

**KLAMATH HYDROELECTRIC SETTLEMENT AGREEMENT
DISPUTE INITIATION NOTICE**

INTRODUCTION

1. This is a Dispute Initiation Notice provided to PacifiCorp by the Karuk Tribe pursuant to the Klamath Hydroelectric Settlement Agreement (KHSA) Section 8.6. Any term not specifically defined in this Notice is as defined in the Agreement.

2. PacifiCorp has filed a notice with California Department of Fish and Wildlife describing a plan to apply algaecides to specific areas within Klamath reservoirs as a means to address blooms of toxic blue-green algae.

3. PacifiCorp is basing the proposed algaecidal treatment in 2013 on the results from an Interim Measure 11 pilot project performed in 2012.

4. These algaecidal treatments are funded under terms of KHSA Interim Measure 11.

5. The Karuk Tribe and numerous other Parties, including the Yurok Tribe, California Department of Fish and Wildlife, California State Water Resources Control Board, and Oregon Department of Environmental Quality all presented strong concerns and/or objections to the proposed algaecidal treatments and pilot study design based on technical analysis and impacts to tribal religious ceremonies.

AGREEMENT TERMS

6. The Parties entered into the Agreement for the purpose of "resolving among them the pending FERC relicensing proceeding and establishing a process for potential Facilities Removal and operation of the Project until that time." (KHSA Section 1.2)

7. Section 2.1 of the KHSA obligates Parties to “fully support this Settlement and its implementation...Each Party agrees to refrain from any action that does not support the further cooperative efforts in support of the goals of this Settlement and its effective implementation.”

FIRST MATTER IN DISPUTE

[PacifiCorp plans to implement an Interim Measure 11 project that fails to meet the purposes of Interim Measure 11]

8. The KHSA states that the intended purpose of Interim Measure 11 is “to improve the water quality in the Klamath River during the interim period leading up to dam removal. The emphasis of this measure shall be nutrient reduction projects in the watershed to provide water quality improvements in the mainstem Klamath River, while addressing water quality, algal and public health issues in the Project reservoirs and dissolved oxygen in J.C. Boyle Reservoir.” We assert that according to PacifiCorp’s own data, the pilot study performed in 2012 upon which the 2013 project is based, provides no indication that algacidal treatment improved water quality in treated areas or reduced nutrients in treated areas. To the contrary, PacifiCorp’s own data suggest that algacidal treatments increased concentrations of microcystin toxin in some cases and no cases reduced the concentration of microcystin toxin to levels below the threshold of human health risk. A technical analysis of PacifiCorp’s results from the 2012 pilot study were submitted to the IMIC and are attached to this notice. Similar concerns were expressed in writing and verbally at IMIC meetings by the Karuk Tribe as well as numerous other IMIC members.

SECOND MATTER IN DISPUTE

[PacifiCorp acted in bad faith when it neglected comments and concerns by IMIC members, including the Karuk Tribe, when it planned and executed the 2012 algacidal pilot study and again this year when proposing a 2013 algacidal treatment project]

9. The Karuk Tribe and other IMIC members provided technical comments and numerous appeals to not apply algaecides to the Klamath River in 2012. Comments focused on study design, the financial feasibility of scaling up algaecidal treatments even if pilot studies showed promise, and concerns that algaecides were being applied during the Tribe's annual World Renewal Ceremonies. It is our view that none of these comments were considered by PacifiCorp.

10. PacifiCorp continued to act in bad faith when it filed its proposal for a 2013 algaecidal treatment of Klamath Project reservoirs with the California Department of Fish and Wildlife as part of its application for a California Water Code Section 1600 Streambed Alteration Agreement on May 3rd, 2013. This is seven days before it established a deadline for comments from the IMIC. This demonstrates PacifiCorp's intent to pursue the algaecidal treatment regardless of the feedback it may have received from other IMIC members. This is not the spirit of cooperation and collaboration upon which the KHSA and Klamath Basin Restoration Agreements are built.

RELIEF SOUGHT

The Karuk Tribe, pursuant to each of the matters in dispute, seeks the following relief:

1. PacifiCorp must work with IMIC members to establish a governance structure that better accommodates the comments and concerns of IMIC member organizations and only implement projects that meet the purposes of Interim Measure 11 as determined by a truly collaborative technical review process that ranks projects based on merit and cost effectiveness.

2. PacifiCorp must abandon its current use of algaecidal treatments as a means to address water quality issues based on i) the results of the 2012 pilot project ii) technical comments from the Karuk Tribe and other IMIC members, and iii) the opposition to application of chemical treatments to the Klamath River from Tribes based on religious and cultural grounds.

Submitted May 27, 2013

By: _____

S. Craig Tucker, Ph.D.
Klamath Coordinator
Karuk Tribe
P.O. Box 1016
Happy Camp, CA 96039