

review. Within hours we were told by Reclamation to stop our review until they had a chance to make some changes.

On February 5, 2019, Reclamation submitted a second "Final" BA and NMFS continued to review the document. We spent the next several weeks carefully reviewing the proposed action and analysis and quickly determined that we did not have sufficient information to initiate ESA Section 7 consultation. Under any other circumstance, we would have notified the lead Federal action agency that the BA did not meet the minimum standards for initiating consultation and we would not have initiated the consultation. Most significantly, the BA did not have a clear description of the action to be covered.

After completing our review of the BA, NMFS spent approximately two weeks in focus-group meetings with Reclamation trying to get a better understanding of the proposed action. My sense is that the meetings were helpful but that staff still felt that they were managing a lot of ambiguity.

NMFS also began to take on the biological modeling that we had recommended for the BA. Reclamation was supportive of this effort and made their consulting teams available to help with modeling runs. We also had to find funds to support the NMFS Southwest Fisheries Science Center to conduct a run of the Winter-run Life Cycle Model. We felt that the results of these modeling efforts were critical to our mandate to apply the best available scientific information to the BO. Taking on these modeling commitments was a significant task and took away staff time from actually drafting the BO.

In April, Reclamation issued a third "Final" BA and our staff spent a considerable amount of time understanding the changes and incorporating them into the BO.

In late April, DOI started to insist that we share the draft BO much sooner than we had planned. Our original plan had a joint Reclamation, WIIN Act Public Water Agency and Independent Peer Review scheduled for late May. We were directed by the lead Federal representative to start sharing the drafts sections of the BO, while the sections were very much in the early drafting stage. This initiated a sequence of events and meetings that consumed much of our available time and were almost impossible for our drafting team to recover from.

During the first wave of reviews we received over 500 comments on the Shasta section, nearly 190 comments on the Delta and hundreds of comments on other sections. We were directed into all-day Tiger Team meetings and Director meetings to clarify the characterization of the proposed action and to scrutinize our effects analysis. The lead Federal representative routinely made statements that our effects analysis was "an extreme worse-case scenario" and that it was hard to understand how we were having trouble with the 4-tiered Shasta Cold Water Temperature Management Plan when "at the end of the day we have a much bigger cold water pool and that should only help us". These statements were not helpful and only added to the confusion and emerging divide between NMFS and Reclamation.

Although the staff-level Tiger Team meetings were costly in terms of time and staff resources they were important because once we were able to focus on the priority comments, we took the time to get into details of the proposed action and effects at a level that we were not able to during the focus group sessions. These working sessions improved the quality of the BO. During these meetings, I reflected that this is exactly how the Section 7 consultation process should work, but unfortunately, the time constraints did not allow for this deliberation

between agencies to run a more natural course.

These meetings were followed by a series of Director-level elevations to resolve matters related to the NMFS analysis of effects on Shasta temperature management and juvenile fish loss at the export facilities. We agreed to a general course of action to develop management objectives for Shasta temperatures and loss at the export facilities. Accomplishing this task would take time and a two week extension was granted to the consultation period to allow us to work through this and to "clean up the analysis". The final BO would now be due on July 1, 2019.

As we moved toward WIIN Act Public Water Agency and Independent Scientific Peer Review, DOI's concern with our analysis began to breach the scientific integrity of the process. Most significant was, what I believe was a political decision to extract our "Integration and Synthesis" section from the Effects Analysis for the review. The Integration and Synthesis section is, perhaps, the most important part of any BO, because it is in this section that our "jeopardy analysis" occurs; where we actually complete the aggregate analysis that supports our conclusion. The direction to extract this section from review, particularly Independent Scientific Peer Review, seemed completely contradictory to the NOAA policy on scientific integrity from NOAA Administrative Order 202-735D: Scientific Integrity. This order was issued to promote a culture of scientific integrity and excellence and establishes an understanding that there must be a commitment between scientists, managers and those who set policy to follow a code of scientific conduct and ethics. I feel that in being directed to extract this section was in direct conflict with the goals of the policy.

On June 14, 2019, Reclamation issued a revision to the proposed action. NMFS had to review the revision and incorporate the changes into the analysis of the BO. Due to time constraints, we accomplished this through supplemental analyses that were essentially tagged on to the end of the Shasta and Delta analyses. This was not ideal, and from my perspective, did not meet Reclamation's satisfaction, but it was the best we could do given time constraints.

Although we spent quite a bit of time working directly with Reclamation to accurately characterize the proposed action and we spent more time independently working on the effects analysis. A second review of the draft BO signaled to DOI that they were still not pleased with the way or effects analysis was reading. Based on this a second extension to the consultation is currently being considered.

Ultimately, the NMFS Central Valley Office completed a draft BO that we sent to Barry Thom, the WCR Regional Administrator, on July 1, 2019. I believe that, considering the time constraints and the complexities of this consultation, that this BO does a good job of analyzing the effects of Reclamation's proposed action and that the draft conclusion of the BO is sound and supported by the best available science.

PERSONAL EXPLANATION

HON. BLAINE LUETKEMEYER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 24, 2020

Mr. LUETKEMEYER. Madam Speaker, I was unable to be present for recorded votes on November 20, 2020, for a recorded vote on

Amendment No. 9 and Amendment No. 15 to H.R. 8294 and final passage of H.R. 8294, the National Apprenticeship Act. Had I been present, I would have voted NAY on Roll Call No. 225, YEA on Roll Call No. 226, and NAY on Roll Call No. 227.

REMEMBERING PEGGY FULTON HORA

HON. ERIC SWALWELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 24, 2020

Mr. SWALWELL of California. Madam Speaker, I rise to recognize the life of retired California Superior Court Judge, Peggy Fulton Hora, who passed away on October 31, 2020.

Born in Oakland and educated in Castro Valley, Hayward, and San Francisco, Peggy was a true Bay Area native. She understood our community and would devote her life to helping others within it. Right from the beginning of her legal career, she committed herself to service by joining the Legal Aid Society of Alameda County, much of which, I represent in Congress.

In a spirit I certainly understand, Peggy, in 1984, decided to make a long-shot run for a judgeship. Her opponents underestimated her, then found themselves referring to her by her new title, Judge Hora.

Judge Hora could have gone to work each morning, completed the criminal dockets in front of her, then returned home in the evening and been a successful member of the bench. But, as you might imagine, this was not how Judge Hora operated. She saw the same defendants in her courtroom repeatedly and thought that there must be a better way. She sought a way to disrupt the criminal justice cycle that she found herself participating in. She turned to a deep and personal love of hers for the solution, reading and studying. She studied brain science, chemical dependence, and addiction. She took this new understanding and helped innovate our justice system by helping to establish a new drug treatment court movement with the intention of being therapeutic and rehabilitating instead of having a primary focus on punishment.

Judge Hora served on the trial bench in Alameda County for over 20 years. She would go on to share her knowledge as the dean of the B.E. Witkin Judicial College of California, and a 15-year faculty member of the National Judicial College. Judge Hora was the 2004 recipient of the Bernard S. Jefferson Judicial Education Award from the California Judge's Association and a 2008 inductee to the Alameda County Women's Hall of Fame. In 2015, Judge Hora, with two colleagues, founded the Justice Speakers Institute and became even more widely recognized as an authority on justice systems and their administration worldwide.

In her personal life, Judge Hora was a voracious reader and traveler. She also enjoyed the symphony, ballets, and both preparing and enjoying fine dining. Her passing was unexpected, and she will be dearly missed by the loving family she left behind. She was predeceased by her son Tim Spangler; but her son Erik and his wife Linda, her son Paul and his wife Jamie; and her eight grandchildren, Dillon, Kyle, Madison, Nathan, Kevin, Emily,