
State Water Resources Control Board

December 23, 2022

Mr. Demian Ebert, Program Manager
PacifiCorp
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Portland, OR 97232
Sent via email: demian.ebert@pacificorp.com

APPROVAL OF INTERIM MEASURE 11 PRIORITY LIST OF PROJECTS PER APPENDIX D OF THE KLAMATH HYDROELECTRIC SETTLEMENT AGREEMENT

Dear Mr. Ebert:

This letter serves as approval from the State Water Resources Control Board (State Water Board) and North Coast Regional Water Quality Control Board (North Coast Regional Water Board) (collectively Water Boards) of the Priority List of Projects as described under Interim Measure 11 in Appendix D of the Klamath Hydroelectric Settlement Agreement (KHSA). This approval satisfies the Water Boards' role under Appendix D of the KHSA with respect to the Priority List of Projects.

Background

On February 18, 2010, the KHSA was executed by PacifiCorp (then owner and operator of the Klamath Hydroelectric Project), Native American Tribes, several state, federal, and local agencies, nongovernmental organizations, and individual parties. The KHSA seeks to return large portions of the Klamath River to a free-flowing condition and provide for volitional fish passage by creating a framework to remove several of PacifiCorp's Klamath Hydroelectric Project dams (J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate) and associated facilities. The KHSA was amended on April 6, 2016, and November 30, 2016, for administrative updates and to replace the need for congressional authorization for removal of the dams with the Federal Energy Regulatory Commission (FERC) license surrender process.

In addition to providing a framework for dam removal, the KHSA included a series of interim measures (IMs) designed to assess and mitigate environmental impacts of the Klamath Hydroelectric Project in the interim period before dam removal. The KHSA included provisions for an Interim Measures Implementation Committee (IMIC) to coordinate with PacifiCorp on ecological and other issues related to implementation of IMs 7 through 21. While the State Water Board and North Coast Regional Water Board are not signatories to the KHSA, both agencies are members of the IMIC through Section 3.2 of IM-1 (Amended KHSA, Appendix B), and have actively participated in the IMIC for more than a decade.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

In coordination with PacifiCorp, the IMIC has overseen IM-11: *Interim Water Quality Improvements*, with the general purpose of developing actions to improve Klamath River water quality. Since 2010, under IM-11, PacifiCorp has provided \$250,000 per year for studies and/or pilot projects to improve Klamath River water quality. Additionally, IM-11 requires the development of a Priority List of Projects to reduce nutrients and improve water quality. Under Appendix D of the Amended KHSA, PacifiCorp is to provide up to \$5.4 million for implementation of the Priority List of Projects, and up to \$560,000 per year to cover project operation and maintenance expenses.¹

The original KHSA (executed on February 18, 2010) envisioned IM-11 and the Priority List of Projects to be implemented during the interim period before dam removal. However, in subsequent KHSA amendments, the Priority List of Projects timeline was modified from interim actions prior to dam removal to more long-term water quality improvement projects for the Klamath River.

On June 7, 2019, PacifiCorp and the IMIC completed development of the Priority List of Projects². The Priority List of Projects are included on page 10 of the *Klamath River Hydroelectric Project Interim Measure 11: Priority List of Projects Process for Project Governance, Selection, and Implementation* technical memo. The approved categories are:

- Diffuse Source Treatment Wetlands;
- Riparian Fencing and Grazing Management;
- Irrigation Efficiency and Water Management Projects; and
- Natural Wetlands Restoration.

The IMIC concluded that implementing activities in each of these categories can provide water quality improvements to the Klamath River above upper Klamath Lake where nutrient inputs are more impactful to the Klamath River system's water quality. Per Appendix D of the Amended KHSA, the State Water Board, North Coast Regional Water Board, and Oregon Department of Environmental Quality (ODEQ) must approve the Priority List of Projects prior to implementation.

Approval

The Priority List of Projects as identified in the June 7, 2019 technical memo, is hereby approved. Following approval by the three entities (State Water Board, North Coast Regional Water Board, and ODEQ), per Appendix D of the Amended KHSA, PacifiCorp will provide Oregon Watershed Enhancement Board (OWEB) with up to \$5.4 million with additional adjustments for inflation and up to \$560,000 per year (adjusted for

¹ Amounts subject to adjustment for inflation as described in Amended KHSA Section 6.1.5.

² Development of Priority List of Projects was completed in Phases. Phase 1, Phase 2, and Phase 3 were completed June 8, 2017, February 26, 2018, and June 7, 2019, respectively.

inflation) to fund implementation of the Priority List of Projects. OWEB has been selected as the fiscal agent.

Though this approval satisfies the Water Boards' role under the KHSA as it relates to the Priority List of Projects, the State Water Board and North Coast Regional Water Board may continue to participate with ODEQ and others on the Steering Committee in an advisory role for Priority List of Projects implementation.

The Water Boards recognize that the Klamath River has traditional and cultural significance for several Native American Tribes and is a shared river system located both in California and Oregon. The Water Boards value the collaborative relationships that it has developed through participation in the IMIC and looks forward to engaging in future efforts in the Klamath River Basin to support continued water quality improvements and protection of beneficial uses.

The Water Boards appreciate PacifiCorp's leadership and the IMIC's commitment and collaboration in completion of the Priority List of Projects. If you have questions related to this letter for the State Water Board, please contact Nathan Fisch, Senior Environmental Scientist (Specialist), by email to: Nathan.Fisch@waterboards.ca.gov. If you have questions for the North Coast Regional Water Board related to this letter, please contact Matt St. John, Executive Officer, by email to: Matt.St.John@waterboards.ca.gov.

Sincerely,



Eileen Sobeck
Executive Director
State Water Resources Control Board

Matt St. John
Executive Officer
North Coast Regional
Water Quality Control Board

ec: Mike Hiatt, Klamath Basin TMDL Coordinator
Oregon Department of Environmental Quality
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Interim Measures Implementation Committee Members

ebc: Marianna Aue, OCC
Parker Thaler, Water Rights
Nathan Fisch, Water Rights
Philip Meyer, Water Rights
Oscar Biondi, Water Rights
Matt St. John, Region 1
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Erik Ekdahl, Water Rights
Erin Ragazzi, Water Rights