Public Law 85-222

AN ACT

August 30, 1957
[S. 2431]

Granting the consent of Congress to the Klamath River Basin Compact between the States of California and Oregon, and for related purposes.

Klamath River Basin Compact.
Congressional consent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the Klamath River Basin Compact between the States of California and Oregon, which compact is as follows:

"KLAMATH RIVER BASIN COMPACT

"INDEX

"Article I	Purposes
Article II	Definition of Terms
Article III	Distribution and Use of Water
Article IV	Hydroelectric Power
Article V	Interstate Diversion and Storage Rights; Measuring Devices
Article VI	Acquisition of Property for Storage and Diversion; in Lieu of Taxes
Article VII	Pollution Control
Article VIII	Miscellaneous
Article IX	Administration
Article X	Status of Indian Rights
Article XI	Federal Rights
Article XII	General Provisions
Article XIII	Ratification
Article XIV	Termination

"ARTICLE I. PURPOSES

"The major purposes of this compact are, with respect to the water resources of the Klamath River Basin:

"A. To facilitate and promote the orderly, integrated, and comprehensive development, use, conservation, and control thereof for various purposes, including, among others: the use of water for domestic purposes; the development of lands by irrigation and other means; the protection and enhancement of fish, wildlife, and recreational resources; the use of water for industrial purposes and hydroelectric power production; and the use and control of water for navigation and flood prevention.

"B. To further intergovernmental cooperation and comity with respect to these resources and programs for their use and development and to remove causes of present and future controversies by providing (1) for equitable distribution and use of water among the two States and the Federal Government, (2) for preferential rights to the use of water after the effective date of this compact for the anticipated ultimate requirements for domestic and irrigation purposes in the Upper Klamath River Basin in Oregon and California, and (3) for prescribed relationships between beneficial uses of water as a practicable means of accomplishing such distribution and use.

"ARTICLE II. DEFINITION OF TERMS

"As used in this compact:

"A. 'Klamath River Basin' shall mean the drainage area of the Klamath River and all its tributaries within the States of California and Oregon and all closed basins included in the Upper Klamath River Basin.

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

"B. 'Upper Klamath River Basin' shall mean the drainage area of the Klamath River and all its tributaries upstream from the boundary between the States of California and Oregon and the closed basins of Butte Valley, Red Rock Valley, Lost River Valley, Swan Lake Valley and Crater Lake, as delineated on the official map of the Upper Klamath River Basin approved on September 6, 1956, by the commissions negotiating this compact and filed with the Secretaries of State of the two states and the General Services Administration of the United States, which map is incorporated by reference and made a part hereof.

"C. 'Commission' shall mean the Klamath River Compact Commission as created by Article IX of this compact.

"D. 'Klamath Project' of the Bureau of Reclamation of the Department of the Interior of the United States shall mean that area as delineated by appropriate legend on the official map incorporated by reference under subdivision B of this article.

"E. 'Person' shall mean any individual or any other entity, public or private, including either state, but excluding the United States.

"F. 'Keno' shall mean a point on the Klamath River at the present needle dam, or any substitute control dam constructed in Section 36, Township 39 South, Range 7 East, Willamette Base and Meridian.

"G. 'Water' or 'waters' shall mean waters appearing on the surface of the ground in streams, lakes or otherwise, regardless of whether such waters at any time were or will become ground water, but shall not include water extracted from underground sources until after such water is used and becomes surface return flow or waste water.

"H. 'Domestic use' shall mean the use of water for human sustenance, sanitation and comfort; for municipal purposes; for livestock watering; for irrigation of family gardens; and for other like purposes.

"I. 'Industrial use' shall mean the use of water in manufacturing operations.

"J. 'Irrigation use' shall mean the use of water for production of agricultural crops, including grain grown for feeding wildfowl.

"ARTICLE III. DISTRIBUTION AND USE OF WATER

"A. There are hereby recognized vested rights to the use of waters originating in the Upper Klamath River Basin validly established and subsisting as of the effective date of this compact under the laws of the state in which the use or diversion is made, including rights to the use of waters for domestic and irrigation uses within the Klamath Project. There are also hereby recognized rights to the use of all waters reasonably required for domestic and irrigation uses which may hereafter be made within the Klamath Project.

"B. Subject to the rights described in subdivision A of this article and excepting the uses of water set forth in subdivision E of Article XI, rights to the use of unappropriated waters originating within the Upper Klamath River Basin for any beneficial use in the Upper Klamath River Basin, by direct diversion or by storage for later use, may be acquired by any person after the effective date of this compact by appropriation under the laws of the state where the use is to be made, as modified by the following provisions of this subdivision B and subdivision C of this article, and may not be acquired in any other way:

"1. In granting permits to appropriate waters under this subdivision B, as among conflicting applications to appropriate when there is insufficient water to satisfy all such applications, each state

shall give preference to applications for a higher use over applications for a lower use in accordance with the following order of uses:

"(a) Domestic use,
"(b) Irrigation use,
"(c) Recreational use, including use for fish and wildlife,
"(d) Industrial use,
"(e) Generation of hydroelectric power,
"(f) Such other uses as are recognized under the laws of the state involved.

These uses are referred to in this compact as uses (a), (b), (c), (d), (e) and (f), respectively. Except as to the superiority of rights to the use of water for use (a) or (b) over the rights to the use of water for use (c), (d), (e) or (f), as governed by subdivision C of this article, upon a permit being granted and a right becoming vested and perfected by use, priority in right to the use of water shall be governed by priority in time within the entire Upper Klamath River Basin regardless of State boundaries. The date of priority of any right to the use of water appropriated for the purposes above enumerated shall be the date of the filing of the application therefor, but such priority shall be dependent on commencement and completion of construction of the necessary works and application of the water to beneficial use with due diligence and within the times specified under the laws of the State where the use is to be made. Each State shall promptly provide the commission and the appropriate official of the other State with complete information as to such applications and as to all actions taken thereon.

"2. Conditions on the use of water under this subdivision B in Oregon shall be:

"(a) That there shall be no diversion of waters from the Upper Klamath River Basin, but this limitation shall not apply to out-of-basin diversions of waters originating within the drainage area of Fourmile Lake.

"(b) That water diverted from Upper Klamath Lake and the Klamath River and its tributaries upstream from Keno, Oregon, for use in Oregon and not consumed therein and appearing as surface return flow and waste water within the Upper Klamath River Basin shall be returned to the Klamath River or its tributaries above Keno, Oregon.

"3. Conditions on the use of water under this subdivision B in California shall be:

"(a) That the waters diverted from the Klamath River within the Upper Klamath River Basin for use in California shall not be taken outside the Upper Klamath River Basin.

"(b) That substantially all of the return flows and waste water finally resulting from such diversions and use appearing as surface waters in the Upper Klamath River Basin shall be made to drain so as to be eventually returned to the Klamath River upstream from Keno, Oregon.

"C. 1. All rights, acquired by appropriation after the effective date of this compact, to use waters originating within the Upper Klamath River Basin for use (a) or (b) in the Upper Klamath River Basin in either state shall be superior to any rights, acquired after the effective date of this compact, to use such waters (i) for any purpose outside the Klamath River Basin by diversion in California or (ii) for use (c), (d), (e) or (f) anywhere in the Klamath River Basin. Such superior rights shall exist regardless of their priority in time and may be exercised with respect to inferior rights without the payment of compensation. But such superior rights to use water for use (b) in California shall be limited to the quantity of water neces-

sary to irrigate 100,000 acres of land, and in Oregon shall be limited to the quantity of water necessary to irrigate 200,000 acres of land.

"2. The provisions of paragraph 1 of this subdivision C shall not prohibit the acquisition and exercise after the effective date of this compact of rights to store waters originating within the Upper Klamath River Basin and to make later use of such stored water for any purpose, as long as the storing of waters for such later use, while being effected, does not interfere with the direct diversion or storage of such waters for use (a) or (b) in the Upper Klamath River Basin.

"ARTICLE IV. HYDROELECTRIC POWER

"It shall be the objective of each state, in the formulation and execution and the granting of authority for the formulation and execution of plans for the distribution and use of the waters of the Klamath River Basin, to provide for the most efficient use of available power head and its economic integration with the distribution of water for other beneficial uses in order to secure the most economical distribution and use of water and lowest power rates which may be reasonable for irrigation and drainage pumping, including pumping from wells.

"ARTICLE V. INTERSTATE DIVERSION AND STORAGE RIGHTS; MEASURING DEVICES

A. Each state hereby grants for the benefit of the other and its designees the right to construct and operate facilities for the measurement, diversion, storage and conveyance of water from the Upper Klamath River Basin in one state for use in the other insofar as the exercise of such right may be necessary to effectuate and comply with the terms of this compact. The location of such facilities shall be subject to approval by the commission.

"(B) Each state or its designee, exercising within the jurisdiction of the other a right granted under subdivision A of this article, shall make provision for the establishment, operation and maintenance of permanent gaging stations at such points on streams or reservoir or conveyance facilities as may be required by the commission for the purpose of ascertaining and recording the volume of diversions by the streams or facilities involved. Said stations shall be equipped with suitable devices for determining the flow of water at all times. All information obtained from such stations shall be compiled in accordance with the standards of the United States Geological Survey, shall be filed with the commission, and shall be available to the public.

"ARTICLE VI. ACQUISITION OF PROPERTY FOR STORAGE AND DIVERSION; IN LIEU TAXES

"A. Subject to approval of the commission, either state shall have the right (1) to acquire such property rights in the other state as are necessary for the diversion, storage, conveyance, measurement and use of water in conformity with this compact, by donation or purchase, or (2) to elect to have the other state acquire such property rights for it by purchase or through the exercise of the power of eminent domain. A state making the latter election shall make a written request therefor and the other state shall expeditiously acquire said property rights either by purchase at a price satisfactory to the requesting state, or, if such purchase cannot be made, then through the exercise of its power of eminent domain, and shall convey said property rights to the requesting state or its designee. All costs

of such acquisition shall be paid by the requesting state. Neither state shall have any greater power to acquire property rights for the other state through the exercise of the power of eminent domain than it would have under its laws to acquire the same property rights for itself.

"B. Should any diversion, storage or conveyance facilities be constructed or acquired in either state for the benefit of the other state, as herein provided, the construction, repair, replacement, maintenance and operation of such facilities shall be subject to the laws of the state in which the facilities are located, except that the proper officials of that state shall permit the storage, release and conveyance of any water to which the other state is entitled under this compact.

"C. Either state having property rights other than water rights in the other state acquired as provided in this article shall pay to each political subdivision of the state in which such property rights are located, each and every year during which such rights are held, a sum of money equivalent to the average annual amount of taxes assessed against those rights during the 10 years preceding the acquisition of such rights in reimbursement for the loss of taxes to such political subdivisions of the state. Payments so made to a political subdivision shall be in lieu of any and all taxes by that subdivision on the property rights for which the payments are made.

"ARTICLE VII. POLLUTION CONTROL

"A. The states recognize that the growth of population and the economy of the Upper Klamath River Basin can result in pollution of the waters of the Upper Klamath River Basin constituting a menace to the health and welfare of, and occasioning economic loss to, people living or having interests in the Klamath River Basin. The states recognize further that protection of the beneficial uses of the waters of the Klamath River Basin requires cooperative action of the two states in pollution abatement and control.

"B. To aid in such pollution abatement and control, the commission shall have the duty and power:

"1. To cooperate with the states or agencies thereof or other entities and with the United States for the purpose of promoting effective laws and the adoption of effective regulations for abatement and control of pollution of the waters of the Klamath River Basin, and from time to time to recommend to the governments reasonable minimum standards for the quality of such waters.

"2. To disseminate to the public by any and all appropriate means information respecting pollution abatement and control in the waters of the Klamath River Basin and on the harmful and uneconomic results of such pollution.

"C. Each state shall have the primary obligation to take appropriate action under its own laws to abate and control interstate pollution, which is defined as the deterioration of the quality of the waters of the Upper Klamath River Basin within the boundaries of such state which materially and adversely affects beneficial uses of waters of the Klamath River Basin in the other state. Upon complaint to the commission by the state water pollution control agency of one state that interstate pollution originating in the other state is not being prevented or abated, the procedure shall be as follows:

"1. The commission shall make an investigation and hold a conference on the alleged interstate pollution with the water pollution control agencies of the two states, after which the commission shall recommend appropriate corrective action.

"2. If appropriate corrective action is not taken within a reasonable time, the commission shall call a hearing, giving reasonable notice in writing thereof to the water pollution control agencies of the two states and to the person or persons which it is believed are causing the alleged interstate pollution. Such hearing shall be held in accordance with rules and regulations of the commission, which shall conform as nearly as practicable with the laws of the two states governing administrative hearings. At the conclusion of such hearing, the commission shall make a finding as to whether interstate pollution exists, and if so, shall issue to any person or persons which the commission finds are causing such interstate pollution an order or orders for correction thereof.

"3. It shall be the duty of the person against whom any such order is issued to comply therewith. Any court of general jurisdiction of the state where such discharge is occurring or the United States District Court for the district where the discharge is occurring shall have jurisdiction, on petition of the commission for enforcement of such order, to compel action by mandamus, injunction, specific performance, or any other appropriate remedy, or on petition of the person against whom the order is issued to review any order. At the conclusion of such enforcement or review proceedings, the court may enter such decree or judgment affirming, reversing, modifying, or remanding such order as in its judgment is proper in the circumstances on the basis of the rules customarily applicable in proceedings for court enforcement or review of administrative actions.

"D. The water pollution control agencies of the two states shall, from time to time, make available to the commission all data relating to the quality of the waters of the Upper Klamath River Basin which they possess as the result of studies, surveys and investigations thereof which they may have made.

"ARTICLE VIII. MISCELLANEOUS

"A. Subject to vested rights as of the effective date of this compact, there shall be no diversion of waters from the basin of Jenny Creek to the extent that such waters are required, as determined by the commission, for use on land within the basin of Jenny Creek.

"B. Each state shall exercise whatever administrative, judicial, legislative or police powers it has that are required to provide any necessary re-regulation or other control over the flow of the Klamath River downstream from any hydroelectric power plant for protection of fish, human life or property from damage caused by fluctuations resulting from the operation of such plant.

"ARTICLE IX. ADMINISTRATION

"A. 1. There is hereby created a commission to administer this compact. The commission shall consist of three members. The representative of the State of California shall be the Department of Water Resources. The representative of the State of Oregon shall be the State Engineer of Oregon who shall serve as ex officio representative of the State Water Resources Board of Oregon. The President is requested to appoint a federal representative who shall be designated and shall serve as provided by the laws of the United States.

"2. The representative of each state shall be entitled to one vote in the commission. The representative of the United States shall serve as chairman of the commission without vote. The compensation and expenses of each representative shall be fixed and paid by the govern-

ment which he represents. Any action by the commission shall be effective only if it be agreed to by both voting members.

"3. The commission shall meet to establish its formal organization within 60 days after the effective date of this compact, such meeting to be at the call of the governors of the two states. The commission shall then adopt its initial set of rules and regulations governing the management of its internal affairs providing for, among other things, the calling and holding of meetings, the adoption of a seal, and the authority and duties of the chairman and executive director. The commission shall establish its office within the Upper Klamath River Basin.

"4. The commission shall appoint an executive director, who shall also act as secretary, to serve at the pleasure of the commission and at such compensation, under such terms and conditions and performing such duties as it may fix. The executive director shall be the custodian of the records of the commission with authority to affix the commission's official seal, and to attest to and certify such records or copies thereof. The commission, without regard to the provisions of the civil service laws of either state, may appoint and discharge such consulting, clerical and other personnel as may be necessary for the performance of the commission's functions, may define their duties, and may fix and pay their compensation. The commission may require the executive director and any of its employes to post official bonds, and the cost thereof shall be paid by the commission.

"5. All records, files and documents of the commission shall be open for public inspection at its office during established office hours.

"6. No member, officer or employe of the commission shall be liable for injury or damage resulting from (a) action taken by such member, officer or employe in good faith and without malice under the apparent authority of this compact, even though such action is later judicially determined to be unauthorized, or (b) the negligent or wrongful act or omission of any other person, employed by the commission and serving under such officer, member or employe, unless such member, officer or employe either failed to exercise due care in the selection, appointment or supervision of such other person, or failed to take all available action to suspend or discharge such other person after knowledge or notice that such other person was inefficient or incompetent to perform the work for which he was employed. No suit may be instituted against a member, officer or employe of the commission for damages alleged to have resulted from the negligent or wrongful act or omission of such member, officer or employe or a subordinate thereof occurring during the performance of his official duties unless, within 90 days after occurrence of the incident, a verified claim for damages is presented in writing and filed with such member, officer or employe and with the commission. In the event of a suit for damages against any member, officer or employe of the commission on account of any act or omission in the performance of his or his subordinates' official duties, the commission shall arrange for the defense of such suit and may pay all expenses therefor on behalf of such member, officer or employe. The commission may at its expense insure its members, officers and employes against liability resulting from their acts or omissions in the performance of their official duties. Nothing in this paragraph shall be construed as imposing any liability upon any member, officer or employe of the commission that he would otherwise not have.

"7. The commission may incur obligations and pay expenses which are necessary for the performance of its functions. But it shall not pledge the credit of any government except by and with the authority of the legislative body thereof given pursuant to and in keeping

with the constitution of such government, nor shall the commission incur any obligations prior to the availability of funds adequate to meet them.

"8. The commission may:

"(a) Borrow, accept or contract for the services of personnel from any government or agency thereof, from any intergovernmental agency, or from any other entity.

"(b) Accept for any of its purposes and functions under this compact any and all donations, gifts, grants of money, equipment, supplies, materials and services from any government or agency thereof or intergovernmental agency or from any other entity.

"(c) Acquire, hold and dispose of real and personal property as may be necessary in the performance of its functions.

"(d) Make such studies, surveys and investigations as are necessary in carrying out the provisions of this compact.

"9. All meetings of the commission for the consideration of and action on any matters coming before the commission, except matters involving the management of internal affairs of the commission and its staff, shall be open to the public. Matters coming within the exception of this paragraph may be considered and acted upon by the commission in executive sessions under such rules and regulations as may be established therefor.

"10. In the case of the failure of the two voting members of the commission to agree on any matter relating to the administration of this compact as provided in paragraph 2 of this subdivision A, the representative from each state shall appoint one person and the two appointed persons shall appoint a third person. The three appointees shall sit as an arbitration forum. The terms of appointment and the compensation of the members of the arbitration forum shall be fixed by the commission. Matters on which the two voting members of the commission have failed to agree shall be decided by a majority vote of the members of the arbitration forum. Each state obligates itself to abide by the decision of the arbitration forum, subject, however, to the right of each state to have the decision reviewed by a court of competent jurisdiction.

"11. The commission shall have the right of access, through its authorized representatives, to all properties in the Klamath River Basin whenever necessary for the purpose of administration of this compact. The commission may obtain a court order to enforce its right of access.

"B. 1. The commission shall submit to the governor or designated officer of each state a budget of its estimated expenditures for such period and at such times as may be required by the laws of that state for presentation to the legislature thereof. Each state pledges itself to appropriate and pay over to the commission one-half of the amount required to finance the commission's estimated expenditures as set forth in each of its budgets, and pledges further that concurrently with approval of this compact by its legislature the sum of not less that $12,000 will be appropriated by it to be paid over to the commission at its first meeting for use in financing the commission's functions until the commission can prepare its first budget and receive its first appropriation thereunder from the states.

"2. The commission shall keep accurate accounts of all receipts and disbursements, which shall be audited yearly by a certified public accountant, and the report of the audit shall be made a part of its annual report. The accounts of the commission shall be open for public inspection during established office hours.

"3. The commission shall make and transmit to the legislature and governor of each state and to the President of the United States an

annual report covering the finances and activities of the commission and embodying such plans, recommendations and findings as may have been adopted by the commission.

"C. 1. The commission shall have the power to adopt, and to amend or repeal, such rules and regulations to effectuate the purposes of this compact as in its judgment may be appropriate.

"2. Except as to matters involving exclusively the management of the internal affairs of the commission and its staff or involving emergency matters, prior to the adoption amendment or repeal of any rule or regulation the commission shall hold a hearing at which any interested person shall have the opportunity to present his views on the proposed action in writing, with or without the opportunity to present the same orally. The commission shall give adequate advance notice in a reasonable manner of the time, place and subject of such hearings.

"3. Emergency rules and regulations may be adopted without a prior hearing, but in such case they may be effective for not longer than 90 days.

"4. The commission shall publish its rules and regulations in convenient form.

"ARTICLE X. STATUS OF INDIAN RIGHTS

"A. Nothing in this compact shall be deemed:

"1. To affect adversely the present rights of any individual Indian, tribe, band or community of Indians to the use of the waters of the Klamath River Basin for irrigation.

"2. To deprive any individual Indian, tribe, band or community of Indians of any rights, privileges, or immunities afforded under Federal treaty, agreement or statute.

"3. To affect the obligations of the United States of America to the Indians, tribes, bands or communities of Indians, and their reservations.

"4. To alter, amend or repeal any of the provisions of the Act of August 13, 1954, (68 Stat. 718) as it may be amended. 25 USC 564.

"B. Lands within the Klamath Indian Reservation which are brought under irrigation after the effective date of this compact, whether before or after Section 14 of said Act of August 13, 1954, 25 USC 564m. becomes fully operative, shall be taken into account in determining whether the 200,000 acre limitation provided in paragraph 1 of subdivision C of Article III has been reached.

"ARTICLE XI. FEDERAL RIGHTS

"Nothing in this compact shall be deemed:

"A. To impair or affect any rights, powers or jurisdiction in the United States, its agencies or those acting by or under its authority, in, over and to the waters of the Klamath River Basin, nor to impair or affect the capacity of the United States, its agencies or those acting by or under its authority in any manner whatsoever, except as otherwise provided by the federal legislation enacted for the implementation of this compact as specified in Article XIII.

"B. To subject any property of the United States, its agencies or instrumentalities, to taxation by either state or any subdivision thereof, unless otherwise provided by Act of Congress.

"C. To subject any works or property of the United States, its agencies, instrumentalities or those acting by or under its authority, used in connection with the control or use of waters which are the subject of this compact, to the laws of any state to an extent other than the extent to which those laws would apply without regard to this com-

pact, except as otherwise provided by the federal legislation enacted for the implementation of this compact as specified in Article XIII.

"D. To affect adversely the existing areas of Crater Lake National Park or Lava Beds National Monument, or to limit the operation of laws relating to the preservation thereof.

"E. To apply to the use of water for the maintenance, on the scale at which such land and water areas are maintained as of the effective date of this compact, of officially designated waterfowl management areas, including water consumed by evaporation and transpiration on water surface areas and water used for irrigation or otherwise in the Upper Klamath River Basin; nor to affect the rights and obligations of the United States under any migratory bird treaty or the Migratory Bird Conservation Act (45 Stat. 1222), as amended, to the effective date of this compact.

16 USC 715.

"ARTICLE XII. GENERAL PROVISIONS

"A. Each state and all persons using, claiming or in any manner asserting any right to the use of the waters of the Klamath River Basin under the authority of either state shall be subject to the terms of this compact.

"B. Nothing in this compact shall be construed to limit or prevent either state from instituting or maintaining any action or proceeding, legal or equitable, in any court of competent jurisdiction for the protection of any right under this compact or the enforcement of any of its provisions.

"C. Should a court of competent jurisdiction hold any part of this compact to be contrary to the Constitution of either state or the United States, all other provisions shall continue in full force and effect, unless it is authoritatively and finally determined judicially that the remaining provisions cannot operate for the purposes, or substantially in the manner, intended by the states independently of the portions declared unconstitutional or invalid.

"D. Except as to matters requiring the exercise of discretion by the commission, the provisions of this compact shall be self-executing and shall by operation of law be conditions of the various state permits, licenses or other authorizations relating to the waters of the Klamath River Basin issued after the effective date of this compact.

"E. The physical and other conditions peculiar to the Klamath River Basin constitute the basis for this compact, and neither of the states hereby, nor the Congress of the United States by its consent, considers that this compact establishes any general principle or precedent with respect to any other interstate stream.

"ARTICLE XIII. RATIFICATION

"A. This compact shall become effective when ratified by the legislature of each signatory state, and when consented to by an act of Congress of the United States which will, in substance, meet the provisions hereinafter set forth in this article.

"B. The act of Congress referred to in subdivision A of this article shall provide that the United States or any agency thereof, and any entity acting under any license or other authority granted under the laws of the United States (referred to in this article as 'the United States'), in connection with developments undertaken after the effective date of this compact pursuant to laws of the United States, shall comply with the following requirements:

"1. The United States shall recognize and be bound by the provisions of subdivision A of Article III.

"2. The United States shall not, without payment of just compensation, impair any rights to the use of water for use (a) or (b) within the Upper Klamath River Basin by the exercise of any powers or rights to use or control water (i) for any purpose whatsoever outside the Klamath River Basin by diversions in California or (ii) for any purpose whatsoever within the Klamath River Basin other than use (a) or (b). But the exercise of powers and rights by the United States shall be limited under this paragraph 2 only as against rights to the use of water for use (a) or (b) within the Upper Klamath River Basin which are acquired as provided in subdivision B of Article III after the effective date of this compact, but only to the extent that annual depletions in the flow of the Klamath River at Keno resulting from the exercise of such rights to use water for uses (a) and (b) do not exceed 340,000 acre-feet in any one calendar year.

"3. The United States shall be subject to the limitation on diversions of waters from the basin of Jenny Creek as provided in subdivision A of Article VIII.

"4. The United States shall be governed by all the limitations and provisions of paragraph 2 and subparagraph (a) of paragraph 3 of subdivision B of Article III.

"5. The United States, with respect to any irrigation or reclamation development undertaken by the United States in the Upper Klamath River Basin in California, shall provide that substantially all of the return flows and waste water finally resulting from such diversions and use appearing as surface waters in the Upper Klamath River Basin shall be made to drain so as to be eventually returned to the Klamath River upstream from Keno, unless the Secretary of the Interior shall determine that compliance with this requirement would render it less feasible than under an alternate plan of development, in which event such return flows and waste waters shall be returned to the Klamath River at a point above Copco Lake.

"C. Upon enactment of the act of Congress referred to in subdivision A of this article and so long as such act shall be in effect, the United States, when exercising rights to use water pursuant to state law, shall be entitled to all of the same privileges and benefits of this compact as any person exercising similar rights.

"D. Such act of Congress shall not be construed as relieving the United States of any requirement of compliance with state law which may be provided by other federal statutes.

"ARTICLE XIV. TERMINATION

"This compact may be terminated at any time by legislative consent of both states, but despite such termination, all rights then established hereunder or recognized hereby shall continue to be recognized as valid by the states."

SEC. 2. As used in this Act—

Definitions.

(a) The term "United States" shall mean collectively or separately, as the case may be, the United States, any agency thereof, and any entity acting under any license or other authority granted under the laws of the United States.

(b) The terms appearing herein which are defined in article II or III of the compact shall have the meaning there stated.

(c) "The compact" refers to the Klamath River Basin Compact, set forth in section 1 of this Act.

SEC. 3. (a) Reserving the constitutional powers of the United States and subject to the provisions of section 4 of this Act, the United States, in connection with developments undertaken after the effective date of this Act, pursuant to the laws of the United States, shall comply with the requirements set forth in paragraphs numbered 1, 2, 3, 4 and 5 of subdivision B in article XIII of the compact.

(b) The United States, when exercising rights to use water pursuant to State law, shall be entitled to all of the same privileges and benefits of the compact as any person exercising similar rights.

(c) This Act shall not be construed as relieving the United States of any requirement of compliance with State law which may be provided by other Federal statutes.

SEC. 4. Nothing in this Act or in the compact shall be construed as:

(a) Affecting the obligations of the United States to the Indians or Indian tribes, bands, or communities of Indians, or any right owned or held by or for the Indians or Indian tribes, bands or communities of Indians, which is subject to control by the United States.

(b) Enlarging, diminishing or otherwise affecting the jurisdiction of the courts of the United States.

(c) Impairing or affecting any existing rights of the United States to waters of the Klamath River Basin now beneficially used by the United States; nor any power or capacity of the United States to acquire rights in and to the use of the said waters of said basin by purchase, donation, or eminent domain.

U. S. representative. Appointment.

SEC. 5. (a) The Federal representative to the Commission shall be appointed by the President, and shall report to the President either directly or through such agency or official of the Government as the President may specify. Such representative shall have no vote.

Travel pay.

(b) The Federal representative shall receive compensation and shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as provided for experts and consultants under sections 5 and 15 of the Administrative Expenses Act of 1946 and the Travel Expense Act of 1949, except (1) that his term of service shall be governed by the terms of this Act and shall not be affected by the time limitations of said section 15, and (2) his per diem rate of compensation shall be in such amount, not in excess of $50, as the President shall specify, but the total amount of compensation payable in any one calendar year shall not exced $15,000: *Provided*, That if the Federal representative be an employee of the United States he shall serve without additional compensation: *Provided further*, That a retired military officer or a retired Federal civilian officer or employee may be appointed as such representative, without prejudice to his retired status, and he shall receive compensation as authorized herein in addition to his retired pay or annuity but the sum of his retired pay or annuity and such additional compensation as may be payable hereunder shall not exceed $15,000 in any one calendar year.

60 Stat. 806; 63 Stat. 166. 5 USC 73b-2, 55a, 835 note.

Limitation.

Administrative services.

(c) The Federal representative shall be provided with office space, consulting, engineering, and stenographic service, and other necessary administrative services.

(d) The compensation of the Federal representative shall be paid from the current appropriation for salaries in the White House Office. Travel and other expenses provided for in subsections (b) and (c) of this section shall be paid from any current appropriation or appropriations selected by the head of such agency or agencies as may be designated by the President to provide for such expenses.

Reservation.

SEC. 6. The right to alter, amend, or repeal this Act is expressly reserved.

Approved August 30, 1957.