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SENATE

{ REPORT  
107-288

### RECLAMATION WASTEWATER AND GROUNDWATER STUDY AND FACILITIES ACT

SEPTEMBER 17, 2002.—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 H.R. 2115]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 2115) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, and construction of a project to reclaim and reuse wastewater within and outside of the service area of the Lakehaven Utility District, Washington, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

#### PURPOSE OF THE MEASURE

The purpose of H.R. 2115 is to authorize the Secretary of the interior to participate in a project to reclaim and reuse wastewater within and outside the service area of the Lakehaven Utility District, Washington pursuant to the Reclamation Wastewater and Groundwater Study and Facilities Act.

#### BACKGROUND AND NEED

Title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 (P.L. 102-575, 106 Stat. 4006) authorized a program of wastewater reclamation and reuse feasibility and demonstration projects within the Reclamation States. The Federal share of costs was limited to 50 percent. Partially in response to the number of requests for participation in the program and the costs, P.L. 104-266 modified the program to limit the Federal share to 25 percent of the total cost, with an overall cap of \$20 million, and required a feasibility analysis prior to the expenditure of

any funds for construction. The new requirements were not made applicable to several very large projects, mainly in California, authorized under title XVI. The 1996 Act also included authorization for 18 additional water reclamation and reuse projects in California, Utah, New Mexico, Nevada, and Texas. Title XVI was again amended in October 1998 by P.L. 105–321 to include authorization for the Willow Lake Natural Treatment System Project in Oregon.

The use of reclaimed water in the arid West is significant, especially in areas experiencing groundwater overdraft or facing reduced freshwater supplies. While municipal uses are the primary benefits of the program, there can be significant indirect benefits for other consumptive uses, such as agriculture, and non-consumptive uses, such as augmenting in-stream flows or reducing depletions.

The Lakehaven Utility District is one of Washington’s largest water and sewer utilities providing 10.5 million gallons of water a day to over 100,000 residents and numerous corporate facilities in south King County and parts of Pierce County. The demand for water from these sources has increased to a point that the district may soon exceed safe water production limits and has resulted in reduction of water levels in all local aquifers.

The District has prepared a plan to construct additional treatment systems at the two wastewater treatment plants in the district, to improve pipeline distribution systems for transporting water to the reuse areas, and systems to direct water back to the aquifer system. The cost of these facilities is estimated to be \$38 million.

#### LEGISLATIVE HISTORY

H.R. 2115 was introduced by Representative Smith on June 7, 2001, and passed the House of Representatives by voice vote on December 5, 2001. A related measure, S. 1385, was introduced by Senator Cantwell on August 3, 2001. A similar measure, S. 2301, was favorably reported by the Committee during the 106th Congress and passed the Senate on October 13, 2000. The Subcommittee on Water and Power held a hearing on H.R. 2115 and S. 1385 on June 6, 2002. At the business meeting on July 31, 2002, the Committee on Energy and Natural Resources ordered H.R. 2115, favorably reported.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 31, 2002, by a voice vote of a quorum present, recommends that the Senate pass H.R. 2115, as described herein.

#### SECTION-BY-SECTION ANALYSIS

Section 1 amends the Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) by adding a new section 1635 as follows:

Subsection (a) authorizes the Secretary of the Interior to work with the Lakehaven Utility District to plan, design, acquire land for, and construct a project to reclaim and reuse wastewater within and outside of the Lakehaven Utility District.

Subsection (b) limits the Federal cost-share to an amount not to exceed 25 percent.

Subsection (c) prohibits the Secretary from using any funds for the operation and maintenance of the project being authorized.

Section 2 provides for a clerical amendment to the Reclamation Wastewater and Groundwater Study and Facilities Act.

#### COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 6, 2002.*

Hon. JEFF BINGAMAN,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2115, an act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within and outside of the service area of the Lakehaven Utility District, Washington.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Julie Middleton.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 2115—An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within and outside of the service area of the Lakehaven Utility District, Washington*

Summary: H.R. 2115 would authorize the Secretary of the Interior through the Bureau of Reclamation to participate in the design, planning, and construction of a project to reclaim and reuse wastewater in the Lakehaven Utility District. CBO estimates that implementing H.R. 2115 would cost \$88 million over the 2003–2007 period, assuming appropriation of the necessary amounts. H.R. 2115 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

S. 2115 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). State and local governments might incur some costs to match the federal funds authorized by this act, but those costs would be voluntary.

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 2115 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—				
	2003	2004	2005	2006	2007
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level .....	10	0	0	0	0
Estimated outlays .....	1	1	1	2	3

Basis of estimate: For this estimate, CBO assumes H.R. 2115 will be enacted near the start of fiscal year 2003 and that the necessary funds will be appropriated. Based on information from the Bureau of Reclamation, we estimate that the Lakehaven Water Reclamation and Reuse Project would cost \$38 million. H.R. 2115 would amend section 1615 of the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize funding for this project. The act would limit the federal contribution to 25 percent of the project's total cost. CBO estimates that implementing H.R. 2115 would cost the federal government \$8 million over the 2003–2007 period and an additional \$2 million thereafter. The remaining project costs would be paid for with nonfederal funds. Under H.R. 2115, the federal government would not be authorized to fund the operation and maintenance of the project.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 2115 contains no intergovernmental or private-sector mandates as defined in UMR. State and local governments might incur some costs to match the federal funds authorized by this act, but these costs would be voluntary.

Previous CBO estimate: On November 15, 2001, CBO prepared a cost estimate for H.R. 2115 as ordered reported by the House Committee on Resources on October 17, 2001. The two versions of this legislation are identical, and the estimated costs are the same, however, we now expect the legislation to be implemented in 2003.

Estimate prepared by: Federal costs: Julie Middleton; impact on state, local, and tribal governments: Marjorie Miller; impact on the private sector: Lauren Marks.

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 H.R. 2115. 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 H.R. 2115.

#### EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth Executive agency recommendation relating to H.R. 2115 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, DC, August 9, 2002.*

Hon. JEFF BINGAMAN,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: This letter responds to your request for the views of the Department of the Interior on S. 1385 and H.R. 2115, concerning the Lakehaven water reclamation project in the state of Washington. This confirms testimony of Mark Limbaugh, Director of External and Intergovernmental Affairs, Bureau of Reclamation, on June 6. Although there are a few drafting differences between S. 1385 and H.R. 2115, the bills are effectively identical, and therefore, my statement is applicable to both bills. The Department previously submitted its views on H.R. 2115 to the House Resources Committee, by letter of October 22, 2001. The Department opposes both bills.

S. 1385 and H.R. 2115 both authorize the Secretary of the Interior (Secretary) to participate in the design, planning, and construction of, and land acquisition for, the Lakehaven water reclamation project in the state of Washington. H.R. 1385 and H.R. 2115 limit the Federal share of project costs to 25 percent of the total costs and restrict the Secretary from providing funding for the operation and maintenance of this project. While the Department strongly encourages local water recycling efforts, we must oppose authorizing this additional Federal recycling project for the reasons described below.

In 1992, Congress adopted, and the President signed, the Reclamation Projects Authorization and Adjustment Act (Public Law 102-575). Title XVI of this Act, the Reclamation Wastewater and Groundwater Study and Facilities Act, authorized the construction of five water reclamation and reuse projects. Four of these projects are in California and the fifth is in Arizona. The Secretary also was authorized to undertake a program to identify other water recycling opportunities throughout the 17 western United States, and to conduct appraisal level and feasibility level studies to determine if those opportunities are worthy of implementation. In addition, the Secretary was authorized to conduct research and to construct, operate, and maintain demonstration projects. The Bureau of Reclamation has been administering a grant program to fund these Title XVI activities since FY 1994.

In 1996, Public Law 104-266, the Reclamation Recycling and Water Conservation Act, was enacted. This Act amended Title XVI and authorized the Secretary to participate in the planning, design, and construction of 18 additional projects, including two desalination research and development projects. These new projects are distributed within five states, including California, Nevada, Utah, Texas, and New Mexico. Title XVI of P.L. 102-575 was further amended in 1998 by Public Law 105-321, to authorize a project in Salem, Oregon. Finally, Title XVI was amended twice in 2000, first by Public Law 106-544, to authorize a project in Sparks, Nevada, and then by Public Law 106-566, which provided the Secretary with general authority to conduct planning studies in the State of Hawaii. To date, Congress has provided funding to plan or construct 19 of these 25 specifically authorized projects. In addition,

under the general authority of Title XVI, funding has been provided to identify and investigate, at the appraisal or feasibility level, eight potential water recycling projects, and to conduct three research and demonstration projects.

Municipal, industrial, domestic, and agricultural wastewater reuse efforts can assist states and local communities in solving contemporary water supply problems. However, the Department opposes authorizing additional construction projects in the absence of feasibility studies to determine whether these particular projects warrant Federal funding. In general, Reclamation places priority on funding new projects that: (1) are economically justified and environmentally acceptable in a watershed context; (2) are not eligible for funding under another Federal program; and (3) directly address Administration priorities for the Reclamation program, such as reducing the demand on existing Federal water supply facilities.

The Department also opposes enactment of this legislation because authorizing new construction projects is likely to place an additional burden on Reclamation's already tight budget. To date, Reclamation has been unable to provide the full authorized funding amounts for all but four of the water reclamation and reuse projects presently authorized by Title XVI. At current funding levels, it will take Reclamation more than 10 years to complete funding of the 25 currently authorized projects.

Finally, the Department opposes enactment of the provision in S. 1385 and H.R. 2115 authorizing land acquisition prior to completion of a feasibility study. Federal contributions for land acquisition should await the outcome of a feasibility study.

For these reasons, the Department cannot support authorizing this new construction request.

Sincerely,

JOHN W. KEYS III,  
*Commissioner, Bureau of Reclamation.*

#### 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 H.R. 2115, 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):

#### RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

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Sec. 1635. *Lakehaven, Washington, Water Reclamation and Reuse Project.*

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TITLE XVI—RECLAMATION WASTEWATER AND  
GROUNDWATER STUDIES

**SEC. 1601. SHORT TITLE.**

This title may be referred to as the “Reclamation Wastewater and Groundwater Study and Facilities Act”.

\* \* \* \* \*

**SEC. 1635. LAKEHAVEN, WASHINGTON, WATER RECLAMATION AND REUSE PROJECT.**

(a) *AUTHORIZATION.*—The Secretary, in cooperation with the Lakehaven Utility District, Washington, is authorized to participate in the design, planning, and construction of, and land acquisition for, a project to reclaim and reuse wastewater, including degraded groundwaters, within and outside of the service area of the Lakehaven Utility District.

(b) *COST SHARE.*—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

(c) *LIMITATION.*—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

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