

July 30, 2012

Klamath Status - 500 words

This is Jill Duffy, with Community Comment

People often ask me “**what is happening with dam removal on the Klamath**”, and whether the efforts have stalled because Congress hasn’t taken any formal action.

Quite the contrary, there’s a lot of activities and 2 weeks ago there was an important hearing before the State Water Resources Control Board to consider the item.

See, Pacficorp’s Klamath Hydroelectric Project is subject to licensing through the Federal Energy Regulatory Commission (FERC), and Section 401 of the Clean Water Act (CWA) requires any person applying for a federal permit or license must obtain state water quality certification to demonstrate that the proposed activity complies with water quality standards.

Pacficorp applied to FERC to relicense Klamath dam operations in April of 2006, and eventually agreed through a negotiated settlement to remove 4 dams on the Klamath River in 2020. The State Water Board agreed to hold their 401 certification process ‘in abeyance’ until Congress approves federal legislation to implement the agreements. But abeyances can only be approved on one year increments, thus this matter does receive annual consideration.

On July 17 State Water Resources Control Board held a hearing and approved extending the abeyance order for the Klamath Hydropower Project.

Chairman Hoppins set the meeting tone when he opened public comments with the statement, *"This is an interesting situation, all parties are here because they are all concerned with [Klamath] water quality and the difference is they see different pathways to achieve a solution to resolve an untenable environmental situation."*

It's important to understand the SWRCB 401 only applies to facilities under California's jurisdiction, leaving unresolved Oregon's J.C.Boyle, and Keno dams and continued discharge of degraded water into Upper Klamath Lake – where the root of the problem lies.

If Pacificorp returns to FERC, like some are advocating, it would be for the purpose of relicensing dam operations, not dam removal. And the FERC process is slanted in favor of the operator. If this were to happen operational conditions would revert to the 1957 license conditions until relicensing is complete. Meaning the interim improvements called for under the existing agreements would go away. And FERC only addresses the removal of dam infrastructure – not basin wide water quality or water supply improvements, protection of the National Wildlife Refuges, habitat restoration nor fishery related issues that the Klamath Settlement Agreements do.

Early in the Klamath Settlement discussions, a group of attorneys undertook a litigation calculus to determine which route would result in faster dam removal. Challenging the FERC process would conservatively take 20-30 years to wind through the courts, with no guarantee that dam removal would be the outcome. And unlike dam removal proponents, Pacificorp is legally entitled to recover litigation costs by passing onto their customers.

Whereas, right now, Pacificorp has agreed to dam removal within 8 years under the negotiated agreements.

The path outlined in the Klamath agreements remain the best opportunity to remove 4 dams and many people will continue working with Congress to pass the necessary legislation to restore our Klamath River.

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