



Phone (541) 883-6100 Fax (541) 883-8893 ~ 2312 South Sixth Street, Suite A, Klamath Falls, Oregon 97601

May 4, 2022

Honorable Governor Kate Brown
Office of the Governor
900 Court Street, Suite 254
Salem, OR 97301-4047

Subject: Reclamation States Drought Relief Act Funding for the Klamath Basin

Dear Governor Brown:

Thank you for your April 28, 2022 letter to Secretary Haaland and Commissioner Touton requesting assistance in Oregon under the Reclamation States Emergency Drought Relief Act (Act). As explained in Klamath Water Users Association's (KWUA) March 18, 2022 letter to you and Governor Newsom (copy attached), the Commissioner's exercise of her authority and discretion under the Act is likely the best hope this year for realizing deliveries of water to Lower Klamath and Tule Lake National Wildlife Refuges, as occurred in 2018 and 2020. In turn, this can create revenues for programs operated by the Klamath Project Drought Response Agency. These kinds of win-win solutions are sorely needed in the Klamath Basin.

KWUA is dismayed, however, by your letter's unexpected recommendation that funding under the Act be used to permanently retire irrigation water rights in the Klamath Project and effect a shift to dry land farming. To our knowledge, this is not an authorized use of funding under the Act. We can only assume your administration has made no evaluation of that issue, or of the feasibility or consequences of such action, or whether or how it would benefit non-agricultural interests. We are aware of the political messaging that Klamath Basin agriculture needs to go away. Respectfully, gestures serving no purpose other than to echo that message will not facilitate solutions.

In this basin, federal water policy is stopping food production on some of the best farmland in the world and causing irreparable harm to rural communities and wildlife of the Pacific Flyway. Since October 1, 2021, over one-half million acre-feet of water has flowed into Upper Klamath Lake in Klamath County, Oregon. Virtually all of that water has been, or will be, released to provide flows in the Klamath River in California based on assumptions and hypotheses that have no support in real-world data. In other words, the injuries to Oregonians have benefited no one and have accomplished nothing toward improving fish populations. The problem in our region is not that there is no water; rather, there is exceedingly poor management of the water that is available.

Honorable Governor Kate Brown
RE: Emergency Drought Funding for the Klamath Basin
May 3, 2022
Page 2

In the recent past, KWUA has expressed its disappointment that Oregon has abandoned commitments that your administration made in 2016 in the Klamath Hydroelectric Settlement Agreement and Klamath Power and Facilities Agreement. The April 28 letter's partial, top-down proposal reinforces both that concern and the need for informed, engaged, and thoughtful state leadership in the Klamath Basin.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul Simmons", with a long horizontal flourish extending to the right.

Paul Simmons
Executive Director and Counsel

Enc.

cc (via U.S. mail): Secretary Deb Haaland
(via email): Assistant Secretary Tanya Trujillo
Commissioner Camille Touton
Acting Commissioner David Palumbo

PSS:cr



Phone (541) 883-6100 Fax (541) 883-8893 ~ 2312 South Sixth Street, Suite A, Klamath Falls, Oregon 97601

February 18, 2022

Honorable Governor Kate Brown
Office of the Governor
900 Court Street, Suite 254
Salem, OR 97301-4047

Honorable Governor Gavin Newsom
Office of the Governor
1021 O Street, Suite 9000
Sacramento, CA 95814

Subject: Emergency Drought Funding for the Klamath Basin

Dear Governor Brown and Governor Newsom:

It was an honor to speak with you at the Klamath Summit on February 10. Thank you for the commitment of your time and resources to this critical work. As we all work to bring about stability to our basin, we must also address pressing problems.

Klamath Water Users Association (KWUA) respectfully asks the States of Oregon and California to formally request the Commissioner of the U.S. Bureau of Reclamation (Reclamation) make aid available to the Klamath Project in accordance with the Reclamation States Emergency Drought Relief Act of 1991, as amended (Drought Relief Act). Reclamation provided similar assistance in 2018 and 2020, following receipt of the requests from your offices that are necessary to trigger the Commissioner's authority.

The Klamath Project, encompassing approximately 230,000 acres of irrigated farmland including two National Wildlife Refuges, is suffering its third consecutive year of drought and severe water shortage. The prolonged drought has had a tremendous impact on the people, fish, wildlife, and other natural resources of the Klamath Basin.

Reclamation is now providing aid to farmers within the Klamath Project through a grant of financial assistance in accordance with the Klamath Basin Water Supply Enhancement Act of 2000 (Pub. L. 106-498), as amended (Enhancement Act). This law authorizes Reclamation to administer programs to align supplies and demands for irrigation water within the Klamath Project. However, this authority does not allow Reclamation to address other drought impacts, particularly within Lower Klamath and Tule Lake National Wildlife Refuges (Refuges).

In 2018 and 2020, before certain amendments to the Enhancement Act (*see* Pub. L. 116-191), Reclamation was limited to providing aid to the Klamath Project under the Drought Relief Act. By separate letters in both years, your offices requested that Reclamation provide aid under the Drought Relief Act. This allowed Reclamation to utilize over \$18 million to acquire water supplies for wildlife use within the Refuges and elsewhere. Districts within the Project worked closely with the U.S. Fish



Honorable Governor Kate Brown
Honorable Governor Gavin Newsom
RE: Emergency Drought Funding for the Klamath Basin
February 18, 2022
Page 2

and Wildlife Service to maintain permanent wetlands, establish semi-permanent wetlands, and flood grain fields to feed waterfowl, among other activities.

The Refuges are internationally known for their great abundance and diversity of birdlife, particularly migratory birds. The Refuges are situated on a major migration corridor between breeding grounds in the north and wintering grounds in the south, with 80 percent of the birds of the Pacific Flyway passing through them each spring and fall. Currently, for the first time in human history, both Refuges are completely dry.

The capacity of districts within the Klamath Project to help waterfowl and other wildlife will necessarily be constrained by their own limited water supplies, but they have in recent years shown a willingness to undertake extraordinary operations that benefit the Refuges, often at significant cost to the districts. Reclamation should help facilitate these operations, as it did in 2018 and 2020, but a formal request from your offices is necessary for Reclamation to invoke the authority of the Drought Relief Act.

If you have questions or need any further information related to this request, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in black ink that reads "Paul S. Simmons". The signature is written in a cursive style with a long horizontal flourish at the end.

Paul Simmons
Executive Director and Counsel