



Danny McClure
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, # 200
Rancho Cordova, CA 95670-6114
dmcclure@waterboards.ca.gov

March 16, 2009

RE: PG&E's Comment Letter – Proposed 2008 CWA Section Integrated Report [303(d)/305(b)]

Dear Mr. McClure:

Attached please find Pacific Gas and Electric Company's (PG&E) detailed comments to the Central Valley Regional Water Quality Control Board's (CVRWQCB) Revision to Federal Clean Water Act (CWA) Section 303(d) 2008 proposed list of Water Quality Limited Segments for California. PG&E appreciates the opportunity to provide additional comments on the development of this important document.

PG&E has provided a response factsheet that provides recommendation for segmenting the long river reaches (Attachment A). Another factsheet (Attachment B) discusses the Sullivan report guidelines and the use of a single annual maximum water temperature which should only be used as a preliminary screening tool requiring further lines of evidence that will show whether the water body is impaired or not. Additionally, PG&E has also identified eight proposed listings (Attachments C, D, E, F, G, H, I, and J) which PG&E believes either do not qualify for listing under the state's listing policy or should be revised.

Attached you will find a table (Table 1) that addresses each water segment that is currently proposed for listing on the proposed 2008 303(d) list, and PG&E's recommendation with regard to these listings. For each water segment and recommendation, we have submitted a factsheet. These factsheets explain PG&E's recommendations for listing or delisting specific water bodies based upon the known available data for each water segment. Our concerns are summarized below.

Attachment A: Water Segment Delineation

In the current 303(d) list there is no discussion of determining water segments, rather entire river reaches spanning as much as 50 or more miles are listed as one continuous segment. It is not clear that the segment delineations were based on altitude, physical, biological or chemical conditions. In some cases data is only available at one or two locations within the entire listed segment. The U. S. Environmental Protection Agency (USEPA) recommends that states partition waters to represent homogeneity in physical, biological or chemical conditions. PG&E believes for a river that flows through various environments including high elevation and different climates, the river should be split into appropriate river reaches (water segments). Additionally, river segments, which have no evidence of impairment (i.e., no known data available within the reach to indicate impairment), will not be incorrectly identified as impaired.

Attachment B: Sullivan Guideline

The State Water Resources Control Board (SWRCB) and the CVRWQCB state that the Sullivan report should be used as an evaluation guideline for water temperature for California surface waters in the factsheets used to determine listing or delisting of water segments under the Clean Water Act Section 303(d). However, the SWRCB's use of binomial distributions to determine listing status with this guideline (in the SWRCB's Water Quality Control Policy or Listing Policy) implies that the report is being used as an objective rather than an evaluation guideline.

Appropriate use of the Sullivan report would be to use it strictly as an evaluation guideline (i.e., screening tool) in conjunction with available biological data or other lines of evidence to determine the health of California surface waters. Binomial distributions do not apply to guidelines and are meant for use with objectives. In addition, there are a number of technical issues associated with the Sullivan report, which reinforce that it should be used strictly as an evaluation guideline or screening tool. All of these issues are discussed in PG&E's Sullivan Factsheet.

Attachment C: Feather River, North Fork (below Lake Almanor) listing for Mercury

The CVRWQCB's proposed 2008 listing for mercury for the North Fork Feather River (NFFR) below Lake Almanor is based on two lines of evidence. None of the Belden Forebay fish tissue samples listed in the first line of evidence exceed the Office of Environmental Health Hazard Assessment (OEHHA) guideline. The second line of evidence provides no data of mercury exceedances on the NFFR from Seneca, Rock Creek, Cresta, or Poe reaches. Therefore, this listing should be revised to include only the NFFR in Big Bend Reach (Big Bend Reservoir specifically).

Attachment D: Feather River, North Fork (below Lake Almanor) listing for PCBs

The CVRWQCB listed the entire NFFR below Lake Almanor in the Seneca Reach through the Big Bend Reach to Lake Oroville due to exceedances of OEHHA revised PCB criterion, which only occurred in samples collected from the NFFR in the Belden Reach, in the Poe Reach (Poe Reservoir only), and the Big Bend Reach (Big Bend Reservoir only). There are no known PCB data available below Lake Almanor in Seneca Reach, Rock Creek Reach, Cresta Reach, or the Poe Reach in the river below Poe Reservoir. Therefore, the only water segments that should be listed on the 303(d) list due to possible impairment from PCBs are Belden Reach, Poe Reach (in Poe Reservoir only), and Big Bend Reach (in Big Bend Reservoir only).

Attachment E: Feather River, North Fork (below Lake Almanor) listing for Unknown Toxicity

The CVRWQCB listed the entire 56+ miles of the NFFR below Lake Almanor to Lake Oroville due to exceedances of toxicity criteria, which only occurred in samples collected from the NFFR in the Big Bend Reach downstream of the Poe Powerhouse and at the Poe Powerhouse discharge point. Known toxicity data are not available from the NFFR below Lake Almanor through the Poe Reach upstream of Poe Powerhouse (a 48+ mile stretch of river), so there is no justification for listing the Seneca, Belden, Rock Creek, Cresta, or Poe reaches of the NFFR. Only the Big Bend Reach should be listed on the 303(d) list for unknown toxicity.

Attachment F: Feather River, North Fork (below Lake Almanor) listing for Water Temperature

This proposed listing is based on eight lines of evidence, one involving exceedances of water temperature criteria and seven others involving various data suggesting population or community degradation. PG&E previously submitted detailed comments regarding the use of the Sullivan guideline and we have summarized those comments in the attached document. Further, CVRWQCB staff has cited various reports from the 1940s – 1980s on fish populations in the Feather River, but has not utilized any of the more recent data that is available. CVRWQCB's evidence presents an inaccurate assessment of the current population and fish assemblage by not including many of the more recent fish population and angler studies that have been conducted since 2000, as either part of the relicensing effort of the Upper North Fork Feather River Project (FERC 2105) or under the new license for the Rock Creek – Cresta Project (FERC 1962). The data available from these two projects provides information indicating that fish populations/catch rates are much closer and sometimes exceeds the earliest data that is presented, and in most cases much greater than the data being presented to indicate an "impacted" ecosystem. Lastly, two lines of evidence consist of two pictures - one of a Native American woman in 1915 and another of two fisherman in 1911. We believe that these pictures, while interesting, cannot be used as credible evidence of fish populations in the North Fork Feather River.

Therefore, PG&E believes that there is insufficient evidence to list the North Fork of the Feather River for water temperature. On-going assessments of the North Fork Feather River for many water quality and biological parameters are being conducted as part of the 2001 license requirements for the Rock Creek-Cresta Project (FERC 1962). These studies include a 15-year flow and biological evaluation, broken up into 3, 5-year periods with various flow releases. The first 5-year study period began in 2002 and will be completed at the end of this year. This long-term study will provide much new information on the biological resources of the North Fork Feather River and along with future studies associated with both the Upper North Fork Feather River and Poe projects will provide invaluable information, which should be used in making any temperature determination on this river

Attachment G: Willow Creek (Madera County) listed for Temperature

The proposed listing is based on data collected from 1986-1995 by PG&E during various studies related to the relicensing process required by the resource agencies and FERC. This data was collected before the new license conditions were implemented and is therefore obsolete. Additionally, Willow Creek supports both warm and cold water species and it is inappropriate to base water temperature criteria only on the cold water species listed in the Sullivan guideline.

In addition, more recent and relevant data has been collected since establishment of the FERC License and this data has been provided to the resource agencies per the licensing conditions. A six-year water temperature monitoring program was initiated in 2005. Additional biological monitoring to determine which native aquatic species are using the water segment occurred in 2007, and will continue every five years for the term of the License. These assessments are necessary under the current federally mandated flow regime and operating conditions to determine whether the water body can be considered healthy or impaired. Therefore, there is insufficient evidence to list Willow Creek for temperature.

Attachment H: South Yuba River (from Lake Spaulding to Englebright Reservoir) listed for Water Temperature

The CVRWQCB has proposed listing of the entire South Yuba River from below Lake Spaulding to Englebright Reservoir (a 41+ mile length of river) due to exceedances of water temperature guidelines found in the US EPA Region 10 Guidance for Pacific Northwest State and Tribal Temperature Water Quality Standards (US EPA 2003) which also references water temperature guidelines developed by Sullivan et al. (2000) for Pacific Northwest Salmonids.

PG&E believes that the guidelines in the US EPA Region 10 Water Quality Standard document and proposed by Sullivan et al. (2000) do not apply to the conditions present in California streams. Thus, the existence of a number of exceedances of the guidelines that were developed specifically for Pacific Northwest fish populations should not result in the 303(d) listing of a California stream which exhibits different fish species and native fish assemblages than would be encountered in the Pacific Northwest.

Consideration should also be placed on the fact that current Basin Plan water use designations are inappropriate and unachievable as demonstrated by unimpaired hydrology for this river. Further, there are numerous concerns with using the US EPA Region 10 and Sullivan guidelines in this context, including the fact that the annual maximum water temperature could not be met naturally in many points along the South Yuba River below Lake Spaulding to Englebright Reservoir. Therefore, there is no justification for listing any reach of the South Yuba River for water temperature on the 303(d) list.

Attachment I: South Yuba River (from Lake Spaulding to Englebright Reservoir) listed for Mercury

The CVRWQCB has proposed listing of the South Yuba River from below Lake Spaulding to Englebright Reservoir (a 41+ mile length of river) due to exceedances of the OEHH mercury criterion (0.3 ppm) which occurred in one sample from 1980 near Bridgeport in Humbug Reach (most downstream segment, at a concentration of 0.69 ppm) and in one sample from 1993 from downstream of Washington Creek in Canyon Reach (approximately 28 miles upstream of the Bridgeport sample at a concentration of 0.3 ppm). Samples collected from Jordan Reach below Lake Spaulding did not exceed the criteria; and samples collected in Humbug Reach near Edwards Crossing (upstream from Bridgeport and downstream from Washington) did not exceed the criterion. No known fish tissue samples were collected from Rucker Creek Confluence Reach, Fall Creek Confluence Reach, or Poorman Creek Confluence Reach.

PG&E's factsheets for all of the reaches in the South Yuba River demonstrate that these reaches should not be listed for mercury because known available data do not indicate impairment or there are no known data available to make a determination regarding listing. There is no justification for listing any river segment of the South Yuba River on the 303(d) list of impaired water bodies.

Attachment J: Bear River below Lower Bear River Reservoir listing for Copper

PG&E believes the CVRWQCB proposed 2008 303(d) listing of the Bear River (Amador Co, Lower Bear River Reservoir [LBRR] to the North Fork Mokelumne River [NFMR]) for copper

is based on faulty data that do not meet the listing requirements outlined in the SWRCB's, Listing Policy.

First, all analytical monitoring results for total or dissolved copper analyses that were obtained by PG&E as part of the Mokelumne Annual Monitoring Program or the Supplemental Monitoring Program from the 2000 through January 2003 were below the analytical methods reliability reportable limits (i.e., insufficient analytical detection limits required for comparison to the relevant water quality criteria). Therefore, 50% of the data that the CVRWQCB used for their proposed 2008 listing decision does not meet the SWRCB's Listing Policy requirements that are described in Section 6.1.4 of the Listing Policy.

Second, these samples were collected before the FERC required flow conditions for the Bear River had been fully implemented, therefore the sample results are obsolete and do not accurately represent the ambient water quality conditions under the new FERC flow requirements. The new FERC required flow releases had not been fully implemented until early 2005 (i.e., water quality monitoring results from 2005 represent Year 1 under the FERC required flow conditions). Therefore, the only data that the CVRWQCB should use to make a listing determination are data from 2005 to the present.

After this submittal, we plan on setting up a meeting with you to review the information.

If you have any questions please contact Brian Frantz at 925-415-6351.

Sincerely,

A handwritten signature in cursive script that reads "Susan Bragagnolo".

Susan Bragagnolo

Director, PG&E Environmental Services

