Siskiyou Land Conservancy

July 10, 2012

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7-17-12
SWRCB Clerk

Jeanine Townsend, Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Re: Request that the California State Water Resources Control Board lift its abeyance on the 401 Water Quality Certification Application for the Klamath Hydroelectric Project

Dear Ms. Townsend,

I am writing this letter to urge the State Water Resources Control Board (Water Board) to lift its abeyance on the 401 Certification for the Klamath Hydroelectric Project (KHP) and move forward immediately to deny PacifiCorp's request for relicensing. I am offering these comments as president and executive director of Siskiyou Land Conservancy, a non-profit, 501(c)3 conservation organization located in Arcata, Humboldt County. Siskiyou Land Conservancy serves the counties of Humboldt, Del Norte, Mendocino, Trinity and Siskiyou. Please note that I also served as the Executive Director of the Northcoast Environmental Center (NEC) and was a party to Klamath Settlement discussions from 2007 to 2009. NEC rejected the Klamath Basin Restoration Agreement (KBRA), which is part of the government dam removal process, because, among many serious failings, it does not supply enough water for salmon. It also does not clean up the water pollution problems in the Upper Klamath Basin that are the cause of massive fish disease epidemics in the lower Klamath River.

Water Board staff has found that KHP reservoirs create water temperature problems, nutrient pollution and toxic algae that cannot be eliminated without dam removal. Toxic algae that grows in the reservoirs flows down stream and has been detected all the way to the estuary. The Klamath Hydropower Settlement Agreement (KHSA) has caused the abeyance of your 401 Certification, and if you continue your abeyance, this toxic algae will plague the lower Klamath River until 2020. The nutrient pollution from the KHP causes chronic violations North Coast Water Board *Basin Plan* standards that will also continue. It is your job to move to eliminate or reduce these problems by denying a license to the KHP by blocking its Clean Water Act 401 Certification.

As an important Public Trust agency with an adept staff, the Water Board undoubtedly realizes that the political prospects of the KHSA and KBRA being enacted are now almost nonexistent. The failure of federal authorizing legislation to materialize for the third consecutive year makes it clear that the government track for KHP dam removal is terminally stalled. Upper Klamath Basin May 2012 election results showed that anyone favoring the Klamath Settlement was defeated. Even the Klamath Falls Herald and News, long the voice of the Klamath Project irrigators, rescinded its longstanding support

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of the KBRA. The California water bond to supply the KHSA a required $250 million public match was pulled from the ballot in 2010 for lack of support, and it will not appear on the 2012 ballot. The KHSA and KBRA terminate automatically on December 31, 2012, if no authorizing legislation passes and there is no Secretary of Interior affirmative Decision.

When NEC rejected the Klamath deals we did so because they were dangerously unworkable and could actually be used to stall dam removal. As I write this the stalling continues. Even then, but especially now, we were aware that the KHP dams will come out more quickly through the Federal Energy Regulatory Commission (FERC) relicensing process. FERC filed only brief comments on the Klamath dam removal environmental impacts statements stating that they were not in abeyance:

"At this time, four years later, we continue to wait for California and Oregon to take action on PacifiCorp's applications and either issue, deny, or waive Water Quality Certification for the project, pursuant to section 401 of the Clean Water Act. At such time, the Commission will be able to issue a licensing decision for this project."

Although your decision to block relicensing of the KHP on Clean water Act grounds would be a positive force for decommissioning, the requirement for fish ladders by the National Marine Fisheries Service — estimated to cost $240 million and reduce power production by a quarter — could itself result in the less expensive option of dam removal. The KHSA unnecessarily shifts expenses from the company and its ratepayers to the State of California. When PacifiCorp returns to the FERC process they will declare the KHP uneconomic, abandon it and obtain approval from the Oregon Public Utilities Commission to put the cost of dam removal and power replacement on PacifiCorp ratepayers. This is very similar to the Condit Dam in Washington State that PacifiCorp removed just a few months ago.

Thank you for considering this plea that the Water Board protect the Klamath River by enacting your 401 Certification authority. Lift the abeyance at your July 17 meeting.

Sincerely,

Greg King
President/Executive Director