

Summary of First Amendment to the KBRA

December 29, 2012

Summary

As of December 29, 2012, all Parties to the Klamath Basin Restoration Agreement (KBRA) have approved and signed the First Amendment to the Klamath Basin Restoration Agreement for the Sustainability of Public and Trust Resources and Affected Communities (First Amendment). Thus, the KBRA has been amended consistent with the First Amendment. A copy of the First Amendment including signatures is posted at www.klamathcouncil.org.

The amendments extend the time for passage of federal legislation, address tribal funding issues, and clean up other provisions of the document. They do not affect the Klamath Hydroelectric Settlement Agreement.

Key Issues

Extend the KBRA deadline for federal legislation: The First Amendment that would extend the KBRA until December 31, 2014. Within 60 days following that date, any KBRA party could initiate a process to consider termination of the agreement and any amendments would require the approval of all the KBRA parties. If no party initiates the termination process at that time, the amendments also provide an annual opportunity to consider terminating the KBRA if the federal legislation has not been enacted.

Tribal Funding: the amendments confirm that the signatory tribes and the Secretary of the Interior would have to agree to any future changes in funding that might affect the bargained-for-benefits of the agreement affecting tribal resources, the water agreements, or the future relinquishment of tribal claims against the United States in the KBRA. The amendments clarify the tribes' key role in the implementation of the fisheries program. The amendments also provide that the Secretary of the Interior and any of the signatory tribes can renegotiate the terms of the relinquishment and release of tribal claims against the United States if funding for the fishery or tribal programs is not realized in the future.

Clear Lake, Gerber Reservoir, and the Lost River: the amendments clarify that Clear Lake, Gerber Reservoir, and the Lost River above Harpold Dam are not required to provide water for delivery of the new wildlife refuge allocation in the KBRA.

Klamath Basin Power Alliance: the amendments add the Klamath Basin Power Alliance as a new party to the KBRA.

Clarify and update other KBRA provisions: the amendments clarify various provisions and update schedules for a number of actions in the KBRA. For example:

- Funding: the amendments update references to funding to accommodate reductions in the KBRA cost estimates that the parties identified subsequent to signing the agreement.
- Drought Plan: the parties have completed the drought plan; the dates for potential future amendments have been updated.
- Habitat Conservation Plans: the KBRA provides a process to develop plans under the Endangered Species Act to address potential impacts of Upper Basin activities to fish including salmon returning to the Upper Klamath Basin if the Klamath River dams are removed. The amendments clarify the applicable processes based on policies of the resources agencies.
- Emergencies: the amendments clarify that Reclamation will continue to address emergencies that affect Klamath Reclamation Project facilities under existing authorities; this could include failures at Klamath Reclamation Project facilities or dikes on Upper Klamath Lake or Lake Ewauna that affects the storage and delivery of water necessary to meet the commitments of the KBRA.
- Eligibility for Power Program: the amendments clarify the eligibility for the KBRA program to provide low-cost power to pump water to irrigators and wildlife refuges and return water to the Klamath River to make it clear that a power user can either own or lease the land and use individual or multiple meters or pumps.

Parties to the KBRA

State of California

California Department of Fish and Game
California Natural Resources Agency

State of Oregon

Governor of Oregon
Oregon Department of Environmental Quality
Oregon Department of Fish and Wildlife
Oregon Water Resources Department

Tribes

Karuk Tribe
Klamath Tribes
Yurok Tribe

Counties

Humboldt County, California
Klamath County, Oregon

Parties Related to Klamath Reclamation Project

Ady District Improvement Company
Collins Products, LLC
Enterprise Irrigation District
Don Johnston & Son
Inter-County Properties Co, which acquired title as Inter-County Title Company
Klamath Irrigation District
Klamath Drainage District
Klamath Basin Improvement District
Klamath Basin Power Alliance
Klamath Water Users Association
Klamath Water and Power Agency
Bradley S. Luscombe
Malin Irrigation District
Midland District Improvement Company
Pioneer District Improvement Company
Plevna District Improvement Company
Reames Golf and Country Club
Shasta View Irrigation District
Sunnyside Irrigation District
Tulelake Irrigation District
Van Brimmer Ditch Company
Randolph and Jane Walthall 1995 Trust
Westside Improvement District #4
Winema Hunting Lodge, Inc.

Upper Klamath Irrigators

Upper Klamath Water Users Association

Non-Governmental Organizations

American Rivers
California Trout
Institute for Fisheries Resources
Northern California/Nevada Council Federation of Fly Fishers
Pacific Coast Federation of Fishermen's Associations
Salmon River Restoration Council
Trout Unlimited