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UPPER NORTH FORK FEATHER RIVER  
PROJECT

FERC Project No. 2105

Project 2105 Relicensing  
Settlement Agreement

April 22, 2004

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# Relicensing Settlement Agreement

<u>Table of Contents</u>	Page
<b><u>1. Introduction</u></b>	1
1.1 Parties	1
1.2 Recitals	1
1.3 Effective Date of Settlement	2
1.4 Term of Settlement	2
1.5 Definitions	2
<b><u>2. Purpose of Settlement</u></b>	5
2.1 Purpose	5
2.2 Resolved Subjects	5
2.3 Unresolved Subjects	6
2.4 No Precedent for Other Proceedings	6
2.5 Compliance with Legal Responsibilities	7
2.6 Reservation of Claims, Rights, and Responsibilities	7
<b><u>3. Use of Settlement in New Project License and Section 4(e) Conditions</u></b>	7
3.1 Protection, Mitigation, and Enhancement Measures Recommended to be Included in New Project License	7
3.2 Protection, Mitigation, and Enhancement Measures Recommended to be Included in Section 4(e) Conditions	7
3.3 Relationship of Settlement to Section 7 Consultation	8
3.4 Protection, Mitigation, and Enhancement Measures Recommended to be Included in 401 Certification	8
3.5 Measures Agreed to But Not to be Included in New Project License or Section 4(e) Conditions	8
<b><u>4. Implementation of Settlement</u></b>	8
4.1 Support for Settlement and Issuance of New Project License	8
4.2 Inconsistent License	8
4.3 Appeal of Inconsistent License	9
4.4 Cooperation Among Parties	9
4.5 Implementation Schedule	11
4.6 Reopener or Amendment of New Project License	11
4.7 Amendment of Settlement	12
4.8 Dispute Resolution	12
4.9 Withdrawal from Settlement	13
4.10 Termination of Settlement	14
4.11 Addition of Signatory to Settlement	14
<b><u>5. General Provisions</u></b>	14
5.1 Non-Severable Terms of Settlement	14
5.2 No Third Party Beneficiaries	14
5.3 Successors and Assigns	15
5.4 Failure to Perform Due to Force Majeure	15
5.5 Governing Law	15

5.6 Elected Officials Not to Benefit	15
5.7 No Partnership	15
5.8 Reference to Regulations	16
5.9 Notice	16
5.10 Paragraph Titles for Convenience Only	16
<b><u>6. Execution of Settlement</u></b>	16
6.1 Signatory Authority	16
6.2 Signing in Counterparts	16
<u>Appendix A. Protection, Mitigation, and Enhancement Measures Recommended to be Included in New Project License, Section 4(e) Conditions, and Other Mandatory License Conditions</u>	19
<u>Appendix B. Measures Agreed to Among the Parties But Not to be Included in New Project License or Section 4(e) Conditions</u>	56
<u>Appendix C. Authorized Representatives of Parties</u>	60

# Upper North Fork Feather River Project

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## Relicensing Settlement Agreement

### **1. Introduction**

1.1 Parties. This SETTLEMENT AGREEMENT ("Settlement") is made and entered into pursuant to Federal Energy Regulatory Commission ("FERC") Rule 602, 18 CFR § 385.602, by and among Pacific Gas and Electric Company ("Licensee"), the United States Department of Agriculture Forest Service ("FS"), the California Department of Fish and Game ("CDFG"), American Whitewater ("AW"), Plumas County ("Plumas"), Chico Paddleheads ("CP"), Shasta Paddlers ("SP"), Mountain Meadows Conservancy (MMC), and California Sportfishing Protection Alliance ("CSPA") each referred to individually as a "Party" and collectively as "Parties."

The Parties to this Settlement agree as follows:

#### 1.2 Recitals

1.2.1 On October 23, 2002, Licensee filed with the Federal Energy Regulatory Commission ("FERC") an application for a New Project License for the Upper North Fork Feather River Project, FERC Project No. 2105 ("Project") located on the North Fork Feather River ("NFFR") in Plumas County, California.

1.2.2 Prior to filing its application for a New Project License the Licensee consulted with the Parties and other individuals and organizations in development of the studies, data, and other material presented in the application.

1.2.3 In 2002, Licensee and the Parties met and agreed to engage in discussions to resolve issues and agree on PM&E measures appropriate for the relicensing of the Project. This group, sometimes referred to as the 2105 Licensing Group, engaged in collaborative discussions and is referred to in this Settlement as the "Collaborative." This Settlement is an end product of the Collaborative's work.

1.2.4 State Water Resources Control Board ("SWRCB") staff has participated in the Collaborative in order to provide the Parties with guidance concerning the SWRCB's regulatory requirements and in furtherance of the SWRCB's policy to

promote voluntary settlement agreements. However, the SWRCB cannot prejudge the Licensee's request for water quality certification pursuant to Section 401 of the Clean Water Act (33 USC §1341[a][1]) ("401 Certification") in connection with this relicensing proceeding and therefore can not execute this Settlement.

1.3 Effective Date of Settlement. This Settlement becomes effective as of April 22, 2004.

1.4 Term of Settlement. The term of this Settlement shall commence on the Effective Date and shall continue (unless terminated as otherwise provided herein) for the term of the New Project License (subject to FERC's reserved authority under the New Project License to require modifications), plus the term(s) of any annual license(s) which may be issued after the foregoing New Project License has expired, or until the effective date of any FERC order approving surrender of all or part of the Project under the Federal Power Act (FPA).

1.5 Definitions.

401 Certification: See Paragraph 1.2.4.

Accessible: A recreation or other facility or site element that meets ADAAG.

ADAAG: Americans With Disabilities Act Accessibility Guidelines.

ADR: Alternative Dispute Resolution - see Paragraph 4.8.1.

AF: acre-foot of water.

Basic Ramping Rate: See Appendix A, Section 1, Paragraph 6.

Basin Plan: The Water Quality Control Plan for the Central Valley Region, the Sacramento and San Joaquin River Basins.

Belden Reach: The portion of the NFFR between Belden Forebay Dam and Belden Powerhouse.

Beneficial Use: Those uses designated as Beneficial Uses for the North Fork Feather River in the Basin Plan, as may be amended.

Block Loading: Operational mode of a powerhouse in which the generation capacity (and resulting cfs release) is held at or near a constant level for an extended period of time.

CD: Critically Dry Water Year Type as defined in Appendix A, Section 4.

cfs: cubic feet per second.

Collaborative: See Paragraph 1.2.3.

Controlled Spill: Release of water from a Project reservoir at times when the release could have otherwise been controlled (not spilled) by increasing the flow through the generating units or controlling inflows by controlling releases from upstream reservoirs.

CWA: (Clean Water Act) The federal Water Pollution Prevention and Control Act, 33 U.S.C. § 1251 *et. seq.*, as may be amended.

Disputing Party; Disputing Parties: See Paragraph 4.8.1.

Dry: Dry Water Year Type as defined in Appendix A, Section 4.

Effective Date: See Paragraph 1.3.

Emergency: An event that is reasonably out of the control of the Licensee and requires Licensee to take immediate action, either unilaterally or under instruction by law enforcement or other regulatory agency staff, to prevent imminent loss of human life or substantial property damage. An emergency may include, but is not limited to, natural events such as landslides, storms or wildfires, malfunction or failure of Project works, and recreation accidents.

ESA: Federal Endangered Species Act, 16 U.S.C. §1531 *et seq.*, as may be amended.

FPA: Federal Power Act 16 U.S.C. §791a *et seq.* as may be amended.

FWS: United States Department of the Interior Fish and Wildlife Service.

Good Faith: Honesty of purpose, free from intention to defraud, faithful to one's duty or obligation.

Heavy Maintenance: Maintenance or reconditioning that arrests deterioration and appreciably prolongs the life of the property. From an accounting standpoint, the expenditures may be capitalized. Examples include installing a new roof, new floor, or new siding, replacing electrical wiring or heating systems, repairing or replacing pipes, pumps or motors, repairing or maintaining government property threatened or damaged by heavy snow or ice, repairing or maintaining the paths, lands, walks, roads, or walls adjacent to other government-owned structures, and performing exterior painting or refinishing.

I&E: Interpretation and Education.

Inconsistent License: A New Project License which (a) materially modifies the PM&E measures stated in Appendix A or Appendix B, (b) fails to include all PM&E measures in Appendix A that fall within the jurisdictional authority of the issuing agency, or (c) includes additional PM&E measures related to Resolved Subjects beyond those in Appendix A or Appendix B.

Licensee: The owner of the Project. Currently the Licensee is Pacific Gas and Electric Company.

Minimum Streamflows: Required minimum stream flows in the Belden and Seneca Reaches as provided in Appendix A, Tables A-1 and A-2.

NA: not applicable.

NPS: United States Department of the Interior National Park Service.

NEPA: National Environmental Policy Act, 42 U.S.C. §4321 *et seq.*, as may be amended.

New Project License: The new license issued by FERC for the Project at the conclusion of the current relicensing proceeding, including any mandatory conditions such as FPA Section 4(e) Conditions, 401 Certification conditions, and FPA Section 18 fishway prescriptions.

NFFR: North Fork Feather River.

Normal: Normal Water Year Type as defined in Appendix A, Section 4.

Notice: See Paragraph 5.9.

Operational Maintenance: Maintenance or reconditioning that neither materially adds to the value of the property nor appreciably prolongs its life. The work serves only to keep the facility in an ordinary, efficient operating condition. From an accounting or tax perspective, it is work that may be expensed. Examples include interior painting, repair of broken windows, light bulb replacement, cleaning, unplugging drains, preventative maintenance, normal wear and tear, water, sanitation, road maintenance, greasing, servicing, inspecting, oiling, adjusting, tightening, aligning, sweeping, and incidental snow removal.

Party; Parties: See Paragraph 1.1.

PM&E: Protection, mitigation or enhancement measure, as provided in Section 10(j) of the FPA.

Prattville Intake Modifications: Physical improvements in the vicinity of the Prattville Intake to attract cold water to the intake.

Project: See Paragraph 1.2.1.

Pulse Flows: Short term elevated levels of release from Project dams in amounts and durations specified in Appendix A, Section 1, Paragraph 3(A).

Ramping Rate: The rate of change in a flow release or Controlled Spill from a dam expressed as an increase or decrease in discharge (in cfs) over a period of time. See Appendix A, Section 1, Paragraph 6.

Reconstruction: Replacing or rebuilding a majority of a structure or recreation site, which has reached the end of its useful life or has been destroyed or damaged as a result of a natural event such as a landslide, storm or wildfire. Reconstruction also includes improvements aimed at expanding the capacity of an asset or otherwise upgrading it to serve needs different from, or significantly greater than those originally planned.

Recreation Monitoring Indicators: A specific, measurable recreation or resource variable used to define key features of the desired recreation experience.

Recreation Monitoring Standard: Defines the minimum acceptable condition for a Recreation Monitoring Indicator. Also referred to as a trigger, as once a standard is reached over a sustained period of time, this 'triggers' a potential management action.

Resolved Subjects: See Paragraph 2.2.

RV: Self-contained recreational vehicle up to 40 feet in length.

Section 4(e) Conditions: Any license conditions proposed by FS under FPA Section 4(e).

Seneca Reach: That portion of the NFFR between Canyon Dam (Lake Almanor) and Caribou Powerhouse.

Settlement: This Settlement Agreement between the Parties as described in Paragraph 1.1.



TRG: The Technical Review Group established pursuant to Appendix A, Section 2, Paragraph 1.

Uncontrolled Spill: Release of water from a Project reservoir at times when flow into the reservoir, excluding releases from upstream reservoirs that can be controlled, exceeds the sum of the streamflow release requirement plus the current flow capacity of the generating units.

UNFFR: Upper North Fork Feather River.

Water Quality Parties: The SWRCB, Regional Water Quality Control Board Central Valley Region, Plumas, FS, CDFG, FWS, and other Parties that request involvement in the water quality monitoring program described in this Settlement. Water Quality Parties shall also include California Department of Water Resources (DWR) if it chooses to participate.

Water Year Type: See Appendix A, Section 4.

Wet: Wet Water Year Type as defined in Appendix A, Section 4.

## **2. Purpose of Settlement**

2.1 Purpose. The purpose of this Settlement is to resolve among the Parties all lake level and streamflow issues for ecological purposes, river-based recreational uses, and other Resolved Subjects in support of FS issuing its recommended mitigation and FERC issuing a New Project License. For this purpose, the Parties agree that this Settlement constitutes an entire agreement that provides an appropriate balancing of the Resolved Subjects and the Parties will request that the FERC use the provisions of this Settlement as an alternative to be considered in the FERC's NEPA analysis process.

2.2 Resolved Subjects. Except as provided in Paragraph 2.3, the Parties agree that this Settlement fairly, reasonably, and appropriately resolves streamflows and other subjects listed in Table 1 ("Resolved Subjects") in support of FS issuing recommended mitigation and FERC issuing a New Project License.

### **Table 1**

#### **Subjects Resolved by this Settlement**

- a) Streamflows for PM&E of fish, wildlife, and other aquatic biota in Project-affected stream reaches
- b) Streamflows for stream channel maintenance in Project-affected stream reaches

- c) Streamflows for whitewater boating and other river-based recreation on the Belden and Seneca Reaches
- d) Water quality associated with Project operations and facilities excluding erosion and water temperature (see Table 2)
- e) Streamflow fluctuations from Project operations, including Ramping Rates
- f) Streamflow gaging for compliance monitoring
- g) Stream ecology monitoring
- h) Streamflow information for use by the public
- i) Facility modifications to implement the PM&E measures stated in Appendix A
- j) Administration of Settlement
- k) River sediment management
- l) Project reservoir operation and lands management principles
- m) Recreation facilities development during the term of the New Project License

2.3 Unresolved Subjects. This Settlement leaves unresolved specific subjects related to the Resolved Subjects. These unresolved subjects are listed in Table 2. This Settlement also does not resolve subjects not specifically listed in Table 1 and Table 2.

## **Table 2**

### **Subjects Not Resolved by this Settlement**

- a) Shoreline Erosion: Plumas considers Lake Almanor shoreline erosion an unresolved issue.
- b) Water Temperature: Feasibility studies are currently underway to determine Project 2105 controllable factors associated with attainment and protection of cold freshwater habitat, a designated Beneficial Use of the North Fork Feather River. All Parties await additional information in early 2004 from on-going modeling efforts related to the potential Prattville Intake Modifications, re-operation, or other structural changes (Canyon Dam Intake structure modification, modification to Caribou 2, etc.) to inform PM&E development and agreement on appropriate water temperature conditions. CSPA has unresolved issues with temperature impacts on aquatic resources resulting from the continued operation of the Hamilton Branch and Project 2105 features including the Prattville outlet, Butt Valley Powerhouse, Butt Valley Reservoir, the Caribou 2 Powerhouse and Belden

Reservoir in the Project vicinity and in downstream reaches of the North Fork Feather River to Oroville Reservoir.

- c) Whitewater flow effects on water temperature in the Belden Reach: CSPA considers this an unresolved issue.
- d) Term of New Project License: Licensee, Plumas, and FS support a 40-year license; AW and NPS support a 40-year license if the Rock Creek Cresta (FERC No.1962) license is extended to coincide with the term of the New Project License. CDFG supports a 30-year license. If, however, the Rock Creek Cresta (FERC No. 1962) license were extended at the request of CDFG, then CDFG would support a license term for this Project that would coincide with the Rock Creek Cresta license term. SWRCB and CSPA do not support extension of the FERC No.1962 license. CSPA considers a 30-year license term appropriate for this Project and consistent with the FERC No. 1962 Rock Creek Cresta signed agreement.
- e) Angler Access Trail Improvement in Seneca Reach: CSPA considers this an unresolved issue.
- f) Wetland and Riparian Habitat Offsite Mitigation: CSPA considers mitigation for effects of initial Project construction and continuing Project operations on wetland and riparian habitat through off-site mitigation in Humbug Valley and Mountain Meadows to be an unresolved issue.

2.4 No Precedent for Other Proceedings. This Settlement is made upon the express understanding that it constitutes a negotiated resolution of Resolved Subjects. No Party shall be deemed to have approved, admitted, accepted, or otherwise consented to any operation, management, valuation, or other principle underlying or supposed to underlie any of the Resolved Subjects, except as expressly provided herein. Nothing in this Settlement is intended nor shall be construed as a precedent with regard to any other proceeding or hydroelectric project.

2.5 Compliance with Legal Responsibilities. Nothing in this Settlement is intended to nor shall be construed to affect or limit the authority of any Party to fulfill its statutory, regulatory, or existing contractual responsibilities under applicable law. However, by entering into this Settlement the Parties with such responsibilities represent that they believe their responsibilities relative to Resolved Subjects have been, are, or can be met for the purpose stated in Paragraph 2.1, consistent with and by the terms of this Settlement.

2.5.1 ESA and FPA Section 18 Responsibilities Not Affected. Nothing in this Settlement is intended to nor shall be construed to restrict or affect the continuing responsibilities of FERC or any Party, including FWS under the ESA, including the implementing regulation at 50 C.F.R. § 402.16. Further, notwithstanding any other provision in this Settlement, this Settlement is not intended and shall not be construed to

address, affect, or apply to the Secretary of the United States Department of the Interior through the FWS independent authority under FPA Section 18 to prescribe fishways, or other Parties' rights to dispute such authority.

2.6 Reservation of Claims, Rights, and Responsibilities. Each Party reserves all claims, rights, and responsibilities, which it may otherwise have with respect to any subjects not listed as Resolved Subjects. Nothing in this Settlement is intended nor shall be construed to affect or restrict any Party's participation in or comments about compliance with the New Project License, future relicensing of the Project subsequent to the current relicensing, or any other hydroelectric project licensed to Licensee.

### **3. Use of Settlement in New Project License and Section 4(e) Conditions**

3.1 Protection, Mitigation, and Enhancement Measures Recommended to be Included in New Project License. Subject to Paragraphs 3.2 and 3.3, the Parties respectfully request that FERC accept and incorporate, without material modification, as license articles all of the PM&E measures stated in Appendix A of this Settlement. Subject to the same limitation, the Parties further request that FERC not include in the New Project License articles that are inconsistent with this Settlement, except as may be necessary to enable FERC to ascertain and monitor Licensee's compliance with the conditions of the New Project License and its rules and regulations under the FPA.

3.2 Protection, Mitigation, and Enhancement Measures Recommended to be Included in Section 4(e) Conditions. The Parties respectfully request that FS accept and incorporate, without material modification, as Section 4(e) Conditions all relevant PM&E measures stated in Appendix A of this Settlement that are within the FS's jurisdiction under FPA Section 4(e). The Parties further request that FS not include in its Section 4(e) Conditions, any requirements that are inconsistent with this Settlement. FS agrees to propose as Section 4(e) Conditions on Resolved Subjects the PM&E measures stated in Appendix A of this Settlement which it determines are within its jurisdiction to prescribe as Section 4(e) Conditions, except to the extent that any changes result from analysis under NEPA, National Forest Management Act, and any other applicable law or regulation. This paragraph shall not be read to predetermine or limit the outcome or lawful discretion of FS in issuing Section 4(e) Conditions or in adopting Section 4(e) Conditions inconsistent with those recommended herein.

3.3 Relationship of Settlement to Section 7 Consultation. The Parties acknowledge that if FERC submits the PM&E measures stated in Appendix A as part of the proposed action for consultation under Section 7 of the ESA, FWS may in its lawful discretion identify PM&E measures different from or additional to those set forth in Appendix A and Appendix B to minimize the effects of take of listed species.

3.4 Protection, Mitigation, and Enhancement Measures Recommended to be Included in the 401 Certification. The Parties respectfully request that the SWRCB accept and incorporate, without material modifications, as conditions to the 401 Certification all the PM&E measures stated in Appendix A of the Settlement that are

within the SWRCB's jurisdiction under Section 401 of the CWA. The Parties further request that the SWRCB not include conditions to the 401 Certification that are inconsistent with this Settlement.

3.5 Measures Agreed to that will not be Included in the New Project License or Section 4(e) Conditions. Measures agreed to among the Parties that are not to be incorporated in the New Project License or FS Section 4(e) Conditions are stated in Appendix B.

#### **4. Implementation of Settlement**

4.1 Support for Settlement and Issuance of New Project License. To the extent permitted by applicable law, the Parties shall support or advocate through appropriate written communications to FERC and FS, this Settlement and the PM&E measures stated in Appendix A hereto. For Resolved Subjects and subject to Paragraph 3.2, the Parties agree not to propose, support, or communicate to FERC or FS any comments, recommended PM&E measures, or license conditions other than ones consistent with this Settlement. Prior to the issuance of the New Project License, and at the request of Licensee, the Parties shall timely support this Settlement in written communications to any other administrative agency with advisory or mandatory conditioning authority over issuance of the New Project License, provided this sentence shall not apply to the agency exercising the authority.

4.2 Inconsistent License. If FERC issues an Inconsistent License this Settlement shall be deemed modified to conform to the Inconsistent License, unless a Party provides Notice within 30 days after FERC issues an order approving the Inconsistent License that (a) the Party does not accept the Inconsistent License, and (b) the Party is initiating the ADR procedures stated in Paragraphs 4.8.1 - 4.8.2. Before initiating the ADR, a Party shall make a Good Faith effort to meet and confer with other Parties to this Settlement. The Disputing Party (ies) may, in addition, initiate the appeal procedures described in Paragraph 4.3. If the New Project License does not contain all of the PM&E measures stated in Appendix A because FERC or one of the agencies with mandatory conditioning authority expressly determines that it does not have jurisdiction to adopt or enforce the omitted PM&E measures, the Parties agree that they shall be bound by the entire Settlement, including those recommended PM&E measures omitted by FERC or the agency with mandatory conditioning authority, provided the New Project License contains those PM&E measures stated in Appendix A over which FERC and the agencies with mandatory conditioning authority determine they do have jurisdiction and the New Project License is otherwise consistent with this Settlement.

4.3 Appeal of Inconsistent License. Any Party may petition for administrative rehearing and/or seek judicial review of any Inconsistent License. The ADR requirements stated in Paragraphs 4.8.1 - 4.8.2 do not preclude any Party from timely filing for and pursuing administrative rehearing or judicial review of an Inconsistent License or any other New Project License article that relates to any subject not listed as a Resolved Subject. However, the Parties shall follow the ADR procedures stated in

Paragraphs 4.8.1 - 4.8.2 to the extent reasonably practicable while such appeal is being pursued. If any Party or non-Party files for administrative rehearing or judicial review of an Inconsistent License, Licensee's duties under this Settlement are suspended to the extent necessary to enable Licensee to comply with the Inconsistent License. If a Party has filed for administrative rehearing or judicial review of an Inconsistent License and the Parties subsequently agree to modify this Settlement to conform to the Inconsistent License, the filing Party (ies) shall withdraw the request for rehearing or appeal, or recommend such withdrawal, as appropriate. This Settlement shall be deemed modified to conform to any final non-appealable administrative or judicial decision upholding a challenged Inconsistent License unless a Party provides Notice within 45 days after the date of the final decision that (a) the Party does not accept the Inconsistent License, and (b) the Party is initiating the ADR procedures stated in Paragraphs 4.8.1 - 4.8.2. Except as necessary to fulfill a statutory or regulatory responsibility or policy, the Parties have a continuing duty to support this Settlement, or as appropriate, recommend such support, during an administrative rehearing or judicial review. If there is disagreement about the need for such support between the requesting Party and any Party, those Parties shall meet and confer within 5 days of the request being made and shall make Good Faith efforts to resolve the disagreement.

4.4 Cooperation Among Parties. The Parties shall cooperate in the performance of this Settlement and compliance with related articles in the New Project License. The Parties shall cooperate in implementing the PM&E measures, conducting studies, performing monitoring, and conducting all other activities within their statutory or regulatory authorities related to the measures stated in Appendices A and B of this Settlement, as may be modified in the New Project License. Further, subject to Paragraph 2.5, inclusive of 2.5.1, and upon Licensee's request, the Parties shall provide written communications of support in any administrative approval that may be required for implementation of this Settlement or related articles of the New Project License, provided this obligation shall not apply to the agency exercising the authority.

4.4.1 Responsibility for Costs. Licensee shall pay for the cost of actions required of Licensee by this Settlement or the New Project License. Licensee shall have no obligation to reimburse or otherwise pay any other Party for its assistance, participation, or cooperation in any activities pursuant to this Settlement or the New Project License unless expressly agreed to by Licensee or as required by law.

4.4.2 Licensee Solely Responsible for Operations of Project. Except as expressly provided in this Settlement, by entering into this Settlement none of the Parties, except for Licensee, have accepted any legal liability or responsibility for the operation of the Project.

4.4.3 Availability of Funds. Implementation of this Settlement for a Party that is a federal agency is subject to the requirements of the Anti-Deficiency Act, 31 United States Code, Section 1341, and the availability of appropriated funds. Nothing in this Settlement is intended nor shall be construed to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury. The Parties

acknowledge that the Parties that are federal agencies shall not be required under this Settlement to expend any federal agency's appropriated funds unless and until an authorized official of each such agency affirmatively acts to commit such expenditures as evidenced in writing. Implementation of this Settlement by Parties that are state or local agencies is subject to the availability of appropriated funds. Nothing in this Settlement is intended nor shall be construed to require the obligation, appropriation, or expenditure of any money from the Treasury of the State of California or Plumas. The Parties acknowledge that the Parties that are state or local agencies shall not be required under this Settlement to expend any appropriated funds unless and until an authorized official of each such agency affirmatively acts to commit such expenditures as evidenced in writing.

4.4.4 FS Participation in Settlement. FS is not included in the definition of the words "Party" or "Parties" as used in Paragraphs 3.1, 3.2, 4.1, 4.2, 4.3 and 4.6.1. Additionally, FS' obligations under and participation in this Settlement are fulfilled upon issuance of a New Project License containing final Section 4(e) Conditions that are consistent with Appendix A. FS will remain a Party to Appendix B, Section 2, Paragraphs 1 and 2 until such time as the obligations contained within those paragraphs are fulfilled. Notwithstanding any provision to the contrary, nothing in this Settlement is intended or shall be construed to create FS authority over a subject that is not within its existing authority.

4.4.5 Escalation of Costs. Unless otherwise indicated, costs specified as a year 2004 cost basis shall be escalated (starting in January 2005) based on the U. S. Gross Domestic Product - Implicit Price Deflator (GDP-IPD). Costs not specified as a year 2004 cost basis are constant dollars not subject to escalation.

4.5 Implementation Schedule. Implementation of the PM&E measures stated in Appendix A shall begin after issuance of the New Project License and consistent with the schedule specified in Appendix A (as may be modified by the New Project License). Implementation of the measures stated in Appendix B shall begin consistent with the schedule specified in Appendix B. Within six months after issuance of the New Project License, Licensee shall prepare and provide to all Parties the Licensee's planned schedule for implementing the PM&E measures recommended in this Settlement and incorporated in the New Project License. The schedule shall specify dates for initiation, progress reporting, monitoring and completion, as appropriate, for each such PM&E measure and shall include milestones for major activities.

#### 4.6 Reopener or Amendment of New Project License.

4.6.1 Reopener. Except as required to fulfill statutory or regulatory responsibilities or as provided in Paragraph 4.6.2, a Party to this Settlement may seek to modify, or otherwise reopen during the term of this Settlement the PM&E measures from this Settlement included in the New Project License, only if and when significant new information not known or understood as of the date of issuance of the New Project License reasonably demonstrates that such proposed modification or other cause of

reopener is in furtherance of the public interest under the FPA or other applicable law. In such an event, that Party shall provide Licensee at least 90-days Notice to consider the new information and that Party's position. A Party shall not be required to comply with this 90-day Notice provision if it believes an emergency situation exists, or if required to meet its responsibilities under applicable law. Notwithstanding the provisions of this paragraph, any Party may seek to reopen the New Project License to implement future changes in applicable law, or to protect Beneficial Uses through coordinated operations of this Project, Rock Creek – Cresta Project (FERC No. 1962), and Poe Project (FERC No. 2107), in connection with the relicensing proceedings for the latter project.

4.6.2 Amendment. Nothing in this Settlement is intended nor shall be construed to affect or limit the right of Licensee to seek to amend or surrender the New Project License, provided that Licensee may seek a Project license amendment or surrender which would be inconsistent with this Settlement only if Licensee, relying on significant new information not known or understood as of the date of issuance of the New Project License, can reasonably demonstrate that the amendment is in furtherance of the public interest under the FPA or other applicable law. Prior to filing a proposed license amendment or surrender application which relates to a Resolved Subject or would otherwise be inconsistent with this Settlement, Licensee shall provide the Parties at least 90-days Notice of its intention to do so, and shall promptly consult with Parties responding within 30 days of such Notice regarding the need for and the purpose of the amendment or surrender. Licensee shall not be required to comply with this 90-days Notice provision if it believes an Emergency exists or if required to meet its responsibilities under applicable law or an order of an agency with jurisdiction over Licensee. In any application for a Project license amendment or surrender that relates to a Resolved Subject or is otherwise inconsistent with this Settlement, Licensee shall provide with its application documentation of its consultation with the responsive Parties, summarize the positions and recommendation of the responsive Parties and provide its response to those positions and recommendations. Licensee shall not oppose an intervention request by any Party that satisfies FERC's procedural requirements in a proceeding for a Project license amendment or surrender that any Party has concluded would be inconsistent with this Settlement. A Project license amendment or surrender that, as approved by FERC, would be inconsistent with this Settlement is subject to Paragraph 4.2. Further, a Project license amendment or surrender that, as approved by FERC, would be inconsistent with this Settlement may be considered by a Party as significant new information, allowing that Party to invoke the reopener provision in Paragraph 4.6.1.

4.7 Amendment of Settlement. This Settlement may be amended at any time after Notice, with the unanimous agreement of all Parties still in existence and responsive within 30 days of such Notice. Any amendment of this Settlement shall be in writing and executed by the responding Parties.

4.8 Dispute Resolution.



4.8.1 General. Except to the extent that FERC, FS, or other agency with jurisdiction over a Resolved Subject has a procedure that precludes implementation of Paragraphs 4.8.1 - 4.8.3, all disputes among the Parties regarding any Party's performance or compliance with this Settlement, including resolution of any disputes related to an Inconsistent License, shall be the subject of a non-binding alternative dispute resolution ("ADR") procedure among the Disputing Parties, as stated in Paragraphs 4.8.1 and 4.8.2. Each Party participating in a dispute ("Disputing Party," or collectively, "Disputing Parties") shall cooperate in Good Faith to promptly schedule, attend and participate in the ADR. The Disputing Parties agree to devote such time, resources and attention to the ADR as is needed to attempt to resolve the dispute at the earliest time possible. Each Disputing Party shall implement promptly all final agreements reached, consistent with its applicable statutory and regulatory responsibilities. Nothing in Paragraphs 4.8.1 - 4.8.3 is intended nor shall be construed to affect or limit the authority of FERC, FS, or other agency with jurisdiction over a Resolved Subject, to resolve a dispute brought before it in accordance with its own procedure and applicable law.

4.8.2 ADR Procedures. A Party claiming a dispute shall give Notice of the dispute within 30 days of the Party's actual knowledge of the act, event, or omission that gives rise to the dispute, unless this Settlement provides otherwise. If the dispute includes a claim regarding an Inconsistent License and the claim arises prior to rehearing or appeal, the Notice shall be made within the time periods specified in Paragraphs 4.2. If the dispute includes a claim regarding an Inconsistent License, and the claim arises during or after rehearing or appeal, the Notice shall be made within the time period specified in Paragraphs 4.3. At a minimum and in any dispute subject to these ADR procedures, the Disputing Parties shall hold two informal meetings within 30 days after Notice, to attempt to resolve the disputed issue(s). Any Disputing Party may request that a FERC employee facilitate these informal meetings to assist in resolving the dispute. If the informal meetings fail to resolve the dispute, the Disputing Parties shall attempt to resolve the dispute using a neutral mediator jointly selected within 15 days after Notice by a Disputing Party that the informal meetings did not resolve the dispute. The Disputing Parties shall select a mediator from the sources described in 18 CFR §385.604(c)(3). Absent an agreement for equitable allocation of costs of the mediator, the Parties shall select a FERC employee as mediator. The mediator shall mediate the dispute during the next 60 days after his or her selection. Any of these time periods may be reasonably extended or shortened by agreement of the Disputing Parties, or as necessary to conform to the procedure of an agency or court with jurisdiction over the dispute. Unless otherwise agreed among the Disputing Parties, each Disputing Party shall bear its costs for its own participation in the ADR procedures.

4.8.3 Enforcement of Settlement After Dispute Resolution. Any Party may seek in a court of competent jurisdiction specific performance of this Settlement by any other Party, after compliance with the ADR procedures stated in Paragraphs 4.8.1 and 4.8.2. No Party shall be liable in damages for any breach of this Settlement, any performance or failure to perform a mandatory or discretionary obligation imposed by this Settlement, or any other cause of action arising from this Settlement. The time used

to comply with the ADR procedures shall be excluded from computing any applicable statute of limitations, except where applicable law precludes such exclusion when computing time. Nothing in Paragraphs 4.8.1 - 4.8.3 is intended nor shall be construed to affect or limit the jurisdiction of any agency or court as established under applicable law.

#### 4.9 Withdrawal From Settlement.

4.9.1 Withdrawal of a Party from Settlement. A Party may withdraw from this Settlement only in the following circumstances: (a) a Disputing Party claiming a material breach or violation of this Settlement may withdraw once the Party has complied with the ADR procedures stated in Paragraphs 4.8.1 and 4.8.2 to attempt to resolve the dispute; or (b) a Party objecting to a final and non-appealable order issuing an Inconsistent License may withdraw once the Party has complied with the ADR procedures stated in Paragraphs 4.8.1 and 4.8.2 to attempt to resolve the objection. In addition, Licensee may withdraw as provided in Paragraph 4.9.2. In addition, when required to fulfill a statutory or regulatory responsibility, a Party that is an agency may suspend participation or, if necessary, withdraw from this Settlement, without first using the ADR procedures stated in Paragraphs 4.8.1 and 4.8.2. Finally, a Party may withdraw as provided in Paragraph 5.3.

4.9.2 Withdrawal of Licensee from Settlement. In addition to the provisions of Paragraph 4.9.1, Licensee may withdraw from this Settlement without first complying with the ADR procedures stated in Paragraphs 4.8.1 and 4.8.2 if a Party does not execute or withdraws from this Settlement, and Licensee reasonably determines at its sole discretion that the failure to execute or the withdrawal (a) may adversely affect the likelihood of FS issuing final Section 4(e) Conditions consistent with this Settlement; (b) may adversely affect FERC's issuance of a New Project License consistent with this Settlement; (c) may adversely affect the likelihood of SWRCB issuing a 401 Certification consistent with this Settlement; or (d) substantially diminishes the value of this Settlement to Licensee. Before withdrawing pursuant to this paragraph Licensee shall consult with the remaining Parties and make a Good Faith effort to resolve the issues that gave rise to Licensee's decision to withdraw. Licensee shall exercise the right to withdraw from this Settlement as provided in this paragraph within 30 days of Licensee's knowledge of the event creating the right to withdraw. This time period may be extended by mutual agreement of the remaining Parties.

4.9.3 Method of Withdrawal. A Party may exercise its right to withdraw from this Settlement by giving Notice. Withdrawal is effective 10 calendar days after Notice. A Party that is an agency may suspend participation in this Settlement as provided in Paragraph 4.9.1 by giving Notice.

4.9.4 Continuity After Withdrawal. The withdrawal of a Party, other than Licensee, does not terminate this Settlement for the remaining Parties. If a Party withdraws from this Settlement, the withdrawing Party shall not be bound by any term contained in this Settlement.

4.10 Termination of Settlement. This Settlement shall terminate as to all Parties and have no further force or effect upon expiration of the New Project License and any annual licenses issued after expiration thereof or upon withdrawal from this Settlement of Licensee. If this Settlement is terminated, this Settlement and all documents related to its development, execution, and submittal to FERC shall be deemed confidential and shall not be discoverable or admissible in any forum or proceeding for any purpose to the fullest extent allowed by applicable law, including 18 C.F.R. § 385.606. This provision does not apply to the results of resource studies or other technical information developed for use by the Collaborative.

4.11 Addition of Signatory to Settlement. Upon the request by an individual, entity or agency to become a signatory to this Settlement, the Parties shall proceed in accordance with the provisions in Paragraph 4.7, Amendment of Settlement.

## **5. General Provisions**

5.1 Non-Severable Terms of Settlement. The terms of this Settlement are not severable one from the other. This Settlement is made on the understanding that each term is in consideration and support of every other term, and each term is a necessary part of the entire Settlement.

5.2 No Third Party Beneficiaries. Without limiting the applicability of rights granted to the public pursuant to applicable law, this Settlement shall not create any right or interest in the public, or any member thereof, as a third party beneficiary hereof, and shall not authorize any non-Party to maintain a suit at law or equity pursuant to this Settlement. The duties, obligations and responsibilities of the Parties with respect to third parties shall remain as imposed under applicable law.

5.3 Successors and Assigns. This Settlement shall apply to, and be binding on, the Parties and their successors and assigns. Upon completion of a succession or assignment, the initial Party shall no longer be a Party to this Settlement. No change in ownership of the Project or transfer of the existing or New Project License by Licensee shall in any way modify or otherwise affect any other Party's interests, rights, responsibilities or obligations under this Settlement. Unless prohibited by applicable law, Licensee shall provide in any transaction for a change in ownership of the Project or transfer of the existing or New Project License, that such new owner shall be bound by, and shall assume the rights and obligations of this Settlement upon completion of the change of ownership and approval by FERC of the license transfer. In the event applicable law prohibits the new owner from assuming the rights and obligations of this Settlement, any Party may withdraw from this Settlement. A transferring or assigning Party shall provide Notice to the other Parties at least 30 days prior to completing such transfer or assignment.

5.4 Failure to Perform Due to Force Majeure. No Party shall be liable to any other Party for breach of this Settlement as a result of a failure to perform or for delay in performance of any provision of this Settlement due to any cause reasonably beyond its

control. This may include, but is not limited to, natural events, labor or civil disruption, or breakdown or failure of Project works. The Party whose performance is affected by a force majeure shall notify the other Parties in writing within seven (7) days after becoming aware of any event that such affected Party contends constitutes a force majeure and results in a material deviation from the terms of this Settlement. Such notice shall: (a) identify the event causing the delay or anticipated delay; (b) estimate the anticipated length of delay; (c) state the measures taken or to be taken to minimize the delay; and (d) estimate the timetable for implementation of the measures. The affected Party shall make all reasonable efforts to promptly resume performance of this Settlement, and, when able to resume performance of its obligations and give the other Parties written Notice to that effect.

5.5 Governing Law. The New Project License and any other terms of this Settlement over which a federal agency has jurisdiction shall be governed, construed, and enforced in accordance with the statutory and regulatory authorities of such agency. This Settlement shall otherwise be governed and construed under the laws of the State of California. By executing this Settlement, no federal agency is consenting to the jurisdiction of a state court unless such jurisdiction otherwise exists. All activities undertaken pursuant to this Settlement shall be in compliance with all applicable law.

5.6 Elected Officials Not to Benefit. No member of or delegate to Congress shall be entitled to any share or part of this Settlement or to any benefit that may arise from it.

5.7 No Partnership. Except as otherwise expressly set forth herein, this Settlement does not and shall not be deemed to make any Party the agent for or partner of any other Party.

5.8 Reference to Regulations. Any reference in this Settlement to any federal or state regulation shall be deemed to be a reference to such regulation, or successor regulation, in existence as of the date of the action.

5.9 Notice. Except as otherwise provided in this paragraph, any Notice required by this Settlement shall be written. It shall be sent to all Parties still in existence by first-class mail or comparable method of distribution, and shall be filed with FERC. For the purpose of this Settlement, a Notice shall be effective 7 days after the date on which it is mailed or otherwise distributed. When this Settlement requires Notice in less than 7 days, Notice shall be provided by telephone, facsimile or electronic mail and shall be effective when provided. For the purpose of Notice, the list of authorized representatives of the Parties as of the Effective Date is attached as Appendix C. The Parties shall provide Notice of any change in the authorized representatives designated in Appendix C and Licensee shall maintain the current distribution list of such representatives.

5.10 Paragraph Titles for Convenience Only. The titles for the paragraphs of this Settlement are used only for convenience of reference and organization, and shall not

be used to modify, explain, or interpret any of the provisions of this Settlement or the intentions of the Parties.

**6. Execution of Settlement**

6.1 Signatory Authority. Each signatory to this Settlement certifies that he or she is authorized to execute this Settlement and to legally bind the Party he or she represents, and that such Party shall be fully bound by the terms hereof upon such signature without any further act, approval, or authorization by such Party.

6.2 Signing in Counterparts. This Settlement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument as if all the signatory Parties to all of the counterparts had signed the same instrument. Any signature page of this Settlement may be detached from any counterpart of this Settlement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Settlement identical in form hereto but having attached to it one or more signature pages.

WHEREFORE, for valuable consideration, which is hereby acknowledged, and by authorized representatives, the Parties execute this Settlement effective as of April 22, 2004.

Pacific Gas and Electric Company

\_\_\_\_\_

by \_\_\_\_\_

(Print)

(Title)

United States Department of Agriculture Forest Service

\_\_\_\_\_

by \_\_\_\_\_

(Print)

(Title)

California Department of Fish and Game

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by \_\_\_\_\_  
(Print) (Title)

American Whitewater

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by \_\_\_\_\_  
(Print) (Title)

Plumas County

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by \_\_\_\_\_  
(Print) (Title)

Chico Paddleheads

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by \_\_\_\_\_  
(Print) (Title)

Shasta Paddlers

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by \_\_\_\_\_  
(Print) (Title)

California Sportfishing Protection Alliance

\_\_\_\_\_  
by \_\_\_\_\_  
(Print) (Title)

Mountain Meadows Conservancy

\_\_\_\_\_  
by \_\_\_\_\_  
(Print) (Title)

APPENDIX A. Protection, Mitigation, and Enhancement Measures Recommended to be Included in New Project License, Section 4(e) Conditions, and Other Mandatory License Conditions

Section 1. Streamflow Management

**1. Minimum Streamflows.** For the preservation and improvement of aquatic resources in the Project area, Licensee shall maintain specified Minimum Streamflows and release Pulse Flows below Project dams as measured at gages NF-2 and NF-70 in accordance with the Tables A-1 and A-2 below. The Minimum Streamflows identified are minimum release requirements as per Paragraph 5. The Parties recognize that the SWRCB's 401 Certification may adjust Table A-2 Streamflows in June through September to achieve water temperatures protective of cold, freshwater habitat, as determined to be under reasonable control of Project operation. Minimum Streamflows shall commence within 60 days of the issuance of the New Project License, unless facility modifications are required.

**Table A-1. Releases from Canyon Dam**

<u>Water</u> <u>Year</u> <u>Type</u>	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>
CD	75	75	90	90	90	80	75	60	60	60	60	70
Dry	90	100	110	110	110	110	80	70	60	60	60	75
Normal	90	100	125	125	125	125	90	80	60	60	60	75
Wet	90	100	125	150	150	150	95	80	60	60	60	75

**Table A-2. Releases from Belden Dam**

<u>Water</u> <u>Year</u> <u>type</u>	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>
CD	105	130	170	180	185	90	80	75	75	75	85	90
Dry	135	140	175	195	195	160	130	110	100	100	110	115
Normal	140	140	175	225	225	225	175	140	140	120	120	120
Wet	140	140	180	235	235	225	175	140	140	120	120	120

Where facility modification is required to implement the efficient release of Minimum Streamflows, the Licensee shall submit applications for permits within one year after issuance of the New Project License and complete such modifications as soon as reasonably practicable but no later than two years after receipt of all required permits and approvals. Prior to completion of such required facility modifications, the Licensee shall make a Good Faith effort to provide the specified Minimum Streamflows within the capabilities of the existing facilities. The requirements of this Section 1 are subject to temporary modification if required by equipment malfunction, as directed by law enforcement authorities, or in Emergencies. The requirements of this article are subject to temporary modification if required by an Emergency, as defined herein. If the Licensee temporarily modifies the requirements of these articles, then the Licensee shall make all reasonable efforts to promptly resume performance of such requirements and shall notify SWRCB, FS and all Parties pursuant to Section 5.4.

**2. Streamflows in Lower Butt Creek.** Licensee shall take no action to reduce dam leakage, tunnel leakage, spring or other natural flows that currently provide inflow to Lower Butt Creek below the Butt Valley Dam unless directed to do so by FERC or other regulatory agency.

**3. Pulse Flows in North Fork Feather River.** Licensee shall implement Pulse Flows and gravel monitoring in the Seneca and Belden Reaches to further assist in the preservation and improvement of aquatic conditions in the Project area.



A. Pulse Flows: Licensee shall provide one Pulse Flow release from both Canyon Dam (Seneca Reach) and Belden Forebay Dam (Belden Reach) in each of January, February and March if the forecasted Water Year Type for that month, as defined in Section 4, indicates that the water year is anticipated to be either Normal or Wet. No Pulse Flows are required in months where the Water Year Type forecast for that month indicates that the water year will be either Dry or CD. No Pulse Flows will be required in March in the respective reach if two successive days of mean daily water temperature greater than 10 degrees C are measured at gages NF-2 (Seneca Reach) or NF-70 (Belden Reach), or if rainbow trout spawning in the Seneca or Belden Reaches is observed and reported to Licensee by CDFG or FS. In both the Seneca and Belden Reaches, the total volume of water released for each Pulse Flow event (including the water released during the ramp up and ramp down periods) shall not exceed 1,800 AF. Initially, the typical schedule will be to increase the streamflow at the Basic Ramping Rate to reach the peak streamflow, and hold the peak streamflow for 12 hours. The peak streamflow is variable by month and Water Year Type as follows: 675 cfs in January of Wet and Normal water years; 1,000 cfs in February and March of Normal water years, and 1,200 cfs in February and March of Wet water years. In the Seneca Reach during March of Normal and Wet years, streamflow will be reduced at the Basic Ramping Rate until 400 cfs is reached, held at that streamflow for 6 hours, and then reduced at the Basic Ramping Rate until the Minimum Streamflow specified in Table A-1 above is reached. The 6-hour period of constant streamflow during the ramp down shall occur between 9 AM and 3 PM of a weekend to allow recreational boating opportunities. In the Belden Reach, the peak streamflow will be reduced using the Basic Ramping Rate until the Minimum Streamflow specified in Table A-2 above is reached, but no period of constant flow during the ramp down will be required in any month.

B. Pulse Flow Monitoring (Gravel Monitoring Plan): The Licensee shall, within 12 months of license issuance, develop and begin implementing a Gravel Monitoring Plan, in consultation with the FS, CDFG, FWS, SWRCB, and other Parties. The Gravel Monitoring Plan must be approved by the FS and filed with FERC before implementation. The plan shall evaluate movement of sediment that occurs in the Belden and Seneca Reaches during scheduled Pulse Flow events and other flow events of similar magnitudes. Emphasis shall be placed on monitoring the movement of spawning-sized gravel and recruitment of similar-sized material into the Belden and Seneca Reaches. If, after review of the data collected through the Gravel Monitoring Plan, the FS, CDFG, FWS, and SWRCB determine that the Pulse Flow regime outlined in Paragraph 3(A) above could be improved to enhance the availability and distribution of spawning-sized gravel or enhance riparian function, the agencies specified above may propose revisions to the magnitude, duration, and/or frequency of the scheduled Pulse Flows, subject to the following limitations: (a) any proposed revised Pulse Flow events shall continue to occur in the months of January – March of Normal and Wet years; (b) the total volume of water released for revised Pulse Flows in January – March of each year (including the water released during the ramp up and ramp down periods) shall not exceed 5,400 AF; (c) the total volume of water released for revised Pulse Flows in January shall not exceed 1800

AF but the agencies may defer the January and/or February flows to February or March; (d) any proposed revised Pulse Flows shall not exceed the safe operating capabilities of the existing outlet works; and (e) any proposed schedule for revised Pulse Flow releases shall take into consideration the forecasted Water Year Type as that forecast is developing each year, and no revised Pulse Flows shall be required in a month where the Water Year Type is forecasted to be Dry or CD. If the agencies propose a revised Pulse Flow regime concept that meets these criteria, Licensee shall file the revised Pulse Flow regime with FERC.

**4. Pulse Flows in Lower Butt Creek.** If determined to be necessary pursuant to Paragraph 8 below, Licensee shall provide Pulse Flows in Lower Butt Creek via use of the Butt Valley Reservoir spillway or an acceptable alternative. The magnitude, ramping, and duration of the Pulse Flow[s] will be determined by the Licensee in consultation with FS, FWS, SWRCB, CDF&G and other Parties and will consider the need to adequately move desired particle size material to the confluence with the Seneca Reach and address woody debris and live vegetation concerns. The timing of any Pulse Flows shall be coordinated with Pulse Flows in the Seneca Reach.

**5. Streamflow Measurement.** For the purpose of determining the river stage and Minimum Streamflow below Canyon Dam and Belden Forebay Dam, Licensee shall operate and maintain the existing gages at NF-2 and NF-70 (United States Geological Survey (“USGS”) gages 11399500 and 11401112, respectively) consistent with all requirements of FERC and under the supervision of the USGS. Any modification of the gage facilities at NF-2 and NF-70 that may be necessary to measure the new Minimum Streamflow releases shall be completed within three years after issuance of the New Project License. Licensee shall record instantaneous 15-minute streamflow as required by USGS standards at NF-2 and NF-70. The instantaneous 15-minute streamflow at these gages shall be at least 90 percent of the Minimum Streamflows set forth in Tables A-1 and A-2 above provided that the individual mean flows over a 24-hour period shall be equal to or greater than the Minimum Streamflow set forth in Table A-1 and A-2.

**6. Ramping Rates.** For the preservation and improvement of aquatic resources in the Project area, Licensee shall control river flows by ramping streamflow releases from Project dams as provided in this Paragraph 6. Ramping Rates shall not apply to releases from Project Powerhouses (excluding Oak Flat Powerhouse) or Uncontrolled Spills from Project dams.

A. Basic Ramping Rates: During periods when ramping can be controlled, Ramping Rates shall apply to releases made from Canyon Dam and Belden Dam. Ramping Rates shall be followed during releases made to provide Pulse Flows and recreation river flows, and all other releases from Canyon Dam and Belden Dam that the Licensee makes for operational purposes. Monthly changes in Minimum Streamflow releases shall be made in a single step because the change is always less than the Ramping Rate criterion. Licensee shall follow the Basic Ramping Rate as close as reasonably practicable given gate and other operating limitations:

Canyon Dam: 0.5 ft/hr up and down, in all months, as measured at NF-2; and

Belden Dam: 0.5 ft/hr up and down, in all months, as measured at NF-70.

Changes in Canyon Dam streamflow releases, because of gate size and other factors, may exceed the Ramping Rate in any particular hour, but Licensee shall make a Good Faith effort to return to the overall Basic Ramping Rate in the next and subsequent hours.

B. Revision to Ramping Rates: In the event that studies or monitoring during the term of the License identify the need for modifications to ramping rates, the Licensee shall consult with the FS, FWS, CDFG, SWRCB and other Parties to establish more appropriate rates. New Ramping Rates for Pulse Flows shall not result in an increase in the total volume of water that is required to be released when the new Ramping Rates are applied to geomorphic Pulse Flows. The total volume of water released for a recreation river flow release shall not exceed 110% of the flow volume resulting from the releases specified in Section 2, Table B when the new Ramping Rates are applied. For example, the volume of water released in addition to the Minimum Streamflow during a recreation river flow release in July of a Normal water year is 471 AF when the Basic Ramping Rate is applied to the required 750 cfs release amount set forth in Section 2, Table B. If the Basic Ramping Rate is revised, the volume of water released in addition to the Minimum Streamflow for that same month when the revised Ramping Rate is applied shall not exceed 518 AF. Depending upon how the Basic Ramping Rate is revised, the volume limitations described above may require a corresponding change in the magnitude or duration of the scheduled Pulse Flows or recreation river flow release.

C. Unit Trips: Licensee shall make a Good Faith effort to control streamflow releases to stay within the Basic Ramping Rates but shall not be in violation of the Basic Ramping Rates in the event that the specified rates are exceeded due to a unit tripping off-line, and subsequent restoration, or other conditions beyond the reasonable control of Licensee.

**7. Belden Block Loading.** To (a) minimize the frequency of fluctuation in the river stage and (b) help meet Basic Ramping Rates at downstream Licensee dams, Licensee shall Block Load Belden Powerhouse at times when the Rock Creek Dam is spilling water in excess of the minimum streamflow required under the FERC license for Project No. 1962 but less than 3,000 cfs. Under Block Loading, a unit's generation level is not cycled but rather set at a constant level for a predetermined period of time. Licensee shall not be required to implement or continue this operation if the gate controls at downstream Licensee dams are shown to be able to meet the Ramping Rates specified in the Project No. 1962 license without such Block Loading. If the draft through Belden Powerhouse needs to be increased or decreased from Block Loading levels between 0 and 40 MW, Licensee shall, to the extent reasonably feasible, make adjustments to Belden Powerhouse drafts so as not to exceed ramping rates specified in the Project No. 1962 license. Because of operational constraints that limit Licensee's ability to operate Belden

Powerhouse between 40 and 70 MW, Licensee shall not be required to comply with the Basic Ramping Rates if a transition through these MW levels is needed. Licensee shall attempt to accomplish this transition with as little impact on the Basic Ramping Rates as reasonably feasible.

**8. Lower Butt Creek Streamflow and Habitat Monitoring.** In addition to maintaining gages at NF-2 and NF-70 as provided in Paragraph 5 above, Licensee shall rehabilitate, as necessary, and maintain an existing streamflow gaging station located on Lower Butt Creek designated by Licensee as NF-9. An approximate rating curve shall be maintained with periodic spot checks and re-rating as necessary. The gage and the data collected at the gage shall not be required to meet USGS standards. This gage shall be read each year on or about April 1, June 1, August 1 and October 1.

Within 12 months of license issuance, Licensee in consultation with FS, FWS, SWRCB, CDFG, and Parties, shall develop and submit to FERC for its approval a plan to monitor and assess aquatic habitat quality in Lower Butt Creek between Butt Valley Dam and the confluence with the NFFR. This monitoring plan shall include evaluation of habitat quality at intervals of 3 to 5 years, depending on Water Year Type and other appropriate factors. If the Licensee, in consultation with FS, FWS, SWRCB and CDFG, concludes that habitat quality in Lower Butt Creek has degraded and that Pulse Flows would provide a significant benefit, then Licensee shall implement Pulse Flows as described in Paragraph 4 above.

If the monitoring plan data demonstrates that the Lower Butt Creek weir is blocking fish passage, then within one year after the evaluation of monitoring plan data that confirms fish passage blockage Licensee shall remove or modify the existing weir to allow fish passage.

**9. Seneca, Butt and Belden Reach Biological Monitoring.** Within one year of license issuance, and after consultation with the FS, FWS, SWRCB, CDFG and Parties, the Licensee shall file with FERC a fish population, benthic macroinvertebrate, and amphibian monitoring plan outlining sampling that shall be conducted in the Upper North Fork Feather River Project Seneca, Butt Creek and Belden bypass reaches. The plan shall include, at a minimum, the following components: (a) Between years 10 and 12 after license issuance, Licensee shall initiate a cooperative aquatic monitoring program with FS, FWS, SWRCB, and CDFG. Sampling shall occur every two years over a six-year period, for a total of three sampling efforts. The program shall include monitoring of fish populations including condition and trend and benthic macroinvertebrates in at least three sites in the Belden and Seneca Reaches. Benthic macroinvertebrate monitoring shall include population robustness, feeding group and tolerance/intolerance trend monitoring. Sampling may be deferred to the following year in the event of a CD year; (b) The amphibian monitoring plan for the Seneca, Butt Creek and Belden bypass reaches shall include targeted monitoring of FS Sensitive amphibians conducted at three-year intervals beginning no later than three years following license issuance. Should target amphibians be located in Project reaches, focused annual monitoring of population health, life stages, reproductive success, and distribution will be required.

The Licensee shall provide results of monitoring and any flow change recommendations to FERC, FS, FWS, SWRCB, CDFG and Parties in a draft technical report prepared by June of the year following completion of each sampling effort. The Licensee shall finalize the technical report by the following December. In addition to describing the results, the report shall compare the results with those of previous surveys. The fish-based sampling shall discuss implications regarding trends in fish abundances. The benthic macroinvertebrate sampling report shall enumerate any changes over time regarding the composition of functional feeding groups, overall population heterogeneity and robustness, and pollution tolerance/intolerance trends.

At the conclusion of the aquatic monitoring program described in subsection (a) above, the Licensee, FS, CDFG, FWS, SWRCB, Plumas and other interested Parties shall meet to review the results of the monitoring. If, after review of the data collected during the monitoring, the parties specified above in this paragraph determine that aquatic species or other ecological attributes may benefit from modifications to the Minimum Streamflows set forth in Tables A-1 and A-2, the parties specified above in this paragraph shall evaluate and determine whether such modifications: (1) can be implemented within Licensee's operational capabilities; (2) will maintain the total annual volume of water that has been allocated for Minimum Streamflows in any given Water Year Type as set forth in Tables A-1 and A-2; and (3) will not adversely impact other Beneficial Uses, including hydroelectric power generation, Lake Almanor surface water elevation, and recreation. If all Parties concur and propose revised Minimum Streamflows that meet these criteria, Licensee shall file the proposal with FERC for its approval.

## **Section 2. Recreation River Flow Management**

**1. Recreation River Flow Technical Review Group.** Licensee shall, within 6 months after license issuance, establish a Recreation River Flow Technical Review Group ("TRG") for the purpose of consulting with Licensee in the design of recreation and resource river flow management and monitoring plans, review and evaluation of recreation and resource data, and in the development of possible recreation river flows in the Belden Reach. The TRG shall be composed of FS, CDFG, SWRCB, FWS, NPS, Plumas, and other Parties. TRG meetings shall be open to and accept comments from the public. The Licensee shall maintain, and make public, records of TRG meetings, and shall forward those records with any recommendations to the FS, SWRCB and FERC. The Licensee shall establish communication protocols in consultation with the TRG to facilitate interaction between TRG members, which allow for open participation, consultation with independent technical experts, and communication between all TRG participants.

**2. Recreation Flow Implementation Plan.** Licensee shall implement the following plan.

A. Determination to Proceed with Test Flows: Within six months after license issuance, Licensee shall convene the TRG to evaluate the existing available ecological information regarding recreation river flows and make a determination

whether (i) sufficient information exists to conclude that recreation river flows will result in unacceptable impacts on sociological or ecological resources; or (ii) recreation test river flows as prescribed in Paragraph 3, Table B should be conducted in order to further evaluate the ecological and social effects of recreation river flows in the Belden Reach. If the TRG determines that recreation test river flows should be conducted, it shall not recommend any flow schedule that exceeds the frequency, magnitude or duration of flows prescribed for any given month in Paragraph 3, Table B below. Within six months of convening the TRG, Licensee shall forward the TRG recommendations regarding recreation test river flows to FS and SWRCB.

B. Approvals to Proceed with Test Flows: If the TRG recommends that recreation test river flows in the Belden Reach should be conducted, the FS and SWRCB will consult with appropriate state and federal agencies including the FWS, Licensee, tribal governments, and other interested Parties prior to approving, denying or modifying the TRG's proposal. If the FS and SWRCB approve a proposed schedule for recreation river test flows that does not exceed the frequency, magnitude or duration of the flows prescribed for any given month in Paragraph 3, Table B below, Licensee shall submit the proposal to FERC for its approval.

C. Conducting Test Flows: Upon approval from FERC, Licensee shall conduct recreation test river flows as prescribed in Paragraph 3, Table B for a 3-year period.

D. Monitoring: Licensee shall prepare and submit to the FS and SWRCB for their review and approval, concurrent with the TRG recommendation, a Belden Reach Recreation Test River Flow Evaluation Plan. Upon FS and SWRCB approval, Licensee shall file the plan with FERC for its approval. The plan shall be designed to evaluate the effects of the recreation test river flow releases on ecological and social resources, and the metrics to be used in this determination. Upon approval of the plan by FERC, Licensee shall implement the plan during the 3-year recreation test flow period.

E. Determination of Continued Flows: After the 3-year recreation test river flow period, Licensee shall convene the TRG to evaluate the existing available ecological and social information. The TRG shall make a recommendation regarding whether recreation river flows should be continued in order to meet the river flow management for recreation objective. The TRG shall not recommend any flow schedule that exceeds the frequency, magnitude or duration of flows prescribed for any given month in Paragraph 3, Table B below.

F. Approval of Results of Determination of Continued Flows: Licensee shall forward to the FS and SWRCB any recommendation by the TRG to continue recreation river flows. The FS and SWRCB will consult with appropriate state and federal agencies including FWS, Licensee, tribal governments, and other interested Parties prior to approving, denying or modifying the TRG's proposal. If the FS and SWRCB approve a proposed schedule for continued recreation river flows that does not exceed the frequency, magnitude or duration of the flows prescribed for any given

month in Paragraph 3, Table B below, Licensee shall submit the proposal to FERC for its approval.

**3. Recreation River Flows.** Subject to the conditions of Paragraph 2 above, Licensee shall implement the following recreation river flow schedule and other provisions presented in Table B, Belden Reach Recreation River Flow Schedule.

**Table B – Belden Reach Recreation River Flow Schedule \***

	Release amount in Cubic Feet per Second (cfs)		Release Days per Month				Boater Per Day Triggers	
	Dry/Crit. Dry	Normal/Wet	Crit. Dry Start	Crit. Dry Cap	Dry/Normal/Wet Start	Dry/Normal/Wet Cap	Wet & Normal /Dry	
							Up	Down
July	650	750	1 day	1 day	1 day	2 days	>100	<100
Aug	650	750	1 day	1 day	1 day	2 days	>100	<100
Sep	650	750	1 day	1 day	1 day	2 days	>100	<100
Oct	650	750	1 day	1 day	1 day	2 days	>100	<100

\* During Normal and Wet water years, recreation river flow releases at Belden Dam and measured at NF-70 shall occur between the hours of 10 AM and 4 PM for the first release day of each month, and between the hours of 10 AM and 2 PM for the second release day of each month. During Dry and CD water years, recreation river flow releases shall occur between the hours of 10 AM and 1 PM for both release days.

A. Recreation Flow Calendar: Licensee shall post, through a third party or other mechanism, an annual recreation flow calendar that schedules the initial recreation flow day per month. Licensee shall conduct an annual planning meeting with SWRCB, FS, and other interested Parties each year in March to discuss expected Water Year Type, results of monitoring efforts, Licensee maintenance needs that may conflict with recreation flow releases, and other relevant issues.

B. Additional Flow Days: The desired date of the month for any additional recreation river flow release days triggered by number of boats per day as described in Paragraph 3 (D) below will be recommended by the TRG based on evaluation of social and ecological considerations.

C. Recreation River Flow Postponement:

1. Emergencies: In the event of an Emergency, Licensee may postpone any scheduled recreation river flow release. Licensee shall provide as much notice as reasonably practicable under the circumstances.

2. Postponed Recreation River Flows: To the extent reasonably practicable, Licensee shall reschedule postponed recreation river flow releases as recommended by the TRG.

D. Triggers for Adjustments: During scheduled recreation river flow releases, Licensee shall count observed boater use in number of boats per day to determine whether recreation river flow release days should be added or subtracted. All boats will be counted as 1 boat except for rafts 12' or greater in length will be counted as 2 boats. All boats observed on the Belden Reach for any part of a given day will be counted. If the number of boats per day on the first recreation river flow release day for a month exceeds 100 boats per day, one day of recreation river flow release shall be added to the recreation river flow release schedule in that month the next year. If the number of boats per day is less than 100 boats per day for both the recreation river flow releases in one month, one day of recreation river flow release shall be subtracted from the recreation river flow release schedule for that month in the next year. Recreation river flow releases shall not decrease below 1 day per month and shall not exceed the cap defined in Table B. Recreation river flow release days shall not be added or subtracted during any period of recreation test river release flows conducted pursuant to Paragraph 2(C) above.

The Licensee shall develop and implement a visitor survey for up to three years to determine if visitors would choose to return to recreate on the Belden Reach based on their experience related to number of boats encountered on the river. The visitor survey questionnaire and methodology shall be statistically valid and approved by the TRG. The TRG will evaluate the survey results and other data to determine if the trigger for adding/deleting days, based on number of boats per day, should be amended based on this analysis.

E. Ramping Rates:

F. Streamflow Information:

### **Section 3. Reservoir Operation**

**1. Water Level Management.** To meet the ecological, cultural, aesthetic, social, economic, recreational and Project operational needs, Licensee shall operate Project reservoirs in accordance with the following provisions. Lake level is defined as surface water elevation, expressed in PG&E datum and measured at Canyon Dam, Butt Valley Dam, and Belden Forebay Dam. PG&E datum is 10.2 feet lower than the USGS datum. All elevations noted within this Section are PG&E datum.



**2. Lake Almanor Water Levels.** Lake Almanor is a multi-season reservoir that typically fills from January through June and is then drafted from July through December. Licensee shall operate Lake Almanor as follows:

A. Wet and Normal Water Years: Under Wet and Normal Water Year Types, Licensee shall operate Lake Almanor so that by May 31, the water surface elevation is at or above 4485.0 feet, corresponding to approximately 908,000 acre-feet (AF). From June 1 through August 31, Licensee shall operate Lake Almanor so that the water surface elevation is at or above 4485.0 feet, corresponding to approximately 908,000 AF.

B. Dry Water Years: Under Dry Water Year Types, Licensee shall operate Lake Almanor so that by May 31, the water surface elevation is at or above 4483.0 feet, corresponding to approximately 859,000 AF. From June 1 through August 31, Licensee shall operate Lake Almanor so that the water surface elevation is at or above 4480.0, corresponding to approximately 787,000 AF.

C. Critically Dry Water Years: Under Critically Dry Water Year Types, the Licensee shall operate Lake Almanor so that by May 31, the water surface elevation is at or above 4482.0 feet, corresponding to approximately 835,000 AF. From June 1 through August 31, Licensee shall operate Lake Almanor so that the water surface elevation is at or above 4480.0 feet, corresponding to approximately 787,000 AF.

**3. Butt Valley Reservoir Water Levels.** Under all Water Year Types, Licensee shall operate Butt Valley Reservoir so that minimum water surface elevation from June 1 through September 30 is at or above elevation 4120.0 feet, corresponding to approximately 32,000 AF and from October 1 through May 30, is at or above elevation 4115.0 feet, corresponding to approximately 24,500 AF.

**4. Belden Forebay Water Levels.** Under all Water Year Types, Licensee shall operate Belden Forebay so that the minimum water surface elevation is 2905.0 feet, corresponding to approximately 300 AF.

**5. Multiple Dry Water Years.** In the event of multiple, sequential Dry or CD Water Year Types, Licensee shall be allowed to decrease surface water elevations beyond those specified in Paragraphs 2 through 4 above. By March 10 of the second or subsequent Dry or CD water year and the year following the end of a sequence of Dry or CD water years, Licensee shall notify CDFG, FWS, SWRCB, FS, and Plumas of Licensee's drought concerns. By May 1 of these same years Licensee shall consult with representatives from CDFG, FWS, SWRCB, FS, Plumas, and Parties to discuss operational plans to manage the drought conditions. If the parties specified above agree on a revised operational plan, Licensee may begin implementing the revised operational plan as soon as it files documentation of the agreement with FERC. If unanimous agreement is not reached, Licensee shall submit the proposed plan to FERC, as well as both assenting and dissenting comments, should they exist, and request expedited approval.

**6. Temporary Modifications.** Licensee may temporarily modify the minimum water surface elevations specified in this Section upon unanimous agreement between Licensee, SWRCB, CDFG, FWS, FS, Plumas, and Parties or, if a timely agreement is deemed not possible by Licensee, upon FERC approval of a proposal filed by Licensee. Any agreement reached by the parties specified above may be implemented as soon as Licensee files documentation of the agreement with FERC. If no agreement is reached by the parties specified above, the Licensee shall provide a proposal to FERC for approval, such proposal shall contain any comments or recommendations received from SWRCB, FWS, CDF&G, FS and Plumas. Possible conditions that may warrant temporary modifications include substantial maintenance or repair work on Project facilities.

**7. Emergencies.** In the event of an Emergency, Licensee is authorized to take such immediate action as may be necessary to reduce the risk.

**8. Exercise of Licensee's Water Rights.** Nothing in this Section is intended to prevent or reduce Licensee's ability to fully exercise its water rights for storage and direct diversion at its facilities.

**9. Maximum Water Surface Elevation.** In addition to the management procedures contained in this Section, Licensee shall take such reasonable actions as may be prudent to keep the water surface elevation in Lake Almanor from exceeding elevation 4494.0 feet unless a higher level is approved by FERC and the California Department of Water Resources, Division of Safety of Dams.

**10. Implementation of Water Surface Elevation Requirements.** Licensee shall implement the requirements of this Section 3 within six months after license issuance.

**11. Lake Almanor Information.** Licensee shall make available daily midnight storage and water surface elevation of Lake Almanor, rounded to the nearest 100 AF and tenth of a foot, respectively, delayed between approximately 7 and 10 days, on the Internet through a third party or other mechanism.

**12. Annual Meeting With Plumas.** Licensee shall meet annually with a committee appointed by the Plumas County Board of Supervisors. This meeting shall be held between March 15 and May 15 to allow Licensee to inform the committee about Lake Almanor water elevation levels predicted to occur between May 1 and September 30. In addition, should Licensee forecast that its obligation to deliver water to the State of California and Western Canal Water District pursuant to the January 17, 1986 agreement will require Licensee to deviate from the Lake Almanor water elevation levels set forth in this Section 3, Licensee shall schedule an additional meeting with the committee within one month of the forecast.

## Section 4. Water Year Type

Reservoir operating levels, Minimum Streamflows, Pulse Flow occurrence, and recreation flows may vary depending on the predicted magnitude of the annual runoff from the river basin. Water years have been classified into four Water Year Types based on the California Department of Water Resources (DWR) records of annual inflow to Lake Oroville (Oroville) from 1930-1999: Wet, Normal, Dry, and Critically Dry (CD). Licensee shall determine Water Year Type based on the predicted, unimpaired inflow to Oroville and spring snowmelt runoff forecasts provided by Licensee and DWR each month from January through May. The Water Year Types are defined as follows:

- Wet: Greater than or equal to 5,679 thousand acre-feet (TAF) inflow to Oroville.
- Normal: Less than 5,679 TAF, but greater than or equal to 3,228 TAF inflow to Oroville.
- Dry: Less than 3,228 TAF, but greater than or equal to 2,505 TAF inflow to Oroville.
- CD: Less than 2,505 TAF inflow to Oroville.

Licensee shall make a forecast of the Water Year Type on or about January 10<sup>th</sup>, notify FS, CDFG, FWS, SWRCB, Plumas, and Parties within 15 days, and operate the Project based on that forecast for the remainder of that month and until the next forecast. New forecasts will be made on or about the tenth of February, March, April, and May after the snow surveys are completed, and operations will be changed as appropriate. In making the forecast each month, average precipitation conditions will be assumed for the remainder of the water year. The May forecast shall be used to establish the Water Year Type for the remaining months of the year and until the next January 10, when forecasting shall begin again. Licensee shall provide notice to FERC, SWRCB, CDFG, FS, FWS, Plumas, and other Parties of the final Water Year Type determination within 15 days of making the determination.

## Section 5. Water Quality Monitoring Program

**1. Water Quality Monitoring.** The Licensee shall conduct an ongoing water quality monitoring program for the Project to provide data to demonstrate the level of protection provided for Beneficial Uses of Project waters and to identify any trends in water quality conditions that may occur over time. If adverse water quality is shown to be a result of the Licensee's Project operations or maintenance, the Licensee shall develop and implement a plan and/or measures to mitigate Project-related effects on water quality.

### 2. Water Quality Study and Monitoring Plan

A. Selected Water Quality Monitoring: The Licensee shall conduct a special study to investigate the dissolved cadmium concentrations and specific conductance levels in waters of the UNFFR observed in 2002-2003. Licensee shall take water quality samples at 20 locations throughout the upper watershed each spring, summer and fall. Sampling shall include analysis of dissolved cadmium, total hardness and *in situ* parameters (temperature, dissolved oxygen (“DO”), pH, specific conductance, and turbidity). Water quality sampling shall include single grab samples at stream locations and both surface and bottom samples at three locations in Lake Almanor and one location in Butt Valley Reservoir.

Water samples for dissolved cadmium analysis shall be collected using the ultra clean field sampling techniques outlined in EPA Method 1669: Sampling Ambient Water for Trace Metals at EPA Water Quality Criteria Levels. Dissolved cadmium concentrations shall be determined using EPA Method 1638: Determination of Trace Metals in Ambient Waters by Inductively Coupled Plasma – Mass Spectrometry.

1. Frequency: At a minimum, this monitoring shall be conducted in years 1 and 2 after license issuance. This monitoring program may be modified or terminated if agreed to by the Licensee and the Water Quality Parties that either (a) cadmium and specific conductance levels consistently meet water quality objectives outlined in the Basin Plan and the USEPA California Toxics Rule (“CTR”) for Freshwater Aquatic Life and National Recommended Ambient Water Quality (“NRAWQ”) or (b) the sources are non-Project related.

B. Bacteriological Sampling: The Licensee shall conduct bacteriological monitoring (consistent with Basin Plan objectives for protection of the REC-1 beneficial uses) at a total of 10 locations within the Project boundaries. Sampling shall include five annually rotating stations at Licensee-owned or managed recreation sites around Lake Almanor, three rotating stations at Licensee-owned or managed recreational sites around Butt Valley Reservoir, and two recreation sites on the Belden Reach of the UNFFR. The Licensee, in consultation with Water Quality Parties shall select sampling locations based on criteria that include areas where: (a) swimming and other water contact recreation activities are known to occur, and (b) there are sources for potential introduction of pathogens to the water column in the immediate vicinity. Five samples shall be collected at each of the 10 sampling locations during the 30-day period that spans either the Independence Day Holiday (June-July) or the Labor Day Holiday (August-September), using the five samples in 30-days methodology as outlined in the Basin Plan.

1. Frequency: Bacteriological monitoring shall be conducted annually for the first five (5) years after license issuance, then once every other year through the term of the license. Licensee shall consult with SWRCB and the Water Quality Parties to determine the location of the rotating sampling stations no later than April 30 of each designated sampling year. This monitoring program may be modified or terminated if agreed to by the Licensee and the Water Quality Parties.

**C. Fish Tissue Bioaccumulation Screening:** The Licensee shall monitor the potential bioaccumulation of silver, mercury, and PCBs in tissue samples collected from resident catchable-sized fish in Project waters. Licensee shall collect fish samples from Lake Almanor, Butt Valley Reservoir, and Belden Forebay. Fish collected from Lake Almanor and Butt Valley Reservoir shall be analyzed for silver and mercury. Fish collected from Belden Forebay shall be analyzed for PCBs, silver, and mercury. All fish collected shall be within the legal “catchable” size range (minimum total length of 8 inches), with larger individuals targeted (i.e., total length of 10-12 inches and larger). The sampling strategy developed for Butt Valley Reservoir and Belden Forebay shall be consistent with the field methods developed in the relicensing process in coordination with the SWRCB’s Toxic Substances Monitoring Program, as reflected in Table 1. Specific sampling strategies for Lake Almanor are listed in Table 2.

1. Frequency: The bioaccumulation fish tissue screening samples shall be collected once every 5 years, beginning the first year after license issuance. The monitoring shall continue through the term of the New Project License. During the term of the New Project License, the monitoring and reporting requirements may be modified or terminated if it is demonstrated to the satisfaction of the SWRCB and other agencies included as Water Quality Parties that the given requirement is no longer necessary.

**Table 1. Butt Valley and Belden Fish Tissue Bioaccumulation Screening - Sampling Protocols**

Butt Valley Reservoir

Assessment of *Silver* and *Mercury* uptake in resident fish species.

Sample:	Smallmouth Bass	(9 individuals)
	Brown Trout	(6 individuals)
	Rainbow Trout	(6 individuals)

Belden Forebay

Assessment of *Silver*, *Mercury* and *PCB* uptake in resident fish species.

Sample:

A)	Smallmouth Bass	(6 individuals)
	Rainbow Trout	(6 individuals)
	Sacramento Sucker	(2 composites <sup>1</sup> of 3 individuals)

or

B)	Smallmouth Bass	(3 composites <sup>1</sup> of 3 individuals)
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Rainbow Trout	(3 composites <sup>1</sup> of 3 individuals)
Sacramento Sucker	(2 composites <sup>1</sup> of 3 individuals)

<sup>1</sup> Composites must fall within a 25% range in total length.

**Table 2. Lake Almanor Fish Tissue Bioaccumulation Screening - Sampling Protocols**

Lake Almanor

Assessment of *Silver* and *Mercury* uptake in resident fish species.

Sample:	Smallmouth Bass	(18 individuals)
	Brown Trout <sup>1</sup>	(9 individuals)
	Brown Bullhead	(2 composites <sup>2</sup> of 3 individuals)

<sup>1</sup> Sacramento Pikeminnow may be substituted, if brown trout cannot be reasonably obtained.

<sup>2</sup> Composites must fall within a 25% range in total length.

D. Canyon Dam Mitigation Measures Evaluation: In order to reduce odor and suspended metals while maintaining appropriate water temperatures in the Seneca Reach, Licensee shall implement the following “Canyon Dam mitigation measure” by switching from the low-level gate (4422’ PG&E datum) at Canyon Dam to the upper-level gate (4467’ PG&E datum) on September 15. The flow release will be switched back to the low-level gate on or after November 1. Licensee shall monitor and evaluate the adequacy and efficacy of the Canyon Dam mitigation measure by conducting one *in-situ* water quality profile per month near the Canyon Dam intake structure in Lake Almanor during the months of June, July, August, September and October. The profile of *in-situ* parameters shall include DO, temperature, pH, specific conductance, and turbidity collected at 1-meter intervals to monitor the onset of reduced oxygen conditions in the hypolimnion of Lake Almanor. During the September and October sampling events, Licensee shall also collect samples at the surface and bottom of Lake Almanor near the Canyon Dam intake structure and at three locations in the Seneca Reach and analyze them for hydrogen sulfide, iron, manganese, and arsenic. *In-situ* water quality parameters will also be collected at all stations. During the October sampling event, Licensee shall also collect and analyze one sediment sample near the Canyon Dam intake structure for hydrogen sulfide, sulfate, iron, arsenic and manganese.

Licensee shall coordinate the collection of the water quality and sediment samples described above with the Canyon Dam mitigation measure as follows: Licensee shall take the September samples before it switches from the lower gate to the upper gate at the Canyon Dam Intake structure and Licensee shall take the October samples after it has switched to the upper gate.

1. Frequency: The monitoring shall begin the first year after license issuance. At a minimum, monitoring shall occur in six (6) water years, with two (2) occurrences in Wet water years, two (2) occurrences in Normal water years, and two (2) occurrences in Dry/CD water years after license issuance. At the conclusion of the 6-year data collection effort, the program shall be evaluated to determine the effectiveness of the Canyon Dam mitigation measure. Based on data collected, the Licensee, in consultation with the Water Quality Parties, shall make a determination on the effectiveness of the Canyon Dam mitigation measure and the need (if any) for additional monitoring or development and implementation of alternative measures.

**E. Lake Almanor Water Quality Monitoring Program:** Licensee shall conduct water quality sampling in Lake Almanor to monitor long-term water quality trends. The monitoring program is designed to monitor the long-term trends observed in Lake Almanor and to determine if water quality parameters are protective of Beneficial Uses designated for Lake Almanor and meet water quality objectives outlined in the Basin Plan and the USEPA CTR and NRAWQ criteria. Licensee shall collect water samples at the surface and near the bottom of Lake Almanor at three (3) representative locations, one in the channel near the Canyon Dam Intake structure, one in western lobe, and one in the eastern lobe. The Licensee shall analyze these water samples for general minerals, metals, nutrients, and petroleum products (Table 3). Licensee shall also conduct an *in-situ* water quality profile at each of the three locations. *In-situ* water quality profiles shall include DO, temperature, pH, specific conductance, and turbidity measurements at 1-meter intervals. Licensee shall also collect a Secchi disc measurement at each location.

1. Frequency: Lake Almanor water quality monitoring shall be conducted seasonally (spring summer, and fall) once every five (5) years beginning in Year 3 after license issuance, and shall continue through the term of the New Project License. The sampling frequency may be increased to once every three (3) years for specific constituent(s) on Table 3 if the water quality monitoring results exhibit a statistically significant increasing trend over time, or if a constituent's concentrations that have been historically low, approach or exceed applicable federal or state water quality standards. During the term of the New Project License, the monitoring and reporting requirements may be modified or terminated if the Licensee, the SWRCB, and the other Water Quality Parties agree that the given requirement is no longer necessary or needs to be adjusted to more appropriately monitor for changes in Project operations, regulatory mandates, or to focus study needs.

**Table 3. Sampling Parameters for the Lake Almanor Water Quality Monitoring Program.**

<i>Total Metals<sup>1</sup></i>	Aluminum Silver	<i>Nutrients</i>	Nitrate+Nitrite Total Ammonia
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	Arsenic		Orthophosphate
	Copper		Total Phosphorous
	Cadmium		Total Organic Nitrogen
	Iron		Total Kjeldahl Nitrogen
	Manganese		Chlorophyll-a
	Mercury		Total Organic Carbon
	Nickel		
	Zinc	<i>Petroleum</i>	MTBE
		<i>Products</i>	TPHG
<i>Minerals</i>	Calcium		BTEX (Surface only)
	Magnesium		
	Sodium	<i>In-Situ</i>	Temperature
	Potassium		Dissolved Oxygen
	Chloride		pH
			Specific Conductance
<i>General</i>	Hardness		Turbidity
	Sulfate		Secchi Disk
	Total Alkalinity		DO (% saturation)
	Total Suspended Solids		

<sup>1</sup> Dissolved concentrations shall be calculated and reported for cadmium, copper, lead, nickel, silver, and zinc as outlined in *The Metals Translator: Guidance for Calculating a Total Recoverable Permit Limit from A Dissolved Criterion (EPA 823-B-96-007)*.

### **3. Reporting and Agency Consultations**

A. Within three months after license issuance, the Licensee shall develop, in consultation with the Water Quality Parties, monitoring plans that provide specific details, analytical methods, sampling protocols and QA/QC procedures that will be used in the initial monitoring studies described in Section 5, Paragraph 2. These water quality monitoring plans shall be submitted to the Water Quality Parties for review, and following approval by the Chief Division of Water Rights, SWRCB (or successor), shall be filed with FERC for its approval as soon as practicable.

B. The measures described in Section 5, Paragraph 2 and clarified by plans developed according to Section 5, Paragraph 3 (A) shall outline the monitoring efforts to be implemented in the first five years of the license. This monitoring program is intended to be adaptive in nature and may be modified to more effectively focus on specific Project-related water quality conditions identified in Project waters, if agreed to by the Licensee, SWRCB, and the Water Quality Parties.



C. Licensee shall begin the monitoring program as soon as reasonably practicable but no later than 3 months, after FERC's approval of the monitoring plans described in this Appendix A, Section 5, Paragraph 3 (A).

D. The Licensee shall prepare an annual water quality report that contains elements consistent with reporting requirements from all plans under Section 5. The annual report shall be provided to FERC and the Water Quality Parties no later than March 15 of the following year.

E. To facilitate the exchange of data and ensure dialogue between water quality and aquatic resources management agencies and Water Quality Parties, the Licensee shall convene a discussion group meeting once annually, following distribution of the annual water quality monitoring report. Invitation to participate in the annual water quality discussion group shall include, at a minimum, those entities listed as Water Quality Parties. The annual water quality meeting shall be noticed at the time of annual report distribution and shall provide a minimum of 30 days advance notice to invited participants. The meeting shall occur between April 15 and April 28 each year.

## **Section 6. Wildlife Habitat Enhancement**

To enhance wildlife habitat, License shall prepare a Wildlife Habitat Enhancement Plan ("Plan") within 12 months of the date of license issuance. The Plan shall be developed in consultation with the FS, FWS, CDFG, SWRCB, and Plumas and submitted to FERC for approval. The enhancement efforts in the Plan shall be limited to lands owned by the Licensee on the shoreline of Lake Almanor from Last Chance Campground westward to approximately the northern edge of the flood control channel south of the Chester Airport. The Plan shall be designed to benefit a variety of sensitive biological resources including rare plants, wetlands, streamside riparian communities, cultural resources and sensitive wildlife habitat. The primary elements of the Plan shall be fencing and vehicle exclusion measures that will allow continued public foot access to the area to be implemented within two years of license issuance. Licensee's obligation to fund enhancement efforts in the Plan shall be limited to an initial investment of \$20,000 (2005 dollars) and an ongoing annual maintenance investment of \$5,000 (2004 dollars). The Plan shall include a provision for periodic review of enhancement efforts with the agencies noted above and shall include procedures for documenting initial and ongoing enhancement efforts.

## **Section 7. Recreation**

Licensee shall implement the following recreation facility development, operation and maintenance, monitoring, plan review and revision, resource integration, and I&E programs over the term of the license as stipulated below. Within one year of license issuance, Licensee shall finalize the License Application's Draft UNFFR Recreation Resource Management Plan ("RRMP") in consultation with FS and Plumas for the purpose of describing the implementation of each of the following programs.

## **1. Recreation Facilities Development Program**

The Licensee shall implement the recreation facility enhancement measures described in this Section after license issuance and during the license term, based on target completion dates indicated below and Recreation Monitoring Indicators and Standards contained in the Draft RRMP. The term “Accessible” below refers to ADA-accessibility improvements that shall be made in accordance with the Americans with Disability Accessibility Guidelines (“ADAAG”) at the time the recreation facilities are upgraded or constructed.

### **A. Initial License Issuance Recreation Enhancement Measures**

Licensee shall initiate and complete implementation of the following recreation measures within the specified target completion dates, as reasonably practicable.

#### **1. Lake Almanor**

**a. Last Chance Family and Group Campground** Target completion is 1-3 years after license issuance.

In accordance with ADAAG, Licensee shall modify two campsites and existing toilet buildings and provide an access route leading to the nearby creek (150 feet).

**b. Rocky Point Campground and Day Use Area** Target completion is 5-10 years after license issuance.

- i. Licensee shall convert Loop 3 overflow camping area into a day use swim area containing an approximately 1-acre sand beach above the high water level (4,494-foot elevation, PG&E datum), swimming delineator, paved parking area for 35 to 40 vehicles, and double-vaulted toilet building.
- ii. Licensee shall relocate the twenty campsites in the Loop 3 overflow area to the Loop 1 camp overflow area and provide a new double vaulted toilet building at this location.
- iii. Licensee shall provide a new entrance kiosk, three fee-based shower facility buildings (one for each loop) with hot water, and bear-proof food lockers at each of the 151 campsites within the campground.
- iv. Licensee shall replace older Klamath stoves (a low-style camp stove with a stovepipe) with campfire rings.
- v. Licensee shall revegetate or harden significantly disturbed areas where erosion has been caused by pedestrian or vehicle traffic.

vi. Licensee shall implement the following Accessibility improvements in accordance with ADAAG:

- a) Modify 10 campsites (four at Loop 1, three at Loop 2, and three at Loop 3).
- b) Provide an Accessible route to the high water level (4,494-foot elevation, PG&E datum) at the sandy beach.
- c) Modify the existing campground library box, telephones, and the envelope box at the pay station and provide appropriate Accessible access routes.
- d) Modify existing water faucets near Accessible toilets and campsites.
- e) Provide Accessible routes to the toilet buildings near the campground entrance and near campsite # 100.
- f) Relocate the interior pay station directly across the road to a level, firm, and stable surface (Loop 2).

**c. Forest Service Almanor Shoreline Facilities:** Target completion 1-13 years after license issuance.

- i. Licensee shall provide the FS with 40 percent matching funds up to a total maximum of \$5,000,000 (2004 dollars) for the FS to construct recreation improvements at the following FS-owned recreation facilities: Almanor Family Campground, Almanor Group Campground, Almanor Amphitheater, Almanor Picnic Area, and Almanor Beach. Recreation improvements will include reconstruction of existing facilities and construction of new facilities. During the first thirteen years of the new license term, Licensee's annual obligation to provide matching funds shall be triggered by FS's ability to obtain its share of matching fund contributions. Although the FS will attempt to maintain the 40/60 percent split each year, FS may elect to require Licensee to provide a greater or lesser percentage of matching funds in any given year provided that the total cost to Licensee to fund recreation improvements at the above FS-owned recreation facilities shall not exceed \$5,000,000 (2004 dollars). FS shall provide Licensee with its preliminary annual funding request no later than January 15 of the previous year and final funding request no later than April 15 of the previous year. FS will bill Licensee when FS share of funds have been allotted. Licensee shall make actual payments upon receipt of billing by the FS.

- ii. If, at the end of the thirteenth year after the license is issued, the Licensee has not paid the FS the maximum \$5,000,000 (2004 dollars) because the FS has been unable to obtain its corresponding share of the matching funds, then Licensee shall use the remaining funds (the difference between the amount Licensee has already paid the FS in matching funds and the \$5,000,000 cap (2004 dollars)) for recreation improvements at the Almanor Beach and East Shore Family Campground, which shall include the addition of up to 28 campsites in a third loop as funding permits. The FS will be responsible for all design and construction of recreation improvements at FS facilities, and will consult with the Licensee prior to adoption of the final design. The FS will maintain ownership of the facilities both before and after completion of construction of the recreation improvements.
- iii. FS intends to use the matching funds provided by Licensee as described in the preceding paragraph to construct the following recreation improvements. FS may adjust these construction activities depending upon the ability of the FS to obtain its share of the matching funds, site limitations, or other appropriate factors.
  - a) **Almanor Family Campground and Amphitheater:** Reconstruct the North and South loops, including general improvement of travel ways and spurs, upgrade sanitation facilities, provide utility hook ups, and construct amphitheater.
  - b) **Almanor Group Campground:** Construct camping loops, group gathering area including pavilion, trailer dump station, and rehabilitate, restore and revegetate decommissioned overflow and group camp.
  - c) **Almanor Picnic Area:** Define and upgrade picnic sites, shade structures, and interpretation/orientation facilities.
  - d) **Almanor Beach:** Expand sandy beach area, expand parking area, and construct swim buoy.
- iv. The reconstruction of the Almanor Boat Launch and Canyon Dam Boat Launch facilities is the responsibility of the FS and is being conducted outside the scope of this Settlement.
- v. FS shall be responsible for any future Reconstruction of existing FS facilities.

**d. East Shore Group Camp Area:** Target completion is 1-3 years after license issuance.

- i. Licensee shall convert the existing East Shore Picnic Area to a group reservation camp area that shall accommodate one group of 16 RVs or two groups of eight RVs. The entrance road shall be widened and internal road circulation shall be improved to accommodate RVs.
- ii. Licensee shall provide one Accessible parking space near the existing double-vaulted toilet building and an Accessible access route to the nearby trash receptacles.
- iii. Licensee shall provide bear-proof food lockers at each of the 16 sites, a non-paved, non-Accessible trail down to the shoreline, including switchbacks and stairs, and erosion control measures.

**e. North Shore Public Boat Launch:** Target completion is 3-5 years after license issuance.

- i. Licensee shall provide a new and expanded public boat launching facility at North Shore Campground. This facility shall include paved parking for 40 single vehicles with trailers and 12 single vehicles, a double-vaulted toilet building, and a boarding float. In addition, Licensee shall dredge and maintain along the existing submerged river channel to provide an approximate 1,000-ft long, 50-ft wide, and 6-ft deep boat channel that provides boat access to approximately the 4,480-foot elevation (PG&E datum). The boat launch will be open for public use from April 1 to December 1 when the lake's elevation is at or above the 4,480-foot elevation (PG&E datum) and as snow on the ground permits.
- ii. Licensee shall provide public access to the boat launch facility along an abandoned portion of Highway 36 located along the north side of the campground to reduce traffic impacts to the campground.
- iii. Licensee shall relocate 22 campsites within the Project boundary that will be impacted by the reconstructed boat launch facility.

**f. Stover Ranch Day Use Area:** Target completion is 3-5 years after license issuance.

The Licensee shall develop the Stover Ranch Day Use Area to provide improved Lake Almanor shoreline access for Chester residents. This day use area shall include gravel parking for 10 to 20 vehicles, a double-vaulted toilet building, four picnic tables, a non-paved trail to the shoreline, and an interpretive sign. In addition, one RV site shall be constructed to accommodate a new seasonal Lake Almanor caretaker. The development of the Stover Ranch site shall be coordinated with the Chester Public Utility District and the Almanor Recreation and Park District.

**g. Marvin Alexander Beach:** Target completion is 1-3 years after license issuance.

The Licensee shall assume management responsibility of the PSEA Swim Beach and expand and improve the existing sandy beach to a .4-acre area above the high water level (4,494 foot elevation, PG&E datum). In addition, Licensee shall provide an improved gravel parking area for 30 to 45 single vehicles, replace the two single-vault toilet buildings, ten picnic tables, and provide a new swimming delineator. This PSEA Swim Beach shall be renamed to the Marvin Alexander Beach.

**h. Canyon Dam Day Use Area:** Target completion is 1-3 years after license issuance for this Licensee facility.

- i. The Licensee shall provide an approximately .3-acre sandy beach above the high water level (4,494 foot elevation, PG&E datum), swim area delineator, an informational kiosk, improved vehicle circulation, and eight new Accessible picnic tables at the Canyon Dam Day Use Area.
- ii. The Licensee shall modify eight existing picnic tables to make them Accessible, provide an Accessible parking space, and provide an Accessible route to the high water level (4,494-foot elevation, PG&E datum) at the swim beach area in accordance with ADAAG.
- iii. The Licensee shall reserve approximately 1 acre of land adjacent to the Canyon Dam Day Use Area for potential future recreation development during the license term.

**i. “East Shore” Day Use Area:** Target completion is 1-5 years after license issuance.

Licensee shall designate a swimming area in the existing cove adjacent to the proposed new East Shore Campground. This day use area shall contain up to five picnic tables, non-paved shoreline access trails, a single vaulted toilet building, and parking for 10 to 20 vehicles.

**j. Westwood Beach:** Target completion is 1-3 years after license issuance.

The Licensee shall provide a gravel parking area for 10 vehicles, six picnic tables, an Accessible single vaulted toilet building, an approximately .1-acre sandy beach, a swim delineator, and directional signage at the Westwood Beach. Licensee shall also provide shoreline erosion control measures to protect the shoreline from wind caused wave action.

**k. Stumpy Beach:** Target completion is 1-3 years after license issuance.

The Licensee shall provide five picnic tables, directional signage, an approximately .7-acre sandy beach above the high water level (4,494 foot elevation, PG&E datum), and a swim delineator at Stumpy Beach. Licensee shall provide a single vaulted toilet building, if allowed by Plumas and California Department of Transportation set back regulations; otherwise, Licensee shall provide a seasonal portable toilet building. Eight to 10 paved parking spaces parallel to Highway 147 shall be provided with trails connecting to the beach's northern and southern portions. The southern trail shall be Accessible where feasible and the northern trail shall be non-paved. In addition, Licensee shall provide four benches for visitors to view Lake Almanor and the surrounding mountains. Licensee shall also provide shoreline erosion control measures to protect the shoreline from wind caused wave action.

**l. Catfish Beach:** Target completion is 3-5 years after license issuance.

Licensee shall make a Good Faith effort to negotiate a reasonable easement across private lands to provide public road access and install a single vaulted toilet building to the Catfish beach area. Licensee shall not be required to seek to condemn the easement if the negotiations are unsuccessful. If the Licensee is able to negotiate the easement, Licensee shall monitor and maintain the toilet building and the site's cleanliness through arrangements with the North Shore Campground managers, the Stover Ranch caretaker, or other appropriate means.

**m. Almanor Scenic Overlook:** Target completion is 1-5 years after license issuance.

Licensee shall provide an Accessible parking space and route to the existing Accessible double-vaulted toilet building at the overlook and conduct vegetative brushing and clearing, as needed, to maintain views of Lake Almanor, Mt. Lassen and the Canyon Dam.

**n. Southwest Shoreline Access Zone:** Target completion is 1-5 years after license issuance.

The Licensee, in consultation with the FS, shall provide four shoreline access points at existing informally used locations along Lake Almanor's southwest shoreline between Prattville and Canyon Dam. These access areas shall provide vehicle access at or above the 4,494-foot elevation (PG&E Datum) and serve as pedestrian access areas to the adjacent shoreline. The Licensee shall provide four gravel parking areas that provide parking for up to 4 to 8 vehicles at two areas and 10 to 20 vehicles at the other two areas, vehicle barriers, regulatory, interpretive and informational signs, gravel access roads, and, if appropriate, single-vaulted toilet buildings at these access areas. Licensee shall close and rehabilitate other user-created vehicular access routes to the southwest shoreline as depicted in Site Plan 15 contained in the Draft RRMP and in consultation with the FS.

**o. Camp Connery:** Target completion 1-5 years after license issuance.

Licensee shall provide an Accessible parking space and a new bunk house cabin with Accessible toilet and user fee based hot shower, retrofit the existing telephone position and water faucet features to meet the ADAAG.

## **2. Butt Valley Reservoir**

**a. Powerhouse Trails:** Target completion is 5-10 years after license issuance.

Licensee shall provide two improved angler access trails to two locations near the Butt Valley Powerhouse. The first trail shall be non-paved and approximately 200- feet constructed from the existing gravel parking area next to the Butt Valley Powerhouse down the steep slope east of the powerhouse to the levee below. If needed, stairs shall be constructed at this location. The second powerhouse trail shall be Accessible (compact base rock) and originate from an existing pullout along the Prattville-Butt Valley Road near the Butt Valley Powerhouse and extend approximately 700 feet to the eastern shoreline of the inlet near the levee. A new, compacted base rock trailhead parking area with barriers shall be developed for this trail.

**b. Ponderosa Flat Campground:** Target completion is 5-10 years after license issuance.

Licensee shall provide a single person, non-heated outdoor shower at Ponderosa Flat Campground. In accordance with ADAAG, Licensee shall make the following improvements:

i. Modify four campsites and retrofit the existing designated Accessible campsites in the campground to be Accessible. The picnic table, fire ring, cooking grill, tent or RV area, and water faucet at each of these campsites shall be retrofitted to be Accessible

ii. Replace the vault toilets in the overflow area with one new Accessible single vaulted toilet building and modify all other existing designated Accessible toilet buildings to meet current ADAAG. Provide an Accessible access route to the toilet building near Site 45 and one Accessible paved parking space located near the toilet buildings

iii. Provide a swimming area at the campground that is Accessible with an approximately .4-acre sandy beach above the high water elevation (4132-foot, PG&E Datum) and swim delineator.

iv. Provide a new Accessible fishing access trail and Accessible pier or platform north of the overflow area

**c. Cool Springs Campground:** Target completion is 5-10 years after license issuance.



Licensee shall provide a two-person, non-heated outdoor shower at Cool Springs Campground. In addition, Licensee shall provide one new Accessible campsite. The picnic table, fire ring, cooking grill, tent or RV space, and water faucet at this campsite shall be made Accessible.

**d. Alder Creek Boat Launch:** Target completion is 5-10 years after license issuance.

Licensee shall expand the existing Alder Creek Boat Launch parking area to accommodate 10 to 20 additional vehicles with trailers and to improve circulation. New parking areas on the east side of the Butt Valley Reservoir Road shall be gravel while those on the west of this road shall be paved. In addition, Licensee shall modify the boat launch to be Accessible and provide one Accessible parking space near the existing double vaulted toilet building.

### **3. Belden Forebay**

**a. Belden Forebay Access:** Target completion is 5-10 years after license issuance.

- i. Licensee shall provide a car-top boat launch, a seasonal portable toilet building, and gravel parking area for 10 single vehicles at the Belden Forebay existing undeveloped parking area, which also serves as trailhead for the North Fork Fishing Trail.
- ii. Provide suitable access for launching small, car top watercraft at the Belden Forebay.
- iii. If Plumas passes an ordinance as specified in Appendix B, Section 2, Paragraph 3 (B) of this Settlement, Licensee shall post signage at Belden Forebay referring to this ordinance that will limit boat engine horsepower to 10 hp and boat speeds to 5 mph on Belden Forebay and prohibits swimming and boating within 0.25 mile of Belden Dam and at night at the Forebay.

**b. North Fork Fishing Trail:** Target completion is 1-3 years after license issuance. Licensee shall improve the North Fork Fishing Trail from the Belden Forebay parking area to the upstream side of the Caribou Powerhouse 1. Improvements shall include retrofitting the existing metal trail decking and railing at the powerhouse above the turbine outlets to provide enhanced access and safety, providing trail directional signs, and providing a wider, more even non-paved trail base along the chain-link fencing at the powerhouse yard and along Caribou Road from the parking area.

### **4. Bypass River Reaches**

**a. Upper Belden Reach River Access:** Prior to initiation of any recreation river flow release, Licensee shall provide a river access point at the upstream end of the Belden

Reach located at the spoil pile area. This access location shall include a seasonal portable toilet, a seasonal dumpster located over a concrete pad, and a non-paved parking area to accommodate 15 to 25 single vehicles.

**b. Belden Reach Trails:** Target completion is 1-3 years after license issuance. Licensee shall provide and maintain four trails to the Belden Reach shoreline from existing informal parking areas where public access can be provided in a safe manner.

**c. Belden Rest Stop:** Target completion is 3-5 years after license issuance. Licensee shall relocate the existing picnic tables to the lower level and disperse them within the area from the Eby Stamp Mill to the gazebo near the creek. Two of the tables shall be replaced with Accessible tables and Accessible routes shall be developed to the gazebo, overlook area next to the creek, and the Eby Stamp Mill historical features. The upper level area shall be closed and the existing cooking grills removed. Licensee shall provide improved I&E elements at the rest stop and erosion control measures on the slope between the parking lot and upper picnic area.

**d. Lower Belden Reach River Access:** If a determination is made to proceed with scheduled recreation river flow releases Licensee shall, upon FS request, provide up to a maximum of \$125,000 (2005 dollars) to the FS for construction of non-Project river access to the lower Belden Reach. The FS will make a Good Faith effort to obtain matching funds to help offset the cost of these improvements.

## **2. Future Recreation Enhancement Measures**

The Licensee anticipates the following facility improvements may be needed over the term of the New Project License. Implementation of these measures is contingent on reaching the Recreation Monitoring Standards, contained in the Draft RRMP included in the License Application, over the New Project License term.

### **A. Lake Almanor**

#### **1. Camp Connery Reservation Group Camp Area**

a. Licensee shall provide a new group reservation camping area adjacent to the existing Camp Connery Group Camp. This area shall either provide space for two groups of approximately eight self-contained RVs or one group of approximately 16 self-contained RVs. A centrally located bear-proof food facility, two user fee based indoor shower buildings with hot water and flush toilets shall be provided at this group camp.

b. Licensee shall repair and resurface the existing access road.

#### **2. East Shore Family Campground**

Licensee shall provide a new two-loop family campground on Licensee-owned land along the east shore of Lake Almanor. The new campground will

be constructed in two phases, and shall contain approximately 63 new tent and RV campsites. This campground shall contain bear-proof food lockers at each campsite, two user fee, indoor hot shower buildings with flush toilets, approximately 20 boat moorage slips/buoys, and a camp host site. If the FS is unable to raise all of the matching funds specified in Section 7, Paragraph 1 (A) (1), (c), then the remaining funds shall be used for recreation improvements at the Almanor Beach and East Shore Family Campground, which shall include the addition of up to 28 campsites in a third loop as funding permits.

## **B. Butt Valley Reservoir**

- 1. Ponderosa Flat Campground.** Licensee shall provide approximately 20 new primitive tent campsites (likely to the north of the current overflow area), and a new 100-person capacity group camp area in the existing overflow area.

### **3. Project Boundary Adjustments**

Within one year of license issuance Licensee shall apply to FERC to adjust the FERC Project boundary to include all Licensee-owned recreation improvements described under this Agreement, as well as the FS Canyon Dam Boat Launch and Day Use Area, Dyer View Day Use Area, and Almanor Boat Launch. Within 6 months after the FS has completed construction of each of the recreation improvements it has planned for the FS Almanor Family Campground and Amphitheater, Almanor Group Campground, and Almanor Beach, Licensee shall apply to FERC to adjust the Project boundary as needed to incorporate these facility components and to modify the license article that reflects Appendix A, Section 7, Paragraph 4 (Recreation Operation and Maintenance Program) of this Settlement to include these FS facilities.

### **4. Recreation Operations and Maintenance Program**

Prior to the start of the first recreation season following license issuance, Licensee shall assume responsibility for Operational Maintenance and Heavy Maintenance at the following FS facilities:

- Dyer View Day Use Area
- Canyon Dam Boat Launch and Day Use Area, and
- Almanor Boat Launch

As each recreation facility is individually constructed by Licensee, Licensee shall assume responsibility for Operational Maintenance and Heavy Maintenance at the following FS facilities:

- Southwest Shoreline Access Zone facilities described in Paragraph 1(A)(1)(n) of this Section

Licensee shall not be responsible for Operational Maintenance and Heavy Maintenance of the Almanor Picnic Area.

Licensee's Operational Maintenance and Heavy Maintenance of the FS facilities described above shall be consistent with FS standards, applicable laws, regulations, codes, and other legal direction. Licensee shall not be responsible for any future Reconstruction of these facilities.

In accordance with FERC, FS, and applicable Department of Boating and Waterways regulations, Licensee shall collect and retain 100 percent of FS approved reasonable user fees at all FS recreation facilities that Licensee operates and maintains. User fees shall be used to offset Licensee's Operational Maintenance, Heavy Maintenance, and reasonable administrative costs, with the intent that the fees shall be sufficient to cover these costs over the term of the license, and as feasible, Licensee's matching contribution towards initial construction of recreation improvements at FS facilities defined in Section 7(1)(A)(1)(c). Licensee shall meet with the FS and Plumas every five years, or as necessary, to determine whether the fees are sufficient to meet these purposes, and if not, to make necessary adjustments. Licensee shall track costs and revenues in a balancing account and shall provide the FS with an annual accounting. Funds derived from the user fees may be accumulated from year to year to address larger Heavy Maintenance projects. Licensee shall meet with the FS and Plumas at least annually to review the operation and maintenance of FS facilities included in the license and adjust maintenance levels as necessary. At the end of the license term, any remaining funds in the balancing account shall be used to offset Licensee's matching contribution toward initial construction of recreation improvements at FS facilities. Prior to Licensee assuming responsibility for Operational Maintenance and Heavy Maintenance of these FS recreation facilities, Licensee and FS shall enter into a FS approved operation agreement or other appropriate authorization, consistent with Licensee's obligations under this paragraph.

## **5. Fisheries**

### **a. Belden Reach**

As per the agreement under the existing license and subject to the limitations set forth in subsection (c) below, the Licensee shall continue to reimburse CDFG for stocking of approximately 5000 pounds of catchable trout per calendar year in the waters of the NFFR between its confluence with the East Branch NFFR and the Belden Diversion Dam. The cost to the Licensee for fish stocking shall be the actual average hatchery production cost per pound to the CDFG, and any additional applicable distribution and planting costs. Actual average cost per pound shall be determined by CDFG based on hatchery production costs for the period beginning July 1 and ending June 30 of the previous calendar year. At the request of the Licensee, CDFG's cost of carrying out the year's stocking plan is subject to audit by the Licensee for up to three years. If the Licensee performs an audit and disagrees with any expenditures of CDFG, then the Licensee and CDFG

agree to meet and discuss the audit and make appropriate changes in the stocking plan budget.

**b. Lake Almanor**

Subject to the limitations set forth in subsection (c) below, the Licensee agrees to make funds available annually to augment CDFG's existing Lake Almanor fisheries program. The specifics of any fishery augmentation program will be defined by DFG and presented to the Licensee during February of each calendar year for discussion. A fisheries augmented program may include, but not limited to, such projects as the expansion of the pen rearing program and the construction of rearing habitat for warm water fish.

**c. Annual Funding for Fishery Programs**

Licensee shall make available up to \$50,000 (2004 escalated dollars) per year for the term of the New Project License for items subsections (a) and (b) above. Unused portions of the \$50,000 will not be rolled over to successive years.

**6. Interpretation and Education (I&E) Program**

Within two years after license issuance, Licensee shall develop an I&E Program for the Project in consultation with the FS, Plumas, and other Parties. The Licensee shall submit the portion of the I&E Program pertaining to FS facilities to the FS for its approval. Licensee shall implement the I&E Program within one year of Program acceptance by FERC. The I&E Program shall provide information to enhance recreation experiences and encourage appropriate resource protection, cooperation, and safe behaviors by Project visitors. The I&E Program shall include themes, media, media design, prioritized sites, and prioritized services. Potential themes include fish and wildlife resources, volcanic history, hydropower, Native American cultures, pioneers, recreation activities and facilities available in the Project area, and boating hazards. The I&E Program shall include improvements such as interpretive or informational signs, kiosks, reservoir boating safety and hazard information signs and brochures, and informational signs describing recreation facilities and opportunities in the area. The I&E Program improvements shall be developed at recreation sites owned by Licensee and FS that are to be included in the Project boundary. The I&E Program shall also identify funding partnership arrangements with the FS and other interested parties, and contain a schedule for implementation. Licensee and FS will review facility naming practices and re-name facilities with similar names in order to reduce visitor confusion. Licensee and FS will agree on wording of entrance signs to facilities operated by Licensee but owned by the FS. I&E presentations may be provided by the FS at FS facilities. Licensee shall not be responsible for providing any I&E presentations at any Project recreation facility.

As part of the I&E Program, Licensee shall prepare a Lake Almanor bathymetry map within one year of license issuance. This map shall be provided in pamphlet form to area boaters and posted on signs at Lake Almanor public boat ramps.

## **7. Recreation Monitoring Program**

Within 12 months of license issuance, the Licensee, in consultation with the FS, Plumas, and other interested Parties, shall complete a Recreation Monitoring Program. The Licensee shall submit the portion of the Recreation Monitoring Program pertaining to FS facilities to the FS for its approval. Licensee shall adopt a modified Limits-of-Acceptable Change (LAC)-based monitoring approach as described in the Draft RRMP contained in the Final License Application. This approach includes Recreation Monitoring Indicators and Standards that shall initiate management action to help maintain desired recreation experiences and resource conditions at Project recreation areas over the license term. Specific recreation areas to be monitored by the Licensee shall include at a minimum the water surface of Project reservoirs, Licensee and FS recreation facilities, and shoreline areas within the Project boundary. The Program shall include a schedule of information to be collected annually, every six years, or every 12 years. Licensee shall conduct more in-depth monitoring, such as visitor questionnaire surveys and general assessment of regional recreation trends at 12-year intervals. As part of the Recreation Monitoring Program, Licensee shall conduct annual recreation planning and coordination meetings with other recreation providers in the Project area to discuss recreation resource management decisions for the Project area, implementation of Project recreation enhancements, recreation monitoring results, potential grant applications and other pertinent Project-related recreation issues that may arise over the term of the New Project License.

The Licensee shall prepare periodic monitoring reports every 6 years in conjunction with FERC Form 80 recreation facility and use monitoring requirements. Prior to submitting such reports to FERC, Licensee shall submit the portions of the report pertaining to FS facilities to the FS for its approval. These reports shall include but not be limited to changes in kinds of use and use patterns both on water surfaces and land, amount and types of recreational activities, kinds and sizes of recreational vehicles including boats, amount of day use versus overnight use, and recreation user trends within the Project area as well as summaries of annual monitoring. More in-depth questionnaire surveys and regional assessment results shall be incorporated into these reports at 12-year intervals.

If recreation river test flow releases are conducted, Licensee shall, in consultation with FS and other interested Parties, develop a study plan to monitor recreation use during the test flow period and produce a report on monitoring results.

## **8. Integration and Coordination Program**

Licensee shall hold annual meetings to integrate recreation resource needs with other resource management needs, such as cultural, wildlife, water quality, and aquatic resources. These meetings shall be held over the term of the New Project License with Parties and SWRCB, and shall be open to the public.

## **9. Recreation Resource Management Plan (RRMP) Review and Revision Program**

Over the term of the New Project License, unforeseen recreation needs, changes in visitor preferences and attitudes, and new recreation technologies may occur. The frequency with which the RRMP is revised or updated by Licensee shall depend on significant changes to existing conditions, monitoring results, and management responses made over time. The frequency of RRMP updates shall not exceed every 12 years and shall be based on consultation with the FS, SWRCB, and other interested Parties during monitoring and coordination meetings and through other appropriate sources.

**10. River Ranger.** By March 1 of each year of the New Project License, the Licensee shall provide to the FS up to \$25,000 (2004 dollars), to assist in funding a “River Ranger” position. The purpose of this position shall be to provide additional light maintenance, visitor information/assistance, and user safety and law enforcement presence in the Project’s bypassed river reaches.

The Licensee shall request that the FS provide Licensee by January 31 of each year a written summary of the previous year expenditures and River Ranger activities and the current year’s planned expenditures and River Ranger activities.

**11. Belden Interagency Recreation River Flow Management Plan.** If a determination is made to proceed with scheduled recreation river flow releases, Licensee, prior to the start of the first full recreation season shall coordinate with the FS, Plumas, and Caltrans to develop a Memorandum of Understanding to produce a Belden Interagency Recreation River Flow Management Plan. The Plan shall address management and integration of recreation opportunities provided by the Belden Recreation River Flow release with other river recreation opportunities in the watershed. The Plan shall address establishment of visitor capacity thresholds, maintenance of facilities, signage, traffic management and monitoring. This Plan and Memorandum of Understanding would not be financially binding, but would document agency roles, responsibilities, and intentions related to river recreation management.

If after the Belden recreation river test flow evaluation period, recreation river flow releases in accordance with Section 2 of this Settlement are not continued, the Memorandum of Understanding and Plan would be terminated.

**12. Traffic Use Survey.** Within one year of license issuance, Licensee shall file with FERC a road traffic survey plan for roads used for Project purposes located on National Forest System lands. This plan shall be approved by the FS and include provisions for monitoring traffic every six years when Licensee is monitoring recreation use in accordance with FERC Form 80 requirements. At a minimum the road traffic survey shall include the Caribou Road (27N26) and the Caribou-Butt Valley Reservoir roads (27N26 and 27N60) and include:

- The number of vehicles per day, type of vehicle, such as log trucks, recreational vehicles, passenger cars, emergency vehicles (fire), or Licensee vehicles on these roads.

- A sampling approach for these roads that covers the fishing season and includes the opening weekend of fishing season, Memorial Day weekend, July 4<sup>th</sup> holiday weekend, the day before, the day of and the day after scheduled Belden Reach recreation river flow releases, Labor Day weekend, non-holiday weekends, and weekdays.
- Road traffic reports every six years to be filed with FERC, after FS review and comment.

## **Section 8. Land Management and Visual Resource Protection**

The Licensee shall implement the following measures at existing facilities within 2 years after license issuance or as otherwise noted:

A. Paint the metal siding and roof of the hoist house on the Prattville Intake structure a dark green color similar to the current color;

B. Plant sufficient evergreen trees between the existing Prattville maintenance buildings and the shoreline to reduce visual domination of the buildings on the shoreline area. Monitor and oversee tree survival to ensure successful establishment through the first three summers.

C. Re-grade the Oak Flat road debris spoil piles along Caribou Road to create a more natural rolling topography along the roadside, and where possible, move spoil materials farther from the road. Establish native plantings where possible between the road and the spoil piles to help screen the active use areas from passing motorists.

D. In consultation with the FS, prepare a plan to annually apply dust palliatives or other measures, including regular grading, to help minimize dust emissions and improve the lower coupled segment of the Butt Valley-Caribou Road.

E. At the Belden Powerhouse, consult with the FS on color selection when maintenance or repair work is scheduled on the Belden Powerhouse penstocks, surge chamber, or other powerhouse facilities to reduce visual contrast as seen from State Route 70.

F. At Caribou Village, maintain the exterior and landscaping of the old clubhouse facility, houses, and grounds to preserve the historic features and character of the facility. Consult with the FS when maintenance or repair activities that affect exterior appearance are to take place to help preserve, as practical, the historic and visual appeal of the village landscaping and structures.

G. Within 60 days prior to any ground-disturbing activity on FS lands, the Licensee shall file with FERC a Visual Management Plan approved by the FS. At a minimum, the plan shall address:



- Clearing, spoil piles, and Project facilities such as diversion structures, penstocks, pipes, ditches, powerhouses, other buildings, transmission lines, corridors, and access roads.
- Facility configuration, alignment, building materials, colors, landscaping, and screening.
- Proposed mitigation and implementation schedule necessary to bring Project facilities into compliance with National Forest Land and Resource Management Plan direction.
- Locating road spoil piles either in approved areas on National Forest System lands or to a location off FS administered lands.
- Monitoring and eradication of noxious weeds as specified in the “Noxious Weeds Management Plan” license condition.
- Removal of all visible non-native materials, including construction debris from the surfaces of piles located on National Forest System lands.
- Stabilization and revegetation of all native material that is allowed to be left on National Forest System lands including compliance with visual quality objectives.

H. Within 30 days after license issuance, Licensee shall implement the Lake Almanor Shoreline Management Plan (“SMP”) included in Licensee’s final license application as amended for the Project. Licensee shall meet with the FS and Plumas, and other interested Parties a minimum of every 10 years to discuss the need to update the SMP. The need to update the SMP sooner may also be raised and discussed during the annual land use meetings with the FS, Plumas, and interested Parties.

I. Conduct annual meeting with the FS, CDFG and Plumas to coordinate ongoing Project-related land management activities including recreation management and use, fire suppression and related forest health activities, and the planning for commercial, residential and industrial developments adjacent to the Project boundary.

## **APPENDIX B: Measures Agreed to Among the Parties But Not to be Included in New Project License or Section 4(e) Conditions**

### **Section 1. Plumas County Lake Almanor Water Quality Monitoring and Protection**

#### **1. Goals**

The intent of this Section is to monitor and protect the water quality of Lake Almanor for the use and enjoyment of the public and for aquatic resources.

#### **2. Water Quality Monitoring Plan**

A. Within 90 days after issuance of a New Project License, a water quality monitoring plan shall be developed by Plumas and the Licensee, in consultation with the SWRCB, Regional Water Quality Control Board, FWS, CDFG, and other Water Quality Parties.

### **3. Water Quality Monitoring Plan Implementation**

A. Plumas shall contract with the DWR or other party acceptable to the SWRCB, Regional Water Quality Control Board, FWS, CDFG, and other Water Quality Parties, to implement the water quality monitoring plan and prepare an annual report. The contract shall require the contractor to submit a water quality data report to Plumas and the Licensee by January 31 of the following year.

### **4. Annual Meeting**

A. Between April 15 and April 28 the Licensee shall convene a meeting of SWRCB, Regional Water Quality Control Board, FWS, CDFG, and other Water Quality Parties to review the results of the Lake Almanor water quality monitoring program and revise the monitoring plan as necessary.

B. If adverse water quality effects are identified in Lake Almanor, Plumas and the Licensee shall consult with the SWRCB, Regional Water Quality Control Board, FWS, CDFG, and other Water Quality Parties to determine the reason for the adverse water quality. If the adverse water quality is shown to be a result of the Licensee's Project operations or maintenance, the Licensee shall develop and implement a plan and/or measures to mitigate Project-related effects on water quality. The plan and/or mitigation measures shall be developed in consultation with the SWRCB, Regional Water Quality Control Board, FWS, CDFG, and other Water Quality Parties. If the adverse water quality is shown to be a result of non-Project land use practices, Plumas County zoning practices, or Plumas County permitting practices, Plumas shall develop and implement a plan and/or mitigation measures for protecting the water quality in Lake Almanor. The plan and/or mitigation measures shall be developed in consultation with the SWRCB, Regional Water Quality Control Board, FWS, CDFG, and other Water Quality Parties.

### **5. Funding**

A. The Licensee and Plumas shall each contribute up to a maximum of \$20,000 (2004 dollars) annually in matching funds to implement water quality sampling in Lake Almanor in accordance with the *Settlement Agreement Covering Applications 28468 of Plumas County and 30414, 30257 and 30258 of PG&E Pending Before the State Water Resources Control Board* (Dated 7/30/02). Funding for water quality sampling of Lake Almanor outlined in Section 5 of Appendix A shall be part of the matching funds outlined in this Paragraph. The Licensee and Plumas shall coordinate and consolidate water quality sampling in Lake Almanor with the monitoring program outlined in Appendix A, wherever possible.

B. Plumas and the Licensee recognize the DWR has monitored water quality in Lake Almanor and its tributaries since 1986. The preference of Plumas and the Licensee is that DWR continue its current sampling program, utilizing a significant portion of the Settlement matching funds to assist in funding DWR's total sampling effort. Plumas and the Licensee shall request the DWR to provide sampling and analytical services.

## **Section 2. Recreation**

**1. New Operations and Maintenance Terms.** On January 1, 2009, Licensee shall assume responsibility for Operational Maintenance and Heavy Maintenance at FS Almanor Family Campground and Amphitheatre, Almanor Group Campground, and Almanor Beach. It is probable that assumption of Operational Maintenance and Heavy Maintenance responsibilities will precede completion of FS reconstruction of the facilities. Licensee's Operational Maintenance and Heavy Maintenance of these FS facilities shall be consistent with FS standards, applicable laws, regulations, codes, and other legal direction. Licensee shall not be responsible for any future Reconstruction of these facilities.

In accordance with FERC, FS, and applicable Department of Boating and Waterways regulations, Licensee shall collect and retain 100 percent of FS approved reasonable user fees at all FS recreation facilities that Licensee operates and maintains. User fees shall be used to offset Licensee's Operational Maintenance, Heavy Maintenance, and reasonable administrative costs, with the intent that the fees shall be sufficient to cover these costs over the term of the license, and as feasible, Licensee's matching contribution towards initial construction of recreation improvements at FS facilities defined in Section 7(1)(A)(1)(c). Licensee shall meet with the FS and Plumas every five years, or as necessary, to determine whether the fees are sufficient to meet these purposes, and if not, to make necessary adjustments. Licensee shall track costs and revenues in a balancing account and shall provide the FS with an annual accounting. Funds derived from the user fees may be accumulated from year to year to address larger Heavy Maintenance projects. Licensee shall meet with the FS and Plumas at least annually to review the operation and maintenance of FS facilities included in the license and adjust maintenance levels as necessary. At the end of the license term, any remaining funds in the balancing account shall be used to offset Licensee's matching contribution toward initial construction of recreation improvements at FS facilities defined in Section 7(1)(A)(1)(c). Prior to Licensee assuming responsibility for Operational Maintenance and Heavy Maintenance of these FS recreation facilities, Licensee and FS shall enter into a FS approved operation agreement or other appropriate authorization, consistent with Licensee's obligations under this paragraph.

FS may request Licensee to assume responsibility for operation and maintenance of the FS Almanor Picnic Area on January 1, 2009. FS shall reimburse Licensee for its actual costs, including reasonable administrative costs, to perform Operational Maintenance and Heavy Maintenance of this FS facility. Licensee shall not be responsible for any Reconstruction. Prior to Licensee assuming responsibility for operation and maintenance of the Almanor Picnic Area, Licensee and FS shall enter into an operation and maintenance agreement or other appropriate authorization, consistent with the terms of this paragraph.

**2. Outside Funding for FS' Belden Reach Area River Access.** If a determination is made to proceed with scheduled recreation river flow releases, the FS will within five years following signature of this Settlement, request matching funding from the

California Department of Boating and Waterways and/or other appropriate sources for the Lower Belden Reach River Access facilities proposed pursuant to Section 7 of Appendix A of the Settlement. All Parties shall support approval for the request from the California Department of Boating and Waterways (or other appropriate organization).

**3. Plumas County Ordinance.** The Parties shall within one year following signature of this Settlement, request the Plumas County Board of Supervisors to pass county ordinances that:

A. Prohibit the travel of motorized wheel vehicles at Lake Almanor below the 4,500-foot contour elevation (PG&E datum) except in designated areas to preserve and improve ecological, cultural and recreation resources at Lake Almanor.

B. Limit boat engine horsepower to 10 hp and boat speeds to 5 mph on Belden Forebay and prohibit swimming and boating within 0.25 miles of Belden Dam and at night at the Belden Forebay. This ordinance is similar to the Plumas ordinance for Rock Creek-Cresta Reservoirs.

All Parties shall support the Plumas County Board of Supervisor's approval of these requests.

**4. Plumas County Sheriff Shoreline Patrol.** Upon passage of the Plumas County ordinance referenced in Paragraph 3 above, Licensee shall provide \$25,000 per year (2004 dollars) for the term of the New Project License to Plumas to be used for Plumas County Sheriff patrols and enforcement in the Project shoreline areas.

By the end of each fiscal year (June 30), Plumas shall provide Licensee a summary of the previous year's expenditures and enforcement activities from these funds, and the planned expenditures and enforcement activities in the Project shoreline area for the upcoming year.

**5. Lake Almanor Recreation Trail (LART) Southeast Shore Extensions.** In addition to the trail easement previously provided to Plumas in the July 30, 2002 Agreement between Plumas and Licensee, Licensee shall contribute matching funds up to a maximum of \$300,000 (2005 dollars) to Plumas for County construction of a non-motorized recreation trail across lands owned by Licensee on the south side of Lake Almanor as a continuation of the LART to the East Shore Campground. At Plumas expense and at no expense to Licensee, the trail shall be maintained including, but not limited to, any repairs for damages that may be caused by Licensee raising and lowering the water in Lake Almanor. The LART and associated facilities in its entirety, now and in the future, shall not be considered, in whole or part, a Project feature or part of the Project. Licensee shall not be required to perform or contribute in any way to the operation and maintenance of the trail now or in the future.

Plumas agrees, to the extent it may legally do so, to indemnify Licensee against and to hold Licensee harmless from any loss or damage to any property, or injury to or death of

any person whomever, proximately caused in whole or in part by any negligence of Plumas or its contractors or by any acts for which Plumas or its contractors are liable without fault in the exercise of the rights herein granted, save and excepting to the extent that such loss, damage, injury or death is proximately caused in whole or in part by any negligence of Licensee or its contractors, or by any acts for which Licensee or its contractors are liable without fault.

## Appendix C

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