

Written Testimony of Amy Cordalis
United States House of Representatives, Committee on Natural Resources
WOW Subcommittee Hearing
on
Klamath Conditions and Opportunities

March 8th, 2022

Thank you, Chairman Huffman, Ranking Member Bentz, and Subcommittee members for the invitation to testify today at the Subcommittee Hearing on Klamath Conditions and Opportunities. My name is Amy Cordalis, I am a member of the Yurok Tribe, a fisherwoman, and attorney for the Yurok Tribe. My family is from the village of Requa at the mouth of the Klamath River on the North Coast of California where Yurok people have lived and fished since time immemorial.

The Yurok aboriginal territory included over 1.5 million acres of ocean, lagoons, redwood forest, the lower Klamath River, and our sacred high country in what is now known as Northern California. Our aboriginal territory is one of the most wild, biodiverse, and ecologically unique places on the planet. It includes the tallest trees in the world, some of the most ancient and largest fish on the planet, and the only freshwater lagoons on earth. Redwoods National and State Parks and portions of the Six Rivers National Forest now occupy our aboriginal land.

The Yurok Tribe is the largest tribe in California with over 6,400 tribal members and many more descendants. The Yurok Reservation, created in 1855, straddles the lower 45 miles of the Klamath River one mile on either side of the river from the mouth of the Klamath River to the confluence of the Trinity and Klamath Rivers. We remain a fishing and ceremony people despite many hardships and impediments to our way of life.

1) Current Klamath Basin Conditions – Path toward Extinction

As we are all aware, the federal government supported the development of the upper Klamath Basin in the early 1900s as a part of its push to settle the west. And as we also know, conditions in the Basin have changed considerably over the past century. While Yurok and other tribal people had adapted and lived through changes in the Basin since time immemorial, the changed conditions in the last 100 years are now an obstacle to all livelihoods in the Basin, human and species included.

a. Conditions at Yurok

As for Yurok's experience, in 1851 my ancestors negotiated a treaty with the federal government. While my ancestors signed it and believed it to be binding, the United States failed to ratify it, and instead created the Yurok Reservation by executive order in 1855. Through the creation of the Yurok Reservation, the Yurok Tribe ceded over one million acres in exchange for the preservation of a homeland along the lower Klamath River for the Yurok people to continue our fishing, praying, and cultural way of life. In exchange the United States government agreed to make our rights the supreme law of the land, creating federally reserved rights to water, fish, hunt, and gather. It preserved our inherent sovereignty to make laws and be governed by them, and our ability to practice our own religion and develop an economy. The federal government has a trust responsibility to protect these rights and resources.

The promise of our homeland has never been fulfilled. Over the last 170 or so years the Yurok people have watched the Klamath Basin's resources be exploited to the detriment of our homeland and legal rights. We lost most of the land within the Yurok reservation through the General Allotment Act and illegal land grabs. Today, less than 10% of the Yurok Reservation is trust land, and most of it is owned by Green Diamond Resource Company that logs and uses harmful pesticides degrading habitat and water quality. We have also lost water to agriculture uses by the Klamath Reclamation Project, individual irrigators on the Shasta and Scott Rivers, the Central Valley Project through the Trinity River Division, and illegal marijuana grows by various international drug cartels and mafias on the Yurok Reservation.

The Klamath River once hosted the 3rd largest salmon runs in the entire lower 48 states. Today only 1% to 3% of the salmon runs remain. The Yurok Tribe's federally reserved fishing rights entitle us to harvest salmon for commercial, subsistence, and ceremonial purposes. But in the last six years – and 2022 will likely be the seventh year – the Yurok Tribal Council has canceled the commercial fishery because the returning runs were the smallest on record and a commercial fishery simply wouldn't be sustainable. This has been devastating to our community, but necessary. The Tribe's scientists have reported that the returning salmon runs are almost too small to ensure sufficient genetic diversity necessary for salmon conservation. Should these trends continue, salmon in the Klamath could go extinct in our lifetime.

Making matters worse is that infrastructure development did not occur on our homeland in the same way it did in other rural communities in the Klamath Basin. Today over half the homes and buildings on the reservation don't have electricity or running water. Our public elementary school on the reservation was the last school in California to have electricity, only installed within the last few years. While most rural areas are struggling to get broadband, we don't even have electricity through the reservation to begin offering any internet service. Further, there is no

road that connects the lower and top part of the Yurok Reservation. What roads exist are often single lane, dangerous, and inadequate for use during emergency conditions such as wildfires.

Also, many parts of the reservation have become unsafe because of the reservation's occupation by drug cartels and criminal gangs engaged in illegal marijuana grows, drug and human trafficking. Tragically, in the last 18 months at least five Yurok women have disappeared on the Yurok Reservation. We have some of the highest rates of missing and murdered indigenous women in the country.

The combination of no land, no water, no infrastructure, and no fish has made it very challenging to develop a viable economy despite our best and diligent efforts. The average annual income of Yurok Tribal members on the reservation is \$11,000. Most of our members supplement their livelihoods with subsistence activities, fishing, hunting, and gathering. But in recent years that has been difficult because there are fewer animals – not just salmon but sturgeon, steelhead, eels, deer, elk, abalone, crab, clams, and mussels, all of which are staples of the Yurok diet.

Although one of the first legal commitments the federal government ever made was to my ancestors to preserve the lower Klamath River as a permanent homeland where we could be safe and continue our way of life and the federal government has a trust responsibility to protect those resources, today the Yurok people along with the species we rely upon are quite literally disappearing.

b. Conditions in the Klamath Basin

Current uses of the Klamath Basin are not sustainable. As FERC's recent draft environmental impact statement for Klamath River dam removal notes, Klamath River dams are harmful to salmon, harm water quality, and compromise the health of the River. Specifically, dams create conditions conducive to Ceratonova shasta (*C. shasta*), a lethal fish disease, by preventing gravel from moving through the system. As a result, the river bed becomes an armored bed of boulders upon which annelid worms carrying *C. shasta* proliferate. In the past 5-6 years, up to 80-99% of the baby salmon have been lost to *C. shasta* in certain years.

Furthermore, a century of wetland draining, farming, water withdrawals, and landscape-scale alterations have brought the aquatic ecosystems of the Klamath River to their knees. Salmon, suckers and waterfowl are now all in trouble in the Basin. Water quality deterioration, water withdrawals causing minimum flows and low lake levels, and habitat loss and degradation have combined to bring the normally rich Klamath River system to its knees. Exacerbating these tensions is the megadrought and the looming threat of climate change. We know it's possible for the natural riches of the Klamath River to provide for many different kinds of people, including

Yurok, but we must fix the system holistically. Water demands must be brought into balance with ecosystem needs to ease tension between residents of the Basin.

Some argue that water tensions could be alleviated by reducing the amount of water kept in the river for Endangered Species Act (ESA) listed species, claiming the ESA hasn't improved coho populations. It is important to note that under the Klamath Coho biological opinion, Coho salmon have received only the bare minimum amount of water that is necessary to support basic ecological function and prevent the spread of C. Shasta in the Klamath River. The River has experienced minimum flows for over 675 days and did not receive any flows to prevent C. Shasta in the last year. This flow regime is the equivalent of keeping the River on life support—for over 675 days. No living system, including the Klamath River, can recover or thrive on life support. What's worse, however, is if these flows were reduced any further, the Klamath River would be under threat of ecological collapse. It would set the stage for a repeat of the 2002 Klamath River fish kill – the largest fish kill in American history in which over 70,000 salmon died.

Managing the river for a single species doesn't improve overall ecosystem health or keep other species from trending towards extinction. In recent dry years, ESA single species management has also pitted species versus species, Coho versus suckers, because the water needs of both species have not been able to be simultaneously satisfied at certain times of the year. This is not an inherent conflict between these two species, which have coexisted since time immemorial, but rather a reflection of the large-scale changes that cause system dysfunction.

Too little water, too much demand, ecosystem and economic failure has left most communities in the Basin feeling helpless. Some irrigators have responded by illegally taking water. Others turn to the courts. The Tribe cancels its fishery. The cycle continues. Klamath Basin stakeholders are in an endless circle of conflict and litigation in which no one wins. The status quo in the Basin is unacceptable.

2) Opportunities- One Mighty Basin

Hope is on the horizon. Klamath River dams are slated to be removed soon, and although that alone will not fix the salmon runs or restore the Basin, it will help immensely. Bipartisan Infrastructure Law (BIL) funding presents a once in a generation amount of funding to direct the next one hundred years of life in the Basin. Energy is rising to support meaningful discussions between stakeholders about long term solutions.

History and failed natural resource management approaches should not prevent us from the future we want to see in the Klamath. Instead, we must embrace these opportunities with a new perspective that focuses on our commonalities rather than our differences. Our commonality is

that all Basin communities are dependent upon the Basin's overall ecosystem health. People in the Basin cannot thrive until the ecosystem is restored.

a) Remove Klamath River Dams ASAP

The Klamath River dams must be removed as soon as possible. The historic agreement between PacifiCorp who owns the dams, the States of Oregon and California, and the tribes of the Klamath Basin, must be allowed to proceed without interference. Dam removal offers tremendous ecological benefits that will greatly improve the overall health of the Klamath Basin. Removing the dams will unite the upper and lower Basins, making the Basin whole again and allowing salmon to come home for the first time in over 100 years. It will improve overall ecological health. This will lead to improved fisheries and ecosystem function throughout the Basin.

b) Prioritize BIL Funding Projects that Offer Basin Wide Restoration Benefits

The Klamath funding in the USFWS should be leveraged with funding in other departments to maximize benefits in the Basin. The funding should be used to complete projects that benefit the upper and lower Basins and support co-management opportunities to take advantage of the Basin's technical and local management expertise. Year 1 funding should be used for shovel ready projects and planning and development for projects to be funded in years 2 through 5 which should prioritize projects that work together to accomplish Basin wide restoration.

The federal government should create a federal interagency coordination work group to coordinate proposals for projects in the Klamath Basin. Also, a Klamath Basin stakeholder team, made of representatives from the upper and lower basins should be created to coordinate projects. This team should consider restoration projects, agriculture infrastructure updates, agricultural land retirement, and other projects that could be completed to offer basin wide benefits. The federal interagency work group along with the Klamath Basin stakeholder team should meet regularly to discuss project proposals and implementation, with the goal of accomplishing Basin wide restoration.

The Yurok Tribe supports the implementation of the Klamath Basin Integrated Fisheries Restoration and Monitoring Plan (IFRMP) through BIL funding. For longer term (years 2-5) projects we will work with basin partners with the help of the Klamath Basin IFRMP to identify the most beneficial efforts. In addition, we are also interested in using BIL funding to support:

- Construction of a fisheries office and laboratory. This project is shovel ready.
- An interdisciplinary project in Blue Creek: Riparian and Fisheries Habitat Restoration and Stewardship in the Blue Creek Salmon Sanctuary.

- Improving fish passage in two priority off-estuary tributaries (Saugep & Richardson creeks) that will improve access to critically important coastal tributary and wetland habitats for juvenile Coho from throughout the entire Klamath Basin.
- Stream and floodplain restoration within several other Lower Klamath tributaries (Terwer, Ah Pah, Hunter, and McGarvey).
- Conduct a large-scale shovel ready restoration project on the Trinity River at Oregon Gulch.
- Large scale monitoring projects. These projects will help to ascertain how the totality of restoration is impacting the ecosystem. This is in addition to effectiveness monitoring related to specific restoration projects.
- For longer term large-scale projects, we need funding for the planning and design phase so projects can be implemented in the future.

c) Yurok Water Back--Land Back--Fire Back

While current conditions on the Yurok Reservation are dire, the Yurok Tribal Council is working diligently to make our homeland the place our ancestors envisioned it would be, a place where the Yurok people could thrive as a fishing, praying, and cultural people. The Yurok Tribal government is building a restorative economy based on the three pillars of Yurok natural resource policy, land, fire, and water.

First, we must have access to land. We need land back on the Yurok Reservation and throughout ancestral territory. The federal government should support the return of the Redwood National Park land within the Yurok Reservation. This congress should support passage of the Yurok Lands Act which would expand the reservation boundary to include land the Tribe purchased adjacent to the current reservation boundaries. And we urge Congress and the federal government to support acquisition of on-reservation fee land as a means of advancing restoration goals and supporting tribal sovereignty.

Second, BIL funding should be used to support prescribed, cultural burns on the Yurok reservation. Traditionally, fire was a critical Yurok land management practice that improved the land by carefully reducing vegetation which thinned trees and brush and eliminated disease. Fire must be returned to the landscape.

Third, as to water, the hard truth is that no amount of habitat restoration replaces the need for water for the ecological function of a River. Rivers need water, fish need water. There will be no equity, peace, or sustainability in the Basin until all the water rights in the Basin are quantified. Currently, the Yurok Tribe's water rights are the largest unquantified water right in the Basin and no water goes down the River in the Tribe's name. This is a glaring inequity provided the Tribe's rights are the most senior in the Basin and that the lack of water for instream flows in the Klamath Basin has been a major factor in the decline of Klamath River salmon. The Tribe's

water rights include water necessary to fulfill the purposes of the Yurok Reservation. That purpose necessarily includes water for fish and ecological flows. Satisfying the Yurok water rights will secure a more ecologically beneficial instream flow regime for overall ecosystem health, not just a single species like what is provided under the ESA. This will improve fish production and survival and improve the overall health of the River. Fulfilling the homeland purposes of the Yurok Reservation is paramount to the overall restoration of the Klamath Basin.

Historically the Klamath Basin functioned as one mighty basin that supported an abundance of life, both human and critter. As we move forward, we must turn an eye away from siloed, single species, winner and loser, natural resource management and move toward comprehensive Basin wide management that considers the impact of law, policy, and management decisions across political borders and beyond user groups. We must ask ourselves what is sustainable and let go of what no longer serves us. Our culture imbues us with the responsibility of stewardship; we will work with anyone who is like minded to fulfill that responsibility.