

Stakeholders grilled

Commissioners ask questions about water deal

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The Klamath County Board of Commissioners will decide today whether to support or reject the Klamath Basin Restoration Agreement.

But Monday they sought answers to their questions about the document and its impacts from nearly a dozen people involved in crafting it.

About 100 people attended the county's final public hearing on the landmark restoration agreement. Commissioners asked a variety of questions from how irrigators off the Klamath Reclamation Project could benefit from an affordable power program to what the prospects of increasing off-stream water storage are.

In their answers, most stakeholders, including hydroelectric dam owner PacifiCorp, said they support the restoration agreement and a related Klamath River dam removal agreement because they are a way to cooperate and move past contentious litigation.

"The courts have proved an inadequate forum to resolve these disputes," said Dean Brockbank, vice president and general counsel for PacifiCorp Energy.

The restoration agreement seeks to resolve disputes over water in the Klamath River watershed. Stakeholders worked for years on the document, eventually releasing a final draft in early January. Those stakeholders have until today to confirm with their constituents whether to move forward or reject the agreement.

Ten stakeholders representing groups of irrigators on and off the Klamath Reclamation Project, state and federal agencies and environmentalists were on hand Monday to answer the commissioners' questions.

Following are some of the questions asked by commissioners during the hearing and the answers given by stakeholders.

Q: Klamath County Commissioner Al Switzer asked how local residents could be assured PacifiCorp would seek to preserve the restoration and dam removal agreements through the legislative process. He also commented on his displeasure on PacifiCorp's lack of effort to explain its motives outside Salem and Washington, D.C.

"You sure haven't done a very good job here," he told Pacifi-Corp's Brockbank.

A: Brockbank said that while the two agreements are separate, they are completely intertwined and must sink or swim together.

"I'll be clear, we can't bind Congress and that shouldn't be a surprise," he said.

Even if federal lawmakers can't be forced to accept the documents, stakeholders can collaborate to lobby lawmakers, providing a strong front to move them forward, Brockbank said.

He added that he was charged by his company to go anywhere and talk to anyone about the agreements.

"Frankly, this is the first time I've been invited to be before the commissioners," he said.

Q: Klamath County Commissioner Cheryl Hukill asked if Brockbank had a stance on the restoration agreement even though PacifiCorp was not involved in drafting it.

A : Brockbank said PacifiCorp was fully committed to moving both the dam removal and restoration agreements forward, and the company applauded the parties for their efforts. He said both documents represent a fundamental shift from the status quo of filing more lawsuits to one of sitting down to talk about resolution.

Q: Hukill said she noticed in the final draft of the restoration agreement there was a provision to provide low-cost power to irrigators. She asked Tom Mallams, president of Klamath Off Project Water Users, whether this satisfied his concerns about low-cost power and whether his organization would sign onto the agreement.

A: Mallams said the provision didn't satisfy his concerns, and his group will not sign on to the agreement.

"I think it's a pipe dream to say the least," he said of the likelihood of getting low-cost power specified in the document.

Mallams said that despite several concessions on behalf of other groups, the agreement failed to guarantee low-cost power. He said there's no certainty power from the Bonneville Power Administration will be available to offset costs, that money to help keep the rate down isn't sufficiently budgeted and that language in the document about the rate is intentionally vague.

Greg Addington, executive director of Klamath Water Users Association, said there is still work to do, but the structure is there to provide an affordable power rate and that power from BPA would be able to help offset costs.

"I personally don't have a need to see that number in the document," he said.

Becky Hyde of Upper Klamath Water Users Association said she was frustrated by Mallams and his organization, as she and other stakeholders worked hard to accommodate some of his concerns despite his ongoing pessimism.

Q: Commissioner Al Switzer asked if the restoration agreement would in any way cede or submit the state's authority over water issues to the federal government or another entity, or if it would subvert state water law.

A: Tom Paul, deputy director of the Oregon Water Resources Department, said the restoration agreement would not change how water law is enforced or applied, nor would it trump the ongoing water adjudication in the Basin.

If the restoration agreement is completely implemented, it will resolve a few of the contests filed against claims for water rights. However, adjudication would still proceed, with the state's adjudicator making a final decision that would go to the courts for enforcement and appeal, Paul said.

Paul added that the restoration agreement could be altered by the adjudication process. If the state's adjudicator determines that the Klamath Tribes do not qualify for their fully claimed water right, the restoration agreement would be adjusted to reflect that change.

Q: Hukill asked Jeff Mitchell, Klamath tribal council member, what the Klamath Tribes had given up in the negotiations to receive the 92,000 -acre Mazama Tree Farm.

A: Mitchell said the tree farm was part of an economic development plan for the Tribes. While dam removal would allow salmon to reach historic tribal waters, that would take decades to accomplish. At the same time, the Tribes sacrificed a portion of its potential water rights to settle with irrigators.

"The Klamath Tribes have been asked to put up a lot to make this work for our neighbors," he said.

As a result, the Tribes sought something to ensure their economic stability until they could reap the full benefits of the restoration agreement years down the road, he said.

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