

**Memorandum of Understanding  
to advance a Water Diversion Agreement  
associated with PG&E's decommissioning  
of the Potter Valley Project on the Eel River  
and a New Eel-Russian Diversion Facility**

Humboldt County Board of Supervisors

February 11, 2025



*Hank Seemann, Public Works Deputy-Director (Environmental Services)*  
*Joel Campbell-Blair, Deputy County Counsel*

# Overview

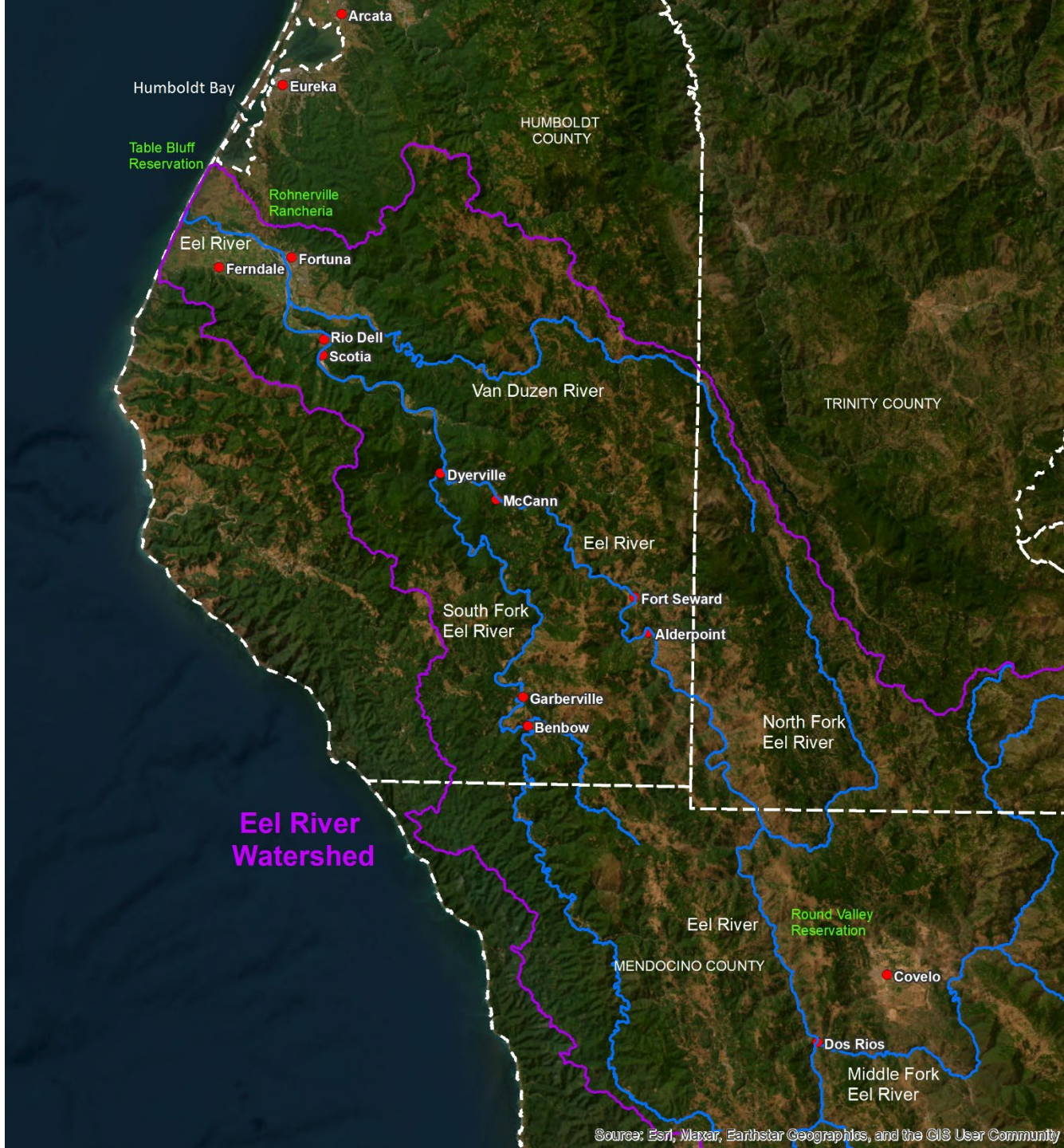
- PG&E is preparing to decommission the Potter Valley Hydroelectric Project on the upper Eel River
  - PG&E released a draft plan on January 31, 2025 for public comment
  - The final license surrender application and decommissioning plan is due July 29, 2025
  - Dam removal won't start for several years, best-case is to start in 2028
- The project has diverted water from the Eel to the Russian River for over 100 years, and water diversions are an important component of the water supply in the Russian River basin
  - Sonoma Water and Mendocino Inland Water and Power Commission (IWPC) propose to continue water diversions through the tunnel of the Potter Valley Project in a way that is compatible with protection of the Eel River and recovery of fisheries
- California Department of Fish & Wildlife, California Trout, Humboldt County, Mendocino IWPC, Round Valley Indian Tribes, Sonoma Water, and Trout Unlimited have been negotiating a Water Diversion Agreement since 2023
- This week, boards and councils are considering a Memorandum of Understanding for the proposed Water Diversion Agreement



**Eel River Watershed**

**Russian River Watershed**

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



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# Lake Pillsbury



# Scott Dam / Lake Pillsbury





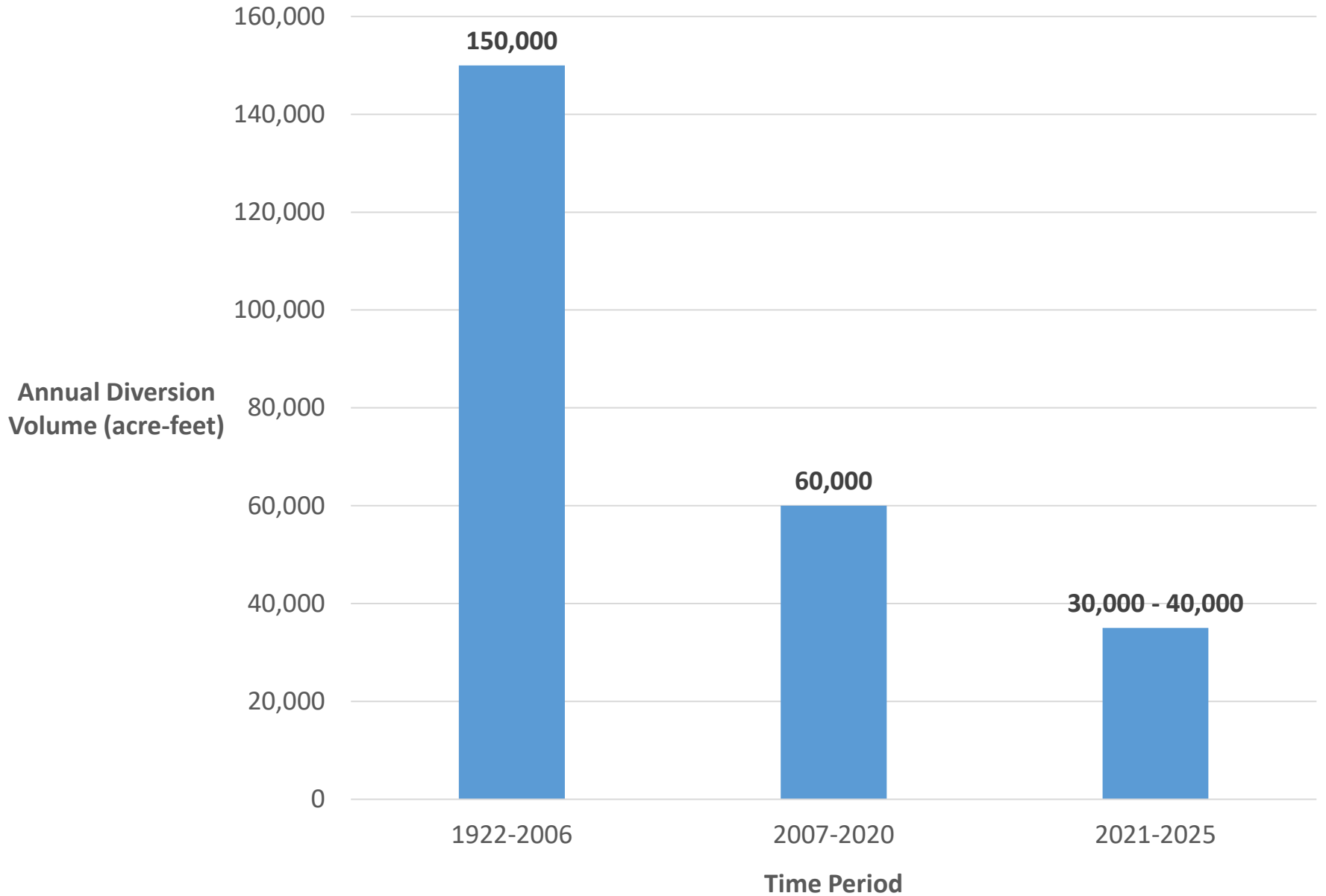
# Cape Horn Dam / Van Arsdale Reservoir



# Brief History

- 1905-1922: Potter Valley Project facilities constructed
- The project has been a cause or contributing factor to degradation of the Eel River watershed and reduction in fish populations
- 1970-1983: First re-licensing (40-year licensed issued)
- 1997-2007: Reduction in water diversions due to Biological Opinion
- 2017-2019: Transition period
  - In 2017, Congressman Huffman introduced Two Basin Solution framework
  - In 2019, PG&E announced it did not intend to re-license the project
- 2019-2022: Regional ownership explored
- 2023-2025: Negotiations on Water Diversion Agreement for the proposed New Eel-Russian Diversion Facility
  - Eel-Russian Project Authority (ERPA) formed in 2024
  - ERPA needs the Federal Energy Regulatory Commission to approve using portions of PG&E's lands and facilities to build the New Eel-Russian Facility (NERF)

# Average Annual Volumes of Eel River Water Diverted through the Potter Valley Project (acre-feet per year)



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# Key Elements of Water Agreement MOU

## Section 1 – Recitals and background information

Co-equal goals of the Water Diversion Agreement:

- Improving fish migration and habitat on the Eel River with the objective of achieving natural reproducing, self-sustaining, and harvestable native anadromous fish populations; and
- Maintaining material and continued water diversion from the Eel River through the existing tunnel to the Russian River to support water supply reliability, fisheries, and water quality in the Russian River Basin.

# Key Elements of Water Agreement MOU

## Section 1 – Recitals and background information

### Intentions of the Agreement:

- Advance the timely removal of Scott Dam and Cape Horn Dam through a cooperative approach with PG&E and interested parties from Eel and Russian River watersheds;
- Develop criteria for water diversions based on the best available scientific information to ensure that water diversions will be consistent with the recovery of Eel River fisheries and a functioning ecosystem;
- Secure equitable state and federal funding for substantial investments in water infrastructure within the Russian River basin and ecosystem restoration within the Eel River basin;
- Take a significant step toward restorative justice for Round Valley Indian Tribes and reconciliation with the history of adverse impacts on Eel River communities associated with out-of-basin diversions; and
- Establish a durable and mutually supportive relationship between the Eel and Russian Rivers basins and provide a strong foundation for continued regional collaboration based on incentives and mutual benefit.

## Section 2 – Purpose of the MOU

To reflect the essential terms of the Agreement that would be finalized before July 29, 2025.

# Key Elements of Water Agreement MOU

## Section 3 – Commitments related to PG&E's license surrender application for dam removal

- Support dam removal
- Support PG&E undertaking dam removal as expeditiously as possible
- Construction of the new diversion facility will not interfere with or delay dam removal
- Support the Federal Regulatory Energy Commission authorizing construction of the new diversion facility on lands and facilities associated with the Potter Valley Project

## Section 4 – Commitments related to PG&E's water rights

- Support transfer of water rights to Round Valley Indian Tribes, which would lease them to the Eel-Russian Project Authority

# Key Elements of Water Agreement MOU

## Section 5 – Commitments related to PG&E’s lands and facilities

- Support transfer to ERPA of PG&E’s lands and facilities that are necessary for construction and operation of NERF.

## Section 6 – Design of new diversion facility

- Pumping system with grade control structure (“run-of-the-river” system with no dam and limited in-stream features)



# EXISTING CONDITIONS AT CAPE HORN DAM

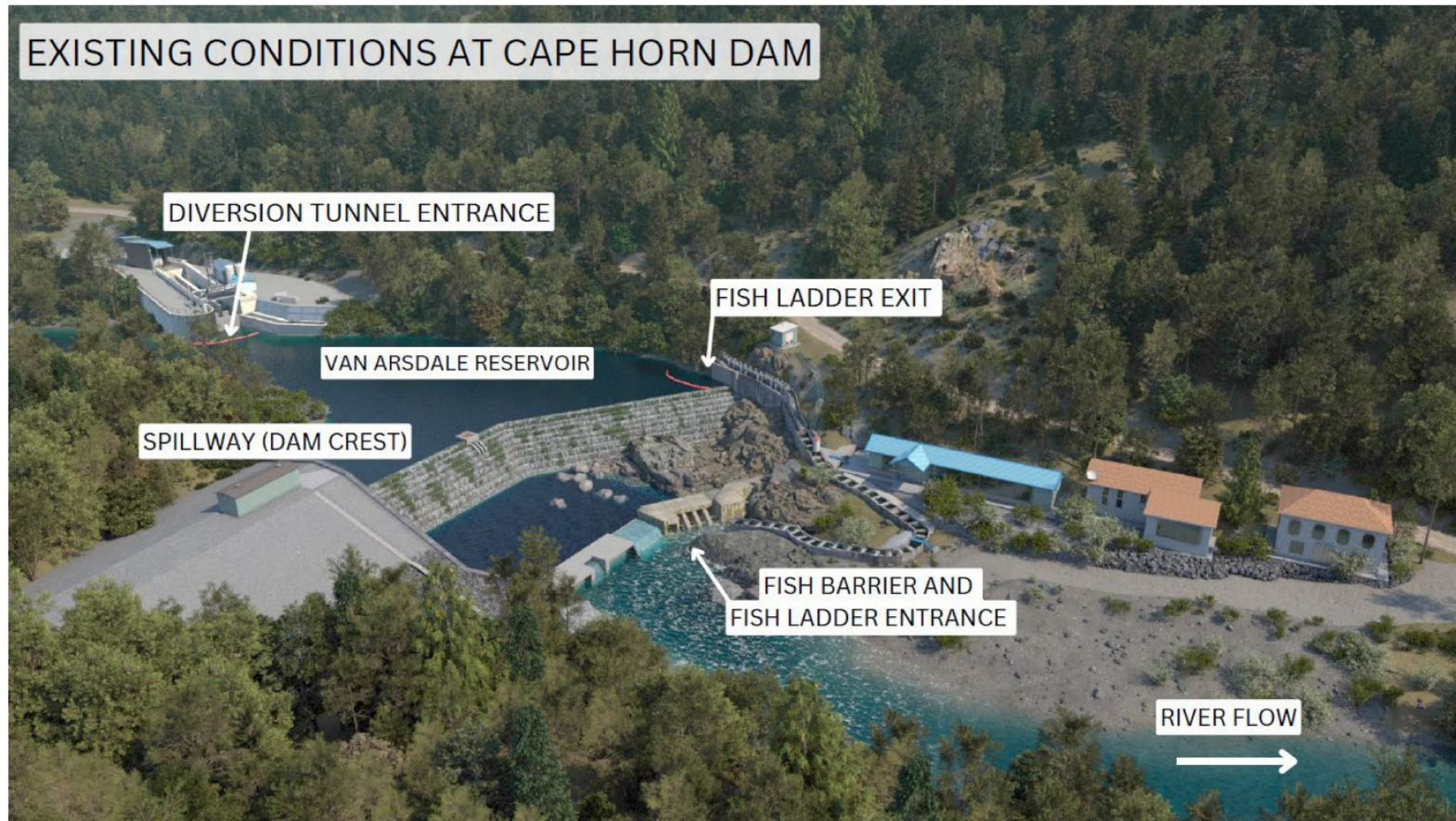


Figure 2-8. Existing conditions at Cape Horn Dam (artist rendering).



# NEW EEL-RUSSIAN FACILITY PRELIMINARY DESIGN

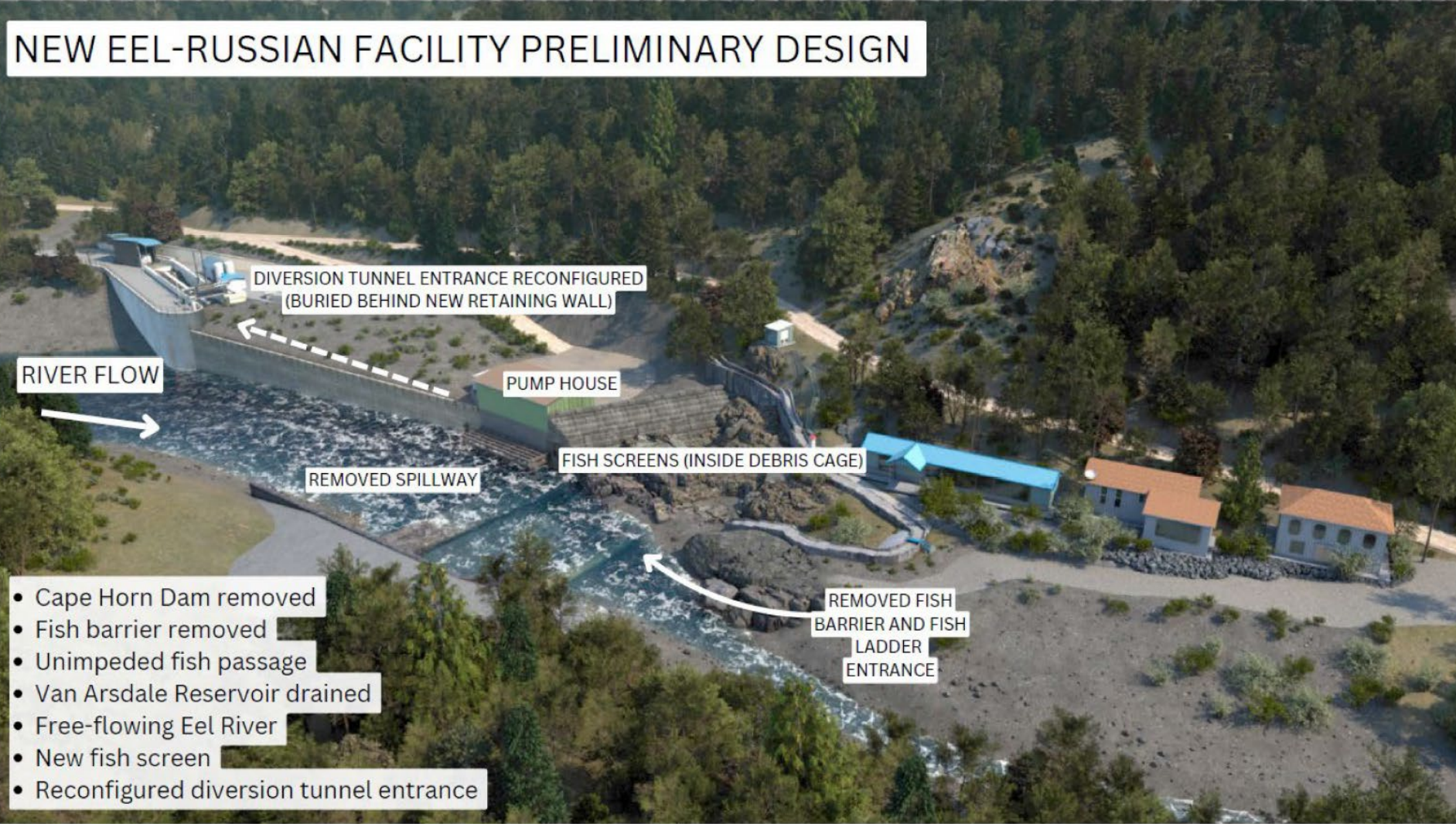


Figure 2-9. NERF preliminary design upstream of deconstructed Cape Horn Dam (artist rendering).

# Key Elements of Water Agreement MOU

## Section 7.1 – Diversion schedule (rules and criteria)

- Approach starts with determining what flows are needed for key river processes to recover Eel River fisheries
- Protective minimum flows (“floors”)
- Limits on the percent-of-flow modifications
- Criteria vary by season
- Ramping rates
- Criteria would result in reduction of annual volume; bulk of water diversions would occur in winter and early spring
- (Presentation by Applied River Sciences will provide more information)

## Section 7.2 – Monitoring, performance metrics, adaptive management

- Diversion schedule will be changed if performance metrics are not met

# Key Elements of Water Agreement MOU

## Section 7.3 – Use charge and restoration payment

- ERPA will pay Round Valley Indian Tribes a use charge of \$1,000,000 per year to lease the water rights for operation of the diversion facility
- ERPA will pay Round Valley Indian Tribes a restoration payment of \$750,000 (potentially rising to \$1,000,000) in recognition of the Tribes' forbearing to assert their federally reserved water and fishing rights during the term of the lease
- Round Valley Indian Tribes will transfer the restoration payment to an Eel River Restoration Fund that would be administered by the Eel River parties to the Agreement and potentially other parties
- The annual restoration payment could increase above \$750,000 if thresholds for public funding to support NERF construction are achieved
- Payment amounts will be adjusted over time based on the consumer price index

# Key Elements of Water Agreement MOU

## Section 8 – Term of diversion

- Initial term of 30 years
- After the initial term, conditional renewal of 20 years, if:
  1. Eel River Restoration Fund receives \$25 million (not including the annual restoration payments)
  2. ERPA substantially complies with payment and water diversion provisions of the Agreement
  3. ERPA demonstrates that continued diversion is not expected to adversely affect recovery of Eel River fisheries
  4. ERPA demonstrates continued need for Eel River diversion
  5. ERPA demonstrates progress toward self-reliance
- After 50 years (if conditional renewal is exercised), the parties to the Agreement may consider a discretionary renewal, or operations will terminate and diversion facilities will be removed

# Key Elements of Water Agreement MOU

## Section 9 – Goals for additional fundraising

- Work together, to the greatest extent feasible, for funding awards that are split equally between the basins

## Section 10 – Provisions for dispute resolution and enforceability

## Section 11 – Other legal provisions

- Approving the MOU confirms commitment to continue efforts to finalize a Water Diversion Agreement prior to July 29, 2025
- Approving the MOU is not pre-decisional for any subsequent agreement

# Summary

- Key protections for the Eel River in the Water Agreement MOU:
  - PG&E's water rights owned by an entity based in the Eel River watershed
  - Limited water diversions based on needs of Eel River fisheries
  - Design for diversion facility allows free-flowing river
  - Performance metrics and adaptive management
  - Initial 30-year term with conditional 20-year term
  - Agreement premised on future phase-out of diversions
- Key benefits for the Eel River in the Water Agreement MOU:
  - Major Russian River water users commit to support PG&E's dam removal
  - Annual restoration payment (minimum of \$750,000)
  - Catalyst for new federal, state, and philanthropic funding to support restoration
  - Humboldt County would maintain ability to represent County interests and influence future operations and decision-making
  - Demonstration of regional collaboration to resolve a century-long conflict

# Next

- Initial questions from the Board of Supervisors
- Presentation from Applied River Sciences (approximately 15 minutes)
- Comments from Wiyot Tribe
- Comments from representatives of California Trout, Trout Unlimited, and Friends of the Eel River (4-5 minutes each speaker)
- Comments from the public (3 minutes each speaker)
- Board discussion

## Staff recommendation:

- Approve the Water Agreement MOU and authorize staff to sign
- Authorize staff to approve written public statements regarding the MOU on behalf of Humboldt County after review and consultation
- Direct staff to bring the Water Diversion Agreement, when completed, back to the Board for consideration