

FEDERAL ENERGY REGULATORY COMMISSION
Office of Energy Projects
Division of Dam Safety and Inspections - Headquarters Office
888 First Street, N.E., Routing Code: PJ-13
Washington, D.C. 20426

May 22, 2018

In reply refer to:
P-2082, P-14803
NATDAM-OR00559,
CA00323, CA00234,
CA00325

Mr. Mark A. Sturtevant
Managing Director, Hydro Resources
PacifiCorp Energy
825 N.E. Multnomah, Suite 1500
Portland, OR 97232

Mr. Mark Bransom
Executive Director
Klamath River Renewal Corporation
423 Washington Street, 3rd Floor
San Francisco, CA 94111

Subject: Approval of independent Board of Consultants (BOC) for the Klamath Project No. 2082 and the Lower Klamath Project No. 14803.

Dear Mr. Sturtevant and Bransom:

Mr. Bransom's March 22, 2018, letter requests approval of Mr. Dan Hertel, P.E., Mr. James E. Borg, P.E., Dr. R. Craig Findlay, Ph.D., P.E., G.E., Dr. MaryLouise Keefe, Ph.D., Mr. Ted Chant, P.Eng., and Mr. Robert D. Muncil, ARM, as members of the BOC for the removal of John C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate Developments from the Klamath Project No. 2082 and Transfer of the Developments to the Lower Klamath Project No. 14803, Proposed Transfer of the Lower Klamath Project No. 14803 from PacifiCorp to the Klamath River Renewal Corporation, and Proposed Surrender and Removal of the Lower Klamath Project¹.

¹ On March 15, 2018, the Commission issued an Order Amending License and Deferring Consideration of Transfer Application. *PacifiCorp*, 162 FERC ¶ 61,236 (2018). The order administratively removed these four developments from the license for P-2082 and transferred them to the license for P-14803, with PacifiCorp remaining the

The proposed members are approved.

The BOC shall review and assess all aspects of the proposed dam removal process and the financial ability of the Klamath River Renewal Corporation (Renewal Corporation) to carry out the process, including the additional information required in the Appendix to the Commission's March 15, 2018 order:

- 1) Adequacy of available funding and reasonableness of updated cost estimates for the most probable cost and maximum cost for the full removal alternative, and the assumptions made to calculate those estimates;
- 2) Adequacy of amounts and types of insurance coverage and bonding arrangements for dam removal;
- 3) Plans for river diversion and care of water during removal activities;
- 4) Project documents including the Potential Failure Mode Analyses, Part 12D Independent Consultant Inspection Reports and the Supporting Technical Information Documents, to understand project specific aspects that could be significant to the dam removal process;
- 5) Dam removal schedules, plans and specifications, staging sequence, and supporting engineering studies, including geotechnical, hydrologic/hydraulic, and structural;
- 6) Project operations before, during, and after dam removals;
- 7) Current operating condition of project water retaining features and any potential complications during staged removal process;
- 8) Sequencing of dam removals to maintain project safety;
- 9) Ability during all phases of dam removal for the project to safely pass flood flows;
- 10) The safety of any portions of the water retaining structures or portions of other appurtenant features that may remain in place following dam removal;
- 11) Monthly construction reports, provided to the BOC and FERC for review by the 10th day of the following month, during the dam removal process when any work is ongoing; and
- 12) Any additional information or analysis requested by the BOC.

In addition to the BOC operation procedures identified below, staff will utilize the

licensee for both projects pending future Commission action on the proposed joint application for transfer of the Lower Klamath Project from PacifiCorp to the Renewal Corporation. On April 16, 2018, PacifiCorp filed a motion to stay, or, in the alternative, a limited request for rehearing of the Commission's March 15, 2018 Order until the Commission acts on the requested license transfer. The stay request is currently pending.

plan and schedule provided in Attachment A to this document in order to ensure compliance with the Commission's ex parte rule in dealing with the BOC.

The BOC typically operates as follows:

1. Formal BOC meetings will be scheduled to review and assess all financial and technical areas. The meetings should be scheduled at important milestones for the initial review, design, investigations, and analyses. It is anticipated that the meetings will be attended by members of the BOC, PacifiCorp, Renewal Corporation, consultants, and the Commission staff.
2. At least two weeks prior to each BOC meeting, PacifiCorp and/or the Renewal Corporation, as appropriate, shall provide to the distribution list below a data package that contains:
 - a) An agenda for the meeting;
 - b) A statement of the specific level of review the BOC is expected to provide;
 - c) A list of the items to be reviewed and discussed with the BOC;
 - d) Investigations, engineering analyses and reports, design drawings and specifications to be reviewed by the BOC, as appropriate;
 - e) A list of questions to be answered by the BOC, if any;
 - f) A discussion of significant events in the investigation or design that have occurred since the last BOC meeting; and
 - g) A list documenting BOC recommendations, the current status and outcome of those recommendations, and the BOC report in which the recommendations were made.

The data package, as well as all project related correspondence, should be distributed as follows:

- a) One copy to each BOC member;
 - b) One copy to the D2SI-PRO Regional Engineer;
 - c) Three copies to the Director, D2SI, Washington DC; and
 - d) If the documents are not eFiled, an additional copy should be submitted to the D2SI-PRO Regional Engineer.
3. At the end of each BOC meeting, the BOC shall verbally present its conclusions, recommendations, and answers to the questions posed. Within two weeks, the BOC shall provide PacifiCorp and/or the Renewal Corporation with a copy of the BOC meeting report. Within two weeks from receipt of the BOC meeting report, PacifiCorp and/or the Renewal Corporation should distribute the report and a plan and schedule to comply with the BOC's recommendations or a statement identifying a plan to resolve any issue(s). In

the event the BOC's recommendations are not implemented, detailed reasons for not doing so should be provided. FERC staff may require additional action after staff reviews the above information. The BOC report and PacifiCorp's and/or Renewal Corporation's plan and schedule should be distributed as follows:

- a) One copy to the D2SI-PRO Regional Engineer;
 - b) Three copies to the Director, D2SI, Washington DC;
 - c) If the documents are not eFiled, an additional copy should be submitted to the D2SI-PRO Regional Engineer.
4. The BOC shall remain in effect through the design and any approved dam removal process.
 5. The final BOC meeting must be held one month after completion of any approved removal of all dams and appurtenant structures. The final report shall assess the completed dam removal process. Within 45 days of the date of the final BOC report, copies of the report shall be distributed as in Item 3, above.
 6. As noted above, modified procedures will be followed in this proceeding as provided in Attachment A.

If you have any questions regarding this letter, please call me at 202-502-6314.

Sincerely,

David E. Capka, P.E.
Director
Division of Dam Safety and Inspections

Attachment A

The following plan and schedule address the applicability of the Commission's ex parte rule to the Commission-required Board of Consultants (BOC) for the joint license amendment and transfer application (Project Nos. 2082 and 14803) and surrender application (Project No. 14803).

1. FERC approval of the project BOC members.

The BOC can begin meeting with PacifiCorp and the Klamath River Renewal Corporation, as needed. However, FERC staff will not participate in BOC meetings at this time.

2. BOC Review of Definite Plan for Amendment/Transfer Decision

After PacifiCorp and the Renewal Corporation file the Definite Plan (expected July 2018) and the BOC meets to determine the adequacy of cost estimates, insurance, bonding, and the overall financial resources available to implement the plan. FERC staff will provide the BOC with any comments or questions on the plan. The BOC will then submit a report with its findings to PacifiCorp and the Renewal Corporation, addressing all FERC staff comments and questions, and providing its independent views and recommendations regarding all aspects of the adequacy of cost estimates, insurance, bonding, and the overall financial resources available to implement the plan. PacifiCorp and the Renewal Corporation will file the report with FERC, addressing how they propose to implement the BOC's recommendations and explaining how they propose to address any recommendations not adopted.

3. FERC Decision to Participate in BOC Meetings

FERC staff may choose to meet with the BOC at this point to discuss the Definite Plan and the BOC's report/findings regarding cost estimates and financial adequacy. Any meeting would be publicly noticed and all parties invited to attend, subject to signing a Non-Disclosure Agreement (NDA) due to the Critical Energy Infrastructure Information material that may be discussed. Parties are welcome to listen but will not be granted speaking privileges.

4. FERC Decision on Amendment/Transfer Application

FERC will issue an order addressing the joint license amendment and transfer application (Project Nos. 2082 and 14803). If the Commission approves the transfer, the approval order will specify what information PacifiCorp and the Renewal Corporation will need to provide and any conditions that will need to be satisfied before the transfer can take

effect. After receipt of any needed additional information and satisfaction of conditions, FERC would issue a notice that the transfer is effective. If the Commission denies the transfer application, it will request comments from the parties regarding next steps.

5. FERC Public Notice of Surrender Application

If the Commission approves the transfer, FERC will issue a public notice of the surrender application inviting comments, interventions, and protests. Based on comments, FERC may seek additional information. FERC will also determine if there is a need to supplement prior Environmental Impact Statements.

6. BOC Review of Definite Plan for Surrender Decision

The BOC would meet to determine the engineering, public safety, and environmental adequacy of the dam removal plans and proposed environmental mitigation. FERC anticipates meeting with the BOC at this time and would issue public notice of all meetings, invite intervenors to attend subject to an NDA, and follow the same procedures discussed above. Again, intervenors would be welcome to listen but would not be granted speaking privileges.

7. FERC Decision on Surrender Application

FERC will issue an order addressing the surrender application (Project No. 14803). If the Commission approves the surrender application, the surrender order will specify the conditions that will have to be satisfied before the surrender will be considered effective. After all conditions are satisfied, FERC will issue a notice that the surrender is effective. If the Commission denies the surrender application, it will request comments from the parties regarding next steps.

8. BOC Review of Ongoing Construction and Mitigation Work

If the Commission approves the surrender, the Renewal Corporation will begin implementing the terms of the surrender order. The BOC would continue meeting, as needed, to review the technical engineering and environmental issues associated with dam removal. FERC staff will participate at this point without providing public notice, given that the matters discussed will be related to compliance with a Commission order and not the merits of the surrender application.