



January 29, 2016

State Water Resources Control Board  
Division of Water Rights  
Water Quality Certification Program  
Attn: Mr. Parker Thaler  
PO Box 2000  
Sacramento, CA 95812

*Submitted via electronic mail to [parker.thaler@waterboards.ca.gov](mailto:parker.thaler@waterboards.ca.gov)*

**Re: Water Quality Certification under Clean Water Act for Klamath Hydroelectric Project**

Dear Responsible Officials:

These comments are submitted on behalf of Friends of the Earth (FoE) and our more than 500,000 members and activists in the U.S. and more than 70,000 members and activists in California. We are a national non-profit organization with a mission to defend the environment and champion a healthy and just world. FoE has a long history of advocacy for the defense of free flowing rivers from the negative impacts of destructive infrastructure, as well as working to support the human communities that depend on healthy river systems.

We thank you for this opportunity to comment on the preparation by the State Water Resources Control Board (SWRCB) of an Environmental Impact Report (EIR) under the California Environmental Quality Act (CEQA) to support federal Clean Water Act (CWA) compliance for the Klamath Hydroelectric Project (KHP) on the Klamath River. It is the clear responsibility of the SWRCB to weigh all scientific evidence in fulfilling requirements to perform water quality certification under the CWA as the KHP's dams are undergoing federal relicensing to continue operation on the Klamath River. We strongly encourage the SWRCB to assert its authority on the river, as California water quality regulators have not fulfilled their duties to complete a certification process to force the KHP to perform in compliance with the CWA. We particularly encourage the SWRCB to aggressively pursue compliance with the CWA along the stretch of river that is directly under your authority within the State of California, and which hosts three (3) of the dams that are part of the infrastructure that make up the KHP. In summary, we strongly encourage the SWRCB to exercise your authority to enforce the CWA, to require dam removal, and through this course of action take the necessary steps to restore water quality in the Klamath River for the long term.

As you develop your EIR, we urge the SWRCB to address the following critical issues:

- PacifiCorp has not demonstrated that it can achieve CWA compliance through its proposed mitigation measures. Therefore, we urge you to only issue a Clean Water certificate if it requires the retirement and removal of Iron Gate, Copco No. 1, CopCo No. 2, and J.C. Boyle dams from the Klamath River. The structures of the dams are themselves one of the key impediments to the attainment of water quality on the Klamath River. The reservoirs result in slow moving and warming water, and create a perfect environment for toxic algae growth. No amount of mitigation can correct those problems.
- We urge you to fully address your legal responsibility to protect California's water quality impairments from pollution originating in Oregon – particularly water quality impairments generated by J.C. Boyle and Keno dams and reservoirs. Water quality problems generated due to the Oregon dams are not exempt from CEQA analysis because they contribute emissions and discharges that impact the quality of California waters downstream from the dams.

- The EIR should address all water quality standards that have been developed for the Klamath River. The SWRCB should use existing information to expeditiously complete environmental review and quickly make a decision on whether the dams can comply with the Clean Water Act. This includes taking into consideration evidence such as the Secretary of the Interior's Final Environmental Impact Statement that supported the Secretary's Determination that dam removal is in the best interest of the citizens of the United States of America. Note that an alternative that allows the dams to remain as long as fish ladders are installed to allow passage for salmon and other anadromous fish seems to be unlikely to meet the water quality requirements in this very hurt and injured river.

- Note that fish passage is a mandatory condition of the KHP license and cannot be ignored in the analysis for water quality certification of the KHP under the CWA, and we would hope that the board will analyze the social and economic impacts of each alternative on commercial fisheries downstream, as well as on river dependent communities in the Klamath watershed.

- Finally, it is unlawful to continue delaying mitigation of water quality impairments caused by PacifiCorp's facilities. We urge you to complete the EIR and issue a water quality certification requiring dam removal in a timely manner. The SWRCB has the clear authority to require dam removal as the only viable alternative to restoring water quality in the Klamath River.

To reiterate the essence of the recommendations we provide in this letter, we strongly encourage the SWRCB to exercise your authority to enforce the CWA, to require dam removal, and to therefore ensure that the necessary steps are taken to restore water quality in the Klamath River as quickly as possible and for the long term.

Thank you very much for your attention to the information provided in this letter.

Respectfully,



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