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Dave Steindorf
California Stewardship Director
4 Baroni Drive
Chico, CA 95928
530-343-1871
dave@americanwhitewater.org

February 26, 2010
Joshua S. Rider
United States Department of Agriculture
33 New Montgomery Street, 17th Floor
San Francisco, CA 94105

Re: McCloud/ Pit Relicensing

Dear Mr Rider:

On January 29, 2010, the United States Forest Service (USFS) filed its Preliminary Section 4(e) Terms and Conditions and Section 10(a) Recommendations for McCloud/ Pit Hydroelectric Project (FERC No. 2106) before the Federal Energy Regulatory Commission. It is our view that these Preliminary Terms and Conditions have been developed in a collaborative manner during the relicensing process for this project. We believe that these terms and conditions are strongly supported by evidence / information in the decisional record.

One public meeting has taken place since the USFS issued its of the preliminary terms and conditions. In this meeting, Pacific Gas and Electric Company (PG&E) made it clear that they were considering using the Trial Type Hearing provisions found in section 241 of the 2005 Energy Policy Act to resolve disputed issues of material fact within these preliminary terms and conditions. The specific disputed issues of material fact that PG&E would attempt to resolve via such a trial type hearing remain unclear.

We understand that several subsequent meetings have taken place between USFS staff and PG&E. We are deeply concerned about the closed, non-public nature of these meetings, which lack the input from other agency and NGO stakeholders that have spent years in this collaborative relicensing process. We further understand that, as a result of these closed meetings, the USFS may be considering issuing amended preliminary 4(e) conditions for this project. If so, we request that the U.S. Department of Agriculture clarify that the deadlines for submitting alternative conditions pursuant to 7 C.F.R. § 1.671 and for filing a request for a trial-type hearing pursuant to 7 C.F.R. § 1.621 will be extended to allow all license parties 30 days to evaluate any amended preliminary 4(e) conditions and exercise their rights to submit alternative conditions or request a trial-type hearing to dispute any relevant issues of material fact.

The amendments to the Federal Power Act contained in section 241 of the Energy Policy Act were designed to give all license parties an opportunity to review an agency's preliminary section 4(e) conditions and submit alternative conditions or challenge any underlying issues of material fact that might inform those conditions. This provision does not anticipate that an agency with 4(e) authority would publish revised preliminary

conditions during the 30-day review window for preliminary conditions. Such a practice would preclude license parties from exercising their rights under the law.

Given that the deadline for filing a hearing request or submitting alternative conditions is quickly approaching, we look forward to your timely response in advance of the filing deadline next week. We appreciate the hard work that all of the USFS staff has put in on this project and we look forward to collaboratively developing the final conditions for this license.

Sincerely,

A handwritten signature in black ink that reads "Dave Steindorf". The signature is written in a cursive style with a large, stylized 'D' and 'S'.

Dave Steindorf
California Stewardship Director
American Whitewater

cc: Bob Deibel
Julie Tupper
Dennis Smith
Kathy Turner
Stacy Smith