

Clock is ticking Time running out on water pact

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A coalition of water stakeholders visited Washington, D.C., earlier this month to bolster support for long-term water security and fishery restoration in the Klamath Basin.

On Wednesday and Thursday, Sept. 9 and 10, more than one dozen stakeholders met with several Oregon and California delegates in Washington, D.C., to reinforce the importance, and the urgency, of passing water legislation this year.



File Photo
The Klamath Water Recovery and Economic Restoration Act — Senate Bill 133 — includes a variety of actions, including the removal of four dams — the J.C. Boyle, Iron Gate, Copco 1 and Copco 2 — from the Klamath River.

The team — representatives from agricultural, tribal and environmental interests — traveled 2,400 miles to the East Coast to discuss the massive hit the Basin's \$600 million-per-year ag industry and endangered fish esteemed by tribes will take if Senate Bill 133 — the Klamath Water Recovery and Economic Restoration Act — fails to pass Congress in 2015.

“It was a coordinated effort on all fronts,” said Brad Kirby, assistant manager of Tulelake Irrigation District.

SB133 must pass the House and Senate in identical form and be signed by the president before it can become law. The bill was introduced in the Senate Committee on Energy and Natural Resources in January, but has yet to move. It has not been introduced in the House.

Klamath Project Farmer Luther Horsley, who attended the D.C. meetings, said he is concerned legislation has not been introduced in the House.

“We would like that process to start. The clock is ticking. The end of the year is fast approaching,” Horsley said.

Klamath Tribes Chairman Don Gentry said he felt lawmakers understood the coalition's urgency and the need to move legislation forward immediately.

This isn't the first time, however, stakeholders have gone to Washington, D.C., with an urgent message, according to Karuk Tribe Spokesman Craig Tucker.

"We really mean it this time, and I think we conveyed that to people," Tucker said.

Dam removal sticking point

After years of hard-won stakeholder negotiations from parties stemming from the headwaters of the Williamson River to the mouth of the Klamath River, Sen. Ron Wyden, D-Ore., sponsored the Klamath Water Recovery and Economic Restoration Act in 2014.

The bill is a three-part legislation encompassing the Klamath Basin Restoration Agreement and the Klamath Hydroelectric Settlement Agreement — both finalized in 2010 — and the 2014 Upper Klamath Basin Comprehensive Agreement. The comprehensive bill aims to create water certainty for Basin ag producers and establish affordable power rates for farmers, ranchers and the Klamath refuge complex.

The pact also provides an economic package for the Klamath Tribes, and aims to restore aquatic and riparian habitat in tributaries of Upper Klamath Lake.

It also calls for removing four dams — the J.C. Boyle, Iron Gate, Copco 1 and Copco 2 — from the Klamath River.

Most everyone agrees that water certainty and riparian and stream restoration are beneficial components of the agreements, but dam removal has been a sticking point for ag producers and lawmakers alike.

To lawmakers such as Rep. Greg Walden, R-Ore., the possibility of Klamath dam removal becoming precedent-setting for blasting federally owned dams has been worrisome.

According to Tucker, stakeholders are not trying to set a precedent for dam removal, though. The precedent stakeholders would like to set, he said, is for rural communities solving complex resource issues.

At a recent town hall in Tulelake, Republican Rep. Doug LaMalfa, who represents California's first district, said his support for SB133 hinges on dam removal. According to Gentry, LaMalfa reiterated his apprehension about the Klamath dams in the D.C. meetings.

"It would expedite the process if LaMalfa was on board," Horsley said.

Tucker said, in his opinion, House Republicans struggle with dam removal.

"And we can't pass legislation without them. That's a fact," Tucker said.

Democratic Sens. Jeff Merkley, Ore., and Dianne Feinstein and Barbara Boxer, both representing California, have co-signed SB133.

Walden spokesman Andrew Malcolm pointed out that no Republicans have co-sponsored the bill. He said Republican support will be required to move SB133 in the House and Senate because the party holds the majority in both chambers.

“This bill faces obstacles in the Senate and the House,” Malcolm said. “Walden is trying to come up with something that will get majority support in the Senate and House, and strong support in the Basin.”

Gentry called dam removal under SB133 “a unique situation” because the dams are privately owned and operated by PacifiCorp.

“I think dam removal was a sticking point for everyone involved, including me, until I realized the benefits of the dams being removed outweighed them staying in,” Horsley said.

Tucker said removing the Klamath Dams is “the single most important act of restoration” that can be carried out for restoring salmon runs and aquatic habitat in the Klamath watershed.

Long, tough haul

Chairman Gentry said he believes support for the Klamath water settlements is still growing, but those who have been involved since the beginning are tired and worn out. Gentry said he has a hard time believing stakeholders will stay on board if legislation does not pass this year.

Yurok proceeding with pact withdrawal

The Yurok Tribe announced it is moving forward with a mediation process that could dissolve the Klamath Basin Restoration Agreement (KBRA).

According to the KBRA, if a settlement party believed the KBRA’s bargained-for benefits were no longer achievable when the pact sunset in 2014, the party was required to submit a dispute resolution notice within the first 60 days of 2015.

The Klamath Tribes, the Karuk Tribe and the Yurok Tribe each filed dispute initiation notices before the deadline.

Filing the dispute resolution notice essentially created a placeholder for the tribes to proceed with termination if they chose to at a later date. According to a news release, the Yurok are proceeding.

California Rep. Jared Huffman, who represents the state’s 2nd district, said the Yurok’s announcement demonstrates that time is running out.

“I remain convinced that the Klamath agreements are the best way forward and that a return to squabbling over water and the future of the dams on the river is a step backward. But my patience, not unlike the Yurok Tribe’s, is wearing thin,” Huffman said in a statement.

Huffman said he is disappointed with the tribe’s change of heart, but he shares its frustration with the lack of congressional action.

The release said the tribe filed the notice because it wasn’t confident the bargained-for benefits were still achievable. The release also stated the Yurok Tribe was not invited to participate in crafting the upper Basin settlement — the 2014 Upper Klamath Basin Comprehensive Agreement — and that the additional benefits it provides upper Basin stakeholders “upsets the bargained-for benefits of the KBRA and (Klamath Hydroelectric Settlement Agreement).”

“The tribe is left with no choice other than to withdraw from the Klamath agreements,” the release said.

But, before any party to the KBRA can completely withdraw, it must complete a five-step dispute process, which includes attempting to resolve the dispute with mediation from the Klamath Basin Coordinating Council (KBCC).

The tribe is requesting that the council expedite attempts to resolve the dispute, the release said.

“Folks are growing weary waiting for legislation to occur,” Gentry said. “I think we still need to stress the importance of Congress legislating before the end of the year. They need to understand how critical that is.”

Without a settlement in place, stakeholders can expect costly litigation to continue for the next 10 to 20 years, he said.

Horsley said in the D.C. meetings bill-sponsor Wyden showed optimism for SB133 moving forward before the year-end.

“Legislation to implement the Klamath Basin settlement agreements is a top priority for Sen. Wyden. He remains committed to working with all interested parties who know full well the importance of getting this much-needed settlement passed,” said Hank Stern, a spokesman for Sen. Ron Wyden, D-Ore.

Gentry said from his perspective, folks are working hard to take away excuses for not moving legislation forward. Gentry said he believes the D.C. meetings were generally positive.

“The congressionals in Washington, D.C., know it’s critical to move legislation before the end of the year,” Gentry said. “Time is running out.”

If a settlement package fails to pass, the consequences could set stakeholders’ progress back a decade or more, according to Tucker. He noted that downriver Karuk, Yurok and Hoopa tribes have not filed for water rights, but those issues could surface without legislation in place.

“All options will be on the table,” Tucker said. “Tribal folks are fearless when it comes to defending their resources,” Tucker said.

Tucker said he’s trying to stay optimistic.

“I think with every passing day the odds get worse, but I still think there’s hope,” Tucker said.

“No one said ‘Hell no,’ so I feel like we have a chance,” Tucker said.

http://www.heraldandnews.com/news/local_news/time-running-out-on-water-pact/article_840c5643-ed01-5c87-8dee-95fb1fb7e13d.html