

## **Parks, Jeff@Waterboards**

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**Subject:** FW: The Davis Hydro Alternative Relevant to P-606 (Kilarc) Water Quality Certification  
**Attachments:** TheDavisHydroAlternative.pdf

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**From:** Kelly W. Sackheim [<mailto:kelly@kchydro.com>]  
**Sent:** Friday, April 19, 2013 12:27 PM  
**To:** Parks, Jeff@Waterboards; [Dick@DavisHydro.com](mailto:Dick@DavisHydro.com)  
**Cc:** [private]  
**Subject:** The Davis Hydro Alternative Relevant to P-606 (Kilarc) Water Quality Certification

Jeff - While Dick Ely is back working on operating sites in Maryland, New Hampshire, and Vermont, he asked me to forward to you the attached brief synopsis of the most relevant aspects of the Davis Hydro Alternative, that has been evolving and presented in substantial detail in multiple FERC filings. You may want to review FERC Accession Nos. 20110114-5162, 20080707-5045, 20080425-5015, 20070919-0009, 20070731-5001, 20070517-0080, and 20070427-5112 (details of DH Alternative itself), and 20080828-0200 (erroneous facts and flawed logic of PG&E), 20090331-5019, 20080917-5001, 20070926-5034, 20070926-0057, 20070917-5001, 20070531-3003, (comments related to DH Alternative), filed on P-606 for additional detail. Please let us know if you have further questions as you undertake development of the draft EIR and conditions of Water Quality Certification.

Kelly

p.s. Could you tell us if there have been any other comments filed since the scoping meeting that have NOT been filed on FERC eLibrary? And, perhaps provide a copy by e-mail today, if it is not possible to get such comments up on the Water Boards website before your Monday deadline? I would like to facilitate your work by providing corrections or any additional information that may clarify the flaws and deficiencies in the data and arguments that may be made by other commenters.

Mr. Parks,

The following comment is submitted as a component of the Scope of work of your investigations so as to see that there is an alternative to demolition. We request you consider a process that permits serious evaluation of alternatives such as described below. We request you consider and include in your analysis off-site effects of the demolition through the businesses involved and through the off-site environmental destruction that will be effects directly and indirectly triggered as alternative power facilities are constructed and this project decommissioned. All these businesses create environmental damage and through normal economic input/output (I/O) multipliers this damage is spread worldwide. FERC is well aware of the limitations of their analysis and this gives an opportunity for California to show how it should be done.

As a viable Alternative, please consider:

#### The Davis Hydro Alternative

The following schematic description is presented as a template for a Davis Hydro License to operate in Project P-606. Davis Hydro has an interest in operating only the Kilarc facility as a profit-making entity that will provide significant fisheries and community benefit for the area. This description is intended as schematic representation of the proposed alternative addressing the known constraints and goals of all parties.

In summary, these potential components comprise the Davis Hydro Alternative which will evolve as more facts and agency and community desires become clear. The best option(s) will be presented to the FERC and the state at the appropriate time. Simply put, Davis Hydro is interested in participating and is flexible on the appropriate structure.

Definitions:

#### Davis Hydro

Davis Hydro is Davis Hydro LLC, (DH) a company owning significant shares in four small hydro sites in the North East. On the Cow, DH will form and managing a new California LLC for the sole purpose of owning and/or operating, for profit and the other benefits, the Kilarc Hydroelectric project. DH is engaged in and will directly support fish-related research and resource habitat enhancements directly.

### The Kilarc Foundation

The Kilarc Foundation (Foundation) is a non-profit foundation set up in 2010 to help and enhance anadromous (salmon and steelhead) and recently catadromous (eels) fish resources. It is currently funded by Davis Hydro to work on fish potentially impacted by their operations. The Foundation's work would be expanded and directed by people appropriate for the site – in this case Cow Creek anadromous fish. The Foundation's activities include conservation, habitat enhancement, and research for these fish. Resource Agency people are wanted as Board members or Project advisors.

### The Land Title Holder

This entity will own the land on which the Kilarc facility operates.

### The Local Oversight Entity

An independent entity might best represent community and fish resource interests. This entity could direct conservation, research, and community activities. This role is similar to managers of conservation easements management group such as Western Shasta RCD or the Shasta Land Trust. It would be logical to have a representative on the Kilarc Foundation Board.

### FERC

The Federal Energy Regulatory Commission (FERC) regulates all aspects of hydropower generation. Power generation is possible only with compliance of all FERC License conditions. License conditions govern operation, environmental mitigation, community operation, resource agency, and utility interactions.

## **Sample Schema**

In the simplest scheme, the P-606 License is divided into two areas. Davis Hydro applies for a license to operate the Kilarc Site. The FERC terms and conditions of the license require significant efforts by DH to address resource problems in both the Old Cow and the South Cow areas. These can be addressed through the Kilarc Foundation which is directed by agency and community representatives.

In a more complex FERC license scheme, the P-606 FERC Project is split into two projects for analysis and disposition. The Kilarc Fee Title is controlled by Cal Fire or similar entity. An independent Conservation Supervisor such as Sierra Land Trust. Davis Hydro as the hydro operator responds to the needs of both as directed in its License.

Other arrangements are possible, and workable. For example: The Kilarc Foundation is the FERC License & Fee holder, and hires Davis Hydro as the Operator.

In all models, Davis hydro is responsive to Community and Resource issues as dictated by FERC either directly – as is the conventional model, or through the Kilarc Foundation and described here. For the moment, Dr. Ely continues to serve as an initial Kilarc Foundation Director, until other more interested in the fish are found by the Kilarc Board. Currently, the Foundation is working on American Eel passage reflecting funding and agency support at the east coast hydro sites. Hopefully, this will change to more work on local anadromous fish with Kilarc Funding.

The Kilarc Foundation under Dr. Ely will:

- Provide a specific forum for balancing community and resource goals,
- Act directly to effect habitat and species genotype improvement projects,
- Study ways to genetically and epigenetically enhance anadromy,
- Seek matching grant funding amplifying what is generated from the hydro operations.

With Kilarc Project funding, Dr. Ely will take a smaller role focusing on research and project implementation. New local board members will be elected.

Other issues:

Funding: Currently Davis Hydro is funding the work at the Kilarc Foundation. The Kilarc project will, under FERC mandate expand that significantly as the Kilarc Project generates profits. It is intended that a target of 1/3 of the profits the Kilarc Project will go directly to the Foundation to be used as directed by its Board.

South Cow: Davis Hydro is willing and as part of its license, if asked, would provide funding through the Foundation to address all issues on the South Cow. Locally, and only in partnership with local landowners, these efforts would include mechanisms to address local proposals such as:

- Coanda screened intakes and fish passages on the South Cow,
- Ditch lining to reduce water loss -- providing more water where needed,
- Fencing and fish habitat enhancements where permitted,
- Funding ditch tending to conserve water and reduce runoff.

The conflicting interests of the fish, the fishermen, ranchers and community need to be resolved with a solution that minimizes the concessions made by any party. However, under hydropower funding and FERC mandates, we can provide a solution that meets nearly everyone's goals while continuing to generate green power and greatly improving fish resources and habitat.

Off Project: The FERC measured its project environmental impact so narrowly that it did not account for most of the project effects that occur off-site. I hope the environmental effects of in house work done on-project (the lab, the research, the small hatcheries, juvenile habitat creation, etc.) are tiny relative its works off-site on behalf of the fish. This summer we will be mapping illegal and unscreened diversions on the upper Sacramento building on the work done by the State and Federal government. This work will be a parallel effort to the state diversion screening effort, but done quietly and privately. We will also be mapping small spawning grounds, for future insemination with ancestral stock. We hope to be an independent public voice addressing bass predation. We continue to work on understanding the genetic and epigenetic causes of behavior and seek by funding research ways to enhance desired behaviors and have it proliferate

In summary, Davis Hydro is willing to take over the operation and license problems of the Kilarc site and do so in a way that will fund environmental improvements not only for the local fish and community, but directly through emissions reductions and fisheries research to the whole state and nation. We are flexible and dedicated to a project that maintains green power at the Kilarc site and using its generation for environmental enhancement. We do not care what form that takes. It is clear to us that it make no sense to tear down an existing green power source that may easily be shown to be directly benefitting the fish downstream, and can and will be used to benefit the fish indirectly through the Foundation.

Respectfully,

A handwritten signature in black ink, appearing to read "Richard Ely", with a stylized flourish at the end.

Richard Ely,  
Principal, Davis Hydro,  
Director (pro tem), The Kilarc Foundation