

1 UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF OREGON  
3 PORTLAND DIVISION  
4

5  
6 **David White, Pro Se**

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10  
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14 503-608-7611

**Case 3:24-cv-00755-JR**  
PLAINTIFFS RESPONSE TO  
DEFENDANTS' RESPONSE  
TO PLAINTIFF'S  
OBJECTIONS TO FINDINGS  
AND RECOMMENDATION

**United States Magistrate  
Judge Jolie A. Russo**

15  
16 **vs.**

17  
18 **Defendant 1. (D1)**  
19 **Dave Coffman, as geoscientist**  
20 [dcoffman@res.us](mailto:dcoffman@res.us)  
21 **Resource Environmental Solutions, (RES)**  
22 **Corporate Headquarters – Houston**  
23 **6575 West Loop South, Suite 300**  
24 **Bellaire, TX 77401**  
25 **713.520.5400 x6134**

26 **Defendant 2. (D2)**  
27 **Mark Bransom in his capacity as Chief Executive Officer of**  
28 **Klamath River Dam Renewal Corp. (KRRC)**  
29 **info@klamathrenewal.org**

30 **Defendant 3 (D3)**  
31 **Klamath River Renewal Corporation**  
32 **2001 Addison Street, Suite 317**  
33 **Berkeley, CA 94704**  
34 **Phone: 510-560-5079**

35  
36 

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37 **(D3)**

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20 *Attorneys for Defendants Mark Bransom and*

21 *Klamath River Renewal Corporation*

22  
23 Plaintiff hereby requests the Court take Judicial notice of the following  
24 facts;

25  
26 1) 18 USC 3 accessory after the fact.

27 2) 16 USCA § 1532(19); see also Goble, D. D.; George, S. M.; Mazaika, K.;

28 3) Scott, J. M. & Karl, J. (1999) "Local and national protection of  
29 endangered species: An assessment," *Environmental Science & Policy*, 2,  
30 pp. 43-59.

31 4) 18 U.S. Code § 41 - Hunting, fishing, trapping; disturbance or injury on  
32 wildlife refuges.

33 5) The Endangered Species Act of 1973,

34  
35 <https://www.fws.gov/laws/endangered-species-act/section-11>

36  
37 6) 18 U.S.C. § 1001 False Statements, Concealment

38  
39 7) 18 U.S.C. 1621 Perjury

40

1 8) 29 CFR § 1606.8 (1) – Harassment has the purpose or effect of creating  
2 an intimidating, hostile or offensive working environment

3  
4 8) 28 U.S. Code § 4101 The term “defamation” means any action or other  
5  
6 proceeding for defamation, libel, slander, or similar claim alleging that  
7  
8 forms of speech are false, have caused damage to reputation or  
9  
10 emotional distress, have presented any person in a false light, or have  
11  
12 resulted in criticism, dishonor, or condemnation of any person.

13  
14 9) 33 U.S.C. §1251 et seq. (1972) Clean water act Section 404.

15  
16 10) 29 CFR § 1606.8 (1)

17  
18 11) 28 U.S. Code § 4101.

19  
20 12) June 28th, 2024 Loper Bright Enterprises v. Raimondo and Relentless,  
21 Inc. v. Department of Commerce.

22 [https://www.supremecourt.gov/opinions/23pdf/22-451\\_7m58.pdf](https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf)

23  
24 13) 29 CFR § 1606.8 (1),

25  
26 14) 28 U.S. Code § 4101.

27  
28 15) Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002): Pagtalunan

29  
30 was Pro Se and made numerous mistakes in filing his complaint resulting

31  
32 in the case being dismissed. However, upon appeal, the higher Court

33  
34 ruled that the lower Court was in error because they did not give allowance

35  
36 for Pagtalunan’s lack of legal training.

37  
38 16) 18 U.S.C. 1743. Perjury

39  
40 17) FRCP 3 (4)

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**PLAINTIFF’S RESPONSE TO DEFENDANTS’ RESPONSE TO PLAINTIFF’S  
OBJECTIONS TO FINDINGS AND RECOMMENDATION**

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**INTRODUCTION**

Plaintiff writes this Pleading reminding the Federal Court to convene this case as an article III, of the U.S. Constitution Court case, per the recent US Supreme Court ruling in 12) above. Article III Section 2 of the U. S. Constitution stipulates that “The Judicial Power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States and Treaties made or which will be made under the Authority;

- to all cases affecting ambassadors, other public Ministers and Counsels, to controversies to which the United States shall be a party;
- to controversies between two or more states, ... between citizens of different states, between a state or the citizens thereof.

First Page, second paragraph: Held: The Administrative Procedure Act requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and courts may not defer to an agency interpretation of the law simply because a statute is

1  
2 ambiguous; Chevron is overruled. Pp. 7–35.

3  
4 (<https://www.foleyhoag.com/news-and-insights/publications/alerts-and-updates/2024/july/chevrons-demise-and-what-it-means-for-healthcare-and-life-sciences-companies/> )

7  
8 Therefore, agencies like the Federal Energy Regulatory Commission  
9  
10 (FERC) can't cherry pick data to match their administrative agenda.

11  
12 For example, about 80% of Klamath Basin residents didn't want the  
13  
14 Klamath dams removed, which the FERC agency simply ignored.

### 15 16 17 **BACKGROUND**

18  
19 The court docket reflects Plaintiff filed ECF 1 with the Federal Court Clerk  
20  
21 on May 3<sup>rd</sup>, 2024. He served defendants by email legally with ECF 1 and  
22  
23 ECF 5 preliminary injunction on May 7<sup>th</sup>, 2024. Federal law allows the  
24  
25 summons to be served to defendants within 90 days. Serving the  
26  
27 defendants with the summons does not initiate nor have any effect on a  
28  
29 Federal Case time line.

30  
31 Defendants filed an illegal ECF 18 with 18 USC 1001 false statements,  
32  
33 concealment and misleading use of case law and Federal law. The  
34  
35 document was not formatted correctly by Federal law, which alone  
36  
37 requires it must be denied.

38  
39 By contrast, Plaintiff's pleadings are formatted correctly, employ case law  
40  
41 and federal law correctly, but have nonetheless been denied with no legal  
42

1 basis by the court. This is a forbidden use of administrative law.  
2  
3

4 **ARGUMENT**  
5

6  
7 ECF 68 contains additional Defendants' false statements of concealment,  
8  
9 via their Legal Counsel's 18 USC 1001 false statements concealment.  
10

11 Also, harassment 29 CFR § 1606.8 (1) and defamation U.S. Code §  
12  
13 4101.  
14

15 To wit:  
16

- 17 1. **Improper Formatting:** ECF 68 is not double-spaced and has no  
18  
19 line numbers Federal Rules of Civil Procedure Rule 10, 5 states:

20  
21 Format Requirements  
22

23 Spacing: **Double spacing is required for the body of the document,**  
24  
25 with single or double spacing permissible for footnotes and quotations.  
26

27 **Signed under penalty of perjury: Statements made in the document**  
28  
29 **must be signed under penalty of perjury, ensuring accountability**  
30  
31 **and truthfulness in filings.**  
32

33 ECF 68 violates FRCP 10,5 and is therefore improperly before the court  
34 because all or most of Defendants' pleadings share this same violation.  
35

36 The multiple inaccurate statements include 18 U.S.C. 1743. Perjury and  
37 18 U.S.C. § 1001 False Statements, Concealment, in addition to no  
38

39 double line spacing. By way of contrast, Plaintiff's pleadings  
40

41 are factual and formatted correctly with double spacing, page numbers,  
42

1  
2 and line numbers. ECF 18 was for the most part concocted by use of  
3  
4 erroneous and inapplicable Federal Law and case law to mislead the  
5  
6 Court. As an example, ECF 18 said Pagtalunan v. Galaza, 291 F.3d  
7  
8 639, 642 gives defendants an automatic extension. However, that case  
9  
10 law has nothing to do with an extension. Sadly, this kind of creative,  
11  
12 but inaccurate attribution, is defendants' standard interpretive modus  
13  
14 operandi, apparently in hopes that the Court will be wearied and not  
15  
16 read carefully.  
17  
18  
19

20 **2. ECF 68 is quashed below:**

21  
22 Page 3 B is nonsense based on the 18 USC 1001 in ECF 18, as Plaintiff  
23  
24 has clearly shown in previous accepted pleadings. It should say: "On  
25  
26 Defendants' motion, this Court set an illegal briefing schedule for  
27  
28 Defendants' Motion to Dismiss which was untimely based on the actual  
29  
30 court docket.  
31  
32

33 **3. Standing Challenges Quashed:** Page 2 Section IV A contains  
34  
35 additional 18 USC 1001 infraction.

- 36  
37 a. FERC is *not* a defendant in this case!  
38  
39 b. This complaint is not a collateral attack on the Surrender  
40

1 Order. The case with FERC is completely independent.

2  
3 c. Item 3 is an 18 USC 1001 violation in its entirety. Plaintiff has  
4  
5 explained in detail Defendants' failure to mitigate. This failure  
6  
7 led to deception of FERC and the Army Corps Of Engineers by  
8 filing a sham Chemistry test that contradicts all other evidence,  
9  
10 notably the Department of Interior testing  
11  
12 of lethal contamination.

13  
14 This is exacerbated by their deception of FERC and the San  
15  
16 Francisco Army Corps of Engineers in filings claiming they  
17  
18 dredged behind the dams. Exhibit 1 is a letter from CAMAS to  
19  
20 the Army Core about the project containing defendants' false  
21  
22 claims. As an example: Page 2 lines 35  
23  
24 to 37 says: "While the Clean Water Act Section 404 permit  
25  
26 application (SPN-2003-279850) includes a maximum of 1,500  
27  
28 cubic yards of sediment relocation, the actual amount of  
29  
30 dredged sediment is expected to be much smaller. However,  
31  
32 Defendants let out 5 million metric yards of silt from the IRON  
33  
34 gate dam. This is a clear violation of Section 404 permit  
35  
36 application (SPN-2003-279850) and the Federal Clean Water  
37  
38 Act! ECF 67 page 3 lines -11: "3.

39  
40 The Siskiyou News reported, that "There is no debate that the  
41



1 release of about 5-million metric yards of sediment from Iron  
2 Gate Dam on January 23, 2024, killed virtually all aquatic  
3 lifeforms in the Klamath River all the way to the coast.”

4  
5  
6  
7 [https://www.siskiyou.news/2024/03/09/anyone-remember-the-](https://www.siskiyou.news/2024/03/09/anyone-remember-the-1964-klamath-river-flood/)  
8  
9 [1964-klamath-river-flood/](https://www.siskiyou.news/2024/03/09/anyone-remember-the-1964-klamath-river-flood/)

10  
11 d. Item 4 is not true and additional violation of 18 USC 1001 as  
12 explained in Plaintiffs’ previous pleading ECF 65 Page, 25 lines  
13 2-8 and Page 29, lines 1 through 9.

14  
15  
16  
17  
18 e. Item 5 is not true and further transgression of 18 USC 1001, as  
19 explained in Plaintiff’s ECF 65 page 4, lines 5 through 36.

20  
21 4. **Notification of Surrender Order Violated:** Page 3 Items B and C

22  
23 can only be described as nonsense. Plaintiff is  
24  
25 not challenging the Surrender Order in this case. In one of the first  
26 pleadings, Plaintiff mistakenly asked the Court to declare that Order  
27 null and void. Plaintiff didn’t realize at that time this court is not  
28 permitted to do this.

29  
30  
31  
32  
33 In Pleadings since then Plaintiff is simply notifying the court of  
34 subsequent finding of errors. Plaintiff requests due allowance  
35 provided by 15) *Pagtalunan v. Galaza* explained above.  
36  
37  
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This is the silt on both sides of the river downstream of JC Boyle dam. If defendants dredged behind the dam than these enormous and highly contaminated silt deposits, extending for miles along the river banks, would not exist. Defendant 1 is not mitigating the contaminated silt simply by planting grass and shrubs. Plants obviously absorb arsenic and other poisons from the soil, which in turn kills any animal grazing along the shore.



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Here is a photo taken Wednesday, May 29<sup>th</sup>, 2024 upstream of JC Boyle dam, exposing a complete mess behind the dam with no mitigation of anything. Upstream dam silt is present in the image.

Page 4 bottom says “In addition, to the extent [P]laintiff argues that the Surrender Order has been violated, defendants are correct that he does not adequately specify how”.

This is untrue. This adds to the compilation of 18 U.S.C. § 1001 False Statements, Concealment, 18 U.S.C. 1621 Perjury and 29 CFR § 1606.8 (1). Plaintiff has detailed at least three ways the surrender order was violated in ECF 65. ECF 65 page 12 lines 12 to page 14 line 1 details these

1  
2 violations. 2000 fish and a herd of elk perished because of slip-shod or  
3  
4 utter failure to mitigate. Defendants said they dredged behind the dams.  
5  
6 This is either untrue or the mitigation was woefully inadequate. Now  
7  
8 Defendants are trying to cover their tracks by deception and legal mumbo-  
9  
10 jumbo. Contaminated Silt envelopes both banks of the river all the way to  
11  
12 the Pacific. Their so-called chemistry test violated every testing protocol.  
13  
14 For example, Defendants' conveniently left out required details about how  
15  
16 the samples were acquired, i.e. at the tributaries with pristine water. These  
17  
18 three untruthful documents were uploaded to FERC and Army Corps of  
19  
20 Engineers. Plaintiff through a Freedom of Information Act request received  
21  
22 these Corps filings of the defendants. This is 18 U.S.C. § 1001 False  
23  
24 Statements, Concealment, 18 U.S.C. 1621 Perjury and 29 CFR § 1606.8  
25  
26 (1).

27  
28 **5. Miscellaneous Challenges**  
29 **Irrelevant or Immaterial:**

30  
31 Additional details on Plaintiff's Legal Standing appears below.

32  
33 **Defendant's Accusation:** Page 5 bottom to end of page 6 first paragraph  
34  
35 says: "Plaintiff's Objections to Judge Russo's F&Rs regarding jurisdiction  
36  
37 and standing are merely repeating arguments he has made in his many  
38  
39 previous filings. Plaintiff maintains that his case should not be dismissed for  
40  
41 the same jurisdictional reasons as in *Linthicum v. Fed. Energy Regul.*  
42  
43 *Comm'n, No. 1:23-cv-00834-AA, 2023 WL 5275491 (D. Or. Aug. 16, 2023)*

1 simply because “FERC is not a Defendant!” ECF 65 at 10 (emphasis in  
2 original); see, e.g., ECF 53 at 15, 35; ECF 55 at 31. Despite claiming that  
3 he is not challenging FERC’s decision, Plaintiff continues his collateral  
4 attack on the Surrender Order by again citing various public comments that  
5 FERC allegedly ignored in the Surrender Order proceedings. ECF 65 at  
6 18–24; see, e.g., ECF 46 at 5–10. Plaintiff rehashes his claim about  
7 improper mitigation based on supposed wildlife deaths and arsenic  
8 poisoning without specifying how Defendants violated the Surrender Order.  
9 ECF 65 at 19; see, e.g., ECF 51 at 16, 20; ECF 53 at 30; ECF 55 at 29.  
10 Plaintiff also objects to the F&Rs’ conclusions regarding standing by, again,  
11 claiming that his past enjoyment of the Klamath area is sufficient to  
12 establish standing, while he still fails to allege any definite plans to return to  
13 the area. ECF 65 at 25; see, e.g., ECF 53 at 17–18. In addition, Plaintiff  
14 accuses the Court of bias based on the unfavorable nature of the F&Rs  
15 (ECF 65 at 6), similar to past accusations of bias for denying his various  
16 improper motions and requests. see, e.g., ECF 43 at 4–5; ECF 55 at 4–5.  
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### 32 **Plaintiff’s Response:**

33 Plaintiff is not continuing any alleged “collateral attack on the Surrender  
34 Order” by citing various public comments that FERC “allegedly ignored in  
35 the Surrender Order proceedings.” Plaintiff is merely notifying the Court of  
36 defendants many violations of the FERC order  
37  
38  
39  
40  
41

1 and his willingness to relocate in order to remedy the catastrophic  
2 environmental damage of Defendant's' ineptitude.  
3

4  
5 This is damage reported by countless local stakeholders, whose  
6 representative warnings in public testimony were summarily ignored by  
7 Defendants and by FERC. Defendants display further ignorance of legal  
8 document formatting by their inability to distinguish between a Plaintiff and  
9 a defendant in the heading at the top of this document.  
10  
11  
12  
13

14  
15  
16 This contact section for FERC illegally cites administrative law, per the US  
17 Supreme Court and US Constitution. <https://www.ferc.gov/key-contacts>.

18  
19  
20 This is against federal law in the retroactive June 28<sup>th</sup> US Supreme Court  
21 ruling.  
22  
23

24  
25 Page 6 under "introduction" paragraph 1 is 18 USC 1001 once again. This  
26 case pertains to environmental laws broken by defendants. Neither FERC,  
27 nor its surrender order, is a party to this case as Defendants' Legal  
28 Counsel persistently and obdurately brings up!  
29  
30  
31

32  
33  
34 **Defendants' Accusation:** Page 6 bottom says :” Plaintiff continues to  
35 challenge Judge Nelson’s Order on Defendants’ Joint Motion to Set  
36 Briefing Schedule (ECF 30) by claiming that Defendants’ motions should all  
37 be denied as untimely. ECF 65 at 6–7, see, e.g., ECF 41; ECF 42, ECF 43.  
38  
39  
40 Plaintiff’s claim is contrary to the record, which shows that Defendants were  
41  
42  
43

1 served on June 5, 2024 (ECF 56, 57), and not on May 7, 2024. ECF 65 at  
2  
3 7; see, e.g., ECF 41 at 6–7; ECF 53 at 9. Moreover, Plaintiff opposed  
4  
5 Defendants’ Joint Motion to Set Briefing Schedule on this ground (ECF 27  
6  
7 at 7), and the Court granted the motion anyway, rendering Plaintiff’s  
8  
9 challenge moot.

10  
11  
12 **Plaintiff’s Response:**

13  
14 The Court was misled and mistaken and must therefore vacate  
15  
16 that order. The 9<sup>th</sup> Circuit Court of Appeals would certainly concur. The law  
17  
18 is correct and Defendants were in error by once again misleading the  
19  
20 Court. This is 18 U.S.C. § 1001 False Statements, Concealment, 18  
21  
22 U.S.C. 1621 Perjury and 29 CFR § 1606.8 (1) – Plaintiff clearly served  
23  
24 Defendant’s Legal counsel by email on May 7th with ECF1 and ECF 5.  
25  
26 Plaintiff has read receipts and delivery receipts. FRCP 3 (4) says: “This  
27  
28 rule provides that the first step in an action is the filing of the complaint.  
29  
30 Under Rule 4(a) this is to be followed forthwith by issuance of a summons  
31  
32 and its delivery to an officer for service.  
33  
34 Followed forthwith can never mean simultaneously served like Defendants  
35  
36 through their legal Counsel have been untruthful in their pleadings.  
37  
38 Defendants legal counsel are bar licensed attorneys who have zero  
39  
40 excuse to not know this rule! Therefore, Plaintiff is asking the court to take  
41  
42 a closer look at Defendants pleadings for these types of violations.  
43

1  
2 The Federal law says plaintiff has 90 days (about 3 months) to serve the  
3  
4 summons. FRCP 4 (m) Time Limit for Service. If a defendant is not served  
5  
6 within 90 days after the complaint is filed, the court—on motion or on its  
7  
8 own after notice to the plaintiff—must dismiss the action without prejudice  
9  
10 against that defendant or order that service be made within a specified  
11  
12 time.

13  
14 Again Defendants legal counsel are bar licensed attorneys who have zero  
15  
16 excuse to not know this rule! Therefore, Plaintiff is asking the court to take  
17  
18 a closer look at Defendants pleadings for these type of violations.

19  
20 On May 20<sup>th</sup> Plaintiff took 3 copies of each Defendants summons and the  
21  
22 paperwork for Federal Marshals Service of the complaint, Preliminary  
23  
24 Injunction to the court clerk in Portland Oregon. Also sent an email to  
25  
26 Defendants Legal Counsel.

27  
28  
29 **Defendant's Accusation:** Page 7 item 3 describes standard for review  
30  
31 which says “Objections that merely restate previously presented arguments  
32  
33 are improper and are not subject to de novo review. Hollis v. R & R  
34  
35 Restaurants, Inc., No. 3:21-CV-965-YY, 2024 WL 1270896, at \*1 (D. Or.  
36  
37 Mar. 26, 2024); Shiplet v. Veneman, 620 F. Supp. 2d 1203, 1206 (D. Mont.  
38  
39 2009), aff'd, 383 F. App'x 667 (9th Cir. 2010) (“It is improper for an  
40  
41 objecting party to attempt to re-litigate the entire content of the hearing  
42



1 before the Magistrate Judge by submitting papers to a district court which  
2  
3 are nothing more than a rehashing of the same arguments and positions  
4  
5 taken in the original papers submitted to the Magistrate Judge.”

6  
7 **Plaintiff's Response:**

8  
9 On the contrary, Defendants ECF 68 is simply restating defendants' false  
10  
11 claims as previously explained in this pleading. Plaintiff's argument in ECF  
12  
13 65 was that Defendants' ECF 18 pleading must not be accepted by the  
14  
15 Court because it was without merit due to misuse of federal law and case  
16  
17 law. Plaintiff could not be rehashing of the same arguments and positions  
18  
19 because most of Plaintiffs pleadings were illegally denied or amended  
20  
21 pleadings by Rule 15 have not yet been accepted by the court. This is more  
22  
23 18 U.S.C. § 1001 False Statements, Concealment 18 U.S.C. 1621 Perjury  
24  
25 and 29 CFR § 1606.8 (1) – Harassment.

26  
27 This was not rehashing, but an attempt to correct the erroneous F&R of the  
28  
29 court. The point is that Plaintiffs pleadings could not be rejected for *any*  
30  
31 reason presented to the Court because they were untimely and thus had no  
32  
33 legal standing. Plaintiff's pleadings were timely and had and continue to  
34  
35 have legal standing.

36  
37  
38 **Defendant's Accusation:**

39  
40 Page 8 Item IV says “Objections to the F&Rs' conclusions regarding (1)  
41  
42 the Court's jurisdiction; (2) whether this lawsuit is a collateral attack on the

1  
2 Surrender Order; (3) Plaintiff's failure to explain Defendants' supposed non-  
3  
4 compliance with the Surrender Order, (4) Plaintiff's lack of standing, and  
5  
6 (5) Plaintiff's allegations regarding the Court's alleged bias, should all be  
7  
8 rejected."

9  
10  
11 **Plaintiff's Response:**

- 12  
13 1. This Federal Court *does* have Jurisdiction for no other reason than  
14  
15 this case is solely about multiple Federal Environmental Laws  
16  
17 Broken. All other objections to standing are red herrings designed to  
18  
19 distract the Court from this overriding fact. The defense continues to  
20  
21 belabor the irrelevant and disproven idea that FERC is a Defendant.  
22  
23 How long will the court allow Defendants continuance with 18 USC  
24  
25 1001 false statements without reference to the FBI investigation of  
26  
27 KRRC and not FERC? FERC has never been a defendant. This is a  
28  
29 figment of Defendants' imagination that serves as nothing more than  
30  
31 a smokescreen for flagrant violations of Federal environmental law.  
32  
33 2. FERC will clarify this nonsense and Defendants' illegitimate filings.  
34  
35 These filings include, reporting mitigation accomplished in the face of  
36  
37 obvious non-performance or inadequate performance; e.g. 2000 fish  
38  
39 and a herd of elk killed ECF 1 Page 8 line 10 to page 9 line 18.

1  
2 Filings also include a sham chemistry test where defendants  
3  
4 purposely left out essential details of sample collection. This violates  
5  
6 every chemistry test protocol for data collection and reporting. Filings  
7  
8 also include claims of dredging behind the dams when tons of  
9  
10 downriver contaminated silt “scream” otherwise.

11  
12 These false filings were also made to the Corps of Engineers. Plaintiff  
13  
14 received a FIOA request result which contain the false filings.

15  
16 However, Plaintiff lost the link and is waiting the corps to resend the  
17  
18 link.

19  
20 **Defendants’ Accusation:**

21  
22 Page 11 paragraph 2 says” Plaintiff also includes new arguments related to  
23  
24 the Supreme Court’s recent decision in Loper Bright Enterprises v.  
25  
26 Raimondo, \_\_ U.S. \_\_, 144 S. Ct. 2244 (June 28, 2024). Plaintiff misreads  
27  
28 Loper to suggest that the F&Rs are “clearly an administrative law order not  
29  
30 an order under Article III Court of the Constitution of the United States of  
31  
32 America.” ECF 65 at 3. Plaintiff also claims that the Surrender Order is  
33  
34 erroneous because agencies are no longer allowed to “cherry pick data”  
35  
36 following Loper. ECF 65 at 24.”

37  
38  
39 **Plaintiff’s Response:** Yes, ECF 65 Page 4 line 38 to Page 5 line 13. No,  
40  
41 ECF 65 at 24! Defendants’ Legal Counsel either can’t read or didn’t read

1  
2 the Supreme Court ruling. Or didn't fully comprehend ECF 65 including  
3  
4 required double line spacing required in all Federal Pleadings to be  
5  
6 properly before the court.  
7

8  
9 This is the link to the PDF from US Supreme Court Ruling.

10  
11 [https://www.supremecourt.gov/opinions/23pdf/22-451\\_7m58.pdf](https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf)  
12

13  
14 **Defendants' Accusation:**

15  
16 Page 6 Paragraph 2a: "(a) Article III of the Constitution assigns to the  
17  
18 Federal Judiciary the responsibility and power to adjudicate "Cases" and  
19  
20 "Controversies"—concrete disputes with consequences for the parties  
21  
22 involved. The Framers appreciated that the laws judges would necessarily  
23  
24 apply in resolving those disputes would not always be clear, but envisioned  
25  
26 that the final "interpretation of the laws" would be "the proper and peculiar  
27  
28 province of the courts." The Federalist No. 78, p. 525 (A. Hamilton). As  
29  
30 Chief Justice Marshall declared in the foundational decision of Marbury v.  
31  
32 Madison, "[i]t is emphatically the province and duty of the judicial  
33  
34 department to say what the law is." 1 Cranch 137, 177. In the decades  
35  
36 following Marbury, when the meaning of a statute was at issue, the judicial  
37  
38 role was to "interpret the act of Congress, in order to ascertain the rights of  
39  
40 the parties." Decatur v. Paulding, 14 Pet. 497, 515.  
41

42  
43 **Plaintiff's Response:**  
44

1 Article III Section 2 of US Constitution says: “The Judicial Power shall  
2  
3 extend to all cases in law and equity, arising under this constitution., the  
4  
5 laws of the United States and Treaties made or which will be made under  
6  
7 the Authority;- to all cases affecting ambassadors, other public Ministers  
8  
9 and Counsels, to controversies to which the United States shall be a party;-  
10  
11 to controversies between two or more states, ... between citizens of  
12  
13 different states, between a state or the citizens thereof.”

14  
15 Therefore, all courts from US Supreme Court to local traffic Court must be  
16  
17 Constitutional Courts and not Administrative Law Courts. Administrative  
18  
19 Law would include the court dismissing Plaintiff’s pleadings because of a  
20  
21 running list of rulings requested. This is not illegal nor against any Court  
22  
23 rules. Administrative Law is the courts giving preference to Legal  
24  
25 Counsels untruthful pleadings simply because they are “the Attorney’s”,  
26  
27 over a Plaintiff using the law correctly and truthfully.

28  
29  
30 Continuing with the June 28<sup>th</sup> ruling last paragraph page 8 “The only way to  
31  
32 “ensure that the law will not merely change erratically, but will develop in a  
33  
34 principled and intelligible fashion,” Vasquez v. Hillery, 474 U. S. 254, 265,  
35  
36 is for the Court to leave Chevron behind. By overruling Chevron, though,  
37  
38 the Court does not call into question prior cases that relied on the Chevron  
39  
40 framework. The holdings of those cases that specific agency actions are  
41  
42 lawful—including the Clean Air Act holding of Chevron itself—are still  
43  
44 subject to statutory stare decisis despite the Court’s change in interpretive

1 methodology. See CBOCS West, Inc. v. Humphries, 553 U. S. 442, 457.

2  
3  
4 Mere reliance on Chevron cannot constitute a “ ‘special justification’ ” for  
5  
6 overruling such a holding. Halliburton Co. v. Erica P. John Fund, Inc., 573  
7  
8 U. S. 258, 266 (quoting Dickerson v. United States, 530 U. S. 428, 443).

9  
10 Pp.29–35.No. 22–451, 45 F. 4th 359 & No. 22–1219, 62 F. 4th 621,

11 vacated and remanded. Actually The Environmental Protection Agency

12  
13  
14 can't regulate Greenhouse gases. Another US Supreme Court correct

15  
16 ruling.

17  
18 [https://www.hsph.harvard.edu/news/features/the-supreme-court-curbed-  
19  
20  
21 epas-power-to-regulate-carbon-emissions-from-power-plants-what-comes-  
22  
23 next/](https://www.hsph.harvard.edu/news/features/the-supreme-court-curbed-epas-power-to-regulate-carbon-emissions-from-power-plants-what-comes-next/)

24 The Clean Air Act of 1967 directed the EPA to tackle issues like Acid Rain

25  
26 and other environmental dangers. The Act instructs the EPA to make a

27  
28 “toxic chemicals” list. Anything the EPA wants to regulate must be on that

29  
30 list, Section 111, subsection D. In 2015, the EPA illegally began to regulate

31  
32 “greenhouse gases” without including them on the toxic chemicals list as

33  
34 prescribed by The Clean Air Act. Carbon dioxide and Methane, to name a

35  
36 few, are not toxic chemicals. In fact, every living animal and human being

37  
38 on earth breathes out carbon dioxide. It's not a toxic chemical. Neither is

39  
40 N2O laughing gas.

41 **Defendants' Accusation:**

1 Page 11 last paragraph says: Plaintiff continues to challenge Judge  
2  
3 Nelson's Order on Defendants' Joint Motion to Set Briefing Schedule (ECF  
4  
5 30) by claiming that Defendants' motions should all be denied as untimely.  
6  
7 ECF 65 at 6–7, see, e.g., ECF 41; ECF 42, ECF 43. Plaintiff's claim is  
8  
9 contrary to the record, which shows that Defendants were served on June  
10  
11 5, 2024 (ECF 56, 57), and not on May 7, 2024. ECF 65 at 7; see, e.g., ECF  
12  
13 41 at 6–7; ECF 53 at 9. Moreover, Plaintiff opposed Defendants' Joint  
14  
15 Motion to Set Briefing Schedule on this ground (ECF 27 at 7), and the  
16  
17 Court granted the motion anyway, rendering Plaintiff's challenge moot.”

18  
19 **Plaintiff's Response:**

20  
21 There is no docket entry for any service made on June 5<sup>th</sup>! This is 18  
22  
23 U.S.C. § 1001 False Statements, Concealment, 18 U.S.C. 1621 Perjury  
24  
25 and 29 CFR § 1606.8 (1) – Plaintiff clearly served Defendants Legal  
26  
27 counsel by email on May 7<sup>th</sup> with ECF1 and ECF 5.

28  
29 Plaintiff has read receipts and delivery receipts.

30  
31 Fed. R. Civ. P. 4(e)(1) “Following state law for serving a summons...

32  
33 Oregon law email service is allowed. UTCR 8 21.10 (2)

34  
35 Rule 4M states plaintiffs can serve the summons up to 90 days after  
36  
37 the complaint is filed.

38  
39  
40 **Defendants' Accusation:**

41  
42 Page 12 first paragraph. Defendants said: While this Court is not required  
43

1 to consider new arguments first raised in an Objection to the F&Rs, United  
2 States v. Howell, 231 F.3d 615, 621 (9th Cir. 2000), Plaintiff would still be  
3 unable to establish standing based on his new announcement that he  
4 hopes to “move back to Klamath Falls” after a favorable decision in this  
5 case (ECF 65 at 25). Besides being the opposite of his past stated intention  
6 to leave the state entirely because of the emotional distress he was  
7 suffering living in Portland and thinking about his childhood Klamath-area  
8 home (ECF 53 at 18), his new hoped-for move is not a concrete plan  
9 required for Article III standing. See Wilderness Soc., Inc. v. Rey, 622 F.3d  
10 1251, 1256 (9th Cir. 2010) (“a vague desire to return to the area ‘without  
11 any description of concrete plans, or indeed any specification of when the  
12 someday will be’ does not support a finding of actual or imminent injury”).  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

26 **Plaintiff’s response:** This is 18 U.S.C. § 1001 False Statements,  
27 Concealment, 18 U.S.C. 1621 Perjury and 29 CFR § 1606.8 (1). How long  
28 will this court continue to believe Defendants through Defendants Legal  
29 Counsel untruthful statements. They are wrong about moving back home  
30 and are untruthful. Certainly, Plaintiff said in ECF 53 at 18 Plaintiff said he  
31 would move out of state. Iron Gate Dam and Yreka are in California and  
32 out of state.  
33  
34  
35  
36  
37  
38  
39

40 Yes, Plaintiffs home is for sale. [18965 NW Illahe St, Portland, OR 97229 |](#)  
41 [Zillow](#). This is not a vague desire to return to the area ‘without any  
42  
43



1 description of concrete plans. Plaintiff said plainly ECF 65 at 25, with a  
2  
3 proper Court ruling Plaintiff would move back to the Klamath basin and fix  
4  
5 the mess the defendants apparently don't care about that they left. Plaintiff  
6  
7 doesn't know how to make this more plain! Plaintiff was 11 Bravo in the  
8  
9 Army and in Vietnam. He knows firsthand what a war zone looks like. The  
10  
11 mess in the Klamath basin is a kin to a war zone.  
12  
13

14 **Defendants' Accusation:**

15  
16 Wilderness Soc., Inc. v. Rey, 622 F.3d 1251, 1256 (9th Cir. 2010) says:  
17  
18 Holding that the member of Plaintiff organizations did not have standing  
19  
20 despite "not discounting the fact that he authored a hiking book about the  
21  
22 area and [declared that he wanted to continue to visit the area] with his  
23  
24 family in the future.  
25  
26  
27

28 **Plaintiff's Response:**

29  
30 Visiting an area and moving back to an area are two completely different  
31  
32 things. This is misapplication of Federal Case Law. Once again, this  
33  
34 wrangling over details is irrelevant and Defendants' misapplication of the  
35  
36 law as a smokescreen in a vain attempt to deny standing. Standing is  
37  
38 inherent in multiple violations of Federal Environmental law. If for no other  
39  
40 reason, Plaintiff has standing in this case by virtue of Defendants' gross  
41  
42 violation of the seven values articulated in this law. The law indicates that

1  
2 these values are the birthright of all United States citizens.  
3

4  
5 **Defendants' Accusation:**  
6

7 Page 14 second paragraph. Here, there is no unusual circumstance, no  
8 new evidence, no clear error, and no change in law relating to District  
9 Judge Nelson's order granting Defendants' Joint Motion to Set Briefing  
10 Schedule. Plaintiff's argument that he served Defendants by emailing them  
11 a copy of the Complaint is repetitive and is wrong for two separate and  
12 independent reasons: (a) email is not good service, even under Oregon  
13 law, 3 and (b) the summons must accompany a copy of the Complaint for  
14 good service. Fed. R. Civ. P. 4(c)(1), (e). The Court did not issue the  
15 Summons until May 20, 2024 (ECF 23), which would have made service on  
16 May 7, 2024 impossible. Plaintiff's Objections should be disregarded.  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

27  
28 **Plaintiff's Response:**  
29

30 Fed. R. Civ. P. 4(e)". says (e)(1) "following state law for serving  
31 a summons in an action brought in courts of general jurisdiction in the state  
32 where the district court is located or where service is made; However, by  
33 Oregon law email service is allowed. UTCR 8 21.10 (2) explains a  
34 document may be a pleading or many other documents.  
35  
36  
37  
38

39 Plaintiff has filed lawsuits and other court filings in local courts, Oregon  
40 Appeals Court and Oregon Supreme Court. There is no such thing in the  
41  
42  
43

1 Oregon Court system as a summons. Defendants' Legal Counsel that live  
2  
3 in Oregon, Julia E. Markley, Bar No. 000791 and Megan Kathleen Houlihan,  
4  
5 OSB No. 161273 have no reasonable excuse for failing to realize that there  
6  
7 is no summons required in an Oregon Court. Therefore, these constitute  
8  
9 additional 18 U.S.C. § 1001 False Statements, Concealment, 18 U.S.C.  
10  
11 1621 Perjury and 29 CFR § 1606.8 (1) – Harassment for adjudication of  
12  
13 Defendants' Legal Counsel.

14  
15 Fed Civ P Rule 4 C1 says: In General, A summons must be served with a  
16  
17 copy of the complaint. The plaintiff is responsible for having the summons  
18  
19 and complaint served within the time allowed by Rule 4(m) and must  
20  
21 furnish the necessary copies to the person who makes service.

22  
23 **Plaintiff Response:**

24  
25 Notice it says, "In General" Oxford Dictionary defines this as "usually;  
26  
27 mainly." This does not mean always! The time allowed is 90 days.

28  
29 Therefore, a complaint filed on May 3<sup>rd</sup> and injunction on May 7<sup>th</sup>, 2024  
30  
31 served to Defendants legal counsel by email on May 7<sup>th</sup>, 2024, is legal  
32  
33 proof of start of this case. The Federal Marshals served the summons  
34  
35 much later but within the 90 days.

36  
37 Email received May 7<sup>th</sup>, 2024 from Defendants Legal Counsel:

Zagar, Laura (Perkins Coie) <LZagar@perkinscoie.com> | dave@boltonprotectiondevice.com  
Klamath Dam Removal Litigation  
You replied to this message on 5/8/2024 2:57 PM.

Mr. White:

I represent the Klamath River Renewal Corporation. Our client is in receipt of your recent communications, including emails and voicemails. We are aware of the litigation and your request for a preliminary injunction, and we intend to appear and defend. Contrary to your communication, there is no court order that requires us to cease our activities. Indeed, the Renewal Corporation is complying with our obligations under the license surrender order and other regulatory authorizations.

Going forward, we request that any and all communication related to the Project or your litigation be directed to me, the Renewal Corporation's Counsel. Please cease and desist from contacting our employees or our contractors, including Resource Environmental Solutions.

Thank you in advance,  
Laura Zagar

Laura Zagar | Perkins Coie LLP  
SAN FRANCISCO OFFICE MANAGING PARTNER  
505 Howard Street, Suite 1000  
San Francisco, CA 94105  
D. +1.415.344.7198  
D. +1.858.720.5748  
E. [LZagar@perkinscoie.com](mailto:LZagar@perkinscoie.com)

1  
2 Mr. White:

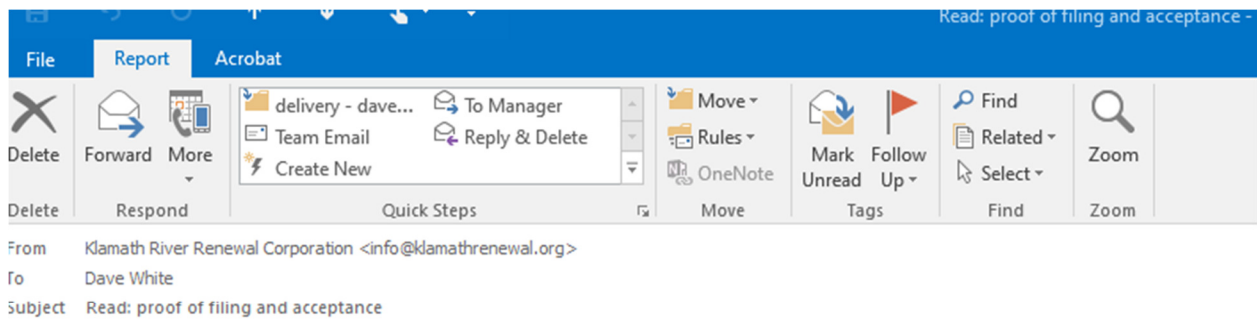
3  
4 I represent the Klamath River Renewal Corporation. Our client is in receipt  
5 of your recent communications, including emails and voicemails. We are  
6 aware of the litigation and your request for a preliminary injunction, and we  
7 intend to appear and defend. Contrary to your communication, there is no  
8 court order that requires us to cease our activities. Indeed, the Renewal  
9 Corporation is complying with our obligations under the license surrender  
10 order and other regulatory authorizations.

11  
12 Going forward, we request that any and all communication related to the  
13 Project or your litigation be directed to me, the Renewal Corporation's  
14 Counsel. Please cease and desist from contacting our employees or our  
15 contractors, including Resource Environmental Solutions.

16  
17 Thank you in advance,  
18 Laura Zagar

19  
20 Laura Zagar | Perkins Coie LLP  
21 SAN FRANCISCO OFFICE MANAGING PARTNER  
22 505 Howard Street, Suite 1000  
23 San Francisco, CA 94105  
24 D. +1.415.344.7198  
25 D. +1.858.720.5748  
26 E. [LZagar@perkinscoie.com](mailto:LZagar@perkinscoie.com)

27  
28 Read receipt of service by email to Klamath River Renewal Corp



Your message

To: Klamath River Renewal Corporation  
Subject: proof of filing and acceptance  
Sent: Tuesday, May 7, 2024 4:16:13 PM (UTC-08:00) Pacific Time (US & Canada)  
was read on Tuesday, May 7, 2024 4:33:52 PM (UTC-08:00) Pacific Time (US & Canada).

1  
2 Therefore, defendants were served with the complaint and injunction by  
3  
4 May 7<sup>th</sup>. This starts the case timer. The summons was served by Federal  
5  
6 Marshals later in May 2024 and within the 90-day limit.

7  
8 **CONCLUSIONS**  
9

10 Defendants killed 2000 fish including endangered Salmon and a herd of  
11  
12 elk without permits. Defendants also released 5 million metric yards of silt  
13  
14 from the Iron Gate Dam on January 23<sup>rd</sup>, 2024 which killed all aquatic life to  
15  
16 the coast. 120 river miles are devastated. Defendants knew (Exhibit 1 in  
17  
18 February 17, 2022) they were not permitted to release more than 1500  
19  
20 cubic yards of silt from any of the dams. However, the silt on the sides of  
21  
22 the klamath river is contaminated with extremely high concentrations of  
23  
24 arsenic and chromium VI and much more than the 4 dams and 1500 cubic  
25  
26 yards each. Many animals have perished as a result of this malfeasance.  
27  
28 These are the applicable environmental laws broken by defendants:

1  
2 16 USCA § 1532(19); see also Goble, D. D.; George, S. M.; Mazaika, K.;  
3  
4 Scott, J. M. & Karl, J. (1999) "Local and national protection of endangered  
5  
6 species: An assessment," Environmental Science & Policy, 2, pp. 43-59.

7  
8 18 U.S. Code § 41 - Hunting, fishing, trapping; disturbance or injury on  
9  
10 wildlife refuges.

11  
12 The Endangered Species Act of 1973,

13  
14 <https://www.fws.gov/laws/endangered-species-act/section-11>

15  
16 33 U.S.C. §1251 et seq. (1972) Clean water act Section 404

17  
18 18 USC 3 accessory after the fact.

19  
20 Defendants' pleadings are not properly before the Court due to failure to  
21  
22 double space the document, In violation of Federal Court Rules, FRCP  
23  
24 10,5.

25  
26 Additionally, Plaintiff has clearly demonstrated that this Court does indeed  
27  
28 have jurisdiction over this case because FERC is *not* a defendant and all  
29  
30 other objections to standing are trivial or irrelevant smokescreens based on  
31  
32 abuse of the laws cited!

33  
34 More importantly, standing is inherent or built-in by the Defendants'  
35  
36 violations of Federal Environmental law and the seven values articulated  
37  
38 therein, reserved for every citizen of the United States. Also moving back to  
39  
40 the Klamath Area gives legal standing.

1 When the federal prosecutor learned of this case they directed the FBI to  
2  
3 investigate 4 Federal environmental laws confirmed broken, including  
4  
5 confession in a Press Conference to killing 2,000 fish and a herd of elk  
6  
7 without permits, as reported in an OPB article. This is ECF 1 page 8 line  
8  
9 10 through Page 9 line 18.

10  
11 **PRAYER FOR RELIEF**  
12

13 1. Acknowledge standing based on Federal Environmental laws broken  
14  
15 with associated 7 Values denied to Plaintiff and Plaintiff's actions take to  
16  
17 move out of state to Utah or California due to harms inflicted by  
18  
19 Defendants' malfeasance.

20  
21 2. Plaintiff hereby requests the court to provide relief with a signed  
22  
23 injunction by a Writ of Mandamus, and Summary Judgement because  
24  
25 defendants are not doing what they are legally required to do by FERC and  
26  
27 Army Corp of Engineers and the federal Clean Water Act Section 404.  
28  
29 Defendants' have made public confession of these crimes and have  
30  
31 nonetheless proceeded with their nefarious, criminal activity.

32  
33 The gravity of this case requires a court order that commands a  
34  
35 government official or entity to perform an act it is legally required to  
36  
37 perform as part of its official duties, or refrain from performing an act the  
38  
39 law forbids. Persistent failure to properly format court documents is a  
40  
41 secondary, but not inconsequential reason to grant Summary Judgment.

1  
2 3. Designate the Salmon Protection Device remediation team to the task of  
3 project mitigation immediately to avoid more lethal environmental  
4  
5 consequences of Defendants' gross negligence. This is much  
6  
7 worse than the Exxon-Valdez oil spill and Defendants' actions devastated  
8  
9 all aquatic life west of the Iron Gate Dam. EPA has been notified and is  
10  
11 likely to declare it a Super-Fund Cleanup.

12  
13 This designation needs to specify that no person shall go near the Klamath  
14 River without a gas mask on until the salmon protection device team  
15  
16 removes and scrubs the contaminated silt on the riverbanks. Every day that  
17 goes by is a threat to the lives of local residents and wildlife.

18  
19 4.  
20 Plaintiff requests a writ of mandamus and a Summary Judgment in  
21  
22 Plaintiffs favor because Defendants are clearly based on Federal  
23  
24 Environmental law not doing what they are legally required to do.

25  
26  
27  
28  
29  
30  
31 **CERTIFICATE OF SERVICE**

32 I hereby certify that on July 26th, 2024, a true and correct copy of the  
33 above document was electronically filed with the Clerk of the Court using  
34 CM/ECF. A copy of the document will be served upon interested parties via  
35 the Notices of Electronic Filing that are generated by CM/ECF. Additionally,  
36 a courtesy copy is being provided as follows:

37  
38 Attorneys for Defendants Dave Coffman, Mark Bransom and  
39 Klamath River Renewal Corp.  
40 Julia E. Markley, OSB No. 000791



1 JMarkley@perkinscoie.com  
2 Megan K. Houlihan, OSB No. 161273  
3 MHoulihan@perkinscoie.com  
4 1120 N.W. Couch Street, Tenth Floor  
5 Portland, Oregon 97209-4128  
6 Telephone: +1.503.727.2000  
7  
8  Via hand delivery  
9  Via U.S. Mail, 1st Class,  
10 Postage Prepaid  
11  Via Overnight Delivery  
12  Via Facsimile  
13  Via Email  
14  Via CM/ECF notification  
15 to the extent registered DATED: July 26, 2024.  
16 By: David White

1  
2 

3 David C. White Pro Se. 7/26/2024  
4

5 **Exhibit 1**



Camas, LLC  
680 G Street, Suite C  
Jacksonville, OR 97530  
P 458.229.8392  
[www.camasllc.com](http://www.camasllc.com)

12  
13 February 17, 2022

SPN: 2003-279850

14  
15 L. Kasey Sirkin  
16 Lead Biologist, Eureka Field Office  
17 U.S. Army Corps of Engineers  
18 601 Startare Drive, #13  
19 Eureka, CA 95501  
20

21 **RE: Lower Klamath Dam Removal: Relocation of Sediments within Copco No. 1 and Iron Gate**  
22 **Reservoirs**  
23

24  
25 Dear Ms. Sirkin,

26 On May 3, 2019, the Klamath River Renewal Corporation's (Renewal Corporation) submitted the USACE  
27 Section 404 Application for the removal of four dams known as the Lower Klamath Project FERC No.  
28 14803, USACE SPN-2003-279850. The Renewal Corporation then submitted two application updates,  
29 August 4, 2020, and September 30, 2021. The updates provided additional information representing the  
30 progression of design from 60% to 100%. The application updates included the activity for the removal of  
31 a limited amount of accumulated sediment in front of mechanical equipment from the upstream side of  
32 Copco No. 1 and Iron Gate dams to achieve operation of the equipment as part of dam removal. On January  
33 20, 2022, we hosted a site visit to discuss dam removal activities that will occur in the "pre-drawdown  
34 year," in which you attended, as well as William Conner and Tori White. During the visit, it was determined  
35 that additional information is recommended regarding the relocation of the accumulated sediment material  
36 into the Waters of the United States as the best and most reasonable option. This letter provides the  
37 additional information requested.

38 The dam removal process involves drawing the reservoir water levels down prior to commencing dam  
39 removal activities. Reservoir drawdown procedures at each facility differ based on dam configuration and  
40 existing conditions within each reservoir and adjacent areas. The drawdown operations at Copco No. 1 and  
41 Iron Gate dams require removal of reservoir sediment immediately in front of mechanical equipment prior  
42 to the beginning of drawdown. The removal will clear the openings of the new low-level outlet at Copco  
43 No. 1 and historic diversion tunnels at both Copco No. 1 and Iron Gate. Specific operations at each facility

1 and rationale for retaining the accumulated sediments within Waters of the United States are described in  
2 the following paragraphs.

### 3 **COPCO NO. 1**

4 Copco No. 1 reservoir drawdown will be achieved by boring a low-level outlet tunnel through the center of  
5 the concrete dam from the downstream side during the pre-drawdown year, and then opening the low-level  
6 outlet to drain the reservoir. Once the reservoir is drawn down to the elevation of the historic cofferdam,  
7 the historic diversion tunnel will be opened to allow the reservoir to drain completely. The Renewal  
8 Corporation plans to remove approximately 15,000 cubic yards of accumulated sediment and debris fro  
9 the upstream end of the low-level outlet and historic diversion tunnel before opening them. Removing the  
10 sediment and debris will facilitate the safe passage of river flows and sediment during drawdown and during  
11 dam demolition and removal. The sediment removal will be conducted from a floating barge using a  
12 clamshell dredge, and the sediments will be relocated to an open water site within Copco No. 1 reservoir.

13 The Renewal Corporation conducted multiple design workshops as well technical meetings to establish the  
14 use of the low-level outlet and historic diversion tunnel as the best approach for achieving drawdown in a  
15 safe and efficient manner. As part of these meetings, the open water deposition site was determined to be  
16 the best option for relocation of the dredged sediments for these reasons:

- 17 1. The Proposed Action is intended to discharge the majority of accumulated reservoir sediment  
18 downstream. The sediment material directly in front of gates and tunnels will be the first sediment  
19 released. The placement of the dredged material from the gate and tunnel to the upstream  
20 location in the reservoir aligns with the intention of the Proposed Action. The newly placed  
21 dredged sediment will be suspended during drawdown and released. Placement in this upstream  
22 location will only delay the timing in which it will be released.
- 23 2. The upstream deposition site is on a submerged shelf that will become an upland area after dam  
24 removal. Any dredged sediment remaining after dam removal will be in an upland site outside of  
25 Waters of the United States. The reservoir upland areas will become property of the State of  
26 California after dam removal. The State of California is a co-licensee as part of the FERC process.
- 27 3. The open water deposition site location was selected to be far enough away from the dam and is  
28 in a shallow area, to limit any material transporting back to the dam site prior to drawdown,  
29 causing an impediment to the low-level outlet.
- 30 4. The reservoir inundated area is within the FERC Project Boundary, and therefore within the control  
31 of the Renewal Corporation. The majority of the upland property surrounding Copco No. 1  
32 reservoir is privately owned and therefore suitable upland locations are not accessible.
- 33 5. The dredging needs to be completed just before the opening of the low-level outlet, to remove  
34 the risk of natural flow processes depositing sediment back in front of the outlet. The open water  
35 deposition site allows for expedience in moving the material.

### 36 **IRON GATE**

37 The Iron Gate reservoir drawdown will be achieved by opening the gates of the historic diversion tunnel.  
38 In the pre-drawdown year, additional inspections of the diversion tunnel approach channel may reveal  
39 accumulated sediment. If the Renewal Corporation determines that accumulated sediment could cause an  
40 obstruction to the diversion tunnel, divers will clear the sediment from the diversion tunnel approach

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1 channel and side-cast the material within Iron Gate reservoir. While the Clean Water Act Section 404  
2 permit application (SPN-2003-279850) includes a maximum of 1,500 cubic yards of sediment relocation,  
3 the actual amount of dredged sediment is expected to be much smaller. Underwater video surveys and  
4 sonar bathymetric surveys have shown very little sediment accumulation in the diversion tunnel approach  
5 channel. This work activity was included in the permit application in case unexpected sediment has  
6 accumulated in the time since the most recent surveys were completed in late August 2020. The river based  
7 method of removing small quantities of sediment is the least impactful and most time efficient method  
8 available. In-water relocation of the dredged sediment is appropriate as the sediment will be evacuated  
9 from the reservoir area during drawdown, which is consistent with the goals of the Proposed Action.

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If you require any further information or documentation, please direct any such request to my attention at the contact details identified below. Thank you.

Sincerely,



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Matt Robart, Project Scientist  
Camas, LLC  
matt@camasllc.com

cc: William Connor, North Branch Chief, Regulatory Division, U.S. Army Corps of  
Engineers Mark Bransom, Chief Executive Officer, Klamath River Renewal  
Corporation