

Calendar No. 130

103D CONGRESS
1ST SESSION

S. 442

[Report No. 103-86]

A BILL

To provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

JULY 13, 1993

Reported without amendment

Calendar No. 130

103^D CONGRESS
1ST SESSION

S. 442

[Report No. 103-86]

To provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25 (legislative day, JANUARY 5), 1993

Mr. BINGAMAN (for himself and Mr. DECONCINI) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

JULY 13, 1993

Reported by Mr. INOUE, without amendment

A BILL

To provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

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 “Indian Dams Safety
5 Act of 1993”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) in 1980, the Secretary of the Interior estab-
4 lished a department-wide dam safety program to
5 correct deficiencies identified by inspections of dams;

6 (2) the Bureau of Indian Affairs (hereafter re-
7 ferred to in this Act as the “BIA”) did not make
8 timely progress toward accomplishing the objectives
9 of the dam safety program and, as a result, 53 dams
10 on Indian lands are considered to present a high
11 hazard to human life in the event of failure;

12 (3) unsafe BIA dams continue to pose an immi-
13 nent threat to people and property because the dam
14 safety program has not been given a sufficiently
15 high priority either by the BIA or by the Congress;

16 (4) until 1991, the BIA did not have an ade-
17 quate program to ensure proper periodic mainte-
18 nance of dams under its jurisdiction and structural
19 problems have often led to seepage and accelerated
20 bank erosion, as well as other unsafe conditions;

21 (5) safe working dams are necessary on Indian
22 lands to supply irrigation water, to provide flood
23 control, to provide water for municipal, industrial,
24 domestic, livestock, and recreation uses, and for fish
25 and wildlife habitats;

1 (6) because of inadequate attention in the past
2 to regular maintenance requirements for BIA dams,
3 the costs for needed repairs and future maintenance
4 are significantly increased;

5 (7) many dams have operation and maintenance
6 deficiencies regardless of their current safety condi-
7 tion classification and the deficiencies must be cor-
8 rected to avoid future threats to human life and
9 property; and

10 (8) it is necessary to institute a regular dam
11 maintenance and repair program, utilizing expertise
12 either within the BIA, the Indian tribal govern-
13 ments, or other Federal agencies.

14 **SEC. 3. DEFINITIONS.**

15 For the purposes of this Act:

16 (1) INDIAN TRIBES.—The term “Indian tribes”
17 has the meaning given such term in section 4(e) of
18 the Indian Self-Determination and Education Assist-
19 ance Act (25 U.S.C. 450b(e)).

20 (2) SECRETARY.—The term “Secretary” means
21 the Secretary of the Interior.

22 (3) DAM SAFETY PROGRAM.—The term “dam
23 safety program” means the program established by
24 the Secretary of the Interior by order dated Feb-

1 ruary 28, 1980, to prevent dam failure and the re-
2 sulting loss of life or serious property damage.

3 (4) DAM SAFETY OPERATION AND MAINTEN-
4 NANCE PROGRAM.—The term “dam safety operation
5 and maintenance program” means the program es-
6 tablished under section 4 of this Act.

7 (5) DAM SAFETY CONDITION CLASSIFICA-
8 TIONS.—The term “dam safety condition classifica-
9 tions” means the following classifications cited in
10 the Bureau of Reclamation glossary of dam safety
11 terms:

12 (A) SATISFACTORY.—No existing or poten-
13 tial dam safety deficiencies are recognized. Safe
14 performance is expected under all anticipated
15 conditions.

16 (B) FAIR.—No existing dam safety defi-
17 ciencies are recognized for normal loading con-
18 ditions. Infrequent hydrologic or seismic events
19 would probably result in a dam safety defi-
20 ciency.

21 (C) CONDITIONALLY POOR.—A potential
22 dam safety deficiency is recognized for unusual
23 loading conditions that may realistically occur
24 during the expected life of the structure.

1 (D) POOR.—A potential dam safety defi-
2 ciency is clearly recognized for normal loading
3 conditions. Immediate actions to resolve the de-
4 ficiency are recommended; reservoir restrictions
5 may be necessary until resolution of the prob-
6 lem.

7 (E) UNSATISFACTORY.—A dam safety de-
8 ficiency exists for normal loading conditions.
9 Immediate remedial action is required for reso-
10 lution of the problem.

11 **SEC. 4. ACTIONS BY SECRETARY.**

12 (a) ESTABLISHMENT OF DAM SAFETY OPERATION
13 AND MAINTENANCE PROGRAM.—The Secretary shall es-
14 tablish a dam safety operation and maintenance program
15 within the BIA to ensure the regular, recurring, routine
16 maintenance, examination, and monitoring of the condi-
17 tion of each dam identified pursuant to subsection (c) nec-
18 essary to maintain the dam in a satisfactory condition on
19 a long-term basis.

20 (b) REHABILITATION.—The Secretary is directed to
21 perform such rehabilitation work as is necessary to bring
22 the dams identified pursuant to subsection (c) to a satis-
23 factory condition. Upon the completion of rehabilitation
24 work on each dam, the dam shall be placed under the dam
25 safety operation and maintenance program established

1 pursuant to subsection (a) and shall be regularly main-
2 tained under the guidelines of such program.

3 (c) LIST OF DAMS.—The Secretary shall develop a
4 comprehensive list of dams located on Indian lands that
5 describes the dam safety condition classifications of each
6 dam, as such terms are defined in section 3(5).

7 (d) PURPOSE.—Work authorized by this Act shall be
8 for the purposes of dam safety operation and maintenance
9 and not for the purposes of providing additional conserva-
10 tion storage capacity or developing benefits beyond those
11 provided by the original dams and reservoirs.

12 (e) TECHNICAL ASSISTANCE.—To carry out the pur-
13 poses of this Act, the Secretary may obtain technical as-
14 sistance from agencies in addition to the BIA under his
15 jurisdiction, such as the Bureau of Reclamation, or from
16 other departments through memoranda of understanding,
17 such as the Department of Defense. Notwithstanding any
18 such technical assistance, the dam safety program and the
19 dam safety operation and maintenance program shall re-
20 main under the direction of the BIA.

21 (f) CONTRACT AUTHORITY.—In addition to any other
22 authority established by law, the Secretary is authorized
23 to contract with appropriate Indian tribes to carry out the
24 dam safety operation and maintenance program estab-
25 lished pursuant to this Act.

1 **SEC. 5. AUTHORIZATION.**

2 There are authorized to be appropriated such sums
3 as may be necessary to carry out the provisions of this
4 Act.