United States Department of the Interior

BUREAU OF RECLAMATION
Washington, D.C. 20240

IN REPLY REFER TO:
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PRJ-13.00

JUL 17 2005

Mr. Donald K. Hansen
Chairman
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

Dear Mr. Hansen:

Secretary Norton has asked me to respond to your April 21, 2005 letter regarding the effect of Klamath River flows on the Essential Fish Habitat for coho and Chinook salmon. I apologize for the delay in this response. Please know that the Bureau of Reclamation is also very concerned about the condition of the Klamath River ecosystem. Reclamation is working toward long-term solutions to the compound effects of 5 years of drought, increasing incidences of disease organisms, unusual salmon returns, and water shortages for all of the competing demands.

Your letter stated that ". . . the Klamath Project provided full deliveries in 2002-2004 and only plans a minimal reduction in irrigation deliveries in 2005." Since 2002, Reclamation has successfully operated a pilot water bank that has significantly reduced irrigation demand, and the saved water has been released to the Klamath River for fish purposes. Reclamation has acquired more than 100,000 acre-feet of water for the 2005 water bank. This is the equivalent of eliminating irrigation demand on 50,000 acres, nearly one-third of the Klamath Project. Reducing irrigation demand frees up water for in-stream flow use.

The purpose of the water bank is to meet the requirements of the biological opinions and to further meet our tribal trust obligations; the water bank has never been used as drought mitigation for other project purposes. The release schedule for water from the water bank is determined through consultation between Reclamation, NOAA Fisheries, and other area Tribes.

There are other important aspects of the water bank. There is no carryover storage in Upper Klamath Lake, and the Klamath Project operates on the annual inflow. When land is idled, water becomes available at the time of year it would have been used for irrigation; however, farmers do not use much water in the spring and early summer when the demand is greatest for in-stream flow purposes. If the water bank consisted entirely of land idling, water would accrue to the water bank largely during the late summer. To make water available early in the season, the water bank comprises ground-water substitution, ground-water pumping, and land idling. The water bank provides flexibility for NOAA Fisheries, the area Tribes, and the State of California (all of whom collaborated on the flow schedule) to shape the flows, with the majority being utilized in the spring. For cost effectiveness, water bank participants are selected through an open bid process. We believe the distribution of water-bank water is made "in a scientifically sound, fair, and transparent manner" as you requested.

You referenced questions raised by the Government Accountability Office (GAO) regarding Reclamation's water bank. The GAO report (enclosed) states, "GAO's analysis of water bank contracts and river flow records found that Reclamation met its water bank obligations by acquiring *and delivering* the required amount of water for 2002 through 2004 (emphasis added)." The GAO report also states, "The water bank appears to have increased the availability of water to enhance river flows by reducing the amount of water diverted for irrigation."

As you requested, a copy of the 2005 operations plan is enclosed. It has been available for several months on our website at http://www.usbr.gov/mp/kbao/ along with detailed information on the water bank.

Reclamation asked the USGS to review the water bank and its requirements, as related to the hydrological conditions of the basin. We recently received their final report, and it is attached for your information. The conclusions of the report are enlightening in that it found that in certain year types, due to the hydrology, idling irrigation lands will not meet the short- or long-term flow requirements of the NOAA Fisheries biological opinion. The only satisfactory method of meeting those flow requirements is through the use of a multifaceted water bank that relies on other sources of water rather than simply idling land.

The National Research Council (NRC), the investigative arm of the National Academy of Sciences, in its October 2003 report on Endangered and Threatened Fishes in the Klamath River Basin, stated that solutions to the Klamath issues, including the recovery of the fishery, cannot be achieved by actions that are primarily focused on Klamath Project operations. Please understand that not all water depletions above Iron Gate Dam are due to the Klamath Project, and Upper Klamath Lake operations are limited by the need to maintain habitat for the listed suckers and other tribal trust species.

At the heart of the NRC report is the message that Klamath Basin solutions can only be found by working together. As you noted, Reclamation is facilitating the development of a process that has been successfully used in other river basins. The Conservation Implementation Program (CIP) has three goals: (1) to restore the Klamath River ecosystem to achieve recovery of the Lost River and shortnose suckers and substantially contribute to recovery of coho salmon, (2) to continue sustainable operation of existing water management facilities and future water resource improvements for human use in the Klamath Basin, and (3) to contribute to the tribal trust responsibilities of the Federal Government.

Your letter recommends a "share the pain approach" be used in the distribution of water to irrigators and the fishery. The irrigators are willing participants in the water bank, which in effect reduces water demands equal to nearly one-third of the Klamath Project this summer; further, the farmers are under a Reclamation-ordered drought plan. They have been asked to voluntarily reduce consumption on the Klamath Project still under irrigation by 15 percent. If that is not achieved, the reduction will become mandatory. The effects of reduction in agricultural production have broad economic impacts to the communities in the upper basin, not just on the farmers but also on the businesses that support agriculture and those that depend on farm income.

Reclamation has held many public meetings throughout the basin to enlist stakeholder participation in the process. Since the CIP is not solely a Reclamation program, it will be designed and implemented by the

stakeholders. This is an opportunity for the Pacific Fishery Management Council to become one of the leaders. We are adding you to the CIP mailing list and looking forward to your participation in helping to formulate lasting solutions for the natural resources of the Klamath Basin.

Should you require further information, please do not hesitate to contact Mr. Dave Sabo, Area Manager, Klamath Basin Area Office, at 541-883-6935.

Sincerely,

John W. Keys, III

John W. Keys, III
Commissioner

Enclosures – 3

cc: Honorable Barbara Boxer
United States Senate
Washington, DC 20510

Honorable Dianne Feinstein
United States Senate
Washington, DC 20510

Honorable Gordon Smith
United States Senate
Washington, DC 20510

Honorable Ron Wyden
United States Senate
Washington, DC 20510

Honorable Peter DeFazio
House of Representatives
Washington, DC 20515

Honorable Mike Thompson
House of Representatives
Washington, DC 20515

Honorable Greg Walden
House of Representatives
Washington, DC 20515

Honorable Arnold Schwarzenegger
Governor of California
Sacramento, CA 95814

Honorable Ted Kulongoski
Governor of Oregon
Salem, OR 97301

Dr. William T. Hogarth
Assistant Administrator for Fisheries
National Marine Fisheries Service
Silver Spring Metro Center 3
1315 East-West Highway
Silver Spring, MD 20910

Mr. Mike Chrisman
Secretary for Resources
California Resources Agency
1416 9th Street, #1311
Sacramento, CA 95814

Mr. Rod McInnis
Regional Administrator
National Marine Fisheries Service
NOAA Southwest
501 West Ocean Boulevard, Room 1210
Long Beach, CA 90802

Mr. Ryan Broddrick
Director
Department of Fish and Game
1416 9th Street, 12th Floor
Sacramento, CA 95814

HABITAT COMMITTEE REPORT

Response letter from Department of Interior (DOI) on Klamath River:

The Habitat Committee (HC) had reviewed the July 7, 2005 letter from the DOI in response to the Council's April 21, 2005 letter on Klamath and Trinity River flow issues, and offers the following observations and recommendations:

Issues Addressed in Council Letter	Issues Addressed in DOI Letter
1. 2002 Biological Opinion (BO) low flows implicated in chinook and coho fish kills, impacts to essential fish habitat (EFH) and impedance to recovery.	Not Discussed.
2. Council still recommends Hardy Phase II flows, but urged "share the pain" water allocation approach this year.	Did not discuss Hardy Phase II, but stated "share the pain" being met by water bank and voluntary 15% reduction in irrigation.
3. Council requests reinitiation of consultation on chinook EFH.	Not Discussed.
4. Do not use Trinity River water to mitigate for Klamath River problems: Do not charge Trinity pulsed flows to the Trinity Record of Decision (ROD).	Not Discussed.
5. Water bank should be scientifically sound, fair and transparent.	Discussed.
6. Council recommends Bureau of Reclamation (BOR) incorporate Clean Water Act multiple-use criteria and National Environmental Policy Act (NEPA) multi-species criteria when developing Conservation Implementation Program (CIP) and Environmental Impact Statement for ten-year Project Operations Plan.	Not Discussed.
7. Not Discussed.	CIP process is described and the Council is invited to participate.

The major issue that needs clarification is the water bank. The water bank is prescribed by the 2002 NOAA Fisheries Coho BO for all water year types and is specified to augment BO minimum flows below Iron Gate Dam during the April 1 through September 30 Project irrigation season, although water bank augmentation was also provided from February 1

through March 31 in 2005. The water bank flows are intended to avoid jeopardy to coho and not to be drought mitigation for the Klamath River. The water bank (100K acre-feet (AF) in 2005) is an accounting system consisting of: (1) idled land normally farmed; (2) ground water substitution – using well water rather than surface irrigation; (3) direct well pumping and (4) surface storage. Direct well pumping was anticipated to provide 50K-70K AF of water and surface storage 15K AF in 2005.

The HC's main concern is how this water is accounted for:

(1) BOR's Upper Klamath Lake Management emphasizes filling Upper Klamath Lake (UKL) as early as possible, resulting in lake elevations far above Sucker BO requirements, at the expense of providing only coho jeopardy avoidance flows below Iron Gate Dam (IGD). This happens regularly during February and March when chinook fry are already rearing in the main stem and coho smolts are outmigrating, impacting the EFH of both species. Thus, UKL can be in or near spill mode by April 1 even in a dry or critically dry water year. The water bank normally takes effect on April 1, but if UKL enters natural spill mode, the water bank is credited for the difference between the minimum BO flows and the BO flows plus water bank flows.
(2) Although BOR's flow requirements are identified at IGD, the hydraulic control point for the Project is Keno Dam, many miles upstream. If exceptional accretion (from storms or snow melt run-off) occurs below Keno Dam, that water is counted by BOR as water bank contribution (as is exceptional run-off above UKL). For example, in May 2005, when nearly unprecedented precipitation occurred and IGD flows exceeded 5,000 CFS, the water bank was still charged over 28,000 AF.
(3) The 15,000 AF of water delivered to the Klamath Basin refuges is being counted as water bank water in 2005, even though in previous years it was not and is part of normal refuge water deliveries.
(4) The replacement of surface irrigation with well pumping is equated to the idling of a certain number of acres of farmland, yet the actual volume. of water saved is not exactly known. Long-term impacts to water table drawdown are not described.
(5) Although not part of the water bank, the 15% voluntary reduction in consumption by Project users in 2005 is unmeasured and consists primarily of lower-priority users such as cemeteries, parks and residential back yards.
(6) Base flows, which are augmented by water bank flows, are not biologically based upon needs of salmon, but upon status quo management during the 1990's. Therefore, the sum of base and water bank flows fall far short of meeting the needs of Council managed species during some water year types.

The DOI letter invites the Council to participate in the CIP process, yet that process is still in its early stages of development and it is unclear what role the Council could play at this time. The HC recommends the Council direct HC to draft a response letter based on these comments to be finalized at the November meeting.

Guidelines for Response to Proposals for Development Projects in Marine Waters:

Several proposals are currently circulating relating to development projects in marine waters, and many major issues are coming up, for example, oil and gas development, aquaculture and wave energy projects. It is important for the Council to comment on these proposals and issues, but the HC believes the Council lacks sufficiently detailed guidance to effectively deal with emerging nonfishing issues. HC has become aware that the South Atlantic Fishery Management Council developed a guidance document in June 2005 regarding policies for protecting EFH related to energy exploration & development. The Pacific Council could develop a similar document(s) by building on existing scientific guidance (e.g., Amendment 19 Appendix D "Nonfishing Effects to Groundfish EFH …" by Hanson, Helvey and Strach, and other Council white papers) and expanding to include statements of policy. The HC seeks guidance from the Council on how we should proceed, and the priority of attention.

Miscellaneous Report:

Klamath River is currently experiencing a toxic algal bloom in the reservoirs and river. Algal levels have been tested well above World Health Organization guidelines for levels tolerable for human recreational contact.

Court-ordered summer spill in the Columbia/Snake rivers has been evaluated in two preliminary reports by the Fish Passage Center relative to juvenile downstream passage survival for the area from Lower Granite to McNary Dams. 2005 survival of Snake River fall fingerling chinook juveniles was about 74% (with a 95% confidence interval) during the summer flow period (Mid-June through August), which was higher than 2005 pre-spill survival, and exceeded the recent-year (2001-2004) average survival by approximately 71%.

SALMON ADVISORY SUBPANEL REPORT ON CURRENT HABITAT ISSUES

The Water Bank is not a sufficient permanent resolution to Klamath Basin water flows for anadromous fish.

- Voluntary.
- Dependent on continuous Federal appropriations.
- Does not reduce the size of the project.
- Does not address project efficiency.
- Does not resolve water quality concerns.
- Is not sufficiently transparent to satisfy the concerns of all river dependent communities.
- Does not address winter flows.

PFMC
09/20/05

Agenda Item E.1
Situation Summary
September 2005

CURRENT HABITAT ISSUES

The Habitat Committee (HC) will meet on Monday, September 19, 2005, to consider developing recommendations on the following Council agenda items:

F.4 Groundfish FMP Amendment 19 (Essential Fish Habitat)
G.1 Klamath River Fall Chinook Conservation Objective
H.1 Channel Islands National Marine Sanctuary

In addition, the HC will discuss the response letter from the Department of Interior regarding the Council's April 25, 2005 letter on the effects of Klamath River flows on salmon essential fish habitat (EFH) (Agenda Item E.1, Attachment 1) and the response letter from the Federal Action Agencies regarding the Council's May 16, 2005 letter on Columbia River hydropower operations (Agenda Item E.1, Attachment 2).

The HC's complete agenda is provided in Ancillary C.

Council Action:

Consider comments and recommendations developed by the HC at the September meeting.

Reference Materials:

1. Agenda Item E.1, Attachment 1: Letter from John W. Keys, III, U.S. Bureau of Reclamation to Mr. Donald K. Hanson, Council Chairman
2. Agenda Item E.1, Supplemental Attachment 2: Letter from General William T. Grisoli, U.S. Army Corps of Engineers to Dr. Donald McIsaac, Council Executive Director
3. Agenda Item E.1.a, Supplemental HC Report.

Agenda Order:

a. Report of the HC — Stuart Ellis
b. Reports and Comments of Advisory Bodies
c. Public Comment
d. **Council Action:** Consider HC Recommendations

PFMC
09/06/05