

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification for the

**IRON GATE DAM BY-PASS TUNNEL REHABILITATION PROJECT
KLAMATH HYDROELECTRIC PROJECT**

FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 2082

SOURCES: Klamath River

COUNTY: Siskiyou County

WATER QUALITY CERTIFICATION FOR FEDERAL PERMIT OR LICENSE

BY THE EXECUTIVE DIRECTOR:

In response to concerns from the Department of Water Resources, Division of Dam Safety, PacifiCorp proposes to perform repairs to the Iron Gate Dam By-pass Tunnel to allow use of the tunnel in the event of emergency (proposed Project). PacifiCorp has applied for a Nation Wide permit under section 404 of the Clean Water Act from the United States Army Corps of Engineers (USACOE) to perform repairs. PacifiCorp must obtain certification under section 401 of the Clean Water Act from the State Water Resources Control Board (State Water Board) before the USACOE can issue the permit. PacifiCorp is proposing to install a bulkhead structure with a blind flange hinged gate and bypass drain in the tunnel 20 feet downstream of the existing gate. A manufactured steel cofferdam will be constructed in front of the bulkhead to isolate water from the construction area. A second manufactured steel coffer dam will be placed on the discharge apron at the tunnel opening to prevent river water from entering the tunnel during construction. Material from a rockslide will be removed from the discharge apron. A concrete weir with stop logs will also be built at the tunnel exit. While dry, the by-pass tunnel will be rehabilitated by removing existing timber sets and stabilizing areas of the tunnel with rock bolts. Areas of the tunnel wall that are rehabilitated will be covered with a layer of Shotcrete. The cofferdams and drain pipe will be removed at the end of construction.

1. The Federal Clean Water Act (33 U.S.C. §§ 1251-1387) was enacted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." (33 U.S.C. § 1251(a).) Section 101 of the Clean Water Act (33 U.S.C. § 1251 (g)) requires federal agencies to "co-operate with the State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources."

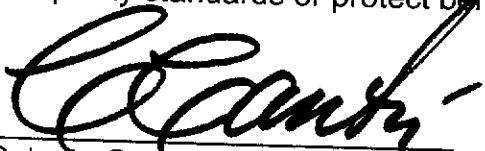
2. Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance with specified provisions of the Clean Water Act, including water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act (33 U.S.C. § 1313). Clean Water Act section 401 directs the agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of state law. Section 401 further provides that state certification conditions shall become conditions of any federal license or permit for the project. The State Water Board has delegated this function to the Executive Director by regulation. (Cal. Code Regs., tit. 23, § 3838, subd. (a).)
3. The California Regional Water Quality Control Boards have adopted, and the State Water Board has approved, water quality control plans (basin plans) for each watershed basin in the State. The basin plans designate the beneficial uses of waters within each watershed basin and water quality objectives designed to protect those uses. Section 303 of the Clean Water Act requires the states to develop and adopt water quality standards. (33 U.S.C. § 1313.) The beneficial uses together with the water quality objectives that are contained in the basin plans constitute State water quality standards under section 303.
4. The Basin Plan for the North Coast Region lists municipal and domestic supply, industrial service and process supply, ground water recharge, freshwater replenishment, hydropower generation, water contact recreation, non-contact water recreation, commercial and sport fishing, warm and cold fresh water habitat, wildlife habitat, migration, spawning, reproduction and/or early development, aquaculture, and rare, threatened and endangered species as beneficial uses of the Klamath River. The beneficial uses of the water at Copco and Iron Gate Reservoirs are listed as freshwater replenishment, hydropower generation, water contact recreation, non-contact water recreation, commercial and sport fishing, warm and cold fresh water habitat, wildlife habitat, migration, spawning, reproduction and/or early development, aquaculture, and rare, threatened and endangered species. Protection of the instream beneficial uses identified in the basin plan requires maintenance of adequate instream flows as well as effluent limitations and other limitations on discharges of pollutants from point and nonpoint sources to the Klamath River and its tributaries.
5. The State Water Board has reviewed and considered the plans and Project description provided by PacifiCorp. Further, the State Water Board has considered the basin plan, the existing water quality conditions and Project-related controllable factors.

6. The State Water Board has reviewed the proposed Project and conditions incorporated into the Project to protect the environment. The State Water Board has determined this Project involves the repair, maintenance, or minor alteration of an existing facility and therefore is categorically exempt from the requirements of the California Environmental Quality Act (Cal. Code Regs., tit. 14, § 15301). A Notice of Exemption has been prepared.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE STATE WATER BOARD CERTIFIES THAT THE REHABILITATION OF THE IRON GATE DAM BYPASS TUNNEL BY PACIFICORP will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided PacifiCorp complies with the following terms and conditions:

1. PacifiCorp shall comply with the construction description and drawings submitted to the State Water Board.
2. PacifiCorp and its contractors shall comply with the Erosion Control and Environmental Compliance Plan in the Quality Control Inspection Program dated July 15, 2005. PacifiCorp shall monitor water quality during construction and immediately report any discharge or violation of the water quality objectives to the State Water Board and North Coast Regional Water Quality Control Board (707-576-2220).
3. Any equipment used in direct contact with water of the Klamath River shall be steam cleaned prior to use.
4. Notwithstanding any more specific conditions in this certification, the Project shall be operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act. The Licensee shall take all reasonable measures to protect the beneficial uses of water of the Klamath River.
5. This certification is not intended and shall not be construed to apply to issuance of any FERC license or FERC license amendment other than the FERC license specifically identified in the Licensee's application for certification described above.
6. This certification does not authorize any act, which results in the "taking" of a threatened or endangered species or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C. §§ 1531 - 1544). If a "take" will result from any act authorized under this certification or water rights held by the Licensee, the Licensee shall obtain authorization for the take prior to any construction or operation of the Project. The Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the Project authorized under this certification.

7. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to a suspected violation of any condition of this certification, the State Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this certification, the State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
8. Licensee must submit any change to the Iron Gate Dam Bypass Tunnel Rehabilitation Project, including project operation that would have a significant or material effect on the findings, conclusions, or conditions of this certification, to the Deputy Director of the Division of Water Rights for prior review and written approval.
9. This certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, division 3, chapter 28, article 6 (commencing with § 3867).
10. The State Water Board reserves authority to modify or revoke this certification if monitoring results indicate that the Project would violate water quality objectives or impair the beneficial uses of the Klamath River.
11. The State Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.
12. The State Water Board may add to or modify the conditions of this certification as appropriate to coordinate the operations of this Project and other water development projects, where coordination of operations is reasonably necessary to achieve water quality standards or protect beneficial uses of water.



Celeste Cantú
Executive Director

Date: 9-11-06