

**Other Media Articles Re:
U.S. Bureau of Reclamation Cram-Down Of
Amended Klamath Hydroelectric Settlement Agreement (KHSA) &
New Klamath Power and Facilities Agreement (KPFA)**

<http://www.mailtribune.com/article/20160408/NEWS/160409642>

Mail Tribune

KLAMATH RIVER

Klamath River dam-removal opponents vow to be 'vocal'

WaterWatch official criticizes 'sweetheart deals' for agribusiness in landmark deal

By Lacey Jarrell Herald and News

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The landmark Klamath agreements signed Wednesday are only one piece of the Basin's water solution, groups say.

Audubon California commended the deal while pointing out that Klamath wildlife refuges remain without water certainty and adequate water supplies to support migrating waterfowl.

"We're excited to see the removal of the Klamath River dams, and this is a good first step to addressing some of the problems in the Basin," said Audubon California Director of Public Policy Michael Lynes. "Unfortunately, today's deal does not provide anything for the Klamath Basin national wildlife refuges, which provide habitat for 80 percent of the waterfowl along the Pacific Flyway and which have been chronically shorted on water supplies for decades."

The comment was in response to a Wednesday ceremony in which U.S. Secretary of the Interior Sally Jewell signed a pact that gave the go-ahead for removing four dams from the Klamath River.

At the Klamath, Calif., ceremony, Jewell and other leaders signed an amended draft of the Klamath Hydroelectric Settlement Agreement (KHSA) and another agreement called the Klamath Power and Facilities Agreement. The KHSA calls for removing the J.C. Boyle Dam, Copco 1 and 2 and Iron Gate Dam from the Klamath River. The power agreement helps protect Basin farmers from extra costs or financial impacts that may result from enacting the KHSA.

“One agreement lays out a path toward a history-making project to remove dams and restore a river that is an icon, and a second agreement helps protect the water supply for farmers and ranchers and makes sure they won’t bear new costs because of dam removal,” Democratic Oregon senators Ron Wyden and Jeff Merkley said in a joint statement.

Now that entities governing the dams and the Klamath watershed have signed in support of dam removal, the last obstacle standing in the way of a free-flowing river is a nod from the Federal Energy Regulatory Commission (FERC).

Siskiyou County Supervisor Grace Bennett said she plans to oppose dam removal during FERC’s public comment process.

“We are going to be very vocal,” she said. “This is a real tragedy for the Klamath River and the people who live along the Klamath River in Siskiyou County.”

Siskiyou County Supervisor Brandon Criss said he will also continue opposing dam removal.

“I think the dams have had a proven benefit for the (Basin) farming community,” Criss said.

Klamath Irrigation District Board Chairman Brent Cheyne said he does not support dam removal, but the district board has not taken a formal position on the issue.

Dan Keppen, executive director of Family Farm Alliance, said severing dam removal from the controversial Klamath Basin Restoration Agreement, a now-defunct attempt at a Basin-wide water settlement, could provide a new opportunity for the community to band together.

Wyden agreed that the deal does not resolve the basin's many water issues.

“There is certainly more work to be done — to provide long-term certainty over water supply for agriculture, to maintain healthy flows in the river, and to restore land taken from the Klamath Tribes — and Congress will still need to help bring all of these issues to resolution,” Wyden said.

WaterWatch of Oregon Spokesman Jim McCarthy said amending the KHSA is “a major step forward for the health of the Klamath River and the communities of the Klamath Basin.”

He said WaterWatch applauds the revived dam-removal effort but opposes the power pact.

“This agreement combines a few true win-win elements for farmers and fish with several costly and counterproductive sweetheart deals for Klamath Project agribusiness,” McCarthy said.

Rep. Doug LaMalfa, R-Calif., a vocal opponent of dam removal, said in a statement that he doesn’t believe the agreements protect agriculture and electric ratepayers.

“Dam removal does nothing to address these issues,” LaMalfa said.

The Klamath County commissioners could not be reached for comment.

<https://wlj.net/print-article-12801-print.html>

<http://www.narlo.org/dam%20removal%20agreement.pdf>

(National Association of Rural Landowners <http://www.narlo.org/>)

WLJ

Western Livestock Journal

Agencies sign dam removal agreements

News

Apr 8, 2016

By **THEODORA JOHNSON, WLJ CORRESPONDENT**

—Signing comes despite local opposition

Federal agencies, California, Oregon, and a corporation owned by Warren Buffet bucked local opposition last Wednesday when they signed two agreements aimed at removing four major dams along the Klamath River. According to local opponents, the finalization of the agreements was premature and excluded input from the public and affected stakeholders.

The Counties of Klamath and Siskiyou (the home of the dams) and local water-use groups such as the Klamath Irrigation District and Siskiyou Water Users Association are saying that Pacifi- Corp— Buffet’s company, which owns the dams—teamed up with the agencies, Native American tribes, and environmental groups to push for dam removal. **According to Siskiyou County Supervisor Ray**

Haupt, the removals are expected to cost \$550 million, all funded by ratepayers and the public; result in a major tax break for PacifiCorp; and leave the company liability-free.

“All while offing PacifiCorp’s liability and operational costs on the very public who is most negatively affected by dam removal,” Haupt added when speaking to *WLJ*.

In a prepared statement Wednesday, U.S. Department of the Interior (DOI) Secretary Sally Jewell called the two agreements a “shared vision” that is “an important initial step” toward “longterm restoration and sustainability for tribes, fisheries, and agriculture and water users across the Klamath Basin.”

But while Jewell’s statement sounds promising for all stakeholders, local voices are making clear that the “shared vision” of dam removal is not universal, and that the agreements as drafted may not ensure either restoration of the river or sustainability of water use on the Klamath.

According to Lawrence Kogan, attorney for the Klamath Irrigation District, his client was “stonewalled” from participating in the drafting of either of the freshly signed agreements. Kogan says this was a clear violation of procedure, since the district is an original signatory to one of them, the Klamath Hydroelectric Settlement Agreement (KHSA).

KHSA started out as a water allocation agreement that required congressional approval. But several officials from the federal and state agencies and PacifiCorp have since been quietly making edits, so that **the KHSA now contains a plan to remove the four dams without congressional approval. Kogan pointed out that the district has not been allowed to participate in those edits, or even have adequate time to read drafts. He notified the agencies that this violation of process places the district in a position to litigate the agreement.**

The second agreement finalized Wednesday was, until recently, a mystery document, Kogan said. The Klamath Power and Facilities Agreement (KPFA), he said, was produced “entirely behind closed doors.” He said the agreement “guarantees fish and aboriginal tribal water right priorities at the expense of irrigator water rights,” while at the same time making “weak promises” to irrigators that they will not be harmed by Endangered Species Act regulations in the event that the dam removals result in federally-protected fish migrating into new areas.

Supervisor Haupt agreed with Kogan that the KPFA’s promises of protections for irrigators can’t be upheld.

“This agreement makes no water guarantees to farmers,” Haupt told *WLJ*. “Nor can it stop outside environmental groups from suing farmers when the ‘threatened’ Coho salmon doesn’t have enough water in the Upper Basin. And that scenario is likely, given that the historical evidence shows that the Upper Basin was never good Coho habitat in the first place.”

He added that new Clean Water Act regulations would undoubtedly come into play should the dams be removed. Currently, the dams catch and collect toxins— both naturally occurring and those added by agriculture and other uses—preventing them from entering California from Oregon.

Despite the agreements’ weaknesses, however, PacifiCorp and the agencies are finding ways to either “bribe or coerce” parties into supporting them, Kogan told *WLJ*. For example, he said, when Oregon granted the Native American tribes on the Klamath senior water rights “from time immemorial,” it forced irrigators to negotiate with the tribes, who are pushing for dam removal. In another example, the U.S. Bureau of Reclamation (BOR) is forcing the Klamath Irrigation District to make repairs to a large irrigation canal, the “C Canal Flume,” and to accept an unwieldy BOR financing agreement. Negotiations seem to be contingent on the district’s support for the KHSA and dam removal, Kogan said.

“It all came clear when Senators [Ron] Wyden [D- OR] and [Jeff] Merkley [D- OR] introduced their legislation that links it all together: support for the KHSA; funding for the C Canal Flume; and recognition of tribal water rights,” Kogan told *WLJ*. “They want to make dam removal and continued farming in the basin a package deal.”

More opposition and danger

Other local bodies are complaining of being left out of the agreement drafting process as well. Last Tuesday, the Siskiyou County Board of Supervisors issued a letter to DOI and California Governor Jerry Brown stating they had “just learned” that a small group of stakeholders intended to sign a new agreement (the KPFA) on Wednesday.

“The sheer fact that Siskiyou County is home to 68 percent of the Klamath River frontage tells you our well-documented local concerns should have been included in the planning process,” Haupt told *WLJ*. “But they were not.”

WLJ spoke with Haupt about the expected economic and environmental effects of dam removal in his county. He said the dams provide enough power for 70,000 houses per year—a significant number in rural northern California and southern Oregon. Dam removal is expected to cause regional energy rates to skyrocket. Siskiyou County also expects several million in annual economic losses; Klamath County estimates around \$0.5 million in losses.

The predicted environmental damage is perhaps most striking. While Brown said last Wednesday that signing the agreements was an act of “healing this river,” Haupt said the government’s own analysis predicts the opposite. He referenced a biological assessment prepared in 2010 by the federal agencies themselves, which reveals that the four dams’ removal method will result in “complete sterilization of all aquatic life for a minimum of two years” in the Klamath River, due to the roughly 20 million cubic yards of sediment that will be flushed into the river. Haupt said the report even admits dam removal will wipe out an entire generation of the federally-listed Coho salmon—the very fish that is being touted as the reason for the dams’ removal. This is a “clear, egregious violation” of the Endangered Species Act, he said.

“The agencies have this information in their hands, and yet they’re forging ahead,” Haupt told WLJ.

“Never mind the facts, never mind that 80 percent of the Siskiyou County’s electorate has voted against removing the dams. There are a few powerful players who want this [dam removal]. We fully intend to fight against this environmental and economic abomination put upon the taxpaying ratepayers of Siskiyou County.” — Theodora Johnson, WLJ Correspondent

http://www.heraldandnews.com/members/forum/guest_commentary/hydro-agreement-changes-made-without-using-the-rule-of-law/article_b2d4d0c1-df28-5cfa-bd45-2bb854881ff5.html

Herald and News

Hydro agreement changes made without using the rule of law

- **By LAWRENCE A. KOGAN, Esq. Guest writer**

Apr 10, 2016

(Contains embedded hyperlinks)

On April 4, 2016, the Browns (Kathryn & Edmund) ruling the [Peoples' Republics of Oregon and California](#), and U.S. Department of Interior Commissar [Sally Jewell](#) proudly announced the scheduling of an April 6, 2016 signing ceremony at the Yurok Tribe's reservation.

This location is more symbolic than popularly realized because the U.S. Constitution and federal and state laws largely do not apply on sovereign Indian reservations.

This ceremony was arranged to celebrate with Warren Buffet's PacifiCorp, its primary economic beneficiary, the execution of an amended interstate, intertribal and inter-municipal governmental Klamath Hydroelectric Settlement Agreement ("[KHSA](#)") which Congress had rejected in 2015 since it was not in the best interests of the American public.

All cynicism aside, this is a very grave matter that will curtail [U.S. agriculture in the Klamath Basin](#) and elsewhere throughout the West far into the future. When fully implemented in 2020, the amended KHSA will secure the removal of four perfectly operational dams — the [John Boyle Dam](#) in Oregon, and Copco 1, Copco 2 and Iron Gate Dams in California.

The intergovernmental decision to remove these dams has several questionable bases, each predictably favoring dam removal over dam Endangered Species Act retrofitting.

They include, for example, a publicly unvetted and undisclosed "private and confidential" PacifiCorp economic cost-benefit analysis incorporated by reference into the definitional section of the [amended KHSA](#) Federal and state government operatives and lobbyists had secretly relied upon that analysis to portray as a public benefit and secure bi-state approval of substantial electric ratepayer increases in exchange for removal rather than enhancement of existing energy infrastructure, and to curtail the formation of nonprofit public utility districts which could conceivably purchase the dams to stem their removal.

They also include various federal governmental scientific and engineering [studies](#) and [assessments](#) the Interior Secretary utilized to justify dam removal and to determine Upper Klamath Lake and Klamath River levels, for purposes of protecting sucker fish and coho salmon consistent with her recognition of the aboriginal time-immemorial instream flow priority rights of basin tribes, at the expense of irrigator water rights. However, Secretary Jewell has failed to demonstrate how these studies and assessments meet the strict peer review and substantive standards of the federal Information Quality Act (“IQA”) (in much the same way that former EPA Administrator Lisa Jackson had asked the public to [trust without verifying](#) the IQA compliance of the [selectively chosen, postmodern non-empirical](#), climate science she relied upon as the basis for reaching its [procedurally flawed Greenhouse Gas Endangerment Findings](#)).

What is most disturbing and egregious, is the intentional failure of these federal, state and tribal government officials to follow constitutional and administrative processes and procedures calling for public transparency, accountability and due process guaranteeing members of the public an opportunity to be heard.

The convening of secret meetings open to only a select few individuals who consent to executing nondisclosure agreements that keep the subject matter of their negotiations hidden from public and congressional view is an affront to our representative democracy.

Indeed, such officials’ practice of [withholding disclosure](#) of the latest drafts of the new [Klamath Power and Facilities Agreement](#) (“KPFA”) and the amended KHSA in which it is mentioned until the last possible moment before a public meeting or signing ceremony, demonstrates a blatant and wanton disregard for constitutional separation of powers and the [rule of law](#).

Pursuant to the KPFA, PacifiCorps will also transfer to the Bureau of Reclamation full title and control over the Link River and Keno dams just below Upper Klamath Lake, which serves as the primary water source of the Klamath Irrigation District, and practically the entire Klamath Irrigation Project.

Should the BOR also regain control over the “A” Canal of the Project and the gate leading to it, Project irrigators will be at the mercy of BOR and Fish and Wildlife Service officials whose chief goal in life is to protect fish, tribal water rights and unimpeded white-water rafting.

That some Klamath irrigators, especially Klamath Water User Association and Klamath Water and Power Agency members, find these Chicago mob practices acceptable is quite troubling. It also is alarming to think that some of these individuals, in light of [recent whistleblower allegations](#) and the ensuing [federal investigation](#) it triggered, might be found to have signed on to these agreements upon illegally receiving from BOR officials up to \$48 million of [misappropriated BOR funds](#)!

Don't we all deserve better?
