

State Water Resources Control Board

CLEAN WATER ACT §401 WATER QUALITY CERTIFICATION APPLICATION FORM

(Use only for multi-regional projects, otherwise use the appropriate Regional Board application form)

OVERVIEW

The Klamath River Renewal Corporation (“KRRC”, “Corporation”, or “Applicant”) respectfully submits this Application for Certification Pursuant to Section 401 of the Federal Clean Water Act and California Law (the “Application”). KRRC seeks Section 401 water quality certification for the proposed removal of the Copco No. 1, Copco No. 2, and Iron Gate dam developments (“California dam developments”), which are located in Siskiyou County, California, pursuant to the Klamath Hydroelectric Settlement Agreement, as amended (“Amended KHSA”) (*see* Attachment 1).

PacifiCorp currently owns and operates the California dam developments pursuant to a license issued by the Federal Energy Regulatory Commission (“FERC” or “the Commission”). PacifiCorp also currently owns the J.C. Boyle hydroelectric development (“J.C. Boyle”) located in Oregon and licensed by FERC under the same project license (FERC Project No. 2082). As part of the Amended KHSA, KRRC will decommission the California dam developments, as well as J.C. Boyle, following transfer of the license for those developments from PacifiCorp to KRRC. KRRC is filing this application in California and a parallel application in Oregon (*see* Attachment 2) for issuance of Federal Clean Water Act section 401 certifications to support federal actions by FERC for the removals of the four developments. The documents currently available, including detailed environmental analysis of potential water quality impacts from the removals, cover all four developments collectively.

Removal of J.C. Boyle will be covered under a separate water quality certification process administered by the Oregon Department of Environmental Quality. This water quality certification application applies to the California dam developments.

THE PROPOSED ACTION

On September 23, 2016, PacifiCorp, licensee for the Klamath Hydroelectric Project (FERC Project No. 2082) and KRRC, submitted a joint application with FERC for approval of license amendment and license transfer (“License Transfer Application”) (*see* Attachment 3). By this joint application, PacifiCorp and KRRC requested 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 KRRC.

KRRC also concurrently filed an application for surrender of the license and removal of project works for the Lower Klamath Project (“License Surrender Application”) (*see* Attachment 4). The Lower Klamath Project will consist of the J.C. Boyle development and appurtenant lands in Oregon, and the Copco No. 1, Copco No. 2, and Iron Gate developments and appurtenant lands in California.

These FERC applications were made pursuant to the Amended KHSA. On April 6, 2016, PacifiCorp as the current licensee, the states of Oregon and California, U.S. Department of the Interior, U.S. Department of Commerce's National Marine Fisheries Service, the Yurok Tribe, the Karuk Tribe, and other entities signed this comprehensive agreement to resolve disputes that arose in the relicensing proceeding for Project No. 2082. On May 6, 2016, PacifiCorp filed the Amended KHSA for informational purposes in the docket for that project (*See* eLibrary 20160506-5164). On June 16, 2016, the Commission stayed the relicensing proceeding, pending the final determinations on the License Transfer Application and License Surrender Application, both filed on September 23, 2016. "Order Holding Relicensing Proceeding in Abeyance," 155 FERC ¶ 61,271 (2016).

KRRC seeks to surrender the license for the purpose of removing the four developments ("Facilities Removal") to achieve a free-flowing condition and volitional fish passage through the reach currently occupied by the Lower Klamath Project. *See* Amended KHSA section 7.2.2.A.

KRRC is filing this request for water quality certification with the California State Water Resources Control Board ("SWRCB") and a separate request for water quality certification with the Oregon Department of Environmental Quality ("ODEQ") in support of dam removal activities proposed in the License Surrender Application. KRRC will also begin other actions necessary to obtain other regulatory approvals necessary to perform Facilities Removal. *See* Amended KHSA section 7.1.9. Among other things, KRRC will seek approval from the U.S. Army Corps of Engineers ("ACOE") under Clean Water Act section 404(a), 33 U.S.C. § 1344(a). A certification for this federal action will be required as well.

In 2012, the U.S. Department of the Interior prepared a Detailed Plan for Dam Removal ("Detailed Plan") (*see* Attachment 5), which describes the schedule for completion of dam deconstruction activities. KRRC will prepare and submit a Definite Plan, superseding the Detailed Plan, with respect to schedule and deconstruction activities, and the Definite Plan will serve as another basis for SWRCB's environmental review.

1. APPLICANT/AGENT INFORMATION

a) Applicant: Michael Carrier, President Klamath River Renewal Corporation Address: 423 Washington Street, 3 rd Floor San Francisco, CA 94111 Phone No. See Agent Fax No. See Agent E-mail Address: See Agent	b) Agent ¹ : Peter Okurowski Address: 423 Washington Street, 3 rd Floor San Francisco, CA 94111 Phone No. 415-820-4422 Fax No. E-mail Address: peter@klamathrenewal.org
Have you previously contacted the Regional Board staff regarding this project? If 'yes' provide information on date, person, and brief summary of subject matter.	
N/A	

STATEMENT OF AUTHORIZATION

I hereby authorize Peter Okurowski to act in my behalf as my agent in the processing of this application, and to furnish upon request, supplemental information in support of this permit application.



Applicant's Signature

September 23, 2016
Date

¹Complete only if applicable

2. PROJECT DESCRIPTION

a) Project Title: Lower Klamath Project (Project)
b) Project Purpose: KRRC is filing this request for water quality certification with the SWRCB and a separate request for water quality certification with the ODEQ in support of dam removal activities proposed in the License Surrender Application. KRRC seeks Section 401 water quality certification for the proposed removal of the California dam developments, which are located in Siskiyou County, California, pursuant to the Amended KHSA. PacifiCorp currently owns and operates the California dam developments pursuant to a license issued by FERC. PacifiCorp also currently owns J.C. Boyle located in Oregon and licensed by FERC under the same project license (FERC Project No. 2082). As part of the Amended KHSA, KRRC will decommission the California dam developments, as well as J.C. Boyle, following transfer of the license for those developments from PacifiCorp to KRRC to achieve a free-flowing condition and volitional fish passage through the reach currently occupied by the Lower Klamath Project.

c) Project Activities:

As stated above, in 2012, the U.S. Department of the Interior prepared the Detailed Plan, included as Attachment 4, which describes the schedule for completion of dam deconstruction activities. KRRC will prepare and submit a Definite Plan, superseding the Detailed Plan, with respect to schedule and deconstruction activities, and the Definite Plan will serve as another basis for SWRCB's environmental review.

d) Proposed Schedule (start-up, duration, and completion dates):

The Detailed Plan describes the initial schedule for completion of dam deconstruction activities. KRRC will prepare a Definite Plan, as specified in the Amended KHSA, and plans to submit it by the end of 2017. The Definite Plan will supersede the Detailed plan and provide an updated schedule and description of deconstruction activities. The Amended KHSA identifies "a target date of December 31, 2020 for completion of Facilities Removal at least to a degree sufficient to enable a free-flowing Klamath River allowing volitional fish passage." (See section 7.3.1 of Amended KHSA). The Detailed Plan indicates that initial work could begin in 2019 and meet the following schedule:

Staging activities: Beginning June 2019

Reservoir Drawdown: January 2020 – May 2020

Copco No. 1 Development Removal: January 2020 – May 2020

Copco No. 2 Development Removal: May 2020 – October 2020

Iron Gate Development Removal: July 2020 – November 2020

3. FEDERAL LICENSES/PERMITS

a) Federal Agency(ies)/File Number(s):

U.S. Army Corps of Engineers _____ Other: KRRC will begin actions necessary to obtain other regulatory approvals necessary to perform dam removals. Among other things, KRRC will seek approval from the ACOE under Clean Water Act section 404(a).

File No.(s) (if known) _____

b) Permit Type(s) (please provide permit number(s) if known):

Nationwide Permit No.(s) _____ Regional General Permit No.(s) _____

Individual Permit ____ Other _____

c) Does the project require any Federal Application(s), Notification(s) or Correspondence?

Yes: No _____ (attach detailed explanation)

d) Provide copies of the license/permit/application:

See the Joint License Transfer Application and KRRC's License Surrender Application.

4. OTHER LICENSES/PERMITS/AGREEMENTS

a) Please list all other required, including local regulatory approvals (submit final or draft copy if available). Include information on any De-watering, NPDES, and Storm Water permits.

The Project is subject to multiple statutes and regulations. KRRC recognizes that Tables 6-1 and 6-2 in the Klamath Facilities Removal Final Environmental Impact Statement / Environmental Impact Report (“2012 Final EIS/EIR”) (see Attachment 6) identify Federal and California State Statutes and Regulations that are potentially applicable to the removal of the California dam developments. KRRC will provide further information regarding applicable laws and copies of all permits, license, and agreements to the SWRCB, as acquired, during the water quality certification process.

Agency	License/Permit/Agreement	Permit No.	Approval Date

b) Does the project require a Federal Energy Regulatory Commission (FERC) license or amendment to a FERC license?

No _____ Yes: X _____ (attach application copy)

See the Overview and Project Description summary above.

5. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Indicate CEQA Document (submit final or draft copy if available*):

KRRC expects to formalize an agreement with the SWRCB regarding the CEQA process within the next 60 days.

The reports contained in Attachments 5, 6, 7, and 8 are included in this application for reference, and may be superseded by information in the Definite Plan.

Type of CEQA Document	Date of filing of Notice of Exemption/ Preparation and Name of Lead Agency
Statutory Exemption/Class Title	
Categorical Exemption/Class Title	
Negative Declaration	
Mitigated Negative Declaration	
Environmental Impact Report	

Note: Ample time must be provided to the certifying agency to properly review a final copy of valid CEQA documentation before certification can occur.

6. APPLICATION FEE

Provide an initial deposit of \$0.00 for the application. Please write a check made out to the State Water Resources Control Board.

Is a check enclosed? Yes _____ No. X Check Number _____ Amount \$

KRRC will pay all appropriate fees.

7. PROJECT SITE DESCRIPTION – GENERAL (Include areas outside of US waters)

a) Project Location (attach map of suitable quality and detail):

City or Area _____ County: Siskiyou

Longitude/Latitude _____

Applicant references Figure M2.1 in Attachment C, “Exhibit M - Lower Klamath Project Description” as filed in the License Transfer Application for Project No. 2082 (*see* Attachment 8), and describes the project works, activity, maps, diagrams, and other necessary information of the California dam developments.

b) Total Project Size: _____ acres _____ linear feet (if appropriate)

KRRC will provide this information during the water quality certification process.

c) Site description of the entire project area (including areas outside of jurisdictional water of the U.S.):

Applicant references Figure M2.1 in Attachment C, “Exhibit M -Lower Klamath Project Description” as filed in the License Transfer Application for Project No. 2082 (*see* Attachment 8), and describes the project works, activity, maps, diagrams, and other necessary information of the California dam developments.

8. WATER BODY IMPACT

a) **Water Body Name(s)**²:

Clearly indicate on a published map of suitable detail, quality, and scale (1:24K) to allow the certifying agency to easily identify the area(s) and water body(ies) receiving any discharge.

Applicant references Figure M2.1 in Attachment C, “Exhibit M - Lower Klamath Project Description” as filed in the License Transfer Application for Project no. 2082 (*see* Attachment 8), and describes the project works, activity, maps, diagrams, and other necessary information of the California dam developments.

Table 3.2-1 of the 2012 Final EIS/EIR lists the following Klamath Basin Features Relevant to the Water Quality Area of Analysis.

Oregon-California State line – RM 208.5

Copco No. 1 Reservoir – RM 198.6 to 203.1

Copco No. 2 Reservoir – RM 198.3 to 198.6

Iron Gate Reservoir – RM 190.1 – 196.9

Klamath River confluence with Shasta River – RM 176.7

Klamath River confluence with Scott River – RM 143.0

Seiad Valley – RM 129.4
 Klamath River confluence with Salmon River – RM 66.0
 Hoopa Valley Tribe - ~45 to 46
 Weitchpec – RM 43.5
 Klamath River confluence with Trinity River - 42.5
 Klamath River at Turwar – RM 5.8
 Klamath Estuary - 0 to ~2

b) **Fill and Excavation:** Indicate in ACRES and/or LINEAR FEET the proposed waters to be impacted, and identify the impacts(s) as permanent and/or temporary for each water body type listed below:

KRRC will provide further detail during the water quality certification process. KRRC also references Volume 1, Chapter 3 from the 2012 Final EIR/EIS.

Water Body Type	Permanent Impact		Temporary Impact	
	Acres	Linear Feet	Acres	Linear Feet
Wetland ³				
Streambed				
Lake/Reservoir				
Ocean/Estuary/Bay				
Riparian				
Non-Federal Waters				

Provide the name, title, and affiliation of person that carried out wetland delineation.

c) **Dredging: Total** volume (cubic yards) of dredged material proposed for project.

Chapter 4.0 of the Detailed Plan identifies the dredging activities for the California dam developments but does not identify the total volume. For example, the Detailed Plan proposes dredging to remove sediment from upstream of the low-level outlet at Copco No.1 (see section 4.2.2.1).

d) Provide information on the Q₂, Q₁₀, Q₁₀₀ for pre- and post-project implementation.

KRRC will provide further detail during the water quality certification process.

e) Indicate type(s) of material proposed to be discharged in waters of the United States:

Information on sediment releases can be found in Chapter 5 of the Detailed Plan, and this information will be superseded by the Definite Plan.

²Both US Army Corps of Engineer’s jurisdictional- and non-jurisdictional water bodies.

³Per US Army Corps of Engineer's wetland delineation protocol.

9. COMPENSATORY MITIGATION (Please complete attached Mitigation Checklist)

a) Is compensatory mitigation proposed? Yes _____ No **X**
 Any compensatory mitigation would be developed during the CEQA analysis that will be performed following the submission of this water quality certification application.

b) Indicate in ACRES and LINEAR FEET (where appropriate) the total quantity of **waters of the United States** proposed to be Created, Restored, Enhanced, or Preserved.

These determinations will be made during the water quality certification process and submitted to the SWRCB in a timely manner.

Water Body Type	Created	Restored	Enhanced	Preserved
Wetland				
Streambed				
Lake/Reservoir				
Ocean/Estuary/Bay				
Riparian				
Non-Federal Waters				

c) If contributing to a Mitigation Bank provide the following:
 Determinations about these contributions have not been made at this time.

Mitigation Bank Name: Name of Mitigation Bank Operator: Office Address of Operator/Phone Number: Mitigation Bank Location (Latitude/Longitude, County, and City): Mitigation Bank Water Body Type(s): Mitigation Area (acres or linear feet) and cost (dollar):
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d) Provide/attach a map with suitable detail, quality, and scale (1:24K) that will easily provide information as to the location(s) and water body(ies) of the mitigation area.

Maps will be provided in a timely manner for any mitigation areas.

10. THREATENED/ENDANGERED SPECIES

- a) Does the project require coordination with the US Fish and Wildlife Service or National Marine Fisheries Service under the Federal Endangered Species Act?
Yes (provide copies of Biological Report) No (provide basis of determination)

See information in Attachments 6 and 7.

- b) Does the project require coordination with the State of California Department of Fish and Game under the California Endangered Species Act?
Yes (provide copies of Biological Report) No (provide basis of determination)

11. OTHER ACTIONS/BEST MANAGEMENT PRACTICES (BMPs)

Briefly describe other actions/BMPs to be implemented to Avoid and/or Minimize impacts to waters of the United States, including preservation of habitats, erosion control measures, project scheduling, flow diversions, etc.

The Detailed Plan includes various elements to minimize the impacts of the removal of the dams, and some of these elements may be superseded by the Definite Plan. KRRC will remain in close coordination with the SWRCB regarding other actions and BMPs that could be implemented to minimize impacts.

12. PAST/FUTURE PROPOSALS BY THE APPLICANT

Briefly list/describe any projects carried out in the last 5 years or planned for implementation in the next 5 years that are in any way related to the proposed activity or may impact the same receiving body of water. Include estimated adverse impacts.

N/A

ATTACHMENT LIST

Klamath River Renewal Corporation

**APPLICATION FOR CERTIFICATION PURSUANT TO SECTION 401 OF THE
FEDERAL CLEAN WATER ACT AND CALIFORNIA LAW**

September, 2016

The following documents have been provided in electronic format.

Attachment

1. Amended Klamath Hydroelectric Settlement Agreement (2016)
2. Application for Certification Pursuant to Section 401 of the Federal Clean Water Act and Oregon Law – Filed with Oregon Department of Environmental Quality on September 23, 2016.
3. Joint Application for Approval of License Amendment and License Transfer. September 23, 2016
4. Application for Surrender of License for Major Project and Removal of Project Works. September 23, 2016.
5. Detailed Plan for Dam Removal – Klamath River Dams, Klamath Hydroelectric Project, FERC license No. 2018, Oregon – California (2012).
6. Final Klamath Facilities Removal Final Environmental Impact Statement/Environmental Impact Report (2012), Volumes 1-3. Volume 1 is the primary analysis of the environmental impacts of facilities removal; Volume 2 consists of supporting appendices; and Volume 3 shows the history of consultation and comment.
7. Klamath Dam Removal Overview Report for the Secretary of the Interior: An Assessment of Science and Technical Information (2013).
8. Attachment C as filed in the License Transfer Application for Project no. 2082, to describe the project works of the Lower Klamath Project.



Applicant's Signature (or Agent)

September 23, 2016

Date

