



OFFICE OF THE

COUNTY COUNSEL
COUNTY OF PLUMAS

Courthouse - 520 Main St., Room 302
Quincy, California 95971-9115

BARBARA THOMPSON
COUNTY COUNSEL

BRIAN L. MORRIS
DEPUTY COUNTY COUNSEL

PH: (530) 283-6240
FAX: (530) 283-6116

December 16, 2005

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: Comments on Final EIS for Project 2105

Dear Secretary Salas:

The County of Plumas and the Plumas County Flood Control and Water Conservation District appreciate the opportunity to comment on the final environmental impact statement (final EIS) for the relicensing of the Upper North Fork Feather River Project (Project 2105) and respectfully submit the enclosed comments for consideration in the Federal Energy Regulatory Commission's (Commission) licensing order on Project No. 2105-089.

As members of the 2105 Licensing Group (2105LG), which is composed of numerous federal, state, and local government agencies, non-governmental organizations, tribes, and members of the public, we have been working collaboratively and diligently since October 2002 to resolve as many issues as possible with regard to the relicensing of Project 2105. In April 2004, the 2105LG stakeholders identified below signed a settlement agreement that resolved issues related to lake level, streamflow, and recreation, among other things. The 2105LG submitted the Settlement Agreement to the Commission and requested that the provisions of the agreement be considered as an alternative in the NEPA analysis process. Plumas County continues to support the Settlement Agreement as submitted, and our enclosed comments on the final EIS reflect our recommendation and strong desire that the final license incorporate the terms of the Settlement Agreement.

The Commission has requested specifically that parties file comments on NOAA Fisheries Section 18 fishway prescription and 10(j) recommendations, and on the analysis for providing colder water to the Upper North Fork Feather River during the summer. The County understands that NOAA Fisheries has withdrawn its Section 18 prescription, has an agreement-in-principle with the licensee and other parties, and has reserved authority for a future Section 18 prescription (letter from Rodney McInnis, Regional Administrator, National Marine Fisheries Service to Magalie Salas, Secretary, Federal Energy Regulatory Commission, December 12, 2005). Plumas County likewise reserves the right to comment on the agreement-in-principle and any future Section 18 prescription. Also in the December 12 letter, NOAA Fisheries withdrew their 10(j) recommendations. The County declines to comment on recommendations that have been withdrawn.

Plumas County commends the Commission staff for not recommending the thermal curtains in Lake Almanor or Butt Valley Reservoir given the adverse effects that would occur “on the lakes’ environmental, cultural, and recreational resources (e.g., coldwater fishery of Lake Almanor, the existing trophy rainbow and trout fishery of Butt Valley reservoir, potential disturbance of Native American burial grounds, boating safety, and viewsheds) and its high cost.” The relationship between water temperature and coldwater species is a very complex process. However, there is sufficient evidence provided by the modeling and analyses of the thermal curtains to show that there would not be any continuing temperature benefit to the coldwater fishery downstream. Considering the high costs and collateral adverse effects of the thermal curtains, such an irretrievable commitment of resources on the basis of speculative benefits should be rejected outright.

Plumas County and the 2105LG continue to work collaboratively, seeking solutions to the remaining unresolved issues identified in the Settlement Agreement, focusing primarily on water temperature issues. As a supplement to our comments on the final EIS, we are filing our proposal for a Watershed Restoration and Improvement Alternative, which was submitted to the State Water Resources Control Board for consideration in the EIR for the section 401 water quality certification. Considering the trade offs that would have to be made to attempt to address water temperature issues entirely within the constraints of the project boundary, we believe the Watershed Alternative is a better approach that provides compensatory mitigation offsite as well as direct temperature benefits to the North Fork Feather River within the lower portion of the project boundary and on downstream.

Finally, Plumas County concurs with the Commission staff recommendation to revise the Shoreline Management Plan (SMP) after consultation with the State Water Resources Control Board, California Department of Fish and Game, the Forest Service, Plumas County and the Maidu community. Plumas County looks forward to working with PG&E and other parties to resolve the outstanding SMP issues after license issuance.

Thank you for your consideration of the comments of the County of Plumas and the Plumas County Flood Control and Water Conservation District.

Sincerely,

/s/

Brian L. Morris
Deputy County Counsel

Enclosures:

Comments of Plumas County and Plumas County Flood Control District
Watershed Restoration and Improvement Alternative

**Comments of
County of Plumas
and
Plumas County Flood Control and Water Conservation District
on
FERC Project 2105 Final EIR**

Responses to Staff's Alternative (Section 2.2.2 and Summary)

Alternative number 4, page 2-12: *Develop a monitoring program to document water quality trends in Lake Almanor under a new license and project operations.*

Response: Plumas County believes that the water quality monitoring program proposed in Appendix A, Section 5, of the Settlement Agreement (SA) is appropriate to document water quality trends and to protect Lake Almanor as an important environmental, hydroelectric generation, scenic, recreational, and economic resource. With the continued rapid increased residential construction in the Lake Almanor Basin and the increased recreational improvements proposed in the new license, the frequency and duration of water quality and bacteriological sampling proposed in the Settlement Agreement was intended to insure Lake Almanor be protected from degradation from all sources. The County fully expects recreational usage at Lake Almanor to increase throughout the new license. It is imperative that the Commission take the necessary steps to protect the water quality of Lake Almanor throughout the life of the new license, not just the first three years. It is not possible to "document water quality trends" with a three-year monitoring program. Plumas County believes that the level of water quality monitoring proposed in the SA is appropriate and preferable to that proposed by Staff.

Alternative number 5, page 2-12: *Develop a bacteriological monitoring program for the first 3 years after license issuance, using a methodology appropriate to determine compliance with state water quality standards.*

Response: Plumas County believes that the water quality monitoring program proposed in Appendix A, Section 5, of the SA is appropriate to determine compliance with state water quality standards. To demonstrate the level of protection provided for beneficial uses of Project waters and to identify any trends in water quality conditions in items 4 and 5 listed above, the signatories to the Settlement Agreement recommended that water quality monitoring be conducted in Lake Almanor every five years beginning in year three of the new license for the term of the license and that bacteriological monitoring be conducted annually for the first five years after license issuance and every other year for the remaining term of the license. Plumas County believes that the level of water quality monitoring proposed in the SA is appropriate and preferable to that proposed by Staff.

Alternative number 7, page 2-12: *Develop a plan to monitor DO concentrations in Lake Almanor and Butt Valley reservoir.*

Response: Plumas County believes that the water quality monitoring program proposed in Appendix

A, Section 5, Paragraph 3(A) of the SA provides for the development of a DO monitoring plan. Members of the Water Management Group (PG&E, SWRCB, CVRWQCB, Plumas County, FS, CDF&G, F&WS) and other parties who request involvement will develop a DO monitoring plan within a period of three months from issuance of the license to address DO concentrations in Lake Almanor and Butt Valley reservoir.

Alternative number 10, page 2-13: *Provide a pulse flow of 700 cfs in the Seneca reach and in the Belden reach in March of water years classified as dry.*

Response: Plumas County believes that the pulse flow schedule proposed in Appendix A, Section 1, Paragraph 3(A) of the SA (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 for a period of 12 hours, plus ramping time) is a more prudent pulse flow plan than the alternative proposed by Staff. Due to limited gravel deposits in these reaches and the episodic nature of its entering the stream channels, concern was expressed by various members of the 2105 Collaborative that a too aggressive pulse flow schedule might have a negative impact on the spawning gravels, and the ultimate reproductive success of substrate dependant aquatic organisms. The SA also requires a gravel monitoring plan, which states that if “the resource agencies determine that the Pulse Flows appear to have a detrimental impact on the availability and distribution of spawning-sized gravel, or it appears that a Pulse Flow of a different magnitude or duration would be beneficial, the Pulse Flow schedule shall be altered to better achieve the desired results.” (See Appendix A, Section 1, Paragraph 3(B)). Although the plan proposed by the SA is slightly more conservative than that proposed by Staff it does allow for a more aggressive, i.e., greater magnitude pulse flows if monitoring warrants it. Because of its adaptive nature, Plumas County believes that the SA Pulse Flow plan is the better option.

Alternative number 14, page 2-13: *Delay implementation of recreational flow releases for a period of 6 years to allow the riverine aquatic biota to respond to a new minimum and pulse flow schedule.*

Response: The Department of the Interior 10(j) recommendation to delay recreation flows is inconsistent with current data on the aquatic environment and other recreational uses on the Belden Reach. Representatives of the Fish and Wildlife Service (FWS) made this recommendation to the settlement group and it was rejected for the following reasons.

1. The development of the Technical Review Group (TRG) and the three-year test period outlined in the SA provide ample time for the FWS and any other interested parties to analyze existing information on Recreation Pulse Flows and make recommendations on studies and the implementation schedule. The Settlement Agreement (SA) was specifically designed to meet the needs of the FWS and any other party that had concerns regarding the implementation of the recreational test flow schedule. Given that most of the parties in the Rock Creek/ Cresta Ecological Resources Committee (ERC) are also part of the SA there will be a seamless transfer of information from the ERC to the TRG.
2. Current information from the Rock Creek/ Cresta studies refutes most of the concerns stated in the FEIS. The three years of stranding and displacement studies have not shown any significant impacts to fish, marcoinvertebrates or amphibians over three years of study. The numbers of stranded organisms referenced on page 3-127 of the FEIS are

extremely low given the total number of organisms present (Salamunovich, 2005). The statement on page 3-128 of the FEIS regarding impacts to the benthic community on the Rock Creek reach is based on preliminary data from the consultants after one year of study that had not been peer reviewed. Subsequent studies using a control reach on the East Branch Feather River have found a corresponding trend suggesting that seasonal factors are the primary drivers for modest declines and not the pulse flows themselves (Chan, 2005). This is a classic example where correlation does not equate causation. In addition, several peer review experts have since stated that this pattern is not atypical for Sierra River reaches (Hauer, 2005). Fish population studies on Rock Creek and Cresta continue to show marked improvement in the numbers and size of fish on these reaches.

3. Impacts to amphibians, specifically Foothill Yellow Legged Frogs (FYLF), will be difficult to analyze due to the fact that thus far no FYLF have been found in this reach and habitat in this reach has been determined to be poorly suited to this species.
4. The Belden reach is a put-and-take stocked fishery. The stocking of 5000 pounds of adult rainbow trout will have a significant effect on the aquatic environment of the Belden Reach. Trying to determine any impacts to fish or invertebrates while continuing to stock fish in this reach will be difficult if not impossible. Juvenile fish and amphibians will both be negatively affected to a far greater extent by stocking 10,000 non-native fish than by recreational pulse flows.
5. The concerns over recreational pulse flows fail to recognize the fact that from the time the Caribou Powerhouse was built in the 1930's until the Belden Powerhouse went on line in 1969, the Belden reach fluctuated 2000 cfs on a daily basis. During this same period the Belden Reach was known to have a robust trout fishery (Penland, 1989). It seems unlikely that a flow change of 500 cfs once per month will cause substantial impacts to the aquatic community. Large boulders and a heterogeneous bed substrate create an abundance of velocity shelters and low shear stress microhabitats where trout fry can seek protection from the proposed recreation flows which represent a modest increase over baseline and are consistent with natural variability characteristic of the riverine environment¹.
6. FERC staff note that delaying the implementation of recreational test flows would have no adverse effect on the existing aquatic community. Delaying implementation however would have an adverse effect on recreational use of this reach. Evidence that this delay would have a positive impact on the aquatic community is inconsistent with data on the record in this proceeding. There are no data to support the statement that "the biotic community would have the opportunity to adapt to the revised instream flow schedule" and that the proposed recreational releases would disrupt this process. In fact it is unclear what adapting to the new flow regime really means. As described in the SA, the new flow schedule and associated releases are part of an integrated plan for a new flow regime that should be evaluated as a complete plan and restores critical elements of the flow regime that will have an overall net positive benefit on biotic communities and recreational users.

Plumas County agrees with FERC staff comments on other licenses where staff has proposed that flows for whitewater recreation, new instream flow requirements, and studies of impacts to

¹ In an EA published November 18th, 2005 for P-2630, a project where similar concerns over impacts of recreational flows were expressed, FERC staff concluded that there would be "little, if any, adverse effects on aquatic resources" with the implementation of appropriate ramping rates.

aquatic biota must all occur together²

The above answers to issues raised in the FERC staff analysis should decrease concern over potential impacts from recreational pulse flows. Many of these same points were raised during the settlement process and the SA represents the outcome of extensive review of the issues and a proposal that enhances both the aquatic resources and recreational opportunities on this reach. While it would be difficult for parties not present during settlement negotiations to understand all of the concessions and balancing that took place, the SA represents the best approach to improving aquatic resources and enhancing recreational opportunities, and includes an appropriate mechanism for adaptive management should modification be required. For these reasons Plumas County requests that the FERC reconsider delaying the implementation of the recreational flow schedule and implement the flow schedule as outlined in the Settlement Agreement.

Alternative number 16, page 2-13. Develop an adaptive management plan that addresses the results of all monitoring and special studies conducted on water temperature, water quality, flow, macroinvertebrates, gravel, woody debris, fisheries, amphibian populations and habitat, and vegetation.

Response: Plumas County does not believe that there is a need for a specific comprehensive “Adaptive Management Condition” as described above. The Settlement Agreement, in Appendix A, Section 1, describes four plans for monitoring of streamflow and potential changes in habitat and species abundances and/or composition, as follows: 1) stream sediments as part of pulse flow monitoring in paragraph 3, part B; 2) streamflow measurement in paragraph 5; 3) assessing habitat quality in lower Butt Creek in paragraph 8 and providing pulse flows, as necessary per paragraph 4; and 4) monitoring fish populations and macroinvertebrate community in the Belden and Seneca reaches in paragraph 9. The FWS, FS, CDFG, and SWRCB are explicitly listed as agencies to be consulted with for all of the items listed above, with the exception of streamflow measurement, which shall be conducted under the requirements of FERC and under the supervision of the United States Geological Survey. Consequently, there is already a built-in link between the appropriate agencies for the identified resource management areas in any decision making process.

Staff comment page xxii, bullet 2: *Recreation flow implementation plan: PG&E proposes and the FS specifies implementing the recreation flow implementation plan, including test flows and monitoring, in the Belden reach, in year 1 of the license; we recommend delaying implementation of the plan until year 6. We recommend this modification because it provides an opportunity for the biotic community to adapt to the revised instream flow schedule without being disrupted by recreational release flows, which would improve the likelihood of enhancing macroinvertebrate and fish populations.*

Staff comment page xxii, bullet 3: *Scheduled recreation flow releases: PG&E proposes and the FS specifies releasing recreation flows in the Belden reach beginning in year 4 of the license, following implementation of the recreation flow implementation plan; we recommend delaying the recreation flow releases in the Belden reach until year 9, also following the implementation of the recreation*

² See EA for P-2630

flow implementation plan.

Response: The Department of the Interior 10(j) recommendation to delay recreation flows is inconsistent with current data on the aquatic environment and other recreational uses on the Belden Reach. Representatives of the Fish and Wildlife Service (FWS) made this recommendation to the settlement group and it was rejected for the reasons described above in response to Alternative number 14, page 2-13. The SA represents the best approach to improving aquatic resources and enhancing recreational opportunities, and includes an appropriate mechanism for adaptive management should modification be required. For these reasons we respectfully request that the FERC reconsider delaying the implementation of the recreational flow schedule and implement the flow schedule as outlined in the Settlement Agreement.

Staff comment page xxii, bullet 4: *Lake Almanor water quality monitoring: PG&E proposes monitoring once every 5 years beginning in year 3 from license issuance; we recommend monitoring only in years 1 to 3.*

Response: Plumas County believes that the water quality monitoring program proposed in Appendix A, Section 5, of the SA is appropriate and necessary to protect the public and assure compliance with state water quality standards. To demonstrate the level of protection provided for beneficial uses of Project waters and to identify any trends in water quality conditions, the signatories to the Settlement Agreement recommended that water quality monitoring be conducted in Lake Almanor every five years beginning in year three of the new license for the term of the license. Plumas County believes that the level of water quality monitoring proposed in the SA is appropriate and preferable to that proposed by Staff.

Staff comment page xxii, bullet 5: *Bioaccumulation (methylmercury and PCBs) monitoring in catchable-sized fish: PG&E proposes monitoring once every 5 years beginning in year 1 from license issuance; we recommend monitoring only in years 5, 10, and 15. PG&E also proposes monitoring for bioaccumulation of silver; we do not recommend monitoring for bioaccumulation of silver because previous sampling indicates that silver body burdens are low, silver does not typically biomagnify, and we are not aware of an established action or screening level that represents the risk to human health.*

Response: Plumas County believes that the level of fish tissue monitoring proposed in the SA is appropriate and preferable to that proposed by Staff. First, with the exception of smallmouth bass sampling in 2003, all other fish tissue sampling was conducted in 2001 and 2002; consequently, Staff's recommended sampling would result in the first license required sampling 10 years after the last fish tissue sampling had been conducted. Plumas County believes that by scheduling the first sampling effort in the first year after license issuance and at five year intervals thereafter allows for a better evaluation of the status of the bioaccumulation of both methylmercury and PCBs in fish in Project waters over the entire license period, and not just during the first half. And second, while we recognize that silver does not typically biomagnify and the results from the 2002 and 2003 sampling effort were quite low, PG&E conducts a cloud seeding program in the NFFR watershed and it is their responsibility to monitor for silver under the proposed schedule in the SA.

Staff comment page xxiii, bullet 1: *Bacteriological monitoring: PG&E proposes monitoring in*

years 1 to 5 from license issuance, then every other year; we recommend monitoring only in years 1 to 3.

Response: Plumas County believes that the bacterial monitoring program proposed in Appendix A, Section 5, of the SA is appropriate and necessary to determine compliance with state water quality standards. To demonstrate the level of protection provided for beneficial uses of Project waters and to identify any trends in bacterial conditions, the signatories to the Settlement Agreement recommended that bacteriological monitoring be conducted annually for the first five years after license issuance and every other year for the remaining term of the license. Plumas County believes that the level of bacterial monitoring proposed in the SA is appropriate and preferable to that proposed by Staff.

References

Chan, Ian, 2005. CEC / UC Davis Pulsed Flow Study 2004. Presentation Pulsed flow workshop July, 2005.

Hauer, Richard F. 2005. Rock Creek-Cresta (FERC No. 1962) Recreation and pulse flow biological evaluation: October 2005 Peer Review for Technical and Ecological Services, Pacific Gas and Electric Company, San Ramon, CA.

PG&E. 2002. Upper North Fork Feather River Project FERC No. 2105. Application for New License.

Penland, Bill 1989. Deep canyon, heavy gold: a collection of true stories about everyday life in the Feather River Canyon and surrounding areas.

Salamunovich, T. 2005. Rock Creek-Cresta (FERC No. 1962) Recreation and pulse flow biological evaluation: stranding and displacement studies, year 3 – 2004 July 2004 final report prepared by Thomas R. Payne & Associates for Technical and Ecological Services, Pacific Gas and Electric Company, San Ramon, CA.