KLAMATH OFF-PROJECT

WATER USERS ASSOCIATION

February 5, 2012

**Secretary Salazar,Department of interior**

Klamath Overview Report comments/ questions..

Please answer and or address these concerns:

1. I and many others have responded as required numerous times to the never ending reports and reports on the reports. To date, our extensive, valid pages of concerns have been completely ignored. So my question still remains, “How many times must we respond with our public comments?” After being in the “closed door” meetings, as an original stakeholder, I do know the answer to that question. I am 100% convinced the Federal government, specifically the Department of Interior, will continue to ignore the citizen’s concerns, complaints, demands and other suggested viable solutions. Even those that have a limited knowledge of this complete process readily admit and acknowledge the predetermined outcome direction the Federal Government is taking. The following comments and questions are still waiting to be addressed.
2. The dam removal and KBRA may have started out as a possible solution to the water problems in the Klamath River Basin, but the final product does not deliver. Dam removal does not produce any additional water. It only takes water away from irrigated agriculture and gives it to fish. In my book, **PEOPLE** are more important than fish.
3. This entire process, supported and funded by the Department of Interior, mirrors the corrupt, biased and illegal process used in the San Joaquin Valley, shutting down hundreds of thousands of acres of the most productive farm land in the United States. The exact tactics used there are again being used here in the Klamath River Basin. Flagrantly biased, non-peer reviewed, so called “best available science”, paid for by stakeholders in the dam removal and KBRA effort, is being used by Secretary Salazar to justify moving ahead on dam removal. I pray a Judge from Oregon will harshly reprimand Secretary Salazar as did U. S. District Court Judge Oliver Wanger. Presiding Judge Wanger gave a scathing reprimand to the Department of Interior calling their actions in the San Joaquin Valley as violating the law but also attempting to deceive the Court in justifying their actions. Again, this process is being repeated here in the Klamath River Basin.
4. Using known biased, faulty so called “best available science” such as the Stillwater Report and the economic study compiled by David Gallo, is at least highly inappropriate and at worst, illegal. The Stillwater Report was funded by American Rivers. David Gallo’s study was paid for by Cal Trout and Prosper. These groups and or their Directors are signatories to both the KHSA and KBRA. Nothing like being TRANSPARENT!
5. Using River Design as the lead in modeling and consulting aspects in the so called “science” seems to follow the government direction of using those with a proven track record of failure in their field. River Design provided modeling and consulting in both recent dam removal projects on the Rogue River. Both projects have a lot of OOPS resulting from dam removal. The Rogue River is a very clean river system compared to the Klamath River. Any type of OOPS in the Klamath Dam Removal will result in an environmental disaster of epic proportions.
6. Secretary Salazar’s Report assumes there will be no adverse effect in allowing 22 million cubic yards of sediment, toxic or not, to freely flow to the Pacific. I am not allowed to put over 5 yards of rock or dirt in a river because of the harm it will do to the fish and their habitat. This massive amount of sediment can easily sterilize the entire river for 100 years or more.
7. Secretary Salazar is ignoring his own “expert panel “ of six that stated in their June 16th, 2011, report that the entire dam removal and restorations **could** **boost** **salmon population in parts of the upper basin by 10%, only if all the other water** **quality problems were solved first**. Solving all the water quality problems would require reversing “mother nature’s” natural occurring phosphorus that is prevalent in the entire upper basin. This panel also recognized that fish would still have to be trucked around Keno dam and Keno reservoir. One of the experts, Wim Kimmerer, an environmental research professor from San Francisco State, went as far to say **“I think there is no way in hell that they are going to solve the basin’s water quality problems.”** Wim Kimmerer also stated**,” It doesn’t seem to me like they’ve thought about the big picture very much.”** This same panel said this entire process amounts to a huge **“experiment.”**It is no wonder that dam removal supporters are doing everything possible to discredit or ignore Secretary Salazar’s own “expert panel.”
8. The cost of dam removal will be extremely expensive. Since rate payers will be paying for this cost, this will cause a large cost increase on electricity to rate payers, including homeowners and elderly. I am very concerned about how the rate payers and tax payers are going to afford this increase in electricity costs. The actual cost of dam removal is largely believed to be in excess of $3 billion and we will be the ones to pay the price.
9. It is unclear who will be liable for the removal of the dams. If the Federal government is going to incur the liability, then this cost, which will be huge, will be passed on to tax payers. Tax payers are already facing the daunting burden of repaying the national debt. When is the government going to stop spending tax dollars they do not have?
10. The KBRA and KHSA are irrevocably attached, so you cannot sign onto just one agreement, you have to agree with and totally support both agreements.
11. The hydroelectric plants, which currently provide electricity, will be decommissioned with the dams. How will this electricity production be replaced? The proposed government off-set is significantly less than estimated cost of establishing new power sources. Who will pay this difference for establishing new, **green** **power sources**? How will this affect power rates, if rate payers are partially funding the establishment? I am concerned that we will not find an economical, environmentally friendly way to replace this lost green power source.
12. I do not think that alternatives to dam removal were explored. Such alternatives may include improved fish ladders or trucking fish as is conducted on the Columbia River. Dean Brockbank, vice president and general counsel of PacifiCorp was quoted as saying the government “made it very clear from a public policy point of view that they did not want these dams relicensed. Once that became abundantly clear, we shifted our framework from relicensing to a settlement involving a possible dam removal framework”. What this statement makes abundantly clear to me is that top level officials within the Department of Interior conspired to orchestrate the removal of the dams from the beginning and that the rest of this discussion was simply window dressing and not a sincere attempt to settle the issues with all options available.

## I am concerned about the precedence that this settlement agreement will set. Removing four relatively small dams within the Klamath River system will have an effect on the Upper Klamath Basin in terms of water supply and power rates. However, the greater effect is the precedence that this sets. Can you imagine what will happen if this settlement agreement is used to argue the removal of Columbia River and Snake River dams? Environmental groups have long been successful at taking baby steps toward a large long-term goal. With each baby step there is little concern. And then one day you turn around and realize you are now taking out Columbia River dams, not just a small crumbling Chiloquin Dam. Please stop the environmental groups from marching over the Klamath River system as a small baby step on their way to much larger, more detrimental steps.

1. Dam Removal is absurd because the Dams provide electricity for 70,000 homes. Why destroy this clean energy and then raise our power rates with more expensive and less reliable energy. Dam removal is expected to cost somewhere between 450 million and 4 billion dollars. This does not include the cost of replacement power. Then on top of all this we have another billion dollars with this “restoration agreement” where we have government programs where we take more and more land out of agricultural production, buy the tribes 90 thousand acres, and provide big money to water marketers. This Settlement agreement is nothing more than a massive raid on taxpayer’s wallets. If dam removal is such a good idea why not make those people who advocate for it pays for it instead of us taxpayers and ratepayers.
2. I am being coerced into signing an agreement. I do not understand the complete implications of the agreement, as it does not provide sufficient details for me to come to a comfort level with it.
3. What is going to happen with the comments we are presenting? Who is going to incorporate the comments? Or are we just commenting to appease the public that we have had an opportunity to comment, but nothing will actually come of the comments?
4. I am very concerned that the citizens within Klamath County will not have a way to require the Klamath Tribes to follow through with their part of this settlement agreement (Sec. 2.2.8 pg 15). The citizens cannot sue the Klamath Tribes, a sovereign nation, to enforce the terms of this agreement. This makes me nervous that if I agree to everything within the KBRA and KHSA, and the Tribes do not uphold their end of the deal, I am simply out of luck with no recourse
5. This settlement agreement does not appear to provide any assurances that the irrigation water inside or outside the Klamath Project will be delivered. This concern is primarily in reference to the endangered fish living within Klamath River system and Upper Klamath Lake. If federal agencies decide the fish need more water, then the irrigation water will still be shut off. Therefore, even if we make this agreement and sign away portions of our Upper Basin water, we still have no guarantee that water will be delivered for irrigation. (Sec. 21.4.1 pg 152, Sec. 22.1.3 pg 154, & Sec. 21.3.1.B.e pg 151)
6. Do you want power and rate uncertainty? The removal of the Klamath dams will destroy electricity for 70,000 homes, equal to an area larger than the City of Klamath Falls losing its power permanently! Where is the renewable, greener replacement power that is to replace the power generated by the existing dams? This is just one of the negative aspects of the KBRA and the Klamath dam removal.
7. The KBRA and KHSA, gives new meaning to the phrase “I’m from the government, trust me.” The KBRA is an alleged agreement formulated by 26 groups meeting secretly for several years. They even signed a confidentiality agreement, so the general public would not know what’s going on behind closed doors. What happened to Due Process and transparency? Check out Sec. 34.1 pg 171, in the KBRA. A prime example of Due Process being thrown out the window.
8. Upper Basin irrigators requested three things: reasonable power rates, assurances that endangered species would not further threaten irrigation water supply, and guaranteed water supply to irrigators not included in the water buyout. It is very obvious that there is no affordable power rate for agriculture, no guarantee of water and absolutely no protection from the ESA or Biological Opinions, in the KHSA and KBRA, Sec 22.5.

## The KBRA and KHSA as written limit the possibility of any off stream storage, such as Long Lake, for agricultural purposes. The KBRA dedicates more water to instream flows, which will not be allowed to be used for the off stream storage and any off-stream storage would be for fish only, being called “Environmental Water”, Sec 20.5-20.5.2. The need for off stream storage is huge. The KBRA will not allow for additional storage rights, as all of the additional water available will be required to remain instream for fish.

## What exactly are the Klamath Tribes giving up in return for all of the large concessions in the KBRA and the Klamath Hydroelectric Settlement Agreement? Could you please list the tangible objects which the Klamath Tribes are giving up? Remember, they have no water right, only a claim.

1. I am not certain that the Klamath Tribes have compromised on any aspect of their demands. It appears that they are receiving everything they are asking for, while giving up nothing in return.
2. The term of the KBRA is limited to 50 years, found in section 1.6, page 5. Dam removal is permanent, water right amounts, instream amounts and priority dates advocated for in the KBRA will be permanent, water right buyouts will be permanent, Mazama Tree Farm 90,000 acre land give-away is permanent. There is no guarantee of water, affordable power or protection from the ESA or Biological Opinions. This is anything but fair and equitable in terms of “compromise”.
3. This settlement agreement has the term of fifty years (sec.1.6, pg 5). At the end of fifty years, which is not that long, what incentive will there be to continue providing any of the hoped for benefits? The agreement will no longer be in place, which will allow for the government and power companies to void their incentives and raise rates as they please. All the concessions in the KBRA & Dam Removal are permanent.
4. Under the terms of the settlement, the Klamath Tribes will be receiving 90,000 acres of private timber lands, primarily at the expense of the federal government (Sec. 33.2, pg 170). I do not understand why the Klamath Tribes should be given land, instead of having to pay for it like the rest of the citizens within Klamath County. Can the government please give me some other land with irrigation water, since the government is effectively taking away my irrigation water which I purchased at a fair market value?
5. The Klamath Basin Restoration Agreement if implemented would destroy upper basin livelihoods. The Tribes are seeking essentially all of the water in stream. The KBRA and KHSA require Tribes and Environmental organizations to target upper basin irrigators, before regulating the Klamath Project. This agreement is grossly unfair. Now we have a major agreement proponent Sustainable Northwest paying Becky Hyde in excess of $63,000, to promote this devastating so-called settlement, all the while failing to mention that settlement as written would destroy upper basin irrigators.

## The additional in-stream claims pushed in the KBRA and KHSA, will put the 30,000 acre feet of irrigation water diverted to the Rogue Valley at risk. This water is used by many irrigators in the Rogue Valley including Bear Creek Orchards. (Sec. 20.5.2.E, pg. 142 & Sec. 18.2.6, pg. 123)

1. Numerous times I have read in the newspaper that the Settlement Agreement would guarantee water for agriculture. Unfortunately, the settlement agreement says no such thing. In fact, the settlement agreement is abundantly clear that there are no such protections and that the US Fish and Wildlife Service still has authority to shut down the project just like they did in 2001. This agreement is tearing our community apart; please help us stop it unless there are major fixes to these terrible conditions. (Sec 21.4.1 pg 152 & Sec. 22.1.3 pg 154)
2. It seems we have a lot of people having a financial incentive to promote settlement. Settlement proponents are paying at least one off-project proponent of settlement as a consultant. Settlement also advocates in excess of 100 million dollars in water marketing schemes both on project and off-project. Some people have made a lot of money marketing water. And finally the refuges were historically last to get water in times of shortages, now the refuges appear to be guaranteed a fixed amount of water under settlement. Would this water not come from other agricultural users, and would this water not benefit those farmers who farm the refuges at the expense of other farmers. Are these people supporting settlement doing so because it is good for the community, or because it is good for their pocket book at the expense of the community?

## The Trinity River is historically a large contributor of flow to the Klamath River. Now the majority of the Trinity River goes to the central valley of California to supply their agricultural, industrial and municipal uses. This is unfair that large quantities of cold water are taken away from Klamath flows, essentially to satisfy the shortages which were created by the diversion of the Trinity River to the Sacramento River system. The Trinity River diversion is specifically protected in the KBRA. (Sec. 2.2.12, pg 16)

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1. As a farmer and rancher, I never thought that I would live in a community where I would have to become a welfare recipient. I do not want to depend on government programs and funds to survive. I am concerned about losing my way of life, independence and dignity.
2. What happens if you do not participate in the KBRA or KHSA? Say I choose to pay tariff rate for power, then what can the KBRA or KHSA do to me?
3. Which physical ground is going to be dried up with the so called loss of 100,000 acre feet of water from the Klamath Project?
4. Citizens within the Klamath Basin who harvest timber have to pay timber tax. This timber tax is paid to Klamath County for uses including schools and emergency services. Will the Klamath Tribes be required to pay tax on timber harvests? The current agreement only provides funding to Klamath County to offset the property tax. Will Klamath County be provided these timber tax dollars by the state or federal government, if the Klamath Tribes are not required to pay them. These tax dollars are desperately needed to help cover the costs of the Klamath County schools and other local services.
5. This agreement has been proposed to limit law suits. I am not sure that it will limit law suits, particularly if it does not resolve all of the contests within the Klamath adjudication. It appears the only limitation on lawsuits is by having the Off-Project Power Users endorse the settlement as a step in the process to receive lower power rates. It would be difficult for an Off-Project Power User to both sue and support an agreement or an agreement consequence.
6. How do you expect us to sign on to an agreement when the settlement groups are still working on filling in the details and understanding the implications?
7. Settlement agreement advocates that our water right be targeted at the same time as baiting the mouse trap with “affordable power”. Unfortunately, this affordable power is not guaranteed. It is only if some government funding comes through. But the land going out of agricultural production, the dams being removed, and the requirement that Environmentalists and Tribes target the off project irrigators every time they need more water, our guaranteed under settlement. The power program is funded through a loan, which will have to be repaid at some point. (Sec. 17.7.2.B pg 118 & Sec. 17.7.3C pg 119) Unfortunately, the only guarantee the settlement provides is that there will be a lot less land in agriculture production.
8. If the KBRA and KHSA is the fix-all for everything, why do state laws need to change to accommodate all its parameters?
9. 100,000 acres of irrigated land have been permanently retired by governmental and The Nature Conservancy purchases. The KBRA will permanently retire an additional 30,000 acre feet of water with a formula for much more (Sec. 16.1 pg 105 & Sec 16.2.2B, pg 108). This will lead to ruin in the cattle business, the biggest agricultural business in Klamath County. The support industries all the way from local country stores to the local implement dealers will be crippled.
10. Do we want thousands of acres of land lying idle and becoming a dust bowl? The proposed KBRA & KHSA will dictate considerably more water for refuges, less for agriculture than has historically been the case, hurting our local economy and reducing tax revenues. We crippled the timber industry; do we harm the agricultural community as well? (Sec. 15.1.2.B)
11. Water claims for the Klamath Project were filed under the Oregon and US Reclamation Acts, which called for irrigation uses. Under KBRA & KHSA, uses would be expanded for fish and wildlife. Deadlines have long passed to amend claims filed. How can we legally amend these claims at this time? (Sec. 15.1.1.A.i, pg. 52)
12. The Oregon adjudication grants rights based upon historical uses. Project usage has been dependent on stored water. How can stored water under the KBRA & KHSA now be dedicated to these new instream purposes and now allow calling on Upper Basin water to meet the Project needs?

## Who elected all of the new governing bodies established within the KBRA and KHSA?

## Since the KBRA and KHSA are so controversial in southern Oregon, why had it not been put to the public for a vote?

## Thank you for taking the time to address all of these questions and concerns.

## Tom Mallams

## President, Klamath Off-Project Water Users Association

## tmbrokenboxranch@gmail.com