

AGENDA
KLAMATH BASIN COORDINATING COUNCIL MEETINGS

April 2nd from 1 to 5 pm and April 3rd at 9 am
Rogue River Room, Inn at the Commons, 200 N. Riverside Avenue in Medford

1. Introductions and review agenda.
2. General public comment.
3. Review status of implementing the Klamath Hydroelectric Settlement Agreement (15 minutes; Tim Hemstreet and Bob Gravely).
4. Approve summary from last KBCC meeting (5 minutes; Ed Sheets).
5. Briefing on Proposed Upper Klamath Basin Comprehensive Agreement (90 minutes; Richard Whitman, Don Gentry, Becky Hyde, and John Bezdek).
6. KBCC review and potential determination of the consistency of the Water Use Program with the criteria in KBRA Section 16.2.2. (90 minutes; Ed Sheets). If the KBCC is ready to make a determination on consistency, it will provide time for public comment prior to any decision).
7. Review and adopt changes to KBRA Appendix C-2 cost estimates (two-hours; Ed Sheets).
8. Status reports on KBRA implementation (10 to 15 minutes each)
 - a. Status report on the development of the Klamath Basin Fisheries Restoration and Monitoring Plan (Klamath Fish Managers).
 - b. Status report on Klamath Basin Monitoring Program (KMBP) and Klamath Tracking and Accounting Program (KLAMTAP) (Fish Managers).
 - c. Status report on Agency Lake and Barnes Ranch (Matt Barry, Fish and Wildlife Service).
 - d. On-Project Plan (Hollie Cannon and Cathy Waters, KWAPA).
 - e. Review workplan and schedule for implementing the KBRA (Ed Sheets).
9. Public comment period.
10. Discuss next steps and next KBCC meeting.

Tentative KBCC Meeting
April 9th at 1 pm and April 10th at 9 am
Mount Mazama Room at OIT in Klamath Falls

If the KBCC needs more time to work on agenda items 6 or 7, it will meet on April 9th and 10th in Klamath Falls.

Klamath Hydroelectric Settlement Agreement Implementation Progress Report

April 2, 2014

General Settlement Implementation

Dam Removal Surcharge Regulatory Developments – Regulatory orders from both the California and Oregon public utility commissions approving the collection of dam removal surcharges have been issued, consistent with the framework for the Customer Contribution towards dam removal costs established in Section 4.1.1 of the Klamath Hydroelectric Settlement Agreement (KHSA). The OPUC order is available at <http://apps.puc.state.or.us/orders/2010ords/10-364.pdf>. The Oregon customer surcharges, with accrued interest, are designed to provide approximately \$184 million in funding for dam removal in 2020. The CPUC's final decision is available at: http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/134812.htm. The California customer surcharges, with accrued interest, are designed to provide approximately \$16 million in funding for dam removal in 2020. The surcharges on Oregon customers have been collected since March 18, 2010 while the surcharges on California customers began in January 2012.

On January 13, 2012, Pacific Power filed a petition for modification of the Klamath surcharge to allow the total California customer share of capped dam removal costs to be collected by January 1, 2020 as it was originally designed. The adjustment did not increase the total amount that California customers will pay for Klamath dam removal costs, but was necessary due to an approximately one year delay in implementation of the surcharge and to meet the anticipated dam removal timeline contained in the KHSA. On November 1, 2012, the CPUC issued a final order approving the adjustment, which is available at: <http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=31876963>

Dam Removal Surcharge Balance – As of February 28, 2014, the combined balance of the Oregon and California dam removal trust accounts was \$68.4 million.

Local Community Power – Consistent with Section 5.3 of the KHSA, PacifiCorp continues to work with the Department of the Interior, Klamath Water and Power Authority, Bonneville Power Administration, and Western Area Power Administration to determine the feasibility and necessary steps to implement the delivery of federal power to eligible Klamath basin irrigation loads. PacifiCorp, with these entities, is also exploring power sale arrangements and delivery arrangements that may provide the benefits of federal power supply to reduce power costs for Klamath basin irrigators.

Clean Water Act Section 401 Process - Under Section 6.5 of the KHSA, PacifiCorp is required to annually withdraw and resubmit its Clean Water Act Section 401 water quality certification applications that are pending with the states of California and Oregon in order to avoid the certifications being deemed waived during the Interim Period prior to potential dam removal. PacifiCorp last withdrew and resubmitted its certification applications on December 2, 2013.

PacifiCorp is currently in the process of updating its water quality certification applications, which is necessary given the passage of time since the prior revision in 2008. Maintaining active water quality certification applications is consistent with the intent of the KHSA, which is to preserve the authority of the states under the Clean Water Act while the settlement parties focus on successful

implementation of the KHSA, which would render processing of PacifiCorp's pending applications unnecessary. PacifiCorp anticipates submitting applications incorporating new scientific information and the results of recently completed and ongoing studies being completed under the KHSA and other ongoing processes by August 15, 2014.

Keno Transfer - Pursuant to KHSA Section 7.5.2, PacifiCorp and the Bureau of Reclamation (Reclamation) have developed an agreement in principle related to the potential transfer of the Keno development. The agreement in principle was executed on August 22, 2012, and lays out the framework for transfer of the Keno facility to Interior consistent with the KHSA. PacifiCorp and Reclamation continue to work towards a Final Agreement for Keno Transfer, which will be developed prior to the Secretarial Determination. The agreement in principle is available on the KlamathRestoration.gov website.

Interim Conservation Plan Interim Measures and Endangered Species Act Regulatory Process

PacifiCorp applied to the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) for ESA Section 10 permits to address potential take of listed species that could occur during the interim period prior to project removal under the KHSA. In February 2011, PacifiCorp filed an application for an ESA Section 10 permit with NMFS relating to a Habitat Conservation Plan for Coho Salmon. Following public comment, NMFS issued an incidental take permit to PacifiCorp on February 24, 2012.

Similarly, in August 2011, PacifiCorp filed an application for an ESA Section 10 permit with FWS to address potential take of sucker species that could potentially occur during the interim period, prior to Project removal. Following public comment, FWS issued an incidental take permit to PacifiCorp on February 20, 2014. PacifiCorp is currently working closely with NMFS and FWS as it implements its obligations under the Habitat Conservation Plans and related permits. Copies of the Habitat Conservation Plans are available at PacifiCorp's website (<http://www.pacificorp.com/es/hydro/hl/kr.html>).

Interim Measure 2: California Klamath Restoration Fund / Coho Enhancement Fund

PacifiCorp has provided funding of \$3,060,000 into the Coho Enhancement Fund (CEF) since the Interim Conservation Plan was developed in November, 2008. Since 2009, NMFS and the California Department of Fish and Wildlife (CDFW) have selected 16 projects to benefit coho salmon. PacifiCorp has developed a partnership with the National Fish and Wildlife Foundation (NFWF) to administer the fund. This partnership allows Coho Enhancement Fund grant recipients to be eligible for additional funding through other grant programs, further enhancing the conservation benefit of the fund. Coho Enhancement Fund projects have included, off-channel pond habitat, culvert replacement, water transactions, tributary passage improvements, and riparian fencing to improve habitat for coho salmon. PacifiCorp and NFWF plan to solicit pre-proposals for projects seeking funding in May 2014. Interested project sponsors are encouraged to check NFWF's online program page for the Coho Enhancement Fund (<http://www.nfwf.org/klamathriver/Pages/home.aspx>) for details and updates regarding the project solicitation process.

Interim Measure 4: Hatchery and Genetics Management Plan

On September 16, 2010 a Hatchery and Genetic Management Plan (HGMP) developed by CDFW and PacifiCorp for the Iron Gate Hatchery Coho Salmon Program was submitted to NMFS. After subsequent revisions to the HGMP by PacifiCorp and CDFW following consultation with NMFS, the

HGMP was noticed for public comment in January 2013 and is currently under review. Operation of the hatchery consistent with the HGMP program will support the Klamath River basin's coho salmon recovery efforts by conserving a full range of the existing genetic, phenotypic, behavioral and ecological diversity of the coho salmon run.

PacifiCorp and CDFW have implemented a number of measures called for in the HGMP while the HGMP is under review. These measures include improvements to egg rearing infrastructure, the installation of bird netting at the hatchery to improve coho survival, and active genetic broodstock management. In its April 2012 report, the California Hatchery Scientific Review group recommended that the HGMP be approved and implemented.

Interim Measure 5: Iron Gate Flow Variability

Consistent with the May 2013 biological opinion issued by NMFS and USFWS on Reclamation's Klamath Project, PacifiCorp has been coordinating with Reclamation to implement variable flow releases from Iron Gate dam. Iron Gate dam flow release targets are directed by Reclamation and now incorporate flow releases from Link River Dam combined with accretions below Link River dam. Flows in the Williamson River provide the primary hydrologic indicator used to calculate variable release targets from Iron Gate Dam. As a result of this new flow regime, flow variability below Iron Gate Dam has increased as compared to flow management under prior biological opinions.

Interim Measure 7: J.C. Boyle Gravel Placement and/or Habitat Enhancement

Under this interim measure, suitable spawning gravel has been placed within the J.C. Boyle bypass reach and in the Klamath River below J.C. Boyle powerhouse over the past three years, beginning in November, 2011. This gravel placement provides substrate that should improve habitat conditions for redband trout.

To date, approximately 1,500 cubic yards of gravel have been placed in the Klamath River below J.C. Boyle dam. A conveyor truck is used to "shoot" gravel from the bank out into the Klamath River. The bulk of the work has been conducted by two local subcontractors. In addition to "shooting" gravel, it is necessary to deliver gravel at locations with challenging access via a pipe. Further gravel augmentation work is anticipated to occur in the fall of 2014.

Interim Measure 8: J.C. Boyle Bypass Barrier Removal

With permits in hand following a process through the Bureau of Land Management (BLM) in 2011, work was completed on October 13, 2012, to remove the bypass barrier approximately 2.5 miles upstream from the J.C. Boyle powerhouse. Boulders that comprised the barrier were winched above the normal high water mark and a 5-foot-wide section of river is now opened to fish passage through the former barrier area. State and federal agencies reviewed the completed work and agreed that this interim measure has been completed.

Interim Measure 10: Water Quality Conference

PacifiCorp provided \$150,000 in funding for the water quality workshop and associated report to the California Coastal Conservancy. The NCRWCB took the lead on the steering committee that oversaw the workshop activities and secured additional funds to support the workshop from the California Coastal Conservancy, which supplemented PacifiCorp's funding. The workshop was held September 11-13, 2012, in Sacramento, California and a final report was developed that evaluates the various

nutrient reduction technologies discussed at the workshop. The final report, “Water Quality Improvement Techniques for the Upper Klamath Basin: A technical workshop and project conceptual designs” was released on September 4, 2013 and is available online at: http://www.stillwatersci.com/case_studies.php?cid=68.

Interim Measure 11: Interim Water Quality Improvements

PacifiCorp, following consultation with the Interim Measures Implementation Committee (IMIC), selected a series of studies and pilot projects to develop necessary information to inform the selection of water quality improvement projects to be implemented in 2013 and 2014 under the interim measure. These ongoing studies include:

Activity 1: Continued Development of the Water Quality Accounting Framework. The purpose of Activity 1 of Interim Measure 11 is to continue development of a Klamath water quality improvement tracking and accounting program (KTAP). The key concept behind the program is to facilitate opportunities for collaboration among Basin stakeholders to reduce nutrient, thermal, and other pollutant loads, and provide other water quality benefits within the basin to reduce and offset water quality impairments. This program will provide a record of individual actions and provide a potential basis for a market that facilitates a higher level of activity and collaboration than could be achieved by individual entities and dischargers alone. Additional work during 2013-2014 will include continued collaboration with the KTAP technical group, refinement and testing of the KTAP protocols, testing of protocols, verification, and certification through the implementation of a new pilot project.

Activity 2: Planning and Design for a Demonstration Wetlands Facility Adjacent to the Klamath River. The purpose of Activity 2 of Interim Measure 11 is to continue important activities for anticipated development of wetland systems for water quality improvement in the upper Klamath River basin. PacifiCorp has proposed the development of a demonstration wetlands facility (DWF) adjacent to the upper Klamath River. The DWF would provide an important opportunity for interested stakeholders and researchers to investigate the site-specific requirements, effectiveness, feasibility, and costs of wetland technologies in the Upper Klamath basin. This information would be valuable for future planning, design, and ultimate implementation of wetland technologies to improve water quality in the Upper Klamath basin.

Under Activity 2, PacifiCorp is coordinating with stakeholders to develop a DWF Research and Implementation Plan that will lay out the planning, design, and implementation of the DWF, including locating potential sites for the DWF. The DWF itself would be constructed, operated, and maintained by stakeholder “partners” that have an interest in pursuing the unique and important wetland research and demonstration opportunities that the DWF would provide to inform basin-wide planning for water quality improvement strategies. The DWF could consist of a newly identified site or could be integrated and developed within an existing wetland site that has already been identified and held in reserve. PacifiCorp has been working with the IMIC and a designated Technical Advisory Committee of basin stakeholders and technical experts on the development of the DWF Research and Implementation Plan, which is expected to be completed in summer 2014.

Activity 3: Preliminary Design of an Organic Matter Removal System at Link River/Keno Reservoir. During 2011 and 2012, studies were conducted under Interim Measure 11 to assess the potential efficacy of reducing organic matter from Klamath River water using a

hydrodynamic separation technology that is employed in stormwater treatment. Organic matter in the Klamath River can be present in either dissolved or particulate form. This technology targets the particulate organic matter, which comprises an appreciable fraction of summer period organic matter.

The purpose of Activity 3 is to conduct Phase III of the project in 2013-2014, which will consist of: (1) additional in-field assessments of the hydrodynamic separation technology (to refine the experiments performed in 2012); and (2) completing the development of preliminary design and cost estimates of an organic matter removal system at Link River/Keno Reservoir.

Activity 4: Continued Evaluation of Selective Withdrawal/Intake Barrier Systems for Water Quality Control at Iron Gate Reservoir. During 2011 and 2012, studies were conducted under Interim Measure 11 to test the installation of an adjustable barrier or cover on the intake tower trash rack at Iron Gate reservoir as a means of improving water quality released from the reservoir and to evaluate the vertical migration of cyanobacteria (blue-green algae) within the vicinity of the Iron Gate intake. The concept behind the intake barrier or cover is to control the depth at which water is withdrawn from the reservoir into the intake, and thereby potentially enhance water quality downstream of Iron Gate dam by excluding or reducing the potential entrainment of biomass from blooms of cyanobacteria (blue-green algae) and potential associated algal toxins (i.e., microcystin).

The purpose of Activity 4 is to continue to evaluate selective intake methods on the intake tower at Iron Gate reservoir to improve water quality in Iron Gate powerhouse releases to the Klamath River and develop data that will be applicable to the design and implementation of system refinements or other similar systems that might improve water quality conditions during the interim period prior to planned dam removal. The continued evaluation will provide additional information needed to ultimately design and implement a more effective intake cover or system to exclude or reduce algae from the Iron Gate intake.

Activity 5: Pilot Study of Algal Conditions Management within a Selected Reservoir Cove. The purpose of Activity 5 is to conduct pilot tests in a reservoir cove where potential algae control strategies for localized areas of the reservoirs can be assessed. These tests will provide information to assess whether these potential algae control strategies in areas of the reservoirs may be an effective and economic algae control strategy to reduce public health concerns during the interim period prior to potential dam removal. Pilot testing may include the following algae control strategies: 1) application of environmentally-safe algaecide using a hydrogen peroxide-based algaecide to reduce blue green algae concentrations and microcystin concentrations, 2) mechanical mixing of the water column to disrupt favorable conditions for the growth of blue-green algae; 3) accelerated flow exchange to reduce algal growth rates by creating conditions less favorable to blue green algae growth, and 4) water cannon sprinklers to disrupt quiescent water surfaces and reduce surface algae bloom formation.

Activity 7: Pilot Study of Nutrient Reduction Methods in Klamath Basin Waterbodies. The purpose of Activity 7 is to conduct a proof-of-concept level investigation of potential approaches to reducing nutrient concentrations, notably phosphorus (P), as a means for overall water quality improvement in Upper Klamath Lake (UKL), Keno Reservoir, and the Klamath River and reservoirs (J.C. Boyle, Copco, and Iron Gate) downstream. This pilot study will assess the effects of treating isolated volumes of water from the area to reduce nutrient concentrations (and associated algae growth and biomass effects) through flocculation, binding,

or sequestration experiments in discrete containers or possibly limnocorrals (geotextile membranes that can be deployed to isolate discrete portions of a waterbody or water column). Study results would inform the applicability of these nutrient reductions approaches in the Upper Klamath Basin, which include potential approaches for addressing Upper Klamath Basin nutrient impairment as discussed at the Klamath Basin Nutrient Reduction Workshop (held in September 2012) conducted pursuant to Interim Measure 10. Results from the pilot study could lead to development of prescriptions that would reduce nutrient concentrations in UKL, Keno Reservoir, and the Klamath River and reservoirs, which would reduce releases of algal biomass to downstream river and reservoir reaches.

Interim Measure 15: Water Quality Monitoring

PacifiCorp is now in the sixth year (2014) of funding baseline water quality monitoring consistent with this interim measure, which was begun under the Klamath Agreement in Principle. Annual planning, coordination and monitoring for Interim Measure 15 is completed collaboratively with PacifiCorp, ODEQ, NCRWQCB, EPA Region 9, the Karuk and Yurok Tribes, and Reclamation. The baseline monitoring program occurs over approximately 250 miles of river and reservoirs waters from Link River dam near Klamath Falls to the Klamath River estuary near Klamath, CA throughout most of the year. Annual reports for this monitoring effort are available on PacifiCorp's website (<http://www.pacificorp.com/es/hydro/hl/kr.html>) and on the Klamath Basin Monitoring Program website (<http://www.kbmp.net/>).

DRAFT
Summary and Follow Up Actions
November 14, 2012 KBCC Meeting in Eureka, California

Next Meeting

The Klamath Basin Coordinating Council will meet in approximately three months; potentially in Yreka, California. The facilitator will work with the parties to confirm the dates for the next meeting.

KBCC Actions

The KBCC approved changes to the Communications Protocols.

Follow Up Actions

1. The KBRA Parties will continue to review the First Amendment to the Klamath Basin Restoration Agreement. The First Amendment will become effective when it is signed by all the Parties that originally signed the KBRA.
2. The Fish Managers will convene to discuss next steps on the Fisheries Restoration and Monitoring Plan and participation in the Climate Change Assessment.
3. Ed Sheets will work with KHSA Parties to compile the analysis that was prepared by the Parties during the development of the KHSA regarding the steps and timing associated with removing dams under the KHSA and the FERC process.
4. The Communications Committee will continue to work on improving the website.
5. Ed Sheets will update the workplan and schedule for the next meeting.
6. Comments on this draft meeting summary should be sent to Ed Sheets by December 7th.

Summary of KBCC Meeting

- The KBCC approved the summary of the September 9, 2011 meeting.
- The KBCC reviewed the status of the implementation of the Klamath Hydroelectric Settlement Agreement, included a detailed discussion of each of the interim measures. The balance in the California and Oregon funds is \$41.7 million. The status report has been posted on the KBCC website and attached to the meeting materials.

- The KBCC heard public comments on the First Amendment to the Klamath Basin Restoration Agreement. Comments were provided by: Pat Higgins, Felice Pace, Hayley Hutt, Sylvia DeRoy, Andrew Orahoske, Mike Orcutt, Robert Franklin, and Regina Chichizola.
- Gordon Leppig, California Department of Fish and Game (CDFG) and Ruben Ochoa, Oregon Water Resources Department (OWRD), provided a status report on Climate Change Assessment. The co-leads provided a summary of their review of the current studies and recommended that the assessment should wait until the Bureau of Reclamation completes its Basin Study under the Secure Water Act in late 2014. The co-leads proposed the following schedule for the Climate Change Assessment:

2013-2014

- Monitor progress on Secure Water Act Klamath Basin Study.
- Compile and review any new relevant climate change studies and model projections for the Klamath Basin.
- OWRD and CDFG will meet at least once annually to evaluate Basin Study progress and new relevant climate change studies.
- Annually brief KBCC on Basin Study schedule and process and the results of any new climate change science.

Winter 2014-Spring 2015 (depending when Klamath Basin Study is complete)

- Prepare draft report that:
 - Summarizes the findings and recommendations of the Klamath Basin Study,
 - Summarizes the findings of previous and any new climate change reports and modeled projections,
 - Compares these studies and their recommendations to the actions in the KBRA,
 - Determines whether to recommend amendments to the KBRA, and
 - Describes process to monitor climate change-related effects on the KBRA in the future.
- Consult with Fish Managers, irrigators, and others on draft report and make revisions as needed.
- Brief KBCC and seek comments on draft report.

Summer-Fall 2015

- Finalize and submit Climate Change Assessment Report to the KBCC.

The Parties generally supported the co-leads approach and schedule. Several representatives of the Fish Managers asked whether it would be appropriate for them to have earlier involvement in the schedule. The co-leads would welcome such involvement. The Fish Managers will schedule a conference call to discuss participation in this assessment.

- Ruben Ochoa, OWRD provided a status report on the Oregon Water Resource Department preparation of a Final Order of Determination for the Upper Klamath Basin water rights adjudication process. The final order is expected in the first half of 2013.
- Joe Polos, U.S. Fish and Wildlife Service, provided a presentation on the status of Klamath Basin salmon.
 - Fish managers developed a fall flow release program in 2012 designed to minimize the risk of disease outbreak and subsequent fish kill.
 - Maintain a minimum flow of 3,200 cfs at the lower Klamath River gage (KNK) from August 15 through September 21;
 - If water temperature exceeds 23 C after September 21, maintain flows at 3200 cfs until water temperature cools to below 23 C.
 - Higher flow releases to disrupt the Ich life-cycle.
 - Polos described the fall flow releases (see presentation slides 14 and 15).
 - Polos also described the fish returns; preliminary data indicates the 2012 was a very good salmon return; however, the numbers were not as large as the pre-season estimates (see slides 17 through 24)
- Eric Janney, United States Geological Service, provided a presentation on the status of endangered Klamath Basin sucker populations.
 - Upper Klamath Lake has the largest remaining Lost River sucker population. The lake has significant water quality problems.
 - Survival is good—typically over 90 percent per year.
 - There has been little recruitment over the last ten years.
 - There has been a 30 to 60 percent loss in the population since 2001.
 - Clear Lake has the largest remaining shortnose sucker population. Water quality is OK. Spawning is limited to the Willow Creek Basin.
 - Adult survival is marginal in some years.

- There has been little recruitment for over a decade.
 - There has been a 60 to 80 percent loss since 2001.
- Janney described the research being conducted to learn more about why zero age suckers are not surviving and the lack of young suckers to replace the spawning population as older adults die.
- See the USGS presentation for more details.
- Julie Matthews, KWAPA, provided a status report on On-Project Plan.
- KWAPA is developing the On-Project Plan under KBRA Section 15.2 to align water supply and demand to meet the diversion limitations in the KBRA.
- The plan will provide Stable Klamath River water supply and sustainable agricultural and refuge operations.
- Goals and objectives:
 - Maintain long-term sustainability of Klamath Reclamation Project agriculture
 - Minimize reductions/avoid uncompensated reductions in irrigated agriculture.
 - Ensure equitable treatment/avoid operational impacts on districts - seek opportunities for improved water management (within and across districts).
 - Develop fair, equitable, and transparent strategies for aligning water supply and demand.
 - Consider cost effectiveness of alternatives to the overall Klamath Basin economy and minimize third-party impacts.
 - Avoid adverse impacts on groundwater.
 - Use groundwater in a long-term and sustainable manner, and address all relevant in-basin groundwater management objectives within and adjacent to the On-Project Plan Area (OPPA).
- Schedule:
 - Phase 1 (June 2011- completed August 2011)
 - OPP Goals and Objectives (TM1)
 - Phase 2 (to be completed July 2012)
 - Water Supply (TM2), Demand (TM3), Baseline Conditions (TM 4)
 - Phase 3 (to be completed end of 2012)
 - Water Flow Path (TM5), Management Options (TM6) NEPA/CEQA (TM8) to begin
 - Phase 4 (to be completed July 2014)
 - Management Alternatives (TM7) July 2013,
 - NEPA/CEQA, EIS/EIR (TM8) Final OPP completion date: JULY 2014

- The plan is on budget and on schedule.
- More detail on the process and studies is available in meeting materials for the KBCC meeting.
- The Parties reviewed the status of all of the actions called for in the KBRA.
 - The Parties to the agreements have made good progress on establishing the coordination and oversight organizations called for in the Restoration Agreement and implementing many of the near-term KBRA actions.
 - The Drought Plan Lead Entity has completed the Drought Plan and it is under review by the Department of the Interior.
 - The Klamath Water and Power Agency is on schedule in developing the On Project Plan.
 - Funding is not available for the development of the Fisheries and Monitoring Plan.
 - Implementation of the KBRA plans will likely be delayed until funding is available; in some cases passage of the Federal authorizing legislation will also be needed.
- The KBCC reviewed and approved changes to the KBCC Communications Protocols. There was a quorum of the KBCC representatives and they unanimously approved the change; representatives were present from California, Oregon, the Klamath Tribes, the Karuk Tribe, the Yurok Tribe, Humboldt County, Klamath Reclamation Project, Off-Project, conservation groups, and commercial fishing industry.

The proposed changes would direct the facilitator to distribute all drafts of external documents (press releases, annual reports, etc.) to all Parties to the KBRA and KHSA with a clear deadline for providing comments. The facilitator would seek approval of the external communication from the KBCC representatives under Section 5.1 of the KBCC Protocols that describes the process to address voting matters that require a super majority of designated representatives. Any communications involving the KHSA would also require approval by PacifiCorp. This would avoid any confusion on the process for review and approval.

The proposed changes also clarify that if approval of an external communication is needed between KBCC meetings, the facilitator would follow the procedures in Section 5.3 of the KBCC Protocols regarding time-sensitive actions.

- The following people provided public comment at the beginning or end of the meeting: Pat Higgins, Felice Pace, Konrad Fisher, Andrew Orahoske, and Regina Chichizola

- Copies of the presentations to the KBCC are posted on the KBCC website:
www.klamathcouncil.org.
- A copy of the meeting attendees is attached.

in Eureka, California

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in Eureka, California

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in Eureka, California

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November 14, 2012 KBCC Meeting Attendance List in Eureka, California

Last	First	email	Organization	Phone
Perricelli	Claire	ceperce@cylobal.net		
TRIAR	Amos	a.tripp@suddenlink.net	Kernuk Tribal Council	
Weselah	Tom	tom.weselah@asm.ca.gov	Assemblyman Chabrie	707 445-7014
Mullis	Just	justm8605@aol.com	Kernuk	541/892-8447
Gravel	Bob	bob.gravel@pacificorp.com	PacificCorp	503-813-7282
Sundberg	Ryan	Csundberg@co.humboldt.ca.us	Humboldt County	707 476-2395
Kyle				
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Simmons	Paul	psimmons@scandinavia.com	SSD / FWS	916 446-7879
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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.

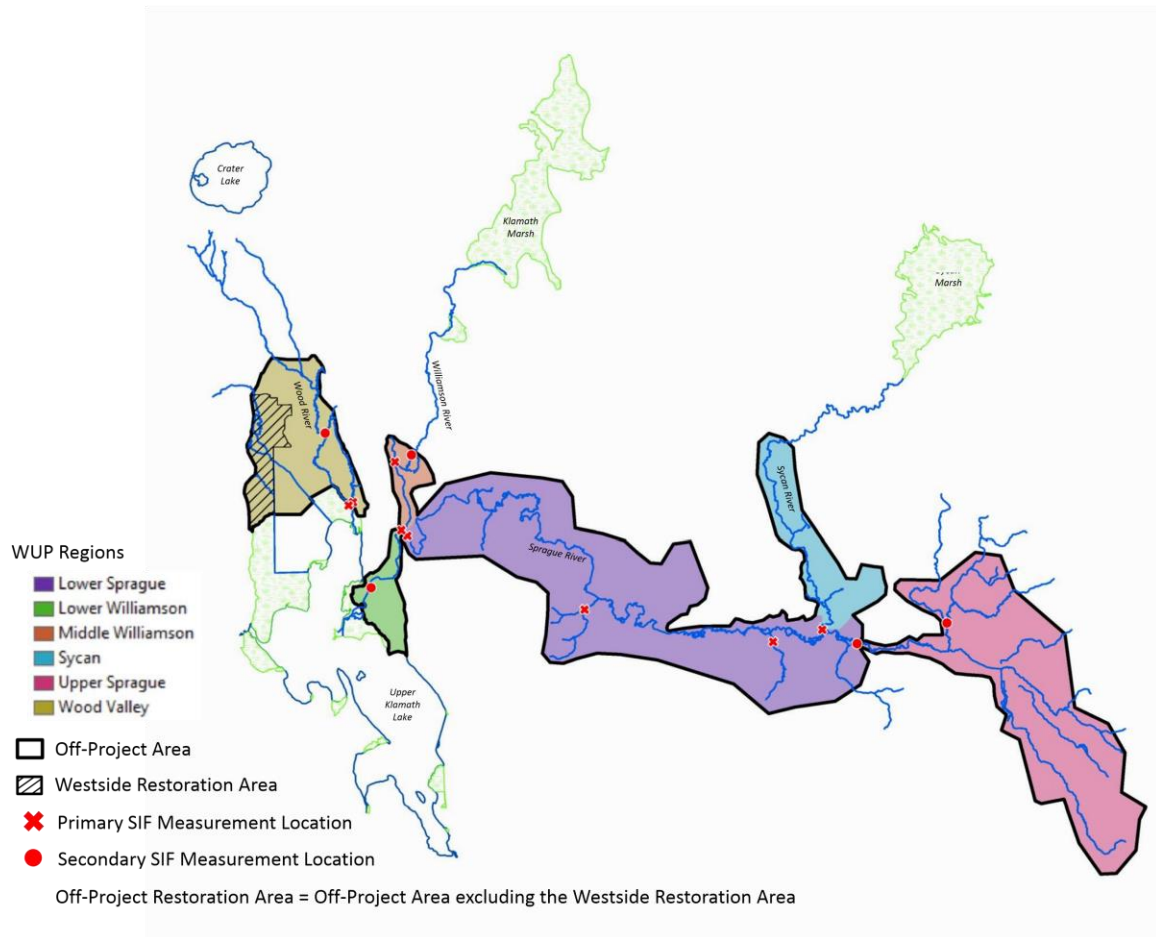
Other Elements of the Agreement

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.



KBCC Review of the Proposed Water Use Program for Consistency with the Criteria in KBRA Section 16.2.2.

March 24, 2014

Summary

Representatives for the Klamath Tribes, the State of Oregon, the United States, and Upper Klamath Basin irrigators have completed a Proposed Upper Klamath Basin Comprehensive Agreement (Proposed Agreement); each party is currently reviewing the Proposed Agreement, and will decide whether to sign it. The Proposed Agreement addresses a number of issues, including the specifics of a Water Use Program to increase flows into Upper Klamath Lake by 30,000 acre feet.

The KBCC needs to determine whether the Water Use Program in the Proposed Agreement is consistent with the criteria in Section 16.2.2 of the KBRA

Background

The KBRA Off-Project Water Program (Section 16) calls for the Klamath Tribes, the Upper Klamath Water Users Association (UKWUA), and the Bureau of Indian Affairs (BIA) to work with Off-Project irrigators to develop an Off-Project Water Settlement (OPWAS). The OPWAS would be a separate agreement and would not require an amendment to the KBRA; however, there is a provision in Section 16 to review the Water Use Retirement Program (WURP) that would be part of the OPWAS to ensure that it is consistent with the criteria of Section 16.2.2. The full text of Section 16.2.2 is attached as Appendix A.

KBRA 16.2.1.E.ii states: “The OPWAS Parties or the UBT, as appropriate, will provide the KBCC with the proposed WURP for review in advance of finalization, to determine whether the proposed WURP is consistent with the criteria described in Section 16.2.2. Disputes regarding the determination will be resolved pursuant to Dispute Resolution Procedures in Section 6.5.”

Analysis of Consistency with KBRA Section 16.2.2 Criteria

Section 16.2.2 does not use the term “criteria”. This section reviews the subsections of Section 16.2.2 that appear to be relevant because they describe the purpose, set numerical goals, or other measurable standards for the WURP. This section compares those KBRA Section 16.2.2 provisions to the provisions in the Water Use Program.

- 1. “The WURP purpose shall be to permanently increase the inflow to Upper Klamath Lake by 30,000 acre-feet on an average annual basis.” See 16.2.2.B.**

Proposed Agreement Section 3.2.1: Following the Transition Period described in section 5 of the Proposed Agreement, the WUP will “Permanently increase the total

volume of inflow into Upper Klamath Lake over Baseline Conditions by 30,000 acre-feet on an Average Annual Basis (the Total WUP Volume), allocated among WUP Regions, by decreasing the Net Consumptive Use of water as described in subsections 3.3 through 3.8 and 3.12 through 3.15 of this section and in the WUP Guidelines.”

2. **The 30,000 acre-feet is “subject to Section 16.2.2.F.ii, to result from implementing the WURP over the hydrologic conditions that existed in the years from 1980-2000, or over a different span of years and hydrologic conditions as determined by the UBT and OWRD, and approved by the KBCC.” See 16.2.2.B.**

The Proposed Agreement definition¹ of Average Annual Basis: “means the average of the annual increase in water volume flowing into Upper Klamath Lake estimated, subject to KBRA Section 16.2.2.F.ii, to result from implementing the Water Use Retirement Program over the hydrologic conditions that existed in the years from 1980-2000, or over a different span of years and hydrologic conditions as determined by the Upper Basin Team and OWRD, and approved by the Klamath Basin Coordinating Council.”

3. **“The WURP Program Area shall include: the Sprague River sub-basin; the Sycan River (excluding the drainage from the Sycan Marsh upstream); the Williamson River sub-basin (from the confluence with the Sprague River upstream to Kirk Reef); and the Wood River sub-basin.” See 16.2.2.C.**

The Water Use Plan includes these sub-basins. See the map in Proposed Agreement Exhibit B.

4. **“The WURP purpose described in Section 16.2.2.B is to be accomplished within ten years of completion of the final OPWAS including the WURP, or completion of the WURP without the OPWAS, as applicable.” See 16.2.2.D.**

See Proposed Agreement section 5.3.3. Subject to funding availability, the Proposed Agreement calls for the 30,000 acre-feet to be secured by the beginning of the 2019 irrigation season, and to continue for all subsequent irrigation seasons.

5. **“Measures that may be used to fulfill the WURP purpose will be described in the WURP. These measures may include, but shall not be required to include or be limited to, sale of valid surface water rights for irrigation, retirement of valid surface water use for irrigation, forbearance agreements, short-term water leasing, split season irrigation, effects of upland management and juniper removal, instream flow increases deriving from water efficiency projects, dryland crop alternatives in lieu of irrigation, effects of natural storage such as wetland or improved riparian area performance, and other similar measures.” See 16.2.2.F.i.**

Proposed Agreement section 3.12 states:

¹ Definitions are in section 15 of the Proposed Agreement.

3.12. Means of Achieving WUP Volumes and Call Thresholds. The primary means of providing the WUP Region Volumes and meeting Call Thresholds will be the reduction of Net Consumptive Use² through the permanent retirement of water rights carried out through Water Use Agreements. In addition, however, the WUP may include other WUP Practices that reduce Net Consumptive Use and help achieve WUP Region Volumes and/or meet Call Thresholds or otherwise contribute to instream flows in a quantifiable, predictable manner. These may include, but are not limited to:

3.12.1. Long-term and short-term leasing of water rights for instream use, including split season leasing;

3.12.2. Water conservation and efficiency measures that reduce the Net Consumptive Use of water;

3.12.3. Agreements to forbear the use of water right claims in the Klamath Adjudication;

3.12.4. Agreements to rotate the use of water among water right holders;

3.12.5. Storage (natural or artificial) and release of water in order to meet one or more Call Thresholds during periods of low stream flows; and

3.12.6. Land or water management in uplands including juniper removal, crop rotations, improved soil condition and management, and other similar measures.

- 6. “Participation by Off-Project Irrigators in any of the measures to achieve the WURP purpose is voluntary.” The compensation for voluntary participation will be: (i) acquisition of water rights or uses to achieve the WURP purpose will be compensated, as applicable, through market mechanisms based upon values mutually agreed to by purchaser and seller, as informed by appraisals; (ii) Eminent domain will not be used under the WURP; (iii) Land will not be acquired under the WURP.” See 16.2.2.G and H.**

Proposed Agreement section 3.15 states:

3.15. Willing Sellers. Landowners permanently retiring water rights under the WUP will be compensated based upon values mutually agreed to by purchaser and seller. The Parties recognize that the value of water rights in the Off-Project Area is in a state of uncertainty and flux as a result of the FFOD and the ongoing Klamath Adjudication. In recognition of the uncertainty and the intent to resolve further litigation, the Parties agree the compensation value for retirements will be based on

² “Net Consumptive Use” means the amount of water consumed (used and transpired by plants) in an area on which irrigation water is applied minus the amount of water that would be lost through evapotranspiration by the same area in the absence of irrigation.

the value of the water rights on March 1, 2013. The Parties also anticipate that retirement of water rights and other means of reducing water use may have a higher value in certain locations. Eminent domain will not be used to acquire water rights under the WUP.

7. **“The WURP shall protect water rights acquired under this program from further consumptive uses by either: (i) transfer of the acquired water right to instream use with the priority date of the acquired right; (ii) cancellation of the water right; or (iii) such other mechanism as may be specified by the OPWAS or otherwise.” See 16.2.2.I.**

The Water Use Program is designed to increase instream flow rates in the Off-Project Area and into Upper Klamath Lake. Many of the techniques in the WUP will involve transfers of consumptive use water rights to instream water rights or cancellation of water rights that would be covered by Oregon state law and enforced by the water master.

In addition, the WUP includes provisions to track water use reductions and ensure that they are in the tributaries and Upper Klamath Lake. Section 3.3 of the Water Use Program establishes the WUP Region Volumes for six regions. Section 3.5 describes the guidelines to estimate changes in net consumptive use resulting from the implementation of the program. Section 3.7 describes the process for tracking the WUP Region Volumes and creating a ledger that will be maintained by the Joint Management Entity. Section 3.8 of the Proposed Agreement states that the WUP Ledger will be the basis for determining compliance with the WUP Region Volumes and making WUP Volume calls for regulation. Subsections 3.8.2 and 3.8.3 describe how the Klamath Tribes and the BIA may call for regulation to make up shortfalls. Section 3.9 describes the Specified Instream Flow Call Thresholds to ensure that the water is in the streams and Upper Klamath Lake. Within the Off-Project Restoration Area, the increased flows that result from the WUP are expected to meet or exceed SIF Call Thresholds in most years. Section 3.9 describes these provisions and subsections 3.9.2 and 3.9.3 provide more detail on how the Klamath Tribes and the BIA may call for regulation of junior water rights as necessary to meet the call thresholds. Subsection 3.9.4 describes how the call threshold can be adjusted upwards if the applicable thresholds for the previous month or months were not met. Sub-section 3.10 describes similar upward adjustments to the call thresholds resulting from nonperformance under the Riparian Program.

Other Features of the Proposed Agreement

As background, the KBCC may also be interested in other provisions that are not subject to a determination of consistency with the criteria in Section 16.2.2; for example, the provisions regarding the administration of the program and habitat restoration.

Administration of the Water Use Program: The KBRA established the Upper Basin Team (UBT) comprised of the Klamath Tribes and UKWUA; both were Parties to the KBRA. The Fish and Wildlife Service is a third non-voting member.

The Proposed Agreement creates the Joint Management Entity (JME) with a Board of Directors comprised of the Klamath Tribes, State of Oregon, United States, and Landowner Entity (at least one of the directors of the Landowner Entity shall be a member of UKWUA; see Proposed Agreement subsection 7.1.3).

Subsection 7.1.6 of the Proposed Agreement states: “The JME will assume the obligations of the Upper Basin Team for purposes of the KBRA. The USFWS is the “Federal Lead Party” for purposes of Section 16 of the KBRA, and as such must provide oversight for the expenditure of Federal funding for the WUP, to the extent that the funding is provided under the KBRA.”

Subsection 7.2 of the Proposed Agreement describes the functions of the Joint Management Entity; subsection 7.2.9 states: “Perform the functions in the KBRA specified for the Upper Basin Team”.

The negotiators of the Proposed Agreement intended to broaden the representation of the entity that will oversee the programs without requiring an amendment to the KBRA regarding the composition of the UBT. The KBCC should consider whether this proposed structure meets this goal.

Fisheries Habitat Improvement Program: The purposes of this program is described in KBRA Section 16.3.1 are to (1) improve fisheries habitat above Upper Klamath Lake; (2) provide federal regulatory Assurances to landowners in the affected areas; and (3) to do so in a manner that seeks to maintain landowner economic stability.

The Proposed Agreement includes several provisions to improve fisheries habitat. In addition to the overall increase of inflows into Upper Klamath Lake, the Water Use Program includes specified instream flows for each WUP Region.

Second, Section 4 of the Proposed Agreement describes the Riparian Restoration and Management Program. The overarching, long-term, outcome of the Riparian Program is to re-establish and/or maintain the full expression of successional dynamics of the riparian plant community within Riparian Management Corridors, thereby improving and maintaining water quality and fish habitat. This will be achieved in part by attaining and maintaining proper functioning conditions. Exhibit H describes the guidelines for delineating, managing, and monitoring Riparian Management Corridors enrolled in Riparian Management Agreements. Subsection 4.8 describes the minimum threshold for participation in the Riparian Program is 80 percent of the length of the Riparian Management Corridors owned by Eligible Landowners within each specified instream flow reach. Section 5.4 describes how the Riparian Management Agreements will be implemented over the first five years of the Proposed Agreement.

Third, Section 9 of the Proposed Agreement describes the process for regulatory assurance using the development of General Conservation Plans and Habitat Conservation plans as described in Section 22 of the KBRA. Section 9.9 states: “The

processes for the development, review and approval of such Plans will conform to those specified in the KBRA, to the extent that such processes are not fully described herein.” Section 9.12 states: “The Non-Federal Parties shall support authorizations and appropriations of funding, in the amount estimated in KBRA, for development of the GCP; actions necessary for review of incidental take permit applications; actions necessary for issuance of incidental take permits; and measures for satisfaction of the incidental take permit issuance criteria that are not funded under other provisions of this Agreement, including measures for minimization and mitigation of incidental take, and including monitoring programs required for incidental take permits.”

Appendix A: KBRA Section 16.2.2

The text for Section 16.2.2.A through J is below. The purposes and criteria appear to be in subsections B, C, D, F, G, H, and I.

16.2.2 Water Use Retirement Program

The intent of this Section 16.2.2 is that the WURP be developed as part of a final OPWAS. The WURP shall be consistent with this Section 16.2.2, subject to Section 16.2.1.E.ii and approval by the Federal Lead Party. If the OPWAS is not Timely finalized, the WURP will be developed and implemented as provided in Section 16.2.2.A.i.

A. Upper Basin Team

i. Upper Basin Team Function

An Upper Basin Team (UBT) shall oversee the implementation of the WURP and, in coordination with OWRD pursuant to Section 16.2.2.F.iii, shall provide annual reports to the KBCC and through the KBAC to the Federal Lead Party on WURP implementation actions.

In addition, in the event the OPWAS, including the WURP, is not finalized, the UBT shall develop, within twelve months or less of the termination of the OPWAS negotiations period, a draft WURP consistent with this Section 16.2.2. The UBT will submit the completed draft WURP through the KBAC for approval by the Federal Lead Party.

ii. UBT Membership

As stated in Appendix D-2, the UBT shall be comprised of representatives from the Klamath Tribes and UKWUA.

A representative of the Federal Lead Party will be a non-voting member of the UBT.

iii. Federal Lead Party

The FWS shall be the Federal Lead Party for implementation of the WURP. The Federal Lead Party will administer the WURP in consultation with the UBT and provide oversight and approval of expenditure of federal funds. The Federal Lead Party also will

review and provide final approval of the WURP, or identify terms in the WURP requiring modification for approval. The Federal Lead Party and the UBT will meet and attempt to resolve such terms requiring modification. In the event the Federal Lead Party and UBT cannot agree on such modifications, then the matter shall be resolved subject to the Dispute Resolution Procedures in Section 6.5.

iv. Decision-Making and Oversight of UBT

The UBT shall be a subcommittee of the KBAC as described in Appendix D-2. After formation, the UBT shall develop and adopt decision-making protocols for their process. If the UBT is deadlocked as to the terms or implementation of WURP, UBT may request that the Federal Lead Party facilitate resolution of the dispute. The UBT shall resolve a dispute pursuant to the Dispute Resolution Procedures in Section 6.5; alternatively, if such procedures do not resolve the dispute, the Federal Lead Party shall do so. The UBT also shall prepare recommendations, as applicable, to be provided to the KBAC for review and submittal to the Federal Lead Party as the KBAC determines to be appropriate.

B. Water Use Retirement Program Purpose

The WURP purpose shall be to permanently increase the inflow to Upper Klamath Lake by 30,000 acre-feet on an average annual basis. For the purposes of Section 16.2.2.F and Section 20.4.2, “average annual basis” shall mean the average of the annual increase in water volume flowing into Upper Klamath Lake estimated, subject to Section 16.2.2.F.ii, to result from implementing the WURP over the hydrologic conditions that existed in the years from 1980-2000, or over a different span of years and hydrologic conditions as determined by the UBT and OWRD, and approved by the KBCC. The UBT will achieve the WURP purpose at locations in the WURP Program Area and in a manner that accommodates as practicable the socio-economic character of the Off-Project agricultural community and that is consistent with the water rights of other surface water users.

C. WURP Program Area

The WURP Program Area shall include: the Sprague River sub-basin; the Sycan River (excluding the drainage from the

Sycan Marsh upstream); the Williamson River sub-basin (from the confluence with the Sprague River upstream to Kirk Reef); and the Wood River sub-basin.

D. Term of the WURP

The WURP purpose described in Section 16.2.2.B is to be accomplished within ten years of completion of the final OPWAS including the WURP, or completion of the WURP without the OPWAS, as applicable.

E. Measures to Achieve WURP Purpose

- i. Measures that may be used to fulfill the WURP purpose will be described in the WURP. These measures may include, but shall not be required to include or be limited to, sale of valid surface water rights for irrigation, retirement of valid surface water use for irrigation, forbearance agreements, short-term water leasing, split season irrigation, effects of upland management and juniper removal, instream flow increases deriving from water efficiency projects, dryland crop alternatives in lieu of irrigation, effects of natural storage such as wetland or improved riparian area performance, and other similar measures.
- ii. The Parties agree that measures, including but not limited to those listed in this section, may be included in the WURP in aid of achievement of the WURP purpose for the following reasons:
 (1) demonstration of the effectiveness of a measure as a means of achieving the WURP purpose; (2) encouragement of the use by Off-Project Irrigators of measures that will achieve the WURP purpose; or (3) to be implemented to achieve the WURP purpose.
- iii. The Parties acknowledge that diversions foregone as a result of these or similar measures can only be protected by OWRD from further diversion to the extent of OWRD's authority under Applicable Law.

F. Determination of Achievement of WURP Purpose

- i. OWRD shall determine when the WURP purpose has been achieved, in a manner consistent with

Sections 16.2.2.B and 16.2.2.D, and shall provide notice of this determination to the KBCC.

- ii. The year 2001 is the baseline for measuring progress towards achieving the WURP purpose. Acreage retired from surface water irrigation after 2001 will be counted toward the flows and water goals of the program. Acreage added to surface water irrigation after 2001 will be counted against the flow and water goals of the program. Retirement of lands associated with the projects listed in Sections 18.2.1 through 18.2.3 will not count towards the water use retirement amount. Site-specific estimates of the instream flow increase resulting from each retirement will provide the basis for evaluating progress toward and attainment of flow and water goals. Average consumptive use per acre of the crop grown on the land, not diversion amounts per acre, will provide the basis for determining instream contributions due to water use retirement.
- iii. Following completion of the WURP pursuant to Section 16.2.2 or Section 16.2.2.A.i, as applicable, and until OWRD makes a determination that the WURP purpose has been achieved, OWRD shall coordinate with the UBT and issue an annual report to the KBCC describing progress toward achievement of the WURP purpose.

G. Voluntary Participation

Participation by Off-Project Irrigators in any of the measures to achieve the WURP purpose is voluntary.

H. Compensation for Voluntary Participation

- i. Acquisition of water rights or uses to achieve the WURP purpose will be compensated, as applicable, through market mechanisms based upon values mutually agreed to by purchaser and seller, as informed by appraisals.
- ii. Eminent domain will not be used under the WURP.
- iii. Land will not be acquired under the WURP.

I. Protection of Acquired Rights

The WURP shall protect water rights acquired under this program from further consumptive uses by either: (i) transfer of the acquired water right to instream use with the priority date of the acquired right; (ii) cancellation of the water right; or (iii) such other mechanism as may be specified by the OPWAS or otherwise.

J. OWRD Policy

The Parties understand that based on the policies of the Oregon Water Resources Commission and OWRD, no new direct flow surface water rights are being issued, and that new groundwater withdrawals are also limited by current policy. If applicable policies change, the Parties shall meet and confer under the Dispute Resolution Procedures in Section 6.5.

KBCC Decision Memorandum

March 28, 2014

TO: Klamath Basin Coordinating Council

FROM: Edward W. Sheets, Facilitator

SUBJECT: KBCC Determination that the Water Use Program is Consistent with the Criteria in KBRA Section 16.2.2.

Proposed Action

The voting members of the KBCC need to determine whether the Water Use Program in the Proposed Upper Klamath Basin Comprehensive Agreement is consistent with the criteria in Section 16.2.2 of the KBRA.

Background

Representatives for the Klamath Tribes, the State of Oregon, the United States, and Upper Klamath Basin irrigators have completed a Proposed Upper Klamath Basin Comprehensive Agreement (Proposed Agreement); each party is currently reviewing the Proposed Agreement and will decide whether to sign it (Federal agencies will not sign until Federal legislation is enacted). The Proposed Agreement addresses a number of issues, including the specifics of a Water Use Program to increase flows into Upper Klamath Lake by 30,000 acre feet.

The KBRA Off-Project Water Program (Section 16) calls for the Klamath Tribes, the Upper Klamath Water Users Association (UKWUA), and the Bureau of Indian Affairs (BIA) to work with Off-Project irrigators to develop an Off-Project Water Settlement (OPWAS). The OPWAS would be a separate agreement and would not require an amendment to the KBRA or require action by the KBRA Parties; however, there is a provision in Section 16 to review the Water Use Retirement Program (WURP) that would be part of the OPWAS to ensure that it is consistent with the criteria of Section 16.2.2.

KBRA 16.2.1.E.ii states: “The OPWAS Parties or the UBT, as appropriate, will provide the KBCC with the proposed WURP for review in advance of finalization, to determine whether the proposed WURP is consistent with the criteria described in Section 16.2.2. Disputes regarding the determination will be resolved pursuant to Dispute Resolution Procedures in Section 6.5.”

Consistency Analysis

On March 24, 2014, I sent a document to the KBRA Parties entitled *KBCC Review of the Proposed Water Use Program for Consistency with the Criteria in KBRA Section 16.2.2*. The document compared the criteria in KBRA Section 16.2.2 with the relevant provisions of the Water Use Program. The document raised three key issues:

First, my analysis assumed that the Proposed Upper Klamath Basin Comprehensive Agreement is not an amendment to the KBRA and does not require any formal action by the KBRA Parties. My reading of KBRA Section 16, the Off-Project Water Program, indicates that the KBRA Parties asked the Klamath Tribes and Upper Klamath Water Users Association to try to develop and enter into an Off-Project Water Settlement (the OPWAS). I do not find any provisions that would require the other KBRA Parties to review the OPWAS, to require KBRA Parties to become parties to the OPWAS, or to amend the KBRA to incorporate the OPWAS. There are clearly provisions for the KBCC to determine whether the Water Use Retirement Program, which was supposed to be part of the OPWAS, was consistent with the Water Use Retirement Program in KBRA Section 16.2.2. The KBCC needs to confirm this understanding of the structure of the KBRA.

Second, I attempted to identify the criteria in KBRA Section 16.2.2 so the KBCC voting members could determine whether the proposed Water Use Program is consistent with those criteria. The KBCC needs to determine whether there are any other criteria in Section 16.2.2.

Third, I have described how the provisions of the Water Use Program appear to be consistent with the KBRA criteria. The KBCC needs to determine whether it agrees with this analysis.

Implementation Issues

The Section 16.2.2 provisions that address the composition of the Upper Basin Team (UBT) did not appear to be criteria, and therefore, not part of the consistency determination. My reading of these provisions was that the KBRA called for an Upper Basin Team (UBT) comprised of the Klamath Tribes and UKWUA to oversee the implementation of the OPWAS; the Fish and Wildlife Service is a third non-voting member. The Klamath Tribes and UKWUA both were Parties to the KBRA and committed to take on the UBT responsibilities. I did not see anything in the UBT provisions that prohibited the Klamath Tribes and UKWUA from expanding the parties that would implement an OPWAS.

The Proposed Agreement creates the Joint Management Entity (JME) with a Board of Directors comprised of the Klamath Tribes, State of Oregon, United States, and Landowner Entity (at least one of the directors of the Landowner Entity would be a member of UKWUA).

The Proposed Agreement has several provisions that describe how the Joint Management Entity will assume the obligations of the UBT for the purposes of the KBRA. The KBCC should discuss whether there are any concerns about how the Upper Basin parties have addressed the liaison issues between the UBT and the KBCC.

Alternatives

1. Determine that the Water Use Program is consistent with the criteria in Section 16.2.2. Based on the analysis, the Water Use Program is consistent with all of the criteria and in many cases uses language that is nearly identical to the language in Section 16.2.2.
2. Determine that there are additional criteria that need to be analyzed. If the KBCC members believe there are other provisions in Section 16.2.2 that are “criteria”, the KBCC can seek additional analysis and make a decision at the April 9th and 10th meeting in Klamath Falls.

3. Determine that the Water Use Program is not consistent with the Section 16.2.2 criteria. If the KBCC believes that the Water Use Program is not consistent with the criteria it should identify those areas of inconsistency and communicate them to the parties to the Proposed Agreement at the April 2nd meeting.

DRAFT—NOT APPROVED BY THE KBCC—DRAFT

March 31, 2014

TO: Klamath Basin Coordinating Council

FROM: Edward W. Sheets, Facilitator

SUBJECT: KBCC Revisions to the Cost Estimates in KBRA Appendix C-2

Proposed Action

The Klamath Basin Coordination Council (KBCC) voting members should review the attached draft report and formally adopt revisions to the KBRA Appendix C-2 cost estimates for implementing the KBRA.

These revisions are based on the work of the Klamath Basin Task Force. Most of the KBCC voting members participated on the Task Force. Formal action by the KBCC would represent an important step in addressing the Task Force recommendations.

Alternatives:

Alternative 1: The KBCC may wish to make additional changes to Appendix C-2 or to the draft report. These could be discussed and addressed at the April 2nd and 3rd meeting.

Alternative 2: The KBCC may need more time to consider these revisions. We have reserved April 9th and 10th for a potential KBCC meeting in Klamath Falls if more time is needed. This would still allow the KBCC to complete action before the Klamath Basin Task Force report is finalized and before final action on the Proposed Upper Klamath Basin Comprehensive Agreement.

Next Steps

As part of the Klamath Basin Task Force process, Federal agencies also identified KBRA activities that have already been funded. The KBCC should set up a process to review this information over the next several months. After that review, the KBCC could then consider additional revisions to KBRA Appendix C-2 to reflect this information.

DRAFT—NOT APPROVED BY THE KBCC—DRAFT

DRAFT**KBCC Revisions to the Cost Estimates in KBRA Section C-2****Summary**

On [fill in the date], the Klamath Basin Coordination Council (KBCC) adopted revisions to the KBRA Appendix C-2 cost estimates for implementing the KBRA. The Revised KBRA Appendix C-2 reduces the costs of implementing the Reintroduction Program and updates the schedules for some KBRA activities. These revisions address recommendations by the Klamath Basin Task Force and additional review by the KBCC.

Background

KBRA Provisions Regarding Revisions: KBRA Section 4.1.2.B provides a process for the Klamath Basin Advisory Council (KBAC) or the Klamath Basin Coordinating Council (KBCC) to amend Appendix C-2, which contains the implementation budget estimates, based on changed circumstances:

The KBAC or KBCC, as applicable, shall amend estimated funding in Appendix C-2 or any successor as appropriate if any event occurs that materially affects the cost, feasibility, or benefits of performance of an obligation under this Agreement, including adaptive management pursuant to Section 5.4.1.

2011 Revisions to KBRA Appendix C-2: The Klamath Basin Coordinating Council completed the first revision to Appendix C-2 in 2011. The KBCC reduced the cost estimate for implementing the KBRA from \$970 million to \$799 million for 2012 through 2026; this was an 18 percent reduction from the cost estimates in the 2010 KBRA. The 2011 revisions lowered the ten-year cost estimate for implementing the KBRA to \$647 million; this was a 33 percent reduction for this ten-year period compared to the 2010 KBRA Appendix C-2. The 2011 review also identified \$550 million in matching funds from the states of California and Oregon and customers of PacifiCorp. These non-federally funded activities are in addition to the cost estimates for Federal funding of the KBRA. All of the 2011 cost estimates were expressed in 2007 dollars. A copy of the 2011 revisions and the report on those cost reductions and non-federal funding is on the KBCC website: www.klamathcouncil.org. The actions to reduce Federal funding in this revision are in addition to those made in 2011.

Klamath Basin Task Force Cost Review: On July 3, 2013, Senators Wyden and Merkley, Congressman Walden, and Governor Kitzhaber convened the Klamath Basin Task Force “to resolve the water, power and other resource management issues in the Klamath River Basin...” The letter to the Task Force participants included a request to reduce the Federal costs of the KBRA: “We want the task force to review specific ideas for reducing the costs to the Federal government of the overall package of Klamath Basin measures. This will require input from both Upper and Lower Basin participants.”

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The Klamath Basin Task Force reviewed all of the Klamath programs to identify cost reductions and alternative funding that could reduce the need for new Federal funding. The Klamath Basin Task Force and KBCC have focused on ten years of costs because this is the time frame used by the Congressional Budget Office. The draft Task Force section on Reducing Federal Cost is attached as Appendix A.

2014 Revisions to KBRA Appendix C-2

The KBCC has reviewed the work done by the Task Force, made adjustments in the timing of costs for some line items, and adopted the changes in this revision to Appendix C-2. This section summarizes the changes.

First, all of the KBRA costs have been adjusted to 2014 dollars using the standard methodology for Federal agencies¹. This increased the total 2011 estimates from \$647 million to \$750 million for the ten-year period from 2015 through 2024.

Second, the revised Appendix C-2 now lists costs from Year 1 through Year 15; the original Appendix C-2 and the 2011 Revisions started in 2012. This change was made because the KBCC does not know when Federal legislation will be enacted or when Federal funding will begin. This change also makes it easier to track the Appendix C-2 cost estimates with the approach being used by the U.S. Department of the Interior. The references to ‘Year’ relates to the number of years starting with the beginning of Federal appropriations related to the enactment of the federal Authorizing Legislation (for example, Year 1 would be the first year that appropriations begin); this reference is not intended to preclude implementation as feasible under existing authorities and with available appropriations prior to such legislation, or to modify KBRA Sections 1.1.2 or 4.1.1.

Third, the Oregon Department of Fish and Wildlife identified cost savings for the Reintroduction Program. Under the revised approach, salmon would be raised for reintroduction into areas that are currently blocked by dams using an existing fish hatchery rather than building a new one. The costs of modifying the existing hatchery would be less than building a new facility. The timing of these costs was adjusted so the program would be operational prior to the potential removal of the dams.

Fourth, the timing was also adjusted for several other line items; these changes increased the ten-year cost by approximately \$522 thousand. These changes were made so that certain line items would be completed in time to meet significant milestones in the KBRA or KHSa. Appendix C-2 has the following changes:

- In line item 36, the New Hatchery at Iron Gate Dam or Fall Creek, the schedule was started two years earlier. Dam removal would affect the water supply for the

¹ To adjust 2007 dollars to 2014 dollars, all 2007 costs were multiplied by 1.1602343 based on the methodology available at <http://www.doi.gov/budget/budget-data.cfm>

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existing hatchery so this work would need to be completed prior to 2020, the date of potential dam removal.

- In line item 75, the Renewable Power Program Financial and Engineering Plan, the allocation of funding was reallocated between Year 1 and Year 2 (from \$580 thousand both years to \$850 thousand in Year 1 and \$310 in Year 2) to reflect an improved understanding of the schedule of developing the plan.
- In line item 89, the Interim Flow and Lake Level Program, the same amount of funding was spread over nine years so this program would be able to continue until the On-Project Plan is fully implemented (in 2011 this program was assumed to end in eight years).
- In line item 90, the Keno Reservoir KIP Screening, the funding was moved to begin three years earlier so the screens would be in place by 2020 to coincide with the schedule for potential dam removal.
- In line item 91, the Federal General Conservation Plans/Habitat Conservation Plans, the funding was moved to begin two years earlier to provide regulatory assurances prior to the potential dam removal date of 2020.

Revised Appendix C-2--DRAFT
March 31, 2014 DRAFT
Revised Cost Estimates for Implementation of Klamath Basin Agreements
(All amounts are in \$2014 dollars, Millions)

Program	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Total
Coordination	\$ 0.1	\$ 0.1	\$ 0.1	\$ 0.1	\$ 0.1	\$ 0.1	\$ 0.1	\$ 0.1	\$ 0.1	\$ 0.1	\$ 0.1	\$ 0.1	\$ 0.1	\$ 0.1	\$ 0.1	\$ 1.7
Fisheries																
Restoration	\$ 1.1	\$ 9.1	\$ 12.4	\$ 14.5	\$ 16.8	\$ 19.2	\$ 25.4	\$ 51.5	\$ 51.0	\$ 25.2	\$ 17.8	\$ 15.6	\$ 13.3	\$ 11.5	\$ 9.6	\$ 294.1
Reintroduction	\$ 2.7	\$ 4.4	\$ 3.1	\$ 3.5	\$ 11.3	\$ 9.7	\$ 5.4	\$ 5.1	\$ 4.0	\$ 4.0	\$ 4.0	\$ 4.0	\$ 4.0	\$ 4.0	\$ 4.0	\$ 73.0
Monitoring	\$ 0.1	\$ 6.8	\$ 7.3	\$ 6.8	\$ 6.8	\$ 7.1	\$ 7.8	\$ 8.4	\$ 9.5	\$ 9.6	\$ 10.2	\$ 10.2	\$ 10.7	\$ 10.3	\$ 9.9	\$ 121.5
Water Resources	\$ 12.4	\$ 35.3	\$ 42.7	\$ 36.8	\$ 39.0	\$ 35.2	\$ 33.2	\$ 34.2	\$ 20.0	\$ 2.0	\$ 1.7	\$ 1.7	\$ 1.7	\$ 1.7	\$ 1.7	\$ 299.1
Regulatory Assurances	\$ -	\$ 0.4	\$ 1.3	\$ 0.9	\$ 13.7	\$ 17.6	\$ 0.5	\$ 0.5	\$ 0.5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 35.6
Counties	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Tribes	\$ 14.2	\$ 18.9	\$ 5.2	\$ 5.2	\$ 5.2	\$ 5.2	\$ 5.2	\$ 5.2	\$ 5.2	\$ 5.2	\$ 5.2	\$ 5.2	\$ 5.2	\$ 5.2	\$ 5.2	\$ 100.9
TOTAL KBRA COSTS*	\$ 30.5	\$ 75.1	\$ 72.2	\$ 67.9	\$ 93.0	\$ 94.2	\$ 77.5	\$ 105.0	\$ 90.3	\$ 46.1	\$ 39.0	\$ 36.8	\$ 35.0	\$ 32.8	\$ 30.6	\$ 925.9
Ten year KBRA Costs										\$ 751.8						

*This is not a Federal Budget product, it was developed by the States, agency representatives, tribes, and other non-Federal parties to the KBRA.

"Year" relates to the number of years starting with the beginning of Federal Appropriations related to the enactment of the federal authorizing legislation, but this reference is not intended to preclude implementation as feasible under existing authorities and with available appropriations, or to modify KBRA Sections 1.1.2 or 4.1.1.

Non-Federal Matching Funds to Implement the Klamath Agreements

Matching Funding	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	Total
Counties Program*					\$ 3.6			\$ 22.3								\$ 25.9
Other CA & OR Funding**	\$ 6.0	\$ 7.3	\$ 7.6	\$ 7.9	\$ 7.0	\$ 7.4	\$ 7.0	\$ 6.6	\$ 0.7							\$ 57.5
California/Oregon electric rate surcharge***	\$ 25.0	\$ 25.0	\$ 25.0	\$ 25.0	\$ 25.0	\$ 25.0	\$ 25.0	\$ 25.0								\$ 200.0
California Bond KHSA									\$ 250.0							\$ 250.0
Pacificorp Funding***	\$ 10.1	\$ 2.2	\$ 2.2	\$ 2.2	\$ 2.2	\$ 2.2	\$ 2.2	\$ 2.2	\$ 2.2							\$ 27.9
Total;	\$ 41.1	\$ 34.5	\$ 34.8	\$ 35.2	\$ 37.8	\$ 34.6	\$ 34.3	\$ 56.2	\$ 252.9	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 561.4

* California and Oregon are funding Counties Program

** California and Oregon funding for fisheries restoration, and regulatory assurances and funding and tax credits for renewable energy

*** Represents funds collected in state public utility commission- approved electrical bill surcharge that will go to KHSA implementation.

*** Pacificorp is voluntarily funding interim measures under the KHSA. Numbers include estimated capital costs in 2009-2011 and estimated ongoing O&M for years 2011-2020, including 14 KHSA Appendix D measures only. Estimated capital costs and annual O&M for 5 Interim Conservation Plan Interim Measures described in Appendix C of the KHSA and hatchery operations for 2020-2028 have not been estimated and cannot be determined pending regulatory approvals.

DRAFT Detailed Cost Estimate for the Klamath Basin Settlement Agreement
(2014 dollars, in Thousand)

# Project	(All amounts in FY 2014 dollars, thousands)															
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	SUM (Base 2014)
1 Coordination and Oversight	116	116	116	116	116	116	116	116	116	116	116	116	116	116	116	1,740
2 Planning & Impl. -- Ph. I and Ph. II Restoration Plans	812	232	-	-	-	-	-	-	1,160	696	-	-	-	-	-	2,901
3 Williamson R. aquatic habitat restoration	-	259	390	415	533	383	466	514	452	493	486	180	180	180	27	4,958
4 Sprague R. aquatic habitat restoration	125	1,563	3,831	4,054	4,579	3,440	4,020	5,379	5,699	6,038	6,307	5,874	3,628	1,889	541	56,968
5 Wood R. Valley aquatic habitat restoration	31	211	428	502	790	1,086	3,505	2,450	883	1,815	1,637	500	482	364	31	14,716
6 Williamson Sprague Wood Screening Diversion (n~100)	-	242	242	242	242	242	242	242	242	242	242	242	242	242	245	3,397
7 Williamson & Sprague USFS uplands	-	580	580	928	928	928	928	928	928	928	928	928	928	1,160	1,160	12,763
8 Upper Klamath Lake aquatic habitat restoration	-	34	56	56	346	602	1,305	5,800	5,800	725	-	-	-	-	-	14,723
9 Screening of UKL pumps (underway)	-	41	41	41	41	41	41	41	41	41	41	41	41	41	41	569
10 UKL watershed USFS uplands	-	-	-	-	-	-	255	1,160	1,160	1,160	-	-	-	-	-	3,736
11 UKL and Keno nutrient reduction	-	1,313	1,313	1,313	1,313	2,614	2,614	20,390	20,390	1,045	1,045	1,045	1,045	1,045	1,045	57,534
12 Keno Res. wetlands restoration	-	-	-	-	-	145	145	2,608	2,898	-	-	-	-	-	-	5,797
13 Keno to Iron Gate upland private & BLM	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
14 Keno to Iron Gate upland USFS (Goosenest)	-	116	116	116	116	116	116	116	116	116	116	116	116	116	116	1,624
15 Keno to Iron Gate mainstem restoration	-	116	116	116	116	116	174	232	232	232	-	-	-	-	-	1,450
16 Keno to Iron Gate tributaries - diversions & riparian	-	-	-	-	580	580	580	-	-	-	-	-	-	-	-	1,740
17 Shasta River aquatic habitat restoration	116	232	232	580	580	1,044	1,160	1,160	1,392	1,392	1,392	1,392	1,392	1,160	1,160	14,387
18 Shasta R. USFS uplands	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
19 Scott River aquatic habitat restoration	-	116	580	870	1,044	1,044	1,044	1,044	-	-	-	-	-	-	-	5,743
20 Scott R. USFS uplands	-	116	290	348	116	174	174	232	232	209	-	-	-	-	-	1,891
21 Scott R. private uplands	-	-	145	232	290	-	-	-	-	-	-	-	-	-	-	667
22 Mid-Klamath & tribs aquatic habitat restoration	-	232	232	290	406	406	464	464	464	464	464	464	464	464	464	5,743
23 Mid Klamath tribs USFS upland	-	696	696	696	696	696	696	696	812	870	870	870	870	870	870	10,906

DRAFT Detailed Cost Estimate for the Klamath Basin Settlement Agreement
(2014 dollars, in Thousand)

# Project	(All amounts in FY 2014 dollars, thousands)															
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	SUM (Base 2014)
24 Mid Klamath tribs private upland	-	696	696	696	696	696	696	696	812	812	-	-	-	-	-	6,497
25 Lower Klamath aquatic habitat restoration	-	580	580	1,044	1,392	2,204	2,320	2,901	2,901	3,481	-	-	-	-	-	17,404
26 Lower Klamath private/tribal uplands	-	1,160	1,160	1,160	1,160	1,740	3,481	3,481	3,481	3,481	3,481	3,481	3,481	3,481	3,481	37,708
27 Salmon River aquatic hab restoration	-	232	232	348	348	464	464	464	464	464	371	-	-	-	-	3,852
28 Salmon R. USFS upland	-	348	464	464	464	464	464	464	464	464	464	464	464	464	464	6,381
29 Reintroduction Plan	116	116	116	116	116	116	116	116	116	116	116	116	116	116	116	1,740
30 Collection Facility	-	-	-	-	1,146	4,917	580	276	276	276	276	276	276	276	276	8,853
31 Production Facility	522	1,856	232	232	232	232	232	232	232	232	232	232	232	232	232	5,395
32 Acclimation Facility	-	-	-	464	1,160	232	232	232	232	232	232	232	232	232	232	3,945
33 Transport	-	-	-	-	-	110	110	110	110	110	110	110	110	110	110	1,102
34 Monitoring and Evaluation - Oregon	1,740	2,088	2,320	2,320	2,553	2,785	2,785	2,785	2,785	2,785	2,785	2,785	2,785	2,785	2,785	38,868
35 Monitoring and Evaluation - California	110	220	220	220	220	220	220	220	220	220	220	220	220	220	220	3,196
36 New Hatchery (IGD or Fall Creek)	166	166	166	166	5,897	1,102	1,102	1,102	-	-	-	-	-	-	-	9,868
37 Adult Salmonids	-	704	704	704	704	704	704	704	1,865	1,955	1,955	1,955	1,955	1,955	1,955	18,524
38 Juvenile Salmonids	-	546	546	546	546	546	1,127	1,295	1,707	1,707	2,287	2,287	2,287	2,287	2,287	20,001
39 Genetics Otololith	-	93	93	93	93	93	116	116	116	116	116	116	116	232	232	1,740
40 Hatchery Tagging (PacifiCorp paying costs under KHSA)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
41 Disease	-	602	602	602	602	602	602	602	602	602	602	602	602	602	602	8,430
42 Green Sturgeon	-	187	187	187	187	187	187	187	187	187	187	187	187	187	187	2,615
43 Lamprey	-	178	178	178	178	178	178	178	178	178	178	178	178	178	178	2,485
44 Geomorphology	-	-	-	-	-	348	348	348	348	348	348	348	348	348	-	3,133
45 Habitat Monitoring	-	224	224	224	224	224	224	224	224	224	224	224	224	224	224	3,135
46 Water Quality	116	116	116	116	116	116	116	116	116	116	116	116	116	116	116	1,740

DRAFT Detailed Cost Estimate for the Klamath Basin Settlement Agreement
(2014 dollars, in Thousand)

# Project	(All amounts in FY 2014 dollars, thousands)															
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	SUM (Base 2014)
47 UKL continuous water quality, hydrodynamic model	-	116	116	116	116	116	116	116	116	116	116	116	116	116	116	1,624
48 UKL nutrients/algae/zooplankton	-	470	470	470	470	470	470	470	470	470	470	470	470	470	470	6,578
49 UKL internal load/bloom dynamics	-	232	232	232	232	232	232	232	232	232	232	232	232	232	232	3,249
50 UKL external nutrient loading	-	301	301	301	301	301	301	301	301	301	301	301	301	301	301	4,207
51 UKL analysis of long-term data sets	-	-	232	-	-	-	-	232	-	-	-	-	232	-	-	696
52 UKL listed suckers	-	1,015	1,015	1,015	1,015	1,015	1,015	1,015	1,015	1,015	1,015	1,015	1,015	1,015	1,015	14,213
53 Tributaries water quality/nutrients/temperature	-	360	360	360	360	360	360	360	360	360	360	360	360	360	360	5,035
54 Tributaries geomorphology/riparian vegetation	-	277	277	277	277	277	277	277	277	277	277	277	277	277	277	3,882
55 Tributaries physical habitat	-	247	247	247	247	247	247	247	247	247	247	247	247	247	247	3,460
56 Tributaries listed suckers	-	435	435	435	435	435	435	435	435	435	435	435	435	435	435	6,091
57 Keno Reservoir water quality/algae/nutrients	-	466	466	466	466	466	466	466	466	466	466	466	466	466	466	6,530
58 Keno Reservoir to Tributaries: (weather stations)	-	232	232	232	232	232	232	232	232	232	232	232	232	232	232	3,249
59 Remote Sensing acquisition and analysis	-	-	290	-	-	-	-	290	-	-	-	-	290	-	-	870
60 Keno Dam fish passage	-	-	-	-	1,740	2,320	-	-	-	-	-	-	-	-	-	4,061
61 Data Analysis and evaluation for provision to TAT	-	116	9	9	9	9	9	6	6	6	-	-	-	-	-	180
62 Development of predictive techniques	-	232	23	23	23	23	23	23	23	23	-	-	-	-	-	418
63 Klamath Basin Wildlife Refuges: North and P Canals	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
64 Klamath Basin Wildlife Refuges: Walking Wetland Construction	244	249	249	249	249	249	249	116	116	116	116	116	116	116	116	2,669
65 Klamath Basin Wildlife Refuges: Big Pond Dike	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
66 On Project water plan	1,392	4,989	9,282	10,442	17,404	17,404	17,404	17,404	11,602	-	-	-	-	-	-	107,322
67 Groundwater Technical Investigation	129	331	284	-	-	-	-	-	-	-	-	-	-	-	-	744
68 Costs Associated with Remedy for Adverse Impact	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
69 D Pumping Plant	197	197	197	197	197	197	197	197	197	197	197	197	197	197	197	2,959

DRAFT Detailed Cost Estimate for the Klamath Basin Settlement Agreement
(2014 dollars, in Thousand)

# Project	(All amounts in FY 2014 dollars, thousands)															
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	SUM (Base 2014)
70 Water Use Retirement Plan	232	464	232	116	116	-	-	-	-	-	-	-	-	-	-	1,160
71 Off Project Plan and Program: Use of 30K ac ft above UKL	-	2,320	6,961	8,122	8,122	9,282	9,282	8,122	-	-	-	-	-	-	-	52,211
72 Interim Power Sustainability	2,007	2,600	4,315	-	-	-	-	-	-	-	-	-	-	-	-	8,922
73 Federal Power	580	580	-	-	-	-	-	-	-	-	-	-	-	-	-	1,160
74 Energy Efficiency and Renewable Resources	-	16,111	14,361	10,869	5,646	-	-	-	-	-	-	-	-	-	-	46,987
75 Renewable Power Program Financial and Engineering Plan	850	310	-	-	-	-	-	-	-	-	-	-	-	-	-	1,160
76 UKL Wetlands Restoration: Agency/Barnes	-	-	-	-	65	194	386	2,417	161	-	-	-	-	-	-	3,223
77 UKL Wetlands Restoration: Wood River	-	-	-	-	-	65	194	386	2,417	161	-	-	-	-	-	3,223
78 Drought Plan Development	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
79 Drought Plan Restoration Agreement Fund	-	-	-	-	-	-	-	-	-	1,160	1,160	1,160	1,160	1,160	1,160	6,961
80 Emergency Response Plan	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
81 Emergency Response Fund	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
82 Technical Assessment of Climate Change	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
83 Off-Project Reliance Program	-	-	-	-	-	-	-	13,923**	-	-	-	-	-	-	-	13,923**
84 Real Time Water Management	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
85 Real Time Water Management: Water Flow Monitoring and Gauges	232	290	290	232	232	232	232	215	215	215	215	215	215	215	215	3,457
86 Added Snowpack Gauges	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
87 Adaptive Management: Science and Analysis	116	116	116	116	116	116	116	116	116	116	-	-	-	-	-	1,160
88 Real Time Management: Calibration and improvements to modeling and predictions	-	58	-	-	-	-	-	58	-	-	-	-	-	-	-	116
89 Interim Flow and Lake Level Program	6,381	6,381	6,381	6,381	5,105	5,105	5,105	5,105	5,105	-	-	-	-	-	-	51,050
90 Keno Reservoir KIP Screening	-	-	175	175	12,787	16,056	-	-	-	-	-	-	-	-	-	29,194
91 Federal GCP/HCP	-	406	1,160	754	928	1,566	522	522	522	-	-	-	-	-	-	6,381
92 California Laws	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

DRAFT Detailed Cost Estimate for the Klamath Basin Settlement Agreement
(2014 dollars, in Thousand)

# Project	(All amounts in FY 2014 dollars, thousands)															
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	SUM (Base 2014)
93 Oregon Laws	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
94 Klamath County Study	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
95 Klamath County (Oregon funding)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
96 Siskiyou County	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
97 Humboldt County	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
98 Del Norte County	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
99 Fisheries Management HVT***	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
100 Fisheries Management Karuk	580	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	16,823
101 Fisheries Management Klamath	580	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	16,823
102 Fisheries Management Yurok	580	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	1,160	16,823
103 Conservation Management HVT**	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
104 Conservation Management Karuk	290	580	580	580	580	580	580	580	580	580	580	580	580	580	580	8,412
105 Conservation Management Klamath	290	580	580	580	580	580	580	580	580	580	580	580	580	580	580	8,412
106 Conservation Management Yurok	290	580	580	580	580	580	580	580	580	580	580	580	580	580	580	8,412
107 Economic Development Study HVT**	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
108 Economic Development Study Karuk	-	290	-	-	-	-	-	-	-	-	-	-	-	-	-	290
109 Economic Development Study Klamath	-	290	-	-	-	-	-	-	-	-	-	-	-	-	-	290
110 Economic Development Study Yurok	-	290	-	-	-	-	-	-	-	-	-	-	-	-	-	290
112 Fishing Sites	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
111 Klamath Tribes: Mazama Forest Project	11,602	12,763	-	-	-	-	-	-	-	-	-	-	-	-	-	24,365
Total	30,546	75,086	72,175	67,857	92,981	94,248	77,544	105,003	90,307	46,055	39,006	36,759	35,016	32,753	30,573	925,910

Notes

This is not a Federal Budget product, it was developed by the States, agency representatives, tribes, and other non-Federal parties to the KBRA. "Year" relates to the number of years starting with the beginning of Federal appropriations related to the enactment of the federal Authorizing Legislation, but this reference is not intended to preclude implementation as feasible under existing authorities and with available appropriations prior to such legislation, or to modify KBRA §§ 1.1.2 or 4.1.1.

DRAFT Detailed Cost Estimate for the Klamath Basin Settlement Agreement

(2014 dollars, in Thousand)

# Project	(All amounts in FY 2014 dollars, thousands)															
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	SUM (Base 2014)

* Total dollars reflect implementation/administration cost estimate base on DOI calculation from 2007. Timing assumes the On-Project Plan implementation deadline will be extended to at least year 10 in accordance with KBRA Section 15.3.8.B, at minimum because the passage of time between the original KBRA Appendix C-2 and the date of the Federal authorizing legislation is good cause for extension(s), and appropriate in order to allow time for On-Project Plan implementation that is comparable to the time period assumed in 2010 to be necessary for full implementation.

** Recognizes there is further discussion of additional funding potentially available within the total budget. This amount may be funded using reallocated funds.

*** Upon becoming a Party to the KBRA in accordance with Section 38, the Hoopa Valley Tribe will be eligible for funding in categories and amounts for each of the other tribes in line items 99 through 110.

Appendix A: Reducing Federal Costs¹

The Klamath Basin Task Force has focused on two efforts: 1) recommendations to the congressional delegation on the new authorizations for appropriations that would be needed to implement the Klamath agreements; and 2) identification of additional opportunities to reduce the Federal costs of implementing the Klamath agreements.

Authorizations for Appropriations

After consultation with congressional staffs and others, the Task Force recommends that the legislation should focus on the new authorities that are needed to implement the Klamath agreements. The Federal agencies identified existing laws that authorize most of the programs and activities in the Klamath agreements. The Federal agencies also identified Klamath programs that require new authority. Although Federal legislation is required to authorize certain actions contemplated under the KHSA, potential dam removal would be funded from non-Federal sources.

Based on information provided by the federal agencies, the programs that require new authorizations for Federal appropriations are the On-Project Plan, remedy for ground water impacts associated with On-Project Plan, development and implementation of the Water Use Retirement Program, the Interim Power Sustainability Program, the Energy Efficiency and Renewable Resources Program, authority for Reclamation to serve Off-Project irrigators with the Federal Power Program, authority for Reclamation to include Off-Project irrigators in the Renewable Power and Engineering Plan, the Klamath Restoration Agreement Drought Fund, the Off-Project Reliance Program, and the Off-Project portion of the Interim Flow and Lake Level Program. The cost of currently unauthorized activities totals approximately \$250 million over fifteen years in 2014 dollars, based on current estimates. See Appendix D [Federal Authorities memorandum and Table].

Reducing Federal Costs

The workgroup also reviewed all of the Klamath programs to identify cost reductions and alternative funding that could reduce the need for new Federal funding. The workgroup began by reviewing the cost reductions adopted by the Klamath Basin Coordinating Council (KBCC, a group formed by KBRA parties to coordinate and oversee the implementation of their agreement) in 2011. Those cost reductions lowered the ten-year cost estimate for implementing the KBRA from \$970 million to \$647 million (in 2007 dollars); this was 33 percent reduction. The 2011 review also identified \$550 million in matching funds from the states of California and Oregon and customers of PacifiCorp. These non-federally funded activities are in addition to the cost estimates for Federal funding of the KBRA. A copy of a report on those cost reductions and non-federal

¹ Draft section from Klamath Task Force Report

funding is on the KBCC website: www.klamathcouncil.org. The cost reductions and additional funding to reduce Federal funding in this report are in addition to those made in 2011.

The workgroup has adjusted all of the KBRA costs to 2014 dollars. This increased the total 2011 estimates from \$647 million to \$750 million for 2015 through 2024. The Cost Review Workgroup focused on ten years of costs because this is the time frame used by the Congressional Budget Office.

The Federal agencies have identified \$51 million in Federal expenditures that have been made that have the effect of carrying out elements of the Klamath agreements under existing authorities and another \$10 million estimated for Fiscal Year 2014. The Federal agencies have also identified ongoing Federal base program funding for actions specified in the Klamath agreements and made estimates that anticipate future funding would be at similar levels to historical base funding; those estimates total \$107 million over ten years (the ongoing base funding estimates do not include 2013 program reductions and sequestration). The workgroup identified additional reductions in the Fisheries Reintroduction Program totaling \$5 million. Together, these changes reduce the total new Federal funding required by \$173 million.

The Task Force has also identified several new sources of funding for the Klamath agreements that could reduce the amount needed to be appropriated to carry out the Klamath programs. These include additional funds from the states, Federal off-budget funds, and private foundation funding. Replacing Federal funding with these other sources will require further work by the KBCC.

The first new source of funding is from the State of California. If the proposed California Water Bond passes, and not all of the funding in the bond for the Klamath Basin is required for dam removal costs, the California Natural Resources Agency supports use of up to \$50 million of those funds for restoration projects on the California side of the border. The second new source of funding is the State of Oregon. Oregon has committed an additional \$12 million from the Oregon Watershed Enhancement Board for restoration work in Oregon through a Strategic Investment Program commitment. In addition, private foundation funding is expected to total on the order of \$10 million. Together, these additional sources total approximately \$72 million. Finally, Federal off-budget funds from the Reclamation water rights settlement fund, totaling approximately \$50 million, have been identified by Reclamation. Due to the priority for use of the funds in the act that established the Fund and the currently anticipated demands upon the Fund, the availability of annual increments of the \$50 million is not expected to begin before FY 2025 (*i.e.*, may not be available within the first ten years).

In summary, cost reductions made in 2011 brought the ten year total spending for Klamath restoration to \$750 million. The additional recommended cost reductions, spending already incurred or anticipated as part of base programs, together with additional funding described above will reduce the amount of new Federal funding required to implement the Klamath agreements to \$505 million in 2014 dollars; this is an

additional reduction of \$245 million, or 33 percent. The funds from the Reclamation water rights settlement fund would reduce other Federal costs after 2025.

These Task Force recommendations do not alter the bargained for benefits in the KBRA, including amendments adopted in 2012 that provide for additional reviews for changes that affect the Fisheries or Water Management Programs, and that clarify the roles of the tribes and other fish managers in implementing the Fisheries Program. The Task Force recommends that the KBCC incorporate these changes in a revision to the cost estimates to implement the Klamath agreements. In addition, it is recognized that the KBCC will continue to refine cost estimates on an ongoing basis, as provided in the KBRA. This may result in a degree of adjustment, up or down, in estimates of costs needed to complete any individual element, based on increased knowledge.

KLAMATH BASIN COORDINATING COUNCIL MEETINGS
April 2nd and 3rd 2014

Status Report
Klamath Basin Monitoring Program (KBMP)
Klamath Tracking & Accounting Program (KTAP)

Clayton Creager – CA North Coast Regional Water Quality Control Board

Klamath Basin Monitoring Program

- KBMP has over forty active members who coordinate their monitoring activities in the Klamath Basin through KBMP. In addition KBMP has become an important forum for communication of new Klamath Basin related water quality, water quantity, and fishery related studies.
- KBMP has a new Coordinator. Randy Turner was selected by the KBMP Steering Committee from among a large contingent of qualified candidates. Randy will begin his duties the first week in April pending finalization of a funding contract with the San Francisco Estuary Institute Aquatic Science Center. Randy's home base will be out of Arcata, but he will be traveling regularly throughout the Klamath Basin to work with KBMP members.
- The KBMP spring meeting is in Yreka at the Karuk Community Center in Yreka, CA on April 30th and May 1st. The agenda is available at www.kbmp.net.
- KBMP's program plan for 2014 – 2015 has five major components:
 - ✓ Continued support to KBMP members to upload water quality monitoring data into the California Data Exchange Network (CEDEN);
 - ✓ Finalize the Shasta River Watershed Stewardship Report and continue to support development of adaptive management assessment programs in other sub-basins;
 - ✓ Consideration of merging KBMP and the Klamath Tracking and Accounting Program (KTAP) to create a more integrated adaptive management framework;
 - ✓ Expansion and refinement of website functionality including hosting the Klamath Blue-Green-Algae Tracker and the Klamath Fish Health Assessment Team; and
 - ✓ Organizational development which includes consideration of long-term funding strategies.

Klamath Tracking and Accounting Program

- 319(h) grants were awarded to Klamath Watershed Partnership and Shasta Valley Resource Conservation District to develop pilot programs for the upper Klamath Basin and Shasta River watershed respectively. Projects are being recruited for enrollment in the pilot registration system and credit estimation tools are being prepared for use in the Klamath Basin.
- Initial development of a decision management framework (DMF) software platform that will allow interaction between information components of Klamath Basin related adaptive management data sources (e.g., CEDEN, KTAP project registry, OR Watershed Enhancement Board project database). When completed, the DMF will support queries related to stewardship program effectiveness towards improving water quality conditions.
- Outreach and training workshops are being conducted to increase awareness of KTAP throughout the Klamath Basin. Based on feedback from participants, the KTAP Protocol Handbook and an updated version (1.1) will be available by May 2014.



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MEMORANDUM

TO: Klamath Basin Coordinating Council

FROM: Hollie Cannon, Executive Director, Klamath Water and Power Agency

SUBJECT: Status of On Project Plan

DATE: March 28, 2014

This is a report on the status of the On Project Plan (OPP) called for under section 15.2 of the Klamath Basin Restoration Agreement (KBRA).

Summary

The Klamath Water and Power Agency (KWAPA) has completed development of the OPP. KWAPA is coordinating with the U.S. Bureau of Reclamation (Reclamation) in the preparation of a joint Environmental Impact Statement / Environmental Impact Report (EIS/EIR) to support Reclamation and KWAPA's consideration of formal approval of the plan. Under our schedule, the environmental review process will conclude in August of 2015. Assuming the necessary approvals and enactment of federal authorizing legislation, KWAPA will then commence implementation and ultimate administration of the OPP as provided in the KBRA.

Background

As the KBCC is aware, under the KBRA, once certain events have occurred, there will be a permanent limitation on the amount of water that can be diverted at the "Settlement Points of Diversion" from the Klamath system for use in the Klamath Project. The limitation on diversion is expressed on a sliding scale that is a function of the hydrology in a given year. Also, firm water delivery commitments for the National Wildlife Refuges that can receive water through Klamath Project facilities will arise; particularly with regard to the Lower Klamath National Wildlife Refuge, this represents a change in current circumstances.

Section 15.2 of the KBRA requires KWAPA to develop the OPP, the purpose of which is to align water supply and demand in the "On Project Plan Area" (OPPA) in light of the diversion limitations, the refuge delivery commitments, and other factors. The area comprising the OPPA is essentially the area of agricultural lands that use Klamath River water. The KBRA identifies three "phases" for the OPP, consisting of: development and adoption; implementation of the adopted plan; and year-to-year administration after the plan has been implemented.

OPP Development Process and Proposed Approach

KWAPA has worked hard over the past three years to develop the OPP. We conducted an open process to select a consultant team. The KWAPA Board of Directors established an OPP Advisory Committee (OPPAC), which guided and responded to work conducted by KWAPA staff and consultants. That committee met twelve times, in noticed meetings open to the public. We also conducted outreach in six advertised public meetings and by distribution of a newsletter.

The OPP was developed through a series of seven technical memorandums. Technical Memorandum 1 included goals and objectives for OPP that the KWAPA Board of Directors approved, as follows:

- Meet commitments specified in the KBRA.
- Maintain long term sustainability of Klamath Reclamation Project agriculture.
- Minimize reductions in irrigated agriculture in the OPPA and avoid any uncompensated reduction in irrigated agriculture.
- Ensure equitable treatment among districts, avoid impacts on district operations, and seek opportunities for improved water management operations within and across districts.
- Develop fair, equitable, and transparent strategies for aligning water supply and demand.
- Consider cost effectiveness of alternatives to the overall Klamath Basin economy and minimize third party impacts.
- Avoid adverse impacts on groundwater as a result of OPP implementation or administration, as specified in KBRA Sections 15.2.1.A and 15.2.4.A.
- Use groundwater in a long-term and sustainable manner, and address all relevant in-basin groundwater management objectives, including identifying and addressing potential impacts on areas directly adjacent to the OPPA.

Issues addressed in the OPP technical analysis include: a conservative assessment of the frequency and magnitude of the water supply “gap” that the OPP needs to address (i.e., the difference between demand and supply assuming operation consistent with the KBRA diversion limitations); and a screening of alternative means to align supply and demand. The seventh and final technical memorandum, relying on the foundation of the first six, contains the specific action plan proposed to accomplish the purposes of the OPP. As you would expect, in some years there will be no gap (demand will be met using available Klamath supplies), in some years the gap will be very significant, and some years will be in between.

Ultimately, the proposed approach is to accomplish the alignment of supply and demand (close the gap) through some efficiency projects and through long-term agreements with landowners. The conservation and efficiency projects (which will include some already-realized actions) are regarded as the most desirable means to align supply and demand. Two additional projects appear to have the potential to stretch supplies to a limited degree, but this needs to be more fully evaluated as we go forward, and it is not certain whether these additional projects will occur.

The more heavily relied upon tool would be long-term (probably perpetual) agreements with landowners, under which the landowner would agree not to use surface water in some future years. In other words, in a given year, based on the applicable KBRA diversion limitations that dictate available Klamath diversions in that year, KWAPA would, if necessary, “call” on lands where it had previously made long-term agreements, and the landowners on those lands would not irrigate with surface water in that year. Many of these agreements would be made with landowners who have wells or access to groundwater. In those instances, when called, the landowner would be free to use groundwater consistent with state law.

A central goal of the OPP relates to maximizing agricultural production. Thus, agreements that we expect to lead to use of groundwater are preferred over agreements that will require idling of farmland. However, based on current information, groundwater use is not likely sustainable at a level that would completely close the gap in all years. Thus, we anticipate that there will be contracts with parties who do not have a groundwater alternative, and the effect of the call would simply be land idling.

Some lands within the OPPA, and particularly the “lease lands,” are within National Wildlife Refuges. Under the proposed approach, KWAPA would have the ability to call on these lands in a given year, up to the same percentage of private land that has been called in that year. In other words, if KWAPA called on 10 percent of private land, it would have the ability to call on up to 10 percent of the federal land that is within the OPP. The Refuge Manager must approve the OPP as it relates to these lands, and KWAPA has coordinated closely with refuge staff in preparing the OPP.

The proposed plan also includes improved measurement and monitoring, and considerably more detail than the general discussion above. Additional information, including all the technical memoranda, is available on our website.

Status

The KWAPA Board of Directors has approved the developed OPP as the proposed action to be carried forward for environmental review and formal approval. Under the KBRA, Reclamation must approve the OPP. An EIS will be prepared under the National Environmental Policy Act (NEPA) to support the approval (and the Refuge Manager’s approval as necessary, related to refuge lands in the OPPA). An EIR will be prepared in accordance with the California Environmental Quality Act (CEQA) to support KWAPA’s consideration of formal approval and ultimate implementation and administration. Work toward the joint EIS/EIR has begun, and our schedule provides for consideration of formal approvals in July and August of 2015.

Actual implementation of the approved OPP would be expected to commence as soon as federal authorizing legislation has been enacted and the initial funding for implementation becomes available.

KWAPA is grateful for Reclamation’s support of work to date, and for the collaboration and technical assistance we have received from Reclamation, USFWS, USGS, and OWRD.

DRAFT
**Status Report and Workplan for Implementing Klamath Basin
Restoration Agreement**

Updated on April 23, 2014

Introduction

This is an updated draft list of the tasks to implement the Klamath Basin Restoration Agreement. The purpose is to track the status of the tasks to implement the Restoration Agreement. The Klamath Basin Coordinating Council (KBCC) materials are available at www.klamathcouncil.org.

The Restoration Agreement includes a number of commitments, obligations, program design provisions, and understandings that are not included in the tasks for specific actions below.

Summary

- The Parties to the agreements have made good progress on establishing the coordination and oversight organizations called for in the Restoration Agreement and implementing many of the near-term KBRA actions. Many of the near-term actions involved preparing plans and coordinating activities. Implementation of many of the KBRA programs requires enactment of Federal legislation and funding.
- Many of the KBRA Parties participated with others in the Klamath Basin Task Force to address Upper Klamath Basin water issues, power issues, and reducing the Federal cost of implementing the KBRA.
- Representatives for the Klamath Tribes, the State of Oregon, the United States, and Upper Klamath Basin irrigators have completed a Proposed Upper Klamath Basin Comprehensive Agreement (Proposed Agreement); each party is currently reviewing the Proposed Agreement, and will decide whether to sign it (the U.S. would sign after the enactment of Federal Legislation). The Proposed Agreement addresses a number of issues, including the specifics of a Water Use Program to increase flows into Upper Klamath Lake by 30,000 acre feet.
- The KBCC will determine the consistency of the Water Use Program with KBRA Section 16.2.2 during KBCC meetings scheduled in April.
- The KBRA Parties amended the KBRA on December 29, 2012. A copy of the amendments is on the KBCC Website.
- The Drought Plan Lead Entity has completed the Drought Plan and it is under review by the Department of the Interior.

- The Klamath Water and Power Agency has completed the Proposed On-Project Plan.
- Funding is not available for the development of the Fisheries and Monitoring Plan.

Klamath Basin Restoration Agreement

General Provisions

Form Klamath Basin Coordinating Council and Interim Advisory Council (see Appendix D).

1. Develop protocols. (Completed on October 7, 2010)
2. Prepare FACA Charter for KBAC and TAT.
 - 2.1. KBAC members have provided comments.
 - 2.2. DOI is preparing a FACA charter.
3. Form TAT
 - 3.1. Identify Interim TAT representatives. First meeting was on February 24, 2011.
 - 3.2. Develop workplan and schedule when funding for Environmental Water program is available.
4. Develop procedures to add new Parties (Sections 1.1.3, 7.2.2, and 38).
 - 4.1. Discussed with KBCC/Interim KBAC at first meeting at July 2011.
 - 4.2. KBRA Amendments added Klamath Basin Power Alliance as Party.
5. Prepare public information and involvement plan.
 - 5.1. Established website to provide access to all implementation materials.
 - 5.2. KBRA meetings are noticed on website.
 - 5.3. Completed communications protocols and communications plan and posted on website.

Adopt workplan and schedule for implementation of Klamath Basin Settlement Agreement. (See Appendix C-1)

The KBCC is using this document to track implementation; it is revised and reviewed at each meeting.

Legislation (Section 3.1.1.B)

1. Authorizing legislation was introduced in 2011 in the Senate and House of Representatives.
2. KBRA Parties and others participated in the Senate Energy and Natural Resources Committee hearing in June 2013.

3. KBRA Parties are coordinating activities to support authorizing legislation when it is introduced.

Funding

1. Non-Federal Parties support funding for Agreement (Section 3.2.4.B.ii).
2. Relevant Federal agencies implement funding (Section 4).
 - 2.1. Federal Team worked on FY 2014 budget that included \$11.5 million for implementation of activities that are consistent with the KBRA.
3. Develop procedures for specific funds (Section 14.3) [the Parties will develop a schedule and workplan to implement the following tasks when the authorizing legislation has been enacted].
 - 3.1. On-Project and Power for Water Management (Section 14.3.1)
 - 3.1.1. Develop administrative provisions (BOR)
 - 3.1.2. KWAPA and Management Entity submit expenditure plan.
 - 3.2. Water Use Retirement and Off-Project Reliance (Section 14.3.2)
 - 3.2.1. [FWS] Develop administrative provisions.
 - 3.2.2. UBT and UKWUA submit expenditure plan.
 - 3.3. Klamath Drought Fund (Section 14.3.3)
 - 3.3.1. Reclamation develop contract with National Fish and Wildlife Foundation.
 - 3.3.2. National Fish and Wildlife Foundation develop administrative provisions.
 - 3.3.2.1. Enforcement Entity submits expenditure plan [date].
 - 3.3.2.2. Enforcement Entity submits annual report [annual date].
4. Periodically adopt and recommend a successor to budget in C-2 (Section 4.1.2.A and B).
 - 4.1. In June 2011, the KBRA Non-Federal Parties revised the estimated costs for KBRA activities. The cost estimates were reduced 18 percent from the 2010 KBRA. The revised cost estimates also shifted a number of costs to later years; this reduced the cost estimates in the first seven years by 38 percent.
 - 4.2. The KBCC will consider revisions to Appendix C-2 at the April meeting.
5. Klamath Basin Restoration Agreement Fund (Section 4.2)
 - 5.1. Establish Fund to receive non-federal funding.
 - 5.2. Establish committee to design and implement fund raising program.
 - 5.3. Designate manager and procedures for disbursement and accounting.
 - 5.4. Implementation has been delayed pending authorizing legislation.

Coordination and Oversight

1. KBCC will adopt procedures to report on the status of performance of each obligation under the Agreement and identify issues to be resolved (Section 5.1). Ongoing

2. KBCC track the progress of all components in real-time (Section 5.4.2.A). Ongoing
3. KBCC prepared third Annual Report in 2013 (Section 5.4.2.B).
 - 3.1. Preparation of fourth Annual Report is delayed pending funding. The next report will incorporate both KBCC activities and the Klamath Basin Task Force.

Fisheries Programs

Fisheries Restoration Program

1. Fish Managers prepare Fisheries Restoration Phase I Plan (Section 10.1).
 - 1.1. Fish managers prepared outline for December 15, 2010 meeting, sought KBCC comments and finalized outline and approach.
 - 1.2. Fish Managers adopted outline and approach on February 9, 2011.
 - 1.3. Federal Team working on identifying funding to develop a scope of work and budget for preparing plan.
 - 1.4. Draft Phase I Plan was due on February 18, 2011; there is no budget for the Plan so Fish Managers have requested an extension until 18 months after funding is available.

Fishery Program funding and reporting

1. Fish Managers establish process to determine Fisheries Program funding needs (Section 13.1 and 13.3). [the Klamath Fish Managers will develop a schedule and workplan to implement the following tasks when the authorizing legislation has been enacted].
 - 1.1. Convene meeting of Fish Managers to determine initial budget and develop funding plan (see Section 13.1).
 - 1.1.1. Develop procedures for annual funding (see Sections 13.2, 13.3 and 13.5).
 - 1.1.1.1.[Fill in steps and schedule after Restoration and Monitoring Plan is complete]
2. Annual Reporting on funding and implementation (Section 13.4)
 - 2.1.1.1.Prepare draft report [fill in steps and schedule after Restoration and Monitoring Plan is complete]
 - 2.2. Fishery Managers review.
 - 2.3. Final report to KBAC.

Fisheries Monitoring Plan

The Monitoring Plan under Section 12 is being developed in coordination with the Fisheries Restoration Plan.

Fisheries Reintroduction Plan

1. Oregon Plan (Section 11.3)

- 1.1. ODFW and Klamath Tribes, in collaboration with Tribes and other Fish Managers initiate plan development when funding is available, but no later than State Concurrence of an Affirmative Declaration by Secretary of Interior under KHSa Section 3.3.
 - 1.1.1. [Fill in steps and schedule after authorizing legislation]
 - 1.2. Seek input from interested Parties and others with technical expertise.
 - 1.3. Complete Phase I Plan within 12 months.
2. California Plan (Section 11.4)
 - 2.1. CDFG, in collaboration with other Fish Managers initiate when State Concurrence of an Affirmative Declaration by Secretary of Interior under KHSa Section 3.3.
 - 2.1.1. [Fill in steps and schedule after authorizing legislation]
 - 2.2. Seek input from other Parties and public.
 - 2.3. Complete plan within 24 months.

Water Resources

File validation actions (Section 15.3.1.B): Completed.

Collaboration on Irrigation Diversions and Environmental Water.

1. KWAPA complete analysis of historical data by February 18, 2011 (based on availability of funding). (Section 15.1.1.A.ii.a)
 - 1.1. This analysis was included as part of the Drought Plan
2. KWAPA, in cooperation with others, develop predictive techniques for use by TAT. (Section 15.1.1.A.ii.b).
 - 2.1. [Fill in steps and schedule]
3. KWAPA participates in TAT activities. (Section 15.1.1.A.ii.c)
 - 3.1. KWAPA is represented on the interim TAT; implementation has been delayed pending authorizing legislation for water programs.

Collaboration to benefit agriculture and Wildlife Refuges.

1. FWS and KPWA working on interim actions under 15.1.2.J to resolve outstanding issues related to water rights for the Refuges.
2. Other provisions will be pursued on a schedule that will allow implementation when Appendix E-1 becomes effective (not a near-term activity). (Section 15.1.2.C)

On-Project Plan

1. KWAPA has prepared the proposed On-Project Plan. (Section 15.2.2.B.i)
 - 1.1. Funding under the Enhancement Act authority and funding.

- 1.2. KWAPA presented workplan and schedule on April 7, 2011.
- 1.3. Preparation of On-Project Plan:
 - 1.3.1. Project began in 2011; technical reports completed between April 2012 and February 2014; summary report in February 2014.
 - 1.3.2. KWAPA has held six public meetings and two meetings with KBRA Parties.
 - 1.3.3. Scoping for environmental review in 2014; complete environmental review in mid to late 2015.
 - 1.3.4. KWAPA cannot implement without Federal legislation and funding;
2. Reclamation evaluates and approves plan within 60 days of completion of any environmental review. (Section 15.2.2.B.i)
 - 1.1. [Potential activity for FY 2013]
2. KWAPA adopts plan within 45 days of Reclamation approval and provides notice to Parties. (Section 15.2.2.B.i)

Groundwater Technical Investigations

1. USGS, in cooperation with OWRD, initiates groundwater investigations pursuant to workplan in Appendix E-2. (Section 15.2.4.B).
 - 1.1. Studies have been completed (See Appendix E-2 for workplan)
2. KWAPA will meet with OWRD and other interested Parties at least once during development of On-Project Plan and at least 30 days prior to completion of On-Project Plan (Section 15.2.4.B.iv.a). Completed

Klamath Basin Adjudication Process

1. KPWU and Klamath Tribes file amended stipulations by May 18, 2010 (Section 15.3.2.B).
2. OWRD completed a Final Order of Determination for the Upper Klamath Basin water rights adjudication process.
3. The Upper Klamath Basin Comprehensive Agreement was signed on April 18, 2014 to settle the issues between the Klamath Tribes and Upper Klamath Basin irrigators.

D Pumping Plant Costs

1. Reclamation, with TID, LKNWR reviewed cost allocation in Section 15.4.2.A by February 18, 2011.
 - 1.1. Initial review complete.

Klamath Reclamation Project operations

1. The Secretary will consult with Project contracts and establish a process to analyze costs by February 18, 2011. (Section 15.4.7).
 - 1.1. Review complete.

OPWAS negotiations.

1. OPWAS Parties Negotiate OPWAS. (Section 16.2)
 - 1.1. OPWAS Parties will provide steps and schedule to develop OPWAS when funding is available.
 - 1.2. Deadline for OPWAS was February 18, 2012, OPWAS Parties requested extension.
 - 1.3. Proposed Upper Klamath Basin Comprehensive Agreement would provide the settlement envisioned in OPWAS.
2. As part of OPWAS, develop Water Use Retirement Program. The Proposed Agreement includes a Water Use Program.
3. The KBCC will determine whether the Water Use Program is consistent with KBRA Section 16.2.2 at April meeting.

Power Resources

1. KWAPA and UKWUA have formed the Management Entity (known as the Klamath Basin Power Alliance or KBPA) and developed operating protocols by December 1, 2010. (Section 17.4.1)
2. KBPA adopted administrative guidelines by January 15, 2011. (Section 17.4.3).
 - 2.1. KBPA has adopted guidelines on accounting policies, purchasing procedures and board of directors manual.
 - 2.2. KBPA has developed a communications plan.
 - 2.3. Other guidelines are pending the availability of funding for completion of the power sales contract between Reclamation and BPA.
3. KBPA will identify eligible customers (Section 17.3)
 - 3.1. Status report provided at KBCC meetings and Klamath Basin Task Force meetings.
 - 3.2. KBPA provided draft eligibility criteria for on-project and off-project at the September 2011 KBCC meeting.
 - 3.3. KBRA amendments address adopted changes in eligibility.
4. KBPA will develop system to distribute funds to eligible customers (Section 17.4.4).
 - 4.1. KBPA will develop a program with PacifiCorp, implementation is delayed because funding for the interim power program is not available.
 - 4.2. Support necessary Regulatory Approvals.
5. KBPA to implement Interim Power Program (Section 17.5).
 - 5.1. Funding is not available for the implementation of the interim power program.

- 5.2. Irrigators in California and Oregon are paying full tariff.
6. Reclamation working with Bonneville Power Administration and Western Area Power Administration for Federal power (Section 17.6)
 - 6.1.1. Parties have developed workplan and schedule.
 - 6.1.2. KWAPA analyzing costs of Federal power compared to continued service from PacifiCorp.
7. Reclamation preparing financial and engineering plan. (Section 17.7.2).
 - 7.1. Reclamation hired contractor to review alternatives and prepare plan.
8. KBPA has responsibility to implement renewable resource project and conservation when funding is available.

Williamson River Delta: Support monitoring (Section 18.2.1)

Agency Lake and Barnes Ranch

1. Reclamation and FWS completed transfer agreement and are working to transfer Reclamation lands. (Section 18.2.2.B)
 - 1.1. Reclamation and FWS completed transfer agreement.
 - 1.2. Reclamation transferring data and documentation.
 - 1.3. [Fill in steps and schedule]
2. FWS is working to complete a study on options identified in Section 18.2.2.C.
 - 2.1. FWS has mapped area using LIDAR system which gives detailed elevation and cover data.
 - 2.2. FWS has received preliminary Engineering surveys detailing the inadequacies of the dikes surrounding the Barnes-Agency ranches. The draft engineering assessment states: the dikes are not built to engineering specifications and are subject to catastrophic failure if used to contain water. Estimates to replace dikes may be cost-prohibitive.
3. FWS would commence environmental analysis within 60 days of Affirmative Determination by Secretary.

Wood River Wetland

1. BLM working to complete study (Section 18.2.3).
 - 1.1. Contractors are working on studies.
 - 1.2. BLM provided briefing to KBCC.
2. BLM would commence environmental analysis within 60 days of Affirmative Determination by Secretary. [KBRA assumed 2012]

Future Storage

1. Reclamation is working on study and will provide progress reports every six months. (Section 18.3.1)

Develop Drought Plan. (Section 19.2)

1. Lead Entity prepared draft Drought Plan and distributed to KBRA Parties and the public.
2. KBCC review and public comment at April 7, 2011 KBCC meeting.
3. Lead Entity completed plan in July 2011.
 - 3.1. No Party issued a Dispute Initiation Notice within the 30 day review period.
4. Lead Entity submitted adopted Drought Plan to Department of the Interior on August 29, 2011.
5. Department of the Interior is working on a review of the Plan. Under KBRA Sections 19.2.3.D and E the review the Drought Plan will address the following issues: 1) complete any necessary environmental review, 2) ensure that the provisions of Section 19.2.2 regarding the content of the plan had been addressed, and 3) make a decision on whether to provide Federal funding to implement the Drought Plan, including providing funding for the Klamath Drought Fund under Section 14.3.3.
6. There is no funding for implementing the Drought Plan. The revised cost estimates assumed that the Interim Flow and Lake Level Program would provide assistance to Project irrigators while the On-Project Plan was being implemented.

Prepare Emergency Response Plan.

1. The 2012 amendments changed this section. Reclamation will continue to address emergencies that affect Klamath Reclamation Project facilities under existing authorities. No additional plans are required. See amended KBRA Section 19.3.

Climate Change

1. OWRD and CDFG, in coordination with Water Managers and Fish Managers are Co-Lead Parties.
2. Co-Lead Parties initiated assessment in February, 2012.
3. Co-Lead Parties provided status report at November 14, 2012 KBCC meeting.

Off-Project Reliance Program

1. UKWUA to complete plan prior to OWRD determination that the WURP purposes have been achieved under Section 16.2.2.F.

Interim Flow and Lake Level Program [Implementation delayed pending authorizing legislation and funding]

1. The Secretary will plan and implement a water leasing and purchase program under Section 20.4.
2. The Interim Flow and Lake Level program (IFLLP) will require Reclamation to receive new authority in order to administer the Off-Project portion of the Interim Flow and Lake Level Program.
 - 2.1. [Fill in steps and schedule].
 - 2.2. Develop consultation process with the TAT.
3. The Secretary will provide updates to the Parties and stakeholders.
4. OWRD actions to protect Environmental Water (Section 20.5.2)
5. Parties will support petition by PacifiCorp to SWRCB to dedicate Environmental Water to instream use (Section 20.5.3).

State TMDLs

Parties support development and implementation of appropriate TMDLs (Section 20.5.4.B). This is the responsibility of the individual Parties and not a KBCC workplan item.

Regulatory Assurances

Fish Entrainment Alleviation [these activities are related to Facilities Removal under the KHSA; they would be implemented if a decision to remove the four PacifiCorp dams is made].

1. Reclamation will evaluate methods and locations and construct facilities (Section 21.1.3.A)
 - 1.1. Reclamation working with Denver engineering office to develop strategies.
 - 1.2. [Reclamation will update steps and schedule]
2. Reclamation evaluates measures to prevent adverse impacts in Klamath Straights Drain. (Section 21.1.3.B)
 - 2.1. [Fill in steps and schedule]

Endangered Species Act (Section 22)

1. Federal agencies will consult with FWS and NMFS on Barnes Range/Agency Lake, Wood River Wetlands Project, and Off-Project Water Use Retirement Program. (Section 22.1.1). Services need to prepare to implement this action.
 - 1.1. [Fill in steps and schedule]
2. Reclamation, at an appropriate time in consultation with KWAPA, will request reinitiation of consultation. (Section 22.1.2) [Implementation on standby.]
3. [Need to discuss schedule for General Conservation Plan and Habitat Conservation Plan. Budget assumes action beginning in 2013](Section 22.2)

Bald and Golden Eagle and Migratory Bird Protection (Section 23)

1. The actions under Section 23 are expected to occur on a schedule related to the potential removal of the Klamath River dams. KBRA Parties will develop a workplan.

California Laws (Section 24)

1. California Endangered Species Act: DFG will evaluate the necessity for incidental take coverage following concurrence with an affirmative Secretarial Determination, by the Governor of California. Within 90 days of such concurrence, DFG will advise the Parties of its determination and recommend specific procedures for obtaining any necessary coverage.
2. California Fully Protected Species: DFG will initiate discussions with legislative staff and key stakeholders, including interested Parties, regarding the scope and methods of proposed legislation, beginning in March 2011.

Oregon Laws (Section 25)

1. ODFW will determine schedule in coordination with potential facilities removal.

Counties Program

Klamath County

1. Klamath County will develop and adopt Klamath County Program by June 30, 2012. (Section 27.2).
 - 1.1. Klamath County has requested a delay on May 8, 2012 in this action until after an Affirmative Secretarial Determination under the KHSA.
 - 1.2. Klamath County adopted a resolution on March 12, 2013 stating that the county would withdraw from participation in the KBRA and KHSA.

2. Non-Federal Parties seek funding by [fill in new schedule if there is an Affirmative Secretarial Determination under the KHSA]. (Section 27.3)
3. Non-Federal Parties support funding for property tax impacts to be dispersed by [fill in new schedule if there is an Affirmative Secretarial Determination under the KHSA].

Tribal Program

Tribal Participation in Fisheries and Other Programs

1. Tribes implement fisheries capacity building and conservation management programs (Section 32).
 - 1.1. [Fill in steps and schedule when funding is available]

Economic Revitalization

1. Non-Federal Parties support funding. Fill in when funding is available. (Section 33.1)
2. Klamath Tribes' implementation of Mazama Forest Project. Fill in when funding is available. (Section 33.2)

Klamath Tribes' Interim Fishing Site

1. Klamath Tribes had an interim fishery in 2012. (Section 34)