

**Statement of John C. Bezdek, Senior Advisor to the Deputy Secretary  
U.S. Department of the Interior  
before the  
Committee on Energy and Natural Resources  
United States Senate**

**S. 2379 Klamath Basin Water Recovery and Economic Restoration Act of 2014  
June 3, 2014**

Chairman Landrieu, Ranking Member Murkowski, and members of the Committee, I am John Bezdek, Senior Advisor to Department of the Interior Deputy Secretary Michael Connor. I began working on Klamath Basin issues in 1997 and since 2007 have had the privilege of working directly for the Department of the Interior (Department), alongside our interagency federal team, with the varied and diverse interests of the Klamath Basin regarding the Klamath Agreements (Agreements): the Klamath Hydroelectric Settlement Agreement (KHSA); the Klamath Basin Restoration Agreement (KBRA); and the Upper Klamath Basin Comprehensive Agreement (UKBCA). I am pleased to provide the views of the Administration regarding S. 2379, the Klamath Basin Water Recovery and Economic Restoration Act of 2014, which would authorize the Klamath Agreements. These agreements were envisioned to provide a comprehensive solution for water, fishery, and power issues in the Klamath Basin.

The Klamath Basin has a long history of conflict driven by scarce water resources that have been over-allocated among competing uses. While the conflict began generations ago, in the recent past we have seen the following: water deliveries to Reclamation's Klamath Project were shut off in 2001, which caused grave hardship for hundreds of farmers; over 30,000 adult salmon perished in the lower Klamath River (2002); closure of the commercial ocean fishery along the Oregon and California coasts due to poor Klamath Basin stocks in 2006; no surface water irrigation deliveries made to the upper basin ranching communities (2013); reductions in water supplies to the Klamath Reclamation Project (2010, 2013, and 2014); the continued voluntary tribal fishing ban, since 1986, for c'waam (Lost River Suckers) and Shortnose Suckers in Upper Klamath Lake; Endangered Species Act listings on declining populations of suckers in Upper Klamath Lake and Coho salmon in the Klamath River; limited water deliveries to wildlife refuges for a number of years, continuing today, for the water needed to support one of the most important stop over points on the Pacific Flyway; and a significant increase in the cost of power which makes it more expensive for irrigators to conserve and re-use water. All of these events continue to cast uncertainty and doubt upon the communities of the basin, including the continuation of the way of life of the tribes and the ranching communities and the \$600 million a year in agricultural products and jobs that contribute to the local economy.<sup>1</sup> Moreover, analysis shows all of these problems in the basin will likely worsen and may occur more frequently in the coming years due to impacts of climate change unless a long term solution is implemented.

Fortunately, the tools, in the form of the Klamath Agreements, are available and ready to be implemented to address these issues. Collectively, these three Agreements approach the restoration of resources, economies, and communities of the basin in a holistic manner instead of

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<sup>1</sup> Revised Cost Estimates for the Klamath Basin Restoration Agreement. June 17, 2011.  
<http://216.119.96.156/Klamath/2011/06/RevisedCostEstimates.pdf>

continuing the band-aid approach that oftentimes falls short of providing even short-term relief -- much less addressing the underlying causes.

These agreements have broad and diverse support. There are currently 45 Parties to the KHSA and 43 Parties to the KBRA, representing Federal agencies, California and Oregon, three Indian tribes, two counties, irrigators, and conservation and fishing groups<sup>2</sup>. There are sixteen parties to the Upper Basin Agreement, including the State of Oregon, the Klamath Tribes, and a broad coalition of Upper Klamath Basin irrigators.

The stakeholders of the Klamath Basin have made the courageous decision to set aside differences and generations of acrimony to find a better path forward. Implementing these agreements and accomplishing the parties' collective goals will take substantial resources. Yet the cost of inaction could easily be even higher, not just in the form of additional dollars to be expended in the future, but also in the form of additional stressors upon communities in the basin. Thus, we support S. 2379 and the Agreements that it will implement, including the provisions on costs provided that all parties understand that full implementation of the Klamath Agreements will need additional, meaningful, non-federal cost-share that will reduce the overall costs to the United States. Over the course of implementing S. 2379, the Administration will work closely with all the parties to secure additional non-federal sources of funding.

Despite the non-partisan development of this settlement framework over several federal and state administrations, the Administration acknowledges there are a handful of parties that have not signed the Klamath Agreements. We will continue our efforts to find common ground with these parties; however, it is important that the Committee understand that finding common ground has been difficult because some of the opponents have taken positions that would pose unacceptable risks to the farmers, and others oppose efforts to restore the fisheries that are important to the tribes and fishing communities. But we also believe the time is ripe for action and that we have a unique opportunity to heal and restore the basin in a lasting manner. We must not lose this opportunity.

## **UKBCA**

In 2010 when the KBRA and KHSA were signed, many felt the job was done. The reality is that the parties' work was unfinished due to our inability to reach settlement with those many ranchers located on the tributaries to Upper Klamath Lake. With the execution of the UKBCA this past April, we now are able to address restoration of the resources and communities from the headwaters of the Klamath Basin all the way downstream by resolving claims surrounding the tribal water rights held in trust by the United States on behalf of the Klamath Tribes. We are able to do so by providing a framework for a balanced approach to management of water resources in the upper basin that comports seamlessly with the KBRA. In the UKBCA we have been able to simultaneously recognize the seniority of the Tribal water rights, allocate sufficient water to restore and maintain the fisheries, and establish a framework for maintaining the

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<sup>2</sup> The Department of the Interior and National Oceanic and Atmospheric Administration signed the KHSA; the federal agency parties are not signatories to the KBRA. The KBRA includes provisions that these agencies will become parties when Federal authorizing legislation is enacted. PacifiCorp signed the KHSA; it is not a Party to the KBRA.

majority of irrigation in the upper basin. All of this is accomplished through the establishment of certain specified instream flows in tributary streams above Upper Klamath Lake, the retirement of 30,000 acre-feet of water previously consumptively used for irrigation, and, through riparian agreements with private landowners, to restore habitat necessary to support the fishery, while also providing for a stable, sustainable basis for the continuation of irrigated agriculture in the upper basin. Just as importantly, these actions will be managed by local stakeholders through the establishment of a Landowner Entity and a Joint Management Entity.

S. 2379 also establishes tribal economic development funds to compensate the Klamath Tribes for additional commitments made in the UKBCA that were not made in the KBRA or KHSA, to implement a water management program in the upper basin. Since the beginning, the Klamath people have relied on the natural resources they needed to thrive in their traditional subsistence way; these resources, many of which require water to thrive, include the fish, animals, birds, and plants which have provided essential subsistence and economic resources to the Tribes, and which are deeply embedded in the Tribes' religious and cultural practice. All who are familiar with the Klamath Tribes understand the deep and long-term impact the past termination of its federally recognized status and the impacts on treaty resources have had upon the economic, religious, and cultural viability of the Klamath Tribes. The economic development funds authorized under S. 2379 will provide support to help the Tribes in their commitment to build a viable tribal economy, restore their homeland, and increase the opportunities for the exercise of tribal treaty and cultural rights. The funds will accomplish this through the purchase of timber and other lands to be brought back into Trust and the restoration of their subsistence fishery that is central to who they are as a people. This will also provide significant movement towards self-determination that has been so elusive since the restoration of federal recognition.

## **KHSA**

The KHSA is a unique combination of environmental and economic interests striking an agreement that combines both business sense and protection of natural resources. It is an agreement to study the potential removal of four privately owned (PacifiCorp) hydroelectric facilities on the Klamath River and to determine, based on a host of scientific and engineering studies, whether removal of these facilities will advance restoration of fisheries and will be in the public interest. The KHSA calls for removal to occur in 2020, should the Secretary of the Interior determine that removal is in the public interest. Congressional authorization is necessary for the Secretary to make this determination. If there is a decision to remove these facilities, the costs will be borne by a combination of PacifiCorp's electricity customers in Oregon and California through a minimal surcharge and a water bond from the state of California. Consequently, there would be no federal costs associated with facilities removal under the KHSA.

The KHSA also includes certain liability protections for PacifiCorp if these facilities are removed. The current cost estimate is below the cost cap included in the KHSA, though it remains uncertain at this point which non-federal entities would bear any costs in excess of those protections, should such a situation arise. The KHSA also provides a commitment for PacifiCorp to transmit and deliver federally generated power to the Klamath Project, which could provide savings to water users on power costs, making for efficient project operations, and

opportunities to conserve water. On this point, discussions are ongoing between PacifiCorp, the Department, Bonneville Power Administration, Western Area Power Administration, and the Klamath water users on ways to provide power at reduced costs to both the on and off-project communities. Analysis shows that purchasing Federal power could save larger irrigation loads three-quarters to one cent per kilowatt hours, or about 7 to 10 percent. The irrigators who could benefit comprise about half the irrigation loads in the basin; however, passage of S. 2379 would be needed to serve irrigators that are north of the Klamath Project. While these discussions may lead to near-term reductions in power costs, we also note that the KBRA includes programs that require S. 2379's authorization and budget to provide more substantial long-term power relief. Studies are currently underway analyzing the best possible paths forward in achieving the long-term power goal once S. 2379 is enacted.

## **KBRA**

The KBRA is a restoration agreement that includes water allocation and fish habitat restoration actions, predicated on, and working in conjunction with dam removal. The KBRA includes agreements among tribal and non-tribal entities resolving water rights disputes and provides the means for Reclamation's Klamath Project to conserve water supplies and develop sources of power that will place the Project on par with other similarly sized irrigation projects in the West. The KBRA provides a reliable supply of water to the two national wildlife refuges that currently receive adequate water supplies in less than one out of 10 years. If funded, the KBRA will put tribal members to work on habitat restoration actions needed in the basin. Through the establishment of a Federal Advisory Committee Act charter, the KBRA will give parties in the Klamath Basin a major voice in the decision making process regarding the basin's resources.

To illustrate how the Klamath Agreements would change the impacts of the current water year, if fully authorized, involuntary shortages among Klamath Project irrigators could be avoided, the Lower Klamath National Wildlife Refuge would have a guaranteed supply of water (compared to no water being available this year), and upper basin irrigators might not be subject to having their diversions curtailed due to water rights administration. In addition, fishery resources would have a dedicated supply of water, in conjunction with an identified process for restoring degraded habitat. Without the KBRA, the Klamath Reclamation Project and the Klamath Tribes are likely to exercise the water rights recognized in the Klamath Basin Adjudication with increasing frequency, thereby creating uncertainty for and jeopardizing the livelihood of irrigators in the Upper Klamath Basin.

While most of the items in the KBRA, especially those involving tribal and fisheries programs, are presently authorized under existing law, items associated with making Reclamation's Klamath Project more efficient and flexible, such as in allocating funds received from the leasing of refuge lands to the wildlife refuges and irrigators and clarifying the Klamath Project's purposes, require this additional Congressional authorization. Legislation would also be needed to provide the power for water management benefits to irrigators and to supply Federal electricity to off-project irrigators.

## **KHSA/KBRA Science Process**

Between the signing of the Klamath agreements in early 2010 and today, many federal studies have been undertaken and completed that analyze the potential effects of Klamath River dam removal and implementation of KBRA on local communities, tribes, and the environment. A Final Environmental Impact Statement analyzed the proposed action to remove the four lower PacifiCorp dams on the Klamath River in 2020 and to implement the KBRA, as well as three alternatives where some or all of the dams would remain in place.

The process undertaken to develop new information for a Secretarial Determination was rigorous, open, and transparent; it provided multiple opportunities for stakeholder and public participation, included independent subject-matter experts to provide a breadth of perspectives, and relied on multiple levels of independent peer review to ensure objectivity and accuracy of findings.

Over 80 meetings and workshops were held throughout the basin over a period of two years that allowed for public and stakeholder participation in the science process for the KHSA and the KBRA. The public and stakeholders provided input on hypotheses to be tested, study designs, available sources of information, data analysis, and conclusions to be drawn from the analyses. The public involvement improved the quality of reports.

A summary of the findings from the science process is attached as an Appendix. All of these studies and materials are available to the public and can be found at <http://klamathrestoration.gov/>.

## **Parties who have concerns about the Klamath Agreements**

We acknowledge that there are a small number of parties who participated in the negotiations but have chosen not to sign the Klamath Agreements. We respect that each party has its own unique concerns and must make its own decisions as to what it believes is in its best interest. Some of those who oppose the Klamath Agreements want to maintain the status quo or have general concerns about dam removal; others believe their resources are being inappropriately harmed or their rights are being terminated, or that they are bearing an unfair share of the adverse consequences of the Klamath Agreements.

I wish to be clear that given the ongoing challenges and increasing demands for limited water resources, we should continue to evaluate opportunities to develop additional water storage and power generation opportunities where they make sense. But we should also not be afraid to evaluate reduction of water use or potential dam removal when the specific circumstances warrant. The KHSA, for example, reflects the unique circumstances of the Klamath Basin, where the owner of these private dams, in making a business decision that is in the best interests of its electricity customers and the company, has agreed to permit the Secretary of the Interior to evaluate whether their removal would advance fisheries and be in the overall public interest as part of a basin-wide restoration effort that addresses many of the systemic problems that continually plague the Klamath Basin.

There are others who favor dam removal but do not support the Klamath Agreements because they either want to remove or significantly limit irrigated agriculture from the basin or believe that the assurances in the Agreements regarding water supply and the connected issue of river flows terminate tribal rights. As to the former, irrigated agriculture is part of the societal fabric of the basin and, as mentioned earlier, provides significant jobs and economic support to all communities of the basin. While the KBRA does provide further funding for voluntary retirement of up to 30,000 acre-feet of irrigation water on a willing seller or buyer basis, total removal of the loss of most of the irrigated agriculture in the basin is simply not consistent with a comprehensive and durable restoration program meant to assist the communities of the basin and their respective economies and ways of life. As to the latter, the tribal parties, state and federal fishery agencies, and environmental and fishing groups concluded that the water and fisheries program would significantly improve basin fisheries. The agreements do not terminate any tribal rights.

We have also heard the concerns of those around the reservoirs whose properties and businesses may be most directly impacted by dam removal. On this point, we believe that if S. 2379 is enacted, there should be a fund established, managed by representatives in local communities, to recompense land owners for significant diminishment in property value that occurs as a result of dam removal. The cost of such a fund, we believe, should be deemed a cost of mitigation associated with dam removal, and thus borne by non-federal sources. Upon enactment of S. 2379 we will meet with representatives from California and Oregon, as well as the local governments most affected by dam removal to assess the potential for establishment of such a fund.

## **Conclusion**

The Administration supports enactment of S. 2379, which is vital to the communities of the Klamath Basin provided that all parties understand that full implementation of the Klamath Agreements will need additional, meaningful, non-federal cost-share. Over the course of implementing S. 2379, the Administration will work closely with all the parties to secure additional non-federal sources of funding to offset the new federal costs and ensure timely implementation of the Klamath Agreements. This concludes my written statement. I am pleased to answer questions at the appropriate time.