

DRAFT

Note: Additions made by NOAA General Counsel are highlighted.

November 17, 2006

The Honorable Magalie Salas
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

RE: Docket Number P-2082 (Pacific Fishery Management Council's Comments on the Draft Environmental Impact Statement, and Essential Fish Habitat [EFH] Recommendations for the Klamath Hydropower Project).

Dear Secretary Salas:

The Pacific Fishery Management Council (Council) submits these comments regarding the Draft Environmental Impact Statement (DEIS) for Hydropower License for the Klamath Hydroelectric Project (P-2082). Under §305(b)(3)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, the Council is obligated to comment on activities that are likely to substantially affect essential fish habitat (EFH) for salmon. The Council has identified EFH for fall Chinook and coho within the Klamath River below Iron Gate Dam.

First, we reiterate our comments sent in a letter dated April 24, 2006 (enclosed). In that letter, the Council submitted its recommendation that the Federal Energy Regulatory Commission (FERC) order the removal of the lowermost four dams on the Klamath River (Iron Gate, Copco 1 and 2, and JC Boyle Dams). The current draft EIS does not include this option, and, therefore, is inadequate in addressing the full range of reasonable alternatives as required by 40 CFR 1502.14.

FERC replied to the Council's letter on May 12, 2006, noting that "We will consider your April 24, 2006, EFH comments under section 10(a) of the Federal Power Act as we prepare our Draft Environmental Impact Statement (DEIS)... We will look forward to your comments and any EFH recommendations after you've reviewed our DEIS and EFH Assessment."

We note with disappointment that the DEIS contains no alternative for the removal of all four lower Klamath dams. Instead, FERC's proposed final action is unclear. Although FERC is mandated to follow prescriptions submitted to it by the Secretaries of Commerce and the Interior under Section 18 of the Federal Power Act, it has failed to include the preliminary prescriptions for fishways in its "Staff Alternative." Similarly, FERC has failed to include many of the preliminary 4(e) conditions in its "Staff Alternative." These conditions were based upon facts that were affirmed by an Administrative Law Judge in September 2006. FERC needs to clearly

lay out a preferred alternative that includes these terms and conditions which, when finalized, will be mandatory.

The Council requests that FERC augment its analysis of the removal of two dams (Iron Gate and Copco 1) with a full analysis of the removal of the lowermost four dams. In addition, we strongly urge FERC to modify its “Staff Alternative” to reflect the mandatory conditions placed upon the new license by the Departments of the Interior and Commerce.

The Council believes that FERC’s analysis is inadequate. On page 5-88, FERC addresses EFH issues as they relate to the Klamath River Hydroelectric Project. This analysis reiterates the measures that PacifiCorp and FERC propose in the DEIS, and then, comparing with today’s extremely impaired baseline, states that the proposed action will “not adversely affect EFH.” We believe that this analysis misses the point – that the current facilities and operations have caused and will continue to cause, through the term of any license, the degradation of EFH below the Klamath River Hydroelectric Project, and that operations should be mitigated to avoid adverse effects to EFH.

The Council further notes that of the five additional measures proposed by FERC (in addition to PacifiCorp’s proposed measures), four are requirements for PacifiCorp to make maps or plans with no obligation to implement any actual measures to improve EFH downstream. This is unacceptable. Measures to protect or enhance EFH must encompass real actions, not simply more plans and studies.

As the near-shutdown of ocean fisheries demonstrated this year, Klamath stock abundance affects economies up and down the coast. Thus, the economic consequences that result from the degradation of EFH located below the Klamath Hydroelectric Project can be quite large. Thus, it is important to address effects to EFH completely, and to fully explore ways to mitigate for such impacts.

In summary, the Council requests that FERC add a *four* dam removal scenario to its analysis, and further, based upon the recommendations of numerous individuals, agencies, and other organizations, select the removal option as the preferred alternative. Volitional, or other fish passage scenarios without dam removal, do nothing to address serious water quality problems that FERC’s own analyses show impact anadromous fish. We anticipate a new draft EIS that includes the requested analyses will soon be available for further review. Thank you for the opportunity to comment.

Sincerely,

DRAFT

Pacific Fishery Management Council

Enc: April 24, 2006 letter from PFMC to FERC

PFMC-11/16/06