

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 1426

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IN THE SENATE OF THE UNITED STATES

JULY 26 (legislative day, JULY 20), 1994

Received; read twice and referred to the Committee on Indian Affairs

AUGUST 11, 1994

Committee discharged

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## AN ACT

To provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

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 “Indian Dams Safety  
5 Act of 1994”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) the Secretary of the Interior has identified  
9 53 dams on Indian lands that present a threat to  
10 human life in the event of a failure;

1           (2) because of inadequate attention in the past  
2 to problems stemming from structural deficiencies  
3 and regular maintenance requirements for dams op-  
4 erated by the Bureau of Indian Affairs, unsafe Bu-  
5 reau dams continue to pose an imminent threat to  
6 people and property;

7           (3) many Bureau dams have maintenance defi-  
8 ciencies regardless of their current safety condition  
9 classification and the deficiencies must be corrected  
10 to avoid future threats to human life and property;

11           (4) safe working dams on Indian lands are nec-  
12 essary to supply irrigation water, to provide flood  
13 control, to provide water for municipal, industrial,  
14 domestic, livestock, and recreation uses, and for fish  
15 and wildlife habitats; and

16           (5) it is necessary to institute a regular dam  
17 maintenance and repair program, utilizing the exper-  
18 tise in the Bureau, Indian tribes, and other Federal  
19 agencies.

20 **SEC. 3. DEFINITIONS.**

21 As used in this Act:

22           (1) The term “Bureau” means the Bureau of  
23 Indian Affairs.

1           (2) The term “dam” has the same meaning  
2           given such term by the first section of Public Law  
3           92–367 (33 U.S.C. 467).

4           (3) The term “Secretary” means the Secretary  
5           of the Interior.

6           (4) The term “Indian tribe” means any Indian  
7           tribe, band, nation, pueblo, or other organized group  
8           or community, including any Alaska Native village  
9           or regional corporation as defined in or established  
10          pursuant to the Alaska Native Claims Settlement  
11          Act, which is recognized as eligible for the special  
12          programs and services provided by the United States  
13          to Indian tribes because of their status as Indians.

14 **SEC. 4. DAM SAFETY MAINTENANCE AND REPAIR PRO-**  
15 **GRAM.**

16          (a) ESTABLISHMENT.—The Secretary shall establish  
17          a dam safety maintenance and repair program within the  
18          Bureau to ensure maintenance and monitoring of the con-  
19          dition of each dam identified pursuant to subsection (e)  
20          necessary to maintain the dam in a satisfactory condition  
21          on a long-term basis.

22          (b) TRANSFER OF EXISTING FUNCTIONS AND PER-  
23          SONNEL.—All functions performed before the date of the  
24          enactment of this Act pursuant to the Dam Safety Pro-  
25          gram established by the Secretary of the Interior by order

1 dated February 28, 1980, and all Bureau of Indian Af-  
2 fairs personnel assigned to such program as of the date  
3 of enactment of this Act are hereby transferred to the  
4 Dam Safety Maintenance and Repair Program. Any ref-  
5 erence in any law, regulation, executive order, reorganiza-  
6 tion plan, or delegation of authority to the Dam Safety  
7 Program is deemed to be a reference to the Dam Safety  
8 Maintenance and Repair Program.

9 (c) REHABILITATION.—Under the Dam Safety Main-  
10 tenance and Repair Program, the Secretary shall perform  
11 such rehabilitation work as is necessary to bring the dams  
12 identified pursuant to subsection (e) to a satisfactory con-  
13 dition. In addition, each dam located on Indian lands shall  
14 be regularly maintained pursuant to the Dam Safety  
15 Maintenance and Repair Program established pursuant to  
16 subsection (a).

17 (d) MAINTENANCE ACTION PLAN.—The Secretary  
18 shall develop a maintenance action plan, which shall in-  
19 clude a prioritization of actions to be taken, for those  
20 dams with a risk hazard rating of high or significant as  
21 identified pursuant to subsection (e).

22 (e) IDENTIFICATION OF DAMS.—

23 (1) DEVELOPMENT OF LIST.—The Secretary  
24 shall develop a comprehensive list of dams located on  
25 Indian lands that describes the dam safety condition

1 classification of each dam, as specified in paragraph  
2 (2), the risk hazard classification of each dam, as  
3 specified in paragraph (3), and the conditions result-  
4 ing from maintenance deficiencies.

5 (2) DAM SAFETY CONDITION CLASSIFICA-  
6 TIONS.—The dam safety condition classification re-  
7 ferred to in paragraph (1) is one of the following  
8 classifications:

9 (A) SATISFACTORY.—No existing or poten-  
10 tial dam safety deficiencies are recognized. Safe  
11 performance is expected under all anticipated  
12 conditions.

13 (B) FAIR.—No existing dam safety defi-  
14 ciencies are recognized for normal loading con-  
15 ditions. Infrequent hydrologic or seismic events  
16 would probably result in a dam safety defi-  
17 ciency.

18 (C) CONDITIONALLY POOR.—A potential  
19 dam safety deficiency is recognized for unusual  
20 loading conditions that may realistically occur  
21 during the expected life of the structure.

22 (D) POOR.—A potential dam safety defi-  
23 ciency is clearly recognized for normal loading  
24 conditions. Immediate actions to resolve the de-  
25 ficiency are recommended; reservoir restrictions

1           may be necessary until resolution of the prob-  
2           lem.

3           (E) UNSATISFACTORY.—A dam safety de-  
4           ficiency exists for normal loading conditions.  
5           Immediate remedial action is required for reso-  
6           lution of the problem.

7           (3) RISK HAZARD CLASSIFICATION.—The risk  
8           hazard classification referred to in paragraph (1) is  
9           one of the following classifications:

10           (A) HIGH.—Six or more lives would be at  
11           risk or extensive property damage could occur  
12           if the dam failed.

13           (B) SIGNIFICANT.—Between one and six  
14           lives would be at risk or significant property  
15           damage could occur if the dam failed.

16           (C) LOW.—No lives would be at risk and  
17           limited property damage would occur if the dam  
18           failed.

19           (f) LIMITATION ON PROGRAM AUTHORIZATION.—  
20           Work authorized by this Act shall be for the purpose of  
21           dam safety maintenance and structural repair. The Sec-  
22           retary may authorize, upon request of an Indian tribe, up  
23           to 20 percent of the cost of repairs to be used to provide  
24           additional conservation storage capacity or developing  
25           benefits beyond those provided by the original dams and

1 reservoirs. This Act is not intended to preclude develop-  
2 ment of increased storage or benefits under any other au-  
3 thority or to preclude measures to protect fish and wildlife.

4 (g) TECHNICAL ASSISTANCE.—To carry out the pur-  
5 poses of this Act, the Secretary may obtain technical as-  
6 sistance on a nonreimbursable basis from other depart-  
7 ments and agencies. Notwithstanding any such technical  
8 assistance, the Dam Safety Maintenance and Repair Pro-  
9 gram established under subsection (a) shall be under the  
10 direction and control of the Bureau.

11 (h) CONTRACT AUTHORITY.—In addition to any  
12 other authority established by law, the Secretary is au-  
13 thorized to contract with Indian tribes (under the Indian  
14 Self-Determination and Education Assistance Act (25  
15 U.S.C. 450b(e))), as amended, to carry out the Dam Safe-  
16 ty Maintenance and Repair Program established under  
17 this Act.

18 (i) ANNUAL REPORT.—The Secretary shall submit an  
19 annual report on the implementation of this Act. The re-  
20 port shall include—

21 (1) the list of dams and their status on the  
22 maintenance action plan developed under this sec-  
23 tion; and

1           (2) the projected total cost and a schedule of  
2           the projected annual cost of rehabilitation or repair  
3           for each dam under this section.

4 The report shall be submitted at the time the budget is  
5 required to be submitted under section 1105 of title 31,  
6 United States Code, to the Subcommittee on Native Amer-  
7 ican Affairs of the Committee on Natural Resources of  
8 the House of Representatives and the Committee on In-  
9 dian Affairs of the Senate.

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

11       There is authorized to be appropriated such sums as  
12 may be necessary to carry out this Act. Funds provided  
13 under this Act are to be considered nonreimbursable.

Passed the House of Representatives July 25, 1994.

Attest:           DONNALD K. ANDERSON,  
*Clerk.*