

119TH CONGRESS
2D SESSION

S. _____

To extend authorizations for aquatic ecosystem restoration projects, multi-benefit watershed health projects, and WaterSMART grants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To extend authorizations for aquatic ecosystem restoration projects, multi-benefit watershed health projects, and WaterSMART grants, 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 “Western Water Rein-
5 vestment Act”.

6 **SEC. 2. EXTENSION OF CERTAIN AUTHORIZATIONS FOR BU-**
7 **REAU OF RECLAMATION PROGRAMS.**

8 (a) REAUTHORIZATION OF CERTAIN BUREAU OF
9 RECLAMATION PROGRAMS.—

1 (1) AQUATIC ECOSYSTEM RESTORATION PRO-
2 GRAM.—Section 1109(d) of division FF of the Con-
3 solidated Appropriations Act, 2021 (33 U.S.C.
4 2330c(d)), is amended by striking “2026” and in-
5 serting “2031”.

6 (2) RECLAMATION BASIN STUDY PROGRAM.—

7 (A) IN GENERAL.—Section 9503(f) of the
8 Omnibus Public Land Management Act of 2009
9 (42 U.S.C. 10363(f)) is amended by striking
10 “2023” and inserting “2033”.

11 (B) TECHNICAL CORRECTION.—

12 (i) IN GENERAL.—Section 1106 of di-
13 vision FF of the Consolidated Appropria-
14 tions Act, 2021 (Public Law 116–260; 134
15 Stat. 3240), is amended by striking sub-
16 section (d).

17 (ii) EFFECTIVE DATE.—The amend-
18 ment made by clause (i) shall take effect
19 on the date of enactment of the Consoli-
20 dated Appropriations Act, 2021 (Public
21 Law 116–260; 134 Stat. 1182).

22 (3) COOPERATIVE WATERSHED MANAGEMENT
23 PROGRAM.—Section 6002 of the Omnibus Public
24 Land Management Act of 2009 (16 U.S.C. 1015a)

1 is amended by striking subsection (g) and inserting
2 the following:

3 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
4 is authorized to be appropriated to carry out this section
5 \$40,000,000 for each of fiscal years 2027 through 2031.”.

6 (b) WATERSMART PROGRAM IMPROVEMENTS.—

7 (1) WATER MANAGEMENT IMPROVEMENT.—

8 Section 9504(a) of the Omnibus Public Land Man-
9 agement Act of 2009 (42 U.S.C. 10364(a)) is
10 amended—

11 (A) in paragraph (1)—

12 (i) in subparagraph (F), by inserting
13 “, including through temporary, voluntary,
14 and compensated transactions that de-
15 crease consumptive water use at a regional
16 or watershed scale” after “imbalances”;
17 and

18 (ii) in subparagraph (J), by striking
19 clause (i) and inserting the following:

20 “(i) to increase ecological resilience to
21 climate change by addressing climate-re-
22 lated impacts to, or vulnerabilities of, the
23 water supply of the United States, includ-
24 ing by enhancing natural water storage

1 within a floodplain or riparian wetland;”;

2 and

3 (B) in paragraph (3)(B)(i), by striking
4 subclause (II) and inserting the following:

5 “(II) to use the assistance pro-
6 vided under the grant or agreement to
7 increase the consumptive use of water
8 for agricultural operations above
9 preproject levels, as determined pursu-
10 ant to the law of the State in which
11 the operation of the eligible applicant
12 is located.”.

13 (2) AUTHORIZATION OF APPROPRIATIONS.—
14 Section 9504(e) of the Omnibus Public Land Man-
15 agement Act of 2009 (42 U.S.C. 10364(e)) is
16 amended by striking “\$1,000,000,000” and insert-
17 ing “\$1,400,000,000”.

18 (c) COOPERATIVE WATERSHED MANAGEMENT PRO-
19 GRAM.—

20 (1) DEFINITIONS.—Section 6001 of the Omni-
21 bus Public Land Management Act of 2009 (16
22 U.S.C. 1015) is amended—

23 (A) by redesignating paragraphs (4)
24 through (7) as paragraphs (5) through (8), re-
25 spectively;

1 (B) by inserting after paragraph (3) the
2 following:

3 “(4) INDIAN TRIBE.—The term ‘Indian tribe’
4 has the meaning given the term in section 4 of the
5 Indian Self-Determination and Education Assistance
6 Act (25 U.S.C. 5304).”; and

7 (C) in subparagraph (B)(v) of paragraph
8 (7) (as so redesignated)—

9 (i) in subclause (I), by striking “or”
10 at the end;

11 (ii) in subclause (II), by inserting
12 “or” after the semicolon; and

13 (iii) by adding at the end the fol-
14 lowing:

15 “(III) has ancestral lands within
16 the watershed;”.

17 (2) PROGRAM.—Section 6002 of the Omnibus
18 Public Land Management Act of 2009 (16 U.S.C.
19 1015a) is amended—

20 (A) in subsection (c)—

21 (i) in paragraph (1)(B)—

22 (I) in clause (i), by striking “in-
23 terests; or” and inserting “interests,
24 including Indian tribes;”;

1 (II) by redesignating clause (ii)
2 as clause (iii); and

3 (III) by inserting after clause (i)
4 the following:

5 “(ii) demonstrate significant need due
6 to drought, wildfire, or other natural dis-
7 aster; or”;

8 (ii) in paragraph (2)—

9 (I) in subparagraph (A)(i), by
10 striking “\$100,000” and all that fol-
11 lows through the period at the end
12 and inserting “\$150,000 each year for
13 a period of not less than 3 years, sub-
14 ject to the sufficiency of applications
15 submitted and the availability of ap-
16 propriations.”;

17 (II) by striking clause (iii);

18 (III) by redesignating clauses (iv)
19 and (v) as clauses (iii) and (iv), re-
20 spectively; and

21 (IV) by adding at the end the fol-
22 lowing:

23 “(v) CONTINUATION AND EXTEN-
24 SION.—

1 “(I) IN GENERAL.—The Sec-
2 retary may, at the discretion of the
3 Secretary, issue a continuation of the
4 first-phase grant for not more than 2
5 additional years if the recipient of the
6 first-phase grant has demonstrated
7 satisfactory performance with imple-
8 mentation of the proposal under the
9 initial grant, as determined by the
10 Secretary.

11 “(II) AMOUNTS.—A grant con-
12 tinued pursuant to subclause (I) shall
13 be in an amount not greater than
14 \$150,000 each year, as determined to
15 be appropriate by the Secretary.”;

16 (iii) in paragraph (3)(B)(ii), by strik-
17 ing “quantity.” and inserting the following:
18 “quantity, including—

19 “(I) grant writing;

20 “(II) project management; and

21 “(III) technical assistance, such
22 as feasibility, design, preliminary envi-
23 ronmental review, and engineering.”;
24 and

1 (iv) by adding at the end the fol-
2 lowing:

3 “(4) CONTINUOUS ENROLLMENT.—The Sec-
4 retary shall—

5 “(A) make funding opportunities for the
6 program available on a regular basis; and

7 “(B) allow applications for grants under
8 the program to be submitted and evaluated
9 multiple times during a calendar year.”; and

10 (B) in subsection (f), in the matter pre-
11 ceding paragraph (1), by inserting “, and make
12 available to the public,” after “House of Rep-
13 resentatives”.

14 **SEC. 3. WATERBIRD AND SHOREBIRD HABITAT CREATION**
15 **PROGRAM.**

16 (a) ESTABLISHMENT.—

17 (1) IN GENERAL.—Subject to paragraphs (2)
18 and (3), the Secretary of the Interior (referred to in
19 this section as the “Secretary”) shall establish a
20 program under which the Secretary shall provide fi-
21 nancial assistance to eligible agricultural producers
22 (as identified by the Secretary) in Reclamation
23 States (as defined in section 4014 of the Water In-
24 frastructure Improvements for the Nation Act (43
25 U.S.C. 390b note; Public Law 114–322)), in the

1 form of direct payments or credits, as applicable, to
2 compensate the agricultural producers for the cre-
3 ation and maintenance of waterbird and shorebird
4 habitats.

5 (2) LIMITATION ON AMOUNT OF FINANCIAL AS-
6 SISTANCE.—Not more than a total of \$3,500,000 of
7 financial assistance may be provided for each fiscal
8 year under paragraph (1).

9 (3) CONDITIONS.—Financial assistance may be
10 provided under paragraph (1) only if the Secretary
11 determines that the activities receiving the financial
12 assistance would—

13 (A) create new habitat that would not oth-
14 erwise be created; or

15 (B) maintain existing habitat that would
16 not otherwise be maintained.

17 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated to the Secretary to carry
19 out this section \$3,500,000 for each of fiscal years 2027
20 through 2031, to remain available until expended.

21 (c) REPORT.—Not later than October 1, 2027, and
22 every 2 years thereafter, the Secretary shall submit to
23 Congress a report that describes the environmental per-
24 formance of activities that are receiving, or have received,

1 financial assistance under this section during the period
2 covered by the report.

3 **SEC. 4. DROUGHT PLANNING AND FISHERIES.**

4 (a) DROUGHT PLANNING AND PREPAREDNESS FOR
5 CRITICALLY IMPORTANT FISHERIES.—

6 (1) DEFINITIONS.—In this subsection:

7 (A) CRITICALLY IMPORTANT FISHERY.—

8 The term “critically important fishery”
9 means—

10 (i) a fishery located in a Reclamation
11 State that is commercially, culturally, or
12 recreationally important;

13 (ii) a fishery located in a Reclamation
14 State that contains fish species that are
15 listed as threatened or endangered pursu-
16 ant to the Endangered Species Act of 1973
17 (16 U.S.C. 1531 et seq.); and

18 (iii) a fishery located in a Reclamation
19 State that is used by 1 or more Indian
20 Tribes in the Reclamation State for cere-
21 monial subsistence or commercial purposes.

22 (B) INDIAN TRIBE.—The term “Indian
23 Tribe” has the meaning given the term in sec-
24 tion 4 of the Indian Self-Determination and
25 Education Assistance Act (25 U.S.C. 5304).

1 (C) QUALIFIED TRIBAL GOVERNMENT.—

2 The term “qualified Tribal government” means
3 any government of an Indian Tribe that the
4 Secretary determines—

5 (i) is involved in fishery management
6 and recovery activities, including activities
7 under the Endangered Species Act of 1973
8 (16 U.S.C. 1531 et seq.); and

9 (ii) has the management and organi-
10 zational capability to maximize the benefits
11 of assistance provided under paragraph
12 (3).

13 (D) RECLAMATION STATE.—The term
14 “Reclamation State” has the meaning given the
15 term in section 4014 of the Water Infrastruc-
16 ture Improvements for the Nation Act (43
17 U.S.C. 390b note; Public Law 114–322).

18 (E) SECRETARY.—The term “Secretary”
19 means the Secretary of the Interior, acting
20 through the Director of the United States Fish
21 and Wildlife Service.

22 (2) DROUGHT PLAN FOR CRITICALLY IMPOR-
23 TANT FISHERIES.—

24 (A) IN GENERAL.—Not later than January
25 1, 2027, and every 3 years thereafter, the Sec-

1 (iv) coordination with water users, the
2 Commissioner of Reclamation, State fish
3 and wildlife agencies, qualified Tribal gov-
4 ernments, and interested public water
5 agencies regarding voluntary water trans-
6 fers, including through groundwater substi-
7 tution activities, to determine if water re-
8 leases can be collaboratively managed in a
9 way that provides additional benefits for
10 critically important fisheries without nega-
11 tively impacting wildlife habitat;

12 (v) hatchery management modifica-
13 tions, such as expanding hatchery produc-
14 tion of fish during periods of extended
15 drought, if appropriate for a particular
16 river basin;

17 (vi) hatchery retrofit projects, such as
18 the installation and operation of filtration
19 equipment and chillers, to reduce disease
20 outbreak, egg mortality, and other impacts
21 of droughts in high water temperatures;

22 (vii) increasing rescue operations of
23 upstream migrating fish;

24 (viii) improving temperature modeling
25 and related forecasted information to pre-

1 dict water management impacts to the
2 habitat of critically important fisheries
3 with a higher degree of accuracy than cur-
4 rent models;

5 (ix) programs to reduce predation
6 losses at artificially created predation hot
7 spots;

8 (x) habitat restoration efforts de-
9 signed to provide drought refugia and in-
10 creased fisheries resilience during
11 droughts; and

12 (xi) retrofitting existing water facili-
13 ties to provide improved temperature con-
14 ditions for fish.

15 (3) PUBLIC COMMENT.—Before finalizing a
16 plan under paragraph (2), the Secretary shall pro-
17 vide for a public comment period of not less than 90
18 days.

19 (4) AUTHORIZATION OF APPROPRIATIONS.—
20 There is authorized to be appropriated to the Sec-
21 retary to carry out fish, stream, and hatchery activi-
22 ties relating to fish recovery efforts, including activi-
23 ties carried out in coordination with the Director of
24 the National Marine Fisheries Service, the Commis-
25 sioner of Reclamation, the Chief of Engineers, appli-

1 cable State fish and wildlife agencies, or a qualified
2 Tribal government, \$25,000,000 for fiscal year
3 2027.

4 (5) EFFECT.—Nothing in this subsection af-
5 fects any obligation under any Federal environ-
6 mental law.

7 (b) SUSTAINING BIODIVERSITY DURING
8 DROUGHTS.—Section 9503(b) of the Omnibus Public
9 Land Management Act of 2009 (42 U.S.C. 10363(b)) is
10 amended—

11 (1) in paragraph (3)(D), by inserting “and na-
12 tive biodiversity” after “wildlife habitat”; and

13 (2) in paragraph (4)(B), by inserting “and
14 drought biodiversity plans to address sustaining na-
15 tive biodiversity during periods of drought” after
16 “restoration plans”.

17 (c) REAUTHORIZATION OF FISHERIES RESTORATION
18 AND IRRIGATION MITIGATION ACT OF 2000.—

19 (1) DEFINITION OF PACIFIC OCEAN DRAINAGE
20 AREA.—Section 2(1) of the Fisheries Restoration
21 and Irrigation Mitigation Act of 2000 (16 U.S.C.
22 777 note; Public Law 106–502) is amended by in-
23 serting “or a terminal lake” before the period at the
24 end.

1 (2) AUTHORIZATION OF APPROPRIATIONS.—

2 Section 10(a) of the Fisheries Restoration and Irri-
3 gation Mitigation Act of 2000 (16 U.S.C. 777 note;
4 Public Law 106–502) is amended by striking “\$15
5 million through 2021” and inserting “\$25,000,000
6 for each of fiscal years 2027 through 2031”.

7 **SEC. 5. CATEGORICAL EXCLUSION FOR AQUATIC RESTORA-**
8 **TION.**

9 (a) DEFINITIONS.—In this section:

10 (1) AQUATIC RESTORATION.—The term “aquat-
11 ic restoration” means—

12 (A) restoring wetlands, streams, riparian
13 areas, or other water bodies by removing, re-
14 placing, or modifying water control structures,
15 such as dams, levees, dikes, ditches, culverts,
16 pipes, drainage tiles, valves, gates, and fencing,
17 to allow waters to flow into natural channels
18 and floodplains and restore natural flow re-
19 gimes, to the extent practicable, where valid ex-
20 isting rights or special use authorizations are
21 not unilaterally altered or canceled, including—

22 (i) repairing an existing water control
23 structure that is no longer functioning
24 properly with minimal dredging, exca-

1 vation, or placement of fill and without re-
2 leasing hazardous substances;

3 (ii) installing a newly designed struc-
4 ture that replaces an existing culvert to
5 improve aquatic organism passage and pre-
6 vent resource and property damage where
7 the road or trail maintenance level does
8 not change;

9 (iii) removing a culvert and installing
10 a bridge to improve aquatic or terrestrial
11 organism passage or prevent resource or
12 property damage where the road or trail
13 maintenance level does not change;

14 (iv) removing a human-built small
15 earthen dam, rock-fill dam, or low-head
16 dam (as defined in section 6(g) of the Na-
17 tional Dam Program Safety Act (33
18 U.S.C. 467d(g))) with a low hazard poten-
19 tial classification that is no longer needed;

20 (v) the construction of small water
21 control structures;

22 (vi) the removal of vegetation, trees,
23 or invasive species for aquatic habitat im-
24 provement purposes, if—

1 (I) no or negligible environmental
2 disturbances are anticipated; and

3 (II) the project has a footprint of
4 not more than 30 acres;

5 (vii) the planting of seeds or seedlings
6 and other minor revegetation actions; and

7 (viii) the construction of small berms
8 or dikes;

9 (B) the development of limited access for
10 routine maintenance and management purposes
11 requiring not more than 1 mile of temporary
12 road construction;

13 (C) the construction of new, or the addi-
14 tion of, small structures or improvements, in-
15 cluding structures and improvements for the
16 restoration of wetland, riparian, instream, or
17 native habitats, which result in no or only
18 minor changes in the use of the affected local
19 area; and

20 (D) modifications to, maintenance of, or
21 new construction and placement of, stream or
22 lake aquatic habitat improvement structures
23 using native materials or normal practices, in-
24 cluding—

- 1 (i) reconstructing a gabion with stone
2 from a nearby source;
- 3 (ii)(I) construction of aquatic habitat
4 improvement structures made from a com-
5 bination of woody, earthen, stone, or gravel
6 materials; and
- 7 (II) placement of the structures re-
8 ferred to in subclause (I) within an incised
9 stream channel to restore natural water-
10 shed processes and habitat;
- 11 (iii) adding brush to lake fish beds;
12 and
- 13 (iv) cleaning and resurfacing a fish
14 ladder at a hydroelectric dam.

15 (2) CATEGORICAL EXCLUSION.—The term “cat-
16 egorical exclusion” has the meaning given the term
17 in section 111 of the National Environmental Policy
18 Act of 1969 (42 U.S.C. 4336e).

19 (3) SECRETARY.—The term “Secretary” means
20 the Secretary of the Interior, acting through the
21 Commissioner of Reclamation.

22 (b) CATEGORICAL EXCLUSION.—

23 (1) IN GENERAL.—Not later than 1 year after
24 the date of enactment of this Act, the Secretary

1 shall develop a categorical exclusion for aquatic res-
2 toration.

3 (2) ADMINISTRATION.—In developing and ad-
4 ministering the categorical exclusion under para-
5 graph (1), the Secretary shall—

6 (A) comply with the National Environ-
7 mental Policy Act of 1969 (42 U.S.C. 4321 et
8 seq.); and

9 (B) apply any extraordinary circumstance
10 under section 46.215 of title 43, Code of Fed-
11 eral Regulations (or a successor regulation), in
12 determining whether to use the categorical ex-
13 clusion.

14 **SEC. 6. REAUTHORIZATION OF DESCHUTES RIVER CONSER-**
15 **VANCY WORKING GROUP.**

16 (a) DEFINITION OF WORKING GROUP.—Section
17 301(a) of the Oregon Resource Conservation Act of 1996
18 (Public Law 104–208; 110 Stat. 3009–534; 122 Stat.
19 836) is amended by striking paragraph (1) and inserting
20 the following:

21 “(1) WORKING GROUP.—The term ‘Working
22 Group’ means the Deschutes River Conservancy
23 Working Group composed of a board of directors of
24 not fewer than 10, but not more than 15, members

1 nominated by the group represented by the member,
2 of whom—

3 “(A) 2 members shall be representatives of
4 the environmental community in the Deschutes
5 River Basin;

6 “(B) 2 members shall be representatives of
7 the irrigated agriculture community in the
8 Deschutes River Basin;

9 “(C) 2 members shall be representatives of
10 the Confederated Tribes of the Warm Springs
11 Reservation of Oregon;

12 “(D) 1 member shall be a representative of
13 the hydroelectric production community in the
14 Deschutes River Basin;

15 “(E) 1 member shall be a representative of
16 1 of the Federal agencies with authority and re-
17 sponsibility in the Deschutes River Basin;

18 “(F) 1 member shall be a representative of
19 an agency of the State of Oregon with authority
20 and responsibility in the Deschutes River Basin,
21 such as—

22 “(i) the Oregon Department of Fish
23 and Wildlife; or

24 “(ii) the Oregon Water Resources De-
25 partment; and

1 “(G) 1 member shall be a representative of
2 a unit of local government in the Deschutes
3 River Basin.”.

4 (b) REAUTHORIZATION; ADMINISTRATIVE COSTS.—
5 Section 301 of the Oregon Resource Conservation Act of
6 1996 (Public Law 104–208; 110 Stat. 3009–534; 122
7 Stat. 836) is amended—

8 (1) in subsection (b)—

9 (A) in paragraph (3), by striking “2016”
10 and inserting “2032”; and

11 (B) in paragraph (6), by striking “5 per-
12 cent” and inserting “10 percent”; and

13 (2) in subsection (h), by striking “2016” and
14 inserting “2032”.