AA.2 Local Agencies

CC_LT_1026_012
Duplicate of
CC_MC_1026_010

J. Duffy 1 of 3

Good Evening. I am Jill Duffy - former 5th District Humboldt County Supervisor. During my tenure on the Board, I represented Humboldt County on the Klamath Basin Fisheries Restoration Task Force, ~~the Trinity Adaptive Management Working Group~~ and Humboldt County during the 5 years Klamath Settlement Negotiations.

The Humboldt County Board of Supervisor's supports the efforts represented here this evening. The Board unanimously supported the KBRA in 2008, the KHSA in 2009, and unanimously approved to sign as a signatory to the KBRA & KHSA Agreements in February 2010. - Note Ryan + M Supervisor Lovelace attended last weeks' Yreka hearings to express the County's support, and the Board unanimously reiterated their support yesterday with a letter to Senators Feinstein, Boxer and Wyden encouraging their support for legislation to implement the KHSA and KBRA.

Fishery professionals and river advocates agree - the single best action we can take to protect and restore our fisheries is removal of Iron Gate, Copco 1, Copco 2 and JC Boyle dams. DEIS Alternatives 2 and 3 achieve that objective.

The KBRA provides a framework for fisheries and habitat restoration, fisheries re-introduction and long-term sustainability and monitoring that will allow for adaptive management to adjust during the next 50 years.

JDurfy 2 of 3

Humboldt County supports the KHSA and the KBRA because, together they result in dam removal *and* a comprehensive restoration plan that creates durable solutions in a region long afflicted by rotating environmental crises. Highlights include:

- Removal of the dams and subsequent reestablishment of basin connectivity and variable stream flows in the Klamath River which is expected to contribute significantly toward restoration of physical, chemical, and biological processes and interactions that are essential to a functional aquatic eco-system.

- The KBRA proposes to annually CAP water available to irrigators. Irrigators agreed to limit diversions in exchange for predictability of water deliveries and affordable power.

- The Klamath Area National Wildlife Refuge Manager released an analysis stating the KBRA will provide, for the first time in their 100 years of existence, a guaranteed and adequate water supply to the refuges, and make wildlife and refuge needs a legal co-equal purpose of the Klamath Basin Irrigation Project.

The fact that these agreements reflect compromises is a sign of strength. The settlement process brought together stakeholders with different interests to find practical solutions. Water users in the upper basin are important partners in this endeavor, and deserve support in

J. Duffy 3 of 3

finding ways to sustain their livelihoods. Continued collaboration between public agencies, tribes, conservation groups, and private entities will be critical for it's success. I encourage those interested in Klamath restoration to strongly support the process laid out by these agreements. This DEIS/DEIR is a key milestone in this process, and is based on solid data and research by scientists and professionals. Humboldt County will submit a formal comment letter after we completed our review of the document.

CC_LT_1019_014
Duplicate of
CC_MC_1020_003

As sheriff of Siskiyou County I'm most concerned about the impact this proposal has on public safety, health and welfare of the county's citizenry. I am also sworn to uphold and defend the U.S. and California Constitution. I have serious concerns that the KHSA & KBRA process has not complied with constitutional standards. For example, 4th, 10, and 14th Constitutional amendments are in QUESTION and our CITIZENS ARE ANGRY because their livelihoods and way of LIFE IS being threatened the future of their children & grandchildren are threatened. SISKIYOU County is one of the poorest county's in the state and we have some of the highest unemployment rates in the state and some of the worse ALCOHOL ABUSE, DRUG ABUSE, CHILD ABUSE, ELDER ABUSE AND DOMESTIC VIOLENCE RATES IN THE STATE. Any negative impacts on agriculture, recreation, mining and other outdoor activities cannot be absorbed and will have a devastating impact on public safety, HEATH, THE WELFARE OF OUR CITIZENS AND WILL ~~INVARIABLY~~ POSSIBLY ~~ELEVATE THE PRIORITY OF FEDERAL AND SAME STATE AGENCIES TO~~ DESTROY A FRAGILE ECONOMY CONDITION, IN ADDITION, FROM AN EMERGENCY PLANNING ~~We will lose~~ STANDPOINT, WE WILL SIGNIFICANTLY REDUCE FLOOD CONTROL AND WATER STORAGE FOR FIRE SUPPRESSION & agriculture and we will pay more for power.

I am concerned about sentiment and heavy metals going down stream. ~~and~~ I don't believe Fed and state agencies have properly coordinated with local officials and our citizens, pursuant to provisions of law like the National Environmental Protection act, which requires coordination and consistency to balance between the need to protect the natural as well as the natural environment

CC_LT_1208_009
Duplicate of CC_LT_1117_021

BOARD OF SUPERVISORS

COUNTY OF HUMBOLDT

825 5TH STREET

EUREKA, CALIFORNIA 95501-1153 PHONE (707) 476-2390 FAX (707) 445-7299

November 15, 2011

Elizabeth Vasquez
U.S. Department of the Interior, Bureau of Reclamation
2800 Cottage Way, Sacramento, CA 95825

Gordon Leppig
California Department of Fish & Game
619 Second Street
Eureka, CA 95501

RE: Comments from Humboldt County Board of Supervisors on Klamath Facilities Removal Draft Environmental Impact Statement/Environmental Impact Report

Dear Ms. Vasquez and Mr. Leppig:

The Humboldt County Board of Supervisors appreciates the opportunity to comment on the Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for Klamath Facilities Removal, released September 21, 2011, as a joint environmental document for compliance with the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA).

The EIS/EIR analyzes the potential impacts from the proposed removal of the four lowermost dams on the Klamath River, as proposed in the Klamath Hydroelectric Settlement Agreement (KHSA), along with implementation of the Klamath Basin Restoration Agreement (KBRA) and the proposed transfer of the Keno Dam from PacifiCorp to the Department of the Interior. Humboldt County was one of 28 signatories to the KHSA and KBRA in February 2010, and in June 2010 we became a cooperating agency with the Bureau of Reclamation for development of the EIS/EIR.

The purpose of this EIS/EIR is to support the decision by the Secretary of the Interior, scheduled for March 2012, whether removal of the four lowermost dams on the Klamath River will advance restoration of salmonid (salmon, steelhead, and trout) fisheries of the Klamath Basin and is in the public interest, which includes consideration of potential impacts on affected local communities and Tribes; and, if the decision by the Secretary of the Interior is affirmative, to support the subsequent decision by the Governor of California whether or not to concur.

The Board recognizes that for purposes of CEQA, the analysis of the KBRA was programmatic and based on the best available information, and that future KBRA projects may require additional, project-specific environmental analysis which will be tiered to this EIS/EIR as appropriate.

Humboldt County is one of several communities that continue to be adversely affected by the current impaired conditions in the Klamath basin. Humboldt County and other coastal counties in northern California and southern Oregon have historically been dependent upon a healthy Klamath River and its fisheries. Over the past 60 years we have experienced a decline of once-abundant Klamath stock, loss of commercial processing facilities, the progressive decimation of our salmon fishing fleet and emptying of our harbors, and suffering among the families in our fishing communities.

Humboldt County's Preferred Alternative

The Humboldt County Board of Supervisors strongly supports Alternative 2 as identified in the EIS/EIR, which consists of full removal of the four lowermost dams and all their features, along with implementation of the KBRA and ownership transfer of the Keno Dam. We believe that Alternative 2 best meets the objectives of providing a free-flowing river and volitional fish passage for all Klamath River anadromous species are established as outlined in the KHSA.

The Humboldt County Board of Supervisors supports full removal of the four lowermost dams because the resultant reestablishment of basin connectivity and variable stream flows is expected to contribute significantly towards restoration of physical, chemical, and biological processes essential for a functional aquatic ecosystem. Anadromous fish will have access to hundreds of miles of spawning and rearing habitat, and cold-water refugia associated with springs and cold tributaries throughout the basin. Additionally, removal of the dams will restore more natural flow variation and sediment transport.

Our Board recognizes that Alternative 3 would also meet these objectives, by providing for partial removal of the four lowermost dames. We also recognize that Alternative 3 has the advantages of less temporary construction-related impacts and lower upfront costs. However, these can only be seen as advantages if the remaining features of the dams are presumed to be allowed to remain forever, until they crumble and fall under their own weight over time. Leaving these structures indefinitely would create an eyesore, a health and safety risk and an attractive nuisance. Over time, these structures would become an increasing liability, necessitating their eventual removal. To come back in at some future date to finish the job would almost certainly carry a higher ultimate price tag and more environmental impacts than to just to the job right the first time. The Board understands that each of these alternatives meets the objectives for dam removal outlined in the KHSA. However, Alternative 2 has the advantage of providing for more complete restoration of the dam facility areas and avoiding future operation and maintenance costs. For these reasons, the Humboldt County Board of Supervisors supports Alternative 2 as the preferred alternative in the EIS/EIR. Our

Board is also willing to accept Alternative 3, but we see it as a less-preferable, and incomplete, option.

Socioeconomics

Section 3.15 of the EIS/EIR describes the socioeconomic effects of the analyzed alternatives, including potential changes to economic output, labor income, and employment as well as fiscal effects on local governments. The EIS/EIR correctly states that the local economy of Humboldt County, among others, is linked to the Klamath River through fishing, recreation, and tourism. Both Alternatives 2 and 3 would have beneficial economic effects on commercial ocean fishing, recreational ocean and in-river fishing, and tribal harvest. For commercial ocean fishing of Chinook salmon, the EIS/EIR states that Alternatives 2 and 3 will cause an increase of $13.4 million (2012 dollars) per year of economic output for the coastal region from central California to northern Oregon and generate a total of 453 new jobs. Residents and businesses in 12 coastal counties (Del Norte, Humboldt, Mendocino, Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey Counties in California; Lane, Douglass, and Coos Counties in Oregon) will benefit from improved commercial and sport fishing opportunities and reduced risk of fishery closures and economic disruption.

The Board wishes to underscore that implementation of the agreements will provide a significant boost for sustainable jobs and economic productivity for Humboldt County and other coastal counties. We believe the analysis in the EIS/EIR likely underestimates this economic benefit. For a more comprehensive analysis of the direct and indirect economic benefits that would result from implementation of the KHSA and KBRA, we highlight the following studies:

- Peterson, John et al. December 31, 2010. North Coast Pre-MLPA Community-Based Socioeconomic Characterization and Risk Assessment. Technical report prepared by Impact Assessment, Inc. for the County of Humboldt Headwaters Fund.

- Hackett, Steven, and Hansen, Doreen. October 3, 2008. Cost and Revenue Characteristics of the Salmon Fisheries in California and Oregon. Technical report prepared for the National Marine Fisheries Service.

- Gallo, David. October 8, 2010. Economic Impact of the Klamath Settlement Agreements with a Focus on the Impact of Restoration and Construction Activity on the Economies of Del Norte, Humboldt, Klamath, and Siskiyou Counties. Technical report prepared for PROSPER and Trout Unlimited.

Further, it is important to note that the EIS/EIR provides limited historical economic comparisons to document the economic losses that Humboldt County and other counties have suffered due to impaired fisheries. Coastal communities have lived with the environmental, economic, and social impacts of the Klamath dams and excessive water diversions for decades. Dams and excess diversions have taken the natural wealth of the

river and redistributed the benefits disproportionately to the upper basin. Implementation of the KHSA and KBRA through Alternatives 2 or 3 of the EIS/EIR will help restore equity and fairness in the distribution of economic and social benefits for communities that depend on the Klamath River.

Conclusion

The Klamath Facilities Removal Draft EIS/EIR demonstrates that the positive benefits of the Klamath settlement agreements on the resources of the Klamath basin vastly outweigh any potential adverse effects. The Humboldt County Board of Supervisors expresses its support for Alternative 2 (Full facilities removal with KBRA implementation and Keno Dam transfer) as the preferred option, and also support for Alternative 3 (Partial facilities removal with KBRA implementation and Keno Dam transfer).

The Humboldt County Board of Supervisors appreciates the work and effort that has gone into the development of the EIS/EIR and the associated technical reports. We remain committed to supporting the Klamath settlement agreements, maintaining the underlying partnerships, and assisting with implementation over the next 50 years.

Please contact Hank Seemann or Jill Duffy at (707) 445-7741 for questions or to request additional information.

Sincerely,

Mark Lovelace, Chair
Humboldt County Board of Supervisors

ML:kh

CC_LT_1020_006
Duplicate of CC_MC_1020_017

Submitted by Mike Mallory Assessor-Recorder (1 of 2)

As Siskiyou County Assessor-Recorder I feel that I have an obligation to express my grave concerns with the "Dam Removal Real Estate Evaluation Report" as incorporated into the EIS / EIR.

I was involved in this process early on (7/10) by opening my office to the Real Estate Team, and providing all publically available information such as sales, property characteristics, and maps at no cost. Also gave them ~~permission~~ The ability to work with my appraisal staff if they had questions regarding the many nuances associated with the different geographic areas of the County. Felt pretty good about mtg.

Roll ahead 14 months

I believe the Team carefully orchestrated this study to lead to a minimal value impact from dam removal, amounting to a paltry $2.7M to owners, and impact to the Tax Roll at $2.2M. This was accomplished by way of an 11 page Statement of Work which gave the contract appraiser little latitude to utilize his expertise (MAI, the highest designation). I say this because:

Mr Kent & Mr Rickard

- The April 2008 valuation date, intended to coincide with Interior Secretary Salazar's "Secretarial Determination" is at least 2 years too late. Talk of dam removal was affecting values back in 2005 or 2006, especially for improved properties.
- Structural and site improvements were specifically excluded from the analysis, where direction was given to analyze only the underlying land. This conveniently excluded properties for the greatest potential for value loss. I liken this to going to the dentist for a root canal, but you end up getting your teeth cleaned.
- The Team provided the roster of parcels to be appraised, with 1,467 "Potentially Impacted Parcels" later narrowed down to 668 "Impacted Parcels." The determination of impacted parcels should have been the sole responsibility of the contracting appraiser.

Mike Mallory (2 of 2)

- Valuation in the "After" condition was made under the hypothetical assumption that the dams had been removed, and the land underlying the lakes had been restored to its native condition. Restoration will take many years, and it is very questionable if the land could ever be restored to any semblance of its pre-dam state. Valuation as of when mud flats appear
- The appraisal completely ignores value reduction to properties located on the main stem of the Klamath river below the dams, due to the perceived loss of flood control if the dams are removed. Also, this ignored the affects of silt deposition potentially changing the river channel, leading to more severe flooding.

Conclusion: A predetermined outcome of minimal value impact was realized!

I wish to make it clear that I am not criticizing the contract appraiser, who did his job within the strict confines of the 11 page SOW. I ~~am thinking that~~ In talking w/ him sensed it it was probably one of his more difficult appraisal assignments. ~~In talking with~~ the contract appraiser, ~~he stated that~~ He did confide in me that he was surprised that I was not involved in the review process.

After several assurances that I would be provided with the appraisal earlier this summer, I had the honor of receiving it on September 19th, just 2½ days prior to its scheduled release. Simply provided as "lip service."

As an elected official I am furious that I was not afforded the professional courtesy of knowing the scope of the appraisal assignment, which was deliberately withheld from me until the 11th hour. I have made the strong statement to my Board of Supervisors that I was deceived in this process, and I still stand by that statement. Had the team been up front with me, things would have been much different!

"Not worth the paper it's printed on" keeps coming to mind

CM_LT_1122_003
Duplicate of
CM_LT_1118_002

ENV 6.00

City of Yreka
701 Fourth Street • Yreka, CA 96097
(530) 841-2386 • FAX (530) 842-4836

Yreka City of

KLAMATH

BUREAU OF RECLAMATION
OFFICIAL FILE COPY
RECEIVED
NOV 22 '11
CODE | ACTION | SURNAME & DATE
152 | | 1/4/12

November 17, 2011

Ms. Elizabeth Vasquez
Bureau of Reclamation
2800 Cottage Way
Sacramento, California 95825

Re: Klamath Facilities Removal Public Draft
Environmental Impact Statement/Environmental Impact Report – City of Yreka Comment

Dear Ms. Vasquez:

On behalf of the City of Yreka, and pursuant to the notification posted in the Federal Register on September 22, 2011, 76 Fed.Reg. 184, this letter addresses to you the Comments on the Draft Environmental Impact Statement/Draft Environmental Impact Report for the Secretarial Determination on Whether to Remove Four Dams on the Klamath River in California and Oregon.

OVERVIEW

The City of Yreka is commenting in these proceedings to protect the City's interest in its water rights, public water supply and associated facilities near the PacifiCorp powerhouse at Fall Creek. By commenting, the City wants to make certain that the Secretary's Determination satisfies NEPA/CEQA, particularly with respect to the undertakings identified in the Klamath Hydroelectric Settlement Agreement ("KHSA") for the benefit of the City of Yreka. While it is true the City has consistently supported PacifiCorp's application for re-licensure of its project facilities and has urged selection of various of the proposed alternatives so long as the impacts to the City's water rights, facilities and supply are appropriately considered and mitigated, throughout the process dealing with the Klamath issues, the concerns of the City of Yreka have been respected, viz., to keep the City of Yreka's water supply viable.

The EIS/EIR acknowledges this commitment for the benefit of the City of Yreka at page 1-22, Chapter 1, Introduction: "**Signatories [of the KHSA] agree not to prevent the use of Yreka's Water Rights permit and will study the potential risks to the water supply system from the facilities removal. Necessary actions for the continued use of the Yreka water supply infrastructure would be funded and implemented as part of implementation of the KHSA** (Section 7.2.3.)." (emphasis added).

The KHSA provides at Section 7.2.3 that an engineering assessment studying the risks to the City's water supply facilities would be conducted and funded by the Secretary. At Section 7.2.3.B, it states that actions "that may be required as a result of the engineering assessment **include, but are not limited to: relocation, replacement and/or burial**" of the existing 24-

Classification ENV 6.00
Project 12
Control No. 11087132
Folder I.D. 1195334
Date Input & Initials 11/22/2011 IN

NOTICE: IF YOU DETACH
ENCLOSURE PLEASE INSERT
CODE NO. _____
INITIAL _____

SCANNED

inch water line. (emphasis added). The City contends that (1) this provision means that all pipeline relocation alternatives will be identified and studied, and (2) that the decision of the pipeline relocation alternative is for the Secretary of the Interior as part of his Determination in consultation with the City of Yreka. That means, that the pipeline relocation alternatives must all be part of the Project Description and should be reflected in the Proposed Action and all Alternatives, as well as in the mitigation measures of the EIS/EIR.

This is no gift horse. If the City of Yreka is truly a beneficiary of the KHSA Section 7.2.3, then the City has standing to make the following comments, require changes in the Proposed Action and Alternatives, and request the necessary mitigation measures. But, incredibly, the City was not consulted regarding the Proposed Action or the Alternatives which contemplate reconstruction of the City's water pipeline as an aerial bridge. The Proposed Action and Alternatives 2 and 3 will intrude upon the City's sovereign and corporate possessory interests. (California Constitution, article X, Section 2; California Water Code Section 106.5). At minimum, the City should be afforded the opportunity to participate in the design and approval of plans, construction inspection and final acceptance of any improvements affecting its water system.

Accordingly, the City of Yreka contends the Draft EIS/EIR is inadequate for the following reasons:

1. The Proposed Action and Alternatives 2 and 3 are inadequate because it fails to consider or analyze all pipeline relocation alternatives, in disregard of the requirements of KHSA Section 7.2.3.B.

2. The EIS/EIR does not consider the impacts of the proposed action or alternatives upon:
    a. the cathodic field protecting the City of Yreka water pipeline
    b. the water rights of the City of Yreka (as they are described in Technical Report SRH 2011-2)

This lack of consideration impacts the integrity of the City of Yreka's water right and water supply, and does not fulfill the requirements of KHSA 7.2.3.

3. The mitigation measures identified in the EIS/EIR are inadequate because they were developed without complying with the requirements of KHSA 7.2.3.

The City Council has authorized joinder by the City in the Comment of the County of Siskiyou (City Council, City of Yreka, Resolution 2939, dated November 3, 2011, Exhibit "F"). Accordingly, the Comment of the County of Siskiyou is incorporated and adopted as the Additional Comments of the City of Yreka. The City further submits, as discussed below, that the EIS/EIR has insufficient information supporting a determination that the Proposed Action (number 2) or Alternatives 3 or 5 are feasible or should be implemented at all. It is inappropriate and unreasonable to burden the City of Yreka and its residents with any requirements or costs related to this Project. Our detailed comments are set forth below, and for these reasons, the City urges that the EIS/EIR must be revised and recirculated.

I. CEQA and NEPA Compliance

An accurate project description is the *sine qua non* of an EIR. *Maintain Our Desert Environment v. Town of Apple Valley (Pluto Development),* (2004) 120 Cal.App.4th 430.

As pointed out in the Overview, the KHSA at Section 7.2.3.B provides: "As part of implementation of this Settlement, an engineering assessment to study the potential risks to the City of Yreka's water supply facilities as a result of implementation of Facilities removal shall be funded and conducted by the Secretary. ... Actions that may be required as a result of the engineering assessment include, but are not limited to: (i) Relocation, replacement, and/or burial of the existing 24-inch diameter water line and transmission facilities from the City of Yreka's Fall Creek diversion;..." . This obligation was likewise recognized in the Klamath Basin Restoration Agreement (KBRA) at Section 26.2.1.

Nonetheless, **no consideration** has been given nor any analysis provided of burial of the existing 24-inch diameter line, nor any explanation why this is not explored except as a cursory reference in Chapter 2, page 2-29, which states: "reconstructing further underground would be complicated and expensive...". Consideration of burial of this pipeline cannot be dismissed merely because it may be more costly than an aerial bridge. There are many reasons why burial is important to consider and should be considered because of the vulnerability of an aerial pipe and the unintended and undeveloped effects of an aerial bridge upon the existing City of Yreka water system, and the visual considerations in a restored river channel. (Letter of Paul J. Reuter, Managing Engineer, Pace Engineering, attached hereto as Exhibit "A".) As a consequence, all alternatives for pipeline relocation should be considered as part of the Project and all Alternatives; without this analysis, the Project description is deficient, and, accordingly, the EIS/EIR is incomplete.

The California Environmental Quality Act requires environmental accountability throughout the planning and decision-making stages of major development. 14 Cal. Code Regs. § 15001 *et. seq.*; Cal. Pub. Res. Code §§ 21000, 21001. Similarly, NEPA requires that the federal agencies "consider every significant aspect of the environmental impact of a proposed action ... [and] inform the public that [they have] indeed considered environmental concerns in [their] decision-making process[es]." 42 USCA § 4321, et seq., *Earth Island Institute v. U.S. Forest Service,* 351 F.3d 1291, 1300 (9th Cir. 2003) (citations omitted). A pre-determined or pre-ordained decision violates 40CFR1505.5(3)(e).

CEQA should be "scrupulously followed" so that "the public will know the basis on which its responsible officials either approve or reject environmentally significant action" and therefore, find themselves in a position to "respond accordingly to action with which it disagrees." *Laurel Heights Improvement Association v. Regents of the University of California*, 47 Cal.3d 376, 392 (1988). If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees. *Laurel Heights,* 47 Cal.3d at 392.

II. The EIS/EIR Fails to Comply with NEPA and CEQA

There are deficiencies in the EIS/EIR which fail to meet the requirements of CEQA and NEPA in a number of respects, as discussed more fully below:

A. The Project description is incomplete and the EIS/EIR is thus inadequate, which prevents meaningful public review;
B. The EIS/EIR fails to meet its purpose as there is inadequate analysis of alternatives to the Project.
C. The analysis of the Project's impacts and discussion of means to mitigate those impacts are inadequate, particularly with respect to the City of Yreka's water right and water supply, and facilities; and,
D. There has been improper segmenting of the Project by failure to analyze the environmental effects of portions of the KBRA.

As a consequence, a complete revision and redistribution of the EIS/EIR is required. As a joint EIR and EIS, the document must also comply with the corresponding provisions at the federal level under NEPA.

A. The Project description is incomplete and the EIS/EIR is thus inadequate, which prevents meaningful public review.

Compliance with the EIR provisions of CEQA serves the important purpose in enabling the public to make its own "independent, reasoned judgment" about a proposed project's environmental impacts. *Emmington v. Solano County Redevelopment Agency* (1987) 195 Cal. App.3d 491, at 503; Pub. Res. Code § 1520. Information relevant to significant effects of a project and the mitigation measures must be made available to the public as soon as possible by a lead agency so that the public may prepare and submit comments in a timely manner. Pub. Res. Code § 21003.1. Public comments are a vital part of the EIR. *Sutter Sensible Planning, Inc. v. Board of Supervisors* (1981) 122 Cal.App.3d 813, 820.

The adequacy of the project description is linked to the adequacy of the environmental analysis; if the description fails to discuss the complete project, the environmental analysis will probably reflect the same mistake. *Dry Creek Citizens Coalition v. Tulare County (Artesia Ready Mix Concrete)* (1999) 70 Cal.App.4th 20. An inadequate project description can lead to a 'fallacy of division' resulting from overlooking the project's cumulative impacts by separately focusing on isolated parts of the whole. *San Joaquin Raptor/Wildlife Rescue Center v. Stanislaus County (Arambel & Rose Development)* (1994) 27 Cal.App.4th 713.

As cited in Exhibit "B", City of Yreka Scoping Comment Letter, July 20, 2010, the purpose of the Project statement is to refine the alternatives which should be analyzed (40 CFR 1502.13), however, by qualifying the removal of the dams "to achieve a free-flowing condition and allow full volitional passage of fish" the Project predetermines the outcome. This conclusion is demonstrated by the fact that Alternative 11 was discarded as "not meeting consideration".

(Klamath Settlement Agreement Alternatives Report, EIS/EIR, Chapter 4, Alternatives Screening.) This deprives the public and the City of meaningful review. Moreover, as cited in the Letter of Paul J. Reuter, Managing Engineer, Pace Engineering, attached hereto as Exhibit "A", the project description does not include any evaluation or analysis of the burial of the City' water pipeline. This likewise deprives the public and the City of meaningful review.

Under CEQA, a "project" is "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following: (a) An activity undertaken by any public agency...." (§ 21065.). This Determination is an action undertaken by a public agency. The statutory definition of a CEQA project is "amplified in the Guidelines" [*Association for a Cleaner Environment v. Yosemite Community College District* (2004) 116 Cal.App.4th 629, 637, which define a "project" as "*the whole of an action,* which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment...." (Guidelines, § 15378, subd. (a), italics added.) "To maximize environmental protection, the concept of a 'project' is broadly defined under CEQA. [Citation.]" *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.* (2006) 139 Cal.App.4th 1356, 1377. "The term 'project' refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term 'project' does not mean each separate governmental approval." (Guidelines, § 15378, subd. (c).)

City contends that the whole of the project includes all elements of KHSA Section 7.2.3.B, including an assessment of **all of** the pipeline relocation alternatives. The engineering assessment has clearly not included an evaluation of pipeline relocation alternatives other than in an entirely dismissive way. By failing to conduct an analysis of all of the pipeline relocation alternatives, one of the components of KHSA 7.2.3.B, the EIS/EIR improperly implements the KHSA, because KHSA Section 7.2.3. B specifically contemplates a **study of all possibilities** on reconstruction of the City's waterline, not just an aerial pipeline. It wasn't necessary, and is inappropriate, to evaluate only one means of reconstructing the City of Yreka water pipeline. Clearly, burial of the pipeline as part of the Project description would have a potential for direct or indirect physical change in the environment and evaluation of this as part of the Project needs to be done for complete environmental review, even if all alternative pipeline relocation concepts are mutually exclusive. The project description for a single EIR may consist of two very different development projects if they have essentially the same impacts. *Neighbors of Cavitt Ranch v. Place County (Bayside Covenant Church)* (2003) 106 Cal.App.4th 1092.

There is no evidence that the burial of the water pipeline was evaluated and discarded as infeasible. 'Feasible' means being capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, environmental, social and technological factors. Public Resources Code Section 21061.1; Guidelines Sections 15021(b), 15131(c), 15364. Feasibility is judged against the rule of reason. *Citizens of Goleta Valley v. Santa Barbara* County (1990) 52 Cal.3d 553. As the Pace Engineering letter, Exhibit "A", demonstrates, burial of the pipeline **is feasible.** Burial of pipeline is common practice, which can

be accomplished by readily available engineering. Because all possibilities on reconstruction were not considered in the EIS/EIR, the Project description is incomplete and therefore the EIS/EIR is inadequate.

B. The EIS/EIR fails to meet its purpose as there is inadequate analysis of alternatives to the Project.

The whole point of KHSA Section 7.2.3 is to protect the water right and the water supply of the City of Yreka. To the extent that action must be included in the Proposed Action and any of the alternatives, the purpose of the Project becomes the protection of the City's water right and water supply. The City provided ample information in its Scoping Comment Letter (Exhibit "B") regarding its concerns. However, without consultation with the City or any analysis in depth in the EIS/EIR or its supporting reports, it is proposed that:

> ***"The existing water supply pipeline ...to be relocated prior to the decommissioning of the reservoir ... will either be suspended from a pipe bridge across the river near its current location, or rerouted along the underside of the Lakeview Bridge just downstream of Iron Gate Dam." EIS/EIR page*** *3.21-14, Section 3.21.*

Bringing the reconstruction of the City's water pipeline into the Proposed Action and Alternatives without consulting the City, and contrary to the requirements of KHSA or of CEQA, or considering the City's concerns is not only wrong, it nullifies the validity of this EIS/EIR.

The primary purpose of an EIR is to make available for the public an "informational document." *Planning and Conservation League et. al. v. Castaic Lake Water Agency*, (2009) 180 Cal.App.4th 210. The EIR document must include an analysis of the direct, indirect, and cumulative effects of a proposed project while identifying various means and methods to minimize the project's impacts through the consideration of reasonable alternatives to the project. 14 Cal. Code Regs. § 15121.

Courts view an EIR as an "environmental 'alarm bell' whose purpose is to alert the public and its responsible agencies to environmental impacts ***before*** they have reached the ecological point of no return" (emphasis added). *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810; *Santiago County Water Dist. v. County of Orange* (1981) 111 Cal.App.3d 818, 822. The EIR process is intended to "demonstrate [to] an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." *No Oil Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 86; CEQA Guidelines § 15003, subd. (d).

As for NEPA, there is a similar standard. The EIS document must ensure that environmental information is available to decision-makers and public citizens "*before* decisions are made and ***before*** actions are taken." 40 C.F.R. §1500,1(b) (emphasis added). A heightened level of governmental accountability and public participation is guaranteed, through the assurance "... [i]mportant environmental consequences will not be 'overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast.' In short, NEPA

requires that the evaluation of a project's environmental consequences take place early in the project's planning process." *North Buckhead Civic Assn v. Skinner*, (11th Cir. 1990)903 F.2d 1533, 1539-40.

C. The analysis of the Project's impacts and discussion of means to mitigate those impacts are inadequate, particularly with respect to the City of Yreka's water right and water supply, and facilities.

The EIS/EIR conspicuously omits or excludes evaluation or analysis of:

- Relocation alternatives for the impacted Yreka water supply pipeline.
- Relocation alternatives for the cathodic field.
- Destruction of the cathodic field by accident, flood or otherwise.
- Removal of the City's water supply line to Lakeview Bridge.
- The Project Description does not identify or analyze the required land acquisitions or permit approvals for relocation of the pipeline and related environmental review and consultation requirements that action would invite. Guidelines Section 15124.

The Letter of Paul J. Reuter, Managing Engineer, Pace Engineering, attached hereto as Exhibit "A" describes the importance of the cathodic field to the integrity of the City's water pipeline. This field protects the pipe from corrosion. (Steve Neill, Public Works Director, City of Yreka, November 16, 2011). Omission of consideration of this element of the City's water system amounts to a failure to include relevant information and precludes informed decision making and informed public participation thereby thwarting the statutory goals of the EIR process. *Al Larson Boat Shop, Inc. v. Board of Harbor Commissioners,* 18 Cal.App.4th 729, 748 22 Cal.Rptr.2d 618 (1993). The EIS/EIR must be revised to fully describe the Project and comprehensively evaluate its environmental impacts if it is to pass muster under the law.

D. There has been improper segmenting of the Project by failure to analyze the environmental effects of portions of the KBRA.

Agencies may not improperly "segment" projects within the preparation of an EIR by arbitrarily limiting the analysis of the proposed actions (and their effects) to discrete issues or geographic regions. According to CEQA Regulations, the EIR must describe the entirety of the project, including all "reasonably foreseeable" future actions and activities that are part of a project, and it must analyze the impacts of all of those reasonably foreseeable actions. 14 Cal. Code Regs. § 15378. *Thomas v. Peterson*, 753 F.2d 754, 758 (9th Cir. 1985); *Laurel Heights*, 47 Cal.3d. 376-395 (1988).

"Segmentation" occurs when the project description fails to encompass the scope of the entire project's impact" by improperly dividing the project into discrete parts. *Thomas*, 753 F.2d at 758. Segmented or piecemeal analysis improperly divides a project into multiple discrete "actions", each of which may individually and deceptively appear to result in an insignificant environmental impact. *Natural Resources Defense Council v. City of Los Angeles*, (2002) 103 Cal.App.4th 268, rehearing den. 11-18-02; review denied 12-18-02. Only when those same

actions are analyzed as a collective whole does the full range and cumulative intensity of the project's environmental impact become illuminated.

The omission of key parts of a project from an EIR analysis serves to hide the important ramifications of a project from view during the public discussion and approval period and beyond. By obscuring the true aggregated impact of a comprehensive project proposal, segmentation frustrates the core goals of CEQA and NEPA to ensure sustainable development practices for the preservation of our environmental heritage. *Santiago County Water Dist. v. County of Orange* 118 CA.3d., 828-830 (1981). This applies in the federal context as well. The CEQ Guidelines require agencies to implement an expanded scope of review for certain cases that involve two or more "connections," "cumulative," and similar" actions within a single EA or EIS. 40 C.F.R. § 1508.25.

By omitting the development of all of the terms of the KHSA Section 7.2.3, the EIS/EIR is improperly segmenting the project. Also, deferral of future evaluation eliminates critical information relevant to this decision. A public agency may not divide a single project into smaller individual projects in order to avoid its responsibility to consider the environmental impacts of the project as a whole. *Cleaner Environment v. Yosemite Community College District* (2004) 116 Cal.App.4th 629. The engineering assessment has clearly not included an evaluation of pipeline relocation alternatives other than in an entirely dismissive way. City contends that the whole of the project includes all elements of KHSA Section 7.2.3, and therefore the Project description, alternatives, and mitigation measures must reflect this.

III. Comments on the EIS/EIR – Proposed Project, Alternatives and Mitigation Measures

The Proposed Action and Alternatives 3 and 5 include only a single design modification to the City of Yreka's water supply system, in particular the re-location of the 24-inch wide water transmission line from the bed of the Klamath River to an aerial bridge, which location varies within the EIS/EIR document. Reasonable alternative locations and alignments of pipeline (e.g. go underground) have not been explored in this document, nor are they explored in the studies supporting the document, nor have they been explored with the City.

The City provided information to United States Bureau of Reclamation staff regarding the City of Yreka water system during the period from August 2010 to early November 2010. In that time, the City was informed that USBR was looking at a new pipe bridge (similar to what Grants Pass has over the Rogue River) or perhaps an HDPE pipeline installed in trench excavated underwater before reservoir is drawn down." (USBR Tom Hepler, correspondence 10-5-2010). The City responded that a pipe crossing in case the dams were removed had been explored and the City's engineers had recommended "that we not go over the river because of the height requirements that need to be considered to withstand flood conditions." (City of Yreka Water Manager, Rob Taylor, correspondence 10-25-2010). No further communication occurred. At no time was the City engaged or asked about any of the designs on water line realignment called a "pipe bridge" or its re-location. Exhibit "G", correspondence between City of Yreka Water Manager Rob Taylor and USBR staff

member Tom Hepler, August 24, 2010, through October 27, 2010. **To the contrary, all preliminary indications to the City and communications with the City favored pipeline burial. The level of protection the Proposed Action proposes for the pipeline is grossly inadequate.**

Moreover, a pipe crossing of the Rogue in an urban area presents vastly different issues than a pipe crossing of the Klamath in a remote and sparsely populated area. A pipe bridge will create an attractive nuisance and expose the City to liability for resulting injuries. This location is remote and sparsely populated. It is a foreseeable use of such a structure that persons will attempt to cross or climb upon such a structure for entertainment or for adventure. So long as user of municipal property can establish that condition of property creates substantial risk to any foreseeable user of public property who uses it with due care, he has successfully alleged existence of dangerous condition, regardless of his personal lack of care. California Government Code Section 830.

A pipe bridge will be a target for vandals. (It is not hard to imagine, particularly in a rural area such as this, that people will "plink" the pipe.) (*Plinking*, Wikipedia, November 17, 2011, "informal target shooting, done at non-traditional targets".)

Furthermore, other reasonable alternatives should be considered to avoid aesthetic impacts (it is hard to see how an above ground pipe will enhance the river system). Current and future economic impacts of the proposed design are not identified and not discussed, thus the proposed designs are incomplete, at best. The analytical process by which this was developed is not evident in the document or the studies it relies upon. If modification of the City's water supply is part of the Project, it must be part of the Project description, and, it must be a complete description. *Cleaner Environment v. Yosemite Community College District* (2004) 116 Cal.App.4th 629.

If these are mitigation measures, NEPA requires an EIS to provide "sufficient detail to ensure that environmental consequences have been fairly evaluated." *City of Carmel-by-the-Sea v. U.S. Dept. of Transportation* (9th Cir. 1993) 123 F.3d 1142. CEQA requires an EIR to identify specific mitigation measures that will avoid or reduce the significant impacts of a proposed project. 14 Cal. Code Regs., § 15126.4. Proposed mitigation must be sufficiently specific to ensure they are enforceable and effective. *Vineyard Area Citizens for Responsible Growth, etc., v. City of Rancho Cardova* (2007) 40 Cal.4th 412. Vague, incomplete or speculative mitigation measures are insufficient for CEQA purposes. *Federation of Hillside & canyons Assn. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1260. The EIS/EIR mitigation measures with respect to the City of Yreka, lack any meaningful discussion regarding the basis for selecting a particular measure and lack any consultation with the City, or how the mitigation measures will actually mitigate the impact, and are therefore incapable of satisfying the mandates of either NEPA or CEQA.

A. Comment re Adequacy of the Impact of the Proposed Action Upon the City of Yreka Water Supply.

(1) Water Pipeline

The City's main water transmission line runs under Iron Gate Reservoir and must be protected from exposure, deterioration, and public access. The line lies upon the lakebed. The elevation should be 2350 (According to Fall Creek Water Project – schedule A 'as-built' plans, the elevation should be about 2350, Rob Taylor, City of Yreka Water Manager, November 7, 2011). If the dams are removed, this line could become a barrier to river flow. It is not known whether and to what extent a barrier will be created or what sediments have accreted around the pipe. The City very specifically described the state of its water right and water system by Comment to the Secretary in July 2010, at the time of scoping for the EIS/EIR [Scoping Comment, City of Yreka, Letter dated 7-20-10, Exhibit "B"]. The pipeline was originally designed and constructed underground to protect it and assure its long term service to the City. The effects of this Project should not jeopardize this, and the pipeline should be reconstructed in a like manner. (Steve Neill, Public Works Director, City of Yreka, November 2, 2011). Clearly, disturbance of this pipeline will adversely impact the integrity of the City's water facilities.

There is no one place in the EIS/EIR that squarely and succinctly describes the impact of the proposed action on the City of Yreka's water supply or water right. There is no one place in the EIS/EIR that squarely and succinctly describes the mitigation measure incorporated into the Proposed Action and Alternatives 3 and 5 for the relocation of the City of Yreka water supply pipeline. The concepts appear to evolve across the 1800, plus, page document. The first mention of the proposals in connection with the City's water system is at page page 2-29, where it is described only peremptorily. Perhaps the fullest description of the impacts to the City of Yreka's water supply is found at *Page 3.21-14, Section 3.21 Toxic Hazardous Materials Section (see bold, italics):*

> *Removal of Iron Gate Reservoir would require the relocation of the Yreka water supply pipeline, which could create a significant hazard to the public or the environment through the accidental release of hazardous materials into the environment during construction.* ***The existing water supply pipeline for the City of Yreka passes under the Iron Gate Reservoir and will have to be relocated prior to the decommissioning of the reservoir to prevent damage from deconstruction activities or increased water velocities once the reservoir has been drawn down. The pipeline will either be suspended from a pipe bridge across the river near its current location, or rerouted along the underside of the Lakeview Bridge just downstream of Iron Gate Dam. Construction equipment used for the relocation would require the use of hazardous materials (e.g., diesel and gasoline fuels, hydraulic oil).*** Fuels, oils, and other hazardous materials used during construction could be accidentally released within construction, staging, and access areas through spills, fueling, and equipment repair. An HMMP and HASP would be prepared, as described above. **With implementation of the HMMP and the HASP during construction of the Proposed Action, impacts from the accidental introduction of**

hazardous materials during the pipeline relocation would be less than significant. (emphasis added).

In Section 3.2, this pipeline is described as:
"Construction of the Yreka Pipeline under the Proposed Action could cause short-term increases in suspended material in the Hydroelectric Reach during the construction period. For construction of the Yreka Pipeline, Dam Removal Entity (DRE) would construct a new, elevated pipeline and steel pipeline bridge to support the pipe above the river at the upstream end of Iron Gate Reservoir (see Section 2.4.3). **The pipeline bridge would require in-water work in 2019 to build three concrete piers to support the bridge. Additional construction would occur along the Iron Gate Reservoir banks at each end of the new bridge where the new pipeline would be connected to the existing buried pipeline.** The potential for sediments to enter the water during in-water pier construction and from construction site runoff can be minimized or eliminated in Iron Gate Reservoir through the implementation of BMPs for construction activities (Appendix B). Since the construction work will be undertaken in 2019, prior to dam removal, any disturbed sediments would be trapped by Iron Gate Reservoir and not transferred downstream to the Klamath River, particularly given implementation of BMPs. **Under the *Proposed Action*, the effect of Yreka Pipeline construction activities on SSCs in the Hydroelectric Reach at the upstream end of Iron Gate Reservoir would be a less-than-significant impact.** (Section 3.2 – Water Quality, at page 3.2-88)

In sum, it appears the EIS/EIR proposes the following:
1. to relocate the City of Yreka pipeline from below grade to above grade.

2. to relocate the City of Yreka pipeline from its existing path to a path roughly five mile south west of its current location to Lakeview Bridge.

3. Doing all of the work to reconstruct the pipeline within the period allowed by available storage of water.

4. No mention is made of the vulnerabilities, reconstruction or reconfiguration of the City's cathodic field which protects the pipeline from erosion.

The EIS/EIR acknowledges that the KHSA contemplates the burial of the pipeline: "The Proposed Action would require the relocation, replacement, and/or burial of the existing 24-inch diameter water line and transmission facilities from the city of Yreka's Fall Creek diversion (KHSA Section 7.2.3)." (EIS/EIR, page 3.14-24, Chapter 3 – Affected Environment / Environmental Consequences – 3.14 Land Use, Agricultural and Forest Resources).

However, at page 2-29, Chapter 2 – Proposed Action and Description of the Alternatives, the EIS/EIR departs from this commitment, stating: "The City of Yreka's water supply pipeline passes under the upstream end of the Iron Gate Reservoir and would become exposed to high-velocity river flows after dam removal. Reconstructing the pipe further under ground **would likely require digging in bedrock, which would be complicated and expensive**. Therefore,

the DRE would construct a new, elevated pipeline and steel pipeline bridge to support the pipe above the river. The prefabricated steel pipe bridge would be wide enough to accommodate the pipeline and walkway on the deck. The pipeline **bridge would likely be** three spans with a center span of 200 feet and two end spans of 100 feet. The spans would be supported by concrete piers. The new pipeline would be connected to the existing buried pipeline at each end of the bridge. **In order to avoid disruption to the City's water supply, the permissible outage period would be limited by the available storage tank supply**." Alternatives 2, 3, 4 and 5 incorporate the "construction activities for the Yreka Pipeline as described above.

The apparent justification for the foregoing is made at page 124 of the Detailed Plan for Dam Removal – Klamath River Dams, Section 8.0 Yreka City Water Supply, which is done only in a peremptory manner: "Due to difficulties in constructing a buried pipeline under water to the required depth of burial of more than 12 feet, which would likely require rock excavation, a pipe crossing on a bridge constructed above the existing reservoir surface was selected **for cost estimating purposes."** Where did this information come from?

A pipe bridge will be more vulnerable to vandalism and terrorism. A pipe bridge will be more vulnerable to flood damage than a buried pipe. The City's engineering consultants, PACE Engineering of Redding, California, who are readily familiar with the City's water system, state that "many buried pipelines have been installed in bedrock throughout Northern California using rock excavation equipment such as rock trenchers, rock saws, and rock wheels. In addition, trenchless pipe installations using directional drilling or bore and jack methods have been successfully completed in bedrock." (Letter of Paul J. Reuter, Managing Engineer, Pace Engineering, attached hereto as Exhibit "A".) It is inappropriate to burden the City of Yreka and its residents with a "design" which was obviously not fully explored simply because of timing for "cost estimating purposes".

It is completely unreasonable to expect that the City should bear the burden and consequences of these improvements, which begs all of the following questions: Might the pipeline lose any pressure or suffer other operational losses with the realignment; what are the long term maintenance costs; what are future permit and regulatory costs; will the City need additional storage in town or alternate water supply in the event a flood takes out the waterline crossing; should the City have an independent review/examination/engineering of the alignment; what emergency shutoffs or monitoring are reasonable to attach to the pipeline? The City will need a backup pipeline for emergency repair whether the line is buried or aerial, and current best practices warrant it. [Rob Taylor, Water Manager, City of Yreka, November 7, 2011]. Although the City does not have a backup now (and best practices did not necessarily warrant such design at the time of installation), the improvements will make the pipe crossing more vulnerable if its suspended and harder to access if its buried, either way redundancy will be important. (Rob Taylor, City of Yreka Water Manager, November 7, 2011). Either the Project needs to be re-described or Mitigation Measures need to be added to address these concerns.

In addition, in Section 3.3, Aquatic Resources, at page 3.3-137, EIS/EIR states: *"The Proposed Action could require the relocation of the City of Yreka water supply pipeline.* The existing water

supply pipeline for the City of Yreka passes under the Iron Gate Reservoir and would have to be relocated prior to the decommissioning of the dam to prevent damage from deconstruction activities or increased water velocities once the reservoir has been drawn down. The pipeline would either be suspended from a pipe bridge across the river near its current location, or rerouted along the ***underside of the Lakeview Bridge*** just downstream of Iron Gate Dam. Standard construction Best Management Practices would reduce the likelihood and extent of aquatic impacts. **Therefore, the relocation of the Yreka pipeline would have less-than-significant impacts to aquatic resources.**

The foregoing is inconsistent with the provisions of KHSA Section 7.2.3 (the duty to protect City's water supply and right) and is, for that reason at least, infeasible. It is also infeasible because the rerouting of the pipeline to the underside of Lakeview Bridge, as demonstrated by Pace Engineering (Exhibit "A", page 2, Section 2(b)), "will result in significant, unexplored costs not only because it would require thousands of feet of pipe out of the current path of the pipeline, but also because it will significantly alter the hydraulics of the water system and detrimentally change the capacity of the existing Fall Creek Pump station due to the additional head the piping would generate." Pump sizes would need to be increased and/or existing pipes would have to be replaced with larger pipe. No apparent consideration was given to this effect.

(2) Cathodic Field:
The City of Yreka maintains a cathodic protection field at the Fall Creek Campground and Day Use Boat Ramp for which continued access is required to ensure that the City can continue to provide corrosion protection on the main transmission line. Disturbance of this field has not been evaluated, and disturbance would adversely impact the integrity of the City's facilities. (See Exhibit "B")

Either the Project needs to be re-described or Mitigation Measures need to be added which address cathodic field relocation/redesign. Any design must include cathodic protection, which includes coated pipe, bond wire, and the voltage, which will most likely need to be adjusted and which will possibly require measurements at the test stations along the whole pipeline or at least to the next cathodic station on Ager-Beswick road. (Rob Taylor, City of Yreka Water Manager, November 7, 2011).

No consideration was given at all to the effects of scour by flood upon the cathodic field. Letter of Paul J. Reuter, Managing Engineer, Pace Engineering, attached hereto as Exhibit "A". This omission is likewise prejudicial to the City, and for the reasons stated above, this matter needs to be addressed by a revised Project description, a revision of the Proposed Action and Alternatives to reflect the change in project description, and, if this is a mitigation measure, then the mitigation measures should be modified to reflect that as well.

(3) Reconstruction Activities and Water Supply/Storage
As the supplemental Letter from Paul J. Reuter, Managing Engineer, Pace Engineering, attached hereto as Exhibit "A-1" demonstrates, the storage capacity of the water system of the City of Yreka has constraints, which apparently have not been evaluated in this EIS/EIR. Cf., EIS/EIR, Chapter 2, page 2-29, where the Proposed Action and Description of Alternatives includes the

following statement: "In order to avoid disruption to the City's water supply, the permissible outage period would be limited by available storage tank capacity." As Mr. Reuter points out, the Fall Creek line is the sole water supply for the City of Yreka, and, if it is disrupted for any reason, whether for reconstruction, or by vandalism, terrorism, accident or act of God, the water storage capacity of the City is limited to between 1 day and 3 days, depending upon weather or fire conditions. The EIS/EIR does not adequately address these concerns in the Project Description. A revision of the Proposed Action and Alternatives is warranted to reflect the change in project description, and, if this is a mitigation measure, then the mitigation measures should be modified to reflect that as well.

B. Comment re Adequacy of the Analysis of the Impact of the Proposed Action Regarding the City of Yreka Water Right Section 3.8, Water Supply Water Rights.

In the EIS/EIR, at Section 3.8, Water Supply Water Rights, at page 3.8-10, it is stated:

> **"Municipal Water Rights**
> **"City of Yreka**
> "The City of Yreka receives its water supply from Fall Creek, a tributary to the Klamath River in the Upper Klamath Basin that is approximately 23 miles northeast of the city. A California State Water Rights Permit 15379 allocates the City of Yreka up to 15 cfs or 9.7 million gallons per day (mgd) from this source, although the current demand is less than the permitted allotted amount (City of Yreka 2010). The City of Yreka's diversion was completed in 1969 and the public water systems facilities at Fall Creek include three impoundments; an intake structure with fish screens, a pump, and pre-treatment facility; a cathodic protection field at the Fall Creek Campground and Day Use Boat Ramp; and a 24-inch pipeline that crosses on the eastern upstream end of Iron Gate Reservoir. Water diverted from Fall Creek for the City of Yreka is mainly returned through subsurface drains, infiltration, and irrigation runoff to a tributary of the Shasta River (City of Yreka 2010). It should also be noted that the California Department of Fish and Game (CDFG) possesses a 10 cfs water right (SWRCB License 11681) for fish propagation at Fall Creek Hatchery between March 15 and December 15 each year, not to exceed 5,465 acre-feet per year. Shasta River flows into the Klamath River downstream of Iron Gate Dam."

This water right is pledged to be preserved and undisturbed by KHSA, Section 7.2.3. The description in the EIS/EIR is in error. **There are only two impoundments for the City of Yreka's public water system facilities.** (City of Yreka Public Works Director, Steve Neill, November 17, 2011, and Pacific Municipal Consultants Letter, Merle Anderson, November 11, 2011, Exhibit "C").

At Section 3.8, Water Supply Water Rights, at page 3.8-14, the EIS/EIR states:

> **"Alternative 2: Full Facilities Removal of Four Dams (the Proposed Action)**
> *Relocation of the Yreka water supply pipeline after drawdown of the Iron Gate Reservoir and could affect water supply.* The existing water supply pipeline for the City of Yreka passes under the Iron Gate Reservoir and would have to be relocated prior to the decommissioning

> of the reservoir to prevent damage from deconstruction activities or increased water velocities once the reservoir has been drawn down. The pipeline would either be suspended from a pipe bridge across the river near its current location, or rerouted along the underside of the Lakeview Bridge just downstream of Iron Gate Dam. The water supply for Yreka, on Fall Creek, would be unaffected by the relocation work. The pipeline would be disconnected for a short amount of time, as dictated by the available storage supply for the city, to prevent interruption of service to the residents of Yreka. **The relocation of the Yreka Pipeline would result in no change from existing conditions. "**

As discussed above, there would in fact be a substantial change in existing conditions if the Yreka Pipeline were redesigned and constructed as set out in the Proposed Action and in this Alternative.

And, at page 3.8-24 of section 3.8, it states:

> **"Alternative 3: Partial Facilities Removal of Four Dams**
> Under the Partial Facilities Removal of Four Dams Alternative the impacts would be the same as those described for the Proposed Action. **Impacts associated with relocation of the Yreka water supply pipeline and removal of recreation facilities at reservoirs would have no effect to water supply or water rights. Flow changes downstream of Iron Gate Dam and implementation of IMs would have a less than significant impact to water supply and water rights. Sediment release during reservoir drawdown has the potential to significantly affect water intake pumps by sediment deposits. Mitigation measure WRWS-1 would reduce this impact to less than significant. "**

As discussed above, the sections for Alternatives 2 and 3 shown above are conclusions based upon assumptions on matters which have not been considered or analyzed, and demonstrate no basis for the conclusion.

The City's water right is fully described in Technical Report No. SRH-2011-02, Hydrology, Hydraulics, and Sediment Transport Studies for the Secretary's Determination on Klamath River Dam Removal and Basin Restoration, April 2011, pages 2-31 and 2-32. Fall Creek is a perennial tributary of the Klamath, which has its flow augmented by a diversion of up to 16.5cfs, which currently is approximately 5cfs from Spring Creek (a tributary of Jenny Creek). The City's water right is 15cfs on Fall Creek, and is junior to PacifiCorp. The City is concerned however, that since both Fall Creek and Jenny Creek are critical components of the City's water supply, the emphasis on the reintroduction of anadromous fish and the fishery habitat values of these streams as a result of the removal of Iron Gate Dam or improved fish passage around the dam will impose additional constraints on the availability of the City's water right. This impact will be especially significant if less diversion is consequently allowed (by PacifiCorp and/or the City) than is needed to supply the City's water system. The City wants to be assured of a reliable ability and right to divert up to 15 cfs from Fall Creek.

With the significance of the potential impact (i.e., added constraints to the City's ability to divert water), mitigation is needed. A mitigation measure that apparently has not been considered or explored, as an alternative or otherwise, would be for the State or Federal government to fund development of acceptable, alternative resources for the City's system to compensate for the loss of allowed diversion from Fall Creek that potentially results from the project.

Of concern to the City is that, in the late summer and fall months, especially in low-flow years, the amount of water available from Fall Creek is already limited to meet the City's needs and requirements that are already recognized. This is true even with the supplemented flow resulting from the diversion by PacifiCorp of up to 16.5 cfs from Spring Creek. For example, the USGS gage information used for this analysis indicates that, during the water years 1933 to 1959, the historic minimum monthly average recorded for the months of June through September reached a low of 24cfs. At a flow of 24cfs, the permit condition would allow the City to divert not more than 9cfs (not up to 15 cfs as otherwise permitted) to maintain a minimum bypass flow of 15 cfs. (Pacific Municipal Consultants Letter, Merle Anderson, November 11, 2011, Exhibit "C").

As elucidated by Pacific Municipal Consultants in Exhibit C, if PacifiCorp, for whatever reason, was to stop diverting water from Spring Creek into Fall Creek, the constraints to the City's Fall Creek water resources would become even more severe. A scenario that might force that issue, but which isn't evaluated in the Klamath Facilities Removal EIS/EIR, is that after removal of Iron Gate Dam and the introduction of special status fish, there will be programs to enhance fishery habitat on Jenny Creek and Fall Creek that will create competition for water resources. To enhance habitat on Jenny Creek, there are apt to be proposals to curtail or stop the PacifiCorp's diversion of water from Spring Creek (which is a tributary to Jenny Creek) to Fall Creek, thereby reducing the supplemental flow to Fall Creek that helps sustain the City's water resources. Another scenario is that, even if diversion of Spring Creek is allowed to continue, it will be proposed that the current 15 cfs "minimum bypass" on Fall Creek that is required of the City will be increased and that the City will be forced to divert less water than is currently permitted.

These concerns must be integrated into the Proposed Action and the Alternatives or they must be addressed by developing mitigation measures which avoid, minimize, rectify, reduce, eliminate and compensate for the impacts upon the City of Yreka Water Supply and the water right of the City of Yreka.

C. Comment: Recreation Analysis.

Public Recreation and Access at Fall Creek. As a public water supply, the City's facilities at Fall Creek are subject to the vulnerability assessments promulgated by the California Department of Public Health, the United States Environmental Protection Agency, and Department of

Homeland Security. These assessments could be negatively affected by an increase in public recreation.

The Proposed Action and Alternatives 3 and 5 call for the temporary cessation of public recreational uses in the area, with the resumption upon construction completion. [EIS/EIR, pages 3.20-34 and 3.20-37] This causes greater vulnerability to the City's water supply which greater public access would present. The City may need to explore whether to invoke post-9/11 laws in order to prohibit public recreational access to the Fall Creek diversion, since the City relies upon this exclusively for its water source. This concern was raised in the City's comment, and is completely unaddressed in the EIS/EIR. [cf., Exhibit B].

D. Comment Traffic and Air Quality.

In the EIS/EIR, at page 2-25, Proposed Action and Description of Alternatives, it is stated:

"The DRE would separate reinforcing steel from the concrete and haul it to a local recycling facility in Yreka, California. The DRE would haul mechanical and electrical equipment to Yreka, California for transfer to a salvage company or disposal outside the project boundaries."

The City of Yreka does not own any landfill or transfer station, or other solid waste receiving facility. On July 10, 2007 the City of Yreka assigned Land Use Permit Number UP-02-01 to the County of Siskiyou. Notice of Change in Ownership/Transfer of Ownership of the Yreka Sanitary Landfill Facility #47-AA-0002 was duly given to the California Integrated Waste Management Board on May 25, 2007. At the time of transfer Yreka Landfill was a relatively small volume facility – the site received an average of 32 tons per day of waste. The landfill had a remaining site life estimate of 65 years or less if best management practices, including compaction were not implemented, for a total capacity of approximately 500,000 tons. The understanding of the parties at time of transfer was that the County would be closing and capping the landfill facility and operating a transfer station at the site.

F. Comment re Economics and Environmental Justice, and Tribal Trust.

The City believes the Project will have an impact upon the City's urban environment. This is so, because the City is within the area of analysis. (EIS/EIR, Chapter 3, page 3.12-2.) The City is concerned to avoid significantly diminishing the quality of life in the City and its environs due to the Project. 40 C.F.R. § 1502.27(b). The Project, along with foreseeable related development, could significantly affect the character of future residential and nonresidential areas within the City. Costs, as well as potential benefits, should be considered in evaluating the overall socioeconomic impacts of the project on the local community.

More than just tribal economics and environmental justice is impacted by the project, although this is a significant portion of the analysis in the EIS/EIR. The City of Yreka has approximately 3,000 households. Of those, approximately only 100 households are located upon property held in trust by the Secretary of the Interior for the Karuk Tribe of California, which comprises

approximately 300 acres. That property is located within the city limits and is served by the water system of the City of Yreka.[1]

Presidential Order 12898 directs that each federal agency achieve environmental justice, specifically to identify and address "disproportionately high human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." Section 1-104, Sec. 2-2 indicates that each federal agency must ensure that activities do not have the effect of excluding populations, denying, or subjecting persons to discrimination.

The City of Yreka is a disadvantaged, low-income population as documented in numerous Census reports as well as the 2008 City-wide Income Survey referenced in the City's Scoping Comment Letter indicating that income levels in 68% of Yreka households were below 80% of the county-wide median income. Yreka's average unemployment also typically exceeds the state averages by more than 5%. The most recent information available for these statistics is before the current economic crisis and they have worsened since 2008.

The principles of Environmental Justice indicate that the City's low income population should not bear any greater costs or impacts beyond that expected of any other population. The proposed action could result in significant, and potentially disproportionate, impacts in several ways:

- City electric customers will pay more in electric rates resulting from dam removal as PacifiCorp moves to recover the costs it is required to contribute to dam removal.
- City residents will be affected by California's participation in a Water Bond and the associated state-wide budgetary impacts.
- City water customers may be required to pay additional long-term water system costs resulting from increased maintenance and operational expenses resulting from the proposed action.
- Reductions in local economic potential resulting from a loss of the jobs currently associated with existing conditions.
- Loss of stable, long-term jobs that are expected to shift to short-term, restoration and regulatory jobs and seasonal positions associated with coastal fishing and Klamath Basin agriculture (not in Siskiyou County).

[1] To the extent the assumptions in the EIS/EIR are that the Karuk aboriginal territory includes the City of Yreka, cf., National Indian Gaming Commission, Downes Memo dated October 12, 2004 (Exhibit D). Figure 3.16-28 Environmental Justice shows as tribal lands near haul routes "Karuk Off-Reservation Trust Land" in Yreka. This is mischaracterized. The Karuk Tribe has no reservation and that fact is cited in the EIS/EIR – p 3.12-20. The lands in the COY are held in trust for the KTOC by the Secretary of the Interior.

- Potential for water diversion reductions, further limiting economic expansion potential which could offset the economic impacts of dam removal in Siskiyou County.
- Potential water supply disruptions from flooding, vandalism, and geologic hazards would not affect any other disadvantaged population in the project area.

It will be this population that bears the cost of the proposed actions. They will bear the rate increases, they will bear the cost of mitigating the impacts, and they will bear the loss of opportunity. Based upon all of the foregoing comments, the City asks the Secretary to bear in mind the economic impacts upon the local community and address those impacts in the analysis to ensure the burden is not inappropriately shifted to the residents of the City.

G. Cumulative impacts.

A cumulative effect or impact is defined as the "impact on the environment which results from the incremental impact of the action when added to other past, present and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions." [40 C.F.R. § 1508.7]. The City believes a cumulative effects analysis generally includes: (1) the area in which effects of the proposed project will be felt, (2) impacts that are expected in that area from the proposed project, (3) other past, proposed, and reasonably foreseeable projects that may impact the same area, (4) impacts or expected impacts from these other actions, and (5) the overall impact that can be expected if the individual impacts are allowed to accumulate. [40 C.F.R. §§ 1508.9; *CEQ Guidance Regarding Cumulative Effects*, Council of Environmental Quality (Jan. 1997)]. The cumulative effects analysis done for the EIS/EIR is faulty because it does not make its analysis upon a complete project description. An inadequate project description can lead to a 'fallacy of division' resulting from overlooking the project's cumulative impacts by separately focusing on isolated parts of the whole. *San Joaquin Raptor/Wildlife Rescue Center v. Stanislaus County (Arambel & Rose Development)* (1994) 27 Cal.App.4th 713.

The EIR/EIS does not identify the likely source of replacement power after these facilities are removed. Hydroelectric power is green and renewable, and it exists now. Most other sources capable of replacing the MW generated by the Klamath Hydroelectric Facilities would require the construction and use of alternative generation, distribution, and transmission facilities which could increase the carbon footprint of PacifiCorp's power mix. Additionally, some alternative power supplies may directly increase emissions, transmission losses, and require more fuel consumption for distribution. The impacts resulting from alternatives for supplying replacement power supplies are not identified in the traffic, air quality, or cumulative impacts sections to be addressed and mitigated in the EIR/EIS. This is yet another impact which is deferred for future analysis, contrary to the requirements of EIR and EIS procedures.

Reconstruction of the City's water pipeline could put at risk United States taxpayer dollars. See the letter City Manager Steven W. Baker, May 5, 2011, Exhibit "E", which discusses the water supply system of the City of Yreka. This system is an investment of federal tax payers: The City is recipient of a $10 million loan/grant from USDA which is secured by Certificates of Participation held by the US Government. This investment was made in March 2011, and is a 30

year commitment from the City of Yreka to repay. The Proposed Action and Alternatives 3 and 5 stand to jeopardize this investment of the People of the United States to the extent that the ability of the City to maintain its rates for repayment of this loan is impacted because of loss of water supply or loss of water right. This impact was not discussed or explored in the EIS/EIR, most likely because the City was not consulted on the pipeline design.

H. List suggested mitigation measures:

It is CEQA policy that lead agencies should not approve a project which has a significant environmental impact if there are feasible mitigation measures available that would substantially lessen the impact. Public Resources Code Section 21002; Guidelines Section 15021(a)(2). "Mitigation" is defined in Guidelines Section 15370 as including: "Compensating for the impact by **replacing or providing substitute resources or environments".** (emphasis added). If the reconstruction of the City's water pipeline is in fact a mitigation, the following should be considered. If not, then these considerations should be reflected in the Project Description.

i. Can burial of the pipeline occur? If so, what would the design be and what protections would be taken for the undisrupted service of water to the City of Yreka?

ii. Can the aerial pipeline be fortified against 100+ flood/creates maintenance & repair exposure? At what cost?

iii. Can the aerial pipeline be fortified against public trespass/creates liability exposure? At what cost? Who will bear the cost of liability exposure? Will the Federal government and the States of California and Oregon indemnify and hold harmless the City of Yreka for any injuries which may occur to persons who come onto the pipeline and become injured?

iv. Can the aerial pipeline be armored or fortified against public vandalism/terrorism? At what cost?

v. Who will bear the costs of maintenance & repair exposure?

vi. What are the other alternatives on pipeline relocation? What are their design features and what protections can be taken for the undisrupted service of water to the City of Yreka?

vii. Is additional water storage needed for the City of Yreka as a result of the Proposed Action or any of the Alternatives, and at what cost.

viii. What measures will assure safety and non-disruption of City water supply by any of the foregoing events? This does not appear to have been considered.

ix. What measures will be taken to protect the cathodic field from destruction by flood? This field prevents deterioration of the pipeline. If the pipeline is relocated, the cathodic

field will need relocation, at what costs of relocation, availability of appropriate location, operational effects, etc.).

x. Disruptions of the City's water supply are not evaluated fully. Storage capacity is limited, and not considered in the Proposed Action or the Alternatives. An alternative water supply/source may be required. This has not been evaluated by the EIS/EIR or its supporting documents.

xi. Any mitigation must include an undertaking by the Federal and State Governments equivalent to a contractual obligation, secured by all necessary appropriation, that all capital improvements and all costs to the City as a result of this action will be defrayed; the cost to fortify and protect the water supply from interference or disruption will be defrayed, and, if there is insufficient water supply because of the action, the water needs of the City of Yreka will be met. There have not been a reasonable range of alternatives considered for this particular component of the project.

xii. Shouldn't different pipeline replacement possibilities be considered? Shouldn't alternatives for redundancy be considered?

xiii. Impairment of City's water right is not considered. To the extent that COY water right is diminished by the action taken in Alternatives 2, 3, and 5, the City will be irreparably damaged and that impact has not been considered. The only feasible alternative to deprivation of City water right is the creation of an alternative water supply.

xiv. Any mitigation must include consideration of the effects of KHSA at 7.6.5.A, Water Rights Agreement Between PacifiCorp and the State of Oregon, KHSA, Exhibit 1, which states: "For purposes of this Agreement transfer of the Fall Creek hydroelectric power plant, along with Claim 218, to another entity shall not constitute permanent cessation of power generation; provided that any transfer of the Fall Creek hydroelectric power plant will be governed by applicable law". In the event PacifiCorp discontinues operations of its Fall Creek facilities, and for the purpose of maintaining future stability of its water right and water supply, the City of Yreka should be designated as successor in interest to PacifiCorp 's water rights on Fall Creek and Spring and Jenny Creek, and the facilities/assets at Fall Creek. To the extent there is a cost associated with such a designation, as incidental to the preservation of the City of Yreka's water right, that cost be should determined and evaluated as part of the Project Description. If, instead, it is a mitigation measure, then it should likewise be analyzed.

////

////

IV. GENERAL CONSIDERATIONS:

The City incorporates by reference to these comments all of the attached Exhibits. The City requests that formal notice be taken of all comments filed by the City of Yreka to the Draft Environmental Statement for Hydropower License, Klamath Hydroelectric Project, FERC Project No. 2082-027. (City of Yreka Resolution Number 2621 adopted on November 16, 2006, Approving Proposed Comment of the City of Yreka to the Draft Environmental Impact Statement for Hydropower License in the Matter of the Klamath Hydroelectric Project, FERC Project No. 20082-027.)

The Executive Summary of the EIS/EIR states at page ES-10, that "the KHSA was an outcome of the Federal Energy Regulatory Commission's (FERC) Alternative Dispute Resolution Procedures as outlined in the Energy Policy Act of 2005 (18 C.F.R. 385.601, et seq.) wherein the parties elected to set aside differences to reach resolution on a settlement that is in furtherance of the interests of all of the parties." The City is not a signatory. The City asks that a legal opinion be provided from counsel, independent of the parties to KHSA and the Secretary, to assure the authority of the Secretary to take action at all. The Energy Policy Act 2005 §442 became law in August 2005, after the interventions notice issued August 16, 2004, in FERC P2082-027. The City contends this violates substantive due process: it interfered with the administrative process, parties had already made participatory decisions in reliance upon the interventions notice, and by its terms the Energy Policy Act of 2005 Section 442 deprived party status to interested persons unless they were willing to accept preconditions for participating.

V. CONCLUSION

The Proposed Action is a massive, long-term, expensive, and extremely important public project. Pursuant to the requirements of NEPA and CEQA, the Federal and State governments have spent a substantial amount of time and resources preparing the draft Environmental Impact Statement /Environmental Impact Review analyzed in this letter. For the reasons discussed in depth above, we believe that the EIS/EIR is deficient in a number of respects, including in its incomplete Project Description, analysis of the Project and alternatives to the Project and of the Project's environmental impacts.

Due to the limited amount of time granted for comment on this matter, it has not been possible for the City to evaluate whether or not all issues affecting the City have been identified and addressed, and to properly address such issues. The time period for comment, while it is the minimum allowed by law, is unreasonable and prejudicial to the City in light of the size and scope of the EIS/EIR and its supporting documents. Accordingly, and for these reasons, the City reserves the right to raise additional issues as and when they become evident in the course of these proceedings.

In order to cure the numerous defects in the EIS/EIR, the document must be revised to fully and accurately describe all of the Project's components. Substantial new information must be obtained to adequately describe the Project and assess the Project's environmental impacts and to

identify effective mitigation measures and alternatives capable of alleviating these impacts. The resulting changes would require recirculation. CEQA and NEPA require that the public have a meaningful opportunity to review and comment upon the significant new information necessary for a full environmental review of the Project, and this new information should be presented to the public in the form of a revised and re-circulated EIS/EIR.

In summary, the City hopes that the Secretary takes into consideration these comments on the EIS/EIR so that these concerns can be addressed. Thank you for the opportunity to submit these comments.

Very truly yours,

CITY OF YREKA

By: Rory McNeil
Rory McNeil,
Mayor, City of Yreka

/mfm/jh

Exhibits:
A. November 7, 2011 and November 11, 2011 Letters from Pace Engineering, Paul J. Reuter, Managing Engineer
B. City of Yreka Scoping Comment Letter, July 20, 2010, Steven W. Baker, City Manager
C. Pacific Municipal Consultants, November, 2011, Merle Anderson
D. National Gaming Commission Memorandum dated October 12, 2004, Penny J. Coleman, Acting General Counsel
E. City of Yreka, May 5, 2011, Steven W. Baker, City Manager
F. City Council, City Of Yreka, Resolution 2939, Dated November 3, 2011
G. Correspondence between City of Yreka Water Manager Rob Taylor and USBR staff member Tom Hepler, August 24, 2010, through October 27, 2010

PROOF OF MAILING

The undersigned declares:

1. I am over the age of 18 years and not a party to the above referenced matter. I am employed by the City of Yreka. My business address is 701 Fourth Street, Yreka, California. I am readily familiar with the practice of the City of Yreka for collection and processing of correspondence for mailing with the United States Postal Service, which practice is that correspondence is deposited with the United States Postal Service that same day in the ordinary course of business.

2. On November 17, 2011, at the City of Yreka, I caused a true copy of:

Klamath Facilities Removal Public Draft Environmental Impact Statement/Environmental Impact Report – City of Yreka Comment dated November 17, 2011

to be deposited at the Post Office at Yreka California in a sealed envelope with Express Mail postage paid, with the following name and address:

Ms. Elizabeth Vasquez
Bureau of Reclamation
2800 Cottage Way
Sacramento, California 95825

The envelope was sealed and placed for collection and mailing on that date following ordinary business practices. In addition, a

complete copy of the above described document was posted by the undersigned at the address designated by Federal Register/Vol.78 No. 184, page 58833: KlamathSD@usbr.gov.

I declare, under the laws of the State of California, that the foregoing is true and correct, and that this Declaration was executed on November 18, 2011, at Yreka, California.

Mary Frances McHugh, City
Attorney, City of Yreka

PACE ENGINEERING

November 7, 2011

69.36

SENT BY E-MAIL ONLY
hook@ci.yreka.ca.us

Jeanette Hook
City of Yreka
701 4th Street
Yreka, CA 96067

Dear Jeanette,

Subject: Klamath Facilities Removal Project
Comments on Draft EIS/EIR and Supporting Studies and Reports

The purpose of this letter is to provide comments on the subject project environmental studies as they pertain to the City of Yreka's municipal water infrastructure. Cursory review of the following documents was performed:

- Klamath Facilities Removal Public Draft, Environmental Impact Statement/Environmental Impact Report, September 2011 (Draft EIS/EIR)
- Hydrology, Hydraulics, and Sediment Transport Studies for the Secretary's Determination on Klamath River Dam Removal and Basin Restoration, April 2011
- Detailed Plan for Dam Removal – Klamath River Dams, September 15, 2011
- Various City of Yreka correspondence

COMMENTS

In our opinion, the Draft EIS/EIR lacks sufficient analysis and consideration for properly mitigating the impacts to the City's water system infrastructure. Specific areas of concern are described below.

1. Impacts to the Existing Cathodic Protection Field: The City's existing Fall Creek pipeline contains a cathodic protection system consisting of three rectifiers with anode ground beds. One of the rectifiers and ground beds is located adjacent to Iron Gate Reservoir. It is recommended the final EIS/EIR address the impacts to the City's existing cathodic protection facilities resulting from future flooding, including forecast flood events caused by climate change. In addition, the new pipeline needs to be tied into the existing cathodic protection system. Because the new pipeline will affect the electrical current demand on the system, it will be necessary to make appropriate adjustments to ensure continued cathodic protection. The final EIS/EIR should address these impacts.

EXHIBIT "A"

1730 SOUTH STREET • REDDING, CA 96001-1011 • (530) 244-0202 • FAX (530) 244-1978

2. Relocation of Existing Raw Water Pipeline to the Lakeview Bridge: The Draft EIS/EIR references two possibilities for relocating the City's existing raw water pipeline, currently routed under Iron Gate Reservoir: 1) Install on a pipeline bridge near the current location; and 2) relocate to the Lakeview Bridge below Iron Gate Dam. Relocating the pipeline to the Lakeview Bridge should not be considered for the following reasons:

   a. The Lakeview Bridge is located a significant distance from the current crossing location. Therefore, it would be necessary to install thousands of feet of additional pipeline which, ultimately, will require maintenance by City of Yreka Staff.
   b. The additional pipeline would significantly alter the hydraulics of the water system and reduce the capacity of the existing Fall Creek Pump Station due to the additional head the piping would generate.
   c. It is likely the existing pump sizes would need to be increased and/or a significant amount of existing pipeline replaced with larger diameter pipe in order to reduce the additional head caused by the increase in pipe length.

3. Relocation of Existing Raw Water Pipeline using a Pipe Bridge: The Draft EIS/EIR recommends the City's existing Raw Water Pipeline under Iron Gate Reservoir be relocated at the same location using a pipe bridge. We have the following concerns with this proposal:

   a. Vulnerability during Flood Events: Due to the importance of this pipeline to the City of Yreka, we question whether simply placing the pipe bridge above the 100-year flood level is adequate. Why not the 500-year flood level? Or higher? And, how high above the design flood level should the pipe bridge be placed in order to allow easy passage of debris, such as trees and structures, which are common during high flood events? The Draft EIS/EIR discusses the likelihood of future flood events, caused by climate change to be more severe than historical events. How will this impact a structure designed to historical flood levels?

   b. Increased Need for Back-up Water Supply: The importance of the raw water pipeline to the City of Yreka cannot be overemphasized. No matter what mitigation measures are employed to protect an aerial pipeline crossing from damage caused by floods, there will still be risks to the City. Arguably, these risks are greater than the risks associated with the current pipeline under Iron Gate Reservoir. In order for the current pipeline to be damaged by flooding, the dam would have to fail. Therefore, to adequately mitigate the increased risk associated with an aerial pipe crossing, consideration should be made for developing a back-up water supply for the City of Yreka. The City currently does not have a back-up water supply. If this pipeline should be washed out in a flood, the City could be without water for days, weeks, or more.

c. Increased Maintenance by City of Yreka: An aerial pipe crossing will impose higher maintenance costs to City consisting of periodic corrosion inspections and coating repair and/or re-coating. The final EIS/EIR should address how these additional maintenance costs to the City of Yreka will be mitigated?

d. Increased Liability to the City of Yreka Resulting from Access to the Public: An aerial pipeline crossing will create a higher liability risk to the City due to its exposure to the public, i.e., an attractive nuisance. The pipe crossing will be subject to climbing and jumping off of from the public. The final EIS/EIR should address how this increased liability to the City of Yreka will be mitigated?

4. Consider Buried Options for Replacement of the Existing Raw Water Pipeline: The *Detailed Plan for Dam Removal – Klamath River* Dams, dated September 15, 2011 (Page 124) dismisses the option of burying the replacement raw water pipeline due to the difficulty of construction and likely requirement for rock excavation. We suggest this option be further explored in the final EIS/EIR. Many buried pipelines have been installed in bedrock throughout northern California using rock excavation equipment, such as rock trenchers, rock saws, and rock wheels. In addition, trenchless pipe installations using directional drilling or bore and jack methods have been successfully completed in bedrock.

There are many contractors and specialty subcontractors throughout California that have this type equipment at their disposal. A buried pipe installation would mitigate many of the environmental issues related to impacts from flooding, aesthetics, and access to the public. In addition, a buried pipeline would be easier to maintain and can likely be installed less expensive than a pipe on a pipe bridge. Therefore, we recommend this option be more carefully studied in the final EIS/EIR.

5. Mitigation Costs for Impacts to the City of Yreka's Water System: Table 3.15-64 in the Draft EIS/EIR indicates a $1.0M cost in Year 2020 for mitigating the impacts to the City of Yreka's Water System. Table 9-9, Page 145, in the *Detailed Plan for Dam Removal – Klamath River Dams*, dated September 15, 2011, suggest a total project cost of $5.6M to employ recommended mitigation measures to reduce impacts to the City of Yreka's water system. This disparity in mitigation costs needs to be addressed in the final EIS/EIR

6. Scheduling of City of Yreka Water System Mitigation Work: The dam removal schedules contained in Attachment C of the *Detailed Plan for Dam Removal – Klamath River Dams*, dated September 15, 2011, do not reflect the mitigation work to the City's water system infrastructure. Although Page 3.6-32 of the draft EIS/EIR indicates the pipeline would have to be relocated prior to decommissioning of Iron Gate Reservoir. The timing of the pipeline replacement work will be dictated, largely, by which replacement method is used, and should be completed outside the City's historical peak water demand period. A buried pipeline would have to be replaced after reservoir dewatering. In addition,

depending on the impacts to the City's cathodic protection field, mitigation of those impacts must be considered as part of the reservoir decommissioning.

7. Procurement Strategies: Pages 132 and 133 of the *Detailed Plan for Dam Removal – Klamath River Dams*, dated September 15, 2011, discusses procurement strategies for implementing the mitigation work for the City of Yreka's water system infrastructure. It is recommended the City be afforded the opportunity to participate in the design, construction inspection, and final acceptance of any improvements affecting its water system.

We appreciate the opportunity to assist the City of Yreka through this important process. Should you have any questions, please do not hesitate to call.

Sincerely,

Paul J. Reuter
Managing Engineer

PJR
M:\Jobs\0069\0069.36 Assist with Klamath Dam Removal Mitigation\LTR-City 11-07-11.docx

PACE ENGINEERING

November 11 2011

69.36

SENT BY EMAIL ONLY
mchugh@ci.yreka.ca.us

Mary Frances McHugh
City of Yreka
701 Fourth Street
Yreka, CA 96097

Dear Mary Frances,

Subject: City of Yreka Water Storage

The purpose of this letter is to convey the City's ability to meet water supply demands from its existing water storage tanks in the event the raw water pipeline is taken out of service. The water storage requirements were taken from the City's 2005 Master Water Plan (Master Plan), prepared by PACE Engineering.

Section 64554 of the California Waterworks Standards (WWS) require water systems serving more than 1,000 connections provide four hours of peak hourly demand (PHD) in storage. However, the WWS do not consider, nor provide design recommendations, for fire storage. As you know, the fire storage component usually exceeds that which is required by the WWS. Table 14 (Page 58) of the Master Plan provides a detailed breakdown of the water storage requirements for each pressure zone in the City based on, 1) equalizing storage (required per the WWS) and, 2) fire storage requirement based on the type of development in the pressure zone and input from the local fire authority.

As indicated in Table 14, the total desired water storage requirement for the City of Yreka is about 4.98 million gallons (MG). Prior to construction of the 2.5 MG Clear Well, the City had about 5.48 MG of total storage. After completion of the Clear Well, the City will have about 7.98 MG of total water storage.

The length of time the City can deliver water to its customers in the event the raw water pipeline is off-line varies depending on the time of year and associated water demands. Prior to construction of the Clear Well, the City would have about 1 day of storage during maximum day demand (MDD) and about 2.3 days during average day demand (ADD). The ADD is the average daily demand for the entire year so, in essence, it is an average of the small winter-time demands and high summer-time demands. After completion of the Clear Well, the City will have about 1.5 days of storage during MDD and about 3.3 days during ADD.

1730 SOUTH STREET • REDDING, CA 96001-1811 • (530) 244-0202 • FAX (530) 244-1978

EXHIBIT "A"

None of these time projections account for a possible fire occurring during the outage. If a fire were to occur during an outage, the time projections indicated above would be reduced. The amount of reduction depends on where the fire occurs within the system and whether the fire is in a commercial or residential area.

As these projections relate to the proposed Klamath Dam Removal Project, it will be imperative the existing raw water pipeline remain in service throughout construction of the replacement pipeline. It is reasonable to limit any pre-planned shutdowns to the City's existing pipeline to 2 to 4 hours during off-peak demand periods.

Sincerely,

Paul J. Reuter
Managing Engineer

PJR
M:\Jobs\0069\0069.36 Assist with Klamath Dam Removal Mitigation\LTR-City 11-09-11.docx

City of Yreka
701 Fourth Street • Yreka, CA 96097
(530) 841-2386 • FAX (530) 842-4836

July 20, 2010

Ms. Tanya Sommer
Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825

SUBJECT: Comments of the City of Yreka - Klamath Settlement EIS/EIR 2010 Public Scoping Meetings

Dear Ms. Sommer:

The City of Yreka is interested in the above proceedings to protect the City's interest in its water rights, and the maintenance of our public water supply and associated facilities near the PacifiCorp powerhouse at Fall Creek. Therefore, we are providing the following comments for consideration prior to the development of the Draft Environmental Impact Statement/Draft Environmental Impact Report for the Secretarial Determination on Whether to Remove Four Dams on the Klamath River in California and Oregon pursuant to the notification posted in the Federal Register on June 14, 2010, Vol. 75, No. 113. The City also incorporates by reference to these comments, all comments filed by the City of Yreka to the Draft Environmental Statement for Hydropower License, Klamath Hydroelectric Project, FERC Project No. 2082-027, and additionally incorporates by reference the entire FERC EIS as its comments. This comment is pursuant to City of Yreka Resolution Number 2621 adopted on November 16, 2006, Approving Proposed Comment of the City of Yreka to the Draft Environmental Impact Statement for Hydropower License in the Mater of the Klamath Hydroelectric Project, FERC Project No. 20082-027.

Comment re Proposed Action Statement:
The City questions whether the Proposed Action statement is adequate to identify project alternatives. NEPA requires the consideration of project alternatives, including the no-project alternative, and the purpose of the Project Action statement (statement of purpose and need, 40 CFR 1502.13) is to refine the alternatives which should be analyzed. The Proposed Action Statement assumes that removal of the dams will achieve a "free-flowing condition and allow full volitional passage of fish" -- apparently a foregone conclusion. This statement seems to presuppose alternatives and could create an unwarranted bias towards dam removal without consideration of other options. Does this statement truly serve to identify the project alternatives?

Comment re Hydrology, Water Quality, Sediments, Public Services and Greenhouse Gas Emissions:
Background on the City's Water Rights (Permit 15379)
Recognizing the need to establish a firm source of water for its growing population, the City initiated water supply studies as early as 1938. ("Yreka Domestic Water Project, Fall Creek Supply: Feasibility Study," November 1966). Rationing of domestic water use in July and August of 1944, 1955, 1957, 1959, and 1966 added special urgency to the City's search. (*Ibid.*)

EXHIBIT "D" P.32

Many of the water supply alternatives explored were unsuitable for the City's needs due to existing water rights, water quality, or cost concerns.

Ultimately, the City filed an Application to appropriate water from Fall Creek, a tributary to the Klamath River, on August 12, 1966 (Application 22551). The Application was for 15 cubic feet per second (cfs) to be diverted from January 1 to December 31 of each year for municipal, domestic and industrial uses. In describing the municipal uses to which the water would be put, Section 15 of the Application noted that the City would put increasing amounts of water to beneficial use through the year 2057. The State Water Resources Control Board's ("SWRCB") predecessor issued Permit 15379 to the City on May 17, 1967, and the diversion works were completed in 1969.

City of Yreka Water Supply Facilities

The City's public water system facilities are downstream of PacifiCorp's power plant on Fall Creek. The City of Yreka's facilities on Fall Creek include two small impoundments, an intake structure near the hatchery facilities, a pump and pre-treatment plant, a cathodic protection field, and the 24-inch diameter transmission main that crosses the original Klamath River channel under Iron Gate Reservoir. When the City established its water right, it explored all available local resources. There were none practicable except the Fall Creek system. Since that time, the City has obtained its normal water supply exclusively from Fall Creek, based on the water right that allows withdrawal of up to 15 cfs (9.7mgd), at a location about 23 miles northeast of the City limits. In addition to this water right and the primary facilities associated with this water supply, the City also has an emergency water supply source from a manually controlled well located on the north side of the City. However, this well has not been used for some time, and, when it has been used in the past, boil water notices have historically been issued. ("City of Yreka 2005 Master Water Plan") This emergency supply is insufficient to serve a city of nearly 8,000 persons.

While the City's population has been static for some time, the City's General Plan projects future population growth at 1.6 percent annually over the next 20 years. However, to allow for increases in commercial and industrial use and the current trend for higher-end residential development, it is estimated that the water consumption will increase at 1.8 percent per year. That could result in a 48 percent increase in water usage in the next 20 years. ("City of Yreka 2005 Master Water Plan") This projection is probably being realized: Between 1991 and 2004 the City issued 14 building permits accounting for 14 housing units; if the current growth is measured by building permit issuances, between September 2005 and September 2006 there were 49 permits issued for 200 housing units[1]. The demands upon the City's existing water supply do not currently include significant new industrial development, but do include commercial and light industrial development (both local and regional) as well as development efforts by two federally recognized Native American tribes seeking to establish casinos which may access the City's water supply.

[1] These figures do not represent housing units established P. 3 3st lands, which are users of the City's water system.

SUBJECT: Comments - Klamath Settlement EIS/EIR 2010 Public Scoping Meetings

---

Beneficial Uses of Water - Water Supply and Quality

The City's water supply facilities do not have any significant impacts on water supplies that would affect other beneficial uses or users of water. Permit 15379 allows the City to divert up to 15 cfs. The City currently diverts less than its allotted right at this time, although this amount will increase as the City's population and water demand expands. The Environmental Impact Report prepared for the General Plan (SCH# 2002032122), which was certified by the City Council on December 18, 2003 (Resolution of the City Council of the City of Yreka, Number 2457), fully analyzed the potential environmental impacts, including water supply impacts, resulting from City's anticipated long-range development under the General Plan.

The projected growth of the City of Yreka for the life of the City's General Plan was anticipated to be at a rate of between 1 and 2 percent annually [Page 1-4, General Plan Update, City of Yreka]. Recently, the growth rate has been 1.26 percent, which is a slight reduction from the 1.76 percent experienced from 2007 to 2008. As analyzed in the General Plan EIR, there is adequate water to accommodate the City's projected moderate growth.

Water diverted by and utilized in the City is largely returned to Yreka Creek, via subsurface drains, infiltration, and irrigation runoff in accordance with the terms of applicable discharge permits. Yreka Creek is a tributary to the Shasta River, which flows into the Klamath River below Irongate Dam. All water that the City discharges to Yreka Creek easily meets all applicable permit terms and conditions. Future discharges will also be subject to permitting terms, and the City's discharges will continue to comply with all applicable legal requirements. Neither the slight decrease in the flows of Fall Creek nor the slight increase in the volume of water discharged to Yreka Creek due to the City's continued beneficial use of the water supply will have any discernable water quality impact.

Impact upon City of Yreka Water Rights and Facilities

Specifically, we request that the Secretary bear the following points in mind and that the EIS/EIR address:

a. Some proposals have specified Fall Creek flow rates which appear to allocate more than 100% of the existing water to new uses, i.e. to re-energize the unused California Department of Fish and Game fish hatchery. It is unclear if these proposals would affect the City's diversion of its 15 cfs water right from Fall Creek? If these proposals are implemented, how and where will minimum flow requirements be measured, relative to the City's water right?

b. The distance from the point of diversion for the City's water supply is between .9 and 1.1 miles from PacifiCorp's diversion structure above the falls to the confluence of the tailwater return channel and the natural creek channel. The requirement for additional flows could negatively impact the City's beneficial use of water for domestic purposes if it is recommended that the minimum flows be 14-22 cfs at Fall Creek. Such a requirement would need to account for the City's 15 cfs water right. This could result in the imposition of additional flow monitoring and release requirements, which, are not due to any action on the part of the City. How will such flow requirements be evaluated, especially given that the City's water supply must occasionally be taken from its B Dam

in the bypassed reach? If additional flow monitoring is required, then the City should not have to bear related extra costs.

c. The City of Yreka maintains a cathodic protection field at the Fall Creek Campground and Day Use Boat Ramp for which continued access is required to ensure that the City can continue to provide corrosion protection on the main transmission line. Disturbance of this field needs to be evaluated, and disturbance could adversely impact the integrity of the City's facilities.

d. The City operates and maintains a pump house and water pre-treatment facility where Fall Creek intersects Copco Road. Disturbance of these facilities needs to be evaluated and any disturbance could impact the City's water system as a whole.

e. The City's main water transmission line runs under Iron Gate Reservoir and must be protected from exposure, deterioration, and public access. The line lies upon the lakebed. If the dams are removed, this line could become a barrier to river flow. It is not known whether and to what extent a barrier will be created, what sediments have accreted around the pipe, what will happen if the pipe is exposed, and what effect that will have upon the City's water system as a whole. Clearly, disturbance of this pipeline will adversely impact the integrity of the City's water facilities. Exposure of this pipeline by removing Iron Gate Dam will make the pipeline vulnerable to all forms of unanticipated or unknown factors, such as flooding, weathering, and acts of vandalism and terrorism. How will these vulnerabilities be identified and addressed?

Potential Unintended Negative Consequences of Increased Flows
Specifically, we request that the Secretary bear the following points in mind and that the EIS/EIR address:

a. Increased flows in Fall Creek could facilitate additional sediment transport to Iron Gate Reservoir, with negative impacts to the quality of the City of Yreka's water supply and to the Klamath River fishery if the dam is removed.

b. Eliminating diversions from Spring Creek to Fall Creek during July and August could have a detrimental effect on the City's water right as well as on resident fish and the aquatic habitat in the wetlands of the diversion channels, within the bypassed reach of Fall Creek, and below. Spring Creek feeds into Fall Creek via Spring Creek's confluence with Jenny Creek, and some of the flow is diverted through a 1.3 mile long canal which flows into Fall Creek about 1.7 miles above the City's diversion.

Comment re Biology and Recreation:
Fish ladders at Fall Creek
Specifically, we request that the Secretary bear the following points in mind and that the EIS/EIR address: Construction of a fish ladder at Fall Creek serves only a limited stream reach accessible to resident fish and makes negligible contribution to improving either water quality or fishery habitat in the Klamath River. If this will be required as a mitigation measure, the City

requests a cost-benefit analysis be conducted of such an action, and the City should not bear any associated costs.

Public Recreation and Access at Fall Creek

Specifically, we request that the Secretary bear the following points in mind and that the EIS/EIR address: The City diverts water from Fall Creek (a tributary to the Klamath River) pursuant to its permit, and discharges its water, after municipal and industrial use and treatment to permit standards, to Yreka Creek (a tributary to the Shasta River). This may slightly decrease the flow of the Klamath River between its upstream confluence with Fall Creek and its downstream confluence with the Shasta River, a distance of approximately 20 river miles. The City's water system has no significant impact on recreational water uses or users.

If additional restrictions on access in the Fall Creek watershed is contemplated, the City formally requests controlled access to the currently locked portions, including Fall Creek Ranch, in order to ensure continued access to our facilities and maintain our monitoring capabilities on the watershed.

The City opposes any public recreation at Fall Creek by providing improved trail and picnic facilities at the currently unused California Fish and Game hatchery ponds. With limited existing signage and an unmarked access road, both City facilities and the California Fish and Game hatchery routinely suffer from vandalism near the PacifiCorp Fall Creek powerhouse. The City expects minor annual maintenance as a result of casual recreation use. However, the City is extremely concerned about the increased maintenance and sanitation impacts which could result from any proposal to develop additional public recreation at this location. California law recognizes that human recreational contact with domestic water supplies can be problematic: "No person shall bathe, except as permitted by law, in any stream, pond, lake, or reservoir from which water is drawn for the supply of any portion of the inhabitants of this state, or by any other means foul or pollute the waters of any such stream, pond, lake, or reservoir." Health & Safety Code § 117000.

As a public water supply, the City's facilities at Fall Creek are subject to the vulnerability assessments promulgated by the California Department of Public Health, the United States Environmental Protection Agency, and Department of Homeland Security. These assessments could be negatively affected by an increase in public recreation. This concern is also applicable to PacifiCorp's Fall Creek Powerhouse, although access is more restricted for the powerhouse than for the City's facilities below it. The City asks that further inquiry be conducted to address the vulnerability to the City's water supply that greater public access would present, otherwise, the City may need to explore whether to invoke post-9/11 laws in order to prohibit public recreational access to the Fall Creek diversion, since the City relies upon this exclusively for its water source.

The existing unimproved trail near the City facilities at Fall Creek is extremely rocky, with highly erosive soils, and very steep. Development of an improved trail, as proposed in the FERC PacifiCorp relicensing documents, is likely to result in continual erosion and increased sedimentation, as well as significant impacts during construction due to the physical constraints of this "high gradient" location. An increase in recreation visitation could also negatively

impact the healthy, diverse and sensitive riparian vegetation along the floodplain of lower Fall Creek. This location is not suitable for public access nor for providing improved recreation facilities.

Vegetation Management Plans

Specifically, we request that the Secretary bear the following points in mind and that the EIS/EIR address that adopted vegetative management plans do not add any deciduous vegetation above City intake facilities. The intake screens already require regular clearing. Due to the possible increase in maintenance for the intake and fish screens, the City requests that coniferous vegetation be used in any Vegetation Management Plans above the City's facilities. Will the City be subject, now or in the future, to creating and implementing such a vegetation management plan? The City should not have to bear these extra costs.

Comment re: Land Use Planning and Greenhouse Gas Emissions

Dam Removal and the Value of the Existing Lakes

Specifically, we request that the Secretary bear the following points in mind and that the EIS/EIR address:

a. The City benefits economically from the diverse recreation provided by existing lakes and rivers. Both types of water recreation are extremely valuable to the region. Tourism benefits from the variety and diversity of recreational opportunities to provide the most significant economic benefit to the region.

b. The availability of open lake water for fire-fighting makes an extremely valuable and significant contribution in the region which has not been identified or considered in dam removal proposals. The City suggests that further inquiry into this issue is warranted as some polling data exists that indicates fire safety is the number one reason Californians give for supporting reservoir development. Reservoirs with fire protection purposes enjoy support from about 80% or more of people responding to polls. It is arguable that the same logic applies to not destroying existing reservoirs that assist with local fire protection needs.

c. Pacificorp produces 716,820 megawatt-hours per year on this project. Inexpensive power, and good air quality, is critically important to residents and the industries that employ them in this historically economically depressed region. The citizens of Yreka are ratepayers of PacifiCorp. Not only will they bear the risks posed to their water supply, but they will also be called upon to bear such burden as is transmitted to them by higher power rates.

d. Analysis needs to account for investments needed on the part of other agencies for reconstruction of current facilities (such as water transmission lines, roadways, and highway bridges) which were designed and installed under controlled river conditions. What are the repair and recovery costs of future, and recurring, flood events on downstream facilities? These costs could be significant and could change the results of the cost-benefit analysis of dam removal.

e. It is counterintuitive to reduce the Nation's ability to generate clean, renewable power at a time when power use is increasing exponentially and when official policy is to encourage consumers to decrease use of petrochemical energy. The costs of developing alternate replacement power supplies if the dams are removed, and the burden upon the rate payer and local community which result, should also be considered within any cost-benefit analysis.

Comment re Biology:

Species Impacts and City Water System

Specifically, we request that the Secretary bear the following points in mind and that the EIS/EIR address:

Water is a scarce and limited resource without which no population, human, animal, or plant, can survive. The entire region benefits from the availability of water resources, and when these resources are limited by drought or other factors, all interests should share in any restrictions. One specific value (fisheries) should not be used as a springboard to artificially control all interests in the beneficial use of water.

The City of Yreka's diversion facility has been in existence and operation since 1969. Permit 15379 was issued on May 17, 1967 and allows the City to divert up to 15cfs (9.7 million gallons per day). All diversion works for the Permit were completed in 1969. The City uses the existing PacifiCorp power canal that leads to the Fall Creek powerhouse. From that point, the City's diversion facility is adjacent to the powerhouse canal approximately 50 feet above the confluence of the canal with the natural Fall Creek channel.

The City has two existing water intake structures on Fall Creek, which lead into the City's diversion facility: (1) the principal intake downstream of the Fall Creek powerhouse described above and (2) immediately downstream of the lower Fall Creek barrier falls. Both intakes are routed through fish screens before entering the City main water supply pipeline. Water is used from only one intake at a time, and flow from the other intake bypasses the facility back into Fall Creek.

Fall Creek is a tributary to the Klamath River. According to William M. Lewis, Jr., Ph.D.:

> The Klamath River Basin has an abundance of aquatic environments, including perennial streams and rivers, shallow lakes, and wetlands. Among the great diversity of organisms that can be found in these environments are the Lost River and shortnose suckers and coho salmon belonging to the Southern Oregon/Northern California Coasts (SONCC) evolutionarily significant unit (ESU) of this species. The Lost River and shortnose suckers are restricted in distribution to the Klamath River Basin, while the SONCC coho salmon is found in the Klamath River Basin and in adjoining river basins.

(Statement of William M. Lewis, Jr., Ph.D., Chair of the Committee on Endangered and Threatened Fishes in the Klamath River Basin, National Research Council /National Academy of Sciences, before the Committee on Resources, U.S. House of Representatives, March 13, 2002.)

The Lost River sucker (*Deltistes luxatus*) and the shortnose sucker (*Chasmistes brevirostris*) are listed as endangered under both the ESA and CESA. According to the California Department of Fish and Game (CDFG)'s California Natural Diversity Data Base (CNDDB), CDFG staff detected shortnose suckers in Copco Reservoir and upstream in the Klamath River in the 1990s. Lost River suckers have been detected from Iron Gate Reservoir to upstream of Copco Reservoir in the 1980s, however, Lost River suckers are not native to the Klamath River below the Klamath Basin in Oregon.

Both the Lost River sucker and the shortnose sucker are bottom-dwelling freshwater fish. The local populations of these species are found primarily in reservoirs: adults generally spend their lives in the quiet lake waters feeding on detritus and zooplankton, although they make use of spawning habitat in streams and springs. It is well known that neither sucker is a strong swimmer, and generally do not leave the reservoirs, except to spawn. The SONCC coho salmon is an anadromous fish that spends most of its adult life in the ocean but returns to freshwater to spawn. The Klamath River supports a run of SONCC coho salmon.

The City's diversion facilities, in place and existing since 1969, do not adversely affect any of these fish species or any other public trust resources. A naturally occurring waterfall (approximately 300' in height) prevents fish from migrating upstream to the City's intake structure on the power canal. Even if fish were present in Fall Creek downstream of the intake structure, this naturally occurring barrier is impassable to both species of suckers as well as SONCC coho salmon.

A four-panel fish screen apparatus is in place in front of the City's intake structure on the power canal. This intake structure is fitted with fish screens of galvanized, 16-gauge, 4-per-inch mesh that are in place all year long to protect against the entrainment of any aquatic species that could be present in either the PacifiCorp powerhouse bypass channel (power canal) or passed through the City's Fall Creek intake below the lower barrier falls. The City requests the Secretary bear in mind, and the EIS/EIR address, to what extent additional fish screening will be considered for this portion of the Project. And, who will bear the burden of the cost for such screening?

Comment re Economics and Environmental Justice.
The City of Yreka has approximately 3,000 households. Of those, approximately 100 households are located upon property held in trust by the Secretary of the Interior for the Karuk Tribe of California, which comprises approximately 300 acres. That property is located within the city limits and is served by the water system of the City of Yreka.

In 2009, the City conducted a Citywide Household Income Survey which was funded by Planning Grant #07-PTAG-3673 through the Community Development Block Grant Program. The survey was conducted by Great Northern Corporation; it did not assess the Karuk Housing Area. According to the survey, the City of Yreka has a Targeted Income Group level of sixty-eight percent (68%). The "Targeted Income Group" is defined as those persons whose household income is less than 80% of the County median income. The term is used to identify income thresholds in communities seeking federal funding assistance. These income limits are

calculated based on a Housing and Urban Development income limits table that is used for the Section 8 Housing Assistance Program.

It will be this population that bears the cost of the proposed actions. They will bear the rate increases, they will bear the cost of mitigating the impacts, and they will bear the loss of opportunity. Based upon all of the foregoing comments, the City asks the Secretary to bear in mind the economic impacts upon the local community and address those impacts in the analysis to ensure the burden is not inappropriately shifted to the residents of the City.

Conclusion.

Balance is needed to benefit many competing interests. The requirement to balance public trust uses against other beneficial uses of water is one of the often-overlooked holdings of the California Supreme Court's *National Audubon* decision [*National Audubon Soc'y. v. Superior Court*, 33 Cal. 3d 419, 447 (1983)]: "As a matter of practical necessity the state may have to approve appropriations **despite foreseeable harm to public trust uses.** In so doing, however, the state must bear in mind its duty as trustee to consider the effect of the taking on the public trust (citation omitted), and to preserve, so far as consistent with the public interest, the uses protected by the trust." [emphasis added.] Balance may require considering more than just empirical or scientific analysis.

The health of the fishery is a very complicated issue intermingled with the health of the ecosystem as a whole. While recovery of a healthy river system and its attendant wildlife is a noble desire, restoration will take a long time and is only one part of restoring a healthy ecosystem. To expect a return to historic conditions with limited populations, "untouched" forests, and massive fish spawning runs is more than any one project can deliver. It must be remembered that historic conditions have also included both natural and human activity: massive fires, extensive mining, lack of sanitation, disease, famine, substandard housing, and flooding, among other hardships.

In summary, the City acknowledges that throughout the process dealing with the Klamath issues, all of the parties have respected the concerns of the City of Yreka, which is principally to keep the City of Yreka's water supply viable. The City has consistently supported PacifiCorp's application for re-licensure of its project facilities and has urged selection of various of the proposed alternatives so long as the impacts to the City's water facilities and supply are appropriately considered and mitigated. It is inappropriate to burden the City of Yreka and its residents with requirements related to this Project simply because the timing coincides with fishery restoration concerns. It is completely unreasonable to expect that rate payers should bear the burden of unrelated improvements.

Thank you for allowing the City of Yreka the opportunity to provide these comments on this issue of critical importance to the health, safety and well-being of our citizens. We appreciate your careful consideration of the issues we have raised in this letter, and we look forward to receiving your response. We also ask to be placed on the list of parties to be notified of any developments in these proceedings.

Should you wish to obtain any additional information about the issues discussed in this letter, the

SUBJECT: Comments - Klamath Settlement EIS/EIR 2010 Public Scoping Meetings

---

City's staff would be happy to assist you. Please feel free to contact me at (530)841-2386 with any questions you may have.

Very truly yours,

City of Yreka

By:
Steven W. Baker, City Manager

cc: City Council members; City Attorney; Public Works Director; Planning Director; Tom Guarino, County Counsel, Siskiyou County /mfm

References

California Department of Fish and Game (CDFG). 2008. *California Natural Diversity Data Base (CNDDB). Data Base Record Search for Special-Status Species: Bogus Mountain, Copco, Dewey Gulch, Iron Gate Reservoir, Panther Rock, and Secret Spring Mtn. 7.5 Minute Quadrangles*. December 2, 2008. California Department of Fish and Game, Sacramento, CA.

Pacific Municipal Consultants. *City of Yreka General Plan Update 2002-2022*. Adopted December 18, 2003, Resolution Number 2457.

Pacific Municipal Consultants. *Draft Environmental Impact Report for the Comprehensive General Plan Update, Zoning Ordinance Update and Sign Ordinance Update, City of Yreka*. SCH #2002032122. Final EIR Certified December 18, 2003, Resolution Number 2457

City of Yreka General Plan Update 2002-2022 and Final Environmental Impact Report adopted by Resolution 2457, City Council, City of Yreka, December 18, 2003.

City of Yreka Citywide Household Income Survey, 2009.
City of Yreka 2005 Water Master Plan.

S:\MFM\FERC RELICENSING\COMMENT LETTER FOR SECRETARY EIS-SCOPING 7-16-10.DOC

PMC™

November 11, 2011

Ms. Mary Frances McHugh, City Attorney
City of Yreka
701 Fourth Street
Yreka, CA 96097

Subject: Klamath Facilities Removal Draft EIS/EIR

Dear Ms. McHugh:

Because of PMC's recent work with the City of Yreka regarding the City's Fall River water permit and water resources, I have reviewed the Klamath Facilities Removal Draft EIS/EIR (Draft EIS/EIR) and related documents as requested and I am providing observations and opinions concerning how the proposed removal of the dams and related actions may impact the City's water resources. In that regard I have reviewed not only the Draft EIS/EIR and its appendices, but also the Klamath Hydroelectric Settlement Agreement (KSHA), the Klamath Basin Restoration Agreement (KBRA), and various documents related to PacifiCorp's FERC license.

Introductory Comments

Certainly, the Fall Creek water source is critical to the public welfare of the City and its population of nearly 7,800 people. At this time the City has no appropriate or sustainable alternative water source to its Fall Creek resource and the development of a new resource (presumably from limited groundwater) and connection to the existing treatment and delivery system would be extremely challenging and expensive. Any action or policy that may result in jeopardizing or constraining the Fall Creek resource without completely mitigating and/or compensating the City for such a loss with equivalent resources would be profoundly detrimental to the people of Yreka and the City's future .

As an initial comment, I note that the Draft EIS/EIR observes that the City of Yreka has a municipal water supply intake on Fall Creek and a pipeline that crosses Iron Gate Reservoir; and that the pipeline would be affected if the Iron Gate Dam were removed. (Draft EIS/EIR page 1-22) The draft makes reference to the KHSA on this issue. However, the Draft EIS/EIR does not accurately portray how the KHSA has deferred consideration of the possible impacts that facilities removal would have on the City's water supply and pipeline, nor does the draft respond to the clear intent of the KHSA that the City's concerns need to be evaluated.

The KHSA, in Section 7.2.3 (B), states, "As part of implementation of this Settlement, an engineering assessment to study the potential risks to the City of Yreka's water supply facilities as a result of implementation of Facilities Removal shall be funded and conducted by the Secretary". (KHSA, page 46) Such an assessment could have and should have been completed prior to or as part of the EIS/EIR process. The Draft EIS/EIR defers critical environmental analysis to some future, unspecific date, as did the KHSA (although that agreement was given an exemption from CEQA). The Draft EIS/EIR attempts to

EXHIBIT "C"

also pass over the need for a real assessment by assuming that, because some signatories to the KHSA have agreed not to prevent use of Yreka's Water Rights permit, the City's concerns should be adequately resolved and related impacts are not significant. The Draft EIS/EIR apparently also assumes, as did the KHSA, that some agency will eventually study the potential risks to the water supply system that could result from removal of dams and therefore that issue wasn't a responsibility of the EIS/EIR process. However, the failure to evaluate the impacts on the City's water supply and system as part of the total project should be clearly inadequate under the provisions of NEPA and CEQA.

Furthermore, without benefit of a complete analysis of the potential risks to the water supply as anticipated in the KHSA, the Draft EIS/EIR then attempts to come to a conclusion that removal of the dams and changes to the City's pipeline will have no significant impact on the City's water system. For example, in Section 3.8, Water Supply/Water Rights, the only acknowledgement to the potential impacts on the City's Fall Creek water source concludes simply that, "The relocation of the Yreka Pipeline would result in no change from existing conditions." (Draft EIS/EIR page 3.8-14) Not only is that statement incorrect (the relocation and related changes are, in themselves, changes from existing conditions and would trigger consequent changes), that section fails to consider other impacts to the water system, including competition for limited water resources on Fall Creek and the probable reduction of the amount of water that the City would otherwise have available for diversion pursuant to its water rights. Those potential impacts will be addressed in more detail below.

It is understandable that the City is alarmed that state and federal agencies intend to continue to make critical decisions that threaten the security of the City's municipal water system, and that those decisions thereby build momentum for a proposed action, before those agencies fulfill their duties under their respective environmental laws and policies to clearly divulge and evaluate the impacts. The City can't help but be deeply concerned that, by the time such an "assessment to study the potential risks to the City of Yreka's water supply facilities" is completed, as called for in the KHSA, decisions will have been made (e.g., certification of environmental documents) and actions initiated that will limit options for fair mitigation and/or compensatory actions to enable the City of Yreka to protect the viability of its vital water system.

Background Discussion of the Water System

While I know that you are familiar with how the City's water system is physically related to the issue of dam removal, before I continue with more specific comments about the Draft EIS/EIR I am providing the following brief summary of that relationship for reference.

The place of diversion on Fall Creek from which the City of Yreka obtains water for its municipal water system is located approximately 23 miles northeast of the City. Fall Creek is a tributary to the Klamath River, flowing into Iron Gate Reservoir from the north just below where the river enters the reservoir. The intake to the City's water system is located approximately one mile north and upstream of the point where Fall Creek enters the reservoir. The City's water permit 15379 (obtained from the State Water Board in 1967) stipulates that water diverted from Fall Creek by the City shall not exceed 15.0 cubic feet per second (cfs) with the maximum amount not to exceed 6,300 acre-feet per year.

Although the City's water permit allows the City to divert up to 15 cfs, there is a condition placed on the permit that requires the City to bypass certain minimum flows to mitigate biological impacts. In December 1966, the California Department of Fish and Game (DFG) protested the City's Fall Creek application to appropriate water from Fall Creek. One condition upon which DFG proposed to dismiss its protest was that the City agree to bypass a minimum flow of 15 cfs, or the natural channel flow of the stream whenever it is less than 15 cfs. In January 1967, the City agreed to that condition with the adoption of Resolution No. 880. Since May 1967 when the City's Fall Creek permit was issued, the permit has contained the condition for minimum bypass flow.

The City has two small diversion facilities involving Fall Creek that supply water to the system's intake structure. The "A" Dam diverts water to the intake building from a canal coming from PacifiCorp's Fall Creek hydroelectric powerhouse. (The relationship of the powerhouse with the City's diversion will be further explained below.) The City's "B" Dam is located on the natural Fall Creek channel and can divert water to the same intake as water from the "A" Dam. From the City's intake building, water is transported by a 24-inch pipe to the Yreka Fall Creek pump station and pre-treatment facility, located approximately 0.5 mile from the diversion site. The pipeline from the pump station crosses beneath the upper end of Iron Gate Reservoir and continues on to the City's water treatment and storage facilities and ultimately to the City of Yreka. The pipeline system also contains a cathodic protection system consisting of three rectifiers with anode ground beds. One of the rectifiers and ground beds is located adjacent to Iron Gate Reservoir.

As noted, a portion of the water that contributes to the City's Fall Creek water source comes via a diversion from Fall Creek for the PacifiCorp powerhouse. This source includes water diverted by PacifiCorp into Fall Creek from Spring Creek. That diversion is located on land managed by the Bureau of Land Management on the Oregon side of the California state line. Spring Creek, which has its source at Shoat Springs, is a tributary to Jenny Creek, which is located to the west of Fall Creek. Like Fall Creek, Jenny Creek also flows into Iron Gate Reservoir on the Klamath River. The diverted Spring Creek flow is carried through a canal 1.7 miles to where it enters Fall Creek.

According to the *PacifiCorp Klamath Hydroelectric Project Interim Operations Habitat Conservation Plan for Coho Salmon* (March 15, 2011), the small diversion dam on Spring Creek diverts up to 16.5 cfs into Fall Creek. The subsequent diversion dam on Fall Creek diverts up to 50 cfs of water that is transported by a canal and penstock to the powerhouse. The canal and penstock bypass 1.2 miles of a very steep gradient section of Fall Creek, including a steep stretch known as the "barrier falls". The Project's current FERC license requires minimum flows of 0.5 cfs below the Fall Creek diversion and 15 cfs (or natural stream flow, whichever is less) downstream of the powerhouse.

After the flow of water is used by PacifiCorp at the powerhouse, the water is directed to a canal that flows back to the natural Fall Creek channel. It is on this return canal that the City of Yreka maintains the "A" Dam, by which water is diverted to the intake structure. The "A" Dam is the primary diversion used by the City to supply water to the intake, but the City can also divert water directly from the creek via the "B" dam when necessary.

Below the City's "A" Dam diversion to the intake building, between that intake and the point where the canal from the powerhouse flows back into the natural Fall Creek channel, there is a fish hatchery established by the Department of Fish and Game. A small canal can divert water to the hatchery from the main canal from the powerhouse below the point where the City diverts water. The Draft EIS/EIR notes that the Department of Fish and Game has a 10-cfs water right (SWRCB 11681) for fish propagation between March 15 and December 15 each year, not to exceed 5,465 acre-feet per year. This fish hatchery is currently not in use.

Historic stream flow information is available for Fall Creek from a USGS gage that operated from 1933 to 1959. The gage (USGS gage no. 115120000) was located on Fall Creek just above the point where it flows into Iron Gate Reservoir. Table 1 below depicts monthly mean average discharge statistics and the annual average in cubic feet per second (cfs), as reported from the gage data. This table also reports the monthly "minimum" averages recorded during the 26 water years. Since the gage measurements indicated in Table 1 were made prior to the City initiating its Fall Creek diversion project per its 1967 permit, this information provides a portrayal of stream flow without that diversion. It is also noted that these measurements were taken after installation of the PacifiCorp powerhouse project and therefore include PacifiCorp's permitted diversion from Spring Creek into Fall Creek. The measurements were made after the point where the powerhouse canal returns water to Fall Creek.

Table 1
Fall Creek Mean Monthly Discharge Averages: 1933-1959
(Mean average/minimum averages in cubic feet per second – cfs.)

October	November	December	January	February	March	
35/27	37/26	43/28	46/28	51/27	49/29	
April	May	June	July	August	September	Annual Average
45/28	38/25	35/24	34/24	33/24	34/24	40/26

Source: Table 3-17, Federal Energy Regulatory Commission, Final EIS for Klamath Hydropower License, November 2007, page 3-71.

Comments and Opinions Concerning the Draft EIS/EIR

Project Objectives and Alternatives

As a general observation, I note that the Draft EIS/EIR Alternatives Report Section 2.1.2, Project Objectives, recognizes one of the six objectives of the project as: "4. Establish reliable water and power supplies, which sustain agriculture uses and communities and NWRs." (Appendix A, Page 2-2) Therefore, the reliability of the City's water system, which entails the security of the system as well as adequate quantities of water to meet the City's needs in the future, should be given more serious and detailed attention in the document. More dedication and effort is needed to evaluate and mitigate the impacts that the project may impose on the City's water supply and pipeline, as well as the related security and reliability of that water resource for the community of Yreka.

In the so-called Final Alternatives Report, (Draft EIS/EIR Section 4.2, Screening), an attempt was made to screen alternatives to conclude that Alternative 2 (the Proposed Action) meets consideration of all project objectives, including "reliable water supplies" because it, "Would establish diversion patterns based on year types in the KBRA to improve reliability of water supplies." (Page 4-1 and Table 4-1) The City of Yreka should contest that the constraints and impacts (which have not been fully evaluated) that the project will impose on the City's Fall Creek water supply (e.g., expected reductions in allowed diversion to enhance fishery habitat and increased vulnerability of the pipeline to damage by being exposed on a pipe bridge) indicate that the Draft EIS/EIR has not adequately demonstrated that the proposed action will meet the objectives of the project as stated, especially without complete analysis and mitigation of the City's related concerns. And, as will be discussed below, since the report did not consider other viable alternatives for replacement and protection of the City's pipeline, such alternatives need to be considered and not casually dismissed.

Significance Criteria

On Draft EIS/EIR page 3.8-13, concerning Water Supply and Water Rights, under recognition of "significance criteria" the document states that impacts would be significant if they would result in the following:

- Causing injury to existing water rights or adjudicated claims.
- Decreasing water supplies beyond what is needed for public health and safety (i.e., needs for drinking water and fire suppression) for the current population.

Since the Draft EIS/EIR does not adequately evaluate the full range of potential impacts to the City's water system, that document can not conclude that the impacts of the project, as proposed, relative to the City's water rights and water supplies will be less than significant. Furthermore, the listed significance criteria should have included impacts that may decrease permitted water supplies to meet planned growth. The City's current general plan is predicated on having an adequate future supply of water from Fall Creek, and the Draft EIS/EIR has not alleviated concern that the City's water resources to meet planned growth may be significantly constrained by the proposed project.

Deferred Analysis

While project documents state general concern about protecting the City's water system, and have expressed the intent to do so, the process including the KHSA and the Draft EIS/EIR has deferred and therefore failed to adequately address the issue. As noted in the introductory statement above, the Draft EIS/EIR does virtually nothing to address concerns expressed in the KHSA about impacts to the City's water system that could result from removal of the dams. The EIS/EIR should have done more to address the concerns expressed (but nonetheless deferred) in KHSA Section 7.2.3, Assessment and Mitigation of Potential Impacts to the City of Yreka. (KHSA, page 46) Again for emphasis, as noted above, the KHSA states: "As part of implementation of this Settlement, an engineering assessment to study the potential risks to the City of Yreka's water supply facilities as a result of implementation of Facilities Removal shall be funded and conducted by the Secretary." Such a study, which would be both an

engineering assessment and an impact analysis of "potential risks", needs to be conducted and incorporated into the Draft EIS/EIR.

Furthermore, we can note the vague proposal in the KHSA that, "Actions identified in the engineering assessment necessary to assure continued use of the existing, or equivalent replacement, water supply facilities by the City of Yreka shall be funded from the California Bond Measure and implemented." (KHSA page 46) This amounts to admission in the KHSA that removal of the dams may require mitigation to assure continued use of the existing water supply facilities, or require equivalent replacement of those facilities. But the Draft EIS/EIR makes no effort to identify and evaluate what those impacts may be. Also, the City has no assurance that such a Bond Measure will be approved, and neither the KHSA nor the Draft EIS/EIR explain how the impacts will be mitigated if the Bond funds are not approved.

Quite simply, the Draft EIS/EIR fails to take this timely and, I would contend, legally required opportunity under NEPA and CEQA to adequately address the potential impacts of the project on the City's water system, nor does that document consider and assure adequate mitigation measures for such impacts.

Pipeline Replacement

In Draft EIS/EIR Section 3.8, Water Supply/Water Rights (page 3.8-14), the analysis concludes that the water supply for Yreka, which is obtained from Fall Creek, would be unaffected by the relocation of the pipeline and relocation work, and that relocation of the Yreka Pipeline would result in no change from existing conditions. Obviously, the relocation of the pipeline onto a bridge across the river will change existing conditions by exposing the pipeline (which is currently underground or underwater) and rendering it vulnerable to vandalism and other damage that would threaten the City's water supply.

The Draft EIS/EIR does not adequately support its conclusion that there would be no change from existing conditions from flood risks from the relocation of the Yreka water supply pipeline. (Draft EIS/EIR Page 3.6-32 and Page 3.6-38) It apparently bases that conclusion only on how the crossing might affect flooding, but does not evaluate how the proposed change in how the pipeline crosses the river will impact the vulnerability and security of the City's critical water resource. That is a disturbing omission.

In Section 3.6, Flood Hydrology, the analysis briefly considers the potential for the relocation of the Yreka water supply pipeline to affect river flows and result in changes to flood risks. (EIS/EIR Page 3.6-32 and Page 3.6-38) It states that the pipeline could either be suspended from a pipe bridge across the river near its current location, or rerouted along the underside of the Lakeview Bridge (an alternative which is not even considered in the Final Alternatives Report) just downstream of Iron Gate Dam. The document states that the pipe bridge would be located above the 100 year flood line as the intention is to prevent the pipeline from being exposed to high velocity flows. The Section concludes that there would be no change from existing conditions from flood risks from the relocation of the Yreka water supply pipeline.

Actually, concerning a Lakeview Bridge alternative, I see no description or discussion in the Final Alternatives Report about an alternative that would take the City's pipeline west and cross the river by suspending it from the existing Lakeview Bridge, or from a possible new concrete replacement of the existing bridge. Mention of such an alternative simply emerges in numerous places in the Draft EIS/EIR.

That alternative (if we can call it that) is so problematic that it is questionable why it was considered at all. In any event, the references to possibly rerouting the water line west to the Lakeview Bridge fail to adequately consider the full impacts and costs of such a substantial change. Other than the possible construction of the crossing itself relative to the existing bridge, or possibly to a new "Lakeview Bridge", virtually nothing is said about the costs and environmental impacts of obtaining new easements and rerouting miles of pipeline to accommodate the new crossing, and then the formidable task of reconnecting the waterline to the City's system. Nor does the Draft EIS/EIR identify or evaluate the impacts of such a significant change on other design components and operational aspects of the City's water system, such as the need for additional pumping facilities and related costs.

As has been addressed in the letter from PACE Engineering (dated November 7, 2011), I too have concerns about the lack of information in the Draft EIS/EIR concerning the design of the proposed pipe bridge. I feel that the Draft EIS/EIR does not adequately evaluate the vulnerability of such an exposed crossing, and that there is a glib dismissal of other reasonable alternatives to bury the pipeline because, "the likelihood of encountering bedrock is high". (Appendix A, Page 5-13) Such an unspecified "likelihood" of bedrock is not an adequate reason to dismiss viable and perhaps preferred pipeline alternatives such as directional drilling or bore and jack installation which might better mitigate the potential impacts (e.g., the vulnerability of the City's water system on a exposed pipeline bridge).

Also, the Draft EIS/EIR, while it briefly mentions the interruption of water supply that will occur when the proposed new pipeline would be connected to the City's system, the details and significance of that interruption warrant more explanation and possibly mitigation to supplement the City's storage capacity. (Draft EIS/EIR page 3.18-19) The document too quickly and casually concludes that there would be no significant disruption of supply.

Furthermore, with all of the attention given these days to climate change, it is irresponsible for the Draft EIS/EIR to assume that designing a pipeline bridge to cross the Klamath River (which would presumably be unchecked because of the removal of the dams) for a 100-year storm event will adequately protect the City's critical waterline from inevitably larger storm events. A pipeline crossing designed for less than a 500-year event, including climate change variables, fails to adequately assure the City that the sole source of water to the community will be protected and secure from a devastating event that would, if it were to occur, take months to repair with prolonged interruption of water supply to the City.

Impacts from increased competition for water resources

It is my opinion that the Draft EIS/EIR does not adequately consider or mitigate for the impacts to the City's water resources that would result from the expected increase in the competition for water resources that can be expected relative to proposed habitat restoration on Fall Creek and/or Jenny Creek. The KHSA Appendix D states, "Additionally, if anadromous fish have passage to the Fall Creek following removal of the California dams, flows will be provided in the Fall Creek bypass reach to provide for the appropriate habitat needs of the anadromous fish species of any kind that are naturally and volitionally present in the Fall Creek bypass reach. Flows will be based on species specific habitat needs identified by the IMIC [Interim Measures Implementation Committee]." (KHSA page D-5)

Two main scenarios related to this change in conditions are possible, if not likely, and are not addressed in the Draft EIS/EIR. One is that the City (or PacifiCorp) will be increasingly pressured by state and/or federal agencies to bypass more water to satisfy habitat enhancement objectives. This will happen at times (late summer and early fall) when the City is most in need of ample water supply. The second possible scenario is that, in an effort to enhance habitat on Jenny Creek (which, like Fall Creek, would become habitat for anadromous fish after the removal of Iron Gate Dam), PacifiCorp will be pressured to stop or to reduce its diversion from Spring Creek, which is otherwise a tributary to Jenny Creek. As noted in this letter's background section, the current diversion of Spring Creek by PacifiCorp (up to 16.5 cfs) to Fall Creek is an important supplement to the flow of Fall Creek and the amount of water that is currently available both for the City's permitted diversion as well as habitat values on Fall Creek.

As noted above in the explanation of how the City obtains water from Fall Creek, during the late summer and fall months in low flow years (as indicated in Table 1 by the recorded "minimum" averages), monthly average flows as low as 24 cfs have been recorded in the months of June, July, August and September. At a flow of 24 cfs, the City's permit condition requiring bypass of 15 cfs would permit the City to divert not more than 9 cfs at a time of year when the City needs its full 15 cfs most. A flow of at least 30 cfs is needed for the City to intake 15 cfs and bypass 15 cfs . Furthermore, if PacifiCorp was to stop diverting water from Spring Creek (up to an allowed 16.5 cfs as noted above), the diminished flow of Fall Creek would further constrain the City's ability to intake 15 cfs.

The Draft EIS/EIR does not evaluate how removal of the dams will affect the quantities of water that will be needed by the various interests from Fall Creek, Jenny Creek and Spring Creek, and how the increased competition for water may adversely affect the City's reliance on those resources for current as well as planned future growth per the City's general plan. Consequently, the Draft EIS/EIR does not adequately consider mitigation measures that may be needed to compensate the City for adverse changes and impacts.

Mitigation Responsibilities Expected to be Shifted onto the City

Unfortunately for the City, because of the failure of the KHSA and the Draft EIS/EIR to adequately address the impacts of dam removal on Fall Creek and the City's water resources, it is expected that the burden of evaluating related changes affecting the resource will be passed on to the City. As a case in point, the City is currently working with the California State Water Resources Control Board, Division of Water Rights, to update the City's water rights from Fall Creek (permit 15379). The City needs to extend the time limit by which the City can divert up to 6,300 acre feet per year, as was approved in its original water right granted in 1967, as opposed to possibly being limited to a lesser amount because the City did not utilize the full amount by 2005. The City contends that the City will eventually need the full amount of water to support the growth that is anticipated in its General Plan, and that there will be a substantial burden on the City if it must develop alternate water resources. However, it appears that the State may place the burden on the City to evaluate the environmental impacts, largely because of concerns that the potential removal of Iron Gate Dam may change the circumstances of the City's diversion from Fall Creek (e.g., the potential influx of anadromous fish).

Therefore, in spite of statements in the KHSA that the parties shall agree not to oppose the City of Yreka's continued use of California State Water Right Permit 15379, which provides for the diversion of up to 15 cfs (KHSA page 46), the City is already required to bypass water for habitat enhancement and the City expects to be increasingly required to defend its 1965 water permit for use of 15 cfs and utilization of the full 6,300 acre feet per year because of the possibility that Iron Gate Dam may be removed.

It is ironic and unjust that it is just such a change in conditions and circumstances concerning the impacts of dam removal affecting the City's water rights that first the KHSA and now the Draft EIS/EIR for Klamath Facilities Removal have failed to adequately evaluate. How will the removal of Iron Gate Dam affect the City's ability to obtain and sustain its water resources (i.e., up to 15 cfs and up to 6,300 acre feet per year)? The Draft EIS/EIR fails to evaluate those impacts. But it is expected that resource agencies will be quick to challenge the City to document how its use of water may impact fishery resources in the event that the dams are removed. The City expects that the burden will ultimately be placed on the City to mitigate the impacts of the City's water rights on the habitat values of Fall Creek, rather than the EIS/EIR fulfilling its NEPA and CEQA responsibilities to evaluate the impacts that removal of the dams will have on existing conditions, including the City's water resources.

In closing, it is my summary opinion that there is virtually no adequate analysis of the potential impacts on the City's Fall Creek water supply in the Draft EIS/EIR to support the document's attempted conclusion that, "The deconstruction of Iron Gate Dam would have a less than significant impact on the City's water supply". (page 3.18-19) Such a conclusion, as well as other conclusions in the document about the absence of particular significant impacts on the City's water supply, are inadequate and unacceptable without the engineering and impact assessment that was admitted to be needed in the KHSA. Again, such an assessment could have and should have been completed prior to or as part of the EIS/EIR process. If there is any justifiable reason why the assessment was not completed and used for the NEPA/CEQA analysis, than so too should any conclusion be postponed concerning the significance or insignificance of the project's impacts on the City's water supply until an adequate assessment can be completed and appropriate mitigation measures proposed as needed.

Please let me know if you have any questions concerning these comments. I hope that the observations that I've made and opinions I've expressed are helpful to the City in preparing its comments in review of the Draft EIS/EIR. The proposed project has important ramifications to the City and the security of its water resource for years to come, and the agencies responsible for the document need to be more attentive and responsive in fully evaluating the potential impacts and adequately fulfilling their respective NEPA and CEQA duties.

Sincerely,

Merle Anderson, AICP
PMC Senior Planner

OCT 12 2004

Bradley G. Bledsoe Downes, Esq.
Dorsey & Whitney LLP
38 Technology Drive
Irvine, CA 92618

Dear Mr. Downes:

On June 12, 2003, on behalf of the Karuk Tribe of California (Tribe or Karuk), you requested that the National Indian Gaming Commission (NIGC) issue an Indian lands determination pursuant to the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §2719. You submitted a discussion of the restored lands exception under section 2719 as well as materials in support of the Tribe's claim that the exception applied. Additionally, on February 5, 2004, you submitted supplemental information at the request of John Hay. The Office of General Counsel has evaluated the Tribe's submission and determined that the land in question would not fall within the "restored lands" exception to section 2719's prohibition against gaming on trust land acquired after October 17, 1988.

Background

The Tribe provided historical background on the Tribe as well as information on the tribe's land acquisitions. The Karuk have 3,222 enrolled members, approximately one-third of whom reside in Siskiyou County. At issue is an approximately 200 acre parcel of land ("Yreka Property") located in the city of Yreka, Siskiyou County, California.

The Karuk began efforts in 1978 to receive Federal recognition. In November 1978, the Bureau of Indian Affairs Central Office (BIA) staff conducted a field trip to Northern California. The BIA determined that the aboriginal subentities of the tribe consisted of three communities located in Happy Camp, Orleans, and Siskiyou (Yreka). See 13 IBIA 76, 78; 1985 WL 69127 (I.B.I.A.). The Assistant Secretary for Indian Affairs, in a memorandum entitled "Revitalization of the Government-to-Government Relationship Between the Karok (sic) Tribe of California and the Federal Government," notified the local offices of the Bureau of Indian Affairs on January 15, 1979, that:

> Based on the findings collected . . ., the continued existence of the Karoks as a federally recognized tribe of Indians has been substantiated. In light of this finding, I am directing that the government-to-government relationship, with attendant Bureau services within available resources, be re-established.

NATIONAL HEADQUARTERS 1441 L St. NW, Suite 9100, Washington, DC 20005 Tel: 202.632.7003 Fax: 202.632.7066 www.nigc.gov

REGIONAL OFFICES Portland, OR; Sacramento, CA; Phoenix, AZ; St. Paul, MN; Tulsa, OK

EXHIBIT "D"

67 Fed. Reg. 46328-46333 (2002).

The Tribe acquired land in trust in 1979 via Gift Deed from the State of California to the United States for land located in Happy Camp, California. The Tribe also acquired several parcels of land in trust in Happy Camp, California in 1987. Additionally, the Tribe acquired a parcel of land located in Yreka, Siskiyou County ("1989 Trust Land"), that was then accepted in trust by the United States for the benefit of the Tribe on April 26, 1989. In addition to the properties detailed above, the Tribe, throughout the 1990's, acquired numerous other parcels of land in both Siskiyou and Humboldt Counties, that are now held in trust. In 1997 the Tribe acquired additional land ("Yreka Property") contiguous to the Tribe's 1989 Trust Land. The Department of the Interior accepted the Yreka Property in trust in March 2001. It is this property on which the Tribe now wishes to conduct gaming. Because this parcel was taken into trust after October 17, 1988, for gaming to be legal under IGRA, it must fall within one of IGRA's exceptions to the prohibition on gaming on lands acquired into trust after October 17, 1988.

The Tribe submitted the following in support of its claim that the parcel in question was restored: Request for Indian Lands Determination, Dated June 12, 2003; 1989 Trust Land Legal Description; Yreka Property Legal Description(s); Parcel Map; Treaty R (unratified); Schedule of Indian Land Cessions; California Map; Revitalization Memorandum; Karuk Tribal Constitution & Bylaws; Notice of Proposed Decision – November 2000; Near Reservation Designation; Karuk Tribal Housing Authority Ordinance; Cooperative Agreement; Karuk Tribal Sales Tax Ordinance; Karuk Tribal Prevailing Wage Ordinance; Karuk TERO; Karuk Tribal Election Ordinance; 1987 Tribal Resolution; table listing all tribal property; Gift Deed dated August 22, 1979; Grant Deed dated March 6, 1987; maps for Holmes, Borg & Bowers parcels; map for Tebbe parcel; map titled O'Hair annexation; aerial photograph of Karuk land in Yreka; Deed Dated March 24, 1999; Deed Dated May 6, 1999; and a Deed Dated May 6, 1999 for assessors parcel number 062-151-490.

Lands Acquired in Trust by the Secretary After October 17, 1988

Under Section 2719(a) of IGRA, gaming is prohibited on lands acquired by the Secretary of the Interior into trust for the benefit of an Indian tribe after October 17, 1988, unless the land falls within certain exceptions listed in 25 U.S.C. § 2719(b). Accordingly, we must review the exceptions to determine whether a tribe can conduct gaming on after-acquired trust lands.

The Tribe contends that the proposed site meets the requirements of the exception set forth at 25 U.S.C. § 2719(b)(1)(B)(iii) – "restoration of lands for an Indian tribe that is restored to Federal recognition" – and therefore is outside the proscriptions on after-acquired land. To determine whether the Tribe meets the restoration exception we must determine, first, whether the Tribe is a "restored" tribe and, second, whether the land was taken into trust as part of a "restoration" of lands to the Tribe.

"Restored" Tribe

The key terms, "restored" and "restoration" are not defined in the text of IGRA. Nor are they defined in the various federal regulations issued by the NIGC and the Department of the Interior to implement IGRA.

The U.S. District Court for the Western District of Michigan addressed the definition of "restored" and "restoration" in *Grand Traverse Band of Ottawa and Chippewa Indians v. United States Attorney*, 198 F. Supp. 2d 920 (W.D. Mich. 2002); aff'd, 369 F.3d 960 (6th Cir. 2004). At issue was whether the Grand Traverse Band was a restored tribe and whether the parcel on which gaming was conducted were restored lands. The *Grand Traverse* court held that both "restored" and "restoration" should be given their ordinary meaning ("In no sense has a proprietary use of 'restore' or 'restoration' been shown to have occurred." *Id.* at 931). Applying the ordinary meaning of the words, the court concluded that the Band's history showed that the Band was in fact restored:

> In sum, the undisputed history of the Band's treaties with the United States and its prior relationship to the Secretary and the BIA demonstrates the Band was recognized and treatied with by the United States . . . Only in 1872 was the relationship administratively terminated by the BIA. This history – of recognition by Congress through treaties (and historical administration by the Secretary), subsequent withdrawal of recognition, and yet later re-acknowledgment by the Secretary – fits squarely within the dictionary definitions of "restore" and is reasonably construed as a process of restoration of tribal recognition. The plain language of subsection (b)(1)(B) therefore suggests that this Band is restored.

Grand Traverse Band at 933.

An examination of the Karuk history shows that it is similar to the pattern in the case of Grand Traverse Band. However, there does not seem to be any evidence that this relationship was ever administratively terminated as in the Grand Traverse case. The Karuk entered into a treaty with the United States in 1852. The United States dealt with the Tribe as a government entity in an effort to convince them to settle on the Hoopa Valley Reservation. Though these efforts failed, the United States continued to provide benefits to individual members of the Tribe but did not appear to have any further dealings with the Tribe as an entity. Then, in 1979, by action of the Secretary, the government-to-government relationship was "re-established" with the Tribe.

Based on the fact that the Tribe negotiated treaties with the United States it can clearly be stated that there existed a government-to-government relationship at one time. However, the Tribe provided no evidence of any affirmative action by the United States to terminate the relationship with the tribe. In other words, we have no evidence supporting a conclusion that the United States withdrew its recognition of the Tribe. The

information provided by the Tribe states only that while the United States provided benefits to individual tribal members that it had no dealings with the Tribe as a distinct entity. The Tribe has provided a memo dated January 15, 1979, from the Assistant Secretary for Indian Affairs to the Sacramento Area Director instructing that the government-to-government relationship be re-established and that the tribes name is to be added to the list of federally recognized tribes. The memo states:

> Based on the findings collected. . ., the continued existence of the Karoks (sic) as a federally recognized tribe of Indians has been substantiated. In light of this finding, I am directing that the government-to-government relationship, with attendant Bureau services within available resources, be re-established

67 Fed. Reg. 46328-46333 (2002).

However, no information has been provided to substantiate a claim that the United States terminated the relationship with the tribe. Therefore, without more, we are not prepared to find that the Tribe qualifies as "an Indian tribe that is restored to Federal recognition" under 25 U.S.C. § 2719(b)(1)(B)(iii).

Restoration of Lands

Even if we could conclude that the Tribe is "restored" within the meaning of IGRA, we could not conclude that the land at issue was "taken into trust as a part of . . . the restoration of lands for an Indian tribe that is restored to Federal recognition." 25 U.S.C. § 2719(b)(1)(B)(iii).

Federal courts, the Department of the Interior, and NIGC have recently grappled with the concept of restoration of land. In so doing, they established several guideposts for a restoration-of-land analysis. First, "restored" and "restoration" must be given their plain, primary meanings. *Grand Traverse Band II at 928(W.D. Mich 2002)* aff'd, 369 F.3d 960 (6th Cir. 2004); *Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians v. Babbitt ("Coos")*, 116 F. Supp.2d 155, 161 (D.D.C. 2000). In addition, to be "restored," lands need not have been restored pursuant to Congressional action or as part of a tribe's restoration to federal recognition. *Grand Traverse Band of Ottawa and Chippewa Indians v. United States Attorney for the Western District of Michigan ("Grand Traverse Band I")*, 46 F. Supp.2d 689, 699 (W.D. Mich. 1999); *Coos* at 164. The language of section 2719(b)(1)(B)(iii)—"restoration of lands for an Indian tribe that is restored to Federal recognition"—"implies a process rather than a specific transaction, and most assuredly does not limit restoration to a single event." *Grand Traverse Band II* at 936; *Grand Traverse Band I* at 701.

Nonetheless, there are limits to what constitutes restored lands. As NIGC stated in the Grand Traverse Opinion, "[W]e believe the phrase 'restoration of lands' is a difficult hurdle and may not necessarily be extended, for example, to any lands that the tribe conceivably once occupied throughout its history." NIGC Grand Traverse Opinion,

dated August 31, 2001, at p. 15; *see also* Office of the Solicitor's Memorandum Re: *Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians v. Babbitt* (Office of the Solicitor's Coos Opinion) ("It also seems clear that restored land does not mean any aboriginal land that the restored tribe ever occupied," p. 8).

The courts in *Coos* and *Grand Traverse Band I* and *II* noted that some limitations might be required on the term "restoration" to avoid a result that "any and all property acquired by restored tribes would be eligible for gaming." *Coos* at 164; *Grand Traverse Band I* at 700; *see also Grand Traverse Band II* at *934-935 ("Given the plain meaning of the language, the term 'restoration' may be read in numerous ways to place belatedly restored tribes in a comparable position to earlier recognized tribes while simultaneously limiting after-acquired property in some fashion") aff'd, 369 F.3d 960 (6th Cir. 2004). All three courts proposed that land acquired after restoration be limited by "the factual circumstances of the acquisition, the location of the acquisition, or the temporal relationship of the acquisition to the tribal restoration." *Id.*

In addition to the above referenced sources, we also consulted our restored lands opinions with regard to the Bear River Band of Rohnerville Rancheria, (See Memorandum from NIGC Acting General Counsel to NIGC Chairman Deer, Re: Whether gaming may take place on lands taken into trust after October 17, 1988, by Bear River Band of Rohnerville Rancheria, dated August 5, 2003) (NIGC Rohnerville Opinion); the Mechoopda Indian Tribe of Chico Rancheria (See Memorandum from NIGC Acting General Counsel to NIGC Chairman, Re: Whether gaming may take place on lands taken into trust after October 17, 1988, by the Mechoopda Indian Tribe of the Chico Rancheria, dated March 14, 2003) (NIGC Mechoopda Opinion); and the Wyandotte Tribe, (See Memorandum from NIGC Acting General Counsel to NIGC Chairman Hogen, Re: Legality of Gaming Under IGRA on the Shriner Tract owned by the Wyandotte Tribe, dated March 24, 2004)(NIGC Wyandotte Opinion).

In this case, these factors (factual circumstances, location and temporal relationship) and our review of agency and judicial precedent lead us to conclude that the Tribe's land acquisition is not a "restoration."

1. Factual Circumstances of the Acquisition

The Tribe acquired the Yreka parcel, approximately 200-acres in 1997. The Tribe conveyed the parcel to the United States in May 1999. The Department of Interior accepted the parcel in trust in March 2001. The Tribe's acquisition arose in the following context:

Between 1985 and 1987 the Tribe acquired three parcels of land. In 1987 and 1988, the Tribe applied for the three parcels to be acquired in trust by the United States for the benefit of the Tribe. Those three parcels are located in Happy Camp, California, along the Klamath River east of Happy Camp, and in Yreka, California.

In 1987, the Tribe applied for and received funding from the Department of Housing and Urban Development for the purchase of land ("1989 Trust Land"). On May 3, 1988, the Tribe conveyed the land to the United States to be held in trust. The parcel was accepted in trust in April 1989.

The Yreka Parcel is contiguous to the 1989 Trust Land. Similarly, it was acquired through funding provided by the Department of Housing and Urban Development for the purpose of providing additional housing to Tribal members.

"Restoration" denotes a taking back or being put in a former position. *Coos* at 162. It might mean "reacquired." *Id.* ("The 'restoration of lands' could be construed to mean just that; the tribe would be placed back in its former position by reacquiring lands.") In any event, "restoration" does not mean, "acquired." We therefore must look further for indicia that the land acquisition in some way restores to the Tribe what it previously had.

2. Location

Restored lands may include off-reservation parcels; however, there must be indicia that the land has in some respects been recognized as having a significant relation to the Tribe. *Grand Traverse Band I* at 702. In *Grand Traverse II*, the court held that the lands at issue were restored because they lay within counties that had previously been ceded by the tribe to the United States. *Grand Traverse Band II* at 936. This ruling was consistent with its opinion in *Grand Traverse I*, in which the court stated that the land's location "within a prior reservation . . . is significant evidence that the land may be considered in some sense restored." *Id.* In its *Grand Traverse Opinion*, NIGC further found that restoration was shown by the Band's "substantial evidence tending to establish that the . . . site has been important to the tribe throughout its history and remained so immediately on resumption of federal recognition." Grand Traverse Opinion at 15. The tribe's history includes the ceding of that site to the United States by the ancestors of the present tribe in an 1836 treaty. *Id.* at 9-10, 16. As a result, NIGC concluded that the Band had a "historical nexus" to the land. *Id.* at 17.

A.L. Kroeber, a noted ethnologist, observed that there were at least three Karuk towns that were located at the mouths of Camp Creek, Salmon River, and Clear Creek. Kroeber, A.L., *Handbook of the Indians of California*, Smithsonian Institution, Bureau of American Ethnology, Bulletin 78, p. 99 (G.P.O. 1923). The Tribe used the tributaries of the Klamath River for hunting and gathering territories. *Id.* at 100. Kroeber observed:

> The land of the Karok is substantially defined by [an] array of villages along the Klamath. There were few permanent settlements on any affluents. All of these were owned by the Karok, and more or less used as hunting and food gathering territories to their heads; so that technically their northern boundary followed the watershed bordering the Klamath. The only exception was in the case of the largest tributary, the Salmon, about whose forks, a dozen miles up, were the Shastin Konomihu. The

> Karoks seem to have had rights along this stream about halfway up to the fork.
>
> *Id.*

In a treatise published 13 years after his Handbook, Kroeber identified a 60 mile stretch of the Klamath running from the Trinity River confluence east to at least a point east of what is now Happy Camp and opined that it is likely that the historic Karuk settlements were situated an additional 30 miles east on the Klamath, which includes that area where the Yreka parcel is located. Kroeber, A.L., Karok Towns, Univ. of California Publications in American Archaeology and Ethnology, Vol. 35, No. 4. pp. 29-38.

The Karuk lands and property were destroyed upon the arrival of "a swarm of miners and packers" in 1850 and 1851:

> The usual friction, thefts, ambushing and slaughters followed in spots. The two sacred villages near the mouth of the Salmon, and no doubt others, were burned by the whites in 1852; and a third, Orleans, was made into a county seat. There were, however, no formal wars; in a few years the smaller richer placers were worked out; . . . and the Karok returned to what was left of their shattered existence. Permanent settlers never came to their lands in numbers; the Government established no reservation and left them to their own devices; and they yielded their old customs and their numbers much more slowly than the majority of California natives.
>
> Handbook at p. 98.

Between March 19, 1851, and January 7, 1852, agents for the United States entered into 18 treaties with the "Indians of California." *See Thompson v. United States*, 122 Ct. Cl. 348 (Ct. CL. 1952). Lands constituting the Karuk Tribe's aboriginal territory were the subject of Treaty R, dated November 4, 1851. The Karuk and other Indians of California agreed to relinquish their claims to their aboriginal territory in exchange for reservations of land totaling an estimated 8,518,900 acres pursuant to the 18 unratified treaties. *See Indians of California v. United States*, 102 Ct.Cl. 837 (Ct.Cl. 1944). Unfortunately, this treaty does not specify which of the 8,518,900 acres belonged to the Karuk and which were attributed to the other Tribes signing the treaty

The Tribe provided the Schedule of Indian Lands Cessions that records their reservation of land and cession of its claim to "all other territory" under the unratified treaty. The record shows a cession of claims to territory noted as "306"and reserved lands as "305" on a map of California. Again, it is not clear from these records which of the area was specifically attributed to the Karuk.

In its Notice of Proposed Decision to take the Yreka parcel into trust dated November 3, 2000, BIA Regional Director Ronald Jaeger stated that, "Within the Karuk's ancestral territory and neighboring areas, many tribal trust parcels are located

within the Siskiyou and Humboldt County boundaries. One tract is within the city limits of Yreka . . ." However, this proposed decision is not clear as to whether the parcel in question is ancestral territory or a neighboring area and is therefore not helpful to our analysis.

In our Rhonerville opinion, we found that the Tribe has a longstanding historical and cultural connection to the parcel at issue. The parcel was located within one mile of two aboriginal villages and two major trails. It was located within three miles of five aboriginal villages. Also within three or four miles from the parcel was the site of a mythic flood in a tribal story telling. Furthermore, the parcel was located 6 miles from the tribe's original Rancheria, which was purchased by the United States for the Rohnerville Indians in 1910. The Rhonerville Tribe was terminated in 1962, and the Rancheria was divided and distributed to individual Indians. At the time the Rancheria boundaries were re-established in 1983, there were still 6 acres in individual Indian ownership. We found that, based on this information, the area had historical and cultural significance to the Tribe. It was also important in our determination that tribal members resided on the original Rancheria at the time of termination. Rhonerville Opinion at 10.

In contrast, we do not find that the Tribe has a sufficient historical nexus to the Yreka parcel to qualify it as restored land. The evidence provided by the Tribe that the parcel was once the location of aborginal settlements is scant and based largely on the speculation of an ethnologist who stated that it is "likely" that there existed tribal settlements in the parcel area. Additionally, the Tribe has not provided evidence that the parcel remained important to the tribe throughout history.

3. Temporal Relationship of Acquisition to the Tribal Restoration

Although the Karuk were not located on a reservation, no attempt was made to purchase land to establish a reservation for the Karuk. The federal government had attempted to relocate the Karuk from the upper Klamath River region to the Hoopa Valley Reservation with no success. *See Karuk Tribe v. United States*, 41 Fed. Cl. 468 at 469-470 (Ct. Cl. 1998). The Karuk people refused to be relocated and retreated to the high ground away from the Klamath River. *See Karuk Tribe of California v. United States*, 209 F.3d 1366, 1379 (Fed. Cir. 2000).

From the time that the Karuk as a group refused to move to the Hoopa Valley reservation to the filing of the litigation in *Short v. United States*, 202 Ct. Cl. 870 (Ct. Cl. 1973), the Karuk existence as a separate tribal entity was in limbo and largely entangled in the Hoopa – Yurok and Karok (sic) land disputes.

The Karuk began efforts in 1978 to reestablish government-to-government ties. In November 1978, the Bureau of Indian Affairs Central Office staff conducted a field trip to Northern California. The BIA determined that the aboriginal subentities of the tribe consisted of three communities located at Happy Camp, Orleans, and Siskiyou (Yreka). *See* 13 IBIA 76, 78, 1985 WL 69127 (I.B.I.A.). However, the BIA made no

determination as to the significance of these communities throughout the history of the Tribe.

If we were able to conclude that the Tribe was restored in 1979, we would look to the history of the Tribe's land acquisitions. The land at issue was acquired in 1997, and was taken into trust in 2001. According to the list of tribal property supplied by the tribe, the tribe had four parcels of land held in trust prior to 1988. Between 1989 and the present, it appears that the tribe has placed an additional seven parcels of land in trust. The tribe also holds numerous other lands in fee. The parcel at the heart of this determination was taken in to trust in 2001.

At the heart of this inquiry is the question of whether the timing of the acquisition supports a conclusion that the land is restored. In its Office of the Solicitor's Coos Opinion, the Department of the Interior found that a fourteen-year lapse between a tribe's restoration and the acquisition of land into trust did not foreclose a finding that the land was restored. The Associate Solicitor reasoned that, "the mere passage of time should not be determinative" and that "the Tribes quickly acquired the land as soon as it was available and within a reasonable amount of time after being restored." Likewise, the NIGC in its Mechoopda Lands Opinion found that a nine-year lapse between restoration and acquisition was sufficient to establish a sufficient "temporal relationship." The NIGC placed significant weight on the fact that it was the tribe's first land acquisition after being restored. More recently, the NIGC in its Wyandotte Lands Opinion found that an 18 year passage of time was too long to be considered a restoration.

We conclude that the facts surrounding the timing of the acquisition do not support a determination of "restored land." To the extent that we could conclude that the Tribe was restored, the land was still acquired eighteen years after the government-to-government relationship was re-established. It was then another four years before the parcel was taken into trust. Assuming, that the 1979 re-establishment of government-to-government relations is the only possible date for a tribal restoration, the twenty-two-year gap, coupled with the fact that the tribe acquired numerous other parcels of land in trust, during the interim, leads us to conclude that there is not a sufficient "temporal relationship" between any restoration and the lands acquisition. Perhaps if the Tribe met the other factors, we might be willing to push the outer limits of what has previously been considered an acceptable delay. However, that is not the case here. Furthermore, here, the Tribe acquired many parcels of land soon after its relationship with the federal government was re-established. We conclude that, if any land were to be considered restored, it would be the earlier intervening land.

Conclusion

A close examination of the documentation submitted shows that the Tribe does not have a sufficient "temporal relationship" nor is there a sufficient "historical nexus" to fall within the restored lands exception to Section 2719. Further, while not dispositive, the materials submitted by the Tribe raise questions as to whether it was truly restored. The Tribe may not therefore lawfully conduct gaming on its proposed site.

The Office of the Solicitor concurs with this opinion. If you have any questions, John Hay, Staff Attorney, is assigned to this matter.

Sincerely,

Penny J. Coleman

Penny J. Coleman
Acting General Counsel

City of Yreka
701 Fourth Street • Yreka, CA 96097
(530) 841-2386 • FAX (530) 842-4836

May 5, 2011

Gordon Leppig
Staff Environmental Scientist
California Department of Fish and Game
619 Second Street
Eureka, CA 95501

RE: Request for Information on Cumulative Projects

Dear Mr. Leppig:

Thank you for this opportunity to continue to participate in the environmental review for the Environmental Impact Statement / Environmental Impact Report (EIS/EIR) on whether to remove dams on the Klamath River in California and Oregon project. The City of Yreka is very concerned that there will be significant direct and indirect impacts associated with implementation of the proposed action. Rural communities rely on a very slim budget margin to provide essential services. Money spent by tourists in and around the City of Yreka makes up a substantial percentage of the city's general fund revenue. With restrictions on access to the national forest, and now the potential removal of two significant water features, the city believes that it will experience a significant decline in tourism, and the associated revenue.

While this letter attempts to quantify the city's concerns, we believe it will be very difficult to know the full extent of some of the impacts.

1. The City of Yreka receives a substantial portion of its General Fund from tourism. The revenues are more than simple Transient Occupancy Tax (TOT) for a hotel, which in 2009/2010 amounted to $588,000 and is approximately 12% of the General Fund revenue, but extends to food (both restaurants and grocery stores), gas, and other retail sales in the city. Unlike some of the other revenues received by the city, tourism dollars directly affect the General Fund which is used to pay for police services, as well as public works, road maintenance and community enhancement. A substantial reduction in tourism will result in less general fund revenue that could lead to physical blight in the community and a general degradation of the quality of life in Yreka.

2. Reducing the ability of the city to manage the community and provide public safety has a compounding affect on other harder to measure issues. For example, a loss in tourism will lead to closure of locally owned businesses and likely result in boarded-up buildings, unkempt lots and a general decline in the

EXHIBIT "E"
P.61

commercial infrastructure. From experience we know that a poor economic outlook discourages future investment. Without that investment the city will not realize the anticipated population growth, and would have difficulty meeting its financial obligations. For example the city has recently borrowed $6,810,000 to upgrade the water system. As only a small portion of the upgrades address future growth, the bulk of the loan must be paid through monthly user fees. A reduction in population would result in less revenue and the city would have to resort to using the General Fund to make its loan payments. As noted above, the General Fund would also be less due to the economic downturn brought about by the proposed action further burdening the residents of the city.

3. Elimination of the Copco reservoir will expose the city's only water source. The pipeline will need to be undergrounded, relocated or otherwise protected to ensure a safe and reliable water supply for the city. While we have regular projects underway that address our aging infrastructure, we have no project or funding source identified to protect our waterline under Copco reservoir should it become exposed. This would be a direct impact to the City of Yreka. Because of all of the other factors noted above, the city will be unable to pay for these modifications brought about by the proposed action.

We believe that consideration of these issues which can be directly linked to the proposed action is essential to understanding the full impact of the action on the City of Yreka. We note that fishing is not the only tourism draw to the area, and that replacing lake fishing with stream fishing would not address the other activities such as bird watching and hunting associated with migratory birds drawn to the water.

The city continues to be wary of this effort because we do not believe that all of the potential impacts can be known, and seemingly minimal effort has been spent solving issues that have been raised. While we have addressed some of our concerns in this letter, we cannot anticipate what future projects might be affected by the removal of these structures.

Attached is a City of Yreka Public Works list of Fall Creek Water Improvement Project components that might be affected by the project.

Again, we appreciate being kept informed of the process to date, and the opportunity to submit our comments.

Sincerely,

Steven Baker
City Manager

Summary of Fall Creek Water Improvement Project Components

1. Expand the Fall Creek Pump Station: Addition of the fourth pump to the Fall Creek Pump Station will increase its firm capacity to meet existing and future maximum daily demands (MDD's).

2. Filter Pump Station/Primary Coagulant Facilities: The primary coagulant would be added at the new facilities prior to a pipeline flocculator, thus converting from inline to direct filtration. This will allow CDPH to classify the plant as an approved technology, and thus meet the EPA's Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR).

The Filter Pump Station would be added immediately upstream of the primary coagulant injection point and increase the hydraulic capacity of the Fall Creek Transmission Main to meet existing and future MDD's.

3. Water Treatment Plant Upgrade: Two new filters measuring 8 feet in diameter by 33 feet in length would be added to provide for redundancy and nominal growth. Addition of magnetic flow meters and modulating control valves to the 8 existing filters will provide filtration and filter to waste flow control and prevent hydraulic overloading of the various filters. Conversion of the existing single bypass valve to a double-block and bleed configuration will provide a more positive separation between the existing raw and treated water mains.

Replacement of the 40-year old filter control panel and upgrading the existing SCADA system, including incorporation of the new Filter Pump Station/Primary Coagulant Facilities will increase operation flexibility and treatment system reliability and may reduce operation costs. Addition of a 60 KW Emergency Power Generator will improve flexibility and add reliability to the Water Treatment Plant (WTP).

4. 2.5 Million Gallon Clear Well: Addition of a Clear Well downstream of the WTP will provide a continuous flow of treated water into the system during the filter backwash periods and during periods of WTP shutdown due to extraordinarily high raw water turbidity, thus, increasing water system reliability.

5. Backwash Pond Improvements: Addition of a backwash containment tank with recycling of decanted water and sludge disposal to the existing pond system will bring the City into compliance with State regulations regarding discharges to surface waters.

6. Zone 1 and 3 Supply Mains: Replacement of an undersized pressure reducing station and undersized supply mains to Zone 1 and 3 will result in a significant energy savings and reduced operation costs for the City.

7. Supplemental Improvements: Rehabilitation of the Butcher Hill Reservoir by installing a concrete foundation will greatly increase its reliability and extend its useful service life. Likewise, upgrading the existing distribution system telemetry system will greatly increase the reliability of the overall water system and allow City staff to optimize the use of available storage capacity and minimize pumping energy use.

RESOLUTION NO. 2939

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YREKA JOINING IN EIR/EIS COMMENTS OF THE COUNTY OF SISKIYOU

WHEREAS, the Department of the Interior has recently released the Klamath Facilities Removal Public Draft Environmental Impact Statement/Environmental Impact Report; and,

WHEREAS, this Report will be used to inform the Secretarial Determination in conjunction with the Klamath Hydroelectric Settlement Agreement (KHSA) and the Klamath Basin Restoration Agreement (KHSA); and,

WHEREAS, the City of Yreka is in opposition to a determination that would result in the removal of the Klamath hydroelectric facilities; and,

WHEREAS, due to the lack of resources and other economic limitations, it is to the benefit of the City if it is allowed to participate in the comments of the County of Siskiyou,

NOW, THEREFORE, BE IT RESOLVED that the City of Yreka joins in the comments to be filed by the County of Siskiyou with respect to the Draft EIR/EIS involving the Klamath dams.

BE IT FURTHER RESOLVED that the City of Yreka authorizes a copy of this Resolution to be provided with the comments of the County of Siskiyou and filed concurrently therewith as evidence of the adoption of the County's comments as the comments of the City.

PASSED AND ADOPTED this 3rd day of November, 2011, by the following vote:

AYES: FOSTER, MCNEIL & SIMMEN
NOES: NONE
ABSENT: Bicego & MERCIER
ABSTAIN: NONE

Rory McNeil,
Mayor of the City of Yreka

APPROVED AS TO FORM:

Mary Frances McHugh, City Attorney

Attest:
Elizabeth E. Casson, City Clerk

\\GOLDNUGGET\USERS\MARYFRANCES\MY DOCUMENTS\DOCUMENTS_WATER\FALL CREEK\SECRETARIAL DETERMINATION KHSA-KBRA\CITY OF YREKA RESOLUTION RE JOINDER KLAMATH FACILITIES REMOVAL PUBLIC DRAFT EIS-EIR.DOC

EXHIBIT "F"
P.64

Mary Frances McHugh

From: Rob Taylor
Sent: Tuesday, January 11, 2011 10:00 AM
To: 'manderson@pmcworld.com'
Subject: FW: Fall Creek Intake Dwgs

From: Hepler, Thomas E [mailto:THepler@usbr.gov]
Sent: Wednesday, October 27, 2010 9:31 AM
To: Rob Taylor
Subject: RE: Fall Creek Intake Dwgs

Thanks for your responses. Would you mind providing GPS coordinates for us? Stand on what you believe to be pipe centerline (or are there any vertical access risers?) on either side of the river and get GPS for those locations. That would be adequate for our designs now.

Anything you can provide us from PACE would be welcome as well. What level of flood protection would City require for this pipeline?

Thanks.

Tom Hepler
10/27/2010

From: Rob Taylor [mailto:rtaylor@ci.yreka.ca.us]
Sent: Monday, October 25, 2010 3:05 PM
To: Hepler, Thomas E
Subject: FW: Fall Creek Intake Dwgs

Hi Tom,
I apologize for taking so long to get back to you.

1. ***Average diversion discharge through city water supply pipes, or normal operating range (including pipe from Dam B, as well as main line crossing Iron Gate).***
   15 cfs is our water right and our design capacity. I have attached a spreadsheet that shows our current and historical water usage. The "Raw (MG)" column is read on the meter at the pump plant (as the pumped water leaves the building) and represents the amount of water diverted from Fall Creek and the water that crosses Iron Gate. We do not take water from the B Dam under normal conditions and I don't believe that there is sufficient flow from the B Dam to draw from it exclusively at this time since most of the water is diverted through the powerhouse. The only time that we do take water from the B Dam is when PP&L does its annual diversion canal maintenance. The maintenance lasts for about 2 weeks and is usually done in the early summer. During maintenance, PP&L diverts all water from the canal to the Fall Creek channel and we open the valve at the B Dam so that the water will flow from the B Dam to the A Dam impoundment.
2. ***Normal operations of spillway and sluice gate at Dam A, which control water surface at intake building.***
   We operate the sluice gate so that water is always flowing over the spillway and the water level stays the same. The sluice gate is typically only open a few inches to keep submerged debris from building up in the bottom of the impoundment.
3. ***Normal releases from Fall Creek Powerhouse, or normal operating range.***
   We do not have any flow data from the powerhouse, but so far, the volume of water that is diverted by PP&L has always been sufficient. I think PP&L may have a measuring station upstream of the powerhouse.

EXHIBIT "G" P. 65

Mary Frances McHugh

From: Rob Taylor
Sent: Monday, October 25, 2010 2:05 PM
To: Hepler, Thomas E
Subject: FW: Fall Creek Intake Dwgs

Hi Tom,
I apologize for taking so long to get back to you.

1. ***Average diversion discharge through city water supply pipes, or normal operating range (including pipe from Dam B, as well as main line crossing Iron Gate).***
   15 cfs is our water right and our design capacity. I have attached a spreadsheet that shows our current and historical water usage. The "Raw (MG)" column is read on the meter at the pump plant (as the pumped water leaves the building) and represents the amount of water diverted from Fall Creek and the water that crosses Iron Gate. We do not take water from the B Dam under normal conditions and I don't believe that there is sufficient flow from the B Dam to draw from it exclusively at this time since most of the water is diverted through the powerhouse. The only time that we do take water from the B Dam is when PP&L does its annual diversion canal maintenance. The maintenance lasts for about 2 weeks and is usually done in the early summer. During maintenance, PP&L diverts all water from the canal to the Fall Creek channel and we open the valve at the B Dam so that the water will flow from the B Dam to the A Dam impoundment.
2. ***Normal operations of spillway and sluice gate at Dam A, which control water surface at intake building.***
   We operate the sluice gate so that water is always flowing over the spillway and the water level stays the same. The sluice gate is typically only open a few inches to keep submerged debris from building up in the bottom of the impoundment.
3. ***Normal releases from Fall Creek Powerhouse, or normal operating range.***
   We do not have any flow data from the powerhouse, but so far, the volume of water that is diverted by PP&L has always been sufficient. I think PP&L may have a measuring station upstream of the powerhouse.
4. ***Information on city pump house – pump capacity, flowrates, head, etc.***
   The Fall Creek Pumping Plant has 3 – 400 hp pumps rated at 2500 gpm each with a fourth pump scheduled to be installed within the next 2 years. The pumps discharge to a 135,000 gal tank several miles away through the 24" concrete lined steel pipeline. The static head pressure to the Klamath Pass Tank is about 240 psi and the discharge head about 260 psi. The pumps operate based on the level of the tank – if the tank level gets to 12 feet, the (lead) pump will start. If the tank level gets to 9 feet, the (lag) pump will also start. If it gets to 7 feet, the (lag,lag) pump will start. The system is designed for up to 3 pumps to operate at one time with the fourth pump to be available as a backup. The proposed fourth pump will be variable speed drive (VFD). During a typically summer (high demand) day, one pump will run constantly and a second pump will turn on and off intermittently throughout the day as the Klamath Pass Tank level slowly fluctuates. In the winter, 1 pump will start and stop as needed.
5. ***Any as-built drawings showing current alignment of pipe from Dam B into intake house (shown in sketch)***
   The Fall Creek plans that I sent are as-builts (or were 40 years ago). We don't have anything current, but I don't think much has changed. We should verify everything in the field before any final designs.
6. ***Comments on potential to run powerline into intake house.***
   There is available power upstream, at the powerhouse, and below at the Pumping Plant. As far as I know, the property surrounding the A Dam is owned by PP&L so I don't know if an easement would be needed.
7. ***Know of any potential concerns for entraining resident fish in PPL diversion above the two waterfalls?***
   There are no concerns from a water quality standpoint that I am aware of. Would the PP&L penstock need to be screened to prevent fish from being drawn through the powerhouse?
8. ***I have drawing numbers 1, 2, 3, and 28. Am I missing any that would be of help to us for this effort? Also, quality of drawing 28 is not the best.***
   I would like to talk with you about what we have available to make sure that you have everything relevant.

Additional questions:

We are tentatively looking at a fish barrier at Dam B, and a new screen facility at your intake building, to address fishery concerns.
Do we need an additional barrier at Dam B, besides the Dam itself?
Pipe crossing at Iron Gate may either be a new pipe bridge crossing the river (similar to what Grants Pass has over the Rogue River) or perhaps an HDPE pipeline installed in trench excavated underwater before reservoir is drawn down. Still need coordinates for this pipeline crossing (see my previous email).
How accurate do the coordinates need to be? I can take a GPS out in the field if that will work for you. A couple of years back, we had PACE Engineering out of Redding, give us a recommendation on the pipe crossing in case the dams were removed. Your team may be looking at this a little closer and come up with a better solution, but at the time, PACE recommended that we not go over the river because of the height requirements that need to be considered to withstand flood conditions.

Please let me know if I can help answer any more questions.
Rob

From: Hepler, Thomas E [mailto:THepler@usbr.gov]
Sent: Tuesday, October 19, 2010 8:51 AM
To: Rob Taylor
Cc: Hamilton, John; LaBoon, John H; Sayer, Kenneth A; Christensen, Rick J; Mefford, Brent W; Romero, Jesus G; KSD.AdminRecord@cdm.com
Subject: RE: Fall Creek Intake Dwgs - SECOND REQUEST

Rob – I have not seen a response from you yet. We are trying to pull together some designs for your facilities prior to a value engineering meeting scheduled for the week of December 6. That does not leave us with a lot of time – can you give us what you can sometime this week? We have been assuming a 10 to 15 cfs diversion for fish screen and pipe flow.

Thanks.

Tom Hepler
10/19/2010

Rob – I have a few more questions for you, if you don't mind, resulting from a design team meeting held here yesterday.

1. Average diversion discharge through city water supply pipes, or normal operating range (including pipe from Dam B, as well as main line crossing Iron Gate).
2. Normal operations of spillway and sluice gate at Dam A, which control water surface at intake building.
3. Normal releases from Fall Creek Powerhouse, or normal operating range.
4. Information on city pump house – pump capacity, flowrates, head, etc.
5. Any as-built drawings showing current alignment of pipe from Dam B into intake house (shown in sketch)
6. Comments on potential to run powerline into intake house.
7. Know of any potential concerns for entraining resident fish in PPL diversion above the two waterfalls?
8. I have drawing numbers 1, 2, 3, and 28. Am I missing any that would be of help to us for this effort? Also, quality of drawing 28 is not the best.

We are tentatively looking at a fish barrier at Dam B, and a new screen facility at your intake building, to address fishery concerns.

Pipe crossing at Iron Gate may either be a new pipe bridge crossing the river (similar to what Grants Pass has over the Rogue River) or perhaps an HDPE pipeline installed in trench excavated underwater before reservoir is drawn down. Still need coordinates for this pipeline crossing (see my previous email).

Any comments for me?

Hope all is well. Thanks.

Tom Hepler
10/05/2010

From: Rob Taylor [mailto:rtaylor@ci.yreka.ca.us]
Sent: Tuesday, August 24, 2010 2:35 PM
To: Hepler, Thomas E
Subject: RE: Fall Creek Intake Dwgs

Tom,
I will get some drawings in the mail.
To answer your question. Since Fall Creek is our only source (we have a backup well but it does not meet the City's demands and can only be used under a boil water notice) and we only have one supply main, we are limited by our storage tank capacity for the length of time we can be shutdown. With the new 2.5 million gallon tank that will be online within 2 years, we could be shut down 12 to 18 hours in the summer and up to 72 hours in the winter.
Rob

From: Hepler, Thomas E [mailto:THepler@usbr.gov]
Sent: Tuesday, August 24, 2010 1:23 PM
To: Rob Taylor
Subject: RE: Fall Creek Intake Dwgs

Thanks for this information.

Please send copies of whatever drawings you have to following address:

Tom Hepler
Bureau of Reclamation
6th and Kipling, DFC Building 67, Code 86-68130
PO Box 25007
Denver, CO 80225

Drop the PO Box if you are sending other than by USPS.

Another question – are there any ways to bypass or suspend flows through your 24-inch pipe across Iron Gate Reservoir, even for a short period of time? Perhaps existing water storage capacity would meet public demand for xx hours? You may have to allow for minimum fire demand also – not sure. I am thinking we will need to construct a new pipeline across the Klamath River and would need some time for the connections.

Tom Hepler

From: Rob Taylor [mailto:rtaylor@ci.yreka.ca.us]
Sent: Tuesday, August 24, 2010 1:57 PM
To: Hepler, Thomas E
Subject: Fall Creek Intake Dwgs

Hi Tom,
Attached are the drawing that we discussed.
Please let me know if you would like the 24x36 as-build drawings. They are a little dated but not much has changed around the intake.
Rob

City of Yreka - Water Division
Rob Taylor, Water Manager
856 North Main Street, Yreka, CA 96097
Ph: (530) 841-2327 Fax: (530) 842-3721