

Appendix P

**Memorandum of Agreement among
the Bureau of Reclamation,
the Federal Energy Regulatory Commission
and the California State Historic Preservation
Officer Regarding the Battle Creek
Salmon and Steelhead Restoration Project,
Shasta and Tehama Counties, California**

**MEMORANDUM OF AGREEMENT AMONG
THE BUREAU OF RECLAMATION, THE FEDERAL ENERGY REGULATORY
COMMISSION AND THE CALIFORNIA STATE HISTORIC PRESERVATION
OFFICER REGARDING THE BATTLE CREEK SALMON AND STEELHEAD
RESTORATION PROJECT, SHASTA AND TEHAMA COUNTIES, CALIFORNIA**

Whereas, the Bureau of Reclamation (Reclamation) and the Federal Energy Regulatory Commission (Commission) have determined that implementation of the Battle Creek Salmon and Steelhead Restoration Project (Undertaking) in Shasta and Tehama Counties, California, will have an adverse effect on Inskip, Coleman, Eagle Canyon, and Wildcat Canyon Dams, properties determined eligible for inclusion in the National Register of Historic Places (historic properties), have consulted with the California State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations effective January 11, 2001, implementing Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f), and have notified the Advisory Council on Historic Preservation (Council) of the adverse effect pursuant to 36 CFR § 800.6(a)(1); and

Whereas, Pacific Gas and Electric Company (PG&E Company) which owns, operates and manages these historic properties and other structures and facilities associated with hydroelectric power generation within the Battle Creek Drainage in accordance with a license issued by the Federal Energy Regulatory Commission, FERC No. 1121, participated in the consultation and has been invited to concur in this Memorandum of Agreement (MOA);

Now, Therefore, Reclamation, the Commission and the SHPO agree that if the Undertaking proceeds, the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties, and further agree that these stipulations shall govern the Undertaking and all of its parts until this MOA expires or is terminated.

Stipulations

Reclamation will ensure that the following measures are carried out:

1. Recordation

Reclamation will ensure that each historic property is documented as follows:

- a. The National Park Service (NPS) prepared Historic American Engineering Record (HAER) documentation for the former South, Inskip, and Coleman hydroelectric power generating stations. This documentation provides a historic context for the four historic properties covered by this MOA. Reclamation will ensure that a combined historic context report (Report) for these four historic properties is prepared, utilizing the HAER documentation prepared by NPS.

b. Both color and black and white 35mm photographs of each dam that show elevations, profiles, and the context of each dam will be prepared. The black and white photographs will be archivally processed and catalogued consistent with HAER standards. Color photographs will be incorporated into the body of the Report.

c. An "Index to Photographs" will be prepared and such index will include a "photo key" showing the location and direction of each photographic view.

d. Research will be conducted to seek historic photographs that depict the operation of each dam, and if such photographs exist, they will be included in the Report.

e. Original drawings and contemporary drawings, as available and free from copyright restrictions, for each dam will be included in the Report.

f. Interviews and the summary report of the Battle Creek Conservancy Historical Study will be included as an appendix in CD form. This study includes oral histories from individuals associated with the Battle Creek Hydroelectric System.

2. Report Dissemination

Reclamation will ensure that within 2 years following execution of this MOA, a copy of the Report cited in Stipulation 1. above, is sent to the SHPO, the Northeast Information Center, Battle Creek Conservancy, Shasta County Historical Society, FERC, California State Department of Water Resources, and to other archives that may be designated by Reclamation or the SHPO.

3. Notice to Proceed

When Reclamation, in consultation with the SHPO and the Commission, determines that all field work needed to fulfill the terms of Stipulation 1., above, has been satisfactorily completed, Reclamation may thereafter authorize construction-related activities to proceed.

4. Resolving Objections

a. Should any party to this MOA object to the manner in which the terms of this MOA are implemented, to any action carried out or proposed with respect to implementation of the MOA, or to any documentation prepared in accordance with and subject to the terms of this MOA, Reclamation shall immediately notify the other parties to this MOA of the objection and consult with the objecting party and with the other parties to this MOA for no more than 14 days to resolve the objection. Reclamation shall reasonably determine when this consultation will commence. If the objection is resolved through such consultation, the action subject to dispute may proceed in accordance with the terms of that resolution. If, after initiating such consultation, Reclamation determines that the objection cannot be resolved through consultation, Reclamation shall forward all documentation relevant to the objection to the Council, including Reclamation's

proposed response to the objection, with the expectation that the Council will within thirty (30) days after receipt of such documentation:

(1) Advise Reclamation that the Council concurs in Reclamation's proposed response to the objection, whereupon Reclamation will respond to the objection accordingly; or

(2) Provide Reclamation with recommendations, which Reclamation will take into account in reaching a final decision regarding its response to the objection; or

(3) Notify Reclamation that the objection will be referred for comment pursuant to 36 CFR § 800.7(c), and proceed to refer the objection and comment. Reclamation shall take the resulting comment into account in accordance with 36 CFR 800.7(c)(4) and Section 110(l) of the NHPA.

b. Should the Council not exercise one of the above options within 30 days after receipt of all pertinent documentation, Reclamation may assume the Council's concurrence in its proposed response to the objection.

c. Reclamation shall take into account any Council recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection. Reclamation's responsibility to carry out all actions under this MOA that are not the subjects of the objection will remain unchanged.

d. At any time during implementation of the measures stipulated in this MOA should an objection pertaining to such implementation be raised by a member of the public, Reclamation shall notify the parties to the MOA and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this MOA to address the objection.

e. Reclamation shall provide all parties to this MOA, the Council when Council comments have been issued hereunder, and any parties that have objected pursuant to paragraph D.4., with a copy of its final written decision regarding any objection addressed pursuant to this stipulation.

f. Reclamation may authorize any action subject to objection under this stipulation to proceed after the objection has been resolved in accordance with the terms of this stipulation.

5. Amendments

Any party to this MOA may propose that this MOA be amended, whereupon the parties to this MOA will consult for no more than 30 days to consider such amendment. The amendment process shall comply with 36 CFR §§ 800.6(c)(1) and 800.6(c)(7). This MOA may be amended only upon the written agreement of the signatory parties. If it is not amended, this MOA may be terminated by any signatory party in accordance with Stipulation 6., below.

6. Termination

a. If this MOA is not amended as provided for in Stipulation 5., above, or if any signatory party proposes termination of this MOA for other reasons, the signatory party proposing termination shall, in writing, notify the other parties to this MOA, explain the reasons for proposing termination, and consult with the other parties for at least 30 days to seek alternatives to termination. Should such consultation result in an agreement on an alternative to termination, then the parties shall proceed in accordance with the terms of that agreement.

b. Should such consultation fail, the signatory party proposing termination may terminate this MOA by promptly notifying the other parties to this MOA in writing. Termination hereunder shall render this MOA null and void.

c. If this MOA is terminated hereunder and if Reclamation determines that the Undertaking will nonetheless proceed, then Reclamation shall either consult in accordance with 36 CFR § 800.6 to develop a new MOA or request the comments of the Council pursuant to 36 CFR Part 800.

7. Duration of the MOA

a. Unless terminated pursuant to Stipulation 6. above, or unless it is superceded by an amended MOA, this MOA will be in effect until Reclamation, in consultation with the other parties to this MOA, determines that all of its stipulations have been satisfactorily fulfilled. Upon a determination by Reclamation that all of the terms of this MOA have been satisfactorily fulfilled, this MOA will terminate and have no further force or effect. Reclamation will promptly provide the other parties to this MOA with written notice of its determination and of the termination of this MOA. Following provision of such notice, this MOA will be considered null and void.

b. The terms of this MOA shall be satisfactorily fulfilled within 5 years following the date of execution. If Reclamation determines that this requirement cannot be met, the parties to this MOA will consult to reconsider its terms. Reconsideration may include the continuation of the MOA as originally executed, amendment of the MOA, or termination of the MOA.

8. Effective Date of this MOA

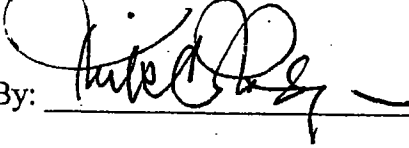
This MOA will take effect on the date that it has been executed by Reclamation, the Commission and the SHPO.

EXECUTION of this MOA by Reclamation, the Commission and the SHPO, its transmittal by Reclamation to the Council in accordance with 36 CFR § 800.6(b)(1)(iv), and subsequent implementation of its terms, shall evidence, pursuant to 36 CFR § 800.6(c), that this MOA is an agreement with the Council for purposes of Section 110(l) of the NHPA, and shall further evidence that Reclamation and the Commission have afforded the Council an opportunity to

comment on the Undertaking and its effects on historic properties, and that Reclamation and the Commission have taken into account the effects of the Undertaking on historic properties.

SIGNATORY PARTIES:

BUREAU OF RECLAMATION

By: 

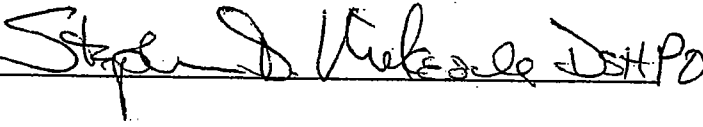
Date: 12/11/02

FEDERAL ENERGY REGULATORY COMMISSION

By: 

Date: 1/23-03

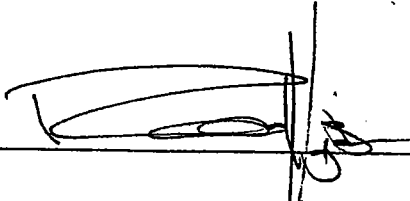
CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By:  SDHPO

Date: 2/25/03

CONCURRING PARTY:

PACIFIC GAS AND ELECTRIC COMPANY

By: 

Date: 12/10/02

RANDAL S. LIVINGSTON