

HALLIE M. MEUSHAW
404.885.3660 telephone
404.885.3900 facsimile
hallie.meushaw@troutmansanders.com

TROUTMAN SANDERS

TROUTMAN SANDERS LLP
Attorneys at Law
Bank of America Plaza
600 Peachtree Street NE, Suite 5200
Atlanta, Georgia 30308-2216
404.885.3000 telephone
troutmansanders.com

September 23, 2016

DELIVERY VIA ELECTRONIC FILING

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

**Re: PacifiCorp and Klamath River Renewal Corporation
Klamath Hydroelectric Project No. 2082-____
Lower Klamath Project No. ____**

Joint Application for License Transfer and License Amendment

Dear Madam Secretary:

Under Section 8 of the Federal Power Act (FPA), 16 U.S.C. § 801, and parts 4 and 9 of the Federal Energy Regulatory Commission (FERC) regulations, PacifiCorp and the Klamath River Renewal Corporation (KRRC) hereby submit this Joint Application for License Transfer and License Amendment.

The filing consists of this cover letter and the enclosed application and attachments. Should you have any questions regarding this filing, please contact the undersigned.

Respectfully submitted,

/s/ Hallie M. Meushaw
Counsel to PacifiCorp

Attachments

cc: Sarah Kamman, PacifiCorp
Dustin Till, PacifiCorp
Mike Carrier, KRRC

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PacifiCorp) Project No. P-2082-____
)
and) Project No. P-____-____
)
Klamath River Renewal Corporation)

**JOINT APPLICATION FOR APPROVAL OF LICENSE AMENDMENT AND
LICENSE TRANSFER**

In accordance with Section 8 of the Federal Power Act (FPA) and Parts 4 and 9 of Federal Energy Regulatory Commission (FERC or Commission) regulations, PacifiCorp, licensee for the Klamath Hydroelectric Project, FERC Project No. 2082 (the Project), and the Klamath River Renewal Corporation (KRRC) (together with PacifiCorp, Applicants), submit this Joint Application for Approval of License Amendment and License Transfer (the Application).

I. EXECUTIVE SUMMARY

By this Application, Applicants request that the Commission:

1. Designate the four developments on the main stem of the Klamath River (J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate) as a new FERC project to be known as the “Lower Klamath Project”; and
2. Remove the proposed Lower Klamath Project developments from Project No. 2082 and designate it as a separate license issued to the KRRC.¹

¹ The KRRC is concurrently filing a separate application to surrender the license for the Lower Klamath Project and remove the project works.

II. PROPOSED SEQUENCE OF EVENTS

Applicants respectfully request that the Commission use its discretion to sequence events in this docket, and the related license surrender docket, as described below.

- 1) Concurrently with this filing, the KRRC will separately file an Application for Surrender of License for Major Project and Removal of Project Works (Surrender Application).
- 2) No later than March 1, 2017, the KRRC will submit an informational filing in this proceeding concerning its legal, technical, and financial capacity to fulfill its contractual obligations under the Amended KHSA to: (a) prevent, mitigate, and respond to damages associated with dam removal; and (b) carry the required insurance and bonding required to respond to liability and damages claims associated with dam removal. *See* Amended KHSA Section 7.1.2.C.
- 3) Applicants respectfully request that the Commission, after approving the license transfer, provide the KRRC with additional time beyond the traditional 60 days to accept the license. This additional time is necessary to allow the KRRC, PacifiCorp, and other settlement stakeholders to ensure that contractual conditions precedent to acceptance of license transfer by KRRC have been satisfied.

III. BACKGROUND

The Project is located primarily on the Klamath River in Klamath County, Oregon and Siskiyou County, California. The Project includes seven hydroelectric developments (East Side, West Side, Fall Creek, J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate) and one non-generating development (Keno). The original license for the Project was

issued in 1954 and expired in 2006. Since that time, the Commission has issued PacifiCorp annual licenses to operate the Project.

A. The KHSA

On February 25, 2004, PacifiCorp filed an application with the Commission for a new Project license. In parallel with the FERC relicensing process, PacifiCorp engaged in relicensing settlement talks with a wide range of parties to address the difficult resource management issues raised in the relicensing process. After years of settlement negotiations, on February 18, 2010, the Klamath Hydroelectric Settlement Agreement (KHSA) was executed by 48 parties, including PacifiCorp, the states of Oregon and California (the States), the U.S. Department of the Interior (Interior), the U.S. Department of Commerce's National Marine Fisheries Services (NMFS), several Native American tribes, and irrigation, conservation and fishing groups.² PacifiCorp filed a copy of the KHSA with the Commission for informational purposes on March 5, 2010.

The KHSA anticipated removal of PacifiCorp's four dams on the main stem of the Klamath River (J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate) beginning in 2020 by a non-PacifiCorp dam removal entity. As originally drafted, the KHSA required federal legislation to fully implement its terms, including protecting PacifiCorp and its customers from liabilities and cost overruns associated with dam removal.

B. The Amended KHSA

Congress did not pass the necessary implementing legislation within the requisite time period, and consequently, in January 2016, the KHSA's dispute resolution

² See KHSA (Feb. 18, 2010) (available at <http://216.119.96.156/Klamath/Klamath%20Hydroelectric%20Settlement%20Agreement%202-18-10signed.pdf>) (last visited Sept. 21, 2016).

procedures were triggered. Following a series of dispute resolution meetings, the States, Interior, NMFS, and PacifiCorp proposed limited amendments to the KHSA.³ The amendments to the KHSA (Amended KHSA) were executed on April 6, 2016, by PacifiCorp, the States,⁴ Interior, NMFS, the Yurok Tribe, and the Karuk Tribe. Other signatories to the amendments are: California Department of Fish and Wildlife; California Natural Resources Agency; Oregon Department of Environmental Quality; Oregon Department of Fish and Wildlife; Oregon Water Resources Department; Humboldt County, California; American Rivers; California Trout; Institute for Fisheries Resources; Northern California Council, Federation of Fly Fishers; Pacific Coast Federation of Fishermen's Association; Trout Unlimited; and Sustainable Northwest.⁵

The Amended KHSA sets out a process by which PacifiCorp's J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate developments will be transferred to the KRRC for ultimate removal under the Commission's license transfer and surrender procedures. The Amended KHSA includes a number of requirements that must be satisfied by the KRRC, PacifiCorp, and others before the KRRC will accept transfer of the Lower Klamath Project, as described in Section IV herein.

On June 16, 2016, the Commission granted PacifiCorp's May 6, 2016 "Motion to Hold Licensing Proceeding in Abeyance on an Expedited Basis." The order provides that the relicensing proceeding for Project No. 2082 will be held in abeyance pending the

³ Under the KHSA's dispute resolution provisions, the States, Interior, NMFS, and PacifiCorp are authorized to unilaterally amend the agreement's terms. *See* KHSA Section 8.11.

⁴ The state of California signed the Amended KHSA through the California Department of Fish and Wildlife and the California Natural Resources Agency. The state of Oregon signed the KHSA through the Oregon Department of Environmental Quality, the Oregon Department of Fish and Wildlife, and the Oregon Water Resources Department.

⁵ A copy of the Amended KHSA is included as Attachment A to this application.

Commission's determination on the transfer and surrender applications proposed in the Amended KHSA.⁶ The abeyance allows for continued implementation of the Amended KHSA. The abeyance applies to the relicensing of Project No. 2082 in its entirety and will continue to apply to the relicensing of all developments currently included within that Project, if and when the Commission approves the proposed division and transfer of the license for the proposed Lower Klamath Project.

IV. REQUEST FOR AMENDMENT OF LICENSE TO EFFECT DIVISION OF HYDROELECTRIC DEVELOPMENTS INTO SEPARATE LICENSES

In accordance with 18 C.F.R. § 4.200, PacifiCorp (Transferor) requests a non-capacity-related amendment to the license for the Klamath Project (Project No. 2082) to remove all references to the J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate developments, and to remove these dams and associated lands from the Project boundary. The sole purpose of the amendment is to divide the Project into two licenses, and the only changes to the Project are those necessary to effectuate the division of the Project to implement the Amended KHSA.

Consistent with the Amended KHSA, Applicants ask that the license for the Klamath Project be divided into two licenses with the four hydroelectric developments (including associated lands) identified above designated as a separate project called the Lower Klamath Project, and the remainder of the hydroelectric developments remaining in the Klamath Project. Accordingly, Applicants seek the deletion of all references to the four developments (J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate) and associated lands to be known as the Lower Klamath Project from the original license, removal of the

⁶ See *PacifiCorp*, 155 FERC ¶ 61,271 at ¶ 13 (2016).

Lower Klamath Project from the Project boundary, and re-designation of the Lower Klamath Project with a new FERC project number.

Included as Attachments B and C, respectively, are a revised Exhibit M for both (1) the Klamath Project (Project No. 2082), and (2) for the portions of the Project to be designated as the Lower Klamath Project. The revised exhibits reflect the division of the Klamath Project as described above and are subject to slight modification pending the final terms of the asset purchase agreement between PacifiCorp and the KRRC.

PacifiCorp has also included as Attachments D and E charts listing the exhibit drawings and maps for the Klamath Project (Project No. 2082) and for the portions of the Project to be designated as the Lower Klamath Project, indicating which development is depicted in each drawing or map. When the KRRC files the documents conveying titles to the Lower Klamath Project from PacifiCorp to the KRRC, it will also file for Commission approval the exhibits for the Lower Klamath Project with the correct project number designation. PacifiCorp will file updated exhibits for the Klamath Project (Project No. 2082) for Commission approval at that time.

PacifiCorp identified a number of license articles that relate in whole or in part to the J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate developments in the current license for the Project, No. 2082. PacifiCorp has revised the license articles for the Project license by removing articles specific to the J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate developments. PacifiCorp has also drafted license articles for the proposed Lower Klamath Project. Drafts of these articles are included as Attachments F and G, respectively.

Because the Applicants view the division of the Klamath Project hydropower developments into separate licenses as a necessary precondition of the request for approval of transfer of the license, the Applicants request that the effective date of the amendment be made concurrent with the KRRC's acceptance of the new license for the Lower Klamath Project.

V. REQUEST FOR TRANSFER OF LICENSE

In accordance with the form set forth in Part 131 of the Commission's Rules and Regulations, 18 C.F.R. § 131.20:

1. PacifiCorp (Transferor), licensee under the license that was issued by the Commission in 1954⁷ for the Klamath Hydroelectric Project, No. 2082, located in Klamath County, Oregon and Siskiyou County, California, and
2. The KRRC (Transferee),
3. Hereby jointly and severally apply for the written approval by the Commission of transfer of the license for the Lower Klamath Project, as described above, from the Transferor to the Transferee. As detailed more fully below, the KRRC commits to provide notice to the Commission of the finalization and execution of certain agreements and contracts required by the Amended KHSA. Applicants respectfully request that, if the Commission requires further information demonstrating the legal, technical, and financial capacities of the KRRC to perform its responsibilities as Transferee, the Commission defer action on this application until the KRRC submits such additional information to the Commission on or before March 1, 2017.

In support of these requests, the Applicants state:

⁷ 13 F.P.C. 1 (January 28, 1954), as amended 23 F.P.C. 59 (January 13, 1960).

4. Transferor is a public utility organized under the laws of the state of Oregon. It provides electrical services to residential, commercial, and industrial customers in the states of California, Idaho, Oregon, Utah, Washington, and Wyoming.

5. Transferee is an independent legal entity, separate and distinct from PacifiCorp as well as the federal agencies, the States and state agencies, Native American tribes, and other signatories to the Amended KHSA. The KRRC was incorporated in March 2016. The KRRC executed the Amended KHSA on August 30, 2016. Pursuant to Section 7.1.8 of the Amended KHSA, the KRRC was created and exists for the express and exclusive purpose, subject to its becoming the licensee for the Lower Klamath Project, of conducting removal of the J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate developments.

6. The KRRC satisfies the requirements of 18 C.F.R. §§ 9.1–9.2 and 4.31(a) for legal qualification. The KRRC is a public benefit corporation organized under the laws of California. Certified copies of the KRRC’s articles of incorporation (Attachment H), bylaws (Attachment I), and certificate of good standing (Attachment J) are submitted with, incorporated into, and made part of this application. Consistent with its bylaws, the KRRC has a fully functioning independent board as of July 19, 2016. The current KRRC board members, listed below, have considerable technical, legal, and political experience in water issues, hydroelectric operations, environmental planning, and the Klamath basin:

Mike Carrier, President: Mike Carrier became supervisor for the Idaho Fish and Wildlife Office in the Pacific Region of the U.S. Fish and Wildlife Service in 2014. Previously, Carrier was Assistant Regional Director for Fishery Resources and Coordinator of the North Pacific Landscape Conservation Cooperative, forging a major new regional natural resource partnership to address impacts of climate change across a

large landscape. Carrier served as former Oregon Governor Ted Kulongoski's principal adviser on all natural resource and environment issues from 2004 to 2010. In Oregon, Carrier helped establish the Renewable Energy Opportunities and Eastern Oregon Landscape Conservation Partnership. Earlier in his career, he was Director of the Oregon Parks and Recreation Department for four years.

Lester Snow, Vice-President: Lester Snow is the Executive Director of the Water Foundation. Mr. Snow has a distinguished record of innovation, collaboration and results while working on complex natural resource management matters. He has served as Secretary of the California Natural Resources Agency, Director of the California Department of Water Resources, Regional Director of the Bureau of Reclamation, Executive Director of the CALF ED Bay-Delta Program and General Manager of the San Diego County Water Authority. Lester currently serves on the Board of Directors for California Water Services Group and the Water Education Foundation.

James Root, Secretary: James Root was owner and chief executive officer of Sabroso Company, an international food processing company dedicated to maintaining sustainable operations. Root has a strong interest in encouraging international trade and he founded the Southern Oregon International Trade Council. Beyond trade, he is internationally recognized for his knowledge of sustainable farming practices and is focused on developing processed-food markets for agricultural communities in Mexico, Ecuador, Chile and Argentina. He was president of the Klamath Basin Rangeland Trust, which merged with Trout Unlimited and chairman of the Crater Lake National Park Trust, and served on the Board of Directors of the National Fish and Wildlife Foundation.

Theodore Kulongoski: Governor Ted Kulongoski served as Oregon's 36th governor from 2003 to 2011, becoming the first Oregon Governor to serve in all three branches of state government. He served as the Associate Justice of the Oregon Supreme Court from 1997 to 2001 and Attorney General from 1993 to 1997. He also served in the Oregon State House and Senate. He has served as a Distinguished Fellow of Politics and Policy at Portland State University.

Wendy Ferris-George: Mrs. Ferris-George is a former Vice-Chair and Council Member of the Hoopa Valley Tribe. Mrs. Ferris-George has worked for years on the campaign to remove Klamath River dams. Mrs. Ferris-George is an enrolled Hupa Tribal Member and also descends from the Karuk and Yurek Tribes. She has spent her life fishing on the Klamath and Trinity Rivers and is heavily involved with those that depend on the Klamath River for subsistence and economic purposes. Mrs.

Ferris-George studied Anthropology at SSU and has studied the Klamath Basin for decades.

Richard Roos-Collins: Mr. Roos-Collins is an attorney specializing in settlements of complex cases involving multiple parties, interests, and laws in natural resources management. He is a member of the Board of Directors of the Pacific Forest Stewardship Council, which implements Pacific Gas and Electric Company's land conservation commitment. He is General Counsel to the Hydropower Reform Coalition, which represents more than two million people interested in enhancing public benefits of non-federal hydropower dams.

Tom Jensen: Mr. Jensen was formerly counsel to the U.S. Senate Committee on Energy and Natural Resources and White House Council on Environmental Quality. Mr. Jensen offers unique experience framing, negotiating, and implementing solutions to complex legal and policy matters. He is regularly called upon to assist with matters involving public lands, protected species, mitigation and conservation banking projects, water law (western and eastern systems) and water resource development, the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), Endangered Species Act (ESA), Federal Land Policy and Management Act (FLPMA), Antiquities Act, National Park System Organic Act, Refuge System Improvement Act, and the unique portfolio of laws related to marine and aquatic resources. Mr. Jensen has represented licensees and stakeholders in the hydropower licensing process at the Federal Energy Regulatory Commission, including two unusual competitive relicensing efforts.

Scott Williams: Mr. Williams has an extensive background in complex civil litigation. Mr. Williams began an affiliation with his current partners in 1997; the firm represents exclusively Indian tribes and tribal organizations throughout the United States. His practices focus on representation in the areas of water rights and natural resources, cultural site protection, and employment relations. With Professor Eric Biber, Mr. Williams teaches Federal Indian Law, and along with his partners, the Advanced Indian Law seminar at Berkeley Law (Boalt Hall).

7. Transfer of the Lower Klamath Project to the KRRC will not adversely impact Project operations. As set forth in the Amended KHSA, and under the terms of an operations and maintenance agreement, PacifiCorp will continue operating and maintaining, and PacifiCorp will continue to assume all financial and legal liabilities for

operating and maintaining, the Lower Klamath Project in accordance with all License conditions and applicable law pending surrender of the transferred License by the KRRC. *See* Amended KHSA § 7.1.6. PacifiCorp will pay all costs associated with operating the dams and indemnify, defend, and hold harmless the KRRC with respect to those operations. Applicants will include a copy of the executed operations and maintenance agreement as part of its additional information filing on or before March 1, 2017. This arrangement will ensure the continued safe and responsible operation and maintenance of the Lower Klamath Project developments pending facilities removal while also allowing PacifiCorp's customers to continue to receive benefits from the Lower Klamath Project developments until they are removed.

8. In addition, the KRRC will possess the necessary financial qualifications to accept responsibility as licensee for the Lower Klamath Project dams. As stated above, PacifiCorp will continue to be financially responsible for the operations and maintenance of the Lower Klamath Project facilities pending surrender of the transferred License and facilities removal by the KRRC. The original and Amended KHSA establish funding for facilities removal, including funding for the physical removal of the developments, site remediation and restoration, avoiding downstream impacts, mitigating downstream impacts, securing permits required for removal, removal and disposal of sediment, and compliance with environmental laws. The agreements provide up to \$450 million for these purposes, plus additional mechanisms to address costs or liabilities in excess of that amount. In short, the KRRC has, or has arranged for, the financial resources and appropriate capitalization necessary for operation of the Lower Klamath Project and for facilities removal.

9. First, the KRRC is finalizing contractual arrangements to designate it as the beneficiary of four trust accounts that will total \$200 million. These trust account funds are currently being collected from PacifiCorp's retail customers in California and Oregon via surcharges that have been approved and implemented by the California Public Utilities Commission (CPUC) and Public Utility Commission of Oregon (OPUC).⁸

10. The customer surcharge funds have been and continue to be collected and deposited into four separate interest-bearing trust accounts, two for each state, that are each managed by a trustee selected by the respective public utility commissions. The trust accounts were established specifically for purposes of implementing the KHSA. As of August 31, 2016, the four trust accounts contained a total of \$120,019,563.91.

11. The disbursement of funds by the trustees will proceed according to specific protocols approved by the CPUC and OPUC and implemented through a number of funding agreements that the KRRC will enter into. In accordance with an authorizing order of the OPUC, the KRRC is entering into an initial grant agreement for \$320,000 with the Oregon Department of Fish and Wildlife (ODFW) to cover the KRRC's initial startup costs, and legal and technical costs associated with preparing this Application and the KRRC's license surrender application.⁹ The KRRC will provide the Commission

⁸ The collection of Oregon's allocated share of customer surcharges is authorized by Oregon statute. *See* ORS 757.736 (requiring PacifiCorp to file tariffs with the OPUC to collect two surcharges for the purpose of "paying the costs of removing Klamath River dams..." and limiting the surcharge to Oregon's allocated share of the \$250 million in customer funding identified in the KHSA.); *In the Matter of PacifiCorp, d/b/a Pacific Power, Application to Implement the Provisions of Senate Bill 76*, Docket No. UE 219, Order No. 10-364 (Or. Pub. Util. Comm'n, Sept. 16, 2010) (affirming surcharges). *See also Decision Approving a Rate Increase for PacifiCorp Pursuant to the Klamath Hydroelectric Settlement Agreement*, Decision 11-05-002 (Cal. Pub. Utils. Comm'n, Mar. 5, 2011).

⁹ ODFW is the agency designated in the Amended KHSA to request a transfer of Oregon trust funds to the KRRC. *See* Amended KHSA § 3.2. On August 30, 2016, the OPUC authorized an

with the executed funding agreements in its subsequent informational filing on or before March 1, 2017.

12. Regarding the California surcharge funds, PacifiCorp filed a motion with the CPUC to modify a prior CPUC decision to reflect the amendments to the KHSA. Once the CPUC grants that motion, the KRRC will enter into an agreement with the CPUC to facilitate the disbursement of California surcharge funds to the KRRC through a funding agreement with the California Natural Resources Agency (CNRA). The KRRC will provide the Commission with the CPUC order and executed funding agreement in its subsequent informational filing.

13. Third, the KRRC also has the ability to draw up to an additional \$250 million in funding approved as part of a California water bond. In 2014, California voters passed Proposition 1, a water bond that included \$250 million for implementation of the KHSA. This year, the California Governor, through the state budget approved by the California Legislature, included language appropriating those bond funds to the CNRA for the purpose of facilities removal. The CNRA and the KRRC are entering into an agreement to implement the Governor's direction. The disbursement of these bond funds to the KRRC for purposes of facilities removal will not require any further voter approval, legislative or executive action, or budget appropriation. The KRRC will provide documentation of the executed agreement in its subsequent informational filing on or before March 1, 2017.

initial transfer of \$320,000 in Oregon surcharge funds to cover the KRRC's initial startup costs. *See* Docket No. UE 219, Order No. 16-330 (Or. Pub. Util. Comm'n, Aug. 30, 2016).

14. In total, the KRRC will have access to up to \$450 million in capital for purposes facilities removal. As detailed in Appendix L of the Amended KHSA, the KRRC will also utilize a series of regular commercial mechanisms to address costs or liabilities exceeding that amount. Preliminary documentation of the funding and other financial resources available to the KRRC for facilities removal is attached hereto as Attachments K.1 through K.8.

15. The Transferee verifies that it has complied with all applicable state laws as required by Section 9(a)(2) of the FPA. If and when the Commission has given its approval to the proposed transfer of the license for the Lower Klamath Project, Transferor will transfer and Transferee will accept, as may be necessary and as part of Transferor's conveyance of the Lower Klamath Project, all obligations set forth in the license, including obligations in the Clean Water Act Section 401 water quality certifications issued by the Oregon Department of Environmental Quality and the California State Water Resources Control Board. PacifiCorp will comply with any applicable property disposition rules of the public utility commissions of the states in which it provides retail electric service.

16. Within six months of the Commission approving transfer of the license, the Transferee will submit to the Commission certified copies of all instruments of conveyance whereby titles to the Lower Klamath Project are conveyed to it.

17. Within six months of the Commission approving transfer of the license, and upon completion of conveyance of the Lower Klamath Project to the Transferee, the Transferor will deliver to the Transferee and the Transferee will accept and permanently retain all license instruments and all maps, plans, specifications, contracts, reports of

engineers, accounts, books, records, and all other papers and documents relating to the Lower Klamath Project.

18. The Transferor certifies that it has fully complied with the terms and conditions of its Project license, and that it has fully satisfied and discharged all of its liabilities and obligations as of the date of this application, and Transferor obligates itself to pay all annual charges accrued under the Project license to the date of the transfer.

19. Contingent upon final written approval by the Commission of the transfer of the Lower Klamath Project license, the Transferee accepts all the terms and conditions of the license for the Lower Klamath Project and the FPA, and agrees to be bound thereby to the same extent as though it were the original licensee thereunder.

20. The name, title, post-office address and telephone numbers of the person or persons to whom correspondence in regard to this Application should be addressed are as follows:

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(a) For PacifiCorp:

Sarah Kamman
Vice President and General Counsel
PacifiCorp
825 NE Multnomah Street
Suite 2000
Portland, Oregon 97232
(t) 503.813.5865
(f) 503.813.7262
(e) sarah.kamman@pacificorp.com

Dustin T. Till
Senior Counsel
PacifiCorp
825 NE Multnomah Street
Suite 1800
Portland, Oregon 97232
(t) 503.813.6589
(f) 503.813.7252
(e) dustin.till@pacificorp.com

Hallie Meushaw
Counsel for PacifiCorp
Troutman Sanders
600 Peachtree Street, Suite 5200
Atlanta, Georgia 30308
(t) 404.885.3660
(f) 404.885.3900
(e) hallie.meushaw@troutmansanders.com

(b) For Klamath River Renewal Corporation:

Michael Carrier, President
Klamath River Renewal Corporation
423 Washington Street, 3rd Floor
San Francisco, California 94111
(t) 415.820.4441
(f) 866.496.7098
(e) michael@klamathrenewal.org

Lester Snow, Vice President
Klamath River Renewal Corporation
423 Washington Street, 3rd Floor
San Francisco, California 94111
(t) 415.820.4441
(f) 866.496.7098
(e) lester@klamathrenewal.org

Peter Okurowski, Director
California Environmental Associates
423 Washington Street, 3rd Floor
San Francisco, California 94111
(t) 415.820.4441
(f) 866.496.7098
(e) peter@klamathrenewal.org

Applicants respectfully request waiver of the Commission’s Rules of Practice and Procedure—including, without limitation, Rule 2010(k), 18 C.F.R. § 385.2010(k) (2016)—to the extent necessary to allow each of the persons listed above to be included on the official service list for this proceeding.

After the license transfer has become effective, correspondence and communications regarding the Lower Klamath Project should be directed to the individuals listed in paragraph 20(b) above.

VI. TRANSFER OF THE PROPOSED LOWER KLAMATH PROJECT LICENSE IS IN THE PUBLIC INTEREST

As stated in Section III above, after years of settlement negotiations following PacifiCorp’s 2004 filing of its Project relicensing application with the Commission, the KHSA was executed on February 18, 2010, by 48 parties, including PacifiCorp; the States; Interior; NMFS; several Native American tribes; a number of local counties; and irrigation, conservation and fishing groups. This diverse group of stakeholders worked collaboratively to resolve issues related to relicensing of the Project. PacifiCorp agreed to allow an independent dam removal entity to pursue removal of the Project’s J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate developments, and executed the KHSA based upon the negotiated terms of this collaborative effort. The CPUC and OPUC concurred with PacifiCorp’s determination by finding that the terms advance and protect the interests of customers and by authorizing the collection of surcharges from customers in those states to fund the customer contribution to dam removal costs.

The KHSA was amended on April 6, 2016, to provide for the transfer and removal of the J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate developments according to the standard procedures of the FPA as administered by the

Commission. The KRRC was created to serve as the independent dam removal entity contemplated in the Amended KHSA. The KRRC subsequently executed the Amended KHSA.

Since the execution of the Amended KHSA, PacifiCorp, the KRRC, regulatory agencies, and affected stakeholders have been working diligently to implement the Amended KHSA obligations and advance the settlement process. By approving the transfer of the newly designated Lower Klamath Project license, the Commission will allow the KRRC to pursue the license surrender and facilities removal in 2020.

This is a critical component of the Amended KHSA and is essential to help resolve long-standing and complex conflicts over resources in the Klamath Basin. The Amended KHSA represents an unprecedented level of collaboration among a FERC licensee, federal agencies, two states, Native American tribes, and conservation and recreation groups. Commission action approving this Application is therefore in the public interest.

Applicants respectfully request that the Commission act on this Application by December 31, 2017, to allow timely implementation of the Amended KHSA to continue. Applicants further request that, in approving the transfer of the license for the Lower Klamath Project from PacifiCorp to the KRRC, the Commission grant the KRRC six months from the date of the Commission order approving such transfer to submit proof of acceptance of the transfer. Applicants note that the Amended KHSA includes specific preconditions to the KRRC's acceptance of license transfer,¹⁰ and Applicants anticipate that satisfaction of these preconditions will require more than the standard 60-day time

¹⁰ See Amended KHSA § 7.1.4.

period that the Commission typically provides for transferors to formally accept transfer.¹¹ In providing an extension of the date by which the KRRC is to formally accept transfer, the Commission is requested to recognize in its order that the KRRC is unable to accept the Lower Klamath Project license until certain conditions in the Amended KHSA have been satisfied.

VII. CONCLUSION

As demonstrated above, Commission approval of this Application is in the public interest. The KRRC is fully qualified to hold a license for the Lower Klamath Project. In addition, the KRRC agrees to accept all of the terms and conditions of the license, to be bound by the license as if it were the original licensee, and to be responsible for operating, maintaining, and ultimately removing the Lower Klamath Project dams in accordance with the license and regulations and directives of the Commission under the FPA.

Applicants therefore respectfully request Commission approval of this Joint Application for Approval of License Amendment and License Transfer.

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¹¹ To the extent necessary, Applicants seek waiver of the requirement that acknowledgement of acceptance be filed within 60 days of the issuance of an order approving transfer of the license. 18 C.F.R. § 9.3(b) (2016).

Respectfully submitted this 23rd day of September, 2016

/s/ Hallie Meushaw

Hallie Meushaw
Counsel for PacifiCorp
Troutman Sanders
600 Peachtree Street, Suite 5200
Atlanta, Georgia 30308
(t) 404.885.3660
(f) 404.885.3900
(e) hallie.meushaw@troutmansanders.com

/s/ Michael Carrier

Michael Carrier, President
Klamath River Renewal Corporation
423 Washington Street, 3rd Floor
San Francisco, California 94111
(t) 415.820.4441
(f) 866.496.7098
(e) michael@klamathrenewal.org

LIST OF ATTACHMENTS

Attachment No.	Description
Attachment A	Klamath Hydroelectric Settlement Agreement, as amended (Apr. 6, 2016)
Attachment B	Exhibit M – Klamath Hydroelectric Project (Exhibit A in FERC’s current regulations). Contains CEII – DO NOT RELEASE. Public and Non-Public Versions Filed.
Attachment C	Exhibit M – Lower Klamath Project Description (Exhibit A in FERC’s current regulations). Contains CEII – DO NOT RELEASE. Public and Non-Public Versions Filed.
Attachment D	Klamath Hydroelectric Project Exhibit Drawings and Maps List
Attachment E	Lower Klamath Project Exhibit Drawings and Maps List
Attachment F	Proposed Klamath Hydroelectric Project Revised License Articles
Attachment G	Proposed Lower Klamath Project License Articles
Attachment H	Klamath River Renewal Corporation Articles of Incorporation
Attachment I	Klamath River Renewal Corporation Bylaws
Attachment J	Klamath River Renewal Corporation Certificate of Good Standing
Attachment K.1	Order No. 10-364, Docket No. UE 219 (Oregon Pub. Util. Comm’n, Sept. 16, 2010)
Attachment K.2	Order No. 10-390, Docket No. UE 219 (Oregon Pub. Util. Comm’n, Oct. 11, 2010)
Attachment K.3	Order No. 16-218, Docket No. UE 219 (Oregon Pub. Util. Comm’n, June 8, 2016)
Attachment K.4	Decision 11-05-002, Docket No. A.10-03-015 (Cal. Pub. Utils. Comm’n, May 6, 2011)
Attachment K.5	Decision 12-10-028, Docket No. A.10-03-015 (Cal. Pub. Utils. Comm’n, Nov. 1, 2012)
Attachment K.6	California Water Code Section 79730-79738 and California Budget Act of 2016 (excerpts)
Attachment K.7	Funding Memorandum Prepared by Hawkins Delafield & Wood LLP
Attachment K.8	Letter from T. Gibson, General Counsel, California Natural Resources Agency re: Availability of Bond Funding

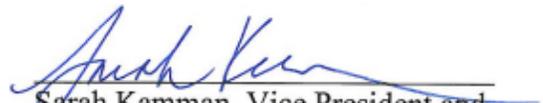
UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PacifiCorp) Project No. P-2082
)
and) Project No. P-____-____
)
Klamath River Renewal Corporation)

VERIFICATION

County of Multnomah)
State of Oregon)

I, the undersigned, being duly sworn deposes and says: That she is Vice President and General Counsel of PacifiCorp, one of the applicants for approval of partial transfer of license; that she has read the foregoing application and knows the contents thereof; and that the same are true to the best of her knowledge and belief.


Sarah Kamman, Vice President and
General Counsel
For PacifiCorp

Subscribed and sworn to before me, a notary public of the State of Oregon this 22nd day of September 2016.





UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PacifiCorp) Project No. P-2082-____
)
and) Project No. P-____-____
)
Klamath River Renewal Corporation)

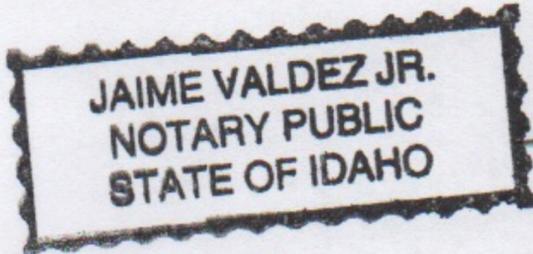
VERIFICATION

County of ADA)
State of Idaho)

I, the undersigned, being duly sworn deposes and says: That he is the President of the Klamath River Renewal Corporation, one of the applicants for approval of partial transfer of license; that he has read the foregoing application and knows the contents thereof; and that the same are true to the best of his knowledge and belief.

Michael Carrier, President
Michael Carrier, President
For Klamath River Renewal Corporation

Subscribed and sworn to before me, a notary public of the State of IO this 22nd day of September, 2016.



Subscribed and sworn in before me in my Presence, this 22nd day of Sept. 2016, a Notary Public in and for the County of ADA State of IO
(signature) Notary Public
My Commission expires 8/21/20

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PacifiCorp) Project No. P-2082-____
)
and) Project No. P-____-____
)
Klamath River Renewal Corporation)

PROOF OF CITIZENSHIP

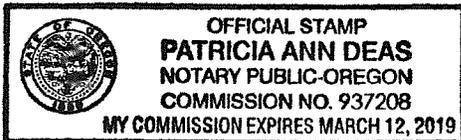
County of Multnomah)
State of Oregon)

I, Sarah Kamman, being duly sworn, deposes and says that she is a citizen of the United States of America.


Sarah Kamman
Vice President and General Counsel
For PacifiCorp

Subscribed and sworn to before me, a notary public of the State of Oregon this 23rd day of September 2016.





UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

PacifiCorp) Project No. P-2082-____
)
and) Project No. P-____-____
)
Klamath River Renewal Corporation)

PROOF OF CITIZENSHIP

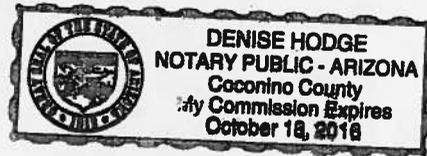
County of Coconino)
State of Arizona)

I, Michael Carrier, being duly sworn, deposes and says that he is a citizen of the United States of America.

Michael Carrier
Michael Carrier, President
For Klamath River Renewal Corporation

Subscribed and sworn to before me, a notary public of the State of Arizona this 23rd day of September, 2016.

Denise Hodge



CERTIFICATE OF SERVICE

I hereby certify that I have on this day served the foregoing document upon each person designated on the official service list in this proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Portland, Oregon this 23rd day of September, 2016.

/s/ Chris D. Zentz
Christopher D. Zentz
TROUTMAN SANDERS LLP
100 SW Main St., Suite 1000
Portland, OR 97214