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Refer To File # 290380-0004

VIA FERC ONLINE AND U.S. MAIL

September 27, 2024

Debbie-Anne Reese
Acting Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Willie L. Phillips
Acting Chairman
OEP Division of Hydropower Administration & Compliance
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Lower Klamath Project

Dear Secretary Reese and Chair Phillips:

I write on behalf of Siskiyou County (County) to express concerns regarding the Lower Klamath Project (Project) (Project Numbers 14803-1 and 2082-063)¹. This is a follow-up to the letter submitted on behalf of the County to the Federal Energy Regulatory Commission (FERC) on April 18, 2024. In that letter the County outlined several significant impacts and issues the local community and Siskiyou County were experiencing because of reservoir drawdown and dam removal, which at the time included: the Klamath Mitigation Fund, Communication and Public Engagement, Public Safety, Large-Scale Fencing, Lakeview Bridge, and Outdated Plans. County staff, the Board of Supervisors (BOS), and the County Project Manager (PM) have been acting in good faith during the implementation of the Project and associated activities to create a good relationship with the co-licensees and stakeholders, recognizing that successful implementation of the Project is in the best interest of the County. The County PM and staff have been working diligently to receive prompt project activity information from the co-licensees and to bring forth County and public concerns regarding these activities, with varying success. Since the April letter, the onus has been on the County to proactively work to obtain any Project information, rather than the County being the recipient of outreach or direct and prompt communication from the Klamath River Renewal Corporation (KRRC).

Since the submittal of the April letter to FERC, KRRC has made little to no progress toward addressing the identified issues. KRRC continues to exhibit poor to nonexistent public communication despite on-going Project impacts affecting the environmental justice (EJ) communities surrounding the reservoir footprints.

¹ Nossaman, LLP is representing the County of Siskiyou as Intervenor in PacifiCorp and Klamath River Renewal Corporation's November 17, 2020 Amended Application for Surrender of License for Major Project and Removal of Project Works and Request for Expedited Review (Project Nos. 2082-063 and 14803-001).

In addition, the concerns regarding groundwater wells and water quality have continued and have been intensified after additional residential wells in the Copco Community have experienced production issues. The Copco Mutual Water Company has experienced land subsidence resulting in broken water pipes, and landowners are experiencing land subsidence on their property. Recently, the Collier Rest Area has been closed long-term as a consequence of the Project. In addition, Siskiyou County Environmental Health Division is continuing to spend limited County resources and money on water quality sampling for heavy metals as the public continues to question the safety of the Klamath River water. The following topics of concern as they relate to water issues resulting from the Project have been repeatedly brought to the attention of both KRRC and the state of California, as co-licensee, through its Department of Fish and Wildlife (CDFW).

I. Groundwater Wells

The Final Environmental Impact Statement (FEIS) published by FERC in 2022 acknowledges Siskiyou County's concerns regarding the potential effects of the Project on groundwater wells and states that the County requested that KRRC demonstrate "how adequate [water] supply would still be available, given the storage and groundwater recharge that the reservoirs currently provide would be lost with dam removal" (Section 3.2.3.4)². Section 3.2.3.4. notes that "up to 70 wells within 1,000 feet of Copco No. 1 Reservoir" could be affected by the Project. Drawdown of the reservoirs began on January 11, 2024. On January 28, 2024, a residential well that serves 11 homes, located at 17700 Patricia Avenue, began experiencing production issues, including loss of water and sediment intrusion. An above ground, potable water tank was delivered and connected to these homes in early February 2024. Since the installation, these residents have run out of water on several occasions, particularly during weekends and in the evenings and they have had to alert the County and KRRC to receive additional potable water. On August 21, 2024, two additional wells began experiencing production issues; one is a single residential well that provides water to a home located at 18205 Patricia Ave., the other is a residential well that provides water to five homes and is located at 16705 Patricia Ave. (See Appendix A for a map showing the locations of the impacted wells.)

As stated in Section 5.D.102 of the FERC Order Modifying and Approving Surrender of License and Removal of Project Facilities (FERC Order, November 17, 2022),³ FERC staff recommended that several of the Project Plans, including the Water Supply Management Plan (December 2022), which identifies measures to protect the water supply and beneficial uses associated with the Klamath River that KRRC will implement as part of the Project, be updated to include more public outreach to specifically address communication with the EJ communities impacted by the Project. As we reported in the April letter to FERC, due to insufficient outreach and communication from both KRRC and the Klamath Mitigation Fund (KMF) (the local impact mitigation fund responsible for mitigating impacts to groundwater wells), many residents did not enroll in groundwater monitoring. In addition, some residents that did take the initial offering of \$5,000 from the KMF are now experiencing well production issues. Due to resident confusion regarding the KMF, they have been spending their own limited resources and personal monies on investigating and attempting to fix their well issues.

The County has been approached on numerous occasions since drawdown by residents requesting information and assistance on a solution to the groundwater well issues. The County PM has reached out to

² FEDERAL ENERGY REGULATORY COMMISSION, Final Environmental Impact Statement For Hydropower License Surrender and Decommissioning 3-560 (Aug. 2022) [hereinafter "FEIS"].

³ FERC License Surrender Order for Project Numbers 14803-1 and 2082-063 (November 17, 2022) [hereinafter "Surrender Order"].

the KRRC and CDFW asking for updates on what the permanent mitigation plan is for these homes and the residents therein living without reliable potable water. The County continues to receive the message from KRRC that they are still working on a permanent solution. Most recently on August 30, 2024, after County inquiry, the KRRC reported that they “continue to advance the design and permitting work for the long-term solution, as well as the on-going maintenance of the temporary supply.” The solution is still being explored, over seven months after the first 11 homes lost their groundwater supply. As part of the August 30th email exchange between the County and KRRC, Board of Supervisor member, Brandon Criss, offered to assist KRRC with building a relationship between the Copco Lake Mutual Water Company (Water Company) and KRRC. Supervisor Criss was able to secure a meeting with the Water Company on September 19, 2024; unfortunately, KRRC did not attend. However, the Water Company did inform the County that adding additional water users would significantly increase their usage, requiring a systemwide upgrade to their facility, and the need to identify and utilize a new water source.

In the Surrender Order, FERC staff agreed with the findings of the FEIS that adverse effects to EJ communities from impacts on groundwater wells would be less than significant, only with “targeted outreach to property owners and sufficient participation in well monitoring programs” (Section 5.D.102). Due to the low enrollment in the well monitoring program because of the deficient public outreach and engagement with community members, the impacts on groundwater wells in the Copco area is a significant and adverse effect on this EJ community. With the winter months approaching the County is demanding that FERC require KRRC to provide a permanent solution for these homes by October 30th. There is significant concern that the temporary above ground tank and connections may freeze and rupture during the upcoming colder months.

County Demands:

The County demands that FERC require KRRC to do the following in relation to the groundwater wells:

- Provide a permanent solution for the homes along Patricia that have underproducing groundwater wells due to the Project by October 30th.
- If any other wells within the vicinity of the Project experience similar issues, KRRC will provide an immediate temporary solution, and a permanent solution (including installation) within six months.
- Keep the County PM and staff updated on the progress of the permanent solution.
- If the permanent solution involves the Water Company, KRRC provide the funding to upgrade their system and water source to be able to assume new users.

II. Water Quality

The increased turbidity and sediment transport that occurred during the drawdown phase of the Project and during precipitation/erosion events prior to vegetation establishment in the reservoirs, has resulted in public health concerns related to heavy metals and other undesirable water quality constituents. To help assuage these concerns and provide more timely data to the County and the public, the Siskiyou County Board of Supervisors directed the Siskiyou County Environmental Health Division to collect water quality and sediment grab samples from the mainstem of the Klamath River for analysis of constituents that may be harmful to public health. After publishing the results of the first water sampling event by the County in March 2024, KRRC and the California State Water Resources Control Board (SWRCB) published information related to water quality, including a Frequently Asked Questions (FAQ) document from the SWRCB that indicate that the river water was safe for recreation activities. In addition, KRRC agreed to a single water

quality sampling event for heavy metals that occurred on May 1 and 2, 2024. However, due to persistent public concerns, the County has continued sampling the Klamath River for heavy metal constituents in the water as well as the sediments on a quarterly basis, taxing the Environmental Health Divisions resources.

On September 16 at 3:00 PM, after months of messaging from KRRC that the water quality of the Klamath River was improving, the Collier Safety Roadside Rest Area (SRRRA), located off Interstate 5, north of Yreka was closed long-term. According to Caltrans, who operates the rest area, “the SRRRA will undergo a long-closure due to water distribution issues. Water for the rest area is drawn directly from the Klamath River and used for potable sources and irrigation.” This announcement noted that Caltrans is partnering with the KRRC to resolve the issues, but there is no current timeline for reopening the facility.⁴ Within the SRRRA is the Collier Interpretive and Information Center (CIIC) which is open 5 days a week to provide travelers with a space to rest and learn about local, regional, and statewide amenities. The CIIC is operated by a Joint Powers Authority, which is made up of the nine cities within Siskiyou County and the County of Siskiyou.⁵ The closure of the SRRRA, also ends public access to the CIIC, which is currently working on a grant funded project adding interpretative signs to this area.

The California Public Drinking Water Management Plan (December 2022), as referenced in the Surrender Order, and Condition 8 of the State of California Water Quality Certificate Conditions (November 3, 2022) address the drinking water supplies sourced from the Klamath River. Appendix B of the Public Drinking Water Management Plan is the Drinking Water Protection Plan for the Collier Rest Area (December 2022). Section 2.2 outlines the plan for the SRRRA during and after drawdown and does not include any plan for or reference to a long-term closure. The solution outlined for temporary closures of the SRRRA is for KRRC to provide a California Department of Public Health licensed drinking water delivery truck to the SRRRA within 1 to 3 days of the system being shut down and prior to the depletion of the 32,000-gallon water supply storage tank. As stated in Section 2.1.2.15 of the FEIS:

KRRC expects the proposed action to affect the raw infiltration gallery currently serving the Collier Rest Area during the initial drawdown phase and for up to two years following drawdown. To mitigate effects on water supply delivery, KRRC would supplement the facility with a 32,000-gallon water supply storage tank. KRRC expects the storage tank would provide sufficient drinking water to the Collier Rest Area for one to three days depending on usage by the public, and KRRC would provide additional deliveries of potable water as needed.

This closure due to water quality issues is extremely concerning for the County and the Joint Powers Authority. More broadly, it is an inconvenience that will impact the local community and the traveling public at large. The inability to water the grounds of the rest area also impacts the environment. Combined with the on-going water quality and public health concerns arising from the public and surrounding EJ communities, the County demands that FERC require KRRC to do the following in relation to the CIIC:

County Demands:

The County demands that FERC require KRRC to do the following in relation to the water quality:

- KRRC deliver a 32,000-gallon tank of potable water by October 10th, and provide continued

⁴ See Appendix B for a flyer of the Caltrans announcement.

⁵ <https://collierctr.org/>

water supply, to allow the SRRA and the CIIC to be reopened.

- KIRRC finance any repairs or permanent solutions to secure the continued operation of the CIIC.
- KRRC conduct additional monthly water quality and sediment sampling along the Klamath River and provide the public and County with the results in a timely fashion.

III. Water Rights Holders & Irrigation

As reported in the County's April letter to FERC, the County has been informed by landowners along the river that irrigation pumps are being impacted by poor water quality, and landowners are receiving insufficient solutions from KRRC. Section 2.1.2.15 of the FEIS and Section 2.3.2 of the California Water Supply Management Plan state that during drawdown and up to two years following drawdown, if an adverse effect is reported, KRRC will investigate and implement measures (e.g., repairs to pumps and sediment clearing) to allow the water right holder to divert water in the same manner and quantity as before drawdown. The County is aware of at least one water right holder that has been experiencing continued issues with their irrigation system since the drawdown in January, without a permanent and long-lasting solution from KRRC. Any changes in the water quality of the Klamath River, particularly during rain or erosion events, causes the irrigators to lose the ability to use their water rights. As of August 2024, irrigators were still experiencing these impacts and expressed concern to the County that there would be no permanent solution by winter 2024.

County Demands:

The County demands that FERC require KRRC to do the following in relation to the water rights holders:

- Provide a permanent solution for all water rights holders by winter 2024 so they are able to irrigate when needed, which can begin as early as January through March of 2025.

IV. Land Subsidence

After reservoir drawdown in January 2024, land subsidence began to occur on the properties surrounding the Copco reservoir footprint. The County received information from the Copco Mutual Water Company that they have spent over \$32,000 replacing water pipes that broke or separated due to land subsidence, which is extremely taxing on the Water Company's limited financial resources. While issues with water pipes do occur from time to time, the Water Company noted that the frequency and the sequential nature of the breaks/separations is unprecedented. KRRC has been made aware of this maintenance issue by the Water Company but stated that they believe the breaks/separation were not a result of the Project. In addition, a property owner located off Patricia Avenue reported land subsidence in their yard on September 18, 2024. KRRC sent a contractor to investigate the subsidence on September 19, 2024, and agreed to conduct on-going monitoring. However, based on anecdotal information from a neighbor, KRRC has claimed that the land cracking and depressions may be a pre-existing condition.

The FEIS analyzed the potential of slope instability and land subsidence on properties surrounding the drawdown reservoirs. FERC concluded in the FEIS that:

The effects of reservoir drawdown on slope stability, particularly around Copco No. 1 Reservoir, would be short term, significant, and adverse, but KRRC proposes to mitigate the effects through communication with landowners and establishment of a mitigation fund to remediate effects on

private property. With the implementation of KRRC's monitoring and mitigation measures (including the local impacts mitigation fund) as part of the Reservoir Drawdown and Diversion Plan (KRRC, 2021e), potential effects of slope instability for landowners would be minimized or mitigated. The efficacy of this proposal relies on appropriate communication with the affected landowners, including environmental justice communities.⁶

As reported in the County's April letter to FERC, as well as noted in Section I of this letter, the EJ communities, landowners, and the County consider the outreach conducted to date by KRRC to be insufficient, and therefore, the proposed mitigation measures (primarily the use of the KMF) has been ineffective in providing support to the impacted parties.

County Demands:

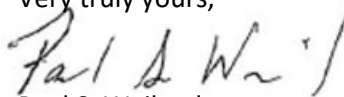
The County demands that FERC require KRRC do the following in relation to the land subsidence impacts on landowners:

- Reimburse the Water Company for the unexpected maintenance costs of the broken/separated pipes through the KMF.
- Provide permanent repairs for any land subsidence, and resulting infrastructure damages within the Project vicinity by October 30th.
- Continue to monitor for land subsidence issues, and make permanent repairs with 30 days of the observed issue.

As a general matter, the County continues to be extremely concerned and disappointed with KRRC's lack of timely and adequate response to issues that residents are experiencing from the Project. Just as concerning is KRRC's unwillingness to take responsibility for these issues.

We have yet to receive a response from FERC to our April letter, and the clock is winding down on dam removal activities. At a point in the very near future, a response from FERC will be futile, and we hope this is not FERC's goal. We are therefore requesting a response to our April letter, and this letter, within 30 days of filing of this letter.

Very truly yours,



Paul S. Weiland
Nossaman LLP

PSW:art

Attachments



cc: Congressman Doug LaMalfa
Senator Brian Dahle
Assemblywoman Megan Dahle

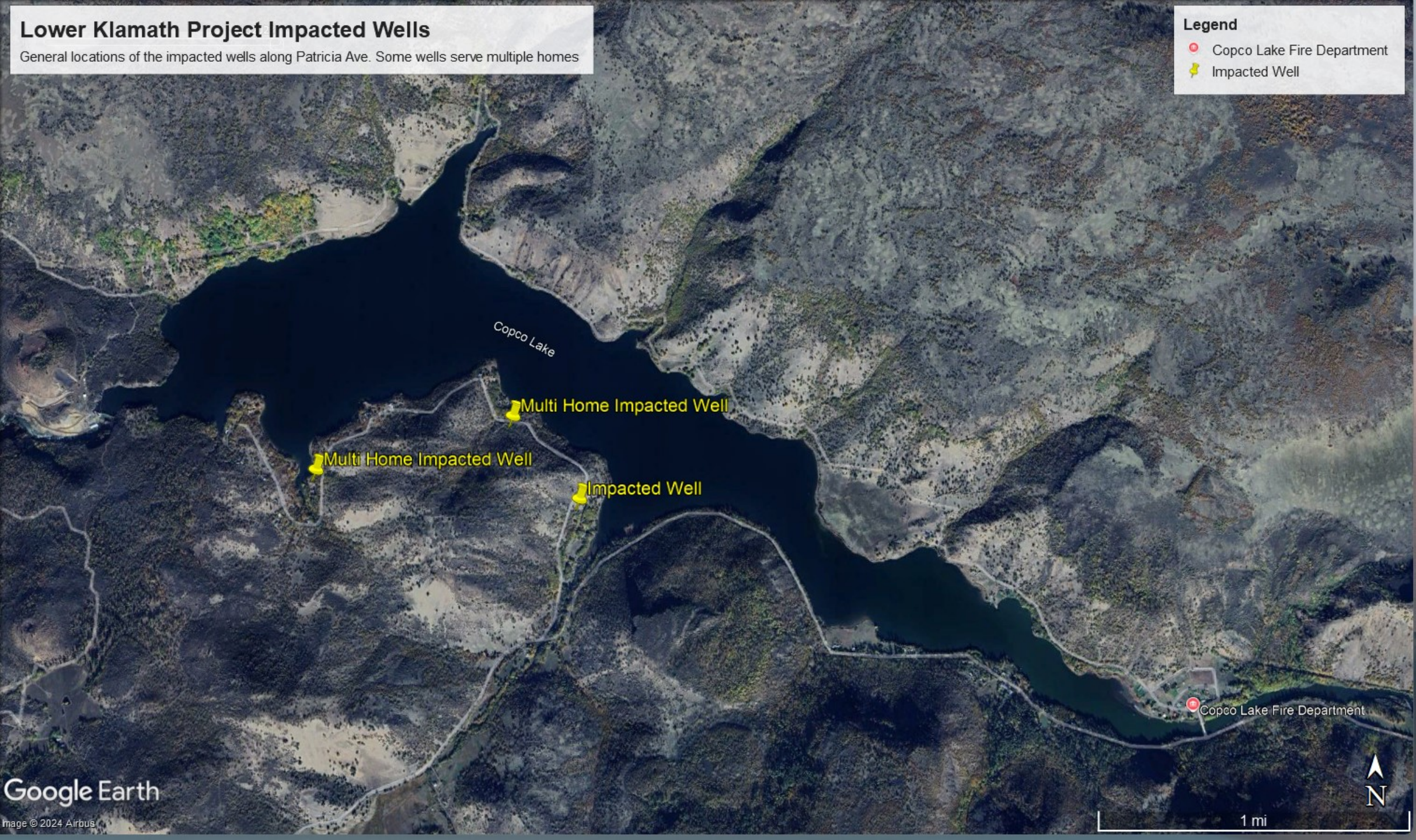
⁶ FEIS 2022, Section 3.13.4.1

Lower Klamath Project Impacted Wells

General locations of the impacted wells along Patricia Ave. Some wells serve multiple homes

Legend

-  Copco Lake Fire Department
-  Impacted Well



Copco Lake

Multi Home Impacted Well

Multi Home Impacted Well

Impacted Well

Copco Lake Fire Department



COLLIER REST AREA CLOSED LONG-TERM

INTERSTATE 5, NORTH OF YREKA

Beginning Monday, September 16th at 3 p.m., the Collier Safety Roadside Rest Area (SRRA) will undergo a long-term closure due to water distribution issues. Water for the rest area is drawn directly from the Klamath River and used for potable sources and irrigation. Caltrans is partnering with the Klamath River Renewal Corporation to resolve the issues.

There is no current estimated time for reopening the facility. Motorists are advised to note this long-term closure and make alternative plans for stops during travel. Rest area availability for the state can be found on QuickMap. Caltrans District 2 thanks the local communities and traveling public for their patience and understanding during this closure.

USE QUICKMAP FOR CURRENT
REST AREA AVAILABILITY
THROUGHOUT CALIFORNIA



DISTRICT 2
Caltrans



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