

February 6, 2006

Filing Center  
Public Utility Commission of Oregon  
550 Capitol Street, NE, Suite 215  
Salem, Oregon 97308

Subject: Rebuttal Testimony on behalf of Bureau of Reclamation and the U.S. Fish and  
Wildlife Service in Docket No. UE-170

Dear Sir:

Enclosed please find the five (5) copies of our filing "United States' Bureau of Reclamation and US. Fish and Wildlife Service Written Rebuttal Testimony and Exhibits". Due to the limited time to prepare and file this testimony under the current schedule, we are filing electronically. This electronic filing is for this specific filing only and does not affect the existing service method on the counsel for Reclamation and the Service. Please continue to serve all documents related to docket UE-170 by mail or other non-electronic means. If you have any questions please call Stephen Palmer at (916) 978-5683.

Sincerely,

Daniel G. Shillito  
Regional Solicitor

By: Stephen R. Palmer  
Assistant Regional Solicitor

Enclosures

CASE: UE 170

Witness: CECIL LESLEY

PUBLIC UTILITY COMMISSION  
OF OREGON

RECLAMATION / SERVICE

REBUTTAL TESTIMONY

February 6, 2006

Q. Are you the same Cecil Lesley who presented direct testimony in this docket?

A. Yes, I am.

Q. What is the purpose of this testimony?

A. To provide rebuttal to testimony by Mark H. Smith.

Q. What contentions made by Mr. Smith do you wish to rebut?

A. The first contention is that by 1997, PacifiCorp lost the operational flexibility it initially had in the 1956 contract (Smith/5-6). Although the period 1997-2004 was considerably dryer than the period 1956-1996 (an average of 1,130,000 acre-feet/year as compared to 1,412,200 acre-feet/year) the annual percentage of Upper Klamath Lake inflow that was provided below Keno Dam actually increased from 89% to 94%. There were some changes in the period that the water was provided to the Hydroelectric Project, less water available for generation August through December and more water available January through July, but it is unclear from the data (the average change in inflow was a reduction of approximately 291,000 acre-feet per year from the 1956-1996 period to the 1997-2004 period, or 20% of the average annual flow, a significant change) if that change was solely due to the change in operation of the Klamath Irrigation Project, or due to the change in hydrology (see Reclamation/Service 27). The change in operation due to Endangered Species Act requirements has enhanced the Hydroelectric Project's ability to produce energy, increasing deliveries below Keno by 5.5% of average annual inflow into Upper Klamath Lake while those total inflows decreased by 20%.

Secondly, Mr. Smith contends that the water for the Klamath Irrigation Project is diverted above Link River Dam (Smith/7 line 9). While water is diverted above Link

River Dam to the irrigation project, approximately 35% of project diversions occur below Link River Dam, at the Lost River Diversion Channel, North Canal, and Ady Canal. These diversions allow the Hydroelectric Project the benefit of generation with those flows at East and West Side Power Plants for the foreseeable future as well as benefits to the power plants below Keno.

Thirdly, Mr. Smith has said that it is difficult to quantify the value of any return flows provided by the Klamath Irrigation Project (Smith/7 line13). Reclamation has provided information to PacifiCorp on an ongoing basis regarding returns from the Lost River Diversion Channel and from the Straits Drain. The benefit from these flows is easily identifiable to PacifiCorp, and the power produced from this additional water is equally easily calculable by determining the differential of potential power produced with and without the additional water from the Klamath Irrigation Project. The use of water by the Klamath Irrigation Project was well known when Copco (now PacifiCorp) decided to initiate its Hydroelectric Project (Reclamation/Service 10), and this has not changed since then. The information necessary to make such a determination is available as evidenced by the testimony provided in this proceeding.

Fourth, Mr. Smith states, “water diverted to and from the Klamath River is not comprehensively measured, nor is it strictly accounted for.”(Smith/8) It is not clear what Mr. Smith means by this statement, especially with reference to the Klamath Project. Diversion of water to and return flows from the Klamath Project are measured by Reclamation. Reclamation provides this diversion and return information to PacifiCorp on a daily basis, and provides updated information to PacifiCorp when that information is necessary. This information will be more readily available in the near future as

Reclamation is in the process of upgrading its measurement facilities to realtime digital systems. This upgrade will also provide better information to PacifiCorp and the public at large due to the increased accuracy of the upgraded measurement equipment and the timeliness of the realtime information.

Fifth, Mr. Smith maintains the impacts due to the imposition of Reasonable and Prudent Alternatives (RPAs) contained in the Klamath Project operations Biological Opinions have reduced PacifiCorp's flexibility in operating the Hydroelectric Project, and that these impositions are based solely on the operations of the Klamath Irrigation Project (Smith/8). This is an overstatement. As to Upper Klamath Lake, PacifiCorp manipulates the levels of the Lake under its contract with Reclamation and thus, shares the responsibility and obligations imposed under the Biological Opinion. As to the Klamath River, the Biological Opinion imposes specific requirements on PacifiCorp, through Reclamation, that provide PacifiCorp direct benefits under the Biological Opinion's Incidental Take Statement issued to Reclamation for the Klamath Project. In particular, the ramping rates below Iron Gate Reservoir that are of concern to Mr. Smith are imposed as a result of PacifiCorp's operation of the Hydroelectric Project and indirectly as a result of the operation of the Klamath Irrigation Project.

Sixth, Mr. Smith states that PacifiCorp has been unable to differentiate between hydrology and return flows. As shown in Reclamation/Service/22 and Reclamation/Service/24, there is no lack of detailed data on the quantity of water that is made available from the Klamath Irrigation Project. That data is easily applied to periods of power production to evaluate the relative value of the water made available to PacifiCorp for the power that was produced. Reclamation is not suggesting that the

Klamath Project provides benefits to PacifiCorp at all times. For example, at times when flood flows impact power production, and there is also a contribution of flow from the Straits Drain or the Lost River Diversion Channel, there would most likely not be a power benefit for the Klamath Irrigation Project. However, under these circumstances, PacifiCorp cannot penalize the irrigation project for those flows, as they were anticipated when the Hydroelectric Project was conceived.

Finally, Mr. Smith emphatically states the Klamath Irrigators do not provide any flexibility to the Hydroelectric Project (Smith/10). Mr. Smith provides no support for this statement. To the contrary, without the benefits provided by the Klamath Irrigation Project, Copco would not have had a market to develop its initial project, its project would not have the available storage to allow year round power production, and PacifiCorp alone would be responsible for the RPAs below Iron Gate Dam.

Q. Does this conclude your written rebuttal testimony?

A. Yes, it does.

**Klamath River Flow**  
**Measured at Keno Oregon**  
**All Quantities are in Thousands of Acre-Feet**

All Quantities are in Thousands of Acre-Feet														% of UKL	
Wtr Year	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total	UKL Inflow Passed Keno	
Av56-97	90.8	113.4	143.2	145.4	138.9	191.2	148.2	100.1	46.7	32.0	46.3	65.3	1261.6	1421.2	88.8%
Av97-04	61.8	67.7	90.5	149.8	141.8	163.7	139.1	117.9	71.3	38.6	39.2	44.4	1065.8	1130.0	94.3%
Av Diff	28.97	45.65	52.75	-4.48	-2.92	27.51	9.19	-17.76	-24.57	-6.61	7.08	20.87	195.80	291.18	



**CERTIFICATE OF SERVICE**

RE: Pacific Power & Light; UE170

I, the undersigned, declare that I am a citizen of the United States, over the age of eighteen, and am not a party to this litigation. On February 6, 2006, I served the following:

**“UNITED STATES’ BUREAU OF RECLAMATION AND  
U.S. FISH AND WILDLIFE SERVICE  
WRITTEN REBUTTAL TESTIMONY AND EXHIBITS”**

via email and by placing the five (5) copies of the foregoing document, enclosed in a sealed envelope via Federal Express mail at Sacramento, California to the following:

Public Utility Commission of Oregon  
Attn: Filing Center  
550 Capitol Street, NE, Suite 215  
Salem, OR 97308-2148  
PUC.FilingCenter@state.or.us  
503-373-0886

were available via email and to others via regular mail at Sacramento, California to the following:

Katherine A. McDowell  
Sarah J. Adams Lien  
Stoel Rives, LLP  
900 SW Fifth Avenue, Suite 2600  
Portland, OR 97204  
kamcdowell@stoel.com

Edward Bartell  
Klamath Off-Project Water Users, Inc.  
30474 Sprague River Road  
Sprague River, OR 97639

John Devoe  
Waterwatch of Oregon  
213 SW Ash Street, Suite 208  
Portland, OR 97204  
john@waterwatch.org

Edward A. Finklea  
Cable Huston Benedict Haagensen & Lloyd  
LLP  
1001 SW Fifth Avenue, Suite 2000  
Portland, OR 97204  
efinklea@chbh.com

Jim McCarthy  
Oregon Natural Resources Council  
PO Box 151  
Ashland, OR 97520  
jm@onrc.org

Steve Pedery  
Oregon Natural Resources Council  
PO Box 151  
Ashland, OR 97520  
sp@onrc.org

Lisa Brown  
Waterwatch of Oregon  
213 SW Ash Street, Suite 208  
Portland, OR 97204  
lisa@waterwatch.org

Jason Eisdorfer  
Citizens' Utility Board of Oregon  
610 SW Broadway, Suite 308  
Portland, OR 97205  
jason@oregoncub.org

Greg Addington  
Klamath Water Users Association  
2455 Patterson Street, Suite 3  
Klamath Falls, OR 97603  
greg@cvcwireless.net

Randall J. Falkenberge  
RFI Consulting Inc.  
PMB 362  
8351 Roswell Road  
Atlanta, CA 30350  
consultrfi@aol.com

Bill McNamee  
Public Utility Commission  
PO Box 2148  
Salem, OR 97308-2148  
bill.mcnamee@state.or.us

Matthew W. Perkins  
Davison Van Cleve PC  
333 SW Taylor, Suite 400  
Portland, OR 97204  
mwp@dvclaw.com

Lowrey R. Brown  
Citizens' Utility Board of Oregon  
610 SW Broadway, Suite 308  
Portland, OR 97205  
lowrey@oregoncub.org

John Corbett  
Yurok Tribe  
PO Box 1027  
Klamath, CA 95548  
jcorbett@yuroktribe.nsn.us

Thomas P. Schlosser  
Morisset, Schlosser, Jozwiak & McGaw  
1115 Norton Building  
801 Second Avenue  
Seattle, WA 98104-1509  
t.schlosser@msaj.com

Michael W. Orcutt  
Hoopa Valley Tirbe Fisheries Dept.  
PO Box 417  
Hoopa, CA 95546

Glen H. Spain  
PCFFA  
PO Box 11170  
Eugene, OR 97440-3370  
fish1ifr@aol.com

Paul M Wrigley  
Pacific Power & Light  
825 NE Multnomah, Suite 800  
Portland, OR 97232  
paul.wrigley@pacificorp.com

Portland General Electric  
Rates & Regulatory Affairs  
121 SW Salmon Street, IWTC0702  
Portland, OR 97204  
pge.opus.filings@pgn.com

Phil Carver  
Oregon Department of Energy  
625 Marion Street, NE, Suite 1  
Salem, OR 97301-3742  
philip.h.carver@state.or.us

Joan Cote  
Oregon Energy Coordinators Association  
2585 State Street, NE  
Salem, OR 97301  
cotej@mwvcaa.org

Jim Abrahamson  
Community Action Directors of Oregon  
4035 12<sup>th</sup> Street, Cutoff SE, Suite 110  
Salem, OR 97302  
jim@cado-oregon.org

Kurt J. Boehm  
Boehm Kurtz & Lowry  
36 E Seventh Street, Suite 1510  
Cincinnati, OH 45202  
kboehm@bkllawfirm.com

David Hatton  
Department of Justice  
Regulated Utility & Business Section  
1162 Court Street, NE  
Salem, OR 97301-4096  
david.hatton@state.or.us

Jason W. Jones  
Department of Justice  
Regulated Utility & Business Section  
1162 Court Street, NE  
Salem, OR 97301-4096  
jason.w.jones@state.or.us

Michael L. Kurtz  
Boehm, Kurtz, Lowry  
36 E 7<sup>th</sup> Street, Suite 1510  
Cincinnati, OH 45202-4454  
mkurtz@bkllawfirm.com

Daniel W. Meek  
Daniel W. Meek Attorney at Law  
10949 SW 4<sup>th</sup> Avenue  
Portland, OR 97219  
dam@meek.net

Janet L. Prewitt  
Department of Justice  
1162 Court Street, NE  
Salem, OR 97301-4096  
janet.prewitt@doj.state.or.us

Nancy Newell  
3917 NE Skidmore  
Portland, OR 97211  
ogec2@hotmail.com

Douglas C. Tingey  
Portland General Electric  
121 SW Salmon, 1WTC13  
Portland, OR 97204  
doug.tingey@pgn.com

Judy Johnson  
Public Utility Commission  
PO Box 2148  
Salem, OR 97308-2148  
judy.johnson@state.or.us

I certify that the foregoing is true under penalty of perjury. Executed this 6<sup>th</sup> day of February, 2006, at Sacramento, California.

---

Belva J. Magill  
Legal Assistant