

105TH CONGRESS
2D SESSION

S. 2111

To establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, to direct the Secretary of the Interior to appoint an advisory committee to make recommendations regarding activities under the memorandum of understanding, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 21, 1998

Mr. SMITH of Oregon introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, to direct the Secretary of the Interior to appoint an advisory committee to make recommendations regarding activities under the memorandum of understanding, 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. DEFINITIONS.**

4 In this Act:

1 (1) ADVISORY COMMITTEE.—The term “advi-
2 sory committee” means the advisory committee es-
3 tablished by the Secretary under section 2(b).

4 (2) COLUMBIA/SNAKE RIVER BASIN.—The term
5 “Columbia/Snake River Basin” means the basin of
6 the Columbia River and Snake River in the States
7 of Idaho, Montana, Oregon, and Washington.

8 (3) COUNCIL.—The term “Council” means the
9 Pacific Northwest Electric Power and Conservation
10 Planning Council established under the Pacific
11 Northwest Electric Power and Conservation Plan-
12 ning Act (16 U.S.C. 839 et seq.).

13 (4) FEDERAL AGENCY.—The term “Federal
14 agency” means—

15 (A) the Bonneville Power Administration
16 in the Department of Energy;

17 (B) the Bureau of Land Management, Bu-
18 reau of Reclamation, United States Fish and
19 Wildlife Service, and the Bureau of Indian Af-
20 fairs in the Department of the Interior;

21 (C) the National Marine Fisheries Service
22 in the Department of Commerce;

23 (D) the Army Corps of Engineers in the
24 Department of the Army;

1 (E) the Forest Service and the Natural
 2 Resource Conservation Service in the Depart-
 3 ment of Agriculture; and

4 (F) the Environmental Protection Agency.

5 (5) MEMORANDUM OF UNDERSTANDING.—The
 6 term “memorandum of understanding” means any
 7 written or unwritten agreement between or among 1
 8 or more of the Federal agencies and 1 or more State
 9 or local government agencies, 1 or more Indian
 10 tribes, or 1 or more private persons or entities—

11 (A) concerning the manner in which any
 12 authority of a Federal agency under any law is
 13 to be exercised within the Columbia/Snake
 14 River Basin; or

15 (B) for the purpose of formulating rec-
 16 ommendations concerning the manner in which
 17 any such authority should be exercised.

18 (6) SECRETARY.—The term “Secretary” means
 19 the Secretary of the Interior.

20 **SEC. 2. CONDITIONS ON MEMORANDUM OF UNDERSTAND-**
 21 **ING.**

22 (a) IN GENERAL.—The Bonneville Power Adminis-
 23 tration or any other Federal agency, acting individually
 24 or with 1 or more of the other Federal agencies, shall not

1 enter into or implement a memorandum of understanding
2 unless all of the conditions stated in this section are met.

3 (b) ADVISORY COMMITTEE.—

4 (1) ESTABLISHMENT.—The Secretary shall es-
5 tablish an advisory committee under the Federal Ad-
6 visory Committee Act (5 U.S.C. App.) to advise the
7 Federal agencies with respect to matters to be ad-
8 dressed under any memorandum of understanding,
9 including the economic and social impacts of pro-
10 posed activities or recommendations.

11 (2) MEMBERSHIP.—The advisory committee
12 shall be composed of—

13 (A) 1 representative of the large industrial
14 customers served directly by the Bonneville
15 Power Administration;

16 (B) 1 representative of the preference
17 power customers that purchase power from the
18 Bonneville Power Administration;

19 (C) 1 representative of non-Federal utili-
20 ties that have hydropower generation on the Co-
21 lumbia River or Snake River;

22 (D) 1 irrigator that receives water diverted
23 from a Federal water project on the Snake
24 River;

1 (E) 1 irrigator that receives water diverted
2 from a Federal water project on the Columbia
3 River or a tributary of the Columbia River
4 (other than a tributary that is also a tributary
5 of the Snake River);

6 (F) 1 private forest land owner;

7 (G) 1 representative of the commercial
8 fishing industry;

9 (H) 1 representative of the sport fishing
10 industry;

11 (I) 1 representative of the environmental
12 community;

13 (J) 1 representative of a river port up-
14 stream of Bonneville Dam;

15 (K) 1 representative of shippers that ship
16 from places upstream of any lock on the Colum-
17 bia River;

18 (L) 1 representative of persons that hold
19 Federal grazing permits; and

20 (M) 1 representative of county govern-
21 ments from each of the States of Oregon,
22 Washington, Idaho, and Montana.

23 (3) MANNER OF APPOINTMENT.—The members
24 of the advisory committee shall be appointed by the
25 Secretary of the Interior from among persons nomi-

1 nated by the Governors of the States of Idaho, Mon-
 2 tana, Oregon, and Washington.

3 (4) CHAIRPERSON.—At the first meeting of the
 4 advisory committee, the members shall select 1 of
 5 the members to serve as chairperson, on a simple
 6 majority vote.

7 (5) COMPENSATION.—A member of the advi-
 8 sory committee shall serve without compensation,
 9 but shall be reimbursed for travel, subsistence, and
 10 other necessary expenses incurred in the perform-
 11 ance of duties of the advisory committee.

12 (6) SUPPORT.—The Secretary shall—

13 (A) provide such office space, furnishings
 14 and equipment as may be required to enable the
 15 advisory committee to perform its functions;
 16 and

17 (B) furnish the advisory committee with
 18 such staff, including clerical support, as the ad-
 19 visory committee may require.

20 (7) OPPORTUNITY TO FORMULATE AND
 21 PRESENT VIEWS.—The advisory committee shall be
 22 afforded a reasonable opportunity to—

23 (A) attend each meeting convened under
 24 the memorandum of understanding; and

1 (B) formulate and present its views on
2 each matter addressed at the meeting.

3 (8) AUTHORIZATION OF APPROPRIATIONS.—

4 There is authorized to be appropriated to carry out
5 the activities of the advisory committee a total of
6 \$1,000,000 during the period in which the advisory
7 committee is in existence.

8 (9) TERMINATION.—The advisory committee
9 shall terminate on termination of the memorandum
10 of understanding.

11 (c) RECONCILIATION OF DIFFERENCES.—The Direc-
12 tor of the Office of Management and Budget shall des-
13 ignate an official who, at the request of a non-Federal
14 party to any memorandum of understanding, shall have
15 authority to reconcile differences between the Federal
16 agencies on any issue relating to activities addressed
17 under the memorandum of understanding.

18 (d) PUBLIC AVAILABILITY OF DATA AND METH-
19 ODOLOGIES.—Each Federal agency shall publish and
20 make available to the public, through use of the Internet
21 and by other means—

22 (1) all scientific data that are prepared by or
23 made available to the Federal agency for use for the
24 purpose of formulating recommendations regarding

1 any matter addressed under any memorandum of
2 understanding; and

3 (2) all methodologies that are prepared by or
4 made available to the Federal agency for the pur-
5 pose of assessing the cost or benefit of any activity
6 addressed under any memorandum of understand-
7 ing.

8 (e) REPORTING BY THE COUNCIL.—

9 (1) IN GENERAL.—Not later than 30 days be-
10 fore the beginning of each fiscal year, the Council
11 shall submit to Congress a report that describes how
12 the recommendations on fish and wildlife activities
13 under any memorandum of understanding during
14 the fiscal year will be reconciled and coordinated
15 with activities of the Council under the Pacific
16 Northwest Electric Power and Conservation Plan-
17 ning Act (16 U.S.C. 839 et seq.).

18 (2) COOPERATION.—Each Federal agency that
19 is a party to a memorandum of understanding shall
20 provide the Council such information and coopera-
21 tion as the Council may request to enable the Coun-
22 cil to make determinations necessary to prepare a
23 report under paragraph (1).

1 **SEC. 3. BUDGET INFORMATION.**

2 (a) IN GENERAL.—The President shall include in
3 each budget of the United States Government for a fiscal
4 year submitted under section 1105 of title 31, United
5 States Code, a separate section that states for each Fed-
6 eral agency the amount of budget authority and outlays
7 proposed to be expended in the Columbia/Snake River
8 Basin (including a pro rata share of overhead expenses)
9 for the fiscal year.

10 (b) ITEMIZATION.—The statement of budget author-
11 ity and outlays for the Columbia/Snake River Basin under
12 subsection (a) for each Federal agency shall be stated in
13 the same degree of specificity for each category of expense
14 as in the statement of budget authority and outlays for
15 the entire Federal agency elsewhere in the budget.

○