

February 26, 2021

**VIA ELECTRONIC FILING**

Kimberly D. Bose  
Secretary, Federal Energy Regulatory  
Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**Re: Definite Decommissioning Plan Final Design and Management Plans:  
Lower Klamath Project, FERC Project Nos. 14803-001 and 2082-063**

Dear Secretary Bose:

On November 17, 2020, the Klamath River Renewal Corporation (Renewal Corporation) filed its *Amended Application for Surrender of License for Major Project and Removal of Project Works and Request for Expedited Review*, FERC Nos. 14803-001, 2082-063 (Amended Surrender Application).<sup>1</sup> The Amended Surrender Application included the Renewal Corporation's Definite Decommissioning Plan. The Definite Decommissioning Plan was based on 60% design specifications and an extensive environmental record. In filing the Definite Decommissioning Plan, the Renewal Corporation stated that it would update its application with final design specifications and sixteen (16) management plans by February 26, 2021.<sup>2</sup> The Renewal Corporation now submits its final design specifications and these management plans. The Renewal Corporation respectfully requests that the Commission complete environmental review by March 15, 2022 and take final action on the Amended Surrender Application by April 15, 2022.

The Klamath Hydroelectric Settlement Agreement (KHSA) (2010, as amended 2016) proposes dam removal as an alternative to the relicensing application filed in 2004. The Renewal Corporation respectfully submits that approval of the Amended Surrender Application, based on the KHSA, is in the public interest. It will restore anadromous fisheries, once among the largest on the West Coast. It will reestablish passage to historic coldwater habitat, needed more than ever in the face of climate change. It will advance environmental justice. It will return to tribal communities the fisheries that are the basis for their histories, cultures, and sustenance. It will enhance the future for other

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<sup>1</sup> FERC accession no. 20201117-5191.

<sup>2</sup> Amended Surrender Application at S-3, n.7.

communities, attracting recreation and economic development on the extraordinary National Wild and Scenic River. It will protect economic power supply for PacifiCorp's customers, as a prudent alternative to relicensing. It will not change water supply by one drop, and it will not change the risk of damage or injury associated with the maximum foreseeable flood.

### **Management Plans**

The Management Plans state the specific methods that the Renewal Corporation will use to remove the dams that comprise the Lower Klamath Project, then restore lands currently occupied by dams and other facilities and reservoirs. These plans describe 16 topical areas of actions that the Renewal Corporation will take to implement the Definite Decommissioning Plan.

These plans are fully informed by an extensive environmental record,<sup>3</sup> incorporate measures to implement the States of Oregon and California's water quality certifications, and contain measures derived from a draft Biological Assessment and a draft Historic Properties Management Plan (HPMP). While the Commission typically requires development of such plans within six months of license surrender orders,<sup>4</sup> the Renewal Corporation has front-loaded this work to provide as complete a project description as possible, permitting immediate implementation after final action on the Amended Surrender Application.

The Renewal Corporation has developed the Management Plans through extensive consultation with tribal nations, federal and state agencies, local governments, and other stakeholders. The commitment to ongoing consultation is embedded in the Management

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<sup>3</sup> This record includes, in chronological order: PacifiCorp, *Application For New License For Major Project Klamath Hydroelectric Project No. 2082-087* (2004); FERC, *Final Environmental Impact Statement for Relicensing of the Klamath Hydroelectric Project No. 2082-087* (2007); U.S. Department of the Interior and California Department of Fish & Wildlife, *Klamath Facilities Removal Environmental Impact Statement/Environmental Report* (2012); U.S. Department of the Interior, *Draft Supplemental Information Report* (2016); Klamath River Renewal Corporation, *Definite Plan for the Lower Klamath Project* (2018); Oregon Department of Environmental Quality, *Certification Pursuant to Section 401 of the Federal Clean Water Act* (2018); Oregon Department of Environmental Quality, *Evaluation and Findings Report* (2018); California State Water Resource Board, *Water Quality Certification for Lower Klamath Project License Surrender* (2020); California State Water Resource Board, *Final Environmental Report for the Lower Klamath Project* (April 2020) (inclusive of Final EIR, Recirculated Draft EIR, Draft EIR and Scoping Report); and Klamath River Renewal Corporation, *Amended Application for License Surrender* (November 2020) (inclusive of Definite Decommissioning Plan, 60% Design Specifications, Proposed Construction Schedule, Environmental Report, KHSA Interim Measures Implementation Annual Report and CDFW Memorandum of Understanding). This record is augmented by the Final Design Specifications and sixteen Management Plans implementing the Definite Decommissioning Plan that are included with this filing.

<sup>4</sup> *Penobscot River Restoration Tr.*, 131 FERC ¶ 62238 (2010); *Edwards Mfg. Co.*, 81 FERC ¶ 61255 (1997).

Plans and is a cornerstone of plan development. Consultation is ongoing with the States of Oregon and California regarding the plans to implement their water quality certifications; U.S. Department of the Interior’s Bureau of Land Management, for purposes of protecting federal lands under 18 C.F.R. § 6.2; and PacifiCorp, with respect to project operations and maintenance.

Subject to revisions based on such consultation, the Commission’s further review and such other terms and conditions as the Commission may require, the Renewal Corporation asks that the Commission’s license surrender order require implementation of all 16 Management Plans.<sup>5</sup> These plans are appended in alphabetical order, marked as follows:

<b>Exhibit A:</b> Aquatic Resources Management Plan
<b>Exhibit B:</b> Construction Management Plan
<b>Exhibit C:</b> Erosion and Sediment Control Plan
<b>Exhibit D:</b> Hatchery Management and Operations Plan
<b>Exhibit E:</b> Health and Safety Plan
<b>Exhibit F:</b> Historic Properties Management Plan
<b>Exhibit G:</b> Interim Hydropower Operations Plan
<b>Exhibit H:</b> Recreation Facilities Plan
<b>Exhibit I:</b> Remaining Facilities Plan
<b>Exhibit J:</b> Reservoir Area Management Plan
<b>Exhibit K:</b> Reservoir Drawdown and Diversion Plan
<b>Exhibit L:</b> Sediment Deposit Remediation Plan
<b>Exhibit M:</b> Terrestrial and Wildlife Management Plan
<b>Exhibit N:</b> Waste Disposal and Hazardous Materials Plan
<b>Exhibit O:</b> Water Quality Monitoring Management Plan
<b>Exhibit P:</b> Water Supply Management Plan

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<sup>5</sup> Exhibit I (Remaining Facilities Plan) and Exhibit K (Reservoir Drawdown and Diversion Plan) contain Critical Energy/Electric Infrastructure Information and, as noted below, are filed in this proceeding pursuant to 18 C.F.R. § 388.113.

Some Management Plans include subplans specific to a given resource (e.g., species), function (e.g., adaptive management) or compliance objective (e.g., monitoring). These plans are interdependent, and while each plan stands on its own, supporting elements of other plans are noted. This package includes all of the plans described in Section 6 of the Definite Decommissioning Plan.<sup>6</sup> The Renewal Corporation will provide FERC with a proposed schedule for compliance reporting, extending across all plans, and addressing reporting requirements requested or required by other agencies.

The commitment to ongoing consultation embedded in the Management Plans is also a cornerstone of plan implementation. After the license surrender order, and as post-drawdown conditions are manifest, ongoing consultations will guide the deployment of adaptive management of habitat restoration measures to achieve stated goals and objectives.

### **Memoranda of Understanding**

Consistent with the Commission's good neighbor policy, the Renewal Corporation has entered into Memoranda of Understanding (MOUs) with respect to measures to implement state and local laws. The Renewal Corporation, which previously submitted such MOUs with Klamath County, Oregon and the State of California, now submits a companion MOU with the State of Oregon, by and through its Departments of Environmental Quality, State Lands, Water Resources, and Fish and Wildlife (**Exhibit Q-1**). We also enclose an MOU with Del Norte County and Crescent City Harbor District addressing sediment monitoring and management measures for Crescent City Harbor (**Exhibit Q-2**). This MOU has been approved by all parties for signature. The Renewal Corporation continues its effort to reach a good neighbor agreement with Siskiyou County with respect to roads, bridges, and traffic.

### **Endangered Species Act/Magnuson-Stevens Fishery Conservation and Management Act and National Historic Preservation Act Consultations**

The Renewal Corporation is the designated non-federal representative under the Endangered Species Act and National Historic Preservation Act. Its work in informal consultation is nearly finished. First, the Renewal Corporation initiated informal

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<sup>6</sup> However, the delineation of subplans differs slightly from what was originally described in the Definite Decommissioning Plan, reflecting the evolution of the planning process and a better integration of the Management Plans as a whole. Appendix B (California AR-6 Adaptive Management Plan (Suckers)) to the Aquatic Resources Management Plan is not included in this filing. This subplan is being developed in coordination with the Draft Biological Assessment for the Proposed Action. Appendix B to the Aquatic Resources Management Plan will be submitted to FERC along with the draft Biological Assessment on or before the end of March 2021.

consultation under Section 7 of the Endangered Species Act and Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). A draft Biological Assessment is under review by USFWS and NMFS, and the parties are working to complete and submit this draft to the Commission in March 2021. Second, for purposes of Section 106 of the National Historic Preservation Act, the Renewal Corporation initiated informal consultation with the California and Oregon State Historic Preservation Officers, the Karuk Tribe, the Yurok Tribe of the Yurok Reservation, the Klamath Tribes, the Hoopa Valley Tribe, the Resighini Rancheria, the Cher-Ae Heights Indian Community of Trinidad Rancheria, Quartz Valley Indian Community of the Quartz Valley Reservation of California, the Confederated Tribes of The Siletz Indians of Oregon, the Shasta Nation, the Shasta Indian Nation, the Modoc Nation (*née* Modoc Tribe of Oklahoma), and other interested parties. A draft HPMP (**Exhibit F**) is attached and submitted to the Commission for review for purposes of Section 106 compliance.

### **Final Design**

As filed in November of last year, Exhibit A-2 to the Amended Surrender Application contained 60% design specifications for the Definite Decommissioning Plan. The Renewal Corporation now updates Exhibit A-2 with the final design specifications, attached hereto as **Exhibit R**. For ease of reference, **Exhibit R** both updates and restates the design specifications for the Definite Decommissioning Plan. Exhibit A-2 of the Amended Surrender Application is superseded in its entirety by this filing.

The final design for the Definite Decommissioning Plan reflects the work of the Renewal Corporation's contractor, Kiewit Infrastructure West Co. (Kiewit), to complete value engineering and reduce construction contingencies. The Renewal Corporation's final design also reflects discussions with the Lower Klamath Project Independent Board of Consultants (BOC) throughout design advancement and on the 90% design specifications provided to the BOC for review in September of 2020. While these design modifications are significant advancements and improvements in project design, collectively they do not comprise any material modifications to the Definite Decommissioning Plan as submitted to FERC in November of 2020. Therefore, the Renewal Corporation proposes no changes to the narrative version of the Definite Decommissioning Plan (Exhibit A-1 to the Amended Surrender Application) and no changes to the Environmental Report (Exhibit E-1 to the Amended Surrender Application), except for the errata (**Exhibit S** hereto) with respect to the approach to the National Wild and Scenic Rivers Act as stated at page 17 of that Exhibit E-1.

Habitat restoration design is unchanged since November 2020. That design is included in **Exhibit R** as Design Completion Drawings REC7200 through REC7256, REC8000 through REC8032, R000 through R0631, R1700 through R1707, R2700 through R2713, and R4700 through R4723. **Exhibit R** also contains the final design for the City of Yreka water supply line (*see* Section 2.2.1 of the Definite Decommissioning Plan)<sup>7</sup>.

### **Critical Energy/Electric Infrastructure Information**

**Exhibit I** (Remaining Facilities Plan), **Exhibit K** (Reservoir Drawdown and Diversion Plan), and **Exhibit R** (Final Design) contain sensitive dam safety and construction information that qualifies as Critical Energy/Electric Infrastructure Information (CEII) under the Commission's rules. The Renewal Corporation asks that **Exhibit I, Exhibit K and Exhibit R** be afforded CEII treatment. **Exhibit I, Exhibit K and Exhibit R** are being separately filed in this proceeding pursuant to 18 C.F.R. § 388.113. Public versions of **Exhibit I, Exhibit K and Exhibit R** are appended to this letter for purposes of this filing. A proposed form of protective agreement was filed in FERC Nos. P-14803-001 and P-2082-063 on December 1, 2017 (FERC accession no. 20171201-5385) and is referenced here for purposes of 18 C.F.R. § 388.113(d)(1)(iii).

### **Conclusion**

The Definite Decommissioning Plan is a shovel-ready scope of work for decommissioning the Lower Klamath Project. The Renewal Corporation asks the Commission to take final action on the Amended Surrender Application by April 2022 so that Renewal Corporation can undertake dam removal in 2023. If there is anything the Renewal Corporation can do to assist FERC in expediting its consideration of this application, please direct any such requests to counsel as identified below.

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<sup>7</sup> The final design for the City of Yreka water supply line is provided for FERC's reference and information. This work will be implemented by agreement with the City of Yreka. The Renewal Corporation understands that this work is not subject to Commission approval.

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February 26, 2021  
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Respectfully submitted,

s/ Markham A. Quehrn

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cc: Service List (FERC Nos. P-14803-001 and P-2082-063)  
Lower Klamath Project Independent Board of Consultants