

**AGREEMENT IN PRINCIPLE
FOR
TRANSFER OF THE KENO FACILITY**

I. INTRODUCTION

WHEREAS, the Parties to this Agreement in Principle (“AIP”) have executed the Klamath Hydroelectric Settlement Agreement (“KHSA”); and

WHEREAS, the KHSA is intended by all signatories thereto to resolve the pending relicensing proceeding with the Federal Energy Regulatory Commission (“FERC”) for the Klamath Hydroelectric Project No. 2082 (“Hydroelectric Project”) by establishing a process for potential Facilities Removal (as defined in KHSA Section 1.4), and for operation of the Hydroelectric Project during the Interim Period (as defined in KHSA Section 1.4); and

WHEREAS, PacifiCorp is the owner of and licensee for the Hydroelectric Project, which includes the Keno Facility (“Keno Facility” or “Facility”), consisting of Keno Dam and appurtenant facilities, located in Klamath County, Oregon, as more fully described in KHSA Section 1.4 and other land and easements to be described in the Transfer Agreement; and

WHEREAS, the United States, Department of the Interior (“Interior”), through the Bureau of Reclamation, owns and manages the Klamath Reclamation Project to provide water for irrigation and other uses; and, the maintenance of water levels in Lake Ewauna, as controlled by the Keno Facility, provides for diversion and canal maintenance for Klamath Reclamation Project and related privately owned facilities; and

WHEREAS, PacifiCorp and Interior recognize the benefit of coordinated operation of Link River Dam and Keno Dam, and that Interior may need certain land transfers or easements near Link River Dam to ensure coordinated operation of those facilities; and

WHEREAS, Section 7.5 and 7.6.1 of the KHSA provides, subject to conditions set forth therein, for transfer of title to the Keno Facility from PacifiCorp to Interior; and

WHEREAS, PacifiCorp desires to transfer to Interior, and Interior to accept from PacifiCorp, the Keno Facility; and

WHEREAS, this AIP memorializes broad principles designed to function as a framework for the development of a final agreement for PacifiCorp to transfer the Keno Facility to Interior; and

WHEREAS, the Parties agree to continue good-faith negotiations to reach a final Transfer Agreement consistent with the principles outlined herein that will specify the Parties’ substantive rights and obligations, the procedures and timetables, and other steps;

V. SIGNATURES**For PacifiCorp**

Dean Brockbank
(Signature)

July 5, 2012
(Date)

Dean Brockbank
(Name)

Vice President & General Counsel, PacifiCorp Energy
(Title)

For the Bureau of Reclamation

PABLO R. ARROYAVE

(Signature)

AUG 22 2012
AUG 22 2012
(Date)

FOR

Donald R. Glaser
(Name)

Regional Director
(Title)

other subjects, including but not limited to the following: release of mortgage indenture by PacifiCorp; processes for obtaining timely approval, authorizations, or certifications, as applicable, from agencies of competent jurisdiction, for any measures in the Transfer Agreement which require such approval pursuant to any applicable federal and state laws; and, liability for certain actions related to the transfer of certain agreements and other interests related to the operation of Keno Facility, Lake Ewauna and Link River Dam.

- G. Transfer shall take place following the latest of: (1) PacifiCorp obtaining and completing the requirements of any government or public utility commission approvals necessary for the transfer; (2) completion of any work necessary to meet Interior's dam safety Directives and Standards; (3) PacifiCorp obtaining necessary mortgage releases; and (4) notification by the DRE pursuant to KHSA Section 7.4.1 that J.C. Boyle Facilities Removal is ready to commence.
- H. PacifiCorp's obligation to make the transfer is conditioned on receipt of all necessary federal, state, and public utility commission approvals, including the removal of the Facility from the FERC license for Project No. 2082. PacifiCorp shall timely begin to seek such approvals when and if the DRE has developed a Definite Plan for facilities removal as provided for in Section 7.2 of the KHSA. If the conditions of any necessary approvals under the KHSA are unacceptable to PacifiCorp or Interior, the provisions in Paragraph II.B.ii of this AIP shall be followed.
- I. The Transfer Agreement, including all exhibits attached thereto, will embody the complete and entire agreement between the Parties regarding transfer of the Keno Facility to Interior and will supersede all prior negotiations, agreements, and understandings related thereto. However, the Transfer Agreement shall not alter or change in any way the KHSA or the provisions of any written agreement between the Parties relating to Link River Dam, Keno Facility or Lake Ewauna, in existence at the time the Transfer Agreement is executed regarding matters other than the transfer of the Keno Facility.
- J. The Parties intend that the Transfer Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs and successors.
- K. Neither this AIP nor the Transfer Agreement shall be recorded in any public office. Any attempt by Interior to record the AIP or Transfer Agreement shall constitute a default by Interior. However, the final instruments of transfer (deeds) may be recorded by Interior in the appropriate county offices.
- L. This AIP and the Transfer Agreement shall be governed by, and construed in accordance with, the laws of the State of Oregon, to the extent not inconsistent with any applicable federal laws.

incidental take permits issued for interim operation of the Hydroelectric Project will not become the responsibility or obligation of Interior as a result of transfer of the Keno Facility to Interior.

III. AGREEMENT

- A. PacifiCorp agrees to convey to the United States fee simple title to the Keno Facility together with all necessary water rights, easements, and appurtenants thereto. Title shall be in a form reasonably satisfactory to Interior and PacifiCorp, shall be in accordance with applicable United States Department of Justice title standards, and specify that the transfer is being made for the Bureau of Reclamation. The Facility will be free of encumbrances or liens except as provided in the Transfer Agreement.
- B. Prior to the transfer, Interior shall have access to the Facility to perform studies and inspections to determine if transfer of the Facility to Interior satisfies all applicable requirements. If any improvements are required in order for the Facility to meet Interior's Directives and Standards applicable to dam safety, costs associated with these improvements shall be funded by non-PacifiCorp sources. Interior may elect to waive the improvement and proceed to settlement, make the improvement through the use of non-PacifiCorp funds, or terminate the Transfer Agreement, in which case the Parties shall be relieved of any further liability thereunder.
- C. PacifiCorp has provided to Interior substantial documents and materials in order for Interior to carry out its due diligence inspection of the Keno Facility. The Parties agree that PacifiCorp will make reasonable efforts to provide any additional documents and materials in its control or possession reasonably necessary for Interior to complete its inspection. PacifiCorp has provided substantial documents and materials subject to a Confidentiality Agreement entered into on January 15, 2010 by the Parties. If this AIP or the Transfer Agreement is terminated, Interior will promptly return to PacifiCorp all such materials. Return of documents and materials following any termination of this AIP will occur as set forth in the Confidentiality Agreement.
- D. Prior to transfer, PacifiCorp will provide to Interior any reasonably available existing survey information regarding the Facility.
- E. The Transfer Agreement shall include provisions, if and as necessary, for coordination of operations between Link River Dam, the Keno Facility, and any PacifiCorp facilities remaining upon completion of Facilities Removal.
- F. In addition to the matters set forth above, the Transfer Agreement may address terms and conditions materially consistent with the goals of the AIP, as well as

B. Conditions

- i. The Parties shall in good faith negotiate a Transfer Agreement as provided in Section 7.5.2 of the Klamath Hydroelectric Settlement Agreement. The Parties also recognize that execution and implementation of the Transfer Agreement is subject to the successful completion of other actions under or pursuant to the KHSA as set forth therein.
- ii. If the parties are unable to agree on the terms and conditions for transfer of the Keno Facility, the parties shall follow the dispute resolution procedures as provided in Section 8.6 the KHSA.
- iii. The Parties agree that all drafts of this AIP shall be held strictly confidential among the Parties to the extent allowed by applicable law, unless unanimously agreed otherwise by the Parties. Representatives of the Parties may share the draft AIP with their principals and attorneys. Except as provided above, disclosure of drafts of this AIP or any of the material terms contained herein, in violation of this paragraph, shall be grounds for termination of negotiations. Once executed this AIP will be a public document. This paragraph is binding on the Parties and survives termination of this AIP.
- iv. This AIP and the Transfer Agreement are subject to the requirements of the Anti-Deficiency Act, 31 U.S.C. §§ 1341-1519, and the availability of appropriated funds. Nothing in this Agreement is intended or shall be construed to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury. This paragraph is binding on the Parties and survives termination of this AIP, except to the extent it is superseded by mutual agreement of the Parties in the Transfer Agreement or subsequent written agreements.
- v. The Parties agree that there are no binding obligations or commitments contained in this AIP other than those which are expressly stated in this AIP. There shall be no remedy for any potential or alleged breach of non-binding provisions of this AIP, and none of the Parties shall be subject to specific performance, damages, or any other remedy or type of relief for failure to perform the non-binding provisions. For any binding provisions, the remedy shall be as provided in Paragraph II.B.ii above. Until a Transfer Agreement is executed, the Parties agree to refrain from any actions that do not support or further advance discussions toward the commitments being contemplated by this AIP; provided, the Parties reserve their rights under the KHSA as provided in Paragraph II.B.ii. above, and their rights to protect, defend, and discharge their interests and duties before any regulatory agency, court, or other forum, or carry out any action otherwise required by law and to the extent it can do so in a manner not inconsistent with this AIP.
- vi. Responsibilities and obligations of PacifiCorp under Interim Measures of the KHSA, under habitat conservation plans developed by PacifiCorp, and under

NOW, THEREFORE, the Parties agree as follows:

II. DEFINITIONS AND CONDITIONS

A. Definitions

- i. "Affirmative Determination" means a determination by the Secretary of the Interior under Section 3 of the KHSA that Facilities Removal should proceed.
- ii. "Agreement in Principle" or "AIP" refers to the Agreement described herein.
- iii. "Dam Removal Entity" or "DRE" has the same meaning stated in Section 1.4 of the KHSA,
- iv. "Definite Plan" means a plan and timetable for Facilities Removal prepared by the DRE under Section 7.2.1 after an Affirmative Determination by the Secretary of the Interior.
- v. "Interior" refers to the United States Department of the Interior.
- vi. "Interim Measures" refers to the measures contained in Appendices C and D of the KHSA.
- vii. "Klamath Hydroelectric Settlement Agreement" or "KHSA" refers to the Klamath Hydroelectric Settlement Agreement executed on February 18, 2010, by Interior, PacifiCorp, the States of California and Oregon, and numerous other parties, establishing a process for potential Facilities Removal and for operation of the Project during the Interim Period, as those terms are defined in Section 1.4 of the KHSA;
- viii. "Keno Facility or Facility" has the same meaning as in Section 1.4 of the Klamath Hydroelectric Settlement Agreement.
- ix. "PacifiCorp" refers to PacifiCorp, an Oregon corporation, the owner of the Keno Facility.
- x. "Parties" or "Party" refers to the United States of America, Department of the Interior, and PacifiCorp, jointly or individually, each of which is duly authorized to execute this Agreement.
- xi. "Transfer Agreement" is a binding agreement among the Parties, pertaining to the subject matter of this Agreement in Principle, including terms in this Agreement in Principle that are agreed shall be in the Transfer Agreement.