

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

Klamath River Renewal Corporation

Project No. 14803-001

**LICENSE SURRENDER ORDER
LOWER KLAMATH PROJECT**

**Terrestrial and Wildlife Management Plan
(2 of 2)**

December 2022

Appendix C

Bald and Golden Eagle Conservation Plan



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

Bald and Golden Eagle Conservation Plan

**Klamath River Renewal Corporation
2001 Addison Street, Suite 317
Berkeley, CA 94704**

**Prepared by:
RES
1210 G Street
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and

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January 2022

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Eagle Take Permit MBPER0055522
Permittee: Klamath River Renewal Corporation

The US Fish and Wildlife Service issued an Eagle Take Permit, MBPER0055522, for the incidental take of bald and golden eagles, authorized under the Bald and Golden Eagle Protection Act (Eagle Act) 50 CFR 22.80 on October 17, 2022. Permit MBPER0055522 is provided on the proceeding page as part of the Eagle Conservation Plan. Permit MBPER0055522 terms in all circumstances will be the required actions by the Klamath River Renewal Corporation. The Eagle Conservation Plan (January 2022) provided herein was utilized to inform the US Fish and Wildlife Service National Environmental Protection Act Environmental Assessment-Finding of No Significant Impact and Permit MBPER005552 terms. The Eagle Conservation Plan is therefore considered only a resource document for purposes of implementing the terms of Permit MBPER0055522.



EAGLE TAKE ASSOCIATED WITH BUT NOT
THE PURPOSE OF AN ACTIVITY

Permit Number: MBPER0055522

Version Number: 0

Effective: 2022-10-17 **Expires:**
2027-10-16

Issuing Office:

Department of the Interior

U.S. FISH AND WILDLIFE SERVICE

MB Sacramento Permit Office
2800 Cottage Way - Room W-2606
Sacramento, California 95825
permitsR8MB@fws.gov
Tel: 916-978-6183

Digitally signed by

Eagle Permit Coordinator

Permittee:

Klamath River Renewal Corporation
2001 Addison St, Suite 317
Berkeley, California 94704
U.S.A.

Authority: Statutes and Regulations: 16 U.S.C. 668 (a) 50 CFR 13, 50 CFR 22.26

Location where authorized activity may be conducted:

The Project area includes the deconstruction of J.C. Boyle Dam and Powerhouse (located in Oregon), Copco No. 1 and No. 2 Dams and Powerhouses, and Iron Gate Dam and Powerhouse (located in California), as well as other associated features. See Figure 1 (Permit Attachment 1).

Reporting requirements:

Annual Report due January 31st each year. See permit Condition I for additional reporting requirements.



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Effective: 2022-10-17 **Expires:**
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Authorizations and Conditions:

Permit Contacts:

Permit Biologist: Heather Beeler, heather_beeler@fws.gov (mailto:heather_beeler@fws.gov), 775-861-6304

Migratory Bird Permit Office Notification: fw8_eaglepermits@fws.gov, (916) 978-6183

Office of Law Enforcement: (916) 414-6660

Send notification of all incidents and other required reports via email to each of the following: heather_beeler@fws.gov and fw8_eaglepermits@fws.gov. See additional reporting requirements (Condition I).

A. General conditions set out in Subpart B of 50 CFR 13, and specific conditions contained in Federal regulations cited below, are hereby made a part of this permit. All activities authorized herein must be carried out in accordance with and for the purposes described in the application submitted. Continued validity, or renewal of this permit is subject to complete and timely compliance with all applicable conditions, including the filing of all required information and reports.

B. Permittee is responsible for ensuring that the permitted activity is in compliance with all federal, tribal, state, and local laws and regulations applicable to eagles.

C. This Permit is valid for use by Permittee named above and any subpermittees (see Condition M).

D. Definitions:

In-use nest: An eagle nest characterized by the presence of one of more eggs, dependent young, or adult eagles on the nest in the past ten days during the breeding season.

Alternate nest: One of potentially several nests within a nesting territory that is not an in-use nest at the current time. When there is no in-use nest, all nests in the territory are alternate nests.

E. Authorized Take: Permittee is authorized under the Bald and Golden Eagle Protection Act (Eagle Act) 50 CFR 22.80 for the following:

1. Subject to the conditions contained with this Permit, the Klamath River Renewal Corporation (Permittee) is authorized for the incidental take from disturbance to and loss of annual productivity from disturbance of breeding eagle pairs caused by activities at the Lower Klamath Project (Federal Energy Regulatory Commission [FERC] Project No. 14803) (Project).

The Permittee is authorized to take by disturbance over the five year duration of this permit within two miles of Project activities:



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- o 26 incidents of bald eagle take
- o 17 incidents of golden eagle take

2. Take must be incidental to otherwise lawful activities associated with the Project activities as described in the permit application and Project's Eagle Conservation Plan (Permit Attachment 1)

This permit does not authorize intentional take of eagles. This permit does not authorize incidental injury or mortality of eagles, nor does it authorize the take/removal of eagle nests.

F. Avoidance and Minimization Measures: Permittee must comply with the avoidance and minimization measures set forth below:

1. Wherever possible, conduct clearing, cutting, and grubbing activities outside of the eagle nesting period (January 1 through August 31).
2. Whenever possible, avoid the repeated use of aircraft utilized for project implementation purposes over eagle nests during the breeding season (January 1 through August 31). After April 15th, at nest sites that have been verified by a qualified eagle biologist as not containing eggs or young, aircraft buffers would no longer be required. Should project activities necessitate occasional aircraft flights over in-use eagle nests the following helicopter/aircraft buffers for horizontal and vertical ground and helicopter/aircraft will be implemented:
 - a. Bald eagle horizontal and vertical nest buffers for aircraft will be 1,000 feet.
 - b. Golden eagle horizontal and vertical nest buffers for aircraft will be one mile.

Should implementation of aircraft avoidance measures be deemed not practicable by the Permittee for particular bald or golden eagle nest sites near project aircraft activities, the Permittee may utilize their take authorizations accordingly.

Aircraft nest protection buffers do not apply to infrequent or occasional aircraft flights utilized for eagle nest monitoring as required under Condition H of this permit.

3. Over the 5-year duration of the permit, should monitoring data determine the Permittee has utilized their full take authorization for either bald or golden eagles, the following take avoidance and minimization measures will be implemented for project-related activities.



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Species specific spatial buffers will be implemented as described below at all nest sites during the breeding season and through the post-fledging dependency period for young eagles (from January 1 through August 31). The buffer will be implemented throughout the courtship and egg laying phases of the breeding season (January 1 – April 15). After April 15, nest buffers will remain in effect until it is verified by the third-party monitor that either the eagles did not lay eggs, or, if eggs are laid, until the nests are no longer in-use either because they have fledged young or failed.

a. Bald eagle:

- i. A 0.5-mile spatial buffer will be provided for blasting activities.
- ii. A 660-foot spatial buffer will be provided for most project activities.
- iii. A 330-foot spatial buffer will be provided for non-motorized human activities.
- iv. A 1000 ft buffer will be provided for aircraft flights.

b. Golden eagle:

- i. A two-mile spatial buffer will be provided for blasting activities.
- ii. A one-mile spatial buffer will be provided for all other project activities.
- iii. A one-mile vertical and horizontal buffer will be provided for aircraft flights over nest sites.

- c. Once the third-party monitor confirms that a nest is not in-use, and the Service's Regional Migratory Bird Program has concurred, the spatial no disturbance required buffer may be removed.

G. **Compensatory/Offsetting Mitigation:**

1. We have determined that the Project's permanent removal of electric-utility power poles and infrastructure, including removal of 220 low to medium voltage power poles of a design that is not eagle safe, will fulfill the Permittee's required 1.2:1 mitigation obligation to fully offset impacts to golden eagles. The number of electric poles being removed from the landscape exceeds our Resource Equivalency Analysis (REA) (Service 2013) calculation for required mitigation of 171 long-term retrofits or removals. Removal of approximately 70,000 feet of associated power lines will further benefit bald and golden eagles by reducing the risk of collision with those lines.

2. Permittee must **provide documentation** of having fulfilled the compensatory mitigation requirement for 17 incidents of golden eagle take from disturbance no later than **one year from electric-utility power poles and infrastructure removals**. As long as removals



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stay ahead of actual take, changes to this timeline may be made with written permission from the Regional Migratory Bird Program.

H. Eagle Monitoring:

1. Third Party Monitor: Monitoring of the project area for the purposes of assessing impacts and/or identifying where eagles may be nesting proximate to Project activities must be conducted by qualified, independent third parties, with whom the Service has signed a valid memorandum of agreement. Monitors must report directly to the Service and provide a copy of the reports and materials to the Permittee.
2. Annual Monitoring: The Permittee will conduct **annual monitoring** of eagle nesting habitat **within two miles** of planned Project blasting areas, and **within one mile** of all other Project activities every year the Permit is valid. The purpose is to identify breeding eagle activity and nest locations to account for incidents of take, and so that appropriate avoidance and minimization buffers maybe implemented as described in Condition F of this permit.

Each nesting season during the 5-year permit term, the surveys occur during three periods:

- a. January through February to confirm territory occupancy and identify new nests/breeding territories and initial activity at nest sites.
- b. March through mid-April to determine if eagles are nesting; and
- c. June to July to determine the fate of all breeding attempts.

Reasonable adjustments to this protocol may be made with written permission from the Regional Migratory Bird Program.

3. Impact assessment: The Permittee will monitor the eagle breeding population as described in H(2) each year for which the permit is valid, evaluate and validate impacts to the breeding eagle territories. Changes to this timeline may be made with written permission from the Regional Migratory Bird Program.
4. Protocol: The Permittee will implement the survey methods found in Pagel et al. 2010, with the exception of the area described in H(2).

I. Reporting:

1. Annual Monitoring Reports: Permittee must provide the Migratory Bird Program contact with a report summarizing survey methods, dates, and results each year. Data collected should include the following information for each monitoring session. This data must be maintained in your permit files for the duration of the permit term, and for an additional three years after your permit expires. This data should be summarized in the Project's annual reports. This data is not required to be submitted, but must be available should your Migratory Bird Program contact upon request.
 - a. Date and length of time eagles were observed;
 - b. Time of day;



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- c. Occupancy status of the eagle territory;
- d. Number and age of eagles observed (i.e., juvenile, immature, subadult, adult); if age is not known, provide description;
- e. Observed behavior (e.g. perching, feeding, sitting on or attending nest, in flight);
- f. Status of any eagle nesting attempt; and
- g. A description of any human or project activity at the time eagles are observed

Final reports and analyses of the project area eagles must be submitted by January 31st for the previous monitoring year. With written permission or direction from the Regional Migratory Bird Permit Office, report due dates may be altered if necessary.

The **Permittee's Responsible Officer must sign a cover page** attached to the annual report validating its accuracy prior to submission. Submit to:

Migratory Bird Program (Eagle Permits)

US Fish and Wildlife Service

fw8_eaglepermits@fws.gov (mailto:fw8_eaglepermits@fws.gov)

2. *Eagles and Threatened/Endangered Species injury or mortality:* For any eagles found dead or injured, you must call a U.S. Fish and Wildlife Service Office of Law Enforcement (OLE) agent for instructions and approval before collecting or moving the remains or parts. It may be necessary to preserve the remains or parts onsite until an agent or other Service or State representative arrives to collect it.

For impacts to T/E Species not exempted by an Incidental Take Statement or authorized under an ESA section 10 permit, a representative for Permittee must call the Service, Office of Law Enforcement (see the contact information at the top of this permit) for instructions and approval **PRIOR** to collecting or moving the T/E remains.

A list of threatened and endangered species by State may be found in the Service's Threatened and Endangered Species System (TESS) database at <https://www.fws.gov/endangered/> (<https://www.fws.gov/endangered/>) and the Service's Information for Planning and Consultation system (IPAC) at <https://ecos.fws.gov/ipac/> (<https://ecos.fws.gov/ipac/>).

J. Adaptive Management: If monitoring data demonstrates that the Permittee has utilized their allocated take authorized for either species of eagle, the take avoidance and minimization measures described in Condition F(4) of this permit will be implemented. Should monitoring data demonstrate the Permittee has exceeded the amount of take



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allowed in this authorization, (e.g., an additional breeding territories are disturbed by mining activities resulting in take), you will consult with us to discuss appropriate measures. Measures may include the permittee requesting an amendment to this permit to allow for additional take authorizations.

K. Injured Birds: If an eagle is injured, Permittee must immediately contact a permitted migratory bird rehabilitator or a licensed veterinarian (see and follow their instructions for transport, care, and/or disposition of birds). We encourage you to offset the costs of treating injured eagles by paying the expenses through donations, in-kind assistance, or other means. See Condition I for reporting instructions.

L. Subpermittees: Any person who is under Permittee's direct control or employed by or under contract to Permittee for the activities specified in this permit, or to whom Permittee has provided written authorization to conduct permitted activities may exercise the authority of this permit. As the Permittee, Permittee is legally responsible for ensuring that its subpermittees are in compliance with the terms and conditions of this permit, are qualified to perform these authorized activities and adhere to the terms of this permit. Permittee is also responsible for maintaining current records of anyone designated as a subpermittee, including copies of communications provided to the subpermittees authorizing them to conduct the permitted activities.

M. Acceptance of this permit serves as evidence that the Permittee and any person under the direct control of the Permittee or who is employed by or under contract to the Permittee for the activities specified in this permit (subpermittees) agree to abide by the terms of this permit and all sections of the *Title 50 Code of Federal Regulations* (CFR) part 13 §22.80, pertinent to issued eagle take permits. The Bald and Golden Eagle Protection Act, as amended, provides for civil and criminal penalties for failure to comply with the permit conditions. Failure to comply with the conditions of this permit could be cause for permit suspension, revocation, and/or citation.

The permit conditions above do not establish a precedent for future actions and do not represent a decision in principle about future consideration or the structure of future eagle-take permit conditions. The Service will analyze the issuance of each permit on a case-by-case basis and the details of each permit's conditions could be



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different.

Standard Conditions

All of the provisions and conditions of the governing regulations at 50 CFR part 13 and 50 CFR 22.80 are conditions of your permit. Failure to comply with the conditions of your permit could be cause for suspension of the permit and/or citation. The standard conditions below are a continuation of your permit conditions. If you have any questions regarding these conditions, refer to the regulations and forms, or to obtain contact information for your issuing office, visit: <https://www.fws.gov/birds/policies-and-regulations/permits/permit-policies-and-regulations.php> (<https://www.fws.gov/birds/policies-and-regulations/permits/permit-policies-and-regulations.php>).

1. This permit does not authorize you to conduct activities on federal, state, tribal, or other public or private property without additional prior written permits or permission from the agency/landowner.
2. You remain responsible for all outstanding monitoring requirements and mitigation measures required under the terms of the permit for take that occurs prior to expiration, transfer, suspension, revocation, or cancellation of the permit. Provisions for discontinuance of permit activity are outlined in 50 CFR 13.26.
3. You must maintain records as required in 50 CFR 13.46 and 50 CFR part 22. Your records must also include the data gathered for monitoring and reporting purposes. All records relating to the permitted activities must be kept at the location indicated in writing by you to the migratory bird permit issuing office.
4. Acceptance of this permit authorizes the U.S. Fish and Wildlife Service to inspect and audit or copy any permits, books or records required to be kept by the permit and governing regulations (50 CFR 13.47).
5. You must allow Service personnel, or other qualified persons designated by the Service, access to the areas where eagles are likely to be affected by your project activities, at any reasonable hour, and with reasonable notice from the Service, for purposes of monitoring eagles at the site(s) while the permit is valid and for up to 3 years after it expires. (§ 22.26(c)(4)).
6. The Service may suspend, or revoke a permit issued under this section if necessary to safeguard local or regional eagle populations. This provision is in addition to the general criteria for amendment, suspension, and revocation of Federal permits set forth in 50 CFR §§13.23, 13.27, and 13.28.
7. To renew this permit if the activities described in Condition E have not been completed by the expiration date of this permit, Permittee must meet issuance criteria at the time of renewal and must be in compliance with permit conditions, including all monitoring and reporting requirements of the original permit. Permit conditions may be modified based on changed circumstances.



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8. The U.S. Fish and Wildlife Service is not liable for any damage or injury to person, wildlife, or property that occurs as the result of carrying out the activities associated with this permit.



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Issuing Office:

Department of the Interior

U.S. FISH AND WILDLIFE SERVICE

MB Sacramento Permit Office
2800 Cottage Way - Room W-2606
Sacramento, California 95825
permitsR8MB@fws.gov
Tel: 916-978-6183

Digitally signed by

Eagle Permit Coordinator

Permittee:

Klamath River Renewal Corporation
2001 Addison St, Suite 317
Berkeley, California 94704
U.S.A.

Authority: Statutes and Regulations: 16 U.S.C. 668 (a) 50 CFR 13, 50 CFR 22.26

Location where authorized activity may be conducted:

The Project area includes the deconstruction of J.C. Boyle Dam and Powerhouse (located in Oregon), Copco No. 1 and No. 2 Dams and Powerhouses, and Iron Gate Dam and Powerhouse (located in California), as well as other associated features. See Figure 1 (Permit Attachment 1).

Reporting requirements:

Annual Report due January 31st each year. See permit Condition I for additional reporting requirements.



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Authorizations and Conditions:

Permit Contacts:

Permit Biologist: Heather Beeler, heather_beeler@fws.gov (mailto:heather_beeler@fws.gov), 775-861-6304

Migratory Bird Permit Office Notification: fw8_eaglepermits@fws.gov, (916) 978-6183

Office of Law Enforcement: (916) 414-6660

Send notification of all incidents and other required reports via email to each of the following: heather_beeler@fws.gov and fw8_eaglepermits@fws.gov. See additional reporting requirements (Condition I).

A. General conditions set out in Subpart B of 50 CFR 13, and specific conditions contained in Federal regulations cited below, are hereby made a part of this permit. All activities authorized herein must be carried out in accordance with and for the purposes described in the application submitted. Continued validity, or renewal of this permit is subject to complete and timely compliance with all applicable conditions, including the filing of all required information and reports.

B. Permittee is responsible for ensuring that the permitted activity is in compliance with all federal, tribal, state, and local laws and regulations applicable to eagles.

C. This Permit is valid for use by Permittee named above and any subpermittees (see Condition M).

D. Definitions:

In-use nest: An eagle nest characterized by the presence of one of more eggs, dependent young, or adult eagles on the nest in the past ten days during the breeding season.

Alternate nest: One of potentially several nests within a nesting territory that is not an in-use nest at the current time. When there is no in-use nest, all nests in the territory are alternate nests.

E. Authorized Take: Permittee is authorized under the Bald and Golden Eagle Protection Act (Eagle Act) 50 CFR 22.80 for the following:

1. Subject to the conditions contained with this Permit, the Klamath River Renewal Corporation (Permittee) is authorized for the incidental take from disturbance to and loss of annual productivity from disturbance of breeding eagle pairs caused by activities at the Lower Klamath Project (Federal Energy Regulatory Commission [FERC] Project No. 14803) (Project).

The Permittee is authorized to take by disturbance over the five year duration of this permit within two miles of Project activities:



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- o 26 incidents of bald eagle take
- o 17 incidents of golden eagle take

2. Take must be incidental to otherwise lawful activities associated with the Project activities as described in the permit application and Project's Eagle Conservation Plan (Permit Attachment 1)

This permit does not authorize intentional take of eagles. This permit does not authorize incidental injury or mortality of eagles, nor does it authorize the take/removal of eagle nests.

F. Avoidance and Minimization Measures: Permittee must comply with the avoidance and minimization measures set forth below:

1. Wherever possible, conduct clearing, cutting, and grubbing activities outside of the eagle nesting period (January 1 through August 31).
2. Whenever possible, avoid the repeated use of aircraft utilized for project implementation purposes over eagle nests during the breeding season (January 1 through August 31). After April 15th, at nest sites that have been verified by a qualified eagle biologist as not containing eggs or young, aircraft buffers would no longer be required. Should project activities necessitate occasional aircraft flights over in-use eagle nests the following helicopter/aircraft buffers for horizontal and vertical ground and helicopter/aircraft will be implemented:
 - a. Bald eagle horizontal and vertical nest buffers for aircraft will be 1,000 feet.
 - b. Golden eagle horizontal and vertical nest buffers for aircraft will be one mile.

Should implementation of aircraft avoidance measures be deemed not practicable by the Permittee for particular bald or golden eagle nest sites near project aircraft activities, the Permittee may utilize their take authorizations accordingly.

Aircraft nest protection buffers do not apply to infrequent or occasional aircraft flights utilized for eagle nest monitoring as required under Condition H of this permit.

3. Over the 5-year duration of the permit, should monitoring data determine the Permittee has utilized their full take authorization for either bald or golden eagles, the following take avoidance and minimization measures will be implemented for project-related activities.



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a. Bald eagle:

- i. A 0.5-mile spatial buffer will be provided for blasting activities.
- ii. A 660-foot spatial buffer will be provided for most project activities.
- iii. A 330-foot spatial buffer will be provided for non-motorized human activities.
- iv. A 1000 ft buffer will be provided for aircraft flights.

b. Golden eagle:

- i. A two-mile spatial buffer will be provided for blasting activities.
- ii. A one-mile spatial buffer will be provided for all other project activities.
- iii. A one-mile vertical and horizontal buffer will be provided for aircraft flights over nest sites.

- c. Once the third-party monitor confirms that a nest is not in-use, and the Service's Regional Migratory Bird Program has concurred, the spatial no disturbance required buffer may be removed.

G. **Compensatory/Offsetting Mitigation:**

1. We have determined that the Project's permanent removal of electric-utility power poles and infrastructure, including removal of 220 low to medium voltage power poles of a design that is not eagle safe, will fulfill the Permittee's required 1.2:1 mitigation obligation to fully offset impacts to golden eagles. The number of electric poles being removed from the landscape exceeds our Resource Equivalency Analysis (REA) (Service 2013) calculation for required mitigation of 171 long-term retrofits or removals. Removal of approximately 70,000 feet of associated power lines will further benefit bald and golden eagles by reducing the risk of collision with those lines.

2. Permittee must **provide documentation** of having fulfilled the compensatory mitigation requirement for 17 incidents of golden eagle take from disturbance no later than **one year from electric-utility power poles and infrastructure removals**. As long as removals



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stay ahead of actual take, changes to this timeline may be made with written permission from the Regional Migratory Bird Program.

H. Eagle Monitoring:

1. Third Party Monitor: Monitoring of the project area for the purposes of assessing impacts and/or identifying where eagles may be nesting proximate to Project activities must be conducted by qualified, independent third parties, with whom the Service has signed a valid memorandum of agreement. Monitors must report directly to the Service and provide a copy of the reports and materials to the Permittee.
2. Annual Monitoring: The Permittee will conduct **annual monitoring** of eagle nesting habitat **within two miles** of planned Project blasting areas, and **within one mile** of all other Project activities every year the Permit is valid. The purpose is to identify breeding eagle activity and nest locations to account for incidents of take, and so that appropriate avoidance and minimization buffers maybe implemented as described in Condition F of this permit.

Each nesting season during the 5-year permit term, the surveys occur during three periods:

- a. January through February to confirm territory occupancy and identify new nests/breeding territories and initial activity at nest sites.
- b. March through mid-April to determine if eagles are nesting; and
- c. June to July to determine the fate of all breeding attempts.

Reasonable adjustments to this protocol may be made with written permission from the Regional Migratory Bird Program.

3. Impact assessment: The Permittee will monitor the eagle breeding population as described in H(2) each year for which the permit is valid, evaluate and validate impacts to the breeding eagle territories. Changes to this timeline may be made with written permission from the Regional Migratory Bird Program.
4. Protocol: The Permittee will implement the survey methods found in Pagel et al. 2010, with the exception of the area described in H(2).

I. Reporting:

1. Annual Monitoring Reports: Permittee must provide the Migratory Bird Program contact with a report summarizing survey methods, dates, and results each year. Data collected should include the following information for each monitoring session. This data must be maintained in your permit files for the duration of the permit term, and for an additional three years after your permit expires. This data should be summarized in the Project's annual reports. This data is not required to be submitted, but must be available should your Migratory Bird Program contact upon request.
 - a. Date and length of time eagles were observed;
 - b. Time of day;



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- c. Occupancy status of the eagle territory;
- d. Number and age of eagles observed (i.e., juvenile, immature, subadult, adult); if age is not known, provide description;
- e. Observed behavior (e.g. perching, feeding, sitting on or attending nest, in flight);
- f. Status of any eagle nesting attempt; and
- g. A description of any human or project activity at the time eagles are observed

Final reports and analyses of the project area eagles must be submitted by January 31st for the previous monitoring year. With written permission or direction from the Regional Migratory Bird Permit Office, report due dates may be altered if necessary.

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Migratory Bird Program (Eagle Permits)

US Fish and Wildlife Service

fw8_eaglepermits@fws.gov (mailto:fw8_eaglepermits@fws.gov)

2. *Eagles and Threatened/Endangered Species injury or mortality:* For any eagles found dead or injured, you must call a U.S. Fish and Wildlife Service Office of Law Enforcement (OLE) agent for instructions and approval before collecting or moving the remains or parts. It may be necessary to preserve the remains or parts onsite until an agent or other Service or State representative arrives to collect it.

For impacts to T/E Species not exempted by an Incidental Take Statement or authorized under an ESA section 10 permit, a representative for Permittee must call the Service, Office of Law Enforcement (see the contact information at the top of this permit) for instructions and approval **PRIOR** to collecting or moving the T/E remains.

A list of threatened and endangered species by State may be found in the Service's Threatened and Endangered Species System (TESS) database at <https://www.fws.gov/endangered/> (<https://www.fws.gov/endangered/>) and the Service's Information for Planning and Consultation system (IPAC) at <https://ecos.fws.gov/ipac/> (<https://ecos.fws.gov/ipac/>).

J. Adaptive Management: If monitoring data demonstrates that the Permittee has utilized their allocated take authorized for either species of eagle, the take avoidance and minimization measures described in Condition F(4) of this permit will be implemented. Should monitoring data demonstrate the Permittee has exceeded the amount of take



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allowed in this authorization, (e.g., an additional breeding territories are disturbed by mining activities resulting in take), you will consult with us to discuss appropriate measures. Measures may include the permittee requesting an amendment to this permit to allow for additional take authorizations.

K. Injured Birds: If an eagle is injured, Permittee must immediately contact a permitted migratory bird rehabilitator or a licensed veterinarian (see and follow their instructions for transport, care, and/or disposition of birds). We encourage you to offset the costs of treating injured eagles by paying the expenses through donations, in-kind assistance, or other means. See Condition I for reporting instructions.

L. Subpermittees: Any person who is under Permittee's direct control or employed by or under contract to Permittee for the activities specified in this permit, or to whom Permittee has provided written authorization to conduct permitted activities may exercise the authority of this permit. As the Permittee, Permittee is legally responsible for ensuring that its subpermittees are in compliance with the terms and conditions of this permit, are qualified to perform these authorized activities and adhere to the terms of this permit. Permittee is also responsible for maintaining current records of anyone designated as a subpermittee, including copies of communications provided to the subpermittees authorizing them to conduct the permitted activities.

M. Acceptance of this permit serves as evidence that the Permittee and any person under the direct control of the Permittee or who is employed by or under contract to the Permittee for the activities specified in this permit (subpermittees) agree to abide by the terms of this permit and all sections of the *Title 50 Code of Federal Regulations* (CFR) part 13 §22.80, pertinent to issued eagle take permits. The Bald and Golden Eagle Protection Act, as amended, provides for civil and criminal penalties for failure to comply with the permit conditions. Failure to comply with the conditions of this permit could be cause for permit suspension, revocation, and/or citation.

The permit conditions above do not establish a precedent for future actions and do not represent a decision in principle about future consideration or the structure of future eagle-take permit conditions. The Service will analyze the issuance of each permit on a case-by-case basis and the details of each permit's conditions could be



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different.

Standard Conditions

All of the provisions and conditions of the governing regulations at 50 CFR part 13 and 50 CFR 22.80 are conditions of your permit. Failure to comply with the conditions of your permit could be cause for suspension of the permit and/or citation. The standard conditions below are a continuation of your permit conditions. If you have any questions regarding these conditions, refer to the regulations and forms, or to obtain contact information for your issuing office, visit: <https://www.fws.gov/birds/policies-and-regulations/permits/permit-policies-and-regulations.php> (<https://www.fws.gov/birds/policies-and-regulations/permits/permit-policies-and-regulations.php>).

1. This permit does not authorize you to conduct activities on federal, state, tribal, or other public or private property without additional prior written permits or permission from the agency/landowner.
2. You remain responsible for all outstanding monitoring requirements and mitigation measures required under the terms of the permit for take that occurs prior to expiration, transfer, suspension, revocation, or cancellation of the permit. Provisions for discontinuance of permit activity are outlined in 50 CFR 13.26.
3. You must maintain records as required in 50 CFR 13.46 and 50 CFR part 22. Your records must also include the data gathered for monitoring and reporting purposes. All records relating to the permitted activities must be kept at the location indicated in writing by you to the migratory bird permit issuing office.
4. Acceptance of this permit authorizes the U.S. Fish and Wildlife Service to inspect and audit or copy any permits, books or records required to be kept by the permit and governing regulations (50 CFR 13.47).
5. You must allow Service personnel, or other qualified persons designated by the Service, access to the areas where eagles are likely to be affected by your project activities, at any reasonable hour, and with reasonable notice from the Service, for purposes of monitoring eagles at the site(s) while the permit is valid and for up to 3 years after it expires. (§ 22.26(c)(4)).
6. The Service may suspend, or revoke a permit issued under this section if necessary to safeguard local or regional eagle populations. This provision is in addition to the general criteria for amendment, suspension, and revocation of Federal permits set forth in 50 CFR §§13.23, 13.27, and 13.28.
7. To renew this permit if the activities described in Condition E have not been completed by the expiration date of this permit, Permittee must meet issuance criteria at the time of renewal and must be in compliance with permit conditions, including all monitoring and reporting requirements of the original permit. Permit conditions may be modified based on changed circumstances.



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8. The U.S. Fish and Wildlife Service is not liable for any damage or injury to person, wildlife, or property that occurs as the result of carrying out the activities associated with this permit.

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Executive Summary

This Bald and Golden Eagle Conservation Plan was prepared by the Klamath River Renewal Corporation to support an application to the U.S. Fish and Wildlife Service for incidental take permits under the Bald and Golden Eagle Protection Act for removal of facilities associated with the Lower Klamath Project (FERC No. 14803). Incidental take permits are needed because the Proposed Action may result in otherwise prohibited disturbance to bald eagles (*Haliaeetus leucocephalus*) and golden eagles (*Aquila chrysaetos*). This document demonstrates that potential effects to bald and golden eagles, including to all known nest sites, from the Proposed Action have been thoroughly considered and are addressed through avoidance, minimization, and mitigation measures.

After the review of data on the locations of historic bald and golden eagle nest territories, surveys conducted by the Klamath River Renewal Corporation from 2017 through 2021 identified recently occupied nest sites at 11 bald eagle and 8 golden eagle territories within the Project Area as of July 1, 2021. Reproduction at 10 bald eagle nest sites and 2 golden eagle nest sites may be disturbed if the nests are occupied during activities associated with the Proposed Action, but no adult or post-fledging immature bald or golden eagles will be injured or killed.

The purpose of the Proposed Action is to physically remove the Lower Klamath Project and achieve a free-flowing condition and volitional fish passage, site remediation and restoration, and avoidance of adverse downstream impacts. However, the underlying purpose of the Proposed Action is the restoration of anadromous fish access upstream of Iron Gate Dam (the current barrier to anadromy) and the timely improvement of water quality in the Klamath River downstream of J.C. Boyle Dam. Restoration of the Project to a free-flowing condition will modify the foraging resources of bald eagles and may disrupt their breeding until their riverine prey resources (anadromous and resident species) have stabilized. Restoration will add approximately 2,200 acres of terrestrial foraging habitat, including an 18 percent increase in foraging habitat within the core area of one golden eagle territory and a 3 percent increase in another golden eagle territory. Potential adverse effects that may occur if eagle nest sites are occupied would be limited to disturbance from construction- and restoration-related activities.

The Proposed Action will incorporate avoidance, minimization, and mitigation measures. These include restoration of up to 2,200 acres of terrestrial and over 400 miles of riverine habitats and an increase in primary eagle prey species associated with these habitats, removal of approximately 73,000 feet of power lines and over 200 12-69 kV power poles, and elimination of 200+ acres of human footprint. More than 8,000 acres of watershed lands will be conveyed to State agencies, including 6,998 acres to the California Department of Fish and Wildlife and 1,060 acres to the Oregon Department of Land Conservation and Development. In addition, lands owned by the Bureau of Land Management adjacent to J.C. Boyle Reservoir that are now managed by PacifiCorp for hydropower generation will be restored and returned to the Bureau of Land Management. Overall, restoration of the Klamath River and tributaries in this area will realize a significant net conservation benefit to bald and golden eagles in perpetuity.

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). Specifically, the reach between J.C. Boyle dam and Iron Gate dam is known as the Hydroelectric Reach. In September 2016, the Klamath River Renewal Corporation (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 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 Lower Klamath Project and achieve a free-flowing condition and volitional fish passage, site remediation and restoration, and avoidance of adverse downstream impacts (Proposed Action).

The Proposed Action (or Project) includes the deconstruction of the J.C. Boyle Dam and Powerhouse (Figure 2), Copco No. 1 Dam and Powerhouse (Figure 3), Copco No. 2 Dam and Powerhouse (Figure 4), and Iron Gate Dam and Powerhouse (Figure 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. The term Proposed Action also includes construction of Fall Creek Fish Hatchery, modification of roads, and restoration actions in Klamath River tributaries following reservoir drawdown.

The term Project Reach is the entire portion of the Klamath River that includes the Hydroelectric Reach and J.C. Boyle Reservoir above J.C. Boyle Dam (up to approximately River Mile 234) and downstream through Iron Gate Fish Hatchery (at approximately River Mile 192) below Iron Gate Dam. It includes Copco No. 1 Reservoir, the small Copco No. 2 Reservoir, and Iron Gate Reservoir. This area is separately defined because these features are within the extent of the river affected by the removal of the Lower Klamath Project facilities.

In this Bald and Golden Eagle Conservation Plan (Eagle Conservation Plan), the term Project Area includes the Hydroelectric Reach, the Project Reach, and the broader neighboring area where activities or effects may occur. The Project Area contains the Fall Creek Fish Hatchery, tributaries to the reservoirs, roads associated with the hydroelectric facilities, the local human communities, and the bald and golden eagle territories and nest sites that are being considered for potential effects from the Proposed Action.

This Eagle Conservation Plan was prepared by the Renewal Corporation to support an application to the U.S. Fish and Wildlife Service (USFWS) for an incidental take permit under the U.S. Bald and Golden Eagle Protection Act (BGEPA) for the Proposed Action (FERC No. 14803). An incidental take permit is needed because the Proposed Action may result in otherwise prohibited disturbance to bald eagles (*Haliaeetus leucocephalus*) and golden eagles (*Aquila chrysaetos*). This document demonstrates that the potential effects of the Proposed Action to bald and golden eagles, including to all known nest sites, have been avoided, minimized, and/or mitigated through measures included in the Eagle Conservation Plan and therefore incorporated into the Proposed Action.

This Eagle Conservation Plan is a subplan to the Terrestrial and Wildlife Management Plan, one of 16 Management Plans prepared by the Renewal Corporation for the Federal Energy Regulatory Commission's (FERC, or Commission) review and approval as conditions of a license surrender order. These Management Plans were developed in consultation with federal, state, and county governments and tribes.

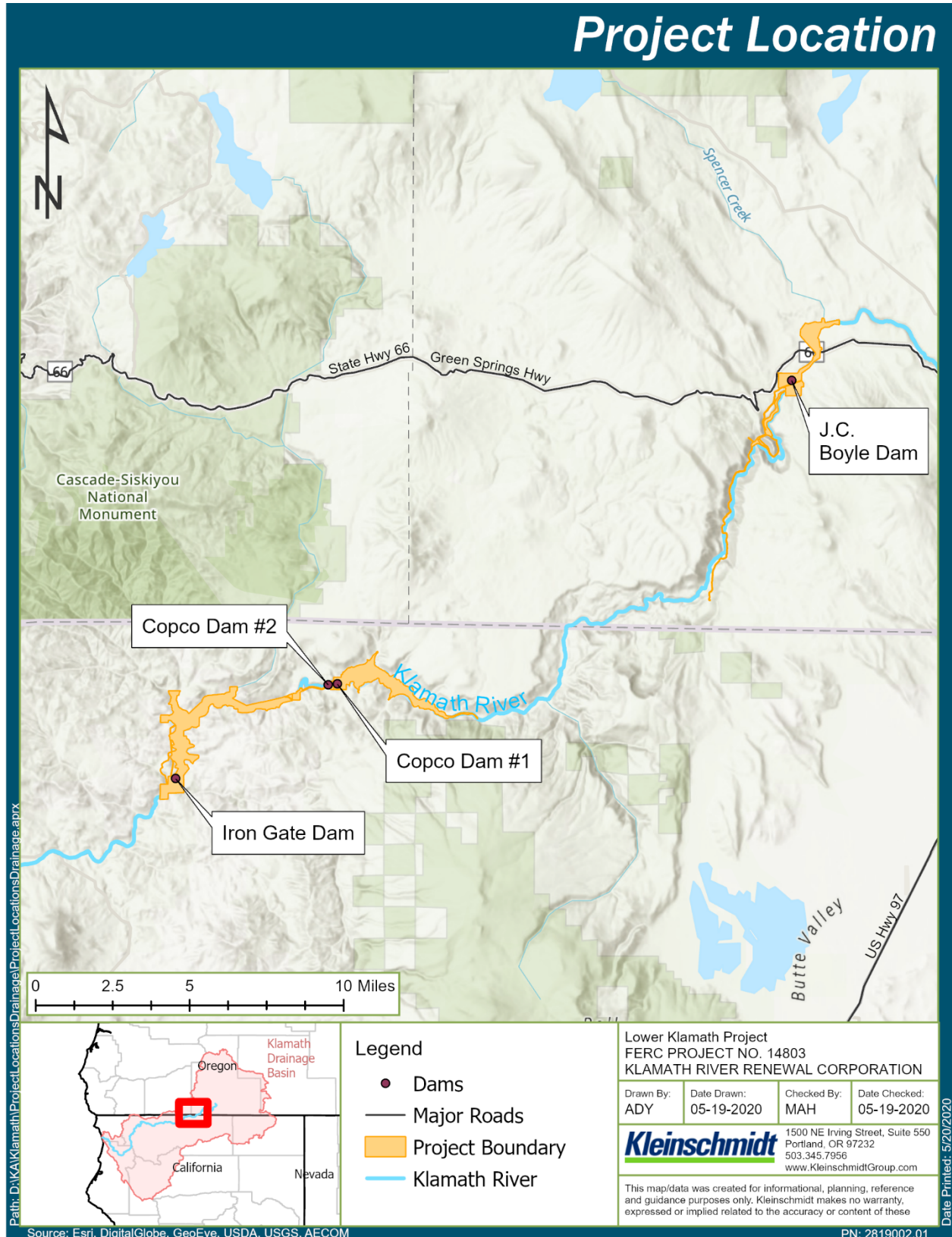


Figure 1. Lower Klamath Project Location

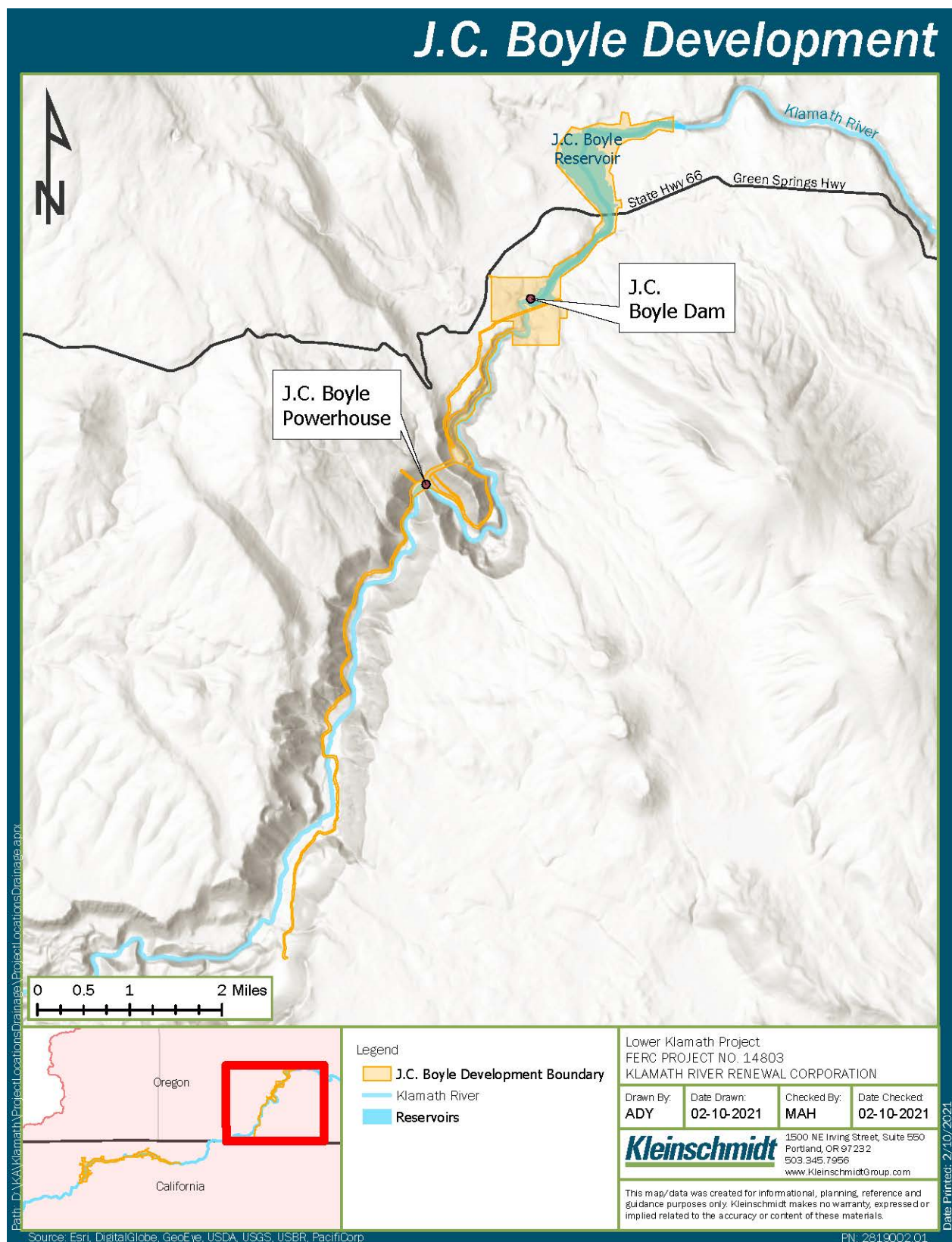


Figure 2. J.C. Boyle Development Area

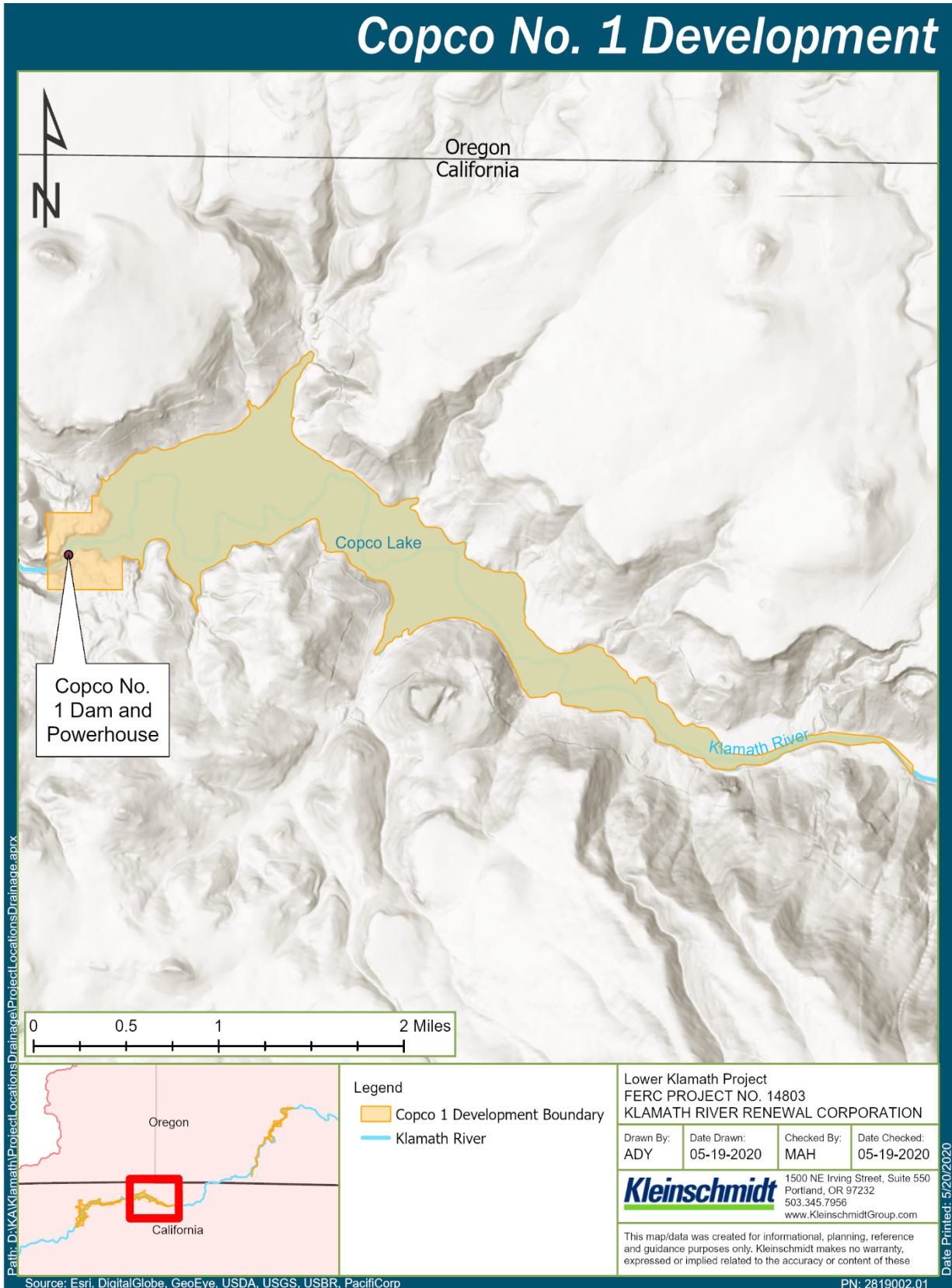


Figure 3. Copco No. 1 Development Area

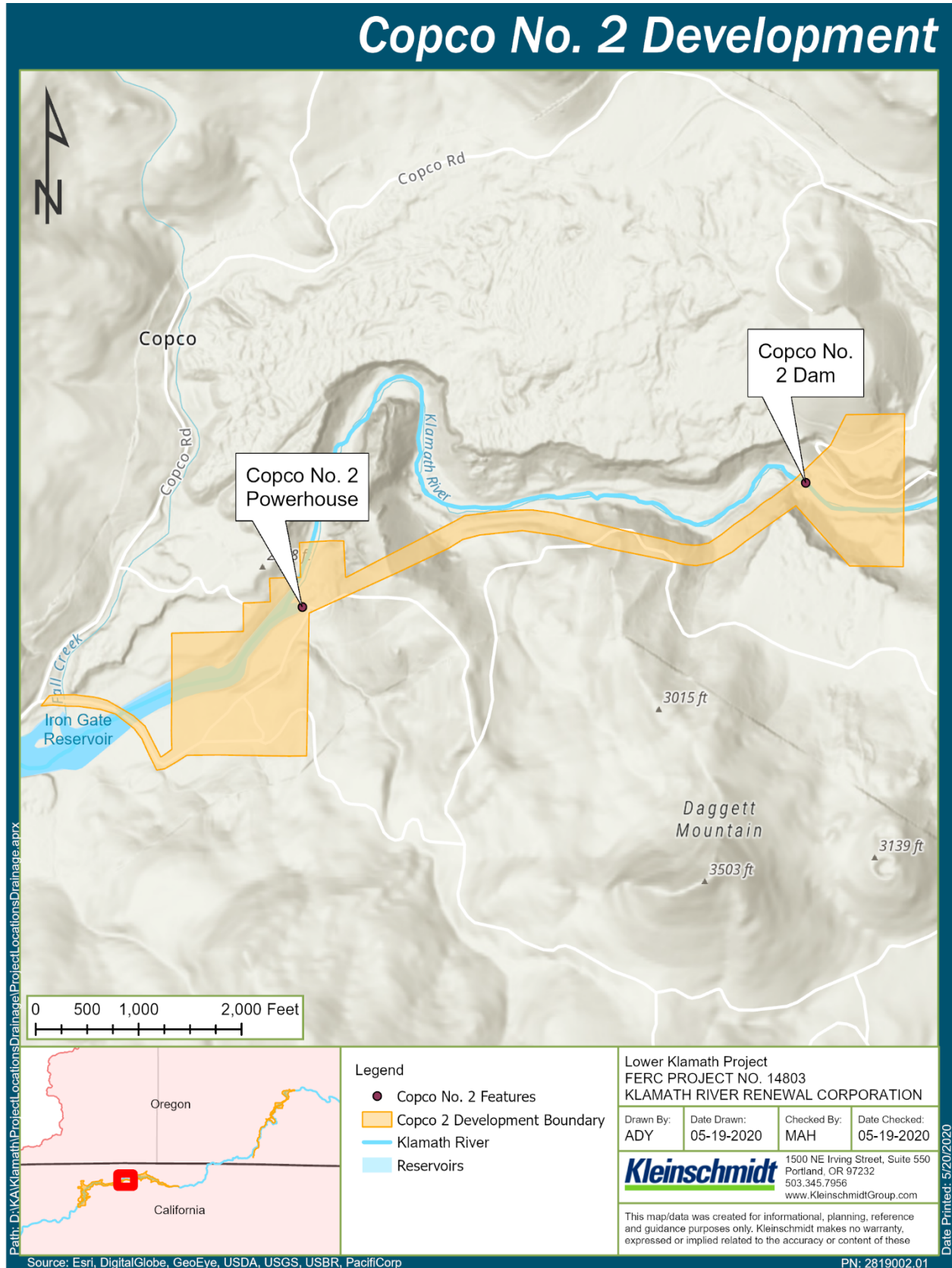


Figure 4. Copco No. 2 Development Area

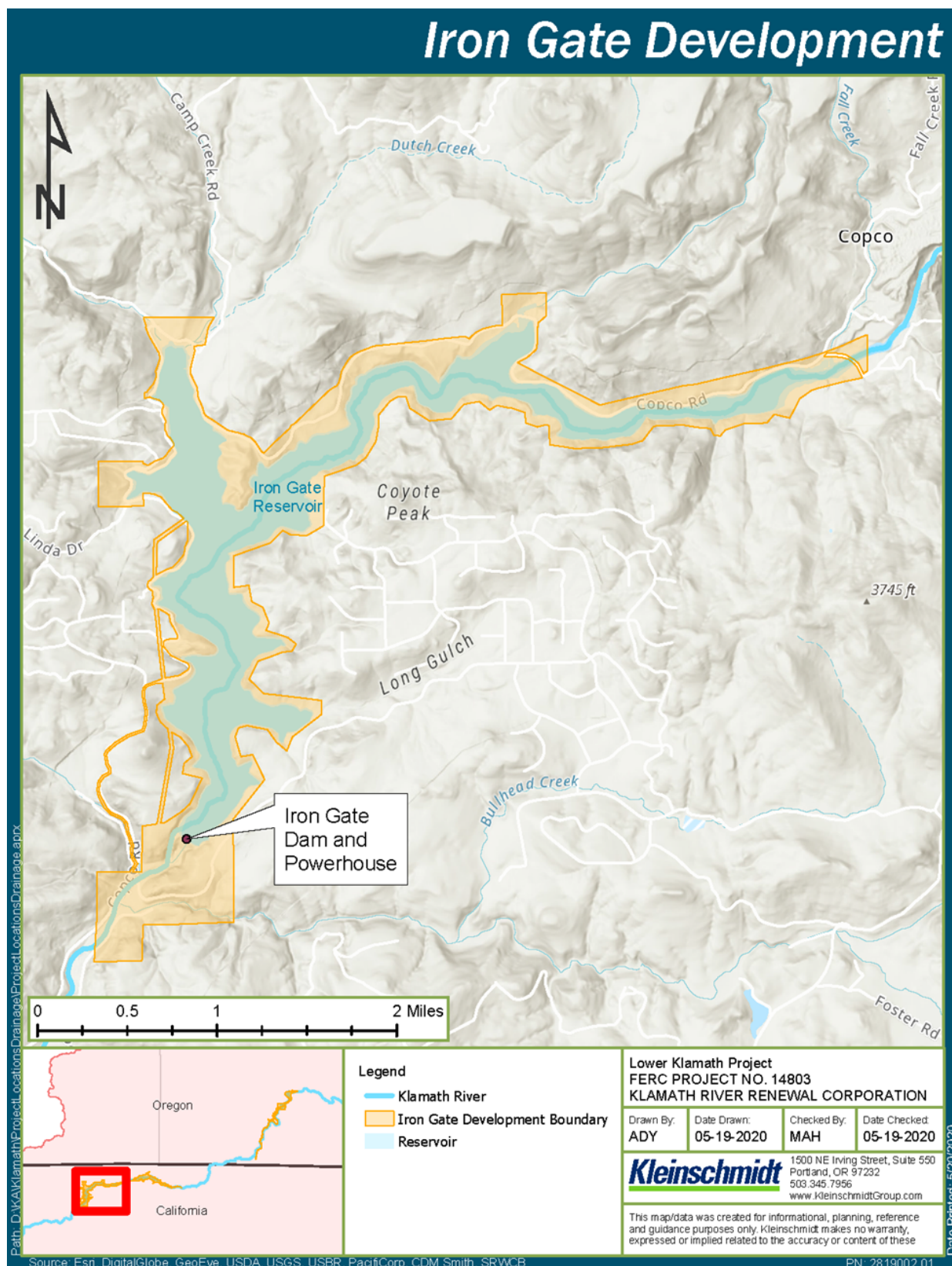


Figure 5. Iron Gate Development Area

1.1 Purpose of Bald and Golden Eagle Conservation Plan

The purpose of the Proposed Action is to physically remove the Lower Klamath Project and achieve a free-flowing condition and volitional fish passage, site remediation and restoration, and avoidance of adverse downstream impacts. This will lead to the restoration of anadromous fish access upstream of Iron Gate Dam (the current barrier to anadromy) and the timely improvement of water quality in the Klamath River downstream of J.C. Boyle Dam.

The Renewal Corporation has identified four objectives for the Proposed Action to achieve this purpose:

1. Restore volitional anadromous fish passage in the Klamath Basin to viable habitat currently made inaccessible by the Lower Klamath Project dams.
2. Advance the long-term restoration of the natural fish populations in the Klamath Basin, with particular emphasis on restoring the salmonid fisheries used for subsistence, commerce, Tribal cultural purposes, and recreation.
3. Improve the long-term water quality conditions associated with the Lower Klamath Project in the California and Oregon reaches of the Klamath River, including water quality impairments due to *Microcystis aeruginosa* and associated toxins, water temperature, and levels of bio-stimulatory nutrients.
4. Ameliorate conditions underlying high disease rates among Klamath River salmonids.

Meeting these objectives is expected to provide long-term benefits to bald and golden eagles in the Project Area by returning inundated areas to terrestrial habitat and restoring anadromous and resident fish to the ecosystem. Because the benefits of the Proposed Action will accrue in perpetuity, they will far outweigh the short-term impacts to eagles of both species. Incidental take permits under the BGEPA are needed because activities required to accomplish the above objectives (i.e., dam removal and habitat restoration) are likely to temporarily disturb bald and golden eagles in the Project Area. In support of the application for appropriate permits, the following sections 1) evaluate the likelihood and severity of potential effects to both eagle species, 2) identify the avoidance, minimization and mitigation measures that will be implemented, 3) demonstrate the net conservation benefit to the species, and 4) quantify the effects requiring permits.

2.0 Regulatory Setting

2.1 Federal Statutes and Regulations Protecting Eagles

Bald and golden eagles are protected by the BGEPA (16 U.S.C. §§ 668–668d) and the Migratory Bird Treaty Act (16 U.S.C. §§ 703–712).

2.1.1 Bald and Golden Eagle Protection Act, 16 U.S.C. §§ 668–668d

The BGEPA protects bald and golden eagles by prohibiting take, possession, sale, purchase, barter, offer to sell, purchase or barter, transport, or export or import any eagle, alive or dead, including any part, nest, or egg, unless allowed by permit. See 16 U.S.C. § 668(a); 50 C.F.R.

Part 22. “Take” is defined as to “pursue, shoot, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb” (50 C.F.R. § 22.3). “Disturb” is defined as “to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.” *Id.*

2.1.2 Migratory Bird Treaty Act, 16 U.S.C. §§ 703–712

The Migratory Bird Treaty Act provides that it shall be unlawful, except as permitted by regulations, to “pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export” any migratory bird, or any part, nest, or egg of any migratory bird (16 U.S.C. § 703(a)). The Migratory Bird Treaty Act’s general prohibition covers all migratory birds, including bald and golden eagles (50 C.F.R. § 10.13(c)). “Take” is defined as “to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect” bald and golden eagles and other migratory bird species covered under the Act (*Id.* § 10.12). This prohibition does not include harassment and habitat modification that does not result in direct loss of birds, nests, or eggs (*Id.* § 10.14). While there currently is no procedure to obtain authorization for the incidental take of migratory birds, the USFWS announced in an advance notice of proposed rulemaking its intention to establish a permitting program (86 Fed. Reg. 54667, Oct. 4, 2021).

2.1.3 USFWS Eagle Take Regulations, 50 C.F.R. Part 22

On June 5, 2007, concurrent with removing the bald eagle from listing under the Federal Endangered Species Act (ESA), the USFWS published a proposed rule for a new permit that would authorize take under the BGEPA (72 Fed. Reg. 31141). The rule was finalized on September 11, 2009 (74 Fed. Reg. 43686) and was subsequently revised as described below. The new permit type authorizes take of bald eagles and golden eagles that is associated with, but not the purpose of, an activity; it also creates a second permit type that authorizes purposeful take of eagle nests that pose a threat to human or eagle safety. The second permit type was subsequently broadened to accommodate additional circumstances for purposeful take.

On April 13, 2012, the USFWS initiated two additional rulemakings for eagles: (1) a proposed rule to extend the maximum permit tenure for programmatic, nonpurposeful take permit regulations from 5 to 30 years, among other changes (Duration Rule) (77 Fed. Reg. 22267); and (2) an advance notice of proposed rulemaking soliciting input on all aspects of those nonpurposeful take regulations (77 Fed. Reg. 22278). The Duration Rule was finalized on December 9, 2013 (78 Fed. Reg. 73704). As a next step, on June 23, 2014, the USFWS issued a notice of intent to prepare an Environmental Assessment or Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (79 Fed. Reg. 35564); for the previous rulemaking. The USFWS then developed proposed regulations and a Draft Programmatic EIS

was issued on May 6, 2016 (81 Fed. Reg. 27934). In December 2016, a Final Programmatic EIS and Record of Decision were issued along with a Final Rule (81 Fed. Reg. 91494) revising the regulations for nonpurposeful take of eagles and eagle nests.

The revised regulations and accompanying materials sought to clarify various aspects of the requirements for compensatory mitigation for the take of eagles. Of particular relevance to the Lower Klamath Project, the Questions and Answers provided by the USFWS (<https://www.fws.gov/migratorybirds/pdf/management/eagleregsQandA.pdf>) stated “if the activity that necessitates the nest removal will, in and of itself, provide a net benefit to eagles, compensatory mitigation is not needed.” While this passage refers specifically to the regulation regarding nest removal, 50 C.F.R. § 22.27, it describes the Proposed Action, which will be permitted under 50 C.F.R. § 22.26. The regulations also provide that compensatory mitigation will be “scaled to project impacts” (50 C.F.R. § 22.26(c)(1)(i)). The temporary actions that will remove the dams, restore streams and volitional fish passage, and increase the local amount of terrestrial habitat necessitate possible short-term disturbance of eagles.

2.2 State Statutes and Regulations Protecting Eagles

2.2.1 California State Regulations

The bald eagle is listed as endangered under the California Endangered Species Act (CAL. FISH & G. CODE §§ 2050–2115.5), and both the bald eagle and golden eagle are listed as Fully Protected Species (*id.* § 3511). As Fully Protected Species, bald and golden eagles may not be taken or possessed at any time, and no licenses or permits may be issued for their take except for collecting these species for necessary scientific research and relocation of the species for the protection of livestock (*Id.*). Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird and specifically states that it is unlawful to take, possess, or destroy any raptors (e.g., hawks, owls, eagles, and falcons), including their nests or eggs.

2.2.2 Oregon State Regulations

Bald and golden eagles are not listed under Oregon’s Threatened and Endangered Species Act (OR. REV. STAT. §§ 496.171–496.192). Bald eagle nest sites are afforded protection pursuant to the Oregon Department of Forestry’s “Specified Resource Site Protection Rules” (Or. Admin. R. 629-665-0100 and 0130).

2.3 Proposed Action Compliance with Other Federal Legal Requirements

2.3.1 Federal Power Act, 16 U.S.C. §§ 791a–828c

Pursuant to the Federal Power Act, on September 23, 2016, the Renewal Corporation applied to FERC to remove the dams and associated facilities that together form the Lower Klamath Project (FERC No. 14803). The Renewal Corporation filed a “Joint Application for Approval of License Amendment and License Transfer” (Transfer Application) with FERC. PacifiCorp was seeking a separate license for the J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate developments, known as the Lower Klamath Project, and to transfer the license from PacifiCorp

to the Renewal Corporation. Concurrent with this filing, the Renewal Corporation filed an Application for Surrender of License for Major Project and Removal of Project Works, seeking FERC's approval of an application to surrender the license for the Lower Klamath Project. In response to a subsequent Commission ruling, on November 17, 2020, the Renewal Corporation, PacifiCorp, and the States of California and Oregon signed a Memorandum of Agreement that called for the transfer of the license from PacifiCorp to the Renewal Corporation and the States and the removal of PacifiCorp from the license. In January 2021, the Renewal Corporation, PacifiCorp, and the States jointly submitted a License Transfer Application to FERC, which stipulated that the Renewal Corporation would lead the effort to remove the four Klamath hydroelectric dams in partnership with the States. On June 17, 2021, FERC approved the transfer of the Lower Klamath Project from PacifiCorp to the Renewal Corporation and the States of Oregon and California. The BGEPA permits for bald and golden eagles will be submitted to FERC as part of the license transfer and surrender process.

2.3.2 Clean Water Act, 33 U.S.C. §§ 1251–1389

Pursuant to Section 404 of the Clean Water Act (33 U.S.C. § 1344), the Renewal Corporation submitted an application for a Department of Army Corps of Engineers (Corps) permit for the discharge of dredged or fill material into Waters of the U.S.

The Renewal Corporation acquired Section 401 Water Quality Certifications (33 U.S.C. § 1341) from the States of Oregon and California on September 7, 2018 and April 7, 2020, respectively.

The Renewal Corporation will submit a Section 402 National Pollutant Discharge Elimination System (NPDES) Stormwater Construction General Permit No. 1200-C (33 U.S.C. § 1342) to the Oregon Department of Water Quality and a Section 402 NPDES Construction General Permit to California's North Coast Regional Water Quality Control Board prior to license surrender. Work associated with the Proposed Action will not commence until these permits are approved.

2.3.3 Endangered Species Act, 16 U.S.C. §§ 1531–1544, and Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801–1891d

On August 2, 2021, FERC initiated formal consultation on the Proposed Action with the USFWS and the National Marine Fisheries Service (NMFS) pursuant to Section 7 of the ESA and the joint agency implementing regulations (50 C.F.R. Part 402), and with NMFS pursuant to Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and its implementing regulations (50 C.F.R. § 600.920). A Biological Assessment (BA) prepared in coordination with the USFWS and NMFS was provided with the Commission's request for formal consultation. The Commission has designated PacifiCorp and the Renewal Corporation as the Commission's non-federal representatives for carrying out informal consultation, pursuant to the ESA and the MSA.

2.3.4 National Historic Preservation Act, 54 U.S.C. §§ 300101–307108

The Commission has initiated consultation on the Proposed Action with the California and Oregon State Historic Preservation Officers, as required by Section 106 of the National Historic Preservation Act, and has designated the Renewal Corporation as its non-Federal representative pursuant to 36 C.F.R. § 800.2(c)(4). Consultation has included Historic Preservation Officers from all relevant Tribes.

2.3.5 National Environmental Policy Act, 42 U.S.C. §§ 4321–4347

Regarding the proposed license surrender and removal of the Lower Klamath Project (FERC No. 14803), the Commission issued a Notice of Intent to Prepare an Environmental Impact Statement and Notice of Scoping Sessions on June 24, 2021 (86 Fed. Reg. 33262) for the Proposed Action. The USFWS has provided comments to the Commission regarding this Project on numerous occasions. The Renewal Corporation expects that the USFWS will prepare an Environmental Assessment for the eagle permit issuance.

3.0 Project Reach Description and Environmental Setting

The Proposed Action is located in the Klamath River Basin of northern California and southern Oregon (Figure). The Klamath River Basin can be divided into three physical geographic regions: the Upper, Middle, and Lower Klamath sub-basins. The Proposed Action will be located within a portion of the Upper Klamath sub-basin upstream from Iron Gate Dam (approximately 2,200 ft elevation) and includes the Copco No. 1 and 2 Dams (approximately 2,700 ft elevation) and the J.C. Boyle Dam (approximately 3,800 ft elevation). The Upper Basin continues up through Upper Klamath Lake and its contributing watershed. The Middle and Lower Klamath sub-basins occur below Iron Gate Dam and continue down to the Klamath River's confluence with the Pacific Ocean.

3.1 Terrestrial Setting

Vegetation in the Project Reach is described in detail in the Final Environmental Impact Report for the Lower Klamath Project License Surrender (State Water Resources Control Board (SWRCB) 2020). Vegetation communities include Klamath mixed conifer, ponderosa pine, juniper, mixed chaparral, montane chaparral, montane hardwood, montane hardwood-conifer, grassland, riparian, and wet meadow and are recognized for their biological diversity.

Terrestrial resources within the High Cascade and Klamath Range Subregions are defined in Baldwin et al. (2012). The High Cascade Subregion is characterized by ponderosa pine (*Pinus ponderosa*), other montane fir/pine species, and lodgepole pine (*Pinus contorta* subsp. *murrayana*) forests. The Klamath-Siskiyou mountain ranges are recognized for their biological diversity, supporting more than 3,000 plant species including 30 temperate conifer tree species, more than any other ecosystem in the world; these temperate conifer tree species include Douglas-fir (*Pseudotsuga menziesii* var. *menziesii*), ponderosa pine, and sugar pine (*Pinus lambertiana*) (Wallace 1983, Baldwin et al. 2012).

In addition to their ecological significance, many plants, especially wetland plants, in the Klamath River Basin are culturally important to Indian Tribes in the Klamath River region for food, basketry, regalia, and medicine, and some have importance for ceremonial use as well. See Cultural references cited in FERC (2007).

The vegetation near the J.C. Boyle facilities is dominated by stands of several species of fir and pine. Industrial timber management has been conducted near the J.C. Boyle Development for decades. Further downstream, vegetation gradually becomes dominated by pine, juniper, brush, and grassland.

Recent and historic wildfires have affected vegetation cover within and adjacent to the Project Reach. The 2014 Oregon Gulch fire affected approximately 35,000 acres immediately adjacent to Copco No. 1 Reservoir and the 2018 Klamathon fire affected 38,000 acres adjacent to and west of Iron Gate Reservoir, including the Scotch Creek and Camp Creek area and the river reach downstream of Iron Gate Reservoir.

The major land uses in the Project Reach include rangeland, timber management, recreation (hunting, fishing, boating), small rural communities, and dispersed ranchettes. The main nearby urban areas are Klamath Falls, Oregon (15 air miles northeast of J.C. Boyle) and Yreka, California (17 air miles southwest of Iron Gate). A portion of the Project Reach is developed as hydroelectric facilities and recreation sites, and residential developments occur around portions of Copco No. 1 Reservoir.

3.2 Hydrologic Setting

Major hydrologic changes to the Klamath Basin were triggered by construction of the U.S. Bureau of Reclamation's (Reclamation's) Klamath Project (www.usbr/mp/kbao) following its authorization in 1905. This irrigation project includes Link River Dam at Klamath Falls, Oregon, and Keno Dam near Keno, Oregon, along with several hundred miles of irrigation ditches, large diversion and conveyance canals, and pumping plants that divert water from the Klamath River watershed for agricultural use and return excess water to the Klamath River. This infrastructure supported the agricultural community that was already established to some extent in the Upper Klamath Basin and reclaimed thousands of acres of additional wetlands for homesteading purposes.

The water diversions and returns of Reclamation's Klamath Project are all upstream of the Proposed Action but influence the river flows through that project's reservoirs and hydroelectric generation facilities. Development of hydroelectric plants in the Klamath Basin began as early as 1891 on the Shasta River to provide electricity for the City of Yreka. Klamath Hydroelectric Project facilities were constructed by the California Oregon Power Company (Copco) beginning with Copco No. 1 (1918), followed by Copco No. 2 (1925), and reconstruction of the old Eastside facility at Klamath Falls in 1924. After World War II, regional population growth prompted a new round of hydroelectric power expansion highlighted by Copco's Big Bend project (J.C. Boyle Dam and Powerhouse) in 1958 and the construction of the Iron Gate facilities

in 1962. The Copco corporation merged with Pacific Power and Light in 1961; the utility is now known as PacifiCorp.

4.0 Description of the Proposed Action

The location of the primary facilities, along with important geographic features, included in the Proposed Action are depicted in Appendix A (Figure A-1 through Figure A-9). The Proposed Action includes the decommissioning and removal of four dams (Iron Gate, Copco No. 1, Copco No. 2, and J.C. Boyle) and their associated reservoirs and hydropower generation facilities; the reconstruction of the Fall Creek Fish Hatchery and modification and demolition of the Iron Gate Fish Hatchery; and wetland, riparian, and upland habitat restoration within the former reservoir footprints, the mainstem Klamath River, and priority tributaries (Scotch, Camp, Jenny, Beaver, and Spencer Creeks).

The Proposed Action will occur between approximately River Miles 193 and 234 upstream from the Pacific Ocean and generally between Hornbrook, California and Keno, Oregon. The Proposed Action will include preparation of bridges, roads, and work sites; equipment transport; reservoir drawdown; demolition and removal of structures; site rehabilitation; and habitat restoration. Currently, the Proposed Action is anticipated to occur over a three-year period starting in 2023. In this document, we refer to the three years of activities as Year One (year prior to drawdown), Year Two (drawdown year), and Year Three (year following the drawdown year); however, the exact timing is subject to regulatory approvals.

Pre-drawdown activities are scheduled to begin in April of Year One. Copco No. 2 Dam, which impounds a reservoir of only a few acres, will be demolished during June through August of Year One. Because the three larger dams are all constructed differently, the early stages of preparation and demolition will begin at different times in Year One prior to beginning the drawdown of the reservoirs in November of Year One. Drawdown will extend into spring months of Year Two, and demolition and removal of materials will occur throughout the spring and summer of Year Two. All demolition is planned to be completed by the end of Year Two. Restoration will begin simultaneously with reservoir drawdown, sediment evacuation and vegetation seeding will begin immediately, and significant restoration activities, including revegetation and tributary reconstruction, will be mostly completed in Year Three.

The major structures and features proposed for removal, modification, reconstruction, and restoration include the following (reservoir acres are approximate and vary with hydropower operations):

- The J.C. Boyle Dam, power canal, penstocks, timber bridge, and powerhouse (demolition), with the associated 350-surface-acre J.C. Boyle Reservoir
- J.C. Boyle bypass flow “scour hole” (restoration)
- Copco No. 1 Dam and Powerhouse (demolition), with the associated 972-surface-acre Copco No. 1 Reservoir

- Copco No. 2 Dam, penstocks, and powerhouse (demolition)
- Iron Gate Dam, powerhouse, and fish-holding facilities (demolition) with the associated 942-surface-acre Iron Gate Reservoir
- Removal of transmission and distributions lines and over 200 supporting pole structures
- Iron Gate Fish Hatchery (modification and demolition)
- Fall Creek Fish Hatchery (reconstruction)
- City of Yreka water supply transport facility (reconstruction)
- Re-exposed river channel, channels of primary tributaries, wetlands, and floodplain (restoration)

The following general list of activities is roughly aligned in planned order of occurrence. Many activities have overlapping schedules. Detailed discussions of the potential impacts to eagles from each activity are included below in section 5.2.2. References to schedules are derived from “Lower Klamath Project Schedule of Activities: Presentation to Agencies, April 1, 2021” (Renewal Corporation 2021a) and “Klamath River Reconstruction Project, Implementation Work Schedule:100% DCD 2022 Start” (Renewal Corporation 2021b), supplemented by personal communications with Renewal Corporation contractors and subcontractors.

1. Prior to hauling of heavy equipment to work sites, several types of temporary modifications to bridges will be installed on the public Copco Road at Dry Creek below Iron Gate Dam and at Fall Creek, on the public Lakeview Road across the Klamath River below Iron Gate Dam, and on PacifiCorp's Daggett Road across Fall Creek and the Klamath River near Copco No. 2 Powerhouse. This work will occur beginning July 15 of Year One, extending through September of Year One.
2. The paved public Copco Road from Ager Road below Iron Gate Dam eastward to the Copco Access Road near Copco No. 1 Dam will provide access to those facilities. This road will be improved during July 15 through January 16 of Years One and Two.
3. New fish hatchery facilities will be constructed at the site of the old hatchery on Fall Creek during July through December of Year One.
4. Beginning in May of Year One, equipment will be hauled over Copco Road to the demolition sites at the Copco No. 1 and 2 facilities and Iron Gate Dam. When no longer needed, this equipment will be hauled away during Year Two.
5. During July through November of Year One, Copco No. 2 Dam will be removed.
6. During September through November of Year One, 13 recreation sites around the reservoirs will be removed along with their access roads, and native vegetation reestablished. The recreation sites are small, and demolition will entail use of bulldozers, tractors, and other small equipment.

7. At Copco No. 1 Dam and Iron Gate Dam, site preparation and dam modifications will begin during May of Year One. These activities will include building access roads; setting up trailers, etc.; construction of equipment platforms at the downstream side of the dams; and construction of diversion structures. Demolition activities will begin at Copco No. 1 Dam in July and will continue through the end of Year One. At J.C. Boyle Dam and Powerhouse, preparation will begin in December of Year One and January of Year Two.
8. At the end of July of Year One, a dredging barge will be constructed at the PacifiCorp boat ramp on the south side of Copco No. 1 Reservoir (Keaton Cove aka Mallard Cove) for use at the upstream side of Copco No. 1 Dam. The barge will be demobilized in September of Year One.
9. Drawdown of reservoir pools will begin in November and December of Year One at the three large reservoirs. In Year Two, the drawdown will primarily occur in January at J.C. Boyle Reservoir, from January to July at both Copco Reservoirs, and from January to October at Iron Gate Reservoir. Reservoir levels may fluctuate during these periods with variations in precipitation. During drawdown, small boats equipped with pumps along with workers on foot may wash sediment from slopes and tributary stream channels exposed by drawdown, particularly in areas where focused restoration will occur.
10. Demolition of the three large dams, powerhouses, and associated facilities including transmission/distribution lines and poles will begin at Copco No. 1 Dam and Copco No. 2 Dam in the summer of Year One and continue through most of Year Two. At J.C. Boyle Dam and Iron Gate Dam, most demolition activities will occur during Year Two. Demolition at each site, including blasting, is described below in section 5.0.
11. The Fall Creek Fish Hatchery, which is currently inactive, will be reconstructed during July 15 of Year One through January 16 of Year Two. The existing fish collection facilities at Iron Gate Dam will be demolished along with the dam during Year Two, but the Iron Gate Fish Hatchery may remain in limited operation for a limited period after dam removal to support fish production.
12. Several electrical switching yards will be removed along with more than 14 miles of transmission/distribution lines and more than 200 12-69kV power poles (Table 4-1). The schedule will vary depending on when different facilities are disconnected and demolished.

Table 4-1. Power Pole Removals

LINE VOLTAGE (kV)	NUMBER OF POLES TO BE REMOVED
2.4	10
2.5	9
12	43

LINE VOLTAGE (kV)	NUMBER OF POLES TO BE REMOVED
12.5	52
69	108
TOTAL	222

13. Concrete, rock, and earth materials from demolished dams and powerhouses will be hauled and buried at nearby sites to the greatest extent possible. Disposal sites often will incorporate pits where material was excavated at the time of construction.
14. Steel and treated wood from dams and other structures along with waste from electrical facilities will be separated from concrete at the demolition sites and hauled over public roads to transfer stations during January through October of Year Two. Material from facilities at J.C. Boyle Dam and Powerhouse will be carried east over Highway 66 to a landfill near Klamath Falls, Oregon. Material from facilities at the two Copco Dams and Iron Gate Dam will be carried west over Copco Road to Interstate 5 and on to a transfer station near Yreka, California, and a landfill near Anderson, California.
15. Following completion of demolition and hauling, the existing culverts and road approaches at Scotch Creek and Camp Creek will be removed, larger box culverts constructed, and Copco Road rebuilt during October through November of Year Two. The Daggett Road bridge across the Klamath River will also be reconstructed.
16. Improvement of four fish-bearing tributaries to the Klamath River is a primary objective of the post-drawdown restoration program. Approximately 2 miles of newly exposed stream courses will be treated. Work will typically involve tractors and trucks and will include placement of logs to reduce erosion and create instream habitat. Logs will be purchased from local timber companies and transported to work areas by helicopter, then placed in the stream courses with loaders. Potential disturbances from these activities are discussed in section 5.2.2.
17. Restoration and revegetation of re-exposed floodplain and riparian areas will be carried out during Year Two and into late Year Three and may extend over broader areas within the reservoir footprints. Tractors, light trucks, and manual labor will be the primary means of this work.
18. Five new recreation facilities and river access points will be constructed. These locations are as follows: 1) near Highway 66 crossing of the Klamath River, 2) at Moonshine Falls near the present location of J.C. Boyle Dam, 3) at Copco Valley beneath the existing reservoir, 4) at Fall Creek, 5) near the current location of the Iron Gate Hatchery.

19. Temporary modifications to bridges will be removed during September through December of Year Two. Final pavement and culvert rehabilitation on Copco Road will occur during late Year Two.

The current schedule is the product of more than a decade of detailed planning. It represents the best available advanced compilation of the anticipated sequence of events in this very complex undertaking, involving engineering challenges and possible natural events. Planning of the Proposed Action continues to be refined and verified; accordingly, changes relevant to effects will continually be reassessed. During implementation, adjustments will likely be necessary in real time in response to uncontrollable variables such as logistics, condition of the facilities undergoing demolition, and environmental factors. After agency approval and as planning and activities progress, material changes will be reported and coordinated with the agencies.

5.0 Effects of the Proposed Action on Bald Eagles and Golden Eagles

To support an application for permits for potential take of bald and golden eagles, beginning in 2017, the Renewal Corporation and its contractors and subcontractors (AECOM, Inc.; Resource Environmental Solutions, Inc. (RES); and PJD Environmental Consulting, Inc. (PJD)) have conducted studies of both species in the Project Area and evaluated the activities associated with the Proposed Action for potential effects on these species. The Renewal Corporation consulted with the USFWS on a regular basis during these studies. The following sections describe the methods used and the results of this evaluation, including surveys for both species within the Project Area through June 2021.

5.1 Methods

Beginning in 2017, biologists from Renewal Corporation's contractor AECOM contacted several agencies and researchers to obtain existing records of nest sites of bald eagles and golden eagles in the vicinity of the Proposed Action. Data were received from the Oregon State University Cooperative Research Unit and the Oregon Eagle Foundation (OEF); the Bureau of Land Management (BLM), Klamath Falls Resource Area; the USFWS, Klamath Falls Fish and Wildlife Office; the U.S. Forest Service (USFS), Klamath National Forest; and the California Natural Diversity Database (CNDDB).

AECOM biologists carried out preliminary reconnaissance field surveys during July and November 2017, followed by multiple ground and helicopter surveys during the eagle nesting seasons in 2018 and 2019. Methods generally incorporated USFWS survey guidance for bald eagles (Jackman and Jenkins 2004) and golden eagles (Pagel et al. 2010) adapted for local access conditions and terrain. AECOM conducted the surveys as follows:

- During 2017, reconnaissance-level ground surveys on six dates in July and November;

- During 2018, ground surveys on 10 dates in January, February, June, and August and helicopter surveys on two dates in June; and
- During 2019, ground surveys on 13 dates in February, May, and June and helicopter surveys on three dates in May and June.

Details from the AECOM surveys and related observations are contained in Appendix 1 of its annual reports submitted to the Renewal Corporation for 2018 and 2019, respectively (Renewal Corporation 2019, 2020). AECOM's helicopter surveys focused on potential nesting habitat for both eagle species, especially large coniferous trees along with cliffs and rock outcrops. The 2018 helicopter survey routes were recorded and are included in Appendix 1 of the 2018 annual report (Renewal Corporation 2019). Technical issues prevented recording and review of 2019 helicopter survey routes, so AECOM's lead survey biologist provided personal communications to PJD regarding areas surveyed in 2019.

In late 2019 and early 2020, staff from Renewal Corporation contractors RES and PJD worked with AECOM staff to interpret data and compiled summaries of nest observations into groupings representing known or likely territories of breeding eagles of both species. For ease of identifying locations and related discussion, names were assigned to putative territories based on geographical features near known nesting sites, or, where available, territory names already in use by local agencies. The Renewal Corporation and RES established a consistent system of numbering and labelling eagle nest sites within the Project Area for use in tables and figures. Where recent surveys of historic nest locations did not find existing nests, no new nest numbers were assigned; in most cases, figures and tables depict only nest sites known to be occupied during at least one year of the study period, or where nests are still present. To assess the likelihood of unidentified territories, survey observations of eagles away from nests were reviewed and gaps between known nests evaluated using survey data, remote imagery, and additional field observations.

During March 2020, RES and PJD biologists conducted three days of reconnaissance visits at various eagle sites to the Project Area and evaluated observation points for future use. These biologists were accompanied by BLM Redding District Biologist Steve Laymon at the Iron Gate and Copco areas, and by Green Diamond Resources Company (GDRC) Forester/Biologist Robert Douglas at the J.C. Boyle area.

During a total of eight dates in March, April, and June 2021, RES and PJD biologists visited known nest sites of both species to determine their status and searched the Project Area from roads and advantageous observation sites. Results of regular annual nest surveys by GDRC and BLM were also obtained.

RES and PJD compared maps and imagery of eagle nest locations and schedules and maps of planned activities, as described in Renewal Corporation (2021a, b), with USFWS eagle disturbance guidelines (USFWS 2017a, b) and other literature cited in the text to evaluate the potential for disturbance of eagle nests by the Proposed Action.

During October 2019, January 2020, April 2020, and April 2021, Renewal Corporation contractors met with staff from the USFWS Pacific Southwest Region, Migratory Bird Office, to discuss methods, results, and the permitting process. During August through November 2021, Renewal Corporation contractors met regularly with USFWS staff to provide more detailed information and prepare for submission of the take permit application.

5.2 Results

This section provides brief general descriptions of bald and golden eagle occurrence in the Project Area, detailed evaluation of potential effects of the Proposed Action on these sites, and a review of potential effects on each bald and golden eagle nest territory.

5.2.1 Eagles Associated with the Project Area

5.2.1.1 Bald Eagles in and near the Project Area

As of July 1, 2021, 11 bald eagle nest territories, as represented by occupied nest sites, were known to have been associated with the Project Area during at least one year of the study period (2017 through 2021). See Appendix A. Two of these occupied bald eagle nest territories occurred within a few miles upriver from J.C. Boyle Reservoir. Three bald eagle nest territories were in the 14-mile river reach between J.C. Boyle Dam and Copco No. 1 Reservoir. Seven bald eagle territories had nests directly associated with reservoirs; four of these were at J.C. Boyle Reservoir, one at Copco No. 1 Reservoir, and two at Iron Gate Reservoir. Prior to the study period, two other territories were known to be occupied within the last decade, one near J.C. Boyle Reservoir and one near Copco No. 1 Reservoir. No evidence was found to indicate that nesting occurred at these two sites during the study period. Sites of several other older territories known in the Project Area were also investigated in the field and through inquiries with agency personnel, with no evidence of use by eagles during the study period.

Bald eagles in the Project Area are part of a population spread across northern California and southern Oregon. For example, the California Department of Fish and Wildlife depicted approximately 60 nest sites that were known in California within 100 miles of the Project Reach during the period from 2000 through 2016 (CDFW 2020). In Oregon, over 100 occupied nest territories were known in the Klamath River watershed in 2007 (Isaacs and Anthony 2011).

Bald eagles prey primarily on fish and waterfowl and also utilize carrion such as livestock and road-killed deer (Buehler 2020). Aquatic foraging habitat is present at all the Project reservoirs and in the Klamath River between J.C. Boyle and Copco No. 1 Reservoirs. Surveys found that bald eagles were widely distributed and apparently foraging along reservoir shorelines. Data on the forage base for nesting eagles within the Project Area are not available. Bald eagles are likely foraging on the fish species that are of appropriate size and are available near their nest sites (Jackman et al. 1999). Thus, in the Project Area, bald eagles nesting near reservoirs are most likely foraging on warm water non-native fish such as yellow perch (*Perca flavescens*), bass (*Micropterus* spp.), crappie (*Pomoxus* spp.), and catfish (*Ictalurus* spp.) as well as native fish including tui chub (*Siphateles bicolor*), blue chub (*Gila coerulea*), redband trout (*Oncorhynchus mykiss newberri*), and Klamath smallscale suckers (*Catostomus rimiculus*) (B.

Tinniswood, pers. comm.). At other reservoirs in California, waterfowl are also important prey items for bald eagles (Jackman et al. 1999) and are likely to be prey here as well.

Forage availability is known to be positively related to bald eagle nest density (Detrich 1986; Dzus and Gerrard 1993) and use of foraging areas (Hunt et al. 1992). Observed bald eagle nesting density is higher at J.C. Boyle Reservoir than at other Klamath River Project reservoirs. At J.C. Boyle Reservoir, two known sources of bald eagle prey are provided by springtime spawning runs of redband trout and smallscale suckers into Spencer Creek and by diseased and dead fish coming down the Klamath River from Keno Reservoir (B. Tinniswood, pers. comm.).

Bald eagles that presently nest at the three locations in the river canyon probably forage on native rainbow trout and Klamath smallscale suckers, the species of appropriate size that are most common in that reach (B. Tinniswood, pers. comm.).

In the Project Area, all known bald eagle nests are in large pines, except for one 2021 nest on an osprey platform mounted on a transmission pole that will remain post-Project. Large trees are uncommon in the western portion of the Klamath River Project Reach near Iron Gate Reservoir, and generally are more common from Copco No. 1 Reservoir eastward.

5.2.1.2 Golden Eagles in The Project Area

In contrast to bald eagles, golden eagles probably did not establish their territories based on available prey at the reservoirs, and there is no apparent advantage to golden eagles in placing their nests in proximity to the Project Reach. Instead, the cliffs and topography of the Klamath River canyon provide nesting habitat amid a much larger region of golden eagle nesting and foraging habitat. According to Katzner et al. (2020), “Golden eagles drink occasionally, but most or all liquid requirements, particularly for nestlings, are met by ingesting prey.” We note that many golden eagle nests in the Great Basin are far from water sources.

As of July 1, 2021, eight golden eagle nest territories, as represented by occupied nest areas, were known to have been occupied within the Project Area during at least one year of the study period (2017 through 2021, see Appendix A). While precise population estimates for the region surrounding the Project Reach are not available, it is known that the golden eagle population in the Project Area is part of a population across the northern California–southern Oregon region. For instance, Isaacs (2020) depicted approximately 50 known golden eagle nesting areas in Klamath and Jackson Counties, Oregon, within approximately 50 miles of the Project Reach.

Dunk et al. (2019) classified golden eagle nesting habitat in the western United States based on geographic characteristics. According to their classification, the Project Reach is in the Modoc Plateau subregion of the Northern Great Basin region. Habitat modeling for this region was based on more than 1,000 golden eagle nest sites. The Project Reach comprises a narrow strip within Great Basin golden eagle habitat, with a narrow belt of forested montane habitat crossing from north to south below J.C. Boyle Reservoir and downriver to Copco No. 1 Reservoir.

Generalized predicted nesting density maps from Dunk et al. (2019) show the Project Area as located within an area of relatively low nesting density.

Golden eagles in Great Basin habitats primarily forage on open country small mammals such as hares (*Lepus* spp.), rabbits (*Sylvilagus* spp.), various ground squirrels, and marmots (*Marmota flaviventris*), and readily use carrion such as livestock and road-killed deer (Katzner et al. 2020). They primarily use cliffs and large trees as nesting locations; Isaacs (2020) reported that 76 percent of 1,000 Oregon golden eagle nest sites were on cliffs, 22 percent in trees, and 2 percent on transmission towers. However, the proportion of tree nests and on transmission towers in Klamath County, Oregon, was much higher. In the Project Area as of 2021, one known golden eagle nest was in a large dead conifer and the remainder were on cliffs. The extensive cliffs along the Klamath River canyon and scattered large mature conifers on public and private lands provide plentiful potential nesting sites, and surrounding grasslands, agricultural areas, and burned forested areas may provide widespread foraging habitat.

5.2.2 Potential Disturbance of Eagles

As summarized in section 4.0, Description of the Proposed Action, the Proposed Action will bring a range of increased year-round human activity to the Project Area for approximately three years. Some activities, such as dam demolition, will be focused on specific areas for a limited period. Other activities, especially reservoir drawdown and restoration, will permanently affect large areas. Effects on eagles will depend on the location and timing of actions in relation to seasonal eagle use of nests during the breeding season.

Generally, the breeding season for both species extends from approximately January 1 through mid-July. Isaacs (2020) stated that egg-laying by golden eagles in Oregon has been documented from the last week of January through the first week of April. Egg-laying among bald eagles in Oregon has occurred in the months of February, March, and April (Isaacs and Anthony 2011). Bald eagles incubate their eggs for approximately 5 weeks (Buehler 2020), and golden eagles incubate for approximately 6 weeks (Katzner et al. 2020). Breeding eagles are especially sensitive to disturbance in the early months of the breeding period, when courtship, incubation, and hatching take place. Golden eagles are generally more sensitive to disturbance than bald eagles.

Later in the breeding period, the growth of nestlings creates energetic demands that require increased foraging by adults. Disturbance may reduce the rate of food delivery by adults. Northern California bald eagle nestlings leave the nest on their first flights (fledging) at approximately 12 weeks of age (Hunt et al. 1992), while the age at which golden eagles fledge averages approximately 9 weeks (Katzner et al. 2020). Hunt et al. (1992) reported that most juvenile bald eagles in the Pit River region of northern California fledged in mid- to late June. Isaacs (2020) reported that most Oregon golden eagle nestlings had reached 8 to 10 weeks of age before July 1.

Toward the end of the nesting period, eagle nestlings may be prone to premature fledging if disturbed at the nest (Buehler 2020). Premature fledging can result in injury or death. Following

fledging, young eagles are still dependent on adults for food and may revisit the nest site. Gradually over a period of weeks, fledging activity shifts away from the nest site.

Our assessment of potential disturbance of the two eagle species incorporates USFWS guidelines (USFWS 2017a, 2017b) that provide recommended distances to avoid disturbance of eagles. In addition, using the professional judgement of the Renewal Corporation surveyors, we incorporated literature review, site-specific conditions, our knowledge of eagle behavior, and the observations of the known nest sites during the surveys to assess the risk that the Proposed Action would disturb nesting eagles and whether take is likely to occur.

In particular, we cannot precisely predict whether a given activity during the late nesting period will result in meaningful disturbance because fledging dates at different territories vary, as does tolerance of individuals. While it is reasonable to expect that adults and fledged young would react to some activities by leaving the specific location, a displacing disturbance of this sort might not be likely result in injury. Our estimates of potential take are based on distance and terrain, the potential for sustained or sudden loud noises from the activity, and professional judgement.

The following discussion expands upon the list of specific Proposed Actions provided in section 5.0 and adds site-specific information regarding potential disturbance of eagle breeding attempts, based on available information on eagle nest site locations in relation to proposed activities and schedules. All references to schedules are derived from Renewal Corporation (2021a, b), supplemented by personal communications with appropriate Renewal Corporation contractors and subcontractors. The complex sequence of proposed activities will require adherence to a demanding schedule, and there will be little opportunity to alter the timing or location of activities to protect eagles from temporary disturbance. Facility locations and eagle nest sites along with distance zones are depicted in Appendix A. Discussion of effects at each specific nest site is found in sections 5.2.3.1 and 5.2.3.2 below.

1. Prior to hauling of heavy equipment to work sites, temporary bridge modifications of several types will be installed on the public Copco Road at Dry Creek below Iron Gate Dam and at Fall Creek; on the public Lakeview Road across the Klamath River below Iron Gate Dam; and on PacifiCorp's Daggett Road across the Klamath River near Copco No. 2 Powerhouse. This work will occur beginning July 1 of Year One and extending through October of Year One. The bridges at Dry Creek, Lakeview Road, and Daggett Road are all over 1.0 mile from any known eagle nest and work on these bridges will occur after the breeding season; therefore, this work is not expected to result in disturbance to eagle nests (see discussion of territories in section 5.2.3 below). The Fall Creek bridge is approximately 0.75 mile from the Sloan Butte golden eagle nest (GE-6) and 0.4 mile from bald eagle nest BE-10, but work on this bridge will be done outside the breeding season. Potential disturbance at this site is discussed in section 5.2.3.2. During late July and early August of Year One, erosion protection may be placed at the existing Jenny Creek bridge, which is more than 1.0 mile from known eagle nests; no disturbance is expected from this activity (see discussion of specific territories in section 5.2.3.2).

2. The paved public Copco Road from Ager Road below Iron Gate Dam eastward will provide access to the activities near Copco No. 1 Dam and Copco No. 2 Dam. This road will be improved during July to October of Year One. This period is mostly outside the eagle breeding season, so the road work is not likely to disturb nests of bald and golden eagles, except possibly at the bald eagle nests at Fall Creek (BE-10) and on the west side of Iron Gate Reservoir (BE-11) and the golden eagle nest at Sloan Butte (GE-6) (see discussion in section 5.2.3). However, eagles at these nests are accustomed to traffic, and by early July most juvenile eagles of both species have fledged; disturbance resulting in take is therefore not likely. Subsequent maintenance and rehabilitation of road pavement will be ongoing throughout the activities, but this road work carries no risk of disturbance to nests other than the three mentioned above (BE-10, BE-11, GE-6).
3. New fish hatchery facilities will be constructed at the site of the old hatchery on Fall Creek during July 15 through January 16 of Years One and Two. The only eagle nest near enough to the construction site to be potentially subject to disturbance is the golden eagle nest at Sloan Butte (GE-6). This potential disturbance is discussed further in section 5.2.3.2.
4. Beginning in July of Year One, heavy equipment will be hauled over Copco Road to the demolition sites at Iron Gate Dam and the Copco No. 1 and No. 2 facilities. This equipment will be hauled away during Year Two. Noise from heavy trucks could be a potential source of disturbance at a few nest locations. At the present time, these are believed to be limited to the bald eagle nests at Fall Creek (BE-10) and on the west side of Iron Gate Reservoir (BE-11) and the golden eagle nest at Sloan Butte (GE-6). Section 5.2.3 below includes a discussion for each nest site. Various access and preparation activities will take place at the dam sites through the fall of Year One, but all these activities will be outside the eagle breeding season.

Also beginning in July of Year One, heavy equipment will be hauled over Highway 66 west from Klamath Falls and Keno, Oregon, and from Worden on Highway 97 west to Highway 66 at Keno. From Highway 66 west of Keno, some hauling traffic will cross the Klamath River at J.C. Boyle Reservoir. Traffic on the east side of the dam will use Topsy Grade Road, and traffic on the west side will use PacifiCorp access roads. The J.C. Boyle Powerhouse will be accessed via PacifiCorp access roads either from the dam or from Highway 66 west of the reservoir. By early July most juvenile eagles of both species have fledged, so disturbance resulting in take is not likely. See the discussion of specific territories in section 5.2.3.1.

5. During September through October of Year One at J.C. Boyle Reservoir, October of Year One at Copco No. 1 Reservoir, and October through November of Year One at Iron Gate Reservoir, 13 PacifiCorp recreation sites around the reservoirs will be removed along with their access roads and native vegetation reestablished. All these activities will be outside the eagle breeding season.
6. During August of Year One, a dredging barge will be constructed at the PacifiCorp boat ramp on the south side of Copco No. 1 Reservoir (Keaton Cove aka Mallard Cove) for use at

Copco No. 1 Dam. The barge will be demobilized in late September of Year One. This period is outside the period when disturbance might result at the Lennox Rock golden eagle nest (GE-5) overlooking Keaton Cove. Potential disturbance of this site is further discussed in section 5.2.3.2.

7. Water levels during the initial stages of drawdown at the reservoirs during late Year One will be within normal operating levels and will not be further described here. As demolition proceeds at each dam, drawdown will continue toward complete drainage of the reservoirs and re-exposure of the flowing Klamath River. Drawdown at J.C. Boyle Reservoir will begin in January of Year Two and be completed by early February of Year Two. Drawdown of the reservoir pool at Copco No. 1 Reservoir will begin in January of Year Two and extend into July of Year Two. At Iron Gate Reservoir, drawdown will begin in January of Year Two and extend into October of Year Two. During drawdown, small boats and workers on foot equipped with pumps may wash sediment from slopes and tributary stream channels exposed by drawdown, particularly in areas where focused restoration will occur.

Most warm-water fish in the reservoirs are expected to disappear downriver, though some may persist in the remaining flowing river and tributaries. These reservoir fish probably provide an important food source for bald eagles. Resident redband trout and Klamath smallscale suckers inhabiting the reservoirs may remain in the exposed riverine reaches. If remaining prey is insufficient, nonbreeding eagles would be expected to depart the Project Area. In the early months of Year Two, loss of food supply may result in failure to breed among all bald eagle breeding pairs near the reservoirs and possibly along the river below J.C. Boyle Dam, or in later nest failures if breeding is attempted beginning in March. In subsequent years, re-establishment of native resident fish and anadromous fish in the Klamath River and tributaries may eventually support a similar or larger bald eagle nesting population (see discussion of specific territories in section 5.2.3.1).

Drawdown is not expected to negatively affect existing food sources for golden eagles because they prey primarily on terrestrial mammals. The restored reservoir footprint should eventually provide increases in terrestrial foraging habitat for golden eagles. These outcomes are discussed in more detail in section 5.2.3.2.

8. Preparation of work sites at Copco No. 1 Dam and Iron Gate Dam will begin in May of Year One. Demolition at Copco No. 1 Dam will include regular blasting beginning in August of Year One and extending through January of Year Two. Bald eagles breeding at the site 0.35 mile east of Copco No. 1 Dam (BE-9) are likely to be disturbed during both years. Also, if golden eagles are using the Sloan Butte nest site (GE-6), they also may be disturbed. Demolition at Copco No. 1 Dam will continue into September of Year Two.

Blasting is planned at Iron Gate Dam during Year 1, but preparation and demolition will be at a sufficient distance from eagle nests of both species so disturbance from this location is not expected.

At J.C. Boyle Dam, most demolition actions will occur beginning in May of Year Two and continuing through the summer months. Two blasts are planned in January/February of Year Two. According to the USFWS guidelines (USFWS 2017a), these actions are at sufficient distance from eagle nests that disturbance is not anticipated.

At J.C. Boyle Powerhouse, preparation of the access roads and demolition sites will begin in May of Year Two, and removal of utility and mechanical equipment will occur that month. The more intensive work involved with demolishing the powerhouse and penstocks will occur after July 1. It is uncertain whether these actions will be intense enough to disturb the Riffle Rapids golden eagle site downstream from the powerhouse (GE-1), but several factors suggest that the site will not be affected. The potential for demolition noise to disturb this site is further discussed in section 5.2.3.2.

9. Along the Project Reach, several electrical switching yards will be removed along with approximately 5.4 miles of electrical distribution lines, approximately 10 miles of transmission lines, and over 200 12-69 kV poles. In most cases, these activities will be near the demolition sites where electrical facilities are concentrated but will also include removal of a 6.6-mile transmission line that parallels the north and west shore of Iron Gate Reservoir and crosses the valley of Camp Creek. All line removal is planned to be carried out from the ground without helicopter use. The lines to be removed are specifically associated with the hydroelectric project. Other transmission and distribution lines will remain in the Project Reach, but the overall existing risk of collision and electrocution will be reduced. In most cases, the removals will occur at distances outside the construction buffer distances recommended by the USFWS guidelines (USFWS 2017a, b) or outside the nesting season. A few specific concerns related to the removal of electrical facilities and equipment in certain territories are discussed in section 5.2.3.

Poles that support transmission and distribution lines provide advantageous perching by both eagle species in key locations. Renewal Corporation biologists and engineers will coordinate to identify and retain poles at key locations when power lines are removed.

10. Concrete, rock, and earth materials from demolished dams and powerhouses will be hauled to and buried at nearby sites to the greatest extent possible. Disposal sites often will incorporate pits where material was excavated at the time of construction. These short hauls by heavy trucks will occur during the demolition period and should not result in additional disturbance to eagles.
11. Steel from dams and other structures along with waste from electrical facilities will be separated from concrete at the demolition sites and hauled over public roads to transfer stations during January through October of Year Two. Material from facilities at the two Copco dams and Iron Gate Dam will be carried west over Copco Road to Interstate 5 and a transfer station near Yreka, California. Noise from heavy trucks may cause disturbance at the same eagle nest sites near Copco Road that would be affected by equipment hauling, i.e., the bald eagle nest on the west side of Iron Gate Reservoir (BE-12), the nest near Fall

Creek (BE-10), and the golden eagle nest at Sloan Butte (GE-6). Material from J.C. Boyle Dam and Powerhouse will be carried over local roads to Highway 66 and then eastward to a transfer station near Klamath Falls, Oregon. The removal of the powerhouse and penstocks will not begin until July of Year Two at the close of the bald eagle breeding season, so the Big Bend bald eagle nest 1.0 mile upriver from the J.C. Boyle Powerhouse (BE-6) should not be affected by hauling on the road across the river from the nest. The bald eagle nest on the west side of J.C. Boyle Reservoir (BE-4) is more than 1.0 mile from Highway 66 and is not expected to be disturbed by hauling. The new Topsy bald eagle nest location 1.0 mile east of J.C. Boyle Dam (BE-5) is very close to the haul route on Topsy Grade Road toward Highway 66. See the discussion in section 5.2.3.1 regarding potential disturbance of these nests.

12. Following completion of demolition and hauling, the existing culverts and road approaches at Scotch Creek and Camp Creek will be removed, new culverts will be constructed, and Copco Road realigned during October and November of Year Two. This period is outside the eagle breeding season.
13. Improvement of four fish-bearing tributaries to the Klamath River is a primary objective of the post-drawdown restoration program. About 1.6 miles of newly exposed stream courses will be treated in four high-priority restoration areas: Spencer Creek (J.C. Boyle Reservoir), Beaver Creek (Copco No. 1 Reservoir), Jenny Creek (Iron Gate Reservoir), and Scotch and Camp Creeks (Iron Gate Reservoir). As described in the Renewal Corporation's Reservoir Area Management Plan (2021c) "fish-friendly" culverts will be installed at specified tributaries. Weather, water year, and work area conditions may substantially affect the final schedule and methods. If conditions allow, activities will be sequenced approximately as follows:

During Year One, the Renewal Corporation will acquire logs from private timber companies with nearby lands in California and Oregon, subject to the timber harvest regulations of the states. Logs will be transported by helicopters to landings near work sites and decked for future use. If this activity occurs during the eagle nesting season, helicopter flight paths will be designed to avoid eagle nest sites by at least 1,000 ft. This should avoid disturbance of nest sites of both species.

In the spring and summer months of Year Two after reservoir drawdown, the logs will be placed in stream courses in the four restoration areas by ground-based equipment to provide erosion control and in-stream habitat structure. Portions of the restoration area at Beaver Creek are within the 1.0-mile distance recommended by the USFWS guidelines (USFWS 2017b) for avoidance of disturbance by construction activities in the vicinity of golden eagle nests. Potential for disturbance remains uncertain and is further discussed in section 5.2.3.2.

As the reservoirs recede during Year Two drawdown, accumulated sediment in the restoration areas will be flushed using pumps carried by small boats and workers on

foot. The potential for disturbance of golden eagles is primarily limited to the restoration area at Beaver Creek as further discussed in section 5.2.3.2.

In spring of Year Two following drawdown, fixed-wing aircraft, helicopters, or drones, along with workers on foot, will spread “pioneer” grass seed over the exposed reservoir footprints. Per USFWS guidelines (USFWS 2017a), aerial activity may have the potential to disturb any active bald eagle nest within 1,000 ft. This distance includes BE-4, BE-9, and BE-11; no other existing bald eagle nests are within this distance from the reservoirs. Disturbance avoidance buffers for golden eagle nests recommended by the USFWS (USFWS 2017b) do not specify distances for aerial activities. The potential for disturbance of golden eagle nests from aerial activities is uncertain and discussed in more detail in section 5.2.3.2.

Following drying of remaining sediment, continuing restoration work in Years Two and Three will involve shaping of channels and wetlands, erosion control, and planting grass and trees in the restoration focus areas. This work will involve large tractors, trucks, ATVs, and foot traffic. One golden eagle site, Beaver Creek (GE-4), is close enough to restoration actions to possibly be disturbed (see discussion in section 5.2.3.2)

14. After reservoir drawdown and demolition of dams and powerhouses, five new recreation facilities and river access points will be constructed. These locations are as follows: 1) near Highway 66 crossing of the Klamath River, 2) at Moonshine Falls near the present location of J.C. Boyle Dam, 3) at Copco Valley beneath the existing reservoir, 4) at Fall Creek, 5) near the current location of the Iron Gate Hatchery. All these locations are greater than 0.5 mile from any known eagle nest, thus no disturbance will occur from these activities.

15. The temporary bridge modifications at Dry Creek, Lakeview Road, Daggett Road, and Fall Creek will be removed during September through December of Year Two. As discussed earlier, these actions will not disturb eagle nest sites because bridge work will take place following the eagle breeding season. Final pavement and culvert rehabilitation will take place at the end of Year Two.

5.2.3 Disturbance Potential at Individual Eagle Territories

The following subsections describe each known bald eagle and golden eagle territory in the Project Area, as indicated by the presence of nest sites. As described in section 5.1, Methods, above, the descriptions incorporate historical and recent records gathered from several agencies as well as the findings of surveys by AECOM biologists during 2017, 2018, and 2019, and by RES and PJD biologists during 2020 and 2021.

These detailed analyses and discussions thoroughly consider potential effects of the Proposed Action for all known nest sites and proposed activities. The Proposed Action includes the measures to avoid, minimize, and mitigate effects summarized in section 8.0 below. For each eagle territory, we describe our conclusion as to the potential for activities to affect eagles to the

extent that take is likely, thus requiring authorization. In the paragraphs below, we describe background guiding our analyses and conclusions.

We have used the regulatory definitions of take and disturbance in 16 U.S.C. § 668c and 50 C.F.R. § 22.3 and drawn on our professional judgement as suggested at the Comment and Response section of the Final Rule (*Eagle Permits; Revisions to Regulations for Eagle Incidental Take and Take of Eagle Nests*) (81 Fed. Reg. 91494) to reach conclusions regarding the likelihood of take.

In our application of judgment to the question of the likelihood of prohibited disturbance, we have considered several sources. The primary source is the USFWS Region 8 guidelines (USFWS 2017a, b), which provide recommended buffer distances to avoid disturbance. While these guidelines do not establish a take standard, they do provide perspective on avoidance of take. Where an activity's distance from potential disturbance sources will exceed the guidelines, we have consistently concluded that take is not likely. Where proposed actions will occur within the buffer distances suggested by the guidelines, we added consideration of other factors, especially distance, terrain, and timing. This approach is consistent with USFWS suggestions in the introductions to the guidelines.

In a few instances we considered the findings of Hansen et al. (2017), a draft manuscript prepared for the USFWS Western Golden Eagle Team. We did not use Hansen et al. (2017) as the sole source of our judgement in any individual case, but used it to inform some of our judgement-based decisions regarding likelihood of take.

Regarding potential disturbance from aircraft, we relied on the review by Pagel et al. (2010), in which, citing Dubois (1984) and McIntyre (1995), the authors stated, “most golden eagle respond to fixed wing aircraft and helicopters by remaining on their nests, and continuing to incubate or roost,” as well as personal experience.

Our analyses and conclusions also incorporated judgement based on our observations in the field, especially of terrain and visibility around and between activity sites and nest sites. We also used satellite imagery and GIS functions to evaluate terrain and to measure distances.

The following subsections discuss considerations, judgement, and conclusions concerning the likelihood that disturbance will reach the level of take at each eagle nest in the Project Area.

5.2.3.1 Bald Eagles

The potential impacts at each bald eagle territory in the Project Area are discussed below, including several historic sites where no current nest was located, and no nest ID was assigned. Information specific to effects of the Proposed Action contained in these individual territory narratives is summarized in tables in Appendix B.

Seven of the 11 occupied bald eagle territories discussed are closely associated with the Project reservoirs. The rate of drawdown of reservoirs in late Year One and early Year Two may vary depending on inflow but could concentrate reservoir fish and thus temporarily enhance prey availability for bald eagles beginning early in the nesting season. As the reservoirs drop and reservoir fish are forced into the flowing river, their availability will decrease in the reservoirs and increase downstream, depending on flow and the characteristics of various river reaches as the eagle breeding season proceeds (N. Hetrick, pers. comm.). Waterfowl that contribute to bald eagle foraging would be expected to leave the area. Some existing important bald eagle foraging sources for the period from February through June may not be negatively affected by drawdown, especially at Spencer Creek near J.C. Boyle Reservoir as described earlier (B. Tinniswood, pers. comm.). However, streambed restoration actions may be important to maintain access to tributary streams by removing barriers caused by accumulated sediment.

At the sites of Copco No. 1 and Iron Gate Reservoirs, reservoir fish from upstream may be passing through the newly exposed river reaches and perhaps lingering in slower reaches. Resident bald eagles foraging in rivers are known to repeatedly use specific perches to access prey (Hunt et al. 1992), but perch locations will likely not be immediately available along the newly exposed river channel, so access to these transient fish may be limited. We predict that drawdown of reservoirs will alter the fish and waterfowl prey base for bald eagles to the extent that reproduction will be substantially reduced at the seven existing reservoir bald eagle territories and is likely to result in take in Year Two.

By the middle of the Year Two eagle breeding season, most reservoir fish will be gone as a result of habitat loss, predation, cold water, and winter flows. The prey base will be at an unusually low level, and bald eagle reproduction is likely to be negatively affected. Effects to bald eagles that presently use Project reservoir territory locations could be expected to occur for several years, but the temporal extent of that effect is uncertain. Over several years immediately following dam removal, the riverine foraging base (predicted to consist of Klamath smallscale suckers and native redband trout, along with the gradual reappearance of anadromous steelhead and salmon) is expected to increase and stabilize. Spawning fall-run Chinook salmon (*Oncorhynchus tshawytscha*) (the run that will spawn in the largest quantity in the re-opened river) will not contribute directly to bald eagle foraging during the eagle breeding season, but spawning salmon will provide carcasses, eggs, and fry that will contribute to increases in riverine fish that are prey for bald eagles year-round. Redband trout are predicted to increase greatly due to the restoration of favorable river reaches and improved access to traditional spawning tributaries (B. Tinniswood, pers. comm.) and anadromous steelhead will appear throughout the river and tributaries. Lack of perches near the river probably will limit forage availability until trees become established; however, that habitat element could be provided artificially.

In the longer term, bald eagle territories currently arrayed in relation to reservoirs may realign in response to the improved and re-distributed forage biomass in the restored Klamath River. Because the numbers of bald eagle territories on Copco No. 1 and Iron Gate Reservoirs are low (one and three territories, respectively), eventual establishment of a few territories along the restored river in that area would replace the lost reservoir territories. In addition, dam removal is

expected to improve populations of resident and anadromous fish in the Klamath River system above and below the Project Reach, which should contribute to improved conditions for bald eagles throughout the watershed. In particular, the elimination of toxic algae that currently exists in the reservoirs and improved water quality throughout the system should benefit bald eagles.

Along the Klamath River between J.C. Boyle and Copco No. 1 Reservoirs, the three existing bald eagle territories may experience mixed effects to prey availability for one breeding season (Year Two), as J.C. Boyle Reservoir drawdown in January will create turbid conditions but will also send reservoir fish downstream into high-gradient rocky water, where their survival will be poor. High turbidity may continue for several months as precipitation runs off the reservoir footprint. These sediment effects from J. C. Boyle Reservoir are not expected to be severe and should be temporary (SWRCB 2020), and the availability of dead and injured reservoir fish may overcome the effects of turbidity on the availability of usual riverine forage fish. We predict that these effects will reduce bald eagle reproduction, which would likely constitute take of the three river territories in Year Two. In Year Three, the year following dam removal, the forage base in that reach should return to the pre-project condition, and in the longer term the improved foraging resource should stabilize and perhaps lead to an increase in the number of bald eagle territories on the free-flowing river reaches throughout the Project Reach.

During the three years of the Proposed Action, depending on their location, some bald eagle territories may also be disturbed by preparation, demolition, transportation, and restoration activities. The potential effects of those activities on each territory are discussed below.

In general, the following discussion begins at the eastern upstream end of the Project Reach and proceeds downstream. Project territory numbers have been assigned by RES/PJD for consistency and ease of interpretation in the evaluation of effects. All information from BLM regarding bald eagles was provided in personal communications from Klamath Falls BLM biologist Steve Hayner. All information from GDRC was provided by their Klamath Falls forester/biologist Robert Douglas. Records from agencies and consultants that assigned territory numbers using other systems are available on request.

5.2.3.1.1 Bald Eagle Territories

- A. Keno Reach (BE-1), (42.13717, -121.971): The original record at this site was provided by OEF; that nest was classified as active from 2007 to 2014. AECOM surveys found an occupied nest at that site in 2018 (AECOM BE1-15) but saw no eagles at or near the nest during aerial or ground surveys in 2019. The most recent site is over 3 miles up-river from the upper end of J.C. Boyle Reservoir and over 4 miles cross-country from J.C. Boyle Dam. It is approximately 1.7 miles downriver and at an approximately 1.0-mile direct distance from Keno Dam and Reservoir; the Keno Dam and Reservoir will not be removed as part of the Proposed Action. The site is owned by a private forest products company, GDRC. Based on proximity, it is likely that these bald eagles are associated with the river and Keno Reservoir rather than J.C. Boyle Reservoir. The known nest tree is near Highway 66, which carries logging and commercial truck traffic. Whether the substantial increase in hauling

during Years One and Two associated with the Proposed Action will result in disturbance is unknown. No alternate nest sites have been identified, but use of an alternate nest site might reduce disturbance. Since these eagles already selected a nest tree near the highway and potential alternate trees suitable for nesting are available, take is not likely.

- B. Above J.C. Boyle Reservoir (BE-2), (42.15323, -122.005): An original record location (42.14976, -121.9094) was provided by OEF; that site was known from 1979 to 1991 near the Klamath River approximately 1.0 mile above J.C. Boyle Reservoir. In most of those years, the status of the site was not recorded. AECOM surveys in 2018 and 2019 did not find a nest at that location, but in 2019 found an active bald eagle nest (AECOM F-19-BE7) approximately 0.6 mile downriver, approximately 0.5 mile upstream from the head of J.C. Boyle Reservoir. Lacking more specific information, we combined the historic and recently located sites into one designated territory. RES/PJD did not survey this site in 2021 because access is difficult, and the site is beyond the distance where disturbance is expected. The site is owned by PacifiCorp. This recently reported nest is approximately 0.9 mile from Highway 66, with intervening terrain between the nest and the highway, and about 1.2 miles from the Spencer Creek restoration area. While this nest would probably not be subject to direct disturbance from activities and, as described above, some existing foraging resources will not be affected, reduced reproduction due to drawdown will likely result in take in Year Two.
- C. Cemetery (Spencer Creek/Boyle Reservoir) (BE-3), (42.151088-122.03410): The original records of a bald eagle nest site in this area were provided by OEF for the years 2004 to 2007 and 2013 and 2014. The site is locally named after the nearby Spencer Creek Cemetery. AECOM surveys found an unoccupied nest at this site in 2018 (AECOM BE1-31). In 2019 AECOM found an unused nest in a dead tree at the same location and classified the nest site as occupied based on an eagle in flight early in the breeding season, but eagles were not seen there during several surveys by AECOM and GDRC. The nest was not found in 2021. The site is on land owned by GDRC, about 0.1 mile from J.C. Boyle Reservoir. The nest site is approximately 2 miles from J.C. Boyle Dam and is not visible from the dam due to terrain. It possible that there could be another active bald eagle nest nearby in this long-standing territory, but neither RES/PJD nor GDRC has found another nest here and there are few trees large enough to support a bald eagle nest. The former nest site was about 0.3 mile from the Spencer Creek restoration area. Unless a new nest site is established closer, no direct disturbance is expected. As described above, some existing foraging resources will not be affected, but reduced reproduction due to drawdown will likely result in take in Year Two if the area is re-occupied by bald eagles. Because known occupancy was relatively recent, we are treating this territory as occupied and subject to disturbance.

In the longer term, the improved forage base may result in persistence of a territory at this location. Spencer Creek is an important spawning area for redband trout and Klamath smallscale suckers, and bald eagles are often observed foraging there (B. Tinniswood. pers. comm.).

- D. West Side Boyle Reservoir (BE-4), (42.14197, -122.041): BLM recorded an occupied bald eagle nest area in the vicinity in 1995 (AECOM BE4-25), and OEF records (AECOM BE1-32) include the years 2006 to 2013. AECOM surveys found the nest to be active in 2018 and 2019. Two nestlings of near-fledging age were seen here in late June 2021 (PJD/RES). The site is approximately 0.55 mile north of the Highway 66 bridge and approximately 1.5 air miles from J.C. Boyle Dam. The nest site is owned by GDRC. It is not visible from the dam due to terrain. Reduced reproduction due to drawdown will likely result in take in Year Two.
- E. Chase Mtn. and Lower Boyle East Side Complex (Project terr. number not assigned): This location (AECOM BE1-35) was at approximately 42.1245, -122.0122. AECOM BE1-33 was approximately 1.0 mile south. The original set of OEF records included several bald eagle nest sites (AECOM BE1-33, 34, 35) within approximately 1.0 mile of each other from 1983 through 2014. Available information indicates that these were alternate nests within a single territory, as they were apparently used in different years. The location is in an upland area 1.5 to 2 miles east of J.C. Boyle Dam and 1 to 2 miles southeast of J.C. Boyle Reservoir. AECOM surveys in 2018 and 2019 found only one inactive bald eagle nest in a dead tree and an osprey nest in the vicinity. All three recorded nest sites are on BLM lands in an area of checkerboard ownership. BLM no longer regards this location as an existing territory, so no project nest identification number has been assigned. We do not regard take as likely at this location.
- F. Topsy (BE-5), (42.12093, -122.032) (New location: 42.1316, - 122.0313): OEF records include a bald eagle nest at a location off Slip Easy Road near Topsy Road from 1998 to 2014 (AECOM BE1-36). It was about 0.8 mile east of J.C. Boyle Dam in mature forest on BLM land along a boundary with young forest on private timberland. Although only approximately 1.0 mile from the Lower Boyle East Side Complex described in “E” above, records of simultaneous occupancy indicate that these were two separate territories. AECOM surveys found evidence in 2017 of activity beneath the nest and observed activity in 2019. BLM reported that the nest was occupied in 2020. However, in 2021 BLM found the site unused and a new nest location 0.75 mile to the north, very near Topsy Road and the J.C. Boyle Reservoir shoreline on GDRC property about 1 mile east of J.C. Boyle Dam. Two explosive blasts at the dam are anticipated in January and/or February of Year Two, which should be prior to incubation. In addition, according to the USFWS guidelines (USFWS 2017a), the 1-mile distance is sufficient that demolition of J.C. Boyle Dam will not disturb this nest. However, reduced reproduction due to drawdown is likely to result in take in Year Two and the nest will also be vulnerable to disturbance from hauling on Topsy Road in that year.
- G. Big Bend (BE-6), (42.08405, -122.056): This bald eagle nest is approximately 2 miles down the Klamath River canyon below J.C. Boyle Dam and approximately 1.0 mile upstream from the J.C. Boyle Powerhouse. The active nest was found during an AECOM helicopter survey (AECOM F19-BE5) in May 2019. BLM reported that the nest produced young in 2020. A bald eagle appeared to be incubating in the nest in late March 2021 (PJD/RES and BLM), but BLM found the nest empty in early June. The nest site is on BLM land approximately 1.0 mile downstream from the west end of the J.C. Boyle power canal, which will be

demolished during April to August of Year Two. Concrete and debris from the demolished power canal will be deposited in the “Scour Hole” located approximately 1.0 mile from the nest in late June to August of Year Two. At the J.C. Boyle Powerhouse, electrical equipment will be removed starting in May of Year Two and the powerhouse and penstock will be demolished during July. Concrete will be buried on site, but metal, treated wood, and electrical materials will be hauled past the nest location on the road across the river canyon at a distance of approximately 0.25 mile. The distances from demolition and hauling should be sufficient to avoid disturbance per the USFWS guidelines (USFWS 2017a).

The degree to which eagles at this territory depend on prey from J.C. Boyle Reservoir is unknown. The nest site is midway through the 4.0-mile “bypassed reach” of the river, where present flows are consistently very low but are augmented by large springs. (For over 50 years, most of the flow has been in the power canal between the dam and powerhouse.) Reservoir drawdown will increase the flow in this river reach, with turbid water and reservoir fish passing the nest site for several months before the river returns to a more natural flow regime. Thus, foraging habitat for this territory will be substantially altered the Proposed Action, and prey base disruption will likely cause take at this bald eagle territory in Year Two. In the longer term, stability of the foraging base is expected to resume and to increase as a result of improved populations of riverine and anadromous fish.

- H. Klamath River (Boyle Reach complex) (BE-7), (42.02574, 1122.103): Original records from OEF include five different bald eagle nest sites (BE1-25, 26, 27, 28, 29) at nearby locations over the years 1979 to 2012. AECOM surveys located an active nest (AECOM F-BE2) in this area in 2018 and 2019. BLM's site name is “Klamath River” because it is near the BLM's Klamath River campground. The nest site is on GDRC property along the northwest rim of the Klamath River canyon. BLM reported that young eagles were produced at this nest in 2020. The nest was not surveyed by RES/PJD during 2021 because it outside the area of potential disturbance from dam removal activities. The area is approximately 3.5 miles downstream from the J.C. Boyle Powerhouse and is not vulnerable to disturbance from that source.

The river in this area has been subject to variable power generation flows for over 50 years but has the character of a natural stream with substantial white water reaches. During drawdown of J.C. Boyle Reservoir in Year Two, turbid flows and reservoir fish will be passing this location for several weeks. Variable and increased turbidity could persist into the following year, depending on river flows and upstream precipitation passing through the exposed reservoir footprint. Native trout and suckers in the river may be negatively affected by these flows. The potential for short-term effects on the foraging base in this bald eagle territory is uncertain, but foraging and reproduction will be affected to a degree that is likely to cause take. In the longer term, stability of the foraging base is expected to resume and to increase as a result of improved populations of riverine and anadromous fish.

- I. Pony Express (BE-8), (42.01352, -122.156131): According to OEF records, bald eagle nests were known at this site during 1999 to 2014 (AECOM BE1-43). AECOM surveys found an active bald eagle nest at this location during both 2018 and 2019, and BLM

reported that young were produced at this nest site in 2020. The nest site is on BLM land, and it was named by BLM after a nearby rapid on the Klamath River. The site is just north of the California-Oregon border, about 5 air miles upstream from the head of Copco No. 1 Reservoir and about 7 air miles downstream from J.C. Boyle Powerhouse. No activities will affect this nest other than the temporary effects on the river from the drawdown of J.C. Boyle Reservoir, as described previously. We predict that foraging and reproduction at this bald eagle territory will be affected to a degree likely to cause take. In the longer term, stability of the foraging base is expected to resume and to increase as a result of improved populations of riverine and anadromous fish.

- J. Secret Spring (East of upper Copco No. 1 Reservoir (Project nest number not assigned) (41.94725, -122.23907): Several nests representing an apparent bald eagle territory were recorded in this area by the USFS and CDFW intermittently during 1993 to 1997 and 2000 to 2010 (AECOM BE3-1). These former nest sites were on USFS land. AECOM helicopter surveys in 2018 and 2019 did not find a nest in this area, which is approximately 1.25 miles upstream from the head of Copco No. 1 Reservoir and approximately 4.5 miles east of Copco No. 1 Dam. However, nesting and foraging habitat appears to be present, and AECOM staff regularly saw bald eagles along the upper portion of Copco No. 1 Reservoir. Therefore, it is possible that a bald eagle territory may exist in this area. The area is unlikely to be disturbed by the Proposed Action, except for effects on the river as described above and, possibly, loss of foraging habitat when Copco No. 1 Reservoir is drawn down in January to July of Year Two. We predict that foraging and reproduction in the territory will be affected, resulting in take only if a bald eagle territory is indeed present. In the longer term, stability of the foraging base is expected to resume and to increase as a result of improved populations of anadromous fish. Because no nest or eagle nesting behavior was seen, we do not regard this area as a current territory, and thus have not assigned a project nest identification number and do not regard take as likely at this location.
- K. Copco Dam (BE-9), (41.97515, -122.329): USFS records reported that a bald eagle nest (AECOM BE3-2) failed just north of Copco No. 1 Dam in 2004. AECOM surveys did not find a nest there in 2018 or 2019, but 2019 helicopter surveys found bald eagles using a different nest (AECOM BE2-3) approximately 0.65 mile to the south on the opposite side of the river and approximately 0.35 mile southeast from the dam. RES/PJD saw a pair of adult bald eagles in this area in late March 2021 but could not locate the nest. Based on survey records, proximity, and timing, these sites appear to represent a single bald eagle territory. The known nest site is on private land within 0.5 mile of a residential area. This nest may be disturbed by preparation and demolition activities during Year Two, and by loss of the reservoir fishery during drawdown in Year Two. We conclude that foraging and reproduction at the territory will be affected to a degree likely to cause take. In the longer term, stability of the foraging base is expected to resume and to increase as a result of improved populations of riverine and anadromous fish.
- L. Fall Creek (BE-10), (41.978408, -122.363741): This bald eagle nest was discovered by RES/PJD in April 2021. The eagles were nesting on a former osprey nest near the Yreka water plant at Fall Creek. A nestling was observed in late April, but the nest was abandoned

sometime in the weeks that followed. Because of the high visibility of the site, we are certain that it was not present in previous years. The nearest potential foraging areas are the nearby upper end of Iron Gate Reservoir and the bypassed reach of the Klamath River below Copco No. 2 Dam. Drawdown of Iron Gate Reservoir during January to October of Year Two will disrupt the forage base for this territory, resulting in take. This site is approximately 0.45 mile from the Fall Creek Hatchery and 0.35 mile from the Copco No. 2 Powerhouse; both are outside the distance at which disturbance from construction and demolition actions would be anticipated to disturb bald eagle nesting. However, it is only 0.15 mile from the Copco No. 2 switchyard, where modifications will occur in May of Year Two. It is also close to Copco Road, where hauling will be continuous during Years Two and Three. If the site is reoccupied, it would be subject to disturbance that is likely to cause take. Sustained use of osprey nests by bald eagles is uncommon in northern California (R. Jackman, pers. comm.) and it is likely that this pair will nest in another nearby location in the future. Monitoring of this area is a priority for Year One.

- M. Jenny Creek canyon (41.99614, -122.377) (Project territory number not assigned): CDFW (CNDDDB) records include an active bald eagle tree nest (AECOM BE3-6) in the Jenny Creek canyon in 2002. AECOM helicopter surveys in this area on June 6, 2018, and May 22, 2019, found only an inactive nest (AECOM F-BE1). Although an inactive nest was seen, we have no observations indicating the territory was active during the study and the site is well outside areas that would potentially be disturbed by the Proposed Action. Therefore, we have not assigned a project territory number. The nest site is on private property 5.25 miles north of Iron Gate Dam and 1.8 miles from the Jenny Creek bridge and restoration area. The site is not visible from the Jenny Creek bridge. Due to the distance from reservoir foraging habitat and the presence of abundant but unused apparently-suitable nesting habitat nearer to the reservoir, it seems unlikely that eagles at this territory are dependent on the reservoir forage base. Therefore, we conclude that reservoir drawdown is not likely to result in take even if an occupied bald eagle territory is present in this area. In the longer term, the foraging base in Jenny Creek is expected to improve as a result of increased populations of riverine and anadromous fish.
- N. Scotch Creek (41.97728, -122.44605) (Project nest number not assigned): AECOM helicopter surveys in May and June 2019 noted a possible old bald eagle nest in a dead tree at this location (AECOM F19-BE6). The site is on State of California land 3.0 miles north of Iron Gate Dam and is not visible from Copco Road 0.3 mile away due to terrain (PJD/RES). It appears likely that the Scotch Creek area was abandoned because there are no visible trees suitable for alternate bald eagle nesting near that location. Also, a prominent new bald eagle nest (BE-11) (see below) was found in 2019 approximately 1.9 miles to the south. Along the west side of Iron Gate Reservoir, trees large enough to support eagle nests are quite rare, so it seems likely that these two sites are part of the same territory. Unless new information comes to light, we regard the Scotch Creek site as abandoned and not subject to take. Because no nest was found and no eagles seen, we do not regard this area as a current territory. Thus, we have not assigned a project nest identification number and do not regard take as likely at this location.

- O. West Side of Iron Gate Reservoir (BE-11), (41.94931, -122.438): This site (AECOM F19-BE1) was first found by an AECOM survey in February 2019, approximately 1.0 mile north of Iron Gate Dam. Bald eagles were nest-building at that time and produced young at this site that year. The site also produced young in the 2020 and 2021 nesting seasons (PJD/RES). The nest tree is on BLM land. Although somewhat obscured by foliage in an atypically small pine tree, it is visible from Copco Road a few hundred feet away. It is not visible from the Iron Gate Dam area and, per the USFWS guidelines (USFWS 2017a), should not be vulnerable to demolition noise. However, this nest would be disturbed by increased traffic on Copco Road during Year Two, and, if still extant, increased traffic during restoration actions in Year Three. Thus, take is likely due to hauling in Year Two and Three. Also, the forage base and reproduction will be disrupted by drawdown of Iron Gate Reservoir during January to October of Year Two to a degree likely to result in take. In the longer term, stability of the riverine foraging base should resume and be increased by improved populations of resident and anadromous fish.

5.2.3.1.2 Potential for Unlocated Bald Eagle Territories

Based on concentrations of bald eagle observations in 2018 and 2019, combined with gaps in mapped distribution of known nest sites, it appears possible that unlocated bald eagle territories may exist in two areas: the east end of Copco No. 1 Reservoir (as discussed above under East Side Upper Copco Reservoir) and the central portion of Copco No. 1 Reservoir. In the latter area, the number of suitable nest trees appears limited, and the prominence of suitable trees that do exist should have enhanced the visibility of bald eagle nests during repeated surveys from the air and ground. Review and discussion with AECOM's lead aerial survey biologist (J. DiDonato, pers. comm.) indicated that AECOM aerial surveys had a high likelihood of finding existing bald eagle nest sites within 1.0 mile of the shorelines at Iron Gate Reservoir and most of Copco No. 1 Reservoir and within the distances recommended by the bald eagle disturbance guidelines (USFWS 2017a). Thus, the best available information suggests that the only area where a bald eagle territory is reasonably likely to remain undiscovered is near the upper end of Copco No. 1 Reservoir. RES/PJD surveys during 2021 were attentive to this area and no nest was found.

5.2.3.1.3 Summary of Effects on Bald Eagles in the Project Area

The effects of the Proposed Action are summarized in Table 5-1. The table does not include historic sites where no nest was located during the study period.

The Proposed Action will not result in the death or injury of adult or post-fledging immature bald eagles or remove any nest sites. Demolition noise may disturb nesting at one site (BE-9), resulting in take through loss of reproduction during Year Two. At one reservoir nest site, Year Two reproduction will likely be reduced by both reservoir drawdown and demolition noise, resulting in one instance of take. Reservoir drawdown will disrupt the forage base for bald eagles at six other reservoir nest territories, which is likely to result in take through loss of reproduction in Year Two. Effects on breeding attempts and reproduction from reservoir drawdown may extend into future years, but duration and magnitude of these effects are speculative, as discussed below. The forage base for bald eagles that presently nest at three

sites along the 14-mile river reach between J.C. Boyle Dam and Copco No. 1 Reservoir may be affected for several months by water quality impacts while J.C. Boyle Reservoir is drained in early Year Two. While subject to uncertainty, we expect that this effect at these three riverine sites will likely result in take only in Year Two.

The temporal extent of impacts to individual nest territories is uncertain, but it is reasonable to assume that the bald eagle population along the Project Reach eventually will stabilize at a density reflective of the availability of forage resources and nesting habitat. As river conditions improve, it is likely that the foraging base in the river will improve compared to current conditions. While lack of perches near the river may reduce the availability of forage habitat until trees become established, that habitat element could be provided artificially.

In the future, almost all bald eagles nesting in the Project Reach will be associated with riverine habitat. (An exception will be BE-1, where eagles will have continued access to Keno Reservoir.) The estimates of future numbers and density of nesting bald eagles described below are conjectural but may be informed by current nesting densities in the river canyon. In recent years, there have been 11 occupied bald eagle nest territories associated with the entire Project Area; three of these (BE-6, BE-7, and BE-8) occur in the 14-mile river reach between J.C Boyle Dam and Copco No. 1 Reservoir and average approximately 4.7 river miles from their nearest neighbors. If bald eagles throughout the Project Reach attain a similar nesting density when the riverine forage base stabilizes, there could be approximately nine bald eagle territories in the 42-mile reach between the present upper extent of J.C. Boyle Reservoir and the present location of Iron Gate Dam. This suggests that the loss of reservoirs might cause a small reduction in the nesting bald eagle population. However, this estimate does not incorporate the potential effect of a greatly improved forage base, which could stimulate an increase in the number and density of breeding bald eagles. Thus, the bald eagle nesting population in the Project Area will not suffer long-term declines caused by the Proposed Action and is likely to increase. The effects to bald eagle territories are summarized in Table 5-1 below.

As detailed in section 5.1, Methods, Renewal Corporation contractors obtained available historic data on nest and territory locations of bald eagles prior to the 2017 surveys (Renewal Corporation 2019, 2020). Their analyses included zones of potential effects based on a preliminary understanding of activities and nest site locations (Renewal Corporation 2019, 2020). Subsequent surveys and analyses have refined the nest site locations and evaluated potential impacts using more detailed information concerning the Proposed Action. All 15 bald eagle territories previously documented or recently known to occur are summarized in Table 5-1. At four of these territories, recent surveys (2017 through 2021) did not detect nest sites or eagle activity indicating the presence of a nearby nest site, and/or communications with State and Federal wildlife officials and local landowners indicated nests no longer exist. Those sites are labelled as “Unassigned/No ID” (Chase Mountain, Secret Spring, Jenny Creek, Scotch Creek). Three recently occupied territories (Big Bend, Klamath River, Pony Express) were determined to be beyond potential disturbance zones but may be affected temporarily by turbidity during reservoir drawdown. These three and the eight other territories that Renewal Corporation has now determined as potentially affected by the Proposed Action are highlighted in green in Table 5-1 and were evaluated more thoroughly for potential of take.

Table 5-1. Bald Eagle Territories Evaluated for Effects from the Proposed Action

TERRITORY NAME (LOCATION)	TERRITORY ID KRRC/RES (KRRC/AECOM NEST) ¹	RECENT STATUS ²	DISTANCE FROM ACTIVITY ³	WILL TAKE OCCUR? WHAT YEAR? ⁴
Keno Reach	BE-1 (BE1-15)	Nest active: 2018. Eagles not detected: 2019. Nest not found: 2021.	2.6 miles from drawdown at J.C. Boyle Reservoir. 4 miles from blasting and demolition at J.C. Boyle Dam. 3 miles from restoration at Spencer Creek. 100 ft from hauling at Highway 66.	No
Above J.C. Boyle Reservoir	BE-2 (F19-BE7)	Nest Active: 2019. Not surveyed: 2020, 2021.	0.7 mile from drawdown at J.C. Boyle Reservoir. 3 miles from blasting and demolition at J.C. Boyle Dam. 1.2 miles from restoration at Spencer Creek. 0.9 mile from hauling at Highway 66.	Yes Year 2*
Cemetery (Spencer Creek, J.C. Boyle Reservoir)	BE-3 (BE1-31)	Eagle seen in territory 2019. Eagles not seen at old nest:2018, 2019. Nest not found: 2021.	0.1 mile from drawdown at J.C. Boyle Reservoir. 2 miles from blasting and demolition at J.C. Boyle Dam. 0.3 mile from restoration at Spencer Creek.	Yes Year 2*
West Side J.C. Boyle Reservoir	BE-4 (BE4-25)	Nest active: 2018, 2019, 2021.	0.1 mile from drawdown at J.C. Boyle Reservoir. 1.3 miles from blasting and demolition at J.C. Boyle Dam. 0.8 mile from restoration at Spencer Creek. 0.5 mile from hauling at Highway 66.	Yes Year 2*
Chase Mountain (Lower Boyle East Side Complex)	Unassigned/No ID (BE1-33, 1-34, 1- 35)	Historic territory. Nest active: 2014. Eagles not detected: 2018, 2019. Not surveyed: 2020, 2021 (BLM).	1 mile from drawdown at J.C. Boyle Reservoir. 1.5 miles from blasting and demolition at J.C. Boyle Dam. 1 mile from hauling at Highway 66.	No

TERRITORY NAME (LOCATION)	TERRITORY ID KRRRC/RES (KRRRC/AECOM NEST)¹	RECENT STATUS²	DISTANCE FROM ACTIVITY³	WILL TAKE OCCUR? WHAT YEAR?⁴
Topsy (Slip Easy Road)	BE-5 (2021 location) (BE1-36)	Nest active: 2019, 2020, 2021 (new location)	0.1 mile from drawdown at J.C. Boyle Reservoir 1.0 mile from blasting and demolition at J.C. Boyle Dam. 1.2 miles from restoration at Spencer Creek. 100 ft from hauling at Topsy Road.	Yes Year 2*
Big Bend	BE-6 (F19-BE5)	Nest active: 2019, 2020, 2021.	2.2 miles from drawdown at J.C. Boyle Reservoir. 0.1 mile from potential turbidity effects at Klamath River. 2.0 miles from blasting and demolition at J.C. Boyle Dam. 1 mile from demolition at power canal. 1 mile from demolition at J.C. Boyle Powerhouse. 0.25 mile from hauling on Powerhouse Road.	Yes Year 2*
Klamath River (Boyle Reach Complex)	BE-7 (BE1-25-29) (F-BE2)	Nest active: 2012, 2018, 2019, 2020, 2021.	0.1 mile from potential turbidity effects at Klamath River. 3.5 miles from demolition at J.C. Boyle Powerhouse.	Yes Year 2*
Pony Express	BE-8 (BE1-43)	Nest active: 2014, 2018, 2019, 2020. 2021?	0.1 mile from potential turbidity effects at Klamath River. 7 miles from demolition at J.C. Boyle Powerhouse.	Yes Year 2*
Secret Spring (East of Upper Copco No. 1 Reservoir)	Unassigned/No ID (BE3-1)	Historic territory. Nest active: 2010. Nest not found: 2018, 2019. Not surveyed: 2021.	1.25 miles from drawdown at Copco No. 1 Reservoir. 4.5 miles from demolition/blasting at Copco No. 1 Dam.	No
Copco No. 1 Dam	BE-9 (BE3-2, BE2-3)	Nest active: 2019. Territory occupied: 2020, 2021	0.35 mile from demolition/blasting at Copco No. 1 Dam. 0.6 mile from demolition/blasting at Copco No. 2 Dam. 0.1 mile from drawdown at Copco No. 1 Reservoir.	Yes Year 2*

TERRITORY NAME (LOCATION)	TERRITORY ID KRRRC/RES (KRRRC/AECOM NEST) ¹	RECENT STATUS ²	DISTANCE FROM ACTIVITY ³	WILL TAKE OCCUR? WHAT YEAR? ⁴
Fall Creek Osprey Nest	BE-10	Nest active:2021	0.45 mile from construction at Fall Creek Hatchery. 0.1 mile from drawdown at Iron Gate Reservoir. 0.15 mile from modifications at Copco No. 2 Switchyard. 0.35 mile from demolition at Copco No. 2 Powerhouse. 100 ft from hauling at Copco Road.	Yes Year 2* and year 3
Jenny Creek	Unassigned/No ID (BE3-6, F-BE1)	Historic territory. Nest active: 2004. Eagles not detected: 2018, 2019.	1.0 mile from construction at Fall Creek Hatchery. 5.25 mile from demolition at Iron Gate Dam. 1.8 miles from hauling on Copco Road, drawdown at Iron Gate Reservoir, and restoration at Jenny Creek.	No
Scotch Creek (Iron Gate Reservoir)	Unassigned/No ID (F19-BE6)	Old nest, eagles not detected: 2018, 2019.	0.1 mile from drawdown at Iron Gate Reservoir. 3.0 miles from demolition at Iron Gate Dam. 0.3 mile from hauling on Copco Road and restoration at Scotch Creek.	No
West Side Iron Gate Reservoir	BE-11 (F19-BE1)	Nest active: 2019, 2020, 2021	0.1 mile from drawdown at Iron Gate Reservoir. 1.0 mile from demolition at Iron Gate Dam. 100 ft from hauling at Copco Road. 0.6 mile from restoration at Scotch/Camp Creek.	Yes Year 2 ⁵ and Year 3

Legend:

- Territories that may be affected by activities
- Territories not affected by activities

Notes:

1. KRRRC/RES refers to field work conducted by Renewal Corporation subcontractor RES in 2020 and 2021, and KRRRC/AECOM refers to field work conducted by AECOM in 2017, 2018, and 2019 (see detailed description of surveys in section 5.1 of this Eagle Conservation Plan).
2. "Territory occupied" means golden eagles were seen near nesting areas but no nesting activity was observed. "Nest Active" means nesting behavior was seen in a specific nest. Limited surveys were conducted in 2020; some incidental observations are included.
3. Also see detailed descriptions on timing and activities in individual territory narratives and tables (section 5.2.3).
4. See details in tables on individual territories.
5. Effects of forage disruption and re-establishment will extend into an unknown number of future years.

5.2.3.2 Golden Eagles

Nest sites representing eight golden eagle territories are known in the Project Area as of July 1, 2021. With an anticipated increase of approximately 2,200 acres in open grassland and brush, restoration of a free-flowing river should have a positive effect on the foraging habitat of golden eagles that hunt in the Klamath River canyon. Also, the improvement of anadromous fish populations above and below the Project Reach will increase general nutrient availability in the entire Klamath River watershed. While unquantifiable, this effect may increase forage availability for golden eagles even to locations beyond the Project Reach. In general, the only negative effect of the Proposed Action on golden eagles may be one to three years of possible disturbance at nest sites that are near project roads and facilities.

The following discusses the locations of each known golden eagle nest and their likelihood of being affected by the project, based on the most current description of the Proposed Action and schedule. Also note the discussion of the schedule in section 4.0, Description of the Proposed Action. Information specific to Project effects contained in these individual territory narratives is summarized in tables in Appendix C.

- A. NW of Boyle Dam, (41.98895, -122.3739) (Project territory number not assigned): The original record provided by OEF (AECOM GE1-6) was labeled “unverified” and had no data regarding years of use. Location data indicated the site was approximately 1.5 miles northwest of J.C. Boyle Dam in an area now owned by GDRC. No nests were found during AECOM helicopter surveys during 2018 and 2019 or during a ground survey during 2019. Observers noted the generally small size of trees in the area, and no cliffs are evident. Because no nest was found and no eagles seen, we do not regard this area as a current territory and thus have not assigned a project nest identification number.
- B. Chase Mountain, (approximately 42.10227; 122.00446) (Project territory number not assigned): The original records for this site are from the 1980s (AECOM GE1-7 and GE4-5). BLM records state “Last documented use was 1984. Nest was in bad shape in 1997 and down by 2004.” The site is on BLM land over 2.5 miles east-southeast of J.C. Boyle Dam. AECOM helicopter surveys in 2018 and 2019 found no nests or eagles, though they noted “nice trees.” If golden eagles are nesting in this area, they would not be disturbed by the project. Because no nest was found and no eagles seen, we do not regard this area as a current territory and thus have not assigned a project identification number.
- C. Rifle Rapids (GE-1), (Nest #2: 42.08129, -122.06998): This golden eagle nesting area is on the northwest-facing slope above the Klamath River downstream from J.C. Boyle Powerhouse, visible from across the river on the BLM access road. The nest site is on BLM land and was named by BLM after a nearby rapid on the Klamath River. At the location of the original record (AECOM GE4-206) in 2018, AECOM found an old nest (Nest #1) and saw a nestling in a different nest (Nest #2). AECOM's 2019 surveys noted that the 2018 nest tree was dead and the nest dilapidated and inactive. On March 12, 2020, and April 12, 2020 (PJD/RES), an adult golden eagle was visible in exposed nest #2 in a dead tree; coordinates were ascertained at that time. Later in 2020, BLM reported that the site had

produced young that year. In 2021, a nestling was observed by RES/PJD biologists in late April, but BLM reported the nest was empty in early June.

This 2020/2021 nest site is at a linear distance of over 3 miles from J.C. Boyle Dam, with visibility blocked by intervening ridges. The nest site is approximately 1.25 linear miles from the site where demolished spoil material will be deposited (“Scour Hole”) during July and August 2023, but visibility to this site is completely blocked by a major ridge and most of the period scheduled for that activity will occur after the breeding season. Regular recreational traffic occurs on the BLM access road to the Spring Island rafting put-in and to campgrounds further down river. The nest site is across the river at an approximately 0.32-mile horizontal distance and approximately 600 ft above this recreational site. This recreational site will not be removed by the Proposed Action.

The nest tree is approximately 0.9-mile linear distance down the canyon to the south from the J.C. Boyle Powerhouse area and approximately 600 ft in elevation above the powerhouse. Terrain appears to block the view from the nest to the powerhouse. Utility and hydromechanical equipment will be removed from the powerhouse area during May and June of Year Two and hauled out the powerhouse access road, which is not visible from the nest. A transmission line that crosses the ridge above the powerhouse will be removed during the same period using ground-based equipment. The powerhouse and other buildings will be demolished during July to October of Year Two. The concrete will be buried on site and the metal and electrical waste hauled out the access road toward Highway 66. The metal penstocks will be removed during July to September of Year Two. Thus, loud noises related to demolition will mostly occur after the breeding season. These activities will be at the edge of the 1.0-mile construction disturbance zone recommended by USFWS (USFWS 2017b). Due to distance, terrain, and the schedule of activities, disturbance of the nest to a degree causing take is unlikely.

- D. Hessig Ranch (GE-2), (41.98345, 122.17470): AECOM surveys found this cliff nest (AECOM F-GE3) in uplands approximately 1.5 miles south of the California/Oregon border, approximately 4.8 miles east of Copco No. 1 Reservoir and 1.0 mile east of the “Hessig Ranch” along the Klamath River. The nest was active in 2018 and 2019. The site, which is owned by PacifiCorp, is 1.0 mile from Copco Lake Road (the eastern extension of Ager-Beswick Road), which in this area will not be used for activities associated with the Proposed Action. There is no potential for disturbance or take, and the site will not be surveyed in the future.
- E. Ranch Bridge (GE-3), (41.96721, -122.228): This nest is on a cliff just above the north side of the Klamath River approximately 0.33 mile downstream from a private ranch bridge over the river. AECOM ground surveys saw two juvenile golden eagles in flight near this site in August 2018. Helicopter and ground surveys located the cliff nest in 2019 (AECOM F-GE4) and saw an adult golden eagle nearby but found no nest activity. The site was not surveyed in 2021 because it is outside the distance at which disturbance would potentially occur. The site is owned by PacifiCorp. The cliff is 1.1 miles east of the upper end of Copco No 1 Reservoir and 1.75 miles east of the Copco Road bridge across the upper end of the

reservoir. Construction activities are not planned at the Copco Road bridge unless reinstituted river flows cause erosion at the abutments; demolition equipment and debris hauling will not use this route. Aerial seeding will not proceed up the river into proximity with this nest site. The Ager-Beswick Road across the river from the nest will not be used for activities associated with the Proposed Action. An intervening ridge apparently blocks visibility between the nest and Copco No. 1 Reservoir and Copco Road bridge. Restoration traffic will likely use the bridge, but the nest site is outside the 1.0-mile zone in which disturbance might be likely (USFWS 2017b). Due to distance and terrain, disturbance or take at this nest site is not likely to occur. No further monitoring is planned.

- F. South Side Klamath River above Copco Road Bridge, (41.9611, -122.2482) (Project territory number not assigned): The CNDDDB provided a 1979 BLM record of a cliff nest (AECOM GE3-8 and F-GE4) with occupancy reported as unknown at that time. AECOM surveyed the area from the ground and helicopter in 2018 and 2019 and found no nests, and RES/PJD biologists saw no nest here in 2021. There is no indication that a nest site existed here during the study period or that the record represents a territory that is currently present; thus, no identification number is assigned. A golden eagle nest site near this location might be vulnerable to disturbance from aerial seeding during Year Two or work at the Copco Road Bridge during Years Two and Three, but no disturbance will occur if the area is not occupied. We conclude that take is not likely at this location.
- G. Beaver Creek (GE-4), (42.00088; -122.303945): This nest is on a small outcrop face on the ridge between the forks of Beaver Creek. The nest is approximately 0.5 mile up the canyon above Beaver Creek Cove on the north side of Copco No. 1 Reservoir. AECOM found the active nest (AECOM F19-GE1) during a 2019 helicopter survey. PJD /RES biologists observed an adult golden eagle and a nestling here in May 2020 and saw an adult at the nest in late March and late April 2021. The nest is on private property, and a residence is approximately 0.3 mile away.

The cliff is approximately 2.2 miles northeast of Copco Dam, outside the 2.0-mile zone recommended for avoiding disturbance from blasting (USFWS 2017b). Terrain probably blocks the line of sight from the cliff to the dam, and the removal of the reservoir will reduce the spread of noise across the area.

Beginning in the spring of Year Two, helicopters will bring logs from harvest areas southeast of Copco No. 1 Reservoir to a landing and storage deck at the southeastern area of Beaver Creek Cove. This location is approximately 0.9 mile from the nest site, and the view is blocked by terrain. The flight path will not directly approach the nest and will be partially obscured by terrain. Available information does not indicate that golden eagles are susceptible to disturbance from aircraft unless the nest is approached. The guidelines make no recommendations regarding aircraft, so disturbance from this activity is not likely to occur.

Following drawdown in Year Two, aerial seeding will occur in the reservoir footprint in the lower Beaver Creek area during the eagle breeding season. The aircraft (fixed-wing, helicopter, or drone) will not directly approach the nest site and will operate near the ground. Available information does not indicate that golden eagles are susceptible to disturbance from aircraft unless the nest is approached, and the guidelines make no recommendations regarding aircraft, so disturbance from this activity is not likely to occur.

The nest cliff is approximately 0.45 mile from the Beaver Creek bridge and from Copco Road along Beaver Creek Cove. It is 600 ft above the elevation of the road and reservoir pool elevation and is intermittently screened by deciduous trees. The bridge and the road are not planned for reconstruction, and this portion of Copco Road will not carry demolition equipment or spoils. However, the road will carry restoration traffic beginning in Year Two and extending into Year Three, when Beaver Creek and the Copco Valley floodplain will be the scene of several months of focused tributary restoration, including use of tractors, trucks, and human foot traffic.

The activities described in the previous paragraph are within the 1.0-mile distance recommended by the guidelines (USFWS 2017b) for avoidance of disturbance from vehicles, human foot traffic, and construction activities. Based on the guidelines, it is therefore possible that the restoration operations might disturb nesting activities. Of concern are factors such as a direct line of sight and hearing from the nest to the restoration area; furthermore, eagles at this site are not accustomed to high levels of vehicle traffic. Other factors include the fact that the nest site is high above the restoration area, although Spaul et al. (2016) reported that height of a nest site was not related to better success in an environment disturbed by recreationists. While acknowledging uncertainty, we conclude that the Beaver Creek golden eagle nest site is at sufficient risk of disturbance by restoration activities during Years Two and Three that take would be likely.

The drawdown of Copco No. 1 Reservoir, restoration of a free-flowing river, control of invasive/non-native vegetation, and restoration of native vegetation will result in an addition of approximately 950 acres of terrestrial habitat in the Copco No. 1 Reservoir footprint. This includes approximately 43 acres within 1.0 mile of the Beaver Creek golden eagle territory, an increase of approximately three percent over the pre-project amount. The USFWS Updated Survey Protocol (USFWS 2020) indicates a 1.0-mile radius from the nest site as inclusive of approximately 75 percent of the locations of 101 satellite-tagged breeding golden eagles in the western United States (see Figure 1 in USFWS 2020). The addition of habitat could be expected to improve forage availability around the site and potentially improve adult survival and reproduction in perpetuity.

- H. Lennox Rock (GE-5), (Approx. 41.9683, -122.2983): The original record from CNDDDB (AECOM GE3-3) has no date. Local biologists and residents have been aware of the site since at least the 1980s (B. Woodbridge, pers. comm.). The nest site is on a prominent cliff on a butte above the south side of Copco No. 1 Reservoir and visible from Ager-Beswick Road. AECOM biologists saw a nestling during a ground survey; they designated the site as active on June 5, 2018, and classified it as occupied during helicopter survey on May 21,

2019. The site was not known to be occupied during limited surveys in 2020. Adults were present at the nest in late February 2021, and RES/PJD saw a territorial display above the cliff in late March 2021. Land ownership is primarily private, although part of the butte is on BLM land.

The cliff is approximately 2 miles east of Copco No. 1 Dam and approximately 700 ft above the elevation of the dam and reservoir. The cliff is at a direct distance of approximately 0.3 mile from Ager-Beswick Road and the Mallard Cove boat ramp and more than 600 ft above the elevation of the road and reservoir surface.

A dredging barge will be constructed at the Mallard Cove recreation area boat ramp from Ager-Beswick Road below the cliff during August of Year One. Several truckloads of equipment will be involved. The barge will work in Copco No. 1 Reservoir near the dam and will be removed from the lake in late September of Year One. The existing recreation facilities (restrooms, a few picnic tables, boat ramp) at Mallard Cove will be removed with a tractor during September or October of Year One. While the hauling and construction will be within the 1.0-mile construction disturbance avoidance zone recommended by USFWS (USFWS 2017b), these activities are planned to occur after the breeding season, so disturbance is not likely to occur.

At 1.9 miles, the Lennox site is barely inside the 2.0-mile zone recommended by the guidelines (USFWS 2017b) for avoidance of disturbance due to blasting noise. This suggests that demolition noise from Copco No. 1 Dam might result in disturbance in Year Two. However, the line of sight and sound to the dam from the nest cliff is interrupted by terrain (RES/PJD observation), and the drawdown will have reduced the potential for blasting noise to carry across the area. In addition, the source of noise is beyond the distance for which Hansen et al. (2017) expressed concern regarding military activities. We conclude that take of golden eagles at Lennox Rock is not likely to result from demolition activities at Copco No. 1 Dam.

During Year Two following drawdown, aerial seeding will occur in the reservoir footprint below Lennox Rock during the eagle breeding season. The aircraft (fixed-wing, helicopter, or drone) will not directly approach the nest site and will operate near the ground. Available information does not indicate that golden eagles are susceptible to disturbance from aircraft unless the nest is approached and the guidelines make no recommendations regarding aircraft, so disturbance from this activity is not likely to occur.

During Year Two and Three, the Mallard Cove boat ramp area may provide access for ATVs carrying workers for manual activities in the restoration along the Klamath River. The site is within the 1.0-mile zone recommended by the guidelines (USFWS 2017b) for avoidance of disturbance from vehicles and humans on foot. Also, the distance is within that for which some experts (Hansen et al. 2017) expressed concern regarding OHV activities. The nest is high above the potential disturbance source, but Spaul and Heath (2016) reported that the height of a nest site was not related to nest success in an environment disturbed by

recreationists. The nest site has a direct line of sight and sound to restoration traffic or activities; however, eagles at this site are probably accustomed to traffic at the recreational boat ramp as well as humans in the residential area below the cliff. Moreover, the restoration ATV traffic will be limited and unlike the noisy OHV traffic evaluated by Hansen et al. (2017). The Lennox site is over 1.0 mile from the focused restoration area at Beaver Creek. In combination, these circumstances indicate disturbance reaching the level of take is unlikely.

The restoration of a free-flowing river, the control of invasive/non-native vegetation, and the restoration of native vegetation in and around priority tributaries where Copco No. 1 Reservoir currently stands will result in an addition of approximately 950 acres of terrestrial habitat in the Copco No. 1 Reservoir footprint. The additional acreage includes approximately 362 acres within 1.0 mile of the Lennox Rock territory, an increase of approximately 18 percent over the pre-project amount. (These acres are separate from those discussed above for the Beaver territory.) The USFWS Updated Survey Protocol (USFWS 2020) indicates a 1.0-mile radius from the nest site as inclusive of approximately 75 percent of the locations of 101 satellite-tagged breeding golden eagles in the western United States (see Figure 1 in USFWS 2020). The additional acreage could be expected to improve forage availability in the core area around the site and potentially improve adult survival and reproduction in perpetuity.

- I. Sloan Butte (GE-6), (41.99159, -122.3513): Sloan Butte is a prominent topographic feature north of the two Copco dams. AECOM surveyed this site (AECOM F19- GE2) on several occasions in 2019 by helicopter and from the ground. An old nest was found, and a golden eagle was seen perched on the cliff early in the 2019 nesting season. A local resident told AECOM that eagles produced young there in 2018. Observers did not see eagles here in 2020. In 2021, an adult golden eagle was seen perched at a prominent snag approximately 0.4 mile east of the nest location. The presence of the adult indicated that the territory was occupied, but no eagles were seen at the known nest and the nest did not appear to have been rebuilt. The known nest is on a west-facing cliff face that is clearly visible at approximately 0.5 mile from Fall Creek Road, a dirt public road with light local traffic. It is also visible from Copco Road, which is used several times daily by PacifiCorp vehicles accessing Copco No. 1 Dam. The cliff is on private land, with PacifiCorp land nearby. Most of the area within a 1.0-mile radius of Sloan Butte is visible from roads, but neither repeated ground searches of surrounding areas from roads by AECOM and RES/PJD nor the 2019 helicopter surveys located any alternate nests.

The Sloan Butte cliff is within 0.5 mile from, and 400 ft above, the closest point along Copco Road, which will be upgraded during July through October of Year One. This portion of Copco Road will be used during July of Year One through December of Year Two for hauling heavy equipment and materials to and from the Copco No. 1 Development while they are being demolished, and during Year Three for hauling equipment to and from restoration activities at Beaver Creek and Copco Valley. During September to October of Year One, road work will include modifying the Copco Road bridge over Fall Creek, which is approximately 0.75 mile southwest of Sloan Butte. The nest is within the 1.0-mile zone

recommended by the guidelines (USFWS 2017b) for avoidance of disturbance due to construction activities.

The Sloan Butte cliff is approximately 0.7 mile from, and 400 ft above, the CDFW Fall Creek Fish Hatchery facilities, which will be reconstructed during July of Year One through January of Year Two. While the nest is within the 1.0-mile zone recommended by the guidelines (USFWS 2017b) for avoidance of disturbance due to construction activities, the nest site will not be disturbed in Year One because hatchery construction will not begin until late in the nesting season. The nest will likely be disturbed by hauling in Years Two and Three.

The Sloan Butte nest cliff is 1.0 to 1.5 miles from dams and generation facilities at Copco No. 1 and Copco No. 2. The small Copco No. 2 Dam will be partially removed during June to November of Year One, with demolition completed in Year Two. This structure is in a deep gorge, and noise should be attenuated by terrain. The large facilities at Copco No. 1 Dam and Copco No. 2 Dam and Powerhouse will be demolished during the spring months of Year Two. Numerous explosive blasts will occur at Copco No. 1 Dam beginning in August of Year One and extending through January of Year Two. The known nest is approximately 1.25 miles from Copco No. 1 Dam and 800 vertical ft above the level of the facilities, within the 2.0-mile zone the guidelines (USFWS 2017b) recommend for avoidance of disturbance from loud noises. However, the dam is in a deep gorge, and a large hill above the gorge blocks the line of sight and is likely to reduce noise to a level that disturbance rising to the level of take is unlikely to occur.

During April and May of Year Two, a transmission line will be removed approximately 0.3 mile from the nest cliff using ground-based equipment. This is within the distance recommended by the guidelines for avoidance of construction-related disturbance (USFWS 2017b) and also within the distance where experts expressed concern regarding construction activities for sensitive eagles (Hansen et al. 2017). However, removal of power lines using trucks would not be expected to create the “extended noisy construction” contemplated by the expert opinion exercise.

Overall, the Sloan Butte nest site will encounter more potentially disturbing activities than any other nest site in the Project Area. However, in most cases the activities are beyond or near the outer limits of distances where the guidelines and Hansen et al. (2017) estimated that important effects could occur and are minimized by terrain, or the activities will take place outside the nesting season. We conclude that the only sources of potential disturbance over the three years likely to result in take requiring authorization are related to hauling on Copco Road in Years Two and Three.

- J. Jenny Creek canyon (GE-7), (F-GE2) 41.99261, -122.37138; other coordinates available): Three golden eagle cliff nests are known within a 1.4-mile reach of Jenny Creek canyon, which enters Iron Gate Reservoir from the north. Two were found by a 1979 USFWS/BLM helicopter survey (AECOM GE3-5, GE3-6); according to records, no eagles were seen on those early surveys. AECOM's helicopter surveys in 2018 and 2019 found inactive nests at

those locations, with a golden eagle perched near GE3-5 (the northernmost site) in 2018. The southernmost nest (GE3-6), near where the transmission lines cross the canyon, was apparently active in 2015 (J. Harper, BLM, pers. comm.) The AECOM surveys also found a third inactive nest (F-GE2) mid-way between the two earlier sites. The northernmost nest (GE3-5) is on PacifiCorp property; the middle nest (GE-7, AECOM F-GE2), near Jenny Creek Falls, is on BLM land; and the southernmost (AECOM GE3-6), is on private land. No available records indicate that any of these nests have been occupied simultaneously, so we are treating all three known golden eagle nests in Jenny Creek canyon as part of one territory.

Jenny Creek canyon is remote and ground access is difficult. The three sites are all more than 5 miles northeast of Iron Gate Dam, and are all more than 1.5 miles north of, and an estimated 500 ft above, the Jenny Creek bridge. The Jenny Creek bridge is in sufficient condition to carry traffic, but abutments may be reinforced during April and May of Year One. Due to distance and terrain, disturbance from the dam, the road, and the bridge is unlikely. Also, during spring of Year Two and in Year Three, restoration actions will be conducted on approximately 0.2 mile of Jenny Creek, which will be re-exposed by drawdown of Iron Gate Reservoir. These action areas are all more than 1.5 miles from the nearest alternate nest in the canyon (AECOM's GE3-6), which is visible from the Jenny Creek bridge; however, disturbance is unlikely due to distance and terrain.

The most recently known occupied nest in Jenny Creek canyon (GE3-5, the northernmost nest) is a linear distance of 1.4 miles west of the Copco No. 2 Powerhouse, the site of construction activities at Fall Creek Hatchery, and restoration actions along the Klamath River, which will be re-exposed in the current upper portion of Iron Gate Reservoir. The ridge on the east rim above the canyon nests blocks the line of sight to these locations.

The Renewal Corporation analyzed the potential effects to the southern-most site (AECOM site GE3-6; KRRC site GE-7), which is the site that is nearest to activities. This nest site is 0.6 mile from the Fall Creek Hatchery, 1.2 miles from Copco No. 2 Powerhouse, 1.8 miles from Copco No. 2 Dam, 0.7 to 1.5 miles from Copco Road, and 1.5 miles from restoration actions at Jenny Creek. In our judgement, disturbance of golden eagle nests in Jenny Creek canyon from the Copco No. 2 area is unlikely because of these distances and the substantial terrain along the ridge above the nests.

- K. Dry Creek (GE-8), (41.9265, -122.4822): The original record for this site is from USFWS/BLM in 1979 (AECOM GE3-7). Based on a review of remote images, the original coordinates were erroneous as there is no visible nesting substrate at that specific location. On the west-facing cliff of a large outcrop at a nearby location, an AECOM helicopter survey on June 6, 2018, found three inactive nests and a perched golden eagle. An AECOM helicopter survey on May 23, 2019, found no eagles. Based on imagery of the site, we assigned corrected coordinates to the location observed by AECOM. This upland site is 2.4 miles west of Iron Gate Dam and is not visible from high points immediately above the dam (PJD/RES observations). The site is 1.3 miles north of Copco Road near the point where

the road crosses Dry Creek. The prominent south face of the rock outcrop is visible from Copco Road, but the west face with the known nests is not visible from the road.

Copco Road at this location carries regular local traffic from the hydroelectric project, the Iron Gate Fish Hatchery, residents, and recreationists. Beginning in July of Year One, the road will be upgraded and will carry greatly increased traffic to and from the Copco and Iron Gate areas during all three years. The bridge over Dry Creek on Copco Road will be reinforced during September of Year One and returned to its original status sometime during late Year Two. Terrain blocks the line of sight from the bridge location to the cliff (PJD/RES observations). All activities will be beyond the disturbance distances suggested by USFWS guidelines (USFWS 2017b). Due to distance, elevation, terrain, and visibility, and the fact that activities will be confined to the road, disturbance of this site to the degree that take will occur is unlikely.

L. Cold Creek (41.93288, -122.35192) (Project nest number not assigned): This cliff nest (AECOM F19-GE3) was found by an AECOM helicopter survey on May 22, 2019, and it was rechecked by helicopter on June 17, 2019. No golden eagles were seen at the site, and observers noted that the visible nest structures appeared small. Another larger cliff is across the road. The site was of interest because golden eagles had been seen earlier from the ground 1.5 miles away. The site is 2.5 to 3 miles from project facilities or reservoirs, but the cliff overlooks Ager-Beswick Road, which will carry trucks and equipment to and from the barge construction site at Mallard Cove (Copco No. 1 Reservoir) during August to October of Year One. The area was checked on several occasions in 2021 and there is no evidence of a golden eagle nest site at this location. Therefore, no project identification number was assigned and there is no likelihood of take at this location.

5.2.3.3 Potential for Unlocated Golden Eagle Territories

We considered three factors that might indicate the presence of as-yet-unlocated golden eagle territories in the Project Area. These are (1) observed courtship/territorial behaviors, (2) observed unoccupied nest structures, and (3) the occurrence of such sites in gaps in the mapped distribution of known occupied nest sites.

The latter of these three factors is the most difficult to interpret. Golden eagle home ranges, densities, and mean nearest neighbor distances are variable throughout the western United States (Dunk et al. 2019) and have not been described in the region surrounding the Project Reach. The Proposed Action will affect only golden eagle territories in which an occupied nest is within disturbance range, and unlike for bald eagles, will not remove habitat that attracts golden eagles. The Klamath River canyon survey area is basically a narrow linear transect across many undefined potential territories whose nests could be outside the survey area. Therefore, an apparent gap in distribution of golden eagle nest locations along the Klamath River canyon does not necessarily mean that unknown nest sites have been missed or will be disturbed by the Proposed Action.

AECOM biologists observed instances of apparent golden eagle courtship or territorial behavior at three locations that were more than 0.5 mile from a known nest site. These included the cliffs above Copco No. 2 Powerhouse, cliffs at the south end of the ridge between the Jenny Creek drainage and the Fall Creek drainage on the north side of Iron Gate Reservoir, and the ridge above the east fork of the Camp Creek drainage above Iron Gate Reservoir.

All these locations were surveyed repeatedly by helicopter (J. DiDonato, pers. comm.) and, where possible, from the ground. Ground observations included focused work by RES/PJD in 2021. No nests were found, and no other observations of golden eagles were reported in these areas. The cliffs at Copco No. 2 Powerhouse are approximately 0.8 mile from Sloan Butte and could be part of that territory. A nest at this area would be subject to disturbance. The ridge above Jenny Creek is approximately 1.3 miles from the nearest golden eagle nest in Jenny Creek canyon. Ravens nested on this cliff in 2020 and 2021, which may indicate that it was not used for nesting by golden eagles. The cliffs are several hundred feet above the road and reservoir. The potential for disturbance is unknown.

The upper Camp Creek area is 2.5 to 3.0 miles from the nearest known golden eagle nest, so is perhaps more likely as a potential territory location. Most of the area is over 0.5 mile from Copco Road and Iron Gate Reservoir and 3.0 miles from Iron Gate Dam. Helicopter surveys would likely have found a nest on the side of the ridge facing the reservoir (J. DiDonato, pers. comm.), so any undiscovered nest is likely to be at a greater distance and disturbance potential is likely to be low.

In the canyon of Long Prairie Creek above the north side of the upper end of Copco No. 1 Reservoir, AECOM helicopter surveyors in 2019 reported a cliff cavity that appeared suitable for golden eagle nesting, although no golden eagles were seen. This site is approximately 1.1 miles from the nearest known occupied golden eagle nest (GE-3, Ranch Bridge), so it might be within that territory. This site is on private land approximately 0.9 mile from the Copco Road bridge and is not visible from Copco Road due to terrain (PJD). If it is a golden eagle nest site, it is not expected to be subject to disturbance.

In summary, the presence of as-yet-unlocated golden eagle nest sites in locations subject to disturbance appears unlikely at this time.

5.2.3.3.1 Summary of Effects on Golden Eagles in the Project Area

The Proposed Action is not expected to result in the death or injury of adult or post-fledging immature golden eagles or remove any nest sites. Based on the assessment described above, we have concluded that effects of disturbance on golden eagle reproduction at two territories (GE-4 and GE-6) is likely to result in take at both sites during Year Two and Year Three.

These golden eagle territories will not be permanently altered in a negative manner and the effects of disturbance are expected to be temporary. Terrestrial foraging habitat should increase by a total of approximately 2,200 acres as reservoirs are drained and vegetation restored in the re-exposed areas of the three larger reservoirs. This increase includes habitat in

the 1.0-mile core foraging area of two golden eagle territories. Nesting habitat on cliffs or in forested areas will not be modified. Once disturbance ceases, golden eagles will be able to resume breeding activities at all the Project Area nest sites. Thus, no long-term adverse effects are expected. The effects to golden eagle territories are summarized in Table 5-2.

As detailed in section 5.1 (Methods), Renewal Corporation contractors obtained available historic data on nest and territory locations of golden eagles prior to the 2017 surveys (Renewal Corporation 2019, 2020). Their analyses included zones of potential impacts based on a preliminary understanding of activities and nest site locations (Renewal Corporation 2019, 2020). Subsequent surveys and analyses have refined nest site locations and evaluated potential effects using more detailed information on activities.

All 13 golden eagle territories previously documented or recently known to occur are summarized in Table 5-2. At five of these territories, recent surveys (2017 to 2021) did not detect nest sites or eagle activity indicating presence of a nearby nest site or occupied territory, and/or communications with State and Federal wildlife officials and local landowners indicated that nests no longer exist. Those sites are labelled as “Unassigned/No ID” (northwest of J.C. Boyle Dam, Chase Mountain, South Side of Klamath River, Long Prairie Creek, and Cold Creek). In addition, three recently occupied territories (Hessig Ranch, Ranch Bridge, and Dry Creek) were determined to be beyond potential disturbance zones and were not further analyzed. The five remaining territories that the Renewal Corporation has now determined as having the potential to be affected by activities are highlighted in green in Table 5-2.

Table 5-2. Golden Eagle Territories Evaluated for Effects from the Proposed Action

TERRITORY NAME (LOCATION)	TERRITORY ID KRRC/RES (KRRC/AECOM)¹	RECENT STATUS²	DISTANCE FROM ACTIVITY³	WILL TAKE OCCUR?⁴ WHAT YEARS?
NW JCB-Unconfirmed (NW of J.C. Boyle Dam)	Unassigned/No ID ⁵ (GE1_6)	Historic territory. Nest not found: 2018, 2019.	≈1.8 miles from J.C. Boyle Dam demolition and blasting	No
Chase Mtn.-Unconfirmed (SE J.C. Boyle Dam)	Unassigned/No ID (GE1_7, GE4_5)	Historic territory. Eagles not detected: 1997. Nest not found: 2004, 2018, 2019.	>2.0 miles from any activity	No
Riffle Rapids (J.C. Boyle Dam and Powerhouse)	GE-1 (GE4_206)	Nest active: 2018, 2020, 2021. Eagles not detected: 2019	>2.0 miles from dam blasting ≈ 0.8-1.0 mile from powerhouse demolition	No
Hessig Ranch (Upriver from Copco No. 1 Reservoir)	GE-2 (F_GE3)	Nest active: 2018, 2019. Not surveyed: 2020, 2021	> 2.0 miles from any activity	No
Ranch Bridge (Upriver from Copco No. 1 Reservoir)	GE-3 (F_GE4)	Territory occupied: 2018, 2019. Nest not found and eagles not detected: 2021	> 2.0 miles from any activity	No
South Side Klamath River (Upper Copco No. 1 Reservoir)	Unassigned/No ID GE3_8, F-GE_4	Unknown Status: 1979. Nest not found and eagles not detected: 2018, 2019, 2021	> 2.0 miles from any activity	No
Long Prairie Creek (Upper Copco No. 1 Reservoir)	Unassigned/No ID (F19_GE4)	Nest not found and eagles not detected: 2019.	> 2.0 miles from any activity	No

TERRITORY NAME (LOCATION)	TERRITORY ID KRRC/RES (KRRC/AECOM)¹	RECENT STATUS²	DISTANCE FROM ACTIVITY³	WILL TAKE OCCUR?⁴ WHAT YEARS?
Beaver Creek (Copco No. 1 Reservoir)	GE-4 (F19_GE1)	Nest active: 2019, 2020, 2021	≈ 0.5 mile from restoration activities >2.0 miles from blasting at Copco No. 1 Dam	Yes Years 2 and 3
Lennox Rock (Copco No. 1 Reservoir)	GE-5 (GE3_3)	Nest active: 2018, 2019, 2021.	≈ 0.3 mile from barge assembly ≈ 0.3 mile from ATV use ≈ 2.0 miles from blasting at Copco No. 1 Dam	No
Sloan Butte (Copco No. 1 Reservoir)	GE-6 (F19_GE2)	Territory occupied: 2018, 2019, 2021.	≈ 0.75 mile from hatchery construction ≈ 0.3 mile from haul road ≈ 1.2 miles from blasting at Copco No. 1 Dam ~1.1 miles from blasting at Copco No. 2 Dam ≈ 1.0 mile from Copco No. 2 powerhouse demolition	Yes Years 2 and 3
Cold Creek (Copco No. 1 Reservoir)	Unassigned/No ID (F19_GE3)	No nest found and eagles not detected: 2019	> 2.0 miles from any activity	No
Jenny Creek Canyon (Iron Gate Reservoir)	GE-7 ⁶ (GE3_5, GE3_6, F_GE2)	Territory occupied: 2018 (GE3_5). No eagles detected: 2018, 2019 (GE3_6, F_GE2), 2021 (GE3-6).	(GE3-6) = 0.6 mi. from hatchery construction ~1.8 mile from demolition and blasting at Copco No. 2 Dam	No

TERRITORY NAME (LOCATION)	TERRITORY ID KRRRC/RES (KRRRC/AECOM) ¹	RECENT STATUS ²	DISTANCE FROM ACTIVITY ³	WILL TAKE OCCUR? ⁴ WHAT YEARS?
			≈ 1.0 mi. from Copco No. 2 Powerhouse demolition	
Dry Creek (Downriver from Iron Gate Dam)	GE-8 (GE3_7)	Territory occupied: 2018, 2021. Eagles not detected: 2019.	≈ 1.3 miles from haul road >2.0 miles from demolition at Iron Gate Dam	No

Legend:

- Territories that may be affected by activities
- Territories not affected by activities

Notes:

1. KRRRC/RES refers to field work conducted by Renewal Corporation subcontractor RES in 2020 and 2021, and KRRRC/AECOM refers to field work conducted by AECOM in 2017, 2018, and 2019 (see detailed description of surveys in section 5.1 of this Eagle Conservation Plan).
2. "Territory occupied" means golden eagles were seen near nesting areas, but no nesting activity was observed. "Nest Active" means nesting behavior was seen in a specific nest. Limited surveys were conducted in 2020; some incidental observations are included.
3. Also see detailed descriptions on timing and activities in individual territory narratives and tables (section 5.2.3).
4. See details in tables on individual territories.
5. Territories identified as "Unassigned/No ID" are reported historic sites where nests were not located in recent surveys.
6. GE-7 (RES) evaluated GE3_6 (AECOM) as this nest site is closest to activities at Fall Creek Hatchery and Copco No. 2.

6.0 Quantified Estimates of Disturbance

6.1 Bald Eagles

As demonstrated in this Eagle Conservation Plan, in Year Two the Proposed Action is expected to reduce reproductive output at ten bald eagle territories by disrupting forage availability during reservoir drawdown, resulting in ten instances of take. At the three of these nests (BE-6, BE-7, and BE-8) that are along the river below J.C. Boyle, this effect is expected for only one year. At the seven of these territories that are near reservoirs, the forage-related effect on reproduction may persist for an unknown period into the future. At one of the same reservoir territories (BE-9), reproduction will also be subject to disturbance by demolition in Year Two, but this will not be counted as an additional take. Similarly, reproductive output at three of the reservoir territories (BE-5, BE-10, and BE-11) is expected to be reduced by hauling-related disturbance in Year Two, but this will not be counted as an additional take. Thus, ten total instances of take of bald eagles are expected in Year Two.

In Year Three, bald eagle reproductive output at two sites (BE-10 and BE-11) is expected to be disturbed by nearby hauling, resulting in two instances of take in that year.

6.2 Golden Eagles

As demonstrated in this Eagle Conservation Plan, the Proposed Action is expected to result in reduced reproductive output and likely take due to hauling on roads near one golden eagle nest site (GE-6) in both Year Two and Year Three. Also, reduced reproductive output and take are likely due to stream restoration activities near another golden eagle nest site (GE-4) in both Year Two and Year Three. Thus, instances of take of golden eagles are expected to total two in Year Two and two in Year Three.

7.0 Avoidance, Minimization, and Mitigation Measures

Project biologists conducted surveys over a five-year period (2017–2021) and used historical information to identify all known or potential nest sites. Throughout project planning, biologists and engineers coordinated to develop measures that would reduce the likelihood of take. Where feasible, project tasks were adapted to the timing of the eagle nesting season. The Proposed Action incorporates the Renewal Corporation's plan to avoid, minimize, and mitigate take.

Avoidance, minimization, and mitigation measures based on USFWS guidance and guidelines were developed and will be implemented including the following:

1. No killing or injury (e.g., collision with project equipment or facilities) of adult or post-fledged immature eagles is expected to occur. No nest removal will occur.
2. Over 220 potentially hazardous power poles and 70,000 feet of power line will be removed. Poles for perching will be retained at key locations as practicable.

3. Project surveys for eagles in Years 1, 2 and 3 will confirm the status of known nest sites and identify previously unknown nest sites. Potential additional avoidance and minimization measures to avoid disturbance or mortality will be coordinated with the appropriate agencies.
4. Use of aircraft will avoid active nest sites.
5. Over 2,000 acres of reservoir footprint will be restored and will be suitable golden eagle foraging habitat, per the measures stated in Renewal Corporation's Reservoir Area Management Plan (2021c)
6. Mainstem and tributary restoration will create stream conditions favorable for anadromous and resident fish, per the measures stated in the Renewal Corporation's Reservoir Area Management Plan (2021c).
7. Reservoir removal and restoration is expected to reduce aquatic disease and algal toxicity by improving water quality (SWRCB 2020).
8. More than 8,000 acres of Project lands will be conveyed to the California Department of Fish and Wildlife and Oregon Department of Land Conservation and Development for management in perpetuity.

The Renewal Corporation will continue to conduct ground-based surveys for bald and golden eagles during Years One, Two, and Three in a manner similar to the surveys conducted from 2019 through 2021.

The purpose of the surveys will be to determine if eagles are occupying territories and known nest sites within 2.0 miles of the Proposed Action (USFWS 2020). In addition, surveys will include areas suitable for nesting of both bald and golden eagles within 2.0 miles of activities where nests have not been previously known or where historic nest sites may be reoccupied.

Surveys will generally be conducted consistent with USFWS (2020), Pagel et al. (2010), and Jackman and Jenkins (2004), but adapted for local conditions and project goals. Three survey periods will occur during each breeding season, with the first set in January to March to determine if eagles are active at nest sites, March to May to determine if eagles are nesting, and June to July to determine if eagles continue to nest or have completed nesting activities. Typically, it takes three days to cover the Project Reach from the Iron Gate Development to the J.C. Boyle Development.

In addition, designated biologists will be on the work sites at various times over all three years to monitor construction activities and to implement avoidance and minimization measures for a variety of plant and animal species. During the general species monitoring, the designated biologists will be instructed to be observant for and report all bald and golden eagle activities to the eagle survey team.

8.0 Benefits of the Proposed Action for Eagles

The Proposed Action will have long-term positive effects. Following the removal of the dams and the beginning of restoration actions, over 2,000 acres of terrestrial foraging habitat and prey resources for golden eagles will increase in quantity and quality in the long term. The aquatic

foraging resource for bald eagles will also improve quickly and provide benefits over the long term as resident and anadromous fish respond to return of a free-flowing river and reduction of toxic algae and fish parasites. The transfer of over 8,000 acres of lands to natural resource agencies will open possibilities for long-term habitat management that is likely to further increase habitat value and eagle response, especially the re-occupation by breeding bald eagles. Both species will benefit in the long term from removal of hazardous power poles and lines. Thus, the short-term impacts will be greatly outweighed by the long-term outcomes of the Proposed Action for both species.

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Appendix A

Figures

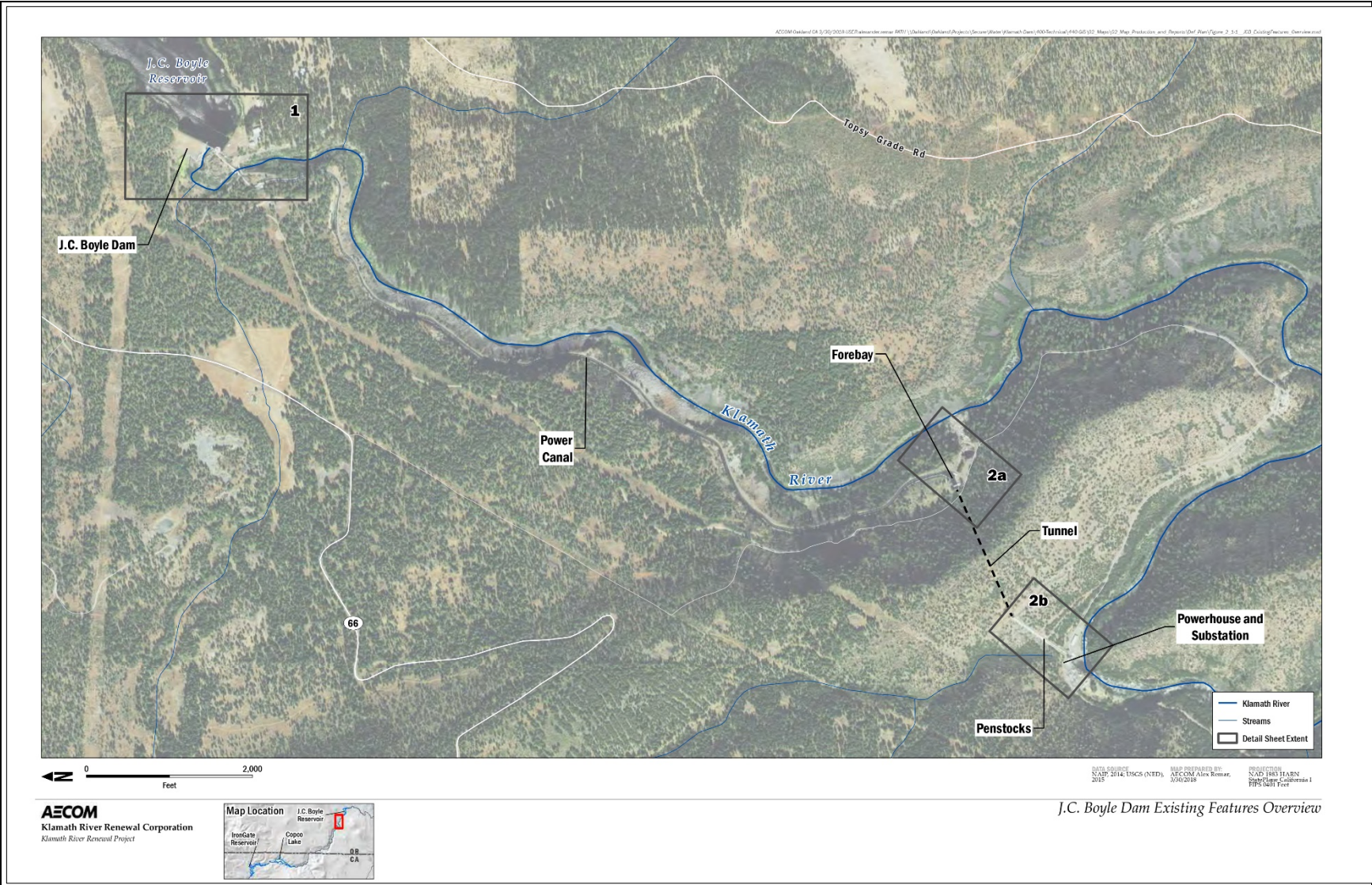


Figure A-1. J.C. Boyle Dam Existing Features Overview

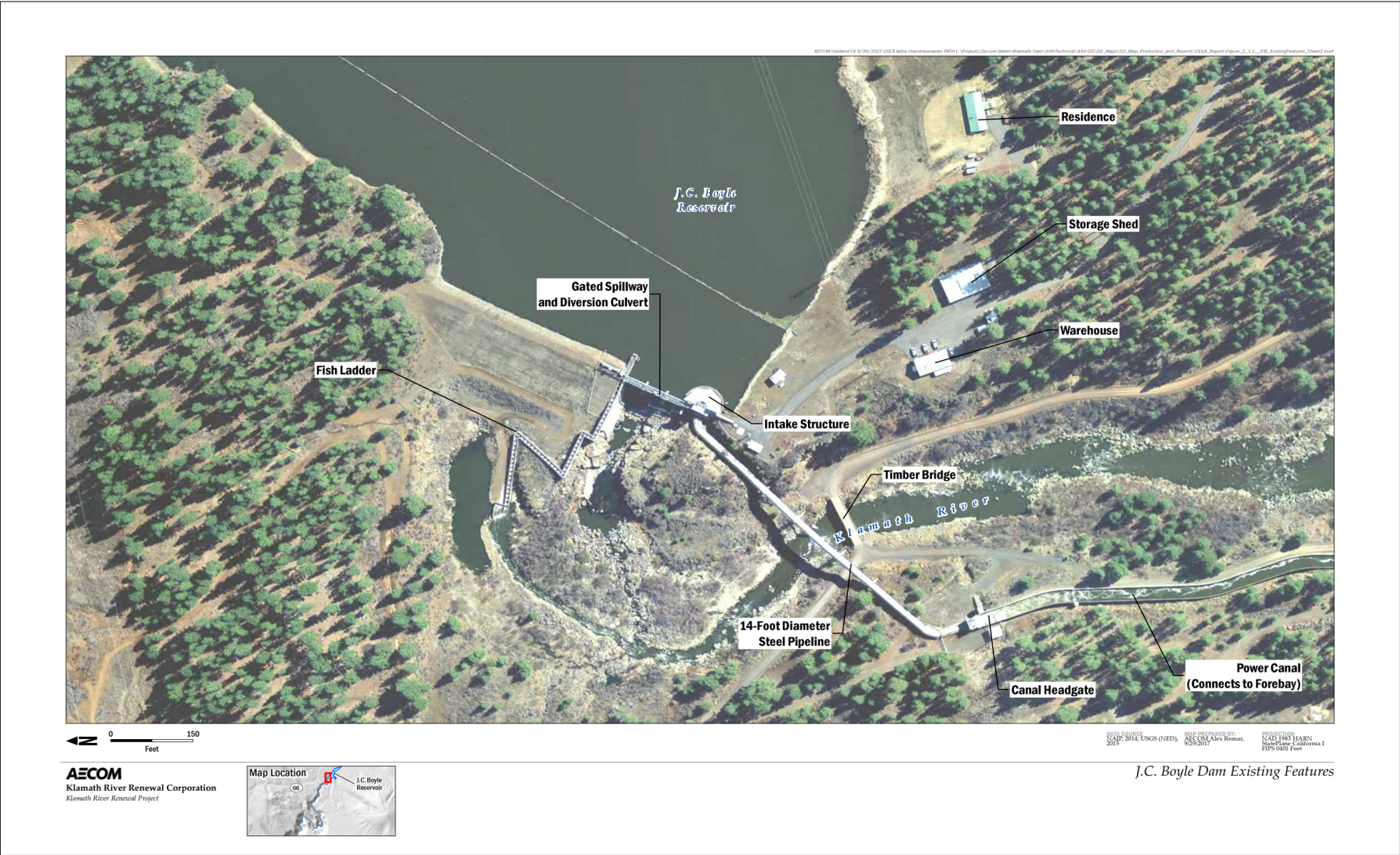


Figure A-2. J.C. Boyle Dam Existing Features in Proposed Action



AECOM
Klamath River Renewal Corporation
Klamath River Renewal Project



DATA SOURCES: NAD 1983 HARN StatePlane California 1 FIPS 5001 Feet
DATE: 10/14/2014
PROJECT: J.C. Boyle Dam
DRAWN BY: AECOM/Alex Remat
CHECKED BY: AECOM/Alex Remat
DATE: 10/14/2014

J.C. Boyle Dam Existing Features

Figure A-3. J.C. Boyle Dam Forebay, Spillway, Penstock, and Powerhouse in Proposed Action