



**Oregon**

Kate Brown, Governor

**Water Resources Department**

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**BEFORE THE OREGON WATER RESOURCES DEPARTMENT**

In the Matter of a Dispute )  
Pursuant to ORS 540.210 )  
 )  
Klamath Irrigation District )  
Disputant, )  
 )  
Bureau of Reclamation )  
Reservoir Owner. )

**INTERIM ORDER CONCERNING RELEASE  
OF STORED WATER**

TO: The U.S. Bureau of Reclamation  
Jeff Nettleton, Area Manager  
6600 Washburn Way  
Klamath Falls, OR 97603-9365

On April 3, 2020, the Oregon Water Resources Department (“Department”) received a notice of dispute from the Klamath Irrigation District (“KID”) requesting the Department to take charge of Upper Klamath Lake Reservoir (“UKL”) and “ensure that stored water is not released out of UKL reservoir through the Link River Dam except to meet the needs of secondary water right holders calling upon the source until the irrigation season ends on October 31, 2020.”

On April 16, 2020 the Department took charge of UKL and issued its Notification of Dispute and Investigation in Aid of Distribution to the U.S Bureau of Reclamation (“BOR”), PacifiCorp and to the KID.

On April 17, 2020 the KID filed a Petition for Alternative Writ of Mandamus in the Marion County Circuit Court (*Klamath Irrigation District v. Oregon Water Resources Department* (20CV15606)).

On April 21, 2020, the Marion County Circuit Court issued an Alternative Writ of Mandamus commanding the Department proceed as follows:

NOW, THEREFORE; Immediately upon receipt of this writ, to the extent you have not previously done so you are commanded to take charge of Upper Klamath Lake (“UKL”) reservoir pursuant to ORS 540.210 and pursuant to ORS 540.210(2) SHALL, effective April 21, 2020, take exclusive charge of UKL, for the purpose of dividing or distributing the water therefrom in accordance with the respective and relative rights of the various users of water from the ditch or reservoir, and shall continue the work until the necessity therefor shall cease to exist.

## ORDER

1. The Department confirms that as of April 16, 2020, it has taken exclusive charge of the UKL for the purpose of dividing and distributing the water therefrom in accordance with the respective and relative rights of the various users of water from the ditch or reservoir, and as of April 21, 2020 shall continue to take exclusive charge of the UKL for the purpose of dividing and distributing the water therefrom in accordance with the respective and relative rights of the various users of water from the ditch or reservoir; and shall continue the work until the necessity therefor shall cease to exist.
2. In furtherance of the ongoing obligation to discharge the duty of ORS 540.210 as commanded in the Writ, and in light of additional complaints from the Klamath Irrigation District received on April 22, 2020 that the BOR is releasing stored water contrary to state law, the Department orders as follows pending completion of its Investigation in Aid of Distribution:
  - a. The BOR is hereby ordered to cease releasing stored water from UKL reservoir except in accordance with the relative and respective state law rights calling upon the stored water unless and until the BOR provides the Department the following information in writing:
    - i. The timing and the rate of the release of stored water authorized by secondary state law rights calling upon the stored water, and the corresponding names of the water users whose state law rights call upon that water; and
    - ii. The rate of release(s) in excess of the needs of water users with state law rights calling on that stored water that may be considered natural flow as provided in ORS 540.045(3); and
    - iii. Insofar as stored water is released for a purpose other than to satisfy state law rights, identify the dates(s) water is being released, the rate and volume of each release, and the source(s) of legal authority for each release.
3. Nothing in this order relieves any person, state, or federal agency from any and all obligations to comply with federal law and related federal agency regulations or federal court orders as may be relevant to release of water from UKL.

DATED this 23rd day of April 2020.



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THOMAS M. BYLER, Director  
Oregon Water Resources Department

**CERTIFICATE OF SERVICE**

I hereby certify that on April 23, 2020, I served a full, true and correct copy of the Department’s INTERIM ORDER CONCERNING RELEASE OF STORED WATER, upon the parties hereto as follows:

Jeff Nettleton  
Bureau of Reclamation  
Mid-Pacific Region  
Klamath Basin Area Office  
6600 Washburn Way  
Klamath Falls, OR 97603-9365

- by regular mail, postage prepaid
- by hand-delivery
- by facsimile # \_\_\_\_\_
- by certified mail # \_\_\_\_\_
- Other: Email

Gene R. Souza  
Executive Director and District Manager  
Klamath Irrigation District  
6640 KID Lane  
Klamath Falls, OR 97603

- by regular mail, postage prepaid
- by hand-delivery
- by facsimile # \_\_\_\_\_
- by certified mail # \_\_\_\_\_
- Other: Email

John Sample  
Assistant General Counsel  
PacifiCorp  
823 NE Multnomah Street, Suite 2000  
Portland, OR 97232

- by regular mail, postage prepaid
- by hand-delivery
- by facsimile # \_\_\_\_\_
- by certified mail # \_\_\_\_\_
- Other: Email

Michael Gheleta  
Supervisory Attorney  
US Dept. of Interior, Solicitor’s Office  
2800 Cottage Way, Ste E1712  
Sacramento, CA 95825-1863

- by regular mail, postage prepaid
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- by facsimile # \_\_\_\_\_
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- Other: Email

Nathan Reitmann  
Reitmann Law  
1270 Chemeketa Street NE  
Salem, OR 97301

- by regular mail, postage prepaid
- by hand-delivery
- by facsimile # \_\_\_\_\_
- by certified mail # \_\_\_\_\_
- Other: Email

DATED this 23rd day of April 2020.

*Nirvana Cook*

\_\_\_\_\_  
Nirvana Cook  
Oregon Water Resources Department