

Attachment J
CDFG letter to PG&E dated October 30, 2008



DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>

NORTHERN REGION
601 Locust Street
Redding, CA 96001
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ENTRIX, INC.
FRONT DESK

October 30, 2008

Ms. Stacy Evans
Kilarc-Cow Creek Hydroelectric Project
Draft License Surrender Application Comments
c/o Darcy Kremin
2300 Clayton Road, Suite 200
Concord, CA 94520

Dear Ms. Evans:

Comments on Draft License Surrender Application for Kilarc-Cow Creek Project, Federal Energy Regulatory Commission (FERC) No. 606, Old and South Cow Creeks, Shasta County

The Department of Fish and Game (DFG) received the Draft License Surrender Application (DLSA) for the Kilarc-Cow Creek Project (Project) on September 9, 2008. DFG respectfully offers the following comments.

DFG reiterates our support of PG&E's decision to decommission the Project and implement a responsible and reasonable decommissioning plan as described in the March 2005 Agreement (Agreement) signed by PG&E, DFG, the State Water Resources Control Board (SWRCB), the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the National Park Service, Trout Unlimited, and Friends of the River. DFG believes the DLSA adequately represents the subjects and desired conditions of that Agreement.

Water Rights Comments:

On October 10, 2007, DFG provided comments on PG&E's Preliminary Proposed Decommissioning Plan. One of our comments requested greater detail about the disposition of PG&E's six water rights which support current Project operations. The original Agreement anticipated a transfer of appropriative water rights to a resource agency or other acceptable entity to protect, preserve or enhance aquatic resources. DFG noted that the new plan represented a significant modification to the original Agreement. PG&E responded to DFG by letter on December 10, 2007, and provided the rationale behind their decision to abandon their water rights rather than transferring them to an agency or other entity.



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PG&E believes that court approval would be necessary for PG&E to change its use from power generation to instream use prior to transferring its water rights. This could be very time-consuming and would likely be contested by parties to the Cow Creek Decree No. 38577 and disrupt settled water rights in the adjudicated streams. PG&E also believes that by abandoning their water rights they would still achieve the goals and objectives in the original Agreement. PG&E points out that their water rights are non-consumptive and no new water will be made available for appropriation, and those junior rights holders in the stream reaches between PG&E's point of diversion and points of use will not be able to divert any additional water.

While the DLSA and PG&E's December 10, 2007 letter do differ from the 2005 Agreement, DFG believes that PG&E's decision to abandon their water rights rather than transferring them will accomplish the original goals of the Agreement.

Volume 1 Comments:

Page E.2-42 - E2.5.2. The DLSA indicates that steelhead (*Oncorhynchus mykiss*) migrate upstream of Whitmore Falls "likely during wet years". This needs to be corrected to state steelhead migrate upstream of Whitmore Falls during winter and spring high flows each year.

There is a statement in the second paragraph of this section claiming "fall-run Chinook salmon (*Oncorhynchus tshawytscha*) cannot pass over Whitmore Falls and therefore cannot access the project area on old Cow Creek". Fall-run Chinook may pass over Whitmore Falls in years there is seasonally early rain. In fact the list of species observed at Kilarc Tailrace includes Chinook salmon (See Table E.2.5-1).

Page E.2-44 First Paragraph. This paragraph includes the statement "The forebay supported large numbers of naturally-produced brown trout." Please provide a citation for this comment and the following conclusion that these trout use springs or the canal to spawn. If there are large numbers of juvenile natural brown trout in the forebay they may be coming from miles upstream and passing into the forebay through the unscreened diversion. Additionally, if natural springs occur in the bottom of Kilarc forebay, they will need to be addressed in the decommissioning plan. If springs are not present in the forebay, the above paragraph needs to be revised to adequately represent the environmental conditions.

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Page E.4-3 Last Paragraph. This paragraph states that "the release of sediment behind the Kilarc Main Canal and South Cow Creek diversion dams may result in short-term filling of pools downstream of the dams and the creation of fish passage impediments." GEOM-1 should include fish passage monitoring for two years after the diversion is removed that would identify any fish passage impediments. If a passage impediment is identified as a result of the diversions being removed, PG&E would consult with DFG and appropriate measures would be conducted, if necessary.

Page E.4-8. Regarding PM&E Measure AQUA-5, the document states, "PG&E will request that CDFG stop stocking trout into the Kilarc Forebay the year before the facility is decommissioned. Additionally, PG&E will request that the Fish and Game Commission alter the catch limits for anglers to provide additional recreational benefits and further reduce the number of fish remaining in the Forebay when decommissioned." DFG fisheries managers prefer to determine the appropriate time to cease trout stocking based on time of year, water conditions, and hatchery operations. DFG is also in favor of considering all management options with respect to altering catch limits as decommissioning approaches.

Page E.4-9. In response to PM&E Measure AQUA-6: Conduct Fish Rescue in Canals and Forebays, as Needed, DFG is supportive of PG&E conducting fish rescues on the Kilarc Canal and Forebay. DFG will consult with PG&E as to the appropriate areas to relocate the rescued fish.

Volume 2 Comments:

Page 2-35. The disposition of the Cow Creek Powerhouse needs to include the removal of the gunite (shot-crete) from the bed of Hooten Gulch. Once the powerhouse structure is abandoned in place and the downstream seasonal dam is no longer functional, Hooten Gulch will return to its historical state as a seasonal channel and will likely support steelhead spawning. The gunite section will be a velocity barrier during a wide range of flows and therefore will need to be removed and the associated stream banks will need to be stabilized.

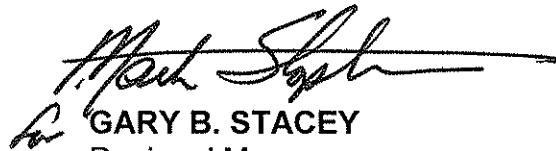
Page 2-8. The last bullet and last sentence under Siphon should read, "Buried portions of the siphon will be capped and abandoned in place."

In conclusion, DFG believes that with the above mentioned changes that the DLSA adequately describes the Project features and proposes decommissioning actions that will sufficiently remove the Project facilities. PG&E's proposed Protection, Mitigation, & Enhancement measures will reduce

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or eliminate any adverse impacts that were identified as part of the decommissioning activities. If you have any questions regarding the above comments, please contact Environmental Scientist Matt Myers at (530) 225-3846.

Sincerely,


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Regional Manager

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