

109TH CONGRESS  
2D SESSION

# S. 4008

To authorize the Secretary of the Interior to provide financial assistance to the Eastern New Mexico Rural Water Authority for the planning, design, and construction of the Eastern New Mexico Rural Water System, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2006

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

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## A BILL

To authorize the Secretary of the Interior to provide financial assistance to the Eastern New Mexico Rural Water Authority for the planning, design, and construction of the Eastern New Mexico Rural Water System, 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 “Eastern New Mexico  
5       Rural Water System Act of 2006”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) AUTHORITY.—The term “Authority” means  
2           the Eastern New Mexico Rural Water Authority, an  
3           entity formed under State law for the purposes of  
4           planning, financing, developing, and operating the  
5           System.

6           (2) PLAN.—The term “plan” means the oper-  
7           ation, maintenance, and replacement plan required  
8           by section 4(b).

9           (3) SECRETARY.—The term “Secretary” means  
10          the Secretary of the Interior.

11          (4) STATE.—The term “State” means the State  
12          of New Mexico.

13          (5) SYSTEM.—

14               (A) IN GENERAL.—The term “System”  
15               means the Eastern New Mexico Rural Water  
16               System, a water delivery project designed to de-  
17               liver approximately 16,500 acre-feet of water  
18               per year from the Ute Reservoir to the cities of  
19               Clovis, Elida, Grady, Melrose, Portales, and  
20               Texico and other locations in Curry and Roo-  
21               sevelt Counties in the State.

22               (B) INCLUSIONS.—The term “System” in-  
23               cludes—

24                       (i) the intake structure at Ute Res-  
25                       ervoir;

1 (ii) a water treatment, administration,  
2 and maintenance facility with—

3 (I) a 30,000,000 gallon per day  
4 average peak capacity; and

5 (II) a 15,000,000 gallon per day  
6 average capacity;

7 (iii) approximately 155 miles of trans-  
8 mission and lateral pipelines and tunnels  
9 that range in size from 4 to 60 inches in  
10 diameter;

11 (iv) 3 pumping stations, including—

12 (I) a raw water pump station at  
13 Ute Reservoir;

14 (II) a booster pump station at  
15 the “Caprock” escarpment; and

16 (III) a booster pump station to  
17 Elida; and

18 (v) any associated appurtenances.

19 (6) UTE RESERVOIR.—The term “Ute Res-  
20 ervoir” means the impoundment of water created in  
21 1962 by the construction of the Ute Dam on the Ca-  
22 nadian River, located approximately 32 miles up-  
23 stream of the border between New Mexico and  
24 Texas.

1 **SEC. 3. EASTERN NEW MEXICO RURAL WATER SYSTEM.**

2 (a) FINANCIAL ASSISTANCE.—

3 (1) IN GENERAL.—The Secretary may provide  
4 financial and technical assistance to the Authority to  
5 assist in planning, designing, conducting related  
6 preconstruction activities for, and constructing the  
7 System.

8 (2) USE.—

9 (A) IN GENERAL.—Any financial assist-  
10 ance provided under paragraph (1) shall be ob-  
11 ligated and expended only in accordance with a  
12 cooperative agreement entered into under sec-  
13 tion 5(a)(2).

14 (B) LIMITATIONS.—Financial assistance  
15 provided under paragraph (1) shall not be  
16 used—

17 (i) for any activity that is inconsistent  
18 with constructing the System; or

19 (ii) to plan or construct facilities used  
20 to supply irrigation water for agricultural  
21 purposes.

22 (b) COST-SHARING REQUIREMENT.—

23 (1) IN GENERAL.—The Federal share of the  
24 total cost of any activity or construction carried out  
25 using amounts made available under this Act shall

1 be not more than 75 percent of the total cost of the  
2 System.

3 (2) SYSTEM DEVELOPMENT COSTS.—For pur-  
4 poses of paragraph (1), the total cost of the System  
5 shall include any costs incurred by the Authority on  
6 or after October 1, 2003, for the development of the  
7 System.

8 (c) LIMITATION.—No amounts made available under  
9 this Act may be used for the construction of the System  
10 until—

11 (1) a plan is developed under section 4(b); and

12 (2) the Secretary and the Authority have com-  
13 plied with any requirements of the National Envi-  
14 ronmental Policy Act of 1969 (42 U.S.C. 4321 et  
15 seq.) applicable to the System.

16 (d) TITLE TO PROJECT WORKS.—Title to the infra-  
17 structure of the System shall be held by the Authority or  
18 as may otherwise be specified under State law.

19 **SEC. 4. OPERATION, MAINTENANCE, AND REPLACEMENT**  
20 **COSTS.**

21 (a) IN GENERAL.—The Authority shall be responsible  
22 for the annual operation, maintenance, and replacement  
23 costs associated with the System.

24 (b) OPERATION, MAINTENANCE, AND REPLACEMENT  
25 PLAN.—The Authority, in consultation with the Secretary,

1 shall develop an operation, maintenance, and replacement  
2 plan that establishes the rates and fees for beneficiaries  
3 of the System in the amount necessary to ensure that the  
4 System is properly maintained and capable of delivering  
5 approximately 16,500 acre-feet of water per year.

6 **SEC. 5. ADMINISTRATIVE PROVISIONS.**

7 (a) COOPERATIVE AGREEMENTS.—

8 (1) IN GENERAL.—The Secretary may enter  
9 into any contract, grant, cooperative agreement, or  
10 other agreement that is necessary to carry out this  
11 Act.

12 (2) COOPERATIVE AGREEMENT FOR PROVISION  
13 OF FINANCIAL ASSISTANCE.—

14 (A) IN GENERAL.—The Secretary shall  
15 enter into a cooperative agreement with the Au-  
16 thority to provide financial assistance or any  
17 other assistance requested by the Authority for  
18 planning, design, related preconstruction activi-  
19 ties, and construction of the System.

20 (B) REQUIREMENTS.—The cooperative  
21 agreement entered into under subparagraph (A)  
22 shall, at a minimum, specify the responsibilities  
23 of the Secretary and the Authority with respect  
24 to—

1 (i) ensuring that the cost-share re-  
2 quirements established by section 3(b) are  
3 met;

4 (ii) completing the planning and final  
5 design of the System;

6 (iii) any environmental and cultural  
7 resource compliance activities required for  
8 the System; and

9 (iv) the construction of the System.

10 (b) TECHNICAL ASSISTANCE.—At the request of the  
11 Authority, the Secretary may provide to the Authority any  
12 technical assistance that is necessary to assist the Author-  
13 ity in planning, designing, constructing, and operating the  
14 System.

15 (c) BIOLOGICAL ASSESSMENT.—The Secretary shall  
16 consult with the New Mexico Interstate Stream Commis-  
17 sion and the Authority in preparing any biological assess-  
18 ment under the Endangered Species Act of 1973 (16  
19 U.S.C. 1531 et seq.) that may be required for planning  
20 and constructing the System.

21 (d) EFFECT.—Nothing in this Act—

22 (1) affects or preempts—

23 (A) State water law; or

24 (B) an interstate compact relating to the  
25 allocation of water; or

1           (2) confers on any non-Federal entity the abil-  
2       ity to exercise any Federal rights to—

3                   (A) the water of a stream; or

4                   (B) any groundwater resource.

5   **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

6       (a) IN GENERAL.—There are authorized to be appro-  
7       priated to the Secretary such sums as are necessary to  
8       carry out this Act.

9       (b) NONREIMBURSABLE AMOUNTS.—Amounts made  
10      available to the Authority in accordance with the cost-  
11      sharing requirement under section 3(b) shall be non-  
12      reimbursable and nonreturnable to the United States.

13      (c) AVAILABILITY OF FUNDS.—At the end of each  
14      fiscal year, any unexpended funds appropriated pursuant  
15      to this Act shall be retained for use in future fiscal years  
16      consistent with this Act.

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