



## MENDOCINO COUNTY INLAND WATER & POWER COMMISSION

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September 16, 2025

Re: IWPC and the Potter Valley Project

Dear Mendocino County Supervisors:

The Mendocino County Inland Water and Power Commission (IWPC) is a Joint Powers Authority whose member agencies are the Mendocino County Water Agency, the City of Ukiah, the Redwood Valley County Water District, the Potter Valley Irrigation District, and the Mendocino County Russian River Flood Control and Water Conservation Improvement District. We are privileged to have Supervisor Madeline Cline as our Board member and Supervisor Maureen Mulheren as our alternate from the County. IWPC has been working for decades to preserve and improve water supply availability for the landowners and residents within the Russian River basin portion of Mendocino County. Over the past several years our work has become even more important due to the decision of Pacific Gas and Electric (PG&E) to file a license surrender application for the Potter Valley Project (PVP).

Unfortunately, many in our community do not understand PG&E's decision, or its implications, and this is generating confusion and misinformation. IWPC writes to request that the County Board of Supervisors schedule a workshop at which we can work together to educate the public on this very important topic.

Since 1922, our community has benefitted from the free water that PG&E has diverted to the Russian River, from its electric power generation plant using Eel River water. The existence of the PVP's Scott Dam, which creates Lake Pillsbury, has meant that PG&E can divert water from the Eel River into the Russian River year-round, thus providing water at times of the year when water is naturally unavailable. Our entire community--neighborhoods, businesses, and farms--relies on that water.

But as the Federal and State Endangered Species Acts have limited PG&E's diversions, and as the economics of hydrogeneration have changed and new regional and state-wide power supplies have come online, PG&E has found that its operation of the PVP is

no longer economically viable. In response, PG&E offered to transfer its license to operate the project, issued by the Federal Energy Regulatory Commission (FERC), to another entity that would operate the project. Any new operator would have to absorb annual losses of more than \$6 million, provide hundreds of millions of dollars' worth of

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deferred work to restore the project and perform the additional work that would be required to comply with the State and Federal Endangered Species Acts. Not surprisingly, no one stepped forward to take over the project.

Because no one stepped forward, PG&E filed a license surrender application. Under a license surrender application, FERC evaluates the environmental and certain other impacts of the surrender and approves the surrender with specific conditions often relating to restoration. FERC cannot mandate that PG&E continue to operate the project. The only viable way to ensure water continues to come from the Eel to the Russian is to either apply for a new water right, or to somehow preserve a portion of the existing supply. A new water right would be very junior and unreliable under California's water rights system. Therefore, IWPC and its members prioritized preserving a portion of the diversion.

In early outreach to PG&E to try to acquire the water right, we learned that PG&E would not voluntarily participate in any transfer of the water right without a two-basin proposal. PG&E serves customers in both basins and did not believe it could choose between those competing interests. We heard this message all the way to the top of PG&E's management, and it was this message that drove us to our current solution.

Building on Congressman Huffman's Two Basin Partnership, IWPC, along with Round Valley Indian Tribes, California Department of Fish and Wildlife, Humboldt County, Sonoma Water Agency, California Trout, and Trout Unlimited came together on a proposal that linked the two basins: The Eel River interests agreed to support continued diversions to the Russian River (something many of them had taken positions firmly against) in exchange for the Russian River interests not opposing FERC's consideration of PG&E's surrender application by supporting the application. Each side compromised to get certainty on the most important element of what it was seeking. For the Russian River interests, IWPC and its members, the need to ensure continued diversions into the future was the most essential requirement for our water survival.

Our decision to focus on this most essential element was rooted in our assessment of the risk that PG&E's water rights would go to Eel River interests if we did not reach agreement. This is because the Round Valley Indian Tribes would likely have water rights more senior than the PVP's water rights. Round Valley Indian Tribes has a claim for not yet adjudicated water rights on the Eel River. Under the Winters Doctrine,

coming out of a famous U.S. Supreme Court case, Native American Tribes can assert a reserved water right associated with the purpose for which Congress "reserved" land for use by the Tribe, unless the reservation showed a different intent. Because the reservation date for the Round Valley Indian Tribe is very senior, the Tribes could elect to adjudicate that water right in court and likely become the senior right on the system. Such a court action could take years and tie us up in uncertainty and costs that entire time, while simultaneously destroying our partnership. The Tribes would also likely seek

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to acquire PG&E's water rights under the Tribal Lands Policy of the Public Utility Commission, a policy that controls how PG&E will dispose of the property of the PVP. That policy requires utilities to first offer all

property to Tribes. While the Policy has not yet been tested on water rights, those rights are a form of real property under California law. The Winters Doctrine and the Tribal Lands Policy creates risk for IWPC's members, a risk that we believe our community cannot afford. Importantly, because of the partnership that we have built, the Round Valley Indian Tribe has recently come out in support of raising Coyote Dam at Lake Mendocino, an essential element for our water future that reduces the risk of limited storage.

We understand that Mendo Matters has asked the County to engage on this issue. If Mendocino County were to send a letter to FERC opposing PG&E's surrender application, it would jeopardize all of the progress we have made to preserve a water supply for the Russian River basin from the Eel River. We understand the frustration in our community and the disbelief that in this time of shrinking water supplies Scott Dam could be removed. But our interests are best served by preserving the water supply and investing our energy and resources into developing new storage in the Russian River basin that will not be subject to the uncertainties that Scott Dam faces. We turn to you, the elected leaders of the County, to help us bring these issues to the public. Now that Mendo Matters has asked you to engage on the issue, we think that a County sponsored workshop can provide desperately needed perspectives so that people can make their own assessment. We know we have a lot of information to bring to the public, and we suspect that Mendo Matters does as well.

Twenty nine years ago the County of Mendocino had the foresight and wisdom to help form IWPC to take on this mission. We ask that you now provide that foresight and wisdom for the next generation to help us create vital community dialogue. We are available to participate, and we thank you for your leadership.

Respectfully,



Janet K.F. Pauli, Chair  
Mendocino County Inland Water and Power Commission