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June 28, 2018

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CONTAINS REQUEST FOR CEII TREATMENT

DELIVERY VIA ELECTRONIC FILING
Kimberly D. Bose
Secretary, Federal Energy Regulatory Commission
888 First Street NE
Washington, D.C. 20426

Re: Order Amending License and Deferring Consideration of Transfer Application; Response to Information Request including Submittal of the Definite Plan; Project Nos. 2082-062 and 14803-000

Dear Secretary Bose:

On September 23, 2016, PacifiCorp and the Klamath River Renewal Corporation ("KRRC" or the "Renewal Corporation") filed an application to amend the Klamath Hydroelectric Project license by moving the four lowermost dams on the Klamath River to a separate Lower Klamath Project license, and to transfer the Lower Klamath Project license from PacifiCorp to the KRRC. On March 15, 2018, the Federal Energy Regulatory Commission ("FERC" or "the Commission") issued an "Order Amending License and Deferring Consideration of Transfer Application"[1] granting the application to amend the project license and deferring its decision on the proposed license transfer.[2] In deferring action on the transfer application, the March 15 Order requested additional information relevant to the Commission's consideration of the transfer application, including additional information about the KRRC's legal, technical, and financial capacity to safely remove project facilities and adequately restore project lands.

Regarding the questions posed in the March 15 Order, KRRC and PacifiCorp have conferred and determined that: (1) KRRC will solely respond to questions 1-4; and (2) KRRC and PacifiCorp will, in consultation with the states of Oregon and California (collectively "the States"), respond to question 5. The KRRC's responses to questions 1-4 are provided in Exhibit A. The KRRC's

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[1] *See* PacifiCorp, 162 FERC ¶ 61,236 (2018) ("March 15 Order").
[2] The March 15, 2018 order amended the license for the Klamath Hydroelectric Project. The order also created a new license (the Lower Klamath Project) for the four dams slated for removal under the settlement. On June 21, 2018, FERC granted PacifiCorp's motion to stay the effective date of the license amendment and the new Lower Klamath Project license until FERC has acted on the joint license transfer application. See *Order Granting Stay and Dismissing Request for Rehearing*, 163 FERC 61,208 (June 21, 2018). Since the license for the Lower Klamath Project is not effective until FERC has taken further action, the term "Lower Klamath Project" is used in this filing for convenience only.

and PacifiCorp's joint response to question 5 is being filed concurrently under a separate cover letter.

The KRRC's comprehensive plan for the Lower Klamath Project ("Definite Plan") is now filed herein and is appended as Exhibit B.[3] This plan is provided in this proceeding in further support of KRRC's capacity to complete the removal of the Lower Klamath Project. The Definite Plan proposes the "Full Removal" alternative discussed in prior filings, which achieves the project objectives of a free-flowing river condition and volitional fish passage by the complete removal of the Lower Klamath Project dams, power generation facilities, water intake structures, canals, pipelines, and ancillary buildings. The Definite Plan also presents and discusses the "Partial Removal" alternative for purposes of environmental review. Under the Partial Removal alternative, the objectives of a free-flowing river condition and volitional fish passage will be fully achieved, but portions of each dam could remain in place, along with ancillary buildings and structures such as powerhouses, foundations, tunnels, and pipes.

All responses, statements of fact, views, opinions, interpretations, and other communications set forth in Exhibits A through F are solely and exclusively attributable to KRRC, and not to PacifiCorp or the States. Furthermore, the information in Exhibits A through F is being submitted into the transfer docket for the limited purpose of supporting the joint transfer application—specifically, FERC's consideration of the KRRC's technical, legal, and financial capacity to become a licensee. As explained further in a separate filing in dockets P-2082-063 and P-14803-001, the information in Exhibits A through F is not being submitted, at this time, in support of hearing of the license surrender application.

On May 22, 2018, the Commission approved an independent Board of Consultants ("BOC") for the Lower Klamath Project.[4] The BOC has been directed by the FERC to independently review and assess all aspects of the proposed dam removal process and the financial ability of KRRC to carry out that process. KRRC will facilitate convening the BOC to undertake the following inquiries consistent with the scope of the work outlined in the May 22 Letter Order approving the individuals that will comprise the BOC:

- Review and provide recommendations regarding the 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;
- Review and provide recommendations regarding the adequacy of amounts and types of insurance coverage and bonding arrangements for dam removal; and
- Review and provide recommendations regarding other technical aspects of the Definite Plan to better define and understand the plans, schedules, specifications, staging, and sequencing for taking on the responsibilities for removal of the Lower Klamath Project.

[3] The Definite Plan was developed by KRRC pursuant to § 7.2 of the Amended Klamath Hydroelectric Settlement Agreement ("KHSA").
[4] See, *PacifiCorp*, 162 FERC ¶ 61,236 (2018) ("May 22 Letter Order").

KRRC anticipates that recommendations of the BOC will be obtained and incorporated into a revised Definite Plan over the next four months.

Concurrent with BOC review, over the course of the next six to nine months, KRRC will continue its due diligence on matters that affect project cost, construction, and regulatory risk. We will engage a design-build contractor and secure commitments for insurance, performance bond, and indemnification. This due diligence, together with the BOC recommendations, will provide FERC with a greater level of detail of the various project elements proposed in the Definite Plan, a revised cost estimate with a reduced number of contingences (which have been initially included to account for uncertainties), and a proposed contractor and progressive design-build contract with a guaranteed maximum construction price. This further information will collectively refine these responses to the March 15, 2018 Order and will further inform Commission's ongoing review of the pending transfer application for the purpose of surrender and dam removal.

REQUEST FOR CEII TREATMENT

The documents being submitted with this filing include this transmittal letter and Exhibits A through F. Exhibit C includes a public version of the Definite Plan, and a non-redacted non-public version of the Definite Plan in accordance with the designation of certain specific detailed information contained in this filing as Critical Energy Infrastructure Information ("CEII") under the Commission's rules. (18 C.F.R. §§ 388.112, 388.113 (2017)). KRRC has designated as CEII, specific detailed information concerning the Project Works in Appendix B to the Definite Plan.

KRRC requests confidential treatment of the CEII contained in Appendix B of the non-redacted non-public version of the Definite Plan pursuant to 18 C.F.R. § 388.112. The CEII has been marked according to the Commission's instructions.

KRRC asserts that the specific detailed information concerning the Project Works qualifies as CEII pursuant to 18 C.F.R. §§ 388.113(c)(1) and (c)(2) for the following reasons: the information included in Appendix B of the Definite Plan contains specific detailed design information about existing critical generation infrastructure. Accordingly, KRRC requests confidential treatment of the non-redacted non-public version of the Definite Plan as CEII pursuant to 18 C.F.R. § 388.112.

The CEII being submitted with this filing will continue to be CEII while the Project Works continue in operation. While KRRC expects the Project Works to be removed within the next five years, it is possible the period for removal could be greater than the five-year period set out in 18 C.F.R. § 388.113(e)(1). Upon any expiration of the CEII designation, the critical infrastructure information should therefore be treated as CEII and re-designated as such while the Project Works remain in operation.

The documents being submitted with this filing include this transmittal letter and Exhibits A through F. Exhibit C includes the following:

- Non-redacted non-public version of the Definite Plan, including Appendices A - Q; and
- Public version of the Definite Plan, including Appendices A-Q.

Should FERC require any further information at this time, please direct any such requests to the co-applicants and their counsel of record. Thank you.

Respectfully submitted,

/s/

Markham Quehrn
Perkins Coie LLP
Counsel for Klamath River Renewal Corporation

cc: P-2082-062 Service List
P-14803-000 Service List

Exhibit A
KRRC's Response to
March 15, 2018 Information Requests 1-4
for License Transfer Application

1. An executed California Funding Agreement:

The California Public Utilities Commission ("CPUC") funding agreement for disbursing customer surcharges was filed with the FERC on December 4, 2017 in unexecuted draft form as approved by the CPUC. Since the December 4 submission, KRRC and the CPUC have executed the funding agreement. An executed version of this agreement is appended at Exhibit B. In October 2016, the California Natural Resources Agency and KRRC entered into the "Natural Resources Agency Grant Agreement, Funding for Water Quality, Supply, Treatment, and Storage Projects," which fully encumbered the Proposition 1 bond funds allocated and appropriated by California for dam removal. KRRC filed an executed version of this agreement on March 1, 2017.

2. The Definite Plan:

The Definite Plan is appended at Exhibit C.

3. The following information, either separately or included in the Definite Plan:

(**a) An updated maximum and probable cost estimate, and the probability that each will occur.**

Appendix P of the Definite Plan contains the full Estimate of Project Cost report. AECOM Technical Services, Inc., CDM Smith and River Design Group prepared this report as the engineer's opinion of construction cost, based on the project design elements and construction plan summary provided in the Definite Plan. The construction cost was estimated with the use of a combination of built-up unit prices and statistical unit prices from published and internally developed and maintained historical databases factored for location, contractor markups, and other project-specific criteria. Logic, methods, and procedures for developing costs are typical for the construction industry. The report also provides a probabilistic range of costs estimates using a Monte Carlo analysis to determine the impact and likelihood of occurrence of identified and quantified uncertainties and risks by running simulations to identify the range of possible outcomes for a number of scenarios—10,000 scenarios in the case of this Project. This report is summarized as follows (costs in $,000):

Level of Activity	Assessment of Costs	Construction Costs	Other Project Costs*	Contingency	Total	Probability Level
Full Removal						
	Estimated Project Cost	$227,980	$101,279	$68,394	$397,700	P-40**

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	Most Probable High	$268,560	$108,724	$129.794	$507,100	P-90
Partial Removal						
	Estimated Project Cost	$193,030	$101,279	$57,909	$352,200	P-30**
	Most Probable High	$229,250	$108,7251	$129.794	$467,800	P-90

* Project overall totals are rounded to the nearest hundred thousand; any arithmetic discrepancies are due to rounding.

** Estimated Project Costs are based on the cost analysis described above and in section 3 of Appendix P to the Definite Plan; the estimates are about the same cost level as these probability levels in the Monte Carlo analysis.

"Facilities Removal" is defined in the Klamath Hydroelectric Settlement Agreement, as amended, ("KHSA") as the "physical removal of all or part of each of the Facilities to achieve at a minimum a free-flowing condition and volitional fish passage, site remediation and restoration, including previously inundated lands, measures to avoid or minimize adverse downstream impacts, and all associated permitting for such actions physical removal of all or part of each of the Facilities to achieve at a minimum a free-flowing condition and volitional fish passage, site remediation and restoration, including previously inundated lands, measures to avoid or minimize adverse downstream impacts, and all associated permitting for such actions" To achieve this objective, KRRC proposes and the Definite Plan defines the "Full Removal" alternative, which is the complete removal of dams, power generation facilities, water intake structures, canals, pipelines, and ancillary buildings that comprise the Lower Klamath Project.

A "Partial Removal" alternative is discussed in the Definite Plan and is presented for purposes of environmental review. Under the Partial Removal alternative, the objectives of a free-flowing river conditions and volitional fish passage will be fully achieved, but portions of each dam could remain in place, along with ancillary buildings and structures such as powerhouses, foundations, tunnels, and pipes. If further analyses (including guidance to be provided by the BOC) were to identify the Partial Removal alternative as the preferred means to achieve the project objectives, KRRC could modify its proposal and pursue the Partial Removal as its preferred alternative to achieve Facility Removal.

For Full Removal, the cost estimate includes a 30% contingency (30% of construction total, or approximately $68 million) to account for uncertainties and risk associated with design and construction. For Partial Removal, the cost estimate includes a 30% contingency (30% of construction total, or approximately $58 million) to account for uncertainties and risk associated with design and construction.

A Monte Carlo analysis was completed to determine a maximum planning cost (Most Probable High, "MPH"). The Monte Carlo analysis involved determining the impact and likelihood of occurrence of identified and quantified uncertainties and risks by running 10,000 simulations to identify the range of possible outcomes for multiple scenarios. The MPH for Full Removal represents the P90 from the probabilistic results (would cover 90% of all risk scenarios). For reference, the P80 value, which is often recommended for large infrastructure MPH estimates, is approximately $477 million. The MPH for Partial Removal represents the P90 from the probabilistic results (would cover 90% of all risk scenarios).

Over the next six to nine months, the KRRC will be completing additional due diligence on construction costs, measures to lower construction costs, and measures to manage construction risk. These measures include risk mitigation, selection of a design-builder to perform the work, and negotiation of a progressive design-build contract with a guaranteed maximum price for construction. These results of these inquiries will be further informed by the review and recommendations of the BOC.

(b) A detailed explanation of how the Renewal Corporation would provide or obtain the necessary funds to operate the Lower Klamath Project if the surrender is not approved before the expiration of the California and Oregon Funding Agreements and the California Bond Measure.

Once the license has been transferred and pending FERC's decision on the Surrender Application, KRRC will fulfill its obligations to operate the Lower Klamath Project through contractual arrangements in place with PacifiCorp (the "O&M Agreement")[5] and by complying with any further orders or directives FERC may issue to KRRC as the licensee. Section 1.5 of the O&M Agreement requires PacifiCorp to pay "all costs associated with operating and maintaining the facilities between the time of license transfer and Decommissioning, and indemnify, defend and hold KRRC harmless with respect to those operations." These obligations would not terminate if the Surrender Application is not approved before the expiration of the California and Oregon Funding Agreements and the California Bond Measure.

The O&M Agreement extends to dates defined therein as the "Facility Termination Date." "Facility Termination Date" is "the date on which KRRC intends to commence substantial physical Facilities Removal activities and as to which KRRC has requested that PacifiCorp discontinue operation of such Facility." The O&M Agreement does not set an outside date by which the "Facility Termination Date" must occur. If FERC denies the surrender application, the O&M Agreement would remain in effect, and the settlement parties would promptly confer, under Sections 8.6 and 8.7 of the KHSA, to address an event not specifically resolved by the KHSA or the O&M Agreement, and to evaluate alternatives that would protect the bargained-for benefits. Through these

[5] "Agreement for the Operation and Maintenance of the Lower Klamath Project" (the "O&M Agreement"). An executed copy of the O&M Agreement was provided to FERC on December 4, 2017.

procedures, they would determine their settlement rights and obligations on a go-forward basis in response to this event, including those related to the O&M Agreement.

(c) A detailed explanation of how the Renewal Corporation would provide or obtain the necessary funds to decommission and remove the Lower Klamath Project facilities in the event that funds equal to or greater than the maximum cost estimate for the full removal alternative are required.

The KRRC will undertake due diligence to anticipate and manage this event. Before KRRC accepts the license transfer, Section 7.1.4(D) of the KHSA requires that KRRC, the States, and PacifiCorp be assured that sufficient funding is available to carry out Facilities Removal. These parties to the KHSA will independently review the information available at the time KRRC is to accept license transfer, and each will determine whether it has satisfactory assurance that the KRRC has sufficient funding as a condition of KRRC's acceptance of license transfer. The KRRC would seek rehearing of any order approving license surrender, and would thus not accept license surrender, in the event described by this item (c), and specifically, if it determines that the funds available would not be assured to be sufficient to perform license surrender, or if the various risk management measures, insurance, bonds, and other requirements of Appendix L would not be adequate. KRRC would make that determination based on estimating costs for performance of conditions contained in all regulatory approvals, including the license surrender order.

KRRC is confident that it is adequately funded to undertake the dam removal project. KRRC anticipates that it will undertake and complete the Project within budget, given the in-depth analysis provided by the Definite Plan and the additional expertise afforded by the BOC as well as the ability to shift risk to contractors who agree to take on this exposure in the contracting process. KRRC will look to recommendations and guidance to be provided by the BOC as a means to better understand, quantify, and reduce risk. KRRC is independently pursuing further due diligence on construction and regulatory risk. When these inquiries are complete, KRRC will file supplemental information with the FERC as an update to Appendix P of the Definite Plan, along with any other modifications or refinements to the Definite Plan that may be necessary or advisable to achieve its objectives in a timely and cost-effective manner.

To better understand and manage construction risk, KRRC will initiate a competitive process for selecting its dam removal contractor, or design-builder. KRRC contemplates structuring the dam removal contract as a "progressive design-build" contract. After selection of a contractor, the designated design-builder will study the project site and design its removal program before the final guaranteed maximum price is locked in. When the cost of the dam removal work is finalized, the circumstances that most often lead to cost overruns (for which the owner remains responsible) will have been significantly narrowed. This milestone will be among the factors necessary to determine whether the requirements of Section 7.1.4 of the KHSA are satisfied. The final pricing of project cost will be determined before KRRC's acceptance of the transferred license. If the overall project cost is anticipated to exceed $450 million, and if the risk and probability of such exceedance is not sufficiently covered by insurance, performance bond or other indemnification or security instruments, then KRRC, in consultation with the parties, would decide if the project can be modified to make it financially viable.

The KHSA provides several ways to address the unlikely event that KRRC is faced with the prospect of costs that exceed its available funding. Before KRRC accepts the license transfer, Section 7.1.4(D) of the KHSA requires that KRRC, the States, and PacifiCorp be assured that sufficient funding is available to carry out Facilities Removal. Other options KRRC, the States, and PacifiCorp might consider include the following:

- Because of the way its dam removal procurement process is structured, KRRC will know before the outset of removal operations if, for some reason, costs have increased beyond current projections. As a result, subject to any necessary regulatory approvals, KRRC could modify the project and carry out Partial Removal rather than Full Removal. This will still achieve the objectives of a free-flowing river with volitional fish passage and will cost significantly less than Full Removal. The estimate of project costs for the Partial Removal alternative is approximately $100 million below KRRC's available funding level. The Partial Removal alternative is included in KRRC's studies and in its submissions to the relevant regulatory agencies as a project alternative.

- Risk management measures will be in place to keep the project on schedule and on budget. A qualified construction-management entity will provide oversight of the project contractor, including detailed design review and full construction-management services throughout the duration of the project agreement. Risks transferred to the project contractor under the project agreement will include the risk of unexcused delays; unexpected work that the project contractor needs to perform to carry out the basic work scope; unavailability of materials; non-compliance with the removal plan, applicable law and governmental approvals; intellectual property infringement; and the risk of exacerbating any existing hazardous substances or other pollution conditions. Risks retained by KRRC will be covered by insurance, performance bond or other indemnification or security instruments call out in Appendix L to the KHSA.

- If the foregoing measures are not sufficient, consistent with Section 7.2.1(A)(5) of the KHSA, KRRC could also pursue additional funds to address such a cost overrun. KRRC has not sought and does not have any legally enforceable commitments for additional funds to address this contingency at this time. KRRC believes that, if necessary, additional funding in material amounts would be available if necessary to complete the project.,.

KRRC is confident that it is adequately funded to complete the project. In the unlikely event, however, that its current funding commitments are inadequate, KRRC will still have viable paths forward to complete the dam removal project.

(d) An updated statement of project contingency reserves, based on updated project costs.

Contingency reserves, based on updated construction costs, are discussed in Sections 2.3 and 2.6 of Appendix P of the Definite Plan and are summarized here as follows.

Contingencies applied to the estimate of Project Cost.

A design contingency was set at 10% of the construction cost, which is a typical value for a level of design presented in the Definite Plan for dam removal. In addition, a value of 20% of the construction cost was utilized for construction contingencies for the dam removal estimates, which is a typical value for this stage of project development. The design and construction contingencies (total of 30%) are applied as a percentage of construction cost and added to the overall estimate of Project costs. As mentioned above, design and construction contingencies of approximately $58 million and $68 million were applied to the Partial Removal and Full Removal alternative estimates of Project cost, respectively.

Contingencies applied to the MPH estimates.

A risk contingency is included in MPH estimates to account for risks and uncertainties identified in the risk register and analyzed in the Monte Carlo analysis. A risk contingency of approximately $139 million was included in both the Partial Removal and Full Removal MPH estimates, since the risks analyzed were independent of any facilities that will remain under the Partial Removal alternative.

(e) A detailed explanation of how operation and maintenance of the Lower Klamath Project will continue in the event the surrender is denied.

As stated in response to question 3(b), KRRC will fulfill its obligations to operate and maintain the Lower Klamath Project through contractual arrangements in place with PacifiCorp (the "O&M Agreement") and by complying with any further orders or directives FERC may issue to KRRC as the licensee. PacifiCorp's obligation to operate the Lower Klamath Project under the O&M agreement would provide a mechanism for KRRC's compliance with its regulatory obligations to operate the project in accordance with the requirements of the license and any further order or directives to be issued by FERC.

If the Commission denies the surrender application after KRRC's acceptance of the license transfer, or imposes terms and conditions that are materially inconsistent with the KHSA, the settlement parties would confer under Sections 8.6 and 8.7 of the KHSA regarding potential amendments to the KHSA, during which time PacifiCorp would continue to operate the Project under the O&M Agreement. In consultation with the parties, the KRRC could then decide to develop and submit a revised Definite Plan. FERC will continue to have jurisdiction over the Lower Klamath Project and discretion to take such further action as FERC might deem appropriate, subject to applicable law.

(f) A complete list of the types and amounts of insurance policies and surety arrangements anticipated to be secured by the Renewal Corporation.

KRRC's proposed insurance program and surety arrangements are discussed below. These measures will be modified, as necessary, to conform with any relevant BOC recommendations and to reflect any further recommendations of KRRC's risk management advisors that are deemed to be advisable by the KRRC Board of Directors.

The insurance currently maintained by KRRC is intended to address KRRC's general risks as a business entity and consists of essentially the following:

- $1,000,000 Commercial General Liability policy that is supplemented by a $5,000,000 Umbrella policy.
- $10,000,000 Directors and Officers policy that protects KRRC's Board of Directors.
- Workers' Compensation and Employer's Liability policy with a $1,000,000 limit for KRRC's employee(s).
- Commercial Automobile policy with $1,000,000 in limits.
- Commercial Property policy that covers KRRC's scheduled property.

A certificate of insurance evidencing that policies of insurance providing such provisions, coverages, and limits as set forth above are in full force and effect is appended as Attachment C.

KRRC will comply with the insurance requirements of Appendix L to the KHSA, as well as prudent industry standards. KRRC intends to use an "owner-controlled insurance program," or OCIP, for purposes of securing certain project coverages. Under an OCIP, the owner establishes a Commercial General Liability and Umbrella insurance program in which contractors and subcontractors enroll for coverage, rather than requiring each contractor or subcontractor to procure insurance independently. The net result is a more comprehensive, seamless, and efficient insurance program where insurers are precluded from denying coverage based on a claim that a different insurer is responsible. By consolidating the risks into a single insurance program, this approach best removes cross-litigation costs caused by multi-party losses on a construction project, because each contractor and subcontractor is essentially covered under the same policy. An OCIP also allows the project sponsor/owner to control and design the coverage it intends to procure and the cost of coverage. Specific decisions regarding which policies to purchase, when to purchase them, and what insurance limits to obtain are largely driven by the timing and structure of the dam removal. That said, set forth below are KRRC's current expectations regarding its project-specific insurance program.

- KRRC's project-specific coverage profile will be established as part of the dam removal contractor procurement process. It will be part of the RFP for KRRC's dam removal contractor and will be incorporated into the dam removal contract that is ultimately executed by KRRC and the dam removal contractor.

- KRRC has begun the process of introducing insurers to the project, with an eye toward selecting the insurer or insurers that offer the best options for project coverage. This will be determined after the insurers have completed their review of the project.
- Once the scope, limits, and providers of the project coverages have been finally determined, the actual insurance policies will be put in place in coordination with the beginning of the dam removal work to which they relate, including certain preliminary site work. For example, insurance for design work will be in place at the time the dam removal contract becomes effective, as a design-build contract structure is contemplated.

KRRC will secure the following project-specific coverage for the project:

- *Commercial General Liability (CGL)*: KRRC will obtain primary Commercial General Liability coverage with limits of $2,000,000 per occurrence and $4,000,000 general aggregate. This policy will be dedicated to this project. The policy will extend liability coverage to the dam removal contractor and all eligible subcontractors for their work at this project. The policy will also respond to third-party damage from the construction activity after the project. This tail coverage will last for 10 years or to the statute of repose for the respective state of construction operations. This tail coverage will trigger once the project has reached substantial completion.
- *Umbrella Liability*: The liability coverage provided by KRRC's CGL policy will be augmented under the OCIP by an Umbrella Liability policy of $200,000,000 in limits. This policy will follow the terms and conditions of the underlying primary CGL. All enrolled parties will be covered under this Umbrella limit, which is an added value for smaller subcontractors that cannot afford such high limits.
- *Workers' Compensation/Employer's Liability*: KRRC will require that all contractors and subcontractors maintain Workers' Compensation and Employer's Liability coverage at all times. This coverage will be maintained in the amounts no less than the applicable statutory requirements for Workers' Compensation and $1,000,000 for Employer's Liability. Because this coverage is statutory, it is not efficient to include it in the OCIP and will be procured directly by each contractor and subcontractor.
- *Commercial Automobile Liability*: KRRC will require that all contractors and subcontractors maintain auto liability insurance limits no less than $1,000,000 combined single limit per accident for bodily injury and property damage. This coverage will also be outside the OCIP and will be procured directly by KRRC's contractors and subcontractors covering all owned, leased, and non-owned vehicles used in connection with the work.
- *Builder's Risk/Inland Marine or Commercial Property Insurance*: Builder's Risk insurance is a type of insurance typically associated with vertical construction where an improvement is increasing in value and where the cost of restoration increases as the project progresses, such as the construction of

an office building. In procuring it for a dam removal project, a slightly unconventional analysis will apply to determining prudent limits of coverage. KRRC anticipates obtaining coverage for 100% of the replacement value of any salvaged material or property. Builder's Risk insurance is project-specific property coverage and will be purchased by KRRC.

- *Contractor's Pollution Liability (CPL)*: KRRC anticipates that coverage of up to $100,000,000 limits will be included as part of the project program. It will be a dedicated policy covering all contractors and subcontractors at the project site with no enrollment process.
- *Fixed Site Pollution Liability*: This coverage will be acquired by KRRC outside the OCIP and will go into effect when KRRC acquires title to the dam facilities and will be in an amount up to $100,000,000. It is the intent to underwrite this policy with the same insurers and in conjunction with the CPL policy to address any pre-existing environmental damages.
- *Professional Liability/Errors and Omissions Insurance*: This coverage will be required under the terms of KRRC's design contract procurement, whether on a standalone basis or as part of a design-build procurement. It will go into effect when the design professional is retained. The coverage limits are expected to be up to $25,000,000. In addition, KRRC will consider whether to purchase an Owner's Protective Professional Indemnity insurance policy as a backstop to all the available limits for the design professionals' liability coverage. This decision will be made based on the size, experience, and financial strength of the design team and their respective insurance limits available to the project. Coverage limits selected may be as high as 20-40% of the value of construction.

A pro forma schedule of project-specific insurance submissions is appended as Exhibit E; in addition, an illustrative list of project insurance requirements is appended as Exhibit F. (Note that the requirements are subject to modification based on KRRC's discussions with potential insurers and the development of the dam removal contractor RFP.)

The forgoing insurance coverages will be reviewed by the BOC. The BOC includes a member or members with expertise in insurance coverage and bonding for large and complex civil construction projects. KRRC will implement any further recommendations that BOC may provide with respect to the foregoing insurance coverage.

As previously noted, KRRC will require bid bonds, payment, and performance bonds (and/or parent company guaranty or standby letter of credit) to secure contractor performance. These bonds will be provided in the form and in the amounts recommended by Willis Towers Watson.

The performance bond securing the contractor's performance under the dam removal contract will be in the full amount of the dam removal contract. AIA Form 312 is the predominant form of performance bond currently in use and is consistent with industry standards.

The BOC will review and approve its proposed bonding requirements. KRRC will implement any further recommendations that BOC may provide with respect to bonding requirements. Because the performance bond backstops the dam removal contractor's performance, it cannot be issued until the dam removal contract is in place and will be issued at that time. A copy will be submitted to FERC, along with the certification requested.

B. Liability Transfer Corporation

Pursuant to Appendix L of the KHSA, the KRRC has agreed to contract with a capital-backed at-risk entity (a "Liability Transfer Corporation," or "LTC") subject to the approval of the States and PacifiCorp. The LTC may perform portions of the project and would assume responsibility for various project risks, both during project execution and post-project (including the fulfillment of any long-term mitigation obligations established by the Definite Plan or regulatory approvals). The purpose and function of the LTC is described in Appendix L to the KHSA. KRRC will use the LTC as a mechanism to address potential liabilities that are uninsurable or underinsured, and to protect the States and PacifiCorp against such liabilities or other risks that can be transferred to an LTC in a prudent and cost-effective manner. The "gap" between the general responsibilities to be assumed by the general contractor and the program of required insurance has yet to be determined. As noted above, this is an aspect of KRRC ongoing due diligence efforts to better define construction costs, measures to lower construction costs, and measures to manage construction risk. KRRC expects to fulfill this requirement concurrently with the execution of the contract for dam removal.

(g) A risk register and risk management plan.

Please see Appendix A (Risk Management Plan) of the Definite Plan. The risk management plan incorporates the insurance and surety arrangements discussed above, along with other risk management measures, into a single plan.

4. An independent review, either separately or by the independent Board of Consultants to be convened for the surrender application (depending on the schedule established for the review), of the reasonableness of the most probable and maximum cost estimates for the Full Removal alternative, adequacy of available funds for facilities removal, adequacy of the proposed contingency reserve, and adequacy of the proposed insurance and bonding arrangements:

The FERC approved the BOC on May 22, 2018. FERC's letter of approval included a plan and schedule to obtain BOC review of the estimate of project costs and probable maximum high estimates for the Full Removal alternative, adequacy of available funds for facilities removal, adequacy of the proposed contingency reserve, and adequacy of the proposed insurance and bonding arrangements. KRRC will request that the BOC initiate this review as follows:

- File the Definite Plan with FERC by July 1, 2018.

- Prepare a meeting request and data package to initiate BOC review of the above-referenced matters. The data package will include all relevant information heretofore provided to FERC that is relevant to these inquiries. Any further information to be provided (if any) to the BOC that is not currently in the record will also be submitted to the record as supplemental information. Any matters to be designated as Critical Energy Infrastructure Information ("CEII") will be so designated in accordance with FERC rules.
- The meeting request will also include an agenda for the meeting, a statement of the specific level of review the BOC is expected to provide, and a list of the items to be reviewed and discussed with the BOC.
- The data package, as well as all related correspondence, will be provided to the distribution list.
- KRRC understands that, in accordance with paragraph 2 of Attachment A to FERC's May 22, 2018 letter approving the BOC, 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 KRRC, addressing all FERC staff comments and questions, and providing the BOC's 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 KRRC 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.
- KRRC further understands that FERC staff may thereafter choose to meet with the BOC to discuss the Definite Plan and the BOC's report/findings regarding cost estimates and financial adequacy.