

111TH CONGRESS
2D SESSION

H. R. 4948

To amend the Water Resources Development Act of 1986 to clarify the role of the Cherokee Nation of Oklahoma in maintaining the W.D. Mayo Lock and Dam in Oklahoma.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 2010

Mr. BOREN (for himself and Mr. COLE) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Water Resources Development Act of 1986 to clarify the role of the Cherokee Nation of Oklahoma in maintaining the W.D. Mayo Lock and Dam in Oklahoma.

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

1 **SECTION 1. RIGHTS AND RESPONSIBILITIES OF THE CHER-**
2 **OKEE NATION OF OKLAHOMA REGARDING**
3 **THE W.D. MAYO LOCK AND DAM IN OKLA-**
4 **HOMA.**

5 Section 1117 of the Water Resources Development
6 Act of 1986 (Public Law 99–662, 100 Stat. 4236) is
7 amended to read as follows:

8 **“SEC. 1117. W.D. MAYO LOCK AND DAM.**

9 “(a) IN GENERAL.—Notwithstanding any other pro-
10 vision of law, the Cherokee Nation of Oklahoma may de-
11 sign and construct hydroelectric generating facilities at
12 the W.D. Mayo Lock and Dam on the Arkansas River in
13 Oklahoma, as described in the report of the Chief of Engi-
14 neers dated December 23, 1981, and subject to the condi-
15 tions set forth in subsections (b) and (c)(1).

16 “(b) PRE-CONSTRUCTION REQUIREMENTS.—(1) Ex-
17 cept for any licensing requirements under the Federal
18 Power Act (16 U.S.C. 1791 et seq.) related to the con-
19 struction, operation, and maintenance of hydroelectric
20 generating facilities, the Cherokee Nation shall obtain any
21 permit required by Federal or State law before the date
22 on which construction begins on the hydroelectric gener-
23 ating facilities described in subsection (a).

24 “(2) Only after the Secretary of the Army reviews
25 and approves the plans and specifications for the design
26 and construction of such a hydroelectric generating facil-

1 ity, may the Cherokee Nation initiate the design or con-
2 struction of such facility.

3 “(c) PAYMENT OF DESIGN AND CONSTRUCTION
4 COSTS.—(1) The Secretary of the Army may accept funds
5 offered by the Cherokee Nation and use such funds to
6 carry out the design and construction of a hydroelectric
7 generating facility.

8 “(2) The Cherokee Nation shall—

9 “(A) bear all costs associated with the design
10 and construction of hydroelectric generating facilities
11 under this section; and

12 “(B) provide any funds necessary for such de-
13 sign and construction to the Secretary of the Army
14 prior to the Secretary initiating any activities related
15 to the design and construction of a hydroelectric
16 generating facility under this section.

17 “(d) ASSUMPTION OF LIABILITY.—The Cherokee Na-
18 tion shall—

19 “(1) hold all title to any hydroelectric gener-
20 ating facility constructed under this section and
21 may, subject to the approval of the Secretary, assign
22 such title to a third party;

23 “(2) be solely responsible for the operation,
24 maintenance, repair, replacement, and rehabilitation
25 of any such facility; and

1 “(3) release and indemnify the United States
2 from any and all claims, causes of action, or liabil-
3 ities that may arise out of the design and construc-
4 tion of a hydroelectric generating facility under this
5 section.

6 “(e) ASSISTANCE AVAILABLE.—Notwithstanding any
7 other provision of law, the Secretary of the Army may pro-
8 vide any technical and construction management assist-
9 ance that is requested by the Cherokee Nation relating
10 to designing and constructing the hydroelectric generating
11 facilities described in subsection (a).

12 “(f) THIRD PARTY AGREEMENTS.—The Cherokee
13 Nation may enter into agreements with the Secretary or
14 a third party that the Cherokee Nation or the Secretary
15 of the Army determines are necessary to carry out this
16 section.”.

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