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WATERWATCH OF OREGON *

March 27, 2012

Honorable Ken Salazar

Secretary of the Interior
1849 C Street, NW
Washington, DC 20420

Re: Water for National Wildlife Refuges and Endangered Species in the Klamath River Basin.

Dear Secretary Salazar,

We are writing today to express our very deep concerns about the dire water situation that is once again threatening the fish and wildlife of Tule Lake and Lower Klamath National Wildlife Refuges (NWR) of southern Oregon and northern California.

In particular, we are asking that your office direct the US Bureau of Reclamation to take immediate measures to ensure that water is provided this year to Lower Klamath NWR's seasonal and permanent marshes, and to maintain lake levels needed to sustain two species of endangered fish in Tule Lake NWR. While the below average, winter snow pack situation in the Klamath Basin as improved recently, these refuges still receive very little water even in normal to slightly wetter years. It is thus imperative that the Department of the Interior take steps to ensure that the fish and wildlife resources of the Klamath Basin refuges have the water needed to sustain them in 2012, and for years to come.

We are also writing to express our concern over a 2010 decision by the US Department of the Interior to allow Tule Lake to go dry, and rather than protecting habitat to instead conduct a "trap and remove" program for endangered Lost River and shortnose suckers. Although unanticipated

agriculture return flows later kept the lake from being drawn down, this exercise was a serious departure from what the best available science calls for in regards to these fish, and likely a violation of the federal Endangered Species Act (ESA) and National Environmental Policy Act (NEPA). We ask that your office direct the US Bureau of Reclamation and US Fish and Wildlife Service to halt any plans to institute another program to evict the fish from Tule Lake this summer, or in future years, and to instead follow the best available science, and the law, by instituting water conservation measures necessary to preserve the fishes' habitat.

Providing for Wetlands and Wildlife

A century ago, approximately 350,000 acres of wetlands, shallow lakes and marshes were distributed throughout the upper Klamath Basin, sustaining an incredible diversity of wildlife. However, the development of the Bureau of Reclamation's massive Klamath Irrigation Project radically altered the natural flow of water the sustained these valuable wetlands. To provide for irrigation in the high desert of Southern Oregon and Northern California, this irrigation project diked and drained hundreds of thousands of acres of wetlands in the Klamath Basin.

Today, approximately 80% of the region's historic wetlands are gone, ultimately eliminating what refuge managers documented as late as the mid-1950s as still then being "the greatest concentration of waterfowl in North America and probably the world."

The loss of these wetlands continues to result in not only in the loss of critically important habitat for wildlife, but also severe water quality and water quantity problems for salmon and other fish in the Klamath River. Wetlands serve as a natural filter for nutrients and pollution. Historically, the wetlands of the Klamath Basin provided an important buffer against floods and droughts, absorbing spring run-off and providing clean, cool water to the Klamath River. Today, they have been replaced with a complex irrigation system that diverts water during the months when it is the most scarce, and releases polluted return-flows into the Klamath River that are heavily laden with chemicals, fertilizers, and livestock wastes.

Because of the changes that have taken place over the last century, the wetlands that remain within Lower Klamath and Tule Lake NWRs are critically important. During the peak of annual migrations, Lower Klamath NWR alone supports 40% of all the waterfowl in the Pacific Flyway, as well as hosting the largest concentration of wintering bald eagles in the lower 48 states. Though its ability to sustain wildlife has been greatly diminished by the practice of leasing refuge lands for private commercial agribusiness operations, Tule Lake NWR similarly continues to provide important resting, nesting, and feeding areas for migratory birds, and habitat for endangered Lost River and short nose suckers (one of just a handful of populations of these fish left surviving anywhere in the world).

US Fish and Wildlife Service staff charged with managing and protecting these wildlife refuges estimates that approximately 95,000 acre feet of water is needed to sustain and pass through

refuge wetlands. Unfortunately, it has been years since the US Bureau of Reclamation has allowed this amount of water to flow into Lower Klamath and Tule Lake NWRs.

In the fall of 2011, the Bureau provided almost no water to these two refuges. The total amount of water sent to Lower Klamath NWR to support the fall wildlife migration was just 10,000 acre feet, and even that small amount came with the requirement that the US Fish and Wildlife Service agree that half of it might be later drained or pumped off the refuge to provide for other uses. Under current water management scenarios, a water year where 150% of normal snow pack occurred would be required in order for Lower Klamath NWR to receive what the USFWS considers to be “full deliveries.” This is obviously unsustainable for the refuges.

Given the overall likelihood of a below normal water year in 2012, without adaptive modifications, the results of the Bureau’s standard water management regime will likely be devastating to the Klamath refuges’ fish and wildlife this year. While Lower Klamath began receiving a very small amount of water from the Ady Canal just recently on March 19, so far this has only been enough water to flood but few hundred acres of parched refuge wetlands. Action by your office is urgently needed to ensure that appropriate water management is implemented this year.

Protecting Endangered Species and Their Habitat

In 2010, with no prior public discussion or legally required NEPA disclosure, the US Bureau of Reclamation requested (and was later granted by the Klamath Falls US Fish and Wildlife Service’s Field Supervisor) an exemption from their Endangered Species Act requirements to maintain the flow of water into Tule Lake to sustain endangered fish populations.

This little disclosed agency decision thus necessitated that Tule Lake’s two species of endangered fish would have to be evicted from habitat they have occupied for millennia as it was feared that agricultural return flows would not be sufficient to maintain the previously ESA established minimal water level. Only 20% of the lake’s estimated 2000 endangered fish were able to be netted and captured. Some 413 fish (of which 14 later died) were transported to Upper Klamath Lake (a location where the USFWS has recently stated that endangered fish populations there “are declining between 10 to 20 percent a year”). The remaining endangered fish that were not evicted from the lake were simply expected to die.

This action was likely illegal and must not be repeated.

Agricultural return flows in 2010 fortunately ended up providing more water to Tule Lake than BOR had originally anticipated, and the lake did not go dry. However, with 2012 shaping up to be a severe drought year, we are fearful that Bureau of Reclamation staff will once again seek to allow Tule Lake to go dry rather than institute legally-required conservation measures necessary

to preserve endangered fish and their habitat. Such a move would likely lead to the extinction of endangered Lost River and shortnose suckers from Tule Lake, and be in direct contradiction with the recommendations of numerous scientific studies demonstrating that maintaining and enhancing habitat in Tule Lake is among the best recovery strategies for these species.

Allowing Tule Lake to go dry not only jeopardizes the survival of endangered fish, it also puts the wetlands of Lower Klamath and Tule Lake NWRs at risk. These wetlands support many of the species that rely on the refuges.

As background, since the construction of the Klamath Irrigation Project, water flowing to Tule Lake has been the primary source of water for wildlife refuge wetlands. Water flowing into the lake sustains the wetlands of that refuge, and in the past water has been pumped from Tule Lake, via the Sheepy Ridge Tunnel, into Lower Klamath NWR. Since 1981, this source has provided 70% of the total water supply to the Lower Klamath NWR. The primary purpose of this past pumping was not to benefit wildlife, but rather by the need to prevent agricultural wastewater return flows from otherwise flooding nearby commercial agricultural lands. Ironically, these commercial lands were once part of Tule Lake's marshes, and are publicly-owned and a part of Tule Lake NWR. They are drained and opened to commercial agribusiness under an environmentally destructive lease program (administered by the Bureau of Reclamation). To make matters worse, these commercially leased agricultural fields regularly receive water even in years when the refuge's wetlands are, in stark contrast, left totally dry.

In recent years, the Lower Klamath NWR has received inadequate and diminished water supplies. According to a November 2011 USFWS report titled: Historic Water Use and Modeled Water Requirements on Lower Klamath NWR "since 2006...the refuge has not received sufficient water during these (last 5) years." During the 2005-2006 season, 108,000 acre feet of water was pumped into Lower Klamath from Tule Lake. This declined to just 12,100 acre feet in the 2009-2010 season.

Based on the foregoing, we ask that your office act immediately to insure that the water needs of the Tule Lake and Lower Klamath National Wildlife Refuges are met this summer. Moreover, given the example of 2010, we request that your office assure the public that the Biological Opinions for Lost River and shortnose suckers will be strictly adhered to. Short-term supplemental opinions which attempt to make legal trapping and evicting listed fish from their formerly proposed critical habitats needlessly place endangered species in jeopardy.

Longer Term Solutions

In the longer term, the basic problem in the Klamath Basin still remains: too much water has been promised to too many different interests, and in drought years there simply is not enough of this precious resource to go around. To make matters worse, Bureau of Reclamation

management threatens the survival of wildlife and their habitats—which are treated as an extremely low priority.

Our organizations ask you to work with Congress to reform the current broken system of managing water for wildlife in the Klamath Basin. Legislation is urgently needed to end the abusive practice of leasing publicly-owned land within the refuges—land set aside for pelicans, geese, and eagles—for private commercial agriculture. Demand for water for irrigation within the Klamath Basin clearly continues to far exceed the available supply, and with climate change this situation will only get worse.

The Department of the Interior and Congress should work together to develop a voluntary demand reduction program, where private water right holders can retire their claims to water, and receive fair market value for those rights, in order ensure the basin's National Wildlife Refuges, salmon, and wildlife can receive the water they need to survive, and thrive once again.

Summary and Immediate Request for Action

Many proposals and initiatives have been discussed in recent years regarding dam removal and water for agriculture in the Klamath Basin, but the health of the region's incomparable National Wildlife Refuges has continued to be neglected. With the potential for a severe drought in 2012, we are asking that the Department of the Interior act quickly to ensure this does not become a disaster for wildlife and their habitat. Please direct the US Bureau of Reclamation to:

1. Deliver at least 20,000 to 25,000 acre-feet of water to the Lower Klamath National Wildlife Refuge this spring to keep marshes functionally viable.
2. See that that water is delivered in time to allow refuge managers to use it appropriately to manage wetland habitat.
3. Ensure that critical habitat for endangered fish in Tule Lake does not fall below legally mandated minimum water levels this summer, and that no program to evict the fish from their habitat in Tule Lake, or elsewhere, is instituted.

Thank you for your consideration of our Klamath Basin National Wildlife Refuges.

Sincerely,

Steve Pedery
Conservation Director
Oregon Wild
Portland, OR

Jack Doyle

President
Audubon Society of Lincoln City
Lincoln City, OR

Bob Sallinger
Conservation Director
Audubon Society of Portland
Portland, OR

Donnie Dann
Past President and Advocacy Chair
Bird Conservation Network
Evanston, IL

Ryan Henson
Senior Conservation Director
California Wilderness Coalition
Anderson, CA

Noah Greenwald M.S.
Endangered Species Program Director
Center for Biological Diversity
Portland, OR

Charles H. Wells. Jr.
President
Concerned Friends of the Winema
Chiloquin, OR

Dan Silver
Executive Director
Endangered Habitats League
Los Angeles, CA

Andrew J. Orahoske
Conservation Director
Environmental Protection Information Center
Arcata, CA

Mark Welther
Executive Director
Golden Gate Audubon

Berkeley, CA

Allen M. Fish
GGRO Director
Golden Gate Raptor Observatory
Sausalito, CA

George Sexton
Conservation Director
Klamath Siskiyou Wildlands Center
Ashland, OR

Jim G Maloney
Board Representative
Lane County Audubon Society
Eugene, OR

Kurt R. Schwarz
Conservation Chair
Maryland Ornithological Society
Ellicott City, MD

Ward Ebert, President
Howard County Bird Club
Chapter of Maryland Ornithological Society
Columbia, MD

Maryanne Dolan, President
Cecil Bird Club
Chapter of the Maryland Ornithological Society
Elkton, MD

Dan Guthrie
President
Pomona Valley Audubon Society
Claremont, CA

Aaron Peters
Chairman
Quartz Valley Indian Reservation (QVIR)
Fort Jones, CA

Chet Ogan
Conservation Chair
Redwood Region Audubon Society
Eureka, CA

John M. Sully
Rogue Group Chair Klamath Basin Committee
Rogue Group Oregon Chapter Sierra Club
Ashland, OR

Alex Maksymowicz
President
Rogue Valley Audubon Society
Medford, OR

David Harrison
President
Salem Audubon Society
Salem, OR

Diane Fairchild Beck
Conservation Chair
Sierra Club Redwood Chapter
Santa Rosa, CA

John E. Cornely, Ph.D.
Executive Director
The Trumpeter Swan Society
Littleton, CO

Stanley Vejtasa
Conservation Chair
Umpqua Valley Audubon Society
Roseburg, OR

John DeVoe
Executive Director
WaterWatch of Oregon
Portland, OR

