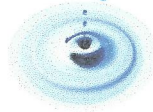


# Siskiyou County Water Users



January 31, 2022

Jack Ainsworth, Executive Director  
California Coastal Commission  
455 Mission Street Ste. 300  
San Francisco, CA. 94105

FERC  
Kimberly Bose  
888 First Street NE Room 1A  
Washington DC 20426

Re: FERC request to PacifiCorp and KRRC; Project 14803-001; Klamath Dams  
CZMA 307(c)(3)(A), copy attached

Recently on January 7, 2022 we were notified regarding the above request by FERC to KRRC and PacifiCorp in the above matter as we are intervenors in the Project. Our organization the Siskiyou County Water Users Association (SCWUA) representing numerous businesses and individuals who in a general election indicated their desire to retain the Klamath Dams by a nearly 80% of the electorate have the following comments to make in this matter.

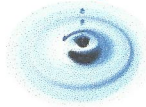
We begin by reminding The Coastal Commission of its mission statement on its website:

**The Commission is committed to protecting and enhancing California's coast and ocean for present and future generations. It does so through careful planning and regulation of environmentally-sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination.**

Within that context and again on the Commission's own website you have the following statement:

**The Coastal Act includes specific policies (see Division 20 of the Public Resources Code) that address issues such as shoreline public access and recreation, lower cost visitor accommodations, terrestrial and marine habitat protection, visual resources, landform alteration, agricultural lands, commercial fisheries, industrial uses, water quality, offshore oil and gas development, transportation, development design, power plants, ports, and public works. The policies of the Coastal Act constitute the statutory standards applied to planning and regulatory decisions made by the Commission and by local governments, pursuant to the Coastal Act.**

## Siskiyou County Water Users



We remind you of your mission statement because you have been asked by KRRC to consider approving a potential devastating project i.e. Removal of the Klamath Dams and the release of 20 million or more cubic feet of sediment into a “Wild and Scenic River” all of which will end up at the mouth of the Klamath River, destroying the shellfish population habitat and revising the shoreline in that area. These actions will adversely affect terrestrial and marine habitat protection, visual resources, create landform alteration, affect agricultural lands, destroy commercial fisheries, and impact water quality. All of these impacts your commission is sworn to protect from harm and damage. You have been asked to deliver a Permit Certifying the Consistency of these potential damages to the detriment of the State and your charge. KRRC is on record with FERC stating that they believe that you will deliver this Certification. We ask you to seriously consider the facts before you as failure to do so is unacceptable.

### Basic History:

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 to be transferred to a dam removal (“shell”) corporation (KRRC).

Klamath River information: 1. The Klamath Basin is the only upside-down basin on the west coast (warm poor water quality above J.C. Boyle Dam), with water temperature and quality improving as it travels to the ocean. 2. Moonshine Falls, directly below J.C. Boyle Reservoir, is cited by CFW to be the upper most habitat for anadromous fish. 3. 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 provide CDFG/CFW's 700 cfs minimum instream river flows for a three-month period with adequate storage retained for Lake Habitat.

It HAS NOT been established that anadromous fish habitat exists above J.C. Boyle Reservoir or that any other listed benefits justify Dam Removals.

### CONSIDERATIONS FOR RETAINING K.R. DAMS:

The Department of Interior (DOI) and States of Calif. and Oregon have failed to prepare Storm Water Pollution Prevention Plans (SWPPPs) and complete 401 Clean Water Act and environmental studies to legal and acceptable standards that support Dam Removals for the following reasons:

1. The release of 20 +/- million cubic yards of toxic sediments retained behind the Dams down river is irresponsible, violates the 401 Clean Water Act, and requires the preparation of a “Storm Water Pollution Pretention Plan” (SWPPP). To our knowledge none of the above requirements have been completed. The releasing of 20 million cubic yards of sediments and pollutants retained behind the dams down river equates to sediment 3ft. thick all the way from Iron Gate



## Siskiyou County Water Users



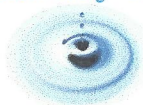
Reservoir to the ocean, assuming that the River is 150ft. wide & 190 miles to the estuary. It also equates to sediment 3 feet thick on 4,000 acres. **It will decimate the river and estuary habitat for decades.** It is irresponsible that State and Federal Environmental Agencies have supported release of this sediment in violation of their own regulations.

2. The Klamath River Dams have satisfied 401 and SWPPP requirements for sediment retention for all Upper K.R. Basin farming and domestic development since 1905. It is hard to understand how any State or Federal Agency can violate their own Regulations by the release of 20+/- million cubic yards of toxic sediment down the Klamath River.
3. Coho Truck and Haul Studies above J.C. Boyle Dam were demanded but refused by the DOI, probably because they realized anadromous habitat did not exist. A common analogy supported by CFW personnel is that the only way Coho juveniles can get back from the tributaries of Upper Lake to the ocean is to become flying fish.
4. The environmental documents are incomplete as they fail to analyze alternatives with Dams in place and fail to provide a Cost Benefit Analysis..
5. The California Division of Dam Safety, under existing law requires that Dam Removal Plans be submitted approved and verify Dam Removal Plans and the Conditions are followed. Our information is that Dam Safety has not approved any plans.
6. Siskiyou and Klamath Counties are mandated within their existing regulations and public safety responsibilities to require and approve Klamath River Dam Removal Permits. This has not been completed.
7. The DOI and State Agencies have circumvented State and Federal Laws by utilizing slanted scientific studies to justify dam removals.
8. The Flood Control provided by the Dams proposed for removals is substantial: Our information based on the Klamath Facilities Removal Final EIS/EIR to the BOR shows that the 100 yr. flood calculation of 37,000 cfs below I.G. Dam, which is based on the 1964 flood hydrograph, reduces peak flow by 26%. The 100 yr. peak flow should be much lower than what is being used by the DOI for the Klamath River flows for the Lower Klamath Project. DOI (Table 3.6-9 shows that the Dams only provide a 6.9% reduction in flood attenuation). The DOI is only using 30,000 cfs +/- for flows below Iron Gate Dam. The 1964 Flood Hydrograph shows 29,400 cfs below Iron Gate Dam.
9. The Draft EIR fails to consider feasible publicly supported Alternatives with the Dams remaining in place.

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

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.

## Siskiyou County Water Users



A former DFW 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.

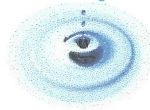
2. Implement the 60,000 ac.ft. Klamath River/Shasta Valley Reserved Water Right (A0169580), transfer canal and storage facilities to supplement Montague Irrigation District's irrigation water with Klamath R. water (poor water quality containing high nutrients). This project augments current irrigation 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. Combining Alternatives 1 & 2 is recommended
4. 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.
5. Establish a Public Utility District within Siskiyou and Klamath Counties to take possession of the hydroelectric facilities and pursue FERC re-licensing. Note: This process is being considered 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 Lower Klamath Project and the Klamath Basin Restoration Agreement (KBRA) and eliminating the Klamath Hydroelectric Settlement Agreement (KHSA).
- This will preserve Iron Gate Fish Hatchery, which is dependent on cool low level water releases from Iron Gate Reservoir, and 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 and Estuary habitat 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 in violation of The Clean Water Act Section 401 and SWPPP.



## Siskiyou County Water Users



- 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 improves 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 government agencies common sense and professionally supported engineered alternatives that will eliminate Government Violations and Lawsuits.

If Dam Removals are selected as the preferred alternative and prior to any decommissioning or work on Dam Removals, perform the following: 5-year study:

1. Remove plugs on bypass tunnels to allow maximum flows through the existing tunnels.
2. Plan controlled plug removals to sequence with anadromous fish runs and weather conditions.
3. Perform a 5yr. study to determine if anadromous fish can or will utilize the upper Klamath Basin tributaries and their juveniles return to the estuary.
4. Study the impacts of sediment release down the Klamath River.
5. Study the impacts on the Iron Gate Fish Hatchery.
6. Study the impacts on ground water recharge.
7. Study the impacts on the Upper Klamath Basin agricultural water availability without Dam storage for minimum flow releases.
8. Study the impacts from the release of lake aquatic life to the Klamath River.
9. Study the impacts on lake fishing and recreation.

Note: During this study period the Dams will provide flood control and the Fish Hatchery can be shut down to study the benefits of the Hatchery. After the study period, when it is determined that anadromous fish habitat does not exist in the Upper Klamath River Basin and other studies support retaining the Dams and hatchery, the bypass tunnels can be re-plugged, and the Hydro-electric Facilities can be put back into normal operation.

Sincerely Yours

A handwritten signature in black ink, appearing to read "Richard Marshall". The signature is fluid and cursive, with a large initial "R" and "M".

Richard Marshall  
President, Siskiyou County Water Users

Cc:

Congressman Doug LaMalfa  
Siskiyou County Board of Supervisors  
California Department of Natural Resources  
Atty. James Buchal

## COASTAL ZONE MANAGEMENT ACT, SECTION 307

### 16 U.S.C. § 1456. Coordination and cooperation (Section 307)

#### (a) Federal agencies

In carrying out his functions and responsibilities under this chapter, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

#### (b) Adequate consideration of views of Federal agencies

The Secretary shall not approve the management program submitted by a state pursuant to section 1455 of this title unless the views of Federal agencies principally affected by such program have been adequately considered.

#### (c) Consistency of Federal activities with State management programs; Presidential exemption; certification

##### (1)

**(A)** Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs. A Federal agency activity shall be subject to this paragraph unless it is subject to paragraph (2) or (3).

**(B)** After any final judgment, decree, or order of any Federal court that is appealable under section 1291 or 1292 of Title 28, or under any other applicable provision of Federal law, that a specific Federal agency activity is not in compliance with subparagraph (A), and certification by the Secretary that mediation under subsection (h) of this section is not likely to result in such compliance, the President may, upon written request from the Secretary, exempt from compliance those elements of the Federal agency activity that are found by the Federal court to be inconsistent with an approved State program, if the President determines that the activity is in the paramount interest of the United States. No such exemption shall be granted on the basis of a lack of appropriations unless the President has specifically requested such appropriations as part of the budgetary process, and the Congress has failed to make available the requested appropriations.

**(C)** Each Federal agency carrying out an activity subject to paragraph (1) shall provide a consistency determination to the relevant State agency designated under section 1455(d)(6) of this title at the earliest practicable time, but in no case later than 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to a different schedule.

**(2)** Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with the enforceable policies of approved State management programs.



**(3)**

**(A)** After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity, in or outside of the coastal zone, affecting any land or water use or natural resource of the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the enforceable policies of the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this chapter or is otherwise necessary in the interest of national security.

**(B)** After the management program of any coastal state has been approved by the Secretary under section 1455 of this title, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land or water use or natural resource of the coastal zone of such state, attach to such plan a certification that each activity which is described in detail in such plan complies with the enforceable policies of such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until--

**(i)** such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence;

**(ii)** concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement