

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.

S. 482

To amend the Klamath Basin Water Supply Enhancement Act of 2000 to provide the Secretary of the Interior with certain authorities with respect to projects affecting the Klamath Basin watershed, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Klamath Power and
5 Facilities Agreement Support Act”.

6 **SEC. 2. KLAMATH PROJECT WATER AND POWER.**

7 (a) ADDRESSING WATER, POWER, AND FACILITIES
8 MANAGEMENT FOR IRRIGATION.—Section 4 of the Klam-
9 ath Basin Water Supply Enhancement Act of 2000 (Pub-
10 lic Law 106–498; 114 Stat. 2221; 132 Stat. 3886) is
11 amended—

1 (1) in subsection (a)—

2 (A) by redesignating paragraphs (1), (2),
3 and (3) as paragraphs (3), (4), and (6), respec-
4 tively;

5 (B) by inserting before paragraph (3) (as
6 so redesignated) the following:

7 “(1) AGREEMENT.—The term ‘Agreement’
8 means the agreement entitled ‘2016 Klamath Power
9 and Facilities Agreement’ and dated April 6, 2016.

10 “(2) COVERED CONTRACTOR.—The term ‘cov-
11 ered contractor’ means—

12 “(A) each Klamath Project Water User;
13 and

14 “(B) each landowner who is a Klamath
15 Project contractor and receives water through
16 transferred works of the Klamath Project that
17 are operated by a Klamath Project Water
18 User.”; and

19 (C) by inserting after paragraph (4) (as so
20 redesignated) the following:

21 “(5) KLAMATH PROJECT WATER USER.—The
22 term ‘Klamath Project Water User’ means a Klam-
23 ath Project contractor who is a party to the Agree-
24 ment.”; and

25 (2) by adding at the end the following:

1 “(d) RESTORATION ACTIVITIES.—

2 “(1) IN GENERAL.—The Secretary may—

3 “(A) plan, design, construct, operate, and
4 maintain projects in the Klamath Basin water-
5 shed, including—

6 “(i) facilities to reduce fish entrain-
7 ment;

8 “(ii) projects that reduce or avoid im-
9 pacts on aquatic resources of facilities in-
10 volved in the storage or diversion of water
11 for irrigation in the Klamath Project serv-
12 ice area; and

13 “(iii) projects that restore habitats in
14 the Klamath Basin watershed, including
15 Tribal fishery resources held in trust;

16 “(B) undertake studies, including feasi-
17 bility studies, and improvements that the Sec-
18 retary determines to be necessary to implement
19 this subsection;

20 “(C) in implementing this subsection, enter
21 into contracts, memoranda of understanding, fi-
22 nancial assistance agreements, cost-sharing
23 agreements, or other appropriate agreements
24 with—

1 “(i) State, Tribal, and local govern-
2 mental agencies; and

3 “(ii) private parties; and

4 “(D) accept and expend non-Federal funds
5 in order to facilitate implementation of this
6 subsection.

7 “(2) COSTS.—A covered contractor shall not
8 bear any costs associated with any evaluation, de-
9 sign, construction, replacement, addition, or extraor-
10 dinary maintenance activities carried out under
11 paragraph (1).

12 “(e) PUMPING PLANT D.—The Secretary may enter
13 into 1 or more agreements with the Tulelake Irrigation
14 District to reimburse the Tulelake Irrigation District for
15 not more than 69 percent of the cost incurred by the
16 Tulelake Irrigation District for the operation and mainte-
17 nance of Pumping Plant D, subject to the condition that
18 the cost results in public benefits to the United States.

19 “(f) LINK RIVER DAM AND KENO FACILITY.—

20 “(1) LINK RIVER DAM.—

21 “(A) OPERATION.—Subject to applicable
22 law, the Secretary shall operate Link River
23 Dam to provide water for—

24 “(i) diversion for the Klamath
25 Project; and

1 “(ii) consistent with existing contracts
2 between covered contractors and the Sec-
3 retary, flood control.

4 “(B) RESPONSIBILITY FOR COSTS.—

5 “(i) IN GENERAL.—Notwithstanding
6 any existing contracts and except as pro-
7 vided in clause (ii), covered contractors
8 shall not be responsible for any cost associ-
9 ated with Link River Dam or any related
10 land, facilities, dikes, or levees around
11 Upper Klamath Lake, including costs of
12 construction, extraordinary operation and
13 maintenance, rehabilitation, betterment,
14 and liabilities.

15 “(ii) ROUTINE OPERATIONS AND
16 MAINTENANCE WORK.—

17 “(I) IN GENERAL.—Covered con-
18 tractors shall be responsible for the
19 appropriate share of routine oper-
20 ations and maintenance work associ-
21 ated with Link River Dam in accord-
22 ance with the reclamation laws.

23 “(II) ALLOCATION TO FISH AND
24 WILDLIFE BENEFITS.—The Secretary
25 may allocate a proportionate share of

1 the costs under subclause (I) to fish
2 and wildlife benefits.

3 “(2) KENO FACILITY.—

4 “(A) IN GENERAL.—The Secretary shall
5 operate the Keno Facility to maintain water
6 levels upstream of Keno Dam to provide for di-
7 version, canal maintenance, and flood control—

8 “(i) consistent with—

9 “(I) the contract between the
10 Secretary and PacifiCorp numbered
11 14-06-200-3579A and executed Jan-
12 uary 4, 1968; and

13 “(II) historic practice; and

14 “(ii) subject to applicable law.

15 “(B) COSTS.—A covered contractor shall
16 not be responsible for any cost associated with
17 the Keno Facility, including any responsibilities
18 to landowners upstream of Keno Dam, includ-
19 ing costs of construction, operations, mainte-
20 nance, rehabilitation, betterment, liabilities, and
21 any other costs.

22 “(3) SUBSEQUENT TRANSFER OR ASSIGNMENT
23 OF RESPONSIBILITY.—If the Secretary subsequently
24 transfers or assigns responsibility for the operation
25 of Link River Dam or the Keno Dam or Keno Facil-

1 ity to any other person or entity, the assignment or
2 transfer shall include assignment of the obligations
3 and conditions under paragraphs (1) and (2).”.

4 (b) ADMINISTRATION; EFFECT.—

5 (1) COMPLIANCE.—In implementing the amend-
6 ments made by this section, the Secretary of the In-
7 terior shall comply with—

8 (A) the National Environmental Policy Act
9 of 1969 (42 U.S.C. 4321 et seq.);

10 (B) the Endangered Species Act of 1973
11 (16 U.S.C. 1531 et seq.); and

12 (C) all other applicable laws.

13 (2) EFFECT.—None of the amendments made
14 by this section—

15 (A) modify any authority or obligation of
16 the United States with respect to any Tribal
17 trust or treaty obligation of the United States;

18 (B)(i) create or determine any water right;

19 or

20 (ii) affect any water right or water right
21 claim in existence on the date of enactment of
22 this Act; or

23 (C) authorize the use of Federal funds for
24 the physical deconstruction of the Iron Gate,
25 Copco 1, Copco 2, or John C. Boyle Dam lo-

1 cated on the Klamath River in the States of
2 California and Oregon.