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November 25, 2008

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426

**Re: Klamath Hydroelectric Project, Project No. 2082: Interim Conservation Plan and Request for Designation as Nonfederal Representative**

Dear Secretary Bose:

Attached please find for inclusion in the administrative record of this proceeding the following:

1. Letter dated November 10, 2008 from Rob Lasich, President, PacifiCorp Energy, to Dr. Ren Lohofener, Regional Director, U.S. Fish and Wildlife Service (USFWS), and Mr. Rodney McInnis, Regional Administrator, Southwest Region, National Marine Fisheries Service (NMFS), enclosing PacifiCorp's Interim Conservation Plan to benefit aquatic species in the Klamath River listed under the Endangered Species Act (ESA) (attached hereto as Attachment A).
2. Letter dated November 12, 2008 from Dr. Lohofener and Mr. McInnis to Mr. Lasich acknowledging PacifiCorp's efforts in development of the Interim Conservation Plan (attached hereto as Attachment B).

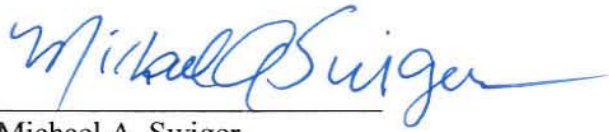
The Interim Conservation Plan, developed through a series of technical discussions among PacifiCorp, USFWS and NMFS, includes a number of measures PacifiCorp has voluntarily agreed to implement for the enhancement of coho salmon and suckers listed under the ESA, pending final resolution of the relicensing proceeding. PacifiCorp intends to prepare an application for a license amendment that will incorporate, as appropriate, the Interim Conservation Plan measures in the Project No. 2082 annual license. USFWS and NMFS have committed to work expeditiously to complete appropriate consultation with the Commission and PacifiCorp under section 7 of the ESA and applicable implementing regulations, thereby

providing appropriate authorization under the ESA for Project operations pursuant to the Interim Conservation Plan.

By this letter, PacifiCorp therefore requests that the Commission (1) designate PacifiCorp as its nonfederal representative for the purposes of conducting informal consultation and preparing a draft biological assessment under section 7 of the ESA and conducting Essential Fish Habitat consultation under section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act; and (2) provide written notice of this designation to both USFWS and NMFS. See 50 C.F.R. §§ 402.08 and 600.920(c).

Please feel free to contact me if you have any questions.

Respectfully submitted,



Michael A. Swiger  
Van Ness Feldman, PC  
Counsel for PacifiCorp

cc: Service List

## **ATTACHMENT A**



*A. Robert Lasich*  
*President*  
*1407 W. North Temple, Suite 320*  
*Salt Lake City, UT 84116*

November 10, 2008

Dr. Ren Lohofener, Regional Director  
California, Nevada and Klamath Basin Region  
U.S. Fish and Wildlife Service  
2800 Cottage Way  
Sacramento, CA 95825

Mr. Rodney McInnis, Regional Administrator  
Southwest Region  
National Marine Fisheries Service  
501 West Ocean Blvd.  
Long Beach, CA 90802-4213

**Re: Klamath Hydroelectric Project Interim Conservation Plan**

Dear Messrs. Lohofener and McInnis:

Through this letter PacifiCorp Energy ("PacifiCorp") transmits its final Interim Conservation Plan (the "Plan") for the Klamath River Hydroelectric Project (the "Project"). As discussed below, PacifiCorp submits the Plan as part of its ongoing collaborative relicensing efforts for the Project.

In July, 2008, PacifiCorp submitted a draft Plan to the National Marine Fisheries Service ("NMFS") and the U.S. Fish and Wildlife Service ("FWS") (the "Services") for review. The purpose of the Plan was to identify conservation activities that PacifiCorp could implement to benefit aquatic species in the Klamath River listed under the Endangered Species Act ("ESA"). Thereafter, the Services and PacifiCorp met and discussed the draft Plan, and worked collaboratively to address the Services' technical comments on the Plan. Measures contained in the final Plan were developed through a series of technical discussions between the parties, and the final Plan reflects the Services' collective expertise concerning these matters.

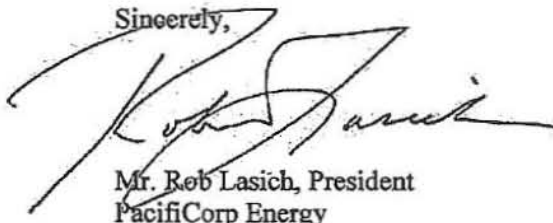
PacifiCorp concludes that the final Plan contains an important set of conservation actions that will minimize potential Project impacts on ESA-listed species, and provide important conservation benefits for these species and their habitats. PacifiCorp has voluntarily prepared the Plan to facilitate ongoing relicensing discussions concerning the Project, and to proactively address the Services' recommendations concerning Project operations.

As PacifiCorp has discussed with the Services, PacifiCorp intends to commence implementing conservation actions identified in the Plan in coordination with the Services and the States of California and Oregon. In exchange for its early implementation of these voluntary interim measures, PacifiCorp understands that the Services will review the Plan, and confirm in writing the Services' views that Plan implementation will conserve listed species, and minimize potential project impacts on such species. Copies of the Plan and the parties' respective letters will be filed with the Federal Energy Regulatory Commission ("FERC") in this proceeding.

PacifiCorp intends to prepare an application for a license amendment that will incorporate as appropriate measures contained in the Plan. In doing so, PacifiCorp will (1) request that FERC designate PacifiCorp as its nonfederal representative for the purpose of FERC's ESA Section 7 Consultation with the Services; and (2) prepare a Biological Assessment on behalf of FERC analyzing the proposed license amendment. PacifiCorp understands that the Services will work closely with PacifiCorp as the applicant during the ESA Section 7 consultation process, and that the Services will use information contained in the Biological Assessment to prepare Biological Opinion(s) and Incidental Take Statement(s) for the proposed action.

Thank you for your work to date on this Plan, and your commitment to species conservation. PacifiCorp strongly supports our mutual efforts to reach a comprehensive agreement for the Klamath River Hydroelectric Project. We look forward to working with the Services, the States of California and Oregon, and other parties in continuing to develop conservation programs for listed species in the Klamath River Basin.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Lasich", is written over a horizontal line.

Mr. Rob Lasich, President  
PacifiCorp Energy

Enclosure

Cc: Russ Strach, Assistant Regional Administrator  
NMFS Southwest Region

Phil Detrich, Field Supervisor, Yreka FWO  
California, Nevada and Klamath Basin Region  
U.S. Fish and Wildlife Service

Jim Lynch, Partner  
K&L Gates LLP

### **Interim Conservation Plan – Klamath Hydroelectric Project**

PacifiCorp proposes to implement conservation measures identified in this Interim Conservation Plan (the "Plan") to conserve Endangered Species Act ("ESA")-listed species, including Lost River sucker (*Deltistes luxatus*), shortnose sucker (*Chasmistes brevirostris*), and coho salmon (*Oncorhynchus kisutch*) in the Klamath River. The following Plan summarizes specific conservation measures developed in consultation with the U.S. Fish and Wildlife Service ("FWS") and the National Marine Fisheries Service ("NMFS" or "NOAA Fisheries") (collectively, the "Services") that PacifiCorp proposes to immediately fund or implement, along with the scientific basis for each proposed conservation measure. Actions outlined below are designed to further avoid and minimize potential Project impacts on species.

PacifiCorp and the Services have agreed to work closely together during the development of a proposed license amendment that will incorporate conservation measures contained in the Plan. PacifiCorp will prepare a Biological Assessment ("BA"), for use by the Federal Energy Regulatory Commission ("FERC") in ESA Section 7 consultation with the Services, evaluating the effects of Plan implementation on listed species in the action area. The Services will utilize information contained in FERC's BA to prepare Biological Opinion(s) and associated Incidental Take Statement(s) for the proposed action. While the Services cannot pre-decide the outcome of these ESA Section 7 consultations, the parties have agreed that measures contained in the Plan will reduce and help minimize potential adverse Project impacts on listed species during the interim period prior to implementation of a comprehensive agreement for the Project or issuance of a new Project license incorporating the Services' mandatory terms and conditions.

This Plan is considered interim because in the near future PacifiCorp envisions that the Plan will be superseded by a final relicensing settlement agreement and associated biological opinions analyzing the terms of a relicensing settlement agreement. PacifiCorp anticipates that the interim Plan will remain in effect for no more than five years after issuance of Biological Opinion(s) by the Services analyzing a proposed license amendment incorporating the Plan.

PacifiCorp concludes that this Plan identifies an important set of conservation measures which, when fully implemented, reduce and minimize potential adverse Project impacts on listed species in the Klamath River, and provide conservation benefits for a range of listed species and their habitats. This Plan specifically addresses biological concerns raised in the Services' Biological Opinions for the Klamath River Hydroelectric Project (FWS 2007a; NMFS 2007). Thus, measures contained in this Plan are firmly grounded in the best available scientific information, and reflect consideration of views previously expressed by the Services in their ESA Section 7 consultations for the Klamath River Project.

#### **I. Sucker Conservation Strategy**

Measures proposed for listed sucker species are based upon a recent agreement entered into between PacifiCorp and Oregon Wild. According to its terms, that agreement will terminate when an order on relicensing is issued by FERC. There are two substantive conservation components to the PacifiCorp's conservation strategy for listed sucker species. First, in order to minimize potential impacts on ESA-listed suckers, PacifiCorp proposes to implement seasonal

restrictions on its Eastside/Westside Hydroelectric Facility (Eastside/Westside) operations. Second, as additional mitigation, PacifiCorp proposes to make payments into a Sucker Enhancement Fund for specific enhancement projects that will benefit listed suckers.

**A. Eastside/Westside Seasonal Restrictions**

PacifiCorp proposes to not operate the Eastside/Westside facility from July 15 to November 15. Additionally, PacifiCorp may, at its discretion, forego operations of turbines at Eastside/Westside power plants for a total of not more than fourteen (14) days, in periods that may be prior to or following, but contiguous to, the period of July 15 to November 15. Under such circumstances, PacifiCorp's payment into the Sucker Enhancement Fund (which is described below) will be reduced. That reduced amount will be seventy-eight percent (78%) of the product of the number of additional non-operating days, times the average daily generation value for the Eastside/Westside for that year.

As part of this proposal, PacifiCorp would retain the right to operate turbines at Eastside/Westside power plants for up to an additional fourteen (14) days between July 15 to November 15 each year after advance written notification to FWS if PacifiCorp provides information to FWS showing that such operations will not result in significant impacts to listed suckers with fork lengths equal to or greater than 75 millimeters. Under such a circumstance, PacifiCorp would make a supplemental payment into the Sucker Enhancement Fund. The supplemental payment would be forty-four percent (44%) of the product of Eastside/Westside actual power generation during that additional time period multiplied by the actual daily price of power at Mid-Columbia. Unless mutually agreed otherwise, written notification must be provided by PacifiCorp at least seven (7) days prior to the additional operations commencing. PacifiCorp may commence additional operations unless FWS objects to such operations at least 48 hours prior to such operations, and provides PacifiCorp with written notification of such objection outlining the scientific basis of the objection.

Finally, PacifiCorp may engage in limited operations of Eastside/Westside for emergency, maintenance, or other non-power production purposes during the shutdown period. In the case of limited operations for non-emergency purposes, PacifiCorp will provide FWS with three (3) business days advance notice of such operations. Such non-emergency operations will not exceed 12 hours during any 30-day period. PacifiCorp will take appropriate actions in consultation with FWS (including, if feasible, juvenile and adult salvage operations within power canals) to minimize the impact of emergency or non-emergency operations on listed suckers.

Justification: As the parties have recognized, the majority of potential sucker entrainment occurs at the Eastside/Westside facility during the period from July 15 to November 15. Ceasing Eastside/Westside operations from July 15 to November 15 will therefore minimize entrainment during this key period.

## **B. Sucker Enhancement Fund**

A Sucker Enhancement Fund has been established which under this Plan will be administered in consultation with Oregon Wild and FWS. The fund would be used exclusively to fund projects designed to enhance the survival and recovery of listed suckers, including, but not limited to, habitat restoration and acquisition. For example, potential projects may include restoration work at Barnes and Agency Ranch which may provide additional ESA listed sucker spawning and rearing habitat. FWS will participate in the identification and selection of specified habitat enhancement projects to ensure such projects provide maximum benefits for listed sucker species.

PacifiCorp proposes to provide an annual payment into the Sucker Enhancement Fund. The annual payment will be equal to twenty-two (22 %) of the product of Eastside/Westside actual annual power generation (as reported to FERC) multiplied by a three year (current billing year and the previous two years) median of Mid-Columbia daily prices weighted for on-peak and off-peak hours, not to exceed \$103.60 per Megawatt hour. Payments made into the fund in 2008 were based on estimated generation for the 2008 calendar year. The next payment will be made by April 1, 2010, based upon actual generation in 2009. Future payments will be made by April 1 of each year based on actual generation in the preceding calendar year.

Justification: As discussed in recent status reviews (FWS 2007b), restoration and enhancement of sucker spawning and rearing habitat that is key to species recovery. Creating and implementing a habitat enhancement fund will contribute to species recovery by permitting protection of key sucker spawning and rearing habitat which may otherwise be lost or degraded.

## **C. Flows Below Link River Dam**

During periods of operation of the Eastside/Westside powerhouse, if flow in the Link River between Link River Dam and the powerhouse returns is anticipated to be less than 300 cfs as a result of operational conditions within PacifiCorp's control (and not outside its control due to Bureau of Reclamation operations), PacifiCorp shall promptly notify FWS, and meet and confer with the Bureau of Reclamation and the FWS to (1) evaluate potential for impacts to listed fish in that reach, and (2) agree upon implementation of feasible measures (that may include salvage or increased flows) intended to minimize impacts to listed suckers in that reach.

Justification: In the past, stranding of adults and juveniles has been documented in the Link River under low flow conditions. By conferring with the FWS, and cooperatively implementing feasible measures when this situation arises due to operational conditions within PacifiCorp's control, stranding will be reduced.

## **II. Coho Conservation Strategy**

Measures proposed for listed coho salmon are based upon relevant assumptions and analyses contained in NOAA-Fisheries' Biological Opinion ("2007 BiOp") for the proposed Klamath River license. The 2007 BiOp identified low dissolved oxygen and elevated water temperatures below Iron Gate Dam as likely adverse effects of the Project on Federal listed Southern Oregon Northern California Coasts coho salmon. In addition, the 2007 BiOp indicated that the presence of Iron Gate Dam as an upstream passage barrier is impeding access to approximately 40 percent of the historical range of the Upper Klamath Population unit of SONCC coho salmon.

### **A. Install and Test Turbine Venting System**

PacifiCorp proposes to test and evaluate a turbine venting system at Iron Gate to respond to concerns expressed with dissolved oxygen below Iron Gate dam. PacifiCorp proposes to conduct field tests to verify air flow and dissolved oxygen increases, and to quantify the potential effects of increased air flow on turbine efficiency. The tasks associated with testing of turbine venting at Iron Gate dam will include:

- Consult with appropriate regulatory agencies. PacifiCorp will consult with the State Water Resources Control Board and other appropriate regulatory authorities prior to testing of turbine venting at Iron Gate.
- Conduct field tests of turbine venting at Iron Gate. These tests will verify air flow and dissolved oxygen levels that can be achieved with turbine venting. These tests also will quantify the effects of the increased air flow on turbine operation efficiency. Air entrainment will first be evaluated using existing piping and fully open vacuum breaker valves. If appropriate, PacifiCorp will evaluate other methods to increase air entrainment, such as hub baffles on vacuum breaker vents and draft tube air entrainment.
- Monitoring of turbine venting at Iron Gate. During the turbine venting tests, PacifiCorp will conduct monitoring of dissolved oxygen in the Project tailwaters and in the river just downstream. This monitoring will provide information on the results of turbine venting.
- Prepare a report of findings and recommendations. The information developed during the turbine venting tests will be compiled in a technical report that will estimate the expected dissolved oxygen levels in Project tailwaters and will evaluate the feasibility of implementation of turbine venting to increase dissolved oxygen levels in tailwater below Iron Gate Dam. The report will identify modifications to valves or intake piping that would be necessary to permanently increase turbine venting capacity and implement turbine venting on an ongoing basis. Overall feasibility will be determined based upon the operational effects of turbine venting on the turbine generator and the cost of capital improvements that may be required.

PacifiCorp proposes to complete the work identified above according to the schedule summarized in the following table:

Activity/Milestone	Date or Period
Testing of Turbine Venting for Dissolved Oxygen Enhancement at Iron Gate	
<i>Consultation and final planning of tests</i>	Summer 2008
<i>Turbine venting tests and monitoring</i>	Summer 2008
<i>Technical report</i>	Fall 2008

**Justification:** Low dissolved oxygen levels have been observed in the Project tailwaters at certain times as a result of a variety of factors including nutrient loading from upstream sources. Turbine venting uses a "reaeration valve" that allows air to be inducted into the hydroelectric turbine draft tube to aerate the water prior to release into the powerhouse tailrace. Turbine aeration utilizes the low pressure of the water in the draft tube to entrain air for tailrace discharge dissolved oxygen enhancement. In 2005, a turbine venting system was assessed at the Iron Gate powerhouse. Modeling was used to estimate air admission rates, dissolved oxygen uptake, and potential total dissolved gas ("TDG") for the observed powerhouse operating conditions. It was estimated that turbine air admission could result in dissolved oxygen uptake of between 1.5 to 2.7 mg/L depending on turbine headcover valve operation and the potential inclusion of baffles on the turbine runner. This uptake could provide an appreciable increase in dissolved oxygen concentrations in the tailwaters of Iron Gate dam and in the Klamath River immediately below Iron Gate which supports spawning, incubation, and rearing of salmonids. In the Final Environmental Impact Statement for the Project (FERC 2007), FERC concluded that turbine venting would be effective in achieving increases in dissolved oxygen in the Klamath River downstream of Iron Gate dam. On this basis, FERC recommended a measure to include turbine venting and follow-up dissolved oxygen monitoring at Iron Gate.

## **B. Fund Fish Disease Studies**

PacifiCorp proposes to provide \$500,000 toward fish disease studies in the Klamath River below Iron Gate Dam. The Klamath River Fish Health Workgroup and the Klamath River Fish Disease Research Plan will provide oversight and guidance regarding the implementation of these studies, including: prioritization, scope of work, and entities best suited to conduct the research."

**Justification:** Juvenile salmonids may succumb to the myxozoan parasites *Ceratomyxa Shasta* and *Parvicapsula minibicornis* during spring migration in the Klamath River. In some years, these losses can be substantial. Understanding the relationship between environmental and anthropogenic factors, such as water temperature, base flow and variability, and sediment transport that may influence parasite prevalence and disease virulence is a crucial aspect for any disease management effort on the Klamath River. Gaining a better understanding of factors that influence the severity of the disease and the host species will also help to inform resource management decisions and future recovery plan efforts in the Klamath River.

**C. Fund Hatchery Genetics Management Plan Development and Implementation**

The Iron Gate hatchery is the principal source of hatchery-produced coho salmon in the Klamath River. The State of California, under guidance from NOAA Fisheries, is developing a Hatchery and Genetic Management Plan ("HGMP") for coho salmon produced by the Iron Gate Hatchery and for the effects of chinook and steelhead hatchery production on naturally-spawned coho. PacifiCorp proposes to work with NOAA Fisheries and CDFG to develop and finalize a HGMP for the Iron Gate hatchery and fund the implementation of the HGMP recommendations. PacifiCorp will fund 100 percent of the costs to develop and implement the HGMP.

Justification: Funding for HGMP development and implementation will better inform resource managers of the effects of Iron Gate Hatchery on the natural production of coho salmon. Future HGMP actions, informed through HGMP monitoring and research, are expected to reduce the amount and extent of adverse effects associated with Iron Gate Hatchery operations on listed SONCC coho salmon

**D. Gravel Augmentation below Iron Gate Dam**

PacifiCorp will provide gravel augmentation for coho and other salmonid habitat below Iron Gate dam through the placement of approximately 200 cubic yards of suitable spawning-sized gravels into the river downstream of Iron Gate dam. The gravel will be deposited to the river channel by means of a sluice delivery system below Iron Gate dam. The introduced gravel will be subsequently dispersed downriver to directly benefit habitat by streamflows and natural high runoff events. The sluice delivery area will be monitored each summer during the low flow period to estimate the amount of gravel that has been dispersed downriver during the preceding year and to record the movement of augmented gravel within the river. The monitoring survey will be used to determine the need for repeated gravel augmentation, limited to no more than 200 cubic yards of repeated gravel augmentation annually. Gravel placement is subject to obtaining necessary approvals and permits which may affect timing.

Justification: Suitable spawning-sized gravels are limited within the Klamath River from below Iron Gate dam to approximately the Shasta River. This reach and other upstream reaches of the river are in Cascade volcanics geologic terrain, which has a naturally low yield of gravel-sized (and larger) sediments to the river, and Iron Gate Dam impedes coarse sediment transport downstream. The Klamath River below the Shasta River is in terrain that transitions to higher yield Klamath geology, where gravel-sized sediments are much more prevalent in the river. Gravel augmentation to the river downstream of Iron Gate dam will improve spawning habitat availability for coho and other salmonids and spawning success in the river between Iron Gate dam and the Shasta River, leading to greater production of coho and other salmonids that may use this reach of the river for spawning. Gravel augmentation is anticipated to minimize adverse effects of Project operations described in NMFS' 2007 BiOp.

**E. Increased Fall Flow Variability**

PacifiCorp shall consult with NMFS and the Bureau of Reclamation to establish flow variability through releases from Iron Gate dam during the fall period (September 1 through November 30). The intent of these variable flow releases is to reflect precipitation and other climatological events that enhance flow variability occurring in the Basin between Iron Gate dam and Keno. The magnitude and extent of variable flow releases will reflect the natural flow variability resulting from accretions between Iron Gate dam and Keno, resulting in increases to the base flows set by the Bureau of Reclamation through the current NMFS consultation on Klamath Project operations. PacifiCorp will undertake these measures in coordination with State and Federal entities to insure close coordination between various entities responsible for setting flows in the Klamath River.

- If fall flow variability is determined to be feasible by NMFS and the Bureau of Reclamation, PacifiCorp shall fund construction and future operation of a USGS gauging station at Spencer Creek to measure real time flow and inform the potential release of variable flows from Iron Gate Dam.
- To inform the fall flow variability program, PacifiCorp shall disclose daily operational data of real-time reservoir elevation and discharge data to the Bureau of Reclamation and NMFS under a claim of business confidentiality.

Justification: During the fall period, the Bureau of Reclamation's Klamath Project and PacifiCorp's Klamath Hydroelectric Project affect natural flow variability below Iron Gate Dam. Fall flow variability representative of natural hydrological conditions may influence fall redistribution of juvenile coho salmon in the Iron Gate Dam to Seiad Valley reach of the mainstem Klamath River. Fall redistribution is an integral life history strategy utilized by coho salmon, and fall redistribution is primarily triggered through environmental cues, including flow variability. Implementation of this conservation measure may provide environmental conditions that improve fall redistribution and phenotypic diversity of coho population units in the Upper Klamath, Shasta, and Scott Rivers. Fall flow variability also will increase transitory habitat for juvenile coho salmon by providing transitory habitat in side-channels and margins preferred by juvenile coho salmon. Finally, fall flow variability may reduce disease risks by disrupting the life cycle of *Ceratomyxa shasta*, *Parvicapsula minibicornis*, and *Manayunkia speciosa*. Available scientific information suggests that flow variability disrupts the habitat of *Manayunkia speciosa* and redistributes adult coho salmon carcasses, thereby reducing actinospore concentrations of *Ceratomyxa shasta* and *Parvicapsula minibicornis* the following spring.

**F. Coho Enhancement Fund**

PacifiCorp proposes to establish a Coho Salmon Enhancement Fund to be administered in consultation with California Department of Fish and Game and NOAA Fisheries. The fund would be used exclusively to fund projects designed to enhance the survival and recovery of listed coho salmon, including, but not limited to, habitat restoration and acquisition. For example, potential projects may include restoration work in key tributaries of the Klamath River below Iron Gate Dam. CDFG and NOAA Fisheries will participate in the identification and

selection of specified habitat enhancement projects to insure such projects provide maximum benefits for listed coho salmon.

PacifiCorp proposes to make an annual payment into the Coho Salmon Enhance Fund commencing on January 1, 2009, in the amount of \$500,000. Thereafter, during the duration of this Plan, payments in the amount of \$500,000 will be made on an annual basis by January 1 of each subsequent year.

Justification: As discussed in recent NOAA Fisheries status reviews, biological opinions, and the NRC review of threatened and endangered fish species of the Klamath River, degraded coho salmon spawning and rearing habitat are limiting factors of Klamath River coho salmon production. Creating and implementing a habitat enhancement fund will contribute to species recovery by permitting protection of key coho salmon spawning and rearing habitat which may otherwise be lost or degraded.

### **III. Literature Cited**

Federal Energy Regulatory Commission. 2007. Final Environmental Impact Statement for the Klamath River Hydroelectric Project (November, 2007).

National Marine Fisheries Service (NMFS). 2007. Biological Opinion for the Klamath River Hydroelectric Project License. NMFS Southwest Region (December 21, 2007).

U.S. Fish and Wildlife Service (USFWS). 2007a. Biological Opinion for the Klamath River Hydroelectric Project License. USFWS California Region (December 3, 2007).

USFWS. 2007b. Lost River Sucker (*Deltistes luxatus*) 5-Year Review Summary and Evaluation. Available at [www.fws.gov/oregonfwo/Species/Data/LostRiverSucker/](http://www.fws.gov/oregonfwo/Species/Data/LostRiverSucker/).

**ATTACHMENT B**



*NOAA's National Marine  
Fisheries Service*



*U.S. Fish and  
Wildlife Service*

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November 12, 2008

Mr. Rob Lasich  
President, PacifiCorp Energy  
1407 West North Temple  
Salt Lake City, Utah 84116

**Re: Klamath Hydroelectric Project Interim Conservation Plan**

Dear Mr. Lasich:

The purpose of this letter is to acknowledge the substantial efforts of PacifiCorp Energy (PacifiCorp) in its development of the November 10, 2008, Interim Conservation Plan (the Plan) for the Klamath River Hydroelectric Project (Project) and our mutual understanding for the immediate implementation of the conservation measures in the Plan. In addition, we acknowledge PacifiCorp's substantial efforts in concurrent development of a separate Agreement in Principle (AIP) for the Project. With this letter, we are assuming that the Parties to the AIP will work expeditiously to reach a Final Agreement that will provide additional benefits for sucker species and coho salmon, which are listed under the Endangered Species Act (ESA), in the Klamath River watershed.

By way of background, on November 10, 2008, PacifiCorp submitted the final Plan to NOAA's National Marine Fisheries Service and the U.S. Fish and Wildlife Service (together, the Services) for review. The Plan was developed through a series of discussions amongst the parties and their technical representatives. Through these discussions, PacifiCorp indicated it will timely file a request with Federal Energy Regulatory Commission (FERC) to amend, as appropriate, the current Project license to incorporate the Plan and request that FERC request consultation with the Services under ESA section 7 concerning the proposed action. Once consultation between FERC and the Services has been initiated, the Services, in turn, commit to work expeditiously to complete appropriate consultation with FERC under ESA section 7 and applicable implementing regulations, thereby providing appropriate authorization under the ESA for Project operations

pursuant to the Plan. The proposed action for this consultation is expected to be for a limited period consistent with assumptions described in the Plan.

Measures contained in the Plan were developed through technical discussions between the Services and PacifiCorp, and are based upon a sound scientific record, including the record developed during Project relicensing. The Services have carefully reviewed the Plan. We conclude that the Plan identifies an important set of actions which, if fully implemented, will reduce and help minimize potential adverse Project impacts on listed species, and provide benefits to listed aquatic species and their habitats during the interim period prior to implementation of a comprehensive agreement for the Project or issuance of a new Project license incorporating the Services' mandatory terms and conditions. The Services reserve their authority to reassess the adequacy of the Plan pursuant to ESA section 7 and implementing regulations for consultation and in the event of changes in assumptions outlined in this letter. Furthermore, the Services recognize their responsibilities under Secretarial Order 3206 (Tribal Consultation) and will engage in government to government consultation with affected tribes over measures contained in the Plan.

Thank you for your work to date on this Plan, and your commitment to species conservation. The Services strongly support our mutual efforts to reach a comprehensive agreement for the Klamath River Hydroelectric Project. We look forward to working with PacifiCorp, the States of California and Oregon, and other parties in continuing to develop conservation programs for listed species in the Klamath River Basin.

Sincerely,



Dr. Ren Lohofener  
Regional Director  
California, Nevada, and Klamath Basin Region  
U.S. Fish and Wildlife Service



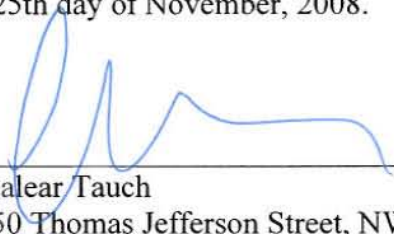
Rodney R. McInnis  
Regional Administrator  
Southwest Region  
NOAA's National Marine Fisheries Service

Cc: Copy to file ARN: 150304SWR2002SR8505

### **Certificate of Service**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 25th day of November, 2008.



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Mealear Tauch  
1050 Thomas Jefferson Street, NW  
Seventh Floor  
Washington, D.C. 20007  
(202) 298-1946