

Calendar No. 819

110TH CONGRESS
2D SESSION**H. R. 2515****[Report No. 110-387]**

IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, MARCH 13), 2008

Received; read twice and referred to the Committee on Energy and Natural
Resources

JUNE 16, 2008

Reported by Mr. BINGAMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To authorize appropriations for the Bureau of Reclamation to carry out the Lower Colorado River Multi-Species Conservation Program in the States of Arizona, California, and Nevada, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “~~Lower Colorado River~~
5 ~~Multi-Species Conservation Program Act~~”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) LOWER COLORADO RIVER MULTI-SPECIES
4 CONSERVATION PROGRAM.—The term “Lower Colo-
5 rado River Multi-Species Conservation Program” or
6 “LCR MSCP” means the cooperative effort on the
7 Lower Colorado River between Federal and non-
8 Federal entities in Arizona, California, and Nevada
9 approved by the Secretary of the Interior on April
10 2, 2005.

11 (2) LOWER COLORADO RIVER.—The term
12 “Lower Colorado River” means the Colorado River
13 from Lake Mead to the Southerly International
14 Boundary with Mexico, including its historic flood-
15 plain and its mainstem reservoirs to their full pool
16 elevations.

17 (3) SECRETARY.—The term “Secretary” means
18 the Secretary of the Interior.

19 (4) STATES.—The term “States” means each of
20 the States of Arizona, California, and Nevada.

21 **SEC. 3. IMPLEMENTATION AND WATER ACCOUNTING.**

22 (a) IN GENERAL.—The Secretary is authorized to
23 participate in the Lower Colorado River Multi-Species
24 Conservation Program.

25 (b) WATER ACCOUNTING.—The Secretary is author-
26 ized to enter into an agreement with the States providing

1 for the use of water from the Lower Colorado River for
2 habitat creation and maintenance.

3 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) **IN GENERAL.**—There is authorized to be appro-
5 priated to the Secretary such sums as may be necessary
6 to participate in the Lower Colorado River Multi-Species
7 Conservation Program, to remain available until expended.

8 (b) **NONREIMBURSABLE AND NONRETURNABLE.**—All
9 amounts appropriated to and expended by the Secretary
10 for the LCR MSCP shall be nonreimbursable and non-
11 returnable.

12 **SECTION 1. SHORT TITLE.**

13 *This Act may be cited as the “Lower Colorado River*
14 *Multi-Species Conservation Program Act”.*

15 **SEC. 2. DEFINITIONS.**

16 *In this Act:*

17 (1) **LOWER COLORADO RIVER MULTI-SPECIES**
18 **CONSERVATION PROGRAM.**—*The term “Lower Colo-*
19 *rado River Multi-Species Conservation Program” or*
20 *“LCR MSCP” means the cooperative effort on the*
21 *Lower Colorado River between Federal and non-Fed-*
22 *eral entities in Arizona, California, and Nevada ap-*
23 *proved by the Secretary of the Interior on April 2,*
24 *2005.*

1 (2) *LOWER COLORADO RIVER.*—The term “Lower
2 *Colorado River*” means the segment of the Colorado
3 *River within the planning area as provided in section*
4 *2(B) of the Implementing Agreement, a Program Doc-*
5 *ument.*

6 (3) *PROGRAM DOCUMENTS.*—The term “Program
7 *Documents*” means the *Habitat Conservation Plan,*
8 *Biological Assessment and Biological and Conference*
9 *Opinion, Environmental Impact Statement/Enviro-*
10 *mental Impact Report, Funding and Management*
11 *Agreement, Implementing Agreement, and Section*
12 *10(a)(1)(B) Permit issued and, as applicable, exe-*
13 *cuted in connection with the LCR MSCP, and any*
14 *amendments or successor documents that are devel-*
15 *oped consistent with existing agreements and applica-*
16 *ble law.*

17 (4) *SECRETARY.*—The term “Secretary” means
18 *the Secretary of the Interior.*

19 (5) *STATE.*—The term “State” means each of the
20 *States of Arizona, California, and Nevada.*

21 **SEC. 3. IMPLEMENTATION AND WATER ACCOUNTING.**

22 (a) *IMPLEMENTATION.*—The Secretary is authorized to
23 *manage and implement the LCR MSCP in accordance with*
24 *the Program Documents.*

1 **(b) WATER ACCOUNTING.**—*The Secretary is authorized*
2 *to enter into an agreement with the States providing for*
3 *the use of water from the Lower Colorado River for habitat*
4 *creation and maintenance in accordance with the Program*
5 *Documents.*

6 **SEC. 4. ENFORCEABILITY OF PROGRAM DOCUMENTS.**

7 **(a) IN GENERAL.**—*Any party to the Funding and*
8 *Management Agreement or the Implementing Agreement,*
9 *and any permittee under the Section 10(a)(1)(B) Permit,*
10 *may commence a civil action in United States district court*
11 *to adjudicate, confirm, validate or decree the rights and ob-*
12 *ligations of the parties under those Program Documents.*

13 **(b) JURISDICTION.**—*The district court shall have juris-*
14 *isdiction over such actions and may issue such orders, judg-*
15 *ments, and decrees as are consistent with the court’s exercise*
16 *of jurisdiction under this section.*

17 **(c) UNITED STATES AS DEFENDANT.**—

18 **(1) IN GENERAL.**—*The United States or any*
19 *agency of the United States may be named as a de-*
20 *fendant in such actions.*

21 **(2) SOVEREIGN IMMUNITY.**—*Subject to para-*
22 *graph (3), the sovereign immunity of the United*
23 *States is waived for purposes of actions commenced*
24 *pursuant to this section.*

1 (3) *NONWAIVER FOR CERTAIN CLAIMS.*—*Nothing*
2 *in this section waives the sovereign immunity of the*
3 *United States to claims for money damages, monetary*
4 *compensation, the provision of indemnity, or any*
5 *claim seeking money from the United States.*

6 (d) *RIGHTS UNDER FEDERAL AND STATE LAW.*—*Ex-*
7 *cept as specifically provided in this section, nothing in this*
8 *section limits any rights of any party under Federal or*
9 *State law.*

10 (e) *VENUE.*—*Any suit pursuant to this section may*
11 *be brought in any United States district court in the State*
12 *in which any non-Federal party to the suit is situated.*

13 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

14 (a) *IN GENERAL.*—*There is authorized to be appro-*
15 *priated to the Secretary such sums as may be necessary to*
16 *meet the obligations of the Secretary under the Program*
17 *Documents, to remain available until expended.*

18 (b) *NON-REIMBURSABLE AND NON-RETURNABLE.*—*All*
19 *amounts appropriated to and expended by the Secretary for*
20 *the LCR MSCP shall be non-reimbursable and non-return-*
21 *able.*

Calendar No. 819

110TH CONGRESS
2^D SESSION

H. R. 2515

[Report No. 110-387]

AN ACT

To authorize appropriations for the Bureau of Reclamation to carry out the Lower Colorado River Multi-Species Conservation Program in the States of Arizona, California, and Nevada, and for other purposes.

JUNE 16, 2008

Reported with an amendment