

Response to the various filings by and on behalf of Steve Tetrick, Evergreen Shasta Power

The Alternative proposed for implementation by Evergreen Shasta Power LLC (ESP) includes taking over the Kilarc Facility. The following comments address the context and merits of components of the ESP proposal:

Community and Fish Agency Concerns

The reader can review the ESP documents and see that the Settlement does not “settle” any of the major issues:

- Restoration of the ancestral fish populations,
- Enabling of anadromy in rainbow trout in the Old Cow Creek sub-watershed,
- Firm mechanism for funding habitat improvements, nor
- Enhancing full up and downstream fish passage to and from the extensive upstream salmonid habitat of the South Cow.

If the word “Settlement” refers to the Abbott Ditch Water Rights, no one is contesting those. The issue is what is best for the fish resources within the context of those Rights. The core of a solution to this problem has been discussed with Mr. Tetrick, Mr. Poole and is described at the end of this paper.

Sierra Pacific Industries’ Fish Concerns

Sierra Pacific Industries (SPI) filed with the FERC in this docket a letter of concern about various aspects of projects in the Kilarc facility. This filing is available on the FERC website¹. The same letter was also made available to Davis Hydro at the FERC-sponsored public hearing. In that hearing and in a subsequent meeting with Sierra Pacific Industries and other interested parties, the paramount concern of Sierra Pacific Industries has become very clear. Namely, in January of 2010, new regulations imposed by the State of California on the timber industry increased set backs from streams on cutting and other management practices that severely restricts timber companies for operation near any stream in which there are anadromous fish. In fairness to Sierra Pacific Industries, this is a significant financial disaster for them, especially in the Cow Creek area.

¹ It is also available on the DAVIS HYDRO WWW.Kilarc.info website via the *Reference Materials* tab and *Documents* link as http://kilarc.info/Docs_Maps_Drawings/Documents/docs.htm Scroll down to document KC0501.

Sierra Pacific Industries' Relation to the Davis Hydro Alternative

Davis Hydro has – by far - the most active program of putting fish back in numerous streams of immediate interest to SPI. Specifically, the follow elements are part of the DH proposal and have been discussed with SPI as against their interests:

1. Injection of possibly anadromous fish at multiple points in the Upper reaches of the Old Cow – above the Whitmore and “Impassable” barriers.
2. Complete return of waters to the Waggoner Canyon enhancing existing and ancestral salmonid migration up this channel.
3. Active program of working on establishing a large number of small spawning beds up and down the Sacramento River basin to enable the re-establishment of ancestral genetic stock (hopefully anadromous).
4. Active funded program to help ranchers to better control their runoff so as to promote anadromous fish.
5. Active *O. mykiss* genetic analysis and stock enhancement program.
6. Active small screening program to address the thousands of un-screened diversions.
7. A fund to supply an independent Trust with a source of income and a mandate to spend these monies in the most constructive ways for fish restoration in the upper Sacramento².

All of these actions will increase the number of ancestral and anadromous fish migrating up into SPI's forest areas. These actions therefore under the new State rules will directly decrease the amount of timber that can be harvested and decrease dramatically Sierra Pacific Industries' profits in these areas.

The ESP proposal does not have this ardent fish resource enhancement agenda. Rather, it basically continues the current state of affairs. Thus, the financial disaster caused by the new regulations will be greatly amplified with the Davis Hydro fish restoration project if it should succeed. From SPI's perspective, therefore the ESP proposal – with much less fish enhancement – is preferred to any alternative. This may bear on why SPI prefers the *status quo* of the ESP proposal.

Sierra Pacific's Relation to the PG&E Demolition Alternative

The PG&E demolition proposal has only one significant fish enhancement in the Kilarc area and other deleterious features that will impact fish habitat into the indefinite future. On the plus side it may increase fish in the bypass area of the

² A discussion of this trust, its governing panel and its operation will be on the Kilarc.info Web site soon.

Old Cow. On the negative side, the local effects of the PG&E proposal will raise temperature in the summer of the water slightly, downstream of the project in large sensitive Salmonid habitat and will increase the construction and fire run-offs of mud into the indefinite future. The air quality and incremental impact on pine forests from acidification of the rains compliments the global effect of the acidification of our streams from the replacement generation.

Sierra Pacific Industries is caught by new onerous regulations on their operations that would possibly be impacted by the PG&E Alternative but would very likely be impacted by the Davis Hydro Alternative. It is regrettable that these regulations, designed to protect fish, have as their consequence, the forcing of a responsible sustainable resource company such as SPI into a position of opposing a path that will greatly help the fish. We doubt that this is where they would like to be caught, but it is where the State has put them.

Up to the point of realizing the effect of these new regulations, SPI staff have been helpful with our efforts to restore fish. They see themselves as a sustainable resource company and were previously helpful, if not excited, by the prospects of fish restoration. Now, under the new State regulations, in essence, if we succeed in fish restoration, Sierra Pacific Industries, a partner in resource conservation, will lose significant income. We find it disappointing that our proposal is now being attacked because it may succeed at fish restoration and enhancement. This is a true loss for all concerned.

Shasta County Recreation

In speaking to a Shasta County Commissioner and staff: They support the retention of the Kilarc facility, and separately indicated a willingness to take over the recreation as a County facility. They are disinclined at the moment to be a FERC co-licensee, or involved in canal operations, the hydropower, or assume associated liabilities. Further, they have indicated that they are open to proposals from whoever gains control of the site.

In discussing the take-over of the Kilarc facility by the County with the community members with whom we have spoken, some are less than enthusiastic about having the County running their community site. Davis Hydro principals are involved directly in sites in New York, Vermont, New Hampshire, and Maryland. Each has a recreational component – although none as beautiful nor as extensive as the Kilarc site. We have a slight preference to operate the site, including the recreation, as part of the fish enhancement project as that would give better security control over fish spawning and research.

Note that in Shasta County, the county already operates parks: French Gulch and Hat Creek and the Balls Ferry Boat Ramp. We have no objection to working with the county if that is what the community wants, but do not see what the County adds to the operation here, and have no reason to suggest imposing the

County on unwilling local residents. The community seems divided on this issue at the moment.

The South Cow Diversion

Davis Hydro (DH) wishes to take no significant position in the discussions on how the Abbott ditch diversion is resolved at the South Cow. However, some ideas have been suggested and discussed with local ranchers, and for the record might be put down here. Davis Hydro has offered, as part of their plan, to install and maintain fish screens in the Abbott Ditch and fish return to solve the downstream fish migration problem in high diversion flows.

We have met with ranchers such as Mr. Poole seeking ways to better use the Abbott Ditch. We suggest that the first part of the ditch will make a quiescent fry habitat on their trip downstream prior to screening and return via a fish return. Downstream migrants could be screened out of the Abbott ditch with a gentle in-ditch screen and returned gently to the South Cow with a simple low cost in-ditch screen and fish return facility similar to what we are proposing for the Kilarc facility. We suggested that this will allow the Abbott Ditch users to have their full diversion rights and will escort almost all fry downstream almost all the time. Mortality and predation using this fish return facility would probably be less than the stream bed and return chemical imprinted signatures would not be compromised. The maintenance of the screen and fish return could be done by the hydro staff as part of a comprehensive plan, if the ranchers are willing to let the fish be cared for.

We also discussed with Mr. Poole, changing irrigation techniques at hydropower expense to reduce field runoff. He indicated – at the time – full support for this plan and intended to implement parts of it such as run-off retention ponds unilaterally. We suggested using hydro to supply monies and manpower to help, and to provide a ditch tending service on the Abbott ditch and possibly other ditches. These simple changes funded under the Davis Hydro proposal would help solve the dominate fish problems in the area with no significant compromise in water delivery.

The diversion dam, could be moved upstream as necessary to allow a very low structure that would not impede any upstream migrants able to later make Waggoner Canyon. The construction of these features could be undertaken by the current licensee to help with diversion impacts at rather low cost with the cooperation of local ranchers interested in helping the fish.

Respectfully submitted,



Richard D. Ely, Principal
Davis Hydro, LLC