



February 23, 2004

Ms. Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Klamath Hydroelectric Project (FERC Project No. 2082)

Dear Ms. Salas,

With this letter, PacifiCorp transmits the application for a new license for the Klamath Hydroelectric Project, FERC No. 2082. The application has been prepared in accordance with current Commission regulations 18 CFR Sections 4.32 and 4.51, license for Major Project - Existing Dam, and with more recently amended regulations 18 C.F.R. §§ 5.22(a)(2), 5.23(b)(1).

PacifiCorp, in following the amended FERC regulations, will be submitting the CWA 401 applications to the states of Oregon and California in mid-September 2004 unless the Commission determines the license application ready for environmental review at an earlier date (see attached letters). If the later case, PacifiCorp will submit the CWA 401 applications no later than 60 days after FERC issues a public notice that the final license application is ready for environmental analysis.

In accordance with 18 CFR 4.51 (g)(3), two copies of the Supporting Design Report will be sent under separate cover.

A public notice of this filing of the application for new license will be published and proof provided to the commission within 14 days of license application submittal.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Olson".

Todd Olson
Licensing Project Manager
Hydro Licensing

cc: FERC Service List – Project 2082

Attachments

- (1) Copy of CWA 401 letters to ODEQ and SWRCB
- (2) FERC Klamath Service List
- (3) FERC Letter of Waiver for Paper Copies

Enclosure – New License Application for Klamath Hydroelectric Project #2082

825 N. E. Multnomah, Suite 1500
Portland, Oregon 97232
(503) 813-5000

January 22, 2004



Mr. Gregory McMurray
Oregon Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204

**Re: PacifiCorp Klamath Project
Date for Submitting the Section 401 Certification Request**

Dear Mr. McMurray:

The Federal Energy Regulatory Commission (FERC) recently amended its hydroelectric licensing rules to extend the time for requesting a Clean Water Act section 401 certification to 60 days after FERC issues a notice that a license application is ready for environmental analysis. PacifiCorp must submit the new license application for its Klamath Hydroelectric Project to FERC by the end of February 2004. Although PacifiCorp cannot predict precisely when FERC will determine that the application is ready for environmental analysis, PacifiCorp does not expect the determination until at least the summer of 2004. In order to provide a more certain date for submitting the section 401 certification request to the Oregon Department of Environmental Quality (Department), PacifiCorp proposes to submit the request by **September 17, 2004**, unless PacifiCorp and the Department subsequently agree upon a later date that is consistent with FERC's rules.¹

Discussion

Previously, FERC's rules required license applicants to submit section 401 certification requests no later than the deadline for submitting new license applications to FERC, *viz.*, 24 months before the expiration of the existing license. *See* 18 C.F.R. §§ 16.8(f)(7), 16.9(b)(1) (2003). Under the amended rules, the certification request must be submitted no later than 60 days after FERC issues a public notice that the final license application is ready for environmental analysis. *See* 68 Fed. Reg. 51,070, 51,095-96, 51,136 (Aug. 25, 2003) (to be codified at 18 C.F.R. §§ 5.22(a)(2), 5.23(b)(1)). The principal reason for extending the time for requesting certification is to allow additional time for relevant water quality information to be submitted with the request, which would include water quality information submitted to FERC in response to any additional information requests. *See* 68 Fed. Reg. at 51,095.

¹ If FERC determines that PacifiCorp's license application is ready for environmental analysis before July 19, 2004 (60 days before September 17), PacifiCorp would, of course, submit its request for certification earlier in order to comply with FERC's rules.

Because the current FERC license for PacifiCorp's Klamath Hydroelectric Project expires on March 1, 2006, the final application for a new license must be filed with FERC by end of February 2004. Under the previous FERC rules, PacifiCorp would also have been required to submit its section 401 certification request to the Department by February 2004. Under the amended rules, however, the certification request need not be submitted until 60 days after FERC determines that the license application is ready for environmental analysis. Again, PacifiCorp does not anticipate that this notice will be issued until at least the summer of 2004.

PacifiCorp's request for certification of the project will be processed in conjunction with the review of the project by the Oregon Hydroelectric Application Review Team (HART). See ORS 543A.060-.115. The HART review is intended to be conducted, "to the maximum extent feasible, in a manner that is consistent with and avoids duplication of federal agency review" of the project. ORS 543A.060(1). Because the HART statutes were enacted in the context of FERC's previous rules, ORS 543A.100 states that requests for certification are to be filed "[n]ot less than two years before the expiration of the federal license for the project." Nonetheless, ORS 543A.060(2) provides that changes in this deadline and in other HART procedures may be made "to better coordinate with the review of the project by [FERC] . . . , if the changes do not diminish opportunities for public input otherwise provided by [the HART process]."

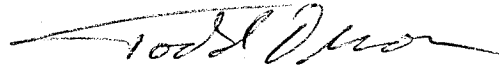
PacifiCorp wishes to emphasize that, pending the submission of a certification request, it intends to continue working diligently with the Department to address water quality issues associated with the project. In addition, these issues will be addressed in the Environmental Exhibit (Exhibit E) to the license application submitted in February 2004. Delaying the certification request until September 2004 would enable PacifiCorp to include in the request any additional water quality information that FERC requests in response to the license application, as well as respond to any concerns that the Department may have following its review of Exhibit E. Because of the substantial effort that will be required to complete and file the license application with FERC by the end of February 2004, it is unlikely that a certification request submitted at that time would provide the Department with much information beyond that contained in the license application.

Another consideration for establishing a date for the certification request is the one-year deadline for the Department to act on the request. If the request is made in September 2004, the Department will have until September 2005 to act on the request, rather than February 2005, which would be the deadline if the request were made at the same time as the license application.

Finally, requesting certification in September 2004 will not diminish opportunities for public input. The Department would still have a full year to process the request, which would provide sufficient time to prepare a proposed certification and provide the full 60-day opportunity for public comment on the proposal required by ORS 543A.105(2). Indeed, delaying the formal request for certification to September 2004 would allow the Department additional time to evaluate water quality issues and prepare proposed certification conditions.

If the Department has any questions or concerns about PacifiCorp's proposal to request certification from the Department by September 17, 2004, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Olson", with a long horizontal flourish extending to the right.

Todd Olson
Licensing Project Manager

cc: Mr. Kurt Burkholder - ODOJ
Mr. Mark Charles - ODEQ
Mr. Paul DeVito - ODEQ
Mr. Richard Nichols - ODEQ
Mr. Craig Kohanek - OWRD (HART)

825 N. E. Multnomah, Suite 1500
Portland, Oregon 97232
(503) 813-5000



January 22, 2004

Ms. Celeste Cantu, Executive Director
State Water Resources Control Board
Post Office Box 100
Sacramento, California 95812-0100

**Re: PacifiCorp Klamath Project
Date for Submitting the Section 401 Certification Request**

Dear Ms. Cantu:

The Federal Energy Regulatory Commission (FERC) recently amended its hydroelectric licensing rules to extend the time for requesting a Clean Water Act section 401 certification to 60 days after FERC issues a notice that a license application is ready for environmental analysis. PacifiCorp must submit the new license application for its Klamath Hydroelectric Project to FERC by the end of February 2004. Although PacifiCorp cannot predict precisely when FERC will determine that the application is ready for environmental analysis, PacifiCorp does not expect the determination until at least the summer of 2004. In order to provide a more certain date for submitting the section 401 certification request to the State Water Resources Control Board (SWRCB), PacifiCorp proposes to submit the request by **September 17, 2004**, unless PacifiCorp and the SWRCB subsequently agree upon a later date that is consistent with FERC's rules.¹

Discussion

Previously, FERC's rules required license applicants to submit section 401 certification requests no later than the deadline for submitting new license applications to FERC, *viz.*, 24 months before the expiration of the existing license. *See* 18 C.F.R. §§ 16.8(f)(7), 16.9(b)(1) (2003). Under the amended rules, the certification request must be submitted no later than 60 days after FERC issues a public notice that the final license application is ready for environmental analysis. *See* 68 Fed. Reg. 51,070, 51,095-96, 51,136 (Aug. 25, 2003) (to be codified at 18 C.F.R. §§ 5.22(a)(2), 5.23(b)(1)). The principal reason for extending the time for requesting certification is to allow additional time for relevant water quality information to be submitted with the request, which would

¹ If FERC determines that PacifiCorp's license application is ready for environmental analysis before July 19, 2004 (60 days before September 17), PacifiCorp would, of course, submit its request for certification earlier in order to comply with FERC's rules.

include water quality information submitted to FERC in response to any additional information requests. *See* 68 Fed. Reg. at 51,095.

Because the current FERC license for PacifiCorp's Klamath Hydroelectric Project expires on March 1, 2006, the final application for a new license must be filed with FERC by the end of February 2004. Under the previous FERC rules, PacifiCorp would also have been required to submit its section 401 certification request to the SWRCB in February 2004. Under the amended rules, however, the certification request need not be submitted until 60 days after FERC determines that the license application is ready for environmental analysis. Again, PacifiCorp does not anticipate that this notice will be issued until at least the summer of 2004.

PacifiCorp wishes to emphasize that, pending the submission of a certification request, it intends to continue working diligently with the SWRCB to address water quality issues associated with the project. In addition, these issues will be addressed in the Environmental Exhibit (Exhibit E) to the license application submitted in February 2004. Delaying the certification request until September 2004 will enable PacifiCorp to include in the request any additional water quality information that FERC requests in response to the license application, as well as respond to any concerns that the SWRCB may have following its review of Exhibit E. This proposed schedule also means that the SWRCB will have until September 2005 to act on the certification request, rather than February 2005, which would be the deadline if the request were made at the same time as the license application.

If the SWRCB has any questions or concerns about PacifiCorp's proposal to request certification from the SWRCB by September 17, 2004, please do not hesitate to contact me.

Sincerely,



Todd Olson
Licensing Project Manager

cc: Mr. Russ Kanz (SWRCB)
Mr. James Canaday (SWRCB)
Ms. Barbara Leidigh (SWRCB)
Ms. Catherine Kuhlman, North Coast RWQCB
Dr. Ranjit Gill, North Coast RWQCB

Service List for P-2082-000 - PacifiCorp

Principal/Party Name/Address	Representative Name/Address
ALAN H. RICHARDSON American Public Power Association 2301 M St NW Washington, DC 20037-1427 UNITED STATES	
Mike Rode California Dept of Fish & Game 3 N Old Stage Rd Mount Shasta, CA 96067-9701 UNITED STATES	Kim Rushton California Dept of Fish & Game 8638 Lakeview Rd Hornbrook, CA 96044-9765 UNITED STATES
Stephen G Puccini California Dept of Fish & Game 1416 9th St Fl 12 Sacramento, CA 95814-5510 UNITED STATES	Nancee Murphy California Dept of Fish & Game 1416 9th St Fl 12 Sacramento, CA 95814-5510 UNITED STATES
Steven M Turek California Dept of Fish & Game 601 Locust St Redding, CA 96001-2711 UNITED STATES	Annie Manji California Dept of Fish & Game 601 Locust St Redding, CA 96001-2711 UNITED STATES
ANDREW H. SAWYER California Water Resources Control Board PO Box 2000 Sacramento, CA 95812-2000 UNITED STATES	
FRANK FRISK GREAT LAKES ELECTRIC CONSUMERS ASSOC 2ND FLOOR 1054 31st St NW Washington, DC 20007-4403 UNITED STATES	
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FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON D.C. 20426
December 24, 2003

OFFICE OF ENERGY PROJECTS

Project No. 2082 - California and
Oregon
Klamath Project
PacifiCorp

Todd Olson
Hydro Licensing Program Manager
PacifiCorp
825 N.E. Multnomah, Suite 1500
Portland, OR 97232

Reference: Waiver Permitting Electronic Copies of Final License Application

Dear Mr. Olson:

This responds to your December 15, 2003, filing requesting a waiver of 4.34(h) and 385.2003 of the Commission's regulations to the extent that they require an original and eight paper copies of documents filed. Specifically, you asked that PacifiCorp be permitted to file an original and one paper copy, along with seven copies on compact disc (CD), of the final application for the Klamath Project.

Pursuant to § 375.302 of the Commission's regulations, I am partially granting your requested waiver. Filing an original and three copies on paper, along with five CD copies, in this case, will enable the Commission to make this filing available to the public through our Public Reference Room and via eLibrary on the Commission's website. Please also provide a copy of your final license application on CD to the Commission's Portland Regional Office.

PacifiCorp proposes to serve participants with copies of its final license application consistent with the requirements of § 385.2010(f)(3) of the Commission's regulations. Federal and state resource agencies, tribes, and active nongovernmental organizations will be provided one paper copy of the final license application. Other stakeholders will receive the application on CD. These other stakeholders would only be provided paper copies if they wish to pay the costs of printing and mailing. Please note that our regulations allow licensees to charge reasonable printing and postage fees for such documents provided to the public, including license applications [§ 16.7(e)(2)].

Project No. 2082

-2-

If you have any questions, please contact John Mudre at (202) 502-8902 or john.mudre@ferc.gov.

Sincerely,

Linda Mitry
Acting Secretary

cc: Mailing List
Service List