

(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 necessary 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 the execution and the granting of authority for the formulation and execution of plans for the distribution and use of the water 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