



May 11, 2010

U.S. Fish and Wildlife Service  
Attn: Michelle Barry, Refuge Planner  
Klamath Basin National Wildlife Refuge Complex  
4009 Hill Road  
Tulelake, CA 96134

RE: Klamath Basin National Wildlife Refuge Complex Comprehensive Conservation Plan

Dear Michelle Barry:

I am writing on behalf of WaterWatch concerning the comprehensive conservation planning process for the Klamath Basin National Wildlife Refuge Complex. WaterWatch is a non-profit conservation organization that has worked on Klamath Basin water and refuge issues for over a decade. Many of our members frequently use the refuges for nature observation and photography. WaterWatch hopes that the CCP process will be used to take a hard look at current refuge management and uses and at a broad range of management alternatives for these important refuges.

The Upper Klamath Basin historically contained 350,000 acres of wetlands and tremendous populations of waterfowl and other wetland birds. A century ago the basin showcased what was believed to be the largest concentration of waterfowl in the world with up to 10 million birds occupying basin wetlands at one time. Unfortunately, 75% of the historic wetlands have been drained in the Klamath Basin to make way for irrigated agriculture, while 95% of the wetlands in California have also been lost. This greatly increases the importance of the remaining wetlands, some of the most important of which are located in Lower Klamath and Tule Lake National Wildlife Refuges. These refuges are located on the old lakebeds of Lower Klamath Lake and Tule Lake, and the refuge lands offer the best opportunity to reclaim and restore vital and much needed wetlands in the basin and in the Pacific Flyway. They are arguably the most important national wildlife refuges in the Pacific Flyway and it is extremely important that the CCP that is developed is based on the best available science and advances the purposes of these refuges and the mission of the National Wildlife Refuge System to the greatest extent possible.

The following are some of the issues WaterWatch believes should be addressed in the CCP process:

**1. General.** Public lands on the national wildlife refuges are required by law to be managed for the purposes of the particular refuge and the mission of the National Wildlife Refuge System. The CCP should:

- Provide for the conservation and restoration of migratory birds, fish, wildlife, plants and their habitats within the refuges.
- Ensure that the biological integrity, diversity and environmental health of the refuges are maintained and restored.
- Identify the distribution, migration patterns, and abundance of fish, wildlife, and plant populations and related habitats within the refuges.
- Provide for the enhancement of and increase in refuge wetlands, riparian areas and native trees and shrubs.
- Provide for the restoration of the historic lake beds of Lower Klamath Lake and Tule Lake within the boundaries of the refuge.
- Address the frequent draining of wetlands in Upper Klamath National Wildlife Refuge.
- Analyze alternatives for improving water quality.
- Give compatible wildlife-dependent recreational uses priority over other non-conservation uses.

**2. Commercial Farming.** Over 22,000 acres on Lower Klamath National Wildlife Refuge (LKNWR) and Tule Lake National Wildlife Refuge (TLNWR) are leased for commercial farming (distinctive from cooperative farming used as a refuge management tool). Commercial farming provides little or no wildlife benefits and prevents these former wetlands from being restored and managed for the fish and wildlife that our national wildlife system was created to protect. In addition, the former lakebeds and wetlands that are being farmed are an ideal place to store winter water to help meet the refuges' water needs. A number of pesticides, herbicides and fertilizers are used on the refuges in connection with commercial farming, including many that are known to be harmful to birds and other wildlife, and the general public is excluded from portions of the refuges when these chemicals are applied. Herbicide use also inhibits the growth of plants and trees that would be beneficial to wildlife and help improve water quality. A high percentage of row crops and other crops that provide little or no wildlife benefit are grown on the refuges. (See Attachment A for a summary of why commercial farming on the refuges should be phased out.)

As part of the CCP process the United States Fish and Wildlife Service should:

- Identify the affects that commercial farming have on the populations and habitats of fish, wildlife, and plants in the refuges and the actions necessary to correct such problems.
- Assess whether this commercial farming program is consistent with refuge purposes under the Kuchel Act and compatible with refuge purposes and the mission of the National Wildlife Refuge System.
- Make a determination that this harmful activity is not consistent with or compatible with the purposes of these refuges or with the mission of the National Wildlife Refuge System. The CCP should contain a plan to phase out these leases by prohibiting any new leases from being made.
- Prohibit pesticide, herbicide, and fertilizer use in connection with commercial farming on the refuge.
- Prohibit growing row crops and other crops that provide little or no benefit to wildlife.

**2. Water for the Refuges.** LKNWR's water needs based on current refuge management goals are equal to 60,000 acre-feet during the irrigation season and 35,000 acre-feet in the winter. Because the refuge's water rights for refuge wetlands have a

priority date of 1908 and the Klamath Reclamation Project has a 1905 priority date for irrigation, LKNWR wetlands have suffered recently. In addition, the Klamath Basin water adjudication is not complete and the State of Oregon does not regulate water users that have water rights junior to the refuges. Leasing land for commercial farming on the refuges eliminates the best way to give water security to the refuges, which would be to use the old lakebeds on the refuge to store winter water for refuge use and use the water rights associated with those lands for refuge purposes, rather than use those lands for commercial farming. The KBRA does not solve the refuges water problem and in fact has many provisions that reduce water deliveries to LKNWR, make it more difficult to improve the refuges' water situation, and ensures the refuges will be the first to suffer during droughts. The KBRA also attempts to lock in commercial farming on the refuges for the next 50 years. As part of the CCP process the United States Fish and Wildlife Service should:

- Explore means of attaining a secure source of water for the refuges.
- Defend its claims in the Oregon Klamath Water Rights Adjudication for the full amount of water needed by the refuges, and develop a plan to ensure junior water users are regulated so that refuge rights are achieved.
- Curtail commercial farming on the refuges in any year that the refuges are not receiving their full water supply and require the 1905 priority dated water rights associated with the refuge lands farmed for commercial agriculture be delivered to refuge wetlands rather than for irrigating 22,000 acres of refuge land for commercial farming.
- Phase out commercial farming on the refuges and use those refuge lands to store winter water and manage for refuge purposes.
- Develop a plan to attain water from willing sellers to meet refuge water needs.
- Acquire all contracts, licenses, or easements needed for water delivery systems for the refuges, and to improve and develop the systems to adequately serve refuge water needs.
- Consider managing the refuges consistent with a more natural hydrological regime.
- Not rely on the KBRA to solve its water needs.

**3. Walking Wetlands.** Walking wetlands is a program that is currently being implemented to increase wetlands on the refuge leaselands and on private lands in the basin. The program is called “walking” wetlands because the wetlands that are created are temporary (generally only in existence for one or two years), and then the land is commercially farmed again, and new wetlands are then temporarily created on other land that was previously farmed, and so on. After land has temporarily been in wetlands it is more valuable for farming because there is less need for pesticides and fertilizer thereby reducing costs, and the crops grown may qualify as organic thereby bringing in greater revenue. And of course, when land is actually in wetlands the program provides great benefits to waterfowl, but no longer does when the land is farmed again. The program is being portrayed as a reason why commercial farming on the refuges is good for wildlife. Though it is certainly better to have some of the refuge leaselands in wetlands instead of all in farming, the fact remains that the value of the program to wildlife is not when the land is farmed, but when it is in wetlands. The program actually shows the enormous benefits that could be derived if commercial farming was actually eliminated from the refuge lands. In addition, it should be noted that there is no current requirement that any percentage of refuge leaselands must be in walking wetlands.

Under the KBRA, if the USFWS is directed by Congress to sign it, the USFWS would be agreeing to penalize Lower Klamath NWR for any walking wetlands, by reducing the water allocation to Lower Klamath NWR wetlands by one-acre foot per acre of walking wetlands. Water will be withheld from Lower Klamath NWR at a rate of one-acre foot per acre of walking wetlands, regardless of how much water is applied to the walking wetlands, and regardless of whether it is more or less than would have been applied if the land was farmed. Lower Klamath NWR is even being penalized where private walking wetlands are created under the program to increase the value of farming on private lands. Though the private wetlands will provide some benefit to waterfowl, public wetlands on a national wildlife refuge would suffer, in order to temporarily create wetlands on private lands for the private landowners' benefit, all at taxpayer expense. It again makes a lot more sense to just phase out the existing commercial farming leases on the refuges, and restore those valuable refuge lands to their historic wetland condition.

As part of the CCP process the United States Fish and Wildlife Service should:

- Only use walking wetlands as a bridge management measure as historic lakebeds are restored to natural conditions and managed for migratory birds, fish and wildlife rather than for commercial farming.
- Not use walking wetlands as a justification for maintaining commercial farming on the refuges.
- Should not reduce water deliveries to LKNWR on account of walking wetlands.
- Analyze how walking wetlands affects the long-term biological integrity, diversity, and environmental health of the National Wildlife Refuge System.
- Analyze whether phasing out commercial farming on the refuges would better serve the purposes of the refuges and the National Wildlife Refuge System.

**4. Stateline Road.** Currently Stateline Road, a major commercial trucking route, bisects Lower Klamath National Wildlife Refuge, has a 55 mile per hour speed limit, and has inadequate shoulders to pull over for nature observation.

As part of the CCP process the United States Fish and Wildlife Service should:

- Consider routing commercial trucking off Stateline Road where it goes through Lower Klamath National Wildlife Refuge.
- Consider lowering the speed limit through the refuge.
- Consider improving wildlife viewing opportunities on Stateline Road.

Thanks for and opportunity to comment.

Sincerely,

Robert G. Hunter, Staff Attorney  
WaterWatch

## ATTACHMENT A

### **Ten Reasons Why Leasing 22,000 Acres of Klamath Basin National Wildlife Refuge Land for Commercial Farming Should be Terminated.**

1. Commercial farming on refuge land uses scarce water resources at the expense of refuge wetlands, and the fish and wildlife of Upper Klamath Lake and the Klamath River. Commercial farms on refuge land receive water even when adjacent refuge wetlands are forced to go dry.
2. Commercial farming uses critical refuge lands that should be used for wetland and wildlife management. Eighty percent of the basin's wetlands have been drained for commercial agriculture. Keeping historic wetlands on our refuges drained to lease for commercial farming is incompatible with the purposes of our National Wildlife Refuges and a violation of public trust.
3. Commercial farming uses refuge land that could be used to store water naturally for refuge purposes. The refuges need an independent secure source of water. Up to 100,000 acre-feet of water could potentially be stored naturally on refuge land currently leased for commercial agriculture.
4. Phasing out commercial farming on the refuges is the logical place to begin reducing the irrigation season water demand of the Klamath Project (a necessary step to solve the basin's water crisis). Eliminating lease-land farming on the refuges could save up to 50,000 acre-feet (16 billion gallons) of water during the irrigation season thereby reducing Klamath Reclamation Project irrigation water use by approximately 10%. This reduction could be achieved on land already owned by the federal government and would reduce the need to purchase private lands in order to reduce demand.
5. Phasing out commercial farming on the refuges would save taxpayer dollars. The federal government currently is paying out more money per acre to Klamath Project farmers not to irrigate each year as part of a water bank than it receives from leasing refuge land to farmers to irrigate. The government could save money in meeting water bank requirements by simply not renewing leases for refuge lands for irrigated agriculture when the current leases expire.
6. Leasing out refuge lands for commercial farming unfairly competes with Klamath Reclamation Project landowners who lease their private lands for commercial farming.
7. Row crops such as onions and potatoes that are grown on refuge lands leased for commercial farming provide little or no benefit to wildlife. Even waste grain from left over grain harvests on refuge land provide only about one-tenth to one-half the food per acre as wetlands and are used by only a small number of species.
8. Heavy use of pesticides known to be harmful to wildlife are used on refuge lands leased for commercial agriculture including known carcinogens, neurotoxins, and endocrine disruptors. Some of these pesticides are so toxic EPA rules prohibit human entry into the treated fields for 24 to 72 hours after treatment.
9. Commercial farming activities (e.g. tilling, planting, mowing, cultivation, irrigation, harvesting, and pesticide/fertilizer applications) destroy nests and kill wildlife.
10. Managing the commercial farming activities on the refuges uses up time of refuge

personnel and funds that should be used to manage the refuges for wildlife purposes.