




THE SECRETARY OF THE INTERIOR
WASHINGTON

February 10, 2025

Memorandum

To: Solicitor
From: Secretary 
Subject: Recission of April 8, 2021, Secretarial “Withdrawal of Klamath Project-Related Memoranda, Letters, and Analyses” and Examination of Legal Developments

In 2020, Secretary of the Interior David L. Bernhardt directed the Office of the Solicitor to conduct a comprehensive analysis of the legal requirements for consultation pursuant to Section 7 of the Endangered Species Act, 16 U.S.C. 1536 et seq., pertaining to the Bureau of Reclamation’s operations in the Klamath Basin. In response, the Office of the Solicitor issued a series of memoranda in late 2020 and early 2021, which analyzed this topic and established a framework to harmonize the operations of the Klamath Project with the requirements of Federal and State law. Simultaneously, Reclamation conducted a reassessment of Klamath Project operations to facilitate compliance with the Endangered Species Act. Secretary Bernhardt further wrote two letters which conveyed those memoranda and analyses and enunciated a vision for discussions with stakeholders to correct imbalances within the Klamath Basin in accordance with the law.

Those memoranda and letters were:

- October 28, 2020, Memorandum from Carter L. Brown, Associate Solicitor – Division of Water Resources and Lance C. Wenger, Regional Solicitor – Pacific Southwest to Daniel H. Jorjani, Solicitor re: “An Updated Review of Legal Issues concerning the United States Bureau of Reclamation Operation of the Klamath Project” (Solicitor Jorjani signed and concurred on October 29, 2020).
- November 12, 2020, Letters from David Bernhardt to Paul Simmons, Klamath Water Users Association, and Nathan Rietmann, Rietmann Law PC, respectively, re: “Klamath Project Water Contracts and the Endangered Species Act.”
- January 2021 Reassessment of U.S. Bureau of Reclamation Klamath Project Operations to Facilitate Compliance with Section 7(a)(2) of the Endangered Species Act.
- January 14, 2021, Memorandum from Solicitor to Secretary re: Analysis of Klamath Project contracts to determine discretionary authority in accordance with the November 12, 2020, Letter of the Secretary of the Interior.
- January 14, 2021, Memorandum from Solicitor to Secretary re: “Use of Water Previously Stored in Priority for Satisfaction of Downstream Rights.”
- January 16, 2021, Letters from David Bernhardt to Paul Simmons, Klamath Water Users Association, and Nathan Rietmann, Rietmann Law PC, respectively, re: completion of analysis based on November 12, 2020, letter (enclosing January 14,

2021, memoranda and January 2021 reassessment).

On April 8, 2021, Secretary of the Interior Debra Haaland rescinded those memoranda, letters, and analyses by memorandum titled “Withdrawal of Klamath Project-Related Memoranda, Letters, and Analyses.”

By this memorandum, I am vacating Secretary Haaland’s April 8, 2021, rescission of those memoranda, letters, and analyses. I am further directing you to conduct a review of legal developments during the past four years and to issue updated versions of those documents at the earliest opportunity. This action is taken pursuant to the authority of Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262) and other applicable authorities.