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NEW MEXICO WATER PLANNING ASSISTANCE ACT

AUGUST 25, 2004.—Ordered to be printed

Filed, under authority of the order of the Senate of July 22, 2004

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

R E P O R T

[To accompany S. 2460]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2460) to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Mexico Water Planning Assistance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey.

(2) STATE.—The term "State" means the State of New Mexico.

SEC. 3. COMPREHENSIVE WATER PLAN ASSISTANCE.

(a) IN GENERAL.—Upon the request of the Governor of the State and subject to subsections (b) through (f), the Secretary shall—

(1) provide to the State technical assistance and grants for the development of comprehensive State water plans;

(2) conduct water resources mapping in the State; and

(3) conduct a comprehensive study of groundwater resources (including potable, brackish, and saline water resources) in the State to assess the quantity, quality, and interaction of groundwater and surface water resources.

(b) TECHNICAL ASSISTANCE.—Technical assistance provided under subsection (a) may include—

(1) acquisition of hydrologic data, groundwater characterization, database development, and data distribution;

(2) expansion of climate, surface water, and groundwater monitoring networks;

(3) assessment of existing water resources, surface water storage, and groundwater storage potential;

(4) numerical analysis and modeling necessary to provide an integrated understanding of water resources and water management options;

(5) participation in State planning forums and planning groups;

(6) coordination of Federal water management planning efforts;

(7) technical review of data, models, planning scenarios, and water plans developed by the State; and

(8) provision of scientific and technical specialists to support State and local activities.

(c) ALLOCATION.—In providing grants under subsection (a), the Secretary shall, subject to the availability of appropriations, allocate—

(1) $5,000,000 to develop hydrologic models and acquire associated equipment for the New Mexico Rio Grande main stem sections and Rios Pueblo de Taos and Hondo, Rios Nambe, Pojoaque and Teseque, Rio Chama, and Lower Rio Grande tributaries;

(2) $1,500,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for the San Juan River and tributaries;

(3) $1,000,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for Southwest New Mexico, including the Animas Basin, the Gila River, and tributaries;

(4) $4,500,000 for statewide digital orthophotography mapping; and

(5) such sums as are necessary to carry out additional projects consistent with subsection (b).

(d) COST-SHARING REQUIREMENT.—

(1) IN GENERAL.—The non-Federal share of the total cost of any activity carried out using a grant provided under subsection (a) shall be 50 percent.

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the activity assisted.

(e) NON-REIMBURSABLE BASIS.—Any assistance or grants provided to the State under this Act shall be made on a non-reimbursable basis.

(f) AUTHORIZED TRANSFERS.—On request of the State, the Secretary shall directly transfer to 1 or more Federal agencies any amounts made available to the State to carry out this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $3,000,000 for each of fiscal years 2005 through 2009.

PURPOSE OF THE MEASURE

The purpose of S. 2460 is to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes.

BACKGROUND AND NEED

The New Mexico Office of the State Engineer (NM OSE) is statutorily required to perform assessments and investigations of the numerous stream systems and ground water basins located within New Mexico. In order to perform these assessments, it is necessary for the NM OSE to undertake hydrographic surveys and develop hydrologic models. These assessments assist Federal agencies by providing fundamental information on hydrologic conditions important for flood assessment, land management, Tribal water resources assessments and Federal water project management. The NM OSE lacks adequate resources to perform necessary hydrologic models and data collection. This lack of resources impairs the NM OSE's ability to make informed decisions about the state's water

resources, participate in State-Federal water management decisions, effectively perform water rights administration, and comply with New Mexico's compact deliveries.

LEGISLATIVE HISTORY

S. 2460 was introduced by Senator Domenici on May 20, 2004 and referred to the Energy and Natural Resources Committee. Senator Bingaman is a co-sponsor. The Subcommittee on Water and Power held a hearing on S. 2460 on June 17, 2004. The Committee on Energy and Natural Resources ordered S. 2460, as amended, favorably reported on July 14, 2004.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business meeting on July 14, 2004, by unanimous voice vote of a quorum present, recommends that the Senate pass S. 2460 if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 2460, the Committee adopted an amendment in the nature of a substitute. The substitute amendment addresses concerns raised during the Subcommittee hearing and in written submissions.

The first change provides that the non-Federal share of the total cost of any activity undertaken pursuant to this Act shall be 50 percent. The second change provides that the non-Federal contribution may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the completion of the activity assisted. The final change raises the amount authorized to be appropriated for each fiscal year 2005 through year 2009 from $2,500,000 to $3,000,000.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, the "New Mexico Water Planning Assistance Act."

Section 2 defines the terms used in the Act.

Section 3 subsection (a) directs the Secretary, upon the request of the Governor of New Mexico, to provide technical assistance and grants for the development of State water plans, conduct water resources mapping in the State, and conduct a study of groundwater resources.

Subsection (b) specifies what technical assistance the Secretary may provide.

Subsection (c) allocates grants among projects.

Subsection (d) provides that the non-Federal cost share shall be 50 percent, the non-Federal share may be in the form of any in-kind services, the grants provided to the State shall be made on a non-reimbursable basis, and the Secretary shall transfer any amount made available under the Act to one or more Federal agencies upon request of the State.

Section 4 authorizes to be appropriated $3,000,000 for each fiscal year 2005 through 2009 to carry out the Act.

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 16, 2004.

Hon. PETE V. DOMENICI,
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 S. 2460, the New Mexico Water Planning Assistance Act.

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

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 2460—New Mexico Water Planning Assistance Act

Summary: S. 2460 would authorize the Secretary of the Interior acting through the Bureau of Reclamation and the U.S. Geological Survey to provide technical assistance and grants to the state of New Mexico for developing comprehensive water plans, conducting water resources mapping, and implementing a study of groundwater resources (including potable, brackish, and saline water resources). The bill would authorize the appropriation of $3 million annually over the 2005–2009 period for technical assistance and grants. S. 2460 would require nonfederal grantees to pay 50 percent of total project costs.

Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would cost about $14 million over the 2005–2009 period, and an additional $1 million after that period. Enacting S. 2460 would not affect direct spending or revenues.

S. 2460 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Federal spending authorized by this bill would benefit the state of New Mexico, and any expenditures made by the state to satisfy the bill's matching requirement would be made voluntarily.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2460 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment). For this estimate, CBO assumes that S. 2460 will be enacted near the end of 2004. Based on historical spending patterns of similar projects, CBO estimates that implementing this bill would cost $14 million over the 2005–2009 period, and an additional $1 million after that period.

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization level	3	3	3	3	3

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
Estimated outlays	2	3	3	3	3

Intergovernmental and private-sector impact: S. 2460 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Federal spending authorized by this bill would benefit the state of New Mexico, and any expenditures made by the state to satisfy the bill's matching requirement would be made voluntarily.

Estimate prepared by: Federal Costs: Julie Middleton; Impact on State, Local, and Tribal Governments: Marjorie Miller; and Impact on the Private Sector: Karen Raupp.

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. 2460. The bill is not a regulatory measure in the sense of imposing Government-established standards of significant 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. 2460.

EXECUTIVE COMMUNICATIONS

On June 16, 2004, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on S. 2460. These reports had not been received at the time the report on S. 2460 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF JOHN W. KEYS III, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Madam Chair, may name is John W. Keys, III, Commissioner of Reclamation (Reclamation). I am pleased to be here today to present the views of the Department of the Interior (Department) regarding S. 2460, which would authorize assistance to be provided to the State of New Mexico for the development of comprehensive State water plans, and for other purposes.

We share the views of the sponsor of this bill, Senator Domenici, that is, the importance of sound science for use by water resource planners. However, the Department is concerned about the financial resources that would be required for Reclamation and the United States Geological Survey (USGS) to carry out S. 2460 in the context of the

availability of resources overall for Administration programs. Further, the provision for any assistance or grants to be made on a non-reimbursable basis and without a cost-sharing requirement is inconsistent with the funding arrangements that Reclamation and USGS have for similar activities in other states. For these reasons, the Administration cannot support the bill as currently written.

The bill directs the Secretary of the Interior, acting through Reclamation and the USGS, to (1) provide technical assistance and grants to the State for the development of comprehensive State water plans; (2) conduct water resources mapping in the State; and (3) conduct a comprehensive study of groundwater resources (including potable, brackish, and saline water resources) to assess the quantity, quality, and interaction of groundwater and surface water resources in the State. This would be accomplished through technical assistance and grants.

The technical assistance role identified for the Department in this bill is consistent with the USGS's leadership role in interpretation, research, and assessment of the earth and biological resources of the nation. It is likewise consistent with the Reclamation's
leadership role in water resources research, modeling, analysis, assessment and management. However, the direction to provide these grants to the State on a non-competitive basis is not in harmony with the Administration's efforts, such as through Water 2025, to use a competitive process to focus our existing resources in those areas where future water conflicts are most likely to occur. Even though some New Mexico projects would likely be very competitive in that process, the Administration would prefer that New Mexico's needs compete on an equal footing with other meritorious projects that apply for assistance. Let me briefly describe the activities of the USGS and Reclamation in this context.

As the nation's largest water, earth, biological science, and civilian mapping agency, USGS conducts the most extensive groundwater and surface water investigations in the nation in conjunction with state and local partners. The USGS New Mexico District currently operates 209 streamflow stations and routinely measures groundwater levels at 1,658 well sites through cooperative programs with several local, state, tribal, and federal agencies. In addition to hydrologic monitoring programs, the USGS is providing hydrologic understanding to water agencies through the Cooperative Water Program by conducting several investigative projects that include describing the interaction of surface water and ground water in the Mesilla and Middle Rio Grande basins, evaluating modeling approaches in the Santa Fe Embayment and La Cienega areas of the Espanola Basin, and quantifying streamflow gains and losses in the Espanola Basin along the Rio Grande mainstem and its tributaries. In support of all water agencies within New Mexico, USGS technical specialists participate in work groups and committees each

year. Currently, USGS personnel are involved in the New Mexico Brackish Water Task Force, the Rio Grande Environmental Assessment for Upper Rio Grande water operations, and the Department of the Interior's Southwest Strategy.

Reclamation, as the nation's largest western water and hydro-electric power supplier and water management agency, conducts the most extensive river storage and delivery operations and related research in the seventeen western states in conjunction with tribal, state and local partners. Reclamation has provided technical and monetary assistance to two of the New Mexico state regional water plans, reviewed and commented on the draft State Water Plan, and provided water resource-related technical assistance through Reclamation's Technical Assistance to States planning program. In addition, Reclamation is actively involved in several Indian water supply projects within New Mexico, and has developed and maintains state-of-the-art, internet-delivered decision support data on evapotranspiration depletions to the Rio Grande system, and conducts daily river system modeling for water accounting, contracted deliveries and endangered species support.

In summary, the goals of the bill are commendable, and the bill contains provisions that are within the scope and expertise of Reclamation and the USGS. However, it is the position of the Administration that funding for the activities in this bill be pursued through existing authorities and procedures, and not through specific Congressional direction that supersedes established processes, competitive or otherwise. Also, we believe that the cost-sharing provisions of this bill should conform to other similar programs undertaken by Reclamation and the USGS, such as the Reclamation Title XVI program, which requires a 50 percent local share, or the USGS Cooperative Water Program, which requires a dollar for dollar match of federal and non-federal funds. Requiring these cost-shares not only stretches limited federal funds, but also emphasizes that States are primarily responsible for managing the water resources within their borders, and not the Federal government. Finally, we find that S. 2460 is sufficiently vague regarding the relative roles and functions of Reclamation and the USGS, which could cause significant delay in implementation, as well as the fact that the bill, as written, duplicates some existing agency programs and authorizations and sets a major precedent of providing federal funding for State water plans.

Thank you, Madam Chair, for the opportunity to present this testimony. I will be pleased to answer questions you and other Members of the Subcommittee might have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 2460, as ordered reported.

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