

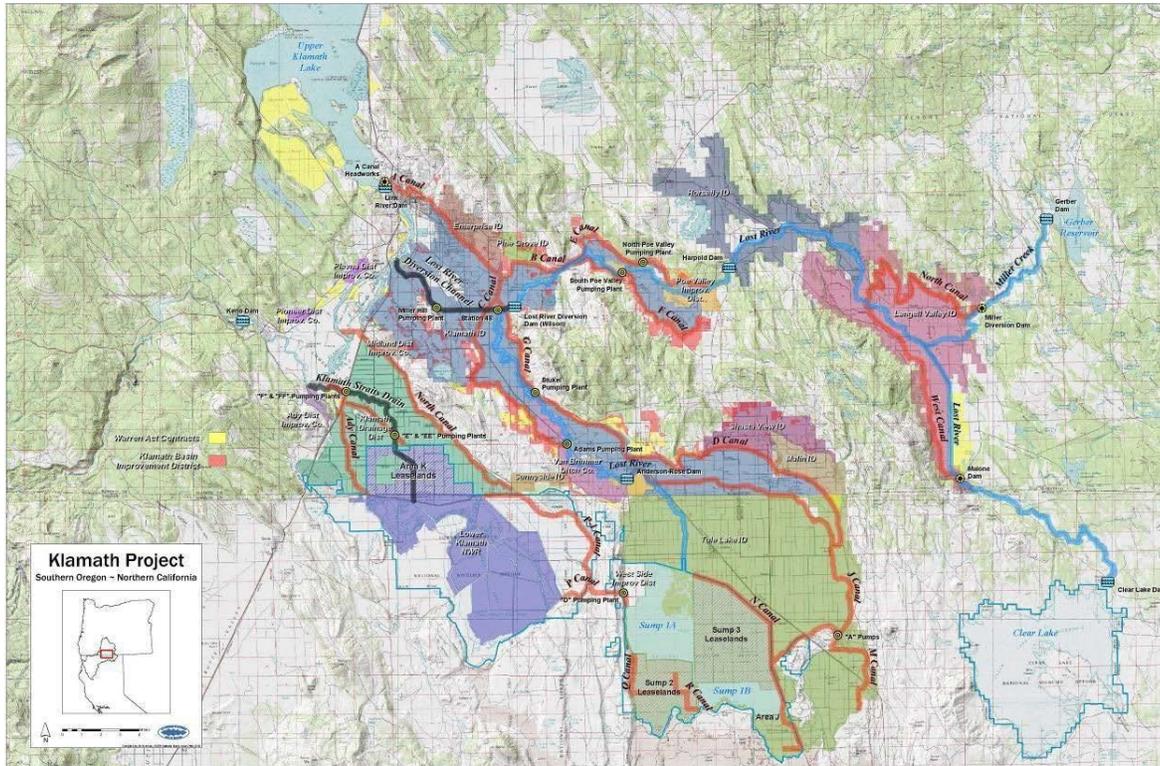


— BUREAU OF —
RECLAMATION

2020 Drought Plan

Klamath Project, Oregon-California

Interior Region 10, California-Great Basin



Mission Statements

The Department of the Interior (DOI) conserves and manages the Nation's natural resources and cultural heritage for the benefit and enjoyment of the American people, provides scientific and other information about natural resources and natural hazards to address societal challenges and create opportunities for the American people, and honors the Nation's trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated island communities to help them prosper.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

Introduction

The Klamath Project (Project) delivers water for irrigation purposes to approximately 230,000 acres in southern Oregon and northern California. The Project relies upon several primary water sources to meet irrigation demands: live flow into and stored water from Upper Klamath Lake (UKL), Clear Lake Reservoir, and Gerber Reservoir, and live flow from the Klamath and Lost rivers.

Project water supplies have been impacted by the current severe drought conditions. The U.S. Drought Monitor currently classifies most of the Klamath Basin and other surrounding areas in southern Oregon and northern California as being in a severe drought (Class D2). The limitations on the available irrigation supplies this year are the result of the current severe drought conditions. These drought conditions will result in producers without adequate water supply to meet the needs of good irrigation practices for all acres served by the Project.

The Bureau of Reclamation issued the 2020 Annual Operations Plan (Operations Plan) on April 22, 2020, identifying the estimated supplies from Project water sources for the 2020 spring-summer irrigation season, consistent with Reclamation's Proposed Action Alternative analyzed in the biological opinions issued by the U.S. Fish and Wildlife Service (USFWS) on April 10, 2020, and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) on March 29, 2019, as confirmed in NMFS' letter of April 13, 2020.

As the Operations Plan describes, a full water supply is expected from Gerber and Clear Lake reservoirs; however, the Project Supply available from UKL and the Klamath River is approximately 140,000 acre-feet (AF), which is roughly one-third of the historical full demand during the spring-summer irrigation season from all sources (390,000 AF). This shortage is the most severe the Project has experienced since 2010.

This 2020 Drought Plan describes the background for and the process of allocating the available Project water supplies during the 2020 spring-summer irrigation season (March 1 to November 30), consistent with the system of contractual priorities that exist within the Project.

2020 Project Water Supplies

Project Water Contracts

In the event of a shortage in Project water supplies, Reclamation determines the allocation of the available supply in accordance with the terms of the contracts between Reclamation and districts and individual water users. There are four general types of these contracts within the Project: 1) settlement contracts; 2) repayment contracts; 3) Warren Act contracts; and 4) annual water rental agreements. In the event of a shortage in the available Project water supplies, and in accordance

with the authority for the respective contracts and their explicit terms, these contracts create a system of priorities among Project contracts, within the Project.

1. Settlement Contracts

Settlement contracts describe agreements between the United States and water users with state water rights that were acquired independent of Reclamation's notices and filings made in connection with the Klamath Project. Each of these agreements is unique and governed by the specific terms of the contract.

2. Repayment Contracts

The term repayment contract covers contracts executed pursuant to either the Reclamation Act of 1902 (32 Stat. 388, 43 U.S.C. §371 et seq.), or section 9(d) of the Reclamation Act of 1939 (53 Stat. 1193, 43 U.S.C. §485h(d)). The lands covered are exclusively within Klamath Irrigation District (KID) and Tulelake Irrigation District (TID). In the event of a shortage, these contracts obligate Reclamation to reduce and/or terminate deliveries to Warren Act contractors prior to reducing deliveries to KID or TID.

3. Warren Act Contracts

Warren Act contracts include all contracts executed pursuant to the Warren Act (36 Stat. 925, 43 U.S.C. §§523-525), which provide for a supply of Project water that is secondary to the contractual rights of repayment contractors. Consistent with the Warren Act, deliveries under these contracts are subject to being curtailed if necessary when there is not an adequate supply for lands covered by repayment and settlement contracts.

Many of the Warren Act contracts on the Project also expressly limit the amount of water to a specific figure, such as 2.0 or 2.5 acre-feet (AF) per irrigable acre. These contracts also commonly include a limitation on the monthly rate of diversions (e.g., no more than 0.6 AF per irrigable acre per month). Such limitations apply independent of any restrictions that may exist under state law.

4. Annual Water Rental Agreements

Annual water rental agreements provide water if and when there is excess water beyond the needs of lands under settlement, repayment, and Warren Act contracts. Reclamation executes annual water rental agreements in various locations, depending on the availability of surplus water supplies. KID and TID are also authorized to enter into annual water rental agreements, if such water is available, through their respective delivery control points, with Project water users. Generally, if Project water supplies are limited among settlement, repayment, and Warren Act contracts, Reclamation will not make water available for annual water rental agreements and instruct KID and TID likewise.

2020 Allocation Plan

In response to the estimated below average Project Supply from UKL and the Klamath River, Reclamation has been coordinating with districts and other water users within the Project about how best to manage the limited water supply. The districts are already implementing a number of conservation strategies, including modified operations and delayed start up. The districts, through their representatives, are also implementing various drought assistance programs. These activities

will have the effect of reducing demand on Project Supply from UKL and the Klamath River, although the extent to which is uncertain.

Both Reclamation and districts within the Project recognize that the Project Supply from UKL and the Klamath River is insufficient to meet all irrigation needs that primarily rely upon this source. It is common knowledge that after certain settlement contractors have been met (e.g., Van Brimmer Ditch Company), KID and TID generally requires approximately 200,000 AF of water for a full season of irrigation in a normal year. With the Project Supply from UKL being estimated at approximately 140,000 AF, there is a potential shortage for KID and TID.

Given the potential shortage to KID and TID, Reclamation has instructed for releases to be made from Clear Lake and Gerber reservoirs to help meet these districts' demands, particularly early in the irrigation season. KID and TID have a contractual right to receive water from any source within the Project, including Clear Lake and Gerber reservoirs. Due to various operational and hydrologic limitations, including current drought conditions, it is uncertain how much water released from these reservoirs can be conveyed to where it can be diverted by KID and TID. These releases are not expected to cause shortages to the other districts and individuals with contractual rights to receive water from these reservoirs.

Given the potential shortage to KID and TID, Reclamation is also warranted in reducing and/or limiting the supply made available to Warren Act contractors. The extent to which to reduce and/or limit deliveries to Warren Act contractors is uncertain, given all the circumstances this year. Based on discussions with districts and water users within the Project, it is Reclamation's understanding that the preferred approach at this time is to initially limit deliveries to Warren Act contractors that utilize water from UKL and the Klamath River.

Accordingly, Reclamation will immediately be instructing KID and TID to deliver up to 0.25 AF per irrigable acre to the Warren Act contractors they respectively serve. Reclamation will also be notifying Warren Act contractors that divert directly from UKL and the Klamath River that their use of Project Supply is also limited, at this time, to 0.25 AF per irrigable acre.

Warren Act contractors are hereby expressly warned that:

1. The current allocation for Warren Act contractors may change at any time.
2. There may be no additional water available to Warren Act contractors from UKL and the Klamath River during the 2020 spring/summer irrigation season.

Reclamation will continuously monitor and coordinate with water users on the availability and use of Project Supply, and promptly notify Warren Act contractors if and when the current allocation changes.

Reclamation will also notify KID and TID that Project water is unavailable for water rental agreements during the 2020 spring/summer irrigation season.

All districts and water users within the Project are strongly advised to closely track their water use, monitor their irrigation demands, and advise Reclamation accordingly. Districts are also strongly encouraged to coordinate their respective operations, to maximize the use and eliminate all waste to the best of their abilities.

Voluntary Water Transfers

This section only covers the voluntary transfer of water available from the Project between lands under contract with Reclamation, as described above. This section does not address transfers of non-Project water in accordance with state law, nor the conveyance of non-Project water, through federal facilities operated and maintained by KID and TID.

Reclamation supports voluntary transfers of Project water as a means of promoting flexibility in managing water supplies and maximizing Project benefits. Subject to its approval, Reclamation will allow transfers of Project water, within the limits of applicable federal and state law.

Reclamation's prior written approval is required to transfer Project water among Project lands, in accordance with existing contracts. Such transfers should be initially coordinated with potentially affected districts and similar districts also have the discretion to approve transfer of Project water from within their designated service area, independent of Reclamation's approval process. Individual landowners who are interested in transferring Project water are advised to work with their respective districts, to obtain Reclamation's approval of Project water transfers. Transfers of Project water to LKNWR or TLNWR will also require the approval of the FWS. Compliance with other applicable federal laws may also be necessary.

Water transfers within the Project will be contingent, in part, upon the ability to accurately measure corresponding water use, on both the transferring and receiving lands, in order to ensure that the amount of water used does not exceed the associated total available duty. Reclamation may also require that parties to a proposed transfer first demonstrate compliance with applicable state law.

Voluntary Water Transfers

In the event Reclamation discovers or receives a complaint of an unauthorized use of Project water, Reclamation and/or its contractors will investigate, as deemed appropriate by the Area Manager. Reclamation will coordinate with Project water users, the Oregon Water Resources Department

(OWRD), California Department of Water Resources, and other stakeholders concerning any alleged unauthorized water use.

Violations of Oregon water rights will be referred to the OWRD's district watermaster. Use of Project water contrary to individual contracts with Project water users will result in a written notification to the landowner and the respective district (as applicable). The letter will explain the basis for the alleged unauthorized use and the required remedies. Failure to comply may result in further enforcement action.

For more information, please visit <https://www.usbr.gov/mp/kbao/> or contact Dave Felstul at 541-880-2550 or via electronic mail at dfelstul@usbr.gov.