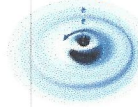


## Siskiyou County Water Users



November 1, 2023

Energy and Commerce Committee  
Chair Congresswoman Cathy McMorris Rogers  
2125 Rayburn House Office Building  
Washington, D.C., 20515

Re: Mitigation Fund  
Klamath River Dam Removal Project

Dear Chair Rogers,

I am writing to you as President of the Siskiyou County Water Users Association representing many groups in Northern California impacted by the removal of the Klamath River Hydroelectric Facilities. Some of these groups include Klamath River Guides, Copco Lake Association, Klamath River Community Estates, R Ranch and numerous ranchers, farmers and businesses numbering approximately 5,000 people. I assume you are probably familiar with the project to remove four dams in this area, which is the largest dam removal project undertaken in the world. We won't here reiterate the massive disingenuous effort undertaken by environmentalists etc. to remove the facilities without regard to the scientific facts which do not support the proposed outcome.

This is a request to specifically to have your committee investigate the Federal Energy Regulatory Commission's handling of the damages accruing to the population located along the current lakes behind the dams and the downstream damages resulting from the removal process and aftermath. The Mitigation Fund which has been orchestrated at the behest of the FERC and carried out by Klamath River Renewal Commission (KRRC) does not conform with the Constitutions of either the United States (5<sup>th</sup> Amendment) or the California Constitution Article I, Section 19. These documents require that where a public project impacts the property rights of individuals or entities that "just compensation" be paid. In the case of the removal of the hydro electric facilities the projects are "public projects" in every sense of the word as public funds are being expended for the removal process. The Mitigation Fund, which is supposed to compensate affected parties, is constructed as an insurance financial structure with caps and very limited applications. I understand that FERC has previously been cited for operating in a high handed fashion without regard to the consequences suffered by those impacted by their projects. Our local County government (Siskiyou County) has made every effort to have the third party contractor (KRRC) responsible for the creation and application of the funds meet with them and disclose the process and amount of the fund with no success.

## Siskiyou County Water Users



In addition, on behalf of our organization, I have written and orally requested on several occasions, that KRRC disclose their basis for claims made on behalf of their managing partners The State of California, The State of Oregon and PacifiCorp, who is the former licensee and business partner with KRRC. They have essentially refused to support their claims that they are operating under the law. I have attached a copy of the letter which I sent to them for your information.

Chairman Rogers, I believe that this is a subject worthy of your committee investigation as it involves several issues including affronting the Constitution on the grounds I have laid out, but also because the Klamath River itself is a navigable river passing through two states and is covered by the Klamath River Compact, a Federal Statute passed by Congress 71 Stat. 497 August 30, 1957; P.L. 85-222. The Compact was originated in anticipation of handling controversies and in consideration of the Compact Clause of the U.S. Constitution (Article I, Section 10, Clause 3). The Compact provided for the use of the Klamath River Waters to provide amongst other things low-cost hydroelectric generation. The parties to the removal including the States have conspired to avoid dealing with the Compact requirements. I believe that as the oversight for the Commerce Dept., you have a duty to look at this issue as well.

The final issue of import is that the FERC did not follow the NEPA requirements and never investigated the impact on the economy of the region affected by the removal process and the biological aftermath related to the proposed demolition. There was no public hearing conducted in the area impacted by the removal.

For these reasons above and concern for the outrageous behavior of FERC and the related agencies we are requesting that your committee review these issues with FERC, especially the so-called Mitigation Fund.

Thanking you in advance for your consideration.

Siskiyou County Water Users Association

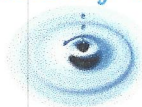
A handwritten signature in black ink, appearing to read 'Richard Marshall', written over a faint circular watermark or background.

Richard Marshall

President

[www.siskiyoucountywaterusersassociation.org](http://www.siskiyoucountywaterusersassociation.org)

## Siskiyou County Water Users



October 2, 2023

Mark Bransom, CEO  
KRRRC  
2001 Addison Street Ste. 317  
Berkeley, CA. 94704

Re: Klamath River Mitigation Fund

Dear Mr. Bransom,

In both your remarks at Copco Lake and the special Siskiyou County Board of Supervisors meeting of September 26, wherein you addressed the issue of the Mitigation Fund, you made reference to a law and/or fund regulation that limits the amount of compensation to affected citizens caused by the removal of the Klamath River Dams. Your Mitigation Fund website, which I have copied here for point of reference contains essentially the same language you used (Exhibit A).

I have worked in real estate related public projects for many years early in my career and never came across a law that superseded the Constitution of the United States, Fifth Amendment, exempting a public project from payment of "just compensation" or as Supervisor Kobseff references, making people including the County of Siskiyou "whole". Since both the State of California and the State of Oregon are co licensees with KRRRC, who is the third party arm of the States, the removal of the dams and the consequent damages therefrom are logically and legally a public project.

California Constitution Article I, Section 19(a) (Exhibit B), also requires payment of "just compensation" to those damaged in whole or in part by the process of a public project. I would note that the language in the Mitigation website included here also references public funds being used to carry out this project.

The question I posed for you in the meeting at Copco was very straightforward; I asked what law exempted the Mitigation Fund from paying for damages incurred by individuals, companies

## Siskiyou County Water Users



or the County as required by the Constitution? So, I ask again this question of you, what law are you referring to?

Sincerely yours

Richard Marshall

President Siskiyou County Water Users Association

Cc: Doug La Malfa, California Congressman District 1

Cliff Bentz, Oregon Congressman District 2

Siskiyou Supervisor Kobseff

Siskiyou Supervisor Haupt

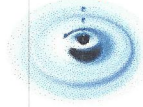


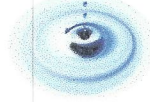
Exhibit A

MITIGATION FUND (WEBSITE)

# About the Klamath Mitigation Fund

The Fund will be independently administered by Fund Administrators, Joan Smith and Monte Mendenhall. The Fund Administrators will oversee the Fund and make specific compensation decisions with individual property owners whose property and potential impacts fit within the Fund criteria. The Fund Administrators will conduct virtual informational sessions for each category of potential impacts (groundwater wells, slope stability impacts, and flood risks) followed later by private exchanges, virtual or in-person, with individual property owners with properties that meet the specified criteria. Each affected property owner with properties that meet the required criteria will decide whether to enter into a settlement with respect to such claims. The Fund Administrators are available to facilitate this process.

While the Fund is independently managed and operated by the Fund Administrators, it must be managed in a way that is consistent with applicable law, including the legal requirements for public funding used in the Fund.



**Exhibit B**

**California Constitution  
Article I - Declaration of Rights  
Section 19.**

**Universal Citation:** [CA Constitution art I § 19](#)

SEC. 19.

(a) Private property may be taken or damaged for a public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.