meet this deadline and maintain options for a Two-Basin Basin solution, on May 14, 2019 your Board authorized the Chair to execute the Planning Agreement to Undertake Feasibility Study of a Potential Licensing Proposal for the Potter Valley Project with Mendocino County Inland Water & Power Commission and California Trout, Inc. (Planning Agreement), with the intent of jointly filing the Planning Agreement,

along with other required documents, by the July 1, 2019 deadline. All three parties have executed the Planning Agreement.

The Planning Agreement describes a set of shared objectives that the parties agree upon, such as water supply reliability and fisheries restoration, among others. The Planning Agreement also describes the feasibility study components needed to determine the best way to meet those shared objectives without predetermining the outcome. Finally, the Planning Agreement describes the milestones FERC could rely upon to ensure an application to acquire the license would be forthcoming, including completion of the required studies, formation of the entity who would hold the license for the Project, and the date the application would be filed. The Planning Agreement will allow the parties to prepare a feasibility study of a potential licensing proposal for the Project that meets a collaborative Two-Basin Solution for the future of the Project to support water resources and fisheries restoration in both watersheds.

On May 20, 2019, Congressman Huffman held an ad hoc committee meeting. At this meeting, Congressman Huffman and other ad hoc committee members requested that the Planning Agreement be amended to include his Proposed Goals and Principles for a Two-Basin Solution (Ad Hoc Principles) as an attachment, as well as incorporate the language of the Ad Hoc Principles' co-equal goals regarding fisheries restoration and water resources into the Planning Agreement's shared objectives. Staff recommend approval of the Amended Planning Agreement to continue the collaborative approach toward to a Two-Basin Solution.

#### **Discussion:**

The Potter Valley Project, owned by PG&E, was constructed on the main stem of the Eel River in Mendocino County between 1905 and 1922 to generate hydroelectric power. The operation of the Project serves as an inter-basin transfer of water from the upper main stem of the Eel River basin in Lake County to the Russian River basin in Mendocino County. The Potter Valley Project began operation in 1908 with the completion of Cape Horn Dam, and then in 1922 Scott Dam was completed, forming Lake Pillsbury.

The Potter Valley Project diverts water from the Eel River through a tunnel into Potter Valley, located in the Russian River Watershed, to produce hydroelectric power. After generating power, the water that is not used by Potter Valley Irrigation District and other water rights holders flows down the East Fork Russian River into Lake Mendocino. Since the completion of Coyote Valley Dam in 1959, the water released from the Potter Valley Project has been impounded and stored in Lake Mendocino, providing water supply for multiple beneficial uses along the Russian River in Mendocino and Sonoma Counties to the Pacific Ocean.

The current PVP license expires in 2022. On April 6, 2017, PG&E began the relicensing process by filing an NOI and PAD. In 2017, Congressman Jared Huffman convened an ad hoc committee of interested parties to work toward a Two-Basin Solution for the future of the Project that addresses issues and concerns in both the Eel River and Russian River watersheds. The County of Sonoma and Sonoma Water have been participating in the ad hoc committee convened by Congressman Huffman, and have been working with regional stakeholders, including PG&E, to plan for the future of the Project that protects fisheries and water supply in both the Eel and Russian River Watersheds. Much technical work around fish passage options and water supply reliability is nearly complete as a result of the ad hoc process. This work will provide a common understanding for all Project stakeholders on these two important issues that are key to a Two-Basin Solution.

On November 13, 2018, the Board of Supervisors and the Sonoma Water Board of Directors adopted a concurrent resolution affirming (1) the Boards' support for the concept of a Two-Basin Solution; (2) the Boards' support for a future

of the Potter Valley Project that protects fisheries and water supplies in both the Eel and Russian River watersheds; (3) that the Potter Valley Project is a project of regional importance, and in order to achieve a Two-Basin Solution regional stakeholders will need to work together to implement a regional solution; and (4) that the County of Sonoma and Sonoma Water are willing to work with regional partners and stakeholders in furtherance of a Two-Basin Solution.

On January 25, 2019, PG&E filed a Notice of Withdrawal of its Notice of Intent to file a new application with FERC, stating it would not seek a new license for the Project. On March 1, 2019, FERC issued a Notice Soliciting Applications for any party interested in filing a license application for a new license. Any party interested in seeking a new license must file an NOI and PAD by July 1, 2019.

#### Planning Agreement

Staff from Sonoma Water and County Counsel have held discussions with the Mendocino County Inland Water & Power Commission (IWPC) and California Trout, Inc. (Cal Trout) about the future of the Project, and the potential of forming a regional entity to acquire the license for the Project in order to achieve a Two-Basin Solution. Given the July 1, 2019 FERC deadline, these parties entered into the Planning Agreement to allow the entities to prepare a Feasibility Study of a potential licensing proposal for the Project that will materially benefit both basins by advancing the following Shared Objectives:

- Water supply reliability that will meet the needs of consumptive water users in both basins;
- Restoration of viable, anadromous fisheries in both river basins, including the option of volitional fish passage into the Eel River Basin upstream of Scott Dam.
- Reliance on best available science and engineering analyses as the basis for evaluating options for restoration, water delivery, and hydroelectric generation pursuant to a new license;
- Collaboration on funding;
- Active participation of tribes and other stakeholders who are willing to support the other Shared Objectives;
- Economic welfare of both basins;
- Continued hydroelectric generation; and
- Protecting tribal cultural, economic, and other interests in both the Eel and Russian River basins.

At Congressman Huffman's May 20, 2019 ad hoc committee meeting, Congressman Huffman and other ad hoc committee members requested that the Planning Agreement be amended to specifically attach the Ad Hoc Principles, as well as incorporate the language of the Ad Hoc Principles' co-equal goals:

- Improve fish passage and habitat on the Eel River sufficient to support recovery of naturally reproducing, self-sustaining and harvestable native anadromous fish populations including migratory access upstream and downstream at current project dam locations; and
- Minimize or avoid adverse impacts to water supply reliability, fisheries, water quality and recreation in the Russian River and Eel River basins

This language would replace the first two Shared Objectives listed above in the Amended Planning Agreement. All other

provisions of the Planning Agreement approved by your Board on May 14, 2019 remain unchanged.

These provisions include: By July 1, 2019, the partners to the planning agreement would file a package with FERC that would include:

- The Planning Agreement;
- Notice of Intent that will be conditioned upon the completion of the Feasibility Study, including the creation of a Regional Entity, which will be the license applicant;
- (Pre-Application Document incorporating applicable portions of PG&E's Pre-Application Document (dated April 2017) and adding appropriate supplementary materials; and
- Proposed schedule for completing the pre-filing phases of the licensing proceeding, and a proposed deadline.

By April 14, 2020, the Feasibility Study would evaluate options and make recommendations for a preferred option to satisfy the following elements:

- Regional Entity that will apply for a new license and propose to assume the new license if issued. The parties will evaluate various potential structures for the new entity;
- Project Plan, showing capital modifications as well as operations and maintenance requirements, for the delivery of water and hydroelectric power to advance the Shared Objectives;
- Fisheries Restoration Plan, showing measures the Regional Entity will implement to advance the Shared Objectives;
- Application Study Plan, showing those further studies necessary to develop a new license application, including associated consultation procedures and schedule; and
- Financial Plan, including the specific sources of initial funding and subsequent revenues to cover costs associated with completing the FERC process and future operation of the Project.

Sonoma Water, IWPC, and Cal Trout will each contribute \$100,000 toward funding the Feasibility Study. The Planning Agreement does not commit any entity to acquire or hold the license, and there are built in opportunities to exit the process if it does not appear an ultimate agreement can be reached.

Given the compressed timeline caused by PG&E's recent withdrawal from the relicensing process and the desire to continue to collaborate with members of Congressman Huffman's ad hoc committee, staff recommend approving the Amended Planning Agreement as the best option toward a Two-Basin Solution that ensures water supply reliability, continues and protects critical habitat and fisheries restoration (including Sonoma Water's and Sonoma Water's Contractors' significant investment in compliance with the 2008 Russian River Biological Opinion), provides some certainty in the FERC process, and continues the collaborative process given all of the diverse interests in the region.

#### Additional Parties

Recognizing that these efforts could be enhanced by increasing the number and diversity of stakeholders participating in the licensing process, the Planning Agreement includes the ability to add additional parties who are willing to work

toward a Two-Basin Solution meeting the Shared Objectives and agree to the terms of the Amended Planning Agreement. Members of Congressman Huffman's ad hoc committee, as well as other interested stakeholders, have expressed interest in becoming parties to the Amended Planning Agreement, possibly even before the July 1 FERC deadline. Due to this extremely short timeline, staff recommend authorizing the Chair to execute future amendments to add parties to the Amended Planning Agreement.

**Prior Board Actions:**

05-14-2019: The Board of Directors authorized the Chair to execute the Planning Agreement to Undertake Feasibility Study of a Potential Licensing Proposal for the Potter Valley Project with Mendocino County Inland Water & Power Commission and California Trout, Inc. and authorized contribution of \$100,000 toward a Feasibility Study in support of a Two Basin Solution.

11-13-2018: The Board of Supervisors and the Board of Directors of the Sonoma County Water Agency adopted a concurrent resolution affirming the Boards' support for the concept of a Two-Basin Solution.

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 18-19 Adopted</b>	<b>FY19-20 Projected</b>	<b>FY 20-21 Projected</b>
Budgeted Expenses			
Additional Appropriation Requested		\$0	
<b>Total Expenditures</b>			
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>		\$0	

**Narrative Explanation of Fiscal Impacts:**

This amendment does not increase the \$100,000 amount approved on 5-14-19. The appropriations are budgeted in FY 19-20 as approved by the 5-14-2019 Board Action.

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

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

N/A

**Attachments:**

Amended Planning Agreement

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

N/A