

106<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1444

[Report No. 106-454, Part I]

To authorize the Secretary of the Army to develop and implement projects for fish screens, fish passage devices, and other similar measures to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in the States of Oregon, Washington, Montana, and Idaho.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 1999

Mr. DEFAZIO (for himself and Mr. WALDEN of Oregon) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

NOVEMBER 5, 1999

Reported from the Committee on Resources with amendments

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

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## A BILL

To authorize the Secretary of the Army to develop and implement projects for fish screens, fish passage devices, and other similar measures to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in the States of Oregon, Washington, Montana, and Idaho.

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. AQUATIC RESOURCES RESTORATION IN THE**  
4 **NORTHWEST.**

5 (a) ~~IN GENERAL.~~—In cooperation with other Federal  
6 agencies, the Secretary of the Army is authorized to de-  
7 velop and implement projects for fish screens, fish passage  
8 devices, and other similar measures agreed to by non-Fed-  
9 eral interests and relevant Federal agencies to mitigate  
10 adverse impacts associated with irrigation system water  
11 diversions by local governmental entities in the States of  
12 Oregon, Washington, Montana, and Idaho.

13 (b) ~~PROCEDURE AND PARTICIPATION.~~—

14 (1) ~~CONSULTATION REQUIREMENT; USE OF EX-~~  
15 ~~ISTING DATA.~~—In providing assistance under sub-  
16 section (a), the Secretary shall consult with other  
17 Federal, State, and local agencies and make max-  
18 imum use of data and studies in existence on the  
19 date of enactment of this Act.

20 (2) ~~PARTICIPATION BY NON-FEDERAL INTER-~~  
21 ~~ESTS.~~—Participation by non-Federal interests in  
22 projects under this section shall be voluntary. The  
23 Secretary shall not take any action under this sec-  
24 tion that will result in a non-Federal interest being  
25 held financially responsible for an action under a

1 project unless the non-Federal interest has volun-  
2 tarily agreed to participate in the project.

3 (c) COST SHARING.—Projects carried out under this  
4 section on lands owned by the United States shall be ear-  
5 ried out at full Federal expense. The non-Federal share  
6 of the cost of any such project undertaken on lands not  
7 in Federal ownership shall be 35 percent.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
9 authorized to be appropriated to carry out this section  
10 \$25,000,000 for fiscal year 2000 and each fiscal year  
11 thereafter.

12 **SECTION 1. AQUATIC RESOURCES RESTORATION IN THE**  
13 **NORTHWEST AND IN CALIFORNIA.**

14 (a) *IN GENERAL.*—In cooperation with other Federal  
15 agencies, the Secretary of the Interior, acting through the  
16 Director of the United States Fish and Wildlife Service and  
17 in consultation with the Bureau of Reclamation, may de-  
18 velop and implement projects for fish screens, fish passage  
19 devices, and other facilities agreed to by non-Federal inter-  
20 ests, relevant Federal agencies, and affected States to miti-  
21 gate adverse impacts to fisheries resulting from the con-  
22 struction and operation of water diversions by local govern-  
23 mental entities in the States of Oregon, Washington, Mon-  
24 tana, Idaho, and California. Priority shall be given to any  
25 project that has a total cost of less than \$2,500,000.

1       (b) *GOALS.*—*The goals of the program under sub-*  
2 *section (a) shall be—*

3           (1) *to decrease the incidence of juvenile and*  
4 *adult fish entering water supply systems; and*

5           (2) *to decrease fish mortality associated with the*  
6 *withdrawal of water for irrigation and other purposes*  
7 *without impairing the continued withdrawal of water*  
8 *for that purpose.*

9       (c) *PARTICIPATION BY NON-FEDERAL ENTITIES.*—  
10 *Non-Federal participation in the program under subsection*  
11 *(a) shall be voluntary. The Secretary shall take no action*  
12 *that would result in any non-Federal entity being held fi-*  
13 *nancially responsible for any action unless the entity ap-*  
14 *plies to participate in the program.*

15       (d) *EVALUATION AND PRIORITIZATION OF*  
16 *PROJECTS.*—*Evaluation and prioritization of projects for*  
17 *development and implementation under this section shall*  
18 *be conducted on the basis of—*

19           (1) *assisting entities in their compliance with*  
20 *the Endangered Species Act of 1973 (16 U.S.C. 1531*  
21 *et seq.) and related environmental concerns;*

22           (2) *cost effectiveness;*

23           (3) *size of diversion;*

24           (4) *availability of other funding sources; and*

1           (5) *opportunity for biological benefit to be*  
2           *achieved with improved conditions.*

3           (e) *REQUIREMENTS.—A fish screen, fish passage de-*  
4           *vice, or other feature shall not be eligible for funding under*  
5           *subsection (a) unless—*

6           (1) *it meets the requirements of the United*  
7           *States Fish and Wildlife Service or the National Ma-*  
8           *rine Fisheries Service, as applicable, and any State*  
9           *requirements; and*

10          (2) *it is agreed to by all interested Federal and*  
11          *non-Federal entities.*

12          (f) *COST SHARING.—*

13          (1) *IN GENERAL.—(A) Development and imple-*  
14          *mentation of projects under this section on lands*  
15          *owned by the United States shall be at full Federal*  
16          *expense.*

17          (B) *The non-Federal share of the cost of develop-*  
18          *ment and implementation of any project under this*  
19          *section on lands that are not owned by the United*  
20          *States shall be 35 percent.*

21          (2) *IN-KIND CONTRIBUTIONS.—(A) The non-Fed-*  
22          *eral participants in any project under this section on*  
23          *lands that are not owned by the United States shall*  
24          *provide all land, easements, rights-of-way, dredged*

1        *material disposal areas, and relocations necessary for*  
2        *the project.*

3            *(B) The value of land, easements, rights-of-way,*  
4        *dredged material disposal areas, and relocations pro-*  
5        *vided under this paragraph for a project shall be*  
6        *credited toward the non-Federal share of the costs of*  
7        *the project under paragraph (1).*

8            *(3) OMR&R.—The non-Federal interests shall*  
9        *be responsible for all costs associated with operating,*  
10       *maintaining, repairing, rehabilitating, and replacing*  
11       *all projects carried out under this section.*

12        *(g) CONSULTATION AND USE OF EXISTING DATA AND*  
13       *STUDIES.—In carrying out this section, the Secretary shall*  
14       *consult with other Federal, State, and local agencies and*  
15       *make maximum use of data and studies in existence on the*  
16       *date of enactment of this Act.*

17        *(h) LIMITATION ON ELIGIBILITY FOR FUNDING.—No*  
18       *project applicant pursuant to this section may obtain funds*  
19       *under this section if they are also receiving funds from an-*  
20       *other federally funded program for the same purpose.*

21        *(i) AUTHORIZATION OF APPROPRIATIONS.—*

22            *(1) IN GENERAL.—There are authorized to be ap-*  
23        *propriated to carry out this section \$25,000,000 for*  
24        *each of fiscal years 2001 through 2005.*

1           (2) *LIMITATIONS.—(A) Not more than  $\frac{1}{3}$  of the*  
2           *total amount of funds appropriated under this section*  
3           *may be used for projects in any single State.*

4           *(B) Not more than 6 percent of the amount of*  
5           *funds appropriated under this section for a fiscal*  
6           *year may be used for administration of this section.*

7           (3) *INTERIM REPORT.—Upon the expiration of*  
8           *the 3d fiscal year for which amounts are available to*  
9           *carry out this section, the Secretary of the Interior*  
10          *shall report to the Congress describing the accomplish-*  
11          *ments to date under this section and the projects that*  
12          *will be completed with amounts provided under this*  
13          *section for the 4th and 5th fiscal years for which such*  
14          *amounts are available.*

Amend the title to read as follows: “A bill to authorize the Secretary of the Interior to plan, design, and construct fish screens, fish passage devices, and other facilities to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in the States of Oregon, Washington, Montana, Idaho, and California.”.