

Chapter 19 Columbia Interstate Compact

73-19-6 Ratification.

The Columbia Interstate Compact entered into at Portland, Oregon, on the 8th day of October, 1962, by the Columbia River Basin states, namely Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming, by the representatives of those states with the approval of the representative of the United States of America is unconditionally ratified, approved and confirmed for and by the state of Utah.

Enacted by Chapter 177, 1963 General Session

73-19-7 Text of compact.

The text of said compact is as follows:

ARTICLE I -- PURPOSES

The purposes of this compact with respect to the land and water resources of the Columbia River Basin are:

- A. To facilitate and promote their orderly, integrated and comprehensive development, use, conservation and control for various purposes.
- B. To further intergovernmental co-operation and comity with respect to these resources and the programs for their use and development by, among other things,
 - (1) Providing for the relationship between certain beneficial uses of water as practicable means of effecting an equitable apportionment thereof, and for means of facilitating and effecting additional interstate agreements with respect thereto, and
 - (2) Providing an interstate body to consider the various common problems with respect to the use and development of these resources and to plan for, review and recommend plans for their development.

ARTICLE II -- DEFINITION OF TERMS

As used in this compact:

- A. "Columbia River System" means the Columbia River and its tributaries within the United States.
- B. "Columbia River Basin" means all the drainage area of the Columbia River System within the United States.
- C. "State" or "member state" means a state which has ratified and is a party to this compact.
- D. "Upstream state" means any of the states of Idaho, Montana, Nevada, Utah or Wyoming.
- E. "Downstream state" means either of the states of Oregon or Washington.
- F. "Upstream area" means all the area of the states of Idaho, Montana, Nevada, Utah and Wyoming situated within the Columbia River Basin, and all those portions of the states of Oregon and Washington situated within the Columbia River Basin, lying east of the summit of the Cascade mountains.
- G. "Beneficial consumptive use" means any use of waters, recognized as a beneficial use under the law of the member state involved, resulting in a substantial amount of the water diverted being consumed or so used as not to return to the Columbia River System. Such uses include those for domestic, livestock and municipal purposes, irrigation of land and such industrial and other beneficial uses as involve consumptive use of the water diverted.
- H. "Nonconsumptive use" means any control or use of water in which, exclusive of seepage and evaporation of water incidental to its control or use, the water remains in or returns

to the Columbia River System substantially undiminished in volume. Such uses include use for navigation, flood control, production of hydroelectric power, the maintenance of stream flows for pollution control, fish and wildlife and recreational purposes and such industrial and other beneficial uses as result in nonconsumptive use of the water involved.

I. "Government" means, severally, the member states and the United States.

J. "Commission" means the Columbia Compact Commission as authorized by this compact.

ARTICLE III -- THE COLUMBIA COMPACT COMMISSION

A. There is hereby created an agency of the member states, and of each of them, to be known as the Columbia Compact Commission. The commission shall be composed of three commissioners from each of the states of Idaho, Montana, Oregon and Washington, and, if they ratify the compact, two commissioners from Wyoming and one each from Nevada and Utah. The commissioners of the respective states shall be designated or appointed in accordance with the laws of the state which they represent and shall serve and be subject to removal in accordance with those laws. A commissioner shall be named to represent the United States, to be designated and to serve as provided by the laws of the United States.

B. Each commissioner of a state shall be entitled to one vote in the commission. The commissioner of the United States shall serve as chairman of the Commission but shall have no vote. In the absence of any commissioner, his vote may be cast by another commissioner of his state or by another representative designated or appointed in accordance with the laws of that state if such other commissioner or representative shall have a written proxy in such form as may be established by rule of the commission.

C. The requirements as to a quorum for the transaction of business at any meeting of the commission shall be as follows:

(1) Commencing with the date the compact becomes effective as to all seven states named in subdivision A of this article, the presence in person of twelve or more commissioners shall constitute a quorum for the transaction of business; such a quorum shall include at least two commissioners, in person, from such of the states of Idaho, Montana, Oregon and Washington as have appointed or designated commissioners. For the duration of any called meeting of the commission the presence of a quorum shall be determined at the commencement of such meeting.

(2) If any duly called meeting is recessed because of a lack of a quorum initially, a reconvened meeting may be set by written notice, given in accordance with the bylaws, to all commissioners not less than ten days in advance of such reconvened meeting. At such reconvened meeting, the requirements for personal attendance by two commissioners from each of the states of Idaho, Montana, Oregon and Washington shall not apply, and the presence of twelve or more commissioners in person or by proxy shall constitute a quorum.

(3) Commencing with the date the compact becomes effective, but before all seven states have ratified, the requirements as to a quorum shall be modified as follows:

(a) If only four or five states have ratified, the phrase "nine or more" shall be substituted for the phrase "twelve or more" in subsections (1) and (2) of this section C.

(b) If only six states have ratified, the phrase "ten or more" shall be substituted for the phrase "twelve or more" in subsections (1) and (2) of this section C.

D. The requirements as to votes required to carry an action at any meeting of the commission shall be as follows:

(1) Commencing with the date the compact becomes effective as to all seven states named in section A of this article, any action by the commission shall be effective only if it be carried by a vote of twelve or more of the voting membership of the commission.

(2) Commencing with the date the compact becomes effective but before all seven states have ratified, the requirements as to votes necessary for commission action shall be modified as follows:

(a) If only four or five states have ratified the phrase "nine or more" shall be substituted for the phrase "twelve or more" in subsection (1) of this section D.

(b) If only six states have ratified, the phrase "ten or more" shall be substituted for the phrase "twelve or more" in subsection (1) of this section D.

E. The commission shall meet to establish its formal organization within ninety (90) days of the effective date of this compact, such meeting to be at the call of the chairman or by a majority of the commissioners then appointed or designated. The commission shall then adopt its initial set of bylaws providing for, among other things: the adoption of a seal, the management of its internal affairs and the authority and duties of its officers. The commission shall also then elect from among its members a vice-chairman and treasurer to serve for the first full or part annual term, these offices to be filled thereafter from among commission members by annual elections. 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 and under such terms and conditions 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.

F. The executive director, subject to the approval of the commission in such cases as its bylaws may provide, shall, without regard to the provisions of the civil service laws of any member state or of the United States, appoint and remove or discharge such engineering, legal, expert, clerical and other personnel as may be necessary for the performance of the commission's functions, fix their compensation and define their duties, and require bonds of such of them as the commission may designate.

G. The commission may:

(1) Borrow, accept, or contract for the services of personnel from any government, agency thereof or any intergovernmental agency.

(2) Acquire by purchase or otherwise, hold and dispose of such real and personal property as may be necessary or convenient in the performance of its functions.

(3) Establish and maintain one or more offices for the transaction of its business.

H. The commission and its executive director shall make available to the member states or the United States any information in its possession at any time and shall provide free access to its records during established office hours to duly authorized representatives of member states or the United States or to any interested person.

I. The commission shall make and transmit annually to the legislative bodies and executive head of each government, a report covering the activities of the commission for the preceding year and embodying such plans, recommendations and findings as may have been adopted by the commission. The commission may issue such additional reports as it may deem desirable.

J. All meetings of the commission shall be open to the public.

ARTICLE IV -- FINANCE

A. The compensation and expenses of each commissioner shall be fixed and paid by the government which he represents. All other expenses incurred by the commission in the course of exercising the powers conferred upon it by this compact shall be paid by the commission out of its own funds.

B. The commission shall submit to the executive head or designated officer of each member state for presentation to its legislature a budget of its estimated expenditures. This budget shall contain specific recommendations of the amount to be appropriated by each of the member states.

The time of submission and the fiscal period of the commission's budget shall conform as nearly as possible to the requirements of the laws of the member states.

C. The commission shall, at the initial organizational meeting after this compact becomes effective, or as soon thereafter as is practicable, establish the initial fiscal period and shall establish the budget of expenditures for this initial period. The budget for the initial period, if it be a full biennium, shall be not less than \$65,000. If the initial fiscal period is only a portion of a biennium, the minimum budget therefor shall be the proportion of \$65,000 derived by applying thereto the ratio that the initial period bears to a full biennium. The respective shares of the budget for the initial fiscal period shall be as follows:

Member State	Percent of Budget
Idaho	23.5
Montana	23.5
Nevada	2.0
Oregon	23.5
Utah	2.0
Washington	23.5
Wyoming	2.0

If any of the states of Nevada, Utah or Wyoming fail to ratify during the initial period, the total budget for that period shall be reduced by the amount of the share of the state failing so to ratify, but the amounts to be paid by the other states shall remain unchanged.

D. Subsequent budgets shall be recommended by the commission and the amounts shall be allocated among the member states. The shares of Idaho, Montana, Oregon and Washington shall be equal and in no event shall the share of Wyoming exceed 3%, the share of Nevada exceed 2% and the share of Utah exceed 1% of the total budget for any fiscal period.

E. The commission 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 said government. The commission shall not incur any obligations prior to the availability of funds adequate to meet the same.

F. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be open for examination or audit by any member state but the commission shall not be required to adopt the auditing or accounting procedures of any particular state. All receipts and disbursements of funds handled by the commission shall be audited yearly by an independent certified public accountant and the report of the audit shall be included in and become a part of the annual report of the commission.

G. The accounts of the commission shall be open for public inspection during established office hours.

ARTICLE V -- GENERAL POWERS

The commission shall have power when authorized by such majority vote as provided by article III hereof:

A. To collect, correlate and report on data relating to present and potential uses of water and other related resources of the Columbia River Basin and relating to available sources of water for use in the Columbia River Basin; conduct investigations and surveys to determine the extent of those resources and the nature of the problems involved in their present and future development and management; and recommend plans and programs for their development.

B. To undertake itself, or in co-operation with governments or agencies thereof or other entities, with respect to the Columbia River Basin the review of all plans for the construction of works authorized or reauthorized to be undertaken after the effective date of this compact for flood control navigation, power development, irrigation, or other water use or management which involve facilities having capacity for the diversion or use of flows of more than 200 cubic feet per second or the capacity to store at any time more than 25,000 acre-feet of water and which are proposed to be undertaken pursuant to laws of the United States, whether under permission granted by the United States, by means of financing in whole or in part by the United States, or otherwise.

C. To appear and make recommendations before appropriate governmental or intergovernmental agencies or other entities in public hearings or otherwise, in connection with any plans, projects or programs.

D. To collect, correlate and publish water facts necessary for the purpose of this compact directly or in co-operation with any governmental or intergovernmental agencies or other entities.

E. To co-operate with the International Joint Commission-United States and Canada, the appropriate agencies of Canada and the Province of British Columbia, as well as with agencies of the member states and the United States and with other entities, in studies, plans and recommendations with respect to any project which may have a substantial effect on the uses of water of the Columbia River and its tributaries that are of international concern.

ARTICLE VI -- COOPERATION IN POWER DEVELOPMENT

The best interests of the region will be served by the co-operation of the member states in securing the development and construction of power projects in sufficient number and with sufficient capacity to meet the present and future energy requirements of the region, but no recommendation shall be made by the commission with respect to power allocations except by unanimous affirmative vote of all member states, anything in article III notwithstanding; provided, however, that any member state shall have the right acting independently through its officers or agencies to secure in connection with any project located wholly or partly within such state, such protections and reservations of power as such state may consider necessary to safeguard its present or future interests or power requirements.

ARTICLE VII -- APPORTIONMENT OF WATER AND RELATED MATTERS

A. So far as the states are concerned, all waters of the Columbia River System shall be available for appropriation for beneficial purposes under and to the extent permitted by the laws of the states involved, but, except for the provisions in this subdivision A relating to certain relationships between consumptive and nonconsumptive uses, no apportionment of waters or determination of rights to the use thereof is made by this compact.

So far as the states are concerned, rights to beneficial consumptive uses of water within the upstream area, whether established heretofore or hereafter under the laws of the states involved, shall be recognized up to the average annual depletions shown in Plate 7 of the Report of the North Pacific Division, U.S. Army Engineers dated 1 June 1958, as against, and shall not be limited by, any rights, existing or future, to the quantity of such waters for nonconsumptive uses.

In the case of a stream situated wholly within a downstream state and tributary to the Snake River or to the Columbia River, however, the relationship as between nonconsumptive use rights appurtenant to a development located thereon and consumptive use rights as to the waters of such a tributary upstream from that development shall be governed by the laws of that state without regard to the foregoing limitations of this subdivision.

B. No waters of the Columbia River System shall be diverted out of the Columbia River Basin for use for any purpose except with the approval of all of the member states, but this provision shall not affect rights so to divert which are existing on the effective date of this compact.

C. The member states hereby designate, appoint and empower their commissioners to draft, negotiate and propose any and all compacts apportioning waters of any tributary stream forming part of the Columbia River System among or between the states through which said tributary stream flows, or amendments to this compact. Any such supplementary compacts or amendments to this compact negotiated as herein provided shall become effective upon approval by the commission, ratification by the legislatures of the member states party thereto, and consent thereto by the Congress.

D. All interstate compacts affecting the waters of the Columbia River System which are in effect as of the date this compact becomes operative shall remain unaffected hereby.

E. In the event this compact is terminated, any right to the beneficial consumptive use of water which, prior to the date of termination, is required to be recognized under the provisions of this compact shall continue to be recognized after such termination to the extent herein provided. Unless otherwise expressly provided in a supplemental compact, made pursuant to the provisions of subdivision C of this article, no such right required to be recognized as of the effective date of such supplement shall be impaired by such supplemental compact.

ARTICLE VIII -- POLLUTION CONTROL

A. The states and the United States recognize that the rapid increase of the population of the Columbia River Basin and the growth of industrial, mining, and related activities within that area can lead to such pollution of the waters of the Columbia River System as might constitute a menace to the health and welfare of the people. The states and the United States further recognize that maintenance and improvement of the quality of the waters of the Columbia River System require co-operative action and that pollution abatement and control are essential to the proper realization of the objectives of this compact and to the safe, profitable, and efficient multi-purpose use of the waters of said Columbia River System.

B. In addition to the powers enumerated in article V, it shall be the duty of the commission and the commission shall have power:

(1) To engage in such investigations, analyses or other appropriate means as are deemed necessary to obtain, co-ordinate, tabulate and summarize technical and other data on the pollution of the waters of the Columbia River System or any portion thereof and on the character and condition of such waters and the needs of the Columbia River Basin for improved water quality; and to prepare reports thereon at such times as may be deemed advisable by the commission.

(2) To co-operate with governments or agencies thereof or other entities for the purpose of promoting uniform laws, rules or regulations for the abatement and control of pollution of the waters of the Columbia River System or any portion thereof, and to make, revise and recommend to the governments water quality objectives necessary to protect the public health, public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial and other uses.

(3) To disseminate to the public, by any and all appropriate means, information respecting pollution abatement and control in the waters of the Columbia River System or any portion thereof and on the harmful and uneconomic results of such pollution.

C. Each state shall have the primary obligation and responsibility 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 Columbia River Basin within the boundaries of such state which materially and adversely affects beneficial uses of waters of the Columbia River Basin in other states. Upon complaint to the commission by the state water pollution control agency of one state that interstate pollution originating in another state or states is not being prevented or abated, the procedure shall be as follows:

(1) The commission shall call a hearing, giving not less than 30 days notice in writing thereof to the water pollution control agencies of the states involved and to each person or entity which the commission finds is charged with causing such interstate pollution.

(2) Such hearing shall be held in accordance with rules and regulations prescribed by the commission.

(3) At the conclusion of such hearing, the commission shall make a finding as to whether interstate pollution exists, and if so, shall recommend to the appropriate agency that action be taken under state or federal law to abate or correct such interstate pollution.

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

ARTICLE IX -- FISH AND WILDLIFE, AND RECREATION

A. In the exercise of the powers and functions conferred on the commission, it shall be the policy of the commission to prepare and review plans for development and application of measures for preventing damage to and enhancing the fish and wildlife and recreational resources of the Columbia River Basin and to co-operate with all agencies charged with the responsibility for protecting and fostering these resources.

B. In the furtherance of this policy the commission shall:

(1) Submit pertinent information to, and receive recommendations from official agencies of the governments having jurisdiction or otherwise affected, with respect to projects and programs in which the commission may be concerned.

(2) Taking into consideration recommendations of governmental agencies responsible for fish and wildlife administration, recommend appropriate steps to assure that, in all projects which are within the purview of the commission, effective fish and wildlife protective facilities or compensatory measures as required by the laws of the member states, shall be incorporated into water use developments; that the costs thereof including operation and maintenance be included as a part of the cost of said projects; and that the responsibility for the provision of such effective fish and wildlife protective facilities or compensatory measures as are recommended as a part of the project plan shall continue beyond completion of construction of the individual projects. The fish and wildlife facilities and compensatory measures referred to in this article may include physical installations located elsewhere than at the actual site of the project.

(3) In connection with projects coming within the purview of the commission, give proper recognition to recreational and fish and wildlife values by recommending such steps as may be necessary and practicable - to protect or develop recreational resources; to assure the maintenance of necessary minimum stream flows, reliable and adequate pool levels, and allocation of water for fish and wildlife protective or compensatory facilities, and for the regulation of such stream flows and pool levels so as to conform to sound fish and wildlife management practices.

ARTICLE X -- RULES AND REGULATIONS

The commission shall have the power to adopt and issue bylaws, rules and regulations to effectuate the purposes of this compact, as in its judgment may be appropriate. The commission shall publish its bylaws, rules and regulations in convenient form, but shall not be subject to the procedural requirements of any particular state.

ARTICLE XI -- EXISTING RIGHTS RECOGNIZED

Nothing in this compact shall be deemed:

(1) To impair or affect any rights, powers or jurisdiction of the United States, or those acting by or under its authority, in, over and to the waters of the Columbia River Basin, except as otherwise provided by the federal legislation required for the implementation of this compact.

(2) To affect the obligation of the United States to the Indians and Indian tribes, or any right owned or held by or for Indians or Indian tribes which is subject to the jurisdiction of the United States.

(3) To impair or affect the capacity of the United States, or those acting by or under its authority, to acquire in accordance with the laws of the state involved rights in and to use of waters of the Columbia River Basin.

(4) To subject any property of the United States, its agencies or instrumentalities, to taxation by any member state or subdivision thereof.

(5) To subject any property of the United States, its agencies or instrumentalities, to the laws of any member state to any extent other than the extent those laws would apply without regard to this compact, except as otherwise provided by the federal legislation required for the implementation of this compact.

(6) To affect the applicability of the laws of any member state with respect to water rights properly claimed thereunder, except to the extent that the applicability in a given case would be inconsistent with the provisions of this compact.

(7) To affect adversely the areas of Mount Rainier, Glacier, Yellowstone, or Grand Teton National Parks or Craters of the Moon, Fort Vancouver or Whitman National Monuments or to limit the operation of laws relating to the preservation thereof.

(8) To impair or affect marketing provisions for federally generated power as the same may be now or hereafter established.

ARTICLE XII -- TERMINATION

This compact shall remain in full force and effect unless and until terminated by action of the legislatures of the states of Idaho, Montana, Oregon and Washington which action is consented to and approved by the Congress of the United States; provided, that in the event of any termination all rights theretofore established hereunder or recognized hereby shall continue to be recognized as valid notwithstanding such termination.

ARTICLE XIII -- SEVERABILITY

The provisions of this compact shall be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any government or the applicability thereof to any government or agency thereof or other entity or to any circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government or agency thereof or other entity or to any other circumstance shall not be affected thereby, 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 member states independently of the portions declared to be unconstitutional or invalid.

ARTICLE XIV -- RATIFICATION AND EFFECTIVE DATE

A. This compact shall become effective and binding when it has been ratified by the legislatures of the states of Idaho, Montana, Oregon and Washington, and when consented to by an Act of the Congress of the United States, which will, in substance, provide that the United States, or any agency thereof, or any non-federal entity acting under any future license or other authority granted under the laws of the United States, in connection with water control or use projects located wholly or partly in a downstream state shall be governed by the following limitation:

Rights to beneficial consumptive uses within the upstream area, whether established heretofore or hereafter under applicable laws, shall be recognized as against any rights, existing or future, to such waters for nonconsumptive uses by projects located wholly or partly within a downstream state, to the extent that average annual depletions resulting from such upstream consumptive uses above any property or authorized structure of the United States, located wholly

or partly in downstream state, were assumed in Plate 10 of "Report of the Division Engineer" Volume I of House Document No. 531, 81st Congress, 2nd Session, and to the extent any additional depletions subsequently are recognized by the Congress as the basis of operation of existing projects, or as the basis for authorization of additional or revised projects.

B. If this compact becomes effective in accordance with the above provision, it shall also become effective and binding as to any of the states of Nevada, Utah or Wyoming if ratified by the legislature of any such state.

In Witness Whereof the commissioners have signed ten counterparts hereof each of which shall be and constitute an original, one of which shall be deposited with the administrator of general services of the United States of America, one of which shall be forwarded to the governor of each of the signatory states, and two of which shall be made a part of the permanent records of the Columbia Interstate Compact Commission.

Done at the City of Portland, Oregon, this 8th day of October, 1962.

For the State of Idaho:

(s) R. P. Parry (s) Geo. N. Carter by
(s) G. L. Crookham, Jr. Carl E. Tappin, Ass't.
(s) Alex O. Coleman

For the State of Montana:

(s) Fred E. Buck (s) Glenn H. Larson
(s) S. H. Raymond (s) W. A. Groff
(s) Robert L. Neils (s) Donovan Worden
(s) James E. Murphy (s) John J. MacDonald
(s) Lester A. Colby

For the State of Nevada:

(s) Elmo J. DeRicco (s) Eyer H. Boies
(s) George B. Moseley

For the State of Oregon:

(s) Freeman Holmer (s) Harry D. Boivin
(s) George Layman (s) Al Flegel
(s) Anthony Yturri (s) Warne Nunn
(s) Vern L. Hill (s) Edward J. Whelan
(s) John D. Hare (s) Sidney Leiken

For the State of Utah:

(s) Jay R. Bingham

For the State of Washington:

(s) D. Elwood Caples (s) John L. Cooney
(s) William D. Shannon (s) W. L. McCormick
(s) H. Maurice Ahlquist

For the State of Wyoming:

(s) E. J. Van Camp (s) Ciril D. Cranney
(s) Earl Lloyd (s) H. T. Person
(s) Clifford P. Hansen (s) Norman B. Gray

I have participated in the negotiation of this compact. I intend to report favorably thereon to the Congress of the United States on the condition that the provisions of federal legislation giving the consent of Congress will meet the requirements of article XIV.

Thomas R. Newell, Representative
of the United States of America

Enacted by Chapter 177, 1963 General Session

73-19-8 Original compact -- Act as ratifying.

The compact ratified by this act is the original signed by the commissioners representing the states of Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming and approved by the representative of the United States of America and deposited in the archives of the Department of State of the United States of America and with the Division of Archives of the state of Utah.

Amended by Chapter 67, 1984 General Session

73-19-9 Utah representative on Columbia Compact Commission.

The member of the Columbia Compact Commission to represent the state of Utah shall be the executive director of the Utah water and power board.

Enacted by Chapter 177, 1963 General Session

73-19-10 Errors in copying not to invalidate ratification.

Any errors, if any, in copying the original compact in Section 73-19-7 hereof shall be held not to invalidate the ratification of the compact in any manner whatsoever.

Enacted by Chapter 177, 1963 General Session