

Parks, Jeff@Waterboards

Subject: FW: Whitmore Community & Save Kilarc Committee Comments Relevant to P-606 (Kilarc) Water Quality Certification
Attachments: 20081110P606CarnleyWhitmoreCommunity-5005(20032873).pdf;
20090302P606AltsSaveKilarc-5097(20494113).pdf

From: Kelly W. Sackheim [<mailto:kelly@kchydro.com>]

Sent: Friday, April 12, 2013 3:11 PM

To: [private] Parks, Jeff@Waterboards

Cc: [private]

Save Kilarc Committee Comments Relevant to P-606 (Kilarc) Water Quality Certification

Jeff - Attached for your consideration are two filings on the FERC P-606 docket, assigned FERC Accession Nos. 20081110-5005 and 20090302-5097, that provide a checklist of issues that PG&E refused to address and the FERC consequently ignored.

Community Stakeholders
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or
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November 7, 2008

Stacy Evans, Project Manager
Pacific Gas and Electric Company
Power Generation
Mail Code N11C, PO Box 770000
San Francisco, CA 94117

Re: Written Comments due November 8 for PG&E to revise the DLSA and file the Final License Application with FERC

Dear Ms. Evans:

Members of the Whitmore Community are important stakeholders in the disposition of the Kilarc facilities upon PG&E's license surrender. We have repeatedly been ignored.

Citizen comments and other attachments to this letter demonstrate the significant, unmitigated impacts of your proposed "Decommissioning Plan." The concept for this plan was first introduced to us in March 2007 - after PG&E developed a March 2005 agreement for signature by a group of stakeholders from which the community was excluded. In September 2007, PG&E released a lengthy document describing your plan for review and comment. PG&E then incorporated the same plan, without taking into consideration comments received by the community, into your "Draft License Surrender Application" dated September 4, 2008. The plan, virtually unchanged since it was first conceived by PG&E, would be an unmitigated disaster for the Whitmore Community and is totally unnecessary.

A majority of the community concerns were first raised at your public meeting in March 2007, reiterated in September/October 2007 following the release of your plan to demolish valuable assets at great cost to us ratepayers, and continue to be completely ignored in your latest document.

Our latest comments are cross-referenced to the totally inadequate analysis in your DLSA in the first attachment to this letter. The attachment proves that there would be significant, unmitigated impacts of PG&E's decommissioning plan. These impacts

would be avoided by the feasible alternative to leave all Kilarc facilities in place for future use. Our community, with support from Davis Hydro, is prepared to take responsibility for the facilities PG&E will abandon and fully address in so far as possible the fish issues. The problem remains that PG&E is raising unnecessary obstacles to a win-win future situation.

PG&E states that the net book value of the Project is estimated to be approximately \$5 million – and proposes to spend \$14.5 million of OUR ratepayer money to destroy it. It makes much more sense for PG&E to donate the facilities, and allocate ratepayer funds authorized by the CPUC to foster the success of future project benefits. PG&E should NOT “be entitled to receive its net investment plus severance damages” (DLSA Section D.2 Amount Payable in the Event of Project Takeover). PG&E should not be compensated because it cannot continue to operate the project cost-effectively. PG&E should not be allowed to stand in the way of ratepayer and community interests.

Significant, unmitigated effects of the proposed dismantling plan, that would be addressed by developing and selecting a project alternative as required under NEPA, include:

- ❖ Loss of local recreation that is especially suitable for youth and handicapped
- ❖ Destruction of a historic resource
- ❖ Water supply impacts from loss of groundwater recharge to springs and wells
- ❖ Loss of fire suppression capability puts our community and natural resources at risk
- ❖ Downstream water quality impacts on endangered fish
- ❖ Impacts to wildlife and natural resources, including wetlands and potentially endangered species
- ❖ Potential hazard of dangerous wildlife seeking water on residential and ranch properties
- ❖ Deterioration of local economy and property values with disruption to ecological balance and community benefits that have evolved over 100 years with the project

Steelhead trout would also benefit from the proposed alternative – it is NOT necessary to dismantle the historic Kilarc Diversion, Canal and Reservoir to save this endangered species. The Proposed PG&E solution is based on returning fish to an area where they have never been seen, and will be very difficult to get to or grow in no matter whether there is hydro or not.


PG&E indicated that you would not respond to comments provided verbally when you presented your latest document. Therefore, 14 concerned local citizens attended a community meeting (see attached sign-in sheet) on October 29, 2008 to repeat concerns that we do not believe are adequately addressed in the PG&E document. One participant prepared for our meeting by preparing a written list of Pertinent Studies. A dedicated note-taker summarized the issues as they were raised. These concerns expressed repeatedly by our community are presented in the latter attachments.

Written Comments on DLSA of Whitmore Community Stakeholders
To PG&E

Page 3
November 7, 2008

Please do not ignore the community. A win-win solution can be achieved if PG&E will leave Kilarc facilities in place and support the community even slightly.

Sincerely,



Laura Carnley for
Whitmore Community Stakeholders

Attachments: cross-reference of comments to DLSA statements and omissions, lists of pertinent studies and community concerns raised in October 29, 2008 meeting, sign-in sheet of meeting participants and signatures and comments of stakeholders who concur with this letter

Enclosure: Excerpts from DLSA Appendix L, Cultural Resources Report pertaining to recordation of Kilarc hydroelectric system (excluding the powerhouse), including report cover, two sequential text pages (unnumbered) and pages 1-30 of Department of Parks and Recreation Primary Record for Resource Name or #: 482-12-07H, Other Identified: Kilarc Canal

cc: comments@kilarc-cowcreek.com
"Evans, Stacy" SxEf@pge.com
"Nevares, Steven" SAN3@pge.com

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

Filed to P-606 in FERC e-library

Cross-Reference between PG&E Draft License Surrender Application
and Community Stakeholder Comments

General Comments:

The DLSA reflects PG&E's perspective and is not designed for easy reference by the community. It was prepared to support PG&E's assertion that its decommissioning plan would have no significant impacts on the community or natural resources.

1. The Community Stakeholders request that PG&E revise the Initial Statement found in the DLSA to include at a minimum two addresses in Whitmore for community stakeholders in Item 7. (currently on Page IS-6) Name and address and address [sic] of every other political subdivision or other entity in the general area of the Project that there is reason to believe would likely be interested in, or affected by, the surrender application:" The addressees should be Mr. Thomas Glenn Dye, original Chair of the Save Kilarc Committee with whom you are most familiar, and Ms. Laura Carnley, who is transmitting these comments on behalf of the Whitmore Community Stakeholders as described. PG&E should also continue to utilize its full mailing list of community members who have requested additional information at any time from the beginning through the conclusion of the license surrender process.

PG&E could have made the DLSA much easier for the community to read and understand. **DLSA Section ES.3.2 Contents** is both informative and misleading. It states that the application is composed of one volume, while the DLSA Table of Contents identifies the "List of Appendices" and their locations in Volume 2 and Volume 3. Section ES.3.2 identifies that the one volume contains This Executive Summary and An Initial Statement – and yet these are omitted entirely from the DLSA Table of Contents.

2. The Community Stakeholders request that PG&E revise its license surrender application to include the Executive Summary and Initial Statement in the Table of Contents.

The concerns raised by the community have NOT been addressed, and the burden of proof should not be on the community to determine PG&E's rationale for dismissing significant issues. The document, provided mostly on CD, is impossible for many community members to access, and cannot be understood without printing major portions. To review PG&E's analysis of a single issue, it is necessary to look in up to ten separate sections of the report, although most is found in the Exhibit E: Environmental Report – for example, according to the table of contents, to review the Recreation issue for the Kilarc Development alone, a reader must locate pages E.2-98 through 100, E.2-168 through 172, E.2-207 (a separate folder of figures on the CD), E.3-30 through 31, E.4-18 through 20, and E.5-14 through 15. A total of 16 pages (or fraction) in six different locations (ignoring the table of contents, executive summary and actual project description). Some issues also have additional information in appendices.

NEPA requires certain elements but it allows the environmental report to be organized in whatever manner facilitates analysis. PG&E's document could have been divided by topic issues and then put the affected environment, impacts, and mitigations together. The local public is primarily interested in the Kilarc Development, while private landowners with property abutting or provided water through the South Cow are interested in that development.

3. The Community Stakeholders request that PG&E revise its license surrender application to address the Kilarc Development separately from the South Cow (even if common information must be repeated in both sections), and group for each topic issue the discussions of affected environment, impacts, and mitigations, with all corresponding tables and figures.

The concerns of Community Stakeholders in the other attachments to this letter were not adequately addressed in the DLSA. The following discussion follows the order of topic issues used in the DLSA, and addresses together the deficiencies for each in the discussions of affected environment, impacts, and mitigations, with all corresponding tables and figures. Some topics have been combined to avoid disagreement regarding where an issue would best be addressed.

Topics 1 - 3. Geology and Soils, Hydrology and Water Resources, Geomorphology

All of the area stakeholders rely on wells, or springs for their household water. No study of ground water has been conducted since 1984 and the results were that it was marginal. Many homes have been added since that time. It is unknown where recharge originates and, for example, there is no other apparent source of recharge besides Kilarc for Two Ponds. It is unknown who and how much recharge depends on Kilarc.

DLSA Figure E.2.6-2 Map 1 Old Cow Creek Study Area, Special Status Terrestrial Species Observed during 2003 and 2008 Surveys presents an incorrect alignment for Spillway No. 3 upstream of the spring-water supply for the residential property (there is no channel where it would in fact run uphill as the contour lines are correct). It is impossible to accurately analyze the hydrology effects on either wells/springs or botanical resources, when the maps developed by PG&E don't accurately reflect the project facilities for water delivery.

DLSA Section E.3.2.3 Evaluation of Water Rights & Use states:

“Any impacts of decommissioning on existing surface or ground water rights are appropriately addressed under state law and not through the federal license surrender process. [...] The groundwater wells in the vicinity of Kilarc forebay do not have water rights to any artificial recharge water that may occur from the Project. However, PG&E will consult [regarding alternatives] with any well owners who claim post-decommissioning effects on well levels or yields from discontinuation of the artificial flows.”

The above statements are patently FALSE – the federal license surrender process requires a NEPA evaluation. The impacts to community wells ARE a direct project effect that must be assessed and to “consult” with well owners does not MITIGATE the problem.

Reduction of groundwater recharge and yield of springs and wells upon which residents depend could occur due to removal of the Kilarc canal and reservoir and must be characterized as a POTENTIALLY SIGNIFICANT adverse effect for which mitigation must be defined.

Reduction of groundwater recharge could also result in a secondary effect of subsidence, a POTENTIALLY SIGNIFICANT adverse effect on ground stability.

Reduction of groundwater recharge could also result in a secondary effect on natural resources, including old growth trees and wetlands, a SIGNIFICANT adverse effect on habitat. [Topics 6 and 7]

The Kilarc Reservoir is a water resource available for helicopter bucket refilling to suppress wild land fires in the area. The local fire company supports retention as this has helped in controlling numerous fires. Removal of the Kilarc reservoir must be characterized as a SIGNIFICANT adverse effect for which mitigation must be defined.

Topic 4. Water Quality

The community asserts, and has collected and shared data to prove, that the project reduces the temperature of water delivered to actual fish habitat in the lower reaches of Old Cow Creek after being held at higher elevation for longer in the canal, and then passing through the turbines that capture heat with the energy generation, even more than the 2 degrees centigrade (e.g. just under 4 degrees Fahrenheit) cited by PG&E.

DLSA Section E.2.4.7 2003 Water Temperature Conditions states that the “decommissioning” (e.g. proposed dismantling) “will eliminate any effect of the Project on water temperatures.” In fact, the beneficial effect of the Project reducing downstream temperatures, by being eliminated, where “Temperature is a significant limiting factor for aquatic biota” will in fact cause a SIGNIFICANT adverse effect where “The Basin Plan objectives state that temperatures for cold or warm interstate waters are not [sic] be increased by more than 5-degrees Fahrenheit above natural receiving water temperature and NO [emphasis added] increase is allowed which impacts beneficial uses.” This colder water has got to have an effect on the fish areas downstream.

Topic 5. Aquatic Resources

To reiterate, this letter requests a focus on disposition of Kilarc Facilities independent of South Cow. The community asserts that there are no studies showing that Steelhead have

ever spawned in the area above Whitmore Falls, a natural barrier well below the Kilarc facility. Recent communication from Howard Brown of NMFS to M. Accituno of Entrix, July 16, 2008 states: “Critical habitat for Steelhead extends upstream to near the Whitmore Range Station and Whitmore Falls.”

The community asks, what fish are currently in the by-passed reach? Planted fish or native species?

Local people have never caught steelhead, or observed any other fish to catch, in the by-passed reach, as corroborated by descendents of pioneer families.

Local people who have walked up the by-passed reach observe that there is already more good habitat in the ditch than up the creek, with rock gravel bottom in sections.

DLSA Section E.3.5 Aquatic Resources identifies the threshold criteria to include “Create new, complete barriers to upstream fish migration” – which clearly will not occur when either removing or leaving facilities in place without creating any new barriers. Another criteria is “Result in a level of mortality that substantially reduces the population of a native fish species, or negatively affects individuals of or the long-term persistence of populations of special-status fish species” – yet NO long term adverse effects, such as the increase in temperature in reaches downstream of the project, described in the preceding section, are identified, and the presumed long term benefits are not even identified, except by stating without justification “The removal of Project features and the cessation of diversions would return the Project-affected bypass reaches to a more natural state and is expected to result in long-term benefits for the aquatic species. Water temperature results from 2003 indicated that decommissioning would lower water temperatures in the bypass reaches (see Section 3.4, Water Quality); therefore no thermal impacts to aquatic resources would be expected.”

Conversely, there is no evidence that any of the threshold criteria established by PG&E would be violated by leaving project facilities in place, which is essential to addressing the SIGNIFICANT unmitigated effects of the proposed dismantling of facilities in many other topic areas as documented in this letter.

Topics 6 and 7. Wildlife Resources and Botanical Resources

DLSA Section E.3.6 Wildlife Resources establishes the threshold criteria to include “Cause a substantial loss of foraging or breeding habitat.” The dismantling of the Kilarc Forebay alone would cause such a loss.

DLSA Figure E.2.6-2 Map 1 Old Cow Creek Study Area, Special Status Terrestrial Species Observed during 2003 and 2008 Surveys presents an incorrect alignment for Spillway No. 3 upstream of the spring-water supply for the residential property (there is no channel where it would in fact run uphill as the contour lines are correct). It is impossible to accurately analyze the hydrology effects on either wells/springs or

botanical resources, when the maps developed by PG&E don't accurately reflect the project facilities for water delivery.

DLSA Figure E.2.6-2 Map 1 Old Cow Creek Study Area, Special Status Terrestrial Species Observed during 2003 and 2008 Surveys clearly includes the botanical Big-scale Balsamroot in the key. A map with botanical data really belongs under Topic 7, not lost in this map for Topic 6. This species never came up in a recent CNPS search (default search is a 9-quad search, being the target quad and surrounding quads). A location of this species in Shasta County represents a significant habitat extension (it is not recorded anywhere else in Shasta County.). It is a CNPS List 1B.2 species, a high rarity rating. Pops up on DFG lists.

4. The Community Stakeholders want to know why PG&E's biologists did not send in a record to CNPS for big-scale balsamroot.

The community has observed that there is much wildlife that inhabits the Kilarc Forebay: Bald Eagles, Osprey, Swallows, Water Snakes, Salamanders, deer, and smaller animals. PG&E underestimates the impact, with fish providing food for Pelicans down in winter, as well as other migratory birds that pass frequently – Whitmore is a wildlife “restaurant” for migratory birds, swans, etc. It is on the Pacific Flyway and is a small stopping place for Waterfowl. Ducks have even raised their ducklings there and have been observed teaching them to fly. Elimination of the Kilarc Forebay must be characterized as a SIGNIFICANT adverse effect on such wildlife habitat.

The diverse wildlife makes Whitmore a very attractive place to live (for humans). Some species have already been disappearing since the 1960s, such as turtles and porcupines.

More habitat could be lost to wildfires, and trees could suffer for lack of water regardless, even though other species besides birds may be able to find other sources of water. The CUMULATIVE adverse effects of dismantling facilities as proposed by PG&E would be SIGNIFICANT.

With the hydropower project in place, Kilarc has become a refuge and recovery area for endangered species that later came to the area, allowing room for populations to grow and disperse, where there is ample food even though it is not the traditional habitat area.

The community asserts that the procedure for dismantling facilities will have a SIGNIFICANT adverse effect on some species such as bats that must be flushed out of the tunnel before it is closed.

Synthesis of Topics 5 – 8: Ecology.

The community asserts that there has been no known impact on the environment (fish, wild life, riparian) in the 104 years of operation of the project. PG&E fails to provide

any argument to the contrary. Change to an existing, stable environment may result in POTENTIALLY SIGNIFICANT adverse effects that PG&E has failed to even attempt to acknowledge. PG&E has only surveyed resources for a total of 5 days which is completely insufficient to characterize ecosystems that depend on the project features.

Topics 8 and 9. Historical Resources and Archaeological Resources

The community comments only on the Historical Resource, which is entirely public information. However, PG&E has stymied the assessment of its analysis by mischaracterizing historic resources as archaeological, and restricting release of the entire Cultural Report, presumably because of confidential location information for Native American Resources that has been buried in the same report.

5. The Community Stakeholders request that PG&E revise its license surrender application to address the Historical Resources separately from the Archaeological Resources, specifically releasing ALL non-confidential information in the Cultural Report (Appendix L) and more clearly cross-referencing in a single section of the DLSA (as requested in #3 above under General Comments), the findings and justification of the recorded features.

The DLSA provides a nearly 5-page historical context for the project area, of which 2 pages specifically address hydropower. The community also identified that Kilarc was the third powerhouse established in the region to replace wood-burning smelters – the whole system is historically important to the development of Shasta County. In the 20s through at least 1953, buildings adjacent to the powerhouse that have since been torn down served the local social life – and are not reflected in the short summary of the DLSA. The GANDA Cultural Resources Report (which has NO page numbers on the footers – page referenced is opposite Figure 26; the table of contents indicates Figure 27 is on the following page, but it is not) does identify that “Approximately 21 out of the 27 buildings existing at the site in 1919 had been removed by 1997 (PG&E 1979; Camp, Dresser & McKee 1997:4-1).”

The DLSA identified that “All resources identified within the APE were photographed and mapped with GPS equipment.” (Page E.2-91) and “A total of seven architectural and historical resources were identified within or adjacent to the APE. All were recorded on Department of Parks and Recreation (DPR) standard forms, mapped and photographed. [...] Table E.2.8.2-2 summarizes the architectural and historical resources described in this Draft LSA report.” (Page E.2-92 with tables on Page E.2-166 [labeled only as Page 166 in the footer]; The Cultural Report identified as Appendix L to the DLSA was said to include confidential information and therefore was not released publicly. A single hardcopy of the Cultural Report was provided to the Shasta Historical Society.)

Page E.3-28 identifies the impact threshold criterion as “Cause a substantial adverse change in the significance of architectural and historical resources recommended for

eligibility in the NRHP or the CRHR.” Given that the Kilarc Main Canal does not even appear as one of the seven architectural and historical resources identified in Table E.2.8.2-2, it becomes impossible to evaluate whether the Kilarc Main Canal meets this criteria. Nonetheless, the same criteria applies for archaeological resources (identified on page E.3-29).

A review of Tables E.2.8-2 and E.2.9-2 reveals that the Kilarc Main Canal (Temporary Number 482-12-07H), that presently serves as the active water conveyance structure delivering up to 52 cfs to the powerhouse is listed only in the latter table of *archaeological* resources.

6. The Community Stakeholders request that PG&E explain why a functioning feature integral to its current hydropower generation was characterized as an *archaeological resource*.

A review of section E.2.9 of the DLSA reflects that NO historical context is provided to support the discussion of historic site types in this section, rather than the preceding E.2.8. It is unclear why the Field Survey Results presented on page E.2-97 within section E.2.9 of the DLSA identify by number the features that appear to be indiscriminately assigned to either Table E.2.8-2 (the Kilarc Powerhouse [site 482-12-06H]) or Table E.2.9-2 (the Kilarc Inlet Canal and associated features [site 482-12-07H]) – except that PG&E does not propose to demolish the Powerhouse and would not be able to demolish the Kilarc Inlet Canal and associated features without mitigation if it were correctly characterized as eligible for listing and therefore a SIGNIFICANT adverse effect of the proposed decommissioning plan.

Table E.4.9-1. Recommendations for Archaeological Resources Identified within the APE provides the first indication of which such resources were deemed NRHP/CRHR Eligible – including only the Temporary Number for each resource, without the corresponding Name/Location. The Kilarc Main Canal was identified in Table E.9-2 with Temporary Number 482-12-07H, that was deemed “Not eligible” and nonetheless received a Recommendation for “No mitigation but avoid historic features where possible.” – which appears commendable EXCEPT that PG&E’s proposed plan involves complete removal of ALL features.

The GANDA report was consulted to determine WHY the Kilarc Main Canal was deemed “Not eligible” – one full page of text (across two pages, presented in the enclosure) proceed from “In summary, the Kilarc Powerhouse appears to [sic] eligible for the NRHP under Criteria A and C, and the CRHR under Criteria 1 and 3 at the state and local level.” followed by the header for “Kilarc Hydroelectric System” that begins “The Kilarc hydroelectric system, including canals, dams, ditch tender cabins, bridges, flumes, siphons, tunnels, spillways, berms, a forebay, and a penstock, constructed in 1903-1904 by the Northern California Power Company, represents a local historic resource that provided hydroelectric power from a water diversionary system constructed throughout the Cow Creek watershed.”

NOTE: the text incorrectly refers in the past tense that the LOCAL historic resource PROVIDED hydroelectric power. As described in the DLSA and above, the system is historically important to the development of Shasta County, not simply LOCAL interests (although these local interests clearly merit consideration as well!). And, the system continues to generate hydroelectric power, and according to Davis Hydro and the FERC, has the potential to continue generating following PG&E's license surrender.

The GANDA report concludes that "Although the Kilarc hydroelectric system has important historical associations and engineering significance, the system as a whole lacks integrity, and therefore the Kilarc hydroelectric system does not appear to be eligible to meet the criteria for listing on the NRHP or the CRHR." The GANDA report argues that the removal of associated buildings that were necessary for the many workers employed prior to the automation of the project, and "numerous" changes made to various components of the system, destroys the "integrity of location, design, setting, materials, workmanship and feeling and association" of the system "from an engineering and technological aspect." In short, the GANDA report argues that because PG&E has already destroyed important historic resources, PG&E should not be obligated to preserve the remaining features that ARE historic and highly valued by the community.

Why the "removal of associated buildings" detracts from the integrity of the Kilarc Canal "from an engineering and technological aspect" when the Kilarc Powerhouse (that is geographically closer to the associated buildings that no longer exist) is deemed eligible for listing, is a mystery, again – except that PG&E does not propose to demolish the Powerhouse and would not be able to demolish the Kilarc Inlet Canal and associated features without mitigation if it were correctly characterized as eligible for listing and therefore a SIGNIFICANT adverse effect of the proposed decommissioning plan.

7. The community challenges the finding that the remaining Kilarc hydroelectric system, especially including the water conveyance structures, is NOT eligible for listing, as supported by the evidence provided in the corresponding record (scanned copy attached – of 44 features photographed along the 3+ mile canal, only a dozen steel flumes and various bridges over the flume are deemed "modern"). The community requests a comprehensive revision to the analysis in the GANDA report and summary of findings presented in the DLSA to reflect that the Kilarc hydroelectric system, e.g. the Kilarc Canal and Forebay and associated structures, ARE features eligible for listing in the NRHP and the CRHR.

It is similarly unclear why, in the final paragraph on page E.2-97, within section E.2.9 of the DLSA, PG&E states "Site P-45-003241 was briefly recorded as a ditch pouring into the Kilarc Main Canal. It was re-recorded as the North and South Canyon Creek ditch, with a total of eight features." when the previous recordation number appears in Table E.2.8-1 (the prior section of the report) and a new number has been assigned and the feature identified as 482-12-10H in Table E.2.8-2.

Topic 10. Recreation

The Forebay/Reservoir is an outstanding local recreation area. The California DFG stocks the reservoir periodically with catch able trout. There is a picnic area, tables, BBQ stands, vault toilets, trash collection, hiking, and outstanding panoramic views.

Community members note that removal of the reservoir will force people to go further for wholesome outdoor activity in a time when everyone is trying to be more fuel conservative. Buckhorn Lake - a thriving source of non-migrating fish has already been lost to recreationists, and Kilarc is highly affordable for local residents – the existence of Kilarc Reservoir makes the community more attractive and adds to the value of the town for both visitors and residents who do not have to leave home to enjoy it.

DLSA Section E.4.10.1 Loss of Kilarc Forebay for Recreational Use identifies **PM&E Measure REC-1: Solicitation of Interest to Recreational Operators** – and then proceeds to describe how PG&E is **unable** to implement the measure. An infeasible measure is NOT mitigation for a SIGNIFICANT impact. Page E.4-20, first paragraph concludes “The implementation of PM&E Measure REC-1 [sic – should be REC-2] would help redirect visitors to other regional recreational facilities after the Kilarc Forebay has been decommissioned.”

DLSA Section E.3.10 Recreation establishes the impact threshold criterion as “Directly remove or damage existing recreational resources.” The “Summary” of impacts does NOT apply the threshold criterion when stating that “no impacts on recreation in the Kilarc and Cow Creek developments are anticipated.” PG&E asserts that the Kilarc Forebay and Picnic Area would no longer be accessible to the public after decommissioning; PG&E ignores in the DLSA that the Forebay is proposed for removal all together.

The community asserts that the proposed mitigation is INADEQUATE to reduce a real impact, as measured by PG&E’s own threshold criterion, to a less-than-significant level. Under NEPA, Project Alternatives MUST be considered and an EIS must be prepared before a project may proceed with an UNRESOLVED SIGNIFICANT UNMITIGATED IMPACT.

Topic 11. Aesthetics

The path along the canal provides access to beautiful views, especially in the fall with beautiful colors and the diversion dam full of water. The public views of 3 mountain ranges from the reservoir are likewise refreshing.

DLSA Section E.2.11.3 Visual Sensitivity notes at the bottom of the first paragraph, “Aside from [sic – should be “After] fishing, sightseeing was the second most popular activity noted by participants in the 2007 Recreational Resources Report.” Earlier, in the

2nd paragraph of Section E.2.11.2 Landscape Character and Scenic Quality, the text states “Views to the south and east of the Kilarc Forebay provide high-country views of Lassen Peak and Lassen National Forest. To the north and west of the Kilarc Forebay, distant views of the peaks in the Shasta National Forest can be seen, but are in some places partially obscured by vegetation. The colors of the region vary according to season and location.”

But, the analysis did not proceed to utilize Key Observation Points (KOPs) to incorporate the desirable views from the perspective of recreationists “of existing *landscapes* [italics added] and Project facilities from Project-related recreation areas and public travel routes” but instead focused on the Project facilities alone. Although the threshold criteria established in DLSA Section E.3.11 included “Substantially degrade the existing visual character or quality of the sites and its surroundings” because PG&E limited the analysis to KOPs 1 and 2, rather than the distant peaks or views from the path along the canal, there was no opportunity to apply this criteria and thus, in Section E.3.11.4 “Based on the evaluation of potential impacts presented in the preceding section,” the DLSA erroneously concludes no impacts on aesthetic resources are anticipated when in fact there would be a SIGNIFICANT UNMITIGATED impact to the recreationist population that would no longer be able to view such surroundings.

Topic 12. Land Use

With the hydropower project in place, the human population has grown with potentially hazardous wildlife meeting their own needs at a safe distance. The community fears that mountain lions and other predators may seek ponds on grazing and residential properties and create a SIGNIFICANT conflict with people and domestic animals. PG&E makes no mention anywhere in the DLSA of this issue.

DLSA Section E.4.1.2.1 Conflicts with CAL FIRE’s Fire and Resource Assessment Program states that there could be conflicts only during construction activities. However, if the Kilarc Reservoir were removed, it would no longer serve as a water resource available for helicopter bucket refilling to suppress wild land fires in the area. The local fire company supports retention as this has helped in controlling numerous fires. Removal of the Kilarc reservoir must be characterized as a SIGNIFICANT adverse effect for which mitigation must be defined.

PG&E stated in its March 10, 2008 Solicitation of Interest for Operation of Kilarc Forebay as a Recreation Facility that it is PG&E’s intention to work within the requirements of its Land Conservation Commitment to permanently protect specific watershed lands through donation of conservation easements and/or fee interests in such lands to qualified entities [...] to continue operations of Kilarc Forebay for recreational purposes.

Stewardship Council Recommendations (presented in Draft June 2007, LCP Volume II, page CB-12) include 6 objectives, most of which depend on leaving facilities in place

rather than dismantling. “The Stewardship Council recommends that the land and land uses at the Kilarc Reservoir Planning Unit be preserved and enhanced by focusing on the importance of the recreation resources to the local community and the need to provide ongoing protection to natural and cultural resources. In presenting the Recommended Concept provided here, our objective is to enhance the recreation experience at Kilarc Reservoir in coordination with any decommissioning activities while also enhancing biological resources and ensuring protection of cultural resources.” Dismantling the facilities will create a SIGNIFICANT conflict with Stewardship Council objectives and recommendations.

The Community of Whitmore as well as surrounding Communities, the County of Shasta, and all stakeholders aware of the potential for decommissioning, are for retention. This has been shown in petitions and supporting signed flyers distributed in local papers. The Shasta Historical Society wants the 105 year old Power Station built by Italian stone masons preserved.

Comments of Whitmore Community Stakeholders
Raised at October 29, 2008 Meeting

1. About the vegetation, old-growth timber – 100-yr-old trees expecting water from that to supply their needs (speaker been in timber business for years), believes area would dry up w/in 20 yrs, in addition to concern w/fire – been addressed? Only been in Whitmore 7 yrs., loves area, knows everyone does...
2. Volunteer @ Shasta Historical Society, w/husband up at Kilarc every chance they get – shares 3-ring scrapbook; @ Walmart 2 yrs ago, everyone who came, saw poster, didn't have to ask twice to sign petition to Save Kilarc; weekends, takes leisurely walk up canal except over tunnel hill, beautiful colors, diversion dam full w/water...worth going up there just to see, so beautiful, do so before weather turns...
3. Seep provides spring, no way to know until they shut it off if domestic water supply will disappear (as occurred w/construction at Whiskeytown),
4. Article in Shasta Historical Society newsletter re: In the 20s through at least 1953, description by Millie Cochran-St. John – social life at powerhouse, had buildings that were torn down
5. Ecology/Environment – PG&E supposedly surveyed, total 5 days not sufficient; called Fish & Game, found some bald eagles present but wouldn't be affected. Our concerns – things HAVE changed in 100 years, there are not other water sources...FERC so busy, will trust PG&E unless told what is being omitted
6. Original reason for tearing down was for fish to go upstream, but that is ludicrous, there are no fish and even if there were, there is no habitat, and Davis Hydro has a better idea.
7. Wildlife seeking ponds – hazard to residents.
8. Cow Creek will still exist – what about eagles, good news & bad news; not as old as dam/reservoir, only migrating winter populations staying in valley until the 60s, one pair nesting at Lake Britton, not acknowledged, until So. Cal, wiped out by DDT, hunting, eggs stolen from nests valued in foreign countries...none at this reservoir, because of building Whiskeytown & Shasta Lake, population moved here for our enjoyment...good news, when they do nest, hunt any body of water they can...a lot more fish are available; nonetheless, the more we protect the eagles, the more they populate down to the valley – Kilarc gives them the room to disperse, more room for youngsters and juveniles, important to support overflow of juvenile population; not historically there, not documented now, there is an osprey nest – not traditional, but they do feed there, as do herons...if you save one bald eagle, 2 chicks, taken off endangered list but still protected...delisted too quickly, 60s & 70s and still need to become established, would not be here without the lakes, reservoirs, ponds
9. What about bats? Overnight displacement is too rapid, not correctly addressing.

10. Underestimating impact, period, fish provide food for Pelicans down in winter, migratory birds passing frequent – Whitmore is a wildlife “restaurant” for migratory birds, swans, etc.
11. So much water, will not impact a lot of other species besides birds
12. Eagles, etc. make Whitmore a very attractive place to live (for humans) – not just Bald Eagles, Golden Eagles been here forever, also Peregrin Falcons like cliffs.
13. Lost great grey owl, prolific in Oregon – worry about losing habitat with fires, as other mentioned could lose trees for lack of water.
14. Turtles and porcupines are disappearing since 1960s.
15. Back to the fish – all of the efforts to stop hydropower have been on behalf of the fish agencies; since March 2005, even they now say NOT spawning in local streams that is problem, critical habitat extends up to Whitmore Ranger Station and Whitmore Falls, already indicated salmon will not get over falls...
16. Actually cooling water, 2-degrees argument, still goes down – conspiracy theory; some kind of deal w/first license up for renewal...political trade, want hydro other places – could profit more easily... summary: NMFS/CDFG taking hard line, no dams downstream, they want it back, PG&E sees 3 MW here and relicensing 3,000 MW w/same people elsewhere – they’re happy to give back the 3 MW...
17. Walked creek, no good fish habitat – more in ditch than up the creek, rock gravel bottom in sections – anyone caught any steelhead? Nothing to catch...pioneer family up there says no baby fish no nothing
18. Fisheries agencies want South Cow, great spawning there – there is nothing that says Kilarc can’t remain and at the same time do something completely different on South Cow; ranchers there are less interested, waiting for other shoe to drop – Davis Hydro focusing on Kilarc, although will work with others if requested. Note taker was requested to put down that South Cow, w/USFWS habitat study commencing, should be addressed separately
19. What fish are currently in bypassed reach? Planted fish or natives?
20. Hydrology – water supply: old growth trees, families’ wells, springs, wetlands up there (in ditchway, groundwater all over downstream property), wetlands from seepage and ditch overflow gates/leaks, around reservoir
21. Hypothetical – like Two Ponds, where does water come from – where is recharge if not from Kilarc? How much does it support, who does it support...105 years, now properties depend on recharging; wells dry up by end of summer...

- 22. Concern, subsidence – water takes up space, fills in, if disappears, land will drop.
- 23. Kilarc 3rd – Volta, Inskip, first...smelters depleting fuel on hills, needed power (1899-1901 to Keswick, Kilarc sent to Bully Hill) – whole system is historically important to the development of Shasta County
- 24. Fire Protection – State of CA, \$\$, fire retardant OK – animals moving before the fire gets there, grass grows through it, etc.
- 25. Recreation – to not have reservoir, don't have Buckhorn; forcing people in time when trying to be more fuel conservative, to go further for wholesome outdoor recreation, affordable for people here, makes community more attractive and adds to value of town, not forcing residents to leave home to enjoy it.

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PG&E Draft License Surrender Application Comment Workshop October 29, 2008		
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The following meeting attendees and others verified the accuracy and facts contained in the meeting transcript and provided the additional input and comments noted:

1. Sandy Winters – also contributed to and reviewed the issues associated with Cultural Resources (topics 8 and 9) in the preceding cross-reference attachment
2. Earl & Joan Wetmore – were unable to attend the October 29 meeting but have added the observation that the original reason for bringing Canyon Creek spring water to the Kilarc Canal was to keep the Kilarc Canal from freezing in the winter because spring water is naturally warmer at that time. All the springs checked were basically the same, 2-3 degrees different at most. Temperature measurements were taken and submitted, along with air temperature, from upstream and downstream of the powerhouse, and further up the Kilarc Canal. The water was colder after it came out of the power plant than before it reached the power plant. The sun comes down hard on the creek and its rocks, where it can't reach the canal – some of the rocks in the creek get so hot you can't sit on them. (April 27, 2007 data: air temperature 88-degrees, readings taken between 4:45 and 6:10 p.m. – at diversion: 53-degrees, temperature rose only 1 degree by the time water arrived at Kilarc Forebay; temperature rose 5 degrees in natural channel by the time water arrived above the discharge from the powerhouse – the powerhouse discharge caused the water in the creek below the powerhouse to decline 5 degrees from the diversion temperature (e.g. from 53 degrees to 48 degrees), during a time when water temperature is critically high for the sensitive anadromous fish species downstream.
3. Linda Barneby was unable to attend the October 29 meeting, but reviewed the above list of comments and confirmed that she had seen Osprey fishing at Kilarc reservoir.
4. Maggie Trevelyan was unable to attend the October 29 meeting, but reviewed the above list of comments and confirmed that she is especially concerned about ground water and the hydrology concerns expressed in the below prepared list of issues.
5. Ruth Patrick, Kathy Roth, and Carla Winstear were all unable to attend the October 29 meeting, but reviewed the above list of comments and confirmed that they share the same concerns.
6. Dee & Spencer Allen attended the October 29 meeting and confirmed that the above list of comments reflects an accurate transcript of the concerns raised by Whitmore citizens.
7. Lee Peak did a 4-wheeler tour of the drainage area north of the Kilarc Reservoir and western end of the canal using the DLSA Figure E.2.6-2 Map 1 Old Cow Creek Study Area, Special Status Terrestrial Species Observed during 2003 and

Comments of Whitmore Community Stakeholders
Raised at October 29, 2008 Meeting

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2008 Surveys, and he observed that the alignment for Spillway No. 3 upstream of the spring-water supply for the residential property below is totally inaccurate (it does not in fact run uphill as the contour lines are correct).

Prepared List of Whitmore Community Stakeholders' Issues
Submitted at October 29, 2008 Meeting

ECOLOGY

There has been no known impact on the environment in the 104 years of operation. Fish, Wild Life, Riparian

HYDROLOGY

All of the area stakeholders rely on wells, or springs for their household water. No study of ground water has been conducted since 1984 and the results were that it was marginal. Many homes have been added since that time.

ANANDROMOUS FISH

A major road block to approval of relicensing Kilarc is the spawning of anandromous fish. There are no studies showing these species (Salmon & Steelhead) have ever spawned in the area above Whitmore falls, a natural barrier well below the Kilarc facility. Recent communication from Howard Brown of NMFS to M. Accituno of Entrix, July 16, 2008 states: "Critical habitat for Steelhead extends upstream to near the Whitmore Range Station and Whitmore Falls". Salmon have never been considered to spawn above the falls.

WILD LIFE

There is much wild life that inhabit the Kilarc Forebay: Bald Eagles, Osprey, Swallows, Water Snakes, Salamanders, Deer, and smaller animals. It is on the Pacific Flyway and is a small stopping place for Waterfowl. Ducks have even raised their ducklings there and have been observed teaching them to fly.

RECREATION

The Forebay/Reservoir is an outstanding local recreation area. The California DFG stocks the reservoir periodically with catch able trout. There is a picnic area, tables, BBQ stands, vault toilets, trash collection, hiking, and outstanding panoramic views.

FIRE PROTECTION

The local fire company supports retention as the reservoir is a source of water available for helicopter bucket refilling to suppress wild land fires in the area. This has helped in controlling numerous fires.

STEWARDSHIP COUNCIL GOALS

The Stewardship Council is chartered to divest the associated PG&E property. Yet, destroying these facilities before the Stewardship Council can complete their plans for divestiture is counter productive. PG&E has been authorized Millions of dollars (ratepayer money) to destroy the very entities that they are working to establish for connecting California youth with the outdoors. Millions more could be spent trying to replace what already exists.

LOCAL SUPPORT

The Community of Whitmore as well as surrounding Communities, the County of Shasta, and all stakeholders aware of the potential for decommissioning, are for retention. This has been shown in petitions and supporting signed flyers distributed in local papers. The Shasta Historical Society wants the 105 year old Power Station built by Italian stone masons preserved.

Document Content(s)

StakeholdersDLSAcomment.PDF.....1-21

Thomas "Glenn" Dye
Chairman "Save Kilarc" Committee
Whitmore, CA www.savekilarc.org

March 1, 2009

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

Re: Statutory Background for Requiring an EIS for P-606 License Surrender

Dear Ms. Bose:

At the end of this month, PG&E will be submitting for FERC consideration its P-606 License Surrender Application. PG&E has been allowed two years for the development of this document, which time they have spent continuing to ignore input from the local community stakeholders. Concerns with the proposed dismantling of the Kilarc Development facilities have been expressed by a broad base of community members and our elected representatives, with the latest correspondence by each party (various parties have written many times) filed with the FERC (and available at <http://frontiernet.net/~tdye526780/vision/community.htm> or by following the links on the expanded www.savekilarc.org website to Our Vision for the Future of Kilarc and thence to "Our Community Writes") as follows:

February 12, 2009 - Jim & Linda Gow
February 12, 2009 - Michael Mogler
January 30, 2009 - Marlene Joslin
December 11, 2008 - Glenn Dye
November 7, 2008 - Laura Carnley for Whitmore Community Stakeholders
May 5, 2008 - Tom Kamp
April 25, 2008 - Maggie Trevelyan
December 10, 2007 - Art Tilles for the Whitmore Volunteer Fire Department
September 21, 2007 - Earl & Joan Wetmore
Elected Officials Representing Community Interests
January 11, 2008 - U.S. Senator Dianne Feinstein
October 26, 2007 - U.S. Congressman Wally Herger

Unless PG&E concedes that the Kilarc Development facilities should not be dismantled in the meantime, the members of the Save Kilarc Committee and the community it represents are convinced that an Environmental Assessment (EA) of the proposed project will not be legally sufficient, and an Environmental Impact Statement (EIS) must be prepared.

Kimberly D. Bose, Secretary
Re: Statutory Background for Requiring an EIS for P-606 License Surrender
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Statutory Background¹

The National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321-4347, is our “basic national charter for the protection of the environment.” 40 C.F.R. § 1500.1. NEPA’s fundamental purposes are to guarantee that: (1) agencies take a “hard look” at the environmental impacts of their actions by ensuring that they “will have available, and will carefully consider, detailed information concerning significant environmental impacts;” and (2) “the relevant information will be made available to the larger audience that may also play a role in both the decision making process and the implementation of that decision.” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

To accomplish these purposes, NEPA requires all agencies of the federal government to prepare a “detailed statement” that discusses the environmental impacts of, and reasonable alternatives to, all “major Federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C). This statement is commonly known as an environmental impact statement (“EIS”). *See* 40 C.F.R. Part 1502. An EIS must provide a “full and fair discussion of significant environmental impacts” of a proposed action, “supported by evidence that the agency has made the necessary environmental analyses.” *Id.* at § 1502.1. A limited discussion of impacts is permissible only where the EIS demonstrates that no further inquiry is warranted. *Id.* at § 1502.2(b).

To determine whether the effects of an agency action may “significantly” affect the environment, thus requiring preparation of an EIS, an agency may first prepare an environmental assessment (“EA”). 40 C.F.R. § 1501.4(b). The objective of an EA is to “[b]riefly provide sufficient evidence and analysis for determining whether to prepare” an EIS. *Id.* at § 1508.9(a)(1). If the EA indicates that the federal action “may” significantly affect the quality of the human environment, the agency must prepare an EIS. 40 C.F.R. § 1501.4; 42 U.S.C. § 4332(2)(C). *See Kern v. United States Bureau of Land Mgmt.*, 284 F.3d 1062, 1066-67 (9th Cir. 2002). “An agency’s decision not to prepare an EIS will be considered unreasonable if the agency fails to supply a convincing statement of reasons why potential effects are insignificant.” *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1211 (9th Cir. 1998).

The threshold for requiring preparation of an EIS is low. *See Natural Resources Defense Council v. Duvall*, 777 F. Supp. 1533, 1537-38 (E.D. Cal. 1991) (noting that “the [Ninth] Circuit has established a relatively low threshold for preparation of an EIS”) (citations omitted). The Ninth Circuit has stressed that the evidence regarding the significance of the impacts need not be conclusive in order to compel the preparation of an EIS. Rather,

¹ Copied from COMMENTS on Draft Environmental Assessment, DeSabra – Centerville Project (FERC No. 803), Docket No. P-803-068, Applicant: Pacific Gas & Electric Co., Filed by: Chris Shutes, California Sportfishing Protection Alliance; Allen Harthorn, Friends of Butte Creek; Kelly Catlett, Friends of the River, Dave Steindorf; American Whitewater; and Cindy Charles, Golden West Women Flyfishers

Kimberly D. Bose, Secretary
 Re: Statutory Background for Requiring an EIS for P-606 License Surrender
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[A]n EIS must be prepared if substantial questions are raised as to whether a project . . . may cause significant degradation of some human environmental factor. The plaintiff need not show that significant effects will in fact occur, but if the plaintiff raises substantial questions whether a project may have a significant effect, an EIS must be prepared.

LaFlamme v. FERC, 852 F.2d 389, 397 (9th Cir. 1988) (citations omitted).

Level of analysis under NEPA

The need for an EIS on this project is an issue for which ample justification has been provided in the November 7, 2008 written comments of Community Stakeholders (FERC accession no. 20081110-5005, copy also available at www.savekilarc.org as referenced above), for PG&E to revise its Draft License Surrender Application. As noted on page 4, under item 2 of these comments, “The concerns raised by the community have NOT been addressed, and the burden of proof should not be on the community to determine PG&E’s rationale for dismissing significant issues.” FERC’s regulations provide that an EIS must be completed for major federal actions that significantly affect the quality of the human environment. 18 CFR 380.6(b)² The assertion that the manner in which PG&E proposes to surrender this project will not significantly affect the environment is untenable. As noted in the cover letter to the Whitmore Community Stakeholders’ comments, a determination of whether the impacts of this project are significant, thus requiring the preparation of an EIS, includes a consideration of

- ❖ Loss of local recreation that is especially suitable for youth and handicapped
- ❖ Destruction of a historic resource
- ❖ Water supply impacts from loss of groundwater recharge to springs and wells
- ❖ Loss of fire suppression capability puts our community and natural resources at risk
- ❖ Downstream water quality impacts on endangered fish
- ❖ Impacts to wildlife and natural resources, including wetlands and potentially endangered species
- ❖ Potential hazard of dangerous wildlife seeking water on residential and ranch properties
- ❖ Deterioration of local economy and property values with disruption to ecological balance and community benefits that have evolved over 100 years with the project

And, finally, Steelhead trout would also benefit from the Community’s proposed alternative – it is NOT necessary to dismantle the historic Kilarc Diversion, Canal and Reservoir to save this endangered species.

² Ibid.

Kimberly D. Bose, Secretary
Re: Statutory Background for Requiring an EIS for P-606 License Surrender
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Alternatives considered under NEPA³

It is well established that the discussion of alternatives is the “heart” of the NEPA process. 40 C.F.R. § 1502.14; *Ctr. for Biological Diversity v. National Highway Traffic Safety Admin.*, 538 F.3d 1172, 1217 (9th Cir. 2008). NEPA requires agencies to “study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.” 42 U.S.C. § 4332(2)(E). Such an analysis must “rigorously explore and objectively evaluate all reasonable alternatives” to the proposed project in order to “sharply defin[e] the issues and provid[e] a clear basis for choice among options by the decisionmaker and the public.” 40 C.F.R. § 1502.14(a). The existence of a viable but unexamined alternative renders an environmental impact statement inadequate. *Resources Ltd. v. Robertson*, 35 F.3d 1300, 1307 (9th Cir. 1994).

The lack of alternatives presented by PG&E is unfortunately characteristic of an approach PG&E takes repeatedly when its hydropower licenses come up for renewal – whether PG&E decides to pursue a new license, or, as in this case, ultimately decides to surrender its license. The alternatives presented are limited to small variations on the proposed action. Worse in this case, PG&E preemptively proposed its alternative to the powerful resources agencies and environmental groups for rubber-stamping, to make it impossible for other voices to be heard or considered before the FERC is presented with a “consensus” of all parties that PG&E does not dare to ignore. PG&E erroneously concludes that there can be no “no action” alternative because they must surrender their license. While it is true that the license must be surrendered, the “no action” alternative would in fact be to surrender the license without dismantling the facilities – or, “locking the door and walking away” as Mr. TJ Lovullo of your office stated when he came to speak to our community in January of last year.

We are hopeful that the FERC will make it clear to PG&E that continued refusal to pursue a consensus-based process that includes community stakeholders will not result in approval of their alternative as proposed. We are similarly hopeful that the FERC will continue to be pro-active, as you were in sending Mr. Lovullo to speak to our community in the middle of the period when PG&E should have been considering community input to the DLSA, even though the FERC is not required to be active at this stage in the process.

Sincerely,



Thomas “Glenn” Dye
Chairman “Save Kilarc” Committee
Retired Registered California Professional Engineer

³ Ibid.

Document Content(s)

DyeFiling_NEPAstatutoryBkgrd.PDF.....1-4