

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6465

To amend the Water Resources Development Act of 1986 to clarify the role of the Cherokee Nation of Oklahoma with regard to the maintenance of the W.D. Mayo Lock and Dam in Oklahoma.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2010

Mr. BOREN introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Water Resources Development Act of 1986 to clarify the role of the Cherokee Nation of Oklahoma with regard to the maintenance of the W.D. Mayo Lock and Dam in Oklahoma.

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. RIGHTS AND RESPONSIBILITIES OF THE CHER-**  
2 **OKEE NATION OF OKLAHOMA REGARDING**  
3 **THE W.D. MAYO LOCK AND DAM IN OKLA-**  
4 **HOMA.**

5 Section 1117 of the Water Resources Development  
6 Act of 1986 (Public Law 99–662, 100 Stat. 4236) is  
7 amended to read as follows:

8 **“SEC. 1117. W.D. MAYO LOCK AND DAM.**

9 “(a) IN GENERAL.—Notwithstanding any other pro-  
10 vision of law, the Cherokee Nation of Oklahoma may—

11 “(1) design and construct one or more hydro-  
12 electric generating facilities at the W.D. Mayo Lock  
13 and Dam on the Arkansas River in Oklahoma, sub-  
14 ject to the requirements specified in subsection (b)  
15 and in accordance with the conditions specified in  
16 this section; and

17 “(2) market the electricity generated from any  
18 such facility.

19 “(b) PRE-CONSTRUCTION REQUIREMENTS.—(1) The  
20 Cherokee Nation shall obtain any permit required by Fed-  
21 eral or State law before the date on which construction  
22 begins on any hydroelectric generating facility at the loca-  
23 tion referred to in subsection (a), except that the Cherokee  
24 Nation shall be exempt from any licensing requirements  
25 under the Federal Power Act (16 U.S.C. 791a et seq.)  
26 that may otherwise be required for the construction, oper-

1 ation, or maintenance of hydroelectric generating facili-  
2 ties.

3 “(2) The Cherokee Nation may initiate the design or  
4 construction of any such facility only after the Secretary  
5 reviews and approves the plans and specifications for such  
6 design and construction.

7 “(c) PAYMENT OF DESIGN AND CONSTRUCTION  
8 COSTS.—(1) The Secretary of the Army may accept funds  
9 offered by the Cherokee Nation and use such funds to  
10 carry out the design and construction of any hydroelectric  
11 generating facility.

12 “(2) The Cherokee Nation shall—

13 “(A) bear all costs associated with the design  
14 and construction of any such hydroelectric gener-  
15 ating facility; and

16 “(B) provide any funds necessary for such de-  
17 sign and construction to the Secretary of the Army  
18 prior to the Secretary initiating any activities related  
19 to the design and construction of a hydroelectric  
20 generating facility under this section.

21 “(d) ASSUMPTION OF LIABILITY.—The Cherokee Na-  
22 tion shall—

23 “(1) hold all title to any hydroelectric gener-  
24 ating facility constructed under this section and

1       may, subject to the approval of the Secretary of the  
2       Army, assign such title to a third party;

3             “(2) be solely responsible for—

4                 “(A) the operation, maintenance, repair,  
5                 replacement, and rehabilitation of any such fa-  
6                 cility; and

7                 “(B) the marketing of the electricity gen-  
8                 erated by any such facility; and

9             “(3) release and indemnify the United States  
10       from any claims, causes of action, or liabilities that  
11       may arise out of any activity undertaken to carry  
12       out this section.

13       “(e) ASSISTANCE AVAILABLE.—Notwithstanding any  
14       other provision of law, the Secretary of the Army may pro-  
15       vide any technical and construction management assist-  
16       ance that is requested by the Cherokee Nation relating  
17       to the design and construction of any hydroelectric gener-  
18       ating facility described in subsection (a).

19       “(f) THIRD PARTY AGREEMENTS.—The Cherokee  
20       Nation may enter into agreements with the Secretary of  
21       the Army or a third party that the Cherokee Nation or  
22       the Secretary determines are necessary to carry out this  
23       section.”.

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