Siskiyou County Water Users

November 21, 2018

The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street N. E.
Washington, D.C. 20426

Chairman Kevin J. McIntyre
Federal Energy Regulatory Commission
888 First Street N.E.
Washington, D.C. 20426

Re: SCWUA Comments on KRRC Definite Plan
Project Nos. 2082-062 and 14803-000

Dear Secretary Bose and Chairman McIntyre and Members of the Commission,

This letter is written on behalf of the Board and many members throughout Siskiyou County of the Siskiyou County Water Users Assoc. organized as a 501 (c4) who are registered as Intervenors in regards to the above Projects which have been submitted to FERC for evaluation and ultimate decision affecting the many lives of citizens in both Northern California and Southern Oregon. In addition this transfer would impact the lives of many endangered species, both aquatic as well as wildlife and change forever the hydrology of the Klamath River. The Definite Plan which our comments herein pertain to was submitted by the Klamath River Renewal Corporation (KRRC) assisted by PacifiCorp on June 28, 2018 in furtherance of KRRC request and PacifiCorp application to transfer the Hydro power license for the above project to KRRC and to simultaneously surrender (Surrender Application).

Herein lies the first problem and unreasonable request on the part of KRRC and PacifiCorp, that is to request transfer of the license to KRRC, an organization with no visible means of support just two years ago and which was created in a lawyer's office in New York City for the singular purpose of taking the dams from PacifiCorp and then destroying them. ***In fact without an infusion of $25,000,000 from the California Department of Natural Resources from California Water Bond money KRRC would have been unable to continue its efforts.*** The destruction to be done in accordance with an agreement which was entered into illegally, in our opinion, by the States of Oregon and California known as the Amended KHSA (Klamath Hydroelectric Service Agreement). We feel this was ill advised at the least and illegal at

most because the entering into this agreement was done without considering the Klamath Compact which governs the use of the Klamath River and supports the hydro facilities established there. We will detail this issue later in the Response. This was done subsequent to a failed agreement the KHSA and a collateral document KBRA (Klamath Basin Reclamation Agreement). These earlier agreements provided for involvement by the Congress of the United States which would have required a very substantial commitment of funds as well as coverage for potential bio remediation problems amounting to billions of dollars. Congress wisely chose not to support this effort as the scientific basis for supporting such a massive overhaul of a sensitive ecological environment was not there and indeed could not be countenanced by scientists of good will. In fact at that time in the EIR EIS prepared by the Department of Interior, it was stated that the evidence of the success or failure of the proposed destruction of the four Klamath Dams would not be known until 2060, nearly forty years later. In spite of this, the then Secretary of the DOI, Mr. Salazar at a speech given in San Francisco to the Commonwealth Club, declared that the dams would come out regardless. Further, a whistleblower Dr. Paul Houser, former scientific quality control officer was summarily dismissed when he questioned the Secretary and the effort being made to circumvent appropriate scientific standards in order to destroy the Hydroelectric facilities. The entire EIR /EIS prepared by the DOI is circumspect and yet KRRC claims to rely on and uses it profusely in its report. This should not be allowed by FERC in this extremely sensitive project with so much at stake. KRRC should be required to do a full NEPA EIR process prior to any transfer of license or consideration for termination of license and destruction of the hydro facilities.

We detail our issues in the following pages and supported by the document attached as Exhibit A.

1. **MEASURE G**

The Siskiyou Water Users were instrumental in pursuing a local ballot measure regarding the retention of the Klamath Dams in Siskiyou County. This took place in 2012 and was approved by nearly 80% of the voters. In recent years Klamath County just north of us conducted a public survey in which nearly 75% of the respondents supported the retention of the dams. Since then the Board of Commissioners in Jackson County (letter attached) also indicated to the FERC their support for retention of the dams. Klamath County (letter attached) also in Oregon and bordering the Klamath River expressed its concern in retaining the dams. In fact you would be hard pressed to find any sizable group who are resident in the area affected by the proposed removal that would not be in favor of retaining the dams. This coupled with the fact that the outside groups who pushed for dam removal together with a number of state and federal agencies conspired against the local citizenry by conducting secret meetings to conceal their efforts to destroy the dams.

This process continues as KRRC conducts meetings on a selective basis with groups of special interest. It would be important for the FERC commission to recognize the lack of public involvement in the process of determining the appropriateness of dam removal as a solution to a "subjective belief" not supported by scientific evidence that Salmon would somehow prosper as a result of dam removal regardless of the other issues such as overfishing, impact of Pacific Decadal Oscillation, predatory mammals, and geographic anomalies which are detrimental to Salmon traveling to the upper reaches of the Klamath Basin. The entire stated reason for destruction of the dams rests on the belief that the Coho Salmon are indigenous to the Klamath when in fact historical records show that the Coho were never plentiful if present at all before the dams and had to be replanted numerous times in the Klamath River in recent history to

keep the River stocked. Native Americans did not regard them as native to the River. No appreciable increase in their number could be reasonably expected from dam removal.

2. **KLAMATH BI-STATE COMPACT**

The Definite Plan by KRRC does not appear to include any study of the impact of the proposed project on the Klamath Compact (1957) which was entered into between the States of Oregon and California after four years of negotiations and numerous hearings in Congress which resulted in a comprehensive document to provide for the beneficial uses of the Klamath River and provide a mechanism for dealing with issues between the States. The Compact is entered into under the auspices of the U.S. Constitution Article I, Section 10, Clause 3 known as the "Compact Clause", which is a form of treaty between states where a Federal Asset is impacted. The Klamath River is such an asset and the agreement therefore was not only approved by both State Legislatures (**ORS 542.620 and CA Water Code § 5900 et seq.**) but also ratified by Congress and signed into law by the President of the United States, Dwight David Eisenhower. One of the provisos of the Compact included the use of water for the hydroelectric facilities and the predecessor to PacifiCorp was instrumental and very much a part of the development of the Compact. Because of the keen interest at the time of the Compact a number of legal opinions were rendered including one by then Attorney General Edmund Brown, who later became Governor of State of California. The reason that the Compact model was used is because the Klamath River is a navigable federal waterway between two states and was protected by the Federal Government. A commission to govern was set up and the Chairman was the personal representative of the President of the United States as the protector of the Federal interest.

3. **SCENIC RIVER AND RECREATION**

The impact of the proposed removal will raise profound issues regarding the Klamath's designation as a scenic river. This designation also included a specific requirement regarding the in stream flow regime for the Klamath which cannot be met with the dams being removed. The quantity of water required to be available to meet the downstream flow has been documented by the Bureau of Reclamation. In order to provide the required flows year around the BOR will have to build additional water resources in the upper Klamath. The cost of this project is estimated at approx. 8 billion dollars.

4. **WATER QUALITY AND STREAM FLOW**

The Water Users have included as Exhibit A attached hereto its report to the Oregon Department of Environmental Quality which covers many of the aspects of water quality and stream flow issues.

5. ENDANGERED SPECIES

The 'Definite Plan' attempts to circumvent its requirement to 'mitigate' what the KRRC knows it cannot, preserving and protecting the only two listed endangered species, sucker fish and Coho salmon, upon which premise Project destruction is based. As a consequence, the KRRC seeks to create a 'mitigation window dressing' to deceive the unfamiliar public and allow complicit Agencies their own devised 'administrative action' to approve.

In the case of endangered sucker fish, studies have found that one of the region's most viable populations of multi life stage sucker fish live in the habitat created by John Boyle Dam, as well as Copco. In a masterpiece of deception, the KRRC and 'Agreement' Agencies make genetically unproven assumptions regarding those resident sucker fish, propose to 'capture' their own unsubstantiated estimate maximum of 2-10% of those stocks (600-3,000 fish), and relocate those fish to a compatibility unproven nonresident 'isolated water body'. In combination with their admission that suckers will not survive in the resultant river, their 'mitigations' are in fact a mandated extirpation of resident sucker populations for which they sought and obtained questionably legal California legislation exonerating themselves from EPA requirements based upon the sole signature of an 'Agreement' author.

Regarding 'endangered' Coho salmon, another sham of 'mitigation' in effect results in the performance profiting of 'Agreement' signatories to NO effective benefit to Coho. The proposition to ensure Coho genetics is to capture 500 juvenile Coho and rear them in off-channel ponds for future release. While the cost is unspecified, the minimally hundreds of thousands of dollars required, not including capture and rearing losses, based upon known return rates in the range of 1-3%, means at best approximately 15 Coho MAY return from the ocean in subsequent years, a statistically unsustainable number at a least-cost estimate of tens of thousands of dollars per fish to no substantiated potential benefit.

6. ISSUES OF RISK

The risk analysis studies attached to the numbers submitted by KRRC show a fundamental lack of genuine concern on the part of the proposers for the reality of a potential wet year coupled with removal of the hydro facilities. The total of funds available to KRRC are inadequate to compensate for a reasonably to be expected disaster. In fact KRRC as a group fits the phrase of an "empty suit". Without State and Ratepayer Funding they cannot offer any security to the potentially damaged parties. They have not been able to engage a consortium to fund a potential biological disaster that could conceivably occur as a result of removal of the hydro facilities on the Klamath River.

7. DAM REMOVAL STAGING

We find objectionable and poorly thought out the KRRC proposal to partially destroy the dams allowing the winter storm waters to essentially perform the destruction of the balance of the dam structures. Considering the possibility of devastating flood waters at any time in the removal process, and the ability then of carrying sediment of all kinds estimated at 20 million cubic yards down the Klamath River to deposit in places unknown presents an insurmountable problem with no readily apparent solution being provided. Assuming the potential of such a

devastating occurrence taking place as highly possible there is little attention given to this matter. Also, as we state in our attached comments to ODEQ the timing of removal of the dams simultaneously as stated by the presentation of KRRC at the Oregon hearing leaves one speechless as such an occurrence would easily result in a wall of water travelling down the Klamath taking out all structures including potentially Highway 5 which crosses over the Klamath.

The potential removal of these historic structures should require and we would encourage the FERC to demand a thorough analysis of the volume of sediments. It is well known that the depth of sediment studies were not as through as they should have been.

8. **ISSUES OF LACK OF PUBLIC INVOLVEMENT**

The actions regarding 'mussel mitigation' are equally ill conceived. Acknowledging that resident mussels can be a carrier for MANY diseases detrimental to other species, their 'plan' nonetheless calls for transplanting tens of thousands of downstream mussels UPSTREAM of the Project with no understanding of potential impacts.
Rather than considering the nearly two hundred miles of downstream impacted river, the 'Definite Plan' essentially recognizes only impacts to the river reach extending a few miles below Iron Gate. Even with species they admit they cannot mitigate due to lack of knowledge, such as the lamprey, the "presumed" stated species 'dams impacts' to a river reach proven to have one of the highest salmon survival rates above the coastal influence evidences the agenda intended bias the 'Definite Plan' displays throughout.
Ironically, out of hundreds of unconsidered species dramatically impacted and potentially extirpated by Project destruction, the few species which the 'Definite Plan' even acknowledge will suffer admit that since they are unable to 'mitigate' those known and unknown impacts, they will therefore merely 'monitor' the impacts to the selected species for a limited time.

9. **ROAD IMPROVEMENTS**

The roads intended to be used during the demolition process proposed by KRRC is untenable. The referenced roads in the Copco Lake area are simply too narrow and twisting to provide adequate safe passage for the proposed uses. The roads currently are hazardous in the winter months at the very time that KRRC and its contractors propose to use the public access. In a project of this size and scope KRRC and its contractors need to provide a dedicated access road on the northerly side of the Klamath River so as not to endanger the traveling public and residents of the Copco Area.

10. **COPCO RECREATION AREAS**

The Definite Plan as presented does not provide adequate protection of Copco Area residents from either interference with their enjoyment of their property or compensate them for loss of value including the losses already suffered by them as a community. Many have suffered losses on 50% or more on their investments in the area. We would recommend and support the documents already submitted by Loy Beardsmore and Christy Reynolds both residents

11. HISTORICAL REFERECNCES TO SALMON POPULATION

Historical documentation, experiential information, and current studies reveal that salmon were never known in numbers to occur above Spencer Creek in the vicinity of the Klamath Project targeted for destruction due to physical impediments, upstream water quality, and inconsistent marginally conducive habitat. Prior to the Project intended and successful in regional environmental enhancement, area residents knew the Upper Klamath Canyon and present Iron Gate location Klamath waters to go subsurface in late summer/fall and frequent downstream destructive annual flood damage. Only after the symbiotic Upper Basin/Hydroelectric Project augmentation through additional water storage of Upper Klamath Lake and Project dams, along with the addition of formerly closed system Lost River/Tule Lake waters were those downstream prior conditions improved, with further later intentional and acknowledged successful enhancement by the addition of Iron Gate. As a result, residents also experienced significant downstream water quality and salmon conducive habitat improvements. With the addition of Iron Gate Hatchery made possible by the 'unnaturally' cold water deep water lake, the consistent production of salmon far exceeding that of any prior known upstream contributions was acknowledged for decades by agencies and residents alike. Current data being produced by the Klamath Interim Agreement is now verifying the significant and irreplaceable environmental benefits currently provided by the Project, but that data is not to be 'incorporated' into the governing Biological Opinion until AFTER dams are slated for destruction.

12. CONCLUSION AND POSITIVE ASPECTS TO RETENTION

We encourage the Commission to reject this ill -founded attempt and underfunded effort by a shell corporation to remove these Klamath Dams subjecting an entire population of endangered species as well as the human element to a major catastrophe. It should be clear that the effort submitted to the Commission by way of the Amended KHSA agreement is a sham intended to remove the dams and isolate the States of California and Oregon as well as PacifiCorp from the potential liability which surely will transpire if not immediately then over time. The FERC will be held fully accountable for a disaster occurring because of a failure to protect the public and the surrounding counties who will bear the brunt of any miscalculation.

Positive aspects of keeping the hydro-facilities in place yet not often discussed include:

1. Fire Protection: The reservoirs created by the dams offer unlimited opportunity to provide easily accessible water for fire protection. This was recently demonstrated in the devastating "Klamathon Fire" recently visited upon the population in Northern California in the Copco area.

2. Flood Control: The hydro facilities provide by independent engineering study utilizing the 1964 flood data for Gage 11516530 indicate a 22% reduction in peak flow and a 9 hour delay in peak discharge providing valuable time for those in the path of

potential flood waters. Removing the dams will return the many counties adjacent to the River to uncertain times previously experienced with devastating floods.

3. Suckerfish: The endangered long nose and short nose sucker fish who have found a home in the reservoirs behind the dams will be devastated by the removal of the dams. These revered and ancient fish native cherished by the Klamath Tribes will be lost to eternity.

4. Instream Flow: Loss of the reservoirs will mean that the process of providing sufficient water flow down the Klamath will be unavailable. These flows especially during the late fall months when the Klamath is traditionally shallow and tepid have been utilized to flush the river to provide sufficient flow to assist in the Salmon survival. The only way to supplement these flows will be from the development higher up the Klamath by constructing additional reservoirs. This project will cost roughly 8 Billion Dollars to develop according to studies done by the BOR.

5. Recreation: The reservoirs (lakes) behind the dams provide substantial recreational opportunities in Counties adjacent to the dams especially Siskiyou County.

6. Property Values: The reservoirs provide significant view corridors to adjacent properties in the Copco area as well as support the ground water table necessary to maintain the well depths in that area.

7. Native American Graves: There is ample evidence to support that revered Native American gravesites of the Shasta Tribe some of which contain graves of Native American Civil War soldiers will be exposed along with villages and artifacts of the Shasta People which have lain underwater for many decades. These will be exposed to potential desecration with the loss of the water above them.

8. Klamath Compact: The use of the waters of the Klamath as indicated in the body of the letter above and in the Exhibits A and B attached is protected including their use for hydro- electric dams by Federal Statute. The Compact was the result of a lengthy legislative effort on the part of the States of Oregon and California in conjunction with Congress and then President Eisenhower to resolve the issue of protected uses of the Klamath River in a document and to provide in addition a process to deal with water issues.

9. Fish Hatchery: The current fish hatchery which provides more than six million smolts a year will be lost. It currently utilizes the cold water at lower depths from the Iron Gate Dam. The only provision being alluded to in the Definite Plan by KRRC is to provide a poor substitute using water from Fall Creek which is supposed to support the drinking water to the City of Yreka.

Sincerely yours,
Siskiyou County Water Users Assoc.
Richard Marshall
By Richard Marshall
President, Board of Directors

Attachment:

A. SCWUA submittal to ODEQ J.C. Boyle

2018

SISKIYOU COUNTY
WATER USERS
ASSOCIATION

RICHARD MARSHALL
SUSAN MILLER
JERRY BACIGALUPI C.E.

[SCWUA RESPONSE JC BOYLE DAM REMOVAL ODEQ REQUEST]

THIS RESPONSE PREPARED BY SCWUA TO RESPOND TO ODEQ EIR WATER QUALITY.

July 2, 2018

From: Siskiyou County Water Users Association

To: Chris Stine, Hydroelectric Specialist
165 E 7th Ave, Suite 100
Eugene, OR 97401
Klamath401@deq.state.or.us

Dear Mr. Stine,

This is in response to your call for public comment on The Oregon Department of Environmental Quality's (ODEQ) proposed section 401 water quality certification for the removal of the J. C. Boyle Dam, reservoir and infrastructure.

While the scope of your proposed monitoring and compliance program focuses upon decommissioning and removal of the J.C. Boyle dam, we feel it is necessary to consider the bigger picture. Specifically, we feel there is reason to question your stated premise in the Public Notice: Proposed Removal of J.C. Boyle Dam: Public Hearing in Klamath Falls, June 12, which states as follows in the "About the Project" section:

"Although Dam removal will cause short duration water quality impacts, DEQ *believes* the project will yield a net ecological benefit and, for this reason, DEQ will allow short term exceedances to water quality standards."

Since the removal of J.C. Boyle is only one dam out of the projected four dam destruction project (the other three being in California), it is necessary to consider the impact of the whole project when designing your compliance program.

There is ample evidence to suggest that after the four dams are removed, **the water quality on the Klamath River downstream of the dams will be significantly impaired**, as compared to the water quality at the present time. Specifically:

SISKIYOU COUNTY WATER USERS ASSOC., 347 NORTH MAIN ST YREKA, CA 96097

1. During late winter and spring on wet years, flood conditions will severely damage riparian habitat, as well as erode the river bottom necessary for aquatic life and anadromous fish to flourish and spawn.
2. During dry years, water quality, temperatures, and flows on the Klamath River will be severely impaired by late summer and fall when the anadromous fish come up to spawn.
3. The various biomass species and algae blooms, including Microcystis toxins entering the Klamath River from sources upstream, will be carried downstream, instead of backing up behind the dams and decomposing which they currently do.

The dams improve water quality

Our research of available data shows that water quality, temperatures, and flows along the Klamath River were greatly improved after the construction of the dams for the following reasons:

1. The dams provide water storage to balance out river flows during the spring and fall.
2. Since the water discharged downstream is taken from the bottom of the dams, colder, more oxygenated water is available for the anadromous fish downstream to thrive and spawn.
3. The dams act as water treatment facilities in that the reservoirs contain the naturally occurring biomass and algal blooms, allowing for sedimentation, as well as sunlight to remove the contaminants from the water before discharge downstream.
4. The reservoirs, particularly J.C. Boyle and Copco, provide the necessary lake water quality for both species of sucker fish, when conditions become less conducive in the Klamath Lakes' area in the fall.

The Dams have improved fish hatchery production

Cold water from the bottom of Iron Gate reservoir allows the mandated large scale production of 6 million Chinook smolts per year, which the pre-Iron Gate hatchery at Fall Creek had neither the flow capacity nor temperature consistency to provide. It is also 100% funded by Pacificorp's ratepayers, which is scheduled to be cut off 8 years after dam removal. After dam destruction, Fish and Game's new plan consists of resurrecting the Fall Creek Hatchery and appropriating water from

Bogus Creek to augment water needs, which combined are unlikely to reliably approach current hatchery numbers. Additionally, a former DFW Game Warden stated, "It is impossible for the Klamath River Habitat above Iron Gate Dam to duplicate the production of fish generated from the Iron Gate Hatchery".

The presence of natural reefs prior to dam construction

Additionally, it is necessary to take into consideration that natural reefs and/or impediments to anadromous fish migration were already present at several of the dam locations on the Klamath River. KRRC has now acknowledged awareness of the reefs during public meetings. It has been stated in various eye witness historical documents that the anadromous fish never migrated above the Ward Canyon reef located one mile north of the Copco lake dam.

The dams provide the necessary water for anadromous fish migration during dry years

There is documented evidence to indicate that before the dams were constructed water quality, temperatures and flows were inadequate for salmon runs during dry years. For example, in the Bill Kitt biographical book, there is a quote by John Work, Hudson's Bay Company, 1830's, saying the Klamath River water is "brackish and so very bad that it is like a vomit to drink it". This is significant because there have been 35 dry and extremely dry years since 1942, when the USGS and NOAA began posting the historical rainfall. The breakdown according to their categorical data is as follows:

13 extremely wet years
16 wet years
16 normal years
18 dry years
17 extremely dry years

Therefore, after dam removal, water quality, temperature, and flows will be severely impaired during summer and fall approximately 45% of the time.

Recommended Expansion of Water Quality Monitoring Program

Considering the above evidence, we feel that the scope of your proposed "Water Quality Management Plan", as specified by the Clean Water Act Section 401 Certification, should be expanded to include the following:

1. Comprehensive baseline data for the Klamath River upstream and downstream of the dams.
2. Projected water quality, algal presence from upstream, temperature, and flow estimates after dam removal for the various rainfall years as noted above.
3. An expanded section 2ix. Adaptive management plan, which includes the probable impact of toxic sediment accumulating downstream of the dams for many miles of the river (as other dam removals have already shown).
4. How water quality will be managed after dam removal to facilitate habitat for sucker fish, trout, steelhead and salmon.
5. Extension of the water quality monitoring program beyond the footprint of the proposed dam removal project(s), as it is clear that water quality will be severely impacted for many miles downstream, both from sediment release and pass through algae from the Klamath Lakes area.

This expanded scope of water quality monitoring would serve to comply with the intended purpose of the Clean Water Act, **which is to preserve existing water quality and prevent future development (in this case) destruction projects from impairing fish and wildlife.**

Conclusion

In contrast to agency conviction regarding the presence of the dams, it is our opinion, based upon research of available data, that the dams serve not only to improve water quality, temperatures and flows downstream, but provide necessary habitat for the endangered sucker fish, as well as readily available water for fish hatchery production of Chinook smolts.

It is our conclusion that The Klamath River Project, as envisioned by it's original engineers in concert with the Bureau of Reclamation, Fish and Wildlife and National Forest Service, and currently managed in accordance with the Bi-State Klamath Compact passed by Congress, cannot be effectively managed after half of the original project (the

lower 4 dams) are removed. It is our firm belief that these proposed dam removal projects if carried out as currently envisioned, **will result in the degradation of all beneficial uses presently available as well as elimination of many aquatic species including but not limited to many EPA categorized threatened species** . As a result of the dams removal – recreation, irrigation, fish habitat and a stable riparian environment, which support many species of wildlife will disappear.

Therefore, we respectfully ask that you reconsider your approach to your water quality program for compliance with the Clean Water Act Section 401, before proceeding further towards certifying this monumental destruction project (the largest ever on any river in the USA).

A list of references is available upon request.

Thank you,

SCWUA
Richard F. Marshall
Richard Marshall
President

ADDENDUMS 1
ADDENDUM 2

ADDENDUM 1, SCWUA ODEQ

1. QUOTE FROM CAPITAL PRESS BY JEFF BERNARD (attached)
   FERC SIDES WITH UTILITY TO KEEP DAMS IN PLACE CHOOSE TRAP AND HAUL TO EVALUATE FISH ABILITY TO SURVIVE IN UPPER KLAMATH
   CRAIG TUCKER COMMENT
2. JC BOYLE PART OF A SYSTEM OF DAMS DESIGNED TO PROVIDE THE WATER NECESSARY TO DRIVE THE TURBINES TO PRODUCE LOW COST HYDRO POWER FOR THE PROJECT PER AGREEMENTS BY THE GOVERNMENT.
3. THE WATER QUALITY STUDY IS FLAWED FROM THE BEGINNING BECAUSE IT DOESN'T LOOK AT THE IMPACT OF DAM REMOVAL ON THE ENTIRE KLAMATH. OREGON AND CALIFORNIA MUST COMBINE EFFORTS AND INTERGRATE THE ENTIRE RIVER SYSTEM AND THE POSTIVE ROLE PLAYED BY THE DAMS ON THE SEVEN REACHES OF THE RIVER SYSTEM. THESE POSITITVE IMPACTS INCLUDE PRODUCING CARBON FREE POWER 24/7; PROVIDING SETTLEMENT FOR PARTICULATES ACTING AS A SETTLEMENT FILTER TO THE WATER QUALITY; SOME FLOOD CONTROL; WATER STORAGE; RECREATION OPPORTUNITES; ADJACENT LAND VALUES CREATION; ENVIRONMENT FOR ADAPTIVE SUCKERFISH; FIRE CONTROL; AND LAST BUT NOT LEAST FLUSHING CAPABILITY FOR LATE SUMMER MONTHS.
4. KRRC WHICH IS THE ORGANIZATION CHOSEN TO CARRY OUT THIS SENSTIVE AND MASSIVE PROJECT IS A GHOST ORGANIZATION MEANING IT WAS ESSENTIALLY CREATED TO CARRY OUT THIS PROJECT FOR WHICH IT HASN'T ANY EXPERIENCE IN AND OF ITSELF. IT WAS CREATED THROUGH AN AGREEMENT KNOWN AS THE AMENDED KHSA IN 2016 BY OREGON, CALIFORNIA AND VARIOUS SIGNATORIES TO TAKE ON THE POTENTIAL BIOLOGICAL DAMAGE LIABILITY DOWN STREAM THAT WILL RESULT FROM REMOVAL OF THE DAMS. THE KRRC IS NOT EQUIPED TO CARRY OUT THIS MASSIVE AND COMPLEX PROJECT.
   PAGE 15 OF THE STUDY SECTION 4.2.3 OUTLINES A MASSIVE EFFORT OF WASTE DISPOSAL SITES FOR JUST THE ONE DAM JC BOYLE. NO ANALYSIS OF THE AMOUNT OF TIME IS OFFERED
5. THE REPORT DOESN'T TAKE INTO ACCOUNT THE FACT THAT THE AMENDED KHSA DOES NOT CONFORM WITH THE CONSTITUTION OF THE UNITED STATES, ARTICLE I, SECT 10, CLAUSE 3 WHICH REQUIRES CONGRESSIONAL APPROVAL AS IT IS A TREATY BETWEEN TWO STATES INVOLVING A WILD AND SCENIC DESIGNATED RIVER WHICH FLOWS BETWEEN TWO STATES AND IS A FEDERALLY NAVIGABLE RIVER. IN FACT IT AVOIDS ANY MENTION OF THE CURRENT FEDERAL STATUTE OF 1957 AND THE **KLAMATH COMPACT** WHICH IS A PART. TO CHANGE THE COMPACT REQUIRES A TWO THIRDS VOTE OF CONGRESS.
6. ACCORDING TO THE REPORT THE PROPOSED REMOVAL OF JUST THE JC BOYLE DAM WILL DECIMATE THE POPULATION OF THE SUCKERFISH BY

90%. THIS IS A LISTED AND ENDANGERED SPECIES FOR WHICH LITTLE PLANING HAS BEEN INCLUDED.

7. SUPRISINGLY NAÏVE IN ITS STUDY THE DEQ IN THE SECTION ON DISOLVED OXYGEN (PAGE 30) WHICH IS ONE OF THE PRINCIPAL PARAMETERS IN DETERMINING WATER QUALITY THE DEQ SAYS SIMPLY THAT "IT EXPECTS DAM REMOVAL WILL RESULT IN IMPROVED WATER CONDITIONS" YET IT OFFERS NO SUPPORTING EVIDENCE FOR THIS. IT SUGGESTS THAT WE WILL FIND OUT IF THIS IS TRUE OVER TIME.
8. WATER TEMPERATURE (PG 31) WHICH SIGNIFICANTLY INFLUENCES BIOLOGICAL ACTIVITY AND GROWTH OF ACQUATIC ORGANISMS IS TREATED SIMILARLY WITH THE COMMENT THAT DEQ EXPECTS THE EFFECT TO BE TEMPORARY BUT AGAIN OFFERS NO SUPPORT FOR THE STATEMENT
9. DISSOLVED OXYGEN (PG 33) SIMILARLY AS ABOVE STATED INDICATES THAT "DEQ BELIEVES PROJECT EFFECTS ON DISSOLVED OXYGEN WILL NOT EXCEDE 24 MONTHS DEPENDING ON SEDIMENT SATURATION. AGAIN NO SUPPORT FOR THE STATEMENT.
10. WE WOULD ASK HOW COME WHEN WE HAVE ALREADY REMOVED DAMS ON THE CONDIT AND ELWHA WHICH ARE MINOR COMPARED TO THE KLAMATH FOR WHICH WE COULD DEVELOP ACTUAL FACTUAL DATA TO AT LEAST PROVIDE A BASIS FOR DETERMING IMPACTS. NO INFORMATION HAS BEEN PROVIDED INSTEAD WE HAVE ONLY OPINION AND NO FACTS.
12. UNDER LONG TERM EFFECTS (PG36) WE HAVE DEQ'S OPINION THAT THE TEMPORARY EFFECTS OF DAM REMOVAL WILL NOT CAUSE VIOLATIONS TO OREGON WATER STANDARDS. NO SUPPORTING DATA IS PROVIDED.

I COULD GO ON BUT YOU GET THE POINT. THIS IS A VERY POOR ANALYSIS THAT HAS BEEN DONE EVIDENTLY GEARED TO SUPPOR T THE POLITICAL NATURE OF THE CROWD THAT BELIEVE SOMEHOW DESPITE THE SCIENTIFIC FACTS, REMOVAL OF THE DAMS WILL BE A TEMPORARY INCONVIENCE WITH QUICKLY ESCALATING BENEFITS OF COHO AND POTENTIALLY IMPROVED SALMON RUNS WHEN NOTHING COULD BE FURTHER FROM THE TRUTH AND A CURSORY EXAMINATION OF HISTORICAL DATA FROM TIMES BEFORE THE DAMS INDICATE THAT THE COHO FOR EXAMPLE ARE NOT INDIGENOUS TO THE UPPER KLAMATH AND IN FACT THE RIVER IN THE TIME BEFORE THE DAMS, WENT THROUGH CYCLES OF BAD TIMES AND LACK OF FISH BUT PLENTIFUL ALGAE GROWTH. EVEN THE NATIVE AMERICAN TRIBES CREATED CELEBRATIONS AND DANCES ESSENTIALLY PRAYING FOR THE RETURN OF THE SALMON EACH YEAR.

THE STUDY IS IN SHORT HARDLY WORTH THE PAPER IT IS WRITTEN ON EXCEPT TO PROVIDE SO CALLED EVIDENCE TO SUPPORT THE DESTRUCTION OF PERFECTLY GOOD HYDRO FACILITIES. INSTEAD SPENDING MEGA BUCK S TO DESTROY THE DAMS WHY NOT FIND OUT HOW TO IMPROVE THE PRODUCTION OF FISH ON EXISTING REDDS IN THE LOWER REACHES OF THE RIVER. ACCORIDNG TO THE DOI EIREIS ONLY 40% OF EXISTING REDDS WERE BEING USED. I WOULD SUGGEST ALSO THAT THERE NEEDS

TO BE A COOPERATIVE EFFORT ON THE PART OF THE TRIBES TO LIMIT THEIR TAKE ON INCOMING SALMON WHO WOULD OTHERWISE BECOME SPAWNERS.

FERC ignores salmon mandates, recommends keeping Klamath dams

Capital Press by Jeff Barnard, 11/16/07

GRANTS PASS, Ore. (AP) - Federal licensing authorities Friday recommended keeping PacifiCorp's four hydroelectric dams on the Klamath River, siding with the utility and ignoring calls from fisheries agencies to build fish ladders.

The final environmental impact statement from the staff of the Federal Energy Regulatory Commission chose trapping and hauling fish around the dams rather than building expensive fish ladders and reducing power production to help salmon.

The statement described that as the best economic choice while allowing for evaluation of restoring fish to the upper Klamath Basin for the first time in a century.

FERC spokeswoman Celeste Miller acknowledged that fish ladders and other improvements required by NOAA Fisheries and other federal agencies are "generally" included in the final license, leading salmon advocates to dismiss the latest evaluation as "legally infeasible."

Meanwhile, Indian tribes hoping to restore salmon runs that once were crucial to their cultures, Klamath Basin farmers who depend on cheap power and water for irrigation, and California commercial salmon fishermen suffering dramatic cutbacks in fishing seasons from declining Klamath River salmon runs, met in Redding, Calif. They are seeking a deal to remove the dams with state and federal help.

Participants said they were near an agreement that will be taken to PacifiCorp. The utility has said it would be willing to remove the dams if it doesn't hurt its customers. It also is willing to spend $300 million on fish ladders and other required improvements to keep the dams that produce power without greenhouse gases that contribute to global warming.

Based in Portland, PacifiCorp is owned by MidAmerican Energy Holdings Co., based in Des Moines, Iowa, and controlled by billionaire Warren Buffett's Berkshire Hathaway Inc. The utility serves 1.6 million customers in six western states.

It is seeking a new license to operate the four dams straddling the Oregon-California border on the Klamath River for the next 30 to 50 years. The dams produce enough power for 70,000 households.

When removing all four dams was evaluated against building the fish ladders and other measures required by NOAA Fisheries and other federal agencies, removing the dams came out $7 million a year cheaper - a net power production loss of $13.2 million a year compared to $20.2 million.

Keeping the dams and trapping and hauling fish, along with conditions recommended by FERC, would produce $2 million a year in net power benefits. PacifiCorp's proposal for operating the dams, which carries the least improvements for fish, would produce net annual power benefits of $17 million.

Salmon advocates noted that removing all four dams produces the best improvements in water quality and salmon restoration, reducing obstacles that block 300 miles of spawning streams, draining reservoirs that breed toxic algae that pollute the Klamath River and eliminating conditions that promote fish diseases.

"The bottom line is they're saying removal is the best and cheapest alternative," said Glen Spain of Pacific Coast Federation of Fishermen's Associations, a California commercial salmon fishermen's group. The FERC recommendation "is not legally feasible" without taking into account the fish ladders.

Craig Tucker, Klamath campaign director for the Karuk Tribe, added: "FERC staff is pandering to PacifiCorp's bottom line, where it is cheaper for everybody and **avoids an environmental catastrophe** and the destruction of tribal cultures to simply remove the dams."

"It's a schizophrenic document," said Jim McCarthy of Oregon Wild, a Portland conservation group. "It's sort of FERC sticking its head in the sand hoping somehow these mandatory conditions disappear. They will not."

PacifiCorp spokeswoman Jan Mitchell said the company had not yet seen the document.

Addendum 2, SCWUA

J.C.Boyle Proposal Comments:
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Re: PRESERVATION OF THE KLAMATH RIVER BASIN

STOP the largest Proposed Dam Removal Project in the World and preserve the Klamath River Basin economy and ecosystem. It ("has not") been established that anadromous fish habitat exists above J.C.Boyles Reservoir to justify Dam Removals.

THE KLAMATH RIVER HYDROELECTRIC FACILITIES (FERC Project No. 2082) have been requested for Decommissioning by PacifiCorp (Surrender of License #20160923-5370) for Iron Gate Dam, Copco No. 1 Dam, Copco No. 2 Dam, J.C Boyle Dam, and appurtenant hydroelectric works and be transferred to a dam removal ("shell") corporation (KRRC).

It is within FERC's responsibility to consider the public interest to retain and pursue the relicensing of the hydroelectric facilities to a ("responsible") entity.

Siskiyou and Klamath Counties, and the Cities within have the statutory responsibility to provide and protect the public's interest and safety to all citizens and protect the environment for present and future generations. **Through proper and legal voting procedures in 2010, the voting populous of Siskiyou Co. (79.04%), and in 2016 Klamath Co. (72%), OVERWHELMINGLY voted to retain the Klamath River Dams and Hydroelectric Facilities.**

As a Registered Engineer responsible for the preparation of Environmental Impact Reports (EIR)'s and Storm Water Pollution Prevention Plans(SWPPP)'s, the Department of Interior(DOI) and States of Calif. and Oregon have failed to prepare and complete 401 Clean Water Act and environmental studies to legal and acceptable standards that support Dam Removals:

1. **Coho Truck and Haul Studies above J.C,Boyle Dam were demanded and refused by the DOI, probably because they realized anadromous habitat did not exist. A common analogy is that the only way coho juveniles can get back from the tributaries of Upper Lake to the ocean is to become flying fish . This study must be completed to support Dam Removals. Without**

this study the environmental documents fail and <u>will initiate major law suits.</u>

2. **The environmental documents are incomplete. <u>(Fail to analyze alternatives with Dams in place)</u>. <u>(Fail to provide a Cost Benefit Analysis).</u> Including substantial crop and property value losses to Farmers and Ranchers due to <u>unjustified</u> DOI water cutoffs.**
3. **The release of 20 +/- million cubic yards of toxic sediments retained behind the Dams down river is <u>irresponsible</u>, <u>violates the 401 Clean Water Act</u>, and requires the preparation of a SWPPP (Storm Water Pollution Pretention Plan). It will decimate river habitat for decades. It is <u>irresponsible</u> that sediment removal by dredging has been abandoned because of cost.??**
4. **The Calif. Division of Dam Safety under existing law requires that <u>Dam Removal Plans</u> be submitted, approved, and verify Dam Removal Plans and Conditions are followed.**
5. **The Counties of Siskiyou and Klamath have and are mandated within their existing regulations and public safety authorities to require and approve Dam Removal Permits for the removal the Klamath River Dams.**
6. **The DOI and State Agencies have circumvented State and Federal Laws by certifying bogus scientific studies to justify dam removals, commonly cited by recognized professional Biologist, Scientist and Engineers as SWAG's (Scientific Wild Ass Guesses)**
7. **The proposed project of Dam Removals on the Klamath River is analogist to the Division of Highways proposing a <u>freeway to no where</u> without proper studies and public support at the expense of Local, State and Federal citizens. <u>(This action would involve major Law Suits)</u>**
   Pursuing the proposed Klamath River Dam Removal Project without satisfying the above required environmental documents and permits <u>WILL INVOLVE MAJOR LAW SUITS.</u>

<u>Klamath River information:</u> **1**. The Klamath Basin is the only **<u>upside down basin</u>** on the west coast **(warm poor water quality above J.C.Boyles Dam)**, with water temperature and quality improving as it travels to the ocean. **2. Moonshine Falls, directly below J.C. Boyles Reservoir, is cited by CFW to be the upper most habitat for anadromous fish. 3. The downstream Dams have absolutely nothing to do with the Upper Basin water wars.** They improve the DOI Klamath Project regulated flows to farmers and ranchers by providing required minimum instream flows. **4.** The California dams have been recently inspected by the Division of Dam Safety and are in good condition. **5. These dams provide a 25% down river flood and surge protection,** based on the 1964 flood hydrograph measured at the gage below Iron Gate Dam, and provides an average yearly water quality improvement. **6.** Given the condition of a complete Klamath River cutoff by the DOI or a severe drought, **the dams can also easily provide CDFG/CFW's 700 cfs minimum instream river flows for a three month period with adequate storage retained for Lake Habitat.**

THE FOLLOWING PROJECTS (<u>ALTERNATIVES WITH DAMS IN PLACE</u>) HAVE BEEN PROPOSED TO FACILITATE "FERC" RELICENSING, PROMOTE THE PUBLIC AND ENVIRONMENTAL INTEREST, COMPLY WITH THE BI-STATE COMPACT, AND <u>PRESERVE THE KLAMATH R. BASIN</u>

1. Implement the Shasta Nation Tunnel Unassisted Anadromous Fish Passageway around Iron Gate, Copco 1 and Copco 2 Dams at a cost of $50 million (1/6th the $300 million cost estimated for installing fish ladders and 1/20th the $1+ billion estimated for dam removals and restoration).This will provide anadromous fish passage around Iron Gate, Copco 1, and Copco 2 reservoirs to the pre-dam 20 miles of native river habitat above Copco 1 Reservoir. This proposal has a very positive write up in the **DOI's EIR. (It was not considered because it required retaining the Dams).** A former DFG official stated that he could not support this alternative. He also stated that he could not support proposed fish ladders either because there is no habitat above the Dams to warrant the expense of either.

2. Implement the 60,000 ac.ft. Klamath River/Shasta Valley Reserved Water Right (A0169580), transfer canal and storage facilities to supplement Montague Irrigation District's irrigation water with Klamath R. water (poor water quality containing high nutrients). This project augments current irrigation supplies, allows for additional land to become irrigated, and replaces naturally impaired Upper Klamath R. water with higher quality water. A portion of the reduced water demands (good water quality) can be released by the District from Lake Shastina or from their wells into the Shasta River, improving the water quality in both the Shasta River and in the Klamath River below Iron Gate Reservoir per FERC recommended requirements for relicensing. The Shasta Valley RCD & CDFG contracted a similar augmentation study in 2007 that has since been politically shelved. *(Because it depends on retaining the dams scheduled for removals)* Ref: (CDFG Project No. P0310329)

3. Establish additional reliable storage facilities within the Klamath River Basin, including increasing storage capacities of high-elevation lakes as recommended in the October 1991 Department of Water Resources Study: *SCOTT RIVER FLOW AUGMENTATION STUDY, and introduce juniper removal projects.* Added storage facilities and juniper removals projects will provide thousands of ac-ft. of additional surface and ground water storage, provide additional wildfire protection, increase late summer and fall instream flows, and augment irrigation waters.

4. Establish a Public Utility District within Siskiyou and Klamath Counties to take possession of the hydro-electric facilities and pursue FERC re-licensing. Note: This process is underway in Siskiyou Co. and planned to involve Klamath Co. and the Shasta Nation in the future.

These proposals will:

- **Save the Hydro-electric Dams** which generate clean, green, renewable power to 70,000 homes and protect the lake habitat and homes in and around the reservoirs by removing dam removals from the proposed Klamath Basin Restoration Agreement (KBRA) and eliminating the Klamath Hydro-Electric Settlement Agreement (KHSA).

- **Save Iron Gate Fish Hatchery,** which is dependent on cool low level water releases from Iron Gate Reservoir, which releases over **six million salmon and steelhead fingerlings per year** into the Klamath River. **Note:** *A former Ca. DFW Game Warden stated, "It is impossible for the Klamath River Habitat above Iron Gate Dam to duplicate the production of fish generated from the Iron Gate Hatchery."*
- **Save future impacts on the Fall Creek Hydro-electric Facilities and Yreka City Fall Creek water supply.**
- **Save the Klamath River from complete destruction** by eliminating the proposed and **irresponsible** releasing of 20 million cubic yards of sediments and pollutants retained behind the dams down river. This equates to sediment 3ft. thick all the way to the estuary, assuming that the River is 150ft. wide & 190 miles to the ocean. (**Violates Clean Water Act Section 401)**
- **Save future Klamath River water demands from the Scott R. and Shasta R.** by State and Federal Agencies to satisfy requirements proposed in the KBRA for **Environmental Waters.**
- **Preserve the sacred Shasta Nation Villages and Burial Sites** beneath the waters of Iron Gate and Copco Reservoirs.
- **Provide additional storage facilities and instream flows** which will enhance fisheries and benefit the Tribes, NGOs and fishing interests, and improve Klamath River water quality.
- **Eliminate increased electricity rates for On and Off Project irrigators and all ratepayers and provide substantial power rate reductions with the establishment of a PUD.**
- **Provide Governmental Agencies common sense and professionally supported and engineered alternatives.**

It is within FERC's responsibility to consider the public interest to retain and pursue the relicensing of the hydroelectric facilities to a ("responsible") entity. The KRRC is a politically formed shell corporation and not professionally or physically qualified to take possession of the Klamath River Hydro-Electric Project.

THE PROPOSED PROJECT OF DAM REMOVALS IS ALL POLITICAL WITHOUT JUSTIFICATION

(There is no anadromous fish habitat above J.C.Boyles Reservoir)
(Coho Salmon are not indigenous to the Klamath River)

Stop this unjustified exorbitant spending of taxpayer money on a road to nowhere.

Do not allow politics to TRUMP common sense.

Respectfully submitted, 6/17/2018

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