



# COUNTY OF SISKIYOU

## Board of Supervisors

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### **STATEMENT OF THE BOARD OF SUPERVISORS WITH REGARD TO THE CDM REPORT**

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The Board of Supervisors of the County of Siskiyou has recently directed the release of a previously confidential report by Camp Dresser and McKee Inc. regarding the evaluation of potential liability associated with the decommissioning of the four hydroelectric dams on the Klamath River.

The Board of Supervisors only recently learned of the existence of this Report and is becoming concerned that decisions are being made in Oregon and elsewhere without adequate consideration of the additional millions of dollars and likely billions identified for completion of sound environmental review and removal of the dams. The Board of Supervisors has not pre-committed to the removal of the dams, but is only committed to participate in good faith in studying the issues. It is disappointing to the Board to discover that the United States has had a report in its possession since July 2008, and possibly earlier, that identifies a significant impact that it did not feel compelled to more timely share with the participants. It is the opinion of the Board of Supervisors that the legislators in Oregon may have wished to have this in hand prior to their imposition of \$180 Million in costs on their ratepayers. If they had had this information, they may have been aware that the \$180 Million provides no funding to study the impacts of such a tremendous undertaking with enormous risks to the citizens of the State of Oregon, as well as to the residents of the County of Siskiyou.

The Oregon Legislature has apparently decided to fund dam removal without any viable studies of the potential harm to the citizens of Oregon or the citizens of Siskiyou County.

As set forth below, the Board has several comments and questions to which it is seeking answers and has been seeking answers for quite some time.

One of Siskiyou County's primary questions is where are the provisions in the agreements and studies to adequately assess the potential economic, social and environmental damages and to finance the costs of dealing with and mitigating the various impacts to the County of Siskiyou.

According to the CDM study, there is a potential cost (estimated two years ago) of up to \$836 Million for dam removal. Economic impacts could include an \$11 Million loss in property values; a \$4.6 Million loss in recreational opportunities; and a \$66 Million loss to regional fisheries. There are also as yet unquantified associated losses of tax revenues to the County. The CDM report estimates that, presuming no toxic issues with the sediment, up to \$351 Million could be spent on sediment management. The Federal Energy Regulatory Commission Environmental Impact Statement indicates that sediment management could cost from \$485 Million to as much as \$1.5 Billion - if toxic substances were found. A sediment sampling done by Shannon & Wilson in 2006 indicated the presence of dioxin behind three dams at levels of concern to human health and salmonids. CDM Report estimates as much as \$53 Million for stabilization, re-vegetation and restoration of the empty reservoirs after they are drained and potentially to areas below the dams. Costs for replacement of hydropower with other unspecified

renewable energy resources is estimated as high as \$172 Million.

The proposed Klamath Basin Restoration Agreement or KBRA (page134-136) addresses mitigation of these impacts to Siskiyou County by proposing to support California legislation to allow up to \$20 Million dollars to offset documented losses in tax revenues to Siskiyou County. These have been estimated at \$730,000 a year for the dams, plus a portion of the \$500,000 a year paid on other PacificCorp properties, any loss in tax revenues from depreciated private property on more than 1,000 affected lots and loss of business taxes. According to the KBRA, this amount is also to serve as the County's total settlement for the estimated \$81.6 Million (CDM) losses to local businesses and the economy, and for depreciation of property values due to dam removal. The Board of Supervisors has declined to sign the KBRA document, in part because of such deficiencies.

The CDM report also outlines many of the gaps in assessments and information necessary to adequately predict the total impacts to Siskiyou County from dam decommissioning and the probable costs to avoid, minimize and mitigate these damages. Recently, it became known that it is the intent of the State and Federal governments to depart from the FERC process entirely, with its protections that require open meetings, public participation and scrutiny of supporting science under the National Environmental Policy Act (NEPA). As an exception, FERC decisions regarding Klamath dam removal are to be replaced by as yet undrafted Federal and State legislation. Under the Agreement in Principle (AIP) signed by the Federal government, the States of California and Oregon and PacificCorp, it appears that the

Secretary of the Department of the Interior (DOI) will decide upon the scope of additional studies to be done, without local consultation or coordination as required by law. Funding for those studies is as yet undetermined. Under a non-public process, the decision by the Secretary of Interior on dam removal will be based on a consideration of costs and benefits. The Department of Interior analysis will be done according to direction under "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies." The decision whether or not to remove will be made by March 31, 2012 and will be considered "ministerial" – not discretionary. It would therefore be exempt from NEPA. This is contrary to the Department of Interior's representation to FERC at their recent meeting in Yreka.

Under the AIP, ownership of the dams themselves would be transferred to an undisclosed non-governmental third party, (DRE – Dam Removal Entity,) prior to removal. According to DOI representatives, at that time the actual decommissioning by the third party will be subject to NEPA and the California Environmental Quality Act (CEQA.) Prior to transfer, the federal and State governments, as well as PacifiCorp, would be granted legislative immunity from any liability from impacts due to dam removal. This waiver of liability would pre-empt all state laws. Unanswered is who will be responsible for the harm to the County and citizens of Siskiyou.

The DRE will be given up to \$450 Million collected by PacifiCorp for the expense of dam decommissioning, a sum already projected by some to be insufficient. The DRE will be given no additional funding under the AIP. In addition, the AIP specifically states that there will be no obligation to appropriate or expend money from the U.S. Treasury

or State General Fund.

Although the DRE is supposed to be financially competent to perform removal tasks and pay damages, it appears highly unlikely from the CDM and FERC reports that funding will be adequate. The AIP indicates that removal will not be under the public FERC process. Siskiyou County is also concerned that legislation will set forward another "exceptional" streamlined permitting process – possibly limiting liability and exempting it from the Clean Water Act, Endangered Species Act and other State and local permitting. The KBRA makes unenforceable promises to Siskiyou County that if it is determined that there will be significant damages to infrastructure, property or fisheries that are not mitigated, then the California Dept. of Fish and Game will meet and work with the County in the public process to "develop recommendations" to address the impacts.

The Agreement purports to ensure that consumer/rate payer interests are protected in establishing new power rates. The AIP sets forth a payment to PacifiCorp of \$450 Million. This is to be established by legislation rather than through the California Public Utilities Commission (CPUC). The CPUC has procedures in place to ensure that consumer/rate payer interests are protected. \$200 Million of this is to be collected from rate payers proportionate to their numbers in California and Oregon. Oregon's SB 76 will collect \$180 Million from Oregon rate payers. \$20 Million will be collected from California rate payers through comparable, as yet unpassed legislation. An additional \$200 – 250 Million from taxpayers is to be included in a California ballot proposition.

A February 2009 notice to California rate payers announced a \$1.4 Million cost for alternative energy purchased to comply with California's portfolio requirements, resulting in a requested 1.6% rate increase. According to that CPUC filing, there are currently only about 46,777 customers in California (35,447 residential, 11,099 agricultural and industrial and 231 public.) The \$20 Million rate payer cost in the AIP comes out to around \$427 a customer. The CDM report estimates alternative energy replacement power for the loss of the hydropower dams to PacifiCorp could be as much as \$172 Million. It appears that an amendment to Oregon SB 76 would attempt to cap total rate payer liability in that state at \$180 Million, including the cost of replacement power and cost over-runs on dam removal. A provision in the AIP specifically states that California rates will be structured to recover power replacement costs.

There are many questions left unaddressed to date concerning the minimization and full mitigation of potential impacts and damages to Siskiyou County and its residents from dam removal. There are issues regarding a robust scientific analysis of such impacts; securing a fair and open process subject to public scrutiny and input; adequate consideration of impacts on public health and safety, the environment and private property; adequacy of funding to compensate and mitigate for impacts; accountability and liability for damages; and fair rate payer and taxpayer burdens.

The Board of Supervisors continues to be concerned about the failings of the processes and the haste under which these processes are being undertaken. The Board is continuing to advocate for reasonable protections for the citizens of this County. However, such advocacy is difficult when responses such as the one given by

the Department of the Interior's representative that he neither spoke for the current nor the past administrations. The Board of Supervisors urges the representatives of the United States, the States of Oregon and California, and PacifiCorp, to step forward with a more public process and provide information showing that the harm to the County of Siskiyou will in fact be adequately and reasonably mitigated should the eventuality of dam removal occur.

The Board will continue to vigorously assert the rights of the County of Siskiyou; however, the citizens of this County should be aware that the substantial forces arrayed against the County and the vast sums available to them are likely to significantly affect our efforts given the current economic situation and drastic cuts in funding available to the County.