# Attachment F

# Parent Company Guaranty

# Report on
# Risk Mitigation and Insurability
# For the
# Klamath Restoration Project

November 13, 2015

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On Behalf Of:
American Rivers
California Trout
Sustainable Northwest
Trout Unlimited

## EXECUTIVE SUMMARY

This report identifies the major risks associated with the removal of several dams in the Klamath River and site restoration in the Klamath Basin, and assesses the commercial mechanisms available to mitigate such risks. Based on the analysis contained in this report, we believe it is reasonable to draw the following conclusions:

(1) It is likely that the parties will negotiate and execute a series of agreements containing the terms and conditions under which the dam removal and site restoration will be carried out, including an agreement governing the funding of the dam removal and site restoration, an agreement transferring ownership from PacifiCorp to the new owner prior to commencement of the dam removal and site restoration, and an agreement between the new owner and a contractor governing the physical work related to the dam removal and site restoration.

(2) The dam removal and site restoration agreement may be procured on an integrated project delivery basis. Integrated project delivery contracting (a competitive proposal and qualifications-based procurement process which establishes a single point of accountability and transfers, price, performance and schedule risk to the contractor performing the work absent certain defined circumstances) is likely to produce the least cost, least risk dam removal and site restoration agreement.

(3) The Klamath Hydroelectric Settlement Agreement provides for $450 million in funding for the dam removal and site restoration. The broad definition of the dam removal and site restoration work provides latitude for workscope adjustments (and concomitant re-allocations of the budget) in a manner that would allow the core objectives of the project to be achieved while remaining within this affordability ceiling. For example, if during the procurement process the cost proposed under the most advantageous proposal exceeds the affordability ceiling, the scope of the dam removal and site restoration can be re-defined and the work can be re-bid, subject to stakeholder approval. The dam removal and restoration agreement may also be amended once the physical work has begun to reduce the scope of the work should it become apparent that the original workscope will not be completed within the affordability ceiling. Market sounding surveys can be conducted in advance of commencing a procurement to obtain contractor market commentary on the affordability ceiling.

(4) An advanced planning stage cost analysis appears to have been conducted by the U.S. Department of Interior, heightening its reliability over less developed desktop or rule of thumb estimates. We are not cost estimators and do not assume any responsibility with respect to the accuracy of USDOI's project cost estimates or the adequacy of the $450 million project cost affordability ceiling discussed in item (3). Furthermore, actual costs cannot be known until a procurement process for the actual project contractor is conducted and concluded. Based on our experience with similar projects, however, and taking USDOI's project cost estimates at face value, the budget for contingencies on a percentage basis (such as those necessary to deal with uncontrollable circumstances and other risks identified in this report) is at the high end of the range typically established by cost estimators on other projects.

(5) It is reasonable to expect that a performance bond and a comprehensive insurance package can be put in place that will protect the contractor (together with the new owner and other stakeholders as additional insureds) from loss and expense resulting from injury or damage to persons and property resulting from carrying out the dam removal and site restoration work. The comprehensive insurance package would be specifically tailored to the work, and would include core insurance policies such as a commercial general liability policy as well as environmental and professional policies. Further, it is customary to require a contractor to furnish a performance bond from a recognized surety that will serve to protect the new owner against a failure of the contractor to complete the entire work as a result of the contractor's

financial distress. Although the performance bond would not protect against the specific risks identified in this report, it would protect the owner in the event that the contractor's inability to complete the entire work results from one or more of risks identified herein. Special environmental liability contractual indemnities are also available for extraordinary environmental and other risks excluded from insurance coverage.

(6) Accordingly, there is a sound basis for the stakeholders to determine that the risks of the dam removal and site restoration can be reasonably managed, mitigated and insured and that the dam removal and site restoration project may proceed from the planning stage to the contract, procurement and implementation stages.

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## 1. PURPOSE AND OVERVIEW

1.1 Purpose. The purpose of this report is to identify and assess major risks associated with the proposed removal of four hydroelectric dams on the Upper Klamath River owned by PacifiCorp: the Iron Gate Dam, Copco No. 1 Dam, Copco No. 2 Dam, and J.C. Boyle Dam and certain appurtenant works (collectively, the "Project Assets"). The report also discusses commercial mechanisms by which such risks can be managed, mitigated and insured.

1.2 Klamath Agreements. The Klamath Hydroelectric Settlement Agreement (KHSA), executed on February 18, 2010, the Klamath Basin Restoration Agreement (KBRA), executed on February 18, 2010, and the Upper Klamath Basin Comprehensive Agreement (UKBCA), executed on March 5, 2014 (the "Klamath Agreements") address the removal of the Project Assets, plus related environmental and economic measures to increase flows for fish in the Klamath River; improvement of the reliability of irrigation water deliveries for agriculture; reintroduction of salmon above the dams and into and above Upper Klamath Lake; investment in site restoration in the Klamath Basin, and in tribal economic revitalization; development of a power program for farmers and ranchers; mitigation to counties for the effects of dam removal; and settlement of water rights disputes. There are currently 45 parties to the KHSA and 43 parties to the KBRA, including Federal agencies, California and Oregon, tribes, counties, irrigators, and conservation and fishing groups. There are 16 parties to the UKBCA comprising the Klamath tribes, the State of Oregon, and Upper Klamath Basin irrigators. The KHSA requires Congressional authorization. An authorizing bill to implement the KHSA is currently pending in Congress (S. 133, "Klamath Basin Water Recovery and Economic Restoration Act of 2015").

1.3 Hawkins' Perspective; Limitations. This report has been prepared at the request and for the benefit of our clients, American Rivers, California Trout, Sustainable Northwest and Trout Unlimited. It provides an analysis of Project risk issues and potential mitigation measures from our perspective as legal advisors with national experience in large water infrastructure project procurements and contract negotiations on behalf of governmental project owners. We note that while we have extensive experience as attorneys on projects that are similar to this Project in terms of risk management, we are not providing financial, insurance, environmental, engineering or technical opinions or advice, which should be sought from qualified advisory firms with appropriate professional expertise. In particular, we are not cost estimating experts and nothing in this report should be construed as providing economic or cost estimating advice. A brief firm overview is presented in Attachment 5 (Hawkins Delafield & Wood Firm Description).

1.4 Information Provided by Other Advisors. The portions of this report addressing insurance matters have been prepared by or with the assistance of Willis, a nationally recognized insurance advisory and brokerage firm. Additional information about Willis can be found in Attachment 6 (Willis Firm Description). Environmental Liability Transfer, Inc. provided the information in this report discussing contract indemnification against uninsured environment liabilities and the material in Attachment 2 (Klamath Restoration Project Risk Matrix) concerning available indemnities. Additional information about Environmental Liability Transfer, Inc. can be found in Attachment 7 (Environmental Liability Transfer, Inc. Firm Description). Water and Power Law Group PC furnished the section on permit shields.

1.5 Terminology. This report uses the following terminology:

- Dam Removal and Restoration Agreement: the agreement that will set forth the terms and conditions under which the Project Contractor will remove the dams and restore the site.

- New Project Assets Owner (referred to in the Klamath Agreements as the "dam removal entity" or "DRE"): the entity that will own the Project Assets and cause the Project to be carried out.

- PacifiCorp: the current owner of the Project Assets.

- Project: the activities that will be undertaken by the New Project Assets Owner, including dam removal and site restoration.

- Project Assets: the dams and appurtenant works.

- Project Assets Acquisition Agreement: the agreement that will establish the terms and conditions under which ownership of the Project Assets will be transferred from PacifiCorp to the New Project Assets Owner.

- Project Contractor: the entity that will perform the dam removal and site restoration.

- Project Funders: the State of California and the State of Oregon.

- Project Funding Agreements: the agreements that will set forth the terms and conditions by which the Project Funders will fund the Project.

## 2. PROJECT IMPLEMENTATION CONTRACT STRUCTURE

2.1 Ownership Risk and Transfer Generally. As a beginning proposition, the owner generally bears the risk of insufficient funding in any project. Owners of large public works as a general rule contract out all or most of the responsibility for performing design and construction work. Once the contract price is established, the degree of cost uncertainty is substantially reduced. Liabilities resulting from the dam removal also will generally attach to the property owner. The Klamath Agreements and proposed federal legislation anticipate the transfer of the Federal Regulatory Energy Commission (FERC) license and Project Assets ownership from PacifiCorp to a dam removal entity or DRE, referred to in this report as the New Project Assets Owner. The New Project Assets Owner, which has not yet been identified, could include a new special purpose entity (for profit or not-for-profit) or an existing or newly formed corporate or governmental entity.

2.2 Contract Structure. Under a likely Project contract structure, the New Project Assets Owner would enter into Project Funding Agreements with the Project Funders and a Project Assets Acquisition Agreement with PacifiCorp; obtain Regulatory Approvals from federal and state agencies; and enter into a Dam Removal and Restoration Agreement with the Project Contractor. A diagram of this Project implementation contract structure is presented in Attachment 1. Short descriptions of these agreements and approvals follow.

2.3 Project Funding Agreements. The New Project Assets Owner can be expected to enter into Project Funding Agreements with California and Oregon. The KHSA provides for $450 million in funding for the Project. The first source of funding is from PacifiCorp's ratepayers in California and Oregon. The public utilities commissions in PacifiCorp's service areas have approved the KHSA and authorized rate recovery, which will total $200 million by 2020. The ratepayer funds are currently owned by PacifiCorp and held in escrow. In 2014, California voters passed the 2014 Water Bond, which includes $475 million for performance of certain water settlement agreements. In the event that the initial $200 million funded by ratepayer surcharges is exhausted, an additional $250 million is designated from the 2014 Water Bond proceeds. Such bond proceeds are not specifically earmarked for the Project, but the California principal

stakeholders indicate that $250 million of the $475 million designated for water settlement agreements will be available for the Project. The bond proceeds are controlled by the California Natural Resources Agency under statute and an appropriation is required before the funds will be available for use for the Project. It is likely that California and Oregon will enter into contractual or regulatory agreements with respect to escrow and use of the funds. These Project Funding Agreements will establish the requirements and process for disbursements of funds from the ratepayer surcharges and the bond proceeds for Project purposes.

2.4 Project Assets Acquisition Agreement. Once the funding structure is established, PacifiCorp is likely to enter into a Project Assets Acquisition Agreement with the New Project Assets Owner. The Project Assets Acquisition Agreement will transfer the FERC license and ownership of the Project Assets to the New Project Assets Owner. As the owner of the Project Assets, the New Project Assets Owner will be the entity that primarily bears the cost and risk of completing the work.

2.5 Regulatory Approvals and Environmental Review. The regulatory process has commenced and will be ongoing throughout Project implementation. In addition, the New Project Assets Owner is generally expected to obtain various local and state approvals, all depending upon the final configuration of the transaction. Those approvals include a point source discharge permit and a dredge permit under the Clean Water Act. Federal approvals also include the §404 U.S. Army Corps of Engineers permit and transfer of the FERC license, which will need to be surrendered in order to effectuate the transaction. The FERC license for the Project Assets expired in 2006. PacifiCorp's new license application is pending before FERC and the Project Assets are currently operating under annual licenses. The U.S. Department of the Interior has completed a final Environmental Impact Statement. The California Environmental Impact Report prepared under the California Environmental Quality Act is drafted, but has not yet been certified. Equivalent environmental regulatory actions will also need to be completed by Oregon.

2.6 Dam Removal and Restoration Agreement. In order to effectuate the dam removal and site restoration, the New Project Assets Owner is likely to enter into a Dam Removal and Restoration Agreement with a Project Contractor under a contract procurement process that is still to be established. The Dam Removal and Restoration Agreement may be procured on an integrated project delivery basis, as further described below under "Integrated Project Delivery Generally", a procurement method that can transfer substantial risk to the Project Contractor.

## 3. SEQUENCING CONSIDERATIONS

3.1 Activities Prior to the License Transfer. The KHSA anticipates that the transfer of the FERC license for the Project Assets will occur on December 31, 2019, at which point physical dam removal activities can commence. PacifiCorp thus will retain title to the Project Assets while certain planning and development work takes place, and the Project Contractor will begin demolition work on the Project Assets concurrently with the cessation of PacifiCorp's utility operations. Various contracting arrangements are expected to be put in place prior to title transfer and sequenced in a way that permits a procurement for the Project Contractor to be conducted by the New Project Assets Owner before actual ownership of the Project Assets is transferred. Further, it is expected that a considerable period of time (perhaps years) may elapse between the time the FERC licensee (PacifiCorp) files a request to surrender its license and the time a decommissioning order is issued by FERC. The Project Funding Agreements can be expected to be in place as the process of seeking final regulatory approvals proceeds, so that the necessary funds are available for that purpose.

3.2 Term Sheets. In order to manage and coordinate the timing of regulatory approvals, procurement, and title transfer so that Project commencement may begin in 2020, the parties initially could enter into term sheets outlining the principal terms of each agreement and the expected timing. One approach would be to make the Project Funding Agreements and

the Project Assets Acquisition Agreement effective upon execution, but provide that certain conditions must be met before the key obligations to perform begin. If such conditions do not occur by a specified date, the parties could have the right to terminate. This structure would enable the parties to engage in development activities and prepare for dam removal before the New Project Assets Owner actually receives title to the Project Assets. The Dam Removal and Restoration Agreement could have similar conditions subsequent, so that, for example, the Project Contractor could commence design activities in preparation for the title transfer. The term sheets could also include various provisions protecting the interests of the parties in the Project Contractor selection process, such as allowing for input from the primary stakeholders on the definition of workscope and overseeing execution of the work.

## 4. CONTRACTING FOR DAM REMOVAL AND THE BENEFITS OF INTEGRATED PROJECT DELIVERY

4.1 Integrated Project Delivery Generally. Removing the dams is likely to involve three discrete areas of work: planning and design; actual demolition; and site restoration, including sediment investigation and treatment. It may be possible to arrange for this work to be done separately in segments, or to be aggregated in part or in whole. The industry uses the phrase "integrated project delivery" (IPD) to describe circumstances where multiple aspects of the work are carried out in a single contract. IPD procurements are typically carried out on a competitive proposal basis (where selection is based on the best value proposal, with technical merit and price both considered), rather than on a low bid basis (with price as the only selection factor). Because potential contractors submit competitive proposals and guarantee price, performance and schedule, they are responsible for completing the project and performing the work to specified technical standards by a guaranteed completion date, and for absorbing any costs above a stated total contract price for the work. Daily liquidated damages are payable to the owner for unexcused delay, and the owner is not responsible for cost overruns except those caused by uncontrollable circumstances. Thus, if none of the Project uncontrollable circumstance risks or other relief events noted in this report occur, the Project will be completed by the Project Contractor for a fixed price agreed to at the time the Dam Removal and Restoration Agreement is signed. A parent company guarantor often assures performance of the entire job, and typically provides a performance bond to assure project completion. IPD delivery methods, including traditional design-build and progressive design-build, are described in Attachment 3.

4.2 Benefits of Integrated Project Delivery. IPD may be particularly useful for this Project because it mitigates several elements of project completion risk. It involves a self-selected team of highly qualified firms whose business interests are aligned, decreasing the risk of disputes amongst team members. By addressing multiple aspects of the work in a single contract, IPD also has the key advantage of creating a single point of accountability. This increased integration of the contractual obligations solves the issue of disputes between the designer and the builder, and, through the transfer of design liability, allows for the owner to bring a single claim against both the designer/ builder for flawed work (e.g. if there is an issue with the work as designed, the owner does not have to bring a separate claim against the engineering firm). Furthermore, considering that dam removal is an emerging market, IPD gives teams the freedom to propose to do the work in a creative and innovative manner. Additional benefits of IPD include accelerated delivery, economies of scale and quality.

## 5. PROJECT DEFINITION AND CONTRACT WORKSCOPE

It is important to recognize that the Dam Removal and Restoration Agreement will define the Project, establish the contractual workscope, and obligate the Project Contractor to perform the work and complete the Project for the contract price on a guaranteed schedule. The definition of the core Project, as set forth in the KHSA, is "physical removal of all or part of each of the [Project Assets] to achieve at a minimum a free-flowing condition and volitional fish passage" (the "Core Project"). The KHSA and the related planning documentation also anticipate an extensive amount of related work, including efforts to restore the site, minimize adverse downstream

impacts resulting from the removal of the Project Assets, and dispose of sediment and debris ("Related Project Work"). The Dam Removal and Restoration Agreement can be structured so as to establish a fixed price for the entirety of the Project; separate fixed prices for the Core Project and the Related Project Work; or even separate fixed prices for various elements of the Related Project Work, together with separate notices to proceed for such elements. Thus, depending on funding availability, work can proceed by segment with known prices for each.

## 6. RISK OVERVIEW

A general listing of the risks involved in the implementation of the Project is set forth in Attachment 2 (Klamath Restoration Project Risk Matrix). The Risk Matrix blocks out the risks by general category, and indicates the party that will bear the risk and be responsible for its consequences should the risk occur. The responsible party will generally be the Project Contractor, who will be required to complete the Project in a timely manner for a fixed price and on a fixed schedule irrespective of the occurrence of risk. It is generally not commercially reasonable to transfer to the Project Contractor certain risks that are outside the Project Contractor's ability to manage and control. Such risks ("Uncontrollable Circumstances") are not priced in the fixed contract price. If they occur, the price (and schedule) will be adjusted appropriately, resulting in potential extra expense to the owner. The Risk Matrix also indicates whether a particular risk is insurable, and the type of insurance policy that would provide the coverage. The following sections of this report discuss the risks itemized in the Risk Matrix.

## 7. RISK OF OBTAINING GOVERNMENTAL APPROVALS

7.1 Risk Description. The Project requires a range of permits, licenses and other governmental approvals. These include approvals relating to the FERC license, approvals by the States of California and Oregon and local permits. Environmental reviews by the federal and state governments also must be finalized and certified. Risks relating to governmental approvals include the inability to obtain required approvals; delays in securing the approvals; and terms and conditions in the approvals that may increase the cost of the Project.

7.2 Risk Responsibility, Insurability and Mitigation. The New Project Assets Owner is likely to retain this risk. In general, it is not transferrable or insurable. Mitigants include comprehensive permitting and environmental due diligence, planning and research work in order to identify all required approvals and reviews, and establishing likely timetables and terms and conditions. In the sequencing of Project implementation, the general practice is for the New Project Assets Owner (or before title transfer, the Project Funders) to do as much advancement work as practicable at their own expense to identify and apply for the governmental approvals, assisted by technical and legal advisors. Once title is transferred, and the Project Contractor is obligated to proceed under the Dam Removal and Restoration Agreement, the Project Contractor typically has the duty to complete the process of obtaining the governmental approvals, to the extent they have not yet been obtained. It is likely that the Project Contractor will not be allowed or required to commence dam removal work until all of the major governmental approvals are in hand. In such circumstances, the Project Contractor or the New Project Assets Owner's technical advisors, or some combination of both, funded by the Project Funders, will need to secure such governmental approvals before any physical work can begin under the Dam Removal and Restoration Agreement.

## 8. RISK OF PERFORMANCE OF THE WORK

8.1 General Project Contractor Responsibilities. The risk of contract compliance and proper performance of the Project workscope will be borne by the Project Contractor, subject to the occurrence of carefully defined Uncontrollable Circumstances and other relief events, as described below. The Project Contractor's risks thus include the risk of unexcused delays; scope changes that the Project Contractor needs to request and make to carry out the work; availability

of materials; non-compliance with the pre-established dam removal plan, applicable law and governmental approvals; intellectual property infringement; and the risk of creating hazardous substances or other pollution conditions, or exacerbating existing hazardous substances or other pollution conditions. The New Project Assets Owner, on the other hand, will retain the risk of any delays caused by Uncontrollable Circumstances; any workscope changes directed by the New Project Assets Owner; and, in general, the inaccuracy of any information provided by the New Project Assets Owner to the Project Contractor that formed the basis of the dam removal plan and that could not reasonably be verified by the Project Contractor. Thus, in general, if accurate information is supplied to the Project Contractor, no scope changes are requested by the New Project Assets Owner after contract execution, and no Uncontrollable Circumstances or other relief events occur, the Project workscope will be completed by the Project Contractor for a fixed price known at contract signing.

8.2 Mitigating Performance Risk Through Qualifications-Based Selection and Competitive Proposals. In order to protect owners and stakeholders, it is standard industry practice to conduct a competitive procurement process. At the request of PacifiCorp or the Project Funders, the New Project Assets Owner can be expected to conduct such a competitive procurement process to select the Project Contractor. The competition will include a price competition for the work and, in order to better assure its performance, would ordinarily also include a qualifications competition. Qualifications include technical expertise and financial strength, including basic financial metrics such as corporate net worth and profitability. Strong Project Contractor qualifications significantly reduce the risk to the New Project Assets Owner of Project Contractor non-performance. Further, the teams submitting proposals in response to an request for qualifications/request for proposals process ordinarily compete on "technical merit" as well as on price. The request for proposals can require detailed submittals on the proposed means and methods of dam removal. Means and methods that offer greater promise of lessening potential liability can be scored higher in determining best value. Taking all possible measures to assure that the dam removals are executed with the least risk of additional expense or liability can be of significant value in crafting an overall risk mitigation program.

8.3 Mitigating Performance Risk Through Performance Bonds and Letters of Credit. The Project Contractor will furnish a conventional performance bond from a financially sound surety company, assuring the New Project Assets Owner and the Project Funders that the Dam Removal and Restoration Agreement will be performed as required. The performance bond operates to further mitigate the risk of Project Contractor non-performance of the responsibilities and risks undertaken in the Dam Removal and Restoration Agreement. A performance bond is not "insurance" in a strict legal sense, but in broad general terms operates in a similar fashion. The surety's liability does not extend to Uncontrollable Circumstances or other risks that constitute Project Contractor relief events, and the New Project Assets Owner will continue to bear such risks. As an alternative or in addition to a performance bond, the Project Contractor may also be asked to furnish a standby letter of credit securing performance of the Dam Removal and Restoration Agreement. The New Project Assets Owner will have the right to draw on any such letter of credit in the event of a Project Contractor failure to perform, and use the proceeds of the draw as immediate payment for any non-performance damages it is owed under the Dam Removal and Restoration Agreement.

8.4 Mitigating Performance Risk Through Integrated Project Delivery. If the New Project Assets Owner chooses an integrated approach to delivering the Project, as described above under "Contracting for Dam Removal and the Benefits of Integrated Project Delivery", under which both the design and the demolition and restoration work responsible are performed under a single contract, the risk of having multiple Project Contractors responsible for completing the Project is eliminated. The risk of separate Project Contractors includes the risk of disputes between the Project Contractors and the risk of improper design of the work. With traditional design-bid-build (low bid construction price) project delivery, the New Project Assets Owner retains those risks (having only an "errors and omissions" professional negligence claim against

the design engineer). With integrated project delivery, by contrast, those risks are transferred to the Project Contractor, and the presence or absence of design engineer professional negligence is irrelevant to the Project Contractor's responsibility for the performance of the work.

8.5 Indemnification by Project Contractor. The Project Contractor typically will indemnify an owner for any loss or expense resulting from a breach of the contract or any negligence or willful misconduct. (Since the occurrence of Uncontrollable Circumstances relieves the performance obligation, their occurrence will not be a breach triggering an indemnification.) The Project Contractor's specific duties with respect to dam removal and the handling of sediments will need to be carefully developed with the indemnity provisions in mind. These indemnity obligations can be expected to be limited to some extent by limitations on liability for consequential damages, as described below under "Limitations on Project Contractor Indemnity".

## 9. Risk Of Uncontrollable Circumstances Affecting Performance Of The Work

9.1 Project Contractor Generally Relieved. The Dam Removal and Restoration Agreement, as noted above, will generally relieve the Project Contractor from its performance, price and schedule obligations should an Uncontrollable Circumstance occur. More particularly, the occurrence of any of these events will entitle the Project Contractor to additional time and additional compensation above the fixed contract price and beyond the guaranteed completion date, and thus are New Project Assets Owner-retained risks. Uncontrollable Circumstances include changes in law and force majeure events such as acts of God, floods, earthquakes, armed conflicts, terrorism and epidemics. They also include a variety of other acts, events or circumstances beyond the reasonable control of the Project Contractor, such as the unavailability of utilities necessary to perform the work; encountering archaeological, cultural or historical resources; geotechnical or dam structural conditions different than those assumed when the work was priced; and the presence of hazardous substances or other pollution conditions. The risk of Uncontrollable Circumstances is borne by the New Project Assets Owner because, by definition, they are beyond the Project Contractor's control and cannot reasonably be priced in the Project Contractor's fixed price. If consideration for such risks were to be included in the contract price, it would essentially constitute an insurance premium and the Project Contractor would be acting as an insurance company as to risks that insurance companies do not ordinarily insure. Further, were an uncontrollable risk to be priced and never occur, the owner would have unnecessarily borne the expense. Thus, the owner will not be able to avoid paying the actual costs of dealing with any uncontrollable circumstances that may occur. To deal with this risk, appropriate reserves or other contingent funding arrangements are usually established. The budget projections provided in the October 2012 USDOI report acknowledge this risk, and the Project Funding Agreements are likely to recognize it as well.

9.2 Mitigation of Uncontrollable Circumstance Risks. Some Uncontrollable Circumstance risks, such as changes in law, cannot be prevented, and can only be mitigated after they occur. Others, however, can be mitigated in advance of occurrence through extensive due diligence investigations to determine existing dam structural conditions and existing site conditions, such as the presence of archaeological, cultural and historical resources and hazardous substances or other pollution conditions. A significant amount of the investigative work has been performed already in the planning efforts leading to the KHSA, increasing the knowledge of the parties as to the presence or absence of such conditions and helping to mitigate the likelihood that some of these types of risks will impose significant unexpected costs on the New Project Assets Owner.

9.3 Insurability of Uncontrollable Circumstance Risks. Force majeure events can be insured (with certain exceptions, such as armed conflict, terrorism and epidemics). Changes in law are generally uninsurable. Differing site and dam structural conditions, as well as the discovery of archaeological, cultural and historical resources, also are generally uninsurable.

See "Insurance" below in this report, as well as Attachment 4 (Insurance), for a more detailed discussion on the insurability of Project risks.

10. LABOR RISKS AFFECTING THE PERFORMANCE OF THE WORK

Labor risks include the risk of strikes, injuries to workers, a need to pay prevailing wages, and shortages in the supply of labor required for the work. In general, labor risks will be borne by the Project Contractor, and consideration for such risks will be included in the contract price payable under the Dam Removal and Restoration Agreement. Because the performance bond will assure completion of the work, the surety also will effectively be assuming the risk of the occurrence of these labor-related risks, making such risks "insurable".

11. GENERAL TRANSACTION RISKS

Several risks can affect the transaction generally. These include the risk of:

11.1 Litigation. Third party litigation could invalidate the transaction contracts or enjoin their performance. This risk is not insurable and is borne both by the New Project Assets Owner and the Project Contractor, as well as the Project Funders and PacifiCorp. Construction contracts normally are not signed if there is any material litigation that may delay or increase the cost of the project. The pendency of any such litigation and the resulting delay in contract signing could increase estimated project costs.

11.2 Eminent Domain. The Project Assets could be taken by eminent domain. This risk is remote. The Federal Powers Act does not permit a third party to condemn lands and waters subject to a license, and further the federal and state governments are agreeing to proceed with the Project.

11.3 Failure of Title. PacifiCorp's title to the Project Assets could be questioned. This risk again is remote, but title insurance may be available. PacifiCorp would ordinarily represent in the Project Assets Acquisition Agreement that it has good title to the Project Assets. As between the New Project Assets Owner and the Project Contractor, the New Project Assets Owner would bear the risk of failure of title.

11.4 Impermissible Encumbrances. The Project Contractor will covenant in the Dam Removal and Restoration Agreement not to create impermissible encumbrances (such as liens on the Project Assets) and, accordingly, will bear risk of any such occurrence.

12. RISK OF THIRD-PARTY LOSSES – NOT CAUSED BY HAZARDOUS SUBSTANCES OR OTHER POLLUTION CONDITIONS

12.1 General. Carrying out the Project may expose the New Project Assets Owner to third-party claims for losses attributable to the performance of the work under the Dam Removal and Restoration Agreement. Such potential claims generally involve property damage and bodily injury, and may include damage claims related to diminution in property values; loss of property use; economic losses to businesses; and damage to natural resources. Damage claims may also be brought relating to sediment deposits; the possible expansion of the 100-year flood plain; any impact on water rights and their value; and any impact of electric power availability and its cost. Third party loss claims may be based on any legal theory, including tort, environmental impairment, breach of contract or common law duties or inverse condemnation, and actions could be brought by injured or damaged parties not only against the New Project Assets Owner but also against the Project Contractor and the federal and state governments. Collateral issues such as disputes concerning the ownership of the land underlying the reservoirs may also arise.

If the dams are partially removed, liabilities may be associated with the continuing existence of the unremoved portions of the dams.

12.2 Limitations on Project Contractor Indemnity. In general, the costs associated with any such valid claims will be borne by the New Project Assets Owner, as the owner of the demolished property which caused the liability. If the Project Contractor was negligent in performing the work, the Project Contractor is likely to be obligated under the Dam Removal and Restoration Agreement to indemnify the New Project Assets Owner for some of such losses and expenses. Project Contractor indemnities usually do not extend to "consequential damages", and the extent to which any third-party loss or liability may constitute consequential damages can be expected to constitute a consequential damage is usually an important element in the contract negotiations.

12.3 Insurance. Insurance should be available to respond to most such third-party claims of loss and liabilities, protecting both the New Project Assets Owner and the Project Contractor, as well as other named insureds. Likely insurance coverage is discussed below under "Insurance", and in Attachment 4 (Insurance).

13. RISK OF THIRD-PARTY LOSSES - CAUSED BY HAZARDOUS SUBSTANCES OR OTHER POLLUTION CONDITIONS

13.1 Risk, Indemnity and Insurance. The New Project Assets Owner also may be exposed to third-party claims of the type discussed above under "Risk of Third Party Losses – Not Caused by Hazardous Substances Or Other Pollution Conditions" based on hazardous substances, pollution or contamination claims. This report discusses hazardous substances, pollution, or contamination-based claims separately from other claims because the insurance market fundamentally differentiates these two types of claims by writing separate policies, as described in Attachment 4. In general, the risks associated with these occurrences, and the indemnities available from the Project Contractor, will be similar for either type of occurrence. The insurance coverage for each type of occurrence differs to some extent, and is discussed below under "Insurance", and in Attachment 4 (Insurance). Under CERCLA, PacifiCorp, as the original owner, could be subject to strict liability for damages and clean-up costs resulting from the release of such sediments, even after title is transferred.

13.2 Mitigation of Hazardous Substances and Other Pollution Conditions. Due to concerns expressed by both the New Project Assets Owner and the Project Contractor, best practice is to investigate the potential presence of hazardous substances and other pollution conditions as thoroughly as possible (phase 1 and phase 2 environmental assessments) before a contract is executed in order to mitigate risk to the maximum extent practicable. The extensive site investigations and analysis that appear to have been undertaken in recent years would suggest that progress has been made towards identifying any potential risks arising from hazardous substances or other pollution conditions, and that the risk is limited. As stated in the October 2012 U.S. Department of Interior report, any areas that are contaminant-heavy that were not identified in the environmental assessments will likely be small and localized, and could be dealt with inexpensively if the contaminants remained in the reservoir basin following drainage.

14. INSURANCE

14.1 General. A variety of insurance policies to deal with potential losses and liabilities that may result from the Project, including any damage to third parties, are commercially available. Standard insurance arrangements generally are reasonably priced and are ordinarily considered to be sufficient to protect the owner and Project Contractor from all but extraordinary classes of risk, subject to the appropriate policy limits. The exact cost of the aggregate Project insurance premiums would depend on the composition, terms and conditions of the insurance

policy package. Based on its industry experience, however, Willis' estimates that the aggregate insurance premiums (including the surety's performance and payment bond premiums) would total approximately $16.5 million, with $10 million allocated to the consolidated insurance program ("CIP") (worker's compensation/employer's liability, commercial general liability, automobile liability, umbrella liability and pollution liability), $5 million allocated to non-CIP coverages (professional liability and commercial property), and $1.5 million allocated to the surety bond (performance bond and payment bond). Insurance premiums do not appear to be expressly broken out in the cost estimates provided in the 2012 USDOI report, and therefore it is not clear whether or not insurance premiums should be considered to have been estimated as part of the contract price of the work or as part of the contingency allowances. Ultimately, the insurance package put in place for the Project will be based on extensive Project-specific due diligence investigations and can be tailored to address the greatest risks associated with the Project.

14.2 Types of Insurance and Parties Insured. The types of insurance policies available to respond to Project risks are set forth and described by Willis in Attachment 4 (Insurance). These include (1) worker's compensation/employer's liability; (2) commercial general liability; (3) builders' risk/inland marine; (4) automobile liability; (5) umbrella liability (excess coverage for general liability and automobile liability); (6) pollution liability (contractors' pollution liability and pollution legal liability); and (7) professional liability. The New Project Assets Owner and the principal stakeholders generally can be additional insureds on the required insurance policies.

14.3 Approaches to the Procurement of Insurance. The traditional approach to the procurement of insurance is to require insurance coverage to be provided by the Project Contractors and all subcontractors. An alternative approach, recommended by Willis for projects of this size, is to use a CIP. A CIP consolidates all insurance policies provided by the subcontractors into one package, comprised of commercial general liability, worker's compensation, employer's liability, and an additional layer of excess liability coverage. This combined approach facilitates claims management and administration and provides the greatest risk coverage.

14.4 Insurability of Specific Risks. Attachment 2 (Klamath Restoration Project Risk Matrix) sets forth a list of major Project risks. The Attachment also indicates generally which risks Willis has determined are insurable, and under what type of insurance policy.

14.5 Insurance Covering Hazardous Substances and Other Pollution Conditions. Willis advises that the insurance industry generally divides coverage between the risks of "known" and "unknown" hazardous substance and other pollution conditions. "Unknown" pollution risks (that is, unknown conditions after a full site investigation) that may be discovered or created later are generally insurable; known pollution risks are not. For example, unexpected additional costs of remediating pollution conditions identified in the full site investigation report generally are not insurable. Although the USDOI report generally indicates that only small and localized pollution conditions are likely to be present, if any unexpected additional remediation costs are incurred, the New Project Assets Owner would need to pay for such costs from available reserves. Alternatively, the New Project Assets Owner could contract for a private contractual indemnity for such costs and related liabilities in the manner described in the following section.

## 15. CONTRACT INDEMNIFICATION AGAINST UNINSURED ENVIRONMENTAL LIABILITIES

15.1 General. Environmental Liability Transfer, Inc., a private corporation, has advised the stakeholders that contractual arrangements could be established under which the United States, the States of Oregon and California, and PacifiCorp would be indemnified by a specialty corporate indemnitor against any environmental or other liabilities they may incur that are not covered by insurance or performance bonds. These liabilities may include those arising from regulatory changes, hazardous substances or other pollution conditions, sediment release (to the

extent not covered by insurance), diminution of value, loss of use and enjoyment, or any other risk not covered contractually or by insurance. This risk transfer could be accomplished by transferring ownership of the Project Assets to ELT or a similar firm, or by transferring solely the responsibility for the liability to the clean-up firm. The price and terms of any such contract indemnity, and the process under which the corporate indemnitor is selected, would need to be negotiated and established by the stakeholders. This type of contract indemnification is generally provided in conjunction with other risk control measures, such as fixed price contracting or insurance products

15.2 Contract Indemnification Premium Estimates. ELT estimates that as a general matter, the risk premium associated with these types of contract indemnifications ranges from 7% to 18% of the anticipated total cost associated with the project being indemnified. Factors which impact the risk premium include: uncertainty with respect to project cost estimates, the likelihood that the risk will be realized, the number of parties that will be indemnified, the length of the period of performance, and the limit of financial protection backing the indemnification. The corporate indemnitor providing the indemnification must have some control over the work, and the degree to which the indemnitor has control may impact the risk premium (e.g. the risk premium is typically lower when the indemnitor is the owner rather than the owner's representative). Given the unusual nature of such contract indemnification premiums in a project not involving extensive hazardous waste remediation, it is unlikely that the 2012 USDOI cost estimates included any specific consideration for such environmental indemnity payments. We believe it is reasonable to assess the prospect of such payments against the likelihood of such risks occurring and the extent of the contingency budget available to address such risks.

## 16. Permit Shield For Damage to Natural Resources

16.1 General Permit Shield Unavailability. Compliance with regulatory permits for dam removal will not avoid or affect the New Project Assets Owner's potential liability for injury or death of a third party, or damages to private property of a third party, arising under applicable law. See Federal Power Act section 10(c), 16 U.S.C. § 803(c). This follows from the basic principle that a regulatory permit runs between the permitter and permittee and may not modify the property and other individual rights of a third party.

16.2 Permit Shield Availability for Natural Resources Damages. Regulatory permits will probably limit the New Project Assets Owner's potential liability for natural resources damages resulting from performance of a permitted activity. This follows from the basic principle that a regulatory permit under an environmental law permits an activity despite foreseeable adverse impacts. For example, the New Project Assets Owner will not be liable for damages (or response costs) resulting from the release of reservoir sediments, provided a federal permit and the associated Environmental Impact Statement (EIS) identified the release as an irretrievable commitment of natural resources and met other criteria. As another example, the New Project Assets Owner will not be liable for temporary exceedances of water quality standards resulting from the discharge of reservoir sediments, provided that the certification under applicable Clean Water Act sections permits such exceedances in consideration for the long-term enhancement of water quality.

## 17. Risk of the Adequacy of the $450 Million Funding Commitment

17.1 Cost Overrun Risk Generally. In general, an owner will face "cost overrun" risks if (1) the Project Contractor's bid price is higher than the planning estimates, (2) after a contract is executed, additional costs are incurred under the terms of the contract due to the occurrence of risks that were retained by the owner by the terms of the contract, or (3) the Project Contractor fails to perform. We believe that the industry has developed market-tested practical approaches to managing and mitigating these risks and that, absent unusual, extraordinary or unforeseen

circumstances, well-planned and well-executed public works procurements will ordinarily achieve the expected results.

17.2 Cost Estimating and Actual Project Contractor's Cost. Any public work that an owner undertakes necessarily involves an increasingly refined series of cost estimates. These are made by technical experts and begin typically as desktop, benchmark or rule of thumb projections. They then proceed to more developed estimates as the project definition is clarified and more detailed information is developed concerning the elements of work; the performance standards to be achieved; project goals and objectives; site conditions; legal requirements; timetable; and similar topics that constitute the foundation of the transaction. These projections are variously referred to as "engineer's estimates" or "planning stage estimates". The accuracy of planning stage estimates depends directly on the skill of the estimator, the clarity and completeness of the definition of the project, and the degree of development of all of the information that bears upon possible costs. Cost estimating accuracy also depends fundamentally on the state of the Project Contractor market that will perform the work. "Owner markets" will constrain actual bid costs; "contractor markets" will inflate actual bid costs. Volatile contractor markets can cause actual bid prices for the work to be somewhat or even significantly lower or higher than engineers' estimates. The actual cost of the dam removal project will be set with a high degree of certainty only when a contract is executed following a competitive procurement process.

17.3 Project-Specific Cost Overrun Risk. With respect to this Project, cost overrun risk can be reduced through a comprehensive effort to price possible risks in the planning and cost estimating stage, as indicated in the October 2012 U.S. Department Of Interior report relating to this Project. Project-specific challenges identified in the Department's report that could increase cost overrun risk include high flows in the Klamath River during dam removal, severe or prolonged cold temperatures or icy conditions, difficulty in opening the existing tunnels and structures for reservoir drawdown, presence of special status species, or uncovering culturally significant sites, most or all of which may constitute Uncontrollable Circumstances.

17.4 U.S. Department of Interior Cost Estimates – Full Removal of Project Assets. In its report, the Department also presented a summary of estimated costs relating to both the full removal of the Project Assets and the partial removal of the Project Assets. USDOI estimated that the full removal of the Project Assets could cost anywhere from $238 million to $493 million, with the cost most likely totaling approximately $292 million. With respect to field costs resulting from the full removal of the Project Assets, USDOI provided the following estimates, totaling $188 million: dam facilities removal - approximately $77 million; reservoir restoration – approximately $22 million; recreational facilities removal – approximately $1 million; modifications to the Yreka water supply – approximately $1.75 million; mobilization and contingencies (including mobilization of construction equipment to the dam site, design contingencies and construction contingencies) – approximately $51 million; and escalation to 2020 dollars – approximately $36.5 million. USDOI further estimated that engineering costs (including design data, engineering designs, permitting, procurement, construction management, and closeout activities) would constitute approximately 20% of the total Project cost and would likely total approximately $37.5 million, and costs relating to mitigation (including environmental mitigation, monitoring and other cultural resources preservation) would constitute approximately 35% of the total Project cost and would likely total approximately $66 million. Considering, for example, that $66 million of USDOI's budget is dedicated to cost mitigation and $36.5 million is set aside for general inflation, it is worth noting that while USDOI's estimates provided a substantial budget for the core work relating to the removal of the dams and the restoration of the site, their estimates also dedicated a significant portion of the overall budget to risk and cost mitigation measures.

17.5 U.S. Department of Interior Cost Estimates – Partial Removal of Project Assets. USDOI estimated that partial removal of the Project Assets could cost anywhere from $185 million to $403.5 million, with the cost most likely totaling approximately $234.5 million. With

respect to field costs resulting from the partial removal of the Project Assets, USDOI provided the following estimates, totaling $143 million: dam facilities removal – approximately $52 million; reservoir restoration – approximately $22 million; recreational facilities removal – approximately $1 million; modifications to the Yreka water supply – approximately $1.75 million; and mobilization and contingencies – approximately $27.5 million. USDOI further estimated that engineering costs would constitute approximately 20% of the total Project cost and would likely total approximately $28.5 million, and mitigation costs would constitute approximately 45% of the total Project cost and would likely total $63.5 million.

17.6 Reasonableness of Affordability Ceiling. The Project Funders have established an affordability ceiling of $450 million in the KHSA, and expressed their intention to provide funds for the Project up to this level if required. In addition, the USDOI has provided Project cost estimates in the ranges described above in "U.S. Department of Interior Cost Estimates – Full Removal of Project Assets" and "U.S. Department of Interior Cost Estimates – Partial Removal of Project Assets", including a most likely Project cost estimate of $292 million for full removal and $234.5 million for partial removal. The basis of, and assumptions and methodology involved in, the preparation of this cost estimate are explained in the USDOI's summary memorandum. They are self-explanatory, and we are not in a position to assess their reasonableness. We do observe, however, that the estimators appear to have made a considerable effort to include a substantial contingency for potential costs that could arise from general inflation before the work is performed and from unexpected and unforeseen events or circumstances (e.g. attributing 35% of the Project budget to cost mitigation) such that budget exceedance for certain core elements of the work may be diminished through the redirection of budget funds originally dedicated to non-core work. We also note that USDOI provided an estimate for the partial removal of the Project Assets, discussed above in "U.S. Department of Interior Cost Estimates – Partial Removal of Project Assets" – this estimate indicates that partial removal is an option that the parties may utilize in the event that full removal may exceed the $450 million affordability ceiling, the affordability ceiling is reduced or the funds are otherwise unavailable. USDOI's projections appear to be based on comparable projects and upon peer-reviewed studies of the amount of work likely to be involved. It may therefore reasonably be considered to be an advanced planning stage estimate. The actual costs, as we have stressed, will be known only when a contract for the work is let containing a competitively established price, and when and if uncontrollable circumstances occur in the performance of the contracted work.

17.7 Project Definition. Defining the Project more or less expansively fundamentally sets the terms of the analyses. The USDOI estimates, in addition to including allowances for contingencies, seem to reflect a determined effort to define the project as expansively as possible. If the cost overrun question is presented as a question of overrunning the Project Contractor's bid price, the analysis offered above in this memorandum will have applicability. If, on the other hand, the cost overrun question is presented as a question of the Project Contractor's bid price overrunning the Project Funder's $450 million cap, the evident answer lies in modifying the project definition and re-bidding the contract. This is common practice when construction contract bids received on public works projects exceed an owner's budget that was established based on an engineer's estimate.

17.8 Practicability of Revising the Project Definition. The KHSA contemplates revising the project definition in the event the budget cap is exceeded. This is a customary and prudent step typically taken by owners to enforce legislatively-established project affordability ceilings. Based on what we have learned about the Project and its apparently expansive definition, it appears that the Project Contractor's workscope could potentially be reduced if necessary for cost cap reasons without sacrificing the core objectives. This, of course, is for the various stakeholders to determine. It may indeed be the case that stakeholder consensus can be preserved only by retaining a project definition that effectuates each and every element of the present project definition as priced by the estimators.

17.9 Funding Adequacy Risk Is Non-Transferable. The risk of the adequacy of the $450 million funding commitment from the States is not insurable, and will not be transferable to the Project Contractor. It will be borne by the New Project Assets Owner and, indirectly, by the Project Funders. The New Project Assets Owner will bear the risk of the adequacy of funding, as well as (indirectly) the Project Contractor and the Project Funders. The risk has several facets, each discussed below.

17.10 Certainty of Funding and Enforceability of Commitment. Completion of the Project will be directly related to the certainty of funding by the Project Funders. It can be expected that the Project Funders will enter into definitive Project Funding Agreements with the New Project Assets Owner to provide the funds necessary to make payments under the Dam Removal and Restoration Agreement, and to pay other costs such as the technical, legal and financial advisory costs and the costs of obtaining the required governmental approvals. If these Project Funding Agreements are not definitive, certain and enforceable, funding shortfalls may occur. Further, the terms of California's bond funding program may allow bond funds to be used for other projects. To the extent that such bond proceeds are unavailable to fund the Project due to their allocation to other projects, or due to other uncertainties, funding for the Project may be insufficient.

17.11 Grant Payment Conditions Not Met. The Project Funding Agreements are likely to contain conditions to the making of the grant payments. These may include receipt of governmental approvals; performance of work; meeting schedule milestones; absence of litigation; and similar conditions established to assure that the work is carried out as intended. If these conditions are not met, the Project Funders may withhold payment, thereby triggering funding shortfalls.

17.12 Subject to Appropriation Conditions or Regulatory Approval. If the use of bond proceeds or ratepayer funds is subject to legislative appropriation or to PUC regulatory approval, Project funding shortfalls may result from legislative or regulatory inaction.

17.13 Insufficiency to Pay Project Contractor's Entitlement to Compensation for Uncontrollable Circumstances. Project completion will be in jeopardy if the New Project Assets Owner does not have funding to pay the costs above the fixed price payable under the Dam Removal and Restoration Agreement that are due to the Project Contractor as a result of Uncontrollable Circumstances or other relief events.

17.14 Insufficiency to Pay Indemnity or Other Obligations to PacifiCorp. The New Project Assets Owner's obligations in connection with the Project may include various covenants to PacifiCorp in the Project Assets Acquisition Agreement, including possible indemnities if PacifiCorp incurs unanticipated Project-related costs even though it has conveyed the Project Assets to the New Project Assets Owner. Any payments due under such covenants will constitute Project costs which the terms of the Project Funding Agreements may need to take into account.

17.15 Insurance Deductibles and Exceedances. Deductibles provided for under any insurance policies maintained by the New Project Assets Owner, as well as costs exceeding policy limits, may affect the sufficiency of available Project funds.

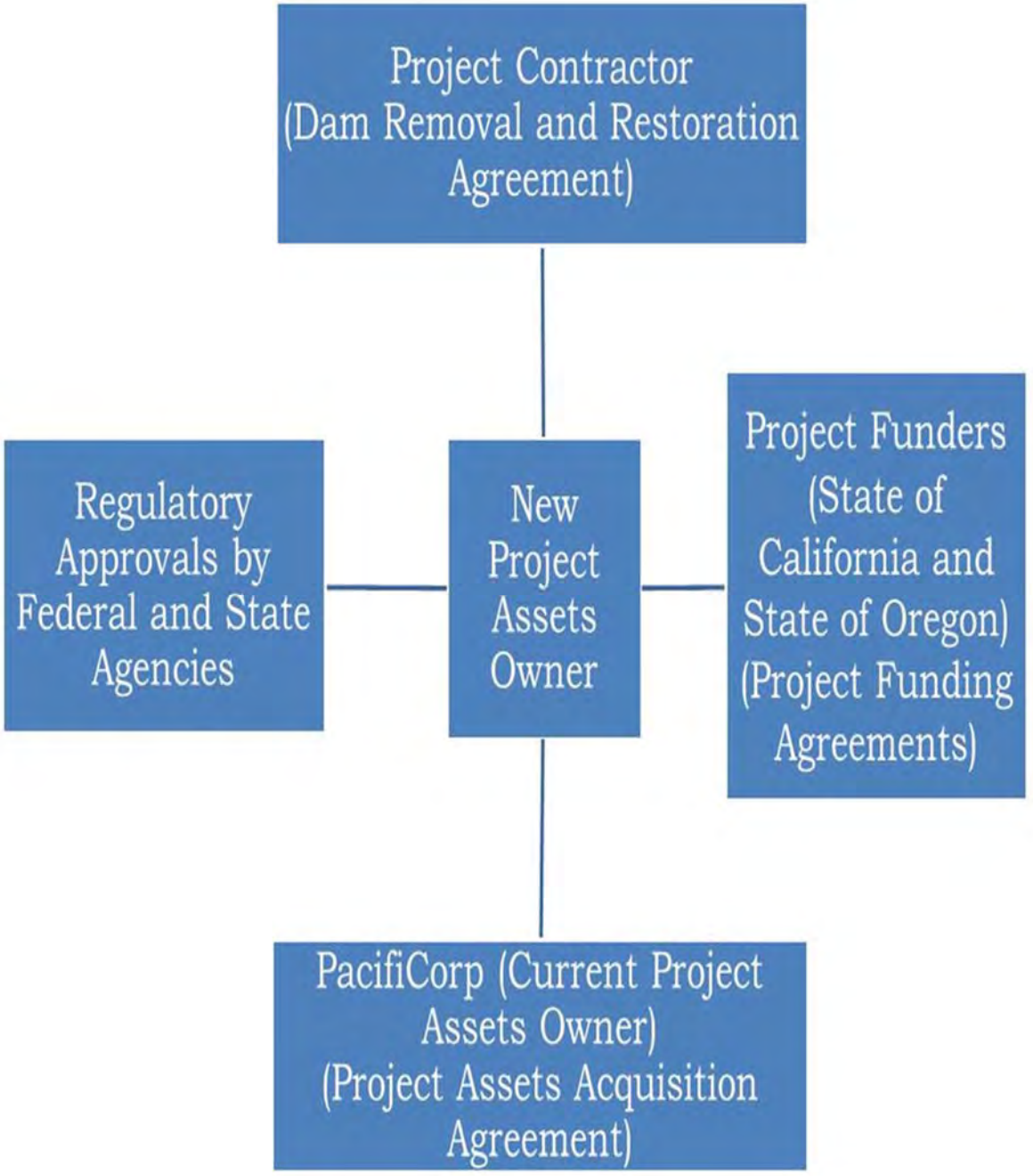
17.16 Uninsurable Events. Some Uncontrollable Circumstance risks are uninsurable, and the possible costs of dealing with any such occurrences will need to be taken into account in assessing funding sufficiency.

17.17 Limitations on Liability in the Dam Removal and Restoration Agreement and Performance Bond. The Dam Removal and Restoration Agreement is likely to contain a stated maximum dollar limit on the liability of the Project Contract for any contract breach (such as liability limited to an amount equal to 50% of the contract price). The surety providing the

performance bond will have an equivalent limit on its liability. If the Project Contractor defaults, and the cost of finishing the uncompleted work exceeds any such liability limit, the Owner will need to have the additional funds necessary to complete the Project.

**ATTACHMENT 1**

**PROJECT IMPLEMENTATION CONTRACT STRUCTURE DIAGRAM**



**ATTACHMENT 2**

**KLAMATH RESTORATION PROJECT**
**RISK MATRIX**

**INSURANCE KEY**

| | |
|---|---|
| BR | Builders Risk |
| EF | Equipment Floater |
| CGL | Commercial General Liability |
| WC/EL | Workers Compensation/Employers Liability |
| AUTO | Automobile Liability |
| UMB | Umbrella Liability |
| FSPLL | Fixed Site Pollution Liability |
| CPL | Contractors Pollution Liability |
| PL | Professional Liability/Errors & Omissions Liability |
| PB | Performance Bond |

*The insurance coverages included in this Insurance Key are defined in Attachment 4 (Insurance). Please note that Performance Bonds are referred to as Surety Bonds in Attachment 4.

**KLAMATH RESTORATION PROJECT**
**RISK MATRIX**
(continued)

| RISK | RESPONSIBLE PARTY | INSURANCE AVAILABLE | TYPE OF POLICY | INDEMNITY AVAILABLE |
|---|---|---|---|---|
| | | | | |
| **Note: The Dam Removal Project Contractor Will Assume Complete Responsibility for the Work, except where out-of-scope or specifically excused or limited.**<br>**O = New Project Assets Owner.**<br>**C = Project Contractor.** | | | | **Note: Negotiated indemnities from specialty corporations may be available to protect against the risks indicated herein.** |
| **1. GOVERNMENTAL APPROVALS** | | | | |
| 1.1 Inability to Obtain | O | N | — | Y |
| 1.2 Delays | O | N | — | Y |
| 1.3 Unexpected Terms and Conditions | O | N | — | Y |
| 1.4 Environmental Reviews | O | N | — | Y |
| **2. PERFORMANCE OF THE WORK** | | | | |
| 2.1 Defective Work/Contract Compliance | C | Y – Limited Coverage | PB | Y |
| 2.2 Inaccurate Information at Base of Removal Plan | O | Y – Limited Coverage | PL | Y |
| 2.3 Unexcused Delays | C | Y | PB | Y |
| 2.4 Excused Delays | O | N | — | Y |

| | | | | | |
|---|---|---|---|---|---|
| 2.5 | Design Errors or Omissions | C | Y – DB | PB/PL | |
| 2.6 | Disputes Between Designer and Project Contractor | C | Y – DB | PB/PL | |
| 2.7 | Scope Change Directed by Owner | O | N | — | |
| 2.8 | Scope Change Requested by Project Contractor | C | N | — | |
| 2.9 | Availability of Materials | C | Y | PB | |
| 2.10 | Non-Compliance with Dam Removal Plan | C | Y | PB | |
| 2.11 | Dam Removal Project Contractor Financial Distress | C | Y | PB | |
| 2.12 | Non-Compliance with Applicable Law | C | Y | PB | |
| 2.13 | Intellectual Property Infringement | C | Y | PB | |
| 2.14 | Newly Created, or Exacerbation of Pre-Existing, Hazardous Substances or other Pollution Conditions by the Project Contractor | C | Y | FSPLL/CPL | |
| **NOTE:** Performance bonds protect the owner against a failure of the contractor to complet work as a result of the contractor's financial distress. The performance bond does not pro owner against any of the specific risks identified in this section but rather against an entir complete the work, which may result from one or more of these individual risks which the assumes. | | | | | |
| | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| **3. UNCONTROLLABLE CIRCUMSTANCES AFFECTING WORK PERFORMANCE** | | | | | |
| 3.1 | Change in Law | O | Y – Limited Coverage | FSPLL | |
| 3.2 | Force Majeure | O | Y – Limited Coverage | Various | |
| 3.3 | Flood | O | Y – Limited Coverage | Various | |
| 3.4 | Seismic/Earthquake | O | Y – Limited Coverage | Various | |
| 3.5 | War/Civil War/Armed Conflict | O | N | — | |
| 3.6 | Terrorism - Nuclear, Radioactive, Chemical or Biological Contamination | O | Y – Limited Coverage | Various | |
| 3.7 | Epidemics | O | N | — | |
| 3.8 | Unavailability of Utilities | O/C | N | — | |
| 3.9 | Differing Geotechnical Site Conditions | O | Y – Limited Coverage | PL | |
| 3.10 | Differing Dam Structural Conditions | O | Y – Limited Coverage | PL | |
| 3.11 | Archeological/Cultural/Historical Resources | O/C | N | — | |
| 3.12 | Pre-Existing Hazardous Substances or other Pollution Conditions | O/C | Y - Generally | FSPLL/CPL | |
| 3.13 | Newly Created Hazardous Substances or other Pollution Conditions | O/C | Y – Generally | FSPLL/CPL | |
| | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| **4. LABOR** | | | | | |
| 4.1 | Strikes | C | N | — | |
| 4.2 | Injuries | C | Y – Generally | WC/EL | |
| 4.3 | Prevailing Wage Claims | C | N | — | |
| 4.4 | Labor Supply Shortage | C | N | — | |
| | | | | | |
| **5. GENERAL TRANSACTION RISKS** | | | | | |
| 5.1 | Litigation/Injunction | O | Y – Limited Coverage | Various | |
| 5.2 | Failure of Title | O | Y – Generally | Title Insurance | |
| 5.3 | Eminent Domain | O | N | — | |
| 5.4 | Impermissible Encumbrances | C | N | — | |
| | | | | | |
| **6. THIRD PARTY LOSSES NOT CAUSED BY HAZARDOUS SUBSTANCES OR OTHER POLLUTION CONDITIONS** | | | | | |
| 6.1 | Property Damage and Bodily Injury Claims | O/C | Y - Generally | CGL/AUTO / PL | |
| 6.2 | Diminution of Land/Property Value | O/C | N | — | |
| 6.3 | Loss of Use of Land/Property | O/C | Y – Limited Coverage | CGL | |
| 6.4 | Economic Loss to Businesses | O/C | Y – Limited Coverage | CGL | |

| | | | | | |
|---|---|---|---|---|---|
| 6.5 | Damage to Natural Resources | O/C | N | — | |
| 6.6 | Clean Up/Sediment Removal | O/C | N | — | |
| 6.7 | Downstream Flooding from Work Performance | O/C | Y – Limited Coverage | CGL | |
| 6.8 | Sediment Release/Overbank Deposits from Work Performance | O/C | N | — | |
| 6.9 | Off-site Disposal Liabilities | O/C | N | — | |
| 6.10 | Expansion of 100-Year Flood Plain | O | N | — | |
| 6.11 | Impact on Water Rights, Value | O/C | Y – Limited Coverage | CGL | |
| 6.12 | Impact on Power Availability, Costs | O | Y – Limited Coverage | CGL | |
| 6.13 | Partial Dam Removal-Continuing Operational Responsibility | O | Y – Limited Coverage | CGL | |
| | | | | | |
| **7. THIRD PARTY LOSSES CAUSED BY HAZARDOUS SUBSTANCES OR OTHER POLLUTION CONDITIONS** | | | | | |
| 7.1 | Property Damage and Bodily Injury | O/C | Y – Generally | FSPLL/CPL | |
| 7.2 | Diminution of Land/Property Value | O/C | Y – Limited Coverage | FSPLL/CPL | |
| 7.3 | Loss of Use of Land/Property | O/C | Y – Limited Coverage | FSPLL/CPL | |

| | | | | | |
|---|---|---|---|---|---|
| 7.4 | Economic Loss to Businesses | O/C | Y – Limited Coverage | FSPLL/CPL /PL | |
| 7.5 | Damage to Natural Resources | O/C | Y – Limited Coverage | FSPLL/CPL | |
| 7.6 | Impact on Water Rights, Value | O/C | Y – Limited Coverage | FSPLL/CPL | |
| 7.7 | Impact on Power Availability, Costs | O | N | — | |
| 7.8 | Partial Dam Removal-Continuing Operational Responsibility | O | Y – Limited Coverage | FSPLL/CPL | |
| | | | | | |
| **8. ADEQUACY OF $450MM FUNDING COMMITMENT** | | | | | |
| 8.1 | Certainty of Funding and Enforceability of Commitment | O+ | N | — | |
| 8.2 | Grant Payment Conditions Not Met | O+ | N | — | |
| 8.3 | Subject to Appropriation or Regulatory Approval | O+ | N | — | |
| 8.4 | Insufficiency To Pay Project Contractor's Entitlement to Compensation for Uncontrollable Circumstances | O+ | N | — | |
| 8.5 | Insufficiency to Pay Indemnity or Other Obligations to Former Owner | O+ | N | — | |
| 8.6 | Insurance Deductibles, | O+ | N | — | |

| | | | | | |
|---|---|---|---|---|---|
| | Exclusions and Exceedances | | | | |
| 8.7 | Uninsurable Events | O+ | N | — | |
| 8.8 | Limitations on Liability in the Dam Removal Agreement and Performance Bond | O+ | Y – Limited Coverage | PL | |
| **NOTE:** O+ indicates that the adequacy of funds may affect not only the owner but other st as well. | | | | | |

**ATTACHMENT 3**

**PROJECT DELIVERY METHODS**

Four Possible Approaches. Four basic contracting approaches can be used: design-bid-build (DBB); construction manager at risk (CMAR); design-build (DB) and progressive design-build (PDB). If a governmental body is the New Project Assets Owner, applicable federal, state or local procurement law will govern which of these approaches may legally be used to implement the proposal.

Traditional Project Delivery

- Design-Bid-Build. DBB is the traditional low bid construction contracting method. The owner lets an engineering contract for design, and a separate contract for construction. There is no competition in design or constructability, no qualifications basis to selecting the construction Project Contractor, and no collaboration among the designer and builder. DBB is prone to bid protests and change orders and the construction/demolition price is not known until construction bids are received after the design (which ordinarily costs about 10% of the construction price) is complete.

Integrated Project Delivery

- Construction Manager at Risk. CMAR, like DBB, involves two separate contracts (for design and for construction), no design competition, and no transfer of design liability to the builder. The CMAR (construction Project Contractor) is selected on qualifications and participates in constructability reviews. CMAR is usually done on a "guaranteed maximum price" basis, where the GMP is estimated as the design progresses and ultimately agreed upon at the 60% design level. The CMAR competitively bids out most of the construction work.

- Design-Build. DB involves a single contract for both design and construction, under which design liability is transferred to the DB Project Contractor. DB procurements are typically carried out on a qualifications-based competitive proposal basis (with selection based on the best value proposal, with technical merit and price both considered), rather than on a low bid basis (with price as the only selection factor). DB has the key advantage of creating a single point of accountability. It also involves a self-selected team whose business interests are aligned, and protects the owner against disputes between team members.

- Progressive Design-Build. PDB is a newer procurement approach which concludes with the execution of a design-build contract. Instead of conducting a full competitive process involving across-the-board competition on qualifications, technical approach and a lump-sum price, however, PDB involves less competition, more collaboration by the owner in the advancement of the design, and a GMP, not a lump sum. Some owners select PDB over DB because they want to be more involved in the full details of what the project will be and are willing to sacrifice design and constructability competition to have that greater degree of involvement.

**ATTACHMENT 4**

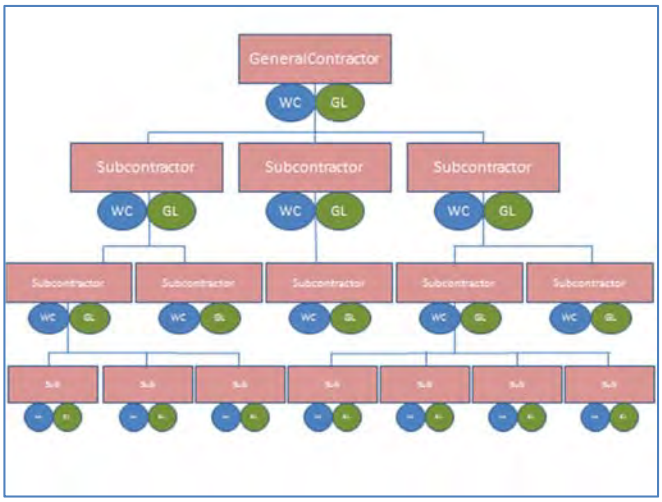
**INSURANCE**

**Traditional Insurance Approach**

For a project of this size and scope, there are two insurance procurement approaches to risk management related to the insurance procurement process. The first, and most popular is known as the **tradition procurement approach**. In this case, the DRE would transfer the construction risk downstream to the contractor(s) responsible for deconstructing the dams. The DRE would require each contractor to provide their own insurance to cover any insurable construction risks attributed to their work. It would be the contractors' responsibility to likewise ensure that any of their own subcontractors also provide the proper insurance coverage. To ensure proper coverage is in place for each contractor and all subcontractors working on-site, a Certificate of Insurance is provided by the respective entity to evidence their own insurance program.

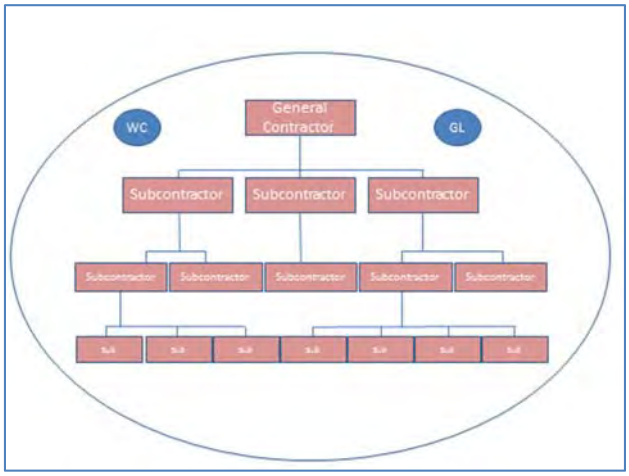
This approach transfers the risk downstream, away from the DRE, in exchange for an insurance line item that will be charged to the DRE by the awarded contractor(s). The insurance policies that would likely be available within the insurance line item in this approach are listed below;

1. Workers Compensation / Employer's Liability / USL&H – coverage for injuries that occur on the dam deconstruction site to individual workers
2. Commercial General Liability – third-party property damage and third-party bodily injury that occurs from activity performed at the dam deconstruction site
3. Builder's Risk / Inland Marine – property coverage for damage to any equipment or components of the dam that will be restored or salvaged
4. Automobile Liability – coverage for third-party property damage and third-party bodily injury that auto fleet used related to the construction activities
5. Umbrella Liability – excess coverage for General Liability and Automobile Liability
6. Pollution Liability –coverage for remediation costs and third-party property damage and third-party bodily injury arising out of pollution conditions
7. Professional Liability – coverage to protects an insured in the event their client is financially harmed from the rendering of their professional services or advice (including lack thereof) and for which the insured is held legally liable



**Consolidated Insurance Program Approach**

The second approach, oftentimes used on construction projects above $100 million in construction costs is the **consolidated insurance program**. This approach is also called a consolidated insurance program (CIP), an owner controlled insurance program (OCIP), or Wrap-up program. With a CIP, one party, usually the owner or prime contractor, purchases the General Liability insurance and Workers Compensation insurance for all the contractors involved in the project. The contractual allocations of risk usually remain the same as with the traditional procurement approach, but there is a single consolidated liability insurance program in place rather than a host of separate contractor-purchased insurance programs.




**Recommended Approach**

The CIP approach is recommended for a project of this magnitude. It is critical that all core insurance policies are specifically designed for this unique project. It is the most responsible method to maximize coverage enhancements and minimize uninsurable risks. The DRE should be supported by a nationally established insurance advisor to assist with the design and implementation of such an insurance program.

**Other Considerations**

Most nationally acclaimed builders already have a CIP program infrastructure in place. Their coverage may also be afforded to the DRE at a much discounted priced due to their buying power in the insurance market place. The DRE should consider this during their contractor selection process as it may directly generate savings to the Klamath project budget.

There are other insurance policies aside from CGL, WC/EL and Automobile coverage that should be purchased directly by the DRE on behalf of the contractor(s) and subcontractors. These include project-specific Pollution (as detailed below), Builder's Risk and Professional policies. These should be project specific so the limits are dedicated to your project and no other contractor or subcontractor can put these limits at risk for work performed on other project sites.

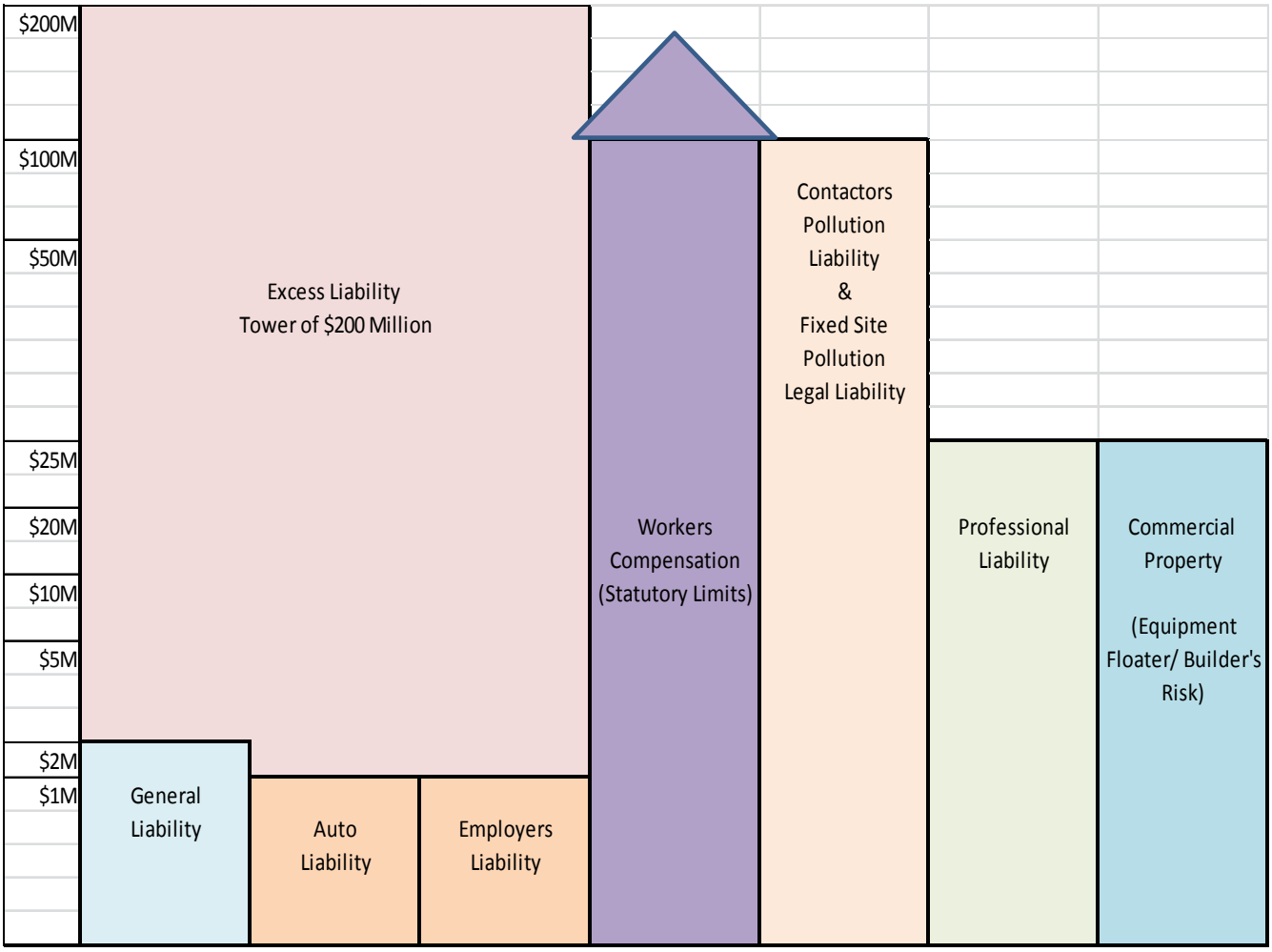
The DRE and project team stakeholders should take an active role in the insurance procurement process. When these insurance policies are being designed and communicated to the insurance marketplace by your selected insurance advisor, it is in the DRE's best interest to be actively involved.

**Pollution Specific Considerations**

Similar to the project specific program noted above for the CGL, Auto and Workers Compensation liabilities, claims for pollution conditions arising out of the contractor's performance can be insured on a CIP platform as well. Known as a Contractors Pollution Liability policy (CPL), this form of insurance is offered on a claims-made or occurrence basis and provides third-party coverage for clean-up/remediation costs, bodily injury, property damage (including natural resource damages, loss of use and diminution in value) and legal defense expenses, as a result of pollution conditions arising from contracting operations performed by or on behalf of the contractor. Coverage applies to new pollution conditions first commencing during the policy period and the aggravation or disruption of historical contamination directly arising from the contractor's operations. Coverage can be purchased by the Owner (OCIP) or the Contractor (CCIP).

Another environmental liability policy is known as a Fixed Site Pollution Liability (PLL) and is purchased by the owner to insure claims arising from Pollution Conditions on, at, under, migrating to and migrating from property owned or leased by the Insured. On a project such as Klamath this policy would seek to insure the losses not otherwise addressed by the CPL (i.e. Pollution Conditions not caused or exacerbated by the contractors). Core coverage includes on-site & off-site clean-up/remediation costs, third-party claims for bodily injury & property damage (including natural resource damages, loss of use and diminution in value) and defense expenses/legal costs. Subject to the availability of underwriting information, coverage can apply to both new and pre-existing (unknown) pollution conditions whether sudden & accidental in nature or gradual contamination. Limited coverage for "known" contamination may be available from certain markets.

**Map of Insurance Coverages**



# Klamath Restoration Project - Insurance Glossary

## Builder's Risk policy

A property insurance policy that is designed to cover property in the course of construction. There is no single standard builders risk form; most builders risk policies are written on inland marine (rather than commercial property) forms. Coverage is usually written on an all risks basis and typically applies not only to property at the construction site, but also to property at off-site storage locations and in transit. Builders risk insurance can be written on either a completed value or a reporting form basis; in either case, the estimated completed value of the project is used as the limit of insurance.

## Equipment Floater

Property insurance covering equipment that is often moved from place to place. A form of inland marine insurance.

## Inland Marine Insurance

Property insurance for property in transit over land, certain types of moveable property, instrumentalities of transportation (such as bridges, roads, and piers, instrumentalities of communication (such as television and radio towers), and legal liability exposures of bailees. Many inland marine coverage forms provide coverage without regard to the location of the covered property; these are sometimes called "floater" policies. As a group, inland marine coverage forms are generally broader than property coverage forms.

## Commercial General Liability (CGL) policy

A standard insurance policy issued to business organizations to protect them against liability claims for bodily injury (BI) and property damage (PD) arising out of premises, operations, products, and completed operations; and advertising and personal injury (PI) liability. The CGL policy was introduced in 1986 and replaced the "comprehensive" general liability policy.

## Controlled insurance program (CIP) – Project Specific CGL

A centralized insurance program under which one party procures insurance on behalf of all (or most) parties performing work on a construction project or on a specific site. Commonly referred to as "wrap-ups," CIPs are most commonly used on single projects, but other uses include contract maintenance on a large plant or facility or on an ongoing basis for multiple construction projects. Typically, the coverages provided under a CIP include builders risk (for construction wrap-ups), commercial general liability (CGL), workers compensation, and umbrella liability. CIPs offer a number of benefits, including greater control of the scope of coverage, potentially lower project insurance costs, and reduced litigation. CIPs can be purchased by the owner (OCIP) or contractor (CCIP) or a combination of participating parties.

## Workers Compensation and Employers Liability policy

An insurance policy that provides coverage for an employer's two key exposures arising out of injuries sustained by employees. Part One of the policy covers the employer's statutory liabilities under workers compensation laws, and Part Two of the policy covers liability arising out of employees' work-related injuries that do not fall under the workers compensation statute. In most states, the standard workers compensation and employers liability policy published by the National Council on Compensation Insurance (NCCI) is the required policy form.

## Umbrella Liability policy

A policy designed to provide protection against catastrophic losses. It generally is written over various primary liability policies, such as the business auto policy (BAP), commercial general liability (CGL) policy, watercraft and aircraft liability policies, and employers liability coverage. The umbrella policy serves three purposes: it provides excess limits when the limits of underlying liability policies are exhausted by the payment of claims; it drops down and picks up where the underlying policy leaves off when the aggregate limit of the underlying policy in question is exhausted by the payment of claims; and it provides protection against some claims not covered by the underlying policies, subject to the assumption by the named insured of a self-insured retention (SIR).

## Longshore and Harbor Workers' Compensation Act of 1927 - USL&H Coverage

A federal law that provides no-fault workers compensation benefits to employees other than masters or crew members of a vessel injured in maritime employment—generally, in loading, unloading, repairing, or building a vessel. Employers can obtain coverage under a standard workers compensation policy by purchasing an LHWCA coverage endorsement.

## Automobile Liability Insurance

Insurance that protects the insured against financial loss because of legal liability for automobile-related injuries to others or damage to their property by an auto.

## Fixed Site Pollution Legal Liability (PLL)

A claims-made insurance policy designed to insure loss arising from pollution conditions on, at, under, migrating to and from defined/scheduled properties. Core coverage includes clean-up/remediation costs, third-party claims for bodily injury & property damage (including natural resource damages, loss of use and diminution in value) and defense expenses/legal costs. Subject to the availability of underwriting information, coverage can apply to both new and pre-existing (unknown) pollution conditions whether sudden & accidental in nature or gradual contamination. Limited coverage for “known” contamination may be available from certain markets.

## Contractors Pollution liability (CPL)

A contractor-based policy, offered on a claims-made or occurrence basis, that provides third-party coverage for clean-up/remediation costs, bodily injury, property damage (including natural resource damages, loss of use and diminution in value) and legal defense expenses, as a result of pollution conditions arising from contracting operations performed by or on behalf of the contractor. Coverage applies to new pollution conditions first commencing during the policy period and the aggravation or disruption of historical contamination directly arising from the contractor's operations. Coverage can be purchased on a Controlled Insurance Program (CIP) similar to the CGL.

## Professional liability insurance

Also known as errors and omissions insurance (E&O), it is a coverage for businesses that offer professional and personal services to others for a fee. E&O insurance protects an Insured in the event their client is financially harmed from the rendering of their professional services or advice (including lack thereof) and for which the Insured is held legally liable.

## Surety Bond

A contract under which one party (the surety) guarantees the performance of certain obligations of a second party (the principal) to a third party (the obligee). For example, most construction contractors must provide the party for which they are performing operations with a bond guaranteeing that they will complete the project by the date specified in the construction contract in accordance with all plans and specifications.

**ATTACHMENT 5**

**HAWKINS DELAFIELD & WOOD**
**FIRM DESCRIPTION**

**Experience**. Hawkins is a 90-lawyer public works procurement, contract and finance legal boutique. Ten of the firm's lawyers practice full time as owner's lead counsel in the alternative project delivery and P3 field. The number of projects (over 250, in 25 states, including 14 in California and Oregon) on which Hawkins has represented municipalities in design-build, design-build-operate, and design-build-finance-operate project procurements across all infrastructure sectors is unsurpassed among American law firms. The firm has extensive expertise and experience in alternative project delivery and P3 transactions both regionally and nationally, has maintained a substantial specialized legal practice for more than 25 years in this field, and is widely recognized as an industry leader. The firm's attorneys are transactional attorneys, and the heart of Hawkins' practice is representing state and local governments in alternative project delivery, public-private partnership, public contract, and public finance matters.

**Project Profiles**. Notable transactions in which Hawkins has served as special counsel to municipal utilities and public agencies include the following:

San Diego County Water Authority. Carlsbad seawater desalination plant at a power plant site. Twenty-year service contract for design, financing, construction, operation, maintenance and water purchase.

San Antonio Water System. Vista Ridge Regional Water Supply P3 Project, involving $3.4 billion in total payments over 35 years and consisting of transmission pipelines and well field facilities for the production and delivery of potable water from 140 miles northeast of San Antonio.

State of California (Administrative Office of the Courts). New Long Beach Court Building P3 Project (DBFO). The first major social infrastructure P3 project in the United States.

Woodland-Davis Clean Water Agency. Surface water treatment plant and transmission pipelines. Twenty-year service contract for facility and pipeline design, construction, operation and maintenance.

City of Phoenix. Design-build-operate selected for the new 80 MGD, $200 million Lake Pleasant water treatment plant, raw water intake and raw water transmission line; traditional design-bid-build chosen for finished water pipeline.

Wilsonville, Oregon. Design-build, with contract operations, selected for an upgraded and expanded wastewater treatment plant.

**ATTACHMENT 6**

**WILLIS**
**FIRM DISCRIPTION**

## WILLIS CORPORATE BACKGROUND

Willis is one of the world's leading risk management and insurance intermediaries, with over 18,000 professionals in more than 400 offices across 131 countries. Willis offers our clients superior expertise, teamwork, innovation, and market-leading products and professional services in risk management and risk transfer. Our experts rank among the world's leading authorities on analytics, modeling and mitigation strategies at the intersection of global commerce and extreme events. Across geographies, industries and market segments, Willis provides its local and multinational clients with dedicated teams to meet their unique and evolving needs.

## WILLIS GROUP STATISTICS

| KEY STATISTICS (2014) | |
|---|---|
| **Premium Volume** | $45B |
| **Brokerage Revenues** | $3.8B |
| **Clients** | 50,000+ |
| **Carrier Relationships** | 5,000+ |
| **North America Offices** | 118 |
| **U.S. Premium Volume** | $13B+ |

## WILLIS CAPABILITIES IN CONSULTING ENGINEERING, ENVIRONMENTAL CONSULTING AND CONSTRUCTION

### WILLIS CONSTRUCTION:

- Over 13,000 construction, engineering, environmental and consulting clients
- Seven of the top ten contractors worldwide
- 27% of Engineering News Records Top 100 Contractors

### WILLIS ARCHITECTS AND ENGINEERS

- Expertise in complex Professional Liability coverages
- Longstanding direct carrier relationships
- In-house professional liability claims expertise
- In-house contract review support
- National Certified Education Provider

### WILLIS ENVIRONMENTAL

Willis is one of the largest global environmental insurance brokers with a formal practice consisting of more than 90 specialists worldwide including 20+ dedicated resources in Canada, United States and Europe. We service over 2,000 clients with a large market share of environmental remediation, environmental consulting and construction firms. Our clients range in size from the middle market sector to multi-billion dollar diverse global businesses. We've developed a broad knowledge base to understand the particular environmental and professional risks facing firms of different scales and complexities. We use this breadth of experience to identify and assist in quantifying exposure to catastrophic loss, help to mitigate the financial impact of such losses and assist in developing prudent risk transfer approaches and risk management practices.

Our investment in technical expertise benefits our clients every day. Our teams comprise a cross-section of professional backgrounds and credentials, including environmental attorneys, regulators, engineers, geologists and consultants, as well as specialists in risk management, underwriting, insurance and claims. Our global footprint and multinational knowledge allow us to anticipate trends and changing regulations around the world and afford easy access to relevant information about any location in which our clients do business.

## WILLIS HYDRO EXPERIENCE (USA ONLY)

| Operational Hydo Plants in U.S. | | |
|---|---|---|
| Year Appointed Risk Advisor | Name | Value |
| 2005 | Merrill Creek Reservoir | 217,000,000 |
| 2007 | Upper American River Project | 1,030,000,000 |
| 2009 | Toledo Bend Project | 325,000,000 |
| 2009 | Hannibal Locks and Dam | 56,000,000 |
| 2010 | Bar Harbor, Eastport, Medway, Veazie C, Basin Mills, and Bango Pacific Projects | 50,000,000 |
| 2011 | Hatfield, Minominee, Oconto Falls, and Thunder Bay Projects | 60,000,000 |

**ATTACHMENT 7**

**ENVIRONMENTAL LIABILITY TRANSFER, INC.**
**FIRM DESCRIPTION**

**Experience.** ELT is a comprehensive risk and liability assumption company providing its clients complete and final risk transference services. With industry leading financial backing and a unique blend of expertise – environmental liability, legal liability, ecological restoration, demolition, and insurance – ELT has successfully assumed, backstopped, and alleviated over $1 billion in risk for its clients throughout North America.

Clients such as Shell Global, Asarco, Caterpillar, General Motors, Kinder Morgan, Textron, Kraft General Foods, Uniroyal, Kaiser Aluminum, Fruit Of The Loom, PMX, ABB, Millennium Chemicals, BAE Aerospace and many more have effectively transferred and disposed risk through ELT programs.

**Project Profiles.** Notable transactions in which ELT assumed and abated risk associated with the environment, demolition, legal liability, and ecology:

Federated Metals – Houston TX. At the request of Texas Commission of Environmental Quality, ELT took ownership of the property and negotiated and entered into an order with TCEQ to assume and address all site liabilities. Liabilities included, but were not limited to, radioactive contamination and contaminated groundwater including impact to adjacent interstate system. ELT posted financial assurance for a project that exceeded $30 million.

Shell Global Canadian Portfolio. At the request of Shell Global ELT took ownership of a 136 site portfolio consisting primarily of former oil transfer and bulk storage sites. ELT is actively working with the Canadian Ministry of the Environment and 9 separate Provincial regulatory agencies. ELT has reserved $100 million for project completion.

RG Steel – Baltimore, MD. ELT purchased the former Bethlehem Steel Mill located in Baltimore, MD consisting of 3,100 acres and 14 million square feet of structure under roof. The purchase was made in and through the United States Bankruptcy Court. As conditioned with the Court, ELT worked with and entered a consent order with EPA Region 3 in addition to entering the site in the Maryland Department of the Environment's Voluntary Cleanup Program. $48 million in financial assurance has been posted and cleanup activities are ongoing. The 14 million square feet of structures have all been demolished.

ASARCO – Perth Amboy, NJ. At the request of the New Jersey Department of Environmental Protection, ELT took ownership of the property and negotiated and entered into an order with NJDEP to assume and address all site liabilities including but not limited sediments located within the Arthur Kill.