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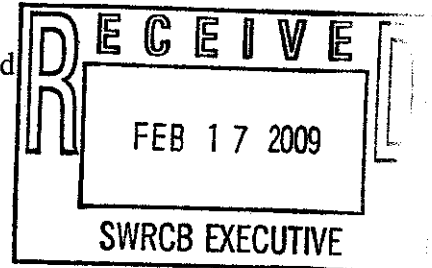
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February 17, 2009

Jennifer Watts
California State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-2000



Dear Ms. Watts,

The Northcoast Environmental Center is a non-profit, 501(c)3 conservation organization located in Arcata, California. The area we serve is the greater Klamath-Siskiyou Bioregion of Northwestern California and Southwestern Oregon, and includes the entire 13,000 square-mile Klamath River basin.

The Northcoast Environmental Center is one of twenty-six parties negotiating the Klamath Basin Restoration Agreement, and one of some twenty-three parties negotiating a final dam removal agreement with PacifiCorp.

The NEC's eight member groups — including the Sierra Club (North Group), Humboldt Baykeeper, Environmental Protection Information Center, Redwood Region Audubon Society, California Native Plant Society and Friends of Del Norte — and our 5,000 members are deeply concerned about yet another request by PacifiCorp to delay the state of California's Clean Water Act certification process for the Klamath Hydroelectric Project. While details of our negotiations with the company are confidential, we have seen enough in the negotiations and in the public arena to know that PacifiCorp's commitment to dam removal is fragile at best, as is the Nov. 24, 2008 Agreement in Principle (AIP) to remove the dams. As the company's executives will tell you repeatedly, PacifiCorp is "an energy company" committed solely to the production of electricity. As such PacifiCorp's commitment to clean water, and to the wildlife that relies on clean water, runs only as deep as the demands made upon the company to comply with laws regulating water quality and protection of wildlife.

We are very concerned about the weakness of the AIP thus far. This deal could fall apart virtually at any time. The numerous "off-ramps" in the AIP would allow PacifiCorp to abandon dam removal at any one of several junctures up until 2020. We believe that any further delays in the 401 process could result in subversion and

violation of California's and the United States' environmental laws, specifically the federal Clean Water Act, the state and federal Endangered Species Acts and the California Environmental Quality Act.

It is in this light that we ask the Water Board to close the public comment period for PacifiCorp's Clean Water Act 401 certification application as scheduled, on Feb. 23, 2009, and initiate the process of creating a draft Environmental Impact Report as required by the CWA and CEQA.

We are aware that the AIP to remove four of PacifiCorp's Klamath Hydroelectric Project dams (J.C. Boyle, Copco I and II, and Iron Gate) contains a stipulation (condition xiii), inserted by PacifiCorp, that would allow PacifiCorp to withdraw from the Agreement upon "imposition on or inurrence ... of significant costs for a Clean Water Act certification of the relicensing project, including review pursuant to CEQA, during the time that PacifiCorp is devoting resources to this Agreement in Principle and the Final Agreement."

This stipulation undermines the authority of state and federal laws, and agencies, that regulate how California's and the United States' waters are used, and not used. PacifiCorp's desire to avoid paying for two "parallel processes" is perhaps understandable, but it is beside the point. These are the costs of doing business in the energy industry. PacifiCorp, which reported \$4.2 billion in revenue in 2007, has long been well aware of these costs and in fact has responded to them by negotiating an AIP that could result in \$450 million in taxpayer and ratepayer money accruing for dam removal. This amount is more than four times higher than \$79.9 million to \$102.4 million that FERC, in 2008, estimated dam removal would cost. (Letter from FERC Chairman Joseph Kelliher to U.S. Congressman Wally Herger, September 24, 2008.)

In addition, MidAmerican Energy Company paid \$5.1 billion for PacifiCorp in March 2006, almost on the exact day that the FERC license for the Klamath Hydroelectric Project expired. If it was not known to the energy company that relicensing of its future acquisition would require a Clean Water Act 401 certification, even if efforts to remove the dams were in progress (as they were at the time), it is not the fault of the California Water Resources Control Board.

Previous to initiating the current Klamath Project 401 process PacifiCorp twice submitted and then withdrew its 401 application. Utilization of this loophole in the Clean Water Act 401 certification process is epidemic in the United States today. The Water Board has also once already extended the comment period on PacifiCorp's current 401 process, satisfying a request by several of the entities negotiating the AIP. At this point any further delay would amount to a subversion of the letter and intent of the CWA and CEQA and must not be allowed to continue, especially as PacifiCorp continues to generate power revenues on dams whose long-term license expired three years ago — profits made on the backs of salmon and other wildlife that suffer from the disastrous water quality and other forms of impaired habitat created and exacerbated by the Klamath Hydroelectric Project.

It is for these and other reasons that Dorothy Rice, Executive Director of the California State Water Resources Control Board, noted in her August 22, 2008 letter to Cory Scott, PacifiCorp project manager for the Klamath Hydroelectric Project, "It is imperative to move ahead with the

water quality certification process, including preparation of environmental documentation meeting the requirements of the California Environmental Quality Act (CEQA), as soon as reasonably possible, so that water quality can be satisfactorily addressed and the relicensing process can move ahead. This need is underscored by indications that the river's water quality and ability to support healthy fisheries is declining: there is substantial evidence to indicate an increase in fish disease on the river, an increase in the toxic blue-green algae *Microcystis aeruginosa*, and an overall decline in fish populations."

More recently J. Mark Robinson, Director of the FERC Office of Energy Projects, wrote to Rice on Feb. 13, 2009 asking the Water Board to refrain from further delays in processing PacifiCorp's 401 application. Robinson wrote that "bringing this relicensing proceeding to its conclusion is appropriate and may provide various measures to improve fisheries, water quality and other project-affected resources. Consequently, we encourage the Water Board to act as soon as possible on PacifiCorp's application for water quality certification."

For thirty-eight years the NEC has operated as an advocacy and watchdog organization dedicated to ensuring that the rule of law is upheld to protect our wild and threatened natural resources. We therefore appreciate the dedication and commitment to our legal statues shown by the State Resources Control Board in pursuit of a clean and healthy Klamath River. We hope that you will maintain this commitment by closing the comment period for PacifiCorp's 401 application and immediately developing the required DEIR.

Sincerely,

A handwritten signature in cursive script that reads "Greg King". The signature is written in black ink and is positioned above the typed name and title.

Greg King
Klamath Campaign Coordinator
Northcoast Environmental Center