

**Written Testimony of Stan Gilbert
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Klamath County Chamber of Commerce**

Submitted to: Senate Committee on Energy and Natural Resources

**Hearing on Water Resource Issues in the Klamath River Basin
June 20, 2013**

**Klamath County Chamber of Commerce
205 Riverside Drive
Klamath Falls, Oregon 97601**

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The Honorable Ron Wyden
Chairman, Senate Energy & Natural
Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Lisa Murkowski
Ranking Member, Senate Energy & Natural
Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Wyden, Ranking Member Murkowski and Members of the Committee:

On behalf of the Klamath County Chamber of Commerce (Chamber), I thank you for your leadership in conducting this important oversight hearing. This testimony has been prepared to provide the perspective of the Upper Klamath Basin business community as you address the water resources challenges facing the Klamath River watershed at today's important hearing.

Our testimony focuses primarily on our organization's previously stated formal support for the Klamath Settlement Agreements (Agreements). The Agreements will improve the Klamath River ecosystem and the fish and wildlife that depend upon a healthy watershed. Improved water and forest conditions in turn will provide investment opportunities, jobs and growth for agribusinesses, the Klamath Tribes, recreational interests, and merchants in downtown Klamath Falls. And, the Agreements will improve water and power certainty, providing much-needed stability to the agricultural industry that is so critical to the economy of our region.

Currently, the federal government, the States of California and Oregon, several counties, and conservation, agriculture, power and tribal interests are all represented in the decision-making process related to implementation of the Settlement Agreements. With the recent decision by the Klamath County Board of Commissioners to withdraw from the Settlement Agreement process, the Chamber of Commerce has an even greater and more important role to play to ensure that everyday Klamath County residents and our local businesses are apprised of new developments and are afforded a voice in Settlement-related matters.

We applaud the Committee's leadership in setting up this hearing, and we believe that the witnesses you have selected will provide a diverse range of perspectives on the very complicated challenges we face in the Klamath River watershed. Signatories to the Agreements, local stakeholders and Klamath River communities impacted by the Agreements should all welcome the spotlight a Senate hearing provides. The timing of this hearing is critical. The 2013 water year is shaping up to a difficult one. Irrigators in the Upper Klamath Basin face potential curtailment, which could have a devastating impact on local businesses and the community. The Klamath County economy and culture are critically tied to the water resources provided by the

Klamath River system. Our community needs all of the impacted organizations to work together if we are to successfully overcome the challenges facing us this year.

About the Chamber

The Klamath County Chamber of Commerce is the oldest active business advocacy organization (incorporated in 1905) in Klamath County. Chamber members provide support for a wide variety of community activities, events and charities. We are proud to represent over 450 businesses located in or near Klamath County, and the economic health of many of these businesses relies on a healthy agricultural and natural resource-based economy.

The Klamath Settlement Agreements

The Klamath Settlement Agreements are comprised of the Klamath Basin Restoration Agreement (KBRA) and the Klamath Hydroelectric Settlement Agreement (KHSA). These two documents represent the culmination of years of negotiations by numerous local stakeholder groups, three tribes, the federal and state governments of Oregon & California, the federal government, and PacifiCorp.

The KBRA, negotiated by 28 different stakeholder groups, included much of the Klamath basin water user community at the settlement table and seeks to further solidify the complex relationships between the agricultural community and other vested parties and minimize costly legal battles.

In 2010, the Chamber pointed to the immediate and long-term economic development opportunities presented by the Settlement Agreements as reason for its endorsement. The Chamber board voted to endorse the agreements as economically beneficial to our members, but also with an eye towards representing the varied points of view on this issue. There is a need to give voice to those entities with opposing arguments and insure the agreements are implemented in a way that addresses their needs as well. The Chamber is well placed to do that.

These agreements will bring to Klamath County an unprecedented opportunity for local economic investment, job growth and business opportunities. For example, the KBRA will provide:

- \$500,000 for a Klamath County program that will determine economic development opportunities for the County associated with fisheries enhancement, tourism and recreational development, agricultural development, alternative energy development and tribal economic development;
- Tens of millions of dollars that will be spent locally on projects in Klamath County for ecosystem restoration, monitoring and other related activity;

- Several millions of dollars to local entities who are developing renewable energy opportunities. Beyond the economic benefits, this could provide family wage job opportunities;
- Millions of dollars to local irrigation districts for development and implementation of an “On-Project” water plan. This means additional stability for local farm implement dealers, seed and fertilizer companies, insurance offices, banks etc.

The companion KHSA seeks to designate Klamath County as a "Western Renewable Energy Zone". This program, supported by the Western Governors Association, provides a variety of ways to assist areas within the Western Interconnection in planning for new energy transmission and other needs. The KHSA also provides a cost cap for all Pacific Power customers that lock down the portion of the costs that are normally associated with decommissioning a dam, removes all liability and allows customers to continue use of the low-cost power from the dams until at least 2020. It also allows time for Pacific Power to locate clean energy replacement power with a commitment from the company to look for renewable generation in this region. The KBRA's focus on renewable energy development - whether through irrigator power programs or the Klamath Tribes' proposed biomass plans - fit closely with the County's recent focus on opportunities in renewable energy.

A few of the many beneficial aspects that would be provided by the Settlement Agreements are further detailed below.

Importance of Agriculture to the Local Economy

Agriculture is a business, a business that provides tremendous direct and indirect benefits to the local and regional economy and directly impacts other businesses in the community. In 2012, the total contribution from farms to Klamath County was \$554,490,190. Food production is also a business sector that generates wealth and jobs. In 2012, farms in Klamath County contributed to the full time and part time employment of roughly 4,500 people. When you look at agriculture as a business entity within our County, it is one of the business sector's largest employers. The data used herein - provided by the Oregon State University Extension Service - does not include Northern California counties that utilize Klamath County as an economic hub.

How the Changing Nature of Water Management Impacts the Klamath Economy

In Klamath County, diverse local groups have interests in water management, and much conflict has centered on the differences that create this diversity. Irrigators both on and off the Klamath Reclamation Project need water to raise crops. National wildlife refuges need water to sustain and manage wetlands to benefit migratory waterfowl. The Klamath Tribes need water to sustain and manage fisheries and other Treaty resources. Local businesses need the economic stability to recapitalize, reinvest, and expand job creation opportunities. The Chamber views all of these groups, and more, as having “skin in the game” when it comes to water management issues in the Klamath Basin. All of their interests are legitimate, and any outcomes causing serious

damage to any subset of this community creates real problems for the entire local economy. Until the Agreements are implemented, such unbalanced outcomes are certain to continue.

The uncertain, unpredictable and unstable state of water supply annually threatens the enormous economic output generated by irrigated agriculture in Klamath County. For eighty years, irrigation supplies to the century-old federal Klamath Irrigation Project (Project) proved sufficient to meet the needs of our area's burgeoning farming and ranching communities. Although there were years where Mother Nature and Project storage capacity proved insufficient to meet full irrigation demands, the local community managed to stretch thin supplies and make things work. That all changed in the early 1990s, when steadily more restrictive government agency decisions made to meet Endangered Species Act (ESA) goals began to chip away at the stored water supply originally developed for irrigation. Since then, biological opinions rendered by federal fisheries agencies have increasingly emphasized the reallocation of Project water as the sole means of avoiding jeopardy to fish protected by the ESA. However, part of the story on changing lake management involves the Tribes re-asserting their long-neglected rights and interests. And part of the future involves mutual accommodation as the Tribes and the broader community work to weave the Tribes' rights and interests back into the overall social and economic landscape of this region.

2001 Impacts to the Community

Local irrigators and the business community want to avoid economic impacts like the sort that were keenly felt in 2001, when irrigation supplies out of Upper Klamath Lake were curtailed for the first time in history. The 2001 Klamath Basin water crisis received national media attention, and many of the members of this Committee are likely familiar with some of these stories. The types of economic, human, and environmental suffering caused by the 2001 Plan were catastrophic and well-documented. Hundreds of farm and ranch families without income experienced hardship trying to support themselves. Their ability to pay bills and service debt was impaired. Similar types of impacts occurred for farm employees, and for the owners and employees of the agriculture related businesses. The demand for social services increased. Some people simply moved out. Some businesses closed their doors forever.

City parks, schoolyards, and cemeteries went without water. Farm fields became fields of weeds and dust. Tremendous wind-borne soil erosion occurred, impairing land productivity and causing air pollution.

Irrigated farmland provides food and habitat for the abundant waterfowl, deer, antelope, and other species. This value was also lost. Tragically, two of the nation's premier national wildlife refuges were left without water for wetlands and waterfowl habitat.

The 2001 Klamath Basin water shutoff and crisis generally adversely impacted the financial position of the farmers of the basin and shook the economic foundation of the community as a whole. This was due to loss of income, loss of opportunity to grow crops in 2001 (a year of high potato prices), capital expenditures for wells and other adjustments to irrigation systems, producers being forced to farm further from home, cash contributions to fight the water battle,

and fewer buyers of commodities (i.e. some potato sheds shutting down after 2001). The inability to produce that year caused adverse tax impacts for family farmers and ranchers, hurt their ability to establish credit, and impacted cash flow as they sought to develop alternative water supplies.

The 2001 water cutoff has left the Klamath Basin communities and Klamath Project irrigators in a position of not knowing when the next "surprise" cutoff or reduction in water deliveries will occur. Many of our local farmers and ranchers believe that the most difficult thing they have to face is the uncertainty of the future. With current operations plans in place, Klamath Project irrigators still don't know if they will have water, or, if so, how much. This uncertainty makes planning for the future, at best, very difficult.

Benefits of the Settlement Agreements to the Agricultural Economy

The KBRA improves water supply reliability - particularly for the federal Klamath Project - and greatly reduces the probability of our local community facing a repeat of the devastating 2001 water crisis.

It is now mid-June, but less than one month ago, local irrigators were looking to the skies for precipitation, wringing their hands over the very real possibility that 2012 would be a repeat of 2001 or 2010, where most of their normal water supply out of UKL was curtailed. This year is nothing new for the Klamath Project, where annual operations for over a decade have been characterized by uncertainty. In any given year, irrigators may not know what their water supply will be until April (or even later, as was the case in 2010 and this year), and uncertainty can persist through the season. Further, if there is a water shortage, it is not allocated according to any logical plan that would try to minimize impacts.

Even with the encouraging recent runoff forecasts, there is the very real possibility that irrigation supplies will not be adequate to meet full deliveries. As things currently stand, it appears that farmers are still at risk of a mid- to late-season water curtailment. The status quo – rooted in regulatory uncertainty - remains. Because of recent developments in the 38-year old Klamath River water rights adjudication, for the first time ever, non-federal, junior water rights holders in the Upper Basin now face a greater risk of curtailment. And, because of the federal government's delay in releasing this year's Klamath Project operations plan, investments have already been made: seed bought and planted, fertilizer purchased and applied, grazing lands and pasture secured. This is a much different and serious situation than what occurred in 2001, when decisions on the Klamath Project were made in early April, before these types of investments were made.

This is not an option our community desires.

For over a decade, local water users have spent significant time and financial resources monitoring and questioning annual Klamath Project operations plans influenced by agency biological opinions. To date, certainty in water supplies remains an elusive dream.

The KBRA would change the current paradigm. While detractors of the Klamath settlement agreements (including the KBRA) focus on the potential removal of private hydropower dams (which do not store water for irrigation uses), they conveniently gloss over what is perhaps the most important component of the KBRA for Klamath Project irrigators – the “On-Project Plan” (OPP). The purpose of the OPP is to align water supply and demand in areas of the Klamath Project that rely on UKL and the Klamath River for water supply. This would be accomplished by Project irrigation districts, for the first time ever, having a known block of water available each year. The plan will also take into account water delivery obligations for National Wildlife Refuges. Key objectives of the OPP are that the plan be developed by irrigators and that no irrigator or district in the Project suffers further involuntary water shortages.

The KBRA is designed so that in early March in virtually every year, a determination of how much water will be available will be made using criteria in the KBRA. It is estimated this surface water alone will meet the Project irrigation demand in at least 50 percent of the years. For drier years, the OPP would align supply and demand, through physical facilities, voluntary arrangements, or both.

Had the KBRA been implemented during the past decade, the management regime for the Klamath Project (namely the OPP) and for in stream water allocation would have provided certainty for water users, a great improvement over the present situation. This year, for example, local producers would have known on or about March 1st that a minimum of ***,*** acre-feet of water was coming to them out of UKL. Long-term agreements would have been in place that would have facilitated sustainable groundwater pumping, voluntary land idling if necessary, and other measures that would have made up the difference, should demand exceed that supply.

Klamath Project farmers and ranchers need one plan that addresses local water challenges. The local Klamath Water and Power Agency (KWAPA) has already started developing the OPP, working with irrigators and the national wildlife refuges in an open, transparent fashion. Instead of relying on Federal agencies to develop a plan to deal with variable water supply, it makes sense that the irrigation community develops its own plan, which is what KWAPA is now doing.

Those that have opposed the agreements in the past based their opposition in the belief that adjudication would resolve their issues, and touted adjudication as their favored solution. With the adjudication findings now released, their pre-adjudication assumptions have been proven false, so they too, are in desperate need of a workable resolution. Rarely does a win/win/win solution ever come about with important issues that have broad ramifications such as this.

Improved water supply certainty is one aspect of a very complicated, collaborative agreement that likely would not be possible were it not for the KBRA. The OPP addresses the key concern

that is so vexing to Klamath irrigators - it injects certainty into the very uncertain status quo surrounding water supply and the \$500 million that our local economy depends upon.

Importance of Logging and Forest Products to the Local Economy

From the standpoint of the local economy, logging and forest products are the second most important industries in Klamath County, right behind agriculture. Here in Klamath County, we are surrounded by a wonderful forest resource, yet our county faces 11.2% unemployment. Three decades ago, there were 14 mills operating in Klamath County, providing nearly 5,000 family wage jobs. Today, there are 2 mills in this same area and the jobs are gone.

We are hearing more frequent reports from state and local governments in Oregon and other parts of the West who question how the federal government is managing forested lands and watersheds. During the early 1990's, forest management practices underwent a drastic change. In 1994, at the behest of environmental organizations claiming to protect the forest habitat of the northern spotted owl, 25 million acres of federal forests were put off limits to commercial timber harvesting. The federal government also greatly expanded "wilderness areas," closed hundreds of miles of national forest roads long used by firefighters to reach isolated wildfires, and terminated salvage timber sales.

As a result of minimizing the mechanical-thinning approach to forest management – coupled with 100 years of a flawed federal fire suppression policy - the national forests became overgrown with underbrush and over-fueled with dead or dying trees. They also became less accessible to firefighting crews.

Economic Development Benefits for the Klamath Tribes and the Timber Economy

The KBRA provides an opportunity to begin to turn the current, unsatisfactory forest management paradigm on its head. The KBRA will allow the Klamath Tribes to reacquire a 90,000-acre portion of the Mazama Forest, in the northwest corner of the former Klamath Reservation. This is a significant economic development opportunity for the Tribe and others in the county. In addition to the opportunities that are offered with Mazama Forest, the Tribes recently acquired the former Crater Lake Mill site to develop Southern Oregon's first "Green Energy Park." This park will enable the Tribes to take full advantage of the raw forest products from Mazama and also to develop a new site to produce forest products and open up new markets.

These developments will provide new jobs and business opportunities to the Klamath Tribes, tribal members, and the Klamath Basin business community. By being active forest managers, the Tribes will improve forest and watershed health, which is precisely what the KBRA was intended to do.

Non-management of our forests could lead to the destruction of a national treasure. In our view, the past damage and potential future devastation resulting from the increased fire risk does irreparable harm, and is much more devastating than most logging operations, past or future. In Klamath County, sound timber management not only contributes to long-time preservation of our federal forest lands, it is vitally important to the economic health of our communities. The example set by the KBRA's economic development provisions for the Klamath Tribes could provide a template for other opportunities in the future, which will benefit virtually every business interest in Klamath County.

Settlement Agreement Benefits to Klamath Fisheries and Fish Habitat

A recent study conducted by the U.S. Fish and Wildlife Service (USFWS) assessed the potential effects of implementing the proposed KBRA on fish and fish habitats during the interim years prior to and following the removal of PacifiCorp Hydropower Project dams from the mainstream Klamath River, as proposed in KHSA. This report focused primarily on the effects of the proposed Agreements on anadromous species, with emphasis on fall run Chinook salmon due to the relative abundance of existing data and modeling tools developed for this stock.

The USFWS report found that the water allocation plan specified in the KBRA would contribute to maintaining water levels in Upper Klamath Lake that, in combination with restoration activities listed in the KBRA, will benefit listed sucker populations. Removal of PacifiCorp Project dams and subsequent reestablishment of Basin connectivity and variable stream flows in the Klamath River are expected to contribute significantly towards restoration of the physical, chemical, and biological processes and interactions that are essential to a functional aquatic ecosystem. When viewed in combination with the implementation of an effective drought plan, dam removal, and other restoration actions identified in the KBRA, the KBRA water and fish programs, would over time, achieve the Agreement's stated goal of restoring the "*natural sustainability of fisheries and full participation in harvest opportunities, as well as the overall ecosystem health of the Klamath River Basin*".

There is an important linkage that exists between solving ecosystem challenges and water management. Solving our environmental problems is a necessary ingredient towards resolving our water management challenges, which in itself has significant benefits for our future economy. Further, these types of ecosystem restoration actions will also generate direct and indirect economic benefits to the tribes, commercial fishermen, recreational businesses, and tourism.

Settlement Agreement Benefits to our National Wildlife Refuges and Waterfowl

In 1905, the U.S. Bureau of Reclamation initiated the Klamath Reclamation Project to convert the lakes and marshes of the Lower Klamath and Tule Lake areas to agricultural lands. To conserve much of the Basin's remaining wetland habitat, six National Wildlife Refuges have

been established; two of those - Lower Klamath and Tule Lake Refuges, will benefit from the KBRA. The U.S. Fish and Wildlife Service manage these Refuges to enhance wildlife and benefit the American people. Agricultural and water programs are coordinated under an agreement between the Fish and Wildlife Service and the Bureau of Reclamation.

Klamath Basin Refuges protect habitats that support diverse and abundant populations of resident and migratory wildlife, with 433 species having been observed on or near the Refuges. In addition, each year the Refuges serve as a migratory stopover for about three-quarters of the Pacific Flyway waterfowl, with peak fall concentrations of over 1 million birds. They are a critical part of our region's outdoor recreational economy.

Everyone shares an interest in restoring waterfowl habitat in the Upper Basin. Most believe that the KBRA represents a significant improvement for waterfowl. At the same time, the Klamath Refuges include "lease lands" that have some of the most fertile ground in the Klamath Project. These areas are highly valued by farmers, and were previously dealt with by Congress in a law that put farming and wildlife values in the Klamath Refuges on par with one another.

The KBRA delivers significant new benefits for both Tule Lake and Lower Klamath National Wildlife Refuges. As evidenced by the recent Findings of Determination for the Klamath River water rights adjudication, the Refuges hold relatively junior rights to water with limited ability to access water from the Klamath River system. As things currently stand, the Refuges have no guarantee of water delivery. Under the KBRA, the Refuges are made part of the purpose of the irrigation project to assure water deliveries - 60,000 acre-feet in wet years, 48,000 acre-feet in dry years. The KBRA also supports expansion of an innovative program - the Walking Wetlands - that increases wildlife habitat while improving agriculture on the Refuges.

Finally, the KBRA expands waterfowl habitat by reconnecting former wetlands to Upper Klamath Lake via an expansive river restoration program above the lake.

All of these KBRA-generated benefits will generate direct and indirect economic advantages to the tribes, sportsmen, recreational businesses, and tourism.

Conclusions

The Settlement Agreements clearly promote local productivity and stability for our county. The natural resource sector of our economy must thrive for local commerce to flourish.

Over three years after the unveiling of the Agreements, with thousands of hours of ensuing discussion and argument, we are no closer to a real sustainable solution to the water issues which have such a dramatic impact on businesses, communities, farmers, ranchers, tribes, fisheries and wildlife refuges and future prosperity. Following this hearing, it is our hope that federal policy makers will see the valuable, collaborative and historic work that has already been completed, as reflected in the Settlement Agreements. Water is not the only resource issue facing the Klamath

Basin and the Agreements are only the first step in addressing much larger natural resource issues that have huge economic implications. Next on the list will be timber, minerals, geothermal, wildlife, and renewable energy production. A process much like the Agreements will be needed to solve problems in all these areas as well; multi-stakeholder, multi-community, multi-agency negotiations that reach agreement for managing resources that benefit the largest number of interests. We envision Klamath County becoming just such a model for communities across America.

The very existence of the agreements shows our community understands the importance of finding a broad based solution and willingly faced the challenges of finding consensus among a diverse set of needs. To date, these parties have:

1. Agreed that there is a problem;
2. Developed a process to solve the problem;
3. Engaged stakeholders;
4. Created a large stakeholder group made up of organizations, communities and interests, many of which were at odds with one another only a decade ago;
5. Promoted compromise in order to maintain the largest support group possible, since there is never 100% agreement on any issue of this magnitude;
6. Provided a forum for healthy (and passionate) debate on the merits of the issues.
7. Developed an extensive local, regional solution to meet very complicated and controversial local, regional challenges;
8. Proposed a cost-sharing process to implement the solution;
9. Secured government and other agency support for implementation and called for Congressional oversight and action.

Developing a collaborative settlement to the Klamath River watershed challenges is one of the few initiatives supported by Democrats and Republicans alike. This concept was initiated by the Bush Administration, was strongly supported by former Interior Secretary Salazar when President Obama was handed the issue, but now needs action in Congress to lead to eventual implementation.

We hope you will appreciate the hard work and considerable resources already spent by two states, the U.S. government, three tribes, and agriculture, fishing and conservation groups to date. It is difficult to fathom why some critics of the Agreements believe we should tear these up and start over. We hope that these critics are prepared to offer alternative, realistic solutions - now. Importantly, we ask for your unbiased observations as to how we might best engage these interests so they do not feel left out, and can actually become involved and support a collaborative, constructive forum.

It is time for Congress to start moving authorization of the Agreements, or quickly develop a viable, broadly supported agreement that accomplishes similar goals.

Thank you for this opportunity to present testimony to you.

SOURCES OF INFORMATION

1. A Lender's Point of View, Greg Williams, Klamath Branch Manager – Northwest Farm Credit Services AgLifeNW Magazine January 2004 issue.
2. Economic update by Dick Carleton, Merrill rancher 1/27/04, AgLifeNW Magazine, April issue, Klamath Basin Update.
3. Kandra v. United States - this case challenged the zero allocation decision of 2001. A hearing on preliminary injunction was briefed and heard on an expedited basis. The preliminary injunction challenges were based, in addition to hardship to Project interests, on NEPA, the ESA, and Reclamation law and contracts. The preliminary injunction was denied. The case, which was directed at water deliveries in 2001, was eventually dismissed without prejudice, and there was no final judgment.
4. Hearing underscores need for common sense, by Dan Keppen, KWUA Executive Director, Capital Press, Vol. 77, No. 36, Sept. 3, 2004.
5. Testimony Before the Subcommittee on Water and Power, Committee on Resources, U.S. House of Representatives. Oversight Hearing on Environmental Regulations and Water Supply Reliability. Dan Keppen, Executive Director, Family Farm Alliance. June 22, 2005.
6. Klamath County Agriculture 2012 Report, William W. Riggs, Director OSU Klamath Basin Research and Extension Center - This short report was prepared at the request of Klamath County Commissioner Tom Mallams in regards to the Farm Gate Value of Agriculture in Klamath County Oregon. Data sources include Oregon Agricultural Information Network, (OAIN), Modified IMPLAN for Klamath County 2007, and Methodology utilized in Riggs Testimony to Governor Kulongoski March 9, 2010.
7. Compilation of information to inform USFWS principals on the potential effects of the proposed Klamath Basin Restoration Agreement (Draft 11) on fish and fish habitat conditions in the Klamath Basin, with emphasis on fall Chinook salmon, by N. J. Hetrick, T. A. Shaw, P. Zedonis, J. C. Polos, and C. D. Chamberlain. Arcata Fisheries Program U. S. Fish and Wildlife Service, Arcata Fish and Wildlife Office 1655 Heindon Road; Arcata, California.
8. O&C Lands in Klamath County. Letter sent to Governor Kitzhaber, Senator Wyden and Rep. Walden by Klamath County Chamber of Commerce. February 28, 2013.