

# Overview of Revised Proposal Made to PG&E

Presented by:

California Trout – Charlie Schneider

Mendocino County Inland Water and Power Commission – Janet Pauli

Sonoma County Water Agency – Pam Jeane

# Presentation Overview

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# Context - PG&E Decision to Surrender

Date	Action
Nov. 17	Distribution of Initial Draft Surrender Application including decommissioning plan
Dec. 22	Deadline for comments on Initial Draft Surrender Application
Dec. 2023 – Feb. 2024	Initial consultation with resource agencies and tribes
June 2024	Consultation with resource agencies and tribes
June 3, 2024	Distribution of Final Draft Surrender Application
July 18, 2024	Deadline for comments on Final Draft Surrender Application
Jan. 29, 2025	Filing and distribution of Final Surrender Application

# Original Proposal Submitted to PG&E

- ❖ Proponents: Mendocino County Inland Water & Power Commission, Round Valley Indian Tribes and Sonoma Water requested:
  - PG&E consider a proposal, called the New Eel-Russian Facility, for Cape Horn Dam and Van Arsdale Diversion
  - PG&E include the proposal in its final license surrender application

# Progress on the Original Proposal

- ❖ PG&E made a non-binding acceptance in concept of the proposal
- ❖ Lots of engagement with interested parties
- ❖ Initial Regional Entity formed
- ❖ Design of New Eel-Russian Facility progressing
- ❖ Worked to gather support for proposal
  - Result: revised proposal with expanded proponents

# Revised Proposal Submitted to PG&E

- ❖ Proponents: California Department of Fish and Wildlife, California Trout, Humboldt County, Mendocino County Inland Water & Power Commission, Round Valley Indian Tribes, Trout Unlimited and Sonoma Water
- ❖ Relevant portions of the revised proposal included in PG&E's initial draft Surrender Application

# Revised Proposal

## Core Components

- ❖ Proponents are committed to the coequal goals of (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.
- ❖ Proponents agree to the following four core components of their joint proposal, and they expect to continue to negotiate and revise these components for incorporation in the final license surrender application. They also expect that, on the schedule attached as Attachment 1:
  - (1) The Regional Entity will be formed with the legal and financial capacity to be responsible for ownership, construction, and operation of the Facility;
  - (2) The selected design, construction, and operations of the Facility will fully implement the coequal goals stated above, and will be consistent with the fishing rights and water rights of the Round Valley Indian Tribes. The Proponents will enter into a License Surrender Agreement and Water Diversion Agreement, as described below, to state mutually agreeable terms for such design, construction, and operations;
  - (3) Agreement will be reached with PG&E on terms of a Purchase and Sale Agreement for the project works listed in Attachment 2, which will: (a) assure that the Regional Entity will bear the additional costs, risks, and liabilities of this proposal relative to what would otherwise be PG&E's decommissioning plan, (b) provide appropriate consideration for the purchase of the project works in Attachment 2, (c) provide for closing and transfer of fee title to the project works listed in Attachment 2, concurrent with the Regional Entity's acceptance of FERC's authorization to construct the Facility, and (d) be consistent with the applicable terms of the License Surrender Agreement; and
  - (4) The Proponents will seek to receive support for the proposal from the National Marine Fisheries Service and from representative governmental and nongovernmental entities in the Russian and Eel River basins. The Proponents will undertake maximum best efforts to assure that such support is expressed by their entering into, or otherwise stating written support for, the License Surrender Agreement and Water Diversion Agreement described below.

# Revised Proposal (continued)

## Coordination of Deconstruction of Cape Horn Dam and Construction of Facility

- ❖ PG&E's decommissioning plan includes "the removal of in water facilities such that no feature will continue to impound water and the natural flow of the river will occur."
- ❖ Proponents support PG&E undertaking such deconstruction as expeditiously as practicable, targeting 2028 for commencement of such activities.
- ❖ Proponents agree that the Regional Entity's construction of the Facility will not interfere with or delay such deconstruction in any way.
- ❖ Proponents intend that the final design for the Facility (as reflected in the final license surrender application) will specify the detailed program for coordination of deconstruction and Facility construction.
- ❖ Proponents will support the Regional Entity's applying for and securing authority from FERC to construct the Facility and own project works listed in Attachment 2.
- ❖ The Regional Entity will seek federal authority to complete the Facility as expeditiously as practicable after deconstruction. Such authority may be granted pursuant to a nonpower license, partial license transfer, or some other procedure.
- ❖ By March 2024, and in consultation with PG&E and FERC, Proponents will resolve how the Regional Entity will apply for such federal authority related to the Facility.
- ❖ Proponents intend that the final license surrender application will clearly delineate the authority sought by the Regional Entity related to the Facility, separate from the authority sought by PG&E for license surrender related to existing project works.
- ❖ Proponents intend that both authorities will be timely and concurrently secured as needed to assure that deconstruction of Cape Horn and Scott Dams is coordinated with, and not delayed by, construction of the Facility.



# Revised Proposal (continued)

## License Surrender Agreement

- ❖ Proponents will undertake negotiations to develop mutually agreeable terms related to the Regional Entity's construction of the Facility and other terms for license surrender that advance the coequal goals and meet regulatory requirements.
- ❖ Proponents will address contingencies related to the coordination of deconstruction and construction activities. In addition to periodically reporting to PG&E, they will ask and encourage PG&E to participate in the development of terms to manage sediment discharge, protect tribal cultural resources, and restore dam and reservoir sites following deconstruction, as required elements of the license surrender application.
- ❖ By November 2024, Proponents will undertake to finalize the settlement for incorporation of terms in the final license surrender application.

# Revised Proposal (continued)

## Water Diversion Agreement

- ❖ Proponents will also undertake negotiations of terms related to the Regional Entity's operation of the Facility. Such terms will address the water rights now held by PG&E and the portion to be acquired by the Regional Entity, and will specify management of the water rights, including quantity, rate, timing, bypass flows, and other conditions, for diversions.
- ❖ Proponents will include a mechanism (for example, streamflow dedication) to assure that the quantity subject to the water rights, and not agreed for diversion to the Russian River, remains in the Eel River.
- ❖ Proponents will include mechanisms to address impacts of the Facility's diversions on legal rights and interests and on fisheries in the Eel River. Among other mechanisms, the Agreement will commit the Proponents to collaboratively seek funding from multiple sources (which may include federal, state, water sales, and other) to restore the Eel River fisheries and construct the Facility and related infrastructure.
- ❖ A portion of the funding will be dedicated to an Eel River Restoration Fund to offset impacts of water diversions and fully implement the coequal goals. That Fund will be governed by a group of stakeholders including the Round Valley Indian Tribes, Wiyot Tribe, Humboldt County, and conservation group representation who determine the use, management, and application of the Fund.
- ❖ By November 2024, Proponents will finalize this agreement. The Proponents expect that terms that concern water supply diversions and other activities outside of FERC's jurisdiction will not be included in the license surrender application.

# Moving Forward

- ❖ Proponents implementing revised proposal
- ❖ For questions on the Revised Proposal, reach out to a Proponent