

Chapter 6

Compliance with Applicable Laws, Policies, and Plans

6.1 Related Laws, Rules, Regulations, Executive Orders, and Other Authorities

This section is a summary of the federal, tribal, state, and local statutes and regulations that are potentially applicable to the proposed action and alternatives presented in this Klamath Facilities Removal Environmental Impact Statement/Environmental Impact Report (EIS/EIR). Some questions remain over the ultimate applicability of local regulations depending on the selection of the Dam Removal Entity (DRE) (responsible for dam deconstruction) or Hydropower Licensee (responsible for taking over the dams and operations). Future environmental analysis and compliance documentation of the Definite Plan and the Klamath Basin Restoration Agreement (KBRA) will specify the applicable regulations with greater certainty once the selection of the Dam Removal Entity or Hydropower Licensee is made.

The removal of The Four Facilities would be subject to multiple federal and state statutes and local planning regulations. Table 6-1 lists the federal statute or requirement, the section it is described in, any relevant permits or processes required, and the status of compliance. Table 6-2 provides the regulatory requirements of the State of California and Table 6-3 provides the regulatory requirements of the State of Oregon. Table 6-4 provides the county and city requirements.

Table 6-1. Related Federal Laws, Rules, Regulations, Executive Orders, and Other Authorities

Statute	Section	Relevant Permits and Processes
Federal Authorities		
Federal Endangered Species Act	Section 3.3, Aquatic Resources, Section 3.5, Terrestrial Resources	EIS/EIR, Section 7 Consultation, Biological Assessment, Biological Opinion
Fish and Wildlife Coordination Act	Section 3.3, Aquatic Resources, Section 3.5, Terrestrial Resources	EIS/EIR
Magnuson-Stevens Fishery Conservation and Management Act	Section 3.3, Aquatic Resources	EIS/EIR, Essential Fish Habitat Report
Marine Mammal Protection Act	Section 3.3, Aquatic Resources	EIS/EIR

Table 6-1. Related Federal Laws, Rules, Regulations, Executive Orders, and Other Authorities

Statute	Section	Relevant Permits and Processes
Safe Drinking Water Act	Section 3.2, Water Quality and Section 3.4, Algae	EIS/EIR
Coastal Zone Management Act	Section 3.2, Water Quality and Section 3.4, Algae	EIS/EIR, Coastal Zone Consistency Certification
Migratory Bird Treaty Act	Section 3.5, Terrestrial Resources	EIS/EIR
Clean Water Act	Section 3.2 Water Quality, Section 3.4, Algae, Section 3.5, Terrestrial Resources, Section 3.19, Scenic Resources	EIS/EIR, CWA Section 401 Water Quality Certification, CWA 402 NPDES, and 404 permits
Executive Order 11990 – Protection of Wetlands	Section 3.5, Terrestrial Resources	EIS/EIR
Executive Order 11988 – Floodplain Management	Section 3.5, Terrestrial Resources	EIS/EIR
Bald and Golden Eagle Protection Act	Section 3.5, Terrestrial Resources	EIS/EIR
National Wildlife Refuge Administration Act, as amended by the National Wildlife Refuge System Improvement Act of 1997	Section 3.5, Terrestrial Resources	EIS/EIR
Northwest Forest Plan	Section 3.5, Terrestrial Resources	EIS/EIR
National Flood Insurance Program	Section 3.6, Flood Hydrology	EIS/EIR
CFR Title 16 Conservation	Section 3.8, Water Supply and Water Rights	EIS/EIR
CFR Title 25 Indians	Section 3.8, Water Supply and Water Rights	EIS/EIR
CFR Title 33 Navigation and Navigable Waters	Section 3.8, Water Supply and Water Rights	EIS/EIR, CWA Section 404 Permit, Rivers and Harbors Act Section 10 Permit
CFR Title 43 Public Land	Section 3.8, Water Supply and Water Rights	EIS/EIR
Clean Air Act	Section 3.9, Air Quality	EIS/EIR, General Conformity
Department of the Interior, Secretarial Order 3289	Section 3.10, Greenhouse Gases/Global Climate Change	EIS/EIR
CFR Title 75 Section 31514	Section 3.10, Greenhouse Gases/Global Climate Change	EIS/EIR
National Historic Preservation Act	Section 3.12, Tribal Trust, Section 3.13, Cultural and Historic Resources	EIS/EIR, Section 106 Consultation with SHPO
American Indian Religious Freedom Act	Section 3.12, Tribal Trust, Section 3.13, Cultural and Historic Resources	EIS/EIR
Federal Power Act	Section 3.12, Tribal Trust, Section 3.13, Cultural and Historic Resources	EIS/EIR

Table 6-1. Related Federal Laws, Rules, Regulations, Executive Orders, and Other Authorities

Statute	Section	Relevant Permits and Processes
Executive Order 13007	Section 3.12, Tribal Trust, Section 3.13, Cultural and Historic Resources	EIS/EIR
Executive Order 13084	Section 3.12, Tribal Trust, Section 3.13, Cultural and Historic Resources	EIS/EIR
Executive Order 12875, Enhancing the Intergovernmental Partnership	Section 3.12, Tribal Trust	EIS/EIR
Executive Order 13175, Consultation and Coordination with Indian Tribes	Section 3.12, Tribal Trust	EIS/EIR
Native American Graves Protection and Repatriation Act	Section 3.13, Cultural and Historic Resources	EIS/EIR, Section 106 Consultation with SHPO
Historic Sites Act of 1935	Section 3.13, Cultural and Historic Resources	EIS/EIR, Section 106 Consultation with SHPO
Archeological and Historic Preservation Act, 16 USC 469-469c-1	Section 3.13, Cultural and Historic Resources	EIS/EIR, Section 106 Consultation with SHPO
Protection of Archaeological Resources CFR Title 43 Section 7	Section 3.13, Cultural and Historic Resources	EIS/EIR, Section 106 Consultation with SHPO
Executive Order 11593, Protection and Enhancement of the Cultural Environment	Section 3.13, Cultural and Historic Resources	EIS/EIR, Section 106 Consultation with SHPO
Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations	Section 3.16, Environmental Justice	EIS/EIR
Department of the Interior, The Environmental Justice Strategic Plan, 1995	Section 3.16, Environmental Justice	EIS/EIR
U.S. Environmental Protection Agency, Environmental Justice Implementation Plan, 1996	Section 3.16, Environmental Justice	EIS/EIR
Bureau of Land Management , Redding Resource Area Resource Management Plan	Section 3.14, Land Use, Agricultural and Forest Resources, Section 3.19, Scenic Resources	EIS/EIR
Bureau of Land Management , Klamath Falls Resource Area Resource Management Plan and Rangeland Program	Section 3.14, Land Use, Agricultural and Forest Resources, Section 3.19, Scenic Resources	EIS/EIR
Bureau of Land Management, Draft Upper Klamath River Management Plan EIS/EIR and Resource Management Plan Amendments	Section 3.19, Scenic Resources	EIS/EIR
Bureau of Land Management Visual Resource Management methodology	Section 3.19, Scenic Resources	EIS/EIR
U.S. Forest Service, Klamath National Forest Land and Resource Management Plan	Section 3.14, Land Use, Agricultural and Forest Resources, Section 3.19, Scenic Resources, Section 3.20, Recreation	EIS/EIR

Table 6-1. Related Federal Laws, Rules, Regulations, Executive Orders, and Other Authorities

Statute	Section	Relevant Permits and Processes
Kuchel Act	Section 3.14, Land Use, Agricultural and Forest Resources	EIS/EIR
Wild and Scenic Rivers Act	Section 3.19, Scenic Resources, Section 3.20, Recreation	EIS/EIR, Fish and Game Code Section 1602 Streambed Alteration Agreement, Clean Water Act Section 404, Notification of Intent,
U.S. Forest Service Six Rivers National Forest Land and Resource Management Plan	Section 3.20, Recreation	EIS/EIR
U.S. Forest Service Fremont National Forest Land and Resource Management Plan	Section 3.20, Recreation	EIS/EIR
National Park Service General Management and Strategic Plan, Redwood National Park	Section 3.20, Recreation	EIS/EIR
Resource Conservation and Recovery Act	Section 3.21, Toxics and Hazardous Materials	EIS/EIR
Hazardous Material Transportation Act	Section 3.21, Toxics and Hazardous Materials	EIS/EIR
Comprehensive Environmental Response Compensation and Liability Act	Section 3.21, Toxics and Hazardous Materials	EIS/EIR
Superfund Amendment Reauthorization Act	Section 3.21, Toxics /Hazardous Materials	EIS/EIR
CFR Title 40 Section 260-279	Section 3.21, Toxics /Hazardous Materials	EIS/EIR
Emergency Planning and Community Right to Know Act, CFR Title 40 Section 301 et seq.	Section 3.21, Toxics /Hazardous Materials	EIS/EIR
Toxic Substance Control Act	Section 3.21, Toxics /Hazardous Materials	EIS/EIR
CFR Title 23 Part 772	Section 3.23, Noise and Vibration	EIS/EIR
Tribal Plans and Policies		
Hoop Valley Tribe Water Quality Control Plan	Section 3.2, Water Quality and Section 3.4, Algae	EIS/EIR, Water Quality Permit

Key:

CFR = Code of Federal Regulations

CWA = Clean Water Act

EIS/EIR = Environmental Impact Statement/Environmental Impact Report

NPDES = National Pollutant Discharge Elimination System

SHPO = State Historic Preservation Office

USC = United States Code

Table 6-2. California State Statutes and Regulations

Statute	Section with Description	Relevant Permits and Processes
California Coastal Management Act	Section 3.2 Water Quality, Section 3.3 Aquatic Resources, Section 3.4, Algae	Consistency Determination
California Endangered Species Act	Section 3.3, Aquatic Resources, Section 3.5, Terrestrial Resources	EIS/EIR, Fish and Game Code Section 2080.1 Consistency Determination or Fish and Game Code Section 2081 Incidental Take Permit
CFG Code Section 3511 Fully Protected Birds	Section 3.5, Terrestrial Resources	EIS/EIR, CEQA Findings
CFG Code Section 3503 prohibits the killing of birds and/or the destruction of bird nests	Section 3.5, Terrestrial Resources	EIS/EIR, CEQA Findings
CFG Code Section 3503.5 prohibition on the killing of raptor species and/or the destruction of raptor nests.	Section 3.5, Terrestrial Resources	EIS/EIR, CEQA Findings
CFG Code Section 5515 Fully Protected Fish	Section 3.3, Aquatic Resources,	EIS/EIR, CEQA Findings
CFG Code, Section 1600 et seq., Streambed Alterations	Section 3.3, Aquatic Resources, Section 3.5, Terrestrial Resources	EIS/EIR, Fish and Game Code Section 1602 Streambed Alteration Agreement
North Coast Regional Basin Plan	Section 3.2, Water Quality and Section 3.4, Algae	EIS/EIR, CWA Section 401 Water Quality Certification and CWA 402 NPDES Permit
California Porter-Cologne Water Quality Act	Section 3.2, Water Quality and Section 3.4, Algae	EIS/EIR, CWA Section 401 Water Quality Certification and CWA 402 NPDES Permit
California Wild and Scenic Rivers Act	Section 3.19, Scenic Quality and Section 3.20, Recreation	Fish and Game Code Section 1602 Streambed Alteration Agreement
California Ocean Plan	Section 3.2, Water Quality and Section 3.4, Algae	EIS/EIR
California Fish and Game Code, Section 3500-3705, Migratory Bird Protection	Section 3.5, Terrestrial Resources	EIS/EIR
California Department of Water Resources, Bulletin 118	Section 3.7, Groundwater	EIS/EIR
California Water Code, Sections 10750, 10753.7, 1702, 1706, 1727, 1736, 1810	Section 3.7, Groundwater	EIS/EIR
Groundwater Management Act	Section 3.7, Groundwater	EIS/EIR
Klamath Basin Compact	Section 3.8, Water Supply/Water Rights, Section 3.14, Land Use, Agricultural and Forest Resources	EIS/EIR
California Clean Air Act	Section 3.9, Air Quality	EIS/EIR
California Executive Order S-3-05	Section 3.10 Greenhouse Gases/Global Climate Change	EIS/EIR

Table 6-2. California State Statutes and Regulations

Statute	Section with Description	Relevant Permits and Processes
California Assembly Bill 32	Section 3.10 Greenhouse Gases/Global Climate Change	EIS/EIR
California Executive Order S-13-8	Section 3.10 Greenhouse Gases/Global Climate Change	EIS/EIR
California Executive Order S-14-08	Section 3.10 Greenhouse Gases/Global Climate Change	EIS/EIR
California Executive Order S-21-09	Section 3.10 Greenhouse Gases/Global Climate Change	EIS/EIR
California Environmental Quality Act, Guidelines Section 15064.4	Section 3.10 Greenhouse Gases/Global Climate Change	EIS/EIR
California Government Code Section 65040.12(e)	Section 3.16, Environmental Justice	EIS/EIR
California Government Code Section 6596.2	Section 3.21, Toxics/Hazardous Materials	EIS/EIR
California Hazardous Waste Control Law, California Health and Safety Code, Division 20, Chapter 6.5	Section 3.21, Toxics/Hazardous Materials	EIS/EIR
Carpenter-Presley-Tanner Hazardous Substances Account Act, California Health and Safety Code, Division 10, Chapter 6.8	Section 3.21, Toxics/Hazardous Materials	EIS/EIR
Unified Hazardous Waste and Hazardous Materials Management Regulatory Program	Section 3.21, Toxics/Hazardous Materials	EIS/EIR
California Land Conservation Act	Section 3.14, Land Use, Agricultural and Forest Resources	EIS/EIR
California Farmland Mapping and Monitoring Program	Section 3.14, Land Use, Agricultural and Forest Resources	EIS/EIR
California Code of Regulations Title 14 Chapter 3 Minimum Standards for Solid Waste Handling and Disposal	Section 3.18, Public Health and Safety, Utilities and Public Services, Solid Waste, and Power	EIS/EIR

Key:

CEQA = California Environmental Quality Act

CFG = California Fish and Game

CWA = Clean Water Act

EIS/EIR = Environmental Impact Statement/Environmental Impact Report

NPDES = National Pollutant Discharge Elimination System

Table 6-3. Oregon State Statutes and Regulations

Statute	Section with Description	Relevant Permits and Processes
Oregon Endangered Species Act	Section 3.3, Aquatic Resources, Section 3.5, Terrestrial Resources	EIS/EIR, Incidental Take Permit
Oregon Removal-Fill Law	Section 3.3, Aquatic Resources, Section 3.5, Terrestrial Resources	EIS/EIR, Individual Removal-Fill Permit
Oregon Statewide Planning Program	Section 3.3, Aquatic Resources	EIS/EIR
Oregon Administrative Rules for Water Pollution Control	Section 3.2, Water Quality	EIS/EIR, CWA 401 Water Quality Certification, CWA 402 Permit
ORS 2009, Chapters 536 – 541, 448.271	Section 3.7, Groundwater	EIS/EIR
Oregon Water Laws, Title 45, Chapters 536-558	Section 3.8, Water Supply/ Water Rights	EIS/EIR
Oregon House Bill 3543 Global Warming Actions	Section 3.10 Greenhouse Gases/Global Climate Change	EIS/EIR
ORS, Chapter 308 Assessment of Property for Taxation	Section 3.14, Land Use, Agricultural and Forest Resources	EIS/EIR
Oregon Senate Bill 420 Environmental Justice	Section 3.16, Environmental Justice	EIS/EIR
Oregon Administrative Rules 340, Division 94 Solid Waste: Municipal Solid Waste Landfills	Section 3.18, Public Health and Safety, Utilities and Public Services, Solid Waste, and Power	EIS/EIR
Oregon Parks and Recreation Department, Klamath River Scenic Waterway Rules	Section 3.19, Scenic Resources, Section 3.20, Recreation	EIS/EIR, Notification of Intent
Solid Waste Management, ORS 459	Section 3.21, Toxics/ Hazardous Materials	EIS/EIR
Solid Waste Management, OAR 340-093	Section 3.21, Toxics/ Hazardous Materials	EIS/EIR
Hazardous Waste and Hazardous Materials, ORS 465 -466, OAR 340-100	Section 3.21, Toxics/ Hazardous Materials	EIS/EIR

Key:

CWA = Clean Water Act

EIS/EIR = Environmental Impact Statement/Environmental Impact Report

OAR = Oregon Administrative Rule

ORS = Oregon Revised Statutes

Table 6-4. Local Plans and Policies

Statute	Section with Description	Relevant Permits and Processes
Siskiyou County General Plan	Section 3.5, Terrestrial Resources, Section 3.9, Air Quality, Section 3.11, Geology, Soils, and Geologic Hazards, Section 3.14, Land Use, Agricultural and Forest Resources, Section 3.19, Scenic Resources, Section 3.23, Noise and Vibration	EIS/EIR, Maximum Allowable Noise Limits, Potential Air Quality Certification for generators and other temporary stationary sources
Siskiyou County Land Development Code, Chapter 13	Section 3.14, Land Use, Agricultural and Forest Resources	EIS/EIR
Siskiyou County Source Reduction and Recycling Element	Section 3.18, Public Health and Safety, Utilities and Public Services, Solid Waste, and Power	EIS/EIR
Humboldt County General Plan	Section 3.5, Terrestrial Resources, Section 3.14, Land Use, Agricultural and Forest Resources	EIS/EIR
Del Norte County General Plan	Section 3.5, Terrestrial Resources	EIS/EIR
Klamath County Comprehensive Plan	Section 3.5, Terrestrial Resources, Section 3.14, Land Use, Agricultural and Forest Resources, Section 3.19, Scenic Resources	EIS/EIR
Klamath County Land Development Code, Article 59	Section 3.6, Flood Hydrology	EIS/EIR
Klamath County Land Development Code, Chapter 70	Section 3.14, Land Use, Agricultural and Forest Resources	EIS/EIR
Klamath County Solid Waste Management Plan	Section 3.18, Public Health and Safety, Utilities and Public Services, Solid Waste, and Power	EIS/EIR
Record of Decision and Resource Management Plan Klamath Falls Resource Area (December 2008)	The RMP guides the BLM's management of the area according to ecological, economic, social, and managerial principles.	EIS/EIR
Klamath National Forest Land and Resource Management Plan	The plan guides USFS management of the forest (including recreation goals) and allocates each Wild and Scenic Rivers -designated segment on the Klamath, Scott, and Salmon Rivers within its planning boundary to a management area according to its classification.	EIS/EIR

Table 6-4. Local Plans and Policies

Statute	Section with Description	Relevant Permits and Processes
Redding RMP – covering the Mallard Cove Recreation Area at Copco 1 Reservoir and several parcels crossed by transmission lines at Copco Road and Iron Gate Reservoir.	The RMP focuses on four primary issues: land tenure adjustment, recreation management, access, and forest management (FERC 2007). Recreation opportunities in the Klamath Management Area identified in the RMP include fishing, whitewater boating, hunting, and off-highway vehicle use (BLM 1992)	EIS/EIR
Six Rivers National Forest Land and Resource Management Plan	The plan guides USFS management of the forest (including recreation goals).	EIS/EIR
Siskiyou County Zoning Ordinance, Article 54 & Chapter 10	Section 3.6, Flood Hydrology	EIS/EIR
Siskiyou County Zoning Ordinance, Chapter 19, Title 3	Section 3.7, Groundwater	EIS/EIR
Modoc County General Plan	Section 3.14, Land Use, Agricultural and Forest Resources	EIS/EIR
City of Klamath Falls Comprehensive Plan	Section 3.19, Scenic Resources	EIS/EIR
City of Klamath Falls Community Development Ordinance	Section 3.19, Scenic Resources	EIS/EIR
City of Klamath Falls Parks, Recreation, and Open Space Master Plan	Section 3.19, Scenic Resources and Section 3.20, Recreation	EIS/EIR
City of Yreka General Plan	Section 3.14, Land Use, Agricultural and Forest Resources, Section 3.18, Public Health and Safety, Utilities and Public Services, Solid Waste, and Power	EIS/EIR

Key:

BLM = Bureau of Land Management

EIS/EIR = Environmental Impact Statement/Environmental Impact Report

FERC = Federal Energy Regulatory Commission

USFS = United States Forest Service

6.2 References

Bureau of Land Management [BLM]. 1992. Proposed Redding Resource Management Plan and Final Environmental Impact Statement. Prepared By Redding Resource Area, July 1992.

Federal Energy Regulatory Commission (FERC). 2007. Final Environmental Impact Statement for Hydropower License, Klamath Hydroelectric Project, FERC Project No. 2082-027, FERC/EIS-0201F. Washington, DC, Federal Energy Regulatory Commission, Office of Energy Projects, Division of Hydropower Licensing.