



RESIGHINI RANCHERIA

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December 27, 2011

Ms. Elizabeth Vasquez  
Bureau of Reclamation  
2800 Cottage Way  
Sacramento, CA 95825

Re: Final Comments on the Klamath Hydroelectric Project Facilities Removal Draft Environmental Impact Statement (DEIS) and Draft Environmental Impact Report (DEIR)

Dear Ms. Vasquez:

We would like to thank you and Secretary of Interior Salazar for the opportunity for the Resighini Rancheria to comment on the *Klamath Hydroelectric Project Facilities Removal Draft Environmental Impact Statement (DEIS) and Draft Environmental Impact Report (DEIR)* and our comments are attached. We appreciated the chance to previously comment on the same document during the cooperator's draft review and note that this version better characterizes who we are and what our interests in the Klamath River are. Unfortunately, the government has not made changes in response to many other comments we filed that satisfactorily meet our concerns and we find the DEIS/DEIR remains fatally flawed.

Because an affirmative Secretarial Decision will implement not just the Hydropower Settlement Agreement (KHSA) that removes dams, but also the Klamath Basin Restoration Agreement (KBRA) that allocates water and changes tribal trust obligations, the DEIS/DEIR needs to analyze cumulative effects from this "connected action." It ignores many well defined actions of the KBRA and is, therefore, deficient with regard to compliance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). The DEIS/DEIR also fails to comply with use of "best available science" as required by CEQA because it ignores recommendations regarding Klamath River restoration offered by the National Research Council Klamath River endangered fishes report and the Chinook and Coho salmon-Steelhead Expert Panels convened to assess the KBRA. Failure to develop Alternatives for restoration to the KBRA or to provide recommendations for mitigation as repeatedly requested by the Resighini Rancheria are also a major NEPA and CEQA deficiencies, respectively.

The Resighini Rancheria was excluded from Klamath Settlement talks that lead to the KBRA and yet our tribal rights would be trampled by an affirmative Secretarial Decision in conjunction





with authorizing legislation. We are saddened by the continued abuse of environmental justice and social justice policies, laws and regulations as exemplified by the process surrounding the Secretarial Decision on Klamath dam removal and implementation of the KHSA and the KBRA. We are particularly disappointed in the Federal Government's willingness to change the trust obligation to Indian Tribes (KBRA 15.3.9) and its seeming eagerness to destroy tribal sovereignty for the sake of special hydroelectric and agricultural interests

The foundation of the KBRA, which would be implemented by the Secretary's Decision, is built around the Klamath Project water users demand that they be able to farm in the Tule Lake and Lower Klamath National Wildlife Refuge Lease Lands for the duration of the agreement, which is until the year 2062. This would lead to an ecologically unsound and economically infeasible outcome where huge taxpayer subsidies would allow farming of marginal land in the high desert in the face of climate change for the next 50 years.

Claims within the DEIS/DEIR that the Resighini Rancheria will benefit economically from KBRA and KHSA implementation are baseless. Party Tribes will receive program funds, but not the Resighini Rancheria or other non-Party Tribes. Section 3.12 of the DEIS/DEIR asserts that the we will be eligible for KBRA funding "upon becoming a party" but fails to mention that the Resighini Rancheria would be required to enact claim waivers and take other acts inconsistent with its trust resources in order to obtain those "benefits."

The community of the lower Klamath River, including the Resighini Rancheria, will suffer from continuing water pollution, fish diseases that decimate our life blood - the salmon, and toxic algae from KHP reservoirs until at least 2020 under the KBRA/KHSA. Likelihood of river and salmon restoration after 2020 with KBRA implementation are extremely low. Therefore, the preferred Alternative 2 will not lead to our economic recovery, and in fact we fear it may lead to our demise along with the salmon.

The Resighini Rancheria favors speedy dam removal but strongly opposes implementation of the KBRA that takes away our tribal rights and is ecologically insufficient. Had the government retained Alternative 8, full facilities removal without the KBRA, we would have favored it. Instead we support the No Action Alternative, because we believe the KBRA will do more harm than good. We see a return to the Federal Energy Regulatory Commission relicensing process as a preferable approach to getting Klamath Hydroelectric Project (KHP) dams removed.

Sincerely,

Rick Dowd  
Resighini Rancheria Tribal Council Chairman

