

Calendar No. 577118TH CONGRESS
2^D SESSION**S. 482**

To amend the Klamath Basin Water Supply Enhancement Act of 2000 to provide the Secretary of the Interior with certain authorities with respect to projects affecting the Klamath Basin watershed, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2023

Mr. WYDEN (for himself and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

NOVEMBER 21, 2024

Reported by Mr. MANCHIN, with an amendment

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

A BILL

To amend the Klamath Basin Water Supply Enhancement Act of 2000 to provide the Secretary of the Interior with certain authorities with respect to projects affecting the Klamath Basin watershed, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Klamath Power and
3 Facilities Agreement Support Act”.

4 **SEC. 2. KLAMATH PROJECT WATER AND POWER.**

5 (a) ADDRESSING WATER, POWER, AND FACILITIES
6 MANAGEMENT FOR IRRIGATION.—Section 4 of the Klam-
7 ath Basin Water Supply Enhancement Act of 2000 (Pub-
8 lic Law 106–498; 114 Stat. 2221; 132 Stat. 3886; 134
9 Stat. 976) is amended—

10 (1) in subsection (b), by striking paragraph (1)
11 and inserting the following:

12 “(1) IN GENERAL.—Subject to appropriations
13 and required environmental reviews, the Secretary is
14 authorized to carry out activities, including entering
15 into a contract or making financial assistance avail-
16 able through cooperative agreements or other meth-
17 ods, to plan, implement, and administer programs,
18 including conservation and efficiency measures, land
19 idling, and use of groundwater, to align water sup-
20 plies and demand for irrigation water users associ-
21 ated with the Klamath Project, with a primary em-
22 phasis on programs developed or endorsed by local
23 entities comprised of representatives of those water
24 users.”;

25 (2) in subsection (c), by adding at the end the
26 following:

1 “(2) IMPLEMENTATION.—

2 “(A) IN GENERAL.—Beginning not later
3 than 180 days after the date of enactment of
4 the Klamath Power and Facilities Agreement
5 Support Act, the Secretary shall, through 1 or
6 more cooperative agreements, financial assist-
7 ance agreements, or other methods, implement,
8 or support the implementation of, the rec-
9 ommendations identified in the report described
10 in paragraph (1) that the Secretary determines
11 would lead to bringing the net delivered power
12 cost for covered power use to an amount that
13 is the same as, or less than, the power cost
14 benchmark, subject to the availability of appro-
15 priations, on the fastest timeline practicable,
16 with respect to near- and long-term actions.

17 “(B) REQUIREMENT.—The implementation
18 of recommendations under subparagraph (A)
19 shall be carried out in accordance with—

20 “(i) the report submitted under para-
21 graph (1); and

22 “(ii) any reports submitted under
23 paragraph (3).

24 “(3) ADDITIONAL REPORTS.—Not later than
25 April 30, 2025, and every 5 years thereafter, the

1 Secretary shall submit to each committee described
2 in the matter preceding subparagraph (A) of para-
3 graph (1) a report that describes—

4 “(A) any progress toward meeting the re-
5 quirements of this subsection; and

6 “(B) any modifications or updates to the
7 actions recommended under paragraph
8 (1)(B).”; and

9 (3) by adding at the end the following:

10 “(d) RESTORATION ACTIVITIES.—The Secretary
11 may—

12 “(1) plan, design, construct, operate, and main-
13 tain projects in the Klamath Basin watershed, in-
14 cluding—

15 “(A) facilities to reduce fish entrainment;

16 “(B) projects that reduce or avoid impacts
17 on aquatic resources of facilities involved in the
18 storage or diversion of water for irrigation in
19 the Klamath Project service area; and

20 “(C) projects that restore habitats in the
21 Klamath Basin watershed, including Tribal
22 fishery resources held in trust;

23 “(2) undertake studies, including feasibility
24 studies, and improvements that the Secretary deter-
25 mines to be necessary to implement this subsection;

1 ~~“(3)~~ in implementing this subsection, enter into
 2 contracts, memoranda of understanding, financial
 3 assistance agreements, cost-sharing agreements, or
 4 other appropriate agreements with—

5 ~~“(A)~~ State, Tribal, and local governmental
 6 agencies; and

7 ~~“(B)~~ private parties; and

8 ~~“(4)~~ accept and expend non-Federal funds in
 9 order to facilitate implementation of this subsection.

10 ~~“(e)~~ GOALS.—The goals of activities under sub-
 11 sections (b) and (d) shall include, as applicable—

12 ~~“(1)~~ the short-term and long-term reduction
 13 and resolution of conflicts relating to water in the
 14 Klamath Basin watershed; and

15 ~~“(2)~~ compatibility and utility for protecting nat-
 16 ural resources throughout the Klamath Basin water-
 17 shed, including the protection, preservation, and res-
 18 toration of Klamath River Tribal fishery resources,
 19 particularly through collaboratively developed agree-
 20 ments.

21 ~~“(f)~~ PUMPING PLANT D.—The Secretary may enter
 22 into ~~1~~ or more agreements with the Tulelake Irrigation
 23 District to reimburse the Tulelake Irrigation District for
 24 not more than ~~69~~ percent of the cost incurred by the
 25 Tulelake Irrigation District for the operation and mainte-

1 nance of Pumping Plant D, subject to the condition that
2 the cost results in benefits to the United States.

3 “(g) ~~KENO AND LINK RIVER DAMS.~~—The Secretary
4 shall comply with the terms of the agreement entitled
5 ‘2016 Klamath Power and Facilities Agreement’, includ-
6 ing Attachment A to the agreement.

7 “(h) ~~REPLACEMENT OF C CANAL FLUME.~~—

8 “(1) ~~IN GENERAL.~~—The replacement of the C
9 Canal flume within the Klamath Project shall be
10 considered to be, and shall receive the treatment au-
11 thorized for, qualified emergency extraordinary oper-
12 ation and maintenance work in accordance with Fed-
13 eral reclamation law (the Act of June 17, 1902 (32
14 Stat. 388, chapter 1093), and Acts supplemental to
15 and amendatory of that Act (43 U.S.C. 371 et
16 seq.)).

17 “(2) ~~CONTRACT.~~—

18 “(A) ~~IN GENERAL.~~—Not later than 180
19 days after the date of receipt of a request from
20 the Klamath Irrigation District to enter into a
21 contract with the Klamath Irrigation District to
22 amend the contract numbered ~~16-WC-20-~~
23 ~~4838~~, the Secretary shall enter into a contract
24 with the Klamath Irrigation District providing
25 that—

1 “(i) 35 percent of the total repayment
2 obligation under the contract entered into
3 under this subparagraph is nonreimburs-
4 able to the United States; and

5 “(ii) 65 percent of the total repay-
6 ment obligation under the contract entered
7 into under this subparagraph shall be re-
8 paid to the United States over a period of
9 50 years.

10 “(B) INCLUSION.—Although the Secretary
11 shall not condition the agreement to the con-
12 tract entered into under subparagraph (A) on
13 any other term, the contract may include other
14 terms that are not less favorable to the con-
15 tractor than contract numbered ~~16-WC-20-~~
16 ~~4838.~~”.

17 (b) ADMINISTRATION; EFFECT.—

18 (1) COMPLIANCE.—In implementing the amend-
19 ments made by this section, the Secretary of the In-
20 terior shall comply with—

21 (A) the National Environmental Policy Act
22 of 1969 (~~42 U.S.C. 4321~~ et seq.);

23 (B) the Endangered Species Act of 1973
24 (~~16 U.S.C. 1531~~ et seq.); and

25 (C) all other applicable laws.

1 (2) EFFECT.—None of the amendments made
2 by this section—

3 (A) modify any authority or obligation of
4 the United States with respect to any Tribal
5 trust or treaty obligation of the United States;

6 (B)(i) create or determine any water right;
7 or

8 (ii) affect any water right or water right
9 claim in existence on the date of enactment of
10 this Act; or

11 (C) authorize the use of Federal funds for
12 the physical deconstruction of the Iron Gate,
13 Copeco 1, Copeco 2, or John C. Boyle Dam lo-
14 cated on the Klamath River in the States of
15 California and Oregon.

16 **SECTION 1. SHORT TITLE.**

17 *This Act may be cited as the “Klamath Power and*
18 *Facilities Agreement Support Act”.*

19 **SEC. 2. KLAMATH PROJECT WATER AND POWER.**

20 (a) ADDRESSING WATER, POWER, AND FACILITIES
21 MANAGEMENT FOR IRRIGATION.—Section 4 of the *Klamath*
22 *Basin Water Supply Enhancement Act of 2000 (Public*
23 *Law 106–498; 114 Stat. 2221; 132 Stat. 3886)* is amend-
24 *ed—*

25 (1) in subsection (a)—

1 (A) by redesignating paragraphs (1), (2),
 2 and (3) as paragraphs (3), (4), and (6), respec-
 3 tively;

4 (B) by inserting before paragraph (3) (as so
 5 redesignated) the following:

6 “(1) *AGREEMENT.*—The term ‘Agreement’ means
 7 the agreement entitled ‘2016 Klamath Power and Fa-
 8 cilities Agreement’ and dated April 6, 2016.

9 “(2) *COVERED CONTRACTOR.*—The term ‘covered
 10 contractor’ means—

11 “(A) each Klamath Project Water User; and

12 “(B) each landowner who is a Klamath
 13 Project contractor and receives water through
 14 transferred works of the Klamath Project that
 15 are operated by a Klamath Project Water User.”;
 16 and

17 (C) by inserting after paragraph (4) (as so
 18 redesignated) the following:

19 “(5) *KLAMATH PROJECT WATER USER.*—The
 20 term ‘Klamath Project Water User’ means a Klamath
 21 Project contractor who is a party to the Agreement.”;
 22 and

23 (2) by adding at the end the following:

24 “(d) *RESTORATION ACTIVITIES.*—

25 “(1) *IN GENERAL.*—The Secretary may—

1 “(A) plan, design, construct, operate, and
2 maintain projects in the Klamath Basin water-
3 shed, including—

4 “(i) facilities to reduce fish entrain-
5 ment;

6 “(ii) projects that reduce or avoid im-
7 pacts on aquatic resources of facilities in-
8 volved in the storage or diversion of water
9 for irrigation in the Klamath Project serv-
10 ice area; and

11 “(iii) projects that restore habitats in
12 the Klamath Basin watershed, including
13 Tribal fishery resources held in trust;

14 “(B) undertake studies, including feasibility
15 studies, and improvements that the Secretary de-
16 termines to be necessary to implement this sub-
17 section;

18 “(C) in implementing this subsection, enter
19 into contracts, memoranda of understanding, fi-
20 nancial assistance agreements, cost-sharing
21 agreements, or other appropriate agreements
22 with—

23 “(i) State, Tribal, and local govern-
24 mental agencies; and

25 “(ii) private parties; and

1 “(D) accept and expend non-Federal funds
2 in order to facilitate implementation of this sub-
3 section.

4 “(2) COSTS.—A covered contractor shall not bear
5 any costs associated with any evaluation, design, con-
6 struction, replacement, addition, or extraordinary
7 maintenance activities carried out under paragraph
8 (1).

9 “(e) PUMPING PLANT D.—The Secretary may enter
10 into 1 or more agreements with the Tulelake Irrigation Dis-
11 trict to reimburse the Tulelake Irrigation District for not
12 more than 69 percent of the cost incurred by the Tulelake
13 Irrigation District for the operation and maintenance of
14 Pumping Plant D, subject to the condition that the cost re-
15 sults in public benefits to the United States.

16 “(f) LINK RIVER DAM AND KENO FACILITY.—

17 “(1) LINK RIVER DAM.—

18 “(A) OPERATION.—Subject to applicable
19 law, the Secretary shall operate Link River Dam
20 to provide water for—

21 “(i) diversion for the Klamath Project;

22 and

23 “(ii) consistent with existing contracts
24 between covered contractors and the Sec-
25 retary, flood control.

1 “(B) *RESPONSIBILITY FOR COSTS.*—

2 “(i) *IN GENERAL.*—*Notwithstanding*
3 *any existing contracts and except as pro-*
4 *vided in clause (ii), covered contractors*
5 *shall not be responsible for any cost associ-*
6 *ated with Link River Dam or any related*
7 *land, facilities, dikes, or levees around*
8 *Upper Klamath Lake, including costs of*
9 *construction, extraordinary operation and*
10 *maintenance, rehabilitation, betterment,*
11 *and liabilities.*

12 “(ii) *ROUTINE OPERATIONS AND MAIN-*
13 *TENANCE WORK.*—

14 “(I) *IN GENERAL.*—*Covered con-*
15 *tractors shall be responsible for the ap-*
16 *propriate share of routine operations*
17 *and maintenance work associated with*
18 *Link River Dam in accordance with*
19 *the reclamation laws.*

20 “(II) *ALLOCATION TO FISH AND*
21 *WILDLIFE BENEFITS.*—*The Secretary*
22 *may allocate a proportionate share of*
23 *the costs under subclause (I) to fish*
24 *and wildlife benefits.*

25 “(2) *KENO FACILITY.*—

1 “(A) *IN GENERAL.*—*The Secretary shall op-*
2 *erate the Keno Facility to maintain water levels*
3 *upstream of Keno Dam to provide for diversion,*
4 *canal maintenance, and flood control—*

5 “(i) *consistent with—*

6 “(I) *the contract between the Sec-*
7 *retary and PacifiCorp numbered 14-*
8 *06-200-3579A and executed January*
9 *4, 1968; and*

10 “(II) *historic practice; and*

11 “(ii) *subject to applicable law.*

12 “(B) *COSTS.*—*A covered contractor shall*
13 *not be responsible for any cost associated with*
14 *the Keno Facility, including any responsibilities*
15 *to landowners upstream of Keno Dam, including*
16 *costs of construction, operations, maintenance,*
17 *rehabilitation, betterment, liabilities, and any*
18 *other costs.*

19 “(3) *SUBSEQUENT TRANSFER OR ASSIGNMENT OF*
20 *RESPONSIBILITY.*—*If the Secretary subsequently*
21 *transfers or assigns responsibility for the operation of*
22 *Link River Dam or the Keno Dam or Keno Facility*
23 *to any other person or entity, the assignment or*
24 *transfer shall include assignment of the obligations*
25 *and conditions under paragraphs (1) and (2).”.*

1 (b) *ADMINISTRATION; EFFECT.*—

2 (1) *COMPLIANCE.*—*In implementing the amend-*
3 *ments made by this section, the Secretary of the Inte-*
4 *rior shall comply with—*

5 (A) *the National Environmental Policy Act*
6 *of 1969 (42 U.S.C. 4321 et seq.);*

7 (B) *the Endangered Species Act of 1973 (16*
8 *U.S.C. 1531 et seq.); and*

9 (C) *all other applicable laws.*

10 (2) *EFFECT.*—*None of the amendments made by*
11 *this section—*

12 (A) *modify any authority or obligation of*
13 *the United States with respect to any Tribal*
14 *trust or treaty obligation of the United States;*

15 (B)(i) *create or determine any water right;*

16 *or*

17 (ii) *affect any water right or water right*
18 *claim in existence on the date of enactment of*
19 *this Act; or*

20 (C) *authorize the use of Federal funds for*
21 *the physical deconstruction of the Iron Gate,*
22 *Copco 1, Copco 2, or John C. Boyle Dam located*
23 *on the Klamath River in the States of California*
24 *and Oregon.*

Calendar No. 577

118TH CONGRESS
2^D SESSION

S. 482

A BILL

To amend the Klamath Basin Water Supply Enhancement Act of 2000 to provide the Secretary of the Interior with certain authorities with respect to projects affecting the Klamath Basin watershed, and for other purposes.

NOVEMBER 21, 2024

Reported with an amendment