

Davis Hydro, LLC.  
27264 Meadowbrook Drive  
Davis, California, 95618  
530 753-8864 Fax 530 753-4707  
Email: [Dick@davishydro.com](mailto:Dick@davishydro.com)

March 30, 2009

The Honorable Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St., N.E.  
Washington, D.C. 20426-001

*filed electronically*

Re: P-606 License Surrender Alternative

Dear Secretary Bose:

We have been active participants in the P-606 License Surrender proceedings from the initial scoping meetings held by PG&E in Whitmore, Redding, and Palo Cedro, California (on March 27, May 15, and May 16, 2007, respectively). (PG&E License Surrender Application dated March 12, 2009, Exhibit C, first sentence under C.2.2 FERC License Surrender Process, page C-2.)

On July 31, 2007, we filed "License Surrender Scoping Comments and Study Request of Davis Hydro LLC under P-606. A Scoping Paper: Suggested Project Surrender Alternatives and Derived Recommended Studies." (FERC accession number 20070731-5001 under P-606).

An updated version of the Davis Hydro Reconstruction Alternative was filed on September 12, 2007 as "ILP Scoping Comments and Study Request of Davis Hydro, LLC, et al. Suggested Alternatives for study for Disposition of the Surrendered facilities of PG&E under P-606-000." (FERC accession number 20070911-5081 under P-606). Additional updates also have been submitted.

On September 17, 2007, the "Request for clarification of acceptable license surrender plan and Study Request of Davis Hydro, KC LLC, et al. under P-606." was also filed. (FERC accession number 20070917-5001 under P-606). PG&E provided comments thereon on September 26, 2007 (FERC accession number 20070926-5034 under P-606).

On April 25, 2008, Davis Hydro was the only entity to submit a "Statement of Interest in Future Disposition of Kilarc Development Assets following PG&E Surrender of P-606 Hydropower License." (FERC accession number 20080425-5015 under P-606), to which PG&E filed a response dated May 15, 2008 (FERC accession number 20080522-0199 under P-606).

I am providing this detailed chronology of key documents to facilitate FERC review and recognition that PG&E has demonstrated a pattern of subverting the FERC license surrender and NEPA processes in favor of its demolition plan conceived with no scientific foundation. The demolition singular alternative was agreed upon behind closed doors and outside the FERC process in the March 2005 Agreement, which PG&E refuses to submit to any sort of valid impact analysis or public comment.

It would clarify the air considerably if PG&E could explain why it is so anxious to spend many millions of ratepayer dollars to demolish a major green power source that is so important to

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the community, without any study of alternatives. Davis Hydro suggests that the FERC consider being be proactive by requiring PG&E to fund the analyses required to support all reasonable alternative surrender plans, and further that PG&E be required to delegate management and administration of the studies to an entity less prejudicial to the outcome. Having an administrator with a strong interest in the *status quo* and a slow determination that the demolition alternative is best, especially one who directly or indirectly hires nearly all the fish consultants in Northern California, is not conducive to husbanding a rapid unbiased study outcome that the fish and the public need.

Across the board, the PG&E's Draft License Surrender Application failed to adequately address the effects of PG&E's proposed license surrender plan, and PG&E continued to dispute all evidence of adverse effects in the final, as reflected in PG&E's responses to comments on the Draft (see comments and responses to letters numbered 1, 12, and 13 that provide arguments against demolishing the Kilarc facilities). Since it is obvious that there are significant impacts, PG&E's ignoring the study of alternatives lengthens the time they operate the site under the old rules while waiting for the FERC to require them to study the alternatives rather than simply doing the studies as they originally suggested. This very delay has a profound negative effect on the species by nature of the resultant inaction, on the community by the loss of their support, and on the planet by the expanding list of deferred maintenance the Kilarc site needs. By the FERC allowing this insult to the community to continue, it is not supporting its own objectives of balancing environmental and the nation's renewable energy goals.

Therefore, to facilitate that discussion, we extended our comment on PG&E's DLSA plan (see excerpt in Attachment) with an alternative that could be put in place immediately with P&GE's cooperation, at the insistence of the FERC as may be necessary. Under Davis Hydro's Restoration alternative, the forebay will be retained as it is now and if it were to be seen to be helping the fish, we could have a Win (fish)-Win (fishing)-Win (community)-Win (PG&E cost) solution at little cost to all concerned.

Please act soon in the interest of the fish, the environment and the stakeholders who have been ignored since being excluded from discussions leading to the March 2005 Agreement.

Respectfully  
Davis Hydro LLC



Richard D. Ely, Principal

Attachment: Davis Hydro's comments 12-34 and 12-35 on the Draft License Surrender Application, and PG&E's Responses

cc: Stacey Evans and Steve Nevares, PG&E; Thomas "TJ" Lovullo, FERC

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Attachment: Davis Hydro's comments 12-34 and 12-35  
on the Draft License Surrender Application, and PG&E's Responses

The Davis Hydro comment letter (assigned #12, comments 34 and 35) on the PG&E Draft License Surrender Application stated (synopsis by PG&E),

*"Across the board, the Draft Application fails to adequately address the effects of their actions. Further, since it is obvious that there are significant impacts, PG&E's ignoring the study of alternatives lengthens the time they operate the site under the old rules while waiting for the FERC to require them to study the alternatives rather than simply doing the studies as they originally suggested. This very delay has a profound negative effect on the species by nature of the resultant inaction.*

*... The Davis Hydro alternative could be started immediately with PG&E's cooperation and if it were to be seen to be helping the fish, we could have a Win (fish)-Win (fishing)-Win (community)- Win (PG&E cost) solution at little cost to all concerned in very short order. Therefore, to facilitate that discussion, we extend our comment on PG&E's DLSA plan in the following section with an alternative that could be put in place immediately. Under Davis Hydro's DHR alternative, the forebay will be retained as it is now. ..."*

12-34: Thank you for your concern. PG&E believes the LSA adequately addresses the impacts to resources and provides all the environmental information necessary for FERC to conduct its environmental assessment as part of the license surrender process. If FERC believes it needs additional information, it will require PG&E to provide it.

12-35: See Comment Response 12-01.

12-01: PG&E understands that Davis Hydro has expressed interest in continuing operation of the Project or portions of the Project for power generation. As described in the Proposed Decommissioning Plan (Appendix A) the Federal Power Act and FERC regulations preclude PG&E from obtaining a new license to operate the Project since PG&E declined to file an application for a new license. In addition, the Federal Power Act and FERC regulations preclude a third party from assuming operations of Project facilities from PG&E for power generation where that third party did not meet applicable deadlines for submitting a license application. Therefore, PG&E did not consider any alternatives for continued power generation operations in the development of the PDP.

In addition, FERC has directed PG&E to develop a plan to render the Project non-operational, and PG&E's plan includes removing the dams, discontinuing water diversions, and removing the powerhouse generating equipment. PG&E believes that the decommissioning plan proposed in the LSA will have the significant environmental benefit of improved aquatic habitat for anadromous fish in the bypass reach.

FERC is responsible for conducting the NEPA environmental analysis for decommissioning the Project. FERC will conduct its environmental analysis after PG&E files its License Surrender Application. PG&E's License Surrender Application contains all the environmental information needed for FERC to conduct its environmental assessment. NEPA alternatives will consider disposition of the Project facilities, but will not consider operational alternatives to decommissioning (as described above) If FERC believes it needs additional information, it will require PG&E to provide it.