



OVER 60 YEARS OF REPRESENTING FARMERS AND
RANCHERS OF THE KLAMATH PROJECT

FEDERAL AGENCIES WILL RECONSIDER KLAMATH PROJECT ENDANGERED SPECIES ACT OPERATIONS

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The United States Bureau of Reclamation (Reclamation) and federal wildlife agencies have re-initiated the process of Endangered Species Act (ESA) consultation for the Klamath Project. The most recent process produced an operations plan in April of this year that was expected to last for five years. However, the agencies have learned that an outside source provided erroneous data that was used in that process, and they intend to conduct a new analysis. Klamath Water Users Association (KWUA) understands that the outside source was a consultant hired to assist the agencies.

“No one is happy this is necessary,” said KWUA Executive Director and Counsel Paul Simmons. “But it is what the agencies should do under the circumstances, and we support them getting the word out and moving forward.”

Under the ESA, federal agencies such as Reclamation must ensure that their actions do not jeopardize the continued existence of threatened and endangered species. Action agencies obtain the opinions of the U.S. Fish & Wildlife Service (USFWS) or National Marine Fisheries Service (NMFS) as to whether an action will cause jeopardy and how to avoid jeopardy, and then determine how they will move forward in light of those biological opinions. Reclamation has gone through the ESA consultation process several times since the 1990s for endangered sucker species in Upper Klamath Lake (Lost River sucker and shortnose sucker) and threatened coho salmon in the Klamath River downstream of Iron Gate Dam. The most recent process, which ended in April, also took into consideration effects on the southern resident killer whale in the Pacific Ocean.

Simmons said there are no specific requirements for the frequency ESA consultation, but regulations require re-initiation of consultation when there is new information that may bear on previous conclusions. Reclamation and NMFS have decided that a new consultation is necessary because data within certain input files was erroneous. “I don’t believe Reclamation can do anything other than pick up and move ahead, and we’ve confirmed that to them already,” said Simmons.

The agencies have identified March 31, 2020, as the intended date for completion of the new consultation process and biological opinions, so that they can be in place before the major irrigation season begins.

In the meantime, there are three pending lawsuits that object to Reclamation's current Project operations. KWUA, Klamath Irrigation District, and other Project interests have filed cases in Medford, and the Yurok Tribe and Pacific Coast Federation of Fishermen's Associations have filed a case in San Francisco. A hearing is scheduled for February in the Yurok / PCFFA case on a motion for preliminary injunction. Simmons said that attorneys for all the parties will probably have discussions in the near future about how discussed how the latest development may affect any of the cases or pending issues.