

Wetzel, Jeff@Waterboards

From: Cliff Lee <clifflee19@gmail.com>
Sent: Thursday, November 05, 2015 7:02 PM
To: Wetzel, Jeff@Waterboards
Subject: Modified Water Certification Letter, note change of "ownership" to Jeff Wetzel, 11-5-15

Mr. Jeff Wetzel
CA Waterboard
<jeffwetzel@waterboards.ca.gov>
916-323-9390
November 5, 2015

Dear Sir,

Please register my protest to the word change that PGE is requesting. I support the statements made in the letter below and want to comment regarding the impact portion of this letter. I'm one of the water service rights holders that receive water off of diversion box 5. We have an orchard with several varieties of apples, pears, peaches, plums, apricots, cherries, kiwi and nuts. In addition, we are growing table grapes and Cabernet for liquid refreshment and we had an organic garden. Had is the operative word. With insufficient water, none of our apples produced, most are stressed and many of our grape vines are mere sticks. We rely on the water we receive for our irrigation needs. Allowing PGE to arbitrarily close the valve allows them to shut off our ability to grow anything. There are at least two other orchards here that rely on the water from the old Cherokee ditch. It takes years of hard work and commitment to bring an orchard and/or vineyard up to production even with a continuous source of water. With a hundred plus years of continuous flow, I thought the effort was worth it and still do. The idea of water today, none tomorrow, maybe flowing next summer or maybe not, all because PGE decides to cut off the flow is staggering.

Thanks for your consideration.

Clifford W. Lee, member of the Cherokee Ditch Water Association Steering Committee and water service rights holder.
5822 Ponderosa Way
Magalia, CA 95954
310-779-9004

> Reference: DeSabra Centerville Hydroelectric Project Water Quality Certification; Mitigation Measure 3; PG&E Wording Change request: Section "N".

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> Mr: Jeff Wetzel (Jeff.Wetzel@waterboards.ca.gov 916-323-9390)

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> PG&E has requested a change in wording in Section "N" to correspond to the wording in the 1942 adjudication. We oppose this wording change.

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> Recent History: PG&E dewatered the Upper Centerville Canal (UCC)in June 2015, without prior notification to water service rights holders. Water was returned to the UCC temporarily but discontinued due to major water leakage as a result of inadequate maintenance of the first mile of the UCC by PG&E. PG&E was directed by FERC to repair the UCC, which they have done. Water was returned to the UCC on 10/12/15. PG&E did provide water (not potable) via tank truck to legal users, although at a reduced rate from allocated levels.

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> The impact to the UCC community was severe. In just one small area served by distribution box 5: one family relies on the UCC water flow for domestic/drinking water (filtered), at least eight wells suffered significant reduction of water flow or complete failure within weeks of the UCC being dewatered. Adjustments were made- toilets flushed once per day, showers were taken in local campgrounds, hundreds of dollars spent for the purchase of potable water, landscaping

was lost, etc. Note: the UCC was dewatered because of inadequate maintenance of the UCC in the first mile, and not from a lack of water supply; this situation could have been avoided.

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> Historically, the UCC has provided water for over 100 years to “legal water users”. Reference the 1915 California Railroad Commission Decision No. 2899, case 668: “HELD. That complainants have been receiving water from this ditch for a considerable number of years and have prior right to such water, therefore defendant can not arbitrarily discontinue service to them.” It further stated: “It follows as a matter of law that defendant(PG&E”)was and is a public utility water company. Therefore, at least as to present consumers of water, the service of water must be continued and defendant has no right to stop their supply of water...”. It further states “...the clause which in terms sets out the right of the company to discontinue service is ineffective and can not be availed of by defendant as establishing a right”. In the 1942 adjudication of water rights PG&E managed to modify this with the key phrase “...only if PG&E chooses to operate the Upper Centerville Canal”. In paragraph 36 of the adjudication “...is for public service delivery to consumers hereinafter named in this paragraph...”, tacitly acknowledging the role of PG&E as a water service provider.

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> For well over a century there has been a continuous flow of water in the UCC with minor interruptions for maintenance. The legal users came to trust PG&E based on this 100+ year experience. That trust was betrayed in June, 2015 when PG&E “dewatered” the UCC without notice because of their failure to maintain the UCC. Further distrust ensued when PG&E implied that they were going to “decouple” from the UCC.

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> We ask that PG&E be required to maintain the history of water flows in the UCC that legal water users have come to rely on for basic living standards and that the phrase change not be approved.

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> Kenneth R Niblett, member of the Cherokee Ditch Water Association Steering Committee and water service rights holder

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