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ORIGINAL

Whitmore, Ca
2 June 2007

OFFICE OF
EXTERNAL AFFAIRS

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FEDERAL ENERGY
REGULATORY COMMISSION

**Chairman Joseph T. Kelliher
Federal Energy Regulatory Commission
888 - 1st Street, N.E.,
Washington, D.C. 20426-0001**

**Kilarc/Cow Creek, Project No. 606
Re: Your letter to Representative Wally Herger on 14 May 2007
Communication of J. Mark Robinson, Director Office of
Energy Projects 31 May 2007**

ORIGINAL

Dear Chairman Kelliher:

I am writing not as an individual, but as a representative of the citizens of Whitmore, California, surrounding communities, Shasta County, and visitors from throughout California and other States. As Chairman of the "SAVE KILARC" Committee I am obligated to request your attention and indulgence in our efforts to save the facilities inherent in Project No. 606, which has been an asset to children, adults, seniors, and the handicapped for over 100 years.

The Kilarc/Cow Creek Power Stations, forebays, recreational, fishing, hiking, and wild life viewing have been local assets that deserve retention. In a PG&E Technical Meeting, 16th May 2007, it was reiterated that PG&E was "walking away" from operating the facilities under license from FERC. In fact this decision was made in an agreement at a meeting of organizations in March 2005. Community representation was not present or invited and knowledge of the decision was not recognized until after Synergics LLC (since dropped out) had local meetings required for licensing the facilities. Your rejection of Davis Hydro LLC (31 May 2007) stated that "Following consultation with stakeholders, in March 2005, PG&E chose not to file an application for a new license based on it's determination that decommissioning was a viable and cost effective alternative to relicensing". This decision violated (re: referenced letter) the conditions of the agreement to included stakeholders and only an entity in Maryland monitoring

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FERC documents applied for a license. Any locally published data was not recognized by the stakeholders in the affected community.

You clearly state that “it is premature to accept an NOI for this project.” Time and many “ratepayers” dollars will be wasted while PG&E spends two years preparing a “Surrender Application”. With proper studies, recognition of water rights, and adequate assessment of fish recovery (not introduction), a new entity (KC/LLC) could retain 100 year old status quo with minimal ecological effect and significant savings to stakeholders-ratepayers.

To support retention of the facilities a petition was circulated addressed to the Governor of California. After collecting over 700 signatures of affected personnel, the effort was torpedoed by a rumor that the license had been granted. The effort came to a close and out standing copies of the petition were not returned (destroyed). Copies of the 700 signatures were transmitted to Synergics, but I understand they were not forwarded to FERC to establish local opposition to the March 2005 agreement to go forward with the decommissioning.

PG&E has stated that the decision not to relicense was based on economic factors. One of the major factors is anadromous fish protection, improvement of fish spawning grounds, and the associated costs. This issue I would like to address at some length to provide data for reconsideration by FERC:

- 1. Environmental studies were underway when PG&E made the decision not to seek relicensing and were discontinued.**
- 2. The studies were deemed proprietary and JW Associates could not release any studies or continue them for another entity without PG&E approval.**
- 3. Some changes in position on requirements may have occurred in more recent years.**
- 4. California Fish & Game no longer requires Salmon beyond the barrier falls on Old Cow Creek (below Kilarc Power Station) and the probability of Steelhead migration can only take place in very high water flows. Local residents and fishermen (up to 65 years of fishing Kilarc) have never reported observing Steelhead or Salmon above the falls (a very popular swimming hole for the younger generation).**

5. **A NOAA representative (Steve Edmondson) reported at the May 15th meeting that 95% of spawning grounds were in the Sierra Nevada Watershed.**
6. **If 5% of spawning grounds are in Northern California an infinitesimal amount, if any, can be attributed to the Old Cow Creek due to natural barriers. Recent fish counts/studies indicate South Cow Creek has essentially met the targeted amount of Salmon transiting the creek.**
7. **Members of the Shasta Trinity Flyfishermen as well as unorganized local fishermen strongly support Kilarc forebay retention in opposition to the Friends Of The River and Trout Unlimited who have limited local knowledge and community concern.**
8. **Kilarc forebay is the only reasonable fishing facility, since *Old Cow Creek is isolated by rugged terrain and private property.***
9. **To pay \$10.4 Million to decommission Kilarc/Cow Creek at ratepayers (authorized by the CPUC) expense is questionable in an environmentally stable ecology of over 100 years.**

Other issues that affect the loss of the subject Power Stations and forebays are offered for FERC review. PG&E filed the required "Surrender Schedule" with FERC on 4/23/07. The first Community Meeting (Whitmore) was held after the fact on 4/27/07. Water rights and the transfer from PG&E is a thorny issue that may have wide spread effects on property owners (letters to PG&E on Kilarc/Cow Creek were not affective – attached) and the community in general (adjudicated rights were established in 1969). Water flows, hydrology, and temperatures are items yet to be determined as influencing aquatic habitat and resident water stability. The altitude of the Kilarc forebay of at 3800 ft assists cool water temperatures in Old Cow Creek, a recognized problem for fish survival. A private (unofficial) measurement by a concerned citizen, registered a Creek temperature at the Kilarc Power Station as 58 degrees F and the outlet of the penstock turbine flow at 48 degrees F. The obvious indication is that loss of the forebay would increase the hazard to fish. A formal *independent study is needed. A local hydrologist has indicated*

that the seepage from Kilarc forebay provides ground water for wells and ponds in the area and has been since inception.

The subject Power Houses are considered Historic (Shasta County Historical Society). The Kilarc forebay/reservoir is an established recreational area, Shasta County residents use it at 84%, the balance is visitors. The forebay is a forage area for the Bald Eagle, Osprey, and a breeding area for ducks (all personally observed).

Decommissioning would involve many permits and extensive terrain alteration. The riparian vegetation along the canals and forebays would be disrupted, county grading permits, and private property intrusion would be required. All of the information/data is to be collected by PG&E in preparing the "Surrender Application". In being questioned about an independent overseer of the data input, PG&E stated that they would feed back at regular monthly meetings the comments for public review. Since the Community was so late being brought into the process there is some question as to the timeliness of this review process. Data from the Environmental Policy Act indicates this overview to be by FERC. It is recognized that FERC staffing makes it difficult to cover these meetings. However, this particular decommissioning process appears to be a first, lacking in precedence and may well be the model of many future decommissioning activities when FERC licenses for small Hydropower facilities require renewal.

In closing it must be stated that the community is firmly opposed to impacting a 100+ year old stable environment. There appears to be little logic for remote agreements (without community "stakeholders" participation) that would decommission Power Stations that, though considered insignificant in power generation (PG&E small hydropower generation totals only 4% of generated power) still provides pollution free, renewable "green" power for several thousand homes. The historic value of the Kilarc Power Station, the recreational use of the forebay, adherence to ADA, the global warming assistance, and the elimination of long term legal action on water rights should provide fuel for reconsideration of decommissioning. Case in point, the forebay and channels for the South Cow Creek Power Station are on private

property which would be severely impacted by changes in water distribution.

Fire safety for the Community is also a major factor. Three major fires in recent years have threatened the Community, the Kilarc Power Station, and the stability of the watershed. Two of these fires destroyed homes. The Kilarc forebay/reservoir has figured prominently in the suppression of these fires. Helicopters have dipped their buckets in the reservoir for water drops. The CDF/Calfire has used the reservoir area for training fire fighters as well. Even in times of stress fire fighters lighten it with a bit of humor, such as wondering about the retrieval of BBQ'ed trout from Kilarc.

A new entity (KC/LLC) has emerged that is competent and extremely active in working with the community and PG&E to salvage Project # 606. They have filed a "Motion to Intervene Out of Time" and speaking for the Community and many citizens of Shasta County, and outside visitors, we request FERC to seriously reconsider this motion. Your letter of 14 May indicated entities can file applications after FERC issues a final order. Millions might be saved the "ratepayers" if the project can be salvaged early.

Sincerely



Thomas Glenn Dye

30655 Whitmore Rd

Whitmore, CA 96096

Retired registered professional

California State Engineer

CC: Ms Magalie R. Salas

Secretary Federal Energy Regulatory Commission

W/Attachments

Congressman Walley Herger W/Attachments

Matthew Buhyoff, Hydro West Branch, FERC

W/Attachments

J. Mark Robinson, Director office of Energy Projects

W/Attachments

Whitmore Volunteer Fire Department Letter

Tetrick Ranch Letter

Abbott, Farrell, & Jones Letter

WHITMORE VOLUNTEER FIRE COMPANY, INC.

**P. O. BOX 91
30480 Boggs Lane
WHITMORE, CA 96096**

June 1, 2007

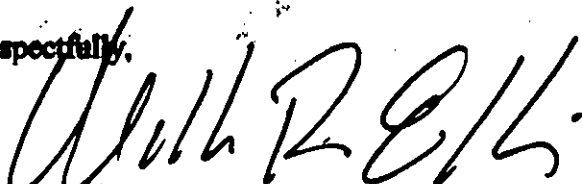
To Whom It May Concern:

Re: "SAVE KILARC" Campaign Committee

The Whitmore Volunteer Fire Company strongly supports the effort to retain the Kilarc reservoir. Aside from the obvious natural outdoor benefits, it has proven to be very valuable in our efforts to control wild land fires in the area. Minimum loss of homes has been in a great part due to the availability of this source of water.

In concert with the California Division of Forestry and Fire Protection (now Cal/Fire) use of helicopter dip buckets, the safety of the community and protection of forest lands has been enhanced for many years.

Respectfully,



**William Ellis
Vice President, Operations
Whitmore Volunteer Fire Company, Inc.**

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TETRICK  RANCH

27500 S. Cow Creek Road
Millville, California 96062-9708
(530) 547-4780

April 13, 2004

Mr. Steve Nevares
PG&E Kilare-Cow Creek Project Manager
SAN3@pgc.com
Mail code N11D
P.O. Box 77000
San Francisco, CA 94177

Facsimile 415-973-7892

Re: Decommissioning Issues -- South Cow Creek power plant

Dear Mr. Nevares,

Thank you for keeping us informed on PG&E's evaluation of the South Cow Creek power plant as it relates to re-licensing and/or de-commissioning.

It appears to me that many of the various agencies that you are working with do not appreciate the benefits of the project as currently licensed and the potential negative implications of a de-commissioning or a more restrictive license.

You told me that the project would not be feasible to operate under a new license from FERC because the agencies would require a minimum bypass of water at the PG&E diversion from 4 CFS to an amount significantly higher, as well as other restrictions. You indicated that this would cause the plant to shut down completely in the summer months and the plant total output would decrease substantially. You also stated that a new license would require PG&E to provide for additional capital improvements such as an improved fish ladder.

We do understand and appreciate PG&E' position. If the new FERC license will in fact have bypass restrictions as discussed above, power operation would be marginal at best

As we discussed yesterday, and at the April 1st meeting, there are other issues that appear to be overlooked by the agencies and potentially PG&E relative to the feasibility of de-commissioning.

I Wild Oak Ranch impacts:

- i. Biological Impact -- Hooten Gulch - For almost 100 years Hooten Gulch has had flowing water from the tail of the power plant. Several species of flora and fauna have become dependent on the flow.

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4/13/04

- ii. No power plant - When we acquired the Wagoner Ranch in 1998, our purchase price included a substantial allocation for the 100KW power plant that is in operation today. Obviously the 100 KW plant would be rendered useless and become a substantial loss to us if the South Cow Creek power project is decommissioned or re-licensed with added restrictions.
 - iii. Biological Impact - New Diversion - If the project were decommissioned or re-licensed with added restrictions, another diversion would most likely be constructed in South Cow Creek at a point approximately 300 feet north of the current diversion. This area is located on South Cow Creek where the majority of the fall and spring salmon spawn. It also appears that South Cow Creek has eroded down by more than 10 feet over the years. If the historic ditch were reused, a very large new diversion of South Cow Creek would be required to be constructed in order to serve the Abbott water rights. The potential impacts related to any change that would affect the historical flow of South Cow Creek would be most concerning to all parties, fish included.
2. Abbot Ditch impacts- Please refer to the letter dated April 8, 2004 from Art Abbott and Virgil Farrell. The minimum bypass at the PG&E diversion is most assuredly the reason South Cow Creek has been flowing continuously since 1907.
 3. Historical purpose and uses- When Erastus Wagoner sold the power plant land to Edward Smith in 1907 (PG&E), it was for the sole purpose of "generation and transmission of electricity" pursuant to the indenture. If decommissioned, what will happen to the land, transmission lines and power plant?

As we discussed, there may be other legal and environmental issues that have not been addressed here. We just wanted you and the agencies to be made aware of some basic concerns from those of us that live and work in the project area.

Please continue to keep us posted on your evaluations.

Sincerely yours,


Steven P. Tetrick

Cc: Jim Canada, State Water Resource Control Board, Division of Water Rights
Excalibur 916-341-3400

April 8, 2004

Mr. Steve Nevares
PG&E Kilarc-Cow Creek Project Manager
SAN3@pge.com
Mail code N11D
P.O. Box 77000
San Francisco, CA 94177

Dear Mr. Nevares,

The purpose of this letter is to notify you and the agencies that we are concerned with the potential impacts of a de-commissioning of the South Cow Creek power project.

As you are aware, the Abbott ditch obtains its water from Diversion 73 as described in Schedule 2 of the August 25, 1969 Decree. This diversion spans Hooten Gulch and captures the tail water from the project. This diversion was constructed in the early 1900's in a joint effort in order to facilitate our riparian rights and provide continuous flow on South Cow Creek near Diversion 73. Our riparian rights are pre-1914. The right holders of the Abbott Ditch have utilized these rights for over 130 years. If the project were de-commissioned, at minimum, a new diversion would be required to be constructed in South Cow Creek in order to serve our water rights.

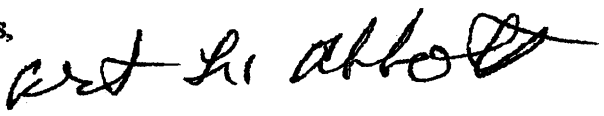
It is our understanding that our diversion prior to 1907 was out of South Cow Creek north of Diversion 73 about 300 ft. on the Wagoner ranch. Presently at that location, South Cow Creek has eroded down by over 10 feet and the ditch would not be feasible to modify. Also the majority of the salmon that spawn in South Cow Creek do so in this area.

You and the agencies should be aware, that prior to the construction of the South Cow Creek power project and Diversion 73 in 1907, South Cow Creek was dry during many summer months after the Abbot Ditch took its 13.13 CFS water right. Since the construction of Diversion 73 and the power project, there has been continuous water flow in South Cow Creek.

It seems to us that the power project has been beneficial for everyone including the fish over the last century.

Depending on the decision of PG&E and the agencies, we may need to retain counsel in order to protect our interests. Please continue to keep us informed on your decision.

Sincerely yours,

Art Abbott 

Bud Farrell

Dick Jones



Cc: Steve Tetrick
Jim Canaday, State Water Resource Control Board, Division of Water Rights

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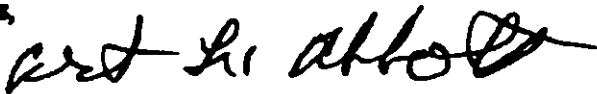
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