



# Meeting Summary

## Huffman Potter Valley Project Ad Hoc Committee

Meeting held February 4, 2019

Summary prepared by the Consensus Building Institute

### Key Outcomes

The Ad Hoc Committee discussed the implications of recent events, particularly related to PG&E’s notice of withdrawal from the Federal Energy Regulatory Commission (FERC) relicensing process and halting the auction process. FERC will direct the orphan-project process, the timing of which is unknown. PG&E’s participation with the Ad Hoc Committee will depend on the goal and content of Ad Hoc discussions.

The Ad Hoc Committee acknowledged the recent PG&E developments fundamentally shifted the Ad Hoc Committee’s approach - rather than informing PG&E’s relicensing application, relying on the full Ad Hoc Committee to collaboratively develop a two-basin solution. The Ad Hoc Committee supports continuing discussions in pursuit of a two-basin solution settlement agreement. Ad Hoc members agree the Fish Passage and Water Supply Working Groups should continue the work that has been underway.

Congressman Huffman’s office will work with Ad Hoc Committee members and other interested parties to coordinate the funding and resources for continuing the Ad Hoc Committee process.

### Action Items

Assignee	Task
Congressman Huffman’s Office	Contact entities with the technical and financial capacity to support continuing the Ad Hoc Committee process
Congressman Huffman’s Office	Determine if a FERC representative can participate in the Ad Hoc Committee process or present information to the Ad Hoc
PG&E	Provide the information and products that Cardno was working on to the Fish Passage and Water Supply sub-groups
PG&E	Notify the Ad Hoc when FERC provides guidance on next steps and the timeline for the orphan project process

## Context

At the request of several entities, Congressman Jared Huffman has convened stakeholders in this process referred to as Congressman Jared Huffman's Potter Valley Project (PVP) Ad Hoc Committee, which was to complement the formal Potter Valley Project Federal Energy Regulatory Commission (FERC) relicensing process.

The Congressman in cooperation with the Ad Hoc had developed goals and principles for a "[Two-Basin Solution](#)" that focus on crafting a future for the project that encompasses interests of both the Eel River and Russian River basins.

Two technical working groups have been meeting regularly to evaluate various fish passage and water supply options and are beginning to narrow options that will receive further examination.

Recent events in January 2019, including PG&E's bankruptcy declaration and notice of withdrawal from the FERC relicensing process, posed major changes for the Ad Hoc Committee and working groups. The primary goal of this meeting was for Ad Hoc Committee members to discuss the recent developments and identify a path forward.

## Recent Events and Implications for Work Underway

### PG&E Relicensing Withdrawal

In late January, PG&E filed for Chapter 11 bankruptcy and submitted its notice of withdrawal from the FERC relicensing process. The bankruptcy filing was a contributing factor for PG&E's relicensing withdrawal but was not the sole cause. As PG&E will no longer transfer the PVP license, it halted the PVP auction process. FERC will lead the process that will determine the future for the PVP facilities (i.e., new license issued or PVP decommissioning). PG&E will continue to own and operate the project until FERC issues the new license or directs PG&E to develop and complete decommissioning.

A new license process offers beneficial opportunities for prospective new owners. For example, entities can submit an application on their own terms rather than build off of PG&E's current application. Entities also now have more time to understand and navigate through the new license process.

PG&E has experienced similar FERC orphan project processes before (e.g., Kilarc-Cow Creek and DeSabra-Centerville), and FERC has varied in its response depending on the project's circumstances. For instance, FERC did not receive a timely file for a new licensee for the Kilarc-Cow Creek hydroelectric project, and FERC then directed PG&E to issue a decommissioning plan.

### Timeline for FERC Orphan Project Process

The timing for the orphan project process is somewhat unique for the Potter Valley Project. Per FERC regulations, FERC would initiate the orphan process if the licensee (who was responsible for submitting its notice of intent to apply for a license) misses its final license application date. For PG&E, that date would have been April 2020; at that time, FERC would determine when to initiate the orphan-project process. The PVP is a unique situation because PG&E has not missed the deadline yet, but it

notified FERC that it would not pursue relicensing. In theory, someone could still submit an application before April 2020 without initiation of the orphan process. FERC has told PG&E it plans to provide information and guidance on FERC's expected timeline.

FERC has no statutory deadlines on when to initiate the process, but FERC initiates, a specific timeline stipulates when parties submit a notice of intent and license application:

- FERC initiates process, and interested parties have **90 days to submit a notice of interest.**
- If FERC finds any submissions satisfactory, qualified entities have **18 months to submit license applications.**
- If the orphan process does not result in a new project license (e.g., FERC does not identify qualified entities), FERC is expected to order PG&E to prepare a decommissioning plan.

PG&E does not know when FERC plans to initiate the orphan project process. FERC has the discretion to start the process any time before the current license expires (April 2020).

### **PG&E's Future Role**

Whether and how PG&E participates with the Ad Hoc depends on the purpose and content of the work. PG&E is a stakeholder, but must also remain neutral during the licensing process. For instance, PG&E could not participate in discussions to design/evaluate specific management scenarios (e.g., dam removal).

PG&E does not have funding available for PG&E staff to actively participate in the Ad Hoc process; however, PG&E is also committed to share information and technical work already completed as part of the relicensing process and the Ad Hoc working groups. PG&E aims to package the information into a usable/transferable form for other parties within the next couple months.

### **PG&E Responses to Clarifying Questions**

The new license entails a negotiated agreement with the new entity to purchase that would be either at the net investment PG&E has in those assets or fair market value.

The decommissioning process is similar to the licensing process, just in reverse. At the end, FERC will no longer have jurisdiction over the activities. PG&E estimates the decommissioning process would take approximately 10-15 years. Power generation would stop, and remaining water delivery and storage facilities would be part of that decommissioning discussion process.

Applications PG&E received through the auction process are protected under nondisclosure documents. There is also confidential information about the project that PG&E cannot make publicly available due to security and safety reasons.

As part of its responsibility to continue to own and operate the project until FERC directs otherwise, PG&E will continue to fulfill its monitoring obligations under the RPA. PG&E is unsure whether and how the RPA terms and conditions might change under a new license.

If the current PG&E license expires and there is no issuance of a new license, PG&E will continue operations under annual license renewals.

Currently PG&E considers that its withdrawal from the relicensing process is irreversible. PG&E is unsure how it might participate if, for instance, a multi-entity coalition applied for a new license. PG&E has a stake in the outcome, but it must also stay neutral if there are competing license applications.

The financial implications of PG&E's withdrawal are unknown. PG&E's costs have been extended because it will continue to own and operate the project until issuance of a new license or decommissioning. Costs for relicensing, however, would shift to the new licensee. PG&E had previously estimated the relicensing process would have cost it \$30 million (excluding implementation), but other license applications may have very different costs depending on the proposed activities. PG&E does not have a cost estimate for decommissioning, or if it can recover some of the costs.

PG&E does not expect the bankruptcy process will significantly affect the PVP process, because PG&E is still obligated to operate the project per the terms and conditions of the current license.

PG&E does not know if a bankruptcy judge needs to sign off on the new license agreement if PG&E is still going through the bankruptcy process. PG&E staff thinks PG&E will emerge from the bankruptcy process before the new license agreement is issued.

FERC will decide what the new license application process will entail and the evaluation and selection process.

PG&E has not seen the indicative proposals submitted for the auction process (originally due Feb 1).

Existing water rights may need to be amended if future operations do not include hydropower generation, and water diversions continue.

## Continuing the Ad Hoc Committee Discussion

The Ad Hoc Committee discussed their desired path forward given the recent changes with PG&E. The Ad Hoc agreed to continue its two-basin solution discussions that could lead to a settlement agreement. The Ad Hoc Committee also supported continuing the technical work that has been underway in the working groups and sub-groups.

The Ad Hoc Committee will need to mobilize quickly to prepare for when FERC initiates the orphan project process.

Attendees shared their drivers and considerations for continuing the PVP two-basin solution discussions:

- Restoring fish populations
- Protecting water supply

- Russian River water quality
- All options should remain on the table as the group learns more about the management options' impact on fish passage and water supply.
- Tribes voiced their concern that the status quo does not support volitional fish passage.
- State and federal agencies expressed their continued commitment to provide technical assistance.

Attendees suggested inviting a FERC representative to participate in or present information to the Ad Hoc Committee.

The group briefly discussed options to help fund continued Ad Hoc Committee discussions and license application development (e.g., state and foundation grant funding) and implementation under the license (e.g., public dollars). Federal funding for the license application is unlikely. Attendees indicated that future discussions will need to explore implications of water rights and potential to monetize water. There was a suggestion to evaluate other examples of modified water rights (e.g., Klamath) or adjudicated areas in southern California.

### **Outcomes**

The Ad Hoc Committee and working groups supporting the Ad Hoc Committee will continue the work already underway.

## **Working Groups Progress**

### **Fish Passage**

A sub-group of the Fish Passage Working Group has been using a high-level qualitative filtering tool / scoring matrix to help evaluate different approaches. PG&E's consultant Cardno was compiling the scores into a master spreadsheet.

### **Water Supply**

The modeling sub-group presented the model results of three scenarios at the [October Ad Hoc meeting](#) and committed to conducting four more scenarios. The revised operations scenario and the climate change scenarios are still underway. The sub-group needs the hydrology information Cardno was developing to complete the model runs.

### **Discussion Insights**

In general, Ad Hoc Committee members want more information to better understand the impacts of the different scenarios on the fisheries and water supply.

There was a recommendation to identify and prioritize information and study needs. Attendees shared several suggestions, including:

- Sediment - toxicity analysis to better understand how to manage the sediment build-up behind Scott Dam (e.g., if Scott Dam were removed). State Coastal Conservancy is doing a sediment study on Scott Dam.
- Water rights - legal analysis on potentially amending water rights. Perhaps State Water Resources Control Board can provide a memo.

- Ecosystem Diagnosis and Treatment modeling for fish - estimate how many fish “produced” per dollar investment.
- Seismic stability - study the seismic risks in the area.
- Dam safety reports - as required by Department of Water Resources.

### **Outcomes**

PG&E will provide the information and products that Cardno was working on to the Fish Passage and Water Supply sub-groups. The sub-groups will then help identify when the working groups should meet.

Once the working groups complete their findings and recommendations, that information will be incorporated into the PVP briefing document presented at the October Ad Hoc meeting.

## **Next Steps for the PVP Ad Hoc Committee**

Congressman Huffman’s office will work with Ad Hoc Committee members and other interested parties to contact entities with the technical and financial capacity to support continuing the Ad Hoc Committee process.

Congressman Huffman thanked Ad Hoc Committee members for their commitment and critical contributions necessary going forward. The recent PG&E developments fundamentally shifted the Ad Hoc Committee’s approach - the group will no longer provide input on PG&E’s relicensing application, but rely on the full Ad Hoc Committee to work together to develop a two-basin solution.