

Saving the Klamath Basin Ecosystem

JOHN RANDOLPH

IN THE SEPTEMBER issue of *The Osprey*, the newsletter of the Steelhead Committee of the Federation of Fly Fishers, S. Craig Tucker, Klamath campaign manager for the Karuk Tribe of California, and Steve Pedery, conservation director for Oregon Wild, gave their opposing views on a plan called the Klamath Basin Restoration Agreement (KBRA). An adapted version of Pedery's view appears in Forum on page 12 of this issue. Oregon Wild (oregonwild.org) was not a party to the agreement, choosing instead to follow a holistic science-based approach for solutions to historic water/fishery problems (and bitter political and legal battles) on the Klamath, including the removal of four fish-blocking hydro dams.

Tucker, on the other hand, explained why he supported the Bush administration-sponsored nonscientific (political) approach which successfully led to prime stakeholders in the upper Klamath Basin approving the Klamath Basin Restoration Agreement (now being evaluated by the Obama administration in light of its promise to make decisions based on science).

The conservation organizations that were (and are) party to the KBRA included Klamath Riverkeeper, Oregon Trout, CalTrout, Klamath Water Users Association, National Center for Conservation Science and Policy, and Sustainable Northwest, but did not include Oregon Wild and WaterWatch. The rift, according to Tucker, led to their departure from the working

group as follows:

"A significant environmental issue Oregon environmental groups have fought for years to end is farming on approximately 22,000 acres of land leased from the federal government that is otherwise managed as a wildlife refuge predominantly for the benefit of waterfowl. Some argue that farming has no place in the refuges at all while others argue that farming is compatible with the goal of providing habitat for migratory birds.

"Two Oregon environmental groups, Oregon Wild and WaterWatch, demanded that farmers give up 22,000 acres, which are some of the most productive lands in the entire irrigation project. The farmers felt they had already compromised enough and for groups to ask for the surrender of their most productive lands was simply asking too much. The farmers threatened to walk out of the negotiations.

"Most groups simply felt that this was not the appropriate venue for such a debate and that the issue did not warrant risking a restoration effort of epic proportions, which enjoyed bipartisan political support. No one other than Oregon Wild and WaterWatch supported their position on the refuge issue. Despite the lack of support for their position, these groups refused to let negotiations proceed. This effectively led to the dissolution of the settlement talks. However, hours after negotiations collapsed the Karuk Tribe, Yurok Tribe, and Klamath Project Water Users reconstituted the settlement talks—this time without Oregon Wild and WaterWatch.

"In January of 2008, the Klamath Settlement Group released the proposed Klamath Basin Restoration Agreement (KBRA). It represents a nearly comprehensive blueprint for solving the Klamath crisis in a manner consistent with the needs of the basin's diverse communities. However, one key component is missing—a dam removal agreement with PacifiCorp." [*PacifiCorp is the owner of the four Klamath dams.* THE EDITOR].

Tucker concluded his arguments for the KBRA political (rather than science-based) solution by stating: "Right now the rural communities of the Klamath Basin have an unprecedented opportunity to solve the Klamath crisis once and for all. The only thing holding them back is the opposition of outsiders like Warren Buffett [owner of PacifiCorp], Oregon Wild, and WaterWatch."

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California's Iron Gate Dam (above) is one of four PacifiCorp dams slated for potential removal in 2020.

OREGON WILD PHOTO

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He might have added the Endangered Species Act (ESA) and the people of the United States. Why? In 1908 President Theodore Roosevelt designated 81,000 acres of marsh and open water in Lower Klamath Lake as the first national wildlife refuge for waterfowl, and 20 years later President Franklin Roosevelt authorized the protection of 37,000 acres more in what was Tule Lake. The waterfowl preserve officially became part of the public domain. From that date until today it has legally belonged to the people of the United States, not the stakeholders of the Klamath Basin.

In 1908, no water was being diverted from the lakes for farming on or around the preserve. At that time no massive federal subsidies supported agriculture in the basin; no hydroelectric dams blocked the Klamath River. At that time the Klamath River was the third most productive salmon river in the U.S. (Home to an estimated 1 million king salmon.) At that time there was no federal ESA, nor were there endangered or threatened salmon or steelhead species on the river, or elsewhere.

Yet, in a sense, this is all "water over the dam." The dams were built (without functional fish ladders), the irrigation piping was built and abstractions begun; massive agricultural subsidies followed, and farms (and crops) bloomed and gradually encroached into the preserve increasing water demands; the waterfowl habitat shrunk; and fewer and fewer waterfowl (resident or migratory) found the preserve hospitable.

Shallow Lower Klamath and Tule lakes became more and more water starved, and enriched; the water quality declined as a result; climate change warmed the waters; blue-green algae bloomed massively; the stakeholders demanded more water; unable to reach spawning grounds and suffering from poor quality water, the coho salmon declined. The ESA demanded dramatic remediation. To save the salmon, the feds cut off or reduced water to irrigation; the farmers lost their water-starved crops and demanded that the water be turned back on; desperate, the feds shut the river spigot back to return water to the farmers; the returning salmon died by the tens of thousands.

After more than 60,000 salmon died in September 2002 in the Klamath, for lack of water and poor water quality, the National Marine Fisheries Service

(now NOAA) ruled that the river needed a minimum flow to save the salmon. But one of NOAA's scientists (a whistle blower) said his study showed that the fish needed a lot more than NOAA admitted. Earthjustice (and others) sued and a judge agreed, imposing higher flows under an injunction. The injunction remains in place, pending a NOAA resubmission. Here we are.

Excluding and Distorting Science

EARLY IN ITS first term, the last Bush administration declared that science-based solutions and litigation were not the ways to solve environmental problems: Nongovernmental (ngo) colloquies would produce amicable, binding, stakeholder (nonscientific) solutions. The administration proceeded to ignore or distort science-based solutions to environmental problems.

The (proposed) Klamath Basin Restoration Agreement as described by Tucker in his September 2008 essay makes one thing clear: The Bush approach led to political nonscientific stakeholder business-as-usual settlements of environmental issues. It also led to an abdication of the Endangered Species Act and made a mockery of the age-old adage that "we are a nation of laws, not men."

As Pedery points out, "Simply put, the settlement provides that project irrigators in the basin get their guaranteed allocations of water while the river and fish get what's left over. Independent scientific analyses of the water provisions in the agreement have determined that the settlement will not lead to recovery of the Klamath River salmon.

"Fisheries biologist Bill Truch, who conducted an independent analysis of the settlement, concluded: 'The most striking aspect of the Settlement Agreement is that the burden of proof and accompanying risks rest entirely on the salmon . . .' (*Testimony of Bill Truch before the Humboldt County, California, Board of Supervisors, January 22, 2008*)."

Several additional points should be made. Under the Congressional intent and meaning of the ESA, saving the endangered coho salmon on the Klamath River requires a holistic (basin-wide) approach. The removal of four dams on the river should not be considered in isolation as a cure-all; removal must be linked with the

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severe environmental (water/land) issues of the Klamath lakes. The river and lakes are inherently connected as part of the same ecosystem: They must be considered together as part of a comprehensive ESA mandate. It should be understood that the Endangered Species Act trumps state and federal stakeholder laws and regulations when species are listed as endangered (for instance the Klamath coho salmon). It is a fundamental environmental law of the American people.

The KBRA "settlement" makes it clear: Nonscientific, political (NGO)

solutions to large-scale ecosystem environmental problems seldom work: Unrestricted stakeholder power rules politics and distorts or destroys federal and state regulatory integrity and distorts or ignores environmental science.

Save the Klamath

THE FOUR Klamath dams must be removed and the agriculture must also be completely removed from Klamath Basin national wildlife refuges. There is sufficient (existing) scientific evidence to prove that industrial-level agriculture in the lakes' former wetlands, and excessive water diversions, have severely damaged the historic Klamath aquatic ecosystem. Continuing the damage will inevitably destroy the Klamath lakes and finish the Klamath River salmonid fishery.

The Klamath today is nothing more than an irrigation piping system, bought and paid for by U.S. taxpayers. [*Pedery notes that only 6 percent of Klamath County GDP comes from agriculture. To buy out the entire Klamath (water) project would cost an estimated \$250 million.* THE EDITOR.]

The Klamath ecosystem can only be saved by science-based enforcement of the Endangered Species Act. Hopefully new leadership in Washington can make that happen. [*On March 3, 2009, President Obama restored decades-old requirements that U.S. agencies consult with independent federal scientists to determine whether their actions might harm threatened or endangered species. On Dec. 16, 2008, President Bush officially allowed federal agencies to waive such reviews. In fact, the Bush policy had unofficially been in effect for years.* THE EDITOR.]

Commenting on the Klamath situation, Earthjustice attorney Kristen Boyles said the organization is happy with the four-year-old court-imposed minimum flows on the Klamath River, while awaiting NOAA's mandated revised flow plan.

"The court's mandated instream flows are what we feel will protect the fish. Flows for agriculture used to come first; now fish have a share. Oversubscription of the available water remains a problem, especially with global warming and drought. We also feel that the Endangered Species Act has worked and is working to get people and the government involved with species that are threatened or endangered."

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interesting is the sidebar on page 43 with Flick Ford's painting of the "32-pound 9-ounce record Tree River Arctic char."

I have no doubt that this painting depicts a Dolly Varden, not an Arctic char. This same painting is also on pages 182-183 in *Big: The 50 Greatest World Record Catches* (The Greenwich Workshop Press, 2008). The numerous small red spots with blue halos, and the well-developed kype, leave no doubt in my mind that this fish is a Dolly Varden, which are also native to the Tree River. If the painting is based on a photo of the fish caught from the Tree River in 1981, the world record Arctic char should be the world record Dolly Varden.



Robert Behnke, Ph.D., says this fish is a Dolly Varden, not an Arctic char as identified in the March 2009 issue.

New information on chars became known after my book *Trout and Salmon of North America* (Free Press, 2002) was published. Before that, the easternmost distribution of Dolly Varden was believed to be the Mackenzie River. Since then, Dolly Varden have been positively identified in the Coppermine and Tree Rivers, 500 miles east of the Mackenzie. More updated information on Dolly Varden and Arctic char, and the surprising genetic relationships among subspecies, is in my book *About Trout* (The Lyons Press, 2007).

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Omission: Brad McFall, the angler on the cover of the March 2009 issue, is a guide on the East Walker River and should have been included in the "Local Contacts" portion of the accompanying article "Desert Trout." Contact him through mammothflyfishing.com or at (209) 484-1114.

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