

110TH CONGRESS
1ST SESSION

H. R. 1462

IN THE SENATE OF THE UNITED STATES

OCTOBER 23, 2007

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To authorize the Secretary of the Interior to participate in the implementation of the Platte River Recovery Implementation Program for Endangered Species in the Central and Lower Platte River Basin and to modify the Pathfinder Dam and Reservoir.

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. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Platte River Recovery Implementation Program and
 4 Pathfinder Modification Authorization Act”.

5 (b) TABLE OF CONTENTS.—The table of contents of
 6 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Purposes.

TITLE I—PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Sec. 101. Definitions.
 Sec. 102. Implementation of Program.
 Sec. 103. Cost-sharing contributions.
 Sec. 104. Authority to modify Program.
 Sec. 105. Effect.
 Sec. 106. Authorization of appropriations.
 Sec. 107. Termination of authority.

TITLE II—PATHFINDER MODIFICATION PROJECT

Sec. 201. Authorization of project.
 Sec. 202. Authorized uses of pathfinder reservoir.

7 **SEC. 2. PURPOSES.**

8 The purposes of this Act are to authorize—
 9 (1) the Secretary of the Interior, acting through
 10 the Commissioner of Reclamation and in partnership
 11 with the States, other Federal agencies, and other
 12 non-Federal entities, to continue the cooperative ef-
 13 fort among the Federal and non-Federal entities
 14 through the implementation of the Platte River Re-
 15 covery Implementation Program for threatened and
 16 endangered species in the Central and Lower Platte
 17 River Basin without creating Federal water rights or

1 requiring the grant of water rights to Federal enti-
 2 ties; and

3 (2) the modification of the Pathfinder Dam and
 4 Reservoir.

5 **TITLE I—PLATTE RIVER RECOV-**
 6 **ERY IMPLEMENTATION PRO-**
 7 **GRAM**

8 **SEC. 101. DEFINITIONS.**

9 In this title:

10 (1) AGREEMENT.—The term “Agreement”
 11 means the Platte River Recovery Implementation
 12 Program Cooperative Agreement entered into by the
 13 Governors of the States and the Secretary.

14 (2) FIRST INCREMENT.—The term “First In-
 15 crement” means the first 13 years of the Program.

16 (3) GOVERNANCE COMMITTEE.—The term
 17 “Governance Committee” means the governance
 18 committee established under the Agreement and
 19 composed of members from the States, the Federal
 20 Government, environmental interests, and water
 21 users.

22 (4) INTEREST IN LAND OR WATER.—The term
 23 “interest in land or water” includes a fee title,
 24 short- or long-term easement, lease, or other con-
 25 tractual arrangement that is determined to be nec-

1 essary by the Secretary to implement the land and
2 water components of the Program.

3 (5) PROGRAM.—The term “Program” means
4 the Platte River Recovery Implementation Program
5 established under the Agreement.

6 (6) PROJECT OR ACTIVITY.—The term “project
7 or activity” means—

8 (A) the planning, design, permitting or
9 other compliance activity, preconstruction activ-
10 ity, construction, construction management, op-
11 eration, maintenance, and replacement of a fa-
12 cility;

13 (B) the acquisition of an interest in land
14 or water;

15 (C) habitat restoration;

16 (D) research and monitoring;

17 (E) program administration; and

18 (F) any other activity that is determined to
19 be necessary by the Secretary to carry out the
20 Program.

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

24 (8) STATES.—The term “States” means the
25 States of Nebraska, Wyoming, and Colorado.

1 **SEC. 102. IMPLEMENTATION OF PROGRAM.**

2 (a) IN GENERAL.—The Secretary, in cooperation
3 with the Governance Committee, may—

4 (1) participate in the Program; and

5 (2) carry out any projects and activities that
6 are designated for implementation during the First
7 Increment.

8 (b) AUTHORITY OF SECRETARY.—For purposes of
9 carrying out this title, the Secretary, in cooperation with
10 the Governance Committee, may—

11 (1) enter into agreements and contracts with
12 Federal and non-Federal entities;

13 (2) acquire interests in land, water, and facili-
14 ties from willing sellers without the use of eminent
15 domain;

16 (3) subsequently transfer any interests acquired
17 under paragraph (2); and

18 (4) accept or provide grants.

19 **SEC. 103. COST-SHARING CONTRIBUTIONS.**

20 (a) IN GENERAL.—As provided in the Agreement, the
21 participating States shall contribute not less than 50 per-
22 cent of the total contributions necessary to carry out the
23 Program.

24 (b) NON-FEDERAL CONTRIBUTIONS.—The following
25 contributions shall constitute the States' share of the Pro-
26 gram:

1 (1) \$30,000,000 in non-Federal funds, with the
2 balance of funds remaining to be contributed to be
3 adjusted for inflation on October 1 of the year after
4 the date of enactment of this Act and each October
5 1 thereafter.

6 (2) Credit for contributions of water or land for
7 the purposes of implementing the Program, as deter-
8 mined to be appropriate by the Secretary.

9 (c) IN-KIND CONTRIBUTIONS.—The Secretary or the
10 States may elect to provide a portion of the Federal share
11 or non-Federal share, respectively, in the form of in-kind
12 goods or services, if the contribution of goods or services
13 is approved by the Governance Committee, as provided in
14 Attachment 1 of the Agreement.

15 **SEC. 104. AUTHORITY TO MODIFY PROGRAM.**

16 The Program may be modified or amended before the
17 completion of the First Increment if the Secretary and the
18 States determine that the modifications are consistent
19 with the purposes of the Program.

20 **SEC. 105. EFFECT.**

21 (a) EFFECT ON RECLAMATION LAWS.—No action
22 carried out under this title shall, with respect to the acre-
23 age limitation provisions of the reclamation laws—

24 (1) be considered in determining whether a dis-
25 trict (as the term is defined in section 202 of the

1 Reclamation Reform Act of 1982 (43 U.S.C.
2 390bb)) has discharged the obligation of the district
3 to repay the construction cost of project facilities
4 used to make irrigation water available for delivery
5 to land in the district;

6 (2) serve as the basis for reinstating acreage
7 limitation provisions in a district that has completed
8 payment of the construction obligations of the dis-
9 trict; or

10 (3) serve as the basis for increasing the con-
11 struction repayment obligation of the district, which
12 would extend the period during which the acreage
13 limitation provisions would apply.

14 (b) EFFECT ON WATER RIGHTS.—Nothing in this
15 title—

16 (1) creates Federal water rights; or

17 (2) requires the grant of water rights to Fed-
18 eral entities.

19 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

20 (a) IN GENERAL.—There is authorized to be appro-
21 priated to carry out projects and activities under this title
22 \$157,140,000, as adjusted under subsection (c).

23 (b) NONREIMBURSABLE FEDERAL EXPENDI-
24 TURES.—Any amounts expended under subsection (a)

1 shall be considered to be nonreimbursable Federal expend-
2 itures.

3 (c) ADJUSTMENT.—The balance of funds remaining
4 to be appropriated shall be adjusted for inflation on Octo-
5 ber 1 of the year after the enactment of this Act and each
6 October 1 thereafter.

7 (d) AVAILABILITY OF FUNDS.—At the end of each
8 fiscal year, any unexpended funds for projects and activi-
9 ties made available under subsection (a) shall be retained
10 for use in future fiscal years to implement projects and
11 activities under the Program.

12 **SEC. 107. TERMINATION OF AUTHORITY.**

13 The authority for the Secretary to implement the
14 First Increment shall terminate on September 30, 2020.

15 **TITLE II—PATHFINDER**
16 **MODIFICATION PROJECT**

17 **SEC. 201. AUTHORIZATION OF PROJECT.**

18 (a) IN GENERAL.—The Secretary of the Interior, act-
19 ing through the Commissioner of Reclamation (referred to
20 in this title as the “Secretary”), may—

21 (1) modify the Pathfinder Dam and Reservoir;

22 and

23 (2) enter into 1 or more agreements with the
24 State of Wyoming to implement the Pathfinder
25 Modification Project (referred to in this title as the

