

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2010-0049**

REGARDING FURTHER ABEYANCE IN PROCESSING THE SECTION 401 WATER QUALITY
CERTIFICATION OF THE KLAMATH HYDROELECTRIC PROJECT

WHEREAS:

1. On May 18, 2010, the State Water Board adopted [Resolution 2010–0024](#), which holds in abeyance further processing of the water quality certification application of the Klamath Hydroelectric Project.
2. Resolution 2010–0024 contains certain deadlines which would cause the abeyance to lift unless the State Water Board acts to extend the deadlines.
3. One such deadline is that the abeyance will lift 90 days after June 18, 2010, if federal legislation contemplated in the Klamath Hydroelectric Settlement Agreement (KHSA) is not introduced into Congress by that date.
4. PacifiCorp and the Klamath Water Users Association (KWUA) have requested that the State Water Board extend the abeyance even though federal legislation has not yet been introduced.
5. PacifiCorp states that settlement parties have diligently pursued such draft legislation, but that none has been introduced because of congressional schedules and priorities in an election year, and it is unknown when such legislation will be introduced.
6. PacifiCorp and KWUA request that the federal legislation requirement in Resolution 2010–0024 be struck.
7. Other progress towards implementing the KHSA includes:
 - The environmental review process under the California Environmental Quality Act and the National Environmental Protection Acts is moving forward according to the schedule contemplated in the KHSA.
 - Interim measures have begun to be implemented.
 - Approval of required rate changes by the Oregon Public Utilities Commission, based on the finding that dam removal under the settlement will be more cost-effective for rate-payers than renewing the Federal Energy Regulatory Commission license.
 - PacifiCorp submitted an application for the required rate change to the California Public Utilities Commission in March 2010, and expects a decision in April 2011.
8. No events triggering dissolution of the KHSA have occurred.
9. The original date anticipated for introduction of the federal legislation was May 17, 2010 (90 days after enactment of the KHSA).
10. Federal legislation early in the KHSA process is important to the KHSA's implementation, as the legislation is anticipated to provide the necessary legal framework for a Secretarial Determination by April 30, 2012, and for subsequent events.

11. Federal legislation would also be required to stay the relicensing proceeding before the Federal Energy Regulatory Commission, which forms the impetus for the State Water Board's action under Clean Water Act section 401.

THEREFORE BE IT RESOLVED THAT:

The State Water Board will change Resolution 2010-0024, paragraph 3, first bullet, to a deadline for enactment of legislation, rather than introduction of legislation, and change the date from June 18, 2010 to May 17, 2011 (one year after the timeline anticipated in the KHSA).

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on October 5, 2010.

AYE: Chairman Charles R. Hoppin
Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc

NAY: None

ABSENT: None

ABSTAIN: Board Member Arthur G. Baggett, Jr. (Recused)



Jeanine Townsend
Clerk to the Board