

118TH CONGRESS
2D SESSION

H. R. 7938

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 HOUSE OF REPRESENTATIVES

APRIL 11, 2024

Mr. BENTZ introduced the following bill; which was referred to the Committee on Natural Resources

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Klamath Basin Water
5 Agreement Support Act of 2024”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The Klamath River Basin is home to impor-
2 tant species of fish and wildlife and communities, in-
3 cluding Tribal and agricultural communities.

4 (2) Tribal fisheries in the Klamath River Basin
5 are depressed, owing to a combination of factors.

6 (3) In recent decades, the Klamath River Basin
7 has witnessed chronic conflict, much of which has
8 been fueled or exacerbated by implementation of the
9 Endangered Species Act of 1973.

10 (4) The United States has taken, and continues
11 to take, extraordinary actions to attempt to address
12 certain factors affecting Tribal fisheries.

13 (5) The United States actions to enhance fish-
14 eries have included expenditures of several hundreds
15 of millions of dollars for research and projects, in-
16 cluding support of Tribal fisheries programs and im-
17 position of regulatory burdens on other parties who
18 make use of natural resources in the Klamath River
19 Basin for their own livelihoods.

20 (6) In the past 16 years, the Bureau of Rec-
21 lamation has requested and received appropriations
22 of approximately \$136,000,000 for Endangered Spe-
23 cies Act of 1973 compliance activities, even while de-
24 nying water deliveries for irrigation and wildlife ref-

1 uges served through Klamath Reclamation Project
2 facilities.

3 (7) Denial of water deliveries through Klamath
4 Reclamation Project facilities has injured commu-
5 nities and wildlife severely but has not resulted in
6 any identifiable benefit to populations of fish species
7 listed as threatened or endangered.

8 (8) The United States regulatory actions have
9 also included the imposition of conditions on the
10 generation of clean hydropower that have made hy-
11 dropower uneconomical, such that a private utility
12 has agreed to the removal of 4 dams that have pro-
13 duced renewable energy for over a century.

14 (9) The removal of dams has been funded in
15 substantial part by electric rate payers, including ir-
16 rigation water users, in Oregon and California, who
17 also are burdened with the cost of paying for re-
18 placement power.

19 (10) The removal of dams has also led indi-
20 rectly to other significant public costs that would not
21 have been incurred absent the removal of hydro-
22 electric generation.

23 (11) The removal of hydroelectric generation on
24 the Klamath River is expected to result in the avail-

1 ability of 425 miles of habitat for anadromous fish
2 that is not currently accessible.

3 (12) Commitments have been made to agricul-
4 tural communities to the effect that dam removal
5 and restoration activities will not cause new burdens
6 for those communities and, in fact, that those com-
7 munities will benefit significantly, but those commit-
8 ments have either not been kept or lack the nec-
9 essary assurances that they will be met in the fu-
10 ture.

11 (13) It is appropriate and fair to take measures
12 to stabilize conditions for agricultural communities
13 in the Klamath Basin that have been at the center
14 of conflict and to whom important commitments
15 have been made in connection with extraordinary ac-
16 tions taken by the United States that affect their in-
17 terests.

18 (14) This Act will increase such stability while
19 not adversely affecting other interests in the Klam-
20 ath Basin.

21 **SEC. 3. KLAMATH PROJECT WATER AND POWER.**

22 (a) ADDRESSING WATER, POWER, AND FACILITIES
23 MANAGEMENT FOR IRRIGATION.—Section 4 of the Klam-
24 ath Basin Water Supply Enhancement Act of 2000 (Pub-
25 lic Law 106–498) is amended—

1 (1) in subsection (b), by amending paragraph
2 (1) to read as follows:

3 “(1) IN GENERAL.—Subject to appropriations
4 and required environmental reviews, the Secretary is
5 authorized to carry out activities, including entering
6 into a contract or making financial assistance avail-
7 able through cooperative agreements or other meth-
8 ods, to plan, implement, and administer voluntary
9 programs, including conservation and efficiency
10 measures, demand limitation or management, and
11 use of groundwater, to align water supplies and de-
12 mand for irrigation water users associated with the
13 Klamath Project, with a primary emphasis on pro-
14 grams developed or endorsed by local entities com-
15 prised of representatives of those water users.”;

16 (2) in subsection (c), by adding at the end the
17 following:

18 “(2) IMPLEMENTATION.—

19 “(A) IN GENERAL.—Beginning not later
20 than 180 days after the date of enactment of
21 the Klamath Power and Facilities Agreement
22 Support Act, the Secretary shall, through 1 or
23 more cooperative agreements, financial assist-
24 ance agreements, or other methods, implement,
25 or support the implementation of, the rec-

1 ommendations identified in the report described
2 in paragraph (1) that the Secretary determines
3 would lead to bringing the net delivered power
4 cost for covered power use to an amount that
5 is the same as, or less than, the power cost
6 benchmark, subject to the availability of appro-
7 priations, on the fastest timeline practicable,
8 with respect to near- and long-term actions.

9 “(B) REQUIREMENT.—The implementation
10 of recommendations under subparagraph (A)
11 shall be carried out in accordance with—

12 “(i) the report submitted under para-
13 graph (1); and

14 “(ii) any reports submitted under
15 paragraph (3).

16 “(3) ADDITIONAL REPORTS.—Not later than
17 April 30, 2025, and every 5 years thereafter, the
18 Secretary shall submit to each committee described
19 in the matter preceding subparagraph (A) of para-
20 graph (1) a report that describes—

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

23 “(B) any modifications or updates to the
24 actions recommended under paragraph
25 (1)(B).”; and

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

2 “(d) RESTORATION ACTIVITIES.—The Secretary
3 may—

4 “(1) plan, design, construct, operate, and main-
5 tain projects in the Klamath Basin watershed, in-
6 cluding—

7 “(A) facilities to reduce fish entrainment;

8 “(B) projects that reduce or avoid impacts
9 on aquatic resources of facilities involved in the
10 storage or diversion of water for irrigation in
11 the Klamath Project service area; and

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

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

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

22 “(A) State, Tribal, and local governmental
23 agencies; and

24 “(B) private parties; and

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

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

5 “(1) the short-term and long-term reduction
6 and resolution of conflicts relating to water in the
7 Klamath Basin watershed; and

8 “(2) compatibility and utility for protecting nat-
9 ural resources throughout the Klamath Basin water-
10 shed, including the protection, preservation, and res-
11 toration of Klamath River Tribal fishery resources,
12 particularly through collaboratively developed agree-
13 ments.

14 “(f) PUMPING PLANT D.—The Secretary may enter
15 into 1 or more agreements with the Tulelake Irrigation
16 District to reimburse the Tulelake Irrigation District for
17 not more than 69 percent of the cost incurred by the
18 Tulelake Irrigation District for the operation and mainte-
19 nance of Pumping Plant D, subject to the condition that
20 the cost results in benefits to the United States.

21 “(g) INFRASTRUCTURE.—

22 “(1) KENO AND LINK RIVER DAMS.—The Sec-
23 retary shall comply with the terms of the agreement
24 entitled ‘2016 Klamath Power and Facilities Agree-
25 ment’, including Attachment A to the agreement.

1 “(2) REALIZATION OF BENEFITS.—No modi-
2 fication of Keno Dam infrastructure to modify cur-
3 rent fish passage capability shall occur, and no arti-
4 ficial action to introduce or reintroduce aquatic spe-
5 cies above Keno Dam shall occur, until 90 days after
6 the Secretary has certified to the Chairs and Rank-
7 ing Members of the Natural Resources Committee of
8 the House of Representatives and the Energy and
9 Natural Resources Committee of the Senate that—

10 “(A) all State and Federal parties to the
11 2016 Klamath Power and Facilities Agreement
12 have complied with the first sentence of section
13 II. B.2.a. of that agreement; and

14 “(B) the parties to the 2016 Klamath
15 Power and Facilities Agreement and the parties
16 to the Klamath Hydroelectric Settlement Agree-
17 ment have completed and approved the agree-
18 ment or agreements contemplated by section
19 III.C. of the 2016 Klamath Power and Facili-
20 ties Agreement and Section 1.9 of the Klamath
21 Hydroelectric Settlement Agreement.

22 “(3) DRAFT CERTIFICATION.—Not less than
23 180 days before providing a certification under para-
24 graph (2), the Secretary shall provide a draft certifi-
25 cation to the parties to the respective agreements.

1 “(4) REPLACEMENT OF C CANAL FLUME.—

2 “(A) IN GENERAL.—The replacement of
3 the C Canal flume within the Klamath Project
4 shall be considered to be, and shall receive the
5 treatment authorized for, qualified emergency
6 extraordinary operation and maintenance work
7 in accordance with Federal reclamation law (the
8 Act of June 17, 1902 (32 Stat. 388, chapter
9 1093), and Acts supplemental to and amend-
10 atory of that Act (43 U.S.C. 371 et seq.)).

11 “(B) CONTRACT.—

12 “(i) IN GENERAL.—Not later than
13 180 days after the date of receipt of a re-
14 quest from the Klamath Irrigation District
15 to enter into a contract with that district
16 to amend the contract numbered 16–WC–
17 20–4838, the Secretary shall enter into a
18 contract with the Klamath Irrigation Dis-
19 trict providing that under the contract en-
20 tered into under this subparagraph—

21 “(I) 35 percent of the total re-
22 payment obligation is nonreimbursable
23 to the United States; and

24 “(II) 65 percent of the total re-
25 payment obligation shall be repaid to

1 the United States over a period of 50
2 years.

3 “(ii) INCLUSION.—Although the Sec-
4 retary shall not condition the agreement to
5 the contract entered into under subpara-
6 graph (A) on any other term, the contract
7 may include other terms that are not less
8 favorable to the contractor than contract
9 numbered 16–WC–20–4838.

10 “(5) COST ALLOCATION.—Past and future costs
11 incurred by the Secretary for compliance with laws
12 enacted by the United States for protection of the
13 environment that are not explicitly identified in con-
14 tracts between the Secretary and a Klamath Project
15 contractor shall not be—

16 “(A) allocated to such contractor; or

17 “(B) considered in determining the con-
18 tractor’s responsibility for reimbursement of the
19 costs of operation, maintenance, rehabilitation,
20 modification, or replacement of Klamath
21 Project works.”.

22 (b) ADMINISTRATION; EFFECT.—

23 (1) COMPLIANCE.—In implementing the amend-
24 ments made by this section, the Secretary of the In-
25 terior shall comply with—

1 (A) the National Environmental Policy Act
2 of 1969 (42 U.S.C. 4321 et seq.);

3 (B) the Endangered Species Act of 1973
4 (16 U.S.C. 1531 et seq.); and

5 (C) all other applicable laws.

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

8 (A) modify any authority or obligation of
9 the United States with respect to any Tribal
10 trust or treaty obligation of the United States;

11 (B) create or determine any water right;

12 (C) affect any water right or water right
13 claim in existence on the date of the enactment
14 of this Act; or

15 (D) authorize the use of Federal funds for
16 the physical deconstruction of the Iron Gate,
17 Copco 1, Copco 2, or John C. Boyle Dam lo-
18 cated on the Klamath River in the States of
19 California and Oregon.

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