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Western Water Resource Issues

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SUMMARY

For more than a century, the federal government has constructed water resource projects for a variety of purposes, including flood control, navigation, power generation, and irrigation. While most municipal and industrial water supplies have been built by non-federal entities, most of the large, federal water supply projects in the West, including Hoover and Grand Coulee dams, were constructed by the Bureau of Reclamation (Department of the Interior) to provide water for irrigation.

Growing populations and changing values have increased demands on water supplies and river systems, resulting in water use and management conflicts throughout the country, particularly in the West, where the population is expected to increase 30% in the next 20-25 years. In many western states, agricultural needs are often in direct conflict with urban needs, as well as with water demand for threatened and endangered species, recreation, and scenic enjoyment.

Debate over western water resources revolves around the issue of how best to plan for and manage the use of this renewable, yet sometimes scarce and increasingly sought after, resource. Some observers advocate enhancing water supplies, for example, by building new storage or diversion projects, expanding old ones, or funding water reclamation and reuse facilities. Others emphasize the need to manage existing supplies more efficiently — through conservation, revision of policies that encourage inefficient use of water, and establishment of market mechanisms to allocate water.

The 109th Congress is likely to consider a number of bills on western water issues, including title transfer, water recycling, and rural water supply legislation and may also revisit drought legislation introduced in the 108th Congress. Oversight of CALFED — a joint federal and state program to restore fish and wildlife habitat and address California water supply/quality issues — and Klamath River Basin issues is also likely.

The 109th Congress may also consider Indian water rights settlement legislation; however, Indian settlement bills are not tracked in this issue brief.

MOST RECENT DEVELOPMENTS

On May 11, 2005, the Senate Energy and Natural Resources Committee held a hearing on S. 895, a bill to establish a new rural water supply program to be administered by the Bureau of in Reclamation, Department of the Interior. The bill combines elements of three bills that had been introduced in the 108th Congress: S. 1085 (Bingaman), S. 1732 (Domenici, by request), and S. 2218 (Domenici).

Recent news reports of food chain and fisheries declines in the Sacramento and San Joaquin Rivers confluence with San Francisco Bay (Bay-Delta), combined with fiscal issues at both the state and federal levels, have raised questions about the implementation and viability of the CALFED Program — a federal and state effort to coordinate water management and ecosystem restoration activities within and around the Bay-Delta. The Administration's FY2006 request for the Bureau of Reclamation's CALFED program account is $35 million; the House Appropriations Committee approved that amount during full committee markup of FY2006 Energy and Water Development legislation (H.R. 2419) on May 18, 2005.

To date, ten Title 16 (water re-use and recycling) bills have been introduced in the 109th Congress (two bills are identical). Numerous other water supply, conservation, and western water bills have also been introduced.

In pending legislation, S. 728, the Water Resources Development Act of 2005, the U.S. Army Corps of Engineers would be authorized to conduct a study of pilot projects identified in the preferred restoration concept plan approved by the Salton Sea Authority. This study would determine that the pilot projects are economically justifiable, technically sound, environmentally acceptable, and meet the objectives of restoring the Salton Sea. Under S. 728, a total cost of $26.0 million would be authorized, of which $16.9 million would be the federal cost, and $9.1 million the non-federal cost.

BACKGROUND AND ANALYSIS

For more than a century, the federal government has been involved in developing water projects for a variety of purposes, including flood control, navigation, power generation, and irrigation. Most major water projects, such as large dams and diversions, were constructed by either the Bureau of Reclamation (Bureau), in the Department of the Interior, or the U.S. Army Corps of Engineers (Corps), in the Department of Defense. Traditionally, the Corps has built and maintained projects designed primarily for flood control, navigation, and power generation, whereas Bureau projects were designed primarily to facilitate settlement of the West by storing and providing reliable supplies of water for irrigation and "reclamation" of arid lands. While both agencies supply water for some municipal and industrial uses, they do so largely as a secondary responsibility in connection with larger multipurpose projects. Most of the nation's public municipal water systems have been built by local communities under prevailing state water laws.

Today, the Bureau operates nearly 350 storage reservoirs and approximately 250 diversion dams — including some of the largest dams in the world, such as Hoover Dam on the Colorado River and Grand Coulee Dam on the Columbia River. In total, the Bureau's

projects provide water to approximately 9 million acres of farmland and nearly 31 million people in 17 western states. The Bureau also operates 58 power plants. Because of the strategic importance of its largest facilities, the Bureau has heightened security at all key facilities to protect projects in the wake of the terrorist attacks on September 11, 2001.

Most Bureau water supply projects were built under authority granted to the Secretary of the Interior in the Reclamation Act of 1902, or through individual project authorizations. The original intent of the Reclamation Act was to encourage families to settle and farm lands in the arid and semi-arid West, where precipitation is typically 30% to 50% of what it is in the East. Construction of reclamation projects expanded greatly during the 1930s and 1940s, and continued rapidly until the late 1960s and early 1970s. By the late 1960s, a combination of changing national priorities and local needs, increasing construction costs, and the prior development of most prime locations for water works contributed to a decline in new construction of major water works nationwide. Water supply for traditional off-stream uses — including municipal, industrial, and agricultural uses — was increasingly in direct competition with a growing interest in allocating water to maintain or enhance in-stream uses, such as recreation, scenic enjoyment, and fisheries and wildlife habitat.

During the 1970s, construction of new projects slowed to a handful of major works, culminating in the completion of the Tellico dam project in Tennessee and the Tennessee Tombigbee waterway through Alabama and Mississippi. These projects pitted conservation and environmental groups, as well as some fiscal conservatives, against the traditional water resources development community. New on the scene was the National Environmental Policy Act of 1970 (NEPA), which for the first time required an assessment of the environmental effects of federal projects, and provided for more public scrutiny of such projects. In 1978, President Carter announced that future federal water policy would focus on improving water resources management, constructing only projects that were economically viable, cooperating with state and local entities, and sustaining environmental quality. The Reagan Administration continued to oppose large projects, contending they were fiscally unsound. New construction of federally financed water projects virtually stopped until Congress passed the Water Resources Development Act (WRDA) of 1986, which addressed Corps projects and policies. Federal water research and planning activities were also reduced during the early years of the Reagan Administration, which felt that states should have a greater role in carrying out such activities. Consistent with this outlook, President Reagan abolished the Water Resources Council, an umbrella agency established in 1968 to coordinate federal water policy and to assess the status of the nation's water resource and development needs.

Congress subsequently scaled back several remaining authorized projects, changed repayment and cost-share structures, and passed laws that altered project operations and water delivery programs. For example, in 1982 Congress passed the Reclamation Reform Act, which altered the Bureau's water pricing policies for some users. The act revised acreage limitation requirements and charges for water received to irrigate leased lands. Congress soon increased local entities' share in construction costs for Corps water resource projects with passage of the 1986 WRDA.

Over the last decade, both the Corps and the Bureau have undertaken projects or programs aimed at mitigating or preventing environmental degradation due in part to the construction and operation of large water projects, while at the same time expanding water supply facilities. The agencies have pursued these actions through administrative efforts and

congressional mandates, as well as in response to court actions. Currently, the federal government is involved in several restoration initiatives including the Florida Everglades, the California Bay-Delta, and the Columbia and Snake River basins in the Pacific Northwest. These initiatives have been quite controversial. Each involves many stakeholders at the local and regional level (water users, landowners, farmers, commercial and sports fishermen, urban water suppliers and users, navigational interests, hydropower customers and providers, recreationists, and environmentalists) and has been years in the making. At the same time, demand for traditional or new water resource projects continues — particularly for ways to augment local water supplies, maintain or improve navigation, and control or prevent floods and shoreline erosion. In addition, demand continues from some sectors for new or previously authorized large water supply projects (e.g., Auburn and Temperance Flats dams, and Sites Reservoir in California). For both the Everglades and CALFED, water supply facilities are included in proposals for restoration.

Legislative and Oversight Issues

The 109th Congress is likely to consider several water resource issues in legislation ranging from transferring title of federal facilities to local project users, to individual project authorizations and agency policy changes (e.g., reoperation of water project facilities in the Central Valley of California and in the Colorado and Columbia River Basins). Oversight of ongoing agency activities, such as water management in the Klamath River Basin, Salton Sea restoration, allocation of Colorado River water supplies (particularly within California), and authorization of a program to carry out activities affecting the delta confluence of the San Joaquin and Sacramento Rivers at the San Francisco Bay (Bay-Delta, or CALFED) may also be discussed. The broader topic of whether to review federal water activities or establish a national water policy commission was discussed during the 108th Congress, and may also be addressed in the 109th. Funding and policy direction through the annual Energy and Water appropriations bill also influences the construction and operation of projects. (See CRS Report RL32852, *Appropriations for FY2006: Energy and Water Development*.) In particular, appropriations language concerning funding (or lack thereof) for the CALFED program has been the subject of much debate.

Security of Reclamation Facilities

Security remains heightened at Bureau facilities in the wake of terrorist attacks in New York and Washington D.C. on September 11, 2001. The Bureau initially closed visitor facilities and cancelled tours at all facilities. While most visitor facilities have reopened, facilities may close or reopen depending on security alert levels and site-specific concerns at any time. For example, the Bureau heightened security at many facilities during recent code orange alerts and is expected to do so in the future. Further, in February 2004, the Bureau closed the road over Folsom Dam (CA), largely because of security concerns. Legislation to authorize the Bureau to build a new bridge near the dam has been introduced (H.R. 901). The Administration opposes the legislation largely on the grounds of its cost — $66 million (roughly 8% of the Bureau's annual budget).

Because Bureau facilities were not directly affected by September 11 events, it did not receive funding in the first two releases of emergency supplemental appropriations following the attack. However, the agency received $30.3 million for security at Bureau facilities as

part of the third cluster of emergency supplemental funding included in Division B, Chapter 5, of the FY2002 Defense Appropriations bill (H.R. 3338, P.L. 107-117). The Bureau received $28.6 million for site security for FY2004 and $43.2 million in FY2005. For FY2006, the Administration has requested $50.0 million for site security. The House Appropriations Committee on May 18 approved $40 million in appropriations and the collection of $10 million from water users for security operations costs, for a total of $50 million for the program.

Klamath River Basin

The Klamath River Basin — an area on the California-Oregon border — has become a focal point for local and national discussions on water management and water scarcity. These issues were brought to the forefront in 2001 when severe drought prompted the Bureau to curtail irrigation water deliveries to approximately 200,000 acres of farm and pasture lands within the roughly 235,000-acre Klamath Project service area. The cutback was made to make water available for three fish species under federal Endangered Species Act (ESA) protection (two endangered sucker species, and a threatened coho salmon population). Tensions were also high in 2002 when water temperatures and atypically low flows in the lower Klamath corresponded with the death of at least 33,000 adult salmon.

The Klamath Project has been part of increasingly complex water management issues involving several tribes, fishermen, farmers, environmentalists, hydropower producers, and recreationists. Upstream farmers are generally pitted against fishermen, Native American interests, and other downstream users, and many sides have policy concerns involving valuable sectors of the local economy. Farmers point to their contractual rights to water deliveries from the federal Klamath Project and to hardships for their families if water is cut off; others assert that the salmon fishery is also economically valuable and that farmers could be provided temporary economic assistance, while salmon extinction would be permanent. Still others assert that there are ways to serve all interests, or that the science underlying the determinations of the relevant agencies is simply wrong.

One specific issue is how to operate the Bureau's project facilities to meet irrigation contract obligations without jeopardizing the three listed fish. To address this issue, the Bureau issued a 10-year operations plan in February 2002 and a biological assessment (necessary under the ESA) for operating its Klamath Project. However, subsequent biological opinions found the Bureau's 10-year operations plan would likely jeopardize the continued existence of the listed suckers and coho salmon, as well as adversely modify proposed critical habitat. Although biological opinions issued on May 31, 2002, by the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (now called NOAA Fisheries) both included "reasonable and prudent alternatives," the Bureau formally rejected both final biological opinions and opted to operate under a one-year plan that it asserts complies with the opinions. While met with enthusiasm from area farmers, the Bureau's decision drew much criticism and concern from environmentalists, fishermen, tribes, and others. On April 10, 2003, the Bureau issued its Klamath Project 2003 operations plan and noted that planning for multiyear operations of the project is ongoing; the Bureau is expected to issue its 2005 operating plan in April 2005. In both 2003 and 2004, the Bureau stated that the current year plan was consistent with the 2002 biological opinions. The ESA agencies (FWS and NOAA Fisheries) have not issued a biological opinion on the one-year operations plans and instead are working within the biological opinions released in May 2002.

Because of the controversy in 2001, the Secretary of the Interior asked the National Research Council (NRC) to evaluate the federal biological opinions that had been used to prevent the Bureau from delivering water to farmers in 2001. The NRC released an interim report in February 2002 and a final report in October 2003; both concluded there was neither sound scientific basis for maintaining Upper Klamath Lake levels and increased river flows as recommended in the 2001 biological opinions, nor sufficient basis for supporting the lower flows in the Bureau's original operations plan for 2001. Further, the NRC concluded that recovery of endangered suckers and threatened coho salmon in the Klamath Basin might best be achieved by broadly addressing land and water management concerns (including the Klamath dams). NRC also concluded that operation of the Klamath Project (as opposed to operation of other basin projects such as that on the Trinity River) was not the cause of a 2002 lower basin fish kill, and changes in Klamath project operations would not have prevented the fish kill. On October 13, 2004, the Secretary of the Interior announced the signing of a Klamath Watershed Coordination Agreement among four cabinet-level federal agencies. The agreement was initiated to address the fractured resource management specifically noted by the NRC and others.

Legislation pertaining to the Klamath Basin has not been proposed in the 109th Congress. However, the 108th Congress passed §132 of P.L. 108-137, the Energy and Water Development Appropriations for 2004. This section provides authority for the Secretary of the Army to provide "environmental assistance" (design and construction assistance to improve water use efficiency) to non-federal interests in the Upper Klamath River Basin. Additional funding for Klamath basin activities is likely to be included in FY2006 appropriations.

Title Transfer

Congress more and more is considering legislation that would transfer the ownership (title) of individual Bureau of Reclamation water supply projects to current water users. These "title transfer" bills vary depending on the circumstances of each project; however, some general issues apply. Transfer issues range from questions regarding a project's worth and valuation to legal and policy questions regarding the transfer's affect on other area water users, fish and wildlife, future project operations, and future management of lands associated with the project.

The Administration first actively negotiated title transfer on a voluntary basis with interested water/irrigation districts beginning in 1995 when it announced a policy "framework" to establish a process for negotiating title transfers. While some districts pursued the Administration's framework process, others sought direct legislative authority for transfers. In general, Congress must authorize transfer of title to reclamation facilities (32 Stat. 389; 43 U.S.C. 498), regardless of the process used to get to a transfer agreement.

A central issue with title transfer legislation is whether the transfers should be mandated or just authorized. Some argue that the transfers are "minor land transactions" and advocate that Congress direct they take place within a certain time period. Others strongly disagree. Debate mostly centers on the role the National Environmental Policy Act (NEPA) would and should play prior to a project's transfer. Environmentalists generally fear that a directed transfer with or without specific NEPA language would effectively allow the Bureau and project transfer proponents to avoid assessing and/or mitigating environmental effects of the proposed transfers. Conversely, project proponents have pursued directed transfers to avoid

what they see as unnecessary delays and to ensure transfers take place. For example, some title transfer legislation directs the transfer to occur "in accordance with all applicable law," while other legislation directs it to take place pursuant to an agreement already negotiated with project water users. Some laws authorize the transfers (e.g., P.L. 106-220 and P.L. 106-221), whereas others direct the transfer (e.g., P.L. 106-249, P.L. 106-377, and P.L. 106-512).

Other discussions center on the role the Endangered Species Act (ESA) might play on project operations after the transfer. One of the main concerns for environmentalists appears to be that once the project is out of federal ownership there will no longer be a legal obligation for the district to consult with other federal entities on the impact of project operations on threatened or endangered species, as is now required of the Bureau under Section 7 of the ESA. Additionally, environmentalists and others fear that once out of federal hands there will be little if any public scrutiny of project operations. Conversely, project proponents are likely to favor private operations.

Controversies regarding the application of NEPA and ESA to project title transfers, as well as the question of whether to direct or authorize the transfers, are likely to remain at issue. Other issues involve concerns about the overall costs of the transfers, who should pay for costs associated with the transfer, effects on third parties, liability, the valuation of project facilities and lands (and treatment of mineral or other receipts), and financial compensation for the projects. Related to many of the issues outlined above is the question of how these projects might be operated in the future. Although the House Resources Committee has noted that it contemplates that facilities would be maintained and managed without significant changes, and in some cases bill language states that the projects shall be managed for the purposes for which the project was authorized, transfer bills approved by the committees have been silent on enforcement issues and in describing what might occur if the new owners change operations (other than they must comply with all applicable laws at that time). Little has been said, for example, about what might occur if new project owners decided to partition project lands for new homes and convert irrigation water to domestic use.

In total, four title transfers were approved during the 108th Congress (two in P.L. 108-382, and one each in P.L. 108-315 and P.L. 108-85, which passed during the first session). To date, no title transfer legislation has been introduced in the 109th Congress.

Project Construction

California Bay-Delta/CALFED. On October 25, 2004, the President signed into law P.L. 108-361 (H.R. 2828), a bill to authorize implementation of the CALFED Bay-Delta Program. Authorization for federal funding for the CALFED Program expired at the end of FY2000, although some activities supporting the program were funded. P.L. 108-361 authorizes $389 million for the federal share of costs for activities authorized under the act for FY2005-FY2010. The Administration's FY2006 request for the Bureau of Reclamation's CALFED program account is $35 million; the House Appropriations Committee approved that amount during full committee markup of H.R. 2419 on May 18.

The authorization of an annual appropriation of $143 million for implementing portions of an ecosystem protection plan and long-term restoration projects for the San Francisco Bay/San Joaquin and Sacramento Rivers Delta (Bay-Delta, also known as the CALFED program) expired September 30, 2000. The initial authorization for CALFED funding (P.L. 104-208, Division E) came on the heels of a 1994 agreement among state and federal

agencies, urban, agricultural, and environmental interests to protect the Bay-Delta while satisfying key needs of various involved interests. A Record of Decision (ROD) for the current CALFED Program was issued by a consortium of state and federal agencies in August 2000. The process was initiated to address critical water quality, water supply, and fish and wildlife habitat issues in the 738,000 acre Bay-Delta estuary and has grown into a comprehensive effort to address long-term water supply/quality issues for most of the state.

On October 25, 2004, the President signed into law P.L. 108-361 (H.R. 2828) — a bill to authorize implementation of the CALFED Bay-Delta Program. P.L. 108-361 approves the ROD as a framework for addressing the CALFED Bay-Delta Program and authorizes, under existing and new authorizations, several activities and projects related to the components of CALFED. This law also authorizes $389 million for the federal share of costs for activities authorized under the act for FY2005-FY2010. For more information on the status of the CALFED Program, see CRS Report RL31975, *CALFED Bay-Delta Program: Overview of Institutional and Water Use Issues*, by Pervaze A. Sheikh and Betsy A. Cody.

The debate over the reauthorization of CALFED in the 108th Congress largely centered on specific issues such as authorization for water storage projects, cost allocation, balance among project and program activities, and water supplies for the environment, as well as broader issues such as governance and the degree to which the ROD is implemented. The chief difference between the two reported bills was how they addressed water storage project authorization. The House bill would have "pre-authorized" construction of storage projects based on feasibility studies that adhere to requirements provided in the bill, and subject to a congressional disapproval resolution. The Senate bill took a very different approach and instead set a timeline for Congress to consider the authorization of storage projects listed in the bill. If a storage project is not authorized under the Senate bill within the specified timeline, an "imbalance determination" is triggered, which forces a rebalancing process and reconsideration of the project (and alternatives) by Congress.

In general, storage proponents have voiced concern that environmental aspects of the program have outpaced progress on developing new water supplies. On the other hand, some environmental groups and others have vocally opposed storage language such as the "pre-authorization" language. Some also believed granting authorization (subject to a disapproval resolution) prior to completion of project feasibility studies would amount to a forfeiture of congressional authority over final projects and that the Senate would again reject a bill with "pre-authorization" language. Ultimately, lawmakers decided to approve the Senate-passed version of H.R. 2828.

Oversight issues during the 109th Congress are expected to include project financing, water storage project programs, and implementation of the Operations Criteria and Plan and South Delta Improvements Plan. However, recent news reports of food chain and fisheries declines in the Sacramento and San Joaquin Rivers confluence with San Francisco Bay (Bay-Delta), combined with fiscal issues at both the state and federal levels, have raised questions about the implementation and viability of the CALFED Program. It is not yet clear if, or how, the 109th Congress might address this issue.

Rural Water Supply Projects. Beginning with authorization of the WEB Rural Water Supply Act in 1980 (P.L. 96-355), Congress has authorized the Bureau to fund the

construction of several "rural water supply" projects and oversee construction of another, with funding coming from the Department of Agriculture. These projects have individual authorizations, but all are generally aimed at providing water for municipal and industrial (M&I) uses in rural areas — a departure from the historical mission of providing water for irrigation, with M&I use as an incidental project purpose. The most recent project to be approved is for Espanola New Mexico (P.L. 108-354). This legislation also includes authorization for a feasibility study for a Chimayo water supply system.

These projects have been somewhat controversial, largely due to the relatively large share of federal construction costs proposed. Typically, the Bureau requires that people benefitting from a reclamation project repay 100% of the construction costs (plus interest) attributed to M&I project purposes. For example, if a project's purpose is 50% irrigation, 30% flood control, and 20% M&I, M&I water users would pay (reimburse the federal government) for 100% of their 20% of construction costs of the project, plus interest (the federal cost share would be 0% of the 20% cost allocated to M&I purposes). In contrast, the federal cost share (non-reimbursable component) for the Bureau's "rural water supply" projects typically ranges from 75% to 85%. Some have raised concerns that these projects have the potential to overwhelm the Bureau's budget. For example, the federal contribution to the Lewis and Clark project is estimated at $214 million. For perspective, the Bureau's budget ranges in the neighborhood of approximately $800 million (net current authority) annually. Prior to the recent authorizations, the Bureau had approximately 60 authorized projects in various stages of construction with projected construction costs for completion of $4.9 billion. Outstanding construction authorizations now total approximately $7 billion (excluding "deferred" projects such as Auburn Dam).

Some also fear that these projects are outside the realm of those historically constructed by the Bureau and believe they would be better handled via other existing federal water quality or water supply programs, such as the USDA's Rural Utility Service or the EPA's state revolving loan fund. However, as designed, the projects do not fit EPA or USDA criteria, and thus project proponents have looked to the Bureau for funding. An additional concern with the Lewis and Clark legislation was that it authorized projects outside of the Bureau of Reclamation's historic service area (outside the 17 western states). (For information on other federal water supply programs, see CRS Report RL30478.)

In the 108th Congress, three bills were introduced addressing rural water supply issues. One bill would have authorized the Secretary of the Interior to establish a rural water supply program to plan, design, and construct projects in reclamation states as defined by the bill; a second would have assisted states and local communities in evaluating and developing rural and small community water supply systems; and a third would have authorized the BOR to coordinate and revamp its rural water supply activities. These bills differed according to factors such as the scope of their water supply program; eligibility criteria, program priorities, and implementation; ability to pay for construction, operation and maintenance; and feasibility studies and reporting requirements.

On May 11, 2005, the Senate Energy and Natural Resources Committee held a hearing on S. 895, a bill to establish a new rural water supply program to be administered by the Bureau of in Reclamation, Department of the Interior. The bill combines elements of three bills introduced in the 108th Congress: S. 1085 (Bingaman), S. 1732 (Domenici, by request), and S. 2218 (Domenici).

Title 16 Projects. Title 16 of P.L. 102-575 directs the Secretary of the Interior to develop a program to "investigate and identify" opportunities to reclaim and reuse wastewater and naturally impaired ground and surface water. The original act authorized construction of five reclamation wastewater projects and six wastewater and groundwater recycling/reclamation studies. The act was amended in 1996 (P.L. 104-206) to authorize another 18 construction projects and an additional study, and again in 1998 (P.L. 105-321) and 2000 (P.L. 106-554, Division B, Section 106) to authorize two more construction projects. Since then, several individual project authorizations amending the Reclamation and Wastewater and Groundwater Study and Facilities Act have been passed, including three during the 108th Congress: P.L. 108-233, Irvine, CA; P.L. 108-7, North Las Vegas, NV (originally authorized in P.L. 104-206); and P.L. 108-361, Williamson County, Texas. Nine Title 16 bills (not including companion bills) have been introduced (see "Legislation," below) in the 109th Congress.

The general purpose of Title 16 projects is to provide supplemental water supplies by recycling/reusing agricultural drainage water, wastewater, brackish surface and groundwater, and other sources of contaminated water. Water reclaimed via Title 16 projects may be used for M&I water supply (non-potable purposes only), irrigation supply, groundwater recharge, fish and wildlife enhancement, or outdoor recreation. Projects may be permanent or for demonstration purposes. Project construction costs are shared by a local project sponsor or sponsors and the federal government. The federal share is generally limited to a maximum of 25% of total project costs and in most cases the federal share is non-reimbursable, resulting in a *de facto* grant to the local project sponsor(s). Congress limited the federal share of individual projects to $20 million beginning in 1996 (P.L. 104-266). The federal share of feasibility studies is limited to 50% of the total, except in cases of "financial hardship"; however, the federal share must be reimbursed. The Secretary may also accept in-kind services that are determined to positively contribute to the study.

The Bureau's water reclamation and wastewater recycling program is limited to projects and studies in the 17 western states authorized in the Reclamation Act of 1902, as amended (32 Stat. 388), unless specifically authorized by Congress.[1] Authorized recipients of program assistance include "legally organized non-federal entities" (e.g., irrigation districts, water districts, and municipalities). Construction funding is generally limited to projects where (1) an appraisal investigation and feasibility study have been completed and approved by the Secretary; (2) the Secretary has determined the project sponsor is capable of funding the non-federal share of project costs; and (3) the local sponsor has entered a cost-share agreement committing to funding its share.

Total funding for the program for FY2003 was 30.6 million. The Title 16 program was also subject to the OMB program review, which ultimately led to a lower request of $12.6 million for FY2004. Total funding for Title 16 projects was $28.4 million for FY2004 and $23.0 million for FY2005. The Administration requested $10.2 million for FY2006.

[1] Section 103(a)(4) of P.L. 106-566 directs the Secretary of the Interior to study recycling, reclamation, and reuse of water and wastewater for agricultural and non-agricultural uses in the state of Hawaii.

Salton Sea

Federal and state agencies, and regional organizations, are currently working to determine the best alternative for restoring the Salton Sea. In P.L. 108-361, which reauthorized the CALFED Program, a provision was included stating that not later than December 2006, the Secretary of the Interior in coordination with the state of California and the Salton Sea Authority shall determine the best alternative for restoring the Salton Sea. Some restoration proposals have been suggested and alternatives for restoring the sea are tentatively expected to be selected by June 2005.

The Salton Sea is a large, inland water body in California that is saline-rich and is sustained by agricultural run-off from farmlands in nearby Imperial and Coachella valleys. It provides permanent and temporary habitat for many species of plants and animals, including several endangered species.[2] It also serves as an important recreational area for the region. The Salton Sea has been altered by increasing salinity caused by a steadily decreasing water table. High salinity levels have changed habitats and stressed several populations of plants and animals. The scope and costs of efforts to restore the Salton Sea was reported in a study done by the Department of the Interior in 2003.[3]

Several proposals have been floated to address Salton Sea issues. In July 2004, the Salton Sea Authority endorsed a restoration plan for the Salton Sea that calls for the construction of a causeway across the center of the sea. This would separate the sea into two basins, an 85,000-acre North Basin that would reach salinity levels similar to the ocean, and a southern section that would consist of wetlands areas as well as numerous recreational lakes ranging from freshwater to hyper-saline. The estimated cost of this project is between $650 and $730 million. This plan is now under review by the California Department of Water Resources. Funding for restoring the Salton Sea is expected to come from a restoration fund that will receive money from fees collected from water sales in the region. This fund was developed from a set of three bills enacted by the state of California on September 12, 2003, and is expected to generate up to $300 million for restoring the Salton Sea. As proposals for restoring the Salton Sea and related Colorado River issues continue to be negotiated during the 109th Congress, congressional oversight is expected to continue.

LEGISLATION

Title 16 Projects

H.R. 122 (Issa). To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Eastern Municipal Water District Recycled Water System Pressurization and Expansion Project. Introduced Jan. 4, 2005; referred to House Committee on Resources (Subcommittee on Water and Power).

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[2] The Salton Sea is considered an important stopover for birds on the Pacific flyway.

[3] U.S. Department of the Interior, Bureau of Reclamation, *Salton Sea Study: Status Report*, January 2003.

H.R. 123 (Issa). To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Elsinore Valley Municipal Water District Wildomar Service Area Recycled Water Distribution Facilities and Alberhill Wastewater Treatment and Reclamation Facility Projects. Introduced Jan. 4, 2005; referred to House Committee on Resources (Subcommittee on Water and Power).

H.R. 177 (Miller, Gary). To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Prado Basin Natural Treatment System Project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project, and for other purposes. Introduced on Jan. 4, 2005; referred to House Committee on Resources (Subcommittee on Water and Power).

H.R. 497 (Sanchez). To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project. Introduced Feb. 1, 2005; referred to House Committee on Resources (Subcommittee on Water and Power).

H.R. 802 (Dreier). To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional recycling project and in the Cucamonga Valley Water District recycling project. Introduced Feb. 15, 2005; referred to House Committee on Resources (Subcommittee on Water and Power). See also S. 746 (Feinstein).

H.R. 843 (Abercrombie), S. 264 (Akaka). To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii and to amend the Hawaii Water Resources Act of 2000; to modify the water resources study. Introduced Feb. 16, 2005; referred to House Committee on Resources (Subcommittee on Water and Power); reported favorably without amendment by the Senate Committee on Energy and Natural Resources (S.Rept. 109-33); placed on Senate Legislative Calendar under General Orders. Calendar No. 46 on March 10, 2005.

H.R. 855 (Ortiz). To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Brownsville Public Utility Board water recycling and desalinization project. Introduced Feb. 16, 2005; referred to the House Committe on Resources (Subcommittee on Water and Power).

H.R. 863 (Reyes). To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the El Paso, Texas, water reclamation, reuse, and desalinization project, and for other purposes. Introduced Feb.16, 2005; referred to House Committee on Resources (Subcommittee on Water and Power).

S. 746 (Feinstein). To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional recycling project and in the Cucamonga Valley Water District recycling project. Introduced April 11, 2005; referred to Senate Committee on Energy and Natural Resources. See also H.R. 802 (Dreier).

Water Supply and Conservation

H.R. 125 (Issa). To authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes. Introduced Jan. 4, 2005; referred to House Committee on Resources (Subcommittee on Water and Power) and House Armed Services.

H.R. 135 (Linder). To establish the "Twenty-First Century Water Commission" to study and develop recommendations for a comprehensive water strategy to address future water needs. Introduced Jan. 4, 2005; referred to House Committee on Resources (Subcommittee on Water and Power) and House Transportation and Infrastructure (Subcommittee on Water Resources and Environment); considered and passed under suspension of the rules on April 12, 2005; referred to Senate Committee on Environment and Public Works.

H.R. 386 (Hinojosa), S. 519 (Hutchinson). To amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that act, and for other purposes. Introduced Jan. 26, 2005; referred to House Committee on Resources (Subcommittee on Water and Power); hearing held by Senate Committee on Energy and Natural Resources on April 19, 2005.

H.R. 524 (Berkley). To amend the Internal Revenue Code of 1986 to provide incentives for the conservation of water. Introduced Feb. 2, 2005; referred to House Committee on Ways and Means.

H.R. 1008 (Calvert). To authorize the Secretary of the Interior to participate in the design and construction of the Riverside-Corona Feeder in cooperation with the Western Municipal Water District of Riverside, California. Introduced March 1, 2005; referred to House Committee on Resources (Subcommittee on Water and Power).

H.R. 1046 (Cubin), S. 99 (Enzi). To authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming. Introduced March 2, 2005; referred to the House Committee on Resources (Subcommittee on Water and Power); considered and passed under suspension of the rules on May 16, 2005; reported without amendment by Senate Committee on Energy and Natural Resources (S Rpt. 109-27) on March 10, 2005.

H.R. 1326 (Thompson). To enable a Bureau of Reclamation partnership with the North Bay Water Reuse Authority and other regional partners to achieve water supply, water quality, and environmental restoration objectives. Introduced March 15, 2005; referred to House Committee on Resources.

S. 178 (Domenici), H.R. 1711 (Wilson). A bill to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes. Introduced January 26, 2005. Mark-up session held Feb. 9, 2005; reported without amendment by Senate Committee on Energy and Natural Resources on March 7, 2005 (S.Rept. 109-16).

S. 247 (Smith, Gordon). A bill to authorize the Secretary of the Interior to assist in the planning, design, and construction of the Tumalo Irrigation District Water Conservation Project in Deschutes County, Oregon. Introduced Feb. 1, 2005 ; referred to Senate Committee on Energy and Natural Resources.

S. 251 (Smith, Gordon). A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water resource feasibility study for the Little Butte/Bear Creek Sub-basins in Oregon. Introduced Feb. 1, 2005 ; referred to Senate Committee on Energy and Natural Resources; hearings held April 19, 2005.

S. 353 (Conrad). A bill to amend the Water Resources Development Act of 1999 to direct the Secretary of the Army to provide assistance to design and construct a project to provide a continued safe and reliable municipal water supply system for Devils Lake, North Dakota. Introduced Feb. 10, 2005; referred to Senate Committee on Environment and Public Works.

Miscellaneous

H.R. 487 (Pearce). To impose limitations on the authority of the Secretary of the Interior to claim title or other rights to water absent specific direction of law or to abrogate, injure, or otherwise impair any right to the use of any quantity of water. Introduced Feb. 1, 2005; referred to the House Committee on Resources (Subcommittee on Water and Power).

S. 166 (Smith, Gordon). A bill 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. Introduced Jan. 25, 2005; referred to Senate Committee on Energy and Natural Resources; hearings held April 19, 2005.

S. 231 (Smith, Gordon). A bill to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes. Introduced Feb. 1, 2005. Mark-up session held Feb. 9, 2005; reported without amendment by Senate Committee on Energy and Natural Resources on March 10, 2005 (S.Rept. 109-30).

S. 232 (Smith, Gordon). A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes. Introduced Feb. 1, 2005. Mark-up session held Feb. 9, 2005; reported without amendment by Senate Committee on Energy and Natural Resources on March 10, 2005 (S.Rept. 109-31).

S. 648 (Smith, Gordon). To amend the Reclamation States Emergency Drought Relief Act of 1991 to extend the authority for drought assistance. Introduced March 17, 2005; referred to Senate Committee on Energy and Natural Resources.

S.728 (Bond). To provide for the consideration and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes. Introduced April 6, 2005; referred to Senate Committee on Environment and Public Works; reported with amendments (S. Rpt.109-61); placed on Senate Legislative Calendar under General Orders. Calendar No. 93 on April 26, 2005.

S. 802 (Domenici). To establish a National Drought Council within the Department of Agriculture, to improve national drought preparedness, mitigation, and response efforts, and for other purposes. Introduced April 14, 2005; referred to the Senate Committee on Agriculture, Nutrition, and Forestry.

S. 1017 (Chafee). To reauthorize grants from the water resources research and technology institutes established under the Water Resources Research Act of 1984. Introduced May 12, 2005; referred to Senate Committee on Environment and Public Works.