

Summary of Ongoing and Planned Work of the Department of the Interior Related to the Klamath River Basin

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The Department of the Interior has five of its bureaus, the Office of the Solicitor, and the Office of the Secretary heavily involved in activities and issues associated with fish resources of concern to Klamath River basin communities, including Indian tribes. The activities range from conducting ecosystem restoration activities – especially restoring aquatic habitat in the tributaries and adjacent lands, to establishing water banks for the Klamath Irrigation Project and conducting studies to support water-rights claims based in part on trust and treaty fishery resources.

The Bureau of Reclamation (Reclamation) is in the process of creating a water bank on the Klamath Project to fallow land irrigated by surface water and to substitute groundwater for surface water. It is expected that this will reduce Klamath Irrigation Project water demand from Upper Klamath Lake by at least 55,000 acre feet this year, and increase Klamath River flows to meet biological opinion requirements. This program has potential to expand in future years; current plans are to expand the program to 75,000 acre feet of water in 2004, and to 100,000 acre feet from 2005 through 2012. Reclamation is also studying increasing storage in Gerber Reservoir in the Lost River watershed to reduce pressure on Klamath River flows, funding studies by California State Polytechnic University at San Luis Obispo on how to reduce Klamath Irrigation Project water demand, and is nearing completion of the installation of the fish screen on the A-canal – the primary diversion point for project water from Upper Klamath Lake – to reduce entrainment of endangered suckers in project canals. Work to improve the fish ladder at Link River Dam, the outlet of Upper Klamath Lake, is scheduled to begin next year. The improved fish ladder will greatly improve the ability of endangered suckers as well as redband trout to move between Lake Ewauna and Upper Klamath Lake. Also, Reclamation is renewing its initiative to prepare an Environmental Impact Statement (EIS) on long-term operations of the Klamath Project. That EIS will consider project operations and alternatives in light of the biological opinions on the project issued by the Fish and Wildlife Service (FWS) and NOAA Fisheries, the Endangered Species Act (ESA) in general, water shortages, Indian trust responsibilities and treaties with tribes, and other current and anticipated issues.

Reclamation is proposing to undertake a Klamath Basin Conservation Implementation Program (KBCIP) similar to the Upper Colorado River Basin Recovery Implementation Program (UCRBRIP) to recover several endangered fish, which will in turn provide certainty to the economy of the Klamath River basin including the Klamath basin agricultural sector. This would be accomplished by enlisting the States of California and Oregon to join with Interior (the Fish and Wildlife Service, Bureau of Indian Affairs, and Reclamation), Agriculture (U.S. Forest Service and Natural Resource Conservation Service), and Commerce (NOAA Fisheries) in a formal process modeled after the UCRBRIP but customized to the Klamath Basin. The process would use best available science to

focus on appropriate recovery actions and would be developed in conjunction with the other partners. The KBCIP was introduced in a workshop held in November 2002 attended by approximately 150 people, including representatives from state, county, city, and tribal governments, federal agencies, water users, environmental groups, members of the Upper Basin Working Group and the Klamath River Task Force, hydropower interests, commercial and sport fishing interests, and the general public. The workshop was well received and comments received indicated general support for such a Klamath Basin CIP program including support from local government officials, water users, the Upper Klamath Basin Working Group, environmental organizations, and, to a certain extent, area tribes.

The KBCIP will be designed to provide compliance with the ESA for both new and existing water uses, and to facilitate implementation of conservation efforts. The ability of the program to serve for the ESA compliance would depend on attainment of sufficient progress toward meeting the recovery goals of the program and be determined by FWS and NOAA Fisheries. Program participants would work with FWS and NOAA Fisheries to develop the process and factors to be considered in determining sufficient progress. Actions undertaken to implement the program will be consistent with the water rights laws of Oregon and California.

Goals of the KBCIP, in general, would be:

1. To recover shortnose sucker, Lost River sucker, and coho salmon so that they no longer require protection under the Endangered Species Act.
2. To allow continued operation of existing water facilities and future development of water resources for human use in the Klamath Basin

The signatory parties would enter into an MOU under authority of federal and state law, as applicable, including but not limited to Section 2c(2) of the Endangered Species Act which states, “. . . that the policy of Congress is that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species . . .,” and Section 6(b) of the Endangered Species Act, which states, “The Secretary may enter into agreements with any State for the administration and management of any area established for the conservation of endangered species or threatened species.” The program would be subject to, and is intended to be consistent with, all applicable federal and state laws including state water rights, existing federal authorities and appropriations. Primary funding for the program will likely come from Reclamation and the States of California and Oregon. Water users, commercial fishing interests, tribal representatives, FWS, Bureau of Indian Affairs (BIA) and NOAA Fisheries would contribute to the program primarily through in-kind costs.

A key component of the Department’s work in the Klamath River Basin is protection and restoration of the aquatic habitat upon which endangered fish and fish available to tribes under treaty rights and fish available to commercial and sports fishers depend for spawning, growth and survival. All three Fish and Wildlife Service (FWS) field offices in the basin – those in Klamath Falls, Yreka, and Arcata, have active programs for restoration of Klamath River basin wetlands and tributaries to the Klamath River and lands adjacent to Upper Klamath Lake and Agency Lake. Restoration projects include many activities such as stream narrowing, streambank stabilization, and fencing cattle out

of riparian zones. These projects are funded through the “Partners for Fish and Wildlife,” “Jobs-in-the-Woods” and the coastal programs of FWS.

In conjunction with ongoing negotiations with the Klamath Tribes over land and water issues, in preparation for anticipated negotiations with PacifiCorp over relicensing the hydropower facilities they operate on the Klamath River and its tributaries, and in preparation for identifying opportunities to otherwise increase fish resources and improve the habitat on which they depend, the Department has commissioned FWS to examine the full suite of activities that would be needed in the upper and lower Klamath River Basins to restore the aquatic habitat to a level that would provide harvestable quantities of the key fish species – a level that would go beyond simply increasing the survivability of those species so that they could be delisted under the ESA. This examination was initiated last fall for the upper Klamath River basin and at the beginning of February for the lower basin. The examination includes identifying the planning, coordination, and study needs, as well as specific types of restoration that would need to take place on a comprehensive basis in each of the sub-basins in the Klamath River basin. It further includes developing workload estimates and cost factors to provide estimates for the overall costs of work that would be necessary to accomplish the restoration goal, and identifying existing programs that could be used and potentially augmented to accomplish the goals.

The results of this examination, when completed, can, among other things, help establish priorities for use of existing resources and support budget requests for future years to lead to a more robust restoration program and success in increasing fish stocks to harvestable levels. Many of the restoration and management approaches that will be needed may be implemented through use of other federal, state and local agencies and programs. Coordination with those other federal, state and local restoration efforts is crucial and anticipated.

The Trinity River, a major tributary of the Klamath River, already has a program to restore the fishery including threatened coho salmon. The restoration program is based on a flow study that had been underway for nearly 20 years and an Environmental Impact Statement (EIS) completed in 2000 by Reclamation, FWS, the Hoopa Valley Tribe, and Trinity County CA. Signed in December 2000, the Record of Decision based on that EIS outlines a plan to implement recovery of the Trinity River and its fish and wildlife populations. The Trinity River Restoration Program is a comprehensive approach to fishery restoration and includes new flow regimes, channel rehabilitation, sediment management, bridge replacement, and watershed restoration. Implementation of the restoration program has been initiated and will continue into the future. The KBCIP will coordinate closely with the participants in this joint initiative to meet common goals of species recovery.

FWS, along with NOAA Fisheries, also oversees implementation of the Endangered Species Act and advises other resource agencies on endangered species matters, including conducting consultations under section 7 of ESA. Once listed as threatened or endangered, the basic recovery goal for listed species is to restore and recover populations so that they can be removed from the list. Once a species is listed, FWS forms a recovery team and prepares a recovery plan, which identifies actions necessary to achieve recovery. Once finalized, that plan is used by all stakeholders, including the state and federal agencies to implement recovery actions.

An important tool available under ESA is the use of Habitat Conservation Plans (HCPs). These are agreements associated with “take” permits that provide sufficient conservation measures, including habitat protection and restoration to minimize and mitigate for any take of threatened and endangered species. One such agreement covering 200,000 acres of timberlands in the lower Klamath River basin has been entered into with Pacific Lumber Company to address forestry management impacts to salmon, marbled murrelets, spotted owls and other species. Currently, FWS is working with NOAA Fisheries to develop an aquatic HCP with Simpson Timber Company covering 400,000 acres of Simpson’s timberland. Conservation measures proposed include riparian buffers and a significant reduction in sedimentation of streams from haul roads. These conservation measures will improve the quality of fish habitat throughout the lands covered under the HCP. Implementation of these HCPs, along with the development of new ones, will continue.

FWS also works to prevent species from becoming threatened or endangered, and has thus concentrated on conserving species that might become listed in the future. This work includes working with willing landowners to develop various types of monitoring and surveys, and focusing restoration in areas that will benefit these sensitive species, such as spotted frogs, yellow rails, redband trout, coastal cutthroat trout, and torrent salamanders. In some cases, Candidate Conservation Agreements are developed with private landowners. These agreements include a variety of conservation measures to protect sensitive species. FWS will continue to develop these agreements with willing basin landowners.

FWS is also responsible for implementing the Klamath Basin Fisheries Restoration Act. The goal of the Act is to restore anadromous fish in the Klamath River. Two separate Federal Advisory Act Committees are established by the Act, the Klamath River Fisheries Task Force and the Klamath Fishery Management Council. The Task Force is a 16-member Committee whose purpose is to provide recommendations to the Secretary of the Interior on restoration measures needed to restore salmon in the Klamath Basin. The Task Force identifies and funds restoration projects in the Basin. The Fishery Management Council provides recommendations on the harvest of anadromous fish.

The Bureau of Land Management (BLM) has acquired the 3,200-acre Wood River Cattle Ranch on the north shore of Agency Lake and bounded by the Wood River, an important tributary of Upper Klamath Lake. This land is being restored to wetland habitat through BLM-, BOR- and FWS-funded projects. The restored wetland habitat helps protect sensitive species and improves the quality of water flowing into Agency Lake.

Improvements in the quality and quantity of flows into Agency Lake are also being funded by Departmental bureaus through a pilot project with the Klamath Basin Rangeland Trust (KBRT). Initiated in the summer of 2002, KBRT was funded to lease water rights from 3,161 acres of irrigated pastureland on ranches in the southern portion of the Wood River Valley and to transfer those rights to instream flows and Agency Lake. As a result of the pilot project, no flood irrigation occurred on any of the participating properties and drainage from these lands to Agency Lake was substantially reduced. Drainage from the Wood River Valley is an important cause of the high phosphorus levels of water entering Agency Lake, which contribute to algal growth in both Agency

and Upper Klamath Lakes. The algae deplete oxygen levels in the lakes to levels that can be lethal to fish including the two endangered suckers. The pilot project includes funding for installation of riparian fences to keep cattle away from streams, and development of alternative stock-watering options on participating properties. The reduction in flood irrigation also increases direct water flows to Agency Lake. In 2002, flows to Agency Lake from Crooked Creek were estimated to have increased when compared to when the water in this drainage was being used more extensively for irrigation. The pilot project includes extensive monitoring to assess the ecological effects of the project. The pilot project has been expanded to additional acreage and extended for the 2003 water year. The expansion includes lands in the Sevenmile Creek drainage and is expected to result in a significant increase in flows and improvement in water quality from that creek into Agency Lake.

Reclamation has acquired the 7,159-acre Agency Lake Ranch, adjoining Wood River Ranch to provide water storage and water quality improvements. The Department and others are giving consideration to expanding the storage area adjacent to Agency Lake. Such additional storage could help supplement and stabilize Klamath River flows. Reclamation also expects to initiate a study in 2004 assessing lake elevations, irrigation deliveries, and the feasibility of storing surplus winter flows from the Lost River and Upper Klamath Lake in Swan Lake Valley.

The Bureau of Indian Affairs is continuing to fund work to support water-right claims filed by the Department of the Interior on behalf of the Klamath Tribes in the State of Oregon's Klamath Basin General Stream Adjudication, including providing the primary financial support for developing technical information to support those claims and related contests. Similar work is being conducted for water-right claims for Reclamation's Klamath Irrigation Project and for federal lands managed by FWS, the National Park Service (NPS), and the U.S. Forest Service. Attorneys from the Department of Justice and Interior's Office of the Solicitor work on these claims, including handling litigation before the U.S. Court system as necessary. Collaborative efforts of BIA and Reclamation have also helped finance work by the Klamath Tribes to evaluate and compile data in the upper Klamath basin for use in developing a settlement position regarding tribal water-right claims. BIA is also continuing work to determine appropriate stream flows below Iron Gate Dam for the protection of fish species used by tribes in the lower Klamath River basin.

The U.S. Geological Survey is conducting work on Klamath River basin issues through two of its divisions. The Water Resources Division is conducting a seven-year investigation of ground water in the upper basin to determine how ground water can best be used to help solve water supply problems. Key elements of the project include determining the sources, distribution, and rates of ground-water recharge; describing the geological controls on the occurrence and movement of ground water; determining the rates and locations of ground-water discharge to streams; quantifying ground-water use; and understanding how the ground-water system responds to external stresses such as drought. The study, scheduled for completion in 2005, is intended to provide a solid base of information and computer modeling tools to help resource management agencies determine how ground water can best be used to help solve water-supply problems. The study will also help improve water supply forecasts since a large proportion of the inflow to Upper Klamath Lake originates as ground water. This work is jointly sponsored by Oregon's Water Resources Department and Reclamation. Reclamation also has helped finance a well level measurement and

monitoring study with the California Department of Water Resources for California's portion of the upper basin. The Biological Resources Division is conducting studies to better understand the health of endangered sucker populations of the upper Klamath River basin, and the factors that compromise the long-term viability of those species.

Also, the Department has requested the National Academy of Sciences, as part of its study on the state of the science and information on which Endangered Species Act decisions are made in the Klamath River basin, to identify an agenda of needed technical information and science to help strengthen the quality of decision-making regarding the species and habitats of concern. This agenda will also help in setting priorities, allocating resources and formulating budgets to address these science and information needs.

Staff from the Office of the Secretary, the Office of the Solicitor, BIA, FWS, BOR, BLM and the National Park Service also are working with PacifiCorp in their project to relicense PacifiCorp's seven hydropower units and dams in the middle portion of the Klamath River basin stretching from the hydropower units at Link River Dam to Iron Gate Dam. These dams, one in place since 1920, effectively block passage of salmonids and eels. PacifiCorp's current license from the Federal Energy Regulatory Commission is scheduled to expire in March 2006, and a new license application is required to be submitted by March 2004. Staff from the Department of the Interior, tribes, and other organizations have been intensively working with PacifiCorp to identify studies needed to make decisions with regard to license terms for the next license period, which will cover at least 30 years of operations. The information from these studies will be used to make decisions regarding fish passage and other requirements that will be prescribed by Interior and the Department of Commerce, and will also underpin expected negotiations with PacifiCorp over hydropower license terms.

Additionally, staff from all five bureaus, the Office of the Secretary and the Office of the Solicitor are heavily involved on a day-to-day basis in working on the issues related to water use and fish restoration in the Klamath River basin. Among other things, they implement the many projects underway, conduct negotiations, participate in the Upper Klamath Basin Working Group, work on the Klamath Basin Fisheries Restoration Task Force, and serve on the Klamath Instream Flow Study Technical Team.