

**U.S. SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES**

**Water Resources Issues in the Klamath Basin
June 20, 2013**

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On behalf of Conservation and Fishing Groups**

Chairman Wyden, Ranking Member Murkowski, and Members:

Thank you for this opportunity to testify. I am Richard Roos-Collins, appearing on behalf of American Rivers, California Trout, Trout Unlimited, Pacific Coast Federation of Fishermen's Associations, the Institute for Fisheries Resources, Salmon River Restoration Council, and the Northern California Council of the Federation of Fly Fishers. All are signatories of the Klamath Basin and Hydropower Agreements. We respectfully request that this Committee draft and favorably report legislation to authorize full implementation of these agreements.

The water resources of the Klamath Basin have significant national value and federal interest. The Klamath Reclamation Project, authorized in 1905, is one of the oldest in the Reclamation program. Its farmers and the upstream ranchers today produce more than \$560 million annually in economic value,¹ including some of the world's best potatoes, horseradish, mint, and beef. There are six National Wildlife Refuges there, the first dedicated by President Teddy Roosevelt in 1908. These are among the most productive waterfowl habitats in the Pacific Flyway,² supporting 80% of the migratory waterfowl and the largest population of bald eagles in the lower 48.³ The Forest Service administers six National Forests which are more than half of the land in the basin, plus the Klamath National Wild and Scenic River. The salmon

fisheries of this basin are the third largest in the Lower 48⁴ and today support commercial fishing which produces \$32 million annually in economic value.⁵ There are six federally recognized tribes which occupy their time-immemorial lands and waters.

Unfortunately, in most years, there isn't enough water in the Klamath River Basin for all legal uses. Over the past century, federal and state laws have regulated individual uses in a manner that has not prevented significant shortages. These shortages have rotated between farming and fisheries. 2013 is a true crisis for Upper Basin ranchers. Litigation and political conflict are a constant for the water resources in the Klamath Basin.⁶ If we muddle through, the future of this basin will be more water shortages, more litigation, and associated hardships.

Diverse stakeholders gathered in 2004 to answer the question: "Can we agree to a better future?" We held hundreds of meetings across a six-year period, in the face of a widespread view that we would certainly fail. After hard compromises, more than forty of these participating stakeholders signed the Klamath Agreements. Some, who are here today to oppose the agreements, left the negotiation table.

Why did we sign? The Klamath Agreements are the first-ever comprehensive program for management of these water resources at a basin scale. Implementation will restore sustainable water supply for all beneficial uses. The agreements will provide a better future for the many communities in this extraordinary basin.

To achieve that goal, the signatory parties committed to unprecedented cooperation to implement fundamental changes in current management arrangements over a 50-year term. The parties making these commitments, subject to Congressional authorization, include: the United

States, both states, three of the four participating tribes, Reclamation contractors and many upstream ranchers, commercial fishermen, PacifiCorp, and other stakeholders.

The Klamath Reclamation Project will be modernized. The commitments and improvements will reduce river diversions, improve irrigation techniques, prevent groundwater overdraft, and prepare for drought and emergency. Tribes will resolve their trust claims against the Project and the United States upon performance of these and other measures. In turn, Upper Basin ranchers may voluntarily agree to increase flows for the benefit of native fishes in downstream Upper Klamath Lake. In consideration, tribes will not make calls against junior water rights. The future will be far more secure for these farms and ranches.

The National Wildlife Refuges in the basin will receive a lifeline. For the first time, these refuges will have a reliable water supply. The authorized purposes of the Klamath Reclamation Project will be expanded to permit this use. Refuges will receive an adequate supply 88% of the years under the Klamath Agreements, versus 12% today.⁷ These measures will enhance habitat in these six refuges. Wildlife viewing and hunting, now at 89,000 visits per year, will increase substantially – hunting by nearly 50%.⁸

The salmon fisheries in this basin will be restored to good condition. These have declined more than 90% over this century,⁹ resulting in periodic limitations on commercial catch from Cape Falcon, Oregon to Monterey, California under the Pacific Fishery Management Council's weak-stock management rules.¹⁰ Under the Basin Agreement, these and other native fisheries will receive enough clean water for spawning and rearing, due to reduced diversions by the Klamath Reclamation Project and Upper Basin ranchers. That agreement also establishes the first comprehensive program to address all non-flow stressors from mountains to sea.

PacifiCorp's power-only dams, which have blocked fish passage to more than 420 miles of spawning habitat¹¹ since 1918, will be removed. The economic value of commercial and ocean sport fishing will increase by \$185 million over the term of the Klamath Agreements,¹² as these fisheries recover -- salmon populations nearly doubling.¹³

What do the settling parties seek from this Committee and Congress?

We respectfully request that Congress enact statutory authorities to implement certain measures necessary for the comprehensive program. For example, National Wildlife Refuges will be authorized as a new purpose of the Klamath Reclamation Project. Another authority will permit the Interior Secretary, rather than the Federal Energy Regulatory Commission, to decide whether removal of PacifiCorp's four dams is in the public interest. According to the Public Utilities Commissions of California and Oregon (PUCs), dam removal under the conditions specified in the Hydropower Agreement will be less costly and risky for power customers than relicensing under the Federal Power Act.¹⁴ The PUCs approved PacifiCorp's application for a 2% rate surcharge to generate \$200 million for dam removal, and no federal funds will be used.

Implementation of the Basin Agreement is proposed to involve just under \$40 million per year of new federal appropriation over the next 15 years.¹⁵ Is that a fiscally prudent investment? The Basin Agreement will avoid substantial federal liabilities under tribal trust doctrine, resulting from near loss of the fisheries which were essential to tribal sustenance, culture, and religion. It will also reduce the need for emergency relief resulting from water shortages. In the past decade, such relief for farmers or fishermen averaged \$17 million and reached as high as \$60 million in a single year.¹⁶

Most importantly, the future of farming and fishing communities in this basin will be much more secure. Even in the face of water shortages, these communities produce economic value each year comparable to the entire 15-year budget proposal under the Basin Agreement. That value will increase substantially through this proposed investment.

This Committee is rightly known for your pragmatic and bipartisan approach to resources management. The Klamath Agreements are an unprecedented opportunity for this Committee and Congress to help local communities resolve these water shortages and restore the sustainability of fishing, farming, and tribal uses in the Klamath Basin.

ATTACHMENTS

1. Karuk Tribe and Pacific Coast Federation of Fishermen's Associations, "The Klamath Settlement Agreements: Myths and Facts" (2010)
2. Ron Cole, U.S. Fish and Wildlife Service, "How the Klamath Basin Restoration Agreement (KBRA) Affects the Klamath Basin National Wildlife Refuges (KBNWR)" (2010)
3. Letter from Sportsmen Groups to Senator Ron Wyden (October 11, 2011)

ENDNOTES

¹ U.S. Department of the Interior, Bureau of Reclamation, *Economics and Tribal Summary Technical Report* (2012), p. 2-26.

² U.S. Department of Interior and U.S. Department of Commerce, *Klamath Dam Removal: Overview Report for the Secretary of Interior* (2012), pp. 58, 321 – 324; Dave Mauser, U.S. Fish and Wildlife Service, *Effects of the Klamath Basin Restoration Agreement on Lower Klamath, Tule Lake, and Upper Klamath National Wildlife Refuges* (2012), p. 9.

³ *Overview Report*, p. 58.

⁴ *Overview Report*, p. 58.

- ⁵ *Economics and Tribal Summary Technical Report*, pp. 2-44 – 2-46.
- ⁶ Congressional Research Service, *Klamath River Basin: Background and Issues* (Report 7-5700) (2012), p. 1.
- ⁷ *Overview Report*, pp. 321 – 324.
- ⁸ Edward Maillett, U.S. Fish and Wildlife Service, *Refuge Recreation Economics: Technical Report for the Secretarial Determination on whether to Remove Four Dams on the Klamath River in California and Oregon* (2011), pp. 25 - 26 (comparing 50th percentile scenarios).
- ⁹ *Overview Report*, pp. 4, 58.
- ¹⁰ Cynthia Thomson, National Marine Fisheries Service, *Commercial Fishing Economics: Technical Report for the Secretarial Determination on whether to Remove Four Dams on the Klamath River in California and Oregon* (2012), pp. 7 - 9.
- ¹¹ *Overview Report*, p. 14.
- ¹² *Economics and Tribal Summary Technical Report*, p. ES-4; *Commercial Fishing Economics*, p. 30.
- ¹³ *Overview Report*, p. 17.
- ¹⁴ Oregon Public Utilities Commission, Order No. 10-364 (2010), pp. 8 - 13; California Public Utilities Commission, Decision 11-05-002 (Approving a Rate Increase for PacifiCorp Pursuant to Klamath Hydroelectric Settlement Agreement) (2011), pp. 11 - 13; *Overview Report*, p. 42.
- ¹⁵ CRS, *Klamath River Basin*, p. 26; *Overview Report*, p. 218.
- ¹⁶ CRS, *Klamath River Basin*, p. 10.