

## **New Rules for Drying Times?**

### **Serial Variance Requests Reveal Vulnerability of Eel River Fisheries to Demands from Russian River Irrigators**

The Eel River's surviving salmonids -- chinook, coho, and steelhead -- are struggling to come back from near-extinction. A couple of really good years in 2011 and 2012, especially for chinook, felt like recovery might be getting underway. Unfortunately, the succeeding seasons turned into years of historic drought, which have hit the fish hard.

But the events of the winter of 2013 suggest that the people who benefit from the diversion of a lot of the upper Eel's water into the Russian River are not much concerned with the fate of Eel River salmon and steelhead. In fact, they're looking for chances to take *more* water from the Eel River, not less. And they're not going to play nice about it, either.

FOER has long contended that the operating rules for the Potter Valley Project (PVP) dams on the upper mainstem Eel, and the diversion tunnel that sends Eel River water to Potter Valley and thence to the Lake Mendocino reservoir via the East Branch of the Russian River, don't adequately protect Eel River fish in low water years.

What this winter showed is that when drought hits, Pacific Gas and Electric -- which owns the two dams and diversion tunnel of the Potter Valley Project -- is only too willing to toss even the inadequate protections for fish. What's worse, the state and federal agencies whose job is to insure our fish are protected have proved all too willing to bend the rules under political pressure.

After Eel River salmon and steelhead were listed by the National Marine Fisheries Service (NMFS) under the Endangered Species Act, FERC (the Federal Energy Regulatory Commission<sup>1</sup>) required PGE, the dams' operator, to follow a new flow schedule laid out by NMFS that roughly mimics what river flows would be without the dams. FOER challenged the new rules as inadequate to protect fish in low flows. Our protest was denied by FERC, an agency that sees its mission as promoting energy production, not protecting the environment.

To reduce flows into the Eel any further than the rules allow, PG&E must be granted

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<sup>1</sup>Though the Potter Valley Project is really an irrigation project, it is licensed by FERC because it produces a modest 9 megawatts of power -- roughly the same as a few wind turbines, or a couple thousand solar households. Being licensed as a hydropower project means the actual water users get the "abandoned" water for the cost of transporting it from the PGE tailrace -- ie, practically for free.

a variance by FERC. In December of 2013, with the assent of the California Department of Fish and Wildlife and NMFS, PG&E requested and received a variance from FERC allowing it to reduce flows released to the mainstem Eel from the Cape Horn Dam below the 100 cubic feet per second (cfs) otherwise required to facilitate fish migration.<sup>2</sup> In January, PG&E sought an extension from FERC for the variance; at the time, given the information we had, FOER supported the extension when PG&E asked us to do so.

What PGE failed to tell us, and FERC, was that the fall chinook migration up the Cape Horn dam fish ladder halted as soon as flows dropped when the first variance was granted in mid-December 2013. Only 162 chinook made it up the Van Arsdale fish ladder, but as soon as PG&E cut the flows down the dam, the fish stopped coming up the ladder. The cutoff of the flows left the chinook no choice but to spawn in the mainstem Eel, a choice that risks redds being scoured out if big storms come. Luckily for the fish, no scouring storms came this spring. But that doesn't mean the decision to cut off the flows in the middle of the migration was necessarily a good bet, and it certainly doesn't mean that making the decision without even considering the potential impacts on chinook migration is an acceptable way to manage precious public trust resources like critically imperiled salmon.

Neither FERC, nor PG&E, nor the state and federal fisheries agencies has even attempted to explain how it was that Lake Pillsbury ran out of water almost entirely, even though the salmon-protection rules say that PG&E is supposed to keep 2500 acre feet of water available every year to use to assist salmon migration. In over a decade, this so-called "blockwater" has only been used once, in a spring 2012 experimental release. At a rate of 100 cfs/day – what the December flows were supposed to have been before FERC allowed PGE to drop them – 2500 acre feet should have lasted for nearly two weeks of migration-sustaining flows.

At any rate, that variance ended when heavy rains finally fell in February and March. Lake Pillsbury went from nearly empty to almost full again.

And then the next variance request came up, in early April 2014. This time, it was the Redwood Valley County Water District, which serves an area northeast of Willits in Mendocino county, where some 4000 people and 200,000 acres of wine grapes have been planted despite its notorious lack of a reliable water supply. Following the lead of Potter Valley wine grape growers Janet Pauli and Guinness McFadden, who have renewed their calls to fill Lake Mendocino with Eel River water that "wastes to the sea," the RVCWD asked PGE to divert "extra" flows in the Eel over to the Russian to supply irrigation demands in Redwood Valley. (The RVCWD had already gotten an allocation of water from Lake Mendocino to meet domestic needs.)

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<sup>2</sup> See the FOER column on page 13 of the February-March issue of *EcoNews* for more background here.

The proposal raised a host of problems, starting with the fact that there is no “extra” water in the Eel when young chinook are trying to migrate downstream. Nonetheless, both PGE and the California Department of Fish and Wildlife appeared eager to accommodate RVCWD’s request. It was only when the federal National Marine Fisheries Service’s lawyers pointed out that the whole proposal, couched as an “emergency” because that’s the only way the flow rules allow additional diversions, didn’t actually add up to an emergency under FERC rules, that the proposed additional diversion died on the vine.

Redwood Valley’s failed pitch for Eel River water has become the focus of a campaign by Russian River irrigators to demand more water from the Eel generally, which is clearly rising in anticipation of the coming fight over relicensing of the Potter Valley Project (which must be completed by 2022). Led by Potter Valley resident and Farm Bureau shill Carrie Brown, the Mendocino County Board of Supervisors voted on May 6 to send a bitter, misinformed protest letter to NMFS, essentially complaining that the agency called BS when it was clearly its job to do so. In the process, both Supervisor Brown and the vituperative John McCowen went out of their way to attack FOER’s position and to belittle our Bay Area Director, David Keller, when he attempted to point out their errors.

As ever, to be abused by such craven champions of anti-environmentalism is a badge of honor. The movement to bust deadbeat dams is rising. Elected officials who would drive our precious fish to extinction for the profits of a few risk being swept away in a different kind of flood.