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KlamBlog

The inside scoop on Klamath River Basin resources issues from someone who actually lives there!

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THURSDAY, JULY 21, 2011

Science, Secrecy and Salmon Restoration

News that an independent panel of scientists has serious reservations about prospects for successful salmon restoration to the upper Klamath River Basin once four Klamath River Dams are removed was broken by the LA Times in late June and spread like wildfire across the Basin.

The concerns of the scientists focused on the KBRA or Klamath Water Deal which has been politically connected to dam removal. They pointed out that large, politically brokered restoration programs have a consistent record of failure. Whether we consider Chesapeake Bay, the Everglades, the Great Lakes, the Columbia River or the Klamath River Basin, large scale restoration projects have not achieved what the politicians, advocates and bureaucrats who brokered them promised.

In 2006 a national team of scientists led by the University of Maryland's Margaret Palmer examined thousands of restoration programs across the US and found widespread failure. The scientists pegged ineffective restoration to failure to apply restoration science resulting in projects which do not address key factors degrading rivers and lakes. The scientists also noted that less than 15% of the projects reviewed had been evaluation to determine their effectiveness. Palmer subsequently identified the specific ways in which restoration practice has failed to correctly apply restoration science.

Lack of restoration standards and accountability is a key defect of the Klamath Water Deal. Like salmon restoration under the 1986 Klamath Act before it, the KBRA would divide restoration funds based on political considerations. During the 20-year Klamath Act Restoration Program, wild Klamath-Trinity Chinook Salmon – the focus of that restoration effort – continued to decline. If that trend continues, extirpation/extinction will occur during this century. Restoration under the KBRA will be similarly ineffective; addressing several key factors limiting wild salmon production is specifically precluded by

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Where the River Meets the Sea!

The Mouth, the Estuary and Oregos Guardian Spirit.

Welcome!

Welcome to KlamBlog. The purpose of this blog is to keep the People of the Klamath River Basin and others who are interested in the Basin informed about what is going on in the politics of the Basin - particularly the environmental politics - that is not making it into the mainstream media, is not available in "in-Basin" media or that is being spun by the media or others.

What you will get here, however, is a perspective, one which I hope will enlighten, inspire, inform, outrage, surprise and motivate you to take

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Water Deal provisions.

The independent salmon scientists focused on water quality in the Upper Basin as the main impediment to successful Chinook restoration there and throughout the Basin. In particular, they singled out a fifth PacifiCorp dam and reservoir – Keno – as a major barrier to migrating salmon. Keno has the worst water quality found anywhere in the Basin and regular fish kills occur there during summer. Under the Dam and Water Deals, however, Keno Dam and Reservoir would not be removed; instead they would be transferred from PacifiCorp to the US Bureau of Reclamation.

Soft censorship on the Klamath

Federal and tribal bureaucrats did not like the Draft Report from the independent scientists because it criticized aspects of the KBRA Water Deal in strong terms. As they have in the past, displeased KBRA promoters worked hard to convince the independent scientists to change their report. This can be seen in comments submitted on the panel's draft summarized in Appendix C of the final report.

Comments from the Yurok Tribe, the Pacific Federation of Fishermens' Associations and several agency scientists closely associated with the Dam and Water Deals focus on challenging the reviewers' statements about the Water Deal. They were only partially successful. While the language used to discuss the KBRA was toned down in the final report, it is still obvious that the scientists have severe reservations that the KBRA will deliver the benefits it promises and which its supporters regularly trumpet as if they had already been accomplished. The result is a strong but cautious final report: The scientists held their ground, expressing the same reservations in mild, sugar-coated words.

One of those commenting on the draft was not a long-time Klamath scientists or advocate but rather the individual assigned to supervise preparation of reports and studies to inform the Secretarial Determination and the accompanying EIS/EIR. The comments of Dennis Lynch appear to KlamBlog to be aimed at reducing the strength of findings that can be read as negative with regard to the KBRA. KlamBlog does not believe such advocacy is appropriate for someone who is supposed to oversee an impartial investigation of the costs and benefits of removing four dams, transferring Keno Dam and Reservoir to the Bureau of Reclamation and implementing the KBRA Water Deal.

In subsequent public meetings and in press statements Mr. Lynch has downplayed the Chinook Panel's concerns about the Water Deal. We can expect further dilution of those concerns in a summary report Lynch and his team will release later this summer.

KlamBlog has compared the original Draft Report and the Final Report to determine how it has changed in response to the barrage of action. Sometimes you will also find an action alert, what others have written or press clips.

If you have something relevant you'd like to share - a comment or clip about the Klamath - send it to unofelice@gmail.com. All submissions will be considered for publication here; decisions are final and not subject to appeal.

About Me

Felice Pace
Klamath Glen, California

Felice was born on January 10th 1947 into the working class Italian Community in South Philadelphia. He holds a BA in Economics from Yale U., a masters in Education from Montclair State University and a life-time California teaching credential. He has worked as a teacher/educator, laborer, Outward Bound instructor, social services administrator and as a consultant to Native American tribes. For fifteen years Felice worked for and led the Klamath Forest Alliance as Program Coordinator, Executive Director and Program Director. He remains part of the Alliance's Core Group. Felice lived in the Scott River Basin for 35 years; since 2002 he has resided near the mouth of the Klamath River at Klamath Glen. The opinions expressed here are his own.

View my complete profile

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comments by KBRA promoters expressing displeasure with the independent scientists' judgments about the KBRA. Here's one example of how the panel toned down its findings in response to the concerted effort by KBRA promoters:

Draft Report:

The Proposed Action appears to be a major step forward in conserving target fish populations compared with decades of vigorous disagreements, obvious fish passage barriers, and continued ecological degradation. The Panel concluded that a modest increase in Chinook salmon is likely in the reach between Iron Gate Dam and Keno Dam if some of the conditions listed below are met. An increase in Chinook salmon upstream of Keno Dam is less certain because of the difficulties in satisfying all the conditions described below. The Panel has strong reservations that KBRA, even if fully implemented, will address all these conditions to the extent required to meet the goals of the program. (emphasis added)

Final Report:

The principal uncertainties fall into four classes: the wide range of variability in salmon runs in near-pristine systems, lack of detail and specificity about KBRA, uncertainty about an institutional framework for implementing KBRA in an adaptive fashion, and outstanding ecological uncertainties in the Klamath system that appear not to have been resolved by the available studies to date. (emphasis added)

The panel then appears to address unhappy KBRA promoters in an attempt to smooth ruffled feathers:

Most reports and presentations received by the Panel predicted very optimistic results for Chinook salmon from the Proposed Action. The Panel is equally hopeful, but notes several factors that temper its enthusiasm. Those factors and its position, therefore, may seem pessimistic to some readers of this report. But the Panel sees its charge as listing concerns in the spirit of scientific openness and as research challenges and opportunities that if resolved successfully will increase the likelihood of success resulting from the Proposed Action.

KBRA promoters have a consistent track record but openness to fresh perspectives that don't conform to their long-held beliefs is not part of it. Whether we consider KBRA promoters reactions to two independent reviews of Klamath Science prepared by the National Research Council, NEC-sponsored science reviews by Bill Trush and Greg Kammen or the report of the independent scientists, KBRA promoters have consistently sought to pressure, cajole and persuade dissenting scientists to recant and adopt the promoters' sanguine views on the Water Deal. Secret meetings of Deal "parties" and federal bureaucrats continue to be used to coordinate efforts to deny

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Northcoast Environmental Center
On the Public Record
Osprey Steelhead News
Photographer Brett Cole - Klamath Wildlife Refuges
YurokVoices.com

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and downplay concerns about the controversial and costly Water Deal. KlamBlog believes these meetings violate federal open meeting laws and we wonder why KBRA opponents have not filed suit to block them.

The KBRA and Keno

The independent Chinook scientists were right to question whether Keno clean-up can occur under the Water Deal. When the KBRA's obfuscating legal language is decoded, it becomes clear that under it Keno Dam and Reservoir (along with the Lower Klamath Lake Area and the entire Lost River Basin) would be firmly under the control of the Basin's Irrigation Elite - the group of 20-30 agricultural enterprises which controls vast acreage supplied with cheap federal irrigation water . And since Klamath Project agriculture is the source of most Keno pollution, the Irrigation Elite have no interest in cleaning it up. In fact, their interest is to frustrate and prevent Keno clean-up as they have for many years.

Here are a few of many KBRA provisions which taken together give essential control of Keno, Lower Klamath and the Lost River Basin to the Irrigation Elite:

- *Agricultural operations complying with agricultural water quality area management plans and rules administered by the Oregon Department of Agriculture, and with rule amendments, if any, adopted to implement the Fisheries Program, shall not be subject to further water quality requirements under Oregon Revised Statutes chapter 468B or 568, if any, arising solely from reintroduction and the designation or presence of new fish beneficial uses.*
- *The Parties shall support all reasonably available alternative or additional water quality measures before considering any action for the purpose of water quality compliance that would reduce water supplies beyond the limitations provided in this Agreement.*
- *Following transfer of the Keno Facility from PacifiCorp pursuant to the Hydroelectric Settlement, Reclamation shall operate such facility to maintain water levels upstream of Keno Dam to provide for diversion and canal maintenance consistent with Contract No. 14-06-200-3579A executed on January 4, 1968 between Reclamation and PacifiCorp (then Copco) and historic practice and subject to Applicable Law. Klamath Reclamation Project contractors shall not bear any cost associated with the Keno Facility, including any responsibilities to landowners upstream of Keno Dam, whether cost of construction, operations, maintenance, rehabilitation, betterment, liabilities of any kind, or otherwise.*
- *The Parties commit to take every reasonable and legally-permissible step to avoid or minimize any adverse impact, in*

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the form of new regulation or other legal or funding obligation that might occur to users of water or land upstream of Iron Gate Dam from introduction or reintroduction of aquatic Species to currently unoccupied habitats or areas.

- *The Parties further acknowledge the potential for changes in regulatory programs and potential uncertainties as to the precise mechanisms by which the basic commitments stated herein will be achieved. If unforeseen changes in regulatory programs occur or uncertainties result as to the precise mechanisms by which the basic commitments stated herein will be achieved during the course of this Agreement the Parties agree to meet and confer in light of these commitments to determine any necessary future actions, including, but not limited to, consideration of whether narrowly tailored regulations or legislation is necessary to ensure the realization of these commitments.*
- *The limitations related to Klamath Reclamation Project diversions identified in Section15.3.1.A and provided in Appendix E-1, and any other applicable provisions of this Agreement, are intended in part to ensure durable and effective compliance with the Endangered Species Act or other Applicable Law related to the quantity of water for diversion, use and reuse in the Klamath Reclamation Project. Therefore, the Parties agree that they shall not seek further limitations on the quantity of water diverted, used or reused in the Klamath Reclamation Project beyond these limitations.*
- *A Party other than Federal and State Public Agency Parties shall not seek to enforce Applicable Law to impose further limitations on the water quantity for diversion, use, and reuse in the Klamath Reclamation Project, beyond the limitations that result from the application of Appendix E-1*

While some of these provisions are couched in terms of additional responsibilities related to salmon reintroduction, and while elsewhere in the KBRA there are statements about compliance with existing laws and TMDLs, the combined effect is to provide a presumption that the Irrigation Elite will not have to make any changes not specified called for in the KBRA.

The panel of independent reviewing scientists identified Keno as a barrier to salmon migration which could frustrate efforts to restore salmon to the Upper Klamath River Basin. Any attempt to clean-up Keno will be interpreted by the Irrigation Elite as related to reintroduction (what else has changed?) and therefore subject to KBRA limitations on actions that impacts water deliveries to those irrigators. But water quality and flows are closely related. It is therefore likely that the combined effect of KBRA provisions will be to further delay - and perhaps frustrate - clean-up of Keno Reservoir.

Keno is the Key

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As the independent Chinook scientists noted, Keno Reservoir has the worst water quality in the Klamath River Basin. Sometimes Keno water gets so bad that pure ammonia – a substance directly toxic to all life - is produced. Like the four dams slated for removal, Keno is part of PacifiCorp's Klamath Hydroelectric Project. If that Project had been relicensed by the Federal Energy Regulatory Commission clean water certification from California and Oregon would have been required. That certification could not have been obtained unless PacifiCorp developed and committed to clean-up Keno and its other reservoirs in order to meet water quality standards.

KBRA promoters like PCFFA's Glen Spain point to the Oregon TMDL as a means to Keno clean-up. In agricultural areas, however, TMDL implementation in Oregon is under the direction of the Oregon Department of Agriculture. ODA relies on farm and ranch plans which – like the KBRA itself – are devoid of standards and accountability. Those like Spain who count on the State of Oregon to clean-up Keno will have a long, long wait!

If PacifiCorp is allowed to walk away from Keno Reservoir and its water quality problems, Keno clean-up will at best be delayed and may never be fully implemented. As the independent scientists pointed out, the payoff for dam removal – restoration of salmon to the Upper Klamath River Basin – might also fail. Furthermore, even if clean-up occurs, taxpayers will be saddled with the cost.

Federal legislation needed to facilitate removal of four Klamath River dams should include provisions to assure that Keno Reservoir is cleaned up expeditiously and that democratic processes are used to manage the River and its public resources. Like all our rivers, the Klamath is a People's river; it is not owned and no part of the River should be controlled by PacifiCorp, the Irrigation Elite, KBRA "parties" or any other special interest. More than anything, the Klamath needs an open, democratic process for managing the People's Klamath River and the Klamath's public resources.

Now that the truth about flaws in the Klamath Dam and Water Deals is finally coming out, river and salmon advocates must insist that what is needed to restore the Klamath River and Klamath Salmon – including clean-up of Keno Reservoir pollution - is assured before PacifiCorp is allowed to walk away from its Klamath responsibilities. In the months ahead we will see where folks stand. Those who prioritize the Klamath River and Klamath Salmon will push to assure Keno clean-up via federal legislation needed for dam removal. Those who prioritize their own and their organizations' power and access via the KBRA will oppose those efforts.

KlamBlog will let you know where folks stand. Stay tuned.

[attachment 29]

Posted by Felice Pace

Recommend this on Google

Labels: Implementing the KBRA, Klamath Water Deal, Klamath-Trinity Salmon

4 comments:

Glen Spain said...

Dear KlamBlog...

This posting is interesting, but does need some comment:

1. The LA Times Story you cite missed a lot of key points the Chinook Expert Panel expressed in FAVOR of the KBRA and particularly in favor of dam removal. Also, the Report that the LA Times reporter used was incomplete, and has been updated in the form of an Addendum Report, released July 20th. While the Panel expressed some concerns about whether the KBRA would meet all its goals (understandable concerns given a 50 year program) they NEVER said not to move forward with the KBRA. And many of the water quality issues they raised are being dealt with by the Clean Water Act TMDL process, not the KBRA, which cannot supersede federal and state clean water laws. Here are some quotes from the final Addendum Report which is available as follows:

EXCERPTS FROM THE CHINOOK EXPERT PANEL REPORTS
Chinook salmon (Updated Addendum Report)
The following references can be found at:
http://northamerica.atkinsglobal.com/KlamathRiver/Chinook%20Salmon/ADDENDUM%20FINAL%20Report%20(clean%20version)_Chinook%20Salmon_Klamath%20Expert%20Panels_07%2020%2011.pdf

"The Proposed Action appears to be a major step forward in conserving target fish populations compared with decades of vigorous disagreements, obvious fish passage barriers, and continued ecological degradation. The Panel concluded that a substantial increase in Chinook salmon is possible in the reach between Iron Gate Dam and Keno Dam." (p. i)

"The Panel believes that dam removal is the greatest limiting factor precluding Chinook salmon rehabilitation. Time will also be needed for new Chinook salmon stocks to evolve to the evolving water quality conditions. Delaying dam removal seems an unwise proposal." (p. 74)

"There is much certainty that if the four dams are not removed, the Klamath Chinook salmon will continue to decline." (p. 69-70)

"The Proposed Action offers greater water quality potential than the Current Conditions in improving water quality for Klamath Chinook salmon." (p. 9)

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"The Proposed Action offers greater potential than the Current Conditions in reducing disease related mortality in Klamath Chinook Salmon." (p. 12)

"The Proposed Action offers greater potential than the Current Conditions for Chinook salmon to tolerate climate change and changes in marine survival." (p.19)

2. You mistake the normal public comment and peer review process for "pressuring" the Panel to change its views. Peer-review is part of every good scientific process, and the Panel was truly independent…. They were plenty capable of making up their own minds. If every public comment or peer review process is "pressureing" then science itself is based on it.

3. The KBRA has an ongoing governance and scientific oversight process for the very reasons cited in the Palmer Report. True "adaptive management" based on intensive on-going monitoring is laced throughout the KBRA process. The scientists who are supervising it are not fools and they do learn from past experience. And the need to be effective in this ambitious restoration project is shared by all.

4. All the final independent science panel reports are posted at: http://northamerica.atkinsglobal.com/klamathriver/pages/default.aspx . They all say fish will be significantly better off with the KBRA than without it.

-- Glen Spain, for PCFFA (fish1ifr@aol.com)

July 21, 2011 2:27 PM

Felice Pace said...

Glen Spain's comment - and the Addendum expert panel report to which it refers - raise serious questions about the integrity of the Secretarial Determination process:

1. Did PacifiCorp and the Klamath Tribes (the two groups for whom the comment process was reopened) get their comments in on time or are they being afforded special privileges and dispensations not available to others?

2. How did it come about that these two comments resulted in addition of the exact same phrase in multiple locations throughout the report. To wit: "The Proposed Action offers greater potential than the Current Conditions .... etc".

That doesn't read like the rest of the scientists' report but rather just like something someone who wanted the Secretarial Determination to come out a certain way would write.

I suspect this phrase was suggested to the panel; but it was not

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suggested in comments from either PacifiCorp or the Klamath Tribes. So who did suggest it?

It is also interesting that Glen Spain mainly quotes the additional statements that were in the Addendum but which were not in the original Final Report that so displeased Glen and other KBRA promoters. I do agree with him that the reviewing Chinook scientists favor dam removal and see it as positive. Their views on the KBRA Water Deal, however, are much more complex.

If you read the original "Final Report" it is clear that these scientists had significant reservations about the efficacy of the KBRA in general and in its ability to advance Keno clean-up in particular.

These developments stretch credibility to the breaking point and lead one to suspect that there were more than processing additional comments behind the decision to do the Addendum.

The irregularities (it would be premature to call them "shenanigans") also give more weight to the post's questioning of involvement by Mr. Lynch - the manager of the Secretarial Determination process - with the substance of the report. Did Mr. Lynch engineer the changes in the Addendum in order to downplay the independent scientists concerns about the KBRA Water Deal?

It is important that the Secretary of Interior be aware of the scientist's serious concerns which have now been masked in the Addendum. That awareness could prompt the Secretary to support a clear mandate and time-line for Keno clean-up in federal legislation needed for dam removal. Absent that assurance, those who value salmon above their personal power and access should strongly oppose transfer of Keno to the Bureau of Reclamation.

Furthermore, the Addendum's specific conclusion concerning water quality - quoted by Glen - is not supported by the facts. There IS a basis for concluding that clean-up would occur sooner and more effectively if the dams were relicensed (current conditions) and there IS no basis for concluding the opposite.

The willingness of those who are committed to the KBRA to attack the messenger, corrupt processes and manipulate individuals in order to get what they want does not inspire confidence that adaptive management will be paid more than lip service if Congress endorses the KBRA. And that too was one of the concerns expressed by the independent scientists.

God help the salmon if that happens!

July 21, 2011 4:31 PM

Glen Spain said...

[attachment 29]

Dear KlamBlog...

I don't want to get into a lot of back-and-forth with Felice here, but the reasons for doing the Addendum are clearly set out in the Contractor's web site... i.e., they goofed! They dropped timely comment emails so they were not before the Panel, and had to be considered later. But for fairness, only those comments submitted by the deadline were considered, as was announced.

The the Chinook Panel Notice of Addendum and the other reports (all in one spot) are at:

http://northamerica.atkinsglobal.com/klamathriver/pages/default.aspx

No one got any special second bites at any mythical apples. Anyone could have submitted comments. Many did, on various topics both pro and con, as well as made presentations to the Panelists in person. All comments were carefully considered and responded too as part of an orderly public comment process. Just as it should be.

And as to the additions to the text inserted by the Panel, they seem to have noted -- as was pointed out by several commentors -- that they never actually clearly answered the main question asked: "How does the Proposed Action (dam removal + KBRA) actually compare to the No Action baseline alternative for these species?"

So they apparently decided to be clearer about it. That was entirely their own decision to make. Isn't such clarity to be commended?

The insistence on some sort of conspiracy here is misplaced. Nor are wildly leading questions raising unnecessary aspersions on various people's characters of any usefulness. The reports stand on their own.

I urge anyone who is interested in distinguishing fact from fancy to actually READ these Independent Scientific Panel Reports, again all available at:

http://northamerica.atkinsglobal.com/klamathriver/pages/default.aspx

They all have one important conclusion in common. ALL say, in various ways, that the fish species each examined will be significantly better off with the dams down and the KBRA implemented than without those two major steps forward toward upper basin restoration.

We agree, of course, that the degree of benefit depends on the degree of implementation. But so it has always been with such restoration efforts.....

-- Glen Spain, for PCFFA

[attachment 29]

July 21, 2011 6:09 PM

Felice Pace said...

The integrity - or lack thereof - in the Chinook Report's process is being investigated and will be reported on in KlamBlog when it's completed.

Glen presents as if he has absolute knowledge about this government process and can guarantee its integrity. Does that mean he has special access or is he clairvoyant?

The fact is that the panel expressed serious reservations about the KBRA for a number of sensible reasons. This is true in the Draft, in the Final and in the Addendum versions.

The manner in which the review was structured, however, required the panel to make judgements about the KHSA and KBRA as a single package. Glen, of course, knows perfectly well why the review was set up in that fashion.

Let's hope the legislation these deal-makers want goes down in partisan flames. Then we can get back to the FERC process where the rules are known and not made up by the promoters as serves their purpose.

In the FERC process, the dams will still be decommissioned because that is in the interest of PacifiCorp's shareholders who own them. The difference under FERC will be no KBRA mischief and less cost to taxpayers.

July 25, 2011 4:58 PM

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