

## **Parks, Jeff@Waterboards**

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**Subject:** FW: Comments re: Anadromous Fishery/Habitat Upstream of Whitmore Falls for FERC P-606 (Kilarc) Water Quality Certification

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

**Sent:** Friday, April 12, 2013 6:07 PM

**To:** Parks, Jeff@Waterboards [private]

**Cc:** [private]

**Subject:** Comments re: Anadromous Fishery/Habitat Upstream of Whitmore Falls for FERC P-606 (Kilarc) Water Quality Certification

Jeff - Thanks for getting the documents submitted at the scoping meeting up so quickly. The last sentence about additional comments being posted soon needs to be revised to reflect April 10, 2013 is NOT the Scoping Comment Deadline - but I totally understand things are a little rough as they move quickly.

Before I get to the meat of the subject, I've gotten additional feedback from one of the cc's to my prior e-mail:

On 4/12/2013 3:50 PM, Tom wrote Re: Comment of Todd Wroe and Tom Kamp re: Groundwater for FERC P-606 (Kilarc) Water Quality Certification:

Kelly,

Just to inform you my spring and water supply was permitted and signed off by the county a few years ago.

Thanks,

Tom Kamp

Now, the subject Comments re: Anadromous Fishery/Habitat Upstream of Whitmore Falls for FERC P-606 (Kilarc) Water Quality Certification:

Due to the large file sizes, I am not attaching the supporting FERC filings, but you may find filed on FERC eLibrary under P-606 the FERC Accession Nos.

20100817-4007 - Transcript of the August 17, 2010 Public Hearing held in Whitmore, CA re Kilarc-Cow Creek Hydroelectric Project under P-606 -- Bob Carey's comments start on line 13 of the 49th page of the FERC-generated .pdf

20091116-0236 - comment submitted by Biologist Robert Carey of Vestra Resources, research article on "Impact of environmental factors on fish distribution assessed in rangeland streams"

Of note: On page 50 of the transcript, Bob Carey stated, "Prior to 2002 all the resource agencies 4 involved had considered Whitmore Falls an impassable 5 barrier. I want to stress that the DEIS should really 6 be using the best available science in making their 7 determinations. And the 2002 memo that came out 8 really doesn't do that very well."

In other words, the resource agencies allege that more habitat in the Kilarc by-pass reach is necessary to accommodate steelhead that have never been observed upstream of Whitmore Falls, but MIGHT be able to arrive based on a 2002 memo. However, the 2002 memo doesn't provide a good argument for revising the assumption that Whitmore Falls is an impassable barrier.

I have heard Mike Berry of California Fish & Wildlife (formerly CDFG) present in several of the FERC public hearings a metaphor that similarly poorly represents a possible justification for asserting that more habitat in the Kilarc by-pass reach is necessary. Mike Berry has spoken of the Kilarc project area, including the by-pass reach, being like a mansion where the resident fish are limited by the project diversion to occupying only the bathroom. In fact, the Kilarc project area may more properly be characterized like a 10-storey apartment building, with 15 residential units per floor, where only the bottom floor (say, between the FERN Road overcrossing of the natural channel and the powerhouse discharge of up to 50 cfs) have been outfitted with utilities, and thus the other 9 floors are not habitable. In this apartment building, fewer than half of the available ground-floor units are actually occupied, because there are no fish traveling up over Whitmore Falls to take up residency.

Now, using the same analogy, it is possible to ask - would augmenting the minimum instream flows from the current 2-3 cfs to, say, 30 cfs that are required of the Olsen hydroelectric project that is located between the project area and Whitmore Falls, result in the 10-storey apartment building being habitable in the upper storeys? It is known that there is an acknowledged impassable barrier about 1/2-way up the by-pass reach -- so, at best, the anadromous fish would need to occupy (have sufficient habitat to accommodate the population) the lower half of the apartment building. Is there any evidence whatsoever in the public record identifying how much habitat would be created in that zone by increasing the flow by up to 50 cfs that is the capacity of the Kilarc Canal? I do not believe there is.

Now, I have also heard that resident trout would also benefit from additional habitat upstream of the impassable barrier, and thereby potentially contribute to the resident (clearly not exclusively "native" and more likely predominantly hatchery-based, after 50 years of planting fish!) and migrating population - but I am similarly unaware of any quantifiable data to support this hypothesis. In the absence of data, would it make any sense to irreversibly remove the Kilarc Canal? I trust the State Water Board to render an unbiased opinion.

Thank you for considering these issues in your scope of analysis.

Kelly  
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