

Calendar No. 268

116TH CONGRESS
1ST SESSION

S. 990

[Report No. 116–146]

To authorize the Secretary of the Interior to participate in the implementation of the Platte River Recovery Implementation Program First Increment Extension for threatened and endangered species in the Central and Lower Platte River Basin, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 2, 2019

Mr. BARRASSO (for himself, Mr. GARDNER, Mrs. FISCHER, Mr. BENNET, Mr. ENZI, and Mr. SASSE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

OCTOBER 24, 2019

Reported by Ms. MURKOWSKI, without amendment

A BILL

To authorize the Secretary of the Interior to participate in the implementation of the Platte River Recovery Implementation Program First Increment Extension for threatened and endangered species in the Central and Lower Platte River Basin, 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 “Platte River Recovery
3 Implementation Program Extension Act”.

4 **SEC. 2. PURPOSE.**

5 The purpose of this Act is to authorize the Secretary
6 of the Interior, acting through the Commissioner of Rec-
7 lamation and in partnership with the States, other Federal
8 agencies, and other non-Federal entities, to continue the
9 cooperative effort among the Federal and non-Federal en-
10 tities through the continued implementation of the Platte
11 River Recovery Implementation Program First Increment
12 Extension for threatened and endangered species in the
13 Central and Lower Platte River Basin without creating
14 Federal water rights or requiring the grant of water rights
15 to Federal entities.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) **AGREEMENT.**—The term “Agreement”
19 means the Platte River Recovery Implementation
20 Program Cooperative Agreement entered into by the
21 Governors of the States and the Secretary, including
22 an amendment or addendum to the Agreement to ex-
23 tend the Program.

24 (2) **FIRST INCREMENT.**—The term “First In-
25 crement” means the Program’s first 13 years from
26 January 1, 2007 through December 31, 2019.

1 (3) FIRST INCREMENT EXTENSION.—The term
2 “First Increment Extension” means the extension of
3 the Program for 13 years from January 1, 2020
4 through December 31, 2032.

5 (4) GOVERNANCE COMMITTEE.—The term
6 “Governance Committee” means the governance
7 committee established under the Agreement and
8 composed of members from the States, the Federal
9 Government, environmental interests, and water
10 users.

11 (5) INTEREST IN LAND OR WATER.—The term
12 “interest in land or water” includes fee title, short-
13 or long-term easement, lease, or other contractual
14 arrangement that is determined to be necessary by
15 the Secretary to implement the land and water com-
16 ponents of the Program.

17 (6) PROGRAM.—The term “Program” means
18 the Platte River Recovery Implementation Program
19 established under the Agreement and continued
20 under an amendment or addendum to the Agree-
21 ment.

22 (7) PROJECT OR ACTIVITY.—The term “project
23 or activity” means—

24 (A) the planning, design, permitting, or
25 other compliance activity, construction, con-

struction management, operation, maintenance,
and replacement of a facility;

(B) the acquisition of an interest in land
or water;

(C) habitat restoration;

(D) research and monitoring;

(E) program administration; and

(F) any other activity that is determined to
be necessary by the Secretary to carry out the
Program.

(8) SECRETARY.—The term “Secretary” means
the Secretary of the Interior, acting through the
Commissioner of Reclamation.

(9) STATES.—The term “States” means the
States of Colorado, Nebraska, and Wyoming.

**SEC. 4. PLATTE RIVER RECOVERY IMPLEMENTATION PRO-
GRAM.**

(a) IMPLEMENTATION OF PROGRAM.—

(1) IN GENERAL.—The Secretary, in coopera-
tion with the Governance Committee, may—

(A) participate in the Program; and

(B) carry out any projects and activities
that are designated for implementation during
the First Increment Extension.

1 (2) AUTHORITY OF THE SECRETARY.—For the
2 purposes of carrying out this section, the Secretary,
3 in cooperation with the Governance Committee,
4 may—

5 (A) enter into agreements and contracts
6 with Federal and non-Federal entities;

7 (B) acquire interests in land, water, and
8 facilities from willing sellers without the use of
9 eminent domain;

10 (C) subsequently transfer any interests ac-
11 quired under subparagraph (B); and

12 (D) accept or provide grants.

13 (b) COST-SHARING CONTRIBUTIONS.—

14 (1) IN GENERAL.—As provided in the Agree-
15 ment, the States shall contribute not less than 50
16 percent of the total contributions necessary to carry
17 out the Program.

18 (2) NON-FEDERAL CONTRIBUTIONS.—The fol-
19 lowing contributions shall constitute the States’
20 share of the Program:

21 (A) An additional \$28,000,000 in non-Fed-
22 eral funds, with the balance of funds remaining
23 to be contributed to be adjusted for inflation on
24 October 1 of the year after the date of enact-
25 ment of this Act and each October 1 thereafter.

1 (B) Additional credit for contributions of
2 water or land for the purposes of implementing
3 the Program, as determined to be appropriate
4 by the Secretary.

5 (3) IN-KIND CONTRIBUTIONS.—The Secretary
6 or the States may elect to provide a portion of the
7 Federal share or non-Federal share, respectively, in
8 the form of in-kind goods or services, if the contribu-
9 tion of goods or services is approved by the Govern-
10 ance Committee, as provided in Attachment 1 of the
11 Agreement.

12 (c) AUTHORITY TO MODIFY PROGRAM.—The Pro-
13 gram may be modified or amended before the completion
14 of the First Increment Extension if the Secretary and the
15 States determine that the modifications are consistent
16 with the purposes of the Program.

17 (d) EFFECT.—

18 (1) EFFECT ON RECLAMATION LAWS.—No ac-
19 tion carried out under this section shall, with respect
20 to the acreage limitation provisions of the reclama-
21 tion laws—

22 (A) be considered in determining whether
23 a district (as the term is defined in section 202
24 of the Reclamation Reform Act of 1982 (43
25 U.S.C. 390bb)) has discharged the obligation of

1 the district to repay the construction cost of
 2 project facilities used to make irrigation water
 3 available for delivery to land in the district;

4 (B) serve as the basis for reinstating acre-
 5 age limitation provisions in a district that has
 6 completed payment of the construction obliga-
 7 tions of the district; or

8 (C) serve as the basis for increasing the
 9 construction repayment obligation of the dis-
 10 trict, which would extend the period during
 11 which the acreage limitation provisions would
 12 apply.

13 (2) EFFECT ON WATER RIGHTS.—Nothing in
 14 this section—

15 (A) creates Federal water rights; or

16 (B) requires the grant of water rights to
 17 Federal entities.

18 (e) AUTHORIZATION OF APPROPRIATIONS.—

19 (1) IN GENERAL.—There is authorized to be
 20 appropriated to carry out projects and activities
 21 under this section an additional \$78,000,000 as ad-
 22 justed under paragraph (3).

23 (2) NONREIMBURSABLE FEDERAL EXPENDI-
 24 TURES.—Any amounts to be expended under para-

1 graph (1) shall be considered nonreimbursable Fed-
2 eral expenditures.

3 (3) ADJUSTMENT.—The balance of funds re-
4 maining to be expended shall be adjusted for infla-
5 tion on October 1 of the year after the date of enact-
6 ment of this Act and each October 1 thereafter.

7 (4) AVAILABILITY OF FUNDS.—At the end of
8 each fiscal year, any unexpended funds for projects
9 and activities made available under paragraph (1)
10 shall be retained for use in future fiscal years to im-
11 plement projects and activities under the Program.
12 Any unexpended funds appropriated during the
13 First Increment shall be retained and carried over
14 from the First Increment into the First Increment
15 Extension.

16 (f) TERMINATION OF AUTHORITY.—The authority
17 for the Secretary to implement the First Increment Exten-
18 sion shall terminate on September 30, 2033.

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