

115TH CONGRESS
1ST SESSION

S. 398

To direct the Secretary of the Army to provide for modification of certain Federal water resources development projects on the Apalachicola, Chattahoochee, and Flint Rivers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2017

Mr. NELSON introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To direct the Secretary of the Army to provide for modification of certain Federal water resources development projects on the Apalachicola, Chattahoochee, and Flint Rivers, 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,*

3 **SECTION 1. APALACHICOLA, CHATTAHOOCHEE, AND FLINT**
4 **RIVER PROJECTS.**

5 (a) DEFINITIONS.—In this section:

6 (1) APALACHICOLA-CHATTAHOOCHEE-FLINT
7 PROJECTS.—The term “Apalachicola-Chattahoochee-
8 Flint projects” means the Federal water resources

1 projects for the Apalachicola, Chattahoochee, and
 2 Flint Rivers in the States of Alabama, Florida, and
 3 Georgia authorized by section 2 of the Act of March
 4 2, 1945 (59 Stat. 17, chapter 19), the first section
 5 of the Act of July 24, 1946 (60 Stat. 635, chapter
 6 595), and section 203 of the Flood Control Act of
 7 1962 (Public Law 87–874; 76 Stat. 1182), includ-
 8 ing—

9 (A) Buford Dam and Reservoir;

10 (B) West Point Dam and Reservoir;

11 (C) George W. Andrews Dam and Res-
 12 ervoir;

13 (D) Walter F. George Dam and Reservoir;

14 and

15 (E) Jim Woodruff Dam and Reservoir.

16 (2) FRESHWATER FLOWS.—The term “fresh-
 17 water flows” means the quality, quantity, timing,
 18 and variability of freshwater flows required—

19 (A) to support and reestablish—

20 (i) the physical, chemical, biological,
 21 and overall ecological integrity of the com-
 22 ponents, functions, and natural processes
 23 required for a thriving and resilient Chat-
 24 tahoochee River, Apalachicola River, Apa-

1 lachicola River floodplain, and Apalachicola
 2 Bay;

3 (ii) commercial and recreational fish-
 4 eries dependent on freshwater flows into
 5 Apalachicola Bay and adjacent waters, in-
 6 cluding the Gulf of Mexico; and

7 (iii) thriving and diverse fish, wildlife,
 8 and plant populations with species com-
 9 position, diversity, adaptability, and func-
 10 tional organization similar to those found
 11 in the Chattahoochee River and Apalachi-
 12 cola River ecosystems prior to the con-
 13 struction of the Apalachicola-Chattahoo-
 14 chee-Flint projects;

15 (B) to restore and recover species that
 16 are—

17 (i) endangered;

18 (ii) threatened; or

19 (iii) at risk; and

20 (C) to prevent significantly harmful ad-
 21 verse impacts to the Chattahoochee River and
 22 Apalachicola River ecosystems.

23 (3) SECRETARY.—The term “Secretary” means
 24 the Secretary of the Army.

1 (b) PROJECT MODIFICATION.—Notwithstanding any
 2 authorized purpose of the Apalachicola-Chattahoochee-
 3 Flint projects, the Secretary shall operate the Apalachi-
 4 cola-Chattahoochee-Flint projects in a manner that en-
 5 sures the maintenance of freshwater flows.

6 (c) FRESHWATER FLOWS STUDY.—

7 (1) IN GENERAL.—Not later than 30 days after
 8 the date of enactment of this Act, the Secretary
 9 shall enter into an arrangement with the Adminis-
 10 trator of the National Oceanic and Atmospheric Ad-
 11 ministration under which the Administrator shall
 12 conduct a study that—

13 (A) evaluates existing studies, assessments,
 14 and data related to freshwater flows; and

15 (B) provides recommendations on how to
 16 maintain freshwater flows.

17 (2) COMPLETION DATE.—The study referred to
 18 in paragraph (1) shall be completed by not later
 19 than 1 year after the date of enactment of this Act.

20 (d) REVISION OF WATER CONTROL MANUALS.—

21 (1) IN GENERAL.—The Secretary—

22 (A) shall not issue a final water control
 23 manual based on the final environmental impact
 24 statement of the Secretary entitled “Update of
 25 the Water Control Manual for the Apalachicola-

1 Chattahoochee-Flint River Basin in Alabama,
2 Florida, and Georgia and a Water Supply Stor-
3 age Assessment” and dated December 2016;
4 and

5 (B) not later than 2 years after the date
6 of enactment of this Act, shall issue revised
7 water control manuals for Apalachicola-Chat-
8 tahoochee-Flint projects that ensure the main-
9 tenance of freshwater flows, considering the
10 findings of the study under subsection (c)(1), as
11 appropriate.

12 (2) OPERATIONAL MODIFICATIONS.—In car-
13 rying out paragraph (1), the Secretary shall ensure
14 that operational modifications needed to maintain
15 freshwater flows are achieved, to the maximum ex-
16 tent practicable, while providing system-wide balance
17 in conservation storage through the maintenance of
18 water levels in the same action zone for each of the
19 Apalachicola-Chattahoochee-Flint project reservoirs.

20 (3) INDEPENDENT PEER REVIEW OF WATER
21 CONTROL MANUALS.—

22 (A) IN GENERAL.—The Secretary shall
23 enter into an arrangement with the National
24 Academy of Sciences under which the Academy
25 shall carry out an independent peer review of

1 each revised water control manual, as required
2 under section 2034 of the Water Resources De-
3 velopment Act of 2007 (33 U.S.C. 2343).

4 (B) COMPLIANCE.—Each independent peer
5 review carried out under this paragraph shall
6 comply with section 2034 of the Water Re-
7 sources Development Act of 2007 (33 U.S.C.
8 2343).

9 (4) FINAL APPROVAL.—Before a final water
10 control manual may be issued, the Secretary shall
11 obtain written approval of each water control man-
12 ual developed under this subsection from—

13 (A) the Administrator of the Environ-
14 mental Protection Agency;

15 (B) the Director of the United States Fish
16 and Wildlife Service;

17 (C) the Administrator of the National Oce-
18 anic and Atmospheric Administration; and

19 (D) the Director of the United States Geo-
20 logical Survey.

21 (e) APPLICABILITY OF OTHER FEDERAL AND STATE
22 LAWS.—Except as provided in subsection (b), nothing in
23 this section waives, limits, or otherwise affects the applica-
24 bility of any provision of Federal or State law that would

1 otherwise apply to the Apalachicola-Chattahoochee-Flint
2 projects.

3 (f) PROJECT CLARIFICATION.—Notwithstanding any
4 other provision of law, the project purpose of “fish and
5 wildlife conservation” for the Apalachicola-Chattahoochee-
6 Flint projects means protecting and restoring thriving and
7 diverse populations of the full range of native fish and
8 wildlife species that use the Apalachicola River and flood-
9 plain and the Chattahoochee River and floodplain, includ-
10 ing through actions such as restoring the functions of nat-
11 ural systems and mimicking the timing, amount, and vari-
12 ability of natural flows.

○