

In the Senate of the United States,

December 11, 2014.

Resolved, That the bill from the House of Representatives (H.R. 2640) entitled “An Act to amend the Wild and Scenic Rivers Act to adjust the Crooked River boundary, to provide water certainty for the City of Prineville, Oregon, and for other purposes.”, do pass with the following

AMENDMENT:

Strike all after the enacting clause and insert the following:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Crooked River Collabo-*
3 *rative Water Security and Jobs Act of 2014”.*

4 ***SEC. 2. WILD AND SCENIC RIVER; CROOKED, OREGON.***

5 *Section 3(a) of the Wild and Scenic Rivers Act (16*
6 *U.S.C. 1274(a)) is amended by striking paragraph (72) and*
7 *inserting the following:*

8 *“(72) CROOKED, OREGON.—*

1 “(A) *IN GENERAL.*—*The 14.75-mile segment*
2 *from the National Grassland boundary to Dry*
3 *Creek, to be administered by the Secretary of the*
4 *Interior in the following classes:*

5 “(i) *The 7-mile segment from the Na-*
6 *tional Grassland boundary to River Mile 8*
7 *south of Opal Spring, as a recreational*
8 *river.*

9 “(ii) *The 7.75-mile segment from a*
10 *point 1/4-mile downstream from the center*
11 *crest of Bowman Dam, as a recreational*
12 *river.*

13 “(B) *HYDROPOWER.*—*In any license or*
14 *lease of power privilege application relating to*
15 *non-Federal hydropower development (including*
16 *turbines and appurtenant facilities) at Bowman*
17 *Dam, the applicant, in consultation with the Di-*
18 *rector of the Bureau of Land Management,*
19 *shall—*

20 “(i) *analyze any impacts to the scenic,*
21 *recreational, and fishery resource values of*
22 *the Crooked River from the center crest of*
23 *Bowman Dam to a point 1/4-mile down-*
24 *stream that may be caused by the proposed*
25 *hydropower development, including the fu-*

1 *ture need to undertake routine and emer-*
 2 *gency repairs;*

3 *“(ii) propose measures to minimize*
 4 *and mitigate any impacts analyzed under*
 5 *clause (i); and*

6 *“(iii) propose designs and measures to*
 7 *ensure that any access facilities associated*
 8 *with hydropower development at Bowman*
 9 *Dam shall not impede the free-flowing na-*
 10 *ture of the Crooked River below Bowman*
 11 *Dam.”.*

12 **SEC. 3. CITY OF PRINEVILLE WATER SUPPLY.**

13 *Section 4 of the Act of August 6, 1956 (70 Stat. 1058;*
 14 *73 Stat. 554; 78 Stat. 954) is amended—*

15 *(1) by striking “SEC. 4. In order” and inserting*
 16 *the following:*

17 **“SEC. 4. CITY OF PRINEVILLE WATER SUPPLY.**

18 *“(a) IN GENERAL.—In order”;*

19 *(2) in subsection (a) (as so designated), by strik-*
 20 *ing “during those months” and all that follows*
 21 *through “purpose of the project”; and*

22 *(3) by adding at the end the following:*

23 *“(b) ANNUAL RELEASE.—*

24 *“(1) IN GENERAL.—Without further action by*
 25 *the Secretary of the Interior, beginning on the date of*

1 *enactment of the Crooked River Collaborative Water*
2 *Security and Jobs Act of 2014, 5,100 acre-feet of*
3 *water shall be annually released from the project to*
4 *serve as mitigation for City of Prineville groundwater*
5 *pumping, pursuant to and in a manner consistent*
6 *with Oregon State law, including any shaping of the*
7 *release of the water.*

8 “(2) *PAYMENTS.*—*The City of Prineville shall*
9 *make payments to the Secretary of the Interior for the*
10 *water released under paragraph (1), in accordance*
11 *with applicable Bureau of Reclamation policies, di-*
12 *rectives, and standards.*

13 “(c) *ADDITIONAL QUANTITIES.*—*Consistent with the*
14 *National Environmental Policy Act of 1969 (42 U.S.C.*
15 *4321 et seq.), the Endangered Species Act of 1973 (16*
16 *U.S.C. 1531 et seq.), and other applicable Federal laws, the*
17 *Secretary of the Interior may contract exclusively with the*
18 *City of Prineville for additional quantities of water, at the*
19 *request of the City of Prineville.”*

20 **SEC. 4. ADDITIONAL PROVISIONS.**

21 *The Act of August 6, 1956 (70 Stat. 1058; 73 Stat.*
22 *554; 78 Stat. 954), is amended by adding at the end the*
23 *following:*

1 **“SEC. 6. FIRST FILL STORAGE AND RELEASE.**

2 “(a) *IN GENERAL.*—Other than the 10 cubic feet per
3 second release provided for in section 4, and subject to com-
4 pliance with the flood curve requirements of the Corps of
5 Engineers, the Secretary shall, on a ‘first fill’ priority basis,
6 store in and when called for in any year release from
7 Prineville Reservoir, whether from carryover, infill, or a
8 combination of both, the following:

9 “(1) Not more than 68,273 acre-feet of water an-
10 nually to fulfill all 16 Bureau of Reclamation con-
11 tracts existing as of January 1, 2011.

12 “(2) Not more than 2,740 acre-feet of water an-
13 nually to supply the McKay Creek land, in accord-
14 ance with section 5 of the Crooked River Collaborative
15 Water Security and Jobs Act of 2014.

16 “(3) Not more than 10,000 acre-feet of water an-
17 nually, to be made available first to the North Unit
18 Irrigation District, and subsequently to any other
19 holders of Reclamation contracts existing as of Janu-
20 ary 1, 2011 (in that order) pursuant to Temporary
21 Water Service Contracts, on the request of the North
22 Unit Irrigation District or the contract holders, con-
23 sistent with the same terms and conditions as prior
24 such contracts between the Bureau of Reclamation
25 and District or contract holders, as applicable.

1 “(4) Not more than 5,100 acre-feet of water an-
2 nually to mitigate the City of Prineville groundwater
3 pumping under section 4, with the release of this
4 water to occur not based on an annual call, but in-
5 stead pursuant to section 4 and the release schedule
6 developed pursuant to section 7(b).

7 “(b) CARRYOVER.—Except for water that may be
8 called for and released after the end of the irrigation season
9 (either as City of Prineville groundwater pumping mitiga-
10 tion or as a voluntary release, in accordance with section
11 4 of this Act and section 6(c) of the Crooked River Collabo-
12 rative Water Security and Jobs Act of 2014, respectively),
13 any water stored under this section that is not called for
14 and released by the end of the irrigation season in a given
15 year shall be—

16 “(1) carried over to the subsequent water year,
17 which, for accounting purposes, shall be considered to
18 be the 1-year period beginning October 1 and ending
19 September 30, consistent with Oregon State law; and

20 “(2) accounted for as part of the ‘first fill’ stor-
21 age quantities of the subsequent water year, but not
22 to exceed the maximum ‘first fill’ storage quantities
23 described in subsection (a).

1 **“SEC. 7. STORAGE AND RELEASE OF REMAINING STORED**
2 **WATER QUANTITIES.**

3 “(a) *AUTHORIZATION.*—

4 “(1) *IN GENERAL.*—*The Secretary shall store in*
5 *and release from Prineville Reservoir sufficient quan-*
6 *tities of remaining stored quantities to be released*
7 *pursuant to the annual release schedule under sub-*
8 *section (b) and to provide instream flows consistent,*
9 *to the maximum extent practicable, with the rec-*
10 *ommendations for in-channel strategies in the plan*
11 *prepared by the Northwest Power and Conservation*
12 *Council entitled ‘Deschutes Subbasin Plan’ and dated*
13 *March 24, 2005, for flow between Bowman Dam and*
14 *Lake Billy Chinook.*

15 “(2) *REQUIREMENTS.*—*In calculating the quan-*
16 *tity of released water under paragraph (1), the Sec-*
17 *retary shall—*

18 “(A) *comply with the flood curve require-*
19 *ments of the Corps of Engineers; and*

20 “(B) *credit toward the requirements of*
21 *paragraph (1) the instream flow benefits pro-*
22 *vided by—*

23 “(i) *the quantities released under sec-*
24 *tion 4;*

25 “(ii) *the ‘first fill’ quantities released*
26 *under section 6; and*

1 “(iii) any quantities released to com-
2 ply with the flood curve requirements of the
3 Corps of Engineers.

4 “(3) *USE OF UNCONTRACTED WATER.*—If a con-
5 sultation conducted under the *Endangered Species*
6 *Act of 1973 (16 U.S.C. 1531 et seq.)* or an order of
7 a court in a proceeding under that Act requires re-
8 leases of stored water from *Prineville Reservoir* for
9 fish and wildlife downstream of *Bowman Dam*, the
10 Secretary shall use uncontracted water under para-
11 graph (1).

12 “(4) *STATE WATER LAW.*—All releases and
13 downstream uses authorized under paragraph (1)
14 shall be in accordance with Oregon State water law.

15 “(b) *ANNUAL RELEASE SCHEDULE.*—The Commis-
16 sioner of Reclamation, in consultation with the Assistant
17 Administrator of Fisheries of the National Marine Fisheries
18 Service and the Director of the United States Fish and
19 Wildlife Service, shall develop annual release schedules for
20 the remaining stored water quantities (including the quan-
21 tities described in subsection (a) and the water serving as
22 mitigation for City of Prineville groundwater pumping
23 pursuant to section 4) that maximizes, to the maximum ex-
24 tent practicable, benefits to downstream fish and wildlife.

1 “(c) *CARRYOVER.*—*Any water stored under subsection*
2 *(a) in 1 water year that is not released during the water*
3 *year—*

4 “(1) *shall be carried over to the subsequent water*
5 *year; and*

6 “(2)(A) *may be released for downstream fish and*
7 *wildlife resources, consistent with subsection (b), until*
8 *the reservoir reaches maximum capacity in the subse-*
9 *quent water year; and*

10 “(B) *once the reservoir reaches maximum capaci-*
11 *ty under subparagraph (A), shall be credited to the*
12 *‘first fill’ storage quantities, but not to exceed the*
13 *maximum ‘first fill’ storage quantities described in*
14 *section 6(a).*

15 “(d) *EFFECT.*—*Nothing in this section affects the au-*
16 *thority of the Commissioner of Reclamation to perform all*
17 *other traditional and routine activities associated with the*
18 *Crooked River Project.*

19 **“SEC. 8. RESERVOIR LEVELS.**

20 *“The Commissioner of Reclamation shall—*

21 “(1) *project reservoir water levels over the course*
22 *of the year; and*

23 “(2) *make the projections under paragraph (1)*
24 *available to—*

1 “(A) the public (including fisheries groups,
2 recreation interests, and municipal and irriga-
3 tion stakeholders);

4 “(B) the Assistant Administrator of Fish-
5 eries of the National Marine Fisheries Service;
6 and

7 “(C) the Director of the United States Fish
8 and Wildlife Service.

9 **“SEC. 9. EFFECT.**

10 “Except as otherwise provided in this Act, nothing in
11 this Act—

12 “(1) modifies contractual rights that may exist
13 between contractors and the United States under Rec-
14 lamation contracts;

15 “(2) amends or reopens contracts referred to in
16 paragraph (1); or

17 “(3) modifies any rights, obligations, or require-
18 ments that may be provided or governed by Federal
19 or Oregon State law.”.

20 **SEC. 5. OCHOCO IRRIGATION DISTRICT.**

21 (a) *EARLY REPAYMENT.*—

22 (1) *IN GENERAL.*—Notwithstanding section 213
23 of the Reclamation Reform Act of 1982 (43 U.S.C.
24 390mm), any landowner within Ochoco Irrigation
25 District, Oregon (referred to in this section as the

1 “district”), may repay, at any time, the construction
2 costs of the project facilities allocated to the land of
3 the landowner within the district.

4 (2) *EXEMPTION FROM LIMITATIONS.*—Upon dis-
5 charge, in full, of the obligation for repayment of the
6 construction costs allocated to all land of the land-
7 owner in the district, the land shall not be subject to
8 the ownership and full-cost pricing limitations of
9 Federal reclamation law (the Act of June 17, 1902
10 (32 Stat. 388, chapter 1093), and Acts supplemental
11 to and amendatory of that Act (43 U.S.C. 371 et
12 seq.)).

13 (b) *CERTIFICATION.*—Upon the request of a landowner
14 who has repaid, in full, the construction costs of the project
15 facilities allocated to the land of the landowner within the
16 district, the Secretary of the Interior shall provide the cer-
17 tification described in section 213(b)(1) of the Reclamation
18 Reform Act of 1982 (43 U.S.C. 390mm(b)(1)).

19 (c) *CONTRACT AMENDMENT.*—On approval of the dis-
20 trict directors and notwithstanding project authorizing au-
21 thority to the contrary, the Reclamation contracts of the
22 district are modified, without further action by the Sec-
23 retary of the Interior—

24 (1) to authorize the use of water for instream
25 purposes, including fish or wildlife purposes, in order

1 *for the district to engage in, or take advantage of,*
2 *conserved water projects and temporary instream*
3 *leasing as authorized by Oregon State law;*

4 *(2) to include within the district boundary ap-*
5 *proximately 2,742 acres in the vicinity of McKay*
6 *Creek, resulting in a total of approximately 44,937*
7 *acres within the district boundary;*

8 *(3) to classify as irrigable approximately 685*
9 *acres within the approximately 2,742 acres of in-*
10 *cluded land in the vicinity of McKay Creek, with*
11 *those approximately 685 acres authorized to receive*
12 *irrigation water pursuant to water rights issued by*
13 *the State of Oregon if the acres have in the past re-*
14 *ceived water pursuant to State water rights; and*

15 *(4) to provide the district with stored water from*
16 *Prineville Reservoir for purposes of supplying up to*
17 *the approximately 685 acres of land added within the*
18 *district boundary and classified as irrigable under*
19 *paragraphs (2) and (3), with the stored water to be*
20 *supplied on an acre-per-acre basis contingent on the*
21 *transfer of existing appurtenant McKay Creek water*
22 *rights to instream use and the issuance of water*
23 *rights by the State of Oregon for the use of stored*
24 *water.*

1 (d) *LIMITATION.*—*Except as otherwise provided in*
 2 *subsections (a) and (c), nothing in this section—*

3 (1) *modifies contractual rights that may exist be-*
 4 *tween the district and the United States under the*
 5 *Reclamation contracts of the district;*

6 (2) *amends or reopens the contracts referred to*
 7 *in paragraph (1); or*

8 (3) *modifies any rights, obligations, or relation-*
 9 *ships that may exist between the district and any*
 10 *owner of land within the district, as may be provided*
 11 *or governed by Federal or Oregon State law.*

12 **SEC. 6. DRY-YEAR MANAGEMENT PLANNING AND VOL-**
 13 **UNTARY RELEASES.**

14 (a) *PARTICIPATION IN DRY-YEAR MANAGEMENT PLAN-*
 15 *NING MEETINGS.*—*The Bureau of Reclamation shall par-*
 16 *ticipate in dry-year management planning meetings with*
 17 *the State of Oregon, the Confederated Tribes of the Warm*
 18 *Springs Reservation of Oregon, municipal, agricultural,*
 19 *conservation, recreation, and other interested stakeholders*
 20 *to plan for dry-year conditions.*

21 (b) *DRY-YEAR MANAGEMENT PLAN.*—

22 (1) *IN GENERAL.*—*Not later than 3 years after*
 23 *the date of enactment of this Act, the Bureau of Rec-*
 24 *lamation shall develop a dry-year management plan*

1 *in coordination with the participants referred to in*
2 *subsection (a).*

3 (2) *REQUIREMENTS.*—*The plan developed under*
4 *paragraph (1) shall only recommend strategies, meas-*
5 *ures, and actions that the irrigation districts and*
6 *other Bureau of Reclamation contract holders volun-*
7 *tarily agree to implement.*

8 (3) *LIMITATIONS.*—*Nothing in the plan devel-*
9 *oped under paragraph (1) shall be mandatory or self-*
10 *implementing.*

11 (c) *VOLUNTARY RELEASE.*—*In any year, if North*
12 *Unit Irrigation District or other eligible Bureau of Rec-*
13 *lamation contract holders have not initiated contracting*
14 *with the Bureau of Reclamation for any quantity of the*
15 *10,000 acre feet of water described in subsection (a)(3) of*
16 *section 6 of the Act of August 6, 1956 (70 Stat. 1058) (as*
17 *added by section 4), by June 1 of any calendar year, with*
18 *the voluntary agreement of North Unit Irrigation District*
19 *and other Bureau of Reclamation contract holders referred*
20 *to in that paragraph, the Secretary may release that quan-*
21 *tity of water for the benefit of downstream fish and wildlife*
22 *as described in section 7 of that Act.*

23 **SEC. 7. HYDROPOWER DECISION.**

24 *Not later than 3 years after the date of enactment of*
25 *this Act, the Commissioner of Reclamation shall determine*

1 *the applicability of the jurisdiction of the Commissioner of*
2 *Reclamation to non-Federal hydropower development pur-*
3 *suant to—*

4 (1) *the Memorandum of Understanding between*
5 *the Federal Energy Regulatory Commission and the*
6 *Bureau of Reclamation, Department of the Interior,*
7 *entitled “Establishment of Processes for the Early*
8 *Resolution of Issues Related to the Timely Develop-*
9 *ment of Non-Federal Hydroelectric power at the Bu-*
10 *reau of Reclamation Facilities” and signed November*
11 *6, 1992 (58 Fed. Reg. 3269); or*

12 (2) *any memorandum of understanding that is*
13 *subsequent or related to the memorandum of under-*
14 *standing described in paragraph (1).*

15 **SEC. 8. RELATION TO EXISTING LAWS AND STATUTORY OB-**
16 **LIGATIONS.**

17 *Nothing in this Act (or an amendment made by this*
18 *Act)—*

19 (1) *provides to the Secretary the authority to*
20 *store and release the “first fill” quantities provided*
21 *for in section 6 of the Act of August 6, 1956 (70 Stat.*
22 *1058) (as added by section 4) for any purposes other*
23 *than the purposes provided for in that section, except*
24 *for—*

1 (A) *the potential instream use resulting*
2 *from conserved water projects and temporary*
3 *instream leasing as provided for in section*
4 *5(c)(1);*

5 (B) *the potential release of additional*
6 *amounts that may result from voluntary actions*
7 *agreed to through the dry-year management plan*
8 *developed under section 6(b); and*

9 (C) *the potential release of the 10,000 acre*
10 *feet for downstream fish and wildlife as provided*
11 *for in section 6(c); or*

12 (2) *alters any responsibilities under Oregon*
13 *State law or Federal law, including section 7 of the*
14 *Endangered Species Act (16 U.S.C. 1536).*

Attest:

Secretary.

113TH CONGRESS
2^D SESSION

H.R. 2640

AMENDMENT