

Klamath Conservation Partners: Guidance Statement

The listed organizations will support a Klamath Hydroelectric Settlement Agreement. The organizations listed below are prepared to endorse and support the Klamath Hydroelectric Settlement Agreement (KHSA) under the following conditions

..... The KHSA should be severed from the proposed Klamath Basin Restoration Agreement (KBRA); clean and clear dam removal legislation that is unburdened by the controversial and costly terms of the KBRA is more politically viable and will more effectively restore the Klamath River Basin. The vast majority of issues implicated in the KBRA are different than those of dam removal and should therefore be addressed separately.

..... The timeline for dam removal must be shortened significantly. The KHSA should authorize and direct the Secretary of Interior to prepare a plan for federal removal of the lower four Klamath River dams and submit it to Congress by 2012. Klamath River salmon and river communities should not wait ten years for removal of these antiquated dams to begin.

..... Dam removal will be funded through PacifiCorp customer contribution of \$200 million and an independent \$250 million general obligation bond in the State of California. Bond funds would not be attached to additional infrastructure projects in the State of California. If other state-based funding means are impaired or unavailable, a federal contribution should be provided to accomplish dam removal.

..... During the interim period prior to dam removal, all annual dam licenses should be subject to interim conditions deemed necessary for the adequate protection of fish, wildlife, water quality, or other aquatic resources. Interim conditions must be subject to public and expert agency review and comment.

We believe this approach represents the prudent course for Klamath River Basin restoration. The undersigned support reform of the KHSA and the exploration of a more feasible alternative that addresses dam removal and the needs of fish, wildlife, and human communities of the Klamath River. We call on all stakeholders to join us in this more prudent path.

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Concerns with the draft Klamath Hydroelectric Settlement Agreement

Linkage with the KBRA

The KBRA has many controversial provisions and seeks \$985 million in appropriations. A link between the KHSA and the KBRA is not necessary for dam removal. Linking dam removal to the costly and controversial KBRA is likely to derail needed dam removal legislation.

Secretarial Determination

The Secretarial determination process is not necessary. This process simply delays the federal government's commitment to dam removal and creates a forum for PacifiCorp or any opposition group to block dam removal. If the Secretarial determination comes back negative, this will provide PacifiCorp with leverage in the FERC process, and the Public Utility Commissions an opportunity to keep the dams and recover the costs of any mandatory conditions. A dam removal agreement should instead require parties to seek legislation authorizing the Secretary to remove the dams and commence the necessary planning and environmental review processes to achieve it, not conduct a public interest review. Alternatively, if there was to be a review, it should be confined to whether or not dam removal would be consistent with salmonids restoration, the federal government's tribal trust responsibilities, and the federal government's obligations under the ESA, CWA, and Wild and Scenic Rivers Act.

Preconditions and Exits

The KHSA has too many off-ramps and preconditions. These should be minimized. In return for the federal government assuming responsibility for removing the dams, the company should commit to dam removal now. The states should commit to dam removal, subject only to compliance with existing laws.

Designated Removal Entity (DRE)

Under the current KHSA, there remains no final DRE. It should be stated plainly that the federal government will become the DRE, if it does not find a suitable non-federal DRE acceptable to it or the states.

Interim Measures and Application of Existing Laws

Interim environmental protection measures offered through the KHSA are inadequate. The agreement should require PacifiCorp to immediately implement the non-structural operational requirements that are part of the mandatory conditions for a new license. PacifiCorp should remain liable and its operations should remain subject to the Clean Water Act, the Endangered Species Act, and all other applicable laws during the interim period.

State Water Quality Certification

State water quality certification processes have essentially been halted during KHSA negotiations. These processes should proceed during the interim period.

FERC Annual Licenses and Suspension of Relicensing Process

The draft KHSA does not state any clear limitation on the number of annual FERC licenses that can be granted to PacifiCorp. There should be a definite limit on the number of annual licenses and a specific date after which relicensing should again commence if dam removal has not yet begun.

Delayed Commencement of Dam Removal

Klamath salmon are suffering now from these dams. Waiting until 2020 or later, as the KHSA suggests, for dam removal to begin is not acceptable.