

From: [Bonnie Tetrick](#)
To: [Wr401program](#)
Cc: [Steve Tetrick](#)
Subject: Tetrick comments to SWRCB Draft EIR
Date: Friday, May 24, 2019 10:33:03 AM
Attachments: [SWRCB-DEIR-Filed Tetrick Comments 5.24.2019.pdf](#)
[SWRCB-DEIS-Filed TS expanded 5.24.2019.pdf](#)

Dear Ms. Siebal,
Attached please find our comments to the SWRCB Draft EIR, and a proposed expanded Technical Solution (TS) to consider.

Please acknowledge receipt of these documents.

Thank you kindly,
Steve & Bonnie Tetrick
TETRICK RANCH

TETRICK RANCH
27500 South Cow Creek Road
Millville, CA 96062

May 23, 2019

Ms. Michelle Siebal
State Water Resources Control Board
Water Quality Certification Unit
P.O. Box 2000 Sacramento, CA 95812-2000

Via Email: WR401Program@waterboards.ca.gov

Re: SWRCB Kilarc-Cow Creek Draft EIR

Dear Ms. Siebal,

Members of the Tetrick Ranch thank you for the opportunity to comment on the recently received Draft EIR prepared by your team at the Water Boards.

As owners of the property at “ground zero” since 1997, our ranch surrounds the South Cow Creek forebay, penstock, powerhouse and tailrace to the Abbot Ditch diversion on Hooten Gulch.

Over the past 14 years, since the 2005 Agreement and before, we have been steadfast in trying to provide a workable solution so as to maintain flows in Hooten Gulch through our ranch, providing continued water delivery to our ADU neighbors downstream. Even before the P-606 decommissioning process started, we met with Jim Canaday of your agency regarding our concerns. Later, in 2007 through the FERC process as the records show, we made a formidable effort with the help of our neighbors (ADU), Shasta County and Sierra Pacific Industries, in an attempt to provide a global solution that would preserve some of the Project works with the goal to benefit all parties including PG&E, the fisheries, the ADU and Shasta County. Our attempt ultimately failed with FERC and the resource agencies turning down our Community proposal with FERC’s issuance of their FEIS in 2012.

Since the 2013 FERC decision we have not been idle. We have continued to be proactive in our South Cow Creek valley and have had several meetings with the Water Board, other resource agencies, NGO’s, engineers and conservation banks regarding water delivery options, water conservation, habitat conservation, and mitigation. However, the last 15 years of the decommissioning process has created much doubt and uncertainty. This has resulted in a significant hardship on the ADU and Tetrick Ranch (the Community) with legal costs, an uncertain future, and property values being held in suspense. In 2012, our 100KWH hydro plant penstock below the PG&E powerhouse became silted up and was damaged. The estimated cost to repair and replace the damaged penstock was several hundred thousand dollars. With the release of FERC’s FEIS, we felt that the decommissioning of P-606 was imminent, and as such, it would not make financial sense to repair the hydro penstock and then shortly thereafter have to abandon it before being able to receive a return on our capital investment. However, if we had known that the PG&E Project would remain operating in 2019 and continuing beyond, we would have made the investment to repair the damaged penstock back in 2012.

Nonetheless, we all have been anxiously awaiting and now appreciate the SWRCB's Draft EIR.

While we generally agree with the Draft EIR's conclusion that parts of Alternative 2 are the "Environmentally Superior Alternative", however, we do have some questions and comments to pose to your team, and also herewith offer an *expanded* technical solution for your serious consideration (*Proposed Expanded Components of Technical Solution – Preferred Alternative 2B*).

Our further comments and questions regarding the Draft EIR are as follows:

1. **Areas of Controversy**

Page xviii – Executive Summary – April 2019 DEIR (page 20)

The Areas of Controversy and accompanying Table ES-1 do not seem to adequately denote the controversy of water rights, beneficial interests, the Project history, and the real impact the Project has on the adjoining lands and waterways, the water users and the Community.

Specifically, since the Project would adversely affect existing water rights and related interests, there should be a row added on Table ES-1 to include existing **Water Rights and Beneficial Interests**.

Also, in the FERC FEIS decision, it was stated (FEIS 33):

“Whether or not the Proposed Action [of decommissioning proposed by PG&E] would violate the water rights of others is a matter to be determined by the State of California, not the Commission”.

Since FERC has pushed this issue to the State, we were expecting to see these matters dealt with more specificity and clarity in your Draft EIR.

2. **CHAPTER 2 PROJECT DESCRIPTION**

2.2 March 2005 Agreement.

April 2019 DEIR, Project Description 2-1 (page 64)

*“In March 2005, PG&E entered into the Kilarc-Cow Creek Project Agreement (Agreement), signed by eight resource agencies and interested parties (included as Appendix B-1)...
...The Agreement identified 17 subject areas and included desired conditions for each subject area (PG&E 2005, see Appendix B-1).”*

Comment: This section of the DEIR refers to the **Kilarc-Cow Creek Project Agreement** dated March 22, 2005, and its **Attachment A “Subjects and Desired Conditions”**, but does not mention the “desired condition” as stated in Item 7 of Attachment A, “Subjects and Desired Conditions” concerning the preservation of water rights:

7. Disposition of Water Rights

- a) *PG&E appropriative water rights are protected and used to preserve or enhance aquatic resources*
- b) *Other water right holders rights are preserved***
- c) *All water rights preserved subject to the Jaw*
- d) *Water rights are enforceable and permanent*
- e) *Maintain aquatic habitat values downstream of Hooten Gulch*

It would appear that the Adjudicated water rights of the ADU are being ignored during this CEQA process, despite the acknowledgement of the 2005 Agreement that “water right holders rights are [to be] preserved”.

3. **3.3.2.2 Alternative 2, Option B – Retaining Flow to ADU via Restored East Channel (Technical Solution)**

April 2019, DEIR, Project Alternatives 3-3 (page 110)

“Alternative 2, Option B (Alternative 2B) would retain flow to ADU via a restored east channel in South Cow Creek...”

Comment: Since the commencement of the Draft EIR, approximately 6 years ago, the Tetrick Ranch and the ADU have been discussing a long term sustainable superior alternative for water delivery, agriculture and the fisheries. **Please see attached TS *expanded* narrative attached hereto and made a part hereof.**

4. **3.3.2.3 Alternative 2, Option C – Retaining Flow to ADU via New Pump in South Cow Creek**

3-6 Project Alternatives, April 2019, DEIR (page 111)

“Alternative 2, Option C (Alternative 2C) would retain flow to ADU via a new pump in South Cow Creek near the current ADU diversion location.”

Comment: If a new pump in South Cow Creek were placed near the current ADU diversion, no pumped water would benefit Hooten Gulch as stated in Sections 4.6-6, 4.6-7, 4.6-8, 4.7-9, and 4.12-8, of the draft EIR. Also, a **long-term** GHG calculation assuming a 28-HP pump running 24/7 during the irrigation months should be considered. Given that that ADU are not interested in a pump in South Cow Creek and that it will not benefit any part of the 115+ years of Hooten Gulch riparian habitat, this alternative should be re-evaluated.

It is also important to note that the 115+ year old riparian habitat established in Hooten Gulch has had steelhead periodically spawning, and if water is reduced, mitigation should be required or considered.

5. **3.3.2.4 Alternative 2, Option D – Retaining Flow to ADU via New Conveyance to Hooten Gulch**
3-6 Project Alternatives, April 2019 DEIR (page 111)

“Alternative 2, Option D (2D)...ADU would continue to access water at the current point of diversion, but the water would be supplied to Hooten Gulch via the new pipeline instead of via the Cow Creek Development facilities.”

Comment: It is unclear as to where on Hooten Gulch that the proposed pipe tailrace is to be placed under Alternative 2D – this needs to be clarified.

6. **4.4.4.2 Cow Creek**

IMPACT 4.4-6 (Cow Creek): *Would the action convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use?*

4-42 Environmental Analysis, April 2019 DEIR (page 157)

Comment: This section is well written regarding the impacts to the Abbott Ditch and the ADU. However, it fails to address the impact to the Tetrick Ranch. The loss of 6/10 of a mile of a year-round stream with 115 years of riparian habitat that has produced year round hydroelectric power from 1985-to 2012. As stated previously, the reason the 100 KWH plant is not operating today is due to the now inevitable decommissioning of P-606 and the capex requirement to recommission the 100 KWH plant.

Also, with the loss of the PG&E tailrace for water augmentation to Hooten Gulch, the Tetrick Ranch cattle operation will need to be curtailed during the summer or water will need to be redistributed from South Cow to a network of tanks or reopened for watering.

7. **4.7.4.2 Cow Creek Development**

IMPACT 4.7-9 (Cow Creek): *Would the action result in impacts on wetlands and riparian habitats?*

4-168 Environmental Analysis, April 2019, DEIS (page 283)

April 2019 DEIR, Environmental Analysis, 4-171 (page 286)

- *“Mitigation Measure 4.7-9: Prior to commencing activities that will reduce augmented flows in Hooten Gulch, PG&E shall complete a delineation of all potentially jurisdictional aquatic features in areas to be directly impacted by changes to the amount of water flowing [.6 MILES THROUGH THE TETRICK RANCH AND] in the Abbott Ditch. The delineation shall address all features potentially jurisdictional to waters of the United States or waters of the state, wetlands, or riparian areas. PG&E shall, as early as possible, identify and communicate its process to the affected private land owners. To ensure “no-net-loss” of wetlands, PG&E shall prepare, in accordance with applicable agency guidelines and requirements, compensation/mitigation measures for the preservation and/or creation of wetlands and/or purchase of credits at an approved*

mitigation bank or payment into an in lieu fee program with the final wetland mitigation ratios approved by the applicable resource agencies. An agency approved monitoring program will be implemented by PG&E to ensure the success of compensation/mitigation areas.

Comment: ANY loss of augmentation to Hooten Gulch should also **include Tetrick Ranch**. Please add Tetrick Ranch in the mitigation measures for loss of water flows in Hooten Gulch.

Again, It is important to note that the 115+ year old riparian habitat established in Hooten Gulch has become a natural part of the environment, and that steelhead have been observed periodically spawning in Hooten Gulch. If water is reduced, this riparian area is negatively impacted, and thus mitigation should be required or considered.

8. 4.12 Hydrology and Geomorphology

IMPACT 4.12-8 (Cow Creek): Would the action re-establish a natural streamflow regime in the augmented segment of Hooten Gulch?

4-292 Environmental Analysis, April 2019 DEIR (page 407)

Comment: Only a portion of Hooten Gulch would be *“similar to existing conditions prior to decommissioning”* and none if Alternative 2C were installed.

It is the request of Tetrick Ranch, the ADU, and Shasta County that either **Alternative 2B or 2D** become a condition to the Final Water Quality Certifications to be issued in July of 2019. The minimum conditions should include the following requirements:

- **Condition 1.** PG&E shall maintain the present diversion up to and including Hooten Gulch and its connection with the Abbott Ditch until either Alternative 2 Option B or Option D has been designed, planned, permitted, constructed and is operating to deliver to ADU their adjudicated water rights; and
- **Condition 2.** When Condition 1 is completed, PG&E shall cease power operations and commence and complete the decommissioning of such unutilized portions of the South Cow Creek diversion and Cow Creek Development as required by the Commission and in conformance with the Water Quality Certification.

Thank you for your consideration.

Sincerely,



Steve Tetrick
TETRICK RANCH

Please refer to attached “Proposed Expanded Components of Technical Solution – (Preferred Alternative 2B)”

TETRICK RANCH
27500 South Cow Creek Road
Millville, CA 96062

May 23, 2019

PROPOSED *EXPANDED* COMPONENTS OF TECHNICAL SOLUTION

(Preferred Alternative 2B)

Over the past 6 years since FERC's issuance of the FEIS, the Tetrick Ranch and the ADU, (the "Community") have had several meetings and communications regarding the P-606 decommissioning process.

These meetings and various teleconferences have been with the Water Boards, resource agencies, NGO's, conservation banks, Shasta County, biologists, and engineers.

The purpose of these meetings was to collectively and proactively as a "Community" to come up with a preferred way to maintain flows into Hooten Gulch with continued water to the Abbott ditch, improve and maintain the agricultural resources in South Cow Creek valley, and improve the water quality and fisheries up through Wagoner Canyon.

In addition to meetings and conferences, the Tetrick Ranch has completed over 1/2 mile of fencing to protect the southeast channel and eastern banks of South Cow Creek from cattle, has been in discussions with conservation bankers on the potential to further enhance fish, riparian and wetland habitat, and coordinating with the ADU to assist in watershed improvements.

Since submitting the "Technical Solution" that was filed back in April 20, 2013, we have come up with an *expanded* and *amended* version that involves more improvements and benefits for both the Community (the ADU, Tetrick Ranch, Shasta County) and the resources agencies including the SWRCB, NMFS, USFW, CDFW, USEPA, CALEPA and others.

Whether the technical solution and its *expanded* components can be achieved through settlement negotiation or through mandatory mitigation is something that the SWRCB, as the lead agency, should provide direction on. We feel that bringing these expanded options forward now provides a fuller picture of what the Community can add to the pending Water Certification process and become a true win for the environment, stakeholders and the Community.

Some of the expanded Community project improvements and benefits that have been discussed are as follows:

- 1) A portion of the Tetrick ranch (approximately 250 acres) on both sides of South Cow Creek would be placed into a conservation bank for the benefit of steelhead and salmon populations of the Central Valley from near the diversion point of the ADU diversion, through the southwest and southeast channels of South Cow Creek up to and through Wagoner Canyon for approximately one mile.
- 2) The ADU would consider relinquishing a portion of their adjudicated water right for instream benefits if an expanded Technical Solution as described herein was approved, funded and constructed.

- 3) In addition to what is suggested in the Technical Solution, the conservation bank could include improvements to the ADU water delivery by construction of a screened, gated and metered pipeline to the users and by engineering and construction of detention ponds in selected areas so that tailwater off the pastures would not directly enter South Cow Creek (see the US EPA Region IX comments on the draft FEIS from Kathleen M. Goforth – *Mitigation and Monitoring - Recommendations*. FERC submission 20110913-5009).
- 4) These improvements would be approved and supported by Shasta County, the Western Shasta Resource Conservation District and other key stakeholders.
- 5) The post-decommissioning of the South Cow Creek powerhouse will provide more water into Wagoner Canyon towards and through the Tetrick Ranch (Wagoner Ranch) and down South Cow Creek Valley where the fall and spring run Chinook salmon and steelhead are spawning and rearing. The screening, gated, and metered pipeline will provide for more efficient use of water. The construction of detention ponds will prevent the tailwater off the pastures from flowing into South Cow Creek, and the increased water for instream use will provide superior water quality (quantity and reduced temperatures) for the long-term benefits of the fisheries and threatened and endangered species.

Respectively submitted,



Steve Tetrick

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May 23, 2019

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(Preferred Alternative 2B)

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Respectively submitted,



Steve Tetrick

TETRICK RANCH