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DESCHUTES RIVER CONSERVANCY REAUTHORIZATION ACT OF 2007

FEBRUARY 16, 2007.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 263]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 263) to amend the Oregon Resource Conservation Act of 1996 to reauthorize the participation of the Bureau of Reclamation in the Deschutes River Conservancy, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 263 is to reauthorize the participation of the Bureau of Reclamation in the Deschutes River Conservancy through fiscal year 2016. It also updates references to the Deschutes River Conservancy Working Group, redefines a quorum, and authorizes appropriations.

BACKGROUND AND NEED

The Deschutes River Conservancy, previously referred to as the Deschutes Resources Conservancy, was originally authorized in 1996 as a 5-year pilot project (Public Law 104–208). It was reauthorized by Congress in 2000 (Public Law 106–270). The Deschutes drains Oregon's high desert along the eastern front of the Cascade Mountains and eventually flows into the Columbia River. The Deschutes River Conservancy was created to bring together diverse interests within the Basin, including irrigators, tribes, ranchers, environmentalists, businesses, local officials, and State and Federal agencies, in order to resolve potential conflicts and avoid crises

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over water allocation like that which occurred in the Klamath Basin in 2001.

The Conservancy has worked to develop project criteria and identify potential projects for the benefit of water quality, water quantity, fish passage, and habitat improvement. Projects are selected by consensus and there is a 50–50 cost share component. The Conservancy has employed such mechanisms as voluntary, market-based programs to restore streamflows in the Deschutes Basin. It has worked to improve habitat and water quality in the Deschutes River. It has also planted more than 100,000 trees and installed 40 miles of riparian fencing.

The existing authorization provides up to $2 million for each of fiscal years 2002 through 2006. Funding is provided through the Bureau of Reclamation, the lead Federal agency. Reclamation's continued participation requires reauthorization.

LEGISLATIVE HISTORY

S. 263 was introduced by Senators Smith for himself and Senator Wyden on January 11, 2007, and referred to the Committee on Energy and Natural Resources. At its business meeting on January 31, 2007, the Committee ordered S. 263 favorably reported.

During the 109th Congress, the Committee considered similar legislation, S. 166, introduced by Senator Smith on January 25, 2005. Senator Wyden was a co-sponsor. The Subcommittee on Water and Power held a hearing on S. 166 on April 19, 2005. S. Hrg. 109–96. At the business meeting on September 28, 2005, the Committee ordered S. 166 favorably reported. S. Rept. 109–164. S. 166 passed the Senate, by unanimous consent, on November 16, 2005. No further action occurred on S. 166 prior to the *sine die* adjournment of the 109th Congress. A companion measure, Section 2 of H.R. 5079, was considered by the House of Representatives under suspension of the rules and passed by a voice vote on September 25, 2006.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on January 31, 2007, by a voice vote of a quorum present, recommends that the Senate pass S. 263.

SECTION-BY-SECTION ANALYSIS

Section 1 sets forth the short title.

Section 2 amends section 301 of the Oregon Resource Conservation Act: to replace references to the "Deschutes River Basin Working Group" with the "Deschutes River Conservancy Working Group"; redefine a quorum to mean eight of the qualified Working Group members appointed and eligible to serve; extend the participation of the Bureau of Reclamation in the Deschutes River Conservancy through fiscal year 2016; and authorize $2 million in appropriations for each of fiscal years 2006 through 2016.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 263—Deschutes River Conservancy Reauthorization Act of 2007

Summary: S. 263 would authorize the appropriation of $2 million a year over the 2007–2016 period for ecosystem restoration projects in the Deschutes River basin in Oregon. Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 263 would cost $7 million over the 2008–2012 period, with the remaining funds to be spent after 2012. Enacting the legislation would not affect direct spending or revenues.

S. 263 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would benefit local and tribal governments participating in the Deschutes River Conservancy by authorizing funds for restoration projects. Any costs to governmental entities, including matching funds, would result from complying with conditions for receiving federal assistance.

Estimated cost to the Federal Government: For this estimate, CBO assumes that this bill will be enacted toward the end of 2007 and the amounts specified in S. 263 will be appropriated for each year. In addition, we assume that outlays will follow the historical spending pattern for similar activities. The estimated budgetary impact of S. 263 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES TO SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	2	2	2	2	2
Estimated Outlays	*	1	2	2	2

Note: * = Less than $500,000.

Intergovernmental and private-sector impact: S. 263 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would benefit local and tribal governments participating in the Deschutes River Conservancy by authorizing funds for restoration projects. Any costs to governmental entities, including matching funds, would result from complying with conditions for receiving federal assistance.

Estimate prepared by: Federal Costs: Julie Middleton. Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum. Impact on the Private Sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 263. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 263.

EXECUTIVE COMMUNICATIONS

Because S. 263 is identical to legislation considered in the 109th Congress, the Committee did not request Executive Agency views. The testimony provided by the Bureau of Reclamation at the Subcommittee hearing on S. 166 in the 109th Congress follows:

STATEMENT OF WILLIAM RINNE, DEPUTY COMMISSIONER OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Madam Chairman and Members of the Subcommittee, I am William Rinne, Deputy Commissioner of Reclamation. Thank you for the opportunity to testify on S. 166.

This legislation would amend the Oregon Resource Conservation Act of 1996 to reauthorize the participation of the Bureau of Reclamation in the Deschutes River Conservancy (DRC). The Bureau does not oppose S. 166. However, in these lean budget times the Bureau must focus its scarce resources on its core mission of delivering water and generating power, and on aging infrastructure and O&M for existing Reclamation projects, therefore is not likely that the Conservancy will be a high priority for funding. Regardless of the level of federal financial support, we believe the Conservancy's goals of improving stream flow and water quality will certainly benefit the basin.

The DRC was originally authorized by Congress in 1996 to implement water conservation measures in the Deschutes River basin. The DRC is a locally created private, nonprofit organization established to restore stream flow and water quality in the Deschutes Basin of Central Oregon. The DRC was founded by local irrigation districts, the Confederated Tribes of the Warm Springs Reservation, environmental conservation groups, and other local stakeholders, in an effort to focus on practical, incentive-based solutions to the basin's water management challenges. The DRC leased over 73 cubic feet per second of water in the basin's streams and rivers during the 2004 irrigation season and has restored nearly 100 miles of stream corridor using livestock management techniques, restored channel floodplain connectivity, and planted over 100,000 native plants in the riparian zone.

The DRC has permanently acquired about 7,259 acre-feet of senior water rights in the Deschute basin that will remain instream during critical low flow periods, benefiting fish species such as ESA listed bull trout and summer steelhead.

The Administration does not understand the rationale for the provision that would define a quorum as only 8 people, less than half of the 19 people appointed to the Conservancy.

This concludes my statement. I will be glad to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S.

263, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

OREGON RESOURCE CONSERVATION ACT OF 1996

(P.L. 104–208, as amended by P.L. 106–270)

AN ACT Making omnibus consolidated appropriations for the fiscal year ending September 30, 1997

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TITLE III—DESCHUTES BASIN

SEC. 301. DESCHUTES BASIN ECOSYSTEM RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) WORKING GROUP.—The term "Working Group" means the [Deschutes River Basin Working Group] *Deschutes River Conservancy Working Group* established before the date of enactment of this title, consisting of members nominated by their represented groups, including:

* * * * * * *

[(5) QUORUM.—The term "quorum" means one more than half of those qualified Working Group members appointed and eligible to serve.] *(5)* QUORUM.—*The term "quorum" means 8 of those qualified Working Group members appointed and eligible to serve.*

* * * * * * *

(b) * * *

(3) The Bureau of Reclamation shall pay from funds authorized under subsection (h) of this title up to 50 percent of the cost of performing any project proposed by the Working Group and approved by the Secretary, up to a total amount of $2,000,000 during each of the fiscal years 2002 through 2006, *and up to a total amount of $2,000,000 during each of fiscal years 2007 through 2016*.

* * * * * * *

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $2,000,000 for each of fiscal years 2002 through 2006, *and $2,000,000 for each of fiscal years 2007 through 2016*.

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