



United States Department of the Interior

OFFICE OF THE SOLICITOR
Pacific Southwest Region
2800 Cottage Way
Room E-1712
Sacramento, California 95825-1890

IN REPLY
REFER TO:

September 10, 2008

Randal S. Livingston Vice President - Pwr Gen		
Directors:		Hydro Lands
O&M		Partnership
PE&O		Asset Strategy
Fossil Plant	SEP 17 2008	
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Kimberly D. Bose, Secretary
Nathaniel J. Davis, Sr., Deputy Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Subject: Revised Preliminary Section 4(e) Conditions for DeSabra-Centerville
Hydroelectric Power Project, FERC No. 803-087

Dear Ms. Bose,

In response to the Pacific Gas and Electric's (PG&E) Request for Trial-Type Hearing and Submittal of Alternative Conditions submitted on July 30, 2008, the United States Department of the Interior, Bureau of Land Management (BLM) is providing the enclosed Revised Preliminary Section 4(e) Conditions for the DeSabra-Centerville Hydroelectric Project (P-803).


The enclosed conditions represent revised language that has been mutually agreed upon by PG&E and BLM. These conditions replace the entirety of the preliminary section 4(e) conditions filed by the BLM on June 27, 2008. These revised 4(e) conditions settle the disputed issues of fact raised by PG&E in their Request for Trial-Type Hearing, and also eliminate the need for the proposed alternatives filed by PG&E. Thus BLM understands that PG&E will withdraw both its Trial-Type Hearing request and its proposed alternatives submitted to BLM.

Additionally, BLM wishes to clarify the record before the Commission concerning BLM ownership of lands within the Project area. Enclosed is a Grant Deed, by which BLM acquired title to lands within Sections 26 and 35 of T.24 N., R.3.E., M.D.M, and a map illustrating these acquired lands and their location within the Project area. These lands are not depicted in the maps submitted in the license application. BLM has calculated that these acquired lands add an additional 9.4 acres to the 11.6 acres that the Commission acknowledges are administered by the BLM.

If there are any further questions please contact Steve Anderson, Redding Field Office Manager at 530-224-2100.

Respectfully Submitted,

Daniel G. Shillito
Regional Solicitor

By: 
Luke Miller
Assistant Regional Solicitor

Enclosures (Paper Copy of Revised Preliminary 4(e) Conditions)
(Disc Containing Updated Map of BLM Lands within Project Area, Grant
Deed, and Photographs referenced in Revised Preliminary 4(e) Conditions
Document)

cc: Project Service List, FERC 803

**Bureau of Land Management Revised Preliminary
Section 4(e) Conditions
DeSabra-Centerville Project**

Bureau of Land Management's Section 4(e) Authority

The Bureau of Land Management provides the following Revised Preliminary Section 4(e) conditions for the Project in accordance with 16 U.S.C. 797(e), to provide for the protection and utilization of the public lands under its jurisdiction. The following terms and conditions are based on those resource and management requirements enumerated in 43 U.S.C. 1701 of FLPMA, and as implemented by regulations and approved Land and Resource Management Plans. Specifically, the 4(e) conditions in this document are based on the Redding Resource Management Plan and Record of Decision and the Forks of Butte Creek Recreation Area Management Plan. Pursuant to section 4(e) of the FPA, the Secretary of the Interior considers the following conditions necessary for the adequate protection and utilization of the land and resources under the jurisdiction of the BLM. Conditions 1-17 are administrative conditions deemed necessary for the administration of the BLM lands. Conditions 18-22 cover project-specific resource requirements for protection and utilization of the BLM lands. These Revised Preliminary Section 4(e) Conditions 1-22 replace all the Preliminary 4(e) Conditions BLM filed with FERC on June 27, 2008.

ADMINISTRATIVE BUREAU 4(e) CONDITIONS

Condition No. 1- CONSULTATION

Each year, the Licensee shall consult with the Bureau with regard to measures needed to ensure protection and utilization of the Bureau resources affected by the project. The date of the consultation meeting will be mutually agreed to by the Licensee and the Bureau but in general will be held 60 days prior to the beginning of the recreation season to facilitate implementation of flow management requirements and recreational management activities. Representatives from the U.S. Fish and Wildlife Service, California Department of Fish and Game, or other interested agency representatives concerned with operation of the project may request to attend the meeting.

Consultation shall include, but not be limited to:

- A status report regarding implementation of license conditions;
- Results of any monitoring studies performed over the previous year in formats agreed to by the Bureau and the Licensee during development of study plans;
- Review of any non-routine maintenance;
- Discussion of any foreseeable changes to project facilities or features;
- Discussion of any necessary revisions or modifications to plans approved as part of this license;

- Discussion of needed protection measures for species newly listed as threatened, endangered, or sensitive or, changes to existing management plans that may no longer be warranted due to delisting of species or, to incorporate new knowledge about a species requiring protection; and
- Discussion of elements of current year maintenance plans, e.g. road maintenance.

A record of the meeting shall be kept by the Licensee and shall include any recommendations made by the Bureau for the protection of public land and resources. The Licensee shall file the meeting record, if requested, with the Commission no later than 60 days following the meeting.

The Bureau reserves the right, after notice and opportunity for comment, to require changes in the project and its operation through revision of the 4(e) conditions to accomplish protection and utilization of the Bureau's public lands and resources.

Condition No. 2- APPROVAL OF CHANGES

Notwithstanding any license authorization to make changes to the project, when such changes directly affect the Bureau's public lands the Licensee shall obtain written approval from the Bureau prior to making any changes in any constructed project features or facilities, or in the uses of project lands and waters or any departure from the requirements of any approved exhibits filed with the Commission. Following receipt of such approval from the Bureau, and a minimum of 60-days prior to initiating any such changes, the Licensee shall file a report with the Commission describing the changes, the reasons for the changes, and showing the approval of the Bureau for such changes. The Licensee shall file an exact copy of this report with the Bureau at the same time it is filed with the Commission.

Condition No. 3- MAINTENANCE OF IMPROVEMENTS ON OR AFFECTING BUREAU PUBLIC LANDS

The Licensee shall maintain all its improvements and premises on Bureau lands to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the Bureau. Disposal will be at an approved existing location, except as otherwise agreed by the Bureau.

Condition No. 4- EXISTING CLAIMS

The license shall be subject to all valid claims and existing rights of third parties. The United States is not liable to the Licensee for the exercise of any such right or claim.

Condition No. 5- COMPLIANCE WITH REGULATIONS

The Licensee shall comply with the regulations of the Department of Interior for activities on Bureau lands, and all applicable Federal, State, county, and municipal laws,

ordinances, or regulations in regards to the area or operations on or directly affecting Bureau lands, to the extent those laws, ordinances or regulations are not preempted by federal law.

Condition No. 6- PROTECTION OF UNITED STATES PROPERTY

The Licensee, including any agents or employees of the Licensee acting within the scope of their employment, shall protect from damage the land and property of the United States covered by and used in connection with this license.

Condition No. 7- SURRENDER OF LICENSE OR TRANSFER OF OWNERSHIP

Prior to any surrender of this license, the Licensee shall provide assurance acceptable to the Bureau that Licensee shall restore any project area directly affecting Bureau lands to a condition satisfactory to the Bureau upon or after surrender of the license, as appropriate. To the extent restoration is required, Licensee shall prepare a restoration plan which shall identify the measures to be taken to restore such Bureau lands and shall include or identify adequate financial mechanisms to ensure performance of the restoration measures.

In the event of any transfer of the license or sale of the project, the Licensee shall assure that, in a manner satisfactory to the Bureau, the Licensee or transferee will provide for the costs of surrender and restoration. If deemed necessary by the Bureau to assist it in evaluating the Licensee's proposal, the Licensee shall conduct an analysis, using experts approved by the Bureau, to estimate the potential costs associated with surrender and restoration of any project area directly affecting Bureau lands to Bureau specifications. In addition, the Bureau may require the Licensee to pay for an independent audit of the transferee to assist the Bureau in determining whether the transferee has the financial ability to fund the surrender and restoration work specified in the analysis.

Condition No. 8- INDEMNIFICATION

The Licensee shall indemnify, defend, and hold the United States harmless for:

- any violations incurred under any laws and regulations applicable to, or
- judgments, claims, penalties, fees, or demands assessed against the United States caused by, or
- costs, damages, and expenses incurred by the United States caused by, or
- the releases or threatened release of any solid waste, hazardous substances, pollutant, contaminant, or oil in any form in the environment related to

the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto under the license.

The Licensee's indemnification of the United States shall include any loss by personal injury, loss of life or damage to property caused by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto under the

license. Indemnification shall include, but is not limited to, the value of resources damaged or destroyed; the costs of restoration, cleanup, or other mitigation; fire suppression or other types of abatement costs; third party claims and judgments; and all administrative, interest, and other legal costs. Upon surrender, transfer, or termination of the license, the Licensee's obligation to indemnify and hold harmless the United States shall survive for all valid claims for actions that occurred prior to such surrender, transfer or termination.

Condition No. 9 - DAMAGE TO LAND, PROPERTY, AND INTERESTS OF THE UNITED STATES

The Licensee has an affirmative duty to protect the land, property, and interests of the United States from damage arising from the Licensee's construction, maintenance, or operation of the project works or the works appurtenant or accessory thereto under the license. The Licensee's liability for fire and other damages to Bureau lands shall be determined in accordance with the Federal Power Act and standard Form L-1 Articles 22 and 24.

Condition No. 10 - RISKS AND HAZARDS ON USDI-BLM LANDS

As part of the occupancy and use of the project area, the Licensee has a continuing responsibility to reasonably identify and report all known or observed hazardous conditions on or directly affecting Bureau lands within the project boundary that would affect the improvements, resources, or pose a risk of injury to individuals. Licensee will abate those conditions, except those caused by third parties or not related to the occupancy and use authorized by the License. Any non-emergency actions to abate such hazards on Bureau lands shall be performed after consultation with the Bureau. In emergency situations, the Licensee shall notify the Bureau of its actions as soon as possible, but not more than 48 hours, after such actions have been taken. Whether or not the Bureau is notified or provides consultation; the Licensee shall remain solely responsible for all abatement measures performed. Other hazards should be reported to the appropriate agency as soon as possible.

Condition No. 11- PESTICIDE-USE RESTRICTIONS ON BUREAU LANDS

Pesticides may not be used on Bureau lands or in areas affecting Bureau lands to control undesirable woody and herbaceous vegetation, aquatic plants, insects, rodents, trash fish, etc., without the prior written approval of the Bureau. During the Annual Consultation meeting described in Condition 1, the Licensee shall submit a request for approval of planned uses of pesticides for the upcoming year. The Licensee shall provide at a minimum the following information essential for review: whether pesticide applications are essential for use on Bureau lands, specific locations of use, specific herbicides proposed for use, application rates, dose and exposure rates, safety risk and timeframes for application. Exceptions to this schedule may be allowed only when unexpected outbreaks of pests require control measures that were not anticipated at the time the

report was submitted. In such an instance, an emergency request and approval may be made.

Pesticide use will be excluded from Bureau lands within 500 feet of known locations of California red-legged frog, mountain yellow-legged frog, foothill yellow-legged frog, and Yosemite toad.

The Licensee shall use on Bureau land only those materials registered by the U.S. Environmental Protection Agency and consistent with those applied by the Bureau and approved through Bureau review for the specific purpose planned. The Licensee must strictly follow label instructions in the preparation and application of pesticides and disposal of excess materials and containers.

The Licensee may also provide an Integrated Pest Management Plan that describes planned pesticide use on a regular basis for the term of the license. Submission of this plan will not relieve the Licensee of the responsibility of annual notification and review.

Condition No. 12- ACCESS BY THE UNITED STATES

The United States shall have unrestricted use of any road over which the Licensee has control within the project area for all purposes deemed necessary and desirable in connection with the protection, administration, management, and utilization of Federal lands or resources. When needed for the protection, administration, and management of Federal lands or resources the United States shall have the right to extend rights and privileges for use of the right-of-way and road thereon to States and local subdivisions thereof, as well as to other users. The United States shall control such use so as not to unreasonably interfere with the safety or security uses, or cause the Licensee to bear a share of costs disproportionate to the Licensee's use in comparison to the use of the road by others.

Condition No. 13- ROAD USE

The Licensee shall confine all vehicles being used for project purposes, including but not limited to administrative and transportation vehicles and construction and inspection equipment, to roads or specifically designed access routes, as identified in the Road Table 1 (attached to Condition 18). The Bureau reserves the right to close any and all such routes where damage is occurring to the soil or vegetation, or, if requested by Licensee, to require reconstruction/construction by the Licensee to the extent needed to accommodate the Licensee's use. The Bureau agrees to provide notice to the Licensee and the Commission prior to road closures, except in an emergency, in which case notice will be provided as soon as practicable.

Condition No. 14- CROSSINGS

The Licensee shall maintain existing crossings as required by the Bureau for all Bureau roads and trails that intersect the right-of-way occupied by linear Project facilities (powerline, penstock, ditch, and pipeline).

Condition No. 15 – SURVEYS, LAND CORNERS

The Licensee shall avoid disturbance to all Bureau land survey monuments, private property corners, and forest boundary markers. In the event that any such land markers or monuments on Bureau lands are destroyed by an act or omission of the Licensee, in connection with the use and/or occupancy authorized by this license, depending on the type of monument destroyed, the Licensee shall reestablish or reference same in accordance with (1) the procedures outlined in the “Manual of Instructions for the Survey of the Public Land of the United States,” (2) the specifications of the Country surveyor, or (3) the specifications of the Bureau. Further the Licensee shall ensure that any such official survey records affected are amended as provided by law.

Condition No. 16- GROUND DISTURBING ACTIVITIES

If the Licensee proposes ground disturbing, project related activities on Bureau lands that were not specifically addressed in the Commission’s National Environmental Policy Act (NEPA) processes, the Licensee, in consultation with the Bureau, shall determine the scope of work, and the potential Project-related effects and whether additional information is required to proceed with the planned ground disturbing activity. Upon Bureau’s request, the Licensee shall enter into an agreement with the Bureau under which the Licensee shall fund a reasonable portion of Bureau’s staff time and expenses for staff activities related to the proposed activities

Condition No. 17- BUREAU RESERVES THE RIGHT TO REVISE SECTION 4(e) CONDITIONS IN RESPONSE TO OTHER AGENCIES REQUIREMENTS

The Bureau reserves the right to modify these conditions, if necessary, to respond to modifications required by 1) the U.S. Fish and Wildlife Service or NOAA Fisheries biological opinion issued for the relicensing of the Project; and 2) the water quality certification issued by the State of California Department of Water Resources Control Board.

Rationale for Administrative Conditions 1-17

These Preliminary 4(e) conditions serve to address the statutory and administrative responsibilities of the Bureau of Land Management lands in the Ishi Management Area. The FERC is not the agency responsible for managing these federal lands and cannot be expected to condition the project license relative to the BLM’s Resource

Management Plans and the numerous laws, regulations and agency policies that pertain to this BLM land. Including these standard conditions insures that project operations are consistent with management direction for the affected BLM lands.

The first license condition would provide for consultation between the applicant and the Bureau of Land Management. During annual consultation meetings useful information such as the timing of moving large equipment over BLM roads, spill events, maintenance activities, biological monitoring, and physical changes to project features can be discussed. BLM uses this information to minimize user conflicts particularly in the area of recreation and to schedule BLM personnel time for administration of the ongoing project.

While unlikely, there is a possibility that project features could be responsible for damage, injury or death. Since these features are the property of the applicant, and not the BLM, a license condition to require the applicant to indemnify the BLM against damage, injury or death associated with the use and/or occupation of BLM land authorized by the project license will protect the public interest.

Project transmission lines, facilities, roads, and project activities may pose a threat of fires and/or other possible destruction of habitat with resultant losses of other resource values, injury, and human life. It is appropriate and prudent that the applicant take measures to minimize the risk to federal land and human life. Accordingly, the applicant would be responsible for loss of life and injury, loss or damage to BLM property from project activities and facilities by including the Maintenance of Improvements on or affecting BLM land, Road Use, Crossings, Access conditions, Protection of United States Property, Damage to Land, Property and Interests of the United States, Ground Disturbing Activities, Pesticide Use Restrictions, and Risks and Hazards on BLM Lands license conditions, providing an incentive to the applicant to seek out and eliminate, or minimize risks associated with their structures and activities.

The Surrender of License condition would require the applicant to restore BLM land in the event that the license is ever surrendered. This condition would minimize the risk of the project improvements being abandoned on BLM lands.

The other license conditions would provide protection for public health or safety, BLM resources and BLM land by requiring Compliance with Regulations, Existing Claims, Approval of Changes, and the Right to Revise 4(e) conditions, if necessary, that guide the BLM in managing the Federal land occupied by the project.

PROJECT SPECIFIC BUREAU 4(e) CONDITIONS

Condition No. 18 – RECREATION USE MONITORING AND REPORTING

As part of any recreational use monitoring plan that may be required by FERC, or in the absence thereof, the Licensee shall periodically¹ monitor the recreational use tendencies of recreationists utilizing Project-related recreation facilities. Such monitoring shall include procedures and questions, developed in consultation with BLM, which analyze potential Project-induced recreational use from Project recreationists on nearby BLM recreation areas (i.e., Forks of Butte Creek Primitive Campground & Parking Area, Ponderosa Bridge & Parking Area, Butte Creek Trail, and Indian Springs Trail). Results from each monitoring shall be reported to BLM and the Commission within 60 days after completion of that monitoring.

Rationale for Project-Specific Condition 18 – Recreation Facilities On or Affecting Bureau Land

Guidance:

Redding Resource Management Plan and Record of Decision, BLM, June 1993, Ishi Management Area, Forks of Butte Creek direction:

- Protect and enhance the scenic quality of the canyon
- Maintain the fisheries habitat
- Improve the quality of riparian vegetation to Class 1
- Maintain semi-primitive recreation opportunities
- Protect the historic values of the canyon
- Maintain the long-term sustained yield of forest products from the available commercial forest land outside the Butte Creek canyon.

The BLM's Project-specific section 4(e) conditions are designed to address specific Project impacts to BLM lands and recreational facilities. The Butte Creek Canal, a Project feature, lies in part on BLM lands in Sections 26 and 35 of Township 24 North, Range 3 East, M.D.M.

Recreation Use Monitoring and Reporting

The FLA noted that an increasing population in the Project vicinity and a concomitant increase in various recreation activities will contribute to a projected increase in recreation use at the Project. (FLA, page E6.8-360). Additional information presented in the recreation surveys indicates a high latent demand for activities such as camping in developed sites and trail hiking. (FLA, pages E6.8-344-345). PG&E reported that visitors' preferences in the Butte Creek Canyon Reaches varied "from

¹ "Periodically" shall be every five years after license issuance unless otherwise agreed to by the BLM.

maintaining current conditions/opportunities to providing more developed facilities and services (such as increased access/parking areas, trail maintenance, and more restrooms, picnic tables and camping)." (FLA, page E6.8-462). Moreover, PG&E noted that issues such as litter and motorized use (such as ORVs) may cause displacement of current visitors at the DeSabra Forebay (FLA, page E6.8-416). Such displaced visitors may seek recreational opportunities at the nearby BLM facilities.

These factors suggest that an increasing population and/or displaced future use at Project facilities may result in overflow of use to the nearby BLM facilities. To monitor and measure this possible effect, this condition requires that PG&E, as part of the recreational monitoring that will be required by a new license, include procedures and questions that address this possible usage of Project-affected BLM facilities by Project recreationists.

Condition No. 19 – FUNDING TO ADDRESS PATROL AND MAINTENANCE ACTIVITIES

Licensee shall provide to BLM, on an annual basis through the license term, \$30,000 (adjusted annually based on U.S. Gross Domestic Product – Implicit Price Deflator (GDP-IPD) with 2008 as the base year (or other appropriate index as agreed by BLM)) to carry out patrol and maintenance activities on BLM lands that are in and around the Project-Affected Butte Creek River Reach area, including that portion of the Project's Butte Creek Canal bordering the Forks of Butte Creek Recreation Area and limited other appropriate Project lands that may be agreed to by Licensee and BLM.

Rationale for Condition No. 19 – Funding to Address Patrol and Maintenance Activities

This condition seeks to address a wide array of Project-associated resource concerns. The FLA enumerates many examples of concerns about impacts from Project facilities and about Project-induced recreational use. Some specific examples of Project-induced problems include:

- PG&E noted that problems at DeSabra Forebay with litter and motorized use may cause displacement of current visitors (FLA, page E6.8-416).
- A variety of problems were noted by respondents to surveys seeking information on unacceptable conditions in the Project-Affected River Reaches. Problems for which both patrol and maintenance activities are required include: complaints about drunkenness; use of firearms at trailhead; litter, including trash, beer cans and coolers; human waste; and overflowing garbage cans (FLA, pages E6.8-168, E6.8-171-172; See also, *inter alia*, BLM photographs of Indian Springs trailhead marker, and of trash dumped along

the DeSabra Powerhouse Road, near the Indian Springs Trailhead – photos 1, 2(a) and 2(b).)

- Respondents further noted problems with ORV usage on canal trails (FLA, page E6.8-168). One visitor comment complained with respect to the Butte Creek Canal, that "[o]ff-road vehicles were ruining [his] hike/walk. Very fast moving and loud noise from the dirt bikes/ATV's." (FLA, page E6.8-433; see also, *inter alia*, photos 3(a)-3(e) of ORV trails extending from Butte Creek Canal to Ditch Creek Road).
- Open-ended comments on Table E6.8.2.2-262 indicate that trash is a big problem at the Butte Creek Canal (FLA, page E6.8-223).
- Visitor comments on unacceptable conditions complained about the amount of litter; safety concerns; poor condition of trails, camping and picnic facilities; fees; and limited access (FLA, Table E6.8.2.2-143, page E6.8-167). These types of concerns expressed by both visitors and residents are reiterated throughout the Recreation Visitor and Resident Survey study results.
- Dumping of litter, household trash, abandoned vehicles, appliances, and other human products is widely acknowledged and discussed by participants in relicensing studies (FLA, Page E6.8-138 and elsewhere).
- The Licensee has made numerous anecdotal comments at relicensing meetings about vandalism to Project facilities. BLM's patrol presence in the Project-Affected River Reaches and along the Butte Creek Canal will provide a direct benefit to address this concern.

The purpose of this condition is to provide funding to BLM to allow it to maintain patrol and maintenance presence in the Project-Affected River Reaches and at other appropriate Project lands as agreed to by BLM, such as the Butte Creek Canal Trail.

BLM intends to coordinate its efforts with the Licensee, Forest Service, and local law enforcement entities to more efficiently manage patrols and maintenance activities in the Project-affected areas.

Condition No. 20 – MAINTENANCE OF PORTION OF DITCH CREEK ROAD

The Licensee shall annually repair and maintain that portion of Ditch Creek Road from BLM's entrance gate to the point where the Project's 9/1 Spillway crosses Ditch Creek Road. The Licensee shall maintain the road to BLM standards (Level 2/D). The Licensee shall install and maintain a new entrance gate at BLM's entry point to Ditch Creek Road, when determined necessary by BLM.

Rationale for Condition No. 20 – Maintenance of Portion of Ditch Creek Road

In PG&E's Alternative submitted on July 30, 2008, PG&E acknowledges use of the Ditch Creek Road to access Spill Gate 9/1. Since this is a Project use, this condition requires that PG&E fund maintenance costs for that portion of Ditch Creek Road leading from BLM's entrance gate to the point where the Project's 9/1 Spillway crosses Ditch Creek Road. Additionally, there are erosion based concerns for this road segment that are more fully described in the rationale for Condition 21, and such portion of that rationale is incorporated by reference herein.

Condition No. 21 – CONTROL OF EROSION

To address Project-caused erosion on BLM lands, Licensee shall, in consultation with BLM:

- A. Fix and maintain all areas of the Butte Creek Canal on or adjacent to BLM land that show signs of erosion deemed significant by BLM, and which BLM believes would lead to canal failure/blowouts and spills; and
- B. Reconstruct and maintain areas of Ditch Creek Road that are affected by Project-caused erosion. This includes damage caused by any spills, blowouts, canal erosion, or seepage onto Ditch Creek Road.

Rationale for Condition No. 21 – Control of Erosion

Adjacent to the Butte Creek Canal Trail, the land slopes down to the Ditch Creek Road. Two Project Spillways, 8/1 and 9/1, extend down slope from the canal on BLM land, crossing Ditch Creek Road. Spillway 8/1 opened eight times between 1989 and 1998, three of which times were to maximum capacity (FLA, Appendix E6.1.2.3-C, page 31 of 58). The spill records provided by PG&E are limited for Project Spillway 9/1, showing only one spill in 1998 (Id. at page 34 of 58). PG&E's report, however, indicated that "[r]oad crossings and downslope of spill were reinforced with gunite, indicating erosive conditions." (Id.) The application further reported that "[d]ue to geologic conditions, landform position, and proximity to Butte Creek, the Butte Creek and lower Centerville canals together have tended to have a higher risk of failure over time than other conveyances in the Project." (FLA, page E6.1-1). Moreover, the FLA reported a "moderate" risk of landslide and surficial slump in the 9/1 Spillway region, meaning that the "hazard appears to have occurred within the past 15 to 20 years and continued activity is considered possible during the 50-year service life of the water conveyances." (FLA, pages E6.1.2.4-3g and E6.1-68). PG&E's application thus illustrates the hazards to BLM lands and to the Ditch Creek Road posed by operation of the Project and its Spillways.

In addition, BLM has documented problems with the canal system, which illustrate the possibility of canal failure and other damage occurring in the future. The portion of the Butte Creek Canal that traverses BLM lands includes three sites where the canal has blown out, causing spillage down the slope and onto the road. Each of these sites has been repaired by PG&E. (See, *inter alia*, photos 4(a)-4(d).) BLM has documented an additional four sites along the canal showing erosion, which demonstrate the possibility of future canal failures that could detrimentally affect BLM lands and the Ditch Creek Road. (See, *inter alia*, photos 5(a)-5(d).) Seepage along Ditch Creek Road has been documented. (See, *inter alia*, photos 6(a)-6(c).)

It is BLM's position that BLM's lands, and the Ditch Creek Road, are detrimentally impacted by these Project-related effects. Spillage from the canal, either through existing Project Spillways or due to canal failure, erodes the slope of BLM's lands and washes over the road, as evidenced by PG&E's installation of gunite to protect the eroding slope extending below Spillway 9/1 and on the slope extending below the Ditch Creek Road. Seepage from the canals is extending downslope and onto Ditch Creek Road. To address these Project-related impacts, this condition requires that PG&E reconstruct and maintain any areas of the canal, slope and road that are detrimentally impacted by Project activities.

Condition 22 – RESERVATION OF SECTION 4(e) AUTHORITY

Authority is reserved to require the Licensee to implement such conditions for the protection and utilization of BLM reservations as may be provided by the Secretary of the Interior, pursuant to Section 4(e) of the Federal Power Act, 16 U.S.C. § 797(e).

Rationale for Project-Specific Condition 22

Pursuant to section 4(e) of the FPA, the Commission shall issue a license within any reservation only after a finding by the Commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as the Secretary of the department under whose supervision such reservation falls shall deem necessary for the adequate protection and utilization of such reservation, 16 U.S.C. § 797.

Approved this 10 Day of September 2008 by:



James W. Abbott
for BLM California State Director

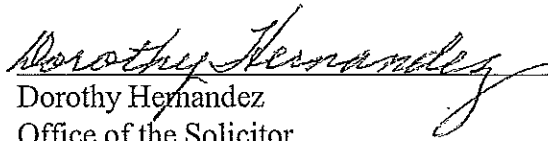
**BEFORE THE
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

DeSabra-Centerville Hydroelectric Project)	
)	Project No. 803-087
Application for New License)	
Pacific Gas & Electric Company)	
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Certificate of Service

I hereby certify that the Bureau of Land Management's Revised Preliminary Section 4(e) Conditions and supporting materials in the above-captioned proceeding have this day been sent via overnight delivery for filing with the Federal Energy Regulatory Commission, and sent via overnight delivery to counsel for Pacific Gas & Electric Company and to the Department of the Interior Office of Environmental Policy and Compliance, and served, via deposit in U.S. mail, upon each person designated on the Service List compiled by the Commission Secretary for this Project.

Dated at Sacramento, California, this 10th day of September, 2008.


Dorothy Hernandez
Office of the Solicitor
Department of the Interior
2800 Cottage Way, E-1712
Sacramento, CA 95825