SLIDES: Klamath Basin Agreements: Largest River Restoration Project in American History

Amy Cordalis

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Klamath Basin Agreements: Largest River Restoration Project in American History

Amy Cordalis, Staff Attorney Yurok Tribe
• Largest and Poorest California Tribe
• Klamath River “Wei-Roy” is the lifeblood of Yurok culture
• Reservation one mile on either side of Klamath River up 20 miles
• Court cases confirmed fishing and water rights
• No quantified water right
Yurok Tribal Fishery
Yurok Tribal Fishery
Iron Gate Dam, Klamath River
PacifiCorp
Copco Dam, Klamath River
PacifiCorp
Green Algae Bloom Behind Dam
Recent History in the Klamath Basin

2001

2002

2006
2002 Fish Kill
Seeking a More Certain Future

- Water allocations for irrigation and fish created conflicts, economic losses, and an uncertain future.

- Communities were facing additional uncertainty:
  - Oregon Klamath Water Adjudication, ESA, cost of electricity for pumping, and relicensing of four PacifiCorp dams.

- Communities realize law suits, demonstrations, and politics were not producing any more water for fish or agriculture. Existing procedures not working.

- Communities call for a seize fire in 2005
Irrigators and Indians: creating the largest river restoration project in American history

“The key to solving our problems is to work with our neighbors instead of continuing to fight.”
- Greg Addington, KWUA 2007

“If we do this right, one day we’ll have a salmon and potato festival in Klamath Falls.”
- Troy Fletcher, Yurok Tribe 2007
Timeline of Agreements

• Restoration Agreement and Hydroelectric Settlement Negotiations Commence in 2005

• Draft Restoration Agreement Settlement released to public January, 2008

• Draft Hydroelectric Settlement released to public September, 2009

• Final Agreements completed in January, 2010 and signed on February 18, 2010

• Waiting for Congressional Authorization
Klamath Settlement Parties

**United States**
U.S. Department of Agriculture, Forest Service
U.S. Department of Commerce’s National Marine Fisheries Service
U.S. Department of the Interior, Bureau of Indian Affairs, Bureau of Land Management, Bureau of Reclamation, and Fish and Wildlife Service

**State of Oregon**
Environmental Quality
Fish and Wildlife
Water Resources

**Tribes**
Karuk Tribe
Klamath Tribes
Yurok Tribe

**State of California**
Fish and Game
Natural Resources Agency

**PacifiCorp**
Klamath Settlement Parties

**Counties**
Del Norte County, California  
Humboldt County, California  
Klamath County, Oregon  
Siskiyou County, California

**Irrigation Organizations**
Klamath Water and Power Agency  
Klamath Water Users Association**  
Klamath Water and Power Agency  
Upper Klamath Water Users Association

**Non-Governmental Organizations**
American Rivers  
California Trout  
Institute for Fisheries Resources  
Northern California/Nevada Council Federation of Fly Fishers  
Pacific Coast Federation of Fishermen’s Associations  
Salmon River Restoration Council  
Trout Unlimited.

**Representing 28 irrigation districts related to the Klamath Reclamation Project.**
Klamath Basin Restoration Agreement

- Water Resources Program
  - Interim river flow and lake level program
  - Programs to reduce irrigation demand
    - *Irrigation capped, not instream flows*
      - no minimum instream flow set
      - *ESA flows baseline*
  - Irrigators receive:
    - Funding for voluntary water use retirement, greater certainty, assurances from tribes
  - Fish managers receive:
    - More water for lake, river, and refuges
    - Real-time water management
Other KBRA Programs

• Fisheries Program
  • Rebuilt sustainable populations
  • Restore salmon into areas blocked by dams

• Power for Water Management Program
  • Actions to provide affordable power to pump water

• Counties Program
  • Mitigation for lost property taxes

• Tribal Program
  • Participate in fisheries programs
KBRA Implementation

• Coordination and Oversight
  – Klamath Basin Coordinating Council to coordinate and oversee implementation

• Funding
  – Need $250 million in new federal authorizations for appropriations
  – $550 million non-federal funding for KBRA and KHSA
Klamath Hydroelectric Settlement

Over 300 miles of habitat is blocked above the Project Reach

Approx. 58 miles of Habitat is inundated in the Project Reach

*Keno Dam currently supports fish passage
Klamath Hydroelectric Settlement

• Establishes a process for:
  – Studies and environmental review
  – 2013 Final EIS supporting dam removal

• Process to transfer, decommission, and remove the dams

• Provisions for funding dam removal

• Provisions regarding disposition of property, mitigation, and liability

• Provisions for the interim operation of the dams
KHSA Implementation

• Funding for dam removal
  – Up to $200 million from customer contributions
  – Up to $250 million from California bonds
  – United States not responsible for facilities removal costs

• Interim measures
  – Dam operations
  – Mitigation actions
  – Hatchery operations

• Schedule
  – Target is dam removal by December 31, 2020
Upper Klamath Basin Agreement

• KBRA called for Upper Basin Water Settlement
  – Settle Oregon Klamath Basin water rights adjudication
  – Retire water rights to provide 30,000 acre feet in Upper Klamath Lake

• Initial efforts were not successful
  – Some irrigators believed they would prevail in adjudication
2013 Changed Landscape

• Oregon completed administrative phase of Adjudication
  – Klamath Tribes instream flow right with time immemorial priority date

• Low snow pack and rain resulted in regulation of junior water rights
  – Off-Project irrigators were regulated off

• Klamath Tribes did not make call on the Klamath Reclamation Project
  – Those irrigators had signed the KBRA
Upper Klamath Basin Agreement

• Klamath Basin Task Force
  – Senators Wyden and Merkley, Congressman Walden, and Governor Kitzhaber convened stakeholders in July 2013

• Representatives of Upper Basin irrigators, Klamath Tribes, Oregon, and United States signed Agreement in Principle in December 2013

• Parties signed final agreement on April 18, 2014
Upper Klamath Basin Agreement

- Water Use Program
  - Increase inflows into Upper Klamath Lake by at least 30,000 acre feet
  - Provide a stable, sustainable basis for the continuation of irrigated agriculture

- Riparian Program
  - Permanently improve and protect riparian conditions

- Economic Development Program
  - Economic opportunities for the Klamath Tribes and its members
  - Increased opportunities for the exercise of Tribal cultural rights
John Kitzhaber, Oregon Governor, Don Gentry, Klamath Tribes Chairman and Becky Hyde, Klamath Basin Rancher

States, Indians, and Irrigators
Accomplishments KBRA, KHSA, UKBA

- 46 Parties have formed Klamath Basin Coordinating Council to oversee implementation
- Developed outline and approach for Fisheries Restoration and Monitoring Plan
- Developed Drought Plan
- Dam removal studies completed
- Dam removal fund growing, collected amount $72 million in 2014
- All of the interim measures under the Hydroelectric Settlement are being implemented on schedule
Current Status

• Federal legislation needed to authorize agreements
• Drought: 6% of historic snow pack
• Water for agriculture significantly reduced
• Fish kill likely because of anticipated low water flows
• Tension between the parties created by conditions on the River
Tribal, Agriculture, State, and Federal Partnerships

• When law and policy fails, people preserver
  – Oregon Klamath Adjudication, ESA, FERC, court cases and statutes informed the situation, but the people on the Klamath Basin pushed forward to create their own law of the river
  – This is a new model of western water management that allows people to create their own future

• Reflection of lacking environmental laws: time for an update to protect our remaining wild natural environments
Tribal, Agriculture, State, and Federal Partnerships

• The KBRA/KHSA/UKBA provide water for fish at the right time, dam removal, habitat restoration, and agricultural certainty

• Outweighs the benefits achieved in traditional legal procedures in shorter amount of time

• Each party completed analysis determining their interests were better protected by the agreements

• The agreements provided delicate bargained for benefits to each party