



United States Department of the Interior

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IN REPLY REFER TO:
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25 August 2010

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

Subject: Notice of Availability of Draft Environmental Impact Statement (DEIS) for the Kilarc-Cow Creek Hydroelectric Project (FERC No. 606-027); Shasta County, California

Dear Ms. Bose:

The Department of the Interior appreciates the opportunity to comment on the *Draft Environmental Impact Statement for Hydropower License Surrender, Kilarc-Cow Creek Hydroelectric Project—FERC Project No. 606* (DEIS). We commend the Federal Energy Regulatory Commission (Commission) for a balanced and thorough analysis of the proposal to decommission the Kilarc-Cow Creek Hydroelectric Project (Project) and of the several alternatives under consideration.

The Department respectfully submits the following comments.

The Department's Fish and Wildlife Service and National Park Service, Pacific West Region, are signatories to the Kilarc-Cow Creek Project Decommissioning Agreement, under which Licensee Pacific Gas & Electric Company (PG&E) agreed to not seek a new license for the Project. The Decommissioning Agreement was filed with the Commission on March 30, 2005. In April 2005, the Commission staff solicited applications for the Project; however, no entity filed a license application within the requisite time.

Further, in March 2008, PG&E solicited interest in operation of the Kilarc forebay as a recreation facility; no completed forms were submitted. On March 12, 2009, PG&E filed an application to surrender its license for the Project and to decommission and remove or modify several Project features.

The Commission's DEIS analyzes PG&E's proposal plus several staff recommendations, as well as alternatives that would surrender the Cow Creek Development but retain sufficient infrastructure at the Kilarc Development to maintain the Kilarc forebay for recreation; surrender the Kilarc Development but retain sufficient infrastructure at the Cow Creek Development to maintain flow in Hooten Gulch so that the Abbot Ditch Users can continue to access their water right at the current point of diversion; and third, no action, meaning continuing operation of the Project with no changes.

Staff concludes with a recommendation that the Project license be surrendered as proposed by PG&E with additional staff recommendations and mandatory conditions.

The Department continues to fully support decommissioning, surrender of the license and removal of facilities of the Kilarc-Cow Creek Hydroelectric Project. The proposed action is a conservation measure that has positive significance to the health of salmonids in California. Decommissioning and removal of certain Project facilities will conserve and enhance anadromous fish habitat by restoring natural full seasonal variability of flows, restoring a more natural sediment transport regime and redistributing entrapped coarse sediment, all of which would improve and expand fish spawning substrate for resident and migratory salmonids.

The proposed action remains the most viable alternative for maximizing benefits to anadromous fish, because it would restore natural flow conditions to both Cow Creek and South Cow Creek and would remove the Project components that adversely affect existing anadromous fish habitat.

General Comments

Best Management Practices (BMPs) are not clearly defined or articulated in the DEIS, although there are headings and text that mention BMPs. We suggest that either specific references to established BMPs be incorporated into the text (*e.g.*, FWS July 9, 1999, Conservation Guidelines for the Valley Elderberry Longhorn Beetle) or the (E.4) *Protection, Mitigation, and Enhancement measures* from the March 12, 2009, License Surrender Application (LSA) be included as an appendix. The LSA clearly describes the BMPs or indicates how they will be developed and implemented.

Although monitoring commitments are made in the DEIS, the timing and distribution commitments for the monitoring reports are lacking. Timely reporting is an essential feature of monitoring. We suggest that monitoring and reporting commitments from the LSA be included in the DEIS. Monitoring reports should be distributed, at a minimum, to the Service, National Marine Fisheries Service and California Department of Fish and Game, particularly with respect to monitoring of species over which those resource agencies have regulatory jurisdiction.

Page 6, 1.3.3 Endangered Species Act - This section should be reworded to reflect that ESA Section 7 consultation has been concluded with the FWS. PG&E, the designated non-federal representative, made a "not likely to adversely affect" determination for the California red-legged frog and valley elderberry longhorn beetle through informal consultation with the FWS. The FWS concluded ESA Section 7 consultation on September 10, 2009, with a concurrence with the "not likely to adversely affect" determination for these listed species.

Although additional formal consultation was requested by the FERC on May 6, 2010, the accompanying Biological Assessment addresses only Project effects on the federally listed

Central Valley steelhead (*Oncorhynchus mykiss*) and its habitat and Central Valley spring-run Chinook salmon (*O. tshawytscha*) and its critical habitat, species for which the National Marine Fisheries Service has the lead for consultation. Consequently, no further ESA consultation with the FWS is required or needed, until or unless the Project is changed to the extent that it affects terrestrial listed species in a manner not considered by the earlier consultation or unless an additional terrestrial species becomes listed in the action area. Formal ESA Section 7 consultation is still required with NMFS. In the last paragraph, the first part of the final sentence should be changed to: “This letter concluded ESA consultation with the FWS, provided...”

Page 25, 2.3.3 Proposed Environmental Measures – The DEIS does not fully reflect the BMPs, including monitoring and reporting, that are described in the LSA. Reference to LSA Section E.4 *Protection, Mitigation, and Enhancement Measures*, or a more complete summary, or an appendix would be useful for clarification. Without a full representation of the proposed protection, mitigation, and enhancement measures, it is not clear whether FERC is analyzing the proposed PG&E measure or a version with fewer components.

Page 32, Action Alternative 2 – As the South Cow Creek Main Canal continues to age, increases in leakage and blowout threat are likely to be an increasing problem. Lack of funding for this alternative is a concern, because the “allowance for evaporation and leakage” could lead to greater withdrawals, over time, from South Cow Creek, in order to meet the 14 cfs settlement flow for the Abbott Ditch Users (ADU). Typically water rights do not include additional amounts of water to support aging infrastructure. Our suggestion is to limit the withdrawal to the 14 cfs settlement flow.

Page 33, Actions Considered But Eliminated from Further Analysis – The FWS has determined that the KC LLC alternative “*An Alternative to Demolition of the Kilarc Hydropower Project*” is not protective of anadromous salmonids or the aquatic ecosystem that they inhabit.

The Service does not support restoration of salmonid habitat in Hooten Gulch. Such an attempt at habitat creation is not protective of the ecosystem and is likely to adversely impact local anadromous fish.

Page 49, Kilarc Development - Diversion from North Canyon Creek and South Canyon Creek is stated in the present tense, even though this diversion no longer occurs. We suggest that references to North Canyon Creek and South Canyon Creek have clarification in the text, as reminders to the reader that these diversions are no longer active.

Page 80 - The FWS does not consider Whitmore Falls a barrier to upstream migration of anadromous fish.

Pages 93 and 98, Sections 3.3.3.3 and 3.3.3.5 - Both Action Alternative 1 and the No Action alternative have the potential to introduce diseases (*e.g.*, *Batrachochytrium dendrobatidis*) and parasites (*e.g.*, *Myxobolus cerebralis*) into local fish and amphibian populations in Old Cow Creek. This threat should be included as a potential adverse effect of these actions.

Even though local fish and amphibians may not co-occur with the hatchery fish, they do occur in down-gradient habitat and could be exposed to pathogens from hatchery fish. Introducing diseases to which local fish and amphibians have little to no resistance would adversely affect these populations.

Page 128, Amphibians and Reptiles - The potential adverse effects to California red-legged frog from discontinuation of flows in Hooten Gulch is overstated. On September 10, 2009, the FWS concurred with the determination that the proposed action is not likely to adversely affect the California red-legged frog.

Conclusion

The Department's FWS has worked closely with PG&E, National Marine Fisheries Service, California Department of Fish and Game, and FERC on the decommissioning proposal for the Project. The Department agrees with Commission staff's DEIS preferred alternative (Proposed Action), and we continue to support PG&E's decision and proposal to surrender the Project.

Thank you for your time and consideration of our comments. If you have any questions, please contact Alison Willy with the Service at 916-414-6534.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Sanderson Port". The signature is written in black ink and is positioned above the typed name.

Patricia Sanderson Port
Regional Environmental Officer

cc: Director, OEPC

Document Content(s)

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