

**LORI NEWSOM
27209 S. COW CREEK ROAD
MILLVILLE, CA 96062**

August 24, 2010

Kimberly D. Bose, Secretary,
Federal Energy Regulatory Commission
888 First Street, NE.
Washington, DC., 20426.

Re: Project No. 606-027 (Kilarc-Cow Creek Project)

Dear Ms. Bose:

Pursuant to FERC Commission Notices dated June 22, 2010 (Notice of Availability of Draft Environmental Impact Statement for the Kilarc-Cow Creek Hydroelectric Project and announcing intention to hold public meeting, eLibrary accession no. 20100622-3000), and July 1, 2010 (Notice of Extension for Filing Comments on Draft Environmental Impact Statement, eLibrary accession no. 20100701-3022), and the Commission's June 29, 2010 Federal Register Notice, 75 Fed. Reg. 37429, this letter contains my comments on PG&E's proposed decommissioning of the Cow Creek hydroelectric plant and related matters that are a part of Project No. 606-027.

My family and I, long-time residents of Millville and long-time users of the Abbott Ditch, which is dependent on flows from the power plant tail-race, are greatly concerned about the ramifications of the proposed decommissioning and the impacts on our water rights and property.

As you may know, the tail-water from the Cow Creek hydroelectric plant discharges into Hooten Gulch. That water is then diverted into the Abbott irrigation ditch. Water from the Abbott Ditch is used to supply approximately 11 families with irrigation of hundreds of acres and domestic water supplies for our household use.

The Abbott Ditch diversion dam is located on property owned by my family; ours is the first ranch to use water out of Abbott Ditch. This ranch has been passed down in my family from generation to generation since 1904. My mother, Donna Abbott, is the current owner. She has continued a livestock operation which she inherited from her parents. I myself have resided here and have managed this operation for the past 15 years. My children, whom are the sixth generation, have been involved in ranching their entire lives. We are not just wanting to make a living ranching, it is a way of life to us, as it has been for my family for over 100 years.

I want you to understand that PG&E's proposal is not just about seven ranchers in Shasta County losing an income. Removing the hydroelectric plant and drying up Hooten Gulch

Kimberly D. Bose, Secretary
Re: FERC Project No. 606-027
August 24, 2010
Page 2

represents the end of an era - the end of 100 years of hard work, sacrifice and a love for the land and the animals we raise. Without this water supply, what do I have to pass on to my children?

Our water rights, as well as the water rights of all who use the Abbott Ditch and the Cow Creek Stream System, were adjudicated by the Shasta County Superior Court in 1969.¹ The statutory process that led to the Cow Creek Decree was the result of substantial efforts made by the Shasta County Superior Court, the State Water Resources Control Board, and the various claimants to the waters of the Cow Creek stream system.

The Cow Creek Decree recognized substantial water rights belonging to the Abbott Ditch users. Paragraph 27 found on Page 20 of the Decree shows the division of Abbott Ditch flows among the various property owners with a total irrigated acreage of 313.9 acres. As shown on Schedule 6 of the Cow Creek Decree (page 160), the owners of the Abbott Ditch are entitled to a total cumulative water right of 13.16 cfs, divided as follows: .05 cfs of First Priority Water, 12.06 cfs of Second Priority Water, and 1.05 cfs of Third Priority Water. These are significant flows that are critical to the people and livestock who depend on the Abbot Ditch.

The Cow Creek Decree also establishes PG&E's water rights on the system and shows how the water is to be discharged into the Hooten Gulch so that is available for diversion and use by the Abbott Ditch water right holders. (See, e.g., Cow Creek Decree Figures 2 and 3 on pages xvi and xvii.) If PG&E's facility is decommissioned, that will dry up Hooten Gulch and the Abbott Ditch diversion dam, and leave the users dependent on that water without a water supply.

It is critical that the Commission understand that this water is not only for irrigation and livestock purposes; we also need it for domestic use. My household depends on the Abbott ditch as our sole water source. Drilling a well is not only very costly, it is not an option. Underground water is simply not useable in this valley. Many have tried in the past to reach potable water without success. Therefore, if PG&E's proposal is approved, in order to stay in my current home I will have to truck in enough water to supply a household of five from a holding tank. Since this is not realistic and very expensive, my family and I will be forced to relocate. We also will be left with property that can't be farmed, that can't support livestock, and that isn't suitable for residential use; it will have almost no value, except as open space.

One of the issues that is being overlooked is that the Cow Creek Decree is a judicial order establishing how water in the Cow Creek system is to be divided. In the Decree, the

¹ See *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 Cover Creek, Oak Run Creek and North Cow Creek in Shasta County California – No. 38577 (Dated August 25, 1969)*. A copy of the Cow Creek Decree is attached hereto and incorporated herein by this reference as Exhibit "1."

Kimberly D. Bose, Secretary
Re: FERC Project No. 606-027
August 24, 2010
Page 3

Shasta County Superior Court retained jurisdiction over the parties and the subject matter of the decree (see ¶29, page 30). Significantly, the Court ordered as follows:

That each and every party to this action, his or her agents, successors, grantees and assigns, be and hereby are perpetually enjoined and restrained from doing anything in violation of the terms or provisions of this judgment and decree, and from diverting any water from said Cow Creek Stream System as defined herein at any time in excess of a quantity reasonably necessary for, and actually applied to, reasonable and beneficial use, under and by reasonable methods of diversion and use, and from doing anything, directly or indirectly, that will obstruct or interfere with any right of another adjudged and decreed herein.


PG&E and the draft EIS fail to give any consideration to the water rights established under the Cow Creek Decree, the Shasta County Superior Court's continuing jurisdiction over those water rights, and the consequences of drying up the Abbott Ditch. No solution is given to replacing the Abbott Ditch diversion dam, whether a replacement is even possible, and the environmental impacts of a replacement facility. The Abbott Ditch users and the consequences they will suffer if the decommissioning occurs are treated simply as an afterthought, with no attempt made to actually identify or mitigate the impacts of the proposal on their property, their lives, and the surrounding habitat dependent on having flows in the Abbott Ditch.

For these reasons, as well as the many others that have been presented to the Commission through oral and written testimony, on behalf of my family I urge you to consider the alternatives to PG&E's proposal. The benefits of PG&E's proposal are both speculative and limited, and poorly supported by the record. In contrast, the impacts and consequences of PG&E's proposal are both certain and significant, not only for my family, but for all the water rights holders and property owners that rely on the Abbott ditch, and for the entire community in this part of Shasta County.

I truly hope the Commission considers the Abbott Ditch users, their water rights under the Cow Creek Decree, and the impacts to their property, lives, and the surrounding area, when making its decision on the Project.

Thank you for your consideration.

Very truly yours,

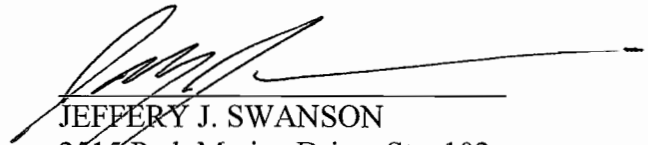

Lori Newsom

enc.

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2008), I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Redding, California, this 25th day of August, 2010.

A handwritten signature in black ink, appearing to read "Jeffery J. Swanson", is written over a horizontal line. The signature is fluid and cursive, extending to the right of the line.

JEFFERY J. SWANSON
2515 Park Marina Drive, Ste. 102
Redding, CA 96001
530.225.8773