



August 22, 2025

Via Electronic Mail Only

Honorable Doug Burgum
Secretary
United States Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240
douglas_burgum@ios.doi.gov

Subject: Support for the Retention of Keno Dam

Dear Secretary Burgum,

The Tri-Counties (Siskiyou and Modoc, California and Klamath, Oregon) are writing in support of the Klamath Water Users Association's (KWUA) June 25, 2025, letter regarding Keno Dam.

We share KWUA's view that Keno Dam is critical infrastructure for the Klamath Basin. It plays an essential role in providing flood control, protecting public and private property, and maintaining water levels for agricultural diversions and national wildlife refuges. These functions are vital to the safety, economic stability, and environmental balance of our region.

We also wish to call your attention to the attached June 11, 2019, letter from multiple fisheries and conservation organizations supporting removal of the four Lower Klamath River dams. That letter clearly stated that Keno Dam has never been included in any Klamath River Renewal Corporation (KRRRC) dam removal plans, is not going to be removed pursuant to the Amended Klamath Hydroelectric Settlement Agreement, and is viewed as an inherent and important part of the agricultural economy of the Basin. This commitment was made publicly and directly to county governments in both Oregon and California at a time when concerns were understandably heightened about where dam removal advocates might turn once the four lower dams were removed.


This history reinforces the Tri-Counties' opposition to Keno Dam removal, while we continue to support efforts to enhance fish passage. We welcome the opportunity to participate in collaborative efforts to improve fish passage, working alongside state, federal, tribal, and community partners. Removal of the dam, however, would threaten critical flood control measures, have serious implications for national wildlife refuges and the wildlife that depend on them, and could undermine the agricultural economy on which our communities rely.

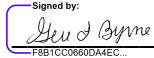


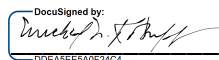
We urge the Department of the Interior to honor the 2019 commitment regarding the retention of Keno Dam, ensure compliance with the Klamath Power and Facilities Agreement, and fully involve the Tri-Counties in any future discussions regarding the facility's operation, maintenance, or fish passage improvements.


Thank you for your attention to this matter and for your continued engagement in the Klamath Basin.

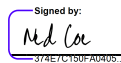
Sincerely,

Signed by:

 Jess W. Harris, District 1
 Siskiyou County Board of Supervisors

Signed by:

 Geri Byrne, District V
 Modoc County Board of Supervisors

DocuSigned by:

 Michael N. Kobseff, District 3
 Siskiyou County Board of Supervisors

Signed by:

 Derrick DeGroot
 Klamath County Commissioner

Signed by:

 Ned Coe, District I
 Modoc County Board of Supervisors

Attachments:

- Attachment A: KWUA Letter to Secretary Burgum, June 25, 2025
- Attachment B: June 11, 2019, Letter Regarding Keno Dam

CC (via email only):

Acting Assistant Secretary Scott Cameron (scott_cameron@ios.doi.gov)
 Acting Commissioner David Palumbo (dpalumbo@usbr.gov)
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 Tom Paul (thomas.j.paul@wrd.state.or.us)

Attachment A: KWUA Letter to Secretary Burgum, June 25, 2025



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(541) 883-6100 Phone • (541) 883-8893 Fax
www.kwua.org

June 25, 2025

Via Electronic Mail Only

Honorable Doug Burgum
Secretary United States Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240
douglas_burgum@ios.doi.gov

Subject: Klamath Basin; Keno Dam

Dear Secretary Burgum:

On behalf of Klamath Water Users Association (KWUA), thank you for your continued focused attention on the Klamath Basin and Klamath Irrigation Project (Project). This action is extremely welcome in our agricultural community, and we are pleased to be working with your staff toward a stable future.

Keno Dam, located on the Klamath River downstream of Project diversion works, is critical infrastructure for this region. It provides flood control to protect public safety and private and public property. It is necessary to provide water levels in the Klamath River for gravity diversion to approximately 100,000 acres of productive agricultural lands as well as two premier national wildlife refuges. Last summer, the U.S. Bureau of Reclamation (Reclamation) acquired Keno Dam through a donation from PacifiCorp. Specifically, with the elimination of all PacifiCorp's power generation assets on the Klamath River, the utility no longer needed or wanted to own or operate Keno Dam, and it fell to Reclamation to assume responsibility for the facility.

Recently, there has been a great deal of public attention on Keno Dam, including calls for its removal in order to maximize fish passage for species now migrating to areas upstream of the sites of the former power generation dams. Given this context, KWUA respectfully requests your attention to the following foundational facts and principles.

1. The Department of the Interior is a party to the Klamath Power and Facilities Agreement (KPFA),¹ which provides:

¹ <https://www.oregon.gov/owrd/programs/WaterRights/Adjudications/KlamathRiverBasinAdj/Documents/Klamath%20Power%20and%20Facilities%20Agreement.pdf>.

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Following transfer of the Keno Facility from PacifiCorp Reclamation shall operate such facility to maintain water levels upstream of Keno Dam to provide for diversion and canal maintenance and flood control 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.

KPFA attach. A, ¶ 2. This legally binding requirement can be revised only with the agreement of Reclamation **and** all Project contractors who are signatory to the KPFA. *See* KPFA attach. A, ¶ 4 (“Klamath Project Water Users” agreement is required in order to modify KPFA Attachment A; KPFA § I.B (definitions, including definition of “Klamath Project Water Users”).

2. Other parties to the KPFA include the states of Oregon and California and the United States Department of Commerce National Marine Fisheries Service (NMFS). Section II.B.2.a of the KPFA provides:

The Parties commit to take every reasonable and legally permissible step to avoid or minimize any adverse impact, in the form of new regulation or other legal or funding obligation that might occur to users of water or land associated with the Klamath Reclamation Project from introduction or reintroduction of aquatic species to currently unoccupied habitats or areas, or from habitat restoration activities. . . . If unforeseen consequences to interests associated with the Klamath Reclamation Project result from reintroduction or restoration activities, the Parties agree to meet and confer in light of this commitment 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 [the above] commitments.

This commitment has been on record for at least 15 years. Yet, in other parties’ haste to accomplish the very dam removal that creates regulatory risk to agriculture, and, in spite of our urging, the commitment has been ignored.

KWUA supports, and has advocated, that the Oregon Department of Fish and Wildlife (ODFW) take the leading role in evaluating fish passage at Keno Dam. KWUA is a willing participant in that process and will communicate constructively, including to the agricultural community. However, it is unacceptable for the two above-stated commitments to be ignored.

Through time, and as parties aggressively pursued dam removal, KWUA held no position on that issue and honored KWUA’s KPFA-based commitment not to interfere. Through that same time, dam removal advocates have given assurances that Keno and Link River Dams were “off the table.” One example is the attached June 11, 2019, letter to the Siskiyou County Board of Supervisors and the Klamath County Board of Commissioners. Considering that history, and the default to date on meeting commitments made to the agricultural community, we approach the current Keno Dam process with great caution.

KWUA believes there is very limited understanding of the history and function of Keno Dam, and how this private asset came to be donated to Reclamation. Below, we furnish that information for the benefit of you, your staff, and other parties.

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HISTORY, FUNCTION, AND FERC LICENSING OF KENO DAM

A century ago, a rock reef in the Klamath River impeded flow at Keno, raising water levels behind the reef. The California Oregon Power Company (Copco) constructed “Needle Dam” at Keno in the early 1930s to stem complaints and potential liabilities associated with the company’s operation of Link River Dam. Copco built Link River Dam in 1921, on behalf of the United States and the Klamath Irrigation Project, and in return gained the right to get to use surplus water from Upper Klamath Lake for hydroelectric generation within the Project. When regulated releases from Link River Dam subsequently generated complaints and claims of damages from downstream riparian landowners, Copco decided to construct Needle Dam to “settle the claims and to avert further damages and general misunderstanding and dissatisfaction” J.C. Boyle, *Regulation of Upper Klamath Lake*, 1964.

The purpose of Needle Dam was to regulate water levels in the 18-mile section of the Klamath River between the city of Klamath Falls and the unincorporated town of Keno. In accordance with a contract between Copco and Reclamation, the Needle Dam was designed to maintain upstream water levels at an elevation of 4086.5 feet or less during flood conditions. The purpose of this elevation was to not interfere with the operation of the Lost River Diversion Channel, which diverts flood waters from the Lost River into the Klamath River.

Following a 1964-1965 flood, at the urging of local interests, Pacific Power and Light Company (PP&L) agreed to replace the damaged Needle Dam with a new, larger dam and make additional channel improvements. In March 1965, PP&L applied to the Federal Power Commission (FPC) (predecessor to the Federal Energy Regulatory Commission [FERC]) for an amendment to the company’s license for the Project. By order issued November 29, 1965, the FPC authorized construction of the new dam and 18 miles of upstream channel improvements. The channel improvements included another 160-foot-wide, 9-foot-deep cut in the Keno Reef. The new dam and channel improvements were designed for a flow capacity of 15,000 cubic feet per second while maintaining an upstream water elevation of 4086.5 feet or less.

Altogether, this work took seven years to complete and involved dredging over four million cubic yards of material, much of which was used to repair and bolster private levees along the river. At the time, PP&L represented to the FPC its intention to eventually develop power generation at the Keno Development, but no tangible steps were ever taken towards that end.

Today, Keno Dam continues to provide flood control and is essential to maintaining water levels for diversion for farms, ranches, and national wildlife refuges.

DAM REMOVAL AND THE KENO QUANDARY

As dam removal advocates conducted negotiations with PacifiCorp, there was recognition that: (1) Keno Dam is essential infrastructure; and (2) if the hydroelectric facilities downstream of Keno were removed, PacifiCorp would have no cause to own or operate Keno Dam. Thus, an essential deal point for PacifiCorp was that “somebody” (preferably Reclamation) would have to take over the facility.

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There was a legal obstacle: Keno Dam is not an authorized feature of Reclamation's Project. This begs the question of how Reclamation could own and operate the facility.

Thus, under the Klamath Hydroelectric Settlement Agreement (KHSa) signed by Interior Secretary Salazar in 2010, the implementation of the KHSa was contingent upon the enactment of specific federal legislation. 2010 KHSa² at §§ 2.1.1, 3.3.4, & appen. E. That legislation would have made the Secretary of the Interior, rather than FERC, the decisionmaker on whether it is in the public interest to remove the lower four dams. Section 7.5 of the 2010 KHSa provided that Reclamation would take title to the Keno Development if the dams were to be removed. Given that Keno Dam is not part of the authorized Project, the proposed federal legislation authorizing the KHSa would have authorized Reclamation to take title to the Keno Development as part of the Project. 2010 KHSa, appen. E at E-5 (¶ K).

For reasons unrelated to the Keno Development, the KHSa was overhauled in 2016, in a manner that eliminated the need for federal legislation for any aspect of the KHSa's implementation. This created an ambiguous status for Keno Dam.

Nevertheless, in the 2016 overhaul of the KHSa, Secretary Jewell committed that Reclamation would take title to Keno Dam upon the occurrence of certain conditions, even absent any authority in reclamation law, and to operate Keno Dam consistent with PacifiCorp's historic practices. Specifically, section 7.5.2 of the 2016 amended KHSa commits Reclamation to accept title to Keno Dam when the Klamath River Renewal Corporation (KRRC) gave notice that removal of the J.C. Boyle facility was ready to commence.

There is an obvious question: If, in 2010, federal legislation was considered necessary in order for Reclamation to take title to Keno Dam, why in 2016 was federal legislation not necessary for that change of ownership and operation to occur? It is KWUA's understanding that the Office of the Solicitor advised the Secretary that the Secretary could accept a donation of Keno Dam if the donation was in furtherance of the purposes of the Fish and Wildlife Coordination Act (FWCA). KWUA does not take issue with that legal conclusion here, although KWUA is not aware of the process or reasoning by which it was determined that Reclamation's ownership of Keno Dam would further the purposes of the FWCA. In any event, Reclamation accepted the donation.

THE PRESENT STATE OF AFFAIRS

Sections 7.5.1 and 7.5.2 of the 2016 amended KHSa provide several items for due diligence investigation and action prior to the transfer of title, "with specific focus on addressing water quality, fish passage, transfer of title to the Keno facility from PacifiCorp to Interior, future operations and maintenance, and landowner agreements." Section 7.5.2 also conditions transfer of Keno Dam on the completion of necessary improvements to meet Interior Directives and Standards. (The original 2010 KHSa had also included similar terms.)

² See <http://www.edsheets.com/Klamath/Klamath%20Hydroelectric%20Settlement%20Agreement%202-18-10signed.pdf>

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Reclamation's FY 2024 budget justification stated: "Several studies are required prior to Reclamation taking ownership. The studies include a condition assessment report including seismic studies, appraisal study report including physical design modeling for volitional fish passage options on alternative structures, and completion of a feasibility study."³

These studies were not completed. Nonetheless, Reclamation represented to FERC that Reclamation was prepared to accept title. Concurrent with transfer of title, the FERC license was amended to delete Keno Dam as a feature of the licensed hydroelectric project.

CONCLUSION

KWUA does not fault Reclamation personnel for the failure to complete the due diligence and other work that the KHSa called for. We recognize that, in recent years, the overwhelming federal imperative for dam removal eclipsed other important work. There was an unstated decision, contrary to the KHSa, to "figure out Keno later."

"Later" has arrived. KWUA supports the completion of necessary feasibility studies and evaluation of next steps thereafter, but not at the expense of overdue attention to the interests of the agricultural community.

Sincerely,



Scott Seus
President

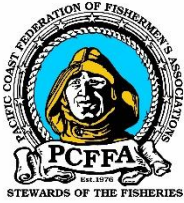
Enc.

cc (via email only):

Acting Assistant Secretary Scott Cameron (scott_cameron@ios.doi.gov)
Acting Commissioner David Palumbo (dpalumbo@usbr.gov)
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Regional Director Paul Souza (paul_souza@fws.gov)
Assistant Regional Director Adam Johnson (adam_johnson@fws.gov)
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District Manager Philip Milburn (philip.j.milburn@odfw.oregon.gov)
Tom Paul (thomas.j.paul@wrд.state.or.us)

³ See <https://www.usbr.gov/budget/2024/FY-2024-Bureau-of-Reclamation-Budget-Justifications.pdf>, pdf p. 383 (emphasis added).

Attachment B: June 11, 2019, Letter Regarding Keno Dam



Pacific Coast Federation of Fishermen's Associations (PCFFA), Institute for Fisheries Resources (IFR), Trout Unlimited (TU), Northern California Council, Federation of Fly Fishers International, California Trout (CT), Sustainable Northwest (SNW)

Reply Address: C/o PCFFA, PO Box 11170, Eugene, OR 97440-3370
Reply Email: fishlifr@aol.com

Board of Supervisors
Siskiyou County, CA
PO Box 750
Yreka, CA 96097

11 June 2019
Via Email PDF and
US Mail

Board of Commissioners
Klamath County, OR
305 Main Street
Klamath Falls, OR 97601

RE: Status of Keno Dam under the Klamath Hydropower Settlement Agreement (KHSA)

Dear Chairs and Board members:

As organizations with a longstanding interest in the Klamath Basin, including supporting both healthy fisheries and a healthy upper basin agricultural economy, we have been concerned by a recently expressed fringe opinion in local media that "Keno Dam should be eliminated" following the KRRC project that will remove the four major dams on the Klamath River.

As signatory organizations to the Klamath Hydropower Settlement Agreement (KHSA), we wish to go on record as clearly stating that Keno dam has never been included in any KRRC dam removal plans, is not going to be removed pursuant to the Amended KHSA, and is viewed by our organizations as an inherent and important part of the ag economy of the Basin. Several dozen small landowner diversions are supported by Lake Ewauna under current water delivery contracts, and Keno Dam itself will continue to serve a very useful function as a flow regulatory dam to prevent sudden, disruptive daily flow changes from irrigation from perpetuating downstream of the Klamath Irrigation Project.

The KHSA, which was amended April 6, 2016, and which deals with PacifiCorp's Klamath Hydropower Project, clearly anticipates that Keno dam will be transferred by PacifiCorp directly

Re: Keno Dam under the KHSA

11 June 2019

to the U.S. Department of Interior to be operated by the Bureau of Reclamation more or less the way it is operating today under current contracts. Indeed, the Amended KHSA itself clearly specifies that Keno Dam will be transferred directly by PacifiCorp to the Department of Interior, not through the Klamath River Renewal Corporation (KRRRC), which is the dam removal entity (DRE). See Attachment 1 for the actual language of the Amended KHSA that deals with that issue. The terms of that transfer are currently being negotiated directly between PacifiCorp and the U.S. Dept. of Interior.

The fringe opinion that favors removal of Keno dam is unhelpful to the effort of the many parties who have been working constructively for many years to seek holistic solutions in the Klamath Basin.

We strongly support removal of J.C. Boyle, Copco #1, Copco #2 and Iron Gate Dam, of course, not only because their PUC-preapproved removal is the least costly option for PacifiCorp ratepayers (including many of our members), but because these facilities contribute to impaired water quality and block valuable runs of salmon from more than 420 stream miles of historic habitat. But while removal of these four dams is beneficial to fish, we believe it is also a benefit to agriculture. Residents of the Basin have learned over the years that the health of the ag economy is wedded to the health of fish populations. More fish, more spawning habitat and better water quality also means the likelihood of less regulatory pressure stemming from laws such as the Clean Water Act and the Endangered Species Act.

In this particular case, four-dam removal under the KHSA is both pro fish and pro ag. As you well know, the reservoirs slated for removal with their dams do not provide water to a single ranch, farm or municipality. The draining of these four dam reservoirs on the Klamath will thus have zero negative impact on irrigation water supplies. Additionally, once the four hydropower dams are removed, this eliminates evaporation of an additional estimated 12,000 acre-feet of water now lost from the broad, summer-warmed reservoirs. This extra water will also help relieve many current water conflicts.

We believe ag and fish can co-exist. Indeed, our organizations have worked constructively with Klamath Basin agriculture for many years to find a Basin-wide solution that includes more predictable water supplies for Project irrigators. We also support ongoing and significant funding in the Basin watersheds to substantially improve water quality in Upper Klamath Lake. We routinely advocate for investment in Klamath and Siskiyou Counties to improve the fishery, promote local jobs, bolster tourism, and ensure the long-term viability of agriculture.

We hope you will take with a grain of salt statements by fringe elements in the community who take potshots at ag and who speak wildly of removing Keno Dam. They certainly do not speak for the majority of mainstream conservation and fishery organizations, and they do not have the ear of key decisionmakers.

Re: Keno Dam under the KHSA

11 June 2019

Sincerely



Glen H. Spain, NW Regional Director
Pacific Coast Federation of Fishermen's
Associations (PCFFA) and the
Institute for Fisheries Resources (IFR)

for those organizations and on behalf of:

Chrysten Lambert, Oregon Director
Trout Unlimited (TU)

Dr. Mark Rockwell, D.C.
President & VP Conservation
Northern California Council,
Fly Fishers International (NCCFFI)

Curtis Knight, Executive Director
California Trout (CT)

Greg Block, President
Sustainable Northwest (SNW)

Attachment: Sec. 7.5 of the *Klamath Hydropower Settlement Agreement (KHSA)*, as amended
April 6, 2016, relevant to the disposition of Keno Dam to the Bureau of Reclamation.

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Letter to Klamath-Siskiyou County Boards on Keno (06-11-19)

KLAMATH HYDROELECTRIC SETTLEMENT AGREEMENT

**February 18, 2010
as amended April 6, 2016
& November 30, 2016**

7.5 Keno Facility

7.5.1 Study

Resolution of issues surrounding Keno facility are an important part of achieving the overall goals of this Settlement. Accordingly, the Secretary, in consultation with affected Parties, shall study issues specific to the Keno facility, with specific focus on addressing water quality, fish passage, transfer of title to the Keno facility from PacifiCorp to Interior, future operations and maintenance, and landowner agreements. The study of the Keno facility will be designed with the goals of addressing these issues and maintaining the benefits the dam currently provides.

7.5.2 Keno Facility Determination

In 2012, the Bureau of Reclamation and PacifiCorp entered into an agreement in principle for transfer of title to the Keno facility from PacifiCorp to Interior. Within 60 days of the Amendment Effective Date, Interior and PacifiCorp shall commence negotiations on Keno transfer informed by the analyses described in Section 7.5.1. Every six months or as necessary after the Amendment Effective Date, and subject to Section 8.17, Interior and PacifiCorp shall report to the Parties on the status of Keno negotiations, including as appropriate, drafts of a proposed Keno transfer agreement, a summary of negotiations and issues in dispute, and supporting documents. Interior and PacifiCorp shall use their best efforts to complete a final Keno transfer agreement within 180 days of the Amendment Effective Date. The Secretary will accept transfer of title to the Keno facility when the DRE notifies the Parties and FERC pursuant to Section 7.4.1 that J.C. Boyle Facility Removal is ready to commence.

The transfer of title to the Keno facility shall be subject to completion of any necessary improvements to the Keno facility to meet Department of the Interior Directives and Standards criteria for dam safety identified by Interior through its Safety of Dams inspection of the Keno facility. To facilitate this inspection, PacifiCorp agrees to grant access to the federal government and its contractors for study and assessment of the Keno facility. The terms and conditions of the transfer of title to the Keno facility, including coordination of operations between Link River dam, Keno dam, and any remaining facilities operated by PacifiCorp, ingress and egress agreements and easements required for operation and maintenance of the Klamath Reclamation Project, including but not necessarily limited to Lake Ewauna, Link River Dam, and Keno Dam will be negotiated between Interior and PacifiCorp prior to transfer. Costs associated with any improvements necessary to meet Department of Interior's Directives and Standards criteria for dam safety shall be funded by other non-PacifiCorp sources.

7.5.3 PacifiCorp Operations Prior to Transfer

Prior to and until transfer of title to the Keno Facility, PacifiCorp shall operate Keno in compliance with Contract #14-06-200-3579A, subject to any Applicable Law including the CWA and the provisions of Section 6.3 of this Settlement.

7.5.4 Operations After Transfer

Following transfer of title to the Keno facility from PacifiCorp to Interior, Interior shall operate Keno in compliance with Applicable Law and to provide water levels upstream of Keno Dam for diversion and canal maintenance consistent with Contract #14-06-200-3579A executed on January 4, 1968, between Reclamation and PacifiCorp (then COPCO) and historic practice.

7.5.5 Landowner Agreements

Based on the analysis under Section 7.5.1, the Secretary, upon acquisition of the Keno facility, will execute new agreements with landowners who currently have agreements in the Lake Ewauna to Keno reach, as the Secretary determines are necessary to avoid adverse impacts to the landowners resulting from the transfer, consistent with Applicable Law, operational requirements, and hydrologic conditions.

* * *