

FEDERAL ENERGY REGULATORY COMMISSION
Office of Energy Projects
Division of Dam Safety and Inspections – Portland Regional Office
1201 NE Lloyd Blvd, Suite 750
Portland, Oregon 97232
(503) 552-2700

1/12/2023

Attachment 11

In reply refer to:
P-14803

VIA Electronic Mail

Mark Bransom
Chief Executive Officer
Klamath River Renewal Corporation
mark@klamathrenewal.org

Shannon Davis
Eastern Regional Administrator
Oregon Department of Environmental Quality
Shannon.davis@deq.oregon.gov

Tony Meyers
Principal Operating Officer
State of California, Department of Water Resources
anthony.meyers@water.ca.gov

Subject: Owner's Dam Safety Program (ODSP), Lower Klamath Project

Dear Mr. Bransom, Ms. Davis, and Mr. Meyers:

This letter is to acknowledge your December 2, 2022 letter transmitting the proposed Owner's Dam Safety Program (ODSP) for the Lower Klamath Project, FERC No. 14803. Your submittal does not conform to the ODSP requirements. We have the following comments:

1. Based on your letter and the *Amended and Restated Agreement for the Operation and Maintenance of the Lower Klamath Project* ("Amended O&M Agreement"; attached as Appendix A of the Interim Hydropower Operations Plan, which was submitted on December 5, 2022), we understand that the Klamath River Renewal Corporation (KRRC), as Owner of the Lower Klamath Project, will be principally responsible for ensuring project safety and compliance with the Project's ODSP but intends to delegate day-to-day implementation of the ODSP's facilities (i.e.

J.C. Boyle, Copco No.1, Copco No. 2, and Iron Gate) to PacifiCorp from the Effective Date of the Amended O&M Agreement until the Facilities Termination Date for each facility. If this is correct, please describe how KRRC will retain the services of PacifiCorp (i.e. through contract, funding, etc.). Also, please document this arrangement in your ODSP (e.g. an appended contract), per 18 CFR § 12.62(d)(2).

2. We understand that you intend to implement PacifiCorp's existing ODSP (which applies to all their facilities and still includes J.C. Boyle, Copco No.1, Copco No. 2, and Iron Gate) for the facilities in the Lower Klamath Project until the Facility Termination Date for each facility. However, since KRRC is now the Owner of the Lower Klamath Project, you must develop and submit a separate ODSP for it. If the ODSP for the Lower Klamath Project copies portions of PacifiCorp's ODSP and/or designates PacifiCorp staff to implement it, you must include a statement in the ODSP that demonstrates PacifiCorp's consent. In addition, per 18 CFR § 12.62(b), your ODSP must be signed by the Owner (KRRC) and, as applicable, the CDSE or the CDSC. Furthermore, the ODSP should include documentation that all co-licensees for the Lower Klamath Project (i.e. KRRC, the State of California, and the State of Oregon) have reviewed, concur with, and accepted it.
3. We acknowledge that you intend for Mr. Rick Scott (of McMillen Jacobs Associates) to replace Mr. Brent Sullivan (of PacifiCorp) as the Chief Dam Safety Engineer (CDSE) for the Lower Klamath facilities. We accept Mr. Scott as the CDSE for the Lower Klamath Project. In addition, you propose Mr. Sullivan as the Chief Dam Safety Coordinator (CDSC). Please note that 18 CFR § 12.62(a) states that the "Owner's Dam Safety Program shall designate either a Chief Dam Safety Engineer or Chief Dam Safety Coordinator" but does not allow both these positions in a single ODSP. However, the Owner may delegate day-to-day implementation of the ODSP to outside parties. Based upon the statement in your letter that "PacifiCorp will perform ongoing, ordinary, and regular operations (consistent with PacifiCorp's operations prior to license transfer), including safety, reporting, and coordination with Commission staff", we believe that you intend to delegate Mr. Sullivan to oversee those responsibilities. If this is correct, please redesignate Mr. Sullivan's title in the Lower Klamath ODSP and provide evidence that he has agreed to perform these duties.
4. We note that Section 10 of your Amended O&M Agreement indicates that, no later than April 1, 2023, KRRC and PacifiCorp will develop a Facility Transition Plan for each facility, which will establish Facility Termination Dates. In order to better understand when the current ODSP for the Lower Klamath Project will expire, please include a description in it for how and when the Facilities Termination Dates will be established. In addition, please notify D2SI-PRO as soon as the Facilities Termination Dates have been established so that we are aware of when PacifiCorp will relinquish all dam safety responsibilities.

5. We note that by letter dated December 19, 2022 you submitted another ODSP that will take effect *after* the Facilities Termination Date and that is intended to comply with Ordering Paragraph (N) of the Commission's November 17, 2022 License Surrender Order. This ODSP will be reviewed under a separate letter.

Within 60 days of the date of this letter, please respond to or submit a plan and schedule to address the comments above. File all submittals using the Commission's eFiling system at <https://www.ferc.gov/ferc-online/overview>. For all Dam Safety and Public Safety Documents, select Hydro: Regional Office and Portland Regional Office from the eFiling menu. The cover page of the filing must indicate that the material was eFiled. For assistance with eFiling, contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY).

The ODSP is a living document that will require revision from time to time. As you make revisions, please re-submit the completely revised ODSP to the Commission. If you have any questions, please contact Ms. Elisabeth Jacquot-Matt of this office at (503) 552-2712.

Sincerely,

**DOUGLAS
JOHNSON** Digitally signed by
DOUGLAS
JOHNSON
Date: 2023.01.12
16:39:13 -08'00'

Douglas L. Johnson, P.E.
Regional Engineer

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