From: Sharon Stohrer
To: Bob Baiocchi; Jim Canaday
Date: 10/17/05 3:04PM
Subject: Re: Request for Information - Scoping Comments - WQ Cerification - FERC Project 2105

Bob,
The CEQA Scoping period is scheduled to close today, 10/17/05, at 5:00 pm. This is the conclusion of a 45-day period. I have already received 2 different comment letters from you, these are: a 9/24/05 comment from The Baiocchi Family Trust and a 10/4 comment letter from The Anglers Committee.

With good cause, you or others may make a written request for a 5 day extension of time. However, if comments can be filed today that would be preferred. Thank you, Sharon

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Sharon Stohrer
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>>> "Bob Baiocchi" <baiocchi@psln.com> 10/17/05 1:21 PM >>>
Ms. Stohrer and Mr. Canaday, Division of Water Rights, SWRCB

Please advise me when the scoping comment period deadline period ends for the CEQA document for the water quality certification process for the Upper North Fork Feather River Project 2105....Please Advise.....Thank you.....

Will the Division of Water Rights give the public a vatiance in submitting tardy comments after the deadline date for the scoping comments?.....Please advise.....Thank you.....

Bob Baiocchi

State of California

Before the State Water Resources Control Board

Upper North Fork Feather River Project, FERC 2105

Pacific Gas and Electric Company, Licensee

North Fork Feather River, Butt Creek, Lake Almanor and Canyon Dam, Butt Valley Dam and Reservoir, Belden Forebay Dam and Reservoir, Main Stem North Fork Feather River Watershed et al

In the Matter of Environmental Impact Report for Water Quality Certification by the State Water Resources Control Board for The Pacific Gas and Electric Company's Upper North Fork Feather River Project 2105

Scoping Comments by The Baiocchi Family

The State Water Resources Control Board (herein after known as "SWRCB") will prepare a draft and final Environmental Impact Report for water quality certification of the Pacific Gas and Electric Company's Upper North Fork Feather River Project 2105. The Baiocchi Family has reviewed the NOP prepared by the SWRCB.

The following are the scoping comments of The Baiocchi Family:

Scoping Comments for the Draft and Final Proposed Environmental Impact Report

Scoping comments have been helpful to agencies in identifying the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in an Environmental Impact Report (EIR) and eliminating from detailed study issues found not to be important. When an agency uses the scoping process to narrow the range of potential alternatives to be analyzed in detail in an EIR, the EIR should ultimately describe the facts and rationale by which rejected alternatives were deemed infeasible. See Goleta II, supra, 52 Cal.3d at 569 [276 cal.Rptr.410]; Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal.3d 376, 404-405 [253 Cal.Rptr.426].

PG&E has rejected all 24 cold water alternatives. The Baiocchi Family requests the SWRCB to describe the facts and rationale when alternatives and also recommended mitigation measures are rejected as infeasible in the EIR.

Notice of Preparation if Environmental Impact Report

The procedural device used to initiate interagency dialogue is the "notice of preparation" (NOP). Once the lead agency decides that an EIR is necessary, the lead agency must send a copy of its NOP to all responsible agencies, trustee agencies, and federal agencies involved in approving or funding the project. The NOP must be sent to any person who has a written request for notices. Also, the NOP must be posted for 30 days in the office of the county clerk of the county in which the project is located.

The NOP must be written so as to provide the agencies and the public with sufficient information to enable them to make meaningful responses. At a minimum, the NOP must include the following: a description of the project; its location on a map; and a statement of the project's probable environmental effects. See CEQA Guidelines.

The agent for The Baiocchi Family is:

Bob Baiocchi, Agent
[redacted]

We are also requesting the SWRCB provide a copy of the NOP to NOAA Fisheries because NOAA Fisheries is proposing to restore Feather River spring-run Chinook salmon and steelhead trout in the North Fork Feather River below Canyon Dam. Canyon Dam is part of the project. Also NOAA Fisheries is proposing to restore Feather River spring-run Chinook salmon and steelhead trout in Yellow Creek. The Belden Powerhouse is located in the lower reaches of Yellow Creek near its confluence with the North Fork Feather River.

We are also requesting the SWRCB provide a copy of the NOP to Mr. James Pedri, Administrator, Central Valley Regional Water Quality Control Board at their Redding Office. The Regional Water Quality Board has the duty and authority to enforce water quality requirements for the state's water pursuant to state statutes.

California Environmental Quality Act and its Guidelines

Plumas County has given the impression to Bob Baiocchi that the leadership of the county wanted the SWRCB to rush the CEQA process for the proposed water quality certification for the Upper North Fork Feather River Project 2105. We believe the CEQA process must be followed according to law by the SWRCB.

The California Legislature enacted the California Environmental Quality Act (CEQA) in 1970; one year after Congress enacted its predecessor statute, the National Environmental Policy Act (NEPA). See California Public Resources Code 21000 et seq. and also 42 U.S.C. 4321 et seq. Like the federal statute, CEQA was conceived primarily as a means to force public agencies decision makers to document and consider the environmental implications of their actions. See Public Resources Code sections 21000 and 21001.

In 1973, pursuant to authority granted in Public Code section 21083, the California Resources Agency issued the first set of "CEQA Guidelines". See California Code of Regulations, Title 14, section 15000 et seq. The Guidelines embody both the specific statutory mandates of CEQA and the nuances added by the scores of judicial decisions interpreting the statute. The procedures that public agencies adopt to implement CEQA must be consistent with the Guidelines. See Public Resources Code section 21082.

The Baiocchi Family is requesting the SWRCB to comply fully with the provisions of the California Environmental Quality Act and its Guidelines for the water quality certification for the Upper North Fork Feather River Project 2105.

CEQA – California Legislature Policies

The CEQA statute sets forth specific policies that motivated the California Legislature to enact it. See Public Resources Code sections 21000, 21001, 21002, and 21003.

PG&E hydro projects on the North Fork Feather have affected water quality in the river for cold water species and their habitat. In the case of water quality protection for the North Fork Feather River, PG&E has developed 24 proposals to improve water quality and reduce detrimental high water temperatures to cold water species and their habitats (all life stages) in the river. However, for self-serving reasons, PG&E has advocated (Tom Jereb of PG&E) that all 24 alternatives are unreasonable because of the costs to PG&E of each individual alternative. Mitigation for the direct, indirect, and cumulative effects to the environment of the North Fork Feather River is part of doing the people's business affecting the people's trust assets. Consequently the amount of money to restore the people's public trust resources affected by PG&Es dams, reservoirs, conduits, and powerhouses is part of doing business. There must be no limit to the cost to mitigate the damages caused by PG&E's hydyo projects in the North Fork Feather River Watershed.

Site-Specific to the EIR for this project, the following Legislature policy is applicable;

"to prevent the elimination of fish and wildlife species due to man's activities, ensure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plants and animal communities and examples of the major periods of California history." Public Resources Code section 21001, subd(c).

Clearly PG&E's operation of their hydro project and the construction of their man made dams in the North Fork Feather River watershed have adversely affected the cold water fisheries (Pre-Oroville salmon fishery, Pre-Oroville steelhead fishery, and Pre-Oroville trout fishery and their habitat) of the North Fork Feather River. Consequently the above policy fully applied in this instant situation.

Public Participation – CEQA Process

Public participation is an essential part of the CEQA process. Members of the public hold a "privileged position" in the CEQA process. For that reason the Bagley-Keene Act and

the Brown Act were enacted by the California Legislature. Such status reflects both "a belief that citizens can make important contributions to environmental protection and notions of democratic decision-making……." See Concerned citizens of Costa Mesa, Inc. v. 32nd District Agricultural Association (1986) 42 Cal.3d 929,936 [231 Cal.Rptr.748, quoting Selmi, The Judicial Development of the California Environmental Quality Act (1984) 18 U.C. Davis L.Rev. 197, 215-216; also see Mountain Lion Coalition v. California Department of Fish and Game Commission (1st Dist. 1989) 214 Cal.App.3d 1043, 1051 9263 Cal.Rptr.104] upholds writ of mandate requiring respondent to make detailed cumulative impact analysis available to the public, whose members, "had actively asserted a keen and sophisticated interest" in proposed hunting regulation and has desired to "fully participate in the assessment of the cumulative impacts associated with th[e] project.

The Baiocchi Family believe that copies of the draft EIR must be submitted throughout the regional area of Northern California by the SWRCB so that the public has the opportunity to comments on what measures should be implemented to protect the cold water species of the entire North Fork Feather River watershed.

Use of the Environmental Impact Report Process

Environmental Impact Reports serve a number of important functions. The documents force agencies to develop specific information about how projects may adversely affect the environment; they involve the public in environmental decision making; they require decision makers to reveal their "environmental and economic values" so that the public can remember these values come election day; they facilitate interagency consultation; and they generation proposals for project modification to be effected through the adoption of alternatives or mitigation measures.

The courts have described EIRs as environmental 'alarm bells' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.

The environmental alarm bells have rung decades ago, like church bells ringing at Florence, Italy, when PG&E dammed the North Fork Feather River and altered the river environment for self-serving reasons. The Baiocchi Family believes the SWRCB must impose strict cold water quality requirements to protect and improve the cold water wild trout species and other cold water species of the NFFR watershed in the proposed draft and final EIR for water quality certification for the Upper North Fork Feather River Project 2105.

Alternatives – Cumulative Effects

To allow agencies to effectuate the substantive requirement at the findings stage of the CEQA process, EIRs "must produce information sufficient to permit reasonable choice of alternatives so far as environmental aspects are concerned." See San Bernardino Valley Audubon Society v. County of San Bernardino (4th District (1984) 155 Cal.App.3d 738,

750-751 [202 Cal.Rptr. 423]. Also see Citizens of Goleta Valley v. Board of Supervisors ("Goleta I) (2nd District 1988) et al other case law.

PG&E has studied 24 alternatives to provide cold water into the North Fork Feather River, but for self-serving reasons finds all of the alternatives are unreasonable due to costs.

The SWRCB must independently evaluate the 24 alternatives and other alternatives and must not rely on PG&E self-serving water temperature findings. We reference Rock Creek – Cresta Project No. 1962; License Condition 4D; Report on Water Temperature Monitoring and Additional Reasonable Water Temperature Control Measures; July 2005; Final Report; Pacific Gas and Electric Company.

All 24 alternatives studied by PG&E must be considered as alternatives by the SWRCB in the CEQA document on the basis of the SWRCB's evaluation. The SWRCB must also select one or more of the alternatives that would provide cold water into the North Fork Feather River to sustain the cold water species for the life of the FERC license, which may be 50 years.

The alternatives evaluated in the EIR must consider and study the following:

(1) The direct and cumulative effects to compatible cold water for cold water species (all life stages) in Lake Almanor;
(2) The direct and cumulative effects to compatible cold water for cold water species (all life stages) in Butt Valley Reservoir;
(3) The direct and cumulative effects to compatible cold water for cold water species (all life stages) in Butt Creek directly below Butt Valley Dam to the confluence of the NFFR and Butt Creek;
(4) The direct and cumulative effects to compatible cold water for cold water species (all life stages) in the North Fork Feather River from Canyon Dam to the Belden Forebay Reservoir;
(5) The direct and cumulative effects to compatible cold water for cold water species (all life stages) in the Belden Reservoir;
(6) The direct and cumulative effects to compatible cold water for cold water species (all life stages) in the North Fork Feather River from the Belden Forebay Dam to the Rock Creek Dam;
(7) The direct and cumulative effects to compatible cold water for cold water species (all life stages) in the North Fork Feather River from the Rock Creek Dam to Cresta Dam;
(8) The direct and cumulative effects to compatible cold water for cold water species (all life stages) in the North Fork Feather River from Cresta Dam to Poe Dam;
(9) The direct and cumulative effects to compatible cold water for cold water species (all life stages) in the North Fork Feather River from Poe Dam to the Poe Powerhouse; The direct and cumulative effects to compatible cold water for cold water species (all life stages) in the North Fork Feather River from the Poe Powerhouse to Big Bend Dam; and the direct and cumulative effects to

compatible cold water for cold water species (all life stages) from the Big Bend Dam to the North Fork Arm of Oroville Reservoir.

We are requesting that cumulative impacts are disclosed, evaluated, and mitigated by the SWRCB in the EIR. "Cumulative impacts" are defined by CEQA and its Guidelines as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.

Individual effects may be changes resulting from a single project or a number of separate projects. The cumulative impact from several projects is the change in the environment, which results from the incremental impact from of the project when added to other closely related past, present, and reasonably foreseeable probable future problems. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

Unless cumulative impacts are analyzed, agencies tend to commit resources to a course of action before understanding its long-term impacts. Clearly that was the case when FERC issued licenses for all of PG&E's projects on the North Fork Feather River watershed. A proper cumulative impact analysis must be prepared "before a project gains irreversible momentum." City of Antioch v. City Council (1st Dist. 1986) 187 Cal.App.3d 1325, 1333 [232 Cal.Rptr. 5071, citing Bozung v. Local Agency Formation Commission (1975) 13 Cal.3d 263, 282 [118 Cal.Rptr.249].

A draft EIR must discuss "cumulative impacts" when they are significant. And even when they are not deemed significant, the document should explain the basis for that conclusion. See Citizens to Preserve the Ojai v. County of Ventura (2d Dist. 1985) 176 Cal.App.3d 421, 432 [222 Cal.Rptr.247].

The Federal Energy Regulatory Commission did a terrible analysis of the cumulative effects to the human environment of the North Fork Feather River watershed resulting from all of PG&E's hydro projects in the North Fork Feather River watershed. See NEPA document for the relicensing of PG&E's Rock Creek – Cresta Project No. 1962. Fortunately, the SWRCB (State of California) has the authority over water quality being affected cumulatively from all of the PG&E's projects.

We are requesting the EIR to disclose, evaluate, and mitigate all of the direct effects and cumulative effects to compatible cold water for cold water species (all life stages) and the environment of the North Fork Feather River resulting from the following projects because all of the project storage facilities and flows are directly related and connected to each other.

The following projects and their reservoirs must be included in a "cold water cumulative effects analysis" which FERC failed to conduct:

Upper North Fork Feather Project 2105 (Lake Almanor, Butt Valley Reservoir, and the Belden Forebay Reservoir; North Fork Feather River)
Rock Creek – Cresta Project 1962 (Rock Creek Reservoir and Cresta Reservoir)
Poe Project 2107 (Poe Reservoir)
Bucks Creek Project 619 (Bucks Lake and Lower Bucks Lake)

The cold water cumulative effects analysis must include the cumulative effects resulting from elevated water temperatures affecting cold water species and their habitat in the river; and also the cumulative effects resulting in the transportation of sediment from all of the above stated projects to the river environment in the North Fork Feather River Watershed.

Plumas County's Watershed Restoration and improvement Alternative – Off Site Mitigation Proposal

Plumas County has recommended that PG&E fund their Watershed Restoration and Improvement Alternative (Project). The cost of the project is about 20 million to 28 million dollars. However, PG&E stockholders will not fund the county's proposal. The ratepayers will fund the county's proposal. The Baiocchi Family members are ratepayers and the ratepayers are not parties to the 2105 Settlement Agreement or parties to any approval process that includes the PUC.

Plumas County proposes to conduct watershed work in the East Branch NFFR to lower water temperature throughout the entire river. The Baiocchi Family believe that the responsible parties that caused the damage in the East Branch NFFR watershed should fund the county's proposal and not the ratepayers. PG&E simply had nothing to do with the environmental damage of the East Branch NFFR. It appears to the Baiocchi that the watershed work being proposed by Plumas County in its multi million dollar proposal will not reduce water temperatures for cold water species in the river to the degree that cold water from Lake Almanor would reduce water temperatures in the river for cold water species (all species and all life stages).

Secondly, either the SWRCB evaluates the county's proposal in this EIR process or Plumas County prepares a separate EIR that discloses, evaluates and mitigates the alleged improvements and potential adverse effects to streams in the East Branch NFFR watershed resulting from the County's proposal. Whether to include Plumas County's Watershed Restoration and Improvement Alternative into this EIR process is the choice of the SWRCB, but if the County's proposal is included, the EIR must disclose, evaluate, and mitigate all of the individual projects being considered in the County's proposal.

Share the Cold Water

The Baiocchi Family believe the SWRCB should share the cold water in Lake Almanor in a manner which protects cold water species in Lake Almanor and also protects cold water species in the river for the life of the project. This recommendation is reasonable.

Restoration of Pre-Project Spring-Run Chinook Salmon and Steelhead Trout – Cold Water

When the SWRCB decides the alternative(s) to be selected to comply with Section 401 of the Clean Water Act in said EIR, the SWRCB must disclose, evaluate, and mitigate the direct and cumulative effects to cold water conditions for Chinook Salmon Spring-Run Species and Steelhead Trout (all life species) that will be restored below Canyon Dam in the North Fork Feather River, and also any Chinook Salmon Spring-Run Species and Steelhead Trout that may migrate into the North Fork Feather River from Yellow Creek, which has been selected as a restoration area for the pre-project spring-run salmon and steelhead trout.

Additional Alternative

The Baiocchi Family recommends the following reasonable alternative:

(1) Decommissioning of Butt Valley Reservoir and Dam, the decommissioning of Butt Valley Powerhouse; the modification of Caribou Intake #1 and #2 to divert cold water directly from Lake Almanor, with diversions made at multi level outlets located at lake elevation where water could be diverted to PG&E's Caribou #1 and #2 Powerhouses.

Butt Valley Reservoir would not have to be remove and could be used as a recreational fishing lake with the waters of Butt Creek providing inflow into the reservoir to protect the cold water fishery and also outflow for Butt Creek. Ponds smelt could be planted into the reservoir annually for food for the cold water fishery such as rainbow trout

The Baiocchi Family believe this is a reasonable alternative that should be considered and included in the EIR because the major water temperature problem is that Butt Valley Reservoir does not have sufficient cold water in storage at all times without having the "cold water curtain" implemented.

Adverse Effects to Native American Burial Grounds and Artifacts

It is the understanding of The Baiocchi Family that the dredging of the Lake Almanor for the cold-water curtain would adversely affect Native American burial grounds and the location of artifacts in the lake bottom near the Prattville tunnel. Consequently, the lake would have to be lowered for the recovery of said burial grounds and artifacts.

Regardless whether or not Lake Almanor would have to be lowered to recovery Native American Burial Grounds and Artifacts for the cold water curtain, the lake must be lowered to recover those important and valuable historic treasures of the history of Native Americans.

The EIR should disclose, evaluate, and mitigate the effects to Native American Burial Grounds and Artifacts at the bottom of Lake Almanor resulting from new operations of Lake Almanor and the proposed cold-water curtain.

Water Quality – Homes Bordering Lake Almanor

The SWRCB's authority over water quality is not solely over cold water, but it must also include the effects to water quality in Lake Almanor resulting from adverse polluted runoff (polluted runoff, gasoline, diesel, oil, pollutants, soil, sediment, et al) effects from county roads and streets and residential homes resulting from development and maintenance of roads and properties. Lake Almanor is surrounded by homes. Plumas County was the lead agency in obtaining high reservoir levels. However, there is more to demanding a large storage of water in Lake Almanor. PG&E is responsible for water quality in Lake Almanor, but Plumas County is responsible for polluted runoff resulting from the development of homes, streets, and roads approved by the County. The EIR must disclose, evaluate, and mitigate the following changes to water quality caused by new reservoir levels in the Settlement Agreement and development along the lake that flows into the lake:

(a) The direct, indirect, and cumulative effects to water quality in Lake Almanor resulting from development and street and road construction along the lake (polluted runoff, gasoline, diesel, oil, pollutants, soil, sediment, et al) in conjunction with the agreed upon monthly and daily reservoir levels in the Settlement Agreement.

(b) Alteration and water quality effects and rate of groundwater flow in Lake Almanor resulting from the agreed upon monthly and daily reservoir levels in the Settlement Agreement;

(c) Exposure of people and their property to flooding in Lake Almanor resulting from the agreed upon monthly and daily reservoir levels in the Settlement Agreement;

(d) Monitoring information from individual home owners bordering Lake Almanor regarding the discharge of gasoline, oil, waste, into the waters of Lake Almanor;

(e) A Monitoring Plan to be carried out by PG&E and Plumas County that controls and limits and/or prevents the discharge of wastewater runoff, polluted runoff, et al into the waters of Lake Almanor from all properties along Lake Almanor, including streets and road constructed and maintained by Plumas County.

The above requested studies and monitoring measures go hand in hand with the mission of the "Save Lake Almanor Committee" to protect the water quality integrity of Lake Almanor.

Recreation Boating Flows – Belden Reach of the North Fork Feather River

The proposed recreation boating flows in the Belden Reach is a major public safety problem because there are children and adults recreating in the state's water of the river during the camping season, which most likely could result in life threatening situations. However, the SWRCB has no authority over public safety even though the SWRCB

supported and fostered recreational boating flows in the North Fork Feather River below Rock Creek and Cresta Dams.

However, the proposed recreation boating flows will have effects to trout species and macro invertebrate species in the Belden Reach of the NFFR in the event fluctuating flows are used for said boating flows.

Before any test recreation boating flows are conducted, there must be an inventory of all of fish and macro invertebrate species in the affected river reach. Following the inventory of the fish and macro invertebrate species, the SWRCB must evaluate the results of the "bug study" being prepared by PG&E on the Rock Creek – Cresta reaches of the NFFR and also the pulse flow/bug study being conducted by the Unv. of California at Davis to determine whether it would be in the public interest to provide fluctuating boating flows in the Belden Reach and harm public trust assets (the bugs and the trout) that are owned by the people of the State of California. It should be noted that the SWRCB has public trust duties and responsibilities in protecting the people's public trust fishery resource assets of the North Fork Feather River and other rivers in California from adverse effects from recreation fluctuating boating flows.

Monitoring – Fish Flow Requirements – Public Trust Fishery Resources and Macro Invertebrates Species Below Canyon Dam and Belden Forebay Dam – North Fork Feather River

CEQA has a monitoring requirement, Consequently, the increased flows in the North Fork Feather River below Canyon Dam and also below the Belden Forebay Dam downstream for fishery protection must be disclosed in the EIR and monitored by PG&E to determine the annual status of the planted trout species and also wild trout species in the river resulting from the improved flows and the direct and cumulative effects to water quality. The monitoring must also include the effects to macro invertebrate species result from recreational boating flows.

Monitoring – Fish Populations Levels – Water Quality - Lake Almanor and Butt Valley Reservoir

As stated, CEQA has a monitoring requirement. Because the trout population levels of Lake Almanor are highly controversial because of the potential withdrawal of cold water, it would be reasonable and in the public interest for the SWRCB to order PG&E to monitoring cold water and fish population levels at Lake Almanor. The proposed EIR must disclose, evaluate and mitigate this issue.

The EIR must also disclose, evaluate, and mitigate the effects to trout species and water quality in Butt Valley Reservoir as a result of all the alternatives being considered. One of the potential effects is the adverse effect to pond smelts that may not diverted to Butt Valley Reservoir as a result of the cold-water curtain. The effects to pond smelt would be directly related to cold water being diverted into Butt Valley Reservoir from Lake Almanor for water quality purposes.

Butt Creek Dam – Butt Creek – California Fish and Game Code 5937 – State and Federal Water Quality Statutes

We are requesting the SWRCB to disclose, study, and mitigate in the EIR the effects to water quality and also the effects to macro invertebrate species resulting from the failure of the Department of Fish and Game to order PG&E to release the state's water at all times from Butt Valley Dam into Butt Creek pursuant to California Fish and Game Code 5937. California Fish and Game Code 5937 requires all dam owners, without exception, to release water from their dams at all times to keep fish that exist and are planted below the dam in good condition al all times. Since Spring-run Chinook Salmon and Steelhead Trout will be restored in the reach of the river below Canyon Dam where Butt Creek flows into the North Fork Feather River, it would be in the people's best interest as owners of the public trust assets for the SWRCB to order flows from Butt Valley Dam to sustain water quality for the spring-run chinook salmon and steelhead trout.

We need to know how the SWRCB can protect water quality and macro invertebrate species in Butt Creek below Butt Creek Dam without ordering daily flows at all times directly from Butt Creek Dam to the confluence of Butt Creek and the NFFR in accordance with Fish and Game Code 5937, and also in accordance with the SWRCB public trust duties and responsibilities pursuant to the Mono Lake Decision.

FERC had three chances to require water is released from Butt Valley Dam to protect the fishery trust assets in Butt Creek below the dam. When the Federal Power Commission first licensed the project. When the project was modified by PG&E to include the Belden Powerhouse et al. Finally, when Butt Valley Dam was re-build because of dam safety problems.

It is our opinion, and we are entitled to an opinion, the decision not to require water being released from Butt Creek Dam into Butt Creek was because of politics between PG&E and the Department of Fish and Game (Mike Meinz). California Fish and Game Code 5937 is mandatory and there is no discretionary language that allows DFG or the SWRCB not to require, and PG&E not to release water from the dam to protect the people public trust assets in Butt Creek from the dam to the confluence of Butt Creek and the North Fork Feather River. Aside from Fish and Game Code 5937, it is a water quality problem and issue that the SWRCB must address.

Include this discussion in the EIR and include mandatory daily flow requirements from Butt Valley Dam into Butt Creek in the water quality certification for the project.

The Baiocchi Family recommend a bottom outlet value is constructed at Butt Valley Dam for the purpose of releasing water at all times to protect water quality and keep fish in good condition at all times in Butt Creek to the confluence of Butt Creek and the NFFR. We recommend that the inflow from Butt Creek into Butt Valley Reservoir is released by PG&E directly from Butt Valley Dam.

Lake Almanor – Lake levels

The selection of a water quality alternative by the SWRCB should not be subject to the lake levels agreed to by the 2105 Committee because the agreed upon lake levels did not disclose, evaluate and consider the operations of Lake Almanor on the basis of the 24 alternatives.

Should the SWRCB decide not to order the cold water curtain at Lake Almanor, then the agreed upon lake levels may be changed on the basis of the alternative(s) to be selected by the SWRCB.

There is also the consideration that more water will be needed to be released from Lake Almanor to prevent detrimental water temperatures and harm to cold water species in the North Fork Feather River below Poe Dam to the Poe Powerhouse. Consequently, the proposed draft EIR must disclose, evaluate, and mitigate the agreed upon lake levels at Lake Almanor and the effects to water quality in the lower reaches of the NFFR.

Water Rights – Water Quality and Water Quantity

The SWRCB has authority over water quality requirements at the Upper North Fork Feather River Project. The SWRCB also has water right authority at the subject project.

The EIR must disclose whether PG&E has all of the water rights to store and divert the state's water at the project under the existing FERC license.

The EIR must also disclose whether the agreed upon lake levels and other uses of the state's water at the subject project is in compliance with the California Water Code.

Disclose this information in the draft EIR.

Hamilton Branch – Water Quality Problems

The Hamilton Branch is a tributary to the North Fork Feather River and flows into Lake Almanor. The Hamilton Branch provides cold water and water quality protection for the cold-water trout species and other cold water aquatic species of the lake. The Hamilton Branch also sustains a wild trout fishery. PG&E operates a project on the Hamilton Branch. During certain periods, PG&E sluicing silt into the Hamilton Branch, which results in silt migrating into Lake Almanor. The Anglers Committee complained to the staff of the SWRCB regarding a slucing event. The SWRCB (Sharon Stohrer) referred the Anglers Committee to the Central Valley Regional Water Quality Control Board. But to the best of our knowledge, nothing was done by the state water quality regulatory agencies (SWRCB – CVRWQCB – Mr. Jim Pedri).

Recently, the Anglers Committee filed a complaint with FERC for the sluicing of a significant amount of silt from PG&E's Bucks Creek Project into the NFFR. The Anglers Committee complained that about 25 miles of river was affected (witnessed by anglers).

About two years ago a smaller, but similar sluicing event took place. The Anglers Committee complained to the U.S. Forest Service and Forest Service representative did nothing to prevent PG&E from sluicing silt again.

First, disclose, evaluate, and mitigate the direct effects to water quality in the Hamilton Branch by PG&E's operations, and also the cumulative effects to water quality in Lake Almanor.

Secondly, as stated beforehand, CEQA requires monitoring. What agency is going to monitor the water quality requirements for the SWRCB water quality certification for the project to assure the public that all of the requirements are being complied with by PG&E and enforced by the State of California?

The Baiocchi Family is getting very tired of reporting adverse water quality slucing events by PG&E and having the state and federal agencies doing nothing about it.

Please forward a hard copy of the draft EIR to me at the mailing address shown below for my review and comment. If there are any questions, I can be reached at 530.836.1115.

Thank you for the opportunity to provide the SWRCB with scoping comments.

Respectfully Submitted

Signed By Bob Baiocchi

Bob Baiocchi, Agent
The Baiocchi Family
[redacted]

Dated: September 24, 2005

cc: State Water Resources Control Board
c/o Sharon Stohrer and Jim Canaday
Via E-Mail

Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington D.C. 20426 (7 copies)

Mr. Steve Edmondson
Mr. Eric Theiss
NOAA Fisheries
Via E-Mail

Mr. Jim Pedri, Administrator
Central Valley Regional Water Quality Control Board
Redding Office
Via E-Mail

Interested Parties.