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March 17, 2010

Ms. Dorothy Rice
Mr. Charles Hoppin
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

**Re: Request for Abeyance of Klamath Hydroelectric Project Clean Water Act
Section 401 Water Quality Certification Process and Related California
Environmental Quality Act Process**

Dear Ms. Rice and Mr. Hoppin:

On February 18, 2010, the parties listed in Attachment A to this letter executed the Klamath Hydroelectric Settlement Agreement (KHSAs), which establishes a process for removal of PacifiCorp's hydroelectric facilities on the Klamath River. Section 6.5 of the KHSAs requires the parties, with the exception of the Oregon Department of Environmental Quality (ODEQ), to submit a request to the State Water Resources Control Board (SWRCB) and to ODEQ that permitting and environmental review for PacifiCorp's Klamath Hydroelectric Project (FERC No. 2082), including but not limited to water quality certifications under Section 401 of the Clean Water Act and review under the California Environmental Quality Act (CEQA), be held in abeyance during an interim period under the KHSAs. During this abeyance period PacifiCorp would withdraw and resubmit its water quality certification application as necessary to avoid waiver of certification under the Clean Water Act. On behalf of PacifiCorp and the other parties, excepting ODEQ, we hereby request that the SWRCB hold the California water quality certification and related CEQA processes in abeyance for the interim period under the KHSAs.

The KHSAs, along with its companion Klamath Basin Restoration Agreement (KBRA), is an historic agreement that lays out the process for additional studies, environmental review, and a decision by the Secretary of the Interior in 2012 (Secretarial Determination) regarding whether removal of four main stem Klamath River dams within the Klamath Hydroelectric Project owned by PacifiCorp: 1) will advance restoration of the salmonid fisheries of the Klamath Basin; and 2) is in the public interest, which includes but is not limited to consideration of potential impacts on affected local communities and tribes. Three of the dams are in California (Iron Gate, Copco

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No.1 and Copco No. 2), and one is in Oregon (J.C. Boyle). The KHSA additionally provides for the interim operation of the dams and a process to transfer, decommission, and remove the dams. The KHSA proposes federal legislation that will limit FERC to annual licenses for the Klamath Hydroelectric Project. A copy of the KHSA is attached hereto (Attachment B), along with a summary of the KHSA and KBRA (Attachment C).

The KHSA includes a broad range of water quality and fisheries measures to be implemented leading up to and beyond the Secretarial Determination. These “interim measures” commit PacifiCorp to the following:

- Funding of \$510,000 per year for coho enhancement, in coordination with the California Department of Fish and Game;
- Installation of turbine venting at Iron Gate Dam;
- Funding for a Hatchery and Genetics Management Plan;
- Evaluation of the feasibility of flow variability below Iron Gate Dam, in coordination with fisheries agencies, Tribes, and the United States Bureau of Reclamation;
- Funding fish disease studies below Iron Gate Dam;
- Gravel placement and/or habitat enhancement above Copco Reservoir;
- Barrier removal upstream of the J.C. Boyle Powerhouse;
- Funding for a flow gage below the J.C. Boyle Powerhouse, and in the J.C. Boyle Bypass Reach and Spencer Creek;
- Funding up to \$100,000 for a water quality conference;
- Funding for interim water quality improvements in the Klamath River (\$250,000 per year until the Secretarial Determination, and \$5.4 million upon an affirmative Secretarial Determination, plus \$560,000 per year for operation and maintenance);
- Maintenance of specified instream flows and ramping rates at the J.C. Boyle Dam;
- Funding of \$500,000 per year for water quality monitoring;
- Funding of 100% of Iron Gate Hatchery operation and maintenance expense; and
- Diversion limits and release requirements at J.C. Boyle, Shovel Creek, Negro Creek and Fall Creek.

Pursuant to Section 6.3 of the KHSA, PacifiCorp will use the water quality related measures described above to implement the Klamath River TMDLs. The North Coast Regional Water Quality Control Board is scheduled to approve the TMDLs by the end of this year.

In light of the KHSA and the commitments and obligations contained therein, it is unnecessary and a waste of agency and other resources to pursue the water quality certification and CEQA processes at this time. Significant investment in water quality studies and improvements will be made during the interim period leading up to the Secretarial Determination, and this additional information logically would be relevant to inform any future

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water quality certification or CEQA process, should those processes resume.

The settlement parties understand that the SWRCB may have questions about the KHSA and the KBRA. The parties therefore offer to appear before the SWRCB at a future SWRCB meeting, if requested, to respond to the SWRCB's questions and to provide additional information and a status report on the settlement process.

We respectfully request a written response to this request. Please contact the undersigned if you would like additional information.

Sincerely,



Robert E. Donlan

Attachment 1 – KHSA Party list
Attachment 2 – KHSA
Attachment 3 – KBRA and KHSA Summary