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May 11, 2022

The Honorable Bruce Westerman  
Ranking Member  
Committee on Natural Resources  
Republican Office  
U.S. House of Representatives  
1329 Longworth House Office Building  
Washington, D.C. 20515

Re: May 11 Oversight Forum on How the Western Drought Affects Every American

Dear Ranking Member Westerman and Natural Resources Committee Republicans:

Thank you for conducting this forum on issues of fundamental significance to the west and the nation. I am Ben DuVal, President of the Board of Directors of the Klamath Water Users Association (KWUA). KWUA is a non-profit organization whose members are irrigation districts that deliver water in the Klamath Project. I farm in the California part of Klamath Project lands, along with my wife and two daughters. We live on the farm homesteaded by my grandfather after World War II.

The western drought is a severe problem that affects producers, agricultural communities, consumers, and the security of our food supply. That is obvious enough. But my most important message to you today is that failed federal water policy is shutting down agricultural production in my basin.

Our current problem in the Klamath Project is not that there is no water. Our problem is that the federal government's regulatory policies are denying access to water that we could use to irrigate and produce food. The Klamath Project includes **some of the best farm ground in the world, with soil that compares favorably with the famed "black earth" of Ukraine**. Yet, while other nations are doing everything they can to increase agricultural production, our government is shutting down farmers and ranchers who are ready, willing, and able to produce.

### *Background*

The Klamath Project was authorized in 1905 under the 1902 Reclamation Act, which encouraged settlement and irrigated agriculture to feed a hungry nation. The Project was a resounding success, built out to its current 200,000 acres by the early 1940s, producing food and supporting strong rural communities.

The irrigated land lies in Klamath County, Oregon, and Modoc and Siskiyou Counties, California. Contrary to stereotypes about irrigated agriculture, this land was not desert before irrigation began.

Vast areas of land covered by open water and marsh were reclaimed and the former lake bottoms provide productive farmland. The evaporation and evapotranspiration of water prior to development was likely greater than the amount of water used by crops on those same lands today.

Agricultural production in the Klamath Project includes grass and alfalfa hay, grains, potatoes, onions, mint for oil and tea, and horseradish. All of our crops are known for their high quality due to our climate and soils. Beef and dairy cattle are also major components of the agricultural economy.

### *Past and Current Droughts*

We do have a drought this year; in fact, we are in the third year of serious drought. In past droughts of this magnitude, we in fact diverted 400,000 acre-feet of water. The reason that dams and water storage are developed is to protect water users from drought. In the Klamath Project, Upper Klamath Lake provides storage of enough water to serve all the irrigated land for the year. The Klamath Project is a single-purpose project, and the water rights for storage and use of water are irrigation water rights.

However, in recent years, the water we relied on for over 100 years has increasingly been re-allocated to protect two endangered species of suckers and coho salmon that make use of the Klamath River and tributaries in California. Last year (2021), because of regulatory restrictions, there was zero water available for irrigation from Upper Klamath Lake.

In the past drought years when roughly 400,000 acre-feet of water was diverted for irrigation, there were no known negative impacts to salmon returns or sucker populations. In fact, the National Research Council, National Academy of Sciences, found that there was no data to support that this level of diversion in those years had negative effects on populations of threatened and endangered fish in Upper Klamath Lake or the Klamath River in California.

With all that said, we realize that we are not alone in this watershed, and there are important interests. Most notably, there are several tribes who, we recognize were here for many millennia before European settlement and who have a tragic history. Three of the basin tribes have federally-protected fishing rights that require protection and water.

Our concern, however, is that, in this complex ecosystem, where a great many factors have affected and are affecting fish populations, the go-to solution is increasing regulation and reduction of Klamath Project irrigation use, and there is simply no evidence that this is helping the species.

### *Unfair and Ineffective Regulation: No Food*

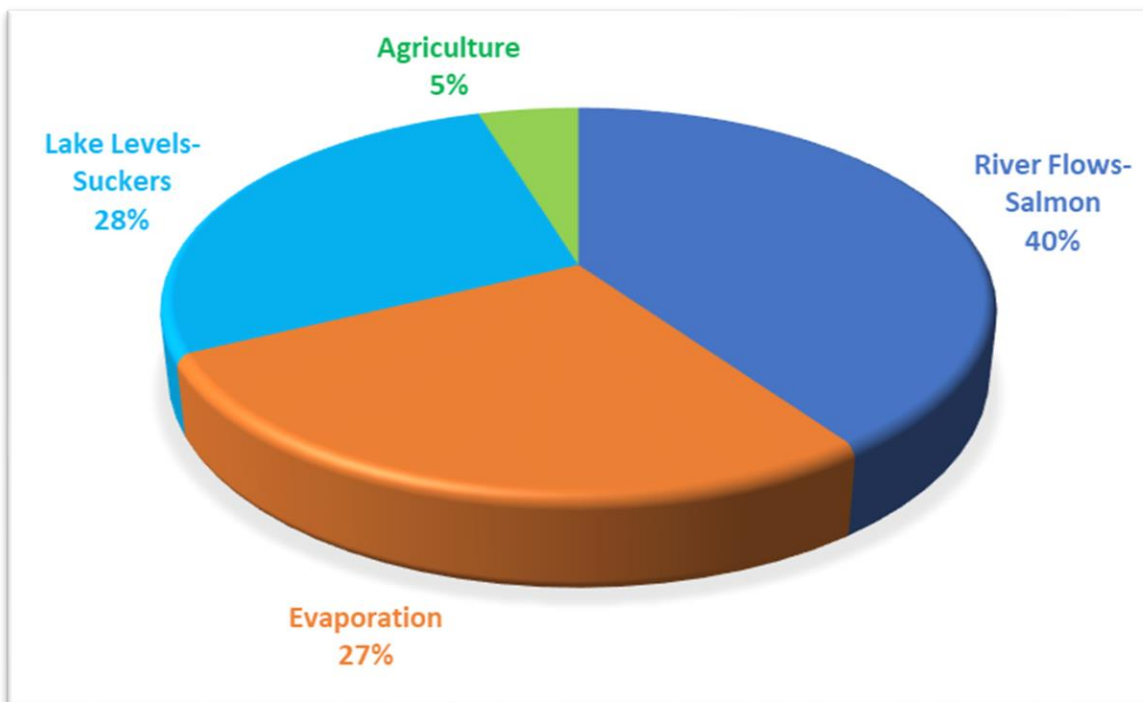
In the last few decades, to varying degrees, federal regulatory curtailments of Klamath Project irrigation water have been part of our reality. We have done our best to communicate how devastating this is for our families, communities, local environment, and the wildlife with whom we share our basin. It is frightening that so few people seem to care, and even fewer do not care to try to understand. Instead, we find farm and ranch families demonized.

We pray that, at this time in our nation’s history, our urban friends and policymakers will come to understand where their food comes from, and the fragility of the food system that they take for granted.

On April 11, 2022, the Bureau of Reclamation announced the Klamath Project Operations Plan. Despite the fact that there is, again, sufficient water to irrigate all the Klamath Project land that relies on Upper Klamath Lake and the Klamath River, that plan anticipated only about 50,000 acre-feet of water being available for diversion for irrigation. This represents less than 15 percent of what we need. Many acres will receive zero water from the Project, and no acres will receive enough for full production.

In other words, federal water policy is shutting down water availability for several tens of thousands of acres. For context, we can produce about 50,000 pounds of potatoes, or 6,000 pounds of wheat, on a single acre. Once the production is lost, it is lost for good.

We do have a drought year again, and we often hear that the drought affects everyone equally. We do not agree. KWUA produced the following information based on the hydrologic conditions that existed on the day Reclamation announced its 2022 Klamath Project Operations Plan:



*The data reflects the division of water under the 2022 Klamath Project Operations Plan, based on hydrologic conditions on the date of release of the Plan.*

*Between April 1st and September 30, 2022, projected inflow to Upper Klamath Lake: 210,000 acre-feet; releases to Klamath River: 407,000 acre-feet; water estimated to evaporate from Upper Klamath Lake: 290,000 acre-feet; projected irrigation water allocation: 50,000 acre-feet.*

On a somewhat positive note, we have had some precipitation in late April and the first part of May that could lead to improvement in this year's irrigation supply. But under the best of conditions, the shortage will still be severe.

*What Is Needed?*

We hope this oversight hearing will lead to Congress and federal agencies confronting the truth about what current federal water policies have and have not done and are and are not doing. Presently, there is no accountability. That must change.

Most obviously, federal water is shutting down the production of one of a fundamental human need: food.

Regulators must step back and understand the enormous implications of decisions they make behind closed doors.

In the case of the Klamath Project, regulators must bring a stop to regulation that is neither effective nor fair. The simple truth is that regulatory agencies have a knob they can turn at the Klamath Project, and so they do, regardless of whether turning that knob benefits species populations. In fact, after decades of turning the knob over and again, we have zero evidence that shutting down family farms and shutting down food production has yielded any benefit to populations of ESA-listed species in our basin.

We also strongly believe that there are critical legal issues that need to get fixed. Farmers and irrigation districts have strong objections to the re-allocation of water that is stored in Upper Klamath Lake for the purpose of irrigation exclusively. Everyone in the west knows that we build dams and reservoirs to capture water during the wet time of year, when there are high flows, in order to have water available at the dry time of year, which is summer. We have done that in the Klamath Project and irrigation districts pay for the infrastructure that provides that storage.

But the government is requiring that we direct the release of the stored water away from farms in order to artificially increase the amount of flow in the Klamath River. This year, like last year, during the irrigation season, the Klamath Project will be providing much more flow in the Klamath River than would have occurred in nature before the Project even existed.

We believe that is a legal problem that needs to get straightened out.

For long-term stability, we need a settlement agreement about water and fish and fair and legal treatment of the Klamath Project. There are critical parties to make this happen, and we need support of that work from the state and federal governments and our community. It can be done; it has been done elsewhere.

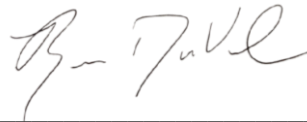
For our own part, we in the Klamath Project are working hard to manage every drop of water tightly, and for the immediate and long-term, we are working collaboratively with others on

irrigation system modernization and ways that we can reduce our reliance on water from the Klamath system if possible.

For the very immediate term, we need financial resources to try to hold it together and try to avoid an absolutely catastrophic meltdown. We are grateful to our Congressional delegation, Commissioner Touton, Assistant Secretary Trujillo, and Under Secretary Bonnie and their teams for working to bring a measure of financial relief to producers last year and this year. That temporary tourniquet can, however, address only a fraction of the negative impacts of the federally-imposed irrigation curtailments, and does not resolve the underlying, fundamental problems that need resolution.

If you have questions or need more information, please contact me or Paul Simmons, KWUA's Executive Director, at (541) 883-6100.

Thank you for considering our testimony.



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Ben DuVal  
Farmer, and President of Klamath Water Users  
Association

cc: Honorable Cliff Bentz  
Honorable Doug LaMalfa  
Paul Simmons