

115TH CONGRESS
1ST SESSION

H. R. 4329

To amend the Klamath Basin Water Supply Enhancement Act of 2000
to improve infrastructure, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 2017

Mr. WALDEN introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To amend the Klamath Basin Water Supply Enhancement
Act of 2000 to improve infrastructure, 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 “Klamath Infrastruc-
5 ture Improvement Act”.

6 **SEC. 2. KLAMATH PROJECT.**

7 (a) ADDRESSING WATER MANAGEMENT AND POWER
8 COSTS FOR IRRIGATION.—The Klamath Basin Water
9 Supply Enhancement Act of 2000 (Public Law 106–114;
10 Stat. 2221) is amended—

1 (1) by redesignating sections 4 through 6 as
2 sections 5 through 7, respectively; and

3 (2) by inserting after section 3 the following:

4 **“SEC. 4. POWER AND WATER MANAGEMENT.**

5 “(a) DEFINITIONS.—In this section:

6 “(1) COVERED POWER USE.—The term ‘covered
7 power use’ means a use of power to develop or man-
8 age water from any source for irrigation, wildlife
9 purposes, or drainage on land that is—

10 “(A) associated with the Klamath Project,
11 including land within a unit of the National
12 Wildlife Refuge System that receives water due
13 to the operation of Klamath Project facilities;
14 or

15 “(B) irrigated by the class of users covered
16 by the agreement dated April 30, 1956, be-
17 tween the California Oregon Power Company
18 and Klamath Basin Water Users Protective As-
19 sociation and within the Off Project Area (as
20 defined in the Upper Basin Comprehensive
21 Agreement entered into on April 18, 2014),
22 only if each applicable owner and holder of a
23 possessory interest of the land is a party to that
24 agreement (or a successor agreement that the

1 Secretary determines provides a comparable
2 benefit to the United States).

3 “(2) KLAMATH PROJECT.—

4 “(A) IN GENERAL.—The term ‘Klamath
5 Project’ means the Bureau of Reclamation
6 project in the States of California and Oregon.

7 “(B) INCLUSIONS.—The term ‘Klamath
8 Project’ includes any dams, canals, and other
9 works and interests for water diversion, storage,
10 delivery, and drainage, flood control, and simi-
11 lar functions that are part of the project de-
12 scribed in subparagraph (A).

13 “(3) LAND ASSOCIATED WITH THE KLAMATH
14 PROJECT.—The term ‘land associated with the
15 Klamath Project’ means any land that receives or
16 has received water diverted or stored by Klamath
17 Project facilities for all or part of its water supply.

18 “(4) POWER COST BENCHMARK.—The term
19 ‘power cost benchmark’ means the average net deliv-
20 ered cost of power for irrigation and drainage at
21 Reclamation projects in the area surrounding the
22 Klamath Project that are similarly situated to the
23 Klamath Project, including Reclamation projects
24 that—

1 “(A) are located in the Pacific Northwest;
2 and

3 “(B) receive project-use power.

4 “(b) WATER, ENVIRONMENTAL, AND POWER ACTIVI-
5 TIES.—

6 “(1) IN GENERAL.—Pursuant to the reclama-
7 tion laws and subject to appropriations and required
8 environmental reviews, the Secretary may carry out
9 activities, including entering into contracts or mak-
10 ing financial assistance available through cooperative
11 agreements or otherwise—

12 “(A) to plan, implement, and administer
13 programs to align water supplies and demand
14 for irrigation water users associated with the
15 Klamath Project, with a primary emphasis on
16 programs developed or endorsed by local enti-
17 ties comprised of representatives of those water
18 users;

19 “(B) to plan and implement activities and
20 projects that—

21 “(i) avoid or mitigate environmental
22 effects of irrigation activities; or

23 “(ii) restore habitats in the Klamath
24 Basin watershed, including restoring tribal
25 fishery resources held in trust; and

1 “(C) to limit the net delivered cost of
2 power for covered power uses.

3 “(2) EFFECT.—Nothing in subparagraph (A)
4 or (B) of paragraph (1) authorizes the Secretary—

5 “(A) to develop or construct new facilities
6 for the Klamath Project without appropriate
7 approval from Congress under section 9 of the
8 Reclamation Projects Act of 1939 (43 U.S.C.
9 485h); or

10 “(B) to carry out activities that have not
11 otherwise been authorized.

12 “(c) REDUCING POWER COSTS.—

13 “(1) IN GENERAL.—Not later than 180 days
14 after the date of the enactment of the Klamath In-
15 frastructure Improvement Act, the Secretary, in con-
16 sultation with interested irrigation interests that are
17 eligible for covered power use and representative or-
18 ganizations of those interests, shall submit to the
19 Committee on Energy and Natural Resources of the
20 Senate and the Committee on Natural Resources of
21 the House of Representatives a report that—

22 “(A) identifies the power cost benchmark;
23 and

24 “(B) recommends actions, excluding direct
25 payments to persons making covered power uses

1 or to other entities for purposes of subsidizing
2 power rates that, in the judgment of the Sec-
3 retary, are necessary and appropriate to ensure
4 that the net delivered power cost for covered
5 power use is equal to or less than the power
6 cost benchmark, including a description of—

7 “(i) actions to immediately reduce
8 power costs and to have the net delivered
9 power cost for covered power use be equal
10 to or less than the power cost benchmark
11 in the near term, while longer-term actions
12 are being implemented;

13 “(ii) to the extent actions involving
14 the development or acquisition of power
15 generation are included, actions that
16 prioritize renewable energy technologies
17 (including hydropower) and regional eco-
18 nomic development;

19 “(iii) the potential costs and timeline
20 for the actions recommended under this
21 subparagraph;

22 “(iv) provisions for modifying the ac-
23 tions and timeline to adapt to new infor-
24 mation or circumstances; and

1 “(v) a description of public input re-
2 garding the proposed actions, including
3 input from water users that have covered
4 power use and the degree to which those
5 water users concur with the recommenda-
6 tions.

7 “(2) IMPLEMENTATION.—Not later than 180
8 days after the date of submission of the report
9 under paragraph (1), the Secretary shall implement
10 those recommendations described in the report that
11 the Secretary determines will ensure that the net de-
12 livered power cost for covered power use is equal to
13 or less than the power cost benchmark, subject to
14 availability of appropriations, on the fastest prac-
15 ticable timeline both as to near-term actions and
16 longer term actions. Implementation shall continue
17 consistent with the report and any updates to the re-
18 port developed under paragraph (3).

19 “(3) SUBSEQUENT REPORTS.—The Secretary
20 shall submit to each Committee described in para-
21 graph (1) reports describing progress achieved in
22 meeting the requirements of this subsection, and any
23 modifications or updates to the actions developed
24 under subsection (c)(1)(B). The reports shall be sub-
25 mitted annually in each of the four years following

1 submission of the report under paragraph (1) and
2 triennially thereafter.

3 “(d) TREATMENT OF POWER PURCHASES.—

4 “(1) IN GENERAL.—Any purchase of power by
5 the Secretary from the Bonneville Power Adminis-
6 tration under this section shall be considered to be
7 an authorized sale for purposes of section 5(b)(3) of
8 the Pacific Northwest Electric Power Planning and
9 Conservation Act (16 U.S.C. 839c(b)(3)).

10 “(2) EFFECT.—Nothing in this section author-
11 izes a sale of power from the Federal Columbia
12 River Power System at rates, terms, or conditions
13 better than those afforded preference customers of
14 the Bonneville Power Administration.

15 “(e) GOALS.—The goals of activities under sub-
16 sections (b) and (c) shall include, as applicable—

17 “(1) the short-term and long-term reduction
18 and resolution of conflicts relating to water in the
19 Klamath Basin watershed; and

20 “(2) compatibility and utility for protecting nat-
21 ural resources throughout the Klamath Basin water-
22 shed, including the protection, preservation, and res-
23 toration of Klamath River tribal fishery resources,
24 particularly through collaboratively developed agree-
25 ments.

1 “(f) PUMPING PLANT D.—The Secretary may enter
 2 into one or more agreements with the Tulelake Irrigation
 3 District to reimburse the Tulelake Irrigation District for
 4 not more than 69 percent of the cost incurred by the
 5 Tulelake Irrigation District for the operation and mainte-
 6 nance of Pumping Plant D, on the condition that the cost
 7 benefits the United States.

8 “(g) KENO AND LINK RIVER DAMS.—The Secretary
 9 is authorized and directed to comply with, and adhere to
 10 the terms of, Attachment A to the 2016 Klamath Power
 11 and Facilities Agreement.”.

12 (b) CONVEYANCE OF NON-PROJECT WATER; RE-
 13 PLACEMENT OF C CANAL.—

14 (1) DEFINITION OF KLAMATH PROJECT.—In
 15 this subsection:

16 (A) IN GENERAL.—The term “Klamath
 17 Project” means the Bureau of Reclamation
 18 project in the States of California and Oregon.

19 (B) INCLUSIONS.—The term “Klamath
 20 Project” includes any dams, canals, and other
 21 works and interests for water diversion, storage,
 22 delivery, and drainage, flood control, and simi-
 23 lar functions that are part of the project de-
 24 scribed in subparagraph (A).

25 (2) CONVEYANCE OF NON-PROJECT WATER.—

1 (A) IN GENERAL.—An entity operating
2 under a contract entered into with the United
3 States for the operation and maintenance of
4 Klamath Project works or facilities, and an en-
5 tity operating any work or facility not owned by
6 the United States that receives Klamath Project
7 water, may without further Federal contract,
8 permit, or other authorization, use any of the
9 Klamath Project works or facilities to convey
10 non-Klamath Project water for any authorized
11 purpose of the Klamath Project, subject to sub-
12 paragraphs (B) and (C).

13 (B) PERMITS; MEASUREMENT.—An addi-
14 tion, conveyance, and use of water pursuant to
15 subparagraph (A) shall be subject to the re-
16 quirements that—

17 (i) the applicable entity shall secure
18 all permits required under State or local
19 laws; and

20 (ii) all water delivered into, or taken
21 out of, a Klamath Project facility pursuant
22 to that subparagraph shall be measured.

23 (C) EFFECT.—A use of non-Klamath
24 Project water under this paragraph shall not—

1 (i) adversely affect the delivery of
2 water to any water user or land served by
3 the Klamath Project; or

4 (ii) result in any additional cost to the
5 United States.

6 (3) REPLACEMENT OF C CANAL FLUME.—The
7 replacement of the C Canal flume within the Klam-
8 ath Project shall be considered to be, and shall re-
9 ceive the treatment authorized for, qualified emer-
10 gency extraordinary operation and maintenance
11 work in accordance with Federal reclamation law
12 (the Act of June 17, 1902 (32 Stat. 388, chapter
13 1093), and Acts supplemental to and amendatory of
14 that Act (43 U.S.C. 371 et seq.)). Accordingly, upon
15 request from Klamath Irrigation District, the Sec-
16 retary of the Interior shall, within 180 days of such
17 request, enter into a contract with Klamath Irriga-
18 tion District, amendatory of contract No. 16–WC–
19 20–4838, providing that 35 percent of the total Re-
20 payment Obligation is non-reimbursable and the re-
21 maining 65 percent of the total Repayment Obliga-
22 tion shall be repaid over a period of 50 years. Al-
23 though the Secretary of the Interior shall not condi-
24 tion its agreement to the amendatory contract upon
25 any other term, the amendatory contract may in-

1 include, but is not required to include, other terms
2 that are no less favorable to the contractor than 16–
3 WC–20–4838.

4 (c) ADMINISTRATION.—

5 (1) COMPLIANCE.—In implementing this sec-
6 tion and the amendments made by this section, the
7 Secretary shall comply with—

8 (A) the National Environmental Policy Act
9 of 1969 (42 U.S.C. 4321 et seq.);

10 (B) the Endangered Species Act of 1973
11 (16 U.S.C. 1531 et seq.); and

12 (C) all other applicable laws.

13 (2) EFFECT.—Nothing in this section—

14 (A) modifies the authorities or obligations
15 of the United States with respect to the tribal
16 trust and treaty obligations of the United
17 States;

18 (B) creates or determines water rights or
19 affects water rights or water right claims in ex-
20 istence on the date of the enactment of this
21 Act; or

22 (C) authorizes the use of Federal funds for
23 the physical deconstruction of the Iron Gate,
24 Copco 1, Copco 2, and John C. Boyle dams lo-

- 1 cated on the Klamath River in California and
- 2 Oregon.

