



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102

DEPARTMENT OF THE ARMY PERMIT

PERMITTEE: Mr. Mark Bransom, Klamath River Renewal Corporation

PERMIT NO.: SPN-2003-279850

ISSUING OFFICE: San Francisco District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate District or Division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below:

PROJECT DESCRIPTION: The objective of the Project is to accomplish the physical removal of the Lower Klamath Project and achieve a free-flowing condition and volitional fish passage, site remediation and restoration, and measures to avoid or minimize adverse downstream impacts. To create a free-flowing river to allow volitional fish passage, the License Surrender Project includes the decommissioning of the J.C. Boyle Dam and Powerhouse, Copco No. 1 Dam and Powerhouse, Copco No. 2 Dam and Powerhouse, and Iron Gate Dam and Powerhouse, 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, historic cofferdams, portions of the Iron Gate Fish Hatchery, residential facilities, and warehouses. Facility removal will be completed within an approximately 20-month period. In addition, the Fall Creek Hatchery and the City of Yreka water supply pipeline will be modified. The Project's primary activities to be performed through in-water work include dam and ancillary structure removal, temporary work pad and access road construction, temporary and permanent road/culvert/bridge upgrades, assisted sediment evacuation within the mainstem of the Klamath River and high-priority tributaries, restoration in the former inundated reservoir areas, Klamath River tributary reconnection, City of Yreka water supply line construction, Fall Creek Hatchery modifications, construction of boat ramps at new permanent recreation sites, and adaptive management related to restoration. To access the dams for deconstruction, the Renewal Corporation would perform a controlled reservoir drawdown using both existing and modified infrastructure. Dam demolition would occur over several months using multiple techniques.

All work shall be completed in accordance with the plans and drawings titled "USACE File #2003-279850, Lower Klamath River Dam Removal Project , October 4, 2022, Figures 1 to 27," provided as enclosure 1.

PROJECT LOCATION: The License Surrender Project (License Surrender Project Area) is located on the mainstem of the Klamath River within the hydroelectric reach, from approximately river mile 234 to river mile 193. The hydroelectric reach includes four hydroelectric developments including the J.C. Boyle, Copco No. 1, Copco No. 2 and Iron Gate dams and their associated hydroelectric generation facilities, supporting structures, and reservoirs. The exact location of the four dams are as follows: 1) J.C. Boyle Dam, Klamath County, Oregon, latitude 42.122925 longitude -122.048008; 2) Copco No. 1 Dam, Siskiyou County, California, latitude 41.979381 longitude -122.3347; 3) Copco No. 2 Dam, Siskiyou County, California, latitude 41.979028, longitude -122.340108; and 4) Iron Gate Dam, Siskiyou County, California, latitude 41.934319 longitude -122.436347.

PERMIT CONDITIONS:

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on December 31, 2032. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity, or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. For your convenience, a copy of the water quality certification or waiver is attached. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.
7. You understand and agree that, if future operations by the United States require the removal, relocation or other alteration of the structure or work authorized herein, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

SPECIAL CONDITIONS:

1. Performance standards shall be adhered to as per the Reservoir Area Management Plan (RAMP), dated February 2021. To ensure success of the restoration areas described by the RAMP, you shall monitor restoration areas for a minimum of 5 years or until the restoration measures described in the RAMP are met, whichever is greater. This period shall commence upon completion of decommissioning, construction, and drawdown.
2. You will prepare and submit an Annual Compliance Report within six (6) months of concluding drawdown activities, and annually thereafter by April 1 of each year for as long as the Renewal Corporation has performance obligations under the RAMP. This report shall include all relevant information as described on pages 87-130 of the February 2021 RAMP. If performance standards are not being met, a brief explanation of the difficulties and potential remedial actions shall be provided.
3. You shall comply with all terms and conditions of the enclosed Water Quality Certification from the California State Water Resources Control Board (CARWQCB), titled "Lower Klamath Project License Surrender Federal Energy Regulatory Commission Project No. 14803 Siskiyou County, Klamath River and

associated tributaries, Amendment to Water Quality Certification for Lower Klamath Project License Surrender”, dated November 3, 2022, and the Water Quality Certification from the Oregon Department of Quality (DEQ), titled “Lower Klamath River Dam Removal Project USACE #: SPN-2003-279850 Section 401 Water Quality Certification,” dated September 6, 2022.

4. You are responsible for all work authorized herein and ensuring that all contractors and workers are made aware and adhere to the terms and conditions of this permit. You shall ensure that a copy of the permit and associated drawings are available for quick reference at the project site until all construction activities in waters of the United States authorized by this permit are completed.
5. Discharges within Waters of the U.S. shall consist only of clean and nontoxic fill material for this project. The fill material shall be free from items such as trash, debris, automotive parts, asphalt, construction materials, concrete with exposed reinforcement bars (if access to rebar is safe, rebar protruding out of concrete will be cut flush), and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act. All newly poured concrete to cure for a minimum of 10 days prior to coming into contact with open water.
6. At least 30 days prior to initiation of construction activities in waters of the United States authorized by this permit, you shall notify this office in writing of the anticipated start date for the work. No later than 30 calendar days following completion of construction activities in waters of the United States authorized by this permit, you shall notify this office in writing that construction activities have been completed.
7. Prior to initiation any construction activities in waters of the United States authorized by this permit, you shall install and maintain construction best management practices (BMPs) on-site to prevent degradation to on-site and off-site avoided waters of the United States. Methods shall include the use of appropriate measures to intercept and capture sediment prior to entering waters of the United States, as well as erosion control measures along the perimeter of all work areas within 500 feet of on-site and off-site avoided waters of the United States to prevent the displacement of fill material. All BMPs shall be in place prior to initiation of (each phase of) construction activities in waters of the United States authorized by this permit. You shall ensure the BMPs are inspected bi-weekly and are maintained in good condition while ground disturbing activities are occurring, until construction activities in waters of the United States authorized by this permit are complete. All BMPs shall remain until construction activities within 500 feet of waters of the United States are completed and all disturbed soils are stabilized.
8. You shall implement the enclosed, September 2022, Programmatic Agreement (PA), entitled “Programmatic Agreement among the Federal Energy Regulatory Commission, the California State Historic Preservation Office, the Oregon State Historic Preservation Office, and the Advisory Council on Historic Preservation regarding the license surrender, decommissioning, and removal of the Lower Klamath Project (FERC Project No. 14803-001 and 2082-063) Klamath County, Oregon and Siskiyou County, California” and signed by these entities, in its entirety. The FERC has been designated the lead federal agency responsible for implementing and enforcing the PA as signed. If you fail to comply with the implementation and associated enforcement of the PA, this office may determine that you are out of compliance with the conditions of your permit and suspend the permit. Suspension may result in modification or revocation of the authorized work.
9. If human remains, historic resources, or archeological resources are encountered during construction, all ground disturbing activities shall cease in the immediate area and the permittee shall immediately (within one business day of discovery) notify the Corps. The permittee shall perform any work required by the Corps in accordance with Section 106 of the National Historic Preservation Act and Corps regulations.
10. Any change in the project design, materials, or construction methods, must be approved by the Corps in writing.

11. To remain exempt from the prohibitions of Section 9 of the Endangered Species Act, the non-discretionary Terms and Conditions for incidental take of federally-listed Species shall be fully implemented as stipulated in the enclosed Biological Opinions titled “Biological Opinion Lower Klamath Project 08EYRE00-2021-F-0127 Federal Energy Regulatory Commission, California; Agency: U.S Fish and Wildlife Service Region 10 Sacramento, CA Biological Opinion Written by: Yreka Fish and Wildlife Office U.S. Fish and Wildlife Service Region 10, Pacific Southwest Region, December 22, 2021” (pages 6-8 of the Incidental Take Statement) dated December 22, 2021 and “Endangered Species Act Section 7(a)(2) Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Surrender and Decommissioning of the Lower Klamath Hydroelectric Project No. 14803-001, Klamath County, Oregon and Siskiyou County, California” (pages 324-330) dated December 17, 2021. Project authorization under this permit is conditional upon compliance with the mandatory terms and conditions associated with incidental take. Failure to comply with the terms and conditions for incidental take, where a take of a federally-listed species occurs, would constitute an unauthorized take and non-compliance with the NWP authorization for your project. The USFWS and NMFS is/are, however, the authoritative federal agency for determining compliance with the incidental take statement and for initiating appropriate enforcement actions or penalties under the Endangered Species Act.

FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. Section 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. Section 1413).

2. Limits of this authorization:
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. **Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. **Reevaluation of Permit Decision:** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate. (See Item 4 above.)
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 C.F.R. § 325.7 or enforcement procedures such as those contained in 33 C.F.R. §§ 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 C.F.R. § 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. **Extensions:** General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

 (PERMITTEE) (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

 Kevin P. Arnett, P.E.
 Lieutenant Colonel, U.S. Army
 District Commander and Engineer (DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE)

(DATE)