



United States Department of the Interior



BUREAU OF RECLAMATION
Klamath Basin Area Office
6600 Washburn Way
Klamath Falls, OR 97603-9365

IN REPLY REFER TO:

KO-100
2.2.4.21 (WTR-4.10)

JUN 15 2020

VIA ELECTRONIC MAIL ONLY

Thomas M. Byler, Director
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

Subject: Reporting of Klamath Project Operations to Satisfy the Requirements of Federal Law

Dear Mr. Byler:

The U.S. Bureau of Reclamation (Reclamation) is providing this letter as a further supplement in response to the Oregon Water Resources Department (OWRD) April 23, 2020 Interim Order Concerning Release of Stored Water.

Reclamation is providing initial notification to OWRD here that it is presently accomplishing a bypass or release of water from Upper Klamath Lake (UKL) to meet the requirements of applicable federal law, including but not limited to the Endangered Species Act (ESA), as required by the terms of Reclamation's 2018 Operations Plan, as supplemented by its 2020 Interim Operations Plan. The bypass also is consistent with a stipulated stay of litigation entered in the matter of Yurok Tribe, et al. v. U.S. Bureau of Reclamation, et al., Case No. 3:19-cv-04405-WHO (N.D. Cal). Specifically, the current releases from Link River Dam that are greater than minimum flow requirements in the Klamath River as set forth in the 2018 and 2020 Operations Plans and analyzed in the 2019 National Marine Fisheries Service Biological Opinion (NMFS BiOp), are for the purposes of repaying water that was borrowed previously from Pacificorp reservoirs in order to meet ESA requirements for listed species in UKL and the Klamath River as well as overlapping downstream tribal fishery needs and rights, while implementing Reclamation's Interim Operations Plans.

There are two operations occurring simultaneously, which began on June 10 and 11, 2020. First, Reclamation initiated repayment of 15,000 acre-feet (AF) of water previously borrowed from PacificCorp reservoirs in order to maintain UKL elevations necessary for ESA-listed suckers.

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Second, Reclamation initiated release of an additional 8,000 AF to augment the Environmental Water Account (EWA) in order to provide pulse flows for ESA-listed salmon in accordance with the 2018 Operations plan and 2020 Interim Operations Plan. It should also be noted that this volume is not coming out of the 60,000 AF that was restored to the Klamath Project Supply last week.

Generally speaking, the 2020 Interim Operations Plan provides that the water supply in UKL will be managed in accordance with the 2018 Operations Plan and the 2019 NMFS BiOp and the 2020 FWS BiOp, except that 40,000 AF of additional water (23,000 AF from the Project and 17,000 AF from UKL) will be provided to augment the EWA in certain year types for spring fish habitat and disease mitigation flows in the Klamath River below Iron Gate Dam. Reclamation, the Klamath Water Users Association (which includes KID as a member district), Yurok Tribe, and National Marine Fisheries Service (NMFS) agreed that, as long as Reclamation continues to implement the Project in accordance with the Interim Plan and the applicable BiOps, a lawsuit that was brought by the Yurok Tribe and fishing interests against Reclamation and NMFS in the U.S. District Court (N.D. Calif.) seeking greater flows for ESA-listed species in the Klamath River, would be stayed until September 2022, to allow Reclamation to complete an ongoing ESA Section 7(a)(2) reinitiation of consultation with NMFS and FWS on a longer term operations plan.

The 40,000 AF of EWA augmentation was triggered in 2020 under the terms of the Interim Plan. However, due to the extremely dry conditions thus far in 2020, Reclamation has not been able to provide all 40,000 AF of the required EWA augmentation while meeting lake elevations for suckers and Project deliveries. As of June 10, 2020, Reclamation had provided approximately 7,000 AF of the 40,000 AF augmentation. To support UKL lake levels to the extent possible for ESA-listed suckers, Reclamation entered into two agreements consistent with the Interim Plan and the two BiOps:

1. Reclamation coordinated with PacifiCorp to borrow 15,000 AF from their reservoirs downstream of UKL to meet flow requirements for ESA-listed coho salmon in the Klamath River, in accordance with the Interim Plan. This allowed an equivalent volume of water to be retained in UKL to support critical elevations for ESA-listed suckers through the end of May. Increased releases from UKL began on June 10, 2020 to repay the borrowed 15,000 AF volume.
2. Due to an improvement in hydrology as indicated by the June 1, 2020 NRCS forecast, and pursuant to the Interim Operation Plan's requirement provide 40,000 AF of EWA augmentation below Iron Gate Dam for disease mitigation and habitat flows, Reclamation also initiated operations on June 10, 2020 to raise flows below Iron Gate

Dam above the BiOp base river flows. The intent of these operations was to create a pulse flow with the goal of stimulating outmigrating behavior in juvenile salmon, including ESA-listed coho salmon. The pulse flow at Iron Gate Dam began on June 11, 2020. The volume of water for the pulse flow is limited to 8,000 AF. The coincident repayment of borrowed volume from the PacifiCorp reservoirs with the pulse flow operation provides efficiencies for both operations, and will result in total releases of approximately 15,000 AF out of the 40,000 AF that was required by the Interim Operations Plan based on the April 1, 2020 NRCS forecast.

In short, Reclamation's bypass or release of water in conjunction with Klamath Project operations is being made to meet the requirements of applicable federal law, and to maintain a stay of federal court litigation that sought to compel even greater releases. Please distribute Reclamation's response as necessary to interested entities in this matter.

Sincerely,

Jeffrey Nettleton
Klamath Basin Area Manager

cc: Mr. Michael Gheleta
Supervisory Attorney
U.S. Dept. of Interior, Office of Solicitor