

**From:** Bob Baiocchi <bobbaiocchi@yahoo.com>  
**To:** JParks@waterboards.ca.gov; bobbaiocchi@yahoo.com  
**Date:** 5/24/2012 10:07 AM  
**Subject:** Proposed Variance - Water Quality Certification - Gap-Stanslaus

May 24, 2012  
Mr. Jeffery Parks, Staff  
State Water Resources Control Board

Re: Proposed Request for Variance to Water Quality Certification for the Gap-Stanislaus Hydroelectric Project

Mr. Parks:

I have reviewed the notice for the above project. I have also reviewed the related attachments associated with the project. The California Fisheries and Water Unlimited is an interested party.

The lowering of reservoir levels is highly controversial with the public. I reference related data and letters from the public regarding the relicensing of the project.

The effects from the proposed variance would be:

1. Adverse effects to public boating at Pinecrest Reservoir;
2. Adverse public boating safety at Pinecrest Reservoir;
3. Adverse effects to other public recreation uses and opportunities at Pinecrest Reservoir;
4. Unknown potential adverse effects to lake fisheries and their habitat;
5. Unknown potential effects to the lake water quality;
6. Unknown effects to public fishing.

The Tuolumne Utilities District claims it needs the water and the lowering of the lake. The TUD also claims it is using water conservation to reduce the uses of water.

It is clear an EIR, pursuant to the requirements of CEQA and its Guidelines, should be prepared for the proposed variance (project) because of the adverse effects to public recreation et al shown above and also because of the adverse effects to water uses by TUD resulting from the variance being denied. However, there most likely is not sufficient time for an EIR being prepared for the proposed variance (project). Further, it is likely the existing water year conditions will occur again in the long term future and another variance will be requested by PG&E.

Another issue is that should a boating accident occur due to approving the variance, the State Water Board may be liable in the event the Board approves the variance. The Chief Counsel for the Board should make a written legal determination regarding approving the variance.

The following are the CFWU recommendations:

1. Require TUD to submit to the Board the TUO's conservation plan and also the amount of water saved in 1911-1912 due to conservation effects from water uses. i.e. domestic, irrigation, et al. In the event TUO does not have a water conservation plan; require TUO prepare a water conservation plan pursuant to the California Water Code.
2. Require PGE to submit a public boating safety plan that protects public boating safety and public

recreation from low water conditions for said variance. i.e. buoys around rocks; maintenance of shoreline; maintenance of docks et al. Also PGE must have on site daily monitoring plan to assure public safety and the protection of the shoreline environment et al.

3. Require PGE to prepare a Pinecrest Lake Fisheries Plan for said variance;

4. Reductions to mandatory daily streamflow requirements below any point of compliance must not be allowed unless supported by factual evidence that no effects to stream fisheries will occur due to approving the variance.

5. Since most likely a variance will be requested again by PGE under low water year conditions, the Board should require an EIR be prepared for the variance to the lake levels in the future because of adverse effects shown above. Also a long term variance should not be approved until an EIR is prepared for the variance with conditions that mitigate the effects to human environment affected by said variance.

Most importantly, for the Board and its staff to make a decision without any mitigation measures would be unreasonable and not in the public interest.

Please provide me with a copy of the Board's decision.

Respectfully Submitted

Bob Baiocchi  
California Fisheries and Water Unlimited

cc: Interested Parties