

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of the Application of:)	
)	
PACIFICORP)	Project No. 2082-063
_____)	(Klamath Hydroelectric Project)
)	
KLAMATH RIVER)	Project No. 14803-001
RENEWAL CORPORATION)	(Lower Klamath Project)
_____)	
)	
Klamath Hydroelectric Project, in)	
Southern Oregon/Northern California;)	
Surrender of License and)	
Decommissioning of Project)	
_____)	

MOTION FOR LEAVE TO INTERVENE
OF
PACIFIC COAST FEDERATION OF FISHERMEN’S ASSOCIATIONS
AND THE
INSTITUTE FOR FISHERIES RESOURCES

Pursuant to Rule 214 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 18 C.F.R. §385.214, *Pacific Coast Federation of Fishermen’s Associations (“PCFFA”)* and the *Institute for Fisheries Resources (“IFR”)* hereby move to intervene in support of the Applications for Surrender of Project License and Transfer of License, as filed in the above-captioned proceedings by PacifiCorp and the Klamath River Renewal Corporation (“KRRC”). Please place both PCFFA

and IFR on the official Service List for both of these two related proceedings. All filings, orders, and correspondence respecting this intervention and these proceedings should be addressed and sent to the following:

Pacific Coast Federation of Fishermen's Associations
Institute for Fisheries Resources
Northwest Regional Office
Attn: Glen Spain
P.O. Box 11170
Eugene, OR 97440-3370

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Email contact: fishlifr@aol.com

Both PCFFA and IFR hereby consent to e-mail service of process *in lieu* of hardcopy U.S. mail service as the email address listed above. This motion is timely filed, and both PCFFA and IFR have previously formally intervened in closely related Docket No. P-2082-027 on these same or very similar issues.

I. DESCRIPTION OF INTERVENORS

The *Pacific Coast Federation of Fishermen's Associations (PCFFA)* is a nonprofit organization, and is also the west coast's largest trade organization for commercial fishing vessel owners and family commercial fishing operations. Our many fishermen members make their living, in whole or in part, from ocean harvest of seafood, primarily from Pacific salmon, and their livelihoods are greatly affected by the health and abundance of Klamath-origin salmon, including spring and fall Chinook and coho salmon.

The *Institute for Fisheries Resources (IFR)* is a separate nonprofit charitable, scientific and educational organization that is closely affiliated with PCFFA and conducts many of PCFFA's salmon conservation and watershed restoration activities, particularly within the Klamath Basin. Although they are separate organizations, IFR and PCFFA staff and Board members substantially overlap and have similar interests, including an interest in fisheries restoration within the Klamath Basin. IFR has devoted many years and substantial monetary resources to that restoration effort, including managing and funding many of PCFFA's Klamath Basin salmon habitat restoration projects.

II. GROUNDS FOR INTERVENTION

PCFFA is a fishing industry trade federation composed of many different port-based fishermen's marketing associations, vessel owner's associations, gear group associations and seafood marketing cooperatives, each with its own membership. Many of those member associations are located in or operate within the Klamath Management Zone (KMZ), which is the area on the west coast from near Fort Bragg, CA (Point Arena) to above Florence, OR (Cape Blanco). Klamath River-origin salmon are primarily harvested within this ocean area, which extends over more than 250 miles of coastline and out to 200 miles offshore. PCFFA member associations based within the KMZ include port associations in Crescent City, CA, Eureka, CA, Shelter Cove, CA, Trinidad, CA and Fort Bragg, CA. Several other PCFFA coastwide membership associations also have individual members who fish or operate within the KMZ from time to time to harvest salmon. All these salmon fisheries depend heavily on the health of salmon runs coming from the Klamath Basin, which in turn are adversely affected by the Klamath dams.

And additionally, many PCFFA members, particularly in far Northern California and coastal Oregon, are themselves PacifiCorp ratepayers, who thus have an economic interest in securing the least-cost option for dealing with these dams, which both California and Oregon Public Utilities Commissions have determined is in fact their decommissioning and removal, as noted below.

For several decades, Klamath-origin salmon runs (primarily coho and spring and fall Chinook) have diminished as a combined result of habitat loss, blocked access salmon habitat, and deteriorating Klamath River water quality. Many of these factors are caused by or exacerbated by the configuration and operations of the Klamath Hydroelectric Project (the "Project"). For instance, the Project dams currently physically block access for salmon to approximately one-third their historic spawning and rearing habitat.¹ The Project also creates numerous water quality problems which limit salmon productivity below Iron Gate Dam, frequently leading to much higher mortality for both juveniles and adults.

¹ Neither Iron Gate Dam nor the other dams above Iron Gate have fish passage for salmonids, blocking their access to more than 420 miles of otherwise productive, and once fully occupied, salmon spawning and rearing habitat.

Project impacts on Klamath-driven salmon fisheries have cost PCFFA member organizations and individuals affiliated with PCFFA hundreds of millions of dollars in lost harvest opportunities over time, losses which continue to today and which have never been adequately compensated or mitigated. Today the KMZ is all but closed to ocean commercial salmon fishing, and economic losses to KMZ ports have been up to 98 percent of salmon landings as compared to just forty years ago.

Additionally, under “weak stock management” principles imposed by fishery management laws, since the early 1980’s the diminished populations of Klamath River Basin natural coho and fall Chinook stocks have severely constrained management of other ocean salmon fisheries from Northern Oregon to south of San Francisco. In order to protect these diminished Klamath stocks, on many occasions the Pacific Fishery Management Council and the state regulatory agencies have had to reduce the harvest of all salmon in otherwise healthy but mixed-stock fisheries wherever weakened Klamath salmon stocks also occur. These Klamath-based indirect fishery constraints have resulted in many hundreds of millions of dollars in economic damages to the west coast fishing industry and to PCFFA member organizations generally, losses which continue to today and which have never been adequately compensated or mitigated.

Loss of access to habitat and water quality problems caused by or exacerbated by the Project has also contributed to the listing of coho salmon within the Klamath River as “threatened” under the federal Endangered Species Act (ESA), and as “threatened” under the California Endangered Species Act (CESA). These ESA and CESA listings have led to additional constraints on ocean salmon fisheries that have also resulted in economic losses to PCFFA/IFR and its member organizations, and to many of their individual members, none of which has been adequately compensated or mitigated.

IFR’s many conservation and watershed restoration efforts in the Klamath may also become moot or be severely undermined if adverse Project impacts are not mitigated and controlled. IFR represents a strong public interest in watershed restoration and fisheries enhancement, and has worked on these efforts in the Klamath Basin since its origin in 1992, including the commitment of substantial staff time and financial resources.

Thus PCFFA/IFR and their member associations, and the many individual fishermen members of those associations, have a strong and unique economic and public interest in the

decommissioning and removal of the Project and the elimination of its impacts on Klamath River water quality, spawning and rearing habitat access, and the health of Klamath-origin salmon fisheries. No other party can adequately represent these fisheries economic interests. PCFFA/IFR also have special expertise in fisheries issues and Project fisheries economic impacts that will be very helpful in this proceeding.

To date PCFFA/IFR has participated in these FERC processes at various levels, including reviewing and providing written comments on all major scoping, draft and final documents, providing economic and socioeconomic information, and working within the collaborative process since the year 2,000. Both PCFFA and IFR previously intervened in FERC Docket No. P-2082-027 opposing PacifiCorp's then-existing petition for relicensing, which it has since withdrawn in favor of its current petition for dam decommissioning and removal.

III. STATEMENT OF POSITION

PCFFA's and IFR's position is that these four obsolete dams are no longer cost effective and should be removed. There are many reasons why Klamath dam removal makes economic sense. Some of those reasons are listed below:

The 1956 Federal Energy Regulatory Agency (FERC) 50-year license to operate the Klamath Hydropower Project expired in 2006. PacifiCorp, the company that owns the Klamath dams (J.C. Boyles Dam in Oregon, and CopCo Dams 1 & 2 and Iron Gate Dam in California, in river-descending order), can limp along on *temporary* one-year FERC license extensions only while an active application with FERC is pending, in this case an application filed jointly with the KRRC for Project decommissioning and removal. That time is coming to a close and a decision on the fate of these dams must soon be made. No privately owned dam can legally operate without a valid FERC license.

Whatever choice PacifiCorp (also called "Pacific Power" in California) makes, the company's costs of that decision will ultimately be charged to its customer/ratepayers. *This is how electrical utilities work.* Their only source of revenues is generally the creation of electrical power they then sell to their customers, collecting enough revenues from their customers to fund their operations. This is all regulated by state Public Utilities Commissions (PUCs) in each state where they operate, as the watchdog agencies that assures that their state's customers get charged fair, reasonable – *and generally the lowest-cost* – power rates for the services they receive.

There are only two legal options for these Klamath Hydropower Project dams, both of which will cost PacifiCorp ratepayers money: (1) fix them up and relicense them to modern standards, which turns out will cost *at least* \$460 million, and quite likely more than \$500 million once all (currently unknown) water quality mitigation costs are added in, according to PacifiCorp’s own testimony to the PUCs,² or; (2) decommission and remove these aging dams entirely – which it can now do under the Klamath Hydropower Settlement Agreement (KHSA) for a “capped” cost to its customers of only \$200 million, with the rest paid by the State of California.³

The best current estimate for the total costs of decommissioning and full removal of the four dams, so that the Klamath River and its salmon can once move run freely through them, is about \$434 million, including various environmental mitigation measures.⁴ By implementing dam removal through the KHSA (i.e., capping its costs at \$200 million) PacifiCorp thus saves its customers at least another \$234 million as well as reduces its own company and ratepayer risk and uncertainty. This is another reason the KHSA is a good deal for PacifiCorp customers.

On May 5th, 2011, the California Public Utilities Commission (CPUC) formally confirmed that the KHSA is indeed the most cost effective, least risk and therefore best alternative for PacifiCorp’s customers as compared to relicensing.⁵ A prior September 16, 2010, ruling by the Oregon PUC came to the same conclusion.⁶

The reality is that all four dams combined do not generate enough power to justify their relicensing, and are thus economically obsolete. Although the whole Klamath Hydroelectric Project is technically rated for maximum power generation of about 169 megawatts (MW), no dams can run at maximum capacity 24/7, especially during summers when turbine flows are lowest. The entire Project combined actually generated only about 82 MW of power on average

² See CPUC Docket No. A10-03-015, *Testimony of Cory Scott*, Exhibit PPL-300 (March 18, 2010), pg. 6; Opening Brief of PacifiCorp (Nov. 17, 2010), pg. 6. PacifiCorp’s “conservatively estimates” relicensing costs of at least \$400 million in capital improvements, plus \$60 million in operations costs and maintenance over a 40-year relicensing term, not counting likely large (but still unknown) additional costs for any water quality mitigations that may be required to meet state 401 Certification requirements in Oregon and California.

³ The rationale for this bi-state equitable cost-sharing scheme is that nearly 600,000 Oregonians are PacifiCorp customers already paying into a Klamath Dam Removal Trust Fund monthly, while only about 40,000 Californians are ratepayers – but most economic benefits for restored Klamath salmon fisheries will be in California.

⁴ See KRRC *Definite Plan (June 2018)*, Table 8.5-1 at pg. 304, available at: www.klamathrenewal.org/definite-plan, updated as of July, 2019, from KRRC web site.

⁵ California PUC Final Order at: <http://docs.cpuc.ca.gov/published/proceedings/A1003015.htm>.

⁶ Oregon PUC Final Order at: <http://apps.puc.state.or.us/orders/2010ords/10-364.pdf>.

over the past 50 years, according to FERC records.⁷ A single modern electrical power plant can continuously generate 1,000 MW or more.

And according to estimates by FERC, even after all the expensive retrofitting to meet modern standards for relicensing, these dams would then still only generate about 61 MW of power on average -- *about 26% less than they do today*.⁸ Relicensing thus means spending a great deal of money for what is actually very little power. In fact, FERC itself estimated in its 2007 Final Environmental Impact Report (FEIS) on relicensing that even if fully relicensed, the required retrofitting would be so expensive that these dams would then operate *at more than a \$20 million/year net loss*.⁹

The California State Energy Commission (CEC) comments on PacifiCorp's Final License Application state:

“[T]he Energy Commission Staff’s primary recommendation to FERC – based on our understanding of the energy and biological resources associated with the Klamath Hydro Project – is that decommissioning may be a viable option given that the Project is a small energy facility with 151 MW total capacity and an average production of 656 GWh.”¹⁰

A previous study by the California Energy Commission (CEC) also reviewed the regional energy effects of full or partial decommissioning. Their conclusions were that:

“Because of the small capacity of the Klamath hydro units...removal of these units will not have a significant reliability impact on a larger regional scale. ...[D]ecommissioning is a feasible alternative from the perspective of impacts to statewide electricity resource adequacy and that replacement energy is available in the near term.”¹¹

In short, keeping the Klamath dams means extremely expensive fixes for a lot less power, and a Project that would likely lose money for the rest of any new license – *losses that PacifiCorp customers would ultimately also have to make up for in even higher power rates*.

The “bottom line” is that it’s just a lot cheaper for customers to remove the dams than to keep

⁷ The November, 2007 FERC Final EIS (“FERC FEIS”) is available online at: http://elibrary.ferc.gov/idmws/File_list.asp?document_id=13555784 or found by a FERC docket search at www.ferc.gov, Docket No. P-2082-027 posted November 16, 2007, Document No. 20071116-4001. This number is taken from FERC FEIS, pg. 1-1, as 716,800 MWh, which divided by hours per year (24 hrs./day X 365.25 days/year) = 81.77 MW actual output, rounded to 82 MW – less than 2% of PacifiCorp’s total power production.

⁸ FERC FEIS, Sec. 4.4, pg. 4-4 of 533,879 MWh = 60.90 MW relicensed output, rounded to 61 MW.

⁹ FERC FEIS (Nov. 2007), Table 4-3 on pg. 4-2.

¹⁰ Comments on PacifiCorp’s Final License Application, California Energy Commission (2004).

¹¹ California Hydroelectricity Outlook Report, California Energy Commission (2002), p.D31.

them. And this is *completely ignoring* likely economic and jobs benefits of a restored world-class salmon run, a more stable irrigation system and the many other benefits also highlighted in the FERC NEPA process.

As to replacement power, when Pacific Power was bought by Berkshire-Hathaway in 2005, the Company legally committed to bringing more than 1,400 MW of brand new, cost-effective renewable power online by 2015.¹² This is *17 times more* power than the four Klamath dams generate all together. In fact, the company considerably exceeded that goal. Adding an additional 82 MW of cost-effective and clean replacement power to its grid after 2023, as it intends to do after Project removal, would be an almost trivial task by comparison. There are many options for the replacement of this power from comparable carbon-free or renewable sources by 2023.¹³

IV. CONCLUSION

THEREFORE, PCFFA and IFR both have substantial interests in the outcome of this licensing and no other party would adequately represent the Interveners' interests, and thus PCFFA and IFR respectfully request, for the reasons set forth above, that the Commission grant their intervention in the Klamath Hydroelectric Project relicensing proceedings.

Dated: February 4, 2021

Respectfully Submitted,

PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOCIATIONS and the
INSTITUTE FOR FISHERIES RESOURCES

By: 

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¹² See for instance, *Final Order*, Measure 41, in CPUC Docket A05-07-010.

¹³ A single modern wind turbine, for instance, can generate up to 6 MW of power and it would take fewer than 55 such wind turbines, even at a very conservative 25% efficiency, to *completely replace* the total amount of "green power" these four dams now generate – and only 41 such wind turbines to replace the 61 MW after any hypothetical relicensing. A single modern "wind farm" may contain hundreds of such wind turbines.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person or entity designated on the official service list compiled by the Secretary in this proceeding, by electronic mail, unless otherwise requested on the service list, and for those who requested it in hard copy form, by U.S. mail.

Dated: February 4, 2021

A handwritten signature in black ink, appearing to read 'gh' followed by a stylized flourish.

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