

Proposed Upper Klamath Basin Comprehensive Agreement

Introduction: Representatives of the Klamath Tribes, Upper Basin irrigators, the State of Oregon, and the United States have developed a Comprehensive Agreement for water management and restoration in the Upper Klamath Basin. Each party is currently reviewing the agreement, and will decide whether to sign it over the next thirty days.

Key elements of the Agreement are summarized here. The full Agreement is available on the web at: <http://www.oregon.gov/gov/GNRO/Pages/index.aspx>



Background: In July of 2013, the Klamath Basin Task Force was convened “to resolve the water, power and other resource management issues in the Klamath River Basin....” The letter from the conveners of the Task Force states, in part:

The current crises in the Basin require immediate attention, leadership, and constructive efforts of us all. Although the Basin has faced many of these challenges for some time, it is clear that now is the time to move for a comprehensive and lasting solution that protects the vast natural resources of the basin, while also providing the stability and certainty needed for the region’s economy to continue to thrive.

The letter directed the Task Force to develop a settlement of water use and habitat restoration issues in the Upper Klamath Basin that results in:

- At least 30,000 acre feet of increased water inflows into Upper Klamath Lake through a voluntary program to reduce water usage;

- Permanent resolution and protection of significant riparian areas in the Wood River Valley and the Sprague, Sycan, and Williamson river basins sufficient to produce the habitat improvement needed for fisheries; and
- Regulatory assurances for water and land uses in the Upper Basin, including compliance with the Federal Endangered Species Act (ESA).

In December of 2013, the parties reached an Agreement in Principle. On February 28, 2014 the parties completed work on the Proposed Agreement.

Summary of the Agreement. The Proposed Agreement includes:

- A Water Use Program designed to permanently increase stream flows into Upper Klamath Lake by at least 30,000 acre feet through targeted reductions of water use in key reaches of the tributaries to Upper Klamath Lake;
- Compliance with the Water Use Program is designed to provide a stable, sustainable basis for the continuation of irrigated agriculture in the Upper Klamath Basin;
- A Riparian Program designed to permanently improve and protect riparian conditions; and
- An Economic Development Program designed to create economic opportunities for the Klamath Tribes and its members, including increased opportunities for the exercise of tribal cultural rights.

Water Use Program (WUP): The WUP does two things. First, it permanently increases the flows into Upper Klamath Lake by 30,000 acre-feet by decreasing the net consumptive use of water. Participation in the WUP is voluntary. The Agreement includes limits on how much land may be retired from irrigation (18,000 acres) in order to share the effects of the program fairly among the areas of the Upper Basin. The WUP will reduce water use through permanent water right retirement and also through other ongoing measures that will reduce net consumptive use of water in a predictable, quantifiable manner. These other measures may include:

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| • Water right leasing, including split season leasing; | • Management of water to meet flows during low flow periods; |
| • Water conservation & efficiency measures; | • Upland management (including juniper removal, crop rotations, improved soil conditions and management. |
| • Agreements to rotate water use among water right holders; | |

The second thing the WUP does is to use performance standards to determine when water uses above Upper Klamath Lake will be regulated to protect the Tribal water right. The standards are designed to distribute the

increase in flows into the lake on an equitable basis among the basins and provide for healthy fisheries throughout the Off-Project Area.

The WUP is carried out by a “Landowner Entity” made up of irrigator representatives from each of the major basins above the lake who are participating in the program. The WUP is overseen by a “Joint Management Entity” directed by the Klamath Tribes, the Landowner Entity, and state and federal representatives. The Landowner Entity will take the lead in negotiating agreements with willing irrigators to reduce water use, and the agreements will be implemented following approval by the JME. Funding will come from a range of sources, including the KBRA.

Groundwater: The Agreement includes details on how groundwater wells will be regulated in years when stream flows are not met. These details are designed to provide predictability to water users, while recognizing the role of groundwater in the hydrology of the Upper Basin.

Riparian Program: The Riparian Program will re-establish and/or maintain a healthy and sustainable riparian plant community that will improve and maintain water quality and fish habit. The program is designed to maintain viable ranching operations, including irrigation infrastructure that is compatible with viable riparian management. As with the water program, the Riparian Program will be carried out through agreements between the Landowner Entity and willing landowners. Landowners who enter into riparian agreements will be compensated for managing riparian areas in ways that improve conditions through tools such as flash grazing, fencing, reseeding, vegetation management, and other restoration actions. To meet the program requirements, broad participation from landowners with irrigated riparian lands is needed. At least eighty percent of the land area along streams that is irrigated and zoned for agriculture must be enrolled in the program in order for the performance standards to be met.

Economic Development: The Agreement establishes a Tribal Economic Development Fund, and reflects the Klamath Tribes commitment to restore their homeland and build a viable tribal economy.

Transition Period: Success of this Agreement depends on acceptance by a wide number of landowners, as well as the Klamath Tribes and other governmental bodies. Recognizing that it will take time to fully develop and implement the Water Use Program and the Riparian Program, the parties have designed a five-year Transition Period. During this time, the Landowner Entity will be negotiating agreements with landowners and the Klamath Tribes will be implementing the Economic Development Program. If interim performance standards for both the Riparian Program and the

Water Use Program are met, water regulation will be based on flow levels that vary based on stream flow conditions and compliance with the Agreement.

Funding and Authorization: A key element of program success (for all of the program elements) is continued funding for the Economic Development Program, Water Use Agreements and the Riparian Management Agreements. The Agreement will not become permanent until long-term funding is provided to fully implement these programs. Short-term funding is being provided by a consortium of federal and state agencies. However, long-term funding, and other elements of the Agreement, will require federal legislation, including legislation and appropriations implementing the KBRA and the KHSA. This Agreement implements several foundational elements of the KBRA.

Other Elements of the Agreement

Regulatory Assurances: The Agreement also provides an efficient way for irrigators to comply with the ESA. Participation is voluntary.

Klamath Basin Adjudication: The Agreement resolves many of the remaining contests in the Klamath Basin water rights adjudication, avoiding significant costs and uncertainty for the parties.

2014 Drought Program

On February 14, 2014, Governor Kitzhaber declared a drought emergency in Klamath County. The drought declaration provides additional tools for managing limited water supplies. The Oregon Watershed Enhancement Board has approved \$750,000 in state funding for water use reduction, and federal agencies are contributing additional funds. The Governor's office is also working with state and federal agencies to bring additional assistance to the community.

