Our mission is to preserve and enhance the viability of irrigated agriculture for our membership in the Klamath Basin, for the benefit of current and future generations.
The Klamath Water Users Association’s mission statement is, “to preserve and enhance the viability of irrigated agriculture for our membership in the Klamath Basin, for the benefit of current and future generations.” This mission statement helps keep the board focused on water supply security, affordable power, water quality, Endangered Species Act, tribal trust issues, court cases, adjudication and more. If we ignore these issues we cannot have viable agriculture now or in the future.

With the expiration of the Klamath Settlements, it is more important than ever to have a united front for the people in the Klamath Basin. The bargained for benefits in the KBRA are the vital needs of the Klamath Basin. This became very evident at recent all district meetings.

Facing these problems individually does not make any sense. Letting someone else pay the cost for another’s benefit is not the way of the American Farmer. Most of the excuses I have heard for going at it alone are just that; excuses. To have the best chance to succeed, our membership should include all districts in the project, and a good working relationship with off project.

Greg Addington has moved on from the KWUA to start the consulting business, Addington Consulting. He was with the KWUA for over ten years, and was instrumental in obtaining the benefits the Klamath Project and others received. Thank you, Greg!

On February 1st, Scott White started the Executive Director job with KWUA. Scott has adapted well to his new position. He will be as great an asset to the Water Users, as he was with Oregon Water Resources Department.

I would like to thank the KWUA board and Staff for making the position of Board President as good as it could be under the constant attacks the Klamath Project faces. Also, a thank you to all of the parties and agencies that have supported the Klamath Project in the Settlement Agreements.

2015 KWUA President
Who We Are

The Klamath Water Users Association (KWUA) is a non-profit corporation that has represented Klamath Project farmers and ranchers in its current form since 1953. However, the roots of the organization date back to the beginning of the Klamath Reclamation Project in 1905. KWUA members include rural and suburban irrigation districts, other public agencies and private individuals who operate on both sides of the California-Oregon border. These entities and individuals typically hold water delivery contracts with the United States Bureau of Reclamation. The Klamath Project is home to over 1200 family farms and ranches and encompasses over 200,000 acres of some of the best farmland in the West.

The mission of the organization is to preserve and enhance the viability of irrigated agriculture for our membership in the Klamath Basin, for the benefit of current and future generations.

KWUA is governed by an 11-member board of directors who are representatives from Klamath Project districts. The association employs an Executive Director and staff to execute the policy decisions made by the board.

KWUA Staff & 2016 Board of Directors

Executive Director: Scott White

Executive Assistant/Office Manager: Chelsea Shearer

Board of Director President: Brad Kirby

Secretary: Ben DuVal

Board of Director Vice President: Luke Robison

Treasurer: Tricia Hill

Position 1:
P: Brad Kirby ~ A: Kraig Beasly

Position 2:
P: Ben DuVal ~ A: Josh DuBose

Position 3:
P: Luther Horsley ~ A: Frank Anderson

Position 4:
P: Gary Wright ~ A: Mike Byrne

Position 5:
P: Rob Unruh ~ A: Ryan Hartman

Position 6:
P: Luke Robison ~ A: Jason Chapman

Position 7:
P: Rob Crawford ~ A: Dave Jensen

Position 8:
P: Curt Mullis ~ A: Jason Flowers

Position 9:
P: George Rajnus ~ A: Todd Koch

Position 10:
P: Tricia Hill ~ A: Steve Kandra

Position 11:
P: Marc Staunton ~ A: Ty Kleiwer

P: Primary member
A: Alternate member
The human body is an amazing creation that is acutely in tune with what it needs to survive. It has the ability to react to the ever-changing world around it. It has the ability to get stronger, faster, increase its mobility and efficiency. Most importantly, it has the ability to heal.

In order for the human body to function at peak performance, every system must be in sync with the others. If an injury occurs, the body responds systematically to protect and heal that injury. However, there are some cases where outside influences are necessary to repair the injury and return the body to its thriving state.

When a fracture takes place to a bone in the human body, there are certain remedies to repair or heal that fracture. In the most fortunate situations, a small wrap or splint can be placed on the fractured area while the bones heal back together. When a fracture is more severe, surgery may be the best option including the strategic placement of pins or screws to hold the fractured bones back in place. These pins are designed to keep the bones from separating to allow ample opportunity for healing. Pins are also designed to provide longevity to the repair and often times are not removed after healing for added strength.

In my view, the bones of the Klamath Project irrigation community are fractured and in desperate need of repair. Like the human body, further separation of the bones will decelerate the healing process and may have a lasting negative effect on the agricultural body.

As the new Executive Director of the Klamath Water Users Association (KWUA), I am committed to assisting in this healing process; to pulling all of the Klamath Project districts back together and strategically placing a pin in them for added strength, and to prevent future separation. I believe this process begins with open and honest communication. I have already begun reaching out to our non-member districts trying to understand their concerns and how I may be able to help. This effort will not die. I will continue to reach out and make myself available for both our member and non-member water users.

I believe another step to this process is to more transparently identify the specific benefits of the KWUA as they occur. In addition to tireless advocacy for our water user community, I have initiated conversations and meetings entertaining the idea of a KWUA plan for moving forward. I believe a plan has some merit if constructed collaboratively. I have also begun researching opportunities for more visible benefits for our members as well.

I believe that if both our members and non-members consider engaging in this process with good intentions of building a stronger community, we will begin to heal. It is important to remember that all healing is accompanied by a recovery process. This process can be painful as the bones recover, but it is vital to the overall performance of the body.

Many great athletes play through injuries. In many cases it is because they have to. Something in their mental makeup tells them to fight no matter what ails them. There is no argument however, that their performance is hindered while playing with an injury. The Klamath agricultural community is great. It is a community built on resiliency, valor and strength. It too, is a community that will fight no matter what ails them. But it is time to repair the injury that is plaguing the community. It is time to come back together, to mend fences, to get stronger, to get faster, to increase its mobility and efficiency...and to heal. It is time to thrive!
Looking Back at 2015
By: Greg Addington
Addington Consulting

From the start of the 2015 water year (October 1, 2014) through April 1, 2015, the Upper Klamath Basin received 95 percent of average precipitation. However, on April 1, the snowpack in the Basin was only 16 percent of the historical median, with the majority of Natural Resources Conservation Service’s (NRCS) SNOTEL sites showing no existing snowpack. As a result, NRCS projected inflows to Upper Klamath Lake (UKL) from April through September to be only 39 percent of average. On May 11, 2015, NRCS reported 0% snowpack for Klamath Basin, the earliest date recorded for no snowpack.

As we look back at 2015, it is seems like an understatement to say that the challenges facing irrigated agriculture in the Klamath Project were daunting. But 2015 should give Project irrigators some hope for the future. We saw, arguably, the worst hydrology on record in the Klamath Basin yet with a lot of hard work from producers, irrigation districts and KWUA, most lands in the Klamath Project were able to irrigate to some degree.

In addition to the natural and operational challenges faced last year, KWUA was extremely busy on multiple fronts including defending the Project from attacks, promoting water and power supply security, and improving internal operational issues and maximizing the available water supply for our member districts and their patrons.

One thing that is clear to those who watch national politics and work on resources-related issues on a daily basis is the fact that the Endangered Species Act is not going away anytime soon. After looking at many options over the years, including a legal, political, and public relations strategy, and investigating a variety of options including Project Title Transfer and increased water storage, leaders in the irrigation community recognized there was no “silver bullet” to solving the water supply issues that face the Klamath Project. It became very obvious that we would need to adopt a multi-pronged approach to improve certainty for Klamath Project irrigators.

Those efforts have produced success. For example, the years 2010, 2014, and 2015 were all drier than 2001 (2015 significantly).

In 2001 the Klamath Project received no water. In 2010, 2014, and 2015, the Klamath Project irrigated significantly and to the great benefit of our community. KWUA certainly can't claim exclusive credit for this fact, but to deny that the organization and its people played a significant role would be very unrealistic. Additionally, in drought years, we obviously want all the water we can get, but it was also important to KWUA to reduce the financial impact of any shortages that might occur to landowners in the Project. This was achieved by working with the Department of the Interior and others to fund (through 2015) the Klamath Water and Power Agency so that adequate resources were available to mitigate shortage and improve supplies with sustainable groundwater pumping. These efforts were designed to bridge the gap until we could implement a negotiated comprehensive Basin-wide water settlement.

Unfortunately, due to some vocal opposition related to issues other than the interests of irrigated agriculture, the Klamath Settlement Agreements, or at least the portions of those agreements that benefited agriculture, have expired.
Whatever anyone may believe about these agreements, there was a related result, which is the no-call agreement the Project has from the Klamath Tribes and federal government.

The no-call agreement was worked out in a couple of stages over the past several years. One immediate result of KWUA’s work was to save the Project districts many hundreds of thousands of dollars (at least) in litigation costs because the deal made it unnecessary for Project districts to spend money on lawyers and technical experts during the administrative phase of adjudication of the tribal claims.

The second result is that there cannot possibly be any call against the Project under the tribal right awarded for Upper Klamath Lake until at least the time of a court decree that will be issued many years in the future.

(This would also be true of any tribal water rights that could have been awarded for flow in the Klamath River.) In the meantime, if no permanent settlement kicks in before that future date, Project districts have a right to contest those tribal claims in court before they could be used as the basis for a call. KWUA’s dedication and involvement over the years in the development of the Klamath Agreements has put the Project in a dramatically better position than some others in the Basin.

Things have changed over the years and most people now understand that we can’t just sit back as an irrigation community and see what happens (or worse, splinter into factions and have no unified voice). Protection of the water supply is constant, meticulous, and unending work. Much of this work is carried out by KWUA’s volunteer leaders We cannot just pound our fist on the table and expect that water will simply show up, just because it always used to.

For example, the Association, through its Operations Committee, monitors conditions and meets with the Reclamation every week of the irrigation season (and regularly in off season as well) and brings technical expertise and tireless advocacy to maximizing the amount of water available. Project water users benefit.

No other organization works harder, or on more issues that could affect Project irrigators than KWUA. The strength of the organization is its membership and diversity of opinions. No single district can come close to achieving prosperity for
its patrons without the combined effort and leverage of a group of districts, like KWUA has. KWUA members should be proud about the organization’s stature and accomplishments. Non-member districts should seriously examine what happens with a “go it alone” approach to dealing with the outside world. We believe it serves no one.

KWUA is at a crossroads, and so is the irrigation community. The organization has been challenged to try new things and do things differently. We understand this and accept the challenge. Now is the time for people and districts to reengage and make sure your opinions, ideas and views are heard. It is a time for leadership, within our community and from our elected leaders, to promote and drive real solutions that will actually serve people on the ground, now and for the long term. We are confident in the abilities of these leaders and look forward to working with them.

The following is a partial list of advocacy KWUA has taken to protect and enhance the Project’s water supply in 2015:

- KWUA worked directly with the Reclamation and others ad successfully opposed late season Klamath River Flow Augmentation that might occur at the expense of Klamath Project supplies - KWUA provided multiple sets of formal comments (in several different venues) to Reclamation.

- KWUA intervened, funded and successfully opposed multi-year litigation from the Oregon Natural Resource Council Action (Oregon Wild) that sought to stop inter-basin water movement and would have drastically changed and increased costs in the operation of the Straits Drain and the Klamath Project. This historic and positive precedent-setting legal battle ended this year. All districts who receive water from the Klamath system will benefit from this outcome.

- KWUA facilitated weekly meetings with our membership, Reclamation, and others, resulting in increased cooperation and coordination amongst districts and federal and state agencies, benefiting Klamath Project irrigators.

- KWUA drafted legislation that would entitle Klamath Project irrigators to receive “applicant status” for ESA Consultations. KWUA worked with our Congressional delegation to successfully include this language in the House version of the California Drought bill. Should that legislation become law later this year (2016) it would give irrigators a formal “seat at the table” with agencies and tribes.

- KWUA filed formal comments to the U.S. Fish and Wildlife Service opposing efforts to make it significantly easier for the agency to list species as threatened or endangered.

- KWUA provided comments supporting the position of member districts on the Final Draft Klamath Comprehensive Agricultural Power Plan to the Bureau of Reclamation.

- KWUA advocated for, testified for, and otherwise significantly contributed to the passage of SB 206A, which provides for appreciably improved Operational Flexibility, including the ability for water transfers and leases for landowners and districts in the Klamath Project.

- KWUA provided a letter and some much needed perspective to the Secretary of the Interior expressing the viewpoint of member districts regarding allegations made against Reclamation in a “whistleblower” complaint filed by a union group known as Public Employees for Environmental Responsibility.

- KWUA has been actively engaged with the Department of the Interior, Reclamation and others regarding the need for Emergency Extraordinary Operation and Maintenance (EEOM) designation for KID’s C-Flume Repairs, working to save KID patrons and other districts millions of dollars.

- KWUA has drafted and lobbied for a package of amendments to the U.S. Senate Energy bill that would benefit Klamath Project and off-Project irrigators, including power rate relief, C-Flume EEOM designation, authorization for water marketing authorization and other benefits.

- KWUA successfully engaged with the Pacific Connector gas pipeline to address and mitigate the concerns of member districts, and; created a forum for individual districts to address and mitigate their unique concerns.

- KWUA continues to vigorously defend the Klamath Project’s senior water right against legal and political attacks.
2015 Irrigation Season

Reflecting Back at the 2015 Operations

By: Brad Kirby
Operations Committee Chairman

If nothing else, one could say that hydrologic conditions in the Klamath Basin and the situations faced by Klamath Project (Project) irrigators over the past few years have been consistent; consistently dire, to be more exact. 2015 was no exception, and tested the will and fortitude of Project irrigators and the community of the Klamath Basin. Coming off the third worst year for Project operating circumstances, the onset of the 2015 irrigation season was set up to be more of the same, but even more daunting.

During the period from the beginning of the water year, October 1, 2014, through April 1, 2015 the Klamath Basin received 95% of average precipitation. Although precipitation is a key component to the hydrology of the Klamath watershed, the life blood of Upper Klamath Lake (UKL), the Klamath River, and the Project is snowpack. The amount of snowpack is depicted by the value of Snow Water Equivalent (SWE) measured at the Natural Resource Conservation Service’s (NRCS) SNOTEL sites, and for the same period as the Klamath Basin realized 95% of average precipitation the SWE only amounted to 7% of average. This differential between precipitation and SWE was the largest for the Klamath Basin in the period of record, and resulted in the NRCS projecting inflows to UKL from April through September to be only 39% of average.

The U.S. Bureau of Reclamation (Reclamation) issued its Annual Operations Plan in April 2015 in which 254,500 acre-feet of water was estimated to be available from UKL for the Project throughout the irrigation season. This was followed by a Reclamation issued 2015 Drought Plan that estimated this amount of water available to be 65% of historic full Project demand. The Drought Plan also served as the announcement that there would be no deliveries to roughly 30,000 acres of “Warren Act” ground due to the uncertainty of the supply and projected inflows.

By early May the Reclamation estimate of available Project supply had shrunk to 175,000 acre-feet based on lower observed inflows than projected. With the continued dry and hot conditions and no snowpack by this point in the year potential further disaster was impending for Project irrigators. Throughout the rest of May and into early June a series of thunderstorms and cool weather brought some relief, but not nearly enough, and the projected Project supply was raised to roughly 210,000 acre-feet. A secondary effect to the slight increase of projected supply from the storms was the coinciding reduction of Project demand allowing for the potential of supply to be stretched further through the season.

Tracking inflows and diversions over the months that followed eventually indicated that restrictions on Project diversions were unnecessary for the remainder of the season, and Reclamation ultimately lifted all restrictions.

2015 Programs

Reflecting Back at the 2015 Operations

Due to the effect of the “miracle” storms, this was also the point in the season that Reclamation identified some water available for the “Warren Act” acres that had not been allowed to start.
Even with those tools, the Project was barely able to piece together the season in the effort to minimize harm to all irrigators.

I said it last year and I will say it again. First and foremost, irrigation districts and individual irrigators should be recognized and commended for their efforts throughout the year. The 2015 irrigation season would have been considerably worse without their conservation efforts and creative management.

That being said, I also firmly believe that without the work of KWUA, its board of directors, operations committee and staff, 2015 would have gone down as an economic disaster not only for the family farms and ranches in the Project, but for the entire connected community.

Substantial efforts were made through the Water User Mitigation Program that helped bridge the gap between the Project allocation and the Projected demand. These included a groundwater pumping program and a demand management program.

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**Acres participating in Land Idling**

- **29,368 Total Acres**
  - Westside: 23,183.97
  - Eastside: 6,184.22

**Groundwater Pumping**

- **38,398 Acre-feet**
- **$1,836,867 paid value**
The Klamath Reclamation Project

- The Klamath Project was authorized under the authority of the Reclamation Act of 1902.

- Klamath Project construction started in 1906 and provided irrigation and drainage infrastructure to 17 irrigation, drainage and improvement districts in the Upper Klamath Basin along the Oregon and California border. Contractors have repaid all construction costs allocated to them by contract and various districts and individuals have also constructed additional infrastructure.

- Under the Reclamation Act, reclaimed public lands were opened for homesteading; Public lands in the Klamath Project were opened for homesteading beginning in March of 1917.

- Today, there are 18 major canals with a total length of 185 miles within the Klamath Project. Laterals total 516 miles and drains total 728 miles.

- Power is a critical component of the Klamath Project as it is needed to operate pumps for water reuse and for draining water out of the closed basin.

- Due to pumping, reuse, and recycling, the Project’s effective water use efficiency was calculated at over 93 percent (Davids Engineering, Inc., Klamath Project Historical Water Use Analysis, 1998).

- Water for the Klamath Project comes from two areas: 1) Upper Klamath Lake and the Klamath River, and 2) The Lost River system including Clear Lake Reservoir and Gerber Reservoir.

- Today, the primary crops grown in the Klamath Basin are alfalfa hay, beef cattle, cereal grains, onions, potatoes, strawberry rootstock, peppermint, and horseradish.

- In addition to agricultural use, the Klamath Project supplies water to the Tule Lake and Lower Klamath National Wildlife Refuges, two of the preeminent waterfowl refuges in the country.
2013 Estimated Total Average Annual Economic Activity as a result of Upper Klamath Basin Agriculture including Tulelake CA (amount reflects the 1.9 IMPLAN multiplier). Economic reports for 2014–2015 are not available at this time through the Oregon State Extension office.

≈ $670 MILLION & 5,200 JOBS

Klamath Project 2015
Acreage Crop Report

- Hay: ≈ $63,855,790
- Other Hay: ≈ $5,964,249
- Irrigated Pasture: ≈ $12,710,325
- Potatoes: ≈ $44,961,650
- Other Field Crops: ≈ $26,887,638
- Onions: ≈ $7,494,567

* Information provided by: 2015 Crop Report, Klamath Project, OR-CAKO-400 (Green)
The Connection

By: Lacey Jarrell

“The best thing about the fall harvest tour is how surprised attendees are when they learn what’s going on behind-the-scenes in the Klamath Basin ag industry, according to Greg Addington, the former executive director of the Klamath Water Users Association (KWUA).

"Every year — especially this one — I heard people say, 'I had no idea this was here,' " he said. "I always feel great. I love it when we get done. The people are great — they always want to know what’s going on. I’ll miss that." 

The 2015 KWUA Fall Harvest Tour was Addington’s last. He is retiring from KWUA, after 10 years with the agency.

The tour included stops at Jim Lyman’s onion farm and Macy’s Flying Service, where attendees learned a crop-dusting plane propeller costs $40,000 and got to peek inside a plane cockpit. The tour wrapped up at the Malin Potato Co-op in Merrill.

"It’s a state of the art facility that people don’t know about. They are shipping potatoes all over the world," Addington said.

"Love watching people walk in there and go, 'This is really cool!' " he said.

Addington said he came up with the idea for the tour eight years ago, when KWUA was negotiating a suite of settlement agreements intended to create water certainty for Basin farmers and provide a host of benefits for other Basin water stakeholders. Addington said at the time he didn’t think people understood what the KWUA did and who it represented.

He decided a community tour would be a good way to raise awareness about water issues and to introduce the public to Klamath Project ag producers.

“When they saw KWUA, they’d associate it with those faces, those people and those workers,” he said.

The first harvest tours focused more on infrastructure, such as the complex network of canals and ditches that deliver water to the Klamath Project. Through the years the focus changed, and tour organizers now strive to put a face on the farming industry and to give people an up-close-and-personal look at why water certainty is so crucial for Basin agriculture.

"I think people just really connect with other people and with the products. We do water, but the point is you can’t do any of these other things without that," Addington said. "Macy’s isn’t an ag producer, but Macy’s wouldn’t be there without water in the ditches."

A key component of the tour is its partnership with the Chamber of Commerce’s Leadership Klamath program. Through the program, students learn about the region become involved in political, social and business decision-making in Klamath County.

For the full stories that were published on October 4, 2015, connecting with ag, please visit Herald and News webpage: http://www.heraldandnews.com/news/local_news/connecting-with-the-ag-community/article_c0d5df6d-de49
THANK YOU!

Being able to give the community members a valuable first-hand opportunity to see how agriculture impacts our local and regional economies and communities has always been a goal of the Klamath Water Users Association. In sharing our same vision, KWUA would like to thank these sponsors for their annual sponsorship which helps us share this phenomenal way of life.

2015 Sponsors Include:

- Basin Fertilizer & Chemical
- MBK Engineers
- Northwest Farm Credit
- Winema Elevators LLC.
- Monte Johnson Insurance Services
- American AG Credit
- Seus Family Farms
- Great Basin Insurance
- Somach Simmons & Dunn
- Liskey Farms
- Horsley Farms
- Macy’s Flying Service
By: Samantha Tipler

**Malin Potato Co-op**

Over the past year, the Malin Potato Co-op built a $7 million facility in Merrill.

“It’s probably the first clean-sheet, new packing facility in the state of Oregon in 40 years,” said Dave Cacka, general manager for the Malin Potato Co-op.

The company decided to upgrade from just processing Russet potatoes in the old packing shed — originally a turkey slaughterhouse built in the 1930s — to a state-of-the-art facility that could handle all sizes and varieties of potatoes, especially organics.

**Macy’s Flying Service**

This is probably the most seat-of-your-pants flying that there is,” said Nick Macy, owner of Macy’s Flying Service which provides crop dusting and aerial spraying on the Oregon-California border. The target flying height is six to 10 feet off the ground.

Macy’s Flying Service has been in business for 50 years. Macy’s father, Paul, founded it in 1965 and Macy took over in 1985. He emphasized how everything starts and ends with the grower, outlining the rules the company follows to make sure everyone is safe, from the pilot in the cockpit to making sure farm workers are not in the fields or nearby fields.

Macy’s Flying Service covers hundreds of thousands of acres in a season with four airplanes and ground vehicles, he said, and employs about 45 people during peak business time.

“**MALIN POTATO CO-OP**

Greg Carlton, a farmer in the co-op, said those particular potatoes in that mountain are destined for Frito Lay to become potato chips. That 6,500 tons came from just five fields in the Klamath Basin potato industry.

When it comes to producing that many potatoes, and ensuring they’re sold to companies like Frito Lay, water makes a big difference.

“**When we have no water, we have no farming, we have no jobs. so the people I have employed, even myself, we’re not paying taxes, we’re not buying goods, we’re not supporting our local schools. There’s no economy that goes along with jobs themselves.**”

Nick Macy
The D-Plant
John Crawford stood in front of the 1942 Pumping Plant D in the Tulelake Irrigation District. The facility pumps water out of the Tulelake basin, the end of the road for irrigation water initially pumped out of Upper Klamath Lake for the Klamath Project. The D-Plant sends water into the Lower Klamath National Wildlife Refuge, which sends it back to the Klamath River about six miles downstream from where it was originally pumped out.

Crawford also spoke about the environmental benefits of farmers leasing land on the refuge. Some of those lands have been a part of the Walking Wetlands, where farmers plant crops then flood the fields to make habitat for birds and other wildlife. That showed a cooperation between farmers and environmentalists, Crawford said. But after four years of drought, water to flood fields is hard to come by.

Jim Lyman’s Onion Field
Klamath Basin onions aren’t destined for topping a ham-burger patty. They’re shipped to the Central Valley in California, dehydrated and used in onion flakes and onion powder. Because of that process, the onions need extra strong flavor.

Farmers like Jim Lyman, plant onions in the first two weeks of April, often before the Bureau of Reclamation determines how much water is available for irrigators in the Klamath Project.

“Making that decision, whether we plant an onion crop or not, is extremely tough,” said Scott Seus, local onion farmer. “It’s a hard decision, especially for onion growers, to make that.”

“Predicting the future of water supplies can backlash to the companies the farmers contract with, too.” Scott Seus

For the full stories of all the Fall Harvest Tour stops on published in the Herald and News: October 4, 2015 see: http://www.heraldandnews.com/news/local_news/agriculture/waiting-on-water/article_28907fcb-a203-50a9-8798-d2b0de6cdd6b.html
By: Curt Mullis– WQ Committee member

Farmers and ranchers operating in the Klamath Project will be affected by Oregon and California water quality laws and regulations, some originating from the federal Clean Water Act. Recently adopted requirements or plans include the Upper Klamath and Lost River Subbasins Total Maximum Load (TMDL) levels. The listed TMDL pollutants that affect the project include temperature, dissolved oxygen, pH, phosphorous, and nitrogen.

To implement TMDLs and other requirements, Oregon’s Department of Environmental Quality (ODEQ) and California’s North Coast Regional Water Quality Control Board (North Coast Board) will require certain entities in their respective states to implement plans to improve and protect water quality. KWUA will continue to work with both states to ensure development of plans that will minimize negative effects to agricultural operations while providing compliance with state and federal laws and regulations.

The Oregon Department of Environmental Quality has determined that all irrigation districts are Designated Management Agencies, meaning that each district is required to submit a plan to identify and implement actions to protect and improve water quality. The Klamath Water Users’ Association (KWUA) is working closely with irrigators and DEQ staff to develop a template plan for its member districts that is both practical for the districts and acceptable to the DEQ.

Each district can choose whether they want to use the template plan KWUA creates or not, but either way, the district will eventually need to create or sign on to a plan that satisfies DEQ’s requirements.

In California, permits known as Waste Discharge Requirements (WDRs) are used to implement TMDL requirements, and other state law requirements, on irrigated agriculture. The North Coast Board intends to finalize WDRs in 2016 that will require management practices at the grower level. Although still in development, we anticipate that farmers will have the option to draft individual plans to meet the permit requirements or participate in a group-based plan that is developed and implemented with the assistance of a third-party organization.

It is anticipated that the third-party would assist in educating farmers directly on management practices that need to be implemented, and would be responsible for collecting and reporting compliance information required by the North Coast Board. Should the third party program develop as anticipated, KWUA would then recommend the group plan option over individual plans due to cost and time savings associated with developing individual plans, and monitoring and implementation.

The Klamath Water Users’ Association is working closely with irrigators and DEQ staff to develop a template plan for its member districts that is both practical for the districts and acceptable to the DEQ.
Klamath Straits Drain Litigation

By: Paul Simmons, KWUA Counsel

In August of 2015, the United States Court of Appeals for the Ninth Circuit issued an important decision affecting the Klamath Project. Specifically, in the case titled ONRC Action v. Bureau of Reclamation, the appellate court ruled that the movement of water from the Klamath Straits Drain to the Klamath River is legal, and does not require a permit under the Clean Water Act. The decision results in avoiding potentially enormous costs related to the Straits Drain, and also creates useful precedent for other areas of the Klamath Project.

The Straits Drain is owned and operated by the Bureau of Reclamation, and is critical to drainage and flood control in the Lower Klamath Lake area. Klamath Project water users have borne various costs of construction and operation of Straits Drain. In general, under the Clean Water Act (CWA), it is illegal to discharge pollutants from a point source to navigable waters except in compliance with a permit issued under the CWA. (“Navigable” is defined to mean “waters of the United States” [WOTUS], which is itself a controversial subject but not relevant here.) With respect to continuous discharges such as the Straits Drain, the type of CWA permit that would be relevant is a so-called “NPDES” permit. The likely conditions of an NPDES permit for Straits Drain, if such a permit were required, would include that movement of water in and between these areas and features is not vulnerable to attack under the Clean Water Act.

US Supreme Court guidance, said that there is not an addition to navigable waters where one is merely moving water that contains pollutants from one part of a navigable water to another part of that navigable water.

As the basis for its finding that the Klamath River and Straits Drain are not meaningfully distinct, the court of appeals turned to history. It noted that, prior to settlement, during high water periods, water moved from the surcharged Klamath River to Lower Klamath Lake, from which it would flow back toward the Klamath River as water receded. The point of return was the Klamath Strait, and the court found that the Klamath Straits Drain was in fact an improved channel where a natural channel had existed. The court also noted that much of the water flowing from the Straits Drain to Klamath River in fact originated in the Klamath River to begin with, and was simply being diverted, used, and returned to the Klamath River. The court also found it irrelevant that in current times water is pumped and lifted from the Straits Drain to Klamath River. It understood that, if one simply walked away from the current infrastructure, there would eventually be hydrologic communication between the Klamath River and the Lower Klamath Lake area, just as in pre-historic times.

The decision in the Straits Drain case is positive for the Klamath Project as a whole. The Project is characterized by significant areas of reclaimed lands and engineered features where there were formerly more rudimentary, natural hydrologic connections and pathways. The fallout of the Straits Drain litigation should include that movement of water in and between these areas and features is not vulnerable to attack under the Clean Water Act.

Klamath Settlement Agreements

By: Paul Simmons, KWUA Counsel

On December 31, 2015, the Klamath Basin Restoration Agreement (KBRA) expired, due to the lack of federal legislation authorizing the agreement. Two companion agreements, the Klamath Hydroelectric Settlement Agreement (KHSAs) and Upper Klamath Basin Comprehensive Settlement Agreement (UKSA), have not expired, but the absence of federal legislation dramatically affects their potential implementation.

In general, for Klamath Project irrigators, the KBRA was designed to improve water reliability, reduce costs of power, and deliver other benefits related to infrastructure, while ensuring no new regulatory burdens from fish species that may appear as a result of the KHSA. The KHSA provides a process that may lead to removal of PacifiCorp’s four hydroelectric dams,
and the UKSA includes several elements including a program that can reduce exposure to shortage from senior tribal water right calls in the areas tributary to Upper Klamath Lake.

The KHSA as originally written could not be implemented without federal legislation. But the states of Oregon and California, the United States and PacifiCorp proposed KHSA amendments that would lead to dam removal under authority of the Federal Energy Regulatory Commission, without need for any new legislation. (The planned date for amendment is in April) Ultimately, these parties have the ability to control the KHSA, and it is advantageous to their objectives to move forward through amending the KHSA rather than through a new agreement.

KWUA does not support dam removal as an isolated event and advocates that benefits similar to those in the KBRA must be provided in parallel with any KHSA implementation.

KWUA does not support dam removal as an isolated event and advocates that benefits similar to those in the KBRA must be provided in parallel with any KHSA implementation. KWUA believes that some of these elements can be arranged administratively or by contract; others may require different, or narrower legislation. With respect to the off-project land and the UKSA, the lack of federal legislation puts the agreement in serious jeopardy, for legal, financial and other reasons.

There will continue to be activity toward ensuring that state and federal policy makers and others do not abandon goals for solutions that are more comprehensive than merely the KHSA or an amended KHSA alone.

Despite plans to finish the appropriations process on-schedule (before Oct. 1) for the first time in 20 years, FY 17 appropriations appeared to be bogging down in mid-March. Legislators of both parties hoped the budget deal agreed to last fall would speed enactment of the 12 annual appropriations bills this year. The President sent his FY 17 budget request to Congress on Feb. 9, and committees immediately began appropriations hearings, aiming to begin passing the bills in April -- weeks ahead of the normal timeframe. But Republican Conservatives in the House, who did not support the budget deal, have said that they will insist on lower spending levels for FY 17, or on higher levels of long-term spending reductions. The Conservatives’ position threatens to derail the appropriations process in the House, and has left Republican leaders searching for a way to keep it on-track.

Congress may act on western drought/water policy legislation this year, but the outlook is uncertain. No committee action on a drought was scheduled as of mid-March.
Klamath Water Users Association Guiding Principles

We support the long term viability of irrigated agriculture inside and outside the Klamath Reclamation Project

* We support securing the most water to irrigate the most acres possible in the Klamath Basin
* We support the livestock industry and diverse crop production in the region
* We support developing local energy generation projects that help offset the costs for irrigation and drainage pumping, on and off-project
* We support an end to needless litigation with tribes, fishermen and others
* We support Oregon Water Law and the Prior Appropriations Doctrine with respect to regulation of water
* We support development of alternatives for those who may be negatively affected by the adjudication
* We support long term water supply security for the Rogue Valley irrigators
* We support an individual’s ability to choose if and how they participate in any resource related programs or initiatives
* We support a market driven approach to address water shortages
* We support wise use of tax dollars and a watershed wide approach to resource management
* We support the private property rights of individuals and private companies such as Pacific Power
* We support protecting rate-payers and capping costs related to PacifiCorp operations
* We support protection of landowners from regulatory uncertainty that might result from the introduction of new species in the Upper Basin
* We support development of new water storage projects
* We support economic assistance and mitigation of tax losses to counties that may be negatively affected by government actions
* We support the local economic development of tribal and agricultural communities
* We support water and power conservation and efficiency measures
* We support hydro-power generation and development as a general matter
* We support restoration efforts that result in measurable improvement to listed species, improved water quantity/quality and timing of release
* We support practical alternatives to the way things are managed, or not managed, today in the Basin
The Klamath Water Users Associations (KWUA) Board of Directors includes volunteer members that represent different districts of the Klamath Reclamation Project. The board reviews proposed work plans, budgets and policy resolutions, works out differences on local issues, conveys recommendations to member districts and provides guidance to KWUA staff.

**Board of Director President:** Rob Unruh  
**Board of Director Vice President:** Curt Mullis  
**Secretary:** Luke Robison  
**Treasurer:** Tricia Hill

| Position 1: | P: Brad Kirby~ A: Earl Danosky |
| Position 2: | P: Dave Cacka~ A: Brent Cheyne |
| Position 3: | P: Luther Horsley~ A: Frank Anderson |
| Position 4: | P: Gary Wright~ A: Mike Byrne |
| Position 5: | P: Rob Unruh~ A: Ryan Hartman |
| Position 7: | P: Rob Crawford~ A: Marc Staunton |
| Position 8: | P: Curt Mullis ~ A: Jason Flowers |
| Position 9: | P: George Rajnus~ A: John Bair |
| Position 10: | P: Tricia Hill~ A: Steve Kandra |
| Position 11: | P: Scott Seus~ A: Ben DuVal |

We would like to say a special thank you to all the members of the association and to the many individual producers who offer continuous support and vision in seeking solutions for a sustainable future in the Klamath Basin.

We also recognize and acknowledge the many partner businesses and organizations that support us and collaborate with us on a daily basis. Thank you for helping us preserve, protect and defend the interests of irrigated agriculture.

**KWUA Board Advisory Committees**

- Executive Committee
- Administration & Budget
- Water Quality
- Nominating
- Governmental Affairs
- Power Cost Study
- Public Relations and Events
- Project Operations
- Straits Drain Litigation and Adjudication

If you are interested in serving on a committee, please contact Chelsea @ 541-883-6100

Board membership is not required.
Our mission is to preserve and enhance the viability of irrigated agriculture for our membership in the Klamath Basin, for the benefit of current and future generations.
KWUA’s 2016 Annual Gold Business Sponsor’s

THANK YOU

KWUA would like to thank these gold sponsors for their annual sponsorship which helps us facilitate our Annual Meeting and share our Fall Harvest Tour with the public.

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If your business is interested in becoming a sponsor please contact Chelsea Shearer, 541-883-6100