

109TH CONGRESS
1ST SESSION

S. 1106

To authorize the construction of the Arkansas Valley Conduit in the State of Colorado, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2005

Mr. ALLARD (for himself and Mr. SALAZAR) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To authorize the construction of the Arkansas Valley Conduit in the State of Colorado, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Arkansas Valley Con-

5 duit Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) Public Law 87–590 (76 Stat. 389) author-

9 ized the Fryingpan-Arkansas project, including con-

10 struction of the Arkansas Valley Conduit, a pipeline

1 extending from Pueblo Reservoir, Pueblo, Colorado
2 to Lamar, Colorado;

3 (2) the Arkansas Valley Conduit was never
4 built, partly because of the inability of local commu-
5 nities to pay 100 percent of the costs of construction
6 of the Arkansas Valley Conduit;

7 (3) in furtherance of the goals and authoriza-
8 tion of the Fryingpan-Arkansas project, it is nec-
9 essary to provide separate authorization for the con-
10 struction of the Arkansas Valley Conduit;

11 (4) the construction of the Arkansas Valley
12 Conduit is necessary for the continued viability of
13 southeast Colorado; and

14 (5) the Arkansas Valley Conduit would provide
15 the communities of southeast Colorado with safe,
16 clean, and affordable water.

17 (b) PURPOSES.—The purposes of this Act are—

18 (1) to ensure a safe and adequate water supply
19 for the beneficiaries identified in Public Law 87–590
20 (76 Stat. 389) and related authorizing documents
21 and subsequent studies; and

22 (2) to establish a cost-sharing requirement for
23 the construction of the Arkansas Valley Conduit.

1 **SEC. 3. ARKANSAS VALLEY CONDUIT, COLORADO.**

2 (a) IN GENERAL.—The Secretary of the Interior (re-
3 ferred to in this Act as the “Secretary”) shall plan, design,
4 and construct a water delivery pipeline, and branch lines
5 as needed, from a location in the vicinity (as determined
6 by the Secretary) of Pueblo Reservoir, Pueblo, Colorado
7 to a location in the vicinity (as determined by the Sec-
8 retary) of Lamar, Colorado, to be known as the “Arkansas
9 Valley Conduit”, without regard to the cost-ceiling for the
10 Fryingpan Arkansas Project established under section 7
11 of Public Law 87–590 (76 Stat. 393).

12 (b) LEAD NON-FEDERAL ENTITY.—

13 (1) DESIGNATION.—The Southeastern Colorado
14 Water Conservancy District, or a designee of the
15 Southeastern Colorado Water Conservancy District
16 that is recognized under State law as an entity that
17 has taxing authority, shall be the lead non-Federal
18 entity for the Arkansas Valley Conduit.

19 (2) DUTIES.—The lead non-Federal entity
20 shall—

21 (A) act as the official agent of the Arkan-
22 sas Valley Conduit;

23 (B) pay—

24 (i) the non-Federal share of any in-
25 creased costs required under subsection
26 (e)(2)(C); and

1 (ii) the non-Federal share of construc-
2 tion costs under subsection (e)(2); and

3 (C) pay costs relating to, and perform, the
4 operations, maintenance, and replacement of
5 the Arkansas Valley Conduit.

6 (c) COOPERATION.—To the maximum extent prac-
7 ticable during the planning, design, and construction of
8 the Arkansas Valley Conduit, the Secretary shall collabo-
9 rate and cooperate with the United States Army Corps
10 of Engineers, other Federal agencies, and non-Federal en-
11 tities.

12 (d) COST ESTIMATE.—

13 (1) IN GENERAL.—Not later than 180 days
14 after the date of enactment of this Act, the Sec-
15 retary, in cooperation with the lead non-Federal en-
16 tity, shall prepare an estimate of the total costs of
17 constructing the Arkansas Valley Conduit.

18 (2) ACTUAL COSTS.—If the actual costs of con-
19 struction exceed the estimated costs, the difference
20 between the actual costs and the estimated costs
21 shall be apportioned in accordance with subsection
22 (e)(2)(C).

23 (3) AGREEMENT ON ESTIMATE AND DESIGN.—
24 The estimate prepared under paragraph (1), and the

1 final design for the Arkansas Valley Conduit, shall
2 be—

3 (A) subject to the agreement of the Sec-
4 retary and the lead non-Federal entity;

5 (B) developed in cooperation with the lead
6 non-Federal entity; and

7 (C) consistent with commonly accepted en-
8 gineering practices.

9 (e) COST-SHARING REQUIREMENT.—

10 (1) FEDERAL SHARE.—

11 (A) IN GENERAL.—The Federal share of
12 the total costs of the planning, design, and con-
13 struction of the Arkansas Valley Conduit shall
14 be 80 percent.

15 (B) INCREASED COSTS.—The Federal
16 share of any increased costs that are a result
17 of fundamental design changes conducted at the
18 request of any person other than the lead non-
19 Federal entity shall be 100 percent.

20 (2) NON-FEDERAL SHARE.—

21 (A) NON-FEDERAL SHARE.—The non-Fed-
22 eral share of the total costs of the planning, de-
23 sign, and construction of the Arkansas Valley
24 Conduit shall be 20 percent.

1 (B) FORM.—Up to 100 percent of the non-
 2 Federal share may be in the form of in-kind
 3 contributions or tasks that are identified in the
 4 cost estimate prepared under subsection (d)(1)
 5 as necessary for the planning, design, and con-
 6 struction of the Arkansas Valley Conduit.

7 (C) INCREASED COSTS.—

8 (i) FUNDAMENTAL DESIGN
 9 CHANGES.—The lead non-Federal entity
 10 shall pay any increased costs that are a re-
 11 sult of fundamental design changes con-
 12 ducted at the request of the lead non-Fed-
 13 eral entity.

14 (ii) OTHER CAUSES.—For any in-
 15 creased costs that are from causes (includ-
 16 ing increased supply and labor costs and
 17 unforeseen field changes) other than funda-
 18 mental design changes referred to in clause
 19 (i) and paragraph (1)(B)—

20 (I) the Federal share shall be 80
 21 percent; and

22 (II) the non-Federal share shall
 23 be 20 percent.

24 (D) UP-FRONT PAYMENT.—Not later than
 25 180 days after the date of completion of the

1 cost-estimate under subsection (d), the Sec-
2 retary and the non-Federal entity may enter
3 into an agreement under which—

4 (i) the Secretary pays 100 percent of
5 the non-Federal share on behalf of the
6 non-Federal entity; and

7 (ii) the non-Federal entity reimburses
8 the Secretary for the funds paid by the
9 Secretary in accordance with the terms of
10 the agreement.

11 (E) TIMING.—Except as provided in sub-
12 paragraph (D), the non-Federal share shall be
13 paid in accordance with a schedule established
14 by the Secretary that—

15 (i) takes into account the capability of
16 the applicable non-Federal entities to pay;
17 and

18 (ii) provides for full payment of the
19 non-Federal share by a date that is not
20 later than 50 years after the date on which
21 the Arkansas Valley Conduit is capable of
22 delivering water.

23 (f) TRANSFER ON COMPLETION.—On completion of
24 the Arkansas Valley Conduit, as certified in an agreement
25 between the Secretary and the lead non-Federal entity, the

1 Secretary shall transfer ownership of the Arkansas Valley
2 Conduit to the lead non-Federal entity.

3 (g) APPLICABLE LAW.—Except as provided in this
4 Act, Public Law 87–590 (76 Stat. 389) and related au-
5 thorizing documents and subsequent studies shall apply to
6 the planning, design, and construction of the Arkansas
7 Valley Conduit.

8 (h) WATER RIGHTS.—Nothing in this Act affects any
9 State water law or interstate compact.

10 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

11 (a) IN GENERAL.—There are authorized to be appro-
12 priated such sums as are necessary to carry out this Act.

13 (b) LIMITATION.—Amounts made available under
14 subsection (a) shall not be used for the operation or main-
15 tenance of the Arkansas Valley Conduit.

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