



Hoopa Valley Tribal Council

HOOPA VALLEY TRIBE

Regular Meetings on the First and Third Thursday of Each Month

P.O. Box 1348 • HOOPA, CALIFORNIA 95546 • Phone 625-4211 • Fax 625-4594



Clifford Lyle Marshall
Chairman

June 19, 2008



Tam Doduc, Chair
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Re: CEQA Compliance for Klamath Hydroelectric Project CWA § 401 Certification

Dear Ms. Doduc:

The Hoopa Valley Tribe urges the Water Board to proceed with CEQA compliance for the Clean Water Act § 401 certification for the Klamath Hydroelectric Project. PacifiCorp has applied for water quality certification pursuant to Section 401(a)(1) of the federal Clean Water Act three times. Most recently, on February 22, 2008, PacifiCorp withdrew and resubmitted its application for a water quality certification, which gives the Water Board until February 21, 2009 to complete its work. The Water Board's March 20, 2008 letter to Mr. Cory Scott, Project Manager for PacifiCorp, anticipated issuing a Notice of Preparation of a CEQA EIR "in about a month." That Notice should issue now if it has not already.

The Hoopa Valley Tribe is treated as a "State" for purposes of the Clean Water Act. The Tribe has numeric water quality standards for the portion of the Klamath River that flows across the Tribe's Reservation, downstream of the PacifiCorp project. The Tribe's water quality standards have been approved by the U.S. Environmental Protection Agency, and filed with the Federal Energy Regulatory Commission. The approved tribal Water Quality Control Plan is available at <http://www.hoopa-nsn.gov/documents/WQCP.pdf> or from http://www.epa.gov/waterscience/standards/wqslibrary/tribes/hoopa_valley.pdf. Under the Clean Water Act, any discharge from the PacifiCorp project, as permitted under any Section 401 certification, must not affect the quality of the Tribe's Reservation waters so as to violate our water quality requirements. 33 U.S.C. § 1341(a)(2). We look forward to working closely with your staff to assure this consistency with applicable water quality standards.

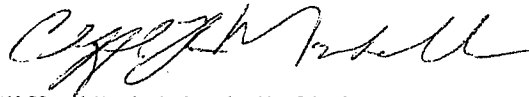
By letter of June 9, 2008, California Resources Agency Secretary Mike Chrisman, requested that you postpone the Notice of Preparation and Scoping sessions of the EIR concerning a Section 401 permit. Please do not further postpone CEQA compliance on this application. Mr. Chrisman refers to talks which his agency and other parties, including the Hoopa Valley Tribe, are having with PacifiCorp. While these talks have been useful, they furnish no reason for postponing CEQA compliance; the federal agencies which participate in the settlement talks in a trustee capacity have said nothing that suggests postponing CEQA

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compliance. Such compliance will be required regardless of the outcome of the parties' talks. An extensive examination of the costs and impacts of project dam removal is already underway and is considered, for example, in the Final Environmental Impact Statement for Hydroelectric License, FERC/FEIS - 0201F (Nov. 2007). The parties' discussions with PacifiCorp fall within the Section 401 certification range of CEQA alternatives. Dam removal impacts must be considered in the CEQA process without delay. Thank you for your consideration.

Sincerely,

HOOPA VALLEY TRIBAL COUNCIL



Clifford Lyle Marshall, Chairman

cc: Dorothy Rice, Executive Director, WRCB
Jennifer Watts, Environmental Scientist, WRCB
Marianna Aue, Staff Counsel, WRCB
Mike Chrisman, Secretary
Kirk Miller, Counsel
Ken Norton, Hoopa EPA