



Pacific Power |
Rocky Mountain Power
825 NE Multnomah, Suite 1800
Portland, Oregon 97232

April 21, 2020

VIA ELECTRONIC MAIL

Mr. Jeffery Nettleton
Area Manager
Bureau of Reclamation
Klamath Basin Area Office
6600 Washburn Way
Klamath Falls, OR 97603

RE: Release of Water from Link River Dam

Dear Mr. Nettleton:

As you are aware, Klamath Irrigation District (KID) recently filed a notice of dispute with the Oregon Water Resources Department (OWRD) regarding releases of water from Link River Dam. On April 16, 2020, OWRD issued a notice of dispute and investigation to the U.S. Bureau of Reclamation (Reclamation), PacifiCorp, and KID. The actions proposed by OWRD were not viewed as satisfactory by KID, which filed a petition for a writ of mandamus in Marion County Court on April 17, 2020. Subsequently, a hearing was held on the afternoon of April 20, 2020 before Marion County Judge Channing Bennett; our understanding is Reclamation did not attend that hearing. Judge Bennet indicated he would have a ruling on KID's petition by April 22, 2020. At the same time, Reclamation is planning on releasing water from Link River Dam to initiate a surface flushing flow in the Klamath River downstream of Iron Gate Dam starting on Wednesday morning, April 22, 2020. As of the hearing, our understanding is that neither the Court nor OWRD plan to instruct Reclamation on how to operate Link River Dam prior to the mid-day Wednesday ruling.

PacifiCorp has operated Link River Dam since its construction was completed in 1921. PacifiCorp has operated Link River Dam, at Reclamation's direction, since 1997, when Reclamation assumed discretionary responsibility for specifying Klamath River flows and Upper Klamath Lake elevations consistent with Reclamation's 1997 Operations Plan. PacifiCorp's operation of Link River Dam at Reclamation's direction was also reflected in the amendment and extension of the 1956 Link River Dam operating agreement (Contract No. 14-06-200-5075), in 2006 ("2006 Amendment"). The 2006 Amendment made clear PacifiCorp is to operate the dam ". . . consistent with the Klamath Project Annual Operations Plan and Reclamation's discretionary responsibility, and as directed by the Contracting Officer." The 2006 Amendment was extended until April 17, 2008. PacifiCorp and Reclamation continue to operate Link River Dam at Reclamation's direction, and in accordance with the terms of the 2006 Amendment. This includes releasing water from Link River Dam, at Reclamation's direction, to support surface flushing flows downstream in the Klamath River. While PacifiCorp and Reclamation continue to

operate under the terms of the 2006 Amendment, PacifiCorp wants to confirm certain matters at this time.

Given KID's current assertions of Reclamation's lack of authority to release water from Link River Dam for surface flushing flows and the alleged harm those releases will cause KID, PacifiCorp believes it is at risk of litigation brought by KID, even though PacifiCorp is operating Link River Dam at Reclamation's direction.

PacifiCorp requests that Reclamation issue written direction to PacifiCorp to initiate the surface flushing flow releases from Link River Dam. PacifiCorp is operating with the understanding that Reclamation agrees the 2006 Amendment is still in force and effect, including Article 4(a) whereby PacifiCorp is held harmless as the result of operating Link River Dam at Reclamation's direction. If Reclamation does not agree that the 2006 Amendment is in full force and effect, please notify PacifiCorp before initiation of the surface flushing flows.

This action is necessary for PacifiCorp to be assured that it is not taking on liability with respect to complying with Reclamation's direction and initiating flushing flows at Link River Dam, given KID's litigation posture and OWRD's Notification of Dispute and Investigation in Aid of Distribution.

Please contact Demian Ebert (demian.ebert@pacificorp.com; 415-760-3537 cell) or John Sample (john.sample@pacificorp.com; 503-869-1163 cell) should you have questions with respect to this letter.

Sincerely,

Mark Sturtevant
Vice President, Renewable Resources

Cc: John Sample, PacifiCorp
Jared Bottcher, Reclamation