

**COUNTY OF SISKIYOU
STAFF REPORT**

MEETING DATE: January 24, 2023

TO: Siskiyou County Board of Supervisors

FROM: Elizabeth Nielsen, Deputy County Administrator

SUBJECT: Lower Klamath Hydroelectric Decommissioning Project - Update

I. INTRODUCTION

The Klamath River Renewal Corporation (“KRRC”), along with the states of California and Oregon, (“Project Proponents”) have been participating in proceedings before the Federal Energy Regulatory Commission (“FERC”) to take ownership of four PacifiCorp dams comprising the Lower Klamath Project (P-14803), three of which lie in Siskiyou County— Copco No. 1 & No. 2, and Iron Gate, and propose to remove the lower Klamath Dams.

On November, 17, 2022, FERC issued its order approving the surrender of the license for, and removal of the facilities of, the Lower Klamath Project subject to terms and conditions that are discussed in more depth below. In FERC’s order, FERC stated that after “balancing the[] environmental benefits with the issues raised by opponents of dam removal, [FERC] find[s] that license surrender, decommissioning, and removal of the project developments are in the public interest.” (Order at p. 29). Additionally, FERC stated that the Project’s funding was sufficient at \$450 million. (Order at p. 30).

Staff is providing this report to keep the Board and public up to date regarding activities related to the Klamath Dam Removal.

II. HISTORICAL BACKGROUND

In the early 2000s, PacifiCorp began proceedings before FERC to relicense its operation of its Klamath River facilities. In 2007, FERC issued a Final Environmental Impact Statement that included mitigation measures requiring the installation of new fish passage facilities or the consideration of dam removal. Thereafter, PacifiCorp engaged with federal, state and local governments, tribal entities, and various stakeholders, and, in 2010, executed the Klamath Hydroelectric Settlement Agreement (2010 KHSA), which established a process for facilities removal outside of the Federal Power Act. This framework for dam removal was dependent on Congressional legislation, which legislation was never passed.

In early 2016, some parties to the 2010 KHSA entered into the Amended KHSA, which did not rely on congressional approval for dam removal, rather PacifiCorp would apply to FERC to transfer ownership of J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate to a Dam Removal Entity (“DRE”), which would thereafter surrender and decommission the facilities.

In September 2016, KRRC, acting as the DRE, filed two applications with FERC, one application filed jointly with PacifiCorp to transfer ownership of the four Lower Klamath River dams to KRRC and the second, to decommission and remove the dams. In June 2018, KRRC submitted to FERC its Definite Plan for dam removal. The County intervened in FERC’s proceedings in opposition to the transfer application.

In December 2018, the State Water Resources Control Board (State Board) issued a draft Environmental Impact Report (EIR) for dam removal in California, and issued the Final Environmental Impact Report for dam removal in April 2020. Later, In July 2020, FERC issued a ruling on the Project, approving the transfer of the four Lower Klamath River dams to KRRC, provided that PacifiCorp remained as co-licensee.

In response to FERC’s ruling, and to release PacifiCorp from having to remain as a co-licensee, in November 2020, Governor Newsom and Oregon Governor Kate Brown entered a Memorandum of Agreement to sign on as co-licensees with KRRC for the transfer of the dams, and to provide additional resources and support to advance dam removal. On June 17, 2021, FERC approved the joint license transfer application of KRRC and the states, and Siskiyou County petitioned FERC for rehearing on the order, which petition FERC denied.

In February 2021, KRRC submitted a supplemental Amended License Surrender Application to FERC detailing KRRC’s plans for dam removal, and the County intervened in opposition to the surrender application. In March 2022, FERC released its Draft EIS, and in August 2022, FERC released the Final EIS for the Project.

On November 17, 2022 FERC voted unanimously to issue an Order Modifying and Approving Surrender License and Removal of Project Facilities Order for the Lower Klamath Project. The Order allows the dams private operator to surrender its operating license and allows for KRRC and its contractors to proceed with dam removal.

III. DISCUSSION

a. Recent Activities related to Progress of the Project:

Following FERC’s November 17, 2022 order there have been several subsequent actions by FERC, KRRC and the State of California to promote the timeline of dam removal. Below, and attached, are a list of the high level actions related to the Project:

- November 25, 2022 – FERC Response to Congress members Bentz and LaMalfa correspondence. (Attachment 1)
 - October 21, 2022 – Congress members Bentz and LaMalfa correspondence – Proposed Hydropower License Surrender and Decommissioning of Lower Klamath Project No. 148003-001 and Klamath Hydroelectric Project No. 2082-063. (Attachment 2)

- December 1, 2022- KRRC Lower Klamath Project, FERC Project No. 14803; Acceptance of License Transfer. (Attachment 3)

- December 2, 2022 – KRRC Updates to Management Plans Implementing License Surrender Order; Lower Klamath Project, FERC Project No. 14803-001 (PARTIALLY REDACTED) (Attachment 4)

- December 7, 2022 – Klamath River Renewal Corporation submits California Erosion and Sediment Control Plan. (Attachment 5)

- December 19, 2022 – Compliance Filing with Ordering Paragraph (N) of License Surrender Order; Owner’s Dam Safety Program for Lower Klamath Project, FERC Project No. 14803-001 (REDACTED) (Attachment 6)

- December 22, 2022 – Section 106 consultation for surrender of the Lower Klamath Project Built Environment Determinations of Eligibility. (Attachment 7)

- January 3, 2022 – FERC No. P-14803-001; NATDAM-OR00559, CA00323, CA00243, CA00325; Board of Consultants’ Review of Final Design Documents; Resignation of James Borg. (Attachment 8)

- January 5, 2023 – Approval of California Erosion and Sediment Control Plan for Lower Klamath Project License Surrender. (Attachment 9)
 - December 2022 California Erosion and Sediment Control Plan submitted by KRRC (Attachment 10).

- January 12, 2023 - FERC Response and comments to KRRC’s Owner’s Dam Safety Program (ODSP), Lower Klamath Project. (Attachment 11)

- January 13, 2023 – Klamath River Renewal Corporation’s January 2023 Final Decommissioning Design Submittal and Information Regarding BOC Review; Lower Klamath Project, FER Project No. 14803-001. (Attachment 12)

In addition, the 2023-2024 Proposed California State Budget includes funding for five permanent positions for the Department of Fish and Wildlife to establish programs related to the Project:

“This spring, work begins to remove dams, improve river health, address declines in fish populations and support communities in the Klamath Basin. Removal of the four hydroelectric dams in California and Oregon will restore access to hundreds of miles of habitat unreachable for salmon and steelhead for more than a century and revitalize tribal communities and lifeways for generations to come.

The Budget includes \$2 million General Fund in 2023-24 and \$1.3 million ongoing and five permanent positions for the Department of Fish and Wildlife to establish two new programs to support the protection and management of fish and wildlife, recreational opportunities, and collaborative Tribal partnerships before, during, and after dam removal.” (*Proposed California State Budget at page 13*)

b. The County’s Actions (outside of the FERC Proceedings) to Mitigate Impacts Related to the Project:

On December 13, 2022, the Board of Supervisors approved and authorized the County Administrator to sign, a Memorandum of Understanding between the California Department of Fish and Wildlife, the Klamath River Renewal Corporation, and PacifiCorp. The MOU details that the County will retain and PacifiCorp will fund a contracted Project Manager for the County to help issue and administer county permits relating to the Project and Associated Activities and coordinate with KRRC and PacifiCorp on the implementation of the Project and Associated Activities. A detailed scope of work for the Project Manager can be found at Attachment 13.

PacifiCorp will fund the Project Coordinator up to \$150,000 for the first 12 months of the MOU, and \$150,000 for the second 12 months of the MOU. If required, the terms and conditions of the MOU may be extended beyond the 24-month period, upon mutual agreement of the parties.

On January 6, 2023, County staff released a Request for Proposal (RFP) for a Project Manager, this RFP closes on January 27th, 2023. Following staff review of the responsive RFP’s, staff will present a contract with the selected respondent for approval to the Board of Supervisors. County staff expects the contract to come before the Board in February 2023.

The Siskiyou County Planning Department and the Air Pollution Control District met separately with KRRC and their contractors regarding the Project and associated local permits and authorizations. County staff will provide a detailed outline of activities between these parties in the next Staff Report and during the February 28, 2023 Special Board meeting.

c. Continued Public Dialog and Transparency:

The Board will continue to hold a series of monthly special Board meetings, with the next one occurring on February 28, 2023. The County has also established a webpage specific to our efforts related to the Project. This webpage can be accessed at [Lower Klamath Hydroelectric Dam Decommissioning Project | Siskiyou County California](https://www.co.siskiyou.ca.us/development/klamath-hydroelectric-dam-decommissioning-project). This webpage includes key Project documents, County correspondence and materials, Special Board meeting dates, and a recently developed Frequently Asked Questions document (also included as Attachment 14). Lastly, the County has established an email address where members of the public can submit questions, concerns or comments specific to the Project. lkdinfo@co.siskiyou.ca.us

CONCLUSION

The County has and will continue to track the decommissioning process and explore various and alternate options to try to mitigate any harms that may result from this Project, and will continue to keep the public apprised of Project progress and County efforts.