

Calendar No. 49

110TH CONGRESS
1ST SESSION

S. 264

[Report No. 110-23]

To authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 11, 2007

Mr. SMITH (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

FEBRUARY 16, 2007

Reported by Mr. BINGAMAN, with an amendment

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

A BILL

To authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, 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 “Wallowa Lake Dam~~
5 ~~Rehabilitation and Water Management Act of 2007”.~~

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ASSOCIATED DITCH COMPANIES, INCOR-
4 PORATED.—The term “Associated Ditch Companies,
5 Incorporated” means the nonprofit corporation es-
6 tablished under the laws of the State of Oregon that
7 operates Wallowa Lake Dam.

8 (2) PHASE II AND PHASE III OF THE WALLOWA
9 VALLEY WATER MANAGEMENT PLAN.—The term
10 “Phase II and Phase III of the Wallowa Valley
11 Water Management Plan” means the Phase II pro-
12 gram for fish passage improvements and water con-
13 servation measures, and the Phase III program for
14 implementation of water exchange infrastructure, de-
15 veloped for the Wallowa River watershed, as con-
16 tained in the document entitled “Wallowa Lake Dam
17 Rehabilitation and Water Management Plan Vision
18 Statement”, dated February 2001, and on file with
19 the Bureau of Reclamation.

20 (3) SECRETARY.—The term “Secretary” means
21 the Secretary of the Interior, acting through the
22 Commissioner of Reclamation.

23 (4) WALLOWA LAKE DAM REHABILITATION
24 PROGRAM.—The term “Wallowa Lake Dam Reha-
25 bilitation Program” means the program for the re-
26 habilitation of the Wallowa Lake Dam in Oregon, as

1 contained in the engineering document entitled,
2 “Phase I Dam Assessment and Preliminary Engi-
3 neering Design”, dated December 2002, and on file
4 with the Bureau of Reclamation.

5 **SEC. 3. AUTHORIZATION TO PARTICIPATE IN PROGRAM.**

6 (a) GRANTS AND COOPERATIVE AGREEMENTS.—The
7 Secretary may provide grants to, or enter into cooperative
8 or other agreements with, tribal, State, and local govern-
9 mental entities and the Associated Ditch Companies, In-
10 corporated, to plan, design, and construct facilities needed
11 to implement the Wallowa Lake Dam Rehabilitation Pro-
12 gram and Phase II and Phase III of the Wallowa Valley
13 Water Management Plan.

14 (b) CONDITIONS.—As a condition of providing funds
15 under subsection (a), the Secretary shall ensure that—

16 (1) the Wallowa Lake Dam Rehabilitation Pro-
17 gram meets the standards of the dam safety pro-
18 gram of the State of Oregon;

19 (2) the Associated Ditch Companies, Incor-
20 porated, agrees to assume liability for any work per-
21 formed, or supervised, with funds provided to it
22 under this Act; and

23 (3) the United States shall not be liable for
24 damages of any kind arising out of any act, omis-

1 sion, or occurrence relating to a facility rehabilitated
2 or constructed under this Act.

3 (c) COST SHARING.—

4 (1) IN GENERAL.—The Federal share of the
5 costs of activities authorized under this Act shall not
6 exceed 80 percent.

7 (2) EXCLUSIONS FROM FEDERAL SHARE.—

8 There shall not be credited against the Federal
9 share of such costs—

10 (A) any expenditure by the Bonneville
11 Power Administration in the Wallowa River wa-
12 tershed; and

13 (B) expenditures made by individual agri-
14 cultural producers in any Federal commodity or
15 conservation program.

16 (d) COMPLIANCE WITH STATE LAW.—In carrying
17 out this Act, the Secretary shall comply with otherwise
18 applicable State water law.

19 (e) PROHIBITION ON HOLDING TITLE.—The Federal
20 Government shall not hold title to any facility rehabilitated
21 or constructed under this Act.

22 (f) PROHIBITION ON OPERATION AND MAINTENANCE.—The Federal Government shall not be respon-
23 sible for the operation and maintenance of any facility con-
24 structed or rehabilitated under this Act.
25

1 (g) OWNERSHIP AND OPERATION OF FISH PASSAGE
 2 FACILITY.—Any facility constructed using Federal funds
 3 authorized by this Act located at Wallowa Lake Dam for
 4 trapping and transportation of migratory adult salmon
 5 may be owned and operated only by the Nez Perce Tribe.

6 **SEC. 4. RELATIONSHIP TO OTHER LAW.**

7 An activity funded under this Act shall not be consid-
 8 ered a supplemental or additional benefit under Federal
 9 reclamation law (the Act of June 17, 1902 (32 Stat. 388,
 10 chapter 1093), and Acts supplemental to and amendatory
 11 of that Act (43 U.S.C. 371 et seq.)).

12 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

13 There is authorized to be appropriated to the Sec-
 14 retary to the pay the Federal share of the costs of activi-
 15 ties authorized under this Act \$25,600,000.

16 **SECTION 1. SHORT TITLE.**

17 *This Act may be cited as the “Wallowa Lake Dam Re-*
 18 *habilitation and Water Management Act of 2007”.*

19 **SEC. 2. DEFINITIONS.**

20 *In this Act:*

21 (1) *ASSOCIATED DITCH COMPANIES, INCOR-*
 22 *PORATED.—The term “Associated Ditch Companies,*
 23 *Incorporated” means the nonprofit corporation estab-*
 24 *lished under the laws of the State of Oregon that oper-*
 25 *ates Wallowa Lake Dam.*

1 (2) *SECRETARY.*—*The term “Secretary” means*
2 *the Secretary of the Interior, acting through the Com-*
3 *missioner of Reclamation.*

4 (3) *WALLOWA LAKE DAM REHABILITATION PRO-*
5 *GRAM.*—*The term “Wallowa Lake Dam Rehabilita-*
6 *tion Program” means the program for the rehabilita-*
7 *tion of the Wallowa Lake Dam in Oregon, as con-*
8 *tained in the engineering document entitled, “Phase*
9 *I Dam Assessment and Preliminary Engineering De-*
10 *sign”, dated December 2002, and on file with the Bu-*
11 *reau of Reclamation.*

12 **SEC. 3. AUTHORIZATION TO PARTICIPATE IN PROGRAM.**

13 (a) *GRANTS AND COOPERATIVE AGREEMENTS.*—*The*
14 *Secretary may provide grants to, or enter into cooperative*
15 *or other agreements with, tribal, State, and local govern-*
16 *mental entities and the Associated Ditch Companies, Incor-*
17 *porated, to plan, design, and construct facilities needed to*
18 *implement the Wallowa Lake Dam Rehabilitation Pro-*
19 *gram.*

20 (b) *CONDITIONS.*—*As a condition of providing funds*
21 *under subsection (a), the Secretary shall ensure that—*

22 (1) *the Wallowa Lake Dam Rehabilitation Pro-*
23 *gram and any activities under this Act meet the*
24 *standards of the dam safety program of the State of*
25 *Oregon;*

1 (2) *the Associated Ditch Companies, Incorporated,*
2 *agrees to assume liability for any work per-*
3 *formed, or supervised, with Federal funds provided to*
4 *Associated Ditch Companies, Incorporated, under this*
5 *Act; and*

6 (3) *the United States shall not be liable for dam-*
7 *ages of any kind arising out of any act, omission, or*
8 *occurrence relating to a facility rehabilitated or con-*
9 *structed with Federal funds provided under this Act,*
10 *regardless of whether the damages arose during or*
11 *after the rehabilitation or construction.*

12 (c) *COST SHARING.—*

13 (1) *IN GENERAL.—The Federal share of the costs*
14 *of activities authorized under this Act shall not exceed*
15 *50 percent.*

16 (2) *EXCLUSIONS FROM FEDERAL SHARE.—There*
17 *shall not be credited against the Federal share of the*
18 *costs of activities authorized under this Act—*

19 (A) *any expenditure by the Bonneville*
20 *Power Administration in the Wallowa River wa-*
21 *tershed; and*

22 (B) *expenditures made by individual agri-*
23 *cultural producers in any Federal commodity or*
24 *conservation program.*

1 (d) *COMPLIANCE WITH STATE LAW.*—*In carrying out*
2 *this Act, the Secretary shall comply with applicable Oregon*
3 *State water law.*

4 (e) *PROHIBITION ON HOLDING TITLE.*—*The Federal*
5 *Government shall not hold title to any facility rehabilitated*
6 *or constructed under this Act.*

7 (f) *PROHIBITION ON OPERATION AND MAINTENANCE.*—*The Federal Government shall not be responsible*
8 *for the operation and maintenance of any facility con-*
9 *structed or rehabilitated under this Act.*

11 **SEC. 4. RELATIONSHIP TO OTHER LAW.**

12 *Activities funded under this Act shall not be considered*
13 *a supplemental or additional benefit under Federal rec-*
14 *lamation law (the Act of June 17, 1902 (32 Stat. 388, chap-*
15 *ter 1093), and Acts supplemental to and amendatory of that*
16 *Act (43 U.S.C. 371 et seq.)).*

17 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

18 *There is authorized to be appropriated to the Secretary*
19 *to pay the Federal share of the costs of activities authorized*
20 *under this Act \$6,000,000.*

21 **SEC. 6. TERMINATION OF AUTHORITY.**

22 *The authority of the Secretary to carry out any provi-*
23 *sions of this Act shall terminate 10 years after the date of*
24 *enactment of this Act.*

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