

Klamath Basin Water Recovery and Economic Restoration Act of 2014

Section by Section Summary

Section 1 – Short title: Klamath Basin Water Recovery and Economic Restoration Act of 2014

Section 2 – Definitions

- Sets out the definitions used in the bill.

Section 3 – Authorization, Execution, and Implementation of Settlements

- Ratifies the Upper Basin Agreement, Klamath Basin Restoration Agreement (KBRA), and the Klamath Hydroelectric Settlement (KHSA) [collectively the “Settlements”]. Specifies a process for future amendments to the Settlements.
- Directs the federal agencies (including the Departments of Interior, Commerce, and Agriculture, and the Federal Energy Regulatory Commission) to implement the Settlements.
- When all actions under the Settlements are carried out, the Secretary of the Interior will formally publish notice, which makes the Settlements permanent and releases of claims official.
- Provides that nothing in the Act or the Settlements affects current rights.
- Provides that nothing in the Act or Settlements affects the current rights of any tribe outside the Klamath Basin or the authority of any Klamath Basin tribe that is not party to the Settlements.
- Requires that any water or land rights under the Act and Settlements come only from willing sellers.

Section 4 – Klamath Project Authorized Purposes

- Updates the authorized purposes of the Klamath Reclamation Project to include irrigation, reclamation, flood control, municipal uses, industrial uses, power, fish and wildlife purposes, and National Wildlife Refuge purposes.
- Provides that the fish, wildlife, and National Wildlife Refuge purposes, which are being established for the first time, cannot adversely affect the irrigation purposes with the exception of the agreed-upon water amounts to be delivered to the National Wildlife Refuges.
- Sets out the distribution amounts for net revenues from leasing land for farming within the Tule Lake and Lower Klamath National Wildlife Refuges.

Section 5 – Tribal Commitments; Release of Claims

- The tribes party to the Agreements agree to relinquish certain claims regarding their water resources.
- Authorizes the resolution and settlement of water rights for the Klamath Tribes in the Klamath Basin Adjudication as established in the Upper Basin Agreement and KBRA.
- The United States is authorized, in its capacity as trustee for basin Tribes, to provide certain assurances regarding how it will exercise certain tribal rights in the basin.
- The release of those claims is conditional upon the terms of the Agreements being met by other parties to the Agreements.

Section 6 – Water and Power Provisions

- Amends the Klamath Basin Water Supply Enhancement Act of 2000 to implement the water, power, and ecosystem restoration programs agreed upon in the Settlements.
- This includes a water program to help irrigators align water supply and demand and reduce water consumption by the irrigators, a program to limit the total cost of power to irrigators by delivering Federal power and assisting in the development of a local renewable power program,

and various programs to restore ecosystems in the Klamath Basin in order to support recovery of endangered fish species.

Section 7 –Klamath Tribes Tribal Resource Fund

- Establishes a fund, as agreed upon in the Upper Basin Agreement, to provide for improved economic development for the Klamath tribes.

Section 8 –Hydroelectric Facilities

- Sets out the terms for deciding whether to remove four dam facilities on the Klamath River - the J.C. Boyle, Iron Gate, Copco 1, and Copco 2 dams, and how to proceed towards removal if that is the decision.
- The Secretary of Interior and the Governors of Oregon and California are to make a determination on whether to proceed with removal based on factors identified in the Hydroelectric Settlement. That determination must comply with NEPA and only happen if certain conditions stipulated in the KHSA have been met.
- Details how judicial review of that determination can take place.
- Requires the Secretary and the Governors to designate a Dam Removal Entity (DRE) that has appropriate capabilities, is otherwise qualified to perform facilities removal, and has committed to perform facilities removal within the State Cost Cap outlined in the Hydroelectric Settlement.
- Requires that the cost of dam removal include reasonable compensation for property owners if property value is somehow damaged.
- The DRE is to then develop a final plan, obtain all necessary permits and approvals, and proceed with facilities removal.
- The Governors and the Secretary shall prepare and make public a report on the determination and plan for facilities removal and submit the report to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives. The report includes an analysis of factors that make the Klamath system unique and why it is not a precedent for other dam removal situations.
- During the course of facilities removal, PacifiCorp is allowed to continue generating power and using it for the benefit of its customers until the DRE instructs PacifiCorp to cease.
- Provides that neither PacifiCorp nor any other entity contributing funds to pay for facilities removal will be liable for any damages resulting from facilities removal.
- Once the DRE is ready to remove the J.C. Boyle facilities, the Keno Dam is to be transferred to the United States and operated as part of the Klamath Reclamation Project.
- The Eastside and Westside Developments associated with the Link River Dam are to be retired and partially surrendered.
- Once the Iron Gate Dam is transferred to the DRE, the FERC relicensing of PacifiCorp's Fall Creek Dam may resume.
- The Iron Gate Hatchery is transferred from PacifiCorp to the State of California.

Section 9 – Administration and Funding

- Authorizes the Secretaries to enter into appropriate agreements (including contracts, memorandums of understandings, financial agreements) with State, tribal, and local governments and private individuals and entities in order to implement the Act and the Settlements. Directs that, in awarding grants or contracts to implement the fisheries restoration programs in the KBRA, priority be given to the Tribes that are parties to the Settlements.

- Establishes accounts to manage appropriated and non-Federal funds for the implementation of the Settlements. Provides for the return of any appropriated funds in the event of the KBRA or Upper Basin Agreement terminating, and for counting appropriated funds received by a party to the settlements against any claims for damages by the party.
- Requires that the President's budget include requests for amounts necessary to carry out the Settlements, and requires that the budget submission include an interagency crosscut budget report to monitor all spending by any Federal agencies involved.
- Requires an annual report to Congress on the state of implementation of the Settlements, including assessment of progress toward meeting the outcomes contained in the Settlements.