

Subcommittee on Water, Power and Oceans

John Fleming, Chairman

Hearing Memorandum

April 18, 2016

To: All Subcommittee on Water, Power and Oceans Members

From: Majority Committee Staff
Subcommittee on Water, Power and Oceans (x58331)

Hearing: Legislative Hearing on H.R. 2993 (Rep. Doris Matsui, D-CA), To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize funding for water recycling projects in areas experiencing severe, extreme, or exceptional drought, and for other purposes.
April 20, 2016 at 10:00 a.m. in 1324 Longworth

H.R. 2993 (Rep. Doris Matsui), “*Water Recycling Acceleration Act of 2015*”

Bill Summary:

H.R. 2993 amends the Reclamation Wastewater and Groundwater Study and Facilities Act (Title XVI of P.L. 102-575), to authorize the Secretary of the Interior to fund water recycling projects that meet certain criteria. The bill changes the traditional congressional authorization of such specific projects by allowing the Interior Secretary to fund new non-authorized projects at his/her discretion as long as they adhere to the criteria in the bill.

This one panel hearing will also include consideration of two other bills.

Cosponsors:

None.

Invited Witnesses: (listed in alphabetical order)

Mr. Jim Herberg
General Manager
Orange County Sanitation District
Fountain Valley, California

Mr. Tom Iseman
Deputy Assistant Secretary for Water and Science
U.S. Department of the Interior
Washington, D.C.

Background:

The Reclamation Wastewater and Groundwater Study and Facilities Act of 1992 (Title XVI of P.L. 102-575, as amended) authorized the Bureau of Reclamation's (Reclamation) water reclamation and reuse program.¹ The original act authorized Reclamation to participate in the construction of five recycling projects, but has since been amended multiple times to expand the total number of specific project authorizations to over 50.² In 2010, the federal backlog of authorized Title XVI projects was estimated to be \$630 million.³ Since 1992, approximately \$639 million in federal cost-share has been dedicated to Title XVI projects, and an estimated 378,000 acre-feet of water was recycled through these projects in 2014.⁴

Through the Title XVI program, Reclamation is authorized to study and fund opportunities to reclaim and reuse wastewater and naturally impaired ground and surface water in seventeen western states and Hawaii.⁵ Specifically, Title XVI authorizes the Secretary to 1) investigate and identify opportunities for reclamation and reuse of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface water; 2) design and construct demonstration and permanent facilities to reclaim and reuse wastewater; and 3) conduct research, including desalting, for the reclamation of wastewater and naturally impaired ground and surface waters.⁶ Under the law, the federal cost share for funding is capped at 25% of the total project cost. This federal funding is non-reimbursable and may only be used for projects that have been specifically authorized by Congress.⁷ H.R. 2993 eliminates the need for congressional authorization for each project, allowing Secretarial discretion to fund new projects if they meet certain criteria.

Major Provisions/Analysis of H.R. 2993:

Section two amends the Reclamation Wastewater and Ground Water Study and Facilities Act to fund certain Title XVI wastewater projects that would otherwise need Congressional authorization. Projects that reclaim and reuse municipal, industrial, domestic, or agricultural wastewater; or naturally impaired ground and surface waters would qualify for such funding.

The bill requires the Interior Secretary to prioritize such projects that are located in areas that have been identified as experiencing severe, extreme or exceptional drought (according to the U.S. Drought Monitor) or were designated as disaster areas between January 1, 2014 and December 31, 2018. Further criteria for these prioritized projects include those: 1) providing for

¹ P.L. 102-575, Title XVI. Web: <http://www.usbr.gov/lc/socal/PL102-575titlexvi.pdf>

² <https://www.fas.org/sgp/crs/misc/RL30478.pdf>, at p. 9.

³ <http://www.crs.gov/reports/pdf/R41487>

⁴ *Id.*

⁵ *Id.*

⁶ P.L. 102-575, Title XVI, Section 1602(a). Web: <http://www.usbr.gov/lc/socal/PL102-575titlexvi.pdf>

⁷ <https://www.watereuse.org/wp-content/uploads/2015/09/Presentation-Reclamation-Managing-Water-in-the-West-July-2014.pdf>, at p. 5.

a more reliable water supply; 2) protecting restoring and enhancing river or estuarine ecosystems or their immediate tributaries; 3) that are likely to improve water resource flexibility and reduce impacts on environmental resources; 4) that are regional in nature; 5) that have multiple stakeholders; 6) that provide multiple benefits, including water supply reliability, ecosystem benefits, ground water management and enhancements, and water quality improvements; and 7) that have a feasibility study that has been completed and any necessary environmental or public reviews have been initiated.

The Secretary is required to issue water recycling project solicitation and evaluation guidelines and required to solicit water recycling project proposals no later than 90 days and 180 days, respectively. The authority under this bill terminates ten years after enactment.

Cost:

The Congressional Budget Office has not completed a cost estimate of this bill.

Administration Position:

Unknown.

Effect on Current Law (Ramseyer):

Showing Current Law as Amended by H.R. 2993
[new text highlighted in yellow]

Reclamation Wastewater and Groundwater Study and Facilities Act
[Section 1602 of Public Law 102-575 (43 U.S.C. 390h)]

SEC. 1602. GENERAL AUTHORITY.

- (a) The Secretary of the Interior (hereafter 'Secretary'), acting pursuant to the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and Acts amendatory thereof and supplementary thereto (hereafter 'Federal reclamation laws'), is directed to undertake a program to investigate and identify opportunities for reclamation and reuse of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters, for the design and construction of demonstration and permanent facilities to reclaim and reuse wastewater, and to conduct research, including desalting, for the reclamation of wastewater and naturally impaired ground and surface waters.
- (b) Such program shall be limited to the States and areas referred to in section 1 of the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) as amended.
- (c) The Secretary is authorized to enter into such agreements and promulgate such regulations as may be necessary to carry out the purposes and provisions of this title.

(d) The Secretary shall not investigate, promote or implement, pursuant to this title, any project intended to reclaim and reuse agricultural wastewater generated in the service area of the San Luis Unit of the Central Valley Project, California, except those measures recommended for action by the San Joaquin Valley Drainage Program in the report entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

(e) Funding for Water Recycling Projects-

(1) IN GENERAL- Any project for which funding may otherwise be made available under this title shall not be required to have been previously specifically authorized by law for such funding, if that project reclaims and reuses--

(A) municipal, industrial, domestic, or agricultural wastewater; or

(B) naturally impaired ground and surface waters.

(2) PRIORITY- When funding projects under paragraph (1), the Secretary shall give funding priority to projects that meet all of the criteria listed in paragraph (3) and are located in an area that--

(A) has been identified by the United States Drought Monitor as experiencing severe, extreme, or exceptional drought at any time during the 4-year period before such funds are made available; or

(B) was designated as a disaster area by the State between January 1, 2014, and December 31, 2018.

(3) CRITERIA- The project criteria referred to in paragraph (2) are the following:

(A) Projects that are likely to--

(i) provide for a more reliable water supply; and

(ii) protect, restore, and enhance river or estuarine ecosystems or their immediate tributaries.

(B) Projects that are likely to improve water resource flexibility and reduce impacts on environmental resources.

(C) Projects that are regional in nature.

(D) Projects that have multiple stakeholders.

(E) Projects that provide multiple benefits, including water supply reliability, ecosystem benefits, ground water management and enhancements, and water quality improvements.

(F) Projects for which a feasibility study has been completed and any necessary environmental or public reviews have been initiated.

(4) GUIDELINES- Not later than 90 days after date of the enactment of this subsection, to assist non-Federal interests, the Secretary shall issue water recycling project solicitation and evaluation guidelines that include the criteria listed in paragraph (3).

(5) PROJECT SOLICITATION- Not later than 180 days after the date of the enactment of this subsection, the Secretary shall solicit water recycling project proposals.

(6) REVIEW BY COMMISSIONER- The Secretary shall review each proposed water recycling project received under this subsection for the purpose of determining whether or not the proposal, and the process under which the proposal was developed, comply with Federal laws and regulations applicable to the development of water recycling projects.

(7) SUNSET- The authority of the Secretary under this subsection shall terminate 10 years after the date of the enactment of this subsection.

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SEC. 1615. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes and provisions of sections 1601 through 1614 of this title.