

CABLE HUSTON BENEDICT HAAGENSEN & LLOYD LLP

**ATTORNEYS AT LAW
SUITE 2000
1001 SW FIFTH AVENUE
PORTLAND, OREGON 97204-1136**

**TELEPHONE (503) 224-3092
FACSIMILE (503) 224-3176**

EDWARD A. FINKLEA

efinklea@chbh.com
www.cablehuston.com

June 3, 2005

Judge Michael Grant
Administrative Hearings Division
Oregon Public Utilities Commission
550 Capitol St. NE, Suite 215
Salem, OR 97301

Re: In The Matter of Pacific Power & Light Klamath Basin Irrigation Rates, Docket
No. UE 171

Dear Judge Grant:

The Klamath Water Users Association ("KWUA") is in receipt of the letter dated May 25, 2005, from David Hatton to you in the above-referenced proceeding. KWUA has no objection to the Oregon Public Utility Commission ("OPUC") taking official notice of the Scoping Document No. 2 issued by the Federal Energy Regulatory Commission ("FERC") on May 17, 2005, with respect to PacifiCorp's application for a new license for the Klamath Hydroelectric Project.

With respect to the specific passages quoted by Mr. Hatton in his letter, however, KWUA notes that the passages pertain only to FERC's issuance of a "new" license for the Project. As you are no doubt aware, much effort has been made in this proceeding to distinguish between FERC's responsibility to issue new hydroelectric licenses and its responsibility to issue interim, "annual" licenses. KWUA and the Bureau of Reclamation have both directly represented to the OPUC that FERC must issue an annual license for the Klamath Hydroelectric Project upon the expiration of the original license and pending the preparation of a new license, that automatically includes all of the terms and conditions of the original license.

In a second passage in Scoping Document No. 2, FERC confirms KWUA's understanding of annual licenses. FERC explained:

RESPONSE: The Commission considers issuance of annual licenses to be a nondiscretionary and ministerial act to enable a project to legally operate under the terms and conditions of the existing license until action is taken pertaining to a new license. If

the fish passage facilities at Keno and J.C. Boyle are operating in violation of the terms and conditions of the existing license, the Commission can require PacifiCorp to correct those violations outside of this relicensing proceeding. We are aware that PacifiCorp is addressing issues associated with the approach channel to the base of the J.C. Boyle fish ladder.

Scoping Document No. 2, p. 23.

Because Scoping Document No. 2 is somewhat unwieldy, KWUA thought it would be helpful to highlight this relevant provision if the OPUC is going to take official notice of the document.

Very truly yours,



Edward A. Finklea

Of Attorneys for the
Klamath Water Users Association

RGL/EAF/CMS/nh

cc: Current Service List,
obtained from OPUC 6/3/05 (attached)

SERVICE LIST

<p>U.S. BUREAU OF RECLAMATION 6600 WASHBURN WAY KLAMATH FALLS OR 97603 dsabo@mp.usbr.gov</p>	<p>EDWARD BARTELL KLAMATH OFF-PROJECT WATER USERS INC 30474 SPRAGUE RIVER ROAD SPRAGUE RIVER OR 97639</p>
<p>LISA BROWN WATERWATCH OF OREGON 213 SW ASH ST STE 208 PORTLAND OR 97204 lisa@waterwatch.org</p>	<p>LOWREY R BROWN CITIZENS' UTILITY BOARD OF OREGON 610 SW BROADWAY, SUITE 308 PORTLAND OR 97205 lowrey@oregoncub.org</p>
<p>JOHN CORBETT YUROK TRIBE PO BOX 1027 KLAMATH CA 95548 jcorbett@yuroktribe.nsn.us</p>	<p>JOHN DEVOE WATERWATCH OF OREGON 213 SW ASH STREET, SUITE 208 PORTLAND OR 97204 john@waterwatch.org</p>
<p>JASON EISDORFER CITIZENS' UTILITY BOARD OF OREGON 610 SW BROADWAY STE 308 PORTLAND OR 97205 jason@oregoncub.org</p>	
<p>JASON W JONES DEPARTMENT OF JUSTICE REGULATED UTILITY & BUSINESS SECTION 1162 COURT ST NE SALEM OR 97301-4096 jason.w.jones@state.or.us</p>	<p>DAN KEPPEL KLAMATH WATER USERS ASSOCIATION 2455 PATTERSON STREET, SUITE 3 KLAMATH FALLS OR 97603</p>
<p>JIM MCCARTHY OREGON NATURAL RESOURCES COUNCIL PO BOX 151 ASHLAND OR 97520 jm@onrc.org</p>	<p>KATHERINE A MCDOWELL STOEL RIVES LLP 900 SW FIFTH AVE STE 1600 PORTLAND OR 97204-1268 kamcdowell@stoel.com</p>
<p>BILL MCNAMEE PUBLIC UTILITY COMMISSION PO BOX 2148 SALEM OR 97308-2148 bill.mcnamee@state.or.us</p>	<p>MICHAEL W ORCUTT HOOPA VALLEY TRIBE FISHERIES DEPT PO BOX 417 HOOPA CA 95546</p>
<p>STEPHEN R PALMER OFFICE OF THE REGIONAL SOLICITOR 2800 COTTAGE WAY, RM E-1712 SACRAMENTO CA 95825</p>	<p>STEVE PEDERY OREGON NATURAL RESOURCES COUNCIL sp@onrc.org</p>

<p>MATTHEW W PERKINS -- CONFIDENTIAL DAVISON VAN CLEVE PC 333 SW TAYLOR, STE 400 PORTLAND OR 97204 mwp@dvclaw.com</p>	<p>THOMAS P SCHLOSSER MORISSET, SCHLOSSER, JOZWIAK & MCGAW t.schlosser@msaj.com</p>
<p>GLEN H SPAIN PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOC PO BOX 11170 EUGENE OR 97440-3370 fish1ifr@aol.com</p>	<p>ROBERT VALDEZ PO BOX 2148 SALEM OR 97308-2148 bob.valdez@state.or.us</p>
<p>PAUL M WRIGLEY PACIFIC POWER & LIGHT 825 NE MULTNOMAH STE 800 PORTLAND OR 97232 paul.wrigley@pacificcorp.com</p>	