

LOWER COLORADO RIVER MULTI-SPECIES
CONSERVATION PROGRAM ACT

MARCH 31, 2008.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 2515]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2515) 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, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) LOWER COLORADO RIVER MULTI-SPECIES CONSERVATION PROGRAM.—The term “Lower Colorado River Multi-Species Conservation Program” or “LCRMSCP” means the cooperative effort on the Lower Colorado River between Federal and non-Federal entities in Arizona, California, and Nevada approved by the Secretary of the Interior on April 2, 2005.

(2) LOWER COLORADO RIVER.—The term “Lower Colorado River” means the Colorado River from Lake Mead to the Southerly International Boundary with Mexico, including its historic floodplain and its mainstem reservoirs to their full pool elevations.

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

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

SEC. 3. IMPLEMENTATION AND WATER ACCOUNTING.

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

(b) **WATER ACCOUNTING.**—The Secretary is authorized to enter into an agreement with the States providing for the use of water from the Lower Colorado River for habitat creation and maintenance.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

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

(b) **NONREIMBURSABLE AND NONRETURNABLE.**—All amounts appropriated to and expended by the Secretary for the LCRMSCP shall be nonreimbursable and non-returnable.

PURPOSE OF THE BILL

The purpose of H.R. 2515 is 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.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 2515 directs the Secretary of the Interior to manage and implement the Lower Colorado River Multi-Species Conservation Program (LCRMSCP) in the States of Arizona, California, and Nevada in accordance with a biological opinion, habitat conservation plan, environmental impact statement, and other program documents defined in the legislation.

The LCRMSCP is currently being implemented under existing law pursuant to an agreement the Secretary of the Interior approved on April 2, 2005. Parties to that agreement, however, including the Central Arizona Water Conservation District, Metropolitan Water District of Southern California, and states of California, Nevada, and Arizona, contend that they are seeking authorization to enhance their ability to secure federal appropriations in the future.

The LCRMSCP would grant an incidental take permit under Section 10 of the Endangered Species Act (ESA) for 50 years to the non-federal entities, and would also provide 50-year assurances to federal agencies, including the Bureau of Reclamation, Western Area Power Administration, and U.S. Fish and Wildlife Service, that their actions will not jeopardize the continued existence of listed species under Section 7 of the ESA. The goal of this program is to protect the six listed species and 20 additional species that have the potential to become listed, and also to enable the federal and non-federal partners to continue their water and power operations on the Colorado River. The planning area covers about 400 river miles in the states of Arizona, California and Nevada from Lake Mead to the Southerly International Boundary with Mexico on the Lower Colorado.

The Bureau of Reclamation will implement the LCRMSCP with oversight by a Steering Committee that includes parties to the agreement and other stakeholders (but not environmental organizations). By agreeing to the LCRMSCP, officials from urban and agricultural water agencies in the three states sought to head off restrictions that could have been imposed by the federal government under the Endangered Species Act. It is anticipated that this program will create over 8,100 acres of riparian and marsh habitat

for the species and include plans for the rearing and stocking of over 1.2 million fish to augment populations of razorback sucker and bonytail chub.

COMMITTEE ACTION

H.R. 2515 was introduced on May 24th, 2007 by Representative Dean Heller (R-NV). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water and Power. H.R. 2515 was the subject of a Water and Power subcommittee hearing on July 24, 2007.

On March 12 the Full Resources Committee met to consider the bill. The Subcommittee was discharged from further consideration of the bill and Chairman Rahall (D-WV) offered an amendment in the nature of a substitute to provide for the authorization to participate in the conservation program, the authorization of appropriations, and language clarifying the ability of the Secretary to use project water for habitat creation and maintenance. The amendment in the nature of a substitute was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides that the legislation may be cited as the “Lower Colorado River Multi-Species Conservation Program Act.”

Section 2. Definitions

Section 2 provides definitions for the terms used in the bill.

Section 3. Implementation and water accounting

Section 3 provides clear authorization for the Secretary to participate in the conservation program. In addition, this section specifies that the Secretary has the authority to enter into agreements with Arizona, Nevada, and California to use water from the Lower Colorado River for habitat creation and maintenance.

Section 4. Authorization of appropriations

Section 4 authorizes such sums as may be necessary to the Secretary of the Interior to participate in this program. Additional language clarifies that any appropriated funding is non-reimbursable and non-returnable.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is 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.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 2515—Lower Colorado River Multi-Species Conservation Program Act

H.R. 2515 would authorize the Secretary of the Interior to participate in the Lower Colorado River Multi-Species Conservation Program. That program is a collaborative effort between the federal government and entities in the states of Nevada, Arizona, and California to address the needs of threatened and endangered fish and wildlife along the lower Colorado River while ensuring consistent water and power deliveries to the states involved in the program.

Based on information from the Bureau of Reclamation, CBO estimates that the program would cost approximately \$70 million to implement over the next five years and several hundred million dollars over the 50-year life of the program. The bureau, however, has been implementing the program since 2005 under existing authorities, and this legislation would not authorize any activities beyond those in which the bureau already is engaged. Hence, CBO estimates that implementing this bill would not significantly affect the federal budget. Enacting the bill would not affect direct spending or revenues.

H.R. 2515 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Tyler Kruzich. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 2515 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any state, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

