

Barnes, Peter@Waterboards

From: Larry Larson <llarry1@citlink.net>
Sent: Tuesday, February 24, 2015 5:03 PM
To: Barnes, Peter@Waterboards
Subject: Thermal Curtain Comments
Attachments: Bill Dennison Lake Almanor Thermal Curtain DEIR revised statement Feb 2015 by Dennison.doc; Summary of DEIR meeting Feb 2015.doc

Importance: High

Peter,

Attached are two documents from Mr. Bill Dennison which state much better than I ever could have put in words concerning the current Draft EIR and the entire Thermal Curtain proposal at Lake Almanor. For the record I submit the attached comments to be include in the record.

Larry Larson
Virus Free Message

**In GOD we still trust
All others we question**

Statement
by
Bill Dennison
on
the SWRCB DEIR
for
Water Qualification Certification
of
PG&E's Upper NFFR Hydroelectric FERC Project 2105

Chester, CA
February 11, 2015

My name is Bill Dennison, former District 3 Plumas County Supervisor (1995-2006). I worked with many of you during those 11 years to reach a 2004 Plumas County agreement with state and federal agencies and PG&E on all significant issues, except a procedure to lower the water temperature to 20 degrees Celsius 40 miles downstream in the North Fork of the Feather River. (NFFR)

There is much for us to discuss tonight. The intent of this meeting is to provide comments on the DEIR. I find that very difficult. Although, I have spent more time than anticipated this past two weeks, my review was limited because it was not received until late January. However, I am convinced that:

- 1) SWRCB (Board) did not listen to us in September of 2005.
- 2) I believe to date, the Board has not served the people well and in fact appear willing to abuse the California Environmental Quality Act (CEQA) process that is required under the California Clean Water Act.

I say that with no malice, particularly towards those of you representing the State of California here tonight. I am only attempting to put this 20 year episode into a perspective for the outsiders who have the power, but not the right to change socio-economic lives of many families and businesses, including those here tonight.

One of the travesties of the DEIR process is that the agency representatives keep changing. The cold, typed transcripts can not preserve the emotion and fervor in which our facts and questions were provided in the 2005 Scoping Session. Those representing the Board are new to the problem and probably were not involved in the 2005 meeting. The final decisions on the DEIR will

be made by those who have no reason to really care, as long as strict, even though not always reasonable standards are maintained.

One of the insidious and effective government weapons is DELAY. The longer the process, the fewer remaining people (with institutional memory of the projects facts and myths) who can and will insist that appointed officials meet the expected goal of "DO NO HARM". Many who have carried the banner to assure the people are heard and understood on this issue are not here tonight. Some, such as Marvin Alexander (Lake Almanor God Father) have passed away.

Mike Willhoit spent hundreds of hours working with and guiding technical and practical issues. He, like so many move to warmer weather during the winter and are not here tonight.

Another strategy, or tactic in regard to Public Hearings is timing and location. I thank the Board for holding this meeting in Chester. However, any agency who has studied the Lake Almanor area knows that winter is not the time to hold public meetings in Chester. A large portion of the residents leave in the winter and during a normal winter many people would not attend because of inclement weather.

There is another timing issue that is detrimental to full public review. The Draft Environmental Impact Statement Scoping Session was held in September, 2005; almost 10 years ago. There was no public access to any of the generated data during that period of time. The contractors presented their analysis and findings to the Board in November of 2012 and it took two years for the Board to present the DEIR to the public. The people were then, given only 120 days to review and comment on this very large, technical document.

We were told by Ms Whitney at the beginning of the 2005 Scoping Session, "Dana, the Board attorney, said we must have reasonable alternatives, which means three (3) plus a "no action" alternative." In addition, she said, "We always anticipate that we are going to be sued when we make a decision of this **magnitude**, because we always are, even though we seek to avoid that, so we want to make sure our document is legally defensible, as well as scientifically defensible and it is good public policy." (Emphasis added) Have the standards changed? I submit that the DEIR is embarrassingly flawed, not good public policy and as anticipated by Ms Whitney there will

be lawsuits, when people begin to understand the full socio-economic impact of the Board proposal.

The magnitude of this issue was understood, yet no key players (e.g. Tam DoDuc) and decision-makers (Board members) attended that important meeting in 2005. Ms Whitney said that the Board had not been given enough advance notice. Not one of the Board members have taken the time to attend this Public Hearing tonight.

I have read a large portion of the DEIR. It is interesting, but except for the Executive Summary, very technical and not directly disputable without a full professional study and/or additional studies. There is nothing in the report that can guarantee that the Thermal Curtain will provide the Boards goals of reducing the NFFR water temperature by one (1) degree C. forty (40) miles downstream from Lake Almanor . Thus, the DEIR has added another Alternative that will "experiment" with the Cold Water release of 250-600 cfs through Canyon Dam.

A technical and legal review will show that the DEIR, as required by CEQA cannot support the release of Cold Water through Thermal Curtains and/or Canyon Dam. The Process and Requirements under the California Environmental Quality Act are designed to fully display:

1) The extent to which the dams and other PG&E projects facilitate an increase in water temperature. Therefore, it was imperative that SWRCB establish the historic water temperature of NFFR 40 miles below Lake Almanor. It is more than apparent that these temperatures were based largely on a 1915 photograph of a Maidu woman with a basket of fish and an earlier photo of a full creel of fish. That is the "evidence" on which the NFFR historical water temperatures were based.

2) The extent to which PG&E can reduce the temperature by implementation of reasonable control measures. In this same paragraph it is stated: State Water Board must also ENSURE that these project operations, will not UNREASONABLY affect water quality in Lake Almanor. (Emphasis added.)

It is extremely significant that the DEIR has been written to falsely "...meet the CEQA requirements" by listing every public documented concern as "INSIGNIFICANT". This betrayal constitutes one of the reasons that attorneys and others who professionally review DEIR documents are noting that this DEIR "...is the most deficient of any they have read."

It is incomprehensible that all of the public and Federal Energy Regulatory Commission comments against the removal of Cold Water from Lake Almanor were condensed into "little boxes" with check marks indicating they were ALL "Less Than Significant".

We must assume that the Board members have reviewed the statements by the Federal Energy Regulatory Commission (FERC) in their EIR which said in part: "...however, we do not recommend it (The Thermal Curtain) given the adverse effects that these measures would have on the lakes' environmental, cultural, and recreational resources (e.g. coldwater fishery of Lake Almanor, the existing trophy rainbow and brown trout fishery of Butt Valley Reservoir, potential disturbance of Native American burial grounds, boating safety, and view sheds) and its high cost."

The following are additional, but not all of the examples of SWRCB's dismissal of facts in the DEIR response to the public:

"Could this affect water temperature in Lake Almanor?" Impact NONE.

Yet, two mitigation measures are provided:

1) "Implement temperature monitoring and operation coordination."

There is no explanation of the monitoring locations, or depths that will be used to ENSURE the temperatures do not UNREASONABLY affect Lake Almanor water Quality. (Emphases added indicates key CEQA requirements). What lake water temperatures will be maintained? Will fish be monitored to determine the impact on their growth and spawning? Will PG&E, or DWR be responsible for the monitoring and operation coordination during changes in the Cold Water releases? Has the lake flow of cold water been studied to be able to detect immediate impacts of oxygen loss on the fish in various portions of the lake? Will the operational costs be borne by PG&E rate payers?;

2) "...augment stocking of coldwater fishery following Critical Dry Water Years."

How will planting more fish in Lake Almanor to replace those killed by high water temperature assist in maintaining the aquatic habitat conditions? If the end-result is to provide more fish, a portion of the hundreds of millions of dollars for Thermal Curtain construction, should be invested in planting large fish forty (40) miles downstream in the NFFR and let the Lake Almanor/Butt Reservoir fisheries continue to thrive.

Another DEIR response to public and biologists concerns over Cold Water release:

"Could this affect the aquatic habitat conditions of Lake Almanor?"

The "little box" is marked "Insignificant". There is no explanation of how someone has made the decision that there will be no impact from removal of Cold Water and therefore no need to consider mitigating measures. The same statement was given for aquatic habitat in Butt Reservoir without any mention of the certain loss of the trophy fish.

Aaron Seandel (Chair of the long-standing Lake Almanor Water Quality Committee) will present water temperature and corresponding oxygen data which shows that the lake temperatures are rising and Oxygen levels are already lowering. Biologists can predict the negative impacts on the fisheries and increased algae. Continuing:

"No impact on fishing opportunities below Canyon Dam".

Again, no explanation beside the "little box", which is checked "Insignificant". Obviously, this decision did not include fishermen who have ever attempted to catch fish in water flows between 250 and 600 cfs.

No impact on issues submitted by a broad coalition of Native Americans, including disruption of their burial grounds.

The SWRCB members attempt to turn their backs on the multiple presentations and requests by local tribes, shows a bizarre, and insensitivity to both facts and political reality.

Impact on Recreational Facilities? It is proposed to move Marvin Alexander Day Use Area to another location. Why is this necessary if the Thermal Curtain is not going to cause any negative visual impact?

DEFICIENCIES AND DIFFICULTIES IN THE DEIR

A cost/benefit analysis is not required under a DEIR. However the "Reasonableness" of this project cannot be ascertained without some sincere attempt to show the costs over the 50 year life of the 2105 License. It would be most interesting to relate that cost to the estimated value of the increase in pounds per fish/year in an area where "Fishing is not Allowed".

Mike Willhoit found the inclusion of a new power plant below Canyon Dam that will cost a total (capital and O&M) of \$6 million/year, or \$300 million over the life of the license contract. It is stated that the cost is 10 times the energy value. So, the net loss would "only be \$270 million". When this is added to the \$650 million license life cost for Alternative 3x (In 2009

dollars), there is a waste of PG&E ratepayer dollars of \$920 million in 2009 dollars. Note that the \$13,500,000 annual cost on which this is based, would grow to \$90,000,000 annually in 50 years. This is an unfathomable cost of this project that will only potentially increase the growth in a few fish in the lower NFFR, while killing more fish and the socio-economic life in the Lake Almanor Basin.

What is DWR thinking? Where are the benefits listed that can justify these outlandish costs?

OMMISSIONS AND ERRORS

Much of the current problem within the DEIR is due to the faulty 303(d) listing of the NFFR. It is stated that PG&E and F&G "...did recognize water temperature to be a problem in the 1980s" That is not true. In fact, it was then and even later that there was agreement that modifications in river habitat, including food sources and inhibiting culverts installed by CalTrans and the Railroad were a major factor of slow fish growth; not the water temperature.

Additionally, the criteria for setting critical water temperature limits were based on steelhead, which reportedly need about 2 degrees colder water than the NFFR trout. This is possibly, one of the reasons that the Central Valley Regional Water Quality Control Board did not support the proposed 303(d) listing of NFFR. Yet, the DEIR shows no record of the 2005 letter from Joe Pedri to Joe Karkoski, TMDL Unit, Regional Water Quality Board that states in part: "In conclusion, we do not support 303(d) listing for the NF Feather River, based on information we have (including information referenced in the two page listing summary). We request that you include this letter with your comments to SWRCB on the current proposed listing." A copy was sent to Sharon Stohrer, SWRCB, Division of Water Rights, Sacramento. This was mere few weeks before DWR listed the river as temperature impaired. Any legal action against this DEIR must necessarily review what happened during this short-period? We must determine where scientific facts ended and if political intervention began? Why would the Board choose to over-rule opposition to the 303(d) listing by their own professionals who were best qualified to study and know the facts about the North Fork of the Feather River?

Those responsible for writing the DEIR have also chosen to scrap the professional testimony by biologist Ron DeCota and Fishing Guides who know the Lake Almanor/Butt Valley Reservoirs better than anyone. Their

professional warnings about detrimental water temperatures, aquatic needs and potential damage to fish food supply by abrupt changes in lake water level, oxygen problems and importance of the Cold Water springs were all discarded as: "INSIGNIFICANT".

There was no mention in the DEIR of PG&E's July 2005 Report on water temperature monitoring that included the following:

"In summary, water monitoring indicates that a mean daily water temperature of 20 degrees Celsius, or less is not consistently achieved in the months of July and August and no reasonable water temperature control measures are available to achieve such water temperature year round. The goal is unrealistic and unnatural."

In summary, the people cannot be pleased in the manner that the Board has received and discarded public, federal and state agency comments that have resulted in the next step; a faulty and misguided DEIR. It is mandatory that the Board reevaluate the DEIR and discontinue any program that authorizes Cold Water reductions that will result in the destruction of the waters of Lake Almanor and Butt Valley Reservoir.

Thank you.

Respectfully submitted,

William N. Dennison
(Plumas County Supervisor; Dist. 3.. 1995-2006)
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Chico, CA 95973
530-258-1489
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Notes and Comments by Bill Dennison
on Public Hearing
State Water Resources Control Board
Draft Environmental Impact Report
Water Quality Certification
of
PG&E's Upper NFFR Hydroelectric
FERC Project 2105
February 11, 2015
Chester, CA

The following are a few of my notes and comments based on the 2/11/15 meeting. I offer them for further discussion on the DEIR and probable interest to those who were unable to attend.

My oral statement did not cover all of my written material, which was given to Peter Barnes, Project Manager for the State Water Resources Control Board (Board). That paper (see attachment) included a significant amount of information received from Mike Willhoit, who has maintained excellent files of the past 2105 activities and earlier lake/river history. I urge everyone to send their comments prior to March 25th to:

Peter Barnes, Engineering Geologist
State Water Resources Control Board
Water Quality Certification Program
P.O. Box 2000
Sacramento, CA 95812-2000

The Meeting

The meeting (6-9:30 p.m.) was arranged and chaired well by Plumas County Supervisor Sherrie Thrall. Wendi Durkin's excellent leadership in maintaining a strong "Save Lake Almanor" grass roots organization was evident by the estimated 200-250 attendees and their presentations.

Draft Environmental Impact Report (DEIR) Statements

The purpose of the meeting was to provide public comments on the DEIR for the Water Quality Certification of PG&E's Upper North Fork Feather River Hydroelectric FERC Project 2105.

There were excellent presentations from past and new participants over concerns that we have previously labeled "The Thermal Curtain". These can

all be reviewed through the written transcript that should be available in a couple of months. You can obtain a copy by contacting Peter Barnes. I offer a few meeting highlights:

A) In recognition that the proposed State Water Quality Resources Control Board (Board) Alternatives, now include Cold Water releases of 250-600 cfs through Canyon Dam, Wendi Durkin (Save Lake Almanor) announced the adoption of a new theme from ("Stop The Thermal Curtain") to "...not a drop more of our Cold Water". This is an excellent move, because of the new policy positions on Thermal Curtains (TC) by Environmental organizations represented by White Water Groups and attorney Michael Jackson publically announced their opposition to the Thermal Curtains. Their new plan will be to confiscate the Cold Water by other means...through Canyon Dam. Thus, the end result must be to stop the Thermal Curtain AND all other means of stealing Cold Water from the lake.

B) Who is in favor of constructing Thermal Curtains?

Not one participant supported construction of the Thermal Curtain(s). However, as stated by Wendi Durkin, that is the wrong question. We must be asking, "Who is in favor of removing Cold Water from Lake Almanor and why? No one, not even PG&E supports the Thermal Curtain movement that PG&E initiated over 15 years ago. Michael Jackson, representing specific environmental groups said that he does not support the Thermal Curtain, at this time. However, when he proclaimed "The people will be heard!", he was referring to the environmental groups, who will demand more Cold Water releases "in the name of the fish". "White Water" advocates who wish high volume "pulse flows" for recreation purposes stated that they do not favor construction of the Thermal Curtains. However, it can be anticipated that the two groups will continue to be strong allies favoring more Cold Water releases.

The meeting announcement that PG&E is now opposed to the Thermal Curtain raised applause and euphoria among some of the attendees. PG&E has the technicians, scientists, engineers and/or contractors to help thwart State of California's threat to Lake Almanor and the statement appears to put PG&E on the "right side". However, unless PG&E submits sound technical and financial facts about the unreasonableness of the Board DEIR, their announcement will have little, if any impact on the final Board decisions. PG&E's real interest in stopping the construction of the Thermal Curtain would be greatly increased, if the (\$1.3 Billion dollar estimated construction

costs over the next 30 years) was to be borne by the share holders, rather than the rate payers.

C) How and when will the Board determine if and when the Thermal Curtains will be constructed?

This was an issue posed by a well prepared citizen, whose name I did not record. He noted that the Board's proposal to decrease the river water temperature by 1 degree C., 40 miles down river is to initially draw Cold Water through Canyon Dam at varying volumes of 250-600 cfs. If those water withdrawals do not meet the Board's goal, **someone** will determine, if and when the ratepayer financed Thermal Curtains will be constructed. However, there is no plan (nor metrics) in the DEIR to determine, nor guide the Board's transition from Cold Water releases from the dam to construction of the Thermal Curtain(s). Who, specifically will determine when and how this monumental switch will be accomplished? Who will set the policies, manage the projects and hold the costs to a reasonable amount? What analysis will be used to determine how much Cold Water will still be released through the dam? These and other significant questions must be answered.

D) Aaron Seandel, Chair of the Lake Almanor Water Quality Committee for the last 15 years, provided detailed water quality/oxygen content data and statistics that requires new consideration in the DEIR.

E) The DEIR does not list even one (1) of the public concerns that were legitimately expressed during the September 2005 Scoping Session, as "Very Significant". This is important because any "Very Significant" issue must be given more consideration under the Clean Water Act. As one example, the DEIR states that the removal of Cold Water will cause **No Significant Impact** on the Lake Almanor water temperature. Their analysts were able to side-step the designation of "Very Significant" by offering two (2) mitigating measures:

1) "Implement temperature monitoring and operation measures."

The same question of metrics and planning applies here. What are these "measures". When will they be displayed to the public? If "Climate Change" (as mentioned by the Board) has an impact on Lake Almanor, and no more Cold Water is readily available, which fish (Lake, or NFFR) will be sacrificed first? Who will be required to monitor the temperatures? Will those costs also be borne by PG&E ratepayers?

Even though the DEIR states that Cold Water releases are not going to damage Lake Almanor fisheries, the DEIR provides another mitigation, just in case:

2) "...AND augment stocking of coldwater fishery following Critical Dry Water Years."

The Board is apparently hedging their bets and their responsibility of any environmental damage to the lake, the community and the county by agreeing to replace the Lake Almanor fish, if the Cold Water releases damage the fisheries. The Board cannot be permitted to use this weak means of justifying a project that is designed to "possibly" enhance the growth of fish 40 miles downstream, while assuredly reducing the water quality and fisheries in Lake Almanor and Butt Valley Reservoir.

F) Many people have detected the malfeasance and extraordinary defects in the DEIR. This has been the impetus towards a probable lawsuit, if the Board unwisely decides to adopt the DEIR provisions. To that end, a private group hired Kronick, Moskovitz, Tiedemann and Gerard to review the DEIR. The firm was represented by Hanspeter Walter who gave an excellent presentation which is worthy of full review in the meeting transcript. It is rumored that Plumas County may also be considering a lawsuit.

It will be most important that:

- 1) The efforts of lawsuits, be coordinated.
- 2) Estimated costs are considered early.
- 3) Every property owner (particularly inside the Basin, but also those that will be negatively impacted outside of the Basin) is contacted and advised of the threats to their property values.
- 4) A meeting is convened for a full discussion of a lawsuit and property owners financial obligations to share the financing of the litigation.

G) Bob Orange, retired California Game Warden who served the NFFR area for more than 30 years answered a question posed by an earlier speaker, "Who first raised the question that the water temperature near the PG&E Rock Creek/Cresta is detrimental to the fisheries?" Apparently, this "idea" was presented by a California Department of Fish and Game employee. The Game Warden's Association and others rejected the "Idea" that the river needed special attention. However, the IDEA continued to circulate and grow until it reached higher levels, where it did meet resistance. Joe Pedri (Central Valley Regional Water Quality Control Board) in a December 2005

letter, stated "In conclusion, we do not support 303(d) temperature listing for the NF Feather River based on information we have referenced in the two page listing summary." The letter was sent to Joe Karkoski with a copy to Sharon Stohrer, SWRCB Division of Water Rights in Sacramento. This was mere weeks before DWR listed the river as temperature impaired. The IDEA thrived and the 303(d) listing of the NFFR was implemented. Poor IDEAS can move very quickly through a bureaucracy. Good Ideas take much longer. These unique actions will undoubtedly be under in depth consideration if a lawsuit is initiated.

There was another question posed, "Are the fish dying in the lower NFFR?" Bob Orange said that during the combined, 50 plus years that he and his father had been game wardens on the river, there was never a loss of fish due to water temperature.

There was considerable discussion about the April 2004 Agreement that was reached between PG&E, Plumas County, Forest Service, Department of Fish and Game, Environmental groups and others. All significant issues were resolved, except the water temperature of the lower NFFR. There were several positive results in that agreement, most notably an understanding of future lake water levels. All of the items have been on hold until final FERC acceptance of PG&E's application for the new 2105 License. Those will include new and improved recreation areas around Lake Almanor and Butt Reservoir. It may not be remembered by many people that Plumas County has a side-agreement with PG&E to share in the construction of a 3-5 mile non-motorized trail around the southern and eastern portion of Lake Almanor that could be consummated any time that county and/or private funds are available.

For now, it is important that Save Lake Almanor and other groups interested in the lake water and ultimately the value of businesses and homes continue their joint effort in preparation for a lawsuit, if necessary. The 2/11/15 Public Hearing provided recognition of the momentum and fervor that has continued during the past decade to counter the poorly written Board DEIR. That interest must be maintained through direct contact with all impacted property owners and others who wish to assure that Lake Almanor water quality and fisheries are not lost forever.

END

March 26, 2015

Peter Barnes
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-2000
E-Mail: Peter.Barnes@waterboards.ca.gov

Re: **Upper North Fork Feather River Hydroelectric Project Draft EIR**

To Whom it May Concern:

I am a resident of Plumas County, writing to express my concerns regarding the State Water Resources Control Board's Upper North Fork Feather River Hydroelectric Project Draft Environmental Impact Report ("EIR").¹ In general, I find the EIR confusing and unclear. Lake Almanor has been operated for the last 50-some years as a hydroproject. The environment and community has adjusted to this. Now significant changes are being proposed. As I understand it, PG&E, the county, and other stakeholders held extensive negotiations and developed a settlement agreement in 2004. That settlement provided more cold water flows down the river while maintaining enough cold water and suitable lake levels at Lake Almanor so that its recreational benefits would be preserved. For some reason the EIR includes two project "alternatives" that involve thermal curtains and even more water releases that would significantly impact Lake Almanor. Why are *any* alternatives necessary when the proposal to operate per the settlement already provides beneficial changes that will cool the river downstream?

Those that live in and visit Plumas County value the natural resources of Lake Almanor. The EIR's thermal curtain and increased cold water outflow alternatives will significantly impact the fisheries and visual beauty of Lake Almanor. The EIR admits that these alternatives will significantly impact Lake Almanor's fisheries and potentially cause a massive fish kill. Why would the State Water Board consider alternatives that will harm Lake Almanor's beneficial uses by draining the lake of its cold water? I thought CEQA prevented public agencies from harming the environment. This is bad policy.

The EIR also fails to evaluate the recreational economy that is tied to the Lake Almanor fisheries – an important economic driver in this region. Harm to the fish means harm to the community because fewer people will visit and fish the lake. This will probably result in closed and abandoned businesses and homes, and declining funds for public services. The EIR should not ignore this issue.

I request that you reject the thermal curtain / increased release alternatives and ensure protection of Lake Almanor and the surrounding community.

Sincerely,

Larry Larson
525 Spruce Circle Lake Almanor, CA. 96137-9622

¹ The EIR is available online at:
http://www.swrcb.ca.gov/waterrights/water_issues/programs/water_quality_cert/unffr_ferc2105_eir.shtml