



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: Subcommittee on Water, Wildlife and Fisheries Republican Members
From: Subcommittee on Water, Wildlife and Fisheries staff: Annick Miller, x58331
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Date: Wednesday, May 22, 2024
Subject: Legislative Hearing on: H.R. 7872, H.R. 7938, H.R. 8263 and H.R. 7776

The Subcommittee on Water, Wildlife and Fisheries will hold a legislative hearing on: H.R. 7872 (Rep. Curtis), “*Colorado River Salinity Control Fix Act*”; H.R. 7938 (Rep. Bentz), “*Klamath Basin Water Agreement Support Act of 2024*”; H.R. 8263 (Rep. Boebert), “*Rural Jobs and Hydropower Expansion Act*”; and H.R. 7776 (Rep. Lee of NV), “*Help Hoover Dam Act*” **on Wednesday, May 22, 2024, at 10:15 a.m. in 1324 Longworth House Office Building.**

Member offices are requested to notify Lindsay Walton (lindsay.walton@mail.house.gov) by 4:30 p.m. on Tuesday, May 21, 2024, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- House Republicans are considering four bills to improve western water infrastructure and enhance access to water resources across the 17 Reclamation states.
- H.R. 7872 modifies the cost share of salinity control units along the Colorado River.
- H.R. 7938 gives the Secretary of the Interior the authority to enter into additional agreements to improve access to water resources in the Klamath River Basin.
- H.R. 8263 clarifies that Reclamation has the sole jurisdiction over non-federal hydropower development within Reclamation projects.
- H.R. 7776 authorizes the Bureau of Reclamation to access \$45 million in ratepayer funds to make vital upgrades to the Hoover Dam.

II. WITNESSES

Panel I

- *Members of Congress TBD*

Panel II

- *Mr. David Palumbo*, Deputy Commissioner of Operations, Bureau of Reclamation, Washington, D.C. [*All bills*]
- *Mr. Tracey Liskey*, President, Klamath Water Users Association, Klamath Falls, OR [*H.R. 7938*]

- **Mr. Don Barnett**, Executive Director, Colorado River Basin Salinity Control Forum, Farmington, UT [*H.R. 7872*]
- **Mr. Craig Horrell**, President, Deschutes Basin Board of Control, Redmond, OR [*H.R. 8263*]
- **Mr. Eric Witkoski**, Executive Director, Colorado River Commission of Nevada, Las Vegas, NV [*H.R. 7776; Minority witness*]

III. BACKGROUND

[H.R. 7872](#) (Rep. Curtis, R-UT) “Colorado River Salinity Control Fix Act”

Congress enacted the Colorado River Basin Salinity Control Act (Salinity Control Act, P.L. 93-320) in June of 1974. This act authorized salinity control projects in Colorado, Wyoming, Utah, and Nevada and planning studies in Arizona, California, New Mexico, and Wyoming. High salinity levels in water can reduce crop yields, and at higher concentrations over long periods, it can kill trees and make the land unsuitable for agricultural purposes. Reclamation’s Basin States Program and the USDA Natural Resources Conservation Service’s (NRCS) Environmental Quality Incentives Program (EQIP) provide cost-share assistance to landowners who install salinity control measures.

The Colorado River Basin Salinity Control Program (Program) is funded through appropriations and power revenues. Generally, the Program receives 70 percent of its funds from appropriations (also referred to as the “nonreimbursable portion”) and power revenues (the “reimbursable portion”). The act dictates that 15 percent of the reimbursable money is funded by the Upper Colorado River Basin Fund (Upper Basin Fund) and that the remaining 85 percent of reimbursable funds are from the Lower Colorado River Basin Fund (Lower Basin Fund).

Unlike the Upper Basin Fund, where rates can be adjusted to cover allocated costs, salinity dollars to the Lower Basin Fund are fixed by the Hoover Power Plant Act (P.L. 98-381) at 2.50 per MWh regardless of Program needs.¹ This has created an imbalance of up-front, reimbursable funding between the lower basin (Arizona, California, and Nevada) and upper basin states (Colorado, New Mexico, Utah, and Wyoming), particularly as the lower basin has struggled with reduced levels of hydropower production.

H.R. 7872 represents the work of the seven Colorado River basin states to address this imbalance by keeping funding arrangements in place but adjusting the percentages of reimbursable and nonreimbursable funds. First, the legislation reduces the reimbursable portion of operations and maintenance at three Bureau of Reclamation projects, freeing up \$1.2 million in the Lower Basin Fund. Additionally, the legislation reduces the EQIP reimbursable portion from 30 percent to 15 percent. This change would save the Lower Basin Fund an additional \$3.1 million. This legislation will ensure that the costs associated with salinity control units are shared equally across the Upper and Lower Colorado River Basins.

H.R. 7872 has five Republican cosponsors and four Democrat cosponsors.

¹ Colorado River Basin Salinity Control Forum, Colorado River Salinity Control Fix Act.

H.R. 7938 (Rep. Bentz, R-OR) “Klamath Basin Water Agreement Support Act of 2024”

The Klamath River basin covers southern Oregon and northern California, encompassing 12,000 square miles.² The basin’s water allocation and species protection have generated conflict among farmers, Indian tribes, fishermen, water project and wildlife refuge managers, environmental groups, hydropower facility operators, and state and local governments.

Multiple people and species rely on Klamath basin waters. Irrigated agriculture in the Upper Klamath Basin is partially supported by water from Reclamation’s Klamath Project and partially by off-project supplies.³ Further, six national wildlife refuges rely on basin waters to sustain migratory bird habitat, and several Native American tribes historically depended on lower and upper basin fish species.

There are two species of upper basin fish currently listed as endangered under the Endangered Species Act (ESA; 16 U.S.C. §1531 et seq.)—the Lost River sucker and the shortnose sucker. In the lower basin, the coho salmon is listed as threatened. Conflicts in the basin first came to a head in 2001, when, because of previous biological opinions, Reclamation severely curtailed water deliveries to the Klamath Project to provide more water for endangered fish.⁴

The basin contains seven dams on the Klamath River and its tributaries, built between 1903 and 1958.⁵ Six of these dams were owned by PacifiCorp.⁶ These dams are known collectively as the Klamath Hydroelectric Project (KHP). Historically, only one dam has produced hydroelectric power for the basin, including low-cost power for Klamath Project irrigators. The original Federal Energy Regulatory Commission (FERC) license to operate the KHP expired in 2006. In 2004, PacifiCorp applied for relicensing of the project,⁷ In 2007, FERC staff issued a final environmental impact statement for the application.⁸ FERC recommended a new license with mandatory prescriptions to create fish ladders, which was projected to cost hundreds of millions of dollars to implement and result in net operating losses for the project.⁹

In 2010, the Secretary of the Interior, governors of Oregon and California, PacifiCorp, and other parties announced two interrelated settlement agreements intended to resolve long-standing issues in the basin: the Klamath Basin Restoration Agreement (KBRA) and the Klamath

² NOAA Fisheries, “Klamath River Basin”. <https://www.fisheries.noaa.gov/west-coast/habitat-conservation/klamath-river-basin>.

³ U.S. Bureau of Reclamation, Klamath Project. <https://www.usbr.gov/projects/index.php?id=470>.

⁴ Jeff Barnard, “Convoy arrives in Klamath Falls to protest water shutoff”. Arizona Daily Sun, 8/21/01. https://azdailysun.com/convoy-arrives-in-klamath-falls-to-protest-water-shutoff/article_f583e6a0-044b-5e63-8510-6574970fd454.html.

⁵ Klamath Hydroelectric Project – FERC No. 2082, Request for Determination of Eligibility. October 2003. <https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/hydro/klamath-river/relicensing/klamath-final-license-application/Exhibit E Appendices E 6E Request for Determination of Eligibility Text.pdf>.

⁶ *Id.*

⁷ FERC (Federal Energy Regulatory Commission). 2007. Final Environmental Impact Statement for Hydropower License, Klamath Hydroelectric Project, FERC Project No. 2082-027, FERC/EIS-0201F. Washington, D.C., Federal Energy Regulatory Commission, Office of Energy Projects, Division of Hydropower Licensing. <https://www.ferc.gov/industries/hydropower/enviro/eis/2007/11-16-07.asp>.

⁸ *Id.*

⁹ CRS, In Focus: Klamath River Dam Removal and Restoration, March 3, 2022. <https://crsreports.congress.gov/product/pdf/IF/IF11616>.

Hydroelectric Settlement Agreement (KHSA).¹⁰ The KBRA proposed actions to restore Klamath fisheries and assurances for water deliveries to wildlife refuges and project irrigators, among other things.¹¹ The KHSA laid out a removal process that required a secretarial determination and the transfer of the dams to the Department of the Interior (DOI), which would oversee decommissioning.¹²

A third agreement involving off-project irrigators in the Upper Klamath Basin was finalized in 2014.¹³ The Klamath settlement agreements were contingent on the passage of federal legislation authorizing numerous new federal activities and expenditures in the basin. Legislation approving the agreements was introduced and received hearings in the 113th and 114th Congresses^{14 15} but was not enacted. This action led to a push for the removal of the Klamath River dams without the need for congressional action.

In 2016, the parties amended the KHSA to no longer require the transfer of dams to DOI and avoid the need for congressional authorization.¹⁶ State and federal officials also signed a separate agreement with irrigation interests and other parties, the 2016 Klamath Power and Facilities Agreement (KPFA).¹⁷ This agreement is intended to help Klamath Basin irrigators avoid adverse financial and regulatory impacts associated with the return of endangered species to the Upper Klamath Basin, which are anticipated after the dams are removed.

H.R. 7938 would implement provisions of the KPFA by authorizing DOI to operate and improve infrastructure, including Keno Dam, which PacifiCorp will convey to the federal government. The legislation also clarifies that the Klamath Project is not financially responsible for any of the costs associated with the Keno Dam. The bill authorizes the DOI to protect ESA-listed species through fish screens and other restoration efforts, which protect Tribal resources held in trust and avoid additional regulatory burden on stakeholders. Finally, the legislation supports the Klamath Basin agricultural producers by authorizing activities and programs, including using renewable energy, conservation, and efficiency measures, that reduce power rates for hydroelectric power customers to avoid paying rates two to three times higher than similarly situated irrigators in the Northwest.

¹⁰ Department of the Interior. “Two New Klamath Basin Agreements Carve out Path for Dam Removal and Provide Key Benefits to Irrigators” 04/06/2016. <https://www.doi.gov/pressreleases/two-new-klamath-basin-agreements-carve-out-path-dam-removal-and-provide-key-benefits>.

¹¹ Klamath Basin Restoration Agreement for the Sustainability of Public and Trust Resources and Affected Communities, 2/18/2010. <https://klamathrenewal.org/wp-content/uploads/2020/07/Klamath-Basin-Restoration-Agreement-2-18-10.pdf>.

¹² U.S. Bureau of Reclamation, Klamath Hydroelectric Settlement Agreement, Including Secretarial Determination on Whether to Remove Four Dams on the Klamath River in California and Oregon. 75 FR 33634. <https://www.federalregister.gov/documents/2010/06/14/2010-14174/klamath-hydroelectric-settlement-agreement-including-secretarial-determination-on-whether-to-remove>.

¹³ Upper Klamath Basin Comprehensive Agreement, April 18, 2014. <https://klamathrenewal.org/wp-content/uploads/2020/03/Upper-Klamath-Basin-Comprehensive-Agreement.pdf>.

¹⁴ S.2379 - Klamath Basin Water Recovery and Economic Restoration Act of 2014.

¹⁵ S.133 - Klamath Basin Water Recovery and Economic Restoration Act of 2015.

¹⁶ Department of the Interior. “Two New Klamath Basin Agreements Carve out Path for Dam Removal and Provide Key Benefits to Irrigators” 04/06/2016. <https://www.doi.gov/pressreleases/two-new-klamath-basin-agreements-carve-out-path-dam-removal-and-provide-key-benefits>.

¹⁷ 2016 Klamath Power and Facilities Agreement, <https://www.oregon.gov/owrd/programs/WaterRights/Adjudications/KlamathRiverBasinAdj/Documents/Klamath%20Power%20and%20Facilities%20Agreement.pdf>.

H.R. 8263 (Rep. Boebert, R-CO) “Rural Jobs and Hydropower Expansion Act”

The permitting processes for non-federal hydropower development located within a Reclamation Project fall under Reclamation’s Lease of Power Privilege (LOPP) Contract, the Federal Energy Regulatory Commission (FERC) License, or, in some instances, both.¹⁸ Unless specified in the law, Reclamation projects authorized for federal hydropower development are within the jurisdiction of Reclamation, requiring a LOPP for non-federal development. A LOPP is a contractual authorization issued by Reclamation to a non-federal entity to use a Reclamation facility for electric power generation consistent with Reclamation project purposes. However, if a Reclamation project is not authorized for federal hydropower development, under current law, that development is within the jurisdiction of FERC, requiring a FERC license for non-federal development.

This split in jurisdiction has led to about 69 non-federal projects being subject to dual permitting processes (both LOPP and FERC).¹⁹ Additionally, there are about 12 projects that would need dual permits in the development stages.²⁰ H.R. 8263 amends the Reclamation Project Act of 1939 to give Reclamation the exclusive authority to develop hydropower within a Reclamation project. This builds upon the work done in the 113th Congress through P.L. 113-24, which authorized Reclamation to contract to develop small conduit hydropower.

H.R. 7776 (Rep. Lee, D-NV) “Help Hoover Dam Act”

In 1928, the Boulder Canyon Project Act was signed into law to authorize the construction of the Hoover Dam and other water projects along the Colorado River.²¹ This legislation appropriated \$165 million for Arizona, California, and Nevada (collectively called the lower basin states) to build water projects with flood control as their primary purpose.²² Construction on the dam began in 1930, and the associated hydropower generators came online in 1937. Today, 40 million people rely on the Colorado River for water, and 1.3 million rely on it for electricity.²³

In addition to the fees collected through power rates, the Department of Energy directs the Western Area Power Administration (WAPA) to collect \$2 million annually from Hoover contractors to fund Post Retirement Benefits (PRBs) for WAPA and Bureau of Reclamation (Reclamation) federal employees to cover any gap in benefits from Department of Labor allocations.²⁴ However, Congress provides annual appropriations for PRBs. To date, \$45 million has been collected from ratepayers.

¹⁸ Bureau of Reclamation, Lease of Power Privilege – Permitting Process Overview, May 2023. https://republicans-naturalresources.house.gov/UploadedFiles/LOPP_USBR_SEI_5-2023.pdf.

¹⁹ *Id.*

²⁰ *Id.*

²¹ National Archives, Boulder Canyon Project Act (1928). <https://www.archives.gov/milestone-documents/boulder-canyon-project-act>.

²² *Id.*

²³ *Id.*

²⁴ American Public Power Association, Groups Support Bill That Makes Funds Available for Hoover Dam Projects. <https://www.publicpower.org/periodical/article/groups-support-bill-makes-funds-available-hoover-dam-projects>.

H.R. 7776 would authorize Reclamation to access \$45 million of ratepayer funding for the operation, maintenance, and improvement of the Hoover Dam.²⁵ Ms. Gail Bates, the Assistant Director of Hydropower for the Colorado River Commission of Nevada, recently said that \$150 million in maintenance is planned at the Hoover Dam over the next decade.²⁶

H.R. 7776 has five Republican cosponsors and five Democrat cosponsors.

IV. MAJOR PROVISIONS & ANALYSIS

H.R. 7872 (Rep. Curtis, R-UT) “Colorado River Salinity Control Fix Act”

- Amends Section 205 of the Colorado River Basin Salinity Control Act (P.L. 93-320) to modify the reimbursable and non-reimbursable costs of salinity control units. By altering the reimbursable portion of these projects for Reclamation and the NRCS EQIP, H.R. 7872 addresses the historic imbalance between the Upper Basin Fund and Lower Basin Fund for salinity control projects.

H.R. 7938 (Rep. Bentz, R-OR) “Klamath Basin Water Agreement Support Act of 2024”

- Protects Klamath Basin irrigators from financial and regulatory impacts associated with the return of endangered species to the Upper Klamath Basin.

H.R. 8263 (Rep. Boebert, R-CO) “Rural Jobs and Hydropower Expansion Act”

- Amends the Reclamation Project Act of 1939 by clarifying that Reclamation has the sole jurisdiction over non-federal hydropower development within Reclamation projects.

H.R. 7776 (Rep. Lee, D-NV) “Help Hoover Dam Act”

- Provides Congressional authority for the Reclamation to access \$45 million in abandoned ratepayer funds for the operation, maintenance, and replacement of the Hoover Dam.

V. COST

The Congressional Budget Office has not provided cost estimates for these bills.

VI. EFFECT ON CURRENT LAW

[H.R. 7776](#)

[H.R. 7872](#)

[H.R. 7938](#)

[H.R. 8263](#)

²⁵ Congresswoman Lee, NV Congressional Delegation Lead Bipartisan Legislation to Recover Millions in Unused Funding for Hoover Dam.

<https://susielee.house.gov/media/press-releases/congresswoman-lee-nv-congressional-delegation-lead-bipartisan-legislation>.

²⁶ The Las Vegas Sun. “Nevada lawmakers back bill that aims to free up Hoover Dam funding.” March 30, 2024. <https://lasvegassun.com/news/2024/mar/30/nevada-lawmakers-back-bill-that-aims-to-free-up-fu/>.