PACIFIC FISHERY MANAGEMENT COUNCIL

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April 23, 2004

Ms. Magalie R. Salas, Secretary
Federal Energy Regulatory Commission (FERC)
888 First St., N.E.
Washington, D.C. 20426

Re: PacifiCorp Klamath River Hydroelectric Project FERC-2082

Dear Ms. Salas:

The Pacific Fishery Management Council (Council) is concerned that the final license application for the FERC-2082 hydroelectric project does not address anadromous fish passage or adequately address the impacts of Klamath hydroelectric facilities and operations upon the fisheries resources of the Klamath River downstream of the project. This area has been identified as essential fish habitat (EFH) by the Council.

The Council, through the Magnuson-Stevens Act, is charged by Congress to advise the U.S. Secretary of Commerce in the management of West Coast anadromous and marine fish stocks and provide recommendations that minimize the impacts of federal actions on the EFH of Council-managed species. The Magnuson-Stevens Act also authorizes fishery management councils to comment on federal and state projects, and directs them to comment on any project which may substantially impact EFH.

Within 30 days of receiving an EFH recommendation from NMFS (NOAA Fisheries), a Federal agency must respond in writing to NMFS (NOAA Fisheries) and any commenting Council(s). The response should detail the measures that will be taken to avoid, mitigate, or offset the adverse effects to EFH and explain the reasons for any actions inconsistent with the NMFS (NOAA Fisheries) EFH recommendations.

Federal agencies are required to respond in detail to EFH conservation recommendations of fishery management councils in writing within 30 days [16USC1855(b)(4)(B)].

The Council currently makes harvest management recommendations for Klamath River fall chinook salmon and has identified Klamath River spring chinook as a key stock for which management objectives may be developed in the future. The Council identified and described EFH for chinook and coho salmon in 1999 under Amendment 14 to the Pacific Coast Salmon Fishery Management Plan. In the Klamath Basin, EFH has been designated for the mainstem

Klamath River and its tributaries from its mouth to Iron Gate Dam and upstream to Lewiston Dam on the Trinity River, and includes the water quantity and quality conditions necessary for successful adult migration and holding, spawning, egg-to-fry survival, fry rearing, smolt migration, and estuarine rearing of juvenile coho and chinook salmon.

The fisheries resources of the Klamath River have undergone a major decline during the past century from numerous land and water management activities. The degradation of fisheries habitat and resultant decline in abundance of Klamath Basin fisheries resources has led to the listing of coho salmon under the Federal and California Endangered Species Acts, as well as the curtailment of fisheries along the Pacific Coast from the Columbia River to south of San Francisco to protect Klamath Basin origin chinook. Among the factors which have contributed to the decline of the anadromous fisheries resources of the Klamath River, is the construction and continued operation of PacifiCorp's Klamath River Hydroelectric Project.

The Klamath River Hydroelectric Project was constructed beginning in 1918, with no anadromous fish passage facilities, even though primary spring chinook spawning and rearing grounds existed above the dams, as well as considerable habitat for other anadromous fish populations. The Council notes that the current final license application for PacifiCorp's Klamath River Hydroelectric Project contains no provisions for anadromous fish passage, which causes us great concern. **The Council believes that anadromous fish passage should be included within the final license agreement, and that dam removal and/or project decommissioning should be examined in detail in an EIS.** This is in accordance with the recommendations of the National Research Council's recent report regarding the Klamath Basin, which recommended serious and detailed studies on the removal of Iron Gate Dam.

The Council is extremely concerned that PacifiCorp appears to have determined that fish re-introduction to the upper basin is not feasible at this time based on computer model runs which PacifiCorp has acknowledged are not complete, and only include habitat within the Hydroelectric Project area itself. **The Council believes that it is up to the appropriate state and federal agencies to determine the effectiveness of reintroduction of anadromous fish to the upper Klamath Basin, and it is PacifiCorp's obligation to provide passage to facilitate the re-introduction if required by conditioning agencies under their respective authorities.** PacifiCorp appears to have pre-determined that fish passage is not warranted or feasible.

The Council is concerned that PacifiCorp has never mitigated for the loss of fall chinook or other anadromous species from the Klamath River above its Copco facilities. Elimination of these stocks without mitigation has reduced the abundance of populations, and continues to hinder restoration of those populations, that the Council is responsible for managing. **Because of this, the Council believes that PacifiCorp needs to begin analyses that seriously, and in detail, look at the relative costs and benefits of a variety of fish passage options, including full volitional up and downstream passage, and dam removal at some or all facilities.**

Hatchery operations are also a concern for the Council, as hatchery production is a significant contributor to harvestable stocks from the Klamath River. We note that PacifiCorp has proposed

to increase the proportion of coded wire tag marking of juvenile fall-run chinook salmon from its current level to a constant fractional marking rate of 25%. We believe that this is a significant and overdue step in the right direction that will assist the Council in its duty to manage the harvest of Klamath River fisheries. **We commend PacifiCorp for making this proposed change in hatchery operations.**

However, other aspects of hatchery management as proposed under PacifiCorp's final license application cause us great concern. For example, spring Chinook salmon, which used to inhabit the Klamath River below Copco before the construction of Iron Gate Dam in 1961, have disappeared from this portion of the river, yet no mitigation, hatchery or otherwise is proposed. Likewise, mitigation for steelhead has also been a failure. Steelhead returns to Iron Gate Hatchery, have dwindled since the program began in the early 1960's. While the Council doesn't manage steelhead, steelhead are an important component of West Coast ecosystems, and of utmost importance to the states and tribes. **Because PacifiCorp has determined that hatchery mitigation for steelhead is not "feasible" (in their judgment), fish passage must be vigorously pursued as a mitigation option**. Unfortunately, the final license application makes it clear that PacifiCorp does not intend to analyze or pursue fish passage any further.

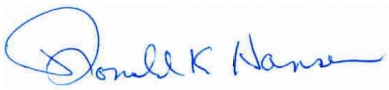
Finally, the Council is concerned with the lack of in-depth analysis of Klamath River Hydroelectric Project impacts to salmon below Iron Gate Dam. Despite its voluminous size, it is difficult to find any place in the final license application where historic, current, or future impacts to anadromous fish stocks, including EFH, are included. PacifiCorp has performed certain analyses regarding water quality, geomorphology, fish disease, and other studies that extend downstream, but has not related these to historic, current, or future impacts to anadromous fish. For example, water quality analyses performed by PacifiCorp indicate that water temperatures during the migration and spawning period for fall Chinook salmon are approximately 9°F higher on average than pre-project conditions. Yet, the implications of this significant impact to adult salmon survival, egg viability, and run timing are not addressed. **This oversight must be corrected by PacifiCorp so that reasonable protection, mitigation and enhancement measures can be devised.** Similar analyses for other impacts to anadromous fisheries stocks in other resource areas, such as geomorphology, are also lacking.

The Council notes, that although the Hydroelectric Project affects EFH, and hatchery operations have a profound effect on wild stocks under the Council's management, **no direct discussion of these effects can be found in the final license application.**

The Council also notes that **there is substantial information missing from the final license application to ascertain impacts to anadromous fisheries**, and that PacifiCorp has not provided enough information to devise reasonable protection, mitigation and enhancement measures. **The Council urges FERC, in the absence of information necessary to determine the impacts of the Klamath River Hydroelectric Project, to take a conservative stance toward impacts to Klamath Basin fisheries resources.** In other words, if PacifiCorp has refused to develop information called for by management agencies, FERC should err on the side of the resource.

The Council urges FERC to consider the importance of the Klamath Basin fisheries resource to coastal communities along the Pacific Coast as well as the Klamath River, and to ensure that the health of these resources is addressed in any future licenses for the Klamath River Basin.

Sincerely,



Donald K. Hansen
Chairman

JDG:rdd

c: Mr. Dave Allen, USFWS Director
Mr. Ryan Broddrick, CDFG Director
Mr. Dave Hillemeier, Yurok Tribe
Mr. Bob Lohn, NMFS NWR Regional Administrator
Mr. Rod McInnis, NMFS SWR Acting Regional Administrator
Mr. Mike Orcutt, Hoopa Tribe