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May 12, 2009

Dear Klamath dam removal negotiators and concerned agencies,

Klamath Riverkeeper writes this letter to congratulate each of you on your persistence in moving forward as a group and staying engaged in good faith negotiations to remove four Klamath River dams no later than 2020.

We also write this letter to ask that you remember that the faith invested in those negotiations stretches beyond those at the table to each of your constituent bases. That is, each of you are acting as gatekeepers for your community and we write to urge you to take that role extremely seriously. What's more: ultimately, the only deal that will stand the tests of time, opposition and sometimes conflicting or competing needs for resources is a deal that's good for the river.

Like you, we are anxious to see a final agreement this June that meets the needs of all parties. Indeed, the agreement needs to be acceptable to a horseradish farmer in Tule Lake, a ratepayer in Portland, Oregon, an environmentalist from the Salmon River, a Congressperson in Washington, DC, water quality regulators in Santa Rosa and Sacramento, a shareholder in Omaha, a Klamath Basin tribal member with diabetes and a commercial fisherman forced to accept disaster money from the federal government due to fishing closures.

We believe the way to meet all of those needs is to put wild Pacific salmon (coho and Chinook spring and fall run), lamprey eels, steelhead, freshwater mussels and other aquatic species back in the river in health and abundance, and the best way to do that is to create a final agreement that effectively and expediently removes dams and preserves the integrity of the river and the laws, regulations and authorities that protect it.

Therefore, to achieve that goal before it's too late, we urge you to adjust the agreement in principle in the following ways.

- 1) Make all parts of the agreement consistent with the North Coast basin plan, mainstem Klamath TMDLs, state and federal water laws and regulations as well as endangered species laws and regulations. This consistency needs to be specifically stated in the agreement or otherwise demonstrated in documentable form within the agreement.
- 2) Remove the 2012 secretarial finding/determination from the agreement. What good is an agreement if you can't all agree when the agreement is signed? Besides, leaving the decision about whether to remove dams in the hands of so political an entity as the federal government is too risky. The decision should be made based on best available science and best scientific practices.
- 3) Meet needs of state and regional water quality regulators.

- 4) Respect and preserve the authority of state and regional water quality regulators.
- 5) Eliminate rights of withdrawal, or, minimally, specify the alternative processes triggered by each right of withdrawal should it be used.
- 6) Make the agreement consistent with tort law by limiting PacifiCorp's immunity so that it only covers the act of dam removal and subsequent impacts.
- 7) Commit all parties in writing to fund dam removal without money from a general obligation bond that also funds projects that damage other watersheds such as the peripheral canal or construction of new dams.
- 8) To be consistent with the letter and intent of the Endangered Species Act, Clean Water Act and other legal environmental protections, commit all parties in writing to use of best available science in formulating/implementing interim conditions and subsequent biological opinions and transparency in seeking any FERC license amendment or other approvals needed to implement interim conditions or biological opinions.
- 9) Commit in writing, to the greatest extent feasible, to provide jobs for local people in Siskiyou and Klamath Counties to deconstruct the four dams.

Much as we share your sense of urgency in removing the Klamath dams and recovering Klamath salmon, we may be unable to support your settlement and legislation if the above adjustments do not appear in the final agreement. Remember, the Klamath dams generate unsafe levels of toxic algae and should not qualify for required 401 permits.

Please note that while the subject of the current negotiations is dam removal, we understand that any final agreement will be linked to the fate of the Klamath Basin Restoration Agreement (KBRA).

Therefore, we wish to express our grave concerns about legislating the KBRA prior to fleshing out the operational details of a drought plan on paper that adequately addresses the needs of anadromous fish and the river during these periods of extreme water shortage. Again, why would anyone agree to sign something that they have not yet agreed upon.

We also have concerns that the negotiating group will pursue off-channel water storage as the primary means for addressing water shortage periods. Studies point to the lack of river flow dynamics in the current management program, so removing more water may offer more problems than solutions for fish.

We have serious reservations about the notion that adding new reservoirs, such as Long Lake, can simply remedy the flow dynamic problems in the Klamath River which are thought to contribute to fish diseases, hampered migration patterns, and ailing river morphological processes.

Additionally, if the negotiating group proceeds to Congress with these two agreements in hand without demonstrably giving due attention and problem-solving to the possibility that a fish kill year for adults and juveniles from wild stocks could conceivably fall outside of the

years classified as droughts in the KBRA, the group may find much less public support for the agreements.

Thank you for your time and attention to these important details, and we wish you speed and luck in finishing what you so bravely started.

Please contact me with any questions or concerns regarding the contents of this letter. Also, please acknowledge receipt of this letter with a reply.

Sincerely,

A handwritten signature in black ink, appearing to read "Erica Terence". The signature is written in a cursive, flowing style.

Erica Terence, Riverkeeper  
Klamath Riverkeeper

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