

**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.

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**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

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**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-

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

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

5           (C) habitat restoration;

6           (D) research and monitoring;

7           (E) program administration; and

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

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

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

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

18          (a) IMPLEMENTATION OF PROGRAM.—

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

21           (A) participate in the Program; and

22           (B) carry out any projects and activities  
23          that are designated for implementation during  
24          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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