

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Klamath River Renewal Corporation

Project No. 14803-001

**LICENSE SURRENDER ORDER
LOWER KLAMATH PROJECT**

Interim Hydropower Operations Plan

December 2022



**Lower Klamath Project
FERC Project No. 14803**

Interim Hydropower Operations Plan

**Klamath River Renewal Corporation
2001 Addison Street, Suite 317
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December 2022

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1.0 Introduction

The Lower Klamath Project (FERC No. 14803) consists of four hydroelectric developments on the Klamath River: J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate (Figure 1-1). Specifically, the reach between J.C. Boyle Dam and Iron Gate Dam is known as the Hydroelectric Reach. In September of 2016, the Renewal Corporation filed an *Application for Surrender of License for Major Project and Removal of Project Works*, FERC Project Nos. 2082-063 & 14803-001 (License Surrender). The Renewal Corporation filed the License Surrender Application as the dam removal entity for the purpose of implementing the Klamath River Hydroelectric Settlement (KHSa). In November of 2020, the Renewal Corporation filed its Definite Decommissioning Plan (DDP) as Exhibits A-1 and A-2 to its Amended License Surrender Application (ALSA). The DDP is the Renewal Corporation's comprehensive plan to physically remove the Project and achieve a free-flowing condition and volitional fish passage, site remediation and restoration, and avoidance of adverse downstream impacts (Proposed Action). In November 2022, the Commission approved the ALSA and issued the License Surrender Order (LSO) approving facility removal and habitat restoration.

The Proposed Action includes the deconstruction of the J.C. Boyle Dam and Powerhouse (Figure 1-2), Copco No. 1 Dam and Powerhouse (Figure 1-3), Copco No. 2 Dam and Powerhouse (Figure 1-4), and Iron Gate Dam and Powerhouse (Figure 1-5), as well as associated features. Associated features vary by development, but generally include powerhouse intake structures, embankments and sidewalls, penstocks and supports, decks, piers, gatehouses, fish ladders and holding facilities, pipes and pipe cradles, spillway gates and structures, diversion control structures, aprons, sills, tailrace channels, footbridges, powerhouse equipment, distribution lines, transmission lines, switchyards, original cofferdams, portions of the Iron Gate Fish Hatchery, residential facilities, and warehouses. Facility removal will be completed within an approximately 20-month period.

This Interim Hydropower Operations Plan identifies that after license transfer and until drawdown and dam removal are initiated, the Renewal Corporation will implement the "Agreement for Operation and Maintenance of the Lower Klamath Project between the Klamath River Renewal Corporation and PacifiCorp" (Appendix A), for purpose of such operation and maintenance. The Renewal Corporation prepared 16 Management Plans to implement the DDP, and the Commission reviewed and approved these plans as conditions of its License Surrender Order. These Management Plans were developed in consultation with federal, state, and county governments and tribes.

The LSO Ordering Paragraph (L) approves the Interim Hydropower Operations Plan as filed on December 14, 2021. The Renewal Corporation now submits limited modifications to this approved plan as stated in Table 2-2. These modifications comply with the requirements in Ordering Paragraph (N) and include refinement in means and methods due to further consultation with the California State Water Resources Control Board pursuant to the requirements in Ordering Paragraph (E). Table 2-2 herein shows the material modifications to

the approved version of this Interim Hydropower Operations Plan. An updated Consultation Record for the Interim Hydropower Operations Plan is included as Appendix B.

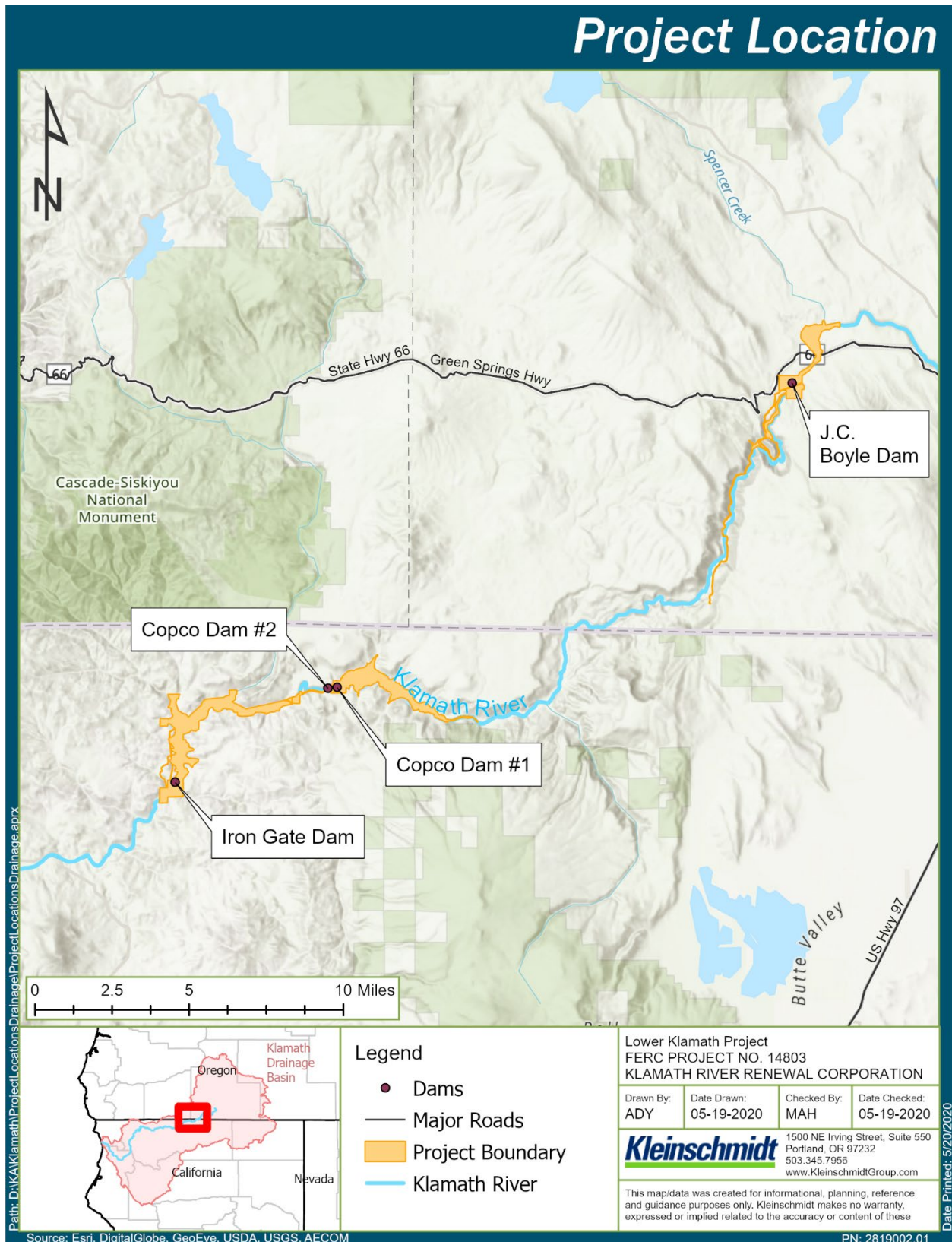


Figure 1-1. Lower Klamath Project Location

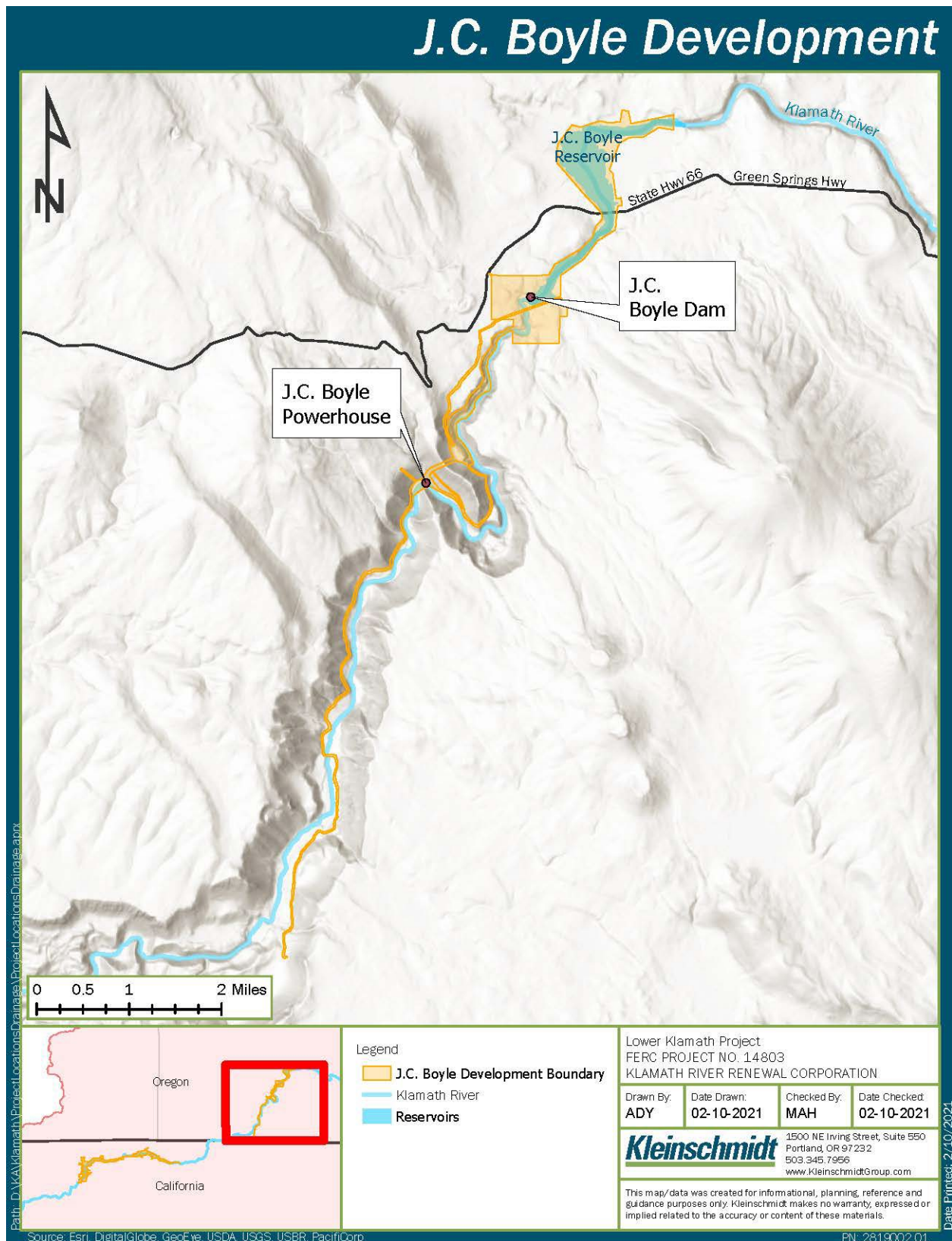


Figure 1-2. J.C. Boyle Development Facility Details

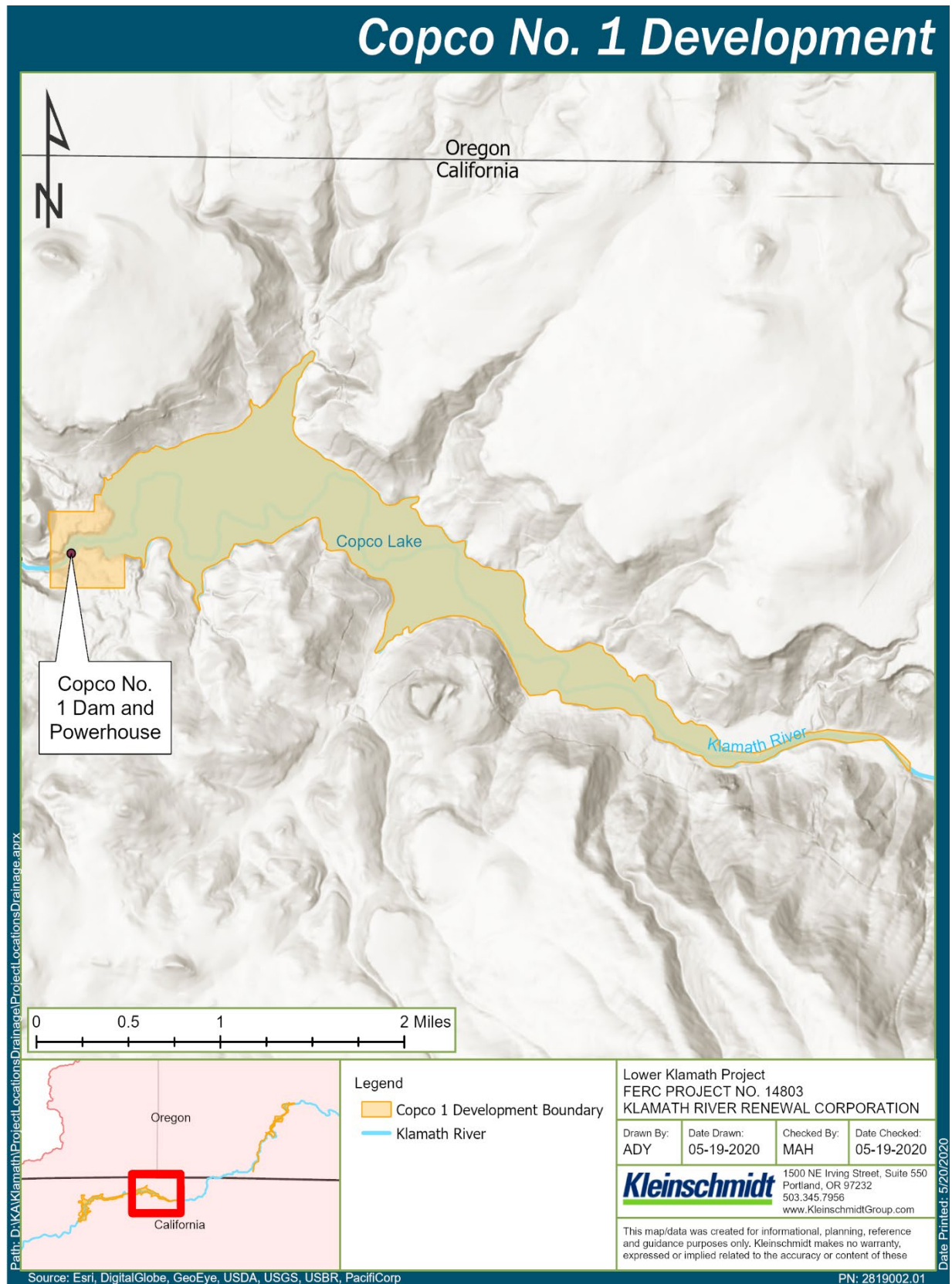


Figure 1-3. Copco No.1 Development Facility Details

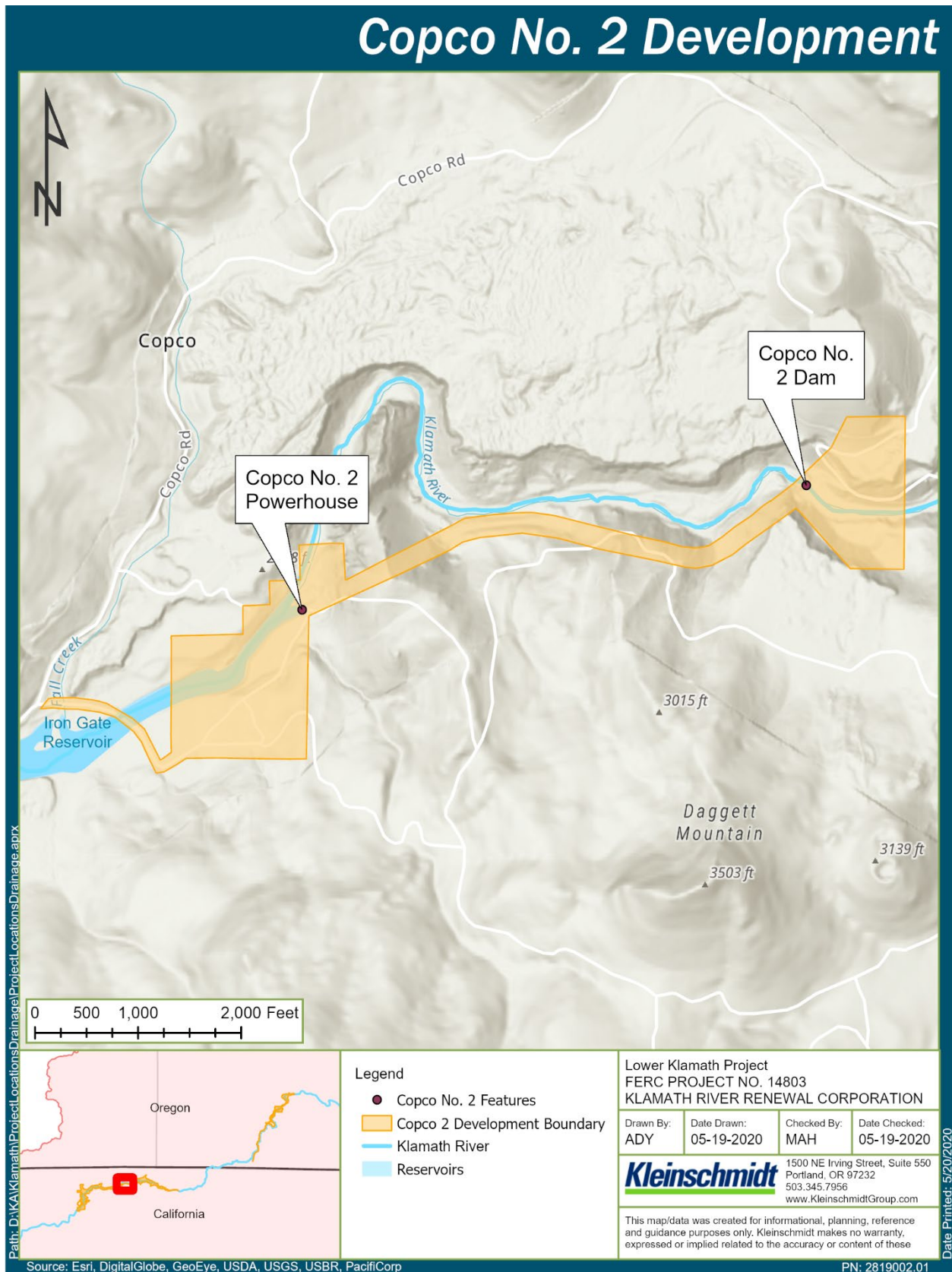


Figure 1-4. Copco No.2 Development Facility Details

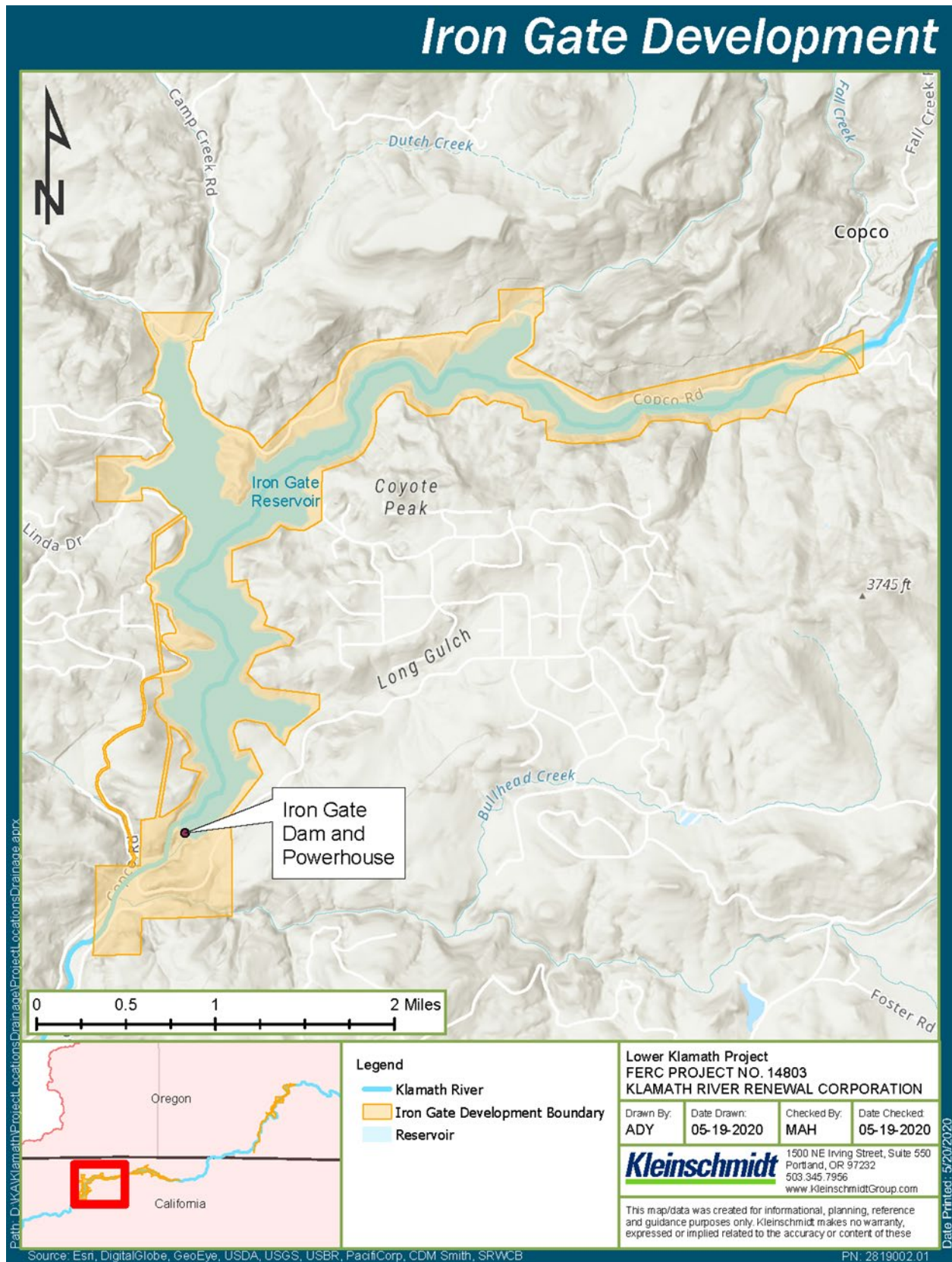


Figure 1-5. Iron Gate Development Facility Details

2.0 Regulatory Context

The Interim Hydropower Operations Plan is one of 16 Management Plans implementing the DDP.

Table 2-1. Lower Klamath River Management Plans

1. Aquatic Resources Management Plan	9. Remaining Facilities Plan
2. Construction Management Plan	10. Reservoir Area Management Plan
3. Erosion and Sediment Control Plan	11. Reservoir Drawdown and Diversion Plan
4. Hatcheries Management and Operations Plan	12. Sediment Deposit Remediation Plan
5. Health and Safety Plan	13. Terrestrial and Wildlife Management Plan
6. Historic Properties Management Plan	14. Waste Disposal and Hazardous Materials Management Plan
7. Interim Hydropower Operations Plan	15. Water Quality Monitoring and Management Plan
8. Recreation Facilities Plan	16. Water Supply Management Plan

2.1 Purpose of the Interim Hydropower Operations Plan

The purpose of the Interim Hydropower Operations Plan is to outline the measures the Renewal Corporation will implement to protect water quality and fisheries if drawdown and dam removal are not initiated within five years of issuance of the License Surrender Order. These proposed measures are part of the Proposed Action.

2.2 Specific Regulatory Interests

The Renewal Corporation considered the following regulatory interests in the development of the Interim Hydropower Operations Plan:

- Oregon Memorandum of Understanding
- California Section 401 Water Quality Certification
- California Department of Fish and Wildlife Memorandum of Understanding
- Federal Energy Regulatory Commission Final Environmental Impact Statement
- Federal Energy Regulatory Commission License Surrender Order

2.3 Modifications to the Approved Plan

The Renewal Corporation has modified the December 2021 version of this plan in the following material respects to comply with the November 17, 2022, License Surrender Order.

Table 2-2. Modifications to the Approved Plan

SECTION	MODIFICATIONS
Section 3.0: Operations Procedures	<ul style="list-style-type: none"> Appendix A includes an updated Agreement for Operation and Maintenance of the Lower Klamath Project between the Klamath River Renewal Corporation and PacifiCorp.

2.1 Regulatory Approval

The Renewal Corporation will implement the Interim Hydropower Operations Plan as approved by the Commission in the License Surrender Order. The Renewal Corporation will obtain and report to the Commission any required approvals from other agencies.

2.2 Reporting

The Renewal Corporation will prepare and submit to the Commission an Annual Report by April 15 of each year which will include information pertaining to implementation of the Interim Hydropower Operations Plan.

3.0 Operation Procedures

After license transfer, and until drawdown and dam removal are initiated, the Renewal Corporation will implement the “Agreement for Operation and Maintenance of the Lower Klamath Project between the Klamath River Renewal Corporation and PacifiCorp” (Appendix A), for purpose of such operation and maintenance.

Appendix A

Agreement for Operation and Maintenance

AMENDED AND RESTATED AGREEMENT

for the

OPERATION AND MAINTENANCE

of the

LOWER KLAMATH PROJECT

between

KLAMATH RIVER RENEWAL CORPORATION

and

PACIFICORP

AMENDED AND RESTATED
AGREEMENT FOR THE OPERATION AND MAINTENANCE
OF THE LOWER KLAMATH PROJECT

THIS AMENDED AND RESTATED AGREEMENT FOR THE OPERATION AND MAINTENANCE OF THE LOWER KLAMATH PROJECT (“Amended and Restated Agreement”) is entered into as of the 1st day of December, 2022, between PACIFICORP, an Oregon corporation (“PacifiCorp”) and KLAMATH RIVER RENEWAL CORPORATION, a California nonprofit corporation (“KRRC”). KRRC and PacifiCorp are referred to herein individually as a “Party” and collectively as the “Parties.”

1. RECITALS: This Amended and Restated Agreement is made with reference to the following facts, among others:

1.1 PacifiCorp is engaged in the generation, transmission, and distribution of electric power as an electric utility in Oregon, California, Idaho, Utah, Washington, and Wyoming. PacifiCorp has been the Federal Energy Regulatory Commission (“FERC”) licensee for the Klamath Hydroelectric Project, FERC No. 2082 (the “Klamath Project”) – which historically was a series of eight generating and non-generating developments on the Klamath River and its tributaries in Klamath County, Oregon and Siskiyou County, California. On April 6, 2016, PacifiCorp executed an amendment to the Klamath Hydroelectric Settlement Agreement (“KHSA”) with, among others, the State of California (“California”), the State of Oregon (“Oregon”), the United States Department of the Interior, the Yurok Tribe, the Karuk Tribe, and the National Marine Fisheries Service, for purposes of establishing a process for potential Facilities

Removal of the Klamath Project's four dams on the mainstem Klamath River – J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate – and operation of the Klamath Project until that time.

1.2 KRRC is a California non-profit corporation incorporated on February 29, 2016, pursuant to the KHSA for the sole purpose of becoming the “Dam Removal Entity” under that agreement. KRRC became a party to the KHSA on August 30, 2016.

1.3 Pursuant to the KHSA, on September 23, 2016, PacifiCorp and KRRC filed a joint application to FERC asking it to remove the J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate developments from the Klamath Project license and designate them as a new project – the Lower Klamath Project, FERC No. 14803 – and to transfer the FERC license for the new Lower Klamath Project from PacifiCorp to KRRC. Concurrently with the joint license transfer application, KRRC filed an application with FERC to surrender the FERC license for the Lower Klamath Project for purposes of Facilities Removal, as defined in the KHSA.

1.4 The KHSA provides that after the license for the Lower Klamath Project is transferred to KRRC, PacifiCorp will continue to operate the Facilities for the benefit of its customers and retain all rights to the power from the Facilities until each Facility is Decommissioned. The KHSA also provides that the Parties will enter into an operations and maintenance agreement under which PacifiCorp will pay all costs associated with operating the Facilities between the time of license transfer and Decommissioning, and indemnify, defend, and hold KRRC harmless with respect to those operations. Accordingly, PacifiCorp and KRRC entered into a certain Agreement for the Operation and Maintenance of the Lower Klamath Project, dated September 20, 2017 (“Original O&M Agreement”).

1.5 Following execution of the Original O&M Agreement, FERC by order dated March 15, 2018 (*PacifiCorp*, 162 FERC ¶ 61,236 (2018)) bifurcated the Klamath Project into two separate licenses, placing the four Klamath River mainstem dam developments into a newly created license (Project No. 14803) for the Lower Klamath Project. In that order, FERC deferred its decision on license transfer of the Lower Klamath Project to KRRC.

1.6 In an order dated July 16, 2020 (*PacifiCorp*, 172 FERC ¶ 61,062 (2020)), FERC approved a partial transfer of the Lower Klamath Project license, whereby *PacifiCorp* would remain as licensee, and KRRC would be added as a co-licensee with *PacifiCorp*. In response, parties to the KHSA initiated meet and confer protocols under Section 8.11 of the KHSA to determine a path forward for resolving FERC's July 2020 order relative to the requirements of the KHSA.

1.7 On November 16, 2020, in order to allow for the continued implementation of the KHSA, the Parties, together with California, Oregon, the Karuk Tribe and the Yurok Tribe, entered into a certain Memorandum of Agreement (the "MOA"). Among other things, the MOA provided for: (1) the Parties, California and Oregon to prepare and file a new application with FERC, proposing to transfer the license for the Lower Klamath Project from *PacifiCorp* to KRRC, Oregon, and California as co-licensees of the Lower Klamath Project, and to remove *PacifiCorp* as licensee; and (2) KRRC and *PacifiCorp* to file an amended license surrender application for the Lower Klamath Project, with KRRC continuing to act as the Dam Removal Entity under the KHSA.

1.8 Pursuant to the MOA, the Parties, California and Oregon, on January 13, 2021, filed an application with FERC, seeking to transfer the Lower Klamath Project license from PacifiCorp to KRRC, California, and Oregon as co-licensees. FERC approved this application by order issued on June 17, 2021 (*PacifiCorp*, 175 FERC ¶ 61,236 (2021)). Under FERC's approval order, KRRC, California, and Oregon must accept license transfer within 30 days of FERC's Surrender Order.

1.9 Also pursuant to the MOA, KRRC and PacifiCorp filed an amended application with FERC on November 17, 2020, to surrender the license for the Lower Klamath Project. On November 17, 2022, FERC issued its Surrender Order. As of the execution of this Amended and Restated Agreement, KRRC has sought and secured other regulatory approvals under the Clean Water Act, Endangered Species Act, and other applicable laws, and certain other regulatory approvals and permits needed for Facilities Removal remain pending.

1.10 Concurrent with these regulatory processes, since the execution and delivery of the Original O&M Agreement, the Parties have been working with each other and various other parties to the KHSA, state and federal regulators, and design and construction companies to plan for Facilities Removal and, generally, for the implementation of the Definite Plan. Based on the results of the foregoing efforts, the Parties now desire to amend and restate the Original O&M Agreement in its entirety.

1.11 Accordingly, the Parties desire to enter into this Amended and Restated Agreement for the purpose of establishing their respective obligations with respect to the operation and maintenance of the Lower Klamath Project, including PacifiCorp's role in conducting Facility operations necessary to support KRRC's pre-drawdown construction work at the respective

Facilities following PacifiCorp's transfer of the Facilities to KRRC pursuant to the KHSa and the Property Transfer Agreement and its transfer of the Lower Klamath Project FERC license to KRRC, California, and Oregon as co-licensees pursuant to FERC's June 17, 2021 order.

TERMS AND CONDITIONS:

NOW, THEREFORE, in consideration of the mutual covenants below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree that the Original O&M Agreement is hereby amended and restated in its entirety as set forth in this Amended and Restated Agreement.

2. SCOPE OF AGREEMENT:

2.1 As owner and co-licensee of the Lower Klamath Project, KRRC will be ultimately and principally responsible for complying with all regulatory requirements associated with the Lower Klamath Project, including receiving and conveying all communications from FERC and other federal and state regulatory agencies pertaining to the Lower Klamath Project, and for complying with all associated regulatory requirements.

2.2 Upon the Effective Date and throughout the Term for each Facility, PacifiCorp will at all times be an independent contractor to KRRC, contracted under this Amended and Restated Agreement to perform Routine Project Operations as provided in Section 5.2, Non-Routine Project Operations as provided in Section 5.3, Standard Maintenance as provided in Section 9.1, and Decommissioning of Facilities. As KRRC's contractor, PacifiCorp will exercise the level of skill and prudence that is consistent with the standards prevailing in the utility industry for hydroelectric

projects of a similar size and nature to the Lower Klamath Project and with its experience as a long-standing owner and operator of the Lower Klamath Project.

2.3 Neither PacifiCorp nor its employees nor the employees of any of PacifiCorp's contractors will be considered to be servants, employees or agents of KRRC. As an independent contractor, PacifiCorp will be responsible for all employment matters relating to its employees, including workplace conditions and reporting and notification obligations.

2.4 Whenever this Amended and Restated Agreement provides for consultation, cooperation or coordination between the Parties, the Parties will cooperate in a manner that is timely in light of the applicable circumstances through appropriately skilled and knowledgeable personnel under the oversight of their respective Designated Representatives and will endeavor in good faith to minimize unnecessary cost or delay to their respective activities and to achieve their common goal of safe, timely, and cost-efficient Facilities Removal.

3. TERM:

3.1 The Effective Date of this Amended and Restated Agreement is the date on which KRRC, California, and Oregon have accepted license transfer for the Lower Klamath Project from PacifiCorp by signing and filing the acceptance sheet with FERC, as provided in Ordering Paragraph (C) of FERC's June 17, 2021 order (*PacifiCorp*, 175 FERC ¶ 61,236 (2021)).

3.2 This Amended and Restated Agreement will terminate as to each Facility on the applicable Facility Termination Date.

3.3 This Amended and Restated Agreement will terminate upon the last Facility Termination Date.

4. DEFINITIONS; CONSTRUCTION:

4.1 The capitalized terms set forth below, when used in this Amended and Restated Agreement, will have the respective meanings specified below. Capitalized terms used in this Amended and Restated Agreement but not defined below will have the respective meanings ascribed to such terms in the KHSA.

(a) **Copco No. 1:** means the Copco No. 1 hydroelectric development and associated lands located in Siskiyou County, California, which generally consists of a concrete dam, reservoir and powerhouse (20 megawatt ["MW"]) located at River Mile ("RM") 198.6.

(b) **Copco No. 2:** means the Copco No. 2 hydroelectric development and associated lands located in Siskiyou County, California, which generally consists of a dam located at RM 198.3, a water conveyance system, a powerhouse (28 MW) located at RM 196.8, and a substation adjacent to the powerhouse.

(c) **Decommissioned Property:** has the meaning ascribed to such term in the Property Transfer Agreement.

(d) **Decommissioning:** has the meaning ascribed to such term in Section 1.4 of the KHSA. The term Decommissioning does not include: (1) any Facilities Removal activities; (2) responding to Exigent Circumstances; or (3) any activity, service, or function at any Facility beyond the Term for the Facility.

(e) **Designated Representative:** means as to each Party the individual identified below:

For KRRC:

Mark Bransom
Chief Executive Officer
Klamath River Renewal Corporation
2001 Addison Street
Suite 300, Office 317
Berkeley, California 94704

(415) 820-4441
Mark@klamathrenewal.org

For PacifiCorp:

Demian Ebert
Klamath Program Manager
Pacific Power – Hydro Resources
825 NE Multnomah Street
Suite 1800
Portland, Oregon 97232

503.813.6625 (direct)
415.760.3537 (mobile)
Demian.ebert@pacificorp.com

Each Party may change its Designated Representative from time to time by notice given in accordance with Section 23.

(f) **Effective Date:** has the meaning set forth in Section 3.1.

(g) **Exigent Circumstances:** means any incident, circumstance, or other condition affecting the Lower Klamath Project that constitutes an emergency or an imminent threat to persons, property, dam safety, public safety, or the environment.

(h) **Facility and Facilities:** individually or collectively Copco No. 1, Copco No. 2, Iron Gate, or J.C. Boyle, as the context requires. For purposes of this Amended and Restated Agreement, each Facility will be deemed to include all associated real property interests transferred to KRRC, consistent with Section 7.6.4 of the KHSA, whether or not such interests are included by FERC in the applicable boundaries of the Lower Klamath Project.

(i) **Facilities Handover Procedures:** has the meaning ascribed to such term in the Property Transfer Agreement.

(j) **Facilities Removal:** has the meaning ascribed to such term in Section 1.4 of the KHSA. The Parties acknowledge that as used in this Amended and Restated Agreement such term includes pre-drawdown work and other work necessary to facilitate the physical removal of the Facilities.

(k) **Facility Termination Date:** means, as to each Facility, the date established pursuant to Section 10.

(l) **Facility Transition Plan:** means the set of requirements and procedures developed by KRRC and PacifiCorp under Section 10.1.

(m) **FERC:** means the Federal Energy Regulatory Commission.

(n) **Iron Gate:** means the Iron Gate hydroelectric development and associated lands located in Siskiyou County, California, which generally consists of a reservoir, an earth embankment dam, and a powerhouse (18 MW) located at RM 190.1. The Iron Gate development

includes the Iron Gate Fish Hatchery, which is a facility operated by the California Department of Fish and Wildlife (“CDFW”).

(o) **J.C. Boyle:** means the J.C. Boyle hydroelectric development and associated lands located in Klamath County, Oregon, which generally consists of a reservoir, a combination embankment and concrete dam located at RM 224.7, a water conveyance system, a powerhouse (98 MW) on the Klamath River at RM 220.4, and a substation adjacent to the powerhouse.

(p) **KHSA:** means the Klamath Hydroelectric Settlement Agreement, originally entered into on February 18, 2010, as heretofore amended, and as it may hereafter be amended.

(q) **Lower Klamath Project:** means FERC Project No. 14803, consisting of the four hydroelectric generating developments (J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate) and associated lands, including lands referred to in the KHSA as Parcel B lands.

(r) **Non-Routine Project Operations:**

(i) Except as provided in Section 4.1(r)(ii), Non-Routine Project Operations means all activities, services and functions relating to the operation of the Lower Klamath Project undertaken by PacifiCorp at KRRC’s request in order to facilitate KRRC’s execution of the Reservoir Drawdown and Diversion Plan. Non-Routine Project Operations may include operations prior to reservoir drawdown to accommodate KRRC’s pre-drawdown construction work and related activities; operations to meet reservoir level and water flow requirements in preparation for or in connection with KRRC’s reservoir drawdowns;

communications with the Bureau of Reclamation, FERC or other regulatory agencies necessary to implement such operations as directed by KRRC in a Work Plan; and responding to Exigent Circumstances arising out of PacifiCorp's performance of Non-Routine Project Operations.

(ii) Non-Routine Project Operations do not include: (1) capital improvements or alterations; (2) Routine Project Operations; (3) Facilities Removal activities other than Lower Klamath Project operational adjustments required to achieve reservoir drawdowns for purposes of Facilities Removal; (4) responding to Exigent Circumstances not arising in connection with PacifiCorp's performance of Non-Routine Project Operations; or (5) any activity, service, or function at any Facility beyond the Term for the Facility.

(s) **Operating Expenses:** means those expenses set forth in Section 6.

(t) **Property Transfer Agreement:** means the Property Transfer Agreement, dated as of January 13, 2021, between PacifiCorp, as transferor, and KRRC as transferee, relating to the Lower Klamath Project.

(u) **Reservoir Drawdown and Diversion Plan:** means the Reservoir Drawdown and Diversion Plan submitted to FERC in connection with the application for the Surrender Order, as it may be modified by the terms of the Surrender Order or as amended or updated by order of FERC or otherwise under applicable regulatory authority as needed.

(v) **Routine Project Operations:**

(i) Except as provided in Section 4.1(v)(ii), Routine Project Operations means all activities, services and functions necessary or otherwise performed in connection with

the Lower Klamath Project and its individual Facilities in a manner consistent with PacifiCorp's ongoing, ordinary, and regular operations prior to the Effective Date, including: (1) operation, maintenance, repair, replacement, refurbishment, restoration, security, safety, engineering, testing, staffing, inspection, coordination with Bureau of Reclamation, FERC or other regulatory authorities, relating to water flows (including recreational and other non-hydroelectric generating flows); (2) any measures necessary to comply with applicable contracts, agreements, laws, regulations, requirements, permits, approvals, consents, certificates, authorizations or reporting obligations; (3) responding to Exigent Circumstances arising in connection with PacifiCorp's performance of Routine Project Operations, Standard Maintenance, or Decommissioning of a Facility; (4) providing support to CDFW relating to the Iron Gate Fish Hatchery; and (5) compliance with "operation and maintenance" standards or practices prevailing in the utility industry for hydroelectric projects of a similar size and nature.

(ii) Routine Project Operations do not include: (1) capital improvements or alterations; (2) Non-Routine Project Operations; (3) Facilities Removal activities; (4) responding to Exigent Circumstances not arising in connection with PacifiCorp's performance of Routine Project Operations, Standard Maintenance, or Decommissioning of a Facility; or (5) any activity, service, or function at any Facility beyond the Term for that Facility.

(w) **Standard Maintenance:**

(i) Except as provided in Section 4.1(w)(ii), Standard Maintenance means replacements, repairs, and/or refurbishments necessary, and in accordance with prudent industry practice, to maintain a Facility in a safe condition suitable for continued operation of such

Facility, in order to: (1) pass flows through and/or over dams and spillways and comply with applicable flow and ramp rate limitations; (2) provide for the monitoring of flows and flowrates through existing measurement devices on penstocks, spillgates, canals, and in the Klamath River; (3) comply with dam safety monitoring requirements; (4) comply with applicable environmental or water quality monitoring requirements; (5) comply with FERC directives related to the operation and maintenance of the Facility; (6) cost-effectively generate hydroelectricity for the benefit of PacifiCorp's customers; and (7) otherwise operate the Lower Klamath Project in a manner consistent with PacifiCorp's ongoing, ordinary, and regular operation prior to the Effective Date. The term Standard Maintenance includes any capital improvement of any Facility or associated infrastructure that is necessary and prudent to maintain functionality consistent with PacifiCorp's ongoing, ordinary, and regular operations prior to the Effective Date.

(ii) The term Standard Maintenance does not include: (1) any Facilities Removal activities; (2) responding to Exigent Circumstances; or (3) any activity, service, or function at any Facility beyond the Term for the Facility.

(x) **Surrender Order:** means an order issued by FERC on the November 17, 2022, amended license surrender application that accepts license surrender for the Lower Klamath Project, subject to completion of the Definite Plan, including any changes required by FERC or other regulatory authority.

(y) **Term:** means, for any particular Facility, the time period beginning as provided in Section 3.1 and ending as provided in Section 3.2.

(z) **Work Plan:** means a set of written instructions designated as such for purposes of implementing Non-Routine Project Operations, prepared in accordance with this Amended and Restated Agreement, including Section 5.3.2, and submitted by KRRC's Designated Representative to PacifiCorp's Designated Representative.

4.2 Unless the context clearly indicates to the contrary, the following rules will apply to the construction of this Amended and Restated Agreement:

(a) Words importing the singular number will include the plural number and vice versa.

(b) All references herein to particular articles or sections without reference to a specific document are references to articles or sections of this Amended and Restated Agreement.

(c) The word "including" and words of similar import mean "including but not limited to."

(d) All references herein to any other document, agreement or instrument will mean such document, agreement or instrument as it may be amended, modified, supplemented or restated.

(e) All references to any law, regulation, directive, order, license, permit, approval or other legal or regulatory requirement will refer to same as in effect at the time of reference.

5. PROJECT OPERATIONS, DECOMMISSIONING, AND MAINTENANCE:

5.1 In General.

5.1.1 In performing its obligations for Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, and Decommissioning of a Facility, PacifiCorp will pay promptly all sums due its employees or due any governmental or other agency on its employees' behalf and will not permit any labor claims to become a liability of KRRC or a lien against the Lower Klamath Project.

5.1.2 KRRC will promptly communicate to PacifiCorp, through the Parties' Designated Representatives, regulatory requirements pertaining to Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, and Decommissioning of Facilities. As an independent contractor, PacifiCorp will not initiate communication with FERC or other governmental agency regarding the Lower Klamath Project, except as may be directed by KRRC in writing through the Parties' Designated Representatives or as expressly provided for in this Amended and Restated Agreement. The Parties will each forward to the other any communication from any governmental agency that is material to the other Parties' obligations under this Amended and Restated Agreement.

5.1.3 As directed by KRRC through the Parties' Designated Representatives, PacifiCorp will carry out on KRRC's behalf all regulatory requirements applicable to its obligations to perform Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, and Decommissioning of Facilities. PacifiCorp, as a long-standing owner and operator of the Lower Klamath Project, acknowledges its familiarity with such requirements

applicable to Routine Project Operations and Standard Maintenance. KRRC, in turn, recognizes that Non-Routine Operations may require PacifiCorp to perform certain activities, services, and functions that are outside the scope of its existing knowledge and experience at the Lower Klamath Project.

5.1.4 PacifiCorp will immediately notify KRRC, through the Parties' Designated Representatives, of any Exigent Circumstances of which PacifiCorp has actual knowledge.

5.1.5 PacifiCorp will take prudent actions to prevent or mitigate Exigent Circumstances arising in connection with PacifiCorp's performance of Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, and Decommissioning of Facilities, including, if necessary in the reasonable judgment of PacifiCorp's Designated Representative, temporarily suspending performance of Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, or Decommissioning of Facilities, and will promptly consult with KRRC's Designated Representative following any suspension of its performance.

5.1.6 In the event PacifiCorp has actual knowledge of Exigent Circumstances not arising in connection with PacifiCorp's performance of Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, or Decommissioning of Facilities, PacifiCorp will implement any temporary and immediate action, consistent with prudent industry practice, to appropriately and reasonably respond to the Exigent Circumstances, pending direction from KRRC. Such immediate actions may include, if necessary in the reasonable judgment of PacifiCorp's Designated Representative, temporarily suspending performance of Routine Project

Operations, Non-Routine Project Operations, Standard Maintenance, and Decommissioning of Facilities. If PacifiCorp incurs any material, non-administrative costs in responding to any Exigent Circumstances under this Section 5.1.6, then KRRC shall reimburse PacifiCorp to the extent such costs exceed the Operating Expenses that PacifiCorp would have incurred in responding absent Facilities Removal and such costs will not be considered “Operating Expenses” for purposes of Section 6.

5.1.7 In performing its obligations for Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, and Decommissioning of a Facility, PacifiCorp will keep and maintain the Lower Klamath Project in a safe condition suitable for continued operation of each Facility consistent with its ongoing, ordinary, and regular operations prior to the Effective Date.

5.1.8 In performing its obligations for Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, and Decommissioning of a Facility, PacifiCorp will not do anything or fail to take any act that would impair the coverage of or increase the premium for any policy of insurance maintained by KRRC, and no provision of this Amended and Restated Agreement will be construed as authorizing any such result.

5.1.9 PacifiCorp will accept its responsibilities under this Amended and Restated Agreement without regard to the condition of the Lower Klamath Project on the Effective Date, which PacifiCorp will be deemed to have accepted in its AS IS condition, and PacifiCorp’s obligations for Routine Project Maintenance, Non-Routine Project Maintenance, Standard Maintenance, and Decommissioning of a Facility will not be limited or impaired by any condition,

circumstance, or occurrence in existence as of the Effective Date, provided that nothing in this Section 5.1.9 will be construed to impair PacifiCorp's rights under Section 7.1.3 of the KHSA.

5.1.10 KRRC will notify and consult with PacifiCorp, through the Parties' Designated Representatives, regarding any proposed amendments or modifications to the FERC license or other license, permit, authorization, or approval applicable to the Lower Klamath Project. KRRC will not initiate or voluntarily participate in a process to amend or modify any license, permit, authorization, or approval applicable to the Lower Klamath Project that would materially increase Operating Expenses without prior consultation and approval with PacifiCorp.

5.1.11 Nothing in this Amended and Restated Agreement is intended or will be construed as conferring any duty, obligation, or responsibility upon PacifiCorp to monitor or direct the activities of KRRC or its contractors and consultants at the Lower Klamath Project, including Facilities Removal activities.

5.1.12 PacifiCorp will perform its obligations for Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, and Decommissioning of a Facility in a prudent, efficient, and skillful manner, consistent with its manner of operation and maintenance of the Lower Klamath Project before the Effective Date and in accordance with the standards and requirements of the KHSA and the standards prevailing in the utility industry for hydroelectric projects of a similar size and nature.

5.1.13 PacifiCorp will provide reports of its Routine Project Operations, and Non-Routine Project Operations to KRRC covering subject matters and on a frequency that are mutually agreed upon by the Parties and sufficient to keep KRRC, as owner and co-licensee of the Lower

Klamath Project, appropriately informed of Lower Klamath Project operations. PacifiCorp will promptly provide to KRRC such information regarding Lower Klamath Project operations as KRRC's Designated Representative may reasonably request from time to time. Nothing in this Section 5.1.13 is intended or will be construed as requiring PacifiCorp to provide market information, trade secrets, or other confidential business information to KRRC.

5.2 Routine Project Operations. During the Term for each Facility, PacifiCorp will conduct all Routine Project Operations in accordance with the terms of this Amended and Restated Agreement.

5.3 Non-Routine Project Operations. During the Term for each Facility, PacifiCorp will conduct all Non-Routine Project Operations in accordance with the terms of this Amended and Restated Agreement. The following provisions apply only to Non-Routine Project Operations:

5.3.1 Prior to commencing, and during the implementation of, pre-drawdown activities under the Reservoir Drawdown and Diversion Plan, KRRC's Designated Representative will notify PacifiCorp of its proposed schedule and plans for all Non-Routine Project Operations necessary or appropriate to facilitate Facilities Removal pursuant to the Reservoir Drawdown and Diversion Plan.

5.3.2 Any temporary or permanent Non-Routine Project Operations requested by KRRC will be detailed in a Work Plan submitted by KRRC to PacifiCorp through the Parties' Designated Representatives, and developed as follows:

(a) KRRC and PacifiCorp will consult and coordinate on the specific Non-Routine Project Operations needed from PacifiCorp for KRRC to implement the Reservoir Drawdown and Diversion Plan relating to each Facility, including the timing and sequencing of the specific operational requirements. Such consultation and coordination will occur under the direction of each party's Designated Representative. Each Party will make appropriate personnel available for such consultations on a timely basis and will cooperate to minimize any delay.

(b) Based on its consultation and coordination with PacifiCorp, KRRC will prepare a draft Work Plan for PacifiCorp's implementation of the applicable Non-Routine Project Operations for review and comment by PacifiCorp. KRRC will submit the draft Work Plan to PacifiCorp's Designated Representative and allow no fewer than 5 business days for PacifiCorp to review and comment.

(c) KRRC will review and duly consider comments on the draft Work Plan submitted by PacifiCorp through its Designated Representative and prepare a final Work Plan. In preparing the final Work Plan, KRRC will incorporate comments and recommendations submitted by PacifiCorp related to material matters of public safety, PacifiCorp worker safety, or the safe operations of the Lower Klamath Project and its associated Facilities, provided that in the event any such comment or recommendation from PacifiCorp would result in a material delay or increased cost in carrying out KRRC's work at the Facility then the Parties will promptly consult and cooperate with each other to address such comments and recommendations in order to minimize any such delay or additional cost in a manner consistent with appropriate safety considerations.

5.3.3 KRRC will submit the final Work Plan to PacifiCorp. Work Plans will be sufficiently detailed to communicate the nature, scope, objective and timing of the requested Non-Routine Project Operations and specify all material steps to be taken and time frames to be observed to accomplish its objective. PacifiCorp will timely implement each final Work Plan in accordance with its terms.

5.3.4 Any final Work Plan may be amended upon mutual agreement of KRRC and PacifiCorp. KRRC and PacifiCorp will confirm the occurrence of an agreed-upon amendment to a final Work Plan in a written instrument submitted through the Parties' Designated Representatives.

5.3.5 The Parties acknowledge that unexpected circumstances may arise in the course of implementing a Work Plan. Each Party will communicate with the other in a timely manner to facilitate such adjustments to a Work Plan as may reasonably appear to either Party as necessary or desirable to achieve their common objective of timely, safe and cost-effective Facilities Removal. Any such adjustments will be reasonably and promptly documented by the respective Designated Representatives per Section 5.3.4 and will constitute part of the applicable Work Plan.

6. EXPENSE OF OPERATION, MAINTENANCE, REPAIRS AND REPLACEMENTS:

6.1 Unless otherwise expressly provided under this Amended and Restated Agreement, PacifiCorp will be solely responsible for all Operating Expenses, including costs of repairs, replacements, restoration, operations, maintenance, engineering, administrative, accounting and

general expenses, in each instance arising in connection with Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, and Decommissioning of Facilities.

6.2 “Operating Expenses” consist of the cost of all PacifiCorp activities, functions and services arising in connection with PacifiCorp’s performance of its obligations for Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, and Decommissioning of a Facility under this Amended and Restated Agreement, and any other amounts expressly designated as an Operating Expense in this Amended and Restated Agreement, including:

(a) All employee costs, including related employee benefit costs such as Social Security taxes, unemployment insurance expense, group life insurance, group hospitalization and medical insurance, pension funding expense, workmen's compensation, long-term disability and other insurance and paid leave.

(b) Materials and supplies including related purchasing and handling costs.

(c) Royalties.

(d) Fuel costs.

(e) Equipment rental or replacement.

(f) Traveling expense including use of PacifiCorp transportation equipment.

(g) All federal, state or local taxes and fees associated with operating and maintaining the Lower Klamath Project and payments in lieu of such taxes, and all real estate taxes, assessments or similar charges imposed upon the Lower Klamath Project.

(h) Costs associated with implementation of the Interim Measures described in the KHSA.

(i) Premiums for all insurance required to be obtained by PacifiCorp under this Amended and Restated Agreement.

6.3 Notwithstanding Section 6.2, Operating Expenses do not include:

(a) Costs incurred by KRRC in connection with its Facilities Removal activities.

(b) Costs relating to the Facilities that PacifiCorp would not have incurred but for KRRC's Facilities Removal activities, other than costs relating to Non-Routine Project Operations and immaterial costs such as costs relating to administrative functions or assistance in connection with KRRC's Facilities Removal planning activities.

(c) Costs identified in Section 5.1.6 as not constituting Operating Expenses.

(d) Any capital improvements or alterations to any Facility, except as provided in Section 4.1(w).

6.4 In carrying out its obligations under this Amended and Restated Agreement, PacifiCorp will keep and maintain the Lower Klamath Project free from all liens or other encumbrances except for real estate taxes not yet due or encumbrances arising as a direct result of KRRC's Facilities Removal activities.

6.5 Except as expressly provided in Section 5.1.6, KRRC will not be responsible for any fee or other compensation to PacifiCorp with respect to the performance of its obligations under this Amended and Restated Agreement.

6.6 PacifiCorp's obligation to pay Operating Expenses and the Parties' obligations to pay any other amounts due hereunder will survive termination of this Amended and Restated Agreement.

7. ACCESS; SECURITY:

7.1 As owner and co-licensee of the Lower Klamath Project, KRRC will have legal responsibility for all aspects of security of the Lower Klamath Project, including authorization of access by PacifiCorp for purposes of this Amended and Restated Agreement.

7.2 KRRC will grant PacifiCorp, and PacifiCorp's contractors and subcontractors, such access to the Lower Klamath Project as is necessary and appropriate for PacifiCorp to carry out its obligations under this Amended and Restated Agreement, subject to Section 7.3.

7.3 As KRRC's contractor, PacifiCorp will secure, and will have the right to grant third party access to, the Lower Klamath Project as is necessary and appropriate for PacifiCorp to carry out its obligations under this Amended and Restated Agreement, consistent with applicable regulatory requirements and procedures, including the procedures PacifiCorp used before the Effective Date. Such procedures will provide for any necessary access by federal, state, or local regulatory agencies or entities involved in the necessary regulation, supervision, permitting, or

oversight of activities related to PacifiCorp's obligations under this Amended and Restated Agreement.

7.4 Through the Parties' Designated Representatives, PacifiCorp will keep KRRC apprised of requests for access by third parties and will defer to KRRC's decisions with respect to any requested access that is not legally required or directly related to PacifiCorp's obligations under this Amended and Restated Agreement.

7.5 KRRC retains the right to: (i) enter upon the Lower Klamath Project from time to time, with persons and equipment, to ensure compliance with the FERC license and regulations and orders of FERC and to take such steps with respect to the Lower Klamath Project as KRRC deems reasonably necessary in order to maintain its status as a FERC co-licensee with the States of California and Oregon under the FERC license; (ii) perform any and all acts required by an order of FERC or its successor regarding the Lower Klamath Project without the prior approval of PacifiCorp or any other person; and (iii) enter upon the Lower Klamath Project to conduct studies or other activities related to Facilities Removal or other purposes. KRRC will provide reasonable prior notice to PacifiCorp, through the Parties' Designated Representatives, of any intended access by KRRC or its contractors or consultants that could reasonably be expected to have any material impact on Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, or Decommissioning of Facilities. The Parties will cooperate and coordinate in order to minimize any interference with each other's activities on or about the Lower Klamath Project.

8. OPERATION, SCHEDULING, HYDROELECTRIC OUTPUT:

8.1 PacifiCorp will perform Routine Project Operations for the benefit of its customers consistent with regulatory requirements and applicable laws. Subject to the requirements of this Amended and Restated Agreement, PacifiCorp during Routine Project Operations will have the right and discretion to schedule and direct river flows, reservoir elevations, and electric output from the Lower Klamath Project's facilities. Unless otherwise expressly provided in this Amended and Restated Agreement or as required to comply with applicable regulatory requirements or laws in the reasonable judgment of the Parties' Designated Representatives, in no event will PacifiCorp take any action during Routine Project Operations that could reasonably be expected to materially and adversely affect KRRC's Facilities Removal activities, including the planning, study, or permitting aspects of such activities.

8.2 PacifiCorp will exclusively own all electric output, renewable energy credits, and other energy and environmental attributes associated with generation produced by each Facility as provided for in the KHSA.

9. MAINTENANCE, REPLACEMENTS, AND REPAIR PROJECTS:

9.1 During the Term for each Facility at the Lower Klamath Project, PacifiCorp will perform all Standard Maintenance that it would have performed, in its sole discretion, if it were the owner of the Lower Klamath Project and the holder of the FERC license.

9.2 PacifiCorp will keep KRRC reasonably apprised of its Standard Maintenance activities, including any alterations or other construction activities. PacifiCorp will notify KRRC

prior to undertaking any material modification or alteration to the Facilities and, unless required by FERC or other governmental agency with jurisdiction in the reasonable opinion of PacifiCorp and KRRC, will not undertake any alteration or modification that will materially adversely affect KRRC's Facilities Removal activities.

9.3 KRRC will not be responsible for the cost of any capital improvements or alterations to the Facilities unless it has agreed in writing, in its sole discretion, to be so responsible prior to the commencement of such improvement or alteration.

10. FACILITIES TURNOVER:

10.1 No later than April 1, 2023, KRRC and PacifiCorp will develop a Facility Transition Plan for each Facility, which will establish requirements and procedures necessary to facilitate the changeover at the Facility from PacifiCorp to KRRC by the Facility's Facility Termination Date, including:

(a) PacifiCorp's plan and schedule for removing Decommissioned Property from the Facility, which will comply with Section 6.1(g) of the Property Transfer Agreement, including the Facilities Handover Procedures.

(b) The Parties' plans for de-energizing the Facility and otherwise implementing the Facilities Handover Procedures for the Facility, as well as other elements for Facility changeover as identified pursuant to Section 6.1(g) and Exhibit J of the Property Transfer Agreement.

10.2 For each Facility, KRRC will establish the Facility Termination Date, as follows:

(a) The Facility Termination Date will be materially consistent with the schedules and updates provided to PacifiCorp under Section 5.3.1 and the Facility Transition Plan.

(b) Under the supervision of the Parties' Designated Representatives, KRRC will consult with PacifiCorp in establishing a mutually agreeable Facility Termination Date, taking into account: (1) the Surrender Order and other applicable regulatory requirements; (2) the Facility Transition Plan; (3) KRRC's work schedule for the applicable Facility; and (4) the Parties' shared objective of minimizing any delay or additional costs in connection with KRRC's completion of Facilities Removal and implementation of the Definite Plan.

10.3 Upon its establishment of the of the Facility Termination Date for a Facility under Section 10.2, KRRC's Designated Representative will submit written notice of the Facility Termination Date to PacifiCorp's Designated Representative. Such will be submitted no less than 30 days before the date on which the Parties must commence implementation of the Facilities Transition Plan. Following the issuance of such notice the Parties will coordinate performance of their obligations under the Facility Transition Plan.

10.4 On the Facility Termination Date for a particular Facility, provided that PacifiCorp has complied with its obligations under the Facility Transition Plan:

(a) KRRC will assume total, complete, and permanent operational control and responsibility for the Facility, without regard to the condition of the Facility on the Facility Termination Date, which KRRC will be deemed to have accepted in AS IS condition.

(b) PacifiCorp will withdraw all of its employees from the applicable Facility and deliver it to KRRC in a safe condition, free of all liens and encumbrances not permitted under this Amended and Restated Agreement, and otherwise in the condition required by this Amended and Restated Agreement.

(c) PacifiCorp will have no further operational obligations related to the Facility.

(d) Through their Designated Representatives, KRRC and PacifiCorp will confirm the completion of a Facilities transfer in a written instrument executed no later than 5 business days following the Facility Termination Date and PacifiCorp's compliance with the Facility Transition Plan for the applicable Facility.

10.5 Through their Designated Representatives, KRRC and PacifiCorp will, in all events, reasonably coordinate and cooperate with each other in connection with Decommissioning and the turnover of each Facility.

10.6 In the event PacifiCorp has not completed its obligations under the Facility Transition Plan for a Facility by the designated Facility Termination Date, PacifiCorp will use its best efforts to do so as soon thereafter as possible and the occurrence of the Facility Termination Date will be tolled accordingly. Any additional material, non-administrative costs incurred by KRRC as a result of PacifiCorp's delay will constitute an Operating Expense and will be payable by PacifiCorp.

11. RECORDS:

In addition to delivering FERC license documents to KRRC as required by FERC regulations, consistent with its current document retention policies, PacifiCorp will maintain copies of all records and reports related to the Lower Klamath Project that are in PacifiCorp's physical possession at the time of the Effective Date, including records and reports required by the FERC license, and continue its record keeping and reporting activities related to the Lower Klamath Project that existed before the Effective Date. Records maintained by PacifiCorp may include records necessary to reflect the efficiency of Lower Klamath Project operation and maintenance programs, records of generation of power, dam safety, and other records as required by regulatory authorities. Further, PacifiCorp will maintain current versions of all drawings, specifications, and other materials related to the Lower Klamath Project as it would have done had it remained the licensee of the Lower Klamath Project. Upon request, PacifiCorp will provide KRRC with copies of any available relevant records, drawings, specifications, and other materials related to the Lower Klamath Project that were created before the Effective Date. KRRC will have access to all such records, reports, drawings, specifications and other materials relating to the Lower Klamath Project at any time.

12. INSURANCE:

12.1 PacifiCorp will maintain in effect at all times during the term of this Amended and Restated Agreement, insurance for Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, and Decommissioning of Facilities in such amounts as is commercially reasonable for utility industry projects of similar size and nature. Such insurance will be maintained with responsible insurers and will name KRRC, the State of California, and the State

of Oregon as additional insureds, and with losses payable to the respective parties for their benefit as their respective interests may appear to protect and insure against: (1) Workers' Compensation and Employer's Liability; (2) public liability for bodily injury and property damage; (3) all risks of physical damage to property or equipment, including transportation and installation perils; and (4) such other insurance as the Parties may deem necessary upon mutual consent, with reasonable limits and subject to appropriate exclusions and deductibles. Upon request of KRRC's Designated Representative, PacifiCorp's Designated Representative will provide KRRC with copies of the applicable policies, insurance binders, or other evidence reasonably acceptable to KRRC that such insurance is in effect at all times.

12.2 The premium costs for such insurance coverages will be an Operating Expense of the Lower Klamath Project.

13. LICENSES AND PERMITS:

13.1 Upon the expiration of any licenses or permits required for Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, and Decommissioning of Facilities, KRRC and PacifiCorp will cooperate through their Designated Representatives to cause timely applications for a new or further license or permit to be filed. PacifiCorp's cost of assisting KRRC in the preparation and submission of such applications will be an Operating Expense of the Lower Klamath Project.

13.2 In the event that compliance with any license or permit necessary for Routine Project Operations, Non-Routine Project Operations, Standard Maintenance, or Decommissioning of Facilities, or with any order or directive issued pursuant to or in connection with any such license

or permit, requires the submission of materials to a state or federal governmental agency, PacifiCorp's Designated Representative will communicate the need for the submission of such material to KRRC's Designated Representative. KRRC and PacifiCorp, through their Designated Representatives, will coordinate responsibilities for drafting such materials including schedules and review steps. Based on the agreed-to schedule, PacifiCorp will timely provide the necessary materials to KRRC for review and submission. The preparation and submission of the materials will be an Operating Expense of the Lower Klamath Project.

13.3 Notwithstanding the prior Section 13.2, KRRC will be solely responsible for the preparation and submission of any materials necessary to obtain state or federal governmental agency approval of Facilities Removal.

14. INDEMNIFICATION:

14.1 To the fullest extent permitted by law, PacifiCorp will indemnify, hold harmless, and defend KRRC, California, Oregon, and their employees and agents for, from, and arising against any and all claims, actions, proceedings, damages, liabilities, monetary or non-monetary harms or expense arising from, relating to, or triggered by Routine Project Operations, Standard Maintenance, Decommissioning of Facilities, or any failure by PacifiCorp or its employees or agents to observe and comply with the terms and conditions of this Amended and Restated Agreement; provided that PacifiCorp will not be required to indemnify KRRC, California, Oregon, and their employees and agents for any loss or claim to the extent such loss or claim is due to the negligence or willful misconduct of KRRC, California, Oregon, or their employees or agents. This Section 14.1 will survive termination of this Amended and Restated Agreement.

14.2 To the fullest extent permitted by law and consistent with Section 7.1.3 of the KHSA, KRRC will indemnify, hold harmless, and defend PacifiCorp and its employees and agents, for, from, and arising against any and all claims, actions, proceedings, damages, liabilities, monetary or non-monetary harms or expense arising from, relating to, or triggered by Facilities Removal, including Non-Routine Project Operations or Work Plans, Exigent Circumstances to the extent provided under Section 5.1.6, or any failure by KRRC or its employees or agents to observe and comply with the terms and conditions of this Amended and Restated Agreement; provided that, notwithstanding Section 7.1.3 of the KHSA, KRRC will not be required to indemnify PacifiCorp and its employees and agents for any loss or claim to the extent such loss or claim is due to the negligence or willful misconduct of PacifiCorp or its employees or agents. This Section 14.2 will survive termination of this Amended and Restated Agreement.

15. UNCONTROLLABLE FORCES:

No Party will be considered to be in default in the performance of any of the obligations hereunder, other than obligations of the Parties to pay costs and expenses, if failure of performance will be due to uncontrollable forces. The term “uncontrollable forces” will mean any cause beyond the control of the Party affected and which, by the exercise of reasonable diligence, the Party is unable to overcome, and will include an act of God, fire, flood, pandemic (other than the current Covid-19 pandemic), explosion, strike, sabotage, an act of the public enemy, civil or military authority, including court orders, injunctions, and orders of government agencies with proper jurisdiction prohibiting acts necessary to performance hereunder or permitting any such act only subject to unreasonable conditions, insurrection or riot, an act of the elements, or inability to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers.

Nothing contained herein will be construed so as to require a Party to settle any strike or labor dispute in which it may be involved. A Party rendered unable to fulfill any obligation by reason of uncontrollable forces will promptly notify the other Parties of the occurrence and nature of the uncontrollable forces and will exercise due diligence to remove such inability with all reasonable dispatch.

16. TRANSFER AND ASSIGNMENTS; SECURED INTERESTS:

16.1 Subject to the prior written consent of the other Party, which may be granted or withheld in the sole discretion of such Party, a Party may assign its obligations under this Amended and Restated Agreement.

16.2 No assignment or transfer of this Amended and Restated Agreement or any obligations hereunder will be effective until the assignee or transferee will expressly assume the obligations of the assigning Party's obligations under this Amended and Restated Agreement, provided that no transfers or assignment will relieve a Party of any obligation hereunder, notwithstanding the other Parties' consent except to the extent expressly agreed in writing by the other Parties.

17. OBLIGATIONS ARE SEVERAL:

The duties, obligations and liabilities of the Parties hereunder are intended to be several and not joint or collective and neither of the Parties will be jointly or severally liable for the acts, omissions or obligations of the other. Nothing herein contained will be construed to create an association, joint venture, partnership, or impose a partnership duty, fiduciary relationship, obligation or liability, on or with regard to either of the Parties. No Party will have the right or

power to bind the other Party without its express, written consent, except as expressly provided in this Amended and Restated Agreement.

18. SUCCESSORS AND ASSIGNS:

Subject to the restrictions on transfer and assignment herein provided, all of the respective covenants and obligations of each of the Parties will be and become the respective obligations of the successors and assigns of each such Party and will be obligations running with the respective Party's rights, titles and interests in the Lower Klamath Project. It is the specific intention of this provision that all such covenants and obligations will be binding upon any Party which acquires any of the right, title and interest of either of the Parties in the Lower Klamath Project or under this Amended and Restated Agreement.

19. REPRESENTATIONS AND WARRANTIES:

19.1 KRRC represents and warrants to PacifiCorp as of the date hereof and as of the Effective Date that:

- (a) it is a validly existing California nonprofit corporation;
- (b) it has the legal power and authority to enter into and perform this Amended and Restated Agreement;
- (c) all necessary corporate action has been taken to authorize the execution, delivery and performance of this Amended and Restated Agreement by KRRC;
- (d) this Amended and Restated Agreement constitutes a legal, valid, and binding obligation of KRRC, enforceable in accordance with its terms except as such

enforceability may be limited by bankruptcy, insolvency or similar laws respecting the rights of creditors or the application of general principles of equity;

(e) the individual signing this Amended and Restated Agreement on behalf of KRRC is authorized and empowered to execute and deliver this Amended and Restated Agreement on behalf of KRRC and to thereby bind KRRC.

19.2 PacifiCorp represents and warrants to KRRC as of the date hereof and as of the Effective Date that:

(a) it is a validly existing Oregon corporation;

(b) it has the legal power and authority to enter into and perform this Amended and Restated Agreement;

(c) all necessary corporate action has been taken to authorize the execution, delivery and performance of this Amended and Restated Agreement by PacifiCorp;

(d) this Amended and Restated Agreement constitutes a legal, valid, and binding obligation of PacifiCorp, enforceable in accordance with its terms except as such enforceability may be limited by bankruptcy, insolvency or similar laws respecting the rights of creditors or the application of general principles of equity;

(e) the individual signing this Amended and Restated Agreement on behalf of PacifiCorp is authorized and empowered to execute and deliver this Amended and Restated Agreement on behalf of PacifiCorp and to thereby bind PacifiCorp.

20. JURY WAIVER:

TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AMENDED AND RESTATED AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE, OR TO REQUEST THE CONSOLIDATION OF, ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT OR HAS NOT BEEN WAIVED.

21. APPLICABLE LAWS AND REGULATIONS:

The Parties in their performance of their obligations hereunder will conform to all applicable laws, rules and regulations and, to the extent that their operations may be subject to the jurisdiction of state or federal regulatory agencies, subject to the terms of valid and applicable orders of any such agencies. This Amended and Restated Agreement will be subject to the laws of the State of Oregon.

22. INTERPRETATION:

22.1 The Parties have participated jointly in the negotiation and drafting of this Amended and Restated Agreement with the assistance of counsel and other advisors. In the event an ambiguity or question of intent or interpretation arises, this Amended and Restated Agreement will be construed as jointly drafted by the Parties, and no presumption or burden of proof will arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Amended and Restated Agreement.

22.2 Except as otherwise stated in this Amended and Restated Agreement, any amounts payable by either Party to the other will be due thirty (30) days after notice of the amount payable and the basis for such amount.

22.3 In the event of any conflict between this Amended and Restated Agreement and the KHSA (or any portion thereof), the terms of this Amended and Restated Agreement will prevail.

23. NOTICES:

Any notice, request, demand, statement, authorization, approval or consent made under this Amended and Restated Agreement must be in writing and shall be sent by electronic mail or reputable overnight courier, such as Federal Express, UPS, or USPS Priority Mail, and shall be effective when actually received, delivered or rejected by the addressee's organization. Communications sent by email, file transfer or other electronic means to the respective email addresses below shall be effective only when receipt is confirmed by the intended recipient, which confirmation shall be delivered promptly following such receipt. A Party may change its address for receipt of notices by submitting the change to the other parties in compliance with the notice requirements of this Section:

PacifiCorp

PacifiCorp
825 Northeast Multnomah Street
Suite 2000
Portland, OR 97232
Attention: Chief Legal Officer

Email: ryan.flynn@pacificorp.com

with a copy to:

Klamath River Renewal Corporation

Klamath River Renewal Corporation
2001 Addison Street
Suite 300, Office 317
Berkeley, California 94704
Attention: Chief Operations Officer

Email: LHazlett@klamathrenewal.org

with a copy to:

PacifiCorp
825 Northeast Multnomah Street
Suite 2000
Portland, Oregon 97232
Attention: Dustin Till

Email: Dustin.Till@pacificorp.com

Water and Power Law Group PC
2140 Shattuck Avenue, Ste. 801
Berkeley, CA 94704-1229
Attention: Richard Roos-Collins

Email: RRCollins@waterpowerlaw.com

A copy of each such notice will contemporaneously be sent to the recipient's Designated Representative. A Party may at any time, and from time to time, change its designation of the person to whom notice will be given by written notice to the other Party as hereinabove provided. Notwithstanding the foregoing, initial notifications regarding exigent circumstances will be by telephone or email.

24. ADDITIONAL DOCUMENTS:

Each Party, upon request by the other Party, will make, execute and deliver any and all documents reasonably required to implement the terms of this Amended and Restated Agreement, provided that such documents are in a form reasonably acceptable to such Party and does not increase such Party's obligations or reduce its rights or benefits under this Amended and Restated Agreement.

25. EFFECTIVENESS OF THIS AMENDED AND RESTATED AGREEMENT:

The Parties' respective executory rights and obligations hereunder will become effective, if at all, on the Effective Date. For the avoidance of doubt, no aspect of this Amended and Restated Agreement, other than this Section 25, will have any effect unless and until the Effective Date occurs, provided that the foregoing is not intended to impair the binding contractual nature of this Amended and Restated Agreement prior to the Effective Date. If the KHSA is terminated before

the Effective Date, then this Amended and Restated Agreement, including this Section 25, will terminate ninety (90) days after the termination of the KHSA unless the Parties have agreed otherwise in writing.

26. MODIFICATION; WAIVERS:

This Amended and Restated Agreement may be supplemented, amended, or modified only by a written instrument signed by the Parties. No failure or delay by either Party in asserting or enforcing any provision of this Amended and Restated Agreement will constitute a waiver thereof unless such waiver is expressly set forth in a written instrument signed by such Party. No waiver of any provision of this Amended and Restated Agreement by any Party in any particular instance will impair such Party's right to thereafter enforce such provision in any other instance.

27. ENTIRE AGREEMENT:

This Amended and Restated Agreement is entered into pursuant to the KHSA and is intended to supplement and facilitate implementation of the KHSA. This Amended and Restated Agreement along with the KHSA embody the entire agreement and understanding of the Parties in respect to the subject matter hereof. Except with respect to the KHSA, this Amended and Restated Agreement supersedes all prior agreements and understandings between the Parties with respect to the subject matter hereof, including the Original O&M Agreement.

28. DEFAULTS AND REMEDIES:

28.1 In the event any Party breaches its obligations under this Amended and Restated Agreement and such breach persists more than thirty (30) days after written notice, the non-breaching Party will have such rights and remedies as may be available at law or in equity,

including a right to damages, injunction or specific performance, subject to Section 29. In addition, subject to Section 29, the non-defaulting Party will thereafter have the right to terminate this Amended and Restated Agreement on not less than thirty (30) days' notice. Notwithstanding the foregoing, the cure period for breaches of Section 2.4 will be five (5) business days and the costs of any material delays suffered by either Party due to such breach will be reimbursed by the defaulting Party.

28.2 In addition to the remedies provided for in Section 28.1, in the event of a default beyond notice and cure on the part of a Party, the non-defaulting Party will have the right, where practical, to cause the default to be cured at the defaulting Party's cost and expense using such qualified personnel or contractors as the non-defaulting Party may select.

28.3 Notwithstanding the foregoing, in no event will any Party be entitled to consequential, indirect, punitive or special damages, and each Party waives and covenants not to assert any claim for such damages.

29. DISPUTES:

29.1 The Parties acknowledge their mutual interest in resolving any disputes relating to this Amended and Restated Agreement in an efficient and expeditious manner, consistent with the safe and timely implementation of the KHSA and the avoidance of delays and additional costs in completing Facilities Removal. Each Party covenants to work toward promptly resolving any disputes through good faith discussions and negotiation and to expeditiously involve its senior management to facilitate resolution of any disputes. Either Party may, by written notice, request

that any dispute be elevated to the senior management of the Parties, California and Oregon, in which case the Parties will request that such parties promptly address the dispute.

29.2 The Parties intend for this Amended and Restated Agreement to implement the provisions of the KHSA relating to post-transfer operation of the Facilities, and for the terms and conditions of this Amended and Restated Agreement to reflect the more particularized understanding and agreement of the Parties as to such matters. Accordingly, to the greatest extent possible the Parties agree to handle any disputes under this Amended and Restated Agreement without invoking Section 8.6 or 8.7 of the KHSA.

30. THIRD PARTY BENEFICIARIES:

The representations, warranties, covenants and agreements contained in this Amended and Restated Agreement are for the sole benefit of the Parties hereto and their heirs, administrators, legal representatives, successors and assigns, and they will not be construed as conferring any rights on any other persons, provided, however, that California and Oregon, as co-licensees, will each be third-party beneficiaries of this Amended and Restated Agreement.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties hereto have executed this Amended and Restated Agreement in several counterparts.

Klamath River Renewal Corporation

By: Mark D Bransom
Date: December 1, 2022
Name: Mark Bransom
Title: Chief Executive Officer

PacifiCorp

By: [Signature]
Date: December 1, 2022
Name: Ryan Flynn
Title: Senior Vice President and Chief Operating Officer

Appendix B

Consultation Record

Consultation Record

Interim Hydropower Operations Plan		
Agency	Date of Agency Plan Submittal	Agency Comments Received Date
California State Water Resources Control Board	January 18, 2021 August 3, 2021 July 7, 2022	No Comments Received September 3, 2021 No Comments Received