

109TH CONGRESS
2^D SESSION

S. 3841

To authorize appropriations for the Bureau of Reclamation to carry out the Lower Colorado River Multi-Species Conservation Program in the States of Arizona, California, and Nevada, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 5, 2006

Mr. KYL (for himself, Mr. ENSIGN, Mr. REID, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To authorize appropriations for the Bureau of Reclamation to carry out the Lower Colorado River Multi-Species Conservation Program in the States of Arizona, California, and Nevada, 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 “Lower Colorado River
5 Multi-Species Conservation Program Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) LOWER COLORADO RIVER MULTI-SPECIES
2 CONSERVATION PROGRAM.—The term “Lower Colo-
3 rado River Multi-Species Conservation Program” or
4 “LCR MSCP” means the cooperative effort on the
5 Lower Colorado River between Federal and non-
6 Federal entities in Arizona, California, and Nevada
7 approved by the Secretary of the Interior on April
8 2, 2005.

9 (2) LOWER COLORADO RIVER.—The term
10 “Lower Colorado River” means the Colorado River
11 from Lake Mead to the Southerly International
12 Boundary with Mexico, including its historic flood-
13 plain and its mainstem reservoirs to their full pool
14 elevations.

15 (3) PROGRAM DOCUMENTS.—The term “Pro-
16 gram Documents” means the Habitat Conservation
17 Plan, Biological Assessment and Biological and Con-
18 ference Opinion, Environmental Impact Statement/
19 Environmental Impact Report, Funding and Man-
20 agement Agreement, Implementing Agreement, and
21 Section 10(a)(1)(B) Permit issued and, as applica-
22 ble, executed in connection with the LCR MSCP.

23 (4) SECRETARY.—The term “Secretary” means
24 the Secretary of the Interior.

1 (5) STATE.—The term “State” means each of
2 the States of Arizona, California, and Nevada.

3 (6) STEERING COMMITTEE.—The term “Steer-
4 ing Committee” means the LCR MSCP steering
5 committee established pursuant to the Program Doc-
6 uments.

7 **SEC. 3. IMPLEMENTATION AND WATER ACCOUNTING.**

8 (a) IMPLEMENTATION.—The Secretary shall manage
9 and implement the LCR MSCP in accordance with the
10 Program Documents.

11 (b) WATER ACCOUNTING.—The Secretary is author-
12 ized and directed to enter into an agreement with the
13 States providing for the use of water from the Lower Colo-
14 rado River for habitat creation and maintenance in ac-
15 cordance with the Program Documents.

16 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) IN GENERAL.—There is authorized to be appro-
18 priated to the Secretary such sums as may be necessary
19 to meet the obligations of the Secretary under the Pro-
20 gram Documents, to remain available until expended.

21 (b) INVESTMENTS.—The Secretary is authorized to
22 invest with the Secretary of the Treasury such portions
23 of appropriations, and any non-Federal contributions
24 made pursuant to the Program Documents, as are not,
25 in the judgment of the Secretary, required to meet current

1 expenditures. Such investments shall be made only in in-
2 terest-bearing obligations of the United States. Funds in-
3 vested under this subsection and interest on those funds
4 shall be available to the Secretary to meet the obligations
5 of the Secretary under the Program Documents.

6 (c) NON-REIMBURSABLE AND NON-RETURNABLE.—
7 All amounts appropriated to and expended by the Sec-
8 retary for the LCR MSCP shall be non-reimbursable and
9 non-returnable.

10 **SEC. 5. APPLICABLE LAW, CONTINUITY OF PROGRAM, EN-**
11 **FORCEABILITY OF PROGRAM DOCUMENTS.**

12 (a) IN GENERAL.—Nothing in this Act shall impair
13 any right to the delivery or beneficial consumptive use of
14 Colorado River water under any compact, treaty, law, de-
15 cree, or contract in effect on the date of enactment of this
16 Act.

17 (b) CONTINUITY OF PROGRAM DOCUMENTS.—No fu-
18 ture act of Congress shall have the effect of modifying the
19 Program Documents unless expressly made applicable to
20 the LCR MSCP.

21 (c) ENFORCEABILITY OF PROGRAM DOCUMENTS.—
22 Any party to any agreement entered into with the United
23 States or any agency thereof pursuant to the LCR MSCP
24 may commence a civil action in United States district
25 court to enforce the agreement or to declare the rights

1 and obligations of the parties under the Program Docu-
2 ments. The district court shall have jurisdiction of such
3 actions and may issue such orders, judgements, and de-
4 crees as are consistent with the court's exercise of jurisdic-
5 tion under this section. The United States or any agency
6 thereof may be named as a defendant in such actions. The
7 sovereign immunity of the United States is waived for pur-
8 poses of actions commenced pursuant to this section.
9 Nothing in this section waives the sovereign immunity of
10 the United States to claims for money damages, monetary
11 compensation, the provision of indemnity, or any claim
12 seeking money from the United States. Any suit pursuant
13 to this section may be brought in any United States dis-
14 trict court in the State in which any non-Federal party
15 to the suit is situated.

16 (d) APPLICABLE LAW.—The Steering Committee
17 shall not be subject to the Federal Advisory Committee
18 Act (5 U.S.C. App.).

○