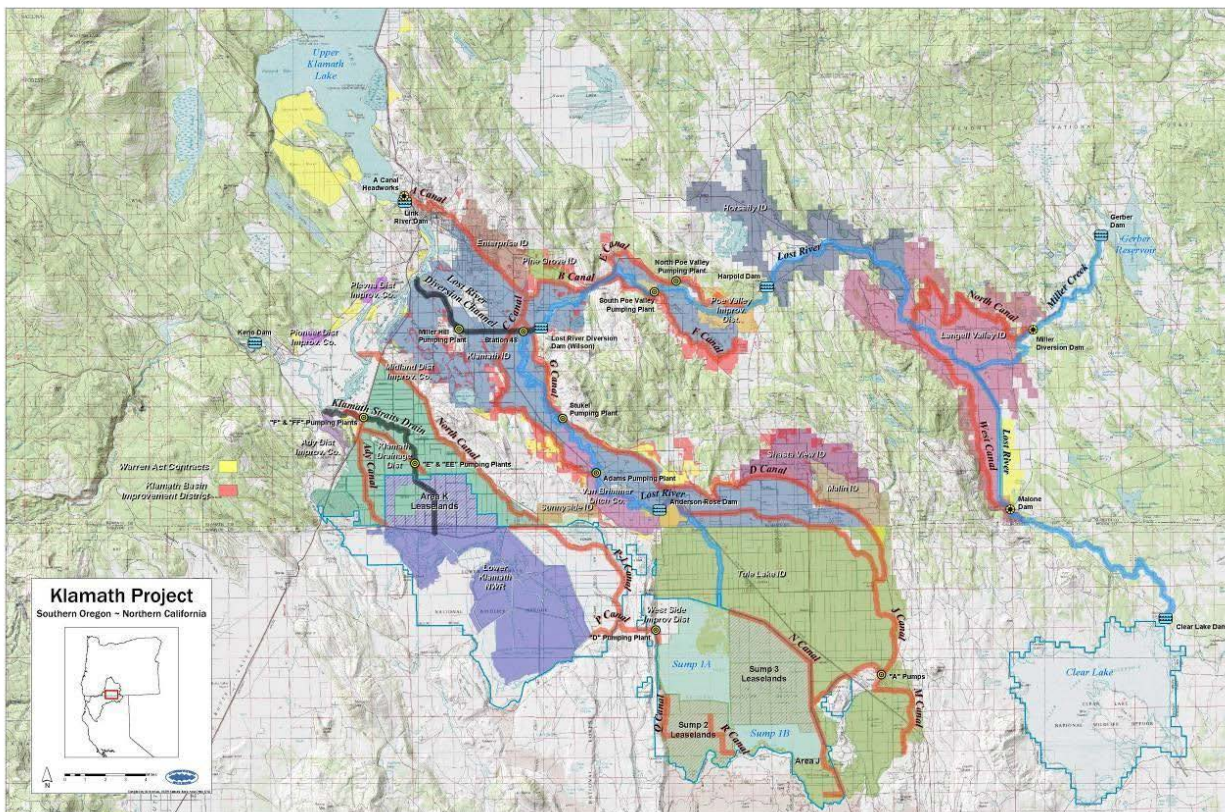


RECLAMATION

Managing Water in the West

2018 Drought Plan Klamath Project, Oregon-California Mid-Pacific Region



U.S. Department of the Interior
Bureau of Reclamation
Mid-Pacific Region

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Mission Statements

The Department of the Interior protects and manages the Nation's natural resources and cultural heritage; provides scientific and other information about those resources; and honors its trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated island communities.

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), Klamath River, Clear Lake Reservoir, Gerber Reservoir, and the Lost River. The Project's water supplies have been impacted by the drought conditions currently affecting California and Southern Oregon.

This 2018 Drought Plan describes the background for and the process of allocating the available Project water supplies during the 2018 spring-summer irrigation season (March 1 to November 15), consistent with the system of contractual priorities that exist within the Project.

2018 Drought Planning

The Bureau of Reclamation issued the 2018 Annual Operations Plan (Operations Plan) on June 21, 2018, which identifies the estimated available Project water supplies from the various Project water sources for the 2018 spring-summer irrigation season, consistent with the biological opinions issued jointly by National Oceanic and Atmospheric Administration's National Marine Fisheries Service and the U.S. Fish and Wildlife Service on May 31, 2013, as well as the injunctive order issued by the United States District Court for the District of Northern California, in Case Nos. 3:16-cv-06863-WHO and C16-cv-04294-WHO.

As the Operations Plan describes, the Project water supply available from UKL and the Klamath River is approximately 233,911 AF, which is 60 percent of the historical full demand during the spring-summer irrigation season (390,000 AF).

In response to the estimated below average Project Supply from UKL and the Klamath River, the Operations Plan identified several drought mitigation measures to potentially minimize involuntary shortages among Project contractors. These measures include active conservation efforts and voluntary transfers among Project water users.

Another factor affecting the allocation of the available Project Supply is the indication by the Klamath Drainage District (KDD) that it intends to divert up to 28,851.3 AF (1.5 AF per acre) during the spring-summer irrigation season. This volume is in excess of the allocation, as provided below, that Reclamation has determined is available to KDD under the current drought conditions and in accordance with its Warren Act contract. However, since Reclamation does not currently have a means to limit diversions by KDD, other than by directing compliance with its contract, Reclamation must take KDD's anticipated excess diversions into account in determining the volume of Project Supply it can reasonably expect to be able to deliver to the other Project contractors.

Contractual Priorities

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.

To the extent that there is Project water available in addition to the needs of repayment and settlement contractors, Reclamation will apportion the remaining available Project supply among Warren Act contracts on a pro rata (i.e., proportional) basis, based on the number of acres under each contract.

Many of the Warren Act contracts on the Project also expressly limit the contracted Project supply to a specified amount of water, 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.

Contractual Allocation

In allocating the available Project water supply from UKL and the Klamath River, the first consideration is the 1909 Settlement Contract between the United States and the Van Brimmer Ditch Company (VBDC). This contract obligates Reclamation to deliver fifty (50) cubic feet per second (cfs) of water from April 15 to October 1 of each year through the C Canal, in satisfaction of the water rights VBDC originally claimed to waters from Lower Klamath Lake and the Klamath River. Reclamation interprets this settlement contract as requiring that VBDC's right to 50 cfs must first be satisfied before water is made available to the remainder of the Project. VBDC's demand generally represents a small portion of total Project demand.

Following VBDC's 50 cfs as described above, Reclamation is contractually obligated to provide a sufficient supply for the Project's repayment contractors, KID and TID. The amount of Project surface water from UKL and Klamath River needed to satisfy the demands of KID and TID is based on a number of factors, such as current and projected hydrologic conditions, anticipated return flow patterns, particularly through the Lost River drainage, and existing cropping patterns.

Based on historical diversion records in similar dry years and currently anticipated acreage participating in demand management measures, and after coordination with KID and TID, Reclamation anticipates KID and TID's demand to be between approximately 170,000 and 210,000 AF.

Accordingly, given the current and projected hydrologic conditions, Reclamation estimates that the available Project Supply from UKL and the Klamath River will be sufficient to meet the full irrigation demands of KID and TID. The remaining volume of water after KID and TID's demands are satisfied is, however, less than the volume needed to meet the full irrigation demands associated with Warren Act contracts.

Reclamation has determined that up to 0.4 acre-feet per irrigable acre of Project water from UKL and the Klamath River is available for lands served under Warren Act contracts at this time. This amount is subject to change based on unforeseen hydrologic conditions or legal requirements.

KID and TID, which are responsible for the operation and maintenance of certain Project facilities, have been notified to limit surface water deliveries to Warren Act contractors served through these facilities consistent with this allocation, except under approved voluntary transfer agreements, as discussed in the Operations Plan.

Reclamation intends to reevaluate and update this allocation periodically throughout the course of the irrigation season. This allocation is subject to change based on several factors, including:

changes in hydrologic conditions, anticipated water demands, water conservation measures, state water rights administration, and voluntary water rights transfers. Reclamation will update the allocation based on available information, and notify Klamath Project water users accordingly.

Monitoring & Enforcement

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 <http://www.usbr.gov/mp/kbao/> and or contact Jared Bottcher at 541-880-2548 or via E-mail at jbottcher@usbr.gov.