

Union Calendar No. 247

110TH CONGRESS
1ST SESSION

H. R. 1462

[Report No. 110-393]

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.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2007

Mr. UDALL of Colorado (for himself, Mr. SALAZAR, Mr. SMITH of Nebraska, Mr. FORTENBERRY, and Mr. TERRY) introduced the following bill; which was referred to the Committee on Natural Resources

OCTOBER 22, 2007

Additional sponsors: Ms. DEGETTE, Mrs. CUBIN, and Mr. PERLMUTTER

OCTOBER 22, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on March 9, 2007]

A BILL

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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

7 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 8 *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.

9 **SEC. 2. PURPOSES.**

10 *The purposes of this Act are to authorize—*

11 (1) *the Secretary of the Interior, acting through*
 12 *the Commissioner of Reclamation and in partnership*
 13 *with the States, other Federal agencies, and other*
 14 *non-Federal entities, to continue the cooperative effort*
 15 *among the Federal and non-Federal entities through*
 16 *the implementation of the Platte River Recovery Im-*
 17 *plementation Program for threatened and endangered*
 18 *species in the Central and Lower Platte River Basin*

1 *without creating Federal water rights or requiring the*
2 *grant of water rights to Federal entities; 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” means*
11 *the Platte River Recovery Implementation Program*
12 *Cooperative Agreement entered into by the Governors*
13 *of the States and the Secretary.*

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

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

21 *(4) INTEREST IN LAND OR WATER.—The term*
22 *“interest in land or water” includes a fee title, short-*
23 *or long-term easement, lease, or other contractual ar-*
24 *rangement that is determined to be necessary by the*

1 *Secretary to implement the land and water compo-*
2 *nents of the Program.*

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

6 (6) *PROJECT OR ACTIVITY.*—*The term “project or*
7 *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 or*
14 *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 Com-*
23 *missioner 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 with*
3 *the Governance Committee, may—*

4 (1) *participate in the Program; and*

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

8 (b) *AUTHORITY OF SECRETARY.*—*For purposes of car-*
9 *rying out this title, the Secretary, in cooperation with the*
10 *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 ad-
3 justed for inflation on October 1 of the year after the
4 date of enactment of this Act and each October 1
5 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 is
13 approved by the Governance Committee, as provided in At-
14 tachment 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 with
19 the purposes of the Program.

20 **SEC. 105. EFFECT.**

21 (a) *EFFECT ON RECLAMATION LAWS.*—No action car-
22 ried out under this title shall, with respect to the acreage
23 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 Rec-

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

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

10 *(3) serve as the basis for increasing the construc-*
11 *tion repayment obligation of the district, which would*
12 *extend the period during which the acreage limitation*
13 *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 Federal*
18 *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 EXPENDITURES.—*
24 *Any amounts expended under subsection (a) shall be consid-*
25 *ered to be nonreimbursable Federal expenditures.*

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

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

10 **SEC. 107. TERMINATION OF AUTHORITY.**

11 *The authority for the Secretary to implement the First*
12 *Increment shall terminate on September 30, 2020.*

13 **TITLE II—PATHFINDER**
14 **MODIFICATION PROJECT**

15 **SEC. 201. AUTHORIZATION OF PROJECT.**

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

19 (1) *modify the Pathfinder Dam and Reservoir;*
20 *and*

21 (2) *enter into 1 or more agreements with the*
22 *State of Wyoming to implement the Pathfinder Modi-*
23 *fication Project (referred to in this title as the*
24 *“Project”), as described in Appendix F to the Final*

1 *Settlement Stipulation in Nebraska v. Wyoming, 534*
2 *U.S. 40 (2001).*

3 **(b) FEDERAL APPROPRIATIONS.**—*No Federal appro-*
4 *priations are required to modify the Pathfinder Dam under*
5 *this section.*

6 **SEC. 202. AUTHORIZED USES OF PATHFINDER RESERVOIR.**

7 *The approximately 54,000 acre-feet capacity of Path-*
8 *finder Reservoir, which has been lost to sediment but will*
9 *be recaptured by the Project, may be used for municipal,*
10 *environmental, and other purposes, as described in Appen-*
11 *dix F to the Final Settlement Stipulation in Nebraska v.*
12 *Wyoming, 534 U.S. 40 (2001).*

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