

Klamath Dam Removal Linked to Very Bad Restoration Agreement

By Resighini Rancheria Tribal Council Chairman Rick Dowd

Members of the Resighini Rancheria strongly object to the approach taken by the federal government and the State of California for Klamath River dam removal. We are a small federally recognized Indian Tribe with a Reservation in Del Norte County upstream of Highway 101 on the Klamath River. We have been studying the Klamath Hydroelectric Project Facilities Removal draft Environmental Impact Statement (DEIS) and draft Environmental Impact Report (DEIR) for several months and want to inform the community about major problems we have discovered. Comments on the DEIS/DEIR are due next Monday, November 21.

The DEIR/DEIS leads up to a Secretary of Interior Decision in March 2012, which if affirmative, will not only carry out the Klamath Hydropower Settlement Agreement (KHSAs) that removes dams, but also the Klamath Basin Restoration Agreement (KBRA). The KBRA is very damaging to Indian rights and will not bring about restoration of the Klamath River.

We were excluded from Klamath Settlement discussions that lead to the KBRA and KHSAs, as were the federally recognized Quartz Valley Indian Reservation and Del Norte County. The Hoopa Valley Tribe participated in the Settlement talks, but refused to sign the KBRA because they would have to expressly give up their water and fishing rights. Both our rights, and theirs, to protect our fisheries and water quality will be terminated by the Secretary of Interior, if he makes an affirmative decision (KBRA 15.3.9). Those who are not KBRA and KHSAs signatories (Parties), such as non-Party Tribes and Del Norte County, will be unable to participate in committees that govern the management of the Klamath River until 2062. This arrangement is undemocratic and of questionable legality under the Federal Advisory Committee Act.

Despite the fact that an affirmative Secretarial Decision will implement the KBRA, the environmental report does not examine the cumulative effects of its water allocation, stream flow projections and water pollution impacts. The DEIS/DEIR claims that the KBRA is insufficiently defined to analyze its effects, which is untrue. Among other things, it allocates a minimum of 330,000 acre feet of water to Klamath Project irrigators, subsidizes their power costs with \$92 million in tax dollars, and allows farming on 20,000 acres in Tule Lake and Lower Klamath National Wildlife Refuges for 50 years. The DEIS/DEIR failure to analyze cumulative effects from the KBRA and operation of the Klamath Project is a patent violation of both National Environmental Policy Act and the California Environmental Quality Act.

The Chinook Expert Panel hired as part of the KBRA process noted that the KBRA had no credible plan to resolve water pollution problems. The experts stated that the Keno Reservoir reach of the Klamath River would continue to be an anoxic dead zone for weeks a year and that salmon wouldn't jump through it even after dam removal: "Without solving the water quality problems, a fully self-sustaining run of Chinook salmon to the upper basin is unlikely".

The Resighini Rancheria and Hoopa Valley Tribe both favor speedy Klamath Hydroelectric Power dam decommissioning, but oppose the current approach that is joined to implementation of the KBRA. If the government had not discarded Alternative 8 from consideration, which is KHP facilities removal without the KBRA, then the Resighini Rancheria would have favored that option. Instead we will comment in favor of the No Action Alternative, with a return to the Federal Energy Regulatory Commission (FERC) relicensing process.

The proponents of the KBRA say that FERC has never ordered a dam removed and that dam removal can only come with the KBRA, their flawed Settlement Agreement. FERC may not require dam removal but its relicensing process can set up conditions that make project operation uneconomic. An example is the Condit Dam, on the White Salmon River in Washington, which was abandoned by PacifiCorp and decommissioned on October 26 of this year. Unlike the KBRA, the related Settlement Agreement would have no negative impact on existing tribal water and fishing rights. The National Marine Fisheries Service requirement for installation of \$230 million fish ladders, if KHP dams remain, cause the KHP to fall into uneconomic status. Furthermore, the California State Water Resources Control Board will not issue 401 Certification as required by the Clean Water Act and Federal Power Act; therefore, PacifiCorp will not receive a new license and will have to abandon and decommission.

Comments can be submitted electronically at <http://klamathrestoration.gov/Draft-EIS-EIR/feedback>. For more information on the DEIS/DEIR, Klamath River ecological restoration and the newly introduced authorizing legislation that we oppose, see our website: www.klamather.org.