

Calendar No. 467

108TH CONGRESS
2^D SESSION**S. 1355****[Report No. 108-250]**

To authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2003

Mr. SMITH (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

MARCH 29, 2004

Reported by Mr. DOMENICI, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, 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 “Wallowa Lake Dam~~
5 ~~Rehabilitation and Water Management Act of 2003”.~~

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ASSOCIATED DITCH COMPANIES, INCOR-
4 PORATED.—The term “Associated Ditch Companies,
5 Incorporated” means the non-profit corporation by
6 that name (as established under the laws of the
7 State of Oregon) that operates Wallowa Lake Dam.

8 (2) SECRETARY.—The term “Secretary” means
9 the Secretary of the Interior, acting through the
10 Commissioner of Reclamation.

11 (3) WALLOWA LAKE DAM REHABILITATION
12 PROGRAM.—The term “Wallowa Lake Dam Reha-
13 bilitation Program” means the program for the re-
14 habilitation of the Wallowa Lake Dam in Oregon, as
15 contained in the engineering document entitled,
16 “Phase I Dam Assessment and Preliminary Engi-
17 neering Design”, dated October 2001, and on file
18 with the Bureau of Reclamation.

19 (4) WALLOWA VALLEY WATER MANAGEMENT
20 PLAN.—The term “Wallowa Valley Water Manage-
21 ment Plan” means the program developed for the
22 Wallowa River watershed, as contained in the docu-
23 ment entitled “Wallowa Lake Dam Rehabilitation
24 and Water Management Plan Vision Statement”,
25 dated February 2001, and on file with the Bureau
26 of Reclamation.

1 **SEC. 3. AUTHORIZATION TO PARTICIPATE IN PROGRAM.**

2 (a) **AUTHORIZATION.**—The Secretary—

3 (1) may provide funding to the Associated
4 Ditch Companies, Incorporated, in order for the As-
5 sociated Ditch Companies, Incorporated, to plan, de-
6 sign and construct facilities needed to implement the
7 Wallowa Lake Dam Rehabilitation Program; and

8 (2) in cooperation with tribal, State and local
9 governmental entities, may participate in planning,
10 design and construction of facilities needed to imple-
11 ment the Wallowa Valley Water Management Plan.

12 (b) **COST SHARING.**—

13 (1) **IN GENERAL.**—The Federal share of the
14 costs of activities authorized under this Act shall not
15 exceed 80 percent.

16 (2) **EXCLUSIONS FROM FEDERAL SHARE.**—
17 There shall not be credited against the Federal
18 share of such costs—

19 (A) any expenditure by the Bonneville
20 Power Administration in the Wallowa River wa-
21 tershed; and

22 (B) expenditures made by individual farm-
23 ers in any Federal farm or conservation pro-
24 gram.

1 (c) COMPLIANCE WITH STATE LAW.—The Secretary,
2 in carrying out this Act, shall comply with otherwise appli-
3 cable State water law.

4 (d) PROHIBITION ON HOLDING TITLE.—The Federal
5 Government shall not hold title to any facility rehabilitated
6 or constructed under this Act.

7 (e) PROHIBITION ON OPERATION AND MAINTENANCE.—The Federal Government shall not be respon-
8 sible for the operation and maintenance of any facility con-
9 structed or rehabilitated under this Act.

11 (f) OWNERSHIP AND OPERATION OF FISH PASSAGE
12 FACILITY.—Any facility located at Wallowa Lake Dam for
13 trapping and transportation of migratory adult salmon
14 may be owned and operated only by the Nez Perce Tribe.

15 **SEC. 4. RELATIONSHIP TO OTHER LAW.**

16 Activities funded under this Act shall not be consid-
17 ered a supplemental or additional benefit under the Act
18 of June 17, 1902 (32 Stat. 388), and all Acts amendatory
19 thereof or supplementary thereto.

20 **SEC. 5. APPROPRIATIONS.**

21 There is authorized to be appropriated to the Sec-
22 retary \$32,000,000 for the Federal share of the costs of
23 activities authorized under this Act.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Wallowa Lake Dam Re-*
3 *habilitation and Water Management Act of 2004”.*

4 **SEC. 2. DEFINITIONS.**

5 *In this Act:*

6 (1) *ASSOCIATED DITCH COMPANIES, INCOR-*
7 *PORATED.—The term “Associated Ditch Companies,*
8 *Incorporated” means the nonprofit corporation estab-*
9 *lished under the laws of the State of Oregon that oper-*
10 *ates Wallowa Lake Dam.*

11 (2) *PHASE II AND PHASE III OF THE WALLOWA*
12 *VALLEY WATER MANAGEMENT PLAN.—The term*
13 *“Phase II and Phase III of the Wallowa Valley Water*
14 *Management Plan” means the Phase II program for*
15 *fish passage improvements and water conservation*
16 *measures, and the Phase III program for implementa-*
17 *tion of water exchange infrastructure, developed for*
18 *the Wallowa River watershed, as contained in the*
19 *document entitled “Wallowa Lake Dam Rehabilita-*
20 *tion and Water Management Plan Vision Statement”,*
21 *dated February 2001, and on file with the Bureau of*
22 *Reclamation.*

23 (3) *SECRETARY.—The term “Secretary” means*
24 *the Secretary of the Interior, acting through the Com-*
25 *missioner of Reclamation.*

1 (4) *WALLOWA LAKE DAM REHABILITATION PRO-*
 2 *GRAM.*—*The term “Wallowa Lake Dam Rehabilita-*
 3 *tion Program” means the program for the rehabilita-*
 4 *tion of the Wallowa Lake Dam in Oregon, as con-*
 5 *tained in the engineering document entitled, “Phase*
 6 *I Dam Assessment and Preliminary Engineering De-*
 7 *sign”, dated December 2002, and on file with the Bu-*
 8 *reau of Reclamation.*

9 **SEC. 3. AUTHORIZATION TO PARTICIPATE IN PROGRAM.**

10 (a) *GRANTS AND COOPERATIVE AGREEMENTS.*—*The*
 11 *Secretary may provide grants to, or enter into cooperative*
 12 *or other agreements with, tribal, State, and local govern-*
 13 *mental entities and the Associated Ditch Companies, Incor-*
 14 *porated, to plan, design, and construct facilities needed to*
 15 *implement the Wallowa Lake Dam Rehabilitation Program*
 16 *and Phase II and Phase III of the Wallowa Valley Water*
 17 *Management Plan.*

18 (b) *CONDITIONS.*—*As a condition of providing funds*
 19 *under subsection (a), the Secretary shall ensure that—*

20 (1) *the Wallowa Lake Dam Rehabilitation Pro-*
 21 *gram meets the standards of the dam safety program*
 22 *of the State of Oregon;*

23 (2) *the Associated Ditch Companies, Incor-*
 24 *porated, agrees to assume liability for any work per-*

1 *formed, or supervised, with funds provided to it under*
2 *this Act; and*

3 (3) *the United States shall not be liable for dam-*
4 *ages of any kind arising out of any act, omission, or*
5 *occurrence relating to a facility rehabilitated or con-*
6 *structed under this Act.*

7 (c) *COST SHARING.—*

8 (1) *IN GENERAL.—The Federal share of the costs*
9 *of activities authorized under this Act shall not exceed*
10 *80 percent.*

11 (2) *EXCLUSIONS FROM FEDERAL SHARE.—There*
12 *shall not be credited against the Federal share of such*
13 *costs—*

14 (A) *any expenditure by the Bonneville*
15 *Power Administration in the Wallowa River wa-*
16 *tershed; and*

17 (B) *expenditures made by individual agri-*
18 *cultural producers in any Federal commodity or*
19 *conservation program.*

20 (d) *COMPLIANCE WITH STATE LAW.—The Secretary,*
21 *in carrying out this Act, shall comply with otherwise appli-*
22 *able State water law.*

23 (e) *PROHIBITION ON HOLDING TITLE.—The Federal*
24 *Government shall not hold title to any facility rehabilitated*
25 *or constructed under this Act.*

1 (f) *PROHIBITION ON OPERATION AND MAINTENANCE.*—*The Federal Government shall not be responsible*
2 *for the operation and maintenance of any facility con-*
3 *structed or rehabilitated under this Act.*

5 (g) *OWNERSHIP AND OPERATION OF FISH PASSAGE FACILITY.*—*Any facility constructed using Federal funds*
6 *authorized by this Act located at Wallowa Lake Dam for*
7 *trapping and transportation of migratory adult salmon*
8 *may be owned and operated only by the Nez Perce Tribe.*

10 **SEC. 4. RELATIONSHIP TO OTHER LAW.**

11 *Activities funded under this Act shall not be considered*
12 *a supplemental or additional benefit under Federal rec-*
13 *lamation law (the Act of June 17, 1902 (32 Stat. 388, chap-*
14 *ter 1093), and Acts supplemental to and amendatory of that*
15 *Act (43 U.S.C. 371 et seq.)).*

16 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

17 *There is authorized to be appropriated to the Secretary*
18 *to the pay the Federal share of the costs of activities author-*
19 *ized under this Act \$25,600,000.*

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