

**EXTENSION OF THE DEADLINE FOR COMMENCEMENT OF A HYDROELECTRIC PLANT IN THE STATE OF ALASKA**

The bill (S. 176) to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska was read the third time and passed, as follows:

S. 176

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.**

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 11480, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods beyond the date that is 4 years after the date of issuance of the license.

**WALLOWA LAKE DAM REHABILITATION AND WATER MANAGEMENT ACT OF 2005**

The bill (S. 231) to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes, was read the third time and passed, as follows:

S. 231

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Wallowa Lake Dam Rehabilitation and Water Management Act of 2005".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **ASSOCIATED DITCH COMPANIES, INCORPORATED.**—The term "Associated Ditch Companies, Incorporated" means the nonprofit corporation established under the laws of the State of Oregon that operates Wallowa Lake Dam.

(2) **PHASE II AND PHASE III OF THE WALLOWA VALLEY WATER MANAGEMENT PLAN.**—The term "Phase II and Phase III of the Wallowa Valley Water Management Plan" means the Phase II program for fish passage improvements and water conservation measures, and the Phase III program for implementation of water exchange infrastructure, developed for the Wallowa River watershed, as contained in the document entitled "Wallowa Lake Dam Rehabilitation and Water Management Plan Vision Statement", dated February 2001, and on file with the Bureau of Reclamation.

(3) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(4) **WALLOWA LAKE DAM REHABILITATION PROGRAM.**—The term "Wallowa Lake Dam Rehabilitation Program" means the program for the rehabilitation of the Wallowa Lake Dam in Oregon, as contained in the engineering document entitled, "Phase I Dam Assessment and Preliminary Engineering Design",

dated December 2002, and on file with the Bureau of Reclamation.

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

(a) **GRANTS AND COOPERATIVE AGREEMENTS.**—The Secretary may provide grants to, or enter into cooperative or other agreements with, tribal, State, and local governmental entities and the Associated Ditch Companies, Incorporated, to plan, design, and construct facilities needed to implement the Wallowa Lake Dam Rehabilitation Program and Phase II and Phase III of the Wallowa Valley Water Management Plan.

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

(1) the Wallowa Lake Dam Rehabilitation Program meets the standards of the dam safety program of the State of Oregon;

(2) the Associated Ditch Companies, Incorporated, agrees to assume liability for any work performed, or supervised, with funds provided to it under this Act; and

(3) the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to a facility rehabilitated or constructed under this Act.

(c) **COST SHARING.**—

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

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

(A) any expenditure by the Bonneville Power Administration in the Wallowa River watershed; and

(B) expenditures made by individual agricultural producers in any Federal commodity or conservation program.

(d) **COMPLIANCE WITH STATE LAW.**—In carrying out this Act, the Secretary shall comply with otherwise applicable State water law.

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

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

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

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

An activity funded under this Act shall not be considered a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).

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

There is authorized to be appropriated to the Secretary to the pay the Federal share of the costs of activities authorized under this Act \$25,600,000.

**FISH PASSAGE AND SCREENING FACILITIES AT NON-FEDERAL WATER PROJECTS**

The bill (S. 232) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes, was read the third time and passed, as follows:

S. 232

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DEFINITIONS.**

As used in this Act—

(1) "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation;

(2) "Reclamation" means the Bureau of Reclamation, United States Department of the Interior;

(3) "Fish passage and screening facilities" means ladders, collection devices, and all other kinds of facilities which enable fish to pass through, over, or around water diversion structures; facilities and other constructed works which modify, consolidate, or replace water diversion structures in order to achieve fish passage; screens and other devices which reduce or prevent entrainment and impingement of fish in a water diversion, delivery, or distribution system; and any other facilities, projects, or constructed works or strategies which are designed to provide for or improve fish passage while maintaining water deliveries and to reduce or prevent entrainment and impingement of fish in a water storage, diversion, delivery, or distribution system of a water project;

(4) "Federal reclamation project" means a water resources development project constructed, operated, and maintained pursuant to the Reclamation Act of 1902 (32 Stat. 388), and acts amendatory thereof and supplementary thereto;

(5) "Non-Federal party" means any non-Federal party, including federally recognized Indian tribes, non-Federal governmental and quasi-governmental entities, private entities (both profit and non-profit organizations), and private individuals;

(6) "Snake River Basin" means the entire drainage area of the Snake River, including all tributaries, from the headwaters to the confluence of the Snake River with the Columbia River;

(7) "Columbia River Basin" means the entire drainage area of the Columbia River located in the United States, including all tributaries, from the headwaters to the Columbia River estuary; and

(8) "Habitat improvements" means work to improve habitat for aquatic plants and animals within a currently existing stream channel below the ordinary high water mark, including stream reconfiguration to rehabilitate and protect the natural function of streambeds, and riverine wetland construction and protection.

**SEC. 2. AUTHORIZATION.**

(a) **IN GENERAL.**—Subject to the requirements of this Act, the Secretary is authorized to plan, design, and construct, or provide financial assistance to non-Federal parties to plan, design, and construct, fish passage and screening facilities or habitat improvements at any non-Federal water diversion or storage project located anywhere in the Columbia River Basin when the Secretary determines that such facilities would enable Reclamation to meet its obligations under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)) regarding the construction and continued operation and maintenance of all Federal reclamation projects located in the Columbia River Basin, excluding the Federal reclamation projects located in the Snake River Basin.

(b) **PROHIBITION OF ACQUISITION OF LAND FOR HABITAT IMPROVEMENTS.**—Notwithstanding subsection (a), nothing in this Act authorizes the acquisition of land for habitat improvements.

**SEC. 3. LIMITATIONS.**

(a) **WRITTEN AGREEMENT.**—The Secretary may undertake the construction of, or provide financial assistance covering the cost to the non-Federal parties to construct, fish passage and screening facilities at non-Federal water diversion and storage projects or habitat improvements located anywhere in the Columbia River Basin only after entering into a voluntary, written agreement with the non-Federal party or parties who own, operate, or maintain the project, or any associated lands involved.

(b) **FEDERAL SHARE.**—The Federal share of the total costs of constructing the fish passage and screening facility or habitat improvements shall be not more than 75 percent.

(c) **NON-FEDERAL SHARE.**—

(1) Except as provided in paragraph (4), a written agreement entered into under subsection (a) shall provide that the non-Federal party agrees to pay the non-Federal share of the total costs of constructing the fish passage and screening facility or habitat improvements.

(2) The non-Federal share may be provided in the form of cash or in-kind services.

(3) The Secretary shall—

(A) require the non-Federal party to provide appropriate documentation of any in-kind services provided; and

(B) determine the value of the in-kind services.

(4) The requirements of this subsection shall not apply to Indian tribes.

(d) **GRANT AND COOPERATIVE AGREEMENTS.**—Any financial assistance made available pursuant to this Act shall be provided through grant agreements or cooperative agreements entered into pursuant to and in compliance with chapter 63 of title 31, United States Code.

(e) **TERMS AND CONDITIONS.**—The Secretary may require such terms and conditions as will ensure performance by the non-Federal party, protect the Federal investment in fish passage and screening facilities or habitat improvements, define the obligations of the Secretary and the non-Federal party, and ensure compliance with this Act and all other applicable Federal, State, and local laws.

(f) **RIGHTS AND DUTIES OF NON-FEDERAL PARTIES.**—All right and title to, and interest in, any fish passage and screening facilities constructed or funded pursuant to the authority of this Act shall be held by the non-Federal party or parties who own, operate, and maintain the non-Federal water diversion and storage project, and any associated lands, involved. The operation, maintenance, and replacement of such facilities shall be the sole responsibility of such party or parties and shall not be a project cost assignable to any Federal reclamation project.

**SEC. 4. OTHER REQUIREMENTS.**

(a) **PERMITS.**—The Secretary may assist a non-Federal party who owns, operates, or maintains a non-Federal water diversion or storage project, and any associated lands, to obtain and comply with any required State, local, or tribal permits.

(b) **FEDERAL LAW.**—In carrying out this Act, the Secretary shall be subject to all Federal laws applicable to activities associated with the construction of a fish passage and screening facility or habitat improvements.

(c) **STATE WATER LAW.**—

(1) In carrying out this Act, the Secretary shall comply with any applicable State water laws.

(2) Nothing in this Act affects any water or water-related right of a State, an Indian tribe, or any other entity or person.

(d) **REQUIRED COORDINATION.**—The Secretary shall coordinate with the Northwest

Power and Conservation Council; appropriate agencies of the States of Idaho, Oregon, and Washington; and appropriate federally recognized Indian tribes in carrying out the program authorized by this Act.

**SEC. 5. INAPPLICABILITY OF FEDERAL RECLAMATION LAW.**

(a) **IN GENERAL.**—The Reclamation Act of 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto, shall not apply to the non-Federal water projects at which the fish passage and screening facilities authorized by this Act are located, nor to the lands which such projects irrigate.

(b) **NONREIMBURSABLE AND NONRETURNSABLE EXPENDITURES.**—Notwithstanding any provision of law to the contrary, the expenditures made by the Secretary pursuant to this Act shall not be a project cost assignable to any Federal reclamation project (either as a construction cost or as an operation and maintenance cost) and shall be non-reimbursable and non-returnable to the United States Treasury.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such amounts as are necessary for the purposes of this Act.

### EXTENSION OF THE DEADLINE FOR COMMENCEMENT OF CONSTRUCTION OF A HYDROELECTRIC PLANT IN THE STATE OF WYOMING

The bill (S. 244) to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming, was read the third and passed, as follows:

S. 244

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. EXTENSION OF TIME FOR THE FEDERAL ENERGY REGULATORY COMMISSION HYDROELECTRIC PROJECT.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 1651, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods from the date of the expiration of the extension originally issued by the Commission.

### HAWAII WATER RESOURCES ACT OF 2005

The Senate proceeded to consider the bill (S. 264), to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

S. 264

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Hawaii Water Resources Act of 2005".

#### SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) **IN GENERAL.**—The Reclamation Waste-

water and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended by adding at the end the following:

#### "SEC. 1637. HAWAII RECLAMATION PROJECTS.

"(a) **AUTHORIZATION.**—The Secretary may—  
 "(1) in cooperation with the Board of Water Supply, City and County of Honolulu, Hawaii, participate in the design, planning, and construction of a project in Kalaheo, Hawaii, to desalinate and distribute seawater for direct potable use within the service area of the Board;

"(2) in cooperation with the County of Hawaii Department of Environmental Management, Hawaii, participate in the design, planning, and construction of facilities in Kealahou, Hawaii, for the treatment and distribution of recycled water and for environmental purposes within the County; and

"(3) in cooperation with the County of Maui Wastewater Reclamation Division, Hawaii, participate in the design, planning, and construction of, and acquire land for, facilities in Lahaina, Hawaii, for the distribution of recycled water from the Lahaina Wastewater Reclamation Facility for non-potable uses within the County.

"(b) **COST SHARE.**—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) **LIMITATION.**—Funds provided by the Secretary shall not be used for the operation and maintenance of a project described in subsection (a).

"(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section."

(b) **CONFORMING AMENDMENT.**—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended by inserting after the item relating to section 1636 the following:

"Sec. 1637. Hawaii reclamation projects."

The amendment (No. 1587) was agreed to, as follows:

(Purpose: To make technical corrections)

On page 2, strike lines 1 through 5 and insert the following:

#### SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) **IN GENERAL.**—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating the second section 1636 (as added by section 1(b) of Public Law 108-316 (118 Stat. 1202)) as section 1637; and

(2) by adding at the end the following:

#### "SEC. 1638. HAWAII RECLAMATION PROJECTS.

On page 3, strike line 13 and all that follows through the matter following line 14 and insert the following:

is amended by striking the item relating to the second section 1636 (as added by section 2 of Public Law 108-316 (118 Stat. 1202)) and inserting the following:

"Sec. 1637. Williamson County, Texas, Water Recycling and Reuse Project.

"Sec. 1638. Hawaii reclamation projects."

The bill (S. 264), as amended, was read the third time and passed, as follows:

S. 264

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Hawaii Water Resources Act of 2005".

#### SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) **IN GENERAL.**—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating the second section 1636 (as added by section 1(b) of Public Law 108-316 (118 Stat. 1202)) as section 1637; and