

**Calendar No. 606**

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 3404**

**[Report No. 111–320]**

To amend the Reclamation Projects Authorization and Adjustment Act of 1992 to require the Secretary of the Interior, acting through the Bureau of Reclamation, to take actions to improve environmental conditions in the vicinity of the Leadville Mine Drainage Tunnel in Lake County, Colorado, and for other purposes.

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**IN THE SENATE OF THE UNITED STATES**

MAY 24, 2010

Mr. UDALL of Colorado introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 27, 2010

Reported by Mr. BINGAMAN, with an amendment

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

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**A BILL**

To amend the Reclamation Projects Authorization and Adjustment Act of 1992 to require the Secretary of the Interior, acting through the Bureau of Reclamation, to take actions to improve environmental conditions in the vicinity of the Leadville Mine Drainage Tunnel in Lake County, Colorado, 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 “Leadville Mine Drain-  
 5 age Tunnel Act of 2010”.

6 **SEC. 2. TUNNEL MAINTENANCE.**

7 Section 705 of the Reclamation Projects Authoriza-  
 8 tion and Adjustment Act of 1992 (Public Law 102–575;  
 9 106 Stat. 4656) is amended to read as follows:

10 **“SEC. 705. TUNNEL MAINTENANCE.**

11 “The Secretary shall take such steps to repair and  
 12 maintain the structural integrity of the Leadville Mine  
 13 Drainage Tunnel as may be necessary to maintain the  
 14 Leadville Mine Drainage Tunnel in safe condition and to  
 15 preclude uncontrolled release of water.”.

16 **SEC. 3. WATER QUALITY RESTORATION.**

17 (a) IN GENERAL.—Section 708(a) of the Reclamation  
 18 Projects Authorization and Adjustment Act of 1992 (Pub-  
 19 lic Law 102–575; 106 Stat. 4657) is amended—

20 (1) by striking “(a) The Secretary” and insert-  
 21 ing the following:

22 “(a) IN GENERAL.—

23 “(1) AUTHORIZATION.—The Secretary”;

24 (2) by striking “Neither” and inserting the fol-  
 25 lowing:

1           ~~“(2) LIABILITY.—Neither”;~~

2           ~~(3) by striking “The Secretary shall have” and~~  
 3           ~~inserting the following:~~

4           ~~“(3) FACILITIES COVERED UNDER OTHER~~  
 5           ~~LAWS.—~~

6                   ~~“(A) IN GENERAL.—Except as provided in~~  
 7                   ~~subparagraph (B), the Secretary shall have”;~~

8           ~~(4) by inserting after “Recovery Act.” the fol-~~  
 9           ~~lowing:~~

10                   ~~“(B) RECLAMATION TREATMENT PLANT.—~~

11           ~~The Secretary may treat water delivered~~  
 12           ~~through the Leadville Mine Drainage Tunnel~~  
 13           ~~(referred to in this paragraph as the ‘Tunnel’),~~  
 14           ~~including—~~

15                   ~~“(i) surface water diverted into the~~  
 16                   ~~Tunnel; or~~

17                   ~~“(ii) water collected by the dewatering~~  
 18                   ~~relief well installed in June of 2008.~~

19           ~~“(3) AUTHORIZATION OF SECRETARY.—The~~  
 20           ~~Secretary may—~~

21                   ~~“(A) improve and expand the Reclamation~~  
 22                   ~~Treatment Plant; and~~

23                   ~~“(B) develop processes under which the~~  
 24                   ~~treatment of any water in the Treatment Plant~~  
 25                   ~~(excluding historical flows through the Tunnel~~

1 and water collected by the dewatering relief well  
 2 installed in June of 2008) could be made a re-  
 3 imburseable expense.

4 “(4) DUTY OF SECRETARY.—If the Adminis-  
 5 trator of the Environmental Protection Agency pro-  
 6 poses to amend or issue a new Record of Decision  
 7 for operable unit 6, the Administrator shall consult  
 8 with the Secretary on each feature of the proposed  
 9 new or amended Record of Decision that may re-  
 10 quire alterations to, or otherwise affect, the oper-  
 11 ation or maintenance of the Tunnel or Reclamation  
 12 Treatment Plant.”; and

13 (5) by striking “For the purpose of” and insert-  
 14 ing the following:

15 “(5) DEFINITION OF UPPER ARKANSAS RIVER  
 16 BASIN.—In”.

17 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
 18 708(f) of the Reclamation Projects Authorization and Ad-  
 19 justment Act of 1992 (Public Law 102–575; 106 Stat.  
 20 4657) is amended by striking “sections 707 and 708” and  
 21 inserting “this section and sections 705 and 707”.

22 (c) CONFORMING AMENDMENT.—The table of con-  
 23 tents of title VII of the Reclamation Projects Authoriza-  
 24 tion and Adjustment Act of 1992 (Public Law 102–575;

1 106 Stat. 4601) is amended by striking the item relating  
 2 to section 705 and inserting the following:

“Sec. 705. Tunnel maintenance.”.

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Leadville Mine Drainage*  
 5 *Tunnel Act of 2010.”.*

6 **SEC. 2. TUNNEL MAINTENANCE; OPERATION AND MAINTENANCE.**  
 7

8 *Section 703 of the Reclamation Projects Authorization*  
 9 *and Adjustment Act of 1992 (Public Law 102-575; 106*  
 10 *Stat. 4656) is amended to read as follows:*

11 **“SEC. 703. TUNNEL MAINTENANCE; OPERATION AND MAINTENANCE.**  
 12

13 *“(a) LEADVILLE MINE DRAINAGE TUNNEL.—The Sec-*  
 14 *retary shall take any action necessary to maintain the*  
 15 *structural integrity of the Leadville Mine Drainage Tun-*  
 16 *nel—*

17 *“(1) to maintain public safety; and*

18 *“(2) to prevent an uncontrolled release of water.*

19 *“(b) WATER TREATMENT PLANT.—*

20 *“(1) IN GENERAL.—Subject to section 705, the*  
 21 *Secretary shall be responsible for the operation and*  
 22 *maintenance of the water treatment plant authorized*  
 23 *under section 701, including any sludge disposal au-*  
 24 *thorized under this title.*

1           “(2) *AUTHORITY TO OFFER TO ENTER INTO CON-*  
 2           *TRACTS.—In carrying out paragraph (1), the Sec-*  
 3           *retary may offer to enter into 1 or more contracts*  
 4           *with any appropriate individual or entity for the*  
 5           *conduct of any service required under paragraph*  
 6           *(1).”.*

7   **SEC. 3. REIMBURSEMENT.**

8           *Section 705 of the Reclamation Projects Authorization*  
 9           *and Adjustment Act of 1992 (Public Law 102-575; 106*  
 10          *Stat. 4656) is amended—*

11           *(1) by striking “The treatment plant” and in-*  
 12           *serting the following:*

13           *“(a) IN GENERAL.—Except as provided in subsection*  
 14           *(b), the treatment plant”; and*

15           *(2) by adding at the end the following:*

16           *“(b) EXCEPTION.—The Secretary may—*

17           *“(1) enter into an agreement with any other en-*  
 18           *tity or government agency to provide funding for an*  
 19           *increase in any operation, maintenance, replacement,*  
 20           *capital improvement, or expansion cost that is nec-*  
 21           *essary to improve or expand the treatment plant; and*

22           *“(2) upon entering into an agreement under*  
 23           *paragraph (1)—*

24           *“(A) make any necessary capital improve-*  
 25           *ment to or expansion of the treatment plant; and*

1                   “(B) treat flows that are conveyed to the  
2                   treatment plant, including any—

3                   “(i) surface water diverted into the  
4                   Leadville Mine Drainage Tunnel; and

5                   “(ii) water collected by the dewatering  
6                   relief well installed in June 2008.”.

7   **SEC. 4. USE OF LEADVILLE MINE DRAINAGE TUNNEL AND**  
8                   **TREATMENT PLANT.**

9                   Section 708(a) of the Reclamation Projects Authoriza-  
10                  tion and Adjustment Act of 1992 (Public Law 102–575; 106  
11                  Stat. 4657) is amended—

12                  (1) by striking “(a) The Secretary” and insert-  
13                  ing the following:

14                  “(a) *IN GENERAL.*—

15                         “(1) *AUTHORIZATION.*—The Secretary”;

16                         (2) by striking “Neither” and inserting the fol-  
17                  lowing:

18                         “(2) *LIABILITY.*—Neither”;

19                         (3) by striking “The Secretary shall have” and  
20                  inserting the following:

21                         “(3) *FACILITIES COVERED UNDER OTHER*  
22                  *LAWS.*—

23                         “(A) *IN GENERAL.*—Except as provided in  
24                  subparagraph (B), the Secretary shall have”;

(4) by inserting after “Recovery Act.” the following:

“(B) *EXCEPTION.*—If the Administrator of the Environmental Protection Agency proposes to amend or issue a new Record of Decision for operable unit 6 of the California Gulch National Priorities List Site, the Administrator shall consult with the Secretary with respect to each feature of the proposed new or amended Record of Decision that may require any alteration to, or otherwise affect the operation and maintenance of—

“(i) the Leadville Mine Drainage Tunnel; or

“(ii) the water treatment plant authorized under section 701.

“(4) *AUTHORITY OF SECRETARY.*—The Secretary may implement any improvement to, or new operation of, the Leadville Mine Drainage Tunnel or water treatment plant authorized under section 701 as a result of a new or amended Record of Decision only upon entering into an agreement with the Administrator of the Environmental Protection Agency or any other entity or government agency to provide funding for the improvement or new operation.”; and



1           (5) by striking “For the purpose of” and insert-  
 2           ing the following:

3           “(5) *DEFINITION OF UPPER ARKANSAS RIVER*  
 4           *BASIN.—In*”.

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

6           Section 708(f) of the Reclamation Projects Authoriza-  
 7           tion and Adjustment Act of 1992 (Public Law 102-575; 106  
 8           Stat. 4657) is amended by striking “sections 707 and 708”  
 9           and inserting “this section and sections 703, 705, and 707”.

10   **SEC. 6. CONFORMING AMENDMENT.**

11           The table of contents of title VII of the Reclamation  
 12           Projects Authorization and Adjustment Act of 1992 (Public  
 13           Law 102-575; 106 Stat. 4601) is amended by striking the  
 14           item relating to section 703 and inserting the following:

          “Sec. 703. Tunnel maintenance; operation and maintenance.”.

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