

From: rgierak2@hughes.net
To: [Wr401program](#)
Subject: Re: Klamath hydroelectric dam removal
Date: Sunday, February 24, 2019 1:27:21 PM
Attachments: [image11.png](#)

Dr. Richard Gierak
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Subject: Fw: Klamath hydroelectric dam removal

It has come to our attention that the removal of four hydroelectric dams on the Klamath River is in violation of five federal laws in addition to exposing all in the affected areas to greter dangers should these dams be removed. Not only Oregon fires but consider the number of California fires that would have been much worse without the reservoirs from these dams.

This communication is in reference to the proposed removal of four hydroelectric dams on the Klamath River. The entire proposal is based on the recovery of Coho Salmon which Federal Judge Michael Hogan in 1999 deemed were not indigenous and all listings in Southern Oregon and California waters were deleted. These Coho were planted from the Cascadia hatchery in Central Oregon

Thank you for your understanding of the seriousness of this proposed action. Proposed dam removal will kill all fish and wildlife dependent on the Klamath for ten years or more. Fire danger will increase without reservoirs used by fire helicopters and homes, businesses and towns along the river will be subject to severe flooding without the dams protecions. It will also destroy tens of thousands of acres of agricultural lands in Northern California and Southern Oregon.

Dr. Richard Gierak

Illegal infractions regarding Klamath dam removals

Violation of the Constitution of the United States

Elections in Siskiyou County California and Klamath County Oregon voted 80% to retain the dams and removal of these dams would be in direct violation of the will of the people and the Constitution. Jackson County in Oregon has also indicated that their voters also want the dams to remain to assure them of irrigation waters and power costs.

Violation of the Reclamation Act of 1902

The Reclamation Act of 1902 (43 U.S.C. 391 et seq.) authorized the Secretary of the Interior to locate, construct, operate, and maintain works for the storage, diversion, and development of water for the reclamation of arid and semiarid lands in the western States.

Congress facilitated development of the Klamath Project by authorizing the Secretary to raise or lower the level of Lower Klamath and Tule Lakes and to dispose of the land uncovered by such operation for use under the Reclamation Act of 1902. Starting around

1912, construction and operation of the numerous facilities associated with Reclamation's Klamath Project significantly altered the natural hydrographs of the upper and lower Klamath River. Reclamation's Klamath Project consists of an extensive system of canals, pumps, diversion structures, and dams capable of routing water to approximately 200,000 ac (81,000 ha) of irrigated farmlands in the upper Klamath Basin. Water diversions from from UKL for the Klamath Project affects river flows downstream of Link River and Iron Gate dams. It has come to my attention that in section 372 of the Act the water right becomes an integral part of the property and cannot be taken or reduced.

The headwaters of the Klamath River originate in Southern Oregon and flow through the Cascade Mountain Range to the Pacific Ocean south of Crescent City, California. The river extends nearly 250 miles and is just one of three waterways that pass through the Cascades to the Pacific. It is named after a native American name - klamet - meaning swiftness.

Violation of the 1981 National Wild & Scenic Rivers Designation

The Klamath River was designated a Recreational River within the National Wild & Scenic Rivers System in 1981. The Klamath River enters California from Oregon just north of the Goosenest Ranger District. Heading west it is impounded by two dams forming Copco Lake and Iron Gate Reservoir. Nine miles further west it turns south and follows Interstate 5 for a few miles before again turning west and entering the Happy Camp/Oak Knoll Ranger District. The next 85 miles provide many opportunities for recreation and scenic vistas before the river enters the Six Rivers National Forest.

Dam removal would release toxic material that would destroy the habitat for all species in addition to physically changing the course of the Klamath River in direct violation of the National Wild & Scenic Rivers designation.

Violation of the Dormant Commerce Clause

No State may impose any regulatory action against navigable rivers in the US of which the Klamath River is considered a navigable river. This would also prohibit removal of any dams located on a navigable river in the US by States.

Violation of the Federal Endangered Species Act

Under the Federal ESA only indigenous species can be listed and under the Final report of Coho Salmon by the Klamath Expert Panel Coho Salmon were planted from Cascadia, Oregon and are not indigenous to the Klamath. In early September 1999, federal district Judge Michael Hogan agreed, throwing out the coho's status as threatened under the Endangered Species Act.

Violation of Rogue Valley Oregon Irrigation Rights

Removal of these dams would reduce approximately 40% of water from the Klamath River that now goes to Southern Oregon for agriculture which would result in serious loss of agriculture that now stabilize the economy of Southern Oregon

Violation of the Klamath Basin Compact

I have discovered that the proposed removal of four hydroelectric dams on the Klamath are also in violation of the Klamath River Basin Compact which was ratified by Congress on

August 30, 1997.

Serious impact on power costs in Northern CA and Oregon

Hydro electric dams supply Northern California and most of Oregon homes and businesses with the least expensive power available. The average homeowner is liable for approximately \$200 per month and with the proposed natural gas power supply it would increase their costs to approximately \$600 per month.

Violation of Union Veterans of the Civil War Cemetery

It has come to my attention that on the banks of the Klamath River in Northern California that there exists a Union Veterans of the Civil War cemetery that will be destroyed should they illegally remove four hydroelectric dams on the Klamath

Violation of Shasta Indian burial rights

At the present time Shasta Indian Tribe burial grounds are protected by Iron Gate Reservoir and removal of this dam their burial grounds could be exposed, plundered and desecrated.

Shasta Nation and Karuk Tribe deny Coho native

We have documentation from both the Shasta Nation and Karuk tribe denying Coho were indigenous to both the Rogue Valley and Klamath basin.

Violation of Siskiyou Counties water rights

Removal of these dams would be in serious loss of existing water rights as proposed solutions to avoiding this problem would be in serious possibility of failure and exposed to vandalism.

Possible loss of life and property to all adjoining the Klamath River

Due to occasional flooding Iron Gate Dam was constructed to serve to protect all that lived on the banks of the Klamath River from catastrophic flooding events. Without this dam property values would fall and expose all with the possibility of loss of life and property.

Serious fire danger to all in Siskiyou County

At the present time the dams supply fire helicopters access to water supply to fight forest fires. Removal of these dams would force said fire helicopters to much longer time delays to fill their buckets and thereby expose all to longer wait times and possibility of loss of lives and property.

Prior law decisions

In the late 90's a proposal was made to change the definition of Federal ESA regulations regarding endangered salmon to Ecological Society of America regulations which means that instead of regulations applying only to water and substrate would be changed to allow them regulations up to a mile from the banks of a river. Through the States of Idaho, Washington, Oregon and California State Granges we defeated this change.

In the early 2000's the Granges engaged Pacific Legal Foundation and listings of Coho in Northern California and Southern Oregon were cancelled as the Coho were not indigenous to these waters and rivers.

In the mid 2000's an attempt was made by environmental groups to list Chinook Salmon in the upper Klamath and the Siskiyou County Water Users Association filed a de-listing petition which was successful and the Chinook listing was denied.

Submitted by;

Dr. Richard Gierak

Bachelors Degrees in Biology, Chemistry, Doctorate in the Healing Arts, Director of Interactive Citizens United, Director of New Frontiers Institute, Inc. Prior Participant of FERC and FPAT (Fish passage advisory team report) and HET (Hatchery evaluation team) Prior Vice President of Greenhorn Action Grange, Prior California State Grange Spokesman for the Water Committee, Prior National Whip of the Property Rights Congress of America, Representative of the Grange States of California, Oregon, Washington and Idaho regarding EFH regulations, Prior member of the Siskiyou County Water Users Assoc and former Executive member of the RNC.

OREGON STATE SENATE

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STATE SENATOR

District - 28

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July 17, 2018

Re: Opposition to J. C. Boyle Dam Removal 401 Water Quality Certification Approval
Current and future Oregonians are, and should continue to be, beneficiaries of the monumental achievements in water infrastructure that has created Oregon's exemplary agricultural economy. The proposed removal of the four PacifiCorp dams, including the J. C. Boyle dam in Oregon, will destroy that very infrastructure.

Therefore, I stand alongside the majority of tax-payers and citizens in firm opposition to ODEQ's approval of a water quality certification request for the J. C. Boyle Dam removal project.

The dam removal effort has too many uncertainties which bear negatively on long-term water quality, river habitat and fish spawning grounds due to the river dynamics and existing sedimentary buildup behind the dams.

These dams serve several environmentally beneficial functions by first, creating a series of reservoirs which diminish turbidity and improve water quality as water moves through the system. These reservoirs are essentially giant settling ponds for particulate matter, including erosional debris, dead algae, cobble-sized sediment, pebbles, and valley-fill alluvium.

Particulate organic matter, that originates from Upper Klamath Lake, basin agricultural return flows, municipal and industrial sources in the Klamath Falls area, is largely trapped by the J. C. Boyle reservoir. The overall nutrient loads, including naturally occurring phosphorous rich material, settles behind the dam and never reaches the slower moving and shallower gradient portions of the river system. In turn, Copco 1, Copco 2 and Iron Gate Dam reservoirs also serve to keep sedimentary debris from flowing further downstream.

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Although, all four reservoirs are known to have elevated organic loads, they still serve as excellent sedimentary traps. Current estimates range from 15 million to 30 million cubic yards of sediment behind all four dams. The J. C. Boyle dam, had an estimate that was originally

1.5 million cubic yards. Today the estimate has been forced into a range that is deemed politically acceptable, at 600,000 cubic yards. This number is still a ridiculously large volume of sedimentary debris to consider flushing into the California river system. Flushing this debris would be unconscionable and would cause catastrophic harm to the overall river environment, downstream fish populations, spawning grounds and riparian habitats.

Additionally, the toxicity of these enormous volumes of muck and sedimentary composites have not been sufficiently studied. Mining operations have long surrounded the river system throughout So. Oregon and No. California. A U.S. Geological Survey review of mine data (2005), highlights that these past operations released elevated amounts of toxic substances into the watershed, including arsenic, chromium, copper, lead, mercury, nickel, tungsten, uranium, and zinc.

Oregon has been tightening rules, initiating moratoriums and legislating outright bans on various small-volume run-of-river dredge mining operations for years. Therefore, ODEQ should have serious reservations about the complexities involved in this potential toxic stockpile and be less insistent on approving this certification. Otherwise, the citizens will recognize this current 401-certification process is a politically motivated, agenda-driven water quality charade reeking with double-standards.

The existing dams provide beneficial cleansing structures which allow the massive fresh-flow tributaries, and downstream volumes of low phosphoric, clean water from the western-slope to actually improve water quality as it travels the 250 miles to the Pacific Ocean.

ODEQ should never considering allowing this potential toxic debris into the river system. First, it will never make it to the Pacific Ocean because deep boulder pockets, gravel and cobble bars and the subsequent multiple confluence embankments and ridges that occur along the lower elevations will trap the overwhelming tonnage of debris.

Additionally, the downstream gradient is too shallow, and the river flows will never be sufficient to mobilize the debris field. ODEQ's permit approval pretends to only be concerned about water quality in Oregon. This is indefensible because all of these toxins, muck and sedimentary debris will devastate the lower river.

The downstream impacts cannot be ignored. From River Mile 160 to the Pacific Ocean the gradient approaches a mere two percent (.1893) grade (Figure-1). The drop to sea level is only a 1600-foot change in elevation, which is only 10 feet per mile. ODEQ certainly knows the typical waste-water or home septic system would require a slope of 110 feet per mile to drain efficiently.

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While dam critics often complain that dam construction has altered the natural sediment transport processes reducing gravel bar and pocket gravel deposits and thereby reducing salmonid and lamprey spawning and rearing habitats, dam removal is not the solution.

The purposeful disbursement of Oregon's debris field into California's portion of the Klamath River system would be an immoral act.

In fact, the debris flow today, with the dams in place, is too heavy for the current channelized flows to successfully push into the Pacific. Even with the benefit of increase flows used for dissolution and flushing programs, which are regulated by the dam structures, there is insufficient flow to clear the mouth of the river (Figure-2).

The J. C. Boyle dam:

- Provides cool water for the continued operations of Iron Gate Fish Hatchery which releases 7 million anadromous fingerlings annually
- Provides clean, renewable, low-cost hydroelectric power for 70,000 households
- Reduces peak flood flows by 25 percent
- Reduces algae blooms in the Lower Klamath River
- Reduces river temperatures in the Lower Klamath River
- Reduces river sedimentation and debris buildup in the Lower Klamath River
- Provides for lakeside camping, hiking, fishing, boating and recreational opportunities
- Provides river rafting and business opportunities
- Provides reservoirs for bio-remediation, while trapping toxins and sediment
- Allows for flow control and remediation techniques, such as flushing flows

These positive attributes provide enormous public benefit and sufficient reason for ODEQ's denial of this step in the dam removal certification process.

In closing, there is another item that ODEQ must consider – Cost. Original cost estimates

ranged from \$1.4 billion and upwards. After 2010, when the US Congress first balked at funding the destruction of the Klamath Dams, there was an enormous effort to "find cost reductions." The results offered nothing more than cost shifting and slight-of-hand congressional Gerry-rigging of payments from various agency-level accounts. Never-the-less, the public was told of a new cost estimate of \$800 million, a reduction of \$400 million. Today, the Klamath River Renewal Corp. estimates total cost at \$400 - \$450 million dollars, an estimated reduction of nearly \$1 billion. It appears that if we wait a couple of more years the cost would be halved again!

I suggest, that a neat and tidy, \$1 billion cost reduction from the original estimates with an overall price-tag of only \$400 million cannot be legitimate, at least not using the same project scope and equivalent efforts. This begs the question, what items will be added to complete the dam removal project and who will fund future restoration and remediation efforts?

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No doubt, tax-payers will end up paying the full-price. They will be burdened with millions of dollars of cost-overruns, future water quality issues, higher rates for base-load electricity, devastated habitat and riparian areas, and the destruction of private property, all because of an over-whelming, unfathomable mindset intent on destroying western civilization's technological advances.

Oregonians should be the beneficiaries of the monumental investments, hard work and successful achievements made possible by our state's water infrastructure. Oregon's status as a modern agricultural and technological engine has been made possible by inexpensive baseload electricity and abundant, well-managed water resources.

Please ensure our heritage by denying approval for the 401 Water Quality Certificate for the removal of the J.C. Boyle dam.

Sincerely,

Dennis Linthicum

OR State Senate – District 28

WITHOUT DAMS OREGON FIRES WOULD HAVE DESTROYED MORE PROPERTIES & KILLED MANY MORE



SAVE THESE CRITTERS-DAM REMOVAL WILL KILL THEM ALL FOR 10 YRS



COHO SALMON



TROUT



SUCKERS



EAGLES



RACOONS



FOXES



SQUIRRELS



DEER



OWL

SAVE THE DAMS



IRON GATE



COPCO 1



COPCO 2



J.C. BOYLE