

Ms. Tam Doduc, Chair
State Water Resource Control Board
Executive Office
1001 I Street, 24th Floor
Sacramento, CA 95814

October 4, 2006

Subject: **Upper North Fork Feather River Project (FERC Project 2105)
Plumas County Request for Environmental Impact Schedule**

Reference: **Plumas County Letter to State Water Resources Control Board,
Dated February, 23, 2006**

Dear Ms. Doduc:

Plumas County is respectfully requesting your assistance to ensure the timely development of the Environmental Impact Report (EIR) for the licensing of the Upper North Fork Feather River Project (FERC Project No. 2105). It has now been almost four years since Pacific Gas & Electric (PG&E), the licensee for the project submitted their license application to the Federal Energy Regulatory Commission (FERC). (1) As required by regulation at that time, PG&E filed an application for water quality certification under Section 401 of the Clean Water Act. Each year since then, PG&E has withdrawn and re-filed the water quality certification application, because Federal Law requires that a state agency act on the 401 request within a year. Rather than risk denial of its application, PG&E, once again withdrew and re-filed its application for the fourth time in mid-August 2005.

Shortly after filing the original application, PG&E entered into settlement negotiations with the resource agencies, Indian Tribes, Plumas County and other interested parties. The settlement negotiation process culminated with a signed settlement agreement on April 22, 2004. Although not a signatory to the settlement agreement because of its statutory role, the State Water Resources Control Board (SWRCB) participated in the negotiations and provided guidance throughout the entire settlement process.

The settlement agreement did not resolve the water temperature issue in the Upper North Fork Feather River downstream of Lake Almanor. Consequently, members of the 2105 Licensing Group (2105 LG) (2) agreed to continue discussions on the downstream water temperature, with the goal of identifying alternatives to the Prattville Water Temperature Curtain and reaching agreement on a solution for meeting the 20 degree C

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- (1) **PG&E filed their notice to relicense the project three years before filing the application and conducted extensive studies in consultation with the resources agencies and other interested parties prior to filing their license application.**
 - (2) **The 2105 Licensing Group is comprised of the following entities: PG&E, USDA Forest Service, National Park Service, U.S. Fish and Wildlife Service, California Department of Fish and Game, American Whitewater, Chico Paddleheads, California Sportfishing Protection Alliance, Mountain Meadows Conservancy, Plumas County, Indian Tribes and the State Water Resources Control Board.**

downstream water temperature objective. As you know, the Prattville Water Temperature Curtain is a primary concern of Plumas County, because scientific analysis indicates significant damage would result to both Lake Almanor and Butt Reservoir. The discussions of water temperature lead to the identification of 23 alternatives to the Thermal Curtain, including re-operation of Butt Reservoir, higher minimum flows in the Seneca Reach, curtailment of peaking operations, and offsite mitigation in the East Branch of the North Fork Feather River. PG&E staff and their consultants conducted the water temperature studies on behalf of PG&E, but at the direction of the 2105 LG. SWRCB, including technical staff, helped to identify alternatives and participated throughout the 2105 LG discussions, which took place from May 2004 through the summer of 2005. Although the 2105 LG was not able to achieve consensus on an alternative that would provide cooler water to the Upper North Fork Feather River, PG&E and the 2105 LG provided the technical results supporting alternatives to the SWRCB for use in their California Environmental Quality Act (CEQA) analysis.

In July 2005, the SWRCB selected a consultant to prepare its EIR. While we recognize the more than 8-month delay in bringing the consultant on board was due to contract issues with PG&E, Plumas County was pleased to see that SWRCB was finally able to get the CEQA process underway. Scoping meetings were held in late September 2005 and comments received by SWRCB in October 2005. Since then, no additional information was released to the public until Plumas County requested a summary of the Project Re-operation/Water Temperature Study conducted this summer. We appreciate receiving the summary and the posting of it on the SWRCB contractor's website. We are disappointed that the website does not provide information about the CEQA process, or schedule. Regrettably, there have been no formal statements by SWRCB about the CEQA process, either.

While the 2105 LG continued to meet and conduct analyses on the water temperature issue, FERC was preparing their Environmental Impact Statement. FERC issued their draft EIS in September 2004. The final EIS was issued in November 2005, two months after the SWRCB held its CEQA scoping meetings on the project. The final EIS contains an analysis of potential measures for providing colder water to the Upper North Fork Feather River during the summer.

On February 2, 2005, Plumas County met with you and Executive Director Celeste Cantu to express our concerns about the EIR process. We followed up with a February 23, 2006 letter to you, summarizing our understanding of the meeting. To reiterate, following are key action items from our February meeting:

- 1. Assemblyman Keene will contact PG&E to encourage the EIR contractor to meet, or exceed the schedule.**
- 2. The SWRCB will look into the nature of the studies that the contractor is undertaking. Specifically, the SWRCB will determine if the project is being redefined.**
- 3. The SWRCB will consider holding a public meeting (presumably in**

Chester) once the alternatives have been pared down to a more manageable number. (e.g. around 8).

SWRCB management will check with staff on whether the off-site watershed alternative is included in the list of alternatives being evaluated in the EIR.

- 4. The County will send a letter to SWRCB regarding the Section 303 (d) listing.**

Assemblyman Keene did contact PG&E and was informed that the EIR contractor takes his direction solely from SWRCB staff.

We have not had an official response to item 2., above. Based on this summer's Project Re-operation/Water Temperature Studies for development of CEQA alternatives, Plumas County is concerned that the project is being redefined. If there are concerns about the PG&E's water temperature modeling studies, shouldn't the 2105 LG be entitled to know the nature of the concerns? Or, if the PG&E modeling studies are valid, shouldn't sufficient information exist for decision-making?

We very much appreciated Ms. Victoria Whitney's forthrightness and honesty during our July 24th, 2006 meeting. We understand the need to have information verified before it is shared with the public. We also appreciate SWRCB's update on the special testing program. However, we wonder if these tests are variations on themes that FERC and the 2105 LG have already investigated (i.e. higher Canyon Dam water releases, modification of Caribou peaking operations, and reduced Butt Valley powerhouse water flows).

It is time to move forward with the EIR and make the decisions to protect the environment and beneficial hydropower use of the Upper North Fork Feather River Project. The County, like others on the 2105 LG believes that a combination of re-operation and off-site mitigation would best meet the water quality objectives of the basin plan and that information is available to support this conclusion.

We are confused that in other re-licensing proceedings, SWRCB staff is using the FERC EIS and supplementing it to meet CEQA requirements, but in the Upper North Fork Feather River Project re-licensing, the consultant is conducting new analyses and has required time-consuming and expensive field studies. In a process such as this, requesting field studies that delays EIR completion by a year, or more should be the last resort. The County would rather that the SWRCB work with FERC on this project as they have on other projects to restructure FERC's NEPA documents and thus, permit its use by SWRCB in the CEQA analysis. Plumas County believes that this is practical.

For item 3. above, we would like to reiterate our support for a public meeting in Chester after the alternatives have been pared down in number. We are interested to know if the

Plumas County alternative for off-site mitigation is being considered. During our February 2, 2006 meeting, Ms. Cantu commented that the SWRCB's intention was to reduce the alternatives to about 8 by the June/July period and then to 3 to 4 by year-end. While we recognize that this schedule was detained by the summer testing program, we do not understand why the consultant cannot complete the analyses this fall and recommend to 3, or 4 alternatives to the SWRCB that should be carried into the EIR. If the dividing line among alternatives is uncertain, then perhaps another alternative should be added. However, it is important that the EIR analysis move forward. Four years after filing the application (and seven years from the start of the re-licensing process) is far too long to wait!! Because of this delay, FERC cannot issue the license and important environmental and recreation enhancements are needlessly delayed. Plumas County again, expresses its concern with the delays that have already occurred in evaluating the information. The years of study by PG&E and the many hours of 2105 LG meetings seem to have been wasted. In retrospect, there appears to have been little need for any of that process. The delay in implementation of the April 22, 2004 Settlement Agreement is a financial loss to the Lake Almanor Basin and Plumas County.

Regarding item 4., we appreciate that Mr. Craig of your office has agreed to meet with the County on October 11 to discuss the 303 (d) process.

In closing, we respectfully request that you redirect the consultants to expeditiously complete their analysis of the temperature studies and selection of alternatives to be analyzed in the EIR as soon as possible. We trust that you agree that completing this by year-end is reasonable.

We also ask that you direct the consultant to complete the Draft EIR before next summer.

Thank you for taking the concerns of Plumas County into consideration.

Sincerely,

William N. Dennison, Supervisor
Plumas County; District 3.

Cc:

Ms. Celeste Cantu, Executive Director
Ms. Victoria Whitney, Chief Water Rights Division
Plumas County Board of Supervisors
Senator Dave Cox
Assemblyman Rick Keene
Congressman John Doolittle
Patti Kroen—2105 LG
Plumas County 2105 Committee

