

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



January 29, 2016

Mr. Parker Thaler
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-2000

Subject: Notice of Preparation of an EIR for the Klamath River Hydroelectric Project
Relicensing.

Dear Mr. Thaler:

The Coastal Commission staff has reviewed the above-referenced Notice of Preparation published by the State Water Resources Control Board for the proposed relicensing of the PacifiCorp Klamath River Hydroelectric Project. The Board is seeking comments concerning the scope and content of the environmental information to be included in the EIR.

The California Coastal Act includes specific policies that address the protection of public access and recreation, terrestrial and marine habitat, visual resources, commercial and recreational fisheries, water quality, archaeological resources, and other coastal resources (Division 20 of the Public Resources Code). The policies of the Coastal Act constitute the statutory standards applied to regulatory decisions made by the Commission pursuant to the Coastal Act. The coastal zone, which was specifically mapped by the California Legislature, varies in width on land from several hundred feet in highly urbanized areas up to five miles in certain rural areas; offshore the coastal zone includes a three-mile-wide band of ocean. The coastal zone includes the lower reaches of the Klamath River upstream to a point approximately three-fourths of a mile east of the Highway 101 bridge near the community of Klamath.

The operation of the four PacifiCorp dams on the Klamath River affects coastal resources along the lower reaches of the Klamath River, in particular water quality and fisheries. As such, the Commission staff appreciates the opportunity to comment on the scoping process for the environmental document to be prepared for the proposed relicensing of the Klamath River Hydroelectric Project. The Commission may also have a direct role in reviewing the project pursuant to the federal Coastal Zone Management Act (CZMA). The Coastal Commission is one of California's two designated coastal management agencies for the purposes of administering the CZMA. The CZMA gives state coastal management agencies certain federal consistency review authority over federally licensed, permitted, or assisted activities, wherever they may occur (i.e., landward or seaward of the respective coastal zone boundaries fixed under state law) if the activity affects coastal resources. Based on the information contained in the above-referenced Notice of Preparation, the Commission staff believes that that the proposed relicensing of the four PacifiCorp dams on the Klamath River by the Federal Energy Regulatory

Commission (FERC) would affect the coastal zone and will require Commission review of a federal consistency certification.

The proposed relicensing to operate the Klamath River Hydroelectric Project is for a non-federal agency activity. One or more federal agencies, including FERC, the U.S. Army Corps of Engineers, and the National Marine Fisheries Service, would issue a permit or license or authorization to PacifiCorp, which would then be responsible for CZMA compliance (i.e., prepare and submit to the California Coastal Commission a consistency certification). Because the project is located inland of the coastal zone, the Commission would first need to obtain permission from NOAA's Office of Coastal Management (OCM) to review the proposed hydropower license and/or other federal permits/licenses/authorizations under the CZMA. If such permission were granted, FERC and other federal agencies could not issue a permit/license/authorization until the Commission has concurred with the consistency certification submitted by PacifiCorp. This permission would be sought once the Commission receives notice that an application has been made to FERC or other federal agencies by PacifiCorp for relicensing the project. The federal consistency certification should include a finding that the project is consistent with the California Coastal Management Program (CCMP), and should contain sufficient information for the Commission to assess the activity's effect on the coastal zone and its consistency with the CCMP (see Section 930.58 of the NOAA Federal Consistency Regulations for additional details on information requirements for federal consistency submittals).

The EIR should review the proposed relicensing project for consistency with the policies of Chapter 3 of the Coastal Act, which are the enforceable policies of the aforementioned California Coastal Management Program. Several key policies of Chapter 3 of the Coastal Act that are especially pertinent to the review of the proposed project include: (1) Section 30240, Environmentally Sensitive Habitat Areas; (2) Section 30231, Biological Productivity and Water Quality; (3) Section 30241.5, Economic, Commercial, and Recreational Importance of Fishing; (4) Section 30233(d), Continued Movement of Sediment and Nutrients; and (5) Section 30244, Archaeological or Paleontological Resources. The EIR should review the project's consistency with all the applicable Chapter 3 policies of the Coastal Act, with particular attention to the above-listed policies.

The Klamath River basin has enormous importance as habitat for threatened salmonid species. The salmon fishery of the river is of tremendous economic and cultural significance for the Yurok Tribe and also of great importance for commercial and recreational fishing and the economies of all the communities along the North Coast of California. As habitat for threatened salmonid species, the Klamath River and its tributaries are considered to be environmentally sensitive habitat pursuant to Section 30240 of the Coastal Act. Section 30240 provides in applicable part that environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and that development shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat areas. In addition, Section 30231 of the Coastal Act provides in applicable part that the biological productivity and the quality of coastal waters, streams, wetlands, and estuaries appropriate to maintain optimum populations of marine organisms shall

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be maintained and, where feasible, restored. Furthermore, Section 30234.5 of the Coastal Act provides that the economic, commercial, and recreational importance of fishing activities shall be recognized and protected. The EIR should thoroughly evaluate the effects that relicensing of the project on the Klamath River, including the effects on fish passage, salmonid populations, volume of river flows, water quality, sediment and nutrient transport down the river to the shoreline and ocean, and commercial and recreational fisheries in the river basin and open ocean from relicensed operation of the project.

The downstream portions of the Klamath River basin have been the home of the Yuroks, Hoopas, Karuks, and other native peoples for thousands of years. As a result, significant archaeological resources exist throughout the basin. Section 30244 of the Coastal Act states that where development would adversely impact archaeological resources, reasonable mitigation measures shall be required. The proposed relicensing of the project may affect the quantity and timing of river flows, and as a result may affect erosion patterns downstream of the project dams and possibly into the coastal zone. Such changes in erosional patterns may lead to greater erosion of buried archaeological resources, causing their destruction. The EIR should thoroughly evaluate how river flows and volumes may affect erosion of the river channel and adjacent areas, including areas of known and potential archaeological resources.

Thank you for the opportunity to comment on the EIR scoping process. Please contact me at larry.simon@coastal.ca.gov or at (415) 904-5288 should you have questions regarding the federal consistency process.

Sincerely,



Larry Simon
Federal Consistency Coordinator

CC: CCC – North Coast District
Yurok Tribe
Secretary, California Natural Resources Agency