

Erik Poole
26526 S. Cow Creek Road
Millville, CA 96062
January 8, 2010

Kimberly Bose
Secretary, FERC
888 First Street, NE
Washington, DC 20426

Re: FERC Project P-606-027 PG&E Kilarc-Cow Creek License Surrender Proceedings

Dear Secretary Bose:

I am writing to follow up on my recent submission of comments to the project team working on the FERC project P-606-027 PG&E Kilarc-Cow Creek License Surrender. My recent comments were e-filed with the commission as FERC accession number 20091230-5100.

In this subject proceeding I am representing myself and my family, as well as the Abbott Ditch Users group (ADU) as interveners along with the Tetrick Ranch, Evergreen Shasta Power Inc. and the County of Shasta. The ADU formed as a group in response to the foreseen impacts to our water right from PG&E's proposed decommissioning plan. We have participated in many meetings and discussions with stakeholders in this proceeding, as well as community groups, local and state agencies, legal advisors and the FERC project team itself. In addition we regularly negotiate and assist with our co-intervenors.

The ADU has as its primary goal the uninterrupted continuation of delivery of our adjudicated water right. In our study of the decommissioning plan, and the FERC's decommissioning process, we quickly determined that the most efficient and beneficial avenue of recourse for our group and the community at large was to propose an alternative that the FERC could assess and adopt or adapt to relieve the community of the costs and impacts of PG&E's decommissioning plan.

We began consultation and negotiations with other community stakeholders and agencies in order to form a broad based alternative that addressed as many community concerns as possible. That alternative has been outlined and submitted to the FERC in several filings through our intervention, and more details are forthcoming. The ADU feels that the alternative proposed through our intervener group is the best resolution for the whole community.

However, purely in the interests of the ADU, I wish to clarify our position to the FERC on possible outcomes of the decommissioning process. We believe that the preservation of the ADU water right delivery needs to be a de facto minimum element in any decommissioning plan, or alternative to be considered by the FERC. We believe this

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because it is the California state courts that hold authority to defend the Adjudication¹ and its members from direct or indirect impacts to their water rights. Regardless of the FERC's ultimate assessment of broad public benefit, the ADU water right must remain fully satisfied and uninterrupted. It would be unacceptable should the FERC choose to forward a decommissioning plan that knowingly impacts adjudicated water rights.

While I strongly disagree with the analysis and conclusions drawn in the recent comments from the California Department of Fish and Game² (CDFG), I do wish to point out that those comments also forward this concept: "appropriate mitigation" is required for the foreseen impacts to the ADU water right. These same comments from the CDFG raise the specter that the ADU might somehow lose our recourse to "appropriate mitigation" through our support of a more broad based and beneficial alternative, or due to the FERC decommissioning process ending in a situation requiring the licensing of a new hydro electric project that would be blocked by the CDFG through their possible increased minimum in-stream flow requirements for South Cow Creek. I prefer to place faith in the FERC decommissioning process and the California state courts to protect and defend the ADU water rights from such a legally unsupportable outcome.

Although no intervener or stakeholder in this proceeding thus far has formally forwarded a new diversion to satisfy the ADU water right as an alternative to PG&E's decommissioning plan, we do believe that should the FERC choose not to implement the alternative as proposed through our submissions, and specifically should the FERC choose to allow the destruction of the current diversion facilities used to deliver water for the ADU water right, we believe that the FERC decommissioning order can and must include consideration and remedy for the delivery of the ADU water right.

Were the ADU acting solely in our own interests, we would obviously require that a new diversion be provided to rectify the proposed decommissioning impacts to our water right delivery. However, in the spirit of the FERC approach of searching for a broad based public benefit to decommissioning proceedings, we have chosen to support an alternative that greatly promotes the general public benefit over the proposed PG&E plan. The ADU supports this plan because it also preserves and protects our water right and its delivery.

The ADU remain willing and ready to work with the FERC and all stakeholders to these decommissioning proceedings to ensure a final outcome that benefits the public and respects and preserves water rights. We are eager to ensure that this FERC process be exercised in its entirety and that it not only attain its goal of a broad based public benefit, but results in an outcome that requires no further recourse to state courts and can be

¹Cow Creek Adjudication Decree of the Superior Court for Shasta County, California In the matter of the determination of the rights of the various claimants to the water of Cow Creek stream system excepting Clover Creek, Oak Run Creek and North Cow Creek in Shasta County California No. 38577 Decree entered August 25, 1969 in book 89 of Judgments – the "Adjudication."

² Document Title: Comments on Scoping Meeting for Kilarc-Cow Creek Project, Federal Energy Regulatory Commission (FERC) No. 606, Old and South Cow Creeks, Shasta County. Submitting Agency: The California Department of Fish and Game. Dated: December 10, 2009. FERC Accession numbers: 20091215-5104 and 20091228-0038

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executed without further impacts from government agencies. We believe that the proposed impacts to our water right in PG&E's decommissioning plan rightly deserve remedy through the FERC decommissioning process and look forward to helping create a mutually beneficial outcome with all stakeholders and affected parties.

Finally, I wish to request that this letter, and my earlier comments³ be entered into the official record for this proceeding as they have been served according to the commission's rules either by email or postal service to the service list for the FERC project P-606.

Thank You and Best Regards,

Erik Poole
For the Abbott Ditch Users

Cc: All Parties on FERC Project Official Service List

³ Comments of Erik Poole Regarding CDFG Scoping Comments and Abbott Ditch Diversion (EPOOLE Comments on CDFG Dec 30 2009.DOC) FERC Accession Number: 20091230-5100

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